

# **Committee on Resources**

## **Subcommittee on National Parks & Public Lands**

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### **Witness Statement**

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#### **MEMO**

To: The Honorable James V. Hansen  
Chairman  
Congressional Subcommittee on National Parks and Public Lands  
From: John Couch  
Chairman  
Outer Banks Preservation Association, Inc.  
P.O. Box 1355  
Buxton, NC 27920  
Re: Issues involving access to National Parks  
Date: July 20, 2000

#### **Position Statement of the Outer Banks Preservation Association, Inc.**

The position of the 824 active members of the Outer Banks Preservation Association, Inc. (OBPA), representing over 20 states, advocate the protection and preservation of our beaches within a framework of free and open beach access for all users including properly licensed drivers and vehicles.

The Outer Banks Preservation Association was originally formed in the 1970's as a public voice for concerned citizens and beach user groups interested in preserving the traditional way of life prevalent on the Outer Banks, which are barrier islands on the coast of North Carolina. They include a large portion of the Cape Hatteras National Seashore and eight villages on the islands of Hatteras, Ocracoke and Bodie. This lifestyle, based on independence, self-reliance, protection and preservation of natural resources and strong family and community values, has always regarded free and open access to the sound and ocean beaches as an inalienable right. We believe that the National Park Service has, in its statements, assured this right to the residents and visitors of the Outer Banks. (See attached letters (2) from Conrad Wirth, First Superintendent of Cape Hatteras National Seashore, concerning National Park Service policies.)

Further, we are concerned that the original intent and designation of the Cape Hatteras National Seashore as a public recreational area is being ignored or changed to reflect the influence of highly-selective, special-interest groups. We believe that free and open beach access, including vehicular access, for responsible use is no less important today than it was twenty, thirty or even fifty years ago.

#### **A Resource for Information and Education**

The Outer Banks Preservation Association is a resource for public information and education. Recently incorporated as a non-profit corporation, OBPA is charged with the gathering and dissemination of information and opinions of the residents and visitors of the Outer Banks concerning issues of beach use. We are further dedicated to the preservation and protection of the beach environment of the Outer Banks

while continuing the tradition of free and open beach access unique to our geographic area.

During the past year OBPA has assembled an almost 5,000 page docket containing virtually all of the known documentary information concerning the use and management of off-road vehicles within the Cape Hatteras National Seashore. This information includes impact studies, reports of incidents of beach misuse and misconduct, letters and documentation of the establishment and subsequent management of the Cape Hatteras National Seashore, beach access closures and correspondence with and from the National Park Service at local, regional and national levels. This information has been compiled from the records of the National Park Service, which were made available through a Freedom of Information Act Request, as well as, from the files of beach user groups and information supplied by private individuals.

This docket contains the most comprehensive collection of historical documents, technical studies, scientific data, records of decision, policy statements, examples of environmental impact or lack thereof, documentation of user conflicts or violations, draft and interim management policies and plans and alternatives which have been recommended or considered available anywhere concerning the Outer Banks. All of this information relates directly to beach access and use by Off-Road Vehicles in the unique environment of the Cape Hatteras National Seashore. Further, legal precedents and data regarding such use in other East Coast national parks and seashores has been included.

Like most data, this information is subject to interpretation. However, in general, these data support the contention that ORVs can be operated in a responsible manner without damaging the resources of the Outer Banks.

This information is a fully accessible public record, placed in the Hatteras Village Branch of the Dare County (NC) Library System. The docket is cataloged and indexed by topic for fast, easy reference.

The present policies of the National Park Service and the and the policies advocated by high-profile and well-financed special-interest organizations such as the Bluewater Network, threaten the very access to our beaches which is the mainstay of our traditional lifestyle and the principal feature which attracts many new permanent residents and visitors alike. The OBPA is focused on efforts toward establishing reasonable and enforceable policies for beach use of Off-Road Vehicles (ORVs), by working constructively within the system. Such policies must (1) have a technically sound basis for continued, and even expanded, access to public lands for all user groups; (2) be consistent with the concept of multiple use of the park lands; (3) conserve and protect the park resources for both present and future generations. These points are in accord with the legislation which established the Cape Hatteras National Seashore and are consistent with the promises made to the residents of Hatteras Island when the Federal Government established its presence here in 1952. (Reference letters from Conrad Wirth.)

## **Specific Issues:**

### **Permanent ORV Use and Management Plan**

In 1999 the Bluewater Network, along with 67 environmental groups, petitioned the National Park Service calling for a total ban of ORVs in all National Parks. This ban is proposed from border to border and coast to coast in all of our National Parks - without regard to geographic diversity. This call for a ban of all off-road driving stems from the National Park Service's failure to comply with Executive Orders of Presidents Richard M. Nixon (1972) and James E. Carter (1976).

