

BRIEF SUMMARY

Permits, passes, fees Subcommittee
October 10, 2008

Carla, Dwight, Mike Murray, Destry, Patrick

The below is a brief summary of the discussion of the Subcommittee's call on this topic. This is not meant to be a comprehensive summary. Please also note that discussion of ideas is BY NO MEANS an endorsement or agreement to any or all ideas included herein.

Action Items

- CBI to do brief notes from call.
- CBI to revise working document from Subcommittee that was released to the full Committee, striking the general entrance fee option.
- Destry to detail means for charging a dispersed, parking "entrance fee" in CAHA.
- CBI/NPS to clarify education as a topic.
- Subcommittee to meet again Thursday, 10/23, 7 AM in person and via conference phone.

NPS Research

Mike researched questions posed by the subcommittee with various NPS authorities on NPS fees, permits, passes, and regulations.

- *FLREA* is generally used for general entrance fees and it's hard to imagine using it for a specific "beach access" fee. However, under *FLREA*, at a few parks NPS does charge an "entrance" fee at major parking lots. Canaveral NS had to tried to charge a general "day use" fee but this was disallowed by the NPS, and the park was redirected to collect an "entrance fee" at major parking areas. Mt. Rushmore collects a fee for parking in a parking garage. It is unclear if this is considered an "entrance fee" under *FLREA* or a fee charged by the concessioner operating the parking garage. Cape Cod National Seashore collects an "entrance fee" for six large parking lots, but does not charge a typical entrance fee outside of these lots. One could imagine a similar "entrance fee" at the major, life-guarded beaches at Cape Hatteras NS. Given Cape Hatteras has numerous small, dispersed parking facilities, with potentially more planned, it is logistically challenging to imagine how to collect an "entrance fee" at all these locations. It should also be noted that *FLREA* is currently under heavy scrutiny by Congress, primarily for alleged abuses in the West by BLM and USFS, and may be revised or replaced before the CAHA ORV plan is completed or goes into effect. Because of this political scrutiny and the uncertainty of the law, the Director of the NPS has placed a moratorium on any new *FLREA* fees at this time. Under *FLREA* the park would retain up to 80% of "entrance fee" revenue, and *FLREA* monies can only be used to pay for cost of collection and for project costs that can be related or unrelated to the fee generating

program. Under current policy, FLREA funds cannot be used to pay to staffing ongoing operations such as law enforcement, maintenance, or interpretation.

- *Special use permits* (SUPs) typically cannot be used to collect parking fees or to collect a “general use “ fee.. SUPs are typically used to manage groups or activities that require written authorization and some degree of management control from NPS in order to protect park resources and the public interest. The NPS units that require ORV permits issue them under the SUP authority. SUP fees are collected for the express purpose of recovering the costs of managing the respective program or activity, and can be used to cover a variety of things including staffing, amenities for permissess, supplies, equipment, infrastructure improvements (such as ramps, air stations, etc.), publications, education programs, signing, and research related to the specific activity or program. SUP fees must be spent in the year they are collected and cannot be carried over in a trust fund or special account. NPS is required to keeping separate accounting for the use of these fees, keep clear track of the nexus between the monies spent and monies received, and can be audited by GAO or OIG.
- While recognizing that this is an ORV plan we are working on, parking is a highly related issue regarding access and vehicles. Thus, since we have no current General Management Plan (GMP) for the Seashore, we hope to include parking and ramps in this EIS recognizing we would have to do an EA for the actual design/construction of the specific ramps and parking areas later.

Questions and Comments

- *Is the implication under special use permit, you cannot charge pedestrians?* Typically, you can't use one for the general public. SUPs are required for specialized pedestrian activities like backcountry hiking and camping in some national parks, but we are not aware of any general “pedestrian permits.”
- *Is the issue of an entrance versus parking fee one of semantics?* One can imagine an “entrance fee” under Park regulations that is in practical effect a parking fee. It is harder to imagine a special use permit for all beach users, since the use would be so general.
- The participants noted that this is really an issue of fairness. Everyone who uses amenities such as access ramps, restrooms, etc. should bear a modest fee for that use. Regardless of the means of access to the beach (walking, driving, etc.), everyone needs to know the rules, behave and help pay for amenities rendered/costs imposed. The question is how to operationally achieve this.
- *In fact, ORV's are not a special use at this Park but a very general use. What makes ORV use at CAHA special?* The things that make ORV use and thus management special are; 1) legally and by precedent, ORV use is regulated via special regulations via Executive Orders; 2) use requires more substantial infrastructure such as ramps, signs, and interdunal roads; 3) they have greater potential harm to resources due to their size, speed, visibility regarding natural resources. There are three NPS guidance reasons for permits: 1) impose conditions to manage activity and prevent impairment; 2) obtain signature of permittee for commitment; 3) to account for use in administrative record.

- One should not assume ORVs are the major source of problems. The data on enforcement suggests that dogs and pedestrians tend to be higher reported kinds of violations, recognizing that an ORV might be an intermediary means of access to those folks who later have violations.
- What about separating out permits and fees. Fees should and can be treated separately from permits such that maybe ORVs could be required to have a special use permit, but fees are charged to everyone who parks or drives on the beach

Education

Subcommittee members discussed the Tread Lightly program and noted it could be useful but that their general programs would have to be tailored to CAHA. It was suggested that Treat Lightly, which is focused on motorized recreation, would need to work with Leave No Trace, which is focused on non-motorized recreation, in order to ensure fair and broad education coverage across all access groups, from ORVs to pedestrians. It was noted that if this subcommittee takes up education, the NPS or someone needs to define better what falls under this category: signage, outreach, education, etc.?