

CALIFORNIA COASTAL COMMISSION

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Goto original staff report

F17a,b,c

ADDENDUM

June 12, 2013

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: ADDENDUM TO **ITEMS F17 a, b, c** – COASTAL DEVELOPMENT PERMIT APPLICATIONS 5-13-0349; 5-13-0350; 5-13-0351 (CALIFORNIA DEPARTMENT OF PARKS AND RECREATION) FOR THE COMMISSION MEETING OF JUNE 14, 2013.

Correspondence

Commission staff has received the attached correspondence from Mathew Fuzie, Deputy Director of Park Operations, on behalf of Anthony Jackson, Director of the California Department of Parks and Recreation.



DEPARTMENT OF PARKS AND RECREATION
P.O. Box 942896 • Sacramento, CA 94296-0001
(916) 653-4272

Major General Anthony L. Jackson, USMC (Ret), Director

June 11, 2013

Ms. Mary K. Shallenberger, Chair
California Coastal Commission
45 Fremont Street
San Francisco, CA 94105

Dear Chairwoman Shallenberger:

On behalf of Park's Director Anthony Jackson and the staff of the Department of Parks and Recreation (DPR), I would like to extend my appreciation for the hard work which went into the development of the reports and proposed conditions for our requested Coastal Development Permits. We believe the data-driven model presented through these permits to the Commission will provide the appropriate flexibility to allow the DPR to fulfill its mission of providing high-quality recreational opportunities at our coastal units and fulfill both Parks and the Coastal Commission's shared responsibility to ensure continued public access to the shoreline.

We look forward to working closely with Commission staff in obtaining a sufficient amount of adequate data to analyze the effects of various parking rates on park attendance. It is to the benefit of both DPR and the Commission to obtain data taking into account variations in weather, economic factors and other external forces that may affect park attendance. We believe that collecting as much information as possible, perhaps for longer than the three years proposed in the staff reports, will result in a more robust set of useful data and more informed decision-making.

Both DPR and the Commission have important roles in protecting access to the coast and providing recreational opportunities to the public. Public Resources Code §30400 acknowledges the importance of public agencies working together in fulfilling dual roles, noting that "[I]t is the intent of the Legislature to minimize duplication and conflicts among existing state agencies carrying out their regulatory duties and responsibilities."

DPR has an additional statutory mission to generate revenue. The Public Resources Code authorizes DPR to, "collect fees, rents, and other returns for the use of any state park system area, the amounts to be determined by the department". (Public Resources Code §5010(a)) Moreover, the Governor and Legislature have directed the Department to increase revenue generation which, "include strategies for generating new revenues and fee collection methodologies at State Parks". (Public Resources Code §5019.92 et seq)

In 1980, 91% of the Department's budget was General Fund. This year, General Fund support to the Department is 29%. General Fund support for the Department has declined by 37% since FY 07/08, which includes General Fund reductions of \$11 million in fiscal year 2011/12 and an additional \$11 million in fiscal year 2012/2013.

The Legislature and the Governor have made it clear, by enacting legislation in 2012, that the Department must explore new revenue generating opportunities to sustain itself. Both have acknowledged the fact that the Department's General Fund has been steadily decreasing for years, recognized that funding deficiency and directed the Department to explore opportunities to fill that gap through entrepreneurial ideas.

"The department shall develop a revenue generation program as an essential component of a long-term sustainable park funding strategy." (Public Resources Code §5010.7)

To accomplish these tasks, the Legislature redirected funding to the Department to develop revenue generating projects. A key element to revenue generation is the use of DPR's existing statutory authority to collect fees. As the Commission staff report acknowledges, DPR fulfills these mandates recognizing the importance of low cost access to coastal resources. DPR has many low-priced passes available to enhance public access to coastal state parks, including: *Annual Day Use Pass*, *Golden Bear Pass*, *Limited Golden Bear Pass*, *Disabled Discount Pass*, and *Distinguished Veteran's Pass*. These five passes provide discounted rates to routine park visitors, seniors, low-income visitors, disabled people, and service men and women, respectively.

DPR will continue to promote the many lower cost options available. It is also important to note that Parks does not charge admission fees for state beaches, so visiting state beaches is more cost effective for those who carpool or take alternative transportation.

We do want to take this opportunity to provide some additional information for the Commission's consideration concerning the installation of Automated Pay Machines (APM) within the park units known as Crystal Cove State Park, Doheny State Beach, and San Clemente State Beach.

First, we wish to provide some information about how DPR plans to implement holiday rates and why DPR is considering greater flexibility in what holidays would have an adjusted flat rate fee.

Southern California State Beaches provide some of the greatest outdoor recreational opportunities and experiences for residents and tourists alike. Typically, the average user spends less than 3 hours participating in any coastal recreational opportunity, creating greater turnover in parking lots. This turnover allows greater visitation and

more opportunity for all. However, during a majority of holidays visitation trends are dramatically different. The majority of holiday visitors spend between 8 and 12 hours at a specific beach unit, thus reducing the number of times a parking area will turn-over.

Attendance at these times is at its greatest, impacting staffing levels, facility use, and utilities. In an effort to pay for the increased cost of doing business, State Parks has proposed maximizing revenue on those holidays where parking area turn-over is greatly reduced due to visitation usage.

Second, we would like to provide information why the suggestion of providing the hourly option at all parks is not as simple as the staff report states.

Fee schedules need to be based on a multitude of factors including, but not limited to: current visitation trends, recreational opportunities afforded, location of parking areas relative to recreational opportunities, parking area turn-over, amenities provided, parking ingress and egress, protection of valued or sensitive habitats and resources, a park's overall visitation carrying capacity, etc.

For instance, Doheny State Beach has one entrance area where fees for day use, camping, special events, and drop off for educational field trips occur. To offer hourly parking would necessitate the need for more entrance stations to be constructed throughout the park, a larger staff to regulate specific parking areas, and additional costs in staffing to collect fees and direct visitors. San Onofre Bluffs is a linear park with Day Use situated on both sides of a campground. The simple linear layout of the campground coupled with multiple recreational endeavors which require specific associated fee schedules does not allow for an hourly rate year round. Parks such as Huntington and Bolsa Chica currently cannot provide an hourly rate due to the large expanse of parking available and the collection of fees upon entrance. To deviate from the current flat rate fee collection at this park would cost DPR more than \$250,000 to implement a "pay upon exit" type program. This estimated cost does not include a necessary larger staffing plan to operate the program and maintain safe traffic flow through the park units. This information illustrates that offering hourly parking is not a simple solution in all locations. DPR continues to work on hourly parking options wherever feasible and explore new opportunities to achieve that goal.

This past year, where feasible, DPR has provided hourly and discounted rate options in both camping and day use options for our visitors. To date, paid day use vehicle visitation to park units within Orange County has increased by more than 20.8% during this fiscal year. While the increase cannot be solely attributed to our change in fee structures, it does suggest our business model is providing the access and opportunities which both DPR and the Commission seek through these types of processes.

Ms. Mary K. Shallenberger, Chair
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DPR staff is fully committed to ensuring a cooperative relationship with the Commission staff in the implementation of these permits going forward. We recognize that we both must work together to ensure that access is protected and that the parking fee systems are carefully calibrated to provide high quality recreational access to our precious California coastline. In the spirit of that cooperation, I hereby rescind the June 5 letter and June 6 e-mail sent to the Commission by Superintendent Brian Ketterer. Those communications were not approved by DPR management and do not reflect the perspective of DPR.

Respectfully,

A handwritten signature in black ink, appearing to read "Mathew Fuzie", written in a cursive style.

