

CALIFORNIA COASTAL COMMISSION

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

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Communication Disclosure Form
and correspondence submitted
since the report's initial release.

F 8 a



IMPORTANT NOTE: The Commission will not take public testimony during this phase of the appeal hearing unless at least three commissioners request it. If the Commission finds that the appeal raises a substantial issue, it will schedule the de novo phase of the hearing for a future meeting, during which it will take public testimony. Written comments may be submitted to the Commission during either phase of the hearing.

Appeal filed:	4/11/2011
49th day:	5/30/2011
Staff report prepared:	4/21/2011
Staff report prepared by:	J. Bishop
Staff report approved by:	D. Carl
Hearing date:	5/13/2011

APPEAL STAFF REPORT SUBSTANTIAL ISSUE DETERMINATION ONLY

Appeal numberA-3-SLO-11-021, State Parks Wind Monitoring Stations

ApplicantsCalifornia Department of Parks and Recreation

Appellant.....Katrina Dolinsky

Local governmentSan Luis Obispo County

Local decisionApproved with conditions on March 8, 2011 (County Coastal Development Permit (CDP) File Number DRC2010-00003).

Project locationTwo stations are proposed within the Oceano Dunes State Vehicular Recreation Area (ODSVRA); two stations are proposed in the Oso Flaco dune area; one station is proposed at the CalFire station at 2391 Willow Road.

Project descriptionConstruction and operation of five wind monitoring stations for a period of two years in the Oceano Dunes area of San Luis Obispo County.

File documents.....San Luis Obispo County certified Local Coastal Program (LCP).

Staff recommendation ...Substantial Issue Exists

A. Staff Recommendation

1. Summary of Staff Recommendation

On March 8, 2011, San Luis Obispo County approved a CDP authorizing construction and operation of five wind monitoring stations for a period of two years in the Oceano Dunes area of San Luis Obispo County. Two of the stations are proposed within the ODSVRA, two in the Oso Flaco dune area, and one is proposed inland of the dunes at the CalFire station on Willow Road. The Appellant contends that the County's approval is inconsistent with San Luis Obispo County LCP policies and ordinances related to environmentally sensitive habitat areas (ESHAs), and visual and scenic resources.

In terms of the wind monitoring station proposed at the CalFire station, it appears the station would be constructed in an area that is not ESHA, and where it would have insignificant impacts on coastal resources otherwise, and the County's approval of this part of a project does not raise a substantial LCP conformance issue.



In contrast, however, the four wind stations proposed to be located within the ODSVRA and the Oso Flaco dune areas raise conformance issues with LCP ESHA policies and ordinances. The LCP identifies all four of these areas as ESHA, the wind towers do not appear to be dependent on the dune resource in which they are proposed to be sited, and impacts from installation, continued presence, removal, and periodic maintenance/monitoring of the stations over time have the potential to adversely impact dune resources. In this case, biological studies were not performed at any of the sites prior to County approval, and the County's approval did not otherwise analyze ESHA LCP consistency. Absent such information and analysis, it is not clear that the LCP's provisions prohibiting non resource dependent development in an ESHA and otherwise protecting ESHA against inappropriate impacts have been met by the approved project. Absent conclusive evidence with which to make the required LCP ESHA findings, a substantial issue is raised with respect to ESHA protection.

In addition, the project raises LCP conformance issues with respect to protecting public viewsheds. LCP Visual and Scenic Resource Policy 10 prohibits new development in open sandy beaches unless required for public health and safety and prohibits such development altogether in dunes unless it is also resource dependent. Again, stations O1 and O2 are located in the Oso Flaco dunes and stations S1 and S2 are located in the ODSVRA dunes riding area, and these stations do not appear to be dependent on the dune resources. Similarly, although it seems clear that the data collected from the proposed stations may be useful in understanding possible airborne particulate matter affecting more inland public health, the evidence submitted to date does not show that the wind stations themselves are required to protect public health and safety as is the LCP test. Thus, a substantial issue is also raised with respect to visual and scenic resource protection.

For these reasons, Staff recommends that the Commission find that a substantial issue exists with respect to the grounds on which the appeal has been filed and that the Commission take jurisdiction over the CDP application. A de novo hearing on this matter would be scheduled at a future date after the Applicant has provided additional dune study and project information sufficient to allow these core LCP questions to be answered. Motions and resolutions to effect this recommendation are found directly below.

2. Staff Recommendation on Substantial Issue

Staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeals were filed. A finding of substantial issue would bring the project under the jurisdiction of the Commission for hearing and action.

Motion. I move that the Commission determine that Appeal Number A-3-SLO-11-021 raises no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act, and I recommend a NO vote.

Staff Recommendation of Substantial Issue. Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative



vote of the majority of the appointed Commissioners present.

Resolution to Find Substantial Issue. The Commission hereby finds that Appeal Number A-3-SLO-11-021 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the San Luis Obispo County certified Local Coastal Program.

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B. Findings and Declarations

The Commission finds and declares as follows:

1. Project Setting and Description

The project includes the construction and operation of five wind monitoring stations for a period of two years. Station S1 would be positioned in the beach dunes of the ODSVRA,¹ and station S2, downwind of S1, would be located in the interior dunes of the ODSVRA. Station O1 would be south of the ODSVRA and south of Oso Flaco Lake, in an area where there is no off-highway vehicle (OHV) activity. It would be located roughly the same distance from the shoreline as S1. Station O2 would be located downwind of O1, at a location that would be approximately the same distance from the shoreline as S2. The fifth wind station would be located on the site of the California Department of Forestry and

¹ Station S1 was already installed in May 2010, and thus this project represents a proposal to recognize tower S1 after the fact. In addition, in the time since the overall project was approved by the County in March 2011, State Parks has added other monitoring devices to tower S1 (a temperature/relative humidity sensor and a sand impact sensor).



Fire Prevention (CalFire) fire station further inland at Willow Road/Highway 1.

Each station would consist of a scaffolded tower that is 10 meters high. Three anemometers (i.e., devices for measuring wind force) would be placed on each tower at heights of 2, 7, and 10 meters above the ground. Each anemometer would be paired with a weather vane to also determine wind direction. Data from the instruments would be electronically stored so that it can be readily downloaded. According to the Applicant, wind data collected from a height of 2 meters will be representative of winds close to the zone where sand movement occurs, and wind data from 7 and 10 meters would be compared to the data collected at 2 meters to determine the surface roughness coefficient for the area around each wind station. The Applicant indicates that wind data from the 10 meter height at each station would be the least affected by terrain influences in the immediate vicinity of the station and would be used for comparative purposes to analyze the variation in speed of the marine air mass as it flows over the dunes and downwind vicinity.

See Exhibit A for an aerial photo/project detail map.

2. San Luis Obispo County CDP Approval

On March 8, 2011, and on appeal of a Planning Commission decision, the San Luis Obispo County Board of Supervisors approved a CDP for the project. Notice of the County's action on the CDP for the project was received in the Coastal Commission's Central Coast District Office on March 25, 2011. The Commission's ten-working day appeal period began on March 28, 2011 and concluded at 5pm on April 11, 2011. One valid appeal was received during the appeal period (see below).

3. Appeal Procedures

Coastal Act Section 30603 provides for the appeal to the Coastal Commission of certain CDP decisions in jurisdictions with certified LCPs. The following categories of local CDP decisions are appealable: (a) approval of CDPs for development that is located (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff, and (3) in a sensitive coastal resource area; or (b) for counties, approval of CDPs for development that is not designated as the principal permitted use under the LCP. In addition, any local action (approval or denial) on a CDP for a major public works project (including a publicly financed recreational facility and/or a special district development) or an energy facility is appealable to the Commission. This project is appealable because it is located between the first public road and the sea, is in a sensitive coastal resource area, and is not the principal permitted use under the LCP.

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the certified LCP or to the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a de novo CDP hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under Section



30604(b), if the Commission conducts a de novo hearing and ultimately approves a CDP for a project, the Commission must find that the proposed development is in conformity with the certified LCP. If a CDP is approved for a project that is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone, Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act. This project is located between the nearest public road and the sea, and thus this additional finding would need to be made if the Commission were to approve the project following a de novo hearing.

The only persons qualified to testify before the Commission on the substantial issue question are the applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. Any person may testify during the de novo CDP determination stage of an appeal.

4. Summary of Appeal Contentions

The County's approval was appealed by Katrina Dolinsky. The Appellant generally contends that the County-approved project is inconsistent with the LCP's ESHA, and visual and scenic policies and ordinances. Specifically, the Appellant contends that the County's approval is for a wind monitoring project that is not resource-dependent; is not sited and designed to avoid impacts to ESHA (terrestrial habitat); and that the wind stations are not allowed to be constructed on the beach and dunes because they are neither resource dependent, nor required for public health and safety purposes, as required by LCP visual and scenic resource Policy 10.

See the Appellant's complete appeal document in Exhibit C.

5. Substantial Issue Determination

As discussed below, the Commission finds that the County approved project raises a substantial issue of conformity with the San Luis Obispo County LCP related to ESHA protection and visual and scenic resources.

A. Applicable Policies²

The Appellant cites a number of LCP policies and ordinances in her appeal contentions. Issues raised by the appeal and the corresponding LCP development standards can be generally grouped into the two categories: ESHA and Visual/Scenic Resources.

B. Substantial Issue Analysis

Environmentally Sensitive Habitat Area (ESHA)

The Appellant contends that the project approved by San Luis Obispo County is inconsistent with the LCP's ESHA standards with respect to protection of sensitive terrestrial habitats.

² See Exhibit D for the complete text of referenced LCP policies and ordinances.



LCP ESHA Policy 1 requires that “new development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent on such resources shall be allowed within the area.” LCP Policy 29 and LCP Coastal Zone Land Use Ordinance (CZLUO) Section 23.07.176 related to Terrestrial Habitat (TH) define “designated plant and animal wildlife habitats” as ESHA, placing an emphasis on “the entire ecological community” rather than only an identified plant or animal.

In this case, the wind monitoring station at the CalFire station appears to be proposed in an already disturbed area adjacent to existing buildings and the paved parking lot area that does not qualify as an ESHA under the LCP. The proposed tower appears to meet LCP ESHA setback requirements. As such, this portion of the County’s approval does not raise substantial LCP ESHA conformance issues.

However, as approved by the County, the four other towers (S1, S2, O1, and O2) are proposed to be located on the beach and in dune areas. These areas are mapped as a Sensitive Resource Area (SRA) and as TH ESHA under the LCP. Biological studies were not performed for any of the proposed tower sites prior to County approval, and the County’s approval did not otherwise analyze ESHA LCP consistency. Given that the LCP defines all four areas as ESHA and lacking biological data prepared for the project that counters the LCP in that respect, and to err on the conservative side absent compelling information to the contrary, the Commission must presume that the beach and dune areas in question qualify as TH ESHA under the LCP. The wind towers do not appear dependent on the ESHA resource in question, and the County’s approval provides no information or analysis of this key LCP requirement. As such, and because the LCP clearly prohibits non resource dependent development in ESHA, this portion of the County-approved project cannot be found consistent with the LCP. In addition, impacts from tower installation, continued presence, removal, and periodic maintenance/monitoring of the stations over time have the potential to adversely impact dune resources, including by providing a perch for predatory birds near snowy plover habitat and alterations to surface sand patterns and species movements in the dunes. Alternative project designs and locations that avoid ESHA as directed by the LCP may be available. Thus, a substantial issue is raised with respect to the County-approved project’s conformance with the LCP’s ESHA protection policies and ordinances.

Visual and Scenic Resources

In addition, the project raises LCP conformance issues with respect to protecting public viewsheds. LCP Visual and Scenic Resource Policy 10 prohibits new development in open sandy beaches unless required for public health and safety. Policy 10 also prohibits such development altogether in dunes unless it is also resource dependent. Again, stations O1 and O2 would be located in the Oso Flaco dunes and stations S1 and S2 would be located in the ODSVRA dunes riding area, and these stations do not appear to be dependent on the dune resources. Similarly, although it seems clear that the data collected from the proposed stations may be useful in understanding possible airborne particulate matter affecting more inland public health, the evidence presented to date does not show that the wind stations themselves are required to protect public health and safety, as is necessary for LCP consistency. This policy is meant to severely limit such structures on sandy beach areas, and is intended to apply to facilities required to protect public health and safety (the LCP example is for beach erosion control structures). Thus, a substantial issue is also raised with respect to visual and scenic resource protection.



Other Issues Raised

The Appellant raises a number of other issues related to the purpose of the project and the way it relates to other previous scientific air pollution studies conducted in the area. These other issues do not appear to be valid appeal issues as they do not clearly relate to LCP conformance. Given the nature of these other issues, and the fact that an LCP conformance issue is clearly raised in terms of both ESHA and public view LCP requirements, the Commission need not conclude on the relevance of these issues, and for this reason and for the purposes of this substantial issue determination find that they do not raise a substantial issue.

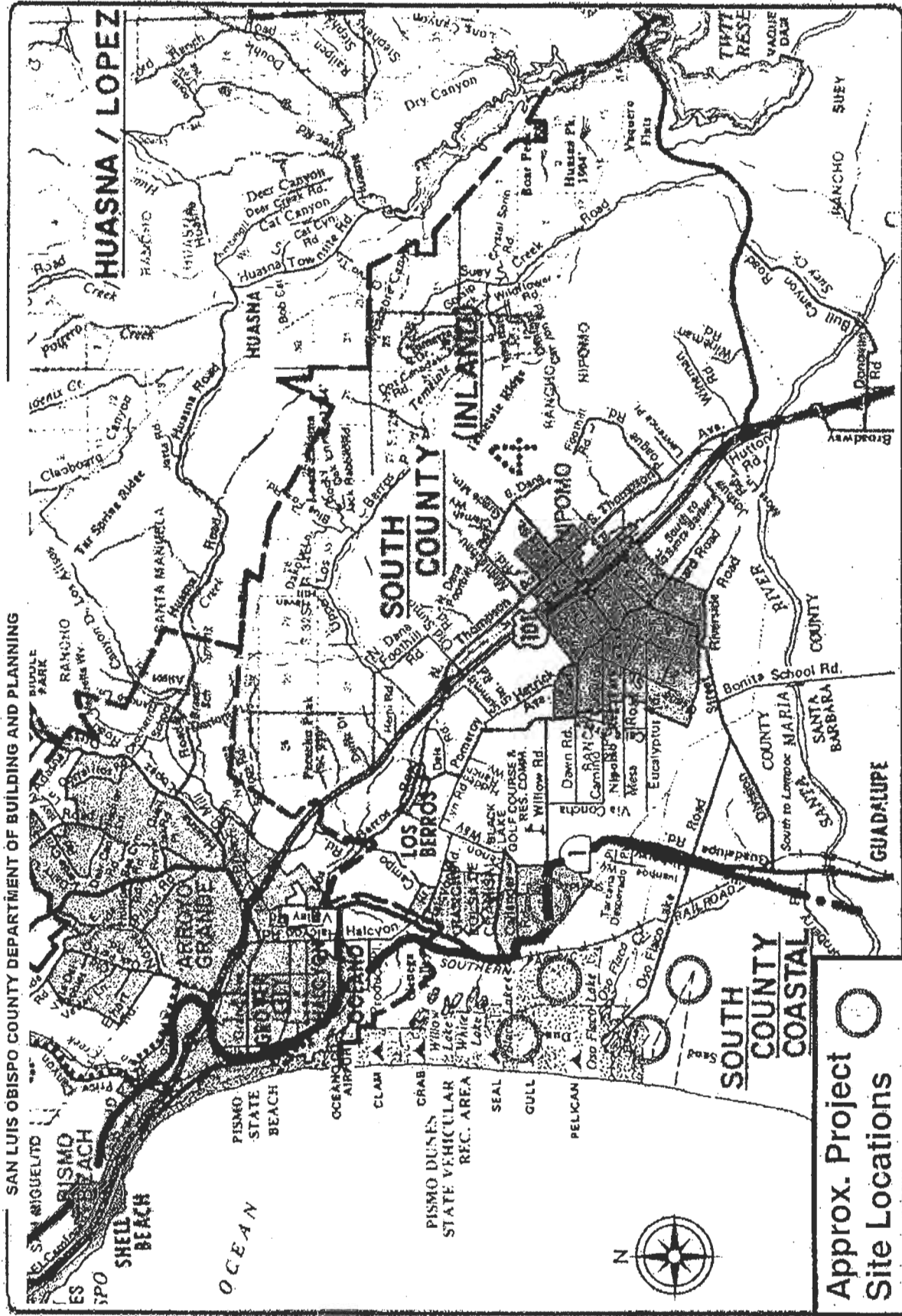
C. Substantial Issue Determination Conclusion

The County-approved project raises a substantial LCP conformance issue concerning compliance with the LCP ESHA and visual and scenic resource protection requirements. As approved, non resource dependent development would be allowed within dune ESHA that would lead to resource impacts as a result of the approved development contrary to the provisions of the LCP. In addition, the wind stations themselves do not appear to be required to protect public health and safety and therefore are not allowed under LCP Policy 10 related to visual and scenic resources as well.

Therefore, the Commission finds that a substantial issue exists with respect to the County-approved project's conformance with the certified San Luis Obispo County LCP and takes jurisdiction over the CDP application for the proposed project.

In a de novo CDP review, it appears clear that the County's CDP process and ultimate decision did not adequately ask and answer basic questions relative to the above ESHA and visual resource policy requirements. Thus, for the Commission to resolve these issues in a future de novo hearing, the Applicant will need to prepare information regarding the dune areas in question to allow a conclusive ESHA determination to be made. Given the likelihood of these dune areas being deemed ESHA (and given that the LCP categorically calls the sandy sites out as ESHA and the Commission must presume ESHA in the absence of additional ESHA information), the Applicant will also need to prepare information regarding the impacts of the proposed towers and their operation on ESHA, including in terms of their effect on sensitive species habitat in the dunes. In addition, the Applicant will need to provide additional information on the wind stations themselves, including details regarding their purpose and need, to be able to make a determination on resource-dependency, and to what degree there may be alternative siting options that could meet project objectives outside of ESHA. The Applicant will also need to develop and provide information demonstrating that the towers are required for public health and safety. After the Applicant has prepared and provided such information, the Commission can proceed with considering the project in a de novo CDP hearing.





SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING

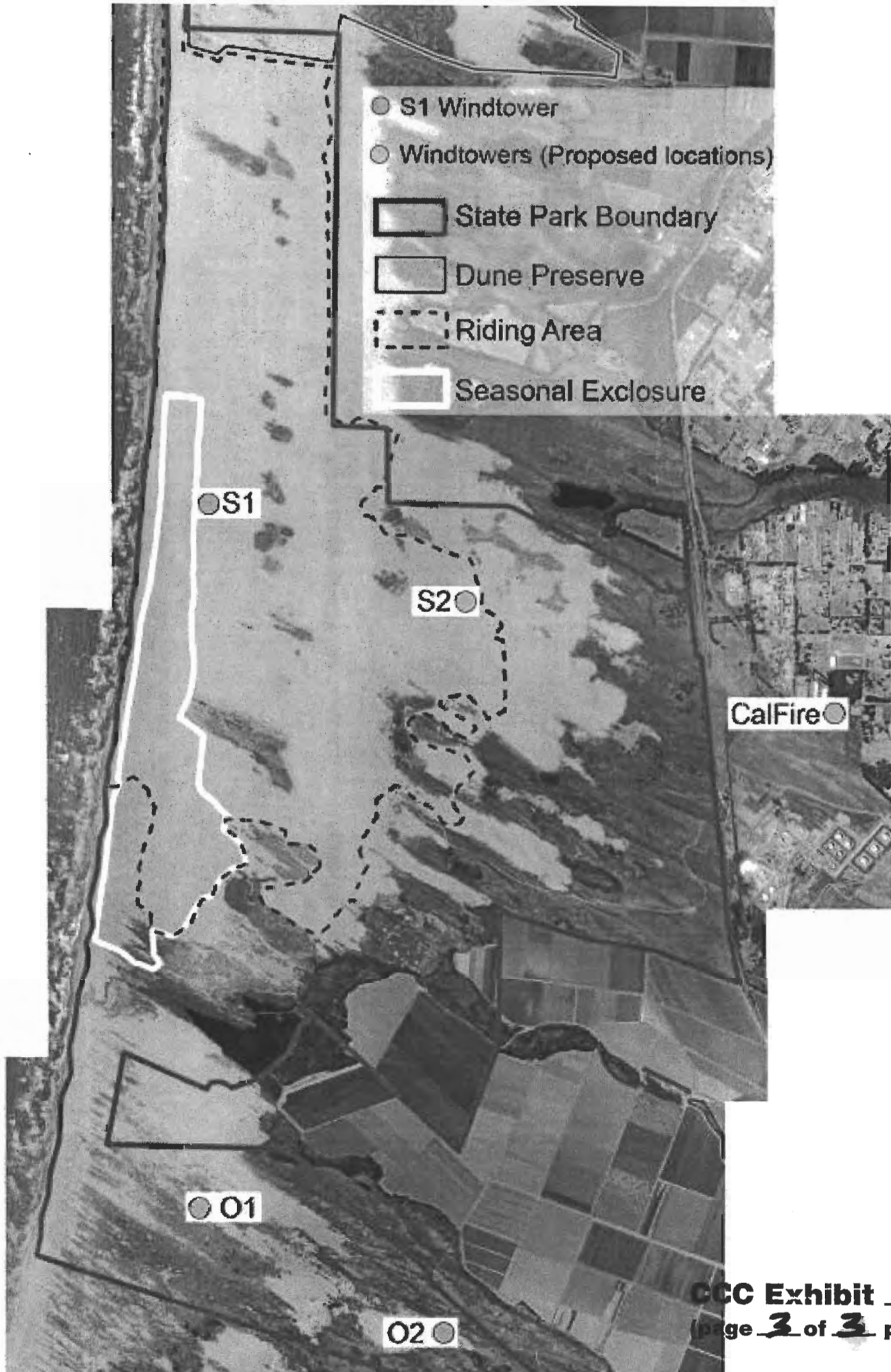
Approx. Project Site Locations

EXHIBIT
Vicinity Map



PROJECT
Minor Use Permit/Coastal Development Permit
CA. Dept. of Parks and Rec. / DRC2010-00003





- S1 Windtower
- Windtowers (Proposed locations)
- ▭ State Park Boundary
- ▭ Dune Preserve
- - - Riding Area
- ▭ Seasonal Exclosure

○ S1

S2 ○

CalFire ○

○ O1

O2 ○



SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING
FINAL LOCAL ACTION NOTICE

March 22, 2011

REFERENCE # 3-510-11-059
APPEAL PERIOD 3/28 - 4/11/2011

RECEIVED

MAR 25 2011

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Ronnie Glick
State Department of Parks and Recreation
340 James Way St. 270
Pismo Beach, CA 93449

NOTICE OF FINAL COUNTY ACTION

HEARING DATE: March 8, 2011
SUBJECT: County File No. – DRC 2010-00003
Minor Use Permit/Coastal Development Permit

LOCATED WITHIN COASTAL ZONE: YES

The above-referenced application was approved by the Board of Supervisors, based on the approved Findings and Conditions, which are attached for your records. This Notice of Final Action is being mailed to you pursuant to Section 23.02.033(d) of the Land Use Ordinance.

