



July 5, 2019

Jack Ainsworth, Executive Director  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, California 94105

Dear Mr. Ainsworth:

Re: Oceano Dunes State Vehicular Recreation Area  
Coastal Development Permit 4-82-300 Review

This letter responds to the California Coastal Commission ("Coastal Commission") Staff Recommendation dated June 21, 2019 ("Staff Report") regarding the Coastal Commission's review of Coastal Development Permit 4-82-300 ("CDP") for Oceano Dunes State Vehicular Recreation Area ("Oceano Dunes"). The California Department of Parks and Recreation ("DPR") requests that the Coastal Commission defer acting to adopt these recommendations, recognizing that an agreed-upon public process is well underway to establish a Public Works Plan ("PWP") for Oceano Dunes that addresses its future operations. As discussed before, this PWP will be subject to the Coastal Commission's review and approval. Deferring action at this time enables full public input on the future of Oceano Dunes, which stakeholders have been promised.

First, I want to thank the Coastal Commission staff for their work on this report and the recognition of the many complex, competing issues at Oceano Dunes. DPR appreciates and shares the mission of the Coastal Commission to protect and enhance California's coast and oceans for present and future generations.

DPR protects and preserves California's most significant natural and cultural resources while delivering public spaces to bring families and friends together and providing a wide array of recreational opportunities for the benefit and enjoyment of all people. DPR's legal mandate is articulated in its mission, "to provide for the health, inspiration and education of the people of California by helping to preserve the state's extraordinary biological diversity, protecting its most valued natural and cultural resources, and creating opportunities for high-quality outdoor recreation".

As public land managers, DPR works with other state and federal regulatory agencies with a shared goal of protecting California's natural and cultural resources, access to the coast, and air quality, while providing for high quality recreation for the public. Striking this balance requires weighing competing interests through transparent public processes. Like all public systems today,

California's state parks exist in a rapidly changing social, economic, cultural and natural environment. DPR must be nimble as we adapt to changing environmental and recreational conditions, while remaining true to the mission of DPR.

With 280 state park units, over 340 miles of coastline, 970 miles of lake and river frontage, 15,000 campsites, and 4,500 miles of trails, DPR contains the largest and most diverse recreational, natural, and cultural heritage holdings of any state agency in the nation. We do not take this responsibility lightly. DPR recognizes the concerns that the Staff Report raises regarding many aspects of the complex natural, cultural, and recreational environment of Oceano Dunes. As we've discussed, DPR is committed to addressing these issues.

### **Ongoing Discussions**

As referenced in the Staff Report, DPR has had many conversations with you and your staff regarding the multiple planning efforts currently underway at Oceano Dunes. As you recall, DPR met with you and your staff in May 2017 at the Coastal Commission's San Francisco office regarding Oceano Dunes. During this meeting, both parties agreed on the idea of a Public Works Plan (PWP) as a viable option to examine future operations and management of Oceano Dunes holistically. As discussed, the PWP is a long-range land use management plan for compliance with the California Coastal Act ("Coastal Act") that is reviewed and approved by the Coastal Commission. DPR's development of a PWP includes a robust public engagement process. DPR conducted its first PWP listening session in November 2017 and has held multiple public input meetings since that time, most recently in February 2019.

In addition to the PWP, and described in more detail below, DPR is concurrently working through a Dust Control Plan with the California Air Resources Board ("CARB") and the San Luis Obispo Air Pollution Control District ("SLO APCD"), and a Habitat Conservation Plan ("HCP") with the United States Fish and Wildlife Service ("USFWS") and the California Department of Fish and Wildlife ("DFW") at Oceano Dunes. These efforts will take all of these issues into consideration in a transparent, inclusive process.

As you know, we have talked about these plans in detail on numerous occasions within the last year, including in person meetings, monthly calls and presentations to the Coastal Commission. While we appreciate the Staff Report's attempt at articulating the issues at Oceano Dunes, the conditions proposed in the Staff Report do not reflect all of the information provided by DPR in those discussions nor do they provide consideration for the various planning processes currently underway.

Consequently, with limited exceptions noted below, it is premature for the Coastal Commission to accept the recommendations in the Staff Report. Instead, DPR proposes that we continue to work diligently through the processes that are already underway and publicly present those to the Coastal Commission for its consideration as drafts are released, beginning in August 2019.

### **Current Planning and Program Efforts Underway at Oceano Dunes**

At this time, DPR has three planning and program efforts underway at Oceano Dunes: (1) Dust Control Program, (2) a Habitat Conservation Plan, and (3) a Public Works Plan.

