

From: [Mike Murray](#)
To: [Darrell Echols](#)
Subject: Re: Fw: Pedestrian/Turtle Closure Policy
Date: 04/03/2009 08:14 AM

In general, it sounds fine, but is still a little unclear. As I read what is written, it sounds like (but isn't crystal clear that) the "closure" would be what is fenced around the nest above the high tide line, including across the (posted or fenced) sea-facing "opening" of the closure, BUT walking in the intertidal zone below the fencing would NOT be considered "in the closure." Is that what was intended? Hate to be nit-picky, but the issue is so prone to misinterpretation. I can imagine RM still interpreting it as a "closure" and LE still interpreting it as not a closure if people are outside the fencing. You may need to add one explicit sentence about whether or not we consider pedestrians walking through the intertidal zone below the closure fencing to be "in the closure." NOTE: I could see saying that the turtle closure is whatever is fenced above the high tide line. Would be harder to do that for shorebird closures, which often have good reason to extend to the mean low water boundary.

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▼ [Darrell Echols/CAHA/NPS](#)

**Darrell
Echols/CAHA/NPS**

To: Mike Murray/CAHA/NPS@NPS
cc

04/02/2009 12:32 PM

Subject: Re: Fw: Pedestrian/Turtle Closure Policy 

Mike,

This is what was come up with by all the staff and tweaked from last October. Thoughts?

D

To all,

OK, let's see if we can put this to rest and have something to follow this season.

Overall Guidance:

The only way that we can be absolutely certain that a visitor is in the park is to know without a doubt where are boundary is. This is especially problematic when a visitor is near the water because the boundary could be somewhere on land or somewhere in the water depending on the environmental conditions and the specific location within the park. If our protection staff cannot with certainty know that visitors are within the park, they cannot issue a citation. This is further supported by the Assistant U.S. Attorney who has given specific guidance that they will not prosecute a citation if we cannot be certain the infraction occurred within the park. The best we can hope for is to sign the area, educate the public, and if we catch someone in the closure near the water, educate them and have them leave.

While it is necessary for us to sign the closure appropriately, we must balance this need with our ability to enforce and manage what we undertake. I am doubtful that we will be able to maintain a line of carsonite posts to the low water mark daily. The signs will wash out, we won't have staff to install them, and it will be difficult to keep them in every day for the length of time the closure exists. Education of the visitor is the best thing we can hope for adjacent to the water whether it is a bird or turtle closure. If we identify the area as closed, provide information in various forms such as the use of signs, placement of signs, sign wording, brochures, and verbal communication, and be diligent and consistent in the message, we will be able to keep most folks out of the area. But we need to recognize that we may not be able to issue a citation in every instance and it will be up to the protection staff to determine when it is appropriate to do so.

So, based on the feedback that I heard from you, I believe the following allows us to be consistent with how we mark turtle and bird closures. If not, please let me know.

Solution:

- fence around the closure area to the high tide mark on dry sand
- install a post at the high tide mark that includes a sign prohibiting ORVs and pedestrian traffic within the closure. This may need to be a larger sign than what we have used in the past.
- install red carsonite posts from the high tide mark to a point halfway between the high tide mark and the low tide mark
- install string and signage across the opening of the closure at turtle nest sites that experience high pedestrians (villages, campground, the Point, etc.) or across the entire length of the closure for birds like we have been doing.

Darrell

Darrell L. Echols
Deputy Superintendent

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▼ [Jon Anglin/CAHA/NPS](#)

Jon Anglin/CAHA/NPS

03/20/2009 01:45 PM

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Subject Re: Fw: Pedestrian/Turtle Closure Policy 

No, but it makes it a lot harder for LE staff to determine if the individuals/"violators" were adequately advised of the presence of the closure. So if there is no clear evidence that the "violators" entered the closure through the signed sides, or that the "violation" knew the closure was there, the chances of a ticket being issued is very small.

These situations also put the LE staff in a very difficult position. Individuals who have not been adequately advised of closures, and are then contacted by LE staff have a tendency to become indignant, belligerent and very argumentative. In these folks eyes, the LE staff are viewed as overzealous, "jack booted, bucket helmeted thugs" who are simply being abusive to good, law abiding citizens("there weren't any signs!"), when they (LE rangers) should be going after "real criminals". You know the language used, you've seen it on the web boards. Others are actively looking for chinks in our armor, so that they can manipulate the situation to make us, the NPS, look bad in the press and the community. These situations lead to unnecessary and avoidable law enforcement contacts, and unnecessary and avoidable complaints about the rangers "unwarranted" actions to the Supt. Which creates more work for all, but primarily for the LE supervisors.

