

From: [Mike Murray](#)
To: [Lee Dickinson](#)
Cc: [Jane Anderson](#); [Jane Moore](#); jerry_case@nps.gov
Subject: Re: follow-up question
Date: 09/03/2008 05:26 PM
Attachments: [CAHAPermitsPassesFees_options.REV_DRAFT.083108.doc](#)

Thank you Lee. As background, I worked at Cape Cod for eight years and am familiar with the use of an ORV permit. Cape Cod also charged entrance fees at six main beach parking lots where lifeguard services, among other things, were provided. The negotiated rulemaking advisory committee is interested in finding a way at Cape Hatteras to not only have an ORV SUP, but also to manage (and capture fees if possible) from non-ORV users who park in NPS parking lots and accessing the beach as pedestrians. The logistics of the situation here are that we have many small parking lots, rather than 6 big ones, so the idea of trying collect an "entrance fee" at these individual sites is daunting.

Based on feedback from Jane Anderson, the park will work on scheduling a conference with you, Jane and Jane in the next few weeks so we can talk through the options, if any, for the pedestrian side of the equation. I think we are pretty well focused on an SUP for ORV use.

Thanks again,

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


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▼ [Lee Dickinson/WASO/NPS](#)

**Lee
Dickinson/WASO/NPS**

09/03/2008 03:26 PM

To: Mike Murray/CAHA/NPS@NPS
cc: Jane Anderson/WASO/NPS@NPS, Jane Moore/WASO/NPS@NPS, jerry_case@nps.gov
Subject: Re: follow-up question 

Mike:

a permit program could be based on the issue of access. You would close the areas to ORV use based on your environmental documents (36 CFR 1.5, 1.6), and open them to use subject to the terms and conditions of a permit. the cost of the permit

would be cost recovery, and be based on the costs incurred by the park in running the program, including accepting applications, processing the requests and monitoring the activity. the permit could be issued for a set period of time, from a day to a season or year. The costs probably would not increase a lot as the term is extended, since most of the work is in issuing the permit. The monitoring cost are prorated over the number of permits issued.

There are parks that have a successful special park use permit program for ORV, particularly Fire Island and I think Cape Cod. It may be possible to use their programs as a model.


Lee Dickinson
Special Park Uses Program Manager
Visitor and Resource Protection
National Park Service
202/513-7092
202/371-1710 (fax)

▼ Mike Murray

**Mike
Murray**

09/03/2008
08:30 AM
EST

To: Jane Moore/WASO/NPS@NPS
cc: Jane Anderson/WASO/NPS@NPS, Lee
Dickinson/WASO/NPS@NPS

Subject: follow-up question 

Jane,

(I am copying Lee on this since it may be more of an SUP question. Lee, this relates to permitting options being considered by the CAHA negotiated rulemaking advisory committee on ORV management.)

After receiving your feedback, I presented a revised proposal (see attached) to the advisory committee's subcommittee that is working on fee and permit issues, that boiled the options down to either an entrance fee or an ORV permit. That approach was generally understood, but the subcommittee is still strongly interested in NPS having a way to assess fees (if possible) and at least create an education opportunity for the non-ORV beach using public, since that group may be causing as many violations of resource protection measures as the ORV using public. The feeling is that for our ORV plan to be effective and for ORV users (who will presumably be better informed of the regulations via the permitting process) to not be blamed or penalized for violations committed by pedestrians using areas open to ORV use (we currently have lots of multi-use areas where pedestrians and ORV users mix). The desire is that ALL users would be equally informed of the rules and, if feasible, be assessed a fee to help support the program (fee collection, education, enforcement, infrastructure, etc.).

The subcommittee doesn't care what we call it (permit, pass, or fee) but has asked me to follow up with you again on whether there is any kind of "beach permit" could be required of pedestrians (or at least pedestrians using NPS beach parking

areas) in order to help us manage the impacts.

See below for subcommittee draft language. Any thoughts or advice on how we could approach this? (or are we limited to possibly having an education program for all users, but only having a permit for ORV users?).

Subcommittee draft language.

Beach Use generally versus ORV use only

It may be possible (*is it?*) that the special use permit could be required for vehicle/operator use whether it be to park and then walk on to the beach or whether the vehicle/operator drives onto the beach (i.e., the control point is off-highway). Thus, the permit would be required for both parking on NPS property as well as driving on the beach. This would provide for education on natural resources and other issues for many types of users, would be fairer across user groups, could be a compliance/enforcement mechanism for beach users regardless of whether they park and walk and/or drive, and the monies collected could be used for development of facilities in these areas for different kinds of users (pedestrians and beach drivers).



CAHAPermitsPassesFees options.REV DRAFT.083108.doc

Please advise if you think a conference call would be helpful. I don't have time to think these days, so simply need advice if the issue(s) seem cut-and-dried to you.

