

CALIFORNIA COASTAL COMMISSION

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July 23, 2019

Lisa Mangat, Director
California Department of Parks and Recreation
P.O. Box 942896
Sacramento, CA 94296

Re: Oceano Dunes State Vehicular Recreation Area

Dear Ms. Mangat:

As you know, the California Coastal Commission held a public hearing last Thursday July 11th in San Luis Obispo to review State Parks operations and management at the Oceano Dunes State Vehicular Recreation Area (ODSVRA) in relation to the base coastal development permit (CDP) that originally authorized interim vehicle use parameters at the site back in the early 1980s (CDP 4-82-300 as amended). Following that July 11th public hearing, the Commission deferred action on Commission staff's recommended operational and other short-term changes to the CDP terms and conditions, and instead took an action:

1. Directing the Commission Chair to send a comment letter (identified in the staff report as Exhibit 13 – sent separately from this letter, and dated July 12, 2019) providing Coastal Commission direction to State Parks moving forward as regards operational and management changes that the Commission believes are necessary at ODSVRA to ensure Coastal Act consistency, including through State Parks' proposed Public Works Plan (PWP);
2. Requiring State Parks to incorporate all of staff's recommended operational and other short-term changes in the staff report (see "Staff-Recommended Additional CDP Special Conditions" attachment) as permanent conditions through the PWP;
3. Requiring State Parks to provide the Commission with in-person quarterly reports on the progress of State Parks' PWP efforts over the next year (i.e., through summer 2020); and
4. Requiring State Parks to bring forward a PWP for Commission consideration that addresses the staff-recommended operational and other short-term changes (see attachment) and the Commission's comments and direction (see July 12, 2019 letter), otherwise by the summer of 2020.

We look forward to working with you and your staff over the next year, and beyond, to help bring about needed change at ODSVRA to ensure consistency with the Coastal Act. If you have any questions, please don't hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "John Ainsworth".

JOHN AINSWORTH
Executive Director

Attachment: Staff-Recommended Additional CDP Special Conditions

- 1. Predator Management Plan.** By October 31, 2019, the Permittee shall submit for Executive Director review and approval a Predator Management Plan. The Plan shall be prepared by a resource ecologist (or ecologists) with experience with sensitive species and predation issues, shall be based on consultation with USFWS, and shall identify the measures to be implemented to protect sensitive species (including Western snowy plover and California least tern) from predation, including by coyotes, raccoons, skunks, opossums, ravens, gulls, owls, and peregrine falcons. At a minimum, the Plan shall identify measures to better manage trash and food waste enclosures, and BMPs to better address predation of sensitive species, including in terms of fencing surrounding all vegetated dunes suitable for predator management. The Permittee shall immediately implement the Predator Management Plan upon Executive Director approval.
- 2. Vehicular Enforcement Plan.** By October 31, 2019, the Permittee shall submit for Executive Director review and approval a Vehicular Enforcement Plan. The Plan shall identify the measures to be taken to comply with and actively enforce all CDP ODSVRA vehicular use limits, all vehicular speed limits, and all other vehicular requirements associated with the CDP, including through additional signs, rangers, and parameters for verifying that the number of vehicles in the Park do not exceed maximum allowances. The Permittee shall immediately implement the Vehicular Enforcement Plan upon Executive Director approval.
- 3. Fencing Augmentation and Enhancement Plan.** By October 31, 2019, the Permittee shall submit for Executive Director review and approval a Fencing Augmentation and Enhancement Plan. The Plan shall identify additional fencing to be installed to better protect coastal resources (including additional fencing in the South Oso Flaco Lake area, fencing suitable for enhanced predator management, fencing to better define the southern enclosure, and fencing to ensure all vegetated dune areas are appropriately fenced off). The Permittee shall immediately implement the Fencing Augmentation and Enhancement Plan upon Executive Director approval.
- 4. Public Outreach Plan.** By October 31, 2019, the Permittee shall submit for Executive Director review and approval a Public Outreach Plan. The Plan shall be designed with the goal to maximize use of appropriate beach and dune areas by lower-income, youth, and tribal parties, where such Plan shall identify all measures and venues to be used to advertise and increase awareness of such available uses (e.g., ODSVRA website, press release, calendar listings, ads on radio, print ads, social media (including Facebook, Twitter, and Instagram), etc.). The Plan shall be designed to reach as many potential lower-income, youth, and tribal audiences as possible, including audiences that might not normally be reached through traditional and local means (e.g., inland communities). The Permittee shall immediately implement the Public Outreach Plan upon Executive Director approval.
- 5. Monitoring Program.** All CDP requirements associated with the Technical Review Team (TRT) shall be deleted, and the role and responsibilities currently attributable to the TRT shall instead be incorporated into a Monitoring Program that will be used by the Permittee to monitor Park use and management under the CDP, where the information collected pursuant to such monitoring will be provided to the Commission annually. By December 31, 2019, the

