



P.O. Box 475372 San Francisco, CA 94147-5372 Please Visit Our Website: [www.crissyfielddog.org](http://www.crissyfielddog.org)

May 27, 2011

Frank Dean, GGNRA Superintendent  
Building 201, Fort Mason  
San Francisco, CA 94123-0022

Dear Mr. Dean,

Thank you for the opportunity to comment on this important document, the Golden Gate National Recreation Area's (GGNRA) Draft Environmental Impact Statement/Draft Dog Management Plan (Draft Plan/DEIS).

### **Introduction**

The Crissy Field Dog Group is a non-profit organization devoted to responsible off leash dog recreation in the San Francisco Bay area for over a decade. We have approximately 600 members distributed throughout California and many other states. We have worked with the GGNRA staff on off leash dog recreation issues throughout this entire period including as a member of the GGNRA Negotiated Rulemaking Committee for dog management. Our work has included working with the Golden Gate Audubon Society and the GGNRA staff on educational outreach for the protection of the Snowy Plover in the Wildlife Protection Area. We have also worked closely with other recreational groups including, the horse community, the windsurfing and the surfing communities as well as other dog groups to promote and facilitate co-existence among all park users and to protect natural resources. We have created sixteen educational videos promoting responsible dog recreation in the GGNRA as well as how to submit substantive comments.<sup>1</sup> We work closely with the San Francisco SPCA and the Marin Humane Society and we are a member of the Eco-dog coalition promoting responsible dog ownership.

The Crissy Field Dog Group retained Kenneth S. Weiner, Esq. of K&L Gates LLP, a nationally recognized expert in the National Environmental Policy Act as well as Tetra Tech, Inc. independent environmental consultants to provide a review of the 2400 page Draft Plan/DEIS. Their review is included in the attached appendices.

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<sup>1</sup> These videos have had approximately 4000 downloads according to YouTube and Vimeo analytics.

After all of the time and effort that has been put into the development of a balanced dog management plan, CFDG is extraordinarily disappointed in the quality of the Draft Plan/DEIS. We are quite dismayed by: (1) the litany of undocumented assumptions throughout the Draft Plan/DEIS; (2) the lack of analysis by the GGNRA of the existing conditions; (3) the failure of the GGNRA to adequately explore the impact of application of existing management measures to the no-action alternative; (4) the failure of the GGNRA to acknowledge that the GGNRA is a recreational area in a major metropolitan area; (5) the failure of the GGNRA to address or acknowledge the scoping comments submitted by CFDG in April 2006; and (6) the failure of the GGNRA to include any of the reasonable alternatives suggested by the a coalition of interested parties at the end of the Negotiated Rule Making process (see Appendix K). The Draft Plan/DEIS improperly treats recreation and environmental interests as mutually exclusive rather than recognizing both as important values under the National Environmental Policy Act as well as the enabling legislation for the GGNRA. In fact, the Draft Plan/DEIS does not even include a section addressing the impact on recreational users. (See Appendix B) The Draft Plan/DEIS includes a prohibition on certain recreational uses for all new lands without any justification or analysis. Finally the Draft Plan/DEIS proposes a punitive non-transparent compliance program to be internally administered without any public input with uncertain and undefined parameters. Set forth in the appendices attached, are specific comments on each of these points.

We are also very concerned going forward about the transparency of the review process for these comments, allowed under the National Environmental Policy Act, and the ability of the public to have a dialogue with the GGNRA about how to create a sustainable and balanced dog management plan.

The GGNRA plays a critical role in providing a home for many natural and cultural treasures, and, because of its proximity to a dense, urban environment, it provides special recreational opportunities to city dwellers. Recreation is called out in the 1972 GGNRA enabling legislation as one of the four outstanding values to be maintained and protected. In doing so, the enabling legislation recognized that the achievement of these outstanding values is not mutually exclusive. Our organization supports the National Park Service (NPS) in its mission to protect the GGNRA's important natural, cultural, and recreational values but, through this letter, we challenge the NPS work with its constituents and local communities to find solutions that are designed to protect all of the park's values and broaden opportunities to enjoy its diverse resources sustainably.

Our comments are described in two main sections: (1) Recommended Alternative, which describes our thoughts on how the NPS could balance the GGNRA's myriad resources and opportunities; and (2) Quality of Information in the Draft Plan/DEIS, which describes our thoughts on how the information in the Draft Plan/DEIS could be improved in order to support a better outcome for all interests involved.

