

Oceano Dunes SVRA Dust Control Program

FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT

State Clearinghouse # 2012121008

March 2017



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OCEANO DUNES SVRA DUST CONTROL PROGRAM
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TABLE OF CONTENTS

Chapter 1 Introduction.....	1-1
1.1 Environmental Review Process.....	1-2
1.2 Changes to Draft Program EIR	1-4
1.3 Final Program EIR Organization.....	1-4
Chapter 2 Additional Information	2-1
2.1 Western Snowy Plover and California Least Tern Information.....	2-1
2.1.1 Western Snowy Plover.....	2-1
2.1.1.1 Suitable Habitat.....	2-1
2.1.1.2 USFWS-Designated Critical Habitat	2-1
2.1.2 California Least Tern	2-3
2.1.2.1 Suitable Habitat.....	2-3
2.1.3 Western Snowy Plover / California Least Tern Habitat and Predator Management Strategy	2-4
2.1.3.1 Seasonal Nest Exclosure and Other Nest Protection.....	2-4
2.1.3.2 Monitoring.....	2-5
2.1.4 Predator Monitoring and Control.....	2-5
2.2 CARB Air Quality Modeling	2-6
2.3 Sea Level Rise and Recreation Opportunities	2-6
2.4 Assembly Bill 2616.....	2-7
2.5 Oso Flaco / Rule 1001 Control Site Monitor	2-7
2.6 References	2-8
Chapter 3 Errata and Revisions	3-1
3.1 EIR Summary	3-1
3.2 Introduction (Draft Program EIR Chapter 1)	3-2
3.3 Project Description (Draft Program EIR Chapter 2).....	3-3
3.4 Recreation and Public Access (Draft Program EIR Chapter 4)	3-14
3.5 Land Use and Planning (Draft Program EIR Chapter 5).....	3-19
3.6 Aesthetics (Draft Program EIR Chapter 6)	3-19
3.7 Biological Resources (Draft Program EIR Chapter 7).....	3-20
3.8 Alternatives (Draft Program EIR Chapter 12)	3-26
3.9 Other CEQA Considerations (Draft Program EIR Chapter 13).....	3-34
Chapter 4 Responses to Draft EIR Comments.....	4-1
4.1 Response to Comments from the State Clearinghouse	4-5
4.2 Response to Comments from CDFW.....	4-15
4.3 Response to Comments from The California Coastal Commission.....	4-31
4.4 Response to Comments from the SLOAPCD	4-51
4.5 Response to Comments from the Law Offices of Tom Roth.....	4-67
4.6 Response to Comments from Peterson Team Realty	4-71
4.7 Response to Comments from Pismo Dune Riders	4-75
4.8 Response to Comments from Safe Beach Now.....	4-79
4.9 Response to Comments from the Sierra Club	4-85
4.10 Response to Comments from the California 4 Wheel Drive Association.....	4-91

4.11 Response to Comments from Friends of Oceano Dunes..... 4-117

4.12 Response to Comments from Una Skadden 4-175

4.13 Response to Comments from Bill Denneen 4-179

4.14 Response to Comments from Dorothy Modafferi 4-183

4.15 Response to Comments from Linda Reynolds 4-187

4.16 Response to Comments from Joan Rice..... 4-191

4.17 Response to Comments from Rachelle Toti (August 23, 2016)..... 4-195

4.18 Response to Comments from Michael Young 4-199

4.19 Response to Comments from Norma and Ron Van Meeteren 4-203

4.20 Response to Comments from Arlene Versaw 4-207

4.21 Response to Comments from Betty Cary 4-213

4.22 Response to Comments from Jeff Edwards 4-221

4.23 Response to Comments from Rachelle Toti (October 3, 2016) 4-235

4.24 Response to Oral Comments Received on August 23, 2016..... 4-249

LIST OF TABLES

Table 4-1 Summary of Public Comments Received on the Draft Program EIR 4-1

LIST OF FIGURES

Revised Figure 2-1 Dust Control Program Location3-39

Revised Figure 2-4 Existing Dust Control Activities at Oceano Dunes SVRA and
Pismo State Beach.....3-40

New Figure 7-2 Western Snowy Plover Critical Habitat.....3-41

New Figure 9-1 Sea Level Rise3-42

LIST OF APPENDICES

Updated EIR Appendix B: Biological Resources - Special Status Species Tables

B1: Special-Status Plant Species with the Potential to Occur in the Dust Control Program Area

B2: Special-Status Wildlife Species with the Potential to Occur in the the Dust Control Program Area

LIST OF ACRONYMS, ABBREVIATIONS, AND SYMBOLS

Acronym / Symbol	Full Phrase or Description
AB	Assembly Bill
ALUC	Airport Land Use Commission
ALUP	Airport Land Use Plan
APCO	Air Pollution Control Officer
CARB	California Air Resources Board
CCC	California Coastal Commission
CCR	California Code of Regulations
CDFG	California Department of Fish and Game (now CDFW)
CDFW ¹	California Department of Fish and Wildlife (formerly CDFG)
CDP	Coastal Development Permit
CDPR	California Department of Parks and Recreation
CEQA	California Environmental Quality Act
CESA	California Endangered Species Act
CFR	Code of Federal Regulations
CGS	California Geological Survey
CNDDDB	California Natural Diversity Database
CNPPA	California Native Plant Protection Act
CNPS	California Native Plant Society
CRPR	California Rare Plant Ranking
CWA	Clean Water Act
dB	Decibel
EIR	Environmental Impact Report
ESHA	Environmentally Sensitive Habitat Area
FEMA	Federal Emergency Management Agency
FESA	Federal Endangered Species Act
GIS	Geographic Information System
HCP	Habitat Conservation Plan
HMS	Habitat Monitoring System
IS	Initial Study
LCP	Local Coastal Program/Plan
MBTA	Migratory Bird Treaty Act
m ³	Cubic Meters
NAHC	Native American Heritage Commission
NCTC	Northern Chumash Tribal Council
NOP	Notice of Preparation

¹ Both CDFW and CDFG refer to the same agency.

LIST OF ACRONYMS, ABBREVIATIONS, AND SYMBOLS

Acronym / Symbol	Full Phrase or Description
NPDES	National Pollutant Discharge Elimination System
NRCS	Natural Resources Conservation Service
NRP	Nipomo Regional Park
OHMVR	Off-Highway Motor Vehicle Recreation Division
OHV	Off-Highway Vehicle
PI-SWERL®	Portable In-Situ Wind Erosion Laboratory
PM	Particulate Matter
PMRP	Particulate Matter Reduction Plan
PM2.5	Fine Particulate Matter
PM10	Coarse Particulate Matter
PRC	Public Resources Code
PRE	Porous Roughness Element
SCH	State Clearinghouse
SLO	San Luis Obispo
SLOAPCD	San Luis Obispo County Air Pollution Control District
SPR	Standard and/or Specific Project Requirement
SPRP	Spill Prevention and Response Plan
SR	State Route
SVRA	State Vehicular Recreation Area
SWPPP	Storm Water Pollution Prevention Plan
US	United States
USACE	United States Army Corps of Engineers
USC	United States Code
USEPA	United States Environmental Protection Agency
USFWS	United States Fish and Wildlife Service
WHPP	Wildlife Habitat Protection Plan
µg	Micrograms

CHAPTER 1 INTRODUCTION

This document is the Final Program Environmental Impact Report (EIR) for the California Department of Parks and Recreation (CDPR), Off-Highway Motor Vehicle Recreation (OHMVR) Division's Oceano Dunes State Vehicular Recreation Area (SVRA) Dust Control Program (proposed Dust Control Program or proposed Program). Oceano Dunes SVRA is located in southwestern San Luis Obispo (SLO) County, approximately twelve miles south of the City of SLO, within the Coastal Zone established by the California Coastal Act. The SVRA borders and is contiguous with parts of Pismo State Beach. The Oceano Dunes District manages and oversees operation of both parks, which provide public access to beaches and coastal recreation opportunities, including off-highway vehicle (OHV) recreation in certain designated areas. In general, the OHMVR Division's proposed Dust Control Program would involve:

- **Planting approximately 20 acres of native vegetation per year at Oceano Dunes SVRA.** The OHMVR Division would plant this vegetation during the fall, when rains support the establishment of native dune vegetation. In total, the OHMVR Division could plant approximately 100 acres of native vegetation over the five-year period covered by this EIR.
- **Deploying approximately 40 acres of seasonal dust control measures from approximately March to September at Oceano Dunes SVRA.** The OHMVR Division would deploy dust control measures such as wind fencing, straw bales, porous roughness elements (PREs), and, potentially, non-toxic, environmentally friendly soil stabilizers to control and minimize dust on a seasonal basis. These seasonal measures could be installed as early as March 1 and removed as late as September 30. Seasonal dust control measures could also include pilot and/or demonstration projects as new control measures are identified by the OHMVR Division for implementation at Oceano Dunes SVRA.
- **Potentially planting trees downwind of Oceano Dunes SVRA.** The OHMVR Division may plant native, fast growing trees on private lands located downwind of the SVRA. Tree plantings would be unlikely to control or minimize dust emissions during the five-year period covered by this EIR, but could provide for the long-term control of dust emissions.
- **Dust and meteorological monitoring at Oceano Dunes SVRA.** The OHMVR Division would install, maintain, and operate scientific monitoring equipment to investigate and evaluate dust levels and control measure effectiveness.
- **Preventing track-out of sand onto Grand Avenue in the City of Grover Beach and Pier Avenue in Oceano.** The OHMVR Division would install, operate, and maintain grooved concrete at Pismo State Beach exits on Grand Avenue in the City of Grover Beach and Pier Avenue in the community of Oceano.

In addition to these activities, the proposed Dust Control Program would continue certain ongoing sand management, street sweeping, and track-out prevention activities currently taking place at Pismo State Beach and Oceano Dunes SVRA, such as the installation of wind fencing upwind of Pier Avenue, Grand Avenue, and Strand Way. These activities would not change as a result of the proposed Program and thus their continuation would not result in any new, physical environmental effects at either Pismo State Beach or Oceano Dunes SVRA.

Per California Environmental Quality Act (CEQA) Guidelines section 15132, the Final EIR shall consist of:

- The Draft EIR or a revision of the draft
- Comments and recommendations on the Draft EIR either verbatim or in summary
- A list of persons, organizations, and public agencies commenting on the Draft EIR
- The responses of the Lead Agency to significant environmental points raised in the review and consultation process
- Any other information added by the Lead Agency

1.1 ENVIRONMENTAL REVIEW PROCESS

The OHMVR Division determined the implementation of the proposed Dust Control Program would have the potential to have a significant impact on the environment and that an EIR would be prepared pursuant to CEQA. Accordingly, the OHMVR Division issued a Revised Notice of Preparation (NOP) and Public Scoping Meeting for an EIR for the proposed Program on February 6, 2015².

The Revised NOP described the proposed Dust Control Program, its location, and probable environmental effects. The OHMVR Division distributed the Revised NOP to state agencies via the State Clearinghouse (SCH #2012121008) and directly distributed the Revised NOP (by either regular or electronic mail) to: the California Coastal Commission (CCC), California Department of Fish and Wildlife (CDFW), potential local responsible agencies such as SLO County, other interested agencies such as the U.S. Fish and Wildlife Service (USFWS) and the San Luis Obispo County Air Pollution Control District (SLOAPCD), Native American tribal representatives, and more than 50 other potentially interested organizations and individual members of the public. The OHMVR Division also posted the Revised NOP for review at the SLO County Clerk's Office, as well as adjacent county clerk's offices (e.g., Monterey County, Kern County, Santa Barbara County). A copy of the Revised NOP was also published in the SLO Tribune and Santa Maria Times and made available electronically via a weblink on the OHMVR Division's website. The OHMVR Division provided a public review period for the Revised NOP from February 6, 2015 to March 9, 2015. The OHMVR Division also held a public scoping meeting for the EIR on February 17, 2015. The OHMVR Division received written comments in response to the NOP from two state agencies, one local agency, and other interested organizations and members of the public. These comments were summarized in Draft Program EIR Section 3.2 and are presented in full in the Draft Program EIR Appendix A. The state and local agencies commenting on the NOP included the CCC, CDFW, and the SLOAPCD. The OHMVR Division received oral comments during the scoping meeting from interested members of the public. These comments are summarized in Section 3.2.2 of the Draft Program EIR. The OHMVR Division did not receive written comments at the EIR scoping meeting.

The preparation of the Draft Program EIR involved addressing comments received on the Revised NOP, reviewing the proposed Program's components and activities, conducting research

² The OHMVR Division had previously circulated an NOP and Initial Study for a Dust Control Program EIR for public review in December 2012. Subsequent to the release of the 2012 NOP, the OHMVR Division substantially revised the Dust Control Program area and activities and reduced the duration of the Program covered by the EIR. Accordingly, the OHMVR Division issued a Revised NOP in February 2015 so that agencies and the public could have the opportunity to provide meaningful comments on the currently proposed Dust Control Program.

into the setting and potential impacts of the proposed Program, and evaluating potentially significant impacts pursuant to CEQA. The Draft Program EIR included an analysis of cumulative impacts and alternatives that could reasonably achieve most of the objectives set for the proposed Program and avoid or substantially lessen the significant environmental impacts associated with the Program.

The OHMVR Division issued a Notice of Completion (NOC) and a Notice of Availability (NOA) for the Draft Program EIR on August 1, 2016. The OHMVR Division distributed the NOC, NOA, and Draft Program EIR (on compact disc) to state agencies via the State Clearinghouse. The OHMVR Division directly distributed (by either regular or electronic mail) the NOA and/or the Draft Program EIR to the CCC, CDFW, potential local responsible agencies such as SLO County, interested agencies such as USFWS and the SLOAPCD, Native American tribal representatives, and more than 50 other interested organizations and members of the public. The OHMVR Division also posted the NOA for review at the SLO County Clerk's Office, as well as adjacent county clerk's offices (e.g., Monterey County, Kern County, Santa Barbara County), and published the NOA in the SLO Tribune and Santa Maria Times. Finally, the OHMVR Division made available electronic and hardcopies of the NOA and Draft Program EIR. Electronic copies were provided via a weblink on the OHMVR Division's website (<http://ohv.parks.ca.gov/ohv-ceqa-notices>), and hardcopies were made available for review at the Oceano Dunes District Office in Pismo Beach and the Oceano Dunes SVRA Ranger Station in Oceano.

The OHMVR Division initially provided a 45-day review period for the Draft Program EIR that was scheduled to run from August 2, 2016 to September 16, 2016. During this time period, the OHMVR Division received a request for an extended public review period for the Draft Program EIR from an interested organization. On August 30, 2016, the OHMVR Division issued a Notice of Extended Public Review that announced comment period for the Draft Program EIR, which was set to expire Friday, September 16, 2016, had been extended by 17 days to Monday, October 3, 2016, to allow the agencies and the public additional time to submit comments on the Draft Program EIR. The OHMVR Division distributed the Notice of Extended Public Review for the Draft Program EIR to the same agencies, organizations, and interested members of the public that received the NOA for the Draft Program EIR. The OHMVR Division directly distributed the Notice of Extend Public Review via the same means and methods, except that the Notice of Extended Public Review was not published in the SLO Tribune or the Santa Maria Times. Thus, in total, the OHMVR Division provided a 62-day public review period for the Draft Program EIR. The OHMVR Division also held an information meeting to discuss the contents of the Draft Program EIR on August 23, 2016.

The OHMVR Division received 23 written comment letters generally pertaining to the contents of the Draft Program EIR, including letters from three state agencies (CCC, CDFW, State Clearinghouse), one local agency (SLOAPCD), and other interested organizations and members of the public. The OHMVR Division also received oral comments at the EIR information meeting held in August 2016. Upon completion of the public review period, written responses to all significant comments raised with respect to the environment were prepared and incorporated into the Final Program EIR. Written responses to comments received from any public agency have been made available to those agencies at least 10 days before the OHMVR Division considers certification of the Final Program EIR. All comments and their responses will be considered by the OHMVR Division when deciding on whether or not certify the Final Program EIR and approve the proposed Dust Control Program.

1.2 CHANGES TO DRAFT PROGRAM EIR

CEQA anticipates that the public review process will elicit information that can result in modification of the project design and refined impact analysis to reduce potential environmental effects of the project. As provided in CEQA Guidelines section 15088.5, when significant new information is added to the EIR after public noticing of the Draft EIR, the EIR must be recirculated to give the public a meaningful opportunity for review. Significant new information is defined as 1) a new significant environmental impact, 2) a substantial increase in the severity of an environmental impact requiring new mitigation, or 3) a feasible project alternative or mitigation measure considerably different from those previously analyzed that would clearly reduce environmental impacts. Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.

This Final Program EIR includes the following modifications to the Draft Program EIR:

- Additional information that provides more background and context for the EIR's setting and impact analyses.
- Revisions to the Standard and Specific Project Requirements (referred to as SPRs in the Draft Program EIR) incorporated into the planning, design, and implementation of the Dust Control Program. These revisions clarify and amplify the requirements that minimize and/or avoid potential adverse environmental effects that could occur with implementation of the proposed Dust Control Program.
- Revisions to Draft Program EIR Mitigation Measure REC-1. These revisions amplify and clarify the measures that could potentially minimize and/or avoid the significant recreation impact that could occur with implementation of the proposed Dust Control Program.
- Text changes throughout the document to provide clarity to the analysis, make minor text corrections, or fix grammatical or typographic errors.
- An updated Appendix B, Biological Resources – Special-status Species Tables, which updated information replaces the appendix circulated with the Draft Program EIR.

These revisions do not constitute considerably different changes in the project description, environmental setting, conclusions of the environmental analysis, or in the mitigation requirements incorporated into the project or otherwise provide significant new information that would require recirculation of the Draft Program EIR pursuant to CEQA Guidelines section 15088.5.

1.3 FINAL PROGRAM EIR ORGANIZATION

The Final Program EIR for the Oceano Dunes SVRA Dust Control Program is organized as follows:

- **Chapter 1, Introduction**, explains the contents of a Final Program EIR and the environmental review process for the Oceano Dunes SVRA Dust Control Program.
- **Chapter 2, Additional Information**, describes and summarizes additional information related to the environmental analysis of the Oceano Dunes SVRA Dust Control Program and the effect this information has on the discussions contained in the Draft Program EIR.

- **Chapter 3, Errata and Revisions**, includes the changes to the Draft Program EIR needed to address changes to the physical and regulatory setting, respond to comments, and clarify or amplify the information provided in the Draft Program EIR.
- **Chapter 4, Responses to Comments on the Draft Program EIR**, includes a copy and/or a summary of the written and oral comments received on the Draft Program EIR and the OHMVR Division's responses to significant environmental comments.

In accordance with section 15132 of the CEQA Guidelines, the Final Program EIR for the Oceano Dunes SVRA Dust Control Program consists of this document and the August 2, 2016 Draft Program EIR, Volumes 1 and 2.

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CHAPTER 2 ADDITIONAL INFORMATION

This chapter presents additional information relevant to the environmental setting and analysis of the Oceano Dunes SVRA Dust Control Program. As discussed below, this new information clarifies and amplifies the information provided in the Draft Program EIR. The new information does not result in a new significant environmental impact, does not substantially increase the severity of any impact evaluated in the Draft Program EIR, and does not involve a feasible mitigation measure or project alternative that the OHMVR Division is electing not to implement. As such, this new information is not considered significant pursuant to CEQA Guidelines section 15088.5 and does not require recirculation of the Draft Program EIR.

2.1 WESTERN SNOWY PLOVER AND CALIFORNIA LEAST TERN INFORMATION

Draft Program EIR Sections 2.2.6.2 and 7.2.2.2 provide information on habitat, species characteristics, and management of western snowy plover and California least tern at and near Pismo State Beach and Oceano Dunes SVRA. This Final Program EIR provides additional information regarding habitat for these species present at Pismo State Beach and Oceano Dunes SVRA and the activities the OHMVR Division undertakes to enhance these species' habitat and to protect their nesting sites.

2.1.1 Western Snowy Plover

As explained in Draft Program EIR Section 7.2.2.2, western snowy plover is a federal-listed as threatened species and a California Species of Special Concern (CSSC). Pismo State Beach and Oceano Dunes SVRA, including the proposed Dust Control Program area, contain suitable breeding, foraging, and roosting habitat for western snowy plover; however, the proposed Program activities would avoid active western snowy plover nesting areas (Draft Program EIR page 7-15). The additional information below clarifies and amplifies the Draft Program EIR's discussion of suitable habitat features for western snowy plover breeding, foraging, and roosting.

2.1.1.1 Suitable Habitat

Western snowy plovers winter and breed in the same habitats, consisting of mostly sandy, ocean-fronting beaches, dry salt flats, and gravel bars (Page et al. 1995, Colwell et al. 2005, Brindock and Colwell 2011). Many beaches that support western snowy plover nesting, foraging, and wintering, are bordered to the east by dense stands of European beach grass (*Ammophila arenaria*), which often form an abrupt boundary that defines unsuitable habitat for western snowy plovers (Patrick and Colwell 2014). Western snowy plovers typically nest, forage, and winter on flat to gently sloping, wide beaches with plentiful food sources and sparse vegetation (Page et al. 1995, Colwell et al. 2005, MacDonald et al. 2010, Muir and Colwell 2010, Brindock and Colwell 2011). Selecting habitats that are open (or wide) and have less vegetative cover can facilitate early detection of predators and reduce predation risk (Muir and Colwell 2010, Brindock and Colwell 2011, Patrick and Colwell 2014). Western snowy plover nests have been found adjacent to small clumps of vegetation or other beach debris that likely provides additional cover making it more difficult for predators to spot (Page et al. 1985, Powell 2001). In addition, snowy plover broods have been observed hiding in vegetation clumps in response to adult alarm calls (Webber et al. 2013). As a result, variation in vegetation among and within breeding sites may influence the availability and selection of nest sites (Brusati et al. 2001).

2.1.1.2 USFWS-Designated Critical Habitat

As explained in Draft Program EIR Section 7.2.2.2, the USFWS has designated a portion of the habitat suitable for western snowy plover present at Pismo State Beach and Oceano Dunes as

“critical habitat.” This Final Program EIR provides additional information regarding critical habitat for western snowy plover present at and near Pismo State Beach and Oceano Dunes SVRA.

As defined in the federal Endangered Species Act, critical habitat is a specific geographic area that contains features essential for the conservation of a listed species and that may require special management and protection. In determining critical habitat for listed species, the USFWS must identify the physical and biological features essential to the conservation of the species. Such features “support the life-history needs of the species, including but not limited to, water characteristics, soil type, geological features, sites, prey, vegetation, symbiotic species, or other features... Features may include habitat characteristics that support ephemeral or dynamic habitat conditions” (50 CFR § 424.02).

The USFWS finalized the current critical habitat designation for the Pacific Coast western snowy plover population in 2012 (USFWS 2012). The designation includes 24,527 acres in 60 units in Washington, Oregon, and California. The Pismo Beach/Nipomo Dunes unit (CA 31) contains 1,652 acres, of which 786 acres are located within Pismo State Beach and Oceano Dunes SVRA. The 786 acres of western snowy plover critical habitat present at Pismo State Beach and Oceano Dunes SVRA comprises 48 percent of the total critical habitat in the Pismo Beach / Nipomo Dunes unit (out of 1,652 acres), and 3 percent of the total critical habitat in Washington, Oregon, and California (out of 24,527 acres).

At Pismo State Beach and Oceano Dunes SVRA, the western snowy plover critical habitat area extends along the coast, beginning just north of Arroyo Grande Creek and extending through the southern end of Oceano Dunes SVRA. The entire Pismo Beach / Nipomo Dunes unit, including locations outside of Pismo State Beach and Oceano Dunes SVRA, extends about 12 miles along the coast from the north (upper) side of Arroyo Grande Creek just south of Strand Way to about 0.4 miles north of Mussel Point (USFWS 2011). The critical habitat unit includes portions of the Guadalupe-Nipomo Dunes National Wildlife Refuge, which is owned and managed by USFWS; the Guadalupe Oil Field, which is owned and managed by Chevron Corporation; Rancho Guadalupe County Park, which is owned and managed by the County of Santa Barbara; and private property, including Corralitos Ranch just north of Vandenberg Air Force Base.

The USFWS’s critical habitat designation concluded the physical and biological features³ essential to the conservation of western snowy plover included sandy beaches, dune systems immediately inland of an active beach face, salt flats, mud flats, seasonally exposed gravel bars, artificial salt ponds and adjoining levees, and dredge spoil sites, with:

1. Areas that are below heavily vegetated areas or developed areas and above the daily high tides;
2. Shoreline habitat areas for feeding, with no or very sparse vegetation, that are between the annual low tide or low-water flow and annual high tide or high-water flow, subject to inundation but not constantly under water, that support small invertebrates, such as crabs, worms, flies, beetles, spiders, sand hoppers, clams, and ostracods, that are essential food sources;

³ At the time critical habitat was designated, the USFWS referred to the physical or biological features essential for the conservation of western snowy plover as “primary constituent elements”; however, this term is no longer included in federal Endangered Species Act regulations.

3. Surf- or water-deposited organic debris, such as seaweed (including kelp and eelgrass) or driftwood located on open substrates that supports and attracts small invertebrates described in physical and biological features 2 (above) for food, and provides cover or shelter from predators and weather, and assists in avoidance of detection (crypsis) for nests, chicks, and incubating adults; and
4. Minimal disturbance from the presence of humans, pets, vehicles, or human-attracted predators, which provide relatively undisturbed areas for individual and population growth and for normal behavior (USFWS 2012).

In the final rule designating western snowy plover critical habitat in Pismo State Beach and the Oceano Dunes SVRA (USFWS 2012), the USFWS acknowledged that portions of Oceano Dunes SVRA have been degraded by recreation activities. For example, past and ongoing motorized and pedestrian recreation in these areas disturb western snowy plover, particularly during the breeding season, when park visitation rates are high. However, this habitat degradation did not preclude the USFWS from designating these areas as critical habitat if the areas contain physical or biological features essential to the conservation of the western snowy plover and otherwise meet the definition of critical habitat. The USFWS noted use of an area for recreational activities does not preclude the use of the area by western snowy plover (USFWS 2012). The USFWS's critical habitat designation noted that Pismo State Beach and the Oceano Dunes SVRA include the following physical and biological features essential to western snowy plover: wind-blown sand dunes, areas of sandy beach above and below the high-tide line with occasional surf-cast wrack supporting small invertebrates, and generally barren to sparsely vegetated terrain (USFWS 2012).

As shown on Draft Program EIR Figure 2-5, western snowy plover critical habitat is located adjacent to, and contiguous with, the proposed Dust Control Program area's northwest corner; however, the proposed Program area does not contain any USFWS-designated critical habitat for western snowy plover. Chapter 3 of this Final Program EIR contains new Figure 7-2, which shows the relationship and proximity between the proposed Dust Control Program area and USFWS-designated critical habitat area for western snowy plover at a smaller scale (i.e., more zoomed in).

2.1.2 California Least Tern

As explained in Draft Program EIR Section 7.2.2.2, California least tern is a state- and federal-endangered species and a California Fully Protected Species. Pismo State Beach and Oceano Dunes SVRA, including the proposed Dust Control Program area, contain suitable breeding, foraging, and roosting habitat for California least tern; however, the proposed Program activities would avoid active California least tern nesting areas (Draft Program EIR page 7-15). The additional information below clarifies and amplifies the Draft Program EIR's discussion of suitable habitat features for California least tern breeding.

2.1.2.1 Suitable Habitat

California least tern often nest in habitats similar to those of western snowy plover, and there is often an overlap with the two species breeding on the same beach (Powell and Collier 2000, USFWS 2007). California least tern nesting colonies along the California coast are typically located on broad dune-backed sandy beaches or small sandspits where vegetation is either sparse or altogether absent (Page et al. 1995). Nests may be found from within several feet of the shore to more than a mile inland. Nests are normally located in open areas where aerial and terrestrial

predators can be detected at a distance. When threatened, adult California least tern will leave the nest and aggressively harass an intruder by mobbing, defecating, and vocalizing.

2.1.3 Western Snowy Plover / California Least Tern Habitat and Predator Management Strategy

As stated above, Pismo State Beach and Oceano Dunes SVRA contain suitable breeding, foraging, and roosting habitat for western snowy plover and California least tern. As a result, OHMVR Division must fulfill its mission to balance recreation impacts with programs that conserve and protect these natural resources. Draft Program EIR Section 2.2.6.2 (page 2-11) briefly describes the management strategy within the Oceano Dunes District to enhance western snowy plover and California least tern habitat and protect these species from predators. The additional information below clarifies and amplifies the Draft Program EIR's discussion of this management strategy, which has been successful at protecting breeding and increasing overall population (i.e., number of breeding adults) and reproductive success (i.e., number of fledglings per nesting pair) for both western snowy plover and California least tern in the Oceano Dunes District.

2.1.3.1 Seasonal Nest Enclosure and Other Nest Protection

Each year, from approximately March 1 to September 30, the OHMVR Division encloses approximately 300 acres of Oceano Dunes SVRA open riding area within a six-foot-tall seasonal enclosure (i.e., predator fence).

The seasonal nesting enclosure is intended to enhance western snowy plover and California least tern habitat by protecting nest sites from humans and predators. The public is prohibited from entering the seasonal enclosure area. The seasonal enclosure is made of a lower layer of 2-inch by 4-inch "non-climb fence" and an upper layer of mesh. The fence is buried in the sand up to 18 inches to discourage coyotes and other potential mammalian predators from digging into the nesting area and depredating a nest. In addition, bird spikes (e.g., Nixalite) are installed on some poles to discourage avian predators from roosting near the seasonal enclosures. The enclosure fencing is maintained a minimum of 100 meters (330 feet) from active California least tern nesting areas. The area of this additional buffer varies depending on the locations of nests, but in 2016 was about 12 acres, installed incrementally as nests were found. This additional buffer, if needed, is not erected for as long a period as the main enclosure fencing because least terns typically are only actively breeding from May through August, although they may arrive as early as April.

Additional areas where western snowy plover and California least tern are known to nest are also protected from public disturbance; however, instead of a seasonal enclosure, symbolic fencing and signs are used to keep the public out of nesting habitat. Symbolic fencing consists of rope strung between metal posts. Symbolic fencing does not exclude avian or mammalian predators.

OHMVR Division staff also selectively install smaller wire enclosures, including: 200-foot-diameter single-nest enclosures around western snowy plover and 330-foot-diameter single-nest enclosures around California least tern nests found in the open riding area and outside the seasonal enclosure; smaller single-nest enclosures of varying sizes around western snowy plover found in non-vehicular areas outside the seasonal enclosure; and, much smaller (10 feet or less across) mini-enclosures around western snowy plover nests within larger seasonal enclosures to provide additional protection from human disturbance and mammalian predators. A mesh top is added to mini-enclosures, when necessary, to protect nests from avian predation.

2.1.3.2 Monitoring

Daily monitoring of western snowy plover and California least tern occurs from March 1 to September 30. At a minimum, three monitors are present during the morning and early afternoon hours. As the season progresses, monitoring increases to include the late afternoon and early evening hours. Monitoring breeding exclosures involves walking to assess or find new nests, as well as scanning nests and broods from vehicles parked outside the seasonal exclosure. Monitors check most western snowy plover and California least tern nests daily. Monitoring always occurs in a manner that minimizes disturbance or adverse effects to adult birds, nests, and chicks.

Monitoring of the open riding area also occurs daily. Monitoring of the open riding area involves driving a vehicle along defined transects looking for western snowy plover and California least tern nests and/or chicks. Areas along the transects with signs of nest activity (e.g., scraping or copulating birds) are checked more thoroughly on foot and with increased frequency using binoculars and/or a spotting scope. When monitors find chicks in the open riding area, the area is closed to vehicles and monitors are present to control traffic and ensure vehicles are kept from disturbing the chicks. Additional monitors are posted in vehicles at various distances from the chicks to track their movement. Chicks are slowly directed back into the protected seasonal exclosure by monitors who slowly and carefully walk near the chicks and encourage movement in the direction of a protected area. If necessary, additional monitors are also present to watch for potential avian predators, such as gulls, and flush them from the area. Monitors continue to watch chicks once directed back into the seasonal exclosure to confirm they remain in the protected area.

In addition, during the breeding season, California least tern may assemble in a night roost. Monitors record the night roost location and total numbers of individuals present as California least terns arrive at dusk. Night vision goggles are available and used for this task, but they have limited range for viewing from a distance. As a result, there are occasions when California least terns are heard vocalizing but not seen because they arrive after it is too dark to see. Therefore, the counts are minimum counts due to the limited visibility of night roosts.

Small freshwater lakes are also periodically surveyed for California least tern use. During the surveys, the monitors determine if the lakes provide additional appropriately-sized fish to feed chicks. Monitors also observe the direction of adult California least tern flight in order to determine the directions of other foraging sources.

2.1.4 Predator Monitoring and Control

Predators and predation can be important factors for limiting California least tern and western snowy plover nest success by directly depredating eggs, chicks, juveniles, or adults or indirectly by increasing time spent by adults in vigilance of avoidance behavior and reducing incubating and/or brooding behavior. As a result, the Oceano Dunes District implements a predator monitoring and control program to protect nesting western snowy plover and California least tern.

Multiple methods are used for California least tern and western snowy plover protection from potential predators, including surveying, hazing, trapping, calling, shooting, and spotlighting. During the breeding season, monitors directly observe mammalian and avian predators and their sign (e.g., tracks, scat, regurgitated pellets, prey remains, depredated nests) each day on foot and from vehicles and record species, type of sign, behavior (if observed), duration of observation, direction of travel, and any characteristics that may identify an individual predator. Predator

surveys are currently regularly conducted in the revegetation islands, seasonal enclosure, and the Oso Flaco area.

The most common predator management activities conducted in Oceano Dunes SVRA include the large seasonal enclosure, removing animal carcasses (which attract scavengers) in or adjacent to California least tern and western snowy plover nesting and brood-rearing habitat, and harassing predators (i.e., avian predators) to flush them from sensitive areas. Harassment of predators is conducted using hazing techniques, including firing a bird whistler and waving arms and making noise while approaching an avian predator on foot or by vehicle. A bird whistler is a handheld launcher that fires a projectile 250 to 300 feet and makes a loud “screech” sound, bright light, and trail of smoke when fired without harming the bird. The bird whistler can be fired from a vehicle, which can limit disturbance to western snowy plover and California least tern when it would otherwise be disruptive to approach a predator on foot in breeding habitat.

Predation is known to be an ongoing threat to western snowy plovers and California least terns in Oceano Dunes SVRA. As a result, the Oceano Dunes District implements direct predator controls within Oceano Dunes SVRA. Selective live-trapping, relocation, and lethal removal of avian predators is conducted by qualified avian control specialists, and selective live-trapping and lethal removal of mammalian predators is conducted by the U.S. Department of Agriculture’s Wildlife Services program. From 2006 to 2016, these predator controls resulted in the relocation of between 2 and 20 avian predators per year, the lethal removal of 0 to 23 avian predators per year, and the lethal removal of 5 to 19 mammalian predators per year. These predator control methods have helped increase the overall population (i.e., number of breeding adults) and reproductive success (i.e., number of fledglings per nesting pair) for both western snowy plover and California least tern in the Oceano Dunes District.

2.2 CARB AIR QUALITY MODELING

Draft Program EIR Section 2.3.1.1 provides the basis for the proposed Dust Control Program area. Subsequent to the release of the Draft Program EIR, the OHMVR Division, SLOAPCD, and California Air Resources Board (CARB) commenced development of a 3-dimensional atmospheric and terrain model of Ocean Dunes SVRA and downwind areas of the Mesa. The model, combined with data previously collected by the OHMVR Division (see Draft Program EIR Section 1.1.3), will be used by a joint technical committee of the OHMVR Division, the SLOAPCD, and CARB scientists to predict PM10 concentrations downwind of Oceano Dunes SVRA under meteorological scenarios. Accordingly, the model could allow the technical committee to determine the best locations, type and amount of dust reduction measures needed to meet the requirements of Rule 1001. The development of the model is in its preliminary stages, and there is no schedule established for its completion.

2.3 SEA LEVEL RISE AND RECREATION OPPORTUNITIES

The Draft Program EIR notes that the Pacific Ocean shoreline and the areas surrounding the Dune Lakes region are in the FEMA 100-year floodplain, which means that in any given year, the risk of flooding in the designated area is 1%.

In the future, risks from flooding may increase as ocean levels rise as a result of climate change. But, in general, Pismo State Beach and Oceano Dunes SVRA would not be substantially impacted by sea level rise. The National Oceanic and Atmospheric Administration (NOAA) online Sea Level Rise and Coastal Flooding Impact Viewer shows that only low lying areas and areas near the existing mean higher high water mark would be subject to inundation with a five-foot rise in sea level (expected to occur sometime after the year 2050 but before the year 2100

based on current projections). Similarly, the San Luis Obispo County Climate Action Plan identifies the County anticipates a 3.3 to 4.6 feet in sea level rise along the coast by 2100 (this rise is in addition to an eight-inch rise already observed). Chapter 3 of this Final Program EIR contains new Figure 9-1, which shows projected sea level rise in the vicinity of the Dust Control Program area.

As sea level rises, near-shore land that is currently open to recreation would become submerged, reducing the size of the recreation area below what it currently is available. This effect could combine with the significant and unavoidable cumulative impact on coastal vehicular recreation identified in Draft Program EIR CML-1; however, there is no guarantee that any change in recreation lands identified in the Draft Program EIR would persist into the future as seas rise (e.g., seasonal dust control measures are proposed for five years only). In addition, as described on Draft Program EIR page 2-4, as sea level rises, so do dune elevations, and it is possible the natural dune building process would overtake any vegetation planted as part of the proposed Dust Control Program, eliminating any potential cumulative impact. Thus, although the effects of sea level rise could combine with Draft Program EIR Impact CML-1, the extent of this combined impact is uncertain. Accordingly, this information does not result in a new or substantially more severe impact than that identified in the Draft Program EIR.

2.4 ASSEMBLY BILL 2616

In September 2016 (after the OHMVR Division released the Draft Program EIR), Governor Brown signed into law Assembly Bill 2616, which: 1) amends the findings and declarations of the Coastal Act to advance the principles of environmental justice and equality; 2) modifies the CCC to require one commissioner to reside in, and work directly with, communities in the state that are disproportionately burdened by, and vulnerable to, high levels of pollution and issues of environmental justice; and 3) amends the development control provisions of the Coastal Act to specify that when acting on a coastal development permit, the issuing agency, or the commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state. For the purposes of the Coastal Act, Assembly Bill 2616 defines “Environmental Justice” to mean “the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.” As a result of the passage of Assembly Bill 2616, the CCC, when processing the OHMVR Division’s Dust Control Program CDP application, may consider environmental justice or the equitable distribution of environmental benefits throughout the state. Matters pertaining to the CCC’s administrative authority and procedures for processing a CDP application are outside the scope of the OHMVR Division’s CEQA review of the proposed Dust Control Program. Assembly Bill 2616 does not amend Chapter 3, Coastal Resources Planning and Management Policies, of the Coastal Act, which as explained in Draft Program EIR Chapter 5 is the standard of review for the Dust Control Program CDP permit. As such, Assembly Bill 2616 is not significant new information that changes the findings of the Draft Program EIR. Nonetheless, the proposed Dust Control Program would not alter visitor access levels and does not have the potential to result in the unfair treatment of any person.

2.5 OSO FLACO / RULE 1001 CONTROL SITE MONITOR

The Draft Program EIR explains the OHMVR Division installed an air quality monitoring station, the Oso Flaco station, in the southeast corner of Oceano Dunes SVRA in June 2015. This monitor was intended to serve as the control site monitor required by Rule 1001. In December 2016, the OHMVR Division removed monitoring equipment from this site, although supporting infrastructure remains in place (e.g., platforms, solar posts). The OHMVR Division plans to re-

install the Oso Flaco monitoring equipment in Spring or Summer 2017. The OHMVR Division would operate the Oso Flaco monitor until a new control site monitor location is approved by CARB and the SLOAPCD. If the Oso Flaco monitoring station equipment and infrastructure were to be permanently removed in the future, the OHMVR Division would restore the site to its previous conditions consistent with the CDP issued for the station.

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CHAPTER 3 ERRATA AND REVISIONS

This chapter provides amended text and graphics for the Oceano Dunes SVRA Dust Control Program Draft Program EIR. Text revisions are organized by Draft Program EIR chapter. Additions to the Draft Program EIR text are shown with underlining and text removed from the Draft EIR is shown with ~~striketrough~~.

Revised and additional figures are provided at the end of this chapter. Draft Program EIR Figure 2-1 has been revised to more clearly show the SLO and Santa Barbara County line and Draft Program EIR Figure 2-4 has been revised to show ongoing and completed dust control projects at a larger scale. Draft Program EIR. New Figure 7-2 has been added to this Final Program EIR to graphically depict the proposed Dust Control Program area and western snowy plover critical habitat at a larger scale, and new Figure 9-2 has been added to this Final Program EIR to show projected sea level rise near the Program Area.

3.1 EIR SUMMARY

On page S-4 of the Draft Program EIR, Mitigation Measure REC-1 has been revised as follows:

Mitigation Measure REC-1: Minimize Loss of ~~OHV~~Coastal Vehicular Recreation Opportunities

The OHMVR Division shall minimize the loss of ~~OHV~~coastal vehicular recreational opportunities at Oceano Dunes SVRA by:

- Planting vegetation outside the Oceano Dunes SVRA open riding and camping area
- Planting vegetation and deploying seasonal dust control measures in a manner that does not interfere with the Oceano Dunes SVRA “Sand Highway” and other established paths of travel in the SVRA
- Deploying seasonal dust control measures from March 1st through September 30th only
- Considering potential hazards to public recreation from the seasonal deployment of dust control measures (e.g., ensuring that areas are safe for resumption of OHV recreation following removal of the project)
- Integrating recreation opportunities, including OHV recreation opportunities, into dust control measures. This could be achieved by:
 - Educational kiosks that highlight the progression of dune vegetation / ecosystems
 - Establishing and maintaining motorized and non-motorized trails through large, continuous blocks of planted vegetation
 - Embedding OHV training or vendor areas in dust control measures large enough to support such areas
- Identifying areas to provide additional camping or OHV recreation opportunity and diligently pursue opening those areas to OHV recreation with existing staff levels and funding considerations. Any such expansion shall occur in a manner that is consistent with the Public Resources Code and other applicable laws and

regulations and shall not impede achievement of the performance standard set by Rule 1001.

