

CALIFORNIA COASTAL COMMISSION

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Th12a



MEMORANDUM

February 1, 2007

TO: Commissioners and Interested Parties

FROM: Charles Lester, Deputy Director
Steve Monowitz, District Manager

RE: **Annual Review of Coastal Development Permit Amendment 4-82-300-A5 for the Oceano Dunes State Vehicle Recreation Area (ODSVRA), San Luis Obispo County.** For public hearing and possible Commission action at its meeting of February 15, 2007 in San Diego.

I. Summary:

The Oceano Dunes Recreational Vehicle Area (ODSVRA) is located at the northern end of the Nipomo Dunes complex in southern San Luis Obispo County, and is a popular destination for off-highway vehicle (OHV) recreation. The park also supports important habitat for numerous species of rare plants and animals, including nesting areas for the threatened Western snowy plover and the endangered California least tern.

While the tradition of recreational driving in the dunes predates the passage of the Coastal Protection Initiative (Proposition 20) of 1972, park development activities since that time have been subject to coastal development permit requirements. Pursuant to the terms of a 1982 Coastal Development Permit (CDP) issued for new entrance kiosks and 35,000 feet of linear fencing to keep recreational vehicles out of sensitive vegetated dunes and wetland environments, the Commission has periodically reviewed whether recreational use limits and resource management measures are effectively protecting the environmentally sensitive habitat areas of the park. As amended in 2001, CDP 4-82-300-A5 established a Technical Review Team (TRT) and Scientific Subcommittee to analyze resource protection issues and advise the ODSVRA on management measures. The conditions of that amendment require the Commission to annually review the effectiveness of the Technical Review Team in managing vehicle impacts at the ODSVRA. This is the sixth annual review conducted by the Commission pursuant to this requirement.

II. Staff Recommendation:

Staff recommends that the Commission take no action to change the terms of Coastal Development Permit (CDP) 4-82-300-A5, but also that the Commission send a letter to the Superintendent of the Oceano Dunes State Vehicle Recreation Area that:

- Recommends the development and implementation of a study, designed in coordination with the TRT's Scientific Subcommittee, that evaluates the potential benefits to snowy plover and

least tern nesting habitats associated with a year-round closure of the nesting area to recreational vehicles;

- Requests the preparation of a report and supporting maps that compare the location of existing fencing to the location of dune habitat fencing established by 4-82-300 and 4-82-300-A4, identify current routes for equestrian access pursuant to 4-82-300-A4, and describe the status of the dune restoration program required by Special Condition 2 of 4-82-300;
- Suggests a process and timeline for completing the habitat conservation planning process and associated environmental reviews, and identifies key issues that should be addressed, including further analysis of alternative routes to the recreational riding area; and
- Identifies the need for State Parks to amend Coastal Development Permit 4-82-300 in a manner that: resolves the “interim” nature of existing recreational vehicle access routes; addresses any discrepancies between the current approach to fencing and vegetation management/restoration and the fencing and restoration plans approved by the permit and subsequent amendments; and brings the TRT process to a close.

A draft letter is attached to this report as Exhibit 5.

III. Background:

In 1982, the Coastal Commission approved Coastal Development Permit (CDP) No. 4-82-300 for the construction of habitat fencing and entrance kiosks at Oceano Dunes State Vehicular Recreation Area (ODSVRA). That permit and subsequent amendments have established limits to the numbers of vehicles and campsites allowed, and required ongoing reviews to ensure that off-highway vehicle (OHV) recreation is managed consistent with the protection of sensitive dune habitats.

The various amendments to CDP 4-82-300 have employed different approaches to review whether management measures are effectively protecting the environmentally sensitive habitat areas contained within the park. On February 14, 2001, the Commission approved a fifth amendment to the permit that authorized State Park’s proposal to establish a Technical Review Team (TRT) as an alternative to the carrying capacity analysis approach that had been established in 1994. The TRT was created to oversee monitoring of environmental and use trends in the Park, and to advise the Superintendent on resource management issues. As a condition of Commission approval, the TRT was required to include an independent Scientific Subcommittee that was to identify, develop and evaluate the scientific information needed by decision makers to ensure that the natural resources are adequately managed and protected. The Commission also required the permit to be renewed annually. Specifically, Special Condition 2 states:

Renewal of Permit. Annually, the Commission shall review the overall effectiveness of the Technical Review Team in managing vehicle impacts at the ODSVRA. If the Commission is satisfied with the review, this

amendment will remain in effect for an additional year. A longer permit may be requested in the future. Otherwise, an alternative approach to resource management, or set of management measures, may be instituted through this review process.

As previously noted, this is the sixth annual review conducted since the 2001 amendment. Although the Commission has not modified permit conditions in previous reviews, it has requested implementation of specific management measures. Exhibit 6 provides a collection of the letters and memos that have been previously sent to State Parks as a result of prior annual reviews.

IV. Analysis

A. Summary of 2006 Nesting Season Results

As summarized by the TRT's annual report, attached as Exhibit 1, the 2006 snowy plover and least tern nesting report prepared by State Parks found that:

Snowy Plovers had a good hatching success with 74.3% hatch rate, but a poor fledgling success with only a 7.4% chick fledgling rate. Predation is believed to have been a major factor in the poor survival of chicks. California Least Terns had a significantly better success rate locally; the fledgling rate for the least tern chicks was 80% with a total of at least 36 chicks fledged. This rate was comparatively better than the nesting success of other areas within their range.

The very low fledgling success rate for snowy plover chicks is the second to lowest rate that has been recorded since 1998, and was a disappointing end to what appeared to be a good start to the 2006 season, during which 117 plover nests were established (the second highest number of nests recorded since 1998). The hatching rate was also good, with 74% of the nests hatching and a total of 230 chicks hatched (the second highest number of chicks recorded since 1998). Only 17 (or 7.4%) of these chicks survived to fledging. A comparison of this data to prior years can be found in the table attached to this report as Exhibit 7.

Although predation was suspected as major factor in the high mortality of plover chicks in 2006, this could not be documented, as explained on page 23 of the 2006 nesting report:

It is often the case that chick disappearance is not witnessed or cause of loss is not determined. In 2006, predation of chicks was not documented. It is important to note that there are many hours each day (including almost all of night) when resource staff or predator control specialists are either not present or not in a position to observe predation. In addition, predation can occur quickly, often leaving little or no evidence behind (this may especially be the case with chick predation). It is likely that only a small percentage of predation events of chicks, fledglings, and adults are witnessed or documented during most breeding

seasons. We do suspect that predation was a major factor in the high mortality of chicks in 2006.

As in prior years, the 2006 nesting report includes recommendations intended to maximize and improve the effectiveness of habitat monitoring and resource protection efforts. These recommendations, and the TRT's Scientific Subcommittee's analyses of these recommendations, are attached to this report as Exhibit 2. Among the recommendations intended to address the high plover chick loss experienced in 2006, is the proposal to conduct additional research of predation events and other predation management strategies.

B. Analysis of Park Management Activities

The monitoring and management of snowy plover and least tern habitat at the ODSVRA is one of the most extensive such efforts in the state. It includes, but is not limited to: the preparation and distribution of educational materials to visitors of the park; the installation of temporary fencing to protect designated nesting areas and established nests; extensive monitoring of the number of nests established, the number of chicks hatched, and fledgling success rates; and, the implementation of an intensive predator management plan. There appears to be general agreement among various interested parties that State Parks is doing an excellent job of monitoring and managing plover and least tern habitat areas given existing recreational use patterns. Whether these existing recreational use patterns result in effective protection of sensitive habitats and general coastal access and recreation opportunities, however, continues to be a controversial issue, as detailed below.

1. Size and Location of Protected Habitats

A significant park management issue that has been on an on-going issue since the Commission approved CDP 4-82-300 is whether the fencing and entrance kiosks installed pursuant to that permit would adequately protect sensitive coastal dune habitats. At the time that the Commission reviewed State Park's initial fencing and kiosk proposal, conservation efforts were focused on protecting vegetated areas and wetlands within the dunes, as well as natural habitats near Oso Flaco Lake. Towards this end, the Commission's approval of the proposed entrance kiosks and fencing was conditioned to prohibit the entrance kiosk at Oso Flaco (Special Condition 1C), and required supplemental fencing (Special Condition 3E).

The kiosk and fencing project approved by the Commission in 1982 was also viewed as an initial phase of State Parks longer term program to manage OHV use in a manner consistent with Coastal Act requirements.¹ Pursuant to the terms of Special Condition 1B (cited above), failure to establish a *permanent* staging area within the specified timeframe provides grounds for the permit to be reviewed and modified by the County and/or the Commission. More Specifically, Special Condition 6 of 4-82-300 provided:

¹ Findings for approval of 4-82-300, pages 6 and 9

6. *Six months after the issuance of this permit, and annually thereafter until a permanent staging area is operational, a formal review of the effectiveness of the conditions of this permit shall take place. This review shall be undertaken jointly by designated representatives of the California Coastal Commission, the California Department of Fish and Game, the County of San Luis Obispo, the Community of Oceano, the California Department of Parks and Recreation, and user groups.*

If after each of the annual reviews, or after the three year review required in condition 1(b) above, it is found that the Off-Highway Vehicle (OHV) use within the Pismo Dunes State Vehicle Recreation Area (PDSVRA) is not occurring in a manner which protects environmentally sensitive habitats and adjacent community values consistent with the requirements of the San Luis Obispo County Local Coastal Program Land Use Plan, then OHV access may be further limited pursuant to the access and habitat protection policies of the County certified Land Use Plan. If the above reviews find that OHV use within the PDSVRA is consistent with the protection of environmentally sensitive habitats and adjacent community values, and/or that additional staff and management revenues become available to the California Department of Parks and Recreation, levels of OHV use of the PDSVRA may be increased to a level not to exceed the enforcement and management capabilities available to the Pismo Beach State Park Units.

This condition was replaced by the Permit Renewal condition cited on page 2 of this report pursuant to CDP amendment 4-82-300-A5. Thus, the Commission's ability to require modifications to current management measures where necessary to protect coastal resources consistent with Coastal Act requirements was initially established by Special Condition 6 of 4-82-300, and retained by Special Condition 2 of CDP amendment 4-82-300-A5. Special Condition 1B of 4-82-300 which is cited on page 7 of this report and remains in effect provides another basis for the Commission to review and modify this permit.

Notwithstanding these conditions, the Commission has consistently sought to resolve management issues in coordination with State Parks, the County and other interested parties, rather than mandate management changes through the permit review process. For example, in 2003, the Commission voted 7 to 1 to recommend that State Parks expand the portion of beach seasonally closed to recreational use in order to protect Snowy Plover and Least Tern nesting areas. This expansion was carried out by State Parks late in the 2003 season, in part as a result of a settlement agreement with the Sierra Club. Since that time, the size of the seasonally protected nesting area has remained the same. Whether or not the size and duration of the seasonal protections provide adequate protection of plover and least tern habitat is an issue that is anticipated to be addressed through the Habitat Conservation Planning process described below.

With respect to the fencing installed pursuant to 4-82-300, the Commission staff has received a letter from the Santa Lucia chapter of the Sierra Club (attached as Exhibit 8) raising concerns that the fencing required to protect vegetated dune and archaeological resource areas are not being maintained, and that required restoration activities are not been effectively implemented.

The letter also raises concerns regarding equestrian use of the dune preserve portion of the park. In the interest of resolving these concerns and ensuring compliance with permit requirements regarding fencing and equestrian access, the recommended letter to the superintendent requests the preparation of a report that: compares the location of existing fencing to the location of dune habitat fencing established by 4-82-300 and 4-82-300-A4; identifies current routes for equestrian access pursuant to 4-82-300-A4; and, describes the status of the dune restoration program required by Special Condition 2 of 4-82-300.

2. Seasonal vs. Year Round Protection of Nesting Area

Another issue raised during prior annual reviews relates to the protection of the snowy plover and least tern nesting habitat areas on a year round basis. Currently, the nesting area is fenced off during from recreational vehicle use during the nesting season, which runs from March 1 to September 30. Since 2004, and again this year, the TRT's Scientific Subcommittee has recommended that State Parks study whether a year-round closure of the nesting area would improve plover and tern habitat quality and productivity. Accordingly, in 2004, the Commission sent a letter to State Parks (attached to this report as Exhibit 6), recommending that such a study be conducted.

Despite this recommendation and subsequent efforts by the Commission staff to persuade State Parks to undertake this study, State Parks remains opposed to studying any option that results in a reduction in riding or camping areas. As an alternative, State Parks has attempted to create natural habitat conditions by placing wood chips, vegetation, and driftwood in the nesting area at the start of the nesting season. The results of this effort were monitored in 2006. According to the 2006 report from the TRT's Scientific Subcommittee (attached as Exhibit 2), there were more nests in areas where wood chips were placed than in bare areas, and there was reasonable nest success in the wood chipped areas.) The Scientific Subcommittee continues to recommend that the potential benefits of a year round closure be studied. (For a discussion of this issue, please see pages 3-5 and Attachment 1 of the Scientific Subcommittee's 2006 recommendations and comments, attached as Exhibit 2). The TRT has been unable to reach a consensus on this matter.

The recommended letter to the superintended addresses this issue by requesting the development and implementation of a study, designed in coordination with the TRT's Scientific Subcommittee, that evaluates the potential benefits to snowy plover and least tern nesting habitats associated with a year-round closure of the nesting area to recreational vehicles.

3. Alternative Access Routes

The route by which vehicles access the recreational riding area is another long standing issue that has significant implications on resource protection and access management. Currently, street legal vehicles, with or without all-terrain vehicles (ATVs) in tow, access the beach from either Grande Avenue in Grover Beach or Pier Avenue in Oceano. Vehicles then traverse the beach in a southerly direction to access the riding area. This involves driving along a stretch of shoreline used by pedestrians and general beach goers, many of whom are residents and visitors of the

residential neighborhood south of Pier Avenue. This mix of vehicles and pedestrians has resulted in user conflicts and public safety issues. Vehicles en-route to the riding area must also drive through the mouth of Arroyo Grande creek, which provides habitat for Steelhead trout and Tidewater goby. ATV's are currently off-loaded from street legal vehicles at a staging area located south of Arroyo Grande Creek.

