

Beach Keeper

The Official Newsletter of the Outer Banks Preservation Association

In this Issue

- > Run for Hatteras Challenge Fundraiser
- > 2010 Bird and Turtle Numbers
- > Improved Communications
- > CHAPA visits NPS Southeast Regional Director in Georgia
- > Bad news concerning the Critical Wintering Habitat lawsuit
- > Farewell to a Board Member
- > Hatteras is Piping Mad
- > Key Positions Outlined
- > What's next with the ORV Plan
- > Traditional Cultural Properties Surf Zone

PRESIDENT'S MESSAGE

Dear Members,

There is some good news to report. Now that fall is here, most areas that were closed for the protection of non-endangered birds are now open to both pedestrians and motorized vehicles. Currently, there are some turtle nests that are causing a few access problems, but not to the degree as the birds.

Regardless of what is now open, the amount of beach closed during much of the spring and summer was the most to date. The National Park Service and a court-imposed consent decree resulted in the establishment of bird nesting areas which were irrational, unscientific and over-protective. These unwarranted and unprecedented protection measures choke off access to all beach-goers. The buffer zones are not based on science, but are simply guesses as to what is needed and in many cases are larger than the Species Recovery Plan calls for. The bottom line is these areas present difficult challenges for an economy that is tourist-based. We can all agree on the need to protect the wildlife, however, it needs to be done fairly and reasonably.

The Final Environmental Impact Statement (FEIS) will be unveiled this fall and it is critical. The final rule must be something both residents and visitors we can live with. Reasonable protection, night-time beach driving, continued access to the spits and points, and a common sense approach to problem solving are critical to the local economies of Dare County. Decision making has to be restored back to National Park Service and out of the hands of the environmentalists. It is painfully clear the green groups are running the show for the NPS.

Please stay tuned! The next few months are critical to the outcome of the Cape Hatteras National Seashore Recreational Area.

See you on the Beach!!

John Couch

President



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OBPA Communications Initiatives

by David Scarborough

The OBPA is committed to keeping our membership and the public aware of the significant issues affecting beach access within the Cape Hatteras National Seashore Recreational Area. Over the past year, we have made a concerted effort to expand and improve our communications. We've focused on emails, snail mail and newsletters to our membership with regular website updates.

A challenge has always been to get information into the hands of our current and potential supporters. Last year, we implemented a new membership management system. We've worked very hard to update email and "snail mail" addresses over the past year, and we have made great progress. We found many longstanding active members who had not notified us of address changes, and therefore were not receiving communications. We are also using the system to support the tracking of membership dues. We had many members renew who haven't renewed in 4, 5 or 6 years.

We have emailed a number of communications to our members, particularly during the NPS DEIS comment window in the spring. We implemented a new website in April that utilizes a content management system to facilitate easier, more effective updates. Please take a few minutes to visit the web-

site www.obpa.org. Information there is updated regularly. Ted Hamilton, a.k.a "Salvo Jimmy" has been very helpful by posting announcements on other message boards whenever we have made updates to encourage traffic from other sites. Irene Nolan has regularly included links to our documents on Island Free Press, particularly during the DEIS communications since the first of March.

Now that our database is relatively clean, we intend to integrate our membership communications with a web communications product called "ConstantContact." This product is used by both Dare County and NCBBA, as well as many other national organizations. It will allow us to publish more professional documents on a timely basis to our membership.

An even bigger challenge has been communications with non OBPA members. Referrals from other websites have been helpful, but our message needs to reach even more people. You can help by forwarding communications to your friends and by encouraging others to visit the website.

A lot of thought and effort has gone into the membership management and communication process over the past year. We still have a lot more to accomplish and we welcome and appreciate your input and suggestions.

ORV Management Plan - What is Next?

The Draft Environmental Impact Statement (DEIS) was delivered by the NPS on March 5, 2010. The official DEIS public comment period ended on May 11, 2010. We now await the next phase of the process, the Final Environmental Impact Statement (FEIS) and the publication of the ORV rule.

The FEIS is scheduled to be published this fall and is expected to be much like the DEIS with modifications deemed appropriate by the Park Service as a result of the DEIS comments. The publication of the FEIS will be followed by a 30-day waiting period before the Record of Decision is issued. While public comment on the FEIS is not part of the process, understanding and accessing the document will be a major task for the OBPA and the Coalition.

