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November 22, 2013

TO: Coastal Commissioners and Interested Parties

FROM: Charles Lester, Executive Director
Elizabeth A. Fuchs, AICP, Manager, Statewide Planning Unit
Allyson C. Hitt, Statewide Planning Analyst

RE: **Annual Report on Protecting Open Space/Conservation OTDs**

The California Coastal Commission's Open Space/Conservation Easement Program continues its work of securing permanent protection for open space lands, including ESHA, steep slopes, agricultural resources, and scenic viewsheds in the Coastal Zone. The Open Space/Conservation Easement Program is in direct accordance with many of the goals, objectives, and actions of the Commission's Strategic Plan, which was approved unanimously by the California Coastal Commission in April 2013.



Scenic Easement, Navarro Head, Mendocino Co.

This report discusses the background of the Open Space/Conservation Easement Program, and summarizes the progress made in calendar years 2012 and 2013 to achieve permanent protection of coastal resources through the Program. This report also discusses how the Open Space/Conservation Easement Program relates to the Strategic Plan.

Background of the Open Space/Conservation Easement Program

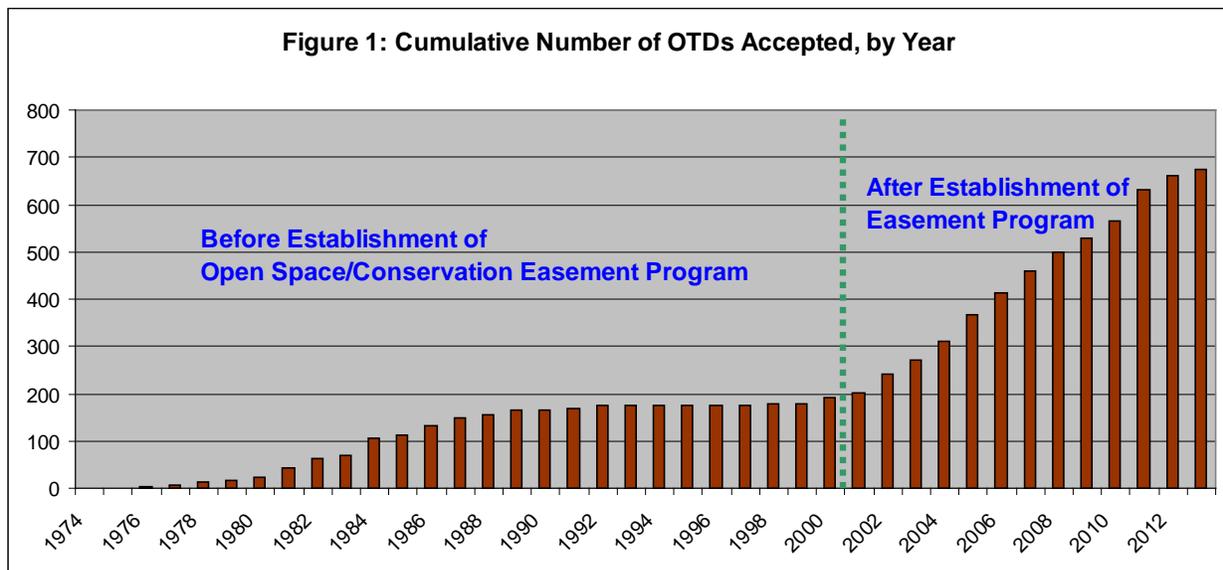
The majority of the open space/conservation easements are secured by the Commission as mitigation for coastal development permits approved by the Commission, either as Offers to

Dedicate (OTDs), which are then accepted by a third party, such as a local government or non-profit, or as Grants of Easements, where the easement is directly granted to the third party.

Similar to public access OTDs, the public resource benefits of a required open space or conservation OTD are not fully realized until an offer is accepted by a managing entity that agrees to hold and maintain the easement in perpetuity. Most OTDs have an irrevocable term of 21 years, and every year, more OTDs potentially expire unless they are accepted. To assure that the Commission's regulatory efforts result in permanent resource protection for the public, the Commission's Statewide Planning staff monitors the status of recorded OTDs, and works with a wide variety of potential management entities to facilitate the permanent acceptance of recorded OTDs. As OTDs get accepted, future work will focus on undertaking more systematic monitoring of the accepted easements.

