

CALIFORNIA COASTAL COMMISSION

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Th3

Prepared March 15, 2021 for March 18, 2021 Hearing

To: Commissioners and Interested Persons

From: Susan Craig, Central Coast District Manager
Kevin Kahn, Central Coast District Supervisor

**Subject: Additional hearing materials for Th3
CDP Number 4-82-300 Review (Oceano Dunes)**

This package includes additional materials related to the above-referenced hearing item as follows:

Additional Elected Official, Governmental, and Tribal correspondence received in the time since the staff report was distributed

COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE

SUBCOMMITTEE ON COAST GUARD AND MARITIME
TRANSPORTATION, CHAIRMAN

SUBCOMMITTEE ON HIGHWAYS AND TRANSIT

SUBCOMMITTEE ON WATER RESOURCES
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COMMITTEE ON AGRICULTURE
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SUBCOMMITTEE ON NUTRITION, OVERSIGHT, AND
DEPARTMENT OPERATIONS

SUBCOMMITTEE ON GENERAL FARM
COMMODITIES AND RISK MANAGEMENT

Congress of the United States
House of Representatives
Washington, DC 20515

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March 12, 2021

The California Coastal Commission
Steve Padilla, Chair
Commissioners
John Ainsworth, Executive Director
455 Market Street, Suite 300
San Francisco, CA 94105

Dear Chair Padilla, Commissioners, and Executive Director Ainsworth:

I am writing in support of the California Coastal Commission staff recommendations regarding the Oceano Dunes Coastal Development Permit.

I want to thank you for taking on this controversial issue. Though it would be easier for you and your staff to maintain the status quo, your report makes clear that the continuing operations at the Oceano Dunes are simply not sustainable.

Since 1982 the Oceano Dunes has operated under an interim permit. For more than 40 years debate over the use of the park and its impact on public health, coastal resources, and Central Coast communities have continued while public works and habitat conservation plans have been continuously delayed.

The Coastal Commission addressed these delays and impacts in 2019. At that time the Commission gave a deadline for California State Parks to develop a final public works plan that addresses “a range of coastal resource impacts associated with the uses and intensities of use at the Park.”

Now, I respectfully request that the Commission come to a final determination so our Central Coast communities can move forward with certainty on how the Oceano Dunes will operate.

The length and operation of the Park under an interim permit is unprecedented in the State of California; and you have before you a decision whether the continued and expanded uses of off-highway vehicles (OHV) are warranted.

In making your determination, please consider how the Park's operation impacts the environment and communities around and within it.

Since the beginning of my service as a federal representative for the Central Coast, I have received countless constituent concerns about how the air quality in San Luis Obispo and Santa Barbara counties have been negatively impacted by the identified air pollution emanating from the Oceano Dunes, exceeding both state and federal air quality standards. These impacts on our agriculture industry, farmworkers, and residents throughout the region cannot be ignored.

Both the San Luis Obispo and Santa Barbara Air Pollution Control Districts have concluded that residents in downwind communities suffer from the worst air quality in the nation on high-wind days, when dust from the riding area travels across the Nipomo Mesa and into the Santa Maria Valley.

While the Commission does not set air quality standards, you do regulate the activities that are causing those standards to be exceeded on a regular basis. The fact that those activities also violate numerous Coastal Act policies provides you justification to act today. I urge you to do so for my constituents who live and work here in this community.

Equally important are the impacts OHV use at the Park have on the natural resources of the Central Coast.

The U.S. Fish and Wildlife Service (USFWS) has identified numerous federally-listed wildlife and plant species within the Oceano Dunes complex including the western snowy plover, California least tern, California red-legged frog, tidewater goby, Gamble's watercress, La Graciosa thistle, marsh sandwort, and Nipomo Mesa lupine.

Currently, the Oceano Dunes draft Habitat Conservation Plan (HCP) is under review by USFWS after 20-years of delay. In the State Park's prepared HCP, vehicles would be allowed to operate in 1,370 acres of the federally-listed endangered western snowy plover habitat. Under the Endangered Species Act protections, "take" is defined as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct."

The HCP identifies that current and future "take" of snowy plovers and California least terns would occur from OHVs driving on the beaches and dunes. This "take" includes crushing of nests, strikes during night riding, reducing suitable habitat due to riding, among other listed impacts.

Finally, I ask the Commission to consider how the current operation at Oceano Dunes affects those living closest to it.

As identified previously, air quality is a problem for the communities downwind of the Oceano Dunes. The communities of the Nipomo Mesa, Santa Maria, and Guadalupe all face the complications associated with degraded air quality and resulting public health consequences. In particular, the residents of Oceano bear the brunt of dust caused by the vehicles on the dunes, yet receive few benefits.

Your staff report explains the dichotomy of the situation well.

“In short, unlike the more affluent beach communities in the area, such as Avila Beach and Pismo Beach, the residents of Oceano have no options for beach recreation free of cars fronting their community, and these residents bear the significant burden of air quality and public health problems, with little benefit from Park operations.”

For the sake of the Oceano Dunes, the communities around it, the people living near it, and its natural resources, I support the Commission’s staff recommendations and respectfully request your fair and full consideration.

We have the opportunity before us to create a shining example of public lands management that reflects the best ideals of the Central Coast for the enjoyment and care of one of our greatest assets.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Salud", written in a cursive style.

SALUD CARBAJAL
Member of Congress



Northern Chumash Tribal Council

A Native American Corporation - NorthernChumash.org
1590 18th Street Los Osos, PO Box 6533, CA 93412 805-801-0347

Kevin Kahn
District Supervisor
Central Coast District Office
California Coastal Commission
725 Front Street
Santa Cruz, CA 95060

January 26, 2021

Dear Kevin,

In response to your email asking about Chumash Tribal Culture Resources, please see the following: The State Parks PWP planning draft document lacks California Native American perspectives, indigenous spiritual understandings, indigenous religious comprehensions, and respect for the human beings that have lived on the Dunes for all time, a Chumash cathedral of life. The PWP draft document is the ultimate of disrespect for Chumash Heritage and Culture.

The Northern Chumash Tribal Council (NCTC) has spoken to the preservation of the Dunes for over 50 years, asking and pleading for actions that stop the destruction of the Chumash Culture, and Sacred Sites. To no avail. What we have got are: fences around visible Chumash Sites, fences that out-of-towners drive over, thinking is funny to destroy Chumash Sacred Sites, trucks with "Proud Boys" flags driving over our Sacred Sites with no care for the importance of Chumash Culture.

Who cares about the Chumash Culture and Sacred Sites? When you read this PWP draft document it concludes that there will be no impact to the Chumash Culture. NCTC finds this to be completely lacking in the truth. The PWP planning document will take you on a "Cookie Cutter" explanation of what drives their evaluations and twisted data and misleading archaeological institutional dominate non-indigenous understandings. In the end compiling the "Cookie Cutter" institutional explanations for the white wash determination of no impacts.

This document, a boiler plate determination of archaeologist and institutional dogma, should open everyone's eyes to the white washing of the Chumash Culture. Why don't we all wake up, see that the Chumash lived for over 10,000 years on the sacred Dunes sands, lived, raised children, buried the elders, looked to the heavens of majesty, opened our souls to the Sun rises and Sun sets, as stewards of the care of the diamond great Dunes and landscape of wonder, all points connected, walking, collecting, hunting, fishing, living in the Oneness of All Things.

The Chumash today hold no rights of any kind through the dominate society to practice and experience our past, with honor for our ancestors on the Dunes. The Dunes must be honored for all.

Thrivability. Inclusivity. Equitability. Diversity. Accessibility. Sustainability. Collaboration. Innovation.

These are words heard clearly from our Commissioners, Governor Newsom, state leaders, Native Nations, stakeholders, lessees, grantees, Commission staff, and the people of California, in every region and community, statewide. These empowering words echo as constant reminders of what the Commission has the responsibility to do, what it has the opportunity to change, and the role it has as a governmental leader and visionary change maker in the State of California.

Thank you,
Fred Collins
NCTC Chair

ENVIRONMENTAL & LAND-USE CONSULTING
EDUCATIONAL SERVICES TEACHING NATURE, NATIVE CULTURES &
FARMING

The document below is written by Karl Kempton, local longtime Oceano Dweller. NCTC incorporates this document by reference into our above comments.

The Significance of the Oceano-Guadalupe Dunes

The Place of the Oceano-Guadalupe Dunes

The largest California coastal dunes complex, the Oceano-Guadalupe Dunes, with its wetlands, endemic flora, birds and sea and land mammals and haulouts, was designated a National Natural Landmark in 1980. The landmark consists of two contiguous areas: 1) The Oceano – Guadalupe Dunes, which are fed by sand carried by offshore currents circulating in a littoral cell in San Luis Bay; and, 2) Point Sal, one of the last remaining pristine, rocky coastlines on the South Coast.

The dunes have immeasurable ecological and scenic value along with educational and scientific importance and represents one of the few coastal areas in the state still in an undisturbed condition, excluding the designated recreational areas which in some areas the California Department of State Parks has allowed complete obliteration of large swaths of flora and foredunes. There are beaches, headlands, estuaries, and lakes. Many plants are rare or endangered; a high percentage are endemic to the area. At least 186 species of water and terrestrial birds have been recorded, including the Least Tern, the Peregrine Falcon and the Southern Bald Eagle.

Combined geological, meteorological and oceanographic forces shaped and maintain this land and seascape and their integrated and complex ecosystems. The geological forces include the long history of tectonic plate movement, subduction and fragmentation of plates into microplates.ⁱ Two microplates, the Farallon Microplate to the South and the Monterey Microplate to the North meet at the Arguello Canyon. The sea canyon is one of several geological land and ocean floor features caused by these forces. A combination of these features, including the coastal directional change at Point Conception from North-South to East-West, the Southern California Bite, the Channel Islands and the Santa Lucia upthrust block, in association with the meeting of several ocean currents, all contribute to the formation of the only persistent upwelling along the U.S. West Coast. The persistent upwelling provides nutrients entrained in the three mile wide pole-bound Davidson current nourishing nearshore and tidal dependent micro flora and fauna creating the foundation for the lush web of life found in the area.

The meteorological conditions of the area are powered by the confluence of the transition of two meteorological providences, the northern Oregonian and the southern Californian providences.ⁱⁱ The demarcation line is Point Conception with northern and southern transition zones being 1 degree of latitude in each direction. The two oceanographic providences follow the identical outline. These features influence the area's high number of overlapping species from each of the providences leading to the high density of threatened and endangered species inhabiting the dune and beach complex.

The unique combination of semiarid and aquatic conditions with a climatic and oceanographic transition zone provides a wide variety of habitat and of associated plant and wildlife species. Coastal dunes, freshwater marshes, riparian habitat, coastal salt marsh, woodland, mudflats, beach, open water, and areas of transition between habitats provide a diversity of life uncommon to much of California.

The drainages of separate watersheds contribute to the wetland complex. The 1,880 square mile Santa Maria River drainage is one of California's largest coastal river basins. Extensive, tidally influenced wetlands sit at the river's mouth. The river's historic flood plain holds the Oso Flaco Lakes and their associated coastal wetlands. The 10 existing dunes lakes are likely remainders of the freshwater bay.

Over 86 species of water-associated birds have been recorded in the wetlands of the Nipomo Dune Complex. Shorebirds, waterfowl, gulls, terns, pelicans, cormorants, coots, rails, loons, gulls, herons, and egrets are among those counted. Least Terns nest and raise fledglings near the Santa Maria River mouth and the Oso Flaco Lakes, Brown Pelicans roost at the shore, and Snowy Plovers inhabit the beaches. Over 100 terrestrial bird species occur among the dunes and related habitats. Among these are the endangered Peregrine Falcon and the Southern Bald Eagle.

Several plant species are found nowhere else. Two species, one aquatic and one terrestrial, reach their extreme limits with the Point Sal - Nipomo Dune complex. At least eight species occurring in the dunes have been listed by the California Native Plant Society as "very rare" and "rare and endangered."

Nearly 50 species of mammals and 33 species of amphibians and reptiles inhabit the dune region. Though not in great numbers, fish are found in the lakes. There is a wide diversity of invertebrates. And the Pismo clam, subject of much recreational and scientific attention, is found along the beaches.

Human Discharge Threats to the Dunes and the associated Beach Ecosystem

Entrained in the outflow of the Santa Maria River are numerous agricultural chemicals. This is a well known and highly documented problem. This pollution finds its way into the food chain in numerous ways, one of which is its movement northward captured in the Davidson North bound current. Tidal and wave action bring these pollutants to the beach damaging the micro flora and fauna. Such pollution also arrives from Arroyo Grande and San Luis Creeks mixing in the complex eddies of San Luis Bay. Such pollutants and others enter the dune lakes through the Black Canyon watershed and the Nipomo-Sury watershed. Other pollutants such as lawn and garden chemicals and the complex of vehicular chemicals are discharged in the Bay or into the dune waters through the Santa Maria River and the creeks.

The San Luis Obispo South County water treatment discharges through its outfall off Arroyo Grande Creek directly into San Luis Bay nearshore. It pollutes the nearshore ocean waters with chemicals not captured. Some of these pollutants are detergents, house cleaning chemicals, medications and a variety of industrial chemicals. Such discharge also arrives into San Luis Bay from San Luis Creek from the City of San Luis Obispo as well as the direct discharge through an outfall from Avila Beach. All are toxic to the ecosystems.

The damage caused by the nation's largest underground oil spill in the dunes remains under studied. When exactly the pollutants reached the tidal influenced habitat north of the Santa Maria River Estuary

is unknown. What and how much continues to migrate into the habitat remains unknown. Impacts for parts per billion are being ignored despite the known consequences to micro organisms.

Climate Change

Given the dependency of the fragile ecosystem of the dune complex from the subtle ebbs and flows of weather conditions within the transition zone, climate change is now adding additional stress on top of the human caused pollutants damaging the ecosystems as the ebbs and flows become more extreme. The ocean's acidity, temperature increase, and ocean level rise also are adding additional stress to ocean dependent species.

Vehicular Pollution

Vehicular pollution comes from several sources. The primary concern of particulate matter caused by churning and grinding of sand particles is but one problem. While its impact on humans living down wind is well documented and by itself is a sufficient reason to shut down all vehicle traffic on the beach and in the dunes, there appears to be little or no study of such impacts on the listed and endangered species already stressed as noted above.

Several petroleum products of unknown quantities drip from vehicles on the beach or in the dunes. All are toxins in the ecosystems. Other toxic pollutants enter the ecosystems through exhaust. Many of the vehicles, being off road or trucks, lack street car regulations.

Not studied also is the damage to the ecosystem caused by the corrosive action of the sand to vehicle tires. Tires are known to contain benzene, mercury, styrene-butadiene, polycyclic aromatic hydrocarbons, and arsenic, among several others as well as heavy metals and carcinogens. Given the permitted amount of traffic (millions of "trips") on the beach and in the dunes, the combined pollutants must be considered not as a suburban street assessment but as that of a busy urban thoroughfare or avenue.

Lastly, given the causes of climate change, one being exhaust pollution from vehicles, is it not time to regulate unnecessary recreational pollution?

Observations During Vehicle-free Beach and Dunes

During the few months of a vehicle-free beach in 2020, many individuals contributed to a general agreement of positive observations:

- 1) Quickness of the return to natural contours of the beach from tidal zones to foredunes no longer compacted by vehicles.
- 2) Expansion of wildlife along the corridors of the beach while vehicle-free. Bird species such as the black headed heron were seen in numbers as high as a dozen. Ospreys were noted at the Arroyo Creek.

Coyotes seen during the day. A flock of terns on the sand at the entryway at Pier Avenue. Most noteworthy were hundreds of small clams in the intertidal zone.

3) The enjoyment of beach walkers in large free of exhaust and noise pollution and paranoia caused by inconsiderate drivers. Also, large numbers of groups enjoyed family gatherings in unprecedented numbers unassociated with holidays

Reopening to Vehicular Traffic

Immediately upon the opening of the beach to vehicles, the contours were flattened, the newly seen wildlife fled or numbers returned to rare sitings. The clams disappeared because during low tide vehicles drove over the beds. And the “pedestrian”

Partial Federally and State Threatened, and endangered, protected, rare species for Oceano Dunes

American badger	SSC
California black rail	ST; FP
California least tern	FE; SE
California red-legged frog	FT
coast horned lizard	SSC
globose dune beetle	SA
California brackish water snail	SA
monarch butterfly	SA
Morro Bay blue butterfly	SA
Oso Flaco flightless moth	SA
Oso Flaco patch butterfly	SA
Oso Flaco robber fly	SA

sandy beach tiger beetle	SA
sharp-shinned hawk	SA (nesting)
silvery legless lizard	SSC
steelhead southcentral California coast	FT
tidewater goby	FE
western pond turtle	SSC
western snowy plover	FT
white sand bear scarab beetle	SA
Gambel's water cress	FE; SE
La Graciosa thistle	FE; ST
marsh sandwort	FE; SE
Nipomo Mesa lupine	FE; SE
Pismo clarkia	FE; SR
surf thistle	ST

Federal endangered, FT - Federal threatened, SE - State endangered, ST - State threatened, SSC - State Species of Special Concern; FP- Fully Protected, SA – Special Animal, CRPR – CA rare plant rank (CNDDB, viewed August, 2013) FROM: Watershed Management Plan Phase 1 Nipomo-Suey Creek Watershed, Section 3.2.4.6, pages 329-331

The area's complex topography is the result of the meeting place of three major tectonic plates. The Farallon Plate, moving eastward, was subducting beneath the North American Plate. As the Pacific Plate moved northwest, the subduction eventually ceased in our area. Remnants of the Farallon Plate, microplates, were captured by the Pacific Plate beneath the North American Plate; continental margins of the North American Plate became part of the Pacific Plate. That is, all land and sea floor west of the San Andreas Fault that was part of the North American Plate, became part of the Pacific Plate. The

microplates ride the Pacific plate (see for details:

[californiahttps://pubs.geoscienceworld.org/geosphere/article-lookup/1/3/147](https://pubs.geoscienceworld.org/geosphere/article-lookup/1/3/147)

As the Pacific Plate continued its northwest migration subducting under Alaska, it rotated the Arguello Microplate, also known as the Transverse block, forming the Southern California Bite. It is bordered on its eastern side by the Transverse Range, on the West side by the Channel Islands with the Ventura-Santa Barbara Basin in the middle, and to its north, the Arguello Canyon. The rotation ended with the capture of Baja that now presses against this block causing folding and uplift.

The Monterey Microplate from the Farallon Plate, beneath western Santa Barbara County and San Luis Obispo County, is bordered on the East by the San Andreas Fault, on the West by the Santa Lucia Bank and the Santa Lucia Escarpment and on the South boundary by the Arguello Microplate. This boundary's exact location is within the Arguello Canyon, a significant conduit directing the West Coast's only persistent upwelling that provide nutrients for the nearshore and micro beach flora and fauna. The Monterey Microplate is deformed with a subsistence slant from the coastline to the Santa Lucia Bank. The Santa Lucia Bank is tilted with the uptrust on its eastern most side. Running nearshore is the Hosgri Fault, another huge crack in this microplate.

The persistent nutrient-rich upwelling flows up the Arguello Canyon, enriching the Santa Lucia Bank, the Arguello Canyon and coastal waters from Point Sal to Point Conception. Here, in a transition zone blending upwelling nutrients with warm water from the South and cold water from the North, a unique, complex interaction of species and natural phenomena occurs. Feeding the web of life along the eastern rim of the Pacific Basin, the nutrients spread through and beyond both the dune tidal area, feeding planktonic communities, plants of the kelp forests, and various life stages of marine flora and fauna.

The northern portion of the transition zone between Southern California warm waters and Northern California cold waters is defined as beginning at Point Conception and extending 2 degrees north to 36 degree north latitude (20 miles south of Point Sur at Mill Creek Canyon). The proposed sanctuary expansions cover this area north to Santa Rosa Creek. The area is the meeting place of the Oregonian Temperate Eastern Pacific and the Californian Subtropical American Eastern Pacific climates and waters. The region is dependent upon as well as a cause of the complex interaction of the southward moving California current, the warmer northward moving subcurrent, the near-shore northward moving seasonal Davidson Current, and the upwelling. The dynamics are not fully understood, and systematic, ecosystem-based research is needed.

The Oregonian weather pattern brings strong northwesterly winds during the spring, a cool marine layer with much fog during the summer, and generally strong wet storms during the winter. The warm, clear autumn months are generally dominated by the California Subtropical climate, which also tempers colder winter weather from the North.

The California Current system flows from the North Pacific and is driven by planetary rotation and large scale winds. Offshore circulation is dominated by this current for most of the annual cycle. The current flows along the surface and near surface at the edge of the continental shelf. It is generally composed of low-temperature, low-saline, subarctic waters. The current's position and intensity varies with season and latitude; several coastal currents oppose it.

At the inner edge of this system is the California Undercurrent, characterized by warm saline water. The undercurrent ranges to within 100 kilometers of the coast; it runs from Baja California to Washington State. The undercurrent surfaces in the winter along the coast of Central California.



yak tit'yu tit'yu yak tilhini – Northern Chumash Tribe
San Luis Obispo County and Region
660 Camino Del Rey, Arroyo Grande, CA 93420

Date: March 12, 2021
To: California Coastal Commission
Re: Oceano Dunes State Vehicular Recreation Area

Oceano Dunes State Park is within in the homeland of the yak tit'yu tit'yu yak tilhini Northern Chumash Tribe of San Luis Obispo County and Region. It is an extraordinary complex with vast ecosystems and immense cultural significance. These components are ancient and fragile: they are easily broken and can be damaged beyond repair. This damage comes from unintentional and intentional human behavior. With this in mind I offer the following comments:

The beach and the dunes date to time immemorial with incredible living beauty but they can't maintain their health with indefinite stress, abuse and facility expansion. The typical level of interaction with motorized traffic has become destructive and unsustainable. This area cannot withstand the excessive current level of use, or any expansion of use. The off-road traffic is damaging and destroying the dunes, and we don't know if the dunes will ever fully recover. But not knowing their future, shouldn't stop us from trying to save them by restricting or ending off-road access. In addition, Oso Flaco will be negatively impacted if it is damaged with improvements.

Along with critical plant and animal habitat, there are many culturally important locations within and near the dunes. These places suffer because fences and signs are not enough to keep unwanted vehicles out of restricted areas. We also note that visitor trash is left for others to clean up and it is disheartening for our homeland to be disrespected. Local residents also listen to fireworks from approximately June 15 thru July 15. This disturbs thousands of local residents and is harmful to the birds and animals that live at, or near the beach and the dunes. Animals and birds deserve protection and the Tribe has a responsibility to help care for wildlife and their habitat.

Street legal motorized access to the shoreline is something that all stake holders need to further discuss to find a reasonable solution.

We know that State Parks personnel try to educate visitors about respecting the state park and about the area's deep history but the message isn't always heard. Many reckless and sometimes unlawful activities take place on the beach and in the dunes. Many visitors are injured including accidents that are fatal. In 2019 there was an unpermitted event that resulted in gun fire, panic and six injuries. It's miraculous that no one died at this event. State Parks personnel try hard to monitor unsafe and unlawful activities but this is a nearly impossible task with over a million visitors in a typical non-pandemic year.

All people need to care more about the dunes and the beach. We need to find a way for visitors to enjoy these places in a safe way while protecting and preserving this incredible part of our homeland.

Thank you for your time and consideration,

DocuSigned by:
Mona Tucker
1957BF871D6344D...

Mona Olivas Tucker, Chair



Northern Chumash Tribal Council

A Native American Corporation - NorthernChumash.org
1590 18th Street Los Osos, PO Box 6533, CA 93412 805-801-0347

Summary

February 15, 2021

Any vehicle identified in CVC section 38010 and 38012 as an OHV must be halted and eliminated from being on the Sacred Chumash Dunes complex in Oceano California. We all must look to the future generations, working diligently together to preserve and protect Mother Earth so our children and grandchildren can play in the pristine wonders of the Dunes, and they can honor our decisions to protect and love the great Oceano Sand Dunes and not let the Dunes be destroyed by OHV vehicles.

The State Parks PWP planning FEIR documents lacks California Native American perspectives, indigenous spiritual understandings, indigenous religious comprehensions, and respect for the human beings that have lived on the Dunes for all time, a Chumash cathedral of life. The PWP FEIR document lacks respect for Chumash Heritage and Culture.

The Northern Chumash Tribal Council (NCTC) has spoken to the preservation of the Dunes for over 50 years, asking and pleading for actions that stop the destruction of the Chumash Culture, and Sacred Sites. In our opinion little to nothing has been done to protect Sacred Chumash Sites, what we have is minimal fencing around visible Chumash Sites, fences that out-of-towners drive over thinking it funny to destroy Chumash Sacred Sites, trucks with "Proud Boys" flags driving over our Sacred Sites with no care for the importance of Chumash Culture.

Who cares about the Chumash Culture and Sacred Sites? When you read this PWP FEIR document it concludes that there will be no significant impact to the Chumash Culture. NCTC finds this to be completely lacking in the truth and environmental justice. The PWP FEIR planning document will take you on a "Cookie Cutter" explanation of what drives their evaluations and twisted data and misleading archaeological institutional dominate non-indigenous understandings. In the end, compiling the "Cookie Cutter" institutional explanations for the white wash determination of no impacts.

This document, a boiler plate determination of archaeologist and institutional dogma, should open everyone's eyes to the white washing of the Chumash Culture. Why don't we all wake up, see that the Chumash lived for over 10,000 years on the sacred Dunes sands, lived, raised children, buried the elders, looked to the heavens of majesty, opened our souls to the Sun rises and Sun sets. As stewards of the care of the diamond that is the great Dunes and landscape of wonder, all points connected, walking, collecting, hunting, fishing, and living in the Oneness of All Things.

The Chumash today hold no rights of any kind through the dominate society to practice and experience our past, with honor for our ancestors on the Dunes. The Dunes must be honored for all, environmental justice for all.

Conclusion

Thrivability. Inclusivity. Equitability. Diversity. Accessibility. Sustainability. Collaboration. Innovation.

These are words heard clearly from our Commissioners, the Governor, State leaders, Native Nations, stakeholders, lessees, grantees, Commission staff, and the people of California, in every region and community, statewide. These empowering words echo as constant reminders of what the Commission has the responsibility to do, what it has the opportunity to change, and the role it has as a governmental leader and visionary change maker in the State of California.

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FARMING

State Parks has become addicted to the OHV revenues, State Parks is putting aside local residents opposition to OHV, State Parks has minimized California Native American Indigenous Peoples concerns about the long term damages already caused by OHV use, and our concerns for preserving our Sacred Lands for future generations. State Parks addiction to the OHV revenues has blinded their judgement and vision for the future. The OHV use must stop. State Parks addiction to the OHV revenues must be terminated, only then will the Dunes Thrive once again.

NCTC FEIR Comments:

8.1 Regulatory Setting

In the first and second sentence, the word “cultural” is used in a way that diminishes the importance, therefore what should be used is “Tribal Cultural Resources “.

8.1.1 California Environmental Quality Act (CEQA)

Second sentence CEQA recognizes “Tribal Cultural Resources”; for far too long archaeologist have tried to take over our stories, the Indigenous Peoples stories. We do not need archaeologist to tell our story, we are not archaeological resources.

8.1.3.1 Unique Archaeological Resources

Once again California Indigenous Peoples are not “archaeological resources”; such a lack of “social and environmental injustices”.

Paragraph 5. Indigenous Cultural Resources do not have to be preserved in place, the word “disturbed” is often used to describe a Indigenous Sacred Place and then often considered “insignificant”, which leads to the direct impact on the Sacred area or complete destruction, because an archaeologist could not collect data because of its designation. There goes another part of our Indigenous Heritage and Culture.

