

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885



W8c

November 21, 2014

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.



**Open Space Easement (hillside in background),
Ross Creek, Mendocino Co.**

This report discusses the background of the Open Space/Conservation Easement Program, and summarizes the progress made in calendar year 2014 to achieve permanent protection of coastal resources through the Program. This report also examines how the Open Space/Conservation Easement Program relates to the Strategic Plan.

Background of the Open Space/Conservation Easement Program

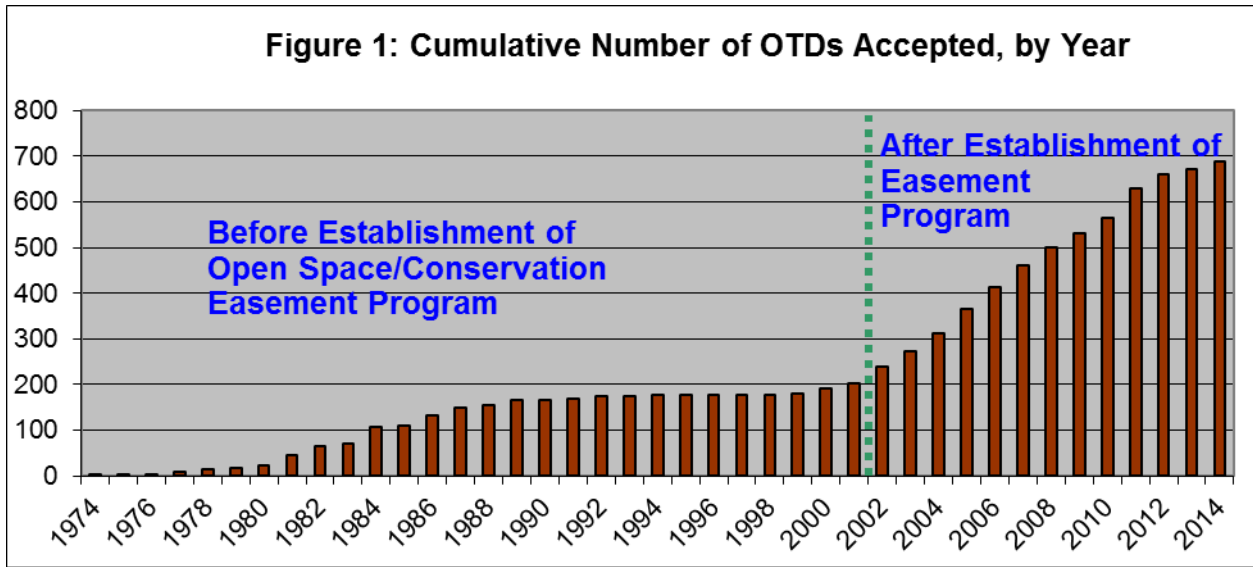
The majority of the open space/conservation easements are secured by the Commission as mitigation for coastal development permits approved by the Commission, either as Offers to Dedicate (OTDs), which are then accepted by a third party, such as a local government or non-profit, or as Grants of Easements, where the easement is directly granted to the third party. There is one easement secured in 2014, however, that is a result of a settlement agreement.

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, OTDs have the potential to 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. To date, 65 different government agencies and non-profit organizations have accepted open space 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 2014

In the last year, staff successfully negotiated acceptance of 12 OTDs covering 29 acres of sensitive lands. Resources protected by these acceptances include more than 20 acres of significant watersheds and ecological areas in the Santa Monica Mountains, the view of Aliso Rock in Laguna Beach, and over five acres of wetland and riparian buffers in Mendocino County and San Diego County.

Seventy-five percent (9 of 12) 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 14 small lots was permanently retired due to these acceptances.

Other accepting entities include the Moat Creek Managing Agency (MCMA), a small organization in Mendocino County, which accepted an open space easement adjacent to Ross Creek. In addition, MCMA accepted two Offers to Dedicate Public Access at the same site, creating, with the addition of lands and easements already under their management, a large contiguous area of natural open space, and public access opportunities connecting Moat and Ross Creeks and the beach. The City of Laguna Beach accepted its second open space easement, this one protecting the view of Aliso Rock from Aliso Beach. In San Diego County, the San Elijo Lagoon Conservancy accepted 3.5 acres of wetland and buffer, draining to San Elijo Lagoon. This is the fifth Coastal Commission easement that SELC has acquired.

Attachment A includes the entire list of 2014 acceptances. No offers expired in 2014.

Other Work in 2014

In addition to securing acceptances of Offers to Dedicate, Statewide Planning staff facilitated the assignment of three open space easements from the Coastal Land Trust to the Mendocino Land Trust, due to the fact that the Coastal Land Trust has ceased to operate. All three easements are in Mendocino County and staff relied on its strong working relationship and high level of confidence in the Mendocino Land Trust to complete this transaction.