This action is appealable to the California Coastal Commission pursuant to regulations contained in Coastal Act Section 30603 and the County Coastal Zone Land Use Ordinance 23.01.043. These regulations contain specific time limits to appeal, criteria, and procedures that must be followed to appeal this action. The regulations provide the California Coastal Commission ten (10) working days following the expiration of the County appeal period to appeal the decision. This means that no construction permits can be issued until both the County appeal period and the additional Coastal Commission appeal period have expired without an appeal being filed.

Exhaustion of appeals at the county level is required prior to appealing the matter to the California Coastal Commission. This second appeal must be made directly to the California Coastal Commission Office. Contact the Commission's Santa Cruz Office at (831) 427-4863 for further information on their appeal procedures.

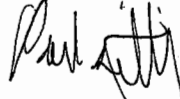
If the use authorized by this Permit approval has not been established, or if substantial work on the property towards the establishment of the use is not in progress after a period of twenty-four (24) months from the date of this approval or such other time period as may be designated through conditions of approval of this Permit, this approval shall expire and become void unless an extension of time has been granted pursuant to the provisions of Section 23.02.050 of the Land Use Ordinance.

CCC Exhibit B
(page 1 of 62 pages)
(805) 781-5600

If the use authorized by this Permit approval, once established, is or has been unused, abandoned, discontinued, or has ceased for a period of six (6) months, or conditions have not been complied with, such Permit approval shall become void.

If you have questions regarding your project, please contact me at (805) 781-4374.

Sincerely,



PAUL SITTIG
Coastal Planning and Permitting

cc: California Coastal Commission,
725 Front Street, Suite 300, Santa Cruz, California 95060
Terry Sweetland, 362 McCarthy Avenue, Oceano, CA 93445
Katrina Dolinsky, 680 Monadella Street, Arroyo Grande, CA 93420

(Planning Department Use Only – for California Coastal Commission)

Date NOFA copy mailed to Coastal Commission: March 22, 2011

Enclosed: X Staff Report
 X Resolution with Findings and Conditions

IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Tuesday, March 8, 2011

PRESENT: Supervisors: Bruce S. Gibson, Paul A. Teixeira, James R. Patterson
and Chairperson Adam Hill

ABSENT: Supervisor: Frank Mecham

RESOLUTION NO. 2011-68

**RESOLUTION AFFIRMING THE DECISION OF THE HEARING OFFICER AND
CONDITIONALLY APPROVING THE APPLICATION OF CALIFORNIA DEPARTMENT
OF PARKS AND RECREATION FOR MINOR USE PERMIT /COASTAL
DEVELOPMENT PERMIT DRC2010-00003**

The following resolution is hereby offered and read:

WHEREAS, on December 3, 2010, the Zoning Administrator of the County of San Luis Obispo (hereinafter referred to as the "Hearing Officer") duly considered and conditionally approved the application of the California Department of Parks and Recreation for Minor Use Permit / Coastal Development Permit DRC2010-00003; and

WHEREAS, Terry Sweetland and Katrina Dolinsky have appealed the Hearing Officer's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the "Board of Supervisors") pursuant to the applicable provisions of Title 23 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on March 8, 2011, and determination and decision was made on March 8, 2011; and

WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said appeals; and

WHEREAS, the Board of Supervisors has duly considered the appeals and determined that the appeals should be denied and the decision of the Hearing Officer should be affirmed subject to the findings and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth herein above are true, correct and valid.

2. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibit A attached hereto and incorporated by reference herein as though set forth in full.

3. That this project is found to be categorically exempt from the provisions of the California Environmental Quality Act under the provisions of California Code of Regulations, title 14, section 15303 and 15306 (class 3 and 6).

4. That the appeals filed by Terry Sweetland and Katrina Dolinsky are hereby denied and the decision of the Hearing Officer is affirmed and that the application of the California Department of Parks and Recreation for Minor Use Permit / Coastal Development Permit DRC2010-00003 is hereby approved subject to the conditions of approval set forth in Exhibit B attached hereto and incorporated by reference herein as though set forth in full.

Upon motion of Supervisor Teixeira, seconded by Supervisor Gibson, and on the following roll call vote, to wit:

AYES: Supervisors Teixeira, Gibson, Patterson, Chairperson Hill

NOES: None

ABSENT: Supervisor Mecham

ABSTAINING: None

the foregoing resolution is hereby adopted.

Adam Hill
Chairperson of the Board of Supervisors

ATTEST:

JULIE L. RODEWALD
Clerk of the Board of Supervisors

By: Annette Ramirez
Deputy Clerk

(SEAL)

APPROVED AS TO FORM AND LEGAL EFFECT:

WARREN R. JENSEN
County Counsel

By: /s/ James B. Orton
Deputy County Counsel

Dated: February 18, 2011

STATE OF CALIFORNIA) ss.
COUNTY OF SAN LUIS OBISPO)

I, JULIE L. RODEWALD, County Clerk of the above entitled County, and Ex-Officio Clerk of the Board of Supervisors thereof, do hereby certify the foregoing to be a full, true and correct copy of an order entered in the minutes of said Board of Supervisors, and now remaining of record in my office.

Witness, my hand and seal of said Board of Supervisors this 18th day of March, 2011.

JULIE L. RODEWALD

County Clerk and Ex-Officio Clerk of the Board of Supervisors

By: _____


Deputy Clerk

EXHIBIT A - FINDINGS

CEQA Exemption

- A. The project qualifies for a Categorical Exemption (Class 3) pursuant to State CEQA Guidelines Section 15303 because the proposed five (5) wind monitoring stations, including fencing, are small temporary structures that will not disturb sensitive habitat, and shall only remain for two (2) years.
- B. The project qualifies for a Categorical Exemption (Class 6) pursuant to State CEQA Guidelines Section 15306 because the proposed temporary wind monitoring stations are to be installed for data collection.

Minor Use Permit

- C. The proposed project or use is consistent with the San Luis Obispo County General Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- D. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- E. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the wind monitoring stations do not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- F. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the wind monitoring stations are temporary structures, sited on large Recreational parcels, and located to minimize visibility.
- G. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the wind monitoring stations will be unmanned, and are proposed as temporary structures that will not require long-term maintenance. The structures are small, and will not require large equipment for installations. Existing access to the Oceano Dunes State Vehicular Recreation Area and CalFire Station 22 will serve to provide access for construction and periodic collection of data from the unmanned stations.

Coastal Access

- H. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project is not adjacent to the coast and the project will not inhibit access to the coastal waters and recreation areas.

Sensitive Resource Area

- I. The development will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features, because the installation methods and locations for the wind monitoring stations have been selected to minimize impacts to sensitive vegetation, and the installations will be temporary, lasting only two year.
- J. Natural features and topography have been considered in the design and siting of all proposed physical improvements because the installation locations have been chosen to utilize topography to minimize ground disturbance and visibility from public vantages.
- K. The proposed clearing of topsoil, trees, is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource, because the installation locations have been chosen to minimize site disturbance, and the small structures will only remain for two years, and the sites will be returned to their natural state after project removal.
- L. The soil and subsoil conditions are suitable for any proposed excavation and site preparation and drainage improvements have been designed to prevent soil erosion, and sedimentation of streams through undue surface runoff, because the project consists of small areas of disturbance, .

Archeological Sensitive Area

- M. The site design and development incorporate adequate measures to ensure that archeological resources will be acceptably and adequately protected because the California Department of Parks and Recreation has conducted numerous archaeological investigations to identify and protect sensitive cultural resources and sites, and has determined that the projects have no potential for impacts. In the event that cultural resources are discovered during construction, all construction activities shall halt, as conditioned in Exhibit B.

EXHIBIT B - CONDITIONS OF APPROVAL

Approved Development

1. This approval authorizes a Minor Use Permit/Coastal Development Permit to allow the construction and operation of five (5) wind monitoring stations. The wind monitoring stations will be in operation for a maximum of two (2) years. The project will result in the disturbance of approximately 50 square feet of \pm 5,000 acres, spanning five (5) parcels. The proposed project is within the Recreation and Industrial land use categories. Two (2) stations are proposed within Ocean Dunes State Vehicular Recreation Area, two (2) south of Oso Flaco Creek in the Callendar Dune Sheet, and one (1) at a CalFire station in Nipomo at 2391 Willow Road in the community of Callendar Garrett. Stations S1 and S2 shall be fenced to ensure the stability of the structures and the safety of the OHV riders. The wind monitoring stations and related fencing shall be removed after two (2) years of operation. This time period is to start when the second of the five stations is installed.
2. All proposed towers shall be located outside of the Figure 4 Buffer Area, as displayed as an exhibit in the South County Coastal Area Plan.
3. The maximum height is 35 feet (as measured from average natural grade).

Site Development

4. **Prior to initiation of construction**, the applicant shall confirm with the County that all development is generally consistent with the tower site locations approved on the Parks and Recreation Boundaries Map (part of Exhibit 4), and architectural elevations. Final tower locations shall be listed by GPS coordinates and approved by the Planning Director.

Conditions to be completed during project construction

Building Height

5. The maximum height of the project is 35 feet (as measured from average natural grade).
6. In the event archaeological resources are unearthed or discovered during any construction activities, the following standards apply:
 - a. Construction activities shall cease and the Environmental Coordinator and Planning Department shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may be accomplished in accordance with state and federal law.
 - b. In the event archaeological resources are found to include human remains, or in any other case where human remains are discovered during construction, the County Coroner is to be notified in addition to the Planning Department and Environmental Coordinator so that proper disposition may be accomplished.

7. **Prior to operation of the wind monitoring stations**, the applicant shall contact the Department of Planning and Building to have the sites inspected for compliance with the conditions of this approval, and shall obtain a clearance letter from the County.

On-going conditions of approval (valid for the life of the project)

8. Two (2) years after the wind monitoring towers are erected, the towers and all associated development shall be removed from the project sites, and the installation locations shall be returned to the previous states. After the sites are returned to their original condition, the applicant shall contact the County for final verification.
9. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
10. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.
11. The applicant shall as a condition of approval of this Minor Use Permit/Coastal Development Permit at his/her sole expense, defend any action brought against the County of San Luis Obispo, its present or former officers, agents, or employees, by a third party challenging either its decision to approve this Minor Use Permit/Coastal Development Permit or the manner in which the County is interpreting or enforcing the conditions of this Minor Use Permit/Coastal Development Permit, or any other action by a third party relating to approval or implementation of this Minor Use Permit/Coastal Development Permit. The applicant shall reimburse the County for any court costs and attorney fees that the County may be required by a court to pay as a result of such action, but such participation shall not relieve the applicant of his obligation under this condition.

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE March 8, 2011	(3) CONTACT/PHONE Paul Sittig, 781-4374	
(4) SUBJECT Hearing to consider appeals by Terry Sweetland and Katrina Dolinsky of the Planning Department Hearing Officer's approval of a Minor Use Permit/Coastal Development Permit DRC2010-00003 to allow the construction and operation of five wind and air quality monitoring stations for a period of two years. Two stations are proposed within Oceano Dunes State Vehicular Recreation Area, two in the Oso Flaco dune area, and one at the CalFire station at 2391 Willow Road in Nipomo. The sites are in the South County Coastal planning area. Supervisorial District 4.			
(5) SUMMARY OF REQUEST Terry Sweetland and Katrina Dolinsky have appealed the Hearing Officer's decision to approve the request to allow for the construction of five (5) wind and air quality monitoring stations, which shall remain for two (2) years. The towers will be ten meters (approximately 32.8 feet) tall, and result in the disturbance of approximately 50 square feet of ±5,000 acres, spanning five parcels. The proposed project is within the Recreation and Industrial land use categories.			
(6) RECOMMENDED ACTION Adopt the resolution affirming the decision of the Hearing Officer and conditionally approving the application by California Department of Parks and Recreation for a Minor Use Permit/Coastal Development Permit DRC2010-00003 based on the findings in Exhibit A and the conditions in Exhibit B.			
(7) FUNDING SOURCE(S) Department Budget	(8) CURRENT YEAR FINANCIAL IMPACT N/A	(9) ANNUAL COST N/A	(10) BUDGETED? <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A
(11) OTHER AGENCY INVOLVEMENT/IMPACT (LIST): County Council reviewed and approved the Resolution as to form and legal effect.			
(12) WILL REQUEST REQUIRE ADDITIONAL STAFF? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, How Many? ____ <input type="checkbox"/> Permanent ____ <input type="checkbox"/> Limited Term ____ <input type="checkbox"/> Contract ____ <input type="checkbox"/> Temporary Help ____			
(13) SUPERVISOR DISTRICT(S) <input type="checkbox"/> 1st, <input type="checkbox"/> 2nd, <input type="checkbox"/> 3rd, <input checked="" type="checkbox"/> 4th, <input type="checkbox"/> 5th, <input type="checkbox"/> All	(14) LOCATION MAP <input checked="" type="checkbox"/> Attached <input type="checkbox"/> N/A	(15) Maddy Act Appointments Signed-off by Clerk of the Board <input checked="" type="checkbox"/> N/A	
(16) AGENDA PLACEMENT <input type="checkbox"/> Consent <input checked="" type="checkbox"/> Hearing (Time Est. 60 minutes) <input type="checkbox"/> Presentation <input type="checkbox"/> Board Business (Time Est. _____)	(17) EXECUTED DOCUMENTS: <input checked="" type="checkbox"/> Resolutions (Orig) <input type="checkbox"/> Contracts (Orig + 3 Copies) <input type="checkbox"/> Ordinances (Orig) <input type="checkbox"/> N/A <input checked="" type="checkbox"/> Email Resolution and Ordinance to CR_Board_Clerk (in MS Word)		
(18) NEED EXTRA EXECUTED COPIES? <input type="checkbox"/> Number: _____ <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A	(19) BUDGET ADJUSTMENT REQUIRED? <input type="checkbox"/> Submitted <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A		
(20) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) _____	(21) W-9 <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	(22) Agenda Item History <input checked="" type="checkbox"/> N/A Date _____	
(23) ADMINISTRATIVE OFFICE REVIEW <p align="center" style="font-size: 1.2em;">OK Lester Brown</p>			



SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

DATE: March 8, 2011

TO: Board of Supervisors

FROM: Paul Sittig, Current Planning

VIA: Kami Griffin, Assistant Director *KS*

SUBJECT: Hearing to consider appeals by Terry Sweetland and Katrina Dolinsky of the Planning Department Hearing Officer's approval of a Minor Use Permit/Coastal Development Permit DRC2010-00003 to allow the construction and operation of five wind and air quality monitoring stations for a period of two years. Two stations are proposed within Oceano Dunes State Vehicular Recreation Area, two in the Oso Flaco dune area, and one at the CalFire station at 2391 Willow Road in Nipomo. The sites are in the South County Coastal planning area. Supervisorial District 4.

RECOMMENDATION

Adopt the resolution affirming the decision of the Hearing Officer and conditionally approving the application by California Department of Parks and Recreation for a Minor Use Permit/Coastal Development Permit DRC2010-00003 based on the findings in Exhibit A and the conditions in Exhibit B.

DISCUSSION

On December 3, 2010, a Minor Use Permit/Coastal Development Permit was approved to allow the construction and operation of five (5) wind and air quality monitoring stations. The wind and air quality monitoring stations will be in operation for a maximum of two years. The project will result in the disturbance of approximately 50 square feet of $\pm 5,000$ acres, spanning five parcels. The proposed project is within the Recreation and Industrial land use categories. Two stations are proposed within Oceano Dunes State Vehicular Recreation Area (ODSVRA), two south of Oso Flaco Creek in the Oso Flaco dunes area, and one at the CalFire station at 2391 Willow Road in the Callendar-Garrett Village Area. The sites are in the South County Coastal planning area. On December 15, 2010, the Planning Department received an appeal of this decision by Terry Sweetland, and a second appeal on December 16, 2010, by Katrina Dolinsky. The following discusses the issues raised in the appeals:

Sweetland Appeal Issue – Compatibility with the following: Scenic and Visual Resources Section 8, Part. A (*Protection of Scenic Viewsheds and Rural Landscapes*);

CCC Exhibit B
(page 11 of 62 pages)

Implementation Procedures Section 12, Parts I (*Non-Conforming Uses, Structures, and Parcels*), K (*Funding*) and L (*Interagency Coordination*)

Staff Response – *Mr. Sweetland is citing several sections from a "periodic review" document that was produced by the California Coastal Commission in 2001 and is not part of the County's adopted Local Coastal Plan. However, the County does have Coastal Plan Policies that address the protection of scenic resources, and standards for non-conforming uses and structures. Mr. Sweetland's general concerns (including protection of scenic resources and funding) are reiterated in the appeal by Ms. Dolinsky, which is addressed below. Requirements for non-conforming uses or structures are not applicable to the proposed project.*

Dolinsky Appeal Issue 1 – This is a flawed application.

- a. "It lacks significant information regarding specificity of all data to be collected at these sites; nothing is mentioned in the written record to indicate such measures are to be made.
- b. The lack of specificity in this application supports an open-ended project beyond the stated 2 years, ending in January 2013. Under Cumulative Impacts, it is part of an unstated inter-related project and includes probable future projects.
- c. Project lacks specificity, is incomplete regarding estimated costs, relevant maps, and unstated purpose.
- d. This proposed second study is a diversion from the approved APCD Phase 2 Study and the subsequent ongoing air pollution mitigation. Rather than collaborating, or collecting needed data with a constructive purpose, State Parks is attempting to take over the process with intent to sabotage genuine mitigation, or the acceptance of such mitigation. These allegations can be backed up by the public record of the APCD meeting December 1, 2010."

Staff Response – *The scope of review for this land use permit is limited to the physical construction of five wind and air quality monitoring towers, which have a time limit of two years, as stated in the conditions of approval. The scope of this project is not to review the type of data or information gathered, nor is it to compare such information to past studies undertaken by the Air Pollution Control District (APCD) or others.*

The expected start date has been delayed due to the project appeal, and the project will still be limited to a two year period. The two-year time frame will now begin at the completion of installation of the towers.

Dolinsky Appeal Issue 2 – This project risks Public Health.

- a. "This proposal exacerbates the ongoing "Fugitive Dust" problem downwind. There should be no construction, nor heavy equipment moving through the Dunes, to establish, service, or monitor these sites. This action breaks and destabilizes the dune crust, releasing more particulate into the air over Nipomo Mesa during wind events.
- b. An unknown amount of public money is going into this project over an extended period that should otherwise be used now for the approved mitigation of the air pollution problem that continues to exacerbate public health."

Staff Response – *The four (4) wind and air quality monitoring stations to be built in the sand will require approximately 10 vehicle trips per tower for installation, removal, and possible maintenance, for a total of approximately 40 trips over the dunes in the two years of operation. The tower locations will either be accessed over areas that are open to the public by way of off-highway vehicle ridership, or along existing access routes of open sand, as utilized by employees of State Parks and U.S. Fish and Wildlife Service for general maintenance and policing. No new access roads or paths of travel will be created for the proposed project. The fifth tower will be installed at an existing CalFire station, which does not require access through the Oceano Dunes. The number of vehicle trips is minor in comparison to the two million annual visitors who are currently allowed to visit the Oceano Dunes State Vehicular Recreation Area. Regarding costs, the County does not have any review authority over the cost of the proposed project.*

Dolinsky Appeal Issue 3 – This is an invalid CEQA exemption.

- a. "15303 is not applicable because the proposed 30 foot tall telephone poles in the Dunes do not represent single small structures.
- b. 15306 is not applicable because such information has already been gathered from these areas, has been funded by, and approved by another public agency, and is a waste of public funds."

Staff Response – *The State of California Department of Parks and Recreation is the lead agency under CEQA, with the County of San Luis Obispo acting as the Responsible Agency. As Lead Agency, State Parks has the role of making environmental determinations on the project, providing the County a lessened role in this aspect of the project determination. With that, the County supports the exemption determinations as made by State Parks because the five wind and air quality monitoring stations will disturb a total of 50 square feet, or 10 square feet per station, and the structures will be removed after a two-year time period. As such, the County agrees that this is an appropriate use of CEQA exemption 15303 for small structures.*

Dolinsky Appeal Issue 4 – “This project negatively affects the Buffer Area. This proposed construction requires driving through buffer areas (Figure 4 Map) from Pier Ave southward toward the most northerly sites that are in close proximity to SLO county’s La Grande Tract. There is nothing to indicate that the Oso Flaco buffer area will be avoided.”

Staff Response – *The Figure Four map referenced above is an exhibit in the South County Coastal Area Plan. All five of the towers will be located outside of the buffer areas as shown on that map. Towers S1 and S2 will be located in the open riding area. Towers O1 and O2 will be located in the wildlife preserve off of Oso Flaco Road, with the tower structures located on open sand, adjacent to existing access routes used by State Parks and U.S. Fish & Wildlife. The CalFire station tower will be located at the CalFire station off of Willow Road in the Callendar-Garrett Village Area.*

Dolinsky Appeal Issue 5 – Endangered species are negatively impacted by this project.

- a. “The Snowy Plover Exclosure is close to the northerly and westerly sites that offer a perch for predators. Furthermore this project defers exact site selection in an extremely sensitive area; the public is being asked to trust an agency with a dismal track record.
- b. This is an open-ended project that would negatively impact Arroyo Grande Creek with the crossing of it during the rainy season.
- c. The delayed HCP has not been completed, nor approved as promised by the State Parks and Recreation. There is no Take Permit, and no further development until CA Coastal requirements for the HCP have been fulfilled.”

Staff Response – *State Parks has provided additional information regarding the distance from the wind and air quality monitoring towers to the snowy plover habitat/exclosure, as depicted in a new graphic exhibit (see attached exhibit #4). State Parks stated that tower S1, the tower located closest to the seasonal exclosure, will be located at least 300 feet from the edge of the exclosure. Construction and access to the wind and air quality monitoring stations will be timed to avoid the nesting season (March 1 through September 30), or routed to alternative access routes that avoid the exclosure. Arroyo Grande Creek will be crossed using existing creek crossing protocols and “take avoidance” strategies that are in place for the current use and maintenance of the park. Because of the location of each proposed tower, and because the proposed project will be following existing, approved protocols (as described above), completion of the State Parks-prepared Habitat Conservation Plan (HCP) is not required.*

Dolinsky Appeal Issue 6 – This project creates visually intrusive structures.