8.1.3.2 Assembly Bill 52 – Tribal Cultural Resources

“Assembly Bill 52 (Gatto, 2014). Section 1 of the bill states the legislature’s intent as follows: “In recognition of California Native American tribal sovereignty and the unique relationship of California local governments and public agencies with California Native American tribal governments, and respecting the interests and roles of project proponents, it is the intent of the Legislature, in enacting this act, to accomplish all of the following: (1) Recognize that California Native American prehistoric, historic, archaeological, cultural, and sacred places are essential elements in tribal cultural traditions, heritages, and identities. (2) Establish a new category of resources in the California Environmental Quality Act called “tribal cultural resources” that considers the tribal cultural values in addition to the scientific and archaeological values when determining impacts and mitigation. (3) Establish examples of mitigation measures for tribal cultural resources that uphold the existing mitigation preference for historical and archaeological resources of preservation in place, if feasible. (4) Recognize that California Native American tribes may have expertise with regard to their tribal history and practices, which concern the tribal cultural resources with which they are traditionally and culturally affiliated. Because the California Environmental Quality Act calls for a sufficient degree of analysis, tribal knowledge about the land and tribal cultural resources at issue should be included in environmental

assessments for projects that may have a significant impact on those resources. (5) In recognition of their governmental status, establish a meaningful consultation process between California Native American tribal governments and lead agencies, respecting the interests and roles of all California Native American tribes and project proponents, and the level of required confidentiality concerning tribal cultural resources, at the earliest possible point in the California Environmental Quality Act environmental review process, so that tribal cultural resources can be identified, and culturally appropriate mitigation and mitigation monitoring programs can be considered by the decision making body of the lead agency. (6) Recognize the unique history of California Native American tribes and uphold existing rights of all California Native American tribes to participate in, and contribute their knowledge to, the environmental review process pursuant to the California Environmental Quality Act (Division 13 (commencing with § 21000) of the Public Resources Code).”

“The Public Resources Code now states that “[a] project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment.” Pub. Res. Code § 21084.2.”

“To determine whether a project may have such an effect, the Public Resources Code requires a lead agency to consult with any California Native American tribe that requests consultation and is traditionally and culturally affiliated with the geographic area of a proposed project. That consultation must take place prior to the release of a negative declaration, mitigated negative declaration, or environmental impact report for a project. Pub. Res. Code § 21080.3.1.”

State Parks has not consulted one on one with NCTC on this current FEIR, having informational meetings is not tribal consultation, this is a very important project that will impact California Native American Chumash Cultural Resources.

8.1.6 State Parks Native American Consultation Policy and Implementation

Sentence 2. Prior to implementing projects or policies that may result in the impacts on Native American sites within the State Parks System, State Parks will actively consult with local Native California Indian groups...” this has not occurred, NCTC has had no current meaningful consultations with State Parks regarding this FEIR PWP.

8.1.9 State Parks Project Evaluation Process and BMPs for Cultural Resources

First Paragraph, Third sentence, “both a State Archaeologist and State Historian to review all projects” this statement states to Indigenous Peoples that archaeologist and historians understand our history better than Indigenous Peoples do, and in most cases their institutional backgrounds nourishes their dominant perspectives, NCTC would like to see a Tribal Liaison involved in all projects, almost all agencies in California today have Tribal Liaisons mandated by the State to assist in Indigenous perspectives understandings and communications, not institutional based book understandings only.

8.1.9. Second Paragraph, second sentence. Although State Parks thinks that they and their staff understand the Indigenous Perspectives through their educational back grounds and experience, this is not true. Indigenous Perspectives are unique to the First Peoples and therefore must be included in the brainstorming and planning of all projects that have the potential to disturb/impact California Indigenous Peoples resources.

8.1.9 Third Paragraph. “Project components have been designed, and will continue to be designed, to avoid and minimize impacts to known significant archaeological resources and tribal cultural resources, if identified.” The PWP design footprint is in one big California Indigenous Sacred Chumash Site, how you can pick the sites that are visible to avoid or minimize disturbance, when the whole area, the whole project footprint is a Chumash Sacred Site and Sacred Landscape.

Sentence 7 “In mobile dune environments, it is common to locate newly revealed archaeological resources in shifting sands” There are hundreds of hidden sacred middens that are the maker for our encampments, and lodges, the whole PWP project footprint is one big Chumash Sacred Site. State Parks claims that they know of 80 registered Chumash Sacred Site with half the park surveyed, we the Chumash of this Land say there are hundreds, and the whole area is a Sacred Living Landscape.

Sentence 8 “(Condition-2) Archaeological and Native American Monitoring” Monitoring is not mitigation under CEQA.

8.1.9.1 C-I: AVOIDANCE Sentence 2 “If documented archaeological resources”, our Tribal Cultural Resources are not archaeological resources, there may be things that are archaeological resources, but anything connected to pre-historic Tribal Culture are “Tribal Cultural Resources”.

The meaning of *avoidance* for NCTC is the absence of any and all human intrusions that may have possible impacts to the Tribal Cultural Resources, which would be identified by the Tribal Governments review.

8.1.9.2 C-2: ARCHAEOLOGICAL AND NATIVE AMERICAN MONITORING

Californian Native American Indigenous monitoring must be included in any and all project that have a Tribal Culture aspect, from Sacred Landscape to Villages, not just when someone classifies Sacred soils as disturbed, to all Indigenous Peoples disturbed and undisturbed are the same thing, containing the essences of our Ancestors lives. California Indigenous Peoples have equal standing with any and all anthropologist and archaeologist.

8.2 Environmental Setting

Second Paragraph. “There are at least 48 identified and recorded cultural resources within the PWP planning area.” The entire PWP planning area is one Chumash Sacred Site and Living Landscape, and area where thousands of Chumash lived for over 10,000 years. State Parks is minimizing the importance of this Sacred Landscape by only emphasizing 48 cultural resource sites, the Chumash live throughout the entire Dunes habitat with ever changing landscape building Chumash life ways one on top of another. Geological sand dune movements over the last 10,000 years are phenomenal.

8.2.1.1 Archaeological Resources

California Indigenous Peoples Tribal Cultural Resources are not archaeological resources and should always be respected in the proper context. Archaeology has been trying to take our stories over for several hundred years, and Indigenous Peoples are not an archaeological resource.

78.2.2 Native American Consultation and Coordination

As can be seen from looking at the Table 8.1 Summary of PWP Consultation Efforts, the last effort that State Parks made to have meaningful consultation was May 15, 2018. As NCTC has stated previously in this document, no meaningful consultation has occurred, one or two meetings do not qualify as meaningful consultation, Indigenous comments and opinions must be included into the process.

Meetings with a tribe that include other tribes, agencies, or the public are not a substitute for mandatory consultation with that individual tribe. “Tribes are not interchangeable, and consultation with one tribe does [not] relieve State Parks of its obligation to consult with any other tribe that may be a consulting party under CEQA.”

8.2.2.1 Tribal Cultural Resources

Sentence 1 “Consultation conducted in support of the PWP EIR has not resulted in the identification of tribal cultural resources within or immediately adjacent to the PWP planning area.” NCTC finds this statement to be misleading at best, NCTC informed State Parks of the importance of the Chumash Sacred Landscape which encompasses the project area. Additionally the Phillips 66 proposed developments area is one huge Chumash Site, NCTC personally worked on the recent survey conducted by Phillips 66 for the expansion for the oil railroad project. Over 75% of the Phillips 66 site is a Chumash registered Sacred Site, and State Parks is proposing to destroy our Sacred Sites with OHV tracks and camp sites, not social or environmental justice in our understanding, nor has there been meaningful ongoing consultation.

8.3.3 Impacts and Mitigation

Sentence 1, “Implementation of the PWP is not expected to result in a substantial adverse change in the significance of an archaeological resources as defined in Section 15064.5.” This statement is not true, misleading, and makes conclusions leaving out substantial additional Tribal Cultural Resources data and information currently available through a simple records search. Phillips 66 Tribal Cultural Resources data was not included in this report, vital information. Additionally, once again Indigenous Peoples are not archaeological resources.

8.3.3.1 Ongoing Park Operations and Regular Maintenance Activities

The ongoing park operation fall short of offering protections to Chumash Sacred Site.

8.3.3.3 & 4. Oso Flaco Improvement Project (Initial and Future)

NCTC does not support the the additional use of the area. It would degrade the Chumash Sacred Landscape.

8.3.3.5 Park Corporation Yard Improvement Project

Any and all proposed disturbance to native soils in or near Tribal Cultural Resources must include meaningful tribal consultation prior to finalization of work to be performed.

8.3.3.6 Oceano Campground Infrastructure Improvement Project

Native American monitoring is not mitigation under CEQA. Meaningful consultation must be included prior to any finalization of plans for proposed project in this area.

8.3.3.7 Pier and Grand Avenue Entrances & Lifeguard Towers Project

Meaningful consultation with Tribal Governments must occur.

8.3.3.9 Butterfly Grove Public Access Project

Meaningful consultation with Tribal Governments must occur prior to finalization of proposed plan.

8.3.3.10 Pismo State Beach Boardwalk Project

Native American monitoring is not mitigation under CEQA. Meaningful consultation with all affected Tribal Governments must occur prior to finalization of plans.

8.3.3.11 Phillips 66/Southern Entrance Project

Tribal Cultural Resources were mapped and registered during the tribal cultural resources surveys done about 3 years ago, during the Phillips 66 rail extension for the transportation of additional crude oil to the Phillips 66 plant. Many sites were defined and recorded. If State Parks had been having ongoing meaningful consultations with NCTC they would have known this, Applied EarthWorks performed the on the ground survey. Phillips 66 site and proposed OHV road to the dunes is covered with sensitive species and many Chumash registered Sacred Sites.

Impact 8-2

The potential for human remains in our Indigenous Perspectives is extremely high, looking at the large area of Chumash Sacred Landscape, therefore it is NCTC position that the cumulative impact for human remains is very high, and must be a class 1 impact.

Impact 8-3

Consultation with Tribal Governments back in May of 2018 is not meaningful or ongoing consultation. In NCTC comments in the May of 2018, NCTC did strongly identify Tribal Cultural Resources as Chumash Sacred Landscapes, therefore the cumulative effect on these Sacred sites requires extensive tribal meaningful consultation, and must be mitigated.

8.4 Cumulative Effects

Californian Native American Chumash Peoples lands stretch from Malibu to Ragged Point, inland to the Carrizo Plains. Today we the Chumash People have been able to protect less than 1% of our 100% stewardship of these lands, every small piece of impacts to our Sacred Sites from project like the PWP is a major loss, when you add up all the proposed impacts from our Indigenous Peoples perspectives we see great cumulative effects. Any loss is the loss of a priceless resource, not renewable. NCTC finds State Parks determination of “not expected to result in significant cumulative effects” to be false and misleading from our Indigenous Perspectives.

Thank you for the opportunity to comment on this FEIR for the Oceano Dunes proposed PWP projects.

Northern Chumash Tribal Council



OFF-HIGHWAY MOTOR VEHICLE RECREATION COMMISSION

COMMISSION MEMBERS

Patricia Ureña, *Chair*
Kimberlina Whettam, *Vice Chair*
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E. Theodore Cabral
Tom Lemmon
Edward Patrovsky
Diane Ross-Leech
Roger Salazar

March 10, 2021

Jack Ainsworth, Executive Director, California Coastal Commission
Steve Padilla, Chair of the California Coastal Commission
455 Market Street, Suite 300
San Francisco, CA. 94105

Re: Oceano Dunes State Vehicular Recreation Area

Dear Executive Director Jack Ainsworth and Coastal Commission Chair Steve Padilla,

The Off-Highway Motor Vehicular Recreation (OHMVR) Commission would like to go on record to strongly oppose the California Coastal Commission (CCC) staff proposed phase out of off-highway motor vehicular use at the Oceano Dunes State Vehicular Recreation Area (ODSVRA) and to correct the record relative to the park's overall compliance with the California Coastal Act mandate to protect beach public access, recreational opportunities and marine and land resources.

The Department of Parks and Recreation (DPR) and the Off-Highway Motor Vehicular Recreation Division (OHMVRD) have detrimentally relied on fifty six (56) plus years of California Coastal Commission approvals, spent millions of dollars on natural resource protection, species conservation and park operations with off-highway vehicle (OHV) trust funds, gas tax and gate fees in good faith and in compliance with the many park approvals in the General Plan, San Luis Obispo Local Coastal Plan (LCP), the ODSVRA Coastal Development Permit, the five associated amendments and the various requirements from resource agencies, approved conservation and dust mitigation plans to create and manage a world class park. Is it perfect? No. Do we have work to do? Yes.

Successful collaboration with the agencies having jurisdiction over ODSVRA has created a highly successful multi-use, multi-benefit OHV recreational park with many natural resource conservation programs. We submit that CCC staff have not demonstrated the necessary damage or justification to propose the arbitrary removal of OHV use from the park. On the contrary DPR and the OHMVRD were directed by the Coastal Commission to initiate the Public Works Plan, the Habitat Conservation Plan, and a Biodiversity Management Plan, to continue working with the San Luis Obispo Air Pollution Control District (APCD) and to comply with all dust mitigations at considerable costs.

This proposal is similar to an arbitrary change without substance, is contrary to what has been implied by numerous approvals and the outcome of the settled court case *Court of Appeal Decision: Sierra Club v. Department of Parks & Recreation (2012) 202 Cal.App.4th 735*. In this case the court disagreed and dismissed the allegation that the use of OHVs and RVs within the Oceano Dunes complex violated the Coastal Act, and were in conflict with ESHA.

Further, the CCC suggestion to phase out OHV use is not consistent and contradicts the law, authority, and existing approvals provided through the California Coastal Commission and Coastal Act. Executive Director Jack Ainsworth went on record September 14, 2017 stating that "The vehicular park is allowed under statute." The Coastal Commission does not have the authority to phase out the legislatively designated off-highway vehicular park."

Two sibling State agencies at war is unfortunate and shocking, and ultimately falls short of serving California residents who rely on our respective public institutions to serve all our interests, even if at times some of our interests may be at odds. Our two Commissions carry a similar goal to provide access, recreational opportunities and simultaneously balance conservation and restoration of our beautiful coastal environment. Somehow the messaging to the Coastal Commission has been distorted and does not reflect accurately what the ODSVRA really provides to the residents of California and visitors from all over the world. It is in times like these that we need to work together to strike the right balance to preserve and enhance the much-loved multi-use ODSVRA.

The ODSVRA Park is a unique location and provides important recreational experiences at the local and county level. ODSVRA is the only state managed public lands in California with OHV and camping allowed on the beach. No county parks, open space areas, or other recreation land in the Central Coast provide this valuable, unique recreational experience and access to the great outdoors for over 2 million visitors annually to both Pismo State Beach and ODSVRA.

These recreational users have the same rights protected by the legislation that created this motorized off-highway park, and through the mandates found in the California Coastal Act and approved repeatedly by the California Coastal Commission over the last 56 plus years.

The California Coastal Act and California Coastal Commission mandate is to protect public access, recreational opportunities, and marine and land resources. The ODSVRA meets the California Coastal Act mandate by providing public access, incredible recreational opportunities while funding and managing world class conservation efforts.

The suggestion to remove OHV use is contrary to the Coastal Act mandate, discriminates against California's diverse OHV recreational enthusiasts, denies OHV access to the beach, denies recreation enthusiasts who use their OHV vehicles for their accessibility to the beach, and fails to acknowledge, value or balance the OHV trust funded successful natural resource and species conservation programs.

The 3,490-acre ODSVRA Park provides recreational enthusiasts access to swimming, surfing, beach play, fishing, ocean sports, horseback riding, nature walks, bird watching and more throughout the park. The dispersed camping and off highway vehicle riding is confined to 1,350 acres, which is further reduced by approximately 300 acres for high wind fencing and protected species nesting season exclosures on average eight (8) months out of the year (March to October). The result is that the OHV park use area is no more than 1/3 of the entire Oceano Dunes land holding.

The ODSVRA is in compliance with the California Coastal Commission approved San Luis Obispo Local Coastal Plan (LCP). The park installed the required fencing and sensitive habitat area buffers and continues to follow the guidelines to restrict and manage OHV use in certain prescribed areas in accordance with the LCP.

The Coastal Commission recently asserted that the entire ODSVRA is considered an Environmentally Sensitive Habitat Area (ESHA). This is in conflict with the previous 56 years of Coastal Commission approvals for the park, including the Coastal Commission approved County LCP. The adopted LCP defined the ESHA protected areas as the vegetated dune areas and detailed in great length the areas for OHV use and associated management practices required.

The LCP made the finding that the ODSVRA met the Coastal Act goal of maximizing recreational opportunities and was consistent with protection of coastal resources. Here are just a few key quotes from the Coastal Commission approved LCP:

- *Passive recreational uses and nature study uses should be provided for in the sensitive vegetated areas restricted from OHV use. (LCP).*
- *Providing a wide variety of recreation opportunities, the parks are famous for clamming and driving on the beach and recreational vehicle use within the Dunes.*
- *The entire dunes are recommended for ultimate use for recreation and conservation.*
- ***Two thousand acres of sand dunes for off-highway vehicle recreation.***
- *Inland camping area for off-highway vehicle users.*
- *Vehicle association center with administration facilities for off-highway vehicle recreation.*
- *Concession-operated facilities for dune vehicle service, rental, and storage and food service.*
- ***ORV Use Area.*** *ORV use shall be permitted only in identified unfenced vehicular use area. These areas are identified in Figure 4. No recreational ORV use will be allowed in the designated natural areas. These buffer areas reflect areas required for habitat protection and generally recognize the established lease agreement with Union Oil for the areas adjacent to the eastern portion of the park. ORV is prohibited in all vegetated areas. (LCP)*

- *ORV use of the county held portion (generally lying between the sandy beach and Dune Lakes) shall be limited to the Sand Highway west to the sandy beach. This will minimize conflicts with the Dune Lake Properties to the east and the State Department of Parks and Recreation Dune Preserve to the north. The map of ORV use areas indicates a buffer area along these critical interface areas.*

While Coastal Commission staff have led many to believe that motorized off-highway vehicle recreation dominates the ODSVRA Park, they are ignoring the comprehensive successful natural resource and species conservation efforts throughout the park. The ODSVRA spends 40% of their annual budget on resource conservation, habitat restoration and dust mitigation while the OHV use is limited to 1/3 of the park area.

These important conservation efforts have covered more than 400 acres of protected and restored dune park area since the 1990s. Leading conservation examples include the Oso Flaco Lake riparian habitat area. Off-highway riding and camping was allowed in the Oso Flaco area from 1910-1982. This area was restored and enhanced during the 1990s and is now a shining jewel and a literal oasis in the dune preserved for non-motorized passive recreation including bird watching, nature walks and picnicking. The management of the Oso Flaco Lake is in full compliance with the County LCP - all funded by OHV trust fund, gas tax and gate fees.

Other phenomenal conservation efforts include the highly successful, highly regulated species conservation, predator management and management of the threatened Western snowy plover and the endangered California least tern nesting programs whose general population decline can be attributed to development, recreation and other human pressures in their habitat range.

ODSVRA biological and resource staff have increased the snowy plover breeding adult population six times since 2002, when the Snowy Plover and Least Tern Management Program began with approximately 30 breeding adults. Between 2018-2020 the snowy plover population increased to 200 breeding birds. In addition to the snowy plover program, the least tern program has increased the number that reach fledgling age by 2-3 times that of the average for all nesting sites in the state of California since 2004.

On an annual basis, the Wildlife Habitat Protection Plan costs the Oceano Dunes (OD) District over \$2 Million in staff costs, contracts, equipment, materials, etc. The natural resource and species conservation activities are implemented throughout the 5,000 acres that make up the Oceano Dunes District (Pismo State Beach and Oceano Dunes SVRA). Most of the more intense management activities are focused in the ODSVRA, including the 300 acres that make up the seasonal snowy plover and least tern breeding enclosure, native vegetation and foredune restoration of nearly 230 acres, additional dust mitigation fencing projects and ongoing annual restoration of 12-15 acres per year throughout the park.

The snowy plover and least tern programs are successful due to the intensive management, population inventory, monitoring, predator management and habitat restoration which has resulted in increases in breeding success for both species. Most species return to the same breeding sites especially when they have had successful fledglings.

The adjacent Guadalupe Nipomo Dunes Wildlife Refuge in contrast does not have the same level of financial or resource support and thus has far fewer protected species success (Preliminary 2020 Snowy Plover survey results: 31 Breeding adults; 39 nests; Hatched Nests-unknown chicks produced; 52 Fledge).

The success of these two species conservation programs demonstrates OHV compatibility with proximity to the protected species and counters the allegations that the off-highway motorized use is degrading the habitat area.

The OHMVRD has been working with the APCD since 2011 to research, test and implement approved dust mitigation measures. These efforts have been implemented in over 200 acres of the park and were funded with 14 million in OHV trust funds.

Imagery from 1930, predating modern OHV recreation, shows much less dune vegetation in the north dunes near Pismo Dune Preserve, and in the south dunes near Oso Flaco Lake. Aerial images taken from 2010 show an overall gain in dune vegetation within the Pismo State Beach and ODSVRA of approximately 650 acres. In addition, park resource specialists continue to enhance native vegetation by planting vegetative islands within the OHV riding area of over 200 acres.

The ODSVRA funds include a large budget for the law enforcement arm of the division who not only respond to OHV related needs, but officers respond to aquatic emergencies in the ODSVRA. They provide two Lifeguard Peace Officers as well as a staff of seasonal lifeguards who manage Lifeguard towers in the summer and provide roving aquatic and medical capabilities. Our lifeguards provide emergency vehicle response and maintain a fleet of three Rescue Water Crafts. OD Lifeguards made 8 life-saving aquatic rescues in 2019.

OD Officers and Lifeguards also participate in a variety of public education programs including the Sand Sports Super Show, Cops and Kids Day and numerous programs in the park. This outreach helps teach valuable OHV safety and engenders a positive relationship with the public. Several OD officers are ATV Safety Institute and Recreational Off highway Vehicle Association certified instructors who teach employees and outside agencies in safe OHV operation.

Pismo State Beach and ODSVRA is a leading partner in conservation while providing world class access for all to the beach and multi-use, multi-benefit recreational opportunities. The California State Parks OHMVRD mission is to effectively and sustainably manage OHV recreation consistent with good environmental stewardship.

Mr. Jack Ainsworth

March 10, 2021

Page 6 of 6

There is more work that needs to be done to develop a collaborative partnership between California State Parks, OHMVRD and the California Coastal Commission to allow both agencies to meet their long-term protection, public access and sustainable OHV recreation goals. The OHMVR Commission looks forward to working in earnest with the California Coastal Commission and other resource agencies to create the best possible sustainably managed off-highway park in the State of California.

Respectfully,



Patricia G. Ureña, Chair
OHMVR Commission

cc: Gavin Newsom, Governor
Wade Crowfoot, Secretary for Natural Resources Agency
Armando Quintero, Director DPR
Sarah Miggins, Deputy Director OHMVR Division
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California State Senate

SENATOR
MONIQUE LIMÓN

NINETEENTH SENATE DISTRICT



March 16, 2021

Mr. Steve Padilla, Chair
Commissioners, Alternates, and Staff
California Coastal Commission
455 Market Street, Suite 300
San Francisco, CA 94105

California Department of Parks & Recreation
Strategic Planning and Recreation Services Division
1725 23rd Street, Suite 200
Sacramento, CA 95816

Subject: California State Parks Public Works Plan/EIR for Pismo State Beach and the Oceano Dunes SVRA March 18, 2021 CA Coastal Commission Hearing - Item 3

Dear Chairman Padilla, Coastal Commissioners and California Department of Parks & Recreation:

I am writing as the State Senator representing the 19th District of California, which contains all of Santa Barbara County and parts of Ventura County. The Oceano Dunes State Vehicular Recreation Area (ODSVRA) sits outside the 19th Senate District, but I am compelled to write due to the impacts the ODSVRA has had on the communities I represent.

While I believe the California Department of Parks and Recreation (DPR) has taken steps to address concerns that have historically not been addressed in operation of the park, I want to focus on the issues that impact the communities situated in the 19th Senate District.

Perhaps the most significant concern is the impact that it has had on the public health of adjacent community members. There have been many days where emissions of dust caused by off-roading activities have traveled downwind to the City of Guadalupe and Santa Maria. According to CalEnviroscreen 4.0, the City of Guadalupe is in the 79th percentile for communities that are overburdened with pollution, and is the most overburdened area in Northern Santa Barbara County. The Santa Barbara Air Pollution Control District has expressed these same concerns in previous comment letters to the Board.

DPR has undertaken various measures for dust control and has asked that there be time to see if these measures are successful, but these hazardous conditions have continued. It is imperative

that this public health hazard be addressed, and that the air quality in the communities surrounding the ODSVRA be permanently restored to healthy levels, year-round.

Secondly, this area of coastline is a recreational area for people living in Northern Santa Barbara County. Oso Flaco Lake has been an important recreational opportunity, and it has been significantly degraded due to the use of Off-road vehicles. It is essential to provide an outcomes that ensure equal access to all people to the coastline, for a broad variety of uses including walking, biking, swimming, birdwatching, and fishing – as well as sharing in the economic benefits that derive from this park.

I appreciate the efforts of DPR to finally address some of the issues that have long been a concern to surrounding communities. I also appreciate the Coastal Commission February 16, 2021 staff report to address the above conflicts relating to the continued and proposed operations of the ODSVRA. It is my hope that we can come together and provide an outcome that continues to provide quality coastal recreation, while reducing and ultimately eliminating the chronic and often severe consequences that off-highway vehicle activity has brought upon the coastal resources and local residents.

Thank you for your consideration of my comments.

Sincerely,

A handwritten signature in black ink, reading "Monique Limón". The signature is fluid and cursive, with the first name "Monique" and the last name "Limón" clearly distinguishable.

MONIQUE LIMÓN
Senator, District 19
ML:ms

California State Senate

SENATOR
JOHN LAIRD

SEVENTEENTH SENATE DISTRICT



Mr. Steve Padilla, Chair
Commissioners, Alternates, and Staff
California Coastal Commission
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Via emails: Stephen.Padilla@coastal.ca.gov
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Subject: California State Parks Public Works Plan/EIR for
Pismo State Beach and the Oceano Dunes SVRA
March 18, 2021 CA Coastal Commission Hearing - Item Th3

Dear Chairman Padilla, Coastal Commissioners and California Department of Parks & Recreation:

I am writing today as the State Senator representing the 17th District of California, which contains all of San Luis Obispo and Santa Cruz counties and portions of Monterey and Santa Clara counties. The subject of this letter – the Oceano Dunes State Vehicular Recreation Area and Pismo State Beach – is located entirely within the 17th Senatorial District and is thus of high priority to its constituents and this office. I also served as the California Secretary for Natural Resources from 2011 until 2019. During that tenure, I became deeply familiar with the issues and conflicts surrounding the operation of the Oceano Dunes State Vehicular Recreation Area (ODSVRA).

The California Department of Parks and Recreation (DPR) has operated the 5000-acre ODSVRA for decades. At the ODSVRA, State Parks has provided off-highway vehicle users with a popular recreational activity along a beautiful stretch of California's Central Coast. As you are aware, that use of the ODSVRA has created unintended consequences for other would-be users of the park, adjacent communities, and coastal resources. The conflict between these interests has continued for decades, culminating in the release of the DPR draft Public Works Plan (PWP) and accompanying Environmental Impact Report – and the resulting Coastal Commission staff report dated February 16, 2021, which responds to the PWP and is an agenda item before the Commission on March 18, 2021.

While I believe DPR has taken steps to address many of the concerns that have historically not been addressed in operation of the park, the issue before the Commission is whether they have adequately addressed all of the different issues. With this letter, I'm responding to the February 16, 2021 staff report and offer my perspective on the highest priority issues for the 17th Senatorial District, which must be addressed for the continued operation of this park.

