May 25, 2016

General Superintendent
Golden Gate National Recreation Area
Attn: Dog Management Proposed Rule
Fort Mason, Building 201
San Francisco, CA 94123

RE: Comment on Proposed Dog Rule, RIN 1024-AE16

Dear Superintendent,

I am writing this public comment on the Proposed Rule for a Dog Management Plan in the GGRNA as Chair and on behalf of the San Francisco Dog Owners Group. SFDOG is the largest citywide dog owners/guardians group in the City, with a thousand active members, and at least a thousand more that we reach regularly through our social media presence and our emailed newsletters and listserves. SFDOG pushes for responsible dog guardianship, and advocates for off-leash recreation for dogs that are under voice control. We are a 501(c)(3) nonprofit, and work to educate dog guardians, non-dog people, and elected and appointed officials about responsible dog guardianship and the benefits of having a dog in our modern, often isolated, society. We have organized workshops on how to deal with the three most common dog behavior problems seen in parks (poor recall, jumping, and resource guarding), and publish a Park Petiquette flyer (how to behave in a park with your dog) that has been posted in city parks for years.

We conducted a Dog-Horse Socialization workshop to desensitize dogs to the presence of horses. This workshop was conducted in conjunction with the SF Police Department's Mounted Patrol unit, who provided the horses and riders for it. We organized workshops on understanding dog body language and behavior for gardeners and rec center staff of the SF Recreation and Park Department. We helped design and implement a pilot "Kids Read to Dogs" program (called Pawsitive Reading) with the SF Boys and Girls Clubs to foster literacy in at-risk populations of children. We work with members of the SF Board of Supervisors, along with SF Recreation and Park Department staff and other park advocates, on dog issues in parks and elsewhere in the city. SFDOG had two representatives on the GGNRA's Negotiated Rulemaking Committee, and has been involved in off-leash and other dog-related issues in the GGNRA for over a decade.

The proposed rule is so extraordinarily poorly done, it, frankly, should be an embarrassment to the GGNRA and the National Park Service (NPS). The rule itself is arbitrary, confusing, misleading, and will be essentially impossible to enforce. The basis for the rule (the Preferred Alternative from the SEIS) is biased against people who enjoy walking with dogs, is based on anecdote not scientific evidence, and goes against the enabling legislation and Congress' intent when the GGNRA was created. The process to create this rule has been so flawed and rigged to result in a predetermined result – access for people with dogs significantly reduced – that it has produced major NEPA violations that will be addressed in court if the rule is ever finalized.

This proposed rule is so fatally flawed that it must be redone and resubmitted for another period of public comment. The existing draft rule cannot be used as the basis for a final rule.

Two years ago, I used very similar words to describe the Supplemental Environmental Impact Statement (SEIS) for a GGNRA Dog Management Plan that the Park Service then wanted to implement. Three years before that, I used very similar words to describe the Draft Environmental Impact Statement (DEIS) for a GGNRA Dog Management Plan. Faced with significant substantive criticisms of the DEIS and overwhelming opposition to its original plan, the Park Service chose to make only minor changes in the SEIS. And faced with significant substantive criticisms of the SEIS (many identical to criticisms made of the DEIS) and overwhelming opposition (including from the Boards of Supervisors in all three counties with GGNRA land, the Park Service again chose to ignore the criticisms and produced a draft rule that is even more restrictive than the Preferred Alternative in the SEIS with changes never discussed at any previous stage of the process.

Sadly, in the case of a dog management plan for the GGNRA, the Park Service has shown over and over again that it cannot produce an unbiased, science-based plan or rule. This draft rule must be rejected.

The rest of this comment addresses each of the many problems with the draft rule.

NPS STAFF INTENTIONALLY WITHHELD IMPORTANT INFORMATION FROM SFDOG AND OTHER GROUPS, INTERFERING WITH OUR ABILITY TO INDEPENDENTLY REVIEW AND ANALYZE CLAIMS OF IMPACTS FROM DOG WALKING.

In July 2015, having been told that the draft rule would be released in the fall, SFDOG and other dog and recreation groups submitted a FOIA request to GGNRA staff asking for information and documents that they claimed supported their need to restrict where you can walk with a dog in the GGNRA. This information included: visitation numbers at different sites in the GGNRA, including the number of visitors with dogs at each site; citations issued in connection with alleged violations of dog walking laws and regulations; documents concerning park resources that have been impacted by dog walking in the GGNRA; and correspondence about the Draft Rule and Preferred Alternatives between GGNRA staff and park partners like the Golden Gate National Parks Conservancy, Wild Equity Institute, and the National Parks Conservation

Association who support the Park Service's desire to severely restrict dog walking in the GGNRA. All of this information is critical for an independent review of whether the Park Service's rationale for a new dog management plan and rule (increased visitors, increased conflicts, increased environmental damage) is legitimate or not.

Because previous FOIA requests made by SFDOG were ignored by GGNRA staff (e.g., a FOIA request submitted June 26, 2014 concerning documents related to the Commercial Dog Walkers Permit process; we never received a single document), we asked our attorney, Christopher Carr, a partner with the law firm Morrison Foerster in San Francisco, to submit the request on our behalf.

The GGNRA staff responded that the requested documents would only be produced if we paid a fee of $6000. Our attorney explained that asking a nonprofit to pay such a high fee in connection with a FOIA request that is clearly subject to a fee waiver was improper and offered to submit additional information to address the Park Service's concerns. NPS staff refused to accept any additional information and demanded we either pay the fee or submit a new request.

To avoid further delay, we agreed to: submit a new FOIA request and narrowed some of the document requests (at the request of GGNRA staffer Howard Leavitt) to reduce the claimed burden on the NPS; submitted a declaration to address the purported concerns of NPS relating to the fee waiver; requested that the Park Service promptly process our request; and assured them that we would pay any fees but would do so under protest. The Park Service later conceded that we were always entitled to the fee waiver. Clearly GGNRA staff acted in bad faith when they initially refused to produce the requested documents.

We submitted the revised FOIA request on November 24, 2015. But NPS staff did not bother to respond to our request in any way by December 28, 2015, the date they were legally required to do so. The Park Service has been in violation of FOIA ever since then.

After the first of the year, our attorney received numerous promises of dates when requested information would be given to us only to have those promises broken. In the meantime, the draft rule was released on January 28, 2016, and we still had not received any of the information we needed to review and independently analyze the Park Service's claims of impacts and problems that required it to restrict dog walking.

Finally, on March 23, 2016, nearly two months after the draft rule was released, and four months after our revised FOIA request was submitted (and seven months after our initial FOIA request was made), GGNRA staff told us that some of the materials we requested had been put online. They gave us no timetable for the release of the rest of the material we had requested. On April 5, 2016, we were forced to file a lawsuit over the FOIA violation.

Park Service staff intentionally kept us from receiving the information we requested months before the draft rule was released by first setting an outrageous fee request and then stringing us along with repeated broken promises of dates of release. While some of the material we requested is now available online, we have not had enough time to conduct a thorough analysis of it before the comment period ends.

The courts have ruled that: "An agency commits serious procedural error when it fails to reveal portions of the technical basis for a proposed rule in time to allow for meaningful commentary." (*Owner-Operator Indep. Drivers Ass'n, Inc. v. Fed. Motor Carrier Safety Admin,,* 494 F.3d 188, 199 (D.C. Cir. 2007)).

As William Gladstone reportedly said: "Justice delayed is justice denied." The glacial pace of release of information included in our FOIA request by Park Service staff has essentially denied us the ability to comment on all aspects of the draft rule and plan.

Because Park Service staff willfully kept us from receiving information we needed to independently review their basis for changes in dog walking in the GGNRA, they committed a "serious procedural error" in the development of this rule and, therefore, the draft rule must be rejected.

A second, revised draft rule should not be released until after we have received all of the information we asked for in our July and November 2015 FOIA requests and after we have then had enough time to adequately review and analyze all of it (likely to take two to three months). There should then be another public comment period after the revised draft rule is finally released.

THE DRAFT PLAN AND RULE VIOLATE THE ENABLING LEGISLATION'S RECREATIONAL MANDATE.

The Park Service likes to claim that recreation is just one of many mandates in the GGNRA and that they have to balance these mandates equally or that they can push recreation down on the list of priorities. They also claim they have to manage the GGNRA as much for the family from Iowa as for the residents of the Bay Area. But neither is true. It is clear from reading the legislative history of the GGNRA's creation that Congress intended for recreation to be of paramount importance in the GGNRA, and that it was intended to be used primarily by the people of the Bay Area.