The ORV rule is also scheduled to be published before the end of the year. Like the DEIS, the publication of the rule will be followed by a 60-day public comment period. Likewise, the OBPA and the Coalition will analyze the proposed rule and assist our constituents in the preparation of responses. After the comment period, the final ORV regulation will be issued and following a 30-day wait period, implemented.

As of October 1, the exact timing of all of the remaining events is clouded. For the past 2 1/2 years, the process has been driven by the timeline established by the Consent Decree which requires an ORV plan to be in place by April 2011. The release of the DEIS was two months late, and unofficial comments from the Park Service suggest the release dates for the

FEIS and the ORV Rule may be delayed this fall. In any case, as each step unfolds over the next few months, the OBPA and the Coalition members will be engaged in preparation for what will likely be litigation in the future.

Run for Hatteras Challenge

Friday November
26, 2010

Make your pledge
TODAY

*Read more on
back page*



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2010 CHNSRA Bird and Turtle Report

by Larry Hardham

As of early August, Cape Hatteras had near perfect weather for both shorebird and sea turtle nesting all summer long. A wet spring provided tidal pools which produced foraging grounds for piping plovers. One cannot expect better weather, as we have had only one short, small nor'easter since March 15, 2010 and no hurricanes. This, coupled with the continued trapping and killing of all predators, should have produced record numbers of everything everywhere even without the excessive closures.

Piping Plovers

At **Bodie Island Spit (Oregon Inlet)**, **NO NESTING** occurred within a massive piping plover pre-nesting closure (May 15 thru July 15). Remember at Neg. Reg., Ann Hecht, the head of the piping plover recovery with USF&WS, stated that Oregon Inlet was an excellent breeding site. The NPS has allowed grass and vegetation to overrun areas which were previously suitable nesting habitat AND which did not conflict with pedestrian and ORV access.

At **Cape Point** with tidal pools overflowing, the only truly successful nesting place in the entire seashore. Six nests were laid with 24 eggs and 15 chicks fledged. The last chick fledged on 6/16 yet the pre nesting closures lasted until 7/15.

At **South Beach**, only one nest was laid which **fledged no chicks**.

At the **Hatteras (Isabel) Overwash** site west of ramp 55, **NO NESTING** occurred in the pre-nesting closure (May 15 thru July 15). In fact, piping plovers have never nested in this area.

At **Hatteras Inlet**, where every single piping plover nesting site of the last ten years has eroded away and is now under water, we still had a massive piping plover pre-nesting closure (May 15 thru July 15) and guess what – **NO NESTING** took place.

At **North Ocracoke** where no nesting has taken place for years, only one nest that **fledged no chicks** was laid, even though the beach has grown by literally hundreds of yards during the same period.

At **South Point on Ocracoke**, eight nests were laid with 22 eggs, but no **chicks fledged**.

Thus, three of the six pre-nesting closures had absolutely no piping plover nesting for the entire summer and only one pre-nesting site fledged chicks. Visitors suffered from massive closures of beach all summer long with only one site fledging piping plover chicks. Cape Point was the only site which fledged piping plover chicks and these were the earliest nests laid at the seashore. No nest laid after 4/22/2010 fledged a single chick. The number of breeding pairs of piping plover appears to have been the same as 2008. The consent decree did not go into effect in 2008 until after breeding pairs were already on site.

American Oystercatcher (AMOY)

For the third year in a row, 23 breeding pairs of American Oystercatchers were found at the seashore. As mentioned before, the weather at Cape Hatteras could not have been better and as a result, increased fledged rates should have been and were recorded. Weather and predation have always and will always be the major factors in bird reproduction at Cape Hatteras.

Black Skimmers

Once again, Black Skimmers nested in increasing numbers at Pea Island National Wildlife Refuge (the northern 13 miles of Hatteras Island) managed by USF&W. Last year, 300 Black Skimmers were counted behind the rock groin at Pea Island and this year 341 adults were counted. Since USFWS does not track reproductive success of nesting shore birds, there is no way to know how many fledged.

