

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863 FAX (831) 427-4877
www.coastal.ca.gov

Th13

CENTRAL COAST DISTRICT (SANTA CRUZ) DEPUTY DIRECTOR'S REPORT

For the

August Meeting of the California Coastal Commission

MEMORANDUM

Date: August 9, 2007

TO: Commissioners and Interested Parties
FROM: Charles Lester, Central Coast District Deputy Director
SUBJECT: *Deputy Director's Report*

Following is a listing for the waivers, emergency permits, immaterial amendments and extensions issued by the Central Coast District Office for the August 9, 2007 Coastal Commission hearing. Copies of the applicable items are attached for your review. Each item includes a listing of the applicants involved, a description of the proposed development, and a project location.

Pursuant to the Commission's direction and adopted procedures, appropriate notice materials were sent to all applicants for posting at the project site. Additionally, these items have been posted at the District office and are available for public review and comment.

This report may also contain additional correspondence and/or any additional staff memorandum concerning the items to be heard on today's agenda for the Central Coast District.

DE MINIMIS WAIVERS

1. 3-07-010-W City Of Pismo Beach, Attn: Carolyn Johnson, Planning Manager (Pismo Beach, San Luis Obispo County)
2. 3-07-028-DM Monterey City Public Works Department, Attn: Elvie Camacho (Monterey, Monterey County)

EXTENSION - IMMATERIAL

1. 3-04-052-E1 Dean & Rebekah F. Witter (Carmel Highlands, Monterey County)

TOTAL OF 3 ITEMS

DETAIL OF ATTACHED MATERIALS

REPORT OF DE MINIMIS WAIVERS

The Executive Director has determined that the following developments do not require a coastal development permit pursuant to Section 30624.7 of the California Coastal Act of 1976.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
3-07-010-W City Of Pismo Beach, Attn: Carolyn Johnson, Planning Manager	Construct a public beach access stairway on the bluff between the existing public blufftop park on Beachcomber Drive and the ocean.	Beachcomber Drive, Pismo Beach (San Luis Obispo County)
3-07-028-DM Monterey City Public Works Department, Attn: Elvie Camacho	Demolition and removal of existing woodframe commercial structure (Mohr Import Motors) and surrounding paved area and expansion of Monterey Bay Waterfront Park into this area, including new pathways, turf areas, and landscaping.	999 Del Monte Avenue, Monterey (Monterey County)

REPORT OF EXTENSION - IMMATERIAL

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
3-04-052-E1 Dean & Rebekah F. Witter	Construction of a one-story, 2,232 square foot single family residence (modular home) with attached 440 square foot garage, flagstone patio, concrete driveway and parking area, landscaping (including at least 1500 sq.ft. of hardscaping and 700 sq.ft. synthetic turf putting green), septic system, drainage system, and extension of existing wood and wire fencing along public access trail between Yankee Point Drive and Malpaso Creek Beach.	112A Yankee Point Drive, Carmel Highlands (Monterey County)

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**NOTICE OF COASTAL DEVELOPMENT PERMIT WAIVER**

DATE: July 26, 2007
TO: City Of Pismo Beach, Attn: Carolyn Johnson, Planning Manager
FROM: Peter M. Douglas, Executive Director
SUBJECT: Waiver of Coastal Development Permit Requirement:
Waiver De Minimis Number 3-07-010-W

Based on project plans and information submitted by the applicant(s) named below regarding the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit, pursuant to Title 14, Section 13238 of the California Code of Regulations.

APPLICANT: City Of Pismo Beach, Attn: Carolyn Johnson, Planning Manager
LOCATION: Beachcomber Drive, Pismo Beach (San Luis Obispo County) (APN(s) 010-144-024)
DESCRIPTION: Construct a public beach access stairway on the bluff between the existing public blufftop park on Beachcomber Drive and the ocean.
RATIONALE: Proposed development expands public access and recreational opportunities to South Palisades beach and the shoreline consistent with LCP guidelines and the Coastal Act. The public access stairway will be available to the general public for shoreline access 24 hours per day, 365 per year over the life of the project. The project includes permanent measures to intercept blufftop surface runoff and direct it inland to existing drainage facilities to prevent erosion of the bluff and any potential adverse impacts to coastal water quality. All disturbed areas will be revegetated with native plant species from local stock in a manner designed to stabilize the bluff. Furthermore, construction BMPs are included to protect coastal resources in the vicinity of the project during construction and minimize encroachment on the beach. The project has been designed to avoid the need for shoreline armoring over its lifetime (including a concrete base at its bottom), and any future shoreline erosion danger shall be addressed by other means (e.g., reconfiguring / moving stairway as necessary). The proposed development will not otherwise involve any significant adverse impact on coastal resources or public access to the shoreline.

IMPORTANT: This waiver is not valid unless the site has been posted AND until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission at the meeting of Thursday, August 9, 2007, in San Francisco. If four Commissioners object to this waiver, a coastal development permit will be required.

Persons wishing to object to or having questions regarding the issuance of a coastal permit waiver for this project should contact the Commission office at the above address or phone number prior to the Commission meeting date.

Sincerely,
PETER M. DOUGLAS
Executive Director

By: STEVE MONOWITZ
District Manager

BY DAN CARL
Handwritten signature of Dan Carl in black ink.