The following quotes are taken from House Report No. 92-1391 (vol. 118, 1972) that describes Congress' thoughts about H.R. 16444, the legislation that created the GGNRA:

> "Basically, the thrust of H.R. 16444 is to preserve and protect, for public use and enjoyment, the nationally significant land and water areas which border San Francisco and which form a continuous greenbelt from the Golden Gate Bridge to the Point Reyes National Seashore." (p. 4851)
>
> "While it is some comfort and compensation to live in a city as interesting, clean, and attractive as San Francisco, it must be noted that the opportunities for outdoor recreation in broad open space are severely limited. … H.R. 16444 will not add significantly to the existing open lands in the city, but it will ensure its continuity as open space for the use and enjoyment of present and future generations of city dwellers." (p. 4851-2)
>
> "It is expected that the predominant users of the recreation opportunities offered by the Golden Gate National Urban Recreation Area will be the people residing in the nine-county San Francisco Bay region…" (p. 4852)

> "This legislation will, if enacted, capitalize on the availability of this important, unequaled resource in the San Francisco region by establishing a new national urban recreation area which will concentrate on serving the outdoor recreation needs of the people of the metropolitan region." (p. 4852)
>
> "Action is required if the rugged ocean coastline north of the city is to remain undeveloped and if the relatively natural areas within the city are to be available to satisfy the growing need for outdoor recreation opportunities." (p. 4852)
>
> "Most of this area would be easily accessible by public transportation to residents of the city and would provide a matchless outdoor recreation opportunity for them if properly developed and maintained." (p. 4854)
>
> "The objective of H.R. 16444 is to assure the preservation of the open spaces presently prevailing within the proposed recreation area, to provide public access along the waterfront, and to expand to the maximum extent possible the outdoor recreation opportunities available in this region." (p. 4858)

Perhaps the strongest statement in support of a recreational mandate for the GGNRA is included in a section of the House Report that discusses why the House Interior and Insular Affairs Committee decided not to include most of the Presidio in land transferred to become the GGNRA:

> "While the Presidio is included within the exterior boundaries in its entirety, the Committee felt that the actual transfer of title to the lands should be limited to those areas which can reasonably be expected to contribute in a significant way to the outdoor recreation objective of the legislation." (p. 4853)

So Congress rejected adding parts of the Presidio to the GGNRA, even though they might have a conservation value because they did not have enough recreational value. Clearly, Congress intended for the GGNRA to have a strong outdoor recreation mandate, not for it to become a bird sanctuary or habitat restoration area.

This recreation mandate is reflected in the GGNRA's original General Management Plan (GMP) published in 1980. A few examples of what is included in the 1980 GMP:

> "The planned uses of the resources are primarily for recreational activity, consistent with the reasons for establishment of the areas." (p. 189)
>
> "Because most visitors will continue to be local people, there will be a basic orientation to residents of the Bay Area and their needs for cultural expression, socializing, physical exercise, and the whole variety of daily leisure experiences." (p. 23)
>
> "Restoration of historic natural conditions (such as reestablishment of Tule elk) will continue to be implemented when such actions will not seriously diminish scenic and recreational values." (p. 96)
>
> "The park will provide recreational experiences for a wide variety of users." (p. 128)
>
> "The plan was shaped by careful attention to both existing uses and public demand for new activities." (p. 128)

In addition, the 1980 GMP acknowledged that the land in the GGNRA was not pristine wilderness. For example, here's how it describes the "Natural Appearance Subzone at Ocean Beach and Fort Funston": "

> "To many park users lands in this subzone may appear to be as natural as wilderness areas at Point Reyes, but they are in fact man-created landscapes which in many cases will require the same degree of maintenance as an urban park setting." (p. 17)

Later in the 1980 GMP it says:

> "In fact, the park characteristics we enjoy today and perhaps assume to be natural are, in most cases, the result of some degree of human intervention with natural processes. Most of the trees at Baker Beach and Lands End, for example, were planted by the army, and the steep open grasslands so characteristic of coastal Marin may have been in some measure perpetuated by livestock grazing." (p. 95)

The GGNRA is not – and never was – pristine wilderness. Yet the Park Service decided in recent years to manage the GGNRA as if it was. A new GMP, signed by the Regional Director on January 30, 2015, does not even include recreation as one of the guiding principles of the GGNRA! This is a direct violation of the enabling legislation and Congress' intent when it created the urban recreation area.

According to the new GMP, nearly all of the GGNRA (close to 90%) will be managed as "natural zones." Here's how the GMP describes "natural zones:"

> "Visitor use would be managed to preserve resources and their associated values and could involve controlled access..." (Vol. I, p. 57)

> "Visitors would have the opportunity to be immersed in a natural environment and could seek areas where they could experience natural sounds, tranquility, closeness to nature, and a sense of remoteness and self-reliance." (Vol. I, p. 63)

> "Low to moderate use levels would be expected in this zone… A moderate rate of encounters with other visitors would be expected but opportunities for solitude might be found in certain areas if a visitor seeks it. Group size could be limited…" (Vol. I, p. 65)

> "Access opportunities would be subordinate to the natural setting and may be highly managed (i.e., restrictions on access to protect resources and desired visitor experiences, as necessary." (Vol. I, p. 65)

According to the new GMP, the Park Service wants to manage nearly 80% of Ocean Beach and most of Fort Funston as "natural zones," even though both are located entirely within the city limits of a city of 800,000 people. The idea of managing these areas for low to moderate visitor use is absurd. Indeed, the new GMP indicates the Park Service intends to manage 80% of Ocean Beach to be a bird sanctuary (Vol. I, p. 214). Again, this is an absurd way to manage the major beach in one of the densest cities in the nation. This is not what Congress intended for the GGNRA.

Contrast that with how the 1980 GMP says the Park Service should manage Ocean Beach and Fort Funston:

> "The primary management goal in these areas will be to continue to accommodate relatively high use levels with a commitment to intensive maintenance in order to retain the appearance of a natural landscape." (p. 17).

> "The maintained environment and structure of the San Francisco units have a greater ability to absorb impacts than the more northern areas, and consequently more development and use is proposed for these units." (p. 189)

This is in keeping with the recreation mandate in the legislative history of the creation of the GGNRA. The description of how Ocean Beach and Fort Funston will be managed in the No Action Alternative of the Draft new GMP, released in 2011, is also in keeping with what Congress intended:

> "Ocean Beach would continue to be managed to provide a recreational beach that accommodates high levels of diverse use, while preserving its natural values…" (Vol. I, p. 192)

> "Fort Funston – This park unit would continue to provide trail and beach access for a variety of recreational uses, including dog walking and hang gliding." (Vol. I, p. 192)

Yet, the new GMP will manage these areas for low visitor use and controls on access, with recreation and recreational access a minor consideration. Indeed, the new GMP doesn't even use the word "recreation" in the name of zones where it will be allowed. Instead they call them "diverse opportunities zones."

Note that it is not just dog walking that is at risk. The Park Service has also tried to put new restrictions on bonfires on Ocean Beach and equestrians in Marin County. At a recent community meeting about the Draft Rule on March 29, 2016, GGNRA Superintendent Christine Lehnertz noted that the Park Service is considering new restrictions on bicycling at Crissy Field enroute to the Golden Gate Bridge. "It's on our radar," she said. Clearly all recreational uses in the GGNRA are under review and all recreational users could face severe cuts in access to the GGNRA in the near future.

The new GMP violates the recreation mandate that Congress gave the GGNRA and that formed the basis of its first general management plan that served it so well for its first 40 years. Because the Draft Rule, along with the Draft Dog Management Plan, are both based on the new GMP, they must both be rejected and modified to respect the GGNRA's Congressional recreation mandate. The new GMP must be reopened as well, because its failure to protect recreation as a resource and value has created a faulty foundation upon which the Draft Rule and Plan have been based.

DETAILS OF THE DRAFT RULE AND PLAN WERE PREDETERMINED OUTSIDE OF THE NEPA PROCESS.

When the Park Service released the Final Environmental Impact Statement (EIS) for its Draft new GMP in 2014, it included a map showing the proposed management zones for all GGNRA sites in the Preferred Alternative (Map 6, Vol. I, p. 149). For Fort Funston, the map showed a site that was mostly green-colored "natural zones" with an oddly shaped yellow area designated as a "diverse opportunity zone." The latter is where walking with a dog will be allowed (Vol. I, p. 133).

