

0027037

**From:** [Mike Murray](#)  
**To:** [Sandra Hamilton](#)  
**Cc:** [Darrell Echols](#); [Doug Wetmore](#); [jason.waanders@sol.doi.gov](mailto:jason.waanders@sol.doi.gov); [mike.stevens@sol.doi.gov](mailto:mike.stevens@sol.doi.gov); [Paul Stevens](#); [Pat Ludwick](#)  
**Subject:** Fw: permit cost, service animals, pets  
**Date:** 07/02/2010 07:03 AM

---

Sandy,

Pat Ludwick (the park fee manager), Paul Stevens and I discussed the ORV permit fee issue. We are not prepared to make a precise calculation of what the permit fee will be at this time. It is expected that the permit fee will be in the range of the permit fee prices at CACO and ASIS. Those parks have a wider variety of ORV permits (some that are vehicle/equipment specific, self-contained vehicles, etc.; some that are location specific, VA only, MD-and-VA, etc.) than we will offer (annual and 7-day only). The price (based on CACO and ASIS prices for similar types of permits) is expected to be within the following range:

Annual permit: \$90 - 150 (ASIS VA & MD Day Only Permit, \$90; CACO annual ORV permit \$150)

7-day permit: 50% - 33% of the annual price (up to 50% if the annual price is lower in the price range, as low as 33% if annual price is higher in the price range)

As a cost recovery fee, the actual price will be derived by determining all the additional operational costs (staffing, supplies, equipment and other non-personnel services costs), above and beyond base funded operations, that will be necessary to administer and manage the ORV program, divided by the estimated number of permits by type (annual and 7-day) that will be sold, to determine the cost per permit by type. The initial price will inherently involve some subjective analysis because of the uncertainties about the total number of permits and the number of permits by type that might be purchased.

Mike Murray  
Superintendent  
Cape Hatteras NS/ Wright Brothers NMem/ Ft. Raleigh NHS  
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(c) 252-216-5520  
fax 252-473-2595

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----- Forwarded by Mike Murray/CAHA/NPS on 07/02/2010 08:19 AM -----

**Mike  
Murray/CAHA/NPS**

06/30/2010 02:22 PM

To Sandra Hamilton/DENVER/NPS, Doug  
Wetmore/DENVER/NPS  
cc Paul Stevens/CAHA/NPS@NPS  
Subject Fw: permit cost, service animals, pets

Sandy and Doug,

Paul Stevens advises that Pat Ludwick, our fee program supervisor, is working on an estimate for the permit fee. We'll let you know when the estimate is available.

Mike Murray  
Superintendent  
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----- Forwarded by Mike Murray/CAHA/NPS on 06/30/2010 02:20 PM -----

**Mike  
Murray/CAHA/NPS**

06/30/2010 01:51 PM

To Sandra Hamilton/DENVER/NPS  
cc Darrell Echols/CAHA/NPS@NPS, Doug  
Wetmore/DENVER/NPS@NPS,  
jason.waanders@sol.doi.gov,  
mike.stevens@sol.doi.gov, Paul  
Stevens/CAHA/NPS@NPS  
Subject Re: permit cost, service animals, pets

For what it is worth...

CACO prices for ORV permits are: \$150 for annual ORV; \$50 for 7-day ORV; \$225 for annual SCV\*; and \$75 for 7-day SCV

\*SCV = self-contained vehicle

ASIS prices for OSV\* permits are: \$70 for VA Only permit; \$90 for VA & MD Day Only permit; \$110 for MD Night/VA Day permit; \$150 for Bullpen permit.

\*OSV = oversand vehicle

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▼ Sandra Hamilton/DENVER/NPS

0027039

**Sandra  
Hamilton/DENVER/NPS**

06/30/2010 01:29 PM

To: Mike Murray/CAHA/NPS@NPS,  
mike.stevens@sol.doi.gov,  
jason.waanders@sol.doi.gov  
cc: Darrell Echols/CAHA/NPS@NPS, Doug  
Wetmore/DENVER/NPS@NPS, Paul  
Stevens/CAHA/NPS@NPS  
Subject: Re: permit cost, service animals, pets

All,

Would another or additional way to handle this be to respond that as an example the range of ORV permit fees from other parks for 2009 is xx to xxx, without committing that CAHA's would be within that range because it would be based on all the variables you indicate below?