- a. “30 ft telephone poles with the monitoring devices attached present a negative visual impact to those visiting this area.”

Staff Response – *The mention of telephone poles is only included in early documentation for the proposed wind and air quality monitoring facilities. The project that was approved at the Planning Department Hearing consisted of metal lattice structures. Two of the five towers that will be located in the off-road vehicle area are not visible from off-site; the two towers located in the Oso Flaco area will not be visible from the public vantage points along the beach or from Oso Flaco Lake paths, and the fifth tower will be located adjacent to the CalFire station in Callendar Garrett, away from the road, and in close proximity to existing CalFire infrastructure. Furthermore, the structures are not solid towers, and are to be a light grey metal color that tends to blend with the natural background. The structures will not be distinctly visible from any significant distance.*

Revised Conditions – The staff report, as approved by the Hearing Officer on December 3, 2010, includes the condition for approved development that:

The wind monitoring stations shall be removed after two (2) years of operation, by the end of January 2013.

The January 2013 deadline is no longer a feasible endpoint for a two-year project since the project has been appealed. As such, that sentence shall be replaced with the following:

The wind and air quality monitoring stations shall be removed after two (2) years of operation. This time period is to start when the second of the five (5) stations is completed.

Additionally, a standard indemnification clause is to be added as a new condition #10, as requested by County Counsel:

The applicant shall as a condition of approval of this Minor Use Permit/Coastal Development Permit at his/her sole expense, defend any action brought against the County of San Luis Obispo, its present or former officers, agents, or employees, by a third party challenging either its decision to approve this Minor Use Permit/Coastal Development Permit or the manner in which the County is interpreting or enforcing the conditions of this Minor Use Permit/Coastal Development Permit, or any other action by a third party relating to approval or implementation of this Minor Use Permit/Coastal Development Permit. The applicant shall

reimburse the County for any court costs and attorney fees that the County may be required by a court to pay as a result of such action, but such participation shall not relieve the applicant of his obligation under this condition.

OTHER AGENCY INVOLVEMENT

Referrals were sent to the following agencies: Oceano/Halcyon Advisory Council, Public Works Department, Building Division, Oceano Community Services District (Fire), and the California Coastal Commission (see attached staff report). County Counsel reviewed and approved the Resolution as to form and legal effect.

FINANCIAL CONSIDERATIONS

The cost of reviewing this appeal comes from the Department's general fund.

RESULTS

Denial of the appeal and approval of Minor Use Permit/Coastal Development Permit DRC2010-00003, will allow for the project to go forward and be constructed as five (5) new wind and air quality monitoring stations.

Upholding the appeal and denial of Minor Use Permit/Coastal Development Permit DRC2010-00003 would mean that the project could not be constructed as proposed.

ATTACHMENTS

1. Resolution
2. Two (2) appeal letters, and portions of the *San Luis Obispo County's Local Coastal Program Periodic Review*, dated February 2, 2001 and revised August 24, 2001, as cited in the appeal by Mr. Sweetland
3. Staff report from the December 3, 2010 Planning Department Hearing
4. Additional Graphic Exhibits

Exhibit 1. Resolution

IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

_____ day _____, 20__

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. _____

**RESOLUTION AFFIRMING THE DECISION OF THE HEARING OFFICER AND
CONDITIONALLY APPROVING THE APPLICATION OF CALIFORNIA DEPARTMENT
OF PARKS AND RECREATION FOR MINOR USE PERMIT /COASTAL
DEVELOPMENT PERMIT DRC2010-00003**

The following resolution is hereby offered and read:

WHEREAS, on December 3, 2010, the Zoning Administrator of the County of San Luis Obispo (hereinafter referred to as the "Hearing Officer") duly considered and conditionally approved the application of the California Department of Parks and Recreation for Minor Use Permit / Coastal Development Permit DRC2010-00003; and

WHEREAS, Terry Sweetland and Katrina Dolinsky have appealed the Hearing Officer's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the "Board of Supervisors") pursuant to the applicable provisions of Title 23 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on March 8, 2011, and determination and decision was made on March 8, 2011; and

WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed; and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said appeals; and

WHEREAS, the Board of Supervisors has duly considered the appeals and determined that the appeals should be denied and the decision of the Hearing Officer should be affirmed subject to the findings and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth herein above are true, correct and valid:

2. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibit A attached hereto and incorporated by reference herein as though set forth in full.

3. That this project is found to be categorically exempt from the provisions of the California Environmental Quality Act under the provisions of California Code of Regulations, title 14, section 15303 and 15306 (class 3 and 6).

4. That the appeals filed by Terry Sweetland and Katrina Dolinsky are hereby denied and the decision of the Hearing Officer is affirmed and that the application of the California Department of Parks and Recreation for Minor Use Permit / Coastal Development Permit DRC2010-00003 is hereby approved subject to the conditions of approval set forth in Exhibit B attached hereto and incorporated by reference herein as though set forth in full.

Upon motion of Supervisor _____, seconded by Supervisor _____, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing resolution is hereby adopted.

Chairperson of the Board of Supervisors.

ATTEST:

Clerk of the Board of Supervisors

(SEAL)

APPROVED AS TO FORM AND LEGAL EFFECT:

WARREN R. JENSEN
County Counsel

By: [Signature]
Deputy County Counsel

Dated: February 18, 2011

STATE OF CALIFORNIA,)
) ss.
County of San Luis Obispo,)

I, _____
County Clerk and ex-officio Clerk of the Board of Supervisors, in and for the County of
San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and
correct copy of an order made by the Board of Supervisors, as the same appears spread
upon their minute book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this
day of _____, 20_____.

County Clerk and Ex-Officio Clerk of the Board
of Supervisors

(SEAL)

By: _____
Deputy Clerk.

EXHIBIT A - FINDINGS

CEQA Exemption

- A. The project qualifies for a Categorical Exemption (Class 3 and 6) pursuant to CEQA Guidelines Sections 15303 and 15306 because the proposed five (5) wind monitoring stations are small temporary structures that will not disturb sensitive habitat, and shall only remain for two (2) years.

Minor Use Permit

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies:
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the wind monitoring stations do not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the wind monitoring stations are temporary structures, sited on large Recreational parcels, and located to minimize visibility.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the wind monitoring stations will be unmanned, and are proposed as temporary structures that will not require long-term maintenance. The structures are small, and will not require large equipment for installations. Existing access to the Oceano Dunes State Vehicular Recreation Area and CalFire Station 22 will serve to provide access for construction and periodic collection of data from the unmanned stations.

Coastal Access

- G. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project is not adjacent to the coast and the project will not inhibit access to the coastal waters and recreation areas.

Sensitive Resource Area

- H. The development will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features, because the installation methods and locations for

the wind monitoring stations have been selected to minimize impacts to sensitive vegetation, and the installations will be temporary, lasting only two year.

- I. Natural features and topography have been considered in the design and siting of all proposed physical improvements because the installation locations have been chosen to utilize topography to minimize ground disturbance and visibility from public vantages.
- J. The proposed clearing of topsoil, trees, is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource, because the installation locations have been chosen to minimize site disturbance, and the small structures will only remain for two years, and the sites will be returned to their natural state after project removal.
- K. The soil and subsoil conditions are suitable for any proposed excavation and site preparation and drainage improvements have been designed to prevent soil erosion, and sedimentation of streams through undue surface runoff, because the project consists of small areas of disturbance.

Archeological Sensitive Area

- L. The site design and development incorporate adequate measures to ensure that archeological resources will be acceptably and adequately protected because the California Department of Parks and Recreation has conducted numerous archaeological investigations to identify and protect sensitive cultural resources and sites, and has determined that the projects have no potential for impacts. In the event that cultural resources are discovered during construction, all construction activities shall halt, as conditioned in Exhibit B.

EXHIBIT B - CONDITIONS OF APPROVAL

Approved Development

1. This approval authorizes a Minor Use Permit/Coastal Development Permit to allow the construction and operation of five (5) wind monitoring stations. The wind monitoring stations will be in operation for a maximum of two (2) years. The project will result in the disturbance of approximately 50 square feet of \pm 5,000 acres, spanning five (5) parcels. The proposed project is within the Recreation and Industrial land use categories. Two (2) stations are proposed within Ocean Dunes State Vehicular Recreation Area, two (2) south of Oso Flaco Creek in the Callendar Dune Sheet, and one (1) at a CalFire station in Nipomo at 2391 Willow Road in the community of Callendar Garrett. The wind monitoring stations shall be removed after two (2) years of operation. This time period is to start when the second of the five stations is installed.
2. The maximum height is 35 feet (as measured from average natural grade).

Site Development

3. **Prior to initiation of construction**, the applicant shall confirm with the County that all development is consistent with the approved site plan, and architectural elevations.

Conditions to be completed during project construction

Building Height

4. The maximum height of the project is 35 feet (as measured from average natural grade).
5. In the event archaeological resources are unearthed or discovered during any construction activities, the following standards apply:
 - a. Construction activities shall cease and the Environmental Coordinator and Planning Department shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may be accomplished in accordance with state and federal law.
 - b. In the event archaeological resources are found to include human remains, or in any other case where human remains are discovered during construction, the County Coroner is to be notified in addition to the Planning Department and Environmental Coordinator so that proper disposition may be accomplished.
6. **Prior to operation of the wind monitoring stations**, the applicant shall contact the Department of Planning and Building to have the sites inspected for compliance with the conditions of this approval, and shall obtain a clearance letter from the County.

On-going conditions of approval (valid for the life of the project)

7. Two (2) years after the wind monitoring towers are erected, the towers and all associated development shall be removed from the project sites, and the installation

locations shall be returned to the previous states. After the sites are returned to their original condition, the applicant shall contact the County for final verification.

8. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
9. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.
10. The applicant shall as a condition of approval of this Minor Use Permit/Coastal Development Permit at his/her sole expense, defend any action brought against the County of San Luis Obispo, its present or former officers, agents, or employees, by a third party challenging either its decision to approve this Minor Use Permit/Coastal Development Permit or the manner in which the County is interpreting or enforcing the conditions of this Minor Use Permit/Coastal Development Permit, or any other action by a third party relating to approval or implementation of this Minor Use Permit/Coastal Development Permit. The applicant shall reimburse the County for any court costs and attorney fees that the County may be required by a court to pay as a result of such action, but such participation shall not relieve the applicant of his obligation under this condition.

Exhibit 2. Appeal Letters



SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

December 15, 2010

Terry Sweefland
362 McCarthy Ave.
Oceano, CA 93445

California Department of Parks & Recreation
Attn: Ronnie Glick
340 James Way, Suite 270
Pismo Beach, CA 93449

SUBJECT: APPEAL OF CALIFORNIA STATE PARKS / DRC2010-00003
HEARING DATE: DECEMBER 3, 2010/PLANNING DEPARTMENT HEARINGS

We have received an appeal on the above referenced matter. In accordance with County Real Property Division Ordinance Section 21.04.020, County Land Use Ordinance Section 22.70.050, and Section 23.01.042 of the Coastal Zone Land Use Ordinance, the matter will be scheduled for public hearing before the County Board of Supervisors. A copy of the appeal is attached.

The public hearing will be held in the Board of Supervisors' Chambers, County Government Center, San Luis Obispo. As soon as we get a firm hearing date and the public notice goes out, you will receive a copy of the notice.

Please feel free to telephone me at 781-5718 if you have any questions.

Sincerely,

Nicole Retana

Nicole Retana, Secretary
County Planning Department

Cc: ~~Paul Stig, Project Manager~~
Jim Orton, County Counsel

CCC Exhibit B
(page 26 of 62 pages)

976 OSOS STREET, ROOM 300 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600

C-3

17

EMAIL: planning@co.slo.ca.us

FAX: (805) 781-1242

WEBSITE: <http://www.sloplanning.org>

March 8, 2011



COASTAL APPEALABLE FORM

#8010

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING
976 OSOS STREET • ROOM 200 • SAN LUIS OBISPO • CALIFORNIA 93401-5600

Promoting the Wise Use of Land • Helping to Build Great Communities

2010 DEC 15 PM 12:06

Please Note: An appeal should be filed by an aggrieved person or the applicant at each stage in the process if they are still unsatisfied by the last action.

PROJECT INFORMATION Name: California State Parks File Number: DRC 2010-00008
Wind Monitoring Stations

Type of permit being appealed:

- Plot Plan
- Site Plan
- Minor Use Permit
- Development Plan/Conditional Use Permit
- Variance
- Land Division
- Lot Line Adjustment
- Other: _____

The decision was made by:

- Planning Director (Staff)
- Building Official
- Planning Department Hearing Officer
- Subdivision Review Board
- Planning Commission
- Other: _____

Date the application was acted on: Dec. 3, 2010

The decision is appealed to:

- Board of Construction Appeals
- Board of Handicapped Access
- Planning Commission
- Board of Supervisors

BASIS FOR APPEAL

INCOMPATIBLE WITH THE LCP. The development does not conform to the standards set forth in the Certified Local Coastal Program of the county for the following reasons (attach additional sheets if necessary):

Explain: Scenic and Visual Resources Sec. 8. Par. A, Implementation Procedures Sec. 12. Par I and L + K.

INCOMPATIBLE WITH PUBLIC ACCESS POLICIES. The development does not conform to the public access policies of the California Coastal Act – Section 30210 et seq of the Public Resource Code (attach additional sheets if necessary).

Explain: _____

List any conditions that are being appealed and give reasons why you think it should be modified or removed.

Condition Number	Reason for appeal (attach additional sheets if necessary)
_____	_____

APPELLANT INFORMATION

Print name: TERRY Sweetland

Address: 362 McCarthy Ave Phone Number (daytime): 805 473 4913
OCEANO CA. 93445

I/We are the applicant or an aggrieved person pursuant to the Coastal Zone Land Use Ordinance (CZLUO) and are appealing the project based on either one or both of the grounds specified in this form, as set forth in the CZLUO and State Public Resource Code Section 30603 and have completed this form accurately and declare all statements made here are true.

Signature: [Signature] Date: Dec 15 2010

OFFICE USE ONLY
Date Received: 12/15/10

Amount Paid: 0

By: NAS
Receipt No. (if applicable): N/A

COASTAL APPEAL FORM
SAN LUIS OBISPO COUNTY PLANNING & BUILDING
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JUNE 29, 2011

PLANNING@CO.SLO.CA

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8. SCENIC AND VISUAL RESOURCES

The Coastal Act requires protection of scenic and visual qualities of coastal areas as a resource of public importance. New development must be sited and designed to protect views to and along the ocean and scenic coastal areas. Development must also minimize landform alteration, be compatible with the character of its surroundings and, where feasible, restore and enhance visual quality in visually degraded areas. In highly scenic areas, new development is required to be subordinate to its setting. The Coastal Act also requires that Highway One remain a scenic, two-lane road through the rural areas of the state. The Coastal Act also specifically protects the character of special coastal communities that may have unique characteristics or are popular visitor destination points (Sections 30251, 30253).

A. Protection of Scenic Viewsheds and Rural Landscapes

1) Summary of Preliminary Periodic Review Findings (Exhibit A pp. 303-318)

The *Preliminary Report* pages 303-318 found that the LCP implementation has resulted in protection of some highly scenic areas within the coastal zone through acquisition of public lands. However, cumulative development patterns in rural areas have resulted in some incremental erosion of scenic rural landscapes within public viewsheds as a result of implementation of LCP policies. The *Preliminary Report* noted that LCP policies should be updated to allow for more comprehensive evaluation and policy approaches for addressing proposed development, particularly in rural areas.

From the Commission's evaluation it appears most LCP implementation to date has addressed protection of viewsheds through screening conditions on permit approvals. However, monitoring and reporting designed to assure the effectiveness of mitigation is not always carried out. The *Preliminary Report* found that, in order to assure that LCP implementation is consistent with protection of scenic and visual resources, avoidance of impacts through site selection and design alternatives is the preferred method for preserving scenic views over mitigation through vegetation screening.

The recommendations of the *Preliminary Report* suggested that the LCP policies be revised and expanded to enact a Critical Viewshed Policy similar to that in place along the Big Sur coastline in order to adequately protect scenic resources (PR 8.1). Viewshed protection policies of the LCP should also be implemented to protect public views from offshore boating and recreation areas in state waters (PR 8.6). Development of a Scenic Sensitive Resource Area (SRA) overlay in the LCP (PR 8.2) could strengthen protection of sensitive resource areas as required by other sections of the CZLUO (23.01.043). It noted that the County is proposing revised Critical Viewshed policies as part of its Area Plan Updates. The *Preliminary Report* suggested guidance for development of the revised Area Plan policies. In addition, the *Preliminary Report* (page 319) also recognized the need to strengthen condition compliance and monitoring. It suggested enhanced coordination with Coastal Commission staff on condition compliance and enforcement

Adopted Report

San Luis Obispo County LCP Periodic Review

July 12, 2001

*As revised August 24, 2001 to incorporate changes from
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issues may improve implementation of the LCP (PR 8.3). It identified additional options that could be incorporated into the LCP in order to assure that the LCP will be implemented in conformity with the Coastal Act Sections 30251 and 30253, including pursuing formulation of an Open Space District to acquire scenic lands (PR 8.4) and pursuing National Scenic Byway Designation for Highway One in the North Coast and Estero Planning Areas (PR 8.5).

2) **Comments Raised**

San Luis Obispo County Response (Exhibit C)

The County agrees to consider adding/clarifying a scenic SRA classification and standards as suggested by Recommendation 8.2 and to consider clarifying the extent of viewsheds and permit requirements as suggested by Recommendation 8.6. The County comments note that Recommendation 8.1 should be modified to define "critical" viewsheds and policies. It suggested implementing the policy through the Area Plan updates and performance standards for a project-level visibility analysis and siting prohibition in visible areas. Coastal policies and ordinances could be amended with prioritized limitations, criteria and findings. Policies and standards could be reviewed for more explicit and consistent interpretation of standards. The County agreed to pursue recommendations 8.3, 8.4 and 8.5 provided staffing and funding is available.

Public Comments (Exhibit D)

Public comments were received in support of the recommendation for development of a Critical Viewshed Policy that would extend the Big Sur critical viewshed policy to the North Coast Area of San Luis Obispo County.

Other comments generally supported protection of critical viewsheds but suggested that viewshed should be carefully defined based on detailed visual resource analysis and mitigation measures available. Concern was noted that viewshed protection measures could be so strict as to unreasonably restrict any uses or priority uses such as agriculture buildings. Comments noted that the recommendations would extend viewshed protections to cover any public viewing area—including views from Hearst Castle and the water and were overly broad and beyond the scope of the Coastal Act. Some comments suggested that Coastal Act policies require that impacts be minimized to the extent possible but not completely eliminated. Other comments also note that the recommendations may conflict with the limited scope of existing view easements gifted by the Hearst Company to the state. Comments note that recommendations 8.1, 8.2 and 8.6 when taken together would effectively prohibit development in almost all locations between the water and Highway One or would require development to be located in artificial berm pits.

Comments from agriculturists noted that scenic viewshed protection recommendations appeared to restrict agricultural production activities and development of principal agricultural residences and agricultural buildings. The Port San Luis Harbor District also noted that the district is generally supportive of viewshed protection but also supports mitigation to visual effects of a development when other Coastal priority uses are jeopardized and recommended that the

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Incorporate additional ~~limitations standards~~ regarding the use of variances into the LCP (~~e.g., prohibit the use of variances where the project will adversely impact Environmentally Sensitive Habitats~~). For instance, where a variance is needed to prevent the strict application of ESIIA protection standards from resulting in a taking, approval of the variance should be accompanied by information and analyses needed to establish that the variance is warranted under Coastal Act Section 30010.

An additional way to ensure that variances are not inappropriately granted is to make their approval appealable to the Coastal Commission. Coastal Act Section 30603(a)(4) states that any development not designated as the principal permitted use under the zoning ordinance or zoning district map is appealable to the Coastal Commission. A *principally permitted* use is limited to the specific type of developed envisioned for a particular area of land. Conversely, the approval of a variance is a discretionary action that allows for a development/land use that is not consistent with development standards, subject to the conditional approval of the decisionmaking body (see CZLUO 23.01.045(d)). It would therefore be appropriate to amend the LCP in a manner that would establish that any development that requires a variance is, by definition, a conditionally permitted use, appealable to the Coastal Commission. Such a provision is contained in Chapter 20.78 of the Monterey County certified Implementation Plan, and is recommended to be incorporated into the San Luis Obispo County LCP by the following new recommendation:

Recommendation 12.18: Institute Appeal Provisions for Variances

Amend the LCP to identify that any development approved by variance is a conditionally permitted use appealable to the Coastal Commission. An appropriate location for this change would be within Section 23.01.045 of the CZLUO.

4. Conclusion

Recommendations 12.15 and 12.18 will ensure that the implementation of LCP variance provisions will not unnecessarily undermine the coastal resource protection objectives of the Coastal Act.

I. Non-Conforming Uses, Structures, and Parcels

1. Summary of Preliminary Periodic Review Findings

Various issues regarding the interpretation of exiting LCP standards for non-conforming uses, structures, and parcels have been raised in recent appeals. For example, the preliminary report identified implementation problems associated with the development of parcels that do not conform to minimum lot size requirements.

Preliminary Recommendation 12.16 proposed two actions to address these problems. First, it recommends that LCP standards for non-conforming situations be clarified. This would most

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likely take the form of an update to Chapter 9 of the CZLUO. Second, it recommends that the County consider incorporating new standards for the development, adjustment, and certification of non-conforming lots into Chapter 9 of the CZLUO.

2. Comments Received

The County response indicates agreement with the recommendation to clarify and update Chapter 9 of the CZLUO. However, based on legal concerns, they disagree with the portion of the recommendation calling for new standards to address the development, adjustment, and certification of non-conforming lots.

3. Analysis

It is recognized that the County's ability to require the restructuring of non-conforming parcels may be limited by the Subdivision Map Act and other applicable laws. That does not mean, however, that the County is prohibited from taking action to minimize the impacts associated with the certification, adjustment, and development of sub-standards lots. The intent of Preliminary Recommendation 12.16 was to encourage the County to pursue new standards, within its legal authority, that would limit the impacts of such development on coastal resources to the greatest degree feasible. One means of accomplishing this objective with respect to lot line adjustments would be to revise Section 21.02.030(c) of the County's Real Property Division Ordinance so that adjustments must conform to all elements of the LCP (not just the zoning and building ordinances). Other suggestions for addressing this issue are contained in Chapter 5 of this report.