This oddly shaped "diverse opportunity zone" in the GMP identically matches the area where off-leash dog walking would be allowed according to the Preferred Alternative in the Supplemental Environmental Impact Statement (SEIS) for a Dog Management Plan (Map 16-F) for which public comment had ended only a few months earlier. The new GMP was released before analysis of public comments on the SEIS for a Dog Management Plan (DMP) had been completed. The new GMP says that only "minor changes" can be made to it as a result of the DMP (Vol. I, p. 34). The GMP's map and designation of zones were firmly established when it was released. It was, therefore, unlikely – if not entirely impossible – for the Park Service to add more off-leash space to Fort Funston in response to the public comments it received on the SEIS.

Clearly, where you will be able to walk with a dog at Fort Funston was set in stone once the new GMP was released, even though the NEPA process to develop a Dog Management Plan and Rule was not completed. The details of the Dog Plan and Rule were predetermined outside of the NEPA process for their development.

Because the Draft Rule is based on decisions made outside the NEPA process for its development, and because it is based on predetermined results, the Draft Rule must be rejected and a new rule developed that can meet NEPA standards.

THE DRAFT RULE REFLECTS A STRONG BIAS AGAINST DOGS AND PEOPLE WITH DOGS.

A strong bias against dogs, people with dogs, and dog walking permeates the Draft Rule, as well as the Preferred Alternative in the SEIS. Neither adequately acknowledges that there are real health and safety benefits to walking with a dog. Walking with a dog is highly effective at reducing stress and blood pressure. Florence Sarrett, who continued to walk with her dog at Fort Funston until her death when she was in her 90s, often referred to Fort Funston as "miles and miles of smiles." Every time I go to areas in the GGNRA where dogs are walked, I see happy people and happy dogs. A woman I talk with frequently at a neighborhood diner does not have a dog but goes to Fort Funston nearly every morning to watch the dogs run and play. She says it makes her feel happy and less stressed.

I provided citations for the health benefits of walking with a dog in my comments on the DEIS and the SEIS, and will not repeat them here. Suffice it to say, many studies have found that walking with a dog reduces stress, increases socialization for seniors, increases the amount of exercise people get, reduces the need for doctor visits in seniors, helps people deal with grief, teaches children responsibility, empathy and compassion, and helps disabled people have more positive interactions with strangers.

Many people, especially women and seniors, do not feel safe walking on trails in San Francisco without a dog. Even those who do not have dogs have said they feel safer walking on trails where there are a people with dogs. There's an old adage that a well-used park is a safe park. Given that parts of the GGNRA are located within the city of San Francisco and are easily accessible by public transit, people are understandably concerned about the potential for serious

crime (assault, robbery, rape, murder) in the GGNRA. All of these have, in fact, occurred in the GGNRA.

Indeed our analysis of incident reports provided during Negotiated Rulemaking and the DEIS showed that 93% of all incidents reported in the GGNRA did not involve dogs at all, and they included many serious crimes like murder, rape, assault, and robbery. Clearly, it is other people who pose the greatest safety threat to visitors to the GGNRA, not dogs.

The SEIS presented information on dog bites in an extremely alarming way, leading people to assume serious dog bites are common in the GGNRA. I provided information in my comment on the SEIS that showed most dog bites occur in the home, to someone who has been interacting with a dog that they know, not in park settings like the GGNRA. While even one bite is one too many, the idea that people walking in the GGNRA are likely to be attacked by a strange dog, as the Park Service implies with this Dog Rule and Plan is extremely small.

Finally, the Park Service refuses to consider benefits that dogs can give to wildlife in the form of protection from natural predators. Several years ago, Jean Kind, a long-time dog walker, watched in horror when a raven attacked and killed a bank swallow chick that it had grabbed from its nest in the cliffs at Fort Funston. Dogs had recently been banned from the area near the edge of the cliff. The presence of dogs presented no threat to the bank swallows, but it did keep the ravens away. Once dogs were kept away from the cliff top, the ravens took up residence, looking over the edge and waiting for their chance to grab and kill a bank swallow. Similarly, the Park Service has never looked into whether the presence of dogs on Ocean Beach helps protect snowy plovers from ravens, their most dangerous natural predator.

Despite years of study by Park Service staff and Audubon volunteers, there is no evidence that dogs have ever injured or killed a snowy plover or bank swallow. The same cannot be said of ravens. In the December 2013 edition of the *West Portal Monthly*, Dan Murphy, an Audubon expert on bank swallows, is quoted as saying: “Watching ravens teach their young to hunt the rare Bank Swallows at Fort Funston was mind-blowing.”

During Negotiated Rulemaking, staff from the Marine Mammal Center read a statement that supported dog walking, including off-leash dog walking, on beaches because dog walkers were almost always the ones to call them early in the morning to report stranded marine mammals. Yet the Park Service never mentions this.

The Draft Rule indicates that future land acquisitions will only be considered for on-leash dog walking, even if the land has a long history of off-leash dog walking. There is no reason given for this restriction. It is arbitrary and capricious and based on the Park Service’s well-documented bias against people with dogs and dog walking.

Because the Draft Rule is based on a Preferred Alternative that is biased against dog walking, it must be rejected. The Park Service must thoroughly analyze the benefits of dogs, people with dogs, and dog walking on humans, dogs and wildlife – not only consider possible negative impacts – and then reissue a new Draft Rule that includes this information.

DEFINITIONS IN THE DRAFT RULE ARE OVERLY BROAD AND VAGUE.

The definitions of terms in the Draft Rule are so broad and vague as to be essentially unenforceable. Especially concerning are the terms "uncontrolled dog," "unattended dog," and "authorized person." Sadly, these form the basis for much of details of the Draft Rule.

The Draft Rule says: "*Uncontrolled dog* means a dog, on or off-leash, that exhibits any behavior that threatens, disturbs, harasses, or demonstrates aggression toward another person, dog, or domesticated animal or wildlife in a manner that a reasonable person would find threatening, disturbing, harassing, or aggressive. Such behaviors include snarling, growling, repeated barking at, howling, chasing, charging, snapping at, or uninvited attempting to take or taking food from a person; demonstrating uninvited or unwanted physical contact with a person or another animal; annoying, pursuing, hunting, harming, wounding, attacking, capturing, or killing wildlife or a domesticated animal; digging into the ground, soil or vegetation; or failing to be under voice and sight control in a Voice and Sight Control Area." (p. 27)

Basically this definition is so vague and overbroad that it can be stretched to include nearly every behavior by every dog. What is a "reasonable person?" Someone who does not like dogs might interpret innocent dog play behavior (one dog chasing another dog in play) as aggressive and therefore against the rule. What is "disturbing" behavior" A person who does not like dogs might find normal play behavior in a dog "disturbing." Would that be considered a violation? A dog digging in the sand next to a child digging into the sand to make a sand castle would be considered "uncontrolled" and acting against the rule, while the child gets complimented on his or her creativity.

Several years ago, I watched a mother and two small toddlers digging in the sand in the Plover Protection Area at Crissy Field. They were not near the waterline, but back in the area where the Park Service claims the birds rest. I saw a Park Ranger drive a vehicle down the promenade, slow down, look at the mother and her children, and then drive on. The mother and toddlers continued to dig for some time after, sand flying, yet no Park Service staff ever stopped or talked with them. To me, a reasonable person, the mother and her toddlers were "uncontrolled" and should have been stopped. Yet the Park Ranger said and did nothing. The Draft Rule will codify and encourage this double standard.

In its public comment on the Draft Rule dated May 16, 2016, the Marin Humane Society, an organization with over 100 years of experience in animal control, said: "Rarely do non-animal responders completely understand dog behavior in a fashion that generates factual data. More importantly, individual perceptions of animal behavior require fact gathering to enable enforcement responders to adequately understand what the animal behavior impacts really are. Determination of these violations can easily be inaccurate…" (p. 3) Clearly, their experience is that it is not always as easy for enforcement personnel who are not trained in animal behavior to correctly understand what a dog is doing or has done. Let alone a layperson whose only qualification is being "reasonable," whatever that means.

This definition of "uncontrolled dog" is so broad it will be impossible to enforce, and will put people with dogs at risk of prejudicial, biased enforcement actions.

