

0075111

**From:** [keene9558](mailto:keene9558)  
**Reply To:** [jkeene@franklineq.com](mailto:jkeene@franklineq.com)  
**To:** [Mike\\_Murray@nps.gov](mailto:Mike_Murray@nps.gov); 'ffff1'; 'jkeene'  
**Cc:** 'Burnham Gould, Jr.'; [Cyndy\\_Holda@nps.gov](mailto:Cyndy_Holda@nps.gov); 'dagwerksobx'; 'destryjarvis'; 'Ona\_Ferguson'; 'CBI\_Patrick\_Field'; 'CBI\_Robert\_Fisher'; 'smaddock'; [Sandra\\_Hamilton@nps.gov](mailto:Sandra_Hamilton@nps.gov); [Paul\\_Stevens@nps.gov](mailto:Paul_Stevens@nps.gov)  
**Subject:** RE: Routes & Areas Subcommittee  
**Date:** 08/08/2008 10:09 AM

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Mike

Your reply/s are welcomed but I still cannot get over the fact that although your position as DFO bears many responsibilities you are also a committee member who asked to be a part of the Routes & Areas subcommittee.

At the conclusion of our 7-28-08 conference call, it was agreed that participants would exchange proposals in an effort to expedite and stimulate the discussions during subsequent calls (next scheduled 8-15). While you certainly didn't pledge to participate I guess I wrongly assumed that you would share the stimulating ideas you put forward during these discussions. You stated that your ideas of % allocations with sliding locations were very preliminary and works in process, after all ideas are what we all are supposedly bringing to the table.

I may seem entrenched, on a few points but as a whole everything is open to discussion. When discussions began @ ramps 1-4 we made several offers of concession & recommendations for improvement but as soon as we opened discussion concerning Oregon Inlet discussions/negotiations stopped and moved to Hatteras Island. This effectively killed offers made since a total package includes all of Bodie Island which is subject to further negotiations. Making those tough choices and difficult decisions you refer to becomes more difficult when it sometimes appears that regardless of our efforts NPS may write & submit an unrecognizable document/s.

During our May meeting, Sandy Hamilton stated that we would be presented with initial drafts of the NPS NEPA preferred document. Will this presentation be produced? Can we expect to see this on the September agenda?

Enjoy your time away.

Jim Keene

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

From: [Mike\\_Murray@nps.gov](mailto:Mike_Murray@nps.gov) [mailto:[Mike\\_Murray@nps.gov](mailto:Mike_Murray@nps.gov)]  
Sent: Thursday, August 07, 2008 11:13 PM  
To: ffff1; jkeene  
Cc: 'Burnham Gould, Jr.'; [Cyndy\\_Holda@nps.gov](mailto:Cyndy_Holda@nps.gov); dagwerksobx; destryjarvis; jim keene; 'Ona Ferguson'; CBI\_Patrick\_Field; CBI\_Robert\_Fisher; smaddock; [Sandra\\_Hamilton@nps.gov](mailto:Sandra_Hamilton@nps.gov); [Paul\\_Stevens@nps.gov](mailto:Paul_Stevens@nps.gov)  
Subject: Re: Routes & Areas Subcommittee

Hi Frank

I saw your email as I was headed out of town, think you deserve a response and don't want to leave you hanging until I get back.

First, I appreciate you sharing your thoughts with me in a straightforward manner and regret you are disappointed. I think we are all faced with a challenging situation, tough choices and difficult decisions to make about how to meet our respective interests while working with so many other committee members who have different and sometimes conflicting interests with our own.

The executive orders (EOs) establish general requirements or objectives, which are not prescriptive. In other words, EOs identify what general conditions must be met such as protection of wildlife, avoidance of user conflicts, and public safety; but the EOs do not tell us how to do it, so yes, the EOs do not specify that there must be any particular amount of pedestrian only areas. I would call your attention to section 3 of the EOs, "Zones of Use" which identifies some of the more significant objectives as well as clearly implies the concept of limiting ORV use to areas which avoid or minimize user conflicts and negative impacts to resources, though (again) it does not say exactly how to do it.