1. Public Health and Air Quality

Perhaps the most significant concern about ODSVRA operations is the impact that it has had on the public health of adjacent community members. According to the extensive, science-based studies of the San Luis Obispo Air Pollution Control District, the off-highway use of the dunes has conclusively led to significant and continuing emissions of dust into the air. The dust has degraded air quality to point where state standards are violated throughout the year, leading to chronic lung and other health conditions in neighboring communities. Those science studies are referred to in other submissions to the Commission, and I am thus not including those references in this letter.

During my campaign for State Senate, I participated in a town hall meeting at Trilogy on the Nipomo Mesa – a residential area down-wind from the ODSVRA. Many concerns about air quality were raised at that meeting – including the health of school children and daytime air quality for many residents – particularly the older residents in that area. They asked me to advocate for their interests, and this letter is in part motivated from the urgency that was expressed at that meeting.

DPR has undertaken various measures for dust control and has asked that there be time to see if these measures are successful. These hazardous conditions remain. It is imperative that this public health hazard be addressed, once and for all, and that the air quality in the communities surrounding the ODSVRA be permanently restored to healthy/normal levels, year around.

2. Protection of Coastal Resources – Specific Issues Surrounding Biodiversity, Oso Flaco Lake, and Arroyo Grande Creek

The ODSVRA is part of the Guadalupe-Nipomo Dunes, a 8000-acre dunes complex stretching from Pismo Beach to Point Sal, which includes the Pismo Dunes Preserve, Dune Lakes, the Guadalupe Nipomo Dunes National Wildlife Refuge, Rancho Guadalupe Dunes Park, and the Oso Flaco Lake Natural Area. It is the largest coastal dune system in the world. The US Fish and Wildlife Service has designated the region as the most unique and fragile ecosystem in California, ranking it #1 on the list of habitats in need of protection. As stated in the Commission's staff report, almost the entire Park (as well as the surrounding dunes complex) is designated by the Coastal Act and the local coastal programs as an "Environmentally Sensitive Habitat Area" (ESHA).

DPR has presented a draft Habitat Conservation Plan (HCP) in conjunction with its PWP. A number of species – listed as federally and state endangered or threatened – are called out in that plan. Whatever actions are taken in the ODSVRA must address those species, and any other species with special status that are negatively impacted by ODSVRA operations.

DPR has also committed to a Natural Community Conservation Planning effort to address these issues. Such a plan would give added protections to these species and require commitments to biodiversity measures that would address concerns about these species.

Additionally, as a designated ESHA, the ODSVRA must be operated consistent with the Coastal Act. Among other things the Coastal Act states that ESHA's "shall be protected against any significant disruption of habitat values." (California Coastal Act Section 30240(a))

The Act further provides that “development in areas adjacent to ESHAs and parks and recreational areas shall be sited and designed to prevent impacts which would significantly degrade such areas and shall be compatible with the continuance of such habitat areas.” (California Coastal Act Section 30240(b)). This overview of habitat and biodiversity issues is particularly important with respect to three issues within the ODSVRA: Oso Flaco Lake Natural Area, Arroyo Grande Creek, and general endangered species protections, as follows.

Oso Flaco Lake Natural Area. This area at the southern end of the Park is biologically unique and bucolic. Not long before the pandemic struck, I visited the area, and walked through the Oso Flaco Lake marsh lands toward the ocean. I was impressed with the historic work that has been done to protect this area, which provides public access and protects the species – both plant and animals – that exist in this area. I viewed the agricultural area immediately adjacent to Oso Flaco Lake, and appreciate the uniqueness of that portion of this southern park area as well.

In addition to being designated as ESHA, the ODSVRA is surrounded by rich agricultural lands, particularly in the southern portion of the Park. Adjacent to Oso Flaco Lake, for example, lies the Santa Maria Valley, a highly productive agricultural region with the largest concentration of Class I and Class II soils (i.e., prime agricultural land) in San Luis Obispo County. The Coastal Act also contains provisions to protect agricultural lands and the viability of the agriculture economy. For example, the Act states that the “maximum amount of prime agricultural land shall be maintained in agricultural production to assure the areas’ agricultural economy, and conflicts shall be minimized between agricultural and urban uses . . . by assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability.” (California Coastal Act Section 30241; (e))

Application of the Coastal Act to the ODSVRA operations as they currently exist and as proposed in portions of the PWP raise problematic questions. For example, the “Oso Flaco Lake Improvement Project” appears to present insurmountable conflicts with Parks’ proposed conversion of 120 acres of prime agricultural land and ESHA-designated dune lands. Moreover, off-highway vehicle use at the ODSVRA, which demonstrably destroys the natural dune habitat, appears on its face to be contrary to ESHA protections contained in the Coastal Act.

Arroyo Grande Creek. During a visit to the ODSVRA, I walked the beach south of the Pier Avenue entrance in Oceano. I was surprised to see a barely recognizable arroyo connection to the ocean, where park users drive and walk over that entrance in a manner that does not allow for the protection of that creek for any species that may require its successful functioning to survive. I know this issue has been addressed in the draft habitat conservation plan, and I urge serious attention to protecting it in this process.

Protection of Endangered Species. As mentioned above in the discussion of the habitat protection plan is the importance of conservation of endangered and special status species under the federal and state Endangered Species Acts. This issue is relevant to operations of the ODSVRA due to the presence of multiple species that are protected under those acts, including such animals as the Western snowy plover, California least tern, California steelhead, tidewater goby and such plants as La Graciosa thistle, Nipomo Mesa lupine, Gambel’s watercress, and marsh sandwort. Although efforts have begun to complete a habitat conservation plan under the federal Endangered Species Act, those efforts have not yet protected the continued and demonstrated degradation of habitat caused by off-highway vehicle use. Nor have those efforts protected the documented average of four to six snowy plovers found dead or flattened in vehicle tracks each year for the last four years. We have a moral and legal imperative to require that the species in greatest risk are protected

concurrent with the current activities in the park.

3. Protection of Central Coast Communities

Living adjacent to the Park has been challenging for members of the Central Coast community, especially those living in Oceano adjacent to the ODSVRA entrance at Pier Avenue.

Not only have the nearby residents of Oceano been impacted by air quality problems, but their quality of life has been degraded due to the constant influx of sand on their streets, high traffic on their roads, and limited ability to access their neighborhood coastline due to the dangers posed by off-highway vehicle activity to pedestrians. And rather than enjoying the economic benefits that are experienced by most beachfront communities, their neighborhood has been largely neglected. It does present, as the Coastal Commission staff report states, “a classic environmental justice question of who benefits from and who bears the burden of such use” in this community, where approximately half of the population is Hispanic/Latinx.

It is incumbent upon the operators of this Park to once and for all, honestly address the challenges that Oceano residents and others have experienced as a result of Park operations and provide an outcome that ensures equal access to all people to the coastline, for a broad variety of uses including walking, biking, swimming, birdwatching, and fishing – as well as sharing in the economic benefits that derive from this park.

I appreciate the efforts of DPR to finally address some of the issues that have long been unaddressed. I also appreciate the Coastal Commission February 16, 2021 staff report to address the above conflicts relating to the continued and proposed operations of the ODSVRA. It is my hope that we can come together and provide an outcome that continues to provide quality coastal recreation, while reducing and ultimately eliminating the chronic and often severe consequences that off-highway vehicle activity has brought upon the coastal resources and local residents.

I also wish to offer one final comment about the longtime dispute surrounding the activities within the ODSVRA. The off-road vehicle enthusiasts have historically asked for no or limited changes to the management and operations of the park. I understand their enthusiasm for the historic use of the park for off-road activities. However, we face an uncomfortable choice right now. The issues of concern outlined in this letter must be addressed in a serious manner. If not so addressed, a regulatory or legal action could close the park forever to off-road activities. The only way to continue off-road activities at this park is to address the issues outlined in this letter to determine if the various impacts of the activities in this park can be mitigated to continue off-road activities in a sound manner. Taking no action on these concerns is not an option.

Thank you for your consideration of my comments. I look forward to working together to address these concerns.

Sincerely,

A handwritten signature in black ink that reads "John Laird". The signature is fluid and cursive, with the first name "John" and last name "Laird" clearly distinguishable.

John Laird
Senator
Senate District 17

California State Senate

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March 10, 2021

Stephan Padilla, Chair
California Coastal Commission
45 Fremont St., #2000
San Francisco, CA 94105

Subject: Oceano Dunes State Vehicle Recreation Area

Dear Chair Padilla:

I am pleased to see that the Coastal Commission is considering operational changes to the Oceano Dunes State Vehicular Recreation Area (ODSVRA) coastal development permit in order to better protect coastal resources, air quality and public health, as well as addressing environmental justice issues for the residents of Oceano. California is a very different place than it was in 1982 when the original permit was issued for temporary, interim activities that were supposed to have been resolved long ago, such as the requirement for a southern entrance that would avoid the need for vehicles to cross Arroyo Grande Creek. It is well past time for the Commission to address such issues.

In addition to your existing authority under the Coastal Act, I am particularly pleased that your staff's recommendation relies partly on recently enacted legislation that I authored in 2017, SB 249. This bill reauthorized and substantially revised the Off Highway Motor Vehicle Recreation Act, administered by the State Department of Parks and Recreation (DPR). The purpose was to ensure that DPR had the statutory authority and legislative direction to better manage the state's OHV parks in a more environmentally sustainable manner.

Throughout the 2017 session, the ODSVRA was one of the most cited parks in terms of environmental degradation, land use conflicts and public health impacts. Driving in the fragile dune ecosystem destroys the natural crust and plant life that stabilizes the dunes. As a result, a large plume of wind-blown dust envelopes down-wind communities nearly every afternoon during the spring months, routinely exceeding state and federal air quality standards for particulate matter.

In passing SB 249, the Legislature expressed its clear intent that OHV parks management activities place a higher priority on environmental protection, by avoiding impacts in the first instance, protecting sensitive habitat and cultural sites, and mitigating fully for unavoidable impacts.

While DPR has not yet fully implemented the new standards across the board, I want to applaud your staff for taking the position that the time has come for the Coastal Commission to address these issues directly, and urge you to take their recommendations seriously.

Sincerely,

A handwritten signature in black ink that reads "Ben Allen". The signature is written in a cursive, slightly stylized font.

BEN ALLEN
Senator, 26th District



March 12, 2021

The California Coastal Commission
455 Market Street, Suite 300
San Francisco, CA 94105

Delivered via email to: OceanoDunesReview@coastal.ca.gov

RE: State Parks Coastal Development Permit for Oceano Dunes

Dear Chair Padilla and Commissioners:

We write you on an urgent matter that has just recently been placed on the March 18, 2021 special meeting agenda, when the California Coastal Commission (Coastal Commission) will hold an annual review of the State Parks' (Parks) Coastal Development Permit for Oceano Dunes State Vehicular Recreation Area (Oceano Dunes). We understand that Coastal Commission staff recommends the unprecedented five year phase out of off-highway vehicle (OHV) access to Oceano Dunes, banning a recreational activity enjoyed by millions of visitors for over 40 years.

Parks has developed a scientific approach to managing Oceano Dunes in its Public Works Plan (PWP), which protects and strengthens biodiversity and habitats while responsibly managing the area for diverse recreational access. Parks' draft PWP has been publically released, and the department is gathering important public feedback to the PWP. If adopted, the Coast Commission staff recommendation will terminate those public proceedings as moot, a concerning potential overreach of Coastal Commission authority.

Oceano Dunes serves as an important recreational destination for our collective constituents. Parks has done a great job keeping Oceano Dunes affordable and that means accessible to our residents. Precluding future recreation without a fully transparent public process, with Parks, interest groups, and the scientific community collaborating on revising the draft PWP, if necessary, at least leads to a balanced management approach for the region.


We share the Coastal Commission's goal of preserving and protecting Oceano Dunes for future Californians to enjoy; however, we must also ensure that those alive today have equitable coastal access and freedom to choose how they want to spend their leisure and family time. This has never been more clear than this past year, when Oceano Dunes became a life line to many families during the COVID – 19 pandemic. Banning all OHV access to Oceano Dunes flies in the face of equitable coastal access and any notion that people can choose their own legal recreational activities.

Our constituents are frequent users of Oceano Dunes OHV campsites and park, the only such park in the entire state of California. The nearest similar recreational experience is located in Reedsport, Oregon at the Oregon Dunes National Recreation Area, over 750 miles away from Oceano Dunes. If the staff recommendation are adopted, California would further frustrate its efforts to reduce greenhouse gas emissions by increasing the vehicle miles traveled up to Oregon, for our constituents to enjoy the same coastal recreation access and experience. This is, of course, the antithesis of what the State should be doing. We expect that the Coastal Commission staff recommendations will not add to the state's transportation based pollution and emissions challenges, yet that is exactly what this action on Oceano Dunes will produce. Additionally, the adoption of staff's recommendation could lead to the unintended consequences of encouraging illegal access to the coastal dunes for recreation in California. Managed, equitable access should not be replaced with a binary approach that creates a risk for, potentially, much greater unregulated illegal access and recreation than would be encountered under the balanced approach in the draft PWP.

Parks' draft PWP utilized professional planners and expertise to balance these complex issues. The Coastal Commission stands on the verge of wasting those taxpayer dollars expended by Parks' to develop the PWP and engage the public in discussing current and future coastal access and recreation.

As such, we request that the Chair and Commissioners defer further action on the staff recommendation for a five-year phase out to close Oceano Dunes to all OHV access and allow Parks' PWP public hearings, and eventual production of a final plan to proceed unabated.

Signed,



Senator Anna M. Caballero (SD-12)



Assemblymember Robert Rivas (AD-30)



Assemblymember Jordan Cunningham (AD-35)



Senator Shannon Grove (SD-16)

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WORKFORCE
CENSUS
CYBERSECURITY

March 12, 2021

The Honorable Steve Padilla
Chair
California Coastal Commission
455 Market Street, Suite 300
San Francisco, CA. 94105

Dear Chair Padilla:

I write as the Assemblymember representing the district encompassing the Oceano Dunes State Recreational Vehicle Park ("ODSVRA"), to register my opposition to the phase out of OHV use as suggested in the staff report which accompanies the item set for your special hearing on March 18, 2021.

The staff recommendation would fly in the face of the clear statutory authority granted to the California Department of Parks and Recreation to advance recreational opportunities for all Californians. I certainly respect the Coastal Commission's central mission to preserve the coastline of California, but that mission should not give the Commission license to ignore the Parks mandate and the successful management of the ODSVRA for decades.

In a recent letter to you and Mr. Ainsworth, the Off-Highway Motor Vehicle Recreation Commission stated the following:

"Successful collaboration with the agencies having jurisdiction over ODSVRA has created a highly successful multi-use, multi-benefit OHV recreational park with many natural resource conservation programs. The California Coastal Commission has not demonstrated the necessary damage or justification to arbitrarily remove OHV use from the park. On the contrary DPR and the OHMVRD were directed by the Coastal Commission to initiate the Public Works Plan, the Habitat Conservation Plan, a Biodiversity Management Plan and to continue working with the San Luis Obispo Air Pollution Control District (ACPD) and all dust mitigation plans at considerable costs."

I was surprised to learn that the discussion on March 18 before your Commission is not for the express purpose of reviewing the Public Works Plan, but rather to apply the OHV phase-out to

the Parks coastal development permit. The current uses at ODSVRA are consistent with the Commission-approved Local Coastal Permit and the San Luis Obispo County General Plan.

Furthermore, the economic and recreational benefits to our local community from the ODSVRA are significant.

In 2017, visitors to San Luis Obispo County spent more than \$1.6 billion, helping to generate nearly \$80 million in local tax revenue. Tourism is second only to agriculture in terms of economic impact for our county. Our local businesses depend on it to stay afloat and create jobs, and our local governments rely on it to fund critical public services, like police and fire protection.

The Oceano Dunes, specifically, generate more than \$150 million in annual economic activity from outside visitors and is a major component of South San Luis Obispo County's tourism industry. Further limiting access would not only impact the generations of families who, for decades, have been making annual trips to the dunes, but the hundreds of businesses who absolutely rely upon these annual visitors to generate revenue and employ local residents.

These businesses, like locally-owned retailers, restaurants, hotels, convenience stores, and campgrounds, have already taken a major hit over the past year due to COVID-19. Park closures and travel restrictions have hampered these businesses' ability to survive. Rather than imposing a full phase out of OHV, which would decimate these already-hurting businesses, we need to be working to boost local tourism and help struggling businesses and their employees back on their feet.

In addition, many important ecological conservation efforts are funded through OHV fees collected pursuant to SB 249 (2017). It is my belief that a phase-out of OHV use at the ODSVRA will have the effort of compromising environment-conservation efforts.

I respectfully request that the Coastal Commission not take any action that would affect the historic OHV uses at ODSVRA.

Sincerely,

A handwritten signature in black ink, appearing to read 'JC', with a long horizontal line extending to the right.

Jordan Cunningham
Assemblyman, 35th District

cc: Members, Coastal Commission
Members, Off-Highway Motor Vehicle Recreation Commission

Honorable Wade Crowfoot
Honorable Armando Quintero
Ms. Ana Matosantos
Ms. Christine Hironaka
Mr. Jack Ainsworth
Ms. Liz McGuirk



COUNTY OF SANTA BARBARA

SENT VIA EMAIL TO: OceanoDunes.PWP.EIR@parks.ca.gov

California State Parks
Strategic Planning and Recreation Services Division
1725 23rd Street, Suite 200
Sacramento, CA 95816

Re: Comments on the Draft Environmental Impact Report for the Draft Oceano Dunes Public Works Plan, SCH #2018051017

To Whom it May Concern:

Thank you for the opportunity to comment on the California State Parks Oceano Dunes Draft Public Works Plan (PWP) and associated Draft Environmental Impact Report (EIR). The proposed project at Oceano Dunes is adjacent to Santa Barbara County. The communities I represent are just downwind and on the receiving end of the adverse impacts generated by the proposed project. The Oceano Dunes Project will have severe air quality impacts on those communities, most specifically to the economically disadvantaged and pollution-burdened Cities of Guadalupe and Santa Maria as well as to the surrounding unincorporated communities (e.g., Casmalia and Tanglewood) and intensively cultivated agricultural areas. **This ill-conceived project raises serious and unaddressed environmental justice concerns.** Ignoring them after this COVID Era has laid bare the disproportionate health impacts suffered by communities of color and farmworkers is nothing short of unconscionable.

Santa Barbara County Air Pollution Control District (SBCAPCD) submitted comments about potential air quality impacts in Northern Santa Barbara County and requests for further air quality analysis by State Parks in letters to your agency dated March 5, 2019, January 24, 2020 and June 1, 2020. **I share SBCAPCD's serious concerns that the issues carefully described in its letters were not addressed,** nor were any of the additional requested analyses included in the Draft EIR.

As noted by SBCAPCD, the Santa Maria air quality monitoring site which is located downwind of the Oceano Dunes State Vehicle Recreation Area (OCDSVRA) was out of attainment for PM₁₀ 14 days in 2018, 17 days in 2019, and 32 days in 2020. A 2010 study by San Luis Obispo County Air Pollution Control District noted that off-highway vehicle (OHV) activity in the ODSVRA generates significant particulate matter emissions, and that OHV use is the primary cause of the air quality impacts to communities that are downwind of the OHV riding areas. The same study noted PM₁₀ concentrations measured downwind of the riding areas are significantly higher than those measured downwind of nonriding areas.¹ Moving or increasing the intensity of OHV use closer to communities in Santa Barbara County would only increase the particulate matter concentrations in these communities and the associated negative health effects on local residents especially communities of color.

I am very concerned about the air quality impacts and public health implications to Santa Barbara County residents - most specifically residents of Guadalupe and the surrounding unincorporated communities. Guadalupe and the surrounding census tracts are designated low-income communities under AB 1550, fall in the 70-75% percentile under CalEnviroScreen 3.0, and fall in the pollution burden percentile of 66%.

^{1,2} Craig, J et al. *South County Phase 2 Particulate Study*. February 2010.
https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/APCD%20Exhibit%202%20-%20APCD_Phase2_SouthCountyPMStudy-2010%281%29.pdf. Accessed 16 February 2021.

Given the points raised here and in my specific comments on the EIR below my signature line, I feel strongly that this EIR fails utterly to disclose, assess, and mitigate the proposed project's potentially highly significant air quality, climate change, and public health impacts – particularly in Santa Barbara County in communities that have long suffered more than their share of environmental contaminants. As such, I strongly urge that State Parks not certify this EIR until the document is modified to better address and these significant impacts, with the goal of safeguarding air quality and the public health of residents, many of whom already labor under significant environmental stressors. I would also ask State Parks to reevaluate and reconsider the proposed PWP with considerably more consideration to Santa Barbara County air quality and public health.

Sincerely,



Santa Barbara County Third District Supervisor

Cc:

Kevin Pearce, ODSVRA Acting District Superintendent, California State Parks

Kevin Kahn, Central Coast District Supervisor, California Coastal Commission

Comments on the PWP:

1. **New, Year-Round Southern Entrance and the Phillips 66 South Entrance Project:** The PWP recommends the identification and construction of a new, year-round entrance in the southern portion of the park. The proposed Phillips 66 Southern Entrance Project would address this goal through a conceptual design for nearly 2,000 acres of new parkland with extensive new facilities at the existing Phillips 66 Refinery, should the property become available. New facilities would include day-use parking and 25 acres of OHV staging areas, a 33-acre pro-track for multiple types of OHV including motocross, ATVs and 4x4s, a 15-acre multi-use special events area that could include lighting and a mile-long track, approximately 1.25 acres for a Ranger Station/District Office near the main entrance with associated parking, residences/dormitory-style housing for staff housing, 225 RV campsites, and a minimum of six group campsites. The project may provide a dedicated OHV access road and staging area into the SVRA as well as an OHV access route from the Oso Flaco Improvement area.

Some of the stated benefits of this project are: *“reducing traffic pressure and impacts from the Pier and Grand Avenue entrances in Oceano and Grover Beach; redirecting OHV traffic crossing away from Arroyo Grande Creek; providing a critical section for the OHV access route from the Oso Flaco Improvement Project (Future)...”* (ES-5). However, the PWP proposes to move these referenced impacts to the south, causing disbenefits elsewhere. This project will likely result in a dramatic increase in park visitations, vehicle use, and OHV activity. Moving the ODSVRA entrance to a southern location will shift ODSVRA air quality impacts to the south and cause air quality impacts to northern Santa Barbara County. In addition, shifting ODSVRA access and staging to a southern location will result in air quality impacts due to vehicle track-out and engine idling. The proposed special events area and pro-track at the Phillips 66 site could result in substantial generation of particulate matter travel on paved and unpaved roads, tracks, and event surfaces as well as emissions from generator usage and vehicle fueling. In addition, vehicles traveling through the Santa Maria region to access the proposed entrance and facilities will further negatively impact air quality.

2. **Oso Flaco Improvement Project:** Oso Flaco Improvements (Initial and Future) will result in a change in park visitation, staffing, and related vehicle use levels in the southern portion of the ODSVRA. This project will increase recreational opportunities by developing new recreational facilities in the existing day-use area currently leased for interim agricultural use. Among other components, the project will add 100 drive-in campsites for tent camping, 20 cabins, and approximately 200 new RV campsites with the

potential for group use, and will potentially provide an OHV access route from the campground inland (away from the Oso Flaco Lakes) to the back dunes riding area.

Impacts to air quality from this development project include:

- a. OHV access trail. New OHV access and increased activity in the region will denude the existing vegetation and lead to exposed, disturbed sand that will become entrained in the atmosphere and affect air quality in the downwind communities, including communities in Santa Barbara County.
 - b. Additional vehicle traffic and impacts. Adding drive-in campsites and making other recreational improvements to the Oso Flaco area, including building new roads, the expansion of existing roads, and new parking areas and amenities, will increase vehicle-related air quality impacts, including vehicle idling and track-out at the campsites and new entrance area.
 - c. Campfires. Burning of wood material at the proposed campsites and group site areas has the potential to cause air quality impacts to the local community.
 - d. Generator engines. Recreational vehicles involve the use of backup generators, most of which are small and not subject to air quality regulations. These engines can be a significant source of air pollution.
3. **40 Acre Riding Trail Installation:** The 40-acre riding area installation would result in new OHV activity in an area currently devoid of activity. The new trail system would introduce motorized vehicle recreation to an area currently closed to motorized recreation due to its vulnerability to sand movement into Oso Flaco Lake. Establishing a sand highway at this location would require the clearing of protective vegetation and result in the denudation of any remaining vegetation. The exposed, disturbed sand in this area will become entrained in the atmosphere and affect air quality in the region. PM emissions associated with OHV activity contribute to exceedances of State and Federal air quality standards and result in public health impacts to communities that experience high concentrations of particulate matter.
4. **Discussion and Management of Plan's Effects to Santa Barbara County:** Despite all of the potential air quality impacts from proposed project components that are very well documented and have been outlined in prior correspondence, the PWP does not include any information related to project impacts to Santa Barbara County, including its air quality, roadways, services, and climate goals. There is no acknowledgement that the relocation and expansion of vehicular and OHV activities (including new campgrounds, OHV related facilities and new OHV access to the park near Oso Flaco Lake and at the Phillips 66 site) proposed under the PWP have the potential to exacerbate existing (and create new) air quality and public health concerns for Santa Barbara County. While the PWP recommends the development and implementation of best management practices to prevent dust and sand accumulation in the Grover Beach and Oceano communities, as well the implementation of a Sand Track Out project at the Pier and Grand avenues, the PWP does not recognize that the proposed shift in OHV activity and access from the northern to the southern region of the park will result in the very same impacts to Santa Barbara County communities. These impacts should be acknowledged, and the PWP should include a plan to address them so that air quality in Santa Barbara County communities is not degraded.
5. **Conflicting Information on Use Limits:** Section 3.6.4 discusses current use limits and includes proposed interim use capacity limits, to be used until a new carrying capacity study is completed, as: 1,000 street legal vehicles at both parks (Pismo State Beach and Oceano Dunes SVRA), 500 OHVs at ODSVRA, and 1,000 beach camping at Ocean Dunes. However, Sections 3.6.6.1 and 3.6.6.2 include conflicting use limits of 1,000 OHVs and 500 beach camping. This inconsistency should be addressed. Also, the PWP should define what "beach camping" means in terms of number of users and number of vehicles. Currently, it is unclear if the limits amount to number of sites, vehicles, or visitors.
6. **Definition and Analysis of Special Events:** Section 3 of the PWP should provide a description of how special events will be managed in the park so that potential impacts to the community, including air quality impacts, are minimized. Currently this section only includes a brief description of the types of

previously approved events in the park. While introductory sections of the plan mention the development of “special events protocols”, Section 3, “*The Plan*”, contains no mention of the development of protocols nor recommendations regarding the scope, management, and State Park’s permit process for special events. While the PWP states that special events will not exceed use limits, it appears that through the mechanism of a separate CDP issued by the California Coastal Commission, an event could propose an intensity of use beyond the current interim use limits provided in the existing CDP. Introductory sections of the plan refer to a recommendation to identify appropriate areas in the park for special events, where mitigation of potential impacts is feasible, thereby deferring special event management and analysis of potential impacts under CEQA to a future date. Special events, in particular OHV-related events, are of concern due to their potential for a dramatic increase in park visitation and OHV activity, leading to vehicle idling around entrance points, destruction of protective vegetation and dune management areas, and excessive particulate matter generation. Considering that the PWP’s stated purpose is to “[allow] for a comprehensive permit for large or multi-phase projects and examines future operations and management decisions holistically,” the PWP should be revised to define the maximum frequencies, attendance, and other parameters of special events. Also, any potential impacts related to these events should be analyzed in the Draft EIR.

Comments on the Draft Environmental Impact Report (DEIR)

1. **Inadequate Assessment of Air Quality and Transportation Impacts due to Omission of Santa Barbara County:** The air quality impact evaluation ignores the site-specific impacts of proposed project components and the regional effects that will result. Development projects such as the Oso Flaco Improvement Project, 40 Acre Riding Trail, and the Southern Entrance Project will result in new park visitation and OHV activity in the southern portion of the park. Of particular concern is the potential impacts of proposed project components to Santa Barbara County.