Permittee shall submit for Executive Director review and approval the Monitoring Program. The Program shall describe the structure, content, and methods for ongoing monitoring of public access and recreational uses, including vehicular recreation (accounting for attendance numbers, special events, and user types, etc.), and of dune resources, dune vegetation, and creek and wetlands resources (including but not limited to Arroyo Grande Creek) as well as sensitive species resources. The Program shall be sufficiently detailed to identify the data and information that must be collected to document the effectiveness of Park management activities in protecting the aforementioned dune and other coastal resources (including evaluating vehicular recreation and coastal resource trends, impacts, and issues facing Park operations), and to support recommendations for changes to Park management to better address any identified impacts. The Program shall provide for the submittal of annual monitoring reports to the Executive Director for review and approval, where each monitoring report shall include recommendations for changes to operational and management parameters under the CDP to better protect coastal resources, which shall be implemented as directed by the Executive Director's approval of the report if the Executive Director: (a) determines that no amendment is legally required to implement the changes; (b) deems the changes reasonable and necessary; and (c) determines that the changes do not adversely impact coastal resources. In any case, the Executive Director shall also have the discretion to schedule any particular monitoring report for a Coastal Commission hearing where the Commission will be asked to concur with the Executive Director's report approval and/or to make changes to operational parameters under the CDP otherwise to better protect coastal resources. The Permittee shall immediately implement the Monitoring Program upon Executive Director approval, and the first monitoring report shall be due to the Executive Director no later than July 31, 2020, with subsequent year's annual monitoring reports also due on July 31st.

- 6. Special Events Protocol.** By October 31, 2019, the Permittee shall submit for Executive Director review and approval a Special Events Protocol. The Protocol shall specify that a separate CDP shall be required for all special events that could result in adverse impacts to coastal resources (including music festivals, concerts, OHV events (e.g., Huckfest), and any other special events that propose an intensity of use beyond those specified in the CDP), and shall provide a methodology for identifying, evaluating, mitigating (for projected coastal resource impacts), and permitting of any proposed special events. The Permittee shall immediately implement the Special Events Protocol upon Executive Director approval.
- 7. Nighttime Vehicular Use Prohibited.** All vehicular and OHV activity within ODSVRA shall be prohibited during nighttime hours (i.e., from one-hour after sunset and to one-hour before sunrise), which restriction shall be a component of the Vehicular Enforcement Plan (see Special Condition 2 above).
- 8. Arroyo Grande Creek Crossing Plan.** Vehicular crossings through Arroyo Grande Creek shall be prohibited, except for emergency vehicles, and all OHV and camping operations shall cease when the creek flows to the ocean. The Permittee shall regularly monitor the creek so as to ensure that users are not allowed to the southern side of the creek area when the creek may soon connect to the ocean, and so as to provide time for users then south of the creek area to exit the Park before it will connect to the ocean. By October 31, 2019, the

Permittee shall submit for Executive Director review and approval an Arroyo Grande Creek Crossing Plan that shall identify all measures to be taken to maintain consistency with this condition, including any materials to be provided to Park users, signs near the creek, and protocols for ensuring that there are no creek crossings under the conditions specified above, which restrictions shall be a component of the Vehicular Enforcement Plan (see Special Condition 2 above). The Permittee shall immediately implement the Arroyo Grande Creek Crossing Plan upon Executive Director approval.