Statewide Planning staff developed the Open Space/Conservation Easement program in response to the Commission's findings on the Regional Cumulative Assessment Project report for the Santa Monica Mountains/Malibu area (June 1999¹) which indicated that many OTDs recorded in the early 1980's as mitigation for development in the Santa Monica Mountains were approaching their 21-year-term date, beginning around the year 2000. Staff accelerated efforts to ensure that these OTDs were accepted by an appropriate entity before the term ran out.

In addition to securing acceptance of outstanding OTDs, program staff devotes its resources to researching OTDs, capturing relevant data pertaining to each easement, such as specific resources being protected, acreage, Assessor Parcel Number or other locational information, identifying potential enforcement issues within easement areas, and coordinating with non-profits to facilitate monitoring efforts. **Figure 1**, below, illustrates the impact of the establishment of the Open Space/Conservation Easement Program.



¹ <http://www.coastal.ca.gov/recap/smmsum.html>

Since about 2000, the number of Open Space/Conservation Program staff has ranged from a high of four full-time staff to currently, one staff person.

Acceptances Achieved in 2012-13

In the last two years², staff successfully negotiated acceptance of 43 OTDs covering 530 acres of sensitive lands. Resources protected by these acceptances include 183 acres of Monterey pine forest ESHA in San Luis Obispo County, over 200 acres of chaparral ESHA in the Santa Monica Mountains, one acre of wetland buffers at three San Diego County lagoons, and 6 acres of scenic resources at Navarro Head in Mendocino County.

Seventy-nine percent (34 of 43) of the easements were accepted by the Mountains Recreation and Conservation Authority (MRCA) in the Santa Monica Mountains. Most of these easements retire lots in the small lot subdivisions in the mountains, under the Commission's Transfer of Development Credit (TDC) Program. The development potential of 34 small lots was permanently retired due to these acceptances.

Other accepting entities include the Mendocino Land Trust, which accepted the six acres of scenic resources at Navarro Head, and the Land Conservancy of San Luis Obispo County, which accepted the easements protecting the Monterey pine forest. The City of Encinitas accepted fee title of 3.5 acres of steep slopes draining into San Elijo Lagoon. The State Coastal Conservancy accepted five easements, providing permanent protection to riparian ESHA in Santa Cruz, wetland buffers at Buena Vista and San Dieguito Lagoons, and steep slopes in San Diego County.

Attachment A includes the entire list of 2012 and 2013 acceptances.

Three offers in the Santa Monica Mountains were allowed to lapse in 2012 and 2013 because the parcels being offered were already owned by MRCA, thus they had already achieved a protected status. The Commission worked with the MRCA to assure the protection of these lands in perpetuity, consistent with the original OTDs.

Total Acceptances to Date

Despite the Commission's limited resources to implement the Conservation/Open Space Program, staff has been able to negotiate the acceptance of 75% of the current outstanding OSE OTDS required by the Commission since 1974. These easements protect almost 7,200 acres of wetlands, ESHA, viewsheds, and agricultural and archaeological resources. This number undercounts the actual acreage protected by Commission actions because currently acreage is reported for only 78% of OTDs accepted to date. As time permits, staff will continue to research older OTD files in order to determine acreage for past accepted OTDs.

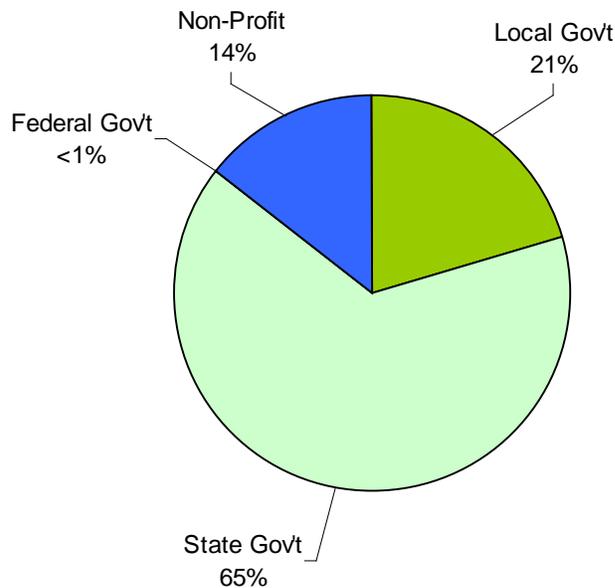
² No annual report was published for 2012.

