

### 9.2.3.2 Hiking Trails

Trail design will vary to accommodate a wide range of users, and will be appropriate to user patterns and site conditions. Wetlands will generally be avoided and, where possible, they will be spanned by a boardwalk or other means, using sustainable materials that will not disturb hydrologic or ecological processes. Backcountry trails will offer visitors a primitive outdoor experience, and will be unsurfaced and modest in character, except where a more durable surface is needed. The use of non-native materials is generally not permitted on backcountry trails.

(See *Wilderness General Policy 6.4.1*; *Trails in Wilderness 6.3.10.2*; *Backcountry Use 8.2.2.4*)

### 9.2.3.3 Equestrian Trails

Equestrian trails and related support facilities, such as feed boxes and hitch rails, may be provided when they are consistent with park objectives, and when site conditions are suitable. Horse camps should be designed with user interest in mind, and consistent with NPS policy. Photovoltaic systems should be evaluated to power any necessary water systems, and ramps for mounting the animals must be provided for persons with disabilities.

(See *Grazing and Livestock Driveways 6.4.7*; *Grazing by Domestic and Feral Livestock 8.6.8*; *Accessibility of Commercial Services 10.2.6.2*)

### 9.2.3.4 Bicycle Trails

Bicycle routes may be considered as an alternative to motor vehicle access. Bicycle travelways may be integrated with park roads when determined to be safe and feasible. Bicycle trails may be paved or stabilized for the protection of resources, and for the safety and convenience of travelers. The designation of bicycle routes, other than on park roads and in parking areas, requires a written determination that such use is consistent with the protection of a park's natural, cultural, scenic, and esthetic values, safety considerations, and management objectives, and will not disturb wildlife or other park resources.

(See *General Policy 6.4.1*; *Backcountry Use 8.2.2.4*. Also see *36 CFR 4.30*)

### 9.2.3.5 Water Trails

Water access and use may be provided when consistent with resource protection needs. Appropriate locations and levels of use will be determined in the park's general management plan. The NPS will work with other agencies and organizations, as appropriate, to develop and provide education and interpretation for water trails that access parks; to promote understanding and enjoyment; and to protect waterways and adjacent lands.

### 9.2.3.6 Interpretive Trails

Interpretive trails and walks, both guided and self-guiding, may be used for purposes of visitor appreciation and understanding of park values.

### 9.2.3.7 National Trails

The Service will cooperate with other land managers, non-profit organizations, and user groups to facilitate the use of national scenic, historic, and recreation trails, in accordance

with the laws and policies applicable to such trails, and to the extent that trail management and use would not detract from the basic mission, and the protected resources and values, of individual parks.

(Also see *Director's Order #45-1: National Scenic and Historic Trails; National Trails System Act*)

### 9.2.3.8 Trailheads

Trailheads, and trail access points from which trail use can begin, will be carefully tied into other elements of the park development and circulation system to facilitate safe and enjoyable trail use, and efficient management.

### 9.2.3.9 Trail Bridges

Trail bridges may be used for crossing swift waters, areas prone to flash-flooding, and other places presenting potential safety hazards. Less obtrusive alternatives to bridges, such as culverts, fords, and trail relocation, will be considered before a decision is made to build a bridge. A bridge may be the preferred alternative when necessary to prevent stream bank erosion, or to protect wetlands or fisheries. If a bridge is determined to be appropriate, it will be kept to the minimum size needed to serve trail users, and be designed to harmonize with the surrounding natural scene and be as unobtrusive as possible.

(See *Water Resource Management 4.6*)

### 9.2.4 Traffic Signs and Markings

Signs will be limited to the minimum necessary to meet information, warning, and regulatory needs; and to avoid confusion and visual intrusion. Signs should be planned to provide a pleasing, uniform appearance. Traffic signs and pavement markings on park roads will be consistent with the standards contained in the *Manual on Uniform Traffic Control Devices*, as supplemented by the *National Park Service Sign Manual*. All roadside signs and markings will conform to good traffic engineering practices. Park signs—especially those that display the NPS arrowhead symbol—are an important part of the total identity system for the NPS, and must conform to the standards contained in *Director's Order #52C: Park Signage*.

(See *Navigation Aids 9.2.6*; *Signs 9.3.1.1*)

### 9.2.5 Parking Areas

Parking areas and overlooks will be located so as not to unacceptably intrude, by sight, sound, or other impact, on park resources or values. When parking areas are deemed necessary, they will be limited to the smallest size appropriate, and be designed to harmoniously accommodate motor vehicles and other appropriate users. When large parking areas are needed, appropriate plantings and other design elements will be used to reduce negative visual and environmental impacts. When overflow parking is provided to meet peak visitation, it should be in areas that have been stabilized, or are otherwise capable of withstanding the temporary impacts of parking without harming park resources. Permanent parking areas will not normally be sized for the peak use day, but rather for the use anticipated on the average weekend day during the peak season of use.

(See *Management of Native Plants and Animals 4.4.2*; *General 9.1*; *Transportation Systems 9.2*)

### 9.2.6 Navigation Aids

Necessary aircraft and water navigation aids will be planned in collaboration with the Federal Aviation Administration and U.S. Coast Guard, respectively, and will be installed, maintained, and used in conformance with the standards established by these agencies only if there are no appropriate alternatives outside park boundaries. Exceptions to the standards may be authorized when necessary to meet specific park and public safety needs, provided the exceptions are jointly agreed to by the NPS and the agency having primary jurisdiction.

*(See Overflights and Aviation Uses 8.4; Traffic Signs and Markings 9.2.4)*

## 9.3 Visitor Facilities

While striving for excellence in visitor services, the NPS will limit visitor facility development to that which is necessary and appropriate. Facilities like gas stations and grocery stores may be necessary to park use and enjoyment, but it does not necessarily follow that these facilities must be located inside a park. The NPS will encourage the development of private-sector visitor services in gateway communities to contribute to local economic development, encourage competition, increase choices for visitors, and minimize the need for in-park facilities. When visitor facilities are found to be necessary and appropriate within a park, they will be designed, built, and maintained in accordance with accepted NPS standards for quality, and the NPS commitment to visitor satisfaction.

### 9.3.1 Informational and Interpretive Facilities

Informational and interpretive facilities will be provided to assist park visitors in appreciating and enjoying the park and understanding its significance, provided that the facilities can be developed without impairing the park's natural or cultural resources. The Harpers Ferry Center will be consulted on planning, design, and quality control for major interpretive facilities.

*(See Chapter 7: Interpretation and Education; Accessibility for Persons with Disabilities 9.1.2)*

#### 9.3.1.1 Signs

Signs will be carefully planned and designed to fulfill their important roles of conveying an appropriate NPS and park image and providing information and orientation to visitors. Each park should have an approved park-wide sign plan based on Service-wide design criteria, and tailored to meet individual park needs. Entrance and other key signs will be distinctively designed to reflect the character of the park, while meeting Service-wide standards for consistency.

Signs will be held to the minimum number, size, and wording required to serve their intended functions, so as to minimally intrude upon the natural and historic settings. They will be placed where they do not interfere with park visitors' enjoyment and appreciation of park resources. Roadside information signs are subject to the standards established in the National Park Service Sign Manual. Interpretive signs will be guided by sign and wayside exhibit plans.

*(See Signs 6.3.10.4; Traffic Signs and Markings 9.2.4; Navigation Aids 9.2.6. Also see Director's Order #52C: Park Signage)*

#### 9.3.1.2 Entrance Stations

Entrance and fee collection stations will be harmonious with the park environment, and should reflect the architectural character of the park.

#### 9.3.1.3 Visitor Centers

When necessary to provide visitor information and interpretive services, visitor centers may be constructed at locations identified in approved plans. To minimize visual intrusions and impacts to major park features, visitor centers will generally not be located near such features. Where an in-park location would create unacceptable environmental impacts, authorization should be obtained to place a visitor center outside the park.

Visitor centers are not substitutes for personal or self-guiding on-site interpretation. They will be constructed only when it has been determined that indoor media are the most effective means of communicating major elements of the park story, and that a central public-contact point is needed.

As appropriate, a visitor center may include information services, sales of educational materials and theme-related items, audiovisual programs, museums, museum collections storage, exhibits, and other staffed or self-help programs and spaces necessary for a high-quality visitor experience. Additionally, the need for restrooms, drinking fountains, and other basic visitor requirements will be considered during the planning and design stage.

*(See Park Management 1.4; Environmental Leadership 1.6; Non-personal Services 7.3.2; Location 9.1.1.2; Accessibility for Persons with Disabilities 9.1.2; Museum Collections Management Facilities 9.4.2)*

#### 9.3.1.4 Amphitheaters

Amphitheaters may be provided in campgrounds and in other locations where formal interpretive programs are desirable. Campfire circles may be provided in campgrounds to accommodate evening programs and informal social gatherings. Artificial lighting must be carefully directed and kept to a minimum, with due regard for natural night sky conditions.

*(See Lightscape Management 4.10; Campgrounds 9.3.2.1)*

#### 9.3.1.5 Wayside Exhibits

Wayside exhibits may be provided along roads and heavily used walks and trails to interpret resources on site.

*(See Non-personal Services 7.3.2)*

#### 9.3.1.6 Viewing Devices

Viewing devices, such as pedestal binoculars or telescopes, may be provided at appropriate locations when the superintendent determines that such devices are desirable for the meaningful interpretation or understanding of park resources. Such devices may be provided by the Service, or by others under a concession contract or commercial use authorization.

### 9.3.1.7 Facilities for Arts and Culture

Various cultural events (such as concerts, films, lectures, plays, craft shows, and art exhibits) are permitted when they will support a park's purposes and objectives. However, permanent facilities may be built specifically for cultural activities only when all of the following criteria are met:

- The permanent facility is required for programs of major importance in conveying the park story;
- It would be impossible or impractical to use demountable or temporary facilities;
- It would be impossible to adaptively use other park facilities;
- Neither the facility nor its operation would impair cultural or natural resources, or hinder the use of the park for its intended purposes; and
- It would not be feasible for others outside the park to provide the facility.

(See *Use of Historic Structures 5.3.5.4.7; Special Events 8.6.2*)

### 9.3.2 Overnight Accommodations and Food Services

Overnight facilities and food services will be restricted to the kinds and levels necessary and appropriate to achieve each park's purposes. In many cases, overnight accommodations and food services are not needed within a park. In general, they should be provided only when the private sector or other public agencies cannot adequately provide them in the park vicinity. However, in-park facilities or services may be justified when the distance and travel time to accommodations and services outside the park are too great to permit reasonable use, or when leaving the park to obtain incidental services would substantially detract from the quality of the visitor experience. Certain activities, such as backcountry use, may require overnight stays. Types of overnight accommodations may vary from unimproved backcountry campsites to motel- or hotel-type lodging, as appropriate. Commercial facilities run by concessioners are addressed in greater detail in chapter 10.

(See *Accessibility for Persons with Disabilities 9.1.2; Commercial Visitor Services Planning 10.2.2*)

#### 9.3.2.1 Campgrounds

When campgrounds are determined to be necessary, their design will accommodate the differences between recreation-vehicle camping and tent camping, and will consider cultural landscapes, terrain, soils, vegetation, wildlife, climate, special needs of users, visual and auditory privacy, and other relevant factors.

The Park Service generally will not provide a full range of amenities and utility hookups. Portable generators may be allowed, but they may also be limited to designated areas and times. To eliminate the need for generators, electric utilities may be provided on a limited basis. Shower facilities may be provided where feasible. Modest-sized play areas for small children are permissible, as are informal areas for field sports associated with organized group camps. Wood fires in fire rings are generally permissible; however, whenever it is necessary to restrict such fires at individual campsites because of fire danger, air pollution, or other hazards, alternatives may be provided or allowed, such as facilities for the use of charcoal or other fuels, or central cook sheds. When a need exists,

sanitary dump stations will be provided in or near campgrounds that accommodate recreation vehicles.

When necessary for basic safety requirements, pathways and the exteriors of buildings and structures may be lighted. Such lighting will be energy efficient and shielded as much as possible to preserve the natural dark.

Campgrounds intended to accommodate large recreation vehicles or buses will be located only where existing roads can safely accommodate such vehicles and the resulting increased traffic load.

Campgrounds will not exceed 250 sites unless a larger number of sites has been approved by the Director.

When desirable for purposes of management, tent camping may be accommodated in separate campgrounds, or in separately designated areas within campgrounds. Provision may also be made for accommodating organized groups in separate campgrounds, or in separately designated areas.

Boaters' campgrounds may be provided in parks with waters used for recreational boating. The need for campgrounds—and their sizes, locations, and numbers—will be determined by (1) the type of water body (e.g., river, lake, reservoir, salt-water); (2) the availability and resiliency of potential campsites; (3) the feasibility of providing and maintaining docking, beaching, mooring, camping, and sanitary facilities; and (4) the potential impacts on park natural and cultural resources.

(See *Soundscape Management 4.9; Lightscape Management 4.10; Recreational Fees 8.2.6.1; National Park Reservation Service 8.2.6.2; Collecting Natural Products 8.8; Water Supply Systems 9.1.5.1; Wastewater Treatment Systems 9.1.5.2; Concession Facilities 10.2.6. Also see Director's Order #47: Soundscape Preservation and Noise Management; Director's Order #83: Public Health*)

#### 9.3.2.2 Backcountry Campsites

Backcountry and wilderness campsites may be permitted, but only within the acceptable limits of use determined by the park's wilderness management plan, resource management plan, or other pertinent planning document.

(See *Wilderness Use Management 6.4; Backcountry Use 8.2.2.4*)

#### 9.3.2.3 Hostels and Shelters

Hostels are low-cost, supervised accommodations that encourage and facilitate the energy-efficient, non-motorized enjoyment of parks and their surrounding regions by individuals and families. Such facilities, along with hostel-like accommodations such as huts and shelters, will be considered in the planning process if overnight use is determined to be an appropriate use of the park, particularly as a means of encouraging and facilitating the use of trails and backcountry areas. The Service will cooperate with other agencies, non-profit organizations, park concessioners, and others to plan and develop hostels, where appropriate. If a decision is reached to develop a hostel accommodation, it will be managed by others under the provisions of concession policies and procedures.

Hostels will, at a minimum, contain sheltered overnight accommodations and sanitary facilities, and they will usually contain cooking, eating, and recreation spaces. Hostels may be used for other park programs, such as environmental education or interpretation. Although non-motorized access to hostels is emphasized, motorized transportation may also be available.

*(See Facility Planning and Design 9.1.1; Chapter 10: Commercial Visitor Services)*

### 9.3.3 Comfort Stations

Comfort facilities will have waste disposal systems that meet Public Health Service standards. Levels of use will determine the size and nature of the utility systems provided. Low-water-use or waterless (oil and composting) toilets will be considered in locations where there are water-supply and wastewater-disposal problems. Chemical toilets in portable enclosures may be used for temporary purposes when necessary. Pit privies, vault toilets, composting toilets, or other alternatives that meet public health standards may suffice in little-used areas in which utility services are not readily available.

*(See General Policy 6.4.1; Backcountry Use 8.2.2.4; Accessibility for Persons with Disabilities 8.2.4; Water Supply Systems 9.1.5.1; Wastewater Treatment Systems 9.1.5.2; Campgrounds 9.3.2.1. Also see Director's Order #83: Public Health)*

### 9.3.4 Other Visitor Facilities

Other visitor facilities may be provided when necessary for visitor enjoyment of the area, and when consistent with the protection of park values. Visitor facilities determined to be detrimental to park resources or values will not be permitted.

#### 9.3.4.1 Picnic and Other Day Use Areas

Picnic areas and other day use areas to be used for specific purposes (such as play areas) may be provided on a limited basis as appropriate to meet existing visitor needs.

#### 9.3.4.2 Facilities for Water Recreation

Boating facilities (such as access points, courtesy docks, boat ramps, floating sewage pump-out stations, navigational aids, and marinas), breakwaters, and fish cleaners may be provided as appropriate for the safe enjoyment by visitors of water-recreation resources, when (1) they are consistent with the purposes for which the park was established, and (2) there is no possibility that adequate private facilities will be developed. Facilities must be carefully sited and designed to avoid unacceptable adverse effects on aquatic and riparian habitats, and to minimize conflicts between boaters and other visitors who enjoy use of the park. A decision to develop water-based facilities must take into account not only the primary impacts (such as noise, air, and water pollution) of the development, but also the secondary impacts (including cumulative effects over time) that recreational use associated with the development may have on park resources and visitor enjoyment.

*(See Park Management 1.4; Soundscape Management 4.9; Visitor Use 8.2; River Use 8.2.2.3; Fishing 8.2.2.5; Campgrounds 9.3.2.1; Water Trails 9.2.3.5. Also see Director's Order #47: Soundscape Preservation and Noise Management)*

### 9.3.4.3 Skiing Facilities

The Park Service will not permit new downhill skiing facilities or associated structures in any unit of the national park system. Downhill skiing is an activity that requires extensive development, with resulting significant environmental impacts, and it should only be provided outside park areas. When such facilities have been provided based on previous policy, their use may continue, unless the development and use have caused, or may cause, impairment of park resources or values. Any proposal to eliminate, or change the capacity of, existing facilities will be accomplished through the Park Service planning process, and will involve public participation and an environmental assessment of impacts.

*(See Decision-making Requirements to Avoid Impairments 1.4.7; Recreational Activities 8.2.2)*

### 9.3.5 Advertising

Commercial notices or advertisements will generally not be displayed, posted, or distributed on the federally owned or federally controlled land, water, or airspace of a park. A superintendent may permit advertising only if the notice or advertisement is for goods, services, or facilities available within the park, and if such notices and advertisements are found to be desirable and necessary for the convenience and guidance of the public. Acceptable forms of advertising will be addressed, as necessary, in concession contracts and cooperating association agreements.

Billboard advertising will in no case be permitted within a park and, in general, will be discouraged on approach roads outside of parks when it would adversely affect a park's scenic values.

NPS policy does not prohibit "donor recognition," which occurs when the NPS publicly thanks an individual, corporation, or some other entity for their gift or service to the NPS.

In accordance with Part 470 of the DOI manual, the Service will not use paid advertising in any publication in connection with its programs and activities, except where special legal requirements and authority exist. If a superintendent believes paid advertising is necessary because of the significant benefits it affords in enhancing public participation, prior approval must be obtained from the WASO Office of Public Affairs.

*(See Cooperating Associations 7.6.2; Concession Contracting 10.2.3. Also see Director's Order #21: Donations and Fundraising, 36 CFR 5.1)*

## 9.4 Management Facilities

Where authorized by Congress, management facilities will be located outside park boundaries whenever the management functions being served can be adequately supported from such a location. When management facilities must be located inside the park, they will be located away from primary resources and features of the park, and sited so as to not adversely affect park resources or values, or detract from the visitor experience. Historic properties will be used to the maximum extent practicable, provided that the use will not affect their significance.



Modular, pre-cut, or prefabricated structures may be used for management facilities, including administrative offices, employee housing, and maintenance structures, when products meeting design requirements are available. Standard plans will be modified to reflect regional and park design themes, and harmonize with the natural surroundings; preserve the natural and cultural environments; provide for resource conservation; provide for energy efficiency or the use of renewable energy sources; limit chemical emissions; and foster education about sustainable design.

*(See Park Management 1.4; Environmental Leadership 1.6; Use of Historic Structures 5.3.5.4.7; Accessibility for Persons with Disabilities 8.2.4; Facility Planning and Design 9.1.1; Accessibility for Persons with Disabilities 9.1.2. Also see Director's Orders #89: Space Management; and #90: Value Analysis)*

#### 9.4.1 Administrative Offices

The location of administrative offices will be determined by conditions specific to each park, including impacts on park resources, availability and adequacy of leasable space outside the park, relationship to adjacent communities, convenience to visitors, weather, energy consumption, comparative costs, commuting distance for employees, and management effectiveness.

*(See Facility Planning and Design 9.1.1; Energy Management 9.1.7)*

#### 9.4.2 Museum Collections Management Facilities

Park curatorial facilities should be adapted to the needs of each park. They may share space in visitor centers or administrative office buildings, or be housed in completely separate buildings. Incorporation with maintenance facilities should be avoided because of the heightened danger of fire, chemical spills, and similar accidents. Curatorial facilities will meet each collection's special requirements for security, fire suppression, and environmental controls.

The operation of environmental control systems to meet the temperature, relative humidity, particulate, and, as necessary, pollutant control specifications for museum collections are typically more energy intensive than those for structures with staff and offices. In order to ensure energy efficiency and the correct performance of the systems to protect the resource, the thermal performance of the building envelope and the efficiency of the systems must be addressed in facility planning and design. Prior to planning a collections management facility, the park, in consultation with subject-matter specialists, must complete a value analysis that evaluates various options for addressing the collections management needs of the park, including on-site and off-site locations.

*(See Museum Collections 5.3.5.5; Fire Detection, Suppression, and Post-fire Rehabilitation and Protection 5.3.1.2; Environmental Monitoring and Control 5.3.1.4. Also see Director's Order #24: NPS Museum Collections Management)*

#### 9.4.3 Employee Housing

The NPS will rely on the private sector to provide housing for NPS employees. If housing is not available in the private sector, the Service will provide only the number of housing units necessary to support the NPS mission.

Occupancy is permitted or required to provide for timely response to park protection needs, to ensure reasonable deterrence to prevent threats to resources, and to protect the health and safety of visitors and employees. Such prevention or response services will determine acceptable and appropriate locations for employee housing that is provided for the benefit of the government in meeting the NPS mission.

##### 9.4.3.1 Accountability

A needs assessment will be prepared every two years to determine the necessary number of housing units in a park. Park superintendents are accountable to their regional directors for employee housing in their parks. Regional directors are responsible for ensuring the consistent application of Service-wide housing policy.

##### 9.4.3.2 Eligible Residents

Park housing will be provided for persons who are essential to the management and operation of the park. These may include not only NPS employees, but also concession employees, volunteers in the parks, Student Conservation Association volunteers, researchers, essential cooperators (e.g., schoolteachers, health personnel, contractors, state or county employees), and employees of another federal agency.

##### 9.4.3.3 Historic Structures

The use of historic structures for housing is encouraged when NPS managers determine that this use contributes to the preservation of these structures, and when feasible cost-effective alternatives have been considered.

*(See Use of Historic Structures 5.3.5.4.7; Adaptive Use 9.1.1.4)*

##### 9.4.3.4 Housing Management Plans

A housing management plan will be prepared for each park, and be updated every two years (or more frequently, if necessary). The plans will include an assessment of housing needs to meet the mission of the park.

##### 9.4.3.5 Design and Construction:

Because of location, use, and other unique factors, special design concerns must be considered for housing constructed in parks. Housing must be designed to be as much a part of the natural or cultural setting as possible, yet it must be well-built, functional, energy efficient, and cost effective. The design of park housing will minimize impacts on park resources and values, comply with the standards for quality design, and consider regional design and construction influences. Value analysis principles will be applied in all NPS housing construction projects. Design costs will be kept to a minimum by using designs from the NPS Standard Design Catalog and a cost model.

*(See Facility Planning and Design 9.1.1. Also see Director's Orders #36: Housing Management, and #90: Value Analysis)*

#### 9.4.4 Maintenance Structures

Maintenance structures will be consistent in design, scale, texture, and details with other park facilities. Optimally, they will be screened or located in areas remote from public use. Wherever feasible, NPS and concessioner maintenance facilities will be adjacent and integrated in design, to facilitate operations and to reduce impacts on park resources.

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#### 9.4.5 Miscellaneous Management Facilities

When installations such as landing sites and airstrips, fire towers, weather monitors, research stations, communication towers, and pump houses are necessary, they will be located and designed to minimize their impact on resources and their intrusion on the visitor experience. Whenever possible and practicable, such installations will be located within developed park areas. Totally utilitarian facilities, such as maintenance storage yards, sewage lagoons, and solid waste disposal sites—when they absolutely must be developed inside a park—will be sited so as to avoid adverse impacts to resources and provide visual screening. Alternative energy applications and sustainable wastewater treatment facilities, such as aquaculture ponds, wetlands, and rootzone beds, may be located in more visible areas when they are important to interpretive and educational objectives.

*(See Environmental Leadership 1.6; Studies and Collections 4.2; General Policy 6.3.1; Airports and Landing Sites 8.4.8; Facility Planning and Design 9.1.1; Water Supply Systems 9.1.5.1; Wastewater Treatment Systems 9.1.5.2; Waste Management 9.1.6.1; Maintenance Structures 9.4.4)*

### 9.5 Dams and Reservoirs

Dams and reservoirs will not be constructed in parks. The National Park Service will seek to deactivate existing structures unless they contribute to the cultural, natural, or recreational resource bases of the area, or are a necessary part of a park's water supply system.

All dams will be subject to annual safety inspections. Each park with a dam or reservoir will prepare an emergency action plan. The emergency action plan will also address potential hazards posed by dams outside the park and beyond the Service's control. The National Park Service inventory of dams will be used to record all NPS and non-NPS dams and reservoirs, and any other type of stream flow control structures affecting units of the national park system, including those that are proposed or have been deactivated.

*(See Water Quality 4.6.3; Floodplains 4.6.4; Wetlands 4.6.5; Watershed and Stream Processes 4.6.6; Emergency Preparedness and Emergency Operations 8.2.5.2; Water Supply Systems 9.1.5.1; Wastewater Treatment Systems 9.1.5.2. Also see Director's Order #40: Dams and Appurtenant Works)*

### 9.6 Commemorative Works and Plaques

#### 9.6.1 General

For the purpose of this section, the term "commemorative work" means any statue, monument, sculpture, memorial, plaque, or other structure or landscape feature, including a garden or memorial grove, designed to perpetuate in a permanent manner the memory of a person, group, event, or other significant element of history. It also includes the naming of park structures or other features—including features within the interior of buildings. Within the District of Columbia and its environs, the Commemorative Works Act prohibits the establishment of commemorative works unless specifically authorized by Act of Congress. Outside of the District of Columbia and its environs, commemorative works will not be established unless authorized by Congress or approved by the

Director (36 CFR 2.62). The consultation process required by section 106 of NHPA must be completed before the Director will make a decision to approve a commemorative work.

To be permanently commemorated in a national park is a high honor, affording a degree of recognition that implies national importance. At the same time, the excessive or inappropriate use of commemorative works—especially commemorative naming—diminishes its value as a tool for recognizing people or events that are truly noteworthy, and has the potential for diverting attention from the important resources and values which park visitors need to learn about. Therefore, the National Park Service will discourage and curtail the use and proliferation of commemorative works except when:

- Congress has specifically authorized their placement; or
- There is compelling justification for the recognition, and the commemorative work is the best way to express the association between the park and the person, group, event, or other subject being commemorated.

In general, compelling justification for a commemorative work will not be considered unless:

- The association between the park and the person, group, or event is of exceptional importance; and
- In cases where a person or event is proposed for commemoration, at least five years have elapsed since the death of the person (or the last member of a group), or at least 25 years have elapsed since the event. (Within the District of Columbia and its environs, refer to the Commemorative Works Act for more specific requirements.)

Simply having worked in a park, or having made a monetary or other type of donation to a park, does not necessarily meet the test of "compelling justification." In these and similar cases, other forms of recognition should be pursued. Donor recognition must be consistent with Director's Order #21: Donations and Fundraising.

With regard to the naming of park structures, names that meet the criteria listed above may be approved by the Director. Names that do not meet those criteria will require legislative action.

#### 9.6.2 Interpretive Works That Commemorate

The primary function of some commemorative works—most often in the form of a plaque presented by an outside organization—is to describe, explain, or otherwise attest to the significance of a park's resources. These devices are not always the most appropriate medium for their intended purpose, and their permanent installation may not be in the best long-term interests of the park. Therefore, permanent installations of this nature will not be allowed unless it can be clearly demonstrated that the work will substantially increase visitors' appreciation of the significance of park resources or values, and do so more effectively than other interpretive media.

With regard to Civil War parks, new commemorative works will not be approved, except where specifically authorized by legislation. However, consideration may be given to proposals that would commemorate groups that were not allowed to be recognized during the commemorative period.

In those parks where there is legislative authorization to erect commemorative works, superintendents will prepare a plan to control their size, location, materials, and other factors necessary to protect the overall integrity of the park. The plan may include a requirement for an endowment to cover the costs of maintaining the commemorative work.

### 9.6.3 Approval of Commemorative Works

Before being approved, a determination must be made, based on consultation with qualified professionals, that the proposed commemorative work will:

- Be designed and sited to avoid disturbance of natural and cultural resources and values;
- Be located in surroundings relevant to its subject;
- Be constructed of materials suitable to and compatible with the local environment;
- Meet NPS design and maintenance standards;
- Not encroach on any other pre-existing work, or be esthetically intrusive;
- Not interfere significantly with open space and existing public use;
- Not divert attention from a park's primary interpretive theme; and
- Not be affixed to the historic fabric of a structure.

The Director may order the removal or modification of commemorative works that were installed without proper authorization, or that are inconsistent with the policies in this section. Temporary forms of in-park recognition, and permanent forms that will not be constructed or installed within park boundaries, do not require the Director's approval.

The naming of geographic features is subject to approval by the U.S. Board on Geographic Names. NPS proposals for naming geographic features will follow the procedures described in Director's Order #63: Geographic Names.

(Also see Director's Order #67: Copyright and Trademarks; U.S. Board on Geographic Names "Principles, Policies, and Procedures: Domestic Geographic Names")

### 9.6.4 Pre-existing Commemorative Works

Many commemorative works have existed in the parks long enough to qualify as historic features. A key aspect of their historical interest is that they reflect the knowledge, attitudes, and tastes of the persons who designed and placed them. These works and their inscriptions will not be altered, relocated, obscured, or removed, even when they are deemed inaccurate or incompatible with prevailing present-day values. Any exceptions require specific approval by the Director.

### 9.6.5 Donated Commemorative Works

While commemorative works and other forms of in-park permanent recognition will not be used to recognize monetary contributions or other donations to a park or the Service, there may be occasions when an authorized or approved commemorative work will be offered or provided by a private donor. Names of donors will be discouraged from appearing on commemorative works. If they do appear, donor names will be conspicuously subordinate to the subjects commemorated. Donations of commemorative works should include sufficient funds to provide for their installation, and an endowment for their permanent care.

(See *Non-personal Services 7.3.2; Cemeteries and Burials 8.6.10*. Also see Director's Order #64: *Commemorative Works and Plaques*)

### 9.6.6 Commemorative Works in National Cemeteries

Regulations governing commemorative works associated with national cemeteries are found in 36 CFR Part 12; and Director's Order #61: National Cemeteries.

# 10 Commercial Visitor Services

The National Park Service will provide, through the use of concession contracts, commercial visitor services within parks that are necessary and appropriate for visitor use and enjoyment. Concession operations will be consistent with the protection of park resources and values and demonstrate sound environmental management and stewardship.



Public accommodations, facilities, and services must be consistent to the highest practicable degree with the preservation and conservation of park resources and values.

## 10.1 General

Commercial visitor services will be authorized through concession contracts or commercial use authorizations, unless otherwise provided by law. Section 10.2 addresses concession authorizations. Section 10.3 addresses commercial use authorizations.

(Also see *Director's Orders #48A: Concessions Management, and #48B: Commercial Use Authorizations*)

## 10.2 Concessions

### 10.2.1 Concession Policies

Concession operations are subject to the provisions of the National Park Service Concessions Management Improvement Act of 1998; National Park Service regulations published at 36 CFR Part 51; this chapter of NPS Management Policies; and Director's Order #89A: Concession Management, and other specific guidance that may be issued under the Director's authority.

### 10.2.2 Commercial Visitor Services Planning

Commercial visitor services planning will identify the appropriate role of commercial operations in helping parks to achieve desired visitor experiences, and will be integrated into other plans and planning processes.

Concession management plans or commercial services plans will support a park's purpose and significance, exceptional resource values, and visitor experience objectives, and will be consistent with enabling legislation. These plans will also determine whether proposed concession facilities and services are necessary and appropriate, and will consider alternatives. Proposed concession operations must be economically feasible and generally supported by a feasibility study prepared by a qualified individual.

Any concession facilities improvement program, or any service authorized in a concession contract, will be in conformance with the appropriate approved plan(s) for the area being considered. A decision to authorize a park concession will be based on a determination that the facility or service:

- Is necessary and appropriate for the public use and enjoyment of the park in which it is located, and identified needs are not, nor can they be, met outside park boundaries;
- Will be provided in a manner that furthers the protection, conservation, and preservation of the environment, and park resources and values;
- Incorporates sustainable principles and practices in planning, design, siting, construction, utility systems, selection and recycling of building materials, and waste management; and
- Will enhance visitor use and enjoyment of the park without causing unacceptable impacts to park resources or values.

The number, location, and sizes of sites assigned for necessary facilities will be the minimum necessary for proper and satisfactory operation of the facilities, emphasizing compatibility of design; preservation of esthetic values, and natural and cultural resources; and integration of sustainable design concepts.

For information about leasing historic structures for concession purposes, see Director's Order #38: Real Property Leasing.

### 10.2.3 Concession Contracting

Approved standard contract language will be used in all National Park Service concession contracts.

#### 10.2.3.1 Terms and Conditions of Contracts

Concession services will be authorized under concession contracts, unless otherwise authorized by law. The term of a concession contract will generally be 10 years or less. However, the Director may award a contract for a term of up to 20 years if the Director determines that the contract terms and conditions, including the required construction of capital improvements, warrant a longer term. In this regard, the term of concession contracts should be as short as is prudent, taking into account the financial requirements of the concession contract, resource protection, visitor needs, and other factors that the Director may deem appropriate.

#### 10.2.3.2 Modifications

Concession contracts may be modified only by written amendment. Amendments developed after the issuance of a concession contract must be consistent with current National Park Service policies and orders. Unless otherwise authorized by the contract, a concession contract may be amended to provide additional visitor services only if the services are minor and comprise a reasonable extension of the existing services.

#### 10.2.3.3 Extension

Concession contracts may be extended only in accordance with the requirements of 36 CFR Part 51, subpart D. The signature authority for contract extensions or amendments must be consistent with delegations of authority from the Director.

#### 10.2.3.4 Competition

In order to obtain the best service provider and maximize benefits to the government, the National Park Service encourages competition in the awarding of concession contracts. The National Park Service also encourages, through outreach, the participation of American Indian, minority and women-owned businesses when new business activities occur.

#### 10.2.3.5 Third-party Agreements and Sub-concessions

Unless specified in the contract, sub-concession or other third-party agreements, including management agreements, for the provision of visitor services that are required and/or authorized under concession contracts are not permitted. The NPS may also advertise for a new concession contract to provide these additional services.

#### 10.2.3.6 Multi-park Contracts

Concessioners operating in more than one park unit must have separate contracts for each park unit. An exception may be made in the case of those park units having common National Park Service management or where service is provided in contiguous park areas (for example, a pack trip that crosses the boundary of two adjoining parks).

#### 10.2.3.7 Termination

The Service may terminate concession contracts for default and under any other circumstances specified in the concession contract.

## 10.2.4 Concession Operations

### 10.2.4.1 Operating Plans

The operating plan is an exhibit to the concession contract, and will describe operative responsibilities authorized in the contract between the concessioner and the NPS. The plan is reviewed and updated annually by the Service, in accordance with the terms of the contract. Operating plans are considered an integral part of a concessioner's contractual performance compliance.

### 10.2.4.2 Service Type and Quality

It is the objective of the National Park Service that park visitors be provided with high-quality facilities and services. Where appropriate, the concession contract will specify a range of facility, accommodation, and service types that are to be provided at reasonable rates.

### 10.2.4.3 Evaluation of Concession Operations

Concession operations will be evaluated to ensure that park visitors are provided with high-quality services and facilities, which are safe and sanitary, and meet National Park Service environmental, health, safety, and operational standards. As outlined in the Concessioner Operational Evaluation Program, the evaluation results will provide a basis for NPS management to determine whether to continue or terminate a concession contract, and whether a concessioner is eligible to exercise a right of preference in the award of a qualified new concession contract.

### 10.2.4.4 Interpretation by Concessioners

Concessioners will be encouraged to train their employees and, through their facilities and services, to instill in their guests an appreciation of the park, its purpose and significance, its proper and sustainable management, and the stewardship of its resources. When the provision of interpretive services is required by the contract, concessioners will provide formal interpretive training for their employees, or will participate in formal interpretive training that is either offered by the NPS or co-sponsored by the concessioner.

Instilling appreciation of the park in visitors can be accomplished in many ways. For example, it can be accomplished through guided activities; the design, architecture, landscape, and decor of facilities; educational programs; interpretive menu design and menu offerings; and involvement in the park's overall interpretive program. Gift shop merchandise and displays also present opportunities to educate visitors about park history; natural, cultural, and historical resources; and sustainable environmental management.

Concession contracts will require the concessioner to provide all visitor services in a manner that is consistent with, and supportive of, the interpretive themes, goals, and objectives articulated in each park's planning documents, mission statement, and/or interpretive prospectus.

*(See Chapter 7: Interpretation and Education)*

### 10.2.4.5 Merchandise

The National Park Service will approve the nature, type, and quality of merchandise to be offered by concessioners. Although there is no Service-wide list of specific preferred merchandise, priority will be given to those sale items that interpret, and foster awareness and understanding of, the park and its resources. Merchandise should have interpretive labeling, or include other information to indicate how the merchandise is relevant to the park's interpretive theme(s).

Each park with concession activities will have a gift shop mission statement, based on the park's concession service plan or GMP. Concessioners will develop and implement a merchandise plan based on the park's gift-shop mission statement. The merchandise plan must be satisfactory to the Director, and should ensure that merchandise sold or provided reflects the significance of the park, and promotes the conservation of the park's geology; wildlife; plantlife; archeology; local Native American culture; local ethnic culture; historical significance; and other park resources and values. The plan should also integrate pollution prevention and waste-reduction objectives and strategies for merchandise.

Merchandise must be available at a range of prices. Theme-related merchandise manufactured or handcrafted in the United States—particularly in a park's geographic vicinity—will be emphasized. The revenue derived from the sale of United States Indian, Alaska native, native Samoan, and native Hawaiian handcrafts is exempt from any franchise fee payments. Foreign merchandise is not encouraged, but will not be prohibited.

### 10.2.4.6 Artifacts and Specimens

Concessioners will not be permitted to sell any merchandise in violation of laws, regulations, or National Park Service policies. Some merchandise may be determined by the park superintendent to be locally sensitive or inappropriate for sale, and may, at the discretion of the superintendent, be prohibited for retail sale. The sale of original objects, artifacts, or specimens of a historic, archeological, paleontological, or biological nature is prohibited. Replicated historic, archeological, paleontological, or biological objects, artifacts, or specimens may be sold if they are obvious replicas and clearly labeled.

Any geological merchandise that is approved for sale or exhibit by concessioners must be accompanied by appropriate educational material and a written disclaimer clearly stating that such items were not obtained from inside park boundaries. The proposed sale of any replicas, or of geological merchandise, must be addressed in the gift shop merchandise plan.

### 10.2.4.7 Rates

The National Park Service must approve all rates charged to visitors by concessioners. The reasonableness of a concessioner's rates and charges to the public will, unless otherwise provided in the contract, be judged primarily on the basis of comparison with current rates and charges for facilities and services of comparable character under similar conditions. Due consideration will be given to length of season, provision for peak loads, average percentage of occupancy, accessibility, availability and costs of labor and materials, type of patronage, and other factors deemed significant by the Director.

#### 10.2.4.8 Risk Management Program

Concession contracts require each concessioner to develop a risk management program, which is approved by the superintendent, and is in accord with the Occupational Safety and Health Act and the National Park Service Concession Risk Management Program.

Concessioners are responsible for managing all of their operations in a manner that minimizes risk and controls loss due to accident, illness, or injury. To ensure compliance, the Service will include a risk management evaluation as part of its standard operational review of concession operations.

#### 10.2.4.9 Natural and Cultural Resource Management Requirements

Concessioners are required to comply with applicable provisions of all laws, regulations, and policies that apply to natural and cultural resource protection. The use, maintenance, repair, rehabilitation, restoration, or other modification of concession facilities that are listed on or eligible for the National Register of Historic Places are subject to the applicable provisions of all laws, Executive orders, regulations, and policies pertaining to cultural properties.

The National Park Service will assist concessioners in understanding and complying with regulations for the protection of historic properties (36 CFR Part 800) promulgated by the Advisory Council on Historic Preservation. Historic structures and their contents and museum objects that are in the control of concessioners will be treated in accordance with the appropriate standards contained in National Park Service guidance documents.

*(See Chapter 4, Natural Resource Management; Use of Historic Structures 5.3.5.4.7. Also see Reference Manual 24: the Museum Handbook, and 28: the Cultural Resource Management Guideline; Director's Order #38: Real Property Leasing, and #48A: Concessions Management)*

#### 10.2.4.10 Environmental Program Requirements

In the operation of visitor services, concessioners will be required by contract to meet environmental compliance objectives by:

- Complying with all applicable laws pertaining to the protection of human health and the environment; and
- Incorporating best management practices (BMPs) in all operations, construction, maintenance, acquisition, provision of visitor services, and other activities under the contract.

Concessioners will be required by contract to develop, document, implement, and comply fully with, to the satisfaction of the Director, a comprehensive, written environmental management program (EMP) to achieve environmental management objectives. The EMP must be updated at least annually, and must be approved by the Director.

The EMP must account for all activities with potential environmental impacts conducted by the concessioner, or to which the concessioner contributes. The scope and complexity of the EMP may vary based on the type, size, and number of concessioner activities.

Superintendents are encouraged to require the EMP to be submitted as part of the prospectus package. The National Park Service will review concessioner compliance with the EMP under the contract. The National Park Service will also conduct environmental compliance audits of all commercial visitor services at least every three years in accordance with the concessions environmental audit program. The concessioner will be responsible for corrective actions required by law, and identified during the environmental compliance audits.

The National Park Service will assist concessioners in understanding environmental program requirements, and will also include an environmental management evaluation as part of its annual standard operational reviews of concession operations.

*(See Compensation for Injuries to Natural Resources 4.1.6; Compensation for Damages 5.3.1.3; Integrated Pest Management Program 4.4.5.2; Overnight Accommodations and Food Services 9.3.2. Also see Director's Order #83: Public Health)*

#### 10.2.4.11 Insurance

Concession contracts will identify the types and minimum amounts of insurance coverage required of concessioners in order to:

- provide reasonable assurance that concessioners have the ability to cover bona fide claims for bodily injury, death, or property damage arising from an action or omission of the operator;
- protect the government against potential liability
- protect the government against potential liability for claims based on the negligence of the operators; and
- enable rapid repair or replacement of essential visitor facilities located on park lands that are damaged or destroyed by fire or other hazards.

Concessioners will not be permitted to operate without liability insurance. Under limited conditions, concessioners may operate without property insurance, as described in Director's Order #48A: Concession Management.

#### 10.2.4.12 Food Service Sanitation Inspections

Concessioners who prepare food on or off park lands, or serve food on park lands will be subject to inspection for compliance with all applicable health and sanitation requirements of local and state agencies, the U.S. Public Health Service, and the Food and Drug Administration.

*(Also see Director's Order #83: Public Health)*

#### 10.2.4.13 Smoking

Generally, all NPS concession facilities will be smoke free. The only exceptions will be specifically designated smoking areas and rooms. The sale of tobacco products through vending machines is prohibited.

*(See Executive Order 13058 (Protecting Federal Employees and the Public from Exposure to Tobacco Smoke in the Federal Workplace))*

### 10.2.5 Concessions Financial Management

Concession contracts must provide for payment to the government of a franchise fee, or other monetary consideration as determined by the Secretary, upon consideration of the probable value to the concessioner of the privileges granted by the particular contract involved. Such probable value will be based upon a reasonable opportunity for net profit in relation to capital invested and the obligations of the contract. Consideration of revenue to the United States is subordinate to the objectives of protecting and preserving park areas and of providing necessary and appropriate services for visitors at reasonable rates.

#### 10.2.5.1 Franchise Fees

The amount of the franchise fee or other monetary consideration paid to the United States for the term of the concession contract must be specified in the concession contract and may only be modified to reflect extraordinary unanticipated changes from the conditions anticipated as of the effective date of the contract. Contracts with a term of more than five years will include a provision that allows reconsideration of the franchise fee at the request of the Secretary or the concessioner in the event of such extraordinary unanticipated changes. Such provision will provide for binding arbitration in the event that the Secretary and the concessioner are unable to agree upon an adjustment to the franchise fee in these circumstances.

#### 10.2.5.2 Franchise Fee Special Account

All franchise fees and other monetary considerations will be deposited into a Department of the Treasury special account. In accordance with the NPS Concessions Management Improvement Act of 1998, twenty percent (20%) will be available to support activities throughout the national park system, and eighty percent (80%) will be available to the park unit in which it was generated, for visitor services and funding high-priority and urgently necessary resource management programs and operations.

#### 10.2.5.3 Record-keeping System

All concessioners will establish and maintain a system of accounts and a record-keeping system that utilize written journals and general ledger accounts to facilitate the preparation of annual concessioner financial reports.

#### 10.2.5.4 Annual Financial Reports

Concessioners will be required to submit an annual financial report that reflects only the operations that they are authorized to pursue.

#### 10.2.5.5 Donations to the NPS

The National Park Service will not solicit or accept donations or gifts from entities that have, or are seeking to obtain or establish a contract, lease, or other business arrangement with the Service. Nor will the NPS require any concessioner to donate or make contributions to the Service under any circumstance, including the incorporation of such a requirement in concession contracts. Further guidance on donations is available in Director's Order #21: Donations and Fundraising.

### 10.2.6 Concession Facilities

#### 10.2.6.1 Design

Concession facilities will be of a size and at a location that the Service determines to be necessary and appropriate for their intended purposes. All concession facilities must comply with applicable federal, state, and local construction codes, and meet accessibility requirements as set forth in applicable accessibility guidelines. Proposed concession facilities must conform to NPS standards for sustainable design, universal design, and architectural design. Concession development or improvement proposals must undergo review for compliance with NEPA and section 106 of NHPA (16 USC 470f), and be carried out in a manner consistent with applicable provisions of the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, and other applicable legal requirements.

In addition to general park design requirements, the NPS will apply value analysis during the design process to analyze the functions of facilities, processes, systems, equipment, services, and supplies. Value analysis must be used to help achieve essential functions at the lowest life-cycle cost, consistent with required performance, reliability, environmental quality, and safety criteria and standards.

*(See Facility Planning and Design 9.1.1)*

#### 10.2.6.2 Accessibility of Commercial Services

Concessioners share the National Park Service's responsibility to provide employees and visitors with the greatest degree of access to programs, facilities, and services that is reasonable, within the terms of existing contracts and agreements. Applicable laws include, but are not limited to (1) regulations issued under the authority of section 504 of the Rehabilitation Act of 1973, as amended (43 CFR Part 17), which prohibits discrimination on the basis of disability in programs or activities conducted by federal executive agencies; and (2) the Architectural Barriers Act of 1968, which requires physical access to buildings and facilities. Where there is no specific language identifying applicable accessibility laws in an existing concession contract, the NPS will address the issue of compliance in the annual concession operating plan.

*(See Physical Access for Persons with Disabilities 5.3.2; Accessibility for Persons with Disabilities 8.2.4 and 9.1.2. Also see Director's Order #42: Accessibility for Visitors with Disabilities)*

#### 10.2.6.3 Maintenance

Concession contracts will require concessioners to be responsible for all maintenance and repair of facilities, lands, and utility systems assigned for their use, in accordance with standards acceptable to the Service. Exceptions will be made only in extraordinary circumstances, as determined by the Director. All concession contracts must include a current maintenance plan as specified in the concession contract. Maintenance plans are an exhibit to the concession contract and will be considered an integral part of a concessioner's contractual performance compliance.



Maintenance of historic properties and cultural landscapes will be carried out in a manner consistent with applicable provisions of the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation.

#### **10.2.6.4 Utilities and Services**

Utilities include, but are not limited to, electricity, fuel, natural gas, water, disposal of wastewater and solid waste, and communication systems. The Service may provide utilities to the concessioner for use in connection with the operations required or authorized under the contract, when available, at rates to be determined in accordance with applicable laws. If the Service does not provide utilities to the concessioner, the concessioner will, with the written approval of the Director, and under any requirements prescribed by the Director, (1) secure necessary utilities at its own expense from sources outside the area; or (2) install the utilities within the area, subject to conditions mentioned in the contract.

*(Also see Director's Order #35B: Sale of Park Utilities and Services to Support Activities Within Parks)*

#### **10.2.6.5 Closure of Commercial Operations During Government Shutdown**

The Anti-Deficiency Act requires federal agencies to suspend all non-essential activities whenever there is a failure to enact an appropriations bill or adopt a continuing resolution. All concessioner-operated programs and services must cease, and visitors must be asked to leave within 48 hours.

All commercial facilities and services in a park will be closed in order to protect the safety of visitors and the integrity of park resources. Exceptions to this policy include concessions that are required for health and safety purposes or protection of the environment, or necessary to support park operations that are deemed essential, such as law enforcement.

Commercial facilities located on through-roads (roads or public highways that begin and end outside of a park, plus parkways) and public highways may remain open if doing so does not result in additional costs to the park (for example, the staffing of entrance stations). These commercial facilities may include operations such as service stations, food services, stores, and lodging, or portions of such operations that will not contribute to additional park expenses. The commercial facility in question should have access directly from the road or highway, and not require the re-opening of park roads having other destinations.

More specific aspects of closures may be guided by a Service-wide shutdown plan.

#### **10.2.7 Concessioner Employees and Employment Conditions**

##### **10.2.7.1 Non-discrimination**

Concessioners will comply with all applicable laws and regulations relating to nondiscrimination in employment and the provision of services to the public.

##### **10.2.7.2 Substance Abuse**

In compliance with state and federal regulations condemning substance abuse, the NPS prohibits the unlawful possession, use, or distribution of illicit drugs and alcohol. The Service also prohibits the unlawful manufacture, cultivation, processing, or transportation of illicit drugs. This policy applies to concessioners and their employees, at any facility or in any activity taking place on National Park Service lands. Concessioners are required to provide and advise employees about the availability of Employee Assistance Programs addressing substance abuse problems.

#### **10.2.8 National Park Service Employees**

##### **10.2.8.1 Accepting Gifts and Reduced Rates from Concessioners**

National Park Service employees may not receive concessioner goods or services at a discount unless it is in connection with official business, is to the government's advantage, and is provided for under the terms of a concession contract. However, employees may accept reduced rates or discounts offered by the concessioner when those same reduced rates or discounts are available to the general public.

National Park Service employees may not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value from a concessioner or other person who conducts operations and activities that are regulated by the Department of the Interior. Employees should consult with their assistant ethics counselor regarding the limited exceptions to the general prohibition on accepting gifts from outside sources.

##### **10.2.8.2 Employment of NPS Personnel or Family Members by Concessioners**

Federal law prohibits government employees from making recommendations, decisions, or approvals relating to applications, contracts, controversies, or other matters in which the employee or the employee's spouse or minor child has a financial interest. Park employees may not make decisions, approvals, or recommendations related to concession activities when their spouse or dependent child is employed by a park concessioner in that particular park. For example, the spouse or dependent child of the superintendent, assistant superintendent, concession staff, environmental manager, or public health specialist may not be employed by a concessioner in the specific park in which the NPS employee works.

*(Also see Director's Order #37: Home Businesses in Parks)*

##### **10.2.8.3 NPS Employee Ownership or Investment in Concession Businesses**

Department of the Interior policy prohibits employees and their spouses and minor children from acquiring or retaining for commercial purposes any permit, lease, or other rights granted by the Department for conducting commercial services on federal lands. Therefore, no National Park Service concession contract or commercial use authorization to conduct commercial services in a park will be issued to

National Park Service employees or their spouses and minor children who are owners, partners, corporate officers, or general managers of any business seeking such a contract in federal land managed by the Department of the Interior. Further, to avoid the appearance of partiality and conflicts of interest, and to comply with ethics laws that apply to all federal employees, National Park Service employees may not work on any matter involving a business in which they, their spouse, or their minor children have a financial interest.

#### **10.2.8.4 Concession Management Personnel Qualifications**

To effectively carry out the concession management program, managers and supervisors will make every effort to ensure that personnel selected for positions meet the essential competencies established for the position being filled. When concession management personnel lack the full complement of essential competencies or require refresher training for their position, managers and supervisors will ensure that those employees are trained and certified as competent. All personnel vacancy announcements issued for concession management must include program competencies.

### **10.3 Commercial Use Authorizations**

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Commercial Use Authorizations (CUAs) may be issued under the authority of 16 USC 5966. CUAs are not considered concessions contracts.

As of the date of publication of this edition of *Management Policies*, the NPS has not yet issued policies or regulations for the administration of CUAs. However, the applicable provisions of law are quite prescriptive and should be carefully considered. A more detailed discussion of CUAs will be included at a later date in implementing regulations and Director's Order 48B: Commercial Use Authorizations.

# Appendix A

## Laws Cited in Text

<b>Abandoned Shipwreck Act of 1987</b> 43 USC 2101—2106; PL 100-298	<b>Federal Advisory Committee Act (FACA)</b> 5 USC App. 1—16; PL 92-463
<b>(commonly known as the Acquired Lands Mineral Leasing Act)</b> 30 USC 301—306; May 21, 1930, ch. 307, 46 Stat. 373	<b>Federal Cave Resources Protection Act of 1988 (FCRPA)</b> 16 USC 4301—4310; PL 100-691
<b>Administrative Procedure Act (APA)</b> 5 USC 551 et seq. <sup>2</sup> ; June 11, 1946, ch. 324, 60 Stat. 237	<b>Federal Insecticide, Fungicide and Rodenticide Act</b> 7 USC 136—136y; PL 92-516
<b>Alaska National Interest Lands Conservation Act (ANILCA)</b> 16 USC 3101—3233; PL 96-487	<b>Federal Managers' Financial Integrity Act of 1982</b> 31 USC 3512(d); PL 97-255, 97-258
<b>American Indian Religious Freedom Act (AIRFA)</b> 42 USC 1996—1996a; PL 95-341, 103-344	<b>Federal Water Pollution Control Act (commonly known as the Clean Water Act)</b> 33 USC 1251—1387; PL 92-500, 95-217
<b>Americans with Disabilities Act of 1990 (ADA)</b> 42 USC 12101—12213; PL 101-336	<b>Freedom of Information Act (FOIA)</b> 5 USC 552; PL 89-554, 90-23
<b>Animal Welfare Act</b> 7 USC 2131—2159; PL 89-544, 94-279	<b>General Mining Act of 1872</b> 30 USC 22 et seq. <sup>3</sup> ; May 10, 1872, ch. 152, 17 Stat. 91
<b>Anti-Deficiency Act</b> 31 USC 1341; July 12, 1870, ch. 251, 16 Stat. 251, PL 97-258	<b>Geothermal Steam Act of 1970</b> 30 USC 1001—1028; PL 91-581, 100-443
<b>Antiquities Act of 1906</b> 16 USC 431—433; June 8, 1906, ch. 3060, 34 Stat. 225	<b>Government Performance and Results Act of 1993 (GPRA)</b> 31 USC 1115 et seq. <sup>4</sup> ; PL 103-62
<b>Archaeological Resources Protection Act of 1979 (ARPA)</b> 16 USC 470aa—470mm; PL 96-95	<b>Hazardous Materials Transportation Act</b> 49 USC 5101—5127; PL 93-633, 101-615, 103-311
<b>Architectural Barriers Act of 1968</b> 42 USC 4151—4157; PL 90-480	<b>Historic Sites, Buildings and Antiquities Act</b> 16 USC 461—467; Aug. 21, 1935, ch. 593, 49 Stat. 666
<b>Clean Air Act</b> 42 USC 7401—7671q; PL 88-206	<b>Land and Water Conservation Fund Act of 1965</b> 16 USC 460l-4—460l-11; PL 88-578
<b>Coastal Zone Management Act of 1972 (CZMA)</b> 16 USC 1451—1465; PL 89-454, 92-583	<b>Mineral Leasing Act</b> 30 USC 181—287; Feb. 25, 1920, ch. 85, 41 Stat. 437
<b>Commemorative Works Act</b> 40 USC 1001—1010; PL 99-652	<b>Mining in the Parks Act</b> 16 USC 1901—1912; PL 94-429
<b>Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA)</b> 42 USC 9601—9675; PL 96-510	<b>(commonly known as the Museum Act)</b> 16 USC 18f—18f-3; July 1, 1955, ch. 259, 69 Stat. 242, PL 104-333 <sup>5</sup>
<b>Endangered Species Act of 1973</b> 16 USC 1531—1544; PL 93-205	<b>National Cemeteries Act of 1973</b> 38 USC 2400—2410; PL 93-43
<b>Energy Policy Act of 1992</b> 42 USC 13201—13556; PL 102-486	

**National Environmental Policy Act of 1969 (NEPA)**  
42 USC 4321—4370d; PL 91-190

**National Historic Preservation Act (NHPA)**  
16 USC 470—470x-6; PL 89-665, 96-515

**National Parks Air Tour Management Act of 2000**  
114 Stat. 61; PL 106-181 (title VIII)

**National Parks Omnibus Management Act of 1998**  
16 USC 5901—6011<sup>8</sup>; PL 105-391

**National Park Service Concessions Management Improvement Act of 1998**  
16 USC 5951—5966; PL 105-391 (title IV)

**National Park Service Organic Act**  
16 USC 1—4; Aug. 25, 1916, ch. 408, 39 Stat. 535

**National Park System General Authorities Act**  
16 USC 1a-1 et seq.<sup>7</sup>; PL 91-383, 94-458, 95-250<sup>8</sup>

**(commonly known as the National Park System Resource Protection Act)**  
16 USC 19jj—19jj-4; PL 101-337, 104-333

**National Trails System Act**  
16 USC 1241—1251; PL 90-543, 98-11

**Native American Graves Protection and Repatriation Act (NAGPRA)**  
25 USC 3001—3013; PL 101-601

**Occupational Safety and Health Act of 1970**  
29 USC 651—678; PL 91-596<sup>9</sup>

**Oil Pollution Act of 1990**  
33 USC 2701—2761; PL 101-380

**(commonly known as the Omnibus Consolidated Appropriations Act, 1997)**  
16 USC 1g et seq.<sup>10</sup>; PL 104-208

**Privacy Act of 1974**  
5 USC 552a; PL 93-579

**Rehabilitation Act of 1973**  
29 USC 701—797b; PL 93-112, 105-220

**Rivers and Harbors Appropriation Act of 1899**  
33 USC 401 et seq.<sup>11</sup>; Mar. 3, 1899, ch. 425, 30 Stat. 1121

**The Robert T. Stafford Disaster Relief and Emergency Assistance Act**  
42 USC 5121—5204c<sup>12</sup>; PL 93-288, 100-707, 103-337

**Solid Waste Disposal Act**  
42 USC 6901—6992k; PL 89-272, 94-580<sup>13</sup>, 98-616<sup>14</sup>

**Stevenson-Wydler Technology Innovation Act of 1980**  
15 USC 3701—3717; PL 96-480, PL 99-502<sup>15</sup>

**Surface Mining Control and Reclamation Act of 1977**  
30 USC 1201—1328; PL 95-87

**Telecommunications Act of 1996**  
47 USC 332 note; PL 104-104<sup>16</sup>

**Toxic Substances Control Act**  
15 USC 2601—2692; PL 94-469

**Volunteers in the Parks Act of 1969**  
16 USC 18g—18j; PL 91-357

**Wild and Scenic Rivers Act**  
16 USC 1271—1287; PL 90-542

**Wilderness Act**  
16 USC 1131—1136; PL 88-577

1 The United States Code (USC) can be accessed on the Internet, e.g., at <[www4.law.cornell.edu/uscode/](http://www4.law.cornell.edu/uscode/)>. Similarly, the text of Public Laws enacted by the 101st or a later Congress (1989 onward) can be accessed at the Library of Congress's THOMAS website, <[thomas.loc.gov/](http://thomas.loc.gov/)>.

2 Act of June 11, 1946, ch. 324, has been codified to 5 USC §§551—559, 701—706, 1305, 3105, 3344, 4301, 5335, 5372, and 7521

3 The General Mining Act of 1872 was the basis of 30 USC §§22-24, 26-30, 33-35, 37, 39-43, and 47.

4 PL 103-62 was codified to: 5 USC 306; 31 USC 1105(a)(29), 1115—1119, 9703, 9704; and 39 USC 2801—2805.

5 Section 804 of division 1, title VIII of PL 104-333, the Omnibus Parks and Public Lands Management Act of 1996, amended 16 USC 18f, and enacted §§18f-2 and 18f-3.

6 In addition to enacting §§19o and 5901—6011 of title 16, PL 105-391 amended 16 USC 1a-2, 1a-5, 1a-7, and 3, and repealed 16 USC 17b-1, 20, and 20a—20g.

7 PL 91-383, as originally enacted, added §§1a-1 and 1a-2, and amended §§1b and 1c, of title 16.

8 PL 95-250, an act expanding Redwood National Park, also amended the National Park System General Authorities Act by adding the second and third sentences to 16 USC 1a-1.

9 PL 91-596 enacted 29 USC 651—678 and 42 USC 3142-1, and amended 29 USC 553, 5 USC 5108, 5314, 5315, and 7902, 15 USC 633 and 636, 18 USC 1114, and §1421 of former title 49.

10 The Omnibus Consolidated Appropriations Act, 1997 enacted §§1g and 1011 of title 16, and amended §§ 773, 773c, 917, 917a, 971, 971b, 971d, 971e, 972c, 973a, 1362, 1371, 1383a, 1387, 1417, 1432, 1445a, 1827, 2803, 2804, 3125, 3343, 3373, 3377, 3631, 4120, 5102, 5103, 5106, 5107a, 5107b, 5503, 5504 and 5609 of the same title.

11 The Rivers and Harbors Appropriation Act of 1899 was codified to 33 USC §§401, 403, 404, 406 — 409, 411—416, 418, 502, 549 note, 686, and 687.

12 The Federal Civil Defense Act of 1950, 50 USC App. 2251—2303, was repealed, and restated in title VI (42 USC 5195—5197g) of The Robert T. Stafford Disaster Relief and Emergency Assistance Act, by PL 103-337.

13 The Solid Waste Disposal Act was amended and essentially re-written by PL 94-580, the Resource Conservation and Recovery Act of 1976.

14 PL 98-616, the Hazardous and Solid Waste Amendments of 1984, enacted §§6917, 6936 to 6939a, 6949a, 6979a, 6979b, and 6991 to 6991i of title 42 of the US Code (and provisions set out as notes to §§6905, 6921 and 6926), and amended §§6901, 6902, 6905, 6912, 6915, 6916, 6921 to 6933, 6935, 6941 to 6945, 6948, 6956, 6962, 6972, 6973, 6976, 6982 and 6984 of the same title.

15 PL 99-502, the Federal Technology Transfer Act of 1986, enacted 15 USC §§3710a—3710d, and amended other provisions of the broader Stevenson-Wydler Act.

16 The provision of the Telecommunications Act of 1996 dealing with the granting of rights-of-way, etc., by federal departments and agencies to wireless telecommunications providers is §704(c), title VII, of PL 104-104.

# Appendix B

## Executive Orders and Memoranda

**Executive Order No. 11644 (Use of Off-road Vehicles on Public Lands)**

Feb. 8, 1972, 37 FR 2877, as amended by **Ex. Ord. No. 11989**, May 24, 1977, 42 FR 26959; **Ex. Ord. No. 12608**, Sept. 9, 1987, 52 FR 34617 [42 USC 4321]<sup>1</sup>

**Executive Order No. 11988 (Floodplain Management)**

May 24, 1977, 42 FR 26951, as amended by **Ex. Ord. No. 12148**, July 20, 1979, 44 FR 43239 [42 USC 4321]

**Executive Order No. 11990 (Protection of Wetlands)**

May 24, 1977, 42 FR 26961, as amended by **Ex. Ord. No. 12608**, Sept. 9, 1987, 52 FR 34617 [42 USC 4321]

**Memorandum on Government-to-Government Relations with Native American Tribal Governments**

April 29, 1994, 59 FR 22951 [25 USC 450]

**Executive Order No. 13006 (Locating Federal Facilities on Historic Properties in Our Nation's Central Cities)**

May 21, 1996, 61 FR 26071 [40 USC 601a]

**Executive Order No. 13007 (Indian Sacred Sites)**

May 24, 1996, 61 FR 26771 [42 USC 1996]

**Executive Order No. 13031 (Federal Alternative Fueled Vehicle Leadership)**

Dec. 13, 1996, 61 FR 66529 [42 USC 13212]

**Executive Order No. 13058 (Protecting Federal Employees and the Public from Exposure to Tobacco Smoke in the Federal Workplace)**

August 9, 1997, 62 FR 43451 [5 USC 7301]

**Executive Order No. 13101 (Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition)**

Sept. 14, 1998, 63 FR 49643 [42 USC 6961]

**Executive Order No. 13112 (Invasive Species)**

Feb. 3, 1999, 64 FR 6183

**Executive Order No. 13123 (Greening the Government Through Efficient Energy Management)**

June 3, 1999, 64 FR 30851

**Executive Order No. 13148 (Greening the Government Through Leadership in Environmental Management)**

April 21, 2000, 65 FR 24595

**Executive Order No. 13149 (Greening the Government Through Federal Fleet and Transportation Efficiency)**

April 21, 2000, 65 FR 24607

**Executive Order No. 13175 (Consultation and Coordination with Indian Tribal Governments)**

November 6, 2000, 65 FR 67249 [25 USC 450]

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<sup>1</sup> The citation in brackets indicates where the Executive Order or Memorandum may be found in notes to the US Code.

# Appendix C

## Director's Orders

Director's Orders provide guidance for implementing certain aspects of NPS *Management Policies*, and are used as a vehicle for updating *Management Policies* between publishing dates. In many cases, Director's Orders are further supplemented by handbooks or reference manuals.

Director's Orders marked with an asterisk (\*) in this list have not been completed as of the publication date of *Management Policies*. Copies of those that have been completed, and those that are completed or added in the future, may be obtained by contacting the NPS Office of Policy or the appropriate NPS program office, or by accessing the NPS World Wide Web site at <http://www.nps.gov/refdesk/policies.html>.

Please note that the numbers assigned to some of the Director's Orders on this list may be revised as the Directives system evolves in the future. A status chart at the web site should be consulted for the most current listing of Director's Orders.

1. National Park Service Directives System
2. Park Planning
3. Delegation of Authority\*
4. Diving Management
5. Paper and Electronic Communications
6. Interpretation\*
7. Volunteers in Parks\*
8. Budget and Programming\*
9. Law Enforcement Program
- 10A. Design and Construction Drawings\*
- 10B. Drawing and Map Numbers\*
11. Information Management\*
12. Conservation Planning and Environmental Impact Analysis
13. Environmental Leadership\*
14. (reserved)
15. NPS Wireless Spectrum Management
- 16A. Reasonable Accommodation for Applicants and Employees with Disabilities
- 16B. Diversity in the Workplace\*
- 16C. Discrimination Complaints Process\*
17. National Park Service Tourism
18. Wildland Fire Management
19. Records Management\*
20. Agreements
21. Donations and Fundraising
22. Fee Collection\*
23. (reserved)
24. NPS Museum Collections Management
25. Land Protection\*
26. Youth Programs\*
27. Challenge Cost-share Program\*
28. Cultural Resource Management
29. Ethnography Program\*
- 30A. Hazard and Solid Waste Management\*
- 30B. Hazardous Spill Response\*
- 30C. Damage Assessments\*
31. Travel Procedures\*
32. Cooperating Associations
33. Archeology\*
34. (reserved)
- 35A. Sale or Lease of Park Services, Resources, or Water in Support of Activities Outside the Boundaries of National Park Areas
- 35B. Sale of Park Utility Services to Support Activities Within the Boundaries of National Park Areas\*
36. Housing Management\*
37. Home Businesses in Parks\*
38. Real Property Leasing\*
39. (reserved)
40. Dams and Appurtenant Works\*
41. Wilderness Preservation & Management
42. Accessibility for Visitors with Disabilities
43. Uniform Program
44. Personal Property Management
- 45-1. National Scenic and Historic Trails\*
46. Wild and Scenic Rivers\*
47. Soundscape Preservation and Noise Management
- 48A. Concession Management\*
- 48B. Commercial Use Authorizations\*
49. (reserved)
- 50A. Workers' Compensation Case Management
- 50B. Occupational Safety and Health
- 50C. Visitor Safety\*
51. Emergency Medical Services\*
- 52A. Communicating the NPS Mission
- 52B. Graphic Design Standards\*
- 52C. Park Signs\*
- 52D. Use of the Arrowhead Symbol\*
53. Special Park Uses
54. Management Accountability\*
55. (reserved)
56. International Affairs\*
57. Occupational Medical Standards, Health and Fitness
58. Structural Fire Management
59. (reserved)
60. Aviation Management\*
61. National Cemeteries\*
62. Property Acquisition\*
63. Geographic Names\*
64. Commemorative Works and Plaques\*
65. Explosives Use and Blasting Safety
66. Freedom of Information Act and Protected Resource Information\*
67. Copyright and Trademarks\*
68. Notification Protocol For Conduct of Employee Investigations
69. Serving on Boards of Directors\*
70. Internet and Intranet Publishing
- 71A. Relationships with American Indians and Alaska Natives\*
- 71B. Indian Sacred Sites\*
72. (reserved)
73. (reserved)
74. Studies and Collecting\*
75. Media Relations\*
76. Legislative Affairs Program\*
- 77-1. Wetland Protection
- 77-2. Floodplain Management
- 77-3. Domestic and Feral Livestock Management\*
- 77-4. Substances Used for Wildlife Management and Research
- 77-5. (reserved)
- 77-6. (reserved)
- 77-7. Integrated Pest Management
- 77-8. Endangered Species
- 77-9. In-park Borrow Material
78. Social Science\*
79. Relocation Policies and Procedures\*
80. Facility Management Program\*
81. Maintenance Management Program\*
82. Public Use Reporting\*
83. Public Health
84. Library Resources\*
85. Garnishments and Levies\*
86. (reserved)
- 87A. Park Roads and Parkways\*
- 87B. Alternative Transportation Systems\*
- 87C. Transportation System Funding\*
- 87D. Non-NPS Federal Aid Roads.
88. Preparing Administrative Records\*
89. Space Management\*
90. Value Analysis\*
91. Advisory Boards and Commissions\*
92. Human Resources\*
93. Conflict Resolution\*
94. Appeals and Hearings\*

# Glossary

A list of terms relevant to managing the national parks is provided below. Although not exhaustive, this glossary highlights some of the key terms and evolving concepts that are important to understanding National Park Service management policies and principles. Further definitions may be obtained from Director's Orders and Reference Manuals that are either published or will soon be available. Statutory definitions can be accessed on-line, e.g., at [www4.law.cornell.edu/uscode/](http://www4.law.cornell.edu/uscode/).

## Abbreviations

**ACHP** Advisory Council on Historic Preservation  
**ANILCA** Alaska National Interest Lands Conservation Act  
**ATMP** Air Tour Management Plan  
**BMP** Best Management Practice  
**CFR** Code of Federal Regulations  
**CIP** Comprehensive Interpretive Plan  
**CRM** Cultural Resource Management (plan)  
**CUA** Commercial Use Authorization  
**DM** Department of the Interior Manual  
**EA** Environmental Assessment  
**EFOIA/FOIA** Electronic Freedom of Information/Freedom of Information Act  
**EIS** Environmental Impact Statement  
**ESA** Endangered Species Act of 1973  
**FR** Federal Register  
**GIS** Geographic Information System  
**GPRA** Government Performance and Results Act of 1993  
**GMP** General Management Plan  
**ICS** Incident Command System  
**IPM** Integrated Pest Management  
**LPP** Land Protection Plan  
**LWCF** Land and Water Conservation Fund  
**NAGPRA** Native American Graves Protection and Repatriation Act  
**NEPA** National Environmental Policy Act of 1969  
**NHPA** National Historic Preservation Act  
**NIMS** National Incident Management System  
**NMFS** National Marine Fisheries Service  
**PL** Public Law  
**USC** United States Code  
**VERP** Visitor Experience and Resource Protection

## Definition of Key Terms

**Accessibility**—the provision of NPS programs, facilities, and services in ways that include individuals with disabilities, or makes available to those individuals the same benefits available to persons without disabilities. See also, "universal design."

**Accession**—a transaction whereby a museum object or specimen is acquired for a museum collection. Accessions include gifts, exchanges, purchases, field collections, loans, and transfers.

**Administrative record**—the "paper trail" that documents an agency's decision-making process and the basis for the agency's decision. It includes all materials directly or indirectly considered by persons involved in the decision-making process. These are the documents that a judge will review to determine whether the process and the resulting agency decision were proper.

**Archeological resource**—any material remains or physical evidence of past human life or activities which are of archeological interest, including the record of the effects of human activities on the environment. An archeological resource is capable of revealing scientific or humanistic information through archeological research.

**Backcountry**—refers to primitive, undeveloped portions of parks, some of which may be categorized as "wilderness."

**Best management practices (BMPs)**—practices that apply the most current means and technologies available to not only comply with mandatory environmental regulations, but also maintain a superior level of environmental performance. See also, "sustainable practices/principles."

**Carrying capacity (visitor)**—the type and level of visitor use that can be accommodated while sustaining the desired resource and visitor experience conditions in a park.

**Commemorative work**—any statue, monument, sculpture, plaque, memorial, or other structure or landscape feature, including a garden or memorial grove, designed to perpetuate the memory of a person, group, event, or other significant element of history

**Consultation**—a discussion, conference, or forum in which advice or information is sought or given, or information or ideas are exchanged. Consultation generally takes place on an informal basis; formal consultation requirements for compliance with section 106 of NHPA are published in 36 CFR Part 800

**(OD)**—the document substantiate a decision (e.g., an EIS). When a detailed discussion is for not adopting all analyzed.

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or "unit manager."

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of the natural environ-  
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tions will have the same  
, "environmental lead-  
agement practices "

**Traditional**—pertains to recognizable, but not necessarily identical, cultural patterns transmitted by a group across at least two generations. Also applies to sites, structures, objects, landscapes, and natural resources associated with those patterns. Popular synonyms include "ancestral" and "customary."

