

**CALIFORNIA COASTAL COMMISSION**

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# W 16b

July 1, 2011

TO: Coastal Commissioners  
Coastal Conservancy Board Members  
Interested Parties

FROM: Sam Schuchat, Executive Officer, Coastal Conservancy  
Nadine Hitchcock, Deputy Executive Officer, Coastal Conservancy  
Peter Douglas, Executive Director, Coastal Commission  
Susan Hansch, Chief Deputy Director, Coastal Commission

SUBJECT: **Status Report on the Violation Remediation Account (VRA)**  
(Commission Discussion Information Only, Wednesday, July 13, 2011, Item No. 16b)

## I. SUMMARY

### **Coastal Act Section 30823 Established the VRA**

This report provides a summary of the status of the funds originating from settlements and judgments of Coastal Act violations resolved by the Coastal Commission. Funds are transferred by the Coastal Commission to the Coastal Conservancy for deposit in the Violation Remediation Account. The Violation Remediation Account was established in 1982 as an amendment to the Coastal Act of 1976 (Section 30823 Disposal of Funds, Amended by Ch. 1618, Stats. 1982). The Violation Remediation Account (a part of the Coastal Conservancy Fund) was established to hold deposits of funds received through resolution of violations of the Coastal Act.

Coastal Act Section 30823 states:

*Any funds derived under this article (Article 2) shall be expended for carrying out the provisions of this division, when appropriated by the Legislature. Funds so derived shall be deposited in the Violation Remediation Account of the Coastal Conservancy Fund until appropriated.*

Funds from the Violation Remediation Account (VRA) are held in the Coastal Conservancy Fund of 1976 Fund 0565 and are managed by the Coastal Conservancy, to carry out provisions of the Coastal Act. The funds have been used for a variety of projects throughout coastal

California with a focus on public access projects and access operations and maintenance. Funds from the VRA must be appropriated annually by the Legislature.

### **Deposits to the VRA and Appropriations to the Conservancy Fund 0565**

Since the first recorded deposits in the VRA in FY 1985/1986 through FY 2010/2011, a total of \$6,085,860 has been deposited into the Violation Remediation Account. (See Exhibit A – Summary of Deposits to the Violation Remediation Account). The amount deposited varies widely from year-to-year. For example, in FY 1999/2000 there were no deposits and in FY 2010/2011 deposits totaled \$2,005,086.

Funds deposited into the VRA can be authorized for disbursement by the Conservancy toward a project once the funds are appropriated by the Legislature. There is often a considerable gap between the time funds are deposited in the VRA and when they can be authorized for disbursement because appropriation requests are contained in Capital Outlay Budget Change Proposals, which must be submitted one year in advance of the beginning of the next fiscal year. Adjustments may be requested through a Spring Finance Letter. Any VRA funds deposited after the Spring Finance Letter is submitted must be included in the next year's Capital Outlay Budget Change Proposal.

## **II. DISCUSSION**

### **Penalties from Coastal Act Violations Required to be Deposited in the VRA**

The Coastal Act requires a person undertaking development in the coastal zone to obtain a coastal development permit in accordance with prescribed procedures. Existing law authorizes civil liability for a person who performs or undertakes development that is in violation of the Act (such as development performed without a required permit) or that is inconsistent with a previously issued coastal development permit, and for a person who violates the Act in any other manner. The law also authorizes penalties be collected for any violations of orders issued by the Commission. These penalties can be obtained either by imposition by a court, or through a settlement of an enforcement case. Specifically, Article 2 of Chapter 9 of the Coastal Act provides for penalties and fines for violation of the Coastal Act, and Public Resources Code Section 30823 provides that any funds derived under this article **shall be deposited in the Violation Remediation Account** ("VRA") of the Coastal Conservancy Fund until appropriated and expended for carrying out the provisions of the Coastal Act.

### **Memorandum of Agreement**

In 1986, the Coastal Commission and the Coastal Conservancy entered into a Memorandum of Understanding that generally describes the use of the Violation Remediation Account funds in accordance with the PRC Section 30823 and serves to coordinate expenditures between the Coastal Commission and Conservancy. In the 1986 MOU, the Commission and the Conservancy determined that due to the relatively small dollar amounts of each settlement arising from a violation, it was often infeasible to implement a project specifically to mitigate

each individual violation, but that the total funds in the VRA could be usefully applied to specific access and restoration projects and more general statewide programs designed to promote compliance with coastal development permits and to further principal goals of the Coastal Act, including increasing public access to and along the coast, protecting sensitive habitats and preserving open space.

