

0031686

From: [Mike Murray](#)
To: [Doug Wetmore](#); [Russ Wilson](#); [AJ North](#); mike.stevens@nps.gov
Subject: Re: Please review
Date: 11/09/2011 06:53 PM
Attachments: [ORV Final Rule comments 9 and 31 rewrite-dw.mbm.docx](#)

The edits generally look okay to me, but I suggest several minor changes. See attached. I defer to Mike Stevens on the best wording in Response #9 regarding primitive wilderness, etc.

I'll be out of the office all day on Thursday at meetings on Ocracoke. Will have Blackberry only and limited ability to review/edit documents. Will be available by cell phone unit about 0945, then can only check for messages during breaks until around 3 p.m. Feel free to call me if you need my input.

Mike Murray
Superintendent
Cape Hatteras NS/ Wright Brothers NMem/ Ft. Raleigh NHS
(w) 252-473-2111, ext. 148
(c) 252-216-5520
fax 252-473-2595

CONFIDENTIALITY NOTICE

This message is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged or confidential or otherwise legally exempt from disclosure.

-----Doug Wetmore/DENVER/NPS wrote: -----

To: Russ Wilson/WASO/NPS@NPS
From: Doug Wetmore/DENVER/NPS
Date: 11/09/2011 06:37PM
cc: AJ North/WASO/NPS@NPS, Mike Murray/CAHA/NPS@NPS
Subject: Re: Please review

Hi Russ.

Please see attached suggestions.

Doug Wetmore
Environmental Protection Specialist
National Park Service
NRSS Environmental Quality Division
P.O. Box 25287
Denver, CO 80225-0287
303.987.6955 (office)
303.968.5214 (cell)
 Russ Wilson/WASO/NPS

Russ Wilson/WASO/NPS

11/09/2011 03:42 PM

To: Mike Murray/CAHA/NPS@NPS, Doug Wetmore/DENVER/NPS@NPS
cc: AJ North/WASO/NPS@NPS
Subject: Please review

John Strylowski's edits are back: they are minor and good and we are incorporating them. Are you guys okay with my edits on these two comment responses? There is one more section I would like to discuss tomorrow.

[attachment "9 and 31 rewrite.docx" deleted by Doug Wetmore/DENVER/NPS]

Russel J. Wilson
Chief, Regulations and Special Park Uses

National Park Service
Washington Office
1849 C Street, NW, MS-3122
Washington, DC 20240

202 208-4206 phone
202 208-4178 fax

[attachment "9 and 31 rewrite-dw.docx" removed by Mike Murray/CAHA/NPS]

9. *Comment:* The proposed rule will negatively impact primitive wilderness within the Seashore and does not address Congress’s goal of preserving “primitive wilderness” at the Seashore as directed in the park’s enabling legislation.

Response: The Seashore’s 1937 enabling legislation, which indicated that areas not developed for recreational uses “shall be permanently reserved as a primitive wilderness,” predates the Wilderness Act of 1964. NPS understands the language of the enabling legislation as authorizing it to provide infrastructure and facilities for visitors in selected areas, as needed to support recreational use (e.g., parking areas, day-use facilities for beach-goers, life-guarded beaches, boat launch areas, ~~and~~ campgrounds, ORV ramps), while other areas ~~are~~will not to be developed ~~and will in order to~~ retain their ~~wild~~primitive character. The Seashore has many undeveloped areas ~~which~~that are preserved and further protected under the Selected Action and this rule. However, since none of these areas are currently designated or proposed wilderness, the ORV management plan/EIS did not address preserving wilderness under the 1964 Act. A study to explore the suitability of wilderness at the Seashore is outside the scope of this planning effort and will be addressed during a future process to develop a new General Management Plan for the Seashore.

31. *Comment:* NPS should create an advisory committee of local residents, ORV representatives and local officials to work with NPS in determining future resource closures, dates for seasonal ORV restrictions, ORV route boundaries, and other ORV management matters.

Comment [dw1]: I’m not so sure that this accurately describes the undeveloped areas. I’ll defer to the park on this one. We should be distancing ourselves from “wild character” as that is very similar to “wilderness character”, which is not applicable in this situation.

Comment [S2]: MBM comment: By current standards, it is difficult to say that any part of the Seashore is “wild” or “primitive”; however, I agree with Doug that “wild character” doesn’t sound right and prefer the wording “primitive character” since that is a little less loaded of a term.

Response: Creating a standing ORV management advisory committee under the Federal Advisory Committee Act (FACA) was considered but dismissed as a reasonable alternative during the preparation of the plan/EIS. Section 2(b)(2) of FACA restricts the establishment of such committees to situations “when they are determined to be essential.” The creation of the suggested committee was not determined to be “essential.”

When NPS did establish a negotiated rulemaking advisory committee to assist NPS in developing alternatives for the ORV management plan and rule, the committee **necessarily** represented a wide range of interests, and accordingly their points of view ~~that~~ were often contradictory. That committee was unable to reach consensus on the matters before it. Therefore, it appears unlikely that a similar committee could provide the NPS with clear and consistent, actionable advice, and managing the committee **would** require a commitment of staff time and funding that could not be sustained over the life of the plan.

Comment [S3]: MBM comment: Is there an issue with “would”, since it is highlighted? It seems like the correct word to me.