The Draft Rule says: "*Unattended dog* means a dog left without a guardian in sight, tied or untied outside; or left in a parked vehicle, where it creates a nuisance, disturbs the peace and tranquility of the park, or disturbs wildlife; or left where the dog could reasonably be expected to experience suffering or distress due to, for example, exposure to high temperatures, direct sunlight, or inadequate ventilation." (p. 27)

This definition is also overly broad. It says you cannot leave a dog tied up (or untied on a down stay) outside a building, and that you also cannot leave it unattended in a car. Even a dog quietly sleeping in the backseat of a car on a cold, foggy afternoon after a fun run at the beach would be in violation because it "could", in theory, wake up and bark at a person trying to break into the car, and therefore disturb the "peace and tranquility of the park."

What happens if you are in the GGNRA walking with your dog and you have to go to the bathroom? You cannot take your dog into the bathroom because dogs are prohibited inside buildings, you cannot leave your dog tied to a hitching post outside the bathroom, and you cannot leave it in your car while you run into the bathroom. What are you supposed to do? Clearly this definition of "unattended dog" is so overly broad that it will make it nearly impossible for many people, especially seniors, disabled, and people with small children – all of whom have to use the bathroom frequently – to walk with a dog in the GGNRA. That's discriminatory and just plain wrong.

This definition of "unattended dog" is so broad it will prevent large numbers of people – seniors, disabled, and people with small children – from recreating in the GGNRA with a dog, and will put all people with dogs at risk of prejudicial enforcement actions.

The Draft Rule says: "Each dog walker would be required to have the dog owner's name, home address, and phone number available for each dog walked and must provide this information upon request to any person authorized to enforce the regulation." (p. 14) " The dog walker must demonstrate this ability [immediately recall directly to his or her side, without regard to circumstances or distractions] when requested to do so by an authorized person." (p. 28) "… a dog walker must produce official documentation [proof of dog license and rabies vaccination] .. when asked by an authorized person." (p. 37) "An authorized person may instruct a dog walker to remove an uncontrolled dog from the park." (p. 37)

The Draft Rule does not, however, define who an "authorized person" is. The assumption is that it means Park Rangers or US Park Police. Could it also mean a volunteer authorized by GGNRA staff to help enforce the rule? There's nothing in the Draft Rule to prevent a person who hates dogs from volunteering and then being "authorized" by GGNRA staff to "enforce" the rule. This rule is setting a scene for increased conflict and abuse unless there is a very specific definition of who the "authorized persons" are who can enforce the proposed rule.

The Draft Rule needs to define "authorized person" to prevent abuse and harassment of people with dogs.

The definitions of "uncontrolled dog," "unattended dog" and "authorized person" are critical to the Draft Rule's effectiveness and enforceability. Because they are currently overbroad or missing, the Draft Rule must be rejected and a new Draft Rule issued that adequately defines these terms.

THE DRAFT RULE'S NEW RESTRICTIONS ON PEOPLE WHO WALK MORE THAN 3 DOGS ARE ARBITRARY AND CAPRICIOUS, AND WILL HAVE A SIGNIFICANT NEGATIVE IMPACT ON DOG RESCUE GROUPS AND THOSE WHO FOSTER DOGS.

The Draft Rule will require anyone who walks 4-6 dogs to obtain a commercial dog walkers permit, bans them from all of Ocean Beach, and prohibits them from walking over 3 dogs at one time anywhere in the GGNRA in the evenings and on weekends. The Draft Rule is the first time in this entire process (DEIS, SEIS) that these number-of-dogs-being-walked restrictions have been proposed. The Draft Rule lists no reason for the restrictions on people who walk with more than 3 dogs. They are therefore clearly arbitrary and capricious and should be rejected.

Clearly, the Park Service just "assumed" that anyone walking more than 3 dogs must be a commercial dog walker. They "assumed" wrong. If they had bothered to actually discuss the idea with any dog group, animal control expert, or dog behaviorist – basically anyone who knows anything about dogs – before adding these new restrictions, the staff would have been told that people who are not commercial dog walkers often walk more than three dogs at one time.

In particular, people active with dog rescue groups (who take dogs from shelters and find forever homes for them) and people who foster dogs for those rescue groups (take care of the dogs while the rescue groups try to find forever homes for the dogs; forever homes are with people who take care of the dog for the rest of its life) frequently have more than three dogs. These people will be significantly hurt by these new restrictions.

Rescue groups often take dogs from animal shelters that routinely euthanize dogs that have been in the shelter for longer than a certain period of time (often only a week) simply because they have no room, staff, or money to care for them for any longer. These dogs often have no behavioral or medical issues, just bad luck that no one happened to choose them in the short time they were at the shelter.

To save these dogs' lives, rescue groups will take them out of the shelter and then desperately try to find someone to foster the dogs until forever homes can be found. Often people who are fostering other dogs for the rescue will agree to temporarily take in extra dogs to save their lives. As a result, fosters frequently have more than three dogs under their care at any one time.

There is so much demand for rescue groups and fosters that they frequently have little time or extra money to do anything except care for the dogs they have volunteered to protect. To expect them to walk one group of three dogs, then come home, pick up another group of one or two for a second walk is unrealistic, unnecessary, and, frankly, mean-spirited. To say they cannot walk

their dogs anywhere in the GGNRA on the weekend or in the evening (prime times for people who work 9-5 jobs) is unrealistic, unnecessary, and, frankly, mean-spirited. To require them to pay for a commercial dog walkers permit each year and obtain a liability insurance policy that could combine for a cost of anywhere from $500 to $1,000 a year is unrealistic, unnecessary, and, frankly, mean-spirited. To require them to spend $1,000 or more on a dog walking training class is unrealistic, unnecessary, and, frankly, mean-spirited. Many if not most fosters and rescues will not be able to afford these requirements and, therefore, will be forced out of the GGNRA or to take in fewer dogs.

These new restrictions will place an undue burden on rescue groups and fosters, with no reason given as to why it is needed. The restrictions are arbitrary and capricious.

Make no mistake, the people in San Francisco and the Bay Area care deeply about animals. The No-Kill movement (that pushes shelters to never euthanize any animal that can be treated for a medical or behavioral issue) began in the Bay Area. The No-Kill movement depends on rescues and fosters to get dogs and other animals out of the shelters and into foster homes until they can find forever homes. The people of the Bay Area care deeply about finding forever homes for all animals in shelters.

The Draft Rule's new restrictions on walking more than 3 dogs could cause some fosters to refuse to take in additional animals, even temporarily, since they will not be able to walk them in the GGNRA (especially problematic if the GGNRA is the nearest open space to their homes) or they cannot afford the permits. If dogs are euthanized at shelters because these new restrictions meant there was no fosters able to care for them, blame for their deaths will fall squarely on the shoulders of the Park Service staff who thought up these unrealistic, unnecessary, and draconian new restrictions on walking more than three dogs. The Park Service has never studied the impacts of this policy on the urban quality and on the surrounding communities and their shelters, rescues, fosters, and on the Bay Area's commitment to reducing euthanasia at animal shelters. This study must be done before the Draft Rule can be considered. Shame on the Park Service and its staff for creating a situation where an increase in killing dogs in shelters is even possible.

As an aside, the Draft Rule, with the requirement that people who are not commercial dog walkers but who walk more than 3 dogs at one time must obtain a permit essentially imposes a fee upon those people to use the GGNRA. The Memorandum of Understanding between the National Park Service and the City and County of San Francisco, made on April 29, 1975, states unambiguously that: "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." (Item #3 in the "NOW, THEREFORE, it is mutually agreed" section of the MOU). The Park Service's plan to charge people who want to walk more than 3 dogs (and are not commercial dog walkers) what amounts to a fee to use its open space violates the MOU and is, therefore, illegal, at least on the land that San Francisco transferred to the GGNRA (e.g., Ocean Beach, Fort Funston, and Lands End).

The Draft Rule's new restrictions on people who are not commercial dog walkers walking more than 3 dogs must be removed. The Draft Rule must be rejected and a new Rule issued

that addresses these concerns, followed by a public comment period on the second Draft Rule.

THE DRAFT RULE ENCOURAGES THE HARASSMENT OF PEOPLE WALKING WITH A DOG BY "AUTHORIZED PERSONS."

The Draft Rule encourages Park Rangers, US Park Police, and other "authorized persons" to stop anyone they see walking with a dog and demand proof of rabies vaccination, dog license, and a demonstration of immediate recall if the dog is off-leash. It's not at all clear why this was added, since it was not included in either the DEIS or the SEIS, and there is no rationale given in the Draft Rule as to why it is here now. Because no evidence is given to support reasons for the new policy, it can only be defined as arbitrary and capricious.