Specifically, I request the following revisions to the analysis:

- The EIR should include Santa Barbara County Air Pollution Control District and Santa Barbara County in the discussion of the proposed project’s Regulatory Setting and Environmental Setting.
 - The EIR should analyze the air quality impacts of the existing and proposed activities, including the pollutant emission levels and resulting pollutant concentrations, to Santa Barbara County and its residents. Air quality impacts include increases in criteria pollutants [e.g., ozone (O₃), nitrogen dioxide (NO₂), sulfur dioxide (SO₂), carbon monoxide (CO) and particulate matter (PM₁₀ and PM_{2.5})], greenhouse gases (GHGs), air toxics (e.g., diesel particulate matter (DPM), fugitive dust), and the resultant health effects of increases in air pollutants.
 - The EIR should analyze the potential change in transportation impacts, including vehicle miles traveled in Santa Barbara County, resulting from the addition of new project components and access routes to the proposed southern entrance of the park.
 - The EIR should identify the significance of these impacts and should include all feasible mitigation measures for any potentially significant impacts. The EIR should include a Mitigation Monitoring and Reporting Plan that explicitly states the required mitigation and establishes a mechanism for enforcement.
 - I share SBAPCD’s concerns that the proposed OHV activities have the potential to generate PM₁₀ emissions that will cause an exceedance of the federal 24-hour ambient air quality standard and will also jeopardize the region’s ability to attain the state PM₁₀ ambient air quality standard. An Air Quality Impact Analysis (AQIA) should be performed to determine whether the proposed project would violate any ambient air quality standards or contribute substantially to an existing or projected air quality violation. The results of the AQIA should be included in the EIR.
2. **CEQA Baseline:** The findings that the project results in less than significant air quality and greenhouse gas impacts is based on the assertion that the project results in no increase in mobile source or fugitive dust impacts because there is “no net increase” in park visitation, staffing, or related vehicle use levels.

However, this assertion is not supported by evidence. The CEQA Statute, CEQA Guidelines, and case law should inform how the CEQA baseline environmental conditions are determined for this project.²

It is clear that the PWP development projects, such as the Oso Flaco Improvements and 40-acre riding area, will result in new park visitation, staffing, OHV use, and trip generation in the respective areas of the park and elsewhere in the region. The EIR appears to address this potential increase by arguing that the *interim* use limits proposed for the park as part of the PWP are lower than the current maximum permitted use limits. Therefore, State Parks is using the current maximum permitted use limits as the baseline for analysis, and treating any additional mobile source and fugitive dust emissions from increased park activity within previously permitted levels as part of the baseline measurement for environmental review, rather than as part of the proposed project. Statements on page 11-9 – 11-10 affirm this approach by maintaining that, “*Implementation of the park management programs and plans under the proposed PWP would not result in a net increase in GHG emissions... Park facilities and grounds maintenance activities, as well as the majority of the other programs and plans, under the proposed PWP have been occurring and presently occur in the PWP area, and, therefore, are considered part of the baseline conditions for this analysis...*”

The EIR’s current approach to impact analysis is inconsistent with basic CEQA principles. CEQA requires that baseline activity be based on actual activity levels under current operating conditions, not hypothetical maximum permitted levels that could or should have been present.³ In addition, CEQA requires proposed project activity to be based on the reasonable worst-case activity levels. The EIR’s air quality impact analysis is not consistent with these requirements.

First, the baseline from which impacts are being measured is the maximum permitted use limits at the park, not the actual activity levels currently experienced at the park. Page 3-75 of the PWP acknowledges that “*An analysis of visitation over the last ten years showed that, with the exception of holidays and summer weekends, on average only 25% of the street-legal vehicle limit, 10% of the OHV limit, and 45% of the camping limit are reached daily.*” Section 3 of the Draft EIR defines the project’s environmental setting as “*the physical environmental conditions of the PWP planning area as they existed at the time of publication of the Notice of Preparation (NOP).*” Therefore, actual usage levels reflecting existing conditions should have been defined and used in the comparison of proposed project impacts to significance thresholds.

Second, impacts from the proposed project are entirely undefined except for the reliance on the PWP’s interim use levels. However, these interim use limits presented in the PWP are subject to revision upon completion of an updated carrying capacity study and are likely to change and even increase. Therefore, it is unclear how any assessment of proposed project impacts could be based on the PWP’s interim use limits. Instead, State Parks should define the reasonable worst-case daily and annual park activity based on the proposed project components and use this data to determine the incremental impact of the proposed project.

In summary, the EIR’s assertion that there is “no net increase” in long-term operational activity in the ODSRVA is not supported with evidence. The EIR should be revised and should include substantial evidence to support findings for the significance of air quality and climate change impacts. The EIR’s impact analysis should be revised consistent with proper methodology for impact determination. Specifically, to determine the incremental impact of the proposed project as defined in the PWP, the EIR should disclose baseline emission estimates from current ODSRVA activities (using actual usage rates reflecting the existing environmental setting) and proposed project emission estimates (based on a reasonable worst-case scenario). The EIR should then identify the significance of these impacts by comparing the incremental impact of the project to thresholds of significance. All feasible mitigation measures for any potentially significant air quality or climate change impacts should be applied.

3. **Insufficient Support for Conclusions Regarding Riding Area in the Park:** Page 6-17 states that “... *site-specific improvement projects would not result in changes to park visitation or vehicle use levels. While Development Projects including the initial and future Oso Flaco Improvement Project could affect*

² CEQA Guidelines Section 15125(a), Section 15125(a)(1)-(a)(3).

³ *Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Cal.4th 310.

where in the Park visitors recreate and the distribution of staff to serve Park maintenance and operations (based on new maintenance facilities at the southern end of the Park at Oso Flaco), the available riding area is not changing and there is no data to suggest that the Development Projects would result in a tangible change in areas used for recreational purpose.” It is unclear how the EIR arrived at these conclusions when it is clear that the southern region of the park would experience new park services, amenities, and uses (including new OHV riding areas) that do not currently exist. Indeed, there is no data to suggest that the Development Projects would not “result in a tangible change in areas used for recreational purpose.” Additional data and explanation should be provided to support the statements made in the EIR.

4. **Interim Use Limits Used in Determination of Impacts:** The PWP proposes lower use limits for beach camping, street-legal day-use, and OHV day-use than the current permitted use limits. Specifically, the project proposes to implement an interim reduction in year-round use limits from 2,580 street-legal vehicles, 1,000 street-legal vehicles for camping, and 1,720 OHVs to 1,000 street-legal vehicles, 500 street-legal vehicles for camping, and 1,000 OHVs per day until such time that an updated carrying capacity study is conducted. With the acknowledgement that the interim limits are subject to revision upon completion of an updated carrying capacity study, it is unclear how long-term conclusions can be made in the impact analysis, based on these temporary “interim” use levels. State Parks should consider whether it is appropriate to base impact determinations on interim use limits that are expected to change within the project life. In addition, the EIR should clarify whether it is feasible that final use limits determined by the carrying capacity study could result in higher use levels than current, baseline use levels.
5. **Deferral of Environmental Analysis of the Phillips 66 Southern Entrance Project:** The Executive Summary describes the PWP as a plan that “...allows for a comprehensive permit for larger or multi-phase projects and examines future operations and management decisions holistically” (ES-1). Despite providing a detailed project description of the Phillips 66 Southern Entrance Project in the PWP, the Draft EIR defers the environmental analysis of this development project, citing a lack of information on construction requirements and future operations as the reason for deferment.

State Parks should consider whether the Phillips 66 Southern Entrance Project is part of a single project under CEQA and subject to environmental analysis in the PWP Draft EIR. As defined by CEQA Guidelines Section 15378(a), a “‘Project’ means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” In addition, as held in *Laurel Heights Improvement Association v. Regents of the University of California* (1988), related actions to a proposed project must be included in the CEQA document when they are reasonably foreseeable with exception for actions that are remote and speculative.

Pages 3-53 through 3-59 of the PWP describe the Phillips 66 Southern Entrance Project and includes its location and project components with specific details. The following project components are identified:

- A paved parking lot spanning six acres,
- 25 acres of staging areas for OHVs,
- A 33-acre pro track to accommodate... motocross, ATV practice, and quarter midget riding,
- A 15-acre multi-use special events area that could include lighting and a mile-long track,
- Approximately 1.25 acres for a Ranger Station/District Office near the main entrance that could include covered parking for 25 staff, 12 fleet vehicles, and four ATVs,
- Approximately 2.75 acres for natural resources management needs, including greenhouses and covered parking for an additional 22 staff, four ATV, and six resource vehicles,
- Approximately 3.5 acres for up to four residences (new or moved from the Corporation Yard) and one dormitory-style staff housing unit,
- 225 RV campsites including accessible sites, and
- A minimum of six group campsites of various sizes to accommodate groups from 10 to 50 people.

In addition to the robust project description, the proposed PWP describes an intent to proceed with the development of the project if acquisition rights are obtained during the life of the PWP. Therefore, while the property acquisition is speculative at present day, provided such acquisition, the development of the Phillips 66/ Southern Entrance Project is reasonably foreseeable given its inclusion in the PWP and the stated goal of the PWP to *“Identify and construct a new, year-round entrance in the southern portion of the park (Page ES-9)”* and *“increase recreational opportunities in the southern portion of Oceano Dunes SVRA (The Plan Page 3-9).”* Furthermore, the potential effects of development of the project are ascertainable and could be discussed in similar detail as any of the other project components described in the PWP and analyzed in the Draft EIR. Therefore, State Parks should consider whether the deferment of analysis of this project’s environmental effects is appropriate, given CEQA’s mandate to analyze the whole of an action.

If State Parks decides to revise the EIR to include analysis of the Phillips 66/Southern Entrance Project, all potential air quality impacts including health risk, climate change, and transportation impacts from the construction and operation of the development project should be quantified and disclosed. Potential sources of criteria pollutant, toxic air containment, and greenhouse gas emissions include, but are not limited to: soil remediation activities; vehicle activity associated with park visitors and staff, onsite riding areas, tracks, event centers, etc.; other area sources; stationary source equipment (e.g., diesel generators, large boilers); indirect electricity usage associated with building and facility operations; and, indirect emissions associated with water use and waste generation. If impacts are found to be significant, mitigation should be applied to reduce those impacts as appropriate under CEQA. The EIR should include a Mitigation Monitoring and Reporting Plan that explicitly states the required mitigation and establishes a mechanism for enforcement.



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March 16, 2021

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Subject: Notice of Availability of Draft Environmental Impact Report (EIR) for the California State Parks Pismo State Beach and Oceano Dunes State Vehicular Recreation Area (SVRA) Public Works Plan (PWP), SCH No. 2018051017

Dear Mr. Quintero:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a Draft EIR for the California Department of Parks and Recreation (CDPR) Pismo State Beach and Oceano Dunes SVRA PWP (Project).

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDPR prepared the Draft PWP and associated Draft EIR for Pismo State Beach (PSB) and Oceano Dunes SVRA (ODSVRA) (the Park) for compliance with the California Coastal Act. The PWP describes specific Development Projects requiring approval under the Coastal Act and identifies other Park management programs and plans. The PWP includes existing, proposed, and potential future activities for the Park. Detailed descriptions of PWP goals, guiding principles, and objectives, proposed large-scale development projects and small development projects, and other Park management programs and plans are included in the Draft PWP. The Draft PWP also includes a section on managing use limits, a detailed consistency analysis with local coastal programs and the California Coastal Act, and provides details on PWP implementation.

The PWP is intended to serve as CDPR's long-range land use management plan for the Project and will be submitted to the California Coastal Commission (CCC) in compliance with the California Coastal Act. The primary goal of the PWP is to facilitate a balance between the allowance of vehicular and off-highway vehicle (OHV) use and protection

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of natural resources while complying with the Coastal Act. To meet this goal, CDPR has engaged with the United States Fish and Wildlife Service (USFWS) to draft a Habitat Conservation Plan (HCP) to ensure that management, maintenance, and development activities protect federally threatened and endangered species consistent with the Federal Endangered Species Act (FESA). CDFW is aware that the HCP remains in draft form and, therefore, may be subject to extensive change as the USFWS addresses the comments received during the recently closed public comment period (December 2020).

Further, the California Natural Resources Agency asked CDFW to develop a "Biodiversity Management Plan (BMP)" for ODSVRA as well as portions of Pismo State Beach. CDPR offered input during CDFW's preparation of the BMP, which was finalized and submitted to the CCC on February 3, 2021. The purpose of the BMP was to memorialize a set of CDFW recommendations concerning biological resources related to OHV use in the ODSVRA, as well as the portion of PSB south of Grand Avenue (BMP Area). Sand ramps at Grand and Pier Avenues currently provide the only vehicular access to ODSVRA (requires the driving of street legal vehicles on Pismo State Beach). The BMP contains added specificity and relies on more current information concerning several of the biological resource concerns on which CDFW has commented previously to CDPR, including but not limited to comments on the draft HCP and related Draft EIR and Environmental Assessment (June 2020 and December 2020 respectively).

With respect to Project-related impacts to special status biological resources, it appears that both the PWP and associated Draft EIR rely on the avoidance and minimization measures (AMMs) as described in the draft HCP, as well as continued implementation of standard practices already in place, both for ongoing actions as well for as new or expanded recreational use. While the PWP references the BMP, it does not directly incorporate or reference any of the BMP's recommendations to minimize and avoid impacts to special status biological resources. Furthermore, the Draft EIR relies exclusively on current practices and draft HCP AMMs as the basis for determining that all impacts to biological resources will be reduced to less than significant when implementing actions as described in the PWP; the BMP recommendations do not appear to be considered in the EIRs significance determination nor added to the required mitigation measures.

CDFW does not concur with this CEQA significance conclusion absent inclusion of the avoidance and minimization measures in the BMP. CDFW has a long-standing history of specifying concerns and related recommendations to CDPR regarding ODSVRA OHV related impacts to State threatened, endangered, and fully protected species. These include the State threatened and federally endangered Gambel's watercress (*Nasturtium gambelii*) and marsh sandwort (*Arenaria paludicola*); the State threatened surf thistle (*Cirsium rothophilum*) and beach spectaclepod (*Dithyrea maritima*); the State fully protected and State-listed endangered California least tern (*Sternula*

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antillarum browni); and the State-listed fully protected brown pelican (*Pelecanus occidentalis californicus*), white-tailed kite (*Elanus leucurus*), and American peregrine falcon (*Falco peregrines* ssp. *anatum*). Three of these species (Nipomo Mesa lupine, marsh sandwort, and Gambel's watercress) are exceptionally rare, with the populations on ODSVRA and immediately adjacent lands being one of only two remaining populations that remain in the State.

In relying solely on the draft HCP AMMs and the continued implementation of existing standard practices, CDFW continues to have concerns that current and planned activities as described in the PWP have and may continue to cause take (as defined under Fish and Game Code section 86) of State-listed and fully protected species based on the level of take as described and specifically authorized in the Draft HCP. CDPR does not currently have take authorization in the form of an Incidental Take Permit (ITP) pursuant to Fish and Game Code section 2081(b) for State-listed plants, nor has CDPR completed a Natural Communities Conservation Plan (NCCP) pursuant to Fish and Game Code section 2800 *et seq.* securing approval and take authorization for the State fully protected species and State-listed plants. CDFW has repeatedly cautioned CDPR that absent take authorization through the acquisition of an ITP or the completion and approval of the NCCP, as described above, implementation of activities authorized in the PWP may result in continuous and ongoing violations of Fish and Game Code sections 86, 3503, 3503.5, and 3511. The avoidance measures and other recommendations that CDFW has outlined in the BMP are specifically designed to avoid such take. Absent the specific adoption of the BMP measures as AMMs in the PWP and Draft EIR as interim measures to be exclusively implemented until and when CDPR secures State take authorization, CDFW does not agree with the conclusion in the Draft EIR that the impacts to biological resources during the implementation of the projects described in the PWP are reduced to less than significant.

Based on the level of take as described and authorized in the Draft HCP for State-listed plants and State fully protected species, CDFW recommends the CDPR revise the PWP and Draft EIR to include the BMP recommendations as measurable and enforceable AMMs and conditions of approval for the interim period until a NCCP has been approved by CDFW and take authorization pursuant to Fish and Game Code section 2835 has been obtained from CDFW. In the approval of an NCCP and the authorization of the taking of species listed in the NCCP, including but not limited to the State fully protected species and State-listed plants, the requirements for the approval of the NCCP must be met in accordance with Fish and Game Code sections 2820 and 2821. This includes the integration of specific conservation measures to meet the biological needs of species, protection of habitat through the creation and permanent protection of habitat reserves, and funding for perpetual adaptive management. Based on the level of take authorized in the Draft HCP, CDFW previously indicated that the Draft HCP mitigation measures, specifically the lack of compensatory mitigation, may not be sufficient for CDFW to provide approval of an NCCP; additional minimization and mitigation measures beyond those included in the Draft HCP would likely be required

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and may warrant discussion in a revised PWP and associated California Environmental Quality Act (CEQA) analysis.

As the PWP states, the BMP contains more detail, including more current information, concerning several of the same comments and recommendations that CDFW presents below. CDFW is recommending that the PWP and Draft EIR be revised to include the specific recommendations in the BMP, particularly in those areas that pertain to:

- Impacts to and take of State fully protected and other special status birds during breeding, nesting, fledging, foraging, and overwintering;
- Impact assessment of night OHV use;
- Impacts from sea level rise;
- Impacts to and take of State-listed plants; and
- Ongoing impacts to Arroyo Grande Creek and associated biological resources.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.)

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related take authorization as provided by the Fish and Game Code will be required.

In this role, CDFW is responsible for providing, as available, biological expertise during public agency environmental review efforts (i.e., CEQA), focusing specifically on project activities that have the potential to adversely affect fish and wildlife resources. CDFW provides recommendations to identify potential impacts and possible measures to avoid or reduce those impacts.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, eggs and nests include, sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any

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bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). CDFW encourages Project implementation occur during the bird non-nesting season. However, if ground-disturbing activities must occur during the breeding season (February through mid-September), the Project applicant(s) is/are responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes.

Fully Protected Species: CDFW has jurisdiction over fully protected species of birds, mammals, amphibians, reptiles, and fish, pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Take of any fully protected species is prohibited, and CDFW cannot authorize their take in association with a general project except under the provisions of a Natural Communities Conservation Plan (NCCP), Fish and Game Code section 2081.7, or a Memorandum of Understanding for scientific purposes.

Lake and Streambed Alteration: CDFW has regulatory authority with regard to activities occurring in streams and/or lakes that could adversely affect any fish or wildlife resource, pursuant to Fish and Game Code sections 1600 *et seq.* Section 1602(a) of the Fish and Game Code requires an entity to notify CDFW before engaging in activities that would substantially change the bed, channel, or bank of a stream or substantially divert or obstruct the natural flow of a stream.

Water Pollution: Pursuant to Fish and Game Code Section 5650, it is unlawful to deposit in, permit to pass into, or place where it can pass into "Waters of the State" any substance or material deleterious to fish, plant life, or bird life, including non-native species. The Regional Water Quality Control Board and United States Army Corps of Engineers also have jurisdiction regarding discharge and pollution to Waters of the State.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist CDPR in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources as presented in the Draft PWP and Draft EIR.

Fully Protected and Nesting Bird Impacts: CDFW has jurisdiction over fully protected species of birds, mammals, amphibians, reptiles, and fish, pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Take of any fully protected species is *prohibited*, and CDFW cannot authorize their take in association with a general project except under the provisions of an NCCP or a Memorandum of Understanding for scientific purposes. The PWP project area is not currently within an approved NCCP area and a development project is not considered a scientific purpose. The fully protected California least tern, brown pelican, white-tailed kite, and American

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peregrine falcon are known to occur, nest, and forage within the PWP Project area. This status, and the absence of an NCCP for the Project, precludes CDFW from authorizing any amount of incidental take for fully protected species.

The BMP contains specific recommended measures to reduce the risk of take and impacts to state fully protected and other birds including California least tern, brown pelican, and western snowy plover (*Charadrius nivosus nivosus*) from beach grooming, mechanical trash removal, use of un-manned aerial vehicles, disturbance to nesting birds from OHV use and human encroachment of nests established both within and outside of the protective enclosure areas, and the hazing of chicks back into the protected nesting enclosure areas to prevent vehicle strikes or other human impacts. Additional impacts may also occur from nest overcrowding in the remaining protected areas, outcompetition of available nesting space within the remaining enclosures, and failure to breed and/or reduced fitness. The "6 Enclosure" alone is the location where up to 80% of the California least tern population nests on an annual basis. In addition, by allowing PWP activities to encroach within closer proximity to the remaining areas of protected habitat, the quality of the remaining protected habitat may be reduced. California least tern and brown pelican are State fully protected species. As CDFW has previously advised, these activities will have a significant impact on these populations and their long-term reproductive success, including direct take of these species. The Draft EIR avoidance, minimization, and mitigation measures are exclusively derived from the AMMs in the Draft HCP and current practices, both of which contemplate, assume, and allow for take of fully protected bird species.

CDFW advises the PWP and Draft EIR be revised to include the BMP recommendations to reduce impacts to nesting, overwintering, and foraging fully protected and other shorebirds as measurable and enforceable AMMs and conditions of approval for the interim period until an NCCP has been approved by CDFW and take authorization pursuant to Fish and Game Code section 2835 has been obtained from CDFW. This include, but is not limited to, significantly increasing the buffer zones for nesting California least tern and western snowy plover as follows:

- For any western snowy plover nest outside the main seasonal enclosure or outside the 48-acre foredune area, a buffer of not less than 150 meters be implemented from March 1 to July 15. The enclosure will be increased in the event of mortality, injury, hazing, or disturbance;
- For California least tern, the main enclosure are fencing area be expanded to provide a no disturbance buffer of 300 meters; and
- The closure of the area between the newly established 48-acre foredune area and the ocean (e.g., shoreline) when nests are present.

Night Vehicle Use: The PWP and Draft EIR allows for unrestricted access for both street legal and off highway vehicle use within the Park area. There is extensive scientific literature on noise and light impacts on wildlife in general and on birds

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specifically that demonstrates disruption to foraging, roosting, and nesting behavior. CDFW has expressed concerns that CDPR presumes that these impacts would be uncommon and insignificant and that this presumption is based in part on a non-breeding season night impacts study (Mad River Biologists 2005) that was conducted in the winter of 2004-2005. In its review of the study, CDFW believes there were issues with study design and that the study results were inconclusive. Specifically, the study was designed to look at the reactions of wintering shorebirds to vehicles, including vehicles operating at night, and measured these reactions based upon flushing distances from approaching vehicles. The issues associated with the study design include but are not limited to: (1) using daytime driving as a control; (2) the study was conducted during winter so that impacts to nesting birds were not assessed; (3) the effects of night driving were based upon bird reactions to the researcher's vehicle and not vehicles operated by the public; (4) use of spotlights, which are known to cause birds to flush at greater distances, were used to detect birds at night thereby biasing flushing distances; and (5) shorebirds did not react at all to approaching vehicles (12% of encounters at night) or at times reactions could not be observed since the birds were too close (<3 meters) for behavior to be observed (Mad River Biologists 2005). These shortcomings were acknowledged in the night study report which noted in the conclusion that "the prolonged effect that chronic vehicle disturbance may have on the energetics of roosting and foraging shorebirds should not be overlooked."

The BMP recommends that a peer reviewed, multi-year academic study of this issue be funded by CDPR, and that during the duration of at least a portion (half) of the study that OHV access along the foredunes and surf zone south of Post 4.5 be prohibited after sunset to allow for a study with a true study control, rather than conducting a study with the potential impactful activity occurring throughout the study. In the event that this study demonstrates that night OHV activities result in any of the following: 1) statistically significant reductions to avian spatial and/or temporal use patterns; 2) statistically significant reductions to nesting and/or nesting success; 3) statistically significant reductions in foraging times or areas; or 4) statistically significant reductions to overall individual numbers of special status avian species, CDFW recommends additional access prohibitions be implemented after consultation with CDFW and that such prohibitions be part of the PWP.

Sea Level Rise: Western snowy plover nest failure due to tidal and storm events has been regularly documented over the past 10 years at ODSVRA. Sea level rise due to climate change has the potential to increase nest failures and to further reduce nesting, overwintering, and foraging habitat for fully protected, listed, and special status shorebirds. CDFW recommends that the Draft EIR include enforceable measures to ensure that the quantity and quality of nesting habitat are not reduced and that CDPR collaborate on studies to address this need. These studies will be used to inform future shorebird nesting plans which may include expanding the seasonal exclosures further inland to reduce the significant impacts of sea level rise.

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Special Status Plant Species: The PWP and Draft EIR acknowledges the potential for several special status plant species to be impacted by operations and maintenance activities including but not limited to mechanical trash removal, fence installation and removal, and newly proposed activities including the planned development of a southern entrance into the Park. In particular, the draft EIR describes impacts to plant species that are both State and federally listed as threatened and endangered. The draft EIR suggests that while impacts to these and other plant species could occur, the impacts are less than significant due to limited areas of potentially suitable habitat.

CDFW recommends that all areas with potentially suitable habitat be surveyed for special status plants by a qualified botanist following the "Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities" (CDFW 2018) prior to initiating any activities that could result in disturbance to the habitat.

CDFW also advises special status plant species be avoided by implementing a minimum 50-foot no-disturbance buffer around the outer edge of plant population(s) or specific habitat type(s) that support special status plant species observed in the Project site. CDFW recommends the 50-foot no-disturbance buffer include indirect impacts such as excessive dust, excessive runoff, or other disturbances that may not result from direct ground-disturbance but could also impact habitat quality habitat. If buffers cannot be maintained, then consultation with CDFW is warranted to determine appropriate minimization and mitigation measures for impacts to special status plant species, or in the case of plant species listed pursuant to CESA or the Native Plant Protection Act, to determine if take can be avoided.

As stated above, if a plant species listed pursuant to CESA or the Native Plant Protection Act is identified during botanical surveys, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization prior to any ground-disturbing activities would be warranted. Take authorization would occur through issuance of an ITP by CDFW, pursuant to Fish and Game Code section 2081(b) or through the approval of an NCCP pursuant to Fish and Game Code section 2800 *et seq.* As stated previously, given the extreme rarity of some of these plant species, including but not limited to Nipomo Mesa lupine, it could be challenging for CDPR to meet CESA ITP issuance criteria if take could not be avoided. This is especially critical when evaluating the feasibility of the potential routes for allowing southern access to the Park and for access from the newly proposed campground to the riding area.

CDFW recommends that the above measures and BMP recommendations be incorporated into the Draft EIR as enforceable actions prior to approval of the PWP.

Arroyo Grande Creek and Stream Fisheries: The PWP project area supports two special status freshwater fish species, the Federally Threatened steelhead

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(*Oncorhynchus mykiss irideus*), South-Central California Coast Distinct Population Segment, and the Federally Endangered tidewater goby (*Eucyclogobius newberryi*). Both species inhabit Arroyo Grande Creek and/or the Arroyo Grande Creek lagoon during their freshwater life stages, and Arroyo Grande Creek has been identified by the National Oceanic and Atmospheric Administration (NOAA)/National Marine Fisheries Service (NMFS) as critical habitat for the recovery of South-Central steelhead. While both steelhead and tidewater goby primarily inhabit portions of Arroyo Grande Creek within and upstream of the lagoon, a contiguous undisturbed stream from the ocean to the lagoon is important for immigration and emigration. However, vehicle access to the camping and off highway vehicle riding areas can currently only occur from either the Grand Avenue or Pier Avenue Ramps. These two ramps are located north of Arroyo Grande Creek, and the ODSVRA is south of Arroyo Grande Creek. These two access points require that vehicles cross Arroyo Grande Creek when it is flowing, which generally occurs during the winter and spring seasons. When the lagoon mouth is typically closed (summer/fall), vehicles traverse the same path but do not contact the stream/lagoon environment since the stream is no longer flowing across the beach. It is noteworthy that in wet years, the creek can run across the sand year-round. The area of stream vehicle crossing, while the stream is flowing, is characterized as sandy beach, adjacent to the Pacific Ocean, varying in width from approximately 50 feet to several hundred feet wide, depending on tidal conditions. In this location, also referred to as the creek mouth, stream conditions also vary depending on stream flow, which can vary from several thousand cubic feet per second during high flow periods in the winter and spring, to no outflow to the ocean during the summer and fall.