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**NOTICE OF COASTAL DEVELOPMENT PERMIT WAIVER**

DATE: July 26, 2007
TO: Monterey City Public Works Department, Attn: Elvie Camacho
FROM: Peter M. Douglas, Executive Director
SUBJECT: Waiver of Coastal Development Permit Requirement:
Waiver De Minimis Number 3-07-028-DM

Based on project plans and information submitted by the applicant(s) named below regarding the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit, pursuant to Title 14, Section 13238 of the California Code of Regulations.

APPLICANT: Monterey City Public Works Department, Attn: Elvie Camacho
LOCATION: 999 Del Monte Avenue, Monterey (Monterey County) (APN(s) 001-801-16)
DESCRIPTION: Demolition and removal of existing woodframe commercial structure (Mohr Import Motors) and surrounding paved area and expansion of Monterey Bay Waterfront Park into this area, including new pathways, turf areas, and landscaping.
RATIONALE: The proposed development will enhance and restore views to the ocean and will provide additional recreational and public access opportunities along this section of the Monterey Bay coastline. The project is a component of the City's "Window on the Bay" project that provides for the removal of buildings between Del Monte Avenue (the first public road) and the Monterey Bay, and the extension of passive recreational park facilities into the former building locations. The result is an enhanced public viewshed (including opening up new ocean views) and enhanced shoreline public access and recreational facilities. The proposed project involves no potential for any adverse effect, either individually or cumulatively, on coastal resources and it is consistent with the policies of Chapter 3 of the Coastal Act of 1976 (commencing with Section 30200).

IMPORTANT: This waiver is not valid unless the site has been posted AND until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission at the meeting of Thursday, August 9, 2007, in San Francisco. If four Commissioners object to this waiver, a coastal development permit will be required.

Persons wishing to object to or having questions regarding the issuance of a coastal permit waiver for this project should contact the Commission office at the above address or phone number prior to the Commission meeting date.

Sincerely,
PETER M. DOUGLAS
Executive Director

By: STEVE MONOWITZ
District Manager

BY DAN CAEL
Handwritten signature of Dan Cael in black ink.

CALIFORNIA COASTAL COMMISSION

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



July 26, 2007

**NOTICE OF EXTENSION REQUEST
FOR COASTAL DEVELOPMENT PERMIT**

Notice is hereby given that: **Dean & Rebekah Witter**
has applied for a one year extension of Permit No: **3-04-052-E1**
granted by the California Coastal Commission on: **May 11, 2005**

for: **Construction of a one-story, 2,232 square foot single family residence (modular home) with attached 440 square foot garage, flagstone patio, concrete driveway and parking area, landscaping (including at least 1,500 sq.ft. of hardscaping and 700 sq.ft. synthetic turf putting green), septic system, drainage system, and extension of existing wood and wire fencing along public access trail between Yankee Point Drive and Malpas Creek Beach.**

at: **112A Yankee Point Drive, Carmel Highlands (Monterey County)**

Pursuant to Section 13169 of the Commission Regulations the Executive Director has determined that there are no changed circumstances affecting the proposed development's consistency with the Coastal Act. The Commission Regulations state that "if no objection is received at the Commission office within ten (10) working days of publishing notice, this determination of consistency shall be conclusive. . . and the Executive Director shall issue the extension." If an objection is received, the extension application shall be reported to the Commission for possible hearing.

Persons wishing to object or having questions concerning this extension application should contact the district office of the Commission at the above address or phone number.

Sincerely,
PETER M. DOUGLAS
Executive Director

A handwritten signature in black ink that reads "DAN CARL".

By: STEVE MONOWITZ **BY DAN CARL**
District Manager

cc: Carl Holm, Monterey County Planning and Building Inspection Department

Tony Lombardo, Lombardo & Gilles

CALIFORNIA COASTAL COMMISSION

Re: 3-04-052-E1
 Redfern Omega, Ec. Div.
 California Coastal Commission
 District Office
 725 Foothill St Ste. 300
 Santa Cruz, CA 95060
 07-29-07
 150 Channel View
 Orange CA 939

Dear Mr Dowling: I am writing in
 protest of the Commission's plan to
 approve an extension of Dem + Reservoir
 with this Permit # 3-04-052-E1.

My understanding of the Commission is
 that there is the protection of the
 public's drinking water + the
 insurance of the public's general safety
 the water's own expansion both there
 essential and necessary.

The permit's residence intrudes upon the public's
 interests as they pass by the area on
 adjacent Hwy 1 - caused Hwy - a
 trespassed scenic highway. The
 residence is further in violation of
 the Commission's mandate because it
 intrudes upon the public's interest
 to maintain safety in such close proximity
 that a fire engine could not pass
 during the event, thus endangering
 public safety.

THE WATER'S RESERVE CRIES THEM
 THE INVIOLABILITY OF SEVERAL TIMES.
 However, it should not give them the
 indulgence of intruding on the
 public's interests + compromising public
 safety.

PLEASE REUSE THE APPLICATION FOR
 A ONE-YEAR EXTENSION OF PERMIT #
 3-04-052-E1

Thank you

Sincerely
 Benjamin Weinstein
 Benjamin Weinstein
 831-625-5586

CALIFORNIA
 COASTAL COMMISSION
 CENTRAL COAST AREA

JUL 18 2007

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William and Myrna Brandwein
115 Yankee Point Drive
Carmel, CA 93923
831-624-3964

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AUG 01 2007

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Executive Director
California Coastal Commission
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

RE: Notice of Extension Request
Dean & Rebekah Witter
3-04-052-E1

Dear Executive Director:

This letter is in opposition to the above captioned Extension Request. Since the Witters were granted their request for a zoning variance over the objections of approximately 90% of the residents of our Yankee Point area, their residence which is adjacent to the subject property has been in a short term rental pool and is frequently occupied for corporate outings or parties. If they are granted their extension request we are afraid they will do the same with this property.

