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Shaelyn Raab Strattan
Cal. Dept. of Parks and Recreation
One Capitol Mall Suite 500
Sacramento, CA 95814

December 23, 2002
Via fax: (916) 445-9100

Re: Proposed Coastal Trails Rehabilitation Project at Mt. Tamalpais State Park. Neg. Dec.

Dear Ms. Strattan,

Attached is the letter from Dave Boyd, specifically stating "This is to inform you that a Mitigated negative declaration has been filed today..." "This document will have a 30 day public review period." The MND at p. 2 specifies Dave Boyd as the contact person for the lead agency, DPR. Therefore, it is to be presumed that the contact person for the Agency would provide accurate information as to notice.

CEQA Guidelines at 14 Cal. Code of Regulations section 15072 provide that:

"(a) A lead agency shall provide a notice of intent to adopt a negative declaration or mitigated negative declaration to the public, responsible agencies, trustee agencies, and the county clerk of each county within which the proposed project is located, sufficiently prior to adoption by the lead agency of the negative declaration or mitigated negative declaration to allow the public and agencies the review period provided under Section 15105. [thirty day review period for draft EIR]."

As contact person for the Lead Agency, Dave Boyd, is the one to provide notice on behalf of the Lead Agency, as he does in his December 2, 2002, letter. Accordingly, the review period cannot be less than thirty days from the date of that letter, or January 1, 2003.

No copy of the MND was provided to TCC (or anyone else that I am aware of in the environmental community) until at least Dec. 6th, even though requested and filed earlier.

Further, CEQA requires that notice be provided:

"For a project of statewide, regional, or areawide significance, the lead agency shall also provide notice to transportation planning agencies and public agencies which have transportation facilities within their jurisdictions which could be affected by the project as specified in Section 21092.4(a) of the Public Resources Code. "Transportation facilities" includes: major local arterials and public transit within five miles of the project site and freeways, highways and rail transit service within 10 miles of the project site." (Guideline 15072 (e))

We have no evidence that the MND was provided to CALTRANS or the Marin County Transportation Authority as required.

The Guidelines require notice containing:

"The starting and ending dates for the review period during which the lead

agency will receive comments on the proposed negative declaration or mitigated negative declaration. This shall include starting and ending dates for the review period.” (Guidelines at (f) (2.)

NONE of the purported notices, including what you are calling the Notice of Availability, contain this information. The closest to it, is the Dave Boyd Letter of December 2. There is no legal requirement for something called a “Notice of Availability” to trigger the comment period.

Guideline (f) (3) requires “ The date, time, and place of any scheduled public meetings or hearings to be held by the lead agency on the proposed project, when known to the lead agency at the time of notice.”

No such notice of any scheduled public hearings is provided.

Therefore, it is legally indefensible to close down the period at any time sooner than January 1, 2003. Due process requires actual notice in accordance with the applicable laws and regulation. Since all the notice has been and continues to be deficient, TCC renews its request for an extension to file until January 31st.

In any event, a full environmental Impact report must be done for this project in light of the many environmental impacts that MAY result from it. They include but are not limited to the following:

1. Soil erosion by allowing multi-use of “single track” four foot wide trails, as evidenced at other State Parks, including at China Camp. (See letter from Larry Minikes.) No discussion of this potential soil erosion and other attendant problems is discussed in the MND.

The only discussion of soil erosion is in conjunction with the construction of the project, not the impacts resulting from high impact use on a narrow trails.

2. Increase use from additional users attracted to these new trails, and additional staffing required. The Application for the project itself provides the evidence of increased trail use that this project is likely to create. The Initial Study fails to discuss the increased traffic impacts, erosion, precedent setting aspects of the project and cumulative impacts from adding a high impact, intense use to the Mountain.

3. Conflicts with the Countywide trail plan. (At p. 44, it states that no conflict exists with regard to any existing plan.) The application at p. 4 notes that the Marin Countywide Trails plan calls for multi-use on the two trails in questions. However, it fails to note that they are currently wide fire roads, not narrow pathways, as they will be with this project. The Countywide Trails Plan discourages multi-use on single track narrow paths.

4. Increased overall park use, leading to cumulative impacts not discussed. The MND states in section XIV Recreation that “overall trail use in the park is not expected to increase.” (P. 54.) And that no “additional structures or attractions” would be added that would increase visitations or demands. The new paths themselves will be “attractions,” that are likely to significantly increase the use of the Park. (See Application at pp. 2-3. Increased visitor useage of Highway one and improved turnouts allow viewing of these trails, which in turn will offer additional recreational uses for the visitors.)

Specifically at pp. 3-4:

“It is anticipated that the new trails will attract greater visitation as park users seek more aesthetically pleasing pathways that provide the intimate experience of meandering through the countryside, flowing the natural corridors of the hills, while taking in the world class views of the San Francisco Bay Area.”

4. Traffic impacts. A statement at page 56, states that increases to traffic would be “less than significant,” This is unsubstantiated, since this type of trail use is likely to increase overall traffic. Since this Project is itself a mitigation for a transportation project, there should be no assumption that it will have a “less than significant” impact on traffic without further environmental study, especially in light of the increased visitor serving transit projects described in the Application at p. 5.

Public Resources Code section 21080 (d) If there is substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment, an environmental impact report shall be prepared. (Also see CEQA Guidelines, at Title 14 of the Cal. Code of Regulations, 15064 (a) (1).

And: "As CEQA guidelines make clear, an agency "shall adopt the proposed . . . mitigated negative declaration only if it finds on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the . . . mitigated negative declaration reflects the lead agency's independent judgment and analysis." (Cal. Code Regs., tit. 14, § 15074, subd. (b).)" (Arviv Enterprises Inc. v. South Valley Area Planning Com. (2002) [__ Cal.App.4th __].)

The record, on the whole shows that significant environmental impact MAY result from this project and a complete EIR is required. In summary, the unprecedented conversion of fire roads into narrow mountain pathways for multi-use cannot be considered to have no significant environmental impact without full study. The cumulative impacts when considered in conjunction with other projects and uses in the area, the potential for increased usage by high impact user groups, soil erosion, wildlife and plant life impacts, must be studied. The MND fails to do this. Instead it makes conclusory statements that no impact or less than significant impact will result. In light of the record as whole, the requirements of Cal. Code Regs., tit. 14, § 15074, subd. (b) are not met, and a full environmental impact report is required for this project.

This letter is being written to meet the artificially imposed Dec. 24th deadline, and is not intended to cover all such potential environmental impacts. The TCC does not recognize Dec. 24th as the deadline, and will be supplementing this letter with further information to support its contention that a full EIR is required for this project.

Please reconsider our request for extension of time for the reasons stated herein. Thank you.

Sincerely,
(signature on original)

Dotty E. LeMieux

cc: Dave Boyd, State Parks Ecologist, Marin District
Assemblymember Joe Nation
Clients