Are we legally obligated to try to disclose how much a permit is likely to cost as part of the EIS or rulemaking process?

Sandy

Sandy Hamilton  
Environmental Protection Specialist  
National Park Service - Environmental Quality Division  
Academy Place  
P.O. Box 25287  
Denver CO 80225  
PH: (303) 969-2068  
FAX: (303) 987-6782  
▼ [Mike Murray/CAHA/NPS](mailto:Mike.Murray@caha.nps.gov)

**Mike  
Murray/CAHA/NPS**

06/30/2010 11:14 AM

To: Doug Wetmore/DENVER/NPS@NPS  
cc: Sandra Hamilton/DENVER/NPS@NPS, Paul  
Stevens/CAHA/NPS@NPS, Darrell  
Echols/CAHA/NPS@NPS  
Subject: Re: permit cost, service animals, pets

Doug,

It is difficult to estimate the cost of the permit fee until we go through a detailed budget programming process to identify and estimate all the additional ORV program costs above and beyond our current base budget (it would likely be a subset of the "total cost" estimates for each alternative, but would include only positions and supplies, equipment, materials that are directly related to the ORV program, plus some of the new positions we discussed during the call on June 10-

11. Once we estimate those costs, we would also need a good estimate of the number of annual and weekly permits that we might sell, so we can do the math to determine the permit fee necessary for cost recovery: additional program costs divided by the number of permits by type = the permit fee by type. At the moment, lacking good estimates of the total amount of ORV use at the Seashore (e.g., # vehicles or # of drivers) we have no good basis for estimating the number of permits that will be sold, so it is difficult to determine the fee. At some point we will need to make a "best guess" but I'm not eager to rush into that right now.

I'll talk with Darrell and Paul to see if they can do some sort of a "strawman" calculation to come up with a ballpark estimate, but I doubt we will have time to get to it this week.

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▼ [Doug Wetmore/DENVER/NPS](#)

**Doug Wetmore/DENVER/NPS**  
To: Mike Murray/CAHA/NPS@NPS  
cc: Sandra Hamilton/DENVER/NPS@NPS  
06/30/2010 12:53 PM Subject: Re: permit cost, service animals, pets

Hi Mike.

Have you had a chance to think about item #1 regarding an estimated permit cost? My apologies for all the emails, but were at the stage that we need to get our responses in PEPC so that we can get the response report to the Park for review.

Thanks again.

*1. There are many comments on how it's not possible to determine how the cost could impact visitors if there is no information on the proposed ORV permit cost. I've reviewed DO53 and aside from providing general information on how the cost-recovery fee is derived, I have no real idea on the potential permit cost. Does the park want to provide some ballpark range in the EIS?*

Doug Wetmore  
Environmental Protection Specialist  
National Park Service - Environmental Quality Division

0027041

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Denver, CO 80225-0287  
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Cell: (303) 968-5214

▼ [Mike Murray/CAHA/NPS](#)

**Mike  
Murray/CAHA/NPS**

06/30/2010 09:32 AM

To Doug Wetmore/DENVER/NPS@NPS  
cc lfox@louisberger.com, Paul Stevens/CAHA/NPS@NPS,  
Sandra Hamilton/DENVER/NPS@NPS, Thayer  
Broili/CAHA/NPS@NPS

Subject Re: permit cost, service animals, pets

Thanks Doug. That is good information. It makes sense to allow any legitimate service dog to stay with their owners in NPS buildings, designated swimming beaches, etc.

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Superintendent  
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▼ [Doug Wetmore/DENVER/NPS](#)

**Doug  
Wetmore/DENVER/NPS**

06/30/2010 11:20 AM

To Mike Murray/CAHA/NPS@NPS  
cc lfox@louisberger.com, Paul Stevens/CAHA/NPS@NPS,  
Sandra Hamilton/DENVER/NPS@NPS, Thayer  
Broili/CAHA/NPS@NPS

Subject Re: permit cost, service animals, pets

Hi Mike.

I just wanted to call your attention to the attached 2002 NPS Director's memo on service animals.