Mathew Fuzie
Deputy Director of Park Operations

CALIFORNIA COASTAL COMMISSION

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F 17a

Filed: May 30, 2013
180th Day: November 26, 2013
Staff: J. Rabin – LB
Staff Report: June 3, 2013
Hearing Date: June 14, 2013

STAFF REPORT: REGULAR CALENDAR

Application No.: 5-13-0349

Applicant: California Department of Parks & Recreation
Brian Ketterer, Orange Coast District Superintendent

Location: Crystal Cove State Park, Newport Beach, Orange County

Project Description: Install automated payment machines (APMs) and implement a flexible fee collection program at five locations: Reef Point, Pelican Point, Los Trancos, Moro Day Use and Moro Campground parking lots to replace or augment existing manned kiosk, utilizing a combination of hourly, flat or seasonal rates; Also monitoring to include collection of data from the fee collection program to demonstrate how parking fees and discount parking opportunities affect public use and revenue collection.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION:

The California Department of Parks & Recreation (CSP) is seeking a coastal development permit to install five Automated Payment Machines or APMs at Crystal Cove State Park in Orange County. The APMs would collect fees for vehicles entering the park at five locations – Reef Point, Pelican Point, Los Trancos, Moro Day Use and Moro Campground parking lots. The machines provide expanded payment options to include cash, credit and debit. Fees are currently collected at all locations through some means, such as staffed kiosks or entry stations.

CSP also proposes a flexible fee collection program including hourly, daily, and seasonal rates. Currently a flat parking rate of \$15 per day is offered at the subject park facility year-round. CSP has provided a sample fee schedule for the Crystal Cove parking lots that identifies a \$15 flat daily rate, hourly rates of \$4/hour and a new holiday rate of \$20 a day; however, CSP has not proposed specific rates or a fee structure with this application. CSP is requesting the flexibility to offer various rates depending on time of year, proximity to recreational opportunities, trail heads or resource viewing areas, as well as the park's carrying capacity. The machines are also capable of assisting the public in renting a campsite and selling annual State Park visitor passes. CSP is seeking after-the-fact approval for APMs that have already been installed and are operating at Reef Point, Pelican Point, Moro Day Use and Moro campground.

Installation of the machines and the automated fee collection program constitute development under Coastal Act Section 30106 because it involves installation of a structure and a change in intensity of use and of access to water. The proposed automated pay machines can be reprogrammed at any time to increase or decrease fees, provide an hourly rate option and/or flat rate only. Such flexibility in the fee payment structure potentially affects the affordability and convenience to the public to access the coast and, therefore, represents a change in intensity of use and of access to water.

The standard of review for this permit is Chapter 3 of the Coastal Act, including the public access and recreation policies. Commission staff has been working with CSP staff on a coordinated approach to managing coastal access in the State Parks that recognizes and harmonizes both agencies jurisdictional responsibilities, with the specific goal of meeting the Coastal Act policies of maximizing public access and protecting lower cost visitor and recreational opportunities on public land while also recognizing and addressing recent legislative and administrative direction to State Parks to create new revenue streams to fund facility management and operations throughout the State Park system. Joint letters reflecting the agencies' current staff-level agreement are attached as Exhibits 4 and 5. As proposed, CSP has incorporated the parameters identified in the agreement to be considered for use when setting fees including provision of hourly rates at every facility where parking fees are charged to provide maximum flexibility for users; reduced or no fees during off-peak periods; short-term free parking for brief stops; limiting parking fees a portion of the day or weekends only; potential first-hour free parking; limiting the number of higher fee holidays per year and including hourly holiday rates; and promotion of annual regional passes and discount rates for seniors, the disabled, veterans and low-income persons.

It is anticipated that the flexible fee schedule and in particular the use of an hourly rate option, especially during periods of underutilization of the parking lots, will increase visitation and, therefore, also potentially revenue when compared to the current flat daily rate option. Therefore, the project in this case has the potential both to further maximize public access and increase revenues for the Park system. Although staff recognizes CSP's statutory responsibility and mandate to manage access and recreation in the State Parks, increased or modified fee programs also have the potential to adversely affect the ability of the public to access the shoreline, which is the Commission's primary responsibility. The maintenance of lower-cost options for beach access is a specific concern to assure that rates are not driven solely by increased demand, such as holidays or peak season, such that some segments of the population are priced out of recreational opportunities at the coast. In addition, significant increases in fees, or instituting new fees where there previously

were none, may have adverse effects on visitation levels in specific locations. At the same time, CSP must have a revenue stream to support park operations.

Consistent with the staff-level agreement, CSP is proposing to collect annual data from the fee collection program in an effort to demonstrate how parking fees and current discount parking opportunities affect public use and revenue collection. But because the flexible fee schedule is essentially untested in this context, Staff is recommending approval with conditions that limit the term of the permit to 3 years and require CSP, in coordination with Commission staff, to develop monitoring and data collection protocols over the next year to determine the effects of offering different parking rate options such as hourly and seasonal rates, on public access and visitation patterns. Through analysis of the collected data, CSP, the Commission and the public will be able to identify the positive benefits and/or negative effects of the flexible fee collection program and the relationship of the parking rates and fee structure to visitation and revenue. The authorization of the APMs may be extended or modified by the Commission after the first 3-year period, based on the results of monitoring and analysis.

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APPENDICES

Appendix A - Substantive File Documents

EXHIBITS

Exhibit 1 – Site map

Exhibit 2 – Photograph of Automated Payment Machine

Exhibit 3 – Memorandum of Peter Douglas Re: Coastal Development Permit Required When Imposing or Increasing Fees or Modifying the Hours of Operation of Public Beaches or Public Beach Parking Lots, Piers or Boat Launching Ramps, Dated October 29, 1993.

Exhibit 4 – Letter from Charles Lester to Major General Jackson dated May 20, 2013

Exhibit 5 – Letter from Major General Jackson to Charles Lester dated May 23, 2013

Exhibit 6 – Sample Fee Schedule for Crystal Cove State Beach parking lots and Moro Day-Use and Campground

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 5-13-0349 subject to the conditions set forth in the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in conditional approval of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. Permit Authorization. This authorization expires three years from the date of Commission approval of CDP 5-13-0349 and is for installation and operation of the APMs in general accordance with the proposed flexible fee collection program and sample fee schedule (Exhibit 6). CSP shall endeavor to maximize visitation while addressing the need for increased revenue streams to support park facility management and operations through flexible fee implementation, and shall consider using the following measures:

- a. Provide hourly rate options at all locations 7 days a week, including holidays;
- b. Limit holiday rates to the three summer holidays of Memorial Day, the Fourth of July and Labor Day;
- c. Reduce or eliminate fees during off-season or other low demand periods;
- d. Provide areas within parking lots for short-term free parking for brief stops.

To facilitate timely consideration of the extension or modification of this authorization, the applicant shall apply to renew this authorization 90 days prior to its expiration.

2. Monitoring Requirement. CSP shall monitor the implementation of the proposed parking and fee collection program for the duration of this permit authorization. Within 45 days of Commission action, CSP shall provide the following information to the Executive Director to assist in collaborative development by CSP and the Executive Director of a monitoring program that provides for monitoring and analysis of daily park use by the public and the impacts of any fee programs on public use:

- a. Data and analysis done currently to develop the CSP Annual Statistical Report;
- b. Available baseline data of park and parking lot use prior to operation of the APMs;
- c. Any data collected and analysis performed from use of the APMs prior to this permit authorization;

Within the first year of authorization, or sooner if feasible, CSP shall provide to the Executive Director for review and written concurrence, a final monitoring program which incorporates, in addition to the above, the following data and monitoring results in a form that provides for analysis and conclusions regarding the effect of operation of the APMs on parking, park visitation, revenues and public access. Information used to develop the monitoring program shall include, but not be limited to, the following:

- d. Data/analysis currently included in the CSP Annual Statistical Report;
- e. Collection of daily attendance figures;
- f. Parking fees assessed and collected including mode (daily, hourly, holiday, etc.) and amount of fee;

- g. Parking lot usage, vacancy and/or turnover rates, and other data relevant to understanding visitation patterns;
- h. Analysis of the relationship of use fees to park attendance and parking lot use;
- i. Available information regarding factors such as weather, water quality, water temperature, surf conditions, etc. that may affect visitation patterns;
- j. Use of annual passes, senior/disabled or other discounts;
- k. Parking violations or tickets issued;
- l. Special events.

