



United States Department of the Interior

NATIONAL PARK SERVICE
Pacific West Region
1111 Jackson Street, Suite 700
Oakland, California 94607-4807



IN REPLY REFER TO:
L1425; L3219 (PWR-PR)

15. September 2010

Mr. Ara Michael Mihranian, AICP
Principal Planner
City of Rancho Palos Verdes, Community Development Department
30940 Hawthorne Boulevard
Rancho Palos Verdes, California 90275

Dear Mr. Mihranian:

We appreciate the opportunity to review and comment on the Draft Environmental Impact Report for the Annenberg Project at Lower Point Vicente.

The National Park Service has compliance oversight responsibility relative to two areas of federal law and their associated contracts and agreements that are applicable to the proposed project. The first you have correctly identified as having to do with the public benefit conveyance of the former federal surplus property and the requirement that the land be used for public recreation and park purposes. The legal authority for that transfer came under the Federal Property and Administrative Services Act of 1949 (40 USC §550) and which is further regulated by the Federal Management Regulation in 41 CFR §102-75. You have correctly identified the Program of Utilization as a controlling element in the acceptable administration of the park. You have not given sufficient attention to the terms of the deed, which is more explicit regarding acceptable uses of the land, including the following provisions: “

1. This property shall be used and maintained for the public purposes for which it was conveyed in perpetuity as set forth in the program of utilization and plan contained in the application, submitted by the Grantee on February 27, 1976 which program and plan may be amended from time to time at the request of either the Grantor or Grantee, with the written concurrence of the other party, and such amendments will be added to and become a part of the original application

3. The property shall not be sold, leased, assigned, or otherwise disposed of except to another eligible governmental agency that the Secretary of the Interior agrees in writing can assure the continued use and maintenance of the property for public park or public recreational purposes subject to the same terms and conditions in the original instrument of conveyance. However, nothing in this provision shall preclude the Grantee from providing related recreational facilities and services compatible with the approved application, through concession agreements entered into with third parties, provided prior concurrence to such agreements is obtained in writing from the Secretary of the Interior.

Your DEIR suggests the acceptability of “other related governmental and public uses” (page 2-11) but does not include the stipulation that those uses must be public recreation uses that conform to an accepted Program of Utilization (POU). To say that the terms of the public benefit transfer do “...not expressly



limit other uses...” (pg. 4.5-25) is misleading and inaccurate because you have not considered all of the conditions under which the land was transferred. Although the proposed plan includes some elements that would be acceptable under the present POU (such as trails, restrooms, picnic areas), the proposed plan contains, in our view, many elements that would not fall under an eligible public recreational use, such as a building for general governmental purposes, an animal care and adoption facility, a theatre, space for civic events, and general education purposes.

Although the deed allows the use of concession agreements, those agreements must be for the purpose of providing public recreational opportunities and services that are serve to fulfill the accepted Program of Utilization. The deed specifically prohibits transfer of property rights through leases and by other means that would reduce the control of the property by the federally approved owner for the purpose of complying with the terms of the transfer.

The fact that the Annenberg Foundation is the “applicant” according to the EIR raises the question regarding whose purpose is served with the proposed project. The DEIR does not answer the question.

Previously approved as part of the Program of Utilization, was a modest interpretive center which is to serve the purpose of facilitating park users’ understanding and appreciation for the land and coastline as well as to stimulate their interest in experiencing it. Much of the justification for the original land transfer had to do with the unique natural and aesthetic characteristics of the land and the need to preserve natural and open space areas for public recreational use.

One of the most egregious omissions of the Draft EIR is its failure to establish the need for the proposed project. We would have expected to see some analysis of the current purposes served by the Interpretive Center and evidence that the Center does not fulfill its needed purpose relative to the public recreational use of the park. Analysis of recreational needs and prescribed remedies usually makes reference to local and statewide comprehensive outdoor recreation plans, such as the California Outdoor Recreation Plan. This would typically be done in conjunction with some social and demographic analyses. No such analysis appears to have been conducted or to be the impetus for your proposed facilities.

