

**CALIFORNIA COASTAL COMMISSION**

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# W7c

November 20, 2015

TO: Coastal Commissioners and Interested Parties

FROM: Charles Lester, Executive Director  
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RE: **Annual Report of the Open Space/Conservation OTD Program**



**Open-Space Easement, Carlsbad, 2015.**

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.

This report discusses the background of the Open Space/Conservation Easement Program, and summarizes the progress made in calendar year 2015 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.

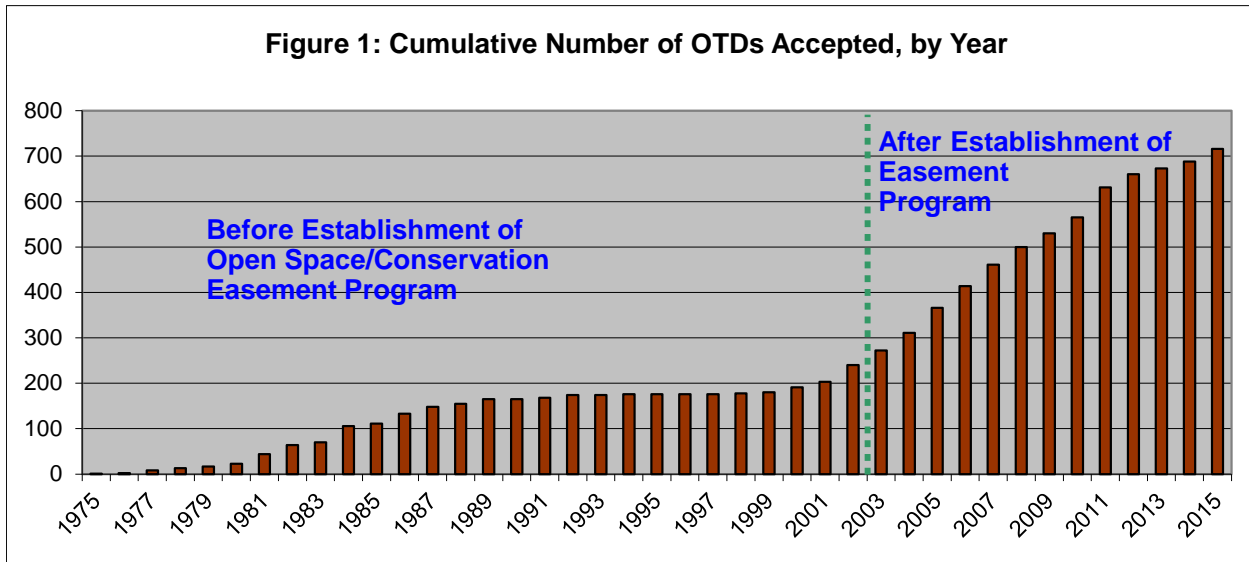
### ***Background of the Open Space/Conservation Easement Program***

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 granted directly 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, 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, 68 different government agencies and non-profit organizations have accepted open space OTDs.

Statewide Planning staff developed the Open Space/Conservation Easement program in response to the Commission's findings on a project to assess implementation of the coastal program in the Santa Monica Mountains (the Regional Cumulative Assessment Project, June 1999). The findings 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 and developed a database to track 21-year-term dates for all other recorded open space and conservation OTDs.

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.



### ***Acceptances Achieved in 2015***

In the last year, staff successfully negotiated acceptance of 28 OTDs covering 298 acres of sensitive lands. Resources protected by these acceptances include more than 150 acres of riparian habitat, steep slopes, and vernal pools in San Diego County, 70 acres of significant watersheds and ecological areas in the Santa Monica Mountains, and two easements protecting sensitive dune habitat in Monterey County.

Almost two-thirds of the easements (18 of 28) were accepted by the Mountains Recreation and Conservation Authority (MRCA) in the Santa Monica Mountains. Eleven of these easements retire lots in the small lot subdivisions in the mountains, under the Commission’s Transfer of Development Credit (TDC) Program. As a result of these acceptances, the development potential of 28 small lots was permanently retired.