When the original request was filed with the County, it was for a care taker house to protect their existing residence. Then the story changed to be for grandchildren. Since their original request was granted by the County they have had their residence in a rental pool. At times we have witnessed buses pull in front of the residence to pick up large amounts of people having a party in the residence. These are obvious corporate events. If the same will apply to the subject property we will have our quiet neighborhood invaded by events such as these.

Unfortunately, it appears as if the Witters have consistently misrepresented their intentions for this property. To me it smacks of either a way to place an inexpensive modular home on a very expensive piece of property to turn a quick sale into a profit or to continue with the short term rentals to maximize their return at the annoying expense of the residents of this community. If they are allowed to continue this practice it is possible to affect the values of their neighbors properties and cause the area to be down graded.

We urge you to turn down this request and respect the wishes of approximately 90% of this community who objected to the original application.

Sincerely yours,

William & Myrna Brandwein

William & Myrna Brandwein

Date: 7-31-07

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To:
Commissioner
& California Coastal Commission

JUL 31 2007

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

From:
Norman Leve & Fran Leve
113 Yankee Point Drive
Carmel, Ca. 93923

Bill & Myrna Brandwein
115 Yankee Point Drive
Carmel, Ca. 93923

Dear Commissioner

We are writing to you on behalf of the over 60 residents of Yankee Point who have written letters of objection to the Board of Supervisors stating their objections to the planned project to be constructed on 112A Yankee Point Drive. (Application #3-04-052 Witter Family Trust.)

I am not certain if you are aware of the history of this project, but allow me to briefly bring you up to speed.

The owners of 112A made a two part request that was put in front of the Carmel Area Land Use Advisory Committee (submitted twice and unanimously rejected twice). The owners of 112A wanted lot line variances and also wished to place a manufactured/mobile home on this waterfront location. Over sixty letters were sent protesting both issues. (I have enclosed copies of these for your review.) The two issues were placed before the Zoning Administrator who denied the lot line variances as the owners do not meet the criteria set forth in the governing ordinance 20.78.040 and also the Zoning Administrator's staff report clearly stated that a home, larger than the one currently before your commission, could easily be placed on 112A with no variances required. The staff report, and the Zoning Administrator recommended that the Board of Supervisors turn the request for variances down. Unfortunately the Board of Supervisors decided to ignore all of the above facts and granted this variance. The reasons for this decision have never been fully explained. However, it should be noted that what has in fact happened is that the Witters desire to not obstruct their views from 112, across 112A have been met at the expense of taking views from their neighbors whose views were protected by legal setback restrictions that have been ignored. I would find it difficult to believe that anyone could call this right, or fair. Setbacks and height restrictions are protections that property owners have a right to expect will be fairly enforced, not ignored. These same restrictions are designed to protect our coastal views as well.

The second part of the request was to place a manufactured/mobile home on the site. The Zoning Administrator took the position

Date 7-31-07
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that he could not prohibit the placement of a manufactured/mobile home. Also since the manufactured/mobile home resembles some of the homes already in Yankee Point he felt that his hands were tied. The Zoning Administrator missed the mark in two significant ways. First is that a manufactured home may be denied zoning approval if it does not meet the current aesthetics, or property values of the area in which they wish to be placed. This was the decision of the 3rd. Circuit Federal Court of Appeals (Lauderbaugh V. Larry's Homes of Pennsylvania, Inc.) The Zoning Administrator also stated that this manufactured/mobile home resembles some existing homes. He is correct if he is only looking at the homes that are from 35 to 50 years old. New homes and remodels on Yankee Point bear no resemblance whatsoever to what 112A wishes to place. The design of this home does not come close to any other recent new or remodel on Yankee Point. Manufactured/Mobile homes cost less than \$100.00 per square foot to purchase, exclusive of land. Homes currently being built on Yankee Point are running from \$300 to \$600 per square foot to construct, exclusive of land. No reasonable person can make a claim that the quality, or aesthetics of this home meet the current standards that the residents of Yankee Point are trying to maintain.

Perhaps the most important issue, and one that should be carefully considered is the precedent that you will be setting. By allowing a manufactured/mobile home to be placed in Yankee Point no governing authority will be able to stop manufactured/mobile homes from being placed anywhere in Monterey County, or perhaps in the State. Every time the issue comes up, no matter where, all that will be needed is for those wishing to place this type of housing where it is inappropriate is for them to point to 112A Yankee Point. The issues of aesthetics, or property values will no longer be valid. Every quick buck developer will see a great opportunity to enter high value areas with inexpensive homes that do nothing but lower surrounding property values. Do we really wish to see this type of housing dotting our entire coastline?

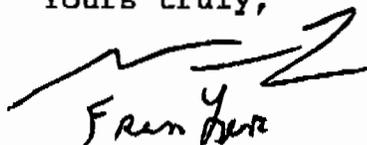
There is one other issue that I hope will be considered. The applicants for 112A have stated that they wish to live in 112 (which is adjoining 112A and is owned by them) and perhaps have their family or themselves move into 112A. When the project was originally proposed the home on 112A was to be a caretakers home, then the Witters changed this and stated that it was to be a family home. The facts are that 112 is listed by San Carlos Real Estate and is rented out by the week for \$6,500.00 or by the month for \$20,000.00. This was confirmed as recently as March 4, 2005. The unit is almost fully booked through the summer of 2005 according to San Carlos Real Estate as of March 3, 2005.