I realize that it is not always possible to sign a closure perfectly, but everyone needs to do everything they can to sign each the best way that we can, so that we minimize these situations. It is only fair to our visiting public to be as clear as we possibly can be, so that we do not, through our omission, place them in a bad position, and place our own staff in a bad position, at the same time failing to adequately protect the resource.


Jon Anglin
Bodie Island District Ranger
Cape Hatteras National Seashore

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▼ Britta Muiznieks/CAHA/NPS

**Britta
Muiznieks/CAHA/NPS**

03/20/2009 11:49 AM

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Subject Re: Fw: Pedestrian/Turtle Closure Policy 

So does this mean that no ticket will ever be written for someone inside of any of our bird closures as well? They are never signed on all four sides either.


Britta Muiznieks
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▼ Jon Anglin/CAHA/NPS

Jon Anglin/CAHA/NPS

03/19/2009 03:47 PM

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Darrell, I can work with this, as long as all staff understand that if we do not have signage around all sides of a closure (i.e. along the shoreline), and someone walks along or in the water at low tide and then comes up into the closure that, at most, LE staff will issue a written warning.

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▼ Darrell Echols/CAHA/NPS

**Darrell
Echols/CAHA/NPS**

03/19/2009 02:52 PM

To John McCutcheon/CAHA/NPS@NPS, Britta Muiznieks/CAHA/NPS@NPS, Doug McGee/CAHA/NPS@NPS, Jon Anglin/CAHA/NPS@NPS, Kenny Ballance/CAHA/NPS@NPS, Michelle Baker/CAHA/NPS@NPS, Paul Stevens/CAHA/NPS@NPS, Thayer Broili/CAHA/NPS@NPS

cc

Subject Re: Fw: Pedestrian/Turtle Closure Policy 

To all,

Thanks for sending me your feedback on last October's decision regarding pedestrian access associated with our turtle closures. The feedback was informative and the suggestions helpful. Here are a couple of thoughts to consider along with a recommendation.

Pedestrians are not allowed within a turtle closure and our full closures extend from the nest to the water. Of course this causes an issue as the surf and tide remove any markers that we install in the tidal zone and pedestrians may not be aware that they are in a closure.

The previous decision did not abdicate our legal authority to enforce a closure below the high tide line; however, we must recognize that enforcement of a closure below a certain point on the beach is problematic at best. That point cannot be defined with any certainty at all times since the boundary is not physically marked. Some areas of the beach no longer lie within our boundary and therefore are not subject to our regulations. Other areas of the park may be in or out of our jurisdiction depending on the environmental conditions that occur on any given day. This is why the US Attorney's office has advised us that they would not prosecute any citations issued by the protection staff for pedestrians walking near the water if there is a question of whether or not they were in the park. Since we cannot absolutely determine our boundary on the ocean side of the park, enforcement near the water is difficult to say the least however we sign a closure.

With this being said, we have to come up with a solution that educates the public, provides protection to sea turtles, is manageable, and is able to be enforced. Based on the feedback, what do you think about the following?

Solution:

- fencing from the nest to the high tide mark on dry sand
- a post installed at the high tide mark that includes a sign prohibiting ORVs and pedestrian traffic within the closure. This may need to be a larger sign than what we have used in the past.
- red carsonite posts installed from the high tide mark to a point roughly all the way to the low tide mark

- string and signage installed across the opening of the closure at nest sites that experience high pedestrians (villages, campground, the Point, etc.)

The difference between last October's solution and this solution, is the use of red instead of brown carsonites to the water, having carsonites to the low tide mark instead of 1/2 way to the low tide mark, and the use of string and signage at high pedestrian areas instead of all areas.

One issue is can we maintain the red carsonites to the low tide mark? We may be able to do this during the summer, but what happens when the bulk of our seasonals leave? If we can't maintain them, then it will be unreasonable to expect us to be able to have carsonites that far away from the high tide line, which puts us back to where we were in October.

Let me know what you think.

Darrell

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