

From: [Paul Stevens](#)
To: [David Carter](#)
Cc: [Ashley Fortune](#); [Britta Muiznieks](#); [Cyndy Holda](#); [Darrell Echols](#); [Jason Leck](#); [Jeff W Goad](#); [Jon Anglin](#); [Kenny Ballance](#); [Michael Trevino](#); [Mike Murray](#); [Thayer Broili](#)
Subject: Re: Call from Kim Mosher
Date: 05/11/2011 04:24 PM
Attachments: [041211 Q&S FAQ Beach Access UPDATED.pdf](#)

You are correct.

Paul K. Stevens
Chief Ranger
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▼ [David Carter/CAHA/NPS](#)

**David
Carter/CAHA/NPS**

05/11/2011 04:01 PM

To: Cyndy Holda/CAHA/NPS@NPS
cc: Ashley Fortune/CAHA/NPS@NPS, Britta Muiznieks/CAHA/NPS@NPS, Darrell Echols/CAHA/NPS@NPS, Jason Leck/CAHA/NPS@NPS, Jeff W Goad/CAHA/NPS@NPS, Jon Anglin/CAHA/NPS@NPS, Kenny Ballance/CAHA/NPS@NPS, Michael Trevino/CAHA/NPS@NPS, Mike Murray/CAHA/NPS@NPS, Paul Stevens/CAHA/NPS@NPS, Thayer Broili/CAHA/NPS@NPS

Subject: Re: Call from Kim Mosher 

Paul

I just got off the phone with Kim Mosher, (3:35 PM). My message to her was that the area of "Cape Hatteras National Seashore in the area of Cape Point is closed to public entry for resource protection".

Which brought up her question of "Can I walk out if I stay in the water".

My reply, "Legally,,, if you stay completely in the water and not come onto the sand leaving foot prints as you walk, you can walk out". "However we are asking that people not do it for safety reasons and that if the birds are disturbed it is possible that larger closure areas would be implimented". "Also that the more the birds are disturbed away from thier nests then the longer the nesting season may last".


=====
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 =====

▼ [Cyndy Holda/CAHA/NPS](#)

**Cyndy
 Holda/CAHA/NPS**

05/11/2011 03:40 PM

To Paul Stevens/CAHA/NPS@NPS
 cc Ashley Fortune/CAHA/NPS@NPS, Britta Muiznieks/CAHA/NPS@NPS, Darrell Echols/CAHA/NPS@NPS, David Carter/CAHA/NPS@NPS, Jason Leck/CAHA/NPS@NPS, Jeff W Goad/CAHA/NPS@NPS, Jon Anglin/CAHA/NPS@NPS, Michael Trevino/CAHA/NPS@NPS, Mike Murray/CAHA/NPS@NPS, Thayer Broili/CAHA/NPS@NPS, Mike Murray/CAHA/NPS@NPS, Kenny Ballance/CAHA/NPS@NPS

Subject Re: Call from Kim Mosher 

Paul,
 I am as familiar with the rules and regulations on this issue as you are. At this time, I'm telling folks: "Cape Point is closed to all public entry." **The real issue is how that message is communicated to the general public or anyone calling for detailed questions about walking or bypassing resource closures.**

So let me ask you another way:
 if someone asks you or one of your rangers if they can walk the 0.5 of a mile to the tip of Cape Point in the surf zone, keeping their feet wet, regardless of whether it is high tide or low tide, and they never come up on the dry beach for any reason whatsoever, are you going to tell them they "can go?" or are you going to tell them that "Cape Point is closed to all public entry"?

It is imperative that the message forthcoming from the rangers, bio techs and your public affairs office are the same and consistent for the visiting public. This is a regulatory issue and we need to communicate the correct message and the message that will be enforced out in the field. The news media has printed verbatim #15 from the Frequently Asked Questions and we've explained repeatedly now that Cape Point is closed to all public entry. If that isn't going to be enforced, then we need to change the message given to those folks who call and ask very detailed questions regarding this issue.