Monitoring, data collection, and analysis shall occur throughout the term of this permit and such data shall be incorporated into the approved monitoring program and submitted to the Executive Director annually, thereafter.

Any proposed extension or modification of this authorization shall consider and address any impacts to access and visitation patterns identified through the approved monitoring program.

IV. FINDINGS AND DECLARATIONS

A. PROJECT LOCATION, BACKGROUND AND DESCRIPTION

Project Location

Crystal Cove State Park is located in Orange County at the southern end of Newport Beach between the community of Corona del Mar in Newport Beach and the City of Laguna Beach (**Exhibit 1**). The 2,791-acre State Park includes a 3.25-mile long coastal section west of Pacific Coast Highway (PCH) and several inland areas. The coastal strip includes sandy beach, rocky tide-pools, an underwater park, bluffs and bluff-top trails, Historic Area cottages, and a beachfront restaurant and bar. The interior portion includes a Visitor Center, campground, and upland trails that extend into interior canyons and ridges. The park provides a large amount of open space surrounded by urbanized areas and is a major recreational and environmental resource.

Project Description

The California Department of Parks & Recreation (CSP) is proposing to install five Automated Payment Machines or APMs at Crystal Cove State Park in Orange County. The APMs would collect fees for vehicles entering the park at five locations - Reef Point, Pelican Point, Los Trancos, Moro Day Use and Moro Campground parking lots (**Exhibit 2**). The machines accept credit and debit cards and cash, and do not make change. Fees are currently collected at all locations through some means, such as staffed kiosks or entry stations. Installation of an APM requires physical improvements to the infrastructure at the site. In some cases, minor trenching is needed to install conduit to carry electrical power and communications lines. In some cases, minor grading may be necessary to install the concrete pad on which the machine is placed. Some APMs operate on solar power and have a Wi-Fi connection. No change to the existing number of parking spaces is proposed.

In their application, CSP also proposes a flexible fee collection program including hourly, daily, and seasonal rates. Currently a flat rate of \$15 per day is offered at the subject park facility for parking year-round. CSP has provided a sample fee schedule (**Exhibit 6**) for the Crystal Cove

parking lots to give the Commission a sense of the scope of the fees that could be modified over the term of the permit, that identifies a \$15 flat daily rate, hourly rates of \$4/hour and a new holiday rate of \$20 a day; however, CSP has not proposed specific rates or a fee structure with this application. CSP is requesting the flexibility to offer various rates depending on time of year, proximity to recreational opportunities, trail heads or resource viewing areas, as well as the park's carrying capacity. The machines are also capable of assisting the public in renting a campsite and selling annual State Park visitor passes.

At Reef Point, Pelican Point, Moro Day Use (Visitor Center) and the Moro Campground, the new APMs already have been installed, where fees traditionally have been collected by park staff. Therefore, CSP is seeking after-the-fact approval for installation and operation of those machines.

B. COASTAL DEVELOPMENT PERMIT JURISDICTION

Pursuant to the California Coastal Act, a coastal development permit is required for any "development", unless specifically exempted under a variety of provisions or procedures set forth in the Coastal Act or pursuant to other provisions of law.

The Commission's regulatory jurisdiction, as well as that of local governments in the coastal zone, derives from its mandate to assure that new development is consistent with the policies of the Coastal Act. One of the Commission's most fundamental legislative mandates is to protect and expand public access to and along the coast and to guarantee the public's Constitutional right to access state tidelands through the implementation of the Coastal Act (PRC 30210-30214). Thus, the Commission has a long history of assuring through its planning and regulatory process that existing public access to the sea is not closed or adversely impacted by new development; that where appropriate, new access and recreation is provided, including as mitigation for development impacts; and that prescriptive public rights to access the shoreline are protected.

The Commission also has a mandate to assure that public access is provided and managed in relation to the needs of all citizens, and to protect private rights, natural resources, and public safety. Hence, the Commission has long been involved in evaluating and resolving conflicts between competing uses, and in evaluating proposals that might affect the public's ability or costs of getting to the coast, to assure that the public's fundamental rights for coastal access, and the legislative mandates of the Coastal Act, are met.

For purposes of the Commission's permitting requirements in cases like this, new development includes the placement of physical structures, such as a parking kiosk, pay machine, or meters, but also includes changes in the "intensity of use of water or access thereto" (PRC 30106). Clearly the placement of a physical barrier would change the ability to access the water, but the Commission also has long applied the Coastal Act definition of development to activities that may not involve any physical development but yet may affect access to the water. This includes both user access fees and general restrictions on the hours of access or the types of users that may be allowed to use or park in an area that provides access to the shoreline (e.g. beach curfews, residential-only parking zones, etc.).

The Commission's jurisdiction with respect to parking regulation and fees was specifically affirmed in the case of *Surfrider Foundation v. CCC* (1994) 26 Cal.App.4th 151), which concerned the installation of iron rangers in Sonoma County. In responding to Surfrider's main contention that proposed CSP fees would impede access to the coast, the court addressed the legislative intent of the Coastal Act and concluded:

...the concerns placed before the Legislature in 1976 were more broad-based than direct physical impedance of access. For this reason we conclude the public access and recreational policies of the Act should be broadly construed to encompass all impediments to access, whether direct or indirect, physical or nonphysical.¹

Although the Commission need only establish a change in intensity of use or access to water to invoke its jurisdiction, the Commission also has exercised its administrative discretion and provided guidance concerning when a change in access fees (such as new or increased parking fees) might be considered a substantial change that would likely trigger a coastal development permit (see October 1993 memo to Planning Directors of Coastal Cities and Counties and other interested persons **Exhibit 3**). As applied to the subject APMs and automated fee structure that would allow reprogramming to increase or decrease fees without limitation and the new proposed \$20 holiday rate, the guidance would conclude the proposed fee structure and potential new and increased fees are substantial increases in the rates of fees as applied to individual visitors. Beyond the physical installation, therefore, the APMs and their associated fees program have the potential to affect the intensity of use and access to beaches and state waters and are thus subject to the Commission's regulatory authority over new development.

C. PUBLIC ACCESS AND RECREATION

The California Coastal Act requires the Commission to maximize opportunity for coastal access and contains the following relevant policies:

Section 30210: *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30211: *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Section 30212.5: *Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the*

¹ The Coastal Act also expressly requires all state agencies to comply with the Act (Pub. Res. Code 30003) and clarifies that all state agencies shall carry out their duties and responsibilities in conformity with the Coastal Act and that Coastal Act policies should guide state functional planning in the coastal zone. Pub Res Code 30402, 30403. See also Govt Code section 65036.

impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30213: *Lower cost visitor and recreational facilities shall be protected, encouraged,, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...*

Section 30220: *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

Section 30221: *Oceanfront land suitable for recreational use shall be protected for recreational use and development ...*

Other Coastal Act policies also are relevant to the public recreational access issues presented by the proposed project, including:

Section 30240 (b): *Development in areas adjacent to...parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those...recreation areas.*

Section 30252: *The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation,....*

Among the most important goals and requirements of the Coastal Act is the mandate to protect, provide, enhance, and maximize public recreational access opportunities to and along the coast consistent with strong resource conservation principles. Within this guiding framework, the protection of and priority for lower cost visitor and recreational facilities is explicitly identified. A significant portion of the land that comprises Crystal Cove State Park was purchased in the late 1970s from the Irvine Company. At the time it was one of the most expensive state park acquisitions. Additional land was later added to the park in conjunction with further development by the Irvine Company. The park provides a wide variety of recreational opportunities for visitors of all sorts, including hikers, strollers, joggers, swimmers, surfers, scuba divers, cyclists, photographers, campers and guests at the restored cottages on the beach and bluffs. There are also lower cost dormitory-style (hostel) accommodations². The park is bisected by Pacific Coast Highway. The coastal portion west of the highway includes sandy beaches, rocky tide-pools, an underwater park, bluffs and bluff-top trails, the Historic District cottages, a beachfront restaurant and bar, and several parking lots. At Pelican Point there is a series of four lots linked together by a common entrance point and road. There is another parking lot farther down coast at Reef Point. The interior portion inland of PCH includes the Los Trancos parking lot (which is the primary

² The Commission has directed more than \$4.5 million to the restoration of the Crystal Cove Historic District Cottages as lower-cost overnight facilities. An additional \$3.4 million has been dedicated to the next phase in restoration of the cottages, but those funds are due at a later date.

parking area for the Historic District), a Visitor Center with a day use parking lot (Moro Day Use lot), a campground with another day use parking lot (Moro Campground lot), and upland trails that extend into interior canyons and ridges. The park provides a large amount of open space surrounded by urbanized areas of Orange County and is a major recreational and environmental resource.