In the interest of minimizing these impacts, the existing access route and staging area has always been recognized as an "interim" access route and staging area, while the establishment of a new access route and staging area south of Arroyo Grande Creek (e.g., along Oso Flaco Road or directly from Highway One) was being pursued. This is reflected by the 1975 State Park General Development and Resource Management Plan, which discusses establishing a primary access route from Highway one, while retaining secondary access from Pier/Grande Avenues and Oso Flaco Road, in order to minimize vehicle traffic on the beach. Accordingly, as approved and amended in 1982, CDP 4-82-300-A clearly describes the existing access route and staging area as temporary only, and established the following condition, which as modified by amendment A4 to the permit, remains applicable today:

1. Staging Area Location:

A. An interim OHV staging area shall be operational no later than September 15, 1982 in a designated area on or adjacent to the beach south of the two mile post (Exhibit C). This staging area shall remain operational subject to the stated conditions and standards herein until such time as a permanent staging area is constructed.

Upon implementation of the interim beach staging area, all OHVs, ATCs and other non-street legal vehicles shall be trailored to and from Grande and Pier Avenues. At all times such vehicles when under their own power, shall be prohibited north of the northerly terminus of Sand Highway.

B. A permanent staging area site shall be selected as expeditiously as possible but in no case later than 18 months from the effective date of the County's LUP certification consistent with the following standards. Construction of this permanent staging area shall begin no later than three (3) years from the date of the certification of the County's LUP of its LCP. If construction and operation of a permanent staging area cannot be accomplished within the above time limits, this permit shall be subject to review and modification if necessary or appropriate by the County or the Commission or either in consultation with the other. Prior to construction, the County's LUP and the State Parks General Development Plan shall be amended to include the selected site with all additional standards or conditions for its design and operation. At the present time, there are several known locations which shall be considered and evaluated for staging area use, these locations are: Callendar Road area; the stables/agricultural lands area south of Arroyo Grande Creek; Agricultural lands

north of Oso Flaco Creek adjacent to the Union Oil property; on the beach as per the interim staging area described herein (see Exhibit C). Other potential sites may also be evaluated. The site selection process shall include an environmental impacts analysis adequate to enable the selection of the least environmentally damaging location for the use. Accordingly, the on and off-site impacts of each alternative shall be measured against the impacts of each of the others. In selecting the site and amending the County's LUP and the State Parks General Development Plan to incorporate the selected site, the following standards must be found to have been met: 1) that the site selected is the least environmentally damaging alternative; and 2) that all feasible design and operational related mitigations have been incorporated to minimize adverse environmental impacts. Additional standards for site selection are in their order of importance: locating a site which reduces to the maximum extent feasible OHV related impacts to the residential character of the community of Oceano; locating a site which facilitates the successful separation and regulation of recreational uses within the park itself; locating a site which can be constructed and operational expeditiously.

C. Oso Flaco Lakes Area: An off-highway vehicle staging area shall not be constructed at the Oso Flaco Lake site indicated on Exhibit C. As part of the fencing proposed in this project, the Oso Flaco causeway to the PSVRA shall be permanently closed to vehicular traffic. Pedestrian access only shall be allowed over the causeway or in the vicinity of the Oso Flaco Lakes effective no later than March 1, 1992.

By acceptance of this permit the applicant agrees to not close equestrian access at Oso Flaco Lake until March 1, 1992 or sooner if an alternative equestrian access solution is provided. The intent of this condition is to allow additional time for all parties involved in the attempt to locate alternative access routes to the beach to identify a site which would be suitable and acceptable to the Commission. The Commission will review and make a decision on the appropriateness of that site at a subsequent date. If an alternative equestrian access route is provided prior to March 1, 1992, the applicant will submit the proposed route to the Commission for its review and approval at a subsequent date. In the event an alternative equestrian access route is not provided, equestrian access through Oso Flaco Lake Natural Area can be closed on March 1, 1992.

The state owned agricultural lands south of Oso Flaco Lakes may be utilized for the development of a campground for passive recreational use of the dune areas within the Park excluded from OHV use. The State Parks and Recreation Department shall amend its General Development Plan accordingly. Uses in this camping area shall be permitted only if consistent with the resource protection policies of the San Luis Obispo County Land Use Plan; 100 foot buffering

setbacks from the lakes, creek and wetlands shall be applied at a minimum with greater setbacks required if necessary, only resource dependent uses and passive recreational activities shall be permitted.

To date, State Parks has conducted two reviews of alternative accessways, but has yet to address the specific requirements of the above permit condition, which necessitates that State Parks either obtain a permit for a permanent staging area site, or apply for an amendment to CDP 4-82-300 to delete this requirement. The most recent study of alternative accessways and staging areas was released by State Parks in November 2006. As reported to the Commission during the 2006 annual review, the TRT identified its intention to review this study as a research priority for the upcoming year. The study was presented to the TRT in December 2006, and the recommendations contained in the report are summarized on pages 3 and 4 of the TRT's Annual Report (attached to this staff report as Exhibit 1). Neither the TRT nor the Scientific Subcommittee formally reviewed or commented on the study as of yet. This study follows a 1991 EIR prepared under the direction of State Parks to evaluate the environmental effects of developing alternative accessways. Both studies point out that there are potentially significant adverse impacts associated with the development of alternative access routes and staging areas.

The conclusions of these studies do not, however, substitute for the need to comply with Special Condition 1 of the original permit as described above. To address this need, the recommended letter to the Superintendent identifies the need for State Parks to amend Coastal Development Permit 4-82-300 in a manner that resolves this "interim" nature of existing recreational vehicle access routes.

Another recent action underscoring the need to consider alternative access routes and staging areas is the San Luis Obispo County Planning Commission's decision to uphold an appeal of the staff's determination that the proposed sale of County Land within the ODSVRA to State Parks is consistent with the County's General Plan. One of the factors contributing to the Planning Commission's decision was the fact that the LCP's South County Area Plan designates this County owned property as a "buffer area". In the event that the County decides not to renew the existing lease to State Parks (which expires in 2008) or sell the property to State Parks, and this decision is accompanied by a restriction on vehicle use on County owned property, this may necessitate relocation of the existing interim staging area, and would provide additional reasons for focusing recreational vehicle access to the south of Arroyo Grande Creek and County owned lands.

In addition, and as described further below, State Parks is in the process of developing a Habitat Conservation Plan (HCP) for the ODSVRA and other State Park units along the San Luis Obispo County coastline. The primary purpose of the Habitat Conservation Plan is to ensure that park management, maintenance, and development activities protect threatened and endangered plant and animal species consistent with state and federal Endangered Species Acts. Future action on the HCP by the US Fish and Wildlife Service may be subject to Commission review pursuant to the federal consistency provisions established by the federal Coastal Zone Management Act. In addition, all development activities contemplated by the HCP will be subject to coastal development permit requirements. For these reasons, it will be critical that the HCP also address

the Chapter 3 policies of the Coastal Act as well as the San Luis Obispo County certified Local Coastal Program. A complete analysis of the positive and negative environmental impacts associated with alternative access routes will therefore be an essential ingredient to HCP development.

4. Habitat Conservation Planning

The development of a Habitat Conservation Plan (HCP) for the ODSVRA has been identified as an appropriate method to resolve park management issues. According to prior condition compliance staff reports, State Parks agreed to develop an HCP to address plover and least tern habitat in 1994.

The need to develop an HCP is not limited to Endangered Species Act compliance. Taking a comprehensive look at what is needed to effectively protect special status species and their habitats within the ODSVRA, and to maximize coastal access and recreation opportunities within these constraints, provides an opportunity to resolve many of the issues that have been debated for over 30 years. Many interested parties have been looking towards the HCP as a process for reaching closure on these long-standing issues. According to the consultant hired by State Parks to prepare the HCP, the release of a public review draft is anticipated sometime in 2007.

C. Evaluation of TRT Effectiveness

As reported in prior years, the primary work of the TRT and its Scientific Subcommittee has been to review and comment on the annual snowy plover and least tern nesting reports and associated recommendations. Throughout the six years of its existence the TRT and Scientific Subcommittee have made various attempts to identify and prioritize research management tasks and studies that should be pursued, in accordance with permit requirements, but has never concluded deliberations on a completed study and developed associated management recommendations as originally envisioned by CDP Amendment 4-82-300-A5. For example, State Parks has studied the environmental impacts of night riding, patterns of winter shorebird use, and the type of fish and aquatic habitats present in the Arroyo Grande Lagoon, with the input of both the TRT and its Scientific Subcommittee. As reported to the Commission in 2006, the TRT reviewed these reports in 2005, but has never taken formal action on these studies.

As noted above, many interested parties have been looking to the upcoming HCP as an opportunity to bring closure to controversial park management issues that are periodically raised anew. This includes members of the TRT, many of whom have expressed an interest in developing an "end" strategy. The level of TRT participation is clearly on the decline, as exemplified by the fact that staff from the Department of Fish and Game and the US Fish and Wildlife Service have not participated on the TRT for the past two years, despite conditions of CDP 4-82-300-A5 that require their membership on the TRT. The TRT's interest in using the HCP process as an opportunity to transition out of the current form of management review was made clear when it established "participation and review of the HCP" as its top research priorities for 2006. As stated in the staff report prepared for the Commission's 2006 annual

review, “there appears to be general consensus among TRT members that one of its' priorities for the upcoming year should be to develop a plan, and associated permit amendment proposal, that would phase out the TRT and refocus the park management review and feedback process to one that is more oriented to the upcoming HCP development, review, and implementation process.”

Despite the fact that the TRT has not made notable progress in developing a transition plan, the need for such a plan remains evident. The concluding remarks of the TRT facilitator contained in this years annual review states that “while much progress has been made over the six-year life of the advisory committee, the time has come to transition into a more regional approach provided by the Habitat Conservation Plan process”. Towards this end the recommended letter to the Superintendent suggests a process and timeline for completing the habitat conservation planning process and a parallel CDP amendment that would brings the TRT process to a close.

IV. Conclusion:

It is time to resolve long-standing coastal development permit issues regarding the appropriate location for both equestrian and recreational vehicle access and staging within the ODSVRA, and to complete that habitat conservation planning process. This is needed to carry out prior commitments, comply with regulatory requirements, and ensure that the method of park management review and oversight remains engaged and productive. The letter from the Commission to the park superintendent is intended to facilitate these important steps in a cooperative manner.

Attached Exhibits:

Exhibit 1: 2006 Annual Report Cover Letter

Exhibit 2: 2006 Scientific Subcommittee Recommendations

Exhibit 3: Special Conditions of 4-82-300-A5

Exhibit 4: ODSRVA Site Map

Exhibit 5: Draft Letter to Superintendent

Exhibit 6: Prior Commission Letters and Memos Regarding Previous Annual Reviews

Exhibit 7: Table of Snowy Plover Nesting, Hatching, and Fledgling Data from 1998 to 2006

Exhibit 8: Correspondence



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January 16, 2007

Mr. Peter M. Douglas
Executive Director
California Coastal Commission
45 Fremont Street
San Francisco, CA 94105

Re: Oceano Dunes State Vehicular Recreation Area (ODSVRA) Technical Review Team
(TRT) Sixth Annual Report

Dear Mr. Douglas:

On June 17, 1982, prior to certification of San Luis Obispo County's Local Coastal Program, the South Central Regional Coastal Commission conditionally approved coastal development permit 4-82-300 to allow DPR to construct entrance kiosks, bathrooms and fencing. Numerous amendments have been put into place since 1982. As required by the conditions and findings in Permit Amendment No. 4-82-300-A5, I am transmitting this 6th Annual Report to the Park Superintendent and the Executive Director to characterize the progress of the TRT over the 2006 calendar year in meeting its responsibilities as outlined within the permit. The TRT was able to garner sufficient attendance to hold its October 23, 2006 meeting but insufficient attendance for decision-making purposes¹. With regard to its December 11, 2006 and January 8, 2007 meetings, the TRT was able to achieve a quorum and thus conduct its business.

The TRT held three formal meetings during 2006 – on January 20, 2006 to approve and transmit its 5th Annual Report, on October 23, 2006 to discuss the pending release of the Alternative Access Study, and receive updates on the status of Habitat Conservation Plan development and other technical studies, and again on December 11, 2006 to review the 2006 Nesting Season Report and associated recommendations from the Scientific Subcommittee, thereby concluding its business for the year.

Summary of the 2006 Nesting Season

The 2006 Nesting Report found that Snowy Plovers had a good hatching success with 74.3% hatch rate, but a poor fledgling success with only a 7.4% chick fledgling rate. Predation is believed to have been a major factor in the poor survival of chicks. California Least Terns had a significantly better success rate locally; the fledgling rate for least tern chicks was 80% with a total of at least 36 chicks fledged. This rate was comparatively better than the nesting success of other areas within their range. The following three paragraphs provide details regarding the findings of the report.

“Staff of Oceano Dunes State Vehicular Recreation Area (Oceano Dunes SVRA, ODSVRA) and PRBO Conservation Science monitored breeding California least terns (*Sterna antillarum browni*) (least tern, tern) and Western snowy plovers (*Charadrius*

¹ The TRT's Charter establishes a quorum to be 7 of its 10 designated members without regard to member seats left vacant by resignations and as yet unfilled.

*Exhibit 1: 2006 Annual
TRT Report
p. 1 of 16*

alexandrinus) (snowy plover, plover) at ODSVRA, San Luis Obispo County, California in 2006.

All least tern nests were inside a large seasonally fenced enclosure in the southern portion of the vehicle riding area. There was a minimum of 31 breeding pairs, compared to 47 pairs in 2005. Of the 38 nests, 28 (73.7%) hatched. Of the 10 nests that failed, 3 were abandoned pre-term (prior to the expected hatch date), 3 were abandoned post-term (on or after the expected hatch date), 3 were abandoned but unknown whether pre- or post-term, and 1 was depredated. Of the 45 hatching chicks, 1 was found dead near the nest and all other chicks were color-banded to individual. A minimum of 36 chicks fledged, from identification of color-banded juveniles in the field, for a chick fledging rate of 80.0%.