- The additional camping and/or OHV recreation opportunities to be pursued as part of this measure shall be, to the maximum extent feasible, similar to the type and amount of land affected as a result of the proposed Dust Control Program. Specifically, the OHMVR Division shall, if feasible, provide a 1:1 replacement of coastal vehicular recreation lands within the same regional geographic location as Oceano Dunes SVRA. For the purposes of this measure, inland OHV recreation opportunities are not considered similar to the opportunities provided by Oceano Dunes SVRA.
- The OHMVR Division shall actively research and identify opportunities to provide additional camping and/or OHV recreation opportunities until three years after the completion of the propose Dust Control Program, or 2025, whichever is later. If additional opportunities are not identified by this time, they shall be considered to not be available to the OHMVR Division.

3.2 INTRODUCTION (DRAFT PROGRAM EIR CHAPTER 1)

On page 1-7 of the Draft Program EIR, the second bullet point describing the report entitled “Dust Control Project ODSVRA 2016” has been revised as follows:

- *Dust Control Project ODSVRA 2016 (DRI 2015c):* This OHMVR Division study evaluated the effectiveness of seasonal dust control measures installed at Oceano Dunes SVRA. The study concluded that seasonal dust control measures installed in 2015 were more effective than measures installed in 2014 and showed quantifiable reductions in PM10 concentrations due to the controls. Overall, the OHMVR Division’s 2015 wind fence array reduced sand transport within the array by 73 percent on average and up to 87% for areas in the interior of the array. In addition, over the three-month period the fencing was in place, the downwind concentration of PM10 at the trailing edge of the fence array was approximately 20% to 37% lower than the upwind PM10 concentration during moderate windy periods (approximately 10 to 12 miles per hour); during high wind conditions downwind concentrations were approximately 5% to 30% lower than concentrations upwind of the fence array. ~~Despite reductions immediately downwind of the fencing array, a preliminary~~ Subsequent SLOAPCD analysis has indicated that the 2015 seasonal dust control measures may not have been effective at reducing PM10 levels at the SLOAPCD’s CDF station; ~~however, this preliminary finding may~~ due to anomalous meteorological conditions in 2015, particularly in May 2015 (SLOAPCD 2016a and Zeldin and Tupper 2015).

On Page 1-7 of the Draft Program EIR, the last paragraph has been revised as follows:

The OHMVR Division and the SLOAPCD collaborated on the development and analysis of most of the studies listed above. Although all of the specific findings and conclusions of each report have not been fully accepted by both agencies, the OHMVR Division and ~~the SLOAPCD, together with~~ CARB, have reached a general consensus on an approach to dust control at Oceano Dunes SVRA that is reflected in, and forms the basis for, the proposed Oceano Dunes Dust Control Program.

On Draft Program EIR page 1-9, the description of the Control Site Monitor in Table 1-2 has been revised as follows:

The Control Site Monitor is the OHMVR Division's FEM PM10 monitor installed south of Oso Flaco Lake (35°0'36.5" North latitude, 120°36'14.5" West longitude) unless and until a new control site monitor location is approved by CARB and the SLOAPCD.

On page 1-14 of the Draft Program EIR, the following reference has been added:

San Luis Obispo County Air Pollution Control District 2016a. 2015 Annual Air Quality Report. San Luis Obispo, CA. September 2016.

3.3 PROJECT DESCRIPTION (DRAFT PROGRAM EIR CHAPTER 2)

On page 2-5 of the Draft Program EIR, text describing the dune setting has been revised as follows:

~~At the time [Oceano Dunes SVRA] was established for OHV recreational use, [CDPR] adopted the policy that there would be no net loss of vegetation throughout the park. Numerous maintenance and revegetation efforts were initiated, including straw mulching and hydroseeding in the vicinity of 40-Acre Woods and Oso Flaco Lake in 1986/87 and the establishment of foredunes northwest and west of Oso Flaco Lake between 1989 and 1992.~~

On page 2-10 of the Draft Program EIR, the discussion of the camping limits has been revised as follows:

Amendment 5 to this CDP, approved in 2001, sets an interim limit of 1,000 overnight camping units at Oceano Dunes SVRA (defined as one street-legal vehicle that enters the park under its own power), ~~although the permit limit does not apply on Memorial Day, July 4th, Labor Day, and Thanksgiving.~~

On page 2-15 of the Draft Program EIR, the discussion of the OHMVR Division's Oso Flaco monitoring station has been revised as follows:

In ~~May~~ June 2015, the OHMVR Division installed an air quality monitoring station, the Oso Flaco station, in the southeast corner of Oceano Dunes SVRA (see Figure 2-4). The approximately 0.4-acre site includes a PM10 BAM monitor enclosed in a small, weatherproof container, meteorological monitoring equipment (mounted on a 10-meter tower), and five solar panels with associated solar charging and battery-backup systems. The monitor is intended to serve as the control site monitor required by Rule 1001. The monitor was installed after the NOP for this EIR was issued and as such is not part of the baseline environmental conditions at Oceano Dunes SVRA. The OHMVR Division removed the Oso Flaco monitoring equipment in December 2016 (leaving infrastructure in place), but plans to re-install the equipment in Spring or Summer 2017. The Oso Flaco station would be operated until a new control site monitor location is approved by CARB and the SLOAPCD. Accordingly, the combined impacts from the potential re-installation of equipment and /or relocation and operation of the Oso Flaco station and the proposed Dust Control Program are evaluated in Chapter 11 (Cumulative Impacts). Due to its nature as a control monitor, the Oso Flaco monitor would not be reinstalled in an area open to vehicular recreation and would not have the potential to combine with most of the proposed Program's impacts.

On page 2-16 of the Draft Program EIR, the discussion of the 2014 straw bale project has been revised as follows:

In March 2014, the OHMVR Division installed approximately 5,000 straw bales on a 30-acre area along the eastern boundary of Oceano Dunes SVRA, outside of the SVRA's open riding and camping area (see Figure 2-4). These straw bales were left in place and have become partially buried. The plans are to allow any straw bales that remain to provide ground cover for potential vegetation projects. For example, in 2014, approximately six acres of straw bales were incorporated into a restoration project and an additional five acres were vegetated in 2015. Some of the straw bales in these two restoration areas were broken up and incorporated as part of the vegetation planting. In addition, at the request of the CCC, the OHMVR Division intends to remove as many straw bales as feasible; however, since the 30-acre straw bale project was completed prior to the release of the NOP for this EIR, and remains in place, these straw bales are part of the baseline environmental conditions against which the EIR evaluates potential Dust Control Program impacts. The OHMVR Division anticipates that most straw bales would remain in place, and that there would be few, if any, straw bales removed due to logistical difficulties (e.g., not feasible to dig out buried straw bales, bales may break up when being removed, etc.).

On page 2-16 of the Draft Program EIR, the discussion of seasonal wind fencing arrays has been revised as follows:

The OHMVR Division has deployed three wind fencing arrays at Oceano Dunes SVRA. In 2014 (March to July), the OHMVR Division installed a 15-acre array approximately 1,850 feet southeast of marker post 5. In 2015 (March to July), the OHMVR Division installed a 40-acre array on the east side of Sand Highway (see Figure 2-4). In 2016 (March to July), the OHMVR Division installed an approximately 40-acre array in the same location as the 2015 array. These arrays consisted of four-foot-high, orange-colored wind fencing rows oriented perpendicular to the prevailing wind direction and spaced every 20 to 40 feet apart (or more, depending on topography). Several rows of fencing became buried over the course of the project. ~~This wind fencing has been or will be removed the year it was installed and has no potential to result in impacts that could combine with the proposed Dust Control Program activities.~~ Since the 2015 and 2016 arrays were not in place at the time the installed after the Notice of Preparation was issued for this EIR and subsequently removed in the same year they were each installed, these seasonal wind fencing projects are not part of the baseline environmental conditions at Oceano Dunes SVRA and thus have no potential to result in impacts that could combine with the proposed Dust Control Program activities.

On page 2-16 and 2-17 of the Draft Program EIR, the discussion of the April 2016 porous roughness element (PRE) array has been revised as follows:

In April 2016, the OHMVR Division installed an approximately 0.6-acre array of "porous roughness elements" (PREs, reminiscent of a dog crate) consisting of rectangular, approximately 3-foot-long by 2-foot-wide by 2-foot-high crates wrapped in mesh fencing material, each with a smaller crate, also wrapped in fencing material, nested inside of the larger crate. These nested, three-dimensional PREs have increased aerodynamic drag and promote greater sand capture and deposition as compared to two-dimensional wind fencing and non-porous (i.e., solid) three-dimensional roughness elements such as straw bales. The PREs (approximately 150) were installed under an emergency permit from the CCC, which requires the PREs to be removed no later than August 31, 2016. Since the ~~2015 and 2016 PRE arrays~~ was ~~were~~ not in place at the time the Notice of Preparation was issued for this Draft EIR (February 2015, see Section 1.5.1), ~~these~~ this seasonal wind

~~fencing PRE projects is~~ are not part of the baseline environmental conditions against which the EIR evaluates potential Program impacts. ~~;- however~~ Furthermore, this PRE array was removed in Fall 2016 and as such has no potential to result in impacts that could combine with the proposed Dust Control Program activities.

On page 2-16 of the Draft Program EIR, the discussion of the other pilot and demonstration projects has been revised as follows:

In Spring 2015, the SLOAPCD and the OHMVR Division proposed the use of soil stabilizers on an approximately two-acre area east of the northern end of Sand Highway (see Figure 2-4); however, this proposal was rejected by the CCC. Please refer to Section 2.3.2.34 for additional information on soil stabilizers.

On page 2-18 of the Draft Program EIR, the text describing the basis for the proposed Dust Control Program has been revised as follows:

The proposed Program area includes the portion of Oceano Dunes SVRA located between approximately 280 degrees to 315 degrees upwind of the SLOAPCD's CDF ambient air quality monitoring station (see Figure 2-5). The Program area includes most of the open sand areas in the central to northern portion of the Oceano Dunes SVRA open riding and camping area, commonly referred to as the "La Grande Tract." This part of Oceano Dunes SVRA is owned primarily by the County; however, the OHMVR Division has entered into an operating agreement with the County to operate this land. SLOAPCD and OHMVR Division studies have identified this area as the area most likely influencing air quality measurements at the CDF station and air quality conditions on the Nipomo Mesa (see Section 1.1.2). The proposed Program area also includes the areas where seasonal wind fencing and straw bale arrays were implemented in 2014, 2015, and 2016 by the OHMVR Division and SLOACPD, in consultation with CARB (see Sections 2.2.7.4). Finally, the proposed Program area is situated in the middle of the SLOAPCD's CDF air quality forecast zone, which is the zone that experiences the worst air quality conditions during high wind and dust events.

On page 2-18 of the Draft Program EIR, Footnote 5 describing the exact acreage of the proposed Dust Control Program area has been revised as follows:

⁵ The exact acreage of this primary Dust Control Program area is 688 acres. Together with the potential 295-acre tree planting area, the exact total acreage of the Dust Control Program area is 983 acres.

On page 2-31 to 2-32 of the Draft Program EIR, Section 2.4 describing the proposed schedule of activities has been revised as follows:

2.4 SCHEDULE OF ACTIVITIES

The OHMVR Division proposes to implement the Dust Control Program for an approximately five-year period, estimated to begin in spring 2017 and continue through late 2022 or 2023. In general, vegetation projects would be planted in the fall of each calendar year, beginning in the fall or early winter of 2017 and occurring each fall or winter until 2022. Seasonal dust control measures would be deployed from as early as March 1 and remain in place as late as September 30 of each calendar year. The OHMVR Division would remove all seasonal dust control measures as feasible; however, straw bales or other seasonal measures that become partially or fully buried and which cannot be reasonably removed could remain in place during and after the five-year period

considered by this EIR. Any structural, track-out solution would be a capital outlay project that requires the appropriation of funds by the State Legislature. The OHMVR Division would concurrently work to obtain proposals for professional services as well as agency approvals; however, an 18- to 24-month timeline from the appropriation of funds is anticipated before track-out prevention devices would be fully operational. Since funds have not yet been appropriated, the OHMVR Division would not be able to install track-out infrastructure until December 2018 at the earliest.

2.4.1 Dust Control Program Annual Review

As described in Section 1.3, this EIR is a Program EIR, which requires the OHMVR Division to consider subsequent dust control activities against the scope and content of this EIR to determine if additional environmental review is required. In addition, as described in Section 1.4.2, the OHMVR Division has applied for a Master CDP from the CCC, which requires the CCC and other agencies to review specific dust control activities to ensure they are in compliance with the CDP issued for the project. In light of these review requirements, the OHMVR Division is proposing the following process for the annual review of dust control measures and activities:

Vegetation and Tree Planting Projects

The OHMVR Division shall:

- By August 1 of each year (beginning in 2017), submit to the CCC, CDFW, and USFWS for review, a “Draft Oceano Dunes SVRA Dust Control Program Planting Plan” that:
 - Identifies the location (including any access routes), size, and species composition of the planned planting activities;
 - Describes the planting methods that would be employed by the OHMVR Division (e.g., hand planting, broadcast seed);
 - Describes the site-specific resources that are present or have the potential to be present at or near the planting areas and the measures that would be implemented to minimize and avoid potential adverse impacts from planting activities. As part of this description, the OHMVR Division shall summarize all biological and cultural resource evaluations that occurred for planned vegetation and tree planting activities, including all necessary records searches, Native American consultations, and site-specific survey results; and
 - Evaluates the proposed planting projects for consistency with the Dust Control Program EIR and any applicable CDP conditions.
 - Summarizes any Dust Control Program-related planting activities undertaken during the previous growing season. This summary shall:
 - Describe the status and success (e.g., photo monitoring results, air quality monitoring results, replanting efforts, invasive species issues) of the plantings;
 - Evaluate whether measures incorporated into the planned activities to avoid or minimize the adverse impacts of the activities were effective and successful (i.e., avoided impacts); and

- Evaluate whether planting activities have occurred in compliance with applicable conditions and requirements (i.e., CDP, EIR mitigation measures).
- By October 1 of each year (beginning in 2017), submit to the CCC, CDFW, and USFWS, and make available to the public, a “Final Oceano Dunes SVRA Dust Control Program Planting Plan” that addresses any comments received from the CCC, CDFW, and USFWS on the draft planting plan. The OHMVR Division may provide notice that a final planting plan is available via email or mail, and shall post the final planting plan on its website. The public may comment on the final planting plan, but the OHMVR Division would not be required to revise the final planting plan to reflect public comments.
- By November 15 of each year (beginning in 2017), obtain approval from all necessary agencies, and proceed with the planned planting activities. By November 15 of each year, the OHMVR Division shall also provide to the CCC evidence the OHMVR Division is authorized to proceed with planned planting activities on lands not operated by the state.

Seasonal Dust Control Measures

Given the proposed schedule of activities, the OHMVR Division would need to commence Spring 2017 seasonal dust control measures immediately following receipt of all project permits and approvals. For Spring 2017 seasonal dust control measures, the OHMVR Division shall submit to the CCC and make available for review a “2017 Oceano Dunes SVRA Seasonal Dust Control Plan” that identifies the location, size, and type of planned seasonal dust control measures, describes the installation, maintenance, and removal of these measures, and describes the site specific-resources that are present or have the potential to be present at or near the seasonal dust control measures and the measures the would be implemented to minimize and avoid potential adverse impacts from planting activities. As part of this plan, the OHMVR Division shall summarize all biological and cultural resource evaluations that occurred for planned seasonal dust control measures, including all necessary records searches, Native American consultations, and site-specific survey results. In addition, by December 1, 2017, the OHMVR Division shall submit a summary of the 2017 seasonal dust control measures to the CCC as described below.

For seasonal dust control measures planned for deployment after 2017, The OHMVR Division shall:

- By December 1 of each year (beginning in 2017), submit to the CCC, CDFW, and USFWS for review, a “Draft Oceano Dunes SVRA Seasonal Dust Control Plan” that:
 - Identifies the location (including any access routes), size, and type (e.g., fencing, PREs, pilot projects) of planned seasonal dust control measures;
 - Describes the methods that would be employed by the OHMVR Division to install, maintain, and remove seasonal dust control measures;
 - Describes the site specific-resources that are present or have the potential to be present at or near the seasonal dust control project areas and the measures that would be implemented to minimize and avoid potential adverse impacts

from seasonal dust control activities. As part of this description, the OHMVR Division shall summarize all biological and cultural resource evaluations that occurred for planned seasonal dust control measures, including all necessary records searches, Native American consultations, and site-specific survey results; and

- Evaluates the proposed seasonal dust control measures for consistency with the Dust Control Program EIR and any applicable CDP conditions.
- Summarizes the seasonal dust control measures undertaken the previous spring. This summary shall:
 - Describe the status and success (e.g., air quality monitoring results) of the seasonal dust control measures;
 - Evaluate whether measures incorporated into the planned activities to avoid or minimize the adverse impacts of the activities were effective and successful (i.e., avoided impacts); and
 - Evaluate whether seasonal dust control activities have occurred in compliance with applicable conditions and requirements (e.g., CDP, EIR mitigation measures).
- By February 1 of each year (beginning in 2018), submit to the CCC, CDFW, and USFWS, and make available to the public a “Final Oceano Dunes SVRA Seasonal Dust Control Plan” which addresses any comments received from the CCC, CDFW, and USFWS on the draft seasonal dust control plan. The OHMVR Division may provide notice that a final seasonal dust control plan is available via email or mail, and shall post the final plan on its website. The public may comment on the final seasonal dust control plan, but the OHMVR Division would not be required to revise the final plan to reflect public comments.
- By March 1 of each year (beginning in 2018), obtain approval from all necessary agencies, and proceed with the planned seasonal dust control activities.
- ~~**Planning:** Starting June 1 of each year (beginning in 2017), the OHMVR Division shall develop a list of potential dust control and monitoring projects for implementation in the coming 12-month period, evaluate potential projects for consistency with the Dust Control Program EIR and any CDP conditions, and coordinate with the APCD on final planned activities. This planning phase would conclude by August 31 of the same year. As part of this planning process, the OHMVR Division shall identify whether activities would take place on state-leased lands and, if necessary, secure authorization to proceed with projects on leased lands.~~
- ~~**Resource Evaluation:** By July 1 of each year, the OHMVR Division shall initiate biological and cultural resource evaluations for planned activities, including all necessary records searches, Native American consultations, and site-specific surveys. This resource evaluation phase would conclude by September 30 of the same year.~~
- ~~**Agency Reporting and Review:** By October 1 of each year, the OHMVR Division shall submit to the CCC (Central Coast Office), a draft “Oceano Dunes SVRA Year End Summary and Annual Work Plan” report that:~~

- ~~○ Summarizes the status of all Dust Control Program related activities (if data is available) performed the previous year (i.e., the 365 days before October 1), including:
 - ~~▪ A description of the installation, maintenance, and decommissioning activities performed as part of the Dust Control Program; an analysis of whether measures incorporated into the planned activities to avoid or minimize the adverse impacts of the activities were effective and successful (i.e., avoided impacts); and a report on compliance with Master CDP and other applicable conditions / requirements (i.e., EIR mitigation measures)~~~~
- ~~○ Describes the type, amount, and location of Dust Control Program related activities the OHMVR Division would perform in the coming year (i.e., the 365 days after October 1), including:
 - ~~▪ Site specific resources within work areas and potential impacts from installation, maintenance, and decommissioning~~
 - ~~▪ The measures incorporated into the planned activities to avoid or minimize the adverse impacts of the activities~~
 - ~~▪ An analysis of whether planned activities and their potential impacts are consistent with and within the scope of the Dust Control Program EIR, Master CDP, and other applicable regulatory conditions~~~~
- ~~○ By November 15 of each year, the OHMVR shall, in coordination with the CCC, finalize the “Oceano Dunes SVRA Year End Summary and Annual Work Plan,” obtain approval from all necessary agencies, and proceed with the planned dust control activities~~
- **Implementation:** Starting November 16 of each year, the OHMVR Division shall proceed with the planned dust control activities.

The conceptual schedule for the Dust Control Program annual review process is shown in Table 2-4. The OHMVR Division would submit two annual work plans during the first year of project implementation to account for initial project start-up.

On Draft Program EIR page 2-33, Table 2-4 has been deleted (see following page):

Table 2-4 Dust Control Program Annual Review Process																						
Phase	Year 1 (2017)				Year 2 (2018)				Year 3 (2019)				Year 4									
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	
Planning																						
<i>Develop Projects</i>																						
<i>Evaluate Projects</i>																						
<i>APCD Coordination</i>																						
Resource Evaluation																						
<i>Records Search</i>																						
<i>NA Consultation</i>																						
<i>Site-specific surveys</i>																						
Reporting / Review																						
<i>Draft Project Report</i>																						
<i>Agency Review</i>																						
<i>Final Project Report</i>																						
Implementation																						
<i>Pre-Const. Monitoring</i>																						
<i>Project Install/Remove</i>																						
<i>Vegetation</i>																						
<i>Fencing/straw-bales</i>																						
<i>Monitoring</i>																						

On pages 2-36 to 2-40 of the Draft Program EIR, the Standard and Specific Project Requirements pertaining to biological resources have been revised as follows:

Biological Resources (Chapter 7)

Standard and Specific Project Requirements:

- **Minimize and/or Avoid Impacts to Special-Status Plants.** The OHMVR Division would implement the following measures to minimize and/or avoid impacts to special-status plants:
 - Prior to starting all work under the Dust Control Program, a qualified biologist shall survey for the presence of special-status plants in and within 100 feet of work areas (including new access routes). These surveys should be conducted prior to the commencement of Program activities, during the appropriate blooming period for species that are known to or have the potential to occur in work areas, and shall follow protocols established by the USFWS (USFWS 1996), CDFW (CDFG 2009), and CNPS (CNPS 2001), including the use of reference sites to confirm appropriate survey timing, if necessary.
 - A qualified biologist shall map, flag, and protect special-status plants identified during surveys.
 - The qualified biologist shall establish clear avoidance areas around ~~special-status~~ California and federal endangered or threatened plant locations. This avoidance area shall provide a minimum 25-foot buffer from all work activities (the biologist may establish a larger buffer if appropriate). Sturdy, visible fencing or other protective features shall be installed around all avoidance areas. Fencing shall be securely staked and installed in a manner that would be reasonably expected to withstand winds and sand transport levels typical of Oceano Dunes SVRA. Fencing and other protective features shall be removed upon completion of work activities.
 - If California or federal endangered or threatened plant species are observed in a work area or along an access path to a work area, the OHMVR Division shall prepare and submit a report detailing the find to the appropriate resource agency (i.e., USFWS, CDFW) prior to starting work. If a California or federal endangered or threatened plant species cannot be avoided during work activities, the USFWS and/or CDFW shall be consulted regarding the appropriate avoidance, minimization, and/or mitigation measures prior to conducting the work.
 - Special-status plant species that are not California or federal listed shall be avoided to the extent feasible. If it is not feasible to avoid the loss of ~~non-listed~~ special-status plants that are not California or federal listed, the ~~OHMVR~~ OHMVR Division shall, if feasible, compensate for this loss by reseeding, replanting, and/or restoring the disturbed areas with locally collected seed stock from nearby plant locations.
- **Qualified Biologist.** A qualified biologist shall be an individual with a minimum of five years of academic training and professional experience in biological sciences and related resource management activities with a minimum of two seasonal years conducting surveys for special-status species that may be present

in the project area.

- **Minimize and/or Avoid Impacts to Nesting and Special-Status Birds.** The OHMVR Division would implement the following measures to minimize and/or avoid impacts to special-status birds:
 - Program implementation will avoid the avian breeding season (generally February 1 through September 15) to the extent feasible. If work occurs during the avian breeding season, Prior to starting all work under the Dust Control Program from February 1st to August 15th, a qualified biologist shall survey for nesting birds within the work area, along the access path to the work area, and in a sufficient area around the work area to identify nests that could be impacted by activities in the vicinity of work areas. These surveys shall be performed no more than seven (7) days prior to the start of work.
 - Identified active nests (i.e., a nest with eggs or chicks) shall be regularly surveyed by a qualified biologist for the first 24 hours prior to any Program-related activities to establish a behavioral baseline. Once work commences, all nests shall be regularly monitored to detect any behavioral changes as a result of the activities. If behavioral changes are observed, the work causing that change shall cease and USFWS and/or CDFW shall be consulted for additional avoidance and minimization measures. If regular monitoring of active nests by a qualified biologist is not feasible, the following measure shall be implemented.
 - If active nests ~~nesting birds~~ are found during surveys, the OHMVR Division shall establish a buffer zone around the nest until the breeding season has ended, or until a qualified biologist has determined that young have fledged and are no longer reliant upon the nest or parental care for survival. The size of the buffer shall be determined by the qualified biologist, and shall depend on the species and topography, but would generally be 250 feet around active non-listed small bird species nests and 500 feet around active non-listed raptor nests generally be 300 feet for raptors and 50 feet for other bird species. For the purposes of this measure only, non-listed shall refer to those species not listed under the federal or state Endangered Species Act and/or as state fully-protected species.
 - Prior to starting all work under the Dust Control Program in suitable burrowing owl habitat areas in the backdunes from September 1st through February 28th, a qualified biologist shall survey for potential burrows in the vicinity of the work area.
 - If small mammal burrows are detected, the biologist shall scan the area for burrowing owls and will search for signs of burrowing owls including feathers, whitewash, or pellets.
 - If any occupied burrows are detected, the OHMVR Division shall establish a minimum 100-foot buffer zone around the occupied burrow. A qualified biologist may increase the buffer area if it is determined that a larger buffer is necessary to reduce disturbance.
 - If no burrowing owls or signs of burrowing owls are detected, no further action is required.

- The OHMVR Division has designed the project to avoid western snowy plover and California least tern habitat (generally flat, unvegetated, or sparsely vegetated sand near the shoreline); however, some activities may occur in the vicinity of these species. To the extent feasible, the OHMVR Division shall perform Dust Control Program work activities in the vicinity of western snowy plover and California least tern habitat from October 1 through February 28, which is outside of the nesting season for these species. If work activities must be conducted March 1 through September 30, the OHMVR Division would implement the following measures:
 - No more than three days prior to starting work in the vicinity of western snowy plover and California least tern habitat from March 1st to September 30th, a qualified biologist shall survey for western snowy plover and California least tern nests. If nests are found during this survey, the OHMVR Division shall establish a minimum 300-foot buffer zone around the nest.
 - If nesting activity is initiated within 300 feet of in-progress or installed project activities, the OHMVR Division shall stop all active work and install ~~a additional fencing on the existing enclosure (i.e., large (200-foot diameter)-fence bump-out) (if the nest is near an existing enclosure)~~ or install a circular single nest enclosure (200-foot diameter for snowy plovers and 330-foot diameter for least terns) (if the nest is not near any existing enclosure.) ~~The enclosure fence shall consisting of 2-inch by 4-inch mesh wire fencing with a height of 5 feet (8 inches buried) to protect the nest from people and predators. No additional dust control activities shall be performed within 300 feet of such enclosure until after the nest fate is determined.~~
 - A biological monitor shall be available to monitor for the presence of nesting activity throughout the installation of all dust control measures. The on-site biological monitor shall have the authority to halt any action that might result in impacts to individual birds or nests. If work is stopped, the USFWS shall be notified immediately by the on-site biological monitor.
- The OHMVR Division shall plan and design Dust Control Program activities to avoid changing breeding habitat in the vicinity of known or potential snowy plover and least tern nesting areas. Program activities that could facilitate predator movement into known or potential nesting areas for plover and tern shall be minimized. If avoidance is not feasible, additional predator control resources (e.g., enhanced monitoring and/or trapping) shall be secured to reduce predator presence and impacts to plover and tern adults, juveniles, chicks, and nests. In addition, if particular structures associated with the Program are confirmed to be used by avian predators for perching and contributing to western snowy plover or least tern predation, they will be removed and relocated immediately.
- The OHMVR Division shall maintain 15 mile per hour vehicle speeds during all travel to and from dust control projects.
- **Notification to the California Natural Diversity Database (CNDDDB).** If any listed, rare, or special-status species are detected during surveys or program

activities, OHMVR Division shall submit notification to the CNDDDB within 14 working days of the sightings.

On Draft Program EIR page 2-45, the following references have been added:

CDFW. 2009. Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Communities.

California Native Plant Society (CNPS). 2001. CNPS botanical survey guidelines. Pages 38-40 in California Native Plant Society's inventory of rare and endangered vascular plants of California (D.P. Tibor, editor). Sixth edition. Special Publication No. 1, California Native Plant Society, Sacramento, 387 pp.

U.S. Fish and Wildlife Service (USFWS). 1996. Guidelines for conducting and reporting botanical inventories for federally listed, proposed, and candidate plants. Sacramento, California. 2 pp.

3.4 RECREATION AND PUBLIC ACCESS (DRAFT PROGRAM EIR CHAPTER 4)

On Draft Program EIR page 4-11, the discussion of coastal-dependent development or use has been revised as follows:

The California Coastal Act defines “coastal-dependent development or use” to mean any development or use which requires a site on, or adjacent to, the sea to be able to function at all (PRC §30101). Thus, the OHMVR Division considers beach- and dune-oriented recreational opportunities to be coastal-dependent recreation activities. For the purposes of this EIR, coastal-dependent recreation activities at Pismo State Beach and Oceano Dunes SVRA could include:

- Non-vehicular recreational activities such as sand play, sun bathing, surf fishing, swimming (in the ocean), kite boarding and kayaking (in the ocean), marine wildlife viewing, and beach and coastal dune horseback riding
- Beach and coastal dune camping
- Beach and coastal dune vehicular recreation

Categorizing these activities as coastal-dependent would be appropriate because by the nature of their unit classification, Pismo State Beach and Oceano Dunes SVRA provide a unique place to enjoy OHV riding that is not available elsewhere; however, the CCC is the sole agency with primary jurisdiction over the Coastal Act and as such may or may not find the above activities to be coastal-dependent uses.

On pages 4-20 to 4-21 of the Draft Program EIR, the discussion of the thresholds of significance used to evaluate the significance of potential recreation impacts has been revised as follows:

In addition, the OHMVR Division has determined the project would have a significant environmental impact related to recreation and public access in the project area if it would:

- Substantially limit, reduce, or interfere with established coastal recreational opportunities at Oceano Dunes SVRA

The OHMVR Division arrived at the threshold of significance described above after conducting a search for CEQA thresholds of significance used by other CEQA lead agencies to consider and evaluate similar changes to recreational opportunities / recreation lands. This search revealed few thresholds of significance that were different

than those identified in Appendix G to the CEQA Guidelines, and none that set a bright line or numeric threshold for what was considered significant. Rather, in general, the significance of potential recreation impacts was based on variables like the potential to disrupt or interfere with recreation, and whether the lead agency felt the recreational resource being impacted, disrupted, interfered with, etc. was significant.

For example, the SLO County EIR prepared for the Phillips 66 Company Rail Spur Extension Project evaluated whether that project: 1) Would increase the use or demand for parks or other recreational opportunities; or 2) Affect the access to trails, parks, or other recreation opportunities (SLO County 2015). Similarly, the Santa Barbara County EIR prepared for the Goleta Beach 2.0 Project considered whether the project would “terminate or interfere with the established recreational uses of an area” and concluded that the potential conversion of approximately 2.6 acres of existing beach-front lawn area to dry sand or intertidal beach area was a significant and unavoidable impact of the project (Santa Barbara County 2014).

In addition, the OHMVR Division reviewed CCC agendas over an eight-year period (from January 2008 to March 2016) for potential development of a comparable nature that might contain potentially relevant staff recommendations or Commission determinations that could provide useful information and context for evaluating the significance of a change in recreational opportunities / recreational lands. None of these agenda items contained recommendations or decisions that identified a numeric threshold that CCC staff or the Commission itself used to evaluate potential recreational impacts. Rather, staff recommendations and Commission findings that a substantial issue exists (or not) with regard to recreation and public access policies and impacts was always contextualized by other factors related to recreation and access – such as the overall availability of recreational opportunities, regional importance of the resources, ability of the resources to provide low-cost recreational opportunities, consistency with the local LCP, etc. – and not the finite area or amount of recreational land being impacted. For example, in 2010, CCC staff found a substantial issue existed with the construction of an approximately 4,800 square-foot barn in a rural portion of SLO County because this development would remove an existing accessway in an area where recreational access opportunities are “extremely limited” (CCC 2010). In contrast, in 2011, the CCC found the closure of a 2.9-mile long portion of Coastal Drive in Redwood National Park would conform to California’s Coastal Management Program because the closure took into account natural resource protection needs, and the closed area would remain available for public use and park-oriented recreation (CCC 2011). These CCC examples, which represent a minute sampling of CCC considerations, are not intended to imply or impart any finding regarding the proposed Program’s consistency with the Coastal Act. Rather, these examples are only intended to highlight that the context in which a project occurs is an important factor that is considered and used by CCC staff and the Commission itself when reviewing a CDP application. According, the OHMVR Division’s also considers context an important factor in evaluating the magnitude of the physical change to the recreation environment associated with the proposed Dust Control Program.

While the potential for the Dust Control Program to limit, reduce, and/or interfere with established recreational opportunities may be quantified in terms of potential acreage lost, visitors affected, etc., evaluating the effect of this potential change is largely a qualitative judgement. Specific individuals and agencies may react to changes in recreation

conditions differently. Recreation impacts, therefore, depend, in part, on the specific stakeholder sensitivity to the type of recreational opportunity being affected.

In determining whether the Dust Control Program would substantially limit, reduce, or interfere with established recreational activities, the OHMVR Division has considered the following factors:

- The recreational history of Oceano Dunes SVRA
- The number of visitors that could be affected by a change in established recreational opportunities
- The extent to which changes to established recreational opportunities would be perceptible to visitors
- The ability of visitors to use similar facilities instead of Oceano Dunes SVRA
- The legislative mandate and mission of the OHMVR Division

The OHMVR Division considered the use of a specific value (e.g., 25 acres) to provide a numeric context for whether or not the potential change to established recreational opportunities is substantial; however, a single numeric value fails to account for the variety of factors that determine why, how, and where an individual chooses to recreate. Therefore, a numeric threshold of significance was not considered appropriate for the Dust Control Program.

On pages 4-24 to 4-25 of the Draft Program EIR, the discussion of, and specific requirements contained in, Mitigation Measure REC-1, have been revised as follows:

Given the SVRA's history, popularity, and unique, low-cost recreational opportunities, the OHMVR Division considers the temporary (43 acres annually) and permanent (up to 70 acres) closure of land inside the Oceano Dunes SVRA open riding and camping area to be a potentially significant impact on OHV recreation. To reduce the impact of the Dust Control Program on OHV recreation at Pismo State Beach and Oceano Dunes SVRA, the OHMVR Division would implement Mitigation Measure REC-1, Minimize Loss of Coastal Vehicular Recreation Opportunities

Mitigation Measure REC-1: Minimize Loss of ~~OHV~~ Coastal Vehicular Recreation Opportunities

The OHMVR Division shall minimize the loss of ~~OHV~~ coastal vehicular recreational opportunities at Oceano Dunes SVRA by:

- Planting vegetation outside the Oceano Dunes SVRA open riding and camping area
- Planting vegetation and deploying seasonal dust control measures in a manner that does not interfere with the Oceano Dunes SVRA "Sand Highway" and other established paths of travel in the SVRA
- Deploying seasonal dust control measures from March 1st through September 30th only
- Considering potential hazards to public recreation from the seasonal deployment of dust control measures (e.g., ensuring that areas are safe for resumption of OHV recreation following removal of the project)

- Integrating recreation opportunities, including OHV recreation opportunities, into dust control measures. This could be achieved by:
 - Educational kiosks that highlight the progression of dune vegetation / ecosystems
 - Establishing and maintaining motorized and non-motorized trails through large, continuous blocks of planted vegetation
 - Embedding OHV training or vendor areas in dust control measures large enough to support such areas
- Identifying areas to provide additional camping or OHV recreation opportunity and diligently pursue opening those areas to OHV recreation with existing staff levels and funding considerations. Any such expansion shall occur in a manner that is consistent with the Public Resources Code and other applicable laws and regulations and shall not impede achievement of the performance standard set by Rule 1001.
 - The additional camping and/or OHV recreation opportunities to be pursued as part of this measure shall be, to the maximum extent feasible, similar to the type and amount of land affected as a result of the proposed Dust Control Program. Specifically, the OHMVR Division shall, if feasible, provide a 1:1 replacement of coastal vehicular recreation lands within the same regional geographic location as Oceano Dunes SVRA. For the purposes of this measure, inland OHV recreation opportunities are not considered similar to the opportunities provided by Oceano Dunes SVRA.
 - The OHMVR Division shall actively research and attempt to identify feasible opportunities to provide additional camping and/or OHV recreation opportunities until three years after the completion of the proposed Dust Control Program, or 2025, whichever is later. If additional opportunities are not identified by this time, they shall be considered to not be available to the OHMVR Division.

Mitigation Measure REC-1 requires the OHMVR Division to implement measures that could reduce the potential for Dust Control Program components to limit and interfere with OHV recreation. Mitigation Measure REC-1 also directs the OHMVR Division to compensate for the loss (i.e., closure) of OHV recreation lands that could occur with implementation of the Dust Control Program; however, the ability of the OHMVR Division to do this is subject to other applicable laws and regulations and is, therefore, speculative. Furthermore, while technically feasible, the ability of the OHMVR Division to successfully identify, acquire, and develop potential additional camping and recreational opportunities in a timely manner is subject to certain factors outside the OHMVR Division's control. First, although the OHMVR Division has not completed an exhaustive evaluation of sites or areas inside or outside Oceano Dunes SVRA that could potentially offset the loss in camping or OHV recreation that could result from the proposed Program, it is worth noting: 1) Existing CDP 4-82-300 and the SVRA's General Development Plan, as amended, limit the areas where camping and OHV recreation can occur at Oceano Dunes SVRA and may need amending to allow for shifts in recreation distribution; 2) Most of the SVRA and adjacent coastal lands are within environmentally

sensitive habitat area (ESHA), making expansion of the SVRA's open riding and camping area difficult; 3) No adjacent property owner has, to date, expressed interest in making land available to the State Parks system for the purposes of public recreational activity; and 4) If the OHMVR Division were to identify private lands for potential mitigation, their acquisition would likely be subject to detailed environmental review and require the appropriation of funds by the state legislature, which may or may not occur. The actual level of dust control measures to be installed at Oceano Dunes SVRA is unknown at this time, but would not reach maximum levels until approximately 2022 at the earliest. The OHMVR Division would initiate formal investigation of potential mitigation lands should the proposed Dust Control Program be approved, and several years would pass between the preparation of this EIR and the actual need for mitigation. In addition, since specific mitigation lands are not known at this time, it is not feasible for the OHMVR Division to speculate on the specific future conditions, standards, or guidelines that may or may not be relevant to acquisition and development of potential coastal recreational lands.

Mitigation Measure REC-1 outlines a reasonable plan for mitigating the proposed Dust Control Program's potential impacts to coastal vehicular recreation lands; however, as explained above, there are factors outside the OHMVR Division's control that may render the ability of the OHMVR Division to identify, acquire, and develop potential additional camping and recreational opportunities in a timely manner unsuccessful. Thus, even with the implementation of Mitigation Measure REC-1, the potential remains for the Dust Control Program (in Year 5) to temporarily (43 acres) and permanently (70 acres) limit and interfere with OHV coastal vehicular recreation at Oceano Dunes SVRA. Factors such as the SVRA's history of use, historical reduction in vehicle recreation lands in the area, current seasonal reduction in vehicle recreation lands, high visitor attendance levels, and the unique, low-cost nature of the coastal recreational opportunities provided by the SVRA make this loss of OHV lands a substantial and adverse change to OHV recreation at Oceano Dunes SVRA. Thus, Impact REC-1 would be a significant and unavoidable impact of the Dust Control Program. In addition, the proposed Dust Control Program would contribute to a significant and unavoidable cumulative impact on coastal vehicular recreation lands, as described in Chapter 11, Cumulative Impacts.

On Draft Program EIR page 4-28, the following references have been added:

CCC 2010. Appeal Staff Report Substantial Issue and De Novo Hearing. A-3-SLO-06-043, SDS Family Trust. Santa Cruz, CA. July 2010.

CCC 2011. Staff Recommendation on Consistency Determination. CD-045-11. San Francisco, CA. December 2011.

Santa Barbara County 2014. Final Environmental Impact Report for the Goleta Beach County Park Managed Retreat Project 2.0. Santa Barbara, CA. March 2014. <<http://www.sbcountyplanning.org/projects/11DVP-00000-00016/FEIR.cfm>>

SLO County 2015. Phillips 66 Company Rail Spur Extension and Crude Unloading Project Final Environmental Impact Report and Vertical Coastal Access Project Assessment. Prepared for San Luis Obispo County. Prepared by Marine Research Specialists. San Luis Obispo, CA. December 2015. <http://www.slocounty.ca.gov/planning/environmental/EnvironmentalNotices/Phillips_66_Company_Rail_Spur_Extension_Project/Final_Environmental_Impact_Report_FEIR_for_the_Phillips_66_Company_Rail_Spur_Extension_Project.htm>.

