

CHAPA

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Testimony on H.R. 4094

To authorize pedestrian and motorized vehicular access in the Cape Hatteras National Seashore
Recreational Area

April 27, 2012

Mr. Chairman, committee members, Congressman Jones;

Thank you for the invitation to speak on this important piece of legislation.

My name is John Couch. I have lived and worked on the Outer Banks since my childhood in the 50's when my father brought our family to Hatteras Island. I am also a businessman with two ongoing businesses in the village of Buxton. I represent the Outer Banks Preservation Association, which was formed in the 1970's to be an advocate for free and open beach access at Cape Hatteras for visitors and residents alike. Our motto is, and has always been ***Preserve and Protect, Not Prohibit***.

The rule instituted by the National Park Service on February 15th has effectively taken the nation's first national seashore designated by Congress to be a "recreational area" and turned it into a wildlife refuge without congressional authorization. This will forever diminish the visitor experience in ways unintended by the enabling act.

H.R. 4094 will restore access and ensure that the Cape Hatteras National Seashore Recreational Area will be used as intended, and as it has been used for generations—***for Recreation***. It will also ensure that recreation can co-exist with resource protection which is important to all National Parks, Seashores and Recreational Areas.

The authors of the Final Rule strayed in their efforts. Their assessment of the environmental impact of the rule in two significant areas – the visitor experience, and the local economy – is flawed. The guidelines and instruction provided by **H.R. 4094** addresses these flaws.

Visitor Experience

The primary reason visitors come to Cape Hatteras is to participate in shore-based recreational activities. A range of family oriented activities, including swimming, fishing, lighthouse climbing, bird watching and more strenuous activities such as surfing and kite-boarding, appeal to a wide cross-section of the American public. Regardless of the activity, virtually all of the recreational opportunities occur on the beach. That is what brings visitors to the Hatteras seashore – **Access to Recreational Activities on the Beach**. And these reasons for access share a common need – the need for beach access with gear in hand.

Traditionally, beach goers at Cape Hatteras have benefitted from open access dating back to before the Seashore was established. The faulty visions some have of dune buggies racing down the beach, jumping dunes and cutting donuts are far from reality at the Seashore. Visitors here have always understood that the value of the ORV is to transport family, friends and equipment to the perfect spot on the beach that would otherwise be inaccessible. Our enjoyment comes from access, not from joy-riding.

To most visitors, beaches closed to ORV access are effectively closed to pedestrian access, for without the means to transport family, children, elderly and gear, the beach is inaccessible.

The extent to which the Rule restricts ORV and other use of the Seashore is substantial.

The Rule has **permanently closed an additional 19 miles of beach to ORV access** that has traditionally been available, and in these areas only narrow strips of beach near parking lots are being used by pedestrian visitors.

The Rule **limits 19.1 miles of beach to ORV access** to winter months only, when recreational opportunities are limited at best. Prior to the Rule, these beaches were accessible by ORV in the spring, winter and fall by visitors who scheduled their trips expecting this availability.

The Rule claims 29 miles of beach are open year round to access by ORV. In truth, temporary resource protection closures for non-threatened or endangered species have already prevented both ORV and pedestrian access to most of these miles during the height of our seasons.

At Easter, this year, **70%** of oceanfront between the top of the Seashore and the end of Ocracoke Island was closed to access by ORV. Some of this area, such as the 12 miles of the Pea Island National Wildlife Refuge, is understandably closed permanently to access by ORV. However, temporary closures already implemented at Easter, due to one piping plover (threatened) and three oystercatcher nests (not threatened or endangered) have already taken an additional 8.5 miles away from visitors. By Memorial Day and the start of the peak tourist season, beaches accessible by ORV will likely be less than 10 miles, and will remain at that level until August.

Visitors also will encounter other surprises when they arrive. They will find that the short expanse of beach they can access by ORV must be vacated by 9:00 pm. No more beach bonfires or late evening picnics. They will find no morning access until 7:00 am, even though any good fisherman knows the morning bite will begin 30 minutes before sunrise and end long before they can get to their spot. And finally, the visitor will learn that the significantly reduced access they now have comes at a price of \$120 for an annual permit, \$50 for a weekly permit, and no daily pass for short term visitors.

