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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Chapter I

Establishment of Negotiated Rulemaking Advisory Committee for Dog  
Management at Golden Gate National Recreation Area

ACTION: Notice of establishment.

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SUMMARY: The Secretary of the Interior is establishing the Negotiated  
Rulemaking Advisory Committee for Dog Management to negotiate and  
develop a special regulation for dog management at Golden Gate National  
Recreation Area, in accordance with the Negotiated Rulemaking Act of  
1990, 5 U.S.C. 564.

FOR FURTHER INFORMATION CONTACT: Brian O'Neill, General Superintendent,  
Golden Gate National Recreation Area, Ft. Mason, Building 201, San  
Francisco, California 94123, 415-561-4720.

SUPPLEMENTARY INFORMATION: The Secretary has determined that  
establishment of this Committee is in the public interest and supports  
the National Park Service in performing its duties and responsibilities  
under the NPS Organic Act, 16 U.S.C. 1 et seq.; the Endangered Species  
Act, 16 U.S.C. 1531 et seq.; and the Golden Gate National Recreation  
Area Act, 16 U.S.C. 460bb et seq.

In accordance with the Negotiated Rulemaking Act of 1990, 5 U.S.C.  
564, a Notice of Intent to Establish a Negotiated Rulemaking Advisory  
Committee was published in the Federal Register on June 28, 2005,  
providing a 30-day public comment period which concluded July 28, 2005.  
Three hundred thirty seven responses were received during the comment  
period.

Substantive Comments

Committee Additions

Comments suggested additions to the Committee which can be grouped  
into the following broad categories: Volunteer restoration groups,  
general park users not affiliated with any group, representation of  
adjacent governmental agencies, communities of color, disabled,  
additional dogwalkers associated with specific GGNRA sites and  
additional recreational user groups and advocates for narrowly-defined  
outcomes.

Response

The National Park Service is aware that a balanced Committee is  
necessary in order for discussions to be meaningful and fair. The  
Negotiated Rulemaking Procedure Act (U.S.C. Title 5, Part I, Chapter 5,  
Subchapter III) passed by Congress, states that a federal agency  
considering negotiated rulemaking must determine that there are a  
limited number of identifiable interests that will be significantly  
affected by the rule and that there is a reasonable likelihood that a  
committee can be convened with a balanced representation of persons who  
can adequately represent the interests identified. The Act also states  
that a federal agency can use the services of a ``convener'' to

determine the above. NPS, working through the U.S. Institute of Environmental Conflict Resolution, hired the Center for Collaborative Policy (CCP) in March, 2004, and they subsequently assisted in identifying interests significantly affected by a proposed rule and representatives of those interests.

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However, as a result of comments received, NPS has proposed replacing one of the two initially proposed equestrian representatives, who both belonged to groups in the north district of the park, with a representative of equestrian interests in the south district of the park. The NPS, with the approval of other Committee members, will work to bring a broad range of input to the Committee through membership on subcommittees, by presentations to the Committee and subcommittees and through the public comment period at each Committee meeting.

#### Committee Deletions

Comments were also received suggesting that some proposed members be removed. It was suggested the following representative groups be deleted: commercial dogwalkers, off-leash advocates (over-representation), representatives of those opposing any off-leash use in the park and those who are perceived as being unable to negotiate in good faith. In addition, the Presidio Trust has withdrawn from the Negotiated Rulemaking Committee but stated that they will participate in the concurrent NEPA process.

#### Response

The Negotiated Rulemaking Act states that interests must be willing to negotiate in good faith to reach a consensus on the proposed rule. Even though recent activities surrounding this issue have raised emotions, all proposed committee members except one have recently reaffirmed willingness to move forward with the process. The one off-leash dogwalking representative who was unwilling to agree to good faith standards has been replaced by another off-leash representative who had been previously suggested for committee membership.

In the final, proposed committee membership, commercial dogwalkers, off-leash dogwalkers, and those opposing off-leash uses are all interest groups who use the park and are noted in the Notice of Intent as interest groups significantly affected by this issue and thus, must be involved in any meaningful discussions. Among the interest groups supporting off-leash dogwalking, there are a numerous viewpoints; in addition, the proposed committee membership has been selected to provide a balance of groups with shared interests. The proposed membership balances those shared interests of groups advocating voice control, groups representing the environment and representatives of other park user groups.

#### Committee Purpose and Process

Comments responded to a number of factors surrounding the establishment and scope of the Committee. Broadly categorized, the comments addressed: the NPS mandate to protect resources; the scope and sideboards for the Committee's discussions; the validity and effectiveness of the negotiated rulemaking process itself and the recent decision by Judge Alsup (U.S. vs. Barley).