### **Recommended “Hybrid” Alternative**

The NPS should consider a hybrid alternative that includes the following three interrelated items with a rational approach to balancing preservation of natural and recreational values:

- Adaptive Management Plan
- Management Actions
- Recreation Committee

Further information on this alternative is included in Appendix A.

### **Quality of Information in the Draft Plan/DEIS**

My organization’s major concerns with the quality of information in the Draft Plan/DEIS include:

1. Improper analysis of environmentally preferred alternative.
2. Omission of relevant impacts and impact analyses
  - Recreation (also see Appendix B)
  - Other impacts
3. Insufficient information needed to draw logical conclusions and evaluate alternatives:
  - Unclear enforcement data (also see Appendix C)
  - Lack of and inconsistent site-specific, scientific data on baseline conditions (also see Appendices D, E, and F)
  - Reliance on undocumented assumptions
  - Flawed evaluation of No Action alternative
  - Resultant flawed alternatives analysis
4. Improper treatment of new lands
5. Lack of specificity in proposed action

These concerns are described in detail below and several are outlined further in the attached appendices. At the end of each section, we have provided recommended changes that we request you make to the EIS and the proposed action in order to move forward with a plan that is protective of all of the GGNRA’s myriad resources and values.

#### **1. Improper Analysis of Environmentally Preferred Alternative**

The Draft Plan/DEIS takes a narrow perspective that the alternative that most preserves natural values only is the environmentally-preferred option. Where you have a national recreation area whose mission is natural, recreational, scenic and cultural values in a great city – and all of these values are part of NEPA’s view of a quality environment – the environmentally preferred alternative is the alternative that most promotes **all** of these core environmental values. Because the Draft Plan/DEIS does not recognize recreational resources as an environmental resource, the analysis of the environmentally preferable alternative is flawed. We point this out because it reflects a bias in the document that systematically does not yet recognize that this plan is for an urban recreation area that needs to – in the words of GGNRA’s own

mission: ‘preserve natural and recreational values unimpaired.’ It fails to consider the range of resources afforded by the GGNRA that could be affected by the action alternatives. Recreation is called out in the GGNRA enabling legislation as one of the four outstanding values to be maintained and protected. In doing so, the enabling legislation recognizes that the achievement of these outstanding values is not mutually exclusive. The environmentally preferable alternative is one that would employ environmental design and adaptive management techniques to preserve all of the outstanding values of the GGNRA. Further detail on this issue can be found under our comments above related to our recommended hybrid alternative.

**\*Recommendation.** In Chapter 2, starting on page 99, the discussion of the environmentally preferable alternative should be revised to reflect the value of recreational resources. Since protection of the environment includes protection of established recreational opportunities and facilities on GGNRA lands and nearby parklands, the Draft Plan/DEIS should consider such resources as part of its selection of the environmentally preferable alternative. Detailed recommendations on how to revise this section of the Draft Plan/DEIS are listed in Appendix A.

## 2. Omission of Relevant Impacts and Impact Analyses

### *Recreation*

Congress’ original intent when it established the GGNRA is stated in the bill reports for the 1972 legislation – that GGNRA, “will ensure its continuity as open space for the **use and enjoyment** of present and future generations of **city-dwellers**” [House Report No. 92-1391, Sept. 12, 1972]. [emphasis added]. Similarly, as stated in the first section of Public Law 92-589, Congress established GGNRA to preserve for public use and enjoyment areas of Marin and San Francisco County possessing “outstanding natural, historic, scenic and recreational values” and to “provide for needed recreational open space necessary to urban environment and planning” and to protect the scenic and natural character of the area from incompatible development. Dog walking was well-known and recognized by Congress as part of this public use and enjoyment. Both the Senate and House reports comment that the proposed area:

“will satisfy the interests of those who choose to fly kites, sunbathe, **walk their dogs**, or just idly watch the action along the bay.” [emphasis added]

The official legislative history notes:

“This legislation will, if enacted, capitalize on the availability of this important, unequalled resource in the San Francisco region by establishing a new national urban recreation area **which will concentrate on serving the outdoor recreation needs of the people of the metropolitan region**. As an **urban recreation area**, it must relate to the desires and interests of the people, but it must, at the same

time, be managed in a manner which will protect it for future generations.”