3.5 LAND USE AND PLANNING (DRAFT PROGRAM EIR CHAPTER 5)

On Draft Program EIR page 5-18, the first full sentence regarding the role of the CCC has been revised as follows:

The CCC is the sole agency with primary jurisdiction over the Coastal Act and as such is required to evaluate development projects for consistency with the Coastal Act. The CCC, when acting on the OHMVR Division's CDP application, may determine the Dust Control Program, as described in this EIR, is consistent with the Coastal Act and/or impose additional conditions on the Program as necessary to support its issuance of a CDP and the Program's conformance with the Coastal Act.

3.6 AESTHETICS (DRAFT PROGRAM EIR CHAPTER 6)

On Draft Program EIR page 6-33, the discussion of potential changes in the existing visual character and scenic qualities of Oceano Dunes SVRA and its surroundings as observed from public roads has been revised as follows:

As shown in Figure 6-21, Dust Control Program vegetation, wind fencing, and straw bales would not be visible from most public roadways in the vicinity of Oceano Dunes SVRA.

The OHMVR Division would install track-out prevention devices on or in the ground adjacent to entry and exit kiosks on West Grand Avenue in the City of Grover Beach and Pier Avenue in Oceano. This equipment would not degrade the existing visual character of Pismo State Beach or these public roadways because these are already developed areas and the new devices would blend in with the existing visual road setting.

Seasonal dust control measures could be slightly visible from small stretches and isolated points along US 101 (in the vicinity of Shell Beach), SR 1 (in the vicinity of Shell Beach and Oceano), and a few public roadways on the Nipomo Mesa (e.g., Hermosa Vista Way). In general, due to topography (see Figure 6-1 to Figure 6-3 and Figure 6-21), other vehicles, and/or intervening vegetation and buildings, only the portion of the seasonal dust control array installed on the highest dune crests would be visible, although some roadways on the Nipomo Mesa could also have views of seasonal dust control measures deployed in the very back of the dunes.

Based on a review of existing, publicly available aerial and street-level photography, the potential tree plantings would not significantly obstruct public views from SR 1. Vehicles travelling southbound on SR 1 in the vicinity of the proposed tree planting area would not view trees that could potentially be planted by the OHMVR Division because: 1) some of the proposed tree planting area is situated behind (west of) existing, large eucalyptus groves that already border SR1; 2) the part of southbound SR 1 that is not bordered by eucalyptus groves does not have a view of the ocean (rather, it has a view of the rail line adjacent to SR 1 and the Phillips 66 refinery, which are considered cultural modifications to the existing viewscape); and 3), SR 1 bends to the east, away from the proposed tree planting area (meaning southbound travelers would be facing away from proposed tree plantings). Vehicles travelling northbound on SR 1 near the proposed tree planting area would approach the tree planting area head-on in the vicinity of the Phillips 66 refinery (i.e., the trees could be directly in front of the traveler); however this stretch of SR 1 does not have ocean views, and eucalyptus trees are a common sight adjacent to the road. Past the Phillips 66 refinery, vehicles travelling northbound view the refinery, the rail line, and large groves of eucalyptus trees. Thus, due to existing topography and landforms,

eucalyptus groves, and development between SR 1 and the proposed tree planting area, the OHMVR Division's proposed tree planting activities, if they occur, would not block or obstruct scenic views of the dunes or ocean from SR 1.

Travelers on public roadways in the vicinity of Oceano Dunes SVRA are not considered to be particularly sensitive viewers because they are surrounded by other vehicles and roadside developments. In addition, travelers on roadways would not be impacted for long durations or periods of time (because they would be travelling at speeds of approximately 25 to 50 miles per hour). For these reasons, the Oceano Dunes Dust Control Program would not constitute a substantial and adverse change to the visual character and quality of Oceano Dunes SVRA as observed from public roadways in the vicinity of the SVRA.

3.7 BIOLOGICAL RESOURCES (DRAFT PROGRAM EIR CHAPTER 7)

On Draft Program EIR page 7-3, the following language has been added to the end of Section 7.1.4 to address California Fish and Game Code Section 3513:

Section 3513 essentially overlaps with the MBTA, prohibiting the take or possession of any migratory non-game bird. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered "take" by CDFW.

On Draft Program EIR page 7-9, second paragraph, the last sentence has been revised as follows:

Common plant species are described by habitat type in Section ~~6.2.4~~ 7.2.1.

On Draft Program EIR page 7-14, the discussion of white-tailed kite has been revised as follows:

White-tailed kite has occasionally been observed in the Program area. Its continued ~~presence~~ (foraging) is assumed in the Program area; however, no suitable nesting habitat exists within the Program area.

On Draft Program EIR page 7-14, the discussion of western snowy plover has been revised as follows:

The USFWS originally designated critical habitat for the Pacific coast population in 1999, but that designation was withdrawn pending the results of an economic analysis. The economic analysis led to the redesignation of critical habitat for the Pacific coast population in September 2005 (USFWS 2005). In June 2012, the USFWS issued a revised critical habitat designation (USFWS 2012). Overall, 39 new units, and 16,116 acres are being proposed that were not designated in 2005, for a total of 28,261 acres in 68 units in Washington, Oregon, and California. The proposed unit "CA 31 Pismo Beach/Nipomo Dunes" totals 1,652 acres, and includes the western portion of SLO County, including Pismo State Beach and Oceano Dunes SVRA. This critical habitat area extends approximately ~~1,300~~ 1,100 feet inland from the Pismo State Beach western boundary~~mean high tide line~~, but does not overlap with the proposed Dust Control Program area.

On Draft Program EIR page 7-15, the discussion of California least tern has been revised as follows:

California least tern (*Sternula antillarum browni*), federal and state endangered ~~threatened~~ and a California Fully Protected species, is a colonial nesting seabird that historically nested along the Pacific coast from Baja California to Monterey Bay, California (USFWS 2006, Grinnell 1928). Loss of California least tern habitat to

development and recreation along with disturbance of nesting and feeding grounds has resulted in substantial declines in this subspecies following World War II (Atwood and Minsky 1983). From 1973 to 1975, the California breeding population was estimated at around 600 pairs (Bender 1974a, 1974b, Massey 1975). ~~The subspecies *Sternula antillarum browni* has been designated as endangered under both CESA and FESA since 1976.~~

On Draft Program EIR Page 7-17 and 7-18, the Standard and Specific Project Requirements incorporated into the planning, design, and implementation of the Dust Control Program to avoid or minimize potential impacts to special-status plants have been revised as follows:

- **Minimize and/or Avoid Impacts to Special-Status Plants.** The OHMVR Division would implement the following measures to minimize and/or avoid impacts to special-status plants:
 - Prior to starting all work under the Dust Control Program, a qualified biologist shall survey for the presence of special-status plants in and within 100 feet of work areas (including new access routes). These surveys should be conducted prior to the commencement of Program activities, during the appropriate blooming period for species that are known to or have the potential to occur in work areas, and shall follow protocols established by the USFWS (USFWS 1996), CDFW (CDFG 2009), and CNPS (CNPS 2001), including the use of reference sites to confirm appropriate survey timing, if necessary.
 - A qualified biologist shall map, flag, and protect special-status plants identified during surveys.
 - ~~The qualified biologist shall establish clear avoidance areas around special-status~~ California and federal endangered or threatened plant locations. This avoidance area shall provide a minimum 25-foot buffer from all work activities (the biologist may establish a larger buffer if appropriate). Sturdy, visible fencing or other protective features shall be installed around all avoidance areas. Fencing shall be securely staked and installed in a manner that would be reasonably expected to withstand winds and sand transport levels typical of Oceano Dunes SVRA. Fencing and other protective features shall be removed upon completion of work activities. If a California or federal endangered or threatened plant species cannot be avoided during work activities, the USFWS and/or CDFW shall be consulted regarding the appropriate avoidance, minimization, and/or mitigation measures prior to conducting the work.
 - If California or federal endangered or threatened plant species are observed during surveys, the OHMVR Division shall prepare and submit a report detailing the find to the appropriate resource agency (i.e., USFWS, CDFW) prior to starting work.
 - Special-status plant species that are not California or federal listed shall be avoided to the extent feasible. If it is not feasible to avoid the loss of ~~non-listed~~ special-status plants that are not California or federal listed, the ~~OHVMR~~ OHMVR Division shall, if feasible, compensate for this loss by reseedling, replanting, and/or restoring the disturbed areas with locally collected seed stock from nearby plant locations.

On Draft Program EIR page 7-18, the following Specific Project Requirement has been incorporated into the proposed Dust Control Program:

- **Qualified Biologist.** A qualified biologist shall be an individual with a minimum of five years of academic training and professional experience in biological sciences and related resource management activities with a minimum of two seasonal years conducting surveys for special-status species that may be present in the project area.

On Draft Program EIR page 7-19, the Standard and Specific Project Requirements incorporated into the planning, design, and implementation of the Dust Control Program to avoid or minimize potential impacts to nesting and special-status birds have been revised as follows:

- **Minimize and/or Avoid Impacts to Nesting and Special-Status Birds.** The OHMVR Division would implement the following measures to minimize and/or avoid impacts to special-status birds:
 - Program implementation will avoid the avian breeding season (generally February 1 through September 15) to the extent feasible. If work occurs during the avian breeding season, Prior to starting all work under the Dust Control Program from February 1st to August 15th, a qualified biologist shall survey for nesting birds within the work area and in a sufficient area around the work area to identify nests that could be impacted by activities in the vicinity of work areas. These surveys shall be performed no more than seven (7) days prior to the start of work.
 - Identified active nests (i.e., a nest with eggs or chicks) shall be regularly surveyed by a qualified biologist for the first 24 hours prior to any Program related activities to establish a behavioral baseline. Once work commences, all nests shall be regularly monitored to detect any behavioral changes as a result of the Project. If behavioral changes are observed, the work causing that change shall cease and USFWS and/or CDFW shall be consulted for additional avoidance and minimization measures. If regular monitoring of active nests by a qualified biologist is not feasible, the following measure shall be implemented.
 - If active nests ~~nesting birds~~ are found during surveys, the OHMVR Division shall establish a buffer zone around the nest until the breeding season has ended, or until a qualified biologist has determined that young have fledged and are no longer reliant upon the nest or parental care for survival. The size of the buffer shall be determined by the qualified biologist, and shall depend on the species and topography, but would generally be 250 feet around active non-listed small bird species nests and 500 feet around active non-listed raptor nests generally be 300 feet for raptors and 50 feet for other bird species. For the purposes of this measure only, non-listed shall refer to those species not listed on the federal or state Endangered Species Act and/or as state fully-protected species.
 - Prior to starting all work under the Dust Control Program in suitable burrowing owl habitat areas in the backdunes from September 1st through February 28th, a qualified biologist shall survey for potential burrows in the vicinity of the work area.

- If small mammal burrows are detected, the biologist shall scan the area for burrowing owls and will search for signs of burrowing owls including feathers, whitewash, or pellets.
 - If any occupied burrows are detected, the OHMVR Division shall establish a minimum 100-foot buffer zone around the occupied burrow. A qualified biologist may increase the buffer area if it is determined that a larger buffer is necessary to reduce disturbance.
 - If no burrowing owls or signs of burrowing owls are detected, no further action is required.
- The OHMVR Division has designed the project to avoid western snowy plover and California least tern habitat (generally flat, unvegetated, or sparsely vegetated sand near the shoreline); however, some activities may occur in the vicinity of these species. To the extent feasible, the OHMVR Division shall perform Dust Control Program work activities in the vicinity of western snowy plover and California least tern habitat from October 1 through February 28, which is outside of the nesting season for these species. If work activities must be conducted March 1 through September 30, the OHMVR Division would implement the following measures:
- No more than three days prior to starting work in the vicinity of western snowy plover and California least tern habitat from March 1st to September 30th, a qualified biologist shall survey for western snowy plover and California least tern nests. If nests are found during this survey, the OHMVR Division shall establish a minimum 300-foot buffer zone around the nest.
 - If nesting activity is initiated within 300 feet of in-progress or installed project activities, the OHMVR Division shall stop all active work and install a additional fencing on the existing enclosure (i.e., ~~large (200-foot diameter)~~ fence bump-out) (if ~~the nest is~~ near an existing enclosure) or install a circular single nest enclosure (200-foot diameter for snowy plovers and 330-foot diameter for least terns) (if ~~the nest is~~ not near any existing enclosure.) The enclosure fence shall consisting of 2-inch by 4-inch mesh wire fencing with a height of 5 feet (8 inches buried) to protect the nest from people and predators. No additional dust control activities shall be performed within 300 feet of such enclosure until after the nest fate is determined.
 - A biologist shall be available to monitor for the presence of nesting activity throughout the installation of all dust control measures. The on-site biological monitor shall have the authority to halt any action that might result in impacts to individual birds or nests. If work is stopped, the USFWS shall be notified immediately by the on-site biological monitor.
- The OHMVR Division shall plan and design Dust Control Program activities to avoid changing breeding habitat in the vicinity of known or potential snowy plover and least tern nesting areas. Program activities that could facilitate predator movement into known or potential nesting areas for plover and tern shall be minimized. If avoidance is not feasible, additional predator control resources (e.g., enhanced monitoring and/or trapping) shall be secured to reduce predator presence and impacts to plover and tern adults, juveniles, chicks, and nests. In

addition, if particular structures associated with the Program are confirmed to be used by avian predators for perching and contributing to western snowy plover or least tern predation, they will be removed and relocated immediately.

- The OHMVR Division shall maintain 15 mile per hour vehicle speeds during all travel to and from dust control projects.

On Draft Program EIR page 7-21, the following Standard Project Requirement has been added to the end of Section 7.3.2:

- **Notification to the California Natural Diversity Database (CNDDDB).** If any listed, rare, or special-status species are detected during surveys or program activities, OHMVR Division shall submit notification to the CNDDDB within 14 working days of the sightings.

On Draft Program EIR page 7-22, the discussion under Impact BIO-1 has been revised as follows:

Work activities, in particular the deployment of temporary monitoring sites upwind, downwind, and adjacent to Dust Control Program vegetation, wind fencing, and straw bales, could slightly overlap vegetation islands and vegetated areas and result in the removal of a minor amount (less than 0.5 acres in the Program area) of common, native dune vegetation (e.g., silver dune lupine). In addition, planting activities in the potential tree planting area could result in trampling or removal of Nipomo Mesa lupine.

Non-native and exotic vegetation that may begin to grow in newly vegetated areas would primarily be removed using hand tools, but if necessary herbicide would be used. A Licensed Qualified Applicator with knowledge of native riparian plant species performs all chemical treatment for exotic species control at Oceano Dunes SVRA. Herbicides to control invasive species are applied consistently in accordance to the directions found on the product label and the Pest Control Advisor recommendation. Any herbicide that is sprayed within 100 feet of ponded water is approved for aquatic use (Rodeo or other approved herbicide). To prevent drift, no spraying occurs when wind speed is over five miles per hour. Herbicides are always stored, applied, and disposed of in accordance with label instructions, and in compliance with state and local laws. With these precautions, any potential use of herbicide during implementation of the Dust Control Program, or continued use after the term of the EIR, would not result in adverse environmental effects.

The OHMVR Division does not anticipate and is not proposing to impact listed special-status plant species. Standard and Specific Project Requirements incorporated into the Program include pre-work surveys for all special-status plants, flagging and protection for all special-status plants, establishment of 25-foot avoidance areas around all special-status plants, and restoration of disturbed, non-listed special-status plant areas. These requirements would be performed by a qualified biologist, and would render Impact BIO-1 less than significant.

On Draft Program EIR page 7-23, the discussion of nesting and special-status bird impacts has been revised as follows:

- Nesting and special-status birds may forage and/or breed throughout the Program area.

In general, nesting birds (excepting western snowy plover, and California least tern) would most likely be encountered in or near vegetated areas. In addition to the special-status birds that could breed in or near the project areas, many other common species of native birds also have the potential to breed in and near the Program area; all native birds and their nests are protected by the MBTA and the California Fish and Game Code.

Burrowing owls have been known to winter in Oceano Dunes SVRA, but have not been observed nesting in the Program area or other parts of Oceano Dunes SVRA (Iwanicha 2016). Burrowing owls occupy small mammal burrows, particularly ground squirrel burrows, year-round and not just during the breeding season. Such burrows are most likely to be present in the Program area in vegetation islands or in the eastern part of the Program area, in the Phillips 66 leasehold.

Planting vegetation within western snowy plover and California least tern breeding and/or wintering (snowy plover only) habitat would reduce available suitable western snowy plover and California least tern breeding and/or wintering habitat by decreasing the amount of open, wide sandy acreage. Previous studies have found that western snowy plovers and California least terns select habitats that are open (or wide) and have less vegetative cover in order to facilitate early detection of predators and reduce predation risk (Muir and Colwell 2010, Brindock and Colwell 2011, Patrick and Colwell 2014). Planting vegetation in suitable habitat for these species would reduce the open (or wide), sparsely vegetated acreages and could, thus, increase predation on adults, chicks, and/or eggs if western snowy plovers and California least terns are not able to detect predators moving towards the nest location. However, the OHMVR Division has designed Program activities to avoid western snowy plover critical habitat and active western snowy plover and California least tern nesting areas; therefore, this impact would be avoided.

Currently, western snowy plover and California least tern ~~breed~~ primarily breed directly west of the Program area. However, it is possible foraging, breeding, and/or roosting western snowy plover and California least tern, would be encountered in the western part of the Program area. Although unlikely, western snowy plovers could possibly be encountered throughout the Program area during foraging and wintering activities. California least terns forage over open water and do not winter in Oceano Dunes SVRA; therefore, impacts to California least tern would not occur during the winter or while foraging within the Program Area.

Although the OHMVR Division has developed the Dust Control Program area to avoid critical habitat and seasonal nesting enclosure areas, vegetation – and to a lesser degree wind fencing – that is planted on the western part of the Dust Control Program area could impact active nests by providing habitat for predators to hide and stalk nesting western snowy plovers and California least terns. In addition, protective perimeter fence posts, wind fencing, and some temporary dust and meteorological monitoring equipment would be tall and sturdy enough to provide perching habitat for common ravens, gull species, raptors, or other avian species that could prey on western snowy plover and/or California least tern nests; however, the OHMVR Division has operated the S1 meteorological tower approximately 350 feet west of Oceano Dunes SVRA's seasonal plover enclosure since the 2010/11 breeding season without documented incident of increased predation.

Chemical soil stabilizers would solidify sand surfaces and could potentially prevent nesting; however, as mentioned previously the OHMVR Division has developed the Program area to avoid critical habitat and the seasonal nesting enclosure. Soil stabilizers, therefore, are not anticipated to impact nesting birds.

Given their listed status, impacts to California red-legged frog, western snowy plover, and California least-tern would likely be of the greatest magnitude; however, all impacts to special-status wildlife species and their habitat could be potentially significant. Standard and Specific Project Requirements incorporated into the Program include pre-work surveys for all special-status wildlife, removal of species from work areas, and avoidance of nesting birds, including a 300-foot buffer from nesting plovers and terns. In addition, the OHMVR Division is also incorporating requirements to avoid changing habitat in the vicinity of known or potential snowy plover and least tern nesting areas and to provide additional predator controls for projects that could facilitate predator movement and impacts to plover and tern adults, juveniles, chicks, and nests. These requirements would be performed by a qualified biologist, and would render Impact BIO-2 less than significant. It is also noted that planting approximately 100 acres of native dune vegetation may provide new habitat for some special-status wildlife species, such as American badger and California red-legged frog, especially if most Dust Control Program vegetation is planted outside the SVRA's open riding and camping area, in the Phillips 66 leasehold.

On Draft Program EIR Page 7-27, the following references have been added:

Brindock, K.M. and M.A. Colwell. 2011. Habitat Selection by Western Snowy Plovers During the Nonbreeding Season. The Journal of Wildlife Management 75 (4): 786-793.

CDFW. 2009. Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Communities.

California Native Plant Society (CNPS). 2001. CNPS botanical survey guidelines. Pages 38-40 in California Native Plant Society's inventory of rare and endangered vascular plants of California (D.P. Tibor, editor). Sixth edition. Special Publication No. 1, California Native Plant Society, Sacramento, 387 pp.

Muir, J. J., and M. A. Colwell. 2010. Snowy Plover Select Open Habitats for Courtship Scrapes and Nests. The Condor 112:507-510.

Patrick, A.M. and M.A. Colwell. 2014. Snowy Plovers Select Wide Beaches for Nesting. Wader Study Group Bulletin 121(2): 17-20.

U.S. Fish and Wildlife Service (USFWS). 1996. Guidelines for conducting and reporting botanical inventories for federally listed, proposed, and candidate plants. Sacramento, California. 2 pp.

3.8 ALTERNATIVES (DRAFT PROGRAM EIR CHAPTER 12)

On Draft Program EIR pages 12-5 to 12-7, the discussion of the Reduced OHV Use Area Alternative (Draft Program EIR Section 12.2.3 has been revised as follows:

12.2.3 Reduced OHV Use Area

Under this alternative, the OHMVR Division would voluntarily implement restrictions on the acreage within Oceano Dunes SVRA open to vehicular recreation (but would not reduce existing camping or visitor limits). These restrictions could either be in lieu of, or in

addition to, the vegetation and seasonal dust control measures proposed under the Dust Control Program, and could be short-term (e.g., hourly restrictions during high wind days), intermediate (weekly or monthly restrictions), or long-term (e.g., seasonal or longer duration restrictions) in nature. The OHMVR Division notes that this alternative has not been scientifically proven to be more effective at reducing saltation and associated dust production at Oceano Dunes SVRA than the proposed Dust Control Program Activities. The OHMVR Division notes it has not tested this alternative at Oceano Dunes SVRA. Therefore, it is not known how effective OHV use restrictions would be at reducing saltation and associated dust production. OHV use restrictions would not directly cover the ground surface, break the flow of wind across the landscape, or otherwise stabilize or hold sand in place. Accordingly, OHV use restrictions are not likely to be as effective as vegetation (up 90 -99 percent effective once established) or wind fencing and straw bales (40 – 70 percent effective) at reducing sand transport and controlling and minimizing dust emissions. The OHMVR Division also notes that there is uncertainty over the location of the restrictions considered under this alternative; however, for the purposes of this EIR’s analysis, OHV use restrictions would, at a minimum, be in effect for the part of the proposed Dust Control Program area where OHV recreation is allowed (approximately 425 acres). At maximum, OHV use restrictions would be enforced throughout all areas of Pismo State Beach and Oceano Dunes SVRA where OHV recreation is allowed (approximately 1,450 acres; see Table 4-6). Park access and visitor limits, street-legal vehicle access, camping activities, and non-vehicular recreation activities would not be restricted under this alternative.

12.2.3.1 OHV Use Restrictions in-Lieu of Dust Control Program Measures

Under this alternative, instead of occupying open sand areas with vegetation and seasonal dust control measures, the OHMVR Division would restrict the use of OHVs on a short, intermediate, or long-term basis. elose an equivalent area (143 acres) to all OHV recreation. In addition, the OHMVR Division would still proceed with the installation of track-out prevention devices at entrance kiosks on Grand Avenue in Grover Beach and Pier Avenue in Oceano.

OHV use restrictions on a short-term basis may or may not reduce the proposed Dust Control Program’s significant recreation impact. Short-term restrictions would not be in place 24-hours per day (as vegetation and wind fencing would be) and, therefore, would not completely remove an area from OHV recreation for an extended period of time. In addition, if the restrictions were implemented during high wind events (particularly during mid-week periods) when visitation and vehicular recreation on the dunes is generally at its lowest level, such restrictions may only affect a small number of people. Conversely, a weekend closure during a holiday period, or a high number of short-term closures, could impact a greater number of visitors than the proposed Program, albeit on a shorter term than the proposed Program. Short-term OHV use restrictions would not result in the seasonal and/or permanent loss of coastal vehicular recreation lands (which would occur with the proposed fencing and vegetation plantings). Therefore, would likely reduce and possibly avoid the proposed Program’s significant land use impact, although it is noted that certain day users would be denied their coastal vehicular recreation opportunity if they visit the park on a high wind day. In addition, short-term OHV use restrictions would not reduce the proposed Program’s potentially significant noise impact. Finally, although unlikely, short-term OHV use restrictions in-lieu of vegetation and seasonal dust control

measures might obtain most of the basic objectives of the proposed Program. While short-term OHV restrictions would not directly control and minimize saltation-generated dust and PM produced during strong persistent winds, they would, in a broad sense, maintain existing coastal OHV recreational opportunities as part of a balanced, comprehensive dust control program. But as noted, this alternative has not been tested and therefore, it is uncertain whether OHV use restrictions would make ongoing and/or best possible progress towards compliance with Rule 1001.

OHV use restrictions on an intermediate or long-term basis would not reduce the proposed Program's significant recreation impact. This is because such restrictions would at minimum, affect a larger area (up to approximately 1,450 acres of restrictions versus 143 acres of vegetation and seasonal dust control measures), for a longer, continuous period of time (e.g., weeks, months, seasons). Similarly, intermediate- or long-term or long-term OHV use restrictions would not reduce the proposed Program's significant land use impact because such restrictions would continue to result in the seasonal and/or long-term closure of coastal vehicular recreation land and thus would not perpetuate and enhance recreational use of OHVs at Oceano Dunes SVRA. In addition, because this alternative would not affect visitation, park access, and non-vehicular recreation activities, it would not avoid or substantially lessen the proposed Program's potentially significant noise impacts from track-out control.

~~OHV use restrictions in lieu of the proposed vegetation and seasonal dust control measures would not avoid or substantially lessen the proposed Dust Control Program's significant recreation impact because, at a minimum, it would result in more loss of coastal vehicular recreation lands (143 acres) than the proposed Dust Control Program. In addition, because OHV use restrictions would not directly cover the ground surface, break the flow of wind across the landscape, or otherwise stabilize or hold sand in place, it is reasonable to presume that OHV use restrictions would not be as effective as vegetation (up 90–99 percent effective once established) or wind fencing and straw bales (40–70 percent effective) at reducing sand transport and controlling and minimizing dust emissions. Therefore, in order to achieve the same level of effectiveness as the proposed Dust Control Program, OHV use restrictions could be required on a much larger area at Oceano Dunes SVRA, resulting in a greater loss of OHV recreation lands than the proposed Dust Control Program. Although the exact amount of acreage is uncertain, if it was found to be substantial enough (e.g., hundreds of acres), to increase vehicle density in the remaining open riding and camping area to an unsafe level, such a closure may lead to a reduction in the amount of OHV vehicles allowed at Oceano Dunes SVRA at any one time.~~

~~Thus, OHV use restrictions in lieu of the proposed vegetation planting and seasonal dust control measures would not maximize the preservation of low-cost, coastal OHV recreation opportunities, and could result in a lower public safety benefit than the proposed Dust Control Program. Therefore, this alternative would be inconsistent with the Pismo State Beach and Pismo Dunes SVRA General Development and Resource Management Plan and the California Coastal Act, which both contain policies intended to provide maximum access and recreational opportunities consistent with visitor and public safety needs. This alternative would also be inconsistent with the OHMVR Division's legislative mandate. With passage of the~~

~~OHV Recreation Act of 2003, it was the intent of the legislature that existing OHV recreation areas, facilities, and opportunities should be expanded and managed in a manner consistent with Chapter 1.25 of the Public Resources Code, in particular to maintain sustained, long term use of recreational opportunities. Public Resources Code Chapter 1.25 sets forth that the protection of public safety, the appropriate utilization of lands, and the conservation of land resources are the highest priority for the OHMVR Division in its management of an SVRA. Public Resources Code Chapter 1.25 also sets forth that SVRAs shall be managed and operated for the purpose of making the fullest public use of the outdoor recreational opportunities present, and that the natural and cultural elements of the environment may be managed or modified to enhance the recreational experience (PRC §5090.43) consistent with the requirements of Public Resources Code Section 5090.35. Vehicle restrictions that do not maximize recreational activities consistent with public safety and environmental protection needs would change the context of the Program and its compatibility with the applicable plans and policies, resulting in a significant land use impact.~~

~~Finally, OHV use restrictions (of any duration) in-lieu of vegetation and seasonal dust control measures would not obtain be unlikely to obtain most of the basic objectives of the Program. As described above, OHV useSuch restrictions would not directly control and minimize saltation-generated dust and PM produced during strong persistent winds or maintain existing coastal OHV recreational opportunities, and it is uncertain whether such restrictions would make ongoing and/or best possible progress towards compliance with Rule 1001. es be as effective at controlling and minimizing dust emissions during strong, persistent winds, would not be as effective at improving downwind air quality, would slow progress towards compliance with the SLOAPCD Rule 1001 performance standard, and would not maintain existing coastal recreation opportunities at Oceano Dunes SVRA to the maximum extent feasible and consistent with legislative mandates. This alternative also may not maintain existing visitor levels if the in-lieu closure of lands led to public safety concerns due to increased vehicle density in the open riding and camping area.~~

~~Accordingly, the OHMVR Division has rejected this alternative because it would not be unlikely to obtain most of the basic objectives of the proposed Dust Control Program norand would not avoid or substantially lessen the proposed Program's significant and unavoidable impacts (rather it would substantially increase the severity of these impacts).~~

12.2.3.2 OHV Use Restrictions in Addition to Dust Control Program Measures

~~Under this alternative, the OHMVR Division would implement the proposed Dust Control Program (approximately 100 acres of vegetation and 40 acres of seasonal dust control measures) and implement OHV use restrictions close additional acreage to motorized recreation. As described above (see Section 12.2.3.1), there is uncertainty over the level, timing, duration, and efficacy of such restrictions, vehicular use restrictions which have not been tested at Oceano Dunes SVRA, are not scientifically proven to be effective at reducing saltation and dust production and, therefore, may not provide additional dust control above that provided by the proposed Dust Control Program.~~

This alternative would increase the magnitude of the proposed Dust Control Program's significant and unavoidable recreation and land use impacts because it would result in the additional closure of coastal vehicular recreation lands.

This alternative would achieve most of the basic objectives of the proposed Dust Control Program because it would still involve planting vegetation (approximately 100 acres) and deploying seasonal dust control measures (approximately 40 acres) that are effective at minimizing dust and PM10 emissions during wind events; however, this alternative would not maintain existing coastal recreation opportunities provided by Oceano Dunes SVRA. ~~In addition, this alternative may not maintain existing visitor levels if the in lieu closure of lands led to public safety concerns due to increased vehicle density in the open riding and camping area.~~

While this alternative would obtain most of the objectives of the proposed Dust Control Program, the OHMVR Division has rejected this alternative because it clearly would not reduce or substantially lessen the significant recreation and land use impacts of the Program; rather, it would increase the severity of these impacts by resulting in the additional closure of coastal vehicular recreation lands at Oceano Dunes SVRA.

On Draft Program EIR page 12-10, the discussion of the No Comprehensive Dust Program Alternative's ability to obtain Program objectives has been revised as follows:

The No Comprehensive Dust Program Alternative would obtain ~~most~~ some of the basic objectives of the Dust Control Program to a certain degree. Deploying approximately 40 acres of seasonal dust control measures would control and minimize dust emissions during strong winds; however, it is uncertain whether this level of activity would reduce concentrations of PM10 as measured at the SLOAPCD's CDF air quality monitoring station and thus make progress towards compliance with the Rule 1001 performance standard. The No Comprehensive Dust Program Alternative would maintain existing public access routes and coastal recreation opportunities; however, it would not result in the development of a comprehensive dust control Program, including the deployment of temporary monitoring equipment and the installation and operation of a track-out prevention device at the Grand Avenue and Pier Avenue sand ramps.

On Draft Program EIR page 12-11, the discussion of the alternate dust control program alternative has been revised as follows:

The alternate dust control program could also result in direct and/or indirect impacts on biological resources because the emphasis on planting vegetation in near-shore areas would likely modify, to some degree, USFWS-designated critical habitat for the western snowy plover (federal-listed as threatened). Planting vegetation in this critical habitat area could impact active nests by providing habitat for predators to hide and stalk nesting western snowy plovers and California least terns (federal- and state-listed as ~~threatened~~ endangered).

On Draft Program EIR page 12-12, existing Section 12.5 has been replaced with a new discussion of artificial wind breaks as an alternative to the proposed Dust Control Program and re-structured to be Section 12.6 as follows:

12.5 Environmentally Superior Alternative Artificial Windbreaks

Under this alternative, the OHMVR Division would use artificial windbreaks as a potential dust control measure. These windbreaks would consist of industrial dust control products, the design of which typically involves a fine mesh screen stretched laterally across a grid or array of cables and /or poles installed directly into the ground approximately every 100 feet; however, heavy-duty applications can consist of concrete foundations, more closely-spaced steel lattice towers, and steel windbreak panels. These systems are usually designed to be between 50- to 100-feet high, and could be installed at or immediately downwind of Pismo State Beach and Oceano Dunes SVRA, on public and/or private lands. The artificial windbreaks could either be in-lieu of, or in addition to, the vegetation and seasonal dust control measures proposed as part of the proposed Dust Control Program. Given the level of effort needed to design and install such systems (e.g., engineering design and use of heavy equipment for pole installation and/or foundation construction), artificial windbreaks are considered a permanent form of dust control. Usually, industrial windbreaks are designed as a single row that runs the length or perimeter of a facility or control area; due to their height and foundation requirements, they are not a dense array similar to wind fencing. For the purposes of this EIR's analysis, it is presumed that each individual artificial wind break would need to be several hundred feet long to be viable, and would range between a minimum of approximately 0.75 miles (3,960 feet) to a maximum of 1.5 miles (7,920 feet) in total length (the approximate perimeter and vertical distance of the proposed Dust Control Program area).

12.5.1 Artificial Windbreaks in-Lieu of Dust Control Program Measures

Artificial windbreaks would likely avoid the proposed Dust Control Program's significant recreation impacts because these structures are usually installed at the edge or perimeter of the area being controlled, which in the case of the Dust Control Program, would be outside the open riding and camping area. This alternative could also lessen the proposed Program's land use impacts since recreation impacts would be avoided; however, 50-foot high artificial wind breaks on private lands would exceed the height limitations set by SLO County Coastal Zone Land Use Ordinance (Section 23.04.124). In addition, artificial windbreaks are likely not consistent with the Coastal Act's provisions protecting visual resources, as windbreaks would result in a new, significant and unavoidable aesthetic impact. Although the color of heavy industrial wind breaks can be customized, 0.75 mile-long, permanent, 50 to 100-foot tall steel structure would be an unprecedented development at Oceano Dunes SVRA that would be visible from most, if not all, sensitive receptor locations within Oceano Dunes SVRA, as well as some points up and down the coast, and along some public roadways. In addition, such structures are likely to trap and collect debris and refuse. Windbreaks would also result in substantially more severe impacts on biological resources and, potentially, geology and soils, due to grading and installation of poles and/or foundations that, presumably, would need to be installed and anchored deep into the ground to be stable and withstand shifting sand conditions. A perimeter wind break would provide substantial perching opportunities for birds of prey, could trap and/or otherwise harm birds that collide with or are blown into the structure, including western snowy plovers and California least terns, and could pose a barrier to wildlife movement from the back dunes area to mid-dune and near shore areas, although a gap is typically provided between the ground and the bottom of the wind break. Furthermore, a perimeter wind break may cause deposition of particles immediately

downwind in the dune lakes region, which could impact water quality and require maintenance or removal of sand deposited both upwind and downwind of the windbreak.

Artificial windbreaks would not control and minimize saltation-generated dust and PM, but would likely reduce concentrations of PM10 measured at the CDF air quality station and make progress towards compliance with the Rule 1001 performance standard. Artificial windbreaks would also maintain existing public access routes and coastal recreation opportunities, but would not be a comprehensive dust control program that balances cultural, natural, and recreation resources (a single industrial dust control solution is not considered a comprehensive approach that involves vegetation and seasonal dust control measures in a manner that balances park resources). This alternative would achieve the proposed Program's monitoring and ongoing dust control objectives, but would not achieve the proposed Program's track-out control objective.

12.5.2 Artificial Windbreaks in Addition to Dust Control Program Measures

Under this alternative, the OHMVR Division would implement the proposed Dust Control Program and proceed with the installation of industrial wind breaks. The installation of industrial wind breaks could reduce the amount of dust control measures implemented under the proposed Program; however, given windbreaks would be a permanent form of dust control, the OHMVR Division would likely install windbreaks towards the end of the five-year dust control program. This would provide the time and information necessary to further develop scientific information that supports the placement of a windbreak in a permanent location.

Artificial windbreaks in addition to the proposed vegetation and seasonal dust control measures would not avoid or substantially lessen any of the proposed Dust Control Program's impacts. The OHMVR Division would still deploy seasonal dust control measures and proceed with planting vegetation while permanent sites for industrial windbreaks are evaluated and identified. In addition, as explained in Section 12.5.1, once installed, industrial windbreaks could increase the magnitude of the proposed Program's land use impacts, and would result in a new significant and unavoidable aesthetic impact, as well as result in potentially significant impacts on biological resources, geology and soils, and hydrology and water quality. This alternative would obtain all the objectives for the proposed Dust Control Program, because it would still involve planting vegetation and deploying seasonal dust control measures that are effective at minimizing dust and PM10 emissions during wind events.

12.6 Environmentally Superior Alternative

A comparison of the proposed Program against the ~~five~~three alternatives discussed in detail above is presented in Table 12-2.

Table 12-2 Comparison of Proposed Program Impacts against Program Alternatives						
Resource	Proposed Program	No Project Alternatives		Project Alternatives		
		No Action	No Comprehensive Dust Program	Alternate Dust Control Program	<u>Artificial Windbreaks (In-Lieu)</u>	<u>Artificial Windbreaks (In-Addition)</u>
Aesthetics	LTS	Lessened	Lessened	<u>Substantially More Severe PS/SU</u>	<u>Substantially More Severe / SU</u>	<u>Substantially More Severe / SU</u>
Agriculture	No Impact	Same	Same	Same	<u>Same</u>	<u>Same</u>
Air Quality	Benefit	<u>Benefit Lessened</u>	<u>Benefit Lessened</u>	<u>Same or Increased Benefit</u>	<u>Benefit Lessened</u>	<u>Same or Increased Benefit</u>
Biology	LTS	Lessened	Lessened	<u>More Severe / PS/ or SU</u>	<u>Substantially More Severe / PS or SU</u>	<u>Substantially More Severe / PS or SU</u>
Cultural	LTS	Lessened	Lessened	Same	<u>Same</u>	<u>Same</u>
Geology	LTS	Lessened	Lessened	Same	<u>More Severe / PS</u>	<u>More Severe / PS</u>
GHG	LTS	Lessened	Lessened	Same	<u>Same</u>	<u>Same</u>
Hazards	LTS	Lessened	Lessened	Same	<u>Same</u>	<u>Same</u>
Hydrology	LTS	Lessened	Lessened	Same	<u>More Severe / PS</u>	<u>More Severe / PS</u>
Land Use	SU	<u>Avoided / LTS</u>	<u>Substantially Reduced / LTS</u>	<u>Substantially More Severe / SU</u>	<u>Potentially Lessened / PS</u>	<u>Potentially More Severe / SU</u>
Minerals	No Impact	Same	Same	Same	<u>Same</u>	<u>Same</u>
Noise	LTSM	Lessened	Avoided	Same	<u>Same</u>	<u>Same</u>
Public Services	No Impact	Same	Same	Same	<u>Same</u>	<u>Same</u>
Recreation	SU	<u>Avoided / LTS</u>	<u>Substantially Reduced / PS or SU</u>	<u>Substantially More Severe / SU</u>	<u>Avoided / LTS</u>	<u>Same</u>
Traffic	LTS	Lessened	Lessened	Same	<u>Same</u>	<u>Same</u>
Utilities	No Impact	Same	Same	Same	<u>Same</u>	<u>Same</u>
Meets Project Objectives?	All	Few	Some	Most	<u>Most</u>	<u>All</u>

Table Legend: LTS = Less than significant impact; LTSM = Less than significant impact with mitigation; PS = Potentially significant impact; SU = Significant and unavoidable impact

As shown in Table 12-2, the No Action Alternative is the least environmentally damaging alternative because it avoids or lessens many of the impacts that would occur with implementation of the Oceano Dunes SVRA Dust Control Program; however, it only achieves a few of the objectives for the proposed Program. Similarly, the No Comprehensive Dust Control Program would avoid, substantially reduce, or lessen most of the impacts that would occur with the proposed Program. But it, too, only achieves some of the objectives for the proposed Program. The alternate dust control program would obtain most of the proposed Program’s objectives, but would also result in substantially more severe aesthetics and recreation impacts and substantially more severe impacts on biological resources. The artificial windbreak in-lieu of the proposed Program alternative would avoid some of the proposed Program’s significant environmental impacts and

achieve most of the proposed Program's objectives, but would result in greater overall environmental effects. The artificial windbreak in addition to the proposed Program alternative would obtain all of the objectives set for the proposed Program, but would not avoid the proposed Program's significant environmental impacts and would add a significant, unavoidable impact (aesthetics). As a result, the proposed Program is considered the environmentally superior alternative.

3.9 OTHER CEQA CONSIDERATIONS (DRAFT PROGRAM EIR CHAPTER 13)

On Draft Program EIR page 13-1, the following text describing the potentially unavoidable significant impacts of the proposed Dust Control Program has been revised as follows:

All potentially significant impacts of the project are identified in Chapters 4 – 11 of this EIR, along with ~~Standard and Specific Project Requirements (SPRs)~~ and, where necessary, mitigation measures, to reduce or avoid these impacts. Even with the incorporation of SPRs and feasible mitigation measures, the proposed Dust Control Program, if implemented, would result in ~~two~~three unavoidable, significant impacts:

On Draft Program EIR pages 13-1 to 13-2, the following text describing the significant and unavoidable impacts of the proposed Dust Control Program have been revised as follows:

Impact REC-1: The Dust Control Program would limit and interfere with coastal vehicular recreation opportunities at Oceano Dunes SVRA.