Overall Status of OTDs

	Total Number by End of 2013	Total Percent by End of 2013
Accepted	673	75%
Expired/Allowed to Lapse	35	4%
Remaining To Be Accepted	189	21%
TOTAL	893	100%

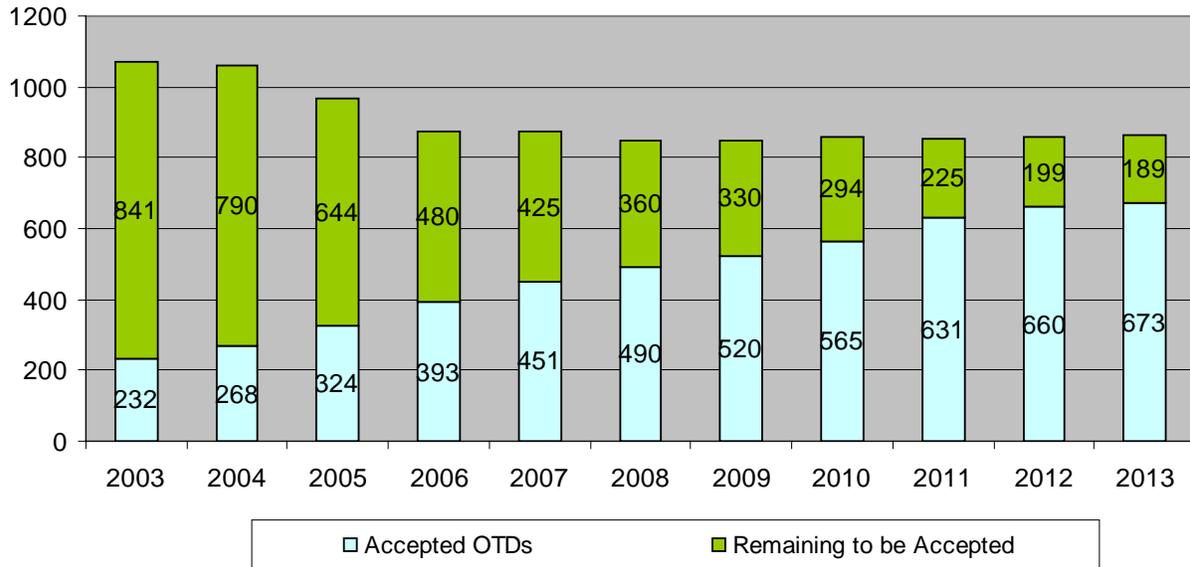
Attachment B includes a complete list of accepting entities. Public agencies have accepted 576, or 86% of the total conservation/open space OTDs accepted to date, while non-profit entities have accepted 97, or 14%. **Figure 2** depicts the distribution of accepting entities.

Figure 2: Accepting Entities



Progress in the last eleven years since annual reports began is shown below in **Figure 3**³.

