

From: [Mike Murray](#)
To: [jeffrey](#)
Cc: [Cyndy Holda](#)
Subject: Re: continued closure
Date: 07/17/2009 06:17 PM

Wheat,

I appreciate hearing your concern. There may have been a little confusion this morning about the exact reasons for the continued closure (or incremental reopening, depending on how you look at it). The current status relates specifically to the status of AMOY chicks that have been hanging out south of Ramp 44 and has nothing to do with PIPL chicks. Hopefully, the press release we issued this afternoon explains it clearly.

The reopening criteria, as described in the consent decree and the interim strategy (the latter being made "enforceable" by the consent decree) for prenesting areas is a little different than for the other buffers that were established after shorebird breeding activity was observed. "Prenesting areas" have to remain closed until July 15 or two weeks after all chicks have fledged, whichever is later. At Cape Point, when the prenesting area was established before March 15, there was an access corridor from Ramp 44 to the Point, so the prenesting closure is not the current limiting factor. Outside of a prenesting area we can generally reopen an area to ORV and pedestrian access as soon as PIPL or CWB chicks have fledged, if there are no other breeding activities (such as other species nests or chicks, etc.) in the area causing it to remain closed. Because young AMOY fledglings are relatively big birds and weak flyers, and less capable of getting out of the way of moving vehicles or pets off leash than are the fledglings of the smaller shorebird species, in recent years staff have consistently been using a two-week waiting period before allowing ORV use in areas with newly fledged AMOY chicks. While this causes a delay in opening an area to ORV use, it does not preclude pedestrian access.

In other words, at Cape Point, the remaining piping plover chicks all fledged by last week (which is why we were able to reopen Ramp 44, etc.); however, access to the Point has remained blocked starting about 60 meters south of Ramp 44 due to the unfledged American oystercatcher (AMOY) chicks for which under the consent decree a 200 m buffer is required. These AMOY chicks have now fledged, so we are able to at least reopen the access corridor to pedestrian use and we expect to be able to reopen the corridor to ORV access and pets in about two weeks.

I realize that people are eager for ORV access to the Point and we are eager to be able to reopen it. I hope it is considered at least partially good news that people can now drive onto the beach at Ramp 44 and then legally walk to the Point, knowing that full access will be restored soon.

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To "Mike Murray" <mike_murray@nps.gov>

cc

07/17/2009 03:41 PM

Subject continued closure

Mike,

I'm writing to express my shock and dismay related to the phone call I received from Cyndy Holda this morning while I was at work.

She informed me that a pedestrian corridor had been opened from Ramp 44 to Cape Point but that no vehicular access would be allowed until 7/31/09 because it was felt that the PIPL and AMOY chicks weren't quite strong enough as fliers..

This strikes me as a thinly veiled attempt at preventing full access for as great a duration as possible; not for any sound scientific reason but nothing other than pure speculation or desire.

The consent decree allows the Service to open access two weeks after the last plover chick has fledged which occurred on 7/7/09. As such, full access should be restored at 6 AM on 7/21/09.

It amazes me that for the first time ever, this year we had PIPL chicks that were 30 days old but unfledged. (two weeks ago) and now we have a chick that fledged 10 days ago that is to weak but is still considered fledged. That is absurd.

It's time for the Service to make things right with this community and to do the right thing. This sort of random access prevention does nothing to foster the relationship between the public, the residents of Hatteras and Ocracoke, and NPS.

What we see is NPS standing in derogation of the recreational mission of the Seashore in direct violation of federal law, specifically 16 USC 459 section 1a-1, part of the Organic Act, and 36CFR 7.58 (6) (in part) “ **A zone is established for the protection of recreational sport-fishing** commencing at Beach Access Ramp No.22 and continuing south and west along the ocean shore, including Cape Point (Cape Hatteras) to Beach Access Ramp No. 30.” At the time, Beach Access No. 22 was between the villages of Buxton and Avon and Beach

Access Ramp No. 30 is now identified as Beach Access Ramp No. 45 that exits the western end of the campground at Cape Point. And that is just the beginning.

Mike, we're starving because of the consent decree. We need the Point opened **on time** and just as the rest of the residents of these islands and those that visit this amazing place, we need to see that we can trust NPS.

Imp going to be waiting at the closure Tuesday 7/21 and I hope and expect it to be opened as it rightfully should be.

You have the authority and I and many others are weary of wondering whether we'll have a job next week.

I apologize for being so direct, but I am, well, just as angry as I should be under the circumstances.

With Regards,

Wheat