

## CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904- 5200  
FAX (415) 904- 5400  
TDD (415) 597-5885



April 29, 2010

# F14c

**TO:** Commissioners and Interested Persons

**FROM:** Peter M. Douglas, Executive Director  
Susan Hansch, Chief Deputy Director  
Charles Lester, Senior Deputy Director  
Elizabeth A. Fuchs, AICP, Manager, Statewide Planning Unit  
Nicholas Dreher, Coastal Analyst

**SUBJECT:** **Status Report on In-Lieu Fee Mitigation for Impacts to Lower Cost Overnight Accommodations** (Information Item only: no action will be taken by the Commission)

## I. Summary

This report provides an update on the status of in-lieu mitigation fees for lower cost visitor-serving overnight accommodations required by Commission actions on coastal development permits since 1977. Pursuant to the Coastal Act § 30213 requirement to protect and provide lower cost visitor-serving facilities, the Commission has required \$16,733,874 in in-lieu fees to mitigate impacts of development on lower cost overnight accommodations in 19 cases throughout the coastal zone. Individual fees range from a low of \$27,720, to a high of \$6,000,000. To date, at least \$2,536,209 in interest has accrued on those funds<sup>1</sup>, making a total of \$19,270,083 potentially available for expenditure on lower cost accommodations.

Of the total potential amount \$19,270,083, approximately \$8,567,935 has been spent on the acquisition, construction or renovation of lower cost overnight accommodations along the California coast. The remaining \$10,702,148 is either being held by various organizations (accruing interest) waiting for projects to fund (\$3,377,690), or has not yet been paid by project applicants for reasons related to individual permit requirements (\$7,324,458). Table 1 below summarizes the financial data for required in-lieu fees for lower cost overnight accommodations. Attachment 1 provides a complete listing of the cases and fees summarized in this report.

## II. Discussion

Coastal Act § 30213 requires that lower cost visitor and recreational facilities be “protected, encouraged, and, where feasible, provided.” To implement this policy, the Commission has required some project applicants to pay in-lieu mitigation fees for the purpose of providing new

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<sup>1</sup> Complete data on interest accrued to unspent fees paid directly to third parties is not yet available pending additional staff research.

lower cost overnight accommodations in the coastal zone.<sup>2</sup> Since 1977, Commission actions on coastal development permits have required \$16,733,874 in in-lieu fees to mitigate the impacts of development on lower cost overnight accommodations. This total reflects 19 cases, located throughout the coastal zone.<sup>3</sup> Individual required fees range from a low of \$27,720, to a high of \$6,000,000, depending on the particular scale and impacts of the projects being approved.

The total of \$16,733,874 represents the sum of required fees in adopted permit conditions, not what actually has been paid or what would eventually be paid. For example, the \$6,000,000 fee reflects a case where the adopted condition allows for the option of in-kind construction or payment of in-lieu fees, and this election has not yet been made, which would affect the ultimate total of in-lieu fees required and paid. To date, at least \$2,536,209 in interest has accrued on those funds, making a total of \$19,270,083 potentially available for expenditure on lower cost accommodations.

Approximately \$8,567,935 has been spent on the acquisition, construction or renovation of lower cost overnight accommodations along the California coast. This includes the construction of 260 hostel beds and 225 campsites, and the renovation of several cottages (see Attachment 1 for detail). The remaining \$10,702,148 is either being held by various organizations waiting for projects to fund (\$3,377,690), or has not yet been paid by project applicants for reasons related to individual permit requirements (\$7,324,458).

Table 1. California Coastal Commission In-lieu Fees Required and Spent on Lower Cost Overnight Accommodations 1977-2010.<sup>4</sup>

	Fees Paid to Commission	Fees Paid to 3rd Parties	TOTAL
Fees Required, 1977-2010	\$3,511,450	\$13,222,424	\$16,733,874
Fees Collected as of 05/14/2010	\$3,511,450	\$5,897,966	\$9,409,416
Interest Accrued on Collected Fees	\$2,288,939	\$247,270 <sup>5</sup>	\$2,536,209
<b>Total Fees Collected and Accrued</b>	<b>\$5,800,389</b>	<b>\$6,145,236</b>	<b>\$11,945,625<sup>6</sup></b>
Fees Transferred to 3 <sup>rd</sup> Parties/Available for Projects	\$4,991,795	\$6,145,236	\$11,137,031
Funds Not Transferred (Special Deposit Fund Accounts Balance)	\$808,594	-	\$808,594
<b>Transferred Fees Spent on Lower Cost Projects</b>	<b>\$3,769,825</b>	<b>\$4,798,110</b>	<b>\$8,567,935</b>
Transferred Fees Not Yet Spent on Projects	\$1,221,970	\$1,347,126	\$2,569,096

<sup>2</sup> In other cases, lower cost accommodations were either provided as part of the project, or the Commission required their provision in-kind as part of the project. These cases are not addressed by this report. For examples, the nearly completed 100-bed youth hostel in Santa Barbara was required in-kind under 4-81-205 (Park Plaza Corp)).