Other accepting entities include both the Agua Hedionda and the Batiquitos Lagoon Foundations, accepting four and five easements respectively. While the Agua Hedionda Lagoon Foundation had already been a strong partner to the Commission by accepting several public access easements, 2015 marks the first year the Foundation has accepted open-space OTDs. Easements accepted by Agua Hedionda and Batiquitos Lagoon Foundations protect many varied types of habitat in northern San Diego County, including riparian, southern maritime chaparral, and Diegan/Coastal Sage Scrub. Also in San Diego County, the City of Carlsbad accepted an OTD protecting vernal pools at the Poinsettia train station. Four hundred miles north, another local government accepted an OTD within its jurisdiction; the City of Sand City’s easement protects dune habitat which supports Smith’s Blue Butterfly, a species listed as Endangered by the U.S. Fish and Wildlife Service.

**Attachment A** includes the entire list of 2015 acceptances. No offers expired in 2015.

### ***Total Acceptances to Date***

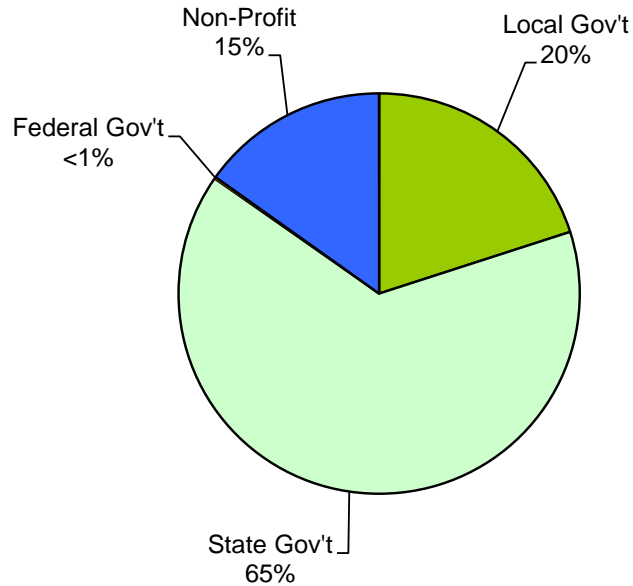
Despite the Commission's limited resources to implement the Conservation/Open Space Program, staff has been able to negotiate the acceptance of 79% of the current outstanding OSE OTDS required by the Commission since 1974. These easements protect more than 9,600 acres of wetlands, ESHA, viewsheds, and agricultural and archaeological resources. This number undercounts the actual acreage protected by Commission actions because currently acreage is reported for only 82% 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 2015	Total Percent by End of 2015
Accepted	718	79%
Expired/Allowed to Lapse	34	4%
Remaining To Be Accepted	159	17%
TOTAL	910	100%

**Attachment B** includes a complete list of accepting entities. Public agencies have accepted 610, or 85% of the total conservation/open space OTDs accepted to date, while non-profit entities have accepted 108, or 15%. **Figure 2** depicts the distribution of accepting entities.

