UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

November 24, 2008

Mr. Paul Bennett
District Recreation Officer
San Bernardino National Forest,
Mountain Ranger District
PO Box 290
Fawnskin, CA 92333

Subject: Draft Environmental Impact Statement (DEIS) for the Moonridge Animal Park, San Bernardino County, California (CEQ #20080407)

Dear Mr. Bennett:

The U.S. Environmental Protection Agency (EPA) has reviewed the DEIS for the above project pursuant to the National Environmental Policy Act, Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act. These comments were also prepared under the authority of, and in accordance with, the provisions of the Federal Guidelines promulgated at 40 CFR 230 under Section 404(b)(1) of the Clean Water Act (CWA). Our detailed comments are enclosed.

Based on our review, EPA has rated this DEIS EC-2, Environmental Concerns, Insufficient Information (Summary of EPA Ratings attached). We are particularly concerned with the total absence of any air quality analysis for construction and operations, and the inability to adequately assess whether the project would impact air quality in the South Coast Air Basin, an area that is currently designated nonattainment for several National Ambient Air Quality Standards. We recommend that the FEIS include an adequate air quality analysis to provide a better basis for evaluating potential impacts to the Air Basin. We are also concerned that the purpose and need statement and alternatives analysis do not clarify why alternatives were only considered on National Forest Service (NFS) lands, and do not explain why the Moonridge Animal Park proposes to expand more than ten times in size. We recommend that the FEIS expand the purpose and need and alternatives analysis discussions and identify the environmentally preferable alternative.

EPA is concerned with the lack of information regarding potential impacts to waters of the United States (WOUS), and recommends the FEIS clarify impacts and describe efforts to apply for a CWA Section 404 permit from the U.S. Army Corps of Engineers (Corps). The FEIS should also demonstrate compliance with the CWA Section 404 (b)(1) Guidelines and the

Compensatory Mitigation for Losses of Aquatic Resources; Final Rule. We also recommend the FEIS clarify all significant impacts and their compensatory mitigations, address the assumptions in the traffic analysis, clarify potential conflicts in the DEIS regarding why induced growth was not assessed, and include sections on potential effects to Land Use Planning, Utilities, and Hazardous and Toxic Materials.

Thank you for the opportunity to review this DEIS. Please send a copy of the Final EIS to us at the address above (Mail Code: CED-2) at the same time it is published with our Headquarters office in Washington DC. If you have any questions, please contact the lead reviewer for this project Paul Amato or me. Paul can be reached at 415-972-3847 or amato.paul@epa.gov; I can be reached at 415-972-3521 or goforth.kathleen@epa.gov.

Sincerely,

Kathleen M. Goforth, Manager
Environmental Review Office

Enclosures: Summary of EPA Rating System
EPA's Detailed Comments

Cc: Ms. Susan Nakamura, South Coast Air Quality Management District

SUMMARY OF EPA RATING DEFINITIONS

This rating system was developed as a means to summarize EPA's level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the EIS.

ENVIRONMENTAL IMPACT OF THE ACTION

LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

ADEQUACY OF THE IMPACT STATEMENT

Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment."

ENVIRONMENTAL PROTECTION AGENCY'S DETAILED COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE MOONRIDGE ANIMAL PARK RELOCATION PROJECT, NOVEMBER 24, 2008

Air Quality

There is insufficient information to assess impacts to air quality in the Draft Environmental Impact Statement (EIS). The document lacks any analysis or discussion of air quality impacts that could result from the project. This omission is of particular concern due to the location of the project in the South Coast Air Basin (SCAB) which is currently listed as nonattainment for National Ambient Air Quality Standards. Specifically, the SCAB is currently designated severe nonattainment for 8-hour ozone, moderate nonattainment for particulate matter less than 10 microns (PM_{10}), and nonattainment for $PM_{2.5}$[1]. The DEIS should describe baseline air quality conditions and discuss air quality regulations that should be considered. Emissions from construction, including controlled burns, and operation, including vehicle emissions, should be quantified and used to determine whether the project will further degrade air quality in the SCAB. A discussion of direct, indirect, and cumulative impacts is needed as well as a description of measures that would mitigate impacts. The DEIS should consider whether the project will meet general conformity requirements for the State Implementation Plan (SIP) for the SCAB. Coordination with the South Coast Air Quality Management District (SCAQMD) should be discussed.

