

United States Department of the Interior

NATIONAL PARK SERVICE
Golden Gate National Recreation Area
Fort Mason, San Francisco, California 94123

IN REPLY REFER TO:
W48 (GOGA-VRPCR)

May 1, 2008

Memorandum

To: General Superintendent, Golden Gate NRA

From: Bill Merkle, Acting Chief of Natural Resources/Wildlife Ecologist

Subject: Rescinding Seasonal Emergency Restrictions to Protect Western Snowy Plovers in the Crissy Field Wildlife Protection Area

Summary:

I recommend that you exercise the discretionary authority delegated to you under 36 C.F.R. Section 1.5 to rescind the regulatory public use limit in the park's Compendium that required all pets to be on leash seasonally in designated portion of Crissy Field. This restriction was enacted to seasonally protect the Western Snowy Plover, a species listed as threatened under the federal Endangered Species Act. Data from our Western Snowy Plover monitoring program indicate that plovers were last observed at Crissy in mid-March, with at least five surveys conducted since that time without any Snowy Plovers observed. Based on this information, I am confident that overwintering Snowy Plovers are no longer present on the beach. To date, we do not have any information indicating that Snowy Plovers are using this area for breeding.

The public use restriction to seasonally protect the Western Snowy Plover at Ocean Beach should remain in place because Snowy Plovers have been observed on Ocean Beach on recent surveys.

Recommended Regulatory Actions:

I recommend that you rescind the public use limit in the Compendium Amendment specifically designed to protect the Western Snowy Plovers that overwinter in the Crissy Field Wildlife Protection Area while monitoring indicates that the plovers are present on the site. The text of the Compendium amendment is as follows:

- **Crissy Field:** Dogwalking is restricted to on-leash only in the Crissy Field Wildlife Protection Area which encompasses: from the west, starting at Fort Point Mine Depot (a.k.a. Torpedo Wharf) eastward to the concrete riprap, which lies approximately 700 feet east of former Coast Guard Station, and includes all uplands and all tidelands and extends from the high-water mark to 100

yards off shore. The definition of on-leash use requires that dogs must be restrained on a leash which shall not exceed six feet in length. “

- “This activity restriction is necessary to provide an area of reduced disturbance for resting and feeding by the Western Snowy Plover (*Charadrius alexandrinus nivosus*), a species listed as threatened under the federal endangered species act. This seasonal restriction will remain in effect until monitoring determines the species is no longer present, as announced by the General Superintendent. “

The Compendium Amendment was enacted to seasonally protect overwintering Snowy Plovers. Data from our Snowy Plover monitoring program indicate that overwintering Snowy Plovers have not been on the beach at Crissy since two (2) Snowy Plovers were observed during monitoring on March 15, 2008. Surveys for Snowy Plovers are conducted Wednesdays and Saturdays every two weeks. Five surveys have been conducted since March 15, 2008, with no Snowy Plovers observed. Based on a more extensive data set of Snowy Plover monitoring at Ocean Beach, overwintering Plovers tend to leave the beach by the end of April or mid-May. There have not been any indications of Snowy Plovers breeding or attempting to breed at Crissy Field. Thus, I am confident that overwintering Snowy Plovers are not present on the beach at Crissy Field and have migrated to breeding areas.

Park staff have acted somewhat conservatively in deciding when to rescind the public use limit at Crissy Field because we only have three full years of data on which to base decisions. Snowy Plovers began consistently using this area in January of 2005. This limited data set does not include the range of variation necessary to understand Snowy Plovers seasonal use patterns at Crissy Field. Furthermore, based on observations of color marked individuals this year as part of the response to the Cosco Busan oil spill, a few Snowy Plovers were observed moving between Crissy Field and Ocean Beach. Snowy Plovers continued to be observed at Ocean Beach throughout the month of March and into April, with two Plovers observed on our most recent survey on April 26, 2008. The rescission of this Compendium Amendment prohibiting dogs off-leash will not adversely affect overwintering Snowy Plovers as they are currently not present on the beach at Crissy Field, having migrated to breeding areas

I recommend resuming monitoring for Snowy Plovers at Crissy July 1, when overwintering Snowy Plovers potentially begin showing up in this area. Based on monitoring data from Ocean Beach and limited data from Crissy Field, the public use restriction should be reinstated on July 1 (either through a special regulation or compendium amendment) to allow early migrating Snowy Plovers to find suitable habitat at Crissy Field.

It is further recommended that the long-term dog management options for these two areas be addressed in the Dog Management Plan/EIS and rule that the park is actively engaged in. This process should be completed by late 2009. Addressing the Crissy Field Wildlife Protection Area and Ocean Beach Plover Protection Area in the EIS will allow for all options to be investigated and may result in the retention of the leash requirement or may result in the adoption of a different option.

Applicable Law and Policy:

The Western Snowy Plover is protected under the federal Endangered Species Act. 16 U.S.C. Section 1531 *et seq.* The 2006 National Park Service Management Policies provide guidance to the NPS for the management of threatened and endangered species. Section 4.4.2.3. of the Management Policies states that the NPS “will fully meet its obligations under the NPS Organic Act and the Endangered Species Act to both proactively conserve listed species and prevent detrimental effects on these species.”

Based on monitoring data indicating that Snowy Plovers have left this area for the season, the Park should rescind the prohibition of dogs off-leash in the Crissy Field Wildlife Protection Area. Reversion of the prohibition would allow for off-leash dog use, per the Federal court opinion in June 2005, while the Snowy Plovers are seasonally not present on the beach. This issue will be resolved through a more thorough and public process of formal rulemaking and the development of a Dog Management Plan/EIS and its accompanying rule in 2009.

Process for Rescinding Emergency Compendium Restrictions:

Under 36 C.F.R. Section 1.5, superintendents are authorized to take emergency action to protect park resources. In both emergency and non-emergency situations, park superintendents may adopt compendium provisions that restrict visitor activities. Except in emergency situations, prior to implementing or terminating a restriction, condition, public use limit or closure, the superintendent shall prepare a written determination justifying the action. That determination shall set forth the reason(s) the restriction, condition, public use limit or closure authorized by paragraph (a) has been established, and an explanation of why less restrictive measures will not suffice, or in the case of a termination of a restriction, condition, public use limit or closure previously established under paragraph (a), a determination as to why the restriction is no longer necessary and a finding that the termination will not adversely impact park resources. This determination shall be available to the public upon request.

Public Notice:

All NPS previously posted signs, brochures and the Park’s website indicated that this public use limit would be seasonal, in effect from July 1— May 1(or until Snowy Plovers are determined to have left the beach). The Park website and telephone hotline will be updated with information related to the rescission of the public use limit. Members of the former Negotiated Rulemaking Committee for Dog Management at Golden Gate National Recreation Area, Golden Gate Audubon staff and volunteers and NPS Snowy Plover docents will be informed via e-mail.

I concur: /s/ Brian O’Neill Date: _____
 (signed original on file)
 General Superintendent
 Golden Gate NRA