### **VRA Funds From FY 1985/1986 to FY 1999/2000**

From 1986 to mid-2000, a total of \$809,637 was deposited into the State Coastal Conservancy Fund 0565 for capital outlay. This fund included the VRA deposits and other funds that were specifically appropriated for "Coastal Resource Development". Because, during these years VRA funds were lumped together with other funds authorized for public access projects, it is not possible to differentiate which funds were directed toward which projects.

However, over \$3.5 million was appropriated to this 0565 account during the same period and spent on a variety of public access projects located along the entire coastline and including but not limited to:

Shamel and Lampton Coastal Parks in San Luis Obispo; Carlsbad State Beach; a three-mile trail in Long Beach; renovation of Carpenters Hall for the hostel in the City of Monterey; East Cliff Drive Accessway and 26<sup>th</sup> Avenue stairway in Santa Cruz County; the Carmel River trail; the Gualala Blufftop trail; Hermosa Beach Pier Access; and the Coastal Access Geographic Information System.

### **VRA Funds From FY 2000/2001 – FY 2010-2011**

Starting in FY 2000/2001, VRA funds were deposited into a sub-account making tracking easier. From 2001 to present a total of \$5,276,225 has been deposited in the VRA account of the Coastal Conservancy Fund. Of this, a total of \$2,316,000 has been expended to date. Including the \$2,236,000 appropriated for FY 2011-2012, there is now \$2,661,000 available for expenditure at this time. Approved expenditures include \$1,136,000 for the Commission's data base upgrade. The remaining balance of current funds available is \$1,824,225.

### **Where VRA Funds Have Been Spent**

Table 1 shows the violations and expenditures by region of the State, as administered by the Coastal Conservancy: Southern Region (San Diego to Ventura), Central Region (Santa Barbara to San Mateo), and Northern Region (San Francisco to Del Norte). See Exhibit B for a list of individual project expenditures for each of these regions. One-page summaries for each of these projects will be available at the Commission meeting.

As Table 1 shows, significantly more penalties have been generated in the Southern Region than have been expended there. This reflects, in part, agreements made between the Conservancy and Commission management to substitute Coastal Conservancy bond funds for VRA funds on select projects in order to make non-bond VRA funds available for projects that required operation and maintenance funding.

**Table 1 – VRA Income and Expenditures 2001-June 30, 2011 by Coastal Conservancy Region**

<b>VRA Income by Region 2001–present</b>	
South	\$3,796,225
Central	945,000
North	535,000
<b>Total Income</b>	<b>\$5,276,225</b>
<b>Expenditures by Region 2001–present</b>	
South	\$ 397,000
Central	1,020,000
North	807,000
Statewide	92,000
<b>Total Expenditures</b>	<b>\$2,316,000</b>
<b>CCC Project Approved: FY 2011-2012 Adopted Budget</b>	\$1,136,000
Data Management Upgrade Project - <b>\$1,136,000</b>	
<b>Encumbered</b>	
<b>Current Funds Available</b>	<b>\$1,824,225</b>

VRA funds to be spent or encumbered in FY 2011-2012 are a part of the legislative appropriation in the adopted FY 2011-2012 budget. The FY 2011-1012 budget does include an appropriation of \$1,136,000 from the VRA to the Coastal Commission for a modernization of the Commission’s antiquated data management system, including information on permits issued and conditions which need to be tracked for compliance. The Coastal Commission and the Coastal Conservancy worked cooperatively to receive approval of this project from the Department of Finance and the Legislature.

The largest ever deposits to the VRA occurred in FY 2010/2011 due to the unexpected payment of an overdue large penalty. The federal review of the Commission’s program has consistently identified severe deficiencies in the Coastal Commission’s database system and the Coastal Commission staff has been attempting to secure fund for the much needed database upgrade. This one time large influx of funds to the VRA offered an opportunity to modernize the database system, provide needed tools to track key data and improve the efficiency of Commission data operations without an increased General Fund (GF) authorization.

### **III. NEXT STEPS – MOU UPDATE**

Coastal Commission and Conservancy staff are updating the 1986 MOU to improve agency coordination in tracking income and expenditures and to provide more practical terms to facilitate the funding of priority projects. Staff will complete this update of the MOU sometime in the summer of 2011. The Commission and the Conservancy staff will meet at least quarterly to discuss priority use of the VRA funds.