As stated previously, there is no prohibition on night driving throughout the beach and dune areas, including through Arroyo Grande Creek while flowing. Egress and ingress from the ODSVRA are currently allowed 24 hours a day. This means that any trip from the campground into town for groceries, meals, or supplies after dusk would be crossing the stream at least twice during dark conditions. In addition, the entrance stations at Pier and Grand Avenue ramps are not manned by CDPR staff after 10 PM and access is not precluded.

Vehicles traversing the stream while it is flowing is a concern; fish migration timing is thought to primarily occur during high flows and during hours of darkness (NMFS 2013), making vehicle crossings of the flowing stream during the winter/early spring night hours a particular concern. In addition, fish may be impacted by artificial lighting associated with vehicles (Becker et al. 2013) as well as noise (Kunc et al. 2016); this could disrupt migration patterns, including increasing offshore or lagoon holding times. Mortality of steelhead directly impacted by vehicle crossings and off highway vehicle activities is a concern. However, detection of carcasses of any life stage, if present, would be difficult to detect for the following reasons: 1) the aquatic nature of the organism makes the finding of dead specimens unlikely (rapid decomposition); 2) ongoing potential for natural predation and scavenging by wading shorebirds and other wildlife; 3) presence

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in generally low numbers; and 4) the species occurs in habitats that make it difficult to detect (surf zone, high stream flows, etc.).

Indirect impacts may occur from vehicles crossing the Arroyo Grande Creek that are leaking oil or other toxic fluids into the water. These impacts can greatly increase if a vehicle becomes stranded in the creek. Small amounts of oil or other vehicle fluids leaking into the creek mouth from a limited number of vehicles are generally diluted very quickly when the contaminated water enters the ocean. However, large amounts of fluids, either by a large quantity from one vehicle or small quantities from many vehicles during very low flows, could negatively impact water quality in the creek thus indirectly impacting any steelhead that may be present (CDPR 2008). In addition, a recent study has linked leachates from vehicle tires directly to acute mortality in coho salmon and other salmonids (Tian and Zhao et al., 2020). While all vehicle-related contaminants may quickly become diluted in the stream environment by high flows or the ocean influence, this still means that brake dust, oil, and other pollutants that are typically present on the underside of vehicles are being introduced to the ocean environment with each vehicle crossing. Given that on busy weekends/holidays this previously resulted in around 3,000 vehicles crossing the stream (making a minimum of 6,000 stream crossings per day), this remains a significant concern.

CDFW recommends that the following four additional measures be incorporated in the PWP and EIR to minimize vehicular related impacts to Arroyo Grande Creek and its lagoon:

- 1) Close the stream crossing entirely to vehicles based on a hydrologic trigger (with a public health and safety exception) that is a depth metric of the stream's flow level. CDFW recognizes the potential impact to the ODSVRA because it would affect vehicle access to the SVRA. However, this measure is grounded in a real-time, adaptive management technique to implement protections based on actual hydrologic conditions and would be most protective of ocean water quality, migrating and out-migrating steelhead, and dispersing tidewater goby.
- 2) Construction of a mobile stream crossing structure and require that all vehicles utilize the structure(s) for all vehicle creek crossing events when the stream is actively flowing across the beach during the steelhead migration and outmigration season (December through April). Designing, constructing, and deploying such a mobile stream crossing structure could replace the depth-criteria closure trigger as part of a longer-term adaptive management program. This structure(s) should be utilized during both the daytime and night time hours by all vehicles and would likely require CDPR enforcement and monitoring of this closure. This type of structure was studied in a CDPR 2006 "Alternative Access Study." This measure would be protective of migrating fish and would prevent pollutants from being washed off of vehicles into the ocean.

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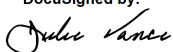
- 3) Increase use of technology for outreach on stream crossing through design and utilization of the CDPR reservation e-system. This increased outreach can facilitate greater advance notice to campers and recreationalists when a depth criteria will be trigger a prohibition on vehicles crossing the stream.
- 4) Develop and implement a study to gather site specific information and foster adaptive management concerning these measures and long-term impacts of vehicle crossings on the stream and species.

CONCLUSION

CDFW appreciates the opportunity to comment on the Draft PWP and Draft EIR to assist the CDPR in identifying and mitigating Project impacts to biological resources. Due to the issues presented in this letter, CDFW is concerned that the Draft EIR does not adequately identify or mitigate the Project's significant, or potentially significant, impacts on biological resources. Further, absent take authorization through the completion and approval of the NCCP as described above, implementation of activities authorized in the PWP and Draft EIR may result in ongoing violations of Fish and Game Code Sections 86, 3503, 3503.5, and 3511. As mentioned above, CDFW's BMP contains many of same comments and recommendations as presented here, but with refinements based on more current information that was not presented in the Draft EIR. While CDFW acknowledges that CDPR has recently instituted discussions with CDFW regarding development of a NCCP, CDFW remains concerned that ongoing and proposed PWP activities could potentially result in take of any fully protected species until a NCCP has been approved by CDFW and take authorization pursuant to Fish and Game Code section 2835 has been obtained from CDFW. In the approval of an NCCP and the authorization of the taking of species listed in the NCCP, the requirements for the approval of the NCCP must be met in accordance with Fish and Game Code sections 2820 and 2821. Therefore, CDFW is advising the Draft EIR incorporate the avoidance and minimization measures included within the BMP and discussed in detail above.

Questions regarding this letter or further coordination should be directed to Annee Ferranti, Environmental Program Manager, at the address provided on this letterhead, by telephone at (559) 243-4005, extension 141, or by electronic email at Annee.Ferranti@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

ec: See Page Twelve

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Air Pollution Control District
San Luis Obispo County

March 15, 2020

Steve Padilla, Chair
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060

SUBJECT: March 18th California Coastal Commission Meeting, Agenda Item Th3:
Oceano Dunes Coastal Development Permit 4-82-300 Review

Dear Chair Padilla and Commissioners:

The San Luis Obispo County Air Pollution Control District has reviewed the staff report for Item Th3 of the agenda for the Commission's March 18th Special Meeting "Oceano Dunes Coastal Development Permit 4-82-300 Review." As detailed in our comments (attached), the District concurs with the report's analysis of air quality issues related to the Oceano Dunes State Vehicular Recreation Area and supports staff-recommended changes to Coastal Development Permit 4-82-300 that are related to air quality. In addition, the District views Special Condition 3c ("Dune Restoration") as crucial for facilitating the dust controls that are needed to protect public health—especially in the near-term—and we urge the Commission to approve this condition at the March 18th hearing, even if it defers action on the other staff recommendations to a future meeting.

Please do not hesitate to contact me with any questions.

Respectfully,

A handwritten signature in black ink, appearing to read "Karl A. Tupper".

Karl A. Tupper
Senior Air Quality Scientist
San Luis Obispo County Air Pollution Control District
ktupper@co.slo.ca.us / (805) 781-5912

Enclosures

Attachment: San Luis Obispo County Air Pollution Control District Comments on the Coastal Commission Staff Report and Recommendation for the Oceano Dunes Coastal Development Permit 4-82-300 Review

Summary

The San Luis Obispo County Air Pollution Control District (“District” or “APCD”) has reviewed the staff report for Item Th3 of the agenda for the Commission’s March 18th Special Meeting “Oceano Dunes Coastal Development Permit 4-82-300 Review.” **The District concurs with the report’s analysis of air quality issues related to the Oceano Dunes State Vehicular Recreation Area (“ODSVRA”) and supports staff-recommended changes to Coastal Development Permit (“CDP”) 4-82-300 that are related to air quality.** In addition, the District views Special Condition 3c (“Dune Restoration”) as crucial for facilitating the dust controls that are needed to protect public health—especially in the near-term—and we urge the Commission to approve this condition at the March 18th hearing, even if it defers action on the other staff recommendations to a future meeting.

Relatedly, the draft Public Works Plan (“PWP”) for the ODSVRA and associated Draft Environment Impact Report (“DEIR”) released by the California Department of Parks and Recreation (“Parks”) on December 31, 2020, need to include methods to ensure that PWP projects will not interfere with obtaining particulate matter ambient air quality standards. As currently proposed, the PWP does not adequately address compliance with District Rule 1001 or with Parks’ obligation to reduce emissions under Stipulated Order of Abatement in Case 17-01 (“SOA”). These concerns are addressed in a separate comment letter to Parks, a copy of which will be forwarded to Commission staff.

Background

Windblown dust from the ODSVRA remains the predominant air quality challenge affecting southern San Luis Obispo County. Every year it causes dozens of exceedances of the state PM₁₀ standard on the Nipomo Mesa, downwind of the ODSVRA.¹ Several times a year the area’s NowCast Air Quality Index—a short-term measure of air quality reported on the EPA’s official AirNow.gov website²—is among the worst in the Nation; a recent example is shown in Figure 1, below.

¹ “Annual Air Quality Report for 2019,” SLOAPCD, November 2020. Available online at <https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/2019aqrt-FINAL.pdf>.

² “National Maps | AirNow.Gov,” EPA and partners. Available online at <https://www.airnow.gov/national-maps/>.

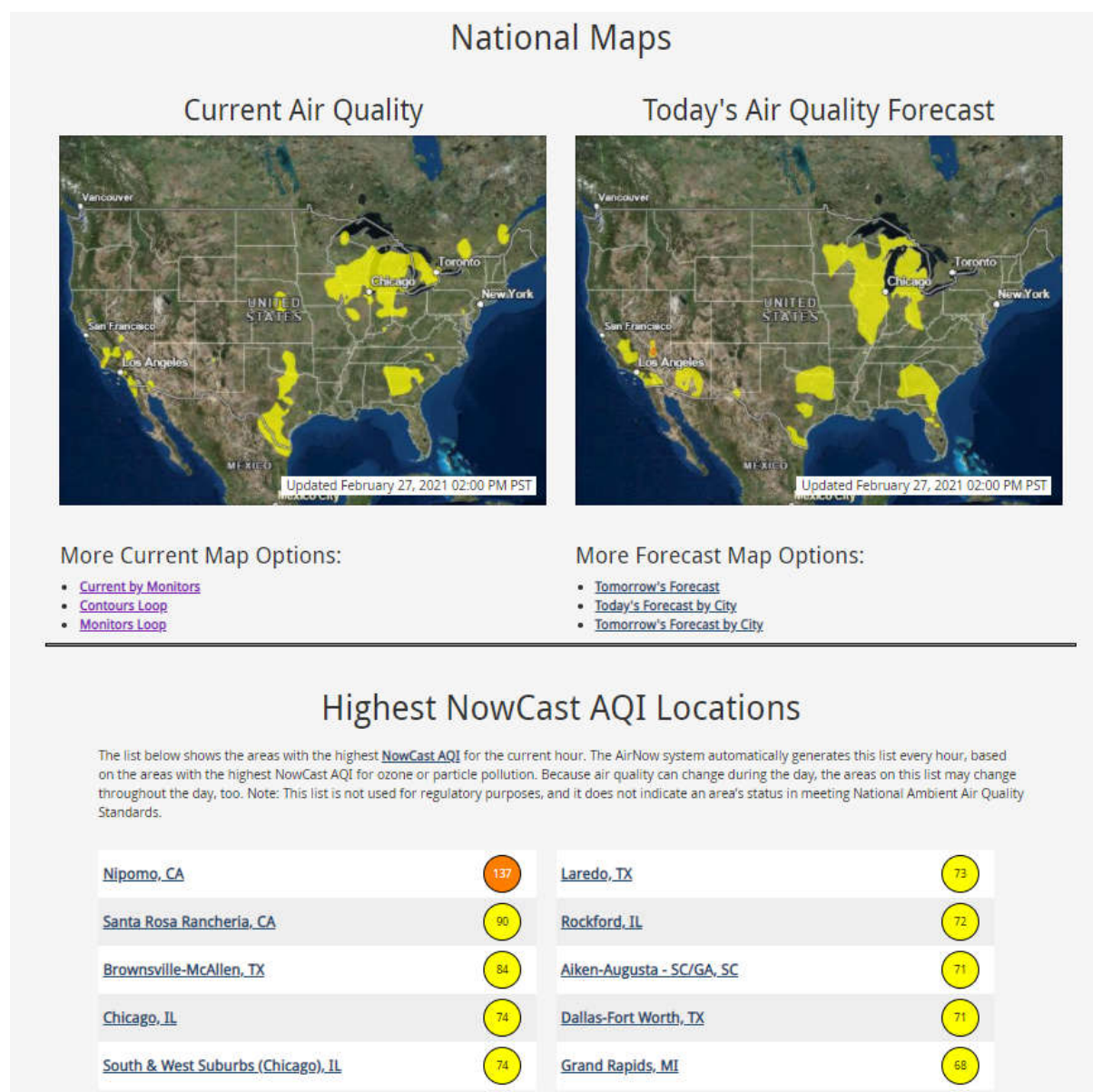


Figure 1: Screenshot of www.airnow.gov from 3 pm Pacific Time on February 27, 2021, showing Nipomo, CA, with the highest AQI in the Nation.

The vicinity of the ODSVRA is prone to strong onshore winds, particularly in the spring and fall. Because of the long history and continued use of motor vehicles within the present-day ODSVRA, the open sand sheets within the park are much more emissive of PM₁₀ under these conditions than they would be otherwise. This has been extensively documented in studies by the District and others.³

³ See for example: (a) "Particulates Air Pollution in the Oceano Dunes – Nipomo Mesa Area: What Have We Learned," SLOAPCD, September 2016. Available online at <https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/ODSVRA%20Air%20Quality%20Studies%20-%20APCD%20Summary%20-%20Sept%202016.pdf>. (b) "Response to Comments on the May 1st Workshop Version of the Draft Particulate

For more than a decade, the District has been engaged with Parks to resolve the issue and improve the region's air quality; these actions are chronicled on the District's website.⁴ In 2011 the District Board enacted Local Rule 1001, which required Parks to implement dust control measures within the ODSVRA with the goal of reducing PM₁₀ levels downwind of the riding area of the park to levels approaching concentrations downwind of non-riding areas.⁵

In late 2017, the District petitioned its Hearing Board for an order of abatement requiring Parks to implement certain measures to reduce PM₁₀ emissions from the park. Parks ultimately agreed to implement initial dust control measures (including revegetating nearly 100 acres of the riding area), to prepare a Particulate Matter Reduction Plan ("PMRP"), and to commit to a 5-year process to eliminate the excess dust emissions attributed to vehicular recreation in the park. The Hearing Board approved the resulting SOA in April 2018.⁶ In late 2019, the District and Parks agreed to certain modifications of the SOA.⁷

Substantial progress has been made to address the dust issue. Pursuant to the SOA, Parks has deployed hundreds of acres of dust control projects within the ODSVRA, and these have resulted in real, measurable improvements in air quality on the Nipomo Mesa.¹ As noted in a Frequently Asked Questions ("FAQ") document issued by the District in June 2020:⁸

Q3: What effect have the dust mitigations had on downwind air quality?

A3: The short answer is that we have seen real, significant improvements in air quality, especially at CDF [the most impacted downwind monitoring station], and especially after taking meteorology (wind) into account. This improvement is not due to the temporary cessation of [off highway vehicle]-activity ... but rather to the large mitigation projects installed prior to the ODSVRA's closure to vehicles.

Matter Reduction Plan Required by Stipulated Order of Abatement 17-0," SLOAPCD, June 11, 2019. Available online at https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/Response%20to%20Comments_FINAL_PostedJune122019.pdf.

⁴ (a) "Oceano Dunes Particulate Emissions Reduction Efforts," SLOAPCD, undated. Available online at <https://www.slocleanair.org/air-quality/oceano-dunes-efforts.php>. (b) "Oceano Dunes Particulate Matter Reduction Efforts Flowchart and Timeline," SLOAPCD, undated. https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/2021March_DUNES_PAGE1and2.pdf.

⁵ "Agenda Item B-1: Request for Adoption of New Rule 1000, Coastal Dunes Dust Requirements," SLOAPCD, November 16, 2001. Available online at: https://slocounty.granicus.com/MetaViewer.php?view_id=7&clip_id=1189&meta_id=233161.

⁶ "Case No. 17-01, Stipulated Order of Abatement," SLOAPCD Hearing Board, filed May 4, 2018, signed April 30, 2018. Available online at <https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/Filed%20%26%20Approved%20SOA%20Case%2017-01%20Apr-30-18.pdf>.

⁷ "Case No. 17-01, Order to Modify Existing Stipulated Order of Abatement," SLOAPCD Hearing Board, filed December 9, 2019, signed November 19, 2019. Available online at https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/AMENDED%20Order%20of%20Abatement%2011-18-19_FILED_12.pdf.

⁸ "Frequently Asked Questions: Air Quality and the Temporary Closure of Oceano Dunes," SLOAPCD, June 30, 2020. Available online at: <https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/June2020FAQ-42.pdf>.

Preliminary analysis of the full air quality dataset for 2020 indicates that PM₁₀ levels downwind of the riding area were reduced by 29% (95% CI: 14 – 41%) relative to pre-SOA levels, after accounting for meteorology. To demonstrate these improvements, the FAQ included the Figures 2 and 3, below.⁹ Figure 2 shows that prior to the SOA, the number of exceedances of the state PM₁₀ standard closely tracked the number of wind event days, but after the SOA the “gap” between wind events and exceedances widened. Figure 3 shows that the number of hours of peak PM₁₀ (greater than 300 µg/m³) has declined since the SOA.

Despite this success, significant work is still needed to protect the public from particulate matter coming from the ODSVRA. In 2020—despite the 7-month vehicle ban due to the pandemic, and despite some 230 acres of dust controls already on the ground—air quality monitors downwind of the park still recorded 52 days exceeding the PM₁₀ standard (though at least 8 of these exceedances were related to wildfire impacts.) And as shown in Figure 1, Nipomo air quality can still sometimes be the worst in the nation.

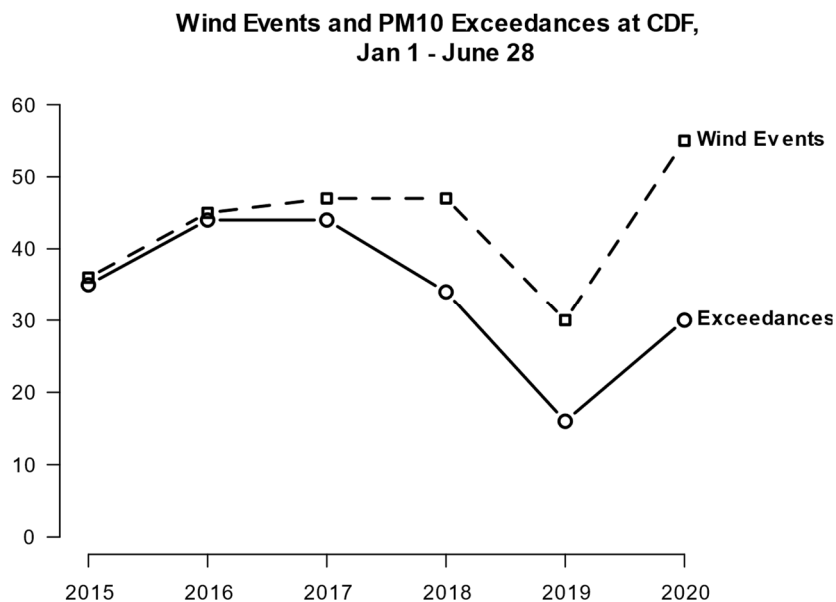


Figure 2: Wind Events and Exceedances of the PM10 Standard downwind of the ODSVRA

⁹ As the FAQ was published on June 30, 2020, only data from January 1 through June 28 of each year is included in these analyses.

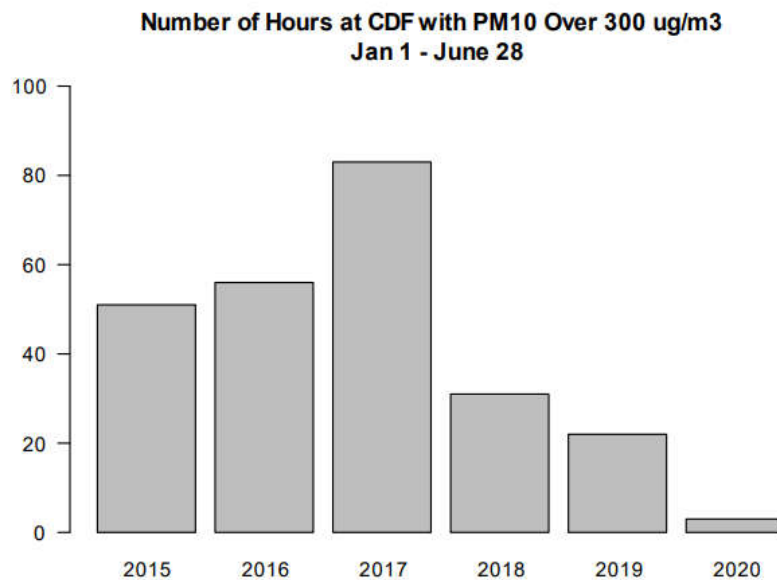


Figure 3: Hours greater than 300 $\mu\text{g}/\text{m}^3$ downwind of the ODSVRA

The Commission has been involved in addressing the ongoing dust issue since certain types of dust control projects constitute development in the Coastal Zone and therefore require its authorization prior to being implemented. Much of the mitigation currently in place was authorized under CDP 3-12-050. At its July 2019 meeting, the Commission considered staff-recommended changes to CDP 4-82-300,¹⁰ including Special Condition 13, which would have authorized Parks to install the dust controls needed to comply with the SOA. The District supported this condition and urged the CCC to adopt it in oral and written comments, noting that implementation of the SOA would be “greatly facilitated by the streamlined Coastal approval process that is proposed in Special Condition 13.”¹¹ After a lengthy hearing, the Commission opted not to impose the changes immediately, but instead directed Parks to address each of them in the PWP, which was already under development at that time.

Commission Staff’s Recommendations

Reconfiguration of the Park

The staff report recommends a 5-year phaseout of off-highway vehicle (“OHV”) activity from the park, with beach camping and street legal vehicles eventually limited to the area

¹⁰ “Agenda Item Th12a: Oceano Dunes State Vehicular Recreation Area Coastal Development Permit 4-82-300 Review,” CCC, prepared June 21, 2019 for July 11, 2019, hearing. Available online at: <https://documents.coastal.ca.gov/reports/2019/7/Th12a/Th12a-7-2019-report.pdf>.

¹¹ “SLO County APCD Comments on CDP 4-82-300 Review,” SLOAPCD, July 5, 2019. Available online at <https://documents.coastal.ca.gov/reports/2019/7/Th12a/Th12a-7-2019-corresp2.pdf>.

between Grand Avenue and Pier Avenue. Although, the District believes that the SOA process can ultimately solve the dust issue and allow modified operation of the SVRA, the reconfiguration proposed by Coastal Commission Staff would not interfere with the goal of reducing downwind PM₁₀ concentrations. The District has estimated that a 50% reduction in PM₁₀ emissions from the riding area would be needed to bring downwind PM₁₀ levels in line with concentrations measured downwind of a non-riding area; this emissions reduction target was made into a condition in SOA.¹² In 2019, Parks estimated that approximately 500 acres of dust controls would be needed within the ODSVRA to achieve this emissions reduction.¹³ More recent modeling estimated that with approximately 320 acres of controls (about 230 acres already completed and 90 acres planned), emissions from the ODSVRA would be reduced by 22%.¹⁴ As the target is a 50% reduction, this implies that 730 acres may be needed to comply with the SOA, as $50\% \div 22\% \times 230 \text{ acres} = 730 \text{ acres}$. In the modeling that produced these estimates, the dust controls were assumed to be 100% effective, and vehicular disturbance was assumed to continue within the remainder of the ODSVRA. Thus, if vehicular access were to continue, then achieving the air quality goals would likely require on the order of 180 to 410 acres of additional revegetation/restoration beyond the 230 acres already completed and 90 additional acres planned for 2021.

The Commission's staff's plan would continue to allow street-legal vehicles to access the beach between Grand and Pier Avenue and would also allow camping there. The District does not believe this will pose any air quality issues or hinder compliance with the SOA. Previous monitoring downwind of this area has demonstrated that PM₁₀ levels were generally low. Our air quality forecast map puts Grover Beach, Arroyo Grande, and most of Oceano in the San Luis Obispo forecast zone, meaning that air quality conditions there are expected to be most similar to the levels monitored in the City of San Luis Obispo. The District conducted temporary PM₁₀ monitoring in Grover Beach as part of its "Phase 2 Study"¹⁵ and found that levels were much lower than on the Nipomo Mesa. It concluded that windblown dust from ODSVRA did not impact this area. Since the intensity of use of the beach between Grand and Pier Avenue would remain essentially unchanged

¹² "Subject: California Department of Parks and Recreation's August 1, 2020, Oceano Dunes SVRA Draft 2020 Annual Report and Work Plan in Response to Stipulated Order of Abatement Number 17-0," Letter from Gary Willey to Sarah Miggins, September 4, 2020. Available online at https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/SLOAPCD%20Comments_2020_Draft%20ARWP_Dated%20Aug%201%202020%20sent%209-4-20.pdf. For a discussion of the origin of the 50% emissions reduction target, see the appendix of the comments attached to this letter.

¹³ "ODSVRA Draft Particulate Matter Reduction Plan," Parks, June 2019. Available online at https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/Draft_PMRP_20190606.pdf.

¹⁴ "Conditional Approval of 90 Acres of Dust Controls to be Implemented by California Department of Parks and Recreation as Part of Their 2020 Annual Report and Work Plan in Response to Stipulated Order of Abatement Number 17-01," Gary Willey, November 25, 2020. Available online at https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/District_Conditional%20Approval_of_90_acres-Final.pdf.

¹⁵ "South County Phase 2 Particulate Study," SLOAPCD, February 2020. Available online at https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/PM2-final_report_with_appendices.pdf.

in staff's plan, and air quality downwind of this area is not impacted by its current use, it stands to reason that the future use envisioned by staff would not adversely impact downwind air quality.

Special Conditions Related to Air Quality

The staff report recommends Special Condition 3c, which states that "Dune restoration and protection of ESHA to address coastal resource degradation associated with overuse (e.g., for permanent dust control purposes) shall be allowed in all dune areas, including in identified use areas." **The District views Special Condition 3c as crucial for facilitating the dust controls that are needed to protect public health—especially in the near-term—and we urge the Commission to approve this condition at the March 18th hearing, even if action on the other staff recommendations is deferred to a future meeting.**

The District has long advocated for a streamlined permitting process that would more easily accommodate the iterative adaptive management process used to design and implement each year's dust mitigations. As noted in the Background section above, we supported Special Condition 13 from the Commission's July 2019 staff report, as it would have allowed for expedited authorization of dust control plans. Similarly, we support Special Condition 3c.

This condition is especially timely because the District approved Parks' most recent mitigation workplan in November 2020,¹⁴ but, to date, Parks has been unable to proceed with implementation of many of the workplan's projects because it lacks authorization from the Commission. The workplan includes 92 acres of dust controls on what is currently bare sand; the areas slated for control are directly upwind of a neighborhood with a large retiree population, making these mitigations especially important from the standpoint of public health. Since the PM₁₀ standard is most frequently exceeded in April and May, the District's approval required these areas to be fenced off to riding and camping by March 31, 2021, and to have controls fully in place no later than April 15, 2021.