#### **Dust Control Program**

Oceano Dunes is located within the much larger Guadalupe-Nipomo dune system that stretches from southern San Luis Obispo County to northern Santa Barbara County. This dune system formed over tens of thousands of years by natural sand supply and onshore winds. The region has very high Particulate Matter 10 air pollution in late spring when powerful onshore winds blow across the Guadalupe-Nipomo Dunes. Through a natural, wind driven process called saltation, sand grains creep and bounce along the dune surface. Through this process, very fine particles in the dune sand become airborne and are dispersed downwind. For several years DPR has been working with SLO APCD on regional air quality issues. In April 2018, as part of the APCD Hearing Board process, DPR entered into a Stipulated Order of Abatement ("SOA") with the SLO APCD. Working in collaboration with the California Air Resources Board and SLO APCD, DPR is currently undertaking a substantial dune restoration effort in support of the SOA and regional air quality. That effort includes specific changes at the park that will improve air quality. Portions of the dune recreation area at Oceano Dunes, for example, are fenced-off to exclude public access which will reduce the amount of dust that becomes airborne. DPR has also established thousands of native dune plants in a short period of time which will help entrain dust particles.

As part of the SOA, a new four-year dust plan or Particulate Matter Reduction Plan ("PMRP") is under development in cooperation with the SLO APCD. DPR is working to develop innovative projects and programs to improve regional air quality. As agreed to under the SOA, this work includes the implementation of a Technical Advisory Group, which has been formed and includes members of the science community with expertise in air quality and dust and dust mitigation. DPR is working with the Technical Advisory Group and CARB to recommend science based solutions to mitigate dust. This process relies on adaptive management where we learn from previous efforts and modify our work based on analysis of results and new information. A draft PMRP was accepted by the SLO APCD in June 2019 and

the first annual work plan is due in August 2019. This process includes opportunities for public review and input. The SLO APCD has approval over the final PMRP.

### **Habitat Conservation Plan**

Within Oceano Dunes there is extensive breeding habitat for two special-status ground-nesting birds, the state and federally listed endangered California least tern and the federally listed threatened Pacific coast population of the western snowy plover. Currently, an HCP is being developed with the USFWS to facilitate the ongoing long-term conservation and protection of these shorebirds. Shorebird conservation efforts include seasonal nesting exclosure, seasonal habitat improvement, intensive daily monitoring of nesting birds, and predator management. The number of breeding snowy plover adults at Oceano Dunes has steadily increased over the years. In 2002, the minimum number of breeding adults was 32. With increased management the number of breeding adults jumped to 201 in 2018. These efforts contribute to the recovery of the least tern and snowy plover while keeping well-managed off-highway vehicle use and other recreational opportunities available to the public. Currently, an administrative draft HCP and associated environmental documents are under review by DPR and the USFWS. DPR anticipates the draft HCP will be released in summer 2019. Following public review, the USFWS must approve the measures in the final HCP.

### **Public Works Plan**

Public works plans allow for a comprehensive permit for large or multiple phase projects rather than applying for separate coastal development permits for specific projects over time. Public works plans require public comment and Coastal Commission approval. The intent of the Oceano Dunes PWP is to resolve the management challenges that have faced Oceano Dunes for decades. The PWP process has generated robust public participation from off-highway vehicle supporters, environmental groups, local businesses, local community members and neighbors, and other state and local governmental entities with hundreds of comments received during the draft concept review period. DPR is currently undertaking a thoughtful review and analysis of these comments in order to draft specific preferred alternatives for consideration. The Coastal Commission's comments and suggestions to date are included in this review and analysis. However, as explained in more detail below, the Staff Report's proposed conditions to the CDP, if adopted, would undermine the PWP process by imposing operational and management decisions at Oceano Dunes prior to DPR completing its review, analysis and consideration of all comments submitted. It is DPR's position that the PWP is the best mechanism to resolve the operational challenges facing Oceano Dunes in a manner that is inclusive of the public. DPR will continue to work closely with the Coastal Commission as the PWP moves through the process. DPR anticipates revised

concept alternatives will be available for review within the next two to three months. Ultimately, the PWP will be submitted to the Coastal Commission for approval.

## **Coastal Development Permit**

The Staff Report proposes 15 conditions to be added to the CDP. Adoption of those conditions at this time may interfere with the several related planning processes described above. DPR responds to those conditions as follows:

- 1. Predator Management Plan.** Increase Predator Management. Implement an improved predator management plan, including enclosures for trash and food waste, and BMPs for addressing predation of sensitive species (including by coyotes, raccoons, skunks, opossums, ravens, gulls, owls, and peregrine falcons).