**EXHIBIT A**

**Summary of Deposits to  
Fund 0565 - Violation Remediation Account  
CHECKS FORWARDED TO STATE COASTAL CONSERVANCY  
California Coastal Commission (as of June 30, 2011)**

<b>FISCAL YEAR</b>	<b>Amount</b>
<b>FY 1985/86 TOTAL</b>	54,000.00
<b>FY 1986/87 TOTAL</b>	35,000.00
<b>FY 1987/88 TOTAL</b>	48,000.00
<b>FY 1988/89 TOTAL</b>	26,000.00
<b>FY 1989/90 TOTAL</b>	10,000.00
<b>FY 1990/91 TOTAL</b>	57,000.00
<b>FY 1991/92 TOTAL</b>	48,000.00
<b>FY 1992/93 TOTAL</b>	137,500.00
<b>FY 1993/94 TOTAL</b>	63,661.06
<b>FY 1994/95 TOTAL</b>	109,885.00
<b>FY 1995/96 TOTAL</b>	44,122.00
<b>FY 1996/97 TOTAL</b>	68,368.03
<b>FY 1997/98 TOTAL</b>	11,600.00
<b>FY 1998/99 TOTAL</b>	96,500.00
<b>FY 1999/00 TOTAL</b>	NONE
<b>FY 2000/01 TOTAL</b>	23,000.00
<b>FY 2001/02 TOTAL</b>	551,348.45
<b>FY 2002/03 TOTAL</b>	143,043.50
<b>FY 2003/04 TOTAL</b>	450,400.00
<b>FY 2004/05 TOTAL</b>	194,000.00
<b>FY 2005/06 TOTAL</b>	146,688.94
<b>FY 2006/07 TOTAL</b>	176,339.65
<b>FY 2007/08 TOTAL</b>	582,109.72
<b>FY 2008/09 TOTAL</b>	701,373.86
<b>FY 2009/10 TOTAL</b>	302,834.00
<b>FY 2010/11 TOTAL</b>	2,005,086.40

**GRAND TOTAL**

**\$ 6,085,860.61**

## EXHIBIT B

VRA PROJECT EXPENDITURES BY COASTAL CONSERVANCY PROJECT NAME, AMOUNT, TYPE AND LOCATION (FY 2000/2001 - Present)				
Project Name	Total Allocated	Project Type	County	Region
<b>Accessible San Diego-</b> Purchased wheelchairs for several beaches between Oceanside and Imperial Beach.	\$78,000	Wheelchair Beach Access Equipment	San Diego	South
<b>Letchuza Beach</b> - Acquisition in Malibu	\$146,000	Access Acquisition	LA-Malibu	South
<b>Malibu Stairway</b> - Design and Final Drawings for Public Access and ADA Compliance for (construction fall 2011)	\$40,000	Access Design	LA-Malibu	South
<b>Dan Blocker Public Access-</b> Design. Will be implemented after more land is acquired.	\$113,000	Access Design	LA-Malibu	South
<b>Malibu Road Accessway</b> - Design	\$15,000	Access Design	LA-Malibu	South
<b>LA River Restoration and Access Masterplan</b> --LA River Symposium	\$5,000	Planning and Education	LA	South
<b>Montana de Oro State Park ("Hotel Site")</b> Acquisition, San Luis Obispo County.	\$460,000	Access Acquisition	San Luis Obispo	Central
<b>Piedras Blancas Motel Site</b> Acquisition, San Luis Obispo County.	\$148,000	Access Acquisition	Monterey	Central
<b>North Coast Beach Access</b> , Santa Cruz County.	\$82,000	Access Construction	Santa Cruz	Central
<b>Cowell - Purisima Coastal Trail</b> , San Mateo County.	\$330,000	Operations and Maintenance	San Mateo	Central
<b>Pt. Cabrillo Lightstation Restoration</b> , Mendocino County.	\$707,000	Access Facility Construction	Mendocino	North
<b>Access Northern California-</b> Produced Wheelchair Access Guide.	\$100,000	Access Education	Northern CA	North
<b>Klamath River Restoration &amp; Ocean Protection Council Strategic Plan</b> - Facilitation of collaborative issue resolution.	\$92,000	Planning and Facilitation	Coast and Ocean	State
<b>TOTAL</b>	<b>\$2,316,000</b>			