

From: [Mike Murray](#)
To: [Doug Wetmore](#)
Cc: [Sandra Hamilton](#)
Subject: Re: fees for other use
Date: 06/30/2010 02:50 PM
Attachments: [Permits Fees.NPS Discussion Notes.091508.doc](#)
[CAHA.NPS Fee Proposal.DRAFT.12.10.08.doc](#)

Doug,

See attached notes from discussion with NPS fee program manager and RegNeg subcommittee notes. The comment in your message seems simple enough, but would be very difficult to implement since an SUP, which is cost recovery program, is the appropriate instrument for managing ORV use; but would not be appropriate for managing general beach access. A "parking fee" is in essence managed under FLREA, the same as an entrance fee, which is not a cost recovery program. In other words, charging a general use fee or parking fee is operationally problematic, and is not a cost recovery program so the park would be able to retain and use only a portion of the funds, but could not use the funds to directly support the program. Although the Committee recommended that all beach users pay a fee to help "foot the bill" because of the different "permit" and fee collection authorities and requirements (cost recovery vs, not cost recovery, etc.) it is not practical to do charge and collect a general use fee. The Committee was generally against a traditional entrance fee, which would have required the construction of entrance stations on NC 12 and would present challenging issues related to traffic flow, sorting between recreational visitors and other visitors, etc. For example, NPS typically does not collect an entrance fee for someone who can only access private property by traveling through a park (e.g., to get to the villages). Since this is an ORV plan and SUPs are typically used to manage ORV use, the park decided to stick with the tired and true SUP approach that has proven effective at other national seashores.



Permits Fees.NPS Discussion Notes.091508.doc



CAHA.NPS Fee Proposal.DRAFT.12.10.08.doc

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**Doug
Wetmore/DENVER/NPS**

To: Mike Murray/CAHA/NPS@NPS
cc: Sandra Hamilton/DENVER/NPS@NPS
Subject: fees for other use

06/30/2010 04:15 PM

Hi Mike.

I have the following comment to respond to:

"I suggest rather than only requiring permits for ORVs, a general admission permit for all CHNSRA users to spread these costs among all users. Anyone using an NPS parking lot or other facility needs to contribute to the support of the recreational area, not just ORV users. "

I think this was discussed during reg-neg, but was not carried forward in the DEIS. Could you provide a little background or refer me to someone who could?

Much appreciated.

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**NPS Internal Discussion Notes
September 15, 2008**

Participants: Mike Murray, Paul Stevens, Steve Thompson, Pat Ludwig, Jane Moore(NPS Fee Program Manager, WASO) and Lee Dickinson (NPS Special Park Uses Program Manager, WASO)

Jane Moore: (Recreation fees) “Beach access fee” under FLREA is really an entrance fee; not practical to collect it at multiple dispersed locations; public would think it is an entrance fee and would expect to be able to use their passes. “Parking fees” a problem under FLREA. For example, CANA had a “day use fee” and had to change it to an entrance fee. Current Congressional action includes: Baucus bill to repeal fee authority; Veterans Pass bill (\$10); ACOE would be added to fee authority. All new NPS entrance fees on hold for now.

Lee Dickinson: SUP’s require that there be an identifiable beneficiary of a special service, with an identifiable user group. Cannot be used for the general public, or for a general “beach permit,” “beach pass,” or “parking permit.” SUP is the appropriate approach for ORV use and is typically used by parks that require an ORV permit. Provides tool for managing use under terms and conditions, in addition to applicable regulations.

Funding: (FLREA) Education program could be eligible for 20% Fee funds. Traditional interpretation – could use Fee \$ for brochures or new programs. Also, could use 80% Fee funds. (SUP) SUP fees are collected to reimburse NPS for work needed to support and manage the program. No SUP fee revenue could be used for amenities for other users. 318 \$ is one-year money; cannot make profit or carry-over funds into next fiscal year. NPS can disclose costs and expenses. There is no trust fund option, since cannot carry over funds past end of fiscal year.

Examples: (LD) “Access permit” at Sandy Hook is an SUP to allowing driving access to an area that is otherwise closed. (JM) Some parks are paying for lifeguards with fee revenue.