Easter found many visitors at restaurants, motels, realty companies, grocery stores, gift and tackle shops voicing their dismay and frustration, wondering who is responsible, and many vowing never to return.

The National Park Service concluded that the impact of the Rule on visitor experience is “long-term moderate to major and adverse to ORV users, and long-term beneficial to visitors who desire a vehicle free beach experience”. The agency does not point out that the vast majority of visitors are ORV users, or that the majority of those that are not ORV users are indifferent to ORV access, and that the visitors desiring a vehicle free beach experience had many such miles available prior to the Rule.

Economic Impact

The negative visitor experience as a result of the Rule is directly responsible for the substantial economic impact felt in the eight villages on Hatteras and Ocracoke Islands. For a tourist based economy, the math is simple – No Visitors = No Business.

When the Department of the Interior and National Park Service courted the original property owners to join in to the movement to create the Seashore, they were quick to point out the financial windfall that would be enjoyed by the villagers through the development of visitor services. With more than a bit of initial hesitancy and suspicion, the villagers eventually donated or sold their land, accepted the Park Service’s encouragement and built the infrastructure to support tourism.

Today, all businesses on Hatteras and Ocracoke islands are directly or indirectly driven by tourism.

Springtime visitation has suffered for the past five years due to access closures implemented under the temporary consent decree and is suffering even more this year due to the more extensive closures in the Final Rule.

Fall visitation, which is always threatened by the possibility of tropical storms and hurricanes, will now suffer due to new permanent closures and procedures under the Final Rule.

With both the spring and fall shoulder seasons impacted by the Rule, businesses once prosperous are now struggling to survive. (Historically, 47% of visitation to Cape Hatteras

occurred in the months of June, July and August. Conversely, 53% occurred in the other nine months.) Many have already failed. Unless relief is provided from the Rule, the only question is how many more will follow.

Seven-hundred twelve businesses, 3,117 weekly rental properties and 225 charter boats are found on Hatteras and Ocracoke Islands. All directly or indirectly exist for the tourist business. All have or will experience reduced income. All have or will have to survive with fewer employees, shorter hours for staff, and longer hours and hardships for the owners. Today, the unemployment rate in Dare County is 19% compared to 10% in 2008. Hyde County's unemployment rate has gone from 8% to 13%. If statistics were available, I'm sure the Islands unemployment rates would be even worse than their parent counties.

A few examples of what businesses have already experienced over the past five years include:

- Wayne Clark, owner of Edwards of Ocracoke Rooms and Cottages in Ocracoke, has lost 15% of his spring business over the past two years.
- Bob Eakes, owner of Red Drum Tackle in Buxton, has lost 55% of annual business since 2007 and now has three employees rather than ten.
- Frank Folb, owner of Frank and Fran's Fisherman's Friend tackle shop in Avon, had a 20% drop in business the first year of the consent decree and further drops since.
- Anne Bowers, owner of Indian Town Gallery in Frisco, has lost 70% of her March business due in part to the absence of springtime fishermen who always want to buy a "guilt" gift for their wives and girlfriends.
- I have experienced a 30% loss in my annual business at the Lighthouse Service Center and Lighthouse Auto Parts in Buxton. Under the consent decree when the beaches closed in the spring, my business dropped. When the beaches reopened in August, my business improved. The beaches are already closed this year. It remains to be seen what will happen in the fall since many beaches will never reopen under the Rule.

Many of the business owners on Hatteras and Ocracoke scratch their heads and comment with bitterness that although the federal government has a goal of job creation, elsewhere it appears to have a goal of job elimination here.

A timely example of the visitor and economic impact will occur this weekend, April 28th and 29th. For 26 years, fishermen added their names to the waiting list for one of the 600 spots in the annual fishing tournament sponsored by the 4-Plus club of Richmond, Virginia. Last year, the participation level fell below the 600 maximum to 550 for the first time ever. As of Wednesday, only 373 have registered for this year's event. Those choosing not to participate have cited the new fees and lack of access as the reasons they will not return. The 4 Plus

tournament is the first of six long-standing annual surf fishing tournaments at the Seashore. What will happen at the remaining five?

