

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

F8

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

For the

April Meeting of the California Coastal Commission

MEMORANDUM

Date: April 10, 2009

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 April 10, 2009 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.

EMERGENCY PERMITS

1. 3-09-017-G Bill Rusconi (Santa Cruz, Santa Cruz County)

TOTAL OF 1 ITEM

DETAIL OF ATTACHED MATERIALS

REPORT OF EMERGENCY PERMITS

The Executive Director has determined that the following developments do not require a coastal development permit pursuant to Section 13142 of the California Code of Regulations because the development is necessary to protect life and public property or to maintain public services.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
3-09-017-G Bill Rusconi	Emergency development of a concrete soil nail seawall fronting 60 linear feet of bluff	105 Seabright Avenue (bluffs at Seabright Beach unit of Twin Lakes State Beach), Santa Cruz (Santa Cruz County)



California Coastal Commission

EMERGENCY COASTAL DEVELOPMENT PERMIT

Emergency CDP 3-09-017-G (Rusconi Seawall)

Issue Date: April 3, 2009

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This emergency coastal development permit (ECDP) authorizes emergency development of a concrete soil nail seawall along 60 feet of coastal bluff fronting a portion of the residence located at 105 Seabright Avenue atop the bluffs above the Seabright Beach unit of Twin Lakes State Beach in the City of Santa Cruz (all as more specifically described in the Commission's ECDP file).

Based on the materials presented by the Permittee, Bill Rusconi, and the Permittee's representative, Bart Clanton, it appears that a vertical fissure in the bluff immediately adjacent to a portion of the residence (and representing a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, and property) has been identified at the subject site, and that the proposed emergency development is necessary to prevent the imminent loss of and/or damage to the existing residence located at 105 Seabright Avenue. Therefore, the Executive Director of the California Coastal Commission hereby finds that:

- (a) An emergency exists that requires action more quickly than permitted by the procedures for administrative or ordinary coastal development permits (CDPs), and that the development can and will be completed within 30 days unless otherwise specified by the terms of this ECDP; and
- (b) Public comment on the proposed emergency development has been reviewed if time allows.

The emergency development is hereby approved, subject to the conditions listed on the attached pages.

 4/3/2009

Dan Carl, Central Coastal District Manager for Peter M. Douglas, Executive Director

Enclosures: (1) Emergency Coastal Development Permit Acceptance Form; (2) Regular Permit Application Form

cc: Kirk Lingenfelter, Californium Department of Parks and Recreation
Juliana Rebagliati, City of Santa Cruz Planning Department
Deirdre Hall, Monterey Bay National Marine Sanctuary
Nanci Smith, California State Lands Commission

Emergency CDP 3-09-017-G (Rusconi Seawall)

Issue Date: April 3, 2009

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Conditions of Approval

1. The enclosed ECDP acceptance form must be signed by the owner(s) of the property where the emergency development authorized by this ECDP is located and returned to the California Coastal Commission's Central Coast District Office within 15 days of the date of this permit (i.e., by April 18, 2009). This ECDP is not valid unless and until the acceptance form has been received in the Central Coast District Office.
2. Only that emergency development specifically described in this ECDP is authorized. Any additional and/or different emergency and/or other development requires separate authorization from the Executive Director and/or the Coastal Commission.
3. The emergency development authorized by this ECDP must be completed within 30 days of the date of this permit (i.e., by May 3, 2009) unless extended for good cause by the Executive Director.
4. The emergency development authorized by this ECDP is only temporary, and shall be removed if it is not authorized by a regular CDP. Within 60 days of the date of this permit (i.e., by June 2, 2009), the Permittee shall submit a complete application for a regular CDP to have the emergency development be considered permanent. The Permittee is encouraged to submit an application that also requests regular CDP authorization to provide for future maintenance of any authorized shoreline protection. The emergency development shall be removed in its entirety within 150 days of the date of this permit (i.e., by August 31, 2009) unless before that time the California Coastal Commission has issued a regular CDP for the development authorized by this ECDP. The deadlines in this condition may be extended for good cause by the Executive Director.
5. In exercising this ECDP, the Permittee agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that may result from the project.
6. This ECDP does not obviate the need to obtain necessary authorizations and/or permits from other agencies (e.g., City of Santa Cruz, California Department of Parks and Recreation, California State Lands Commission, Monterey Bay National Marine Sanctuary, etc.). The Permittee shall submit to the Executive Director copies of all such authorizations and/or permits upon their issuance.
7. The emergency seawall shall be limited in scale and scope to the sixty-foot bluff area identified in the Haro, Kasunich and Associates, Inc. letter report dated March 25, 2009 and dated received in the Coastal Commission's Central Coast District Office on April 2, 2009.
8. A licensed civil engineer with experience in coastal structures and processes shall oversee all construction activities and shall ensure that all emergency development is limited to the least amount necessary to abate the emergency.
9. All emergency construction activities shall limit impacts to beach recreational access and to the Monterey Bay to the maximum extent feasible including by, at a minimum, adhering to the following construction requirements (which may be adjusted by the Executive Director if such adjustments: (1) are deemed necessary due to extenuating circumstances; and (2) will not adversely impact coastal resources):



Emergency CDP 3-09-017-G (Rusconi Seawall)

Issue Date: April 3, 2009

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- a. All work shall take place during daylight hours. Lighting of the beach area is prohibited.
- b. Construction work and equipment operations shall not be conducted seaward of the mean high water line unless tidal waters have receded from the authorized work areas.
- c. Grading of intertidal areas is prohibited.
- d. Any construction materials and equipment delivered to the beach area shall be delivered by rubber-tired construction vehicles. When transiting on the beach, all such vehicles shall remain as high on the upper beach as possible and avoid contact with ocean waters and intertidal areas.
- e. All construction materials and equipment placed on the beach during daylight construction hours shall be stored beyond the reach of tidal waters. All construction materials and equipment shall be removed in their entirety from the beach area by sunset each day that work occurs. The only exceptions shall be for: (1) erosion and sediment controls (e.g., a silt fence at the base of the construction area) as necessary to contain rock and/or sediments in the construction area, where such controls are placed as close to the toe of the bluff area as possible, and are minimized in their extent; and (2) storage of larger materials (i.e., soil nails, large forms, etc.) beyond the reach of tidal waters for which moving the materials each day would be extremely difficult. Any larger materials intended to be left on the beach area overnight must be approved in advance by the Executive Director, and shall be subject to a contingency plan for moving said materials in the event of tidal/wave surge reaching them.
- f. All construction areas shall be minimized and demarked by temporary fencing designed to allow through public access and protect public safety to the maximum extent feasible. Construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside of the defined construction, staging, and storage areas.
- g. No work shall occur on the beach during the summer peak months (Saturday of the Memorial Day weekend through Labor Day inclusive).
- h. The construction site shall maintain good construction site housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the beach; etc.).
- i. All construction activities that result in discharge of materials, polluted runoff, or wastes to the beach or the adjacent marine environment are prohibited. Equipment washing, refueling, and/or servicing shall not take place on the beach. Any erosion and sediment controls used shall be in place prior to the commencement of construction as well as at the end of each work day.
- j. All beach areas and all shoreline access points impacted by construction activities shall be restored to their pre-construction condition or better within three days of completion of construction. Any beach sand in the area that is impacted by construction shall be filtered as necessary to remove all construction debris.