This is text from an internal NPS memo below:

"While NPS has always recognized guide dogs for the blind and signal dogs for the hearing impaired as service animals, it now recognizes as service animals the broad range of animals contemplated by DOJ's expanded definition. Memorandum, Use of Service Animals by Persons with Disabilities in the National Park Service, September 5, 2002. Accordingly, NPS concluded that its current regulation, 36 C.F.R. § 2.15, which recognizes only guide dogs for the blind and signal dogs for the hearing impaired, was inadequate to satisfy its obligations under Section 504 of the Rehabilitation Act, and therefore **"unenforceable against persons with disabilities who rely upon service animals for other purposes."**

[attachment "serviceanimals.pdf" deleted by Mike Murray/CAHA/NPS]

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Environmental Protection Specialist  
National Park Service - Environmental Quality Division  
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Denver, CO 80225-0287  
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▼ Mike Murray/CAHA/NPS

Mike  
Murray/CAHA/NPS

06/30/2010 06:28 AM

To Doug Wetmore/DENVER/NPS@NPS  
cc Britta Muiznieks/CAHA/NPS@NPS,  
lfox@louisberger.com, Paul Stevens/CAHA/NPS@NPS,  
Sandra Hamilton/DENVER/NPS@NPS, Thayer  
Broili/CAHA/NPS@NPS

Subject Re: permit cost, service animals, pets

Doug,

The service dog issue is NPS-wide policy and defined in:

### **36 CFR § 2.15 Pets.**

(a) The following are prohibited:

(1) Possessing a pet in a public building, public transportation vehicle, or location designated as a swimming beach, or any structure or area closed to the possession of pets by the superintendent. This subparagraph shall not apply to guide dogs accompanying visually impaired persons or hearing ear dogs accompanying hearing-impaired persons.

Mike Murray  
Superintendent

0027043

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▼ [Doug Wetmore/DENVER/NPS](#)

**Doug  
Wetmore/DENVER/NPS**

06/29/2010 09:27 PM

To Mike Murray/CAHA/NPS@NPS  
cc Britta Muiznieks/CAHA/NPS@NPS,  
lfox@louisberger.com, Paul Stevens/CAHA/NPS@NPS,  
Sandra Hamilton/DENVER/NPS@NPS, Thayer  
Broilli/CAHA/NPS@NPS  
Subject Re: permit cost, service animals, pets

Thanks Mike.

Any response to item #2 regarding service animals?

2. According to my June 10 call notes, the issue of service animals was tabled. Commenter suggests that "The current policy for Cape Hatteras is that "[g]uide dogs for the visually impaired are permitted to remain with their owners at all times." Can the park confirm that this is indeed the policy and where this policy is stated? Also, does the park have suggested language on how to address all service animals, particularly where pets are not allowed?

Doug Wetmore  
Environmental Protection Specialist  
National Park Service - Environmental Quality Division  
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Denver, CO 80225-0287  
Office: (303) 987-6955  
Cell: (303) 968-5214

▼ [Mike Murray/CAHA/NPS](#)

**Mike  
Murray/CAHA/NPS**

06/29/2010 02:18 PM

To Thayer Broilli/CAHA/NPS@NPS  
cc Britta Muiznieks/CAHA/NPS@NPS, Doug  
Wetmore/DENVER/NPS@NPS, lfox@louisberger.com,  
Paul Stevens/CAHA/NPS@NPS, Sandra  
Hamilton/DENVER/NPS@NPS  
Subject Re: permit cost, service animals, pets

As described in the DEIS Table 10, it was too complicated to have different rules for different locations, for breeding season and nonbreeding season, for SMAs vs. areas that are not SMAs, etc. The decision on pets was that pets-on-a-leash would be allowed in all locations, except in resource closures and pedestrian shoreline access areas in front of prenesting areas. See revised Table 10 (attached), page 1, Prenesting Closure section, All Species section, last two sentences.

[attachment "Table 10.Selected Alternative Final Park Edits.061810.doc" deleted by Doug Wetmore/DENVER/NPS]

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▼ Thayer Broili/CAHA/NPS

**Thayer  
Broili/CAHA/NPS**

06/29/2010 02:55 PM

To Doug Wetmore/DENVER/NPS@NPS  
cc Britta Muiznieks/CAHA/NPS@NPS,  
lfox@louisberger.com, Mike Murray/CAHA/NPS@NPS,  
Paul Stevens/CAHA/NPS@NPS, Sandra  
Hamilton/DENVER/NPS@NPS  
Subject Re: permit cost, service animals, pets

Can't speak to 1 or 2, but I believe the explanation of 3 is that it refers to the non-breeding (migrating/wintering) shorebird areas (per Ch. 2, Table 10).