**Traditionally associated peoples**—may include park neighbors, traditional residents, and former residents who remain attached to a park area despite having relocated. For purposes of these *Management Policies*, social/cultural entities such as tribes, communities, and kinship units are "traditionally associated" with a particular park when (1) the entity regards park resources as essential to its development and continued identity as a culturally distinct people; (2) the association has endured for at least two generations (40 years); and (3) the association began prior to establishment of the park.

**Traditional cultural property**—a property associated with cultural practices, beliefs, the sense of purpose, or existence of a living community that is rooted in that community's history or is important in maintaining its cultural identity and development as an ethnically distinctive people. Traditional cultural properties are ethnographic resources eligible for listing in the National Register.

**Universal design**—the design of products and environments to be usable by all people to the greatest extent possible, without the need for adaptation or specialized design.

**Value analysis/value engineering**—an organized, multi-disciplined team effort that analyzes the functions of facilities, processes, systems, equipment, services, and supplies for the purpose of achieving essential functions at the lowest life-cycle cost consistent with required performance, reliability, quality, and safety.

**Visitor**—defined as anyone who uses a park's interpretive and educational services, regardless of where such use occurs (e.g., via Internet access, library, etc.).

#### **Visitor Experience and Resource**

**Protection (VERP) framework**—a visitor carrying capacity planning process applied to determine the desired resource and visitor experience conditions, and used as an aid to decision-making.

**Waiver (of policy)**—an exemption from a particular policy provision. A waiver may be granted only by the Director of the National Park Service or a higher authority (e.g., the Secretary of the Interior)

**Cooperating associations**—private, non-profit corporations established under state law which support the educational, scientific, historical, and interpretive activities of the NPS in a variety of ways, pursuant to formal agreements with the Service.

**Critical habitat**—specific areas within a geographical area occupied by a threatened or endangered species which contain those physical or biological features essential to the conservation of the species, and which may require special management considerations or protection; and specific areas outside the geographical area occupied by the species at the time of its listing, upon a determination by the Secretary of the Interior that such areas are essential for the conservation of the species.

**Cultural landscape**—a geographic area, including both cultural and natural resources and the wildlife or domestic animals therein, associated with a historic event, activity, or person, or exhibiting other cultural or esthetic values. There are four non-mutually exclusive types of cultural landscapes: historic sites, historic designed landscapes, historic vernacular landscapes, and ethnographic landscapes.

**Cultural resource**—an aspect of a cultural system that is valued by or significantly representative of a culture, or that contains significant information about a culture. A cultural resource may be a tangible entity or a cultural practice. Tangible cultural resources are categorized as districts, sites, buildings, structures, and objects for the National Register of Historic Places, and as archaeological resources, cultural landscapes, structures, museum objects, and ethnographic resources for NPS management purposes.

**Defensible space**—the space needed for firefighters to adequately defend structures from oncoming wildland fires, or to stop a structural fire before it ignites wildland vegetation. Defensible space describes the desired result of planning, siting, and constructing developed facilities in a way that minimizes their vulnerability to wildfire threats and maximizes their protection against wildfire hazards.

**Derogation**—see "impairment."

**Developed area**—an area managed to provide and maintain facilities (e.g., roads, campgrounds, housing) serving park managers and visitors. Includes areas where park development or intensive use may have substantially altered the natural environment or the setting for culturally significant resources.

**Directives system**—established by Direct The system replaces documents formerly Guidelines, Special Directives. The system

Level 1—NPS *Manag*  
overview level of the  
Level 2—Director's O  
cies and procedures t  
Level 3—Reference N  
detailed guidance on  
Service-wide policies

**Ecosystem**—a syster  
tion of a community  
physical environment

**Environmental asse**  
document that is pre  
mine whether the im  
action or its alternativ  
(b) to aid the NPS in  
evaluating a proposal  
cant impacts, but ma  
adverse impacts; or (c  
proposal that is either  
list of categorically ex  
the list, but exception

**Environmental imp**  
detailed NEPA analysis  
pared when a proposi  
have the potential for  
the human environme

**Environmental lead**  
a personal and organi  
agement practices an  
tainability, and making  
strate a commitment  
principals.

**Ethnographic landsc**  
ing a variety of natura  
that traditionally assoc  
as heritage resources.  
plant and animal com  
and geographic featur  
special local names.

**Ethnographic resour**  
places, including sites,  
and natural resources,  
meaning and value to  
Research and consulta  
people identifies and  
and things they find ci  
Ethnographic resource  
National Register of Hi  
traditional cultural pro



**Wilderness (area)**—federal land that has been designated by Congress as a component of the national wilderness preservation system. For the purpose of applying these policies, “wilderness” includes the categories of suitable, study, proposed, recommended, and designated wilderness. Potential wilderness may be a subset of any of these five categories.

### **Types of Authorities—Sources of NPS Guidance**

**Constitution**—the fundamental law of the United States.

**Code of Federal Regulations (CFR)**—a publication that codifies the general and permanent rules or regulations published in the Federal Register by the Executive branch departments and agencies of the federal government, and which carry the force of law. The citation 36 CFR 1.1 refers to part 1, section 1, of title 36.

**Department of the Interior Manual (DM)**—the compilation of policies, procedures, and guidelines governing operations of the various bureaus of the Department of the Interior.

**Executive Orders, Memoranda, or Proclamations**—regulations having the force of law issued by the President of the United States to the Executive branch of the federal government.

**Federal Register**—A daily publication of the National Archives and Records Administration that updates the Code of Federal Regulations, in which the public may review the regulations and legal notices issued by federal agencies. Source citations for the regulations are referred to by volume number and page number of the Federal Register and the date of publication (e.g., 65 FR 2984, January 19, 2000).

**Public Law**—A law or statute of the United States

**Regulations**—Rules or orders prescribed by federal agencies to regulate conduct, and published in the CFR.

**Treaties**—A formal agreement between two or more nations in reference to peace, alliance, commerce, or other matters such as ocean, atmospheric, or living resources.

**United States Code (USC)**—The systematic collection of the existing laws of the United States, organized under 50 separate titles. The citation 16 USC 1 refers to section 1 of title 16.

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# FOFI Project Review

FOFUAR00285





## United States Department of the Interior

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

IN REPLY REFER TO:  
L76 (GOGA-RMPPC)

November 22, 2000

# Memorandum

**To:** General Superintendent, Golden Gate National Recreation Area *Bon 11-28-00*  
**From:** Environmental Protection Specialist  
**Subject:** Review Committee Recommendations for Approval

Attached are summaries of agenda items, recommendations for each project, and conditions of approval for Park-wide projects from the November 22, 2000 Project Review Committee Meeting. The agenda items heard at the meeting were:

- One project submitted as Old Business, Fort Point, GGNRA jurisdiction
- One project submitted for Information, Presidio, Presidio Trust Jurisdiction
- One project submitted as New Business, Presidio, GGNRA Jurisdiction
- One project submitted as New Business, Parkwide

The signature of the Superintendent, indicating approval/concurrence with the recommendation or your comments, is required for each project within the GGNRA jurisdiction.

FOFUAR00286

GGNRA007027

**NEW BUSINESS: PARKWIDE****4. Fort Funston Bank Swallow and Habitat Protection Project, (PW-00-121A)**

GGNRA staff Mary Scott, Assistant Superintendent, and Daphne Hatch, Acting Chief of the Division of Natural Resources discussed the proposed year-round closure of 12 acres of Fort Funston to protect the habitat of the bank swallow, a species listed as threatened under the California Endangered Species Act. In addition, the project is designed to protect the natural and geologic resources of Fort Funston and to ensure visitor safety. The project includes adding fencing sufficient to close the 12-acre site, removal of exotic plant species within the closure, and revegetation of the closed area with native dune plants. Revegetation will begin in winter 2000/2001 and continue until late winter; the closure is scheduled to begin winter 2000/2001, prior to the bank swallows return in spring.

The Vegetation Stewardship Parkwide Program, including the restoration of the Fort Funston Bank Swallow site, was presented on February 3, 1999 to the Project Review Committee. The General Superintendent approved the program on February 24, 1999, under Categorical Exclusion E (6): Restoration of noncontroversial native species into suitable habitats within their historic ranges, and elimination of exotic species (516 DM 6, Appendix 7.4). The proposal originally described a 12-acre closure having a southern boundary at the beach access trail west of Battery Davis. A modified version of this proposal, closing approximately 10 acres (eliminating from closure the southern 2 acres directly north of the beach access trail and instituting a partial seasonal closure), was implemented in February 2000 after NPS discussions with the Fort Funston Dogwalkers and a presentation to the Citizen's Advisory Commission at the January 2000 meeting. On May 16, 2000, a Federal District Court ordered the NPS, through the issuance of a preliminary injunction, to re-open the area to the public until public review on the proposal notice was provided. NPS complied with the injunction by placing notice of the proposed closure in the Federal Register on July 14, 2000 and accepted public comment for a period of 60 calendar days that ended on October 6, 2000. The modified project was presented as an information item to inform park staff of the project purpose, need, goals and status at the GGNRA Project Review Committee on September 13, 2000, during the public comment period. The NPS then compiled and considered public comment on the proposal and determined that the 12-acre closure was warranted to achieve the project goals of protection of bank swallow habitat, dune and cliff protection from erosion and dune plant community enhancement. The 10-acre seasonal closure alternative did not provide needed protection to the cliffs and dunes north of the beach access trail. The 12-acre closure was found to meet the requirements for a categorical exclusion under NEPA.

Staff commented that the fencing and revegetation component of this project needs to be reviewed by Quintex. In addition, the educational component of the project was discussed, including a public outreach intern, coordination with public affairs, and NPS staff presence during the early stages of closure. Dan Collman, GGNRA South District Roads and Trails, was identified as the project manager for implementation.

The Project Review Executive Committee found the project meets the requirements for a Categorical Exclusion with the fulfillment of the following conditions:

**PROJECT CONDITIONS:**

1. The Project Manager will ensure that appropriate public outreach signage is installed at the project site and assign the intern position to the public education component for the project.  
**Date Completed:** \_\_\_\_\_.

2. The Project Manager will coordinate the implementation of this project with Public Affairs.  
**Date Completed:** \_\_\_\_\_.
3. The Project Manager, working with Daphne Hatch, will coordinate with Paul Scolari to complete a 5X review and will assure that conditions of the 5X review are implemented.  
**Date Completed:** \_\_\_\_\_.

The Project Manager, Dan Collman will document and note the completion dates of the above required action(s). With completion of the above conditions, this project would not have an adverse impact on the environment and would be categorically excluded from further NEPA review {516 DM 6 Appendix 7.4 C (20), D (2), E (2), E (4), and E (6)} in conformance with the following NPS category:

C (20) Construction of fencing enclosures or boundary fencing posing no effect on wildlife migrations.

D (2) Minor changes in amounts or types of visitor use for the purpose of ensuring visitor safety or resource protection in accordance with existing regulations.

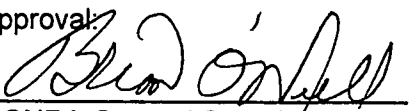
E (2) Day-to-day resource management and research activities.

E (4) Stabilization by planting native plant species in disturbed areas.

E (6) Restoration of noncontroversial native species into suitable habitats within their historic ranges, and elimination of exotic species.

*General Superintendent's Comments:*

Approval:

  
GGNRA General Superintendent

12-05-00  
Date

cc: Albert, Barker, Bartling, Borjes, B. Cheung, Espinoza, Gervais, Hatch, Hornor, Hurst, Koss, Levitt, Mannel, Mayer, Merkle, O'Neill, Phipps, Poinot, Powell, Rihtarshich, Rios, Ruan, Scolari, Shenk, Scott, Shine, Ullensvang, Weeks, Williams, G. Angell, J. Coats,



# United States Department of the Interior

NATIONAL PARK SERVICE  
Golden Gate National Recreation Area  
Fort Mason, Building 201  
San Francisco, California 94123

IN REPLY REFER TO:

L76 (GOGA-RMPPC)

November 14, 2000

To: Project Review Committee Members

From: Environmental Protection Specialist

Subject: Project Review Committee Meeting Agenda  
**WEDNESDAY, NOVEMBER 22, 2000, 10:00 a.m.**  
**Fort Mason, Building 201, Golden Gate Room**

## **INFORMATION: PRESIDIO, PRESIDIO TRUST JURISDICTION**

### **1. Mountain Lake Sediment Sampling, Presidio, (PR 01-011) – J. Coats (10:00 a.m.)**

This project is being presented to Project Review for informational purposes. The project includes the collection of sediment samples from Mountain Lake. The project takes place in Area B of the Presidio, where NPS environmental remediation staff are working in coordination with the Presidio Trust on cleanup issues. The Presidio Trust will be collecting samples at Mountain Lake in order to evaluate the nature and extent of possible lead contamination identified during toxicology work. This will be the second phase of the sampling effort that was conducted in October of 1998 by the Trust's contractor LRP and Kalinowski, Inc. (PR 98-060). Further characterization is needed in order to evaluate the nature and extent of potential lead contamination in the sediments of Mountain Lake. Samples will be collected by boring into the sediments with a hydraulically operated vibrocore drill rig mounted on a barge. Fifteen cores will be taken and analyzed at discrete depths. Sediments in three drain inlets along Park Presidio Boulevard will also be sampled.

## **NEW BUSINESS: PARKWIDE**

### **2. Fort Funston Bank Swallow and Habitat Protection Project, (PW-00-121A) – (10:20 a.m.)**

This project was originally presented at the February 3, 1999 project review meeting, and was included in the parkwide Vegetation Stewardship Program work plan. The project was approved by the General Superintendent on February 24, 1999, with categorical exclusion E (6). A modified version of the project, approximately 10 acres, was implemented in February 2000. The attached project review form describes the original 12-acre project, as proposed in February 1999 and contains additional resource and public safety information. The reason for returning to the original 12-acre project is that the reduced project was found not to meet the mandate of the National Park Service. The original 12-acre project is more protective of the resources and best meets the goals and objectives of the project.

On May 16, 2000, a Federal District Court ordered a preliminary injunction against the NPS, which disallowed the closure until appropriate public notice and opportunity for comments was provided. NPS provided notice of the proposed closure in the Federal Register on July 14, 2000. The NPS accepted comments for a period of 60 calendar days, until October 6, 2000. Park management has reviewed the public comments and continues to support the project.

## **BREAK FOR EXECUTIVE COMMITTEE—(10:40 a.m.)**

FOFUAR00289

cc: Albert, Alvarez, Barker, Bartling, Borjes, B. Cheung, Espinoza, Gervais, Hatch, Hornor, Hurst, Koss, Levitt, Lucas, Mannel, Mayer, Merkle, O'Neill, Phipps, Poinot, Powell, Rihtarshich, Rios, Ruan, Scolari, Scott, Shenk, Shine, Thomas, Ullensvang, Walthall, Weeks, Weideman, Williams, DOI Solicitor - Ralph Mihan, J. Coats,

GGNRA007030

**GOLDEN GATE NATIONAL RECREATION AREA  
PROJECT REVIEW FORM FOR NEPA COMPLIANCE**

**PART 1 – PROJECT DATA**

<b>Project Title</b>	Mountain Lake Sediment Sampling		
<b>Project Location/Bldg #</b>	Presidio Mountain Lake	<b>Project Review #</b>	
<b>Proposed Start Date</b>	December/January 2001	<b>Target End Date</b>	Dec/ Jan 2001
<b>Project Initiator/ Title</b>	Jennifer Coats, Presidio Trust	<b>Telephone #</b>	561-4272
<b>Is the Project on the GPR Work Plan for the Fiscal Year?</b>	Yes	No	X
<b>Division Chief's Signature</b>		<b>Date</b>	
<b>Supervisor's Signature</b>		<b>Date</b>	

**PART 2 – PROJECT DESCRIPTION**

In the box below (and attached pages if required) briefly describe 1) the project that is being proposed; 2) the current conditions at the project area 3) the reason for the project; and 4) the proposed work plan to accomplish the project. A map of the project location and/or a detailed site plan is mandatory and must be attached.

This project will be brought to NPS Project Review for informational purposes. The project takes place in Area B of the Presidio, where NPS environmental remediation staff is working in coordination with the Presidio Trust on cleanup issues.

The Presidio Trust will be collecting sediment samples at Mountain Lake in order to determine the nature and extent of possible lead contamination identified during paleontology work. This will be the second phase of a sampling effort that was conducted in October of 1998 by the Trust's contractor Erle and Kalinowski, Inc. (EKI) (PR 98-060). Further characterization is needed in order to determine the extent of potential lead contamination in the sediments of Mountain Lake.

Samples will be collected by boring into the sediments with a hydraulically operated Vibrocore drill rig mounted on a barge. 15 cores will be taken and analyzed at discrete depths. Sediments in three drain inlets along Park Presidio Blvd. will also be sampled.

Mobilization will occur from the east bank within the eucalyptus grove. Vehicles will access the site from the Public Health Services Hospital area and park on the side of the road in the vicinity of the water tanks. Sampling should take approximately one week.

**PART 3 – POTENTIAL IMPACTS CHECKLIST**

<i>Does The Proposed Project Have The Potential To:</i>	YES	NO	<i>Does The Proposed Project Have The Potential To:</i>	YES	NO
1. Destroy, remove or result in the gradual deterioration of historic fabric/terrain or setting?		x	15. Increase traffic congestion; traffic volumes or adversely affect traffic safety for vehicles, pedestrians or bicyclists?		x
2. Alter historic ground cover or vegetation?		x	16. Impede accessibility?		x
3. Introduce non-historic elements (visible, audible or atmospheric) into a historic setting, structure or environment?		x	17. Generate nuisance dust or odors?		x
4. Reintroduce historic elements in a historic setting or environment?		x	18. Involve handling/storage of hazardous substances?		x
5. Adversely affect a unique geologic resource?		x	19. Maintain or create a public or employee safety or health hazard?		x
6. Disturb the ground surface or change the surface topography?		x	20. Block or substantially alter an existing view, be visually intrusive or contribute to a degraded visual condition?		x
7. Compromise slope stability?		x	21. Affect rare, endangered or sensitive species?		x
8. Change the pattern of surface water flow, lead to increased runoff or erosion?		x	22. Adversely affect wildlife (feeding, nests, dens, roosts, etc.)?	Y5	
9. Degrade surface or ground water quality?	Y1		23. Add or remove plants?		x

FOFUAR00290

GGNRA007031

**GC EN GATE NATIONAL RECREATION IEA  
PROJECT REVIEW FORM FOR NEPA COMPLIANCE**

AUG 31 2000

PW 0.0 1.1.1

**PART 1 - PROJECT DATA**

<b>Project Title</b>		Fort Funston Bank Swallow and Habitat Protection Project			
<b>Project Location/Bldg. #</b>		Fort Funston		<b>Project Review #</b>	
<i>Decision</i>				<i>N/A</i>	
<b>Proposed Start Date</b>		<del>October 25, 2000</del> <i>December 2000</i>		<b>Target End Date</b> <i>November 2000</i>	
<b>Project Initiator/ Title</b>		Sharon Farrell		<b>Telephone #</b> 331-0743	
<b>Is the Project on the GPRA Work Plan for the Fiscal Year?</b>				Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
<b>Division Chief's Signature</b>		<i>Mark Key for Fern Johnson</i>		<b>Supervisor's Signature</b>	
<b>Date</b>		<i>8/28/00</i>		<b>Date</b>	

**PART 2 -- PROJECT DESCRIPTION**

In the box below (and attached pages if required) briefly describe 1) the project that is being proposed; 2) the current conditions at the project area 3) the reason for the project; and 4) the proposed work plan to accomplish the project. A map of the project location and/or a detailed site plan is mandatory and must be attached.

This project was originally proposed at the project review meeting on February 3, 1999. It was included in the larger **Vegetation Stewardship Program (Parkwide) workplan spreadsheet**; the specific project was entitled **Ft. Funston Bank Swallow site and adjacent dunes**. The General Superintendent approved it on Feb. 24, 1999, with a categorical exclusion, E(6) Restoration of non-controversial native species into suitable habitats within their historic ranges and elimination of exotic species. Since then, a modified version of the project was implemented in February-April 2000. The effectiveness of that project has been further evaluated and revised, and is subsequently being returned to project review as old business.

The attached document describes the project, its history, purpose and need. Map 1 delineates the proposed fencing alignment. Several steps are necessary to accomplish the project. The current fencing alignment (as illustrated in Map 2) will be changed in the following manner: the fence separating the seasonal and permanent areas will be removed; the southern fence boundary of the seasonally closed area will be extended south to the alignment illustrated in Map 1; all but two gates will be removed (specific gates to be determined), and replaced with post, cable and mesh fencing. Removed materials will be re-used on-site wherever feasible.

The entire 12-acre project area will be closed year-round to visitor access. There is a portion of one designated trail located within the footprint of the closure. This trail, known as the "Spur trail" (see Map 1), will be closed to visitor use because southern sections of this trail have become unusable due to increased sand deposition on the trail surface. This has compounded the establishment and use of unauthorized "social" trails in the northern section of the project area. Visitor use of and access to all "social" trails including "the Gap" (see Map 1) within the project footprint will be prohibited by this closure.

Because of a May 16, 2000, Federal District Court ordered preliminary injunction against the NPS, which disallows the closure until such time as appropriate public notice and opportunity for comment was provided, NPS provided notice of the proposed closure in the Federal Register on July 14, 2000, and is inviting comments from the public on this proposed year-round closure. Public comments will be accepted for a period of 60 calendar days from the date of the notice. Therefore, public comments on this notice will be received by ~~September 12, 2000.~~ *October 6* *np*

Once public comment has been received, and provided the project is approved, work will be accomplished under Public Land Corps funding, ~~in mid-fall 2000.~~ SFCC will work under direction of an NPS-designated resource education contractor. The resource education contractor will remain on-site during all project activities. NPS maintenance support may also be required to assist in the removal of partially buried peeler posts in the project area. Habitat restoration efforts will continue through the support of the community-based Fort Funston Green Team.

FOFUAR00291

**PART 3 -- POTENTIAL IMPACTS CHECKLIST**

<b>Does The Proposed Project Have The Potential To:</b>	<b>YES</b>	<b>NO</b>	<b>Does The Proposed Project Have The Potential To:</b>	<b>YES</b>	<b>NO</b>
1. Destroy, remove or result in the gradual deterioration of historic fabric, terrain or setting?		X	15. Increases traffic congestion, traffic volumes or adversely affect traffic safety for vehicles, pedestrians or bicyclists?		X

GGNRA007032

2. Alter historic ground cover or vegetation?		X	16. Impede accessibility?		X
3. Introduce non-historic elements (visible, audible or atmospheric) into a historic setting, structure or environment?		X	17. Generate nuisance dust or odors?		X
4. Reintroduce historic elements in a historic setting or environment?		X	18. Involve handling/storage of hazardous substances?		X
5. Adversely affect a unique geologic resource?		X	19. Maintain or create a public or employee safety or health hazard?		X
6. Disturb the ground surface or change the surface topography?	X		20. Block or substantially alter an existing view, be visually intrusive or contribute to a degraded visual condition?		X
7. Compromise slope stability?		X	21. Affect rare, endangered or sensitive species?	X	
8. Change the pattern of surface water flow, lead to increased runoff or erosion?		X	22. Adversely affect wildlife (feeding, nests, dens, roosts, etc.)?		X
9. Degrade surface or ground water quality?		X	23. Add or remove plants?	X	
10. Involve issues of concern for park neighbors or organizations or generate media attention?	X		24. Affect wetland, riparian or coastal habitat?		X
11. Conflict with adjacent uses either private or public?		X	25. Attract animal or insect pests?		X
12. Adversely impact current or planned visitor services, access or available parking?		X	26. Increase demand for police services or create an attractive nuisance?		X
13. Perceptibly increase the background noise levels or expose people to loud noise?		X	27. Increase demand for fire protection services or increase wild fire hazard?		X
14. Increase vehicle emissions or emissions of other air pollutants?		X	28. Result in other cultural resource, natural resource or visitor services impacts?		X
15. Substantially increase the amount of energy or water used or waste generated?		X	29. Increase night lighting or glare?		X

**PART 4 -- DISCUSSION OF IMPACT AND MITIGATION:** In the box below briefly address each "Yes" answer from the Impacts Checklist in Part 3 above. Describe the potential impact and any recommendations for avoiding or reducing the impact. Use as many pages as needed to answer.

6. Cause Ground disturbance? The project will require the removal of approximately 650 linear feet of existing fencing and the installation of approximately 380 linear feet of post and cable (with mesh) fencing.
10. Components of this project have generated public and media interest. NPS provided notice of the proposed closure in the Federal Register on July 14, 2000, and invited comments for a 60-day period from the public on this proposed year-round closure. A resource education contractor will be present on site during the project's implementation to provide public education on the closure.
21. Will affect rare or endangered species? We expect that this protection project to have a positive affect on the state-threatened bank swallow colony, and other rare plants (CNPS-listed) that will be apart of the revegetation efforts.
23. Removal of plants - An integrated pest management approach is used in the removal of invasive iceplant on the project site to ensure the least destruction to existing plant and animal communities (hand removal, and small equipment versus herbicide). Revegetation will commence upon completion of invasive exotic removal efforts (see attached report).

#### PART 5 -- ALTERNATIVES

In the box below, briefly describe any other *reasonable* alternatives that were considered for accomplishing the project including alternative locations.

No Action:

This alternative would limit protection efforts for the state-threatened bank swallow habitat and Fort Funston's unique geologic features; limit public and staff protection from safety threats associated with steep cliffs and bluff rescues, as well as reduce opportunities for controlling invasive exotic species and implementing ecological restoration efforts.

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#### PART 6 -- PROJECT COMPLIANCE AND APPROVALS

**QUESTIONS 29 THROUGH 37 TO BE COMPLETED BY THE ENVIRONMENTAL PROTECTION SPECIALIST.**

**Would the Project:**

YES NO

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29. Conform with the GMP, GMP, . . a specific site plan?		
30. Promote sustainability?		
31. With mitigation applied, result in <b>no net loss</b> of park resources?		
32. Require utility connections (maintenance & engineering approval required)?		
33. Require new signage (sign committee approval required)?		
34. Involve excavation (requires utility clearance)? <b>If yes, enter date issued:</b>		
35. Require 5x review. <b>If yes, enter date issued &amp; /5x project #:</b>		
36. Require GGNRA Advisory Commission Review		
37. Other agency permits (BCDC, USCOE, etc.) <b>If yes, specify:</b>		

**DISCUSSION OF PROJECT PLANNING COMPLIANCE:** In the box below briefly address "NO" answers for questions 29, 30 and 31.

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## I. INTRODUCTION

As part of the resource protection mission of the National Park Service (NPS), approximately 12-acres of Fort Funston is being closed year-round to off-trail recreational use by the public. This action will protect habitat for a nesting colony of California state-threatened bank swallows (*Riparia riparia*), a migratory bird species once more common along the California coast that has declined significantly due to habitat conversion and increased recreational use. This closure is also necessary to enhance significant native plant communities, improve public safety, and reduce human-induced impacts to the coastal bluffs and dunes, a significant geological feature.

Part of the Golden Gate National Recreation Area (GGNRA), Fort Funston spans approximately 230 acres along the coastal region of the northern San Francisco peninsula. It is located south of Ocean Beach and north of Pacifica, and is flanked to the east by both John Muir Drive and Skyline Boulevard, and to the west by the Pacific Ocean. The proposed year-round closure is located within the northern region of Fort Funston and is depicted on the attached map as "Project Area (Year-round closure)." It is defined to the west by the edge of the coastal bluffs; to the east by the Coastal Trail; to the north by protective fencing installed in the early 1990s for habitat protection; and to the south by a pre-existing "beach access" trail west of the Battery Davis "Y". There is currently fencing erected around the eastern and northern perimeters of the proposed year-round closure area. Additional fencing will be erected along the southern boundary, parallel to the "beach access" trail (see map). This fencing will be peeler post and wire mesh design, consistent with the existing fencing that was erected in February-April 2000.

The entire 12-acre project area will be closed year-round to visitor access. There is a portion of one designated trail located within the footprint of this closure. This trail, known as the "Spur trail" (see map), will be closed to visitor use because southern sections of this trail have become unusable due to increased sand deposition on the trail surface. This has compounded the establishment and use of unauthorized "social" trails in the northern section of the project area. Visitor use of and access to all "social" trails including "the Gap" (see map) within the project footprint will be prohibited by this closure.

## II. HISTORY - Fort Funston

Prior to Fort Funston's purchase by the Army, the site supported a diversity of native dune vegetation communities. During the 1930s however, the Army built an extensive system of coastal defense batteries, drastically altering the dune topography east of the bluffs and, in the process, destroying much of the native plant communities that inhabited the dunes. Following construction, the Army planted iceplant (*Carpobrotus edulis*) in an attempt to stabilize the open sand around the batteries.

By the mid-1960s, extensive areas of Fort Funston were covered with invasive exotic plants such as iceplant and acacia. Some years after Fort Funston was closed as a military base, it was transferred to the National Park Service in 1972 to become part of the GGNRA. As a unit in the national park system, Fort Funston today is used extensively by beachcombers, walkers, hang gliders, paragliders and horseback riders, and other recreational users. Approximately three-quarters of a million visitors enjoy Fort Funston annually.

## III. CLOSURE JUSTIFICATION

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This closure is necessary to protect habitat for the California State-threatened bank swallows (*Riparia riparia*), enhance significant native plant communities, improve public safety and reduce human-induced impacts to the coastal bluffs and dunes, a significant geological feature. The National Park Service has authority to effect closures for these purposes pursuant to Section 1.5 of Title 36 of the Code of Federal Regulations. Specifically, Section 1.5 authorizes the Superintendent to effect closures and public use limits within a national park units when necessary for the maintenance of public health and safety, protection of environmental or scenic values, protection of natural or cultural resources, aid to scientific research, implementation of management responsibilities, equitable allocation and use of facilities, or the avoidance of conflict among visitor use activities. As discussed in detail below, the proposed closure at Fort Funston is necessary to protect environmental values and natural resources, to protect public safety, and to implement management responsibilities.

### **A. The Threatened Bank Swallow**

One of the many unique features of Fort Funston is that it supports one of the last two remaining coastal cliff-dwelling colonies in California for the bank swallow (*Riparia riparia*). Once more abundant throughout the state, their numbers have declined so dramatically that in 1989 the State of California listed the bank swallow as threatened under the California Endangered Species Act. The bank swallow is also a protected species under the Migratory Bird Treaty Act, and for nearly a century, the bank swallows have returned to Fort Funston each March or April to nest and rear their young along the steep bluff faces. NPS regulations, policies and guidelines mandate the protection and preservation of this unique species and its habitat.

Its preferred habitat—sheer sandy cliffs or banks—has been altered throughout its range by development, eliminated by river channel stabilization, and disrupted by increased recreational pressures. The Fort Funston colony is particularly unique in that it is one of only two remaining colonies in coastal bluffs in California, the other being at Año Nuevo State Park in San Mateo County. Bank swallow habitat at Año Nuevo remains closed to visitor access.

Mortality of bank swallows results from a number of causes including disease, parasites and predation. Destruction of nest sites, including collapsed burrows due to natural or human-caused sloughing of banks, appears to be the most significant direct cause of mortality (Recovery Plan, Bank Swallow (*Riparia riparia*), State of California Department of Fish and Game 1992). The Recovery Plan recommends a habitat preservation strategy through protection of lands known to support active colonies or with suitable habitat features for future colony establishment. It also acknowledges that isolated colonies, like Fort Funston, are at particularly high risk of extinction or severe population decline. Additionally, the State of California Historic and Current Status of the Bank Swallow in California report (1988) recommended that nesting colonies be protected from harassment and human disturbance.

The Fort Funston colony has been recorded since at least 1905. Records indicate that the colony fluctuated in size and location over time. A 1961 study of the Fort Funston colony documented a total of 84 burrows in 1954, 114 in 1955, 157 in 1956, and 196 in 1960. GGNRA staff counted at least 229 burrows in 1982 and more than 550 in 1989. In 1987 the California Department of Fish and Game documented 417 burrows at Fort Funston. Approximately 40 to 60 percent of burrows are actively used for nesting in a given year.

Between 1992 and 1995, NPS implemented other protection and restoration measures for the Fort Funston colony, including a year-round closure of approximately 23-acres in the northern most portion of Fort Funston to off-trail recreational use. The current proposed closure area lies directly south of this previous closure area. From 1954-56 and from 1989-97, the colony was located along the bluffs within the footprint of this previous closure. However the colony shifted during 1959 and 1960, and again since 1998, such that birds are now nesting within the current proposed closure area.

In 1993, GGNRA established an annual monitoring program to track the abundance and distribution of bank swallows at Fort Funston. Trained personnel conduct weekly surveys during nesting season (from mid-April through early August). From 1993 to 1996, burrow numbers were over 500 each year. The number declined dramatically to only 140 in 1998 and 148 in 1999 when the colony shifted to the current proposed closure area (then unprotected). This event coincided with the storms during the winter of 1997 that caused significant cliff retreat and slumping. In an attempt to protect the colony from recreational disturbance of nesting habitat, protective fencing was installed along the bluff top in 1998 with interpretive signs to encourage visitors to reduce impacts on the nesting colony. These efforts proved unsuccessful in preventing recreational disturbance to the colony. NPS observed increased erosion due to visitor use adjacent to the fenceline. Moreover, the rate of natural bluff erosion, approximately one foot per year, and the constant deposition and erosion of sand material caused the fence to collapse and fail within just a few months. Fence posts near the bluff face also provided advantages to swallow predators that perch on the posts with a view to the swallow nests.

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A wide array of disturbances to the swallows at Fort Funston have been observed and recorded during monitoring, and/or photo-documented. While bank swallows are known to be quite tolerant to some disturbance, few colonies are subjected to the intense recreational pressure at Fort Funston. Documented

disturbance events at Fort Funston include: cliff-climbing by people and dogs; rescue operations of people and dogs stuck on the cliff face; people and dogs on the bluff edge or in close proximity to active burrows; graffiti carving in the cliff face; aircraft and hang-glider over-flights; and discharge of fireworks within the colony. The potential impacts from such disturbances include: interruption of normal breeding activity, such as feeding of young; crushing of burrows near the top of the cliff face (nests can be located within a foot of the bluff top); casting shadows that may be perceived as predators; accelerating human-caused bluff erosion; and active sloughing and land-slides that may block or crush burrows and the young inside.

The NPS has determined that the designated trails (see map) at Fort Funston provide adequate access to the park area and that continued use of unauthorized "social" trails within the project footprint has adverse impacts on park resources, including the bank swallow.

The institution of the proposed 12-acre closure area, coupled with increased interpretive signs and strategically located protective barriers at the base of the bluffs will protect the bank swallow colony by preventing most of these disturbances. There will be no visitor access to the bluff edges above the nesting sites, thus preventing falls and rescues on the cliff face, as well as human-induced erosion, crushing of burrows, and casting of shadows. Visitor access up the bluffs from the beach into the closure area will be prohibited, thus avoiding human-induced erosion of the bluffs and habitat disturbance.

### **B. Geology and Erosion**

The bluffs at Fort Funston provide one of the best continuous exposures of the last 2 million years or more of geologic history in California, covering the late Pliocene and Pleistocene eras. This exposure of the Merced Formation is unique within both the Golden Gate National Recreation Area and the region. It is a fragile, nonrenewable geologic resource. NPS regulations, policies and guidelines mandate preservation of such resources by preventing forces (other than natural erosion) that accelerate the loss or obscure the natural features of this resource.

Recreational use along the bluff top contributes to a different type of erosion than the natural processes of undercutting and slumping. Concentrated wave energy at the base of the bluffs naturally leads to bluff retreat typically occurring during winter season when the bank swallows that nest in the vertical bluff faces are absent. Natural weathering and erosion from rainfall runoff and wind contribute to loss of the bluff face. During spring and summer, when park users clamber around the bluff top, erosion occurs from the top to the bottom, compromising the bluff face. Slumps caused by heavy visitor traffic along the bluff top can induce sand slippage and may even wipe out burrows during nesting season. Geologist Clyde Warhaftig described areas of this unique sand bluff formation as crushable with the fingers and indicated, in 1989, that people climbing the cliff faces would induce additional erosion and that such activity should be prevented.

Additionally, erosion has been both documented and observed throughout the inland topography of the closure area. Continued heavy visitor use in this inland dune bluff area and associated human-caused erosion along unauthorized "social" trails is likely to further shorten the lifespan of the bluffs, and is an additional threat to the long-term existence and sustainability of suitable habitat for the Fort Funston bank swallow colony.

The proposed closure will preserve the unique bluffs by preventing destructive human activity around the bluff tops and permitting the inland dune features to recover from human-induced erosion.

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### **C. Conservation and Restoration of Dune Habitats**

Fort Funston is the largest of several significant remnants of the San Francisco dune complex – once the 4<sup>th</sup> largest dune system in the state that covered more than 36 square kilometers of San Francisco. More than 95% of the original dune system has been drastically altered by urbanization and development (Powell, 1978). The flora inhabiting the dunes of San Francisco was quite diverse. Historical accounts documenting San Francisco's native dune species can be used to reconstruct the likely historic flora of Fort Funston. Recent surveys of Fort Funston confirm that its remnant flora is clearly allied with other dune localities documented in the 1958 Flora of San Francisco. NPS regulations, policies and guidelines mandate protection of this unique resource.

Removing iceplant and other invasive exotic plant species is one of the most important strategies for restoring dunes. At Fort Funston, iceplant dominates more than 65% of the dunes. The California Exotic Pest Plant Council rates iceplant on its "A" list, which includes those species that are the Most Invasive and Damaging Wildland Pest Plants. "Even when [natural] processes are protected, the very nature of dunes, which are prone to disturbance and characterized by openings in the vegetation, renders them constantly susceptible to the invasion of non-native species—especially in urban settings. For these reasons, restoration is an essential component of dune conservation in northern California." (Pickart and Sawyer 1998).

Dense iceplant cover also affects the diversity and abundance of native insects and other wildlife. In a study of sand-dwelling arthropod assemblages at Fort Funston, Morgan and Dahlsten compared diversity between iceplant-dominated plots and areas where native plants had been restored. They found that "overall arthropod abundance and diversity are significantly reduced in iceplant dominated areas compared to nearby restored areas. . . . If plant invasion and native plant restoration dramatically affect arthropod communities as our data indicate, they may also have wider reaching effects on the dune community as a whole. This research demonstrates the importance of native plant restoration for sand-dwelling arthropod communities" (Morgan and Dahlsten 1999).

In a report last year, the Director of the National Park Service wrote that "it is undisputed that without decisive, coordinated action the natural resources found within the National Park System will disappear as a result of invasive species spread" (Draft NPS Director's Natural Resource Initiative – Exotic Species Section, 1999). Emphasis on the need to address invasive exotic species issues and control was further stressed through *Executive Order 13112 on Invasive Species signed February 3, 1999*. "Sec. 2 (a) each Federal Agency whose actions may affect the status of invasive species shall ... (2) (i) prevent the introduction of invasive species; (ii) detect and respond rapidly to and control populations of such species in a cost-effective and environmentally sound manner; (iii) monitor invasive species populations accurately and reliably; (iv) provide for the restoration of native species and habitat conditions in ecosystems that are invaded... (vi) promote public education on invasive species and means to address them.."

Increasingly heavy off-trail use has contributed to the deterioration of native dune communities at Fort Funston. Native dune vegetation is adapted to a harsh environment characterized by abrading winds, desiccating soils, low nutrient conditions, and salt spray, but it is not adapted to heavy foot traffic. Only a few species (a few annual plants, coyote bush (*Baccharis pilularis*)) are able to survive repeated trampling. NPS has determined that the designated trails (see map) at Fort Funston provide adequate access to the park areas, including ingress and egress to the beach, and that continued use of unauthorized "social" trails within the project footprint has adverse impacts on the park resources, including the native dune vegetation.

Increasingly, heavy off-leash dog use has also led to the deterioration of native dune communities. When on a leash, the effects of dogs on vegetation and other resources is focused along a trail corridor already disturbed by other recreational activities. When dogs are off-leash, their impacts are spread throughout a larger area. Trampling of vegetation caused by roaming dogs weakens the vegetation in the same manner as trampling by humans; in areas where off-leash dog use is concentrated, such intensive trampling destroys all vegetation, even the extremely tolerant iceplant. Also, the dune soils at Fort Funston are naturally low in nutrients. Deposition of nutrients via dog urine and feces may alter the nutrient balance in places and contribute to the local dominance of invasive non-native annual grasses that prosper in high-nitrogen soils (e.g., farmer's foxtail (*Hordeum* sp.), wild oats (*Avena* sp.), ripgut brome (*Bromus diandrus*)). Other adverse impacts documented and observed by park staff include off-leash dogs digging and uprooting vegetation.

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The proposed closure area will allow for the recovery and expansion of remnant native plant species and communities currently threatened by spread of iceplant, and concentrated visitor and off-leash dog use in the project area. Revegetation efforts will promote the establishment of more than 50 dune plant species, including several rare plant species, such as the San Francisco wallflower and the San Francisco spineflower. Expansion of native coastal dune habitat at Fort Funston is also critical to enhancing the diversity and abundance of locally rare wildlife populations thus making them less vulnerable to extinction. It will also aid in preserving habitat for common wildlife species.

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#### **D. Public Safety**

Cliff rescues in the Fort Funston area are a serious threat to public safety and have a direct impact on the bank swallow colony. Numerous rescues of dogs and people every year are necessary as a result of falls and/or when those climbing the unstable cliffs find themselves unable to safely move up or down. These rescues can cause injuries to both the rescued and the rescuers, compromising public safety and natural resources at Fort Funston. Additionally, technical rescues, such as cliff rescues at Fort Funston, tie up a large number of park personnel and equipment, leaving major portions of GGNRA unprotected. NPS must take all measures to reduce these preventable emergency rescues to ensure that the limited rescue personnel are available for emergencies throughout the park.

Visitor use at Fort Funston has increased significantly over the past five years, with annual visitation now reaching more than 750,000. Fort Funston has also become the focal point for cliff rescues in San Francisco. An updated review of law enforcement case incident reports indicates the following statistics. Prior to 1998 there was an average of just three cliff rescues per year involving dogs and/or persons stranded on the cliffs at Fort Funston. In 1998 the number of cliff rescues at Fort Funston jumped to 25. In 1999, park rangers performed 16 cliff rescues at Fort Funston.

By contrast, there were a total of 11 cliff rescues in 1998 along the remaining nine miles of San Francisco shoreline from Fort Point to the Cliff House. In 1999, there were four rescues along this stretch of coastline which includes a myriad of hazardous cliffs, and supports an annual visitation of approximately 2 million visitors. There were however, no dog rescues within this region during the past two years, largely because the leash laws are enforced, and because several especially hazardous areas are closed and fenced off for public safety.

There are several factors that have contributed to the increase in cliff rescues at Fort Funston. First, the severe winter storms in 1997/98 significantly eroded the bluffs, creating near-vertical cliff faces adjacent to and below some unauthorized "social" trails along the bluffs and causing more falls over the cliffs. Second, the increasing numbers of off-leash dog walkers at Fort Funston have resulted in many dog rescues, as well as three injured dogs and one dog death from falling off the cliffs at Fort Funston in just the past two years.

The National Park Service has determined that the designated trails (see map) at Fort Funston provide adequate access to the park areas, including ingress and egress to the beach, and that continued use of unauthorized "social" trails within the project footprint is a safety hazard for visitors and park rescue personnel.

The proposed closure will protect visitors, their pets, and the rescue personnel from unnecessary injury and will reduce the costly and time-consuming cliff rescues at Fort Funston by preventing access to dangerous cliff areas, and unauthorized use of "social" trails.

#### **IV. PREVIOUS PROTECTION EFFORTS**

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GGNRA began pro-active management of the bank swallow colony in 1990, following ranger observations of destructive visitor activities including climbing the cliffs to access nests, carving of graffiti in the soft sandstone, and harassment of birds with rocks and fireworks.

The first dune fences we erected in 1990 at the bluff's edge north of the currently proposed year-round closure to deter visitors from the edge of the bluff. This effort was ineffective. NPS observed increased erosion due to visitor use adjacent to the fenceline. Moreover, the rate of natural bluff erosion, approximately one foot per year, and the constant deposition and erosion of sand material makes the construction of bluff-top fences a short-term solution. To further evaluate the effectiveness and anticipated maintenance needs of a potential fenceline constructed parallel to the bluffs and within 100-150 feet of the bluff edge, GGNRA established sand deposition/erosion monitoring points at selected distances from the bluff top in 2000. The monitoring points were established along a fenceline erected in April 2000. Data gathered at these points was used to make preliminary calculations of the rate of sand deposition/erosion along the northern cliffs at Fort Funston within the currently proposed closure. To date, after 3 months of

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data collection, data indicates that deposition/erosion of sand varies from .27" to -36" along the monitored fenceline posts, demonstrating the dynamic nature of the habitat and, consequently, the inefficiencies and difficulties of constructing the fenceline close to the bluff edge.

Implementation of an approved bank swallow protection and management strategy began in the fall of 1991, and continued for the next five years. This management strategy included: (1) closing and protecting 23 acres of the bluff tops by installing barrier fencing and removing exotic vegetation above the bank swallow colony; (2) requiring all dogs to be on-leash and all users to be on an authorized, existing trails when travelling through the closed area – all off-trail use was prohibited; and (3) creating a 50-foot seasonal closure at the base of the cliffs where the swallows nest to create a buffer area during breeding season, further protecting bank swallows from human disturbance. GGNRA hang-gliding permit conditions also prohibit flight over the nesting area during breeding season to reduce colony disturbance.

Between 1992 and 1995, over 35,000 native plants were propagated at the Fort Funston nursery and outplanted in the newly restored dunes within the 23-acre closure. This was accomplished through thousands of hours of community volunteer support. This restoration area now supports thriving native coastal dune habitat and several locally-rare native wildlife species including California quail (*Callipepla californica*), burrowing owls (*Athene cunicularia*) and brush rabbits (*Sylvilagus bachmani*), and a diversity of other native wildlife. California quail now survive in only a few isolated patches of habitat within San Francisco and is the subject of a "Save the Quail" campaign by the Golden Gate Audubon Society. Burrowing owls are designated as a state species of concern. California quail are considered a National Audubon Society WatchList species in California because of declining populations. Brush rabbits are not known to occur in any other San Francisco location within GGNRA.

## V. PROJECT GOALS AND OBJECTIVES

The National Park Service is proposing to extend the existing 23-acre protection area based upon the following factors:

- southern movement of the bank swallow colony in 1998 to an unprotected area;
- significant decline in the colony size;
- ineffectiveness of a fence installed in 1998 along the bluff top of the unprotected new nesting area – designed to prevent recreational use up and down a landslide on the cliff face;
- ineffectiveness of signs above the new nesting area warning of the sensitivity of the area;
- increase in the total visitation numbers, including off-leash dog walkers;
- increase in the number of cliff rescues staged along the bluff top;
- increase in erosion and loss of vegetation cover within the dunes between the bluff edge and coastal trail from visitor and pet disturbance;
- habitat restoration, including removing tracts of iceplant and restoring with native species.

In order to address the factors listed above, NPS determined that the current proposed closure must meet the following goals and objectives:

1. Provide increased protection to the new nesting location of the bank swallow colony at Fort Funston
  - prevent disturbances from visitor use above and along the bluffs
  - control off-leash dog activities in and above the colony habitat
  - prevent disturbances from cliff rescues
2. Increase biological diversity by restoring native coastal dune scrub habitat
  - reduce invasive exotic species (specifically iceplant) cover to less than 5% and revegetate protected area with native dune species
  - prevent visitor access to unauthorized "social" trail use and prohibit off-trail use
  - reduce impacts of off-leash dog activities within coastal dune scrub habitat
  - reduce disturbances from visitor use within this sensitive coastal dune scrub habitat
  - restore natural dune processes
  - expand native coastal dune habitat at Fort Funston to enhance the diversity and abundance of locally rare wildlife populations, such as California quail
3. Increase public safety

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- reduce risks of falling over cliffs and need for cliff rescues
  - close unauthorized "social" trails along bluff top and close access to back dunes
4. Protect the geologic resources including bluff top and interior dunes from accelerated human-induced erosion.

An interdisciplinary team of GGNRA staff determined the size and footprint of the proposed closure and the design of the protective fence. In considering alternatives, the team evaluated whether the project goals and objectives were met, the ability to achieve compliance within the closure, the long-term maintenance required, the feasibility and costs of construction, and the impacts to recreational uses.

To achieve the goals and objectives listed above, the proposed closure was initially selected by NPS in 1999. However, in January 2000, NPS began implementation of a less restrictive closure that was developed after a series of NPS meetings with representatives of the dog walking community. The less restrictive closure entailed reducing the project footprint and opening over half of the area to visitor access when bank swallows were not present at Fort Funston. Since that time, extensive litigation regarding the closure has resulted in the development of an exhaustive record of evidence that, when re-evaluated, supports the currently proposed permanent closure. NPS has determined that the less restrictive closure is inadequate to meet the mandate of the National Park Service, in light of significant adverse impacts on natural resources, threats to public safety, infeasibility of fence maintenance and difficulty of closure enforcement.

NPS has determined that the currently proposed permanent closure, as depicted on the attached map, is necessary to achieve the goals and objectives outlined above, and is the least restrictive means to protect the resources and preserve public safety at Fort Funston and elsewhere within GGNRA.

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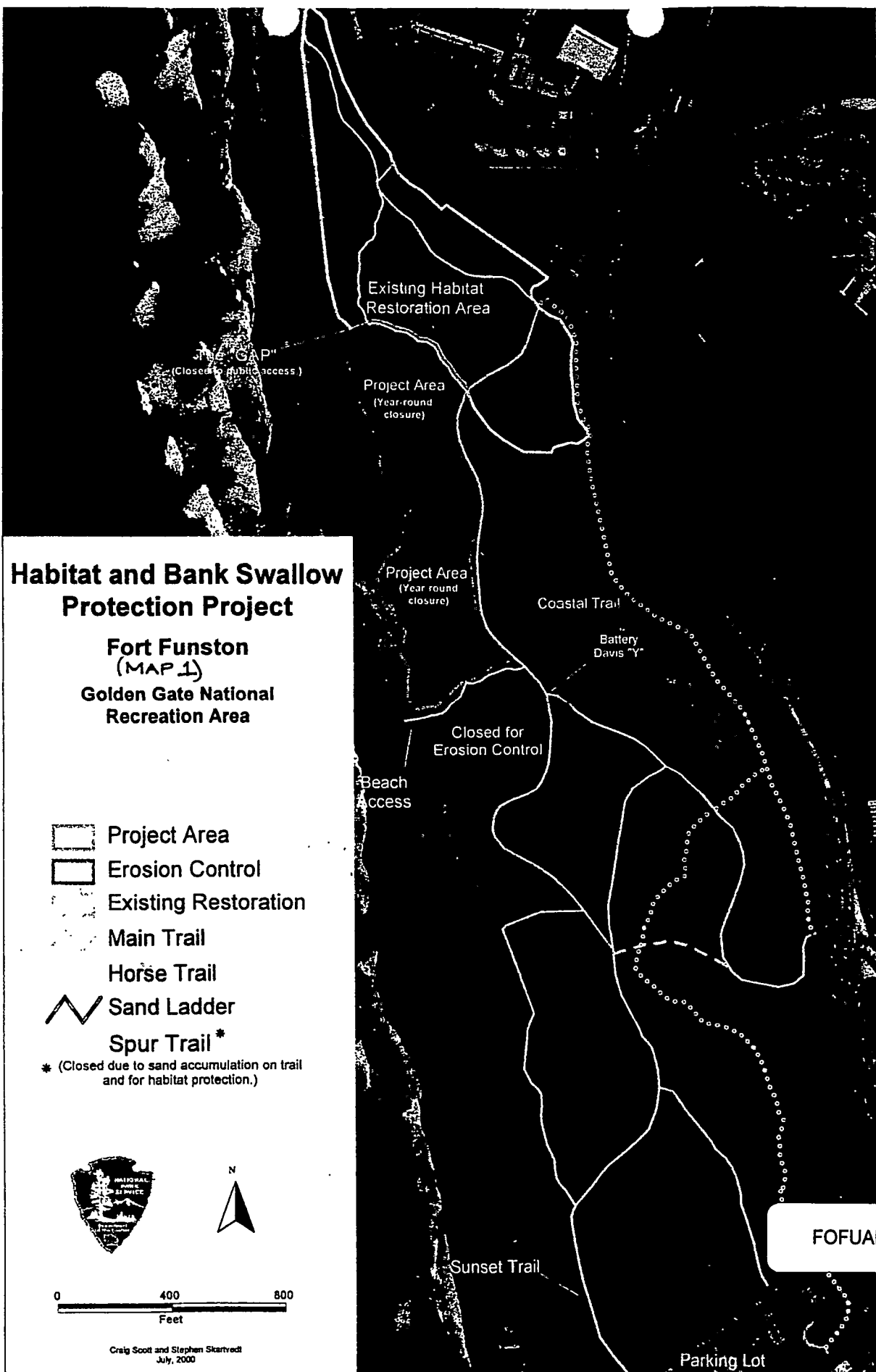
The Organic Act of 1916, as amended, codified at 16 U.S.C. § 1 et seq.

Park System Resource Protection Act, as amended, codified at 16 U.S.C. § 19jj et seq.

***National Park Service, Department of Interior, Regulations, 36 C.F.R. Parts 1-5, 7.***

FOFUAR00303

GGNRA007044





# Public Response to National Park Service's Proposed Habitat Protection Closure at Fort Funston

October 24, 2000

## Overview

### Goals and Project Description:

As part of the resource protection mandate of the National Park Service (NPS), approximately 12-acres of Fort Funston is being closed year-round to off-trail recreational use by the public. This action will protect habitat for a nesting colony of California state-threatened bank swallows (*Riparia riparia*), a migratory bird species once more common along the California coast that has declined significantly due to habitat conversion and increased recreational use. This closure is also necessary to enhance significant native plant communities, improve public safety, and reduce human-induced impacts to the coastal bluffs and dunes, a significant geological feature.

The entire 12-acre project area will be closed year-round to visitor access. There is a portion of one designated trail located within the footprint of this closure. This trail, known as the "Spur trail", will be closed to visitor use because southern sections of this trail have become unusable due to increased sand deposition on the trail surface. This has compounded the establishment and use of unauthorized "social" trails in the northern section of the project area. Visitor use of and access to all "social" trails including "the Gap" within the project footprint will be prohibited by this closure.

**Schedule and Process for Public Comment:** The announcement of the proposed closure and solicitation of comments was published in the Federal Register on July 18, 2000 and on the GGNRA's web page. Also, local newspapers were notified via a NPS press release. The original closing date for comments was September 18, 2000. The closing date was extended to October 6, 2000.

By October 6, 2000, over 1,500 submissions were received, including letters, postcards, videos, signed petitions, court documents and facsimile messages. Comments were also accepted at two public meetings. The first was at the Advisory Commission meeting on August 29, 2000, at park headquarters, at which 37 people spoke on this issue. Because of the late hour of this agenda item (beginning at 10:30 P.M. and continuing until 12:30 A.M.), 14 people who had signed-up to speak had left the meeting. Those people were invited to speak at the next Advisory Commission meeting that was held at Fort Mason on September 26, 2000.

### Comment Summary

FOFUAR00306

The remainder of this document summarizes the comments received regarding the National Park Service's proposed closure of a 12-acre area at Fort Funston. Of the approximately 1,500 submissions received, about 1,100 were opposed to the proposed closures. About 400 submissions supported the proposed closing.

Comments opposing the proposed closure are divided into the following categories:

- Discussions regarding NPS's Closure Justifications
- Established Uses of Fort Funston (i.e., dog walking)
- Suggestions
- Other Comments

Comments supporting the proposed closure are divided into the following categories:

- NPS has a Responsibility to Protect Habitat
- Public Safety
- Resource Protection and Recreation Use Conflicts

The methodology used to summarize these comments was a three-step process.

- The first step was to record chronologically all original comments (comments were paraphrased or quoted);
- The second-step was to categorize the comments and eliminate those comments that duplicated the same sentiment in another comment and;
- The third-step was to summarize the general theme of each category of comments. Those comments that best expressed points or ideas of each category were selected as examples, as well as those frequently stated or those expressing a unique concern.

FOFUAR00307

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## In Opposition to Fort Funston Closures

### Discussions Regarding NPS's Closure Justifications

The closure notice stated four justifications for the proposed action. Comments addressing these four justifications follow. The general theme of the comments described in this section was that "bad science" was used in making the decision and that there was insufficient justification to support the closures.

#### *General Discussion:*

- *Limiting recreation areas in a crowded city is not good management*
- *...support(s) setting aside tracts of land large enough to support a wide variety of species, with populations large enough for genetic health. However, setting aside wee scraps of land inside an urban area, like Fort Funston, represents excessive zeal, a kind of environmental Puritanism.*
- *An ecosystem cannot be ignored or off-handedly replaced simply because it incorporates humans and pets. The removal of these "non-natural" components will increase the use of the area by other "non-natural" components endemic to an urban environment -- like rats, cats, other feral animals and urban birds.*
- *Public notice inadequate and no provision for public review of the documents relied on for the proposal. Over 20% of the Funston has been closed to public without due process*
- *Wants to know if there is an EIR on this policy decision. NPS should have conducted environmental impact studies before taking action.*
- *I am demanding a thorough public investigation into your agencies behavior and activities that are directed against the park using public (funds?).*
- *If areas must be closed due to environmental concerns than adequate studies must be performed and an open forum must be held to allow for demonstration of these studies, discussion and feedback.*
- *Pressure from Audubon and Native Plant Society caused the NPS to propose closure, rather than the facts.*
- *GGNRA is being influenced by the environmentalists to the exclusion of other constituencies*

#### *Bank Swallows:*

- *California Department of Fish and Game advised that only the cliff face fence is all that is necessary to protect swallows.*
- *Install fences on the cliff face to protect swallows.*
- *Studies have shown that closing areas does not help populations of bank swallows and in fact their population has gone down since the closures.*
- *Believes that swallows are not shy and can live harmoniously with humans and dogs.*
- *NPS's argument that human shadows cast on the cliff borroughs is not supported by science. To say that swallows need the plant growth areas as their "habitat" for nesting, etc, is false -- pure pretense.*
- *...we should be saying that it's amazing that we have these two strange bank swallow colonies... We should be looking at that more (as) and anomaly instead of an alarm.*

FOFUAR00308

- *The NPS has failed to analyze...the impact of unleashed dogs on controlling predators of bank swallows... there were fewer predators at Fort Funston than existed at other colonies...(Fort Funston) predators may (have been) less in evidence than at some more typical locations.*
- *People need open space as well as birds.*

#### **Geology and Erosion:**

- *Dogs are not de-stabilizing the cliffs.*
- *Removing ice plant and trees will hasten process. Native planting has increased erosion.*
- *The amount of material lost through cliff retreat and land sliding dwarfs any impact from people walking along the cliff.*

#### **Dune Restoration and Native Plants:**

- *Does not believe that the closure is about swallow protection, but "native plants." It appears that the native plants are not recreation friendly the way that the ice plants are.*
- *Native vegetation is only for swallows, and therefore not needed.*
- *Dunes were never filled with native plants...they were 90% dunes with a bit of brush.*
- *...the removal of the iceplant will erode the history of the California coast. I see the iceplant as a part of our heritage, a remnant of the war years. Growing up, I learned that without the iceplant the military would have had major erosion problems and had difficulty maintaining camouflage for the bunkers and batteries, installed to protect our coastline.*
- *People cause more damage than dogs do...*
- *NPS's true plan is to blanket the entire area with thick, 2-4 foot-high plant growth, until all open areas of the Fort are unusable to people and pets and to severely regulate all access to the park by people and pets to strictly designated trails lined with restraining fences on both sides and posted with signs threatening fines for those who trespass.*

#### **Public Safety:**

- *Believes that the closed areas should be open and that other areas closed.*
- *If safety is a concern, why not just install a barrier instead of closing the entire area.*
- *The responsibility for safety should be determined by the individual not the NPS.*

#### **Established Uses of Fort Funston**

Comments noted the importance of Fort Funston as one of the few remaining places within San Francisco and the Bay Area where dogs can play off-leash and frolic with other dogs. The mental and physical benefits to both dogs and people of providing a place for dogs and their owners were noted. Fort Funston's importance as being one of a few places within San Francisco where a single woman can enjoy the outdoors and feel safe was also noted. Many people commented on the recent history of the area and that dog walking has been an ongoing recreation pursuit since parts of Fort Funston became a public area in the 1960s and a unit of the National Park in 1972. Other comments described the purpose of the park, namely recreation not preservation of a natural area. Many letters also provided information on how monthly-organized clean-up days are held

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by an association of dog owners who use the park for their recreation. Other letters suggested that the park be taken back by the City of San Francisco. Examples of comments included:

- *Off-leash areas are essential for the health and social well being of dogs, and of people.*
- *Walking a dog off-leash is mandatory to maintain its physical and mental health.*
- *I feel safe when I walk my dogs.*
- *Years ago, Fort Funston was unsafe, frequented by "homeless people, drunken people, (and) people on drugs... This has all changed. Today--Fort Funston is a clean, safe place to walk-- esp. for a single woman." It is safe and clean due in large part to the dog owners.*
- *Seeing dogs run free is a great way to relieve stress.*
- *Enjoy seeing hundreds of dogs playing.*
- *There are fewer and fewer places to go and enjoy nature with dogs.*
- *Well-exercised, well-socialized dogs are good dogs.*
- *Dogs make people happy - not Birds!!!*
- *Fort Funston is considered the Disneyland of the canine world. Can you imagine what it would feel like if Disneyland no longer allowed children to visit?*
- *I don't know where to else to take my dog to socialize. Without the socializing my Rottweiler would probably be mean and wouldn't get along with other humans either. Dogs not allowed to run off leash develop social problems.*
- *Fort Funston is important to non-dog owners who wish to have a sense of the wild and a sense of protection.*
- *Protesting closing of sand dunes, previously used for sliding.*
- *A 1999 NPS study shows 74% thought off-leash dogs is what makes Fort Funston "special." Less than 2% had concerns about dogs.*
- *Don't turn Fort Funston into a botanical, nature, or wilderness preserve – it is not Yosemite or a pristine place.*
- *(GGNRA) was not created just for a small, well funded vocal clique that seeks to reproduce esoteric California plant life in what has always been sand dunes or to protect the Bank Swallow that fled this area some time ago because of land clearing and replanting activities undertaken by your agency.*
- *Don't want to be confined to narrow trail only to observe "native vegetation".*
- *The NPS should not have removed the Sunset Trail. An asphalt trail should be replaced so that those who frequent the area with strollers, wheelchairs, or who need a firm surface to walk on can once again enjoy the area.*
- *Areas where dogs can run free are being eliminated. In SF space is at a premium and open space for recreation is valuable.*
- *My primary concern is that the Park service ultimately intends to close the park to pets.*
- *Fort Funston is not Mount Rushmore. It is a city park...*
- *SPCA calls it the Peoples Park.*
- *We have had to go to the East Bay where they seem able to adequately protect the environment and give pleasure to dogs and owners. Regional Parks have "enlightened" off-leash policy.*
- *Nature intends that we live in a multi-species world; let us keep Fort Funston open to all species.*
- *Inner city kids need a good place to camp, such as Fort Funston. Don't close off the park to these kids.*
- *Put the fun back into Funston.*

FOFUAR00310

## Suggestions

The park received a number of letters with suggestions regarding other approaches to managing the area besides restricting dog-walkers.

- *Supports finding a compromise to allow protection and people walking their dogs in a responsible manner . . . native planting and swallow nests restoration can be done. successfully without taking more than 75% of the beach cliff trails away from the dogs and people that enjoy this park. "Please don't take our cliffs away!"*
- *If Fort Funston is closed to off leash then another area that is open to off leash dog walking should be identified.*
- *Supports seasonal closing of area (and limiting of days dogs are off leash).*
- *Design a comprehensive plan with native plants in low or no traffic areas, with swallow protection, if they need it, and with the rest of us left alone to enjoy what remains of the evolution of the Army's work.*
- *(vegetation) restoration should be limited to the fringes of the property.*
- *...the problems facing the Fort are due to the person(s) taking out herds of dogs... I have been charged by masses of uncontrollable animals, and I, as a dog person, find this difficult to handle, even with the non-aggressive dogs that I own. The dog walkers with the uncontrollable numbers of dogs seem to be oblivious of this problem. The numbers of dogs per handler needs to be limited to 2-3! These "professionals" need to take out only a few dogs at a time to exercise, not 10-15 at a time as they are now doing.*
- *We will enthusiastically support a balanced policy and urge you not to impose onerous restrictions that would make Funston "off-limits" to us.*
- *Has no problem with being restricted to trails, but objects to the closure of 12 acres.*

## Other Comments in Opposition to the Proposed Closure

Some comments did not fit into the major categories above. A sample of those comments follows:

- *The handling of the public comments at the GGNRA's Citizen's Advisory Commission September meeting was criticized. The closure was not the first thing on the agenda and the testimony was not heard until 10:45 P.M.*
- *Fence posts are treated with cancer causing chemicals.*
- *Hang-glider users do not disturb swallows.*

## In Support of Fort Funston Closures

### NPS has a Responsibility to Protect Habitat

Comments noted that the NPS has a mandate to protect natural and historic resources.

FOFUAR00311

- *Preservation of the colony of threatened bank swallows must be a top priority in the management of Fort Funston.*
- *The park service should close the maximum area necessary to protect them.*
- *Existing laws that require all dogs to be on leash in national parks should be firmly enforced.*
- *Because of the unique nature of the (bank swallow) colony the park will designate it as a research natural area. This designation protects the area from any development and will receive special management attention (1982, GGNRA resource management plan)*
- *As one of the last remnants of land that approximates San Francisco's natural pre-settlement landscape, the Fort Funston dunes have tremendous importance both historically and ecologically.*
- *...(iceplant is) a species that is "actively smothering native California wildflowers while converting pristine coastal dune, cliff and prairie habitats into desolate biological wastelands that our native flora and fauna cannot survive in...."*
- *(NPS's proposal) will undoubtedly provide a vast improvement to the habitat.*
- *The (dune) scrub is an incredibly rich environment, supporting a wealth of plant species, many endangered, butterflies, deer rabbits, field mice, and the hawks that hunt them...*
- *The proposed habitat protection closure is consistent with the recent order issued by the Director of the NPS, indicating that protection of natural resources is the priority in national parks and recreation areas...This order indicates "that when there is conflict between conserving resources and values and providing for enjoyment of them, conservation is to be predominant."*
- *I have been a volunteer at the Fort Funston nursery for the last 12 years. During that time I have seen the gradual degradation of the non-fenced dune landscape caused by the increased number of dogs. This makes me feel that my work is useless...*
- *Children sliding down Joey's Hill is destructive to (the) sand dune.*
- *This (NPS closure proposal) is an entirely reasonable proposal: indeed, the proposed closure would still leave over 80% of Fort Funston available for recreational activities.*
- *The closure notice also documents the alarming increases in cliff rescues of dog and human visitors in the Fort Funston area...*
- *The cliff climbing and cliff rescues clearly are a direct threat to the swallow colony and every measure must be taken to eliminate this situation.*
- *...It is unclear how the Park Service intends to protect the swallows from harassment and activities on the beach beneath the colony...*
- *It is also questionable whether the continued allowance of off-leash dog running and social trail construction will not lead to a general disrespect for the resources of Fort Funston.*
- *It (Fort Funston) must be managed for its biological and historical features, not as a "dog run"...*
- *As a public entity you are charged with serving the broader public, not just those who have the means to launch a malicious campaign of self-interest.*

## Public Safety

Many letters expressed concern that they were not able to fully enjoy the park because of the presence of loose dogs.

- *People are not being protected from the dogs that are not on leash.*
- *Is there nothing that the park service can do to make these dog owners control these dogs so the rest of us can again enjoy the park?*
- *Dogs have stolen the park from us.*

FOFUAR00312

- *I no longer take my students to Funston since a large out of control dog knocked one of the children over and thoroughly frightened the rest during a field trip two years ago. The owner did not yell until I pushed the dog away, and as you might guess, she yelled at me.*
- *My Husband and I tried to take our young son there (Fort Funston) a few weeks ago to walk and watch the hang gliders. We had to leave because we could not walk two feet without dogs jumping up on us. ... it was not safe for our 3-year old. I asked owners, when they were close enough to see to please hold the dogs back. But they could not. Often the owners were nowhere near their dogs.*
- *7 or 8 years ago I use to walk at Fort Funston with friends and the children- the only dogs I remember were on (leashes), controlled by their owners.*

### Resource Protection and Recreation Use Conflicts

Numerous comments indicated concern about recreation use in relation to resource protection.

- *I have lost nearly all fondness for dogs after watching them...degrade habitat, destroy sand dunes, chase birds and pee on children.*
- *The park is dirty with dog hair and poop everywhere.*
- *It is a shame for the dogs and the owners, but it is NOT the responsibility of a national park to accommodate them.*
- *...(data) showed that 86% of the use at Fort Funston were dog walkers. And, to me, that begs the question: If Fort Funston is such a unique and beautiful place, why is its use being dominated by a predominantly single, special-interest group?*
- *...we applaud the GGNRA for attempting to protect what little wildlife that remains at Fort Funston.*
- *Unfortunately, GGNRA has curried the favor of the small off-leash dog-user group, to the detriment of the park's resources and a vastly superior number of other park users, whose activities do not come in conflict with park regulations.*
- *Need a comprehensive management plan for Fort Funston.*
- *...forbid professional dog walkers from using Fort Funston.*

FOFUAR00313



# United States Department of the Interior

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

IN REPLY REFER TO:

D18 (GOGA-SUPT)

NOV 2 2000

## Memorandum

To: Environmental Protection Specialist, Golden Gate NRA

From: Assistant Superintendent, Operations, Golden Gate NRA *WJ 11/1/00*

Subject: Project Review Materials for Proposed Habitat Protection Closure at Fort Funston

Attached are the following:

- Project review form for NEPA compliance for the Fort Funston Bank Swallow and Habitat Protection Project
- October 24, 2000 summary of public comment for the above project

This project was originally proposed at the February 3, 1999 project review meeting, and was included in the parkwide Vegetation Stewardship Program work plan. The project was approved by the General Superintendent on February 24, 1999, with categorical exclusion E(6). A modified version of the project, approximately 10 acres, was implemented in February 2000.

The attached project review form describes the original 12-acre project, as proposed in February 1999 and contains additional resource and public safety information. The reason for returning to the original 12-acre project is that the reduced project was found not to meet the mandate of the National Park Service. The original 12-acre project is more protective of the resources and best meets the goals and objectives of the project, as follows:

- provide increased protection to the new nesting location of the bank swallow colony at Fort Funston;
- increase biological diversity by restoring native coastal dune scrub habitat;
- increase public safety;
- protect the geological resources, including bluff top and interior dunes from accelerated human-induced erosion

FOFUAR00314

GGNRA007055

I would appreciate your placing the attached information on the agenda for the November 22, 2000 project review meeting. I am aware that the project was discussed as an informational item at the September 13, 2000 project review meeting, though no action was taken on it since public comment had not been completed. The public review period ended October 6, 2000, and the attached summary represents comments received through that period.

Park management has reviewed the public comments and continues to support the project as described in the attached project review form. Based on my review of the categorical exclusions categories, I would appreciate your consideration of the following as applied to the project:

- D(2), minor changes in amounts or types of visitor use for the purpose of ensuring visitor safety or resource protection in accordance with existing regulations;
- E(2), day-to-day resource management and research activities;
- E(4), stabilization by planting native plant species in disturbed areas;
- E(6), restoration of noncontroversial native plant species into suitable habitats within their historic ranges, and elimination of exotic species.

Please do not hesitate to contact me if you have any questions. Please provide this memo with the project review package.



Mary Gibson Scott

Attachments (2)

**GREEN GATE NATIONAL RECREATION AREA  
PROJECT REVIEW FORM FOR NEPA COMPLIANCE**

**AUG 31 2000**

PW 00-121

**PART 1 - PROJECT DATA**

<b>Project Title</b>		<b>Fort Funston Bank Swallow and Habitat Protection Project</b>			
<b>Project Location/Bldg. #</b>		Fort Funston		<b>Project Review #</b>	
<b>Proposed Start Date</b>		October 30, 2000		<b>Target End Date</b> November 2000	
<b>Project Initiator/ Title</b>		Sharon Farrell		<b>Telephone #</b> 331-0743	
<b>Is the Project on the GPRA Work Plan for the Fiscal Year?</b>				<b>Yes</b>	<b>No</b>
				XX	
<b>Division Chief's Signature</b>	<i>Turned over for Terri Thomas</i>	<b>Date</b>	8/28/00	<b>Supervisor's Signature</b>	
				<b>Date</b>	

**PART 2 -- PROJECT DESCRIPTION**

In the box below (and attached pages if required) briefly describe 1) the project that is being proposed; 2) the current conditions at the project area 3) the reason for the project; and 4) the proposed work plan to accomplish the project. **A map of the project location and/or a detailed site plan is mandatory and must be attached.**

This project was originally proposed at the project review meeting on February 3, 1999. It was included in the larger **Vegetation Stewardship Program (Parkwide) workplan spreadsheet**; the specific project was entitled **Ft. Funston Bank Swallow site and adjacent dunes**. The General Superintendent approved it on Feb. 24, 1999, with a categorical exclusion, E(6) Restoration of non-controversial native species into suitable habitats within their historic ranges and elimination of exotic species. Since then, a modified version of the project was implemented in February-April 2000. The effectiveness of that project has been further evaluated and revised, and is subsequently being returned to project review as old business.

The attached document describes the project, its history, purpose and need. Map 1 delineates the proposed fencing alignment. Several steps are necessary to accomplish the project. The current fencing alignment (as illustrated in Map 2) will be changed in the following manner: the fence separating the seasonal and permanent areas will be removed; the southern fence boundary of the seasonally closed area will be extended south to the alignment illustrated in Map 1; all but two gates will be removed (specific gates to be determined), and replaced with post, cable and mesh fencing. Removed materials will be re-used on-site wherever feasible.