> *Recommendations:*
> The FEIS should include a detailed discussion on air quality. Baseline air quality conditions in the SCAB should be described along with a discussion of relevant air quality regulations.
>
> Emissions for project construction and operations, including increased vehicle emissions, should be quantified, and the direct, indirect and cumulative impacts to air quality described, in the FEIS. The FEIS should also include a discussion of mitigation measures that would reduce impacts to air quality in the SCAB.
>
> The FEIS should describe whether the project will meet general conformity requirements for the SCAB SIP and include a discussion of coordination with the SCAQMD.

Purpose and Need

The purpose and need statement should consider the location and size of the proposed project. Section 1.2.2 of the DEIS describes the purpose and need for the project as a response to an application for a Special Use Permit on National Forest Service (NFS) System land to operate the proposed project. The document describes the need for the Moonridge Animal Park (Animal Park) to relocate due to the upcoming loss of its lease to operate at its current location, but does not clarify the need to relocate on NFS land nor describe why the Animal Park would expand in size ten times or more, from 2.5 acres to 23 or 27 acres. This is critical information due to the impacts that would result from developing 25 to 27 acres of undeveloped San Bernardino Forest and thinning an additional 300 foot wide fire buffer around the proposed facility. The purpose

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[1] More information on current designations can be found at EPA's website: http://www.epa.gov/oar/oaqps/greenbk/ancl.html

and need statement is intended to frame the scope of the alternatives assessed in the DEIS, and EPA is concerned that the current statement is too narrow, potentially resulting in too narrow a range of alternatives.

Recommendation:
The FEIS should include an expanded discussion as to why the Animal Park needs to be located on NFS land and why it would be expanded ten times or more in size.

Alternatives

The range of alternatives appears to be too narrow. Section 2.3 of the DEIS describes the two action alternatives, and section 2.2.4 briefly describes an alternative that was dismissed from further consideration. All of these alternatives are located on NFS land and would result in impacts to currently undeveloped forest. EPA is concerned that other locations, including non-NFS lands, were not considered and that the DEIS does not include a discussion as to why. The Council on Environmental Quality's (CEQ) Forty Most Asked Questions 2a and 2b state that the lead agency should consider a reasonable range of alternatives that can be carried out based on technical, economic, and environmental factors, including alternatives outside their legal jurisdiction (46 FR 18026). Alternatives that include locations other than undeveloped NFS lands could result in reduced impacts to forest resources; but, based on the DEIS alternatives analysis, it does not appear that this was ever considered.

The DEIS does not appear to identify the environmentally preferable alternative. The federal lead agency should identify the environmentally preferable alternative in the DEIS if it has been determined at the draft stage (46 FR 18026 (6a)). Based on the descriptions of the alternatives, it appears that Alternative C: Modified Proposal would have fewer impacts and meet the description of the environmentally preferred alternative. This must be clarified in the FEIS. Based on EPA's review of the alternatives, Alternative C would be preferable to Alternative B if, in fact, an Animal Park is determined to be an appropriate use of NFS land.

Recommendations:
The FEIS should include a detailed discussion that describes and clarifies why the alternatives analysis only considered NFS lands for the location of the proposed project and whether other non-NFS land locations were considered unreasonable and why.

The FEIS must identify the environmentally preferred alternative.

Waters of the United States

Impacts and mitigation for fill of waters of the United States (WOUS) are not clear and should be further assessed. Table 2-2 in the DEIS indicates that 1.1 miles of intermittent and ephemeral drainages would be affected by Alternative B: Proposed Action, and 1 mile affected by Alternative C: Modified Proposal, but there is insufficient information to adequately determine impacts and compensatory mitigation. The DEIS also describes modifications to stream channels due to construction of crossings, buildings, animal enclosures, changes in hydrology due to impervious surfaces, and installation of weirs and sediment ponds in the ephemeral drainages. Maps A-2 and A-4 also show several action alternative modifications that would

clearly impact the ephemeral drainages on the site. Finally, the DEIS states that the proposed action would disturb 90 to 100 percent of the 27 acre site during construction. Based on this information, it appears that substantial impacts would occur to the ephemeral drainages on the site; however, there is insufficient information describing impact avoidance, minimization and mitigation for impacts to WOUS, and whether a jurisdictional delineation has been conducted in preparation for application to the U.S. Army Corps of Engineers (Corps) for a Clean Water Act (CWA) Section 404 permit to fill WOUS. Channel and wetland buffers are described as mitigation but it is not clear where they will be located and how much avoidance would result.

