



**OHMVR COMMISSION MEETING
Folsom, CA**

May 17, 2013

STAFF REPORT: Oceano Dunes/PMRP Update
STAFF: Brent Marshall, District Superintendent
SUBJECT: SLO APCD Rule 1001 and Oceano Dunes SVRA

Summary

Oceano Dunes State Vehicular Recreation Area (SVRA), located within the coastal dunes of south San Luis Obispo (SLO) County consists of approximately 3,600 acres, of which 1,500 acres are open to legal off-highway vehicle (OHV) recreation. The SVRA has been the focus of serious concerns related to fugitive dust impacting local communities. SLO APCD Rule 1001, based on studies conducted by SLO APCD identifying the source of elevated particulate matter as OHV recreation, requires that California State Parks follow a rigorous Compliance Schedule in order to mitigate the issue. Failure to meet said schedule could result in fines up to \$1,000 per day.

OHMVR Division and APCD staff have been working cooperatively to address these concerns at Oceano Dunes and ensure compliance of Rule 1001.

Discussion

At the onset of this rule, State Parks expressed deep concern regarding the aggressive Compliance Schedule, with back-to-back deadlines for document submittals and installation of air monitoring and other equipment. Specifically, State Parks felt the aggressive timeline did not anticipate the time necessary to obtain the required permits from the California Coastal Commission (CCC).

Despite these concerns related to the deadlines of the Compliance Schedule, Rule 1001 was adopted by the SLO APCD Board in November 2011.

A summary of the Compliance Schedule is as follows:

Deadline:	Task:	Task Completed:
February 28, 2012	Submit a draft MSSP for APCO approval.	Yes
May 31, 2012	Submit a draft PMRP for APCO review.	Yes
November 30, 2012	Submit complete applications to appropriate agencies for all PMRP projects that require regulatory approval.	Yes*
February 28, 2013	Obtain APCO approval for Temporary CDVAA and Control Site Baseline Monitoring Program and begin baseline monitoring. Still waiting for written approval to begin.	No**
April 19, 2013 (Not part of Compliance Schedule.)	CCC verbally authorizes State Parks to proceed with the installation of temporary monitoring stations. This four-month installation will aid in determining where air monitoring stations should be located so that more appropriate baseline monitoring can be begin, pending the approval of the CDP application.	NA
May 31, 2013	Complete all environmental review requirements and obtain land use agency approval of all proposed PMRP projects.	TBD
July 31, 2013	Obtain APCO approval for PMRP; begin implementation of PMRP Monitoring Program; apply for Permit to Operate.	TBD
May 31, 2015	Requirements of Section C.3 shall apply. See Attachment 5.	TBD

*Application submitted by deadline; however, CCC requested more information, so application was not considered "complete."

** CCC did not approve application submitted on 11/30/2012, could not begin monitoring.

Since adoption, State Parks has been working with SLO APCD toward compliance. Two drafts of a Monitoring Site Selection Plan (MSSP) and three drafts of a Particulate Matter Reduction Plan (PMRP) have been submitted. Additionally, a Coastal Development Permit (CDP) application was submitted by the November 2012 deadline to the CCC; however, according to a letter dated December 27, 2012 from CCC, the application was not approved as additional information was required (See Attachment 4). The CCC informed State Parks that the application would be on hold

pending the information until June 27, 2013 with the ability to extend if given good cause.

In March 2013, SLO APCD issued a “violation” to State Parks because baseline monitoring equipment had not been installed as required by the February 28, 2013 deadline. State Parks was prevented from doing so because the CCC had not processed the CDP application (see deadline for November 28, 2013). SLO APCD did not issue a fine as part of this violation.

Air Pollution Control Officer (APCO), Larry Allen, was contacted to discuss a revised compliance schedule. In the meantime, OHMVR Division staff consulted staff from APCD on a proposed schedule of activities to comply with Rule 1001. (See Attachment 2.) State Park’s OHMVR Division staff continues to work toward the original Compliance Schedule as more develops related to the proposed schedule.