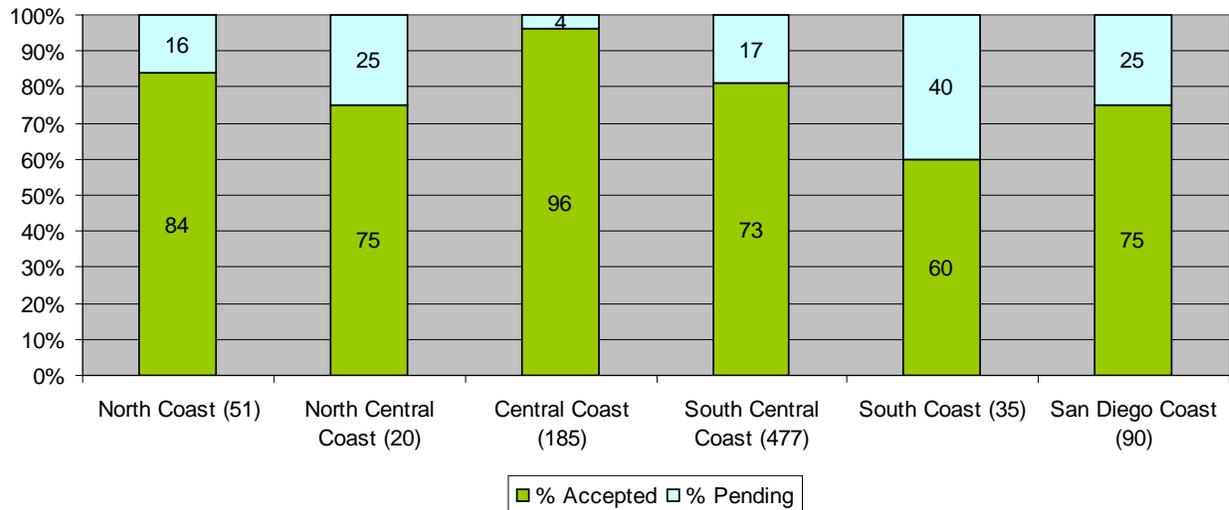
Figure 3: Status of OTDs Over Time



The Commission has achieved acceptance rates of over 60% in all districts, as shown in **Figure 4**, below. The acceptance rate in the Central Coast District in particular is of note. 96% of OTDs in this district have been accepted, primarily by the counties in this district (Santa Cruz, Monterey, and San Luis Obispo).

³ The overall total number of OTDs changes each year (from 1073 in 2003, to 893 in 2013). Staff initially began this project with a written log of OTDs. However, as staff commenced in-depth research of the files containing OTDs it was found that each record in the log did not necessarily correspond to a recorded OTD. In many cases, the log noted that an OTD was required for a permit condition, but for various reasons, the permit was not issued and the OTD was never recorded. Additionally, the log did not reflect if a recorded OTD had been superceded or extinguished. Also, new OTDs are recorded and added to the total each year. Given limited staff resources, research on files is only initiated as staff begins to work on acceptances; thus the database does not have a real-time current number of total OTDs.

Figure 4: Percent Accepted by District, to Date



As **Figure 5**, below, indicates, there is a large number of OTDs approaching their term date in 2017 and 2018. Staff has commenced work on the research and documentation for more than half of these upcoming OTDs.