Dust Control Program activities could result in the temporary (up to 43 acres) and permanent (between 35 and 70 acres) closure of land inside the Oceano Dunes SVRA open riding and camping area (in Year 5), which would constitute an approximately 5.3 to 7.7 percent loss in OHV recreation lands at Oceano Dunes SVRA (out of 1,453 acres). Mitigation Measure REC-1 requires the OHMVR Division to minimize the loss of ~~OHV~~coastal vehicular recreation opportunities at Oceano Dunes SVRA by planting vegetation outside the SVRA's open riding and camping area as much as feasible, planting vegetation and deploying seasonal dust control measures in a manner that does not interfere with Sand Highway and other established paths of travel, integrating recreation opportunities (including OHV recreation) into dust control measures, and identifying areas to add camping and OHV recreation opportunities. Any expansion of OHV recreation opportunities shall occur in a manner that is consistent with the Public Resources Code and other applicable laws and regulations and shall not impede achievement of the performance standard set by Rule 1001. Mitigation Measure REC-1 could minimize some of the loss in coastal vehicular recreational opportunities at Oceano Dunes SVRA that would occur under the Dust Control Program; however, the potential would remain for the Dust Control Program (in Year 5) to temporarily (43 acres) and permanently (70 acres) limit and interfere with ~~OHV~~coastal vehicular recreation at Oceano Dunes SVRA. Factors such as the SVRA's history of use, historical reduction in vehicle recreation lands in the area, current seasonal reduction in vehicle recreation lands, high visitor attendance levels, and the unique, low-cost nature of the coastal recreational opportunities provided by the SVRA make this loss of ~~OHV~~coastal vehicular lands a substantial and adverse change to OHV recreation at Oceano Dunes SVRA, and a significant and unavoidable impact of the Dust Control Program.

Impact LUP-1: The Dust Control Program would conflict with the Pismo Dunes SVRA (now Oceano Dunes SVRA) General Development Plan and Resource Management Plan.

Impact LUP-1 identifies that the loss of up to approximately 78 to 113 acres of land inside the Oceano Dunes SVRA is considered a significant and unavoidable recreational impact that would also not be consistent with the Oceano Dunes SVRA General Development Plan and Resource Management Plan because it would not perpetuate and enhance recreational use of OHVs in the SVRA. Mitigation Measure REC-1 requires the OHMVR Division to implement measures that could reduce the potential for Dust Control Program components to limit and interfere with OHV recreation. Mitigation Measure REC-1 also directs the OHMVR Division to compensate for the loss (i.e., closure) of OHV recreation lands that could occur with implementation of the Dust Control Program; however, the ability of the OHMVR to do this is subject to other applicable laws and regulations and is, therefore, speculative. Thus, even with the implementation of Mitigation Measure REC-1, the potential remains for the Dust Control Program (in Year 5) to temporarily (43 acres) and permanently (70 acres) limit and interfere with OHV recreation at Oceano Dunes SVRA. ~~This loss is considered a significant conflict with the stated management policy of the General Development Plan and Resource Management Plan.~~ Thus, Impact LUP-1 would be a significant and unavoidable impact of the proposed Dust Control Program.

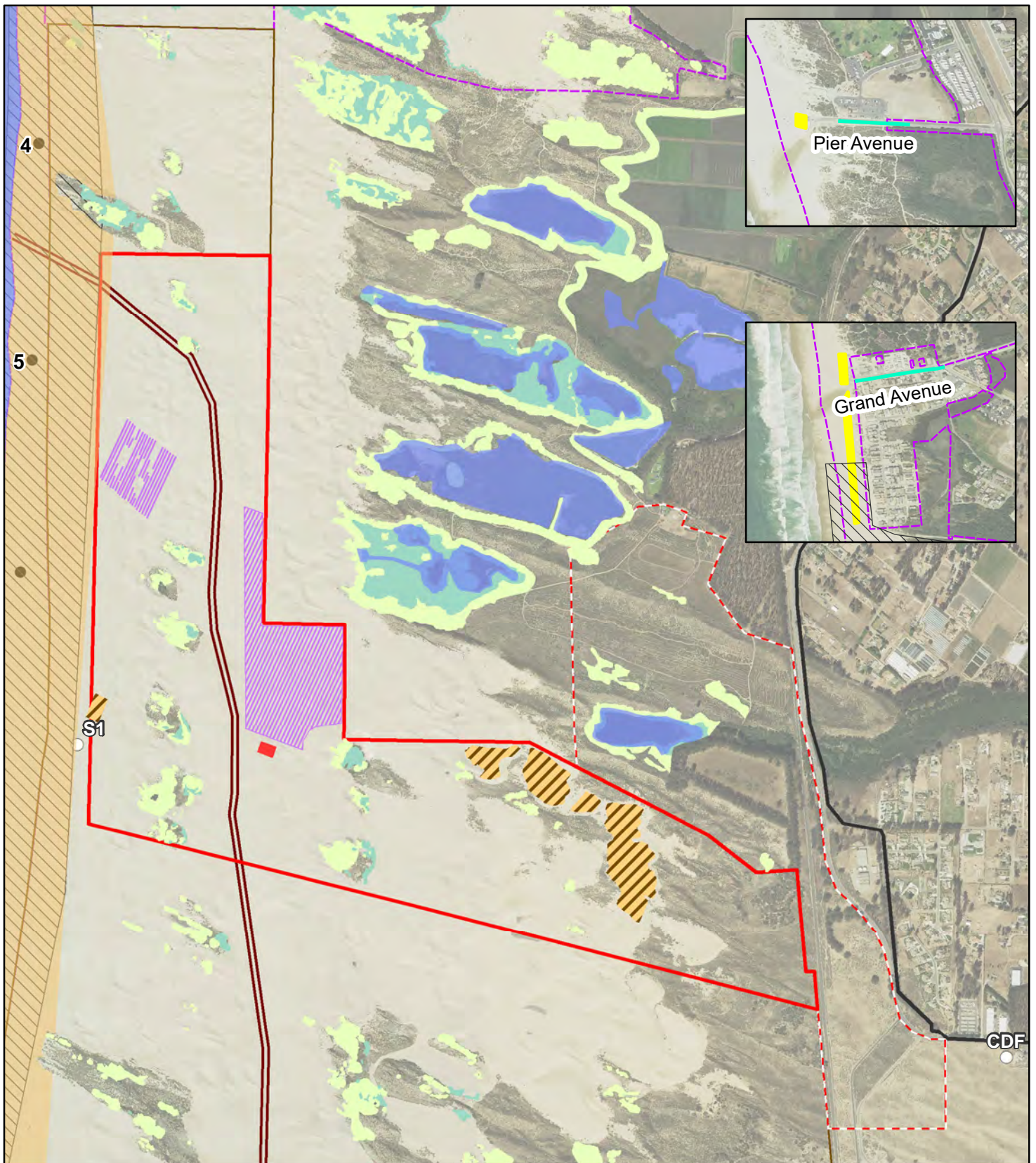
Impact LUP-2: The Dust Control Program could conflict with the California Coastal Act.

Impact LUP-2 identifies the proposed Dust Control Program could conflict with the California Coastal Act because the preferred Dust Control Program scenario would impact 78 acres of coastal OHV recreation lands and the alternate program scenario does not maximize existing, historical, and traditional coastal OHV recreational opportunities at Oceano Dunes SVRA. This significant impact would occur even with design and mitigation measures (REC-1) incorporated into the project. Thus, impact LUP-2 would be a significant and unavoidable impact of the proposed Dust Control Program. It is noted the CCC is the sole agency with primary jurisdiction over the Coastal Act and as such is required to evaluate development projects for consistency with the Coastal Act. The CCC, when acting on the OHMVR Division's CDP application, may determine the Dust Control Program, as described in this EIR, is consistent with the Coastal Act and/or impose additional conditions on the Program as necessary to support its issuance of a CDP and the Program's conformance with the Coastal Act.

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NEW AND REVISED FINAL PROGRAM EIR FIGURES

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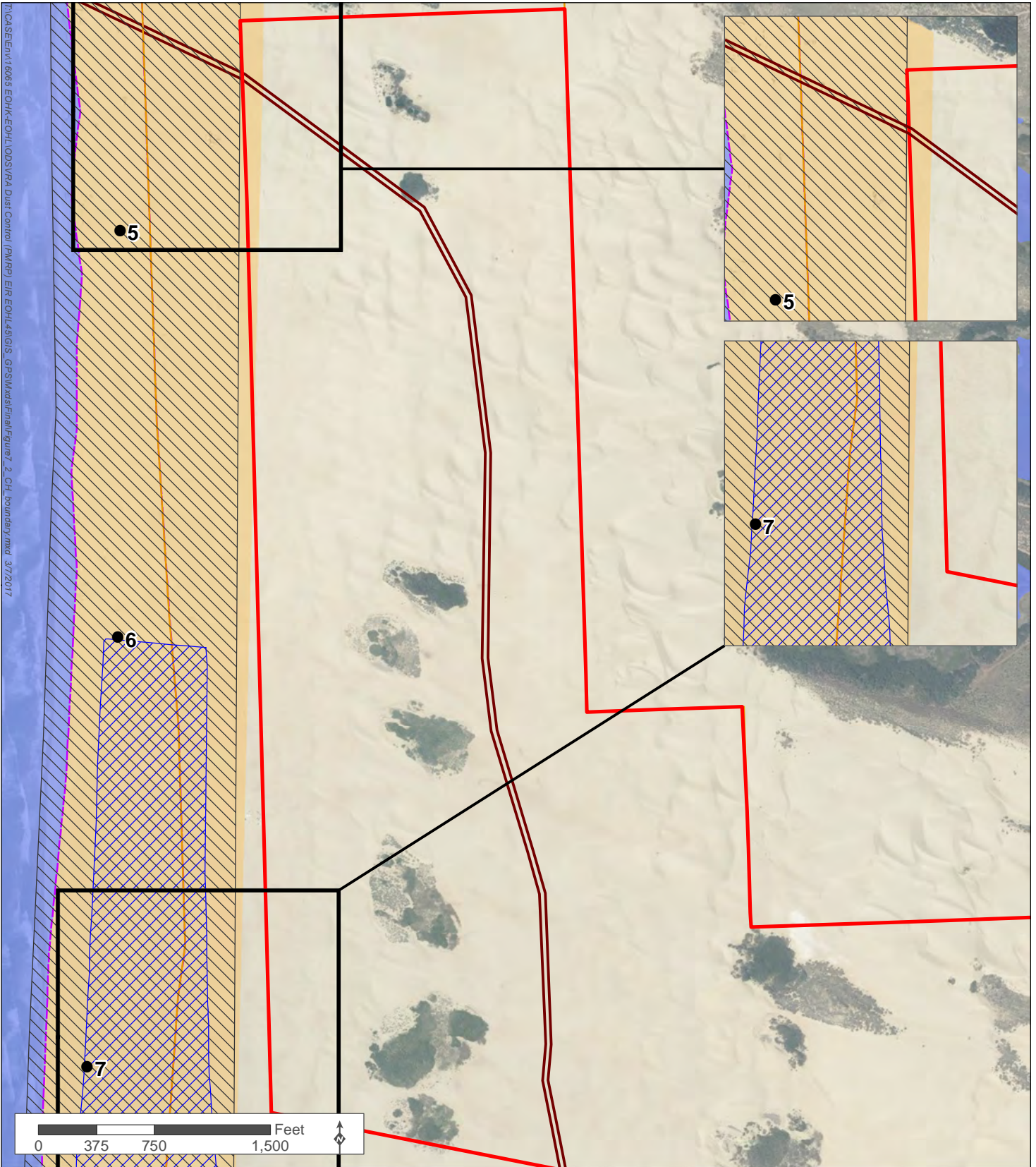


- | | | |
|-------------------------------------|--|------------------------------|
| Proposed Dust Control Program area | Sand Highway, approximately | Marker post |
| Potential tree planting area | Completed PRE Pilot Project (2016) | Existing air quality monitor |
| Oceano Dunes SVRA | Completed Seasonal Wind Fencing Array (2014, '15, '16) | Street sweeping |
| Pismo State Beach | Completed straw bale project (2011, 2014) | Arroyo willow thicket |
| SNPL/LETE suitable breeding habitat | Grand/Pier/Strand Sand Management (Fencing) | Native wetland alliance |
| LETE foraging habitat | | |

Revised Figure 2-4 Ongoing and Completed Dust Control Activities

Oceano Dunes SVRA Dust Control Program – Final Program EIR



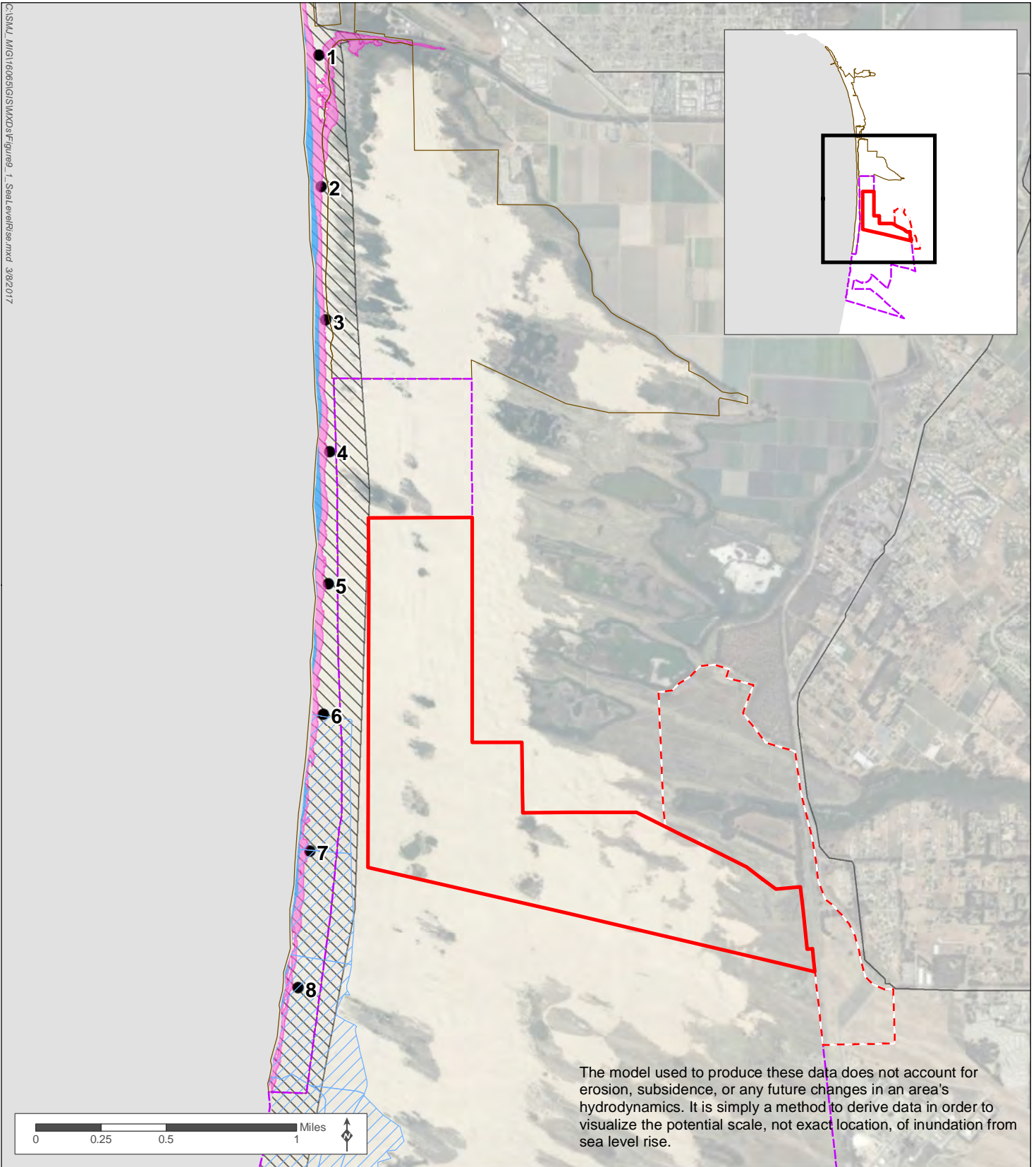


Source: USFWS 2012; CDPR 2016; ESRI 2016

- Proposed Dust Control Program area
- Seasonal plover enclosure
- Western snowy plover critical habitat
- Oceano Dunes SVRA
- Pismo State Beach
- Western snowy plover suitable breeding and foraging habitat and California least tern suitable breeding habitat
- California least tern foraging habitat
- Sand Highway, approximately
- Marker post



New Figure 7-2 Western Snowy Plover Critical Habitat



The model used to produce these data does not account for erosion, subsidence, or any future changes in an area's hydrodynamics. It is simply a method to derive data in order to visualize the potential scale, not exact location, of inundation from sea level rise.

Source: USFWS 2012, CDPR 2016, NOAA 2012

- Oceano Dunes SVRA
- Pismo State Beach
- Proposed Dust Control Program area
- Potential inundation from current Mean Higher High Water
- Potential sea level rise inundation ranging from 1 to 6 feet above current Mean Higher High Water
- Western snowy plover critical habitat
- Seasonal exclosure

New Figure 9-1 Sea Level Rise

CHAPTER 4 RESPONSES TO DRAFT EIR COMMENTS

This chapter contains a summary of the written comments received on or related to the Draft Program EIR during the public review period from August 2, 2016 through October 3, 2016. This chapter also provides a written response by the OHMVR Division, as the CEQA Lead Agency for the project, to each comment raising a significant environmental issue submitted on the Draft Program EIR.

The OHMVR Division received 23 comment letters during the Draft EIR review period, including three letters from a state agency (the California State Clearinghouse, California Department of Fish and Wildlife, and the California Coastal Commission), one letter from a regional agency (San Luis Obispo County Air Pollution Control District), eight letters from organizations, and 11 letters from members of the public. In addition, the OHMVR Division received approximately 41 oral comments from members of the public at the August 23, 2016 public meeting held on the Draft Program EIR. Each commenter was assigned a letter (i.e., “A”, “B”, etc.) and each specific comment was assigned an alpha-numeric identification number, as summarized in Table 4-1.

Table 4-1 Summary of Public Comments Received on the Draft Program EIR		
ID	Commenter (Agency / Organization)	Comments
<i>Written Comments Received on the Draft Program EIR</i>		
A	Scott Morgan (<i>California State Clearinghouse</i>)	A1 – A3
B	Julie Vance (<i>California Department of Fish and Wildlife, Central Region</i>)	B1 – B16
C	Yair Chaver (<i>California Coastal Commission, Central Coast District</i>)	C1 – C16
D	Gary Willey (<i>San Luis Obispo County Air Pollution Control District</i>)	D1 –D14
E	Tom Roth (<i>Law Offices of Thomas D. Roth</i>)	E1 – E2
F	Debbie Peterson (<i>Peterson Team Realty</i>)	F1 – F4
G	Nick Lalanne (<i>Pismo Dune Riders</i>)	G1 – G2
H	Lucia Casalnuovo (<i>Safe Beach Now</i>)	H1 – H4
I	Andrew Christie (<i>Sierra Club, Santa Lucia Chapter</i>)	I1 – I5
J	Jeff Blewett (<i>California 4 Wheel Drive Association, Inc.</i>)	J1 – J2
K	Jim Suty (<i>Friends of Oceano Dunes</i>)	K1 – K136
L	Una Skadden (<i>Interested Individual</i>)	L1 – L2
M	Bill Denneen (<i>Citizens for a Vehicle Free Nipomo Dunes</i>)	M1 – M3
N	Dorothy Modafferi (<i>Interested Individual</i>)	N1 – N3
O	Linda Reynolds (<i>Interested Individual</i>)	O1 – O2
P	Joan Rice (<i>Interested Individual</i>)	P1
Q	Rachelle Toti (<i>Interested Individual</i>)	Q1
R	Michael Young (<i>Interested Individual</i>)	R1 – R3
S	Norma and Ron Van Meeteren (<i>Interested Individual</i>)	S1 – S2
T	Arlene Versaw (<i>Interested Individual</i>)	T1 – T10

U	Betty Cary (<i>Interested Individual</i>)	U1 – U9
V	Jeff Edwards (<i>Interested Individual</i>)	V1 – V12
W	Rachelle Toti (<i>Interested Individual</i>)	W1 – W37
<i>Oral Comments Received on the Draft Program EIR</i>		
OC	Unidentified Members of the Public	OC1 – OC41

COMMENT LETTER "A"



EDMUND G. BROWN JR.
GOVERNOR

STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT



KEN ALEX
DIRECTOR

October 4, 2016

Ronnie Glock
California Department of Parks and Recreation
340 James Way, Ste. 270
Pismo Beach, CA 93449

Subject: Oceano Dunes State Vehicular Recreation Area (SVRA) Dust Control Program
SCH#: 2012121008

Dear Ronnie Glock:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on October 3, 2016, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

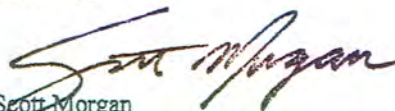
Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,


Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

A1

**Document Details Report
State Clearinghouse Data Base**

SCH# 2012121008
Project Title Oceano Dunes State Vehicular Recreation Area (SVRA) Dust Control Program
Lead Agency Parks and Recreation, Department of

Type EIR Draft EIR
Description Note: Extended Per Lead

CDPR, Off-Highway Motor Vehicle Recreation (OHMVR) Division proposes to implement a dust control program at Pismo State Beach and Oceano Dunes SVRA, in southwestern San Luis Obispo County. The project would involve the following OHMVR Division activities: 1) Planting up to approx. 20 acres of native vegetation per year at Oceano Dunes SVRA; 2) Temporarily deploying up to approx. 40 acres of wind fencing and/or straw bales per year at Oceano Dunes SVRA; 3) Potentially applying non-toxic soil stabilizers at Oceano Dunes SVRA; 4) Preventing track-out of sand onto Grand Avenue in the City of Grover Beach and Pier Avenue in Oceano; and 5) Dust and meteorological monitoring at Oceano Dunes SVRA.

Lead Agency Contact

Name Ronnie Glock
Agency California Department of Parks and Recreation
Phone 805-773-7180 **Fax**
email
Address 340 James Way, Ste. 270
City Pismo Beach **State** CA **Zip** 93449

Project Location

County San Luis Obispo, Santa Barbara
City Grover Beach, Pismo Beach
Region
Lat / Long 35° 03' 21" N / 120° 37' 3" W
Cross Streets Grand Ave, Pier Ave, Oso Flaco Road
Parcel No. Project Covers Many Parcels
Township **Range** **Section** **Base**

Proximity to:

Highways SR 1; US Highway 101
Airports Oceano County Airport
Railways Amtrak
Waterways Pismo/Meadow/Oso Flaco Creeks; Black Lake Canyon
Schools Lopez HS, Mesa MS
Land Use Various including Ag, Recreation, and Open space/Resource conservation

Project Issues Air Quality; Archaeologic-Historic; Biological Resources; Coastal Zone; Geologic/Seismic; Noise; Recreation/Parks; Soil Erosion/Compaction/Grading; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Wetland/Riparian; Landuse; Cumulative Effects; Aesthetic/Visual; Flood Plain/Flooding; Forest Land/Fire Hazard; Public Services; Population/Housing Balance; Minerals; Solid Waste

Reviewing Agencies Resources Agency; Department of Fish and Wildlife, Region 4; Department of Parks and Recreation; Department of Water Resources; Caltrans, Division of Aeronautics; California Highway Patrol; Caltrans, District 5; Regional Water Quality Control Board, Region 3; Native American Heritage Commission; Public Utilities Commission

Date Received 08/02/2016 **Start of Review** 08/02/2016 **End of Review** 10/03/2016

4.1 RESPONSE TO COMMENTS FROM THE STATE CLEARINGHOUSE

The OHMVR Division received three comments from Scott Morgan, Director, Office of Planning and Research, State Clearinghouse and Planning Unit. In general, these comments pertain to State Clearinghouse review requirements for the Oceano Dunes SVRA Draft Program EIR.

Comment A1: The State Clearinghouse notes it submitted the Oceano Dunes SVRA Draft Program EIR to selected state agencies for review. The Draft EIR public review period closed on October 3, 2016, and only one state agency submitted comments by that date – CDFW.

Response to Comment A1: Comment noted. Please refer to page 4-7 for a copy of comments submitted on the Draft Program EIR by CDFW and Section 4.2 of this Final Program EIR for the response to these comments.

Comment A2: The State Clearinghouse notes that Section 21104(c) of the California Public Resources Code states that “A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation.”

Response to Comment A2: Comment noted.

Comment A3: The State Clearinghouse notes the OHMVR Division has complied with State Clearinghouse review requirements for draft environmental documents pursuant to CEQA.

Response to Comment A3: Comment noted.

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State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 Central Region
 1234 East Shaw Avenue
 Fresno, CA 93710
 (559) 243-4005
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
 CHARLTON H. BONHAM, Director



COMMENT LETTER "B"

September 28, 2016

Ronnie Glick
 Senior Environmental Scientist
 California Department of Parks and Recreation
 Oceano Dunes District
 340 James Way, Suite 270
 Pismo Beach, California 93449

**Subject: Oceano Dunes State Vehicular Recreation Area Dust Control Program
 (Program) Draft Program Environmental Impact Report (DPEIR)
 SCH# 2012121008**

Dear Mr. Glick:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a DPEIR from the California Department of Parks and Recreation (CDPR) for the Program pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹ CDFW previously submitted comments in response to the Notice of Preparation of an EIR dated March 6, 2015 and are enclosed and incorporated by reference.

B1

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Program that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Program that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts,

B2

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

B2

PROJECT DESCRIPTION SUMMARY

Proponent: CDPR, Off-Highway Motor Vehicle Recreation (OHMVR) Division

Objective: The objective is to implement a five-year Program to control and minimize emissions of dust and particulate matter (PM) that are generated at Oceano Dunes State Vehicular Recreation Area (SVRA) during periods of strong, persistent winds and subsequently blown downwind of the SVRA and onto the Nipomo Mesa. Primary Project activities include (1) planting approximately 20 acres of native vegetation per year at Oceano Dunes SVRA, (2) deploying approximately 40 acres of seasonal dust control measures from approximately March to September at Oceano Dunes SVRA, (3) potentially planting trees downwind of Oceano Dunes SVRA, (4) deploying dust and meteorological monitoring equipment at Oceano Dunes SVRA, and (5) preventing track-out of sand onto Grand Avenue in the City of Grover Beach and Pier Avenue in Oceano.

B3

Location: Oceano Dunes SVRA is located in southwestern San Luis Obispo (SLO) County, approximately twelve miles south of the City of SLO, within the Coastal Zone established by the California Coastal Act and adjacent to the Cities of Grover Beach and Oceano. The SVRA borders and is contiguous with parts of Pismo State Beach. The proposed Dust Control Program area primarily consists of approximately 690 acres of state owned and -operated lands at Oceano Dunes SVRA, as well as some private lands downwind of the SVRA where trees may potentially be planted.

Timeframe: The OHMVR Division proposes to implement the Dust Control Program for an approximately 5-year period, beginning in spring 2017 and continuing through late 2022.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations presented below to assist the CDPR OHMVR Division in adequately identifying and/or mitigating the Program's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the potential for the Program to have a significant impact on biological resources, CDFW concludes that a Program Environmental Impact Report is appropriate for the Project. However, to appropriately address Program related impacts on biological resources, Project specific locations and biological resources must be identified through site

B4

specific surveys and potentially evaluated through subsequent environmental review prior to specific Project implementation (CEQA Guidelines Section 15168(c)).

B4

CDFW is aware that the Program area may include potential habitat for the State and federally threatened State fully protected California least tern (*Sterna antillarum browni*); State and federally endangered Nipomo Mesa lupine (*Lupinus nipomensis*); State threatened and federally endangered La Graciosa thistle (*Cirsium scariosum var. loncholepis*); the State Fully Protected white-tailed kite (*Elanus leucurus*); the State Species of Special Concern (SSC) and federally threatened California red legged frog (*Rana draytonii*, CRLF) and Western snowy plover (*Charadrius nivosus nivosus*). Other sensitive species have the potential to occur within the Project area as well including sensitive plants, reptiles, amphibians, and birds. Additionally, the Project area supports habitat features such as central dune scrub, central foredunes and potentially other habitats which are considered sensitive by CDFW.

B5

CDFW has concerns about the Program-related impacts to these sensitive habitats that are adjacent to or within the Program area, as well as the associated impacts to species that utilize these habitat types. CDFW recommends that biological surveys be conducted by a qualified wildlife biologist and botanist during the appropriate season(s) and that the results of these surveys are used to inform the analysis of impacts to resources and to potentially provision suitable avoidance, minimization, and mitigation measures to reduce impacts to less than significant levels in subsequent environmental review.

State Fully Protected Species: CDFW has jurisdiction over Fully Protected Species of birds, mammals, amphibians and reptiles, and fish pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Take of any Fully Protected Species is prohibited and CDFW cannot authorize their take. The following Fully Protected species may occur in the Project area: California least tern and white-tailed kite, (FGC §3511). The DPEIR is advised to address any impacts that may occur to fully protected species and is advised to include measures to preclude take of Fully Protected species on the Project site during construction, operations and maintenance of the Project. More information regarding Fully Protected species can be found on CDFW's website:
https://www.dfg.ca.gov/wildlife/nongame/t_e_spp/fully_pro.html.

B6

Permit Streamlining: Issuance of a Lake or Streambed Alteration Agreement (LSAA) and/or an Incidental Take Permit (ITP) by CDFW is considered a "project" (CEQA Guidelines Section 15378) and is subject to CEQA. CDFW typically relies on the Lead Agency's CEQA compliance to make our own findings. For the Lead Agency's CEQA document to suffice for permit/agreement issuance, it must commit to fully describing the potential Project related impacts to stream/riparian resources and listed species, as well as measures to avoid, minimize, and mitigate impacts to these resources. Take of State listed species must be "fully mitigated" in order to comply with CESA (California Fish and Game Code Section 2081(b)(2)). If the CEQA document issued by the CDPR for this Program does not adequately analyze impacts to resources that require permits issued by CDFW, CDFW may need to act as a Lead CEQA Agency and complete a subsequent CEQA document. This could significantly delay permit issuance and, subsequently, Project implementation. For that reason, it is very important that the EIR reflect suitable and

B7

feasible avoidance, minimization, and compensatory mitigation, such that we are able to make findings per CEQA necessary for ITP issuance. In addition, CEQA grants Responsible Agencies authority to require changes in a Project to lessen or avoid effects of that part of the Project which the Responsible Agency will be called on to approve (CEQA Guidelines Section 15041).

B7

Bird Protection: CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Sections of the Fish and Game Code that protect birds, their eggs and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

B8

Biological Information: CEQA requires a CEQA document and any subsequent environmental review to clearly identify resources in the Project area and their potential to be impacted by the proposed Project; analyze potential impacts as to their significance; and identify measures to reduce all potentially significant impacts to a level of less-than-significant. CDFW recommends surveys be conducted at the appropriate time of year to determine the presence/absence, location, and abundance of sensitive plant and animal species and natural communities which may occur on the specific Project site to support a complete impact analysis. Generally, CDFW supports measures and alternatives that would avoid and minimize potential impacts to resources of concern, as well as on-site conservation measures be considered prior to measures and alternatives that would provide for compensatory resources on- or off-site.

B9

Botanical Inventory: As provided in the DPEIR, there is the potential for sensitive plant species to occur within the Program area. CDFW acknowledges that Standard and Specific Project Requirements to Minimize and/or Avoid Impacts to Special-Status Plants have been identified in the DPEIR. Botanical surveys are recommended to be conducted prior to specific Project activities and be performed in accordance with protocols and guidelines developed by CDFW (DFG, 2009) and the United States Fish and Wildlife Service (USFWS) (USFWS, 2000) to maximize the opportunity to detect special status plant species. Botanical surveys are floristic in nature and must be timed appropriately and cover the entire project and may require multiple surveys in order to detect all species which could potentially be present on the property before impact analysis occurs. The above referenced guidelines instruct the use of reference sites to confirm appropriate survey timing, particularly for seasonably variable, often difficult to detect species. Please note that environmental conditions have not been favorable for some plant species in the last few years and therefore special status plant populations may not express themselves adequately for detection and identification during surveys if environmental conditions are not adequate.

B10

The DPEIR states under Section 2.4.1 (Dust Control Program Annual Review) that resources evaluations will be initiated by July 1 of each year. CDFW recommends that Project planning and Botanical surveys begin by early spring to maximize detection of all species that may occur on specific Project sites. The typical blooming period for Nipomo

Mesa lupine is between December and May. The typical blooming period for La Graciosa thistle is between May and August.

B10

Nesting Birds: The habitat within and in the vicinity of the Program area likely provides nesting habitat for shorebirds, songbirds and raptors. CDFW encourages Project implementation to occur during the non-nesting bird season. However, if ground-disturbing activities must occur during the breeding season (February through mid-September), Project applicant is responsible for ensuring that implementation of the Project does not result in any violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above. Prior to work commencing; including staging, clearing, and grubbing; CDFW recommends surveys for active nests be conducted by a qualified wildlife biologist no more than 10 days prior to the start of the Project commencing and that the surveys be conducted in a sufficient area around the work site to identify any nests that are present and to determine their status. A sufficient area means any nest within an area that could potentially be affected by the Project. In addition to direct impacts, such as nest destruction, nests might be affected by noise, vibration, odors, and movement of workers or equipment. Identified nests should be continuously surveyed for the first 24 hours prior to any construction related activities to establish a behavioral baseline. Once work commences, all nests should be continuously monitored to detect any behavioral changes as a result of the Project. If behavioral changes are observed, the work causing that change should cease and CDFW consulted for additional avoidance and minimization measures.

B11

If continuous monitoring of identified nests by a qualified wildlife biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500 foot no-disturbance buffer around the nests of unlisted raptors until the breeding season has ended, or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival. Variance from these no-disturbance buffers may be implemented when there is compelling biological or ecological reason to do so, such as when the Project area would be concealed from a nest site by topography. Any variance from these buffers is advised to be supported by a qualified wildlife biologist and it is recommended CDFW be notified in advance of implementation of a no-disturbance buffer variance.

California Least Tern and Western Snowy Plover: As stated in the DPEIR, there is the potential for California least tern and western snowy plover to occur in portions of the Program area. CDFW notes that the DPEIR generally proposes activities which will avoid impacts to nesting least terns and snowy plovers by restricting dust control activities in these areas outside of the nesting period for these species (March – September). In addition, the DPEIR adheres to CDFW's prior guidance that a minimum 300 foot buffer be maintained around least tern and snowy plover nest sites if the seasonal restriction cannot be maintained. However, the DPEIR also states that the construction of protective perimeter fence posts, wind fencing, and some temporary dust and meteorological monitoring equipment could provide perching habitat for predatory avian species that could prey on California least tern and/or western snowy plovers and their nests. CDFW is concerned that the State fully protected California least tern and SSC western snowy plover may be impacted as a result of increased predation pressure from the installation of

B12

Program structures and monitoring equipment. CDFW recommends that a specific Dust Control Program related monitoring effort be developed and implemented to identify potential impacts of Program related structures. If particular structures are identified as contributing to California least tern and western snowy plover predation, CDFW recommends that they immediately be removed and relocated if needed.

B12

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNNDDB field survey form can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp.

B13

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

B14

Conclusions: Biological studies are recommended to be conducted once specific project locations are identified and to include, but not be limited to, rare plants and nesting birds. Surveys are advised to be comprehensive, appropriately timed, and address the subsequent impact assessment of all special status species that are found to occur or are likely to occur on or near the specific Project site. If surveys identify the potential for special status species impacts or other potentially significant biological impacts, we recommend that subsequent environmental review be required for such projects and activities prior to project implementation. CDFW recommends that CDPR begin Project planning and resources evaluations earlier in the season to appropriately detect potential impacts to sensitive botanical species. Proposed measures to mitigate Project impacts are recommended to emphasize avoidance and minimization over translocation of resources or provision of compensatory resources on- or off-site. CDFW encourages Program implementation to occur during the non-nesting bird season. However, if ground-disturbing activities must occur during the breeding season, CDPR is responsible for ensuring that implementation of the Program does not result in any violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes. CDFW recommends that a specific Dust Control Program related monitoring effort be developed and implemented to identify potential impacts of increased predation pressures from Program related structures.

B15

Ronnie Glick
California Department of Parks and Recreation
September 28, 2016
Page 7

Thank you for the opportunity to comment on the DPEIR for the Oceano Dunes SVRA Dust Control Program. CDFW is available to consult with the CDPR regarding potential effects to biological resources, as well as specific measures which would mitigate potential effects of the project. Depending upon the results of the described biological surveys, actual Project site configuration, and other details which should be identified in specific Project biological reports, we may have additional comments and recommendations regarding avoidance, minimization, and mitigation of Project impacts to habitat and special status species. If you have any questions regarding these comments, please contact Brandon Sanderson, Environmental Scientist, at 3196 Higuera Street, Suite A, San Luis Obispo, California 93401, by telephone at (805) 594-6141, or by email at brandon.sanderson@wildlife.ca.gov. You may also contact Craig Bailey, Senior Environmental Scientist, by telephone at (559) 243-4014, or by email at craig.bailey@wildlife.ca.gov.

B16

Sincerely,



Julie A. Vance
Regional Manager

Enclosure: March 2015, letter CDFW to CDPR

cc: Office of Planning and Research, State Clearinghouse, Sacramento

ec: Bill Standley
United States Fish and Wildlife Service
bill_standley@fws.gov

Craig Bailey (CDFW)
Bob Stafford (CDFW)
Brandon Sanderson (CDFW)

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4.2 RESPONSE TO COMMENTS FROM CDFW

The OHMVR Division received 16 comments from Julie Vance, Regional Manager, California Department of Fish and Wildlife (CDFW), Central Region. In general, these comments pertain to the Draft Program EIR's analysis of biological impacts.

Comment B1: CDFW notes it previously submitted comments on the OHMVR Division's February 2015 Revised NOP of an EIR and incorporates those comments by reference.

Response to Comment B1: Comment noted. Draft Program EIR Sections 1.5.1 and 3.2.1 summarize the NOP process and comments received on the NOP, respectively. Specifically, Draft Program EIR page 3-3 notes CDFW commented on the NOP with regard to special-status species and biological resources impacts, and that these comments were addressed in Chapter 7, Biological Resources, of the Draft Program EIR. The OHMVR Division also notes Draft Program EIR Appendix A includes CDFW's comments submitted on the NOP. CDFW does not raise any additional, specific remarks regarding the comments it submitted on the February 2015 NOP that warrant response.

Comment B2: CDFW notes it is submitting comments as a Trustee Agency for fish and wildlife resources and as a Responsible Agency under CEQA because the proposed Dust Control Program may be subject to CDFW's lake and streambed alteration regulatory authority and/or may result in "take" of species listed pursuant to the California Endangered Species Act.

Response to Comment B2: Comment noted. Draft Program EIR Section 1.4.1 identifies that CDFW is a trustee agency with jurisdiction over the resources potentially affected by the proposed Dust Control Program, as well as a potential responsible agency under CEQA. The OHMVR Division has designed the proposed Dust Control Program to avoid "take" of species protected by the California Fish and Game Code and California Endangered Species Act (see the responses to Comments B6 and B7). The proposed Program is also designed to avoid impacts to jurisdictional waters and would, thus, not be subject to CDFW's Lake and Streambed Alteration regulatory authority (see the response to Comment B7).

Comment B3: CDFW summarizes the proposed Dust Control Program objectives, location, and timeframe.

Response to Comment B3: Comment noted. CDFW's summary of the proposed Program's objectives, location, and timeframe is generally accurate and consistent with the information presented in the Draft Program EIR.

Comment B4: CDFW states a Program EIR is appropriate for the Dust Control Program and notes that specific impacts on biological resources must be identified through site-specific surveys and potentially evaluated through subsequent environmental review prior to the implementation of specific dust control projects.

Response to Comment B4: Comment noted. The OHMVR Division directs CDFW to pages 1-11 and 2-11 of the Draft Program EIR, which explain the OHMVR Division is required (pursuant to CEQA) to consider subsequent dust control activities against the scope and content of the Program EIR. As described in Draft Program EIR Section 2.4.1, as revised in Section 3.3 of this Final Program EIR, the OHMVR Division is proposing an annual review process for dust control measures and activities that consists of planning, resource evaluation, agency coordination and review, and implementation phases. Specifically, the OHMVR Division will annually prepare draft and final planting

and seasonal dust control plans that identifies and describes the location of planned projects, describes the methods used to install, maintain, and remove (if necessary) these projects, evaluates the site-specific resources present in each project area, and each project's consistency with the Dust Control Program EIR and any applicable CDP conditions. Furthermore, Draft Program EIR Section 2.5, as modified by Section 3.3 of this Final Program EIR, describes the Standard and Specific Project Requirements the OHMVR Division has incorporated into the Dust Control Program to avoid and minimize impacts on potential biological resources that could be present in and near the Program area. These requirements include, but are not limited to, site-specific surveys for biological resources prior to implementing specific dust control activities (see also the response to Comment B5).

Comment B5: CDFW notes the Program area may include potential habitat for several special-status wildlife and plant species, as well as habitat that supports sensitive species, and recommends biological surveys be conducted by a qualified wildlife biologist and botanist during the appropriate season. CDFW also recommends site-specific surveys be used to inform subsequent environmental reviews.

