

Sundar, Danielle

From: Fox, Lori
Sent: Tuesday, October 13, 2009 5:50 PM
To: Sundar, Danielle
Cc: Wetmore, Doug
Subject: FW: Commercial fishing access

Follow Up Flag: Follow up
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Categories: Projects/ CAHA

Please print email for CAHA admin record.

Thanks!
Lori

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

From: Mike_Murray@nps.gov [mailto:Mike_Murray@nps.gov]
Sent: Tuesday, October 13, 2009 3:59 PM
To: Wetmore, Doug
Cc: Fox, Lori; Van Dyke, Nancy; Sandra_Hamilton@nps.gov; Thayer_Broili@nps.gov
Subject: Re: Commercial fishing access

Hi Doug,

From the ORV Alternatives Matrix, Commercial Fishing section:

Alternative A

Commercial fishing at the Seashore is authorized and managed under a special-use permit in accordance with 36 CFR 7.58(b). Commercial fishing vehicles are considered nonessential vehicles and are not authorized to enter resource closures. Permitted commercial fishermen are authorized to enter other areas that are closed to recreational ORV use, including seasonal closures and safety closures, but are not authorized to enter lifeguarded beaches.

Alternative B

Same as alternative A, plus: Commercial fishing vehicles are subject to the night-driving restriction in the consent decree.

Alternatives C-F:

Same as alternative A, except: Commercial fishermen would not be required to obtain an ORV permit that would be required for recreational ORVs. Commercial fishing vehicles would be authorized to enter non-ORV areas, except for full resource closures and lifeguarded beaches. In areas outside of existing resource closures, the Superintendent would be able to modify the night-driving restrictions, subject to terms and conditions of the fishing permit, for commercial fishermen who are actively engaged in authorized commercial fishing activity and can produce fish house receipts from the past 30 days. Such modifications would be subject to periodic review.

From the Species Management Strategies, Table 5:

Species Management Area (SMA): Area of suitable habitat that has had concentrated and recurring use by multiple individuals and/or multiple species of protected shorebirds during the breeding season or nonbreeding season, or concentrations of seabeach amaranth specimens, in more than 1 (i.e., 2 or more) of the past 5 years and is managed to reduce or minimize human disturbance. Currently designated SMAs are listed at the end of this table. SMAs will be re-evaluated and re-designated every 5 years, or after major hurricanes, as part of the periodic review process described at the end of this table. Comment: "Managed to reduce or minimize human disturbance" does not mean managed to eliminate human disturbance. It simply means that these areas will be managed more restrictively than areas that do not have the same level of resource concerns.

Breeding Shorebird SMA: Area of suitable breeding habitat that has had multiple nests of individuals and/or multiple species of protected shorebirds, or concentrations of seabeach amaranth specimens, in more than 1 (i.e., 2 or more) of the past 5 years and is managed to minimize human disturbance during the breeding season.

Nonbreeding Shorebird SMA: Area of suitable nonbreeding habitat that has had concentrated foraging by migrating/wintering shorebirds in more than 1 (i.e., 2 or more) of the past 5 years and is managed to reduce human disturbance during the nonbreeding season. This may include portions of breeding SMAs that provide suitable nonbreeding habitat during periods of overlap between the breeding and migrating season and designated non-ORV areas that are set aside to provide pedestrians with the opportunity for a natural beach experience.

The way these two sections would interact on the ground is as follows:

In general, commercial fisherman would be allowed to enter any area that is open to recreational ORV access and any non-ORV area that is not a full resource closure. Comment: This could include SMAs that do not have full resource closures in effect.

The identified SMAs, for the most part, align almost exactly with the current known key breeding areas or "shorebird hotspots" (areas that were typically closed for 3-4 months during the breeding season under the consent decree); so it is likely that the same areas will have full resource closures for a similar amount of time under any of the action alternatives.

In general, SMAs, depending on the season (breeding, non-breeding, etc.) and which alternative (dates, etc.) is selected, may allow recreational ORV access and/or pedestrian access during portions of the breeding season (under SM-2 management) and typically during the non-breeding season. This combination of "SMA access" opportunities are what would be open for commercial fishing access.