To authorize these controls, Parks has applied for an amendment to CDP 3-12-050-A1, which the Commission has yet to approve. The earliest the Commission could consider the application is at its next meeting from April 14-16, 2021. This would almost certainly put Parks on track to miss the April 15th deadline; more importantly, it would delay this relief to the downwind community.

If, however, the Commission approves its staff's recommendations on March 18th—in whole, or at a minimum Special Condition 3c—this issue will be resolved. Parks would have the Commission's authorization to immediately implement the District-approved workplan for 2021. Furthermore, it would be pre-authorized to complete additional dune restoration and riding area closures in future years. The District urges the Commission's approval.

March 15, 2021

California Coastal Commission
725 Front Street #300
Santa Cruz, CA 95060

Electronic: OceanoDunesReview@coastal.ca.gov

Re: Oceano Dunes Coastal Development Permit 4-82-300 Review

Dear Commissioners:

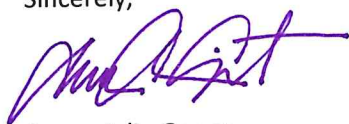
The Santa Barbara County Air Pollution Control District (District) has reviewed the staff recommendation for the Oceano Dunes Coastal Development Permit 4-82-300 Review item, to be heard by your Commission on March 18, 2021. We also reviewed and provided comments to California State Parks (State Parks) on their December 31, 2020 proposed Public Works Plan (PWP) for Pismo State Beach and Oceano Dunes State Vehicular Recreation Area (ODSVRA) and associated Draft Environmental Impact Report (EIR), included as Attachment 1. The District sent comment letters directly to State Parks in 2019 and 2020 expressing concerns related to proposed development and activities in the PWP that will affect air quality and public health in Santa Barbara County communities that are downwind of the ODSVRA. The District supports Coastal Commission's staff report recommendations to move forward with a plan that will provide extensive recreational and economic opportunities to the local community, while also benefitting air quality and protecting public health.

The District is very concerned about specific aspects of State Parks' proposed PWP that will impact Santa Barbara County communities, and particularly those that will move impacts to the south of Oceano Dunes and exacerbate the air quality problems that result from off-highway vehicle (OHV) activity. The greatest impacts will be experienced in disadvantaged and low-income communities in the northern portion of our County. Santa Barbara County is designated nonattainment for the 24-hr State ambient air quality standard for particulates less than 10 microns in diameter (PM₁₀), and that air quality standard is exceeded on a consistent basis in the northern portion of Santa Barbara County due to the strong prevailing N/NW winds. The PWP proposal to expand the Oso Flaco area, open an additional 40 acres to riding in the southern area, and to develop the Phillips 66 Refinery area for expanded OHV activities will lead to an increase in off-highway vehicle (OHV) use in the southern end of the ODSVRA and increase the magnitude of downwind PM₁₀ impacts to Santa Barbara County. The PWP and associated Draft EIR do not address these impacts to Santa Barbara County.

It has been thoroughly demonstrated that OHV activities in the dunes is the primary reason for the high PM₁₀ concentrations measured downwind of the ODSVRA, and that dune vegetation restoration is critical to improving this air quality problem. Air quality modeling conducted by the San Luis Obispo County Air Pollution Control District suggests that approximately 800 acres may need to be permanently retired from OHV/camping use and re-vegetated to meet dust control requirements. The staff recommendations would allow dunes damaged by recreational activities to be restored, and thus help reduce ODSVRA impacts to Santa Barbara County communities.

Thank you for continuing to work with State Parks to find a solution that will provide recreation opportunities for the region and also avoid air quality impacts to the residents of Santa Barbara County.

Sincerely,



Aeron Arlin Genet
Air Pollution Control Officer

cc: Gary Wiley, Air Pollution Control Officer, San Luis Obispo County Air Pollution Control District
Kevin Pearce, ODSVRA Acting District Superintendent, California State Parks
Kevin Kahn, Central Coast District Supervisor, California Coastal Commission

ATTACHMENT 1

Santa Barbara County Air Pollution Control District March 15, 2021 Comments to
California State Parks on the Draft Environmental Impact Report for the Draft
Oceano Dunes Public Works Plan, SCH #2018051017



air pollution control district
SANTA BARBARA COUNTY

March 15, 2021

California State Parks
Strategic Planning and Recreation Services Division
1725 23rd Street, Suite 200
Sacramento, CA 95816

Electronic: OceanoDunes.PWP.EIR@parks.ca.gov

Re: Santa Barbara County Air Pollution Control District Comments on the Draft Environmental Impact Report for the Draft Oceano Dunes Public Works Plan, SCH #2018051017

Dear California State Parks Strategic Planning and Recreation Services Division:

The Santa Barbara County Air Pollution Control District (SBCAPCD) appreciates the opportunity to provide comments on the California State Parks Oceano Dunes Draft Public Works Plan (PWP) and associated Draft Environmental Impact Report (EIR) for the PWP dated December 2020. The SBCAPCD is a local agency with the mission to protect the people and the environment of Santa Barbara County from the effects of air pollution. SBCAPCD is a commenting agency under CEQA. In that role, we review the air quality analyses in CEQA documents prepared by other public agencies to ensure that air quality impacts are accurately identified and analyzed, and that mitigation is applied to reduce adverse air quality impacts.

The SBCAPCD provided comments to California Department of Parks and Recreation Oceano Dunes District (State Parks) regarding the PWP Proposed Options and Proposed Concepts for the Oceano Dunes State Vehicular Recreation Area (ODSRVA) on March 5, 2019 and January 24, 2020. We provided additional comments regarding the Habitat Conservation Plan proposed project on June 1, 2020. In these comments, we stated our agency's concern for the proposed project's potential to increase air pollutant emissions in northern Santa Barbara County from off-highway vehicle (OHV) activity and increased vehicle traffic, idling, and track-out. In addition, we raised the concerns that southern access routes and the proposed 40-acre OHV riding area will denude existing protective vegetation in the Oso Flaco area, and potentially lead to increased air quality impacts to disadvantaged and low-income communities in Santa Barbara County. We requested that an analysis of these potential impacts be included in the Draft EIR and Final PWP.

We are disappointed that the Draft EIR does not include such analysis and our concerns and requests have not been addressed. In addition, the inclusion of the Phillips 66 Southern Entrance Project concept and a stated desire to shift OHV traffic from the northern areas of the ODSRVA to the southern area in the PWP elevate these concerns. ***Despite our multiple efforts to notify State Parks of the potential impacts to our region, the Draft EIR contains no discussion of our agency's concerns or the project's potential for air quality impacts to Santa Barbara County.***

Santa Barbara County currently exceeds the 24-hr state ambient air quality standard for particulate matter less than 10 microns in diameter (PM₁₀), and the standard is exceeded on a consistent basis in the northern portion of the County. For example, this standard was exceeded at the Santa Maria air

Aeron Arlin Genet, Air Pollution Control Officer

quality monitoring station on 14 days in 2018, 17 days in 2019, and 32 days in 2020. The ODSVRA is located at the northwestern end of the Santa Maria Valley. Winds in this area are generally strong – sometimes reaching 50 miles per hour or more – and from the north/northwest, which puts Santa Barbara County residents, particularly in Guadalupe and Santa Maria, in the path of any particulate matter (PM) emissions from the ODSVRA.

Any increase in off-highway vehicle use in the southern end of the ODSVRA will likely increase the magnitude of downwind air quality impacts in Santa Barbara County. The new and increased vehicle activity and open riding in the southern region of the ODSVRA will result in elimination and denudation of protective vegetation, and an increase of sand sheets in closer proximity to residential communities in Santa Barbara County. In the presence of open sheets of sand, sand grains become airborne and result in an increase of PM emissions in downwind regions.

It is well documented by the San Luis Obispo County Air Pollution Control District (SLOCAPCD) and the California Air Resources Board (CARB) that OHV activity in the ODSVRA generates significant particulate matter emissions, and that OHV use is the primary cause of the air quality impacts to communities that are downwind of the OHV riding areas. PM₁₀ concentrations measured downwind of the riding areas are significantly higher than those measured downwind of nonriding areas.¹ Particulate matter generation as a result of OHV activities has resulted in exceedances of State and Federal particulate matter standards for inland and downwind communities, including Oceano and the Nipomo Mesa area.² On certain days of the year, this area of the Central Coast has the highest PM concentrations and worst air quality in the nation, according to the US EPA's NowCast AQI reported on [AirNow.gov](https://www.airnow.gov). As a result of the impacts, the SLOCAPCD deemed the high particulate matter concentrations experienced in this region a "significant and ongoing public health threat" for the people inland of the ODSVRA.³

It then follows that our agency would have serious concerns about the potential air quality and public health impacts to Santa Barbara County residents. Residents downwind of the areas proposed for new or increased OHV activity include the City of Guadalupe and residents in the incorporated areas of the Santa Maria Valley.⁴ These areas have been designated low-income communities by the State of California as defined by State Assembly Bill 1550⁵, and also experience a greater pollution burden than other areas of the County as identified in the state's CalEnviroScreen tool.⁶ Airborne particulate matter (PM₁₀) causes health impacts including respiratory problems in children and adults, increase in heart attacks and other cardiac conditions, impaired lung development in newborns, increased hospitalizations and emergency room visits, and premature death.⁷

Specific comments on the proposed PWP and Draft EIR are provided below.

^{1,2} Craig, J et al. *South County Phase 2 Particulate Study*. February 2010.

https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/APCD%20Exhibit%20%20-%20APCD_Phase2_SouthCountyPMStudy-2010%281%29.pdf. Accessed 16 February 2021.

³ *Response to Comments on the May 1st Workshop Version of the Draft Particulate Matter Reduction Plan Required by Stipulated Order of Abatement 17-01*. Accessed 16 February 2021.

https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/Response%20to%20Comments_FINAL_PostedJune122019.pdf. June 2019.

⁴ Craig, J et al. *South County Community Monitoring Project*. January 2013.

<https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/Final%20Report.pdf>. Accessed 16 February 2021.

⁵ ww3.arb.ca.gov/cc/capandtrade/auctionproceeds/lowincomemapfull.htm

⁶ oehha.ca.gov/calenviroscreen/report/calenviroscreen-30

⁷ *Inhalable Particulate Matter and Health (PM_{2.5} and PM₁₀)*. ww2.arb.ca.gov/resources/inhalable-particulate-matter-and-health. Accessed 16 February 2021.

Comments on the PWP

1. **New, Year-Round Southern Entrance and the Phillips 66 South Entrance Project:** The PWP recommends the identification and construction of a new, year-round entrance in the southern portion of the park. The proposed Phillips 66 Southern Entrance Project would address this goal through a conceptual design for nearly 2,000 acres of new parkland with extensive new facilities at the existing Phillips 66 Refinery, should the property become available. New facilities would include day-use parking and 25 acres of OHV staging areas, a 33-acre pro-track for multiple types of OHV including motocross, ATVs and 4x4s, a 15-acre multi-use special events area that could include lighting and a mile-long track, approximately 1.25 acres for a Ranger Station/District Office near the main entrance with associated parking, residences/dormitory-style housing for staff housing, 225 RV campsites, and a minimum of six group campsites. The project may provide a dedicated OHV access road and staging area into the SVRA as well as an OHV access route from the Oso Flaco Improvement area.

Some of the stated benefits of this project are: *“reducing traffic pressure and impacts from the Pier and Grand Avenue entrances in Oceano and Grover Beach; redirecting OHV traffic crossing away from Arroyo Grande Creek; providing a critical section for the OHV access route from the Oso Flaco Improvement Project (Future)...”* (ES-5). However, the PWP proposes to move these referenced impacts to the south, causing disbenefits elsewhere. This project will likely result in a dramatic increase in park visitations, vehicle use, and OHV activity. Moving the ODSVRA entrance to a southern location will shift ODSVRA air quality impacts to the south and cause air quality impacts to northern Santa Barbara County. In addition, shifting ODSVRA access and staging to a southern location will result in air quality impacts due to vehicle track-out and engine idling. The proposed special events area and pro-track at the Phillips 66 site could result in substantial generation of particulate matter travel on paved and unpaved roads, tracks, and event surfaces as well as emissions from generator usage and vehicle fueling. In addition, vehicles traveling through the Santa Maria region to access the proposed entrance and facilities will further negatively impact air quality.

2. **Oso Flaco Improvement Project:** Oso Flaco Improvements (Initial and Future) will result in a change in park visitation, staffing, and related vehicle use levels in the southern portion of the ODSVRA. This project will increase recreational opportunities by developing new recreational facilities in the existing day-use area currently leased for interim agricultural use. Among other components, the project will add 100 drive-in campsites for tent camping, 20 cabins, and approximately 200 new RV campsites with the potential for group use, and will potentially provide an OHV access route from the campground inland (away from the Oso Flaco Lakes) to the back dunes riding area.

Impacts to air quality from this development project include:

- a. OHV access trail. New OHV access and increased activity in the region will denude the existing vegetation and lead to exposed, disturbed sand that will become entrained in the atmosphere and affect air quality in the downwind communities, including communities in Santa Barbara County.
- b. Additional vehicle traffic and impacts. Adding drive-in campsites and making other recreational improvements to the Oso Flaco area, including building new roads, the expansion of existing roads, and new parking areas and amenities, will increase vehicle-

related air quality impacts, including vehicle idling and track-out at the campsites and new entrance area.

- c. Campfires. Burning of wood material at the proposed campsites and group site areas has the potential to cause air quality impacts to the local community.
 - d. Generator engines. Recreational vehicles involve the use of backup generators, most of which are small and not subject to air quality regulations. These engines can be a significant source of air pollution.
3. **40 Acre Riding Trail Installation:** The 40-acre riding area installation would result in new OHV activity in an area currently devoid of activity. The new trail system would introduce motorized vehicle recreation to an area currently closed to motorized recreation due to its vulnerability to sand movement into Oso Flaco Lake. Establishing a sand highway at this location would require the clearing of protective vegetation and result in the denudation of any remaining vegetation. The exposed, disturbed sand in this area will become entrained in the atmosphere and affect air quality in the region. PM emissions associated with OHV activity contribute to exceedances of State and Federal air quality standards and result in public health impacts to communities that experience high concentrations of particulate matter.
4. **Discussion and Management of Plan's Effects to Santa Barbara County:** Despite all of the potential air quality impacts from proposed project components that are very well documented and have been outlined in prior correspondence, the PWP does not include any information related to project impacts to Santa Barbara County, including its air quality, roadways, services, and climate goals. There is no acknowledgement that the relocation and expansion of vehicular and OHV activities (including new campgrounds, OHV related facilities and new OHV access to the park near Oso Flaco Lake and at the Phillips 66 site) proposed under the PWP have the potential to exacerbate existing (and create new) air quality and public health concerns for Santa Barbara County. While the PWP recommends the development and implementation of best management practices to prevent dust and sand accumulation in the Grover Beach and Oceano communities, as well the implementation of a Sand Track Out project at the Pier and Grand avenues, the PWP does not recognize that the proposed shift in OHV activity and access from the northern to the southern region of the park will result in the very same impacts to Santa Barbara County communities. These impacts should be acknowledged, and the PWP should include a plan to address them so that air quality in Santa Barbara County communities is not degraded.
5. **Conflicting Information on Use Limits:** Section 3.6.4 discusses current use limits and includes proposed interim use capacity limits, to be used until a new carrying capacity study is completed, as: 1,000 street legal vehicles at both parks (Pismo State Beach and Oceano Dunes SVRA), 500 OHVs at ODSVRA, and 1,000 beach camping at Ocean Dunes. However, Sections 3.6.6.1 and 3.6.6.2 include conflicting use limits of 1,000 OHVs and 500 beach camping. This inconsistency should be addressed. Also, the PWP should define what "beach camping" means in terms of number of users and number of vehicles. Currently, it is unclear if the limits amount to number of sites, vehicles, or visitors.
6. **Definition and Analysis of Special Events:** Section 3 of the PWP should provide a description of how special events will be managed in the park so that potential impacts to the community, including air quality impacts, are minimized. Currently this section only includes a brief description of the types of previously approved events in the park. While introductory sections of the plan mention the development of "special events protocols", Section 3, "*The Plan*",

contains no mention of the development of protocols nor recommendations regarding the scope, management, and State Park's permit process for special events. While the PWP states that special events will not exceed use limits, it appears that through the mechanism of a separate CDP issued by the California Coastal Commission, an event could propose an intensity of use beyond the current interim use limits provided in the existing CDP. Introductory sections of the plan refer to a recommendation to identify appropriate areas in the park for special events, where mitigation of potential impacts is feasible, thereby deferring special event management and analysis of potential impacts under CEQA to a future date. Special events, in particular OHV-related events, are of concern to our agency due to their potential for a dramatic increase in park visitation and OHV activity, leading to vehicle idling around entrance points, destruction of protective vegetation and dune management areas, and excessive particulate matter generation. Considering that the PWP's stated purpose is to "[allow] for a comprehensive permit for large or multi-phase projects and examines future operations and management decisions holistically," the PWP should be revised to define the maximum frequencies, attendance, and other parameters of special events. Also, any potential impacts related to these events should be analyzed in the Draft EIR.

Comments on the Draft Environmental Impact Report (DEIR)

1. **Inadequate Assessment of Air Quality and Transportation Impacts due to Omission of Santa Barbara County:** The air quality impact evaluation ignores the site-specific impacts of proposed project components and the regional effects that will result. Development projects such as the Oso Flaco Improvement Project, 40 Acre Riding Trail, and the Southern Entrance Project will result in new park visitation and OHV activity in the southern portion of the park. Of particular concern to our agency is the potential impacts of proposed project components to Santa Barbara County.

Specifically, we request the following revisions to the analysis:

- The EIR should include Santa Barbara County Air Pollution Control District and Santa Barbara County in the discussion of the proposed project's Regulatory Setting and Environmental Setting.
- The EIR should analyze the air quality impacts of the existing and proposed activities, including the pollutant emission levels and resulting pollutant concentrations, to Santa Barbara County and its residents. Air quality impacts include increases in criteria pollutants [e.g., ozone (O₃), nitrogen dioxide (NO₂), sulfur dioxide (SO₂), carbon monoxide (CO) and particulate matter (PM₁₀ and PM_{2.5})], greenhouse gases (GHGs), air toxics (e.g., diesel particulate matter (DPM), fugitive dust), and the resultant health effects of increases in air pollutants.
- The EIR should analyze the potential change in transportation impacts, including vehicle miles traveled in Santa Barbara County, resulting from the addition of new project components and access routes to the proposed southern entrance of the park.
- The EIR should identify the significance of these impacts and should include all feasible mitigation measures for any potentially significant impacts. The EIR should include a Mitigation Monitoring and Reporting Plan that explicitly states the required mitigation and establishes a mechanism for enforcement.
- The SBCAPCD is concerned that the proposed OHV activities have the potential to generate PM₁₀ emissions that will cause an exceedance of the federal 24-hour ambient air quality standard and will also jeopardize the region's ability to attain the state PM₁₀ ambient air quality standard. An Air Quality Impact Analysis (AQIA) should be performed

to determine whether the proposed project would violate any ambient air quality standards or contribute substantially to an existing or projected air quality violation. The results of the AQIA should be included in the EIR.

2. **CEQA Baseline:** The findings that the project results in less than significant air quality and greenhouse gas impacts is based on the assertion that the project results in no increase in mobile source or fugitive dust impacts because there is “no net increase” in park visitation, staffing, or related vehicle use levels. However, this assertion is not supported by evidence. The CEQA Statute, CEQA Guidelines, and case law should inform how the CEQA baseline environmental conditions are determined for this project.⁸

It is clear that the PWP development projects, such as the Oso Flaco Improvements and 40-acre riding area, will result in new park visitation, staffing, OHV use, and trip generation in the respective areas of the park and elsewhere in the region. The EIR appears to address this potential increase by arguing that the *interim* use limits proposed for the park as part of the PWP are lower than the current maximum permitted use limits. Therefore, State Parks is using the current maximum permitted use limits as the baseline for analysis, and treating any additional mobile source and fugitive dust emissions from increased park activity within previously permitted levels as part of the baseline measurement for environmental review, rather than as part of the proposed project. Statements on page 11-9 – 11-10 affirm this approach by maintaining that, *“Implementation of the park management programs and plans under the proposed PWP would not result in a net increase in GHG emissions... Park facilities and grounds maintenance activities, as well as the majority of the other programs and plans, under the proposed PWP have been occurring and presently occur in the PWP area, and, therefore, are considered part of the baseline conditions for this analysis...”*

The EIR’s current approach to impact analysis is inconsistent with basic CEQA principles. CEQA requires that baseline activity be based on actual activity levels under current operating conditions, not hypothetical maximum permitted levels that could or should have been present.⁹ In addition, CEQA requires proposed project activity to be based on the reasonable worst-case activity levels. The EIR’s air quality impact analysis is not consistent with these requirements.

First, the baseline from which impacts are being measured is the maximum permitted use limits at the park, not the actual activity levels currently experienced at the park. Page 3-75 of the PWP acknowledges that *“An analysis of visitation over the last ten years showed that, with the exception of holidays and summer weekends, on average only 25% of the street-legal vehicle limit, 10% of the OHV limit, and 45% of the camping limit are reached daily.”* Section 3 of the Draft EIR defines the project’s environmental setting as *“the physical environmental conditions of the PWP planning area as they existed at the time of publication of the Notice of Preparation (NOP).”* Therefore, actual usage levels reflecting existing conditions should have been defined and used in the comparison of proposed project impacts to significance thresholds.

Second, impacts from the proposed project are entirely undefined except for the reliance on the PWP’s interim use levels. However, these interim use limits presented in the PWP are subject to revision upon completion of an updated carrying capacity study and are likely to change and

⁸ CEQA Guidelines Section 15125(a), Section 15125(a)(1)-(a)(3).

⁹ *Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Cal.4th 310.

even increase. Therefore, it is unclear how any assessment of proposed project impacts could be based on the PWP's interim use limits. Instead, State Parks should define the reasonable worst-case daily and annual park activity based on the proposed project components and use this data to determine the incremental impact of the proposed project.

In summary, the EIR's assertion that there is "no net increase" in long-term operational activity in the ODSRVA is not supported with evidence. The EIR should be revised and should include substantial evidence to support findings for the significance of air quality and climate change impacts. The EIR's impact analysis should be revised consistent with proper methodology for impact determination. Specifically, to determine the incremental impact of the proposed project as defined in the PWP, the EIR should disclose baseline emission estimates from current ODSRVA activities (using actual usage rates reflecting the existing environmental setting) and proposed project emission estimates (based on a reasonable worst-case scenario). The EIR should then identify the significance of these impacts by comparing the incremental impact of the project to thresholds of significance. All feasible mitigation measures for any potentially significant air quality or climate change impacts should be applied.

3. **Insufficient Support for Conclusions Regarding Riding Area in the Park:** Page 6-17 states that *"... site-specific improvement projects would not result in changes to park visitation or vehicle use levels. While Development Projects including the initial and future Oso Flaco Improvement Project could affect where in the Park visitors recreate and the distribution of staff to serve Park maintenance and operations (based on new maintenance facilities at the southern end of the Park at Oso Flaco), the available riding area is not changing and there is no data to suggest that the Development Projects would result in a tangible change in areas used for recreational purpose."* It is unclear how the EIR arrived at these conclusions when it is clear that the southern region of the park would experience new park services, amenities, and uses (including new OHV riding areas) that do not currently exist. Indeed, there is no data to suggest that the Development Projects would not *"result in a tangible change in areas used for recreational purpose."* Additional data and explanation should be provided to support the statements made in the EIR.
4. **Interim Use Limits Used in Determination of Impacts:** The PWP proposes lower use limits for beach camping, street-legal day-use, and OHV day-use than the current permitted use limits. Specifically, the project proposes to implement an interim reduction in year-round use limits from 2,580 street-legal vehicles, 1,000 street-legal vehicles for camping, and 1,720 OHVs to 1,000 street-legal vehicles, 500 street-legal vehicles for camping, and 1,000 OHVs per day until such time that an updated carrying capacity study is conducted. With the acknowledgement that the interim limits are subject to revision upon completion of an updated carrying capacity study, it is unclear how long-term conclusions can be made in the impact analysis, based on these temporary "interim" use levels. State Parks should consider whether it is appropriate to base impact determinations on interim use limits that are expected to change within the project life. In addition, the EIR should clarify whether it is feasible that final use limits determined by the carrying capacity study could result in higher use levels than current, baseline use levels.
5. **Deferral of Environmental Analysis of the Phillips 66 Southern Entrance Project:** The Executive Summary describes the PWP as a plan that *"...allows for a comprehensive permit for larger or multi-phase projects and examines future operations and management decisions holistically"* (ES-1). Despite providing a detailed project description of the Phillips 66 Southern Entrance Project in the PWP, the Draft EIR defers the environmental analysis of this development project,

citing a lack of information on construction requirements and future operations as the reason for deferment.

State Parks should consider whether the Phillips 66 Southern Entrance Project is part of a single project under CEQA and subject to environmental analysis in the PWP Draft EIR. As defined by CEQA Guidelines Section 15378(a), a *“Project” means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.*” In addition, as held in *Laurel Heights Improvement Association v. Regents of the University of California* (1988), related actions to a proposed project must be included in the CEQA document when they are reasonably foreseeable with exception for actions that are remote and speculative.

Pages 3-53 through 3-59 of the PWP describe the Phillips 66 Southern Entrance Project and includes its location and project components with specific details. The following project components are identified:

- A paved parking lot spanning six acres,
- 25 acres of staging areas for OHVs,
- A 33-acre pro track to accommodate... motocross, ATV practice, and quarter midget riding,
- A 15-acre multi-use special events area that could include lighting and a mile-long track,
- Approximately 1.25 acres for a Ranger Station/District Office near the main entrance that could include covered parking for 25 staff, 12 fleet vehicles, and four ATVs,
- Approximately 2.75 acres for natural resources management needs, including greenhouses and covered parking for an additional 22 staff, four ATV, and six resource vehicles,
- Approximately 3.5 acres for up to four residences (new or moved from the Corporation Yard) and one dormitory-style staff housing unit,
- 225 RV campsites including accessible sites, and
- A minimum of six group campsites of various sizes to accommodate groups from 10 to 50 people.

In addition to the robust project description, the proposed PWP describes an intent to proceed with the development of the project if acquisition rights are obtained during the life of the PWP. Therefore, while the property acquisition is speculative at present day, provided such acquisition, the development of the Phillips 66/ Southern Entrance Project is reasonable foreseeable given its inclusion in the PWP and the stated goal of the PWP to *“Identify and construct a new, year-round entrance in the southern portion of the park (Page ES-9)”* and *“increase recreational opportunities in the southern portion of Oceano Dunes SVRA (The Plan Page 3-9).”* Furthermore, the potential effects of development of the project are ascertainable and could be discussed in similar detail as any of the other project components described in the PWP and analyzed in the Draft EIR. Therefore, State Parks should consider whether the deferment of analysis of this project’s environmental effects is appropriate, given CEQA’s mandate to analyze the whole of an action.

If State Parks decides to revise the EIR to include analysis of the Phillips 66/Southern Entrance Project, all potential air quality impacts including health risk, climate change, and transportation impacts from the construction and operation of the development project should be quantified and disclosed. Potential sources of criteria pollutant, toxic air containment, and greenhouse gas

emissions include, but are not limited to: soil remediation activities; vehicle activity associated with park visitors and staff, onsite riding areas, tracks, event centers, etc.; other area sources; stationary source equipment (e.g., diesel generators, large boilers); indirect electricity usage associated with building and facility operations; and, indirect emissions associated with water use and waste generation. If impacts are found to be significant, mitigation should be applied to reduce those impacts as appropriate under CEQA. The EIR should include a Mitigation Monitoring and Reporting Plan that explicitly states the required mitigation and establishes a mechanism for enforcement.

