

CALIFORNIA COASTAL COMMISSION

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July 23, 2021

Molly Brown
Arcata Field Manager
Bureau of Land Management
ATTN: Casey Hague
1695 Heindon Road
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Subject: Negative Determination ND-0038-20 (One-year extension of Management Plan for the Eureka Dunes Riding Area, North Spit Humboldt Bay, Humboldt County)

Dear Ms. Brown:

The Commission staff has reviewed the above-referenced negative determination. The Bureau of Land Management (BLM) proposes to continue for a one-year period off-highway vehicle (OHV) use and management activities on 75 acres of property owned by the City of Eureka (City) but managed by the BLM since 1998 pursuant to a Memorandum of Understanding entered into by the BLM and the City. The project site, known as the "Eureka Dunes Riding Area" is located adjacent to the 300-acre BLM Samoa Dunes Recreation Area on the North Spit of Humboldt Bay, of which 150 acres are designated for OHV use. The combined 225 acres are managed by the BLM as a single OHV use area. The Commission's Executive Director concurred with the BLM's ND-0034-15 in December 2015 which included a five-year management program for the 2016-2020 time period and the commitment to submit a new negative determination for OHV use in the riding area beyond December 31, 2020. That negative determination was submitted in late 2020 and has been under review by Commission staff since that time.

We appreciate BLM's willingness to facilitate that extended review and closely coordinate and communicate with Commission staff throughout it. During communications between Commission and BLM staff, the proposed extension of OHV use and management activities was modified from an initial five-year period to the current one-year period. In addition, a path forward was established for potential future extensions that includes the collection and sharing with Commission staff of current information regarding the presence and status of sensitive habitat and wildlife within and around the Eureka Dunes Riding Area and management measures that have been implemented to protect this habitat and wildlife. Once available, this information will be used by BLM staff and Commission ecologists to thoroughly assess the natural resource management of this area, develop any appropriate modifications to its management plan, and to develop a proposal for future use that will be submitted to the Commission for review prior to the conclusion of the proposed one-year period.

Background

To address conflicts between unregulated OHV use and protection of sensitive coastal dune habitat, Humboldt County adopted its *Beach and Dunes Management Plan (Plan)* in 1994, after five years of study, planning, environmental review, and public hearings. The *Plan* provided a framework for managing the beach and dune areas of the north and south spits of Humboldt Bay, and in 1994 was incorporated into the Humboldt County LCP as Amendment No. 1-93. The *Plan* concluded that the only areas where OHV use would be allowed are areas outside of environmentally sensitive habitat areas (ESHA) within the BLM's Samoa Dunes Recreation Area, the City of Eureka's Eureka Dunes Riding Area, and along the wave slope for limited purposes. However, because the Eureka Dunes Riding Area is located within the Commission's area of retained permit jurisdiction, the Coastal Act remained the standard of review for proposed activities in this area, rather than the amended LCP.

In January 1995 the Commission's Executive Director concurred with the BLM's negative determination ND-113-94 for managing OHV use and protecting sensitive habitat at the BLM's Samoa Dunes Recreation Area. As part of this ND, nighttime riding was prohibited within the Samoa Dunes OHV Recreation Area and the separate Manila Dunes site located elsewhere on the Samoa Peninsula was closed to all vehicular access.

In 1998 the BLM and the City applied for, and the Commission approved, CDP No. 1-98-067, which authorized OHV use on the City's adjacent Eureka Dunes Riding Area (riding area) for a period of two years, subject to special conditions regarding OHV use standards, annual monitoring reports, and a two-year time period for OHV use on the property. The subject property had been significantly disturbed over many years prior to this approval due to unauthorized and indiscriminate OHV use and other human activities, and the Commission determined that the proposed two-year management plan would begin to resolve use conflicts and protect sensitive habitat in a balanced way. Fundamental to the Commission's review and authorization was the identification and protection from OHV use of all areas of ESHA within the riding area. The Commission subsequently approved CDP Nos. 1-00-047, 1-05-028, and 1-10-017 (again submitted by the BLM and the City), each of which authorized the continued use of OHV riding outside of ESHA in the Eureka Dunes Riding Area for additional five year time periods, along with special conditions regarding OHV management, annual reporting, fenced enclosures to protect areas of rare and endangered plant species, and trail maintenance. These approvals were granted in part due to continued safe and orderly OHV use, uninterrupted monitoring and protection of sensitive habitat and resources, prohibition of all riding activities in areas designated ESHA, successful habitat restoration in areas closed to OHV use, ongoing facility and trail maintenance, an active law enforcement presence, and a sustained reduction in OHV trespass into areas closed to OHV use.