According to California State Park System Statistical Reports, Crystal Cove has seen a steady rise in paid day use from 368,957 in fiscal year 2005-06 to 691,471 in 2010-11.³ In the summer of 2009, the day use fee was increased from \$10 to \$15. Paid day use visitation and revenue has increased at Crystal Cove likely due to the rental of restored cottages in the Historic District and the opening of the Moro campground.

The parking lots at Crystal Cove are used by the public to gain access to beaches, state waters, and inland areas. The availability of public parking and the cost of that parking is critically important at Crystal Cove because there is no alternative parking available either along the entire three-mile stretch of Pacific Coast Highway from the Corona del Mar area of Newport Beach to Laguna Beach or at adjacent inland neighborhoods (mostly private gated communities which do not allow public access or parking). State Parks controls the only legal parking areas for Crystal Cove State Park. Transit service on Pacific Coast Highway is infrequent with only one Orange County Transportation Authority bus per hour in each direction on weekends. Long-distance hikers and cyclists can access the park on foot or by bike, but the overwhelming majority of park visitors arrive by car.

Parking Fee Collection Program

CSP has not proposed specific rates or a fee structure with this application but is requesting the flexibility to offer various rates depending on time of year, proximity to recreational opportunities, trail heads or resource viewing areas, as well as the park's carrying capacity. A sample fee schedule for these parking lots has been submitted to give the Commission a scope of the fees that may be assessed at the Park and could be modified over the term of the permit and is attached as **Exhibit 6**. Prior to this application, State Parks has offered only one parking rate at Crystal Cove – a flat \$15 a day charge, regardless of the length of stay. No hourly rates were available. Except as discussed below, the sample rates do not raise significant concerns as they are generally in keeping with the existing flat daily rate, though the proposed holiday rate does represent a 33% increase over the existing fee.

Commission staff has been working with CSP staff toward development of a coordinated approach to managing coastal access with the goal to maximize public access and protect lower cost visitor and recreational opportunities on public land, while recognizing recent legislative direction to State Parks to create new revenue streams to fund facility management and operations throughout the State Park system. Joint letters reflecting the agencies' agreement are attached. **Exhibits 4 and 5**.

As proposed, CSP has incorporated the parameters identified in the agreement to be used when setting fees including provision of hourly rates at every facility where parking fees are charged to provide maximum flexibility for users; reduce or eliminate fees during off-peak periods; provide

³ The source reports for this data are unclear as to whether the units counted were vehicles or some other unit.

some areas within parking lots for short-term free parking for brief stops; limiting parking fees to a portion of the day or weekends only; consider free parking on certain days or first-hour free parking; limiting the number of higher fee holidays per year and including hourly holiday rates; and promotion of annual regional passes and discount rates for seniors, the disabled, veterans and low-income persons. **Special Condition #1** provides for the proposed flexibility and incorporates the above parameters into the approved fee collection program.

The Commission believes an hourly parking rate option offered as frequently as possible and also on holidays is beneficial and would allow short-term visitors the opportunity to enjoy the sunset or engage in recreational activity such as a walk or jog on the beach, without incurring the expense of the full day fee. The flat fee program offers visitors no alternative to access the park by motor vehicle for less than the full day rate. As an example, on a summer weekend last August, Commission staff observed motorists pulling up to the entry kiosk at Pelican and Reef Point entrances, on the coast side of Pacific Coast Highway, to watch the sun set. After being informed by park staff that it would cost \$15 to enter and view the sunset, most of the motorists immediately turned around and left the park. In that instance, the parking lots were not full but the lack of a short-term rate discouraged public access and visitation and also represents lost revenue for the park.

It is advantageous that the proposed APMs will allow State Parks to offer an hourly fee option to maximize access and provide the opportunity for visits of a brief duration such as surfing in the morning, walking along the beach, and walking the trails such as short walks to blufftop vista points during travel. The parking lots with hourly rates are inherently a lower-cost visitor and recreational opportunity supported by the Coastal Act. Often during off-peak periods, the parking lots at Crystal Cove are significantly under-utilized. The APMs afford an opportunity to increase utilization during off-season or early morning or evening hours.

State Parks is offering hourly rates at many state beaches in San Diego County, including Carlsbad, South Carlsbad, San Elijo, Cardiff, Torrey Pines North, and Silver Strand in Coronado. State Parks announced the move in a November 2011 press release, which states:

If visitors want a short visit, like a run on the beach or a sunset, they would not pay for the whole day, but rather just for the time they select and that's how they would be given a price break. Also, State Parks thinks this will help with revenue because it may encourage more people to take advantage of the opportunity for shorter visits, quite possibly creating more turnover of visitors and therefore more revenue. In addition, visitors may choose to use the state lots at hourly rates rather than park further away from the beach.

A \$5 hourly rate has been implemented at the four Crystal Cove locations where APMs are currently installed and operating. In a November 23, 2012 letter to Commission staff, State Parks indicates data collected in October showed visitors purchasing varying amounts of parking time depending on the parking lot location. At the Moro Campground Day Use area, over 98 percent of visitors purchased two hours or less. At other locations, more day use passes were purchased, including by 63 percent of visitors at Pelican Point. This very preliminary data suggests there is demand for parking options, including a less-than-full-day flat rate.

The sample fee schedule includes a new holiday rate of \$20 a day and suggests it could apply to Thanksgiving, Traditional Winter Break from Sunday prior to Christmas Day through Sunday preceeding New Year's Day, Martin Luther King Weekend, Lincoln's Holiday Weekend, President's Day Weekend, Memorial Day, Labor Day, 4th of July to include weekends immediately before and after the recognized holiday. In discussions with CSP staff and in their response to previous Commission staff proposals that the holiday rate be offered only on the three traditional summer holidays (Memorial Day, the Fourth of July and Labor Day) and that an hourly rate option be available on the holidays, CSP staff indicated they may offer the holiday rate for the three summer holidays only in the first year and if data demonstrates visitation is maintained or increased notwithstanding the higher rate, they may also consider posting holiday rates during the off-season holidays noted above. CSP would consider hourly rates or other pricing options if decline in visitation, not associated with weather or water quality, is demonstrated. Special Condition #1 provides for the proposed flexibility but also encourages the holiday rates apply to the three summer holidays only with hourly rates offered, subject to monitoring and adjustment based on the identified effect on public use.

To provide additional opportunities for visitation, State Parks indicates they will expand and continue to promote the sale of annual regional passes. At kiosks staffed by park workers, the Department provides discounts for certain groups of visitors, including an immediate \$1 discount for senior citizens over 62 and a 50 percent discount for disabled persons who have a Department-issued pass. These discounts may not be available through the Automated Payment Machines; however, to preserve these discounts, CSP has indicated they will explore the means to maximize the availability of discount rates for seniors, the disabled, veterans, and low-income persons through the APM program or through park staff.

Although the Commission recognizes CSP's statutory responsibility and mandate to manage access and recreation in the State Parks, increased or modified fee programs also have the potential to adversely affect the ability of the public to access the shoreline, which is the Commission's primary responsibility. The maintenance of lower-cost options for beach access is a specific concern to assure that rates are not driven solely by increased demand, such as holidays or peak season, such that some segments of the population are priced out of recreational opportunities at the coast. In its application, CSP agrees to collect annual data from the fee collection program in an effort to demonstrate how parking fees and current discount parking opportunities affect public use and revenue collection.