Emergency CDP 3-09-017-G (Rusconi Seawall)

Issue Date: April 3, 2009

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- k. All exposed slopes and soil surfaces in and/or adjacent to the construction area shall be stabilized with erosion control native seed mix, jute netting, straw mulch, or other applicable best management practices (for example, those identified in the California Storm Water Best Management Practice Handbooks (March, 1993)). The use of non-native invasive species (such as ice-plant) is prohibited.
 - l. All contractors shall insure that work crews are carefully briefed on the importance of observing the construction precautions given the sensitive work environment. Construction contracts shall contain appropriate penalty provisions sufficient to offset the cost of retrieval/clean up of foreign materials not properly contained and/or remediation to ensure compliance with this ECDP otherwise.
 - m. The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office immediately upon completion of construction and required beach-area restoration activities. If planning staff should identify additional reasonable measures necessary to restore the beach and beach access points, such measures shall be implemented immediately.
10. Copies of this ECDP shall be maintained in a conspicuous location at the construction job site at all times, and such copies shall be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of this ECDP, and the public review requirements applicable to it, prior to commencement of construction.
 11. A construction coordinator shall be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and their contact information (i.e., address, phone numbers, etc.) including, at a minimum, a telephone number that will be made available 24 hours a day for the duration of construction, shall be conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the name, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.
 12. Within 30 days of completion of the construction authorized by this ECDP (i.e., by May 3, 2009), the Permittee shall submit site plans and cross sections prepared by a licensed civil engineer with experience in coastal structures and processes clearly identifying all development completed under this emergency authorization (comparing any previously permitted condition to both the emergency condition and to the post-work condition), and a narrative description of all emergency development activities undertaken pursuant to this emergency authorization.
 13. This ECDP shall not constitute a waiver of any public rights which may exist on the property. The Permittee shall not use this ECDP as evidence of a waiver of any public rights which may exist on the property.
 14. Failure to comply with the conditions of this approval may result in enforcement action under the provisions of Chapter 9 of the Coastal Act.



Emergency CDP 3-09-017-G (Rusconi Seawall)

Issue Date: April 3, 2009

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15. The issuance of this ECDP does not constitute admission as to the legality of any development undertaken on the subject site without a CDP and shall be without prejudice to the California Coastal Commission's ability to pursue any remedy under Chapter 9 of the Coastal Act.

As noted in Condition 4 above, the emergency development carried out under this ECDP is at the Permittee's risk and is considered to be temporary work done in an emergency situation to abate an emergency. If the property owner wishes to have the emergency development become a permanent development, a regular CDP must be obtained. A regular CDP is subject to all of the provisions of the California Coastal Act and may be conditioned or denied accordingly.

If you have any questions about the provisions of this ECDP, please contact the Commission's Central Coast District Office at 725 Front Street, Suite 300, Santa Cruz, CA 95060, (831) 427-4863.



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F8

April 10, 2009

To: Commissioners and Interested Persons
From: Charles Lester, Central Coast District Deputy Director
Subject: **Central Coast District Deputy Director's Report Supplement**

The Central Coast District Office issued two waivers that are to be reported to the Commission at the April 10, 2009 Coastal Commission hearing. This supplement includes copies of the two waivers, and should be understood as part of the Central Coast District Deputy Director's Report for the April 10, 2009 hearing.



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**NOTICE OF PROPOSED PERMIT WAIVER**

Date: March 30, 2009
To: All Interested Parties
From: Dan Carl, Central Coast District Manager 
Mike Watson, Coastal Planner 
Subject: Coastal Development Permit (CDP) Waiver 3-09-013-W
Applicant: Chris Shake

Proposed Development

Remove 28 wood pilings, install 15 plastic-coated steel pilings, and replace beam and cross bracing at the Pirate's Cove restaurant, #31 Fisherman's Wharf, Monterey.

Executive Director's Waiver Determination

Pursuant to Title 14, Section 13238 of the California Code of Regulations, and based on project plans and information submitted by the applicant(s) regarding the proposed development, the Executive Director of the California Coastal Commission hereby waives the requirement for a CDP for the following reasons:

The proposed piling and beam replacement is needed to repair existing dock and wharf infrastructure at commercial lease site #31 along Fisherman's Wharf in Monterey. The Applicant has submitted a construction plan and material containment measures to prevent foreign materials from entering the bay waters. Construction BMPs further include piling removal and installation measures to minimize disturbance of bottom sediments and benthic organisms. As proposed with the submitted mitigation measures, the project will not have any significant adverse impacts on coastal resources, including the Monterey Bay.

Coastal Commission Review Procedure

This waiver is not valid until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission on Friday, April 10, 2009, in Oxnard. If four Commissioners object to this waiver at that time, then the application shall be processed as a regular CDP application.

If you have any questions about the proposal or wish to register an objection, please contact Mike Watson in the Central Coast District office.



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**NOTICE OF PROPOSED PERMIT WAIVER**

Date: March 30, 2009
To: All Interested Parties
From: Dan Carl, Central Coast District Manager *DCarl*
Mike Watson, Coastal Planner *MW*
Subject: Coastal Development Permit (CDP) Waiver 3-09-010-W
Applicants: Kathleen and Charles Huff

Proposed Development

Remodel and addition to an existing single family residence located at 122 9th Street in the City of Pacific Grove.

Executive Director's Waiver Determination

Pursuant to Title 14, Section 13250 of the California Code of Regulations, and based on project plans and information submitted by the applicant(s) regarding the proposed development, the Executive Director of the California Coastal Commission hereby waives the requirement for a CDP for the following reasons:

The project is located more than one block inland of the Pacific Grove shoreline, and thus more than one-block inland of the public access recreational trail that winds along the Pacific Grove bluffs. The proposed residence would be compatible with the size, scale, and aesthetics of the residential neighborhood in which it is located, and it includes drainage BMPs to reduce storm water runoff and remove contaminants prior to conveyance off-site. The proposed new residence was reviewed and received discretionary approval by the City's Architectural Review Board to ensure conformance with the standards / requirements of the City's Municipal Code and the certified Land Use Plan. The project has no potential for adverse effects on coastal resources, including public access to the shoreline, and is consistent with Chapter 3 of the Coastal Act.