The entire 12-acre project area will be closed year-round to visitor access. There is a portion of one designated trail located within the footprint of the closure. This trail, known as the "Spur trail" (see Map 1), will be closed to visitor use because southern sections of this trail have become unusable due to increased sand deposition on the trail surface. This has compounded the establishment and use of unauthorized "social" trails in the northern section of the project area. Visitor use of and access to all "social" trails including "the Gap" (see Map 1) within the project footprint will be prohibited by this closure.

Because of a May 16, 2000, Federal District Court ordered preliminary injunction against the NPS, which disallows the closure until such time as appropriate public notice and opportunity for comment was provided, NPS provided notice of the proposed closure in the Federal Register on July 14, 2000, and is inviting comments from the public on this proposed year-round closure. Public comments will be accepted for a period of 60 calendar days from the date of the notice. Therefore, public comments on this notice will be received by ~~September 12, 2000.~~ *October 6* *np*

Once public comment has been received, and provided the project is approved, work will be accomplished under Public Land Corps funding, ~~in mid-fall 2000.~~ SFCC will work under direction of an NPS-designated resource education contractor. The resource education contractor will remain on-site during all project activities. NPS maintenance support may also be required to assist in the removal of partially buried peeler posts in the project area. Habitat restoration efforts will continue through the support of the community-based Fort Funston Green Team.

FOFUAR00316

**PART 3 -- POTENTIAL IMPACTS CHECKLIST**

<b>Does The Proposed Project Have The Potential To:</b>	<b>YES</b>	<b>NO</b>	<b>Does The Proposed Project Have The Potential To:</b>	<b>YES</b>	<b>NO</b>
1. Destroy, remove or result in the gradual deterioration of historic fabric, terrain or setting?		X	15. Increases traffic congestion, traffic volumes or adversely affect traffic safety for vehicles, pedestrians or bicyclists?		X

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2. Alter historic ground cover or vegetation?		X	16. Impede accessibility?		X
3. Introduce non-historic elements (visible, audible or atmospheric) into a historic setting, structure or environment?		X	17. Generate nuisance dust or odors?		X
4. Reintroduce historic elements in a historic setting or environment?		X	18. Involve handling/storage of hazardous substances?		X
5. Adversely affect a unique geologic resource?		X	19. Maintain or create a public or employee safety or health hazard?		X
6. Disturb the ground surface or change the surface topography?	X		20. Block or substantially alter an existing view, be visually intrusive or contribute to a degraded visual condition?		X
7. Compromise slope stability?		X	21. Affect rare, endangered or sensitive species?	X	
8. Change the pattern of surface water flow, lead to increased runoff or erosion?		X	22. Adversely affect wildlife (feeding, nests, dens, roosts, etc.)?		X
9. Degrade surface or ground water quality?		X	23. Add or remove plants?	X	
10. Involve issues of concern for park neighbors or organizations or generate media attention?	X		24. Affect wetland, riparian or coastal habitat?		X
11. Conflict with adjacent uses either private or public?		X	25. Attract animal or insect pests?		X
12. Adversely impact current or planned visitor services, access or available parking?		X	26. Increase demand for police services or create an attractive nuisance?		X
13. Perceptibly increase the background noise levels or expose people to loud noise?		X	27. Increase demand for fire protection services or increase wild fire hazard?		X
14. Increase vehicle emissions or emissions of other air pollutants?		X	28. Result in other cultural resource, natural resource or visitor services impacts?		X
15. Substantially increase the amount of energy or water used or waste generated?		X	29. Increase night lighting or glare?		X

**PART 4 -- DISCUSSION OF IMPACT AND MITIGATION:** In the box below briefly address each "Yes" answer from the Impacts Checklist in Part 3 above. Describe the potential impact and any recommendations for avoiding or reducing the impact. Use as many pages as needed to answer.

6. Cause Ground disturbance? The project will require the removal of approximately 650 linear feet of existing fencing and the installation of approximately 380 linear feet of post and cable (with mesh) fencing.
10. Components of this project have generated public and media interest. NPS provided notice of the proposed closure in the Federal Register on July 14, 2000, and invited comments for a 60-day period from the public on this proposed year-round closure. A resource education contractor will be present on site during the project's implementation to provide public education on the closure.
21. Will affect rare or endangered species? We expect that this protection project to have a positive affect on the state-threatened bank swallow colony, and other rare plants (CNPS-listed) that will be apart of the revegetation efforts.
23. Removal of plants - An integrated pest management approach is used in the removal of invasive iceplant on the project site to ensure the least destruction to existing plant and animal communities (hand removal, and small equipment versus herbicide). Revegetation will commence upon completion of invasive exotic removal efforts (see attached report).

#### PART 5 -- ALTERNATIVES

In the box below, briefly describe any other *reasonable* alternatives that were considered for accomplishing the project including alternative locations.

No Action:

This alternative would limit protection efforts for the state-threatened bank swallow habitat and Fort Funston's unique geologic features; limit public and staff protection from safety threats associated with steep cliffs and bluff rescues, as well as reduce opportunities for controlling invasive exotic species and implementing ecological restoration efforts.

FOFUAR00317

#### PART 6 -- PROJECT COMPLIANCE AND APPROVALS

**QUESTIONS 29 THROUGH 37 TO BE COMPLETED BY THE ENVIRONMENTAL PROTECTION SPECIALIST.**

<b>Would the Project:</b>	<b>YES</b>	<b>NO</b>
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29. Conform with the GMP, GMP, a specific site plan?		
30. Promote sustainability?		
31. With mitigation applied, result in <b>no net loss</b> of park resources?		
32. Require utility connections (maintenance & engineering approval required)?		
33. Require new signage (sign committee approval required)?		
34. Involve excavation (requires utility clearance)? <b>If yes, enter date issued:</b>		
35. Require 5x review. <b>If yes, enter date issued &amp; /5x project #:</b>		
36. Require GGNRA Advisory Commission Review		
37. Other agency permits (BCDC, USCOE, etc.) <b>If yes, specify:</b>		

**DISCUSSION OF PROJECT PLANNING COMPLIANCE:** In the box below briefly address "NO" answers for questions 29, 30 and 31.

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As part of the resource protection mission of the National Park Service (NPS), approximately 12-acres of Fort Funston is being closed year-round to off-trail recreational use by the public. This action will protect habitat for a nesting colony of California state-threatened bank swallows (*Riparia riparia*), a migratory bird species once more common along the California coast that has declined significantly due to habitat conversion and increased recreational use. This closure is also necessary to enhance significant native plant communities, improve public safety, and reduce human-induced impacts to the coastal bluffs and dunes, a significant geological feature.

Part of the Golden Gate National Recreation Area (GGNRA), Fort Funston spans approximately 230 acres along the coastal region of the northern San Francisco peninsula. It is located south of Ocean Beach and north of Pacifica, and is flanked to the east by both John Muir Drive and Skyline Boulevard, and to the west by the Pacific Ocean. The proposed year-round closure is located within the northern region of Fort Funston and is depicted on the attached map as "Project Area (Year-round closure)." It is defined to the west by the edge of the coastal bluffs; to the east by the Coastal Trail; to the north by protective fencing installed in the early 1990s for habitat protection; and to the south by a pre-existing "beach access" trail west of the Battery Davis "Y". There is currently fencing erected around the eastern and northern perimeters of the proposed year-round closure area. Additional fencing will be erected along the southern boundary, parallel to the "beach access" trail (see map). This fencing will be peeler post and wire mesh design, consistent with the existing fencing that was erected in February-April 2000.

The entire 12-acre project area will be closed year-round to visitor access. There is a portion of one designated trail located within the footprint of this closure. This trail, known as the "Spur trail" (see map), will be closed to visitor use because southern sections of this trail have become unusable due to increased sand deposition on the trail surface. This has compounded the establishment and use of unauthorized "social" trails in the northern section of the project area. Visitor use of and access to all "social" trails including "the Gap" (see map) within the project footprint will be prohibited by this closure.

## II. HISTORY - Fort Funston

Prior to Fort Funston's purchase by the Army, the site supported a diversity of native dune vegetation communities. During the 1930s however, the Army built an extensive system of coastal defense batteries, drastically altering the dune topography east of the bluffs and, in the process, destroying much of the native plant communities that inhabited the dunes. Following construction, the Army planted iceplant (*Carpobrotus edulis*) in an attempt to stabilize the open sand around the batteries.

By the mid-1960s, extensive areas of Fort Funston were covered with invasive exotic plants such as iceplant and acacia. Some years after Fort Funston was closed as a military base, it was transferred to the National Park Service in 1972 to become part of the GGNRA. As a unit in the national park system, Fort Funston today is used extensively by beachcombers, walkers, hang gliders, paragliders and horseback riders, and other recreational users. Approximately three-quarters of a million visitors enjoy Fort Funston annually.

## III. CLOSURE JUSTIFICATION

FOFUAR00319

This closure is necessary to protect habitat for the California State-threatened bank swallows (*Riparia riparia*), enhance significant native plant communities, improve public safety and reduce human-induced impacts to the coastal bluffs and dunes, a significant geological feature. The National Park Service has authority to effect closures for these purposes pursuant to Section 1.5 of Title 36 of the Code of Federal Regulations. Specifically, Section 1.5 authorizes the Superintendent to effect closures and public use limits within a national park units when necessary for the maintenance of public health and safety, protection of environmental or scenic values, protection of natural or cultural resources, aid to scientific research, implementation of management responsibilities, equitable allocation and use of facilities, or the avoidance of conflict among visitor use activities. As discussed in detail below, the proposed closure at Fort Funston is necessary to protect environmental values and natural resources, to protect public safety, and to implement management responsibilities.

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### A. *The Threatened Bank Swallow*

One of the many unique features of Fort Funston is that it supports one of the last two remaining coastal cliff-dwelling colonies in California for the bank swallow (*Riparia riparia*). Once more abundant throughout the state, their numbers have declined so dramatically that in 1989 the State of California listed the bank swallow as threatened under the California Endangered Species Act. The bank swallow is also a protected species under the Migratory Bird Treaty Act, and for nearly a century, the bank swallows have returned to Fort Funston each March or April to nest and rear their young along the steep bluff faces. NPS regulations, policies and guidelines mandate the protection and preservation of this unique species and its habitat.

Its preferred habitat—sheer sandy cliffs or banks—has been altered throughout its range by development, eliminated by river channel stabilization, and disrupted by increased recreational pressures. The Fort Funston colony is particularly unique in that it is one of only two remaining colonies in coastal bluffs in California, the other being at Año Nuevo State Park in San Mateo County. Bank swallow habitat at Año Nuevo remains closed to visitor access.

Mortality of bank swallows results from a number of causes including disease, parasites and predation. Destruction of nest sites, including collapsed burrows due to natural or human-caused sloughing of banks, appears to be the most significant direct cause of mortality (Recovery Plan, Bank Swallow (*Riparia riparia*), State of California Department of Fish and Game 1992). The Recovery Plan recommends a habitat preservation strategy through protection of lands known to support active colonies or with suitable habitat features for future colony establishment. It also acknowledges that isolated colonies, like Fort Funston, are at particularly high risk of extinction or severe population decline. Additionally, the State of California Historic and Current Status of the Bank Swallow in California report (1988) recommended that nesting colonies be protected from harassment and human disturbance.

The Fort Funston colony has been recorded since at least 1905. Records indicate that the colony fluctuated in size and location over time. A 1961 study of the Fort Funston colony documented a total of 84 burrows in 1954, 114 in 1955, 157 in 1956, and 196 in 1960. GGNRA staff counted at least 229 burrows in 1982 and more than 550 in 1989. In 1987 the California Department of Fish and Game documented 417 burrows at Fort Funston. Approximately 40 to 60 percent of burrows are actively used for nesting in a given year.

Between 1992 and 1995, NPS implemented other protection and restoration measures for the Fort Funston colony, including a year-round closure of approximately 23-acres in the northern most portion of Fort Funston to off-trail recreational use. The current proposed closure area lies directly south of this previous closure area. From 1954-56 and from 1989-97, the colony was located along the bluffs within the footprint of this previous closure. However the colony shifted during 1959 and 1960, and again since 1998, such that birds are now nesting within the current proposed closure area.

In 1993, GGNRA established an annual monitoring program to track the abundance and distribution of bank swallows at Fort Funston. Trained personnel conduct weekly surveys during nesting season (from mid-April through early August). From 1993 to 1996, burrow numbers were over 500 each year. The number declined dramatically to only 140 in 1998 and 148 in 1999 when the colony shifted to the current proposed closure area (then unprotected). This event coincided with the storms during the winter of 1997 that caused significant cliff retreat and slumping. In an attempt to protect the colony from recreational disturbance of nesting habitat, protective fencing was installed along the bluff top in 1998 with interpretive signs to encourage visitors to reduce impacts on the nesting colony. These efforts proved unsuccessful in preventing recreational disturbance to the colony. NPS observed increased erosion due to visitor use adjacent to the fenceline. Moreover, the rate of natural bluff erosion, approximately one foot per year, and the constant deposition and erosion of sand material caused the fence to collapse and fail within just a few months. Fence posts near the bluff face also provided advantages to swallow predators that perch on the posts with a view to the swallow nests.

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A wide array of disturbances to the swallows at Fort Funston have been observed and recorded during monitoring, and/or photo-documented. While bank swallows are known to be quite tolerant to some disturbance, few colonies are subjected to the intense recreational pressure at Fort Funston. Documented

disturbance events at Fort Funston include: cliff-climbing by people and dogs; rescue operations of people and dogs stuck on the cliff face; people and dogs on the bluff edge or in close proximity to active burrows; graffiti carving in the cliff face; aircraft and hang-glider over-flights; and discharge of fireworks within the colony. The potential impacts from such disturbances include: interruption of normal breeding activity, such as feeding of young; crushing of burrows near the top of the cliff face (nests can be located within a foot of the bluff top); casting shadows that may be perceived as predators; accelerating human-caused bluff erosion; and active sloughing and land-slides that may block or crush burrows and the young inside.

The NPS has determined that the designated trails (see map) at Fort Funston provide adequate access to the park area and that continued use of unauthorized "social" trails within the project footprint has adverse impacts on park resources, including the bank swallow.

The institution of the proposed 12-acre closure area, coupled with increased interpretive signs and strategically located protective barriers at the base of the bluffs will protect the bank swallow colony by preventing most of these disturbances. There will be no visitor access to the bluff edges above the nesting sites, thus preventing falls and rescues on the cliff face, as well as human-induced erosion, crushing of burrows, and casting of shadows. Visitor access up the bluffs from the beach into the closure area will be prohibited, thus avoiding human-induced erosion of the bluffs and habitat disturbance.

### **B. Geology and Erosion**

The bluffs at Fort Funston provide one of the best continuous exposures of the last 2 million years or more of geologic history in California, covering the late Pliocene and Pleistocene eras. This exposure of the Merced Formation is unique within both the Golden Gate National Recreation Area and the region. It is a fragile, nonrenewable geologic resource. NPS regulations, policies and guidelines mandate preservation of such resources by preventing forces (other than natural erosion) that accelerate the loss or obscure the natural features of this resource.

Recreational use along the bluff top contributes to a different type of erosion than the natural processes of undercutting and slumping. Concentrated wave energy at the base of the bluffs naturally leads to bluff retreat typically occurring during winter season when the bank swallows that nest in the vertical bluff faces are absent. Natural weathering and erosion from rainfall runoff and wind contribute to loss of the bluff face. During spring and summer, when park users clamber around the bluff top, erosion occurs from the top to the bottom, compromising the bluff face. Slumps caused by heavy visitor traffic along the bluff top can induce sand slippage and may even wipe out burrows during nesting season. Geologist Clyde Warhaftig described areas of this unique sand bluff formation as crushable with the fingers and indicated, in 1989, that people climbing the cliff faces would induce additional erosion and that such activity should be prevented.

Additionally, erosion has been both documented and observed throughout the inland topography of the closure area. Continued heavy visitor use in this inland dune bluff area and associated human-caused erosion along unauthorized "social" trails is likely to further shorten the lifespan of the bluffs, and is an additional threat to the long-term existence and sustainability of suitable habitat for the Fort Funston bank swallow colony.

The proposed closure will preserve the unique bluffs by preventing destructive human activity around the bluff tops and permitting the inland dune features to recover from human-induced erosion.

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### **C. Conservation and Restoration of Dune Habitats**

Fort Funston is the largest of several significant remnants of the San Francisco dune complex – once the 4<sup>th</sup> largest dune system in the state that covered more than 36 square kilometers of San Francisco. More than 95% of the original dune system has been drastically altered by urbanization and development (Powell, 1978). The flora inhabiting the dunes of San Francisco was quite diverse. Historical accounts documenting San Francisco's native dune species can be used to reconstruct the likely historic flora of Fort Funston. Recent surveys of Fort Funston confirm that its remnant flora is clearly allied with other dune localities documented in the 1958 Flora of San Francisco. NPS regulations, policies and guidelines mandate protection of this unique resource.

Removing iceplant and other invasive exotic plant species is one of the most important strategies for restoring dunes. At Fort Funston, iceplant dominates more than 65% of the dunes. The California Exotic Pest Plant Council rates iceplant on its "A" list, which includes those species that are the Most Invasive and Damaging Wildland Pest Plants. "Even when [natural] processes are protected, the very nature of dunes, which are prone to disturbance and characterized by openings in the vegetation, renders them constantly susceptible to the invasion of non-native species—especially in urban settings. For these reasons, restoration is an essential component of dune conservation in northern California." (Pickart and Sawyer 1998).

Dense iceplant cover also affects the diversity and abundance of native insects and other wildlife. In a study of sand-dwelling arthropod assemblages at Fort Funston, Morgan and Dahlsten compared diversity between iceplant-dominated plots and areas where native plants had been restored. They found that "overall arthropod abundance and diversity are significantly reduced in iceplant dominated areas compared to nearby restored areas. . . . If plant invasion and native plant restoration dramatically affect arthropod communities as our data indicate, they may also have wider reaching effects on the dune community as a whole. This research demonstrates the importance of native plant restoration for sand-dwelling arthropod communities" (Morgan and Dahlsten 1999).

In a report last year, the Director of the National Park Service wrote that "it is undisputed that without decisive, coordinated action the natural resources found within the National Park System will disappear as a result of invasive species spread" (Draft NPS Director's Natural Resource Initiative – Exotic Species Section, 1999). Emphasis on the need to address invasive exotic species issues and control was further stressed through *Executive Order 13112 on Invasive Species signed February 3, 1999*. "Sec. 2 (a) each Federal Agency whose actions may affect the status of invasive species shall ... (2) (i) prevent the introduction of invasive species; (ii) detect and respond rapidly to and control populations of such species in a cost-effective and environmentally sound manner; (iii) monitor invasive species populations accurately and reliably; (iv) provide for the restoration of native species and habitat conditions in ecosystems that are invaded... (vi) promote public education on invasive species and means to address them.."

Increasingly heavy off-trail use has contributed to the deterioration of native dune communities at Fort Funston. Native dune vegetation is adapted to a harsh environment characterized by abrading winds, desiccating soils, low nutrient conditions, and salt spray, but it is not adapted to heavy foot traffic. Only a few species (a few annual plants, coyote bush (*Baccharis pilularis*)) are able to survive repeated trampling. NPS has determined that the designated trails (see map) at Fort Funston provide adequate access to the park areas, including ingress and egress to the beach, and that continued use of unauthorized "social" trails within the project footprint has adverse impacts on the park resources, including the native dune vegetation.

Increasingly, heavy off-leash dog use has also led to the deterioration of native dune communities. When on a leash, the effects of dogs on vegetation and other resources is focused along a trail corridor already disturbed by other recreational activities. When dogs are off-leash, their impacts are spread throughout a larger area. Trampling of vegetation caused by roaming dogs weakens the vegetation in the same manner as trampling by humans; in areas where off-leash dog use is concentrated, such intensive trampling destroys all vegetation, even the extremely tolerant iceplant. Also, the dune soils at Fort Funston are naturally low in nutrients. Deposition of nutrients via dog urine and feces may alter the nutrient balance in places and contribute to the local dominance of invasive non-native annual grasses that prosper in high-nitrogen soils (e.g., farmer's foxtail (*Hordeum* sp.), wild oats (*Avena* sp.), ripgut brome (*Bromus diandrus*)). Other adverse impacts documented and observed by park staff include off-leash dogs digging and uprooting vegetation.

The proposed closure area will allow for the recovery and expansion of remnant native plant species and communities currently threatened by spread of iceplant, and concentrated visitor and off-leash dog use in the project area. Revegetation efforts will promote the establishment of more than 50 dune plant species, including several rare plant species, such as the San Francisco wallflower and the San Francisco spineflower. Expansion of native coastal dune habitat at Fort Funston is also critical to enhancing the diversity and abundance of locally rare wildlife populations thus making them less vulnerable to extinction. It will also aid in preserving habitat for common wildlife species.

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#### **D. Public Safety**

Cliff rescues in the Fort Funston area are a serious threat to public safety and have a direct impact on the bank swallow colony. Numerous rescues of dogs and people every year are necessary as a result of falls and/or when those climbing the unstable cliffs find themselves unable to safely move up or down. These rescues can cause injuries to both the rescued and the rescuers, compromising public safety and natural resources at Fort Funston. Additionally, technical rescues, such as cliff rescues at Fort Funston, tie up a large number of park personnel and equipment, leaving major portions of GGNRA unprotected. NPS must take all measures to reduce these preventable emergency rescues to ensure that the limited rescue personnel are available for emergencies throughout the park.

Visitor use at Fort Funston has increased significantly over the past five years, with annual visitation now reaching more than 750,000. Fort Funston has also become the focal point for cliff rescues in San Francisco. An updated review of law enforcement case incident reports indicates the following statistics. Prior to 1998 there was an average of just three cliff rescues per year involving dogs and/or persons stranded on the cliffs at Fort Funston. In 1998 the number of cliff rescues at Fort Funston jumped to 25. In 1999, park rangers performed 16 cliff rescues at Fort Funston.

By contrast, there were a total of 11 cliff rescues in 1998 along the remaining nine miles of San Francisco shoreline from Fort Point to the Cliff House. In 1999, there were four rescues along this stretch of coastline which includes a myriad of hazardous cliffs, and supports an annual visitation of approximately 2 million visitors. There were however, no dog rescues within this region during the past two years, largely because the leash laws are enforced, and because several especially hazardous areas are closed and fenced off for public safety.

There are several factors that have contributed to the increase in cliff rescues at Fort Funston. First, the severe winter storms in 1997/98 significantly eroded the bluffs, creating near-vertical cliff faces adjacent to and below some unauthorized "social" trails along the bluffs and causing more falls over the cliffs. Second, the increasing numbers of off-leash dog walkers at Fort Funston have resulted in many dog rescues, as well as three injured dogs and one dog death from falling off the cliffs at Fort Funston in just the past two years.

The National Park Service has determined that the designated trails (see map) at Fort Funston provide adequate access to the park areas, including ingress and egress to the beach, and that continued use of unauthorized "social" trails within the project footprint is a safety hazard for visitors and park rescue personnel.

The proposed closure will protect visitors, their pets, and the rescue personnel from unnecessary injury and will reduce the costly and time-consuming cliff rescues at Fort Funston by preventing access to dangerous cliff areas, and unauthorized use of "social" trails.

#### **IV. PREVIOUS PROTECTION EFFORTS**

FOFUAR00323

GGNRA began pro-active management of the bank swallow colony in 1990, following ranger observations of destructive visitor activities including climbing the cliffs to access nests, carving of graffiti in the soft sandstone, and harassment of birds with rocks and fireworks.

The first dune fences we erected in 1990 at the bluff's edge north of the currently proposed year-round closure to deter visitors from the edge of the bluff. This effort was ineffective. NPS observed increased erosion due to visitor use adjacent to the fenceline. Moreover, the rate of natural bluff erosion, approximately one foot per year, and the constant deposition and erosion of sand material makes the construction of bluff-top fences a short-term solution. To further evaluate the effectiveness and anticipated maintenance needs of a potential fenceline constructed parallel to the bluffs and within 100-150 feet of the bluff edge, GGNRA established sand deposition/erosion monitoring points at selected distances from the bluff top in 2000. The monitoring points were established along a fenceline erected in April 2000. Data gathered at these points was used to make preliminary calculations of the rate of sand deposition/erosion along the northern cliffs at Fort Funston within the currently proposed closure. To date, after 3 months of

data collection, data indicates that deposition/erosion of sand varies from +27" to -36" along the monitored fenceline posts, demonstrating the dynamic nature of the habitat and, consequently, the inefficiencies and difficulties of constructing the fenceline close to the bluff edge.

Implementation of an approved bank swallow protection and management strategy began in the fall of 1991, and continued for the next five years. This management strategy included: (1) closing and protecting 23 acres of the bluff tops by installing barrier fencing and removing exotic vegetation above the bank swallow colony; (2) requiring all dogs to be on-leash and all users to be on an authorized, existing trails when travelling through the closed area – all off-trail use was prohibited; and (3) creating a 50-foot seasonal closure at the base of the cliffs where the swallows nest to create a buffer area during breeding season, further protecting bank swallows from human disturbance. GGNRA hang-gliding permit conditions also prohibit flight over the nesting area during breeding season to reduce colony disturbance.

Between 1992 and 1995, over 35,000 native plants were propagated at the Fort Funston nursery and outplanted in the newly restored dunes within the 23-acre closure. This was accomplished through thousands of hours of community volunteer support. This restoration area now supports thriving native coastal dune habitat and several locally-rare native wildlife species including California quail (*Callipepla californica*), burrowing owls (*Athene cunicularia*) and brush rabbits (*Sylvilagus bachmani*), and a diversity of other native wildlife. California quail now survive in only a few isolated patches of habitat within San Francisco and is the subject of a "Save the Quail" campaign by the Golden Gate Audubon Society. Burrowing owls are designated as a state species of concern. California quail are considered a National Audubon Society WatchList species in California because of declining populations. Brush rabbits are not known to occur in any other San Francisco location within GGNRA.

## V. PROJECT GOALS AND OBJECTIVES

The National Park Service is proposing to extend the existing 23-acre protection area based upon the following factors:

- southern movement of the bank swallow colony in 1998 to an unprotected area;
- significant decline in the colony size;
- ineffectiveness of a fence installed in 1998 along the bluff top of the unprotected new nesting area – designed to prevent recreational use up and down a landslide on the cliff face;
- ineffectiveness of signs above the new nesting area warning of the sensitivity of the area;
- increase in the total visitation numbers, including off-leash dog walkers;
- increase in the number of cliff rescues staged along the bluff top;
- increase in erosion and loss of vegetation cover within the dunes between the bluff edge and coastal trail from visitor and pet disturbance;
- habitat restoration, including removing tracts of iceplant and restoring with native species.

In order to address the factors listed above, NPS determined that the current proposed closure must meet the following goals and objectives:

1. Provide increased protection to the new nesting location of the bank swallow colony at Fort Funston
  - prevent disturbances from visitor use above and along the bluffs
  - control off-leash dog activities in and above the colony habitat
  - prevent disturbances from cliff rescues
2. Increase biological diversity by restoring native coastal dune scrub habitat
  - reduce invasive exotic species (specifically iceplant) cover to less than 5% and revegetate protected area with native dune species
  - prevent visitor access to unauthorized "social" trail use and prohibit off-trail use FOFUAR00324
  - reduce impacts of off-leash dog activities within coastal dune scrub habitat
  - reduce disturbances from visitor use within this sensitive coastal dune scrub habitat
  - restore natural dune processes
  - expand native coastal dune habitat at Fort Funston to enhance the diversity and abundance of locally rare wildlife populations, such as California quail
3. Increase public safety

- reduce risks of falling over cliffs and need for cliff rescues
  - close unauthorized "social" trails along bluff top and close access to back dunes
4. Protect the geologic resources including bluff top and interior dunes from accelerated human-induced erosion.

An interdisciplinary team of GGNRA staff determined the size and footprint of the proposed closure and the design of the protective fence. In considering alternatives, the team evaluated whether the project goals and objectives were met, the ability to achieve compliance within the closure, the long-term maintenance required, the feasibility and costs of construction, and the impacts to recreational uses.

To achieve the goals and objectives listed above, the proposed closure was initially selected by NPS in 1999. However, in January 2000, NPS began implementation of a less restrictive closure that was developed after a series of NPS meetings with representatives of the dog walking community. The less restrictive closure entailed reducing the project footprint and opening over half of the area to visitor access when bank swallows were not present at Fort Funston. Since that time, extensive litigation regarding the closure has resulted in the development of an exhaustive record of evidence that, when re-evaluated, supports the currently proposed permanent closure. NPS has determined that the less restrictive closure is inadequate to meet the mandate of the National Park Service, in light of significant adverse impacts on natural resources, threats to public safety, infeasibility of fence maintenance and difficulty of closure enforcement.

NPS has determined that the currently proposed permanent closure, as depicted on the attached map, is necessary to achieve the goals and objectives outlined above, and is the least restrictive means to protect the resources and preserve public safety at Fort Funston and elsewhere within GGNRA.

FOFUAR00325



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## **Park Specific Plans & Documents; NPS Laws, Regulations, Guidelines and Policy**

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Golden Gate National Recreation Area Act of October 27, 1972, Pub. L. 92-589, 86 Stat. 1299, as amended, codified at 16 U.S.C. § 460bb et seq.

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Golden Gate National Recreation Area Environmental Compliance (Project Review) memorandum February 1995 - Project Review Committee Recommendations for Approval (Hillside Erosion Protection – Closure).

Golden Gate National Recreation Area Environmental Compliance (Project Review) memorandum February 24, 1999 – Project Review Committee Recommendations for Approval. (Bank Swallow Protection and Habitat Restoration Closure Project).

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
Park System Resource Protection Act, as amended, codified at 16 U.S.C. § 19jj et seq.

***National Park Service, Department of Interior, Regulations, 36 C.F.R. Parts 1-5, 7.***


FOFUAR00328

# Habitat and Bank Swallow Protection Project


**Fort Funston  
(MAP 1)**  
Golden Gate National  
Recreation Area




 Project Area
 




 Erosion Control
 




 Existing Restoration
 




 Main Trail
 



 Horse Trail
 





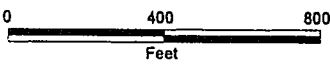
 Sand Ladder
 



 Spur Trail \*

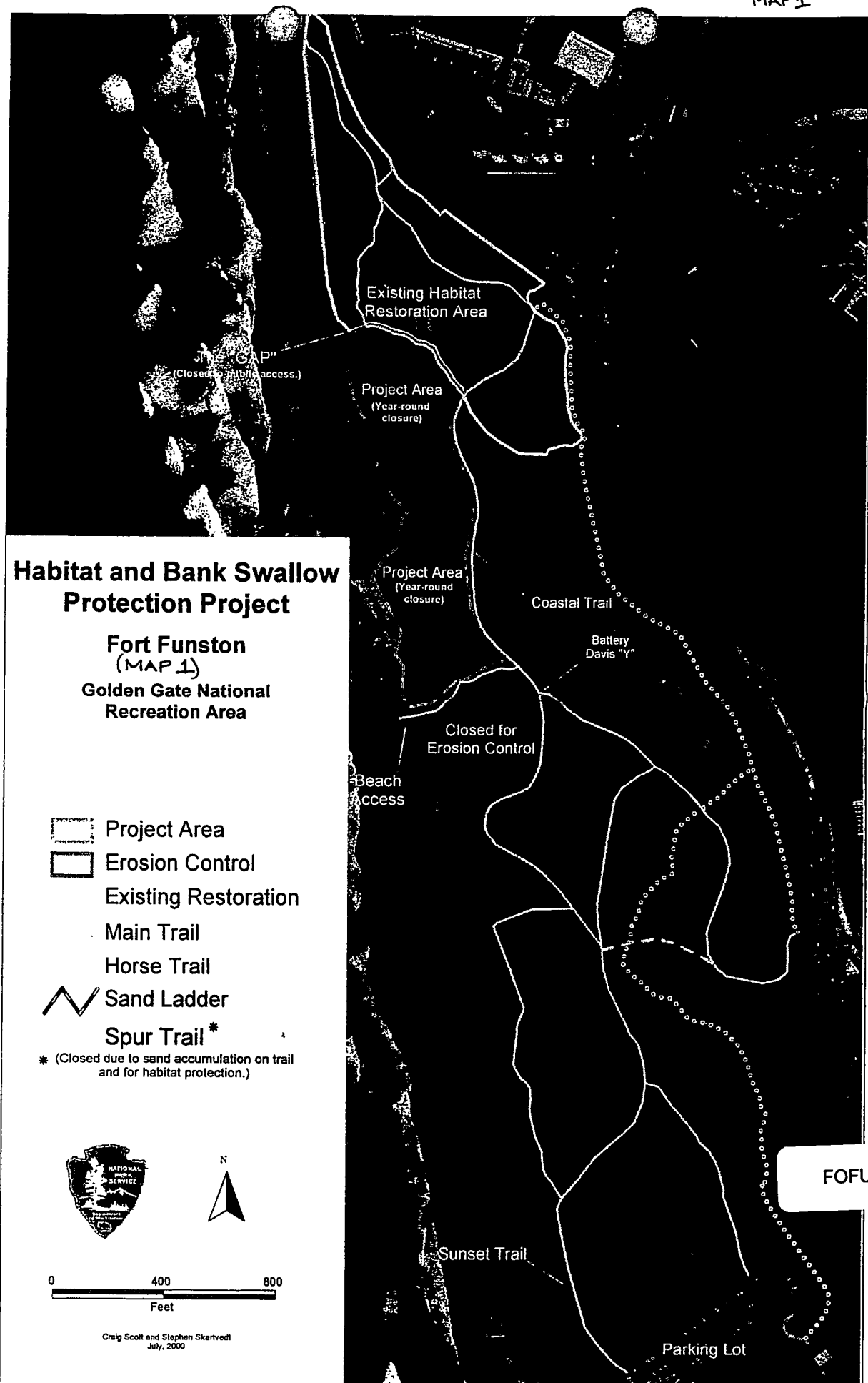
\* (Closed due to sand accumulation on trail and for habitat protection.)



0 400 800  
Feet

Craig Scott and Stephen Skarvold  
July, 2000



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# United States Department of the Interior

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

IN REPLY REFER TO:  
L76 (GOGA-RMPPC)

September 13, 2000

## Memorandum

**To:** General Superintendent, Golden Gate National Recreation Area *B. Bonnell 9-29-00*  
**From:** Environmental Protection Specialist  
**Subject:** Review Committee Recommendations for Approval

Attached are summaries of agenda items, recommendations for each project, and conditions of approval for Park-wide projects from the September 13, 2000 Project Review Committee Meeting. The agenda items heard at the meeting were:

- One project submitted for Scoping, Presidio, Presidio Trust Jurisdiction
- One project submitted as New Business, Presidio, Presidio Trust Jurisdiction
- Two projects submitted for Information, Parkwide
- One project submitted as New Business, Parkwide
- Two projects submitted as Old Business, Presidio, GGNRA Jurisdiction

The Presidio Trust project entitled "Hoy's Excelsior Cross-Country Race" (PR00-107) has been added to the agenda as New Business. Steve Overman presented the project.

The signature of the Superintendent, indicating approval/concurrence with the recommendation or your comments, is required for each project within the GGNRA jurisdiction.

### SCORING: PRESIDIO, PRESIDIO TRUST JURISDICTION

#### 1. Nextel Proposed Antenna/Telecommunication Facility, (PW 00-088A)

Steve Radcliffe of the Presidio Trust and Corey Alvin of Nextel Telecommunication briefed the Committee on the proposed modification for the siting of the Nextel communication facility. Nextel is seeking comments on a revised proposal for siting a cellular antenna in the vicinity of the MacArthur tunnel. The project proposes to correct deficiencies in signal coverage through the tunnel and secondly to supplement coverage north on Highway One/101. This project first came to Project Review as New Business on July 19, 2000 and the Executive Committee did not find that the project met the requirements for a categorical exclusion. The Committee recommended that alternative locations be examined.

Four alternative locations for the Nextel communication facility were proposed. One site is located on the west side of the MacArthur tunnel, north of Kobbe Avenue. Another site is located on the east side of the MacArthur tunnel, north of Kobbe Avenue and west of Park Boulevard. The other two sites are located on the east and west sides of the MacArthur Tunnel, south of Hitchcock Street. The current proposal is to construct a 20-foot pole with a Yagi antenna attached near the top. The antenna is approximately six feet long by one foot wide and runs parallel to Highway One. The antenna would need to be approximately five to ten feet above the roadway. The location of the pole would be approximately 400 yards north of the tunnel in a wooded area near the elevated portion on the east or west side of the freeway. The proposed equipment shelter is approximately 10' wide X 20' long X 9' high and would be placed under the overpass. The site plan for one of the proposed

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locations and a map indicating the location of the other three possible sites is located at the review tables, Presidio Building 102, 3<sup>rd</sup> floor and Fort Mason Building 201.

The Project Review Executive Committee made the following recommendations. The Project Manager should submit a new set of drawings that depicts each of the four locations for the antenna and proposed shelter. Quintex review is required for this project.

#### **NEW BUSINESS: PRESIDIO, PRESIDIO TRUST JURISDICTION**

##### **2. Hoy's Excelsior Cross-Country Race, Presidio Trails, (PR 00-107)**

Steve Overman of the Presidio Trust briefed the Committee on a proposed race event to be held October 7, 2000 on Presidio trails. The request is to conduct a cross-country foot race on existing Presidio Area B trails. The route will pass through the ecology trail and lovers lane. The race would start and finish at Paul Goode Field, which was already approved by the tenant. There will be a total of 150 runners participating in three classes over a 2-hour period from 8:30 a.m. to 10:30 a.m. The race route will be flagged and the race organizer will position 20 race monitors along the course to maintain adherence to the racecourse. Two Park police will be assigned to help direct traffic and control the street intersections. In addition, athletic trainers will be available to attend to injuries. Parking is proposed from the available inventory on West Pacific and at Inspiration Point. Approximately 75 vehicles will be parked in the West Pacific and Inspirational Point. All participants and staff will be off of the property by 11:30 a.m. Staff commented that the precedent-setting nature of this race through a quiet contemplative area should be considered prior to approval of this event. The Project Review Executive Committee mentioned that prior to approving anymore races, the Presidio Trust Special Events group should develop a Standard Operating Procedure (SOP) for races.

The Project Review Executive Committee found the project meets the requirements for a categorical exclusion with the fulfillment of the following conditions. The Project Manager should provide Marc Albert of NPS with a detailed map of the entire route. The route for the race should only include designated trails and not social trails. The Project Manager should coordinate with Marc Albert to identify route segments that pose an unreasonable threat to natural resources, or that deserve special flagging or monitors to protect natural resources. The route must be clearly flagged in the vicinity of sensitive areas, and where there are social trails that could be used as short-cuts. The Presidio Trust Special Events group should coordinate with Marc Albert. Damien Raffa or someone else from the Presidio Trust's natural resources staff should assist in monitoring the race to ensure natural resources are not impacted. Monitors must have qualifications, training and enforcement authority to ensure that runners and spectators stay on trails and out of sensitive areas. The monitors should be approved by Presidio Trust or NPS Natural Resources staff.

#### **INFORMATION: PARKWIDE**

##### **3. Ft. Funston Bank Swallow and Habitat Protection Project, (PW 00-121)**

Sharon Farrell of NPS briefed the Committee on the modified version of the Bank Swallow Habitat Protection project. This project was originally presented at the February 3, 1999 Project Review Committee meeting. It was included in the larger Vegetation Stewardship Program (Parkwide) workplan spreadsheet and entitled Ft. Funston Bank Swallow Site and Adjacent Dunes. The General Superintendent approved the project on February 24, 1999. Since then, a modified version of the project was implemented in February-April 2000. The project includes four objectives: to provide increased protection to the new nesting location of the bank swallow colony at Fort Funston, to increase biological diversity by restoring native coastal dune scrub habitat, to increase public safety, and to protect the geologic resources including bluff top and interior dunes from accelerated human-induced erosion.

The modified version of the proposal includes the removal of the fence separating the seasonally closed and permanently closed areas. The entire 12-acre project site will be closed to visitor access year round. The southern fence boundary of the seasonally closed area will be extended south; all but two gates will be removed, and replaced with post, cable and mesh fencing to keep dogs from passing through the fence. Materials that are removed will be re-used on site wherever feasible. A portion of one designated trail known as the "Spur Trail" is located within the footprint of the closures. The southern sections of this trail will be closed to visitor use because they have become unusable due to increased sand deposition on the trail surface. Sharon explained

that the seasonally and permanently closed areas have been monitored and it has been determined that the seasonally closed areas should be permanently closed so that native plant communities can properly establish. The restoration area now supports native coastal dune habitat and several locally-rare native wildlife species including burrowing owls and California quail.

The Federal District Court ordered a preliminary injunction against the NPS on May 16, 2000, which disallows the closure until appropriate public notice and opportunity have been provided. Notice of the proposed closure was provided by the NPS to the Federal Register on July 14, 2000. The public has been invited to comment on this proposed year-round closure. Public comments will be accepted until October 6, 2000. Comments can be sent to Brian O'Neill, General Superintendent, Golden Gate National Recreation Area. If the project is approved, work will be accomplished under the Public Land Corps funding in mid-fall 2000. The San Francisco Conservation Corps (SFCC) under the direction of an NPS-designated resource education contractor will perform the work.

#### **INFORMATION: PARKWIDE**

##### **4. Maintenance of the Ocean Beach Sand Barrier, (PW 00-122)**

Wendy Poinot of NPS and Frank Filice of the City of San Francisco Department of Public Works briefed the Committee on the proposal to perform maintenance to the Ocean Beach sand barrier in order to protect the Great Highway, City treatment plan facilities and infrastructure buried beneath the roadway. The City of San Francisco, Department of Public Works, is requesting permission from the NPS to perform routine maintenance to the sand barrier at Ocean beach on GGNRA property. The Committee at the August 3, 1999 project review meeting approved the construction of the sand barrier and the sand barrier was constructed in the fall of 1999. A special use permit was issued to the City of San Francisco in 1999 and allows for the subsequent maintenance of the sand barrier until December 15, 2002.

The 1999 construction required deposition of approximately 20,000 cubic yards of sand to form the barrier. The maintenance effort for 2000 will require deposition of roughly 11,000 cubic yards of sand to rebuild the barrier to its original dimensions. Frank explained that imported sand would be added to the sand barrier from the top of the site. After the sand has been added, a crawler will be used to compact the new sand. In the past sand has been brought in from Angel Island.

The Project Review Executive Committee found the project meets the requirements for a categorical exclusion with the fulfillment of the following conditions:

1. The Project Manager will ensure that the 1999 Permit is updated to reflect changes in staff and new phone numbers. **Date Completed:**\_\_\_\_\_.
2. The Project Manager will ensure that Roger Scott of NPS is coordinated with on the installation of the public signage for the project. **Date Completed:**\_\_\_\_\_.

The Project Manager, **Wendy Poinot** will document and note the completion dates of the above required action(s). With completion of the above conditions, this project would not have an adverse impact on the environment and would be categorically excluded from further NEPA review {516 DM 6 Appendix 7.4 C (3)} in conformance with the following NPS category:

C (3) Routine maintenance and repairs to non-historic structures, facilities, utilities, grounds, and trails.

*General Superintendent's Comments:*

Approval

  
\_\_\_\_\_  
GGNRA General Superintendent

9-29-00

\_\_\_\_\_  
Date



Cy: George Turnbull



## United States Department of the Interior

NATIONAL PARK SERVICE  
Golden Gate National Recreation Area  
Fort Mason, Building 201  
San Francisco, California 94123

RECEIVED

SEP 07 2000

IN REPLY REFER TO:  
L76 (GOGA-RMPPC)

September 5, 2000

MARY SCOTT  
FORT MASON  
BLDG 201

To: Project Review Committee Members

From: Environmental Protection Specialist

Subject: Project Review Committee Meeting Agenda  
**WEDNESDAY, SEPTEMBER 13, 2000, 10:00 a.m.**  
**Fort Mason, Building 201, Golden Gate Room**

### INFORMATION: PARKWIDE

#### **1. Maintenance of the Ocean Beach Sand Barrier, (PW 00-122) – F. Felice (CCSF), W. Poinsot (10:00 a.m.)**

The City of San Francisco, Dept. of Public Works, is requesting permission from the NPS to perform routine maintenance to the sand barrier constructed in the fall of 1999 on GGNRA property at Ocean Beach. The project was approved by the Committee at the 8/3/99 project review meeting and a special use permit was issued to the City. In addition to the initial construction, the 1999 permit allowed for the subsequent maintenance of the barrier until 12/15/02. The currently proposed maintenance activities are being brought to Project Review to provide information to GGNRA staff and to confirm that the coordination commitments and project conditions developed for the initial permit are adequate to address the current environmental conditions and park operational needs. The 1999 construction required deposition of approximately 20,000 cubic yards of sand to form the barrier. The maintenance effort for 2000 will require deposition of roughly 11,000 cubic yards of sand to rebuild the barrier to its original dimensions. The hard copy of the project review agenda contains the 1999 and 2000 site plans and the permit conditions to aid in your review. These materials will also be available at the review desks – Presidio 102, 3<sup>rd</sup> floor and FOMA 201, 2<sup>nd</sup> floor.

### NEW BUSINESS: PARKWIDE

#### **2. Monitoring Posts at Ocean Beach, (PW 00-123) – F. Felice (CCSF), J. Gervais, 10:15 a.m.**

The City and County of San Francisco is proposing to install 11 beach posts to provide visual reference points to monitor beach erosion or accretion. The post will be placed at 300 feet intervals between Sloat parking lot and the Funston Cliffs. The posts will be tan in color, 4.5-inch outside diameter, galvanized steel pipe extending about 8 feet above the wintertime beach level and 8 to 13 feet below the sand, depending upon the location. In summer, approximately 2 to 4 feet of the pipe will protrude above the beach, and during winter 7 to 9 feet of pipe will be visible, unless erosion is unusually severe. Posts will be placed approximately 10 feet from the toe of the bluff. The posts will have numbers and stripes to detect changes in beach elevation. Staging areas will be the two parking lots on the bluff. The contractor will install a temporary ramp to the beach on the trail that travels from the south end of the South Lot to the beach. The ramp will be removed after construction. The contractor will need to plan work around the tides because some areas are in the wave zone during high tides.

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**SCOPING: PRESIDIO, PRESIDIO TRUST JURISDICTION**

**3. Nextel Proposed Antenna/Telecommunication Facility, (PW 00-088A) – S. Radcliffe (10:30 am)**  
Nextel is seeking comments on a revised proposal for siting a cellular antenna in the vicinity of the MacArthur tunnel. This project first came to Project Review as New Business on July 19, 2000. The project proposes to correct deficiencies in signal coverage through the tunnel and secondly to supplement coverage north on Highway One/101. The current proposal is to construct a 20-foot pole with an approximately six-foot long and one-inch wide Yagi antenna attached near the top. The antenna would need to be approximately five to ten feet above the roadway. The location of this pole would be approximately 400 yards north of the tunnel in a wooded area near the elevated portion on the east or west side of the freeway (whichever side is recommended as most appropriate). A 10' X 16' equipment shelter would be placed nearby (likely under the overpass).

**OLD BUSINESS: PRESIDIO, GGNRA JURISDICTION**

**4. Temporary Construction Trailer for South Viaduct Retrofit Staff, Presidio, (PR 00-092A) – J. Gervais (10:45 a.m.)**

This project was presented to Project Review twice and each time the proposals were rejected. This proposal is an attempt to meet the requirements of an alternative that is less intrusive and benefits park visitors. The Golden Gate Bridge District (GGBHTD) is preparing for Phase II of the Seismic Retrofit and Wind Retrofit, South Viaduct and needs more office space for about 20 construction management employees. GGBHTD proposes to install a prefabricated one-story modular office building southwest of the District's Administration Building in a parking area serving the modular office buildings on Merchant Road in the Presidio. As mitigation for the additional trailer, the GGBHTD will create a trail through their parking lot to the historic batteries. The trail will connect with existing trails around the historic batteries and help direct visitors around the area. The trail will be screened from the parking area.

**OLD BUSINESS: PARKWIDE**

**5. Ft. Funston Bank Swallow and Habitat Protection Project, (PW 00-121) – S. Farrell (11:00 a.m.)**

This project was originally presented at the February 3, 1999. It was included in the larger Vegetation Stewardship Program (Parkwide) workplan spreadsheet and entitled Ft. Funston Bank Swallow Site and Adjacent Dunes. The General Superintendent approved it on February 24, 1999. Since then, a modified version of the project was implemented in February-April 2000. The effectiveness of that project has been further evaluated and revised, and is subsequently being returned to project review as old business. The modified version of the proposal include the removal of the fence separating the seasonal and the permanent areas; the southern fence boundary of the seasonally closed area will be extended south to the alignment as shown on Map # 1; all but two gates will be removed, and replaced with post, cable and mesh fencing. The Federal District Court ordered a preliminary injunction against the NPS on May 16, 2000, which disallows the closure until such time as appropriate public notice and opportunity for comment be provided. The NPS provided notice of the proposed closure in the Federal Register on July 14, 2000 and is inviting comments from the public on the proposed year-round closure.

**BREAK FOR EXECUTIVE COMMITTEE—(11:15 a.m.)**

**Update on Serpentine Bluffs Pilot Project (SBPP) and Eucalyptus Understory Diversification Pilot (EUDP), Presidio, (PR 00-102) – S. Farrell (5 min.)**

These pilot projects at the Presidio were reviewed at the 8/16/00 project review meeting and found by the Executive Committee to conform to the requirements for a categorical exclusion under NEPA. At that meeting, the projects were presented with the understanding that the implementation would proceed under an approved Presidio Vegetation Management Plan. This will most likely not be the case. To complete the NEPA record, Sharon Farrell will provide information to the Committee on how the pilot projects would not preclude options for implementation of the VMP.

cc:Albert, B. Anderson, Barker, Bartling, Borjes, B. Cheung, Danz, Espinoza, Farrell, Feierabend, Gervais, Hatch, Hornor, Hurst, Koss, Levitt, Mannel, Mayer, Merkle, O'Neill, S. Osborn, Pelka, Phipps, Poinsett, Powell, Reackhof, Rihtarshich, Rios, Ruan, Sakseangvirat, Scolari, Scott, Shenk, Shine, Thomas, Ullensvang, Walthall, Weeks, Williams, DOI Solicitor - Ralph Miha, S. Radcliffe

FOFUAR00335

GGNRA007076

**GOLDEN GATE NATIONAL RECREATION AREA  
PROJECT REVIEW FORM FOR NEPA COMPLIANCE**

AUG 31 2000

PW 0-111

**PART 1 -- PROJECT DATA**

<b>Project Title</b>	Fort Funston Bank Swallow and Habitat Protection Project				
<b>Project Location/Bldg. #</b>	Fort Funston		<b>Project Review #</b>		
<b>Proposed Start Date</b>	October 30, 2000		<b>Target End Date</b>	November 2000	
<b>Project Initiator/ Title</b>	Sharon Farrell		<b>Telephone #</b>	331-0743	
<b>Is the Project on the GPRA Work Plan for the Fiscal Year?</b>			<b>Yes</b>	<b>XX</b>	<b>No</b>
<b>Division Chief's Signature</b>	<i>[Signature]</i>	<b>Date</b>	<i>8/25/00</i>	<b>Supervisor's Signature</b>	<b>Date</b>

**PART 2 -- PROJECT DESCRIPTION**

In the box below (and attached pages if required) briefly describe 1) the project that is being proposed; 2) the current conditions at the project area 3) the reason for the project; and 4) the proposed work plan to accomplish the project. **A map of the project location and/or a detailed site plan is mandatory and must be attached.**

This project was originally proposed at the project review meeting on February 3, 1999. It was included in the larger **Vegetation Stewardship Program (Parkwide) workplan spreadsheet**; the specific project was entitled **Ft. Funston Bank Swallow site and adjacent dunes**. The General Superintendent approved it on Feb. 24, 1999, with a categorical exclusion, E(6) Restoration of non-controversial native species into suitable habitats within their historic ranges and elimination of exotic species. Since then, a modified version of the project was implemented in February-April 2000. The effectiveness of that project has been further evaluated and revised, and is subsequently being returned to project review as old business.

The attached document describes the project, its history, purpose and need. Map 1 delineates the proposed fencing alignment. Several steps are necessary to accomplish the project. The current fencing alignment (as illustrated in Map 2) will be changed in the following manner: the fence separating the seasonal and permanent areas will be removed; the southern fence boundary of the seasonally closed area will be extended south to the alignment illustrated in Map 1; all but two gates will be removed (specific gates to be determined), and replaced with post, cable and mesh fencing. Removed materials will be re-used on-site wherever feasible.

The entire 12-acre project area will be closed year-round to visitor access. There is a portion of one designated trail located within the footprint of the closure. This trail, known as the "Spur trail" (see Map 1), will be closed to visitor use because southern sections of this trail have become unusable due to increased sand deposition on the trail surface. This has compounded the establishment and use of unauthorized "social" trails in the northern section of the project area. Visitor use of and access to all "social" trails including "the Gap" (see Map 1) within the project footprint will be prohibited by this closure.

Because of a May 16, 2000, Federal District Court ordered preliminary injunction against the NPS, which disallows the closure until such time as appropriate public notice and opportunity for comment was provided, NPS provided notice of the proposed closure in the Federal Register on July 14, 2000, and is inviting comments from the public on this proposed year-round closure. Public comments will be accepted for a period of 60 calendar days from the date of the notice. Therefore, public comments on this notice will be received by September 12, 2000.

Once public comment has been received, and provided the project is approved, work will be accomplished under Public Land Corps funding in mid-fall 2000. SFCC will work under direction of an NPS-designated resource education contractor. The resource education contractor will remain on-site during all project activities. NPS maintenance support may also be required to assist in the removal of partially buried peeler posts in the project area. Habitat restoration efforts will continue through the support of the community-based Fort Funston Green Team.

FOFUAR00336

**PART 3 -- POTENTIAL IMPACTS CHECKLIST**

<b>Does The Proposed Project Have The Potential To:</b>	<b>YES</b>	<b>NO</b>	<b>Does The Proposed Project Have The Potential To:</b>	<b>YES</b>	<b>NO</b>
1. Destroy, remove or result in the gradual deterioration of historic fabric, terrain or setting?		X	15. Increases traffic congestion, traffic volumes or adversely affect traffic safety for vehicles, pedestrians or bicyclists?		X

2. Alter historic ground cover or vegetation?		X	16. Impede accessibility?		X
3. Introduce non-historic elements (visible, audible or atmospheric) into a historic setting, structure or environment?		X	17. Generate nuisance dust or odors?		X
4. Reintroduce historic elements in a historic setting or environment?		X	18. Involve handling/storage of hazardous substances?		X
5. Adversely affect a unique geologic resource?		X	19. Maintain or create a public or employee safety or health hazard?		X
6. Disturb the ground surface or change the surface topography?	X		20. Block or substantially alter an existing view, be visually intrusive or contribute to a degraded visual condition?		X
7. Compromise slope stability?		X	21. Affect rare, endangered or sensitive species?	X	
8. Change the pattern of surface water flow, lead to increased runoff or erosion?		X	22. Adversely affect wildlife (feeding, nests, dens, roosts, etc.)?		X
9. Degrade surface or ground water quality?		X	23. Add or remove plants?	X	
10. Involve issues of concern for park neighbors or organizations or generate media attention?	X		24. Affect wetland, riparian or coastal habitat?		X
11. Conflict with adjacent uses either private or public?		X	25. Attract animal or insect pests?		X
12. Adversely impact current or planned visitor services, access or available parking?		X	26. Increase demand for police services or create an attractive nuisance?		X
13. Perceptibly increase the background noise levels or expose people to loud noise?		X	27. Increase demand for fire protection services or increase wild fire hazard?		X
14. Increase vehicle emissions or emissions of other air pollutants?		X	28. Result in other cultural resource, natural resource or visitor services impacts?		X
15. Substantially increase the amount of energy or water used or waste generated?		X	29. Increase night lighting or glare?		X

**PART 4 -- DISCUSSION OF IMPACT AND MITIGATION:** In the box below briefly address each "Yes" answer from the Impacts Checklist in Part 3 above. Describe the potential impact and any recommendations for avoiding or reducing the impact. Use as many pages as needed to answer.

6. Cause Ground disturbance? The project will require the removal of approximately 650 linear feet of existing fencing and the installation of approximately 380 linear feet of post and cable (with mesh) fencing.
10. Components of this project have generated public and media interest. NPS provided notice of the proposed closure in the Federal Register on July 14, 2000, and invited comments for a 60-day period from the public on this proposed year-round closure. A resource education contractor will be present on site during the project's implementation to provide public education on the closure.
21. Will affect rare or endangered species? We expect that this protection project to have a positive affect on the state-threatened bank swallow colony, and other rare plants (CNPS-listed) that will be apart of the revegetation efforts.
23. Removal of plants - An integrated pest management approach is used in the removal of invasive iceplant on the project site to ensure the least destruction to existing plant and animal communities (hand removal, and small equipment versus herbicide). Revegetation will commence upon completion of invasive exotic removal efforts (see attached report).

#### PART 5 -- ALTERNATIVES

In the box below, briefly describe any other *reasonable* alternatives that were considered for accomplishing the project including alternative locations.

No Action:

This alternative would limit protection efforts for the state-threatened bank swallow habitat and Fort Funston's unique geologic features; limit public and staff protection from safety threats associated with steep cliffs and bluff rescues, as well as reduce opportunities for controlling invasive exotic species and implementing ecological restoration efforts.

FOFUAR00337

#### PART 6 -- PROJECT COMPLIANCE AND APPROVALS

**QUESTIONS 29 THROUGH 37 TO BE COMPLETED BY THE ENVIRONMENTAL PROTECTION SPECIALIST.**

<b>Would the Project:</b>	<b>YES</b>	<b>NO</b>
---------------------------	------------	-----------

29. Conform with the GMP, GMPA or a specific site plan?		
30. Promote sustainability?		
31. With mitigation applied, result in <b>no net loss</b> of park resources?		
32. Require utility connections (maintenance & engineering approval required)?		
33. Require new signage (sign committee approval required)?		
34. Involve excavation (requires utility clearance)? <b>If yes, enter date issued:</b>		
35. Require 5x review. <b>If yes, enter date issued &amp; /5x project #:</b>		
36. Require GGNRA Advisory Commission Review		
37. Other agency permits (BCDC, USCOE, etc.) <b>If yes, specify:</b>		

**DISCUSSION OF PROJECT PLANNING COMPLIANCE:** In the box below briefly address "NO" answers for questions 29, 30 and 31.

FOFUAR00338

2/13

## I. INTRODUCTION

As part of the resource protection mission of the National Park Service (NPS), approximately 12-acres of Fort Funston is being closed year-round to off-trail recreational use by the public. This action will protect habitat for a nesting colony of California state-threatened bank swallows (*Riparia riparia*), a migratory bird species once more common along the California coast that has declined significantly due to habitat conversion and increased recreational use. This closure is also necessary to enhance significant native plant communities, improve public safety, and reduce human-induced impacts to the coastal bluffs and dunes, a significant geological feature.

Part of the Golden Gate National Recreation Area (GGNRA), Fort Funston spans approximately 230 acres along the coastal region of the northern San Francisco peninsula. It is located south of Ocean Beach and north of Pacifica, and is flanked to the east by both John Muir Drive and Skyline Boulevard, and to the west by the Pacific Ocean. The proposed year-round closure is located within the northern region of Fort Funston and is depicted on the attached map as "Project Area (Year-round closure)." It is defined to the west by the edge of the coastal bluffs; to the east by the Coastal Trail; to the north by protective fencing installed in the early 1990s for habitat protection; and to the south by a pre-existing "beach access" trail west of the Battery Davis "Y". There is currently fencing erected around the eastern and northern perimeters of the proposed year-round closure area. Additional fencing will be erected along the southern boundary, parallel to the "beach access" trail (see map). This fencing will be peeler post and wire mesh design, consistent with the existing fencing that was erected in February-April 2000.

The entire 12-acre project area will be closed year-round to visitor access. There is a portion of one designated trail located within the footprint of this closure. This trail, known as the "Spur trail" (see map), will be closed to visitor use because southern sections of this trail have become unusable due to increased sand deposition on the trail surface. This has compounded the establishment and use of unauthorized "social" trails in the northern section of the project area. Visitor use of and access to all "social" trails including "the Gap" (see map) within the project footprint will be prohibited by this closure.

## II. HISTORY - Fort Funston

Prior to Fort Funston's purchase by the Army, the site supported a diversity of native dune vegetation communities. During the 1930s however, the Army built an extensive system of coastal defense batteries, drastically altering the dune topography east of the bluffs and, in the process, destroying much of the native plant communities that inhabited the dunes. Following construction, the Army planted iceplant (*Carpobrotus edulis*) in an attempt to stabilize the open sand around the batteries.

By the mid-1960s, extensive areas of Fort Funston were covered with invasive exotic plants such as iceplant and acacia. Some years after Fort Funston was closed as a military base, it was transferred to the National Park Service in 1972 to become part of the GGNRA. As a unit in the national park system, Fort Funston today is used extensively by beachcombers, walkers, hang gliders, paragliders and horseback riders, and other recreational users. Approximately three-quarters of a million visitors enjoy Fort Funston annually.

## III. CLOSURE JUSTIFICATION

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This closure is necessary to protect habitat for the California State-threatened bank swallows (*Riparia riparia*), enhance significant native plant communities, improve public safety and reduce human-induced impacts to the coastal bluffs and dunes, a significant geological feature. The National Park Service has authority to effect closures for these purposes pursuant to Section 1.5 of Title 36 of the Code of Federal Regulations. Specifically, Section 1.5 authorizes the Superintendent to effect closures and public use limits within a national park units when necessary for the maintenance of public health and safety, protection of environmental or scenic values, protection of natural or cultural resources, aid to scientific research, implementation of management responsibilities, equitable allocation and use of facilities, or the avoidance of conflict among visitor use activities. As discussed in detail below, the proposed closure at Fort Funston is necessary to protect environmental values and natural resources, to protect public safety, and to implement management responsibilities.

### A. **The Threatened Bank Swallow**

One of the many unique features of Fort Funston is that it supports one of the last two remaining coastal cliff-dwelling colonies in California for the bank swallow (*Riparia riparia*). Once more abundant throughout the state, their numbers have declined so dramatically that in 1989 the State of California listed the bank swallow as threatened under the California Endangered Species Act. The bank swallow is also a protected species under the Migratory Bird Treaty Act, and for nearly a century, the bank swallows have returned to Fort Funston each March or April to nest and rear their young along the steep bluff faces. NPS regulations, policies and guidelines mandate the protection and preservation of this unique species and its habitat.

Its preferred habitat—sheer sandy cliffs or banks—has been altered throughout its range by development, eliminated by river channel stabilization, and disrupted by increased recreational pressures. The Fort Funston colony is particularly unique in that it is one of only two remaining colonies in coastal bluffs in California, the other being at Año Nuevo State Park in San Mateo County. Bank swallow habitat at Año Nuevo remains closed to visitor access.

Mortality of bank swallows results from a number of causes including disease, parasites and predation. Destruction of nest sites, including collapsed burrows due to natural or human-caused sloughing of banks, appears to be the most significant direct cause of mortality (Recovery Plan, Bank Swallow (*Riparia riparia*), State of California Department of Fish and Game 1992). The Recovery Plan recommends a habitat preservation strategy through protection of lands known to support active colonies or with suitable habitat features for future colony establishment. It also acknowledges that isolated colonies, like Fort Funston, are at particularly high risk of extinction or severe population decline. Additionally, the State of California Historic and Current Status of the Bank Swallow in California report (1988) recommended that nesting colonies be protected from harassment and human disturbance.

The Fort Funston colony has been recorded since at least 1905. Records indicate that the colony fluctuated in size and location over time. A 1961 study of the Fort Funston colony documented a total of 84 burrows in 1954, 114 in 1955, 157 in 1956, and 196 in 1960. GGNRA staff counted at least 229 burrows in 1982 and more than 550 in 1989. In 1987 the California Department of Fish and Game documented 417 burrows at Fort Funston. Approximately 40 to 60 percent of burrows are actively used for nesting in a given year.

Between 1992 and 1995, NPS implemented other protection and restoration measures for the Fort Funston colony, including a year-round closure of approximately 23-acres in the northern most portion of Fort Funston to off-trail recreational use. The current proposed closure area lies directly south of this previous closure area. From 1954-56 and from 1989-97, the colony was located along the bluffs within the footprint of this previous closure. However the colony shifted during 1959 and 1960, and again since 1998, such that birds are now nesting within the current proposed closure area.

In 1993, GGNRA established an annual monitoring program to track the abundance and distribution of bank swallows at Fort Funston. Trained personnel conduct weekly surveys during nesting season (from mid-April through early August). From 1993 to 1996, burrow numbers were over 500 each year. The number declined dramatically to only 140 in 1998 and 148 in 1999 when the colony shifted to the current proposed closure area (then unprotected). This event coincided with the storms during the winter of 1997 that caused significant cliff retreat and slumping. In an attempt to protect the colony from recreational disturbance of nesting habitat, protective fencing was installed along the bluff top in 1998 with interpretive signs to encourage visitors to reduce impacts on the nesting colony. These efforts proved unsuccessful in preventing recreational disturbance to the colony. NPS observed increased erosion due to visitor use adjacent to the fenceline. Moreover, the rate of natural bluff erosion, approximately one foot per year, and the constant deposition and erosion of sand material caused the fence to collapse and fail within just a few months. Fence posts near the bluff face also provided advantages to swallow predators that perch on the posts with a view to the swallow nests.

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A wide array of disturbances to the swallows at Fort Funston have been observed and recorded during monitoring, and/or photo-documented. While bank swallows are known to be quite tolerant to some disturbance, few colonies are subjected to the intense recreational pressure at Fort Funston. Documented

disturbance events at Fort Funston include: cliff-climbing by people and dogs; rescue operations of people and dogs stuck on the cliff face; people and dogs on the bluff edge or in close proximity to active burrows; graffiti carving in the cliff face; aircraft and hang-glider over-flights; and discharge of fireworks within the colony. The potential impacts from such disturbances include: interruption of normal breeding activity, such as feeding of young; crushing of burrows near the top of the cliff face (nests can be located within a foot of the bluff top); casting shadows that may be perceived as predators; accelerating human-caused bluff erosion; and active sloughing and land-slides that may block or crush burrows and the young inside.

The NPS has determined that the designated trails (see map) at Fort Funston provide adequate access to the park area and that continued use of unauthorized "social" trails within the project footprint has adverse impacts on park resources, including the bank swallow.

The institution of the proposed 12-acre closure area, coupled with increased interpretive signs and strategically located protective barriers at the base of the bluffs will protect the bank swallow colony by preventing most of these disturbances. There will be no visitor access to the bluff edges above the nesting sites, thus preventing falls and rescues on the cliff face, as well as human-induced erosion, crushing of burrows, and casting of shadows. Visitor access up the bluffs from the beach into the closure area will be prohibited, thus avoiding human-induced erosion of the bluffs and habitat disturbance.

### **B. Geology and Erosion**

The bluffs at Fort Funston provide one of the best continuous exposures of the last 2 million years or more of geologic history in California, covering the late Pliocene and Pleistocene eras. This exposure of the Merced Formation is unique within both the Golden Gate National Recreation Area and the region. It is a fragile, nonrenewable geologic resource. NPS regulations, policies and guidelines mandate preservation of such resources by preventing forces (other than natural erosion) that accelerate the loss or obscure the natural features of this resource.

Recreational use along the bluff top contributes to a different type of erosion than the natural processes of undercutting and slumping. Concentrated wave energy at the base of the bluffs naturally leads to bluff retreat typically occurring during winter season when the bank swallows that nest in the vertical bluff faces are absent. Natural weathering and erosion from rainfall runoff and wind contribute to loss of the bluff face. During spring and summer, when park users clamber around the bluff top, erosion occurs from the top to the bottom, compromising the bluff face. Slumps caused by heavy visitor traffic along the bluff top can induce sand slippage and may even wipe out burrows during nesting season. Geologist Clyde Warhaftig described areas of this unique sand bluff formation as crushable with the fingers and indicated, in 1989, that people climbing the cliff faces would induce additional erosion and that such activity should be prevented.

Additionally, erosion has been both documented and observed throughout the inland topography of the closure area. Continued heavy visitor use in this inland dune bluff area and associated human-caused erosion along unauthorized "social" trails is likely to further shorten the lifespan of the bluffs, and is an additional threat to the long-term existence and sustainability of suitable habitat for the Fort Funston bank swallow colony.

The proposed closure will preserve the unique bluffs by preventing destructive human activity around the bluff tops and permitting the inland dune features to recover from human-induced erosion.

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### **C. Conservation and Restoration of Dune Habitats**

Fort Funston is the largest of several significant remnants of the San Francisco dune complex – once the 4<sup>th</sup> largest dune system in the state that covered more than 36 square kilometers of San Francisco. More than 95% of the original dune system has been drastically altered by urbanization and development (Powell, 1978). The flora inhabiting the dunes of San Francisco was quite diverse. Historical accounts documenting San Francisco's native dune species can be used to reconstruct the likely historic flora of Fort Funston. Recent surveys of Fort Funston confirm that its remnant flora is clearly allied with other dune localities documented in the 1958 Flora of San Francisco. NPS regulations, policies and guidelines mandate protection of this unique resource.

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Removing iceplant and other invasive exotic plant species is one of the most important strategies for restoring dunes. At Fort Funston, iceplant dominates more than 65% of the dunes. The California Exotic Pest Plant Council rates iceplant on its "A" list, which includes those species that are the Most Invasive and Damaging Wildland Pest Plants. "Even when [natural] processes are protected, the very nature of dunes, which are prone to disturbance and characterized by openings in the vegetation, renders them constantly susceptible to the invasion of non-native species—especially in urban settings. For these reasons, restoration is an essential component of dune conservation in northern California." (Pickart and Sawyer 1998).

Dense iceplant cover also affects the diversity and abundance of native insects and other wildlife. In a study of sand-dwelling arthropod assemblages at Fort Funston, Morgan and Dahlsten compared diversity between iceplant-dominated plots and areas where native plants had been restored. They found that "overall arthropod abundance and diversity are significantly reduced in iceplant dominated areas compared to nearby restored areas. . . . If plant invasion and native plant restoration dramatically affect arthropod communities as our data indicate, they may also have wider reaching effects on the dune community as a whole. This research demonstrates the importance of native plant restoration for sand-dwelling arthropod communities" (Morgan and Dahlsten 1999).

In a report last year, the Director of the National Park Service wrote that "it is undisputed that without decisive, coordinated action the natural resources found within the National Park System will disappear as a result of invasive species spread" (Draft NPS Director's Natural Resource Initiative – Exotic Species Section, 1999). Emphasis on the need to address invasive exotic species issues and control was further stressed through *Executive Order 13112 on Invasive Species signed February 3, 1999*. "Sec. 2 (a) each Federal Agency whose actions may affect the status of invasive species shall ... (2) (i) prevent the introduction of invasive species; (ii) detect and respond rapidly to and control populations of such species in a cost-effective and environmentally sound manner; (iii) monitor invasive species populations accurately and reliably; (iv) provide for the restoration of native species and habitat conditions in ecosystems that are invaded... (vi) promote public education on invasive species and means to address them.."

Increasingly heavy off-trail use has contributed to the deterioration of native dune communities at Fort Funston. Native dune vegetation is adapted to a harsh environment characterized by abrading winds, desiccating soils, low nutrient conditions, and salt spray, but it is not adapted to heavy foot traffic. Only a few species (a few annual plants, coyote bush (*Baccharis pilularis*)) are able to survive repeated trampling. NPS has determined that the designated trails (see map) at Fort Funston provide adequate access to the park areas, including ingress and egress to the beach, and that continued use of unauthorized "social" trails within the project footprint has adverse impacts on the park resources, including the native dune vegetation.

Increasingly, heavy off-leash dog use has also led to the deterioration of native dune communities. When on a leash, the effects of dogs on vegetation and other resources is focused along a trail corridor already disturbed by other recreational activities. When dogs are off-leash, their impacts are spread throughout a larger area. Trampling of vegetation caused by roaming dogs weakens the vegetation in the same manner as trampling by humans; in areas where off-leash dog use is concentrated, such intensive trampling destroys all vegetation, even the extremely tolerant iceplant. Also, the dune soils at Fort Funston are naturally low in nutrients. Deposition of nutrients via dog urine and feces may alter the nutrient balance in places and contribute to the local dominance of invasive non-native annual grasses that prosper in high-nitrogen soils (e.g., farmer's foxtail (*Hordeum* sp.), wild oats (*Avena* sp.), ripgut brome (*Bromus diandrus*)). Other adverse impacts documented and observed by park staff include off-leash dogs digging and uprooting vegetation.

The proposed closure area will allow for the recovery and expansion of remnant native plant species and communities currently threatened by spread of iceplant, and concentrated visitor and off-leash dog use in the project area. Revegetation efforts will promote the establishment of more than 50 dune plant species, including several rare plant species, such as the San Francisco wallflower and the San Francisco spineflower. Expansion of native coastal dune habitat at Fort Funston is also critical to enhancing the diversity and abundance of locally rare wildlife populations thus making them less vulnerable to extinction. It will also aid in preserving habitat for common wildlife species.

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#### **D. Public Safety**

Cliff rescues in the Fort Funston area are a serious threat to public safety and have a direct impact on the bank swallow colony. Numerous rescues of dogs and people every year are necessary as a result of falls and/or when those climbing the unstable cliffs find themselves unable to safely move up or down. These rescues can cause injuries to both the rescued and the rescuers, compromising public safety and natural resources at Fort Funston. Additionally, technical rescues, such as cliff rescues at Fort Funston, tie up a large number of park personnel and equipment, leaving major portions of GGNRA unprotected. NPS must take all measures to reduce these preventable emergency rescues to ensure that the limited rescue personnel are available for emergencies throughout the park.