Date 7-31-07
Commissioner
& California Coastal Commission
Page 3

Surely it stretches credibility to assume that 112A will not also be a rental unit. One might assume that the reason for placing such an undermarket home is simply that it will be more profitable to lease. Throughout the entire process, the Witters have shown a complete disregard for their neighbors, as well as for their neighbor's property values. In addition, the Witters have not been forthcoming regarding their intended use of this property.

We sincerely hope that the above critical issues will be considered prior to a final decision being made.

Yours truly,

A handwritten signature in black ink, appearing to read "Fran Leve". The signature is stylized with a large, sweeping initial "F" and "L".

Norman & Fran Leve

Bill & Myrna Brandwein

CALIFORNIA COASTAL COMMISSION

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

**Memorandum**

August 8, 2007

To: Commissioners and Interested Parties

From: Charles Lester, Deputy Director, Central Coast District

Re: Additional Information for Commission Meeting Thursday, August 9, 2007

<u>Agenda Item</u>	<u>Applicant</u>	<u>Description</u>	<u>Page</u>
Th15c, STC-MAJ-1-06	City of Santa Cruz	Request for Postponement	1
Th16b, A-3-SLO-07-035	Stolo	49-day Waiver	2
Th17a, A-3-SLO-00-040	Schneider	Request for Postponement	3
Th17b, 3-06-057	Edwards	Move to Consent	4

Miscellaneous Information– Items not on today's agenda

Draft letter to Secretary Michael Chrisman, CA Resources Agency from Coastal Commission -- Resource Management at the Oceano Dunes State Vehicle Recreation Area	5
Letter from San Luis Obispo County -- Compliance with CDP, OSDVRA	7
Letter from CA Parks & Recreation – OSDVRA response to Chairman Kruer's letter	11

Th 15c

Susan Craig

From: Alex Khoury [AKhoury@ci.santa-cruz.ca.us]
Sent: Monday, August 06, 2007 12:20 PM
To: Susan Craig
Cc: Greg Larson; Ken Thomas
Subject: Creeks and Wetlands

Dear Susan,

This e-mail is to confirm our discussion from last week of the City of Santa Cruz's request for our Local Coastal Program Amendment for the City-wide Creeks and Wetlands Management Plan to be postponed or continued from the August 9, 2007 Coastal Commission meeting to the Coastal Commission meeting in October. This will allow us the time to review your report thoroughly and discuss any aspects with you that need discussing prior to the October meeting. It is my understanding that the postponement/continuance is acceptable to you. Also I will be working with you on a time later this month to have the Commission's staff biologist come up to Santa Cruz to discuss and visit some of the creek reaches in question in your report. Thank you for your help on this and your work on the amendment.

Sincerely,
Alex

Alex Khoury
Principal Planner
City of Santa Cruz

831-420-5116

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AUG 06 2007

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COASTAL COMMISSION
CENTRAL COAST AREA

Th166

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
728 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4883
FAX: (831) 427-4977



Waiver of 49 Day Rule for an Appeal of a Local Government Coastal Development Permit Decision

Local Government Application Number: DRC 2005-00039

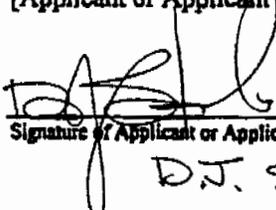
Coastal Commission Appeal Number: A-3-SLO-07-035

Applicant Name: Stolo

Appeal Filing Date: July 13, 2007

I hereby waive my right to a hearing of the above-referenced appeal within 49 days after the appeal has been filed as established by Public Resources Code Sections 30621 and 30625(a). I understand that the local decision approving my coastal development permit application has been stayed and that I have no authorized permit to proceed with my project until the California Coastal Commission takes a final action on the project or the appeal is withdrawn. I also understand that the first Coastal Commission hearing on my item may only be a determination as to whether the appeal raises a "substantial issue." If substantial issue is found, the de novo hearing on the merits of the project may be continued to a subsequent meeting. Although I understand that the Commission may not be able to honor my scheduling requests, I request that the referenced appealed project be scheduled for TO BE MUTUALLY AGREED

[Applicant or Applicant's Authorized Representative must sign and date below.]



Signature of Applicant or Applicant's Authorized Representative
D.J. STOLO

7/19/07

Date

Th17a

Aug-01-2007 10:27am From-

T-516 P.002/003 F-523

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
720 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 437-4963



Request for Postponement

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AUG 03 2007

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Re: Application No. A-3-SLO-00-040

I hereby request a postponement of the referenced application from its scheduled Commission public hearing date. I do so as a matter of right pursuant to Public Resource Code 13073(a), and acknowledge that I may be granted only one right to postponement. I also agree to waive any applicable time limits for Commission action pursuant to Public Resources Code 13073(c) on the above-referenced application. I understand I must provide another set of stamped, addressed envelopes to meet public notice requirement consistency with CCR 14 Section 13054. These must be received in the District Office by _____. I request that the referenced application be scheduled:

- () for consideration at the next possible Southern California Commission meeting.
- () for consideration at the next possible Northern California Commission meeting.

(I understand that the application may need to be scheduled without regard to the Southern/Northern California preference, for reasons beyond the control of the Commission.)

- () for consideration after staff and I have had additional time to discuss the project.