Coastal Commission Review Procedure

This waiver is not valid until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission on Friday, April 10, 2009, in Oxnard. If three Commissioners object to this waiver at that time, then the application shall be processed as a regular CDP application.

If you have any questions about the proposal or wish to register an objection, please contact Mike Watson in the Central Coast District office.



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April 10, 2009

To: Commissioners and Interested Parties

From: Charles Lester, Senior Deputy Director, Central Coast District

Re: Additional Information for Commission Meeting Thursday, March 12, 2009

<u>Agenda Item</u>	<u>Applicant</u>	<u>Description</u>	<u>Page</u>
F11a, A-3-CML-09-011	Baron and D'Angelo	Appeal withdrawn	1
F12a, A-3-SCO-08-010	Vaden and Rey	Staff Report Addendum	3

Miscellaneous – Items not on agenda.

1. Letter from Bob Baiocchi, Executive Director, California Salmon and Steelhead Association to Ruth Coleman, CA Parks and Recreation – re: Annual Review of Coastal Development Plan of 2007; Oceano Dunes State Vehicular Recreation Area (ODSVRA) 9
2. Letter from Bob Baiocchi, Executive Director, California Salmon and Steelhead Association to Diane Noda, US Fish and Wildlife Service – re: ODSVRA; State Parks, Formal Comments of the California Salmon and Steelhead Association 13
3. Letter from Bob Baiocchi, Executive Director, California Salmon and Steelhead Association to Douglas Rischbieter, Dept. of Water Resources, Sacramento – re: Lower Arroyo Grande Creek and Lagoon – re: Request for Public Information 17
4. Letter from Bob Baiocchi, Executive Director, California Salmon and Steelhead Association to Ruth Coleman, CA Parks and Recreation – re: Request for Information by the California Salmon and Steelhead Association from Mr. Doug Rischbieter, CA Dept. of Water Resources regarding ODSVRA 19

F11a

PO Box 7359
Carmel, CA 93921

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March 28, 2009

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

CALIFORNIA COASTAL COMMISSION
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

Attn. Mike Watson

RE: Appeal No. A-3-CML-09-011

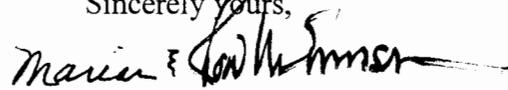
Dear Mr. Watson:

Please be advised that with regard to the subject Appeal, based upon the findings in your recommendation to the Commission of March 19, we have decided to withdraw our appeal in order to save further time and effort of the Commission and its staff.

Thank you and your colleagues on the Commission staff for your assistance and courtesy throughout this matter.

With kind regards,

Sincerely yours,



Marian and Ron Wormser

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F12a

Prepared April 6, 2009 (for April 10, 2009 hearing)

To: Commissioners and Interested Persons

From: Dan Carl, District Manager
Susan Craig, Coastal Planner *S. Craig*

Subject: STAFF REPORT ADDENDUM for F12a
CDP Application Number A-3-SCO-08-010 (Vaden 23rd Avenue SFD)

The purpose of this addendum is to modify the staff recommendation for the above-referenced item. Specifically, in the time since the staff report was distributed, Staff received a letter from the Appellant's representative dated April 2, 2009 (see letter attached as Exhibit A). In that letter, the Appellant's representative states that the rear yard setback shown on the proposed project plans does not comply with the County's required setback, that the attic space should be counted towards floor area ratio (FAR), and that there is an inconsistency between the residential footprint on pages 1 and 4 of Exhibit C in the staff report. Thus, at issue are (1) the nature of the County's approval in relation to the footprint of the proposed house; and (2) the manner in which the attic space either does or does not count toward FAR. Commission staff has reviewed the Appellant's letter, and has consulted with County staff regarding their approval and the methodology applied in Santa Cruz County with respect to FAR. Following those steps, Commission staff agrees that minor corrections are necessary to accurately describe the County's approval of the proposed residence with respect to the rear yard setback and to the residential footprint.

Specifically, the underlying County approval moved the footprint of the house back to the 15-foot rear setback line. Although the plans provided by the Applicant and shown in staff report Exhibit C were supposed to represent this setback, staff has confirmed with the Applicant that there was a small error on the plans. Namely, the plans show the house shifted to a 15-foot 4-inch setback as opposed to the required 15-foot setback. In addition, the submitted plans are internally inconsistent between pages 1 and 4 of Exhibit C with respect to the configuration of the rear of the structure, as noted by the Appellant. These are minor discrepancies to be sure, but errors nonetheless that require correcting.

With respect to the Appellant's claim that the attic should count towards FAR, staff does not concur. The plans clearly show an attic with a ceiling at 7-foot (and this part of the plans are not in question). Per the LCP, attic space with ceilings less than 7'6" do not count towards FAR (see staff report footnote 20 on page 13 for further information on this point). Although the Appellant raises a series of ways that this could be interpreted differently, the plain language of the LCP in relation to the attic shown on the plans directs that this area not count toward FAR. No corrections are necessary on this point.

To address the plan and setback issues, the staff report dated prepared April 10, 2009 is modified as shown below. Specifically, a footnote associated with the project description needs to be revised to state



that the County's approval of the project included the requirement that the residence be moved back on the site to the 15-foot rear setback line (the plans in the staff report show the eastern portion of the residence at the 15-foot 4-inch setback line). Also, to ensure that final plans are consistent with the Commission's understanding and the County's underlying approval, a condition is added to require submission of final plans. Such plan submittal requires that the findings be modified to require submission of revised final plans (new Special Condition 4) that show the footprint of the house shifted 4 inches to the 15-foot rear setback line and that correct the residential footprint on page 4 of Exhibit C to be consistent with the footprint shown on page 1 of Exhibit C. Thus, the staff report is modified as shown below (where applicable, text in underline format indicates text to be added, and text in ~~strikethrough~~ format indicates text to be deleted):

1. Revise Footnote 10 on page 7 of the Staff Report as follows:

¹⁰ The proposed project before the Commission is shown in Exhibit C, as modified in the following ways: (1) the footprint shown on pages 1 and 4 is 4 inches further west than is actually proposed; and (2) the configuration of the rear of the proposed residence shown on page 4 is inaccurate – see page 1 of Exhibit 4 for the accurate rear building configuration. reflects the additional 4.5-foot setback for the residential structure associated with the County's January 9, 2008 action. In other words, the proposed project (and the plans in Exhibit C) reflect the additional 4.5-foot residential setback that was central to the County's final review and action.

