

From: [Mike Murray](#)
To: joshua.bowlen@mail.house.gov
Bcc: [Cyndy Holda](#)
Subject: received your message
Date: 09/24/2009 09:48 AM

Hi Josh,

We received your phone message this morning. I had already responded to Mr. Mathis (see message below) who was a member of our negotiated rulemaking committee.

The "village beach" policy (i.e., whether ORV use is allowed on beaches in front of the villages during the off-season) has been an ongoing controversy among stakeholders on both sides of the issue. It is fair to say that, in the absence of an approved ORV plan and regulation, the policy has been unclear over the past few decades and inconsistently applied, which is the situation I inherited and have struggled to resolve. Every year when we make the switch to re-open some of the village beaches (the ones that have typically been re-opened) to ORV use on September 16, we get comments from ORV advocates wanting us to open all of the village beaches to ORVs and comments from pedestrian advocates wanting us to close more of the beaches to ORVs. The policy does need to be reviewed and clarified, so that it is consistently applied in the future.

No matter what we decide, it will be controversial. Under the Executive Orders and 36 CFR 4.10(b), NPS must minimize the impacts of ORVs on wildlife and public safety, and minimize user conflicts which includes the perception of conflicting values between ORV users and people who want to walk on a vehicle free beach), or ORV use cannot be legally allowed. From the NPS perspective it would be beneficial to provide areas for ORV use, as well as areas that vehicle free in order to reasonably satisfy the respective interests as well as the legal requirements. Based on Solicitor's advice, I've tried to avoid making a definitive change in the policy while we are actively engaged in public processes (RegNeg and NEPA) to determine what the long-term policy should be. We referred the issue to the RegNeg Committee and had hoped the committee would provide a recommendation on the village beach policy; however, there was no agreement and little progress in resolving this particular issue, and we ended with two opposing proposals for NPS to consider. At this point, NPS will include a range of options, including different approaches for managing the village beaches, in the ORV plan/DEIS that will be released for public comment later this fall (probably early December). A change in the village beach policy at this time, right before the DEIS is released for public comment would be poor public process and is likely to incite opposition to beach driving in the villages during the off-season.

Finally, despite several of the beaches having remained closed during the winter to ORVs for many years, those beaches are, in fact, open to the public (pedestrians) and many other miles of beach are open to ORVs. As of September 21, of 68.0 miles of beach, 44.6 miles (66 %) are open to ORVs and pedestrians, 18.9 miles (28 %) are open to pedestrians only (which includes narrow beaches that are closed to ORVs for safety reasons), 3.0 miles (4 %) have "limited access" for pedestrians (i.e., areas sandwiched between a few of the remaining turtle nest closures), and 1.5 miles (2 %) are fully closed to protect park resources (generally to protect foraging areas

for migrating/wintering shorebirds).

I hope this information helps. Feel free to call if you have any questions.

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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----- Forwarded by Mike Murray/CAHA/NPS on 09/24/2009 07:30 AM -----

**Mike
Murray/CAHA/NPS**

To "Wayne Mathis" <dheel@bigfoot.com>
cc

09/10/2009 09:01 AM

Subject RE: "Press Release: Night Driving Permits and Village
Beaches Reopen to ORVs on September 16" 

Hi Wayne,

I regret that you are disappointed in the decision to continue the current off-season management of the village beaches for one more season. The areas in question have, with very limited exception, been closed year-round to ORVs for many, many years under multiple superintendents. The village beach policy, as well as other ORV management practices, clearly needs to be re-visited and formalized, as there is wide disagreement about what the long-term policy should be. I had hoped that the RegNeg Committee, the Village Sub-committee, or the Integration Group would be able to make a consensus recommendation on how ORV use should be managed on the village beaches. I would have gladly implemented such a recommendation, but as you know consensus did not occur. Since there are obviously contradictory opinions about how the village areas should be managed during the off-season and even conflicting opinions as to what dates constitute the "off-season", I've decided to stick with the *status quo* (i.e., continue the long-standing past practice of which village areas are open or closed to ORVs) for one more year and use the NEPA process to make the final decision. I believe this approach is reasonable under the circumstances, avoids setting a new precedent just before and during the upcoming public comment period on the DEIS, and gives all involved another opportunity for input. When the draft plan/EIS comes out for public comment (expected to be later this fall), it will have a range of options (including different approaches, dates, etc.) for managing ORV use in the village areas. After the public comment, NPS will be better able to make an informed decision in the final EIS and Record of Decision and thereafter have a long-term policy for managing the respective village beaches.

I appreciate your communicating your concerns and your ongoing interest in the ORV management issue.

Mike Murray
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▼ ["Wayne Mathis" <dheel@bigfoot.com>](mailto:dheel@bigfoot.com)

"Wayne Mathis"
<dheel@bigfoot.com> To "Mike Murray" <Mike_Murray@nps.gov>
cc <jon_jarvis@nps.gov>
09/08/2009 03:12 PM Subject RE: "Press Release: Night Driving Permits and Village
Beaches Reopen to ORVs on September 16"

To: Mike Murray, Superintendent, CAHA
CC: Jon Jarvis, Director, U.S. National Park Service; Congressman Walter Jones; Senator Richard Burr; Senator Kay Hagan

Mike:

I've got to say it . I am APPALLED at your decision to leave the beaches in Frisco and Hatteras closed to ORV passage during the off season. I am personally disappointed at your lack of "backbone" as a manager in deferring to the blandishments of a few elitists who are blatantly striving to turn the first National Seashore into a de-facto private enclave. I expected better of you professionally.