<sup>3</sup> This total does not include fee requirements in permits that have not issued (e.g., 5-07-085 (Lennar Homes) required \$5,000,000 in-lieu fee); or that have expired (e.g., 5-82-542-A3 (Westport Playa Sol LTD) required \$608,000 in-lieu fee).

<sup>4</sup> Figures reflect preliminary research and may be revised based on follow-up condition compliance work not yet completed.

<sup>5</sup> Complete data on interest accrued to unspent fees paid directly to third parties is not yet available pending additional staff research.

<sup>6</sup> May not reflect additional interest that may have accrued on funds paid directly to and held by third parties.

### **A. In-Lieu Fees Paid to the Commission/Special Deposit Fund Accounts**

Of the \$16,733,874 in fees required through Commission conditions, a total of \$3,511,450 was deposited in four separate interest-bearing Special Deposit Fund Accounts authorized by the Department of Finance, held in the State Controller's FISCAL System and managed by the Commission, three of which are now closed because the funds have been transferred to third parties for expenditure on lower cost overnight accommodation projects. A total of \$2,288,939 in interest has accrued on the Special Deposit Fund Accounts held by the State Controller for the Commission over the past 20 years. The grand total of Commission-managed funds approved by the Department of Finance and held in Special Deposit Fund Accounts since 1977 by the State Controller, therefore, is \$5,800,389.

As summarized in Table 1, \$4,991,795 of the total Commission-managed Special Deposit Fund Accounts has been transferred for project implementation. Of this amount, \$3,769,825 has actually been spent by third parties on project implementation, leaving \$1,221,970 still held by third parties for future implementation. The Coastal Commission has one remaining Special Deposit Fund Account held by the State Controller. The Monterey Peninsula/Big Sur Fund currently holds \$808,594 and the funds have not yet been spent on a lower cost visitor-serving project.

The history and status of each of the four Commission-managed Special Deposit Fund Accounts for mitigation of impacts to lower cost overnight accommodations is summarized below. More detail on the related permits may be found in Attachment 1.

#### **1. Santa Monica Low Cost Visitor Accommodations Fund (closed)**

- Deposits to this Special Deposit Fund Account totaling \$983,450 came in 1989 from permits 5-89-240 (Michael Construction Enterprises) and 5-89-941 (Maguire Thomas Partners Development).
- This Account accrued interest between 1990-2002 and ultimately contained \$1,661,115, which was transferred to the Los Angeles Council, American Youth Hostels, Inc. (AYH) on 8/14/2002. The Account was thereafter closed.
- AYH used \$823,700 to fund the 60-bed expansion of the HI-Santa Monica Hostel, which was completed in December 2005. The balance of the funds given to AYH, \$837,415 plus interest, has not yet been used due to lack of projects in the Santa Monica area, and is being held in an interest-bearing Special Purpose Account with Merrill Lynch.

#### **2. Laguna Niguel Hostel/Crystal Cove Improvement Fund (closed)**

- The sole deposit to this Special Deposit Fund Account came in 1989 from projects related to Master Permit P-79-5539 (involving AVCO, Stein-Brief, Hemmeter-Laguna Niguel Partners, and Monarch Bay Resort, Inc.). The

Commission required an in-lieu fee of \$1,482,000, to mitigate the cumulative impacts of the developments.

- After accruing interest for 12 years, this Account contained \$2,946,125, which was transferred to California Department of Parks and Recreation on 8/14/2002. The Account was thereafter closed.
- In 2004, DPR pooled the \$2,946,125 with other monies into a total of \$14 million to improve 22 cottages at Crystal Cove State Park and to make significant changes to the Park's infrastructure. As a result of funding provided due to the Commission's required mitigation, the Crystal Cove Alliance is restricted when setting rental fees; the fees are required to be reasonable and affordable.

### **3. Half Moon Bay Resort Low Cost Recreation Fund (closed)**

- The sole deposit to this Special Deposit Fund Account came in 1991 from permit 3-91-071 (Half Moon Bay Resort Partners and City of Half Moon Bay), in the amount of \$350,000.
- This Account contained \$384,555 when it was transferred to the California Department of Parks and Recreation (DPR) on 7/19/2004. The Account was thereafter closed.
- DPR indicates they will apply the funds to Hostelling International hostel at Point Montara, working in conjunction with State Coastal Conservancy (SCC).