Visitor use at Fort Funston has increased significantly over the past five years, with annual visitation now reaching more than 750,000. Fort Funston has also become the focal point for cliff rescues in San Francisco. An updated review of law enforcement case incident reports indicates the following statistics. Prior to 1998 there was an average of just three cliff rescues per year involving dogs and/or persons stranded on the cliffs at Fort Funston. In 1998 the number of cliff rescues at Fort Funston jumped to 25. In 1999, park rangers performed 16 cliff rescues at Fort Funston.

By contrast, there were a total of 11 cliff rescues in 1998 along the remaining nine miles of San Francisco shoreline from Fort Point to the Cliff House. In 1999, there were four rescues along this stretch of coastline which includes a myriad of hazardous cliffs, and supports an annual visitation of approximately 2 million visitors. There were however, no dog rescues within this region during the past two years, largely because the leash laws are enforced, and because several especially hazardous areas are closed and fenced off for public safety.

There are several factors that have contributed to the increase in cliff rescues at Fort Funston. First, the severe winter storms in 1997/98 significantly eroded the bluffs, creating near-vertical cliff faces adjacent to and below some unauthorized "social" trails along the bluffs and causing more falls over the cliffs. Second, the increasing numbers of off-leash dog walkers at Fort Funston have resulted in many dog rescues, as well as three injured dogs and one dog death from falling off the cliffs at Fort Funston in just the past two years.

The National Park Service has determined that the designated trails (see map) at Fort Funston provide adequate access to the park areas, including ingress and egress to the beach, and that continued use of unauthorized "social" trails within the project footprint is a safety hazard for visitors and park rescue personnel.

The proposed closure will protect visitors, their pets, and the rescue personnel from unnecessary injury and will reduce the costly and time-consuming cliff rescues at Fort Funston by preventing access to dangerous cliff areas, and unauthorized use of "social" trails.

#### **IV. PREVIOUS PROTECTION EFFORTS**

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GGNRA began pro-active management of the bank swallow colony in 1990, following ranger observations of destructive visitor activities including climbing the cliffs to access nests, carving of graffiti in the soft sandstone, and harassment of birds with rocks and fireworks.

The first dune fences we erected in 1990 at the bluff's edge north of the currently proposed year-round closure to deter visitors from the edge of the bluff. This effort was ineffective. NPS observed increased erosion due to visitor use adjacent to the fenceline. Moreover, the rate of natural bluff erosion, approximately one foot per year, and the constant deposition and erosion of sand material makes the construction of bluff-top fences a short-term solution. To further evaluate the effectiveness and anticipated maintenance needs of a potential fenceline constructed parallel to the bluffs and within 100-150 feet of the bluff edge, GGNRA established sand deposition/erosion monitoring points at selected distances from the bluff top in 2000. The monitoring points were established along a fenceline erected in April 2000. Data gathered at these points was used to make preliminary calculations of the rate of sand deposition/erosion along the northern cliffs at Fort Funston within the currently proposed closure. To date, after 3 months of

data collection, data indicates that deposition/erosion of sand varies from +27" to -36" along the monitored fenceline posts, demonstrating the dynamic nature of the habitat and, consequently, the inefficiencies and difficulties of constructing the fenceline close to the bluff edge.

Implementation of an approved bank swallow protection and management strategy began in the fall of 1991, and continued for the next five years. This management strategy included: (1) closing and protecting 23 acres of the bluff tops by installing barrier fencing and removing exotic vegetation above the bank swallow colony; (2) requiring all dogs to be on-leash and all users to be on an authorized, existing trails when travelling through the closed area – all off-trail use was prohibited; and (3) creating a 50-foot seasonal closure at the base of the cliffs where the swallows nest to create a buffer area during breeding season, further protecting bank swallows from human disturbance. GGNRA hang-gliding permit conditions also prohibit flight over the nesting area during breeding season to reduce colony disturbance.

Between 1992 and 1995, over 35,000 native plants were propagated at the Fort Funston nursery and outplanted in the newly restored dunes within the 23-acre closure. This was accomplished through thousands of hours of community volunteer support. This restoration area now supports thriving native coastal dune habitat and several locally-rare native wildlife species including California quail (*Callipepla californica*), burrowing owls (*Athene cunicularia*) and brush rabbits (*Sylvilagus bachmani*), and a diversity of other native wildlife. California quail now survive in only a few isolated patches of habitat within San Francisco and is the subject of a "Save the Quail" campaign by the Golden Gate Audubon Society. Burrowing owls are designated as a state species of concern. California quail are considered a National Audubon Society WatchList species in California because of declining populations. Brush rabbits are not known to occur in any other San Francisco location within GGNRA.

## V. PROJECT GOALS AND OBJECTIVES

The National Park Service is proposing to extend the existing 23-acre protection area based upon the following factors:

- southern movement of the bank swallow colony in 1998 to an unprotected area;
- significant decline in the colony size;
- ineffectiveness of a fence installed in 1998 along the bluff top of the unprotected new nesting area – designed to prevent recreational use up and down a landslide on the cliff face;
- ineffectiveness of signs above the new nesting area warning of the sensitivity of the area;
- increase in the total visitation numbers, including off-leash dog walkers;
- increase in the number of cliff rescues staged along the bluff top;
- increase in erosion and loss of vegetation cover within the dunes between the bluff edge and coastal trail from visitor and pet disturbance;
- habitat restoration, including removing tracts of iceplant and restoring with native species.

In order to address the factors listed above, NPS determined that the current proposed closure must meet the following goals and objectives:

1. Provide increased protection to the new nesting location of the bank swallow colony at Fort Funston
  - prevent disturbances from visitor use above and along the bluffs
  - control off-leash dog activities in and above the colony habitat
  - prevent disturbances from cliff rescues
2. Increase biological diversity by restoring native coastal dune scrub habitat
  - reduce invasive exotic species (specifically iceplant) cover to less than 5% and revegetate protected area with native dune species
  - prevent visitor access to unauthorized "social" trail use and prohibit off-trail use
  - reduce impacts of off-leash dog activities within coastal dune scrub habitat
  - reduce disturbances from visitor use within this sensitive coastal dune scrub habitat
  - restore natural dune processes
  - expand native coastal dune habitat at Fort Funston to enhance the diversity and abundance of locally rare wildlife populations, such as California quail
3. Increase public safety

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- reduce risks of falling over cliffs and need for cliff rescues
  - close unauthorized "social" trails along bluff top and close access to back dunes
4. Protect the geologic resources including bluff top and interior dunes from accelerated human-induced erosion.

An interdisciplinary team of GGNRA staff determined the size and footprint of the proposed closure and the design of the protective fence. In considering alternatives, the team evaluated whether the project goals and objectives were met, the ability to achieve compliance within the closure, the long-term maintenance required, the feasibility and costs of construction, and the impacts to recreational uses.

To achieve the goals and objectives listed above, the proposed closure was initially selected by NPS in 1999. However, in January 2000, NPS began implementation of a less restrictive closure that was developed after a series of NPS meetings with representatives of the dog walking community. The less restrictive closure entailed reducing the project footprint and opening over half of the area to visitor access when bank swallows were not present at Fort Funston. Since that time, extensive litigation regarding the closure has resulted in the development of an exhaustive record of evidence that, when re-evaluated, supports the currently proposed permanent closure. NPS has determined that the less restrictive closure is inadequate to meet the mandate of the National Park Service, in light of significant adverse impacts on natural resources, threats to public safety, infeasibility of fence maintenance and difficulty of closure enforcement.

NPS has determined that the currently proposed permanent closure, as depicted on the attached map, is necessary to achieve the goals and objectives outlined above, and is the least restrictive means to protect the resources and preserve public safety at Fort Funston and elsewhere within GGNRA.

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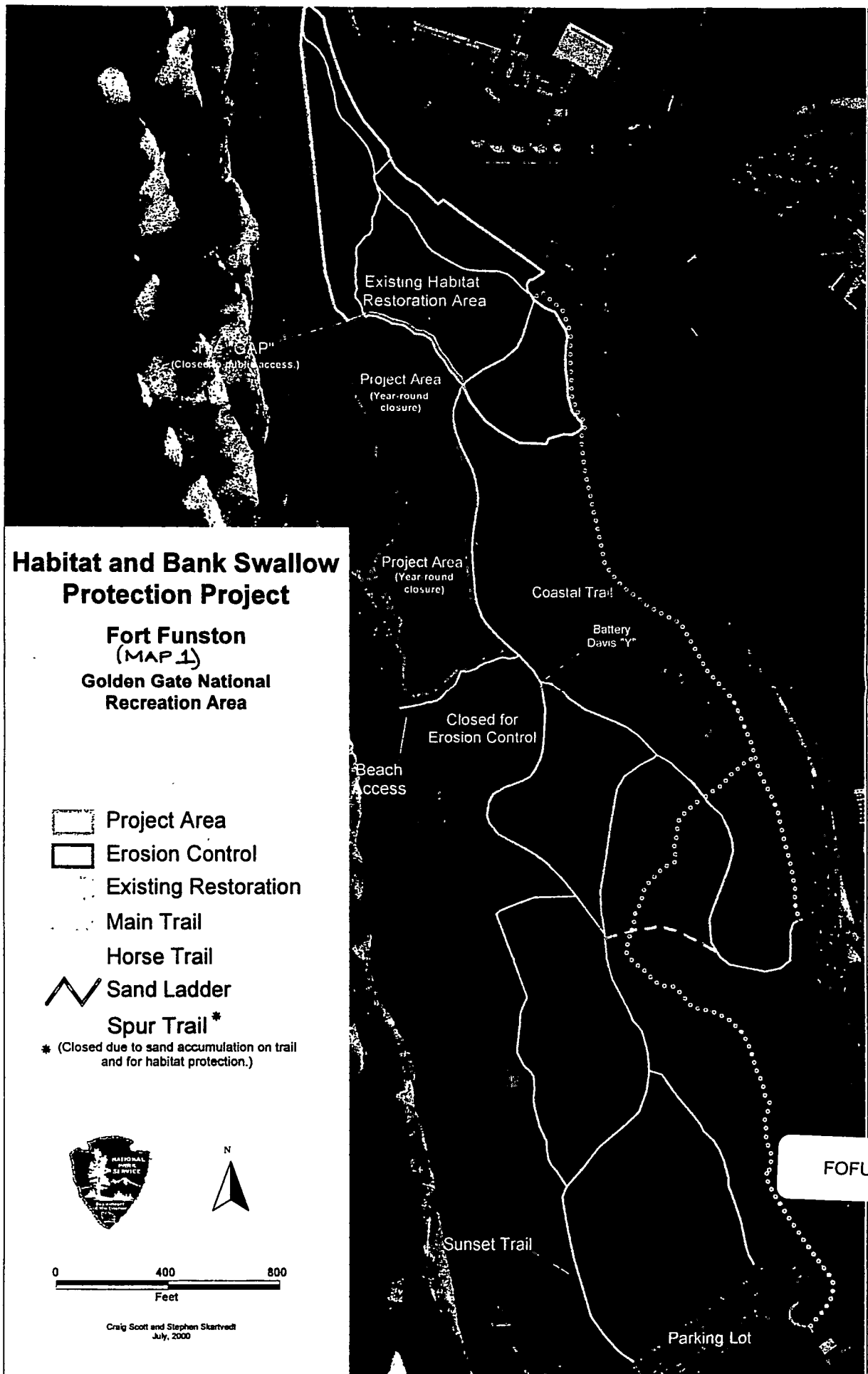
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***National Park Service, Department of Interior, Regulations, 36 C.F.R. Parts 1-5, 7.***

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[Electronic copy: signed original on file in Office of Policy]

## Director's Order # 55: Interpreting the National Park Service Organic Act

Approved: /s/ Robert Stanton  
Director, National Park Service

Effective Date: September 8, 2000

Sunset Date: Upon approval of Management Policies

This Director's Order supersedes any conflicting instructions that may have been issued on the meaning and intent of the National Park Service<sup>1</sup> Organic Act (16 USC 1), and the 1978 amendment to the National Park System General Authorities Act of 1970 (16 USC 1a-1).

### Table of Contents:

- 1.0 Background and Purpose of this Director's Order
- 2.0 Authority for Issuing this Director's Order
- 3.0 Interpretation of the NPS Organic Act
  - 3.1 The Laws Generally Governing Park Management
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  - 3.3 The NPS Obligation to Conserve and Provide for Enjoyment of Park Resources and Values
  - 3.4 The Prohibition on Impairment of Park Resources and Values
  - 3.5 What Constitutes an Impairment of Park Resources and Values
  - 3.6 What Constitutes Park Resources and Values
  - 3.7 Decision-making Requirements to Avoid Impairment

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### 1.0 BACKGROUND AND PURPOSE OF THIS DIRECTOR'S ORDER

When authorizing activities to take place within areas of the national park system, National Park Service managers must comply with all provisions of law. The most fundamental of those provisions are found in the National Park Service Organic Act of 1916 (16 USC 1) and the Redwood Act amendment to the 1970 National Park Service General Authorities Act (16 USC 1a-1). During the process of updating the 1988 edition of *NPS Management Policies*, the Service decided to incorporate into *Management Policies* a detailed interpretation of those provisions.

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<sup>1</sup> The terms "National Park Service," "Park Service," "Service," and "NPS" are used interchangeably in this document.

The purpose in doing so was to help NPS managers understand their legal duties in managing the national park system, and to establish policies and procedures that would help ensure the law is properly and consistently applied throughout the national park system.

The draft of proposed revisions to NPS *Management Policies* was issued for a 60-day public review and comment period, beginning January 19, 2000 [65 FR 2984]. The Service subsequently considered all the comments received, and will adopt the year 2000 edition of *Management Policies* in the near future. However, due to the importance of instituting as soon as possible a Service-wide interpretation of the most salient provisions of the Organic Act and General Authorities Act, the Service is issuing this Director's Order as a means of adopting section 1.4 of *Management Policies*.

## **2.0 AUTHORITY TO ISSUE THIS DIRECTOR'S ORDER**

The authority to issue this Director's Order is found in the NPS Organic Act, and Part 245 of the Department of the Interior Manual, which delegates to the Director of the National Park Service the Secretary of the Interior's authority to supervise, manage, and operate the national park system.

## **3.0 INTERPRETATION OF THE NPS ORGANIC ACT**

The following wording is adopted for publication in NPS *Management Policies* as the agency's interpretation of the meaning of the NPS Organic Act and the General Authorities Act of 1970, as amended. All NPS personnel will conduct their work activities and make decisions affecting the national park system in conformance with this interpretation.

### **3.1 The Laws Generally Governing Park Management**

The most important statutory directive for the National Park Service (NPS) is provided by interrelated provisions of the NPS Organic Act of 1916, and the NPS General Authorities Act of 1970, including amendments to the latter law enacted in 1978.

The key management-related provision of the Organic Act is:

[The National Park Service] shall promote and regulate the use of the Federal areas known as national parks, monuments, and reservations hereinafter specified . . . by such means and measures as conform to the fundamental purpose of the said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations. (16 USC 1)

Congress supplemented and clarified these provisions through enactment of the General Authorities Act in 1970, and again through enactment of a 1978 amendment to that law (the "Redwood amendment," contained in a bill expanding Redwood National Park, which added the last two sentences in the following provision). The key part of that Act, as amended, is:

Congress declares that the national park system, which began with establishment of Yellowstone National Park in 1872, has since grown to include superlative natural, historic, and recreation areas in every major region of the United States, its territories and island possessions; that these areas, though distinct in character, are united through their inter-related purposes and resources into one national park system as cumulative expressions of a single national heritage; that, individually and collectively, these areas derive increased national dignity and recognition of their superlative environmental quality through their inclusion jointly with each other in one national park system preserved and managed for the benefit and inspiration of all the people of the United States; and that it is the purpose of this Act to include all such areas in the System and to clarify the authorities applicable to the system. Congress further reaffirms, declares, and directs that the promotion and regulation of the various areas of the National Park System, as defined in section 1c of this title, shall be consistent with and founded in the purpose established by section 1 of this title [*the Organic Act provision quoted above*], to the common benefit of all the people of the United States. The authorization of activities shall be construed and the protection, management, and administration of these areas shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress. (16 USC 1a-1)

This section 1.4 of *Management Policies* represents the agency's interpretation of these key statutory provisions.

### **3.2 "Impairment" and "Derogation": One Standard**

Congress intended the language of the Redwood amendment to the General Authorities Act to reiterate the provisions of the Organic Act, not create a substantively different management standard. The House committee report described the Redwood amendment as a "declaration by Congress" that the promotion and regulation of the national park system is to be consistent with the Organic Act. The Senate committee report stated that under the Redwood amendment, "The Secretary has an absolute duty, which is not to be compromised, to fulfill the mandate of the 1916 Act to take whatever actions and seek whatever relief as will safeguard the units of the national park system," So, although the Organic Act and the General Authorities Act, as amended by the Redwood amendment, use different wording ("unimpaired" and "derogation") to describe what the National Park Service must avoid, they define a single standard for the management of the national park system, not two different standards. For simplicity, *Management Policies* uses "impairment," not both statutory phrases, to refer to that single standard.

### **3.3 The NPS Obligation To Conserve and Provide for Enjoyment of Park Resources and Values**

The "fundamental purpose" of the national park system, established by the Organic Act and reaffirmed by the General Authorities Act, as amended, begins with a mandate to conserve park resources and values. This mandate is independent of the separate prohibition on impairment, and so applies all the time, with respect to all park resources and values, even when there is no risk that any park resources or values may be impaired. NPS managers must always seek ways to avoid, or to minimize to the greatest degree practicable, adverse impacts on park resources and

values. However, the laws do give the Service the management discretion to allow impacts to park resources and values when necessary and appropriate to fulfill the purposes of a park, so long as the impact does not constitute impairment of the affected resources and values.

The fundamental purpose of all parks also includes providing for the enjoyment of park resources and values by the people of the United States. The "enjoyment" that is contemplated by the statute is broad; it is the enjoyment of all the people of the United States, not just those who visit parks, and so includes enjoyment of park resources and values by all the people of the United States, including people who directly experience parks and those who appreciate them from afar. It also includes deriving benefit (including scientific knowledge) and inspiration from parks, as well as other forms of enjoyment.

Congress, recognizing that the enjoyment by future generations of the national parks can be assured only if the superb quality of park resources and values is left unimpaired, has provided that when there is a conflict between conserving resources and values and providing for enjoyment of them, conservation is to be predominant. This is how courts have consistently interpreted the Organic Act, in decisions that variously describe it as making "resource protection the primary goal" or "resource protection the overarching concern," or as establishing a "primary mission of resource conservation," a "conservation mandate," "an overriding preservation mandate," "an overarching goal of resource protection," or "but a single purpose, namely, conservation."

### **3.4 The Prohibition on Impairment**

While Congress has given the Service the management discretion to allow certain impacts within parks, that discretion is limited by the statutory requirement (enforceable by the federal courts) that the Park Service must leave park resources and values unimpaired, unless a particular law directly and specifically provides otherwise. This, the cornerstone of the Organic Act, establishes the primary responsibility of the National Park Service. It assures that park resources and values will continue to exist in a condition that will allow the American people to have present and future opportunities for enjoyment of them.

The General Authorities Act provides that exceptions to the impairment prohibition must be directly and specifically provided by Congress. These statutory exceptions must be found in the express terms of legislation, not inferred from it. In these cases, of course, the NPS must faithfully follow the specific legislative provisions.

### **3.5 What Constitutes Impairment of Park Resources and Values**

The impairment that is prohibited by the Organic Act and the General Authorities Act is an impact that, in the professional judgment of the responsible NPS manager, would harm the integrity of park resources or values, including the opportunities that otherwise would be present for the enjoyment of those resources or values. Whether an impact meets this definition depends on the particular resources and values that would be affected; the severity, duration, and timing of the impact; the direct and indirect effects of the impact; and the cumulative effects of the impact in question and other impacts. An impact from an activity that is directly and specifically authorized by Congress does not constitute an impairment.

An impact to any park resource or value may constitute an impairment. An impact would be more likely to constitute an impairment to the extent that it affects a resource or value whose conservation is:

- necessary to fulfill specific purposes identified in the establishing legislation or proclamation of the park;
- key to the natural or cultural integrity of the park or to opportunities for enjoyment of the park; or
- identified as a goal in the park's general management plan or other relevant NPS planning documents.

An impact would be less likely to constitute an impairment to the extent that it is an unavoidable result, which cannot reasonably be further mitigated, of an action necessary to preserve or restore the integrity of park resources or values.

Impairment may occur from visitor activities, NPS activities in managing a park, or activities undertaken by concessioners, contractors, and others operating in the park.

### **3.6 What Constitutes Park Resources and Values**

The "park resources and values" that are subject to the no-impairment standard include:

- the park's scenery, natural and historic objects, and wildlife, including, to the extent present in the park: the ecological, biological and physical processes that created the park and continue to act upon it; scenic features; natural visibility, both in daytime and at night; natural landscapes; natural soundscapes and smells; water and air resources; soils; geological resources; paleontological resources; archeological resources; cultural landscapes; ethnographic resources; historic and prehistoric sites, structures, and objects; museum collections; and native plants and animals;
- the park's role in contributing to the national dignity, the high public value and integrity, and the superlative environmental quality of the national park system, and the benefit and inspiration provided to the American people by the national park system; and
- any additional specific values and purposes for which a particular park was established.

Park resources and values do not include any attributes of a park whose conservation is not among the purposes for which a park was included in the national park system or is being managed. For example, the term generally does not include non-native species or man-made structures that are not historic or prehistoric, unless their conservation is a specific additional purpose for which an individual park was established.

### **3.7 Decision-Making Requirements to Avoid Impairments**



Before approving a proposed action that could lead to an impairment of park resources and values, an NPS decision-maker must consider the impacts of the proposed action and determine, in writing, that the activity will not lead to an impairment of park resources and values. If there would be an impairment, the action may not be approved.

When an NPS decision-maker becomes aware that an ongoing activity might have led or might be leading to an impairment of park resources or values, the decision-maker must investigate and determine if there is, or will be, an impairment. If so, the decision-maker must take appropriate action, to the extent possible within NPS authorities and available resources, to eliminate the impairment. Whenever practicable, such an investigation and determination shall be made as part of an appropriate park planning process undertaken for other purposes.

In making a determination of whether there would be, or is, an impairment, an NPS decision-maker must use his or her professional judgment. The decision-maker must be guided by the values expressed in the Organic Act and the General Authorities Act to assure the preservation of the high public value and integrity of the national park system, the national dignity of parks, the superlative environmental quality of parks, and the important role of parks in providing benefit and inspiration for all the people of the United States. In making such a determination, the decision-maker also must consider any environmental assessments or environmental impact statements required by the National Environmental Policy Act of 1969; relevant scientific studies of the park resources that could be affected, including those required by Title II of the National Parks Omnibus Management Act of 1998; and public comments.

----- *End of Director's Order* -----





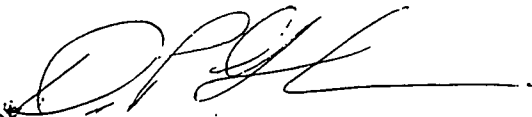
# United States Department of the Interior

## NATIONAL PARK SERVICE

1849 C Street, N.W.  
Washington, D.C. 20240

IN REPLY REFER TO:

### Director's Order # 55: Interpreting the National Park Service Organic Act

Approved:   
Acting Director, National Park Service

Effective Date: NOV 17 2000

Sunset Date: Upon Approval of Management Policies

This Director's Order supersedes the September 8, 2000, release of Director's Order #55, and any conflicting instructions that may have been issued on the meaning and intent of the National Park Service<sup>1</sup> Organic Act (16 USC 1), and the 1978 amendment to the National Park System General Authorities Act of 1970 (16 USC 1a-1).

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#### 1.0 BACKGROUND AND PURPOSE OF THIS DIRECTOR'S ORDER

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<sup>1</sup> The terms "National Park Service," "Park Service," "Service," and "NPS" are used interchangeably in this document.

Service decided to incorporate into *Management Policies* a detailed interpretation of those provisions. The purpose in doing so was to help NPS managers understand their legal duties in managing the national park system, and to establish policies and procedures that would help ensure the law is properly and consistently applied throughout the national park system.

The draft of proposed revisions to NPS *Management Policies* was issued for a 60-day public review and comment period, beginning January 19, 2000 [65 FR 2984]. The Service subsequently considered all the comments received, and will adopt the year 2000 edition of *Management Policies* in the near future. However, due to the importance of instituting as soon as possible a Service-wide interpretation of the most salient provisions of the Organic Act and General Authorities Act, the Service has issued this Director's Order as a means of adopting section 1.4 of *Management Policies*.

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### **3.1 The Laws Generally Governing Park Management**

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The key management-related provision of the Organic Act is:

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Congress supplemented and clarified these provisions through enactment of the General Authorities Act in 1970, and again through enactment of a 1978 amendment to that law (the "Redwood amendment," contained in a bill expanding Redwood National Park, which added the

last two sentences in the following provision). The key part of that act, as amended, is:

Congress declares that the national park system, which began with establishment of Yellowstone National Park in 1872, has since grown to include superlative natural, historic, and recreation areas in every major region of the United States, its territories and island possessions; that these areas, though distinct in character, are united through their inter-related purposes and resources into one national park system as cumulative expressions of a single national heritage; that, individually and collectively, these areas derive increased national dignity and recognition of their superlative environmental quality through their inclusion jointly with each other in one national park system preserved and managed for the benefit and inspiration of all the people of the United States; and that it is the purpose of this Act to include all such areas in the System and to clarify the authorities applicable to the system. Congress further reaffirms, declares, and directs that the promotion and regulation of the various areas of the National Park System, as defined in section 1c of this title, shall be consistent with and founded in the purpose established by section 1 of this title [*the Organic Act provision quoted above*], to the common benefit of all the people of the United States. The authorization of activities shall be construed and the protection, management, and administration of these areas shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress. (16 USC 1a-1)

This section 1.4 of *Management Policies* represents the agency's interpretation of these key statutory provisions.

### **3.2 "Impairment" and "Derogation": One Standard**

Congress intended the language of the Redwood amendment to the General Authorities Act to reiterate the provisions of the Organic Act, not create a substantively different management standard. The House committee report described the Redwood amendment as a "declaration by Congress" that the promotion and regulation of the national park system is to be consistent with the Organic Act. The Senate committee report stated that under the Redwood amendment, "The Secretary has an absolute duty, which is not to be compromised, to fulfill the mandate of the 1916 Act to take whatever actions and seek whatever relief as will safeguard the units of the national park system." So, although the Organic Act and the General Authorities Act, as amended by the Redwood amendment, use different wording ("unimpaired" and "derogation" to describe what the National Park Service must avoid, they define a single standard for the management of the national park system – not two different standards. For simplicity, *Management Policies* uses "impairment," not both statutory phrases, to refer to that single standard.

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Congress, recognizing that the enjoyment by future generations of the national parks can be ensured only if the superb quality of park resources and values is left unimpaired, has provided that when there is a conflict between conserving resources and values and providing for enjoyment of them, conservation is to be predominant. This is how courts have consistently interpreted the Organic Act, in decisions that variously describe it as making "resource protection the primary goal" or "resource protection the overarching concern," or as establishing a "primary mission of resource conservation," a "conservation mandate," "an overriding preservation mandate," "an overarching goal of resource protection," or "but a single purpose, namely, conservation."

### **3.4 The Prohibition on Impairment of Park Resources and Values**

While Congress has given the Service the management discretion to allow certain impacts within parks, that discretion is limited by the statutory requirement (enforceable by the federal courts) that the Park Service must leave park resources and values unimpaired, unless a particular law directly and specifically provides otherwise. This, the cornerstone of the Organic Act, establishes the primary responsibility of the National Park Service. It ensures that park resources and values will continue to exist in a condition that will allow the American people to have present and future opportunities for enjoyment of them.

The impairment of park resources and values may not be allowed by the Service unless directly and specifically provided for by legislation or by the proclamation establishing the park. The relevant legislation or proclamation must provide explicitly (not by implication or inference) for the activity, in terms that keep the Service from having the authority to manage the activity so as to avoid the impairment.

### **3.5 What Constitutes an Impairment of Park Resources and Values**

The impairment that is prohibited by the Organic Act and the General Authorities Act is an

impact that, in the professional judgment of the responsible NPS manager, would harm the integrity of park resources or values, including the opportunities that otherwise would be present for the enjoyment of those resources or values. Whether an impact meets this definition depends on the particular resources and values that would be affected; the severity, duration, and timing of the impact; the direct and indirect effects of the impact; and the cumulative effects of the impact in question and other impacts.

An impact to any park resource or value may constitute an impairment. An impact would be more likely to constitute an impairment to the extent that it affects a resource or value whose conservation is:

- Necessary to fulfill specific purposes identified in the establishing legislation or proclamation of the park;
- Key to the natural or cultural integrity of the park or to opportunities for enjoyment of the park; or
- Identified as a goal in the park's general management plan or other relevant NPS planning documents.

An impact would be less likely to constitute an impairment to the extent that it is an unavoidable result, which cannot reasonably be further mitigated, of an action necessary to preserve or restore the integrity of park resources or values.

Impairment may occur from visitor activities; NPS activities in the course of managing a park; or activities undertaken by concessioners, contractors, and others operating in the park.

### **3.6 What Constitutes Park Resources and Values**

The "park resources and values" that are subject to the no-impairment standard include:

- the park's scenery, natural and historic objects, and wildlife, and the processes and conditions that sustain them, including, to the extent present in the park: the ecological, biological, and physical processes that created the park and continue to act upon it; scenic features; natural visibility, both in daytime and at night; natural landscapes; natural soundscapes and smells; water and air resources; soils; geological resources; paleontological resources; archeological resources; cultural landscapes; ethnographic resources; historic and prehistoric sites, structures, and objects; museum collections; and native plants and animals;
- opportunities to experience enjoyment of the above resources, to the extent that can be done without impairing any of them;
- the park's role in contributing to the national dignity, the high public value and integrity, and the superlative environmental quality of the national park system, and the benefit and

inspiration provided to the American people by the national park system; and

- any additional attributes encompassed by the specific values and purposes for which it was established.

### **3.7 Decision-making Requirements to Avoid Impairments**

Before approving a proposed action that could lead to an impairment of park resources and values, an NPS decision-maker must consider the impacts of the proposed action and determine, in writing, that the activity will not lead to an impairment of park resources and values. If there would be an impairment, the action may not be approved.

In making a determination of whether there would be an impairment, a National Park Service decision-maker must use his or her professional judgment. The decision-maker must consider any environmental assessments or environmental impact statements required by the National Environmental Policy Act of 1969 (NEPA); relevant scientific studies, and other sources of information; and public comments.

When an NPS decision-maker becomes aware that an ongoing activity might have led, or might be leading to, an impairment of park resources or values, the decision-maker must investigate and determine if there is, or will be, an impairment. Whenever practicable, the investigation and determination should be part of the ongoing park planning processes. If it is determined that there is, or will be, an impairment, the decision-maker must take appropriate action, to the extent possible within NPS authorities and available resources, to eliminate or avoid the impairment.

Actions that are necessary to eliminate an impairment may be taken in stages, if:

- The impairment will not be permanent;
- Immediate action to eliminate the impairment would cause unacceptable social, economic, or environmental consequences; and
- The impairment will be eliminated as soon as reasonably possible, but in any event within 3 years from the date the determination is made.

----- *End of Director's Order* -----

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Author: Mary Gibson Scott at NP-GOGA  
Date: 11/30/00 4:31 PM  
Normal

TO: GOGA Superintendent at NP-GOGA Subject: Re: Director's Order #5-----  
----- Message Contents

pls print for me and hold..thanks

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Reply Separator

Subject: Director's Order #5  
Author: GOGA Superintendent at NP-GOGA  
Date: 11/30/00 9:23 AM

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Forward Header

Subject: Director's Order #5  
Author: PWFA Regional Director at NP-WRO  
Date: 11/29/00 12:56 PM

OFFICIAL ELECTRONIC MAIL SENT VIA CC:MAIL  
NO HARD COPY TO FOLLOW

PACIFIC WEST REGION  
600 Harrison Street, Suite 600  
San Francisco, CA 94107-1372

A5621(PWR-A)

November 29, 2000

Memorandum

To: Directorate and Superintendents, Pacific West Region  
From: Acting Regional Director, Pacific West Region  
Subject: Director's Order #55: Interpreting the National Park  
Service Organic Act

The attached Director's Order has been revised. Please ensure that it is distributed to all interested employees in your area. You may also access a list and the status of Director's Orders at <http://www.nps.gov/refdesk/DOrders>.

/s/ Holly Bundock  
(signed original on file)

John J. Reynolds

Attachment

cc:

FOFUAR00364

GGNRA007105

Ralph Mihan  
Bill Silver  
Bill Back

FOFUAR00365

GGNRA007106



*Fwd: Senior Staff  
Cy: Supt. file*

Author: PWFA Regional Director at NP-WRO  
Date: 11/29/00 12:56 PM  
Normal

TO: Jon G. James (BIHO Superintendent) at NP-BIHOTO: CABR Superintendent at NP-CABRTO: Tim Setnicka (CHIS Superintendent) at NP-CHISTO: CIRO Superintendent at NP-CIROTO: Charles Cranfield at NP-NPSATO: CRLA Superintendent at NP-CRLATO: CRMO Superintendent at NP-CRMOTO: Frank Dean at NP-PORETO: DEVA Superintendent at NP-DEVATO: Gretchen Luxenberg (EBLA Superintendent) at NP-PNROTO: EUON Superintendent at NP-EUONTO: FOCL Superintendent at NP-FOCLTO: FOVA Superintendent at NP-FOVA-ATO: GOGA Superintendent at NP-GOGATO: GRBA Administration (GRBA Superintendent) at NP-GRBATO: HAFO Superintendent at NP-HAFOTO: Don Reeser (HALE Superintendent) at NP-HALETO: Bryan Harry at NP-PAARTO: HAVO Superintendent at NP-HAVOTO: JODA Superintendent at NP-JODATO: JOMU Administration (JOMU Superintendent) at NP--WRTO: JOTR Superintendent at NP-JOTRTO: Meredith Kaplan (JUBA Superintendent) TO: KAHO Superintendent at NP-KAHOTO: Dean Alexander (KALA Superintendent) at NP-KALATO: KLSE Superintendent at NP-KLSETO: LABE Superintendent at NP-LABETO: LAME Superintendent at NP-LAMETO: LARO Superintendent at NP-LAROTO: LAVO Superintendent Secretary (LAVO Superintendent) at NP-LAVOTO: PWFA Regional Director (RD Louwerens) TO: MANZ Superintendent at NP--WRTO: Jim Milestone at NP-WHISTO: Mary Martin (MOJA Superintendent) at NP-MOJATO: MORA Mail Room (MORA Superintendent) at NP-MORATO: NEPE Superintendent at NP-NEPETO: NOCA Superintendent at NP-NOCATO: NPSA Superintendent at NP-NPSATO: OLYM Superintendent at NP-OLYMTTO: ORCA Superintendent at NP-ORCATO: PINN Superintendent at NP-PINNTO: Ann Nelson (PORE Superintendent) at NP-PORETO: Daniel Kawaiaea (PUHE Superintendent) at NP-PUHETO: Geri Bell (PUHO Superintendent) at NP-PUHOTO: REDW Superintendent at NP-REDWTO: SAFR Superintendent at NP-SAFRTO: SAJH Superintendent at NP-SAJHTO: SAMO Superintendent at NP-SAMOTO: Chuck F. Sayon at NP--WRTO: SEKI Superintendent at NP-SEKITO: George Turnbull TO: USAR Superintendent at NP-USARTO: Bill Walters at NP-PNROTO: WAPA Administration (WAPA Superintendent) at NP-WAPATO: Rory Westberg at NP-PNROTO: WHMI Superintendent at NP-WHMITO: YOSE Superintendent at NP-YOSETO: Holly Bundock TO: Marti Leicester TO: Patty Neubacher TO: Jim Shevock Subject: Director's Order #5-----  
----- Message Contents

OFFICIAL ELECTRONIC MAIL SENT VIA CC:MAIL  
NO HARD COPY TO FOLLOW

PACIFIC WEST REGION  
600 Harrison Street, Suite 600  
San Francisco, CA 94107-1372

A5621 (PWR-A)

November 29, 2000

Memorandum

To: Directorate and Superintendents, Pacific West Region  
From: Acting Regional Director, Pacific West Region  
Subject: Director's Order #55: Interpreting the National Park Service Organic Act

The attached Director's Order has been revised. Please ensure that it is distributed to all interested employees in your area. You may also access a list and the status of Director's Orders at <http://www.nps.gov/refdesk/DOrders>.

/s/ Holly Bundock  
(signed original on file)

FOFUAR00366

GGNRA007107

John J. Reynolds

Attachment

cc:

Ralph Mihan

Bill Silver

Bill Back

November 21, 2000

Memorandum

To: National Leadership Council

From: Chief, Office of Policy

Subject: Revised Director's Order #55: Interpreting the National Park Service Organic Act

On September 8, 2000, I sent you Director's Order #55, which adopted the Service's official interpretation of the 1916 Organic Act and the 1978 "Redwood Act" amendment to the General Authorities Act of 1970. The interpretation will be included as section 1.4 of NPS Management Policies, which we expect will be issued in the near future. Until then, we are issuing the attached revised Director's Order #55. As amended, the Order now provides that actions which are necessary to eliminate an existing impairment of park resources and values (i.e., an impairment resulting from ongoing activities, not newly authorized activities) may be taken in stages over a 3-year period, if certain conditions are met. The revisions were officially adopted by the Service November 17, 2000.

Please distribute this important policy document to all those under your supervision who are in a position to make decisions that could impair park resources and values. And please feel free to contact us if you have any questions about this matter.

Attachment

[Electronic copy. Original on file in Office of Policy]

## Director's Order # 55: Interpreting the National Park Service Organic Act

Approved: /s/ Denis Galvin (acting)  
Director, National Park Service

Effective Date: November 17, 2000

Sunset Date: Upon Approval of Management Policies

This Director's Order supersedes the September 8, 2000, release of Director's Order #55, and any conflicting instructions that may have been issued on the meaning and intent of the National Park Service<sup>1</sup> Organic Act (16 USC 1), and the 1978 amendment to the National Park System General Authorities Act of 1970 (16 USC 1a-1).

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### 1.0 BACKGROUND AND PURPOSE OF THIS DIRECTOR'S ORDER

When authorizing activities to take place within areas of the national park system, National Park Service managers must comply with all provisions of law. The most fundamental of those provisions are found in the National Park Service Organic Act of 1916 (16 USC 1) and the Redwood Act amendment to the 1970 National Park Service General Authorities Act (16 USC 1a-1). During the process of updating the 1988 edition of NPS *Management Policies*, the Service decided to incorporate into *Management Policies* a detailed interpretation of those provisions.

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<sup>1</sup> The terms "National Park Service," "Park Service," "Service," and "NPS" are used interchangeably in this document.

The purpose in doing so was to help NPS managers understand their legal duties in managing the national park system, and to establish policies and procedures that would help ensure the law is properly and consistently applied throughout the national park system.

The draft of proposed revisions to NPS *Management Policies* was issued for a 60-day public review and comment period, beginning January 19, 2000 [65 FR 2984]. The Service subsequently considered all the comments received, and will adopt the year 2000 edition of *Management Policies* in the near future. However, due to the importance of instituting as soon as possible a Service-wide interpretation of the most salient provisions of the Organic Act and General Authorities Act, the Service has issued this Director's Order as a means of adopting section 1.4 of *Management Policies*.

## **2.0 AUTHORITY TO ISSUE THIS DIRECTOR'S ORDER**

The authority to issue this Director's Order is found in the NPS Organic Act, and Part 245 of the Department of the Interior Manual, which delegates to the Director of the National Park Service the Secretary of the Interior's authority to supervise, manage, and operate the national park system.

## **3.0 INTERPRETATION OF THE NPS ORGANIC ACT**

The following wording is adopted for publication in NPS *Management Policies* as the agency's interpretation of the meaning of the NPS Organic Act and the General Authorities Act of 1970, as amended. All NPS personnel will conduct their work activities and make decisions affecting the national park system in conformance with this interpretation.

### **3.1 The Laws Generally Governing Park Management**

The most important statutory directive for the National Park Service is provided by interrelated provisions of the NPS Organic Act of 1916, and the NPS General Authorities Act of 1970, including amendments to the latter law enacted in 1978.

The key management-related provision of the Organic Act is:

[The National Park Service] shall promote and regulate the use of the Federal areas known as national parks, monuments, and reservations hereinafter specified . . . by such means and measures as conform to the fundamental purpose of the said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations. (16 USC 1)

Congress supplemented and clarified these provisions through enactment of the General Authorities Act in 1970, and again through enactment of a 1978 amendment to that law (the "Redwood amendment," contained in a bill expanding Redwood National Park, which added the last two sentences in the following provision). The key part of that act, as amended, is:

Congress declares that the national park system, which began with establishment of Yellowstone National Park in 1872, has since grown to include superlative natural, historic, and recreation areas in every major region of the United States, its territories and island possessions; that these areas, though distinct in character, are united through their inter-related purposes and resources into one national park system as cumulative expressions of a single national heritage; that, individually and collectively, these areas derive increased national dignity and recognition of their superlative environmental quality through their inclusion jointly with each other in one national park system preserved and managed for the benefit and inspiration of all the people of the United States; and that it is the purpose of this Act to include all such areas in the System and to clarify the authorities applicable to the system. Congress further reaffirms, declares, and directs that the promotion and regulation of the various areas of the National Park System, as defined in section 1c of this title, shall be consistent with and founded in the purpose established by section 1 of this title [*the Organic Act provision quoted above*], to the common benefit of all the people of the United States. The authorization of activities shall be construed and the protection, management, and administration of these areas shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress. (16 USC 1a-1)

This section 1.4 of *Management Policies* represents the agency's interpretation of these key statutory provisions.

### **3.2 "Impairment" and "Derogation": One Standard**

Congress intended the language of the Redwood amendment to the General Authorities Act to reiterate the provisions of the Organic Act, not create a substantively different management standard. The House committee report described the Redwood amendment as a "declaration by Congress" that the promotion and regulation of the national park system is to be consistent with the Organic Act. The Senate committee report stated that under the Redwood amendment, "The Secretary has an absolute duty, which is not to be compromised, to fulfill the mandate of the 1916 Act to take whatever actions and seek whatever relief as will safeguard the units of the national park system." So, although the Organic Act and the General Authorities Act, as amended by the Redwood amendment, use different wording ("unimpaired" and "derogation") to describe what the National Park Service must avoid, they define a single standard for the management of the national park system – not two different standards. For simplicity, *Management Policies* uses "impairment," not both statutory phrases, to refer to that single standard.

### **3.3 The NPS Obligation to Conserve and Provide for Enjoyment of Park Resources and Values**

The "fundamental purpose" of the national park system, established by the Organic Act and reaffirmed by the General Authorities Act, as amended, begins with a mandate to conserve park resources and values. This mandate is independent of the separate prohibition on impairment, and

so applies all the time, with respect to all park resources and values, even when there is no risk that any park resources or values may be impaired. NPS managers must always seek ways to avoid, or to minimize to the greatest degree practicable, adverse impacts on park resources and values. However, the laws do give the Service the management discretion to allow impacts to park resources and values when necessary and appropriate to fulfill the purposes of a park, so long as the impact does not constitute impairment of the affected resources and values.

The fundamental purpose of all parks also includes providing for the enjoyment of park resources and values by the people of the United States. The “enjoyment” that is contemplated by the statute is broad; it is the enjoyment of all the people of the United States, not just those who visit parks, and so includes enjoyment both by people who directly experience parks and by those who appreciate them from afar. It also includes deriving benefit (including scientific knowledge) and inspiration from parks, as well as other forms of enjoyment.

Congress, recognizing that the enjoyment by future generations of the national parks can be ensured only if the superb quality of park resources and values is left unimpaired, has provided that when there is a conflict between conserving resources and values and providing for enjoyment of them, conservation is to be predominant. This is how courts have consistently interpreted the Organic Act, in decisions that variously describe it as making “resource protection the primary goal” or “resource protection the overarching concern,” or as establishing a “primary mission of resource conservation,” a “conservation mandate,” “an overriding preservation mandate,” “an overarching goal of resource protection,” or “but a single purpose, namely, conservation.”

### **3.4 The Prohibition on Impairment of Park Resources and Values**

While Congress has given the Service the management discretion to allow certain impacts within parks, that discretion is limited by the statutory requirement (enforceable by the federal courts) that the Park Service must leave park resources and values unimpaired, unless a particular law directly and specifically provides otherwise. This, the cornerstone of the Organic Act, establishes the primary responsibility of the National Park Service. It ensures that park resources and values will continue to exist in a condition that will allow the American people to have present and future opportunities for enjoyment of them.

The impairment of park resources and values may not be allowed by the Service unless directly and specifically provided for by legislation or by the proclamation establishing the park. The relevant legislation or proclamation must provide explicitly (not by implication or inference) for the activity, in terms that keep the Service from having the authority to manage the activity so as to avoid the impairment.

### **3.5 What Constitutes an Impairment of Park Resources and Values**

The impairment that is prohibited by the Organic Act and the General Authorities Act is an impact that, in the professional judgment of the responsible NPS manager, would harm the integrity of park resources or values, including the opportunities that otherwise would be present for the

enjoyment of those resources or values. Whether an impact meets this definition depends on the particular resources and values that would be affected; the severity, duration, and timing of the impact; the direct and indirect effects of the impact; and the cumulative effects of the impact in question and other impacts.

An impact to any park resource or value may constitute an impairment. An impact would be more likely to constitute an impairment to the extent that it affects a resource or value whose conservation is:

- Necessary to fulfill specific purposes identified in the establishing legislation or proclamation of the park;
- Key to the natural or cultural integrity of the park or to opportunities for enjoyment of the park; or
- Identified as a goal in the park's general management plan or other relevant NPS planning documents.

An impact would be less likely to constitute an impairment to the extent that it is an unavoidable result, which cannot reasonably be further mitigated, of an action necessary to preserve or restore the integrity of park resources or values.

Impairment may occur from visitor activities; NPS activities in the course of managing a park; or activities undertaken by concessioners, contractors, and others operating in the park.

### **3.6 What Constitutes Park Resources and Values**

The "park resources and values" that are subject to the no-impairment standard include:

- the park's scenery, natural and historic objects, and wildlife, and the processes and conditions that sustain them, including, to the extent present in the park: the ecological, biological, and physical processes that created the park and continue to act upon it; scenic features; natural visibility, both in daytime and at night; natural landscapes; natural soundscapes and smells; water and air resources; soils; geological resources; paleontological resources; archeological resources; cultural landscapes; ethnographic resources; historic and prehistoric sites, structures, and objects; museum collections; and native plants and animals;
- opportunities to experience enjoyment of the above resources, to the extent that can be done without impairing any of them;
- the park's role in contributing to the national dignity, the high public value and integrity, and the superlative environmental quality of the national park system, and the benefit and inspiration provided to the American people by the national park system; and
- any additional attributes encompassed by the specific values and purposes for which it was



established.

### **3.7 Decision-making Requirements to Avoid Impairments**

Before approving a proposed action that could lead to an impairment of park resources and values, an NPS decision-maker must consider the impacts of the proposed action and determine, in writing, that the activity will not lead to an impairment of park resources and values. If there would be an impairment, the action may not be approved.

In making a determination of whether there would be an impairment, a National Park Service decision-maker must use his or her professional judgment. The decision-maker must consider any environmental assessments or environmental impact statements required by the National Environmental Policy Act of 1969 (NEPA); relevant scientific studies, and other sources of information; and public comments.

When an NPS decision-maker becomes aware that an ongoing activity might have led, or might be leading to, an impairment of park resources or values, the decision-maker must investigate and determine if there is, or will be, an impairment. Whenever practicable, the investigation and determination should be part of the ongoing park planning processes. If it is determined that there is, or will be, an impairment, the decision-maker must take appropriate action, to the extent possible within NPS authorities and available resources, to eliminate or avoid the impairment.

Actions that are necessary to eliminate an impairment may be taken in stages, if:

- The impairment will not be permanent;
- Immediate action to eliminate the impairment would cause unacceptable social, economic, or environmental consequences; and
- The impairment will be eliminated as soon as reasonably possible, but in any event within 3 years from the date the determination is made.

----- *End of Director's Order* -----

Pro Lead - Lethal - Pro Closure

FOFUAR00375



**DAVID RUBENSTEIN**  
LANDSCAPE GARDENING SERVICE  
533 POINT LOBOS AVENUE  
SAN FRANCISCO, CA 94121  
(415) 750-9402

*cy: M. Scott  
Y. Ruan  
D. Hatch  
N. Walthall*

RECEIVED  
DEC 15 2000  
SUPERINTENDENT'S OFFICE

December 10, 2000

Golden Gate National Recreation  
Area Advisory Commission

*FORT MASON  
SF 94123*

Commission members,

Kudos to you on the wise ruling to protect the Bank Swallows and their habitat by enforcing the exclusion of people and dogs from that critical part of Fort Funston.

Unless I'm mistaken it is not only the official management policy of the park service that gives authority to such protection. Under the Federal Endangered Species Act environmental groups could also go the route of resorting to litigation, as a dog walker's group chose to do, to seek protection to ensure survival of the Bank Swallows.

Let's hope that dog owners would respect and cherish other animals and be willing to live with only having their dogs roam unleashed over 95% of Fort Funston.

Sincerely,

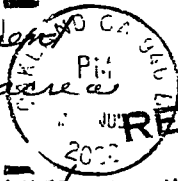
*David Rubenstein*

FOFUAR00376

GGNRA007117

S. Sheen  
 cc: B. O'Neill  
 M. Scott  
 N. Walthall  
 V. Ruan  
 M. [unclear]  
 T. Thomas

I support a permanent  
 closure of the 12-acre  
 area of the NW  
 section of Fort Funston  
 to protect the bank  
 swallow habitat from  
 dogs & people. We  
 must protect the bank  
 swallow colony & other  
 animals, plants & formations.  
 Thank you. Jean King



RECEIVED

JUL 25 2000



SUPERINTENDENT'S OFFICE

Superintendent  
 Golden Gate Nat. Rec Area  
 Bay & Franklin St  
 Bld 201  
 Fort Mason  
 San Francisco CA 94123



Jeanette King  
 4205 Colgate Way

San Francisco CA 94134

*Cy: S. Sheen, M. Scott*

Author: GOGA WR Information at NP-GOGA  
Date: 7/24/00 8:43 AM  
Normal

TO: Brian O'Neill Subject: Fort Funston ----- Message Co  
ntents

Brian - this was emailed to the PWR Information Office - the senders email  
address is rutkowski@terraworld.net.

craig glassner

Forward Header

Subject: Fort Funston  
Author: "Robert E. Rutkowski" <rutkowski@terraworld.net> at np--internet  
Date: 7/22/00 1:44 PM

Superintendent  
Golden Gate National Recreation Area  
Bay & Franklin Sts., Building 201  
Fort Mason  
San Francisco, CA 94123

Dear Superintendent:

"...to promote and regulate the use of the...national parks ..which purpose  
is to conserve the scenery and the natural and historic objects and the  
wild life therein and to provide for  
the enjoyment of the same in such manner and by such means as will leave  
them unimpaired for the enjoyment of future generations." National Park  
Service Organic Act, 16 U.S.C.1.

The quote above from the act which established the National Park Service  
(NPS) in 1916 applies to every unit of the park system, whether it is  
designated park, monument, recreation area or seashore. This story regards  
an effort be the park service to uphold its mission, and the opposition it  
has garnered from a group of park users. Your help is needed to protect a  
threatened resource.

As you know, the controversy over management of the Fort Funston area in the  
Golden Gate National Recreation Area (GGNRA). Fort Funston's 230 acres  
include one of the best continuous exposures of a sandstone formation  
revealing the last 2 million years of California geologic history and the  
largest remnant of the San Francisco dune complex, of which only 5% still  
exists.

It is my understanding GGNRA over the past several years has engaged in  
numerous efforts to protect and restore the dune ecosystems (which face  
threats primarily from invasive exotic plant species and trampling from  
humans and animals) It is also working on plans to protect a colony of rare  
bank swallows. The migratory birds, as their name suggests, build nests in  
burrowed holes in suitable banks along rivers and beaches. There is a  
colony in the Fort Funston that is threatened by continuing erosion of the  
coastal bluffs they nest in. The Funston bank swallow colony is one of only  
two remaining on the California coast (most California bank swallows breed  
in the Sacramento River Valley and are declining there). They are a listed

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threatened species under the California Endangered Species Act.

The park has studied both the causes of the erosion and ways to prevent it. Some of the most serious threats are activities such as off-leash dog running and cliff climbing. Others include graffiti-carving in the soft sandstone, fireworks set off on the beach below the bluffs, rescues of people and dogs trapped on the bluffs and overflights of hang-gliders. The number of visitors to Fort Funston has increased dramatically in the last five years.

On July 14, the NPS officially proposed in the Federal Register a permanent closure of a 12-acre area of the northwest section of Fort Funston to protect the bank swallow habitat, "enhance significant native plant communities, improve public safety and reduce human-induced impacts to the coastal bluffs and dunes, a significant geological feature." This official listing followed previous management efforts by the park which were opposed by an organized group of dog-walkers who sued. The judge sided with the dog-walkers, requiring the NPS to perform a full public process before protecting this resource.

I believe that this closure is essential to protecting the swallows and other valuable remnants of the habitats that once covered this area of the coast. In addition to the swallows, Fort Funston is one of only three sites in San Francisco where California quail still survive, along with burrowing owls, brush rabbits and other native wildlife.

I write in support of this proposal. I express concerns about preserving the bank swallow colony and other native plants, wildlife and geologic formations. I also suggest you question why dogs are allowed off-leash here, when off leash dog walking is forbidden by law on all NPS land.

Thank you for the opportunity to bring these remarks to your attention.

Yours sincerely,  
Robert E. Rutkowski, Esq.

cc: Bob Stanton

2527 Faxon Court  
Topeka, Kansas 66605-2086  
Fax: 1 785 379-9671  
E-mail: r\_e\_rutkowski@hotmail.com

FOFUAR00379

GGNRA007120



Anti closure / off seal

FOFUAR00380

General Superintendent  
GGNRA Fort Mason  
Bldg 201 Franklin & Bay Streets  
San Francisco, CA 94123

RECEIVED  
JAN 09 2001  
SUPERINTENDENT'S OFFICE

B. O'Neill  
Cc: M. Leatty  
N. Walthall  
R. Weiskaman  
R. Scott

Re: Fort Funston

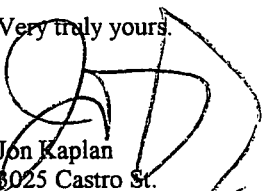
Dear Mr. Superintendent:

My wife and I are longtime San Francisco citizens. We walk our dog each weekend at Fort Funston, and we are appalled that the GGNRA is planning to place many acres permanently off limits to all public access—this despite (1) two resolutions by the Board of Supervisors, (2) a letter to the Park Service from the City Attorney's Office, which was ignored, (3) overwhelming opposition to the closure, (4) lack of scientific justification for the closure, and (5) assurances by the Park Service in 1995 that there would be no more closures.

I have already written the Mayor and the Board of Supervisors, but I wanted to write you for the following reason: you and the GGNRA are alienating your core constituency. We are lifetime Sierra Club members and consider ourselves diehard conservationists. For the first time in our lives, however, we can honestly identify with those in the Republican party who constantly complain about non-responsive public bureaucracies that take away public land without listening to the concerns of those who use that land. The current administration will be quite hostile to the Park Service's environmental agenda and if you alienate those who support you year in and year out, you will one day find yourself without the political base necessary to support the real environmental work that this country so desperately needs.

Please – for the sake of pro-environment politics in the United States – keep Fort Funston free.

Very truly yours,

  
Jon Kaplan  
8025 Castro St.  
San Francisco, CA 94131

FOFUAR00381

GGNRA007122



---

Author: Roger Scott at NP-GOGA  
Date: 12/27/00 7:12 AM  
Normal

TO: Mary Gibson ScottSubject: Fort Funston access----- Mess  
age Contents

FYI

---

Forward Header

Subject: Fort Funston access  
Author: George Su at NP-GOGA-PRES  
Date: 12/21/00 11:35 AM

FYI

---

Forward Header

Subject: Fort Funston access  
Author: "Chris Smith" <chrismith@hotmail.com> at np--internet  
Date: 12/20/00 6:03 PM

please forward to the office of Brian O'Neill:

Superintendent Brian O'Neill,

I'm writing to express my disappointment over your decision regarding hiking  
and dog access at Fort Funston.

Fort Funston is an urban park, and includes significant prior development as  
evidenced by the extensive paved paths and military structures on the  
cliffs.

I strongly support efforts to restore native plant life, limit erosion and  
preserve the nesting areas of birds. However, I'm not convinced that the  
only way to achieve these goals is to close the park to all users. Surely,  
a compromise allowing access to paved trails for leashed dogs and humans,  
and preserving the sand ladder access to the beach, will allow preservation  
and allow San Francisco Residents and their dogs to continue to enjoy this  
natural treasure.

Sincerely,

Chris Smith  
774 Joost Ave.  
San Francisco, CA 94127

---

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FOFUAR00382

GGNRA007123

LYDIA BOESCH  
*Attorney at Law*

RECEIVED

SEP 21 2000

SUPERINTENDENT'S OFFICE  
VIA HAND DELIVERY

110 MAYWOOD DRIVE  
SAN FRANCISCO, CALIFORNIA 94127  
(415) 841-1060  
(415) 841-0437 FAX  
Lydiaowen@aol.com

September 20, 2000

B. O'Neill  
Cy: M. Scott  
M. Feinstein  
R. Scott  
C. Powell  
N. Walther

Brian O'Neill  
General Superintendent  
Golden Gate National Recreation Area  
Fort Mason  
San Francisco, California

Re: Proposed Closure at Fort Funston

Dear Brian:

Enclosed is a booklet which contains the transcripts of all of the presentations made at the August 29, 2000 Citizens Advisory Commission by the panel speaking on behalf of Fort Funston Dog Walkers. We hope this information will be helpful to you in deciding on the proposed closure at Fort Funston.

Please call me if you have any questions.

Very truly yours,

*Lydia Boesch*

Lydia Boesch

Enclosure

cc (w/encl.): Richard Bartke  
Amy Meyer  
Dennis I. Rodoni  
Dr. Edgar Wayburn  
Trent Orr  
Douglas Siden  
Michael Alexander  
Anna-Marie Booth  
Gordon Bennett

Mel Lane  
Doug Nadeau  
Susan Giacomini Allan  
Betsey Cutler  
Redmond Kernan  
John J. Spring  
Lennie Roberts  
Yvonne Lee  
Fred A. Rodriguez

FOFUAR00383  
GGNRA007124



# Fort Funston Closure Proposal

Comments by A Panel of Speakers

from

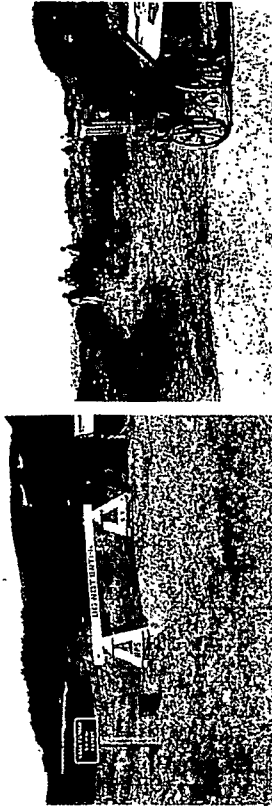
Fort Funston Dog Walkers

Before the  
Citizens Advisory Commission

of the  
Golden Gate National Recreation Area

Tuesday, August 29, 2000  
Fort Mason, San Francisco

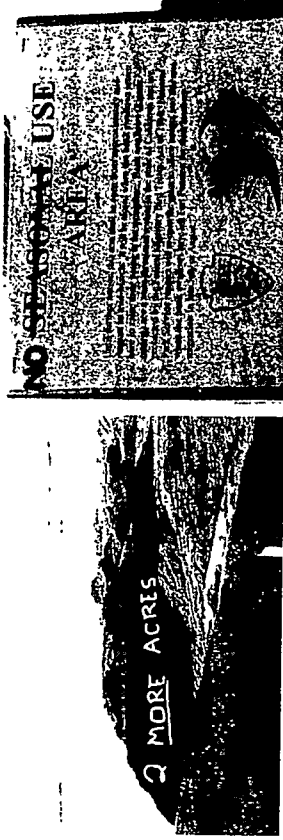
My name is John Cranshaw. I joined Fort Funston Dog Walkers shortly after the paved Sunset Trail was torn out at Fort Funston without any public discussion, resulting in denial of access to that lovely walk for the disabled and elderly.



I agree with you, Mr. Bartke, about one issue: this meeting is not a "melodrama." It's a travesty.

I suspect this is the first time you are holding public hearings *after* a project has already been implemented. At Fort Funston, this is par for the course. This hearing is occurring only because our lawsuit forced the Park Service to do so. This is merely their belated effort to comply with their own regulations, so as to justify what they have already done by fencing off large areas.

In response to our audacity in asking them to follow their own rulemaking, they now propose to fence off an additional two acres, and to make the closures permanent, not seasonal.



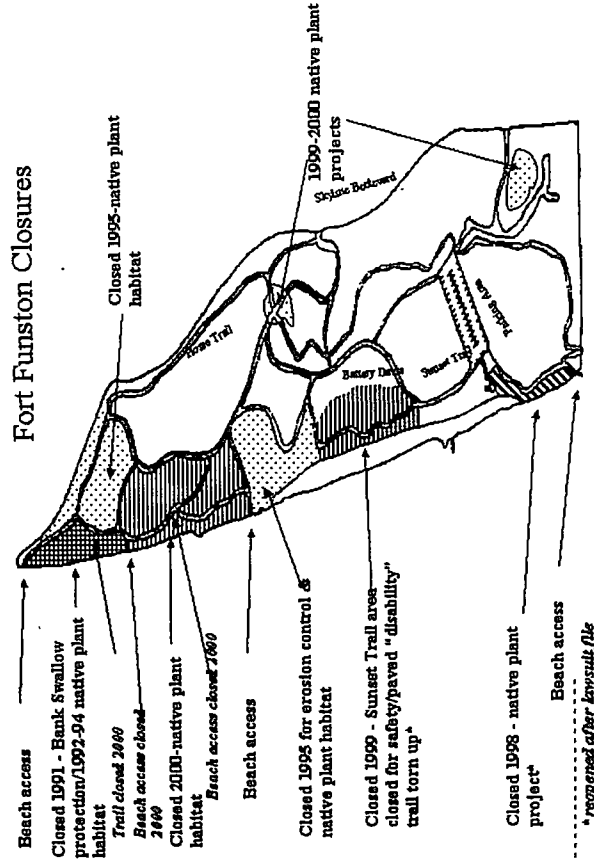
As a recent newspaper editorial stated when referring to the controversy at Fort Funston, "It's not often that an agency charged by a judge of violating federal law and ignoring public input uses the opportunity to stick it to the public once again."

As you might imagine, this has upset a great many of the people who visit Fort Funston regularly. You will likely hear tonight some less-than-flattering things said about the Park Service. Please don't be offended. We realize you do not represent the Park Service, but instead represent the public's oversight of the Park Service. In fact, we look to you as the only forum, outside the courts, for objective consideration of the needs of all who use Fort Funston.

I urge you to consider seriously the arguments made by those who disagree with the Park Service's decision. They are not merely "venting," but in fact have legitimate grievances, and reasonable arguments. I am a physician, and understand how important it is to listen carefully and objectively to each patient's story. To do otherwise is to run the risk of missing the correct diagnosis.

I am Christy Cameron and I'm a resident of San Francisco.

Over the past several years, I've witnessed the closure or attempted closure of most of the coastal areas of Fort Funston.



In 1991, the northern coastal section was closed in the name of bank swallow protection. The bank swallows abandoned this area, but it hasn't been reopened. The basis for the closure was expanded to also encompass a so-called "native plant habitat."

In 1995, the inland northern section was closed for native plant habitat.

Likewise, for you to listen only to what the Park Service says is best for Fort Funston is to run the

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**CONSERVATION:**  
**Bringing Science to the National Parks**  
 Jocelyn Kaiser

A new program aims to bolster the science underlying park management, but it will require a culture change among agency leaders

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 Kaiser J  
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 Ecology

The American Museum of Natural History's new machine, a 3D scanner, has been challenged by new policy to ban snowmobiles in an

When Alaska's snow machine association last year challenged a new policy to ban snowmobiles in an

The Park Service's new plan is meant to address a litany of criticism that started in the 1960s. A 1992 study by the National Academy of Sciences, for instance, found that "almost invariably... management of the parks was done with inadequate understanding of ecological systems." And the science that has been done has often been manipulated to support policy, critics allege. Park managers have very carefully controlled the actual research that's done and the reporting of that research," says ecologist Fred Wagner of Utah State University in Logan, citing studies of elk and grizzly bear in Yellowstone National Park.

using questionable science for its decision-making. It's for certain that they have been unable to provide us with substantive data pertaining to the issue of this closure. Is it any wonder much of the public doubts the Park Service's unsubstantiated proposals when these affect our lives so profoundly?

Those speakers following me will point out some of the weaknesses in these proposals, and impress upon you how such closures would adversely affect the majority of people who actually visit Fort Funston. The public's voice must be considered for a meaningful decision to be made. We will *not* go away.

Thank you.

Also in 1995, the Battery Davis Slope was closed for erosion control and native plant habitat. It was to have re-opened in five years. There was no significant planting and it has not re-opened.

In 1999, the Sunset Trail was closed. The reason given was unsafe pavement, although it did not appear unsafe. All of this paved, accessible trail along the ocean bluffs was turned to rubble and trucked away. On the eve of the federal lawsuit in March of this year, the trail was re-opened as a sand-strewn path, but one which remains closed to those with limited mobility.

This year:

The northern Spur Trail was closed.

"The Gap" beach access route was closed.

A five-acre area was closed, ostensibly for the good of the bank swallows, but later expanded to a laundry list of native plant, erosion, and safety claims, none of which have been shown to be necessary.

Yet another five-acre parcel was to be closed only seasonally, for the five months a year that the bank swallows are nesting. It was closed under an emergency order, even though the bank swallows return like clockwork every year and this year they didn't nest in this area.

Now the current closure proposal would legalize the previous two closures, make them both year-round, and add yet another two acres for no clear purpose.

Closing off the entire Fort Funston coastal bluffs from the Great Highway to the Observation Deck would be unthinkable – people would demand notice, scientific evidence to back such a drastic plan, and a long, messy public debate would ensue.

Instead, through a carefully paced series of closures, the Park Service is gaining piecemeal what it could not get in one fell swoop: the closure of our most treasured oceanview bluffs.

This is why it is not truthful to claim that the proposed closure is just a small part of the park.

Please put an end to this Closure Creep.

Thank you.

Commissioners-

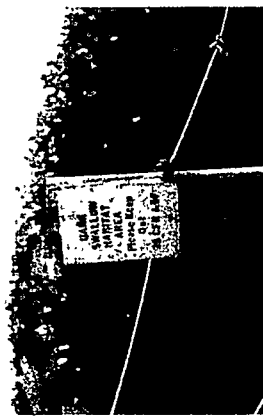
My name is Laura Cavaluzzo. I've been following the National Park Service's justifications for their actions at Fort Funston quite closely and comparing them to available scientific data on bank swallows. I'm here tonight to relate just a few of the disturbing inconsistencies I've uncovered in the process.

1) We've been told that fencing off a substantial portion of prime recreational space - first identified as six acres, then admitted to be ten acres, now proposed at twelve acres - is necessary to protect the threatened bank swallow from what the park service terms "increased recreational pressures." They cite collapsed burrows due to human-caused erosion as a significant direct cause of mortality among the birds.

However, the state's bank swallow experts say by far the biggest threats to nesting birds are flood protection and erosion control programs. Recreational disturbance that does occur is mainly caused by boat wakes undercutting riverbanks.

Those threats simply don't exist at Fort Funston.

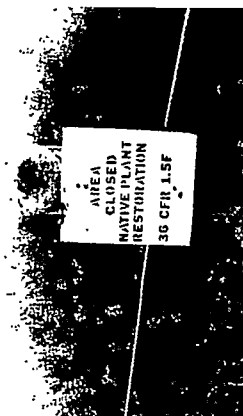
2) When it was pointed out that a fence or natural barrier set back slightly from the edge of the bluff would suffice for protection, the story changed.



The Park Service now says that it's necessary to fence out thousands of park users to plant fragile native plants, which it claims will help the colony to thrive.

But state Fish & Game scientists say that bank swallows appear to be little affected by exotic species. They nest happily beneath actively farmed crops and, in fact, did fine for many years at Fort Funston beneath hardy, recreation-tolerant iceplant.

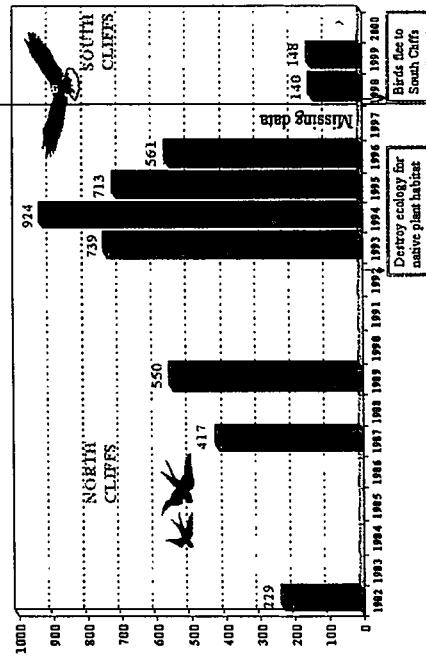
The swallows need only high, vertical banks and soil that's easy to dig in - all of which Fort Funston has in spades, and will continue to have with no help at all from the Park Service.



3) The Park Service says the swallow needs human intervention and management to thrive at the Fort.

But, when they followed this same protection plan between 1992 and 1995 the bank swallow numbers declined precipitously.

Total Number of Bank Swallow Burrows



Meanwhile, the new 'native habitat zone' - protected from disturbance by humans and dogs - became a favorite hunting ground for hawks, ravens and kestrels - among the main predators of swallows in California.

Ultimately, the swallows moved out of the "protected" zone and into a popular recreation area topped by iceplant.

And now, with no adequate scientific study of the original fiasco, the Park Service is planning to repeat it.

4) The Park Service has claimed that the closure will provide a necessary "flyover zone" between Lake Merced - where the birds primarily forage - and the nesting site.

However, the authorities, including a Park Service biologist, say such a zone provides no benefit at all to the bank swallows.

5) The Park Service claims that this proposal is "consistent with" protection measures recommended by experts.

However, the state's bank swallow expert did not recommend closing areas beyond the cliff edge, despite being asked to cite recreation as a threat to the birds.

In short, the Park Service has many excuses, but few valid reasons for the closure they are proposing.

And their lack of interest in real science is not only destroying a precious recreational resource, it may well be destroying the very birds they claim to protect.

Thank you.



## Introduction

Good evening members of the advisory commission. My name is Linda Shore and I am speaking on behalf of the Fort Funston Dog Walkers.

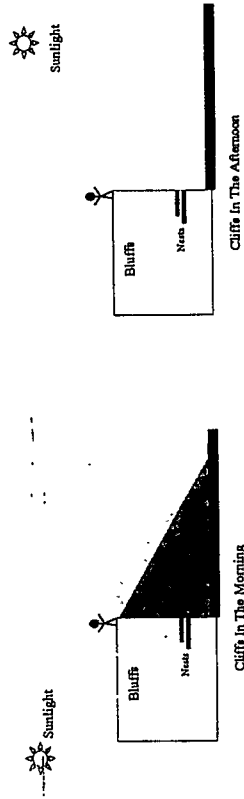
I'm a physicist with a doctorate in science education. I'm here to tell you that the National Park Service proposal contains claims about the cliffs that are unsubstantiated, misleading, or, at worst, in gross violation of some very basic principles of science.

In the very short time I have, let me describe just a few examples:

First: Protection Of The Bank Swallows

The proposal describes six "documented ways" that the nesting swallows are being disturbed by recreation on the bluffs: First there is the claim that people and pets disturb the colony by "the casting [of] shadows that may be perceived as predators".

The notion that you can cast shadows on the burrows from the cliff tops is completely erroneous. Let me explain by giving you an elementary lesson in light and shadows.



Light travels in straight lines. Shadows happen when light is blocked. Let's consider that very rare sunny day during the summer bank swallow nesting season at Fort Funston. When the morning sun is in the eastern sky, a person on the cliff casts a shadow westward over the ocean, but not on the cliff face. When the afternoon sun is in the west, the shadow cast by a person on the bluff tops go east, away from the cliffs. At no time can a person cast a shadow on the nests.

Four other alleged disturbances to the colony, such as aircraft flights and graffiti carving - are not even prevented by banning access to the bluffs, and won't be discussed here.

The final claim, that the closure prevents disturbances from falls and resulting cliff rescues, is unsubstantiated. The Park Service does not provide any data on the number of accidents that have actually occurred near the burrows. Therefore it is impossible to judge whether this problem merits the permanent closure of 12 acres of land. And even if falls are a common occurrence, why not erect a barrier instead?

## Second: Protection Of The Geology

The Park Service claims that its closure would prevent human-induced damage to the bluffs, which they describe as a "fragile geological resource." However, a geologist who has conducted extensive research at Fort Funston for the USGS assured me that "non-motorized recreational use of this area would have [no] impact..." He went on to explain, "The amount of material lost through cliff retreat and landsliding dwarfs any impact from people walking along the cliff."

## Summary

The National Park Service is in such a hurry to get the rulemaking process done with that they are offering up a proposal that includes unsubstantiated claims and gross scientific errors. Why don't issues affecting Fort Funston merit good science and careful planning? Why is tonight's circus-like atmosphere the only opportunity for dialogue?

Commissioners, in the name of the citizens you represent, tell the Park Service to take down the new fences. Advise the park service to engage in meaningful discussions with the people who actually use the park. Force park management to change the way it does business at Fort Funston. If you accomplish this, you will put an end to the divisiveness, the lawsuits, and arduous public hearings like this one that will surely go well into the night.

Thank you for your attention.