[emphasis added]

These were also the City’s understandings in transferring lands to GGNRA. As you may know, GGNRA has a mission statement which states:

“The mission of the Golden Gate National Recreation Area is **the preservation, unimpaired, of the natural and cultural resources, and scenic and recreation values**, of the park for present and future generations to enjoy.” [emphasis added]

The Draft Plan/DEIS not only fails to disclose and evaluate the impacts of the alternatives on recreational resources in the context of an urban environment, it dismisses the quality of the urban environment entirely on page 22 where it states, “the quality of urban areas is not a significant factor in determining a dog management plan.” As recognized in its enabling legislation, one of the most important aspects of the GGNRA is the sharp contrast between its undeveloped open spaces and the adjacent developed urban environment. The GGNRA’s open space and recreational opportunities are intended to provide refuge and relief for nearby urban dwellers.

The impacts on the GGNRA’s open space and recreational opportunities should have been evaluated fully in the Draft Plan/DEIS, especially since a NEPA analysis is not limited to the natural environment. According to NEPA, An EIS is required to analyze the human environment. The federal NEPA rules define the human environment and its scope in an EIS as follows:

“Human environment shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment.”

When an EIS is prepared and human and natural/ physical environmental effects are interrelated, the EIS should discuss all of these effects on the human environment.

**\*Recommendation.** Any significant limitations on recreational uses proposed by NPS needs to be properly examined, as it impairs a fundamental value that must be preserved under GGNRA’s charter. The Draft Plan/DEIS should be revised to include a stand-alone analysis of impacts on recreation resources in order to fully consider the potentially significant effects that the proposed action and action alternatives could have on these elements of the human environment. The section should give context to the important role played by the GGNRA in terms of its proximity to a dense, urban environment and the special opportunities it affords to nearby populations. It should describe existing recreational uses of the GGNRA and other parklands in the project vicinity, the impacts of the proposed action on recreation resources and urban quality (including direct, indirect and cumulative impacts), and the mitigation that the NPS will commit to in order to avoid such impacts.

Although the analysis of impacts on recreation resources could potentially be integrated into the existing Visitor Use and Experience section, it is strongly

suggested that it be incorporated into the draft EIS in a separate chapter. The rationale for this request is because the topic of “Visitor Use and Experience” is too limiting to encompass the broader range of recreation impacts that could potentially occur with implementation of the proposed action, including degradation of established recreational activities and facilities in GGNRA and nearby lands. A suggested annotated outline of the stand-alone recreation resources section is presented in Appendix B for your consideration.

### ***Other impacts***

The Draft Plan/DEIS assumes but does not provide the required rigorous analysis that resource conditions result solely from dog use of the sites, discounting the contribution from other visitors and recreational users. The Draft Plan/DEIS does not address the contribution of other impactful activities, including special events, to the resource conditions and existing impacts at each of the GGNRA sites. The level of site use from a single special event is likely equivalent to the level of regular use that occurs over weeks, months or longer. These special events include the annual Fleet Week at Crissy Field and the future impact of America’s Cup on GGNRA lands.

**\*Recommendation.** To address this deficiency, the GGNRA should study the contribution that all visitors make to existing resource conditions and potential impacts. This information is obtainable and essential to a reasoned choice among alternatives. The preferred alternative should then be re-evaluated and modified to address only the issues that specifically result from dog use at each of the sites. The NPS should then pursue a comprehensive approach to managing all these uses to the benefit of the full ranges of GGNRA resources and values.

### **3. Insufficient Information Needed to Draw Logical Conclusions and Evaluate Alternatives**

In many places, the Draft Plan/DEIS does not provide any data on actual impacts by dogs in areas being proposed for new dog walking restrictions. In places where data are provided, the Draft Plan/DEIS makes undocumented assumptions that there are unacceptable impacts and that dogs are the culprits. For example, in the Western snowy plover sections of Chapters 3 and 4, the Draft Plan/DEIS explains that people, as well as dogs, who traverse dune areas disturb shorebirds. Monitoring surveys observed 48 off-leash dogs chasing birds over a period of 12 years. However, in this case the birds continue to return to the area each year. Therefore, there might or might not be a problem – the Draft Plan/DEIS does not provide substantive data to help the reader decide. If there is a problem, the Draft Plan/DEIS doesn’t provide logical conclusions as to whether access should be limited for people, for dogs, or both.