Figure 5: OTDs to be Accepted, by Year of Expiration

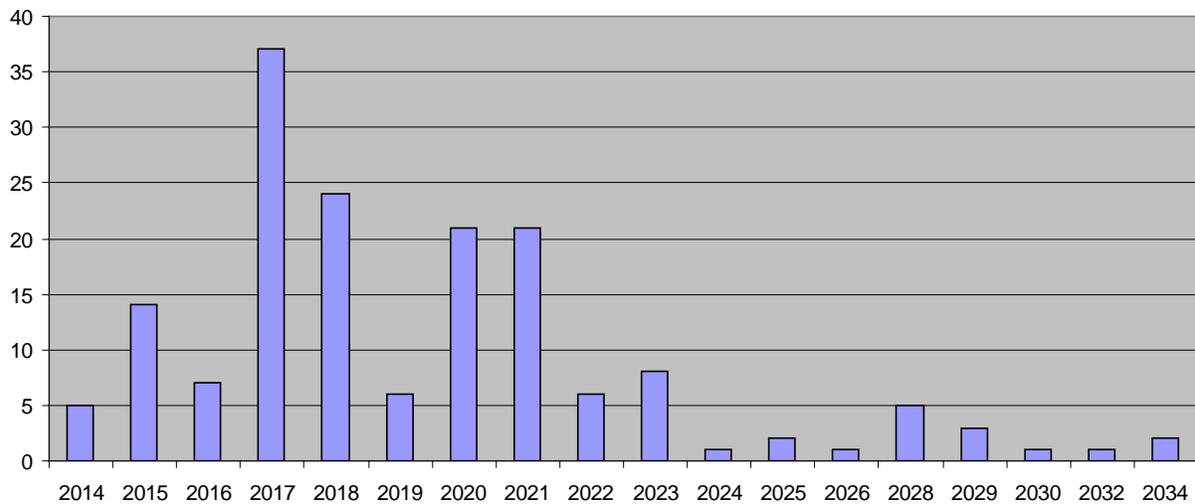
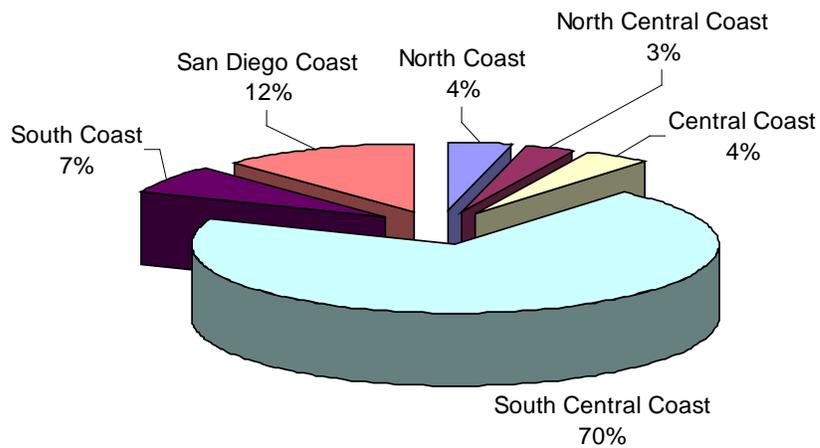


Figure 6, below, shows that the bulk of the outstanding OTDs are in the South Central Coast District in the Santa Monica Mountains. However, Commission staff maintains a strong working relationship with MRCA staff, enabling an efficient acceptance process for these OTDs.

Figure 6: OTDs to be Accepted, by District



Other Protected Open Space Land

In addition to requiring Offers to Dedicate and Grants of Easement to ensure that adverse environmental impacts of development are avoided or minimized, the Commission has also required deed restrictions to protect sensitive areas. There are currently approximately 1,700 recorded deed restrictions protecting open space lands. Staff has tracked these recorded documents since the late 1970s but mainly in handwritten logs that staff has only partially transferred to the Commission's database. Because of limited staff resources and the necessity for staff to focus on the time-sensitive nature of OTDs, research and data capture is not complete for the deed restriction data. Hence, while approximately 1,700 open space deed restrictions have been identified, the Commission is not currently able to report or comprehensively monitor the number of acres protected, specific locations or types of resources protected.

Alignment with the Commission's Strategic Plan

As noted earlier, the Open Space/Conservation Easement Program aligns with several of the goals and objectives of the Commission's Strategic Plan.

Goal 1: Maximize Public Access and Recreation

Objectives of Goal 1 include enhancing public access through constraints analysis and expansion of the California Coastal Trail System through planning. Statewide Planning staff maintains a database of open space easements and deed restricted areas, including locational information which can then be used to identify sensitive areas in the proposed alignment of the CCT (some easements allow public access, many do not).

Goal 2: Protect Coastal Resources

The Strategic Plan states, “protecting and restoring sensitive coastal resources is...one of the highest priorities of the Commission.” By securing permanent protection of lands dedicated to habitat preservation and agriculture, the Open Space/Conservation Easement Program advances achievement of this goal. To date, since the inception of the program, more than 7,200 acres of sensitive coastal resources have been permanently protected.

A specific objective of Goal 2 calls for the protection of coastal agriculture. OTDs, Grants of Easements, and Deed Restrictions are all effective mechanisms for protecting agricultural use in the Coastal Zone. To date, more than 1,900 acres (26% of the total acreage of protected lands), extending through more than half of the coastal counties, have been permanently preserved for agricultural use through the use of easements and deed restrictions required as mitigation for impacts from development.

Goal 3: Address Climate Change through LCP Planning, Coastal Permitting, Inter-Agency Collaboration, and Public Education

Some of the objectives of this goal include developing guidance for addressing the impact of sea level rise, including providing buffers for coastal wetlands and adaptation planning, which includes protecting wetland, marine and terrestrial habitats. More than 350 acres of wetlands and wetland buffers have been put into permanent protection through the use of easements and deed restrictions.