My name is Jane Shepard. I am president of the board of directors for Golden Gate Senior Services, a non-profit agency that operates senior centers here in the City. My dog and I volunteer in the Animal Assisted Therapy Program visiting hospitals, convalescent homes, psych wards, adult day care centers, etc. But I am here tonight as a mother and a friend.

Five and a half years ago, my friend suddenly found herself a single parent with 5 children and a large mortgage. She hadn't worked in 15 years and day-to-day living became a very scary thing. Her friends helped by taking 1-2 of the children to give her a little respite.

Wonderfully energetic children need an open space to run and play so that they can return to the house happily exhausted. A place that is a free, safe, and healthy alternative to expensive theme parks, shopping trips, video arcades, or driving to outlying destinations; a place where they are not threatened by or drawn into gangs and rough environments.

Luckily, that exact type of place existed for these children at Ft. Funston. My husband and I would take all five of them for a weekend and head straight to "The Fort" right after breakfast, where they'd race each other down the valley and up the sand dune, sometimes called "Joey's Hill". They played hide and seek under the trees.

Two of the five children WERE here tonight to tell you how they feel about this area, but it's a school night and they had to leave. Luckily, we have slides

which show how they feel and a picture is worth a thousand words.



For lots of urban dwelling children, Ft. Funston is their playground. Their favorite place is the very area you propose to close.

To put a fence around these dunes to "protect" them would be like not wearing my mother's ring so I don't "lose" it. I prefer to enjoy it every day. We hope you'll make that choice, too.

Thank you.

GGNRA007133  
FOFUAR00392

Good evening, commissioners, and thank you for hearing us tonight.

My name is Vicki Tiernan and first I'd like to say that I think we are very fortunate to have a *Citizens Advisory Commission* to act as liaison between the citizens and the Park Service. I've attended several meetings now and have been very impressed with the way you seem to study and discuss issues in depth. We have seen this especially tonight. We ask only that you study the Funston issues with that same careful attention to detail. There is reason why such huge controversy exists over Funston.

Several previous speakers have raised significant questions about the scientific basis for the Park Service's actions. Again, please *study* those questions carefully. The future of one of the most beautiful and beloved parks in the GGNRA is at stake.

I would like to address the location of the proposed closures and the fact that the fences are a blight on a spectacular landscape.

We all want to protect the bank swallows. However, the proposed closure area extends far back from the bluffs and is being used as an area for planting. The benefit of this planted area for the bank swallows has been called into serious question, and there is no credible evidence of the need for a fly-over zone for the birds en route to feeding at Lake Merced. My question, then, is why not plant the plants in other areas of the park that are *not* as popular for recreational use? Planting

an area with less foot traffic would reduce the need for fencing and intensive maintenance and would therefore save money and time.

In addition, the valley, dunes and cliffs in question are a spectacular sight to behold. The beautiful views are currently being turned into views with stockade-like fences.



This is what the view has turned into.

Shouldn't the mandate of the Park Service include protection of visual resources? Many people go to Fort Funston *because* of the sense of freedom and the unobstructed views of wide open spaces.

Stockade-like fences are most certainly NOT native to the dunes.

For protection of people, dogs, and bank swallows from cliff accidents, why not try a more natural and less drastic alternative, such as a native shrub planted near the bluffs. This would address safety issues and at the same time preserve the beautiful, wide-open viewscape.

Last, I'd like to remind everyone that dogs and humans are very much a part of nature, too. If this photo doesn't demonstrate nature at its finest and Fort Funston at its finest, I don't know what would.



We are all a part of the overall social, cultural, and ecological habitat of Fort Funston.

Please don't allow the Park Service to upset the balance, harmony, and beauty we've found on this land for decades by carving it up, excluding us from increasingly more *of* it, and turning this urban paradise into little more than a fenced compound.

Thank you very much.

Good evening, again. My name is Florence Sarrett. Much has been said or implied tonight, on the subject of off-leash dogs. But I'd rather talk about off-leash people: the health benefits of walking a dog and the emotional benefits of belonging to a community.

It's a no-brainer that walking is fine exercise, and walking a dog is a sure and delightful way to get it. I actually have a "prescription" from an orthopedic surgeon; it says: "This lady's dog should not be on a lead. This is for her safety and to prevent injury."

And James Herriot has written, "Anybody who has ever walked a dog knows the abiding satisfaction which comes from giving pleasure to a loved animal."

Most important of all is the spirit of community at Fort Funston, whether you're with a dog or without one. I invite each of you to walk the trails there, if you haven't done it already. Nowhere else in the city will you be greeted so warmly by so many strangers, and your walk will be a mile of smiles.



At my age, not much family is left. Husband is gone, brother and sister are gone, and children are not close by. But the men and women speaking here tonight are my new brothers and sisters, and my life is richer because of them. I am honored by their friendship, and I join them in urging you not to sanction the ruin of this oasis of the spirit.

Thank you.

Good evening, Commissioners, Superintendent O'Neill, and Park Service Staff. I am Lydia Boesch. I am an attorney, and over the past six months, I've had the delightful privilege of representing the plaintiffs in the federal litigation.

I am here tonight to bring to your attention two key considerations that must be taken into account when deciding on the proposed closure. Those are (1) the history of Fort Funston and (2) the enabling legislation.

First, the history of Ft Funston: Fort Funston was first opened to the public in 1961 as a San Francisco city park. Since 1961, residents throughout the entire Bay Area have been walking their dogs off-leash at Fort Funston. This tradition began more than a decade before the GGNRA was even established and almost 15 years before SF deeded Fort Funston to the United States.

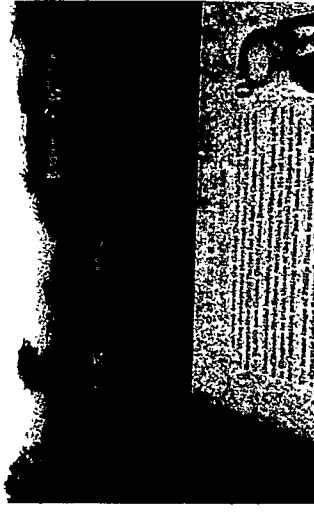
In 1978, this Advisory Commission, pursuant to the enabling legislation, recognized that off-leash dogwalking is an acceptable and legal recreational activity and held — in their words — “extensive” public hearings to determine where off-leash dogwalking would be permitted within the GGNRA. Fort Funston was designated one of those areas.

Now, more than 600,000 visitors every single year visit Fort Funston to walk their dogs. No wonder it has been considered for years the best place in the Bay Area to walk dogs. Fort Funston is not Yosemite, the Grand Canyon, or Mt. Rushmore; it is

a city park, visited by the same Bay Area residents, every single day, rain or shine, day in and day out.

The second consideration is the enabling legislation: You Commissioners can fulfill your statutory duties only by *completely* understanding the enabling legislation of GGNRA. The enabling legislation is your guiding light in making every decision affecting Fort Funston. To understand the enabling legislation, you must read the Senate hearings, the House hearings, and the House Report. Only then will you fully understand that Congress *never* intended that Fort Funston be closed off to develop wildlife habitat from scratch, but instead intended that the park be used *forever* for recreational open space.

Thank you for your time, your attention, and especially for your careful consideration of these vital points.



RECEIVED

SEP 05 2000

SUPERINTENDENT'S OFFICE

August 30, 2000

Mr. Brian O'Neill  
General Superintendent  
Golden Gate National Recreation Area  
Fort Mason, Bldg. 201  
San Francisco, CA 94123

Anja Finseth  
384 Curtner Ave  
Palo Alto, Ca 94306

B. O'Neill

Cy: M. Scott  
M. Feinstein  
R. Scott  
M. Aguilar

Re: Fort Funston hearing

Dear Mr. O'Neill,

I am writing to object strongly to the conduct of the hearing held at Fort Mason, Bldg. 201, on August 29, 2000 concerning the Fort Funston closures.

The Fort Funston issue is of tremendous importance to thousands of people, of whom approximately a hundred came to the hearing to state their opposition to the impending closure.

Such an issue warrants a hearing on its own.

Instead, the Fort Funston hearing was coupled with, and placed on the agenda following, an interminable hearing on the Fort Baker matter. My husband, my three-year old son and I stuck it out for 2 ½ hours until 9.25 pm, still waiting for the hearing on Fort Baker to end so that the hearing on Fort Funston could begin. At that point, I got slight cramps which could not have been good for my pregnancy, and we had to abandon the hearing even though my husband was on the speaker list and was anxious to speak his mind. The Fort Funston matter had not even been addressed at this point.

We strongly feel that this was an unfair process.

I'm asking you to schedule another hearing so that everybody gets a fair say on the Fort Funston matter. Thank you.

Sincerely yours,

Anja Finseth  
Palo Alto



Lindsay Kefauver

VISUAL RESOURCES

3739 20th Street, San Francisco, CA 94110

+15/647-5649 FAX +15/647-5029



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JUL 11 2000

SUPERINTENDENT'S OFFICE

Brian O'Neill  
Superintendent  
GGNRA  
Fort Mason, Building 201  
San Francisco, CA 94123

7 July 2000

B. O'Neill

Cy: M. Bartling  
M. Scott  
N. Harnor  
A. Lucas

Re: Presidio Trails Master Plan Concepts

Dear Mr. O'Neill:

My name is Lindsay Kefauver. I am a resident of San Francisco and a responsible dog owner. When I first came to San Francisco over 25 years ago, I was fortunate to land in a neighborhood that is near the Presidio. The highlight of my weekends was to take a long dog walk on the woodland trails in the Presidio. At that time it was still an active army base, however, there were never any problem in walking the trails - except you would never do this without a dog for safety. And I would meet friendly dog walkers from SF neighborhoods as well as dog owners connected to the military.

Although I no longer live close to the Presidio, I still make special excursions to the Presidio. And I was miserable when the GGNRA made their pronouncement in 1997 that off-leash dog walking would no longer be allowed. This decision seems preposterous to me.

The Presidio covers a vast space - much of it still undeveloped, thank God - and is now an urban parkland with some residential and now some commercial uses. I can see no reason that an urban area that has been traditionally used for recreation by a city's dog-walking population for over 100 years cannot find a reasonable amount of area or trails where responsible dog owners can exercise with their dogs off leash. We dog owners understand that there are many other recreational interests wanting to use the Presidio, like bird watchers, bikers, etc. However, there is plenty of space for all of these responsible recreational activities to co-exhaust in harmony.

I have attended 3 of the Presidio Trails and Bikeways Master Plan workshops (Dec., Feb. & June) and at each workshop I have been told that this was not the time nor place to address multi-use of the Presidio trails that included off-leash dog walking. This decision is very exclusionary. Bikers are not the only recreational group to be considered at the exclusion of other forms of recreation. We dog owners very much

FOFUAR00397

GGNRA007138



Lindsay Kefauver

3739 20th Street, San Francisco, CA 94110

VISUAL RESOURCES

415/647-5649 FAX 415/647-5029



want to be part of the Presidio Trust and National Park Services' Master planning process for the Presidio, but continue to feel shut out of the process. And wonder if it is futile to keep attending your meetings.

I also want to point out that the closure of the Presidio and other GGNRA areas to off-leash recreation has severely impacted the SF City parks, Ft. Fusnton, and Crissy Field - currently the only areas where the GGNRA allows off-leash recreation. The results are that many responsible city residents have literally been kicked out of their own front yards and now are desperately trying to find legal spaces where they can recreate their dogs and themselves.

Thank you for your attention.

Cordially,

Lindsay Kefauver

A handwritten signature in black ink that reads "Lindsay Kefauver". The signature is written in a cursive, flowing style.

CC:

James E. Meadows, Exec. Dir.

Toby Rosenblatt, Chair

Donald G. Fisher

Jennifer L. Hernandez

Michael Heyman

Amy Meyer

Mary G. Murphy

William k. Reilly

FOFUAR00398

GGNRA007139

July 19, 2000

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JUL 24 2000

SUPERINTENDENT'S OFFICE

Superintendent  
Golden Gate National Recreation Area  
Fort Mason, Building 201  
Bay and Franklin Streets  
San Francisco, CA 94131

BIO'  
S. Sheen  
Cc: B. O'Neill  
M. Scott

RE: Proposed Closure of Twelve Acres of Fort Funston

To Whom It May Concern:

Several months ago I visited Fort Funston with my Yellow Labrador, Chance. I was shocked to find that a large portion of the park was fenced off. I have recently been told that the GGNRA proposes to take two more acres and further restrict access.

Chance and I do not live in San Francisco, however, we do come regularly to visit. Fort Funston and Ocean Beach are two of our favorite haunts. Living in Chico, Chance only gets to go surfing when we visit one of these two sites – something he and I both love to do.

It's my understanding that National Recreation Areas were created to provide a number of outdoor experiences for both residents and tourists. While I don't deny the importance of maintaining a natural environment, I don't understand why GGNRA officials consistently trample the rights of dog owners. Walking and playing with a dog are healthy and appropriate uses of recreation areas. Dogs play an important role in family life today and they need exercise as much as their human counterparts. Fort Funston and Ocean Beach have provided my dog and myself with exercise and entertainment for several years. I probably would not have visited either place if I didn't have a dog.

Please give the people, and their dogs, the twelve acres that are proposed for closure. There are very few places in San Francisco where dogs and people can play. Fort Funston is considered the Disneyland of the canine world. Can you imagine what it would feel like if Disneyland no longer allowed children to visit?

Thank you for considering my letter.

Sincerely,



Erin Brown (and Chance)  
1110 Arbutus Avenue  
Chico, CA 94131

July 24, 2000

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JUL 25 2000

Superintendent  
Golden Gate National Recreation Area  
Bay and Franklin Streets  
Building 201, Fort Mason  
San Francisco, CA 94123

SUPERINTENDENT'S OFFICE

S. Sheen  
cc: B. O'Neill  
M. Scott  
N. Walthall  
J. Ruan  
T. Thomas

Dear Superintendent:

I am a voting member of the San Francisco population who is proud of her city, parks, citizens, and canine companion.

I am writing to tell you about my discomfort in the closures at Fort Funston for dog owners. This renowned park with exceptional access to the beach and sand dunes is a small slice of heaven for dog and people lovers in a city that shares it's diversity and warm with millions of people each year. My cocker spaniel, Toby, and I have shared this park at least three to four days a week for the past six years (after bringing Toby home from the SPCA). After working in Oakland all day, I hurry home so we can experience the utopia that belongs to all of us.

I have never met such gracious dog companions, not only do they keep the park up but they always seem willing to help out each other - which you know doesn't always happen in large urban areas. Toby is a great animal and people dog, many times we have stopped to share his love with children and the elderly who visit the park without animals. The joy they receive is a small fraction of what we receive from having this experience together.

To think that the harsh realities of life can be forgotten for a few minutes a day at this majestic setting is a blessing only San Francisco and the National Park Service can give. By continuing to limit space (lately changed from 10 to 12 acres), the National Park Service who represents all of the citizens is taking away inch by inch the few places left at which we can enjoy nature in an atmosphere of peace.

I do hope you will consider carefully the space issues brought to your attention by the Fort Funston Dog Walkers Association. The rumor at the park is that this is a first step to take away all off leash privileges. If the rumor is the National Park Service's real intention we are all in a great deal of trouble. What is the National Park Service for - if not for the privilege to be in a protected area with nature. Please don't lower your standards as what has occurred with the State Park System in their unfriendly attitude towards dogs.

Sincerely,



Nancy Collins  
122 Clinton Park  
San Francisco, CA 94103

FOFUAR00400  
GGNRA007141

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JUL 25 2000

MICHAEL JACOB  
379 ELWOOD AVENUE  
OAKLAND, CA 94610  
510 444-2701

July 24, 2000

SUPERINTENDENT'S OFFICE

Superintendent  
Golden Gate National Recreation Area  
Bay and Franklin Streets, Building 201  
Fort Mason  
San Francisco, CA 94123

S. Shean  
Cy: B. O'Neill  
M. Scott  
N. Walcott  
Y. Ruan  
T. Thomas

RE: Please do not close off more of Fort Funston


Please do not close off acreage at Fort Funston to people or dogs. Please remember that your charge is for a recreation area, not to return land to some unachievable pristine condition.

I believe that there is misguided movement in some places today that involves the attempt to launch struggles against human use in inappropriate places such as those few urban places where people and their dogs can enjoy the beauty and freedom of an off-leash walk.

The earth and the land need conserving and restoring; there is no question about that. However, it strikes a blow against sound environmental policies when you limit and punish city dwellers who have come to use and cherish tiny little pieces of beautiful land on the coast.

This does nothing but alienate people and create enemies of environmental efforts who would otherwise be friends. In cities, you would be better served to create and enhance beautiful areas that people and their dogs can use. They would then come to cherish your work and support you in the larger effort.

Respectfully,



Michael Jacob

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JUL 14 2000

SUPERINTENDENT'S OFFICE

Sheigla Murphy  
570 Head Street  
San Francisco, CA 94132  
Sheigla@AOL.com

O'Neill  
cy: Scott  
Y. Ruan  
T. Thomas  
S. Farrell  
M. Aguilar  
C. Powell  
N. Walthall

July 12, 2000

Brian O'Neill  
Superintendent  
Golden Gate National Recreational Area  
Building 201, Fort Mason  
San Francisco, CA 94123

Dear Superintendent O'Neill:

I am writing in support of keeping San Francisco's Fort Funston of the Golden Gate Recreational Area an **open area** as it was originally mandated and as it has been for the last forty years. I would like to inform you of several issues (of the numerous issues currently in contention) that are important to me, your constituent.

As you know, Congress legislated that Golden Gate National Recreation Area lands be set aside as "open recreational space." In 1995, approximately 20 acres of land were closed off from public use for native plant restoration. As a fifty-year-old native San Franciscan, who has enjoyed using Fort Funston for as long as I can remember, I do not think there ever has been *native* plants growing on Fort Funston's sand dunes. The Army planted ice plant during their construction of the bunkers during World War II in an effort to keep the ever moving sand in place. San Franciscans were promised by the GGNRA that this land would be returned in five years. It has been five years, but the land remains fenced and closed from **any** public use.

In 1999, another ten acres of land were closed from public use to protect species of bank swallows that burrows holes into the cliffs on the ocean side of Fort Funston in order to make nests. Fort Funston's frequent visitors have heard many reasons for this closure. One reason is protection of the bank swallows who are only there a few months of the year. I do, of course, support any measure to protect a threatened species. But I'm sure there is some way the birds can nest undisturbed on the cliff side and people can still walk on the other side. A second reason for the closure that San Franciscans were given was the ocean side trails have become unsafe because of too many people and dogs falling from the cliffs down to the beach and the expensive rescues. Whatever the reasons proffered, Fort Funston's visitors have been deprived of 30 acres of congressionally mandated "open recreational space."

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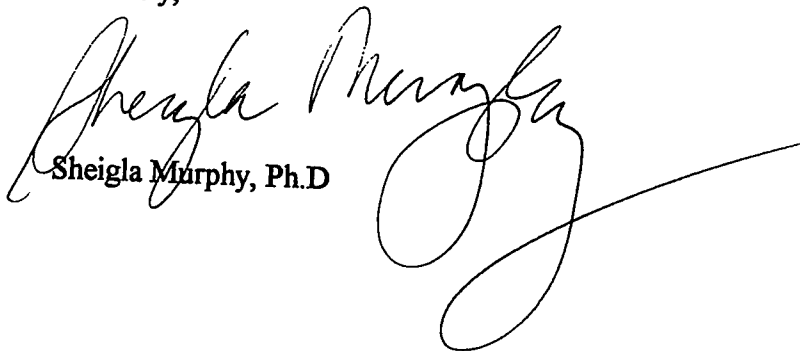
GGNRA007143

The 1999 closure of ten acres was done without any public notice or meetings. The GGNRA did not follow its own rules which require public announcements and meetings. There is currently a federal court case in which Judge William Alsup so noted. The court has already ruled this acreage must be re-opened to public access when the bank swallows are finished breeding in a couple of weeks.

Off-leash dog walking has been a legitimate recreational activity at Fort Funston for nearly 40 years. Many, many groups use Fort Funston. An area named Joe Hill (a steep sand hill) which is now closed was a favorite practice area for the Lowell High School track team. Many schools bring children to picnic at Fort Funston, allowing inner-city kids to enjoy a beautiful and unique natural area and to interact with the dogs who are walked off-leash but under voice command. Lots of people (hang gliders, kite flyers and families with young children) with and without dogs enjoy Fort Funston and until recently very harmoniously. This particular piece of GGNRA is utilized by literally thousands of people on a daily basis.

This is not simply a dog versus bird or plant issue. It is a public access issue. Fort Funston had long been designated for public use. I ask you to please support everyone's, regardless of their species, right to enjoy Fort Funston.

Sincerely,

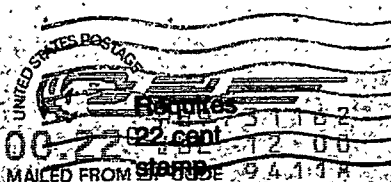
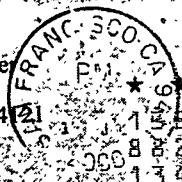
  
Sheigla Murphy, Ph.D

FOFUAR00403

GGNRA007144



Kaaren Staschower  
1621 Lake St.  
San Francisco, CA 94121



cy: Scott  
Y. Ruan  
T. Thomas  
S. Farrell

Golden Gate National Recreation Area  
Building 201 Fort Mason, CA 94133

Re: Fort Funston (GGNRA) closure

Dear Mr. O'Dell  
Since Congress mandated  
that the GGNRA lands be  
set aside as open recrea-  
tional space - help us to  
keep Fort Funston open so  
everyone can enjoy its  
natural beauty. The dogs  
do much less damage  
than people! Sincerely  
Kaaren Staschower

FOFUAR00404

GGNRA007145

Author: Roger Scott at NP-GOGA  
Date: 12/28/00 1:51 PM  
Normal

TO: Mary Gibson Scott Subject: FW: Dogs in San Francisco-----  
- Message Contents

FYI

Forward Header

Subject: FW: Dogs in San Francisco  
Author: "Leader; Mary" <MLeader@presidiotrust.gov> at np--internet  
Date: 12/28/00 10:18 AM

Please look at this message that was forwarded to me. I have not responded.

-----Original Message-----

From: Gomez, September  
Sent: Tuesday, December 26, 2000 7:28 AM  
To: Leader, Mary  
Subject: FW: Dogs in San Francisco

-----Original Message-----

From: Denise Jasper [mailto:denise@jasperdog.com]  
Sent: Thursday, December 21, 2000 10:13 AM  
To: presidio@presidiotrust.gov  
Subject: Dogs in San Francisco

There is a rumor going around that the GGNRA now wants to close Fort Funston, Fort Mason, and the back road behind Mountain Lake Park in the Presidio to dogs.

This is extremely disturbing to me.  
When the GGNRA took over the Presidio they PROMISED all of us dog owners (and walkers) in the city that they would not change what we have all been doing with our dog friends. We've been going to these places without problems for DECADES!

Conservation is a great cause, but it's place is in the wilderness. This is a city. Full of concrete, people and their pets. This is not the place for conservation.

I urge you to not try to stop us from taking our dogs to the places mentioned above.  
You will find more opposition and demonstrations than you ever thought possible.

Denise Jasper

FOFUAR00405

GGNRA007146



---

Author: Roger Scott at NP-GOGA  
Date: 12/27/00 7:12 AM  
Normal

TO: Mary Gibson ScottSubject: Fort Funston access----- Mess  
age Contents

.FYI

---

Forward Header

Subject: Fort Funston access  
Author: George Su at NP-GOGA-PRES  
Date: 12/21/00 11:35 AM

FYI

---

Forward Header

Subject: Fort Funston access  
Author: "Chris Smith" <chrismith@hotmail.com> at np--internet  
Date: 12/20/00 6:03 PM

please forward to the office of Brian O'Neill:

Superintendent Brian O'Neill,

I'm writing to express my disappointment over your decision regarding hiking  
and dog access at Fort Funston.

Fort Funston is an urban park, and includes significant prior development as  
evidenced by the extensive paved paths and military structures on the  
cliffs.

I strongly support efforts to restore native plant life, limit erosion and  
preserve the nesting areas of birds. However, I'm not convinced that the  
only way to achieve these goals is to close the park to all users. Surely,  
a compromise allowing access to paved trails for leashed dogs and humans,  
and preserving the sand ladder access to the beach, will allow preservation  
and allow San Francisco Residents and their dogs to continue to enjoy this  
natural treasure.

Sincerely,

Chris Smith  
774 Joost Ave.  
San Francisco, CA 94127

---

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FOFUAR00406

GGNRA007147

*True Comp*

FOFUAR00407  
GONRA007148

# California Native Plant Society

Yerba Buena Chapter  
150 Haight Street #102  
San Francisco, Calif. 94102

cc: B. O'Neill  
J. M. Scott

Superintendent Brian O'Neill  
Golden Gate National Recreation Area  
Bay & Franklin Streets, Building 201  
Fort Mason  
San Francisco, Calif. 94123

RECEIVED  
OCT 06 2000  
SUPERINTENDENT'S OFFICE

RE: Proposed Year-Round Closure at Fort Funston

Dear Superintendent O'Neill:

Thank you for the opportunity to comment on the Proposed Year-Round Closure at Fort Funston. The California Native Plant Society has over 10,000 members, nearly 500 of which live in San Francisco and northern San Mateo County. Founded 35 years ago, CNPS seeks to protect California's native plants through science and education.

CNPS strongly supports the proposed action to protect the bank swallow colony, enhance native plant communities, and reduce human-caused impacts to the coastal bluffs and dunes. To do so is entirely within the rights and obligations of the National Park Service as it seeks to carry out its mission as set forth in the Organic Act of 1916.

We note with approval the other legislation and master plans cited in the comment letter submitted by the National Parks and Conservation Association and the Natural Resources Defense Council as further evidence of the park's obligation to protect natural resources in decline. We also note that the Code of Federal Regulations, like the codes governing all California state parks and San Mateo County parks, states that all pets must be on a leash. Why is this regulation (36 CFR 2.15) not being enforced at Fort Funston and other units?

Years ago, when the park decided to designate all of Fort Funston as an area where dogs could roam off-leash, it created the conditions that led inevitably to the current crisis. The park could have fulfilled its obligation to protect natural resources, even if it decided to ignore 36 CFR 2.15, by designating sections of Fort Funston for intensive recreational use. Allowing such activities throughout the entire unit left precious few areas where its significant natural resources weren't damaged by heavy use. Hence, when it became apparent around 1990 that natural resources--particularly the threatened colony of bank swallows--were deteriorating at an unacceptable rate, the park had to use fences to protect 23 acres from intensive recreational use. The current proposal to protect an additional 12 acres is a further statement by the park that it erred decades ago in allowing off-leash dog use on all of Fort Funston's 230 acres.

There is ample evidence that allowing large numbers of recreational users--whether adults, pet owners, or off-leash dogs themselves--to trample dune vegetation is not sustainable. Trampling has eliminated even iceplant (*Carpobrotus edulis*), one of the most durable plants around! The closure notice properly points out that native dune vegetation must survive in a harsh environment characterized by scouring sands, high solar radiation, extreme fluctuations in temperature, low nutrient conditions, salt spray, and low water retention. Despite their impressive abilities to survive in such an environment, very few dune species are able to withstand repeated trampling. For that reason, many heavily visited parks along the California coast provide designated trails across their dunes. These include the Presidio's Crissy Field and Lobos Creek dunes, Asilomar State Park, Marina State Beach, Pescadero State Beach, and others. We know of no other dune system with

FOFUAR00408

(over)



Dedicated to the preservation of California native flora

CCNRA007149



significant natural resources where visitors and their dogs are encouraged to roam throughout the dune vegetation.

It is not too late to correct the damage caused by two decades of unregulated visitor use. Although hammered by decades of Army construction activities and extensive plantings of iceplant and other weeds, Fort Funston harbors a critical remnant of the San Francisco dune complex, once the fourth largest system in California and a hotspot of dune plant and animal diversity. As the park's notable efforts at Lobos Creek dunes and Crissy Field demonstrate, even thoroughly damaged dune plant communities can be nursed back to ecological health if there are suitable remnant populations of native species nearby. At Fort Funston the park has had remarkable success in restoring dune communities.

But despite such efforts we're still losing ground. In the mid-1970s botanists found 21 native plant species that have not been located since (data compiled from enclosed plant list). Other species, including the endangered San Francisco lessingia (*Lessingia germanorum*), disappeared before botanists were able to survey the former military base. (Peter Raven, co-author of the 1958 flora of San Francisco, told me that they were unable to gain access to Fort Funston during their field research.) Of the remaining 96 native plant species, several are holding on by a slender thread. Some have the misfortune of making their last stand outside the two closed areas. Is the park willing to stand by and watch them disappear under the feet of its visitors?

The remnant dune flora and the wildlife it supports deserves greater protection than it now receives. Heavy recreational use--of whatever kind--distributed widely across the landscape is incompatible with resource protection. Providing sufficient protection for natural resources on only 15% of Fort Funston's land base--35 out of 230 acres--is clearly not in line with the park's commitment in the 1980 Master Plan and other documents to minimize impacts to natural resources. Even the Presidio, with a far more complicated matrix of development and users, will return nearly 30% of its area (ca. 400 acres out of 1,440) to a natural state. The amount of land dedicated to natural resource protection at Fort Funston should be even higher.

Doing so won't spell the demise of Fort Funston as a place that welcomes diverse types of recreation. It simply requires situating the most intensive recreational uses in areas where they will do the least amount of damage. If the park closes additional areas--as it must do in order to protect declining natural resources and fulfill its obligations under the Organic Act and other guiding documents--without a major planning effort, the park will be visited by another unnecessary head-on collision. One of the purposes of planning, after all, is to avoid train wrecks. It is time to create a master plan for Fort Funston.

We will close by celebrating the well-deserved accomplishments of the Fort Funston Green Team in their efforts to restore vibrant dune communities along its bluffs. There is no better way to educate the public about the marvelous natural resources in this national park than through the magic of hands-on activities in the nursery and in the field. Leading stewardship activities is the highest form of interpretation since it enables the public to connect in a powerful and emotional way with the land itself. The park ought to expand its interpretive and resource management activities at Fort Funston in ways that provide opportunities for diverse communities to become involved.

Sincerely,



Pete Holloran  
President

FOFUAR00409

GGNRA007150

### Fort Funston Plant List

Compiled by sight from the following visits: 21 March 1996 by Pete Holloran, Jake Sigg, and Randy Zebell; 20 May 1997 by Ingrid Cabada, Pete Holloran, Marck Menke, Jake Sigg, and Randy Zebell; 13 March 1998 by Ingrid Cabada, Sharon Farrell, Pete Holloran, and Mary Petrilli; 20 April 2000 by Ingrid Cabada and Pete Holloran; 29 April 2000 by Pete Holloran; and 8 July 2000 by Pete Holloran. Additional species from other plant lists, including one from 1975 by Dennis Breedlove, are marked with an asterisk if they have not been seen during recent visits.

*Abronia latifolia*  
*Abronia umbellata*\*  
*Acacia longifolia*  
*Acaena pinnatifida* var. *californica*  
*Achillea millefolium*  
*Agoseris apargioides* var. *apargioides*  
*Agoseris apargioides* var. *eastwoodiae*  
*Albizia lophantha*  
*Ambrosia chamissonis*  
*Ammophila arenaria*  
*Amsinckia* sp.  
*Anagallis arvensis*  
*Anaphalis margaritacea*  
*Angelica hendersonii*\*  
*Anthriscus caucalis*  
*Aphanes occidentalis*\*  
*Argyranthemum foeniculaceum* (? ~ horticultural *Chrysanthemum* sp.)  
*Armeria maritima* ssp. *californica*  
*Artemisia californica*  
*Artemisia pycnocephala*  
*Astragalus nuttalli* var. *virgatus*  
*Atriplex leucophylla*  
*Avena barbata*  
*Avena fatua*  
*Baccharis pilularis*  
*Brassica rapa*  
*Bromus carinatus* var. *maritimus*  
*Bromus diandrus*  
*Bromus hordeaceus*  
*Cakile maritima*  
*Calandrinia ciliata*  
*Calystegia purpurata* ssp. *purpurata*  
*Camissonia cheiranthifolia* ssp. *cheiranthifolia*  
*Camissonia cheiranthifolia* ssp. *suffruticosa* (introduced)  
*Camissonia contorta*  
*Camissonia micrantha*

*Capsella bursa-pastoris*  
*Cardamine oligosperma*  
*Cardionema ramossissimum*  
*Carduus pycnocephala*  
*Carpobrotus chilensis*\*  
*Carpobrotus edulis*  
*Castilleja latifolia*\* (?)  
*Castilleja subinclusa* ssp. *franciscana*\* (?)  
*Castilleja wightii* (= *Castilleja affinis* ssp. *affinis* according to Peter Baye's analysis of SF  
*Castilleja* specimens)  
*Centaurea melitensis*  
*Cerastium glomeratum*  
*Chamomilla suaveolens*  
*Chenopodium album*  
*Chenopodium multifidum*  
*Chlorogalum pomeridianum* var. *divaricatum*  
*Chorizanthe cuspidata* var. *cuspidata*  
*Cirsium occidentale* var. *occidentale*  
*Cirsium vulgare*  
*Clarkia rubicunda* (keyed by Pete to this species several times using Jepson Manual,  
although the lack of a red spot at base of petals is troubling)  
*Claytonia perfoliata* ssp. *perfoliata*  
*Conicosia pugioniformis*  
*Conium maculatum*  
*Conyza* sp.  
*Cotula australis*  
*Crassula conata*  
*Croton californicus*\*  
*Cryptantha leiocarpa*  
*Cupressus macrocarpa*  
*Daucus pusillus*  
*Delairea odorata* = *Senecio mikanioides*  
*Dichelostemma capitatum* ssp. *capitatum*  
*Drosanthemum floribundum*  
*Dudleya farinosa*  
*Ehrharta erecta*  
*Elytrigia juncea* ssp. *boreali-atlantica* (acc. to Peter Baye)  
*Epilobium brachycarpum*  
*Epilobium ciliatum* ssp. *watsonii*  
*Equisetum telmateia* ssp. *braunii*\*  
*Ericameria ericoides*  
*Erigeron glaucus*  
*Eriogonum fasciculatum* var. ?  
*Eriogonum latifolium*  
*Eriophyllum staechadifolium*

*Erodium botrys*  
*Erodium cicutarium*  
*Erodium* sp.  
*Erysimum franciscanum*  
*Eschscholzia californica*  
*Eucalyptus globulus*  
*Festuca rubra*  
*Foeniculum vulgare*  
*Fragaria chiloensis*  
*Fumaria parviflora*  
*Galium aparine*  
*Geranium dissectum*  
*Gilia capitata* ssp. *chamissonis*\*  
*Gnaphalium luteo-album*  
*Gnaphalium ramosissimum* (noted by Ingrid Cabada and Asha Setty near Skyline Blvd. in mid-July 2000)  
*Gnaphalium purpureum*  
*Gnaphalium stramineum*  
*Gnaphalium* sp.  
*Grindelia hirsutula* var. *maritima*\*  
*Grindelia* sp.  
*Hedypnois cretica*  
*Heracleum lanatum* (4 plants in *Eucalyptus* woodland on 20 April 2000)  
*Hesperocnide tenella*  
*Heteromeles arbutifolia*  
*Hordeum murinum* ssp. *murinum*  
*Hypochaeris glabra*  
*Juncus balticus/lesueurii*  
*Koeleria macrantha*  
*Lactuca* sp.  
*Lathyrus littoralis*  
*Lavatera cretica*  
*Leptospermum laevigatum*  
*Leymus mollis*  
*Leymus pacificus*  
*Linaria canadensis*  
*Lonicera hispidula* var. *vacillans*  
*Lotus corniculatus*  
*Lotus heermannii* var. *orbiculatus* (?)  
*Lotus humistratus*\* (seen in June 1999 by Ingrid Cabada)  
*Lotus scoparius* (prostrate coastal form, presumed native)  
*Lotus scoparius* (erect inland form, presumed introduced)  
*Lotus strigosus*  
*Lupinus arboreus*  
*Lupinus arboreus* x *variicolor*

Lupinus bicolor/nanus  
 Lupinus chamissonis  
 Lupinus variicolor\*  
 Madia sativa  
 Malva parviflora  
 Marah fabaceus  
 Medicago polymorpha  
 Melica imperfecta  
 Melilotus indica  
 Microseris bigelovii  
 Mimulus aurantiacus  
 Monardella villosa ssp. franciscana\*  
 Myoporum laetum  
 Myrica californica\*  
 Navarretia squarrosa\*  
 Oemleria cerasiformis  
 Oenothera elata ssp. hookeri  
 Orobanche sp. (seen at the "Boy Scout Bowl" in June 1999 by Ingrid Cabada)  
 Oxalis corniculata\*  
 Oxalis pes-caprae  
 Paronychia franciscana\*  
 Pelargonium x domesticum\*  
 Phacelia californica\*  
 Phacelia distans\*  
 Pinus radiata\*  
 Piperia elegans  
 Plantago coronopus  
 Plantago erecta\*  
 Plantago maritima  
 Poa annua  
 Poa douglasii  
 Poa secunda ssp. secunda (?)  
 Polycarpon tetraphyllum  
 Polygonum paronychia  
 Polypodium californicum  
 Polypogon sp.  
 Pteridium aquilinum var. pubescens  
 Pterostegia drymarioides  
 Ranunculus californicus  
 Raphanus sativus  
 Rhamnus californica ssp. californica  
 Rosa californica  
 Rubus ursinus  
 Rumex acetosella  
 Rumex salicifolius var. crassus (?)

FOFUAR00413



Salix lasiolepis (?)  
Sanicula crassicaulis  
Satureja douglasii\*  
Scrophularia californica ssp. californica  
Senecio elegans  
Senecio vulgaris  
Sidalcea malvaeflora ssp.?  
Silene gallica  
Solanum furcatum  
Solanum nodiflorum=Solanum americanum (?)  
Solanum rostratum (keyed by Ingrid Cabada and Asha Setty in mid-July 2000)  
Solidago spathulata\*  
Sonchus oleraceus  
Spergularia macrotheca (seen on cliffs on 29 April 2000)  
Spergularia rubra (?)  
Stellaria media  
Tanacetum camphoratum  
Tetragonia tetragonoides  
Toxicodendron diversilobum  
Trifolium willdenovii  
Triteleia laxa  
Uropappus lindleyi  
Vicia sativa  
Vicia villosa (?)  
Vinca major  
Vulpia sp.  
Yabea microcarpa (keyed by Pete on 29 April 2000)  
Zantedeschia aethiopica



# United States Department of the Interior

NATIONAL PARK SERVICE  
Pacific West Region  
600 Harrison Street, Suite 600  
San Francisco, California 94107-1372

*B. O'Neill*  
*cc: M. Scott*  
*C. Powell*  
*N. Walcott*  
*R. Scott*  
*File #142*

IN REPLY REFER TO:

A3615 (PWR-RD)

SEP 11 2000

**RECEIVED**

Honorable Dianne Feinstein  
United States Senate  
Washington, DC 20510-0504

SEP 14 2000

**SUPERINTENDENT'S OFFICE**

Dear Senator Feinstein:

Thank you for your inquiry of August 9, 2000, on behalf of your constituent, Margaret Ryder, regarding Fort Funston at Golden Gate National Recreation Area (GGNRA).

Your constituent is correct that it is necessary to take into account the needs, history and concerns of dog walkers in the GGNRA. It is also necessary to balance those needs with protection of the resources, safety and the needs of other park users who desire a national park experience without dogs.

Dog walking is considered a recreational use in the GGNRA. However, it is necessary to periodically re-evaluate all uses in our national parks to ensure they are not degrading the resources, occurring in a location that is unsafe or impinging on other visitors. The National Park Service Organic Act states that all National Park Service lands shall be managed "...by such means and measures as conform to the fundamental purpose of the said parks, monuments and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations."

If Ms. Ryder would like more information regarding dog walking in the GGNRA, she may contact Chris Powell at (415) 561-4732.

Sincerely,

*for Cynthia J.*  
John J. Reynolds  
Regional Director, Pacific West Region

bcc: GOGA, w/inc.  
PGSO-S, w/inc.  
WASO-APC, #200-03315 (Cooke)

FNP:GOGA:rh:415-561-4720:9/11/00:c:\doc\cong\142

FOFUAR00415

GGNRA007156

DIANNE FEINSTEIN  
CALIFORNIA

*PWRD - 03315*  
*2000-03315*

United States Senate

WASHINGTON, DC 20510-0504

COMMITTEE ON APPROPRIATIONS  
COMMITTEE ON THE JUDICIARY  
COMMITTEE ON RULES AND ADMINISTRATION



August 9, 2000

Marilyn Merrill  
Congressional Liaison Specialist  
National Park Service  
U.S. Department of the Interior Room 3210  
1849 C Street N.W.  
Washington, D.C. 20240

**INQUIRY FROM:** Ms. Margaret Ryder

**RE:** Fort Funston

Dear Ms. Merrill:

I am forwarding the attached constituent inquiry regarding Fort Funston park closures for your review. I believe that my constituent would benefit from your response to the specific issues raised in the enclosed letter.

I would appreciate it if you would return your response to me as quickly as possible so that I can share the information with my constituent. Should you have any questions, please contact my Washington, D.C. office at (202) 224-3841.

With warmest personal regards.

Sincerely yours,

Dianne Feinstein  
United States Senator

DF:nw

FOFUAR00416

GGNRA007157

2237506

JUL 28 2000

320 Hazelwood  
San Francisco, CA 94127  
July 27, 2000

The Honorable Dianne Feinstein  
United States Senator  
525 Market Street, Suite 3670  
San Francisco, CA 94105

Senator Feinstein:

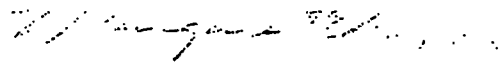
I am concerned about current plans for and the future uses of Fort Funston.

In your consideration of the GGNRA's "Notice of Proposed Year-Round Closure at Fort Funston and Request for Comments", it is necessary to seriously take into account the needs, history and concerns of the many citizens of San Francisco who walk their dogs daily in this urban park.

When the Fort became a part of the GGNRA, it was with a Congressional mandate to use this land for "open recreational space." Off-leash dog walking has been a legitimate open space recreational activity at Fort Funston for nearly forty years, and the people who use this park to walk their dogs daily are currently the largest users of Fort Funston.

In this urban area, it is absolutely essential that the long-established off-leash dog walking areas of Fort Funston be kept, and not further closed and fenced off.

Sincerely,



Margaret Ryder

RECEIVED

AUG 01 2000

Mr. Morton S. Gensberg  
205 Elsie St  
San Francisco CA 94110-5507

SUPERINTENDENT'S OFFICE

B. O'Neill

G: M. Scott

D. Mannel

C. Powell

R. Scott

L. Sheen

July 26, 2000

Mr. Brian O'Neill  
Superintendent  
Golden Gate National Recreation Area  
Building 201 Fort Mason  
San Francisco, CA 94123

Dear Mr. O'Neill:

I'd like to thank you for the new drinking fountain recently installed at Fort Funston. It's become a very popular meeting spot.

Again, thanks.

Mort Gensberg



2000 Member  
The Humane Society of the United States

FOFUAR00418

GGNRA007159



RECEIVED  
JAN 1 2001  
CIVIL SERVICE

B. O'Neill  
Cc: M. Scott  
N. Walcott  
R. Weideman  
R. Scott

January 6, 2001

Dear Mr. O'Neill,

We take our dog to Fort Funston just about every Saturday morning. She knows and looks forward to this believe me. It's remarkable how smart a dog can be. I swear she can tell time. When we found out about this place, about two years ago, we were a little skeptical in that our pets were never aloud to run free before although we sure wish they could. We found this place absolutely wonderful! She runs free with the other dogs and has a great time. We walk in, which is a great hike, then we walk out again. Most of us carry plastic bags and pick up their feces. For those that don't do this job there is a group of people that will do this on the first of every month.

It has been brought to our attention that this privilege may come to an end. There are those who do not want us doing this because of the leash laws. I can certainly understand this when walking a dog on the side walk in a residential area. But this place is remote basically and no one is hurting anything. To take this away would be a crime. There is no reason why there cannot be an open space for our dogs to run for a while. If you ever can find the time please check it out for yourself and see how wonderful a place this is.

Sincerely yours,  
Bernetta and Richard McKay  
Maggie too

FOFUAR00419

GGNRA007160

NJCA

FOFUAR00420





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## Golden Gate NRA Officials Caught in a Dog Fight

NPS tries to protect birds and gets sued by dog owners

**SAN FRANCISCO, CALIF.**-Without watching where managerial flexibility was leading them, managers at Golden Gate National Recreation Area (GGNRA) have stepped into a different kind of dog mess.

Though off-leash dog walking is not permitted in any unit of the National Park System, managers at GGNRA have allowed the activity along the bluffs at Fort Funston through a superintendent's compendium.

The provision is meant to allow superintendents flexibility for unique situations. But when the Park Service recently fenced off a small section of the area to protect a threatened bird's critical nesting habitat, the dog walkers sued the National Park Service (NPS). At press time, the dog owners were a step closer to running their dogs through the protected area.

A U.S. District Court judge has issued a preliminary ruling in favor of the dog owners, who argued that NPS violated its own regulations when it closed the area without public notification. The plaintiffs, led by the Fort Funston Dog Walkers, say that they are not opposed to protecting the bird's habitat but that a public comment period was required. That period would have allowed them to suggest ways to protect the area without banning them from one of the few places in San Francisco where they are able to run their dogs unleashed, says Lydia Boesch, attorney for the plaintiffs.

The six-acre area was fenced off primarily to protect bank swallows that return from South America each March to nest in the sand cliffs below. The birds remain through August and make up one of two remaining colonies with coastal nesting sites in California. Bank swallows are a state threatened species but are not federally listed as threatened or endangered. The Park Service also used the closure to reestablish native plants, which had been eradicated by nonnative vegetation.

In his statement, Judge William Alsup said that the plaintiffs have shown probability that NPS violated its own regulations requiring notice and has asked both sides to provide possible remedies for the action. Except in emergency situations, NPS regulations require notice and public comment



before closure of a park area that is of a "highly controversial nature" or that will result in "a significant alteration in the public use pattern of the park area." On that technical aspect of the case, the Park Service argued that it provided notification through several venues and went beyond what was necessary for such a minor closure.

The agency would not comment because the case is ongoing, but in its testimony, NPS stated, "while the dog-walking community has been vocal in its opposition to the park's closures at Fort Funston, they represent only a small portion of the...array of visitors Fort Funston accommodates... Contrary to plaintiff's assertions, these actions neither significantly alter the public use pattern of Golden Gate National Recreation Area nor are highly controversial in nature. The permanent closure is less than four acres in size, while the entirety of Fort Funston is 230 acres." Two additional acres would be closed temporarily during the season.

The case has far greater implications than simply allowing unleashed dog walking in national parks, said Brian Huse, NPCA's Pacific regional director. "The judge has clearly not grasped the consequences of forcing the Park Service to go through lengthy processes to create rules for routine actions to protect park re-sources," Huse said. "In this case, the Park Service attempted to set aside six acres to protect a threatened species - that shouldn't be a several-month process."

In its testimony, NPS suggested that the judge's ruling would hinder the agency unnecessarily. "If the NPS were required to invoke formal rule-making for all public use restrictions and closures...the NPS ability to balance the competing uses of park resources would be severely compromised."

The fences will remain this year to protect the birds; however, if the judge rules for the plaintiffs, the Park Service may be required to remove them next year.

Dan Murphy, a past president of the Golden Gate Audubon Society and someone who has followed the swallow colony for more than 20 years, said that the closure is necessary. Bank swallows will not return to nests when they perceive a threat from above, such as predatory birds, he said. In his observations, he has witnessed the same behavior when people or hang gliders are seen from above. "We don't know for sure how it affects them, but prudence would dictate that we make the space as large as possible," he said.

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# NATIONAL PARKS CONSERVATION ASSOCIATION

*Protecting Parks for Future Generations*

**RECEIVED**

14 August 2000

SEP 25 2000

Brian O'Neill  
Superintendent

**SUPERINTENDENT'S OFFICE**

Golden Gate National Recreation Area  
Fort Mason, Building 201  
San Francisco, CA 94123

Dear Mr. O'Neill:

The National Parks and Conservation Association has followed for some time the Park Service's problems in the management of pet dogs at the Golden Gate National Recreation Area (GGNRA). Dog walking has become a flash point for controversy at numerous locations in the park, in particular Crissy Field and Fort Funston. In both these locations, the your staff has documented significant adverse impacts to resources due to off-leash dogs, as well as conflicts between dogs and other park users – including instances resulting in injuries to visitors.

As we have often reminded you and your staff, the Code of Federal Regulations is abundantly clear with respect to the tolerance of dogs in national parks. Owing to the potential for unrestrained dogs to harm or disturb wildlife, cause other resource impacts, and conflict with other park users, Section 2.15 (a) (2) prohibits "failing to crate, cage, restrain on a leash which shall not exceed six feet in length, or otherwise physically confine a pet at all times."

Unfortunately, GGNRA has curried the favor of the small off-leash dog-user group, to the detriment of the park's resources and a vastly superior number of other park users, whose activities do not come in conflict with park regulations. The park has also expended scarce financial and staff resources responding to the problems created by off-leash dogs, money which would otherwise go to enhancing park values and provided visitor services.

We have now reached a point where the Park Service's failure to enforce its own policy has resulted in litigation, though not from the expected quarter. Should the off-leash litigants prevail, GGNRA will not only be responsible for setting a negative precedent that will affect the entire park system, it also will make the job of protecting endangered species in national parks more difficult and more expensive.

NPCA is astonished that it should fall to us to inform you that by failing to enforce one of its simplest regulations GGNRA has undermined not only the protection of park

FOFUAR00423

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**NATIONAL OFFICE**  
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(202) 223-NPCA(6722) • Fax (202) 223-0890  
npca@npca.org • www.npca.org

resources for which you are responsible, but also the trust the public has in its most revered institution. We fail to understand that while state, regional and local parks all have and enforce leash laws, this park seems unable to follow suit.

While we do not rule out the possibility of our own lawsuit, we hold fast to the belief that even the National Park Service will see such a suit as indefensible and, therefore, will do everything in its power to avoid it. To do otherwise will be yet another example of an inappropriate use of park funds.

We ask that you respond in writing as to if and when you the park will begin enforcing Section 2.15 of the CFR as soon as possible. We understand that education will be a necessary component, given the park's history, and encourage you to begin the process by issuing warning citations for the first three months following appropriate notice.

Thank you for your immediate attention to this matter. If you have any questions, please do not hesitate to call.

Sincerely,



Brian Husc  
Senior Director

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OCT 05 2000

SUPERINTENDENT'S OFFICE

**National Parks and Conservation Association  
Natural Resources Defense Council  
Sierra Club  
The Wilderness Society**

---

*B. O'Neill*  
*Cy: M. Scott*  
*N. Walther*  
*C. Powell*  
*R. Scott*

Superintendent Brian O'Neill  
Golden Gate National Recreation Area  
Bay & Franklin Sts., Building 201  
Fort Mason  
San Francisco, CA 94123

VIA FAX & U.S. MAIL

RE: Proposed Year-Round Closure at Fort Funston

**Dear Superintendent O'Neill:**

Thank you for the opportunity to comment on the above-captioned Proposed Year-Round Closure at Fort Funston in the Golden Gate National Recreation Area. National Parks Conservation Association (NPCA) is America's only private, nonprofit citizen organization dedicated solely to protecting, preserving, and enhancing the U.S. National Park System. Founded in 1919, NPCA has over 400,000 members, 65,000 of whom live in California. Natural Resources Defense Council (NRDC) is one of the nation's leading environmental advocacy organizations. Founded more than 30 years ago, NRDC has over 400,000 members, approximately 80,000 of whom live in this State. The Sierra Club, with over 600,000 members nationwide, is the nation's oldest and largest grassroots environmental organization. The Sierra Club San Francisco Group has over 10,000 members. Founded in 1935, The Wilderness Society works to protect America's wilderness and to develop a nation-wide network of wild lands through public education, scientific analysis and advocacy. The Wilderness Society has over 35,000 members in California.

NPCA, NRDC, Sierra Club and The Wilderness Society strongly support the proposed action to protect the bank swallow colony, enhance native plant communities and reduce human-caused impacts to the coastal bluffs and dunes. This is an entirely reasonable proposal; indeed, the proposed closure would still leave over 80% of Fort Funston available for recreational activities. Equally important, an objective assessment of the situation suggests that this is the minimum action necessary under applicable legal mandates to protect these resources.

As you are well aware, the Park Service's general mandate, enacted in the Organic Act, defines the purpose of the National Park Service as being

...to promote and regulate the use of the...national parks...which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.

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This mandate applies to every unit of the park system, whether it is designated park, monument, recreation area or seashore. The enabling legislation for the Golden Gate National Recreation Area, Public Law 92-589, further states in Section 1:

In the management of the area, the Secretary of the Interior...shall utilize the resources in a manner which will provide for recreational and educational opportunities consistent with sound principles of land use planning and management. In carrying out the provisions of this Act, the Secretary shall **preserve the recreation area, as far as possible, in its natural setting, and protect it from development and uses which would destroy the scenic beauty and natural character of the area.** (emphasis added)

Following this mandate, the Park Service, in the General Management Plan adopted in 1980, states:

The natural appearance of Ocean Beach, Fort Funston, East and West Fort Miley, Lands End, and Baker Beach will be maintained. Wooded areas from the Golden Gate Bridge to the Cliff House will be protected, and wherever possible along the ocean shoreline the dune environment will be restored.

NPCA, NRDC, Sierra Club and The Wilderness Society believe that these various sections set forth a clear charge for the Park Service's management of this area. Similarly, it is clear from staff and scientific assessments of the situation at Fort Funston that the proposed closure is absolutely warranted and necessary. In fact, we are concerned that this action may still not be adequate to fully protect the resources. The record indicates a number of previous attempts of smaller scale have failed to adequately protect the resources, in particular the colony of threatened bank swallows.

According to the closure notice, the Funston bank swallow colony is one of only two remaining on the California coast, and that they are a listed threatened species under the California Endangered Species Act. Due to their location in this increasingly visited area of the park, the colony is under particular stress. The species in general has been in decline in California due to loss of habitat and other human caused interference.

Fort Funston's dunes are but a small remnant of what was one of the most extensive dune systems in the West. The replanting of native dune plants, which has involved the efforts of many hundreds of volunteers putting in thousands of hours of work, has restored a sense of the beauty that once blanketed western San Francisco. This restored habitat has helped reestablish populations of California quail, burrowing owls, brush rabbits and other native wildlife as well as a much broader array of other native life forms, including the insects upon which the bank swallows depend for food. Along with native habitat areas, the restored habitat will also help prevent the spread of introduced and invasive species - a major cause of species extinction around the globe.

The closure notice also correctly documents that, while native dune species have adapted over the eons to a wide array of stressful conditions, such as nutrient-poor soils, salt spray and high winds, most are not tolerant of heavy foot traffic by humans or medium- and large-sized dogs. We believe the closure will support the establishment of a larger reservoir of healthy native habitat than currently exists and that, as a result of the increased stabilizing influence on the bluffs, swallow protection will be enhanced in addition to its other benefits.

The closure notice also documents the alarming increases in cliff rescues of dog and human visitors in the Fort Funston area. It is understandable that visitors are drawn to the views of the Pacific Ocean from the bluffs, especially when so many social trails have been created by off-trail users. While the rescues have no doubt used a great deal of the Park Service's financial and human resources, we assume that an even greater expenditure would be required to adequately patrol the park and enforce existing regulations against off trail use and off-leash dog walking. While we would support stronger enforcement measures, we also support the proposed area closure as a prophylactic means to address this problem. The cliff climbing and cliff rescues clearly are a direct threat to the swallow colony and every measure must be taken to eliminate this situation.

As indicated above, however, our outstanding concern regarding the closure notice is not the closure itself, but whether the closure will be adequate to protect the threatened swallow colony. It is unclear how the Park Service intends to protect the swallows from harassment and activities on the beach beneath the colony, for example. It is also questionable whether the continued allowance of off-leash dog running and social trail construction will not lead to a general disrespect for the resources of Fort Funston.

In conclusion, we wish to reiterate our strong support for the proposed closure, and our belief that additional measures may be necessary to adequately protect the many valuable resources at Fort Funston. At the very least, additional measures should be considered.

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SPCA / SF OBT Water bind protect - Crissy/Faru

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GGNRA007169



SAN FRANCISCO  
SPCA

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JAN 1 2001

SUPERINTENDENT'S OFFICE

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Cy: M. Scott  
N. Walchall  
R. Weideman  
R. Scott  
C. Powell  
M. Feinstein  
D. Hatch

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January 9, 2001

Mr. John Reynolds  
Regional Director  
National Park Service  
600 Harrison Street, Suite 600  
San Francisco, CA 94107

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WILLIAM LEE OLDS, JR.

LEANNE BOVET ROBERTS

Dear Mr. Reynolds:

I am writing to express my deep concern over the future of Fort Funston. As the President of the San Francisco SPCA, I represent over 95,573 members, many of whom enjoy the spectacular cliffs and beaches of Fort Funston. We have advocated over the past six years on behalf of thousands of dog walkers who enjoy the exhilaration of running with their dogs at Fort Funston.

On January 23<sup>rd</sup>, the GGNRA will have a public meeting to consider rescinding the 1979 Pet Policy and most likely they will enforce further closures of the Fort Funston beach areas. It is hard to imagine that the GGNRA views further closures as a "victory" since management of the parklands is intended to balance diverse recreation opportunities with responsible stewardship of natural resources. The current climate of dialogue seems more polarized than necessary. Generations of Bay Area residents have enjoyed the special experience of Fort Funston for a multitude of recreational purposes.

Today the joy of the Fort Funston experience seems to be in jeopardy. As our parks and recreation areas are more important than ever for the busy urban population, Fort Funston is closing more and more areas each year.

I believe that I could play a role in mediating the issues at hand. As a humane society professional for the past 27 years, I have often been involved in mediating the concerns of passionate, well-meaning constituents. I have met on one occasion with General Superintendent Brian O'Neill and believe that I understand the issues he is facing at Fort Funston.

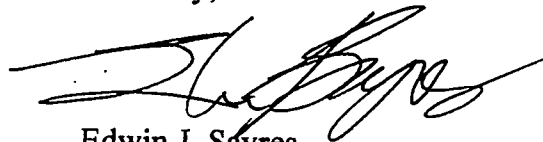
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I hope that you will consider my offer to participate with the National Park Service and the GGNRA to reach a compromise that will address the needs of all constituencies in an effective fashion. I believe that it is imperative that we meet before January 23<sup>rd</sup> in order to orchestrate a more productive public hearing. My direct line is 415/554-3005 or you can email me at [edsayres@sfspca.org](mailto:edsayres@sfspca.org).

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Edwin J. Sayres', written over a horizontal line.

Edwin J. Sayres  
President

Cc: Mr. James Lazarus  
Mr. Brian O'Neill

ESJ/csb



August 31, 2000

Bruce Babbitt  
Secretary of the Interior  
U.S. Department of the Interior  
1849 C Street, N.W.  
Washington, D.C. 20240

EXEC

HANCOCK  
ROTHERT &  
BUNSHOFT  
— LLP —  
ATTORNEYS

Dear Mr. Babbitt:

I am writing this letter to inform you that Hancock, Rothert & Bunshoft LLP has been engaged by the San Francisco Society for Prevention of Cruelty to Animals ("SPCA") to evaluate the legality of National Park Service ("NPS") closures of recreational space at Fort Funston.

On March 13<sup>th</sup>, 2000, Fort Funston Dog Walkers, San Francisco Dog Owners Group and four individuals filed a lawsuit against the NPS in federal District Court seeking injunctive and declaratory relief over the closure of certain areas at Fort Funston (*Fort Funston Dog Walkers v. Babbitt, Case No C00-00877*). On May 16<sup>th</sup>, Judge Alsup issued an order in favor of the dog-walkers, concluding the "plaintiffs have shown a probability that the National Park Service violated its own regulations requiring notice and opportunity for public comment before implementing a closure of certain park lands," and issued a preliminary injunction requiring the NPS to open the closed areas in August, pending completion of the public review requirements mandated by NPS regulations.

Without advanced publicity, the NPS published in the federal register on July 18<sup>th</sup>, notice of a new proposed closure that is substantially different from the one that is the subject of the lawsuit. Combined with prior closures initiated in 1991 and 1995, the new proposal would ban permanently all access to the bluffs over looking the ocean in the northern sector of the park. NPS has limited public input on this new proposal to an August 29<sup>th</sup> hearing before the Citizens Advisory Commission with written comment submissions due by September 18<sup>th</sup>. The SPCA has submitted the enclosed summary report for the Citizens Advisory Commission hearing on August 29<sup>th</sup>. More detailed comments with supporting documentation will be filed with the NPS on September 18<sup>th</sup>. As indicated by the enclosed report, the NPS has closed over forty acres of parkland at Fort Funston since 1991, destroyed park resources, impacted a colony of Bank Swallows, and limited recreational access elsewhere throughout the Golden Gate National Recreational Area in violation of its own regulations, U.S. Department of Interior policies, and federal law. The NPS has not only changed the historical use of the land without public hearings, but has also criminalized access to the land through citations and fines.

(SFDOC:800-380-425601)

FOFUAR00431

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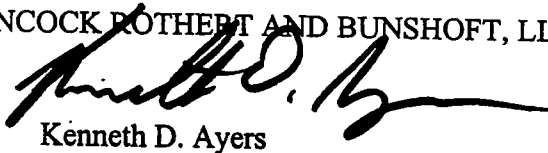
Secretary of the Interior Bruce Babbitt  
August 31, 2000  
Page 2

We are providing you with this report with the sincere hope that the interested parties and governmental officials can resolve this dispute without resort to further litigation. Attached to the report is a transcription of comments submitted to the NPS in a survey the agency conducted at Fort Funston, a testament of the special significance this park has for citizens throughout the Bay Area.

If you have any questions regarding this letter or the enclosed report, please feel free to telephone me at 415-981-5550.

Sincerely yours.

HANCOCK ROTHERT AND BUNSHOFT, LLP



Kenneth D. Ayers

Enclosure

cc: Edwin J. Sayres, President, The San Francisco SPCA

FOFUAR00432

# The San Francisco Society for the Prevention of Cruelty to Animals

2500 16th Street • San Francisco, CA • 94103-4213 • (415) 554-3000 • [www.sfspca.org](http://www.sfspca.org)

## The People's Park:

### *Statement to the Citizens Advisory Commission for the Golden Gate National Recreation Area\**

August 29, 2000

In 1973, San Francisco voters were asked to give the National Park Service ("NPS") jurisdiction over local parks. In return, the voters were promised that recreation opportunities would not be limited. In fact, the public was assured no one would even notice the change. To address concerns from city officials and citizens over the release of this land to the federal government, certain unique restrictions were inserted into the enabling statute. In particular, the Golden Gate National Recreation Area ("GGNRA") was established for "maintenance of needed recreational open space necessary to urban environment and planning." (16 U.S.C. Section 460bb.) Relying on this language and representations by city officials that this was merely a "technical resolution" that would not affect "recreational use by all citizens," the people of San Francisco approved in 1973 a Charter Amendment Proposition F, which permitted the transfer of these city parks to the federal government. The use of these parks specifically for off leash recreation was further addressed during the hearings before the United States House of Representatives, and dog walking was an enumerated activity in the U.S. House Report (H.R. Rep. No. 1391 at p. 4854.)

To formalize those needs as to off leash dog walking, extensive public hearings were held, culminating in the 1979 Pet Policy. At that time, the public was assured that off leash dog walking would be respected and preserved. And for well over 20 years, the recreation needs of the community have by and large been honored, with wildlife and recreation coexisting peacefully within what is now the GGNRA. In the early 1990's, to oversee the expansion of the GGNRA with the transfer of control over the Presidio, a new influx of NPS staff arrived. *That's when the trouble started...*

Since 1991, the National Park Service has closed over forty acres of Fort Funston's best, most coveted recreation space. Combined with unilateral

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\* A more detailed analysis of the various pretexts used to justify the proposed closure will be submitted to the National Park Service before its September 18, 2000 comment deadline. A summary of the fundamental historical issues and more general observations about the closure are provided herein. Although the primary focus of this submission details the effect of the proposed closures on off leash dog walking, the arguments apply with equal force to all forms of recreation. The closures would prevent all public access to the area, creating a fenced compound inaccessible to all but the NPS staff assigned to keep the citizens out.

"revocation" of off-leash dog walking at Lands End, Fort Miley, Marin Headlands, parts of Ocean Beach, the Presidio and elsewhere throughout the GGNRA (see attached map), NPS staff have not only broken promise after promise with park users, interested parties and even government officials, the NPS has also violated its own regulations, U.S. Department of the Interior policies, federal law and undermined the role of the Citizens Advisory Commission ("CAC").

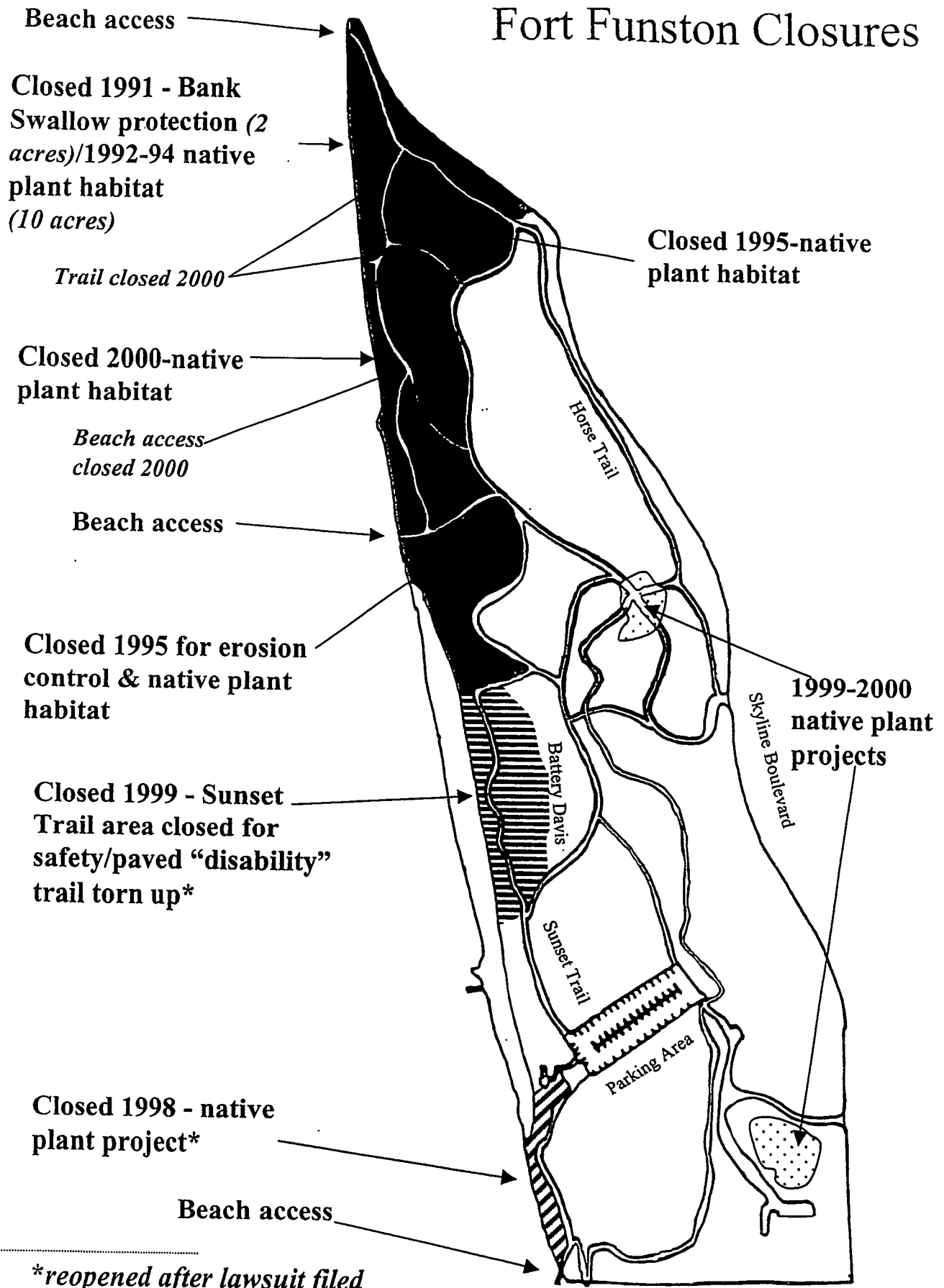
They now ask the CAC to sanction the closure of an additional twelve acres of recreation space. Combined with earlier closures, the pending proposal would block *all* access to the cliff bluffs for the northern half of Fort Funston.

The only measures necessary for protection of the Bank Swallow would be a limited closure along the top of the cliffs, as was done in 1990 when the colony was located further north. Since 1990, however, the NPS has—to varying degrees—used protection of the Bank Swallow as a "pretext" to promote native plant habitats at the expense of recreation. Following court rulings and deposition testimony, signs indicating the areas were closed to promote native plant habitats in some sections of the park were quickly removed. (See attached map.) All closures—including those in 1991, 1993, 1995, and 2000 were conducted without public review or environmental analysis as required by law.

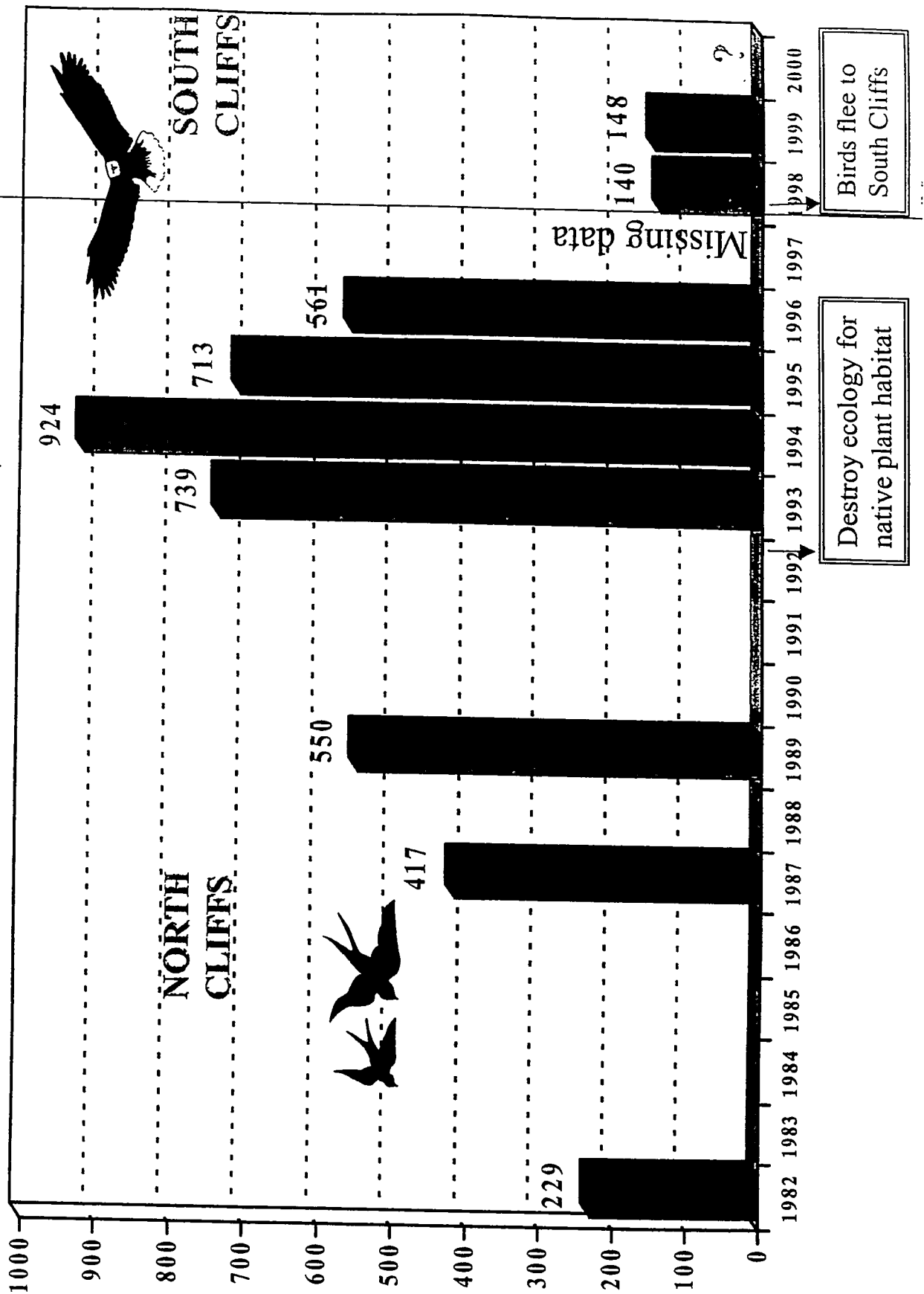
In the process, the NPS has ignored its statutory mandate, violated federal law, and has—by its own actions of bulldozing and destroying the ecology, increasing erosion and encouraging predation—decimated the threatened Bank Swallow colony at Fort Funston.