Other (explain) OCTOBER MEETING

8/3/07
Date

Signature of applicant or authorized agent

Th 17b

Michael Watson

From: Neil Edwards [neiledwards@verizon.net]
Sent: Monday, August 06, 2007 2:37 PM
To: Michael Watson
Cc: ahead26@aol.com
Subject: Item #Th 17b- Aug.9,2007 Hearing

Dear Mr. Watson and To Whom It May Concern:

Both my brother - Arthur Edwards - and I are in agreement with the coastal commission's recommendation and conditions with our project application #3-06-057. Please move our item (Th17b) on Aug. 9, 2007 - Coastal Commission Hearing - to the consent item category.
Sincerely - Neil H. Edwards

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AUG 06 2007

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CENTRAL COAST AREA

CALIFORNIA COASTAL COMMISSION

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

DRAFT

August xx, 2007

Secretary Michael Chrisman
California Resources Agency
1416 9th Street, Suite 1311
Sacramento, CA 95814

Dear Secretary Chrisman,

We write on behalf of the Coastal Commission to thank you for the opportunity to discuss the Commission's concerns about resource management at the Oceano Dunes State Vehicle Recreation Area (ODSVRA). In particular, we sincerely appreciate being able to share our thoughts on how the Department of Parks and Recreation and the Commission may work effectively together in the coming years on striking the appropriate balance between maintaining public recreation and protecting sensitive resources at the ODSVRA.

As we discussed, we believe that the pending Habitat Conservation Plan being developed by DPR will be the next critical management step in helping to resolve concerns previously raised by the Commission, such as studying the potential benefits of year-round nesting area enclosures, evaluating alternative access routes and staging areas for OHV users, and addressing outstanding questions related to interpretation of the San Luis Obispo County LCP and Coastal Commission permit requirements at the ODSVRA. We also appreciate that our staff has committed to reviewing the HCP and providing feedback to DPR prior to review of the HCP by the Commission. Based on the discussion, we are optimistic that significant progress will be made on the HCP this fall, with a public review draft available early next year.

We look forward to working closely with DPR, other resource agencies, the County of San Luis Obispo, and the public in our on-going efforts to maximize public coastal recreation and protect sensitive resources at Oceano Dunes. Thank you again for your time and commitment in helping the Commission with this effort.

Sincerely,

Commissioner Sara Wan

Commissioner Mary Shallenberger

cc: Karen Scarborough, Resources Agency
Brian Baird, Resources Agency
Ruth Coleman, Director, California Department of Parks and Recreation
Daphne Greene, Deputy Director, Off-Highway Motor Vehicle Recreation Division
Andy Zilke, District Superintendent, Oceano Dunes District
Jerry Lenthall, Chairperson, San Luis Obispo County Board of Supervisors

BOARD OF SUPERVISORS



1055 MONTEREY, ROOM D430 • SAN LUIS OBISPO, CALIFORNIA 93408-1003 • 805.781.5450

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JUL 02 2007

June 18, 2007

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

KHATCHIK H. "KATCHO" ACHADJIAN, Supervisor District Four
JAMES R. PATTERSON, Supervisor District Five

HARRY L. OVITT, Supervisor District One

BRUCE GIBSON, Supervisor District Two

JERRY LENTHALL, Supervisor District Three

Mr. Patrick Kruer, Chairman
California Coastal Commission
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

Subject: Compliance with Coastal Development Permits, Oceano Dunes SVRA

Dear Chairman Kruer,

As you are aware, the California Department of State Parks and Recreation has offered to purchase approximately 584 acres of County-owned land in the Oceano Dunes area for continued use as part of the State Vehicular Recreational Area. In the attached letter dated May 14, 2007 from Daphne Greene, Deputy Director of the Off-Highway Motor Vehicle Recreation Division to the County of San Luis Obispo, Ms. Greene discusses conformance with Coastal Development Permit 4-82-300 and states:

"Specifically, issues arose regarding the temporary nature of the current beach access points at Grand Avenue and Pier Avenue and the staging area at post two. These issues were resolved when DPR initiated the Access Corridor Study and EIR in 1991 as required by the CCC. The study and EIR concluded that the existing access points at Grand Avenue and Pier Avenue were the environmentally preferred alternatives of all access points studied. The study and EIR were transmitted and accepted by the CCC pursuant to permit conditions. Further, both the State Park and Recreation Commission, as well as the Off-Highway Motor Vehicle Recreation Commission, adopted the study and amended the Pismo State Beach/Pismo Dunes SVRA General Development Plan to reflect the permanency of the exiting accesses and staging area at beach post two."

Mr. Patrick Kruer
June 18, 2007
Page 2

It is very relevant to the County's negotiations with State Parks to know if the Coastal Commission concurs with State Parks that they are in compliance with their Coastal Development Permits. Any information that you can provide with regard to State Parks compliance would be most appreciated. Further, the County would like to know if the existing access points at Grand Avenue and Pier Avenue and the staging area at beach post two are, in fact, permanent and in compliance with the Coastal Development Permit. It is imperative that the County have all relevant information before a decision can be made on the State's proposed purchase. We would, therefore, appreciate a written reply to the above inquires as soon as possible. Please contact me at (805) 781-5450 if you should have any additional questions.