Summary of Concerns and Conclusions of Review

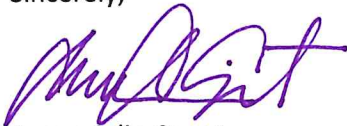
In summary, we are very concerned about the potential for the PWP's proposed development projects to exacerbate existing air quality issues and cause new air quality impacts for our region. Plan components will increase air pollutant emissions from off-highway vehicle activity, campfires, generator usage and increased vehicle traffic, idling, and track-out, and will move many activities and impacts to the south where they will affect Santa Barbara County communities. The potential Phillips 66/Southern Entrance Project, the proposed 40-Acre Riding Trail Installation and proposed Oso Flaco Improvement Project will eliminate and denude the existing protective vegetation in the southern region of the park and lead to increased air quality impacts to Santa Barbara County residents. ***In sum, several of the PWP project components are in conflict with our agency's mission to protect the people and the environment of Santa Barbara County from the effects of air pollution.*** As such, we request that the PWP be revised to reconsider its emphasis on motorized recreation and high-intensity OHV use in favor of other less intensive forms of public access and recreation that produce less air quality and public health impacts.

The Draft EIR does not adequately disclose, assess, and mitigate the project's air quality, climate change, and public health impacts. As such, the CEQA document does not fulfill its intended purpose to inform decision makers, other agencies, and the general public of the project's potential environmental impacts.

In addition, because of the EIR's many issues, the SBCAPCD is concerned that State Parks may not have the basis to approve the project or making findings as required by CEQA unless the environmental document is modified to adequately identify and mitigate significant impacts as reasonably feasible.

If you have any questions regarding these comments, please feel free to contact Molly Pearson, Planning Division Manager at (805) 961-8838 or via email at PearsonM@sbcapcd.org.

Sincerely,



Aeron Arlin Genet
Air Pollution Control Officer

cc: Planning Chron File
Gary Wiley, Air Pollution Control Officer, San Luis Obispo County Air Pollution Control District
Kevin Pearce, ODSVRA Acting District Superintendent, California State Parks
Kevin Kahn, Central Coast District Supervisor, California Coastal Commission



City of Grover Beach

*Mayor Jeff Lee Mayor Pro Tem Mariam Shah,
Council Member Karen Bright, Council Member Anna Miller, Council Member Robert Robert*

*Matthew Bronson
City Manager*

March 12, 2021

California Coastal Commission
455 Market Street, Suite 300
San Francisco, CA 94105

Dear Chair Padilla and Coastal Commissioners:

This letter serves to provide a summary of concerns and interests from the Grover Beach City Council on the topic of the Oceano Dunes State Vehicular Recreation Area (ODSVRA) Coastal Development Permit scheduled for review by the Commission on March 18, 2021. We appreciate the Commission's time in reviewing these comments as the Commission considers a number of significant actions that affect this important recreational and environmental coastal asset in our region and our beachfront community including the phased elimination of off-highway vehicle (OHV) use.

Grover Beach is located adjacent to both the ODSVRA and Pismo State Beach and serves as a "gateway community" with one of two entry points to the recreation area at the end of West Grand Avenue. We are a community of approximately 14,000 residents along with thriving local businesses many of which cater to the visitors who travel to the ODSVRA and Pismo State Beach. The past year has been very challenging with the public health and economic impacts of COVID-19 and our City has taken numerous steps to help local businesses in our community including allocating \$700,000 in business microgrants and partnering with the South County Chambers of Commerce on a #BuyLocal program to encourage local spending. At the same time, we have seen an increase in tourism and related tax revenues in our beachfront community over the past year though we recognize that COVID travel limitations make it difficult to draw definitive conclusions from 2020.

On March 8, 2021, our City Council heard an agenda item on the Commission's potential actions affecting the ODSVRA and whether to take a position on these actions on behalf of the City. Our Council scheduled this agenda item given the significance of this issue to our community despite not having jurisdiction or governmental authority over our beachfront area. We received nearly two hours of public comments which were evenly split between those supporting the Commission staff recommendations and those opposing them. These comments illustrated that this is a complicated and long-standing community issue with passionate sentiments on all sides and one that needs to be considered thoughtfully to ensure that the needs of those who live, work, and recreate in our area are addressed.

154 South Eighth Street ❖ Grover Beach, California 93433 ❖ www.groverbeach.org

Administrative Services/Water (805) 473-4550 ❖ City Council/City Manager (805) 473-4567 ❖ City Clerk (805) 473-4568
Community Development - Building, Planning & Economic Development (805) 473-4520 ❖ Human Resources (805) 473-4564
Parks & Recreation (805) 473-4580 ❖ Police/Non-Emergency (805) 473-4511 ❖ Public Works (805) 473-4530

To this end, our City Council unanimously authorized this letter to document the City's concerns and interests on this significant topic. It is important to note that this letter does not explicitly express support or opposition to the proposed actions by the Commission. Our Council recognizes the Commission's role and jurisdiction on these matters particularly with regards to assessing environmental impacts and determining compliance with the Coastal Act and Local Coastal Programs. Below is a listing and brief description of six concerns and interests of the City for the Commission's consideration:

- **Commission Representation:** The South Central Coast District seat on the Commission representing San Luis Obispo County is currently vacant. While we understand that the Governor's Office is working to fill this seat, we are concerned that a decision of this magnitude for our area will be decided without a local representative on the Commission. We therefore ask that this Commission seat be filled and preferably with a representative from San Luis Obispo County prior to any actions taken by the Commission though we also recognize the timing of the Commission's potential actions given the extent of previous discussions the Commission has had on this topic.
- **Economic Impact Assessment:** Grover Beach inherently benefits economically from coastal visitors who travel to and through the city including users at the ODSVRA. Such visitors can support the city's economy by staying at hotels and short-term rentals, shopping or dining at stores or restaurants, getting groceries or gas, or using other services within the city. In addition, there are several businesses involved in OHV rentals located in Grover Beach that are tied directly to vehicle activity at the ODSVRA. However, conflicting economic studies and methodologies make it difficult to determine informed conclusions around the impact of the ODSVRA on the local economy and specifically the impact of eliminating OHV use. The South County Chambers of Commerce and Visit SLO CAL are initiating an independent third-party, peer-reviewed economic study to provide an accurate assessment of economic impacts of the ODSVRA to help guide decision-makers in their understanding of potential impacts, along with subsequent mitigation measures. The City is helping to fund this study which is anticipated to be completed by this summer. While the results of this study would be useful before the Commission took any actions, the results will also help identify and shape future economic needs with regards to implementing these actions.
- **Traffic Impacts:** As currently one of the two vehicular access points to the ODSVRA, West Grand Avenue experiences traffic issues particularly during the summer vacation season along with regular wear-and-tear from over 20,000 vehicles per day using this major thoroughfare in Grover Beach. The roadway condition is in poor shape and costs to repair the street are over \$5 million. Our Council is concerned that the recommended closure of the Pier Avenue vehicular access point in Oceano will create a significant traffic problem on West Grand Avenue as this will become the only vehicular access point to the ODSVRA. This problem would likely spill over to other streets in our city including North 4th Street which is the nearest access point to Highway 101. We are particularly concerned about the Pier Avenue closure date of July 1, 2021 as this does not provide sufficient time to plan for these added traffic impacts. We recognize the stated

interest of creating a more “traditional” beachfront area in Oceano, but this closure at Pier Avenue would significantly impact Grover Beach and likely impede non-vehicular beachfront access at West Grand Avenue. We ask that a traffic study be commissioned to examine the impacts of this recommended closure and mitigation measures identified and implemented if this closure occurred.

- **Economic Assistance:** The results of the new economic impact assessment and requested traffic study on West Grand Avenue would identify the scope of economic impacts from eliminating OHV use at the ODSVRA as well as additional costs to the City’s infrastructure from making West Grand Avenue the only vehicular access point. Despite the conflicting studies, there is a level of economic activity generated by OHV use that would cease if this activity was no longer allowed. Once this level of economic impact is known along with the amount of City infrastructure costs, our Council requests economic assistance to help the City transition to different uses at the park if the Commission takes these actions. Such assistance could be similar to the one-time economic development assistance provided to jurisdictions in San Luis Obispo County through SB 1090 given the economic impacts from the pending closure of the Diablo Canyon Power Plant in 2025. This assistance could also include receiving a portion of the State Parks kiosk fees from the West Grand Avenue vehicular access point to help the City maintain West Grand Avenue particularly if this became the only vehicular access point.
- **Operational Concerns:** One of the recommended actions the Commission will consider is limiting vehicular access after five years to the beachfront area between West Grand Avenue and Pier Avenue and creating a new vehicular beach camping area at this location. We recognize the fact that this recommendation preserves vehicular access as a unique feature of our beach that also allows for disability access to our beachfront area. While there is beach camping currently at the ODSVRA, we are concerned about the practicality of creating a beach camping area at this proposed location given the high tidal activity of this area along with the lack of restrooms and other facilities. We also have questions about the practicality of creating a sufficient camping area in the same beachfront location that would allow up to 500 vehicles at one time. These concerns are more operational in nature that may be best addressed by State Parks in implementing this potential permit condition by the Commission and we request that the City of Grover Beach be included in this process.
- **Timeframe:** Lastly, our Council urges the Commission to establish realistic and attainable milestones in pursuing future actions at the ODSVRA. The current review of the ODSVRA Coastal Development Permit (CDP) arguably spans 40 years since the temporary CDP was first issued by the Commission in 1982 with the intent of subsequently establishing a permanent solution. The inability to establish this permanent solution has produced decades of community uncertainty and impeded business investment in our coastal area given the lack of certainty on beach access. There is a history of missed milestones by various agencies that has contributed to this lack of

resolution. Establishing realistic and attainable milestones along with accountability for achievement will help build greater credibility and trust that whatever actions the Commission decides will be carried out by other agencies and parties and by the Commission itself.

In closing, our Council recognizes the magnitude of the issue involving the ODSVRA and the impact of potential actions considered by the Coastal Commission. Our Council's decision to craft this position letter after hours of public and Council comments on a matter where we have no governmental authority reflects the importance of this issue for our community. We believe that ensuring a high quality of life for Grover Beach residents and businesses means ensuring a strong economy and sustainable environment which we believe should be a key factor for the Commission in determining the future of the ODSVRA. We respect the decision-making role of the Commission on this critical and timely issue on this section of the California coast and we value our positive relationships with Commission staff along with State Parks who operates our beachfront area. The City of Grover Beach is committed to participating with the Commission, State Parks, and other parties on the implementation of these potential actions affecting this unique coastal asset while supporting our beachfront community for current and future generations.

Thank you for your Commission's thoughtful deliberation and your consideration of these concerns and interests on behalf of the City of Grover Beach.

Sincerely,



Mayor Jeff Lee
City of Grover Beach

CC: Honorable Congressman Salud Carbajal
Honorable State Senator John Laird
Honorable Assembly Member Jordan Cunningham
Grover Beach City Council
Mr. Kevin Pearce, California State Parks Oceano Dunes District Superintendent
Ms. Jocelyn Brennan, President/CEO South County Chambers of Commerce
Mr. Chuck Davison, President/CEO Visit SLO CAL



March 10, 2021

The California Coastal Commission Staff
725 Front Street, Suite 300
Santa Cruz, CA 95060

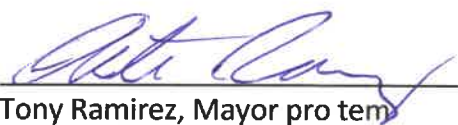
Re: Guadalupe City Council Comments for the Future of Oceano Dunes Park Plan

Dear California Coastal Commission Staff:

At their March 9, 2021, the Guadalupe City Council voted 4 to 1 to take a majority position to comment on the Oceano Dunes Park Public Works Plan. The Council voted to reject the Oso Flaco Lake portion of the State Parks Plan and support the staff report for the California Coastal Commission.

Thank you for your time for considering our request.

Sincerely,


Ariston D. Julian, Mayor
Tony Ramirez, Mayor pro tem
Gilbert Robles, Council member
Liliana Cardenas, Council member

MINUTES

City of Guadalupe

Regular Meeting of the Guadalupe City Council

Tuesday, March 9, 2021 at 6:00 pm

City Hall, 918 Obispo Street, Council Chambers

ROLL CALL:

Council Member Liliana Cardenas
Council Member Gilbert Robles
Council Member Eugene Costa Jr.
Mayor Pro Tempore Tony Ramirez
Mayor Ariston Julian

All present

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

AGENDA REVIEW

10. Oceano Dunes Park Plan. – DRAFT

Written Report: Todd Bodem, City Administrator

Recommendation: That the City Council consider taking a position 'for or against' the proposed Oceano Dunes Park Public Works Plan to include in the public record before the end of the public comment period for a hearing on the Plan that will be held by California Coastal Commission on March 18, 2021.

Lucia Casalino, a 32-year Oceano resident, said she went to council meeting in Grover Beach for the same reason she was attending Guadalupe's meeting. She said that the public work's plan is huge. Everybody's talking about it. There's good and bad between Grand Avenue in Arroyo Grande and Pier Avenue in Oceano. She requested that the Council write a letter to the California Coastal Commission in opposition of the Oso Flaco Development Project. She said, "There are sensitive environmental issues. State Parks don't care what Coastal Commission says. For 40 years they're still allowing OHVs driving on beach but they're out of compliance because they're operating on a temporary permit. Why is State Park allowed to work out of compliance? The Coastal Commission is trying to do its job." She stressed again, "Stop Oso Flaco Development Project. Stop OHVs."

Mayor Julian asked what Grover Beach's decision or position was on the matter. Ms. Casalino said, "They would just write a letter to the Coastal Commission that they were not taking a pro or con position."

Mayor Julian had received an email from Ilona Shakibnia, founder of the Friends of Oso Flaco Lake, requesting it be read at the City Council meeting. Below is a summary of Ms. Shakibnia's email:

"On behalf of the Friends of Oso Flaco Lake, we urge you to take a position against the Park Plan, particularly as it relates to the Oso Flaco Lake Natural Area. The Friends of the Oso Flaco Lake is a local, California Central Coast group comprised of over 600 individuals and organizations who are dedicated to support the Oso Flaco Lake Natural Area as it is today, for people and wildlife.

We are opposed to all elements of the Oso Flaco Lake 'Improvement' Project contained in the Draft PWP/EIR. We believe the project to be 1) Bad for people, those who visit the area for nature's tranquility, hiking, fishing, outdoor education, etc.; 2) Detrimental to the rich and ecologically diverse wildlife, including plants and animals; 3) Contrary to the Coastal Act and Local Coastal Programs, as well as other state and federal laws, and 4) Very unpopular with the State Parks, since 2019, having received and completely ignored complaints. We also agree with the CA Coastal Commission does not believe that the Oso Flaco project shows that the PWP effort is moving in the right direction.

For these reasons, we urge you to reject the Oso Flaco Lake 'Improvement' Project and keep Oso Flaco Lake Natural Area just the way it is – a beautiful, serene, and rich area that local people love, and that doesn't need improvement. We support the Coastal Commission staff report regarding the Oceano Dunes Public Works Plan, support its recommendations and urge you to take a strong position against the Park Plan." Sincerely, Ilona Shakibnia (founder)

The Mayor then brought it back to Council for further discussion. He asked, "The options? Do we do anything? Take a position to support or oppose it?" Council Member Ramirez said, "This has been a year and one half coming that we've been talking about this. This has been near and dear to me. It basically started off being the lack of transparency on the State Parks' side. There had been several times we brought them in here to find out what was going on. As recent as a few months ago, they said that nothing was going to happen. But a new report came out a few weeks later. We've been a marginalized community. We have a lot of people who are consistently not looked at when it comes to resources, not only in our own county but our neighboring county, San Luis Obispo. I hadn't thought about the local impact it would have on agriculture until Council Member Cardenas mentioned it. I did think about the ecological side and everything else that was coming into play with that. I do like the several options to look at. I do like the idea of supporting the Commission's recommendations that the Coastal Commission is going to present in the staff report. And I think if we say that, that's a strong enough position to say again that it shuts off what they plan on doing for Oso Flaco as well as doing the OHVs."

Council Member Robles said, "Oso Flaco is a natural jewel and habitat and preserve. I'd like to see it that way. Lucia Castinouva, who spoke earlier, brought up something about low impact. But to open it up to have a second entrance, no, I don't think so."

Council Member Cardenas said, "The Oso Flaco Development Project which has impacts, not just on the environment, but our agricultural workers because that land would be taken away for this development project besides other impacts it would have."

Mayor mentioned that he used to go bass fishing at Oso Flaco Lake. The OHVs have damaged the area by the lake. The road to Oso Flaco is so narrow. What about RVs? Easements would have to be purchased to increase the transport back and forth. The lake is pristine. He mentioned the name, Kathleen Jones, a fervent supporter of the environment. He said, "We're not going to be directly impacted by the shopping, there won't be a lot of shopping. But the environmental damage that would be created to me is not worth us approving this plan. And I think we need to, personally, object to the Oceano Plan and to support the Coastal Commission's recommendations for future use."

Mr. Sinco asked the Mayor for a point of clarification. He asked, "Are you saying that the Council should oppose the entire plan or just the Oso Flaco portion?" The Mayor said, "Just the Oso Flaco portion." Mr. Sinco said, "Then I think I heard three (3) in favor from the Council for a recommendation to have a joint statement from the Council opposing the Oso Flaco development and supporting the Coastal Commission's recommendations. I didn't hear anything else." Council Member Ramirez said, "That's my understanding."

The Mayor asked if this letter then had to be done by March 18th, the date of the Coastal Commission's meeting. Mr. Sinco said, "Yes, staff would prepare a letter. Would you all like to sign it or have the Mayor sign on behalf of the Council?" Several members of the Council said they would like to sign.

Mr. Sinco then said that the letter would be prepared for all council members to sign. The Mayor asked, "What if a council member doesn't want to sign?" Mr. Sinco said that all members don't have to sign it. There will be a motion in support of what you have directed the staff to do. That will be in the letter. The letter to the Coastal Commission will have the three (3) statements from the Council that (1) the Council considered this matter; 2) takes the position against the Oso Flaco portion of the plan, and 3) the Council supports the Coastal Commission staff recommendations.

Motion was made by Council Member Ramirez and seconded by Council Member Cardenas to reject the Oso Flaco portion of the State Parks Plan and support the California Coastal Commission. 4 Ayes and 1 NO/Costa Jr. 4/1 Passed.

ADJOURNMENT

Motion was made by Council Member Ramirez and seconded by Council Member Cardenas to adjourn meeting. 5/0 passed. Meeting adjourned at 7:36 p.m.

DRAFT



March 12, 2021

TO: California Coastal Commission; California State Parks; California Department of Resources;
California Ocean Protection Council
(add in the other contacts we sent the EJ letter to)

FROM: Oceano Advisory Council

Dear Sirs and Madams,

The Oceano Advisory Council is an advisory body to the San Luis Obispo County Board of Supervisors, representing citizens living in the unincorporated area of Oceano which straddles Highway 1 and fronts the Pacific Ocean in Southern SLO County.

We have previously commented to your agencies on the significance and acuteness of environmental justice issues as they relate to our community and the negative impacts of continued operation of motor vehicles on our beaches for our cultural and economic development.

In reference to the proposed closing of the entry ramp at Pier Avenue we ask that the Commission consider the following recommendations:

1. The OAC supports the closing of Pier Ave by September 30, 2021 and no vehicles South of Pier Avenue
2. When such closing occurs, and in preparation for such, the County and State Parks implement more inclusive and expanded parking availability for beach goers on Pier Ave as well as in the Oceano State Park Visitors Center parking lot on Pier Ave.
3. That State Parks provide a temporary ADA accessible "sidewalk" across the sand so disabled and wheelchair bound beach goers have access.
4. Transitional compensation must be given for Pier Ave businesses that are temporarily negatively impacted by the closing of the beach onramp and those negatively impacted by the phasing off of the ODSVRA to be paid for by OHV funds.
5. Regarding continued vehicle access to the beach at Grand Avenue we further recommend that beach access from Grand Avenue be limited to no more than 500 vehicles per day between Grand and Pier Aves.

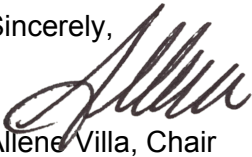
6. Finally, we recommend a reasonable non-vehicle buffer zone of a minimum 150 yards north of Pier Avenue.

We have recently been made aware of a very important legal opinion presented to your agencies by the Dunes Alliance, prepared by the Mills Legal Clinic at the Stanford School of Law, dated March 5, 2021.

Never before have we seen such a comprehensive and definitive review of the Coastal Commission's and State Park's legal authority and obligation to terminate OHV activity which violates multiple provisions of San Luis Obispo County, California, and Federal laws, policies, mandates, and regulations. This body of work, overviewed in the Table of Contents below, provides the legal basis, authority, and obligation for the CCC to impose an immediate moratorium on all motor vehicle activity on the beaches and dunes until such time the many issues of environmental protection, air quality, endangered species, and environmental justice (among others) are fully resolved.

On behalf of the Oceano Advisory Council we thank you for your attention and work to help us reclaim our beach for people rather than vehicles.

Sincerely,



Allene Villa, Chair
Oceano Advisory Council

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Oceano Community Services District

1655 Front Street, P.O. Box 599, Oceano, CA 93475

(805) 481-6730 FAX (805) 481-6836

January 23, 2020

Via email: info@OceanoDunesPWP.com

Subject: Comments on the Proposed Project Concepts and Options for the Oceano Dunes State Vehicular Recreation Area Public Works Plan.

To whom it may concern,

The Oceano Community Services District (OCSD) provides residents and businesses in Oceano with water, wastewater collection, trash and recycling, fire and emergency services, and street lighting services.

After reviewing the proposed Public Works Plan for the Oceano Dunes State Vehicular Recreation Area (ODSVRA), the OCSD submits the following comments.

The PWP proposes to close the Grand Avenue vehicle entrance. With no new, alternative entrance currently under consideration, this would push all ODSVRA traffic through the Pier Avenue entrance. The adverse impacts noted below would be exacerbated. Therefore, the OCSD opposes this proposal and recommends that State Parks perform an entrance study.

The Plan needs to address the impacts of operation of the ODSVRA on the community of Oceano, which include the following:

Increased trash and dumping. The OCSD must collect and dispose of this garbage at a cost to the Oceano rate payers.

Increased operational and safety impacts to District staff. The District's sewer lift station is located midway along Pier Avenue. When staff need to enter the wells for maintenance, access is sometimes blocked by vehicles waiting in line at the ODSVRA entrance. In addition, noxious exhaust fumes from idling vehicles in the line pose a health hazard to staff working in the wells' confined spaces.



Oceano Community Services District

Damage and risk to critical water and sewer infrastructure. A fire hydrant on Pier Ave located adjacent to an ATV rental store is repeatedly knocked over by vehicles improperly exiting the store, and the OCSD has had to replace this fire hydrant frequently. Maintenance of the wet well on Pier Avenue is needed more often due to clogging from improper items disposed of in the system. And the 2019 Local Hazard Mitigation Plan prepared for the OCSD identified operation of the Pier Avenue entrance as increasing the risk of sea level rise and tsunamis to critical infrastructure including the lift station.

Traffic impacts to fire and emergency services. At times fire trucks have had difficulty accessing the community west of Highway One.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in blue ink that reads "Linda Austin". The signature is fluid and cursive.

Linda Austin, President



COUNTY OF SAN LUIS OBISPO
BOARD OF SUPERVISORS

Bruce Gibson *District Two Supervisor*

February 23, 2021

BY U.S. MAIL & E-MAIL

Mr. Steve Padilla, Chair
California Coastal Commission
455 Market Street, Suite 300
San Francisco, CA 94105
(OceanoDunesReview@coastal.ca.gov)

Re: Comments on Oceano Dunes State Vehicular Recreation Area Coastal Development Permit (4-82-300) Review and Public Works Plan (Item Th3, March 18, 2021)

Dear Mr. Padilla and Commissioners:

I write as a San Luis Obispo County Supervisor and member of the SLO County Air Pollution Control District Board of Directors to convey my comments on the above-referenced item and to voice my support for Commission staff's recommendation regarding future uses in the Oceano Dunes State Vehicular Recreation Area (ODSVRA).

Following a short summary, I offer more detailed comments on the proposed Public Works Plan and its draft environmental impact report (DEIR).

Summary

In short, the proposed PWP does not adequately address numerous issues and impacts of ODSVRA operations and should be rejected by your Commission. I support your staff's recommended modifications to CDP 4-82-300.

For many years, numerous commenters have been raised issues regarding, 1) State Parks' general compliance with its 1982 Coastal Development Permit; 2) airborne dust pollution caused by off-highway vehicle (OHV) use; 3) inconsistencies between current uses in the ODSVRA and the San Luis Obispo County's Local Coastal Program (LCP); and 4) issues regarding emergency response and nuisance impacts to Oceano residents. None of these issues are resolved in the proposed PWP.

Let me emphasize in particular that the PWP does not adequately address the airborne dust pollution caused by OHV riding in the ODSVRA. Consequently, the DEIR's air quality analysis is inadequate, as it fails to identify the beneficial impacts of mandated air pollution control measures. These shortcomings are consistent with State Parks' refusal to accept peer-reviewed technical studies that establish the contribution of OHV use to serious public health threats downwind of the ODSVRA.

More than a decade of effort has produced no significant progress toward reducing air quality violations and numerous other impacts to coastal resources continue. Thus, I agree with your staff's recommendation for a phased transition of the Park to non-OHV recreational activities. Such a transition will enable effective efforts to control windborne dust, allow resolution of the significant Coastal Act issues well-known to your Commission and provide new economic opportunities in San Luis Obispo County.

Detailed comments on the PWP

San Luis Obispo County residents and elected officials have long been concerned with several issues regarding the ODSVRA, including:

- Reconciliation of Figure 4 and Standard 9 of the County's Local Coastal Program;
- Dust pollution downwind of the Park caused by OHV use;
- Impacts to Oceano residents, specifically emergency response, sand being tracked out, and other nuisance impacts such as trash, noise and traffic; and
- State Parks' general compliance with the 1982 Coastal Development Permit (CDP), now under review.

As detailed below and in your staff report, the PWP does not adequately address numerous issues:

- The PWP does not squarely address reconciliation of Figure 4 and Standard 9 in the County's LCP (specifically the South County – Coastal Area Plan). The PWP does not specifically delineate whether the La Grande Tract is a buffer area or riding area. The PWP appears to maintain the LA Grande Tract as a riding area and therefore the proposed use remains inconsistent with the County's LCP.
- The PWP fails to include the dust pollution reduction measures required in the Particulate Matter Reduction Plan (PMRP) prepared by State Parks in response to regulations and orders of the San Luis Obispo County Air Pollution Control District (SLOAPCD). The PWP Executive Summary (PWP ES 1.2.1) inconsistently excludes the PMRP from the PWP actions, yet "requires compliance with the PMRP." However, one project objective in the DEIR project description (DEIR 2.3.2) is to "manage the park consistent with state and federal resource protection goals and mandates," which by the above must include the PMRP. The inclusion of this objective requires analysis of the air quality impacts of both the PWP and the PMRP. This omission results in an inadequate air quality analysis in the DEIR, as noted below.
- The PWP does not address issues of sand being tracked out into the Pismo Beach, Oceano and Grover Beach communities from vehicles exiting the ODSVRA. This has been a significant ongoing issue for these communities and needs to be further addressed.
- The PWP does not sufficiently enhance the potential for economic development in the coastal area of the City of Grover Beach and Oceano, specifically in the area of Pier Avenue. As you

know, elected leaders and business and property owners in this area have complained about the lack of investment and redevelopment in this area due to location of the entrance for ODSVRA. The attendant impacts associated with the current entrance and its operation have artificially depressed investment and redevelopment.