*DPR has an active predator management plan that has been successfully implemented for 15 years. DPR currently reports its predator management plans to the Coastal Commission annually in the Nesting of the California Least Tern and Western Snowy Plover at Oceano Dunes SVRA Report and the Oceano Dunes SVRA Predator Management Report.*

*The predator management plan is integral to the development of the HCP's conservation program. DPR is working with USFWS and DFW in the development of the HCP, scheduled for draft public release summer 2019. Any condition regarding predator management should be consistent with the HCP adopted by USFWS. In the meantime, this proposed condition to the CDP is premature.*

- 2. Vehicular Enforcement Plan.** Increase Operational Enforcement. Increase enforcement of all vehicular use limits, all vehicular speed limits, and all other vehicular requirements, including through additional signs, rangers, and parameters for verifying that the number of vehicles in the Park does not exceed maximum allowances.

*State Park Peace Officers patrol Oceano Dunes and enforce the California Vehicle Code, the Penal Code and other laws and regulations.*

*DPR will continue to patrol and enforce the laws at Oceano Dunes. As such, this proposed additional condition to the CDP is not necessary.*

- 3. Fencing Augmentation and Enhancement Plan.** Add Fencing. Install additional fencing in specific areas to better protect coastal resources (including fencing in the south Oso Flaco Lake area, fencing suitable for enhanced predator management, fencing to better define the southern enclosure, and fencing to ensure all vegetated dune areas are appropriately fenced off).

*As stated in Item #1, DPR is working with USFWS and DFW in the development of an HCP, which will address, among other items, fencing protocols. The Draft HCP is scheduled for public release summer 2019. Any condition regarding fencing augmentation and enhancement should be consistent with the HCP adopted by USFWS. In the meantime, this proposed condition to the CDP is premature.*

- 4. Public Outreach Plan.** Enhance Public Outreach. Institute a public outreach program to increase use of appropriate beach and dune areas by lower-income, youth, and tribal parties.

*DPR is one of the major providers of access to the coast. DPR currently supports underserved programs and communities at Oceano Dunes through partnerships; recruiting Junior Lifeguard participants from underserved communities and providing free transportation to our programs, partnering with local Sheriff's office to support free camping for at-risk youth, and partnering with local Chumash representatives for free camping during annual celebration. In 2018, Oceano Dunes school programs reached 3,979 students.*

*In developing the PWP, DPR is engaged in a public process to address accessibility for all of the public, including those with disabilities, lower-income, youth, and Native Americans, to recreate at Oceano Dunes. This proposed condition to the CDP is premature until the completion of the PWP given current public outreach efforts and the development of new programs through the PWP.*

- 5. Monitoring Program.** Eliminate the TRT and Implement Annual Reports. Eliminate the Technical Review Team (TRT) and replace it with an annual reporting program that is processed through Executive Director review and approval.

*DPR agrees to disband the Technical Review Team and, instead, provide annual reports on the CDP to the Coastal Commission.*

- 6. Special Events Protocol.** Require a separate CDP for all special events that could result in adverse impacts to coastal resources, including music festivals, concerts, OHV events (e.g., Huckfest), and any other special events that propose an intensity of use beyond those specified in the CDP.

*As the owner and manager of Oceano Dunes, DPR has both statutory and regulatory authority to authorize special events occurring within Oceano Dunes. Persons applying for special events within the State Park System are required to follow all state laws and regulations related to the proposed event. State Parks is*

*willing to discuss its requirements with Coastal Commission staff. Thus, this proposed condition to the CDP is not necessary.*

- 7. Nighttime Vehicular Use.** Prohibit vehicular and OHV activity during nighttime hours (i.e., from one-hour after sunset and to one-hour before sunrise).

*As the owner and manager of Oceano Dunes, DPR has an obligation to make operational decisions based on the best available scientific evidence, public safety considerations, operational and management considerations. DPR will continue to manage and operate the most appropriate times for access and recreation at Oceano Dunes. A nighttime ban on vehicular use at Oceano Dunes is not feasible as park visitors and campers need to access the park or their campsite by vehicle within the park at all hours, including nighttime. DPR will consider times of riding in the PWP, thus, this proposed additional condition to the CDP is premature at this time.*

- 8. Arroyo Grande Creek Crossing Plan.** Prohibit Arroyo Grande Creek Crossing. Prohibit vehicular crossings of Arroyo Grande Creek when it flows (i.e., shut down all OHV and camping operations during this time) except for emergency vehicles, and monitor the creek to ensure that users are not allowed south of the Creek when it will soon connect to the ocean and to provide time for users south of the Creek to exit before it connects to the ocean.