Goal 4: Strengthen the LCP Planning Program

Working with local governments to update LCPs where feasible is one of the objectives of Goal 4. When applicable, Statewide Planning staff share easement data with local governments to facilitate LCP work. For example, staff created a GIS layer depicting open space easements, deed restricted areas, and TDC donor lots in the Santa Monica Mountains which was then provided to County staff as part of its LCP planning efforts.

Goal 5: Improve the Regulatory Process, Compliance and Enforcement

Condition compliance continues to be a major workload issue for the Commission and Objective 5.3 lays out actions to improve the condition compliance work of staff.

The Open Space/Conservation Easement Program is part of the final process of condition compliance. Since the vast majority of easements stems from permit conditions, the acceptance

of an Offer to Dedicate is the final step in ensuring that the impacts of approved development on coastal resources are mitigated. As OTDs come up for acceptance, Statewide Planning staff reviews conditions on the ground, sometimes revealing unpermitted development or inappropriate uses of the easement areas. Staff then begins a dialog with District staff and Enforcement staff to attempt resolution. A recent example of resolution is in Half Moon Bay, where an unpermitted structure had been located in an open space deed restricted area, immediately adjacent to an open space easement protecting riparian habitat. Resolution of the violation was achieved by cooperative effort on the part of Statewide Planning staff, Enforcement staff, the local government and the property owner. The structure has been removed and the area is currently being restored. Other recent examples of violation resolution via collaborative efforts on the part of Statewide Planning and Enforcement staffs have occurred in Moss Landing and the Santa Monica Mountains.

The California Code of Regulations Section 13574 for LCP implementation contains provisions for Local Government reporting of Open Space Easements and Public Documents. Such provisions are usually included in LCP ordinances governing issuance of coastal development permits. Future monitoring of OTDs will need to review the implementation of these provisions and recommend enhancements for improved tracking and monitoring.

Goal 6: Enhance Information Management and E-Government

Goal 6 includes such actions as making “the Commission’s permit and planning records ...available to the public via the Internet” and completing “the Commission’s digital document library for all Commission actions from 1973 to the present, including converting paper records to a searchable digital format, linking to the Commission’s final adopted reports, and linking all records to the CDMS. Make CDMS data available online as appropriate and as feasible.” As OTDs are accepted and as new easements and deed restrictions are recorded, they are scanned and archived by Statewide Planning staff, ready to be uploaded to a public site when one is developed, and the CDMS, as staff resources permit.

Future Efforts of the Open Space/Conservation Easement Program

Staff is committed to maintaining the Open Space/Conservation Easement Program in order to ensure permanent mitigation for impacts on coastal resources. Staff will continue to capture resource data and make it available to enhance coastal management. In order to benefit staff and local planners in permit and LCP work, staff continues to seek more resources to further develop the attribute data describing the lands protected by OTDs and Deed Restrictions. In addition, staff is beginning to work with nonprofits and public agencies in order to enable them to carryout monitoring of the easements to assure ongoing protection. Without such capacities, coastal resources previously protected through Commission regulatory actions could be at risk of being lost.