- While the PWP proposes a potential new accessway to ODSVRA via the Oso Flaco Improvement Project and conceptually through the Phillips 66 Southern Entrance Project, the ultimate feasibility of those projects is questionable and their environmental impacts are unacceptable.
- The PWP does not adequately address impacts to Arroyo Grande creek and sensitive species due to vehicles crossing the creek area. Further, the PWP does not appear to address, or even acknowledge, the County Flood Control's proposed project for Arroyo Grande Creek and Meadow Creek regarding flood control.
- While the proposed public access boardwalk would increase public access to the coast, the compatibility of such a boardwalk with vehicle access between Grand and Pier Avenues and Beach Post Marker 2 is questionable. While regulations would restrict speed and prohibit OHV use until Beach Post Marker 2, enforcement of such restrictions is limited and ineffective. There are numerous public reports of individuals violating such rules and operating vehicles in this area recklessly and dangerously.
- The Oso Flaco Improvement Project, as designed, proposes an unacceptable conversion of prime agricultural land and will impose increased impacts on sensitive habitat.
- The PWP does not address concerns regarding the true operating intensity and capacity of the ODSVRA, especially with respect to OHV use. The proposed entrance kiosks and operations do not address the issues identified by the Coastal Commission in its June 21, 2019 staff report related to capacity management. For example, there are no improvements or operational changes that would accurately count the number of OHV vehicles located within the ODSVRA site at any given time.
- The PWP does not address the County's concerns with the increase in emergency response associated with the OHV use in the ODSVRA.

Summary of comments on the DEIR – esp., airborne dust pollution and OHV use

My comments on the DEIR were conveyed to State Parks in my letter of February 23, 2021 (attached). While the DEIR has several inadequacies, as detailed in the letter, I wish to highlight here the failure to properly account for the downwind dust pollution that has been found to be the result of OHV use in the ODSVRA.

The PWP discussion of “areas of controversy” (S.6) suggests that “dust and sand blown off site and downwind” are acceptable consequences of “allowable uses.” However, the airborne dust pollution downwind of the Park frequently violates federal and state clean air standards and local air quality

regulations (specifically Rule 1001, enacted by the San Luis Obispo County Air Pollution Control District, SLOAPCD). Peer-reviewed technical studies have established that OHV riding in the Park is a major contributor to the dust pollution. The issue of dust pollution has been a topic of considerable public controversy for over a decade.

The PWP itself fails to include the dust pollution reduction measures required in the Particulate Matter Reduction Plan (PMRP), yet inconsistently "requires compliance with the PMRP." Given the implicit inclusion of the PMRP in the future management of the ODSVRA, the DEIR does not adequately analyze air quality impacts. Specifically, compliance with the PMRP would result in air quality improvements that should be identified as beneficial (Class IV) environmental impacts. Omission of these Class IV impacts in the DEIR is consistent with State Parks' refusal to accept the important connection of OHV riding and dust pollution. Supporting this refusal, the DEIR misrepresents the findings of important technical studies, consistent with State Parks' long-standing efforts to discredit the scientific connection.

Concurrence with the Commission staff's recommendation

While my experience with the ODSVRA has been almost entirely through SLOAPCD efforts to reduce the public health threat caused by windborne dust connected with OHV use, I appreciate that current Park uses raise numerous Coastal Act and other public policy issues. Many of these issues are challenging to resolve in light of the competing interests of various groups.

I believe there are various ways to mitigate the dust problem, but State Parks has shown minimal commitment to that effort, as manifested by its refusal to accept the technical basis of the problem source and the related inadequacies of the proposed PWP. Quite clearly, the eventual elimination of OHV use will open numerous opportunities to remediate the Oceano Dunes, effect significant control of dust emissions and certainly resolve other Coastal Act issues. For those reasons, I support your staff's analysis and their recommendation to transition the Park to other environmentally-sustainable recreational opportunities.

Thank you for the opportunity to provide comments.

Respectfully submitted,



Bruce Gibson
Supervisor, District 2
San Luis Obispo County

cc: John Ainsworth, Executive Director, California Coastal Commission
Dan Carl, Deputy Director, California Coastal Commission
Kevin Kahn, Deputy Director, California Coastal Commission



COUNTY OF SAN LUIS OBISPO
BOARD OF SUPERVISORS
Bruce Gibson District Two Supervisor

February 23, 2021

BY U.S. MAIL & E-MAIL

California State Parks
Strategic Planning and Recreation Services Division
1725 23rd Street, Suite 200
Sacramento, CA 95816
(OceanoDunes.PWP.EIR@parks.ca.gov)

Re: Comments on draft Environmental Impact Report for the Pismo State Beach and Oceano Dunes State Vehicular Recreation Area

To whom it may concern:

I write to convey my comments on the draft Environmental Impact Report (DEIR) for the Pismo State Beach and Oceano Dunes State Vehicular Recreation Area (collectively, ODSVRA) Public Works Plan (PWP).

Referencing numbered sections of the DEIR:

S.5 – No OHV (Phased) Alternative: The draft EIR states “By eliminating OHVs, street-legal vehicles would still be allowed to operate in the Park; thus, only removing a small subset of vehicles from the beach and dunes.”

In support of this statement, the draft EIR references Vehicle Code Sections 38010 and 38012, however, it is unclear what quantitative information collection or analysis was done to support the conclusion that such a modification would only affect a “small subset” of vehicles that actually use the park.

The draft EIR references the OHV Trust Fund and identifies various programs that State Parks implements with respect to resource management. In support of not adopting the “No OHV (Phased) Alternative,” the draft EIR asserts that “Current spending for these programs...would be reduced and result in significant impacts to sensitive and endangered species and habitat currently funded through OHV Trust Funds to meet the state and federal management requirements.”

The primary driving force behind the need for the resource programs is the fact that OHV use negatively impacts natural resources within the ODSVRA area. If OHV use ceases, then the need for such resource management is likewise reduced.

S.6 – Areas of Controversy and Issues to be Resolved: The discussion outlined in this section under the heading “Existing Park Operations” insufficiently describes the history and background of the permit history of the park and areas of controversy, specifically, the dispute and differences of opinion between State Parks and Coastal Commission which is outlined in the Coastal Commission’s June 21, 2019 staff report.

The discussion is also inadequate, as it suggests that “dust and sand blown off site and downwind” is an acceptable consequence of activities that are “allowable uses.” The discussion should note that airborne dust pollution downwind of the Park frequently violates federal and state clean air standards and local air quality regulations (specifically Rule 1001, enacted by the San Luis Obispo County Air Pollution Control District, SLOAPCD). Peer-reviewed technical studies by SLOAPCD have established that OHV riding in the Park is a major contributor to the dust pollution. The issue of dust pollution has been a topic of considerable public controversy for over a decade.

Thus, the discussion should include two other significant areas of controversy:

- 1) State Parks’ refusal to accept the established findings connecting dust pollution and OHV riding at ODSVRA (see comments on 6.2.3 below); and
- 2) the efforts of State Parks to evade compliance with SLOAPCD Rule 1001 in the nine years since it was enacted in 2011.

The issues above have generated significant public controversy and litigation. The omission from the PWP of dust control measures required by the SLOAPCD and its Hearing Board amount to a further evasion by State Parks of responsibility for the negative public health impacts caused by operations in the ODSVRA.

2.0 – Project Description. The project description for the DEIR analysis is inadequate because it fails to include the dust pollution reduction measures required in the Particulate Matter Reduction Plan (PMRP) prepared by State Parks in response to regulations and orders of SLOAPCD and its Hearing Board. The PWP Executive Summary (PWP ES 1.2.1) inconsistently excludes the PMRP from the PWP actions, yet “requires compliance with the PMRP.” However, one project objective in the DEIR project description (DEIR 2.3.2) is to “manage the park consistent with state and federal resource protection goals and mandates,” which by the above must include the PMRP. The inclusion of this objective requires analysis of the air quality impacts of both the PWP and the PMRP. This omission results in an inadequate analysis in the DEIR 6.0 (Air Quality), as noted below.

5.3.1 – Issues Not Discussed Further in This EIR. The initial and future Oso Flaco Improvement projects entail the conversion of prime soils into recreation and open space. The DEIR addresses this impact by stating: “Approximately 116 acres of land within the Oso Flaco Improvement Project site is designated as Prime Farmland. However, State Parks has owned this land for decades and has been leasing the site in the interim to be used by a private entity for agriculture until such time that the site can be used as Park land. The Oso Flaco Improvement Project site is not under an agricultural preserve

program. The proposed site restoration and transition to high-priority public access and recreational use and restored as natural habitat consistent with the Park General Plan would not result in loss of Important Farmland acreage. Therefore, implementation of the PWP and site-specific projects would have no impacts related to the direct conversion of Important Farmland."

The fact that State Parks owns, currently leases and intends on returning the site to Park land completely fails to properly evaluate the environmental impacts to agricultural resources by virtue of the proposed project.

6.2.3 – Dust and PM Studies at Oceano Dunes SVRA – This part of the discussion on the Environmental Setting (DEIR 6.2) misrepresents the conclusions of several important technical studies, as follows:

- South County Phase 2 Particulate Matter Study (SLOAPCD, 2010) – This study explicitly concluded that OHV riding is a major contributor to elevated PM concentrations. The reference in the EIR leaves out that crucial fact, consistent with State Parks' refusal to accept that conclusion.
- Overview of Scientific Concerns Regarding Rule 1001 by the SLOAPCD (CGS 2012) – This memo, which purports to rebut the conclusions of the Phase 2 Study, was peer reviewed and rejected. The Phase 2 Study conclusions were validated.
- 2013 Intensive Wind Erodibility Measurements at and Near the ODSVRA: Report of Findings (DRI D., 2015a) – The discussion omits the fact that this study confirmed dust emissivity was higher in areas subject to OHV use, which confirms the findings of the Phase 2 Study.

The misrepresentations of these three studies are consistent with State Parks' long-standing efforts to discredit the scientific connection between dust pollution and OHV riding.

6.3.1.1 – Impacts from PWP Implementation: Given the implicit inclusion of the Particulate Matter Reduction Plan (PMRP) in the future management of the ODSVRA under the PWP, the DEIR does not adequately analyze air quality impacts. Specifically, compliance with the PMRP would result in air quality improvements that should be identified as beneficial (Class IV) environmental impacts. Omission of these Class IV impacts in the DEIR is consistent with State Parks' refusal to accept the important connection of OHV riding and dust pollution.

Other concerns include:

The DEIR states that "Oceano Dunes SVRA operates under daily vehicle limits established by CDP 4-82-300, most he (sic) recently amended and approved by CDP 4-81-300-A5 in 2001" While these permits do establish vehicle limits for the park, its actual implementation and enforcement is questionable. For example, State Parks does not inspect the inside of toy haulers to count the number of OHV vehicles inside. Nor does State Parks count vehicles existing the park or vehicles that come in after hours. These limits also do not apply to certain holidays and special events. Therefore, the assumption that the on-the-ground operations match permit requirements is not supportable.

The DEIR states “As outlined in greater detail in Volume 1, Chapter 3, “The Plan,” of this EIR, the PWP is intended to enhance operational efficiency and improve the visitor experience; however the PWP does not propose to increase park visitation, staffing, or related vehicle use levels, and may in fact reduce visitor use levels at least in the interim; the PWP is therefore consistent with the emission-generating characteristics and assumptions used by the SLOAPCD to forecast emissions in the 2001 Clean Air Plan, as well as the measures and strategies identified to reduce emissions.”

The Oso Flaco Initial Improvement Project proposes 38 primitive walk-in campsites with group camping up to 50 people. A new gathering space is proposed for concessions, events and interpretative and education programs. This initial project also proposes additional visitor parking space of up to 60 standard spaces and 20 larger spaces for recreational vehicles, school buses, etc. The future project proposes up to 100 drive-in campsites for tent camping, 20 cabins and 200 new recreational vehicle parking spots.

Given the nature and scope of the improvements and the historic difficulties of managing vehicle limits, the statement that the PWP does not propose to increase park visitation is not supportable.

6.1.1.1 – Impacts from PWP Development Projects and Small Development Projects: This section analyzes Impact 6-1 – Conflict with or Obstruct Implementation of the Applicable Air Quality Plan. The DEIR in this section references all of the proposed projects in the PWP and states “These site-specific improvement projects would not result in changes to park visitation or vehicle use levels.”

Similar to the comment immediately above, some of the projects propose significant visitor serving and recreational uses (i.e. the Oso Flaco Future Improvement Project). It is not realistic to assume that park visitation would not change given the nature and scope of the proposed improvements.

7.2.2 – Avoidance and Minimization Measures (AMMs): The first paragraph of this section references avoidance and minimization measures (“AMMs”) that are being developed in the Habitat Conservation Plan (“HCP”) that State Parks is also preparing. The DEIR states “The application of AMMs during PWP implementation is presumed, and therefore they are not considered mitigation measures but rather resource protection measures that are part of the proposed PWP and HCP. Thus, the AMMs are considered to be in place when determining the level of impact of the PWP, as described below.”

This not only unlawfully modifies the environmental baseline, but it assumes the effectiveness of AMMs that have not played out in real life. The analysis should be revised to reflect the current environmental baseline and park operations of May of 2018 consistent with Section 1.5 of the DEIR.

7.2.3 – Definition of ESHA: The DEIR defines environmentally sensitive habitats (“ESHA”) as “...those vegetation communities that are considered sensitive natural communities by CDFW, that are subject to regulation under section 404 of the federal Clean Water Act, the State’s Porter Cologne Act, or California Fish and Game Code 1600 et al.” The DEIR further states that “Unvegetated habitat

types such as beach strand or unvegetated dunes are not considered ESHA for the purposes of this EIR.”

That definition is inconsistent with the definitions of ESHA in the Coastal Act, San Luis Obispo County Code and the County's Land Use Element combining designation. Public Resources Code Section 30107.5 defines ESHA as “any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.”

Likewise, County Code Section 23.11.030 defines mapped ESHA as “A type of Sensitive Resource Area where plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could easily be disturbed or degraded by human activities and development. They include wetlands, coastal streams and riparian vegetation, terrestrial and marine habitats and are mapped as Land Use Element combining designations. Is the same as an Environmentally Sensitive Habitat.”

The same County Code section defines unmapped ESHA as “A type of Sensitive Resource Area where plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could easily be disturbed or degraded by human activities and development. They include, but are not limited to, known wetlands, coastal streams and riparian vegetation, terrestrial and marine habitats that may not be mapped as Land Use Element combining designations.

County combining designations identify the entirety of the ODSVRA area as a Sensitive Resource Area: https://opendata.slocounty.ca.gov/datasets/a1eca058b96a478bbb484b30d8cbb495_70?geometry=-120.866%2C34.956%2C-120.212%2C35.054

The entirety of the analysis regarding compliance with ESHA policies should be revised to be consistent with these definitions.

7.3.1.1 - Impacts on Special-Status Species from Proposed PWP Implementation: In analyzing the PWP's impacts on special status species, the DEIR states “State Parks would continue to implement their standard practices and policies and AMMs currently in place for existing and future management activities and potential impacts on special-status from these activities are covered by the HCP and were analyzed in the HCP EIR.”

The effectiveness of those AMMs are unknown. Further, State Parks has recently performed certain activities which were detrimental to these species and their habitat, which resulted in a formal cease and desist letter being issued by the Coastal Commission. Therefore, pure reliance on these standard practices and policies as effective mitigation is unsupported.

7.3.4.1 Impacts on Wildlife Movement from Proposed PWP Implementation: The DEIR does not specify what the wildlife movement is in the existing park in order to meaningful assess the impacts of the various projects on wildlife movement.

7.3.4.2, Impacts on Wildlife Movement from Development Projects, Impact 7-10 Impacts on Wildlife Movement: The DEIR fails to provide adequate information and analysis on how it determined that the Oso Flaco Improvement Projects, the Park Corporation Yard Improvement Project, the Butterfly Grove Public Access Project and the Phillips 66/Southern Entrance Project would have a less than significant impact on wildlife movement.

The entirety of the analysis is two sentences: "Impacts would be temporary during construction and would not be expected to result in new permanent wildlife barriers. The projects would occur in areas of ample open space/natural communities and any wildlife would be able to pass through the area even during construction." This is insufficient under CEQA.

19.3.2.2 Impacts from PWP Development Projects, Impact 19-1, Construction or expansion of Recreational Facilities which might adversely affect the physical environment: The discussion of the Oso Flaco Initial and Future Improvement Projects fails to address the conversion of agriculture (see also comments on section 5.3.1. above).

I appreciate the opportunity to comment on this draft EIR. Please don't hesitate to contact me if you need further information.

Respectfully submitted,



Bruce Gibson
Supervisor, District 2
San Luis Obispo County



COUNTY OF SAN LUIS OBISPO
BOARD OF SUPERVISORS
Debbie Arnold *District Five Supervisor*

March 12, 2021

California Coastal Commission
45 Fremont Street, #1900
San Francisco, CA 94105

Dear Chair Padilla and Commissioners:

Thank you for the opportunity to comment on item #3, the Oceano Dunes CDP Review, on the March 18, 2021 agenda.

You are scheduled to discuss making changes to the CDP under which the Oceano Dunes State Vehicular Recreation Area (ODSVRA) operates. The ODSVRA is a very popular destination for millions of visitors each year. Many that come to recreate at this park are Californians who enjoy camping and using the off-highway vehicle area.

I ask that you consider the many families that come to enjoy this park because of the ability to drive their off-road vehicles on the dunes. I urge you to continue to work with the OHV Division of State Parks as they work to protect the natural resources while accommodating the visitors that enjoy this type of recreation.

This unique park is beloved by so many California families, and has become an important part of San Luis Obispo's tourist industry.

I respect the California Coastal Commission's work in preserving and protecting our beautiful California coastline, but hope when you review any potential revisions to the CDP for this park you will consider the historical use and continue to work with State Parks to maintain it.

Thank you again for the opportunity to address this important issue.

Sincerely,

Debbie Arnold
San Luis Obispo County 5th District Supervisor

Public Comment on 3/18/21 Coastal Commission Meeting ODSVRA Agenda Item

Jimmy Paulding <jpaulding@arroyogrande.org>

Tue 3/9/2021 5:07 PM

To: OceanoDunesReview@Coastal <OceanoDunesReview@coastal.ca.gov>

Cc: Whitney McDonald <wmcdonald@arroyogrande.org>; Caren Ray Russom <crayrussom@arroyogrande.org>; Keith Storton <kstorton@arroyogrande.org>; Lan George <lgeorge@arroyogrande.org>; Kristen Barneich <kbarneich@arroyogrande.org>

Dear Commissioners,

Thank you for considering the Oceano Dunes State Vehicular Recreation Area's (ODSVRA's) existing use and operation against the requirements of the Coastal Act. I also appreciate Staff's comprehensive review of State Park's long awaited Public Works Plan (PWP). Unfortunately, the PWP fails to address many of the legitimate concerns raised or recommendations made by your Staff and the Commission at your July 11, 2019 hearing on this item. Even worse, the PWP contemplates expansion of off-highway vehicle (OHV) use into sensitive habitat areas without adequate air quality or environmental mitigation as opposed to seeking a compromise position that will balance competing interests. The sensitive habitat and bird sanctuary at Oso Flaco Lake and surrounding lands must continue to be preserved, not redeveloped.

Bringing the ODSVRA's existing use and operation into compliance with the Coastal Act is long overdue, as the issues surrounding the ODSVRA have persisted for decades. It is time for your Commission to take decisive and definitive action. We need an ODSVRA use and operation that supports economic vitality in the region while also complying with the Coastal Act, protecting public health and safety, supporting access and use for residents of the neighboring community of Oceano, and protecting environmentally sensitive habitat areas. In my opinion, the PWP, as submitted, does not accomplish these goals.

Please support a vision for the ODSVRA that balances the economic, environmental, and social aspects of the ODSVRA's use and operation. If vehicles are a part of the vision, please ensure that air quality, safety, and environmental impact concerns are properly addressed. Public health and safety should always come first.

Please note that, per Arroyo Grande City Council policy, I am speaking for myself on this issue, not for the Council as a whole.

Sincerely,

Jimmy Paulding
Mayor Pro Tem
City of Arroyo Grande

Cc: Arroyo Grande City Council Members, Arroyo Grande City Manager

I write to convey my support for your staff's vision for the Oceano Dunes SVRA

Harmon, Heidi <hharmon@slocity.org>

Mon 3/8/2021 1:26 PM

To: OceanoDunesReview@Coastal <OceanoDunesReview@coastal.ca.gov>

Dear Chair Padilla and Coastal Commissioners,

I am writing this letter as an individual and not in my official capacity as Mayor of San Luis Obispo as we have not taking council action on this item. I write to convey my support for your staff's vision for the Oceano Dunes SVRA. The State Parks Off-Highway Division's Public Works Plan does not address the multitude of issues that arise from its operations and, in fact, expand off-road vehicle riding.

It has been clear for a very long time that Park operations do not conform to the Coastal Act for which you are responsible or to local coastal plans. The environmental damage, threat to public health, negative impact on the Oceano community and assault on wildlife have been allowed to continue. I say, "no more."

Your staff has provided you with a roadmap for the future of the Park that addresses all of these concerns, opens the beach to a broader number of recreational uses, gives Oceano a chance to thrive, protects the environment, wildlife and human health. Despite the opposition's economic argument, the experience of the city of Pismo Beach and its closure to vehicle traffic demonstrates what a positive influence alternative beach use can be.

I hope you will support what I consider to be a long-overdue and much-needed transition that closes the book on this desecration of our area's natural resources.

Thank you for your consideration.

Heidi Harmon

Heidi Harmon

pronouns she/her/hers

Mayor

 [City of San Luis Obispo](https://www.cityofsl.org/)

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Oceano Dunes Vehicular Access- March 18, 2021 meeting

Linda Austin <hguiton@aol.com>

Fri 3/12/2021 2:46 PM

To: oceanodunes.pwp.eir@parks.ca.gov <oceanodunes.pwp.eir@parks.ca.gov>; OceanoDunesReview@Coastal <OceanoDunesReview@coastal.ca.gov>; Office of the Secretary CNRA <secretary@resources.ca.gov>; Cabral, Ted@Parks <Ted.Cabral@parks.ca.gov>; assemblymember.cunningham@assembly.ca.gov <assemblymember.cunningham@assembly.ca.gov>; Quintero, Armando@Parks <Armando.Quintero@parks.ca.gov>; district4@co.slo.ca.us <district4@co.slo.ca.us>; lcompton@co.slo.ca.us <lcompton@co.slo.ca.us>; Ainsworth, John@Coastal <John.Ainsworth@coastal.ca.gov>; Carl, Dan@Coastal <Dan.Carl@coastal.ca.gov>; Kahn, Kevin@Coastal <Kevin.Kahn@coastal.ca.gov>; CentralCoast@Coastal <CentralCoast@coastal.ca.gov>; Padilla, Stephen@Coastal <Stephen.Padilla@coastal.ca.gov>; Locklin, Linda@Coastal <Linda.Locklin@coastal.ca.gov>; Pearce, Kevin@Parks <Kevin.Pearce@parks.ca.gov>; OHV, OHVINFO@Parks <OHVINFO.OHV@parks.ca.gov>

I am Linda Austin, an elected official in Oceano, writing on my own behalf. I am a 4th generation native of Oceano, having lived and worked in the community my entire life. I am the owner of the family business, Guiton Realty, established in 1919. I have a clear understanding and knowledge of the beach area and am offering my input on the issues surrounding the use of vehicles on Oceano Beach. **DAY USE PARKING ON PIER AVE.-** There is one small parking lot in the Pier Ave area to accommodate day users of the beach. During the COVID closure last summer the neighborhoods around Pier Ave all the way to Highway 1 were inundated with parked vehicles. The streets off Pier Ave where residents live were full on both sides making it nearly impossible to maneuver through the cars. This caused serious problems for the residents and for emergency vehicles. I have seen no plans for a new parking area around Pier Ave to accommodate the influx, there is no place to locate a parking area that I know of.

PEDESTRIAN DAY USE ONLY- People impacted the local neighborhoods trying to find parking, then had to walk carrying their things for the beach, only to become sardined in the area around Pier Ave with the other beach goers. Not everyone can walk the long distance of Oceano Beach. During the time of closure, the beach around Pier Ave became crowded much like you see in Avila and Pismo Beach. People started coming to Oceano to avoid the crowds but unfortunately it caused Oceano to be overcrowded also. Trash problems and doggie bags started becoming an issue like they are having right now in Pismo Beach.

GEOGRAPHY AND WEATHER- Oceano's beach and dunes are a unique wonder and there is no comparison when you look at the layout of Pismo and Avila beaches. Oceano has a long, wide expanse of beach that affords recreation of all kinds. The commercial area consists of Pier Ave, a one half mile strip. The rest of the beach is residential. It is not realistic to say that Oceano could become like Pismo if we closed the dunes. Pismo Beach has blocks of commercial development and parking lots all over town. The wind is another factor. At the turn of the century developers had big plans for resorts at Oceano and at one time there were five resorts with a beach theme carved out in the dunes and beachfront. One by one they all failed due to the wind and the elements. The current mixed use of Oceano is what has worked best for decades, with all forms of recreation being enjoyed by residents and visitors in a compatible fashion.

PIER AVENUE- The claims by a small group of people that Pier Avenue is a wasteland of hodgepodge buildings is simply not true. The truth is there are restaurants, hotels, a State Park campground, resort with vacation cabins, two ATV rental businesses, souvenir shops , grocery stores. There is also residential development. The notion that offroad activity stymies the growth of Pier Ave is false. There is a lot packed into the one commercial street going to the beach. I might add, there are new businesses and existing businesses that have all remodeled and upgraded. Another thing not mentioned that controls development on Pier Ave is the Airport Land Use Commission. They have stopped development through the years due to the restrictions they place. This is all a matter of record.

OCEANO RESIDENTS AND BUSINESSES- It has been said at meetings by a few that Oceano is a disadvantaged, underserved community whose residents are denied access to their beach. This is false. Oceano is a proud diverse community made up of many nationalities of people. It is an insult to them to suggest that they are not able to enjoy their beach. They have been enjoying it for over 100 years! The classification of "Disadvantaged Community" simply means that the median income is lower than some areas of the state and qualifies Oceano to receive grants for improvements. Painting Oceano as a downtrodden community is not true and very disrespectful to the residents and businesses that live and work here. We have two very successful Latino owned businesses on Pier Avenue that employ Latinos and support the continued vehicle use. The demand for real estate in Oceano far outweighs the supply, and many families have called Oceano home for generations, all enjoying our beach in their own way.

GENTRIFICATION OF OCEANO- This is what the people who want the dunes closed are envisioning for Oceano. I have lived here long enough to know the heartbeat of our community. I know this: The majority of Oceano residents, old and new alike, love this town and want to retain and embrace our character, charm, history, and the unique heritage we all share in this beachside community. The thought of Oceano becoming just another beach town, devoid of all the things that make it so special is not received well by our residents and businesses. When people travel now in this busy world, they want to get off the beaten path. They want to see original communities that have embraced where they came from and continue to improve their town while retaining its soul. They want to get back and experience the roots of what makes a community so special. Oceano is one of those communities. Improvements are being made to our infrastructure, safety, residential and business districts while all the while maintaining our unique character and lifestyle. New businesses are popping up, new homes being built, existing businesses are remodeling and fixing up. A grassroots movement to keep the dunes open recently started by two Oceano residents has taken off and over 70 businesses and 300 residents have signs and banners displayed.

There is always room for improvement and by working together the issues can be resolved. Please do not take away the recreation, livelihood, and way of life for millions of people and especially the residents and business owners who live here, work here and recreate in all forms at Oceano. There is room for everyone to enjoy Oceano Beach and dunes.

Thank you .

Sincerely,

Linda M Austin, 67 year resident of Oceano

Guiton Realty "at the beach" since 1919
Oceano