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October 29, 2009

Attn: Ronnie Glick
Oceano Dunes District Office
340 James Way, Ste. 270
Pismo Beach, CA 93449

RE: Notice of Preparation of EIR for purchase of La Grande Tract by CDP

Dear Mr. Glick,

Pursuant to the preparation of the EIR, we note the following, From Coastal Commission Staff Report on substantial issue in County of San Luis Obispo Local Coastal Program Land Use Plan, dated February 18, 1982:

"Within the last decade and since the approval of the 1975 Plan, the growth of OHV recreational activity has increased at a rate unforeseen by the DPR. Consequently, the intensity of OHV use within the Pismo Dunes SVRA has exceeded the capability of the Parks Department to manage the activity consistent with the protection of private property rights, provide the facilities necessary to protect public health and safety, or to protect the sensitive biological resources on lands within State holdings or on adjacent private lands."

More than two decades after the Coastal Commission expressed concerns over "the existing level of OHV intensity associated with the State Park unit" on sensitive resources, health and safety, the protection of private property and PRC code violations thereof, these concerns have grown with the increasing intensity of OHV activity in the ODSVRA. The impacts to resources as identified by the Coastal Commission must be addressed in the EIR. These concerns have never been addressed in an EIR, as one was not prepared at the time the Park was established. The Technical Review Team whose formation was supposed to compensate for this lack of environmental review has repeatedly failed to address these concerns and has been routinely blocked by the off-roader community and by State Parks from recommending or allowing measures that would significantly mitigate impacts to sensitive resources. In its Feb. 1, 2007, memorandum on the TRT's annual review, Coastal Commission staff noted that "throughout the six years of its existence the TRT and Scientific Subcommittee" had "never concluded deliberations on a completed study and developed associated management recommendations as originally envisioned by CDP Amendment 4-82-300-A5" and "never taken formal action" on

studies of the “environmental impacts of night riding, patterns of winter shorebird use, and the type of fish and aquatic habitats present in the Arroyo Grande Lagoon.” In an April 19, 2007, letter from Coastal Commission Chairman Patrick Kruer to Park Superintendent Andrew Zilke, Chairman Kruer expressed concern over “the State Parks Director’s response to the staff report, which rejects our request for a study of the potential benefits of a year round closure of the nesting area, and implies that further evaluation of alternative access and management options is unnecessary.” The same letter notes “the long awaited habitat conservation plan,” and states that State Parks should release “a public review draft and accompanying EIR/EIS for the HCP before the end of the year [2007].”

CDPR has repeatedly stated that without the continued ability to operate the La Grande tract and ensure that it remain open to off-road vehicular use, the entire ODSVRA would have to shut down. Hence, as Parks contends that the sale of the property is necessary to allow the Park to operate, the scope of the EIR must not be restricted to the La Grande tract. As the uses of and impacts on the La Grande tract and the Park as a whole are inextricably connected -- i.e. the Park could not continue to operate but for the purchase of the La Grande tract -- the EIR must evaluate the impacts of off-road vehicles on the entire Oceano Dunes State Vehicular Recreation Area. This should include interrelated ecosystem impacts on 1) the ocean, especially the intertidal (wet) beach which is home to the Pismo clam and other species, as well as a feeding area for various shorebirds and a possible breeding area for grunion on certain high tide nights; 2) the barren sand areas, including the dry sand beach and adjacent dunes which are either devoid of vegetation or nearly so, but are used by the endangered Snowy plover for nesting; 3) the vegetated dunes, generally located further from the shoreline; and, 4) freshwater streams and ponds. Alternative management approaches, such a reconfigured access routes and staging areas for the riding area, year-round fencing of the nesting area, and expansion of the protected areas should be analyzed to determine optimal compliance with all relevant statutes and regulatory requirements.

In analyzing impacts on the vegetated dunes, the EIR should incorporate the observation of Coastal Commission staff that “While native dune plants are adapted to (and may actually require) disturbance at some level, they are vulnerable to trampling and crushing during the growing season. A single pass by an OHV can leave tracks -- and a disturbed site susceptible to wind erosion -- that will persist for the rest of the year. Staff has observed that in similar dune areas where disturbance has been completely precluded (as at Salinas River Lagoon National Wildlife Refuge), a thin crust forms on top of the sand. This thin and fragile crust is comprised of sand grains, presumably cemented together with calcium carbonate, kelp algins or other such materials available in the immediate environment. The presence of such crusts, their environmental importance, and recreational impacts on them, have been reported elsewhere (for example, at Arches National Park in Utah). ... Further stages of dune stabilization follow. As the native (or introduced) dune plants grow, their root systems tend to hold the sand together, providing resistance to wind erosion. Further plant growth attracts plant eaters, particularly rodents and rabbits. These animals in turn attract predators such as hawks and grey foxes. Animal droppings, and the remains of dead plants and animals provide more nutrients, thus leading in successional stages to increasingly more vegetated and stable dunes. Dune plants also cause wind velocities at the immediate surface to be reduced, acting as miniature ‘windbreaks.’ This causes the wind to drop its load of sand grains; the amount of sand that a given gust of wind can bounce along the dune surface is proportional to the velocity of the wind. Thus, any object which reduces wind energy results in dune building. Put another way, plant cover builds higher dunes.” (CCC Staff Report 4-82-300-A5 (ODSVRA) adpt rev fndgs 5.70.01)

The EIR must incorporate the current science concerning the successional process on dunes, and indicate what the extent of vegetated dunes would likely be in the absence of OHV activity.

The current use of the property and the NOP's claim of "no change in use" for the property should not be assumed as the baseline for evaluation of impacts from the transfer of the property; rather, no vehicular use of the ODSVRA is the appropriate baseline from which the EIR should evaluate the environmental impacts of the proposed action. The EIR may not properly find "no significant impact" simply because an action and its environmental impacts are currently present on the property. If an existing action has been in operation over a period of time but was subject to inadequate analysis when it was initially permitted, its impacts must be analyzed and mitigations proposed.

A Notice of Exemption (Class 1, Section 15301 and General Rule (Section 15061 (b) (3) was filed by the California Department of General Services on November 17, 2006, declaring the proposed purchase of the La Grande Tract to be exempt from CEQA. The reasons for this exemption are echoed in the current NOP: "The current use of the property...will not change with the property transfer.... Because this project is a transfer of ownership from the County to the State with no change in land use, there is no possibility of a significant effect on the environment."

This calls into question whether CDPR has pre-judged the outcome of the EIR. State Parks should explain how, on the basis of the same rationale it used in 2006, when this project was determined to be exempt from the need for an EIR, the same project has been determined to require an EIR in 2009.

Thank you for the opportunity to comment on these issues,

A handwritten signature in black ink, appearing to read "Andrew Christie". The signature is fluid and cursive, with a large, stylized initial "A" and "C".

Andrew Christie
Director, Santa Lucia Chapter