The FEIS should describe WOUS, based on a Corps jurisdictional delineation, and quantify direct impacts that would occur from the action alternatives. The FEIS should also demonstrate compliance with the CWA Section 404(b)(1) Guidelines, which require a project applicant to, first, avoid impacts to WOUS, then minimize unavoidable impacts, and provide compensatory mitigation for all impacts that cannot be fully avoided. Mitigation should be consistent with the Corps and EPA "Compensatory Mitigation for Losses of Aquatic Resources; Final Rule" (Mitigation Rule) 40 CFR 230. The Mitigation Rule, went into effect June 9, 2008, and can be found at http://www.epa.gov/EPA-WATER/2008/April/Day-10/w6918a.pdf.

Table 2-2 mentions impacts to 8 or 11 acres of "wetlands/meadows" but the document does not appear to distinguish between the two. The document later states that there are no wetlands within the project area (p.103), which seems to conflict with Table 2-2. The FEIS should clarify whether there are any impacts to wetlands at the project site. The DEIS also describes potential impacts to wetlands at the Juniper Meadow site downstream of the project area, and mentions that monitoring is proposed due to uncertainty of project effects. The FEIS should, at a minimum, include a discussion of the kinds of impacts that could occur to the Juniper Meadow wetlands and how they would be avoided and mitigated.

Recommendations:
The FEIS should clarify impacts to WOUS and describe current or anticipated efforts to apply for a CWA Section 404 permit from the Corps.

The FEIS should demonstrate compliance with the CWA Section 404(b)(1)Guidelines and consistency with the Mitigation Rule.

The FEIS should clarify whether there are any wetlands at the project site and describe potential impacts to wetlands at Juniper Meadow.

Mitigation

Significant impacts and compensatory mitigations are not clearly identified. Environmental impacts are discussed for some environmental resources; however it is not evident which ones are considered significant and, thus, drive the need for a DEIS. Also, there does not appear to be any compensatory mitigation for impacts to biological resources and WOUS. NEPA requires the assessment and disclosure of environmental impacts and a discussion of avoidance and mitigation measures that could be implemented to reduce or eliminate significant environmental impacts.

Recommendation:
The FEIS should clarify significant and unavoidable impacts to environmental resources in the project area and describe compensatory mitigation to address these impacts. A table summarizing this information should be included.

Traffic Analysis

Assumptions in the traffic analysis appear to be flawed. According to the DEIS, the traffic analysis assumes that the level of service (LOS) would not be negatively affected by increased traffic because traffic would be spread across the entire day. Approximately 170,000 visitors are expected to visit the Animal Park each year resulting in an additional 51,515 more vehicles in the area per/year. The peak daily visitation would be approximately 3,058, or 927 vehicles. It seems unlikely that traffic would be spread evenly and that there would not be peak hours in the morning, afternoon and weekends. This appears to be a potential flaw in the traffic analysis and should be further clarified in the FEIS. Visitation patterns at similar facilities could be used for reference to compare the potential traffic distribution and effects to LOS from the project.

Recommendation:
The FEIS should clarify the assumption that project-related traffic would be spread out across the entire day and consider peak hours in determining LOS.

Induced Growth

Induced growth impact determinations are inconsistent. Section 2.2.3 of the DEIS states that growth inducing development was dismissed from detailed analysis, and briefly explains that the proposed project and the associated water supply pipeline would not result in induced growth. The section on cumulative effects on scenic resources later suggests that "...continued development visible from the road could potentially encourage development of private properties, which would increase scenery impacts along the Rim of the World Scenic Byway." This appears to be a contradiction that should be resolved in the FEIS.

Recommendation:
The FEIS should clarify why the DEIS did not consider induced growth even though it identified induced growth as a potential cumulative impact on scenic resources.

Other Resources

The DEIS fails to include an assessment of potential impacts to Land Use Planning, Utilities, and Hazardous and Toxic Materials. The FEIS should include an analysis of these categories given the change in land use, modifications to local utilities, and potential for construction and operations to introduce toxic materials to the environment. At a minimum, the FEIS should adequately disclose why these topics were dismissed from detailed analysis.

Recommendation:
The FEIS should include a discussion of potential impacts to Land Use Planning, Utilities, and Hazardous and Toxic Materials.