The Draft Plan/DEIS is, in some respects, comprised of about 20 plans and EISs, because it examines each GGNRA unit. We can appreciate how difficult this is for

GGNRA and the NPS to accomplish. But NEPA guidance and case law have consistently explained that difficulty does not excuse lack of adequate data and study in an EIS. And the bulk or size of an EIS does not equate to its adequacy. In many places, as described in more detail below, the Draft Plan/DEIS lack any description of actual site specific impacts on which decisions on dog-walking restrictions are being proposed. In other places, the Draft Plan/DEIS assumes species are present in areas where there is no record of their presence. In other places, there is inconsistent information about the presence of species.

***Unclear enforcement data***

Many of the findings in the Draft Plan/DEIS are founded on a reference included in the document as Appendix G, “Law Enforcement Data” (NPS 2008c). This reference document is critically deficient in substantiating statements made in the characterization of existing conditions and in the analysis of the environmental consequences. Per NEPA, “Agencies shall insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements (CFR 1502.24).” Additional detail on this issue can be found in Appendix C.

**\*Recommendation.** The Draft Plan/DEIS should be revised to provide clear evidence in the record to support all of its findings. The NPS needs to ensure the professional integrity, including scientific integrity, of the analysis and findings contained within its Draft Plan/DEIS. Detailed recommendations on how to revise the enforcement data in the Draft Plan/DEIS, and the ensuing impacts and alternatives analysis, are listed in Appendix C.

***Lack of and inconsistent site-specific, scientific data on baseline conditions***

The Draft Plan/DEIS does not address site-specific resources and the condition/health of those resources. This lack of information results in a vague baseline against which to assess the magnitude of impacts associated with implementing the proposed action and alternatives. With such a vague baseline, it’s also difficult to assess the need to change existing dog management strategies.

**Select examples:**

- a. The affected environment section mentions California Native Plant Society (CNPS)-listed species as having the potential to occur within the GGNRA but no data are provided as to where/if they are actually present.
- b. While some special-status species descriptions suggest a nexus between dog activity and the species and/or their habitat (tidewater goby, California red-legged frog), other species descriptions do not (San Francisco garter snake, Coho salmon), and there is a consistent lack of detail describing the existing interaction, if any, between the species and dog activity.
- c. There are inconsistencies regarding the presence of species in the text and in Table 8 in the Special-Status Species affected environment, the information in Appendix H, and the impact analyses in Chapter 4.

- d. In Table 8 on page 246, the GGNRA Location column contains the location for plants that do not exist there according to the text.
- e. For a number of the analyses of Alternatives B-E, the Draft Plan/DEIS states that the area of impact is currently undisturbed. This is not the case, as dogs and humans are currently allowed in those areas.
- f. Additional examples are provided in Appendix D, "Soils and Geology," Appendix E, "Water Quality," and Appendix F, "Biology."

**\*Recommendation.** To address this deficiency, the Draft Plan/DEIS should provide site-by-site assessments of the conditions of the GGNRA resources and values at each of the 21 sites. The selected preferred alternative for each site should then be re-assessed and modified to address only those site-specific issues and to employ adaptive management (proposed adaptive management techniques are provided at the end of this letter) to ensure the goal of protecting those resources and values is achieved.

### ***Reliance on undocumented assumptions***

The Draft Plan/DEIS assumes, but fails to demonstrate, the "cause and effect" relationships without site-specific supporting information. For instance, the Draft Plan/DEIS assumes but does not demonstrate that where dogs are present within GGNRA sites, there is a disturbance of natural resources. The Draft Plan/DEIS also assumes but does not demonstrate that the disturbance of resources is attributable to dogs (versus other factors). These assumptions result in flawed conclusions that the mere presence of dogs is equivalent to adverse resource impacts. The findings of an EIS must be based on scientific accuracy and clear evidence in the record. This Draft Plan/DEIS is significantly flawed in that it does not rely on adequate evidence for the conclusions it draws, and in that it fails to clarify its methodology for drawing those conclusions.