The details of the three assignments are as follows:

- 1-86-138 (Zimmer), 0.06 acres of floodplain, near Little River
- 1-86-060 (Spring), 15 acres of pygmy forest habitat, near Town of Mendocino
- 1-88-101 (O’Neil), 0.13 acres of archaeological resources (cemetery), near Gualala

The Mendocino Land Trust was also instrumental in identifying the Moat Creek Managing Agency as an appropriate entity to accept the Offers to Dedicate at Ross Creek this year.

Staff maintains ongoing relationships with other accepting entities as well; this year staff devoted considerable resources to work with the Coastside Land Trust in San Mateo County to attempt resolution of enforcement matters at two open space easements, which had been accepted in 2005 and 2006, respectively.

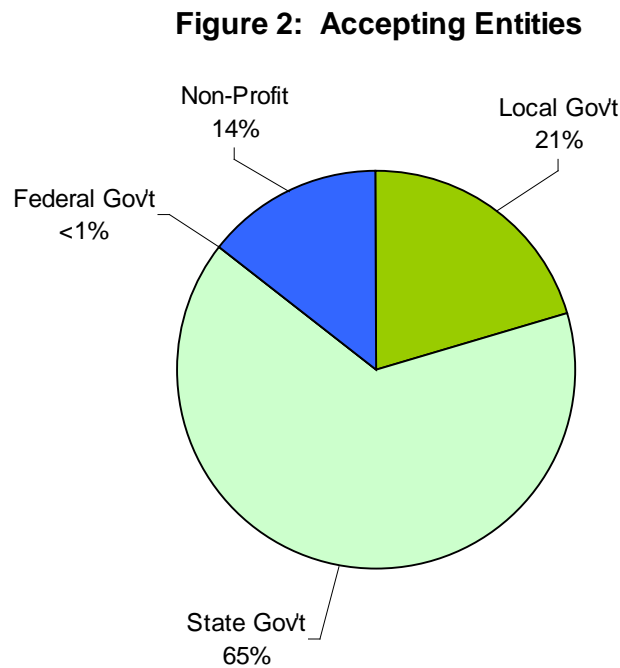
Total Acceptances to Date

Despite the Commission’s limited resources to implement the Conservation/Open Space Program, staff has been able to negotiate the acceptance of 79% of the current outstanding OSE OTDS required by the Commission since 1974. These easements protect almost 7,400 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 79% of OTDs accepted to date. As time permits, staff continues to research older OTD files in order to determine acreage for past accepted OTDs.

Overall Status of OTDs

	Total Number by End of 2014	Total Percent by End of 2014
Accepted	688	76%
Expired/Allowed to Lapse	35	4%
Remaining To Be Accepted	172	19%
TOTAL	905	100%

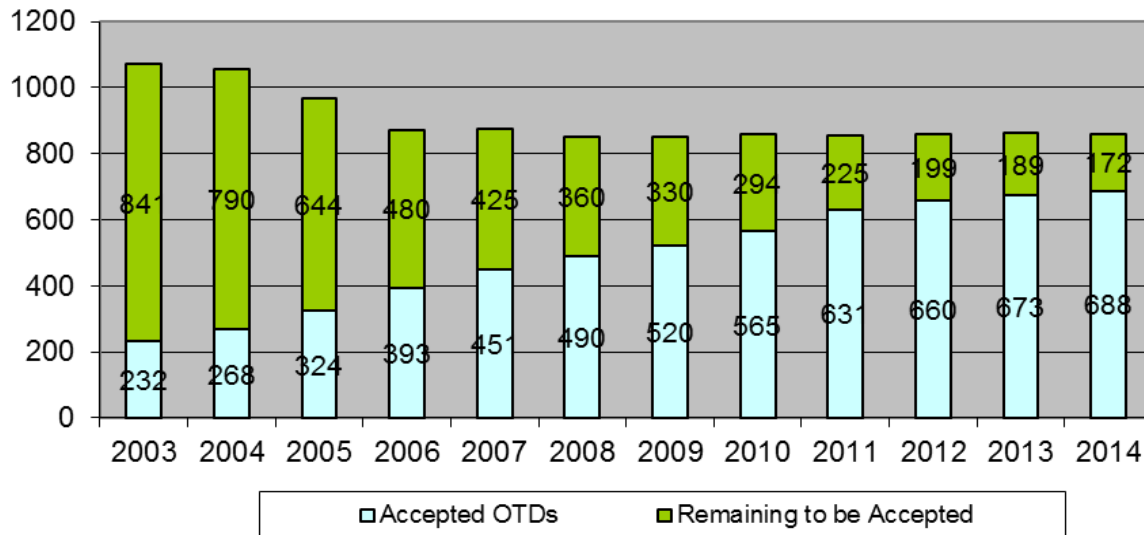
Attachment B includes a complete list of accepting entities. Public agencies have accepted 590, or 86% of the total conservation/open space OTDs accepted to date, while non-profit entities have accepted 99, or 14%. **Figure 2** depicts the distribution of accepting entities.