Response to Comment B5: The Draft Program EIR: 1) adequately identifies the habitat types and special-status species that have the potential to occur in and near the proposed Dust Control Program area; and 2) includes site-specific surveys that would be used to inform the subsequent environmental review of Dust Control Program activities. The OHMVR Division directs CDFW to Draft Program EIR Section 7.2.1, which describes the different habitat types in and near the Dust Control Program area, and Section 7.2.2, which describes the special-status plant and wildlife species that are known to or that have a moderate to high potential to occur in the Dust Control Program area. In addition, Draft Program EIR Section 7.3.2, as revised by this Final Program EIR, describes the standard and project specific requirements the OHMVR Division has incorporated into the Dust Control Program to avoid and minimize impacts on biological resources that could be present in and near the Program area. Specifically, these requirements specify that a qualified biologist shall conduct site-specific surveys prior to the start of dust control activities for special-status plants, amphibians and reptiles (including California red-legged frog), nesting birds, burrowing owls, western snowy plovers, California least terns, and American badger dens. Furthermore, the annual review process described in the response to Comment B4 requires the OHMVR Division to prepare a draft and final plans describing proposed and recently completed planting and dust control measures, including an analysis of whether measures incorporated into Program activities to avoid or minimize adverse impacts were effective and successful. Thus, as recommended by CDFW, the OHMVR Division would use the results of site-specific surveys conducted by qualified biologists to inform subsequent environmental review of Program activities.

Comment B6: CDFW notes it has jurisdiction over Fully Protected Species, that take of such species is prohibited, and that California least tern and white-tailed kite are Fully Protected Species that may occur in the Program area. CDFW notes the Program EIR should include measures that preclude take of Fully Protected Species during construction, operation, and maintenance of the Dust Control Program.

Response to Comment B6: The Draft Program EIR contains information and measures consistent with CDFW's comments. The OHMVR Division directs CDFW to Draft Program EIR Section 7.1.4, which discusses the California Fish and Game Code, including provisions related to Fully Protected Species. The OHMVR Division also

directs CDFW to Draft Program EIR Section 7.2.2.2, which identifies white-tailed kite (page 7-13) and California least tern (page 7-15) as Fully Protected Species.

As explained in the Draft Program EIR (pages 7-12 to 7-13), white-tailed kite is known to forage in the Dust Control Program area; however, no suitable nesting habitat for this fully protected species is present in the Program area. As a result, no “take” or other significant impacts to white-tailed kite are expected to since they do not nest in the Program area.

As explained in the Draft Program EIR (page 7-15) California least tern are known to nest west of the Program area, but the Program area will avoid any active California least tern nest areas in order to ensure no “take” of California least tern occurs. In addition, Draft Program EIR Section 7.3.2, as revised by this Final EIR, describes the standard and project specific requirements the OHMVR Division has incorporated into the Dust Control Program to avoid and minimize impacts on California least tern. Specifically, in the vicinity of California least tern habitat, these requirements stipulate the OHMVR Division perform work activities outside the nesting season for these species, if feasible. If it is not feasible to avoid work activities during the California least tern nesting season, a qualified biologist would survey for nests prior to the start of work activities and, if nests are found during the survey, establish a minimum 300-foot buffer zone around the nest. In addition, a qualified biologist would also be available to monitor for the presence of nesting activity and have the authority to halt all work activities that might result in impacts to least tern. Thus, these measures would preclude take of California least tern as recommended by CDFW.

Comment B7: CDFW notes that the issuance of a Lake or Streambed Alteration Agreement (LSAA) and/or an Incidental Take Permit (ITP) by CDFW is considered a project subject to CEQA review. In addition, CDFW notes a CEQA document must fully describe potential project impacts on biological resources. Finally, CDFW notes CEQA grants responsible agencies the authority to require changes in a project to lessen or avoid effects of that part of the project which the responsible agency will be called on to approve.

Response to Comment B7: Comment noted. CDFW does not make any specific recommendations regarding the Draft Program EIR, its analysis of biological resources, or measures included in the EIR to avoid and minimize potential impacts on biological resources. Draft Program EIR Chapter 7, as revised by this Final Program EIR (see Section 3.7), adequately described and evaluates the proposed Dust Control Program’s potential impacts on biological resources. In addition, Draft Program EIR Section 7.3.2, as revised by this Final EIR (see Section 3.7), describes the standard and project specific requirements the OHMVR Division has incorporated into the Dust Control Program to avoid and minimize impacts on potential biological resources that could be present in and near the Program area. These include requirements to conduct surveys and implement buffers and/or monitoring in coordination with the USFWS and/or CDFW, as appropriate and necessary, to ensure no listed species are harmed or killed due to Program activities. Since no mortality or harm to listed species would occur as a result of the proposed Program, an ITP would not be required. Please also see the OHMVR Divisions response to CDFW Comment B5 and CDFW Comment B6.

Similarly, as described in Draft Program EIR Section 7.3, the Dust Control Program would not impact riparian habitat because the Program area does not contain any riparian habitat. In addition, as described in Draft Program EIR Section 7.3.4, the proposed Dust

Control Program is unlikely to impact wetlands or other waters because most Program components would be installed in areas where these features are not present. Furthermore, Draft Program EIR Section 7.3.2, as revised by this Final EIR (see Section 3.7), describes the standard and project specific requirements the OHMVR Division has incorporated into the Dust Control Program to avoid and minimize impacts on potential jurisdictional waters in areas where they are present. Therefore, an LSAA is not required for the proposed Program.

Comment B8: CDFW notes that it has jurisdiction over actions that may result in disturbance or destruction of active nest sites or the unauthorized take of birds (i.e., Fish and Game Code Section 3503, 3503.5, and 3513).

Response to Comment B8: Comment noted. CDFW does not make any specific recommendations regarding the Draft Program EIR, its analysis of biological resources, or measures included in the EIR to avoid and minimize potential impacts on biological resources. The Draft Program EIR contains information consistent with CDFW's comments. The OHMVR Division directs CDFW to Draft Program EIR Section 7.1.4, which discusses code provisions pertaining to the protection of birds and bird's nests, and notes it has revised the Draft Program EIR to include a discussion of Fish and Game Code Section 3513 (see Final Program EIR Section 3.7). In addition, as a point of clarification, the OHMVR Division is not proposing the disturbance or destruction of active nest sites or the unauthorized take of birds as part of the proposed Dust Control Program. Rather, Draft Program EIR Section 7.3.2, as revised by this Final EIR, describes the standard and project specific requirements the OHMVR Division has incorporated into the Dust Control Program to avoid and minimize impacts on birds and nests that could be present in and near the Program area.

Comment B9: CDFW notes that a CEQA document and subsequent environmental review should clearly identify resources in the project area and their potential to be impacted by the proposed project, analyze potential impacts as to their significance, and identify measures to reduce all potentially significant impacts to less-than-significant. CDFW recommends surveys be conducted at the appropriate time of year to determine the presence/absence, location, and abundance of sensitive plant and animal species and natural communities which may occur on the specific project site to support a complete impact analysis.

Response to Comment B9: Comment noted. CDFW does not make any species-specific recommendations regarding the Draft Program EIR, its analysis of biological resources, or measures included in the EIR to avoid and minimize potential impacts on biological resources. The Draft Program EIR contains information and measures that are consistent with CDFW Comment B9. The Draft Program EIR provides a thorough description of the biological resources present in and near the proposed Dust Control Program area (Draft Program EIR in Section 7.2) and the proposed Program's potential to impact these resources (Draft Program EIR Sections 7.3.3 to 7.3.5). Furthermore, as described in the response to CDFW Comment B4 and Comment B5, the OHMVR Division is also proposing an annual review process as part of the EIR that consists of planning, resource evaluation, agency reporting and review, and implementation phases (Draft Program EIR Section 2.4.1). The resource evaluation phase of the review process includes a requirement to conduct biological and cultural resource evaluations for specific project locations at appropriate time periods (e.g., blooming seasons), which would ensure that impacts to species at specific dust control project locations are identified and addressed

prior to implementing the project. Please refer to the response to CDFW Comment B10 for additional information on special-status plant surveys.

Comment B10: CDFW notes the Draft Program EIR identifies there is the potential for sensitive plant species to occur within the Program area and recommends botanical surveys be conducted prior to specific program activities and in accordance with protocols and guidelines developed by CDFW and USFWS.

Response to Comment B10: The Draft Program EIR contains information and measures that are consistent with CDFW Comment B10. The OHMVR Division directs CDFW to Draft Program EIR Section 7.3.2, which includes a Specific Project Requirement to minimize and/or avoid impacts to special-status plants. As part of this requirement, the OHMVR Division would perform pre-construction surveys for special-status plants. Specifically, Draft Program EIR page 7-18 states, “These surveys should be conducted during the appropriate blooming period for species that are known to or have the potential to occur in work areas, and shall follow protocols established by the USFWS, CDFW, and CNPS.” In addition, Draft Program EIR Section 7.2.2.1 summarizes information on Nipomo Mesa lupine and La Graciosa thistle, and Draft Program EIR Appendix B, Table B1 lists these species’ blooming periods consistent with the information provided by CDFW. CDFW is correct that the annual review process described in Draft Program EIR Section 2.4.1 requires the OHMVR Division to conduct resource evaluations by July 1 of each year; however, the OHMVR Division has generally revised the annual review process to provide for more flexible planning, design, and implementation stages that do not preclude surveys for special-status plants during appropriate blooming periods (see Final Program EIR Section 3.3). Nonetheless, as shown in Section 3.7 of this Final EIR, the OHMVR Division has revised the Draft Program EIR’s requirements pertaining to special-status plants to clarify when surveys should occur.

Comment B11: CDFW notes the habitat within and in the vicinity of the Program likely provides nesting habitat for shorebirds, songbirds, and raptors. CDFW encourages Program implementation to occur outside the nesting bird season, but notes that if ground-disturbing activities must occur during the breeding season the OHMVR Division is responsible for ensuring activities do not violate the Migratory Bird Treaty Act or Fish and Game Code. CDFW also recommends actions that can be taken to comply with regulations during the nesting bird season, including site-specific surveys, nest monitoring, and nest buffers.

Response to Comment B11: The Draft Program EIR contains information and measures generally consistent with CDFW’s comments. The OHMVR Division directs CDFW to Draft Program EIR Section 7.1.4, which discusses the Migratory Bird Treaty Act and Fish and Game Code provisions pertaining to the protection of birds and bird’s nests, and notes it has revised the Draft Program EIR to include a discussion of Fish and Game Code Section 3513 (see Final Program EIR Section 3.7). In addition, Draft Program EIR Section 7.3.2, as revised by this Final EIR, describes the standard and project specific requirements the OHMVR Division has incorporated into the Dust Control Program to avoid and minimize impacts on birds and nests that could be present in and near the Program area. These requirements included nest surveys, monitoring, and buffers that are similar, but not identical to those, recommended by CDFW. As shown in Section 3.7 of this Final Program EIR, the OHMVR Division has revised these measures to be consistent with CDFW’s recommendations for nest surveys, monitoring, and buffer sizes.

Comment B12: CDFW notes the Draft Program EIR identifies there is the potential for California least tern and western snowy plover to occur within the Program area. CDFW states the Draft Program EIR contains measures that will avoid impacts to nesting least terns and snowy plovers and adheres to CDFW's prior guidance regarding a minimum 300-foot-buffer be maintained around least tern and snowy plover nest sites. But CDFW also expresses concern certain Dust Control Program components such as monitoring equipment could provide perching habitat for predatory avian species that could prey on California least tern and/or western snowy plover. CDFW recommends a specific monitoring effort be developed and implemented to address potential impact and recommends immediately removing or relocating structures that are found to contribute to California least tern and western snowy plover predation.

Response to Comment B12: The Draft Program EIR contains information and measures similar in nature to CDFW's comments. Draft Program EIR Impact BIO-2 (page 7-23) includes a discussion of how monitoring equipment, including protective perimeter fence posts, wind fencing, and meteorological monitoring equipment, would provide perching habitat for predatory avian species that could prey on western snowy plover and California least tern. In addition, Draft Program EIR Section 7.3.2, as revised by this Final EIR, describes the standard and project specific requirements the OHMVR Division has incorporated into the Dust Control Program to avoid and minimize impacts on birds and nests that could be present in and near the Program area. These requirements included buffers and measures to minimize predation pressure on California least tern and western snowy plover. As shown in Section 3.7 of this Final Program EIR, the OHMVR Division has revised these measures to include the removal and/or relocation of any specific structures found to contribute to California least tern and western snowy plover predation pressure immediately, as recommended by CDFW.

Comment B13: CDFW requests the OHMVR Division report any special-status species and natural communities detected during project surveys to the California Natural Diversity Database (CNDDDB).

Response to Comment B13: Comment noted. As shown in Section 3.7 of this Final Program EIR, the OHMVR Division has added this reporting requirement to the Standard and Specific Project Requirements incorporated into the Dust Control Program to avoid and minimize impacts on potential biological resources that could be present in and near the Program area.

Comment B14: CDFW notes that a filing fee is necessary for the project.

Response to Comment B14: Comment noted. The OHMVR Division would provide all necessary filing fees if and when the OHMVR Division files a Notice of Determination with the State Clearinghouse.

Comment B15: CDFW provides concluding remarks that reiterate the information and recommendations provided in CDFW comments B4 to B13.

Response to Comment B15: Comment noted. Please see the response to CDFW Comments B4 to B13.

Comment B16: CDFW notes that they may have additional comments and recommendations regarding avoidance, minimization, and mitigation of Program impacts to habitat and special-status species depending on the results of surveys and other information collected by the OHMVR Division during implementation of the proposed Dust Control Program.

Response to Comment B16: Comment noted. As shown in Section 3.3 of this Final Program EIR, the OHMVR Division has modified the annual review process described in Draft Program EIR Section 2.4.1 to include submittal of draft and final planting and seasonal dust control plans to CDFW. This will ensure that CDFW has an opportunity to comment on potential effects of specific dust control activities.

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CALIFORNIA COASTAL COMMISSION

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**COMMENT LETTER "C"****October 4, 2016**

Ronnie Glick
Senior Environmental Scientist
California Department of Parks and Recreation
Oceano Dunes District
340 James Way, Suite 270
Pismo Beach, CA 93449

Subject: Oceano Dunes State Vehicular Recreation Area Dust Control Program Draft Program Environmental Impact Report (August 2016)

Dear Mr. Glick:

Thank you for the opportunity to provide input on the above-referenced Draft Program Environmental Impact Report (DEIR). As described in the DEIR, State Parks' Off-Highway Motor Vehicle Recreation Division (Parks) is proposing a five-year dust control program at the Oceano Dunes State Vehicular Recreation Area (ODSVRA) to address particulate matter (specifically PM10) emissions associated with activities at ODSVRA in order to comply with San Luis Obispo County Air Pollution Control District's (APCD) Rule 1001. The DEIR includes analyses of the impacts of a proposed dust control project that consists of:

1. Planting approximately 20 acres of native vegetation per year at ODSVRA.
2. Deploying approximately 40 acres of seasonal dust control measures including wind fencing, straw bales, porous roughness elements and possibly non-toxic soil stabilizers, from approximately March to September at ODSVRA.
3. Potentially planting trees downwind (i.e., inland) of ODSVRA.
4. Deploying dust and meteorological monitoring equipment at ODSVRA.
5. Preventing track-out of sand onto Grand Avenue in the City of Grover Beach and Pier Avenue in Oceano.

At the onset, we want to make it clear that we very much understand the crucial need to reduce PM10 concentrations inland of ODSVRA, and particularly in the Nipomo Mesa, to protect the health and safety of residents and visitors. As you know, we have worked very closely with Parks, the APCD, the California Air Resources Board (CARB), and other interested groups and individuals for many years to help Parks in its efforts to deal with wind-borne and other dust associated with ODSVRA, and we continue to support aggressive efforts to address this significant public health issue. We hope that these comments help to frame the debate and to move forward protective measures as much as possible in that regard. At the same time, we are

C1

also in a position to evaluate Parks' proposed dust control program pursuant to the Coastal Act because the measures proposed require a coastal development permit (CDP) application. As you are aware, that CDP application is currently waiting for materials necessary to file it as complete, including critically completing this EIR process. As part of that CDP process, the Commission will need to evaluate the impact of the proposed dust control measures on coastal resources and ensure consistency with the policies of Chapter 3 of the Coastal Act. The data, analysis, and conclusions offered in this DEIR thus provide critically important information for our future review of the CDP for the proposed project, and these comments must be understood in that regard as well.

C2

We previously provided both EIR Notice of Preparation (NOP) comments (dated January 29, 2013, see attached) and Administrative DEIR (ADEIR) comments (dated December 22, 2015, see attached). Our previous comments included a number of observations relating to important coastal resource protection issues, intended as suggestions for the framing and structure of the DEIR. We note that the DEIR addressed a few of our previous comments, but on the whole the DEIR is substantially the same as the ADEIR, and so most of our comments and observations are as relevant today as they were last December. Please see our previous attached comment letters in that regard, which are provided here as comments on this DEIR as well.

C3

Below are our comments on the DEIR.

1. Dust Control Program Objectives and APCD-approved Particulate Matter Reduction Plan (PMRP)

APCD Rule 1001 requires ODSVRA to prepare and implement an APCD-approved Particulate Matter Reduction Plan (PMRP) in order to reduce PM10 emissions consistent with the rule. On pages 1-8 the DEIR states that "In July 2013, the APCD conditionally approved the OHMVR Division's PMRP." However, it is our understanding that APCD did not approve a PMRP, but rather APCD approved the steps Parks would need to take in order to **develop** a PMRP. Thus, it is unclear whether the proposed particulate reduction measures meet APCD's requirements as specified in the Rule. As such, it is unclear if the proposed project will actually meet APCD requirements.

C4

As we indicated in our January 29, 2013 NOP comments and in our December 22, 2015 ADEIR comments, it is critical that a CEQA document correctly frame the project description and objectives, as well as the thresholds of significance. While there may be secondary objectives, it has always been our understanding that the primary objective of the project is intended to be Rule 1001 compliance. It is not clear to us whether the proposed project meets APCD's Rule 1001 requirements. The DEIR should thus revise its project description and objectives to state that Rule 1001 compliance is the primary objective, and explain how the proposed measures do or do not meet those requirements.

2. Dust Control Measures and Alternatives

The DEIR describes dust control measures to be used for reducing PM10 emissions. The DEIR proposes to plant up to 20 acres of vegetation every year over a period of five years, deploy seasonal measures (i.e., wind fencing and straw bales) over a 40-acre area, with the possibility of planting trees outside ODSVRA boundaries. The preferred program proposes to plant the majority of the vegetation outside the riding area.

We disagree with many of the DEIR's assumptions and conclusions for selecting the preferred program. The DEIR supports the preferred program because it indicates that it will result in less area being closed off to off highway vehicle (OHV) riding, not because it is scientifically best suited for compliance with Rule 1001. In fact, and as discussed further below, it has been shown that the open riding areas produce higher levels of PM10. The DEIR does not provide sufficient support for a conclusion that the preferred scenario creates the least environmental impact or is the best way to achieve compliance with Rule 1001.

C5

The DEIR dismisses other alternatives based on a variety of reasons, including economic and logistic uncertainty, failure to reduce significant recreation impacts due to OHV riding area reduction, and due to impacts on aesthetics or biological resources. We disagree that additional planting of dune vegetation is an adverse visual impact. We are also concerned that the wind fencing and straw bale measures will be of only limited effectiveness to meet project objectives. As you are aware, our staff biologist, Dr. Laurie Koteen, has been actively engaged with Parks and its consultants and other parties (like APCD and CARB) regarding applicability and utility of various dust control measures at ODSVRA, including with respect to monitoring their efficacy over time. The wind fencing and straw bale measures proposed in the DEIR program are the same as measures that Parks has already undertaken over the years, and these measures have been shown to only have moderate efficacy in preventing sand saltation inside the array, and a rapidly diminishing efficacy on PM10 control outside the arrays. In fact, their effect appears negligible, particularly as it relates to the significant problems on the Nipomo Mesa has been shown to be non-detectable. It is not clear to us that these measures will be enough to meet project objectives (see also alternatives analysis discussion below).

C6

Furthermore, the DEIR calls for only 40 acres of these seasonal wind fencing and straw bale measures. Parks has deployed these same seasonal measures at ODSVRA each of the last three years (i.e., 2014, 2015, and 2016). Past experience indicates that deploying straw bales in non-riding areas at ODVRA has led to ESHA impacts, including with respect to the difficulty of removing the straw bales seasonally. And wind fencing within the riding area has led to other concerns being expressed, including from riding enthusiasts. And, as indicated above, neither appears to have provided significant dust control relief that might help to explain how and why those types of impacts might be allowed consistent with the Coastal Act. Therefore, absent a clear showing in the DEIR that these measures have had a measurable impact on PM10 emissions, deploying these same measures at this same scale going forward does not seem likely to us to lead to meaningful PM10 reductions, particularly as it relates to the Nipomo Mesa area.

We would strongly suggest that alternative measures and combinations of measures be evaluated in the EIR. We agree with Parks that the proposed native vegetation planting is a measure that should be pursued, including as data from previous years has indicated that such planting is likely to provide the best dust control results overall. And we would also suggest that such planting areas be chosen based on their predicted ability to reduce dust problems associated with ODSVRA. That may mean that select riding areas need to be vegetated and allowed to provide a natural dust barrier. And these measures need to be coordinated directly with any tree planting areas that are proposed as well.

C7

Furthermore, it has been shown that the riding areas are the most emissive locations at ODSVRA, and that vegetation may well be the best method to capture such dust within ODSVRA. The DEIR states “Foredunes in the Dust Control Program area support mostly herbaceous vegetation adapted to blowing sand. Dune mat is the predominant native vegetation alliance in the foredunes. Dune mat is dominated by sand verbena (*Abronia* sp.) and/or beach bur (*Ambrosia chamissonis*) mixing with other perennial herbs, grasses, and low shrubs to form a low canopy.” However the DEIR goes on to state “The Dust Control Program boundary avoids the majority of the foredune habitat in the vicinity of the Program; however, this is a common habitat to the north, south and west of the Program area.” However, the DEIR does not evaluate an alternative where vegetation is planted in the foredunes as a means of compliance with Rule 1001’s mandate to reduce PM10 levels as required. In fact, it is our understanding that dune vegetation planting in the fore dune area may well result in the most effective way of reducing PM10 emissions at ODSVRA

C8

We therefore suggest that Parks evaluate an alternative in the DEIR whereby dust control measures would include planting out the foredune areas in ODSVRA as a means of developing a natural barrier/’catch’ for wind-blown sand and dust. The evaluation should be considered across the same set of evaluation criteria and assumptions applied to other alternatives, including that all such alternatives need to be evaluated in terms of their ability to reduce PM10 emissions, as well as the way in which they might modify the environment, including with respect to OHV use. We think it will be important to understand options like this as we evaluate whatever becomes Parks proposed CDP application project in the future.

C9

3. Dust and Meteorological Monitoring

Section 2.3.2.5 states that Parks would monitor the efficacy of the dust control measures. The section goes on to state “The OHMVR Division would perform monitoring on an as-needed basis during the five-year period covered by this EIR to support siting vegetation, wind fencing, and straw bale projects and evaluating the effectiveness of such projects.” However, it is not clear what Parks is proposing to do in case the data show that the dust control measures are ineffective at reducing dust or meeting Rule 1001 requirements. As we have long discussed, a major component of any successful project is going to be the ability for adaptation, and the project needs to be defend well enough that triggers for adaptation can be explicitly identified. Such triggers are going to need to be a major component of any CDP here, and we would

C10

strongly suggest that the DEIR be supplemented with an entire adaptation strategy, complete with specific triggers for adaptation related to monitoring data..

C10

4. Recreational Impacts Analysis

The DEIR identifies a threshold of significance where a significant impact would occur if the project would “Substantially limit, reduce, or interfere with established coastal recreational opportunities at Oceano Dunes SVRA.” The DEIR indicates that the proposed dust control measures will permanently or temporarily close off between 5.3 to 7.7 percent of the available riding area. The DEIR goes on to state that whether this amount of loss is significant or not is a subjective measure, stating “While these percentage values may not seem large in and of themselves, any permanent or temporary loss of OHV recreation lands at Oceano Dunes SVRA is important given the site’s history, popularity, and unique coastal recreational opportunities, plus the lack of similar facilities in the state.” Further, the DEIR finds that the project may not be consistent with the Coastal Act (PRC sections 30210, 30213, and 30223) since “the proposed Dust Control Program could conflict with the California Coastal Act because the preferred Dust Control Program scenario would impact 78 acres of coastal OHV recreation lands, and the alternate program scenario does not maximize existing, historical, and traditional coastal OHV recreational opportunities at Oceano Dunes SVRA.”

C11

As you are aware, we are strong supporters of coastal recreation, and can clearly understand Parks intent in this regard. However, it is premature to draw Coastal Act conclusions, even preliminary conclusions, and it is not the DEIR’s role to draw them. The DEIR needs to identify the impacts associated with the proposed project and alternatives to it. That is its purpose. It is the Coastal Commission’s role to draw Coastal Act conclusions regarding that data. We would strongly suggest that such Coastal Act conclusions be eliminated, particularly any that rely on a threshold of significance designed to disallow any reduction of OHV riding area. Yes, any such reduction has its own impacts that must be understood, and it is the role of the DEIR to identify such impacts, but the evaluation of the appropriate balance between sometime competing coastal resource values associated with a CDP application under the Coastal Act is the Commission’s role. This DEIR needs to provide clear identification of such impacts for analysis, and then the Commission will evaluate them in the CDP applicaiton. Please modify the DEIR accordingly. In addition, the DEIR calls out OHV riding as a coastal dependent activity. As we previously indicated in our comments to you (see attached), OHV riding is not coastal dependent. The definition of a “Coastal-dependent development or use” includes any development or use which **requires a site on, or adjacent to, the sea to be able to function at all**” (Coastal Act Section 30101). While there are some recreational activities that could constitute coastal-dependent activities at ODSVRA (e.g., surfing, surf fishing, ocean swimming, kite boarding, kayaking, etc.), OHV use and camping are not two of them. OHV riding is not dependent on a site near the ocean, nor is camping. In fact, many OHV areas and campgrounds exist inland, negating them being able to be called coastal-dependent. The fact the ODSVRA currently provides for such uses does not mean that the uses are coastal-dependent as that term is defined and understood per

C12

the Coastal Act. It would be inaccurate for the DEIR to represent as much, and all references and analyses in the DEIR need to be corrected in that respect.

C12

5. Dust Control Measure Siting Considerations

Parks cites a number of factors that influence the project's proposed dust control siting. These factors include Rule 1001 compliance, and resource and recreation management considerations. The project envelope and location of proposed dust control measures is shown in DEIR figures 2-8 and 2-9.

The DEIR proposes to exclude vegetation planting within approximately 1,100 feet (in the vicinity of marker posts 4 and 5) to 1,500 feet (in the vicinity of marker post 7) of the mean high tide line, in part because that is where snowy plover and California least tern nesting activity takes place. The DEIR cites Stanzel at al. 1981¹ in support of the project vis-à-vis western snowy plover nesting locations. In the study the researchers found that nests are usually found within 100 feet of the water. However the DEIR points out that within ODSVRA snowy plover nesting occurs hundreds of feet away from the water. None the less, the program's western boundary is over 1,000 feet eastward of the water. It's not clear planting vegetation in a portion of the foredunes would interfere with plover nesting sites. Please supplement the DEIR analysis with additional information on nesting needs, particularly in relation to the effect of potential vegetation planting as it relates to the foredune areas (see also above).

C13

6. Program Description.

The DEIR describes the program area as a 690 acre tract of land where dust control measures would be deployed. However, the DEIR then ascribes almost 113-acres for dust control. It seems misleading to us to describe the proposed program this way. Please refine and update the acreage description to account for the various types of uses within the park (e.g., riding and non-riding areas) and their relation to the proposed project.

C14

In sum, we believe that the DEIR needs to be significantly updated to serve the needs of the Commission related to Parks pending CDP application. As an overall matter, we believe that the project description and objectives need to be clarified and refined specific to Rule 1001 requirements, and the chosen dust control measures and adaptation program for them more clearly defined. Furthermore, we strongly suggest alternatives that lead to a reestablishment of the vegetated foredunes be evaluated in the DEIR. Our attached ADEIR comments provide additional definition on these points and should be consulted as you move forward with the DIER and the CEQA process.

C15

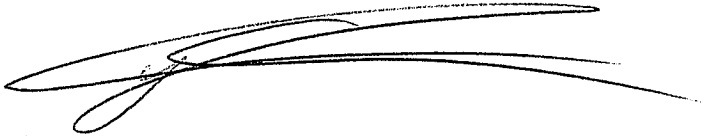
¹ Stenzel, L.E., Peaslee, S.C., Page, G.W., 1981. The Breeding Status of the Snowy Plover in California. II. Mainland Coast. Western Birds 12, 6-16.

As you are aware, we have long worked very closely with Parks on their dust control efforts over the years, and we hope to continue to do so moving forward. In particular, we very much want to do what we can to help you complete this DEIR process so as to allow for the Commission to review and decide on the required CDP application to implement the program. In addition, we also want these efforts to dovetail as much as possible with the schedule re-review of the ODSVRA CDP. Mostly, though, we want to help Parks as it deals with this significant public health issue at ODSVRA. The sooner we can provide effective tools to abate wind-borne and other dust associated with ODSVRA the better. We know Parks shares this sentiment, and we stand ready to help. Please do not hesitate to contact me if you have any questions or would like to discuss the DEIR, the upcoming re-review, the CDP application, or all of the above.

C16

Sincerely,

Yair Chaver
Coastal Planner
Central Coast District Office



Attachments:

- Dust Control Project NOP comments dated January 29, 2013
- Dust Control Project ADEIR comments dated December 22, 2015

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4.3 RESPONSE TO COMMENTS FROM THE CALIFORNIA COASTAL COMMISSION

The OHMVR Division received 16 comments from Yair Chaver, Coastal Planner, California Coastal Commission, Central Coast District. In general, these comments pertain to the Draft Program EIR's project description, objectives, discussion of consistency with the Coastal Act, and alternatives analysis.

Comment C1: The CCC summarizes the proposed Program and notes it understands the crucial need to reduce PM10 concentrations inland of Oceano Dunes SVRA and supports aggressive efforts to address this issue.

Response to Comment C1: The CCC's summary of the proposed Dust Control Program is accurate.

Comment C2: The CCC notes the OHMVR Division's Coastal Development Permit application submitted for the proposed Dust Control Program is incomplete, and that as part of the CDP process, the CCC will need to evaluate the impact of the proposed Program on coastal resources and ensure consistency with the policies of Chapter 3 of the California Coastal Act.

Response to Comment C2: Section 1.4.2 of the Draft Program EIR identifies that the OHMVR Division has applied for a Master CDP from the CCC, Central Coast District (CDP Application #3-12-050). In addition, Section 2.6 of the Draft Program EIR indicates a CDP is required for the Program to be implemented and identifies the CCC as a responsible agency under CEQA. Furthermore, the Draft Program EIR explains (page 5-1) the proposed Program is subject to a consolidated CDP process by which the CCC will act upon the OHMVR Division's CDP application. Under this process, the standard of review is Chapter 3, Coastal Resources Planning and Management Policies, of the Coastal Act. The OHMVR Division directs the CCC to the Draft EIR's discussion of the Program's consistency with the Coastal Act's planning and management policies on pages 5-4 to 5-11 (Draft EIR Table 5-1) and pages 5-15 to 5-18 (Draft EIR Impact LUP-2). The OHMVR Division's CDP application and the proposed Program's consistency with the Coastal Act is ultimately subject to the jurisdiction and authority of the CCC. Accordingly, the Draft EIR states (page 5-18), "the CCC may determine the Dust Control Program, as described in this EIR, is consistent with the Coastal Act and/or impose additional conformance on the Program as necessary to support its issuance of a CDP and the Program's conformance with the Coastal Act." Refer also to the response to CCC Comment C9 and C11 below for additional information on this issue.

Comment C3: The CCC notes it previously provided comments on the OHMVR Division's February 2015 Revised Notice of Preparation of an EIR, as well as a December 2015 Administrative Draft version of the EIR. The CCC indicates the 2016 Draft Program EIR addressed only a few of the CCC's previous comments pertaining to important coastal resource protection issues, and provides the same comment letters again for the OHMVR Division's consideration.

Response to Comment C3: The CCC does not specifically identify which of its previously submitted comments pertaining to important coastal resource protection issues were not addressed in the EIR. The OHMVR Division, therefore, cannot provide a specific, detailed response to Comment C3. Nonetheless, the OHMVR Division notes:

- The CCC has re-submitted comments dated January 29, 2013. The CCC originally submitted these January 2013 comments on the OHMVR Division's

December 2012 NOP for an EIR that was being prepared for an earlier iteration of the proposed Dust Control Program. The prior Dust Control Program, as described in 2012, was much broader (both in terms of scope and duration) than the current Dust Control Program described and evaluated in the OHMVR Division's February 2015 Revised NOP and August 2016 Draft Program EIR. Thus, the OHMVR Division does not consider comments submitted on the 2012 NOP germane to the current Draft Program EIR.

The CCC, in its March 2015 comment letter on the OHMVR Division's Revised NOP, requested the Draft EIR clearly articulate Program objectives and evaluate a robust and full range of alternatives, including restrictions on OHV use and vegetating foredunes. These comments were briefly summarized and included in full in Draft Program EIR Section 3.2.1 and Appendix A, respectively. The Draft Program EIR adequately addressed all EIR scoping comments. Specifically, Section 2.1 of the Draft Program EIR clearly articulates the OHMVR Division's objectives for the proposed Dust Control Program. In addition, Draft Program EIR Chapter 12 addresses a range of reasonable alternatives to the proposed Dust Control Program, including OHV use restrictions and planting vegetation closer to shore in the form of foredunes.

- The CCC has also re-submitted comments dated December 22, 2015. These comments were submitted on an Administrative Draft version of the Draft Program EIR that was not made available for general public review⁴. In its comments, the CCC stated, "Importantly, we are not here commenting per se on the [Administrative Draft EIR] and its analyses; rather, we are trying to provide some input on its framing and structure as you finalize the [Administrative Draft EIR] . . ." The CCC generally noted that the Administrative Draft EIR's project description, objectives, thresholds of significance, and alternatives would benefit from detail and refinement, including analysis of costs and benefits of the proposed Program and clarification that OHV use and camping is not a use dependent on a site near the ocean. These comments are similar in nature to the comments the CCC submitted on the Draft Program EIR. The OHMVR Division did consider the comments provided by the CCC in December 2015 in the preparation of the Draft Program EIR, and has addressed comments regarding the EIR's project description, thresholds of significance, impact analyses, and alternatives in the responses to CCC Comments C4 through C15 below. As a point of clarification, the proposed Program applies to indirect sources of dust at Oceano Dunes SVRA only, it does not address any direct emissions sources.

Comment C4: The CCC notes that SLOAPCD Rule 1001 requires the OHMVR Division to prepare a Particulate Matter Reduction Plan (PMRP) and asserts the Draft Program EIR page 1-8 incorrectly identifies the approval status of this PMRP. The CCC also states that it is unclear if the proposed Dust Control Program will meet SLOAPCD Rule 1001 requirements, and that the Draft Program EIR should be revised to indicate Rule 1001 compliance is the primary objective of the proposed Program.

⁴ In addition to the CCC, the OHMVR Division provided this same Administrative Draft version of the Dust Control Program EIR to the CARB and SLOAPCD for review and comment.

Response to Comment C4: The CCC is incorrect when it states that the SLOAPCD did not approve a PMRP. As noted on page 1-8 of the Draft EIR, the APCO approved the OHMVR Division's PMRP in July 2013. The letter approving the PMRP states “. . . we conditionally approve the March 29, 2013 version of the [Oceano Dunes SVRA] Rule 1001 Draft PMRP, with the following exceptions and conditions: 1) Comply with the conditionally approved Monitoring Site Selection Plan. 2) Obtain Air Pollution Control Officer approval of the PM10 monitoring network required by Rule 1001.C.2.a. 3) Install and begin operation of the PM10 monitoring network by July 31, 2014” (SLOAPCD 2013). The OHMVR Division has installed the PM10 monitoring network required by Rule 1001 (see Draft EIR Table 1-2), although as shown in Section 3.3 of this Final Program EIR, the Oso Flaco Station is currently inactive. Nonetheless, the APCO's letter does, in fact, approve the OHMVR Division's PMRP.

The CCC is correct the Draft EIR does not explicitly state whether or not the proposed Dust Control Program would meet the Rule 1001 performance standard⁵. In regards to this comment, the OHMVR Division notes:

- Both the February 2015 Revised NOP (page 3) and the August 2016 Draft Program EIR (pages 1-1, 2-1, 5-11, and 12-4), describe the proposed Program is intended, in part: 1) to control and minimize dust and particulate matter emissions produced at Oceano Dunes SVRA during strong wind conditions; and 2) to improve air quality on the Nipomo Mesa. These specific purposes are set forth in three of the nine objectives the OHMVR Division has set for the proposed Program (Draft EIR page 2-1, see objective nos. 1 – 3). As of the writing of this Final EIR (March 2017), it is not possible for the OHMVR Division, the SLOAPCD, CARB, or any other agency to definitively and conclusively identify what magnitude of dust control is necessary to achieve compliance with the Rule 1001 performance standard. The OHMVR Division directs the CCC to Section 1.1.3 of the Draft Program EIR, which summarizes the results of eight different studies that examined dust and PM generation at Oceano Dunes SVRA and which helped to form the basis for the proposed Dust Control Program. *None of these studies describe the level of dust control necessary to achieve compliance with the Rule 1001 performance standard.* Even the SLOAPCD, in its comments on the Draft Program EIR, acknowledges that the magnitude of emissions reductions, as well as the areas where mitigation will be most effective, is still being evaluated (see response to Comment D2).
- The uncertainty surrounding the magnitude of dust control measures needed to comply with the Rule 1001 performance standard is a major reason why the OHMVR Division has set forth clear *and* flexible objectives for the proposed Program (e.g., see Draft EIR page 2-1, objective 3, to “make ongoing and best possible progress toward compliance with SLOAPCD Rule 1001 performance standard”). Importantly, the clear and flexible objectives set for the proposed

⁵ The Rule 1001 performance standard is described on Draft Program EIR page 1-8: “Compliance with a performance standard that requires PM10 concentrations at the APCO-approved CDVAA [Coastal Dunes Vehicle Activity Area] Monitor to be no more than 20% higher than the PM10 concentrations at the APCO-approved control site monitor. The performance standard applies only when the 24-hour average PM10 concentrations at the approved CDVAA Monitor exceeds 55 micrograms per cubic meter.” See also Draft Program EIR Table 2-1 (on Draft Program EIR page 1-9).

Program do not preclude achieving compliance with the Rule 1001 performance standard. Furthermore, the clear and flexible objectives set for the proposed Program enable the OHMVR Division to consider a range of reasonable alternatives to the proposed Program that also make progress towards achieving compliance with the Rule 1001 performance standard. Since the level of dust control necessary to achieve compliance with the Rule 1001 performance standard is not known at this time, explicitly setting this as a Program objective may render both the proposed Program and any alternative “infeasible” from a technological, legal, and / or economic standpoint.

- The uncertainty surrounding the magnitude of dust control measures needed to comply with the Rule 1001 performance standard is also a major reason why the OHMVR Division prepared a Draft Program EIR that evaluates the environmental effects of installing *one or more* temporary or permanent dust control measures *somewhere* within an approximately 1,000-acre area (or more than one square mile) over a *multi-year time period*. As noted on page 2-1 of the Draft Program EIR (emphasis added), “In general, the proposed Dust Control Program, as called for in Rule 1001, would involve an *iterative series of dust control activities that would be evaluated and revised as necessary to meet goals set by the OHMVR Division, SLOAPCD, and CARB* which, as outlined in the Rule 1001 settlement agreement, are to ‘achieve an immediate goal of meeting the Federal PM10 standard at the monitor located on the Nipomo Mesa known as CDF and to provide ongoing progress toward achieving the State PM10 standards and meet the standards set forth in Rule 1001.’”
- As a point of clarification, the OHMVR Division has not set forth “primary” and “secondary” objectives for the proposed Dust Control Program, nor does CEQA require the OHMVR Division to do so. Although Section 2.1 of the Draft Program EIR does set forth objectives related to dust control, PM10 concentrations, and compliance with air quality standards and Rule 1001 compliance requirements first, the OHMVR Division, as CEQA lead agency, has developed objectives for the proposed Program that balance a variety of factors. The need for a CEQA lead agency to balance a variety of public objectives is expressly noted in CEQA Guidelines section 15021(d), which states, “CEQA recognizes that in determining whether and how a project should be approved, a public agency has an obligation to balance a variety of public objectives, including economic, environmental, and social factors and in particular the goal of providing a decent home and satisfying living environment for every Californian.” The objectives the OHMVR Division has set forth for the proposed Program consider the various public safety, recreation, and natural resource objectives the OHMVR Division must balance when considering whether to approve the proposed Program.

As explained above, the OHMVR Division has set forth clear and flexible objectives for the proposed Program that enable consideration of a reasonable range of alternatives, balance public safety, recreation, and natural resources considerations, and do not preclude compliance with Rule 1001. For these reasons, the Draft Program EIR’s project description and list of objectives do not require revision.

Comment C5: The CCC expresses disagreement with the Draft Program EIR’s assumptions and conclusions for “selecting” the preferred program and states that open riding areas produce higher levels of PM10.

Response to Comment C5: The CCC incorrectly characterizes the information presented in the Draft Program EIR. The OHMVR directs the CCC to Section 2.3.4 of the Draft Program EIR, which summarizes the amount of land that the proposed Dust Control Program could occupy at Oceano Dunes SVRA. This section states (emphasis added), “The OHMVR Division would configure the proposed activities to maximize dust reduction upwind of CDF and minimize permanent loss of recreation opportunities at Oceano Dunes SVRA. *The actual implementation of dust control measures and vegetation schemes would depend on several factors*, including the future PM10 concentrations at the CDF monitoring station, the results of dust control monitoring from within Oceano Dunes SVRA, existing environmental resource constraints (e.g., biological and cultural resources), and logistical issues such as seed availability and growing space; however, the OHMVR Division has identified *conceptually* preferred and alternate scenarios for *possible* implementation.” Thus, the OHMVR Division has not “selected” any implementation scenario as the CCC purports. Rather, the EIR identifies two possible scenarios for implementing the proposed Dust Control Program and notes that the actual implementation would depend on air quality conditions, resource constraints, and logistical factors.