Terns

Due to our excellent weather conditions, we should expect increased fledged chicks for all terns again this year. Increased numbers of Common Terns have been seen behind the groins at Pea Island this year. Last year, Cora June Island, located within 500 yards of Hatteras Village but not actually in the Seashore, was home to hundreds of Terns and some Black Skimmers. This island, which is owned by North Carolina Wildlife Resource Commission (NCWRC), hosted very few nesting birds this year. Were these birds run off by ORV use and pedestrians? The obvious answer was no as the island is posted and no one is allowed on the island. The birds just moved. In fact, according to NCWRC statewide shorebird surveys, not a single nesting site in the entire state of North Carolina has had breeding activity in each year of their surveys since 1993. These surveys include islands managed by the Audubon Society. So who runs the birds off of Audubon islands?

Sea Turtles

Sea turtle nesting at Cape Hatteras set a record this year. However, one must also look at what is happening at other sites before any credit is claimed for the added restrictions on access by the consent decree. Recent reports show that in 2010, Georgia had a 62.6% increase in sea turtle nests over last year's total and nests are still being laid. South Carolina nests have increased by 33.0% over last year's total and the state of North Carolina is up 23.0%. Do Georgia and South Carolina have a consent decree? Still unknown is how many nests will actually hatch and just how many hatchlings will evade the hundreds of ghost crabs on our beaches and enter the ocean. This year is still projected to be above normal for hurricanes and at CHNSRA, nests are still not relocated to higher, safer beaches. Remember that this Seashore has lost an average of 35% of all sea turtle nests, over twice the 16% lost in Georgia (2001) which was cited as being catastrophic, according to the Loggerhead Recovery Plan. Sea turtle false crawls at Cape Hatteras are down from last year (latest ratio of false crawls to nests here is 0.76:1). Remember that USFWS considers the false crawl to nest ratio for an undeveloped island to be 1:1. Also remember that the false crawl to nest ratio for the years 1997 thru 2003 with night driving the false crawl ratio at Cape Hatteras was also only 0.76:1.

Treasurer's Report

By Larry Hardham, Treasurer

Thanks to the efforts of many and support from our membership, the OBPA is financially sound. All bills are up-to-date and we have enough money to pay the current outstanding obligations for all recent legal work.

The OBPA is a not-for-profit corporation with 501(c)(3) IRS designation. The four sources of revenue are membership dues, donations, fundraisers, and merchandise sales. The vast majority of our expenses are legal fees to continue the fight for open beach access. The OBPA is and has always been, an all volunteer organization with no paid employees.

Frank Folb, aided by his staff at Frank & Fran's and David Scarborough, have spent many hours working on membership renewals which paid off handsomely. "Stand in the Sand" fundraiser was also successful with special thanks to organizers Ginger and Greg Wojciechowski, a.k.a. Wojo, and many others who helped with the BBQ.

The 2011 Prize Calendars are selling well and we hope to sell out, so get yours while they are available. Thanks to all who spent many hours soliciting support and designing this great fundraiser. Anne Bowers headed up the effort.

Two legal engagements have been undertaken this year. The first engagement, which has been active for several years, was the request for a summary judgment to dismiss the designation of critical habitat for wintering piping plovers within the Cape Hatteras National Seashore Recreational Area (CHNSRA). Several years ago, our legal challenge successfully voided the initial attempt by the U.S. Fish and Wildlife Service. In 2009, the USFWS

again made a revised designation at CHNSRA and forced us to initiate a second legal challenge. This suit has ended with the court ignoring Superintendent Mike Murray's letter stating that the designation was not necessary and a continued lack of peer reviewed economic data and ruling in favor of USFWS. The cost of the legal work this year has been in excess of \$76,000 with just over \$35,000 still due to be paid at a rate of \$10,000 a month.

The second legal engagement was initiated this year for consultation in the preparation of comments to the National Park Service Draft Environmental Statement (DEIS). Legal and consulting fees amounted to just over \$32,600. If our input is ignored by the NPS and their "preferred alternative" becomes the final ORV Plan for CHNSRA, we will be taking a hard look at a legal challenge of the plan. If we decide to make such a challenge, it will likely be our most expensive endeavor yet and will require that each and every one of our members support any and all fundraisers to the greatest extent possible. As many of you know, the "preferred alternative" will severely limit access to our Seashore while not increasing wildlife productivity.

Never in my wildest dreams (or nightmares as the case may be) did I expect that when I volunteered for this position that it would last this long and take so much time with no end in sight. It is only the support of OBPA members that has kept us going.