Recognizing that there are differences behind the basis of Rule 1001, the state agencies involved in this effort are cooperatively working toward compliance and understand the importance of addressing the concerns of the public. As time passes and deadlines approach more information will be provided.

Commission Action

For information only.

Attachments

1. SLO APCD, Notice of Violation: 04/1/2013
2. OHMVR Division, Proposed Compliance Schedule: 03/29/2013
3. SLO APCD, Rule 1001 Compliance Advisory: 03/12/2013
4. CCC, CDP Application: 12/27/2012
5. SLO APCD Rule 1001: November 2011



Air Pollution Control District
San Luis Obispo County

CERTIFIED MAIL

April 1, 2013

Phil Jenkins, Chief
OHMVR Division
California Department of Parks and Recreation
1725 23rd Street, Suite 200
Sacramento, California, 95816

SUBJECT: San Luis Obispo County APCD Notice of Violation Number 2852

Dear Mr. Jenkins:

Enclosed please find San Luis Obispo County Air Pollution Control District Notice of Violation Number 2852, issued for failure to meet two of the compliance deadlines in District Rule 1001, Section F.1, as follows:

- F.1.c - By November 30, 2012, submit complete applications to the appropriate agencies for all PMRP projects that require regulatory approval; and
- F.1.d - By February 28, 2013, obtain APCO approval for a Temporary CDVAA and Control Site Baseline Monitoring Program and begin baseline monitoring.

As noted in our March 12, 2013 letter, the District is willing to consider resolution of the violations through an effective and enforceable compliance agreement. As we discussed, a detailed description and timeline of the tasks to be completed to meet each of the requirements described in Rule 1001 section F.1.c through F.1.f. must be approved by APCD as a central part of the agreement. APCD staff is currently reviewing the draft timeline you submitted on March 29, 2013. Please contact me immediately to schedule an office conference to be held within the next 30 days to discuss the draft timeline and the terms of the settlement agreement.

If you have any questions or need additional information, please contact me at 781-5912. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Larry Allen", with a stylized flourish extending to the right.

LARRY ALLEN
Air Pollution Control Officer

Enclosures

cc: Ray Biering, District Counsel

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**SAN LUIS OBISPO COUNTY
AIR POLLUTION CONTROL DISTRICT**

3433 Roberto Court • San Luis Obispo, CA 93401
(805) 781-5912 • FAX: (805) 781-1002 • website: slccleanair.org

NOTICE OF VIOLATION

No 2852

California Dept. of Parks and Rec.

Name Phil Jenkins, Chief Telephone _____

Address 17225 1725 23rd St., Suite 200, Sacramento, CA 95816

Re Premises or Operations at Oceano Dunes State Vehicular Recreation Area

You are hereby notified that pursuant to:

- | | |
|---|--|
| <input type="checkbox"/> Rule 202, H&SC 42300
(No Permit/Authority to Construct) | <input type="checkbox"/> Rule 206, H&SC 42301
(Failure to meet permit conditions) |
| <input type="checkbox"/> Rule 401, H&SC 41701
(Visible Emissions) | <input type="checkbox"/> Rule 402, H&SC 41700
(Public Nuisance) |
| Opacity/Ringlemann _____ %/# | <input type="checkbox"/> Rule 701, 40 CFR, Part 61
(NESHAPS - Asbestos) |

- | | |
|---|---|
| <input checked="" type="checkbox"/> Rule <u>1001</u> H&SC _____ | <input checked="" type="checkbox"/> <u>Rule 1001, section F.1.c and d</u> |
|---|---|

An offense has been committed through the failure to by November 30, 2012, submit complete applications to the appropriate agencies for all PMRP projects that require regulator approval, and, by February 28, 2013 obtain APCD approval for a Temporary CDVAA and control site Baseline Monitoring Program and begin baseline monitoring.

