

From: [Mike Murray](#)
To: [Cyndy Holda](#)
Subject: Re: Fw: Passive Recreation and other questions
Date: 09/19/2008 11:09 AM

(Cyndy, Please forward to Bob.)

Bob,

To follow -up on your follow-up questions...

During the public comment periods, we received lots of comments from both ORV supporters and non-ORV supporters that appear to follow talking points provided by advocacy groups (i.e., many comments are thematically similar, or use similar statements or language). See below for some of the kinds of comments we received from people concerned about ORV use during the public scoping period. (Note: In terms of "impact" on decision-making under the NEPA process, we consider the substance of the comments more strongly than the sheer quantity of how many times we receive the same or similar comments; but clearly, if many people think something is an issue, then NPS needs to seriously consider that issue in developing a plan.)

- "Off-road vehicles simply don't belong on beaches with prime nesting habitat during the critical breeding season"
- "Virtually every other national seashore on the east coast issues ORV permits, set limits on times, places and numbers of ORVs. Most ban night driving...most protect suitable nesting habitat at the start of the breeding season"
- "No amount of monitoring of nesting birds will provide for the protection needed from ORVs during these periods"
- "NPS is obligated to protect places like Cape Hatteras so they are 'conserved...unimpaired...for the enjoyment of future generations'"
- "With sensible, science-based regulations, NPS can meet this mandate"

On your other question about how does NPS plan to manage "rebellious birds" that try to nest outside of existing resource closures...First, the birds nest where they find habitat conditions to their liking. Sometimes those conditions exist in inconvenient locations and against all odds the birds will nest there anyway (e.g., the Sandy Bay oystercatcher, or the least tern that laid a nest right in the middle of where the Ramp 45 interdunal route exits onto the beach). Before the season, we can usually recognize those habitat conditions and identify where birds might likely nest, but we can't control where they actually nest. We are still working out the details of our resource protection measures for the ORV plan. Under NPS policy, we absolutely will need to reasonably protect nests and chicks where they occur. As I see it, the flexibility lies in whatever indicators we identify that will trigger implementation of new resource closures for nonlisted species outside of established closures. Is it the first observation of any territorial or breeding behavior (as in the Consent Decree)? Is it the third observation? Is it only when the nonlisted birds settle on a site and actually establish a nest? How big of a buffer is established for what behavior? How much discretion is allowed ("professional judgment based on observed bird behavior")? (Are the buffers somewhat flexible, as in the Interim Strategy? Are the buffers as "prescriptive" and nondiscretionary, as in the Consent Decree? Or, is it something else in the middle? In any case, we are still working on defining those the criteria that trigger management action and define the level of flexibility, and will

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be able to provide it to the committee once we complete our alternatives and get approval to release them.

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▼ [Cyndy Holda/CAHA/NPS](#)

**Cyndy
Holda/CAHA/NPS**

To Mike Murray/CAHA/NPS@NPS
cc

09/17/2008 07:14 AM

Subject Fw: Passive Recreation

Follow up question from Bob Davis.....

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----- Forwarded by Cyndy Holda/CAHA/NPS on 09/17/2008 08:13 AM -----

"bobdavis"
<davisrb@embarqmail.com>

To <Cyndy_Holda@nps.gov>
cc "bobdavis" <davisrb@embarqmail.com>

09/16/2008 09:18 PM

Subject Re: Passive Recreation

Mike : Thanks for response which was most surprising to see that 75% of public was against ORV use . May I ask how the questions were framed or were