There was a minimum of 107 breeding snowy plovers (58 males and 49 females), compared to 116 in 2005. Twenty-eight banded birds were documented as breeding; twenty-four of these were banded as chicks and fledged from ODSVRA from 2002-2005. There were 117 known nesting attempts, 87 were in the southern riding area seasonal enclosure (Southern Enclosure), 29 in Oso Flaco, and 1 in the open riding area. Eighty-seven of the 117 nests are known to have hatched, for a nest hatching rate of 74.3%. Of the 27 nests known to fail, 6 were abandoned pre-term, 4 abandoned post-term, 1 abandoned but unknown if pre- or post-term, 6 depredated by gulls, 4 depredated by coyotes, 2 depredated by unidentified predator, 2 flooded, and 2 failed from unknown causes. The nest fate (hatched or failed) for 3 of the 117 nests was not determined. Of the 230 hatching chicks, 221 were color-banded to brood, and the fate of 9 unbanded chicks is known (none fledged). Only 17 of 230 chicks are known to have fledged for a chick fledging rate of 7.4%. Predation is suspected to have been a major factor in the poor survival of chicks. Snowy plovers were monitored in the portion of the Guadalupe-Nipomo Dunes complex south of ODSVRA, but chicks were not banded and chick fledging rates are not available. One chick fledged per breeding male is the estimated number needed to prevent the population from declining (USFWS 2001). In 2006, an estimated 0.29 juveniles fledged per male at ODSVRA, below the level needed for population stability. The low productivity of snowy plovers in 2006 is in contrast to the success of the previous 4 years at ODSVRA when productivity was equal to or greater than 1 juvenile fledged per breeding male. For the 5-year period 2002-2006, the average productivity is 1.31 juveniles fledged per breeding male.”

Key Issues

The TRT discussed several important issues related to its role as defined by Coastal Development Permit 4-82-300-A5. These issues included:

- ◆ Alternative Access Options
- ◆ Participation in the Habitat Conservation Plan (HCP) Process
- ◆ Research and Management Priorities of the TRT and Scientific Subcommittee

As with previous years, the ODSVRA undertook its review of monitoring and management efforts based upon the recommendations of its Scientific Subcommittee and its own staff familiar with the resources present within and adjacent to the Park.

Research and Management Priorities

At the December 11th meeting, TRT members discussed research and management priorities for the coming year and beyond. The completion of a public review draft of the Habitat Conservation Plan was given the highest priority for completion by those providing comments.

The group also spent portions of its meeting reviewing the status of ongoing research and management priorities and determined that for 2007 and beyond, the following studies were of the highest priority for completion.

- Release and review of a Public Review Draft of the Habitat Conservation Plan;
- Implementation of many, but not all of the recommendations of the Scientific Subcommittee regarding Western Snowy Plover and California Least Tern recommendations contained within the 2006 Nesting Season Report; and,
- Implementation of some of the recommendations from the Alternative Access Study

In mid-2005, the ODSVRA initiated its feasibility study of alternative access opportunities. The TRT received a detailed update from State Park's consultant who prepared the study at its October 23rd meeting. TRT members and those members of the public in attendance posed a series of questions and provided comments. Those comments are included in the meeting notes from the October 23, 2006 meeting attached to this report. The study was completed and released for public review on November 15, 2006, and provided to the TRT shortly thereafter for discussion at its December 11th meeting. The TRT did not formally review the document or make recommendations on the study. The Alternative Access Study determined that the two existing access roads (Grand Avenue and Pier Avenue) constitute the environmentally superior alternatives and should be maintained along with a series of recommendations. State Parks is implementing many of the recommendations as a matter of course. Those recommendations are as follows:

1. Retain the two existing access roads rather than construct a new road to the beach.
2. Conduct a census several times per year to determine how many vehicles are driven south of Arroyo Grande Creek. Compare these number to the total number of vehicles that enter the park in order arrive at a ratio of vehicles driven south of the creek to total vehicles admitted to the SVRA. Also census the number of visitors who enter the SVRA by walking and riding horses.
3. Consider placement of a convenience store on the beach south of the creek in order to decrease the number of multiple trips in and out of the park.
4. Develop a horse waste management plan for the SVRA.
5. Develop a management plan for the Oso Flaco Lake Natural Area.
6. Develop a wetland restoration plan for leased agricultural land within the SVRA near Oso Flaco Lake and Little Oso Flaco Lake.
7. Prepare a vegetation map of the SVRA.
8. Continually update the GIS as new locations of sensitive species and archaeological sites are identified. Use the GIS to track weeds and weed eradication efforts, and to evaluate potential impacts of future projects.

9. Incorporate the data that have been gathered by Blecha, Cleveland, and Innis into the GIS created by Condor for the SVRA.
10. Develop and implement a weed eradication plan for the most troublesome of non-native plants including European beach grass, pampas grass, and purple veldt grass.
11. Work with local farmers, homeowners, the County, the Regional Water Quality Control Board, and the Regional Conservation District to improve water quality in Arroyo Grande Creek, Meadow Creek, Los Berros Creek, Oso Flaco Creek, Oso Flaco Lake and Little Oso Flaco Lake.

According to the District Superintendent, not all of the recommendations listed above can be accomplished in 2007. Specifically, Recommendations #4, 5, 6 and 10 require the development of plans and internal staffing to accomplish these is not currently available. The current 6-07 budget does not support the expense of contracting with outside consultants to develop these plans without forgoing mandated resource management programs.

Under Special Condition 5 of the CDP, the permit indicates that selecting the priority research and management questions and projects, the TRT should consider 1) information provided by the USFWS and include appropriate management techniques for the western snowy plover, California least tern, and steelhead trout; 2) appropriate management techniques for protecting water quality and dune habitats from potential pollutants; 3) the success of past revegetation efforts and potential need for continuing or expanding these efforts, including expansion of vegetation exclosures; and, 4) comprehensive long term monitoring and comparative analysis of resource impacts (CDP pp. 8-9). The recommendations above and management efforts outlined below, and the results of the 2006 Plover/Tern Nesting Report document the need to actively manage resources through a balance of resource protections and user activities within the park so as to have a positive impact on plovers and terns, and other sensitive species within the park boundaries while still providing recreational opportunities for which the SVRA was developed. The ODSVRA was created and is defined by California Public Resources Code Section 5090.01 et. seq. Ongoing water quality sampling and monitoring of the Arroyo Grade Creek estuary is providing additional technical and management insights into issues related not only to the steelhead trout but also populations of tidewater goby, recently discovered to reside in this habitat.

At the ODSVRA level, the completion of these studies contributed to the ongoing effort by the Superintendent to implement specific operational and management measures within the park that serve to directly or indirectly minimize impacts on shorebirds. These measures include:

- Enforcement of camping and day use capacity limits consistent with the CDP (1000 camping vehicles, 2,580 street-legal day use vehicles, and 1,720 off-highway vehicles).
- Restricting non-street legal OHV use and camping to only 3 miles of beach (non-bird season only).
- Enforcement of 15 MPH beach speed limit. Additional signage was installed in 2005. Volunteers assist with portable and adjustable speed limit signage on beach that can be moved with the tides to give the drivers a better indication of the speed limit, especially important during busier use periods. Speed enforcement by radar was implemented in mid-summer 2005.

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- Public outreach and education. Park brochure and informational flyers, the FM radio station, Off Road PALS (Police Athletic League) activities directed at youth rider safety and orientation, ASI (ATV Safety Institute) certification program to provide ATV safety orientation and training, ATV and Sandrail rental concessionaires and employees providing safety and orientation training and also attending resource management and protection training.
- All Oceano Dunes District staff attend annual snowy plover/least tern and resource orientation and training annually.
- The creation of a "Volunteer Dune Patrol", made up of volunteers from the riding community that assist the ODSVRA staff with public outreach and education regarding our resource management and public safety programs.
- Dog leash law enforcement.
- Maintenance of an off-beach vehicle corridor, parallel to the beach to allow north/south vehicle traffic flow, to assist in relieving the volume of vehicle traffic directly on the beach during high tides.
- Maintenance of vehicle corridors, perpendicular to the beach, at intervals along the beach to assist vehicles to enter the dunes from the beach.
- Maintenance and enforcement of areas restricted to off highway motor vehicle recreation (1.5 miles of beach at Oso Flaco and Arroyo Grande Creek). These areas are closed entirely to motor vehicles.
- Maintenance and enforcement of areas restricted to non-street legal vehicles 1.5 miles of beach from Grand Avenue to beach post #2.
- Improved regulatory signage throughout the SVRA.
- Improved response and care for sick and injured birds. A bird care way station is set up at the ranger station where resource staff care for sick and injured birds until they can be transferred to an animal care facility. Most often birds become sick or injured as a result of non-recreation related problems.
- Limiting special events to back dune areas.
- Limiting motion picture and still photography filming to controlled areas, with resource and law enforcement monitors.

Additional studies were also completed during the year. The Department transmitted to the Scientific Subcommittee and TRT "*Nesting of the California Least Tern and Snowy Plover at Oceano Dunes State Vehicular Recreation Area, San Luis Obispo, California 2006 Season*" prepared by the Department, which includes as attachments the 2006 ODSVRA Predator Management Reports prepared by the USDA Wildlife Services and the UC Santa Cruz Predatory Bird Research Group. These documents were reviewed by the Scientific Subcommittee, which forwarded its recommendations to the TRT for their review and comment at the December meeting. Those recommendations and the TRT's commentary are provided in subsequent paragraphs within this correspondence. The department also completed fisheries studies related to steelhead trout and populations of tidewater goby within Arroyo Grande Creek.

The results and recommendations of the priority research completed during 2006 were provided to the TRT for its meeting in December.

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Scientific Subcommittee Recommendations and TRT Commentary on the 2006 Plover/Tern Breeding Report

The Scientific Subcommittee (SSC) met on November 14, 2006 and, upon review of the 2006 report, determined that overall, plover fledging was down at ODSVRA, with only a 7.4% fledge rate. The least tern chick fledging rate at ODSVRA was very high at 80%. Statewide, the breeding tern numbers were initially low, but picked up as the season progressed.

The group reviewed each of the recommendations, focusing on particular areas of interest. The commentary outlined below is listed in the order the recommendations appear in the report.

**1. Oso Flaco (continue the current level of monitoring and management)—
Recommendation supported**

The level of monitoring established in 2006 (three to four times a week) seems to be sustainable. Implementing a higher level of monitoring at Oso Flaco could be difficult because of staffing limitations. Having enough permitted people is critical, which is driven by having adequate funding. See the discussion below under 3.a. regarding staffing.

TRT Commentary: Jim Suty indicated that there was a need to question whether the resources employed for exclosures at mileposts 6, 7, and 8 can be redeployed to the Oso Flaco area so that habitat can be enhanced in locations outside the riding area. Ronnie Glick Senior Environmental scientist with ODSVRA indicated that gaining access to this area for monitoring and management is problematic because of the presence of chicks except in low tide situations. However, Ronnie Glick also noted that there may be other routes for access to the Oso Flaco beach area that have not yet been developed or explored for access potential for enhancing habitat.

2. Size of southern exclosure (maintain the size used in 2006)—Recommendation supported

No additional comments.

TRT Commentary: Jim Suty indicated that he could not support this recommendation to maintain the current size of the seasonal exclosures as he prefers gradually reducing the 6, 7, and 8 exclosure size while expanding plover habitat in the southern portion of the SVRA (Oso Flaco area) where camping and OHV recreation does not take place. Peter Keith also expressed his support of this position and suggested enhancement by requiring removal and elimination of predators as a preferred course of action to restricting HOV access. Gordon Hensley indicated his support of the Scientific Subcommittee recommendation, noting that unless the recovery goal of 350² is approached, there is no reason to cut back on the exclosure size at this point.

² The recovery goal of 350 refers to the target number of snowy plover breeding adults that can be achieved under a very intensive management scheme. Collectively these numbers are about 15% higher than the recovery criteria population sizes, but lower than potential carrying capacity. These numbers are not federally mandated and are meant to be flexible, considering variations in habitat conditions and management opportunities from year to year and from location to location. This number represents the entire Guadalupe-Nipomo Dunes complex, designated as site CA-83, which is approximately 14 miles long. That portion of the ODSVRA within CA-83 is about 6 miles long.

3. Monitoring

a. Retain skilled monitors—Recommendation Supported

As always, the biggest issue for recruiting and retaining quality monitors is adequate pay. During the nesting season, approximately 13 people are involved with the monitoring program. Most of them are largely dedicated to the program. The goal for 2007 is to create two more PI Environmental Scientist positions, which seems feasible. Funding even more such positions would take funds away from other necessary plover and tern work.

TRT Commentary: District staff indicated that there is a desire to increase monitoring staff by two PI's for this coming year, but that there is no sustainable budget to keep this level of staffing going into the following year because the fuel tax allocation formula may change and future revenues for the ODSVRA may decrease over time. Jim Suty suggested that if budget problems arise, that there will be a need to prioritize and cut expenditures as necessary. Gordon Hensley raised the issue of whether user fees might be of help in this regard. State Parks indicated that such an action would necessitate legislative action. Peter Keith indicated that he did not believe that imposing user fees was in the best interests of the business community.

b. Continue banding least tern and snowy plover chicks—Recommendation Supported

No additional comments.

TRT Commentary: District staff indicated that this information is very important to the work of the Park and to demonstrate positive impacts to the birds. Jim Suty indicated that based upon documentation in USFWS files showing that banding techniques being used are resulting in injuries to and the death of birds, he expressed concern over banding. No other TRT comments were offered regarding this recommendation.

c. Continue banding least tern chicks to individual—Recommendation Supported

No additional comments.

TRT Commentary: District staff indicated that this information is very important to the work of the Park and to demonstrate positive impacts to the birds. No TRT comments were offered regarding this recommendation.

d. Option to band adult snowy plovers—Recommendation Supported

No additional comments.

TRT Commentary: No TRT comments were offered regarding this recommendation.

e. Continue monitoring least tern juveniles as well as night roost activity—Recommendation Supported

No additional comments.

TRT Commentary: No TRT comments were offered regarding this recommendation.

f. Assessment of night vision equipment—Recommendation Supported

No additional comments.

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TRT Commentary: No TRT comments were offered regarding this recommendation. ODSVRA staff indicated that 2007 will be the first full year of evaluation and that both distance and fog had posed some problems to date.

g. Consider the use of video—New Subcommittee Recommendation

As described in the 2006 plover/tern report, biologists will be assessing night vision equipment in 2007 to evaluate its potential for gaining information on tern and plover behavior and predator activity. Since observing predation events in person is very difficult, and since observers can disturb chicks, cameras could be a useful tool to capture predator data. Video may be the best tool, as a recent trial of motion-sensitive still cameras at another breeding site found that they are often not quick enough to capture useful images. Consultation with experts would be helpful. Point Mugu biologists probably have the best expertise with video technology for this purpose³.

TRT Commentary: Jim Suty raised concerns regarding the cost to perform such videotaping when it is nearly impossible to provide power or to keep camera lenses clean from fog, ocean mist and blowing sand. No other TRT comments were offered regarding this recommendation. ODSVRA staff indicated that as with night vision equipment, problems are expected with regard to battery power and maintaining clean lenses.