In its comments on the Draft Rule dated May 24, 2016, the SF SPCA said that the proposed Rule's focus on rabies control issues goes: "well beyond the scope of what is normally considered 'dog walking' to include rabies control issues that risk conflicting with local requirements in the various affected counties." (SF SPCA comment, p.3) The Marin Humane Society, in their comment from May 16, 2016, said: "Efforts to enforce rabies control issues with regards to license tags, rabies certificates as outlined on page 10 of the Proposed Rule seem to be confusing, inappropriate and unrelated to walking a dog. While we applaud the ability to ensure compliance with local dog licensing parameters, there are so many different ordinances and enforcement methods depending on local animal services/control regulations and local Health Department rules that this area of enforcement will be senseless." (Marin Humane Society comment, p. 3)

So the local experts on animal control issues think the emphasis on stopping and asking people for proof of rabies vaccination and dog licenses is unwarranted, unnecessary, and unwise.

The Draft Rule's emphasis on asking for proof of rabies vaccination and dog licenses must be removed, and a new Draft Rule issued that does not include it.

What about the requirement that anyone walking with a dog off-leash can be required to demonstrate immediate recall if asked to by "authorized persons"? Both the Marin Humane Society and the SF SPCA, in their comments on the Draft Rule, point out how difficult it will be for personnel who are not trained as animal control officers to understand and enforce the Draft Rule. "National Park Service employees are not normally trained as animal control officers and therefore lack the expertise to determine which dog behaviors are undesirable and to effectively enforce the Proposed Rule." (SF SPCA comment, p. 3) This becomes especially problematic if "authorized persons" can apply to untrained volunteers who offer to help enforce a Dog Rule.

But even if the Park Service intends to train every single Park Ranger and US Park Police officer who works in the GGNRA to be an animal control officer (although that is extremely unlikely), who will do the training? Will it be someone well versed in positive reinforcement approaches to dog behavior? Someone who sees nothing wrong with using shock collars to correct bad behavior? Will it be someone who has studied dog behavior professionally for decades? Or

someone who has been a dog guardian for a number of years and considers himself to be a self-taught expert? All of these people may view identical dog behavior differently and may have different definitions of what behaviors violate the rule.

The Draft Rule's emphasis on allowing "authorized persons" to judge dog behavior and whether it violates the Rule – including deciding if a recall demonstrated by a dog was immediate enough – cannot work unless "authorized persons" are trained as animal control officers. Without any kind of training requirement for "authorized persons," the Draft Rule must be rejected, and these provisions removed. Adding any training requirement will require an additional public comment period since people have a right to weigh in on how exactly "authorized persons" will be trained to ensure it matches the standards of the Bay Area.

Since there is no reason given for this new "stop and demand" aspect of the Draft Rule (it was not mentioned in either the DEIS or the SEIS), we can only speculate as to why it was included. Since the Draft Rule allows "authorized persons" to stop the same person over and over and over again, this aspect of the proposed rule seems intended to create an atmosphere of harassment for people who want to walk in the GGNRA with a dog. Even if you can easily meet all the "demand" requirements, if you get stopped often enough, it will ruin the experience of a fun, relaxing walk. If it happens often enough to you, you may well stop walking in the GGNRA altogether.

That ultimately seems the rationale behind the "stop and demand" aspect of the Draft Rule – to make it so unpleasant for people who walk with a dog that they stop walking in the GGNRA. According to the SEIS, the Park Service has budgeted nearly $2.6 million to enforce the Dog Rule (SEIS, p. 1219). They will be able to hire enough new personnel to blanket the beaches and trails with "authorized persons" and repeatedly stop people walking with dogs. There is no other way to describe this than "harassment" because they can stop you not because you or your dog have done anything wrong, but simply because you are there. This constitutes an unwarranted, unnecessary, draconian restriction on a recreational use of the GGNRA for no good reason beyond pure harassment. It is a clear violation of Congress' recreational mandate for the urban recreation area. It is yet more evidence that the Park Service is not protecting recreation as a resource and value in the GGNRA.

Because of this "stop and demand" harassment of people with dogs, the Draft Rule must be rejected. A new Draft Rule must be released that does not include it, followed by a new public comment period.

THE DRAFT RULE ALLOWS THE GGNRA SUPERINTENDENT TO FURTHER RESTRICT DOG WALKING WITHOUT ANY ADDITIONAL PUBLIC PROCESS.

The Draft Rule allows the GGNRA Superintendent to impose further restrictions on dog walking if she "determines that the level of compliance with dog-related regulations is approaching an unacceptable level." (p. 18) There is no adequate definition of what constitutes an "unacceptable level." Similarly, there is no adequate definition of what constitutes "approaching" an

unacceptable level. Without substantive definitions of these words and phrases, the Draft Rule essentially gives the Superintendent the authority to change dog walking restrictions on a whim, without any real reason, just as long as she claims compliance is approaching unacceptable levels. That is by definition arbitrary and capricious.

Note that this compliance-based monitoring program does not require that there be any observed negative impacts from the alleged non-compliance. All it requires is that there be non-compliance with the rule. And, according to the Draft Rule, the Superintendent can only add more restrictions if she sees non-compliance. She cannot relax existing restrictions if there is full compliance. Adaptive management programs are supposed to be driven by observed impacts (or the lack thereof), and they are supposed to include the ability to either increase or remove restrictions, depending on observed conditions and impacts. The Draft Rule's compliance-based monitoring program is not an adaptive management program. It is a way for the Superintendent to further increase restrictions on dog walking in the GGNRA, without having to first go through a public process.

In three federal court decisions (closures at Fort Funston, tickets at Crissy Field after the 1979 Pet Policy was illegally rescinded, and the appeal of the Crissy Field case), federal judges admonished the Park Service for not following its own regulations. As Judge William Alsup ruled on June 2, 2005 in the Crissy Field ticket appeal: "In 1983, the NPS revamped its regulations and added a new provision to require notice-and-comment procedures before any 'highly controversial' closure or opening of NPS land or before any action that would have a major impact on visitor-use patterns. Specifically, this provision required a notice-and-comment procedure before 'a closure, designation, use or activity restriction or condition, or the termination or relaxation of such, which is of a nature, magnitude and duration that will result in a significant alteration in the public use pattern of the park area … or is of a highly controversial nature.'" (36 C.F.R. 1.5(b))

Imposing further restrictions on dog walking because of alleged non-compliance would clearly fit the cited regulations definitions of "highly controversial" and "a significant alteration in the public use pattern of the park area." Clearly, the Park Service is required by the regulation cited by Judge Alsup to have a public comment period before adding any further restrictions on dog walking after the proposed rule is finalized. The proposed compliance-based monitoring program, as long as it allows further restrictions without public comment, is a violation of the Park Service's own regulations.

If compliance-based monitoring of the Draft Rule is allowed to proceed, SFDOG fully expects the Superintendent to claim to have found enough non-compliance to justify, in her own mind, the removal of all access for people with dogs. In essence, the Park Service will have banned an entire recreational user group from its land and done so by simple administrative fiat.

Because it is based solely on compliance, not on any actual observed negative impacts, and because it is intended to add new restrictions on access without public comment, the Draft Rule must be rejected and a new Draft Rule issued that does not include it.

THE DRAFT RULE DOES NOT PROTECT COMMERCIAL DOG WALKING.

The Draft Rule specifically asks the public to comment on "whether or not commercial dog walking should be allowed under the proposed rule." (p. 3) Yet it gives no reason why this question is being asked or why it is being asked now. That makes the question itself seem arbitrary and capricious.

Commercial dog walking was covered in the DEIS, but removed from the Preferred Alternative in the SEIS and an interim public use restriction and permit requirement for commercial dog walking was adopted by the Park Service in June 2014. Removing this component of a Dog Management Plan before the NEPA process was completed violated NEPA law.

Commercial dog walking has been a part of a Dog Management Plan at every stage of this process, from Negotiated Rulemaking to the DEIS to the SEIS to the interim permit regulation. Anecdotally, we have been told that compliance with the commercial dog walker permits is actually quite high. There are no reasons given to suggest it should be stopped now.

SFDOG strongly supports continued commercial dog walking in the GGNRA. Commercial dog walkers make an important positive contribution to urban quality for residents of San Francisco, Marin, and San Mateo counties. Commercial dog walkers provide needed socialization with other dogs, and often work with dogs to address behavior and training issues. They exercise dogs when the dogs' guardians are at work, out of town, or working on special projects. All of these things benefit the community as a whole by creating better socialized, better behaved dogs. Personally, I always used a commercial dog walker when I had my dog, even though I also personally walked my dog every day. I would hate to see commercial dog walking banned from the GGNRA.