Sincerely,



JERRY LENTHALL
Chairman, Board of Supervisors

- c- Harry Ovitt- Supervisor, 1st District
- Bruce Gibson- Supervisor, 2nd District
- K.H. "Katcho" Achadjian- Supervisor, 4th District
- James Patterson- Supervisor, 5th District
- Duane P. Leib, General Services Director
- James B. Lindholm, Jr., County Counsel
- Rita Neal, Deputy County Counsel
- Caryn Maddalena, County Real Property Manager
- Linda Van Fleet, Associate Real Property Agent
- Andy Zilke, District Superintendent, State Department of Parks and Recreation
- Daphne Greene, Deputy Director, Off-Highway Motor Vehicle Division
- Warren Westrup, Chief, Acquisition and Real Property
- Manuel T. Lopez, Deputy Director, Administrative Services

Enclosure



May 14, 2007

Mr. Jerry Lenthall, Chairman
Board of Supervisors
County of San Luis Obispo
1055 Monterey Street, Room D430
San Luis Obispo, California 93408-1003

RECEIVED
MAY 14 2007
GENERAL SERVICES

Subject: Proposed Sale of County-Owned Property to the State of California

Dear Chairman Lenthall,

Thank you for your letter dated May 4, 2007, which we received on May 9, 2007, regarding the proposed sale of County-owned property to the State of California for the ongoing operation of Oceano Dunes State Vehicular Recreation Area (SVRA). In your letter you outlined two key points the Board of Supervisors (BoS) feels are of concern.

First, the BoS is requesting confirmation from California Department of Parks and Recreation (DPR) and the California Coastal Commission (CCC) that the outstanding issues related to conformance with Coastal Development Permit 4-82-300 have been resolved. DPR feels the issues raised by CCC Chairman Patrick Kruer in his letter to District Superintendent Andrew Zilke, dated April 9, 2007, have been resolved through a chronology of events from 1991 to 1994 that have led to full compliance with the terms and conditions of said permit.

Specifically, issues arose regarding the temporary nature of the current beach access points at Grand Avenue and Pier Avenue and the staging area at post two. These issues were resolved when DPR initiated the Access Corridor Study and EIR in 1991 as required by the CCC. The study and EIR concluded that the existing access points at Grand Avenue and Pier Avenue were the environmentally preferred alternatives of all access points studied. The study and EIR were transmitted and accepted by the CCC pursuant to permit conditions. Further, both the State Park and Recreation Commission, as well as the Off-Highway Motor Vehicle Recreation Commission, adopted the study and amended the Pismo State Beach/Pismo Dunes SVRA General Development Plan to reflect the permanency of the existing accesses and staging area at beach post two.

In addition to the above substantial efforts, a second alternative access study was completed in 2006. This study concluded once again that the existing beach accesses were the environmentally preferred options, validating the 1991 Study and EIR. Enclosed please find a response letter from District Superintendent Zilke to CCC Chairman Kruer that speaks in greater detail to those issues raised in the April 9, 2007, letter to Superintendent Zilke.

Mr. Jerry Lenthall
May 14, 2007
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DPR continues to work with the CCC to resolve any differing views that may still exist over this matter. Representatives from the CCC and DPR will be meeting with California Resources Secretary, Michael Chrisman, in the very near future to discuss these and other Coastal Act related matters.

The BoS raised a second concern that included acquiring an independent review/limited scope verification of the appraisal submitted by the state. That concern should be resolved as a result of County staff's order that a limited scope review of the appraisal be completed within the next 60 days; DPR will work closely with County staff towards this end. A copy of the state General Services appraisal review is attached.

In regard to addressing direct impacts from Oceano Dunes SVRA on surrounding South County communities, DPR continues to have interest in and a commitment to resolving the issues of concern that are within our authority. DPR will continue to work with local agencies and community members in collaborative ways to address concerns.

DPR welcomes the opportunity to work with the BoS and County staff to further address issues of concern so we can move forward with the sale of the La Grande properties.

If you have any further questions or concerns, please do not hesitate to call or email me. I may be reached at (916) 324-5801 or via email at dgreene@parks.ca.gov.

Sincerely,



Daphne C. Greene
Deputy Director
Off-Highway Motor Vehicle Recreation Division

Enclosure

cc: Harry Ovitt, Supervisor, 1st District
Bruce Gibson, Supervisor, 2nd District
K.H. "Katcho" Achadjian, Supervisor, 4th District
James Patterson, Supervisor, 5th District
Duane P. Leib, General Services Director
James B. Lindholm, Jr., County Counsel
Caryn Maddalena, County Real Property Manager
Linda Van Fleet, Associate Real Property Agent
Andy Zilke, District Superintendent, Oceano Dunes SVRA
Warren Westrup, Chief, Acquisition and Real Property
Manuel T. Lopez, Deputy Director, Administrative Services
Tim La Franchi, Legal Counsel
Phil Jenkins, Chief

Oceano Dunes State Vehicular Recreation Area
340 James Way, Suite 270
Pismo Beach, California 93449
(805) 773-7170

May 14, 2007

Mr. Patrick Kruer, Chairman
California Coastal Commission
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, California 95060

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

Dear Chairman Kruer,

Thank you for your letter of April 9, 2007, in which you raised concerns regarding the subject Coastal Development Permit (CDP). I want to state at the outset that I have yet to formally receive a copy of the letter; I only have a copy provided to me by San Luis Obispo (SLO) County staff that was made public at the SLO County Board of Supervisors hearing on April 17, 2007 regarding the La Grande Tract acquisition proposal.

The items of concern expressed in your letter were substantively addressed in the February 13, 2007, transmittal to you from California Department of Parks and Recreation (DPR) Director Ruth Coleman regarding the then pending annual review of Oceano Dunes State Vehicular Recreation Area (SVRA) CDP compliance. While trying not to be duplicative, I do find it necessary to reemphasize DPR's previously stated positions on certain concerns you have raised.

