

ATTACHMENT C



United States Department of the Interior

NATIONAL PARK SERVICE

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



A 3615 (PWR-PA)

DEC 30 2010

The Honorable Pete Stark
United States House of Representatives
District Office, 13th District California
39300 Civic Center Drive, Suite 220
Fremont, California 94538

Dear Congressman Stark:

Thank you for your letter of November 30, 2010, in which you inquire regarding the status of Roeding Park on behalf of your constituent George C. Roeding, III. According to Mr. Roeding's letter, the city of Fresno is planning to expand the zoo at Roeding Park. Mr. Roeding is concerned that the zoo expansion may involve the removal of 811 trees that have historic value, and that the expansion will generally destroy the historic integrity of a park which has been documented as part of the Historic American Landscapes Survey (HALS).

Mr. Roeding is correct in saying that the park is protected by the Land and Water Conservation Fund Act. The Park has received six Land and Water Conservation Fund (LWCF) grants beginning in 1980 for the development of tennis courts, and most recently for the installation of exterior lighting at the zoo in 2004. State and local governmental agencies that receive LWCF assistance, either for parkland acquisition or for park facility development, agree to keep the benefitting parks in public outdoor recreation use in perpetuity. Exceptions to this may be allowed only under the terms of the conversion provisions of the LWCF Act and Regulations in 36 CFR §59, and only when acceptable replacement parkland is acquired that will satisfy the requirement that the public recreation estate remain undiminished. The protective provisions of the Act apply to independently viable park units, not just those pieces receiving direct assistance. Therefore, in most cases, the entire area within the boundary of the park is protected. In certain cases, preexisting public indoor facilities or those that are later proposed and are found to support and enhance the public outdoor recreational use of the park may be allowed within the park boundary. According to our documentation, 159 acres of Roeding Park are within a LWCF protected boundary.

Given the protective provisions of the LWCF Act, any public facility expansion or conversion of parkland to other than public outdoor recreation use would have to be reviewed and approved either as a compatible public facility or under the conversion provisions of the LWCF program. The LWCF State Assistance Program is structured such that the federal agreements are with the State that has compliance oversight responsibility for all grants made to state and local governmental agencies. In California, that compliance function is served by the California

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Department of Parks and Recreation, Office of Grants and Local Services. Once the State gathers the information needed to make a determination, the recommendation is forwarded to the National Park Service (NPS) for review and approval.

On receipt of your letter, the NPS inquired with the State Office of Grants and Local Services regarding the Roeding Park Zoo expansion. They had not previously been informed that any such project was underway. The NPS requested that the State contact the city of Fresno to remind the city of the LWCF requirements and to request that no further action be taken on the project until the LWCF compliance process is completed. Please find a copy of the State's letter to the city of Fresno attached.

Not all park maintenance and operations projects in LWCF assisted parks are subject to State and NPS review. Minor facility repairs, landscape maintenance, facility replacement in-kind, and new outdoor recreation facilities not assisted by LWCF but consistent with the existing type of outdoor recreation use in the park are examples of local actions that would not typically come to us for approval. Based on the little information the NPS has so far, however, the proposed expansion of the Fresno Zoo appears to be the kind of action that requires State and NPS involvement.

Although the LWCF Act and governing federal regulations protect the public outdoor recreation estate and outdoor recreation opportunities, some deference is still allowed to local government bodies to determine local outdoor recreation needs and land uses to meet those needs. Thus, the LWCF Act allows conversions of use under certain circumstances. Citizens should be encouraged to participate fully in local decision processes as potential impacts and benefits are analyzed, and decisions made regarding what impacts will be acceptable to achieve the needed public benefit outcomes. The NPS is grateful in this case that citizen concern has alerted us to a situation needing our attention.

The LWCF Project Agreement between the NPS and the State stipulates that the State will assist the NPS in its compliance with §106 of the National Historic Preservation Act by consulting with the State Historic Preservation Officer regarding properties listed or eligible for listing in the National Register of Historic Places. This requirement is passed on to local grant recipients. Documentation regarding State Historic Preservation Office (SHPO) consultation is required in proposals submitted to the State and NPS for approval. Although inclusion in the Historic American Landscape Survey (HALS) documentation project conveys no special protection to an area in itself, it does suggest there are historic values worth considering. These values should be factored in to any planning project that would affect the area and potential impacts should be identified and analyzed. Such historic values may also qualify the area for listing on the National Register of Historic Places, but that is not necessarily so. A separate historic resources study and National Register nomination process would need to be pursued and approved to obtain the protections afforded by the National Historic Preservation Act. Even the Act, however, does not guarantee inviolability of the identified historic values. The Pacific West Regional Office will pay particular attention to the city's historic resources impact analysis to see if it sufficiently considers historic and cultural values.

Thank you for bringing the project at Roeding Regional Park to our attention. The Pacific West Regional Office is following up with the State and the city of Fresno to be sure that the protective provisions of the Land and Water Conservation Fund Act are applied appropriately to the Roeding Park projects.

If you would like further information on the Land and Water Conservation Fund Program or the status of our compliance actions at Roeding Park, please feel free to contact the LWCF State Assistance Program project manager for California, David Siegenthaler at the address above, by e-mail at David_Siegenthaler@nps.gov, or by phone to 510-817-1324.

Sincerely,

A handwritten signature in black ink, appearing to read "Christine S. Lehnertz". The signature is fluid and cursive, with a horizontal line extending from the end.

Christine S. Lehnertz
Regional Director, Pacific West Region

Enclosure

cc: Ms. Patti Keating, Office of Grants and Local Services, California Department of Parks and Recreation

Mr. George C. Roeding III