The large open spaces where dogs have been walked in the GGNRA since before its inception help reduce impacts from commercial dog walking by spreading them out. If commercial dog walking is ended in the GGNRA, the dogs and the commercial dog walkers won't go away. They'll just shift to the much smaller city and county parks. These parks are too small to handle the thousands of commercial dog walkers and dogs who currently walk in the much larger GGNRA.

When the Park Service implemented its interim commercial dog walking permits (in violation of NEPA), it chose to set a limit of six dogs per dog walker. However, the city of San Francisco had already implemented a commercial dog walker permit that, at the request of the Small Business Commission, set the limit at 8. In addition, the GGNRA permits cost significantly more than the city permits. This gave commercial dog walkers a financial incentive to walk in city parks. San Francisco officials asked the Park Service to honor the SF city permits, but the Park Service refused. The Park Service should honor any local commercial dog walker permit – including the total number of dogs that can be walked – and not require a separate permit to walk in the GGNRA. That will remove any financial incentives for commercial dog walkers to walk in city parks instead of the GGNRA.

The Draft Rule should continue to allow commercial dog walking wherever dogs can be walked in the GGNRA.

THE DRAFT RULE AND PLAN STILL DO NOT ADEQUATELY ADDRESS IMPACTS ON CITY PARKS.

The National Park Service has never adequately studied potential impacts on city parks if thousands of people and dogs who currently walk in the GGNRA are displaced from it by the new restrictions and start walking in city parks instead. SFDOG has made this comment for both the DEIS and the SEIS. Investigating impacts on city parks was the only request made of the Park Service by the San Francisco Board of Supervisors when they voted to oppose the Preferred Alternative in the DEIS in 2011.

All the Park Service has done is collect names of city parks where people with dogs might walk, especially legal off-leash areas in those parks. They have provided some minimal information about each park. But they have provided no information on the most important condition in a city park – how many people walk with dogs in the park now, i.e., how crowded is the park now before the influx of people and dogs from the GGNRA begins.

Indeed, the Park Service has not released detailed information on how many people currently walk with dogs at each of its own sites where they are currently allowed. That was some of the information we requested in our FOIA request. Without knowing how many people and dogs will be displaced, it is difficult to know exactly how all those people and dogs will impact city parks. If 600 people and dogs are displaced, it clearly will have less of an impact than if 6,000 people and dogs are displaced. Because the Park Service did not respond to our FOIA request in a timely manner, we have been denied the ability to make the kind of comment on impacts on city parks that we had wanted to make. The Park Service must produce credible counts of current usage by people with dogs at every site in the GGNRA, including not just dog walking but also other activities that include dogs such as picnicking, sunbathing, or fishing with your dog at your side.

I say “credible” counts because the Park Service did conduct visitor counts in 2008 and 2011 at Ocean Beach, Crissy Field and the Presidio (in 2008) and Fort Funston and Muir Beach (in 2011). However both surveys were fatally flawed. The 2008 study was an intercept study where researchers stopped people at the locations and talked to them about what they were doing there. At both Ocean Beach and Crissy Field, the researchers were observed actively avoiding talking to people who were walking dogs. In the 2011 study, researchers counted only one person as walking with a dog even when there was more than one person walking with the dog. I was at Fort Funston when the survey was done, walking with my friend and her dog. I did not have a dog with me. She was listed as being a dog walker, while, according to the study protocols, I was listed as just walking or as “other,” even though I was there to walk with her dog. Both studies clearly undercounted the number of people walking with dogs. The Park Service must conduct unbiased studies to get accurate numbers of people currently walking with dogs in the GGNRA who could be displaced into city parks by the new restrictions.

During recent community meetings about the Draft Dog Rule and in newspaper, television, and radio interviews about the Draft Rule, Park Service staff and their surrogates who support the proposed rule have repeatedly suggested that people who want to walk with a dog should walk in city and county parks, not in the GGNRA. The Park Service has moved from merely mentioning that there are off-leash areas in city parks to actively encouraging people to walk in the much smaller city parks instead of in the GGNRA. Yet they have still not done any studies of what all that encouragement will do to the city parks.

To give you an idea of the scale of off-leash acres that are being lost in the GGNRA, consider the following: The number of acres of off-leash space that will be lost in the GGNRA if this Draft Rule goes forward is greater than all the total acreage of all legal off-leash space in all the parks in San Francisco combined!

In the DEIS, the Park Service initially tried to claim that an increase in visitation in nearby parks would be unlikely if the Preferred Alternative was implemented. By the SEIS, they acknowledged that some increase in recreational use at nearby dog walking areas was likely, but that it was "speculative" to try to identify impacts from the Preferred Alternative's displacement, and so just dropped the subject.

In its study of impacts on city parks, the Park Service must analyze the impacts in a worst-case scenario – what if all dog walking in the GGNRA is banned, both on- and off-leash. Given the compliance-based monitoring program that could put further restrictions on dog walking after the proposed rule is finalized, there is a very real possibility that in five to ten years, there will be no dog walking allowed anywhere in the GGNRA. The impacts of this worst-case scenario must be thoroughly studied by the Park Service before any Draft Rule or Plan can be approved.

We know from "Tsunami Friday" that the impacts will include overcrowding and conflict. On Friday, March 11, 2011, the GGNRA closed both Fort Funston and Ocean Beach to all visitors on the morning of the earthquake in Japan that crippled the Fukushima Daiichi nuclear reactors because of fears a tsunami would strike the California coast. By mid-morning the day of the closure, a San Francisco Recreation and Park Department supervisor counted over 200 dogs in Stern Grove, the closest city park to the closures, more than 10 times the normal number of dogs. Parking was described as "chaotic," with cars blocking driveways and interfering with traffic flow. Clearly, the urban quality for the people with dogs, the dogs themselves, and the park neighbors was significantly degraded by the closures in the GGNRA. Now consider that happening day in and day out because people with dogs can no longer walk in the GGNRA.

We also know that since the Park Service created its own commercial dog walking permit that gave dog walkers a financial incentive to walk in city parks, there have been noticeable increases in people with dogs and in the total number of dogs in San Francisco's McLaren Park, the largest off-leash area in the city. In addition, since McLaren Park is in the extreme southwestern corner of San Francisco, commercial dog walkers who now use it will likely have to drive farther to get from their clients' homes to the park. This will increase air pollution and traffic congestion in San Francisco, another impact of the displacement from the GGNRA.

Note that the SF SPCA, in its comment on the Draft Rule, said that they estimate there are nearly 200,000 dogs in San Francisco alone (SF SPCA comment, p. 2). The dogs won't disappear if these restrictions go through and dog walking is banned from nearly all of the GGNRA. They will simply go somewhere else, and that means all 200,000 dogs in San Francisco will be walked only in city parks. The small off-leash areas in city parks cannot handle that load.

Clearly the impacts of the displacement of people out of the GGNRA and into the much smaller city parks will be significant. Yet the GGNRA has done little to adequately study those impacts, even though it is required to do so by NEPA.

The Draft Rule and Plan cannot move forward until the Park Service conducts a thorough study of impacts on the much smaller city parks caused by the displacement of people and dogs from the GGNRA into city parks, as required by NEPA. This includes credible counts of visitors with dogs who currently walk at each site in the GGNRA, along with credible counts of how many people and dogs currently walk in the off-leash areas in city and county parks. The Draft Rule and Plan must then be modified to mitigate identified impacts.

MAPS IN THE DRAFT RULE ARE MISLEADING.

The maps included in the Draft Rule are misleading, and in every case where they are misleading, they make it look like there will be more access for people with dogs than there will actually be. In addition, the maps do not always match the text description of the sites in the Draft Rule.

For example, Map 10 for Crissy Field shows a large yellow (off-leash) area at the Central Beach. It looks like the amount of beach available for off-leash recreation will be large. However, if you look at the maps for Crissy Field that are in both the DEIS and the SEIS, you see that Central Beach is actually quite narrow, not even half as wide as the yellow swath (which extends into the Bay water and into closed dune areas on the other side of the beach. This map must be corrected to show a more realistic depiction of how much off-leash will remain at Crissy Field.