**Figure 2: Accepting Entities**

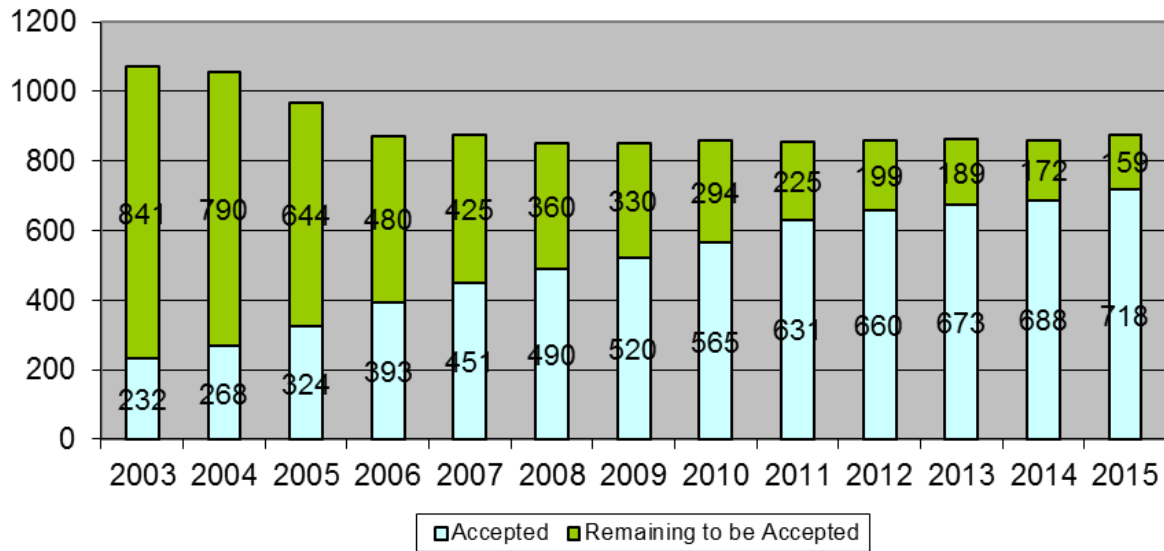


Progress in the last eleven years since annual reports began is shown below in **Figure 3**<sup>1</sup>.

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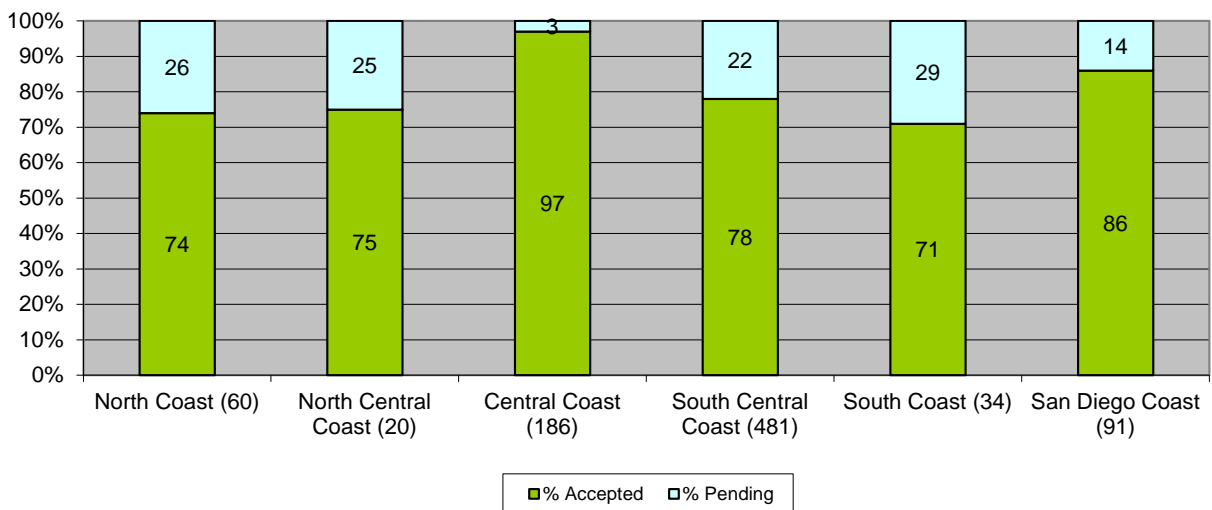
<sup>1</sup> The overall total number of OTDs changes each year (from 1073 in 2003, to 877 in 2015). Staff initially began this project with a written log of OTDs. However, as staff commenced in-depth research of the files containing OTDs it was found that each record in the log did not necessarily correspond 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**