The identification and graphical presentation (see Draft Program EIR Figures 2-8 and 2-9) of preferred and alternate Dust Control Program scenarios is intended to facilitate public understanding of the proposed Program and the OHMVR Division’s evaluation of potential environmental effects associated with the implementation of the proposed Program. As a point of clarification, Draft Program EIR Section 2.3.4 does not state the preferred scenario creates the “least environmental impact” as the CCC purports. While it is true Draft Program EIR Section 2.3.4 does state, “The alternate [Dust Control Program] scenario represents the worst-case impact to public recreation lands at Oceano Dunes SVRA,” the Draft Program EIR evaluates both the preferred (up to 78 acres) and alternate (up to 113 acres) scenarios and concludes both scenarios would result in a significant impact on coastal vehicular recreation lands.

Finally, the Draft Program EIR discloses the most current scientific information regarding the areas at Oceano Dunes SVRA that have the highest potential to generate dust and PM10 emissions and influence air quality measurements at the SLOAPCD’s CDF monitoring station. The OHMVR Division directs the CCC to Draft Program EIR pages 1-6 to 1-7, which state, “In general, the study found that potential PM10 emissions were highest within the La Grande tract. Although the study could not explain why PM10 emissivity within the La Grande tract was the highest, it did note that factors such as sand grain size, meteorology, and topography all influence PM10 emissions (both potential and actual).” The OHMVR Division also directs the CCC to Draft Program EIR page 1-7, which states, “considering all data, i.e., temporary monitoring, PI-SWERL, and particle size data, [a] picture has emerged that generally describes the spatial variability of the PM10 emissions. The PM10 emissions measured with the PI-SWERL show a pattern that is corroborated by the temporary monitoring networks, with higher PM10 measurements [in the central to northern part of the open riding and camping area], being associated with areas that the PI-SWERL measurements have identified as having higher emission potential.” Finally, the OHMVR Division directs the CCC to Draft Program EIR Section

2.3.1.1, which provides a discussion on the basis for selecting the proposed Dust Control Program area, stating, “The Program area includes most of the open sand areas in the central to northern portion of the Oceano Dunes SVRA open riding and camping area, commonly referred to as the “La Grande Tract.” SLOAPCD and OHMVR Division studies have identified this area as the area most likely influencing air quality measurements at the CDF station and air quality conditions on the Nipomo Mesa.”

Comment C6: The CCC summarizes why the Draft Program EIR “dismisses” certain alternatives, expresses disagreement that planting dune vegetation is an adverse visual impact, and expresses concern with the effectiveness and ability of the proposed dust control measures to meet program objectives.

Response to Comment C6: First, as a point of clarification, the Draft Program EIR does not simply “dismiss” certain Program alternatives. Draft Program EIR Chapter 12 includes a robust evaluation of alternatives to the proposed Program, consistent with the requirements of CEQA and the CEQA Guidelines. Section 12.1 of the Draft Program EIR provides information on how the OHMVR Division selected alternatives for consideration and evaluation in the Draft Program EIR. Section 12.2 identifies alternatives considered but rejected and, as required by CEQA, provides a brief explanation of why the alternative was rejected from further consideration. Section 12.3 of the Draft Program EIR considers two different versions of the “No Project Alternative” required by CEQA, and Section 12.4 considers an Alternate Dust Control Program recommended by the SLOAPCD. In addition, as shown in Section 3.8 of this Final Program EIR, the OHMVR Division has added an evaluation of the use of artificial wind breaks as an alternative to the proposed Dust Control Program.

Second, the CCC is correct that the Draft Program EIR concludes several alternatives are either infeasible or fail to substantially reduce and/or avoid the proposed Program’s significant recreation and land use impacts; however, the CCC is incorrect that the Draft Program EIR identifies the planting of dune vegetation as an adverse visual impact. The OHMVR Division directs the CCC to the Draft Program EIR’s discussion of Impact AES-1, which concludes the proposed Dust Control Program would not constitute a substantial and adverse change to the visual character and quality of Oceano Dunes SVRA. The OHMVR Division also directs the CCC to Draft Program EIR Chapter 12. The discussion of the SLOAPCD-recommended Alternate Dust Control Program (Draft Program EIR page 12-11) does state this alternative could result in new, potentially significant or significant and unavoidable impacts on aesthetics. But this is because the SLOAPCD-recommended alternative could more than double the amount of wind fencing installed at Oceano Dunes SVRA as compared to the proposed Program. Importantly, there is no alternative discussed in Draft Program EIR Chapter 12 in which the planting of dune vegetation is identified as an adverse visual impact.

Third, in regards to the CCC’s comments expressing concern that wind fencing and straw bales will be of “limited effectiveness” to meet project objectives, the OHMVR Division notes:

- Draft Program EIR Section 1.1.3 summarizes the results of eight different studies that examined dust and PM generation at Oceano Dunes SVRA, including an evaluation of the effectiveness of seasonal dust control measures installed at Oceano Dunes SVRA in 2015. The study found (Draft Program EIR page 1-7), “Overall, the OHMVR Division’s 2015 wind fence array reduced sand transport

within the array by 73% on average and up to 87% for areas in the interior of the array. In addition, over the three-month period the fencing was in place, the downwind concentration of PM10 at the trailing edge of the fence array was approximately 20% to 37% lower than the upwind PM10 concentration during moderate windy periods (approximately 10 to 12 miles per hour); during high wind conditions downwind concentrations were approximately 5% to 30% lower than concentrations upwind of the fence array.” Thus, the OHMVR Division disagrees with the CCC that a 73% to 87% reduction in sand transport inside the fencing array is of “moderate efficacy.” Furthermore, the studies showed up to a 37% reduction in PM10 concentrations immediately downwind of the fencing array (as compared to upwind concentrations), which is a substantial reduction when compared to open sand areas.

- The CCC characterizes wind fencing and straw bales as having a “rapidly diminishing efficacy on PM10 control outside the arrays. In fact, their effect appears negligible, particularly as it relates to the significant problems on the Nipomo Mesa” This is not new information that changes the findings of the Draft Program EIR. The CCC is directed to Draft Program EIR Section 1.1.3, as revised by Section 3.2 of this Final Program EIR, which identifies that the 2015 dust control projects may not have reduced PM10 concentrations at the SLOAPCD CDF monitoring station⁶. The OHMVR Division also notes it disagrees with this broad characterization for several reasons. First, the CCC does not provide specific evidence to support its claim; however, presuming the CCC is referring to a comparison of PM10 concentrations between the downwind edge of the 2015 fencing array and the SLOACPD’s CDF station, these two monitoring locations are separated by approximately *1.75 miles*. In other words, there are large amounts of bare sand dunes under both private and public ownership that were located between the 2015 fencing array and the SLOAPCD CDF station. Second, the CCC’s comments ignore the fact that the 2015 dust control projects achieved a 37% reduction in PM10 concentrations immediately downwind of the array, as well as the broader landscape and dune setting in which Oceano Dunes SVRA and the 2015 fencing array are located. Third, the CCC’s concerns regarding whether the 40 acres of seasonal dust control measures proposed as part of the OHMVR Division’s dust control program would be effective do not take into account the fact that these seasonal dust control measures are just one part of the proposed Dust Control Program – the OHMVR Division is also proposing to plant native dune vegetation (approximately 20 acres per year), which would also serve to reduce dust and PM10 downwind of Oceano Dunes SVRA.

Fourth, in regards to the CCC’s comments that the installation of straw bales and fencing has led to impacts in ESHA and other concerns including from riding enthusiasts, the OHMVR Division notes these observations are not new information that change the findings of the Draft Program EIR. The CCC is directed to Draft Program EIR Section 3.2.1, which explains the OHMVR Division received written EIR scoping comments

⁶ As discussed in the response to SLOAPCD Comment D5, meteorological conditions in 2015 were anomalous. Thus, although no measurable effect on PM10 concentrations at the SLOACPD CDF station were observed, the anomalous meteorological conditions that occurred at the time limit the ability to make conclusive determinations on the effectiveness of the 2015 dust control projects.

regarding potential impacts on biological resources and OHV recreation opportunities. In addition, Draft Program EIR Section 7.3.5 acknowledges Oceano Dunes SVRA is designated ESHA by the SLO County Local Coastal Program, and the location and continued presence of dust control straw bales at Oceano Dunes SVRA are described on Draft Program EIR page 2-16 (including a passing reference to a CCC's request to remove the straw bales). The OHMVR Division notes that most straw bales installed in March 2014 have subsequently become buried or broken up and used to provide cover and support the establishment of vegetation planted in the straw bale area. Thus, the removal of straw bales is unlikely. The OHMVR Division also notes Draft Program EIR Impact BIO-4 identifies that the planting of vegetation under the Dust Control Program could result in a beneficial impact to existing dune systems, which would likely offset any impacts from removal of straw bales.

Finally, the CCC states that the proposed seasonal dust control measures would not appear to "provide significant dust control relief that might help to explain how and why those types of impacts might be allowed consistent with the Coastal Act." The proposed Dust Control Program, as described in the Draft Program EIR, represents the OHMVR Division's best approach to dust control. The proposed Program is based on the latest scientific information that has been investigated and agreed upon by the OHMVR Division and CARB and can be feasibly implemented in a reasonable timeframe with available funding, staffing, and environmental, logistical, and technical resource constraints. The OHMVR Division disagrees with the CCC that that the proposed Dust Control Program would not provide significant dust relief. The proposed Program includes dust control measures that could reduce sand transport in treatment areas by 90 percent or more, as well as reduce PM10 concentrations downwind of treatment areas by up to 37%; however, the implementation of dust control measures would have significant, adverse environmental effects. The OHMVR Division, as CEQA Lead Agency, is required to balance the proposed Program's economic, legal, social, technological, and other benefits and determine if these benefits outweigh the proposed Program's adverse environmental effects. As explained in the response to CCC Comment C2, regardless of the OHMVR Division's CEQA determination, the OHMVR Division's CDP application and the proposed Program's consistency with the Coastal Act is ultimately subject to the jurisdiction and authority of the CCC.

Comment C7: The CCC suggests the EIR consider alternative measures and combinations of measures, including vegetation planting, in select riding areas that have a predicted ability to reduce dust problems.

Response to Comment C7: Comment noted. As discussed in response to Comment C6, Draft Program EIR Chapter 12 includes a robust evaluation of alternatives to the proposed Program, including: a different dust control program location (Draft Program EIR Section 12.2.1); an accelerated Dust Control Program schedule (Draft Program EIR Section 12.2.2); OHV use restrictions (Draft Program EIR Sections 12.2.3.1 and 12.2.3.2); off-site residential filtration systems (Draft Program EIR Sections 12.2.4.1 and 12.2.4.2); two versions of the No Project Alternative (Draft Program EIR Sections 12.3.1 and 12.3.2); and an alternate dust control program recommended by the SLOAPCD. In addition, as shown in Section 3.8 of this Final Program EIR, the OHMVR Division has added an evaluation of the use of artificial wind breaks as an alternative to the proposed Dust Control Program.

The CCC does not provide any specific additional alternatives for the OHMVR Division to consider, but does agree the proposed native vegetation planting is a measure that the OHMVR Division should pursue. The OHMVR Division directs the CCC to Draft Program EIR Section 2.3.2.1, which describes the proposed vegetation plantings, and Draft Program EIR Section 2.3.4, which describes that the location of the vegetation plantings would be subject to several factors, but would ultimately occur in select areas both inside and outside of the Oceano Dunes SVRA riding area.

Comment C8: The CCC states riding areas are the most emissive locations at Oceano Dunes SVRA, the Draft Program EIR does not evaluate an alternative were vegetation is planted in foredunes (i.e., closer to the ocean), and the Draft Program EIR should evaluate such an alternative.

Response to Comment C8: The CCC's comments are incorrect.

First, the CCC oversimplifies and misrepresents the dynamics of dust generation at Oceano Dunes SVRA when it states "riding areas are the most emissive locations at Oceano Dunes SVRA." This characterization ignores two significant points: 1) emissions vary throughout the dune system (both riding and non-riding areas); and 2) not all parts of the dunes have been sampled. It is true that some important tests and studies have generally concluded the highest levels of dust emission potential and PM10 concentrations occur in the central to northern portion of the Oceano Dunes SVRA open riding and camping area (i.e., the La Grande tract). The Draft Program EIR (pages 1-6 and 1-7) discloses this information (see also response to Comment C-5). But, importantly, the studies conducted to date are based largely on point estimates of emissions that have varied throughout Oceano Dunes SVRA (both in time and space). The very fact that emissivity is not constant throughout the riding and camping area, nor constantly higher in riding areas than in non-riding areas⁷, indicates other variables besides or in addition to OHV activity are influencing dust generation at Oceano Dunes SVRA.

Second, the Draft Program EIR does evaluate an alternative where vegetation is planted in foredunes. The OHMVR Division directs the CCC to the Draft Program EIR's discussion of the SLOAPCD-recommended alternate dust control program (Draft Program EIR Section 12.4). Specifically, on Draft Program EIR pages 12-10 to 12-11, the EIR states, "The alternate dust control program would still involve planting approximately 20 acres of native dune vegetation per year; however, the planting would be emphasized in areas closer to the shore and where foredunes would be expected in the

⁷ For example, Table 2 from the Desert Research Institute's July 2015 report, "2013 Intensive Wind Erodibility Measurements at and near Oceano Dunes State Vehicular Recreation Area: Preliminary Report of Findings" shows the eastern part of the Oceano Dunes SVRA open riding and camping area has an emissions potential that is similar to and in some cases lower than the Dune Preserve. Furthermore, this report notes that factors such as topography and wind gradient must be considered, and states (page 7), "For example, there appears to be a gradient in wind strength (e.g., gusts or short-term averages during high wind events) from the North to the South (Gillies and Etyemezian, 2014). This may be one of the reasons that although the potential for PM10 emissions in the riding areas is several fold (see Table 2) the potential from non-riding areas, concentrations of PM10 at Oso Flaco during high wind events are comparable to or even higher than concentrations along the La Grande riding area for the same wind storms (Gillies and Etyemezian, 2014). Refer also to the response to SLOAPCD Comment D5 (see Section 4.4 of this Final Program EIR).

absence of vehicular recreation.” The Draft Program EIR then goes on to conclude (page 12-11), “The alternate dust control program could also result in direct and/or indirect impacts on biological resources because the emphasis on planting vegetation in near-shore areas would likely modify, to some degree, USFWS-designated critical habitat for the western snowy plover (federal-listed as threatened). Planting vegetation in this critical habitat area could impact active nests by providing habitat for predators to hide and stalk nesting western snowy plovers and California least terns (federal- and state-listed as threatened). The proposed Dust Control Program largely avoids this impact by setting back the Program area at least 1,100 feet from the mean high tide line and avoiding USFWS critical habitat areas.” Thus, the Draft Program EIR has already evaluated planting vegetation closer to the ocean and no additional evaluation is necessary.

Comment C9: The CCC states it is important to understand dust control options as it evaluates “whatever becomes Parks’ proposed CDP application project in the future.”

Response to Comment C9: This comment does not pertain to a specific part of the Draft Program EIR; however, the OHMVR Division submitted a CDP application to the CCC, Central Coast District, in November 2012. The CCC has indicated the Dust Control Program EIR is an important component of that application. This Final Program EIR does not substantially revise the proposed Dust Control Program as described in the Draft Program EIR. Thus, while the OHMVR Division looks forward to continued coordination with the CCC, it does not anticipate changing its proposed Dust Control Program and CDP application at this time. Accordingly, the CCC will be considering the Dust Control Program as described in this EIR and the OHMVR Division’s CDP application.

Comment C10: The CCC states it is not clear what the OHMVR Division proposes to do if the monitoring activities show the Dust Control Program does not meet Rule 1001 requirements and suggests the Draft Program EIR include an adaptation strategy for such a scenario, complete with triggers related to monitoring data.

Response to Comment C10: While the CCC is correct that the Draft Program EIR does not outline a full and complete “adaptation strategy,” the OHMVR Division notes:

- As described in response to Comment C-4, there is uncertainty surrounding the magnitude of dust control measures needed to comply with the Rule 1001 performance standard. This uncertainty is a major reason why the OHMVR Division established clear, yet flexible objectives for the proposed Program that do not preclude achieving compliance with the rule performance standards. This uncertainty is also a major reason why the OHMVR Division prepared a Program EIR that evaluates several different types of dust control measures throughout more than one square mile of land at and near Oceano Dunes SVRA.
- The Draft Program EIR describes the proposed Dust Control Program, in part, as an “iterative series of dust control activities that would be evaluated and revised as necessary to meet goals set by the OHMVR Division, SLOAPCD, and CARB . . . (Draft Program EIR page 2-1).” Thus, the Draft Program EIR does anticipate that the relative success of the proposed Dust Control Program would be evaluated and, if necessary, revised and improved over time. Initially, the OHMVR Division anticipates such revisions would consist of changing the location of seasonal dust control measures or vegetation plantings and identifying the most effective patterns for seasonal dust control arrays (e.g., increased

density of fencing, combined porous roughness elements and fencing arrays, etc.). Thus, the proposed Program implements controls, measures success, and adapts methods based on measured results, which is the standard adaptive management approach.

- Draft Program EIR Section 2.4.1, as revised by Section 3.3 of this Final Program EIR, describes an annual review process consisting of planning, resource evaluation, agency reporting and review, and implementation steps. As part of this process, the OHMVR Division would evaluate potential projects for consistency with the Dust Control Program EIR and CDP conditions, and coordinate with the APCD on final planned activities. Thus, the annual review process allows for the OHMVR Division and other agencies to adapt the previous year's dust control strategies if and when such adaptation is determined necessary.

As explained above, the proposed dust control measures include an iterative series of activities, subject to annual review, that would involve expanded vegetation planting activities as necessary to continue to make best possible progress towards the Rule 1001 performance standard. Thus, although the Draft Program EIR does not explicitly describe an adaptation strategy, many strategies common to the adaptive management process (e.g., iterative progress, annual review) are inherently part of the proposed Program.

Comment C11: The CCC summarizes Draft Program EIR information on potential recreation impacts, states they are “strong supporters” of coastal recreation, and comments it is premature for the Draft Program EIR to draw even preliminary Coastal Act conclusions. The CCC goes on to state the Draft Program EIR needs to identify the impacts associated with the proposed program and alternatives to it, and strongly suggests the Draft Program EIR’s conclusions regarding the California Coastal Act be eliminated, particularly any conclusions that rely on a threshold of significant “designed to disallow any reduction of OHV riding area.”

Response to Comment C11: The CCC’s summary of Draft Program EIR information on potential recreation impacts is generally accurate; however, the CCC’s comments ignore the OHMVR Division’s obligation under CEQA to evaluate all potentially significant direct, indirect, and cumulative impacts of the proposed program and misinterpret the significance threshold the OHMVR Division has used to evaluate potential recreation impacts.

The OHMVR Division disagrees that it is premature for the Draft Program EIR to draw preliminary conclusions on the proposed Dust Control Program’s consistency with the Coastal Act. As described on page 1-1 of the Draft Program EIR, the OHMVR Division prepared the Draft Program EIR “to evaluate the potentially significant environmental impacts that may result from the Oceano Dunes SVRA Dust Control Program.” Accordingly, the Draft Program EIR was prepared in accordance with CEQA and the CEQA Guidelines (Draft Program EIR page 1-10), informs decision makers of the proposed Program’s potential for significant effects, including possible ways to minimize those effects, and describes reasonable alternatives to the proposed Program (see also response to Comment C2, C6, and C7). The Draft Program EIR, therefore, discloses the OHMVR Division has applied for a Master CDP from the CCC, Central Coast District (page 1-12), identifies the CCC as a CEQA responsible agency (page 2-43), and summarizes information pertaining to the legislative findings and declarations, goals, definitions, and specific development policies of the Coastal Act (Section 5.2.1). Furthermore, Draft Program EIR Section 5.3.1 clearly identifies that, according to

Appendix G of the CEQA Guidelines, the proposed program would have a significant effect on land use if it would “conflict with any plan, policy, or regulation of an agency with jurisdiction over the project . . . adopted for the purposes of avoiding or mitigating an environmental impact.” Thus, under CEQA, the OHMVR Division is required to consider the proposed Program’s consistency with the Coastal Act. This is no different than analyzing a non-coastal development project for consistency with a local general plan. While the Draft Program EIR does present the OHMVR Division’s evaluation (as CEQA Lead Agency) on the proposed Program’s consistency with the Coastal Act, the Draft Program EIR is clear that the CCC has the final determination regarding the proposed Program’s consistency with the Coastal Act. The OHMVR directs the CCC to Draft Program EIR page 5-18, which states, “The CCC may determine the Dust Control Program, as described in this EIR, is consistent with the Coastal Act and/or impose additional conditions on the Program as necessary to support its issuance of a CDP and the Program’s conformance with the Coastal Act.”

In addition, as a point of clarification, the Draft Program EIR’s evaluation of potential recreation impacts is not based on a significance threshold that is designed to “disallow any” reduction in riding area. The OHMVR Division directs the CCC to Draft Program EIR page 4-20, which states, the OHMVR Division has determined the proposed Program would have a significant impact related to recreation and public access if it would (emphasis added) “*Substantially* limit, reduce, or interfere with established coastal recreational opportunities at Oceano Dunes SVRA.” This significance threshold does not imply “any” loss or reduction in riding area is significant. Rather, it implies the loss must be substantial within the parameters defined on Draft Program EIR pages 4-20 to 4-21.

Comment C12: The CCC reiterates previous remarks that OHV riding is not coastal dependent, cites the definition of “coastal-dependent development or use” contained in Public Resources Code Section 30101, and states (emphasis added), “While there are some recreational activities that could constitute coastal dependent activities at [Oceano Dunes SVRA] (e.g., surfing, *surf* fishing, *ocean* swimming, kite boarding, kayaking, etc.), OHV use and camping are not two of them.

Response to Comment C12: The CCC is correct that the Draft Program EIR (page 4-11) states that the OHMVR Division considers beach and dune-oriented recreational opportunities to be coastal-dependent recreation activities within the context of the California Coastal Act. The OHMVR Division did not consider the Coastal Act status (i.e., coastal-dependent, coastal-related, or no status at all) of the recreational opportunities available at Pismo State Beach and Oceano Dunes SVRA as a factor in determining the significance of Draft Program EIR Impacts REC-1 and REC-2. This is because the OHMVR Division does not have jurisdiction with regards to the Coastal Act and only the CCC can determine the proposed Dust Control Program’s consistency with the Coastal Act (see also response to Comment C2). Rather, the OHMVR Division evaluated the significance of Impact REC-1 and Impact REC-2 using a combination of factors including, but not limited to, the site’s history, visitation, and ability to find similar recreational opportunities (see Draft Program EIR Section 4.3.1). The OHMVR Division also directs the CCC to Draft Program EIR page 5-18, as revised by this Final Program EIR (see Section 3.5), which acknowledges the CCC is the entity responsible for determining consistency with the Coastal Act.

As shown in Section 3.4 of this Final Program EIR, the OHMVR Division has revised the discussion on page 4-11 of the Draft EIR to indicate camping and OHV recreation at

Pismo State Beach and Oceano Dunes SVRA may not be considered coastal-dependent development by the CCC. Nonetheless, the OHMVR Division notes:

- Public Resources Code (PRC) section 5019.56 states “State recreation units consist of areas selected, developed, and operated to provide outdoor recreational opportunities . . . state recreation units may be established in the terrestrial or nonmarine aquatic (lake or stream) environments of the state . . .” In addition, pursuant to PRC Section 5019.56(a), state recreation areas consist of areas “selected and developed to provide multiple recreational opportunities to meet other than purely local needs. The areas shall be selected for their having terrain capable of withstanding extensive human impact and for their proximity to large population centers, major routes of travel, or proven recreational resources such as manmade or natural bodies of water.” Furthermore, PRC Section 5019.56(c) defines a state beach as (emphasis added), “*areas with frontage on the ocean, or bays designed to provide swimming, boating, fishing, and other beach-oriented recreational activities.*” Thus, as explained on Draft Program EIR page 4-11, categorizing beach and coastal dune camping and vehicular recreation at Pismo State Beach and Oceano Dunes SVRA as coastal-dependent would seem appropriate since, by definition, these parks provide a unique place to camp and recreate with vehicles that is not available elsewhere. In other words, beach camping requires a beach and coastal dune vehicular recreation requires a coastal dune system to be able to occur at all.
- In its comments, CCC staff provide several examples of activities that could constitute coastal-dependent recreation. The examples provided by CCC staff appear to make a clear distinction between “surf fishing” and non-surf fishing and “ocean swimming” and non-ocean swimming. This would indicate it could also be appropriate to distinguish beach camping from inland camping opportunities and coastal dune vehicular recreation from inland vehicular recreation opportunities. CCC staff also list kite boarding and kayaking as examples of coastal-dependent recreation. Both of these activities are known to occur on rivers (e.g., the Sacramento River delta) and lakes (e.g., Lake Tahoe) throughout California. Thus, it is not clear to the OHMVR Division how CCC staff consider these descriptive examples to “require a site on or adjacent to the sea to be able to function at all.”

Comment C13: The CCC summarizes Draft Program EIR information on the factors that would generally guide where the OHMVR Division could potentially plant vegetation and deploy seasonal dust control measure, notes the Draft Program EIR cites Stenzel et al. 1981 as a reference regarding western snowy plover nesting locations, and states it is not clear that planting vegetation in a portion of the foredunes would interfere with plover nesting sites. The CCC also requests the Draft Program EIR be supplemented with additional information on nesting needs, particularly as it relates to the effect of potential vegetation planting.

Response to Comment C13: Comment noted. Section 2.1 of this Final EIR provides additional information on western snowy plover and California least tern nesting requirements, including as it relates to the effect of potential vegetation planting. As stated in the Draft Program EIR Section 7.2.2.2 (pages 7-14 and 7-15), the Program area would avoid any active western snowy plover and California least tern nesting areas. See also the response to Friends of Oceano Dunes Comment K65 in Section 4.11 of this Final Program EIR.

Comment C14: The CCC notes the Draft Program EIR describes the proposed Dust Control Program area as a 690-acre tract of land, of which 113 acres is “ascribed” for dust control. The CCC states it is “misleading” to describe the proposed Dust Control Program this way and requests the OHMVR Division refine and update the acreage description to account for various types of uses within the park, such as riding and non-riding areas, and their relation to the proposed Program.

Response to Comment C14: Comment noted. The CCC does not specifically state what is “misleading” about the Draft Program EIR’s project description (Draft Program EIR Chapter 2). The Draft Program EIR clearly articulates the proposed Dust Control Program area, features, and implementation scenarios. The OHMVR directs the CCC to Draft Program EIR Section 2.2, which provides an overview of Oceano Dunes SVRA and Pismo State Beach. Specifically, information on recreational opportunities, including the size (in acres) and location of riding and non-riding areas is discussed in Draft Program EIR Section 2.2.4, presented in Draft Program EIR Table 2-1, and depicted graphically in Draft Program EIR Figures 2-2 and 2-5. Furthermore, Draft Program EIR Section 2.3.1 describes the proposed Dust Control Program area (845 acres total), and Draft Program EIR Section 2.3.4 and Table 2-3 discuss the potential changes in land use / land occupancy within the Dust Control Program area that could under the proposed Program.

Comment C15: The CCC states it believes the Draft Program EIR needs to be significantly updated to serve the needs of the CCC related to the OHMVR Division’s pending CDP application, specifically the Draft Program EIR’s project description, objectives, and alternatives.

Response to Comment C15: Comment noted. The OHMVR Division has previously responded to the CCC’s comments regarding the Draft Program EIR’s project description (see response to Comment C4, C5, C10, and C14), objectives (see response to Comment C4, C5, and C10), and alternatives (see response to Comment C6, C7, and C8). Comment C15 does not raise any additional, specific comments that warrant a response from the OHMVR Division.

Comment C16: The CCC notes it has worked closely with the OHMVR Division on dust control efforts and expresses a desire to continue to work with the OHMVR Division on the review of the OHMVR Division’s CDP application and to “abate wind-borne and other dust” associated with Oceano Dunes SVRA.

Response to Comment C16: Comment noted. The OHMVR Division appreciates CCC staff efforts to facilitate effective dust control projects at Oceano Dunes SVRA and looks forward to continuing to work with CCC staff on the proposed Dust Control Program’s CDP application. As a point of clarification, the proposed Program applies to indirect sources of dust at Oceano Dunes SVRA only; it does not address other dust emissions sources.



Air Pollution Control District
San Luis Obispo County

COMMENT LETTER "D"

October 3, 2016

Ronnie Glick, Senior Environmental Scientist
California Department of Parks and Recreation
Off-Highway Motor Vehicle Recreation Division, Oceano Dunes District
340 James Way, Suite 270
Pismo Beach, CA 93449

SUBJECT: Comments on the Draft Program Environmental Impact Report (State Clearinghouse #2012121008) for the Oceano Dunes State Vehicular Recreation Area Dust Control Program

Dear Mr. Glick:

This letter provides our comments on the August 2016 Draft Program Environmental Impact Report (DEIR) for the proposed Oceano Dunes State Vehicular Recreation Area (ODSVRA) Dust Control Program. Please note that most of the comments from our last letter on the February 6, 2015 Notice of Preparation (NOP) have not been addressed in this DEIR. That letter is attached for your reference and should be included and responded to as part of our current comments on this DEIR.

D1

Of most importance, the EIR does not quantify the emission reductions needed to meet the requirements of San Luis Obispo County Air Pollution Control District (APCD) Rule 1001 Particulate Matter Reduction Plan (PMRP), nor does it quantify the emission reductions the proposed measures will achieve. We realize that the modeling to quantify the emission reductions needed to meet Rule 1001 and help precisely locate the areas where mitigation will be most effective is currently being prepared with the help of the Air Resources Board. We also realize that litigation has created pressure to prepare an EIR for the temporary projects that have been occurring seasonally. With these things in mind, it is the District's position the EIR will need to be substantially revised or a subsequent EIR prepared in the near future to address the new Plan that must be developed and adopted to meet the requirements of Rule 1001 based on the modeling results. Creation of the new plan and associated environmental review must occur as soon as the modeling is completed.

D2

For this current EIR, the following issues should be addressed:

- The purpose of the project as stated on Page 1-1 is: *"to control and minimize dust and particulate matter (PM) emissions that are generated under strong wind conditions and*

D3

- *subsequently transported downwind of Oceano Dunes SVRA*. This is inconsistent with the requirements of Rule 1001, which is the primary driver for all dust mitigation projects proposed at the ODSVRA. Thus, the primary purpose of this project should be to comply with the emission reduction requirements of APCD Rule 1001. The Rule requires preparing and implementing an APCD-approved PMRP that ensures anytime the 24-hour average PM10 concentration measured downwind of the riding area exceeds 55 ug/m³, it is no more than 20% above the 24-hour average PM10 concentration measured downwind of a comparable non-riding area. The proposed 5-year project plan described in this EIR does not meet that requirement and cannot be approved by APCD. D3
- The proposed setback of 1,100 to 1,500 feet from the shoreline in the La Grande tract should be eliminated because it excludes from dust controls some of the highest particulate emission zones identified in the OHMVR Division studies listed on Page 1-6. (See Attachment 1, below) D4
- On page 1-7 under the *Dust Control Project ODSVRA 2016 (DRI 2015c)* heading, the following statement is made: *"Despite reductions immediately downwind of the fencing array, a preliminary SLOAPCD analysis has indicated that the 2015 seasonal dust control measures may not have been effective at reducing PM10 levels at the SLOAPCD's CDF station; however, this preliminary finding may due to anomalous meteorological conditions in 2015, particularly in May 2015 (Zeldin and Tupper 2015)."* e. Our findings indicated that an anomalous meteorological year with much lower wind speeds than normal was likely responsible for reducing PM10 levels at our CDF site and elsewhere on the Mesa. That finding is no longer preliminary and is documented in our 2015 Annual Air Quality Report available on our website. Please make this correction in the Final EIR. D5
- On page 1-7 the following statement is made: *"... the OHMVR Division and the SLOAPCD, together with CARB, have reached a general consensus on an approach to dust control at Oceano Dunes SVRA that is reflected in, and forms the basis for, the proposed Oceano Dunes Dust Control Program."* This statement should be deleted from the Final EIR. The OHMVR Division developed this proposed project independently as part of the NOP process, with no input from APCD or ARB. The APCD expressed its strong concerns regarding the inadequacy of this proposal in its comments on the NOP (See Attachment 2). As a result, OHMVR suggested that APCD present an alternative project for analysis in the EIR. The APCD-recommended project is described and minimally evaluated in Section 12.4 of this document. D6
- On Page 2-1, OHMVR has misinterpreted the stated goals of the Consent Decree Agreement, as defined in the phrase: *"... to achieve an immediate goal of meeting the Federal PM10 standard at the monitor located on the Nipomo Mesa known as CDF and to provide ongoing progress toward achieving the State PM10 standards and meet the standards set forth in Rule 1001."* This statement consists of 3 separate and independent clauses: to immediately attain the Federal PM10 standard; to make ongoing progress toward attaining the State PM10 standards; and **meet the standards set forth in Rule 1001**. Meeting the standards set forth D7

- in Rule 1001 will not achieve the State PM10 standards, which are substantially more stringent than the performance standard in the Rule. As such, the consent decree agreement defines compliance as “...**meet(ing) the standards set forth in Rule 1001**”, not as “ongoing and best possible progress towards compliance with SLOAPCD Rule 1001 performance standard”, as OHMVR states in Section 2.1. Thus, the goals of this project need to be redefined to describe how the project will actually comply with Rule 1001, not “ongoing progress towards compliance”.
- The DEIR identifies three potentially unavoidable significant impacts from the proposed project, each of which is based on subjective interpretation of CEQA and the California Coastal Act, as described below.

- **Impact REC 1: The Dust Control Program would limit and interfere with coastal vehicular recreation opportunities at Oceano Dunes SVRA.** This identified impact is based on OHMVR’s creation of their own significance threshold for impacts to Recreation that is found only in this document and goes beyond what is defined in the CEQA guidelines. As stated on Page 4-20, Section 4.3.1, OHMVR has created the following criterion for defining a significant impact: “In addition, the OHMVR Division has determined the project would have a significant environmental impact related to recreation and public access in the project area if it would: Substantially limit, reduce, or interfere with established coastal recreational opportunities at Oceano Dunes SVRA”. This self-defined “qualitative threshold” is then used as the basis for determining the proposed project would create a significant impact to Recreation that must be mitigated because it would temporarily or permanently reduce the size of the riding area by 78 to 113 acres (a 5.3 to 7.7% loss of riding acreage). The proposed mitigation is to move the most effective dust control measure available, the planting of vegetation, to outside the open riding and camping areas in the least emissive areas of park.

This mitigation is inconsistent with the goals of the project and the requirements of Rule 1001 and should be eliminated from consideration. No area should be excluded from consideration of dust controls without clear scientific justification that conclusively demonstrates controls in that area are not necessary to achieve the performance standard in Rule 1001.

- **Impact LUP-1: The Dust Control Program would conflict with the Pismo Dunes SVRA (now Oceano Dunes SVRA) General Development Plan and Resource Management Plan.** Impact LUP-1 identifies the loss of up to 78 to 113 acres of land inside the ODSVRA as a significant conflict with the Oceano Dunes SVRA General Development Plan and Resource Management Plan because “it would not perpetuate and enhance recreational use of OHVs in the SVRA”, one of the stated goals in that plan.¹ This subjective determination and resulting mitigation recommendation has no quantitative basis and results in focusing dust controls away from areas where they

D7

D8

D9

D10

can be most effective; this is inconsistent with the requirements of Rule 1001. This creates a conflict between the legal requirement to protect public health through compliance with Rule 1001 and the stated goal in your Plan. Thus, if the 5.3 to 7.7% reduction in riding area acreage is deemed inconsistent with your Plan, it may be necessary to update the plan to reflect the requirements of Rule 1001.

D10

- **Impact LUP-2: The Dust Control Program could conflict with the California Coastal Act.** The California Coastal Act defines “coastal-dependent development or use” to mean *any development or use which requires a site on, or adjacent to, the sea to be able to function at all (PRC §30101)*. OHMVR has modified that definition in this EIR to include off-highway vehicle recreation at the ODSVRA as a coastal dependent use. This expansion of the Coastal Act definition is then used as the basis for several determinations in Chapter 5, Table 5-1 identifying the dust control project as inconsistent with Coastal Act Planning and Management Policies because it would interfere with OHV activity on the dunes. The California Coastal Commission should be asked to make a determination as to the appropriateness and applicability of OHMVR’s new interpretation and expansion of the Coastal Act definition of a coastal-dependent use.

D11

- In section 12.2.3, the EIR discusses the potential voluntarily implementation of restrictions on the acreage within Oceano Dunes SVRA open to vehicular recreation and concludes this alternative would not be as effective as vegetation or wind fencing and straw bales. While we agree that vegetation is the most effective dust control measure available by far, temporary or permanent restriction of some areas to riding has been documented in OHMVRs own studies to significantly reduce sand transport within those areas. The 2013 Intensive Wind Erodibility Measurements at and Near the Oceano Dunes State Vehicular Recreation Area: Report of Findings (DRI 2015a) conducted by OHMVR showed that sand transport within the snowy plover enclosure during the period closed to riding was comparable to that measured in the permanent nonriding areas, which measured 5 to 8 times less emissive for PM10 than measured in the riding areas.

D12

- In the APCD proposed Alternate Control Program discussed in Section 12.4, the same potentially significant impacts are identified as for the Proposed Project. One additional potential impact identified for the APCD proposal is the potential modification of USFWS-designated critical habitat for the western snowy plover due to recommended reestablishment of vegetated foredunes in the near shore areas of the La Grande tract. However, this same near shore area is currently subject to high density camping and significant OHV activity throughout the year. Please explain how a series of vegetated foredunes in this area would have a more significant impact on snowy plover habitat than the current use of that area.

D13

In conclusion, the proposed Project cannot be unconditionally approved by APCD as meeting the PMRP because the EIR does not show how the proposed measures are adequate to meet Rule 1001.

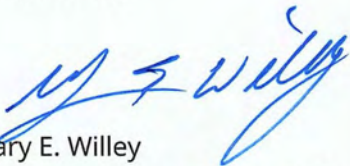
D14

Because a revised or subsequent project description and EIR will need to be drafted after the modeling is completed, we have limited the current scope of our comments to the larger issues listed above that will also need to be addressed in the new EIR.

D14

Thank you for the opportunity to provide input to this important process. Please feel free to contact me if you have any questions or need additional clarification on these comments.

Respectfully,



Gary E. Willey
Manager, Engineering and Compliance Division

GEW/lmg

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4.4 RESPONSE TO COMMENTS FROM THE SLOAPCD

The OHMVR Division received 14 comments from Gary Willey, Manager, Engineering Division, San Luis Obispo County Air Pollution Control District (SLOAPCD). In general, these comments pertain to the Draft Program EIR's project description, objectives, thresholds of significance, impact analyses, and alternatives.

Comment D1: The SLOAPCD notes it previously provided comments on the OHMVR Division's February 2015 Revised Notice of Preparation (NOP). The SLOAPCD indicates the Draft Program EIR did not address most of the SLOAPCD comments submitted on the Revised NOP, and provides the same comment letter on the Draft Program EIR.

Response to Comment D1: The SLOAPCD has re-submitted its comments on the Revised NOP prepared for the EIR dated March 9, 2015. In its comments, the SLOAPCD generally recommended: the intent of the proposed Program should be to comply with Rule 1001; the proposed Program area should not be limited unless there is scientific evidence or document for doing so; the proposed Program's dust control measures should be sufficient to achieve compliance with the Rule 1001 performance standard; the EIR should be clear on whether planting activities would be specific to dust control; the EIR should include an analysis of reestablishing vegetated foredunes at Oceano Dunes SVRA; and the EIR should evaluate the use of soil binders in near shore high emissive areas.

The SLOAPCD does not specifically identify which of its previously submitted comments were not addressed in the EIR. The OHMVR Division, therefore, cannot provide a specific, detailed response to Comment D1. Nonetheless, the OHMVR Division notes:

- The proposed Program objectives are described in Draft Program EIR Section 2.1 and include, but are not limited to, making ongoing and best possible progress towards compliance with Rule 1001. As explained in the response to CCC Comment C4 (see Section 4.3 of this Final Program EIR), it is currently not possible for the OHMVR Division or any other agency, including the SLOAPCD, to definitively and conclusively identify what magnitude of dust control is necessary to achieve compliance with the Rule 1001 performance standard. The uncertainty surrounding the magnitude of dust control measures needed to comply with the Rule 1001 performance standard is a major reason why the OHMVR Division set forth clear and flexible objectives for the proposed Program that do not preclude compliance with Rule 1001, enable consideration of a reasonable range of alternatives, and balance public safety, recreation, and natural resources considerations. Please refer to the response to SLOAPCD Comments D2 and D3 for additional information regarding this topic.
- The basis for the proposed Program area is described in Draft Program EIR Sections 1.1.3 and 2.3.1. As explained in the response to CCC Comment C5 (see Section 4.3 of this Final Program EIR), the Draft Program EIR discloses the most current scientific information regarding dust emission potential at Oceano Dunes SVRA and provides a discussion of scientific and environmental factors that provide the basis for the proposed Dust Control Program area. Please refer to the response to SLOAPCD Comments D2, D3, D4, D9, D12, and D13 for additional information regarding this topic.