### **Select examples:**

- a. The text from Chapter 3 provides data on the western snowy plover, but beyond providing numbers of observations, the Draft Plan/DEIS does not provide evidence that dogs chasing the birds are likely to impact the survival of the species taking all relevant factors into account (see paragraph 1, page 799).
- b. The Draft Plan/DEIS presents no information supporting the finding that dogs are currently impacting shorebirds and marine mammals. Therefore, there is no scientific rationale for prohibiting dogs from beach areas under Alternative D to "protect shorebirds and stranded marine mammals," as stated on page 151.
- c. The Soils and Geology section (page 225) includes the following statements: "Dogs and dog walkers that do not stay on designated trails and venture off trail create social trails that become denuded of vegetation and result in increased soil compaction." and "Soil compaction is common along social trails that have been created by – and are heavily used by – bikers, hikers, runners, and dog walkers." The baseline for comparison throughout the Draft Plan/DEIS should not be an

- environment in which it is assumed that there is no impact unless dogs are present, but one in which the impact of dogs is added to the impact of humans. At about 200 pounds per adult, the force that a human exerts on the soil one foot at a time would have a significantly greater impact on soil compaction in a picnic area than the force exerted by even a large 70-pound dog distributing its weight on four paws. The failure to acknowledge that human use has more impact on soils and geology in this regard, compared to dog use, uncritically loads the analysis in favor of restrictions on dogs. While there may be areas in which impacts from dogs are unacceptable, the same criterion holds for impacts from humans, and in most of these areas, dogs and humans are already excluded.
- d. The Soils and Geology section (page 112) on Homestead Valley concludes that, under the No Action Alternative, there would be long-term adverse impacts from “soil compaction, erosion, and nutrient addition., in areas off the trail since dogs would be under voice control,” while under other alternatives it is concluded that the impacts would be negligible because dogs would be under physical restraint. This is an unsubstantiated assumption in support of the underlying bias of the analysis. The analysis does not attempt to connect intensity of use and impact and seems to be based solely on the incorrect assumption that humans and wildlife would have no impact on off-trail areas, and that all impacts can be attributed to dogs.

**\*Recommendation.** To address this deficiency, the NPS should re-evaluate untested, assumed linkages and re-define the existing and potential impacts that specifically result from dog use at each of the GGNRA sites. The preferred alternative for each site should then be re-assessed and modified to address only those site-specific impacts and issues.

### ***Flawed evaluation of No Action alternative***

The impacts of the No Action alternative are substantially overstated because the Draft Plan/DEIS determines individual areas of compliance with existing dog management strategies without sufficient supporting data and assumes that noncompliance results in adverse impacts. This unsupported logic both overstates the degree of additional management required to address the resource issues, but also misrepresents the relative impacts of the four action alternatives; for example, the public is assumed to comply with management strategies under an action alternative, whereas the public is found to be noncompliant with those same management strategies under the No Action alternative.

### **Select examples:**

- a. For many sites, including Stinson Beach, Crissy Field, Baker Beach and Bluffs, Mori Point, Oakwood Valley, and Muir Beach, analysis of Alternative A acknowledges noncompliance, while the other alternatives assume full compliance with dog restrictions. In some cases, the management strategy is the

- same, with the only difference between Alternative A and the preferred alternative being the assumption of compliance.
- b. On page 109 (Table 5, Stinson Beach, Soils and Geology) under Alternative A, the second bullet identifies long-term, minor, adverse impacts in areas outside parking lots and picnic areas. These impacts are not repeated under the other alternatives despite the fact that, except for Alternative D, the management strategies under all of the alternatives are identical for Stinson Beach. Each of the statements in the first bullet, except for Alternative A, No Action, includes the clause “assuming compliance.” At least for the soils and geology evaluation, the analysis seems to take it for granted that the No Action Alternative is inferior. Both of these are examples of biasing the analysis against No Action.
  - c. On pages 1147-1158, mission blue butterfly, Fort Baker and Milagra Ridge – as with many examples in the Wildlife section, here Alternative A assumes noncompliance with leash laws (minor, adverse impacts) and the preferred alternative assumes compliance (negligible to minor, adverse impacts, with habitat restoration programs).
  - d. On pages 1219-1240, San Francisco garter snake, Mori Point, Milagra Ridge, Cattle Hill, Pedro Point – as with many examples in the Wildlife section, here Alternative A assumes noncompliance with leash laws (minor, adverse impacts) while the preferred alternative assumes compliance (negligible). The text states (page 1230) that there is no documentation. that the current level of compliance with on-leash laws (No Action Alternative) is impacting this species.
  - e. In the Water Quality section, the impact analysis for Alternatives B through E assumes compliance with the management strategies. However, the impact analysis for Alternative A does not make this same assumption.

