



# SIERRA CLUB

## SANTA LUCIA

Sept. 30, 2016

Ronnie Glick, Sr. Environmental Scientist  
Oceano Dunes District  
CDPR, OHMVR Division  
340 James Way, Suite 270  
Pismo Beach, CA 93449

Dear Mr. Glick,

We submit the following comments on the Draft Program EIR for the Oceano Dunes SVRA Dust Control Program on behalf of the 2,000 members of the Santa Lucia Chapter of the Sierra Club in San Luis Obispo County. The Sierra Club is the nation's oldest and largest grassroots environmental organization.

We will restrict our comments on the Draft EIR to its fatal flaw: a misreading of a single clause in the CEQA Guidelines which has resulted in an attempt to stand CEQA on its head and produced a Draft EIR that impermissibly shifts and narrows its focus, primarily identifying the project's impacts on OHV recreational opportunities rather than potential impacts on the environment, then attempting to elevate alleged recreational impacts to the level of "significant and unavoidable" (REC-1, LUP-1, LUP-2, CML-1, CML-2, et al). The DEIR frequently veers from a discussion of impacts under CEQA to alleged conflicts with the Oceano Dunes SVRA General Development Plan and Resource Management Plan and attempts to create a new CEQA category of "significant conflict" (Impact LUP-1), the fact that the project does not "perpetuate and enhance recreational use of OHVs in the SVRA" is a violation of CEQA.

### **What CEQA says**

The Draft EIR's theory of significant impacts to recreational opportunities resulting from the dust control program rests on two sentences found in the Environmental Checklist in Appendix G of the CEQA Guidelines – in which all items are listed under the notation "The sample questions in this form are intended to encourage thoughtful assessment of impacts, and do not necessarily represent thresholds of significance."

The two sentences read, in their entirety:

XV. RECREATION.

- a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?
- b. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

- CEQA Guidelines, Appendix G, Environmental Checklist Form

It is clear from the context of these sample questions and those surrounding them that the intent was to ensure analysis of potential impacts arising from increased use of parks as a result of project that would attract additional residents or visitors, thereby increasing traffic and the use of surrounding park facilities due to enhanced spill-over impacts. The Project, as the DEIR repeatedly notes, will not have such an impact. The type of “recreational impact” asserted by the DEIR – an impact from the reduction of the acreage available for recreational vehicle use within an existing recreational area, considered to be an impact on that recreational area – is not contemplated in CEQA.

### **The Program does not conflict with the California Coastal Act**

The DEIR attempts to base claims of impacts on vague statement that vegetating the dunes would not “maximize coastal recreation opportunities, as generally required by the Coastal Act” (CML-2), without reference to the fact that the Coastal Act also generally requires the protection of coastal resources. California Coastal Commission staff has recommended to DPR that “Expansion of the enclosure area, in conjunction with strong predator management, is the best way to maximize protection of plovers and their habitat at Oceano.” When the Coastal Commission announced its Feb. 11, 2015, review of the SVRA’s Coastal Development Permit, the most recent occasion on which the Commission has weighed in on issues at the SVRA, it was announced as a meeting to “assess the overall effectiveness of methods being used to manage vehicle impacts in relation to coastal resources at ODSVRA.” Commissioners at that meeting told DPR representatives: “Using our beaches as a highway is not okay. Crossing creeks like that, which have two kinds of listed species in them, is not okay,” and told the APCD “The idea of continuing to put more and more hay bales into our dunes, and then they get covered up, and then we have to put in more.... I just hope you will continue to work with something which is more environmentally sensitive to the dunes.”

Per the arbiters of the California Coastal Act, the DEIR appears to distort the purpose and intent of the Coastal Act in order to make its desired argument that limiting and reducing an environmental impact would somehow result in conflict with the Coastal Act (LUP-2).

### **The DEIR’s dismissal of the Alternate Dust Control Program is not compelling**

The SLO County Air Pollution Control Officer has made clear the most efficient measure for the reduction of dust emissions from the SVRA: “Reestablishing vegetated foredunes in the areas where they have been destroyed by vehicle activity would appear to be the most effective

strategy, followed by establishing additional vegetation islands in the inland riding areas. Studies performed by [Desert Research Institute] as described in their Oceano Dunes Pilot Projects report show vegetated areas to be nearly 100% effective in reducing sand movement and would provide year-round, permanent reductions; wind fencing is less than half as effective at best, and provides only a temporary solution.” (APCD Letter to California Coastal Commission, Jan. 27, 2015.) Sand fencing and soil binders, he wrote, “are not adequate without significant revegetation.”

In attempting to dismiss the Alternate Dust Control Program (S.1.3.3.), the DEIR floats the notion that “the emphasis on planting vegetation in the near-shore areas would likely modify, to some degree, USFWS-designated critical habitat for the western snowy plover” and “the vegetation planting may change the dune ecosystem in a manner that adversely affects the environment for two breeding listed species, which is inconsistent with the OHMVR Division’s need to manage and protect these natural resources.” Rather than engage in vague speculation in order to allege impacts, if the DEIR wishes to raise this as an issue it must first analyze the modification of habitat that occurred when recreational vehicle use stripped the foredunes of their original vegetation.

The Draft EIR is in need of revision and recirculation. But even if it should go forward with its unique and unsupported concept of “recreational impacts” intact, the Overriding Considerations to accompany certification of the EIR are simple: Long-term exposure to PM10 pollution can cause decreased lung function, chronic bronchitis, pulmonary disorders, premature death in people with heart or lung disease, and increase the risk of cancer by 50 percent.

Thank you for your attention to these issues,

Andrew Christie, Director  
Santa Lucia Chapter of the Sierra Club