

CALIFORNIA COASTAL COMMISSION

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January 11, 2012

TO: Coastal Commission and Interested Persons

FROM: Legal Division and Legislative Unit

SUBJECT: NEW LAWS MEMO: 2011 Chaptered Legislation

The 2012 California Legislative session did not produce any chaptered legislation that directly amended the Coastal Act. However, the Governor did sign four bills that may affect the coastal program or require the Commission's participation. The following summaries include excerpts of the four bills as enacted, and any actions required by the Commission for implementation.

1) SB 468 (Kehoe) Department of Transportation: Capacity-increasing state highway projects: coastal zone. Chapter 535, Statutes of 2011

The relevant portion of this bill prescribes the content of a Public Works Plan prepared by Caltrans and SANDAG for the Interstate 5 North Coast Corridor project. Those provisions include, but are not limited to, public access, lagoon restoration projects, multimodal transportation, environmental mitigation measures, and community enhancements. It also requires SANDAG to recommend to Caltrans a project no larger than the "8 plus 4" travel lanes alternative when reviewing the FEIR for the project, and to establish a "safe routes to transit" program. It requires that the construction of all bridge and rail lagoon crossings be coordinated to reduce environmental impacts. All multimodal projects, as defined, must move forward concurrently with each phase of the capacity-increasing projects in the coastal zone. The bill additionally requires consultation with the Coastal Commission and other stakeholders, and authorizes the Commission to utilize Section 30515 to process Local Coastal Program amendments that will be necessary for the North Coast Corridor project. The section most relevant to the Coastal Commission is:

SEC. 2. Section 103 is added to the Streets and Highways Code, to read:

...

b) A public works plan approved for the north coast corridor project within the coastal zone shall include all of the elements of the north coast corridor project to be carried out by the department or the San Diego Association of Governments (SANDAG), including coastal access, highway, transit, multimodal, community enhancement, and environmental restoration, and mitigation projects. Once the public works plan for the north coast corridor has

been approved and certified by the California Coastal Commission, subsequent review by the California Coastal Commission of a notice of intent to develop for a specific project in the public works plan shall be limited to imposing conditions to ensure consistency of the project with the public works plan. The public works plan shall satisfy all of the following:

(1) Identify the California Coastal Commission's area of original jurisdiction and provide a process for obtaining coastal development permits from the California Coastal Commission directly in those areas.

(2) Contain, but not be limited to, the following elements: the type, size, intensity, and location of all development included in the north coast corridor project; the maximum and minimum size of facilities proposed to be constructed; the standards to which the projects should conform; the thresholds for when amendments to the public works plan may be required; and a proposed timetable and phasing program for all projects.

(3) Establish the mitigation measures that the department and SANDAG will be required to undertake prior to construction of each phase. The mitigation measures shall be described with sufficient detail to allow the department and SANDAG to accurately estimate the cost and effort associated with each particular measure and avoid the need for an amendment to the public works plan unless a project is inconsistent with the project description in the approved public works plan.

(4) Establish the process by which project design and mitigation measures included in the public works plan, and the California Coastal Commission's findings regarding those measures, may be applied to subsequent coastal development permit approvals and other approvals or determinations for subsequent phases of the project.

Implementation: Commission staff will continue to work with CalTrans, SANDAG, the public and the affected jurisdictions within San Diego County on the preparation of a Public Works Plan (PWP) for the I-5 North Coast Corridor project. The Commission will review and take final action on the PWP when submitted.

2) AB 42 (Huffman) State Parks. Chapter 450, Statutes of 2011.

The relevant sections of this bill authorize the department to enter into an operating agreement with a qualified nonprofit organization for the management of state park units that are on the closure list. The section of the bill most relevant to the Commission:

SEC. 2. Section 5080.42 is added to the Public Resources Code, to read:

5080.42. (a) Notwithstanding any other provision of this article, the department may enter into an operating agreement with a qualified nonprofit organization for the development, improvement, restoration, care, maintenance, administration, or operation of a unit or units, or portion of a unit, of the state park system, as identified by the director. If the department enters into an operating agreement that involves the operation of the entirety of a park unit, that agreement may be entered into pursuant to this section only to the extent that the agreement would enable the department to avoid closure of a unit or units of the state park system that may otherwise be subject to closure. The department may only enter into an operating agreement that involves the operation of the entirety of a park unit for no more than 20 park units.

Implementation: This new law may or may not be utilized for state park units in the coastal zone. If the Department of Parks and Recreation does enter into management agreements for state park units in the coastal zone, the Commission will interact with the new management entity on any proposed management changes or new development proposals. Any changes in type or intensity of use, including any actions that interfere with historic public access, may require a coastal development permit.

3) AB1112 (Huffman) Oil spill prevention and administration fee: State Lands Commission. Chapter 583, Statutes of 2011.

The relevant section of this bill raises the fee on oil landed at a marine terminal from \$.05 to \$.065 per barrel. Fees are deposited into the Oil Spill Prevention Administration Fund (OSPAPF), and upon appropriation are used to fund the work of the Oil Spill Prevention and Response (OSPR) program. The bill requires the OSPR administrator to conduct a risk assessment on vessels engaged in fuel bunkering or lightering. The measure sunsets on January 1, 2015, when the fee will return to \$.05.

SEC. 2. Section 8670.40 of the Government Code, as added by Section 63 of Chapter 133 of the Statutes of 2011, is amended to read:

8670.40. (a) The State Board of Equalization shall collect a fee in an amount determined by the administrator to be sufficient to carry out the purposes set forth in subdivision (e), and a reasonable reserve for

contingencies. The annual assessment shall not exceed six and one-half cents (\$0.065) per barrel of crude oil or petroleum products. Beginning January 1, 2015, the annual assessment shall not exceed five cents (\$0.05) per barrel of crude oil or petroleum products.

Implementation: Coastal Commission funds from the OSPAF were reduced in fiscal year 2011-12 by .5 person year, or approximately \$47,250 due to budget shortfalls. This modest increase in fees may result in restored funding to the Coastal Commission for its participation in the OSPR program. However, this may or may not be offset by additional budget cuts.

4) AB565 (Monning) San Clemente Dam. Chapter 479, Statutes of 2011.

This bill authorizes the State Coastal Conservancy to award a grant for the removal of the San Clemente Dam to a for-profit company.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 31111.5 is added to the Public Resources Code, to read:

31111.5. (a) In implementing this division, the conservancy may award a grant to a for-profit entity to accomplish removal or alteration of the San Clemente Dam if the conservancy finds that the project is of regional or statewide significance and that a grant to a public agency or nonprofit organization would not achieve removal or alteration of the San Clemente Dam.

(b) Notwithstanding subdivision (a), total expenditures of state funds for the removal or alteration of the San Clemente Dam and related activities shall not exceed twenty-five million dollars (\$25,000,000).

Implementation: This new law may result in the removal of the San Clemente Dam. Dam removal may trigger a federal consistency determination by the Coastal Commission, and/or coastal development permits, depending on the scope and design of the proposed project.