**\*Recommendation.** To address this deficiency, the NPS should re-evaluate unsupported assumptions and the analysis of the No Action alternative to ensure the methodology used for it is consistent with the methodology used for the action alternatives. The No Action alternative is a continuation of the current GGNRA management plan and policies – not a continuation of existing conditions. The current plan and supporting documents include policies for good public information and education on GGNRA resources and partnerships with the community. The No Action alternative can and should include improved education and compliance measures (including accurate signage about voice control areas) to implement these current plan policies (which are also policies in the proposed GGNRA updated general management plan), including dog owner training, to raise the level of compliance.

### ***Resultant flawed alternatives analysis***

As described above in this section, the Draft Plan/DEIS assumes but does not provide the required rigorous analysis to enable the reader to draw logical conclusions about impacts and alternatives. The Draft Plan/DEIS does not provide adequate information on which to “study, develop, and describe appropriate alternatives to recommended

courses of action in any proposal which involves unresolved conflicts concerning alternative uses of resources” (as required by NEPA Section 102(2)(E); 40 CFR §§1501.2 and 1502.1 and corresponding DOI and NPS implementing guidance), or to allow meaningful evaluation on the alternatives including reasonable mitigation measures, as required by NEPA (e.g., 40 CFR §§1502.14(b) and 1508.25(b) and corresponding DOI and NPS implementing guidance). This issue in the Draft Plan/DEIS results in a bias in the evaluation of alternatives, contrary to NEPA’s requirement that “Environmental Impact Statements shall serve as the means of assessing the environmental impact of proposed agency actions, rather than justifying decisions already made” (40 CFR §1502.2(g)).

**Select examples:**

- a. The impacts of the No Action Alternative are substantially overstated because the Draft Plan/DEIS assumes that noncompliance results in adverse impacts. This both overstates the degree of management required to address the resource issues, but also misrepresents the relative impacts of the four action alternatives; for example, the public is assumed to comply with management strategies under an action alternative, whereas the public is found to be noncompliant with those same management strategies under the No Action Alternative.
- b. On page 1264, bank swallow – as with the western snowy plover, current impacts are considered minor to moderate based on occasional to frequent perceptible disturbances to the species from dogs; however, the description of Alternative A mentions only that dogs have been seen in the bluff area. There is no apparent nexus between dog activity and actual impact to bank swallows – is the presence of a dog in the bluff area assumed to disturb the colony? Have the birds been observed flushing from nests, or have crushed burrows been found? The language here suggests these impacts are possible, but that they haven’t actually occurred.
- c. In Chapter 2, starting on page 99, the discussion of the environmentally preferable alternative should be revised to reflect the value of recreational resources. Because the draft EIS does not recognize recreational resources as an environmental resource, the analysis of the environmentally preferable alternative is flawed. It fails to consider the range of resources afforded by the GGNRA that could be affected by the action alternatives. Recreation is called out in the GGNRA enabling legislation as one of the four outstanding values to be maintained and protected. In doing so, the enabling legislation recognizes that the achievement of these outstanding values is not mutually exclusive.

**\*Recommendation.** To address this deficiency, the NPS should re-evaluate unsupported assumptions and the analysis of the alternatives to ensure the methodology used for it is consistent and based on site specific scientific data. And, since protection of the environment includes protection of established recreational opportunities and facilities on GGNRA lands and nearby parklands, the draft EIS should consider such resources as part of its selection of the environmentally preferable alternative. Under NEPA, the environmentally preferable alternative is one

that would employ environmental design and adaptive management techniques to preserve all of the outstanding values of the GGNRA.

#### 4. Improper Treatment of New Lands

The proposed action to close new lands to dog walking access conflicts with the GGNRA Enabling Legislation (PC 92-589) and with National Park Service Management Policies (2006) for determining uses and land protection plans. GGNRA is required to consider new lands in the same way that it considers uses and land protection measures on lands within GGNRA.