2. Revise Paragraph 4 on Page 14 of the Staff Report as follows:

In sum, and provided the project is moved back to the 15-foot rear setback line, the proposed project would incrementally increase residential massing visible from significant public viewing areas, but it would not significantly adversely effect these viewsheds nor community character otherwise. The proposed project would result in residential development that is not atypical of the size and scale of existing development along 23rd Avenue and, more broadly, along the tops of bluffs in this larger stretch of coast. The proposed project can be found consistent with the visual resource and community character policies cited above.

3. Add Special Condition 4 as follows:

4. Final Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittees shall submit two full-sized sets of final plans to the Executive Director for review and approval. The final plans shall be in substantial conformance with the plans submitted to the Coastal Commission (pages one and three of plans prepared by Wayne Miller Designer dated January 5, 2009 and dated received in the Commission's Central Coast District Office January 7, 2009; page two of plans prepared by Wayne Miller Designer dated revised January 27, 2009 and dated received in the Commission's Central Coast District Office January 30, 2009; and sheet number C-01 of a plan prepared by Mid Coast Engineers dated March 2006 and dated received in the Commission's Central Coast District Office March 18, 2009 – see Exhibit C) except that they shall be revised and supplemented to comply with the following requirements:



- The footprint of the residence as shown on page 1 of Exhibit C shall be shifted to the east so that the rear of the residence aligns with the 15-foot rear yard setback line.

The Permittees shall undertake development in accordance with the approved Final Plans.



Jonathan Wittwer
William P. Parkin
Jennifer M. Bragar
Ryan D. Moroney

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OF COUNSEL
Gary A. Patton

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APR 02 2009

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Susan Craig, Coastal Planner
California Coastal Commission
740 Front Street, Suite 300
Santa Cruz, Ca 954060

**RE: Item F12a – Appeal No. A-3-SCO-08010, Vaden 23rd Avenue SFD
Appeal to Coastal Commission of CDP Application No. 02-0432
APN 028-232-16**

Dear Susan:

Thank you for arranging an opportunity for me to inspect the full sized plans associated with appeal number A-3-SCO-08-010, concerning the proposed Vaden 23rd Avenue SFD. This appeal is set for hearing before the Coastal Commission on Friday, April 10, 2009. I reviewed the plans in your Santa Cruz Office Monday (and again Wednesday) with architect Mike Vierhus.

The context of our concern is important to keep in mind and is as follows. The Staff Report concludes that the County's LCP does **not** provide a specific mechanism to allow all this [proposed] development [grading, driveway, utilities, etc.] within the 25-foot setback area and that only to avoid a "taking" is a "certain amount of development" allowed, "provided its inconsistencies are minimized to the maximum extent feasible." Under these circumstances, it is respectfully requested that conditions be added to assure that no confusion will result and that the inconsistencies will truly be minimized to the maximum extent feasible.

The key problem is that ***inconsistent and inadequate plans*** have been submitted by the Applicant as can be easily seen by looking at Exhibit C to the Staff Report and comparing pages 1 and 4. On page 1, the SFD has a ***footprint clearly and substantially longer and different in shape*** from the one on page 4 (the Mid Coast Engineers Site Plan). By resorting to "notes," the Plans create confusion as to whether there is compliance with the County's requirement that the entire SFD be "moved back on the site to the fifteen feet rear setback."

Furthermore, these ***inadequate plans obscure*** the fact that the square footage of the so-called "attic" (which is actually a room) is required to be counted as floor area and result in a violation of the LCP's FAR. The room in question is shown on the upper floor of Section 4 on page 3 of the Miller Plan and the confusion results from this Section showing the room having a ceiling, with another "attic" above it so as to reduce the height of the room to less than the 7' 6" height at which floor area must be counted. Additional confusion results from the Section being drawn at 1/8" scale (while other drawings are at 1/4" scale) and a beam being shown as located in the room even though it is not.

If it's possible to have an "addendum" prepared for the April 10th Commission meeting, providing Commissioners with staff insight on these matters, prior to the Commission's consideration of the item, that would be ideal. Below are the two issues we've identified, with a proposed solution for the Commission staff to consider for inclusion in a possible addendum:

First Issue – Adequate and Accurate Documentation on the Plans to be Approved So As to Show Compliance with County Requirement for Moving Entire Building Back on the Site to the 15 Foot Rear Setback Line. The County of Santa Cruz imposed a condition requiring that the SFD be "moved back on the site to the fifteen feet rear setback" (Condition 7g). This is approximately an additional 4' 10" further back from the Coastal Bluff at front of the building. However, this additional setback is not adequately documented on the Plans being recommended for approval (Exhibit C to the Staff Report) or in the Coastal Commission Conditions of Approval (pp. 18-19).

Instead of providing accurate final plans to be referenced as to exactly what the Coastal Commission is approving, the Plans (Exhibit C) provide a kind of "note," indicating that the entire structure should be moved towards the rear of the lot. As a result, the Plans do not adequately or accurately incorporate this vitally important condition imposed by the County and recommended as well by the Coastal Commission staff, specifically that the entire SFD be "moved back on the site to the fifteen feet rear setback."

To accomplish this result, language could be added under "Special Conditions," along these lines:

"Conform Plans To Reflect Approved Project. The Permittees shall submit to the staff in the Commission's Santa Cruz Office no later than June 20, 2009 revised Plans to replace Exhibit C, providing an accurate depiction of the building to be constructed, and accurately reflecting all the conditions of approval, including specifically movement of the entire SFD back to the 15 feet rear setback line (an additional 4' 10" setback from the coastal bluff). This submittal shall be made available for public review for at least 10 working days prior to approval thereof by the Coastal Commission staff. The submittal shall be subject to review by Coastal Commission staff for compliance with said conditions of approval, and the CDP shall not be valid nor development commence until Coastal Commission staff has approved the revised Plans. After approval of the revised Plans by Coastal Commission staff, the revised Plans will be incorporated into the permit and acceptance of conditions document to be signed by the Permittee or authorized agent pursuant to Standard Condition 1."