If you can just answer the question: "can go" or "Cape Point is closed to all public entry" that would be helpful to me. I know this is a very convoluted issue. I'm sure it is painful for your rangers to have to enforce it. It is also extremely difficult to communicate what can or can't be done if we are consistent with communicating the issue and then following through with enforcement.

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▼ [Paul Stevens/CAHA/NPS](#)

**Paul
Stevens/CAHA/NPS**

05/11/2011 12:23 PM

To: Cyndy Holda/CAHA/NPS@NPS
cc: Darrell Echols/CAHA/NPS@NPS, David
Carter/CAHA/NPS@NPS, Jon Anglin/CAHA/NPS@NPS,
Michael Trevino/CAHA/NPS@NPS, Mike
Murray/CAHA/NPS@NPS, David
Carter/CAHA/NPS@NPS, Jason Leck/CAHA/NPS@NPS,
Jeff W Goad/CAHA/NPS@NPS, Ashley
Fortune/CAHA/NPS@NPS, Thayer
Broilli/CAHA/NPS@NPS, Britta
Muiznieks/CAHA/NPS@NPS

Subject: Re: Call from Kim Mosher 

Cyndy,

Cape Point is closed. FAQ # 15 is correct. If someone walks in the water to Cape Point, and stays in the water all of the time, and then walks in the water back out of the closure, this is not a violation because they are out of the park.

The folks that Ashley asked to leave Cape Point last Saturday were not in violation, because they never came out of the water until she gave them a ride out of the closure.

If this becomes an issue with too many folks coming out and fishing at Cape Point in the water, and we have proof the birds are being disturbed, then management can increase the size of the closure to make it more difficult for one to access Cape Point in the water.

The bottom line here is we have received good direction from the U.S. Attorney's Office. If someone is in the water, they are considered outside of the park and we

do not have any authority to enforce park regulations outside of the park.

Hope this helps.

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▼ Cyndy Holda/CAHA/NPS

**Cyndy
Holda/CAHA/NPS**

05/11/2011 11:09 AM

To Paul Stevens/CAHA/NPS@NPS, Jon
Anglin/CAHA/NPS@NPS
cc Mike Murray/CAHA/NPS@NPS, Darrell
Echols/CAHA/NPS@NPS, Michael
Trevino/CAHA/NPS@NPS, David
Carter/CAHA/NPS@NPS

Subject Call from Kim Mosher

To All,

I received a call from Kim Mosher today. Some of the fishermen who were escorted off of Cape Point on Saturday were her "good friends." She wanted to know what was the official status of Cape Point.

I advised that access to Cape Point was closed. I reviewed with her at length #15 in the Frequently Asked Questions Beach Access site bulletin that, to my knowledge, is the official statement (i.e., solicitor reviewed) for the issue of bypassing a resource closure by walking in the tidal surf zone. If this statement is no longer our official statement, please advise me as soon as possible.



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Kim and I discussed for over 20 minutes the meaning of the following:

"mean low tide vs. high tide line"

"reasonable expectation for folks to walk thru the tidal surf zone BELOW mean low tide line for extended lengths and during the window of opportunity at MEAN LOW TIDE"

"solicitor reviewed explanation of the park's seaward boundary line"

"deliberate violations of park resource closures result in automatically increased buffer distances of 50 meter increments if disturbance to bird breeding activity occurs"

"park law enforcement officers usually use the lowest level of enforcement necessary"

to eliminate a violation of a park regulation"

"intentional, reoccurring, habitual violations of park regulations **could** result in complete closure of Ramp 44"

"park management has tried very hard to work with the public to ensure access to key areas whenever possible and for as long as possible but the situation at Cape Point at the present moment is closed to all public entry"

Kim asked for David Carter's phone number in Buxton and I gave her the office number. She also asked for a phone number to a law enforcement supervisor at Headquarters and I gave her Jon Anglin's extension 138.

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