Point of observation _____

Weather N/A Wind N/A

APCD Permit to Operate Number _____

Emissions from: Basic Control Open Fire _____

Was source emitting in violation at end of observation? Yes No

Issued by Dora K. Dreyfus Date 3/18/2013

Time: Arrival _____ Departure _____ Issued by Certified Mail

Violation Date(s): November 30, 2012 to the present

Please advise the Air Pollution Control Officer in writing by April 9, 2013 of corrective action on this violation and measures taken to prevent further occurrences. Your response does not preclude further legal action.

Served to Phil Jenkins Title Chief

SIGNING THIS NOTICE IS NOT AN ADMISSION OF GUILT:

Signature _____ Date _____



DEPARTMENT OF PARKS AND RECREATION

Off-Highway Motor Vehicle Recreation Division
1725 23rd Street, Suite 200
Sacramento, California 95816

Major General Anthony L. Jackson, USMC (Ret.), Director

March 29, 2013

Mr. Larry Allen
Executive Officer
San Luis Obispo County
Air Pollution Control District
3433 Roberto Court
San Luis Obispo, CA 93401

Subject: Timeline of Tasks to Comply with Rule 1001

Dear Mr. Allen,

Thank you for the e-mail and hardcopy delivery of your March 12, 2013 Compliance Advisory letter regarding compliance timelines presented in San Luis Obispo (SLO) County Air Pollution Control District (APCD) Rule 1001. For communication consistency, the Off Highway Motor Vehicle Recreation Division (OHMVR Division) of California State Parks (CSP) requests that you continue to copy those on our Oceano Dunes State Vehicular Recreation Area (Oceano Dunes SVRA) technical team who have been working with the APCD to meet the obligations mandated by Rule 1001.

Per the request in your letter, the OHMVR Division submits herein detailed (Tables 1 through 5) and summary (Table 6) timelines of the tasks to be completed to meet the requirements described in Rule 1001 Section F.1.c through F.1.f.

The OHMVR Division has completed some significant tasks in compliance with Rule 1001 and taken other critical steps necessary to comply with the provisions of the rule including:

- Received Conditional Approval for the Oceano Dunes SVRA Monitoring Site Selection Plan (MSSP);
- Submitted two drafts of the PMRP to the APCD and conceptual agreement with the APCD regarding the framework of a third PMRP draft;
- Field tested ambient particulate profiler instruments proposed as part of the PMRP investigation phase to determine instrument durability and data quality;
- Installed wind speed and wind direction devices on marker posts 1, 3, and 5;
- Continued collection and analysis of wind data from tower S1, within Oceano Dunes SVRA;
- Released a Notice of Preparation/Initial Study (NOP/IS) document as required by the California Environmental Quality Act (CEQA) when the CDP application was submitted to the CCC;
- Conducted a public project scoping meeting in December 2012 as required by CEQA;

- Contacted the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) to discuss the project and its potential permitting requirements;
- Met with California Air Resources Board staff to review the draft PMRP;
- Initiated consultation with appropriate Native American representatives to discuss the project and its potential effects on Native American resources.

In developing this timeline of tasks, the OHMVR Division identified several tasks that require OHMVR Division staff to coordinate and meet with staff from other agencies, including the CCC, the USFWS, and the CDFW, as well as private landowners. In the tables below, the OHMVR Division has denoted the tasks and timelines that are contingent upon timely response from other agencies with an asterisk (*). Legal considerations regarding the Rule 1001 “permit to operate” are denoted with two asterisks (**), with an elaboration provided beneath Table 4. In addition, some tasks appear in multiple tables below because they are relevant to more than one rule requirement.

Finally, the OHMVR Division will continue to implement its street sweeping program until track-out control projects are ready to be implemented. We developed separate timelines for track-out control that differ from other dust control projects due to 1) track-out control projects will be Capital Outlay projects that require additional planning and budget augmentations and 2) track out control projects have not been designed in sufficient detail to determine if grading and encroachment permits are required from local government agencies.