Progress in the last eleven years since annual reports began is shown below in **Figure 3**².

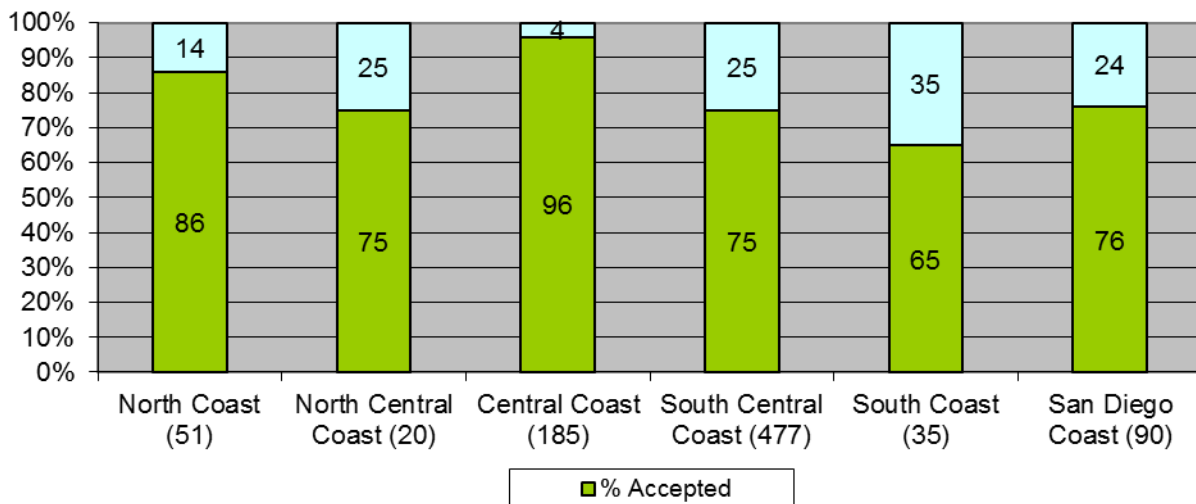
² The overall total number of OTDs changes each year (from 1073 in 2003, to 870 in 2014). Staff initially began this project with a written log of OTDs. However, as staff commenced in-depth research of the files containing OTDs it was found that each record in the log did not necessarily correspond to 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 3: Status of OTDs Over Time



The Commission has achieved acceptance rates of over 65% 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).

Figure 4: Percent Accepted by District, to Date



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

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

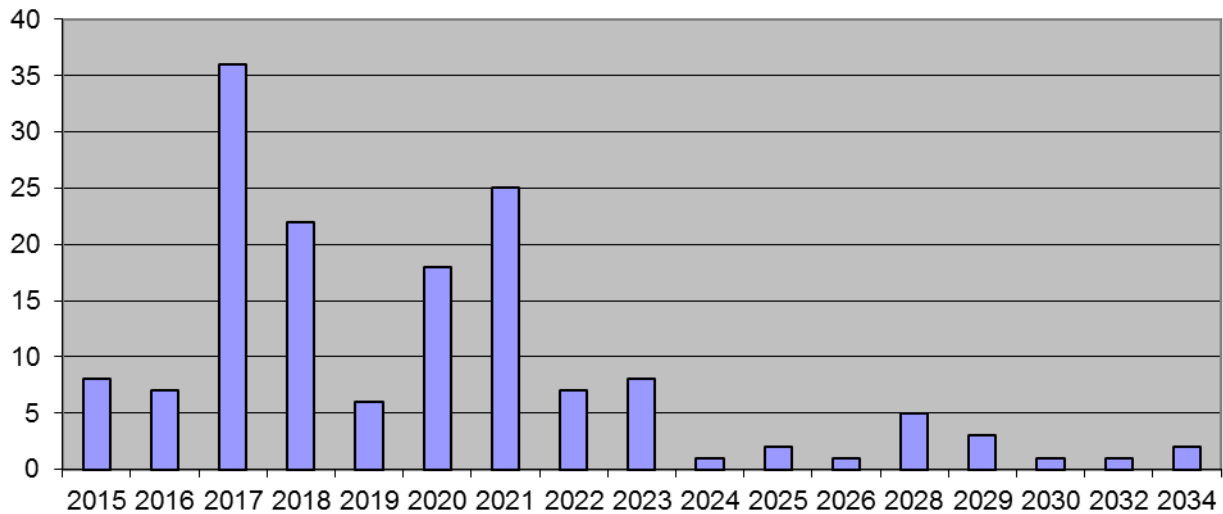
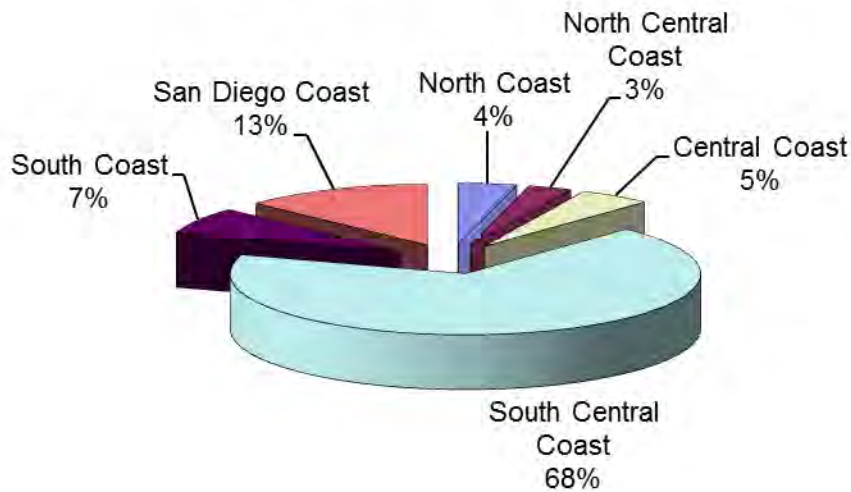