Thayer Broili  
Chief of Resource Management  
Cape Hatteras National Seashore  
Phone 252-473-2111 ext.137  
Fax 252-473-2595

▼ Doug Wetmore/DENVER/NPS

**Doug  
Wetmore/DENVER/NPS**

06/29/2010 11:33 AM

To Mike Murray/CAHA/NPS@NPS, Thayer  
Broili/CAHA/NPS@NPS  
cc Sandra Hamilton/DENVER/NPS@NPS, Paul  
Stevens/CAHA/NPS@NPS, Britta  
Muiznieks/CAHA/NPS@NPS, lfox@louisberger.com  
Subject permit cost, service animals, pets



Mike/Thayer/Paul:

I'm responding to a couple of comments and would like the park's input.

1. There are many comments on how it's not possible to determine how the cost could impact visitors if there is no information on the proposed ORV permit cost. I've reviewed DO53 and aside from providing general information on how the cost-recovery fee is derived, I have no real idea on the potential permit cost. Does the park want to provide some ballpark range in the EIS?

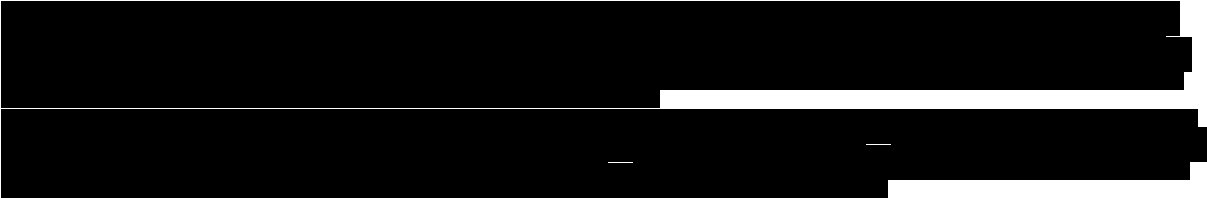
2. According to my June 10 call notes, the issue of service animals was tabled. Commenter suggests that "The current policy for Cape Hatteras is that "[g]uide dogs for the visually impaired are permitted to remain with their owners at all times." Can the park confirm that this is indeed the policy and where this policy is stated? Also, does the park have suggested language on how to address all service animals, particularly where pets are not allowed?

3. Speaking of pets, was there ever a conclusion on where they would be allowed? Decision statement on page 2 of the call notes indicates that "some areas may be closed to pet use either during breeding season only, or year-round in areas with particularly high concentrations of resting (?) birds", which isn't really clear to me.

Thanks.

Doug Wetmore  
Environmental Protection Specialist  
National Park Service - Environmental Quality Division  
P.O. Box 25287  
Denver, CO 80225-0287  
Office: (303) 987-6955  
Cell: (303) 968-5214

From: [Waanders, Jason](#)  
To: [Hamilton, Sandra](#); [Murray, Mike](#); [Stevens, Mike](#)  
Cc: [Echols, Darrell](#); [Wetmore, Doug](#); [Stevens, Paul](#)  
Subject: RE: permit cost, service animals, pets  
Date: 06/30/2010 12:20 PM



Jason Waanders  
U.S. Department of the Interior, Office of the Solicitor  
1849 C Street, NW, Room 5319  
Washington, DC 20240  
(202) 208-7957  
(202) 208-3877 (fax)  
jason.waanders@sol.doi.gov

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

From: [Sandra\\_Hamilton@nps.gov](mailto:Sandra_Hamilton@nps.gov) [mailto:[Sandra\\_Hamilton@nps.gov](mailto:Sandra_Hamilton@nps.gov)]  
Sent: Wednesday, June 30, 2010 1:29 PM  
To: Murray, Mike; Stevens, Mike; Waanders, Jason  
Cc: Echols, Darrell; Wetmore, Doug; Stevens, Paul  
Subject: Re: permit cost, service animals, pets

All,

Would another or additional way to handle this be to respond that as an example the range of ORV permit fees from other parks for 2009 is xx to xxx, without committing that CAHA's would be within that range because it would be based on all the variables you indicate below?

Are we legally obligated to try to disclose how much a permit is likely to cost as part of the EIS or rulemaking process?