In the fall of 2015, the BLM submitted negative determination ND-0034-15 rather than another joint CDP with the City of Eureka given that the BLM was the responsible agency for managing the subject properties. That negative determination stated that under the four previous CDPs the BLM was required to:

1. Provide an annual report to the Commission.

2. Maintain all protective fencing and signs.
3. Prevent OHV use in unauthorized areas and ESHA (including nearly three acres of fenced and protected dune habitat containing native dune plant species).
4. Conduct annual monitoring of the plant species within the protected enclosures (including the status of any rare and/or endangered species).
5. Conduct annual restoration within the enclosures that involved hand pulling and removal of invasive plants such as European beachgrass, yellow bush lupine, and iceplant.
6. Monitor and report on law enforcement efforts, breaches in any of the protective fencing, and OHV use numbers and activities.

The BLM stated in its 2015 negative determination that after 16 years of annual monitoring, agency biologists had determined that no negative impacts occurred to any ESHA or sensitive resource values in the Eureka Dunes Riding Area as a result of OHV use, and that “vehicle trespass into closed areas further north along the beach has been reduced dramatically since the BLM began managing the Eureka Dunes Riding Area.” In addition, the enclosure and protection of areas with sensitive dune species as well as continuing habitat enhancement activities (i.e. removal of invasive plants) resulted in the expansion of those areas and increased the density and diversity of native species they support. That negative determination further stated that:

The BLM’s negative determination for continued OHV use and management on the 75-acre “Eureka Dunes Riding Area” includes the incorporation of and the commitment to implement the five special conditions that were attached to coastal development permit 1-10-017 (City of Eureka and BLM), in order to ensure continued protection of coastal resources during the five-year period (December 2015 through December 2020) of the subject negative determination . . .

The current negative determination submitted by the BLM for a one-year extension (August 2021- August 2022 time period) provides for continued public access and recreation at the project area, which is dominated by OHV use but also includes small numbers of people surf fishing, beachcombing, and surfing. The BLM responds to the occasional reports of marine mammals beaching themselves in the project area by posting signs and informing beachgoers to keep a safe distance away. In 1998 the BLM constructed two fenced enclosures at the project area to protect all pre-existing, remnant native plant communities. Subsequently, the enclosures were expanded to include densely vegetated dunes of European beachgrass that also contained interstitial native plant communities. These expanded areas have been manually treated to remove the beachgrass and support recolonization by native plants. The BLM reports that in the past two years it replaced and expanded the entire post and cable boundary fencing that surrounds the native plant enclosures and that separates the riding area from the rest of the Eureka Dunes property. The BLM also states that its many years of monitoring indicate that “OHV operators have been very habitual in staying in established trails, although they are not restricted to riding on trails only.” The post and cable fencing prevents OHVs from traveling in the sensitive habitat enclosures and east of the foredune area onto the adjacent non-OHV City of Eureka property. Signs are posted at the northern end of the

OHV riding area on the waveslope to inform OHV users that the beach and dunes to the north are closed to vehicle use.

The BLM states in its initial negative determination submittal in early 2021 that:

Very little has changed over the past 22 years regarding the physical and biological components of the area, as well as visitor use numbers and activities. The BLM has submitted annual reports each year, maintained all protective fences, performed annual monitoring of plants, wildlife, and visitor use activities and numbers, and has provided an active law enforcement presence.

The BLM reports that it receives reliable grant funding each year from the California State Parks Off-Highway Motor Vehicle Recreation Division to augment BLM funds in managing the Eureka Dunes Riding Area. The BLM also states that in the absence of managed OHV use, the annual maintenance of and restoration work within the conservation enclosures would be discontinued by the BLM due to the loss of this annual funding provided by California State Parks. This funding supports much of the management, monitoring, protection, and restoration work in the project area. The BLM reports that in 21 years of annual monitoring its biologists found that no negative impacts had occurred to any sensitive resource values as a result of OHV use. Results from annual soil monitoring indicate that no trail deterioration has occurred from OHV use and that only erosion from naturally occurring wind and wave patterns is discernable in the project area. In a 2015 letter to the BLM, the North Coast Regional Air Quality Management District acknowledged the limited levels of OHV use in the project area and stated that its review of available air monitoring data and compliance reports indicates that there is no evidence to support a finding that OHV activity at the project area poses a significant air quality health risk for adjacent areas. Dispersal of dust and particulates into surrounding areas is not occurring to the extent seen in other larger, more heavily used riding areas in central California and Commission staff is not aware of any air quality related health concerns associated with use of the Eureka Dunes Riding Area.