4. Continue predator management—Recommendation Supported As Modified

Much of the work conducted by the Santa Cruz Predatory Bird Research Group (SCPBRG) is conducted early in the season and thus may not fully reflect predation conditions throughout the season. The Subcommittee recommends that a summary of predators observed throughout the season be included in the 2007 report. While recognizing that predator observations are limited, the summary would give a rough sense of conditions and serve as another data set. Additionally, the SCPBRG biologists seemed to conclude that the presence of red-tailed hawks did not represent a substantial threat to plovers. Based on experience elsewhere, red-tailed hawks can become an issue and the threat they present should be reconsidered.

TRT Commentary: Peter Keith suggested that more predator management efforts are warranted. No other TRT comments were offered regarding this recommendation.

5. Continue use of increased fence height to improve the effectiveness of the perimeter fence protecting terns and plovers breeding in the Southern Enclosure and North Oso Flaco—Recommendation Supported

No additional comments.

TRT Commentary: Jim Suty suggested that this recommendation was both time consuming and expensive in terms of monetary costs and had uncertain effects. Supervisor Andy Zilke indicated that the Park would track and monitor its effectiveness over the next few years. No other TRT comments were offered regarding this recommendation.

³ The District Superintendent indicates that an investment in video equipment may not be a prudent use of funds because of the potential for vandalism at the ODSVRA; the level of public use at the SVRA is significantly higher than that at Point Mugu.

6. Place west fence of Southern Exclosure and North Oso Flaco lower on shoreline to increase protected habitat—Recommendation Supported

No additional comments.

TRT Commentary: The TRT was generally supportive of this recommendation, which entails some degree of adaptive management over time.

7. Continue management actions to minimize trespass along the Southern Exclosure shoreline—Recommendation Supported

No additional comments.

TRT Commentary: No TRT comments were offered regarding this recommendation.

8. Continue posting Arroyo Grande Creek—Recommendation Supported

No additional comments.

TRT Commentary: Christine Porter noted that the recent postings of the past year were having a positive effect on minimizing vehicular intrusions into the area. No other TRT comments were offered regarding this recommendation.

9. Use of 10 ft. x 10 ft. exclosure with net top—Recommendation Supported

No additional comments.

TRT Commentary: No TRT comments were offered regarding this recommendation.

10. Continue to enhance habitat in the Southern Exclosure by distributing natural materials—Recommendation Supported With Additional Research Needed

No additional comments.

TRT Commentary: State Parks staff indicated that they had been distributing wood chips to enhance habitat in the Southern Exclosure and that those efforts had been successful during the 2006 breeding season. Jim Suty noted that existing successes do not mandate that this approach is necessary or makes a difference for the future. He suggested that more data on predation is needed with regard to the location and timing of the distribution of wood chips in the future. No other TRT comments were offered regarding this recommendation.

11. Continue captive rearing of abandoned eggs and chicks when appropriate—Recommendation Supported

No additional comments.

TRT Commentary: No TRT comments were offered regarding this recommendation.

12. Conduct Study Evaluating Alternative Plover/Tern Habitat Treatment Strategies

The question remains as to whether a year-round closure in some configuration would best serve breeding plovers and terns. The 2006 plover/tern nesting report continues to note the compromised quality of the habitat available in the riding area at the start of the breeding season. In a March 29, 2005, report on revised research priorities, and again in its January 2006 Recommendations report, the Subcommittee recommended that the park conduct a controlled experiment to determine which treatment (closure, enhancement, both, or none) was optimal. The experiment has never been conducted. Relevant discussion from the March 29, 2005, report is included in Attachment 1. The Subcommittee recommends that the park conduct such an experiment. The experiment should focus on areas with both plovers and terns..

TRT Commentary: Jim Suty pointed out that other experiments had been done (e.g., vegetation removal, etc) to evaluate the possibility of other management actions. He expressed concern over further evaluation and “tweaking” because he felt there was not enough information regarding who, where, why, or how come the treatment areas would be effective in achieving its desired outcome. He suggested that such a study can and should take place south of the camping and riding area in the Oso Flaco dune reserve. He also suggested that predator management was a more effective strategy and that efforts should be focused on the area south of the riding area, so that improvements can be made in areas that are not subject to vehicular activity. He further added that it was his opinion that as currently proposed, any additional closure of the riding area, in light of the extensive closures to date would be inconsistent with the statutory mandate for the ODSVRA⁴. Steve Monowitz noted that predator management was a separate issue and that there was a need to focus on the existing vehicular use areas and balance those uses with habitat treatment and enhancement. Jim Suty indicated that the scientific Subcommittee should identify what is pristine habitat and focus its efforts on those areas rather than riding areas. Steve Monowitz followed that he is not so much interested in pristine versus non-pristine areas as much as he is concerned about whether it functions as viable habitat for nesting. Jim Suty suggested that more aggressive efforts and approaches to creating habitat should be undertaken in the Southern Oso Flaco area. Rick LeFlore noted that State Parks is already undertaking a significant share of its responsibility for recovery of the Western Snowy Plover and more than its portion of the target recovery number of 350⁵ birds. No other TRT comments were offered regarding this recommendation.

⁴ According to Jim Suty: Public Resources Code Section 5090.43(a). Areas shall be developed, managed, and operated for the purpose of making the fullest public use of the outdoor recreational opportunities present. The natural and cultural elements of the environment may be managed or modified to enhance the recreational experience consistent with the requirements of section 5090.35.

Facilitator’s Note: In its entirety, Section 5090.43 reads as follows: “(a) State vehicular recreation areas shall be established on lands where there are quality recreational opportunities for off-highway motor vehicles and in accordance to the requirements of section 5090.35. Areas shall be developed, managed, and operated for the purpose of making the fullest public use of the outdoor recreational opportunities present. The natural and cultural elements of the environment may be managed or modified to enhance the recreational experience consistent with the requirements of Section 5090.35.

(b) Lands for state vehicular recreation areas shall be selected for acquisition so as to minimize the need for establishing sensitive areas.

(c) After January 1, 1988, no new cultural or natural preserves or state wildernesses shall be established within state vehicular recreation areas. To protect natural and cultural values, sensitive areas within state vehicular recreation areas may be designated by the division if the Off-Highway Motor Vehicle Recreation Commission holds a public hearing and makes a recommendation therefor. These sensitive areas shall be managed by the division in accordance with Sections 5019.71 and 5019.74, which define the purpose and management of natural and cultural preserves. If off-highway motor vehicle use results in damage to any natural or cultural values, appropriate measures shall be taken to protect these lands from further damage. These measures may include the erection of physical barriers and shall include the restoration of natural resources and the repair of damage to cultural resources.”

⁵ See footnote 2. above.

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Scientific Subcommittee Review of Implementation of January 2006 Recommendations

The Scientific Subcommittee previously reviewed ODSVRA's 2005-06 ODSVRA Plover/Tern Nesting Report and made recommendations based upon that report (2006 Recommendations of the ODSVRA Scientific Subcommittee re: Western Snowy Plover and California Least Tern Monitoring and Management, January 18, 2006). At its November 2006 meeting, Ronnie Glick ODSVRA Senior Environmental Scientist described the status of implementation efforts regarding the 2006 recommendations. This section lists those recommendations with a brief summary and describes whether each recommendation was implemented. Numbering is consistent with the January 2006 report.

1. Oso Flaco (continue the high level of monitoring and management)

Implemented.

2. Size of southern enclosure (maintain the sized used in 2005)

Implemented.

3. Monitoring

a. To boost retention of skilled monitors, add PI Environmental Scientists

The Subcommittee recommended that ODSVRA invest in more PI Environmental Scientist positions as a way to encourage skilled monitors to return.

Implementation attempted; implementation expected in 2007. ODSVRA did not hire additional PI Environmental Scientists in 2006 but Ronnie Glick is optimistic about being able to create two more PI Environmental Scientist positions in 2007.

b. Add least tern and snowy plover chick weight data to Annual Report

Chicks are weighed when they are banded. These data should be provided in the annual report. *Implemented.*

c. Banding least tern chicks to individuals

The additional data gathered would allow monitors to determine exactly how long individuals persist and would help refine fledging estimates. *Implemented.*

d. Monitor least terns with addition of night vision equipment as available

ODSVRA should experiment with using night vision equipment for monitoring the night roost. If suitable equipment can be found, the SSC recommends that ODSVRA purchase the equipment. *Equipment acquired and tested in 2006; further assessment proposed for 2007.*

e. Maintain option to band adult snowy plovers

Option available but implementation not needed.

4. Continue predator management with addition of a shared log of predation observances and use of cameras if warranted

Predator management would also benefit from additional data dissemination and collection, as follows: 1) ODSVRA should implement a shared log of predation observances. 2) ODSVRA should consider using cameras if birds start disappearing due to

unknown causes. **Implemented in part.** The shared log was successfully implemented. Cameras were not used.

5. Improve effectiveness of the perimeter fence protecting terns and plovers breeding in the Southern Enclosure and North Oso Flaco

Implemented.

6. Use of 10 ft. x 10 ft. enclosure with net top

Implemented.

7. Enhance habitat in Southern Enclosure by distributing natural material, including recording and analyzing effectiveness of efforts

ODSVRA should continue to enhance the southern enclosure using natural material such as driftwood and kelp. Additionally, enhancement efforts should be implemented and recorded in a more systematic manner allowing for analysis of effectiveness.

Implemented. Driftwood, woodchips, and surf-cast kelp were distributed within the 6, 7, and 8 Enclosures and along the shoreline. Monitors GPS'd the woodchip locations and analyzed success rates. Ronnie Glick found that some of the advantages of using wood chips for enhancing habitat include:

- They stayed in place
- There were more nests in the wood chips than in bare areas (adjusted for proximity to the exterior predator fence)
- There was reasonable nest success in the wood chip area⁶s.

8. Continue to salvage abandoned eggs and chicks when appropriate

Implemented.

9. Conduct Study Evaluating Alternative Plover/Tern Habitat Treatment Strategies

Not implemented. The Superintendent did not agree to this recommendation for the 2006 season. The recommendation was for a three year study with four separate treatments. ODSVRA has limited staff and funding to complete the analysis that is proposed. ODSVRA has some preliminary results from two years of habitat enhancement after the riding area is opened during the winter.

In addition to the review of Scientific Subcommittee recommendations, several members of the TRT also offered individual comments. Those comments are attached to this Annual Report and represent the viewpoints of those individuals and not necessarily the TRT as a whole.

Facilitator Recommendations Regarding the Future of the TRT

[NOTE: The next series of paragraphs are consistent with previous annual reports wherein the Facilitator offered observations about how to improve the process. As with previous annual

⁶ It is difficult to determine how much wood chips did or did not contribute to added nesting success. No year-to-year comparisons can be made at present because only one year's experience has been factored into the above observations. However, based upon the Department's evaluation of the first year it intended to utilize wood chips for a second year.

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reports, these comments represent the professional opinion of the facilitator, and not necessarily a consensus view of the TRT members themselves.]

As noted earlier, the TRT met three times during 2006, and did/did not attain a quorum to make decisions at any of those meetings. The October 23, 2006 meeting had a quorum to conduct business, but not to make decisions. Similar to the group's conclusions in 2005, there was general agreement among TRT members that once research and monitoring priorities had been delineated, that most felt the work of the TRT, and in the opinion of some, the SCC should be brought to a close as well because of its status as a subcommittee of the TRT. Again, several individuals indicated that the completion of a public review draft of the Habitat Conservation Plan would also be a milestone and that the public review process associated with that document could replace the TRT as that process moves forward. Completion of this document for public review is currently expected to take place in spring of 2007

Throughout the year, as with the previous two years, meeting attendance and general interest in the TRT's role and function has waned considerably from its initial three and ½ years (see attachment characterizing attendance by representative interest groups). This was evidenced by difficulties in setting meeting dates, achieving a quorum, communicating with TRT members, and a reduction in the number of members who were willing and able to attend face-to-face meetings. Over the past year, the Coastal Commission representatives have been available to participate via conference call, but not in person. The California Department of Fish and Game representative has had to forgo participation on the TRT entirely because of budgetary constraints; the local government representative resigned in 2004 and the seat has not been filled since that time. (The local business representative also sits as a Grover Beach Planning Commissioner, effectively providing a voice for local government in the process; however, this situation does not overcome the difficulties with regard to achieving a quorum.)

A large majority of TRT members have explicitly expressed a desire to abandon the TRT as a functioning advisory group, suggesting that its role had been fulfilled, and that public involvement was available through other venues and processes, namely, the HCP process. Parallel to the work of the TRT, the Scientific Subcommittee continues to fulfill its role as a scientific advisory panel, reviewing and providing expertise and recommendations with regard to technical studies, monitoring activities and adaptive management related to the Park's natural resources. However, members of the TRT believe that the two bodies operate in a related manner and if changes are made to one body, changes should also be considered for the other. In addition, the language of the TRT's Charter and of the CDP identify the Scientific Subcommittee as a subcommittee of the TRT and not an independent advisory entity from a process stand point.

The draft HCP proposes establishing a Scientific Advisory Committee, which may ultimately serve to replace the Scientific Subcommittee. The OHV representative believes that any such future advisory committee should include OHV representation to ensure a fair and balanced viewpoint.

Review of the permit language regarding the role and function of the TRT indicate that its primary functions are:

- ◆ To assist in building community support through problem solving, consensus building, new constituency development, and increasing understanding of the ODSVRA;

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- ◆ To develop recommendations to the Superintendent of the ODSVRA regarding additional monitoring studies, adjustment to day and overnight use limits and management strategies.

Regarding the first charge, the TRT has: 1) provided and improved linkages between business, environmental and conservation organizations, park users, residents and local government and the Superintendent and Park staff; 2) reduced the degree of contention among its members through the adoption of a problem statement governing its role, and provided a forum for the discussion and tolerance of differing perspectives regarding park management; and 3) increased understanding of the social, technical and scientific dynamics which influence use, management and monitoring of the resources present within the park.

However, over the past 24 - 30 months, the TRT has seen diminishing returns with regard to progress in these areas and many members have voiced a concern that the time invested is not yielding noticeable results in terms of furthering these objectives. This is evidenced by a failure of the TRT to garner a quorum to conduct business for all but two scheduled meeting since April 2005. The group has not generally been able to attract more than six individuals in a face-to-face meeting format for over two years. Regardless of the level of face-to-face participation, consensus regarding balancing OHV use and resource protection within the park continues to be contentious. In the broader regional context, there is greater potential for consensus over the provisions of the Habitat Conservation Plan for the coastal park units within San Luis Obispo County than for these same issues at ODSVRA in and of itself.

