



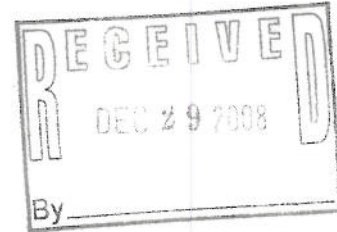
## United States Department of the Interior

NATIONAL PARK SERVICE  
Fire Island National Seashore  
120 Laurel Street  
Patchogue, New York 11772

IN REPLY REFER TO:

December 22, 2008

Mr. James Gilmore  
Director of Marine Resources  
New York State Department of Environmental Conservation  
205 Bell Meade Rd  
East Setauket, New York 11733



Dear Mr. Gilmore:

As the new Superintendent for Fire Island National Seashore, (FINS) I am looking forward to continued good relations with your office regarding environmental issues for which we both share management and jurisdictional responsibilities.

This letter is to request your assistance to help us resolve a regulatory issue. Our Federal Code of Regulations Title 36 (C.F.R.) § 2.2, prohibits the taking of wildlife in national park units unless it is specifically authorized by Congress in a park's enabling legislation. We therefore need and plan to institute a change in our policy that will prohibit any harvesting of horseshoe crabs (*Limulus Polyphemus*) for both commercial and recreational use within the boundary of FINS. The authorized boundary extends 4000 feet into the Great South Bay, 1000 feet into the Atlantic Ocean, and west from Robert Moses State Park to midline of Moriches Inlet. FINS legislation allows for waterfowl hunting, fishing and shell-fishing in accord with New York state law.

In the past, FINS deferred to New York State Department of Environmental Conservation (NYDEC) policy regulating individual take of horseshoe crabs (five per person per day for recreational use and more during other times of the year for commercial use). However, our position has changed due to the following:

1. A recent court case (*Associates of Cape Cod, Inc. and Jay Harrington v. Bruce Babbitt*, 2004); ruled in favor of Cape Cod National Seashore's position that the Secretary of the Interior has jurisdiction over horseshoe crabs as they are considered wildlife and not shellfish. Consistent with 36 C.F.R. § 2.2, taking of wildlife is prohibited. This applies to FINS.
2. Regionally, the well documented effects this harvest has on shorebird species dependent on horseshoe crab eggs during migration.

3. The subsequent moratorium on all horseshoe crab harvest in Connecticut, Delaware, and New Jersey, is now concentrating the commercial harvest of horseshoe crabs to the New York area.

We recognize that in 2006, NYSDEC promulgated regulations establishing closed areas to the harvest of horseshoe crabs. Such eligible sites include locations managed by local, state, or federal agencies. In an effort to provide the public with accurate information and to coordinate enforcement measures, we are notifying you of our change in policy. We request that DEC notify the public in your annual publications of FINS closure to harvesting of horseshoe crabs and not issue any permits for such harvesting within the boundary of FINS. We will begin enforcement efforts at the start of the 2009 harvest season.

We would like any enforcement actions and/or observations made by the NYDEC Police to be documented and shared with Jay Lippert, FINS Chief Ranger at 631-687-4757.

I appreciate your assistance in this matter. Please feel free to call me if you need to discuss this further at 631-687-4751.

Sincerely,

A handwritten signature in cursive script that reads "Chris Soller".

Chris Soller  
Superintendent