



May 20, 2011

Patricia DuMont
California Department of Parks & Recreation
Northern Service Center
One Capitol Mall – Suite 410
Sacramento, CA 95814

By e-mail: CEQANSC@parks.ca.gov Bill's Trail

Subject: Draft Environmental Impact Report: Trail Change in Use and Improvement
Project, Samuel P. Taylor State Park

Dear Ms DuMont:

Marin Conservation League formally requests that the Department of Parks and Recreation (DPR) extend the period of public review and comment on the subject DEIR. We assert that DPR violated both the letter and spirit of the CEQA Guidelines in failing to notify MCL of the availability of the subject DEIR.

MCL was apprised only *indirectly, through word of mouth*, Monday, May 16 – almost a month after the Notice of Completion had been posted on the DPR website on April 19 and the DEIR became available for public review and comment. We also request that DPR inform us of where the availability of the DEIR was posted locally, as prescribed in the CEQA Guidelines, Section 15087. In reviewing both the Notice of Availability (April 19, 2011) and the DEIR itself, we also find erroneous information regarding Public Notice and Review (DEIR, page 11).

First, MCL appreciates that DPR has prepared an EIR on the change of Bill's Trail to multiuse. A brief review of relevant environmental history of this project affirms that preparation of an EIR was an appropriate response by DPR to substantial evidence that the project "may have a significant effect on the environment." On May 22, 2009, the Marin District of DPR filed a Notice of Exemption for the subject project with the State Clearinghouse. This action amounted to DPR's approving the conversion in use without environmental review and adequate opportunity for public comment. MCL, supported by other conservation organizations, took issue with the District's decision and, with the help of Shute, Mihaly & Weinberger, environmental attorneys, challenged the legality of the NOE as a violation of CEQA. At that time, MCL noted that the District, in planning for Bill's Trail, had failed to adequately consider

its location in Devil's Gulch and Lagunitas Creek watershed – a 101 square-mile watershed that is designated as critical habitat for two federally listed endangered species – coho salmon and steelhead. Any expansion of trail use could potentially increase sedimentation into the creek system and must be carefully evaluated under applicable environmental law – in this case CEQA. As a consequence of MCL's challenge, on June 24, 2009, DPR rescinded its approval of the project as well as the Notice of Exemption (NOE).

Shortly after rescinding the NOE and project on June 24, 2009, the Marin District staff invited MCL, its legal counsel, and representatives of other interested environmental organizations to meet in the District office to discuss environmental concerns. MCL was assured at that time that we would be kept informed of further steps by DPR with regard to the project. In consideration of MCL's well-documented interest and key role in prompting the preparation of the DEIR on this project, it is surprising, then, that neither the District nor the Northern Service Center made any attempt to communicate with MCL at any stage during preparation or on completion of the DEIR. Instead, MCL's first knowledge that an EIR had been prepared came almost two years later – May 16, 2011 – and, at that, by informal means.

CEQA Guidelines, in prescribing the EIR Process in Sections 15080 to 15097, identifies stages during the process when the public may or must be notified. Although the Notice of Preparation for an EIR is *required* to be sent only to responsible or trustee agencies (Section 15082), early consultation with concerned persons or organizations is advised under Section 15083 to "solve many potential problems that would arise in more serious forms later in the review process." Neither MCL, nor, to our knowledge, any other concerned organization, was apprised that a Notice of Preparation had been filed. Nor was MCL offered the opportunity for "early consultation" during the preparation of the EIR.

Section 15087 requires that notice of completion of a draft EIR shall be mailed to all organizations and individuals who have previously requested such notice in writing, and shall also be given by at least one of the following procedures: (1) publication in a newspaper of general circulation; (2) posting of notice by the public agency on and off the site in the area where the project is to be located. MCL did not submit a written request to be notified because we were never informed in any way (e.g., through the NOP) that an EIR was, in fact, being prepared for the project. We are also not aware that there has been any local posting of the availability of the DEIR, as prescribed in Section 15087(a).

It is also of concern that the DEIR, on page 11, states: "A Notice of Preparation was filed with the State Clearinghouse (SCH#2011032070) on *March 30, 2011* (emphasis added) and distributed to interested state agencies." If the Notice of Availability was filed on April 19 of the same year, there is a clearly an error in the date of the NOP provided in the DEIR. Further, the DEIR states that a copy of the NOP, distribution list, and written responses to the NOP are contained in Appendix B of the DEIR. Appendix B, in the copy of the DEIR that we downloaded from the DPR website, contains *only* a Natural Resources Species List, and no NOP distribution list or written responses from responsible or trustee agencies.

The DEIR on page 12 states that “DPR will provide public notice of the availability of the DEIR for public review, in compliance with CEQA Guidelines Section 15087 and invite comment from interested groups, organizations, and the general public.” MCL believes that DPR has not complied with Section 15087 and in so doing has deprived MCL and other interested members of the public an adequate opportunity for review of this DEIR.

For the above reasons, MCL requests that the DPR extend the comment period on the subject DEIR for a period of 30 days to permit meaningful comment by MCL and other concerned members of the public.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Nona Dennis", is placed over a light gray rectangular background.

Nona Dennis
Vice President

cc. Danita Rodriguez, Superintendent, Marin District
Joanne Danielson, Superintendent, Marin Sector