With regard to the second charge, the TRT has largely focused more on reviewing and commenting on the recommendations of the Scientific Subcommittee than deliberating its own recommendations regarding monitoring and management strategies. While there have been some differences of opinion among the TRT regarding some of the Scientific Subcommittee's recommendations, the TRT has been largely supportive of their technical advice and perspective over the last four to five years. In addition, the current Park Superintendent has taken an active role in tailoring use restrictions and enforcement efforts to be responsive to the annual nesting reports and Scientific Subcommittee recommendations.

Finally, the ODSVRA, in collaboration with the San Luis Obispo Coast District continues to work toward the release of a public review draft of a Habitat Conservation Plan that would address threatened and endangered species needs in ODSVRA and five other park units within San Luis Obispo County. This draft is anticipated to be released to the public some time in the early part of 2007.

With these factors in mind, the TRT met on January 8, 2006 and took actions to further amend its Charter with the following changes (see attached 2nd Amended Charter for exact wording changes):

Quorum Requirements (Charter Sec. D (3)): The TRT changed the definition of a quorum from 70% of its members to 50% of its sitting members, defined as those membership slots with an active participant. This reduces the number of members to conduct business and make decisions from 7 members to 4 or 5 members, depending upon the number of active members engaged in the TRT process.

Non Unanimity Decision Rule (Charter Sec. E (2)): The TRT changed the percentage of members needed to take action lacking a consensus from 70% of its members to 70% of its sitting members. This action brings the rule into alignment with the quorum requirements and maintains the same ratios as was previously in place when the TRT had full membership.

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TRT Responsibilities (Charter Sec. B. (3)): The TRT also chose to amend this section to add references to the potential for participation in public and/or pre-public review aspects of the Habitat Conservation Plan being developed to cover not only the ODSVRA, but other Coastal State Park units within San Luis Obispo County.

Taken together, these charter amendments will do much to facilitate the ability of the TRT to meet and conduct business not only regarding its stated roles and responsibilities, but also in becoming familiar with the issues associated with the broader habitat conservation issues facing not only the Oceano Dunes, but also the ODSVRA in the context of the more geographically diverse coastal park units.

Concluding Remarks:

Permit language regarding Annual Reports indicates that one component of the Commission's annual review will be to evaluate the progress of the TRT's work as measured against the submitted work plans. As can be seen from the above discussion, considerable research, and adaptive management activity has taken place at ODSVRA during 2006. Accordingly, this Annual Report fulfills the responsibilities of the TRT with regard to permit compliance. While much progress has been made over the six-year life of the advisory committee, the time has come to transition into a more regional approach provided by the Habitat Conservation Plan process. The Charter amendments made by the TRT at its January 8, 2007 meeting facilitate this transition. This concludes the 6th Annual Report of the TRT. Should you have any questions regarding its contents or conclusions, please feel free to contact me at your convenience.

Sincerely,



John C. Jostes,
TRT Program Facilitator

JCJ/

cc: Paula Hartman
Andrew Zilke

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* Enclosures:

1. List of Current TRT Members and Alternates (Attachment 1)
2. Current Park Use Statistics (Attachment 2)
3. Report on 2006 Breeding Season and Attachments (Attachment 3)
4. 2006 Predator Management Report (Attachments 4a & 4b)
5. Scientific Subcommittee Recommendations on Western Snowy Plover/California Least Tern monitoring and management. (Attachment 5)
6. Copies of the TRT Meeting Summaries from its 10/23/06, and 12/23/06 (Attachment 6)
7. 2nd Amended TRT Charter
8. Individual TRT Comment Letters

* Enclosures will be available for review at the Feb. 15, 2007 Public Hearing, or by requesting copies from Commission staff.

2006 Recommendations and Comments of the ODSVRA Scientific Subcommittee re: Western Snowy Plover and California Least Tern Monitoring and Management (December 4, 2006):

A. INTRODUCTION

The ODSVRA Scientific Subcommittee members discussed the 2006 ODSVRA plover/tern nesting report (*Nesting of the California Least Tern and Snowy Plover at Oceano Dunes State Vehicular Recreation Area, San Luis Obispo County, California 2006 Season*) at their November 14, 2006, meeting. Doug George, of PRBO Conservation Science, Joanna Iwanicha, ODSVRA Environmental Scientist, and Steve Kirkland, USFWS, also participated. Bob Stafford, former CDFG representative, was unable to participate in the call, but all Subcommittee members had an opportunity to comment on the report.

An overview of the 2006 breeding season and the Subcommittee's recommendations and comments on the 2006 ODSVRA plover/tern nesting report are provided in Section B of this report; background discussion is provided as needed. Section C lists the recommendations made by the Subcommittee in January 2006 and describes whether each recommendation was implemented for the 2006 season.

B. 2006 SEASON AND COMMENTS ON PLOVER/TERN REPORT

While the snowy plover hatch rate was good, it was not a good snowy plover season at ODSVRA, with a fledge rate of 7.4%. Chicks disappeared throughout the season. In contrast to 2006, plover chick productivity at ODSVRA was equal to or greater than one juvenile fledged per breeding male for the 2002-2005 breeding seasons. For the five-year period 2002-2006, the average productivity is 1.31 juveniles fledged per breeding male. Comparison with adjacent sites is difficult because the current level of monitoring does not allow biologists to provide an accurate fledge rate at the Refuge or County Park. The Refuge counted 37 nests, of which 17 or 18 hatched. Data is not yet available from the County Park. Elsewhere, the Subcommittee members reported that the Oregon coast had a good plover season, Point Reyes was "ok" but not spectacular, Monterey had a good season (3rd highest), and southern California results were average to below average.

In contrast to plover breeding results, while the number of least tern adults continued to decline, the tern fledge rate was very high (80%). Statewide overall, the breeding tern numbers were initially low, but picked up as the season progressed. Alameda had record numbers of breeding terns. While most southern California sites had roughly the same number of breeding terns as in previous years, the number of adult terns is slowly and consistently creeping down in southern San Diego County. Since ODSVRA is now the sole successful central coast least tern breeding site (the small population at Coal Oil Point in Santa Barbara being the closest to the south), no other nearby populations exist to provide additional birds to move into ODSVRA. The population at ODSVRA has declined since its peak in 2003—the next few years could prove telling. The central coast may require a broader effort toward tern breeding; currently ODSVRA has the most extensive program.

The Subcommittee provided the following comments on the 2006 ODSVRA plover/tern nesting report. The group reviewed each of the recommendations, focusing on particular areas of interest. Items are listed in the order they appear in the report. Recommendations 3.g. and 12

December 4, 2006

Exhibit 2: Scientific
Subcommittee Recommendations
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are separate recommendations from the Subcommittee that do not appear in the 2006 ODSVRA plover/tern nesting report.

**1. Oso Flaco (continue the current level of monitoring and management)—
Recommendation supported**

The level of monitoring established in 2006 (three to four times a week) seems to be sustainable. Implementing a higher level of monitoring at Oso Flaco could be difficult because of staffing limitations. Having enough permitted people is critical, which is driven by having adequate funding. See the discussion below under 3.a. regarding staffing.

2. Size of southern enclosure (maintain the size used in 2006)—Recommendation supported

No additional comments.

3. Monitoring

a. Retain skilled monitors—Recommendation Supported

As always, the biggest issue for recruiting and retaining quality monitors is adequate pay. During the nesting season, approximately 13 people are involved with the monitoring program. Most of them are largely dedicated to the program. The goal for 2007 is to create two more PI Environmental Scientist positions, which seems feasible. Funding even more such positions would take funds away from other necessary plover and tern work.

b. Continue banding least tern and snowy plover chicks—Recommendation Supported

No additional comments.

c. Continue banding least tern chicks to individual—Recommendation Supported

No additional comments.

d. Option to band adult snowy plovers—Recommendation Supported

No additional comments.

**e. Continue monitoring least tern juveniles as well as night roost activity—
Recommendation Supported**

No additional comments.

f. Assessment of night vision equipment—Recommendation Supported

No additional comments.

g. Consider the use of video—New Subcommittee Recommendation

As described in the 2006 plover/tern report, biologists will be assessing night vision equipment in 2007 to evaluate its potential for gaining information on tern and plover behavior and predator activity. Since observing predation events in person is very difficult, and since observers can disturb chicks, cameras could be a useful tool to capture predator data. Video may be the best tool, as a recent trial of motion-sensitive still

cameras at another breeding site found that they are often not quick enough to capture useful images. Consultation with experts would be helpful. Point Magu biologists probably have the best expertise with video technology for this purpose.

4. Continue predator management—Recommendation Supported As Modified

Much of the work conducted by the Santa Cruz Predatory Bird Research Group (SCPBRG) is conducted early in the season and thus may not fully reflect predation conditions throughout the season. The Subcommittee recommends that a summary of predators observed throughout the season be included in the 2007 report. While recognizing that predator observations are limited, the summary would give a rough sense of conditions and serve as another data set. Additionally, the SCPBRG biologists seemed to conclude that the presence of red-tailed hawks did not represent a substantial threat to plovers. Based on experience elsewhere, red-tailed hawks can become an issue and the threat they present should be reconsidered.

5. Continue use of increased fence height to improve the effectiveness of the perimeter fence protecting terns and plovers breeding in the Southern Enclosure and North Oso Flaco—Recommendation Supported

No additional comments.

6. Place west fence of Southern Enclosure and North Oso Flaco lower on shoreline to increase protected habitat—Recommendation Supported

No additional comments.

7. Continue management actions to minimize trespass along the Southern Enclosure shoreline—Recommendation Supported

No additional comments.

8. Continue posting Arroyo Grande Creek—Recommendation Supported

No additional comments.

9. Use of 10 ft. x 10 ft. enclosure with net top—Recommendation Supported

No additional comments.

10. Continue to enhance habitat in the Southern Enclosure by distributing natural materials—Recommendation Supported With Additional Research Needed

No additional comments.

11. Continue captive rearing of abandoned eggs and chicks when appropriate—Recommendation Supported

No additional comments.

12. Conduct Study Evaluating Alternative Plover/Tern Habitat Treatment Strategies

The question remains as to whether a year-round closure in some configuration would best serve breeding plovers and terns. The 2006 plover/tern nesting report continues to note the

compromised quality of the habitat available in the riding area at the start of the breeding season. In a March 29, 2005, report on revised research priorities, and again in its January 2006 Recommendations report, the Subcommittee recommended that the park conduct a controlled experiment to determine which treatment (closure, enhancement, both, or none) was optimal. The experiment has never been conducted. Relevant discussion from the March 29, 2005, report is included in Attachment 1. The Subcommittee recommends that the park conduct such an experiment. The experiment should focus on areas with both plovers and terns.

**C. REVIEW OF IMPLEMENTATION OF SCIENTIFIC SUBCOMMITTEE
RECOMMENDATIONS MADE IN JANUARY 2006**

The Scientific Subcommittee previously reviewed ODSVRA's 2005 ODSVRA plover/tern nesting report and made recommendations based upon that report (2005 Recommendations and Comments of the ODSVRA Scientific Subcommittee re: Western Snowy Plover and California Least Tern Monitoring and Management, January 18, 2006). At its November 2006 meeting, Ronnie Glick, ODSVRA Senior Environmental Scientist, went through the list of recommendations to describe implementation. This section lists those recommendations with a brief summary of specific Subcommittee recommendations where given and describes whether each recommendation was implemented. Numbering is consistent with the January 2006 report.

1. Oso Flaco (continue the high level of monitoring and management)

Implemented.

2. Size of southern enclosure (maintain the sized used in 2005)

Implemented.

3. Monitoring

a. To boost retention of skilled monitors, add PI Environmental Scientists

The Subcommittee recommended that ODSVRA invest in more PI Environmental Scientist positions as a way to encourage skilled monitors to return. *Implementation attempted; implementation expected in 2007. ODSVRA did not hire additional PI Environmental Scientists in 2006 but Ronnie is optimistic about being able to create two more PI Environmental Scientist positions in 2007.*

b. Add least tern and snowy plover chick weight data to Annual Report

Chicks are weighed when they are banded. These data should be provided in the annual report. *Implemented.*

c. Banding least tern chicks to individuals

The additional data gathered would allow monitors to determine exactly how long individuals persist and would help refine fledging estimates. *Implemented.*

d. Monitor least terns with addition of night vision equipment as available

ODSVRA should experiment with using night vision equipment for monitoring the night roost. If suitable equipment can be found, the SSC recommends that ODSVRA purchase

the equipment. **Equipment acquired and tested in 2006; further assessment proposed for 2007.**

e. Maintain option to band adult snowy plovers

Option available but implementation not needed.

4. Continue predator management with addition of a shared log of predation observances and use of cameras if warranted

Predator management would also benefit from additional data dissemination and collection, as follows: 1) ODSVRA should implement a shared log of predation observances. 2) ODSVRA should consider using cameras if birds start disappearing due to unknown causes. **Implemented in part.** *The shared log was successfully implemented. Cameras were not used.*

5. Improve effectiveness of the perimeter fence protecting terns and plovers breeding in the Southern Enclosure and North Oso Flaco

Implemented.

6. Use of 10 ft. x 10 ft. enclosure with net top

Implemented.

7. Enhance habitat in Southern Enclosure by distributing natural material, including recording and analyzing effectiveness of efforts

ODSVRA should continue to enhance the southern enclosure using natural material such as driftwood and kelp. Additionally, enhancement efforts should be implemented and recorded in a more systematic manner allowing for analysis of effectiveness. **Implemented.** *Driftwood, woodchips, and surf-cast kelp were distributed within the 6, 7, and 8 Enclosures and along the shoreline. Monitors GPS'd the woodchip locations and analyzed success rates. Ronnie found that some of the advantages of using wood chips for enhancing habitat include:*

- *They stayed in place*
- *There were more nests in the wood chips than in bare areas (adjusted for proximity to the exterior predator fence)*
- *There was reasonable nest success in the wood chip areas.*

8. Continue to salvage abandoned eggs and chicks when appropriate

Implemented.

9. Conduct Study Evaluating Alternative Plover/Tern Habitat Treatment Strategies

Not implemented. The Superintendent did not agree to this recommendation for the 2006 season. The recommendation was for a three year study with four separate treatments. ODSVRA has limited staff and funding to complete the analysis that is proposed. ODSVRA has some preliminary results from two years of habitat enhancement after the riding area is opened during the winter.