Thank You!

Steve Hissey Steps Down

After 10 years of leading the fight for Beach Access along the Outer Banks, Outer Banks Preservation Association Vice President, Mr. Steve Hissey, will hand over the reins to the next Vice President.

Back in December of 1999, the Bluewater Network Coalition, which consisted of 70 environmental organizations, petitioned the Department of the Interior to close all ORV accesses in all National Parks. Steve was one of the initial people who led the way for the OBPA to reorganize and fight for the rights of citizens, for free and open beach access.



Steve will continue to carry the flag for Beach Access. Please join the OBPA in expressing our thanks and gratitude to Steve for his dedication and commitment to Beach Access.

Best of luck in the future to Steve and his family!

Piping Mad, the movie

A Fair People at the Mercy of a Government Gone Fowl

Piping Mad is a short 20-minute documentary about the hardships that now face Hatteras Island since the National Park Service started ruling with an iron fist for the overprotection of certain birds.

Through a donation from Avon resident, Rob Schonk and interest from Jeff Johnston, the chief executive officer of a New York public relations firm, the movie was made. Twice over the summer, film crews spent days interviewing local businesses and residents. It is captivating and heartbreaking, a MUST SEE.

Later this fall, a two hour version will be completed which will compete in several film festivals scheduled over the winter.

So far, the exposure has been fantastic for the cause. Once released and powered by the Internet, You Tube and Facebook, feedback instantly started coming in from all over the country.

If you haven't watched it yet, please go to OBPA website or <http://vimeo.com/14696293> and pass it along to everyone you know.

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CHAPA meets with NPS Southeast Regional Director

By David Scarborough

Cape Hatteras Access Preservation Alliance representatives Larry Hardham, Jim Keene and David Scarborough met with the National Park Service Southeast Regional Director David Vela in Atlanta on July 13th, 2010. The meeting was originally scheduled to occur in Manteo on June 2nd; however, Regional Director Vela was called away due to an unexpected emergency.

CHAPA, the OBPA, NCBBA and CHAC used this meeting as an opportunity to reiterate the positions the pro-Access community voiced during the DEIS comment period and provided copies of supporting documentation.

In addition to Regional Director Vela, the meeting was attended by the following NPS representatives: Southeast Regional Deputy Director, Mark Woods; Southeast Regional Chief LE Officer, Mike Anderson; Southeast Regional Interpretational Officer, Gordon Wissinger; Southeast Regional Field Officer, Sherri Fields

Larry, Jim and David focused on a list of key CHAPA posi-

tions which has also been included in the Beach Keeper.

Regional Director Vela asked many questions, but two warranted a more in depth response than what could be provided during the meeting. The first question was “what can be done to improve the communications, and interactions between the NPS staff and the local/visitor communities, and the overall attitudes (of both NPS staff and park visitors) at the Cape Hatteras National Seashore Recreational Area, (CAHA)?” The second question was “What one concern/issue/comment would you want to make sure we heard in this meeting today?”

A letter was sent to Regional Director Vela on July 21 to address these important questions. The full text of the response can be read at the following link: www.OBPA-nc.org/position/NPS-Southeast-Regional-Director-letter.pdf The letter also contains links to other key documents that were provided to Regional Director Vela.

Piping Plover Critical Habitat Update

by John Alley

Sadly, we lost this round in the fight for human access to the nations first recreational seashore.

The judge ruled that the USFWS sufficiently addressed its errors in the first case, which we won.

They did this by reducing some of the areas of critical habitat, including Pea Island and hiring a firm from Boston to regurgitate the discredited Vogel song Survey using something called the Base Line.

It seems that the fact the firm who did the economic study never set foot in the seashore was not germane to the issue of our economics.

The USFWS is in the process of reworking the 1996 piping plover recovery act so who knows how much of the public lands will be set aside for the plovers, also known as the Spotted Owl of the East.

The funny thing is that the spotted owl is being shoved out of its territory by the barred owl as that species moves west. The USFWS in 2009 started a study of whether killing the barred owl might enhance the spotted owls chances.

Here on Hatteras, we are seeing the same battle. Our government plays god with natural selection in order to appease the environmental groups.