Assign SUP to Registered Owner? (ST) Makes sense to assign permit to the registered owner. The owner is responsible for whoever drives vehicle. That is how automobile insurance works.

mbm

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Cape Hatteras National Seashore Fee Proposal

Background

Off-road vehicle (ORV) use predates the establishment of Cape Hatteras national Seashore (CAHA) and has become a popular method of access for other recreational pursuits such as swimming, fishing and water sports. Executive Order 11644 (1972), amended by Executive Order 11989 (1977), requires certain federal agencies permitting ORV use on agency lands to publish regulations designating specific trails and areas for this use. 36 CFR § 4.10 requires NPS to designate ORV use areas and routes by special regulation. NPS has never completed an ORV management plan or special regulation for CAHA.

In January 2006 NPS issued an Interim Protected Species Management Strategy (Interim Strategy) to provide guidance for species protection until a long-term ORV management plan and special regulation could be developed. A Finding of No Significant Impact (FONSI) for the Interim Strategy was issued in July 2007. In October 2007, three environmental groups filed suit against NPS and USFWS challenging the Interim Strategy. Dare and Hyde Counties and a coalition of ORV and sportfishing groups were granted Intervenor-Defendant status by the court. The Plaintiffs, Federal Defendants, and Intervenor-Defendants reached a settlement that was approved as a consent decree by the court in April 2008. The consent decree modifies the Interim Strategy, will remain in effect until replaced by the ORV management plan and special regulation, and establishes deadlines for completion of the plan and regulation by December 31, 2010 and April 1, 2011 respectively.

Current Status

NPS is developing an ORV management plan / environmental impact statement (EIS) under the National environmental Policy Act (NEPA) process. To date, NPS has conducted public scoping in January – March 2006; distributed an ORV management alternatives options workbook for public comment in January – February 2008; and released NPS ORV management alternatives in November 2008. NPS expects to release a draft EIS (DEIS) for public comment in Fall 2009.

DOI established a regulatory negotiation (RegNeg) advisory committee in December 2006 to assist NPS in the development of an ORV special regulation. The committee's role is to try to develop a consensus ORV management alternative that NPS will use as the basis for a preferred alternative in the DEIS and the special regulation. All participants in the lawsuit (i.e., NPS and USFWS; the three environmental organizations that were the Plaintiffs; and Dare and Hyde Counties, and the ORV and recreational fishing groups that participated as Intervenor-Defendants) are members of the RegNeg committee. In part, because of the lawsuit and because of conflicting values and objectives among the various stakeholder organizations represented on the committee, the committee has struggled to reach consensus on many key issues.

The committee has held formal meetings in January, February, March, May, June, September, November, and December 2008, which two additional meetings scheduled in January and one

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last meeting scheduled in February 2009. As many as six subcommittees have worked on developing topical proposals for the full committee's consideration. Currently active subcommittees include: Agenda Planning, Routes and Areas, Permits/Passes, Vehicle Characteristics, Village Closures, and Natural Resources.

Consensus Reached on Permit/Pass Issue

At the November 2008 meeting the full committee reached consensus on the concept that any vehicle utilized for beach access at CAHA via an NPS parking or ORV access ramp shall be required to pay a fee and have a permit/pass. See attached copy of the Permits/Passes latest proposal, which summarizes the concept that was approved by the full committee. The committee recognizes that current NPS recreation fee and special use permit policies may not be a comfortable fit with the committee's strong desire to share responsibility across user groups for natural resource protection; to charge fair and reasonable fees across motor vehicle users who access the beach via driving and/or parking; to provide resource education to as many users of the beach as possible; and to provide funds for compliance and enforcement, operations, maintenance and improvements related to ORV and pedestrian use of beaches and related facilities..

