

From: [Michael Edwards](#)
To: [Goodyear, Barbara](#)
Cc: [Frank Dean](#); [Mike Savidge](#); [Howard Levitt](#); [Walsh Patrick](#); [Jacob David](#)
Subject: Re: GGNRA NEPA concerns - attorney client privileged
Date: Thursday, May 08, 2014 8:40:04 PM

(b)(5)



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On May 8, 2014, at 4:43 PM, "Goodyear, Barbara" <barbara.goodyear@sol.doi.gov> wrote:

(b) (5)



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----- Forwarded message -----

From: **Edward Boling** <ted.boling@sol.doi.gov>
Date: Thu, May 8, 2014 at 3:33 PM
Subject: Fwd: GGNRA NEPA concerns
To: Barbara Goodyear <barbara.goodyear@sol.doi.gov>

Latest fro Ash

Sent from my iPhone

Begin forwarded message:

From: "Miller, Ash S" <Ashley.Miller@klgates.com>
Date: May 8, 2014 at 5:33:59 PM EDT
To: "horst_greczmiel@ceq.eop.gov" <horst_greczmiel@ceq.eop.gov>, "Boling, Edward (ted.boling@sol.doi.gov)" <ted.boling@sol.doi.gov>
Cc: (b)(6) " (b)(6) ", "Gary Fergus (gfergus@ferguslegal.com)" <gfergus@ferguslegal.com>
Subject: GGNRA NEPA concerns

Dear Horst and Ted,

I am writing to give you an update on a significant development in the GGNRA's General Management Plan (GMP) that has important ramifications for the GGNRA's Dog Management Plan (DMP), and the associated NEPA review. Since I have spoken with each of you in the past about this process, I wanted to provide you with this significant update.

The GMP was released in final form last month and will become effective in approximately two weeks. However, the proposed final GMP has created a very significant NEPA issue for the DMP. My client the Crissy Field Dog Group was very troubled to see that the GMP, on its face, prejudices the outcome of the DMP by designating the vast majority of the GGNRA as a "natural" area management zone -- thereby strongly discouraging (if not outright banning) most forms of recreation, including dog walking, in these areas over the long term, substantially limiting consideration of DMP alternatives. The DMP is not anticipated to be released until 2015, but the GMP has already labelled most of the GGNRA as all but off-limits to dog walking. In addition, the GMP's recreation areas correspond directly with the DMP preferred alternative's off-leash dog recreation areas. This violates the prohibition on decision-making that would limit the scope of reasonable alternatives prior to completion of the DMP NEPA process, 40 CFR 1502.4, because the GMP forecloses DMP alternatives. While there is boilerplate "savings" language in the GMP, claiming that the GMP does not apply to dogwalking, the language allows that GGNRA "could" only make "minor" revisions to the GMP after issuance of the DMP to render the two documents consistent (GMP at I:34). Based on this language, it is apparent all the major issues have already been resolved with respect to the DMP -- well before completion of the DMP NEPA process. My client is extremely concerned that the GGNRA's process has violated NEPA by prejudging the outcome of the DMP.

Most striking are the direct correlations between the maps in the GMP and the preferred alternative in the DMP -- the areas defined for recreational use in the GMP correspond almost exactly to the off-leash dog use areas defined in the DMP. The GMP limits the remaining areas as natural management zones. The GGNRA has therefore prejudged its DMP, by affirmatively designating for natural uses all those areas not identified for dog recreation in the DMP. To illustrate, compare the shapes of the two yellow zones in the figures of the Fort Funston area, attached below. The lefthand figure is from the GMP (Map 5, GMP at 147) -- identifying an area for "diverse recreational opportunities," where the green represents natural management area. The righthand figure is Fig. 16F from the DMP (the preferred alternative), showing a regulated off-leash dogwalking area in yellow. The yellow zones in both appear to be identical.

<image001.jpg><image002.jpg>

These maps plainly illustrate that the GGNRA has already made its decision with respect to dogwalking recreation in the GGNRA, by designating all areas surrounding dogwalking areas in the DMP as natural management areas. The GMP only allows for minor changes -- if that is true, the DMP is, in all significant respects, effectively a done deal, more than a year before completion of NEPA.

The above maps should be contrasted with the no-action alternative in the DMP, which would allow continued off-leash dog use throughout Fort Funston (red area below):

<image006.jpg>

You will understand my client's significant concern that this DMP alternative has been prematurely foreclosed by the GMP in violation of 40 CFR 1502.4, along with limiting the scope of other reasonable alternatives.

I have spoken with each of you separately in the past about my client's concerns, but unfortunately these concerns have only grown over time as the process has gone on. I greatly appreciate all the attention you have given to this important issue of recreational management of the GGNRA, the primary public open space in San Francisco, Marin and San Mateo Counties.

My client hopes that each of you will be able to remain engaged with this process as you deem appropriate in light of the above developments, to ensure that NEPA's goal of good planning is achieved. Ultimately, it is in all parties' interests to allow a manageable, workable plan -- with stakeholder buy-in -- to emerge. On the current trajectory, my client believes that that goal will simply not be achieved. To avoid conflict between the currently separate GMP and DMP processes, it is likely necessary to combine these processes into one, and institute joint review and comment in the combined process.

I am available to discuss any questions you may have. Thank you again for your attention to this process.

Best regards,

Ash Miller

[<image004.jpg>](#)

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