What H.R. 4094 means to us

H.R. 4094 will replace the destructive Final Rule with the Interim Plan vetted and originally implemented in 2007 on a temporary basis. This Plan will restore much of the access and recreational opportunities denied the American public under the Rule, while continuing to protect the Seashore's wildlife and other natural resources.

H.R. 4094 will establish guidelines to ensure punishing and unnecessary closures and restrictions will not be re-created in the future as new rules are promulgated.

H.R. 4094 will ensure that, as new rules are promulgated, species protection will be instituted based on peer-reviewed science.

H.R. 4094 will further demonstrate the importance of public access to Federal lands for recreational use in appropriate traditional and historical manners. Through the passage of the Sportsmen's Heritage Act of 2012 (H.R. 4089) on April 17th, the House recognized the importance of angler access to Federal lands for recreational use.

H.R. 4094 will not require any new appropriations, and, through a reduction in administrative complexity, may offer an opportunity for personnel and construction savings over that anticipated by the Rule.

Finally, H.R. 4094 will ensure that, in the future, the Cape Hatteras National Seashore Recreational Area will be managed such that

- The Seashore's wildlife and other natural resources will be protected without unnecessarily restricting public access, use and enjoyment, and
- Traditional, cultural, recreational and commercial values so important to the visiting public and residents will be respected and maintained.

I urge you to support the residents and visitors of the Cape Hatteras National Seashore Recreational Area by passing H.R. 4094.

Thank you Congressman Jones for introducing this legislation, and thank you Mr. Chairman and members of the committee for this opportunity to testify on this critical issue.

John Couch
President, OBPA

Additional Information

The Cape Hatteras Access Preservation Alliance (CHAPA) is a project of the Outer Banks Preservation Association. The following organizations support the access positions that have been developed and presented by CHAPA.

- North Carolina Beach Buggy Association (NCBBA)
- Cape Hatteras Anglers Club
- Dare County Board of Commissioners
- Hyde County Board of Commissioners
- American Sportfishing Association (ASA)
- United Mobile Access Preservation Alliance (UMAP)
- United Four Wheel Drive Associations
- Watersports Industry Association, Inc.
- Recreational Fishing Alliance
- Outer Banks Chamber of Commerce
- Dare County Tourism Board
- Ocracoke Civic and Business Association
- Hatteras Village Civic Association
- Avon Property Owners Association
- Assateague Mobile Sportsfishermen Association
- New Jersey Beach Buggy Association
- Long Island Beach Buggy Association
- Rhode Island Mobile Sportsfishermen
- Davis Island Fishing Federation
- Massachusetts Beach Buggy Association
- Virginia Coastal Access Now
- Virginia Beach Anglers Club
- Tidewater Anglers Club
- Delaware Mobil Surf Fishermen
- Farragut Striper Club
- Association of Surf Angling Clubs
- CCA of North Carolina

**If the Environmental Groups
are successful in denying
vehicular access to the beaches,
how will our Veterans,
those with disabilities &
Seniors enjoy the beaches?**



While in his teens, Truman Joyner volunteered his services to defend his country in a land he had never seen. His government sent him to the beach, OMAHA. After following General Patton across Europe he was hospitalized with severe frost bite to his feet. A decision to not amputate was welcomed and after rehabilitation he returned to America to lead a full and productive life. Late in life the injuries suffered in WW II slowly destroyed his ability to walk without assistance. Now he had to rely on his son's care to visit his favorite American beach, Cape Hatteras. Instead he was denied access to his favorite beach after giving so much on a foreign beach. Truman served in Europe a long time ago but the injustice to him continues today to our returning vets and Americans with disabilities.



The Park Service showed how they feel about visitor access shortly after the Final Rule was promulgated. Thanks to Congressman Jones, these signs were later replaced with others that were less uncaring for public safety.