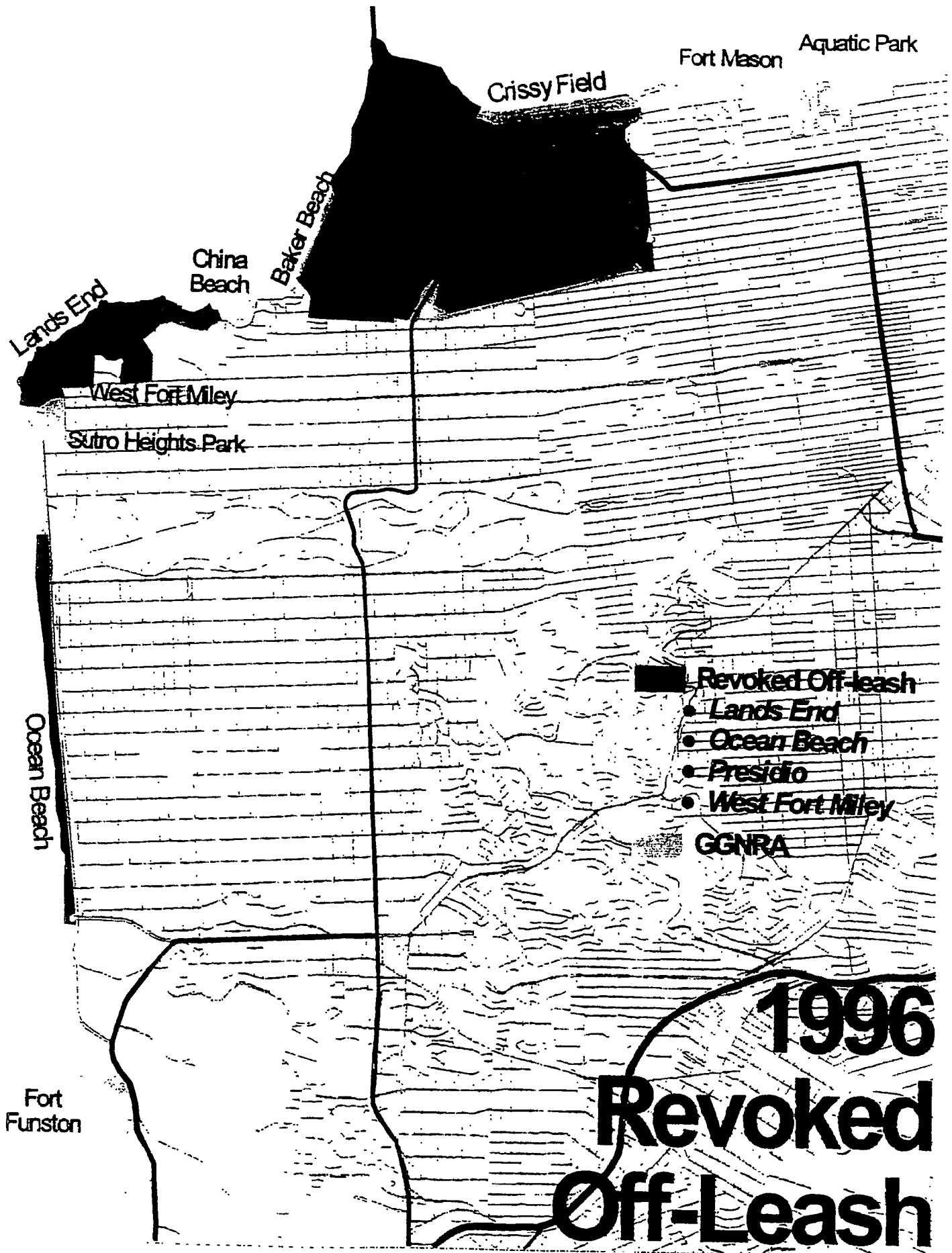
The San Francisco SPCA urges the CAC, on behalf of each of our 91,249 members, to act unanimously and immediately to protect important community rights by rejecting the National Park Service's proposed closure of valued recreation space at Fort Funston. In so doing, we ask that the CAC analyze the current proposed closure in light of the cumulative impact of all the closures which have occurred since 1991. Reasoned decision-making demands a finding that the current proposal, like all the others, is arbitrary and capricious, in direct violation of federal law, and undermines the covenant the government established with the people.

# Fort Funston Closures



# Total Number of Bank Swallow Burrows









SAN FRANCISCO  
SPCA

July 13, 2000

COPY

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LEANNE BOVET ROBERTS

Chris Powell  
Golden Gate National Recreation Area  
Fort Mason, Building 201  
Golden Gate National Recreation Area  
San Francisco, California 94123

Dear Ms. Powell:

Over the past year, The San Francisco SPCA, the San Francisco Dog Owners Group, and members of your office have met periodically at your request to discuss a dog owner education program at Crissy Field. Although your office acknowledged that the vast majority of dog owners are responsible and clean up after their pets, both you and Ms. Tracy Fortmann felt an education program would be fruitful. These meetings followed my arrival as the new president of The San Francisco SPCA, and were subsequent to an initial meeting at The San Francisco SPCA. During that meeting, we explained to you that given the history of action taken against off-leash dog walking by the National Park Service ("NPS") despite promises to the contrary, "trust" was of paramount concern to us. (See Historical Chronology, enclosed as Appendix I.) To further "trust," you agreed that we would deal with each other openly and fairly.

During the first on-site Crissy Field meeting, we were given a tour of the area, and told that off-leash recreation would increase to well over seventy acres. Subsequent to that meeting, we again took tours of Crissy Field. At those meetings, we attempted to talk specifically to Ms. Fortmann about perceived concerns of Golden Gate National Recreation Area ("GGNRA") staff and then specifics as to an appropriate education program to ameliorate any perceived concerns. We attempted to discuss appropriate signage, pooper scooper dispensers, literature, training classes, and the like, but GGNRA staff refused to discuss specifics, instead taking us on more tours of the area and discussing "concerns" about dogs in very general terms.

After Ms. Fortmann's reassignment outside the area, you again telephoned us to continue the meetings because of what you claimed were "increasing complaints" and "increasing problems" at Crissy Field. You also indicated that a dog owner education program was imperative. This followed the National Park Service's ten-acre closure at Fort Funston without notice to dog owners and in apparent violation of federal regulations. (See Fort Funston Dog Walkers v. Babbitt, No. C00-00877 WHA, Findings of Fact and Conclusions of Law, dated April 26, 2000.)

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These closures also follow assurances from Superintendent Brian O'Neill that the native plant restoration project would not be expanded southward of the 1995 closures—which were themselves enacted after assurances that no further closures would be forthcoming. Moreover, both Mr. O'Neill and Assistant Superintendent Leonard McKenzie further assured us in 1995 that,

"If future conflicts occur which require further consideration or amendment to off-leash dog use, we propose a public process to inform the decision making.... We would consider contact with the SPCA as a first step in any situation involving a conflict with off-leash dog walking that would require a change in this use." (See Correspondence from Mr. Brian O'Neill and Correspondence to Mr. Leonard McKenzie, enclosed as Appendix II.)

Needless to say, at the same time that we were discussing off-leash dog walking on GGNRA lands over this past year and agreed to openly discuss dog walking and deal with each other honestly and fairly, closing ten acres of Fort Funston without notice, in violation of federal regulations, and after promising The San Francisco SPCA that there would be no further closures at Fort Funston, does nothing for our mutually agreed goal of furthering "trust" between our two agencies.

Your response to these concerns was that since we were specifically discussing off-leash dog walking *at Crissy Field*, that any action the NPS took against off-leash dog walking *at Fort Funston* without informing The SF/SPCA, dog walkers, and without any public hearings was irrelevant. We believe this is not only splitting hairs, but flies in the face of promises by both the Superintendent and the Assistant Superintendent of "contact with the SPCA as a first step in *any* situation involving a conflict with off-leash dog walking that would require a change in this use." (Emphasis added.)

Furthermore, in response to efforts by dog walkers to protect their rights by filing a lawsuit, the NPS has threatened to revoke all off-leash recreation at Fort Funston, and has even taken the drastic step of taking down and painting over signs at Fort Funston that delineate off-leash dog walking. Statements by the NPS in local newspapers further state that the off-leash policy is "currently under review." We have no choice but to see this as an attempt by the NPS to intimidate and punish dog walkers.

In addition, the removal of signage will create misunderstanding of allowable behavior with the public, thereby increasing any conflicts and complaints against off-leash dogs. In other words, the NPS will be creating the very conflicts it will likely use to justify further restrictions of off-leash dog walking at Fort Funston.

## **The Covenant with the People**

Since 1992, NPS staff has justified the conversion of recreational park resources to native plant habitats under the guise that such action is the national park mission. The mission of the GGNRA, however, is embodied in statute and legislative history creating the park. Indeed, the NPS's own regulations and management policies underscore the importance of the specific language contained in the enabling legislation establishing each national park. Each park has a specific purpose unique to the cultural and ecological setting where it is located.

In fact, courts look to the enabling statute and legislative history establishing the specific park unit to ascertain the scope of activities permitted in each park. (National Rifle Assoc. of America v. Potter (D.D.C. 1986) 628 F. Supp. 903, 911, reviewing U.S. House of Representatives Report to determine if GGNRA permitted hunting and trapping.)

NPS management policies also specifically provide that, "Congress has stated in the enabling legislation of most units of the national park system that they have their own particular purposes and objectives." (National Park Service Management Policies, at p. 2.)

Much of the San Francisco unit of what is now the GGNRA was originally city parkland donated to the federal government after the park was established. To address concerns from city officials and citizens over the release of this land to the federal government, certain unique restrictions were inserted into the enabling statute.

In particular, the GGNRA was established for "maintenance of needed recreational open space necessary to urban environment and planning." (16 U.S.C. Section 460bb.) Relying on this language and representations by city officials that this was merely a "technical resolution" that would not affect "recreational use by all citizens," the people of San Francisco approved in 1973 a Charter Amendment Proposition F, which permitted the transfer of these city parks to the federal government.

Legislative history and "land use planning" events developing the general plan and natural resources plan further confirm that the NPS understood that off-leash dog walking was a "recreational" activity "necessary to urban environment." The use of these parks specifically for off-leash recreation was addressed during the hearings before the United States House of Representatives, and dog walking was an enumerated activity in the U.S. House Report. (H.R. Rep. No. 1391 at p. 4854.)

NPS management policies further advise that,

Park managers should ascertain park-specific purposes and management direction by reading the park's enabling legislation or proclamation and determine general management direction, not inconsistent with the enabling legislation...

Wide variations exist in the degree to which the laws and proclamations creating the individual units of the national park system prohibit or mandate specific guidance on particular management actions... (*Id.*)

Other NPS policies mandate the same analysis:

The purpose of a park, program or central office is usually defined in, or derived from, the unit's enabling legislation and from other legal documents providing for its establishment.... Purpose statements represent the government's commitment (Congress' expectation) *to the public how an area will be managed for the public benefit...*

Purpose statements provide the foundation for everything that a park staff does in a park, and everything that is done by a program or central office. These purpose statements set the parameters for how a park should be managed and used, and provide the standards and rationale against which the appropriateness of decisions can be tested. In other words, purpose statements put sideboards on what activities are appropriate in the park, or for a program or central office, and define how the park's resources should be managed and what types of visitor experiences should occur...

Purpose statements are usually presented in the form of an infinitive statement: "To protect..." or "to preserve and interpret..." and "to provide..." Purpose statements are what you would answer a congressional committee if asked "Why does your park (program or central office) exist?" (Field Guide to National Park Service Performance Management, May 1998, emphasis added.)

Why does the GGNRA exist? *It is not to create fenced native plant habitats off limits to the public.* As evidenced by its name, the Golden Gate National Recreation Area is a *recreation* center, surrounded by a heavily populated urban environment. And it is the GGNRA's recreational value that was of the utmost importance to the Congress that established this great urban park. In their words, the GGNRA was to be a "new national urban recreation area which will concentrate on serving the outdoor recreation needs of the people of the metropolitan region," and its objective was "to expand to the maximum extent

possible the outdoor recreation opportunities available in this region." (H.R. Rep. No. 1391, 92<sup>nd</sup> Cong., 2<sup>nd</sup> Session (1972).)

Contrary, therefore, to any allegations by the NPS that dog walking is a "privilege," subject to the "discretion" of the Superintendent which can be "revoked" at any time, public use of the land for recreation generally, and off leash dog walking specifically, is an important community right, which this Commission—like the Courts—can, and should, defend.<sup>1</sup> That mandate is the government's covenant with the people.<sup>2</sup>

Indeed, the CAC understood this from the beginning. During the public review that established the 1979 Pet Policy, the Pet Policy Committee of the GGNRA Citizens Advisory Commission (Meyer, A., Chairperson) acknowledged the unique circumstances of recreational needs for an urban environment and for the GGNRA specifically:

[T]he ordinary guidelines outlined in the Code of Federal Regulations do not really apply in an urban area. People and their animals have been visiting the park for too long to apply an all-inclusive *arbitrary* policy. (Emphasis added.)<sup>3</sup>

After public hearings culminating in the 1979 Pet Policy, the GGNRA Citizens Advisory Commission designated Fort Funston, Lands End, Ocean Beach, Fort Miley, Baker Beach and Crissy Field for continued off-leash recreational activity. These were adopted in total.

<sup>1</sup> The NPS adds insult to injury by not only changing the historical use of the land without public hearings, but also criminalizing public access to the land through citations and fines.

<sup>2</sup> The NPS conducted a study of Fort Funston in 1999. The study revealed that 74% of the public identified "off leash dog walking" as the most important aspect of Fort Funston. The second largest response, 21%, identified the area's breathtaking views and 17% said its beauty. The current proposal strikes at both of these—blocking all public access to the area, and to what the public values most about Fort Funston. Of note, less than 2% identified dogs as a problem and *not a single respondent* identified native plants as having any importance.

<sup>3</sup> We address this issue in detail because both the NPS and Golden Gate Audubon Society have taken the position that dog walkers have no standing to protest these closures because there is a general agency regulation, 36 C.F.R. 2.15(a) requiring dogs to be leashed in national parks, unless they are used to kill wildlife where hunting is permitted. (36 C.F.R. 2.15(b).) The federal government, however, recognizes that the general regulations must "comply with the legislative history governing intended public use of these areas" by providing a procedure for developing local rules to amend, modify, or relax restrictions contained in the Code of Federal Regulations in order to conform with legislative intent when the city donated the parks, and when Congress created the GGNRA. (See 36 C.F.R. 1.2(c).) Furthermore, the closures by the NPS for native plant habitat closures without public review affect all recreation users, not just dog walkers.

## Closures Driven by Native Plant Habitat Projects

For well over 20 years, the recreation needs of the community have by and large been honored, with wildlife and recreation coexisting peacefully within what is now the GGNRA.<sup>4</sup>

In October of 1991, the NPS illegally closed approximately seven acres at Fort Funston, by moving the fences designed to protect the Bank Swallow 75 to 100 feet away from the cliffs to implement native plant habitats. (Milestone, J., "Just a Swallow! Habitat Restoration Project.") The closure was conducted without an environmental impact analysis of how the project would impact either recreation or the Bank Swallows, without proper project approval,<sup>5</sup> and without public hearings in violation of NPS regulations, U.S. Department of the Interior management policies, and federal law.

By early 1992, almost four acres were converted to coastal dune and chaparral. At this time, NPS staff began chainsawing the 24 Monterey Cypress lining a trail leading to the beach, and volunteers pulled four acres of erosion-preventing ice plant.<sup>6</sup> Bulldozers were used to level hillocks and bury concrete slabs. In a few months, volunteers replaced ice plant with 5,000 native plants in the four-acre area. The entire seven-acre project was designed to take five years to complete with only 75% coverage. The stated goal of the project was to *increase* "natural" erosion and create "moving sand" ecology.<sup>7</sup> The impact on the Bank Swallow was never analyzed despite winds of up to 100 miles per hour during winter periods.<sup>8</sup>

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<sup>4</sup> In 1990, the NPS erected fences along the edge of the cliff of the so-called Bank Swallow habitat area, comprising approximately two acres of land. Statements by Biologist Ron Schlorff, California Department of Fish and Game, indicate that fencing along and near the crest of the cliff is all that is necessary to protect the Bank Swallow. (Schlorff, R., California Department of Fish and Game, Personal Communication, March 7, 2000, Declaration of Lydia Owen Boesch in Support of Plaintiff's Complaint for Injunctive Relief: "in some areas, no closure is necessary, and that in other areas, only a few feet of closure is required.")

<sup>5</sup> In 1992, *after the fact*, GGNRA General Superintendent Brian O'Neill approved the fenced area, including the destruction of the Cypress trees, again without fulfilling lawful requirements of analysis and public review.

<sup>6</sup> The U.S. Army planted ice plant in the 1930's to stabilize the dunes and control erosion. (Project Review Form, Ice Plant Removal, North Tip of Fort Funston, June 1994: "Native vegetation was bulldozed and ice plant was planted in its place for defensive reasons and to stabilize the blowing dunes that native vegetation allowed," emphasis added.)

<sup>7</sup> According to NPS ecologist Ranger Sharon Ferrell, "the park's objective in restoring natural areas is to restore natural process. And that's what processing dune is, moving sand." (Deposition of Sharon Ferrell, *Fort Funston Dog Walkers v. Babbitt*, No. C00-00877 WHA, hereinafter "Ferrell," 77:7-12.) "Once the ice plant is removed, sand will transport more freely throughout the site..." (Bank Swallow Permanent Closure, February, 1999.)

<sup>8</sup> NPS documents note winds of "over 50 miles per hour" in March, April and May, having "major impact to the overall landscape geography of Fort Funston," with winter wind storms

Almost immediately, an increase in erosion could be seen, with one six-hour windstorm in April of that year moving an entire dune planted from a southwest to northwest orientation. Five hundred native plants were buried. (Milestone, J., "Just a Swallow! Habitat Restoration Project.")

Beginning in 1992, public concern was expressed about the native plant vegetation projects. At a meeting with dog walkers in July, then-Head Ranger James Milestone assured dog walkers that a closure for native plant revegetation would be temporary, limited to one year. (Meeting Minutes of Fort Funston Dog Walkers Association, July 9, 1992.)

By 1993, however, the NPS expanded the native plant project by an additional three acres. Our ongoing review of the documents indicates that the NPS did so without project review by the Superintendent. Clearly, the MPS expanded the project without public review or an environmental impact analysis. (Milestone, J., "Just a Swallow! Habitat Restoration Project.")

In June of 1994, an additional expansion/closure of fifteen acres was proposed without analysis or public hearings. The NPS was not shy about the land grab. The report confirmed the project was "naturally expanding into areas beyond our previously agreed to perimeter... Project originally called for removal of all ice plant (a noxious exotic species) from the ten acre Bank Swallow habitat area. This is now complete and new area outside of Bank Swallow habitat area *are now within our grasp.*" (Project Review Form, Ice Plant Removal, North Tip of Fort Funston, June 1994, emphasis added.) The goal: destroying 15 acres of erosion-preventing ice plant, using chainsaws to destroy all "exotic" trees and bushes, and using bulldozers where possible.

In 1995, approximately ten acres were closed at Battery Davis under the pretext of erosion control, as well as an additional fifteen acres for native plant habitats.

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reaching 100 miles per hour. (Milestone, J., "Fort Funston's Bank Swallow Habitat and Flyway Management Plan and Site Prescription," May 1996.) *In direct contravention of Department of the Interior management policies, NPS regulations, and federal law*, NPS ecologist Ranger Ferrell admitted no analysis had ever been done:

"Has there at any time been a study of the effect of removal of ice plant on erosion of the cliffs in the bank swallow protection area? A: No." (Ferrell: 78:4-7.)

"Have you made any studies as to whether the removal of the ice plant ecosystem adjacent to the bank swallow nesting areas has harmed the bank swallows? A: No." (Ferrell: 78: 21-24.)

"Have you made any evaluation of whether bank swallows feed off insects in the ice plant? A: No." (Ferrell: 78:25-79:2.)

In fact, as early as 1960, a study of the Bank Swallows "confirmed the use of ice plants for nesting materials." (Cutler, B., "A Bank Swallow Colony on an Eroded Sea Cliff," 1961, pp. 56-57, p. 59, tbl. 6, fig. 47.) And Bank Swallow observations by NPS volunteers confirmed use of ice plants for nest building even after they fled the north cliffs. (May 4, 1998, May 7, 1999.)

(Hillslope Closures-Fort Funston, March 1, 1995.) Following these closures, in a letter dated March 14, 1995, Superintendent O'Neill assured Richard Avanzino, then-President of The SF/SPCA that the habitat was nearing its completion and would not be expanded south. The NPS also indicated that the Battery Davis area closure was an approximately 5-year temporary closure during which time it would be revegetated. Signs indicating that the area was closed for native plant revegetation were subsequently placed along the affected areas.<sup>9</sup>

Approximately one year later, Ranger Milestone held a meeting on April 10th, 1996, with dog walkers. He advised that 200 volunteers would be meeting at the Bank Swallow site at the north end of Fort Funston to pull ice plant beginning April 20<sup>th</sup>, *at a time when the Bank Swallow begin building nests in the cliffs*. He estimated that the project would take two more years, but promised there would be no additional fences. (Newsletter, Fort Funston Dog Walkers Association, April 1996.)

That promise would not be honored. Nor was the failure to uphold public promises and public review principles an isolated practice. The NPS also took unilateral actions at Baker Beach and the Presidio where similar closures were occurring without public review. As noted in a November 6, 1997 article in the San Francisco Chronicle: 'Hikers and picnickers have found their favorite vistas, woods and sand dunes roped off without notice, and many trees have been cut down to create pseudo-native habitats without public review.' (Fimrite, P., "Presidio Dogfight," San Francisco Chronicle, p. A11.)

By February 1999, the NPS approved the current closure as a part of its overall "vegetation stewardship program." (See GGNRA Project Review/Environmental Compliance Form, Vegetation Stewardship Parkwide Program, 1999 Workplan, February 3, 1999.) The project appears as a byline for "ice plant removal" in an attachment of, ongoing, list of projects throughout the entire GGNRA. (Agenda for Next Presidio/Parkside Project Review Committee Meeting, January 26, 1999.) In an e-mail from NPS ecologist Ranger Sharon Ferrell to several staff members including Tracy Fortmann, Chris Powell, and Mary Petrilli among others, Ranger Ferrell admits there had "not been proper project review in February." Rather, she says, the "significance of the project seemed to have been buried..." (Ferrell e-mail dated September 1, 1999.) After public controversy surfaced at the January meeting of the CAC, Ranger Ferrell further admits in another e-mail that "Brian [O'Neill, GGNRA Superintendent] wants to ensure

<sup>9</sup> In a videotape of a 1995 meeting with angry dog walkers, Head Ranger Milestone reiterated that promise: "With [respect to] the Bank Swallows, we want to protect the cliffs, we don't want people carving into the cliffs, that causes erosion. We want to restore the flyway to Lake Merced, only the Flyway. We are not expanding the Bank Swallow site further south, we're going to complete this last section, this corner across from the existing fence to Skyline. So the Park Service doesn't have an intention, we're not going to expand this thing, further south, we're not going to take more of the area, that you can walk in." (Newsletter, Fort Funston Dog Walkers Association, April 1996.) Ranger Milestone also indicated that "[w]e want to make it a temporary fence, but when we are talking temporary here, we're talking at least five years." (Id.)



that we are in and out as quickly and professionally as possible..." (Ferrell e-mail to Janet Gomes dated January 26, 2000; See also Fort Funston Dog Walkers v. Babbitt, No. C00-00877 WHA, Findings of Fact and Conclusions of Law, dated April 26, 2000: "intent on the part of the National Park Service to railroad through the closure, to maintain secrecy, to unleash the fencing with lightning speed, and to establish a *fait accompli*.")

GGNRA does not have absolute discretion for limiting public use or developing native plant habitats.<sup>10</sup> Since 1991, however, GGNRA has imposed conditions and restrictions on visitor use over areas of Fort Funston under the pretext of creating native plant habitats. Each step of the way, controversy arose as more parkland became fenced. By 1995, GGNRA understood that any additional appropriation of the land for native plant habitat would be "highly controversial" and promised that the so-called Bank Swallow habitat would not move south and there would be no more fences. Despite these assurances, GGNRA approved the current project in February, 1999 and began implementing the controversial plan without prior notice or an opportunity for public comment.<sup>11</sup>

Realizing that the project may be thwarted if promoted as a native plant expansion project, in September of that year, NPS officials sought *after the fact* justification as a Bank Swallow protection measure. NPS Biologist Daphne Hatch and California Fish and Game Biologist Ron Schlorff were consulted *after project approval*. (Deposition of NPS Biologist Daphne Hatch, Fort Funston Dog Walkers v. Babbitt, No. C00-00877 WHA, hereinafter "Hatch," 53:23-54:8.)

Following the filing of the pending litigation, Fort Funston Dog Walkers v. Babbitt, No. C00-00877 WHA, NPS staff further downplayed the native plant habitat plan and insisted that the entire closure was required to protect the Bank Swallows. NPS staff removed signs posted five years ago along the Battery Davis closure justifying the closure on grounds of "native plant restoration." Signs posted since 1998 along the coastal bluff area below the hang glider platform indicating the area was "closed for revegetation" were also taken down after questioning of NPS staff in depositions. (Ferrell: 87:20-88:21 and personal observation of dog walker.)

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<sup>10</sup> Legislation establishing the GGNRA contained unique restrictions on a Superintendent's discretionary powers. In particular, 16 U.S.C. Section 460bb provides: "In the management of the recreation area, the Secretary of the Interior...shall utilize the resources in a manner which will provide for recreation and educational opportunities consistent with sound principles of land use planning and management." (Emphasis added.)

<sup>11</sup> Indeed, promising a new era of working together in the spirit of trust and openness, NPS staff were meeting with representatives from The San Francisco SPCA and the San Francisco Dog Owners Group on an ongoing basis regarding a dog owner education program at the GGNRA. While discussing off leash issues at Crissy Field, NPS staff deliberately withheld information about the pending closures at Fort Funston. (See enclosed letter to Chris Powell, GGNRA from Edwin J. Sayres, President of The San Francisco SPCA, dated July 13, 2000.)

## **NPS Actions, Not Dog Walkers, Decimate Bank Swallows**

Protection of the Bank Swallow appears to be a pretext seized upon by the NPS to proceed with their native plant restoration project at the expense of recreation, in violation of the statutory mandate that created the GGNRA.

For decades, the Bank Swallow population has been thriving at Fort Funston, with their population increasing steadily even as off leash dog walking increased. In 1982, there were 229 burrows, it rose to 417 in 1987, and 550 in 1989—proving that dogs and Bank Swallows co-exist and thrive. In fact, despite increases in visitor use, a continuous and stable Bank Swallow colony nested for 16 years along the north cliffs of Fort Funston.

A 1995 Ocean Beach study by NPS Biologist Daphne Hatch reaffirmed the lack of nexus between dogs at Fort Funston and disturbance of the Bank Swallow. The Hatch study found that only six percent of all dogs chased birds, and none was ever reported catching or harming one. (Hatch, D., "Western Snowy Plover (A Federal Threatened Species): Wintering Population and Interaction with Human Activity on Ocean Beach, San Francisco, Golden Gate National Recreation Area, 1988-1996, November 15, 1996, p. 29, fig. 13.)

Fences have been placed on the bluffs ostensibly to prevent erosion from human presence on the edge of the cliffs. A government geologist, however, indicated that human recreation-caused erosion at Fort Funston was de minimus. (Notes of M. Alvarez, personal communication with Geologist Clyde Wahrhaftig, U.S.G.S.: "man caused erosion is probably negligible compared with nature," 1989.)

Ironically, it appears that the NPS native plant restoration projects have negatively impacted the Bank Swallows. Beyond protection of the crest of the cliff which is all that is necessary as a Bank Swallow protection measure, the NPS began transforming the ecology of the area in 1991 by cutting down trees and removing ice plant. In 1995, the effort was expanded when the NPS closed 23 acres by fencing off the area, bulldozing more ice plant and chopping down more trees to create coastal chaparral of moving sand and native plants. No attempt was made to analyze the relationship between the Bank Swallow colony and the existing ecology at Fort Funston before it was upset.<sup>12</sup>

In 1995, after the ten-acre closure at Battery Davis and the additional fifteen acres for native plant habitats, the number of Bank Swallow burrows plummeted. The number continued to decline as the NPS continued to upset the area, until 1998, when the colony simply left the area to an undisturbed location.

No study was conducted to evaluate any environmental impact the projects were having on the surrounding ecology. The 1980 General Plan commented on the

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<sup>12</sup> See footnote 8.

importance of trees for blocking wind, and the Army specifically planted ice plant to control erosion. The NPS—without public review and an environmental impact analysis as required by department policy, federal regulations and federal law<sup>13</sup>—has destroyed ice plant and bulldozed all but two Cypress trees, all Eucalyptus trees and has planned to remove the remaining wind/erosion protecting trees and bushes within the closure. Indeed, the GGNRA General Management Plan describes the importance of these trees for protecting against erosion in San Francisco:

Currently, strands of Monterey pine, Monterey cypress and eucalyptus exist in areas that provide protection to the interior of the city from high winds. The trees are mature; some are dying. The loss of trees on the perimeter leaves interior trees vulnerable to wind. Dense thickets of shrubs, many exotics, provide habitat for birds and small animals...

The vegetation management program will develop and implement management guidelines for the protection and maintenance of the San Francisco coastline. In order to determine changes that have occurred and will continue to occur, detail mapping and community analysis will be done. Tree rings will be used to evaluate forest protection of native plant communities will be determined. Soils will be examined and soil maps will be developed. Continued literature review of methodology and life history characteristics for each species will be carried out. Programs will be designed to minimize cost of implementation and maintenance. Cooperation and coordination will be developed with neighboring agencies to provide continual protection to interior plant communities.

<sup>13</sup> According to NPS Natural Resources Management Guideline, NPS-77 at p. 289, "Management plans for exotic species will be developed at the park level in accordance with NPS resource management planning procedures, *including provisions for public comment.*" (Emphasis added.) Furthermore, NPS Management Policies (1988) require, "Scientific information that identifies the exotic status of species, *demonstrates its impact on park resources*, and indicates alternative management methods and their probabilities of success." The policies further require "public review and comment," and mandate that "[c]are will be taken that programs to manage exotic species *do not result in significant damage to native species... or historic objects.*" (NPS Management Policies (1988), 4:12-13, emphasis added.) See also 36 C.F.R. Section 1.5(b); 16 U.S.C. Section 460bb ("In the management of the recreation area, the Secretary of the Interior...shall utilize the resources in a manner which will provide for recreation and educational opportunities consistent with sound principles of land use planning and management"); Director's Order #2 Section 3.1.2 ("The National Park Service will use planning to bring logic, *analysis*, public involvement and accountability into the decision-making process," emphasis added); Director's Order #2 Section 3.3.1.4 ("General management planning will be conducted by an interdisciplinary team, including park managers and technical experts who will consult with other knowledgeable persons inside and outside the agency and with the general public. Decisions will be based on a scientific and scholarly understanding of the park ecosystems and cultural contexts.... If information is inadequate, planning and decision making will be deferred until adequate information is available for the type of decisions to be made.")

Instead of careful analysis as required, the NPS unilaterally began clear cutting trees, removing bushes, and uprooting several acres of existing plants.

After the 1995 native plant expansion, the number of burrows began to decline—from 924 in 1994 to 713 in the first year. (See attached graph.) They dropped again to 511 in 1996. In 1997, the NPS lost the data. In 1998 the number of burrows dropped to 140 and the birds abandoned the area adjacent to the native plant project and moved south to an undisturbed area along the cliff. About that time, starlings, hawks, kestrels, ravens and other birds began competing with and even preying on the Bank Swallows. In fact, starlings began to take over the Bank Swallow burrows in the mid-1990s, the public began to note a higher incidence of hawks as evidence by public statements in meetings with NPS staff, and the NPS's own study concluded that kestrel predation had played a substantial role in reducing the number of Bank Swallow breeding pairs from 340 to just 200 in one year alone. (Chow, N., 1994-95 Bank Swallow Annual Report.)<sup>14</sup>

The only changes in the Fort Funston environment are the very actions by NPS create fenced-off native environments—under the pretext of protecting the Bank Swallow—that has resulted in increased soil erosion destroying burrows on the cliff face, as well as increases in predator wildlife that are displacing and killing the Bank Swallow.<sup>15</sup>

In the end, it appears that the NPS's own actions are decimating a threatened species.<sup>16</sup> The destruction of the current plant ecology, and as a result the Bank Swallow nesting area, was done without any environmental impact analysis or public hearings, as required by law.

In fact, contradicting the NPS's claim that the closures are necessary to protect the Bank Swallow, closing only the cliff face and the top of the cliffs is necessary to protect the Bank Swallows—a fact no one disputes. (Schlorff, R., California Department of Fish and Game, Personal Communication, March 7, 2000, Declaration of Lydia Owen Boesch in Support of Plaintiff's Complaint for

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<sup>14</sup> This compares to Betsey Cutler's 1960 study that found no incidents of successful predation. (Cutler, B., "A Bank Swallow Colony on an Eroded Sea Cliff," 1961, p. 46.)

<sup>15</sup> The NPS alleges increasing recreational activity may have contributed to the abandonment of the north cliffs. No study was conducted to measure recreational impact. In fact, there has been a decrease in access to the beach adjacent to the cliffs because of the closure of the parking lots located north on the Great Highway.

<sup>16</sup> NPS mismanagement of the Bank Swallow colony may not be an anomaly. The San Francisco Chronicle reported that mismanagement by the NPS of the Crissy Field restoration project is decimating East Beach. As a result, one of the premier windsurfing beaches in the world and a popular recreation spot for others has suffered one hundred years of erosion *in just one year*. (McHugh, P., "Leach of East Beach," San Francisco Chronicle, July 31, 2000 at p. A17.)

Injunctive Relief: "in some areas, no closure is necessary, and that in other areas, only a few feet of closure is required.")

**Rulemaking and a Partial Hearing Before the Citizens Advisory Commission Does Not Satisfy NPS Policies and Regulations, Federal Law, or Common Sense**

Legislative history demonstrates that public review over development and administration of the park was an important consideration. The CAC was created to provide a buffer so that the bureaucrats would not "run over" the people. (Statement of U.S. Senator Alan Bible, Hearings before the Subcommittee on Parks and Recreation, United States Senate, Senate Rpt., p. 101.) In supporting the creation of a citizens commission, then California Assembly Member Willie Brown expressed concern that "[t]oo often, the people only know of their government's plan after the fact, when it's too late to participate with the decision making process." (Testimony of Willie Brown, Hearings before the Subcommittee on Natural Parks and Recreation, United States House of Representatives, House Rpt. 92-21, p. 13.) He went on to note that "[t]he people who will enjoy the park are going to be consulted." (*Id.*) After noting that San Francisco taxpayers had the foresight to protect the parks, including paying for their care and upkeep, San Francisco Mayor Joseph Alioto reminded the congressional representatives that "our people naturally wish to retain some voice in their operation...." (*Id.* at pp. 398-399.) Government actors, citizens, and numerous community groups echoed this sentiment.

However, the CAC is considering the closure *after the fact*, and has only scheduled a partial hearing. As noted by one public commentator, "In the Bicycle Trails Council of Marin case, GGNRA staff held four public hearings and three individual user group workshops, in addition to the comments solicited at Advisory Commission meetings." (Letter to Michael Feinstein, GGNRA from Lydia Boesch, Esq., dated August 18, 2000, emphasis added.) Compared to a five year public review process establishing a bicycle recreation trail plan in Marin County, logic would demand that San Francisco—the most concentrated urban environment in the United States with the exception of Manhattan—with its grant of the land for purposes of recreation and its continuing reliance on the area for needed recreation space, would require more public input, not markedly less.

While rulemaking additionally begins to address the public participation requirement of federal law, it does not resolve all of them. In particular, the NPS has:

- (1) Violated the public review requirement under the statutory mandate and NPS regulations regarding all the closures at Fort Funston and throughout the GGNRA since 1991. NPS is under a statutory mandate to employ reasonable land use principles in planning in addition to their own

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regulations concerning public input for park planning and "exotic" plant control. They have utterly failed to do so.<sup>17</sup>

- (2) Violated the National Environmental Policy Act ("NEPA"), 42 U.S.C. Section 4321 et seq., requiring environmental impact analysis for the native plant habitat/erosion control closures impact on the Bank Swallow colony and recreational activities at the park. Violations would include closure of recreation trails and beach access, thwarting aesthetic enjoyment, the destruction of park resources such as ice plant, trees, and bushes, as well as the wildlife that depended on them, controversy over size, nature and impact of the native plant projects, and consideration of the cumulative impact of all the closures since 1991, as well as actions taken in the face of lack of analysis as to cause for the decline of the Bank Swallow population.<sup>18</sup>
- (3) Violated the public's due process rights to intelligently comment on the proposed closure. The closure is predicated, in large part, based on conclusions reached from "personal communications" with twelve individuals in an unspecific time frame spanning three years. With respect to the individuals cited, NPS staff have not responded to two requests to provide copies of the minutes, tape recordings, summaries, raw notes, and any other memorialization of the communications including dates of the communications, who was present, what was discussed, conclusions reached, and the basis for those conclusions. (See enclosed letter to Brian O'Neill, GGNRA Superintendent from Kenneth D. Ayers, Esq., Hancock, Rothert & Bunshoft, LLP., attorneys for The San Francisco SPCA, dated August 4, 2000, and Letter to Chris Powell, GGNRA from Nathan J. Winograd, The San Francisco SPCA, dated August 22, 2000.)
- (4) Violated principles of equitable estoppel and fair play. Aware that The San Francisco SPCA and the public could file a lawsuit over the illegal 1995 closures, the NPS promised that the native plant habitat project would not move south and that the Battery Davis closure would be limited to five years.<sup>19</sup>

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<sup>17</sup> See fn. 13.

<sup>18</sup> NEPA requires a federal agency to evaluate the "environmental risks and remedies associated with [a] pending project ... *before* a project is approved." (*LaFlamme v. F.E.R.C.* (9<sup>th</sup> Cir. 1988) 852 F.2d 389, 398, emphasis in original.) Accordingly, agencies are obligated to "make relevant environmental information—including '[a]ccurate scientific analysis' and 'expert agency comments'—available to public officials and citizens *before* decisions are made and *before* actions are taken." (*Northwest Environmental Defense Center v. BPA* (9<sup>th</sup> Cir. 1997) 117 F.3d 1520, 1541 (Reinhardt, J., concurring, emphasis in original.) The purpose of these requirements is to ensure that agencies do not use the NEPA process to "rationalize or justify decisions already made," or take action prior to the NEPA that "limit the choice of reasonable alternatives." (*Save the Yaak Committee v. Block* (9<sup>th</sup> Cir. 1988) 840 F.2d 714, 718, See also 40 C.F.R. 1500.1(b), 1502.5, 1506.1(a), fns. 8, and 20, and text, supra.)

<sup>19</sup> See fn. 9, and text, supra.

## Reasoned Decision-Making within NPS Grasp? 1996 "Milestone Plan"

In May of 1996, then-GGNRA Head Ranger James Milestone proposed what appears to be a rational mix of recreation and "restoration" for Fort Funston:

A long-range restoration plan ... would basically split Fort Funston down the middle using the Sunset Trail and Horse Trail as the dividing line. Typical visitor use activities such as hang gliding and dog walking would continue to occur in the western portion of Fort Funston. Restoration in the eastern portion would extend from the Olympic Club boundary to the Bank Swallow site along Fort Funston's eastern slope and plateau. Within this zone, the large stand of eucalyptus and Monterey Cypress would be left alone, but all ice plant would be removed. Isolated trees and young sprouting trees would be removed from perimeter areas around the existing tree stands. Native coastal chaparral would be planted and encouraged to recolonize throughout the area.

The western side of Fort Funston, with the exception of the Battery Davis hillside Erosion Control Closed Area, would be left in its present condition covered in ice plant. This plan would be compatible with the needs of the dog walkers, hang gliders and most day use visitors using Fort Funston. People would be encouraged to stay on the designated trails in the restored eastern half of Fort Funston, while the western recreation side would be left relatively open and unrestricted. The proposed restored areas are low visitor use areas, and retain large stands of native coastal chaparral. The final product of this project, would be to create a wildlife corridor from the Olympic Club easement lands to the Bank Swallow flyway.

Instead, the NPS has struck at the core recreation area of Fort Funston, erecting fences not only to keep dogs and dog walkers out, but everyone—the children who play on Joey Hill (the only such recreation hill in the entire GGNRA)<sup>20</sup>, the

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<sup>20</sup> Joey Hill receives its name from a long-standing sign: "In Loving Memory of my Brother Joey, I name this hill Joey Hill." In her deposition testimony, NPS ecologist Ranger Ferrell admits that Joey Hill is the only sand dune in the GGNRA where children can slide. (Ferrell: 61:8-15.) Ranger Ferrell also admits that no analysis was done of the impact the closures would have on recreational activities. (Ferrell: 58:21-62:12.) She admits she never saw any documents regarding the impact of the closures on recreation (*Id.* at 62:16-24). She also acknowledges that no one in her conversations ever considered the impact of the closures on recreation. (*Id.* at 62:25-63:2.) In light of the statutory mandate that the GGNRA was created for "maintenance of needed recreational open space," 16 U.S.C. Section 460bb, this is extremely disturbing. Moreover, no archaeological analysis was conducted to authorize the closure of the area comprising the gun club, a fascinating ruin located at the base of Joey Hill.

relatives of the service men and women who were stationed in the area, the military historians, the joggers, the hang gliders, the tourists, even the romantics. It is time to restore balance and equity and reject the proposed closure.

Whose park is it anyway? The NPS has taken the position that off leash dog walking is a "privilege" subject to the "discretion" of the Superintendent and can be "revoked" at any time.

To the contrary, the GGNRA belongs to the citizens. Off leash dog walking and other recreation activities had been occurring for over a decade prior to the grant of parkland to the federal government, and the voters were told that the grant of land would not affect recreation. San Francisco voters were told the change was jurisdictional only—a "technical" resolution. In the enabling statute that created the GGNRA, the people were told that recreation would be expanded to the maximum extent possible with dog walking listed as an enumerated activity in the legislative history. And the people would still have say over how the parks are managed. The CAC endorsed off leash recreation and the NPS assured San Franciscans that it would not be limited.

Under these circumstances, dog walking is not a "privilege" but an important community right. Off leash dog walking is not subject to the "discretion" of any appointed official. Neither can dog walking be "revoked" at will.

In 1999, the NPS commissioned a study to determine what people liked most about Fort Funston. The survey asked two general questions: (1) what is the special significance of this park? and (2) is there anything else you would like to tell us?

Seventy-four percent of those surveyed identified 'dogs' as the best thing about the park. Another 21% spoke of the breathtaking views. Less than 2% said dogs were a problem. Not a single respondent identified native plants as having any significance; a few respondents criticized the projects. The CAC represents the people. The people have spoken. And it is, after all, the people's park.

---

Attachments:

- Maps/Graphs Depicting Closures at the GGNRA and Bank Swallow Burrow counts.
- Letter and Attachments to Chris Powell, GGNRA, from Edwin J. Sayres, President, The San Francisco SPCA, dated July 13, 2000.
- Letter to Brian O'Neill, GGNRA Superintendent, from Kenneth D. Ayers, Esq., Hancock, Rothert & Bunshoft, LLP., attorneys for The San Francisco SPCA, dated August 4, 2000.
- Letter to Chris Powell, GGNRA, from Nathan J. Winograd, The San Francisco SPCA, dated August 22, 2000.
- NPS, Fort Funston Public Study, 1999.

FOFUAR00453

GGNRA007194



How does this action increase "trust" between the NPS and our organization? How does closing off-leash areas after assuring us that no further closures would be forthcoming increase "trust"? How does closing these areas at the same time we were in meetings about off-leash dog walking on GGNRA lands without informing us and having public hearings increase our mutual "trust"?

In the past your office has also told us that there were "hundreds" of complaints about dogs at Crissy Field. A Freedom of Information Act request, however, showed that in a ten-year period (1987 to 1997), there were only three complaints about dogs at Crissy Field, two of them non-incident specific but complaints about dogs and dog waste generally. The third was from a jogger who felt "intimidated" by a dog. Again, this type of exaggeration does nothing to increase "trust," and, of course, is of little help in fashioning an effective dog owner education program.

Given this background, we indicated to you by telephone that we did not want to be set up for failure, and then have this failure used as an excuse to ban off-leash dog walking at Crissy Field because of perceived "problems" that the "dog owner education program created in conjunction with The San Francisco SPCA and San Francisco Dog Owners Group" failed to correct. As indicated to you, in order to craft the right solution to any perceived concerns, we need to have access to the complaints themselves so we can address the issues raised, and to develop baselines to determine if the program is having impact. For example, if the problem is failure to pick up dog waste in certain locations, that can be addressed by signage and pooper scooper dispensers at those locations. By having access to information about the scope and frequency of reported incidents at that location, we will be in a better position to determine if the signage and dispensers are impacting the problem, or if a particular education campaign must also accompany the effort, and what that program will look like. Different problems, different solutions. You declined. Again, we feel that without allowing us to review the complaints, any education program will have to be non-specific, which will hamper its effectiveness and make it difficult to monitor its impact.

Ms. Powell, as the new president of this organization, I came here and invited you to The San Francisco SPCA to establish a new era in our relationship. I indicated to you that we would take your invitation to work together and break down the walls that separate us at face value. Instead, you erected new fences to keep the dog walkers and us out. You did this despite assurances to the contrary, and while we were meeting to discuss off-leash dog walking on GGNRA lands.

We would, nonetheless, still like to work with you. In order to work together effectively, however, we ask for a written commitment that: (1) the NPS will follow the law and conduct its business in a public forum through meaningful public hearings prior to any change in recreation uses; (2) the NPS will act honorably and abide by its past pledges and promises; and, (3) the NPS will publicly commit itself to preserving off-leash recreation at Fort Funston, and throughout the Presidio, including Crissy Field.

We look forward to your response.

Very truly yours,

Edwin J. Sayres  
President

For 20 years, wildlife and recreation have coexisted relatively peacefully within the Golden Gate National Recreation Area ("GGNRA"). The recreation needs of the community have by and large been honored. To formalize those needs as to off-leash dog walking, extensive public hearings were held, which culminated in the 1979 Pet Policy. At that time, the public was assured that off-leash dog walking would be respected and preserved. The public was also assured that the National Park Service ("NPS") had no intention of limiting the areas that have been used for off-leash dog walking for decades.

#### **Actions Against Dog Walkers-1992**

In 1992, the NPS attempted to rescind the 1979 Pet Policy without public hearings. This action was taken despite:

- that the GGNRA was to be a "new national urban recreation area which will concentrate on serving the outdoor recreation needs of the people of the metropolitan region," and its objective was "to expand to the maximum extent possible the outdoor recreation opportunities available in this region." (H.R. Rep. No. 1391, 92<sup>nd</sup> Cong., 2<sup>nd</sup> Session (1972).);
- that off-leash dog recreation is an important recreation activity that has been enjoyed by the public for decades prior to the arrival of NPS staff;
- that the continuation of off-leash recreation was officially sanctioned after "extensive" public review culminating in the 1979 Pet Policy;
- that the NPS committed itself to public hearings prior to any closures.

After a huge public outcry, which included a letter from the Chairman of San Francisco's Commission on Animal Control and Welfare who advised you that such action was contrary to the historical use of the land and that revocation could not be effective without public hearings, and after intervention by then U.S. Senators John Seymour and Alan Cranston, Superintendent Brian O'Neill assured all parties that there would be no change in the 1979 Pet Policy that officially sanctioned the continuation of off-leash activity (attached).

#### **Actions Against Dog Walkers-1995**

In 1995, after it became clear that the agreement would not be honored, we had a series of meetings with the NPS to discuss off-leash dog walking in the Presidio and other areas of the GGNRA, including Crissy Field, Fort Funston, and Ocean Beach. At each of these meetings, we were assured that: (1) the NPS had no intention of limiting the areas that have been used for off-leash dog walking for decades; (2) there would be no change in the 1979 Pet Policy; and, (3) that the 1996 Compendium Amendment would acknowledge the legitimacy of off-leash recreation.

Despite these assurances, the GGNRA closed to the public substantial areas of Fort Funston without public review. However, in response to the outcry over the closures, Superintendent O'Neill further assured us that the native plant habitat

near the Bank Swallows would not move further south and that the Battery Davis closure was only temporary to permit re-vegetation. Despite these further "assurances," there has been no vegetation at Battery Davis and another ten acres adjacent to and south of the 1995 closure were further closed this year.

#### **Actions Against Dog Walkers-1996**

Indeed, these actions now appear to be part of a deliberate and orchestrated plan to achieve piecemeal what the NPS could not do all at once—completely ban off-leash recreation along the entire coast of, if not all, of Fort Funston, and elsewhere within GGNRA jurisdiction. In fact, the 1996 Compendium "revoked" off-leash recreation at Lands End, Fort Miley, Marin Headlands, and parts of Ocean Beach, all areas designated as off-leash in 1979, despite promises in 1995 that these areas will be formally designated as off-leash areas. The NPS also revoked all off-leash recreation in the Presidio, except for a small corridor along West Pacific Avenue.

#### **Actions Against Dog Walkers-1997**

We have just now come to learn from the lawsuit that the NPS revoked the dog policy provisions from the 1997 Compendium. This was done in secret despite tremendous public outrage over previous closures. Of equal concern, this fact was only revealed through documentation produced by the government as part of the discovery process in the lawsuit.

#### **Actions Against Dog Walkers-1998-2000**

In a December 22, 1998 San Francisco Chronicle article, it was noted as follows: "For their part, [GGNRA] officials say they would like to mend their relationship with dog lovers and work together to improve the parks. 'We just want this whole thing to go away,' said Chris Powell, a recreation area spokeswoman." Yet, less than two months later, the NPS approved the expanded native plant habitat and off-leash closures at Fort Funston in violation of a promise to The San Francisco SPCA that this would not be done. As The Honorable Judge Alsup ruled, there was clearly "an intent on the part of the National Park Service to railroad through the closure, to maintain secrecy, to unleash the fencing with lightning speed, and to establish a *fait accompli*." (See Fort Funston Dog Walkers v. Babbitt, No. C00-00877 WHA, Findings of Fact and Conclusions of Law, dated April 26, 2000.)

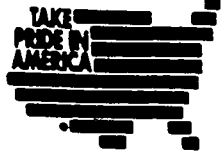


IN REPLY REFER TO:

# United States Department of the Interior

NATIONAL PARK SERVICE  
Western Region  
600 Harrison Street, Suite 600  
San Francisco, California 94107-1372

Cy: Soper  
Jim Mikstanc



A3615 (WR-DOE)

08 JUL 1992

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Honorable Alan Cranston  
United States Senate  
Washington, D.C. 20510  
ATTN: Ann Stenger

Dear Senator Cranston:

Thank you for your letter of June 17 to our Legislative Affairs office on behalf of your constituent, Mr. Michael Swift, regarding leash laws at Fort Funston in the Golden Gate National Recreation Area. Your letter has been referred to this office for reply.

The National Park Service recognizes the important value that every dog-walker holds towards the Fort Funston area. The relatively clean, open and safe environment of Fort Funston is certainly an attractive place to walk one's dog during all hours of the day. We also recognize the rights and values of the many people without dogs, who enjoy the beauty and recreational values of Fort Funston. With the spectacular vistas, colorful wildflowers and various recreational opportunities from hang-gliding to horse back riding, Fort Funston has become an extremely popular area to many park visitors.

At this time, there is no change in the 1979 Pet Policy which provides the visitor the privilege of walking one's dog off leash. The February 24, 1979, Pet Policy defines "managed" dogs and voice control as follows:

**"Managed" dogs:** Those dogs under control of their owner at all times. This control may be by voice or by leash. The criterion is that the dog may not harass any person or animal.

**Voice or leash control:** This is a flexible system. The success of such a system is dependent upon the willingness of visitors and local residents to cooperate with GGNRA personnel, and the willingness of GGNRA personnel to manage dogs, people and wildlife situations; to enforce regulations; and to cite violators.

Visitors that do not have voice control of their animals are asked to leash their pets. Pet owners with animals found digging holes in dune vegetation, chasing wildlife or causing injury to other

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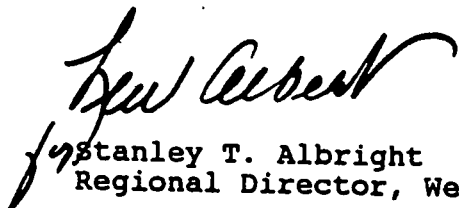
visitors are subject to citations. We also request that visitors with dogs make the effort to collect any dog litter deposited along the trail edge. The National Park Service is calling upon all visitors to assist park rangers in keeping Fort Funston a quality park experience.

A growing number of people are "discovering" the varied recreational opportunities and beauty of the site. Visitation to Fort Funston now exceeds 500,000 people annually. The National Park Service has the responsibility to manage the area to protect the natural resources and provide for the enjoyment of the visitor. Efforts to provide access to visitors with the least impact to natural resources has been a challenge in this intense urban setting. Thousands of hours of work have been dedicated to developing trails, interpretive signs and resource protection projects to enhance the area and maintain a quality experience.

If Mr. Swift is interested in participating in assisting the park rangers in keeping Fort Funston a unique and beautiful park experience, he may contact District Ranger Jim Milestone at 415-556-8371. The park staff is interested in creating a Friends of Fort Funston volunteer group to resolve site conflicts and reduce impacts to the natural environment of Fort Funston.

Thank you for your continued interest in the management and operation of the National Park Service.

Sincerely,

  
Stanley T. Albright  
Regional Director, Western Region

USPROD00726

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GGNRA007200



IN REPLY REFER TO:

# United States Department of the Interior

## NATIONAL PARK SERVICE

Western Region  
600 Harrison Street, Suite 600  
San Francisco, California 94107-1372

O'Neill  
cy: ~~Steve~~ Corp.  
Jim Miller  
TAKEN  
AMERICA

A3615 (WR-DOE)

08 JUL 1992

Honorable John Seymour  
United States Senate  
Washington, D.C. 20510

Dear Senator Seymour:

Thank you for your letter of June 26 to our Legislative Affairs office on behalf of your constituent, Ms. Monica Fox, regarding leash laws at Fort Funston in the Golden Gate National Recreation Area. Your letter has been referred to this office for reply.

The National Park Service recognizes the important value that every dog-walker holds towards the Fort Funston area. The relatively clean, open and safe environment of Fort Funston is certainly an attractive place to walk one's dog during all hours of the day. We also recognize the rights and values of the many people without dogs, who enjoy the beauty and recreational values of Fort Funston. With the spectacular vistas, colorful wildflowers and various recreational opportunities from hang-gliding to horse back riding, Fort Funston has become an extremely popular area to many park visitors.

At this time, there is no change in the 1979 Pet Policy which provides the visitor the privilege of walking one's dog off leash. The February 24, 1979, Pet Policy defines "managed" dogs and voice control as follows:

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**Voice or leash control:** This is a flexible system. The success of such a system is dependent upon the willingness of visitors and local residents to cooperate with GGNRA personnel, and the willingness of GGNRA personnel to manage dogs, people and wildlife situations; to enforce regulations; and to cite violators.

Visitors that do not have voice control of their animals are asked to leash their pets. Pet owners with animals found digging holes in dune vegetation, chasing wildlife or causing injury to other visitors are subject to citations. We also request that visitors

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with dogs make the effort to collect any dog litter deposited along the trail edge. The National Park Service is calling upon all visitors to assist park rangers in keeping Fort Funston a quality park experience.

A growing number of people are "discovering" the varied recreational opportunities and beauty of the site. Visitation to Fort Funston now exceeds 500,000 people annually. The National Park Service has the responsibility to manage the area to protect the natural resources and provide for the enjoyment of the visitor. Efforts to provide access to visitors with the least impact to natural resources has been a challenge in this intense urban setting. Thousands of hours of work have been dedicated to developing trails, interpretive signs and resource protection projects to enhance the area and maintain a quality experience.

If Ms. Fox is interested in participating in assisting the park rangers in keeping Fort Funston a unique and beautiful park experience, he may contact District Ranger Jim Milestone at 415-556-8371. The park staff is interested in creating a Friends of Fort Funston volunteer group to resolve site conflicts and reduce impacts to the natural environment of Fort Funston.

Thank you for your continued interest in the management and operation of the National Park Service.

Sincerely,

  
Stanley T. Albright  
Regional Director, Western Region

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GGNRA007202





Brian:  
I deal with dog problems  
every day of my life and suspect  
you do not - at least to anywhere  
near the same frequency. (at  
least I hope not for your sake!)  
It has been reported that  
many inquiries on this matter have  
been sent to Nancy Pelosi, Tom Kantis  
and Director Kopp, among others!  
Best regards, Mark

Brian:  
Dear Superintendent O'Neill:  
Brian O'Neill, General Superintendent  
Golden Gate National Recreation Area  
Fort Mason - Building 201  
San Francisco, California 94123

Dear Superintendent O'Neill:

At this Commission's April 15 meeting there was public expression of considerable concern over NPS Ranger announcements to the effect that the GGNRA's longstanding "voice control - no lead" policy at upper Fort Funston was to be changed effective May 1.

Although this Commission has no jurisdiction as to animal use policies on GGNRA lands, there has been a longstanding cooperative relationship between the City And County Of San Francisco Department Of Animal Care And Control (over which this Commission has oversight jurisdiction). Further, the off-lead policy of the GGNRA has long been the "centerpiece" of overall dog-walking policies within San Francisco's geographic boundaries.

It seems inconsistent with GGNRA's past policies (and perhaps violative of applicable regulatory law) that this change would even been contemplated until after careful public input hearings. Accordingly, I myself am not at all clear as to precisely what is happening - if anything at all.

The Commission considers the dust-up over this report to be of sufficient import to have placed it at the head of the agenda of its May 13 meeting, to which we cordially invite you.

In the meantime, may I hear from you personally about this matter by phone at your very earliest convenience.

Very truly yours,

*Mark Scott Hamilton*

Mark Scott Hamilton  
Chairperson

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NATL RECREATION AREA  
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March 23, 1995

Mr. Leonard McKenzie  
 Assistant Superintendent  
 Golden Gate National Recreation Area  
 Fort Mason, Building 201  
 San Francisco, CA 94123

Dear Mr. McKenzie:

I want to thank you and members of your staff for meeting with us today to discuss the future of off-leash dog walking at Crissy Field. We appreciate the time you took to explain the different design options and respond to our questions and concerns. We are encouraged by the plans and information you shared with us.

As we understand, all the design options being considered for Crissy Field would significantly expand the total area dedicated to off-leash dog walking from the current 32 acres. For example, the option involving the largest wetland would still provide approximately 68 acres for off-leash dog walking. The entire beach area (with the exception of a maximum of 13 acres of protected sand dunes and snowy plover habitat) would continue to be open to off-leash dog walking and other recreational uses. Public parking would be available as it is today near the board-sailing drop-off and staging area, and other parking lots would be maintained along Mason Drive, with access to the promenade available at various points via pathways across the airfield. We were also pleased to hear that the airfield would not be used to provide overflow parking for events at Fort Mason.

In the event that a wetland is created, we understand sensitive areas would be protected by fencing or other types of barriers that would keep people and dogs from encroaching on the wildlife that might take up residence. Pathways through the wetland and from the parking lot on the east to the restored airfield on the west would be established to allow dog walkers to travel safely in and across the wetland.

We were also encouraged to learn that, along with these design efforts, steps are being taken to resolve the legal issues concerning off-leash dog walking at Crissy Field. We understand you are now actively pursuing a regulatory change to make clear that the Superintendent has the authority to designate off-leash dog

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GGNRA007204

Mr. Leonard McKenzie  
Off-Leash Dog Walking

March 23, 1995  
Page 2

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exercise areas in the Golden Gate National Recreation Area ("GGNRA"). From our point of view, this is an essential element, and we understand you agree. We further understand that all areas where this vital recreational activity is currently allowed, including Crissy Field, Fort Funston, Ocean Beach, Land's End, etc., will be formally designated as off-leash areas. In the meantime, we are pleased that existing off-leash policies will be officially recognized and sanctioned in the GGNRA's internal policy and rule book, and we look forward to receiving a copy of the rules in the next few weeks.

In addition to these steps, we discussed the need for a written statement outlining the principles and procedures that will guide resolution of any conflicts that may arise. We feel strongly, for instance, that public notice and the opportunity for public hearing and comment should be provided before any official action is taken or any decision made that might result in altering or interfering with off-leash areas or policies. We also feel that the principles used to resolve any conflicts should reflect the value of GGNRA lands like the Presidio as first and foremost urban recreational areas.

Mr. McKenzie, we appreciate your assurance that the GGNRA will provide us with an official letter or other official written statement that maps out these understandings. We also appreciate your offer to provide us with a time line of the steps that will be taken to complete the necessary regulatory changes. With these documents, we are hopeful we will be able to work together in a constructive manner to realize a shared vision of the new Presidio.

I look forward to hearing from you.

Sincerely,

RICHARD AVANZINO  
President

cc: Mr. Brian O'Neill  
Superintendent, GGNRA



IN REPLY REFER TO:

L34 (GOGA-RMPPC)

United States Department of the Interior

NATIONAL PARK SERVICE

GOLDEN GATE NATIONAL RECREATION AREA  
FORT MASON, SAN FRANCISCO, CALIFORNIA 94123

LETTER NOT SENT / DISCUSSION HELD  
w/ AVANZINO IN  
PERSON WHERE  
CONTENTS WERE  
COVERED.

Mr. Richard Avanzino  
President, San Francisco SPCA  
2500 Sixteenth Street  
San Francisco, California 94103-6589

Dear Mr. Avanzino:

I am writing in response to your letter of March 23, in which you summarized the discussion at our meeting that day. I would like to confirm the points in your letter:

- \* All design options for Crissy Field retain opportunities for off-leash dog walking, and expand the area available for that use. The beach area, except for dune and snowy plover protected areas would be included in that area. Other areas, including the Golden Gate Promenade and restored airfield are also proposed to allow off-leash dog use. The exact areas will be shown in the Crissy Field design alternatives and described and quantified in the environmental assessment for this project.
- \* Public parking would be available in proximity to the beach at the east end as well as in several smaller lots along Mason Street. We are exploring other options to eliminate the need to provide overflow parking on the restored airfield.
- \* If a wetland is included in the Crissy Field design, it would include appropriate barriers such as fencing and vegetation to protect sensitive resources from disturbance from people and dogs. Paths or boardwalks through the wetland would be minimized to avoid disturbance to wildlife, although appropriate educational pathways and overlooks will be designed.
- \* We are currently proceeding in two ways to formalize the designation of off-leash (voice control) areas for the park. We are beginning the process of promulgating a special regulation for Golden Gate National Recreation Area to allow the Superintendent discretion in the designation of off-leash areas and the management of pets within the park. This proposed regulation must go through several levels of review, including publication in the Federal Register for public comment, before it can become final for publication in the Code of Federal Regulations. This process can take up to a year to complete.

To address immediate concerns, the Superintendent will shortly

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issue an amendment to the park's Compendium of local regulations establishing specific areas, on an interim basis, where dogs may be exercised off-leash under specific conditions. This action is to be considered temporary, pending final action on the special regulation. This amendment to the Compendium will also include Ocean Beach and Fort Funston.

- \* If future conflicts occur which require further consideration or amendment to off-leash dog use, we propose a public process to inform the decision making. Our strong commitment to involving the public in decisions which affect existing uses is evidenced by our recent public meeting with affected users at Fort Funston prior to fencing off an impacted area for resource protection, and our frequent communications with you as well as other representatives of the dog-walking community regarding other issues of mutual concern at Crissy Field and Ocean Beach. We would consider contact with the SPCA as a first step in any situation involving a conflict with off-leash dog walking that would require a change in this use. The GGNRA Advisory Commission would be involved, as needed, in the resolution of issues involving off-leash dog walking.

Rich, I feel that our efforts to be responsive to your concerns have demonstrated a genuine commitment to work with you and reflect the needs of dog walkers in our Crissy Field design plan. We would appreciate the same level of responsiveness on your part, through an effort to communicate this message, and one of responsible use, to your membership. Although you have agreed to do this in our past discussions, we have yet to see a change in the message that is getting to people through your organization and affiliated groups and individuals.

This letter, as well as our letter of March 15, are quite clear in their message. Again, we ask for your help and partnership in setting a positive environment for collaboration. We will continue to involve you in the evolution of the Crissy Field design plan and hope that your involvement and that of dog walkers will move beyond the single issue of continued access for off-leash dog use which we feel has been resolved, and contribute to the overall design which will improve the area for all users and provide a setting which is fitting for this national park site.

Sincerely,

Brian O'Neill  
General Superintendent

cc: Robert Chandler, General Manager, Presidio  
Greg Moore, Executive Director, Golden Gate National Park  
Association

USPROD00593

FOFUAR00466

GGNRA007207



August 4, 2000

HANCOCK  
ROTHERT &  
BUNSHOFT  
— LLP —  
ATTORNEYS

Brian O'Neill  
General Superintendent  
Golden Gate National Recreation Area  
Fort Mason, Bldg. 201  
San Francisco, California 94123

**Re: Fort Funston Closures**

Dear Mr. O'Neill:

I am writing this letter on behalf of the San Francisco Society for Prevention of Cruelty to Animals ("SPCA") to address issues regarding Golden Gate National Recreation Area's ("GGNRA") notice received on Monday by the SPCA of notice and comment for federal rule-making of the "Proposed Habitat Protection Closure" at Fort Funston. We saw a similar notice posted at Fort Funston, advising that there was a "Document for Public Review and Comment" ("Document") at the Sunset Library, Fort Funston Visitor's Center, and the National Park Service ("NPS") Information Center downtown. This letter addresses concerns regarding inadequate public notice and procedural defects in the rule-making process described in the Document.

As indicated by the Document, this process was initiated because the "Federal District Court ordered preliminary injunction against the NPS, disallowing the closure until such time as appropriate public notice and opportunity for comment was provided." Yet a quick review of the proposal reveals the closure is substantially different from the one that resulted in the preliminary injunction in the lawsuit, *Ft. Funston Dog Walkers v. Babbitt, No. C 00-00877 N.D. Cal.* The new proposal extends the four and a half acre permanent closure to twelve acres taking even more recreational parkland, banning public access to all bluff views of the beach for the entire northern sector of Fort Funston. Despite drastic changes in the project only sixty days have been allotted for public comment. Moreover, people are told to file comments "as early as possible" if they want to be heard: "Public comments should be submitted to NPS as early as possible in order to assure their maximum consideration." The statement indicates NPS is not committed to providing an opportunity for meaningful public review, rather the rule-making process is merely a procedural hurdle before proceeding with the project.

[SFD0C:800-380-423025]

LOS ANGELES

LAKE TAHOE

SAN FRANCISCO  
4 EMBARCADERO CENTER  
SAN FRANCISCO, CA 94111  
TELEPHONE 415.981.5550  
FACSIMILE 415.955.2599

LONDON

[www.hrblaw.com](http://www.hrblaw.com)

FOFUAR00467  
GGNRA007208

Brian O'Neill  
August 4, 2000  
Page 2

Ultimately the court will decide whether there was "appropriate notice and opportunity for comment." This letter addresses serious problems with the rule-making process that could result in court reversal if not corrected. Public notice is inadequate, there is no provision for public review of the documents relied on for the proposal, and access has been denied to the area in controversy.

### 1. Effective Notice of the Proposed Closure

Although the sixty day comment period ran from publication in the federal register, GGNRA delayed posting notice of the proposed closure at Fort Funston for almost two weeks. As a general rule of land use practice, "appropriate notice" for public urban parks requires that signs be posted at the site where the proposed changes will occur. In contrast to other national parks, GGNRA has unique provisions in the enabling statute that require NPS to follow "principles of land use planning." In particular, the statute mandates: "In management of the recreation area, the Secretary of Interior ...shall utilize the resources in a manner which will provide for recreation and educational opportunities **consistent with sound principles of land use planning and management.**" 16 USC, section 460bb. The "statement of purpose" further provides that the park was established "to provide for the maintenance of needed recreational open space **necessary to urban environment and planning**". Due process rights impacted by land use planning and development in an urban environment require that notice be posted at the site. The U.S. Supreme Court has defined adequate notice for due process to require: "notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane v. Central Hanover Bank & Trust Co.* 339 U.S. 306, 314 (1950); *See, also Harris v. County of Riverside* 904 F.2d 497, 503 (9<sup>th</sup> Cir. 1989).

Second, no effort has been made to advise occasional users that their access to the entire northern bluffs in the park will be affected by this proposal. GGNRA estimates 750,000 "visitors enjoy Fort Funston annually," virtually the entire population of San Francisco (pg. 6). Extensive media coverage followed the original closure in March, yet GGNRA has done nothing to advise the general public of the latest development in the case. Typically in cases that affect the general public, notice is published in newspapers of general circulation. "The means employed must be such as one desirous of actually informing the absentee might reasonably adopt." *Mullane* 339 U.S. at 315. Clearly the intent is to limit public input, not facilitate it.

Further evidence of this intent occurs in the notice posted at Fort Funston. Only two signs were observed, one located on the backside of the bulletin board at the head of the Sunset Trail, hidden from public view, and the other at the bulletin board near the beach access trail, adjacent to a sign on the fence indicating "seasonal closure". In small print, the signs advise people that a document is available for review and comment at three locations and that comments are due by September 18<sup>th</sup>. No reference is made to the August 29<sup>th</sup> hearing of the Citizens Advisory Commission where comments can be made. Nothing is said about the expansion of the proposed habitat. Public confusion stifles dissent, since people tend to accept the fences as a fiat accompli, unaware that they will be moved to enclose more space if the

Brian O'Neill  
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project is approved. Again, "notice must be of such a nature as reasonably to convey the required information." *Mullane* 339 U.S. at 314.

## **2. Public Access to Documents**

The Document is silent on public inspection of the documents relied on for the closure. Three pages of reference material is cited at the end of the report, including "personal communications" with twelve individuals. Without access to this information, the public can't provide meaningful comment. Please make these documents available for public review during the comment period and advise the public where they can reviewed. With respect to the "personal communications" please provide access to minutes, tape recordings, summaries, raw notes, and any other memorialization of the communications. In addition, please provide the dates of the communications, who was present, what was discussed, conclusions reached, and the basis for those conclusions. We also ask you to extend the deadline for comment until these defects are cured.

## **3. Public Access to Areas Closed in March, 2,000**

Since March public access has been denied to the entire fenced off area. After the bank swallows leave this month, the court ordered injunction requires NPS to open gates to the seasonal closure and provide access to the beach near the nesting sites. We ask you to include the Sand Spur Trail and the beach access trail adjacent to the 1995 closure, pending final determination of the new proposal. Public access to these areas were wrongfully denied during the original closure and inspection of the area is necessary to provide meaningful evaluation of the project.

## **4. Status of Battery Davis Closure and Other Designated Native Plant Areas**

The justification for the "Proposed Habitat Protection Closure" does not address the status of other so-called native plant closures and projects at Fort Funston. Under various pretexts, GGNRA has removed recreational land from public use in several areas of the park in violation of its statutory mandate and NPS regulations requiring comprehensive park planning and development pursuant to public review.

In addition to the ten acre closure that resulted in the lawsuit, the following areas have had a substantial impact on recreational access to the park. Under the pretext of erosion control, nine acres adjacent to Battery Davis was fenced off in 1995, a temporary five year closure for native plant restoration which is still closed. The entire coastal bluff area below the hang glider platform was closed in 1998 for native plant revegetation. Last year, safety was used to rationalize the destruction of a paved "disability trail" and closure of several acres along the Sunset Trail adjacent to the former Battery Davis



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closure.<sup>1/</sup> Documents from 1992 and 1996 show various proposals to convert that area to a native plant habitat. Recently other native plant projects have been initiated, one near the paved road leading down to Lake Merced, another in front of the Fort Funston Visitor Center. These projects destroy "exotic" trees, bushes, and ice plants and result in further reduction of recreational access to parkland.

All projects were initiated without public review in violation of the statutory mandate requiring land use planning.<sup>2/</sup> Even more significant, NPS regulations mandate "management plans" for the destruction of exotic plants with "provisions for public review and comment". (Management Policies Biological Resources Section 4:12-13; Natural Resources Management Guidelines NPS- 77, pg. 289.) These regulations were promulgated to deal with a typical national park where an invasive exotic species is impacting a native plant ecology. Just the opposite situation exists at Fort Funston, NPS is destroying an exotic plant ecology and developing a native plant ecology. Public input is mandated where development plans destroy park resources. Consider also that over twenty per cent of Funston has been closed to recreational access in areas where this activity is most concentrated without coordinated park planning, environmental impact analysis, or public input. Instead of addressing a situation that is clearly out of control, NPS embarks on federal rule-making limited to a very controversial parcel of land without adequate notice or an opportunity to develop meaningful public input.

Finally, retaliatory actions in response to the lawsuit have been initiated by GGNRA in the last few weeks. Our client has asked us to evaluate the removal of voice control signs at Fort Funston and Crissy Field.

Sincerely yours.

HANCOCK ROTHERT AND BUNSHOFT, LLP

Kenneth D. Ayers

cc: Edwin J. Sayres, President, The San Francisco SPCA

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<sup>1/</sup> Without public review or prior notice, GGNRA sent a bulldozer out to Funston in December, 1999 and began ripping up a substantial section of the only "disability trail" at Funston. NPS Management Policies on Accessibility for Disabled Persons require NPS to make "every reasonable effort ..to make facilities ...accessible to and usable ..for the disabled... The determination of what is reasonable will be made after consultation with disabled persons or their representatives." NPS Management Policies, Visitor Use Section, pg. 4; 43 CFR 17

<sup>2/</sup> After the lawsuit was filed, the Sunset Trail area was reopened to the public and native plant habitat signs were removed from Battery Davis fences and the south coastal bluffs.



SAN FRANCISCO  
SPCA

COPY

August 22, 2000

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Chris Powell  
Golden Gate National Recreation Area  
Fort Mason, Building 201  
Golden Gate National Recreation Area  
San Francisco, California 94123

Dear Ms. Powell:

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LEANNE BOVET ROBERTS

Pursuant to a letter from Superintendent Brian O'Neill dated August 3, 2000 to San Francisco SPCA President Edwin Sayres that National Park Service documents "are public record and would promptly be sent to [our] attention upon request," this letter serves as a follow-up to our July telephone conversation in which I requested all complaints about dogs at Crissy Field above and beyond those cited in our July 13, 2000 letter to your attention.

In addition, this letter serves as second notice requesting all documents relating to "personal communications" with respect to the 12 individuals cited as justification for the proposed twelve acre Fort Funston closure. Please provide copies of the minutes, tape recordings, summaries, raw notes, and any other memorialization of the communications including dates of the communications, who was present, what was discussed, conclusions reached, and the basis for those conclusions.