The BLM reports that in 1998 an intensive archaeological survey of the entire project area was conducted by the BLM in coordination with Humboldt State University and the Wiyot Tribe from Table Bluff Reservation. No cultural materials were found during this effort. In addition, historic maps detailing the U. S. Coast Surveys of 1851 through 1937 show that the majority of the project area is accreted land, deposited as a result of north jetty construction beginning in 1891. The BLM contacted three Wiyot area Tribal Historic Preservation Officers (Blue Lake Rancheria, Wiyot Tribe, and Bear River band of Rohnerville Rancheria) in June 2015 seeking input on continued authorization of OHV use in the project area. As a result, a trained volunteer group was organized by the BLM archaeologist to monitor the area for cultural resources so that proper actions would take place in the event that unknown resources were located. This group continues to monitor the area periodically. The BLM states in its subject negative determination that it has not observed any cultural sites of any kind in the project area since 1998. However, if one is discovered during the proposed one-year time period the BLM will protect the site with physical barriers as soon as possible and maintain the OHV barriers until other options are agreed upon by the BLM and tribal representatives.

Future Use and Management

Although there is extensive evidence supporting BLM's successful, balanced and effective management of the Eureka Dunes Riding Area over the past 21 years, subsequent to its ND submittal in late 2020, BLM monitoring indicated changes in habitat within some portions of the site and the use of some sites by sensitive species. Most notably, for the first time since monitoring and management of the site began, western snowy plover nesting was observed within the boundaries of some portions of the area where riding has traditionally occurred. This use was limited to 10 observed nests within an approximately 13 acre area band between the foredunes and high tide line, and when BLM staff discovered a nest or was notified of the presence of a nest, it responded by immediately deploying exclusionary fencing and signage with the assistance of U.S. Fish and Wildlife Service (USFWS) staff. BLM's timely actions ensured that these species and the habitat needed for their nests was adequately protected in the short-term; however, this new use by sensitive wildlife indicates the need for a new assessment of habitat and ESHA within the riding area – carried out in collaboration with Commission ecologists - and that additional wildlife and habitat protection measures may need to be added to the riding area's management plan to help provide adequate safeguards. BLM is currently coordinating and consulting with USFWS to develop and implement such protective measures and, in discussions with Commission staff, has committed to collect and provide additional information about the portions of the riding area that supported snowy plover nesting. This information would be provided to Commission staff prior to the expiration of the one-year extension along with all snowy plover protection and management measures developed as part of the Endangered Species Act Section 7 consultation process with USFWS staff. BLM has further committed to work with Commission staff to integrate these efforts into a proposal for future management and operation of the riding area. BLM would submit this proposal to the Commission for its review prior to the expiration of the one-year extension. Given the recent observations of snowy plover nesting in the riding area, additional studies over the next year will include reassessment of the ESHA status of these areas. This reassessment will be done in collaboration with Commission ecologists and USFWS staff. After many years of relative stability in the type and location of wildlife use and habitat within the Eureka Dunes Riding Area, the changes seen in the last year indicate that there are now other reasons to reassess the ESHA status of these dunes based on our evolving knowledge and understanding of how rare and sensitive these habitats are.

Analysis and Conclusion

The Commission staff **agrees** that the proposed continuation for a one-year time period of OHV use at the Eureka Dunes Riding Area on the North Spit of Humboldt Bay would protect existing public access and recreation at the riding area and protect environmentally sensitive habitat areas. Section 30240 of the Coastal Act only allows resource dependent uses in ESHA. The Commission has found that OHV riding is not an activity that is dependent on or needs to occur in sensitive habitat, and therefore that such riding is not permitted in ESHA. As described more above and below, the ND appropriately prohibits OHV use in ESHA and will prevent the significant degradation of adjacent, sensitive habitat areas.

The project is similar to, and consistent with, Commission approvals of coastal development permits in 1998, 2000, 2005 and 2010, and of negative determination ND-

0034-15 issued to the BLM for managed OHV use at this location. The BLM continues to incorporate into the subject negative determination all the special conditions that were attached to the coastal development permits it received from the Commission and the commitments it made in ND-0034-15. These conditions and commitments forbid OHV use in ESHA and other unauthorized areas, ensure continued protection of adjacent sensitive habitats, provide annual reporting of OHV use patterns and conservation activities, and require submitting new information and analysis along with a new negative determination for OHV use in the riding area beyond August 31, 2022. In addition, the BLM will continue weekly monitoring for plover nesting activity throughout the March 1 to September 30 nesting season and work with USFWS staff through the consultation process established through Section 7 of the Endangered Species Act to implement appropriate interim protective measures (including placement of fencing with a minimum diameter size of 100 feet around plover nests to exclude OHV and pedestrian use) until more formal snowy plover protocols are developed and integrated into the management plan for the Eureka Riding Area. With these commitments, we **concur** with your negative determination made pursuant to 15 CFR Section 930.35 of the NOAA implementing regulations. Please contact Cassidy Teufel at Cassidy.Teufel@coastal.ca.gov should you have any questions regarding this matter.

Sincerely,

[Signature Pending]

JOHN AINSWORTH
Executive Director

cc: CCC – North Coast District
City of Eureka