#### Response

The NPS has a responsibility to protect resources under the NPS Organic Act, 16 U.S.C. 1 et seq., the Endangered Species Act, 16 U.S.C. 1531 et. seq., and the Golden Gate National Recreation Area Act, 16 U.S.C. 460bb et seq. Concurrent to the Committee discussions, NPS is initiating preparation of an Environmental Impact Statement (EIS) to determine when and where off-leash and on-leash dogwalking can occur and under what conditions. The scope and sideboards of the Committee discussions were not affected by Judge Alsup's recent decision (U.S. vs. Barley), which was based on a procedural error and is in effect

until such time as the procedural error is corrected or a new regulation is adopted. The NPS feels that Negotiated Rulemaking gives the best chance of success for resolving this controversial issue. The NOI states that the scope of the Negotiated Rulemaking discussions can include on-leash dogwalking, which will be included in a dog management plan for GGNRA.

#### Non-Substantive Comments

A number of comments were received that did not address the establishment or membership of the negotiated rulemaking committee, but did address the general issue of off-leash dogwalking. Those comments addressed the following categories: support or opposition of establishing off-leash dogwalking in GGNRA; options for establishing and managing off-leash dogwalking in GGNRA; the history of off-leash dogwalking at GGNRA; the mandate of GGNRA to protect the resources for which it was established; the existence of an NPS-wide leash regulation; that GGNRA is not responsible for providing off-leash recreation; the need for dogs to be off-leash; the impact, or lack of impact, of off-leash dogs on natural resources; the safety, or risk, that off-leash dogwalking creates; that off-leash dogwalking has restricted use of park areas by other user groups and that all taxpayers are equally entitled to use the park.

#### Response

The NPS will be preparing a comprehensive dog management plan and associated environmental impact statement that will evaluate a full range of reasonable alternatives for dog management at GGNRA. The NPS will take these comments into consideration when preparing the plan.

#### Committee Membership

The Secretary has appointed the following primary and alternate members to the Committee:

1. The interests of the Department of the Interior will be represented by:

National Park Service--Christine Powell  
Alternate--Howard Levitt

2. The interests of organizations and visitors advocating off-leash use will be represented by:

- a. Crissy Field Dog Group--Martha Walters  
Alternate--Cynthia Adams
- b. Fort Funston Dog Walkers--Linda McKay  
Alternate--Karin Hu
- c. CalDog--Gary Fergus  
Alternate--Carol Copsey
- d. Pacifica Dog Walkers--Jeri Flinn  
Alternate--Anne Farrow
- e. San Francisco Dog Owners Group--Keith McAllister  
Alternate--Carol Arnold

3. The interests of commercial dog walking businesses will be represented by:

ProDog--Joe Hague  
Alternate--Donna Sproull

4. The interests of environmental organizations will be represented by:

- a. California Native Plant Society--Mark Heath  
Alternate--Jake Sigg
- b. Center for Biological Diversity--Brent Plater  
Alternate--Jeff Miller
- c. Birdwatchers--Arthur Feinstein (Environmentalist)  
Alternate--Elizabeth Murdock (Golden Gate Audubon)

- d. Marine Mammals--Erin Brodie (Marine Mammal Center)  
Alternate--Joanne Mohr (Farallones Marine Sanctuary Association)
- e. Sierra Club (Local Chapter)--Norman LaForce  
Alternate--Gorden Bennett
- f. San Francisco League of Conservation Voters--Steven Krefting  
Alternate--Michelle Jespersen

5. The interests of other park user groups will be represented by:

- a. Coleman Advocates for Youth--David Robinson  
Alternate--Marybeth Wallace
- b. Equestrian Groups--Judy Teichman (Marinwatch)

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- Alternate--Holly Prohaska (Mar Vista Stables)
- c. Seniors and Disabled--Bruce Livingston (Senior Action Network)  
Alternate--Bob Planthold (Senior Action Network)
- d. Marin Humane Society--Cindy Machado  
Alternate--Steve Hill
- e. San Francisco SPCA--Daniel Crain  
Alternate--Christine Rosenblat
- f. Former member of GGNRA Citizens Advisory Commission--Paul Jones  
Alternate--Betsey Cutler

In accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix, copies of the Committee's chapter will be filed with the appropriate committees of Congress and with the Library of Congress.

Certification: I hereby certify that the administrative establishment of the Negotiated Rulemaking Committee for dog management at Golden Gate National Recreation Area is necessary and in the public interest in connection with the performance of duties imposed on the Department of the Interior by the Act of August 25, 1916, 16 U.S.C. 1 et seq., and other statutes relating to the administration of the National Park System.

Dated: February 6, 2006.

Gale A. Norton,  
Secretary of the Interior.  
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