Accordingly, Preliminary Recommendation 12.16 has been revised as follows:

Recommendation 12.16: Clarify LCP Provisions Regarding Nonconforming Uses

Clarify LCP provisions regarding nonconforming uses and structures, and consider incorporating new standards for the development/adjustment/certification of non-conforming parcels as addressed earlier in Chapter 5 of this report. With respect to the adjustment of non-conforming parcels, Section 21.02.030(c) of the County's Real Property Division Ordinance should be revised to require lot line adjustments to conform to all elements of the LCP (not just the zoning and building ordinances). These new standards should be crafted in a way that conforms to all applicable local, state, and federal laws.

4. Conclusion

Improvements to LCP standards that regulate nonconforming uses and structures, and the incorporation of new standards to address development on nonconforming parcels, is needed to ensure that LCP implementation prevents nonconforming development from having adverse impacts on coastal resources in conflict with Chapter 3 of the Coastal Act.

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ensure that the LCP is implemented in conformity with policies of the Coastal Act regarding appeals and public participation.

The following additional comments generated in response to the Preliminary Report are of a procedural nature, but are not specific to the findings or recommendations contained in Chapter 12.

K. Funding

One concern expressed regarding the preliminary recommendations is the cost and staff time associated with their implementation. Many of the recommendations call for the County to develop new administrative procedures, LCP Amendments, and to expand current update efforts. Carrying out these recommendations will require a commitment of financial resources, as well as additional staff and staff training.

Similarly, the Periodic Review calls on other local agencies and organizations to take certain actions to respond to particular coastal resource concerns. For example, the Cambria Community Services District plays a crucial role in responding to the water supply/riparian habitat issues in the North Coast Area, as well as participating in the protection of forest resources through development and implementation of the Cambria Monterey Pine Forest Management Plan. The Los Osos Community Services District is a critical player in carrying out the recommendations regarding the protection of dune habitat in southern Morro Bay, as well as being the primary entity responsible to addressing wastewater treatment needs.

The LCP grants awarded to San Luis Obispo County, and the dedication of additional Commission staff to the Periodic Review effort, has provided a unique opportunity for enhanced coordination. It has allowed more frequent dialogue regarding pending development applications and planning efforts, periodic visits to the County by the Commission staff, and numerous public workshops, all of which have proven to be valuable tools for resolving issues and improving coordination. The continued commitment of County and Commission funding and staff resources is crucial to the ongoing coordination needed to bring the recommendations of the Periodic Review to fruition.

Other grant and funding opportunities are also needed to facilitate the essential participation of the community services districts and the other local agencies and organizations. Some grant projects already underway will help implement the recommendations of the Periodic Review. For instance, Commission staff, the Morro Bay National Estuary Project, and the California Conservation Corps have secured funding to complete more detailed and accurate delineations of Morro Bay Wetlands, which will have direct application towards updating the LCP's Combing Designation Maps. Taking advantage of existing and new grants, in a collaborative and coordinated fashion, is a key way in which the Periodic Review can be implemented.

In recognition of these important needs, Exhibit E attached to this report identifies potential grant and funding sources that could be used towards fulfilling the recommendations. In addition, the following new Recommendation 12.19 encourages the Commission and County staff to outreach

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to grantors and grantees in a way that will promote projects that will achieve the coastal resource protection and planning improvements called for by this report:

Recommendation 12.19: Improve Coordination with Grant Programs

Commission and County staff should work with local state and federal grant sources, as well as the recipient of grants, in a way that will facilitate the coastal resource protection and planning improvements called for by this report.

As another means to effectuate the recommendations of the Periodic Review and improve the coastal planning process at both the local and state level, the following new recommendation has been incorporated into this review:

Recommendation 12.20: Seek Additional Funding and Staffing Resources

Both the Coastal Commission and the County should attempt to secure the funding necessary to further develop and implement the recommendations of the Periodic Review. In particular, the Commission should continue to offer LCP Grants that will facilitate the County's ability to commit staff resources to this effort, and the County should take full advantage of these and other grant opportunities. In addition, the Commission should seek funding to staff the Central Coast District Office at a level that will enhance its ability to assist and coordinate with San Luis Obispo County.

L. Interagency Coordination

Land use and development in the San Luis Obispo coastal zone often triggers numerous regulatory requirements and the approval of various governmental agencies. Prior to incorporating the additional regulatory requirements recommended by the preliminary report, commenters have requested that the Commission staff identify the other government agencies and organizations working towards similar objectives.

This final report has attempted to better articulate the important role that the LCP plays in the coastal resource protection, and how the LCP can be better integrated with other regulatory programs so they can work together in a coordinated and complimentary manner. Recommendations intended to facilitate improved regulatory coordination include:

- Recommendations within the new development chapter that will enhance coordination between local service providers and the County's development review process;
- Recommendations within the Water Quality Chapter that help define the role of the County in implementing state and nationwide pollution control objectives;
- Recommendations within the agriculture chapter that encourage cooperation with voluntary programs such as those implemented by the National Resource Conservation Service; and,
- Recommendations within the Environmentally Sensitive Habitat Areas Chapter that maximize opportunities for the development of habitat conservation plans that will address the requirements of state and federal endangered species acts as well as the Coastal Act.



SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

December 16, 2010

Katrina Dolinsky
680 Monadella Street
Arroyo Grande, CA 93420

California Department of Parks & Recreation
Attn: Ronnie Glick
340 James Way, Suite 270
Pismo Beach, CA 93449

SUBJECT: APPEAL OF CALIFORNIA STATE PARKS / DRC2010-00003
HEARING DATE: DECEMBER 3, 2010/PLANNING DEPARTMENT HEARINGS

We have received an appeal on the above referenced matter. In accordance with County Real Property Division Ordinance Section 21.04.020, County Land Use Ordinance Section 22.70.050, and Section 23.01.042 of the Coastal Zone Land Use Ordinance, the matter will be scheduled for public hearing before the County Board of Supervisors. A copy of the appeal is attached.

The public hearing will be held in the Board of Supervisors' Chambers, County Government Center, San Luis Obispo. As soon as we get a firm hearing date and the public notice goes out, you will receive a copy of the notice.

Please feel free to telephone me at 781-5718 if you have any questions.

Sincerely,

Nicole Retana, Secretary
County Planning Department

Cc: Paul Sittig, Project Manager
Jim Orton, County Counsel

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COASTAL APPEALABLE FORM

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING
976 OSOS STREET • ROOM 200 • SAN LUIS OBISPO • CALIFORNIA 93408 (805) 781-5600

Promoting the Wise Use of Land • Helping to Build Great Communities

#821

2010 DEC 15 PM 2:33

Please Note: An appeal should be filed by an aggrieved person or the applicant at each stage in the process if they are still unsatisfied by the last action.

PROJECT INFORMATION

Name: C.O.P.R. Wind Monitoring Station File Number: DRC 2010-00003

Type of permit being appealed:

- Plot Plan
- Site Plan
- Minor Use Permit
- Development Plan/Conditional Use Permit
- Variance
- Land Division
- Lot Line Adjustment
- Other: _____

The decision was made by:

- Planning Director (Staff)
- Building Official
- Planning Department Hearing Officer
- Subdivision Review Board
- Planning Commission
- Other: _____

Date the application was acted on: December 3, 2010

The decision is appealed to:

- Board of Construction Appeals
- Board of Handicapped Access
- Planning Commission
- Board of Supervisors

BASIS FOR APPEAL

INCOMPATIBLE WITH THE LCP. The development does not conform to the standards set forth in the Certified Local Coastal Program of the county for the following reasons (attach additional sheets if necessary)

Explain: see attached - Buffer Areas - Endangered Species - Public Health - Visually Intrusive structures

INCOMPATIBLE WITH PUBLIC ACCESS POLICIES. The development does not conform to the public access policies of the California Coastal Act - Section 30210 et seq of the Public Resource Code (attach additional sheets if necessary)

Explain: Project requires driving on a public beach, which is incompatible with safe pedestrian access.

List any conditions that are being appealed and give reasons why you think it should be modified or removed.

Condition Number _____ Reason for appeal (attach additional sheets if necessary)

APPELLANT INFORMATION

Print name: Katrina Dolinsky CCU# _____
Address: 680 Monadella St Phone Number (daytime) (310) 245-2703
Arroyo Grande, CA 93420

I/We are the applicant or an aggrieved person pursuant to the Coastal Zone Land Use Ordinance (CZLUO) and are appealing the project based on either one or both of the grounds specified in this form, as set forth in the CZLUO and State Public Resource Code Section 30603 and have completed this form accurately and declare all statements made here are true.

Signature: Katrina Dolinsky

Date: 12/14/10

OFFICE USE ONLY

Date Received: 12/15/10

Amount Paid: 0

By: NAR

Receipt No. (if applicable): N/A

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1. This is a flawed application.
 - It lacks significant information regarding specificity of all data to be collected at these sites; nothing is mentioned in the written record to indicate such measurements are to be made.
 - The lack of specificity in this application supports an open-ended project beyond the stated 2 years, ending in January 2013. Under the Cumulative Impacts, it is part of an unstated inter-related project and includes probable future projects.
 - Project lacks specificity, is incomplete regarding estimated costs, relevant maps, and unstated purpose.
 - This proposed second study is a diversion from the approved APCD Phase 2 Study and the subsequent ongoing air pollution mitigation. Rather than collaborating, or collecting needed data with a constructive purpose, State Parks is attempting to take over the process with intent to sabotage genuine mitigation, or the acceptance of such mitigation. These allegations can be backed up by the public record of the APCD meeting December 1, 2010.
2. This project risks Public Health.
 - This proposal exacerbates the ongoing "Fugitive Dust" problem downwind. There should be no construction, nor heavy equipment moving through the Dunes, to establish, service, or monitor these sites. This action breaks and destabilizes the dune crust, releasing more particulate into the air over the Nipomo Mesa during wind events.
 - An unknown amount of public money is going into this project over an extended period that should otherwise be used now for the approved mitigation of the air pollution problem that continues to exacerbate public health.
3. This is an invalid CEQA exemption.
 - 15303 is not applicable because the proposed 30 foot tall telephone poles in the Dunes do not represent single small structures.
 - 15306 is also not applicable because such information has already been gathered from these areas, has been funded by, and approved by another public agency, and is a waste of public funds.
4. This project negatively affects the Buffer Areas.

This proposed construction requires driving through buffer areas (Figure 4 Map) from Pier Ave southward to the most northerly sites that are in close proximity to the SLO County's La Grande Tract. There is nothing to indicate that the Oso Flaco buffer area will be avoided.
5. Our Endangered Species are negatively impacted by this project.
 - The Snowy Plover Enclosure is close to the northerly and westerly sites that offer a perch for predators. Furthermore, this project defers exact site selection in an extremely sensitive area; the public is being asked to trust an agency with a dismal track record.
 - This is an open-ended project that would negatively impact the Arroyo Grande Creek with the crossing of it during the rainy season.
 - The delayed HCP has not been completed, nor approved as promised by the State Parks and Recreation. There is no Take Permit, and no further development until CA Coastal requirements for the HCP have been fulfilled.
6. This project creates visually intrusive structures.
 - 30 ft telephone poles with the monitoring devices attached present a negative visual impact to those visiting this area.

Exhibit 3. Staff Report from the December 3, 2010
Planning Department Hearing



**COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT**

Tentative Notice of Action

*Promoting the wise use of land
Helping build great communities*

MEETING DATE December 3, 2010	CONTACT/PHONE Paul Sittig, Project Planner (805) 781-4374	APPLICANT California Department of Parks and Recreation	FILE NO: DRC2010-00003
LOCAL EFFECTIVE DATE December 16, 2010	APPROX FINAL EFFECTIVE DATE January 3, 2011	psittig@co.slo.ca.us	
SUBJECT Hearing to consider a request by California Department of Parks and Recreation for a Minor Use Permit/Coastal Development Permit to allow the construction and operation of five (5) wind monitoring stations. The wind monitoring stations will be in operation for a maximum of two (2) years. The project will result in the disturbance of approximately 50 square feet of ± 5,000 acres, spanning five (5) parcels. The proposed project is within the Recreation and Industrial land use categories. Two (2) stations are proposed within Ocean Dunes State Vehicular Recreation Area, two (2) south of Oso Flaco Creek in the Callendar Dune Sheet, and one (1) at a CalFire station in Nipomo at 2391 Willow Road in the community of Callendar Garrett. The sites are in the South County Coastal planning area.			
RECOMMENDED ACTION Approve Minor Use Permit DRC2010-00003 based on the findings listed in Exhibit A and the conditions listed in Exhibit B.			
ENVIRONMENTAL DETERMINATION Class 3 and 6 Categorical Exemptions were issued on April 22, 2010 and July 16, 2010, by California Department of Parks and Recreation.			
LAND USE CATEGORIES Recreation, Open Space, Industrial	COMBINING DESIGNATIONS Terrestrial Habitat, Archaeologically Sensitive, Sensitive Resource Area, Wetlands, Coastal Appealable Zone, Local Coastal Plan, Flood Hazard	ASSESSOR PARCEL NUMBERS 092-391-013, 092-391-017, 092-071-001, 092-011-014, 091-192-035	SUPERVISOR DISTRICT 4
PLANNING AREA STANDARDS: <i>Does the project meet applicable Planning Area Standards: None applicable.</i>			
LAND USE ORDINANCE STANDARDS: Appeals to the Coastal Commission (Coastal Appealable Zone), Height Limitations, Flood Hazard Area, Archaeologically Sensitive Areas, Local Coastal Program, Sensitive Resource Area, Wetlands, and Terrestrial Habitat <i>Does the project conform to the Land Use Ordinance Standards: Yes - see discussion</i>			
FINAL ACTION This tentative decision will become the final action on the project, unless the tentative decision is changed as a result of information obtained at the administrative hearing or is appealed to the County Board of Supervisors pursuant Section 23.01.042 of the Coastal Zone Land Use Ordinance; effective on the 10th working day after the receipt of the final action by the California Coastal Commission. The tentative decision will be transferred to the Coastal Commission following the required 14-calendar day local appeal period after the administrative hearing. The applicant is encouraged to call the Central Coast District Office of the Coastal Commission in Santa Cruz at (831) 427-4863 to verify the date of final action. The County will not issue any construction permits prior to the end of the Coastal Commission process.			
ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER γ SAN LUIS OBISPO γ CALIFORNIA 93408 γ (805) 781-5600 γ FAX: (805) 781-1242			

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EXISTING USES: Oceano Dunes State Vehicular Recreation Area, Guadalupe-Nipomo Dunes Preserve, fire station	
SURROUNDING LAND USE CATEGORIES AND USES: <u>Oceano Dunes Vehicular Recreation Area wind monitoring stations</u> North: Recreation/ Oceano Dunes VRA East: Recreation, Agriculture/ ODSVRA, row crops South: Recreation/ Oceano Dunes VRA West: Pacific Ocean <u>Guadalupe-Nipomo Dunes Preserve stations</u> North: Recreation/ Oceano Dunes VRA East: Agriculture/ row crops South: Recreation/ Dunes Preserve West: Pacific Ocean <u>CalFire station</u> North: Industrial/ mini-storage, residences East: Industrial/ open space, residences, outdoor storage South: Industrial/ open space, undeveloped West: Industrial/ open space, undeveloped	
OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to: Oceano/Halcyon Advisory Council, Public Works, Building Department, Oceano Services District (Fire), California Coastal Commission	
TOPOGRAPHY: Level to gently sloping	VEGETATION: Coastal foredune, dune scrub
PROPOSED SERVICES: Water supply: Not applicable Sewage Disposal: Not applicable Fire Protection: CalFire / Oceano Fire	ACCEPTANCE DATE: August 27, 2010

DISCUSSION

PROJECT DETAILS:

The California Department of Parks and Recreation (CDPR), Oceano Dunes District proposes to install five (5) wind monitoring towers in the area of the Oceano Dunes State Vehicular Recreation Area (ODSVRA). Two (2) towers (S1 and S2) will be installed in ODSVRA, another two (2) towers (O1 and O2) will be installed in the Callendar Dune Sheet in the general vicinity of Oso Flaco Lake, and the fifth tower (CalFire) will be installed at the CalFire Mesa Station 22, in Callendar Garrett.

The towers are ten meter (~32.8 feet) tall, made of aluminum mesh, with a base buried three feet deep, and three (3) guy wires attached to poles or anchored into the sand. Each tower will be outfitted with three (3) aerovane style anemometers (wind speed and direction measuring devices), a data logger, communication devices, battery, solar array, and other associated devices.

The wind monitoring stations will be in place for two years, from January 2011 to January 2013. One wind monitoring station tower (S1) was installed within ODSVRA on a trial basis in June 2010 to test methods for installation and stabilization. This tower has remained stable in its current situation, and will remain until January 2013.

The S1 and S2 sites will be accessed through ODSVRA. Towers will be brought onto the beach by light trucks, and located in areas that are open to riding and camping by the public. Five (5) foot tall wire fences with markers and signs for visibility will be placed around the base of the towers to protect the equipment from tampering by the public.

The O1 and O2 sites will also be accessed through ODSVRA. Towers will be brought onto the beach by light trucks, driven south across the beach and inland. These sites are not open to the public for vehicular use. Access will be along existing paths of travel that are used to access these remote areas of the SVRA by the public. The exact site selection for O1 and O2 will be chosen to avoid sensitive native species.

The CalFire site is located at the back of the CalFire property, and will be located in coordination with CalFire staff, as to not interfere with daily activities of the station. Access to this site will be from Highway 1/Willow Road.

CDPR is the California Environmental Quality Act lead agency for these projects. Three towers (S1, S2 and CalFire) were reviewed in April 2010. A Notice of Exemption was filed on April 22, 2010 under CEQA Sections 15303 and 15306. The other two towers (O1 and O2) were reviewed in July 2010. A Notice of Exemption was filed on July 16, 2010 under CEQA Sections 15303 and 15306.

PLANNING AREA STANDARDS:

None applicable.

LAND USE ORDINANCE STANDARDS:

Section 23.01.043c.(1): Appeals to the Coastal Commission (Coastal Appealable Zone)

The project is appealable to the Coastal Commission because the subject parcels are located between the sea and the first public road paralleling the sea.

Section 23.04.124: Height Limitations

The wind monitoring station towers are located in Recreation and Industrial land use categories, with height limits of 35 and 45 feet, respectively. The proposed towers will be ten meters tall, (approximately 33 feet) from base to tip, and as such, comply with the height limitations.

Section 23.07.060: Flood Hazard Area (FH)

The project sites adjacent to the ocean and watercourses flowing from Oso Flaco Lake include some areas mapped as flood hazard. The proposed projects are located out of these areas.

Section 23.07.104: Archaeologically Sensitive Areas

The project sites include areas mapped as archaeologically sensitive. CDPR has conducted numerous archaeological investigations to identify and protect sensitive cultural resources and sites, and has determined that the projects have no potential for impacts. In the event that cultural resources are discovered during construction, all construction activities shall halt, as conditioned in Exhibit B.

Section 23.07.120: Local Coastal Program

The project site is located within the California Coastal Zone as established by the California Coastal Act of 1976, and is subject to the provisions of the Local Coastal Program.

Sections 23.07.160, 172, 176: Sensitive Resource Area, Wetlands, and Terrestrial Habitat

The project sites are largely mapped as some type of sensitive resource area, either as wetlands or terrestrial habitat. Ocean Dunes SVRA supports sensitive habitats including coastal

foredune and dune scrub. The towers will not be installed in areas that support sensitive vegetation. They will be installed in open sand sheets. Minimal impacts to native vegetation may result from transporting equipment to the O1 and O2 sites. Tower installation will take place outside of the breeding season for Western Snowy Plover and California Least Tern. The towers will be set back a sufficient distance from known nesting areas of plover and tern so they will not pose a risk to nesting birds or provide a predator perch. The park has numerous procedures in place to identify and protect endangered shorebird and all procedures will be in place during installation and operation of these wind towers. The project won't include any work in or near to wetlands, and there will be no vehicular impacts to the wetlands related to the construction of the wind monitoring towers.

COASTAL PLAN POLICIES:

Shoreline Access: <input checked="" type="checkbox"/>	Policy No(s): 2
Recreation and Visitor Serving: <input checked="" type="checkbox"/>	Policy No(s): 1
Energy and Industrial Development: N/A	
Commercial Fishing, Recreational Boating and Port Facilities: N/A	
Environmentally Sensitive Habitats: <input checked="" type="checkbox"/> N/A	Policy No(s): 1 and 2
Agriculture: N/A	
Public Works: N/A	
Coastal Watersheds: N/A	
Visual and Scenic Resources: <input checked="" type="checkbox"/>	Policy No(s): 1, 2, 4 and 10
Hazards: <input checked="" type="checkbox"/>	Policy No(s): 1
Archeology: <input checked="" type="checkbox"/>	Policy No(s): 4
Air Quality: N/A	

Does the project meet applicable Coastal Plan Policies: Yes, as conditioned

COASTAL PLAN POLICY DISCUSSION:

Shoreline Access

Policy 2: New Development. Maximum public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development. The proposed project complies with this policy, as the property where the four (4) wind monitoring stations that are located on property adjacent is owned and managed by California Department of Parks and Recreation, with beach and ocean access provided to the public by design of the over-all parks and open spaces. The proposed projects will not interfere with public access to the beaches or the ocean. The fifth wind monitoring station will be located at an existing CalFire station, not adjacent to the beach or ocean.

Recreation and Visitor Serving

Policy 1: Recreation Opportunities. Coastal recreational and visitor-serving facilities, especially lower-cost facilities, shall be protected, encouraged and where feasible provided by both public and private means. The proposed project complies with this policy, as four (4) of the wind monitoring stations are located on property that is open, in part or whole, to the public for visitor-serving activities. The proposed wind monitoring stations will not significantly impact or reduce the public access, as the wind monitoring stations are small in scale, especially as related to the large area of the project parcels. The CalFire station is not located on or adjacent to recreation or visitor serving land or uses.

Environmentally Sensitive Habitats

Policy 1: Land Uses Within or Adjacent to Environmentally Sensitive Habitats. New development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent on such resources shall be allowed within the area. This project complies with this policy because it will not disrupt resources on the site through installation or use of the wind monitoring stations. The S1 and S2 stations will be located in the ODSVRA, in areas that would otherwise be open to off-road vehicle usage. The O1 and O2 stations will be located in areas not open to off-road vehicles. The precise site location for these stations will be selected to avoid impacts to sensitive species, including but not limited to Western Snowy Plover and California Least Tern.

Policy 2: Permit Requirement. As a condition of permit approval, the applicant is required to demonstrate that there will be no significant impact on sensitive habitats and that proposed development or activities will be consistent with the biological continuance of the habitat. This shall include an evaluation of the site prepared by a qualified professional which provides: a) the maximum feasible mitigation measures (where appropriate), and b) a program for monitoring and evaluating the effectiveness of mitigation measures where appropriate. The proposed project complies with this policy because CDPD reviewed the potential for impacts due to the proposed project, and found that no impacts would occur through design of the project, and through application of existing protocols to avoid impacts to sensitive species present on the project parcels.

