

From: [Bob Eakes](#)
To: [Warren Judge](#); [Warren Judge](#); [Sara Winslow](#); [Sam Hagedon](#); [Roy Kingery](#); [Ronald Bounds](#); [Roberta Midgett](#); [Robert Davis/Barbara Ackley](#); [Patty Doerr](#); [Patrick Paquette](#); [Pat Weston](#); [Natalie Perry](#); [Mike Murray](#); [Michael Nussman](#); [Mary Beth Charles](#); [Mac Currin](#); [Larry Hardham](#); [John Couch](#); [Jim Keene](#); [Glenn Hughes](#); [David Joyner](#); [Chris Salp](#); [Carla Boucher](#); [Allen Burrus](#)
Subject: Fw: ORV Controversey
Date: 03/09/2008 08:26 PM

----- Original Message -----

From: [Bob Eakes](#)
To: [Rip Cunningham](#)
Sent: Sunday, March 09, 2008 8:20 PM
Subject: Re: ORV Controversey

Hey Rip,

Good to hear from you. Sometimes I don't get to see my friends often enough. Sorry to be a week late in answering but I am just back from ASA meeting in LAX.

This is a pretty screwed up issue but here goes,

For decades Cape Hatteras National Recreational Seashore existed without an ORV plan. Under Richard Nixon an executive order was passed requiring anything under the Dept of Interior to manage and have an ORV plan. Twice since the early 70's NPS and my community have created a plan only to never have the plan so listed in the federal register. Hence we are out of compliance. At the highest level of Interior, we were persuaded that a plan through a Negotiated Rulemaking process sanctioned by congress was the right way to achieve what is mandated.

Of course times have been quite controversial down here but still with a really great pick for a superintendant, by Fran Mainella NPS director, we have pushed forward and so on. At the Neg Reg table are a great deal of players including many of the top environmental groups from around the land. At the outset of this very complicated process which demands consensus by all on every issue, we all were asked to withdraw our talons and make this process the main focus of our lobbying effort and so on. Also, we would not sue during the process. Mike Murray, the new supt., accorded all a place at the table.

Through out the early stages of meeting while we were waiting to be appointed we were constantly attacked through magazine or lawsuits or whatever by the National Audubon, Defenders of Wildlife, and Southern Environmental Law. These three groups have never yet come to the table to negotiate but sit there as if they were the lord god of all.

Through out this process, with the three of them already filing lawsuits, has sat a Judge from Elizabeth City named Terrence Boyle, Judge Boyle has a reputation for being quite unfair and is at best not very good at what he does. He is the last remaining judge from his appointment process who has not moved up the line. For 20 years or so he has heard every single civil and criminal case for NPS Cape Hatteras. Last August, he ruled against a reckless driving case and made note that ORV's were illegal to drive in CHNS since there was not an ORV plan in place. Of course this was noted with glee by the dark side, the enviros, and they thought the seashore would be closed.

Finally we are formally appointed and the Reg Neg is on. The enviros cannot stand not to sue and so they do. They ask for basically an injunction which would mandate a set of protocols issued by the USGS and say the protocols are in fact NPS science. What they don't say is that they, Audubon and Defenders, hired a guy and moved him here 8 years or so back. This man became the main person in local resource management with park service and of course requested the very rigorous closures and of course influenced the protocols. Derb Carter, SELC lawyer representing the dark side, acts as if this very biased science was created by NPS and no one else. The injunction wants all three inlets,

Oregon, Hatteras, Ocracoke and Cape Point closed year round. Take Cape Point and 2 miles north and 3 miles south. Oregon Inlet from the Campground and south, Ocracoke from the Airport, Hatteras Inlet from ramp 55 and you take in gist of it. Cape Point has to be the top recreational fishing spot in the world and it is to be closed year round. While the dark side acts like predestrian access would be allowed they are also demanding that it be a resource closure and under NPS everyone is banned.

The so called reason for the injunction is that birds are just not here and that the level of ORV use has reduced populations in CHNS to 20% of past populations and two species no longer nest here at all. This is just so much bull because most of the birds are colonial which means colony and if you look at CHNS and the dredge islands and take the NC Wildlife Commission bird counts for last year for our area the bird count is up 20% and not down 80% as the dark side has said. The dark side sayes they just don't have time to wait for the REG Neg process to be completed because of their hysteria over the loss of two birds in the seashore. That both of these species are up in population when you add in the dredge islands created by dredging the inlets and channels and so on is absurd. An example of bird nesting is the least tern which has quite a few numbers and when the bird nests it does so by colony. The three largest sites in North Carolina are three different roofs of Food Lion grocery stores. The numbers of course are up in the state but down in the seahores. A great bird which knows how to adapt.

The really bad new for us is that the lawyers representing the NPS have just not participated. They have recommended settling this and of course we will not. They have not even bothered to do anything except sit there if front of the judge. The positive thought process is that both NPS and USFWS agreed on an Interim Plan while Reg Neg was going on which would afford suitable protection for the resource and allow fishing to go on. The bad news is that the dark side has made it quite clear that they will block consensus on anything which affords access. Already they have argued against increased parking areas and every thing else which would let the American public go to the beach.

The dark side just could not wait to get this is front of a very biased and agenda based judge. All of us on the Reg Neg committee know that this end around move they have made is despicable and knowing me like you do, I could say it better with a bunch of xxxxxxxx. It is unblievable that my community can be asked to accord the dark side respectability and try to work with them. The dark side has done everything they can to make us abort the process.

I am back in town, Rip, and please call if I can help. There is a Reg Neg meeing the week after next and you sound like you need a break from Maine. The court date is April 3rd and while I hope for the best I think the worst. You could come down, stay at the house the week after next and after the meetings we could make a trip offshore. Seems like I am hearing of a few bluefins and of course yellowfins.

Thanks and later,

Bob Eakes

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----- Original Message -----

From: [Rip Cunningham](#)

To: [Bob Eakes](#)

Sent: Monday, March 03, 2008 9:02 AM

Subject: ORV Controversy

Hi Bob

Hope all is well. Long time no see. I am currently living in Maine and dealing with 100 plus inches of snow. But the good Lord put it here and the good Lord will take it away. Soon, I hope.

Any way, I heard that there was a possible law suit against the Park Service over ORV use. The intent being to shut everything down. Can you give me a Reader's Digest so I can go poke around.

Many thanks.

Rip

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And it may not be enough
Give the world the best you have anyway