### **4. Monterey Peninsula/Big Sur Coast Lower Cost Visitor Accommodations Fund (open)**

- The deposits to this Special Deposit Fund Account came in 2004 from a single permit, A-3-MCO-98-083 (Highlands Inn Investors), in the amount of \$696,000.
- As of March 31, 2010, this Account held by the State Controller contained \$808,594 including interest accrued. This Special Deposit Fund Account is authorized by the Department of Finance until June 30, 2012.
  - Staff recently received a letter from Hostelling International (HI) that stated they intend to seek \$200,000 from this Account to build a hostel in Fort Ord (the maximum that can be spent in Fort Ord pursuant to the permit condition). The money cannot be disbursed until a building permit is issued for the project and until the Executive Director approves the disbursement as being consistent with the adopted permit conditions. Hostelling International anticipates receiving this permit in late summer 2010. The balance of the Account must be spent on a hostel in Big Sur, pursuant to the Commission's permit condition.

## **B. In-Lieu Fees Paid to Third Parties**

In addition to the Special Deposit Fund Accounts held by the State Controller and managed by the Commission, the Commission has approved in-lieu fee permit conditions that required payments to be made directly from the applicants/developers to third parties for the purpose of providing lower cost overnight accommodations.<sup>7</sup> As summarized in Table 1, the Commission has required \$13,222,424 to be paid to third parties for the purposes of acquiring, renovating or constructing affordable overnight accommodations. To date, \$7,324,458 has not yet been paid. This is due to permit conditions that require payments to be made prior to physical occupancy, prior to initial construction or at a predetermined later date, none of which had occurred at the time of this report. Of the \$5,897,966 that has been paid to third parties, records indicate that \$4,798,110 has funded projects.

## **C. Next Steps**

In sum, the Commission has required \$16,733,874 and to date approximately \$8,567,935 has funded affordable overnight accommodations. Commission staff intends to continue its work on reviewing the status of required in-lieu fees with the objective of bringing to the Commission a more comprehensive report and evaluation of the Commission's efforts to protect lower cost overnight accommodations. Some of this work will include evaluating unspent in-lieu fee funds held by third parties and to develop recommendations to carry out specific projects. The Commission has applied for federal funding under section 309 of the Coastal Zone Management Act to support this work in the next fiscal year. In addition, Commission staff is working with the State Coastal Conservancy to develop an agreement to hold mitigation fees and to develop some new approaches to expedite the implementation of mitigation projects.

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<sup>7</sup> These third parties include: American Youth Hostels/Hostelling International, Coastal Conservancy, Department of Parks and Recreation, State Parks Foundation, City of Santa Monica, and others.

**ATTACHMENT 1: INVENTORY OF PERMITS WITH IN LIEU FEE MITIGATION FOR AFFORDABLE OVERNIGHT ACCOMMODATIONS**

	<u>Permit Number</u> <u>Permit</u>	<u>Project</u>	<u>In-Lieu Fee</u> <u>Required</u>	<u>Amount</u> <u>Collected</u> <u>with Interest</u> <u>Accrued</u>	<u>Amount</u> <u>Paid to</u> <u>Recipients</u>	<u>Amount</u> <u>that</u> <u>Funded a</u> <u>Project</u>	<u>Amount</u> <u>not yet</u> <u>spent by</u> <u>Recipients</u>	<u>Recipient of</u> <u>Mitigation Funds</u>	<u>Preliminary Notes</u> <u>on Outcome</u>
<b>CCC Special Deposit Fund Accounts held by State Controller</b>									
1	A-3-MCO-98-083 (Highlands Inn Investor)	Convert 107 rooms of a higher cost hotel to condominium time share; Carmel Highlands, Monterey County	\$696,000	\$808,594	\$0	\$0	n/a	CCC in "Monterey Peninsula/Big Sur Coast Lower Cost Visitor Accommodation Fund"	Condition required hostel in Monterey County Fee has not yet been spent. Hostelling International intends to seek \$200,000 from Fund to build a hostel in Fort Ord summer 2010.
2	3-91-071 (Half Moon Bay Resort Partners City of Half Moon Bay)	Construct Half Moon Bay Resort	\$350,000	\$384,555	\$384,555	\$0	\$384,555	CCC in "Half Moon Bay Resort Low Cost Recreation Fund" In 2004, CCC transferred funds to DPR	Condition required funding for affordable overnight in the area. DPR plans to apply the funds to Hostelling International hostel at Point Montara