While Outer Banks Preservation Association is unanimously opposed to any ban of off-road driving, we do not advocate lawless use of the beaches. In fact, our motto "Preserve and Protect...Not Prohibit" places conservation of our natural resources as a top priority. We believe that a strong, well-thought-out ORV use and management plan is a necessity. However, we also strongly believe that any use and management plan for the Outer Banks must consider the unique and individual characteristics of this geographic area.

Uniquely, the Cape Hatteras National Seashore contains eight villages within its boundaries. These historic villages have prospered, due to, and are largely dependent on the livelihood provided by the free vehicular beach access traditionally afforded them. Historically, for the commercial fishermen, four-wheel-drive beach access has long been a necessity to reach both sound and surf areas to ply their trade. More recently, for recreational users, the use of vehicles renders more beach areas accessible and lessens the impact of beach use overall. Vehicular beach access also extends the tourist season, which forms the backbone of the Islands' economies.

Additionally, the Cape Hatteras National Seashore vehicular access provides senior citizens, the disabled and others with limited personal mobility with the opportunity to enjoy many of the same activities as the fully abled. Many OBPA members and supporters have expressed concern that banning of vehicular access to our beaches would end their participation in activities such as shelling, fishing and birding.

Presently, the vehicular beach access ramp system, which is unique to the Outer Banks, provides controlled entry and exit to beach areas while eliminating random access and impact on the dune line. These ramps include planks on the dune crossing site to assure that the sand is not moved nor is the dune additionally breached in any way. The protection afforded by the natural dune line is, therefore, virtually untouched.

We support strict enforcement of responsible beach driving and protecting the bird nesting and turtle nesting areas. We concur with closures and temporary usage restrictions based on storm and wave erosion. We approve of seasonal closings of beaches in front of highly populated areas such as Rodanthe and Avon and we participate actively in the ongoing efforts to keep our island beaches clean and safe. However, since there are no data or definitive materials showing that ORVs, used responsibly and within present Park Service guidelines, cause any permanent damage or degradation to the beach, we are opposed to prohibition of beach access for ORVs.

While the Park Service is attempting to shift the blame for the present situation to the filing of the Bluewater petition, had they acted in a timely manner and in accordance with the Executive Orders of 28 years ago, there would be a legally defensible use and management plan in place at this crucial time.

In an attempt to mitigate the present circumstances, the Park Service has recently released information which suggests that work has begun, or will soon begin, on an ORV management plan for the Cape Hatteras National Seashore. However, even in this attempt, much obfuscation continues. In a press release dated May 12, 2000, Francis A. Peltier, Superintendent, Outer Banks Group, acknowledges the need for a permanent plan. In the release Mr. Peltier readily admits to a lack of quantifiable data on current visitor use and the need to acquire such. However, he does not, in any way, indicate a process for gathering this data. At one point in the release he suggests the possibility of public input but, contradicts that concept with statements regarding policy decisions as flowing from general National Park Service management policy.

Further, in a separate letter responding to an offer to meet and discuss solutions to beach access issues, Mr. Peltier stated that the decisions would be made without public input. In fact, he cited regulations that prevented him from involving the user public. However, in his press release he states that public input will

be needed and requested. Again, we feel that the Park Service needs to clarify both its policies and their application. (See attached letter from Francis Peltier regarding refusal to form advisory committee.)

### **Fee Demonstration Program**

In addressing issues of beach driving permits and other restrictive fees to potentially be levied under the Fee Demonstration Program, Mr. Peltier states that the fee program and the development of a use and management plan are not tied together. However, in a companion document to the press release Mr. Peltier states, "The decision to implement a beach-driving permit system for Cape Hatteras National Seashore will not be made until an approved ORV management plan has been developed." (See attached Park Service press release.) (See attached Park Service document "Talking Points".)

Draft copies of ORV management plans were submitted in the 1970's and again as recently as 1990 to the National Park Service headquarters in Washington, DC. These plans have been somehow "lost" and never properly promulgated in accordance with administrative procedures. We believe that this inaction demands some meaningful explanation on the part of the National Park Service management. (Copies of these draft plan versions are available in the public docket)

It has been publicly stated by Robert Reynolds, former Superintendent of the Outer Banks Group, that monies generated from the sale of beach driving permits issued after entry into the Fee Demonstration Program would be used to fund studies and research necessary to put a workable ORV management plan together for the Cape Hatteras National Seashore. Now, new Superintendent Francis Peltier says that there is a "public misconception" that entry into the Fee Demonstration Program and a beach driving permit are tied together. This is a Park Service error, not a "public misconception."