In light of the approaching deadline for comments, and this being our second request, we ask that they be provided without delay.

Very truly yours,

Nathan J. Winograd

cc: Mr. Brian O'Neill, Superintendent, GGNRA  
Mr. Ken Ayers, Esq., Hancock, Rothert & Bunshoft, LLP

FOFUAR00471

## **NATIONAL PARK SERVICE SURVEY CONDUCTED AT FORT FUNSTON IN AUGUST - 1999**

“Survey cards were distributed to a random sample of visitors in this park during the period August 1-31, 1999. The data reflect visitor opinions about this NPS unit’s facilities, services, and recreational opportunities during the survey period. Visitors at selected locations representative of the general visitor population were sampled”  
[USPROD01339]

Visitors were asked for comments on these two questions:

**A. In your opinion, what is the special significance of this park (e.g. a unique feature of geology, a particular aspect of history, etc.).**

**B. Is there anything else you would like to tell us about your visit?**

Only 6 surveys did not contain comments. Of those responding, 74% identified off-leash dogs as special, positive significance at Funston, while 1.6% contained critical comments about unleashed dogs. Several people who don’t have dogs appreciate watching them play in the park.

### **RESPONDENTS COMMENTS**

#### **1. (USPROD-1097-8)**

**A. Ft. Funston is a great place for dogs! Really not much else goes on there.**

**B. If you would change the weather to make it warmer that would be great!**

#### **2. (1099-1100)**

**A. We use it for walking it is very enjoyable being by the ocean, dogs, and nice people.**

B. I know it is hard to keep clean, you do a nice job! You might want more park rangers walking around!!!

3. (1101-2)

A. View & walking. Also dog walking

B. #1 Park.

4. (1103-4)

A. We walk Fort Funston each day. Our only concern is the erosion that is taking place on part of the cliffside path. it could be dangerous.

5. (1105-6)

A. Historical significance, views, ecology, accessibility, safety.

6. (1107-8)

A. Most beautiful spot in Bay Area - very peaceful - people & dogs very friendly.

B. I come from across town almost daily to walk & enjoy the surroundings.

7. (1109-1110)

A. It should be a permanent Historical Park.

B. I hope the park remains as it is now

8. (1111-1112)

A. Hang Gliders, dog walking trails.

9. (1113-4)

A. Most important to me is my dogs are free to run. Pure open space w/ great sense of history Off Leash For Dogs

B. I spend every free spare hour walking Fort Funston with my dogs.

10. (1115-6)

A. Historical Aspect - why Fort Funston was established - part of war effort

FOFUAR00473

GGNRA007214

B. Enjoyed our walk. Our Girl Scout troop walked the Bay Area Ridge Trail section to the north. We are waiting for the south segment to reopen

11. (1117-8)

A. Walking the dogs

B. Clean up the sand on trails more often - put up fence up at coast near bluff

12. (1119-20)

A. Good for dogs.

13. (1121-22)

A. Beautiful beach and dunes, and the ability to bring dogs.

B. Please continue to allow dogs. Is it possible to have a coffee/snack vendor in the parking lot?

14. (1123-4)

A. FREEDOM - Open Space - Geology. [I spend a lot of time here]

B. Restrooms really need attention. Huge puddles of urine. Need more restrooms

15. (1125-6)

A. Beauty, history of our military & war involvement. Critical resource for our family - dog & toddler !!!

B. Wish there was a playground area so our dog & kids can play together vs. a separate trip in each -twice the time & hassle.

16. (1127-8)

A. The ability to walk my dog off leash in a safe and beautiful environment.

B. I like having a ranger on-site.

17. (1129-30)

A. Local

B. I am concerned about the soap suds coming of the

18. (1131-2)

A. We come to Ft. Funston every weekend, sometimes more, with our dog. It is a fabulous, well-run, resource.

B. We only wish there were more off leash dog parks in SF/San Mateo!

19. (1133-4)

A. It's right on the coast, next to the ocean. Beautiful sightseeing

B. I love it, so peaceful, never too busy. Keep it the way it is. Thank you!!

20. (1135-6)

A. Fort Funston (GGNRA) -allows off-leash dogs under voice control. Great!

B. Could use out-houses along trails as well as the existing ones @ parking lot.

21. (1137-8)

A. Hang gliding!

B. Install pay to use telescopes on observation decks for H-G visitors.

22. (1139-40)

A. A place where dogs can run free and people can have a beautiful walk

B. Please maintain Fort Funston as a place for dogs to run.

23. (1141-2)

A. Dogs Rule

B. [illegible]

24. (1143-4)

A. I like the hang gliders. The cliffs & the view are incredibly beautiful!

B. My dogs and I LOVE Ft. Funston and we look forward to going every weekend! It is so much fun to go & walk & visit.

25. (1145-6)

A. Fort Funston was World War II [illegible]

B. [illegible] ..picnics. Fort Funston is clean and kept up well.

26. (1147-8)

A. Dogs run off leash, are controlled by courteous owners who clean up after dogs.

B. Thank you, thank you for providing the park !!!!

27. (1149-50)

A. What is totally unique about Ft. Funston is that dogs are allowed to share it w/ their owners.

B. I am visiting from Austin, Tx. and was most pleasantly surprised to see how it was used. - Dog Heaven!

28. (1151-2)

A. Good for walking and sightseeing on your own - quiet -scenery

B. Good [sic] there daily for peace of mind -visitor center appears closed all the time

29. (1153-4)

A. Off leash dog area, beach access, view

30. (1155-6)

A. The Gorgeous scenery - one of the most beautiful sites

B. One of my favorite places to visit - come once or twice each week (will the paths be renovated?)

31. (1157-8)
- A. The ability to walk dogs off leash
  - B. Please preserve the right to walk dogs off leash.
32. (1159-600)
- A. Stunning views & flying
33. (1161-2)
- A. Great place to walk your dog
  - B. I come here every day at least once if not twice.
34. (1163-4)
- A. It's a wonderful dog park. Please keep it that way.
  - B. The fact that there is such a wonderful place for my dogs to play makes me love S.F. !!
35. (1165-6)
- A. Good place for dog-walking !
36. (1167-8)
- A. Mainly used for hiking. I live in the area and like to use park. I love all dogs on week ends even though I don't own one at present.
  - B. I enjoy the hang gliding as a spectator.
37. (1169-70)
- A. Overlook ocean nice walk good place to walk dogs
  - B. Paths are in disrepair & sand covered.
38. (1171-2)
- A. Views - peacefulness yet so close to the city - natural quality of the improvements.



B. Bicycle rack needed.

39. (1173-4)

A. I love this park because it is exceptionally beautiful, and my dog can be off leash!

40. (1175-6)

A. Beautiful spot in San Francisco re: Fort Funston.

B. Wonder how the erosion can be prevented with the high use the park gets & wind.

41. (1177-8)

A. The weather worn cliffs! It's place in the defense of the country during the war its use during those days -what are those remnants of bldgs?

B. I love Ft. Funston - I love the dogs/the friendships. I love going down to the beach - a wonderful walk!

42. (1179-0)

A. Open Battery Davis for touring. Why hide history beneath the dunes.

B. Replant the trees lost in 80's & 90's MacLaren & others know about shifting sands & hi tides

43. (1181-2)

A. Mostly I stay outdoor on the trails being able to be right and the Pacific & enjoy the outdoors - I usually walk my dog every week end Sat/Sun. at Fort Funston

B. Please maintain as an off leash area & encourage visitors to pick up after their animals.

44. (1183-4)

A. Sand dunes WWII military history.

B. We visit 4 -5 x/wk & appreciate the opportunity to walk our dog off-leash! Thanks!

45. (1185-6)

A. Having the freedom to walk my dog in a beautiful setting.

46. (1187-8)

A. Unique setting, view, Great place to go running.

B. Please build bathrooms!! Port- o- Johns are Gross!

47. (1189-90)

A. Hang gliding location

48. (1191-2)

A. Great scenery, beach access, off-leash dog running - good clean up by dog owners.

49. (1193-4)

A. Dog walk

50. (1195-6)

A. Dog walking

51. (1197-8)

A. Off leash dog park - beautiful view of ocean

52. (1199-1200)

A. Dog walking

53. (1201-2)

A. This is a wonderful place for dogs and their owners; also for hang gliders

B. I come to Ft. Funston to see the dogs - just clean up the restrooms - Thanks

54. (1203-4)

A. Dogs can be off-leash. Great scenery

55. (1205-6)

A. The dog run

B. It is really fun bringing our dog

56. (1207-8)

A. The opportunity to enjoy the natural & quiet atmosphere of Ft. Funston.

B. The bathroom at Ft. Funston smells so bad that I have seen women running from the area unable to stand the odor.

57. (1209-10)

A. Ability to let dog walk free. View of the ocean [illegible] on hiking trails

58. (1211-2)

A. Unique place to hang glide (or watch others hang glide) laid-back, dog friendly atmosphere; seeing nature reclaim the fort ruins & seeing natural processes like erosion , etc. at work.

B. One of my favorite spots in S. F. Rangers always great ! (Long live Park Rangers)

59. (1213-4)

A. A excellent place to walk our dog-off leash. We use this approx. 5 + per week

60. (1215-6)

A. One of the few parks I can take my dog off leash.. Love it!!

61. (1217-8)

A. The history and the exceptional view plus seeing all those dogs enjoy themselves and the cleanness of the Park.

62. (1219-20)

A. Excellent open space area in a metropolitan area.

B. Don't change a thing. Keep it a doggie friendly area

63. (1221-2)

A. It's a wonderful place for dogs to frolic off-leash - Thank you for a wonderful park .

64. (1223-4)

A. Dog walking - hiking

B. Better security - some of the park employees harass the visitors

65. (1225-6)

A. This is beautiful outdoor spot for accessing ocean and it is dog friendly, which is very important to us! And other dog owners are cooperative and educated

B. We love this place and use this park more than any other park in the Bay area.!

66. (1227-8)

A. A beautiful place to let our dogs near & social in the city

B. I hope this place continues to be a place where the community may come together w/ their dogs.

67. (1229-30)

A. Great place to walk dogs

68. (1231-2)

A. The wonderful dogs! They are entertainment - so fun to see the puppies playing together.

69. (1233-4)

A. The best place to hike with our dog! The landscape is unique & beautiful.

B. Would like the bathroom clean, with paper, and not stinky!

70. (1235-6)

A. The unique features and the view.

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GGNRA007222

71. (1237-8)

A. The dog run is great! Probably will use the visitor center & exhibits later as my son gets bigger.

72. (1239-40)

A. Gorgeous views; cliff divers

B. Way too many misbehaving dogs with owners who don't clean up poop!

73. (1241-2)

A. The views & trails & ability to have dogs off leash. My child & dog love Fort Funston.

B. Portapotties are despicable. Need to be cleaned more regularly.

74. (1243-44)

A. Dogs have a great place to play with their owners. It's fun, spacious & allows dogs off-leash. The owners are responsible & nice!

B. This was our first visit with our pet & we're coming back (w/ our friends!). Thanks

75. (1245-6)

A. It is one of the few places a dog has a chance to have fun.

B. Over the years I have watched my favorite spots become fenced off

76. (1247-8)

A. The unique location of this park in S.F.

77. (1249-50)

A. You're part of Nature (you could ? in Ocean ); You're part of History (millions vs. W.W. II \$)

B. I saw the Park Police once and that was when I needed them. I like that.

78. (1251-2)

A. Lovely vista and open expansive dog-walking area!!

79. (1253-4)

A. Dog walking

80. (1255-6)

A. We come here 2-3 times a week with our labs and are so appreciative of being able to hike in such beauty with our dogs.

B. Coming here allows my husband & I to get exercise along w/ our pets & we enjoy the simplicity of the park.

81. (1257-8)

A. Best place to bring dogs in S.F. to exercise & socialize them.

82. (1259-60)

A. Unspoiled, uncommercialized & most importantly Dogs can roam off-leash !!

83. (1261-2)

A. Beautiful park - very clean - thank you for giving us a place to bring our dog!

B. I would like to see more signs or fencing along the cliffs to avoid having dogs go over the edge! Thanks!

84. (1263-4)

A. Nature, recreation, history

B. Clean the sand away off the paths. this is a big problem on the seawalk

85. (1265-6)

A. Once a military fort.

B. Portapotties are too dark inside. The park is beautiful!

86. (1267-8)

A. Beach, cliffs, staircase to beach

B. Ranger pleasant & helpful

87. (1269-70)

A. Beautiful vistas of the ocean & San Francisco. Dogs off leash are welcome - that's great!

B. Clean portapotties more often. Have portapotties at the end of the trail.

88. (1271-2)

A. The view and the dogs and hiking

89. (1273-4)

A. It's where I go to walk my dogs.. Go there 7 days a week - they are off leash here. Would like to less emphasis on Natural Habitat/ & more on maintaining clean solid paths /pavement/ & benches - more bathrooms would be good below

90. (1275-6)

A. Dogs dogs dogs - off leash!!

91. (1277-8)

A. The simplicity of nature - the natural beauty of the area, kept uncommercialized. The ability to walk ones dogs with freedom and responsibility and to enjoy ones own connection to the natural world. Fort Funston is heavenly just as it is!

92. (1278-9)

A. Good view, relaxing!

B. Keep sand off walkways!

93. (1281-2)

A. Fort Funston is where I walk my dogs, with many others. This is its primary function, not, as the rangers seem to think, a botanical experiment.

FOFUAR00484

GGNRA007225

94. (1283-4)

A. The views of the ocean and dog walking

95. (1285-6)

A. The vistas, open space and feeling of being "in the great out doors"

B. I'm a recent regular dog walker & I truly appreciate the freedom & general safety for my dog.

96. (1287-8)

A. One of few off-leash available places to take dog

B. Don't change anything. Few places to take dogs off-leash - lots of parks available.

97. (1289-90)

A. Fort Funston is a wonderful place to take your dog, overlooks the ocean & it is breathtaking on a sunny day.

98. (1291-2)

A. It is the best dog walking park anywhere. That and Hang Gliding are what it's used for. The Porta Potties are disgusting

B. Some areas of the trail/roadway are falling apart. It's a nice place to walk and walk your dog.

99. (1293-4)

A. Leash free dog access to the Beach!

B. We love bringing our dog here - we drive 45 minutes to get here.

100. (1295-6)

A. Fort Funston is sooo beautiful I come here almost every day

B. The fact that dogs can run off-leash is fantastic PLEASE KEEP THIS POLICY !! Fort Funston is a case of my tax dollars working like they should. Thanks!

FOFUAR00485

GGNRA007226



101. ( 1297-8)

A. Good access to walking at the ocean; unspoiled by commercial services.

102. (1299-1300)

A. That dogs are allowed off lead.. Very important for their proper exercise.

B. We come every day because of your dog policy

103. (1301-2)

A. That it is an off-leash area - where we can enjoy the surroundings with our dog!!!

B. Thanks for fixing the stairs down to the beach please keep this an off leash area forever!!!

104. (1303-4)

A. That it is one of the very rare off-leash dog areas in San Francisco

B. A great place to go for a hike with the dog!

105. (1305-6)

A. A wonderful & unique place for dogs & their owners to roam & enjoy freedom

B. I am VERY impressed how most dog owners scoop the pet's poop!

106. (1307-8)

A. This is the best dog park on the face of the earth

B. The benches are about to fall over (undermined)

107. (1309-10)

A. Spectacular view of Pacific Ocean and undeveloped terrain

B. Too many unleashed/uncontrolled dogs.!

108. (1311-2)

A. Beautiful ocean hiking trails, sky diving and dog walking trails, bunkers from WWII (History).

B. There are very few remaining dog walking areas. Please keep this area available.  
Thank you

109. (1313-4)

A. A great ocean view, separated from the noise of a crowded city.

110. (1315-6)

A. seashore, sand dunes & cliffs, open space-lots of it, history- best dog run in USA-  
hang-gliding -scenic

B. Fort Funston is a great place for joggers & dog lovers ( it's DOG - HEAVEN!) I love it  
!

111. (1317-8)

A. The presence of nature in the City including a valuable resource for dog walking

B. The GGNRA should permit dog walking on Ocean Beach from Sloat to the Cliff  
House - a SF tradition!

112. (1319-20)

A. friendly place for dogs [illegible]

B. I go to Fort Funston several times a week it is a wonderful place.

113. (1321-2)

A. Beautiful sights. Heavily used. Needs care! Great potential

B. Use regularly

114. (1323-4)

A. The best off-leash, beautiful place near the city for dog owners and their dogs to get  
some exercise and enjoy beautiful scenery

B. Thank you for keeping Fort Funston an off-leash area for dogs and dog owners. I use it  
at least 3- 4 times per week.

115. (1325-6)

A. I am able to walk my dog off-leash amid spectacular beauty

FOFUAR00487

GGNRA007228

B. I want to continue the privilege of walking my dogs off-leash

116. (1327-8)

A. Dog run, a lot of people to meet & socialize.

117. (1329-30)

A. History, view, and off leash dog pk

B. I come here every day to walk my dog. Could use more toilets.

118. (1095-6)

A. The dogs, the people who bring their dogs, the beautiful ocean views & the kites & hang gliders

B. Your maintenance guys are great, your rangers are very helpful. A few more potties on the trail would be wonderful

Unnumbered (1079-80)

A. I enjoyed seeing all different kinds of dogs playing and walking at the park

Unnumbered ( 1083-4)

A. My young kids (ages 3 - 7) enjoy the hiking - the trails are not too steep

6 surveys w/ no comments (1081-82; 1085-94)



SAN FRANCISCO  
SPCA

August 16, 2000

*S. Sheen*  
*Cy: B. O'Neill*  
*M. Scott*  
*C. Powell*

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Superintendent  
Fort Mason, Building 201  
Golden Gate National Recreation Area  
San Francisco, California 94123

Dear Mr. O'Neill,

Thank you for your letter of August 3, 2000. I will assure you, as I did in my July 13, 2000 letter to Chris Powell, that The San Francisco SPCA is willing and ready to work with the National Park Service ("NPS") on off leash dog walking issues within the Golden Gate National Recreation Area ("GGNRA").

I must say, however, that we do not believe the NPS has any cause to be disappointed with the tone of our July 13 letter. If anyone has cause for disappointment, it is The SF/SPCA. Over the years, we have been promised repeatedly that recreation opportunities would not be limited, that off leash dog-walking areas would not be closed, that you would contact us before altering land use arrangements, and that public hearings would predate proposed changes. Your promises have been repeatedly broken.

We also do not believe that off leash dog walking is a privilege, which the NPS can revoke at any time. To the contrary, we believe off leash dog walking is an important community right, which we are willing to defend. Legislative history concerning the GGNRA conclusively shows that recreational activity was an intended purpose. Most of the San Francisco unit was originally city parkland donated to GGNRA after the park was established. To address concerns from city officials and citizens over the release of this land to the federal government, certain unique restrictions were inserted into the enabling statute.

In particular, the GGNRA was established for "maintenance of needed recreational open space necessary to urban environment and planning." (16 U.S.C. Section 460bb.) Relying on this language and representations by city officials that this was merely a "technical resolution" that would not affect "recreational use by all citizens," the people of San Francisco approved in 1973 a Charter Amendment Proposition F, which permitted the transfer of these city parks to the federal government.

FOFUAR00489

Mr. Brian O'Neill  
August 16, 2000  
Page two

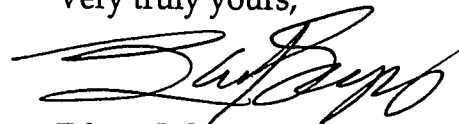
Legislative history and "land use planning" events developing the general plan and natural resources plan further confirm that the NPS understood that off-leash recreation was a "recreational" activity "necessary to urban environment." As evidenced by its name, the Golden Gate National Recreation Area is a *recreation* center, surrounded by a heavily populated urban environment. And it is the GGNRA's recreational value that was of the utmost importance to the Congress that established this great urban park. In their words, the GGNRA was to be a "new national urban recreation area which will concentrate on serving the outdoor recreation needs of the people of the metropolitan region," and its objective was "to expand to the maximum extent possible the outdoor recreation opportunities available in this region." (H.R. Rep. No. 1391, 92<sup>nd</sup> Cong., 2<sup>nd</sup> Session (1972). The use of these parks specifically for off-leash recreation was addressed during the hearings before the U.S. House of Representatives, and dog walking was an enumerated activity in the U.S. House Report (H.R. Rep. No. 1391 at p. 4854.)

In addition, after extensive public hearings culminating in the 1979 Pet Policy, the GGNRA Citizens Advisory Commission designated Fort Funston, Lands End, Ocean Beach, Fort Miley, Baker Beach and Crissy Field for continued off-leash recreational activity.

We also believe the public is fully behind our efforts to protect and preserve off leash dog walking within the GGNRA. Indeed, the NPS' own 1999 Fort Funston study shows that 74% of people surveyed identified off leash dog walking as that which made Fort Funston "special." Less than 2% had concerns about dogs.

Mr. O'Neill, please know that The SF/SPCA continues to be ready to work with you regarding off leash dog walking throughout the GGNRA. If you would like to meet to discuss this further, I would be happy to meet with you. In return, we ask that the NPS work with us openly and honestly, as well as honor its past pledges and promises.

Very truly yours,



Edwin J. Sayres  
President

FOFUAR00490

GGNRA007231

~~SECRET~~  
Annals

FOFUAR00491

28 Thursday, September 21, 2000 \*

SAN FRANCISCO EXAMINER

# Supervisors seek role in Funston dog war

## Yee asks for review of City's deal with U.S. Park Service

By Katherine Seligman  
OF THE EXAMINER STAFF

The dog fight at Fort Funston moved downtown Wednesday, with city supervisors calling for a legal opinion on whether they can

get involved in a National Park Service decision to close off portions of the popular recreation area.

Supervisors on the Finance and Labor Committees made their request after a public hearing called by Leland Yee on the closures that have rankled dog walkers, hikers and the disabled. Park users testified with poetic pleas and downright outrage about how ever-growing parts of Fort Funston are

being roped off, violating what they see as the National Park Service's original obligation to 'The City.'

'This area has meant so much to so many,' said Eleanor Vincent, a semi-retired psychotherapist who walks there frequently. 'The (National Park Service) has not kept faith with the city of San Francisco. ... Standing on the bluffs in a howling wind, or at a glorious sunset, or in the fog when

the air is so still there is a blinding of beach, ocean and sky, is to know one's place in the scheme of things.'

Park users told supervisors that the City needed to monitor the agreement that turned over management of Fort Funston to the National Park Service to make sure the area remained open for recreation. They said the piecemeal closing of about 20 percent of the park was a betrayal of the

agreement's intent.

A group that calls itself the Fort Funston Dog Walkers has sued the Secretary of the Interior and National Park Service over the closure, which includes more than 6 miles of fences and makes favorite fields and hiking areas inaccessible. The dog walkers say the park service violated its own regulations by failing to hold public hearings. A federal court judge agreed, and the agency is now gathering public



FOFUAR00492

SAN FRANCISCO EXAMINER

# k role in Funston dog war

being roped off, violating what they see as the National Park Service's original obligation to The City.

"This area has meant so much to so many," said Eleanor Vinzant, a semi-retired psychotherapist who walks there frequently. "The (National Park Service) has not kept faith with the city of San Francisco. . . . Standing on the bluffs in a howling wind, or at a glorious sunset, or in the fog when

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comment through Oct. 6.

Officials from the Golden Gate National Recreation Area, who were not at Wednesday's meeting, have said the fences are needed to protect land that provides a safe habitat for bank swallows nesting on the cliffs and for native plants.

Park ranger George Durgarian, who works at Fort Funston but emphasized he wasn't speaking for the park service, said that rangers weren't interested in wholesale closure of Fort Funston to recreation.

"We just want a balance," he said, one that would "provide enjoyment and protect the environment."

Several speakers said they retreated to Fort Funston to escape the stress of living in a crowded city. They said they were finding fewer and fewer such places, particularly ones that allow dogs off leash.

Dogs have been permitted at Fort Funston since the Army gave the land to The City in 1961. The City gave it to the National Park Service in 1972, which unofficially allowed dogs off leash until the early 1990s, when it began to change its policy.

Technically, said Steven Krafting, a representative of the National Parks Conservation Association, dogs are required to be on leashes on all park service land.

"We do believe that dogs should be on leashes and keep to trails," he said. "The swallows are threatened, and I would think The City should be proud of protecting the swallows."

But other speakers Wednesday questioned the science behind the park service's decision, saying the decrease in swallows at Fort Funston had more to do with land erosion and other environmental conditions than with disturbances from humans and dogs.

They said the native plants could be cultivated elsewhere. Fort Funston, they said, has been a favorite spot for dog walkers and hikers for decades. Nancy Barber, who identified herself as an "environmental investigator," said the park service had developed an "ethereal land management theory" to return designated areas to "pristine condition."

The park service is trying to say that "it would be better if there were no humans" at Fort Funston, she said.

Linda Shore, a physicist at the

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cessity.

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think it sounds right either.)

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At Vitamin Shoppe, we have always viewed vitamins as an essential part of a healthy life, not a luxury. That's why we discount over 400 brands and 18,000 products every day. And right now we are taking 30% off all brands and 40% off our Vitamin Shoppe Brand (discount off suggested retail pricing). You can find these savings online, in our catalog, or when you visit us at any of our 80-plus stores. Rest assured, you'll find these savings anywhere you find us.



she called "the bad science" behind the park service's decision. Bank swallows are common, she said. Contrary to what the park service claims, she said, geologists find the area is tolerant of human disturbances.

Supervisor Tom Ammisano said he believed the two divergent sides could come up with a solution, one that would require "give and take on both sides."

Supervisor Sue Bierman also called for finding some balance, though she said she thought "people's happiness and people's enjoyment is the most crucial thing unless it's doing real harm."

"I worry about the native plants," she said, "but I guess I'm more a people person."

Yee said it was "extremely important that the city of San Francisco retains control of Fort Funston."

"It is our land," he said. "We gave it to the federal government."

Yee asked the city attorney's office to examine the terms and conditions of the conveyance to the park service and the extent to which the City had control over the land. He also asked for a determination of whether the park service's basis for closure was sufficient and whether there were alternatives.

Yee said supervisors had been briefed by park service officials on the situation at Fort Funston. Although officials thought it was inappropriate to attend the meeting, Yee said, they are "intensely monitoring it."

"What struck me in letters I've received and in testimony today is ... how this experience affects people's lives," said Yee. "There are not a whole lot of places to find tranquility."

## Alaska Airlines seeking to settle all suits in crash

ASSOCIATED PRESS

Alaska Airlines says it wants to settle a lawsuit stemming from the Jan. 31 crash off Point Mugu, Ventura County, that killed all 88 aboard.

"We would like to settle for 100 percent of the claims," the carrier's attorney, Mark Dombroff, told a federal judge Wednesday in a court hearing filled with nearly four dozen lawyers representing Alaska

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we take vitamins seriously.

FOFUAR00494

# LETTERS TO THE EDITOR

## Off-leash at Ft. Funston

How can it be that the Board of Supervisors is suddenly bewildered over off-leash dogs at Fort Funston? ("Supervisors seek role in Funston dog war," Sept. 21). This sudden flurry to "monitor" the National Park Service can only muck up a problem the supervisors have had no success controlling in their real area of jurisdiction.

Supervisor Leland Yee should realize that if The City gave the land to the Golden Gate National Recreation Area for safekeeping, and then something happens that he isn't even sure he can do anything about, he can't try to take the land back.

Dog owners have worn out their gripe that they have not been heard on this issue.

Since suing the Golden Gate National Recreation Area hasn't gotten them the outcome they demand, they go cry-babbling to the Board of Supervisors, whose political expediency since the early '70s, has gotten us in this off-leash mess all over The City. This won't help any of them get re-elected.

The Golden Gate National Recreation Area had turned a blind eye to off-leash activity since 1972 when it acquired Fort Funston. Dog owners had their chance to do the right thing then, but didn't, so restrictions had to be clarified in the '90s.

Dog owners' thin complaints have not shown why bank swallows, delicate sand dunes, crumbling cliffs or anything in nature should not be protected from indiscriminate misuse on only 12 acres out of 230 at Fort Funston.

We need the Board of Supervisors to safeguard our interests on streets and in our neighborhood parks and define some crystal-clear policies that don't confuse the needs of children with what owners want for their dogs.

Help dog owners understand that by choosing to own animals, they take on the responsibility to insure that their activities do not interfere with the quality of park-going for their neighbors.

ANDREA O'LEARY  
San Francisco

To clarify an error made in your story about the presentations made at the Leland Yee hearings on Fort Funston: I was the physicist who presented information about the "bad science" used by the National Park Service.

I was quoted as saying that the bank swallow is a common species, suggesting that the colony at Fort Funston does not merit protection. This is not correct.

I fully recognize that the bank swallow colony at Fort Funston is one of two coastal colonies of bank swallows in California.

Because its nesting behavior is unique, the colony merits protection.

However, I was questioning whether fencing off of huge portions of the park for native plant restoration is necessary to support the colony — a claim the National Park Service has made on numerous occasions.

I have consulted various experts across the country and have read the research literature on bank swallows. At the hearing I stated: "Bank swallows are common throughout North America and have been studied extensively. Yet researchers have never found any binding association between bank swallows and any particular species of plant, native or not."

LINDA SHORE  
San Francisco

S.F. EXAMINER  
26 SEPT 2000  
A-12

FOFUAR00495

GGNRA007236

## Dogs and owners abusing Fort Funston

I was at the August 29 GGNRA Commission hearing ("Public process on Fort Funston closure a sham, dog owners howl," September 5). Dog owners have dominated meetings about their dogs' over-running of parks and wilderness areas for years. The reporter was wrong — dog owners have long had their chance to complain of the closure at Fort Funston, and have done so.

They spent all night disturbing the proceedings. They denied all responsibility for their part in the destruction of the sensitive elements that make Fort Funston the marvel that it is. Insensitivity, arrogance, and spoiled self-centeredness ruled.

They lack the foresight to see the value in safe-keeping this beach in our urban midst for long after they and their dogs are dead, buried, and forgotten. It is prudent to err on the side of protecting endangered bank swallows and restoring the beaches.

ANDREA O'LEARY

I support the GGNRA's recommendations to close off certain Fort Funston areas to dogs. Safeguarding endangered animals and maintaining and protecting the habitat are the highest priorities.

For years the natural qualities of Fort Funston have been significantly degraded and cheapened by the controlling impact of dogs. It is painful to witness the abuse of the natural features that still endure in the area. The deteriorated physical conditions at Fort Funston manifest a disregard for the rights of resident plants and animals, as well as other park users, who must be on guard waiting for the next dog to come from behind or in front or from around the corner.

It will take dedication by the Park Service employees to turn things around, but they should be allowed to do so.

RICK E. THURBER

S.F. INDEPENDENT  
16 SEPT. 2000  
P-6A

FOFUAR00496

A20 1/10/01

## Preserve Fort Funston

Editor — Regarding a letter to the editor (Jan. 6) about a decision to close off 12 acres of Fort Funston to off-leash dogs: Many of us who value Fort Funston as a recreational area are in complete agreement with the National Park Service's sensible rules for preserving the natural environment of the dunes and beach.

The area that has been closed off is only about 5 percent of the 230 acres that make up Fort Funston. The preservation of native plants and endangered birds makes the entire beach area more beautiful for all of us.

The areas that have been restored to native plants are much more alive than they used to be. The birds have returned as well as butterflies and other insects. The whole area is more inviting and enjoyable because of the change.

The bank swallows are an important part of that environment. Having a few acres of a large park closed to dogs and pedestrians is a small price to pay for the increased beauty.

Fort Funston is supposed to be a recreational area for all users, not just for dog owners. While I understand the desire of some people to let their dogs run free, they must know that their freedom can hurt other creatures and people.

It has become impossible for me to go to Fort Funston with my niece and her two young boys because the unleashed and often uncontrolled dogs are frightening to young children. We need to work together to keep the park accessible to all of the people in the Bay Area who enjoy this unique natural location.

ADELE FASICK  
San Francisco

M. Scott  
G. B. O'Neill  
R. Weisman  
C. Powell  
L. Scott  
N. Walchall  
D. Mannel  
J. Kuan  
R. Barys  
H. Levitt  
G. Merkle  
D. Hatch

OPTIONAL FORM 99 (7-90)

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# OPINION

## Letters

### Fort Funston closure a good idea

Your article about the decision to close off 12 acres of Fort Funston to off-leash dogs ("Fort Funston puts visitors on short leash," December 23) gives the impression that all of the users of Fort Funston are dog owners who want open access to the entire area. This is not true. Many of us who value Fort Funston are not opposed to sensible rules for preserving the natural environment of the dunes and beach.

The preservation of native plants and endangered birds makes the entire beach area more beautiful for all of us. The areas that have been restored to native plants are much more alive than they used to be. Birds and butterflies have returned to the area. The whole area is more inviting and enjoyable because of the change. The bank swallows are an important part of that environment. Having a few acres of a large park closed to dogs and pedestrians is a small price to pay for the increased beauty.

Fort Funston is supposed to be a recreational area for all users, not just for dog owners. While I understand the desire of some people to let their dogs run free, they must know that their freedom can hurt other creatures and people. It has become impossible for me to go to Fort Funston with my niece and her two young boys because the unleashed — and often uncontrolled — dogs are frightening to young children.

We need to work together to keep the park accessible to all of the people who want to use it, and must not allow it to be taken over by one special-interest group like the dog walkers.

ADELE FASICK

### Office space might be available

With regard to your recent story concerning the city's need for affordable office space ("Now City Hall feels rent pinch," December 19), when I was working for the city and county of San Francisco in the 1950s, the Public Welfare Department had an office at 150 Otis Street. The building appears to be vacant now.

While it is not directly in the Civic Center area, 150 Otis is near it. It is close to public transit and has some parking available. It would be interesting to find out whether this space might reduce the need for rental offices.

FOSTER JONES

### Will Willie resign?

Will Willie L. Brown Jr. resign as mayor in 2001? The December 2000 runoff for district supervisors was an indication of how low Willie Brown's popularity has plummeted. With no district supervisors in his pocket, Brown will become a true lame-duck mayor who will fail to pass any legislation to begin to solve problems involving homelessness, the lack of affordable housing, public transit, and so on.

I predict that Mayor Brown will resign from office sometime in 2001.

The Committee to Recall Willie Brown will resubmit an updated recall petition in January and will begin gathering voter signatures over a five-month period to qualify the recall for the November general election. The recall effort, whether it succeeds or fails, will keep pressure on the mayor to do his job or face being fired by the voters.

With a Republican president and John Ashcroft as attorney general, the FBI and the Justice Department may step up their investigations of corruption in San Francisco government and Brown may make a final backroom deal to step down to avoid prosecution. I can see him saving face by saying that he will step down to take a less stressful, higher-paying job that better utilizes his fund-raising and deal-making skills.

The person elected to be the new president of the Board of Supervisors will become mayor if Brown resigns.

Every concerned San Franciscan should call and write their district supervisor today and ask the supervisor to elect the board president that he/she believes is most qualified to work with the board and govern our diverse city as mayor.

For more information on the recall or contact information for all supervisors, visit our Web site at [www.RecallBrown.com](http://www.RecallBrown.com) or call 661-3600.

JIM R

FOFUAR00498

GGNFA007239

to the editor:

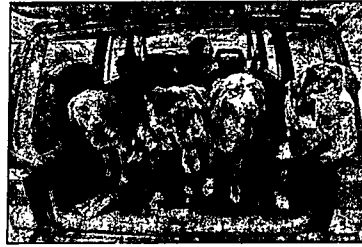
BAY AREA  
AND CALIFORNIA

MONDAY, AUGUST 7, 2000

## BAY AREA FOCUS

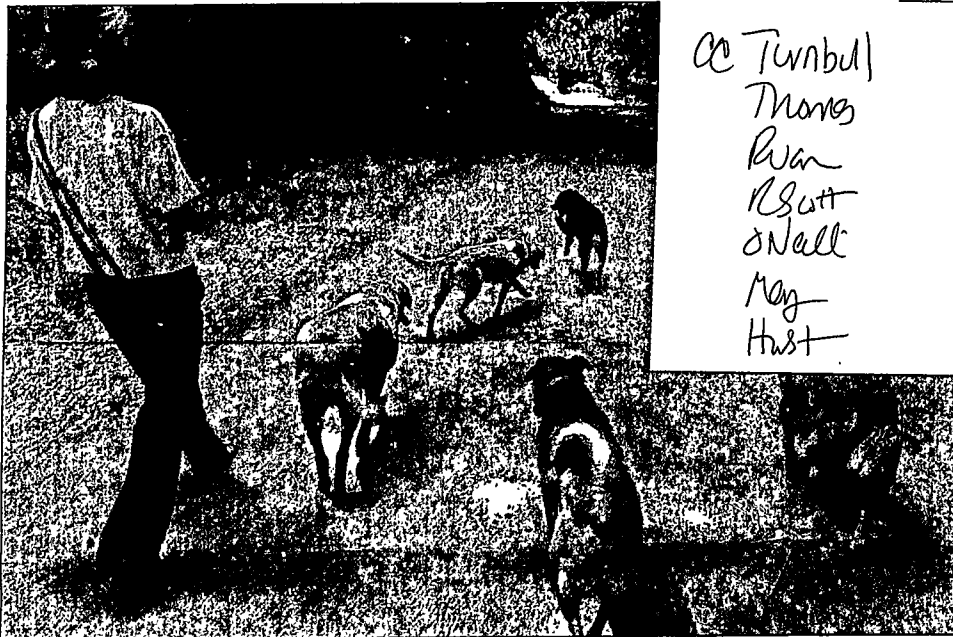
## 3-Dog Fight

Attempts to put a leash on the number of dogs allowed on Bay Area trails raise a howl of opposition



Photos by CHRIS STEWART / The Chronicle

A half dozen dogs dutifully hopped into Liz Campana's vehicle following a walk near Fairfax.



@ Turnbull  
Thom  
Ruan  
R. Gatt  
O'Neill  
May  
Hust

If a plan being considered in Marin County is adopted, Liz Campana would not be allowed to walk more than three dogs at once.

By Torri Minton  
CHRONICLE STAFF WRITER

**F**ree-range dog issues are provoking a pack of messy fights over just who, and what, has the right to roam the Bay Area's popular regions of public open space.

On one side are those who say hordes of unruly canines have scared and even attacked people, horses, wildlife and other dogs, and treat park trails like toilets.

On the other side are hundreds of dog-lovers who argue passionately that proposed restrictions on the number of dogs one person can walk would unnecessarily subjugate friendly canines, upset their human families, and ruin dog-walking businesses.

"They say dogs are being used as scapegoats for the problems caused by growing numbers of people moving to the Bay Area and enjoying the outdoors.

"I think dogs are getting the short end of the stick," said Andrea Starn, a spokesperson for Dog Walkers of Marin, a group of more than 15 businesses that walk about 1,500 of the estimated 70,000 dogs in the county.

"It's a hard issue. Especially in this county, dogs are like children," said Brett Balint, owner of Marin Doggy Day Care in Corte Madera.

The Marin County Parks, Open Space and



Some of the opposition to unleashed dogs on Bay Area trails was generated by concerns about the contact between the canines and children.

Cultural Commission is considering a plan that would limit the number of dogs one person can walk on open space land to three. There is no limit now.

Balint likes the idea of the three-dog limit, saying he has seen too many dogs become overly friendly and knock people down.

But Starn, who is the owner of Moondoggy Dog Walking Adventures and walks six to

eight dogs at once, says the plan "would kill us."

"A lot of us have been crying, screaming and running around in circles because we don't know the political process and we don't want to lose our businesses," Starn said.

Similar restrictions are being considered in

► DOGS: Page A19 Col. 1

Recording  
In Plans  
Housing  
Money still needed

By Jaxon Van Derbeken  
CHRONICLE STAFF WRITER

The San Francisco Housing Authority hopes to set up recording studios in the housing projects to ease tensions, following a string of killings that police believe were triggered by fights over rap music supremacy.

As part of the Housing Authority's "crime abatement program," the agency would team up with the city to convert areas into studios in four housing projects — Sunnydale in Visitacion Valley, Potrero Terrace on Potrero Hill, Alice Griffith in Bayview and Harbor Road in Hunters Point.

Refurbishment of areas earmarked for studios in Sunnydale and Harbor Road is expected to be finished in weeks, according to housing officials. No equipment has been purchased, however, and the plan has yet to get the final stamp of approval.

The Housing Authority's executive director, Ronnie Davis, said last week that he has been in talks to create the studios but is still looking for money to complete the project, possibly from private foundations.

"We're getting a lot of positive input on this, especially from the young adults out in the developments," said Michael Roetzer, a spokesman for the agency.

Under tentative plans, the Housing Authority would put up \$80,000

► HOUSING: Page A18 Col. 5

MATIER & ROSS  
are on vacation

High-Tech  
Schools Sw

Summer fellowships  
add to teachers' talents

By Julie N. Lynem  
CHRONICLE STAFF WRITER

Mark Bolton does not want to join the dot-com revolution.

As a third-grade teacher at Buena Vista Alternative Elementary School, a kindergarten to fifth-grade Spanish immersion school in San Francisco, he is quite comfortable working for curious 6-year-olds.

But although Bolton has no plans to trade in his colorful classroom for a drab cubicle, he did not pass up the chance this summer to step inside Silicon Valley's fast-paced, high-tech world. Instead of vaca-

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Cartoon-Like Electric 'Egg' Cruisers Tackle S.F. St

# Limits Worry Canine Walkers

► DOGS  
From Page A17

Contra Costa and Alameda counties, where about 500 people have united as the Public Pooch to oppose proposed limits in the East Bay Regional Park District.

"Real and imagined crowding and conflict on popular trails between dog owners and non-dog owners is being used as a rationale to restrict dog access at key places," said Emily Rosenberg, founder of the East Bay group.

"We see over and over that this park district and others will use any little excuse to limit dog access when there is a competition for resources or any sort of perceived problem managing the parklands."

The East Bay park district is considering limiting the number of dogs per person to two or three — unless you have a permit. As in Marin, the number of dogs per person now allowed on East Bay regional parklands is unlimited.

The problem, officials say, is that the number of people and dogs walking the trails has increased tremendously in the past few years — and so have the number of dog conflicts.

"Dogs are kind of in fashion now," said Jerry Kent, assistant general manager of operations for the East Bay park district. "It puts more pressure on the parks, and we have to do something to keep a handle on it before we get a situation that is unsafe or unhealthy."

The American Veterinary Medical Association estimates that 31.6 percent of households nationwide have dogs. That would put the East Bay dog population at 250,000 or more.

While most dogs and dog owners

*"A three-dog limit per person is fine. They could still have their businesses. Everybody's money hungry — greedy, greedy, greedy."*

LINDA CASSIDY  
Dog-walker for 25 years

are law-abiding, some dogs have tried to nip and chase joggers, scared old and disabled people, and even attacked children, said Li. Pete Small of East Bay regional parks.

In October last year, he said, two children on bicycles were bitten in a leash-free park, Point Isabel in Richmond. The children suffered multiple punctures, cuts and bruises on their legs, stomachs, backs and shoulders after they rode past three dogs — a German shepherd, a Doberman mix and a pit bull, Small said.

Small, and others who favor dog limits, say the issue is control. Even off-leash dogs must be under voice control at all times on East Bay and Marin trails. Many, but not all, professional dog-walkers say they do have control over their multiple dogs, and say they are being blamed for the bad behavior of other people's poodles.

"I had eight dogs this morning

## BAY AREA



CHINA STEWART / THE CHRONICLE

Professional dog-walkers say the canines are bearing the brunt of additional pressures being put on Bay Area parks and trails by a growing population.

and seven this afternoon," said Kevin Hyland, co-owner of Marin Adventures for dogs in Sausalito. "They always come when I want them to. They always pop back into the van like eight little soldiers."

A three-dog limit would not only wreck his business but also "ruin the experience for the dogs," he said. "The dogs are training the other dogs as new dogs come into group. ... You start with the best dogs and add other dogs and they copy — that's the untold story. ...

"The irony is, these dogs are the best socialized dogs in the county." But some professional dog-walk-

ers say that other professional dog-walkers are just whining over money. "A three-dog limit per person is fine," said Linda Cassidy, who has been a dog-walker for 25 years. "They could still have their businesses. Everybody's money hungry — greedy, greedy, greedy."

Cassidy, co-owner of Pets-R-Us in San Rafael, uses a client's huge yard as a private dog park. She takes care of 200 to 300 dogs, and said many of them don't go for walks in groups because they don't get along with other dog groups.

The Marin Humane Society has

proposed a compromise: limit the number of poodles on open space land to six per person, three on-leash and three off-leash. Slam of the dog-walkers group likes that idea.

Meanwhile, a good number of dog owners are worried that their dog-walkers could indeed go out of business.

Clients like Anthony Grimaldi and his wife can walk their dogs in the morning and evening but have no time for doggy exercise in the middle of the day. For this, the Fairfax couple, who both run businesses and have a new baby, need a paid

dog-walker. Balancing a cell phone, a briefcase and a notebook, Grimaldi pleaded with the Marin Open Space commission recently to loosen their proposed dog restrictions. Without a professional dog-walker, he said, "Guess what? The dogs would have to go back to the pound where they came from."

The proposed new dog limits are expected to be decided by the Marin County Board of Supervisors and the East Bay Regional Park District sometime this fall.

E-mail: Torri Minion at torri@sfgate.com.

FOFUAR00500

**Missing Woman's Friend**  
**Suspect Shot to Death**  
By Sunnyvale Police

SATURDAY, DECEMBER 23, 2000

# Fort Funston puts visitors on short leash

Director of GGNRA closes 12 acres to all use year-round; Yee looks into contract breach

By Edith Alderette  
STAFF WRITER

The final word on erecting more fences at Fort Funston is in, and those who regularly use the beachfront area are fuming.

Off-leash dog walkers and advocates for animals had expected that their access to Fort Funston would be severely limited by Golden Gate National Recreation Area general superintendent Brian O'Neill when the GGNRA's advisory commission, citing the need for wildlife preservation, recommended last month to allow park users to walk tethered dogs only on established trails.

But O'Neill's final decision, released on December 18, even exceeded those expectations by completely closing 12 acres of the fort's north end to all visitors year-round. The move has park users furious and city supervisors positioned to begin a legal battle to take back the land.

Fences are expected to go up sometime in January.

"[The decision's] pretty disappointing," said Ed Sayres, president of the San Francisco SPCA. "I figured the advisory commission had a much more moderate proposal. I never expected this kind of reaction."

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"Ample alternative recreation opportunities exist within Fort Funston and the other areas in the GGNRA," he concluded.

The bank swallow, a migratory bird that nests in Fort Funston's bluffs in the spring months, has been registered as a threatened species in California.

Within a week of the announcement, the legal gears at City Hall started turning. Supervisor Leland Yee began to more closely examine whether the GGNRA was going through the proper processes to legally erect the fences and whether closure would constitute a breach of the city's contract with the GGNRA.

The agreement between the city and the GGNRA was included in the land deed written when the city gave up ownership of Fort Funston in 1975.

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Leland Yee

See FUNSTON, page 10A

FOFUAR00501

GGNRA007242



PAGE 10A

THE INDEPENDENT

# FUNSTON: Twelve acres locked up

*Continued from page 1A*

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He will also be checking back in with the City Attorney's Office, which the full Board of Supervisors ordered to examine the possibility of repossessing the fort because it was not being maintained for "recreational or park purposes" as required by the deed.

"I think that it's absolutely outrageous for a federal agency that's in the backyard of the city to act in this brazen manner," Yee said. "It's interesting that they continually say they want to be the friends of the neighbors, but they ignore the voice of the people of the citizens of San Francisco."

During the public-comment period regarding the closure, the GGNRA received more than 1,500 responses from park users, 1,100 of which opposed fencing off the area entirely.

With this newest closure, the GGNRA will have fenced off a total of 43 acres of ocean bluffs and beach-access areas in the



PHOTO: PA TORRELLU

Dogs such as these, as well as their owners, will be completely barred from 12 acres of Fort Funston under an order recently announced by the superintendent of the Golden Gate National Recreation Area.

believe that the closure is the latest attempt to make Fort Funston a native-plant preserve and would not rule out legal action to prevent the barricades from going up.

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Sayres said that his organization, too, would monitor the progress of the closure plan through the Planning Commission and, eventually, at the Board of Supervisors.

220-acre Fort Funston since 1991 and removed several trails frequented by dog walkers and disabled and elderly bikers.

Boesch says members of dog-walking groups like Fort Funston Dog Walkers and San Francisco Dog Owners Group

FOFUAR00502

GGNRA007243

# Park service to fence off Fort Funston acreage to protect threatened birds

By Mike Zapler  
Mercury News

A rare bird has moved into a popular recreation area of Fort Funston. And now people and dogs have to move out.

The National Park Service announced Monday it is fencing off a popular dog-walking stretch of Fort Funston in order to protect a threatened California bird, the bank swallow.

The closing of the 12-acre area along the coast will take effect in January, blocking pedestrian and

dog access to undesignated trails such as "the Gap" and designated trails including the so-called "Spur Trail."

The idea of closing the trail was hatched more than a year ago, after bank swallows began migrating from northern parts of Fort Funston to southern areas more heavily used by the public. Citizens filed a lawsuit to stop the closing and a judge mandated that the park service hold a public comment period before it erected fences around the area.

About 1,500 people weighed in on the proposed closing, including many from environmental groups and many dog owners.

Although the fences have already been erected, the actual closing won't take place until a notice is printed in the Federal Register in January.

The bank swallows "have moved their nesting area south, and we have an obligation to protect them wherever they choose to nest," park service spokeswoman Christine Powell said.

Most of the environmental problems stem from people and dogs walking on sand dunes along the cliff, where the birds nest. Sometimes they fall over the side and have to be rescued, Powell said. But they also speed up coastal erosion and threaten native plants, she said.

The 220-acre Fort Funston, part of the Golden Gate National Recreation Area, is one of two breeding areas for bank swallows; the other is the El Estero Nuevo State Reserve, about 55 miles south of San

Francisco.

Powell said that the park service is studying the feasibility of building a trail through the closed-off area.

"Dog walking is an important activity in the Golden Gate National Recreation Area," she said, "and we certainly want to find a way to protect resources but still allow this activity to go on."

Contact Mike Zapler at  
mzapler@mercury.com or (415) 394-5876.

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FOFUAR00503

12/19/2000

to Mary

## AU REVOIR



PHOTO: RORY McNAMARA

*H. de Young Memorial Museum will close its doors December 31 and the old museum buildings will be demolished to make way for a new structure with a more modern look. The museum will reopen in 2005.*

## Final days for old de Young

By RORY McNAMARA

After 86 years, the current incarnation of the H. de Young Memorial Museum will close its doors December 31 to make way for construction of a new, more modern building, scheduled to open in 2005.

The current building, containing a series of galleries built from 1919 to 1965, became an instant success, with millions of visitors

from all over the world passing through its doors. It sustained irreparable damage in the 1989 Loma Prieta earthquake, necessitating its reconstruction.

To give the old building a fitting send-off, a week of programs and events celebrating its presence in the city will be held Tuesday through Sunday, December 26 through December 31. These events have been planned by the Fine Arts

See DE YOUNG, page 3A

## Fort Funston puts visitors on short leash

Director of GGNRA closes 12 acres to all use year-round; Yee looks into contract breach

By Edith Alderette  
STAFF WRITER

The final word on erecting more fences at Fort Funston is in, and those who regularly use the beachfront area are fuming.

Off-leash dog walkers and advocates for animals had expected that their access to Fort Funston would be severely limited by Golden Gate National Recreation Area general superintendent Brian O'Neill when the GGNRA's advisory commission, citing the need for wildlife preservation, recommended last month to allow park users to walk tethered dogs only on established trails.

But O'Neill's final decision, released on December 18, even exceeded those expectations by completely closing 12 acres of the fort's north end to all visitors year-round. The move has park users furious and city supervisors positioned to begin a legal battle to take back the land.

Fences are expected to go up sometime in January.

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As a small consolation, O'Neill stated in his ruling that the GGNRA's controlling agency, the National Park Service, would study the option of removing some of the fences sometime in the future to allow on-leash dog walking on designated trails within the closure area.

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Yee said he would call for a City Hall hearing to determine if the GGNRA had submitted plans for erecting fences around the 12 acres to the city's Planning Department.

See FUNSTON, page 10A

FOFUAR00504

GGNRA007245

# FUNSTON: Twelve acres locked up

Continued from page 1A

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PHOTO: PIA TORELLI

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they close the entire park?" she said.

Sayres said that his organization, too, would monitor the progress of the closure plan through the Planning Commission and, eventually, at the Board of Supervisors.

# MILLS: Planning commissioner resigns

Continued from page 1A

detail. He was especially impressed with the extent to which she researched loft-housing legislation across the county, he said.

"I found her to be a very insightful individual ... and she took her job very seriously," Chinchilla said. "Her positions were well reasoned and thoughtful. I think we all owe her a debt of gratitude."

Previous to serving on the commission, Mills was board chairwoman of the San Francisco Planning and Urban Research association, of which she is still a member. She currently operates her own busi-

ness-consulting company.

Jim Chappell, president of SPUR, described Mills as a keen thinker with a strong sense of design, which was reflected, he said, in her support of the redesign plan for the M. H. de Young Memorial Museum in Golden Gate Park.

"She is an urbanist, a city person," Chappell said. "She's had a great concern for the quality of design for buildings."

Although Mills had been contemplating her resignation for some time, she waited for the commission's four-week winter recess, saying it was the most suitable time, according to Theoharis.

Mills joins three other commissioners who have left the panel

this year. Linda Richardson quit in August to attempt an unsuccessful bid for a seat on the Board of Supervisors. Mayor Willie Brown fired Commissioner Dennis Antenore in September for not supporting his slow-growth ballot initiative. Proposition K. Larry Martin left the Planning Commission to take a seat on the Recreation and Park Commission in August.

Planning commissioners do not receive salaries for their jobs despite the long hours they spend in meetings devoted to a number of high-profile planning issues.

"It's a very taxing commission," said P. J. Johnston, spokesman for the Mayor's Office. "It is obviously right in

the public eye. The planning process ... is one in which people have strong feelings so there's a great amount of pressure."

Because of the unusually high turnover in the Planning Commission this year, critics are concerned that action on development issues may lag.

"They'll have to break in new commissioners on a certain level, especially if the mayor puts on someone who doesn't have any community background," said Sue Hestor, an attorney who helped draft Proposition M, the initiative to limit downtown growth, which passed in 1986.

The mayor has not yet indicated whom he intends to appoint in Mills' place, according to Johnston.

# INDEPENDENT

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GNRA007246

FOFUAR00505

## **Fort Funston Plan Would Leash Dogs Tentative deal leaves 1 paved trail open**

Chronicle Staff Writers

Wednesday, November 29, 2000

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URL: <http://www.sfgate.com/cgi-bin/article.cgi?file=/chronicle/archive/2000/11/29/MN69450.DTL>

**San Francisco** -- The scenic bluffs of San Francisco's Fort Funston should remain open to leashed dogs and hikers provided they stay on a paved trail, a park advisory group recommended last night.

The compromise was unanimously endorsed by the 18-member Golden Gate National Recreation Area Advisory Commission but still requires approval from

GGNRA Superintendent Brian O'Neill. He is expected to issue a final decision early next month.

If approved, the deal could end a bitter fight over the fate of 12 acres of spectacular oceanfront cliffs dotting the edge of the 230-acre park on the southwest corner of the city.

The Park Service wants the land fenced off to protect native vegetation as well as the threatened bank swallows that nest under the cliffs' sandy banks. Hikers and dog walkers oppose the idea, calling it unnecessary and arbitrary.

It may be a Pyrrhic victory. Minutes after endorsing the compromise, the commission received, then tabled, a proposal by commission vice chair Amy Meyer to end a 21-year-old policy allowing dogs unfettered access to many parts of GGNRA, including Ocean Beach, Crissy Field and Baker Beach. Meyer oversaw the drafting of that original policy.

Meyer's proposal last night could not be considered because it was not on the agenda but could be discussed at the commission's January meeting.

Although commissioners agreed that closing 12 acres atop Fort Funston was "appropriate and necessary" to protect wildlife, they called on O'Neill to remove the fences surrounding the land and offer a trail for hikers and leashed dogs to enjoy.

The suggestion to tear down the fences drew smiles of surprise and nudges from dog owners who expected the area to be sealed off.

"(Meyer) said 'Take down the fence.' That's what we've been waiting for," said Anne Farrow, who walks her poodle Keli through the park each day. "This may be a reasonable compromise."

Commissioners agreed on the need to protect the park, but several said conservation must be tempered with the public's right to enjoy the park.

"Just emphasizing the conservation doesn't show how people fit in," said commissioner Redmond Kernan. "One could fence off the entire park for conservation."

He noted that conservation efforts are appropriate in a park like Yosemite National Park, but "urban parks are different."

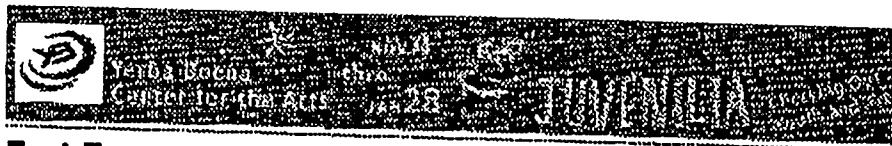
About a hundred people, most of them dog lovers, packed the advisory commission's standing-room-only meeting. The closure plan has drawn fire since the GGNRA began fencing off portions of the site in March, and the fight

Last month, Supervisor Leland Yee summoned GGNRA officials to a hearing to defend their plan. The 1975 deed that transferred ownership of the land from the city to the park service requires that it be used for recreation or park purposes, and Yee and other supervisors worried the Park Service is limiting access to scarce open space.

Further clouding the issue is a report by the San Francisco Society for the Prevention of Cruelty to Animals that blamed the GGNRA -- and not the dogs that frequent the park -- for destroying the birds' habitat by fencing off increasingly large areas of the park and removing the non-native ice plant.

*E-mail Chuck Squatriglia at [csquatriglia@sfchronicle.com](mailto:csquatriglia@sfchronicle.com) and Marianne Costantinou at [mcostantinou@sfchronicle.com](mailto:mcostantinou@sfchronicle.com).*

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## Fort Funston Plan Would Leash Dogs

### Tentative deal leaves 1 paved trail open

Wednesday, November 29, 2000

**San Francisco Chronicle**  
 CHRONICLE SECTIONS

[Chronicle Staff Writers](#)

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## Fort Funston Plan Would Leash Dogs/Tentative deal leaves 1 paved trail open

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The closure plan has drawn fire since the GGNRA began fencing off portions of the site in March, and the fight against it has been waged in the courts and at City Hall.

Last month, Supervisor Leland Yee summoned GGNRA officials to a hearing to defend their plan. The 1975 deed that transferred ownership of the land from the city to the park service requires that it be used for recreation or park purposes, and Yee and other supervisors worried the Park Service is limiting access to scarce open space.

FOFUAR00509



## Fort Funston Plan Would Leash Dogs/Tentative deal leaves 1 paved trail open

Page 3 of 3

But City Attorney Louise Renne noted in a report to the supervisors that the GGNRA has the right to close portions of Fort Funston to protect natural resources. The city, however, could sue on the basis that the closures were "arbitrary or capricious," meaning there is not a rational basis for the closure, according to Renne.

Further clouding the issue is a report by the San Francisco Society for the Prevention of Cruelty to Animals that blamed the GGNRA -- and not the dogs that frequent the park -- for destroying the birds' habitat by fencing off increasingly large areas of the park and removing the non-native ice plant.

The GGNRA insists there is ample evidence showing dogs and hikers are at least partially responsible for the decline in the bird population and the destruction of swallow habitat at the park.

*E-mail Chuck Squatriglia at [csquatriglia@sfgchronicle.com](mailto:csquatriglia@sfgchronicle.com) and Marianne Costantinou at [mcostantinou@sfgchronicle.com](mailto:mcostantinou@sfgchronicle.com).*

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FOFUAR00510

# Unleashed dogs under attack

## Move to enforce leash laws at Fort Funston

By Edith Alderette  
OF CHRONICLED REPORTER

It was a one two punch that off-leash dog enthusiasts weren't prepared for.

Dog walkers and other users of Fort Funston say they weren't too shocked when the Golden Gate National Recreation Area Advisory Commission voted unanimously last week to recommend that park superintendent Brian O'Neill fence off 12 acres of seaside bluffs for the protection of native wildlife and plant habitat.

But no one was prepared for what followed.

Immediately after the vote, Commissioner Amy Meyer proposed a surprise resolution that would revoke a 20-year-old policy that allows rangers to look the other way when dogs run free at any GGNRA property.

Though the commission appeared ready to approve the revocation, cooler heads prevailed, as commission chair Rich Bartlee noted the matter had not been listed on the commission's agenda and moved the matter for hearing at the council's January meeting.

If approved, the revocation of the GGNRA's 1979 Pet Policy would require rangers to cite off-leash dog walkers at 20 odd GGNRA recreational and park areas, including Fort Funston, Ocean Beach, Land's End, Crissy Field, portions of the Presidio, and various other properties in Marin and San Mateo counties.

### Acrimonious battles

The recommendation for Fort Funston's closure comes after more than a year of acrimonious



PHOTO: RORY MCNAMARA

*Fort Funston, Ocean Beach, and other regions controlled by the Golden Gate National Recreation Area are extremely popular with dog owners who enjoy running their pets without a leash. Now that ability is being threatened by the GGNRA's advisory commission.*

protests and court battles to keep the GGNRA and its parent organization, the National Park Service, from adding the bluffs and several coastal trails to the 32 acres already fenced off from the public at the 220-acre Fort Funston.

Commissioners noted that, despite the 1,100 letters the GGNRA received protesting the closure, members' hands were tied because park service regulations, including a 1988 Management Policies report and the Organic Act of 1916, require that the GGNRA give priority to the preservation of natural resources over public use.

"I've read the long series of regulations and court decisions

that bind the National Park Service and this commission," said Commissioner Michael Alexander. "I don't see a lot of wiggle room."

O'Neill told the commission that he, too, was controlled by such policies, and his final decision, due in the next few weeks, would have to conform to those guidelines.

"Any policy that we adopt has to be within the purview of the laws and regulations that we are required to carry out," he told the commission.

In an effort to appease the 750,000 annual visitors to Fort Funston — the majority of whom take dogs out for long runs on the beach — the recommenda-

tion includes a provision for a fenced trail in the closure area, where owners can walk their dogs on a six-foot or shorter leash.

Some commissioners noted discomfort at being held to regulations that reflect 20-year-old usage patterns and suggested that the NPS consult with user groups and neighbors to rewrite them.

"[A new plan] should reflect not only conservation but how people fit in with that plan," said Commissioner Redmond Kernan. "One could fence off the entire park for conservation."

See FORT FUNSTON, page 6C

# FORT FUNSTON: Off-leash dogs

continued from page 1C

Bartke noted, however, that such a rewrite may be a long time coming.

"There's no money in this budget or the next budget or the next budget to do that kind of a plan," he said.

## Demanding public hearings

Dog owner's groups have long suggested that the GGNRA has endeavored to keep them out of discussions on Fort Funston closures, one group going so far as to file suit last March against the NPS and GGNRA to force the agencies to hold public hearings on the matter.

Ann Farrow of the Fort Funston Dog Walkers, one of the groups that filed the suit, said that dog walkers suspect that the reduction of their off-leash play space to a fenced on-leash path is the first effort to eradicate all off-leash areas from Fort

Funston.

"If we have to be on a leash on those 12 acres, you have to wonder if this is a creeping thing," she said.

Farrow said she believes the revocation of the 1979 Pet Policy, which conflicts with NPS regulations on dog use, was not so much an effort to make local policy comply with national regulations as a punitive measure against dog walkers who fought the closure.

"This is crazy. They can't just get rid of the pet policy, it was created with public hearings, and you can't just toss it out in one meeting, she said.

"I think this is punishment for us taking them to court," said Noe Valley resident Renee Pittin, who frequently takes her black Labrador retriever, Rosie, to Fort Funston.

The city of San Francisco, too, may soon be in court over the matter. Supervisor Leland Yee,

in two City Hall hearings in recent months, has intimated that the city may take legal recourse to take back Fort Funston if the fences go up.

In November 1973, San Francisco voters approved transfer of Fort Funston from the city to the GGNRA. The area's deed to the agency, written two years later, includes language that it must be maintained for the "recreational and park use" of visitors.

Last month, supervisors unanimously agreed to order City Attorney Louise Renne to look into the closure as a possible violation of the agreement — a violation that could allow the city to take back the fort.

Yee also asked Renne to send a letter to NPS officials advising them that city ordinances require that plans for any type of construction, including fences, must be approved by the city's Planning Commission.

## NEIGHBORHOOD NEWS

S.F. INDEPENDENT

5 DEC. 2000

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FOFUAR00512

GGNRA007253

# Supervisor Asks Reason For Limit on Park Access

Golden Gate recreation  
officials told to appear

By Peter Fimrite  
CHRONICLE STAFF WRITER

The circling and snarling over Fort Funston closures got more menacing yesterday when Supervisor Leland Yee summoned Golden Gate National Recreation Area officials before the city to explain themselves.

The request for an explanation is the latest challenge to the federal agency, which has been under siege by dog lovers and their lobbyists over a proposal to close 12 more acres of the spectacular oceanfront cliffs to hikers and their pets.

Recreation area officials say the closures are needed to protect a colony of threatened bank swallows and to restore native plants.

The city of San Francisco has been dragged into the battle because the 1975 deed that officially transferred the property to the National Park Service specifies that the property must be used for recreation or park purposes.

Yee and other supervisors are concerned that the Park Service is restricting the access of San Franciscans to scarce open space despite a mandate that the land be preserved for recreation.

A report released yesterday by City Attorney Louise Renne says, in essence, that the GGNRA has the right to close portions of Fort Funston to protect natural resources. The city, however, could sue on the basis that the closures were "arbitrary or capricious," meaning there is not a rational basis for the closure, according to Renne.

Yee said he will hold a hearing on a possible lawsuit once the GGNRA explains its position.

The issue is already the focus of another suit filed by dog walkers and



JERRY TELFER / The Chronicle

The gate leading to the disputed location of the bank swallows' habitat remains open while a court determines its use.

a call by Supervisor Mabel Teng for a congressional investigation. The San Francisco Society for the Prevention of Cruelty to Animals prepared a 75-page report that shifts the blame for destroying the bank swallow habitat from dogs to the GGNRA itself.

The SPCA report contends that the number of bank swallow burrows decreased by about 200 a year after the federal agency closed 23 acres in 1995 and began removing ice plant. It points out that the remaining birds moved their colony in 1998 to an area where both dogs and ice plant are more common, possibly because the increased recreation scares away predators.

The proposed closure would cover the area to which the nests were moved.

Officials with the GGNRA insist that there is ample evidence that dogs and hikers are at least partially responsible for the decline in the bird population and the destruction of swallow habitat. The lack of supporting documents in the closure report, however, appears to have opened the Park Service up for the recent flurry of criticism. The federal agency's advisory commission is scheduled to make a recommendation on the closures Nov. 28.

E-mail Peter Fimrite at  
pfimrite@sfgchronicle.com

FOFUAR00513

# Supervisors seek role in Funston dog war

Yee asks for review  
of City's deal with  
U.S. Park Service

By Katherine Seligman  
OF THE EXAMINER STAFF

The dog fight at Fort Funston moved downtown Wednesday, with city supervisors calling for a legal opinion on whether they can

get involved in a National Park Service decision to close off portions of the popular recreation area.

Supervisors on the Finance and Labor Committee made their request after a public hearing called by Leland Yee on the closures that have rankled dog walkers, hikers and the disabled. Park users testified with poetic pleas and downright outrage about how ever-growing parts of Fort Funston are

being roped off, violating what they see as the National Park Service's original obligation to The City.

"This area has meant so much to so many," said Eleanor Vinsant, a semi-retired psychotherapist who walks there frequently. "The (National Park Service) has not kept faith with the city of San Francisco. ... Standing on the bluffs in a howling wind, or at a glorious sunset, or in the fog when

the air is so still there is a blending of beach, ocean and sky, is to know one's place in the scheme of things."

Park users told supervisors that The City needed to monitor the agreement that turned over management of Fort Funston to the National Park Service to make sure the area remained open for recreation. They said the piecemeal closing of about 20 percent of the park was a betrayal of the agreement's intent.

A group that calls itself the Fort Funston Dog Walkers has sued the Secretary of the Interior and National Park Service over the closure, which includes more than 6 miles of fences and makes favorite fields and hiking areas inaccessible. The dog walkers say the park service violated its own regulations by failing to hold public hearings. A federal court judge agreed, and the agency is now gathering public

comment through Oct. 6.

Officials from the Golden Gate National Recreation Area, who were not at Wednesday's meeting, have said the fences are needed to protect land that provides a safe habitat for bank swallows nesting on the cliffs and for native plants.

Park ranger George Durgerian, who works at Fort Funston but emphasized he wasn't speaking for the park service, said that rangers weren't interested in wholesale closure of Fort Funston to recreation.

"We just want a balance," he said, one that would "provide enjoyment and protect the environment."

Several speakers said they retreated to Fort Funston to escape the stress of living in a crowded city. They said they were finding fewer and fewer such places, particularly ones that allow dogs off leash.

Dogs have been permitted at Fort Funston since the Army gave the land to The City in 1961. The City gave it to the National Park Service in 1972, which unofficially allowed dogs off leash until the early 1990s, when it began to change its policy.

Technically, said Steven Krefting, a representative of the National Parks Conservation Association, dogs are required to be on leashes on all park service land.

"We do believe that dogs should be on leashes and keep to trails," he said. "The swallows are threatened, and I would think The City should be proud of protecting the swallows."

But other speakers Wednesday questioned the science behind the park service's decision, saying the decrease in swallows at Fort Funston had more to do with land erosion and other environmental conditions than with disturbances from humans and dogs.

They said the native plants could be cultivated elsewhere. Fort Funston, they said, has been a favorite spot for dog walkers and hikers for decades. Nancy Barber, who identified herself as an "environmental investigator," said the park service had developed an "ethereal land management theory" to return designated areas to "pristine condition."

The park service is trying to say that "it would be better if there were no humans" at Fort Funston, she said.

Linda Shore, a physicist at the Exploratorium, spoke about what she called "the bad science" behind the park service's decision. Bank swallows are common, she said. Contrary to what the park service claims, she said, geologists find the area is tolerant of human disturbances.

Supervisor Tom Ammiano said he believed the two divergent sides could come up with a solution, one that would require "give and take on both sides."

Supervisor Sue Bierman also called for finding some balance, though she said she thought "people's happiness and people's enjoyment is the most crucial thing unless it's doing real harm."

"I worry about the native plants," she said, "but I guess I'm more a people person."

Yee said it was "extremely important that the city of San Francisco retains control of Fort Funston."

"It is our land," he said. "We gave it to the federal government."

Yee asked the city attorney's office to examine the terms and conditions of the conveyance to the park service and the extent to which the City had control over the land. He also asked for a determination of whether the park service's basis for closure was sufficient and whether there were alternatives.

Yee said supervisors had been briefed by park service officials on the situation at Fort Funston. Although officials thought it was inappropriate to attend the meeting, Yee said, they are "intensely monitoring it."

"What struck me in letters I've received and in testimony today is . . . how this experience affects peoples' lives," said Yee. "There are not a whole lot of places to find tranquility."

# Swallows' Habitat Source of Parks Battle

S.F. CHRONICLE  
25 Oct. 2000  
A-21

## SPCA differs on U.S. use of Fort Funston space

By Peter Fimrite  
CHRONICLE STAFF WRITER

A new charge that the Golden Gate National Recreation Area — not man's best friend — is destroying native bird habitat at Fort Funston has helped transform a battle over dog walking into a tug-o-war between San Francisco and the federal government over scarce open space.

The Society for the Prevention of Cruelty to Animals recently submitted a 75-page document blaming the federal agency for destroying the "exotic ecology" of ice plants that helped sustain a colony of threatened bank swallows. It says the GGNRA is using the problem it created as an excuse to close off more public land.

Recreation area officials said they are preparing a response to the allegations, but cannot comment — other than to say the closure is supported by many environmental organizations — because it is the subject of ongoing litigation.

The park fenced off 23-acres of Fort Funston years ago and wants to close 12 additional acres to protect bank swallows and restore native plants. Dog walkers have filed a federal lawsuit claiming the closures are based on an unsupported pretext that pets are destroying the environment.

The SPCA, which is not a party in the lawsuit but supports off-leash dog-walking, prepared its report in response to the park service's closure notice. The allegations prompted Supervisor Mabel Teng to submit a resolution Monday asking for a congressional investigation of the GGNRA's handling of Fort Funston. Supervisor Leland Yee has asked the city attorney to investigate.

"The Fort Funston property used to belong to the city and county of San Francisco, and we conveyed the property to the federal government so they could protect it and keep it available for public use," said Yee. "Now, we're finding that more and more of that public land is being closed to the public."

The city attorney's office will release its findings today during the finance committee meeting.

The closure notice details disturbances to the bank swallow population ranging from cliff climbing by people and dogs to aircraft and hang-glider flyovers. It says many nest sites have also been destroyed

by humans and natural "sloughing" of the banks.

The bank swallow population declined from more than 500 nesting burrows between 1993 and 1996 to 148 burrows in 1999, according to the GGNRA closure notice. It says that sometime in 1998, the remaining swallows moved south from their previous location on the bluffs in the northernmost portion of Fort Funston.

The proposed 12-acre closure area is to protect the new nesting sites, according to the GGNRA report. In addition, the recreation area is planning to tear out the ice plants put in by the Army in the 1930s to stabilize the shifting dunes. Workers will then restore the native plant communities, which are consistently being trampled by people and dogs, the report says.

"This area, Fort Funston, is a national park," said recreation area spokesman Michael Feinstein. "It is not a city park. We have an obligation to protect it for future generations."

But The SPCA report says the decline in the number of bank swallows started after recreation area officials closed 23 acres and began the native plant restoration program between 1992 and 1995.