Table 1: Detailed Timeline of Tasks to Meet Requirements of Rule 1001 Section F.1.c – Submit Complete Applications To Appropriate Agencies For All PMRP Projects		
Task	Action	Schedule
1	Submit request for temporary information collection to CCC	3/4/13
2	Submit draft framework for implementing potential dust control projects to CCC	3/15/13
3	Meet with CCC to review and discuss Project Description, Coastal Development Permit (CDP) application, and application processing timeline	3/18/13 – 7/1/13*
4	Initial meeting with CCC, USFWS, and CDFW to discuss potential dust control projects <i>Note: Wildlife agency permits require environmental review and cannot be issued until after this review is complete.</i>	5/13/13*
5	Submit revised CDP application to CCC <i>Note: Task requires timely CCC/USFWS/CDFW coordination and APCO-approved PMRP</i>	8/31/13*

* Contingent upon timely response from pertinent agency or agencies.

Table 2: Detailed Timeline of Tasks to Meet Requirements of Rule 1001 Section F.1.d – Obtain Approval For And Begin A Temporary Baseline Monitoring Program		
Task	Action	Schedule
1	Co-locate E-BAM monitors at Mesa2 Monitoring Station <i>Note: Task requires legal agreement with land owner</i>	3/25/13*
2	Obtain CCC approval for temporary information collection during 2013 windy season <i>Note: Task requires timely coordination with CCC</i>	4/1/13*
3	Issue CEQA Notice of Exemption for temporary information collection project	4/8/13
4	Deploy temporary information collection instruments at Oceano Dunes SVRA	4/10 – 8/10/13
5	Analyze temporary information collection data sets	5/1/13 – 9/10/13
6	Perform PI-SWERL Investigations	6/1/13 – 7/31/13
7	Submit Temporary Baseline Monitoring Program to APCD for review and approval (per definition in Rule 1001, Section B.14)	9/30/13 – 2/28/14
8	Begin 5-month Temporary Baseline Monitoring Program <i>Note: Task requires completed environmental review, land use agency approvals, and potential legal agreement with landowners</i>	6/1/14 – 10/31/14

* Contingent upon timely response from pertinent agency or agencies.

Table 3: Detailed Timeline of Tasks to Meet Requirements of Rule 1001 Section F.1.e – Complete Environmental Review and Obtain Land Agency Approvals for All PMRP Projects		
Task	Action	Schedule
1	Issue CEQA Notice of Preparation	12/4/12
2	Obtain APCO-approval of PMRP (conceptual or other approval)	7/31/13*
3	Publish Draft EIR (has 45-day public review period)	8/15/13
4	Certify Final EIR (has 10 day public review period)	12/31/13
5	Attend CCC local workshop on CDP application <i>Note: Task is subject to CCC availability</i>	3/31/14
6	Obtain required CDP from CCC <i>Note: Task requires CCC to hold one local workshop and one hearing to approve a CDP and final approval of a CDP is subject to CCC hearing dates and agenda availability</i>	5/31/14*

* Contingent upon timely response from pertinent agency or agencies.

Table 4: Detailed Timeline of Tasks to Meet Requirements of Rule 1001 Section F.1.f – Obtain PMRP Approval, Begin PMRP Monitoring, Apply for a Permit to Operate		
Task	Action	Schedule
1	Submit draft framework for implementing potential dust control projects to CCC	3/15/13
2	Meet with CCC to discuss framework needs	3/18/13 – 7/1/13*
3	Revise and submit PMRP to APCD for review <i>Note: Task requires at least one meeting with CCC prior to 3/22/13</i>	3/29/13*
4	Obtain APCO conceptual approval for PMRP	7/31/13
5	Apply to APCD for Permit to Operate	7/31/13**
6	Begin PMRP Monitoring (five months after start of TBMP) <i>Note: Task requires completed environmental review, land use agency approvals, and potential legal agreement with landowners, as well as approved PMRP</i>	11/1/14*

* Contingent upon timely response from pertinent agency or agencies.