Attachment 1. Excerpts from the March 29, 2005, Scientific Subcommittee Meeting Summary

Year-round Closure

Although the 2004 ODSVRA plover/tern nesting report (*Nesting of the California Least Tern and Snowy Plover at Oceano Dunes State Vehicular Recreation Area, San Luis Obispo County, California 2004 Season*) did not formally recommend a year-round closure for winter 2004/2005, the report did support consideration of such a closure (see page 19). ODSVRA implemented habitat enhancement measures recommended by the 2004 ODSVRA plover/tern nesting report as follows:

- Approximately 75 plants with and without 1- and 5-gallon fiber pots were dispersed within the 6 and 7 exclosure. The plants were installed prior to the fences going up, and some were vandalized (removed). ODSVRA staff GPS'd the remaining plants.
- Driftwood and seaweed was dispersed within the 6, 7, and 8 exclosure.
- All materials were placed in a random pattern.

ODSVRA did have an 11-acre exclosure in winter 2003/2004 and an exclosure of less than four acres in winter 2004/2005. Review of the habitat conditions and breeding results suggests that the year-round closure benefits breeding plovers and terns, but the closures were not implemented in a manner that allows statistical testing for biologists to draw conclusions as to whether the year-round closure is the optimal management approach. Likewise, no data are available to evaluate the success of the enhancement measures in comparison to either a year-round closure or to neither approach (e.g., no year-round closure and no enhancement).

The SSC recognizes that a year-round closure poses potential conflicts with OHV recreation, but the available data do not allow for a scientifically-based recommendation for or against a particular habitat management strategy. Although the year-round closure seemed to benefit breeding success, it is possible that the enhancement measures implemented by ODSVRA this year could be just as effective. Because available data are inconclusive, the SSC recommends scientific evaluation of year-round closure and enhancement measures as a new research priority.

...

1. Evaluate Alternative Plover/Tern Habitat Treatment Strategies

No quantitative data exist to scientifically evaluate which of the following nesting habitat treatments result in the highest nesting success rate:

1. Leaving nesting habitat open to vehicles in the winter, and not enhancing the habitat at the start of the breeding season
2. Leaving nesting habitat open to vehicles in the winter, and then enhancing the habitat at the start of the breeding season with vegetation, driftwood, and other materials
3. Closing nesting habitat to vehicles in the winter

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4. Closing nesting habitat to vehicles in the winter and enhancing the habitat at the start of the breeding season¹

A three-year study should be designed and implemented to test the above treatments. Three years is likely the minimal study time needed to collect statistically meaningful data. Treatment sites would need to be large enough so that it is unlikely that plovers are readily moving among sites. Sites would probably need to be large enough to accommodate a minimum of 10 breeding plover pairs per site. A formal proposal for this study should be made available for SSC and TRT review.

...

¹ This is a 2x2 treatment matrix: "With and without winter closure" crossed with "with and without enhancement." 1=no closure, no enhancement, 2=no closure, enhancement, 3=closure, no enhancement, and 4=closure, enhancement. Without all four treatments, the analysis cannot test for interactions and properly assess the relative effects of the treatments of interest.

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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 OF APPROVAL

1. **Scope of Permit.** This permit amendment replaces Special Conditions 3B, 3D, and 6 of CDP 4-82-300. This permit amendment also authorizes the institution of interim vehicle (street-legal, off-highway vehicle, and camping) limits at the ODSVRA, and the establishment of an ODSVRA Technical Review Team, for an initial one-year period from the date of approval of the revised conditions and findings.
2. **Renewal of Permit.** Annually, the Commission shall review the overall effectiveness of the Technical Review Team in managing vehicle impacts at the ODSVRA. If the Commission is satisfied with the review, this amendment will remain in effect for an additional year. A longer permit term may be requested in the future. Otherwise, an alternative approach to resource management, or set of management measures, may be instituted through this review process.
3. **Interim Vehicle Limits.**
 - a. **Interim Day-Use Vehicle Limits.** Except as qualified by 3d, interim limits on motor vehicle use on the beaches and dunes of Oceano Dunes SVRA shall be no more than 2,580 street-legal vehicles per day. This limit does not include off-highway vehicles, or street-legal vehicles attributable to allowed overnight camper use within the ODSVRA.
 - b. **Interim Camping Limits.** Except as qualified by 3d, interim limits on overnight motor vehicle use on the beaches and dunes of Oceano Dunes SVRA shall be no more than 1,000 camping units (i.e. 1,000 street-legal vehicles) per night. This limit does not include off-highway vehicles or street-legal vehicles attributable to allowed day-use within the ODSVRA.
 - c. **Interim Off-Highway Vehicle Limits.** Except as qualified by 3d, interim limits on off-highway vehicle use on the beaches and dunes of Oceano Dunes SVRA shall be no more than 1,720 off-highway vehicles at any given time. This limit does not include the street-legal vehicles used to tow or trailer the OHVs into the ODSVRA.
 - d. **Holiday Periods.** Interim street-legal and off-highway vehicle limits may be exceeded only during the four major holiday periods of Memorial Day (Saturday through Monday), July 4th (one day and any adjacent weekend days), Labor Day (Saturday through Monday), and Thanksgiving (Thursday through Sunday).

Exhibit 3 (1 of 4)
Special Conditions



4. **Technical Review Team.** The Technical Review Team (TRT), advisory to the Superintendent of the Oceano Dunes State Vehicular Recreation Area, shall be established within three months, and shall meet within six months, from approval of the revised conditions and findings of this coastal development permit amendment (4-82-300-A5). A Charter for the TRT, establishing members*, roles and procedures for the Team, shall be submitted to the Executive Director for review within one year of approval of the revised conditions and findings of this coastal development permit amendment.
- a. The Charter shall establish a specific structure and process in order for the TRT to do at least the following:
 - i. Assist in building community support through problem solving, consensus building, new constituency development, and increasing understanding about the ODSVRA; and
 - ii. Develop recommendations to the Superintendent of the ODSVRA regarding additional monitoring studies, adjustments to day and overnight use limits, and management strategies.
 - b. The Charter shall also include at least the following:
 - i. A provision to create a scientific subcommittee to identify, develop and evaluate the scientific information needed by decision-makers to ensure that the ODSVRA's natural resources are adequately managed and protected. The subcommittee shall be composed of resource experts representing the five government agencies (CCC, SLO County, USFWS, DFG, DPR) and at least two independent scientists with expertise in Western snowy plover, California least tern, steelhead trout or other species of concern, as well as ecological processes to analyze technical data and provide scientific recommendations to the TRT: and
 - ii. A provision to submit a list of proposed members of the scientific subcommittee to the Executive Director for review and approval.
 - c. The Charter shall establish a specific structure and process in order for the scientific subcommittee to do at least the following:
 - i. Recommend to the TRT the scientific studies and investigations that may be necessary to develop information needed by resource managers;
 - ii. Advise the TRT regarding the protection of the SVRA's natural resources by helping identify and review needed research measures and restoration efforts to rebuild or protect the ODSVRA natural resources;
 - iii. Evaluate monitoring results and reevaluate monitoring protocols contained in Oceano Dunes SVRA annual reports for the Habitat Monitoring System, reports on the breeding, nesting and fledgling success of the western snowy plover and California least tern populations in the SVRA, and other reports related to the environmental impacts of recreational activities;



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- iv. Provide comments on the adequacy of various scientific research studies and make management recommendations to the TRT: and
- v. Submit the full recommendations of the scientific subcommittee to the Commission and make them available to the public, as part of the annual review process required in Special Condition 2.

* Members of the TRT shall include, but are not limited to, those listed in the Department of Park & Recreation's amendment submittal (noted on page 10-11 of this staff report) and a representative of the residential community adjacent to the ODSVRA.

5. **Annual Reports.** The TRT and the ODSVRA Superintendent shall prepare annual reports (for the period of October to September) summarizing annual recreational use and habitat trends at the Park; and highlighting the TRT's major accomplishments (including progress made towards meeting the objectives of the TRT), projects, correspondence, and recommendations as well as a summary of subcommittees, working groups, and task force activities. The first annual report shall include (1) a draft or final Charter for the TRT, and (2) a description of the process by which the TRT will rank research and management questions and priorities. The second annual report shall include (1) the final Charter for the TRT (if not submitted with the first annual report), (2) the TRT's ranking of research and management questions and priorities, and (3) a scope of work for those projects identified as the highest priority. Subsequent reports will include a status report on the progress of those projects as well as updates to research and management priorities and the corresponding scopes of work for addressing those new priorities. One component of the Commission's annual review will be to evaluate the progress of the TRT's work as measured against the submitted work plans.

In identifying and selecting the priority research and management questions and projects, the TRT shall consider information developed by the USFWS and shall include the following:

- a. Appropriate management techniques for the western snowy plover, California least tern, and steelhead trout including an evaluation of:
 - i. How the geographic location of nests, proximity of nests to foraging areas, and nest closure techniques affect the hatching and fledgling success of the species,
 - ii. What studies may be necessary to determine appropriate management techniques, or what known management techniques could be put in place, for protecting each species of concern, and
 - iii. The potential environmental, recreational and economic costs and benefits of alternative beach/dune habitat protection strategies.
- b. Appropriate management techniques for protecting water quality and dune habitats from potential pollutants that might result from motor vehicle fluids or other contaminants that might enter the ODSVRA and ocean through polluted runoff or direct discharges; and

Exhibit 3 (3 of 4)
Special Conditions



- c. The success of past revegetation efforts within the ODSVRA and the potential need for continuing or expanding those efforts, including expansion of vegetation exclosures.
- d. Conduct a comprehensive, long-term monitoring and comparative analysis of the resources impacts associated with varying levels of use, including the highest (peak-use) attendance periods.

If alternative research and management questions and projects are identified as a higher priority than those listed in a through d above, the annual reports shall discuss the basis for such a determination. Annual reports shall be submitted to San Luis Obispo County and the California Coastal Commission for informational purposes no later than January 1st of the following year. The first annual report (or portion thereof) shall be completed and submitted to the Commission no later than January 1, 2002.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Background

1. Project Location

Oceano Dunes State Vehicular Recreation Area (ODSVRA), formerly Pismo Dunes SVRA (PDSVRA) is located on the central California coast along the southern coastal region of San Luis Obispo County. Primary access to this area is via Highway 101 and California State Highway 1. The ODSVRA is bordered on the north by the non-vehicular section of Pismo State Beach, on the west by the Pacific Ocean, on the south by Oso Flaco Lake and along its eastern and southeastern boundaries by the City of Grover Beach and Oceano.

ODSVRA encompasses 3,590 acres and includes approximately six miles of sandy beach; about 1,500 acres are available for OHV use. It varies in width from a few hundred yards along its northerly two miles to up to three miles wide along its southerly portion (see Exhibit 2). ODSVRA itself is divided into different regions based upon allowable activities and include areas set aside strictly for resource protection, street legal vehicle use, and a combination of street legal/off-highway vehicle use (see Exhibit 3). The separation and delineation of these specific areas was developed through the past cooperative efforts of the Coastal Commission and County of San Luis Obispo Board of Supervisors, the California Department of Fish & Game (DFG) and the California Department of Parks & Recreation (DPR).

Land use patterns of the lands adjoining the study area are characterized (from north to south) as ranging from urban commercial and industrial, and eventually shifting to rural agricultural and industrial. Specifically, along ODSVRA's narrow northern end, urban retail establishments, commercial campgrounds and urban residential land uses characterize the eastern border. Progressing south, land use is characterized by a small rural airport, a State Park dune preserve, agricultural fields, an oil refinery and its associated oil fields, and open ranch lands.



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Figure 6. ODSVRA site map.

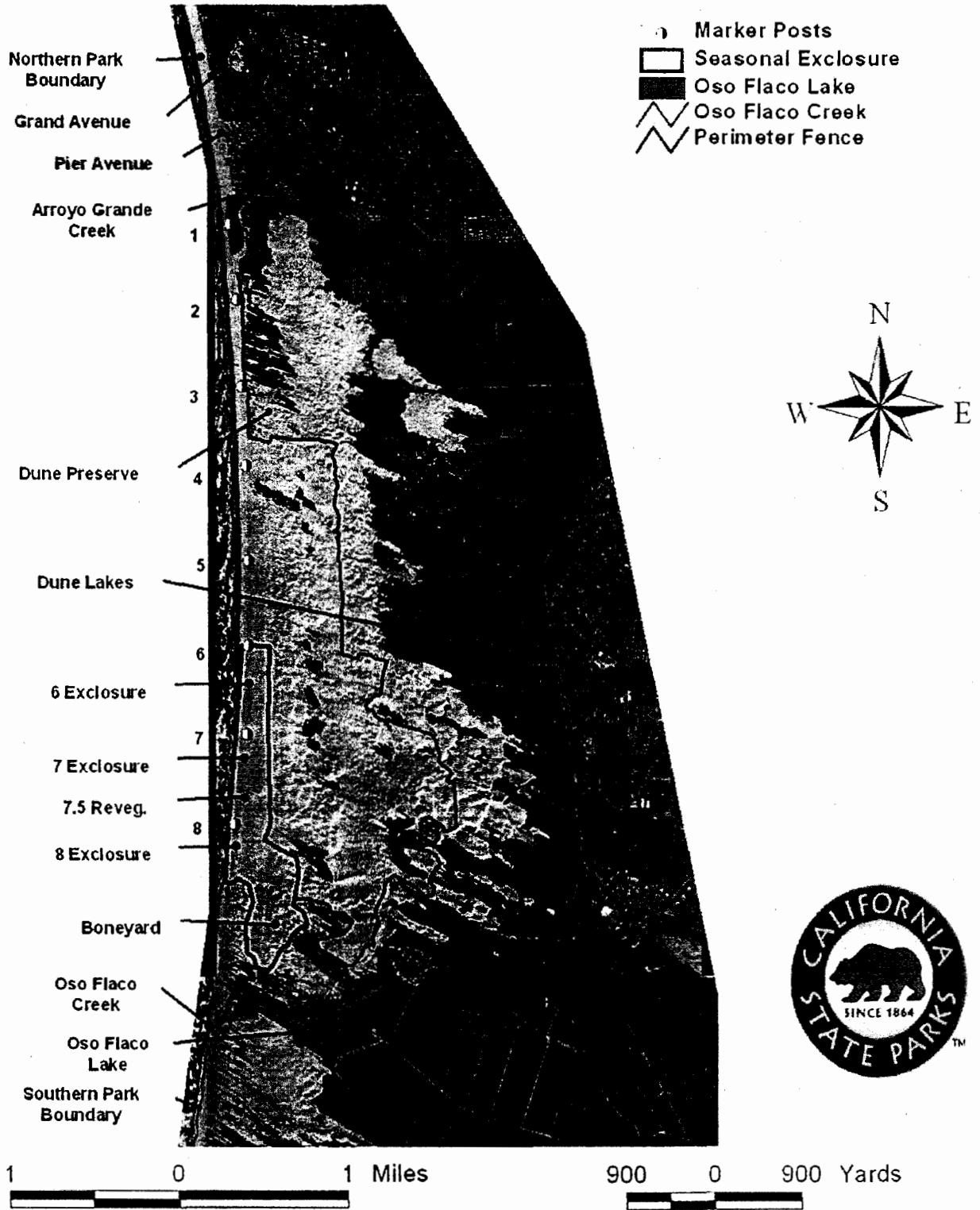


Exhibit 4
ODSVRA Site Map

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877



DRAFT

February 16, 2007

Andrew Zilke, Park Superintendent
Oceano Dunes State Vehicular Recreation Area
576 Camino Mercado
Arroyo Grande, CA 93420

Subject: Renewal of Coastal Development Permit Amendment 4-82-300-A5

Dear Mr. Zilke:

At the February 15, 2007 meeting in San Diego, the Coastal Commission conducted our annual review of the overall effectiveness of the methods being used to manage vehicle impacts and protect sensitive habitats at the Oceano Dunes State Vehicular Recreation Area (ODSVRA). We wish to thank you for your presentation before the Commission, and to recognize the significant efforts your Department continues to make towards the protection and enhancement of natural resources at the ODSVRA.