There are several reasons why I feel this way:

First, while representing the interests of the North Carolina Marine Fisheries Commission during the recent Negotiated Rulemaking effort, I advocated for, and still believe in, the NCMFC's first negotiating objective, which was equitable access to the State's Fishery Resources within CAHA for ALL STATE LICENSEES. Your decision to close these beaches to motorized recreational anglers while allowing the commercial licensees such access clearly produces an inequitable access situation.

Second, the traditional, documented interim management plan, endorsed by your predecessors, and developed with wide public input, calls for such seasonal reopening, and indeed, defines the closures as "seasonal closure" of a beach presumed to be "open". Closure was clearly intended to be the exception, rather than the rule. You are reversing that management concept arbitrarily and capriciously.

Third, the alleged basis for such a closure for "pedestrian safety" has been shown, and will continue to prove, completely spurious and unjustified. Not only have there been NO documented instances of off-season user conflict involving ORV access, but the village beaches during the "off season" have been, and will no doubt continue to be, essentially unoccupied by sedentary visitors. Indeed, during the fall and winter seasons, the beaches are most amenable to, and most appropriately used for such activities as Fishing or

Water Sports, which activities require the transport of extensive gear or equipment. Considering the lack of adjacent or nearby public parking in Frisco and Hatteras Villages, you are effectively denying the prevalent-use visitors the "use and enjoyment" of a large sector of the Park, apparently for the convenience and financial gain of a select few absentee landowners. A reasonable man could ask "Who got to you, Mike?" based on the apparent conflict of interest of those few advocates for permanent closure of the Frisco and Hatteras Beaches who stand to enhance their property values through such de-facto privatization of the Public Lands.

Fourth, this decision produces yet another unjustified "inconsistency" in the management of Park resources, since you have elected to leave the beaches in the villages of Rodanthe, Waves, Salvo, Avon, Buxton, and Ocracoke Island under management according to the existing "interim plan", while denying public access to only the beaches in the two "southern" villages wherein the few absentee ocean-front property owners advocating such closures hold property.

Fifth, and finally, your decision appears prejudicial to the fair and reasoned consideration of alternatives which provide for seasonal ORV access in any proposed Management Plan which the Park Service promulgates in the future.

As a Retired Military Officer, and a former Federal Manager, I feel your decision is a shameful dodging of your DUTY to administer the Federal Property entrusted to you for the greatest benefit of the ALL citizens.

Wayne R. Mathis, PE
SN, USCGR
Major, MSC, US ARMY
Captain, Engineer Director, USPHS, and
20-yrs as Enforcement Officer and Manager, USEPA
Retired.

-----Original Message-----

From: Cyndy_Holda@nps.gov [mailto:Cyndy_Holda@nps.gov]
Sent: Tuesday, September 08, 2009 2:27 PM
Subject: "Press Release: Night Driving Permits and Village Beaches Reopen to ORVs on September 16"

(See attached file: 090809 Night Beach Driving Permit.doc)

National Park Service News Release
FOR IMMEDIATE RELEASE: DATE: September 8, 2009
CONTACT: (252) 473-2111, ext. 148

NPS Night Driving Beach Permits Available and

Seasonally Closed Beaches Reopen to ORV Use on September 16

Superintendent Mike Murray announced today that night beach driving permits will be required for off-road vehicle use on Cape Hatteras National Seashore ocean beaches between the hours of 10:00 p.m. and 6:00 a.m., September 16 to November 15, 2009.

The implementation of Off-Road Vehicle (ORV) night driving permits is required under the terms of the court approved Consent Decree to help increase the nesting success of sea turtles, which are protected under the Endangered Species Act. Beginning September 16 to November 15, 2009, a night driving permit, signed and dated by the driver of the vehicle, must be visibly displayed on the dashboard of the vehicle between the hours of 10:00 p.m. and 6:00 a.m.

A pdf version of the night beach driving permit is available on-line and may be downloaded from the national seashore's website at <http://www.nps.gov/caha/planyourvisit/off-road-vehicle-use.htm>. The downloaded version of the permit should be printed in color if possible. By September 10, hard copies of the permit will be available at any Cape Hatteras National Seashore Visitor Center, Whalebone Information Center, Hatteras Weather Station, as well as local tackle shops. From November 16, 2009 to April 30, 2010 night beach driving is allowed at all hours without a permit.

The following beaches that are seasonally closed to ORV use will reopen to

ORVs on Wednesday, September 16:

Tri-villages (Rodanthe-Waves-Salvo) beachfront = approximately 3 miles
in length extends from the southernmost boundary of Pea Island
National Wildlife Refuge to Ramp 23.

Avon village beachfront = approximately 4.0 miles in length.

Ocracoke campground and day use area beaches = approximately 2.5 miles
in length.

** Parkwide: Visitors will encounter sea turtle nest protection areas in
effect. Posted areas are closed to all ORV, pedestrian and pets.

For further information, please call (252) 473-2111 ext. 148.