** It is the position of the OHMVR Division that the APCD lacks legal authority to require it to obtain a permit to operate Oceano Dunes SVRA. (See Health & Safety Code section 42300.) Any application by the OHMVR Division for a permit to operate is made without waiving its right to object to or challenge Rule 1001's permit requirement as in excess of the APCD's authority.

Table 5: Detailed Timeline of Tasks to Meet Track-Out Control Requirements of Rule 1001		
Task	Action	Schedule
1	Complete environmental review and obtain agency approvals	2/28/14*
2	Receive legislative authorization	7/1/14
3	Develop specifications and initiate bid documents	7/1/14 – 7/1/15
4	Submit applications to City of Grover Beach and San Luis Obispo Public Works Department (if necessary)	9/30/15
5	Obtain required grading and encroachment permits	12/31/15*

* Contingent upon timely response from pertinent agency or agencies.

Table 6 below summarizes the detailed timelines above in accordance with the format presented in Rule 1001.

Table 6: Summary Timeline to Meet Requirements of Rule 1001 Section F.1.c – F.1.f				
Section	Requirement	Schedule		
		Rule 1001	Revised Dust Control/PMRP	Revised Track-Out
F.1.c	Submit complete applications to appropriate agencies for all PMRP projects that require regulatory approval	11/30/12	8/31/13*	9/30/15
F.1.d	Obtain APCO approval for a Temporary CDVAA and Control Site Baseline Monitoring Program and begin baseline monitoring	2/28/13	3/1/14*	NA
F.1.e	Complete all environmental review requirements and obtain land use agency approval of all proposed PMRP projects	5/31/13	5/31/14*	12/31/15*
F.1.f	Obtain APCO approval of the PMRP, begin implementation of the PMRP Monitoring Program, and apply for a Permit to Operate	7/31/13	8/1/14*	NA

* Contingent upon timely response from pertinent agency or agencies.

In your letter, you note that we have missed two compliance dates, the first being the November 30, 2012 deadline to submit complete applications to all appropriate agencies for all particulate matter reduction plan (PMRP) projects that require regulatory approval. The OHMVR Division did submit a detailed and complex application package for a Coastal Development Permit (CDP) to the California Coastal Commission (CCC) by the required deadline. The CDP application submittal followed much earlier meetings with the APCD and the CCC, where it was agreed a single overarching permit for all aspects of the PMRP—from investigation and on-site air monitoring to installation of potential dust control measures—would be submitted to the CCC. At a June 29, 2012 meeting at the California Natural Resources Agency building in Sacramento, the OHMVR Division, the APCD, and the CCC agreed that the permit application would, out of necessity, vary in detail. For example, the investigative and on-site monitoring portion of the PMRP is largely known and has been specified in the initial permit package, but specifics regarding potential dust control measures cannot be determined until data from the air monitoring have been analyzed.

Mr. Larry Allen
March 29, 2013
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The second compliance date noted in your letter is the February 28, 2013 deadline to begin the Temporary Baseline Monitoring Program described in Rule 1001. The passing of this deadline is due to CDP application processing constraints with the CCC. In an August 10, 2012 meeting attended by CCC, APCD, and OHMVR Division representatives, the CCC indicated processing of the CDP application would take at least one year. Consequently, the OHMVR Division has not yet received permission to place instruments necessary to conduct the temporary baseline monitoring described in Rule 1001. As you are aware, both the OHMVR Division and the APCD are jointly communicating with the CCC so that at the least some limited aspect of air monitoring can begin during the 2013 spring windy season.

