

From: [Mike Murray](#)
 To: [Vincenzo Sanguineti](#)
 Cc: [Jim Lyons](#); [Jeff Wells](#); [Stephen Kayota](#); [Marion Frank](#)
 Bcc: [Mike Murray](#); [Candy Hobbs](#); [Mark Hestgrove](#)
 Subject: Re: order #7
 Date: 09/15/2006 12:24 AM

Gentlemen:

I do not know where you got the idea that we are going to reopen all areas to ORV use on September 16. **We are not.** In my judgment, you may have misread something into recent communications (no doubt flawed) from me that simply is not there.

I realize the recent press release about reopening of the "beaches in front of the villages" was non-specific about what exactly would reopen: however, the last [Beach Access Report](#) (Sept 1) indicated the seasonal closure areas that would reopen Sept 16. It includes in front of the tri-villages, Avon and Ocracoke, but NOT Buxton or Frisco-Hatteras. The beach in front of Buxton Village (from 1.5 miles south of Ramp 38 to 0.4 miles north of Ramp 43) will remain **closed** to ORVs as a safety closure. The beach in front of Frisco and Hatteras Villages (currently from 1.1 mile south of Ramp 49 to just north of Ramp 55) will remain closed to ORVs as a safety closure (admittedly, the Beach Access Report did not mention the rationale on this one, but it also did not indicate it would reopen). I acknowledge the lack of specificity has contributed to the confusion (we thought we were just reminding people what we already said we were going to do in the Beach Access Report). **We will issue another press release to clarify the information.**

My intent remains to continue to maintain similar winter access in front of the villages as has occurred in recent years and to defer creation of new policy to the negotiated rulemaking process. I realize that there is disagreement about whether the 0.4 miles south of Ramp 43 should be reopened as occurred in 2005 and about NPS apparently reducing the safety closure south of Ramp 49 by 0.6 miles earlier this Spring (I say "apparent" because I do not recall approving the change but at this point I believe it occurred). On the former situation, I am not willing to take on the ORV community at this time over 0.4 mile of beach that was reopened in the off-season by my predecessors, when the negotiated rulemaking process will resolve this in due course. Based on recent feedback from several of you about the latter situation, I believe my response letter to the same several of you this summer was flawed and am in the process of re-evaluating the situation.

With regard to Superintendent's Order # 7, it provides no significant change in past (i.e. the 2004) policy, which is admittedly flawed. It does identify, rather than avoid mentioning as the previous SO# 7 did, the "seasonal closures" in front of the villages, based on current approximations of the seasonal closures originally identified in the 1978 Interim ORV management plan, but this is not a "set up" to justify reopening all those areas. We are just trying to reveal the actual rationale that has been invisible for so long. There has been some location creep in some of the boundaries after Hurricane Isabel. SO# 7 also provides for safety closures but does not specifically identify any existing or ongoing safety closures.

Despite what you all may think based on the longevity of the "year round" closures in front of some villages, NPS has apparently never designated permanent closures or pedestrian only areas. The 1978 Interim ORV management plan, which was never approved but appears to be the basis for past practices over the years, emphasized that all closure types (seasonal closures in front of villages; safety closures due to narrow beaches; and resource closures due to bird or turtle nesting) were not "permanent" but were "temporary". I can only assume that under that approach previous superintendents rationalized that the year-round closures in front of some villages were based on either the seasonal and/or safety closure criteria, or a combination of both (seasonal during the summer and safety during the winter). I know that is what I am having to rationalize now to try to "freeze" the status quo. I'm not defending or disputing the past actions; just saying the policy is flawed, has not been implemented with consistency (e.g., location creep), and needs to be reassessed and revised during negotiated rulemaking so that the location, reason for and longevity of the closures is clear. Again, I do acknowledge the disagreement about the location of the transition line south of Ramp 49 and am re-evaluating that.

In closing, may I say that every day in this job is a learning experience about the challenge of improving communications in a polarized situation and trying to bring order to a chaotic situation. I sincerely hope that this message addresses your most important concerns and the next press release will resolve any confusion among the general public. I do appreciate your feedback since it helps me evaluate and improve the effectiveness of the information we are putting out to the public.

