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October 17, 2016

Jeff Bensen, Assistant Forest Recreation Officer
Los Padres National Forest
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RE: Special Use Permit to Concessionnaire for Management of Forest Recreation Sites

Dear Mr. Bensen:

Thank you for this opportunity to submit comments on the Forest Service's proposal to issue a Special Use Permit ("SUP") to oversee the operation and maintenance of campgrounds and other recreation facilities throughout the Los Padres National Forest. The SUP will be issued for 52 recreation sites located in the Santa Barbara, Ojai, Mt. Pinos, Santa Lucia, and Monterey ranger districts. Last week, the Forest Service announced that it would issue the SUP to Parks Management Company, and anticipates issuing a formal decision on this matter on October 17.

Our organizations represent thousands of residents from throughout the Central Coast and beyond who visit the Los Padres National Forest for camping, hiking, mountain biking, horseback riding, and enjoying the great outdoors. We share the Forest Service's goal of finding innovative ways to improve recreation sites throughout the forest, particularly in the face of declining funding from Congress and limited staffing resources.

We also share a grave concern with the wholesale transferring of one of the most fundamental roles of the Forest Service – recreation management – to a private, for-profit corporation. Fees could increase significantly at many of the privatized sites, and the Adventure Pass will no longer be honored at them, meaning that the public will once again need to pay to simply access and enjoy these public lands, even if they are not using any amenities like restrooms or picnic tables. The terms and conditions of the SUP have not been publicly disclosed, prompting many questions about seasonal closures and other details that are paramount to a reasoned analysis of this proposal. And we are concerned with the lack of public notice regarding this proposal, the lack of any review of the potential impacts to recreation opportunities or an evaluation of alternative approaches, and inconsistency with the Land Management Plan. These concerns are spelled out in more detail below.

Fees Will Increase at Many Sites

Our organizations share an interest in ensuring that our public lands remain an affordable option for outdoor recreation. National Forest lands provide an excellent opportunity for residents and visitors of

all financial and socioeconomic means to picnic, hike, bike, ride, and explore wide open spaces, at little or no cost.

However, the concessionaire SUP would implement a fee structure at all 52 recreation sites in the Los Padres National Forest. While it is reasonable to charge a fee for camping at a developed recreation site, these fees could apply not just to those who enter the sites for camping, but also for those who wish to simply spend an afternoon on the trail or in the woods. For example, visitors wanting to park at Upper Oso to hike to Nineteen Oaks or Little Pine Mountain will need to pay an entrance fee simply for parking in the lot and hiking or riding on the trail. Likewise, visitors to NIRA Campground who wish to park and hike into the San Rafael Wilderness may need to pay an entrance fee. The same concerns arise to a host of other facilities with trailheads that are a part of the expanded concessionaire SUP.

Compounding this concern is the fact that these sites will no longer accept the Adventure Pass. The Forest Service's press release states, "The Adventure Pass will no longer be valid at these sites." Therefore, the public will need to purchase an Adventure Pass for certain areas, and a separate pass directly from the concessionaire for other areas, creating confusion and placing an additional financial burden on those who simply want to hike or ride on public lands.

In addition, the fee structure under the concessionaire SUP has not been publicly disclosed. The Forest Service's scoping notice is silent on the matter of fees, and the agency's press release simply states that "A new cost structure will be posted to the Los Padres National Forest website." A preliminary cost structure provided to us last week shows fees increasing at nearly every site, with some sites experiencing up to a 300% increase in overnight fees. This cost structure was not made part of the scoping notice, and as of today, is still not posted on the agency's website. The cost of entering these facilities is an integral part of this proposal, and should have been disclosed along with the scoping notice to all interested parties during the scoping process.

Seasonal Closures & Other Permit Terms

Any thoughtful analysis of this proposal must necessarily involve a review of the terms of the SUP that will be issued to Parks Management Company. However, the Forest Service has not publicly disclosed the permit language. For example, what obligations does the concessionaire assume under the permit, and what benefits accrue to them? How does the permit address seasonal closures that may apply to the campgrounds and day use areas under the new SUP? Will they be open year-round? Or what criteria will be used to determine when specific facilities can close for the season, and who makes that determination – the Forest Service or the concessionaire? Details like this are paramount for the public to fully understand the implications of the proposed concessionaire SUP.

Lack of Public Notice

Our organizations value opportunities for us, our members, and the general public to participate in decisions affecting the Los Padres National Forest. We regularly refer to the Forest Service's quarterly Schedule of Proposed Actions ("SOPA") to learn about proposals affecting forest lands, and we are disappointed that this concessionaire proposal was not once listed in a single SOPA.

