



COUNTY OF DARE
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**For Immediate Release:
August 13, 2009**

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Consent Decree Scores a Failing Grade

In 2008, an unpopular consent decree was imposed upon the people using the Cape Hatteras National Seashore Recreational Area on the Outer Banks of North Carolina. This consent decree followed a lawsuit by special interest groups against the National Park Service and set aside an "Interim Management Strategy" that provided both reasonable access and protection for wildlife.

While the special interest groups applauded the consent decree, the Dare County Board of Commissioners, who intervened in the case, reluctantly agreed to it rather than risk the complete closure of area beaches by a Federal Judge. Vice-Chairman, Allen Burrus recalls, "The consent decree was accepted only as the lesser of two evils. It was like asking, do you want to get shot in the head or the foot?"

As we near the end of the 2009 shorebird breeding season, it is appropriate to ask, "What has the consent decree accomplished?" Unfortunately, the preliminary evidence gives it a failing grade.

August marks the end of the bird breeding season in the Cape Hatteras National Seashore Recreational Area. It also brings to an end the first full breeding season for shorebirds under the consent decree implemented May 1, 2008. The results for the 2008 breeding season cannot accurately be attributed to the consent decree, since it began long after the start of the spring breeding season. Results for 2008 better reflect the management practices of the previous Interim Management Strategy.

2009 is then the first full breeding season exclusively under the terms of the consent decree. During this time, weather has been ideal with cooler temperatures than normal and no major storms. Preliminary results, outlined in the attached table, show the consent decree has not resulted in increased numbers of Piping Plover or American Oystercatcher.

Taxpayers have spent a substantial amount on the consent decree. In addition to \$100,000.00 awarded to the attorneys of the special interest groups who filed the lawsuit, another \$316,117.00 was spent in extra funds during 2008 to enforce the consent decree over the previous Interim Strategy. This represents more than it would cost to send 6 worthy students to the University of North Carolina at Chapel Hill for a four-year degree, including tuition, room and board.

Warren Judge, Chairman of the Dare County Board of Commissioners explains, “The consent decree has had a devastating impact on our area residents and businesses. It has also resulted in the death of hundreds of raccoon, possum, fox and other species as part of a predator control program by the Park Service.” Last year 238 mammals were trapped and killed to protect 7 Piping Plover chicks. Judge asked, “How can these groups, who claim to protect wildlife, turn their backs on the murder of one species in order to protect another?”

Legislation with bi-partisan support has been introduced in the U.S. House of Representatives (H.R.718) and in the U.S. Senate (S.1557) to reinstate the Interim Management Strategy that was carefully developed by the National Park Service and went through a very public process. The Interim Plan had an Environmental Assessment under the National Environmental Policy Act (NEPA) along with an ESA Section 7 Consultation and a biological review by the U.S. Fish & Wildlife Service. It also included a public comment period. The provisions of the Consent Decree were never subject to these reviews.

“Reinstating the Interim Strategy is a good solution,” Judge said. It provides reasonable access for everyone and does NOT remove protection for shorebirds or sea turtles. He added, “We need access for all recreational users including thousands of disabled and chronically ill visitors and their families. We support resource management programs and respect the scientists and professionals of the National Park Service to implement these programs rather than special interest groups.”

Encourage your elected officials to co-sponsor and support H.R. 718 and S.1557. More information is available at www.PreserveBeachAccess.org

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Piping Plover	Breeding Pair	Hatched Eggs	Fledged Chicks
2008, Interim Plan	11	22	7
2009, Consent Decree	9	19	6
First Full Year of Consent Decree			Minus 1

Amer. Oystercatcher	Fledged Chicks
2008, Interim Plan	17
2009, Consent Decree	13
First Full Year of Consent Decree	Minus 4