Sandy

Sandy Hamilton  
Environmental Protection Specialist  
National Park Service - Environmental Quality Division  
Academy Place  
P.O. Box 25287  
Denver CO 80225  
PH: (303) 969-2068  
FAX: (303) 987-6782

Mike  
Murray/CAHA/NPS

06/30/2010 11:14 AM

Doug Wetmore/DENVER/NPS@NPS To  
cc  
Sandra Hamilton/DENVER/NPS@NPS,  
Paul Stevens/CAHA/NPS@NPS, Darrell  
Echols/CAHA/NPS@NPS  
Subject  
Re: permit cost, service animals,  
pets(Document link: Sandra  
Hamilton)

Doug,

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0027047

permit fee necessary for cost recovery: additional program costs divided by the number of permits by type = the permit fee by type. At the moment, lacking good estimates of the total amount of ORV use at the Seashore (e.g., # vehicles or # of drivers) we have no good basis for estimating the number of permits that will be sold, so it is difficult to determine the fee. At some point we will need to make a "best guess" but I'm not eager to rush into that right now.

I'll talk with Darrell and Paul to see if they can do some sort of a "strawman" calculation to come up with a ballpark estimate, but I doubt we will have time to get to it this week.

Mike Murray  
Superintendent  
Cape Hatteras NS/ Wright Brothers NMem/ Ft. Raleigh NHS  
(w) 252-473-2111, ext. 148  
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fax 252-473-2595

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Doug  
Wetmore/DENVER/NP  
S  
06/30/2010 12:53  
PM

Mike Murray/CAHA/NPS@NPS  
Sandra Hamilton/DENVER/NPS@NPS  
Subject  
Re: permit cost, service animals,  
pets(Document link: Mike Murray)

To  
cc

Hi Mike.

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Thanks again.

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Doug Wetmore  
Environmental Protection Specialist  
National Park Service - Environmental Quality Division  
P.O. Box 25287  
Denver, CO 80225-0287  
Office: (303) 987-6955  
Cell: (303) 968-5214

Mike  
Murray/CAHA/NPS  
06/30/2010 09:32  
AM

Doug Wetmore/DENVER/NPS@NPS  
lfox@louisberger.com, Paul  
Stevens/CAHA/NPS@NPS, Sandra  
Hamilton/DENVER/NPS@NPS, Thayer  
Broili/CAHA/NPS@NPS  
Subject  
Re: permit cost, service animals,  
pets(Document link: Doug Wetmore)

To  
cc

Thanks Doug. That is good information. It makes sense to allow any legitimate service dog to stay with their owners in NPS buildings, designated swimming beaches, etc.

Mike Murray  
Superintendent

0027048

Cape Hatteras NS/ Wright Brothers NMem/ Ft. Raleigh NHS  
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Doug  
Wetmore/DENVER/NP  
S  
06/30/2010 11:20  
AM

Mike Murray/CAHA/NPS@NPS  
lfox@louisberger.com, Paul  
Stevens/CAHA/NPS@NPS, Sandra  
Hamilton/DENVER/NPS@NPS, Thayer  
Broilli/CAHA/NPS@NPS

To  
cc  
Subject  
Re: permit cost, service animals,  
pets(Document link: Mike Murray)

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[attachment "serviceanimals.pdf" deleted by Mike Murray/CAHA/NPS]

Doug Wetmore  
Environmental Protection Specialist  
National Park Service - Environmental Quality Division  
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Denver, CO 80225-0287  
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Mike  
Murray/CAHA/NPS  
06/30/2010 06:28  
AM

Doug Wetmore/DENVER/NPS@NPS  
Britta Muiznieks/CAHA/NPS@NPS,  
lfox@louisberger.com, Paul  
Stevens/CAHA/NPS@NPS, Sandra  
Hamilton/DENVER/NPS@NPS, Thayer  
Broilli/CAHA/NPS@NPS

To  
cc  
Subject  
Re: permit cost, service animals,  
pets(Document link: Doug Wetmore)

Doug,

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36 CFR § 2.15 Pets.

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pets by the superintendent. This subparagraph shall not apply to guide dogs accompanying visually impaired persons or hearing ear dogs accompanying hearing-impaired persons.