Another way to look at it is that the SMA concept, plus the designation of ORV use areas and non-ORV areas, adds additional management filters (and use restrictions), that is more nuanced than the more simplistic "it's either open or it's closed" approach taken under the interim strategy and consent decree. By identifying the sensitive resource areas as SMAs and proactively identifying allowable uses (or restricted uses) for a designated time period, it would reduce the total amount of use in those locations to a less impactful level during the many times of year that there is not need for a full resource closure.

In addition to the proactive SMA, ORV and non-ORV designations and the management options that comes with that, the action alternative will still have some version of the reactive management that occurs under the interim strategy and the consent decree. In other words, there will be species monitoring and the use of buffers around areas of species activity, as needed. For example, an SMA with SM-1 management during the breeding season would be a full resource closure during the prescribed dates and would therefore exclude commercial fishing during that time (typically these SM-1 areas are the same areas that have had resource closures for extended periods under the consent decree). During the non-breeding season, the same SMA could be designated as an ORV area or a non-ORV area (see Routes and Areas table) and would therefore allow commercial fishing access even though it is closed to recreational ORV use.

Based on the recent breeding history, it is likely that the currently identified SMAs will experience full resource closures more or less in about the same timing and locations that have experienced full resource closures in recent years. In other words, these same areas (which we will now be referring to as SMAs under the action alternatives) that were full resource closures under the consent decree will likely be full resource closures under the action alternatives; and the net effect to commercial fishing access due to resource closures, whether in SMAs or not, is likely to be similar to what has occurred under the consent decree; though, perhaps, the SM-1 SMAs will be closed to ORV access a little longer than what has occurred under the consent decree. For example, Cape Point was closed to all access (a full resource closure) in 2009 for 3 months and closed to ORVs an extra 2 weeks for

(3.5 months total). Under alternative D, Cape Point would be an SMA with SM-1 management, which means it would be fully closed to all access from March 15 - July 31, or until 2 weeks after all chicks in the area have fledged (see Table 5, Pre-nesting Closures). Let's assume that the recent breeding season activity pattern continues and the threshold for re-opening the Cape Point area to access occurs by the end of July (as has occurred both years under the consent decree). In essence, Cape Point would be totally closed March 15 through July 31, which equals 4.5 months. This is obviously longer than it was closed under the consent decree (3 months), but it is not a year-round closure that would preclude commercial fishing access the rest of the year. Commercial fishing access could occur during the other 7.5 months when the area is open to pedestrians. Note: The Cape Point area may not be the best example, since commercial fishing is prohibited within 1/2 mile either side of the Point; however, the same scenario would apply to legal commercial fishing areas just west of the Point on over to South Beach, which is an important commercial fishing area. Under alternative D, South Beach would be closed to recreational ORVs year-round and likely have full resource closures and be closed to commercial fishing access for 4.5 - 5 months (areas with CWB nesting, such as South Beach, tend to stayed closed a little later in the season).

I hope this helps.

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"Wetmore, Doug"
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10/13/2009 04:01
PM

To
<Mike_Murray@nps.gov>
cc
<Sandra_Hamilton@nps.gov>, "Fox, Lori" <lfox@louisberger.com>, "Van Dyke, Nancy" <nvandyke@louisberger.com>
Subject
Commercial fishing access

Hi Mike.

We just got off the phone with Carol Mansfield and Ross Loomis with RTI after discussing commercial fishing access for each of the alternatives.

In their analysis, they had assumed that commercial fishermen would not have access to any SMA when it was closed, as it would be considered a "resource closure". However, Sandy mentioned that she thought the intent might be to allow commercial fishing access to within SMAs, perhaps in a seasonal fashion. Most of our discussion was about alternative D, as it closes all SMAs 365 days a year (which may include closures to commercial fishing).

Could you elaborate on if the park considers recurring closures in SMAs to be resource closures and if and when commercial fishermen might have access to these areas?

Thanks Mike.

~Doug

Doug Wetmore
Environmental Planner

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