*DPR has an established protocol for creek crossing that offers the maximum practicable protection for sensitive species while allowing access to the dunes. More than 15 years of monitoring data indicates that crossing when safe to do so has no significant environmental effects on aquatic resources or water quality. The Staff Report does not provide substantial evidence that vehicle crossings of Arroyo Grande creek as currently implemented has adverse effects on aquatic resources.*

*DPR is working with USFWS and DFW in the development of an HCP, which will address, among other items, vehicular crossings of Arroyo Grande creek. The HCP is scheduled for public release summer 2019. Any condition regarding crossing of Arroyo Grande creek should be consistent with the HCP adopted by USFWS. In the meantime, this proposed condition to the CDP is premature.*

- 9. Updated Interim Use Limits.** Reduce interim vehicular and OHV daily use limits to an amount proportionate to the acreage that has been removed from vehicular/OHV use (e.g., due to dust control requirements, other exclosures, etc.).

*DPR will address use limits in the development of the PWP. Thus, this proposed condition to the CDP is premature.*

**10. No Interim Use Limit Exceptions.** Eliminate the four exceptions that allow unlimited vehicular and OHV use on Memorial Day, Fourth of July, Labor Day, and Thanksgiving weekends.

*DPR will address use limits in the development of the PWP. Thus, this proposed condition to the CDP is premature.*

**11. Entrance Study.** Evaluate Entrance Modifications. Evaluate changes that can be made to provide vehicular access into the Park in way that can reduce coastal resource impacts, particularly as such vehicular access relates to Arroyo Grande Creek crossings and more normal and typical beach uses north of the riding area.

*DPR will address options for entry to Oceano Dunes in the development of the PWP. Thus, this proposed condition to the CDP is premature.*

**12. Permanent Southern Enclosure.** Make the roughly 300-acre seasonal endangered species enclosure area permanent, and restore the area to enhance habitat.

*As stated in Items #1 and 3, DPR is working with USFWS and DFW in the development of a HCP, which will address, among other items, enclosures for nesting. The HCP is scheduled for public release summer 2019. Any condition regarding southern enclosures at Oceano Dunes should be consistent with the HCP adopted by USFWS. In the meantime, this proposed condition to the CDP is premature.*

**13. Authorize Dust Control Areas.** Allow for Future Closures for Required Dust Control. Allow perimeter fencing and/or vegetation and related development (e.g., monitoring equipment, etc.) for dust control purposes for all areas specified by the San Luis Obispo County Air Pollution Control District.

*DPR continues to work with CARB and the SLO APCD in the management of dust at Oceano Dunes.*

*Since 2014, DPR has implemented over 130 acres of dust control measures at Oceano Dunes. This includes approximately 83 acres of dune scrub restoration and approximately 48 acres of wind fencing. In compliance with the SOA, DPR is coordinating with CARB and SLO APCD on the development of a 4-year Particulate Matter Reduction Plan (PMRP). The PMRP is also informed by a Science Advisory Group that was established through the SOA. In June 2019, the Draft PMRP was accepted by the SLO APCD. The first annual PMRP work plan is due to the SLO APCD in August 2019 and will include an opportunity for the*



*public to comment. DPR will continue to implement additional dust control in coordination with CARB and SLO APCD as these processes continue. In the meantime, this proposed condition to the CDP is premature.*

**14. Indemnification for DPR/Liability for Costs and Attorneys' Fees.** State Parks agrees to reimburse the Coastal Commission for its costs and attorneys' fees that the Coastal Commission incurs with the defense of any action challenging the approval of the CDP changes.

*DPR does not agree to this condition as DPR should not be responsible or indemnify the Coastal Commission for its actions related to the CDP for which DPR cannot control.*

**15. Special Condition Conflicts.** In the case of any conflict between Special Conditions #1-15 and any other special conditions, Special Conditions #1 – 15 shall take precedence.

*DPR does not disagree with this condition.*

In conclusion, according to page 19 of the Staff Report, "coastal resource issues/constraints...represent overlapping issues that affect and are affected by each other." DPR agrees with this statement. However, the proposed conditions to the CDP would hinder the range of options available to resolve these overlapping issues before DPR has sufficiently engaged all the necessary agencies, stakeholders and the public in order to craft a comprehensive and sustainable resolution. DPR respectfully requests that the Coastal Commission refrain from adding new conditions to the CDP while the multiple planning processes already underway continue.

DPR shares the concerns of the Coastal Commission as they relate to the protection of natural and cultural resources while providing access and high quality recreation to the coast of California. DPR intends to move these issues forward in an expeditious and meaningful way to bring about operational changes at Oceano Dunes that exemplify the goals shared by both DPR and the Coastal Commission. In addition, if it would be helpful to the Coastal Commission, DPR will provide an update to the planning efforts at Oceano Dunes at a Fall Coastal Commission meeting.

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Thank you for your consideration of this request. If you have any questions, please don't hesitate to contact me at (916) 653-8380.

Sincerely,

A handwritten signature in blue ink that reads "Lisa Ann L. Mangat". The signature is written in a cursive style with a blue ink color.

Lisa Ann L. Mangat  
Director