

Justice Delayed at the Dunes



The long road March 18, 2021.

It's hard to imagine that a single photo could sum up all the problems that have arisen over the decades in which cars have been allowed to drive through the Oceano Dunes; a photo that could symbolize everything wrong with that long-ago, antiquated, environmentally disastrous decision that has plagued one of the world's rarest and most fragile ecosystems and its neighbors ever since.

But there is such a photo. It was printed in the August 10 edition of *The Tribune* along with the news that the California Coastal Commission will appeal the county court ruling blocking its order to remove off-road vehicles from the dunes by January 2024. (We can hope the appellate court will display a better understanding of the Commission's authority and the way Coastal Development Permits and Local Coastal Programs work.)

It's a photo of tire tracks on the beach, in which rest a multitude of burst and shattered Pismo clams, stretching off to the horizon.

It's the photo that the off-road lobby and the California Department of Parks and Recreation need to answer but can't. The usual pablum touting the notion that environmentally sensitive off-roading is possible in the dunes won't cut it. In no universe can it be claimed that signage, brochures at the entry kiosk, speed

limits, or polite requests from park rangers could result in off-road vehicles *driving around the clams* or deter the drivers who run over them deliberately because they like the popping sound.

Nor will pointing at the designated snowy plover nesting areas the birds are restricted to, except that nobody told the plovers. (At the height of the Covid-19 pandemic, with no cars to brush them back, the plovers immediately expanded their nesting area, and State Parks got caught ordering that the birds be harassed back into their designated spaces -- a straight-up violation of the Endangered Species Act.)

OFF-ROADING BANNED AT OCEANO DUNES

In a historic decision, the California Coastal Commission voted to end off-highway vehicle use within 3 years

By KAYTEEN LARUE

A potentially more dangerous variant of COVID-19, known as the UK variant, has been detected in San Luis Obispo County, the Pacific Coast region of California, according to a news release from the California Department of Public Health on Tuesday. The release stated that a county resident tested positive for the B.1.1.7 variant, which is a Centers for Disease Control "variant of concern."

According to the release, "As of Tuesday, a variant of concern was not detected in San Luis Obispo County, but several cases were reported in other counties, including Santa Barbara, Santa Cruz, and Monterey. The release also noted that the variant has been detected in other parts of the state, including San Diego and Los Angeles counties."

County officials are investigating the case further, and no other cases of this variant have been identified in San Luis Obispo County. "We are so close to ending this pandemic, and we can get there with your help," Public Health Officer Dr. Penny Horrocks said. "Continue to wear your mask in public, stay physically distanced from those who don't live with you, get tested for COVID-19 and get vaccinated against COVID-19 if you are eligible. These actions will continue to protect you from spreading the infection."

The California Department of Public Health issued a health alert Feb. 25 warning of increased identifications of COVID-19 variants across California, including "variants of concern" like B.1.1.7, B.1.1.53, B.1.429, B.1.427 and B.1.1.7.

The 10-0 vote mandates that California State Parks end OHV use at the Oceano Dunes by 2024. The agency may choose to phase out the use, or prohibit it all at once.

Commissioners noted that the decision was not an easy one, but said it was essential that they act immediately rather than delay any further. "Some of you saw my son walk in earlier -- he was a baby when we first started talking about this."

Commissioner Dayna Bocho said there is no way to support OHV activity in environmentally sensitive habitat areas... so we have no other recourse.

South County Chamber of Commerce CEO Joseph Brennan said the chamber "would have liked to see our region's seat filled on the Coastal Commission before such a historic decision was made," but said that now they will move forward on an economic impact assessment and feasibility study to figure out how to "mitigate the economic losses and plan for future opportunities at the park."

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Handy of dune buggies parade along the Oceano Dunes State Recreational Vehicle Area during a 2006 event, the line stretching south to north for over 45 minutes.

Oceano Dunes State Vehicular Recreation Area

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Bonita Ernst

Shortly after the court ruling, [an online newsletter for motorcycle enthusiasts](#) claimed that “the judge who put a stop to the ban was presented with factual evidence that motorized vehicle usage in the tiny area is not negatively affecting the birds or causing new erosion,” pretending the off-roaders won the case on the evidence. They didn’t. The judge deliberately did not “reach the merits of the case,” instead issuing a narrow ruling on administrative procedure. (This did not, however, stop the judge from delivering a scathing opinion of the “evidence” offered by the litigants to support their arguments that the Coastal Commission does not have jurisdiction in a State Park, or that off-roaders have a “vested right” to the Oceano Dunes.)

The motorcycle newsletter also said the quiet part out loud, giving credit for the courtroom win to the Fresno-based Friends of Oceano Dunes, but going on to state that “standing behind the non-profit was the powerhouse of Specialty Equipment Market Association (SEMA), as well as EcoLogic Partners, which fronts a collective of entities including the Off-Road Business Association (ORBA), American Sand Association (ASA) and American Motorcyclist Association (AMA) District 37.”

Powerful economic special interests triumph over environment was probably not the look their colleagues were going for.

But really, the clams in the tire tracks say it all. In 2021, after forty years of trying to find a workable compromise between the desire to engage in automotive recreation in an Environmentally Sensitive Habitat Area and their obligation to protect that area, the Coastal Commission had to admit that there is no such compromise. You can’t drive 4x4’s through an

Environmentally Sensitive Habitat Area and pretend that any amount of regulation or mitigation can undo that damage.

The Commission did its duty to protect those resources, and has continued to do so by appealing the verdict of the SLO County Court.

It did so under fire. In a highly unusual action, on the day the Coastal Commission met to consider future action, an attorney for the off-roaders attempted to force the Commission to immediately implement the court's ruling and vacate the Commission's amendments to the Oceano Dunes Coastal Development Permit, thereby forfeiting its right to appeal. Arrogance was a bad plan. The Commission promptly recorded a unanimous vote to appeal and immediately filed notice with the court.

With that in mind, we have a suggestion for the South County Chambers of Commerce: Keep [charting a path](#) toward a future of healthier, environmentally responsible uses of the Oceano Dunes. The Stewardship Study you released in June was (mostly) on the right track in its recommendations for “new experiences within and around the Dunes that can be developed to provide diverse activities for visitors and residents to enjoy on the Dunes while also increasing visitor contributions to local economies.... Some examples of new experiences could include historical walking/biking/OHV sightseeing tours of historical sites, culinary and native plant engagement workshops, and overnight star knowledge experiences.”

Just delete three letters from that plan and you'll be all set.