As you know, the Commission took no action to modify the terms of Coastal Development Permit (CDP) Amendment 4-82-300-A5. Notwithstanding its renewal of the amendment, the Commission remains concerned about the very low plover fledgling rates of the 2006 nesting season, and requests that you work with the Scientific Subcommittee to analyze, and where possible improve predator monitoring and control programs.

In addition, the Commission continues to be interested in the potential benefits to the quality and productivity of snowy plover and least tern nesting habitats if recreational vehicles were excluded from nesting areas on a year round basis. We therefore reiterate our 2004 request that State Parks reconsider its decision to not undertake such a study, and strongly encourage State Parks to comply with the recommendations of the Scientific Subcommittee in this regard.

Another necessary action item identified during this year's annual review is the need to resolve the interim status of the existing riding area entrance and staging area, and to ensure compliance with the fencing and restoration requirements established by the amended permit. Towards this end, the Commission suggests the following:

First, in order to assess compliance with the fencing and restoration requirements amendments, State Parks should prepare maps and an accompanying report that compares the location of existing fencing to the location of dune habitat fencing established by the amended permit. The maps and report should also identify current routes for equestrian access (per Special Condition 1c of CDP Amendment 4-82-300-A4), as well as the location and status of the dune restoration areas (per Special Condition 2 of 4-82-300).

DRAFT

Second, State Parks should make progress on the long awaited habitat conservation plan, such as by releasing a public review draft and accompanying EIR/EIS before the end of the year. Among the issues that should be addressed by the EIR/EIS for the HCP is whether alternative management approaches, such as reconfigured access routes and staging areas for the riding area, year-round fencing of the nesting area, and/or the expansion of protected areas, would maximize compliance with all relevant statutory and regulatory requirements.

Based upon the conclusions of these analyses, State Parks should submit a permit amendment application to: establish a permanent location for recreational vehicle access and staging; update fencing and restoration requirements where necessary to resolve discrepancies between current practices and permit requirements; and modify the TRT approach of park management review to one that is designed to oversee and evaluate HCP implementation.

The Coastal Commission appreciates the opportunity to work cooperatively with State Parks towards resolving the issues identified above, and respectfully submits the above recommendations in the interest of facilitating this process. Thank you for your consideration of these suggestions.

Sincerely,

Patrick Kruer, Chairman
California Coastal Commission

CALIFORNIA COASTAL COMMISSION

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March 22, 2004

Ruth Coleman, Director
California Department of Parks and Recreation
P O Box 942896-0001
Sacramento, CA 94296-0001

Subject: ~~Annual Review of Coastal Development Permit 4-82-300 for the Oceano Dunes~~
State Vehicular Recreation Areas (ODSVRA)

Dear Director Coleman:

At our February meeting in San Diego, the Commission conducted our annual review of the effectiveness of your departmental management practices in managing vehicle impacts on coastal resources, including Western Snowy Plover and California Least Terns, at Oceano Dunes. We wish to thank you for your presentation before the Commission and to recognize and congratulate the Department for the significant increase in successful plover fledglings in 2003, both at Oceano and systemwide.

In particular, the Commission wishes to acknowledge the commitment of the Department to implement in 2004 the following recommendations of the Scientific Subcommittee (SCC):

- Oso Flaco (exclosures and symbolic fencing)
- Expansion of Southern Exclosure to pole 6
- Retain and add skilled monitors
- Continue banding Least Tern and Snowy Plover chicks
- Monitoring Least Tern juveniles to estimate fledging success
- Improve Southern Exclosure Perimeter Fence
- Reduce trespass along Southern Exclosure shoreline
- Improved procedures for annual Necropsy report
- Continue Predator Control Program

As a result of the improved outcomes and these commitments to management of Oceano during 2004, the Commission took no action to modify the terms of CDP 4-82-300 in order to provide an additional year for the ODSVRA to fully implement the recommendations provided by the Scientific Subcommittee on January 9, 2004 (please see Exhibit 2 of the attached memo).

Of particular concern is the recommendation of the SCC to retain the 7 Exclosure and part of the 8 Exclosure during the fall and winter to protect the habitat for the 2005 breeding season. The 7 Exclosure site closed to vehicles during the non-breeding season experienced a 72.7% increase in the number of plover nests in 2003 compared to 2002. This is 4.6 times the increase of 15.8% in

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Ruth Coleman, Director
March 8, 2004
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nest numbers observed at the 8 Enclosure. In light of this dramatic increase in success balanced against a moderate to minor loss of off-season recreational value, it is our recommendation that the Department reconsider its position on this important recommendation.

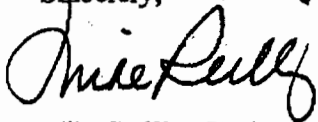
Further, given the increased fledgling success with the management practices already adopted, the Commission would strongly encourage the Department to incorporate and codify these practices in the ODSVRA/San Luis Obispo Coast State Parks Multi-Species Habitat Conservation Plan which is scheduled for agency reviews and public input and scoping processes during 2004.

Finally, we would encourage the ODSVRA to work with our staff in the coming year to assess the effectiveness and future utility of the TRT as well as the future schedule for Commission permit review and to present recommendations on these issues at the next annual review.

The Coastal Commission hopes to maintain a cooperative working relationship with the ODSVRA in managing vehicle use in a manner that also provides effective protection of the sensitive habitats and valuable biological resources at Oceano. Accordingly, the Commission has effectively renewed CDP 4-82-300 and submitted the above recommendations with the intent of continuing to increase fledgling success consistent with maintaining the state mandated recreational uses of the park.

Thank you for your continued attention to this important issue.

Sincerely,



Mike Reilly, Chairman
California Coastal Commission

MR:ps

Attachment

Cc: Andrew Zilke, Acting Superintendent, Oceano Dunes SVRA

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Annual Review

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(408) 427-4863



April 7, 2003

Steve Yamaichi, Superintendent
Oceano Dunes State Vehicular Recreation Area
576 Camino Mercado
Arroyo Grande, CA 93420

Subject: *Renewal of Coastal Development Permit 4-82-300-A5*

Dear Mr. Yamaichi:

On March 7, 2003, the Commission renewed the above referenced permit. However, please note that the Commission also voted 7 to 1 to recommend that the California Department of Parks and Recreation implement the recommendation of the TRT's Scientific Subcommittee to expand the enclosure protecting Western Snowy Plover and California Least Tern habitat during the 2003 nesting season. Specifically, the Commission recommended that State Parks extend the enclosure to a point 200 feet south of Post Marker 6, and to expand the enclosure to include the buffer area provided during the 2002 nesting season.

If you have any questions about the Commission's action, please feel free to contact me. I look forward to hearing State Park's response to this recommendation, and about the progress of the 2003 nesting season, at the next TRT meeting or sooner.

Sincerely,

original signed by

Steve Monowitz
Coastal Planner
Central Coast District Office

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Table 6. Nesting Success of Snowy Plovers at ODSVRA, 1998-2006.

Numbers in parentheses are the number of nests whose fate (hatch or fail) was determined.

| Year | Area | No. Nests | No. Nests Hatching | % Nests Hatching | No. Chicks | No. Chicks Banded or Known Fate | No. Banded Chicks Known Fledged | % Known Fledged |
|------|------------------------|----------------------|--------------------|------------------|------------|---------------------------------|---------------------------------|-----------------|
| 1998 | Riding Area | 33 ¹ (28) | 23 | 70 | 55 | 30 | 6 | 20 |
| | Oso Flaco | 9 (6) | 4 | 44 | 10 | 0 | - | - |
| | Total | 42 (34) | 27 | 64 | 65 | 30 | 6 | 20 |
| 1999 | Riding Area | 13 (13) | 9 | 69 | 23 | 11 | 3 | 27 |
| | Oso Flaco | 0 | - | - | - | - | - | - |
| | Total | 13 (13) | 9 | 69 | 23 | 11 | 3 | 27 |
| 2000 | Riding Area | 14 ² (13) | 12 | 86 | 29 | 25 | 4 | 16 |
| | Oso Flaco | 2 (2) | 2 | 100 | 4 | 2 | 0 | 0 |
| | Total | 16 (15) | 14 | 88 | 33 | 27 | 4 | 15 |
| 2001 | Riding Area | 29 (29) | 25 | 86 | 65-68 | 63 | 2 | 3 |
| | Oso Flaco | 4 (4) | 2 | 50 | 6 | 6 | 1 | 17 |
| | Total | 33 (33) | 27 | 82 | 71 | 69 | 3 | 4 |
| 2002 | Riding Area | 33 (33) | 25 | 76 | 62 | 62 | 35 | 56 |
| | Oso Flaco | 2 (2) | 0 | 0 | 0 | - | - | - |
| | Total | 35 (35) | 25 | 71 | 62 | 62 | 35 | 56 |
| 2003 | Riding Area | 81 ³ (80) | 57 | 70 | 149 | 143 | 98 | 69 |
| | Oso Flaco | 13 (13) | 5 | 38 | 11 | 11 | 7 | 64 |
| | Total | 94 (93) | 62 | 66 | 160 | 154 | 105 | 68 |
| 2004 | Riding Area | 120 (118) | 93 | 78 | 223 | 211 | 59 | 28 |
| | Oso Flaco | 27 (27) | 17 | 63 | 40 | 39 | 7 | 18 |
| | Total | 147 (145) | 110 | 75 | 263 | 250 | 66 | 25 |
| 2005 | Riding Area | 79 (79) | 60 | 76 | 142 | 142 | 57 | 40 |
| | East of BY | 2 (2) | 2 | 100 | 6 | 6 | 2 | 33 |
| | Oso Flaco | 22 (22) | 18 | 82 | 49 | 49 | 23 | 47 |
| | Unknown | 4 (4) | 4 | 100 | 7 | 7 | 0 | 0 |
| | Total | 107 (107) | 84 | 78 | 204 | 204 | 82 | 40 |
| 2006 | Riding Area | 88 (85) | 65 | 74 | 173 | 168 | 8 | 4.7 |
| | Oso Flaco ⁶ | 29 (29) | 22 | 79 | 57 | 53 | 9 | 17 |
| | Total | 117 (114) | 87 | 74 | 230 | 221 | 17 | 7.4 |

¹Includes 2 nests at Dune Preserve (both hatch).

²Includes 1 nest at Dune Preserve (unknown fate).

³Includes 1 nest at Dune Preserve (hatched).

⁴Totals for 2003 include 1 nest from unknown location producing 2 chicks, both fledging.

⁵For calculation of clutch hatching rate the four nests detected only by the presence of a brood are excluded, thus the clutch hatching rate is calculated from 80 hatching nests divided by 103 nets from known location.

⁶At South Oso Flaco, an additional 0.4 mile of shoreline was monitored in 2006 as compared to previous years.

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Mr. Peter M. Douglas
Executive Director
California Coastal Commission
45 Fremont Street
San Francisco, Calif. 94105

Re: Oceano Dunes State Vehicular Recreation Area (ODSVRA) Sixth Annual Report, By
Technical Review Team Member, Peter Keith (Charter Member)

Dear Mr. Douglas:

My name is Peter Keith and I represent the Business Community of South San Luis Obispo County as a member of the Technical Review Team (TRT). I have lived within a few blocks of the Oceano Dunes for thirty-five years. In addition, I own both real estate and businesses within that same zone. During the course of those many years, I have held numerous positions within local government inclusive of Mayor of Grover Beach, Council Member for two terms, and am currently the Vice-Chair of the Planning Commission. In addition, I was a past Gubernatorial candidate for appointment to the California Coastal Commission (Mike Ryan, Former San Luis Obispo County Supervisor was appointed).

I am requesting that you re-examine the current situation at the Oceano Dunes in an effort to better balance recreational use and species protection. Currently far too much negative environmental focus is placed on the camping and riding area when there is more than sufficient area for the development of habitat for the Snowy Plover and Least Tern to the South of the camping and riding area. By refocusing attention to an adjoining, geographically identical, protected non-vehicle area, we can easily achieve a positive win-win for all elements involved.

Over the course of the past five years it has become quite clear that the desired preservation of habitat within the boundaries of the ODSVRA, for either endangered or threatened species (Snowy Plover/Least Turn) is in direct opposition to an area of (State designated) land reserved for camping and as an off road vehicular recreation area. The nomenclature applied to the designated reserve speaks volumes about both the State of California's intended use of the land and the general, public understanding or interpretation of that use.

The California Legislature did not intend the ODSVRA to become a bird sanctuary but indeed, it certainly did intend it to become a state monitored, off road vehicular recreation activity area. Indeed, a land area that has subsequently become a battleground and a 'cause' for the 'extremist' environmental community and their belief that no off road vehicle usage will go unpunished!

Thus, the true duplicity of purpose becomes painfully evident. Every species that inhabits this planet has natural, universal rights; not simply to survive but to flourish in abundance to the limits of its ability to sustain itself in the natural world. So too, has the Human species the right to the enjoyment of this natural world.

Numerous philosophers, scholars and other learned people have devoted their careers and lives to the complex understandings of relationships between an ever expanding human population and the increasing diminishment of other species and their habitat.