2012-13 Acceptances

CDP#	Applicant	Purpose	Accepting Entity	Acres	Easement Resources and Location	County
North Coast District						
1-82-273-A3	Marv Paoli	open space	Mendocino Land Trust	5.86	Navarro Head	Mendocino
Central Coast District						
3-90-126	Michael Zelver	open space	State Coastal Conservancy	0.16	riparian ESHA, draining into Woods Lagoon, Santa Cruz	Santa Cruz
A-3-SLO-03-117	Brown, Josh & Townsend, James and Johanna	open space	The Land Conservancy for San Luis Obispo County	80	ESHA--Monterey pine forest, Cambria	San Luis Obispo
A-3-SLO-03-117	Brown, Josh & Townsend, James and Johanna	open space	The Land Conservancy for San Luis Obispo County	103	ESHA--Monterey pine forest, Cambria	San Luis Obispo
South Central Coast District						
5-90-335-A	KETCHAM, JAMES	TDC	MRCA	0.28	2 Lots in Malibu Vista SLS	Los Angeles
5-90-335-A	KETCHAM, JAMES	TDC	MRCA	0.22	2 Lots in Malibu Vista SLS	Los Angeles
5-91-834	O'LEARY,JORGE/MELISA	TDC	MRCA	0.37	3 Lots in Fernwood SLS	Los Angeles
4-11-063	Hansson, David	open space	MRCA	34.7	chaparral ESHA	Los Angeles
5-87-458 & 5-87-458-A	Jordan Bernstein	open space	MRCA	6	Malibu Cyn Significant Watershed	Los Angeles
5-90-1059	Jim Trucks	TDC	MRCA	0.08	1 Lot in Malibu Vista SLS	Los Angeles
5-91-438	Farzan Pourrahimi	TDC	MRCA	0.18	1 Lot in Malibu Vista SLS	Los Angeles
4-92-189	Edward Dore	TDC	MRCA	0.13	1 Lot in El Nido SLS	Los Angeles
5-90-566	BERGER, PHILIP	TDC	MRCA	0.03	1 Lot in Old Topanga SLS	Los Angeles
5-91-588	WALLIS, GENE&MARTHA	TDC	MRCA	0.32	1 Lot in Old Topanga SLS	Los Angeles
5-91-588	WALLIS, GENE&MARTHA	TDC	MRCA	0.12	1 Lot in Old Post Office SLS	Los Angeles
5-91-588	WALLIS, GENE&MARTHA	TDC	MRCA	0.06	1 Lot in Old Topanga SLS	Los Angeles
5-88-501	Sheldon Bay	TDC	MRCA	0.28	2 Lots in Old Post Office SLS	Los Angeles
5-89-993	Pam Azar	open space	MRCA	8	view protection; adjacent to ESHA	Los Angeles
5-90-327	Javid Development	TDC	MRCA	160	Malibu Canyon	Los Angeles
5-90-327	Javid Development	TDC	MRCA	40	Between Red Rock Canyon and Stunt Ranch	Los Angeles
5-90-327	Javid Development	TDC	MRCA	10	Red Rock Canyon	Los Angeles
5-90-327	Javid Development	TDC	MRCA	40	Corral Canyon	Los Angeles
5-88-639	Barry Cappello	TDC	MRCA	0.12	2 Lots in Monte Nido SLS	Los Angeles
5-90-991	REVERE, DOUG & DAVID	TDC	MRCA	0.06	2 Lots in Old Topanga SLS	Los Angeles

2012-13 Acceptances

CDP#	Applicant	Purpose	Accepting Entity	Acres	Easement Resources and Location	County
<i>South Central Coast District (cont.)</i>						
5-90-1000	PANKOW, JAMES & KAREN	TDC	MRCA	0.09	1 Lot in Old Topanga SLS, 1 Lot in Monte Nido SLS	Los Angeles
5-90-1130	SHAMONKI	TDC	MRCA	0.22	1 Lot in Fernwood SLS	Los Angeles
5-90-514	Cunegunda & Vitalis Petrusis	archaeological	MRCA	0.02	Malibu	Los Angeles
5-90-690	Lavonne Miel	TDC	MRCA	0.11	1 Lot in Malibu Vista SLS	Los Angeles
5-90-199	MORGAN TRUST	TDC	MRCA	0.4	3 Lots in Malibu Vista SLS	Los Angeles
5-90-680	ROSS, HAL	TDC	MRCA	0.17	1 Lot in Malibu Vista SLS	Los Angeles
5-90-514	Cunegunda & Vitalis Petrusis	TDC	MRCA	0.13	1 Lot in Malibu Vista SLS	Los Angeles
5-90-514	Cunegunda & Vitalis Petrusis	TDC	MRCA	0.2	1 Lot in Malibu Vista SLS	Los Angeles
5-89-025	Tiger Andrews	TDC	MRCA	0.35	4 Lots in Monte Nido SLS	Los Angeles
4-92-091	Cold Canyon LP	TDC	MRCA	0.12	1 Lot in Monte Nido SLS	Los Angeles
4-92-090	Toberman, Denise	TDC	MRCA	0.1	1 Lot in Monte Nido SLS	Los Angeles
5-89-1218	Goeglein, Pat	TDC	MRCA	0.14	1 Lot in Monte Nido SLS	Los Angeles
5-91-027	Kelso, Frank	TDC	MRCA	0.09	3 Lots in Old Topanga SLS	Los Angeles
4-92-158	Bennett, Jeffrey	TDC	MRCA	0.16	1 Lot in Malibu Vista SLS	Los Angeles
<i>San Diego Coast District</i>						
6-90-226	Reeder Development	open space	State Coastal Conservancy	3.5	steep slopes, draining into Escondido Creek, Encinitas	San Diego
6-91-302 & 6-92-022	Mulvey-Branca Group	open space	State Coastal Conservancy	0.4	Immed north of San Dieguito Lagoon, Del Mar	San Diego
6-91-034	City of Carlsbad	open space	State Coastal Conservancy	0.5	south edge of Buena Vista Lagoon, Carlsbad	San Diego
6-90-049	Fargo Industries	open space	State Coastal Conservancy	28.4	steep slopes, draining into Batiquitos Lagoon, Leucadia	San Diego
6-90-226	Reeder Development	fee title	City of Encinitas	3.5	steep slopes, Encinitas	San Diego