Visual and Scenic Resources

Policy 1: Protection of Visual and Scenic Resources. Unique and attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved protected, and in visually degraded areas restored where feasible. The proposed project complies with this policy, as the locations of the five (5) wind monitoring stations have been selected to minimize visual impacts. The S1 and S2 stations will be located in areas that are open to the public by way of off-road vehicle use, and visibility is minimized through design and location of the towers, as the thin metal lattice structures are not noticeable from a distance. The O1 and O2 stations are not visible from public views, as the towers will be located in areas not open to the public, and the existing terrain and vegetation will screen the towers. The fifth tower, located at CalFire Station 22 in the Callendar Garrett area, along Highway 1/Willow Road will be visible to the public, but will be adjacent and similar to existing antennas and structures located behind the fire station building. Furthermore, the thin metal lattice structure will not be noticeable from a distance.

Policy 2: Site Selection for New Development. Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development is to emphasize locations not visible from major public view corridors. In particular, new development should utilize slope created "pockets" to shield development and minimize visual intrusion. The proposed project complies with this policy, as the location and design of the structures will minimize visibility from public vantage points, as discussed under Visual and Scenic Resources Policy 1.

Policy 4: New Development in Rural Areas. New development shall be sited to minimize its visibility from public view corridors. Structures shall be designed (height, bulk, style) to be subordinate to, and blend with, the rural character of the area. New development

which cannot be sited outside of public view corridors is to be screened utilizing native vegetation; however, such vegetation, when mature, must also be selected and sited in such a manner as to not obstruct major public views. *The proposed project complies with this policy, as the wind monitoring towers will be temporary structures, sited to create the least visual impact in rural areas as possible.*

Policy 10: Development on Beaches and Sand Dunes. Prohibit new development on open sandy beaches, except facilities required for public health and safety (e.g., beach erosion control structures). Limit development on dunes to only those uses which are identified as resource dependent in the LCP. Require permitted development to minimize visibility and alterations to the natural landform and minimize removal of dune stabilizing vegetation. *The proposed project complies with this policy, as the purpose of the wind monitoring stations is to gather information on air pollution control issues identified on the Nipomo Mesa, specifically as they relate to off-road vehicle use on the dunes. Two of the five wind monitoring stations will be installed on the open sand dunes, in the active ODSRVA, in areas open to and regularly accessed by off-road vehicles. Furthermore, the monitoring stations are temporary structures.*

Hazards

Policy 1: New Development. All new development proposed within areas subject to natural hazards from geologic or flood conditions (including beach erosion) shall be located and designed to minimize risks to human life and property. Along the shoreline new development (with the exception of coastal-dependent uses or public recreation facilities) shall be designed so that shoreline protective devices (such as seawalls, cliff retaining walls, revetments, breakwaters, groins) that would substantially alter landforms or natural shoreline processes, will not be needed for the life of the structure. Construction of permanent structures on the beach shall be prohibited except for facilities necessary for public health and safety such as lifeguard towers. *The proposed project complies with this policy, as the structures have been designed minimize risks to human life and property. Safety fencing will be installed around sites S1 and S2, as they are to be installed in open off-road vehicle areas. The project is designed to temporary in nature, and will be removed after a two (2) year time period.*

Archaeology

Policy 4: Preliminary Site Survey for Development within Archaeologically Sensitive Areas. Development shall require a preliminary site survey by a qualified archaeologist knowledgeable in Chumash culture prior to a determination of the potential environmental impacts of the project. *The proposed project complies with this policy, as the California Department of Parks and Recreation has conducted numerous archaeological investigations to identify and protect sensitive cultural resources and sites, and has determined that the projects have no potential for impacts. In the event that cultural resources are discovered during construction, all construction activities shall halt, as conditioned in Exhibit B.*

COMMUNITY ADVISORY GROUP COMMENTS:

No comments received prior to November 10, 2010.

AGENCY REVIEW:

Public Works – *No comments submitted prior to November 10, 2010.*

Building Department – Per referral reply, emailed on August 27, 2010:

1. All plans and engineering shall be prepared by a California Licensed Architect and/or Engineer of Record.
2. The project may require the services of a Soils Engineer.

Oceano Services District (Fire) – *No comments received prior to November 10, 2010.*

California Coastal Commission – *No comments received prior to November 10, 2010.*

LEGAL LOT STATUS:

The five (5) lots were legally created by deed at a time when that was a legal method of creating lots.

Staff report prepared by Paul Sittig and reviewed by Bill Robeson.

EXHIBIT A - FINDINGS

CEQA Exemption

- A. The project qualifies for a Categorical Exemption (Class 3 and 6) pursuant to CEQA Guidelines Sections 15303 and 15306 because put description of why exempt here.

Minor Use Permit

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.

- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.

- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the wind monitoring stations do not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.

- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the wind monitoring stations are temporary structures, sited on large Recreational parcels, and located to minimize visibility.

- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the wind monitoring stations will be unmanned, and are proposed as temporary structures that will not required long-term maintenance. The structures are small, and will not require large equipment for installations. Existing access to the Oceano Dunes State Vehicular Recreation Area and CalFire Station 22 will serve to provide access for construction and periodic collection of data from the unmanned stations.

Coastal Access

- G. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project is not adjacent to the coast and the project will not inhibit access to the coastal waters and recreation areas.

Sensitive Resource Area

- H. The development will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features, because the installation methods and locations for the wind monitoring stations have been selected to minimize impacts to sensitive vegetation, and the installations will be temporary, lasting only two year.

- I. Natural features and topography have been considered in the design and siting of all proposed physical improvements because the installation locations have been chosen to utilize topography to minimize ground disturbance and visibility from public vantages.
- J. The proposed clearing of topsoil, trees, is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource, because the installation locations have been chosen to minimize site disturbance, and the small structures will only remain for two years, and the sites will be returned to their natural state after project removal.
- K. The soil and subsoil conditions are suitable for any proposed excavation and site preparation and drainage improvements have been designed to prevent soil erosion, and sedimentation of streams through undue surface runoff, because the project consists of small areas of disturbance.

Archeological Sensitive Area

- L. The site design and development incorporate adequate measures to ensure that archeological resources will be acceptably and adequately protected because the California Department of Parks and Recreation has conducted numerous archaeological investigations to identify and protect sensitive cultural resources and sites, and has determined that the projects have no potential for impacts. In the event that cultural resources are discovered during construction, all construction activities shall halt, as conditioned in Exhibit B.

EXHIBIT B - CONDITIONS OF APPROVAL

Approved Development

1. This approval authorizes a Minor Use Permit/Coastal Development Permit to allow the construction and operation of five (5) wind monitoring stations. The wind monitoring stations will be in operation for a maximum of two (2) years. The project will result in the disturbance of approximately 50 square feet of \pm 5,000 acres, spanning five (5) parcels. The proposed project is within the Recreation and Industrial land use categories. Two (2) stations are proposed within Ocean Dunes State Vehicular Recreation Area, two (2) south of Oso Flaco Creek in the Callendar Dune Sheet, and one (1) at a CalFire station in Nipomo at 2391 Willow Road in the community of Callendar Garrett. The wind monitoring stations shall be removed after two (2) years of operation, by the end of January 2013.
2. The maximum height is 35 feet (as measured from average natural grade).

Site Development

3. **Prior to initiation of construction**, the applicant shall confirm with the County that all development is consistent with the approved site plan, and architectural elevations.

Conditions to be completed during project construction

Building Height

4. The maximum height of the project is 35 feet (as measured from average natural grade).
5. In the event archaeological resources are unearthed or discovered during any construction activities, the following standards apply:
 - a. Construction activities shall cease and the Environmental Coordinator and Planning Department shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may be accomplished in accordance with state and federal law.
 - b. In the event archaeological resources are found to include human remains, or in any other case where human remains are discovered during construction, the County Coroner is to be notified in addition to the Planning Department and Environmental Coordinator so that proper disposition may be accomplished.
6. **Prior to operation of the wind monitoring stations**, the applicant shall contact the Department of Planning and Building to have the sites inspected for compliance with the conditions of this approval, and shall obtain a clearance letter from the County.

On-going conditions of approval (valid for the life of the project)

7. Two (2) years after the wind monitoring towers are erected, the towers and all associated development shall be removed from the project sites, and the installation

locations shall be returned to the previous states. After the sites are returned to their original condition, the applicant shall contact the County for final verification.

8. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
9. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.



Sierra Club comments, Consent Agenda item 5, Dec. 3 meeting
 Santa Lucia Chapter of the Sierra Club to: whoag
 psittig

12/01/2010 06:24 PM.



**SIERRA
 CLUB**

FOUNDED 1892

Santa Lucia Chapter

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

December 1, 2010

Warren Hoag, Hearing Officer
 Dept. of Planning and Building

Re: Tentative Notice of Action, California DPR MUP/CDP application #DRC2010-00003

Dear Mr. Hoag,

Please enter the following comments into the record for the hearing of Dec. 3 on the above referenced application.

We are concerned to see DPR proposing new construction in the Oceano Dunes prior to completion of a Habitat Conservation Plan. Further, we note that the two wind monitoring stations proposed within the ODSVRA would be "in areas open to and regularly accessed by off-road vehicles," but the "towers will be brought onto the beach by light trucks, driven south across the beach and inland. These sites are not open to the public for vehicular use." The description of access to these sites by truck via "existing paths of travel" is overly vague, and there is no reference to or description of impacts to the closed areas other than that impacts will be "minimal."

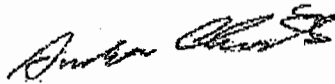
The two stations proposed for the ODSVRA appear to be in close proximity to seasonal enclosure areas for the Pacific snowy plover and least tern. The statement that "the precise site location for these stations will be selected to avoid impacts to sensitive species" appears to indicate that the precise site locations for the project have not yet been determined, which would in turn indicate that application for a permit is premature.

We also note the specific violation of Visual and Scenic Resources Policy 10 in the LCP, which prohibits

"new development on open sandy beaches, except facilities required for public health and safety." DPR contends that the purpose of this project "is to gather information on air pollution control issues identified on the Nipomo Mesa, specifically as they relate to off-road vehicle use on the dunes." These issues have already been the subject of multiple comprehensive studies overseen by the Air Pollution Control District. It is apparent that DPR, which has publicly disputed the findings of the APCD study and which has a significant self-interest in the effort to counter its findings, is proposing new development solely in an attempt to dispute an existing scientific study. That study was "required for public health and safety;" this one is not, and hence does not conform with coastal plan policy.

~~In light of the above, we urge the County not to issue a Minor Use Permit/Coastal Development Permit for this project.~~

Thank you for addressing these concerns.



Andrew Christie
Chapter Director



image001.png



Re: Sierra Club comments, Consent Agenda item 5, Dec. 3 meeting

Paul Sittig Donna Hernandez

12/02/2010 01:09 PM

Donna: Please upload this to the website and make hard copies for the meeting. Thanks.

Thank you, and have a good day -
Paul Sittig
Planner - Coastal Team

County of San Luis Obispo
Department of Planning & Building
976 Osos Street, Room 300
San Luis Obispo, CA 93408
(805) 781-4374
psittig@co.slo.ca.us

----- Forwarded by Paul Sittig/Planning/COSLO on 12/02/2010 01:08 PM -----

From: "Gluck, Ronnie" <rglck@parks.ca.gov>
To: "psittig@co.slo.ca.us" <psittig@co.slo.ca.us>
Date: 12/02/2010 12:55 PM
Subject: RE: Sierra Club comments, Consent Agenda item 5, Dec. 3 meeting

The wind tower locations are in areas that do not support nesting of federally listed birds. The towers are set back a sufficient distance from known nesting areas of western snowy plover and California least tern so they will not pose a risk to nesting birds or provide a predator perch. The installation and maintenance of these towers will be accomplished without impacting federally listed species. Furthermore, there is no federal nexus for the proposed wind tower installation. The installation, operation, and maintenance of these wind towers is not subject to a HCP.

Access to the towers in the Oso Flaco area can be accomplished with minimal impact to habitat. There are existing access paths in this dune sheet that are kept open for management activities (weed control, enforcement patrol) in this area south of Oso Flaco lake. Access to the tower sites will be via existing access paths.

These wind towers are being installed to collect wind data and are relevant to collaborative efforts being conducted jointly with State Parks, the Air Pollution Control District, and San Luis Obispo County. The proposed wind towers do relate to public health and do not violate the Scenic and Visual Resources Policy.

Ronnie

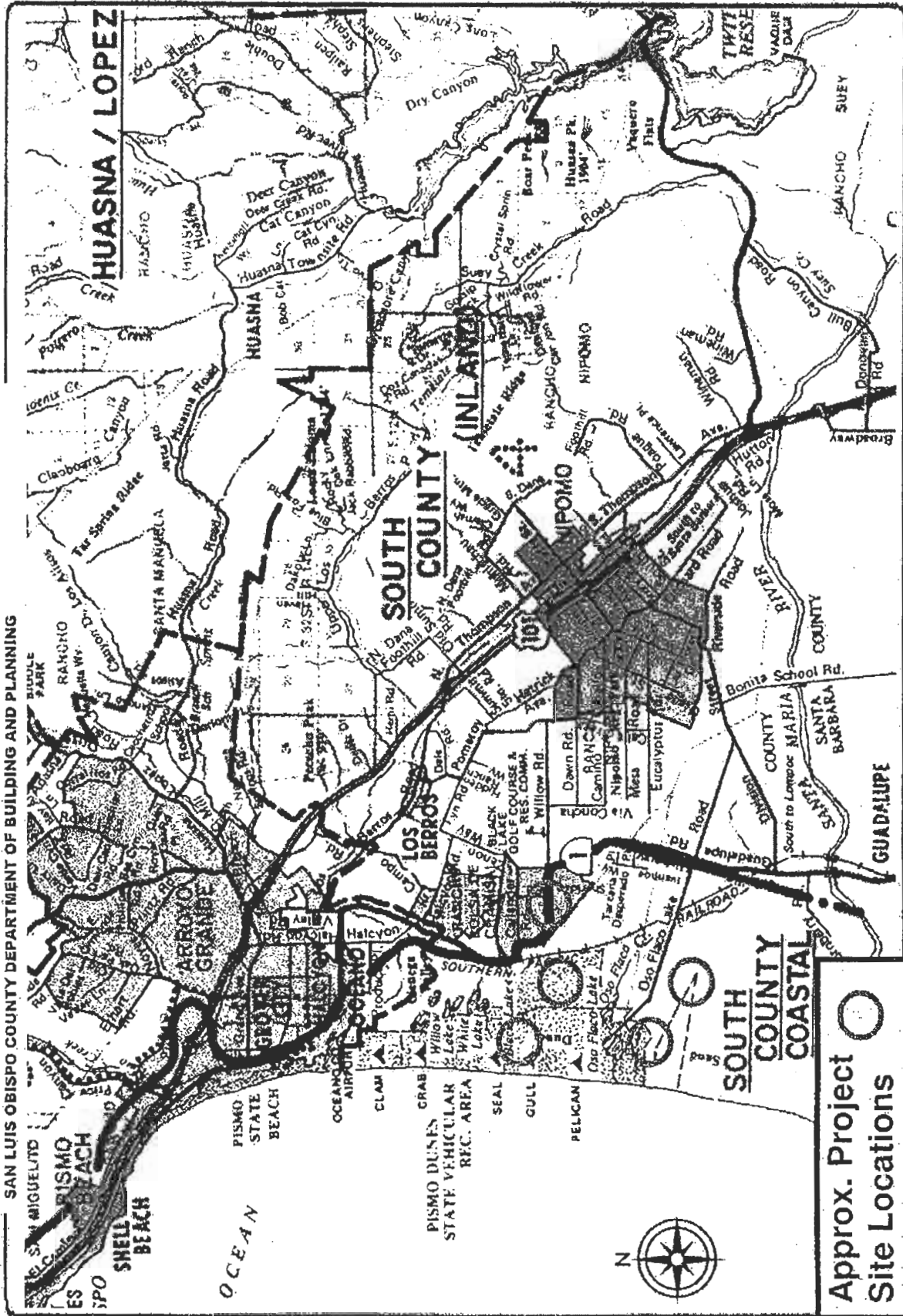
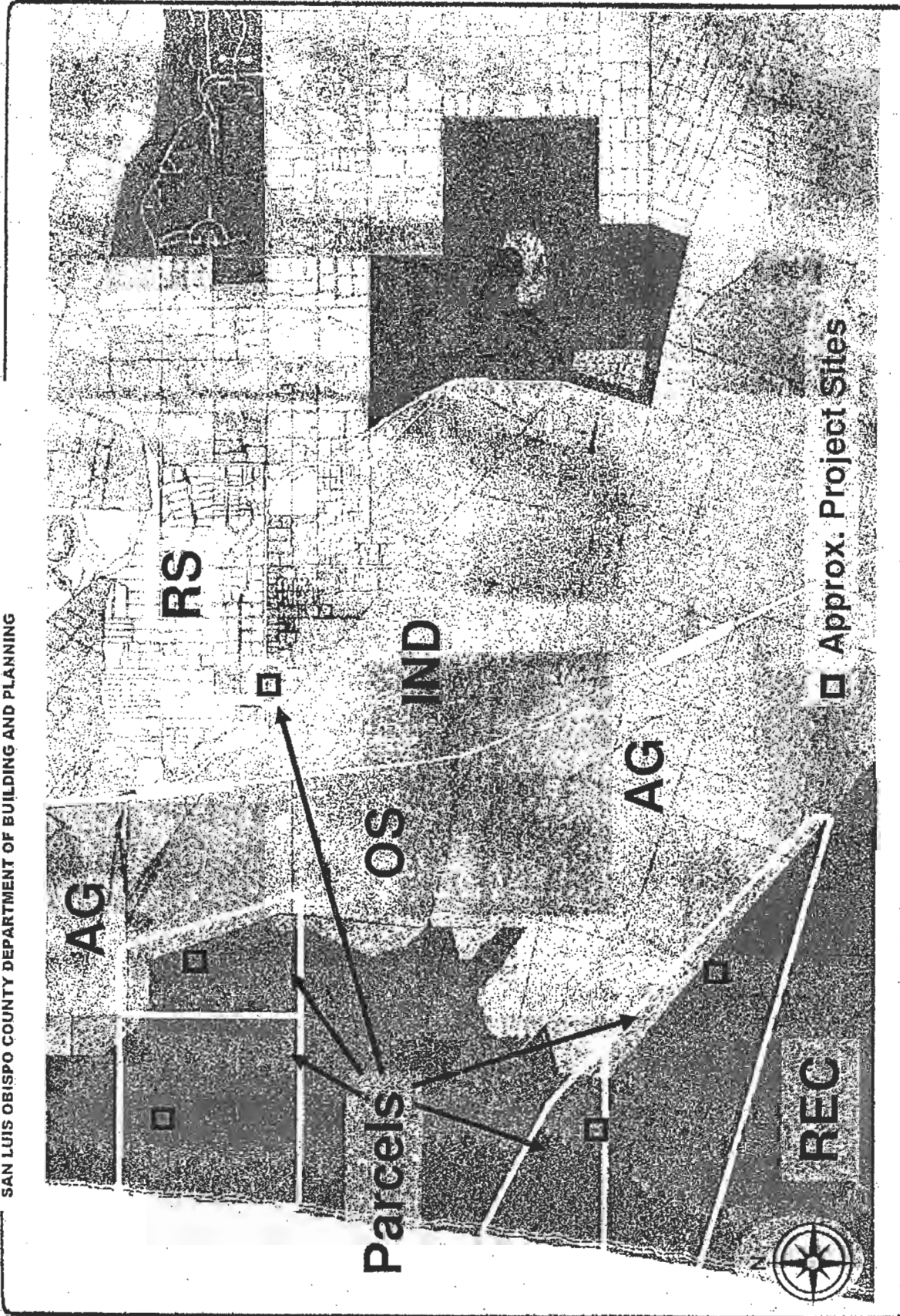


EXHIBIT
Vicinity Map



PROJECT
Minor Use Permit/Coastal Development Permit
CA. Dept. of Parks and Rec. / DRC2010-00003

Approx. Project Site Locations



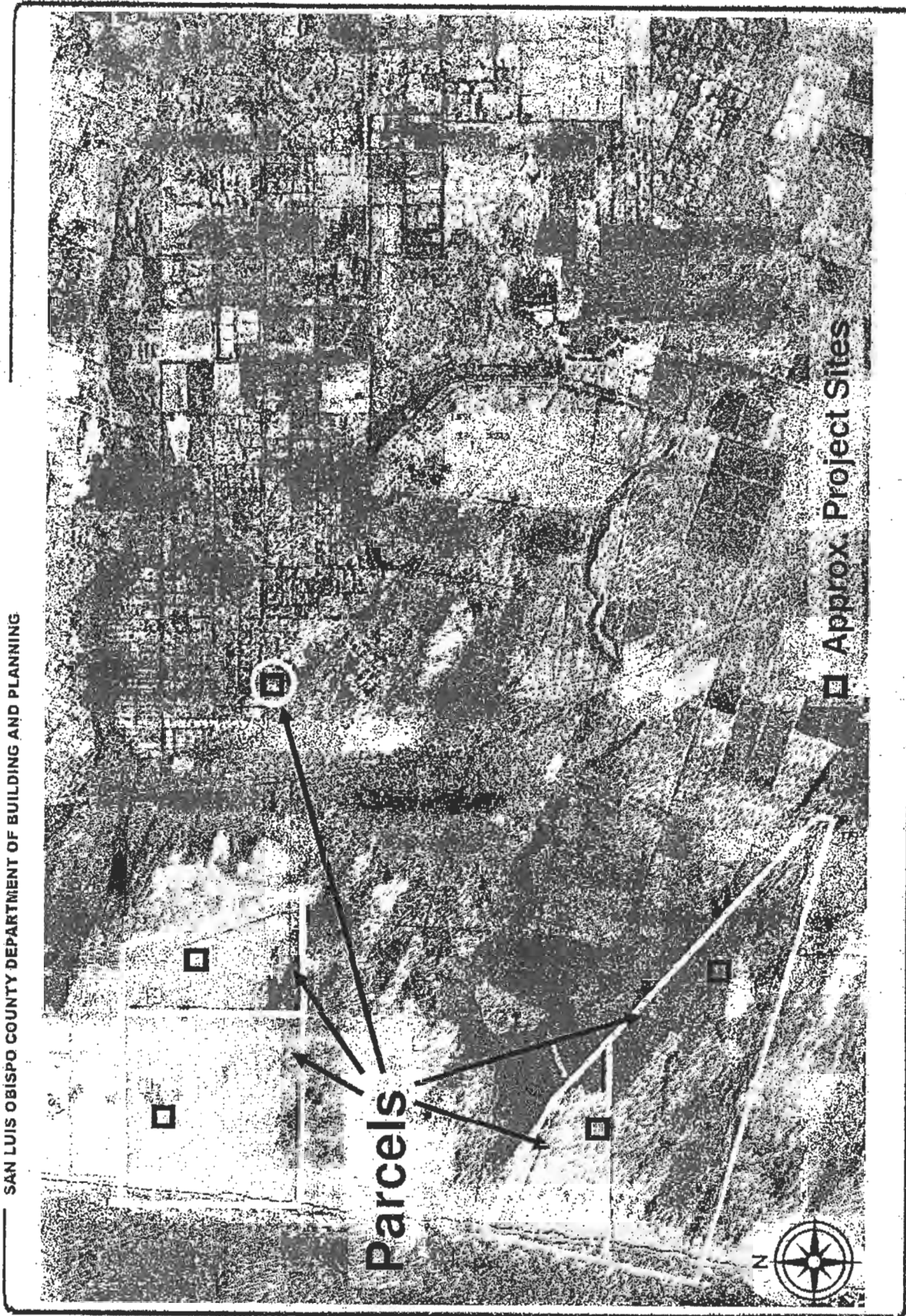
PROJECT

Minor Use Permit/Coastal Development Permit
CA. Dept. of Parks and Rec. / DRC2010-00003