Second Issue – Conform Plans to Comply with FAR Limitations. With the informed assistance of architect Mike Vierhus, it became clear upon examination of the Plans this week that the building as depicted on the plans does not, in fact, conform to the Santa Cruz County

LCP requirements relating to Floor Area Ratio (FAR), in that the building is actually too "large" for the lot, according to the adopted County LCP. Section 4 of Page 3 of the Plans drawn by Miller dated 1/5/09 indicate that an upper floor "room" (7' x 15' = 105 sf and containing a window) which the applicant wants to have the County and the Coastal Commission exclude from FAR calculations does not constitute an "attic" under the County LCP. The space shown has both a "floor" and a "ceiling," neither of which an attic can have under the County LCP. Further, the "ceiling," has another space above it. These two features result in a proposed structure that has an additional 105 square feet of floor area for a total of 1805 square feet when only 1703 square feet is allowed (an excess building size of 102 sf). The true height of the so-called attic is 11' and since it is not less than 7' 6", the floor area of the room is required to be counted in calculating FAR.

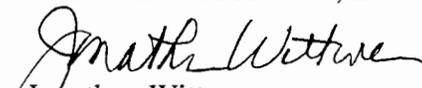
One easy way to deal with this would be to change the roof line, slightly so that the "room" height will be less than 7'6". Other solutions might also exist. However, the key point is that, as designed, the proposed dwelling is not in conformity with the County's LCP.

It is my understanding that you will pursue this issue with your Supervisor. If you conclude that there is a violation of the County's LCP in this regard (and we strongly believe that there is), we request that your addendum ask the Commission to impose an additional "Special Condition," which could be added along these lines:

"Conform Building Size To Applicable County Regulations. The Permittees will submit to the staff in the Commission's Santa Cruz Office a revised set of building plan drawings, providing an accurate depiction of the building to be constructed, and reducing the height of the so-called "attic" to less than 7' 6" so that the building will not exceed the maximum size allowed under the Santa Cruz County LCP. This will require changing the roof line or other action to reduce the floor area by 102 square feet. After approval of the revised building plan drawings by Coastal Commission staff, these revised building plan drawings will be incorporated into the permit and acceptance of conditions document to be signed by the Permittee or authorized agent pursuant to Standard Condition 1."

Thank you for your consideration of the foregoing.

Very truly yours,
WITTWER & PARKIN, LLP


Jonathan Wittwer

cc: Ralph Borelli, Client
Mike Vierhus

CCC Exhibit A
(page 3 of 3 pages)

RECEIVED

March 30, 2009
Director Ruth Coleman
Department of Parks and Recreation
State of California
P.O. Box 942896
Sacramento, California 94296-0001

Re: Annual Review of Coastal Development Plan of 2007; Oceano Dunes
State Vehicular Recreation Area

Director Coleman:

I have reviewed your letter of February 13, 2007 to the Chairman of the
California Coastal Commission.

We rely on the California Coastal Commission to strongly protect the states
waters and coastal areas of the California Coast.

We also rely on State Parks to comply with the statutes adopted by
California Legislature and the United States Congress to protect threatened
and endangered species from development activities carried out by your
Department.

Yesterday I wrote your staff at the State Parks Office of the Oceano Dunes
State Vehicular Recreation Area. I advised them of violations of the statutes
by State Parks that require accessibility and accomandations for the
disabled persons to the Oceano Dunes State Vehicular Recreation Area.
We received a copy on my letter to Mr. Zilke.

I have reviewed your letter to the Chairman of the California Coastal
Commission of February 13, 2007 regarding the annual review of Coastal
Permit 4-82-300-A5 for the Oceano Dunes State Vehicular Recreation Area.

In reviewing your letter of February 13, 2007 I found many claims in your
information to the Chairman that are not correct, based on the records.

Please have your staff provide me with the following information that was
stated in your letter of February 13, 2007 to the Chairman of the California
Coastal Commission:

1. Forward to me a copy of the fisheries monitoring surveys and
reports conducted by the State Park professional fisheries
consultant for the crossing of Arroyo Grande Creek in the Oceano
Dunes State Vehicular Recreation Area. Please forward the
documents to me by electronic mail if possible. I recommend said
field surveys and reports are posted on the State Parks website for

- said area. I reference page 2 of the letter of February 13, 2007 to the Chairman of the California Coastal Commission from Ruth Coleman.
2. Forward to me a copy of the water quality monitoring surveys and reports conducted by the State Park professional fisheries consultant for the crossing of Arroyo Grande Creek in the Oceano Dunes State Vehicular Recreation Area. Please forward the documents to me by electronic mail if possible. I recommend said field surveys and reports are posted on the State Parks website for said area. I reference page 2 of the letter of February 13, 2007 to the Chairman of the California Coastal Commission from Ruth Coleman.
 3. Forward a copy of the strict guidelines for the public prepared by State Parks for the crossing of Arroyo Grande Creek in the Oceano Dunes State Vehicular Recreation Area to reduce and prevent vehicle impacts (toxic materials) on fishery resources and water quality in Arroyo Grande Creek and most importantly in the Arroyo Grande Creek Lagoon. I recommend said guidelines are posted on the State Parks website for said area. I reference page 2 of the letter of February 13, 2007 to the Chairman of the California Coastal Commission from Ruth Coleman.
 4. Please forward a copy of the NPDES Permit from the Regional Water Quality Control Board for the crossing of vehicles over Arroyo Grande Creek carrying chemicals to the restrooms; carrying human discharge water material from the restrooms; carrying garbage material from the area; playing in the streambed and beds of Arroyo Grande Creek with vehicles; the crossing of 2 million vehicles into the waters of Arroyo Grande Creek; and the discharging of waste water et al from motor homes and house trailers into the beach environment of the Oceano Dunes State Vehicular Recreation Area. We have access to photos to show these activities.
 5. Forward a copy of the Multi-Species Habitat Conservation Plan for the Oceano Dunes State Vehicular Recreation Area that was released in 2007. I reference page 2 of the letter of February 13, 2007 to the Chairman of the California Coastal Commission from Ruth Coleman.
 6. Were federally protected "threatened" steelhead species and their habitat in Arroyo Grande Creek and Arroyo Grande Creek Lagoon included in the Multi-Species Habitat Conservation Plan for the Oceano Dunes State Vehicular Recreation Area? Did State Parks consult with the US NOAA Fisheries in the development of the Multi-Species Habitat Conservation Plan for threatened steelhead in the Oceano Dunes State Vehicular Recreation Area?
 7. Were federally protected "endangered" Tidewater species and their habitat in the Arroyo Grande Creek Lagoon included in the Multi-Species Habitat Conservation Plan for the Oceano Dunes State Vehicular Recreation Area? Did State Parks consult with the US Fish and Wildlife Service in the development of the Multi-Species Habitat