California Coastal Commission

Status Report: In Lieu Fee Mitigation for Impacts to Affordable Overnight Accommodations

Attachment 1: Inventory of Permits with In Lieu Fee Mitigation for Affordable Overnight Accommodations

April 29, 2010

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3	Master Permit P-79-5539 (AVCO, Stein Brief, Hemmeter-Laguna Niguel Partners, Monarch Bay Resort, Inc.)	Various resort construction in Dana Point, totaling 2,397 rooms.	\$1,482,000	\$2,946,125	\$2,946,125	\$2,946,125	\$0	CCC in "Laguna Niguel Hostel/Crystal Cove Improvement Fund" In 2002, CCC transferred funds to DPR	Condition required funding for affordable overnight opportunities in the area. Resulted in the restoration of several cottages at Crystal Cove State Park
4	5-89-941 (Maguire Thomas Partners Dev.)	Replace a 91-room motel with a 175 room non-lower cost hotel in Santa Monica	\$728,000	\$1,661,115	\$1,661,115	\$823,700	\$837,415	CCC in "Santa Monica Low Cost Visitor Accommodation Fund" In 2002, CCC transferred funds to AYH	Condition required fee for affordable overnight facilities in Santa Monica. In 2005, AYH funded 60-bed expansion of the HI-Santa Monica Hostel, (cdp 5-02-105.) AYH maintains unspent balance in their Merrill Lynch Special Purpose fund
5	5-89-240 (Michael Const. Enter.)	Replace 30 low-cost room Auto Motel with 62-room non-lower cost hotel in Santa Monica	\$255,450	Combined in Fund- See totals in row #4	Combined in Fund- See totals in row #4	Combined in Fund- See totals in row #4	Combined in Fund- See totals in row #4	See row #4	Combined with Outcome under Row #4, cdp 5-89-941

California Coastal Commission

Status Report: In Lieu Fee Mitigation for Impacts to Affordable Overnight Accommodations

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April 29, 2010

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<i>CCC Special Deposit Fund Accounts held by State Controller</i>	-	-	\$3,511,450	\$5,800,389	\$4,991,795	3,769,825	\$1,221,970	-	-
<u>Payments to</u> <u>3rd Parties</u>									
6	2-83-026 (Thousand Trails and Duncan Mills)	Convert 125 public commercial campsites to a members-only facility and construct 118 members only campsites at Duncan Mills, Sonoma County	\$132,300	\$132,300	\$132,300	\$132,300	\$0	State Parks Foundation	Condition required funding for low-cost camping and day use facilities in Sonoma County Coastal Zone Resulted in 63 public campsites and day use facilities in Sonoma County coastal zone
7	3-07-002 (Ken Scott)	Replace office with ground commercial and six higher cost inn units (Estero landing) above and along Embarcadero (Morro Bay)	\$27,720	\$2,772 (10%)	\$2,772	\$0	\$27,720	City of Morro Bay, in a separate account in their Trust and Agency Fund	Condition required fee for low-cost overnight accommodations in San Luis Obispo County Coastal Zone. The city is waiting for a project in Morro Bay. The applicant still owes the city a balance of \$24,948, paid \$472.86 monthly



California Coastal Commission

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8	A-3-PSB-06-001 (HMW Group)	Replace 13 cabins and warehouse with 69 room above-average cost beachwalk hotel in Pismo Beach	\$97,020	\$0	\$0	\$0	n/a	City of Pismo beach	Condition required fee for low-cost overnight accommodations in San Luis Obispo County Coastal Zone. Principal development has not begun; payment required prior to construction
9	A-4-VNT-07-009 (Crown Pointe Estates)	Subdivide 2.9 acres rezoned to residential into four lots, Pacific Coast Highway, Malibu	\$557,084	\$557,084	\$557,084	\$0	\$557,084	Paid to California DPR in February 2010	Condition required fee for construction of 11 new cabins at the nearby Leo Carrillo State Beach Park in Los Angeles County. Cabins not yet built.
10	A-4-SBC-01-167 (S.B. beach properties and City of Santa Barbara Redevelopment Agency)	Convert 96 lower cost overnight accommodations to condominiums in City of Santa Barbara	\$982,000	\$0	\$0	\$0	n/a	Santa Barbara County Redevelopment Agency	Condition required funding for low-cost overnight accommodations in the Central City Redevelopment Project Area in Santa Barbara. Developer seeking extension.