Approaches Considered and Rejected by the Committee

With information and feedback provided by the NPS Fee Program Manager and NPS Special Park Uses Program Manager in WASO, the committee has considered the following traditional options for fee collection:

- 1) Entrance Fee: under the recreation fee authority (FLREA) and guidance (DO-22).
 - Allows collection of a fee across users types
 - Requires acceptance and sales of America the Beautiful and park annual passes
 - Fees set nationally to be consistent with entrance fees at similar parks
 - The Committee has rejected the notion of centralized entrance stations (e.g., along NC Hwy 12) as a means to collect entrance fees
 - Operational complexity to collect and account for funds collected at numerous dispersed sites
 - Provides no authority to require resource education component and is not suitable for imposing requirement (terms and conditions) upon users
 - No cost recovery. Under current NPS policy, park retains up to 80% of funds collected, which could be used for fee collection and infrastructure improvements. Funds could not be used ongoing costs of operations and programs necessary to administer ORV management and resource education
 - The committee supports the notion of a fee and education requirement for all users who access the park via vehicle by parking in NPS developed parking lots or by driving onto the beach in an ORV

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2) Special Use Permit: under the Special Park Uses authority (16 USC 1-4) and guidance (DO-53)

- Traditional NPS approach to managing ORV use
- Used to manage activities that provide a benefit to an individual, group or organization rather than the public at large (i.e., typically not used for “beach access” or for “the general public”)
- Allows NPS to impose conditions, including an education requirement, to manage the activity and obtain the signature of the permittee agreeing to the terms and conditions contained in the permit document
- Fees set based on recovery of costs incurred by NPS in managing or supporting the use
- The committee supports the notion of a fee and education requirement for all users who access the park via vehicle by parking in NPS developed parking lots or by driving onto the beach in an ORV

3) Entrance Fee + SUP Program: Collect entrance fee for Visitors who park in NPS parking lots to access beach and SUP fee for ORV users who access park beaches by ORV

- Operational and administrative complexity: Requires implementation of two separate fee programs, with two ways of determining fees, to be administered under two separate procedures and requirements
- Confusing to the public. Are “passes accepted”? Does an ORV operator who drives on the beach some times and parks in a parking lot occasionally, depending on where the fish are biting, have to pay both an entrance fee and an SUP fee?
- Likely would have two different fee amounts, determined by two different processes.
- Prevents the perception of “equitable and reasonable fees” charged across motor vehicle users who access the beach via the vehicle by driving and/or parking
- The committee supports the notion of a fee and education requirement for all users who access the park via vehicle by parking in NPS developed parking lots or by driving onto the beach in an ORV

Justification for a Single Approach

NPS lacks detailed quantitative long-term data about the relative levels of ORV use and pedestrian use. It is perceived that a large, though quantifiably undetermined, percentage of park visitors utilize ORVs to access CAHA beaches. For example, it is known that there is no public parking for beach access within the unincorporated villages on Hatteras Island, even though the overnight occupancy reaches or exceeds 50,000 people per night during summer months, in addition to approximately 6,000 – 8,000 people spending the night on Ocracoke and another 250,000 people spending the night in Dare County north of Oregon Inlet.. CAHA has approximately 1,040 established beach access parking spaces to serve this population of over 300,000 vacationers staying within 30 minutes of Seashore beaches. NPS has observed 2,000 – 3,000 ORVs parked on seashore beaches on busy summer days. One NPS funded study (Vogel song, 2003) estimated that up to 68% of park visitors surveyed drive on the beach (i.e.,

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operate an ORV) at some time during their visit. In other words, a large, though quantifiably undetermined, percentage of park visitors have traditionally used ORVs to access CAHA beaches by motor vehicle. In other words, ORV users are not a small percentage or subset of park visitors.

While ORV use undeniably can cause impacts on natural resources and requires special management attention in order to minimize those impacts, pedestrians account for a large percentage of resource violations associated with the protection of beach nesting birds and sea turtles. In other words, visitors accessing seashore beaches on foot also require special management attention and infrastructure improvements: resource protection signing, species monitoring, law enforcement, resource education, amenities (such as parking, access paths or boardwalks, restrooms, trash removal), and maintenance of those facilities in order to minimize impacts on natural resources.

Need

The regulatory negotiation advisory committee has reached consensus that CAHA needs fee and education requirement for all users who access seashore beaches outside of the villages by vehicle, either by parking in NPS developed parking lots or by driving onto the beach in an ORV.