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Doug  
Wetmore/DENVER/NPS  
S  
06/29/2010 09:27  
PM  
Mike Murray/CAHA/NPS@NPS  
Britta Muiznieks/CAHA/NPS@NPS,  
lfox@louisberger.com, Paul  
Stevens/CAHA/NPS@NPS, Sandra  
Hamilton/DENVER/NPS@NPS, Thayer  
Broili/CAHA/NPS@NPS  
Subject  
Re: permit cost, service animals,  
pets(Document link: Mike Murray)

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Cell: (303) 968-5214

Mike  
Murray/CAHA/NPS  
06/29/2010 02:18  
PM  
Thayer Broili/CAHA/NPS@NPS  
Britta Muiznieks/CAHA/NPS@NPS, Doug  
Wetmore/DENVER/NPS@NPS,  
lfox@louisberger.com, Paul  
Stevens/CAHA/NPS@NPS, Sandra  
Hamilton/DENVER/NPS@NPS  
Subject  
Re: permit cost, service animals,  
pets(Document link: Doug Wetmore)

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[attachment "Table 10.Selected Alternative Final Park Edits.061810.doc" deleted by Doug Wetmore/DENVER/NPS]

Mike Murray

0027050

Superintendent  
Cape Hatteras NS/ Wright Brothers NMem/ Ft. Raleigh NHS  
(w) 252-473-2111, ext. 148  
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Thayer  
Broilli/CAHA/NPS  
06/29/2010 02:55 PM  
Doug Wetmore/DENVER/NPS@NPS  
Britta Muiznieks/CAHA/NPS@NPS, lfox@louisberger.com, Mike Murray/CAHA/NPS@NPS, Paul Stevens/CAHA/NPS@NPS, Sandra Hamilton/DENVER/NPS@NPS  
Subject  
Re: permit cost, service animals, pets(Document link: Mike Murray)

Can't speak to 1 or 2, but I believe the explanation of 3 is that it refers to the non-breeding (migrating/wintering) shorebird areas (per Ch. 2, Table 10).

Thayer Broilli  
Chief of Resource Management  
Cape Hatteras National Seashore  
Phone 252-473-2111 ext.137  
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Doug  
Wetmore/DENVER/NPS  
06/29/2010 11:33 AM  
Mike Murray/CAHA/NPS@NPS, Thayer Broilli/CAHA/NPS@NPS  
Sandra Hamilton/DENVER/NPS@NPS, Paul Stevens/CAHA/NPS@NPS, Britta Muiznieks/CAHA/NPS@NPS, lfox@louisberger.com  
Subject  
permit cost, service animals, pets

Mike/Thayer/Paul:

I'm responding to a couple of comments and would like the park's input.

1. There are many comments on how it's not possible to determine how the cost could impact visitors if there is no information on the proposed ORV permit cost. I've reviewed D053 and aside from providing general information on how the cost-recovery fee is derived, I have no real idea on the potential permit cost. Does the park want to provide some ballpark range in the EIS?

2. According to my June 10 call notes, the issue of service animals was tabled. Commenter suggests that "The current policy for Cape Hatteras is that "[guide dogs for the visually impaired are permitted to remain with their owners at all times." Can the park confirm that this is indeed the policy and where this policy is stated? Also, does the park have suggested language on how to address all service animals, particularly where pets are not allowed?

3. Speaking of pets, was there ever a conclusion on where they would be allowed? Decision statement on page 2 of the call notes indicates that "some areas may be closed to pet use either during breeding season only, or year-round in areas with particularly high concentrations of resting (?) birds", which isn't really clear to me.

Thanks.

Doug Wetmore  
Environmental Protection Specialist  
National Park Service - Environmental Quality Division  
P.O. Box 25287  
Denver, CO 80225-0287

0027051

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**Blue-Sky, Megan**

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**From:** Fox, Lori  
**Sent:** Wednesday, June 30, 2010 3:04 PM  
**To:** Blue-Sky, Megan  
**Subject:** FW: permit cost, service animals, pets  
**Attachments:** serviceanimals.pdf

**Categories:** To Do

For the caha admin please, thanks!

Lori Fox  
Deputy Director, Denver Operations/Senior Planner

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

**From:** Doug\_Wetmore@nps.gov [mailto:Doug\_Wetmore@nps.gov]  
**Sent:** Wednesday, June 30, 2010 9:21 AM  
**To:** Mike\_Murray@nps.gov  
**Cc:** Fox, Lori; Paul\_Stevens@nps.gov; Sandra\_Hamilton@nps.gov; Thayer\_Broili@nps.gov  
**Subject:** Re: permit cost, service animals, pets

Hi Mike.

I just wanted to call your attention to the attached 2002 NPS Director's memo on service animals.