Condition 1 limits the term of the permit to 3 years and requires that CSP, in coordination with Commission staff, develop monitoring and data collection protocols over the next year to determine the effects of offering different parking rate options such as hourly and seasonal rates, on public access and visitation patterns. Through analysis of the collected data, CSP, the Commission and the public will be able to identify the positive benefits and/or negative effects of the flexible fee collection program and the relationship of the parking rates and fee structure to parking, park visitation, revenues and public access. With that information, CSP would submit an application for a permit amendment or new CDP at least 90 days before expiration of the permit for an updated fee collection program which has been revised to address any impacts to access and visitation patterns identified through analysis of the data from the submitted monitoring information. The updated

submittal for reauthorization would include measures to eliminate any identified adverse impacts to coastal access and to maintain and/or increase visitation and revenue based on the submitted data.

Hours of Operation/Beach Closures

As stated above, one of the Commission's most fundamental legislative mandates is to protect and expand public access to and along the coast and to guarantee the public's Constitutional right to access state tidelands through the implementation of the Coastal Act.⁴ The staff agency agreement provides for continued discussion and coordination between the Commission and CSP to address any issues related to shoreline access and beach closures that may exist in State Parks along the Coast. It also identifies parameters to address such issues in particular cases, including consideration of supplemental means to increase visitation by extending park hours, parking lot hours and operations, and addressing any closures or restrictions on actual access to an along the shoreline that may be in place in a particular park unit.

In dealing with these issues generally the Commission has distinguished between the closure of public use of beaches and of support facilities, such as parking lots, accessways, piers and boat launch ramps. The closest scrutiny is given to the closure of beaches; however, limiting hours of beach parks and parking lots is especially critical in terms of impacts to access when the park access or parking lot serves as the only means for the public to reach the shoreline, as is the case at Crystal Cove.

To ensure consistency with Section 30210 of the Coastal Act, maximum access to the navigable waters for the purpose of recreation must be provided for all people that is in harmony with public safety needs. For example, Commission staff worked with the City of Laguna Beach on its coastal development permit (Resolution No. 10.019/CDP No. 10-12) for an ordinance (No. 1521) establishing a beach curfew, and the City decision to approve beach closure between 1 a.m. and 5 a.m. was not appealed to the Commission because the ordinance states the closure shall not apply to activities such as walking, jogging, fishing, grunion hunting, scuba diving, surfing, or swimming and specifically acknowledges that individuals may go to or come from the wet sand or the area

⁴ Article X, Section 4 of the Constitution states, in part,

[n]o individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose . . . and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof.

Section 7 states:

[w]henver any agency of government, local, state, or federal, hereafter acquires any interest in real property in this State, the acceptance of the interest shall constitute an agreement by the agency to conform to the laws of California as to the acquisition, control, use, and distribution of water with respect to the land so acquired."

Coastal Act section 30210 states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

within 20 feet inland of the wet sand, for any of the allowed uses by the most direct safe route available at any given location.

Similarly, in the Huntington Beach downtown area Specific Plan amendment (HNB-MAJ-1-10), the Commission certified the following language to assure public access to State tidelands is provided:

3.3.7.15: A public beach closure/curfew cannot apply to the area of Coastal Commission original jurisdiction (State tidelands, submerged lands and public trust lands) including but not necessarily limited to the area seaward of the mean high tide line. Public access to the water's edge and at least 20 feet inland of the wet sand of all beaches shall be permitted at all times. Closure to public use of any portion of the beach inland of the mean high tide line is not encouraged and requires a coastal development permit which must maintain the public's right to gain access to State tidelands. Measures that limit public use of the beach shall be limited to those necessary to address documented public safety events that cause a risk or hazard to the general public and shall be the minimum necessary to address the potential risk or hazard to the general public. The need for continuation of safety measures that limit public access shall be reassessed on a periodic basis to assure maximum public access is provided. Limited closure for beach maintenance may be allowable pursuant to a coastal development permit."

In the case of State Parks, each Park Superintendent is authorized by the Department Director to adopt Posted Orders to manage activities such as park hours within each park unit. The Posted Order for Crystal Cove (No. 925-12-003 issued July 1, 2012) sets closing times for all State Park units in the Orange Coast District. In Crystal Cove State Beach, the two large parking lots located on the ocean side of Pacific Coast Highway (Pelican Point and Reef Point), close at sunset. Two other parking lots inland of PCH at Los Trancos, which serves the Historic District (guest cottages, restaurant and bar), and the Moro Campground lot, remain open until 10 p.m. A third inland lot, the Moro Day Use Area (Visitor Center), closes at sunset. Given the limited options for getting to this stretch of coast, these parking lot hours constrain the ability of the public to access the shoreline after park hours.

The order states:

All areas within the park units of the Orange Coast District designated for day use, such as, parking areas, picnic areas, trails, bluff areas, beach (except as in Article V[sic]⁵ of the State Constitution involving fishing) and other areas not designated as authorized camping areas are closed to public use, entry and occupancy and all traffic, to include vehicle, foot, bicycle or other human powered vehicles, mopeds or other forms of transportation other than administrative or emergency vehicles....

The sunset closure is the earliest closure time of any state beach in Orange County. During late November and December, sunset at Crystal Cove is as early as 4:45 p.m. A sign posted at the Pelican Point entry says park hours are 6 a.m. – Sunset. Another sign in the Reef Point lot says: “Park and Beach Hours 6 a.m. to Sunset.” Due to the relationship of the parking lots to beach

⁵ The correct citation is to Article X, Section 4 of the state Constitution.

access points, signage posted at State Park facilities that establish beach or beach parking hours at sunset or 10 p.m. effectively prevents the public from using the beach after park hours, which raises potential conflicts with Section 30210 of the Coastal Act.

This permit application does not address the hours of operation of the parking lots and beach closures. Reef Point and Pelican Point, the two large parking lots on the coast side of Pacific Coast Highway and an inland lot at the Moro Day Use area (Visitor Center) have the sunset closing time. Although the closure order in place does appear to provide for beach access under a reference to the Constitutional basis for shoreline fishing, further discussion with CSP is needed to better understand the history of park operations since the Commission approved the Public Works Plan for Crystal Cove. It is unclear whether the current management regime was authorized by the Commission or whether there may be specific management measures that would better address the public's ability to access the shoreline after hours.

In its application and as part of the ongoing coordination effort with Commission staff, CSP staff has indicated they shall consider supplemental means that increase visitation including extending park hours, parking lot hours and operations, and will work with Commission staff separately to address any closures or restrictions on actual access to and along the beach shoreline that may be in place. Commission staff anticipates that this discussion will proceed as part of the statewide commitment to addressing these types of issues.

Conclusion

As conditioned, the proposed project to install Automated Payment Machines and institute a new flexible fee schedule, including hourly and seasonal rates, has the potential to expand visitation, improve public access, and increase revenue. State Parks has an opportunity to demonstrate whether or not the public will take advantage of alternatives to the existing \$15 flat fee day use parking rate, particularly for shorter length visits. Data collected during the three-year life of this permit will provide some evidence about the demand of state park visitors for a variety of parking options and provide a tool to help devise the best approach to maximize public access to the coast and increase visitation and, therefore, revenue at Crystal Cove.

Prior to expiration of the CDP, the applicant shall submit an application for a permit amendment or new CDP for a updated fee collection program which has been revised to address the impacts to access and visitation patterns identified through analysis of the data from the submitted monitoring information. The updated submittal shall include measures to eliminate any identified adverse impacts to coastal access and to maintain and/or increase visitation and revenue based on the submitted data.

The Commission finds that the proposed project, as conditioned, is consistent with the public access and recreational policies of the Coastal Act.

D. VISUAL IMPACTS

Coastal Act Section 30251 requires that "the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas...."

