

From: [Mike Murray](#)
To: [Sandra Hamilton](#)
Cc: [Doug Wetmore](#)
Subject: Re: need your help responding to this DEIS comment
Date: 10/20/2010 08:18 AM
For Follow Up: Normal Priority.

Sandy,

I think the comment was addressed by the statement I've underlined in the response, but can live with expounding on the issue if you think we need to.

As background, it is unclear if the commenter is talking about "deliberate violations" only (that require an automatic buffer expansion under the consent decree), or "resource closure violations" in general. At the consent decree status hearing each year I have reported the number of "deliberate violations" that resulted in automatic buffer expansions under the consent decree and each time I've reported whether or not any of those violations caused direct damage to resources (some years, there was no detectable damage from such incidents, hence I reported that to be the case; in 2008 I reported that there was one incident involving damage to the least tern nest - the incident is mentioned in the original response below). I think the original answer addressed the issue of whether any deliberate violations had caused any resource damage (one incident did). Now, with the June 2010 turtle fatality on Ocracoke, a second direct take incident has occurred.

See suggested edits below in **BLUE**.

Mike Murray
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▼ [Sandra Hamilton/DENVER/NPS](#)

**Sandra
Hamilton/DENVER/NPS**

To Mike Murray/CAHA/NPS@NPS

cc Doug Wetmore/DENVER/NPS@NPS

10/20/2010 08:41 AM

Subject need your help responding to this DEIS comment

Hi Mike,

I added the text in italics in the draft response below to address this part of the comment:

Not one resource violation under the consent decree has harmed the resource in any manner according to you, the superintendent.

Please edit, or let me know if it's OK as is.

Concern ID: 24053

Concern Statement: Commenters felt that elements of alternative B encourage violation of the resource closures to encourage closures of a larger size. Other commenters felt that resources have not been harmed by closure violations under the consent decree.

Corr. ID: 10625	Organization: Not Specified
Comment ID: 136532	Organization Type: Unaffiliated Individual
Representative Quote: That NPS enforcement has had no effect and made little or no effort to catch the perpetrators of consent decree violations simply enhances the chances that the perpetrators are either environmentalists trying to stir the pot or NPS personnel siding with those individuals who want to see the beaches closed. Not one resource violation under the consent decree has harmed the resource in any manner according to you, the superintendent.	

Corr. ID: 12002	Organization: Not Specified
Comment ID: 134193	Organization Type: Unaffiliated Individual
Representative Quote: Alternative B pits environmental interests vs. beach-driving interests and encourages both parties to do the wrong thing. Those supporting driving on the beach are encouraged to harm PIPL and those who want no-ORV access are encouraged to vandalize shorebird signs so that protected areas are increased in size.	

Representative Quote: That NPS enforcement has had no effect and made little or no effort to catch the perpetrators of consent decree violations simply enhances the chances that the perpetrators are either environmentalists trying to stir the pot or NPS personnel siding with those individuals who want to see the beaches closed. Not one resource violation under the consent decree has harmed the resource in any manner according to you, the superintendent.

Representative Quote: Alternative B pits environmental interests vs. beach-driving interests

and encourages both parties to do the wrong thing. Those supporting driving on the beach are encouraged to harm PIPL and those who want no-ORV access are encouraged to vandalize shorebird signs so that protected areas are increased in size.

Response: NPS believes that the great majority of ORV drivers at the Seashore take seriously the stewardship responsibility of all visitors to protect the Seashore's resources. NPS has no knowledge of any incidents or violations of resource closures committed with the primary intention of causing a closure expansion, and no evidence has been presented to support this comment.

The comment regarding the effort of law enforcement personnel contains inaccurate information and unsupported speculation. Enforcement, as well as education, are important tools for improving visitor compliance with ORV and resource protection regulations. Under the consent decree, deliberate acts that have disturbed or harassed wildlife or vandalized fencing, nests or plants and therefore required an automatic buffer expansion have made up a small portion of the total number of resource closure violations. NPS law enforcement staff have, in fact, made numerous violator contacts for resource closure violations during the same period. For example, from 2008 through August 25, 2010, park rangers issued 101 violation notices and 170 written warnings (total of 271 violator contacts) for entering resource closures, and 70 Violation Notices and 164 written warnings (234 violator contacts) for violating the night driving restriction. In contrast, from June 2008 through August 25, 2010, there were a total of 21 "deliberate violations" that vandalized fencing or nests and resulted in an automatic buffer expansion as required by the consent decree. Of these incidents, one incident (July 30, 2008) involved the unlawful take of a least tern nest that was crushed by an all-terrain vehicle (ATV). Another incident involved the apprehension of two perpetrators who illegally drove ATVs through a turtle closure, but did not appear to damage the nest. In the remaining deliberate violation cases, no direct resource damage occurred and no suspects were identified. There is no evidence to support the allegation that any of the vandalism incidents were caused by environmentalists, by NPS staff, or by any other particular user group.

*The comment about resource violations not harming the resource in any manner is **not valid** out of context and no longer inconsistent with current information. Incidents of direct harm* **a In addition to the July 2008 incident noted in the paragraph above, s noted in the paragraph above, have now been documented, including a {date} on the night of June 23, 2010 a nesting loggerhead turtle was struck and killed on Ocracoke island by an ORV that was operating on the beach in violation of the night driving restriction under the consent decree.that resulted in the death of an adult sea turtle that had come ashore to nest and was hit and killed by an ORV. In addition, there have been hundreds of other resource closure violations under the consent decree that have not involved vandalism or direct take of wildlife, including many observations of human and vehicle tracks unlawfully entering resource closures. Even if deliberate resource closure violations do not directly injure or kill harm wildlife by killing or injuring an individual, the human disturbance in nesting areas to wildlife species can indirectly harms the resource wildlife by causing behavioral responses that may lessen breeding success. There is no way to know the extent of indirect impacts from the many resource closure violations that have occurred, particularly those that were detected based on tracks and not direct observation of the violator.**

Note: None of the action alternatives, including the preferred alternative, include the consent

decree requirement for automatic buffer expansions in the event of deliberate violations of resource closures or buffers.

Thanks.

Sandy

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