



June 9, 2018

**Via Email Only**

California Department of Parks and Recreation  
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**RE: Notice of Preparation of EIR for Pismo State Beach and Oceano Dunes State Vehicular Recreation Area Public Works Plan**

I submit these comments on behalf of the Santa Lucia Chapter of the Sierra Club regarding Department of Parks and Recreation's ("State Park") proposed environmental review and adoption of a Public Work Plan ("PWP") for the Oceano Dunes State Vehicular Recreation Area ("ODSVRA").

State Parks is proposing to adopt a PWP to serve as a long-range land use and development plan in compliance with the California Coastal Act and California Resources Code (14 CCR § 13353). According to the Notice of Preparation ("NOP"), the PWP would be reviewed and certified by the California Coastal Commission and is intended to replace the 1982 Coastal Development Permit (CDP).

While the Sierra Club advocates for a reimagining and redesign of the Park as a passive-use, visitor-serving coastal facility that allows only limited car camping as the sole permitted vehicular recreational activity, the proposed PWP raises a number of critical legal questions that must be resolved before the PWP can be properly vetted and considered for approval. Moreover, the project description provided in the NOP is far too cursory and incomplete to allow meaningful substantive comments regarding the type of analysis the EIR must include.

**1. The PWP is a planning tool that cannot replace the Coastal Development Permit.**

The NOP and State Park's related informational materials mention 14 CCR 13353 as the authority for the PWP, but fail to mention that PWPs are defined by and are subject to the Coastal Act.

According to Cal. Pub. Res. Code § 30605, PWPs are intended

[t]o promote greater efficiency for the planning of any public works or state university or college or private university development projects and as an alternative to project-by-project review, plans for public works or

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state university or college or private university long-range land use development plans may be submitted to the commission for review in the same manner prescribed for the review of local coastal programs as set forth in Chapter 6 (commencing with Section 30500). ...

This statute makes it clear that contrary to State Parks' "explanation", a PWP is a land use tool for the planning of specific development projects; it is not intended to govern the operation of a state park such as the ODSVRA. Accordingly, the proposed PWP cannot replace the existing CDP, which in part governs the day-to-day operation and management of the ODSVRA. This issue must be clarified and adequately addressed both in the PWP and the Environmental Impact Report ("EIR").

**2. The PWP is subject to the Coastal Act, which requires State Parks to consult with San Luis Obispo County to ensure it conforms to San Luis Obispo's Local Coastal Plan.**

State Parks appears to be under the false impression that the PWP is subject only to the standards contained in the Coastal Act. According to the Coastal Act, however, if a PWP "is submitted after the certification of local coastal programs, any such plan shall be approved by the commission only if it finds, after full consultation with the affected local governments, that the proposed plan for public works is in conformity with certified local coastal programs in jurisdictions affected by the proposed public works." Cal. Pub. Res. Code § 30605. Accordingly, the Coastal Commission must (1) review the PWP in consultation with San Luis Obispo County, and possibly other agencies such as the City of Grover Beach, and (2) ensure the PWP is consistent with all applicable local coastal programs that would be affected.

**3. State Parks must revise and update the ODSVRA General Development Plan before it can approve the PWP.**

While the NOP admits the PWP must be consistent with the ODSVRA General Development Plan, it fails to mention that the current ODSVRA General Development Plan is 40 years old and woefully inadequate. The existing ODSVRA, both operationally and structurally, bears no resemblance to the description of the park described in the ODSVRA General Plan.

Pursuant to Pub. Res. Code §5002.2 (a)(1): "Following classification or reclassification of a unit by the State Park and Recreation Commission, and prior to the development of any new facilities in any previously classified unit, the department shall prepare a general plan or revise any existing plan for the unit." Accordingly, before State Parks may undertake any of the projects proposed pursuant to the PWP, it must revise the General Plan.

State Parks must revise and update the General Development Plan also because according to the San Luis Obispo County's LCP, State Parks must revise its General Plan to ensure it conforms to the County's LCP. In a published decision, the Second District Court of Appeal

recognized that:

“Standard 4 of the South County—Coastal Area Plan states: ‘The General Development Plan (GDP) *shall be revised in accordance with the Local Coastal Plan*’ but does not say when. (Italics added.) Read in the context of the Coastal Act (§§ 30604, subd. (b); 30519, subd. (a)), standard 4 merely requires that the State Parks General Development Plan be revised before a permit issues for new development.” Sierra Club v. California Dep't of Parks & Recreation (2012) 202 Cal. App. 4th 735, 742–43.

The PWP is clearly the type of project whose approval would trigger State Parks’ obligation to revise and update its General Plan in conformity with the County Local Coastal Plan.

4. Some of the projects proposed by the PWP will be impossible to review without detailed and meticulous protocol-level surveys. For example, the Oso Flaco camping and “improved access” proposal could potentially cause very serious environmental impacts on special-status plants and animals. Accordingly, the EIR’s analysis of the impacts must be informed by protocol-level surveys for all species that could potentially be affected by the Project. Given the sensitivity of the coastal ecosystem and the County LCP and Coastal Act’s strong policies favoring resource protection, State Parks must take great care to identify any Environmentally Sensitive Habitats (ESHA) and other biologically significant habitat that could be affected, either directly or indirectly, by the proposed projects. State Parks must ensure the environmental impacts of any potentially feasible mitigation measures and alternatives to the preferred project are understood and adequately explained.

Sincerely,

Babak Naficy  
Babak Naficy, counsel to  
Sierra Club

cc. County of San Luis Obispo  
California Coastal Commission