The Automated Payment Machines would be installed at the entrance to or in paved parking lots. The machines stand about 54 inches off the ground. In some cases, the APMs are accompanied by a 12-foot-tall pole to mount informational signs and provide a location for solar collectors, which power some of the machines. At Pelican Point, Reef Point, and Moro Campground, the machines have been placed near existing entry kiosks. At the Moro Day Use Site, the APM is near the Visitor Center. The APM proposed for Los Trancos would be placed near the entry kiosk. As such, none of the structures involve a visual impact that would affect public views of the shoreline, view corridors or the scenic or visual qualities of coastal areas. Therefore, installation of the proposed APMs is consistent with Coastal Act Section 30251.

E. CHAPTER 3 STANDARD OF REVIEW/CRYSTAL COVE PUBLIC WORKS PLAN AS GUIDANCE

Section 30605 of the Coastal Act provides, in pertinent part, that:

Where a plan for a public works or state university or college or private university development project has been certified by the commission, any subsequent review by the commission of a specific project contained in the certified plan shall be limited to imposing conditions consistent with Sections 30607 and 30607.1.

Section 30606 of the Coastal Act states:

Prior to the commencement of any development pursuant to Section 30605, the public agency proposing the public works project, or state university or college or private university shall notify the Commission and other interested persons, organizations, and governmental agencies of the impending development and provide data to show that it is consistent with the certified Public Works Plan or Long Range Development Plan. No development shall take place within 60 working days after the notice.

Section 13359 of the Commission's Administrative Regulations states:

(b) The Commission shall...determine whether the proposed development is consistent with the certified public works plan...

The Crystal Cove Public Works Plan (PWP) was approved by the Commission with conditions on May 20, 1982. Conditions were met on August 26, 1982. A few amendments to the PWP have occurred since its initial approval. The most recent PWP amendment was authorized in June 2003 (PWP-4-82-A2) and involved an update that replaced the Crystal Cove Historic District Development and Public Use Plan and On-Site Maintenance Program with the Crystal Cove Historic District Preservation and Public Use Plan. The PWP includes the Crystal Cove State Park General Plan, the On-Site Maintenance Plan and the Crystal Cove State Park Historic District Development and Public Use Plan. Section 30605 of the Coastal Act, cited above, establishes the standard of review. The first threshold question is whether the specific project is contained in the PWP. If it is, then the Commission's review is limited to the imposition of conditions. The Commission cannot deny a project that it previously certified as part of the PWP; however, the

Commission can regulate the manner in which the project is carried out to bring it into conformance with the PWP. Once it is determined that a project is contained in the PWP, the second question is whether or not the project is consistent with the PWP.

The applicant, in consultation with Commission staff, determined that the proposed project is not contained in the PWP. The applicant chose to submit the project for a coastal development permit. The Commission finds that the proposed project was not previously contemplated and is therefore not contained in the PWP. Chapter 3 policies of the Coastal Act will serve as the standard of review for the proposed project, with the Crystal Cove Certified PWP serving as guidance.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Department of Parks & Recreation, acting as lead CEQA agency, determined that the proposed project was categorically exempt from CEQA review, and thus the Department did not identify any significant adverse environmental effects from the proposed project. The Coastal Commission's review and analysis of coastal development permit applications has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal, and has recommended appropriate conditions to avoid and/or lessen any potential for adverse impacts to said resources. All public comments received to date have been addressed in the findings above. All above Coastal Act findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives nor feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the proposed project, as conditioned, would have on the environment within the meaning of CEQA. Thus, as conditioned, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

APPENDIX A

Substantive File Documents:

Coastal Permit Application File Numbers 5-12-154, 5-13-099 and 5-13-0349

Crystal Cove State Park Public Works Plan and amendments

California State Park System Statistical Reports 2003/04 through 2010/11 Fiscal Years

California State Parks – Pass Descriptions – Department website:

http://www.parks.ca.gov/?page_id=1049 Viewed by Commission staff on January 15, 2013.

California State Parks – Day Use Fees by Geographical Region – Department website:

http://www.parks.ca.gov/pages/737/files/Current_GeoLoc%20web_day%20use.pdf Viewed by Commission staff on January 15, 2013.


California Department of Parks and Recreation, Orange Coast District, District Superintendent's Posted Order No. 928-12-003, dated July 1, 2012.

Coastal Permit Application Numbers 5-96-268, Coastal Permit Amendment 5-96-268-A1 and 5-98-042, involving parking in coastal areas of the City of Long Beach.



5-13-349, Exhibit 1




Not yet in service.
Please pay fees at Kiosk.
 In the near future, this machine will offer our visitors the ability to pay fees and purchase annual passes using credit cards or cash. A receipt will be issued for all transactions which will serve as proof of payment.
 If you have questions about this device, or Crystal Cove State Park, please contact us at 949-494-3539.

DIGITAL
Business Building Solutions

RECEIPT

Crystal Cove APM

CDP # 5-13-349

Exhibit #2

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
 SAN FRANCISCO, CA 94105-2219
 VOICE AND TDD (415) 904-5200



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CALIFORNIA
 COASTAL COMMISSION
 CENTRAL COAST OFFICE

October 29, 1993

TO: Planning Directors of Coastal Cities and Counties, and Other Interested Persons

FROM: Peter Douglas, Executive Director *Peter Douglas*

SUBJECT: COASTAL DEVELOPMENT PERMIT REQUIRED WHEN IMPOSING OR INCREASING FEES OR MODIFYING THE HOURS OF OPERATION OF PUBLIC BEACHES OR PUBLIC BEACH PARKING LOTS, PIERS OR BOAT LAUNCHING RAMPS

The Coastal Commission has received numerous inquiries as to whether the imposition or increase of fees or making a change in operating hours of public beaches, shoreline parks or public beach parking lots, piers or boat launching ramps requires a coastal development permit. It appears these inquiries result from increasing pressures on local governments to charge fees and/or change the hours of operation of such facilities based on budgetary and public safety concerns. In addition to these inquiries, the Commission has taken action on several specific coastal development permit applications for such activities of which you should be aware. We think it appropriate to respond on a statewide basis and apologize for our delay.

The answer is yes, in most cases. For purposes of this communication, it is important to distinguish between the various types of facilities and actions being discussed. The descriptions below of the types of facilities referred to in this memorandum are not intended to constitute any sort of legal definition but rather provide the context for the discussion that follows. Public beaches refers to all sandy beach areas under public ownership or control, whether or not subject to the public trust. Shoreline parks are public recreation areas that may or may not include sandy beach located immediately adjacent to or in close proximity to state waters and which can be used by the public to gain access to such waters. Public parking facilities include any parking areas or portions of such areas (eg. parking lots, on-street or curbside parking spaces, parking structures) open to the public that are used by the public to gain access to public beaches or state waters. Public piers and public boat launching ramps are self-explanatory.

Pursuant to the California Coastal Act a coastal development permit is required for any "development", unless specifically exempted under a variety of provisions or procedures set forth in the Coastal Act or pursuant to other provisions of law (eg. the doctrine of vested rights). The Coastal Act defines "development" as including, among other things, a "...change in the intensity of use of water, or of access thereto..." (Public Resources Code Section 30106.) After a local coastal program (lcp) has been fully certified

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for a city or county, the coastal development permit issuing responsibilities of the Commission are delegated to that local government. Coastal permitting responsibilities stay with the Commission for any development on any land or water areas subject to the public trust. In addition, certain coastal permit actions by local government are appealable to the Commission, including those for the types of facilities and actions that are the subject of this memo. Local coastal programs (lcps) have incorporated the Coastal Act definition of "development" requiring a coastal development permit from the local government implementing a fully certified lcp.