Attachment B

Management Entities Accepting OSE OTDs

	Managing Entity	OSE OTDs
	Government Agencies	
North Coast	Del Norte County	13
	Humboldt County	5
	City of Eureka	1
	City of Point Arena	1
North Central	Sonoma County Open Space District	1
	Marin County	2
	San Mateo County	1
Central Coast	Santa Cruz County	13
	City of Santa Cruz	1
	City of Capitola	1
	Monterey County	37
	City of Marina	3
	City of Monterey	2
	City of Pacific Grove	4
	City of Carmel-by-the-Sea	1
	San Luis Obispo County	10
	City of Morro Bay	2
South Central	Santa Barbara County	1
	City of Goleta	1
	City of Oxnard	1
	Los Angeles County Flood Control District	1
	Mountains Recreation and Conservation Authority	308
	Santa Monica Mountains Conservancy	4
South Coast	City of Los Angeles	1
	Orange County	4
	City of Huntington Beach	1
	City of Newport Beach	2
	City of Laguna Beach	1
San Diego Coast	San Diego County	5
	San Dieguito River Valley Reg OS Park JPA	2
	City of Carlsbad	8
	City of Encinitas	7
	City of San Diego	4
	City of Imperial Beach	1
Statewide	Coastal Conservancy	81
	Dept of Fish and Game	37
	Dept of Parks and Recreation	4
	State Lands Commission	1
Federal	U.S. Army Corps of Engineers	1
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	Non-Profit Entities	
North Coast	Coastal Land Trust	3
	North Coast Land Trust	1
	Jacoby Creek Land Trust	1
	Mendocino Land Trust	1
North Central	Marin Agricultural Land Trust	1
	Ag Land Trust	1
	Coastside Land Trust (formerly Half Moon Bay Open Space Trust)	4
Central Coast	Land Trust of Santa Cruz County	4
	Ag Land Trust (formerly Monterey County Agricultural & Historical Land Conservancy)	2
	Elkhorn Slough Foundation	8
	Monterey Peninsula Foundation	1
	Del Monte Forest Foundation	22
	Big Sur Land Trust	3
	Santa Lucia Conservancy	1
	Environmental Center of SLO County	1
	San Luis Obispo Land Conservancy	3
	Greenspace Cambria	1
South Central	The Land Trust of Santa Barbara County	1
	Mountains Restoration Trust	20
South Coast	Laguna Greenbelt	2
San Diego Coast	San Elijo Lagoon Conservancy	4
	Los Penasquitos Lagoon Foundation	1
	Friends of Los Penasquitos Canyon Preserve, Inc.	8
	Batiquitos Lagoon Foundation	2
Statewide	Sierra Club	2
	The Nature Conservancy	1
	Total	673