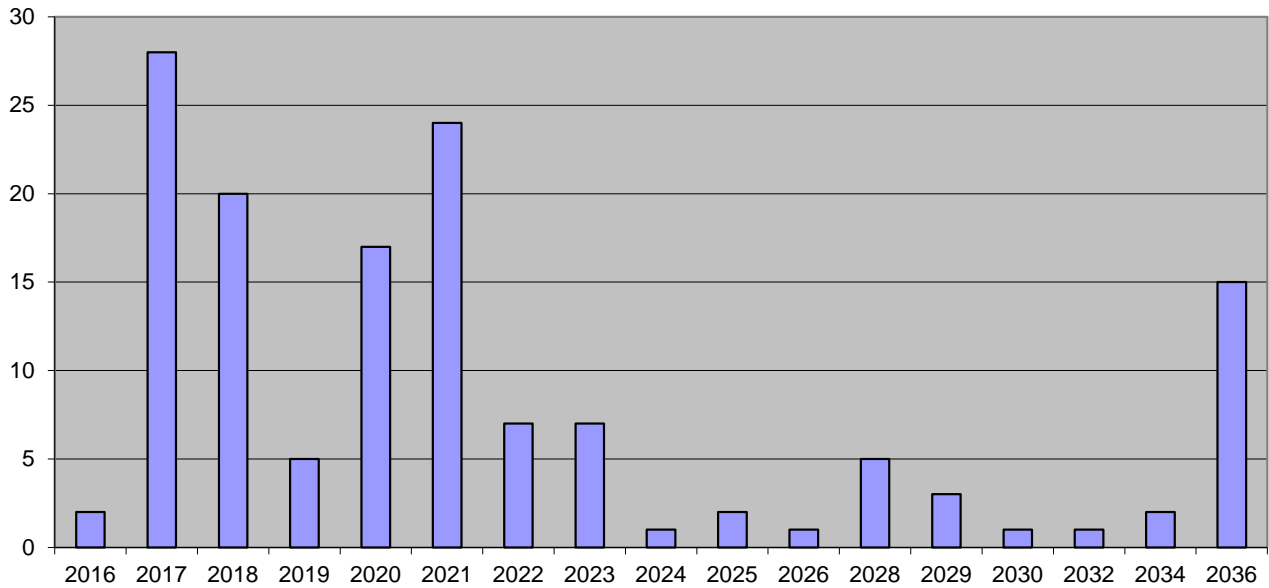
The Commission has achieved acceptance rates of over 70% in all districts, as shown in **Figure 4**, below. The acceptance rate in the Central Coast District in particular is of note. Ninety-seven percent of OTDs in this district have been accepted, primarily by the counties in this district (Santa Cruz, Monterey, and San Luis Obispo).

**Figure 4: Percent Accepted by District, to Date**



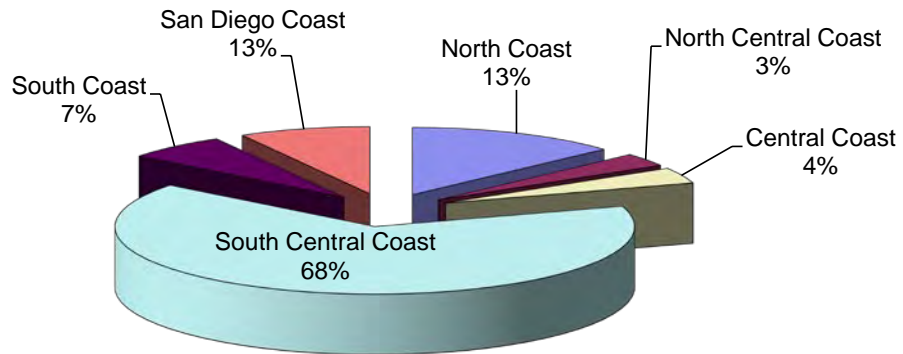
As **Figure 5**, below, indicates, a large number of OTDs are approaching their term date in 2017, 2018 and 2021. Staff has commenced work on the research and documentation for most of these upcoming OTDs.

