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January 10, 2017

Michael T. Reynolds
Acting Director
National Park Service
1849 C Street NW
Washington, DC 20240
Michael_Reynolds@nps.gov

Re: Request for Impartial, Transparent and Truly Independent Review of NPS Conduct in Connection with GGNRA Dog Management Plan and Request to Abandon Any Plans to Adopt the DMP in its Current Form Because of the Flawed Record and Compromised Public Comment Process

Dear Director Reynolds,

Crissy Field Dog Group (“CFDG”) writes to respond to the National Park Service’s decision to place the Golden Gate National Recreation Area’s (“GGNRA”) Dog Management Plan (“DMP”) environmental review and rulemaking process on hold, and to request a fair and open process going forward. Abeyance of the DMP is essential in light of the information produced pursuant to the Freedom of Information Act (“FOIA”), that has unfortunately revealed a deeply troubling level of bias against dog recreation at the GGNRA, in both internal its communications and public outreach efforts. The information has undermined the integrity of the rulemaking and public comment process, which had been undertaken pursuant to the National Environmental Policy Act (“NEPA”) and the Administrative Procedures Act (“APA”). Public confidence in the GGNRA among the dog walking community -- which was already low before recent -- has been seriously damaged.

CFDG believes the NPS has an opportunity at this point to undertake important remedial efforts in the planning and community relations process, and outlines here some important steps that are necessary to restore public confidence in the NPS and GGNRA. The FOIA documents reveal that the DMP process has been fundamentally flawed, biased, and CFDG believes the current administrative record cannot form the basis for rulemaking compliant with applicable law. NPS

must take thorough and careful steps in its review process to begin the process of restoring public trust at GGNRA. CFDG outlines some of its initial thoughts on how the NPS must conduct the review mentioned in its press release.

First, the NPS has described the review it intends to undertake an “independent and impartial,” however, it appears to be limited to an “internal” review that would be conducted from within NPS. We fully support Congresswoman Speier’s request for “a truly independent inquiry” through the Department of Interior’s Inspector General’s office. CFDG strongly believes that an internal review cannot be impartial under these circumstances.

We believe an interagency review team would be an effective alternative to just an Inspector General’s office conducting the review. Both alternatives would be more effective in achieving an independent and impartial result. The interagency review team should include representatives from relevant federal agencies and departments, such as the Council on Environmental Quality (“CEQ”), which has an important quality review function in the federal government with respect to NEPA compliance. The Department of Interior (“DOI”) should also be represented in the review process, including representatives from the Secretary’s office as well as the DOI Inspector General (“IG”). The Environmental Protection Agency (“EPA”), which has jurisdiction to review and rate NEPA reviews under the Clean Air Act Section 309, should also be included on the review team. Other agencies may also be relevant to this review process and should be considered, but at minimum, the above-referenced representatives from CEQ, DOI (including the IG), and EPA must be included in this review process.

Similarly, it is critical that the public have unprecedented visibility into this review process. To restore public confidence in the GGNRA and DMP process, under either alternative the review must be undertaken with a high degree of transparency. The review team should produce regular, substantive public status updates on the procedure and the review, every 45 days at a minimum. The public must be consulted by the review team in an appropriate format such as in an open house or public hearing. Documents reviewed and relied on by the team must be public made accessible by web portal or other efficient means. Key representatives of recreational stakeholders must be consulted regularly. But most importantly, the draft findings of the review team should be subject to public review and comment before being finalized. Because the DMP process was a notice-and-comment rulemaking, the public must be consulted and included in any effort to salvage the integrity of the process. Under either alternative, the review team must respond substantively to public comments.

CFDG had long advocated for inclusionary mechanisms in the DMP, such as a Recreation Roundtable, to solicit stakeholder involvement and facilitate dialogue that will ease management of various recreational uses at GGNRA. Now more than ever, the regulated community must be consulted and included in planning processes not just to allow for meaningful public comment on

the core issues of regulating recreation, but also to ensure that pernicious bias does not again infect the process.

The review must address how the bias apparent in the FOIA documents has distorted the rulemaking process. Because the former NPS employee involved in producing these questionable materials had a central role in public outreach efforts at GGNRA, the team must critically examine how bias has undermined the public comment process under NEPA and the APA.

Similarly, the FOIA documents raise questions about whether a GGNRA employee may have engaged in unlawful or impermissible lobbying efforts directed at one or more members of Congress. Based on a preliminary review significant questions about the propriety of these actions exist, and must be reviewed.

Finally, compliance with federal recordkeeping guidelines and regulations are implicated by the information in the FOIA documents, and the regulated community currently has no assurance that all relevant information has in fact been produced. The review team must include a thorough investigation into document management, retention, and compliance practices, including whether other emails from relevant employees may exist on personal accounts, and whether emails have been destroyed.

With resolving the above questions to the satisfaction of the regulated community, NPS lacks both the legal basis and the credibility, to adopt a DMP. Accordingly, CFDG demands that the DMP process continue to be held in abeyance and that the NPS abandon any plans to adopt the DMP in its current form. Information revealed to date strongly suggests that the process was fundamentally flawed and cannot be relied upon to adopt a valid rule in any form at this time. The NPS owes the public a thorough, transparent, interagency review on the above topics, and any others revealed during the pendency of the review.

Thank you.

Sincerely,

Martha Walters

Martha Walters

Chair, CFDG

cc:

House Minority Leader Nancy Pelosi, D-CA

Senator Diane Feinstein, D-CA

Senator Kamala Harris, D-CA Senator Diane Feinstein, D-CA
Senator Kamala Harris, D-CA
Rep. Jackie Speier, D-San Mateo
Rep. Jared Huffman, D-Marin
Sally Jewell, Secretary of the Interior
Edward Boling, Council on Environmental Quality
Nicole Buffa, Department of the Interior
Maureen Foster, Department of the Interior
Karen Hyun, Department of the Interior
Laura Joss, NPS, Western Regional Director
Craig Kenkel, GGNRA
Alexis Strauss, US EPA, Region 9
Kathy Goforth, US EPA, Region 9
Scott Weiner, California State Senator
San Francisco Mayor Ed Lee
San Francisco Board of Supervisors President London Breed
Marin Board of Supervisors President Judy Arnold
San Mateo Board of Supervisor President Don Horsley
Supervisor Katy Tang, City of San Francisco
Supervisor Kate Sears, Marin County
Dr. Jennifer Scarlett, President, San Francisco SPCA
Nancy McKenny, Executive Director, Marin Humane Society