The first time many of us first learned about this proposal was on October 5, when the Forest Service issued a press release announcing your agency's intention to issue a SUP to Parks Management Company. None of our organizations received your letter dated September 2, announcing a public

comment period, and there appears to have been no effort on the part of the Forest Service to send out press releases notifying the public about the proposal and the opportunity to submit comments. That comment period closed on September 29, 2016, a week *before* the Forest Service sent out press releases announcing the pending decision. We suspect that the Forest Service received few if any comments as a result.

The Forest Service is required to notify potentially interested parties about proposals as part of “scoping” which is defined as “an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action.” 40 CFR 1501.7 (emphasis added). The process that the Forest Service undertook in this case – notifying very few people and organizations about the comment period (which took place one month before the decision) and not issuing press releases until a week before the decision – is neither “early” nor “open” as required by federal regulations.

Incorrect Categorical Exclusion

In the September 2 letter, the Forest Service claims that the project is exempt from the normal requirement to prepare an Environmental Assessment because it fits within the following categorical exclusion (“CE”): “repair and maintenance of roads, trails, and landline boundaries” and cites to 36 CFR 220.6(e)(15). This is problematic for two reasons.

First, this project does not constitute the repair or maintenance of roads, nor trails, nor landline boundaries. As stated in the scoping letter, the stated purpose of this permit is as follows:

The special use permit will allow the concessionaire to provide public service in the operation and maintenance of government furnished recreation facilities as directed by the Forest Service. The context of the special use permit is operational and administrative and does not provide authorization for any ground disturbing activities, changes, or physical alterations to the recreation sites.

This project does not qualify for this CE, nor does it fall under any of the examples listed under this CE (i.e. authorizing a user to grade, resurface, and clean the culverts of an established NFS road; grading a road and clearing the roadside of brush without the use of herbicides; resurfacing a road to its original condition; pruning vegetation and cleaning culverts along a trail and grooming the surface of the trail; and surveying, painting, and posting landline boundaries).

Second, the letter contains a wrong citation to the appropriate CE, making it unclear which CE the Forest Service intends to invoke for this project. The “repair and maintenance of roads, trails, and landline boundaries” is found at 36 CFR 220.6(d)(4), not (e)(15) as cited in the letter. The (e)(15) CE applies to issuing a new SUP to replace an existing SUP “when the only changes are administrative, there are not changes to the authorized facilities or increases in the scope or intensity of authorized activities, and the applicant or holder is in full compliance with the terms and conditions of the special use authorization.” This CE clearly does not apply either. This proposal is more than just an “administrative” change to the existing permit and is exactly an “increase[] in the scope or intensity of authorized activities.” While the footprints of these facilities might not be increasing, the authorized activity – managing campgrounds and other facilities using a concessionaire – is increasing both in scope and intensity. The new SUP will

authorize concessionaire services at many more campgrounds and facilities than are covered under the exiting concessionaire program.

The issuance of an SUP covering the vast majority of campgrounds in the Los Padres National Forest simply does not qualify for a CE. As such, the Forest Service must prepare an Environmental Assessment for this project. Conducting the proper level of environmental review will provide an opportunity for public input, a thorough analysis of alternatives, and a thorough evaluation of how this proposal might impact forest recreation and visitor services.

The Proposal is Inconsistent with the Forest Plan

The Forest Service's scoping notice states that the concessionaire SUP is consistent with the Land Management Plan for the Los Padres National Forest, citing to Strategy REC 3: "Maintain partnerships with businesses who operate and maintain existing recreation facilities under the concession program to meet the needs of visitor demands." The letter provides no further analysis on *how* this proposal will achieve this strategy, and it is questionable as to whether it even applies. It refers to concessionaires who "operate and maintain existing recreation facilities" and in no way endorses expanding the number of facilities currently under permit.

Conclusion

Thank you for considering our concerns. Please add our organizations to your notification list for this proposal, and provide us with a copy of any future public notices, environmental documents, and decision documents.

Our organizations would welcome an opportunity to work with the Forest Service to craft a reasonable program that accommodates outdoor recreation while respecting public input and acknowledging the Forest Service's budget constraints. The current process – minimizing public involvement, handing over the administration of all developed recreation sites to a private for-profit corporation, and avoiding any analysis of alternatives – shuts the public out of the process and will fundamentally change the way the public recreates in our national forest. We urge you to take a more inclusive approach that incorporates early and open public involvement and honors the longstanding role that the Forest Service plays in encouraging and facilitating outdoor recreation on our nation's public lands.

Sincerely,

[signature page to follow]

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