



United States Department of the Interior

NATIONAL PARK SERVICE

Fort Raleigh National Historic Site Wright Brothers National Memorial

Cape Hatteras National Seashore

1401 National Park Drive

Manteo, NC 27954

252-473-2111



IN REPLY REFER TO:

L1415 (CAHA)

September 29, 2008

James Keene, President
 David K. Joyner, Vice President
 North Carolina Beach Buggy Association, Inc.
Keene9558@charter.net
djoyner@beldaar.com

Dear Jim and David:

This responds to your request that NPS reopen the southern beaches of Buxton, Frisco and Hatteras Village to off-road vehicle (ORV) use because the conditions that originally caused the safety closures no longer exist. As background, I have publicly acknowledged on many occasions that the long-standing village closures in question are inconsistent with and not explained by the current policy, Superintendent's Order #7 (SO #7). I have also consistently stated that I would defer the matter to the negotiated rulemaking committee to recommend what the future policy for village beaches should be.

In considering your request and after consulting with the Office of the Solicitor about it, I find it most appropriate to continue that approach. It is true that SO # 7 as written would allow for "safety closures" to be reopened if the standards are met. It is also true, however, that NPS has an independent obligation to comply, as best we can, with 36 CFR § 4.10(b) and with the Executive Orders, which generally provide that the beach should be closed to ORV use unless opened by a special regulation. In my judgment, the timing is poor to change the status of these beaches, particularly since the negotiated rulemaking committee is in the process of attempting to negotiate the long-term ORV management plan, which includes the village closure policy. My strong preference is that the committee evaluate the policy and recommend changes as needed to create a policy that everyone can live with. Once the new policy is defined, NPS will consistently implement it as written.

As a result, my decision is to not change anything about the policy or its implementation at this time and to refer the matter to the negotiated rulemaking committee to recommend what the village closure policy, including the treatment of the village beaches in the off-season, should be. If the committee can reach a consensus on it, I will gladly exercise my authority as Superintendent to implement the recommendation in the interim, until the long-term plan and regulation can be completed. I believe this approach is reasonable under the circumstances, avoids setting a new precedent while negotiations are underway, and gives the committee the opportunity to resolve the issue and see its recommendation implemented in a timely manner.

In closing, I appreciate your continued interest in the ORV management issue at Cape Hatteras National Seashore and your ongoing participation in the negotiated rulemaking process.

Sincerely,

Mike Murray
 Superintendent