It is the Commission's position that any action which has the effect of changing the intensity of use of state waters or of access to such waters is a "development" for purposes of the Coastal Act and requires a coastal development permit from the Commission or, in appropriate circumstances, from a local government implementing a fully certified lcp or the Commission on appeal. Because the imposition or substantial increase of a user fee for beach access parking, pier or boat launching ramp use, or for beach or shoreline park use would, in our opinion, result in a change in access to state waters, a coastal development permit is required. For purposes of this memo and for purposes of guidance, "substantial increase" means any fee increase of 25% or more in any given year or 50% or more on a cumulative basis over any three consecutive year period. Similarly, any action changing the hours of operation or availability for public use of, for example, any beach, shoreline park, parking facility, pier or boat launching ramp or facility requires a coastal development permit. A coastal development permit is required even if little or no physical construction is necessary to implement the action calling for a fee, a fee increase or a change in hours of operation.

As mentioned before, whether the coastal development permit must be obtained from the Commission or the appropriate local government depends on whether the local government has in place a fully certified lcp and has been delegated the coastal development permit issuing authority pursuant to the Coastal Act. In some cases, even where a fully certified lcp is in place, the Commission may have retained coastal development permitting authority because the affected lands are subject to the public trust or otherwise fall into a category of retained permit jurisdiction. If there is a question about whether the Commission or the local government is responsible for processing and acting on a coastal development permit, please contact the appropriate Coastal Commission office. Even where a local government has coastal development permit issuing responsibility, it is important to know that the action is probably appealable to the Coastal Commission and, because the issue involves public access and is of vital concern to the Commission, may well be appealed.

The fact a coastal development permit is required for the type of actions described above does not mean a permit application will necessarily be denied. Rather, each case must be evaluated in light of the particular applicable facts and circumstances. The Coastal Commission has already reviewed and acted on several proposals to change the hours of operation of public beaches, parking facilities, accessways, boat launching ramps, and a pier. These proposals involved the cities of San Diego, Carlsbad and Long

Planning Directors of Coastal Cities
and Counties, and Other Interested
Persons

October 29, 1993

Page 3

Beach. It is our intent to prepare a memo on this subject that will provide guidance to local government, other public agencies and members of the public relative to the type of factors the Commission has considered and examples of concerns that should be taken into account when these types of proposals are being formulated. The Commission is extremely sensitive to the budgetary and public safety concerns of local governments. At the same time, the Commission must carefully balance those concerns against broader public interests relative to public use of and access to public coastal resources such as beaches and state waters. It is for this reason, among others, that the Commission has not approved any request to close public beaches to the public on a continuing basis. On the other hand, the Commission has approved the closure of public beach parking lots at certain hours during the night. Finally, it should be remembered that because these types of actions requiring coastal development permits involve questions of public access, the legal standard of review is the Chapter 3 policies of the Coastal Act relating to public access.

Relative to public safety concerns, we want to emphasize that nothing in what we have said here interferes with or prevents a law enforcement agency from taking any and all actions it deems appropriate to address a particular public safety emergency, including any action to close to all public use a beach, parking facility or park. Similarly and pursuant to the Coastal Act, if a local government takes an action to close a public facility pursuant to a legally approved declaration of "public nuisance", no coastal development permit is required. We should caution however, Commission staff will look carefully at any action using the "public nuisance" exception to the coastal development permit requirement when the result of such action is to close to public use for any extended period of time a public beach, parking facility or any other facility providing public access to the beach or state waters.

Because there has been some ambiguity and uncertainty about the coastal permit requirements for the types of actions covered by this memo, it is not our intent to pursue any coastal act violation actions at this time. However, we ask every entity that has taken any action described here as requiring a coastal development permit and for which such a permit has not been approved to contact our office to determine the appropriate steps to complete and process a coastal permit application. We realize that in some cases the action requiring a coastal permit may have been taken some time ago. Notwithstanding the passage of time, a coastal permit will still be required and must be secured. We also understand there have been many instances where local jurisdictions have increased parking fees. We recognize that not every increase in parking fees requires a coastal permit. Accordingly, please contact our office for clarification on how we intend to proceed in these cases.

We would appreciate your passing this memo on to anyone you think may have an interest in the matter. We are particularly anxious that this memo get to the responsible people in your jurisdiction who manage your parking and recreation programs. Thank you for your cooperation and attention to this matter.

2641E

Exhibit #3

CDP # 5-13-349

Page 3 of 3

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
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May 20, 2013

Dear Major General Jackson,

I write to express my appreciation for our recent communications, and to memorialize our discussions of our mutual understanding of the responsibilities of California State Parks (CSP) and the California Coastal Commission to protect and provide public access and recreation along California's coast. This shared mission is vital to the citizens of California and to its multi-billion dollar coastal economy. Our agencies must do their best, therefore, to work together to address the challenges that we face and to find shared solutions.

As you and I discussed in our initial meeting, and again on March 11, Commission staff (CCC) is committed to working with CSP through the relevant permitting processes to identify mutually-agreeable outcomes, including identifying those cases where the CCC would not need to exercise its jurisdiction or where permit streamlining can be achieved. To this end, I offer the following points which I believe capture the spirit and intent of our conversations that have taken place between our headquarters offices. We hope that you will agree with this summary, and that we can move forward with these shared understandings.

Jurisdiction

- The CCC and CSP recognize that CSP has a mandate and responsibility to provide and manage public access and recreation, as well as manage natural resources, in coastal state parks. The CCC recognizes the fundamental role that CSP plays in maintaining the coastal park system, including managing the hours of operation, regulating the modes of visitation, providing amenities, and assuring a safe environment for all visitors.
- The CSP and the CCC recognize that the Commission and local government also have an important role and statutory responsibility to protect and provide maximum public access and recreation in the coastal zone, including in State Parks, pursuant to the California Coastal Act and certified Local Coastal Programs (LCPs). This includes implementing a permit requirement for any development that is not exempt.

Regulatory Process

- CSP will endeavor to consult with the CCC and/or local government in advance of undertaking development that may trigger coastal development permitting requirements under the Coastal Act or a certified LCP. When permits are required, CSP will work with the CCC and local governments to identify and provide necessary information and meet any other relevant processing requirements. The CCC will endeavor to coordinate with CSP and local governments acting under their LCPs where appropriate.

5-13-349
Exhibit 04

- The CCC will endeavor to provide timely and clear feedback on CSP requests about proposed development in the coastal zone. The CCC will also endeavor to exercise administrative discretion to maximize opportunities for permit streamlining and avoiding unnecessary regulatory procedures.
- The CCC and CSP will endeavor to seek agreement wherever possible on proposed development projects through collaborative project review and design.

Shoreline Access

- CSP and CCC are committed to and bound by the state Constitutional article X, sections 4 and 7, in spirit and intent, and Coastal Act sections 30210-30214 requirements to provide maximum public access and recreation for all the people to and along the state's shoreline waters, consistent with public safety and the need to protect natural resource areas from overuse.¹
- CSP agrees to work with the CCC to identify and address any shoreline access issues that may exist in coastal state parks (e.g. related to existing curfews or beach closures), consistent with the previous bullet point.

Lower-cost Access and Recreation

- The CCC acknowledges that the CSP has many low-priced passes available to enhance public access to coastal state parks, including: *Annual Day Use Pass*, *Golden Bear Pass*, *Limited Golden Bear Pass*, *Disabled Discount Pass*, and *Distinguished Veteran's Pass*. These five passes provide discounted rates to routine park visitors, seniors, low-income visitors, disabled people, and service men and women, respectively. CSP and the CCC will work to identify and implement actions to protect and encourage lower-cost access and recreational opportunities for all visitors to the coastal state parks, consistent with Coastal Act section 30213 and applicable CSP authorities.

Parking Fees and other Revenue-generation Programs

- The CCC recognizes that CSP must have sufficient revenues to maintain public access and recreation opportunities at state coastal parks, and the CCC recognizes the recent specific legislative and administrative direction to CSP to create new revenue streams to fund facility management and operations throughout the State Park system.

¹ Section 4 states, in part, "[n]o individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose . . . and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof. Section 7 states: [w]henever any agency of government, local, state, or federal, hereafter acquires any interest in real property in this State, the acceptance of the interest shall constitute an agreement by the agency to conform to the laws of California as to the acquisition, control, use, and distribution of water with respect to the land so acquired."