Thanks,

Mike Murray
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▼ [Jane Moore/WASO/NPS](#)

**Jane
Moore/WASO/NPS**

To Mike Murray/CAHA/NPS@NPS
cc Jane Anderson/WASO/NPS@NPS

08/26/2008 01:05 PM

Subject Re: fee collection question 

Mike

We can talk more via phone on this if you'd like.. my initial hit is this: FLREA (current fee authority) is under tremendous scrutiny right now. The Baucus bill (Senate) has been introduced to repeal FLREA. It hasn't moved yet, but we also had a rather bumpy oversight hearing in the house a few months back. Most of the ire is directed at the USFS but there are those out there that feel strongly that entrance and "access" fees shouldn't be allowed for public lands. The Director has imposed a moratorium in 2008 and 2009 on new fees or fee increases..(only special situations are being considered) Only one entrance fee increase was allowed in 2008. I think there are a number of reasons for the hesitation some stemming from other things: centennial legislation, high unobligated balance of fee funds, new veterans pass legislation, more fee free days and special initiatives, etc

The current climate is that we don't want any public controversy around imposing new or controversial fees..

Also beach access fees are tricky.. Access and day use fees haven't worked when they are not treated as entrance fees. I don't know if you have any legislative prohibitions for charging entrance fees, but that would be what I would restrongly recommend for it to make sense to visitors unless you limited the fee to an SUP ORV fee. We get more consternation from visitors who pay \$80 for an entrance pass and get to a site that won't honor it.

We can talk more about your specific situation, but my hit is this isn't the right time to be looking at implementing a general beach access fee that might generate a lot of media/public attention.. Also it sounds like there are many fee collection logistics that would be challenging and would involve 3rd party collaboration. (ferry/highway) Unfortunately passes create an additional level of complexity but I don't see how you could charge an access fee without selling and accepting the appropriate passes.

I think you'd be a lot better off just focusing on your ORV fee. Maybe the park could request 20% funds to help with public education (brochures, programs, signs) about appropriate recreation (protection of beach resources). With that said, I'm open to talking more with you about your situation.. This is just a quick off the cuff assessment on my part. I do empathize and understand that you a trying to grapple with a complex set of issues and come up with a way to protect resources and provide quality visitor experiences.. no easy task.

Call me and/or Jane Anderson if you want to talk further
Jane

Jane Moore
Washington Office Fee Program Manager
1849 C Street, NW (Org Code 2608)
Washington DC 20240

Office location: 1201 Eye St, 10th Floor, Rm #36
Phone: (202) 513-7132
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▼ Mike Murray

**Mike
Murray**

To: Jane Moore/WASO/NPS@NPS
cc: Jane Anderson/WASO/NPS@NPS
Subject: fee collection question

08/26/2008
08:55 AM
EST

Hi Jane,

CAHA is involved in the development of an off-road vehicle (ORV) management plan. It is a challenging situation. We are currently operating under a court order/consent decree while we develop a plan/EIS using the NEPA process and a special regulation using the negotiated rulemaking process. We are working on the latter with an advisory committee (FACA); and have a court imposed deadline to complete the plan/EIS by Dec 2010. As a result, we are working hard with our advisory committee to make decisions in the next few months about what we are going to and how we are going to do, so we can get on with the impact analysis, etc. for the EIS.

In considering the idea of ORV permits (under the SUP authority), the committee has surfaced the idea of NPS collecting a general "park use" fee (for ORV users as well as pedestrians) in lieu of an SUP for ORV use only. The idea seems to be we would broaden our revenue and create an opportunity to notify all visitors of the relevant park regulations related to beach use. (We have a big problem with ORV users as well as pedestrians not complying with resource protection measures for beach nesting birds and sea turtles.) The committee includes local governments and tourism representatives, so if the committee were to recommend we collect a general fee, it may be a chance to do so with community and probably political support.

The idea of collecting lots more fee revenue is appealing and could be a big plus for the future of CAHA. In considering whether to entertain further discussion about the general beach use fee I have doubts about our ability to implement a fee collection operation, though a first glance it may be possible. We are a long linear park with two primary points of entry: a state-operated fee ferry at the south end from the mainland to Ocracoke and a state highway (NC 12) at the north end. We could probably work out a deal with the NC DOT Ferry System whereby they collect our park use fee when they collect the ferry fee. On the other end of the park, NC 12 is a high volume highway. The average daily traffic count (incoming traffic) is 2,700 vehicles average year-round, but up to 6,300 vehicles per day during the summer. I can only imagine that we would need a turnpike toll booth set up with 2-5 inbound toll lanes if we were to try to collect fees from all incoming vehicles (such as may exist on the trucking route at DEWA - I don't know how they handle it). On the other hand, if we were to try to collect fees once people leave the highway to access the beach, we have 17 ORV access points and 20+ beach parking lots, so that approach seems daunting.

In the next few days I need to give the committee feedback about whether a general "beach use" fee is even feasible and worth further discussion. I frankly don't know if the fee would be an "entrance fee" or some other kind of user fee, and could use some advice about it. I don't need all the answers or all the details of

exactly how to do it. For now, I just need general feedback about whether this idea is feasible and worth further discussion, or if there are so many administrative/policy obstacles for doing it, then we maybe should drop it from further consideration.

I would appreciate it if I could talk to you or your designee in the next day or two to give me a national policy perspective on the issue, since you must be aware of the variety of fee programs throughout the system and maybe there are some examples that would be worthwhile models for us to consider. I can be reached at (w) 252-473-2111, ext. 148.

Sorry for the short notice. The issue came up in a sub-committee negotiation conference call late last night around 9:00 p.m. and I have until Friday to provide some feedback to the group. Note: I am familiar with the SUP approach and would be inclined to steer the group in the direction of a traditional ORV SUP, unless you think there is a desirable, viable opportunity for some sort of broader general use fee.

Thank you in advance for any assistance you can provide.

Mike Murray
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