If you might be a threat to the almighty plover, you are hunted down and killed. Dogs, cats, foxes, nutria and even the otter are trapped and put down.

When the Defenders of Wildlife puts out a press release glorifying the numbers of animals killed in the defense of the plover, I may be tempted to look at them as defenders of wildlife.

Fundraisers Keep Beaches Open

Even though membership dues and donations are the lifeblood of the OBPA, it is the fundraisers that give the fight for beach access the big money.

Stand in the Sand is our annual BBQ and fish fry that is held every summer. It takes an incredible amount of man power and donations to pull this together. And, it is worth it.

The **Annual Prize Calendar** is another big source of money. The local community rallies together to donate a delightful array of prizes: vacations, fishing gear, fine dining, art and more. The 2011 Calendar has an added bonus. The Cape Hatteras Angler's Club donated a \$1,000 cash prize which will given away on Christmas 2011.

But surprisingly, it's the **donation jars** that you see next the registers in many local businesses that are the OBPA's largest fundraiser. Keep those nickels, dimes and quarters coming. Spare change adds up!

Support Our Sponsors

The printing of the Beach Keeper was donated to the OBPA by Multi-Print, INC. For this, the OBPA is profoundly grateful.

If you or your associates need the services of a professional printer, we recommend that you request a bid from this company that supports the principle of free and open beach access at the Cape Hatteras National Seashore Recreational Area.

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CAHA ORV Management Plan - Key CHAPA Positions

(Communicated to NPS Southeast Regional Director David Vela 7/13/2010)

The Cape Hatteras Access Preservation Alliance (CHAPA) supports open pedestrian and ORV access within the Cape Hatteras National Seashore Recreational Area. CHAPA also supports the preservation of Natural Resources within the Recreational Area. The accomplishment of these two objectives is paramount to the success of the National Park Service at CAHA.

CHAPA's positions on activities critical to the success of the NPS mission are as follows:

CHAPA supports the use of pre-nesting closures for the endangered piping plover species but does not support such closures for other species, including those "listed" on the NCWRC species of concern.

CHAPA does not support the Species Management Areas (SMA) Management Level 1 (ML1) proposed procedure that will close pedestrian and ORV access to identified areas from March 15 to July 31.

CHAPA does not support the SMA proposed procedures that would close ORV access year round to Hatteras Inlet spits and ORV access to Bodie Island Spit from March 15 to July 31 - areas with no plover nests in years.

CHAPA supports the use of 200m buffers with appropriate monitoring for unfledged piping plover chicks, not the 1000m buffers proposed in the DEIS.

CHAPA supports the use of "flush distance + 15 meters" buffers for American Oyster Catchers and 30 meter buffers for other colonial water birds for breeding/nesting/chicks only until fledging occurs (not two weeks later for AMOY), not the 200m - 300m buffers proposed in the DEIS.

CHAPA supports the use of vegetation and site management in areas particularly suited to bird nesting activities such as the spits and Cape Point.

CHAPA supports the use of floating closures that recognize changes, good or bad, in the suitability of areas for bird habitat in lieu of permanent closures, not in addition to as proposed in the DEIS.

CHAPA supports the use of pass through corridors or by-passes to provide pedestrian and ORV access that would otherwise be restricted due to resource protection buffers.

CHAPA supports the use of 10 meter square Turtle Nest closures.

CHAPA supports the relocation of turtle nests from high risk areas (e.g. below spring high tide line as used in South Carolina) to pre-determined safe areas (as in Pea Island and Cape Lookout) when nests are first laid instead of when destruction by storms or over wash is imminent.

CHAPA supports the use of nightly nest to water "keyhole" closures and on site turtle watch observers (such as those used by NEST and at Pea Island National Wildlife Refuge) during turtle nest hatch windows, not around-the-clock closures.

CHAPA does not support the prohibition of night ORV beach access during turtle nesting season prescribed in the DEIS.

CHAPA supports visitors' right to take leash-controlled pets to the seashore beaches year around.

CHAPA supports ORV beach access in front of all villages from September 16 to May 14 without differentiation. ORV closures at other times of the year should start at the village boundaries, not at the base of the nearest access ramp.

CHAPA supports the recognition of traditional cultural values required under section 106 of NEPA, and, further, supports the designation of the surf zone within the Recreational Area as a Traditional Cultural Property as defined by the NPS.

