

November 30, 2010

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*Via email: [ceqansc@parks.ca.gov](mailto:ceqansc@parks.ca.gov)*

Subject: Statewide Program Environmental Impact Report for Roads and Trails Change-In- Use (PEIR)

Dear Sir or Madam,

The California Department of Parks and recreation (“State Parks”; “Department”) announced in April 2010 that it intended to prepare a draft Statewide Program Environmental Impact Report to address the broad environmental effects that may be associated with existing trail/road change-in-use procedures. Changes in use can include adding and removing official recreational uses on roads and trails in State Park units, such as changing existing roads or trails from hiking use to multi-use to include mountain bikers and equestrians, or converting multi-use trails to single use. Changes might also be accompanied by trail management programs to separate different user groups from concurrent use of a trail.

Two public scoping sessions were held to explain the process to be followed for this PEIR and solicit written comments. The purpose of Marin Conservation League’s letter is two-fold: 1) to review our understanding of how the PEIR process relates to State Parks’ “existing trail/road change-in-use procedures” and request clarification in the PEIR; and 2) to provide comments to be considered in developing the scope of analysis for the subject PEIR.

#### 1. Relationship of PEIR to Existing Change-in-use Procedures

State Parks has existing procedures for evaluating trail use change requests originating from either user groups or trail system planners within the Department. In the past the Department has filed categorical exemptions from CEQA compliance on the premise that changes-in-use may be minor, such as in “minor alteration of land,” and/or because procedures employed by the Department are “CEQA-equivalent,” that is, they identify environmental conditions and incorporate best management practices into design, thereby obviating the need for further CEQA review. This was the approach taken by the Department in 2009 when it filed a Notice of Exemption for the conversion of the single-track Bill’s Trail in Samuel P. Taylor State Park to allow use by mountain bikes. At least two elements important to CEQA review are missing in this approach – first, a comprehensive review of environmental impact topics, as found in the Initial Study Checklist and/or an EIR; and

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second, the opportunity for public comment, which is an essential feature of the CEQA process. We assume that this PEIR is being prepared to correct these deficiencies.

The purpose of the Program EIR is to cover the full range of environmental effects that may result from proposed trail/road changes-in-use at a general ("programmatically") level. The PEIR thus will serve as a "first-tier document" as specific projects are proposed and evaluated. Program EIRs are supported and encouraged by the CEQA Guidelines where "a series of actions are related in connection with . . . plans or other general criteria to govern the conduct of a continuing program"; or "as individual activities . . . having generally similar effects which can be mitigated in similar ways." (Excerpts from CEQA Guidelines 15168) The Parks Department will be able to "avoid duplicative reconsideration of basic policy considerations and to reduce paper work." The PEIR will also support State Parks' CEQA compliance as specific changes-in-use are proposed.

The CEQA Guidelines list ways in which a program EIR can be used with later activities. As an example, if the opening of a single-track trail to shared use is proposed, the Department will examine the proposal in light of the PEIR to determine whether an additional environmental document must be prepared. At that time, the Department may use its existing procedures to serve as "a written checklist or similar device to evaluate the activity to determine whether the environmental effects of the operation were covered in the program EIR" (Guidelines 15168(c)(4)). Where necessary, we assume the Department will conduct supplemental environmental review and incorporate necessary mitigation measures for identified significant impacts.

This is MCL's interpretation. From the public's perspective, it is not entirely clear how the PEIR and CEQA review process will be integrated with State Parks' "existing procedures" in individual projects. State Parks' current trail use change survey form consists of a list of itemized evaluation criteria, followed by a "Yes - No" check-off column and space for brief comment. We believe it would be a mistake for State Parks to rely solely on this procedure for CEQA-compliant review of an individual project. While the survey form gives guidance for project planning and construction purposes, it does not provide the analytical support for identifying potentially significant impacts or specific mitigation measures to render impacts less than significant.

Turning again to Bill's Trail as an example, the survey checklist failed to identify that the project was located within designated critical habitat of the endangered coho salmon. This proved to be a "fatal flaw" for filing of a Categorical Exemption, in that an exception must be made where mapped sensitive habitats are present (CEQA Guidelines 15300.2(a)). If conditions are placed on proposed change-in-use projects - i.e., as mitigations for impacts - they must be justified with supporting analysis. Such analysis must be included in the project review documents, and the Initial Study checklist is the most comprehensive guide. The PEIR needs to make very clear how specific projects will be evaluated.

It is also not clear how the Department will notify the public that a change-in-use review is underway or provide opportunity for public comment. CEQA Guidelines, at 15168 (e) – Notice with Later Activities – states: “When a law other than CEQA (emphasis added) requires public notice when the agency later proposes to carry out or approve an activity within the program and to rely on the program EIR for CEQA compliance, the notice for the activity shall include a statement that (1) this activity is within the scope of the program approved earlier; and (2) the program adequately describes the activity for the purposes of CEQA.”

This noticing provision leaves the public somewhat in the dark. What law other than CEQA will prompt State Parks to notify the public of project decision points? For example, under what circumstances would a proposed change-in-use be filed as Categorically Exempt, or require an Initial Study and Negative Declaration or a more extensive Environmental Impact Report? Once the PEIR is certified, it appears that the primary responsibility for the processing of road and trail use changes and public noticing will lie with State Park’s District and Sector Park units. The PEIR should spell out what the noticing requirements will be and how they will be implemented. Public notice should go beyond announcements posted on the State Parks Website and include other public noticing mechanisms. Interested organizations and individuals should be able to register with State Parks for electronic notification of pending road or trail change- in-use projects in their area.