I understand the California Coastal Commission's (CCC) concern about the low fledge rate of the western snowy plover (WSP) in 2006, but must again emphasize the fledge rate be viewed in both regional and long term contexts. Although the WSP chick fledge rate in 2006, was low, 7.4%, compared to previous years, similar results were seen in other areas within this United States Fish and Wildlife Service (USFWS) designated Recovery Unit. The Oceano Dunes SVRA fledge rate is likely the result of predation. Chick mortality occurred throughout the protected areas of the park, including the non-riding area. Despite approximately two million visitors in 2006, there was no evidence of any mortality being the result of recreational activities.

It is important to note that Oceano Dunes SVRA has exceeded the USFWS WSP Draft Recovery Plan target of one fledged chick per adult male in three of the past five years, with an additional year significantly close to the draft target goal. Avian specialists evaluate overall effectiveness of the management program at Oceano Dunes SVRA, as well as other areas, by considering data over an extended period of time, such as five year periods, and then considering any single year's results in context.

In contrast with the fledge rate, other WSP breeding numbers at Oceano Dunes SVRA remained high in 2006. Monitors recorded 107 breeding birds and 117 nests producing 230 chicks, which is above the five year average. The nest hatch rate, commonly used by many sites throughout the state as the sole success criteria, was 74% at Oceano Dunes SVRA. This hatch rate was considerably higher than all other sites in San Luis Obispo County: Guadalupe-Nipomo Dunes National Wildlife Area, 42%; San Simeon, 64%; Villa Creek, 37%; Morro Strand, 26%; Montana de Oro Sandspit, 52%. Although none of the above sites report fledge rates, based upon the reported hatch rates, one might speculate that fledge rates at those sites may have been similarly lower than that reported at Oceano Dunes SVRA.

DPR appreciates the recommendations of the CCC mandated Scientific Sub-Committee (SSC) as it considers improvement measures on a seasonal basis for its WSP and California least tern (CLT) management programs, with the understanding that such measures are subject to review and concurrence by the California Department of Fish and Game (DFG) and the USFWS. Since 2001, the SSC recommendations have largely been followed; however, where conflicts may exist with DPR's responsibility to carry out mandated purposes for Oceano Dunes SVRA, management decisions have been carried out consistent with such purposes.

To illustrate the above point, DPR has thoroughly considered the continued SSC recommendation to implement a study evaluating the potential benefits to nesting habitat of year-round closures of current seasonal nesting areas to recreational vehicles. However, experimental closures will not be performed on the remaining open public access areas within Oceano Dunes SVRA. Currently 2100 acres of the 3600 acre park are permanently closed under the CDP permit for resource protection purposes; in addition, more than 350 acres are closed seasonally due to the extensive WSP/CLT management program. As an alternative to overly restrictive additional year-round closures, DPR has emphasized habitat enhancement efforts in the North and South Oso Flaco areas of the park. As habitat work continues, nesting success improvement in these areas has been noted. Further, until the USFWS WSP Draft Recovery Plan, the USFWS 4(d) rule revision efforts, and relevant components of the regional Habitat Conservation Plan are all finalized, it is premature to conduct activities that will further displace permitted day use and camping activities without having

exhausted potential resource management opportunities within non-vehicular areas of the park.

Although DPR is not proposing to implement the year-round closure study proposed by the SSC, a beach wrack manipulation study has been initiated. This study will determine if direct management of beach wrack and distribution of materials such as wood chips and driftwood in the seasonally closed areas may be an effective source of habitat improvement compared to an untreated beach, such as at Oso Flaco, and as compared to the open recreational beach found in the camping and riding areas to the north. Findings from this study should help determine if habitat improvements initiated each year in the seasonally closed areas are effective.

Regarding the status of the existing SVRA entrances and staging area, it is DPR's position that the "interim" status of these areas was resolved in the 1991-1994 time period through compliance with CCC mandated steps. These steps, which included the 1991 Pismo Dunes SVRA Access Corridor Project and amending the General Development Plan and Resource Management Plan for Pismo State Beach and Pismo Dunes SVRA, are described in greater detail below. No further action from CDPR is required with regard to CDP 4-82-300 A4 Condition 1 "Staging Area Location."

The Pismo Dunes SVRA Access Corridor Project, which addressed the interim nature of the existing access and staging areas and considered alternatives to those sites, concluded in August 1991 with the preparation and presentation of a draft environmental impact report (DEIR) for the project. The project report concluded that the Grand and Pier Avenue entrances were the "Environmentally Preferred" alternative, together with the staging area that remains in use today. The location currently used for staging purposes is described in Condition 1A as the interim OHV staging area on or adjacent to the beach south of the designated mile post two. Current operation of this area is consistent with Condition 1A; non-street legal off-highway vehicles are brought to the staging area on trailers and are prohibited north of the mile post two.

Condition 1B listed the interim staging area as one of the alternatives to be evaluated. As a result of the August 1991 DEIR, the Pier and Grand Avenue ramps and the interim staging area were recommended as the "Environmentally Preferred" alternative and adopted by DPR as the permanent location for access and staging for what is now Oceano Dunes SVRA. Conclusions reached in the study satisfied the requirements of Condition 1B for selection and adoption of the permanent site.