- Rule 1001 is described in Draft Program EIR Section 1.1.4. As explained in the response to CCC Comment C4 (see Section 4.3 of this Final Program EIR), as well as the first bullet point above, it is currently not possible for the OHMVR Division or any other agency, including the SLOAPCD, to definitively and conclusively identify what magnitude of dust control is necessary to achieve compliance with the Rule 1001 performance standard.
- The proposed Program’s planting activities are described in Draft Program EIR Section 2.3.2.1 and are in addition to ongoing planting activities conducted by OHMVR Division staff (which are described in Draft Program EIR Section 2.2.6.1) The OHMVR Division directs the SLOAPCD to the Draft Program EIR’s discussion of cumulative impacts on page 11-4, which states, “The Dust Control Program-related activities are in addition to ongoing cultural and biological resource management at Oceano Dunes SVRA (e.g., seasonal plover enclosure, planting 15 acres of vegetation per year, expansion of cultural resources protection areas), as well other projects in the vicinity of Pismo State Beach and Oceano Dunes SVRA.”
- The establishment of foredune vegetation is evaluated in the Draft Program EIR. The OHMVR Division directs the SLOAPCD to the Draft Program EIR’s discussion of the SLOAPCD-recommended alternate dust control program (Draft Program EIR Section 12.4). Specifically, on Draft Program EIR pages 12-10 to 12-11, the EIR states, “The alternate dust control program would still involve planting approximately 20 acres of native dune vegetation per year; however, the planting would be emphasized in areas closer to the shore and where foredunes would be expected in the absence of vehicular recreation.” Please refer to also the response to SLOAPCD Comments D4, D12, and D13 for additional information on this topic.
- Soil binders are described in Draft Program EIR Section 2.3.2.4 and evaluated as necessary in Chapters 4 through 11 of the Draft Program EIR.

Comment D2: The SLOAPCD notes the EIR does not quantify the level of emission reductions needed to meet the requirements of SLOAPCD Rule 1001, nor does it quantify the emission reductions the proposed measures will achieve. The SLOAPCD states that modeling to quantify the emission reductions needed to meet Rule 1001 and help precisely located the areas where dust control measures would be most effective is “currently being prepared” with the help of CARB. Finally, the SLOAPCD notes it is the SLOAPCD’s position that the Draft Program EIR will need to be substantially revised or a subsequent EIR prepared to address the results of the modeling.

Response to Comment D2: Comment noted. The SLOAPCD is correct that the Draft Program EIR does not quantify the level of emission reductions needed to meet the requirements of SLOAPCD Rule 1001, nor does it quantify the emission reductions the proposed dust control measures would achieve. As explained in the response to CCC Comment C4 (see Section 4.3 of this Final Program EIR), it is currently not possible for the OHMVR Division or any other agency, including the SLOAPCD, to definitively and conclusively identify what magnitude of dust control is necessary to achieve compliance with the Rule 1001 performance standard. The SLOAPCD acknowledges that the OHMVR Division, the SLOAPCD, and CARB are currently in the preliminary stages of undertaking a modeling exercise that may inform the location and magnitude of dust

control measures installed at Oceano Dunes SVRA; however, as described in Section 2.2 of this Final Program EIR, this exercise is still only in its preliminary stages.

The OHMVR Division directs the SLOAPCD to page 1-11 of the Draft Program EIR, which explains the OHMVR Division is required (pursuant to CEQA) to consider subsequent dust control activities against the scope and content of the Program EIR. Specifically, page 1-11 states, “In accordance with CEQA Guidelines Section 15168(c), if dust control activities implemented later under this Program EIR are within the scope of this Program EIR, no further CEQA review is necessary. If the OHMVR Division determines the later activity would have effects that were not examined in this Program EIR, it would evaluate potential impacts under PRC Section 21166, which only requires subsequent CEQA review in certain circumstances. Any feasible mitigation measures or alternatives developed in this Program EIR must also be included in the subsequent activity.” While the OHMVR Division acknowledges that subsequent environmental review of dust control projects is required under CEQA, it is premature to speculate on the type and level of additional CEQA review that would be required to address the results of the modeling program. The OHMVR Division would review and evaluate the results of this modeling program to see if they fit within the scope of the Dust Control Program EIR when it is appropriate to do so (e.g., when the modeling is complete to the satisfaction of the OHMVR Division, SLOAPCD, and CARB).

Comment D3: The SLOAPCD cites introductory text from the Draft Program EIR and states the text is inconsistent with the requirements of Rule 1001. The SLOAPCD also states the proposed Dust Control Program does not meet the requirements of Rule 1001 and cannot be approved by the SLOAPCD.

Response to Comment D3: The OHMVR Division disagrees with the SLOAPCD’s remarks. First, the text from page 1-1 of the Draft Program EIR provides an introductory explanation of the proposed Dust Control Program that *is* consistent with Rule 1001. Specifically, Draft Program EIR page 1-1 states the proposed Dust Control Program “is intended to control and minimize dust and particulate matter (PM) emissions that are generated under strong wind conditions and subsequently transported down wind of Oceano Dunes SVRA” This description is consistent with SLOAPCD Regulation X, Fugitive Dust Emission Standards, Limitations and Prohibitions, Rule 1001, Coastal Dunes Dust Control Requirements Section C.2 , which requires the OHMVR Division to “minimize PM10 emissions for the area under the control” of the OHMVR Division.

Second, the SLOAPCD does not provide any specific facts to support its assertion that the proposed Dust Control Program does not meet the requirements of Rule 1001. As the OHMVR Division has previously noted, it is true the Draft Program EIR does not explicitly state whether or not the proposed Dust Control Program would meet the performance standard established by Rule 1001 (see the responses to CCC Comment C4 in Section 4.3 of this Final Program EIR and SLOAPCD Comment D2 above). But this is because it is not possible for the OHMVR Division or any other agency, including the SLOAPCD, to definitively and conclusively identify what magnitude of dust control is necessary to achieve compliance with the Rule 1001 performance standard. The uncertainty surrounding the magnitude of dust control measures needed to comply with the Rule 1001 performance standard is a major reason why the OHMVR Division has set forth clear and flexible objectives for the proposed Program (e.g., see Draft EIR page 2-1, objective 3, to “make ongoing and best possible progress toward compliance with SLOAPCD Rule 1001 performance standard”). Importantly, the clear and flexible

objectives set for the proposed Program do not preclude achieving compliance with the Rule 1001 performance standard, and it is possible that the planting of approximately 100 acres of vegetation and the deployment of 40 acres of wind fencing could achieve compliance with the Rule 1001 performance standard.

Finally, as a point of clarification, the Draft Program EIR does not identify the SLOAPCD as a Responsible Agency under CEQA, and the SLOAPCD has no authority to “approve” or deny the proposed Dust Control Program as described in the OHMVR Division’s EIR.

Comment D4: The SLOAPCD states the OHMVR Division’s proposed setback from the shoreline should be eliminated because it excludes some of the highest particulate emission zones identified in studies to date.

Response to Comment D4: Comment noted. The OHMVR Division, however, disagrees with the SLOAPCD for the following reasons:

- The SLOAPCD has attached Figure 5 from the report titled “2013 Intensive Wind Erodibility Measurements at and near Oceano Dunes State Vehicular Recreation Area: Preliminary Report of Findings.” This report does not constitute new information. The OHMVR Division directs the SLOAPCD to Draft Program EIR Section 1.1.3, which contains a summary of this report. Specifically, in regards to this report, the Draft Program EIR states (pages 1-6 to 1-7), “This OHMVR Division study evaluated differences in emissivity throughout Oceano Dunes SVRA and Pismo State Beach by utilizing a small, portable device that simulates wind shear on the dune surface (the Portable In-Situ Wind Erosion Lab, or PI-SWERL[®]). In general, the study found that potential PM10 emissions were highest within the La Grande tract. Although the study could not explain why PM10 emissivity within the La Grande tract was the highest, it did note that factors such as sand grain size, meteorology, and topography all influence PM10 emissions (both potential and actual).”
- The figure referenced by the SLOAPCD shows potential emissions at specific points (not areas) throughout Oceano Dunes SVRA when shear stress levels on the dune surface are equal to wind conditions of approximately 23 miles per hour. In general, brown and yellow points are less emissive and green and blue points are more emissive. The referenced figure clearly shows most, but not all, of the green and blue dots are present in the central and northern part of the SVRA. This is consistent with the information presented on page 1-7 of the Draft Program EIR, which states, “considering all data, i.e., temporary monitoring, PI-SWERL, and particle size data, [a] picture has emerged that generally describes the spatial variability of the PM10 emissions. The PM10 emissions measured with the PI-SWERL show a pattern that is corroborated by the temporary monitoring networks, with higher PM10 measurements [in the central to northern part of the open riding and camping area], being associated with areas that the PI-SWERL measurements have identified as having higher emission potential.”
- The Draft Program EIR is clear that the western boundary of the proposed Dust Control Program area is setback from the Pacific Ocean’s mean high tide line because this is the area where most beach-front recreation occurs, as well as where most western snowy plover habitat exists. As explained in more detail in Section 2.1 of this Final Program EIR, the USFWS has determined this area

contains the physical and biological features essential for the conservation of western snowy plover. Modification of this habitat could result in significant impacts to this federally-listed species and the need to obtain a permit from the USFWS.

Thus, as explained above, the OHMVR Division's proposed Dust Control Program area captures most of the area that studies have identified as having a higher emission potential and which lack known special-status species and other resources which, if impacted by the project, could require additional permitting and review requirements that would substantially delay implementation of the proposed Program. The SLOAPCD does not provide any new, specific information that requires the OHMVR Division to change the proposed Dust Control Program area.

Comment D5: The SLOAPCD requests the OHMVR Division revise text on Draft Program EIR page 1-7 to reflect findings presented in its 2015 Annual Air Quality Report.

Response to Comment D5: The SLOAPCD released its 2015 Annual Air Quality Report in September 2016, after the OHMVR Division released the Draft Program EIR (August 2016). As shown in Section 3.2 of this Final Program EIR, the OHMVR Division has revised the text on Draft Program EIR page 1-7 pertaining to the SLOAPCD analysis of 2015 meteorological conditions.

Comment D6: The SLOAPCD requests the OHMVR Division revise text on Draft Program EIR page 1-7 to reflect that the OHMVR Division developed the proposed Dust Control Program independently.

Response to Comment D6: As shown in Section 3.2 of this Final Program EIR, the OHMVR Division has revised the text on Draft Program EIR page 1-7 to reflect the SLOAPCD's request and notes:

- This comment does not raise a significant environmental point regarding the Draft Program EIR's description or evaluation of the proposed Dust Control Program.
- As a point of clarification, the text referenced by the SLOAPCD does indicate that the OHMVR Division and SLOAPCD have only reached a "general consensus" on dust control at Oceano Dunes SVRA. The SLOAPCD's recommended alternative described in Draft Program EIR Section 12.4 includes similar dust control measures (i.e., vegetation and fencing) as that proposed by the OHMVR Division, albeit in slightly different locations. Thus, there would appear to be a general consensus on the approach to dust control at Oceano Dunes SVRA regardless of whether or not the proposed Dust Control Program was developed independently by the OHMVR Division.
- The SLOAPCD states the OHMVR Division developed the proposed Dust Control Program "independently as part of the NOP process, with no input from the SLOAPCD or ARB." This statement is inaccurate. The SLOAPCD itself has noted it submitted comments on the proposed Dust Control Program during the NOP process (see Draft Program EIR Section 1.5.1, as well as the response to SLOAPCD Comment D1). In addition, as a point of clarification, the OHMVR Division provided both administrative and public draft copies of the Draft Program EIR to CARB for review, and CARB did provide comments on the administrative draft copy that are reflected in the Draft Program EIR.

Comment D7: The SLOAPCD states the OHMVR Division has misinterpreted the stated goals of the Consent Decree Agreement and states the OHMVR Division needs to redefine its goals for the proposed Dust Control Program.

Response to Comment D7: Comment noted. This comment does not raise a significant environmental point regarding the Draft Program EIR's description or evaluation of the proposed Dust Control Program.

It is not clear why the SLOAPCD states the OHMVR Division has "misinterpreted" the goals of the consent decree, which are quoted directly (i.e., not paraphrased or interpreted) on Draft Program EIR page 2-1. As a point of fact, the Rule 1001 performance standard established by the SLOAPCD (55 micrograms per cubic meter) is less stringent than the state standard (50 micrograms per cubic meter), and the Draft Program EIR does not state or contain any language that suggests compliance with the Rule 1001 performance standard would achieve state standards. In addition, the SLOAPCD states the settlement agreement "defines compliance as ' . . . meeting the standards set forth in Rule 1001.'" As a point of clarification, the settlement agreement uses the word compliance only once (Paragraph 3, subparagraph .iv), and only in reference to an annual meeting to review the status of "compliance with Federal and State PM10 standards and associated planning requirements." Thus, the settlement agreement does not define compliance as meeting the standards set forth in Rule 1001.

The SLOAPCD states the OHMVR Division needs to redefine the goals of the proposed Dust Control Program to reflect compliance with Rule 1001. The OHMVR Division has previously addressed this issue (see the responses to CCC Comment C4 in Section 4.3 of this Final Program EIR and SLOAPCD Comments D2 and D3 above). The SLOAPCD does not provide any specific facts to support its assertion that the proposed Dust Control Program does not meet the requirements of Rule 1001. It is true the Draft Program EIR does not explicitly state whether or not the proposed Dust Control Program would meet the performance standard established by Rule 1001. This is because it is not possible for the OHMVR Division or any other agency, including the SLOAPCD, to definitively and conclusively identify what magnitude of dust control is necessary to achieve compliance with the Rule 1001 performance standard. The clear and flexible objectives set for the proposed Program do not preclude achieving compliance with the Rule 1001 performance standard, and it is possible that the planting of approximately 100 acres of vegetation and the deployment of 40 acres of wind fencing would achieve compliance with the Rule 1001 performance standard. In addition, the OHMVR Division notes CARB suggested, and the OHMVR Division incorporated, that the Draft Program EIR identify making "ongoing and best possible progress" toward compliance with Rule 1001 as an objective of the proposed Program. Thus, this goal was developed in coordination with CARB.

Comment D8: The SLOAPCD states the Draft Program EIR identifies three potentially significant and unavoidable impacts based on subjective interpretation of CEQA and the California Coastal Act.

Response to Comment D8: The SLOAPCD asserts the OHMVR Division based the Draft Program EIR's significance conclusions on "subjective interpretation"; however, Comment D8 fails to define this phrase or provide any specific evidence or remarks to support this assertion. Thus, no response is warranted. Nonetheless, the OHMVR Division does direct the SLOAPCD to Draft Program EIR Section 1.2, which identifies

the OHMVR Division as CEQA Lead Agency for the Dust Control Program and notes the OHMVR Division prepared the Draft Program EIR in accordance with CEQA and the CEQA Guidelines. In addition, as a general concept, the CEQA Guidelines explain that CEQA applies to “discretionary actions,” which are situations (emphasis added) “where a governmental agency can use its *judgement* in deciding whether and how to carry out or approve a project” (CEQA Guidelines Section 15002(i)). The CEQA Guidelines further define the term “discretionary project” to mean “a project which requires the exercise of judgement or deliberation when the public agency or body decides to approve or disapprove a particular activity . . .” (CEQA Guidelines Section 15357). Thus, CEQA anticipates a lead agency will exercise its objective, independent judgement during the CEQA review process.

Comment D9: The SLOAPCD states the OHMVR Division has created its own qualitative significance threshold that goes beyond what is defined in the CEQA guidelines and results in a significant recreation impact. The SLOAPCD also states the “proposed mitigation” for Draft Program EIR Impact REC-1 is to move vegetation plantings outside the open riding and camping areas to the “least emissive areas of the park,” which is inconsistent with the goals of the proposed Program and the requirements of Rule 1001. Finally, the SLOAPCD states the OHMVR Division should not exclude any area from consideration for dust control without clear scientific justification.

Response to Comment D9: Draft Program EIR Section 4.3.1, as revised by this Final Program EIR (see Section 3.4), describes the thresholds of significance used by the OHMVR Division to evaluate whether the proposed Dust Control Program would have a significant environmental impact related to recreation and public access. The first threshold of significance is typically seen in CEQA documents because it is contained in CEQA Guidelines Appendix G (Environmental Checklist Form). The threshold is related to the increase in use of existing recreational facilities such that deterioration of the facilities would occur. As explained on page 4-19 to 4-20 of the Draft Program EIR, the Dust Control Program does not have the potential to accelerate the deterioration of existing recreational facilities because the OHMVR Division is not proposing changes to camping or visitor limits and would not induce or generate population growth.

The OHMVR Division also considered whether the proposed Dust Control Program would have a significant impact related to recreation if it would “Substantially limit, reduce, or interfere with established coastal recreational opportunities (Draft Program EIR page 4-20).” The SLOAPCD is correct this second threshold of significance was “self-defined” by the OHMVR Division for the proposed Dust Control Program. The SLOAPCD purports this threshold “goes beyond what is defined in the CEQA guidelines.” This statement is incorrect for two reasons.

- First, CEQA Guidelines Appendix G does not establish a definitive or exhaustive list of resources, impacts, or thresholds of significance that require evaluation and/or consideration under CEQA. For example, CEQA Guidelines Section 15063 (f) states (emphasis added), “*Sample forms for an applicant’s project description and a review form for use by the lead agency are contained in Appendix G and H These forms are only suggested, and public agencies are free to devise their own format for an initial study.*” In addition, CEQA Guidelines Section 15064 states, in part (emphasis added), “The determination of whether a project may have a significant effect on the environment calls for careful judgement on the part of the public agency involved, based to the extent possible on scientific and factual data. *An ironclad definition of*

significant effect is not always possible because the significance of an activity may vary with the setting.” Finally, the Environmental Checklist Form contained in Appendix G to the CEQA Guidelines states (emphasis added), “*NOTE: The following is a sample form and may be tailored to satisfy individual agencies needs and project circumstances . . . The sample questions in this form are intended to encourage thoughtful assessment of impacts, and do not necessarily represent thresholds of significance.*”⁸

- Second, the OHMVR Division determined that the temporary and / or permanent change in the allowable form (i.e., vehicular and non-vehicular activities), availability, and location of coastal recreation opportunities at Oceano Dunes SVRA that could occur with implementation of the proposed Program constituted a physical change to the recreation environment that *required* evaluation under CEQA. Accordingly, the OHMVR Division defined a project-specific threshold for the Draft Program EIR. This threshold of significance was defined after conducting research into the thresholds of significance used by other local agencies and the California Coastal Commission, and the OHMVR Division has revised the text in Draft Program EIR Section 4.3.1 to reflect this fact (see Section 3.4 of this Final Program EIR).

The SLOAPCD also purports that Mitigation Measure REC-1, specifically the requirement to plant vegetation outside the Oceano Dunes SVRA open riding and camping area “in the least emissive areas of the park,” is inconsistent with “the goals of project and the requirements of Rule 1001.” This statement is also not true for several reasons.

- First, it is not clear what “goals” the SLOAPCD references in its remarks. If this is a reference to the goals set by the Rule 1001 settlement agreement, which are quoted on page 2-1 of the Draft Program EIR, the OHMVR Division has previously responded to this topic (see the response to Comment D7 above). The proposed Program does not preclude achieving compliance with the settlement agreement or the Rule 1001 performance standard, and the SLOAPCD is directed to the responses to CCC Comment C4 in Section 4.3 of this Final Program EIR and SLOAPCD Comments D2, D3, and D7 above. If the SLOAPCD is referring to the proposed Program objectives set forth in Draft Program EIR Section 2.1, planting vegetation outside the SVRA’s open riding and camping area is entirely consistent with Program objectives.
- Second, Rule 1001 requires the OHMVR Division to “minimize PM10 emissions for the area under the control” such that compliance with the rule’s performance standard is achieved. Importantly, the rule does not prescribe where the OHMVR Division must implement any specific dust control measure and, therefore, it is inaccurate to describe the planting of vegetation outside the open riding and camping area as inconsistent with Rule 1001 requirements.

⁸ The State Courts of Appeal, Second Appellate District, in *Save Cayuma Valley v. County of Santa Barbara*. (2013, Case No. B233318) reinforced the right of a lead agency to define project-specific thresholds of significance without a formal adoption process, stating, “Although an agency must determine whether “any of the *possible* significant environmental impacts of [a] project will, in fact, be significant” (*Protect The Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1109), CEQA grants agencies discretion to develop their own thresholds of significance (CEQA Guidelines, § 15064, subd. (d)). More to the point, CEQA only requires that a threshold be formally adopted if it is for “general use”—that is, for use in evaluating significance in all future projects. (*Id.* at subd. (b).)”

- Third, it is not accurate to categorically describe the area outside the SVRA's open riding and camping area as "the least emissive areas of the park." The figure referenced in SLOAPCD Comment D4 clearly shows the southern portion of the SVRA's open riding and camping area having the same emissions potential as areas outside the open riding and camping area. In addition, the Pismo Dunes Natural Preserve is depicted as having a moderate emissions potential. Furthermore, the figure shows that most of the areas evaluated were inside the open riding and camping area; areas outside the open riding and camping area, including private lands adjacent to the northern part of the La Grande tract, have not been subject to the same level of study and analysis.

Finally, the SLOAPCD states no area should be excluded from consideration of dust controls without clear scientific justification that conclusively demonstrates controls in that area are not necessary. The SLOAPCD does not provide any specific evidence in its remarks that demonstrates those areas the OHMVR Division has excluded from the Dust Control Program area are necessary to achieve compliance with Rule 1001. In contrast, Draft Program EIR Section 1.1.3 summarizes approximately 10 studies issued since 2007 that have examined dust and PM generation at Oceano Dunes SVRA, culminating in a general understanding of the spatial variability of PM10 emissions at Oceano Dunes SVRA that shows higher PM10 measurements in the central to northern part of the SVRA's open riding and camping area. Accordingly, the OHMVR Division has developed the proposed Dust Control Program area to include "most of the open sand areas in the central to northern portion of the Oceano Dunes SVRA open riding and camping area . . . studies have identified this area as the area most likely influencing air quality measurements at the CDF station and air quality conditions on the Nipomo Mesa . . . the proposed Program area is situated in the middle of the SLOAPCD's CDF air quality forecast zone, which is the zone that experiences the worst air quality conditions during high wind and dust events" (Draft Program EIR page 2-18). Thus, the OHMVR Division has developed the proposed Program area using a robust scientific and factual data set collected over a nearly 10-year period. The OHMVR Division also notes that both its conditionally-approved PMRP and Draft Program EIR Section 2.3.3 described there are several environmental, technical, and logistical factors that guide where the OHMVR Division would plant vegetation and deploy seasonal dust control measures within the Dust Control Program area.

Comment D10: The SLOAPCD summarizes Draft Program EIR Impact LUP-1 and notes it may be necessary for the OHMVR Division to update the Oceano Dunes SVRA General Development Plan and Resource Management Plan to accommodate compliance with Rule 1001.

Response to Comment D10: Comment noted. The OHMVR Division has previously addressed the consistency of Mitigation Measure REC-1 and the proposed Dust Control Program with Rule 1001. The proposed Program does not preclude achieving compliance with the settlement agreement or the Rule 1001 performance standard, and the SLOAPCD is directed to the responses to CCC Comment C4 in Section 4.3 of this Final Program EIR and SLOAPCD Comments D2, D3, D7, and D9 above. In addition, CEQA Guidelines Section 15086(c) specifies that a public agency shall only make substantive comments regarding those activities involved in the project that are within an area of expertise of the agency (see also State Clearinghouse Comment A2). The SLOAPCD does not have expertise in matters regarding consistency with SVRA General Development and Resources Management Plans. But, as a point of clarification, the Draft

Program EIR's conclusions regarding both recreation and land use impacts are supported by a factual analysis that evaluates the loss of coastal vehicular recreation opportunities in the context of factors such as the recreational history of the SVRA, the number of visitors that could be affected by the loss in recreation opportunity, the extent to which changes in recreation opportunity would be perceptible to visitors, the availability of similar recreational opportunities, and the legislative mandate and mission of the OHMVR Division (see Draft Program EIR Section 4.3.1).

Comment D11: The SLOAPCD states the OHMVR Division has “modified” the Coastal Act definition of coastal-dependent development and notes the Coastal Commission should be asked to make a determination regarding the OHMVR's Division's interpretation of coastal dependent use.

Response to Comment D11: Comment noted. As discussed in the response to SLOAPCD Comment D10, the CEQA Guidelines specify that a public agency shall only make substantive comments regarding those activities involved in the project that are within an area of expertise of the agency. The SLOAPCD is not an agency with expertise in the interpretation of the Coastal Act. Nonetheless, for information purposes, the OHMVR Division is providing the following response to Comment D11.

As shown in Section 3.4 of this Final Program EIR, the OHMVR Division has revised the discussion on page 4-11 of the Draft EIR to indicate camping and OHV recreation at Pismo State Beach and Oceano Dunes SVRA may not be considered coastal-dependent development by the CCC. In addition, the OHMVR Division also directs the SLOAPCD to Draft Program EIR page 5-18, which acknowledges the CCC is the entity responsible for determining consistency with the Coastal Act. Please also see the response to CCC Comment C4 for additional information regarding this issue.

Comment D12: The SLOAPCD notes the Draft Program EIR concludes vehicle activity restrictions would not be as effective as vegetation or wind fencing. The SLOAPCD also states that areas subject to temporary or permanent vehicle activity restrictions have been documented to “significantly reduce sand transport” and are 5 to 8 times less emissive for PM10 than riding areas.

Response to Comment D12: Draft Program EIR Section 12.2.3, as revised by Section 3.8 of this Final Program EIR, evaluates the Reduced OHV Use Alternative, in which the OHMVR Division would voluntarily restrict the size of the area open to vehicular recreation at Oceano Dunes SVRA. The EIR, as revised, concludes this alternative would not obtain most of the basic objectives set for the proposed Program nor avoid or substantially lessen the proposed Program's significant and unavoidable impacts. Accordingly, the OHMVR Division has rejected this alternative from more detailed consideration.

The SLOAPCD does not provide a specific revision to the Draft Program EIR for the OHMVR Division to consider, nor dispute the conclusion of the EIR regarding the OHV Use Restriction Alternative. Rather, the SLOAPCD provides information regarding differences in potential PM10 emissions measured in riding and non-riding areas. Specifically the SLOAPCD references a report titled “2013 Intensive Wind Erodibility Measurements at and near Oceano Dunes State Vehicular Recreation Area: Report of Findings.” As explained in the OHMVR Divisions response to SLOAPCD Comment D4, this report does not constitute new information pertaining to scientifically conclusive findings that change the information or findings presented in the Draft Program EIR. The

OHMVR Division directs the SLOAPCD to Draft Program EIR Section 1.1.3, which contains a summary of this report. Specifically, in regards to this report, the Draft Program EIR states (page 1-7), “In general, the study found that potential PM10 emissions were highest within the La Grande tract. Although the study could not explain why PM10 emissivity within the La Grande tract was the highest, it did note that factors such as sand grain size, meteorology, and topography all influence PM10 emissions (both potential and actual).” Nonetheless, as points of clarification:

- The SLOAPCD’s remarks in Comment D12 imply that the only difference between the riding and non-riding areas studies in this report is vehicle activity when in fact this is not the case. The SLOAPCD’s remarks do not accurately describe the report’s findings. In its discussion, the report states (emphasis added), “PI-SWERL measurements have made it clear that the La Grande and South West riding areas, and to a lesser extent the East riding area, are exhibiting the potential for windblown PM10 emissions that is higher than the non-riding areas that were tested. *What these measurements do not elucidate is the cause for this elevated potential for emissions in the riding areas.*” The report also goes onto identify that actual ambient wind conditions and topography are important factors to consider in evaluating potential emissions from any particular area of the dunes
- The SLOAPCD states “sand transport within the snowy plover enclosure during the period closed to riding was comparable to that measured in permanent nonriding areas.” The SLOAPCD is generally correct that the referenced report does indicate potential PM10 emissions within the snowy plover enclosure are similar to other non-riding areas⁹; however, the referenced report and the SLOAPCD fail to acknowledge and consider the potential effect that the OHMVR Division’s nesting management protocols have on potential PM10 emissions from the plover enclosure. As described in Section 2.1 of this Final Program EIR, the OHMVR Division emplaces woody debris and other shore wrack like materials that covers sand surfaces, absorbs wind energy, and may change surface emissivity. Thus, the reason for the lower potential PM10 emissions within the nesting enclosure is still being evaluated and has not been conclusively identified.
-

Comment D13: The SLOAPCD notes the Draft Program EIR concludes the SLOAPCD’s recommended dust control program would modify USFWS-designated critical habitat for the western snowy plover and requests an explanation of how vegetated foredunes would have a more significant impact on snowy plover habitat than the current use of the area.

Response to Comment D13: As discussed in the response to SLOAPCD Comment D10, the CEQA Guidelines specify that a public agency shall only make substantive comments regarding those activities involved in the project that are within an area of expertise of the

⁹ The referenced report evaluated two areas where vehicle activity is permanently prohibited - the Pismo Dunes Natural Preserve (north of Oceano Dunes SVRA) and the SVRA’s Oso Flaco region (south of the SVRA’s open riding and camping area) - as well as one area where vehicle activity is temporarily restricted (the seasonal nesting enclosure in the central to southern part of the SVRA’s open riding and camping area). The potential PM10 emissions within the nesting enclosure were found to be lower than measured in the Dunes Preserve and higher than measured in the Oso Flaco region.

agency. The SLOAPCD is not an agency with expertise in biological resources. Nonetheless, for information purposes, the OHMVR Division is providing the following response to Comment D13.

A basic purpose of CEQA is to inform governmental decision makers and the public about the potential significant environmental effects of a proposed activity (CEQA Guidelines Section 15002(a)(1)). The CEQA Guidelines define the term “significant effect on the environment” to mean “a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project . . . (CEQA Guidelines Section 15382).” CEQA specifies that an EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, and that this environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant (CEQA Guidelines Section 15125).

With this context in mind, the Draft Program EIR, as required by CEQA, describes the physical environmental conditions at and in the vicinity of the Dust Control Program area as they existed in February 2015, which was when the OHMVR Division issued the Notice of Preparation for the EIR. These descriptions are provided generally in Chapter 2 of the Draft Program EIR, and more specifically in the individual EIR chapters that address specific resource topics, such as recreation and biological resources. As described in Draft Program EIR Section 4.2 and Section 7.2, Pismo State Beach and Oceano Dunes SVRA are very popular destinations that also happen to support several special-status species, including western snowy plover and California least tern. In particular, the parks provide nesting and breeding habitat for these two species (See Draft Program EIR Figures 2-5, 2-8, and 2-9), some of which is designated by the USFWS as critical habitat for western snowy plover.

The OHMVR Division notes that human activity at Pismo State Beach and Oceano Dunes SVRA, including vehicular and non-vehicular recreation, is part of the physical environmental conditions that constitute the EIR’s baseline. This does not mean these existing activities do not have the potential to influence the environment. But, importantly, the OHMVR Division actively manages the SVRA to enhance western snowy plover habitat and protect this species’ nest sites. For example, the Draft Program EIR explains that the OHMVR Division enhances critical habitat and installs a seasonal nesting enclosure from March 1 to September 30 each year.

The OHMVR Division has added information to the EIR that describes the USFWS designated critical habitat in near shore areas at Pismo State Beach and Oceano Dunes SVRA because, in their existing condition, they contain the physical and biological features essential to western snowy plover (see Section 2.1 of this Final Program EIR). This includes, but is not limited to, areas of sandy beach above and below the high-tide line with occasional surf-cast wrack and generally barren to sparsely vegetated terrain. The OHMVR Division has also added information to the EIR that describes the western snowy plover requirement for open (or wide) sandy beaches with sparse vegetation to facilitate early detection of predators (see Section 2.1 of this Final Program EIR). Planting vegetation in critical habitat areas would alter these essential physical and biological features. In addition, vegetation in near shore areas would reduce the amount of open areas and increase the amount of vegetation, which could increase the risk of western snowy plover predation during nesting, foraging, and/or roosting if plovers are not able to detect approaching predators. As a result, planting vegetation in the near shore

areas could result in a significant impact to western snowy plover as evaluated under CEQA.

Comment D14: The SLOAPCD notes it cannot “unconditionally approve” the proposed Dust Control Program as described in the Draft Program EIR because it does not meet the PMRP or Rule 1001. The SLOAPCD states a revised or subsequent project description and EIR will need to be prepared soon.

Response to Comment D14: Comment noted. As a point of clarification, Draft Program EIR Section 1.2 notes CEQA and the CEQA Guidelines clearly establish the OHMVR Division as the Lead Agency for the proposed Dust Control Program EIR. The SLOAPCD does not have an approval role in the OHMVR Division’s CEQA process. In addition, the SLOAPCD conditionally approved the OHMVR Division’s PMRP in July 2013, and the Draft Program EIR indicates this approved PMRP forms the basis for the proposed Dust Control Program (see Draft Program EIR Table 1-2). The SLOAPCD does not provide any specific reason in its concluding remarks why the proposed Dust Control Program does not “meet” the PMRP. Finally, the OHMVR Division has addressed the issue of subsequent environmental review in its response to SLOAPCD Comment D2. While the OHMVR Division acknowledges that subsequent environmental review of dust control projects is required under CEQA, it is premature to speculate on the type and level of additional CEQA review that would be required to address the results of the modeling program described in Section 2.2 of this Final Program EIR. The OHMVR Division would review and evaluate the results of this modeling program to see if they fit within the scope of the Dust Control Program EIR when it is appropriate to do so (e.g., when the modeling is complete to the satisfaction of the OHMVR Division, SLOAPCD, and CARB).

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COMMENT LETTER "E"

LAW OFFICES OF THOMAS D. ROTH
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August 2, 2016

By e-mail: OHVinfo@parks.ca.gov

California Department of Parks and Recreation
Ronnie Glick, Senior Environmental Scientist
Oceano Dunes District
CDPR, OHMVR Division
340 James Way, Suite 270
Pismo Beach, CA 93449
(805) 773-7180

RE: Request for Extension of Comment Period for
*Oceano Dunes SVRA Dust Control Draft Program
EIR*

Dear Mr. Glick:

This letter is a request for a 90-day extension of the public comment period for the *Oceano Dunes SVRA Dust Control Draft Program EIR* (Draft Program EIR) so that the public may exercise its right to provide meaningful comments on this important, complex, two-volume Draft Program EIR that is over 400 pages. The Notice of Availability for this Draft Program EIR was released to the public on August 2, 2016. However, it provides only 45 days for the public to read, review, analyze, and digest a Draft Program EIR that State Parks has been preparing since it issued its Notice of Preparation and Initial Study back in 2012.

E1

This firm represents Friends of Oceano Dunes ("Friends"), a non-profit corporation, representing approximately 28,000 members and users of the Oceano Dunes State Vehicular Recreation Area ("SVRA") located near Pismo Beach, California.

E2

Since 2001, Friends, as a public watchdog association, has actively reviewed and participated in agency processes concerning the oversight and development of rules, policies, plans, programs and/or proposals regarding management, critical habitat, recovery, predator management, environmental resources and issues, and conservation of species that might affect Oceano Dunes

SVRA. Friends' members are interested participants because they live near, use, recreate, visit and personally enjoy the aesthetic, wildlife and recreational resources of the dunes area, including hiking, exploring and observing wildlife and vehicular recreational opportunities. Friends has participated in management and protection of species, environmental and recreational resources, and habitat for the SVRA, and thus has both the experience and personal interest in the Draft Program EIR.

Friends requests an extension of the comment period to enable it sufficient time to read, digest and analyze the over 400-page Draft Program EIR so that it may exercise its right to a meaningful participation in this process. This is particularly important because the Notice of Availability states that the "anticipated significant environmental effects" include potentially significant impacts "related to recreation (limit and interfere with coastal vehicular recreation opportunities) and two potentially significant impacts related to land use (conflict with ... Oceano Dunes SVRA General Development Plan and Resource Management Plan and conflict with the California Coastal Act). Mitigation is proposed but impacts to recreation and land use would remain significant and unavoidable on both a program- and cumulative-level."

E2

Thank you in advance for your attention and consideration of this matter.

Sincerely,
/s/
Tom Roth
Legal Counsel for Friends of Oceano
Dunes

Cc: Jim Suty, President, Friends of Oceano Dunes

4.5 RESPONSE TO COMMENTS FROM THE LAW OFFICES OF TOM ROTH

The OHMVR Division received two comments from the Law Offices of Tom Roth, representing Friends of Oceano Dunes. These comments requested an extension of the 45-day commenting period for the Draft Program EIR.

Comment E1: Mr. Roth requests a 90-day extension of the 45-day public comment period provided for the Draft Program EIR.

Response to Comment E1: Comment noted. As explained in Section 1.1 of this Final Program EIR, on August 30, 2016, the OHMVR Division issued a Notice of Extended Public Review announcing the 45-day comment period on the Draft Program EIR, which was set to expire Friday, September 16, 2016, was extended by 17 days until October 3, 2016. This extension was intended to allow the agencies and the public additional time to submit comments on the Draft Program EIR. The OHMVR Division could not provide a 90-day extension of the public review period due to concerns regarding the EIR schedule and the need to implement dust control measures as early in the Spring 2017 windy season as feasible .

In addition, the commenter states the OHMVR Division has been preparing the Draft Program EIR since it issued a NOP and Initial Study in 2012. As explained in Section 1.1 of this Final Program EIR, the 2012 NOP and Initial Study were prepared for an earlier iteration of the Dust Control Program. Subsequent to the release of the 2012 NOP, the OHMVR Division substantially revised the Dust Control Program area and activities and reduced the duration of the Program covered by the EIR. Accordingly, the OHMVR Division issued a Revised NOP in February 2015 so that agencies and the public could have the opportunity to provide meaningful comments on the currently proposed Dust Control Program. The Revised NOP described the proposed dust control program, its location, and probable environmental effects and formed the basis for scoping comments related to the Draft Program EIR.

Comment E2: Mr. Roth states his firm represents Friends of Oceano Dunes, a large non-profit corporation representing approximately 28,0000 members and users of Oceano Dunes SVRA, notes the organization's interest and involvement in matters involving the SVRA, and reiterates the request for a 90-day extension of the Draft Program EIR's public review period. The comment period is not sufficient time "to read, digest and analyze a Draft Program EIR that State Parks has been preparing since it issued its Notice of Preparation and Initial Study back in 2012."

Response to Comment E2: Comment noted. As explained in the response to Comment E1, the public review period for the Draft Program EIR was extended by 17 days in partial accommodation of the request for extended public review.

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California State Parks
Off-Highway Motor Vehicle Recreation Division

COMMENT
LETTER "F"

Oceano Dunes SVRA Dust Control Project
August 23, 2016 EIR Scoping Meeting

Comment Card

Debbie Peterson
NAME

280 W Grand Ave #B
ADDRESS

Peterson Team Realty
ORGANIZATION / AFFILIATION

Grover Beach

Peterson Team@charter.net
E-MAIL ADDRESS

Comment: I speak as a business owner in Grover Beach + as a resident who lives + works within a block of the beach.

1) I support the planting of trees inland as they are a proven buffer against high winds + particulate + particularly in light of the county + APCD's lackadaisical approach to enforcing their ~~EIR~~ mitigations in the 1998 Woodlands EIR - by allowing hundreds of trees to be removed.

F1

2) While it may be helpful to the City of Grover Beach + those of us who live + work there, I am curious about incorporating it as a ^{particulate} ~~dust~~ control measure. My understanding from the APCD's zone map is that there is no issue w/ particulate in Grover Beach.

F2

3) I am opposed to the orange fences - they are a ~~lot~~ permanent 24/7 blight on the landscape whereas vehicles are only there during part of the day and not such an eyesore as they are transient. - Impact to aesthetics

F3

4) Please direct the APCD + Co. of SLO to be diligent in enforcement of KNOWN (Continue on back if necessary)

Thank You
OHMVR Division
and identified mitigations they put in place in the 3: 1998 EIR - construction especially (environmental monitors)

F4

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4.6 RESPONSE TO COMMENTS FROM PETERSON TEAM REALTY

The OHMVR Division received four comments from Debbie Peterson of Peterson Team Realty. In general, these comments pertain to proposed Dust Control Program area and activities.

Comment F1: Ms. Peterson supports the planting of trees inland of Oceano Dunes SVRA.

Response to Comment F1: Comment noted. Potential tree plantings are described in Draft Program EIR Section 2.3.2.3; however, as noted in this section “tree planting would be unlikely to control or minimize dust emissions during the five-year period covered by this EIR.” Draft Program EIR page 2-20 also notes the exact amount of trees that could be planted downwind of Oceano Dunes SVRA, if any, is unknown at this time.

Comment F2: Ms. Peterson requests clarification why the City of Grover Beach is included in the Dust Control Program area since the SLOAPCD has not identified Grover Beach as an area impacted by dust or PM10.

Response to Comment F2: Ms. Peterson is correct that the SLOAPCD has not identified the City of Grover Beach as an area with high dust and PM10 levels. As explained in Draft Program EIR Section 2.3.1.2, the proposed Dust Control Program area includes a small portion of Grand Avenue in the City of Grover Beach for the installation, operation, and maintenance of a track-out prevention device required by SLOAPCD Rule 1001.

Comment F3: Ms. Peterson expresses opposition to orange fencing, stating it is a permanent blight on the landscape whereas vehicles are only present part of the time.

Response to Comment F3: Comment noted. Ms. Peterson expresses an opinion that was anticipated in the Draft Program EIR’s evaluation of potential aesthetic impacts. See the discussion under Draft Program EIR Impact AES-1, which states, in part “Thus, a brightly-colored, large seasonal dust control array (such as orange wind fencing) against the dune landscape is presumed to be at least partially visible to most visitors from most areas of the SVRA for approximately seven months out of the year (March 1 to September 30) . . . The size, rectilinear design, and potential to contrast with natural dune landscape colors would make seasonal dust control measures a noticeable and distinct change to the visual character and quality of Oceano Dunes SVRA and its surroundings, much more so than Dust Control Program vegetation . . . Park visitors may or may not be highly sensitive to the visual change resulting from the deployment of seasonal dust control measures such as wind fencing and straw bales (Draft Program EIR pages 6-21 to 6-22.” Comment F3, therefore, does not represent new information that changes the findings of the Draft Program EIR. The Draft Program EIR concluded the proposed Dust Control Program’s seasonal dust control measures, including wind fencing, would not result in a substantial adverse change to the visual character and quality of Oceano Dunes SVRA due to the inclusion of Standard and Specific Project Requirements and other factors such as topography, the temporary nature of seasonal dust control measures, and the ability to take in other views.