- Conservation Plan for endangered Tidewater Goby species and their habitat in the Oceano Dunes State Vehicular Recreation Area?
8. Were federally protected “endangered” La Graciosa Thistle plant species and their habitat included in the Multi-Species Habitat Conservation Plan for the Oceano Dunes State Vehicular Recreation Area? Did State Parks consult with the US Fish and Wildlife Service in the development of the Multi-Species Habitat Conservation Plan for endangered La Graciosa Thistle plant species in the Oceano Dunes State Vehicular Recreation Area?
 9. Was the Multi-Species Habitat Conservation Plan for the Oceano Dunes State Vehicular Recreation Area posted on the State Park website for this area. If not, we recommend the Multi-Species Habitat Conservation Plan for the Oceano Dunes State Vehicular Recreation Area be posted.
 10. The claims in your letter concerning endangered Tidewater Goby species and their habitat are the bias opinion of one (1) biologist that is employed by the California Department of Water Resources. His claimed conclusions are “guess-estimates” regarding endangered Tidewater Goby species and their habitat in the Arroyo Grande Lagoon that must be further investigated by the responsible federal agency that has the duty and responsibility under the provisions of the federal Endangered Species Act to protect this species from harm and “taking”. I reference page 2 of the letter of February 13, 2007 to the Chairman of the California Coastal Commission from Ruth Coleman.
 11. You did not mentioned whether “threatened” steelhead species and their habitat exist in Arroyo Grande Creek and Arroyo Grande Creek Lagoon. A significant deficiency. Do threatened steelhead species exist in the Arroyo Grande Creek and Arroyo Grande Creek Lagoon, and how are threatened steelhead protected from harm at and from the crossing of Arroyo Grande Creek in the Oceano Dunes State Vehicular Recreation Area?
 12. It is our understanding State Parks does not have a Streambed Alteration Agreement with the California Department of Fish and Game for 2 million vehicles crossing Arroyo Grande Creek and all other crossing activities. That is a violation of state law and specifically California Fish and Game Code Section 1600 et seq. Streambed Alteration Agreements requires the protection of fish and aquatic species and their habitat that are affected by stream crossing. The State of California has required logging companies to obtain Streambed alteration Agreements when crossing streams in the High Sierra for the purposes of logging. Consequently, State Parks is allowing the crossing of 2 million vehicles annually and also other crossing activities into the state’s waters of Arroyo Grande Creek in violation of state law. State Parks nor you are not above state law.

A written response is requested. Please forward copies of your letter to me to: Dianne Noda, US Fish and Wildlife Service; Regional Director Rod McInnus and Inspector Ray Torres of the US NOAA Fisheries, Peter Douglas and Jonathan Bishop of the California Coastal Commission; and Dr. Nell Langford of Safe Beach Now. Thank you.

Respectfully Submitted

Signed by Bob Baiocchi

Bob Baiocchi
Executive Director
Water Rights and Fisheries Consultant
California Salmon and Steelhead Association
E-Mail Address: rbaiocchi@gotsky.com

Cc: Ms. Diane Noda
US Fish and Wildlife Service

Regional Director Rod McInnus
US NOAA Fisheries

Mr. Ray Torres
US NOAA Fisheries

California Coastal Commission Members
C/o Mr. Peter Douglas, Director, CCC
Mr. Jonathan Bishop

Dr. Nell Langford, PhD
Safe Beach Now

Dr. Roy Thomas
Dr. Mike Fitzwater, PhD
Mr. Tom Smith
Mr. Brian LeNeve
California Salmon and Steelhead Association Board

Mr. Brian Troutwein, Environmental Defense Center

Mr. John Buse, Esquire
Center for Biological Diversity

Interested Parties (bcc – numerous)

Diana Chapman

From: Bob Baiocchi [rbaiocchi@gotsky.com]
Sent: Tuesday, March 31, 2009 11:52 AM
To: Duane Noda
Cc: Nell Langford; John Buse; Brian Trautwein; Peter Douglas; Diana Chapman; Jonathan Bishop
Subject: Ocean Dunes SVRA Area; State Parks; Formal Comments of the California Salmon and Steelhead Association

March 31, 2009
 Ms. Diane Noda
 Field Supervisor
 Ventura Office
 US Fish and Wildlife Service

Via Electronic Mail

Re: Ocean Dunes SVRA Area; State Parks; Formal Comments of the California Salmon and Steelhead Association

Ms. Noda:

We still have not heard from you regarding our letter of March 10, 2009 in the above mentioned matter that is shown below. You are 3 weeks late.

I have been dealing with state and federal government for many, many years as a professional consultant and also as a concerned citizen. I understand how government works and how special favors are given to other governmental agencies and parties of special interest.

I hope this matter is not a conspiracy and collusion by the Ventura Office of the US Fish and Wildlife Service against providing habitat protection for threatened (California Red Legged Frogs) and endangered (Tidewater Goby and La Graciosa Thistle) species for monetary profits by California State Parks in the Oceano Dunes State Vehicular Recreation Area (aka Commercial Amusement Park For Habitat Destruction).

For the records, your office refused to be part of a video that would provide the public with the duties and responsibilities of the US Fish and Wildlife regarding how the Service carries out their mandated duties to protect endangered and threatened species in the Oceano Dunes State Vehicular Recreation Area (aka Commercial Amusement Park For Habitat Destruction). There is no bias on the part of the Ventura office to advise the public about the federal ESA and how the listed species are protected. Should that be confidential and private information, the people have a significant problem.

We now have a new administration at Washington DC. Consequently the US Fish and Wildlife Service is not obligated to suppress information and protection measures for endangered and threatened species. The eight year vacation is over.

We need to receive information from your office regarding the Habitat Conservation Plan for the Oceano Dunes State Vehicular Recreation Area. The draft HCP was alleged by State Parks to be released for public review in 2007. Please forward a copy of the public notice that was forwarded to the people in the local area regarding the opportunity to provide comments to the Service in that matter. In addition, please forward a copy of draft Habitat Conservation Plan for the Oceano Dunes State Vehicular Recreation Area to me. Also if possible, please forward a list of the affected public that were provided with a copy of the public notice for the opportunity for submit comments. Please note, a vast majority of the public do not receive and review the Federal Register.

Please forward the information we requested in our letter of March 10, 2009 and also the information requested in this letter. Thank you.

We believe that toxic material from all of the vehicles crossing and playing in Arroyo Grande Creek is having detrimental effects to endangered Tidewater Goby and their habitat in the Arroyo Grande Creek Lagoon. That conclusion is reasonable when viewing the extent of traffic crossing and playing in the stream in the recreation area. That traffic includes waste carrying truck hauling waste material from the restroom and recreation area, including the discharging of waste material into the soil (sand) of the recreation area from motor homes. All of these discharges do not have a waste discharge permit from the Regional Water Quality Control Board. The problem, based on my opinion and others, is interagency politics between State Parks, California Regional Water Quality Control Board; and also the California Department of Fish and Game. In fact it appears there is not a Streambed Alteration Agreement between the Department of Fish and Game and State Parks. For the past month we have tried to obtain the Streambed Alteration Agreement from CDFG and the leadership of that agency is silent as a mouse stealing cheese.