According to the record, James Johnson, then Area Manager for the CCC, provided comments to the above document with DPR notation. Additionally, SLO County commented as noted in the final EIR submitted on October 29, 1991. On January 24, 1992, the California Off-Highway Motor Vehicle Recreation Commission approved the Access Corridor Project as an amendment to the unit General Development Plan and

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Resource Management Plan. Further, on February 16, 1994, at its meeting in San Luis Obispo, the California State Park and Recreation Commission considered and adopted the recommendations contained in the Access Corridor Project, which included Pier and Grand Avenues as the access points for an amendment to the unit General Development Plan.

No challenges arose to the above project study, the environmental review process, the findings or the recommendation that the interim staging area and access points become permanent, or the adoption of the study as an amendment to the unit General Development Plan. Once this study was adopted as an amendment to the unit General Development Plan, the interim nature of the access points and staging area was effectively resolved by making the areas permanent.

Condition 1B does not contain a requirement that the CDP be amended to reflect the selection of the interim access and staging areas as permanent. The only requirement in Condition 1B for review and modification of the CDP was in the event that construction and operation of a permanent staging area could not be accomplished within the time limits established in the condition. Because the Access Corridor Project was completed in 1991, within three years from the date the Local Coastal Plan (LCP) was certified, the three year limitation was met. No construction was necessary because the interim areas were already in use and simply became permanent. Thus, no CDP review or modification was required.

DPR has reviewed the LCP and the South County Coastal Area Plan referenced by the LCP. While the LCP indicates that the site at Oso Flaco Lake is to be the primary access and staging area site, the South County Coastal Area Plan establishes that the primary access point shall be as indicated in the CDP (Standard 5, Access Control, page 46). Thus, it appears that the LCP as implemented through the standards of the South County Coastal Area Plan, both adopted in 1988, by reference to Condition 1 of the CDP, establishes the current staging and access areas as the primary controlled access points. Therefore no amendment is required to implement the permanent establishment of the staging and access areas. Certainly, the issue had not been raised until the February 2007 CCC staff report and it had been nearly sixteen years since the interim nature of the subject locations was effectively resolved.

In conjunction with addressing the access and staging areas, your letter also suggests preparation of a report and supporting maps comparing the location of existing fencing to the location of dune habitat fencing established by DPR's CDP 4-82-300 and 4-82-3300-A4, identifying current routes for equestrian access pursuant to CDP 4-82-300-A4, and describing the status of the dune restoration program required by Special Condition 2 of CDP 4-82-300.

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In our on-going effort to ensure resource protection in the park, Oceano Dunes SVRA has been working closely with the California Geologic Survey (CGS) on a comparative map analysis, with the intent of overlaying maps of the park as close to 1982 as possible, in order to compare vegetation coverage. As part of ongoing work with CGS, Oceano Dunes SVRA is developing a strategy for vegetation management and stabilization for the long-term sustainability of the vegetated areas within the park. Results of the above work will be shared with CCC staff and the public.

In addition, Oceano Dunes SVRA has implemented the fencing and restoration plans approved by the CDP and subsequent amendments. The islands are part of a dynamic, changing environment, which requires continual adjustment of fencing to provide protection for these areas. Adjustments may be made to accommodate resource protection, law enforcement/public safety response, fixed facilities, and maintenance considerations. Since the initiation of the original CDP, evidence exists that vegetated portions of the park have expanded in certain areas, especially where the expansion is the direct result of restoration projects that have been completed.

Regarding the HCP, I can certainly appreciate your interest in the status and timeline for that process and can assure you that work is ongoing and progress is being made between DPR, USFWS and DFG. As noted in the staff report, DPR is anticipating release of the public draft HCP in 2007 or early 2008. The HCP will be released in conjunction with a DEIR/Environmental Impact Statement (EIS) at which time members of the public and agencies of interest will have 90 days to review and comment on both documents.

While the HCP is a document solely moved forward by DPR, the EIR/EIS is prepared jointly with DPR as lead agency for CEQA purposes, and the USFWS acting in lead capacity for NEPA requirements. Key issues to be addressed in both documents, including a range of alternatives, are being developed in compliance with governing statutes and regulations, including USFWS incidental take issuance criteria. Part of the process of developing these documents requires DPR and USFWS to take into account comments duly received. In addition to the mandatory "No Project" alternative, DPR will consider a reasonable range of alternatives that would further reduce take of a covered species or reduce other significant impacts identified in the draft EIR/EIS.

DPR appreciates the points highlighted in your letter and the suggestions provided. However, we believe that a permit amendment application is not necessary at this time. Since this issue has been addressed in compliance with the existing CDP, no permit amendment is required to establish a permanent location for the recreational vehicle access and staging areas. In addition DPR is in compliance with fencing and restoration requirements of the CDP, therefore a CDP amendment application addressing this issue is not necessary. Finally, DPR does not propose that the Technical Review Team approach of park management review should be modified to oversee and evaluate HCP implementation, as this is the role of the USFWS and

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CDFG. Consideration will be given to future potential CDP amendment proposals that may address changed management conditions resulting from finalization of the HCP related processes.

In closing, DPR appreciates the CCC's continued interest in protecting coastal resources at Oceano Dunes SVRA while also providing significant public recreational access for many of the citizens of California. DPR is always willing to address common concerns that may need to be identified and discussed. Please feel free to call me at (805) 773-7170 if you have further questions.

Sincerely,

A handwritten signature in black ink that reads "Andrew Zilke". The signature is written in a cursive, flowing style.

Andrew Zilke
District Superintendent

cc: San Luis County Board of Supervisors
Michael Chrisman, Secretary of Resources Agency
Ruth Coleman, Director
Daphne Greene, Deputy Director
Phil Jenkins, Chief