**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 (DRs) 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, formerly in handwritten logs that staff has only partially transferred to the Commission’s database. Currently, as new DRs are recorded, data is captured digitally. Because of limited staff resources and the necessity for staff to focus on the time-sensitive nature of OTDs, research and data transfer for the older DRs is not complete. 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. This will be pursued as a future task as resources allow.

### ***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, but 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 9,600 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 (20% 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 370 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 prior 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, the Santa Monica Mountains, and Carlsbad.

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, digital copies of the documents are archived by Statewide Planning staff, in preparation for linkage to the CDMS and the future public site.

***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 further develop the attribute data describing the lands protected by OTDs and Deed Restrictions. In addition, staff continues 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.

## 2015 Acceptances

CDP#	Applicant	Purpose	Accepting Entity	Acres	Easement Resources and Location	County
<b>Central Coast District</b>						
89-001	City of Sand City	conservation	City of Sand City	7.14	dune ESHA, supports Smith's Blue Butterfly	Monterey
3-93-062	Sewald, John	open space	State Coastal Conservancy	0.04	dune ESHA	Monterey
<b>South Central Coast District</b>						
5-90-525	Winograd, Fred	TDC*	MRCA	0.4	4 Lots in Fernwood SLS	Los Angeles
		TDC	MRCA	5.03	1 Lot in Cold Canyon	Los Angeles
5-90-553	Pacific World Development	TDC	MRCA	16.02	3 Lots in Cold Canyon	Los Angeles
4-01-123	Kaplan, Stan	TDC	MRCA	0.3	2 Lots in Malibu Vista SLS	Los Angeles
5-89-957	Jameson, Al & Barbara	TDC	MRCA	0.94	2 Lots in Old Topanga SLS	Los Angeles
5-90-1137	Maysels	TDC	MRCA	0.45	1 Lot in Old Topanga SLS	Los Angeles
5-90-327	Javid Development	TDC	MRCA	0.43	1 Lot in Old Topanga SLS	Los Angeles
4-12-063	Golbaz, Masoud	open space	MRCA	8.65	chaparral ESHA; Las Flores Canyon Watershed	Los Angeles
4-92-246	George Ulmer & Annette Kart	open space	MRCA	7.07	Wildlife Corridor; Decker Canyon	Los Angeles
4-93-137	Erling Onsoien	open space; view and habitat protection	MRCA	0.5	Tuna Canyon Significant Watershed	Los Angeles
4-93-033	Nicholas Bittle	TDC	MRCA	1.01	Red Rock Canyon	Los Angeles
4-94-114	FERRIS SID	TDC	MRCA	0.25	2 Lots in Topanga Woods SLS	Los Angeles
5-86-349-A2	JOHNSON, ELLEN	TDC	MRCA	0.23	1 Lot in Malibu Vista SLS	Los Angeles
4-95-054	SAM TRUST	TDC	MRCA	0.14	1 Lot in Topanga Woods SLS	Los Angeles
4-13-0303	Vogt, Philip, et al	open space	MRCA	31.58	chaparral ESHA	Los Angeles
4-12-026	Goldin, Daniel & Judith	open space	MRCA	0.82	mixed chaparral & oak woodland ESHA; Malibu Bowl area	Los Angeles

