

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 15, 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 Ocean Beach Snowy Plover 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 Ocean Beach. 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 Ocean Beach during the first week of May, with at least two surveys conducted since that time without any Snowy Plovers observed. Over 13 years of monitoring plovers at Ocean Beach, May 14 has been the latest date plovers have been observed on the beach. 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.

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 Ocean Beach Snowy Plover Protection Area while monitoring indicates that the plovers are present on the site. The text of the Compendium amendment is as follows:

- **Ocean Beach:** Dogwalking is restricted to on-leash only at Ocean Beach, Stairwell 21 to Sloat Boulevard, including all tidelands (as depicted in Figure 2). 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 Ocean Beach since one (1) Snowy Plover was observed during monitoring on May 06, 2008. Surveys for Snowy Plovers are conducted Wednesdays and Saturdays every two weeks. Two surveys have been conducted since May 06, 2008, with no Snowy Plovers observed. Based on a more extensive data set of Snowy Plover monitoring at Ocean Beach that covers 13 years, overwintering Plovers tend to leave the beach by the end of April or mid-May, and the latest date plovers have been observed on the beach is May 14. There have not been any indications of Snowy Plovers breeding at Ocean Beach. Thus, I am confident that overwintering Snowy Plovers are not present on the beach at Ocean Beach.

The rescission of this Compendium Amendment prohibiting dogs off-leash will not adversely affect overwintering Snowy Plovers as they are currently not present at Ocean Beach, having migrated to breeding areas.

I recommend resuming monitoring for Snowy Plovers at Ocean Beach on 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 Ocean Beach.

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 Snowy 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 Ocean Beach Snowy Plover Protection Area. Rescission 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 late 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: 5/15/08
 (signed original on file)
 General Superintendent
 Golden Gate NRA