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Correspondence
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**SIERRA
CLUB**
FOUNDED 1892

Santa Lucia Chapter
P.O. Box 15755
San Luis Obispo, CA 93406
(805) 543-8717
www.santalucia.sierraclub.org

RECEIVED

January 10, 2007

JAN 16 2007

Steve Monowitz, District Manager
Central Coast District Office
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

RE: Review of Coastal Development Permit 4-82-300-A5 for the Oceano Dunes State Vehicle Recreation Area (ODSVRA), San Luis Obispo County

Dear Mr. Monowitz,

The Santa Lucia Chapter of the Sierra Club represents the 2,500 members of the Sierra Club in San Luis Obispo County. On the question of whether current management measures are adequately protecting coastal resources at the Oceano Dunes State Vehicle Recreation Area, it is clear to us at this point that they are not.

We wish to bring four areas of concern to the Commission's attention. First, there is the matter of the decline of the fledgling rate of the Western snowy plover to 7 percent in the 2006 season.

Declining fledgling rates - from a high of 56.5% and 68% in 2002-3 to 25% in 2004, then rising to 40.2% in the 2005 season, then plunging down to the disastrous 7% fledged in 2006 - trace the classic contour of a declining mean (lower highs and lower lows). Parks continues to blame predation, without evidence and to the exclusion of any other possible factor, and without explanation as to why the predator control program that apparently worked well in 2002-03 worked much less well in 2004, then better in 2005, then utterly failed in 2006. Extra measures of predator management protection were instituted in 2006. If predation was the culprit in plover fledgling rates, then the least terns - stationery, and far more vulnerable than predators - should have been likewise impacted.

A more likely explanation is the repeated refusal of Parks to implement Coastal Commission requests for year-round fencing of nesting habitat. In 2004, the Commission noted the refusal of State Parks to reconsider its decision to reject the recommendation of the Point Reyes Bird Observatory (PRBO) and Scientific Subcommittee to close the nesting area year-round basis in order to protect habitat.

In its 2005 report to the Commission, staff correctly noted that the suggested measure of placing native plants, seaweed and driftwood in nesting areas to enhance the habitat during nesting season, then removing them for the rest of the year, would not address the problem of compacting of soils and general degradation of nesting habitat wrought by off-road vehicles throughout the rest of the year. Staff further noted that experimental year-round fencing in a test plot had resulted

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in increased nesting. In 2006, staff instead agreed to a study of the "potted plant" strategy, dropping the recommendation to institute year-round fencing. Parks clearly wishes to interpret "management measures" as simply meaning "more studies," and the Commission appears to be going along with this interpretation.

Actions that should have triggered adjustments and conditions to the permit have not done so. In its annual report to the Commission of Feb. 4, 2004, noting the ongoing failure of the TRT to adopt the Scientific Subcommittee's recommendations to expand the protected nesting area and institute year-round protective fencing, staff stated: "Should the ODSVRA fail to address the recommendation of the Scientific Subcommittee and this Commission during the upcoming nesting season, adjustments will need to be considered at the next annual review."

In its memorandum to Commissioners of Jan. 27, 2005, concerning the unknown fate of the significant number of chicks that hatched but did not fledge in 2004, staff requested "the Superintendent to work with the Scientific Subcommittee to update monitoring, management and reporting procedures in a manner that would improve tracking and protection of plover fledglings." The result of that request is now before us.

At this time, the Commission needs to acknowledge the reality on the ground in the light of the unheeded requests of the Commission and the Scientific Subcommittee. With these recommendations ignored or refused and fledgling rates now at a catastrophic low, it is time to make adjustments based on the conclusion that management measures are failing to protect coastal resources at the ODSVRA.

Further support for this conclusion, and our second area of concern, surrounds the recent discovery of the tidewater goby in Arroyo Grande Creek. Here again, as evidenced in the section of the 2005 TRT report addressing the goby ("...ongoing water quality sampling and monitoring of the Arroyo Grande Creek estuary is providing additional technical and management insights..."), the mere fact of studies taking place is deemed sufficient as a measure that addresses management issues for the goby. The treatment of this subject in the recently completed Alternative Access Study (AAS) is cursory and inadequate, deeming impacts on the goby to be "unlikely" because gobies are believed to exist in this area only as planktonic fry. This begs the following questions:

- Where is Parks' scientific evidence that the passage of motorized vehicles through their habitat has no impact on planktonic fry?
- How does Parks presume planktonic fry entered into the habitat if not from eggs, and where does it presume the eggs came from if not from adult gobies?

The AAS statement "Tidewater gobies are known to pass through the mouth of the creek primarily as planktonic fry" is not only unsupported, it is clearly wrong. Besides the AAS admission that endangered goby fry will pass through the mouth of the Creek where the ORVs cross, the AAS admits that mature tidewater gobies do the same (page 89), stating "Despite never persistently inhabiting a marine environment, re-colonization of extirpated habitat suggests that tidewater gobies are capable of dispersing via the ocean." Per the United States Fish And Wildlife Service's report of November 28, 2006, "Service Proposes Critical Habitat For Tidewater Goby," Federal Register, page 68916: "Some of the areas where tidewater gobies have been extirpated apparently have been recolonized when extant populations were present within a relatively short distance... (i.e., less than 6 miles...)." There are extant populations of tidewater goby a relatively short distance from Arroyo Grande Creek, in Pismo Creek to the north and Santa Maria River to the south (page 68933 of the Federal Register, Nov. 28, 2006). This dispersal between streams via

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the ocean would be impossible by planktonic tidewater gobies as this stage of their lives lasts only a few days (AAS, page 89).

It is abundantly clear that to leave and enter lagoons by migrating through the ocean, mature migrating gobies must swim both ways through the mouths of streams. Therefore, for the Arroyo Grande Creek tidewater goby population, every mature migrating goby must pass at least once through the ORV crossing zone. As the AAS correctly states on page 89, the tidewater goby is a benthic (bottom dwelling) fish. State Parks' short duration experiment of driving an ORV in the mouth of Arroyo Grande Creek demonstrated benthic fish are killed by this activity (see State Parks' "Aquatic Survey, Arroyo Grande Creek And Lagoon", June 13, 2005), as admitted by Parks' fisheries biologist Douglas Rischbieter where he states "surveys have documented that benthic species can be susceptible to injury from fording traffic" (State Parks' "Aquatic Survey, Arroyo Grande Creek And Lagoon", February 26-27, 2006). It is clear that the endangered, benthic tidewater goby is at risk of being killed each time it migrates between the Ocean and Arroyo Grande Creek.

Since the AAS makes no attempt to analyze the above discussed injury and mortality risks to the floating planktonic fry and the benthic migrating stages of the endangered tidewater goby in the ORV crossing zone, the AAS is extremely inadequate and does not support its conclusions that "impacts to this species are unlikely" and "No mitigation is required" (pp. 130-131).

Our third area of concern stems from the Alternative Access Study overall and what it indicates as to whether current management measures are adequately protecting coastal resources. As noted in the settlement agreement of Sierra Club v. Areias, "it is stated policy of State Parks to avoid vehicle crossings of Arroyo Grande Creek." But on page 206 of the Alternative Access Study, the purpose of which was to find an environmentally acceptable way into the ODSVRA that avoids crossing Arroyo Grande Creek, Parks states that "use of the existing access corridors [across Arroyo Grande Creek] should be allowed to continue even if a new corridor is created."

Parks' AAS analysis of six alternative access routes to the ODSVRA ranks impacts in seven policy categories, rating sensitivity issues in each category on scale of one to five, five being the most sensitive. Crossing Arroyo Grande Creek and driving on the beach is deemed to have the lowest level of sensitivity in the categories of "Visual", "Noise", and "Traffic & Air Quality" impacts. It achieves this low ranking because the issues of impacts on the residents along several blocks of Strand Avenue next to the beach and creek, and on the thousands of non-ORV visitors to this area of the Park, is not considered as a factor.

The environmental impacts of driving a motor vehicle on a beach are not addressed. Early in the AAS process, Sierra Club, CASA, and other citizens gave Parks a copy of a recent study that concluded ORVs have significant impacts to vertebrates, invertebrates and plants existing on or under the sand of ocean beaches. We told Parks representatives that we expected the AAS to assess these significant biological impacts. The AAS has entirely avoided this impact assessment.

The AAS discussion of "Hydrology and Water Quality Impact Assessment" fails to assess the impact of gas and oil pollutants from the undercarriages of hundreds of thousands of ORVs washing into the creek and the ocean. Parks justifies its non-analysis of these impacts caused by the existing access in the same way they justify the non-analysis of impacts of the existing access in the categories of "Visual," "Noise," and "Traffic & Air Quality." Because the impact is already happening.

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This artful distortion of the concept of environmental baseline further strongly indicates that recreational use limits and resource management measures are not effectively protecting the environmentally sensitive habitat areas of the park.

Our fourth and potentially most serious area of concern arises from recent personal communication with a former ODSVRA employee, who has told us that Parks has been cutting back and reducing vegetation at the perimeter of the islands of native vegetation in the dunes and reducing the circumference of fencing around the islands in order to open up more riding area. We are told that while the permit calls for 100-foot buffer zone for the islands, no island has a 100-foot buffer zone, that riding through the vegetation islands is routine, fencing is not kept up around the islands nor in the archaeology area, and equestrians are constantly allowed in the dune preserve. Vegetation is rapidly being lost at Boy Scout, Cottonwood, and Eucalyptus Camp, and revegetation efforts are not working due to ODSVRA's current policy of putting out seed only, ineffective in dunes, rather than continuing to grow plants in the greenhouse and relocate them to the dunes.

Parks will no doubt respond that these are unsubstantiated charges from a disgruntled former employee. They may be, just as they may be the direct observations of a whistle-blower. Either way, these allegations go beyond the issue of adequacy of current management measures and raise the question of bad faith and deliberate violations of the conditions of the permit, and therefore require immediate investigation.

Taken in conjunction with the ongoing failure of the Superintendent to implement recommendations of the Commission and the Scientific Subcommittee, the highly alarming reported 2006 plover fledgling rate, the dubious assumptions and resulting non-management of the recently discovered tidewater goby, and the failure to adequately or accurately assess impacts of both the current and alternative access routes into the ODSVRA, these allegations mandate immediate suspension of the Coastal Development Permit until an independent investigation has provided satisfactory answers and all the concerns listed above are adequately addressed.

Short of this, the Commission should set a permit condition requiring Parks to maintain a set acreage of vegetation, with amounts set for the foredunes, willow ridges and back dunes.

In 2006, the Department of Fish and Game stated that they could no longer participate in the TRT, to which staff commented "This is problematic in that the Special Condition for the permit requires participation of the Department of Fish and Game." At this time, the Commission should act on the obvious, dissolve the TRT, and allow the Scientific Advisory Committee established under the HCP to take over the function of the Scientific Subcommittee.

Sincerely,



Andrew Christie
Chapter Director

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Steve Monowitz

From: Bill Denneen [bdenneen@kcbx.net]
Sent: Sunday, January 28, 2007 6:25 AM
To: Steve Monowitz
Cc: BCuddy@thetribunenews.com
Subject: AAS

TO: CA COASTAL COMMISSION (CCC) <smonowitz@coastal.ca.gov>
RE: ALTERNATIVE ACCESS STUDY (AAS) for the OCEANO DUNES SVRA

The CCC should immediately do its job and remove all vehicle use (except emergency) from the mouth of Arroyo Grande Creek which is Critical Habitat for at least 4 Endanger Species.

I have waited over 2 decades for this Alternative Access Study. It has been delayed so many times while the issue has been "studied". The cost of the report was almost \$200,000.

The OHV Divison of State Parks is funded by a percent of the gas tax and as the price of gas goes up they get more money---they are rich. It was prepared by Condor Environmental, Leader Elihu Gervirts, 3944 State Street, Suite #300, Santa Barbara, CA. 93105

The "Alternative Access" is an alternative to the mouth of Arroyo Grande Creek which is "critical habitat" for at least 4 endangered species The beach is functioning as a 'sink'. A 'sink' is an area where a species is attracted but is unable to reproduce sufficiently to maintain their numbers. There were 50 nesting sites of the "Snowies" along the west coast but only 8 are left----an important one at the mouth of Arroyo Grande Creek.

Citizens need time to get away from the pressures of our technological civilization dominated by cars. We need time to walk on a beach, listened to waves, see birds flying, to relax, get away from freeways for our own sanity.

> The "Abstract" page at the bottom it states: "The
> study concludes that continued use of the Grand Avenue and Pier
> Avenue is the environmentally preferred alternative." This does not
> make sense--- the Alternative Access Study was to find an
> alternative access????

> A few details I have trouble with:
> >1. p130 Tidewater goby -- states "impacts to this species are
> unlikely" yet just above that it states they must pass through the
> mouth of AGCreek as planktonic fry.
> >2. p 209 Grand and Pier Ave access no noise problem ---have you
> talked to folks living on Strand Way?
> >3. p 209 "No Biology problems" for Grand & Pier Ave. How is
> this conclusion reached? Isn't the purpose of the study to get
> vehicles off the Critical Habitat at the mouth of AGCreek ??
> >4. p 131 Western Snowy Plover ---- How many survived & fledged
> this past repro season? It states "not expected to change the
> level of impact" which is true but isn't the purpose of this AAS
> to remove the vehicles so that more Snowies will survive? Where is
> the data for the last breeding season???
> >5. p 11 It states the purpose of the AAS "is to identify
> alternative routes for motorized vehicles to access the vehicle
> riding area....." It would seem the best alternative access if
> vehicles must be there is through the refinery (Conoco)

> President Bush stated in his State of the Union
> Address (Jan.06) that "We are addicted to oil.". I suggest that we
> reduce this "addiction" by NOT promoting use of gas tax dollars to
> promote MORE vehicle use as a type of so called
> "recreation"-----a vicious cycle.

> Defund the OHV Divison of CA State Parks by
> terminating its existance. Legislation put it in, legislation can
> take it out. Why is our State Park System promoting vehicle use
> as a type of "recreation"??

> > SLOCounty owns 580 acres within ODSVRA which is 44%

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> of the vehicle area. If SLO County will not demand that vehicles be
> removed from county property than this 580 acres could be traded
> for the 500 acres owned by the OHV Division at Osos Flaco Lake and
> a SLO County Park established there.

Coastal Commission tell the OHV Division of State
Parks to remove all vehicles from the mouth of AGCreek.

Sincerely,

Wm Denneen, Emeritus Bio.Prof., 1040 Cielo Ln., Nipomo, 93444

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