The unprecedented "Closed until open" proposal would violate GGNRA's statutory obligation to preserve and maintain recreational uses, violate sound land planning with the community, and violate NEPA by prejudging alternatives before site-specific public and environmental review. There is no basis for treating new lands differently than existing lands under NPS regulations and policies. Furthermore, there is no such policy in the existing GGNRA General Management Plan and Compendium.

The Draft Plan/DEIS notes (p. 36), the enabling legislation states GGNRA's purpose as follows (emphasis added):

*"In order to preserve for public use and enjoyment certain areas of Marin and San Francisco counties, California, possessing outstanding natural, historic, scenic, and recreational values and in order to provide for the maintenance of needed recreational open space necessary to urban environment and planning, the Golden Gate National Recreation Area is hereby established."*

The phrases "preserve for public use and enjoyment" and "maintenance of needed recreational open space" set out a high standard for management actions that would limit or restrict this fundamental value and resource of the GGNRA. The words "preserve" and "maintain" mean the *continuation* of uses, recognizing that uses may be regulated to protect the other fundamental values of the GGNRA.

NPS management policies expressly reflect this emphasis on continuing uses, measured by the yardstick of the unit's enabling legislation. Section 1.4.3.1 states:

In determining whether or how to allow the use, park managers must consider the congressional or presidential interest, as expressed in the enabling legislation or proclamation, that the use or uses continue.

When new lands become part of GGNRA, the recreational uses existing at the time of acquisition should be allowed to continue unless GGNRA determines, through the public land planning and NEPA process, that unacceptable impairment would occur (as explained in Chapter 1 and Appendix C of the Draft Plan/DEIS).

Section 3.3 of the NPS management policies make clear that protective measures are to be integrated in to the planning process -- "Planning for the protection of park lands will be integrated into the planning process for park management" -- not

predetermined *in advance of* site specific the public planning and environmental review process.

In preparing land protection plans, Section 3.3 requires: "A thorough review of a park's authorizing statutes and complete legislative history will be conducted as part of the land protection planning process."

Section 3.3 states that land protection plans should determine what "means of protection are available to achieve the purposes for which the unit was created." As noted above, recreational use is one of the basic purposes for which GGNRA was created. Dog walking was contemplated as a traditional use in GGNRA and was plainly discussed in both the Senate and House bill reports, basic legislative history documents.

In the Introduction to land protection, the NPS management policies state (chapter 3, emphasis added):

The National Park Service will use all available authorities to protect lands *and resources* within units of the national park system, and the Park Service will seek to acquire nonfederal lands and interests in land that have been identified for acquisition as promptly as possible. For lands not in federal ownership, both those that have been identified for acquisition and other nonfederally owned lands within a park unit's authorized boundaries, *the Service will cooperate with federal agencies; tribal, state, and local governments; nonprofit organizations; and property owners to provide appropriate protection measures.*

To fulfill this obligation, GGNRA needs to cooperate with these entities, including nonprofit community groups and property owners adjoining GGNRA, to protect recreational resources. As Management Policy 1.4.3.1 directs:

Where there is strong public interest in a particular use, opportunities for civic engagement and cooperative conservation should be factored into the decision-making process.

GGNRA is aware of the strong public interest in dog walking access, and of the interest of San Francisco and Marin Counties and responsible community and nonprofit organizations in cooperative conservation. It is entirely inappropriate and contrary to these management policies to close new lands to dog walking access without first providing opportunities for this civic engagement and for cooperative conservation efforts.

In conclusion, there is no basis in existing law or adopted policy for the NPS and the GGNRA dog management plan to summarily reject and fail to preserve and maintain an important recreational use on new lands that is allowed on existing lands, particularly in advance of sound environmental review and land use planning. This

Plan and Draft Plan/DEIS do not provide this review and planning, because by definition, new lands have not yet been fully studied, acquired or subject to the level of site specific review required of this EIS.

For reasons noted above, it is inaccurate wrong to treat dog walking as the establishment of a "new use" in GGNRA, which would be the result of the proposed policy. We understand GGNRA's desire to create a presumption against continuing this use, however, there is no factual, legal, or management policy basis for this approach.

**\*Recommendation.** The preferred alternative should be revised to make clear that new lands will be treated the same as any other GGNRA lands and follow the same NPS management policies. Recreational uses should be allowed to continue except as may be regulated through site-specific public land planning processes and associated environmental review.