California Coastal Commission

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11	5-05-385 (Seal Beach Six)	Replace 23 room average cost hotel with 6 single family homes, on 5th Street, Seal Beach	\$87,810	\$87,810	\$87,810	\$87,810	\$0	California Department of Parks and Recreation (DPR)	Condition required funding for land acquisition or construction of low-cost hostel or campsite In 2008, completed Group campsite at Doheny State Beach in Dana Point
12	A-5-RPV-02-324 (Long Point Development LLC; Destination Development Corp.)	Replace Marineland (closed), a former low-cost recreational facility with a 582 room (400 hotel rooms, 50 three-keyed casitas, 32 villas) high cost resort hotel; Rancho Palos Verde	\$540,000	\$787,270  (including \$247,270 interest accrued in AYH's own Special Purpose fund)	\$787,270  (including \$247,270 interest accrued in AYH's own Special Purpose fund)	\$0	\$787,270  (including \$247,270 interest accrued in AYH's own Special Purpose fund)	Los Angeles Council, American Youth Hostels (AYH), holds this amount in a Merrill Lynch Special Purpose fund	Condition required fee for acquisition or construction of hostel in Long Beach or south bay area. Both the principal development and mitigation project have not yet been built
13	5-99-169 (Maguire)	Replace an 81-unit lower-cost motel with an office building in Santa Monica	\$648,000	\$648,000	\$648,000	\$648,000	\$0	City of Santa Monica. City sent funds to AYH in 2003	Condition required funding for low-cost overnight accommodations in Santa Monica. In 2005, funds used to expand/renovate Santa Monica Hostel, completed, pursuant to cdp 5-02-105.

California Coastal Commission

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14	5-88-062 (CWD Taiyo)	Replace a low-cost, 34-room motel with a retail/office project in the City of Santa Monica	\$200,000	\$200,000	\$200,000	\$200,000	\$0	City of Santa Monica. City sent funds to AYH in 2003	Condition required funding for low-cost overnight accommodations in Santa Monica. In 2005, funds used to expand/renovate Santa Monica Hostel, pursuant to cdp 5-02-105.
15	A-207-79 (Marina Plaza and LA County Dept. of Small Craft Harbors)	Construct 300 room luxury Marina Plaza hotel on leased publicly owned land in Marina Del Rey	\$365,000	\$365,000	\$365,000	\$365,000	\$0	CCC sent funds to AYH.	Condition required fee for half of the cost of an off-site hostel within the Marina del Rey coastal zone. In 1990, this money paid for half of the original Santa Monica hostel,( cdp 5-86-175). A-49-79 fee also paid for half
16	A-49-79 (Interstate Marina and LA County Dept of Small Craft Harbors)	300 room Hotel to proceed on leased publicly owned land in Marina Del Rey	\$365,000	\$365,000	\$365,000	\$365,000	\$0	CCC sent funds to AYH.	See Outcome under Row #15, CDP A-207-79
17	A-6-PSD-08-004 (Lane Field Developers)	Replace parking lot with two high-cost hotels totaling 800 units in San Diego	\$6,000,000	\$0	\$0	\$0	n/a	Partnership between Port of San Diego and the hostel operator	Condition required an option to construct a 400 bed hostel in San Diego within 5-6 years, or to pay fee.

California Coastal Commission

Status Report: In Lieu Fee Mitigation for Impacts to Affordable Overnight Accommodations

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18	6-92-203-A4 (KSL)	Allow condo-hotel instead of approved hotel. Convert 100 units of 130 unit hotel (still not constructed) to be condo-hotel units in Encinitas	\$220,490	\$0	\$0	\$0	n/a	Local public agency or private non-profit	Condition required funding for low-cost accommodations near Encinitas or Carlsbad. The fee does not have to be paid until "occupancy of any room of the hotel" (Special Condition #5).
19	6-81-330-A1 (Southern California Edison Company)	Fence and close 2.2 acres of dry sand beach seaward of the nuclear power generating station in San Clemente	\$3,000,000	\$3,000,000	\$3,000,000	\$3,000,000	\$0	California DPR	Condition required fee for low-cost facilities at San Onofre State Beach. Funded construction of 161 campsites at San Mateo SP Campground and its adjoining education center, parking lot, restroom and shower facilities, day use areas and several miles of multi-use Trails. Completed 1989 -1991.
<b>3rdParty Payment Subtotals</b>	-	-	<b>\$13,222,424</b>	<b>\$5,897,966</b>	<b>\$6,145,236</b>	<b>\$4,798,110</b>	<b>\$1,347,126</b>	-	-
<b>Overall Totals</b>	-	-	<b>\$16,733,874</b>	<b>\$11,945,625</b>	<b>\$11,137,031</b>	<b>\$8,567,935</b>	<b>\$2,569,096</b>	-	-