Another serious matter is whether there are California Red Legged Frog species in the Arroyo Grande Creek Lagoon and/or in Arroyo Grande Creek that flows through the Oceano Dunes SVRA Area.

There are threatened steelhead species in the Arroyo Grande Creek Lagoon and migrating through the Arroyo Grande Creek in the Oceano Dunes SVRA Area to (juvenile-adults) and from (adults – spawning season) the Lagoon. The responsible federal agency to manage and protect threatened steelhead is the US NOAA Fisheries pursuant to the federal ESA. This agency has been advised of the significant problems facing threatened steelhead species and their habitat in the Arroyo Grande watershed and lagoon.

Presently there is a HCP being developed for Lopez Dam and Reservoir in the upper reaches of Arroyo Grande Creek. The HCP is for threatened steelhead species and their habitat and also threatened California Red-Legged Frog species and their habitat in Arroyo Grande Creek below Lopez Dam. I advised the US NOAA Fisheries that the HCP must also include the Arroyo Grande Creek Lagoon because the juvenile steelhead remain in the lagoon until about 180 to 200 mm in size for a period of 90 to 120 days and then migrate into the Pacific Ocean. Because the Arroyo Grande Creek Lagoon sustains endangered Tidewater Goby, the protection of water quality and their habitat in the lagoon would protect two federal listed (2) species listed for protection under the federal ESA.

I agree with Dr. Langford that State Parks should obtain a “Take Permit” from the US Fish and Wildlife Service regarding the threatened taking of endangered Tidewater Goby in the lagoon resulting from 2 million vehicles crossing and playing the stream annually.

We are formally requesting the US Fish and Wildlife Service to include the Arroyo Grande Creek Lagoon in the HCP for the Lopez Dam operations to protect endangered Tidewater Goby.

We are also formally requesting the US Fish and Wildlife Service to require State Parks to obtain a “conditioned” Take Permit from the US Fish and Wildlife Service for the threatened taking of endangered Tidewater Goby and their habitat in the Arroyo Grande Lagoon.

Pursuant to the federal ESA, we are also formally requesting the US Fish and Wildlife Service to close the stream crossing of Arroyo Grande Creek in the Oceano Dunes Recreation Area from all traffic until there are restrictions placed on the crossing by State Parks to protect endangered Tidewater Goby species and their habitat in the lagoon from threatened adverse water quality effects from toxic materials being discharged into the lagoon by vehicles resulting from crossing and playing in the streambed and banks of Arroyo Grande Creek.

We are further formally requesting you to have your staff conduct a study to determine whether California Red-Legged Frog species are in the Arroyo Grande Creek Lagoon and also in the stream reach to the lagoon.

My background is included as an attachment.

A written response is appreciated and requested. Thank you.

Respectfully Submitted

Bob Baiocchi
Executive Director
Water Rights and Fisheries Consultant
California Salmon and Steelhead Association

E-Mail Address: rbaiocchi@gotsky.com

cc: Dr. Nell Langford, PhD, Safe Beach Now

Regional Director Rod McInnus, US NOAA Fisheries

**Mr. John Buse, Esquire
Biological Diversity Center**

**Mr. Brian Trautwein, Environmental Scientist
Santa Barbara Environmental Defense Center**

Interested Parties (bcc)

RECEIVED

MAR 31 2009

Diana Chapman

From: Bob Baiocchi [rbaiocchi@gotsky.com]
Sent: Tuesday, March 31, 2009 1:31 PM
To: Rischbieter, Doug
Cc: Nell Langford; John Buse; Brian Trautwein; Peter Douglas; Diana Chapman; Jonathan Bishop; Ruth Coleman
Subject: Lower Arroyo Grande Creek and Lagoon; Request for Public Information

March 31, 2009

Mr. Douglas Rischbieter
 Environmental Scientist
 Department of Water Resources
 Sacramento, California

Re: Lower Arroyo Grande Creek and Lagoon; Request for Public Information

Mr. Rischbieter:

We have reviewed your report entitled "Lower Arroyo Grande Creek and Lagoon; Fishery and Aquatic Resources; Summary 2006 Monitoring Report"; dated January 2007.

The California Department of Water Resources employs you. I have dealt with you in Plumas County. In my opinion, I believe your involvement in fishery issues is to water down the adverse effects to fishery resources from the California Department of Water Resources activities, including preventing additional cost to CDWR (State Water Contractors) et al, and also recommending the denial of trout improvement projects.

Director Ruth Coleman of the California Department of Parks and Recreation has highlighted some of your comments in your 2006 report in her letter to the California Coastal Commission of February 13, 2007. In your report you made extensive remarks regarding endangered Tidewater Goby species and their habitat in the Arroyo Grande Creek Lagoon and very little if any remarks concerning threatened steelhead species and their habitat in Arroyo Grande Creek and the Arroyo Grande Creek Lagoon. In fact you failed to provide comment in your 2006 report about 2 million vehicles crossing Arroyo Grande Creek and also some vehicles playing in the streambed and banks of Arroyo Grande Creek in the Recreation Area, and the resulting affects to water quality, fisheries, and aquatic species in the Arroyo Grande Creek Lagoon from said vehicular activity in Arroyo Grande Creek. Also you did not mention the effects to California Red Legged Frog species and their habitat, and also endangered La Graciosa plant species in the Oceano Dunes Vehicular Recreational Area.

Please provide me with the following information via electronic mailing:

1. Please provide me with your background in studying and evaluating the effects to endangered Tidewater Goby species and their habitat in California Coastal lagoon areas;
2. Please provide me with your background in studying and evaluating the effects to threatened steelhead species and their habitat in California Coastal lagoon areas, including river and stream areas, including Arroyo Grande Creek below Lopez Dam to the lagoon;
3. In your report you did not mention the effects to California Red Legged Frog species in the Oceano Dunes Vehicular Recreational Area (aka Commercial Amusement Park for Habitat Destruction). Please provide me with your background in studying and evaluating California Red Legged Frog species and their habitat;
4. In your report you did not mention the effects to endangered La Graciosa Thistle plant species in the Oceano Dunes Vehicular Recreational Area (aka Commercial Amusement Park for Habitat Destruction). Please provide me with your background in studying and evaluating endangered La Graciosa Thistle plant species and their habitat;
5. Please forward any comments you might have submitted on behalf of State Parks or any state

agency to all state and federal agencies regarding the Multi-Species Habitat Conservation Plan for the Oceano Dunes Vehicular Recreational Area (aka Commercial Amusement Park for Habitat Destruction);

6. Please forward the contract agreement and the agency authority approval that allowed you to conduct monitoring activities for State Parks (aka Department of Parks and Recreation) in the Oceano Dunes Vehicular Recreational Area (aka Commercial Amusement Park for Habitat Destruction).