The Outer Banks Preservation Association is opposed to the implementation of any fee structure, which would potentially regulate access to, or use of the beach. Further, we believe that this action would directly violate the original promise of the National Park Service to maintain free and open beach access for commercial and recreational use and would inevitably lead to further unacceptable use restrictions and closures, as has happened in other state and federal parks.

Please understand, we are strongly in favor of full Federal funding for adequate Park Service personnel and infrastructure to provide on-going implementation and enforcement for responsible beach protection, preservation and use by the entire public. The closing of access because of inadequate enforcement capacity and inconsistent application of existing policies is not an acceptable solution to a management challenge.

### **Chronology of Beach Closures**

In spite of the initial assurances in 1952 that Federal Park Land would remain open and accessible to all user groups, there has been a history of both permanent and temporary closures. While many of these closures have been necessary due to erosion, bird and turtle protection and other legitimate reasons, timely reopening of temporarily closed areas has become a point of contention. Recent requests to open beach areas south of ramps 38 and 49, which have been "temporarily closed" for almost 15 years, have been denied. Many vehicular beach access ramps have been closed permanently with no provision for new or additional access in the face of increasing usage. (See attached letter to Steve Hissey from Superintendent Peltier refusing to reopen ramps.)

Prior to 1978 beach accessibility included the full 73.5 miles of beaches from Oregon Inlet to Hatteras Inlet

and all of the beaches on Ocracoke Island. The 1978 Off Road Vehicle Management Plan for Cape Hatteras National Seashore as proposed by the National Park Service allowed only 36 miles of our beaches to remain open and accessible to four-wheel drive vehicles. 25 miles were opened year round and 11 miles seasonally (closed from May 25 to September 10). 37.5 miles were closed permanently.

The Outer Banks Preservation Association in February 1978 presented an alternative plan. It had the strong support of the public, federal legislators, state and local officials and numerous interested user groups. Forty-three miles of beach were opened year round and 26 miles were closed seasonally. Only 4.5 miles were closed permanently.

Shortly after these plans were proposed, the U.S. Fish and Wildlife Service, in conjunction with the National Park Service, permanently closed the Pea Island Refuge (8 miles) to both commercial and recreational fishing. This action was in direct opposition to the Federal Government's promise to give native commercial fishermen free and open access to the beaches for making their livelihood through historic and traditional means.

In 1990, the Cape Hatteras National Seashore submitted another ORV management plan without any public knowledge or input. There is apparently no record of such a plan being submitted nor has there been any follow-up action initiated by Cape Hatteras National Seashore. What kind of management is this?

Currently, due to closures and restrictions over the last twenty years, only a little over 38 miles of beach remain open and accessible. Closures include: Bodie Island, 4.5 miles; South Oregon Inlet, 1.5 miles; Pea Island Refuge, 8 miles; Pea Island to Rodanthe Pier, 2.3 miles; ramp 38 south to ramp 44, 5 miles; ramp 49 south to ramp 55, 5.9 miles; and Ocracoke Island, 7.9 miles.

### **What is Meant by "Temporary Closure"?**

Recently the OBPA requested the National Park Service to reopen two areas of beach to vehicular access. The areas had been closed temporarily due to beach erosion in the past and, in the course of nature, the beach replenished itself. These areas are wide and stable, and are easily passable to recreational and commercial use. They are wide enough to launch boats and haul nets, and yet the National Park Service refuses to reopen these temporary closures to vehicular access despite burgeoning visitor load.

In response to the request, Superintendent Francis Peltier stated "My staff informs me that the beach areas... have been closed from eight to in excess of 15 years. I am told that potential user conflicts between historical users of these sections and motorized vehicles would be significant, were we to reopen them after this length of time." This raises several questions, such as: Who were the historical users driving these beaches 8 to 15 years ago without conflict? Who are the current users? Who told Mr Peltier that there would be user conflict? Was there any poll of past, present, potential or historic users? Does this change in the status of closures discriminate against or favor any user group? Is this a de-facto privatization of a public beach? What is the policy or criterion, if any, for reopening a temporary closure? (Reference letter to Steve Hissey.)

All users of the beach resources should be concerned about the unsupportable continuation of temporary closures. Despite existing data and judicial precedent, there is a persistent implication that vehicular access, even under a properly implemented management plan, threatens the resource. There is no factual basis for this assumption. This practice has the effect of concentrating an increasing and diverse user load onto a diminishing amount of beach, increasing potential for user conflict and environmental stress. National Park

Service inaction may make these results a self-fulfilling prophecy!

(Reference letter to Steve Hissey.)

### **Economic Impact Issues**

We believe that banning ORVs on our beaches would have a devastating socio-economic impact on North Carolina, especially in Dare, Hyde and surrounding counties. The Division of Travel and Tourism for North Carolina, in conjunction with the Travel Industry of America has placed the direct impact of visitor expenditures at \$481 million for 1999. Of that money, \$122 million goes into payrolls, \$25 million is applied as state tax receipts and local tax receipts account for \$24.4 million.