This is text from an internal NPS memo below:

"While NPS has always recognized guide dogs for the blind and signal dogs for the hearing impaired as service animals, it now recognizes as service animals the broad range of animals contemplated by DOJ's expanded definition. Memorandum, Use of Service Animals by Persons with Disabilities in the National Park Service, September 5, 2002. Accordingly, NPS concluded that its current regulation, 36 C.F.R. § 2.15, which recognizes only guide dogs for the blind and signal dogs for the hearing impaired, was inadequate to satisfy its obligations under Section



504 of the Rehabilitation Act, and therefore “unenforceable against persons with disabilities who rely upon service animals for other purposes.”

(See attached file: serviceanimals.pdf)

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Mike  
Murray/CAHA/NPS

06/30/2010 06:28  
AM

Doug Wetmore/DENVER/NPS@NPS

To

cc

Britta Muiznieks/CAHA/NPS@NPS,  
lfox@louisberger.com, Paul  
Stevens/CAHA/NPS@NPS, Sandra  
Hamilton/DENVER/NPS@NPS, Thayer  
Broili/CAHA/NPS@NPS

Subject

Re: permit cost, service animals,  
pets(Document link: Doug Wetmore)

Doug,

The service dog issue is NPS-wide policy and defined in:

36 CFR § 2.15 Pets.

(a) The following are prohibited:

(1) Possessing a pet in a public building, public transportation vehicle, or location designated as a swimming beach, or any structure or area closed to the possession of pets by the superintendent. This subparagraph shall not apply to guide dogs accompanying visually impaired persons or hearing ear dogs accompanying hearing-impaired persons.

Mike Murray

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Doug  
Wetmore/DENVER/NP  
S

06/29/2010 09:27  
PM

Mike Murray/CAHA/NPS@NPS

To

cc

Britta Muiznieks/CAHA/NPS@NPS,  
lfox@louisberger.com, Paul  
Stevens/CAHA/NPS@NPS, Sandra  
Hamilton/DENVER/NPS@NPS, Thayer  
Broili/CAHA/NPS@NPS

Subject

Re: permit cost, service animals,  
pets(Document link: Mike Murray)

Thanks Mike.

Any response to item #2 regarding service animals?

2. According to my June 10 call notes, the issue of service animals was tabled. Commenter suggests that "The current policy for Cape Hatteras is that "[g]uide dogs for the visually impaired are permitted to remain with their owners at all times." Can the park confirm that this is indeed the policy and where this policy is stated? Also, does the park have suggested language on how to address all service animals, particularly where pets are not allowed?

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Mike  
Murray/CAHA/NPS

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Thanks.

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## United States Department of the Interior

NATIONAL PARK SERVICE  
1849 C Street, N.W.  
Washington, D.C. 20240

IN REPLY REFER TO:

W46(2460)

September 5, 2002

### Memorandum

To: Associate Directors, Regional Directors and Superintendents

From: Director /s/ **Fran P. Mainella**

Subject: Use of Service Animals by Persons with Disabilities in the National Park System

The purpose of this memorandum is to provide updated information regarding the use of service animals by persons with disabilities in the National Park System; to inform you of the intent to revise our current regulations regarding their use; and to provide interim guidance on what we as an agency must do in order to comply with Department of Justice (DOJ) guidelines and regulations and Section 504 of the Rehabilitation Act. This information will be incorporated into Director's Order #42 when it is updated.

### Background

Service animals for persons with disabilities have traditionally been understood to be guide dogs for blind individuals and hearing assistance dogs for persons with hearing impairments. Because these animals provide service for persons with disabilities, they are not considered to be pets and, consequently, are not regulated as pets. Accordingly, they have been allowed to go into areas where pets are traditionally prohibited. National Park Service (NPS) regulations codified at **36 CFR 2.15** currently recognize that "guide dogs for the blind" and "signal dogs for persons with hearing impairments" are exempt from other prohibitions on pets.

In 1990, with the passage of the Americans with Disabilities Act (ADA), DOJ expanded the concept of service animals to include those providing a service for individuals with other disabilities. Service animals are defined in 28 CFR 36.104 as, "any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items." **Section 36.302** states that entities,

“shall modify policies, practices, or procedures to permit the use of a service animal by an individual with a disability.”