As always, please contact Ronnie Glick, Senior Environmental Scientist at Oceano Dunes District with any questions or comments you have. Ronnie can be reached via email at ronnie.glick@parks.ca.gov or phone at (805) 773-7180.

I look forward to continued progress on Rule 1001.

Respectfully,



Phil Jenkins, Chief
OHMVR Division

cc: Paul Teixeira, Chair San Luis Obispo County Air Pollution Control District



Air Pollution Control District
San Luis Obispo County

March 12, 2013

Phil Jenkins, Chief
OHMVR Division
California Department of Parks and Recreation
1725 23rd Street, Suite 200
Sacramento, California, 95816

SUBJECT: Rule 1001 Compliance Advisory

Dear Mr. Jenkins:

As you are aware two Rule 1001 compliance dates have been missed. The requirements are contained in Rule 1001, section F.1 shown below:

- c. *By November 30, 2012, submit complete applications to the appropriate agencies for all PMRP projects that require regulatory approval.*
- d. *By February 28, 2013, obtain APCO approval for a Temporary CDVAA and Control Site Baseline Monitoring Program and begin baseline monitoring.*

In addition, it appears highly unlikely you will be able to meet the next two upcoming compliance milestones shown below:

- e. *By May 31, 2013, complete all environmental review requirements and obtain land use agency approval of all proposed PMRP projects.*
- f. *By July 31, 2013, obtain APCO approval of the PMRP, begin implementation of the PMRP Monitoring Program, and apply for a Permit to Operate.*

As discussed in our phone conversation on this matter, the District is required to take action on this. A compliance agreement is the appropriate approach, under which the District would issue a notice of violation for sections F.1.c & F.1.d immediately. We would then follow-up with a mutual settlement proposal that could extend the compliance dates for the requirements in section F.1.c,d,e&f.

The compliance agreement would require State Parks to submit a detailed timeline of the tasks to be completed to meet each of the requirements described in Rule 1001 section F.1.c through F.1.f, obtain Air Pollution Control Officer approval of the proposed new timeline, and commit to meeting the new approved dates.

OHMVR Rule 1001 Compliance Advisory

March 12, 2013

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We intend to issue the Notice of Violation by March 15, 2013 and follow-up quickly with a mutual settlement proposal. In the meantime, we urge State Parks to continue working with the Coastal Commission on both the general application and temporary monitoring that needs to occur this spring.

If you have any questions or need additional information, please give me a call.

Sincerely,



Larry R. Allen
Air Pollution Control Officer

LRA/ksj

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877



December 27, 2012

Ronnie Glick
California Department of Parks and Recreation
Off-Highway Motor Vehicles Recreation Division (OHMVRD) Oceano Dunes District
340 James Way, Suite 270
Pismo Beach, CA 93449

Subject: Coastal Development Permit (CDP) Application 3-12-050 (Oceano Dunes State Vehicle Recreation Area Dust Control Project)

Dear Mr. Glick:

We received the above-referenced CDP application that you submitted on behalf of the California Department of Parks and Recreation (DPR) on November 30, 2012. The proposed project would include a variety of measures designed to monitor and control particulate matter related to the Oceano Dunes State Vehicle Recreation Area (ODSVRA), including to comply with San Luis Obispo County Air Pollution Control District (APCD) Rule 1001, with activities and development proposed in the City of Grover Beach (at Grand Avenue), in San Luis Obispo County (at the ODSVRA, at Pier Avenue, and on some private land), and in Santa Barbara County (at Rancho Guadalupe Dunes County Park and on some private land). As we have discussed, we are accepting this application as a consolidated CDP application based on what we understand to be concurrence on the part of above jurisdictions. We have reviewed the materials you have submitted to date and are in need of additional information to adequately analyze the proposed project for Coastal Act conformance. Towards this end, we are unable to file this application until the following is submitted:

1. **Project Description.** At a very basic level, the application lacks detail and precision in terms of the proposed project description, much of which appears to defer identification of the details regarding significant proposed project components (e.g., dust control measures) to later dates. As discussed at the meeting in Sacramento on June 29, 2012 (with staff from DPR, Natural Resources Agency, California Air Resource Board, Coastal Commission, San Luis Obispo County, and APCD), it was anticipated that the proposed project would leave some amount of project detail formulation to future dates, but only so long as such details, and the manner in which they would be determined, were understood within a framework that clearly identified each specific measure and the criteria for determining its application. As discussed, the concept was that the CDP could act as a "Master CDP" which provided such framework and adaptation criteria, and that at its heart the project was an environmental enhancement project. The proposed application, however, lacks sufficient detail and description to be able to function in that way. It appears that this lack of detail could be because DPR is still working with APCD on the nature of such project details, or because the CEQA process only commenced this month (see also below), or for a number of other

reasons, but absent the articulation of project components by type and criteria for their implementation, as discussed, it is unclear what is being proposed, and it is unclear to what degree it is a holistic environmental enhancement project as opposed to something else. Absent a clear description of what is being proposed, the project cannot be evaluated for Coastal Act consistency. Please submit a revised project description that is tied to detailed site plans (showing where activities are proposed) and any other information necessary to explain the proposed project, including in terms of its overall environmental enhancement components. The project description needs to be able to explain who will do what, where, when, and how. I would strongly encourage that we set up a meeting to discuss such project description prior to its being submitted, ideally with both DPR and APCD staff present. I would also strongly advise that you review the Master CDP example that I previously forwarded to you for a sense of the type of project description that will ultimately be necessary to move forward.

2. **Consolidated CDP Consent.** We have received a letter from San Luis Obispo County consenting to a consolidated CDP process, but we have not yet received such letters from Santa Barbara County or the City of Grover Beach. In addition, we presume that DPR consents, given the CDP application submitted, but we don't have any formal recognition of same. Please submit letters from DPR, Santa Barbara County, and the City of Grover Beach indicating that they consent to a consolidated CDP process subject to the criteria of Coastal Act Section 30601.3.
3. **Consolidated CDP Public Participation.** As discussed, our consent to consolidated CDP processing is contingent on ensuring that local public participation is not curtailed. DPR previously indicated that meaningful public participation would be facilitated locally, and San Luis Obispo County staff has indicated a willingness to help provide such a forum in collaboration with DPR and APCD. Please submit a plan for the way in which such public participation will be accommodated in a location near ODSVRA. It seems clear to us that such public participation needs to occur after the project description is better understood (see above), and, to the extent the project description itself is tied to the CEQA process (see below), until near the end of CEQA document preparation (e.g., after submittal of public comments and before final certification).
4. **CEQA.** DPR initiated the CEQA process with a notice of preparation for a draft environmental impact report (DEIR) on December 4, 2012. It is clear that the EIR process will inform the parameters of the project, potentially significantly. The Commission will use the information developed in the EIR process in its CDP determination, and thus it is critical that the application be supported by DPR's final EIR. Please submit the final EIR and all supporting documentation when it is complete.
5. **Property Owner Consent.** The proposed project would take place on DPR property, as well as City, County, and private property. Please submit written evidence from all non-DPR property owners that: (1) they consent to their property being used in such ways; (2) they consent to DPR submitting this CDP application for development on their property; and (3)

they understand and acknowledge that this CDP application may be subject to certain terms and conditions that may affect their property, and that they consent to abide by all such terms and conditions.

