

Frank Folb
P. O. Box 448
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Mr. Mike Murray, Superintendent
National Park Service
Manteo, NC 27948

October 3, 2008

Re: Cape Hatteras National Seashore Recreational Area

Mike,

For some years before you came to Cape Hatteras National Seashore Recreational Area (CAHA), the National Park Service (NPS) micro-managed the national seashore by what can be best described as a string of arbitrary, politically correct, or knee jerk decisions. Many past practices, often made without public knowledge or input, brought about a high level of uncertainty, confusion, and public dissatisfaction. There arose an over-all distrust of NPS on the part of those of us who live here and many of those that visit our community. In the midst of seashore mismanagement, along came the environmental groups and their special interest and elitist demands that we protect the wildlife resources (even at the expense of public usage) and promulgate an ORV plan required by Executive Orders issued in the early 1970s.

With mounting pressure from both the access and environmental groups, NPS looked for a new leader to guide CAHA through an ORV planning process. When NPS put word out that you were the pick for superintendent, most on the ORV access side of the issue were willing to give you a chance at carrying out the planning process. After some months of observing your professional performance, most believed that you were indeed going to do your best to get through the task to try to satisfy all that visit, use, or live in and around the seashore.

Upon your arrival, you endeavored to put an interim plan in place to protect the resources, satisfy legal requirements, and still allow the public and ORV access to the seashore that has been guaranteed for decades. Along with the interim plan, you began publicly letting everyone interested know that you believed that Negotiated Rulemaking was the way to take this plan to fruition.

Lengthy interviews were held in seeking reg-neg participants. These interviews and early discussions were very clear in advising everyone that through this rulemaking process, participants and the organizations/delegations they represent would refrain from litigation and would attempt to come to consensus to make an ORV plan that all could live with.

We were assured that although we were only an advisory committee, if we came to consensus with a plan that met NEPA requirements, our consensus would be the number one option for NPS to incorporate into a final ORV plan.

What did I and most of my fellow citizens and constituents believe would come about through the reg-neg process?

The interim plan was somewhat more restrictive than many of us thought necessary. We believed that we could make sound arguments and constructive suggestions that would make the interim strategy less restrictive.

Some of our constructive suggestions included:

- 1) clearing and maintaining the inner parts of Bodie Island spit, Cape Point, Hatteras spit and south Ocracoke spit for better bird management; and
- 2) improving small dredge and natural islands in the sound for bird nesting and consider less developed areas such as Portsmouth Island for better resource protection to enhance threatened birds and birds of concern.

As president of Avon Property Owners Association representing over 1,700 property owners and with the heritage my family has on Hatteras Island, I had great hope and expectations for reg-neg and I said, "Sign me up." However, from the very start when the list of reg-neg committee members came out, there were, to my surprise, a number of special interest groups and others listed that greatly concerned me.

Why was an environmental activist law firm there? (As it turned out, that same law firm launched litigation and essentially wrecked reg-neg.)

Why was there a husband of a park resource person appointed to the committee? Is that not an apparent conflict of interest?

Why were two previously unknown, special interest, village organizations that were formed specifically for this committee, appointed to the reg-neg?

Why are there outside, special interest, organizations that have never been a part of this seashore and its use been invited to the table as well? I would never go to the Grand Tetons, the Everglades, Yellowstone, Williamsburg or any park that I was not an integral part of and attempt to make decisions on how that park should be run.

Of course, the NPS explanation is that every citizen of the USA is a part owner of federal lands. However, there is one problem with that explanation. Who represents the general user public at the table?

During the preliminary meetings, the beginning of formal meetings and even after the lawsuit was filed, I still held out hope that, in fact, the committee had a chance of success. But the April 4th hearing on the injunction and the April 30th hearing that put in play the highly restrictive consent decree totally changed the process I envisioned at the time I signed up for the committee process.

The consent decree that came out of the lawsuit, launched by three of the reg-neg participants, made it all but impossible for you and your staff to effectively and equitably manage this seashore.

The consent decree was alleged by NPS and DOI to have nothing to do with Negotiated Rulemaking Committee actions, but has now become the basis and starting point for negotiating an ORV plan. Your commitment to the process has changed from one listening to all ideas to that of protecting NPS from legal action at the end of the process by well-funded special interest groups.

Mike, I still have great respect for you and believe that you are listening to our positions in this process. However, I and most of my colleagues and constituents have lost all respect for DOI and upper management of NPS in the process. As indicated by the testimony of senior NPS officials before both houses of the Congress, NPS has clearly aligned itself with the environmental activists organizations that sit at the reg-neg table and have given open support to the highly restrictive provisions of the consent decree.

It now appears to many of us that you are being directed by NPS officials in Atlanta and Washington as to the positions you will take and what answers you can provide us. Sadly, your actions and position statements appear to be those of others. They are not confidently received and considered as in the past.

The cancellation of the October committee meeting was good for me because my tournament is being held at that time. However, the change of venue is different from what we originally planned and is not acceptable.

I do believe that the citizen demonstrators that held signs and legally communicated their strong feelings did, perhaps make a few derogatory comments to some of those they opposed at the meeting. However, I do not believe any reg-neg member was threatened or had physical damage done to their person or belongings (even though one such member stated and alleged at the meeting that damage to his vehicle had occurred, but was later, after closer inspection, found to have been only a dirt smudge. Still, that statement of allegation was never publicly recanted by the accuser).

At the comment period, passionate citizen speakers from both Hatteras and Ocracoke Islands took their time and expense to attend and give their comments. Now you expect others that may want to attend from Ocracoke to make a 3-hour one-way trip. From Hatteras it is over an hour one-way trip to Kill Devil Hills. To attend the meetings and to make comment is the right of every citizen, especially for those that have a big stake in the final rule. With the cost of gas, loss of time, and the today's economy, this is not acceptable.

You have also moved the reg-neg meetings to a "Federal Building." This gives the impression that you are letting everyone know that although North Carolina law states that any public meeting can be recorded, you can circumvent those laws by having the meeting on federal property. I, and my constituents, still respectfully request that videotaping of these meetings be allowed.

You have advised the committee that NPS will furnish the committee an outline of alternatives for the plan for us to consider in November. You must know that I, along with my pro-access colleagues, will consider no more stringent alternatives than the interim plan. To attempt to place constraints on us more restrictive than the interim plan will not allow much negotiating in the future meetings.

We plan to attend future meetings and attempt to negotiate a good ORV plan for this recreational area, but with the failure of DOI and NPS in Washington to take a position differing from those of these special interest groups, I see little chance of progress in the future meetings.

Sincerely,

Frank Folb
APOA Committee Representative

cc: Pat Weston, APOA President
Irene Noland, Island Free Press