Map 10 also indicates the Promenade will allow on-leash dog walking. However, if you look at the tables showing where people who walk more than three dogs can go, you will see that the Promenade is only on-leash for people walking three or fewer dogs. Anyone who wants to walk more than three dogs is banned from nearly the entire Promenade. The text in the Draft Rule and the map do not match.

Similarly, Map 15 for Ocean Beach shows that the northernmost one-quarter of the beach is off-leash. If you read the text descriptions in the Draft Rule, you will see that people walking more than three dogs can walk on that northernmost quarter of the beach, but are banned from the stairwells that provide the only way to get down to the beach. Therefore there would appear to be no way for people to get from their car to the beach, if they have more than 3 dogs. The Park Service released an addendum to the Draft Rule on April 1, 2016 that "corrected" this and noted that people who want to walk more than 3 dogs will not be allowed to walk anywhere at Ocean

Beach; they will be banned from both the beach and the stairwells. Yet many people, including those who did not notice the addendum or those who look at the map, will not understand this because the northernmost part of the beach is shown as a yellow off-leash area. From the map alone, they will assume anyone walking more than 3 dogs will be able to do so at Ocean Beach. But this is incorrect. The maps must be corrected to indicate areas where people who want to walk with more than 3 dogs, whether on- or off-leash, will be allowed and where they will not be allowed, perhaps using different colors for each.

In nearly every map – Crissy Field, Fort Funston, Baker Beach, Stinson Beach, Muir Beach, Rodeo Beach, Fort Baker, Fort Point, Fort Mason, Lands End, and Sutro Heights Park – the blue on-leash areas include parking lots. While it is true that dogs can be walked on-leash through a parking lot, it is not usable space for recreating with a dog. By coloring parking lots blue for on-leash access, the maps make viewers think there is more and, in some cases, a lot more area for on-leash dog walking than is actually available. This visually misrepresents and diminishes the full impact of the reduction in on- and off-leash space in the Draft Rule. Parking lots must be removed as representing areas where you can recreate with a dog from all the maps.

The Draft Rule also contains a table of trail and fire road names that have arbitrarily been changed. This confusion between trail names that people have used for decades and the new trail names dreamed up by the Park Service for the Draft Rule means many people have trouble understanding exactly what changes are being made and where. The Draft Rule gives no reason for the name changes, indicating they were made arbitrarily and capriciously.

The maps that accompany the Draft Rule must be corrected and because they are misleading, the Draft Rule must be rejected. The maps should be reissued and a new public comment period started.

THERE IS LITTLE EVIDENCE IN THE DRAFT RULE AND PLAN THAT DOGS CAUSE PROBLEMS SIGNIFICANT ENOUGH TO WARRANT RESTRICTIONS ON RECREATIONAL ACCESS FOR PEOPLE WITH DOGS.

The Park Service claims that it had to restrict where people can walk with dogs because of increases in park visitation, increases in safety concerns (primarily dog bites), and increased concerns about impacts from dogs on vegetation and wildlife. We had asked for information on all of these areas in our FOIA request because we wanted to be able to independently review and analyze the validity of those statements by looking at the data used to support them. But because the Park Service did not respond to our FOIA request in a timely manner, we were denied the chance to include that analysis in this comment on the Draft Rule.

Because the Park Service delayed responding to our FOIA request for information directly relevant to whether or not there is solid evidence supporting the restrictions on where you can walk with a dog, the Draft Rule should be rejected and a new Draft Rule issued, followed by a period of public comment.

The DEIS and SEIS (each 2000+ pages) provide little evidence that dogs cause significant impacts on wildlife, plants, or other park visitors. They contain no site-specific studies showing major impacts. Instead, they talk about impacts that "could," "might," or "may" occur, with no evidence cited that those impacts are actually occurring now – or ever happened – in the GGNRA. They contain no rudimentary baseline data on which to base any discussion of potential impacts. Because the Park Service does not cite studies showing real impacts at sites in the GGNRA, its insistence that access for people with dogs must be restricted is arbitrary and capricious.

In our FOIA request, we had sought information on visitation levels at individual sites. The Park Service likes to proclaim that they have over 17.7 million visitors per year. But these figures include primarily visitors to Alcatraz and Muir Woods, both highly popular tourist destinations and both places where dogs have never been allowed. It is not relevant to include visitor counts on Alcatraz and Muir Woods while talking about the need to develop a dog management plan on Ocean Beach or Fort Funston.

Because the Park Service did not respond to our FOIA request in a timely manner, we could not include a full independent review and analysis of the Park Service's claims of increases in visitor counts. A cursory examination of documents put online by the Park Service indicate a wide variability in visitation from year to year and month to month, but no significant increasing trend in numbers of visitors at most sites compared to visitation rates a decade ago. Indeed data presented in the DEIS and SEIS indicated overall visitation (including Alcatraz and Muir Woods) had not changed significantly in over a decade.

In our FOIA request, we had also sought access to incident reports to better judge the Park Service's claims about increases in incidents involving dogs. Because this information was not provided to us in a timely manner, we were not able to thoroughly analyze the incident reports. A cursory examination of information on incidents posted online by the Park Service two months into the comment period on the Draft Rule (four months after our revised FOIA request, and 7 months after our initial request), which is all we have had time to conduct, indicates that there was no significant increase in incidents involving people with dogs in recent years.

From 2011 through 2014, there were few cases of dogs chasing wildlife (about two per year in all three counties). The number of dog bites in those four years totaled 77, which averages out to about 19 a year, This compares to our analysis of data provided during Negotiated Rulemaking about incidents from 2001 to 2006 and information provided in the DEIS for 2007 and 2008. Throughout those years, the number of dog bites each year hovered around 25 each year. There has been no significant increase in dog bites in recent years. Of course, even one dog bite is one too many, but the idea that other park visitors are at great risk of being bitten by a dog in the GGNRA is not accurate. Dog bites, thankfully, have always been and remain rare, especially considering the many millions of dog visits occur each year.

As in past years, the most recent data seems to indicate that the majority of incidents/violations were leash law violations, simply having a dog off-leash in an on-leash area, even though the dog was not misbehaving or causing any problems. Even these numbers have remained fairly constant throughout the past decade. There has been no significant increase in incidents

involving dogs, despite Park Service claims that there has been one and that, therefore, they have to restrict access for people with dogs. What few incidents there are can easily be addressed with less drastic mitigations, such as better signage or education and outreach programs, without the need for any access restrictions.

Because the Draft Rule is founded on a Plan that bases its calls for restrictions for people with dogs on claims of increased incidents and increased visitation levels that are not borne out by an examination of the actual data, the Draft Rule must be rejected.

THE DRAFT RULE IGNORES OVERWHELMING OPPOSITION TO THE DRAFT DOG PLAN.

At every stage of the process to develop this rule, public comment has been overwhelmingly opposed to restrictions on access for people walking dogs. Nearly all local elected officials, including the Boards of Supervisors of all three counties with GGNRA land, have gone on record opposing the restrictions. Yet at every stage of the process, the Park Service has forged ahead with the plan it wants – making significant cuts in access for people with dogs. In response to many substantive criticisms of the plan, the Park Service made only minor, cosmetic changes between the DEIS and SEIS Preferred Alternatives. Indeed, what few changes were made generally made the plan more restrictive. Clearly, the Park Service listens to those who support its plans and is willing to add even more restrictions if they suggest them, but completely ignores even substantive comments made by those of us who oppose the plan.

This Draft Rule continues this disturbing trend. Despite overwhelming opposition to the Preferred Alternative in the SEIS, including many substantive comments, the Draft Rule is even more restrictive than the SEIS Preferred Alternative. For example, the new restrictions on people who want to walk more than 3 dogs at one time were never discussed before, but show up in the Draft Rule. The idea of "stop and demand" never appeared in any previous plan, but shows up in the Draft Rule. The Draft Rule and Preferred Alternatives in the DEIS and SEIS have only gotten more restrictive over time, at the same time that calls for fewer restrictions by local elected officials and the public have increased.

Despite the few changes, the primary core of a Dog Management Plan has remained constant and predetermined – reductions of up to 90% of off-leash acres. The Preferred Alternative constitutes the largest loss of recreational access for people in the history of the GGNRA. Note that the Draft Rule does not only affect dogs. It also affects people. Telling someone who enjoys recreating with a dog that they can continue to walk in the GGNRA without their dog is like telling a surfer that you can still go into the water, just don't bring your surfboard with you. Or telling an equestrian you can still walk in the GGNRA, just leave the horse at home. This Draft Rule will have a significant negative impact on people's lives.