7. Please forward any and correspondence between you and State Parks and the California Department of Parks and Recreation regarding the Oceano Dunes Vehicular Recreational Area (aka Commercial Amusement Park for Habitat Destruction) concerning what you should report.

“Commercial Amusement Park for Habitat Destruction” is being used because State Parks and the California Department of Parks and Recreation charge fees (money) to the public and make significant profits (millions of dollars) for the State of California for the destruction of threatened and endangered species and their habitat in the Oceano Dunes Vehicular Recreational Area.

We are requesting a formal answer to our request for information as shown above. Please cooperate with our request for information and provide me with the information. Thank you.

Respectfully Submitted

Bob Baiocchi
Executive Director
Water Rights and Fisheries Consultant
California Salmon and Steelhead Association
E-Mail Address: rbaiocchi@gotsky.com

cc: Dr. Nell Langford, PhD, Safe Beach Now

Mr. John Buse, Esquire
Biological Diversity Center

Mr. Brian Trautwein, Environmental Scientist
Santa Barbara Environmental Defense Center

Mr. Peter Douglas, Director
Ms. D. Chapman
Mr. Jonathan Bishop
California Coastal Commission

Director Ruth Coleman
California Department of Parks and Recreation

Interested Parties (bcc)

RECEIVED

APR 03 2009

Jonathan Bishop**From:** Bob Baiocchi [rbaiocchi@gotsky.com]**Sent:** Friday, April 03, 2009 10:56 AM**To:** Ruth Coleman**Cc:** Duane Noda; Roger Root; Steve Henry; Rod McInnus; Roy Torres; Peter Douglas; Jonathan Bishop; Roy Thomas; Mike Fitzwater; Nell Langford; John Buse; Brian Trautwein**Subject:** Request for Information by from Mr. Doug Rischbieter; California Department of Water ResourcesCALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA**April 3, 2009****Director Ruth Coleman****California Department of Parks and Recreation****Sacramento, California****Re: Request for Information by the California Salmon and Steelhead Association from Mr. Doug Rischbieter; California Department of Water Resources****Director Coleman:**

In your letter to the California Coastal Commission of February 13, 2007 you highlighted comments made by Mr. Doug Rischbieter of the California Department of Water Resources regarding a report he conducted for State Parks at the Oceano Dunes State Vehicular Recreation Area. We reference letter of February 13, 2007 from Director Ruth Coleman, California Department of Parks and Recreation to Chairman Patrick Krueer of the California Coastal Commission.

On March 31, 2009 I submitted a letter to Mr. Rischbieter requesting information from him. In an automatic response from him he advise me that he would be out of his office for several days, and to call him for further information. You were provided with a copy of the letter to Mr. Rischbieter requesting information.

I am advising you regarding our request for information from him because he apparently may overlook our letter. Secondly, since this involves you directly concerning your statements to the California Coastal Commission, we are asking you to consult with Mr. Rischbieter directly and have him answer our request for information.

The letter of March 31, 2009 to Mr. Rischbieter is shown below.

Further, it is my information that Mr. Rischbieter or a biologist from your staff advised State Parks that a Streambed Alteration Agreement was not required for the crossing of 2 million vehicles annually thru the streambed and banks of Arroyo Grande Creek in the Oceano Dunes State Vehicular Recreation Area. Pursuant to state law, State Parks must have a Streambed Alteration Agreement from the California Department of Fish and Game. Director Coleman, presently your agency is in violation of state law for many years for failing to honoring state law at the stream crossing of Arroyo Grande Creek in the Oceano Dunes State Vehicular Recreation Area.

A written response is requested from you whether you are going to consult with Mr. Rischbieter and have him provide the California Salmon and Steelhead information as we requested. Secondly we are requesting you to comply with state law and protect federally protected threatened and endangered fish species by obtaining a written "conditioned" Streambed Alteration Agreement. It appears to this organization that a Federal United States Marshall should intervene and stop the stream crossing immediately because of the adverse effects to federally protected endangered and threatened fish and wildlife species in the stream and in the lagoon.

A written response is requested from you.

Respectfully Submitted

Bob Baiocchi

4/6/2009

Dunes Vehicular Recreational Area (aka Commercial Amusement Park for Habitat Destruction). Please provide me with your background in studying and evaluating California Red Legged Frog species and their habitat;

4. In your report you did not mention the effects to endangered La Graciosa Thistle plant species in the Oceano Dunes Vehicular Recreational Area (aka Commercial Amusement Park for Habitat Destruction). Please provide me with your background in studying and evaluating endangered La Graciosa Thistle plant species and their habitat;
5. Please forward any comments you might have submitted on behalf of State Parks or any state agency to all state and federal agencies regarding the Multi-Species Habitat Conservation Plan for the Oceano Dunes Vehicular Recreational Area (aka Commercial Amusement Park for Habitat Destruction);
6. Please forward the contract agreement and the agency authority approval that allowed you to conduct monitoring activities for State Parks (aka Department of Parks and Recreation) in the Oceano Dunes Vehicular Recreational Area (aka Commercial Amusement Park for Habitat Destruction).
7. Please forward any and correspondence between you and State Parks and the California Department of Parks and Recreation regarding the Oceano Dunes Vehicular Recreational Area (aka Commercial Amusement Park for Habitat Destruction) concerning what you should report.

“Commercial Amusement Park for Habitat Destruction” is being used because State Parks and the California Department of Parks and Recreation charge fees (money) to the public and make significant profits (millions of dollars) for the State of California for the destruction of threatened and endangered species and their habitat in the Oceano Dunes Vehicular Recreational Area.

We are requesting a formal answer to our request for information as shown above. Please cooperate with our request for information and provide me with the information. Thank you.

Respectfully Submitted

Bob Baiocchi
Executive Director
Water Rights and Fisheries Consultant
California Salmon and Steelhead Association
E-Mail Address: rbaiocchi@gotsky.com

cc: Dr. Nell Langford, PhD, Safe Beach Now

Mr. John Buse, Esquire
Biological Diversity Center

Mr. Brian Trautwein, Environmental Scientist
Santa Barbara Environmental Defense Center

Mr. Peter Douglas, Director
Ms. D. Chapman
Mr. Jonathan Bishop
California Coastal Commission

Director Ruth Coleman
California Department of Parks and Recreation

Interested Parties (bcc)