When there are conflicts between different uses and/or between uses and resource protection, NPS often uses a zoning approach to satisfy not only the ORV EOs but also the Organic Act. Zoning can involve separation of activities in space and/or time (e.g., some areas open to ORV use and some areas closed; or a time-based restriction on an activity such as the night-time driving restriction).

Please keep in mind that past ORV management practices did not meet the requirements of the EOs, which sadly is one of the reasons we are in the difficult situation that we are in now. We cannot just institutionalize the past practices and still meet the EOs. We need to do something different, which does not mean we cannot carry forward some past practices that could contribute to the accomplishment of or are at least not be in conflict with the EOs. But whatever we do, the total package needs to meet the EOs.

I realize that, philosophically, you do not like or perhaps even cannot accept the idea of year-round pedestrian only areas. I also know for a fact that many visitors want to walk on the beach in a nonORV area. They let us

know by their comments and complaints, and their interests are represented on the committee by folks who apparently cannot accept the concept of having no year-round pedestrian only areas. There may many different ways that the pedestrian interest can be met, but I believe it must be reasonably be met in order to satisfy the EOs and the objectives for the ORV plan, and to reach any kind of a consensus.

I am open to any plan or combination of management measures that reasonably satisfies the EOs and the management objectives for the ORV plan / EIS, some of which are similar to the EOs.

(SANDY , would you please copy and paste those objectives and send to remind us all of what they are. I don't have access to the information from here.)

I must admit that I sure don't know how to satisfy all the interests at the table especially when blocks of committee members take positions at opposite ends of the spectrum (such as no year round pedestrian closures vs. no ORV access in the villages). I think many of us forget the point of alternative dispute resolution, which is in order to get some of what we want we need to figure out ways to help give the other side(s) some of what they want.. When under pressure, it is human nature to revert to what one knows best, whether it is litigation, political action, wanting things to be the way they used to be or wanting things to be based on Option B of the USGS protocols.

What NPS is most familiar with in ORV management is a zoning and regulatory approach, which often involves "zones" that are either open or closed to ORV use and permits to ensure that users know the rules and are more likely to follow them. Maybe there are better, more innovative ways to manage than that. I'd like to think so, but to find it together I think we need to get out of the pattern of rejecting the "opposition's" point of view and hardening our own point of view whenever somebody else wants something that is different than what we want (such as year-round access to a particular location vs year-round bird protection at the same location).

If the committee cannot get off the respective entrenched positions and help figure out how to meet the diverse interests seated around the table, then in my judgment we, for better or worse, are destined for an NPS determined plan. I don't particularly relish the thought of that, but it is ultimately. NPS's responsibility to get 'er done and we will. Still, I remain hopeful we can find some creative compromises, or at least become more understanding and accepting of each other's interests.

Don't know what else to say at this point other than you have given me food for thought and I really do appreciate hearing your concerns. I commit that while I am away I will reflect on what you have said and see if I can come back refreshed and with inspiring new ideas to address these issues (okay, I'll at least come back refreshed and ready to get back to work).

I would ask that you commit to taking a close look at Section 3 of the EOs and think about how any proposals you come up with will need to include ways to help meet the environmental protection and diverse user interests, as well as your own. Because, frankly Frank, I respect your passion but wonder if your refusal to budge on a few issues is going to contribute (along with some other people's refusal to budge on their few issues) to taking us further down this excruciating path that ultimately leads to NPS having to just do the plan anyway. I'm not always right and sure hope I am wrong about this one.

I hope the next few weeks are good ones for you. See you when I get back.

Mike

P.S. This may be a world record for the longest Blackberry message!. Time to give the thumbs a break. Take care!

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Sent from my BlackBerry Wireless Handheld

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

From: ffff1  
Sent: 08/07/2008 05:00 PM AST  
To: Mike Murray; jkeene@franklineq.com  
Cc: "Burnham Gould, Jr." <bsgould@msn.com>; Cyndy Holda; dagwerksoxb@yahoo.com; destryjarvis@earthlink.net; ffff1@mindspring.com; jim.keene@cbbba.org; 'Ona Ferguson' <oferguson@cbuilding.org>; 'Pat Field' <pfield@cbuilding.org>; 'Robert Fisher' <rcf@fisherco.com>; smaddock@audubon.org; Sandra Hamilton; Paul Stevens  
Subject: RE: Routes & Areas Subcommittee