During recent community meetings on the Draft Rule, GGNRA Superintendent Christine Lehnertz referred to a "silent majority" that supports the Draft Rule. The real advantage of citing a "silent majority" is that it's difficult for opponents to prove it's not real. After all, they're silent and don't speak up, and so leave no trace that can be cited. At the recent community meetings

about the Draft Rule, Park Service staff repeatedly referred to people who support the Draft Rule but were too afraid to come to the community meeting and voice their support because the majority of the audience was opposed to it. However, there was nothing to stop those supporters from submitting comments on the DEIS and SEIS, yet they didn't do so. Clearly Lehnertz's silent majority who support restrictions on dog walking does not exist.

At the community meetings, Superintendent Lehnertz was repeatedly asked how many people opposed the SEIS Preferred Alternative compared to how many supported it. She responded that public comments were not a "popularity contest." But the Park Service does have to be responsive to the community. That's why they're required by law to ask the public what they think of their plans. The "popularity contest" can serve as a useful check to see whether you as an agency are making a mistake; if an overwhelming majority of people oppose your plan, maybe you should rethink that plan.

The Park Service has not consulted with experts on dog behavior or those of us who know the dog community as they developed details of the Draft Rule. Both the Marin Humane Society and the SF SPCA indicated in their public comments that they were surprised to not be consulted by the Park Service as it developed the Draft Rule. This was especially true with regard to animal control issues, e.g., rabies vaccinations and enforcement personnel's understanding of dog behavior to be able to distinguish between behavior that violates the proposed rule and behavior that does not. Had the Park Service consulted with these nationally recognized leaders in animal issues, perhaps the Draft Rule would not have been as unenforceable as this one is.

Had the Park Service talked to people active in the dog community about their plans to require permits for people walking more than 3 dogs, with added restrictions on where they can go, we would have immediately picked up on the negative effects on rescue groups and fosters. But they didn't talk with us and so now we are in the position of trying to stop this poorly thought out Draft Rule before it causes real harm to dogs in shelters, in San Francisco, Marin and San Mateo counties, and in the GGNRA.

This refusal to work with local organizations and groups that support dog walking and people with dogs is in direct conflict with National Park Service claims that they want to work with park neighbors. At a November 7, 2013 appearance before the Commonwealth Club in San Francisco, Interior Secretary Sally Jewell said that the National Park Service should work closely with neighboring cities. That has not been the case with the GGNRA, as evidenced by their not consulting with the Marin Humane Society or the SF SPCA and their refusals to match their commercial dog walker permits with those in effect in San Francisco despite being asked to do so by City officials.

The National Park Service recently published an "Urban Agenda" initiative as part of its 2016 Centennial celebration. The "Urban Agenda" trumpets the need to collaborate and form alliances with local communities. With regard to its Dog Management Plan, those lofty words ring hollow. The GGNRA has not worked with local officials, experts in animal control or dog behavior, or members of the dog community in a collaborative way as they developed this Draft Rule.

Because the Draft Rule is based on a Plan that is overwhelmingly opposed by local elected officials and the community, it must be rejected, with a new Draft Rule issued that comes out of a more truly collaborative approach.

THE DRAFT RULE WILL HAVE A NEGATIVE, CHILLING EFFECT ON THE DIVERSITY OF GGNRA VISITORS.

The National Park Service constantly bemoans the fact that vast majority of visitors to its national parks are white. In an op ed piece in the San Francisco *Examiner*, published on April 17, 2016, Ruben Garcia, a Mexican American who walks in the GGNRA with his dogs, noted that 96% of visitors to Yellowstone in 2012 were white. The Park Service has a major diversity problem.

The problem, however, doesn't exist in the GGNRA, at least not if you look at people who are there walking with dogs. Go to Fort Funston on the weekend, when most people are off work, and you will see the most diverse group of users in the GGNRA, and possibly the entire Park Service system. You will see kids and seniors, people with disabilities, gay and straight, every ethnic and religious group, and every socio-economic class walking, talking, and laughing together, all united by their common love of dogs. This has been my experience nearly every time I walk at Fort Funston.

The Draft Rule's restrictions on access for people with dogs, and, in particular, the constant threat that they will be subject to "stop and demand" by "authorized person" just for walking with a dog will have an especially negative and chilling impact on members of minority groups who are frequently targeted for harassment by law enforcement personnel on city streets. They will just stop walking with their dog in the GGNRA. The current diversity in the GGNRA will decrease.

In his op-ed piece, Garcia added:

> "I wish I could say the NPS knows not what it does, but a recent promotional ad distributed by the Golden Gate National Parks Conservancy, which raises funds for the GGNRA, leads me to believe otherwise. The ad shows Fort Funston, the GGNRA unit that's probably the most popular with dog lovers and most diverse in terms of visitors, edited into a place with neither dogs nor visitors.
>
> "Gone are the Latino, Asian, and African-American families as well as the elders and kids. Apparently, if the park service and parks conservancy get their way, the Fort Funston of the future is just a beautiful landscape with two seemingly white, middle-class individuals enjoyed what the parks conservancy describes as the 'stunning views of the Pacific Ocean and 200-foot-high sandy bluffs.' The photo is promoted using the #FindYourPark hashtag.
>
> "As a Mexican-American, I find myself asking if I will eventually have the same experience in the GGNRA that I had in Yellowstone and Mesa Verde. No diversity."

The Park Service likes to cite a single report of focus groups conducted by San Francisco State University researchers that claims that purports to study ethnic minority visitor use in the GGNRA. I have criticized this study and the way its results are presented in my comment on both the DEIS and the SEIS. I will not repeat them here. While some participants did mention concerns about dogs in the GGNRA, especially dog waste, as a barrier to going to the GGNRA, they also mentioned unclean bathrooms, crime, lack of mass transit, and the absence of Park Service employees who were members of minority groups. Out of the more than 30 recommendations at the end of the report, not one of them mentions dogs. This was not the clarion call that if you just remove dogs from the GGNRA, minority groups will come out in large numbers that supporters of the Draft Rule and Park Service staff themselves have made it out to be. The focus group members were overwhelmingly not regular GGNRA visitors; only 1/3 had visited at least one GGNRA site in the past year. The report did not address people who regularly walk in the GGNRA, like all the dog walkers who are members of minority groups.

Because the Draft Rule is based on a Preferred Alternative that will likely decrease the diversity of visitors, and because the "stop and demand" feature of the Draft Rule will likely have a negative and chilling impact on members of minority groups who are often the subject of harassment by law enforcement officers on city streets, which will also lead to fewer minorities walking in the GGNRA with a dog, the Draft Rule must be rejected. A new Draft Rule must be developed that respects minority dog walkers and doesn't discourage them from walking in the GGNRA.

PROBLEMS WITH THE REGULATIONS.GOV WEBSITE

Many people reported having difficulty using the Regulations.gov website to make their comment. A number of people reported going to the website only to find it down temporarily for "maintenance" or just not working properly. This may have discouraged some people from making a comment on the Draft Rule.

The Regulations.gov website page was never updated to include the amended May 25, 2016 deadline for public comments on the Draft Rule. The website still lists the deadline as April 25, 2016. I know of at least one person who went to make a comment two days ago and thought she had missed the deadline. This may also have discouraged some people from making a comment on the Draft Rule.

Because of problems with the Regulations.gov website, the Draft Rule should be rejected and a new Draft Rule issued followed by a new public comment period.

SUMMARY

As outlined in this comment, the Draft Rule is seriously flawed. It will be ineffective and unenforceable. It will encourage conflict and harassment. It violates NEPA law. Many of its details are arbitrary and capricious. In fact, the Draft Rule is so fatally flawed, the Park Service

cannot just make changes to it and then issue a Final Rule. The Park Service should take our comments on the Draft Rule and use them to craft a new Draft Rule. This should be issued and another 90-day comment period should be opened. It is important for the public to see what the Draft Rule will look like after all the changes are made and to have the opportunity to comment on the revised rule before it is finalized.

Sincerely,

Sally Stephens
Chair, San Francisco Dog Owners Group

cc: Sally Jewell, Secretary of the Interior
Jon Jarvis, Director, National Park Service
Laura Joss, Pacific West Regional Director, National Park Service
Senator Dianne Feinstein
Senator Barbara Boxer
Congresswoman Jackie Speier
Congresswoman Nancy Pelosi
Mayor Ed Lee
Supervisor Scott Wiener
Supervisor Katy Tang