- CSP and the CCC will work collaboratively to assure that any new or increased parking or other program fees are implemented consistent with the Coastal Act and/or certified LCPs where applicable. CSP recognizes that LCPs establish requirements unique to specific locations and contexts. To address Coastal Act and LCP policies, and potential impacts to public access from new or increased fees, CSP agrees to consider incorporating the following approaches in any proposed fee programs:
 - Provide hourly rates at every facility where parking fees are charged. This will provide maximum flexibility for users, potentially create more turnover of visitors (especially at sunset), and may also increase revenue, as the recent experience in San Diego and Orange County suggests.
 - Consider supplemental means that increase visitation including extending park hours, parking lot hours and operations.
 - Reduce or eliminate fees during off-peak periods.
 - Provide some areas within parking lots for short-term free parking for brief stops.
 - Limit the number of higher fee holidays per year, and include hourly holiday rates.
 - Expand and promote the sale of annual regional passes, and discount rates for seniors, the disabled, veterans and low-income persons.
 - Regulate hours and use of developed facilities, but do not prohibit all access to public trust lands such as the shoreline.
 - In areas where fees have not been charged historically, consider a phased approach for new fees, including limiting parking fees to a portion of the day (e.g., 9-5, 10-6, etc.) or weekends only; consider free parking on certain days and a “first hour free”.
 - Consider whether in some cases the appropriate fee for a specific site may be no fee, for example where a state beach may be the only meaningful point of public access in a region, and/or those sites with minimal or no active management requirements or public facilities (such as facilities with no restrooms, campgrounds or visitor centers) and that can be “subsidized” by fee collection from the larger region.
 - Address any closures or restrictions on actual access to and along the beach/shoreline that may be in place.

- The CCC acknowledges and appreciates CSP’s agreement to monitor and periodically review the implementation of any proposed fee programs, including assessing the impacts, if any, on coastal access, and annually report to the Commission available and relevant monitoring data and evaluation, including but not limited to: daily attendance, fee implementation (e.g. mode of fee), impacts to public access, and other relevant data. The CCC commits to working with CSP to identify efficient and effective monitoring and analysis.

We hope that you concur that the above points provide a workable framework for continuing to move forward together to address our shared mission of providing public coastal access and recreation. As we have discussed, CSP and the Coastal Commission have a forty year history of working together to assure that our state coastal access programs are beyond compare and that

**5-13-349
Exhibit 04**

we are protecting our sensitive habitats, wetlands, and other important coastal resources. I look forward to continuing to work effectively and successfully in partnership with CSP. Please do not hesitate to contact me in the future concerning any of our mutual concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles F. Lester". The signature is written in a cursive style with a large, sweeping flourish at the end.

Charles Lester
Executive Director

5-13-349
Exhibit 04



May 23, 2013

Mr. Charles Lester
Executive Director
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Dear Mr. Lester:

The revised applications for San Onofre State Beach, El Moro/Los Trancos, Doheny State Beach and San Clemente State Beach will be submitted by the Superintendent of the Orange Coast District. These applications were revised pursuant to the understanding that both California State Parks and the California Coastal Commission have responsibilities to protect and provide public access and recreation along California's coast. This understanding is most recently reflected in the correspondence you sent to me on May 20, 2013.

While Parks has expressed some concerns about arriving at an appropriate structure that allows both agencies to balance our responsibilities to provide public access and recreation with Parks' responsibility to generate sufficient revenues to maintain the Park system for public access and recreation, we believe the model embodied in the letter is the appropriate path forward. We are pleased to have resolved that overriding issue. While we may find there are still disagreements in the details of how to implement the model reflected in the letter, we are committed to working collaboratively in attempting to reach resolution at the staff level whenever possible.

Attached is a sample fee schedule that reflects the proposed fees for the beaches. This schedule is a sample that could be modified over the course of the five year permit subject to the parameters set forth in the May 20, 2013 letter.

Sincerely,

Major General Anthony L. Jackson, USMC (Ret.)
Director

Attachment

SAMPLE FEE SCHEDULE

Moro (Day Use Area)													
Peak Season (May 16th through September 30th)													
Mon		Tues		Wed		Thurs		Fri		Sat		Sun	
Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee
1	\$4	1	\$4	1	\$4	1	\$4	1	\$4	N/A		N/A	
Day	\$15	Day	\$15	Day	\$15	Day	\$15	Day	\$15	Day	\$15	Day	\$15
Holidays													
Flat Rate		\$20											
Off-Season (October 1st through May 15th) * Excludes Holiday Weeks													
Mon		Tues		Wed		Thurs		Fri		Sat		Sun	
Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee
1	\$4	1	\$4	1	\$4	1	\$4	1	\$4	1	\$4	1	\$4
Day	\$15	Day	\$15	Day	\$15	Day	\$15	Day	\$15	Day	\$15	Day	\$15
Holidays													
Flat Rate		\$15											

Moro (Campground)													
Day Use													
Peak Season (May 16th through September 30th)													
Mon		Tues		Wed		Thurs		Fri		Sat		Sun	
Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee
1	\$4	1	\$4	1	\$4	1	\$4	1	\$4	N/A		N/A	
Day	\$15	Day	\$15	Day	\$15	Day	\$15	Day	\$15	Day	\$15	Day	\$15
*Hourly Rate offered 0600 to 0900 Hours Daily													
Daily				Holiday									
Flat Rate		\$15		Flat Rate		\$20							
Off-Season (October 1st through May 15th) * Excludes Holiday Weeks													
Mon		Tues		Wed		Thurs		Fri		Sat		Sun	
Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee
1	\$4	1	\$4	1	\$4	1	\$4	1	\$4	N/A		N/A	
Day	\$15	Day	\$15	Day	\$15	Day	\$15	Day	\$15	Day	\$15	Day	\$15
Holidays													
Flat Rate		\$20											
Camping Fees													
Year Round Extra Vehicle Fee \$15 per night Flat Rate													
Peak Season (May 16th through September 30th)													
Hook-Up				Non Hook-Up				Environmental					
Overnight		\$75		Overnight		\$50		Overnight		\$25			
Off-Season (October 1st through May 15th) * Excludes Holiday Weeks													
Ocean				Inland				Group					
Overnight		\$55		Overnight		\$35		Overnight		\$20			
Holiday		\$65		Holiday		\$40		Holiday		\$25			
Holidays include week of Thanksgiving, Traditional Winter Break from Sunday prior to Christmas Day through Sunday proceeding New Year's Day, Martin Luther King Weekend, Lincoln's Holiday Weekend, President's Day Weekend, Memorial day, Labor day, 4 th of July to include weekends immediately before and after the recognized holiday.													

SAMPLE FEE SCHEDULE

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SAMPLE FEE SCHEDULE

Crystal Cove (Reef Point)													
Year Round													
Mon		Tues		Wed		Thurs		Fri		Sat		Sun	
Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee
1	\$4	1	\$4	1	\$4	1	\$4	1	\$4	N/A		N/A	
Day	\$15	Day	\$15	Day	\$15	Day	\$15	Day	\$15	Day	\$15	Day	\$15
Holidays													
Flat Rate		\$20											

Crystal Cove (Los Trancos)													
Year Round													
Mon		Tues		Wed		Thurs		Fri		Sat		Sun	
Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee
1	\$4	1	\$4	1	\$4	1	\$4	1	\$4	N/A		N/A	
Day	\$15	Day	\$15	Day	\$15	Day	\$15	Day	\$15	Day	\$15	Day	\$15
Holidays													
Flat Rate		\$20											

Crystal Cove (Pelican Point)													
Year Round													
Mon		Tues		Wed		Thurs		Fri		Sat		Sun	
Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee	Hrs.	Fee
1	\$4	1	\$4	1	\$4	1	\$4	1	\$4	N/A		N/A	
Day	\$15	Day	\$15	Day	\$15	Day	\$15	Day	\$15	Day	\$15	Day	\$15
Holidays													
Flat Rate		\$20											

SAMPLE FEE SCHEDULE

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 California Coastal Commission