CHAPA supports an aggressive visitor education program for all aspects of visitor courtesy and resource protection within the Recreational Area.

CHAPA STRONGLY supports the enforcement of all rules and regulations to ensure the future for the Cape Hatteras National Seashore Recreational Area.

T-Shirt Sale

Stand in the Sand
Special Edition Tee

\$10 ea.

order online at www.obpa.org



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Traditional Cultural Property Surf Zone Designation

By David Scarborough

CHAPA membership petitioned CAHA Superintendent Mike Murray for TCP designation in October, 2008. In March 2010, Superintendent Murray advised that an ethnographic analysis of four surf zone locations was being conducted. Attempts to learn the status of the ethnographic analysis have received no response.

The properties for which the request has been made clearly meet multiple criteria for considerations as TCPs based to the NPS' published guidelines (National Register Bulletin #38).

The importance of open access to the traditional cultural values within CAHA was formally recognized by Congress and the NPS in the legislation that enabled the creation of the Recreational Area.

The traditional cultural importance of open access has not diminished since the creation of the Recreational Area and has arguably grown in importance.

The NPS has long implicitly recognized the traditional cultural importance of open access by its established management practices.

The NPS implicitly recognized the traditional cultural importance of beach access within the Recreational Area through the prior publication of *Ethnographic Study of Eight Seashore Villages*. Further, the data within this publication explicitly recognizes the traditional cultural importance of beach access.

The stated reason for the publication of *Ethnographic Study of Eight Seashore Villages* was to recognize the existence of traditional communities within the park and to help assess the impact of the NPS' management decisions on these communities. The pending ORV Management Plan will be the most significant change in the Recreational Area management since its creation; the ethnographic study or the communities' traditional values are not even mentioned in passing.

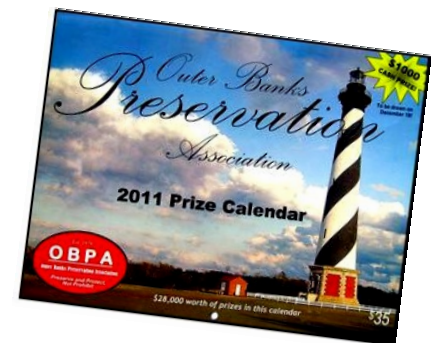
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been
inextricably
tied to the
surf zone and
remains so
today**

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Run for Hatteras Challenge Fundraiser

The *Run for Hatteras Challenge* is shifting into high gear. Hopefully by now, you are aware that Bob Spangler, Hatteras Island resident, has challenged himself to run 50 miles on Friday, November 26, 2010. (Date subject to change due to weather.) The run will begin at the south end of the Oregon Inlet Bridge and end at the Hatteras Ferry Docks. Bob's goal in attempting this grueling effort is twofold. First, he wants to use this as an opportunity to increase public awareness of the fight to maintain access to the beaches within the seashore. Secondly, he hopes to raise donations for two of his favorite charities. Bob has issued a challenge to the residents and visitors of Hatteras Island to donate \$1.00 per mile completed, to be equally divided between the Outer Banks Preservation Association (OBPA) and the Hatteras Island Cancer Foundation.

Visitors, island residents and businesses are accepting the challenge *AND* issuing challenges of their own. John Couch, owner of the **Red Drum Auto Center** and President of the OBPA has pledged \$5.00 per mile and has challenged all of the other service stations on the island to make the same pledge. John also challenged his brother Stewart, President of **Hatteras Reality**, to make a pledge. Stewart said OK and

issued a challenge of his own to all of the reality companies on the island to make the \$5.00 pledge. Frank Folb of Frank and Fran's Tackle in Avon, not to be out done by the Couch brothers, jumped on the wagon, pledged \$5.00 per mile and challenged all the other tackle shops on the island to do likewise.

Meanwhile, Bob Spangler has put his training into high gear. Many mornings, if you are up early enough, you can see Bob running from Avon village to Buxton and back.

You can read more about the Challenge on the OBPA website www.OBPA.org. Just select the "Run for Hatteras Challenge" on the Main Menu. You can make a pledge on-line, or by returning the form below to:

OBPA P.O. Box 1355 Buxton, NC 27920

Name: _____

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Run for Hatteras Challenge

Friday November 26, 2010

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