**Section 36.104** also defines an individual with a disability as an individual with a physical or mental impairment that substantially limits one or more of the major life activities of caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Over the past several months a number of parks have received requests from the public to use service animals and the parks have raised questions about what types of service animals must be allowed. There has been some confusion for the parks because our current regulations recognize only guide dogs for individuals with visual impairments and signal dogs for those with hearing impairments. There have also been some increased concerns voiced regarding the potential threat to wildlife management with the allowance of service animals into areas where pets are prohibited.

#### **NPS Position**

After careful review of the issues related to the use of service animals in the national parks, and based on the advice provided by the Solicitor’s Office, we conclude that we are legally required by Section 504 of the Rehabilitation Act to allow all types of service animals into the parks. The NPS will revise the regulations to adopt a broader interpretation of what a service animal is, and where service animals should be allowed. The NPS will use the same definition of service animal currently found in DOJ regulations (28 CFR36.104). Service animals will not be considered pets and, in general, when accompanying a person with a disability (as defined by Federal law and DOJ regulations), must be allowed wherever visitors or employees are allowed.

Due to the concern for wildlife management issues, the regulation will allow superintendents to close an area to the use of service animals if it is determined that the service animal poses a direct threat to the health or safety of people or wildlife. The regulation will also state that, in determining whether a service animal poses a direct threat, the superintendent must make an individualized assessment based on current scientific knowledge or on the best available objective evidence to ascertain the nature, duration and severity of the risk and the probability that the potential threat will actually occur; and provide an explanation why less restrictive measures will not suffice. We expect to have the proposed rule published in the Federal Register for public review and comment by fall of this year.

#### **Interim Guidance**

Because it will take some time for the new regulation to become final, we are using this memorandum to provide guidance on what we need to do immediately in order to comply with the ADA, DOJ guidelines and regulations, and Section 504 of the Rehabilitation Act.

We have been advised by legal counsel that Congress has stated that their intent is that the coverage of the ADA, (which covers State and local governments and private entities) and Section 504 (which covers Federal agencies) should be essentially the same. The Department’s

regulations implementing and interpreting Section 504 are found at 43 CFR 17. Consequently, our current regulation (36 CFR 2.15), which recognizes only guide dogs for the blind and signal dogs for the hearing impaired, is unenforceable against persons with disabilities who rely upon service animals for other purposes. Therefore, all park units must immediately expand the definition of service animals to be consistent with the DOJ definition and allow all service animals accompanying persons with disabilities the same privileges currently provided to guide dogs and hearing assistance dogs.

Some park staff have raised questions regarding how they can be assured that the individual with a service animal is a qualified person with a disability and that the animal is indeed providing a service because of that disability. According to DOJ guidance, in most instances we cannot require individuals to show proof of disability nor to show official certification for their service animal. Some, but not all, service animals wear special collars and harnesses. Some, but not all, are licensed or certified and have identification papers. **If you are not certain that an animal is a service animal, you may ask the person who has the animal if it is a service animal required because of a disability.** However, an individual with a disability is not likely to be carrying documentation of his or her medical condition or disability, and such documentation may not be required as a condition for allowing them in the park. DOJ has also stated that, although a number of States have programs to certify service animals, you may not insist on proof of State certification before permitting the service animal to accompany the person with a disability.

In some very limited situations the NPS may require additional procedures to verify that the animal is providing a service for a qualified person with a disability. The NPS already utilizes a procedure to determine if an individual is a qualified individual with a disability for purposes of receiving a Golden Access Passport. That procedure requires either written documentation of a disability or the signing of a statement attesting to having a disability as defined by Federal law. A similar procedure could be utilized with regard to service animals in cases where a superintendent believes it is necessary.

According to DOJ guidance, and as discussed above, a superintendent may close an area to all service animals upon an individualized assessment and a written determination that allowance of any domestic animal would pose a direct threat to the health and safety of people or wildlife. This determination must also follow the requirements of 36 CFR 1.5/1.7. However, the legal burden is on the superintendent to justify closing an area of the park to service animals accompanying persons with disabilities.

We ask each superintendent to ensure that all staff that interact with the public, including our concessions staff, be informed of this decision and take whatever steps are necessary to implement this action as quickly as possible. If you have any questions regarding this issue, you may contact ~~David Park, Accessibility Program Coordinator at 202/513-7027, or Kym Hall, Regulations Program Manager at 202/208-4206.~~ \*

\* As of 2010, contacts are:

--Kay Ellis, Accessibility Program Manager, 202/513-7047

--Philip Selleck, Regulations Program Manager, 202/208-4206