## 2. Content and Topics to be Considered in the PEIR

The Scoping Workshop presented a summary of topics to be addressed in the PEIR, including biological resources, geophysical conditions, cultural resources, recreation and land use, and others as appropriate. Because this is to be a Program EIR, it will provide a framework for types of impacts that could occur and set generic standards for future projects involving change-in-use. It necessarily cannot address specific project impacts that may arise in the future. Following are our comments on several aspects of the contents of the PEIR.

**Project Description.** This section of the PEIR should provide a comprehensive description of the elements of the overall action, supported by a glossary: the kinds of trails and roads that might be modified for a “new” use – their standard dimensions, surface treatments, grades, and other specifications for designated user groups. Most of these are contained in the Department’s “Trails Handbook,” which could be attached to the PEIR as an appendix. Simply to incorporate these specifications by reference will not help the reader who does not have ready access to Department manuals. Although changing the use of a trail may not entail rebuilding, it is likely that converting a trail or road to another use will involve some grading, soil treatments, structural repairs, waterway crossings, mechanical reconstruction, tree or brush removal or brushing, creating “pinch points” and similar devices to slow bicycle speed, and the use of various construction and maintenance techniques using both hand tools and mechanized equipment. Each of these carries potential

impacts that should be characterized in the PEIR.

**User Impacts.** Much has been said about the impacts of various user groups on trails, some of it based on research, but much of it on personal observation and anecdotal evidence. All user groups – walkers, joggers, equestrians, and mountain bikes cause impacts such as the following, in varying degree:

- vegetation trampling and compaction of leaf litter and soil;
- soil loss through rutting and erosion, with consequent sedimentation of waterways;
- loss of both herbaceous and brittle woody plant species near trails;
- habitat disturbance and trail “widening” due to wandering off trail or cutting corners;
- habitat fragmentation (widening trail impedes movement and dispersal of animals that are reluctant to cross exposed openings);
- habitat disturbance from noise and the presence and motion of users (e.g., decreased nesting near trails, altered bird species composition near trails, and increased predation of nests by animals using the trail as corridor);
- introduction of exotic and weedy species from foot traffic, bicycle tires, and horse manure (trails are natural conduits for movement of exotic species);
- nutrient enrichment from horse manure and urine that could favor invasion of weedy species along horse trails; and
- direct loss of small or slow-moving wildlife such as small rodents and reptiles by rapid moving bicycles (“road kill”).

The impact of changing or expanding use of a trail on the aesthetic experience of user groups should be discussed in the PEIR. The desired trail experience differs greatly among hikers, equestrians, and mountain bikers, and thus impacts will be viewed differently. Aesthetic impacts also will vary with the specific conditions of a site. The PEIR should discuss potential impacts from change-in-use. To the extent possible, the desired aesthetic experience of different user groups should be described.

Determining Significance Thresholds. Since the significance of impacts will vary from project to project depending upon their location, the existence of sensitive habitats and species, the degree of modification necessary to accommodate a new use, and other factors, a single standard for significance for all projects is totally inappropriate. How will thresholds of significance be determined? The PEIR should contain a list of such thresholds or indicate other sources of thresholds, such as Appendix G of the CEQA Guidelines.

Mitigation Measures. State Parks currently follows a manual of Best Management Practices to guide trail design. This is a comprehensive document, tested over time under many different conditions, but its focus is on the physical sustainability of trails rather than protection of habitats or aesthetics. We request that the PEIR either append a list of BMPs to the main document or otherwise incorporate them as specific “mitigation

measures.” Other measures should be included to mitigate potential impacts such as those summarized above. The PEIR is a public document, not just a form of legal compliance, and as such, it should provide the reader with as complete a picture as possible of the general implications of road or trail change-in-use and the approaches used by the Department to minimize impacts and preserve the quality of the trail experience for all users.

Other Issues. The Marin Conservation League is particularly concerned over how potential conflicts between various user groups, and the associated safety issues, will be addressed in the PEIR and applied to subsequent specific projects. We are pleased that the PEIR will address this issue in its section on Recreation Use. This impact is a major concern for proposed multi-use trails, particularly those that were originally designed as single-track trails. Road and trail management in State Parks – and specific change-in-use projects – must ensure that potential user conflicts are fully mitigated and that no road or trail be allowed to function unsafely. The PEIR should spell out the road and trail performance standards that are necessary to achieve this objective. Specific change-of-use projects should be designed to meet those standards. The PEIR should establish criteria for when a trail is inappropriate for conversion to multi-use –e.g., is too steep or narrow and winding – to be considered for shared use. The PEIR should provide guidance to District and Sector offices of the State Park system on how to assess the potential for conflict and design for safety on specific project proposals. Other techniques besides “safe” physical design should be discussed in the PEIR, such as trail management to separate user groups, signage, and strict enforcement of trail rules and regulations.

We appreciate the opportunity to provide these scoping comments for the PEIR and look forward to participating in the public review of the draft PEIR in 2011.

Sincerely yours,



Nona Dennis, President

Cc: Senator Mark Leno  
Assembly Member Jared Huffman