It cites studies showing that bank swallows often purposely locate themselves in populated areas, possibly because recreational activity scares away predators. In fact, the bank swallows moved away from the area closed off by the GGNRA in 1998 to an area where ice plant and recreational activity is more prevalent, the SPCA report stated.

The report also quoted internal national park service documents in which naturalists saw swallows using ice plant as nesting material.

"Under the pretext of a bank swallow protection habitat, the NPS has proceeded with destroying the current ecology of Fort Funston in order to create native plant communities," said the report, prepared by Ken Ayers, of the San Francisco law firm Hancock Rothert and Bunshoft and SPCA lawyer Nathan Winoograd.

The federal agency's advisory commission is scheduled to make a recommendation on the closures to GGNRA superintendent Brian O'Neill on Nov. 28.

E-mail Peter Fimrite at  
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FOFUAR00516

GGNRA007257

## Dogs and owners abusing Fort Funston

I was at the August 29 GGNRA Commission hearing ("Public process on Fort Funston closure a sham, dog owners howl," September 5). Dog owners have dominated meetings about their dogs' over-running of parks and wilderness areas for years. The reporter was wrong — dog owners have long had their chance to complain of the closure at Fort Funston, and have done so.

They spent all night disturbing the proceedings. They denied all responsibility for their part in the destruction of the sensitive elements that make Fort Funston the marvel that it is. Insensitivity, arrogance, and spoiled self-centeredness ruled.

They lack the foresight to see the value in safe-keeping this beach in our urban midst for long after they and their dogs are dead, buried, and forgotten. It is prudent to err on the side of protecting endangered bank swallows and restoring the beaches.

ANDREA O'LEARY

I support the GGNRA's recommendations to close off certain Fort Funston areas to dogs. Safeguarding endangered animals and maintaining and protecting the habitat are the highest priorities.

For years the natural qualities of Fort Funston have been significantly degraded and cheapened by the controlling impact of dogs. It is painful to witness the abuse of the natural features that still endure in the area. The deteriorated physical conditions at Fort Funston manifest a disregard for the rights of resident plants and animals, as well as other park users, who must be on guard waiting for the next dog to come from behind or in front or from around the corner.

It will take dedication by the Park Service employees to turn things around, but they should be allowed to do so.

RICK E. THURBER

S.F. INDEPENDENT  
16 SEPT, 2000  
P-6A

FOFUAR00517  
GGNRA007258



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Managing Editor

## EDITORIAL

## Feds not playing fair at Fort Funston

It's not often that an agency charged by a judge of violating federal law and ignoring public input uses the opportunity to stick it to the public once again. But it appears the Golden Gate National Recreation Area is trying to do just that in the ongoing battle over the public use of Fort Funston.

The 50-acre recreational park has long been a favorite of residents attracted to its winding trails and plant and animal life. It has been a special spot for dog owners — Fort Funston is a veritable hound heaven, especially on weekends, when hundreds of dogs and their owners enjoy the fresh ocean air at the cliffside park.

But those same dog owners decry the GGNRA's management of the areas, saying that the federal agency's plan to make large chunks of the park inaccessible to the public, ostensibly to preserve bird species, was formulated without proper public input.

A judge agreed, and recently ordered the GGNRA to tear down the public barriers once a flock of migratory swallows leaves for the season.

But dog owners and others were shocked to find that the GGNRA had altered its closure plan significantly, and that the agency now intends to close 12 acres of the park, rather than

the 10 acres previously identified for closure.

It's no surprise that the GGNRA is playing fast and loose with the concept of public input — the federal agency has a long history of being less than open with the residents to whom it is supposed to be accountable.

What's more unusual is that neighbors who thought they had gained a hard-won victory now find themselves faced with the prospect of an even less acceptable set of circumstances. Not only does the agency plan to close 12 acres, it plans to institute the closure permanently, not seasonally.

Combined with previous closures, the new plan would make more than half of Fort Funston inaccessible.

We're sensitive to the GGNRA's responsibility to protect wildlife at Fort Funston, and their emphasis on that point is to be commended —

although there is much debate over whether the closure policy will really help the birds.

What is not commendable is the way the agency repeatedly runs roughshod over the concerns of park users. We urge the GGNRA to do a better job of listening to the members of the public that fund its operations with their tax dollars.

Combined  
with previous  
closures, the  
GGNRA's new  
plan would  
make more  
than half of  
Fort Funston  
inaccessible.

# LETTERS TO THE EDITOR

## Off-leash at Ft. Funston

How can it be that the Board of Supervisors is suddenly bewildered over off-leash dogs at Fort Funston? ("Supervisors seek role in Funston dog war," Sept. 21). This sudden flurry to "monitor" the National Park Service can only muck up a problem the supervisors have had no success controlling in their real area of jurisdiction.

Supervisor Leland Yee should realize that if The City gave the land to the Golden Gate National Recreation Area for safekeeping, and then something happens that he isn't even sure he can do anything about, he can't try to take the land back.

Dog owners have worn out their gripe that they have not been heard on this issue.

Since suing the Golden Gate National Recreation Area hasn't gotten them the outcome they demand, they go cry-babbling to the Board of Supervisors, whose political expediency since the early '70s, has gotten us in this off-leash mess all over The City. This won't help any of them get re-elected.

The Golden Gate National Recreation Area had turned a blind eye to off-leash activity since 1972 when it acquired Fort Funston. Dog owners had their chance to do the right thing then, but didn't, so restrictions had to be clarified in the '90s.

Dog owners' thin complaints have not shown why bank swallows, delicate sand dunes, crumbling cliffs or anything in nature should not be protected from indiscriminate misuse on only 12 acres out of 230 at Fort Funston.

We need the Board of Supervisors to safeguard our interests on streets and in our neighborhood parks and define some crystal-clear policies that don't confuse the needs of children with what owners want for their dogs.

Help dog owners understand that by choosing to own animals, they take on the responsibility to insure that their activities do not interfere with the quality of park-going for their neighbors.

ANDREA O'LEARY  
San Francisco

◆  
To clarify an error made in your story about the presentations made at the Leland Yee hearings on Fort Funston: I was the physicist who presented information about the "bad science" used by the National Park Service.

I was quoted as saying that the bank swallow is a common species, suggesting that the colony at Fort Funston does not merit protection. This is not correct.

I fully recognize that the bank swallow colony at Fort Funston is one of two coastal colonies of bank swallows in California.

Because its nesting behavior is unique, the colony merits protection.

However, I was questioning whether fencing off of huge portions of the park for native plant restoration is necessary to support the colony — a claim the National Park Service has made on numerous occasions.

I have consulted various experts across the country and have read the research literature on bank swallows. At the hearing I stated: "Bank swallows are common throughout North America and have been studied extensively. Yet researchers have never found any binding association between bank swallows and any particular species of plant, native or not."

LINDA SHORE  
San Francisco

S.F. EXAMINER  
26 Sept. 2000  
A-12

## Dogs, horses at Funston

I would like to alert dog owners to the potential danger to their dogs when hiring a dog-walking service that takes dogs to Fort Funston beach.

I am a big dog/animal lover. I ride my horse almost every day on the beach in the Fort Funston area.

The danger to the dogs is when some dog-walking services have far too many dogs to control and the service provider allows the dogs to go after horses. The dogs could get kicked, which could cause serious injury or death. It is dangerous for horse, dog and rider.

In some cases the dog-walkers do nothing to retrieve or stop the dogs from going after the horses. There have even been times when some of these services have no leashes to restrain the dogs.

It has been my experience that some dog-walking service providers have lazy,

bad attitudes and are not very responsible with other people's dogs — while other service providers are a lot more conscientious and responsible.

There have been attacks on horses where the horses were seriously injured by dogs that were out of control.

I do not have a problem with dogs on the beach as long as they are under control but the sad fact is that this is not the case most of the time.

Dog owners should be aware that they could be held liable for damages caused by their dogs.

My question to dog owners: Do you know how well your service provider keeps your dog under control on the beach around horses?

If owners don't know, they might want to find out by observing their service providers from the cliffs.

JAMIE HOFF  
San Bruno

A-16 Wednesday, September 27, 2000 ★

S.F. EXAMINER

FOFUAR00519

GGNRA007260

## Talking Trash

### Ocean Beach Trashed

Editor — Beachgoers, you sicken me. What evil possesses you to leave your used rubbish all over Ocean Beach? Don't you know that aside from leaving the beach a disgusting eyesore, you are threatening the habitat and safety of marine animals and birds? I have lived here 20 years and it is out of control.

From Sloat Boulevard to the Cliff House, the beach is strewn with miles of Styrofoam cups, used diapers, potato chip bags, candy wrapper, beer cans, soda bottles, mattress pads, fast-food wrappers, plastic containers, shoes, socks, T-shirts, sanitary napkins, cigarette butts and dog doo. Ocean Beach is trashed.

Listen up, you slimebags! Ocean Beach is not a landfill, but a sacred place that needs to be protected. Stay home, you ignorant contemptuous slobs, and let those of us who honor and respect nature to have our beach back. Take only memories, leave only footprints.

AMY LYNN CAPLAN  
Pacifica

S.F. CHRONICLE  
8 SEPT. 2000  
A-20

Editor — Amy Caplan's Letter to the Editor on Sept. 8., titled, "Ocean Beach Trashed," points at only one (beachgoers) of many culprits causing our garbage-festooned beaches. For years, we have walked our dogs daily at the beach just south of Ocean Beach at Fort Funston. During our walk, it's become our habit to carry a large trash bag and to pick up garbage.

As we've done so, we've noticed a pattern. The overwhelming majority of the trash comes in on the tide: This weekend is a good example: The beach was littered with many large plastic tubs, baskets, and coolers, the detritus from a fishing boat that sank off Pacifica. Also, after every rain, a new "crop" of garbage appears. From its location and timing, it's pretty clear this comes directly from storm drains — both San Francisco's and Daly City's.

Those of us who walk and try and make a dent in the garbage have both photographs and logs that demonstrate these points. However, when we have brought our concerns up to both the GGNRA and the occasional worker we see servicing the sewer outlets, they claim not to know the source of the garbage. Worse, no one seems to care.

The uninterrupted eight-mile stretch of coastline beach from Cliff House to Mussel Rock is an extraordinary resource. It is shameful that we cannot figure out how to prevent it from becoming, literally, a garbage dump.

MARY GAVIN  
San Mateo  
Penni Wisner  
San Francisco

S.F. CHRONICLE  
15 SEPT. 2000  
A-24

# Dogs, Hikers Losing Access To Funston's Sensitive Bluffs

Park chief overrules committee recommendation

CHRONICLE STAFF REPORT

The bluffs of San Francisco's Fort Funston will be off-limits to hikers and dogs beginning next month, the Golden Gate National Recreation Area announced yesterday.

The decision, by GGNRA Superintendent Brian O'Neill, ends a fight over 12 acres of oceanfront cliffs that dot the edge of the 230-acre park on the southwest corner of the city.

The National Park Service said in July that it wanted to close the area to control erosion, restore native vegetation and protect the threatened bank swallows that roost along the cliffs. Hikers and dog owners, who allowed their pets to romp unleashed through the area, denounced the proposal as San Francisco Supervisor Leland Yee questioned its legality.

Last month, the 18-member Golden Gate National Recreation Area Advisory Commission unanimously recommended allowing hikers and leashed dogs to use established trails in the area.

But O'Neill opted to seal the parcel, which includes the popular Spur Trail and the Gap hiking areas, entirely. His decision is final.

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*"When there is a  
conflict between  
recreation and  
resource  
protection,  
conservation is to  
be predominant."*

BRIAN O'NEILL  
Superintendent, Golden Gate  
National Recreation Area

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"We are aware of the GGNRA's recreational mandate, yet (Park Service) regulations clearly state that when there is a conflict between recreation and resource protection, conservation is to be predominant," O'Neill said in a statement.

The Park Service is studying a plan that would allow hikers and leashed dogs to use designated trails within the area once native vegetation has been restored, O'Neill said.

# Park service to fence off Fort Funston acreage to protect

By Mike Zapler  
Mercury News

A rare bird has moved into a popular recreation area of Fort Funston. And now people and dogs have to move out.

The National Park Service announced Monday it is fencing off a popular dog-walking stretch of Fort Funston in order to protect a threatened California bird, the bank swallow.

The closing of the 12-acre area along the coast will take effect in January, blocking pedestrian and

dog access to undesignated trails such as "the Gap" and designated trails including the so-called "Spur Trail."

The idea of closing the trail was hatched more than a year ago, after bank swallows began migrating from northern parts of Fort Funston to southern areas more heavily used by the public. Citizens filed a lawsuit to stop the closing, and a judge mandated that the park service hold a public comment period before it erected fences around the area.

About 1,500 people weighed in on the proposed closing, including many from environmental groups and many dog owners.

Although the fences have already been erected, the actual closing won't take place until a notice is printed in the Federal Register in January.

The bank swallows "have moved their nesting area south, and we have an obligation to protect them wherever they choose to nest," park service spokeswoman Christine Powell said.

Most of the environmental problems stem from people and dogs walking on sand dunes along the cliff, where the birds nest. Sometimes they fall over the side and have to be rescued, Powell said. But they also speed up coastal erosion and threaten native plants, she said.

The 220-acre Fort Funston, part of the Golden Gate National Recreation Area, is one of two breeding areas for bank swallows; the other is the Año Nuevo State Reserve, about 55 miles south of San

Francisco.

Powell said that the park service is studying the feasibility of building a trail through the closed-off area.

"Dog walking is an important activity in the Golden Gate National Recreation Area," she said, "and we certainly want to find a way to protect resources but still allow this activity to go on."

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394-6875.

SAN JOSE MERCURY NEWS  
19 DEC. 2000  
B-1

FOFUAR00522

## threatened birds

# Unleashed dogs under attack

## Move to enforce leash laws at Fort Funston

By Edith Alderette  
NEIGHBORHOOD REPORTER

It was a one-two punch that off-leash dog enthusiasts weren't prepared for.

Dog walkers and other users of Fort Funston say they weren't too shocked when the Golden Gate National Recreation Area Advisory Commission voted unanimously last week to recommend that park superintendent Brian O'Neill fence off 12 acres of seaside bluffs for the protection of native wildlife and plant habitat.

But no one was prepared for what followed.

Immediately after the vote, Commissioner Amy Meyer proposed a surprise resolution that would revoke a 20-year-old policy that allows rangers to look the other way when dogs run free at any GGNRA property.

Though the commission appeared ready to approve the revocation, cooler heads prevailed, as commission chair Rich Bartke noted the matter had not been listed on the commission's agenda and moved the matter for hearing at the council's January meeting.

If approved, the revocation of the GGNRA's 1979 Pet Policy would require rangers to cite off-leash dog walkers at 20-odd GGNRA recreational and park areas, including Fort Funston, Ocean Beach, Land's End, Crissy Field, portions of the Presidio, and various other properties in Marin and San Mateo counties.

### Acrimonious battles

The recommendation for Fort Funston's closure comes after more than a year of acrimonious



PHOTO: RORY McNAMARA

*Fort Funston, Ocean Beach, and other regions controlled by the Golden Gate National Recreation Area are extremely popular with dog owners who enjoy running their pets without a leash. Now that ability is being threatened by the GGNRA's advisory commission.*

protests and court battles to keep the GGNRA and its parent organization, the National Park Service, from adding the bluffs and several coastal trails to the 32 acres already fenced off from the public at the 220-acre Fort Funston.

Commissioners noted that, despite the 1,100 letters the GGNRA received protesting the closure, members' hands were tied because park service regulations, including a 1988 Management Policies report and the Organic Act of 1916, require that the GGNRA give priority to the preservation of natural resources over public use.

"I've read the long series of regulations and court decisions

that bind the National Park Service and this commission," said Commissioner Michael Alexander. "I don't see a lot of wiggle room."

O'Neill told the commission that he, too, was controlled by such policies, and his final decision, due in the next few weeks, would have to conform to those guidelines.

"Any policy that we adopt has to be within the purview of the laws and regulations that we are required to carry out," he told the commission.

In an effort to appease the 750,000 annual visitors to Fort Funston — the majority of whom take dogs out for long runs on the beach — the recommenda-

tion includes a provision for a fenced trail in the closure area, where owners can walk their dogs on a six-foot or shorter leash.

Some commissioners noted discomfort at being held to regulations that reflect 20-year-old usage patterns and suggested that the NPS consult with user groups and neighbors to rewrite them.

"[A new plan] should reflect not only conservation but how people fit in with that plan," said Commissioner Redmond Kernan. "One could fence off the entire park for conservation."

See FORT FUNSTON, page 6C

# FORT FUNSTON: Off-leash dogs

continued from page 1C

Bartke noted, however, that such a rewrite may be a long time coming.

"There's no money in this budget or the next budget or the next budget to do that kind of a plan," he said.

## Demanding public hearings

Dog owner's groups have long suggested that the GGNRA has endeavored to keep them out of discussions on Fort Funston closures, one group going so far as to file suit last March against the NPS and GGNRA to force the agencies to hold public hearings on the matter.

Ann Farrow of the Fort Funston Dog Walkers, one of the groups that filed the suit, said that dog walkers suspect that the reduction of their off-leash play space to a fenced on-leash path is the first effort to eradicate all off-leash areas from Fort

Funston.

"If we have to be on a leash on those 12 acres, you have to wonder if this is a creeping thing," she said.

Farrow said she believes the revocation of the 1979 Pet Policy, which conflicts with NPS regulations on dog use, was not so much an effort to make local policy comply with national regulations as a punitive measure against dog walkers who fought the closure.

"This is crazy. They can't just get rid of the pet policy, it was created with public hearings, and you can't just toss it out in one meeting, she said.

"I think this is punishment for us taking them to court," said Noe Valley resident Renee Pittin, who frequently takes her black Labrador retriever, Rosie, to Fort Funston.

The city of San Francisco, too, may soon be in court over the matter. Supervisor Leland Yee,

in two City Hall hearings in recent months, has intimated that the city may take legal recourse to take back Fort Funston if the fences go up.

In November 1973, San Francisco voters approved transfer of Fort Funston from the city to the GGNRA. The area's deed to the agency, written two years later, includes language that it must be maintained for the "recreational and park use" of visitors.

Last month, supervisors unanimously agreed to order City Attorney Louise Renne to look into the closure as a possible violation of the agreement — a violation that could allow the city to take back the fort.

Yee also asked Renne to send a letter to NPS officials advising them that city ordinances require that plans for any type of construction, including fences, must be approved by the city's Planning Commission.

## NEIGHBORHOOD NEWS

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5 DEC. 2000  
P-1C

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## Index

## GGNRA007266 12/18/00 2:39 PM



could be discussed at the commission's January meeting.

Although commissioners agreed that closing 12 acres atop Fort Funston was "appropriate and necessary" to protect wildlife, they called on O'Neill to remove the fences surrounding the land and offer a trail for hikers and leashed dogs to enjoy.

The suggestion to tear down the fences drew smiles of surprise and nudges from dog owners who expected the area to be sealed off.

"(Meyer) said 'Take down the fence.' That's what we've been waiting for," said Anne Farrow, who walks her poodle Keli through the park each day. "This may be a reasonable compromise."

Commissioners agreed on the need to protect the park, but several said conservation must be tempered with the public's right to enjoy the park.

"Just emphasizing the conservation doesn't show how people fit in," said commissioner Redmond Kernan. "One could fence off the entire park for conservation."

He noted that conservation efforts are appropriate in a park like Yosemite National Park, but "urban parks are different."

About a hundred people, most of them dog lovers, packed the advisory commission's standing-room-only meeting.

The closure plan has drawn fire since the GGNRA began fencing off portions of the site in March, and the fight against it has been waged in the courts and at City Hall.

Last month, Supervisor Leland Yee summoned GGNRA officials to a hearing to defend their plan. The 1975 deed that transferred ownership of the land from the city to the park service requires that it be used for recreation or park purposes, and Yee and other supervisors worried the Park Service is limiting access to scarce open space.

But City Attorney Louise Renne noted in a report to the supervisors that the GGNRA has the right to close portions of Fort Funston to protect natural resources. The city, however, could sue on the basis that the closures were "arbitrary or capricious," meaning there is not a rational basis for the closure, according to Renne.

Further clouding the issue is a report by the San Francisco Society for the Prevention of Cruelty to Animals that blamed the GGNRA -- and not the dogs that frequent the park -- for destroying the birds' habitat by fencing off increasingly large areas of the park and removing the non-native ice plant.

The GGNRA insists there is ample evidence showing dogs and hikers are at least partially responsible for the decline in the bird population and the destruction of swallow habitat at the park.

# Dog lovers, environmentalists clash over recreation area

Panel to opine on whether to close popular section of Fort Funston to public

BY EDITH ALDERETTE  
Of the Examiner

It's a hot-button issue that has environmentalists and pet lovers jumping fences. Should part of the Golden Gate National Recreation Area be used as a park, or closed to the public to protect the natural habitat?

On Tuesday, the GGNRA's advisory commission will offer its opinion on whether 12 acres of scenic Fort Funston bluffs should be closed to the public. It's a matter that may have the city of San Francisco and the federal government clashing in court.

The commission's recommendation will be one factor that GGNRA General Superintendent Brian O'Neill will consider before making his decision on whether to fence the public out.

Park visitors - particularly dog owners - are howling mad and say the closure would worsen the already crowded conditions in the city's few off-leash dog areas.

Several city officials - most notably supervisors Mabel Teng and Leland Yee - are also unhappy at the proposed closure.

The city gave Fort Funston to the National Park Service in 1975. While the city has no control over the federal agency's actions, Yee asked the city attorney last month to investigate whether a clause in Fort Funston's deed

could be used to regain control of the land if O'Neill approves closure. In September, Teng requested that federal representatives, including Sen. Dianne Feinstein and Rep. Nancy Pelosi, look into whether this and other closures at the 222-acre park in the southwest corner of the city have been appropriate.

From 1991 to 1995, the GGNRA fenced off 36 acres of Fort Funston's most frequently used areas and tore up a paved trail popular with disabled visitors. All the closures were made without any public input and most were done with the promise that closed areas eventually would be reopened.

To date, no fence has been removed.

In February, the GGNRA and its parent agency, the National Park Service, closed an additional 10 acres of bluffs. Two months later, they were ordered to reopen the area by a federal judge who found that the agencies had failed to obtain necessary public input.

Shortly thereafter, the GGNRA filed a formal request, drafted to include a period for public testimony, to permanently close the initial 10-acre parcel plus an additional 2 acres, saying it was needed to protect wildlife and restore native-plant habitat.

During the public-testimony period ending last month, the GGNRA received 1,500 statements. Park officials say those opinions have been reviewed by the advisory commission and will be considered as part of Tuesday's decision.

day's decision.

One dog advocate says the commission would do well to also review a report critical of the closures, produced on behalf of local dog owners to support their contention that the GGNRA didn't have valid scientific reasons for all its actions.

"I'm just hoping they not only read the letters but also all the research that was done that backed up our position," said Anne Farrow of Fort Funston Dog Walkers.

A GGNRA spokesman said members of the commission have studied background materials on the closures.

"They've had access to the public comment, and as individuals they have gone through the past paperwork as far as what we've done with the closure," said GGNRA public-affairs officer Rich Weideman.

He added that the commission's recommendation is non-binding and O'Neill's word will be final.

"The superintendent takes the recommendation seriously, but ... the mission of the Park Service is the overriding rule in the matter," he said.

O'Neill's decision is expected within the next few weeks.

Tuesday's meeting will begin at 7:30 p.m. at the GGNRA Park Headquarters, Fort Mason Building 201.

On the Net:

Golden Gate National Recreation Area, [www.nps.gov/goga/index.htm](http://www.nps.gov/goga/index.htm)

San Francisco Dog Owners Group, [www.sfdog.org](http://www.sfdog.org)

S.F. EXAMINER  
27 Nov. 2000  
A-2

FOFUAR00527

GGNRA007268

# Supes weigh in on Fort Funston access dispute

## Board sends message to feds over closures

By Edith Alderette  
NEIGHBORHOOD REPORTER

As federal officials near a decision to close 12 acres of Fort Funston, city supervisors have sent their first official signal that they may fight back if fences go up.

Last week, the Board of Supervisors unanimously agreed to ask City Attorney Louise Renne to remind the National Park Service that it must submit any construction plans at Fort Funston — including the building of barriers — to the city's Planning Department.

Supervisors also requested an explanation of how past and future closures of the recreational area would conform to an obligation in the land's deed that requires the area be used for "recreational or park purposes."

Officials from the City Attorney's office say a letter will likely be sent sometime early this week.

The move is the first time the board has made any formal contact with the NPS indicating it may have problems with closures at Fort Funston.

### Environmental reasons cited

Currently, about 35 acres of the 222-acre fort area have been fenced off from the public as emergency erosion-control and habitat-restoration measures. Last February, the NPS and its local division, the Golden Gate National Recreation Area, enacted the latest closure, claiming the need to protect the nesting

location of a threatened species of bank swallows.

A federal district-court judge later found the NPS had failed to obtain legally mandated public comment before the closure and ordered the land reopened. Shortly afterward, the GGNRA began the formal process, including a public-comment period, to permanently close the area.

A final decision on the closure is set for the GGNRA's advisory commission meeting on November 28.

Last month, the City Attorney's office, at the request of Supervisor Leland Yee, issued a report analyzing San Francisco's agreement with the NPS and GGNRA, which was signed when the city deeded over Fort Funston to the feds in 1975.

In the report, deputy city attorney Miriam Morley said the GGNRA was required to consult the city's Planning Department in any matters of construction at the site or alteration of the landscape — which could include fences.

She also said that the city could demand the return of the land if it was not being used as parkland or for recreational purposes.

### Legal action possible

Though Morley says it's far too early to know how the NPS and GGNRA will respond to the letter, supervisors could choose to take further legal action depending on the answers they receive.

"We'd go to [the supervisors] to find out what they would want to do," she said. "Right now, we're not sure what all our options are, but ... we would definitely advise them that further action may be a possibility."

S.F. INDEPENDENT  
14 NOV. 2000  
P-1C

*continued from page 1C*

Attorney Lydia Boesch, who represented groups of dog owners that filed suit against the NPS for the latest closure, says the letter is a long-awaited and welcome step toward keeping the area open to San Franciscans.

"It's reminding them of their duty. The board's not suggesting, they're telling [the park service] that it's their duty to come to the city before any fences go up," she said.

Boesch says the Board of Supervisors' decision to contact federal officials before a final decision is made will make it hard for the NPS to ignore the approximately 1,500 responses from park users that came streaming in during the public-comment period.

"One thing that's going to be interesting about this is that the park service has been pretty arrogant about everything they've done so far," she said. "They can blow off every wonderful comment we have, but they can't blow off the City Attorney's office."

See FORT FUNSTON, page 11C

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GGNRA007269

City attorney

FOFUAR00529



RECEIVED  
GOLDEN GATE  
NAT. REC. AREA

DEC 7 1 55 PM '79

December 5, 1979

From the Park Archives Collections  
Golden Gate National Recreation Area  
National Park Service

No. Madison Collection  
File: Plan Comments for  
Incorporation

Mr. Lynn Thompson, General Superintendent  
Golden Gate National Recreation Area  
Fort Mason  
San Francisco, CA 94123

Dear Lynn:

We appreciated reviewing your General Management Plan Environmental Analysis, June 1979, and would like to compliment you and your staff for such an undertaking.

Frankly, we were able to work more directly with the site-by-site approach taken in the Assessment of Alternatives for the General Management Plan, May 1977. That approach allowed us to look in one place to determine what the Park Service was considering in terms of alternatives for a specific site. The General Management Plan does not allow us to find your plans on specific sites as conveniently. As an example, when reviewing the Management Plan for our redesign of the Great Highway (north of Lincoln Way), we discovered that the Ocean Beach planning unit, which had appeared in the Assessment was no longer singled out for individual treatment. So, we looked at the description of the Cliff House

- on page 45, under "Developed Areas"
- on page 74, under "Parking Proposals"
- on page 119, under "Activities"
- on page 130, Table 15, "Quantification of Transportation Impacts", and
- on page 131, under "Impacts on Surrounding Communities".

NEED  
AN  
INDEX

Because some of the site-specific references are buried in the text of a general category, we are not entirely certain that we have gotten all the references to the area about which we were specifically interested.

In general, however, we believe that the Management Plan is consistent with our long-standing policies of public access to recreational and open space areas. Also, the plan is consistent with our transportation policies encouraging the use of public transit to recreational areas.

We feel that communication between the GGNRA and the Department of City Planning has been good. Since there will be refinements to your plan as you move to implement your proposals, we will stand ready to work with

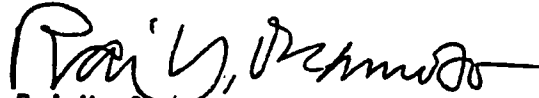
FOFUAR00530

Mr. Lynn Thompson, General Superintendent  
Golden Gate National Recreation Area  
December 5, 1979  
Page 2

you, and continue in the spirit of our Memorandum of Understanding.

Please feel free to call Marie Zeller (558-3661) should you wish to discuss our comments further.

Sincerely yours,

A handwritten signature in dark ink, appearing to read 'Rai Y. Okamoto', with a stylized, flowing script.

Rai Y. Okamoto  
Director of Planning

cc: Mary Burns  
Doug Nadeau  
Amy Meyer

FOFUAR00531

GGNRA007272

CITY AND COUNTY OF SAN FRANCISCO



LOUISE H. RENNE  
City Attorney

OFFICE OF THE CITY ATTORNEY

MARIAM M. MORLEY  
Deputy City Attorney

DIRECT DIAL: (415) 554-4654  
E-MAIL: mariam\_morley@ci.sf.ca.us

**RECEIVED**

JAN 02 2001 December 19, 2000

SUPERINTENDENT'S OFFICE

Mr. Brian O'Neill  
Superintendent, Golden Gate National Recreation Area  
Fort Mason, Building 201  
San Francisco, CA 94123

Re: Fort Funston Closures

*B. O'Neill*  
*Cy: M. Scott*  
*N. Watchell*  
*R. Weideman*  
*R. Scott*

Dear Mr. O'Neill:

We are writing at the request of the San Francisco Board of Supervisors with respect to the permanent closures of portions of Fort Funston, the erection of fences in those areas, and the removal of pavement from the Sunset Trail, which provided access to a portion of Fort Funston to senior citizens and persons with disabilities. The Board of Supervisors recently held a hearing on the closures and subsequently adopted a resolution requesting that we contact you to seek an explanation of how past and proposed closures serve a recreation or park purpose, to inquire how the National Park Service will provide disability access in light of its removal of pavement from the Sunset Trail, and to remind you of the National Park Service's obligation to submit its construction plans to the City for review. (A copy of the Board's resolution (Resolution 971-00) is attached as Attachment 1.

As you know, property at the northern-most bluffs between the beach and the coastal trail that is currently closed to off-trail recreational use (the "1995 closure") and the 12-acre portion of Fort Funston that the GGNRA has decided to close on a year-round basis (the "2000 closure") are part of the land that the City conveyed to the United States in 1975 for inclusion in the GGNRA. The 1975 deed, a copy of which is attached as Attachment 2, specifically requires that the United States shall hold the land "only so long as said real property is used for recreation or park purposes." The land comprising the 1995 and 2000 closures is, or was, heavily-used by City residents and others for varied recreational pursuits.

We hereby request, on behalf of the San Francisco Board of Supervisors, that the GGNRA provide us with a written explanation of how closure of portions of Fort Funston to recreational use, including the 1995 and the 2000 closures, is consistent with the deed restriction obligating the GGNRA to use former City land at Fort Funston for recreation or park purposes.

In connection with the transfer of City-owned property for inclusion in the GGNRA, the City and the United States entered into an agreement dated as of April 29, 1975 (the "Agreement"), a copy of which is attached as Attachment 3. The Agreement requires the GGNRA to consult with the City's Planning Department on all planning matters relating to construction on the transferred lands, and to submit its construction plans to the Department for

Letter to Mr. Brian O'Neill

Page 2

December 19, 2000

any "building, roadway, parking lot or facility, pier, or any structure or substantial alteration of the natural environment of [the transferred lands]." After reviewing the construction plans, the Planning Department must consult with the General Manager of the Recreation and Park Department and the Director of the Department of Public Works, and must then transmit its findings to the Planning Commission. The Planning Commission will review the Planning Department's findings and will convey its agreement, disagreement or suggested modifications to the GGNRA's General Superintendent. The Agreement provides that the General Superintendent will make every effort to accommodate the City's recommendations.

We have consulted with the Planning Department, which reports that it has received no request from the GGNRA to review construction plans related to the 1995 or the 2000 closure. We write to remind the GGNRA of its obligation under the Agreement to submit to the City's Planning Department for review and comment any fencing or other construction plans associated with the closures. .


In addition to receiving numerous complaints regarding closures at Fort Funston, members of the Board of Supervisors have been contacted by members of the public protesting the removal of pavement from the Sunset Trail, which was closed in November 1999 and reopened in March, 2000. Organizations such as the Golden Gate Senior Services have complained that a major portion of the trail is no longer paved and is therefore inaccessible to persons with limited mobility. We are writing to request a written response from the GGNRA explaining how this diminution of recreational opportunities is consistent with the GGNRA's responsibilities under the Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794). Please include in your response a description of the GGNRA's plan to make its programs accessible to persons with disabilities, including those with mobility impairments.

We thank you in advance for your cooperation and look forward to receiving your response. Please call if you have questions about any of these requests.

Very truly yours,

LOUISE H. RENNE

City Attorney



MARIAM M. MORLEY

Deputy City Attorney

cc: Members, Board of Supervisors  
Gerald Green, Director of Planning

FOFUAR00533

GGNRA007274

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1 [Urging the National Park Service to provide an explanation of Fort Funston Closures]

2  
3 Resolution requesting the City Attorney contact the National Park Service reminding  
4 the National Park Service of its obligation to submit its construction plans to the City  
5 for review, seeking an explanation of how the past and proposed closures serve a  
6 recreation or park purpose and inquiring how the National Park Service will provide  
7 disability access in light of its removal of a paved path.

8  
9 WHEREAS, In 1975, the City and County of San Francisco transferred Fort Funston  
10 and other City-owned park lands to the federal government, the Golden Gate  
11 National Recreation Area (GGNRA), to be administered by the National Park  
12 Service (NPS);  
13 and

14 WHEREAS, The statute creating the GGNRA specifically  
15 states that the GGNRA was established to provide for the use or needed  
16 recreational open space necessary to the urban environment and planning and requires that  
17 the Secretary of the Interior "utilize the resources in a manner which will provide for recreation  
18 and educational opportunities consistent with sound principles of land use planning and  
19 management;" and

20 WHEREAS, Former Charter section 7.403-1(a), as approved by the voters, required  
21 that the deed transferring any City-owned park lands to the NPS include the restriction that  
22 said lands were to be reserved by the Park Service "in perpetuity for recreation or park  
23 purposes with a right of reversion upon breach of said restriction;" and

24 WHEREAS, The deed transferring these City-owned park lands to the NPS contains  
25 the following restriction: "to hold only for so long as said real property is reserved and used  
for recreation and park purposes; and

FOFUAR00534

1 WHEREAS, A contemporaneous agreement ("Agreement") concerning the rights and  
2 duties of the parties requires the NPS, among other things, to submit its plans for construction  
3 on the park lands or changes in the natural environment of these properties to the City's  
4 Planning Department for review and comment in order to ensure that the Department of City  
5 Planning will be informed and involved during all stages of the planning process and in  
6 particular during the conceptual planning stage where potential conflicts can be resolved prior  
7 to the development of specific plans; and

8 WHEREAS, The City Attorney has concluded that the City and County of San  
9 Francisco has a right to bring legal action against the NPS in the event the NPS breaches the  
10 deed restriction and agreement; and

11 WHEREAS, Since 1991, the NPS has closed heavily-used portions of Fort Funston for  
12 the avowed purpose of habitat protection and native plant restoration, thereby precluding any  
13 recreational use, without notifying the City and County of San Francisco; and

14 WHEREAS, The NPS now proposes permanent closure of an additional twelve acres  
15 of prime recreation space at Fort Funston, without notifying the City and County of San  
16 Francisco; now, therefore, be it

17 RESOLVED, That Board of Supervisors of the City and County of San Francisco  
18 requests that the City Attorney write to the NPS reminding the NPS of its duty to submit to the  
19 San Francisco Planning Department for review, comment, and approval plans for construction  
20 at Fort Funston, including plans to install or maintain fencing at Fort Funston which precludes  
21 recreational use by park visitors; and, be it

22 FURTHER RESOLVED, That the Board of Supervisors requests the City Attorney to  
23 write to the NPS to ask them to provide access to people with disabilities and to explain their  
24 plans for resurfacing the previously paved Sunset Trail; and, be it

1        FURTHER RESOLVED, That the Board of Supervisors of the City and County of San  
2        Francisco hereby requests the City Attorney write a letter to the NPS requesting the NPS to  
3        explain how the closures that have been effected at Fort Funston since 1991, including the  
4        proposed twelve-acre closure, comply with the deed restriction requiring that Fort Funston be  
5        used only for recreation or park purposes.

FOFUAR00536

Leland Y, Yee, Ph.D.  
BOARD OF SUPERVISORS



**City and County of San Francisco**  
**Tails**  
**Resolution**

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**File Number:** 001928

**Date Passed:**

Resolution requesting the City Attorney to contact the National Park Service reminding the National Park Service of its obligation to submit its construction plans to the City for review, seeking an explanation of how the past and proposed closures serve a recreation or park purpose and inquiring how the National Park Service will provide disability access in light of its removal of a paved path.

November 6, 2000 Board of Supervisors — ADOPTED

Ayes: 9 - Ammiano, Becerril, Bierman, Brown, Katz, Kaufman, Leno, Newsom,  
Teng

Absent: 2 - Yaki, Yee

FOFUAR00537

D E E D

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, the first party, pursuant to Ordinance No. 287-75, adopted by its Board of Supervisors on June 23, 1975, and approved by the Mayor on June 26, 1975, hereby grants without warranty to THE UNITED STATES OF AMERICA, the second party, the following described real property situated in the City and County of San Francisco, State of California:

PARCEL ONE

Beginning at a point on that certain course in the westerly boundary line of that certain 150.29 acre parcel of land which bears North 16° 29' 00" West 2292.58 feet as described in the deed from Spring Valley Company to United States of America, recorded August 7, 1917, in Book 1020, page 119 of Deeds, in the office of the Recorder of the City and County of San Francisco, State of California, distant thereon from the northerly extremity of said course South 16° 29' 00" East 784.670 feet, said point being on the mean high water line of the Pacific Ocean and also being the southwesterly corner of that certain 115.6105 acre parcel of land quitclaimed to the City and County of San Francisco by the United States of America, recorded May 18, 1975, in Book 1020, page 314 of official records, in the office of the Recorder of the City and County of San Francisco, then along the southerly boundary line of the last said Parcel the following: North 53° 47' 45" East 579.730 feet to a point; thence the right the center of a curve from last mentioned point with a central angle of 28° 38' 41", a radius of 1060 feet, a distance of 22.02 feet; North 2° 24' 52" West tangent to the preceding curve 481.82 feet; northwesterly on an arc of a curve to the left tangent to the preceding curve with a radius of 940 feet, a central angle of 26° 59' 44", a distance of 442.89 feet; North 29° 35' 40" West 321.42 feet; North 35° 56' 50" West 411.204 feet and northwesterly on an arc of a curve to the right tangent to the preceding curve with a radius of 1350 feet, a central angle of 1° 34' 48", a distance of 414.219 feet; thence leaving said easterly boundary line of said 115.6105 acre parcel and running North 18° 22' 02" West 122.132 feet; thence northerly on an arc of a curve to the right tangent to the preceding curve with a radius of 996.54 feet, a central angle of 17° 39' 45", a distance of 307.202 feet; thence northwesterly on an arc of a reverse curve with a radius of 178 feet, a central angle of 53° 24' 49", a distance of 165.939 feet; thence North 54° 07' 06" West tangent to the preceding curve 562.23 feet; thence northwesterly on an arc of a curve to the right tangent to the preceding

*Attachment 2*

United States  
23, Page 314  
order; running;  
y lines of  
unces:  
2' 15" East  
curve  
04" East  
at, a cen-  
feet; North  
curve 130.23 feet  
a curve to the right the  
center of which bears North 23° 43' East from last men-  
tioned point with a radius of 1060 feet, a central angle  
of 1° 11' 25", a distance of 22.02 feet; North 2° 24' 52"  
West tangent to the preceding curve 481.82 feet; north-  
westerly on an arc of a curve to the left tangent to the  
preceding curve with a radius of 940 feet, a central angle  
of 26° 59' 44", a distance of 442.89 feet; North 29° 35' 40"  
West 321.42 feet; North 35° 56' 50" West 411.204 feet and  
northwesterly on an arc of a curve to the right tangent to  
the preceding curve with a radius of 1350 feet, a central  
angle of 1° 34' 48", a distance of 414.219 feet; thence  
leaving said easterly boundary line of said 115.6105 acre  
parcel and running North 18° 22' 02" West 122.132 feet;  
thence northerly on an arc of a curve to the right tan-  
gent to the preceding curve with a radius of 996.54 feet,  
a central angle of 17° 39' 45", a distance of 307.202 feet;  
thence northwesterly on an arc of a reverse curve with a  
radius of 178 feet, a central angle of 53° 24' 49", a dis-  
tance of 165.939 feet; thence North 54° 07' 06" West tangent  
to the preceding curve 562.23 feet; thence northwesterly on  
an arc of a curve to the right tangent to the preceding

course with a radius of 1071 feet, a central angle of 48° 00' 00", a distance of 897.24 feet; thence North 6° 07' 06" West tangent to the preceding curve 941.63 feet; thence north-westerly on an arc of a curve to the left tangent to the pre-  
 ceding course with a radius of 1929 feet, a central angle of 5° 10' 29", a distance of 174.22 feet; thence North 11° 17' 35" West tangent to the preceding curve 367.36 feet; thence north-  
 easterly on an arc of a curve to the right tangent to the pre-  
 ceding course with a radius of 871 feet, a central angle of 21° 47' 40", a distance of 331.32 feet; thence North 11° 57' 12" East 493.17 feet to a point; thence northerly on an arc of a  
 curve to the left the center of which bears North 79° 22' 18" West from last mentioned point with a radius of 804.22 feet a  
 central angle of 15° 05' 08", a distance of 211.745 feet;  
 thence North 4° 27' 26" West tangent to the preceding curve  
 100.07 feet; thence North 85° 32' 34" East 11 feet; thence  
 North 4° 27' 26" West 245.118 feet to a point on the westerly  
 extension of the southerly line of Wawona Street distant  
 thereon 283.403 feet westerly of the easterly line of Great  
 Highway; thence North 4° 27' 26" West 7557.572 feet; thence  
 North 4° 27' 55" West 11.904 feet to a point on westerly  
 extension of the northerly line of Lawton Street distant  
 thereon 276.379 feet westerly of the easterly line of  
 La Playa; thence North 4° 27' 55" West 2525.421 feet; thence  
 northwesterly on an arc of a curve to the left tangent to  
 the preceding course with a radius of 3593.67 feet, a central  
 angle of 1° 51' 03", a distance of 116.09 feet; thence South  
 83° 41' 02" West 1 foot to a point; thence northeasterly on  
 an arc of a curve to the right the center of which bears  
 North 83° 41' 02" East from last mentioned point with a  
 radius of 270.78 feet, a central angle of 22° 01' 00", a  
 distance of 104.05 feet; thence northerly on an arc of a  
 reverse curve with a radius of 719.68 feet, a central angle  
 of 19° 53' 00", a distance of 249.75 feet; thence North  
 4° 10' 58" West tangent to the preceding curve 1960.04 feet;  
 thence northeasterly on an arc of a curve to the right tangent  
 to the preceding course with a radius of 153.86 feet, a  
 central angle of 28° 56' 30", a distance of 77.72 feet;  
 thence northerly on an arc of a reverse curve with a radius  
 of 244.93 feet, a central angle of 28° 52' 42", a distance  
 of 123.21 feet; thence North 4° 07' 10" West 2051.58 feet;  
 thence northwesterly on an arc of a curve to the left tangent  
 to the preceding course with a radius of 248.36 feet, a  
 central angle of 41° 55' 00", a distance of 181.70 feet;  
 thence North 46° 02' 10" West tangent to the preceding curve  
 104.39 feet; thence northwesterly on an arc of a curve to  
 the right tangent to the preceding course with a radius of  
 397.68 feet, a central angle of 3° 44' 48", a distance of  
 26.00 feet to a point on a line parallel with and perpendi-  
 cularly distant 6 feet southerly of the northerly line of Anza  
 Street distant thereon 887.96 feet westerly of the westerly  
 line of 48th Avenue; thence North 34° 31' 13" West 296.69  
 feet; thence North 52° 48' 55" West 130.164 feet to an exist-  
 ing City monument; thence due West to the mean high water  
 line of the Pacific Ocean; thence southerly along the mean  
 high water line of the Pacific Ocean to the point of begin-  
 ning.

FOFUAR00539

Reserving unto the City and County of San Francisco an easement for the construction, installation, maintenance, repair, alteration, replacement, reconstruction and use of sewer and drainage facilities within the following described parcels all within the above described PARCEL ONE:

Parcel A

A strip of land 20 feet in width the center line of which bears South 44° 37' West from the northeasterly corner of the above described Parcel One to the westerly boundary line of said Parcel One.

Parcel B

A strip of land 20 feet in width the center line of which bears North 82° 53' West from a point on the easterly boundary line of the above described Parcel One perpendicularly distant 445 feet northerly of the northerly line of Balboa Street, produced westerly, to the westerly line of said Parcel One.

Parcel C

A strip of land 1,000 feet in width the center line of which being also the center line of Fulton Street produced westerly and running westerly from the easterly boundary line of the above described Parcel One to a line parallel with and perpendicularly distant 450 feet westerly of the westerly line of La Playa.

Parcel D

A strip of land 50 feet in width the center line of which being also the center line of Fulton Street produced westerly and running westerly from the westerly boundary line of above described Parcel C to the westerly line of above described Parcel One.

Parcel E

A strip of land 1800 feet in width the center line of which being also the center line of Lincoln Way produced westerly and running westerly from the easterly boundary line of the above described Parcel One to a line parallel with and perpendicularly distant 400 feet westerly of the westerly line of La Playa.

Parcel F

A strip of land 50 feet in width the center line of which is parallel with and perpendicularly distant 335 feet northerly of the center line of Lincoln Way produced westerly and running westerly from the westerly line of above described Parcel E to the westerly line of above described Parcel One.

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FF0687

Parcel G

A strip of land 1500 feet in width the center line of which being also the center line of Vicente Street produced westerly and running westerly from the easterly boundary line of the above described Parcel One to a line parallel with and perpendicularly distant 410 feet westerly of the easterly line of the Great Highway.

Parcel H

A strip of land 50 feet in width the center line of which being also the center line of Vicente Street produced westerly and running westerly from the westerly line of above described Parcel G to the westerly line of above described Parcel One.

Parcel I

A strip of land 50 feet in width the center line of which bears North 83° 47' West from a point on the easterly boundary line of the above described Parcel One perpendicularly distant 450 feet southerly of the southerly line of Wawona Street, produced westerly, to the westerly boundary line of said Parcel One.

Parcel J

A strip of land 200 feet in width the center line of which bears South 62° 13' West from a point on the easterly boundary line of the above described Parcel One distant thereon 190 feet northerly from the southerly extremity of that certain course which bears North 6° 07' 06" West, 941.63 feet, to the westerly line of said Parcel One.

Parcel K

A strip of land 50 feet in width the center line of which is parallel with and perpendicularly distant 20 feet southerly of the center line of Lincoln Way produced westerly and running westerly from the westerly line of above described Parcel E to the westerly line of above described Parcel One.

Reserving also unto the City and County of San Francisco an easement along and adjacent to the easterly line of Parcel One for the installation, maintenance, repair, alteration, replacement, reconstruction and use of street lighting facilities.

Reserving also unto the City and County of San Francisco the right to construct subsurface sewer tunnels running in a northerly direction within the southerly portion of above described Parcel One.

FOFUAR00541



PARCEL TWO

Beginning at the point of intersection of the Southerly line of Geary Boulevard, produced westerly, with the Westerly line of Forty-eighth Avenue; running thence Southerly along said Westerly line of Forty-eighth Avenue 916.92 feet more or less to a point distant thereon 363.08 feet Northerly from the point of intersection of said Westerly line of Forty-eighth Avenue with the Northerly line of Balboa Street; thence deflecting to the right 93° 23' 8" and running Westerly 310.54 feet to the Westerly line of La Playa at a point distant thereon 381' 5" Northerly from the point of intersection of said Westerly line of La Playa with the Northerly line of Balboa Street; thence deflecting to the right 5° 21' 52" and running Westerly 143' 4-1/2", said last course making an angle of 98° 45' with the aforesaid Westerly line of La Playa; thence deflecting to the right 85° 02' 30" and running Northerly 197' 1"; thence deflecting to the left 90° and running Westerly 5 feet; thence deflecting to the right 90° and running northerly 49 feet; thence deflecting to the left 90° and running Westerly 330' 4-3/16" more or less to the Northeasterly boundary line of the Great Highway, which boundary line is a curve with a radius of 849.32 feet, and a tangent to which curved line at this point of intersection deflects to the right from the last above described course 43° 26' 43"; thence Northwesterly along said Northeasterly line of the Great Highway 128.38 feet more or less on a curve to the left with a radius 849.32 feet to the point of intersection of the said Northeasterly line of the Great Highway with the Northeasterly line of Point Lobos Avenue; thence deflecting to the right 31° 28' 22" from a tangent to the said Northeasterly line of the Great Highway at its point of intersection with the said Northeasterly line of Point Lobos Avenue; and running Northwesterly along said Northeasterly line of Point Lobos Avenue 249.943 feet more or less to an angle point in said Northeasterly boundary line of Point Lobos Avenue, which angle point is marked by an iron monument set on a line bisecting the angle in Point Lobos Avenue at this point and distant 115 feet Southwesterly, measured at a right angle from said Northeasterly line of Point Lobos Avenue; thence continuing along said Northeasterly line and the Southeasterly and Southerly line of Point Lobos Avenue, deflecting to the left 30° 45' and running Northwesterly 132.045 feet; thence deflecting to the right 29° and running Northwesterly 261.899 feet; thence deflecting to the right 50° 30' and running Northwesterly 32.083 feet; thence deflecting to the right 53° 15' and running Easterly 134.260 feet; thence deflecting to the right 16° and running Easterly 114.588 feet; thence deflecting to the left 16° and running Easterly 199.822 feet; thence deflecting to the left 22° 15' and running Northeasterly 409.234 feet; thence deflecting to the right 28° 45' and running Easterly 334.927 feet to the point of intersection of the said Southerly line of Point Lobos Avenue with the Westerly line of Forty-eighth Avenue; thence deflecting to the right, 91° 27' 20" and running Southerly along said Westerly line of Forty-eighth Avenue 312.360 feet to the point of beginning.

FF0689

To hold only so long as said real property is reserved and used for recreation or park purposes and in addition as to Parcel 2, to hold only so long as said herein described Parcel 2 shall be forever held and maintained as a free public resort or park under the name of Sutro Heights, pursuant to the condition contained in the deed of George W. Merritt and Emma L. Merritt recorded May 26, 1920 in Book 109, Page 308 of Deeds.

IN WITNESS WHEREOF, the said first party has executed this conveyance this 17th day of September, 1975.

APPROVED:

Wallace Hartman  
Director of Property

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

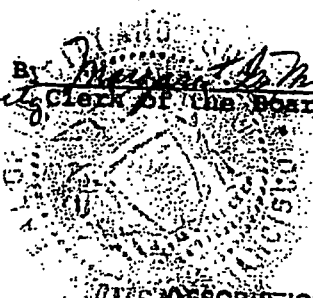
By Joseph L. Alioto  
Mayor

FORM APPROVED:

THOMAS M. O'CONNOR, City Attorney

By Dani Auguste Chouteau  
Deputy City Attorney

By Michael A. Maguire  
Clerk of the Board of Supervisors



DESCRIPTION  
Checked G. W. 9/4/75

FF0690

STATE OF CALIFORNIA }  
CITY AND COUNTY OF SAN FRANCISCO } ss.

On the 17<sup>th</sup> day of September, 1975,  
before me,  
**CARL M. OLSEN**, County Clerk of the City  
and County of San Francisco, and ex officio Clerk of the Superior  
Court of the State of California, in and for the City and County of  
San Francisco, personally appeared Joseph L. Alinto  
Mayor of the City and County of San Francisco, a municipal corporation,  
and Margaret G. McGuire Clerk of the Board of Supervisors  
of the City and County of San Francisco, known to me to be the  
Mayor and the Acting Clerk  
of the Board of Supervisors of the municipal corporation described in  
and who executed the within instrument and also known to me to be the  
persons who executed it on behalf of the municipal corporation therein  
named, and they and each of them acknowledged to me that such municipi-  
pal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and  
affixed my official seal at my office in the City and County of San  
Francisco, State of California, the day and year in this certificate  
first above written.

Y22490

BOOK C 68 PAGE 1



\$10.00

Carl M. Olsen

County Clerk of the City and County  
of San Francisco, State of California  
and ex officio Clerk of the Superior  
Court of the State of California,  
in and for the City and County  
of San Francisco.

DOCUMENTARY TRANSFER TAX \$ None  
PAID ON FULL VALUE OF PROPERTY CONVEYED, OR  
ON FULL VALUE LESS LIENS & ENCUMBRANCES  
AS SHOWN AT TIME OF SALE  
Robert S. [Signature]  
Signature of document or agent determining tax - firm name

RECORDED AT REQUEST OF  
TITLE INSURANCE & TRUST CO.  
At 12 Min Past 3 P.M.

SEP 24 1975

FF0691

City & County of San Francisco, Calif.  
**L. J. LEGUENNEC**  
RECORDER

CGNRA007285  
FOFAR00544

AGREEMENT

THIS AGREEMENT, made the 29th day of April, 1975, between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (hereafter referred to as the CITY), and the UNITED STATES OF AMERICA (hereafter referred to as the UNITED STATES), acting through the Department of Interior, National Park Service, witnesseth:

WHEREAS, the Congress of the United States of America has enacted into law Public Law 92-589, an Act to Establish the GOLDEN GATE NATIONAL RECREATION AREA (hereafter referred to as GGNRA) in the State of California; and

WHEREAS, the GGNRA has been created to preserve for public use and enjoyment areas possessing outstanding natural, historic, scenic and recreational values and to provide open space necessary to urban environment and planning; and

WHEREAS, the Secretary of the Interior is charged with management of GGNRA and mandated to utilize the resources of the GGNRA in a manner which will provide for recreational and educational opportunities consistent with sound principles of land use, planning and management, and to preserve the GGNRA in its natural setting and protect it from development and uses which would destroy the scenic beauty and natural character of the area; and

WHEREAS, section 2(a) of said Act provides that any lands within the GGNRA owned by the State of California or any political subdivision thereof may be acquired by the federal government only by donation; and

WHEREAS, the CITY owns lands, or an interest therein, which lie within the boundaries of the GGNRA and which are commonly known as: Fort Funston, Ocean Beach, Seal Rocks, Sutro Heights, Land's End, Phelan Beach, Baker Beach Access, Yacht Harbor, Marina Green, Municipal Pier and Aquatic Park, said lands to be more particularly described in the various deeds of transfer which may be executed by the CITY in favor of the federal government subsequent to this Agreement; and

WHEREAS, the CITY is considering the transfer of certain of said lands and interests in land upon certain reservations, restrictions, conditions, and rights of reverter; and

WHEREAS, the federal government will receive title to said lands subject to such reservations, conditions and rights of reverter as the deeds may contain without payment of consideration to the CITY; and

WHEREAS, the CITY will be relieved of the responsibility and expense of administering said lands and the UNITED STATES shall assume the responsibility and expense and shall administer the conveyed lands in accordance with the requirements of the GGNRA Act and National Park Service standards.

NOW, THEREFORE, it is mutually agreed as follows:

1. DESIGNATION OF AGENT. The Regional Director of the National Park Service designates the General Superintendent of the GGNRA and Point Reyes National Seashore (hereafter referred to as General Superintendent) as his agent, and the CITY designates its Department of City Planning as its agent for performance and enforcement of the respective rights and duties contained in this Agreement.

2. NOTICE OF PLANNED DEVELOPMENT. The General Superintendent will consult with the Department of City Planning on all planning matters relating to construction on the lands transferred by the CITY. This will be done in order to ensure that the Department of City Planning will be involved and informed during all stages of the planning process and in particular during the conceptual planning stage where potential conflicts can be resolved prior to the development of specific plans.

As any planning process moves from the conceptual stage to that of proposed construction plans, the General Superintendent shall formally notify and consult with the Department of City Planning on all proposed construction plans of any building, roadway, parking lot or facility, pier, or any structure or substantial alteration of the natural environment of the above mentioned lands. The Department of City Planning shall review said proposed construction plans for

conformance to the Master Plan of the CITY and possible adverse effect on traffic patterns and traffic safety on public streets of the CITY. After receiving the advice of the General Manager of the Recreation and Park Department and the Director of Public Works, the Department of City Planning shall report its findings to the Planning Commission which shall convey its agreement, disagreement or suggested modification of the proposed construction plans to the General Superintendent. The General Superintendent shall make every effort to accommodate the CITY's recommendations.

The National Park Service, acting through the General Superintendent, agrees to utilize the resources of the GGNRA in a manner which will provide for recreational and educational opportunities consistent with sound principles of land use, planning and management, to preserve the GGNRA in its natural setting and protect it from development and uses which would destroy the scenic beauty and natural character of the area, and to maintain the transferred premises in a good and sightly condition; and

3. FEES. Where not inconsistent with law and where within its discretion, the National Park Service shall not charge any fee for admission to or use of any open space within the lands transferred.

4. TRANSIT SYSTEM. The General Superintendent shall consult with the Planning Commission prior to instituting a transit system which operates on the streets of the CITY, and shall give good faith consideration to any recommendation made by the Planning Commission relative to said system.

5. SAND INCURSION. Subject to the availability of funds and within a reasonable time not to exceed eight (8) years, the UNITED STATES shall in good faith take reasonable measures to prevent the incursion of sand upon roadways adjacent to lands transferred by the CITY. Should this good faith effort fail to succeed the UNITED STATES will in no way be obligated in the future to share in the costs with the CITY for removal of sand from the Upper Great Highway.

6. PEDESTRIAN TUNNELS. Subject to the availability of funds, the CITY and the UNITED STATES shall cooperate in the maintenance of existing pedestrian tunnels and construction of additional tunnels beneath the Great Highway. Both the CITY and the UNITED STATES recognize the importance of providing access to the Ocean Beach lands via tunnels beneath the Great Highway.

7. LATERAL SUPPORT. The UNITED STATES will grant the CITY the right to enter upon the transferred lands for the purpose of maintaining lateral support for the CITY's roads and bridges. The UNITED STATES does reserve the right to approve the CITY's proposed measures or remedies in regards to the maintenance of lateral support. In an extreme emergency, after notifying the General Superintendent, the CITY shall be entitled to enter upon the lands transferred and take such temporary action as is necessary for the immediate preservation of a roadway or bridge. Nothing herein shall limit or waive any legal remedy which the City may otherwise have in regard to maintenance of lateral support by the federal government.

8. POINTS OF HISTORICAL INTEREST. The UNITED STATES shall, in accordance with applicable law, maintain points of historical interest within the transferred lands.

9. APPLICATION TO LANDS TRANSFERRED. The provisions of this agreement shall apply to only those lands in fact transferred by the CITY to the UNITED STATES.

10. RESERVATIONS, ETC. This agreement does not alter the reservations, conditions, restrictions and rights of reverter contained in the deeds of transfer to be executed.

11. NOTICE RE DEVELOPMENT ON PARKS LANDS NOT ACQUIRED FROM CITY. The General Superintendent shall notify the Department of City Planning of any planned construction upon GGNRA lands within the boundaries of the CITY even though said construction is upon property not acquired from the CITY. The General Superintendent shall give good faith consideration to any objections which the Planning Commission shall pose to said construction.

FOFUAR00548

Joseph L. Blais  
Mayor

William S. Blais  
General Superintendent  
Golden Gate National Recreation  
Area and Point Reyes National  
Seashore

Robert T. Dyer  
Clerk of the Board of Supervisors

Howard H. Chapman  
Regional Director, National Park  
Service, Western Region

APPROVED AS TO FORM:

THOMAS M. O'CONNOR, City Attorney

By Paul Auguste Chouteau  
Deputy City Attorney

APPROVED:

Katherine C. Brown  
Recreation and Park Commission  
Resolution 444 9586

FOFUAR00549

GGNRA007290



FOU City Plans

FOFUAR00550

ADOPTED IN 1985

# WESTERN SHORELINE

## INTRODUCTION

The conservation of the California coast has always been of interest and concern to San Francisco. From the early years of the city's history, the coastal beach and cliff areas have been an important recreational and natural resource to the people of San Francisco and the Bay Area. There has always been an intense interest among the city's citizens in maintaining the area for the use and enjoyment of the public. This position was underscored by the enthusiastic participation of the City in establishing the Golden Gate National Recreation Area and the overwhelming voter support for Proposition 20 in 1972 which led to the passage of the Coastal Act of 1976. Pursuant to that act San Francisco prepared a Local Coastal Program adopted by the City Planning Commission, and the Board of Supervisors, and certified by the California Coastal Commission on April 26, 1984.

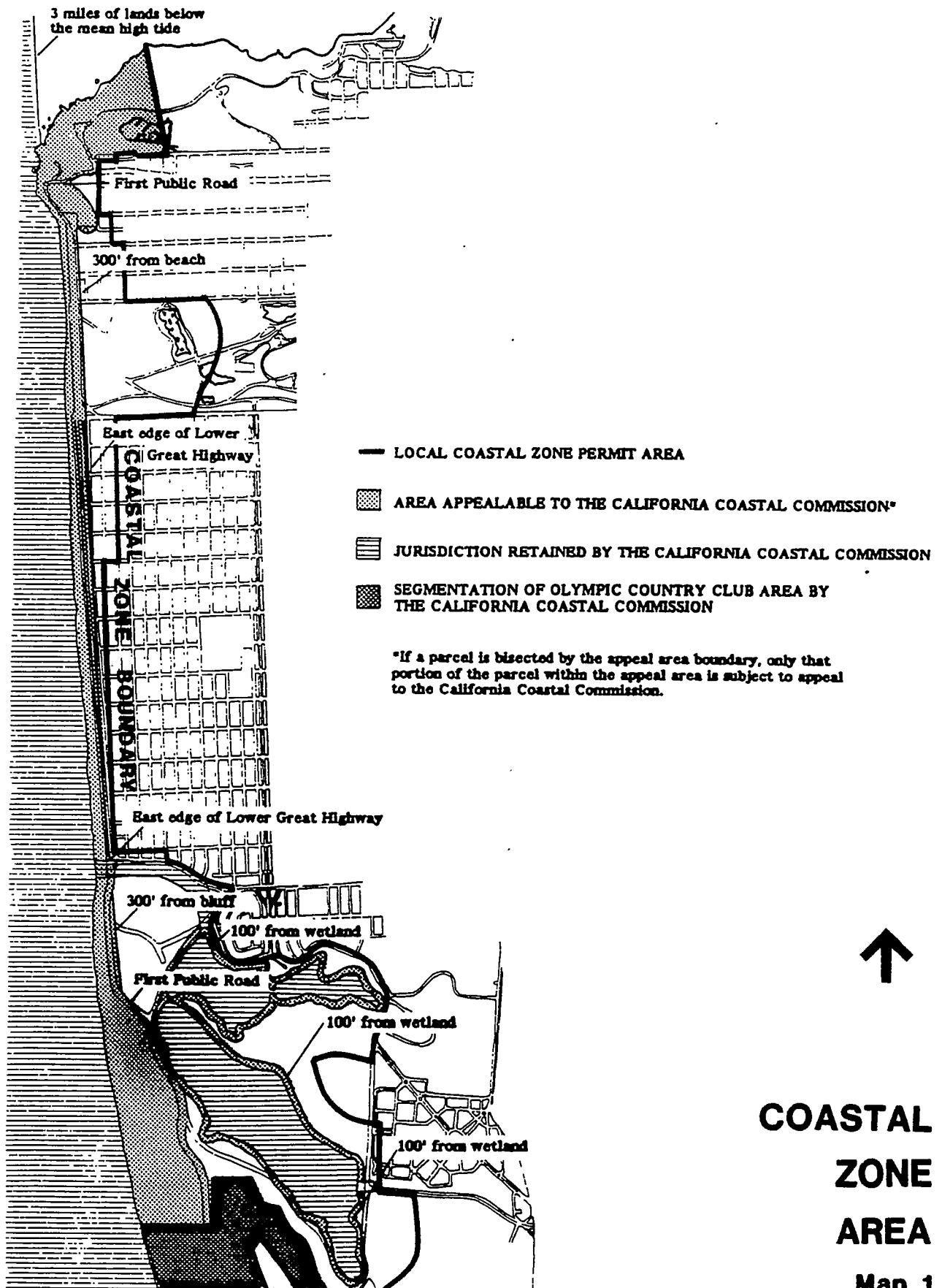
The City Planning Commission is responsible for adopting and maintaining a comprehensive long-term general plan for future development of the City and County of San Francisco known as the Master Plan. The Plan is divided into a number of functional elements, including Urban Design, Residence, Recreation and Open Space, Commerce and Industry, Environmental Protection,

Transportation, and a number of subarea plans, including the Civic Center Plan, Northeastern Waterfront Plan and the Central Waterfront Plan.

The policies of the Local Coastal Program, together with the addition of summary objectives to the various section headings to make it compatible with other area plans, are being incorporated in the City's Master Plan, as an area plan under the title Western Shoreline Plan.



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### **POLICY 3**

Connect local transit routes with regional transit, including BART, Golden Gate Transit, and the Golden Gate National Recreation Transit.

### **POLICY 4**

Provide incentives for transit usage.

### **POLICY 5**

Consolidate the Municipal Railway turnaround at the former Playland-at-the-Beach site.

### **POLICY 6**

Provide transit shelters at the beach for transit patrons.

## **THE GREAT HIGHWAY**

### **OBJECTIVE 2**

**REDESIGN THE GREAT HIGHWAY TO ENHANCE ITS SCENIC QUALITIES AND RECREATIONAL USE.**



### **POLICY 1**

Develop the Great Highway right-of-way as a four lane straight highway with recreational trails for bicycle, pedestrian, landscaping, and parking. Emphasize slow pleasure traffic and safe pedestrian access to beach.

### **POLICY 2**

Maintain the landscaped recreational corridor adjacent to the development at the former Playland-at-the-Beach site to provide a link between Golden Gate park and Sutro Heights park.

### **POLICY 3**

Provide for a continuation of the bicycle trail by an exclusive bicycle lane on public streets between the Great Highway and Point Lobos.

### **POLICY 4**

Improve public access to Ocean Beach from Golden Gate Park by providing a landscaped bridge over vehicular underpass, if funds are not available improve public access by providing grade crossings with signals, walkways, lighting and landscaping.

### **POLICY 5**

Locate parking for users of Ocean Beach and other coastal recreational areas so that the Great Highway need not be crossed. Provide limited parking east of the highway for park use. Design parking to afford maximum protection to the dune ecosystem.

### **POLICY 6**

Provide permanent parking for normal use required by beach users in the Great Highway corridor (taking into account the increased accessibility by transit); provide multiple use areas which could be used for parking at peak times, but could be used for recreational uses when not needed for parking.

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## LAKE MERCED

### OBJECTIVE 5

**PRESERVE THE RECREATIONAL AND NATURAL HABITAT OF LAKE MERCED.**

#### POLICY 1

Preserve in a safe, attractive and usable condition the recreational facilities, passive activities, playgrounds and vistas of Lake Merced area for the enjoyment of citizens and visitors to the city.

#### POLICY 2

Maintain a recreational pathway around the lake designed for multiple use.

#### POLICY 3

Allow only those activities in Lake Merced area which will not threaten the quality of the water as a standby reservoir for emergency use.

#### POLICY 4

As it becomes obsolete, replace the police pistol range on the southerly side of South Lake with recreational facilities.



#### POLICY 4

Expand the existing Zoo area west toward the Great Highway and south toward Skyline Boulevard.

#### POLICY 5

Provide a wind berm along the Great Highway for protection and public viewing of Ocean Beach and the Pacific Ocean.

#### POLICY 6

Enhance the entrance to the Zoo by providing visitor amenities at the northwest corner.

#### POLICY 7

Provide parking near the entrance to the Zoo for those visitors who cannot reasonably use public transportation.

#### POLICY 8

Provide for the reasonable expansion of the Recreation Center for the Handicapped for recreation purposes. Accommodate that expansion in a way that will not inhibit the development of either the Zoo or the treatment plant.



**POLICY 4**

Protect the natural bluffs below Sutro Heights Park. Keep the hillside undeveloped in order to protect the hilltop landform, and maintain views to and from the park. Acquire the former Playland-at-the-Beach site north of Balboa if funds become available.

**CLIFF HOUSE - SUTRO BATHS**

**OBJECTIVE 8**

**MAINTAIN THE VISITOR ATTRACTIVENESS OF THE CLIFF HOUSE AND SUTRO BATH COMPLEX.**

**POLICY 1**

Develop the Cliff House/Sutro Bath area as a nature-oriented shoreline park. Permit limited commercial-recreation uses if public ownership is retained and if development is carefully controlled to preserve the natural characteristics of the site.

**POLICY 2**

Restore the Cliff House to its 1909 appearance or, if financially feasible, to an accurate replica of the original 1890 structure.

**POLICY 3**

Insure hiker safety by providing a clearly marked and well maintained pathway system.



**POLICY 4**

Redesign parking and vehicular circulation in the area to relieve congestion and provide for the safety of pedestrians crossing Point Lobos.

**POLICY 5**

To increase visitor enjoyment, mitigate the noise and air pollution caused by tour buses by relocating bus waiting areas.

**FORT FUNSTON**

**OBJECTIVE 9**

**CONSERVE THE NATURAL CLIFF ENVIRONMENT ALONG FORT FUNSTON.**



**POLICY 1**

Maximize the natural qualities of Fort Funston. Conserve the ecology of entire Fort and develop recreational uses which will have only minimal effect on the natural environment.

**POLICY 2**

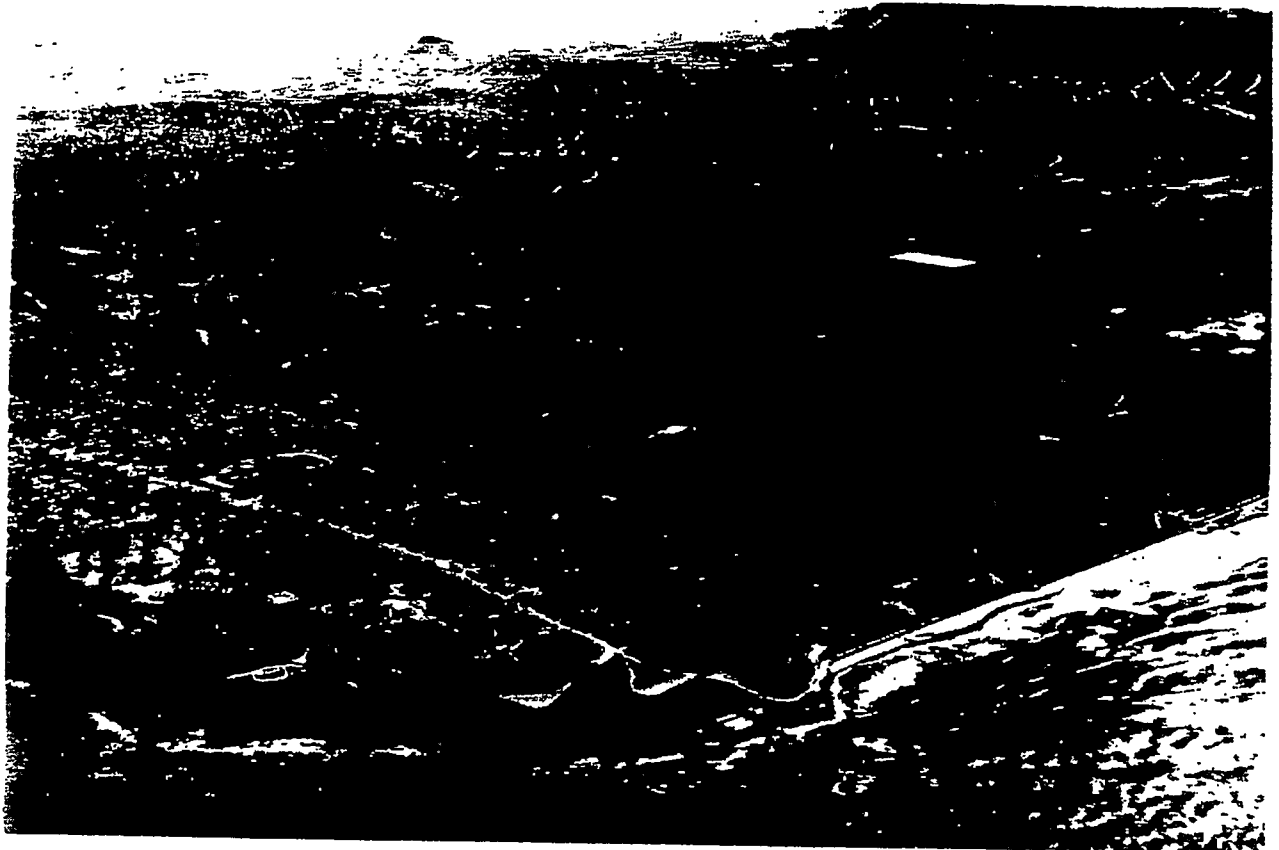
Permit hanggliding but regulate it so that it does not significantly conflict with other recreational and more passive uses and does not impact the natural quality of the area.

#### **POLICY 6**

Protect the neighborhood environment of the Richmond and Sunset residential areas from the traffic and visitor impacts from the public using adjacent recreation and open space areas.

#### **POLICY 7**

Maintain a community business district along Sloat Boulevard within the Coastal Zone to provide goods and services to residents of the outer Sunset and visitors to the Zoo and Ocean Beach.



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