Similarly egregious is any analysis and rationale that would justify the development of such a facility that would occupy what is now precious open space land. Your analysis addresses the issues of compatibility with the land and optimizing scenic and aesthetic experiences with the placement and design of the facilities, but no justification for such impacts is provided in the first place. A “design with the land” approach is no substitute for open space preservation. What other areas provide similar open space and natural area experiences, and why do you find it necessary to add one more development to this prime open space?

The EIR mentions existing and future agricultural use of the site (e.g.pg. 4.6-10). Agriculture is not an approved public recreation use of the site and is not in compliance with the Program of Utilization. Further, the deed specifically prohibits leases that are not approved by the National Park Service (which acts under delegated authority from the Secretary of the Interior).

I found no mention of a biological opinion regarding the proposed project from the US Fish and Wildlife Service in the Biological Resources Assessment.

The EIR should mention several other issues related to the federal government’s interest in the park property. Those would include deed provisions mentioned above and additionally should note that the deed includes a reversion provision if the terms of the property transfer are not adhered to. The National Park Service operates its federal surplus property program under the title of the Federal Lands to Parks

Program. The Program of Utilization may be amended if sufficient analysis and rationale are provided for such a change and if the new purpose is an acceptable public park and recreation use. The present EIR does not contain sufficient justification for a POU amendment that would allow the proposed Annenberg development.

Our Program policy also allows us to consider land exchanges when such actions are warranted. If the City were to wish to pursue the Annenberg development in light of NPS's determination that such a development is not consistent with the Program of Utilization or the Federal Lands to Parks Program, they would have to submit an exchange proposal that identifies land of at least equal appraised market value and of reasonably equivalent recreational utility and location along with the necessary supporting documentation and new park proposal. More details about land exchange requirements may be obtained from this office. General information regarding the Federal Lands to Parks Program is available at our website: <http://www.nps.gov/flp/>.

The other primary area of the National Park Service's jurisdiction is the Land and Water Conservation Fund Act (LWCF) §6f protection. The Draft EIR entirely omits any reference to this critical park preservation law and program. Point Vicente Park was the recipient of Land and Water Conservation Fund grant assistance (project number 06-00792), and the terms of the agreement include that no land receiving LWCF assistance will be converted to other than public outdoor recreational uses. Concerns regarding the present proposal under the LWCF requirements are similar to those presented above for the terms of the land transfer under Federal Lands to Parks. The LWCF conversion requirements come under federal regulations at 36 CFR §59. More information on the Land and Water Conservation Fund Program requirements may be found at the federal website: <http://www.nps.gov/ncrc/programs/lwcf/index.html>.

The State of California Office of Grants and Local Services under the Department of Parks and Recreation, is the primary agency responsible for administering the Land and Water Conservation Fund State Assistance Program in California and ensuring compliance with its requirements. Any facility development proposal must be directed to them: Office of Grants and Local Services, California Department of Parks and Recreation, PO Box 942896, Sacramento, California 94296-0001. Their website is at: http://www.parks.ca.gov/default.asp?page_id=21360.

Please let me know if you would like any further information and/or discussion regarding these comments. I hope they are helpful to the further consideration of the proposed project. Thank you for the opportunity to review the DEIR.

Sincerely,

David Siegenthaler
Pacific West Regional Office
National Park Service
1111 Jackson Street, Suite 700
Oakland, California 94607

Voice: 510-817-1324
Fax: 510-817-1505
E-mail: David_Siegenthaler@nps.gov

Cc: California Dept. of Parks and Recreation, Office of Grants and Local Services

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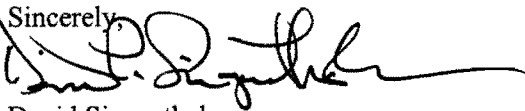
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Fax: 510-817-1505

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