EXHIBIT

Land Use Category Map





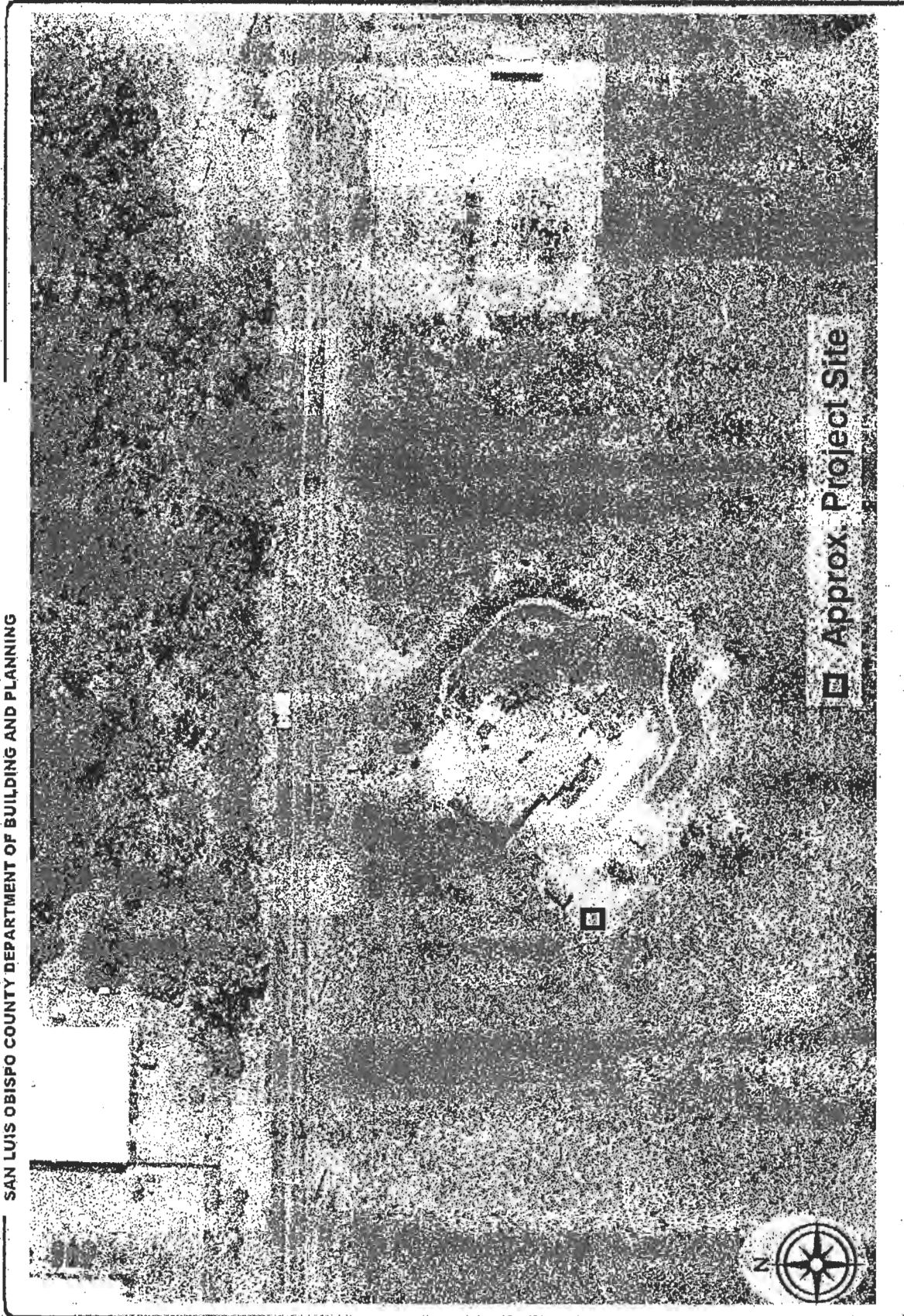
PROJECT

Minor Use Permit/Coastal Development Permit
CA. Dept. of Parks and Rec. / DRC2010-00003



EXHIBIT

Aerial Photograph



□ Approx. Project Site

PROJECT

Minor Use Permit/Coastal Development Permit
CA. Dept. of Parks and Rec. / DRC2010-00003

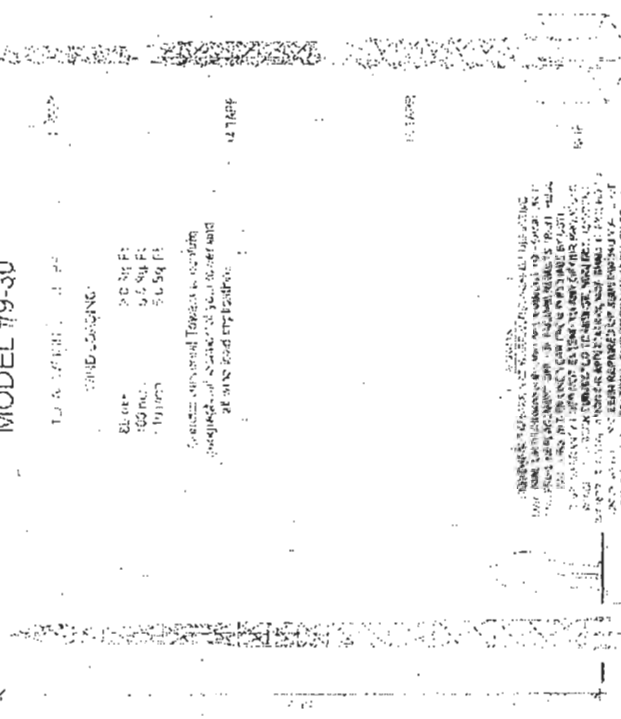
EXHIBIT

Aerial Photograph (CalFire Site)



**FREESTANDING
ALUMINUM
TOWER
MODEL #19-30**

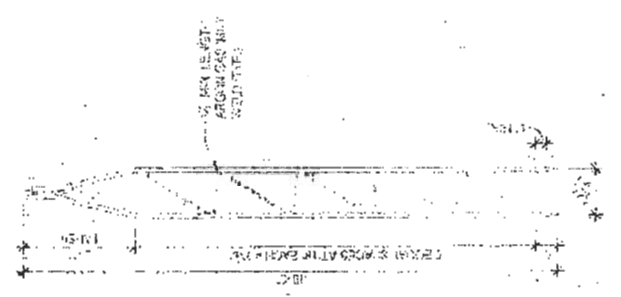
TO: A. J. JONES, JR.
 FROM: UNIVERSAL TOWERS
 DATE: 11/11/88
 SUBJECT: FREESTANDING TOWER MODEL #19-30
 RE: 1. 20 FT. HGT. ALUMINUM TOWER
 2. 10 FT. DIA. ALUMINUM TOWER
 3. 15 FT. DIA. ALUMINUM TOWER
 4. 20 FT. DIA. ALUMINUM TOWER
 5. 25 FT. DIA. ALUMINUM TOWER
 6. 30 FT. DIA. ALUMINUM TOWER
 7. 35 FT. DIA. ALUMINUM TOWER
 8. 40 FT. DIA. ALUMINUM TOWER
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 15. 75 FT. DIA. ALUMINUM TOWER
 16. 80 FT. DIA. ALUMINUM TOWER
 17. 85 FT. DIA. ALUMINUM TOWER
 18. 90 FT. DIA. ALUMINUM TOWER
 19. 95 FT. DIA. ALUMINUM TOWER
 20. 100 FT. DIA. ALUMINUM TOWER



ELEVATION
SCALE: 1/8" = 1'-0"

ISOMETRIC
SCALE: 1/8" = 1'-0"

ALUMINUM TOWER



ELEVATION
SCALE: 1/8" = 1'-0"

ISOMETRIC
SCALE: 1/8" = 1'-0"

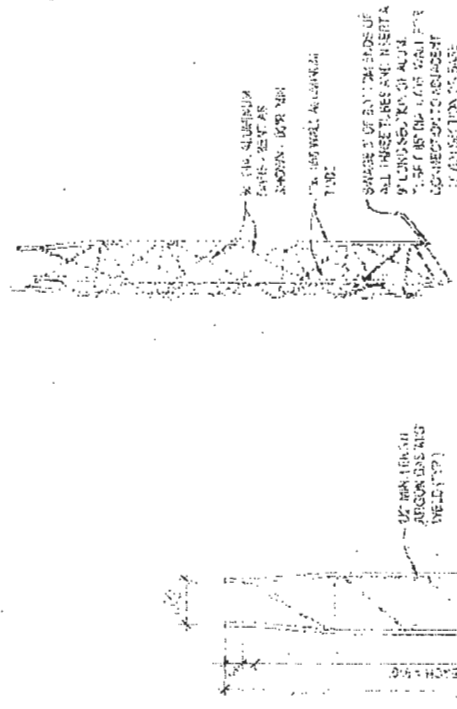
TOP SECTION



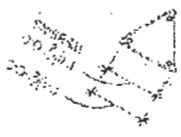
PROJECT
 Minor Use Permit/Coastal Development Permit
 CA. Dept. of Parks and Rec. / DRC2010-00003

EXHIBIT
 Tower Details (Overview and Top)





ISOMETRIC
SCALE: N.T.S.



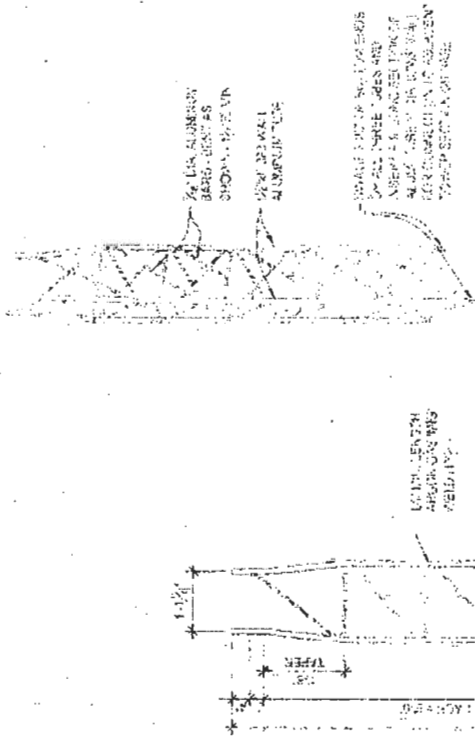
ELEVATION
SCALE: 1/4"=1'-0"

2

PLAN VIEW
SCALE: N.T.S.

1

TAPERED SECTION



ISOMETRIC
SCALE: N.T.S.



ELEVATION
SCALE: 1/4"=1'-0"

2

PLAN VIEW
SCALE: N.T.S.

1

TAPERED SECTION



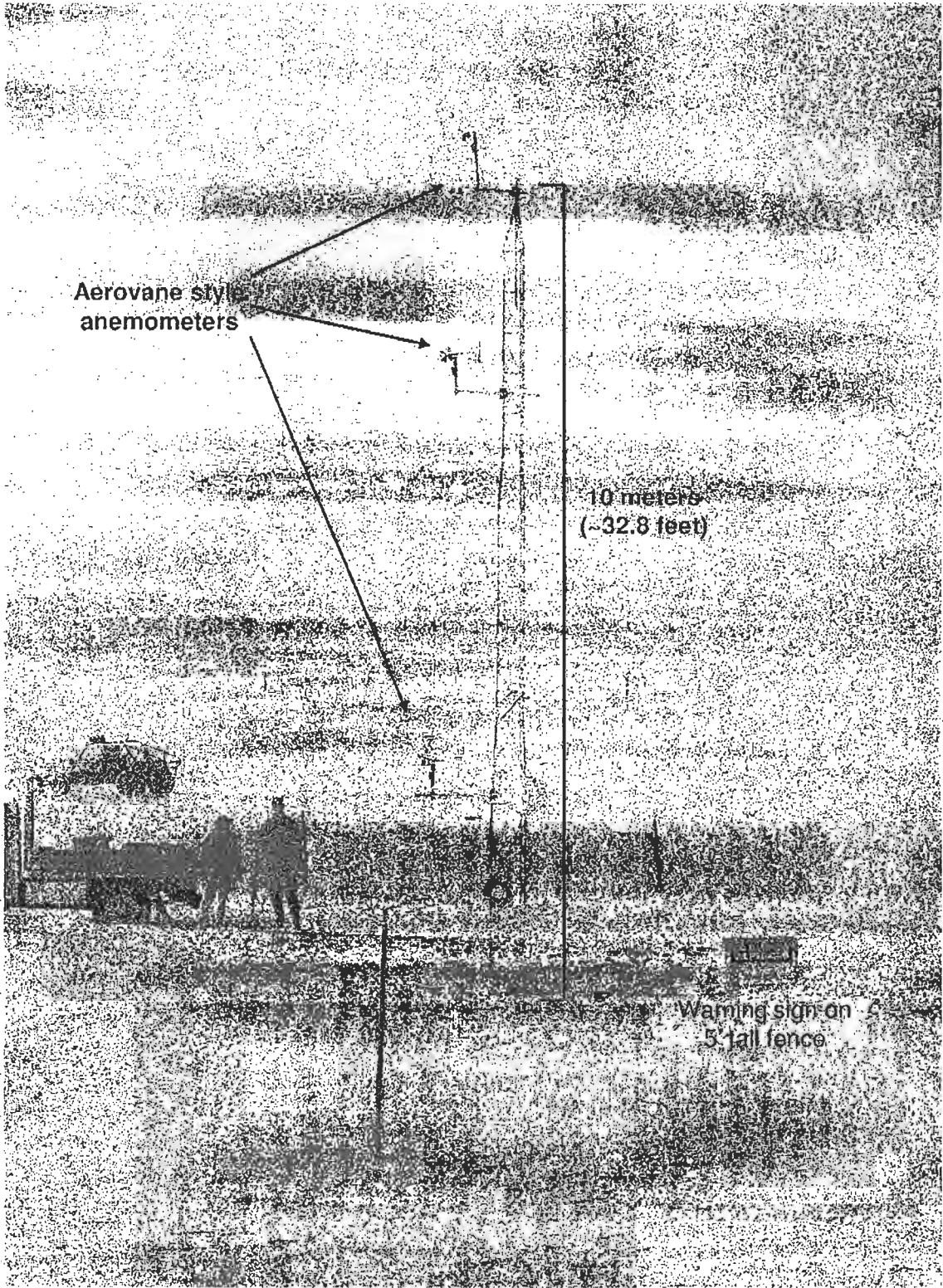
PROJECT

Minor Use Permit/Coastal Development Permit
CA. Dept. of Parks and Rec. / DRC2010-00003

EXHIBIT

Tower Details (Mid-section and Bottom)





EXHIBIT

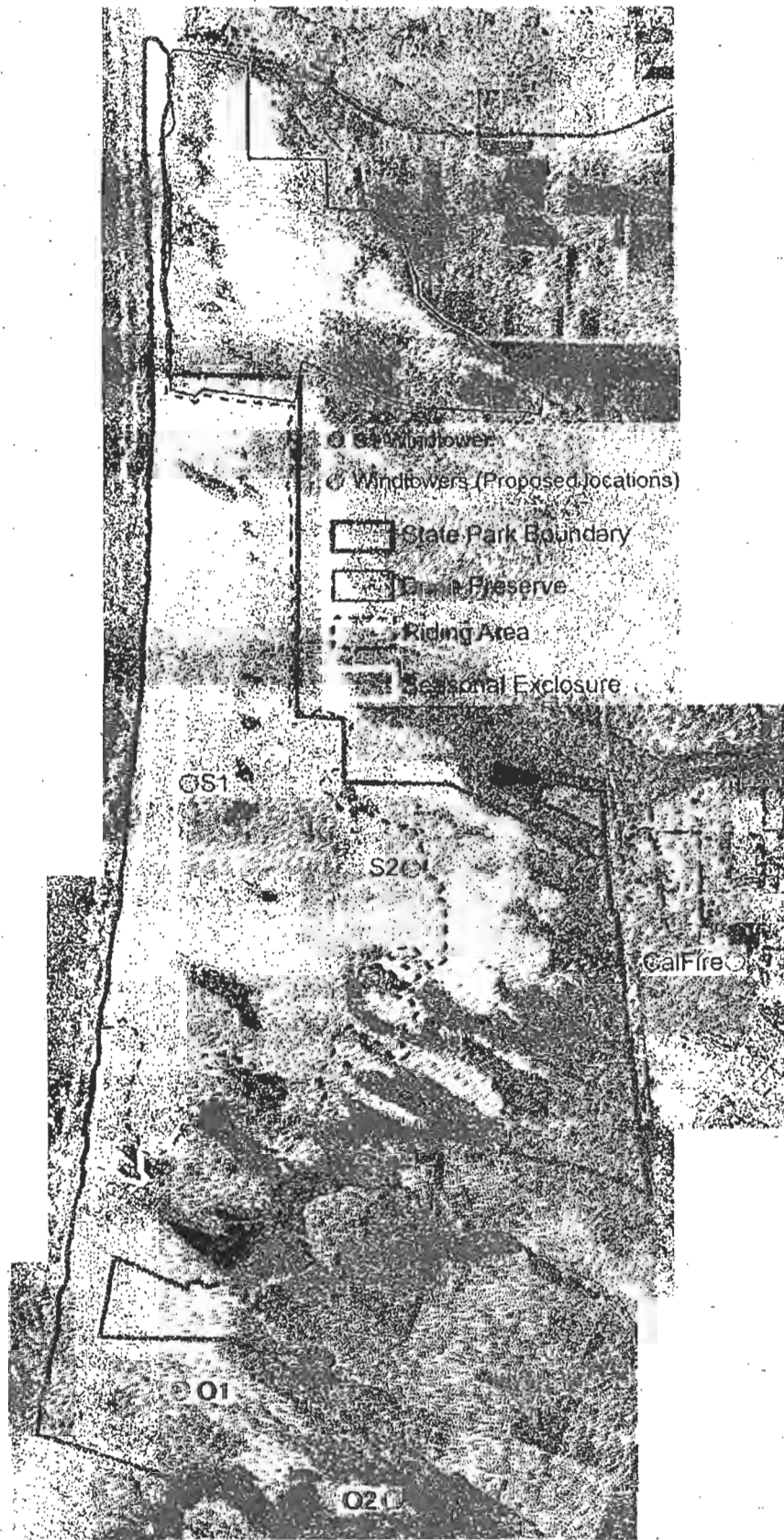
Tower Details (Example)



PROJECT

Minor Use Permit/Coastal Development Permit
CA. Dept. of Parks and Rec. / DRC2010-00003

Exhibit 4. Additional Graphic Exhibits



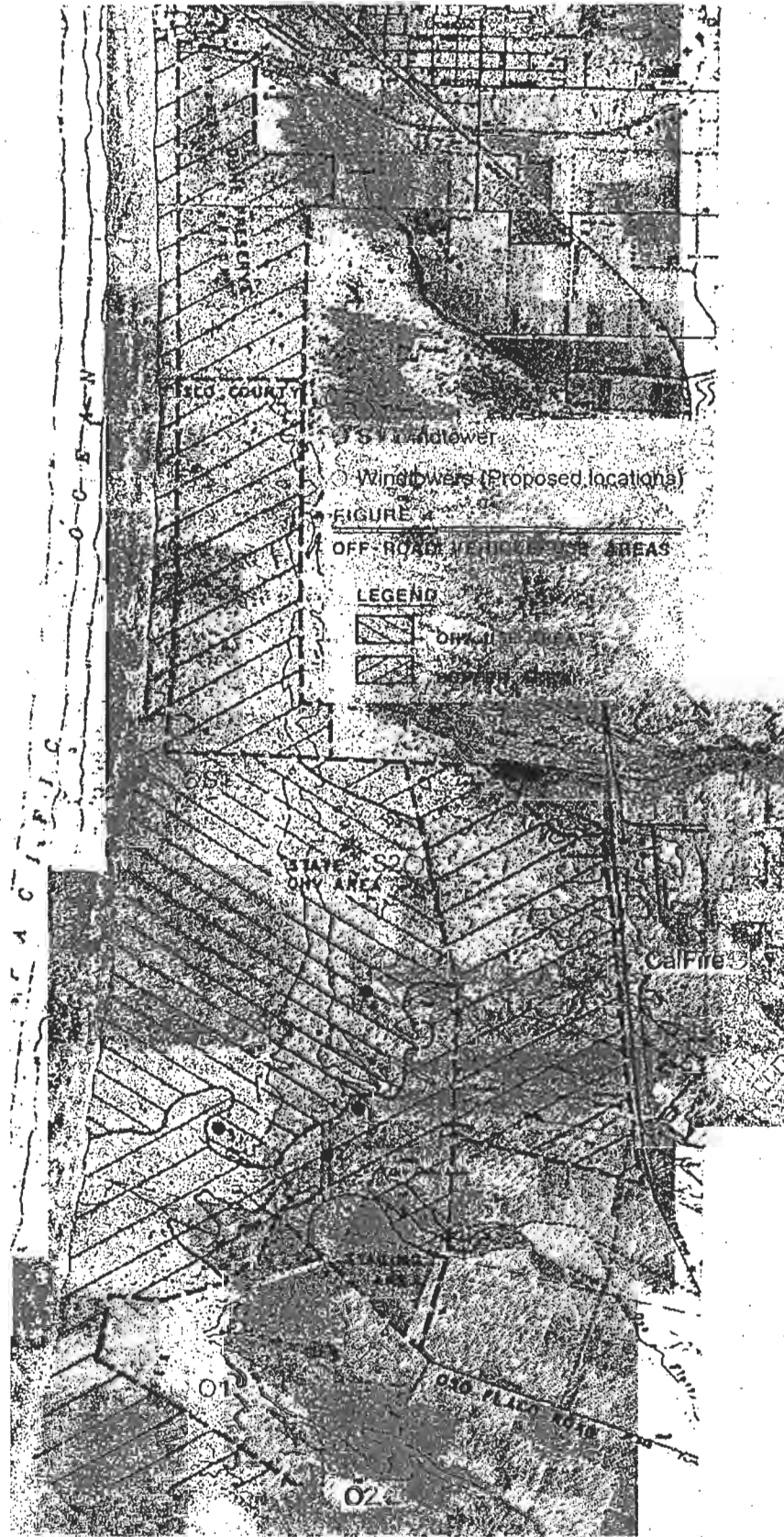
EXHIBIT

Parks and Recreation Boundaries Map



PROJECT:

Board Appeal of Minor Use Permit/CDP
CA. Dept. of Parks and Rec. / DRC2010-00003

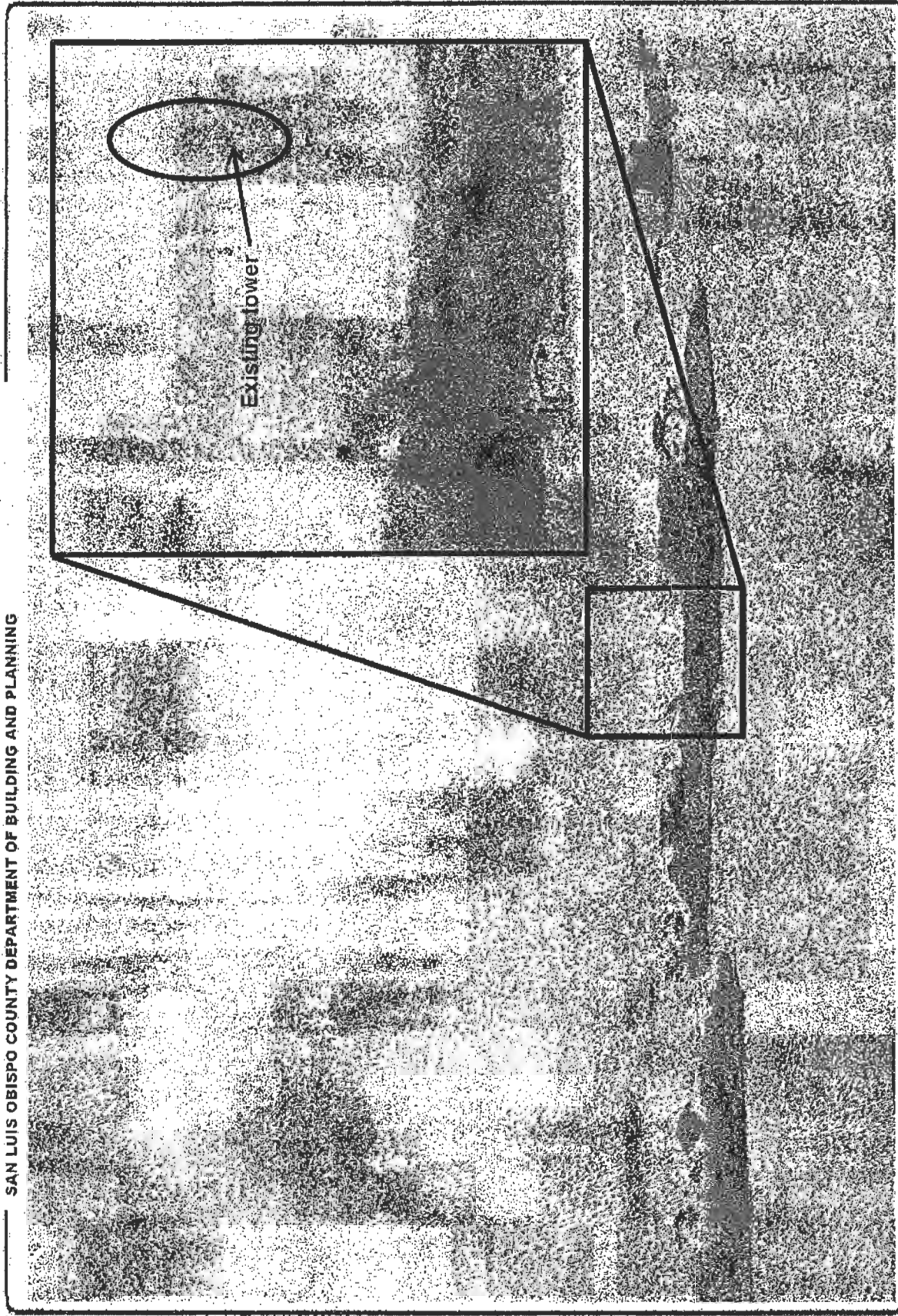


EXHIBIT

South County Area Plan: Figure 4 Map Overlay

PROJECT

Board Appeal of Minor Use Permit/CDP
C.A. Dept. of Parks and Rec. / DRC2010-00003



EXHIBIT

Existing tower, as seen from a distance



PROJECT

Board Appeal of Minor Use Permit/CDP
CA. Dept. of Parks and Rec. / DRC2010-00003

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
 725 FRONT STREET, SUITE 300
 SANTA CRUZ, CA 95060-4508
 VOICE (831) 427-4863 FAX (831) 427-4877

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Katrina Dolinsky

Mailing Address: 680 Monadella Street

City: Arroyo Grande

Zip Code: 93420

Phone: (310) 245-2703

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

Construction and operation of five wind and air quality monitoring stations for a period of two years located within ODSVRA, Oso Flaco dune area and Cal Fire station at 2391 Willow Rd, Nipomo, 4th district.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

multiple locations on and in the vicinity of ODSVRA

4. Description of decision being appealed (check one.):

- Approval; no special conditions
 Approval with special conditions:
 Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-11-021

DATE FILED: April 11, 2011

DISTRICT: Central Coast

RECEIVED

MAR 25 2011

CALIFORNIA
 COASTAL COMMISSION
 CENTRAL COAST AREA

CCC Exhibit C
 (page 1 of 6 pages)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: March 8, 2011

7. Local government's file number (if any): DRC2010-00003

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Department of Parks and Recreation
Oceano Dunes District
340 James Way, Suite 270
Pismo Beach, CA 93449

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Terry Sweetland
362 Mc Carthy Ave
Oceano, CA 93445

(2) Nell Langford
P.O. Box 27
Pismo Beach, CA 93448

(3) Geri Bedell
P.O. Box 2234
Avila Beach, CA 95424

(4) Eric Greening
7365 Valle Ave
Atascadero, CA 93422

(5) Charles Getzoff
P.O. Box 1860
Nipomo, CA 93444

(6) Andrew Christie, Sierra Club
Santa Lucia Chapter
P.O. Box 15755
San Luis Obispo, CA 93406

(7) Mike Winn, Nipomo Community Services District
Box 326
Nipomo, CA 93444

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

The record will show that there has been a history of Coastal Development Permit noncompliance (and subsequent revisions) by the OHMVR Division of State Parks and Recreation, the permit holder, therefore, no evidence or expectation that they will uphold the conditions of approval and regulations required in the Minor Use Permit/Coastal Permit DRC 2010-00003, approved by the BOS on March 8, 2011. The issue re air quality and the public health issues of the ODSVRA, is appealable to the Coastal Commission, as a Coastal Commission one, otherwise, a minor use permit would not be appealable to the Coastal Commission in the coastal zone.

1. This project violates Visual and Scenic Resources Policy 10 in the LCP which prohibits "new development on open sandy beaches, except facilities required for public health and safety." The proposed five "wind towers and air quality monitoring stations" represents DPR's attempt to dispute the San Luis Obispo APCD Board accepted report and findings on the South County Phase 2 Particulate Study. "The study identified fugitive dust emissions from vehicle activity at the Oceano Dunes State Vehicle Recreation area (SVRA) as a major contributor to high PM10 levels measured on the Nipomo Mesa." There is no evidence of a nexus between this project and health and safety of the residents affected by PM10 pollution carried downwind to Nipomo Mesa residents.

Per the OHV Staff Report on SLO County Particulate Matter Study-San Luis Obispo Air Pollution Control District (SLOAPCD) (Phase 2 report) dated April 29, 2010:

"State Parks' objections are based on observations that the report merely documents natural occurring windblown sand and does not contain sufficient data to conclude that the SVRA contributes to a higher level of particulate emissions than are otherwise naturally occurring."

"A team has been assigned by the OHMVR Division, to take steps to follow-up State Parks' objections as follows:

Establish a wind measurement protocol to test the data conclusions in the report that lower wind speeds exist at the SVRA riding area than at the Phase 2 report undisturbed dune area.

Obtain and evaluate the underlying data used to support the conclusions in the report."

An attempt to dispute the findings of a scientific study clearly does not meet the criterion for exemption from prohibition of new development under Scenic Resources Policy 10.

2. This project adds incrementally to impacts already affecting coastal resources. Its footprint, and corresponding impacts on coastal resources, has grown significantly from the original project description to what it now describes as its purpose (originally monitoring wind direction and wind speed; now adding air quality monitoring). DPR's unilaterally expanding and inconsistent project descriptions invite likely nonconformity with Public Resources Code 30240 A and B re protections of ESHA.

3. Impacts to coastal resources of installation, monitoring, and removal of S1 and S2 structures require multiple truck crossings of Arroyo Grande Creek, resulting in potential impacts to steelhead and Tidewater Goby. These impacts are unmitigated and simply dismissed by the applicant as not requiring a "take" permit because there is no HCP in place. In O1 and O2 project sites, DPR cites anticipated "minimal impacts to native vegetation" from transporting equipment through the Oso Flaco Lake area, not open to the public for vehicular use. Land Use Ordinance 23.07160,172,176 - Sensitive Resource Area, Wetlands, and Terrestrial Habitat.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Kathleen H. Adlisky

Signature of Appellant(s) or Authorized Agent

Date: March 21, 2011

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

Applicable LCP Policies and Ordinances

Environmentally Sensitive Habitat Areas (ESHA)

Policy 1: Land Uses Within or Adjacent to Environmentally Sensitive Habitats. *New development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent on such resources shall be allowed within the area. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-178 OF THE COASTAL ZONE LAND USE ORDINANCE (CZLUO).]*

Policy 2: Permit Requirement. *As a condition of permit approval, the applicant is required to demonstrate that there will be no significant impact on sensitive habitats and that proposed development or activities will be consistent with the biological continuance of the habitat. This shall include an evaluation of the site prepared by a qualified professional which provides: a) the maximum feasible mitigation measures (where appropriate), and b) a program for monitoring and evaluating the effectiveness of mitigation measures where appropriate. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-178 OF THE CZLUO.]*

Policy 29: Protection of Terrestrial Habitats. *Designated plant and wildlife habitats are environmentally sensitive habitat areas and emphasis for protection should be placed on the entire ecological community. Only uses dependent on the resource shall be permitted within the identified sensitive habitat portion of the site.*

Development adjacent to environmentally sensitive habitat areas and holdings of the State Department of Parks and Recreation shall be sited and designed to prevent impacts that would significantly degrade such areas and shall be compatible with the continuance of such habitat areas. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.176 OF THE CZLUO.]

CZLUO Section 23.07.160 – Sensitive Resource Area (SRA): *The Sensitive Resource Area combining designation is applied by the Official Maps (Part III) of the Land Use Element to identify areas with special environmental qualities, or areas containing unique or endangered vegetation or habitat resources. The purpose of these combining designation standards is to require that proposed uses be designed with consideration of the identified sensitive resources, and the need for their protection, and, where applicable, to satisfy the requirements of the California Coastal Act. The requirements of this title for Sensitive Resource Areas are organized into the following sections:*

- 23.07.162 Applicability of Standards
- 23.07.164 SRA Permit and Processing Requirements
- 23.07.166 Minimum Site Design and Development Standards
- 23.07.170 Environmentally Sensitive Habitats
- 23.07.172 Wetlands
- 23.07.174 Streams and Riparian Vegetation
- 23.07.176 Terrestrial Habitat Protection
- 23.07.178 Marine Habitats

23.07.170 - Environmentally Sensitive Habitats: *The provisions of this section apply to development proposed within or adjacent to (within 100 feet of the boundary of) an Environmentally Sensitive Habitat as defined by Chapter 23.11 of this title.*

a. Application content. *A land use permit application for a project on a site located within or adjacent to an Environmentally Sensitive Habitat shall also include a report by a biologist approved by the Environmental Coordinator that:*

(1) Evaluates the impact the development may have on the habitat, and whether the development will be consistent with the biological continuance of the habitat. For those environmentally sensitive habitat areas which are only seasonally occupied, or where the presence of the species can best be determined during a certain season (e.g., an anadromous fish species or annual wildflower species), the field investigation(s) must be conducted during the appropriate time to maximize detection of the subject species. The report shall identify possible impacts, their significance, measures to avoid possible impacts, mitigation measures required to reduce impacts to less than significant levels when impacts cannot be avoided, measures for the restoration of damaged habitats and long-term protection of the habitats, and a program for monitoring and evaluating the effectiveness of such measures.

(2) Is complete, current, and meets established standards for report content and assessment methodology. Report standards shall be consistent with CEQA guidelines, and incorporate the recommendations of the California Coastal Commission, California Department of Fish and Game, U.S. Fish and Wildlife Service, Marine Mammals Commission, and National Marine Fisheries Service, as appropriate.

(3) Evaluates development proposed adjacent to environmentally sensitive habitats to identify significant negative impacts from noise, sediment and other potential disturbances that may become evident during project review.

(4) Identifies the biological constraints that need to be addressed in designing development that would first avoid, then minimize impacts to ESHA. These

identified constrains will be used by the County to evaluate, and require implementation of project design alternatives that result in impacts to ESHA being avoided and unavoidable impacts minimized. This shall also include assessment of impacts that may result from the application of fire safety requirements

(5) Verifies that applicable setbacks from the habitat area required by Sections 23.07.170 to 23.07.178 are adequate to protect the habitat or recommends greater, more appropriate setbacks.

(6) Critically evaluate "after-the-fact" permit applications where unpermitted development has illegally encroached into setback areas before off-site mitigation is considered. Evaluate all options of restoring and enhancing the pre-existing on-site habitat values. Off-site mitigation consisting of replacing the area of disturbance with like habitat at a minimum of 3:1 ratio shall be an additional requirement to offset the temporary impacts of the violation and address the potential for restoration efforts to fail.

b. Required findings: *Approval of a land use permit for a project within or adjacent to an Environmentally Sensitive Habitat shall not occur unless the applicable review body first finds that:*

(1) There will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat.

(2) The proposed use will not significantly disrupt the habitat.

c. Land divisions: *No division of a parcel containing an Environmentally Sensitive Habitat shall be permitted unless all proposed building sites are located entirely outside of the applicable minimum setback required by Sections 23.07.172 through 23.07.178. Such building sites shall be designated on the recorded subdivision map.*

d. Alternatives analysis required. *Construction of new, improved, or expanded roads, bridges and other crossings will only be allowed within required setbacks after an alternatives analysis has been completed.*

The alternatives analysis shall examine at least two other feasible locations with the goal of locating the least environmentally damaging alternative. When the alternatives analysis concludes that a feasible and less environmentally damaging alternative does not exist, the bridge or road may be allowed in the proposed location when accompanied by all feasible mitigation measures to avoid and/or minimize adverse environmental effects. If however, the alternatives analysis concludes that a feasible and less environmentally damaging alternative does exist, that alternative shall be used and any existing bridge or road within the setback shall be removed and the total area of disturbance restored to natural topography and vegetation.

e. Development standards for environmentally sensitive habitats. All development and land divisions within or adjacent to an Environmentally Sensitive Habitat Area shall be designed and located in a manner which avoids any significant disruption or degradation of habitat values. This standard requires that any project which has the potential to cause significant adverse impacts to an ESHA be redesigned or relocated so as to avoid the impact, or reduce the impact to a less than significant level where complete avoidance is not possible.

(1) Development within an ESHA. In those cases where development within the ESHA cannot be avoided, the development shall be modified as necessary so that it is the least environmentally damaging feasible alternative. Development shall be consistent with the biological continuance of the habitat. Circumstances in which a development project would be allowable within an ESHA include:

i. Resource dependent uses. New development within the habitat shall be limited to those uses that are dependent upon the resource.

ii. Coastal accessways. Public access easements and interpretive facilities such as nature trails which will improve public understanding of and support for protection of the resource.

iii. Incidental public services and utilities in wetlands. Essential incidental public services and utilities pursuant to ESHA Policy 13 and CZLUO Section 23.07.172(e).

iv. Habitat creation and enhancement. Where the project results in an unavoidable loss (i.e., temporary or permanent conversion) of habitat area, replacement habitat and/or habitat enhancements shall be provided and maintained by the project applicant. Plans for the creation of new habitat, or the enhancement of existing habitat, shall consider the recommendations of the California Coastal Commission, the California Department of Fish and Game and/or U.S. Fish and Wildlife Service. Generally, replacement habitat must be provided at recognized ratios to successfully reestablish the habitat at its previous size, or as is deemed appropriate in the particular biologic assessment(s) for the impacted site. Replacement and/or enhanced habitat, whenever feasible, shall be of the same type as is lost ("same-kind") and within the same biome ("same-system"), and shall be permanently protected by a deed restriction or conservation easement.

v. Restoration of damaged habitats. Restoration or management measure required to protect the resource. Projects located within or adjacent to environmentally sensitive habitat areas that have been damaged shall be conditioned to require the restoration, monitoring, and long-term protection of such habitat areas through a restoration plan and a accompanying deed restriction or conservation easement. Where

previously disturbed but restorable habitat for rare and sensitive plant and animal species exists on a site that is surrounded by other environmentally sensitive habitat areas, these areas shall be delineated and considered for restoration as recommended by a restoration plan.

(2) Development in ESHA to avoid a takings. *If development in an ESHA must be allowed to avoid an unconstitutional taking, then all of the following standards shall apply with respect to such development:*

i. Avoidance of takings. *The amount and type of development allowed shall be the least necessary to avoid a takings.*

ii. Impacts avoided/minimized. *All development in and impacts to ESHA shall be avoided to the maximum extent feasible. Any unavoidable impacts shall be limited to the maximum extent feasible.*

iii. Mitigation required. *All adverse impacts to the ESHA shall be fully mitigated.*

(3) Steelhead stream protection: net loss stream diversions prohibited. *Diversions of surface and subsurface water will not be allowed where a significant adverse impact on the steelhead run, either individually or cumulatively, would result.*

...

(4) Other prohibited uses. *Prohibited development activities include:*

...

(5) Grading adjacent to Environmentally Sensitive Habitats *shall conform to the provisions of Section 23.05.034c (Grading Standards).*

(6) The use of invasive plant species is prohibited.

23.07.172 - Wetlands. *Development proposed within or adjacent to (within 100 feet of the upland extent of) a wetland area shown on the Environmentally Sensitive Habitat Maps shall satisfy the requirements of this section to enable issuance of a land use or construction permit. These provisions are intended to maintain the natural ecological functioning and productivity of wetlands and estuaries and where feasible, to support restoration of degraded wetlands.*

a. Location of development: *Development shall be located as far away from the wetland as feasible, provided that other habitat values on the site are not thereby more adversely affected.*

b. Principle Permitted Uses in wetlands: *Hunting, fishing, wildlife management, education and research projects.*

c. Department of Fish and Game review. *The State Department of Fish and*

Game shall review all applications for development in or adjacent to coastal wetlands and recommend appropriate mitigation measures where needed which should be incorporated in the project design.

d. Wetland setbacks: New development shall be located a minimum of 100 feet from the upland extent of all wetlands, except as provided by subsection d(2). If the biological report required by Section 23.07.170 (Application Content) determines that such setback will provide an insufficient buffer from the wetland area, and the applicable approval body cannot make the finding required by Section 23.07.170b, then a greater setback may be required.

(1) Permitted uses within wetland setbacks: Within the required setback buffer, permitted uses are limited to passive recreation, educational, existing non-structural agricultural development in accordance with best management practices, utility lines, pipelines, drainage and flood control of facilities, bridges and road approaches to bridges to cross a stream and roads when it can be demonstrated that:

(i) Alternative routes are infeasible or more environmentally damaging.

(ii) Adverse environmental effects are mitigated to the maximum extent feasible.

(2) Wetland setback adjustment: The minimum wetland setback may be adjusted through Minor

Use Permit approval (but in no case shall be less than 25 feet), provided that the following findings can be made:

(i) The site would be physically unusable for the principal permitted use unless the setback is reduced.

23.07.176 - Terrestrial Habitat Protection: The provisions of this section are intended to preserve and protect rare and endangered species of terrestrial plants and animals by preserving their habitats. Emphasis for protection is on the entire ecological community rather than only the identified plant or animal.

a. Protection of vegetation. Vegetation that is rare or endangered, or that serves as habitat for rare or endangered species shall be protected. Development shall be sited to minimize disruption of habitat.

b. Terrestrial habitat development standards:

(1) Revegetation. Native plants shall be used where vegetation is removed.

(2) Area of disturbance. The area to be disturbed by development shall be shown on a site plan. The area in which grading is to occur shall be defined on site by readily-identifiable barriers that will protect the surrounding native habitat areas.

(3) Trails. Any pedestrian or equestrian trails through the habitat shall be

shown on the site plan and marked on the site. The biologist's evaluation required by Section 23.07.170a shall also include a review of impacts on the habitat that may be associated with trails.

Visual and Scenic Resources

Policy 10: Development on Beaches and Sand Dunes. Prohibit new development on open sandy beaches, except facilities required for public health and safety (e.g., beach erosion control structures). Limit development on dunes to only those uses which are identified as resource dependent in the LCP. Require permitted development to minimize visibility and alterations to the natural landform and minimize removal of dune stabilizing vegetation. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

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MAY 06 2011

CALIFORNIA
COASTAL COMMISSION
CENTRAL OFFICE

**FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATIONS**

Name or description of project, LCP, etc.: F 8a Appeal No. A-3-SLO-11-021
(California State Parks and Recreation, San Luis Obispo Co.)

Date and time of receipt of communication: 5/4/11 3:00 pm

Location of communication: Office of the Board of Supervisors,
Santa Cruz, CA

Type of communication: In-person Meeting

Person(s) initiating communication: Margie Kay
Sarah Damron
Grant Westman

Person(s) receiving communication: Mark Stone

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

They were representing the Santa Lucia Chapter of the Sierra Club. They said that they support the Staff's recommendation to find substantial issue. The project is construction in sand dunes and on a sandy beach in violation of the County's LCP. The issues are scenic resources and ESHA and the development is not coastal dependent. The excuse that it is needed for health and safety is wrong because there is a peer-reviewed study that already establishes particulate levels. The project appears to be a means to try to refute the existing study.