- 9. Updated Interim Use Limits.** Interim OHV, street-legal vehicle, and camping daily use limits shall be reduced an amount proportionate to acreage that has been removed from vehicular/OHV use (e.g., due to dust control requirements, other enclosures, etc.), including as future areas are taken offline. As of July 11, 2019, 1,048 acres are authorized for OHV and camping use, and interim use limits are as follows: (a) 1,806 street-legal vehicles per day; 700 camping units per night; and (c) 1,204 OHVs per day. A street-legal vehicle that also stays overnight counts as both a street-legal vehicle and as a camping unit. These restrictions shall be a component of the Vehicular Enforcement Plan (see Special Condition 2 above).
- 10. No Interim Use Limit Exceptions.** The four exceptions (specified in Special Condition 3d of the fifth amendment to the CDP) that allow unlimited vehicular and OHV use on Memorial Day, Fourth of July, Labor Day, and Thanksgiving weekends and related days shall be eliminated, and interim OHV, street-legal vehicle, and camping use limits (see Special Condition 9 above) shall apply 365 days per year. These restrictions shall be a component of the Vehicular Enforcement Plan (see Special Condition 2 above).
- 11. Entrance Study.** By December 31, 2019, the Permittee shall submit for Executive Director review and approval an Entrance Study. The Study shall evaluate changes that can be made to provide vehicular access into the Park in a manner that will reduce coastal resource impacts relative to the existing interim entrances, particularly as it relates Arroyo Grande Creek crossings and more normal and typical beach uses north of the riding area. The Study may be based upon Permittee's past analyses (i.e., including the '2006 Alternative Access Study Oceano Dunes State Vehicular Recreation Area' produced by Condor Environmental Planning Services, Inc.), but shall be updated as necessary to reflect any pertinent new information (including with respect to habitat protections for sensitive species) that may affect its evaluations and/or conclusions. The purpose of the Study is to identify a preferred entrance system for the Park, including through analysis of the environmental impacts and benefits (including with respect to dunes, habitats, creeks, beaches, neighborhoods, and community character) and feasibility associated with alternative entrances, including evaluating options across the same set of analysis factors and levels of detail. The Executive Director will agendaize Commission consideration of the Entrance Study at the next annual CDP review, when the Commission may require changes to Park entrances in consideration of the Study and any other relevant information.
- 12. Permanent Southern Enclosure.** The roughly 300-acre seasonal ESA vehicular enclosure area (see **Exhibit 2**) shall permanently exclude vehicles, and such area shall be restored as needed to enhance habitat values consistent with allowed passive public access use. By October 31, 2019, the Permittee shall submit for Executive Director review and approval a

Permanent Enclosure Plan. The Plan shall be prepared by a resource ecologist (or ecologists) with experience with sensitive species, shall be based on consultation with USFWS, and shall identify the measures to be implemented to make the seasonal enclosure permanent and to restore the area as needed to enhance habitat values for sensitive species (including Western snowy plover and California least tern) consistent with allowed passive public access use. The Permittee shall immediately implement the Permanent Enclosure Plan upon Executive Director approval.

13. Authorize Dust Control Areas. This CDP authorizes State Parks to implement specified airborne particulate matter emission (“dust”) control and related monitoring measures at ODSVRA in order to reduce and control dust generated at ODSVRA consistent with the requirements of San Luis Obispo County Air Pollution Control District (APCD) and the California Air Resources Board (CARB) subject to all of the following:

- a. Dust Control Measures.** Approved dust control measures include planting native dune vegetation, installing wind fencing, installing porous roughness elements, installing perimeter fencing (around emissive ‘hot spots’), installing ‘track out’ devices at the Pier Avenue and West Grand Avenue entrances to ODSVRA, and installing native trees inland of ODSVRA. Soil stabilizers and straw bales shall only be utilized when the Executive Director determines that the proposed soil stabilizers and/or straw bales will be utilized in an amount, configuration, and composition that will not significantly disrupt dune habitat values (no significant degradation of dune habitats and/or vegetation; use to be kept to the minimum amount necessary to abate dust).
- b. Monitoring Measures.** Air quality monitoring stations consistent with APCD and/or CARB requirements that are sited and designed to limit any associated coastal resource impacts as much as possible.
- c. Dust Control and Monitoring Area.** Approved dust control and monitoring measures are to be located in the areas specified (by APCD and/or CARB) as necessary to meet APCD and/or CARB requirements, subject to concurrence by the Executive Director. In addition, track out devices are to be located at Pier and West Grand Avenues, but shall only be allowed within the existing paved street areas and shall not be allowed on the beach sand. Further, native trees shall only be planted where the Permittee has provided property owner consent for same, and where the Executive Director determines that the proposed native trees will be planted in an amount, configuration, and species type that will not have significant adverse effects on coastal resources (no obstruction of any public coastal views; no significant degradation of dune vegetation and habitat; no loss of prime agricultural lands or lands used for agricultural production).
- d. Dust Control Measures Coverage.** Dust control measures approved pursuant to this CDP are expected to result in planting/maintaining approximately 350 acres. Authority for State Parks to implement the approved dust control and related monitoring measures at any given location is subject to the requirement that State Parks has landowner approval to undertake development on that property.

