

**From:** [Mike Murray](#)  
**To:** [Chris Dillon \(Pres. Pro Tem's Office\)](#)  
**Bcc:** [Cyndy Holda](#)  
**Subject:** Re: Beach access  
**Date:** 05/28/2008 01:42 PM

---

Hi Chris,

Sorry for the delay in responding. I've been tied up in meetings all morning, but had staff look into the situation for me.

As far as the boundary goes, Cape Hatteras National Seashore has jurisdiction to the mean low water line, based on deeds from the State. Apparently, many of the deeds indicated that the boundary of the land transferred to NPS was the mean high water mark, but a separate deed transferred the area between the mean high tide and mean low tide from the State to the Seashore. In other words, the Seashore boundary on the ocean front is consistently determined to be the mean low water mark and beyond the mean low water line is considered North Carolina waters.

Questions have come up concerning walking outside of park jurisdiction below the mean low water line to by-pass resource closures implemented under the Consent Decree in order to reach areas that are otherwise open (e.g., Cape Point is a current example. The Point itself is not "closed," but a bird closure north of there blocks access via Seashore land). We have posed this question to the U.S. Attorney's Office and confirmed it is legal to access these open areas by walking outside of park jurisdiction to by-pass the closed areas. We have been communicating this to the public in hopes it would facilitate access where not in conflict with the Consent Decree requirements. It is generally understood by most people, but sometimes confused.

There have been some citations issued to people who have entered a posted resource protection closure (i.e., walked or driven past signs indicating the area is closed). There have also been many situations in which our law enforcement staff have responded to reports of people "inside of a closure" and found the people in the water, outside of our jurisdiction, and have NOT cited them. Again, we have tried to let people know what is legal so they can avoid going through a closure to legally access locations that are not closed. The key to avoiding a citation is to understand that one cannot enter or come ashore inside of a marked closure, but it is okay to walk in the water outside of the closure in order to get around it (as long as one does not go through or come ashore into the closure).

It should also be noted that not all areas that are currently closed have "open areas" beyond the closure(s), i.e. Oregon Inlet Spit. If an individual(s) were to walk outside of park jurisdiction at the north end of the closure at Oregon Inlet Spit, there is no area where they could come up on dry land, because the entire area is currently closed. If an individual(s) were to come up on dry land within the closure, they would be in violation. In addition, according to the Consent Decree, the National Park Service can take additional measures to enforce the buffers. Hypothetically, if an area is being accessed by going outside of park jurisdiction, and the open area they are accessing is over-crowded, and/or violations are occurring at the closure boundaries, the entire area could be closed. Such as situation has yet to occur.

We realize that the situation can be confusing to the public and continue to work on improving our public information. For example, we have worked with the Outer Banks Visitors Bureau to develop a Google Earth map that shows the latest beach access status. You can check it out at [www.outerbanks.org](http://www.outerbanks.org) or [www.nps.gov/caha](http://www.nps.gov/caha). If any constituents have questions about access (what is open? what is not?), the best suggestion is that they check the Seashore website for Google earth map and Weekly Beach Access Report, or contact Cyndy Holda, (c) 252-216-6455, for the latest status.

Mike Murray  
Superintendent  
Cape Hatteras NS/ Wright Brothers NMem/ Ft. Raleigh NHS  
(w) 252-473-2111, ext. 148  
(c) 252-216-5520  
fax 252-473-2595

CONFIDENTIALITY NOTICE

This message is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged or confidential or otherwise legally exempt from disclosure.

▼ "Chris Dillon (Pres. Pro Tem's Office)" <Chrisd@ncleg.net>

"Chris Dillon (Pres. Pro  
Tem's Office)"  
<Chrisd@ncleg.net>

To <Mike\_Murray@nps.gov>

cc

Subject

05/27/2008 04:40 PM

Mike: John Head says people are being ticketed in the low tide area, that is presumably state land? Did the court address this area?