Figure 6, below, shows that the bulk of the outstanding OTDs are in the South Central Coast District in the Santa Monica Mountains. However, Commission staff maintains a strong working relationship with MRCA staff, enabling an efficient acceptance process for these OTDs.

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, most 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 7,400 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 carry out 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.

2014 Acceptances

CDP#	Applicant	Purpose	Accepting Entity	Acres	Easement Resources and Location	County
North Coast District						
settlement agreement	Hay, William and Karen	open space	Moat Creek Managing Agency	2	adjacent to Ross Creek, Whiskey Shoals, south of Point Arena	Mendocino
South Central Coast District						
4-01-123	Stan Kaplan	TDC*	MRCA	0.08	1 Lot in El Nido SLS	Los Angeles
5-91-865	Karl & Maxi Imhof	open space	MRCA	10	Wildlife corridor; Significant Ecological Area	Los Angeles
4-93-178	Ray Stroeber	TDC	MRCA	0.31	1 Lot in Fernwood SLS	Los Angeles
5-89-1064	Assael	TDC	MRCA	1	8 Lots in Topanga Oaks SLS	Los Angeles
5-89-1064	Assael	TDC	MRCA	0.13	1 Lot in Topanga Woods SLS	Los Angeles
5-90-065	Frank & Ildiko Lewis	open space	MRCA	1.5	Tuna Canyon Significant Watershed and viewshed	Los Angeles
5-90-368-A	Berger, John & Elena	TDC	MRCA	0.06	1 Lot in Fernwood SLS	Los Angeles
5-90-755	Harvest Corporation	TDC	MRCA	0.23	2 Lots in Topanga Woods SLS	Los Angeles
4-10-104	ELN Malibu, LLC	open space	MRCA	10	undisturbed native chaparral ESHA; Solstice Canyon Watershed	Los Angeles
South Coast District						
5-92-263	Edward & Claudia Bowler & Mary Bowler	view	City of Laguna Beach	0.08	protects view of Aliso Rock from Aliso Beach	Orange
San Diego Coast District						
6-90-129	Daniel Shelley	open space	San Elijo Lagoon Conservancy	3.52	wetland area and buffer, draining to San Elijo Lagoon; Encinitas	San Diego

*Transfer of Development Credit

Attachment B

Management Entities Accepting OSE OTDs

	Managing Entity	OSE OTDs
	<i>Government Agencies</i>	
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	12
	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	11
	City of Morro Bay	2
	City of Grover Beach	1
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	320
	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	2
San Diego Coast	San Diego County	5
	San Dieguito River Valley Regional 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	82
	Dept of Fish and Wildlife	38
	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	North Coast Land Trust	1
	Jacoby Creek Land Trust	1
	Mendocino Land Trust	4*
	Moat Creek Managing Agency	1
North Central	Marin Agricultural Land Trust	1
	Agricultural 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	19
South Coast	Laguna Greenbelt	2
San Diego Coast	San Elijo Lagoon Conservancy	5
	Los Penasquitos Lagoon Foundation	1
	Friends of Los Penasquitos Canyon Preserve, Inc.	8
	Batiquitos Lagoon Foundation	2
Statewide	Sierra Club	2
	Total	688

*Three easements were transferred from Coastal Land Trust to Mendocino Land Trust in 2014.