Dare County presently enjoys a lower tax base than other beach communities due to visitor contributions to the cost of services. Local officials have stated that of every dollar spent by Dare County, visitors pay 65 cents. Further, vehicular beach access plays a significant role in extending the tourist season far beyond the traditional three summer months. Should a ban of ORVs be instituted, the Outer Banks stands to lose a great many of its visitors and their positive economic impact. Estimates suggest that, while the Summer season would see only ten to twenty percent loss, fifty to sixty percent of the Spring and Fall visitors would go elsewhere and up to 90% of the Winter visitors would not come. (See attached Resolution from the Dare County Board of Commissioners.)

There is a trickle down effect to this loss of visitors which would impact businesses and permanent residents of the Outer Banks significantly. With fewer visitors and a shorter rental season there would be an immediate reduction in revenues. With less money coming into the local economy, the difference in tax dollars generated would have to be made up from the local residents and commercial venues, which would mean higher tax rates. With rental and retail seasons shortened, prices would rise to cover fixed costs and taxes. Businesses would cut back on employees causing a reduction in the work force in all occupations and increasing the load on unemployment services, negating the present very favorable low unemployment rate. Economic growth would not be just stymied, it would, in all likelihood, take some large steps backward. It would mean the curtailment of infrastructure development and services for the permanent residents, as well. For example, without vehicular beach access, five Spring and Fall fishing tournaments would be cancelled which alone attract 2,250 participants and their families.

Like a pebble in a still pond, the waves would continue to move outward. Hyde County depends on Ocracoke for its tax base. To a lesser extent Nags Head, Roanoke Island and other surrounding communities would feel the effects of less visitor dollars. And, as businesses would generate less dollar volume, North Carolina would receive less tax revenue from its coastal communities.

Real Estate values would suffer due to decreased rentals as well. For example, a home purchased for \$100,000 can easily produce a 10% return in gross income. However, if the rental reduction was only as little as 25% and the home only produced a 6 or 7% return, the value of the home for resale would be reduced to about \$75,000 because of the lower potential rental income. The owner has already paid \$20,000 down plus closing costs to acquire the property and is now going to sell - if he can sell at all - for 25% less than he paid. Several realtors on Hatteras Island have already reported loss of sales due to the uncertainty of vehicular beach access issues. (See attached letter to John Head, Midgett Realty, from Pete and Linda Sauvigne.)

### **A Public Forum**

On April 28, 2000, OBPA conducted the first of several planned public meetings to raise public awareness of the issues surrounding the use and management of off-road vehicles in the Cape Hatteras National Seashore. Over 175 concerned residents and visitors attended. Presentations were made on the status of both the Bluewater Network petition and the potential impact of the Cape Hatteras National Seashore being accepted into the National Park System's Fee Demonstration Program.

John Couch, chairman and keynote speaker, encouraged the audience to make its voice heard by both state and federal legislators. He stressed the importance of each person's opinion making a difference and outlined the issues surrounding the present concerns and controversies. In his closing remarks he reminded the audience that, "Once you have given up a freedom, you never get it back."

Other presenters showed the audience information concerning past and present beach closures and restrictions; discussed the technical information already available concerning beach use by off-road vehicles; explained the potential impact on real estate values; and provided an overall socio-economic prediction if action is taken that would deny free and open vehicular beach access.

Ten members of the audience, representing political and business interests, as well as, visitors and full-time residents of the island, also spoke.

### **Conclusion**

Hundreds of e-mails and letters have been sent from over 20 states to the Outer Banks Preservation Association supporting our stand to responsibly keep our beaches free and open to all. Petitions calling for free and open beach access have already gathered over 6,500 signatures of full-time residents and visitors alike in just nine months.

Much of the economic fiber of these barrier islands depends on the attraction and vehicular accessibility of our beaches for everyone. In this unique environment, where eight villages lie within the Cape Hatteras National Seashore, free and open vehicular beach access is part of the heritage and tradition to be preserved for today's users as well as tomorrow's. We believe that by having a significant amount of our beaches open to all users and a workable management plan in place, the various user groups can be easily accommodated without infringing on the rights of others and without harm to our natural resources. And further, this conclusion is supported by existing data, studies and records in the docket.

Irresponsible actions such as the Bluewater Coalition Petition and the National Park Service's inattentiveness and inaction are the most serious threats to our islands in their history. This has the very real potential of making our island communities the "Lost Colony" of today. The residents and visitors to Hatteras, Ocracoke and Bodie Islands deserve and need to preserve the way of life that has made these islands unique and attractive, or else we shall see a way of life perish as surely as our Native American ancestors did.

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