Please feel free to contact me if you have further questions or concerns.

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-----"Vincenzo Sanguineti" <vsanguineti@comcast.net> wrote: -----

To: "Mike Murray" <mike_murray@nps.gov>
 From: "Vincenzo Sanguineti" <vsanguineti@comcast.net>
 Date: 09/13/2006 10:33AM
 cc: "Jim Lyons" <121bitest@usa.net>, "Jeff Wells" <ckwandjsw@aol.com>, "Stephen Kayota" <kayota@attglobal.net>, "Marion Frank" <mjfrank@comcast.net>
 Subject: order #7

Dear Mr. Murray

I was utterly surprised and disappointed by the news, conveyed to me by Dr. Kayota, that you have decided to modify the customary restrictions to beach access that existed before Isabel, while accommodating to the requests of the groups supporting indiscriminate ORV access.

This decision would be so contrary to what you enunciated during our meeting in Hatteras earlier this year that I could not help but feeling misguided and misinformed since then.

Furthermore, I would respectfully point that it would have been good politics to discuss a possible revision of order #07 with our representatives before the fact. I am not sure who was allowed to be involved in that process, but it looks as if the process was not a fully transparent one.

I need to underline a few points as briefly as possible: (I am myself rather tired of this charade)

- All inhabited beaches, before Isabel, were closed to ORV use, and no corridors were allowed. I have been on the island for almost fifteen years and can confirm this point, irrespective of what other interested parties may say. I got the same confirmation from all other property owners whom I have been contacting during this past summer.
- I have collected strong documentation that the visitors to the island who use the oceanfront facilities and the beaches are unequivocally against ORV driving on inhabited beaches, and would consider not returning if such driving were allowed. The feedback includes ORV drivers. I forwarded to you some of that documentation; I have never been presented with contrary reliable data. I expected that you would consider this information and maintain the pre-Isabel status -- as you had assured us -- until a final policy is formulated through the Consensus Building Institute (CBI).
- Order #07 will negatively affect tourism and income (see above). Property owners will then have to call on the National Park Service as the exclusive responsible for such losses. By delaying any decision until after the final rulemaking from the CBI the Park Authorities would avoid such potential liability (and related class actions?).
- The same applies to safety and environmental issues. It seems unwise, to all of us, for the Park Authority to open itself to these potential liabilities and recriminations, possibly out of unilateral pressure from special groups (see below), without sufficient collaborative documentation, and without a negotiated decision.
- Contrary to the vociferous insistence of the OBPA and partners, no one has ever suggested closure of the beaches to people; only to vehicles (and their damaging consequences). Do I need to conclude that you have been inclined to favor, even if temporarily, drivers (not fishermen), and ignore the larger issues of safety, environment, and economy?
- I am not a large homeowner; however, I would certainly join that group of large homeowners who are already resigned to the fact that nothing short of litigation will protect the beaches during the interim time and until negotiated rules are formulated. I can assure you that most NRPO will do the same. It seems reasonable, for many of them, to expect that presently, any possible litigation will address exclusively the Park Authority, which is responsible for the Park; not the OBPA or other entities that do not have the effective power to make this type of decisions.
- Perhaps, however, your position concerning Order #07 has been misinterpreted. Therefore, I would appreciate you clarifying to me whether the inhabited beaches in Hatteras Village (those stretching without interruption from the end of South Beach Drive all the way to Austin Road, north of the Seagull Motel) will still be closed to traffic (even corridor traffic) for the entire year, as they have consistently been for the past 1 1/2 decade at least. They reflect 140 oceanfront property owners, not to speak of all the Oceanside ones (well over 200). These are not indifferent numbers and most of these homeowners share our position.

In closing, I invite you to reflect on the implementation of order #07 and to maintain all inhabited beaches permanently closed to vehicular traffic until all parties come to a negotiated agreement.

Sincerely,
 Vincenzo Sanguineti MD