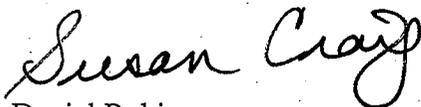
6. **APCD and PMRP.** An express purpose of the proposed project is to comply with APCD Rule 1001, an important component of which is a Particulate Matter Reduction Plan (PMRP) which ultimately must receive APCD approval. On this issue the proposed project needs to be better explained in several ways. First, it is not clear to us to what degree the proposed project is meant to be the implementation component of DPR's PMRP, or some subset of its implementation. Please submit clarification on this point, and please ensure that the revised project description clearly identifies the relationship of the PMRP to the proposed project. Second, please also submit the most current version of the PMRP; preferably the final PMRP as approved by APCD. Finally, from correspondence we have received, it appears that DPR and APCD are continuing to discuss the relative merits of portions of the proposed project, including as they relate to Rule 1001 compliance and an approvable PMRP. Please submit evidence from APCD indicating to what degree implementation of the proposed project (i.e., the to-be-revised project description) complies with Rule 1001 and an approvable PMRP and, to the extent it does not comply with Rule 1001, the changes that would be necessary to achieve such compliance.
7. **Local Jurisdiction Approvals (Appendix B):** We received the required CDP Application Appendix B form completed by San Luis Obispo County staff, but we did not receive completed Appendix B forms from Santa Barbara County or the City of Grover Beach. Please submit completed Appendix B forms from each of these jurisdictions.
8. **Other agency approvals.** From a review of the application materials, it appears that several other agencies will need to weigh in on and/or authorize components of the proposed project (including the United States Fish and Wildlife Service, United States Army Corps of Engineers, and California Department of Fish and Game). These agencies' requirements could alter the proposed project, and thus we cannot file your application as complete until these approvals are granted or until we have evidence from these agencies that they intend to authorize the project and subject to what criteria. Accordingly, please submit copies of all permissions or approvals granted, or evidence that they intend to grant a permit and in what form, or evidence that no approvals are necessary from each such agency.
9. **Mailing Notice.** Thank you for submitting the mailing list materials. Please submit additional similar mailing materials for all parties that submit comments during the CEQA process and the local public participation process, whether such comments are provided in writing or verbally. In addition, given the expected level of interest for the proposed project, please submit an additional 100 stamped (forever stamp only) plain business-sized envelopes for as yet to be identified parties. Finally, should this matter ultimately be scheduled for more than one hearing, we will need additional sets of stamped envelopes for all parties on the mailing list. Please submit evidence that you consent to providing additional mailing materials as needed for additional hearings.

10. **Posting Notice:** Thank you for including the posting notice in your submittal. When we get closer to scheduling this matter for a Commission hearing, we'll need to coordinate posting of notices at and around the site so that they will be readily visible to the public. You will be supplied posting notices and directions at that time, and will need to submit a completed Appendix D form once the notices have been posted. Please submit evidence that you consent to satisfying these noticing requirements at that time.

We will hold your application for six-months from today's date (i.e., until June 27, 2013) pending receipt of these materials. Please submit all of the materials at the same time, and note in any event that they will not be deemed to have been received to allow further application processing until they have all been submitted. If all of the above-listed materials are not received within six months, CDP application number 3-12-050 will be considered withdrawn. After all of the above-listed materials have been received, your application will again be reviewed and will be filed if all is in order (Government Code Section 65943(a)). Please note that there may be additional materials necessary for filing purposes depending upon the nature of the information provided pursuant to the above-listed materials. This submittal deadline may be extended for good cause if such request is made prior to June 27, 2013.

I look forward to continuing to work with you on completing this application, and moving DPR's proposed project to a Commission hearing as soon as possible. As indicated above, I would strongly recommend that we meet and discuss the materials necessary to compete the application prior to DPR spending significant time and resources on a response package, including to make sure that the application is clearly understood in relation to APCD requirements. Please do not hesitate to contact me at (831) 427-4863 if you have any questions regarding this letter or the application process.

Sincerely,



FOR: Daniel Robinson
Coastal Planner
Central Coast District Office

cc: Supervisor Bruce Gibson
Jason Giffen, San Luis Obispo Planning Director
Glenn Russell, Santa Barbara County Planning Director
Bruce Buckingham, City of Grover Beach Planning Director
Larry Allen, APCD Air Pollution Control Officer