\*Transfer of Development Credit

## 2015 Acceptances

CDP#	Applicant	Purpose	Accepting Entity	Acres	Easement Resources and Location	County
<b>San Diego Coast District</b>						
6-93-084	Steve Harrison Larchmont Insurance Co., Ltd	open space	Batiquitos Lagoon Foundation	59	south side of Batiquitos Lagoon; steep slopes, Southern Mixed Chaparral, Diegan/Coastal Sage Scrub; Encinitas	San Diego
6-94-079	Kaiza Poinsettia	open space	Batiquitos Lagoon Foundation	2.02	north side of Batiquitos Lagoon; Carlsbad	San Diego
6-92-203	Sports Shinko USA	open space	Batiquitos Lagoon Foundation	1.19	2 bluff-face areas, facing South Ponto State Beach and facing Batiquitos Lagoon; Encinitas	San Diego
6-94-157	Continental Commercial Corp	wetland habitat	Batiquitos Lagoon Foundation	5.6	Canyon de las Encinas Creek; Carlsbad	San Diego
6-84-617	Kel-Cal Ltd	open space	Agua Hedionda Lagoon Foundation	76.96	steep slopes, chaparral ESHA; Carlsbad	San Diego
6-91-279	The Camino Group	open space	Agua Hedionda Lagoon Foundation	5.8	drains to Agua Hedionda Lagoon; Carlsbad	San Diego
6-93-175	George Wimpey Inc.	open space	Agua Hedionda Lagoon Foundation	21.19	wetland and riparian habitat; Carlsbad	San Diego
6-97-011	City of Carlsbad	wetland/riparian	Agua Hedionda Lagoon Foundation	8.72	riparian area directly inland of Agua Hedionda Lagoon; Carlsbad	San Diego
6-94-057	Poinsettia Hill Ltd	open space	Batiquitos Lagoon Foundation	13.35	southern maritime chaparral ESHA (but burned); Carlsbad	San Diego
6-93-207	North San Diego County Transit Development Board	vernal pools	City of Carlsbad	2.84	vernal pools within RR ROW; Carlsbad	San Diego

\*Transfer of Development Credit

**Attachment B**

**Management Entities Accepting OSE OTDs**

	<b>Managing Entity</b>	<b>OSE OTDs</b>
	<b>Government Agencies</b>	
<b>North Coast</b>	Del Norte County	13
	Humboldt County	5
	City of Eureka	1
	City of Point Arena	1
<b>North Central</b>	Sonoma County Open Space District	1
	Marin County	1
	San Mateo County	1
<b>Central Coast</b>	Santa Cruz County	12
	City of Santa Cruz	1
	City of Capitola	1
	Monterey County	37
	City of Marina	3
	City of Sand City	1
	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
<b>South Central</b>	Santa Barbara County	1
	City of Goleta	1
	City of Oxnard	1
	Los Angeles County Flood Control District	1
	Mountains Recreation and Conservation Authority	336
	Santa Monica Mountains Conservancy	4
<b>South Coast</b>	City of Los Angeles	1
	Orange County	5
	City of Huntington Beach	1
	City of Newport Beach	3
	City of Laguna Beach	2
<b>San Diego Coast</b>	San Diego County	5
	San Dieguito River Valley Regional OS Park JPA	2
	City of Carlsbad	9
	City of Encinitas	7
	City of San Diego	4
	City of Imperial Beach	1
<b>Statewide</b>	Coastal Conservancy	83
	Dept of Fish and Wildlife	38
	Dept of Parks and Recreation	4
	State Lands Commission	1
<b>Federal</b>	U.S. Army Corps of Engineers	1
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	<b>Non-Profit Entities</b>	
<b>North Coast</b>	North Coast Land Trust	1
	Jacoby Creek Land Trust	1
	Mendocino Land Trust	4*
	Moat Creek Managing Agency	1
<b>North Central</b>	Marin Agricultural Land Trust	1
	Agricultural Land Trust	1
	Coastside Land Trust (formerly Half Moon Bay Open Space Trust)	4
<b>Central Coast</b>	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
<b>South Central</b>	The Land Trust of Santa Barbara County	1
	Mountains Restoration Trust	19
<b>South Coast</b>	Laguna Greenbelt	2
<b>San Diego Coast</b>	Agua Hedionda Lagoon Foundation	4
	Batiquitos Lagoon Foundation	7
	San Elijo Lagoon Conservancy	5
	Los Penasquitos Lagoon Foundation	1
	Friends of Los Penasquitos Canyon Preserve, Inc.	8
<b>Statewide</b>	Sierra Club	2
	<b>Total</b>	<b>718</b>

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