Date: 5/4/11 Signature of Commissioner: Mark Stone

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred within seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used; such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

FJa

May 8, 2011

To: Commissioner Jim Wickett
From: Lennie Roberts and Mike Ferreira
Re: Ex parte for May Coastal Commission Meeting

Hello Jim, Here is the one item on the May Agenda that our colleagues in San Luis Obispo County have identified as a priority issues for your consideration:

FRIDAY, MAY 13, 2011

8.a. Appeal No. A-3-SLO-11-021 (California State Parks and Recreation, San Luis Obispo Co.) Appeal by Katrina Dolinsky of San Luis Obispo County decision granting permit with conditions to decision the California Department of Parks and Recreation for construction and operation of five wind air quality monitoring stations for a period of two years in the Oceano Dunes area of San Luis Obispo County. (JB-SC)

Our colleagues at the Santa Lucia Chapter of the Sierra Club are in support of the Staff Recommendation that the Commission find that a Substantial Issue exists with respect to the grounds on which the appeal has been filed. The proposed project would allow construction on a sandy beach and in sand dunes, which would be inconsistent with County LCP policies and ordinances related to ESHA and visual and scenic resources. The underlying issues involve the fine particulate matter that is being generated from the OHV activity on the Oceano Dunes especially during high wind events. A *de novo* hearing on this matter would be scheduled at a future date after the Applicant has provided additional dune study and project information sufficient to allow key LCP issues to be addressed.

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CENTRAL COAST AREA



DEPARTMENT OF PARKS AND RECREATION
Oceano Dunes District
340 James Way, Suite 270
Pismo Beach, CA 93449
(805) 773-7180

Ruth Coleman, Director

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MAY 09 2011

May 9, 2011

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

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

Re: Appeal Number A-3-SLO-11-021 State Parks Wind Monitoring Stations

Honorable Members of the California Coastal Commission:

The California Department of Parks and Recreation, Oceano Dunes District (CDPR) has reviewed the staff report and appeal documents filed on the above referenced project. The project involves the installation of five temporary wind towers in and near the Oceano Dunes State Vehicular Recreation Area (ODSVRA). This project is critical to address specific public health concerns related to high levels of Particulate Matter on the Nipomo Mesa of San Luis Obispo County. It is part of a comprehensive program that CDPR, San Luis Obispo County, and the San Luis Obispo County Air Pollution Control District are implementing to understand and address causes of air pollution on the Nipomo Mesa. This project has been thoroughly reviewed through two separate hearings by the San Luis Obispo Planning Department and the San Luis Obispo County Board of Supervisors. Biological impacts consistent with the protection of Environmentally Sensitive Habitat Areas and Visual Resources were thoroughly considered and addressed at the local level. CDPR urges the Coastal Commission to reject the appeal and allow the county issued permit to stand

Coastal Commission staff has argued that the towers are in Environmentally Sensitive Habitat Areas (ESHA) and that the San Luis Obispo County review of this project did not adequately consider ESHA. The five towers were sited in areas that do not support native dune vegetation. Furthermore, the tower locations can be accessed without impacting vegetation (either through the open camping and riding area of OSDVRA or through existing paths of travel used for maintenance purposes in the Oso Flaco Area). CDPR conducted a biological analysis of the project and determined that there will be no impacts to on-site biological resources. CDPR concluded in our California Environmental Quality Act review that these projects can be installed, maintained, operated and removed without impacting native habitat. The San Luis Obispo County review came to the conclusion that the towers can be installed, maintained, operated

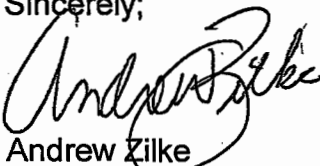
and removed without impacting native dune habitat. San Luis Obispo made specific findings related to sensitive resource areas in their approval of the project (CCC Exhibit B, Page 7 of 62). In summary, ESHA has been thoroughly addressed. This project will not result in impacts to ESHA.

Visual resources have also been thoroughly addressed through the previous two hearings on the project. Only one tower, the tower at the CalFire Station in Nipomo, will be visible from public highways. Two towers will be installed within the active camping and riding area of ODSVRA and two towers will be installed south of Oso Flaco Lake in an area that is closed to the public during much of the year during western snowy plover nesting season. San Luis Obispo County analyzed this project for impacts to visual and scenic resources and found no issue.

The proposed wind towers are part of a comprehensive program that CDPR is putting in place to address public health issues on the Nipomo Mesa caused by high levels of particulate matter that originates from the dune system. These towers are essential to understand the patterns of wind speed and direction that have a direct bearing on the amount of dust blown from the dune system and the duration of the dust generating events. CDPR has provided Commission staff a copy of the proposed wind tower study. This study was prepared in consultation with private sector air quality specialists and the California Geologic Survey. In addition, the information from these wind towers has been used by university researchers hired to assess air pollution issues from the area. In summary, these towers are critical to the understanding of air pollution patterns in the vicinity and are part of a program designed to protect downwind public health. These wind towers are a requirement for a comprehensive program designed to address air pollution control issues on the Nipomo Mesa.

In summary, CDPR finds that the appeal does not raise substantial issues related to ESHA and the Visual and Scenic Resources Policies of the County Local Coastal Plan. CDPR urges the Coastal Commission to reject the staff findings, find no substantial issue with the appeal and allow the county permit to stand.

Sincerely;



Andrew Zilke
District Superintendent

Central Coast District Office

725 Front Street Suite 300

Santa Cruz, Ca 95060

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MAY 09 2011

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Dear Coastal Commissioners,

I am writing in support of the Coastal Commission staff recommendation concerning the erection of wind monitoring stations in the Oceano Dunes State Park. As a member of Concerned Citizens for Clean Air, a group that advocates for clean air for the Nipomo Mesa residents, I am concerned that this action will delay or interrupt the mitigation of the PM 10 and 2.5 air pollution.

The SLO County Air Pollution Control District and State Parks are in the process of determining how to best mitigate the wind blown particulate matter. The need for 2 more years of monitoring by the State Parks, seems unnecessary, unless there is another reason beyond addressing the particulate matter problem. In any case, I feel that State Parks should follow the appropriate approval and permitting process of the County of San Luis Obispo and the Coastal Commission.

Eliminating the high levels of particulate matter the residents of the Mesa are breathing should be everyone's foremost concern. Last week, four out of seven days had 24-hour averages above 100 micrograms per cubic liter. More than double the State of California's PM 10 standard. We have the worst particulate matter problem in the State of California on high wind days according to the CARB website. See the attached map.

In conclusion, The Coastal Commission has the responsibility to "Protect, conserve, restore, and enhance environmental and human-based resources of the California coast and ocean for environmentally sustainable and prudent use by current and future generations." The high levels of fine particle dust blowing off the dunes is an environmental hazard and health issue that should be addressed as soon as possible. The wind towers may or may not be intended for that purpose. Given how long they may be in place and the impact I support the staff recommendation to review this further.

Thank you for your time and consideration.

Rachelle Toti

Member

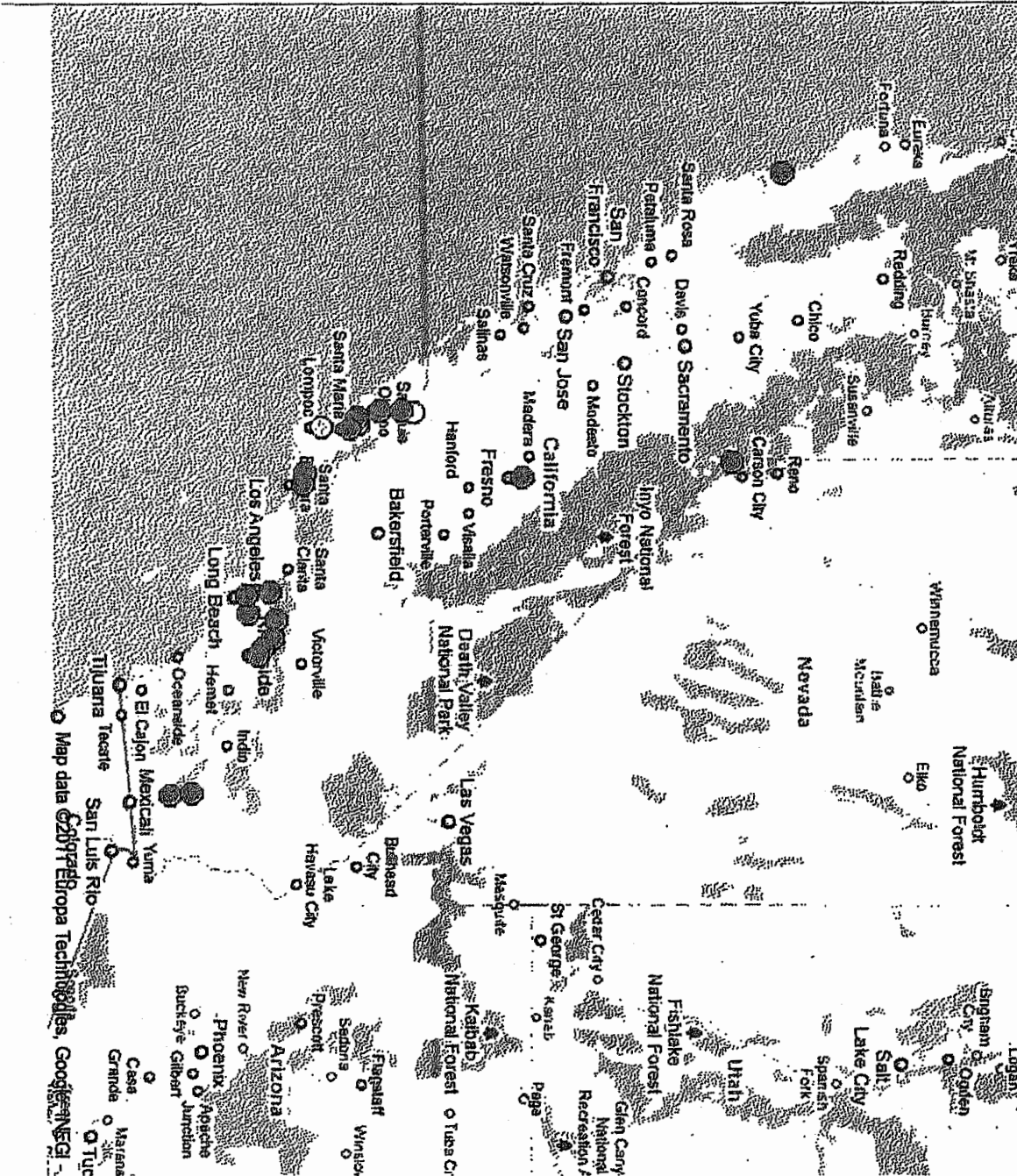
Concerned Citizens for Clean Air



California Environmental Protection Agency Air Resources Board

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PM10 (BAM) (ug/m³)
04/26/2011 13 - 14 PST

- 0 - 40.5
- 40.6 - 115.5
- 116.6 - 190.5
- 190.6 - 228.0
- 228.1 - 265.5
- > = 260.6

Help

Air Quality

Meteorology

Date & Time

Date:

Hour: PST

Advance Hour:

Enter Number:

Move Slider:

- Immediate Update
- Show All Air Quality Sites
- Show All Met Sites
- Show Combination

F8a



SIERRA CLUB
FOUNDED 1892

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

May 3, 2011

RE: Item F8a, hearing date 5/13/11. Appeal No. A-3-SLO-11-021 (California State Parks and Recreation, San Luis Obispo Co.) - Construction and operation of five wind monitoring stations for a period of two years in the Oceano Dunes area of San Luis Obispo County.

Dear Commissioners,

The Santa Lucia Chapter of the Sierra Club agrees with your Staff Report's conclusion that a substantial issue exists with respect to this County approved project's conformance with the certified San Luis Obispo County LCP.

In particular, we urge the Commission to uphold LCP Visual and Scenic Resource Policy 10, as noted in our letter of Dec. 1, 2010, to the County Planning Hearing Officer (CCC Exhibit B, Staff Report pg. 49) – but ignored by the County.

While the applicant has attempted at several junctures to conflate this project with the collaborative effort entered into between State Parks, the County and the APCD to implement air pollution control pilot projects and develop a Particulate Matter Reduction Plan for the ODSVRA, this project is not, in fact, part of that collaborative effort. State Parks has attacked the methodology, data and conclusions of the APCD study before and after the study's release. While the Commission Staff Report did not consider this an appeal issue that relates to LCP conformance, it does in fact underscore the point that this project is not required for public health and safety per the requirement for exemption from Visual and Scenic Resource Policy 10.

As the staff report also notes, permission to install tower S1 is being applied for "after the fact." Per the County Dept. of Planning, New Project Referral, 8/10/10:

One tower (S1) was installed on a trial basis in June 2010 to test methods for installation and stabilization. This tower will remain in place during the Minor Use Permit application process.

We suggest the Commission inquire into the circumstances in which this tower was installed prior to this project's application for a Minor Use Permit or opportunity for review by your Commission to determine its conformance with the LCP or to mitigate impacts on coastal resources.

We urge the Commission to take jurisdiction over the CDP application for the proposed project.

Thank you for your attention to these issues,

Andrew Christie
Director, Santa Lucia Chapter

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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Agenda # F8a

Application # A-3-SLO-11-021

Robert J. Baiocchi, California Fisheries and Water Unlimited

Position: Support of CCC Staff Report finding Substantial Issue and opposing SPR Wind Tower Project

May 5, 2011

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

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MAY 04 2011

**CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA**

Dear Commissioners:

This is to advise the Commission and its staff that the California Fisheries and Water Unlimited do not support the proposed placement of wind towers into the ESHA for the following reasons:

1. Pursuant to California law there must be a Streambed Alteration Agreement for the stream crossing of Arroyo Grande Creek because the stream sustains migrating state and federal protected and listed steelhead trout species migrating from the ocean to their spawning and rearing areas as adults and also back to the ocean as juvenile fish. i.e. Section 1600 et seq of the California Fish and Game Code; Federal Endangered Species Act.
2. The Commission staff must consult with the US NOAA Fisheries and obtain a take permit for the stream crossing of Arroyo Grande Creek to prevent harm and injury to migrating adult and juvenile steelhead. I reference the federal Endangered Species Act.
3. The Commission staff must consult with the California Department of Fish and Game and obtain a take permit for the stream crossing of Arroyo Grande Creek to prevent harm and injury to migrating adult and juvenile steelhead. I reference the California Endangered Species Act.
4. The Commission staff must consult with the US Fish and Wildlife Service and obtain a take permit for the stream crossing of Arroyo Grande Creek to prevent harm and injury to endangered Tidewater Goby species.
5. The wind tower that was construction last summer may be violation of the federal Endangered Species Act without consultation with the US NOAA Fisheries and obtaining a take permit. i.e. listed steelhead species.
6. The wind tower that was construction last summer may be on violation of the State of California Endangered Species Act without consultation with the California Department of Fish and Game and obtaining a take permit. i.e. listed steelhead species.
7. The wind tower that was construction last summer may be in violation of the federal Endangered Species Act without consultation with the US Fish and Wildlife Service and obtaining a take permit. i.e. listed endangered Tidewater Goby species.

Thank you for the opportunity to submit comments to the Commission and its staff.

Sincerely

Signed by Robert J. Baiocchi

Robert J. Baiocchi
California Fisheries and Water Unlimited
E-Mail Address: rbaiocchi@gotsky.com

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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Agenda Number F8a
A-3-SLO-11-021
State Parks Wind Monitoring
Stations

Safe Beach Now: Marsha Lilly, Lee
Be Dell, Geri Be Dell, Annie Steele
Samantha Mc Tighe

Support CCC Substantial Issue Determination,
Oppose SPR Wind Tower Project

Safe Beach Now
P.O. Box 27
Pismo Beach, CA 93448
805 773 4771

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

May 6, 2011

Dear Commissioners:

Our grass-roots organization, Safe Beach Now, supports the Coastal Commission staff recommendation in the above referenced appeal by Katrina Dolinsky. We hope you agree with the staff's statement: "The county approved project raises a substantial LCP issue concerning compliance with the LCP, ESHA, and visual and scenic protection requirements."

Please support Ms. Dolinsky's appeal and thwart yet another attempt by State Parks to walk off with another over-the-counter permit from the San Luis Obispo County Planning Department staff for a project that violates the Coastal Act. To your good credit, you upheld Safe Beach Now's appeal a few years ago regarding State Parks expansion of toilet facilities. You found that the hauling in, placement, and servicing of drive up vault toilets raised substantial issues with the Coastal Act. We applaud that decision, especially when State Parks keeps stalling on the never-to-materialize HCP, and continues to encroach into the Buffer Area in

violation of the LCP. No permit of any kind should be granted to State Parks while it continues to be in chronic non-compliance of its coastal permit.

Failing to find substantial issue, the Off Highway Vehicle Division of California State Parks and Recreation will further entrench its operation of continuous environmental abuse to the California Coastline. This time, it hopes to erect towers. This project (an eyebrow-raising rogue "replica" of APCD's Phase 2 Study), requires driving construction and maintenance equipment down Pismo State Beach, through Arroyo Grande Creek, and through the seashore ecosystem of the Pismo Dunes Natural Preserve...all of which are in a buffer area where OHV use is prohibited according to SLO County's LCP. From the creek southward the area to be traversed and the area of the construction sites is ESHA.

Furthermore, this same construction traffic will cause carcinogenic silica to be stirred up and become airborne, according to the APCD's Phase 2 Study you can see at slocleanair.org. This project would further exacerbate the serious health problems being experienced by those on the Mesa and in Oceano and delay urgent mitigation efforts.

Permitting projects with such deleterious environmental and public health impacts would legitimize all that which the Coastal Commission opposes.

For a heads up on how some may try to convince you that OHV can decide what is and is not ESHA, and how a SLO County official disagrees, please see our documentary at the link below:

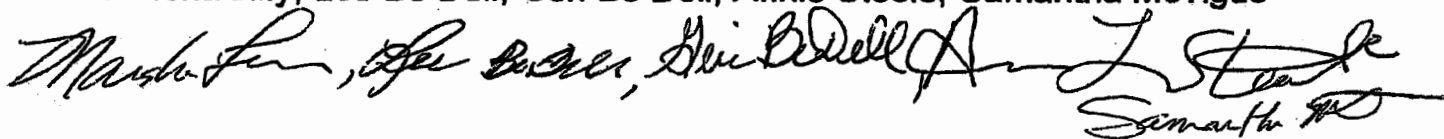
<http://vimeo.com/12930321>

For a factual historical account of OHV's current lack of compliance with its Coastal Permit, see our documentary below:

<http://vimeo.com/2220809>

All the best,

Marsha Lilly, Lee Be Dell, Geri Be Dell, Annie Steele, Samantha McTigue



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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREARoy and Pamela Dunlap
2393 Curlew Ct.
Arroyo Grande, CA 93420California Coastal Commission
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060RE: A-3-SLO-11-021 State Parks Wind Monitoring Stations
Agenda Item F8a- Friday May 13, 2011
Letter of support for Katrina Dolinsky's Appeal of SLO County's
Approval of State Parks Wind Monitoring Station

Dear Coastal Commissioners:

We support the Coastal Commission staff recommendation in the above referenced appeal by Katrina Dolinsky. We agree with the staff's statement: "The county approved project raises a substantial LCP issue concerning compliance with the LCP, ESHA, and visual and scenic protection requirements."

The Off-Highway Division of State Parks erected a tower last summer to be used for measuring wind direction and speed without any required permit. This time it hopes to be permitted to construct three more towers in the dunes, requiring construction and maintenance equipment to be driven through Pismo State Beach, along Arroyo Grande Creek, and through the protected Pismo Dunes Natural Preserve. According to SLO County's LCP, equipment must pass through a designated buffer area and ESHA.

In addition, these proposed 30 foot towers secured with guy wires must now include 100 foot radius perimeter fencing, with use of reflective material so as to protect off-roaders at night. It also expand an intrusive footprint into ESHA. We believe the use of proposed night time reflective materials would also support the substantial issue raised with respect to visual and scenic resource protection.

The proposed wind towers project has greatly expanded its original application from "wind towers" (only measuring wind speed and direction) to now include "wind and air quality monitoring stations" in their subsequent application of March 8, 2011, at the SLO County BOS meeting. This is a flagrant attempt to discredit SLO County's APCD Phase 2 Particulate Matter Study (see slocleanair.com), which found that high levels of particulate silica are being blown into residential areas from the ODSVRA. This is a duplicative effort and only serves to delay efforts already under way to mitigate the wind blown particulates and to exacerbate the health problems associated with the deadly carcinogen.

We support staff's findings that the evidence presented in the Commission's Staff Report does **not** show that these additional wind stations are required to protect public

health and safety, as necessary for LCP consistency. In fact, they will do just the opposite. Permitting projects which have such deleterious environmental and public health impacts would be counter to all that the Coastal Commission opposes.

Thank for your attention to this matter.

Sincerely,

Roy and Pamela Dunlap

F8a

Jonathan Bishop

From: Terry Sweetland [winetime@att.net]
Sent: Friday, May 06, 2011 8:04 AM
To: Jonathan Bishop
Subject: F8a A-3-SLO-11-021

Terry Sweetland

Support of CCC Staff Report and opposing SPR Wind Tower Project

To the members of the California Coastal Commission; I would like to express my opposition to the State Parks Wind Tower Project in the Oceano Dunes.

I feel that this is just another tactic that they will use to delay the final outcome and verdict by our county APCD. The State Parks OVRA is using an area that is a buffer zone for the purpose of recreation and that is completely opposite it's mission.. The dust from the La Grande tract is the same dust that is down wind and is the major pollutant of the area known as the MESA. If the State would only remain in their own boundaries they would be able to play and the dust would be blown into agricultural areas.

The State Parks has for the last 30 years failed to abide by the provisions requiring it to look for another entrance beside Grand and Pier Ave's. Now they say it too late. Our little community is stunted because we can not grow due to the blight that the off highway people give the neighborhood. Most are good people but we cannot grow with new beach friendly business because the OHV people bring just one long line to the gate which most car's are stopped in front of the stores and take up space that should be for shops and motel frontage. The noise pollution they make going into and out of the parks makes renting properties along the beach very difficult. We have very few return visitors. Also the traffic up and down the beach alarms parents when their children want to play.

Over the last 30 years the SOHVRA has used tactic's that have lead us to mistrust them.

They are not good neighbors.

Terry Sweetland
362 McCarthy Ave.
Oceano, CA 93445

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