## 5. Lack of Specificity in Proposed Action

The description of Elements Common to Action Alternatives (pages 63-67 in the Draft Plan/DEIS) describes the proposed 75% compliance standard and secondary management response, but does not provide details of the monitoring plan or other elements of an adaptive management plan on which the management response would be based. The draft Plan/Draft Plan/DEIS does not propose an adaptive management component that meets applicable guidance and that can be meaningfully reviewed, as called for in NEPA procedures and current Council for Environmental Quality (CEQ) mitigation and monitoring guidance (January 2011), including but not limited to pages 9-11 and pages 13 and 19 (on the role of the public in the design and review of results).

### Select examples:

- a. The Draft Plan/Draft Plan/DEIS states (page 1725) that “the compliance-based management strategy is an important and effective tool to manage uncertainty when proposing new action” and “has been created” to assure successful implementation and long-term sustainability. However, the detailed description of this critical element has not been conveyed and is not included in the document (as noted on page 64).
- b. The Draft Plan/DEIS doesn't establish how or why a special-status species that has been sharing habitat with dogs for decades will experience an actual, likely benefit from stricter dog management, given other factors affecting the species.
- c. Where management actions that limit recreational access are proposed or under serious consideration, the Draft Plan/DEIS should also disclose whether access will be limited for people as well as dogs. The evaluation of significance under NEPA requires consideration of context and intensity. Meaningful public comment on proposed management measures is not possible without full disclosure of the impacts to all users and potential management measures.

**\*Recommendation.** To address this deficiency, the NPS should fully disclose the details of the proposed action. It should describe how it will monitor compliance and resources and values at specific sites because the management measures are specific to GGNRA sites. In addition to assessing the condition of these resources and values, monitoring should also focus on determining the contribution to those conditions from other users and factors, including other human users and natural processes. This should be implemented as part of each alternative. Only through this objective monitoring approach can the GGNRA demonstrate that it has addressed the purpose and need on which the Dog Management Plan is based. Existing or proposed management strategies should be modified based on the objective monitoring results. Although it could be appropriate to use properly measured rates of compliance as an indicator, the draft Plan and Draft Plan/DEIS does not provide adequate information about the compliance-based program. To ensure objectivity, this monitoring should be conducted by an independent qualified third party with the results discussed with interested groups and made publicly available as part of a defined and technically-sound adaptive management program. Additional recommendations on management actions that should be considered by the NPS are provided below.

### **Concluding Comments**

In conclusion, CFDG is committed to working with the GGNRA to implement a reasonable balanced dog management plan that is based upon accurate facts and science and that balances all of the values identified in the 1972 GGNRA enabling legislation.

Sincerely,

Martha Walters  
Chair, Crissy Field Dog Group

cc:

Sen. Diane Feinstein  
Rep. Nancy Pelosi  
Rep. Norm Dicks  
Rep. Doc Hastings  
Secretary Ken Salazar  
NPS Director Jon Jarvis  
Mayor Ed Lee  
Supervisor Scott Wiener  
San Francisco SPCA  
Marin Humane Society  
Peninsula Humane Society- SPCA

Frank Dean, GGNRA Superintendent

May 27, 2011

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Enclosures:

Appendix A: Hybrid Alternative

Appendix B: Recreation Resources – Suggested Annotated Outline

Appendix C: Additional Comments Related to Appendix G, “Law Enforcement Data”

Appendix D: Additional Comments Related to Draft Plan/DEIS Analysis of Geology and Soils

Appendix E: Additional Comments Related Draft Plan/DEIS Analysis of Water Quality

Appendix F: Additional Comments Related Draft Plan/DEIS Analysis of Biological Resources

Appendix G: Testimony of Kenneth S. Weiner on Behalf of Crissy Field Dog Group Before San Francisco Board of Supervisors

Appendix H: Testimony of Rebecca Katz Director of San Francisco Animal Care & Control Before San Francisco Board of Supervisors

Appendix I: Testimony of Andrea Buffa Before San Francisco Board of Supervisors

Appendix J: Testimony of Keith McAllister Before San Francisco Board of Supervisors

Appendix K: CFDG Scoping Letter and Proposal from Negotiated Rule Making