- e. **APCD and CARB Requirements.** Notwithstanding subsections (a) through (d) above, any dust control measures implemented under this CDP shall be consistent with any applicable requirements of APCD and CARB related to dust control at ODSVRA.

Prior to implementing any of the approved dust control and monitoring measures, the Permittee shall submit, for Executive Director review and approval, a Dust Control Work Plan that clearly describes the dust control and monitoring measures to be implemented, where the Dust Control Work Plan shall be submitted with evidence that APCD and CARB have reviewed the measures and consider them consistent with their requirements related to dust control at ODSVRA. Each Dust Control Work Plan submitted by the Permittee shall include a description of the previous dust control and monitoring measures undertaken, including monitoring data identifying effectiveness, including the effectiveness and success of dune revegetation, and any coastal resource impacts. The Executive Director shall review each Dust Control Work Plan to ensure consistency with the terms and conditions of this CDP, including with respect to the protection of coastal resources. The Permittee shall immediately implement the Dust Control Work Plan upon Executive Director approval.

- 14. Indemnification by State Parks/Liability for Costs and Attorneys' Fees.** State Parks agrees to reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys' fees (including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys' fees that the Coastal Commission may be required by a court to pay) that the Coastal Commission incurs in connection with the defense of any action brought by a party other than State Parks against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval of these CDP changes. The Coastal Commission retains complete authority to conduct and direct the Commission's defense of any such action against the Coastal Commission, its officers, employees, agents, successors and assigns.
- 15. Special Condition Conflicts.** In case of any conflict between these special conditions (i.e., Special Conditions 1 through 15 as approved by the Coastal Commission on July 11, 2019) and other CDP 4-82-300 special conditions (see Exhibit 4), these special conditions (Special Conditions 1 through 15) shall take precedence.

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August 5, 2019

Lisa Mangat, Director
California Department of Parks and Recreation
P.O. Box 942896
Sacramento, CA 94296

Re: Oceano Dunes State Vehicular Recreation Area

Dear Ms. Mangat:

I write today to clarify one item in my letter to you dated July 23, 2019 wherein I identified the parameters of the action taken by the California Coastal Commission on July 11, 2019 in relation to CDP 4-82-300 regarding the Oceano Dunes State Vehicular Recreation Area (ODSVRA). Specifically, in that July 23rd letter I indicated that, among other things, the Commission took an action “Requiring State Parks to incorporate all of staff’s recommended operational and other short-term changes in the staff report (see “Staff-Recommended Additional CDP Special Conditions” attachment) as permanent conditions through the PWP”. Upon further review of the hearing record, I would like to clarify that aspect of the action, and to replace it with the following: “Requiring State Parks to address all of staff’s recommended operational and other short-term changes in the staff report (see “Staff-Recommended Additional CDP Special Conditions” attachment) as permanent conditions within the PWP process”.

To be clear, review of the hearing record indicates that the very strong intent of the Commission, including through the separate July 12, 2019 letter under the Chair’s signature summarizing the Commission’s direction to State Parks regarding the changes that the Commission believes are necessary at ODSVRA to ensure Coastal Act consistency (including with respect to State Parks’ proposed Public Works Plan (PWP)), was for State Parks to seriously address each of the staff report’s recommended operational and other short-term changes in the PWP currently being developed. Further, it is also clear that the strong intent of the Commission was for State Parks to take seriously both the Commission’s articulated direction in the Commission’s letter *and* the staff report-recommended changes, and to ensure that *both* of these are reflected in upcoming PWP products and efforts, including ultimately through a PWP submittal for Commission consideration by summer of 2020.

I hope that that helps to clarify that aspect of the Commission’s July 11, 2019 action. We look forward to working with you and your staff over the next year, and beyond, to help bring about needed change at ODSVRA to ensure consistency with the Coastal Act. If you have any questions, please don’t hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "John Ainsworth".

JOHN AINSWORTH
Executive Director
California Coastal Commission