Comment F4: Ms. Peterson requests the OHMVR Division direct SLO County and the SLOAPCD to enforce mitigation from the 1998 Woodlands Specific Plan EIR.

Response to Comment F4: The enforcement of any mitigation measures contained in the 1998 Woodlands Specific Plan EIR is outside the scope of the CEQA review of the proposed Dust Control Program and the OHMVR Division’s jurisdictional authority.

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California State Parks
Off-Highway Motor Vehicle Recreation Division

Oceano Dunes SVRA Dust Control Project
August 23, 2016 EIR Scoping Meeting

COMMENT
LETTER "G"

Comment Card

Nick Lalanne
NAME

1329 Atlantic city Ave
ADDRESS

Pismo Dune Riders President
ORGANIZATION /AFFILIATION

Grover Beach

Bass Lake@aol.com
E-MAIL ADDRESS

Comment: Sand is naturally present And so is wind
unless you are god you cannot control either.
Any Area that is closed off for dust control
measures another area of equal size should be opened
That was previously closed, An inch closed should equal
an inch opened.

G1
G2

(Continue on back if necessary)

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4.7 RESPONSE TO COMMENTS FROM PISMO DUNE RIDERS

The OHMVR Division received two comments from the Nick Lalanne, President of the Pismo Dune Riders. In general, these comments pertain to the OHMVR Division's overall approach to implementing dust control measures at Oceano Dunes SVRA.

Comment G1: Mr. Lalanne states sand and wind are natural features of the environment and thus cannot be controlled.

Response to Comment G1: Draft Program EIR Section 1.1.1 and 3.4.3 provides a brief discussion of the natural geologic and atmospheric processes that have shaped the Guadalupe-Nipomo Dune Complex.

Comment G2: Mr. Lalanne states if any area is closed off for dust control activities there should be another area equal in size that is opened.

Response to Comment G2: Mr. Lalanne does not state explicitly state that the area opened should be opened for OHV recreation. Presuming that is the case (given the commenters role as President of the Pismo Dune Riders), the OHMVR Division notes it has revised Mitigation Measure REC-1 to specify a 1:1 replacement ratio for the loss of OHV recreation lands (see Section 3.4 of this Final Program EIR). Please refer also to the OHMVR Division's response to Friends of Oceano Dunes Comment K9 for additional information on this topic.

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COMMENT LETTER "H"

From: Glick, Ronnie@Parks
To: Dugan.Christopher.cdugan@migcom.com
Subject: FW: public comment dust study
Date: Thursday, September 29, 2016 2:40:53 PM

From: Lucia Casalnuovo [mailto:luciagalore@gmail.com]
Sent: Tuesday, September 27, 2016 9:21 PM
To: Glick, Ronnie@Parks; safebeachnow@gmail.com
Subject: public comment dust study

Hello Ronnie,
Here is our comment to the dust study. Please make sure it gets published. Thank you.

The Air Pollution Control District (APCD) studies and observance of the dust plum show that the cause of the toxic dust that is a health hazard to citizens downwind of the Oceano Dunes State Vehicle Recreation Area (ODSVRA) is motor vehicles driving on and grinding the sand on the beach and dunes.

To allow the Off Highway Motor Vehicular Recreation Division (OHMVR) of California State Parks to "study" the dust issue and propose control measures is asking the fox to make sure the chicken pen is fox proof. State Parks and its OHMVR division have a monetary interest in the operation of the ODSVRA beyond our comprehension. They will do anything to keep receiving a cut of our gas tax dollars. Little wonder that this study is biased and misleading. It is a scam.

The costs of operating the ODSVRA include the health impacts on the Nipomo Mesa and Oceano beach community. Add to that the noise, the traffic, the trash left behind, and the destruction of the ecosystem of the beach, Arroyo Grande Creek, and dunes. We are paying with our health and the quality of our lives and ecosystem so that some can seek injurious and deadly thrills.

Most of the measures the study suggests have been in place for years and yet there is no evidence that they have been effective. The only new measure included is the installation of grooved concrete panels at the park's two entrances to reduce the amount of sand tracked out of the park. One is proposed for Pier Avenue, already too noisy without the noise of thousands of vehicles crossing a loud cattle guard. To suggest anything other than the closure of Pier Avenue to ODSVRA access except for emergency vehicles is ludicrous. Emergency vehicles which serve the ODSVRA and the Oceano

H1

H2

H3

beach community are greatly impeded by traffic that is routinely backed up for the entire length of Pier Avenue. The Pier Avenue ramp is a funnel for rogue waves and tempestuous high tides. The ramp has been wiped out more than once in the past. Making it wider and deeper is a threat to the Oceano beach community as global warming and sea level rise continue.

H3

There is only one effective measure to control the dust blown over the Nipomo Mesa and the Oceano beach community generated by motor vehicles driving on and grinding the sand of the beach and dunes: shut down the Oceano Dunes State Vehicle Recreation Area (ODSVRA).

H4

Lucia Casalnuovo

per Safe Beach Now

9/27/2016

4.8 RESPONSE TO COMMENTS FROM SAFE BEACH NOW

The OHMVR Division received four comments from Lucia Casalnuovo, representing Safe Beach Now. In general, these comments pertain to the health effects of dust on surrounding areas and degradation of the environment from the proposed Dust Control Program and ongoing activities at Oceano Dunes SVRA.

Comment H1: Safe Beach Now remarks SLOAPCD studies have documented Oceano Dunes SVRA is the source of dust that it is a health hazard to citizens downwind of Oceano Dunes SVRA and that the OHMVR Division has prepared a biased study.

Response to Comment H1: This comment suggests information that is consistent with the information presented in the Draft Program EIR. The OHMVR Division directs Safe Beach Now to Draft Program EIR Section 1.1.3, which summarizes the results of eight different studies that examined dust and PM generation at Oceano Dunes SVRA and which helped to form the basis for the proposed Dust Control Program, including the SLOAPCD's Phase 1, Phase 2, and Community Monitoring reports. In addition, the OHMVR Division directs Safe Beach Now to Draft Program EIR Section 1.2, which explains that CEQA and the CEQA Guidelines establish the OHMVR Division as the CEQA Lead Agency for the proposed Dust Control Program. Finally, the OHMVR Division directs Safe Beach Now to Draft Program EIR Section 1.4, which explains that the OHMVR Division has prepared an objective, informational document that contains a sufficient degree of analysis to inform decision makers about the proposed Dust Control Program's potential direct and indirect physical, environmental effects.

Comment H2: Safe Beach Now provides general remarks regarding the effects Oceano Dunes SVRA has on surrounding communities.

Response to Comment H2: Comment H2 refers to existing conditions and does not raise any specific points on the Draft Program EIR's evaluation of the proposed Dust Control Program's potential environmental impacts.

Comment H3: Safe Beach Now states the Draft Program EIR mostly proposes measures that have been previously undertaken and which have not been effective. Safe Beach Now also suggests the OHMVR Division should close Pier Avenue instead of installing grooved concrete panels, because traffic using the Pier Avenue entrance impedes emergency vehicle access and the ramp itself is a funnel for rogue waves which could worsen as sea level rises.

Response to Comment H3: First, Safe Beach Now is incorrect regarding its statement that vegetation and seasonal dust control measures are not effective. The OHMVR Division directs Safe Beach Now to Draft Program EIR Section 1.1.3, as well as Draft Program EIR Sections 2.3.2.1 and 2.3.2.2, which provide information on the demonstrated effectiveness of vegetation (90% to 99% effective) and seasonal dust control measures (40% to 70% effective on average). Second, the OHMVR Division is not proposing to close Pier Avenue, and changes in access to Pismo State Beach and Oceano Dunes SVRA are outside the scope of the Draft Program EIR. Third, Comment H3 refers to existing conditions on Pier Avenue, which the proposed Program does not change. The OHMVR Division directs Safe Beach Now to Draft Program EIR Section 4.3, which explains that the proposed Dust Control Program would have a less than significant impact on public access. Fourth, as stated on Draft Program EIR Section 2.3.2.6 and shown in Draft Program EIR Figures 2-6 and 2-7, the proposed track-out prevention

device on Pier Avenue would consist of grooved concrete panels that “would be between 50 to 125 feet in length, and would be located in the Grand Avenue and Pier Avenue roadways, potentially extending down the entrances’ sand ramps.” Thus, the installation of these panels would not substantially change the road topography or prism or exacerbate any existing or future conditions related to flooding. Finally, Safe Beach Now uses the phrase “cattle guard” to describe the track-out prevention device. This is incorrect. The OHMVR Division is not proposing the use of a cattle guard, which is typically a metal grate structure situate above a void built into the road to deter the movement of livestock across it. As explained above, the OHMVR Division is proposing the use of grooved concrete panels.

Comment H4: Safe Beach Now states the only effective measure to control dust is to shut down the Oceano Dunes SVRA.

Response to Comment H4: Comment noted. The OHMVR Division directs Safe Beach Now to Draft Program EIR Chapter 12, which includes a robust evaluation of alternatives to the proposed Program, consistent with the requirements of CEQA and the CEQA Guidelines. Specifically, Section 12.2.3 addresses alternatives that considered reduced OHV use areas, similar to that suggested by Safe Beach Now. The Draft Program EIR concludes these alternatives would not obtain the objectives the OHMVR Division has set for the proposed Dust Control Program and /or would not reduce the proposed Program’s significant environmental effects.



SIERRA CLUB

SANTA LUCIA

COMMENT LETTER "I"

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 also 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.

I1

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."

I2

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.

I2

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.”

I3

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.”

14

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.

15

Thank you for your attention to these issues,

Andrew Christie, Director
Santa Lucia Chapter of the Sierra Club
P.O. Box 15755
San Luis Obispo, CA 93406
(805) 543-8717

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4.9 RESPONSE TO COMMENTS FROM THE SIERRA CLUB

The OHMVR Division received five comments from Andrew Christie, Director of the Santa Lucia Chapter of the Sierra Club. In general, these comments are related to the Draft Program EIR's evaluation of recreation impacts, land use impacts, and alternatives.

Comment I1: The Sierra Club provides introductory remarks that state the OHMVR Division has “misread” the CEQA Guidelines with regard to the Draft Program EIR's evaluation of potential recreation and land use impacts.

Response to Comment I1: The Sierra Club's opinion does not present any specific information or evidence regarding how the OHMVR Division has “misread” the CEQA Guidelines. As described on page 1-1 of the Draft Program EIR, the OHMVR Division prepared the Draft Program EIR “to evaluate the potentially significant environmental impacts that may result from implementation of Oceano Dunes SVRA Dust Control Program.” The OHMVR Division also directs the Sierra Club to Draft Program EIR Section 1.2, which identifies the OHMVR Division as CEQA Lead Agency for the Dust Control Program and notes the OHMVR Division prepared the Draft Program EIR in accordance with CEQA and the CEQA Guidelines. In addition, as explained in the OHMVR Division's response to SLOAPCD Comments D8 and D9, CEQA anticipates a lead agency will exercise its objective, independent judgement during the CEQA review process, and CEQA does not establish a definitive or exhaustive list of resources, impacts, or thresholds of significance for evaluation and/or consideration by a lead agency.

Comment I2: The Sierra Club references Appendix G to the CEQA Guidelines and purports the Draft Program EIR's evaluation of the loss of acreage available for vehicular recreation is not an impact contemplated by CEQA.

Response to Comment I2: The Sierra Club asserts the Draft EIR identifies a type of impact that is not contemplated by CEQA but does not provide any specific evidence or information to support its assertion. In contrast, as explained in the OHMVR Division's response to SLOAPCD Comments D8, D9, and D14 (see Section 4.4 of this Final Program EIR), CEQA requires a lead agency to exercise its objective, independent judgement so that governmental decision makers and the public may be informed about the potential significant environmental effects of a proposed activity. Draft Program EIR Section 4.3.1, as revised by Section 3.4 of this Final Program EIR, describes the thresholds of significance use by the OHMVR Division to evaluate whether the proposed Dust Control Program would have a significant environmental impact related to recreation and public access. CEQA Guidelines Appendix G does not establish a definitive or exhaustive list of resources, impacts, or thresholds of significance that require evaluation and/or consideration under CEQA. The OHMVR Division determined that the temporary and / or permanent change in the allowable form (i.e., vehicular and non-vehicular activities), availability, and location of coastal recreation opportunities at Oceano Dunes SVRA that could occur with implementation of the proposed Program constituted a physical change to the recreation environment that *required* evaluation under CEQA.

Comment I3: The Sierra Club states the Draft Program EIR does not reference the fact that the Coastal Act “generally requires” the protection of coastal resources, references CCC staff and Commissioner discussions that took place with regards to Oceano Dunes SVRA CDP 4-82-300,

and concludes the OHMVR Division has distorted the purposes and intent of the Coastal Act to support its “desired” argument that the proposed Program conflicts with the Coastal Act.

Response to Comment 13: The OHMVR Division disagrees with the Sierra Club’s remarks for several reasons.

First, as a point of clarification, the Draft Program EIR does state the Coastal Act requires the protection of coastal resources. The OHMVR Division directs the Sierra Club to Draft Program EIR Section 5.1.2, which states, in part (emphasis added), “*The California Coastal Act (PRC §30000 et seq.) identifies the Coastal Zone as a valuable natural resource which should be protected from deterioration and destruction to promote public safety, health, welfare, and to protect public and private property, wildlife, marine fisheries and other ocean resources and natural environment . . . The Coastal Act ensures that existing developed uses and future developments are carefully planned and developed consistent with the policies of the Coastal Act . . . Relevant goals of the Coastal Act include protecting the overall quality of the Coastal Zone environment, assuring orderly balanced utilization and conservation of Coastal Zone resources, maximizing public access and recreational opportunities consistent with resource conservation, and giving priority to coastal-dependent and coastal-related developments over other development on the coast.* To achieve these goals, the Coastal Act sets forth specific policies that address issues including, but not limited to, shoreline public access and recreation, lower cost visitor accommodations, terrestrial and marine habitat protection, visual resources, landform alteration, agricultural lands, commercial fisheries, industrial uses, water quality, offshore oil and gas development, transportation, development design, power plants, ports, and public works.” In addition to protecting natural resources, the Coastal Act also calls for maximizing public access and recreational opportunities consistent with resource conservation needs. As explained in Section 2.1 of this Final Program EIR, the OHMVR Division undertakes a robust western snowy plover management program to enhance western snowy plover habitat and reduce predation on western snowy plover nests. Since the implementation of this management program, the OHMVR Division has observed an increase in western snowy plover individuals (i.e., number of birds) and reproductive success (i.e., fledglings per breeding male).

Second, the Sierra Club’s reference to CCC staff recommendations and Coastal Commissioner discussions in regards to CDP 4-82-300 (as amended) are not germane to the scope of the OHMVR Division’s CEQA review of the proposed Dust Control Program, and the Sierra Club does not make any specific recommendation or request pertaining to this information. Nonetheless, this is not new information that changes the Draft Program EIR. The OHMVR Division directs the Sierra Club to Draft Program EIR Section 2.2.4.2, which includes a description of CDP 4-82-300 and notes the OHMVR Division submitted its 15th annual Technical Review Team (TRT) report to the CCC in March 2016.

Finally, the Draft Program EIR does not “distort” the purpose and intent of the Coastal Act for the purposes of making a “desired argument.” As explained in the response to CCC Comments C2 and C11, the OHMVR Division is obligated under CEQA to evaluate all potentially significant direct, indirect, and cumulative impacts of the proposed program, and the OHMVR Division has exercised its objective, independent judgement in doing so. Draft Program EIR Section 5.3.1 clearly identifies that, according to Appendix G of the CEQA Guidelines, the proposed program would have a significant

effect on land use if it would “conflict with any plan, policy, or regulation of an agency with jurisdiction over the project . . . adopted for the purposes of avoiding or mitigating an environmental impact.” Thus, under CEQA, the OHMVR Division is required to consider the proposed Program’s consistency with the Coastal Act. As noted in the discussion for Draft EIR Impact LUP-2, the OHMVR Division, acting as the CEQA Lead Agency, has determined the proposed Dust Control Program could result in a significant and unavoidable conflict with the Coastal Act because it does not maximize existing, historical, and traditional coastal OHV recreation opportunities at Oceano Dunes SVRA. Regardless of this CEQA determination, the OHMVR Division’s CDP application and the proposed Program’s consistency with the Coastal Act is ultimately subject to the jurisdiction and authority of the CCC. Accordingly, the Draft EIR also notes (page 5-18), “the CCC may determine the Dust Control Program, as described in this EIR, is consistent with the Coastal Act and/or impose additional conformance on the Program as necessary to support its issuance of a CDP and the Program’s conformance with the Coastal Act.”

Comment I4: The Sierra Club references a letter from the SLOAPCD Air Pollution Control Officer to the California Coastal Commission and implies that vegetation is the most efficient measure for reducing dust emissions. The Sierra Club then asserts the Draft Program EIR engages in “vague speculation” regarding impact to USFWS-designated critical habitat, and states the OHMVR Division must analyze habitat modification that occurred due to recreational vehicle use.

Response to Comment I4: Comment noted. As described in the response to SLOAPCD Comment D13 (see Section 4.4 of this Final Program EIR), the Draft Program EIR describes the physical environmental conditions as they existed in February 2015, which was when the OHMVR Division issued the Notice of Preparation for the EIR. These descriptions are provided generally in Chapter 2 of the Draft Program EIR, and more specifically in the individual EIR chapters that address specific resource topics, such as recreation and biological resources. Recreational vehicle use at Pismo State Beach and Oceano Dunes SVRA is part of the existing environmental conditions and does not need to be analyzed in the Draft Program EIR. In addition, the OHMVR Division has added information to the EIR that describes the USFWS designated critical habitat in near shore areas at Pismo State Beach and Oceano Dunes SVRA because, in their existing condition, they contain the physical and biological features essential to western snowy plover (see Section 2.1 of this Final Program EIR). OHMVR Division has also added information to the EIR that describes impacts from planting vegetation within western snowy plover and California least tern habitat, including western snowy plover critical habitat (see Section 3.7 of this Final EIR). Planting vegetation in critical habitat/near shore areas would alter essential physical and biological features. In addition, vegetation in near shore areas would reduce the amount of open areas and increase the amount of vegetation, which could increase the risk of western snowy plover and/or California least tern predation during nesting, foraging, and/or roosting if birds are not able to detect approaching predators. As a result, planting vegetation in the near shore areas could result in a significant impact to western snowy plover and/or California least tern as evaluated under CEQA.

Comment I5: The Sierra Club states the Draft Program EIR is in need of revision and recirculation but suggests there are overriding considerations that would warrant certification of the EIR even if it is not revised.

Response to Comment 15: Comment noted. The Sierra Club does not provide a specific reason why the Draft Program EIR should be revised and / or recirculated. As explained in the responses to Sierra Club Comments I1 to I4 above, the OHMVR Division has evaluated the proposed Dust Control Program's potential recreational and land use impacts, as well as a range of reasonable alternatives to the proposed Program, in accordance with and as required by CEQA. The Draft Program EIR does not need to be recirculated. The Sierra Club correctly notes that, should the OHMVR Division decide to certify the EIR for the Dust Control Program, a statement of overriding considerations would be required because the Draft Program EIR identifies the proposed Program would result in several significant and unavoidable impacts that cannot be avoided or substantially reduced via mitigation measures or Program alternatives. Thus, the OHMVR Division would prepare and adopt a statement of overriding consideration at the time it considers certifying this Program EIR.



COMMENT LETTER "J"

California Four Wheel Drive Association, Inc.

Over 55 years advocating for recreation

The California 4 Wheel Drive Association Inc. was founded in 1959 and we are a non-profit organization that has actively promoted the advancement of vehicle oriented outdoor recreation for over 55 years.

C4WDA is a volunteer-based organization of enthusiasts who promote responsible family recreation and exercise environmental conservation for the purpose of protecting access to public lands.

C4WDA represents over 8,000 members and 160 member clubs. We are the largest organization of this type in California and represent owners of all makes and models of 4WD vehicles, as well as non-owners who support responsible vehicle-oriented recreation.

C4WDA's goal is to work with the land managers for responsible OHV access and recreation opportunities. We support the concept of managed recreation and strategies for the building and maintenance of sustainable and quality OHV recreation.

C4WDA has many members that are recreational visitors to the Oceano Dunes SVRA and are very concerned about actions that deal with the OHV recreation opportunity at Oceano Dunes SVRA.

C4WDA has read the draft EIR and is in full support of the Oceano Dunes SVRA and OHMVR Divisions plan to implement a five-year program to control and minimize emissions of dust and particulate matter that are generated at Oceano Dunes SVRA during periods of persistent winds.

C4WDA would also request that during this 5-year program the Oceano Dunes SVRA try to reduce the possible impacts to vehicular recreation opportunities caused by the implementation of the dust control measures.

C4WDA is a statewide organization with many clubs in the region around the Oceano Dunes SVRA and we ready and willing to volunteer our time and energy to help keep this important SVRA open.

C4WDA appreciates this opportunity to be involved in the public planning process on behalf of its members who enjoy recreation in the Oceano Dunes SVRA. Please contact me if you have questions or wish to discuss any aspect of these comments.

Jeff Blewett
Northern Natural Resource Consultant
ndnrc@cal4wheel.com

J1

J2

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4.10 RESPONSE TO COMMENTS FROM THE CALIFORNIA 4 WHEEL DRIVE ASSOCIATION

The OHMVR Division received two comments from Jeff Blewett, Northern Natural Resource Consultant, California 4 Wheel Drive Association, Inc. In general, these comments were in support of the proposed Dust Control Program.

Comment J1: The California 4 Wheel Drive Association Inc. provides background information on the organization and expresses support for the proposed Dust Control Program.

Response to Comment J1: Comment noted. The OHMVR Division appreciates the California 4 Wheel Drive Association's support for the proposed Program.

Comment J2: The California 4 Wheel Drive Association Inc. requests the OHMVR Division reduce possible impacts to vehicular recreation opportunities caused by the proposed Dust Control Program and states a willingness to volunteer to keep Oceano Dunes SVRA open.

Response to Comment J2: The Draft Program EIR includes feasible mitigation measures to minimize the proposed Dust Control Program's potential impacts on OHV recreation opportunities. The OHMVR Division directs the California 4 Wheel Drive Association to Draft Program EIR, Mitigation Measure REC-1, as revised by this Final Program EIR (see Section 3.4), which requires the OHMVR Division to: minimize the loss of OHV recreation opportunities by planting vegetation outside of the open riding and camping area; employ dust control measures in a manner that doesn't interfere with Sand Highway and other established paths of travel; deploy seasonal dust control measures for only part of the year; consider OHV safety in the placement of dust control measures; integrate recreational opportunities (such as educational kiosks, maintaining motorized and non-motorized trails through large blocks of continuous vegetation and embedding OHV training or vendors in dust control measures large enough to support such areas); and, identify areas to provide additional camping or OHV recreation opportunity and diligently pursue opening those areas to OHV recreation. The OHMVR appreciates the California 4 Wheel Drive Association's support for Oceano Dunes SVRA.

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By Hand Delivery

COMMENT LETTER "K"

October 3, 2016

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

RE: Comments of Friends of Oceano Dunes on State Parks' draft
Program Environmental Impact Report for the Oceano Dunes SVRA
Dust Control Project

Dear Mr. Glick:

Please find below comments of Friends of Oceano Dunes (Friends) on State Parks' draft Program Environmental Impact Report for the Oceano Dunes SVRA Dust Control Program. Friends submits these comments with the disadvantage that Parks has not yet provided documentation in response to Friends' Public Records Act request. See **Ex. 1**. This impedes Friends ability to submit all comments.

K1

1. In Section S.1.1, the EIR indicates that the Program Area consists of approximately 690 acres at Oceano Dunes SVRA. The EIR provides different acreages at different places in the document. Please clarify the exact acreage of the Program Area. Also in Section S.1.1, State Parks indicates that the dust program measures avoid U.S. Fish and Wildlife Service (FWS) – designated critical habitat for the western snowy plover. However, FWS' plover critical habitat maps show that the habitat area extends inland from the mean high tideline approximately 1,372 feet. **Ex. 2 and Ex. 3**. This indicates that the Program Area falls within the plover critical habitat area. Please provide detailed maps to scale showing the relationship between the Program Area and the plover critical habitat area.

K2
K3

2. Please clarify whether the area where additional trees may be planted downwind of Oceano Dunes SVRA falls within the Program Area.

K4

Friends of Oceano Dunes is a 501(c)(3) California Not-for-Profit Public Benefit Corporation, comprised of over 28,000 supporters. We represent environmentalists, equestrians, campers, fishermen, families and off-road enthusiasts who enjoy the benefits of Public Access through Responsible Recreation at the Oceano Dunes State Vehicular Recreation Area (ODSVRA). We want to maintain Access For All!

3. In Section S.1, State Parks indicates that it has applied for a Master Coastal Development Permit (CDP) from the California Coastal Commission (CCC) for the dust control program/project. It does not appear that the Coastal Act grants the CCC jurisdictional authority over this type of project, given that there is a certified LCP adopted by San Luis Obispo County. "After certification of its local coastal program or pursuant to the provisions of Section 30600.5, a coastal development permit shall be obtained from the local government as provided for in Section 30519 or section 30600.5." (PRC § 30600, subd. (d).) Please state all specific statutory authority that State Parks is relying on for submitting its Master CDP application to the CCC. Please also clarify what is meant by the term "master" CDP. K5

4. The EIR fails to inform the public if State Parks has had any discussions with private landowners regarding the planting of buffer trees on their property, the likelihood of reaching an agreement or the environmental consequences of such an agreement, if reached. K6

5. In Section S.1.1.4, the EIR fails to advise the public which "other agencies" must review the specific dust control activities to ensure compliance with the anticipated CDP. That section also fails to identify specific standards that State Parks would be required to comply with in the "annual review process." K7

6. On page S-4 of the EIR, State Parks fails to identify specifically "other established paths of travel in the SVRA." K8

7. On page S-4 of the EIR, State Parks fails to identify specific areas to provide additional camping or OHV recreational opportunities in order to offset the loss of OHV recreational opportunities caused by the program/project. State Parks also fails to identify a mitigation ratio, standard or guideline for offsetting the loss of OHV recreational areas caused by the program/project. K9

8. The EIR does not consider the combined impact on recreational opportunities of adding 100 acres of vegetation and the reduction of beach and foredunes due to long-term sea level rise. K10

9. The EIR does not consider the combined impact on critical habitat of the western snowy plover and on habitat for the California least tern of adding 100 acres of vegetation and the reduction of beach and foredunes due to long-term sea level rise. K11

10. On page S-5 of the EIR, State Parks calculates the anticipated percentage loss in OHV recreation lands at Oceano Dunes SVRA based on an assumption that the current riding area amounts to 1,453 acres. However, in the EIR and in numerous other planning documents, State Parks calculates wildly different acreages for the current OHV recreation area. As a result, it appears that State Parks has K12

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underestimated the percentage loss in OHV recreation lands at Oceano Dunes SVRA that will result from the project/program.

K12

11. On page S-5 of the EIR, State Parks admits that the loss of OHV recreation area anticipated to be caused by the project/program significantly conflicts with the policies in the SVRA's General Development Plan and Resource Management Plan. Therefore, the program/project may not proceed without an amendment to the General Development Plan and Resource Management Plan. The EIR provides no evidence that either plan has been amended or that the amendment process has commenced. On pages S-5 and S-6 of the EIR, State Parks states that the dust control program "could conflict" with the Coastal Act because recreation lands would be significantly impacted. It is not sufficient for the EIR to conclude that the dust control program "could conflict" with the Coastal Act. Rather, State Parks must make a determination as part of its duties under CEQA to determine whether its proposed dust control program either conflicts or does not conflict with the Coastal Act and/or the certified LCP. This is especially true since on page S-6 of the EIR, State Parks concludes that the program's impact to recreational opportunities will occur even with the implementation of design and mitigation measures proposed in the EIR.

K13

K14

12. On page S-6 of the EIR, State Parks again asserts that the current riding area is 1,453 acres. Because other State Parks' planning documents use different current riding area acreage numbers, the EIR's analysis of the program's cumulative, seasonal and permanent impacts is flawed.

K15

13. On page S-6 of the EIR, State Parks admits that the magnitude of the loss of coastal recreation lands caused by the project/program does not enhance the recreational use at Oceano Dunes SVRA and therefore conflicts with the policies and the SVRA's General Development Plan and Resource Management Plan. Therefore, the project may not proceed without formal amendments to those plans. However, it does not appear that they can be amended in a way that is consistent with the SVRA Act.

K16

14. State Parks fails to consider the reasonable range of alternatives to the project/program. For instance, Friends submits herewith as **Ex. 4** a report by an air quality consultant that concludes that the implementation of a series of staggered 50-foot-high fences with special netting would substantially reduce dust emissions from Oceano Dunes SVRA. The staggered fences could be located in an area closed to all public use and identified in yellow on figure 2-2 of the EIR. Such an alternative could eliminate the need to close any area currently available to OHV recreation or, at least, substantially reduce the area needed to be closed. The EIR considers simply reducing the OHV recreation area being closed, but does not do so in conjunction with the staggered fencing proposal described above. The proposal described above would eliminate or minimize the adverse impacts of the project/program to OHV recreation at Oceano Dunes SVRA, while still achieving the program/project's objectives. Variations on this proposal could

K17

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include expanded seasonal measures that are currently being employed by State Parks and as described in section S-1.3.2 of the EIR.

K17

15. Friends strongly objects to the alternative dust control program described in section S.1.3.3 of the EIR. Closing all OHV recreation lands within Oceano Dunes SVRA would have a dramatic impact on the park's use and would be flatly inconsistent with the General Development Plan, the Resource Management Plan, the SVRA statute, PRC section 5090 et seq., and the Coastal Act. In its analysis of this alternative plan, State Parks erroneously *presumes* that it is feasible. To the contrary, in order to comply with CEQA, State Parks must evaluate whether such an alternative program is feasible. The alternative program would have significant impacts to biological resources including listed and sensitive species and their habitats. The EIR acknowledges this on page S-9 and this should be considered as part of the feasibility analysis. Selecting the alternative program also would violate PRC § 30007.5, since it would not be the most protective of significant coastal resources. [“The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance *is the most protective of significant coastal resources.*”]

K18

16. An additional alternative would be to use only temporary dust control mitigation measures. In other words, State Parks could eliminate any expansion of vegetation islands. The advantage of this alternative, which was not examined in the EIR, is that it would not permanently affect recreational opportunities at Oceano Dunes. By contrast, planting more than 100 acres of permanent vegetation islands would forever prevent OHV recreation within those areas, contrary to the policies set forth in the General Development Plan, the Resource Management Plan, and in the organic statutes establishing SVRAs. Section 2.3.2.2 admits that seasonal, temporary dust control measures such as wind fencing and straw bales substantially reduce sand transport. Using temporary measures also would allow State Parks greater flexibility in responding to changing winds, changing environmental conditions, and on-the-ground success or failure.

K19

17. The EIR erroneously concludes that the No Action and the No Comprehensive Dust Alternative are the least environmentally damaging alternatives. In fact, the alternative suggested above by Friends would be the environmentally superior alternative. Therefore, the EIR fails to consider the least environmentally damaging alternative or the environmentally superior alternative.

K20

18. In section S-1.4 of the EIR, State Parks fails to indicate whether the proposed annual review process would include measures to ensure public notice and participation in the process. Since the review process may result in changes to the program or project, the public should be given an opportunity to participate in that review and give input.

K21

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19. In section 1.3 of the EIR, State Parks identifies this EIR as a program EIR. It does so on the basis that it includes a series of actions that can be characterized as one large project and that are related geographically or in connection with the issuance of rules, regulations or plans. Under this definition, it is clear that State Parks' previous dust control activities dating back to the year 2010 are also part of the same series of actions that are related geographically, part of the chain in the contemplated action, and under the auspices of the same rules and regulations for statutory authority. Therefore the EIR should analyze those related activities as well. It fails to do so. Because those activities are part of a series of actions, they would not be exempt from CEQA.

K22

20. In section 1.4.1 of the EIR, State Parks fails to identify San Luis Obispo County as a responsible agency for the proposed dust control program. San Luis Obispo County owns the La Grande Tract within Oceano Dunes SVRA. Much of the Program Area is on the La Grande Tract. The County, as the owner, therefore should be considered a responsible agency. The EIR is also unclear by indicating that the CCC, the San Luis Obispo County Air Pollution Control District (SLO APCD) and the California Department of Fish and Wildlife (CDFW) "may" be responsible agencies. State Parks needs to determine whether the CCC, the SLO APCD or CDFW are "responsible agencies" under CEQA. It cannot avoid the question by asserting that they "may" be responsible agencies.

K23

21. In section 1.4.2 of the EIR, State Parks fails to define what it means by the term "Master CDP." That term is not defined by the Coastal Act or Coastal Act regulations. Please state what provisions of the Coastal Act, or associated regulations, authorize "master" CDPs. The EIR also states that State Parks has applied for a CDP from the CCC "because the project involves development in the Coastal Zone." However, once there is a certified LCP, the CCC's jurisdiction appears to be limited to appellate jurisdiction. The EIR fails to state any provision in the Coastal Act that would grant the CCC original permit jurisdiction.

K24

22. In section 2.1 of the EIR, State Parks fails to define the term "maximum extent feasible" or the term "consistent with public safety environmental protection needs."

K25

23. In figure 2-1, the map fails to clearly delineate the County's boundaries.

K26

24. Section 2.2.2 of the EIR indicates that vegetated dune areas slow the rate of dune advancement from a range of 6 to 18 feet per year down to a range of 1 to 7 feet per year. It also states that the slowing of the advancement is a naturally occurring process. Logically, because the proposed program/project would expand the vegetative dune areas by 100 acres or more, the program/project necessarily impedes, impacts and interferes with the natural dune formation process. The EIR fails to note that such interference is inconsistent with the Coastal Act, by interfering with the natural geological processes. See Public Resources Code section 30214.

K27

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- 25. On page 2-5 of the EIR, State Parks fails to identify the specific policy regarding “no net loss of vegetation” at Oceano Dunes SVRA. The policy appears to be an illegal underground regulation, since State Parks did not adopt it in accordance with the Administrative Procedure Act. The policy also appears to be inconsistent with the policies adopted in the General Development Plan, the Resource Management Plan and other planning measures implemented at Oceano Dunes SVRA, as well as the SVRA Act, PRC section 5090 et seq.

K28
- 26. Table 2-1 of the EIR indicates that OHV recreation is allowed on approximately 1,450 acres. This figure is inconsistent with the recreational acreage identified elsewhere in the EIR.

K29
- 27. Please amend figure 2-2 to show the proximity of plover critical habitat to the proposed dust control Program Area. Please also indicate why the potential tree planting area is not considered part of the dust control Program Area. The Program EIR states that the tree planting may be part of the program and thus it should be included in the Program Area. Likewise, the environmental impacts should be evaluated at a program level.

K30
- 28. Section 2.2.5 of the EIR indicates that visitation to the park is highest from late May through early September. Therefore, the program/project temporary measures are implemented and employed during the season of highest park visitation. As such, the EIR does not accurately or adequately discuss the constant impact of the dust control measures on OHV recreational access.

K31
- 29. Please indicate on figure 2-3 the precise location of plover critical habitat to show the proximity of that habitat to the Program Area. Also please indicate areas of known least tern habitat.

K32
- 30. In section 2.2.7 of the EIR, State Parks indicates that some of its previous dust control activities are considered to be part of the baseline environmental condition. By illegally exempting these activities from CEQA review, State Parks has illegally shifted the environmental baseline at the SVRA, and distorted the true environmental impacts of the dust control program/project.

K33
- 31. In section 2.2.7.1 of the EIR, State Parks erroneously concludes that the seasonal installation of approximately 1,700 linear feet of wind fencing is an “ongoing activity” and thus considers it as part of the environmental baseline. This is an error. Because the wind fencing is installed anew each year it cannot legally be considered part of the environmental baseline under CEQA. The EIR fails to consider this and fails to consider the direct, indirect and cumulative impacts of this additional activity.

K34
- 32. Figure 2-4 of the EIR should be modified to a scale that allows the public to more clearly see where previous dust control measures have been installed or

K35

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implemented at Oceano Dunes SVRA. The current scale is too small to analyze. Please also indicate in Figure 2-4 the plover critical habitat area and any areas of habitat for the California least tern so that the public can see the proximity of those areas both to the Program Area and the prior dust control measure areas. Please also indicate on Figure 2-4 any areas within the Program Area or within 500 feet of the Program Area that are considered to be wetlands (by the federal government or the Coastal Commission) or otherwise under the jurisdiction of the U.S. Army Corps of Engineers.

K35

33. Section 2.2.7.4 of the EIR incorrectly concludes that the dust control measures implemented since 2010 at the SVRA are part of the environmental baseline. These projects have been incorrectly excluded from this EIR analysis. In addition, State Parks states on page 2-16 that it plans to remove “as many straw bales as feasible” within a 30-acre straw bale area. However, State Parks fails to analyze this activity in the EIR. State Parks states that the 30-acre straw bale project was completed prior to the Notice of Preparation (NOP) for this EIR but clearly the removal of the straw bales was not completed prior to this EIR. State Parks further states in the EIR on page 2-16 that the removal of wind fencing over a 15-acre area “has no potential to result in impacts.” The EIR provides no basis or evidence for such a conclusion. Accordingly, such removal should be evaluated in this EIR and considered in the cumulative impacts analysis. State Parks also states that it used certain soil stabilizers on a two-acre area within the SVRA. The EIR notes that the CCC has rejected the use of soil stabilizers. Presumably, this is because their use results in significant environmental impacts. Yet, State Parks considers this adverse impact to be part of the environmental baseline rather than including that prior project as part of the series of dust control measures analyzed in this program EIR. That violates CEQA. Also, the use of soil stabilizers should be analyzed as the materials or chemicals may be harmful to visitors or sensitive species.

K36

K37

34. The EIR fails to consider the cumulative impacts of the previous dust control activities dating back to 2012. 2013: 12 information monitoring sites, see Emergency CDP G-3-13-0213 (ODSVRA Temporary Monitoring Program), p. 1; 2014: 45 acres of dust control measures - 15 acres of wind fencing and 30 acres of straw bales; 2015: 65 acres of dust control measures – 40 acres of wind fencing and 25 acres refreshing 2014 straw bales site. 2016: 61.5 acres of dust control measures proposed - 1.5 acres porous roughness material, 40 acres wind fencing, and 20 acres straw bales.

K38

35. In section 2.3 of the EIR, State Parks states that it would plant new vegetation under this program during the fall “when rains support the establishment of native vegetation.” However, this area of the state has been in a severe drought for at least the last five years and there has been little or no rain during the fall. Please provide annual rainfall figures at this location for the past 10 years. The EIR ignores the drought and ignores the likely need for substantial water transport or irrigation during the drought to support the establishment of new vegetation areas

K39

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on open sand dunes. (See Ex. 10.) Friends has retained an expert consultant who has submitted a report (attached as Ex. 5) that concludes that the amount of vegetation proposed by this program would require nearly five million gallons of water. State Parks has failed to identify any water source for such needed irrigation. State Parks has failed to identify the impacts to local water sources from such a heavy use of water during a drought. This fails to comply with CEQA. State Parks must show that future water supplies are reasonably likely to be available, and, if not likely to be available, what replacement sources are available. The EIR does not address or evaluate the reasonably foreseeable impacts of providing water to the project. Also, the introduction of that much water would likely attract additional species which will likely include more predators of listed and protected species.

K39

36. In figure 2-5, the plover critical habitat seems to overlap with the Program Area. Please provide a revised map based on a scale that shows more clearly the interaction or proximity between plover critical habitat, least tern habitat and the Program Area. Please confirm that the critical habitat depicted on figure 2-5 is to scale and is based on official FWS maps.

K40

37. Page 2-20 of the EIR states that the Program Area avoids designated plover critical habitat. But the measurements identified in the FWS critical habitat designation maps indicate that there is some overlap between plover critical habitat and the Program Area. The EIR measurements confirm this.

K41

38. Please explain why in section 2.3.1.3 the lands for the tree planting area are not included in the proposed Program Area.

K42

39. Section 2.3.2.1 admits that vegetation reduces sand movement. The EIR fails to consider whether this reduction in the sand movement adversely affects the natural geologic process of sand dune formation and therefore is inconsistent with the Coastal Act. That same section indicates that State Parks does not know whether "seedling" vegetation projects would be effective. Combined with the EIR's failure to consider drought conditions or adequate sources of water, it seems unlikely that the proposed vegetation seedling approach would be effective. That same section states that newly planted vegetation would primarily be in areas near or adjacent to where vegetation exists. It also states that vegetation in areas where no vegetation exists is less likely. However, since the EIR keeps both approaches open, the EIR must evaluate both approaches. It fails to do so adequately. In that same section, the EIR fails to evaluate the potential adverse impacts from using herbicide to remove non-native or exotic plants from the newly vegetated areas. See also Public Resources Code sections 5090.2, 5090.35, 5090.53 and 30214.

K43

40. In section 2.3.2.4, State Parks identifies additional soil stabilizers as an additional component of its dust control program. This seems inconsistent with the CCC's

K44

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previous determination that the use of soil stabilizers was inappropriate in this sensitive coastal environment.

K44

41. In section 2.3.3 of the EIR, State Parks states that it would give preference to locations most supportive of compliance with Rule 1001, "if all other factors are equal." State Parks does not indicate what it means by "if all other factors are equal." State Parks does not adequately describe how it would balance the demands of Rule 1001 and State Parks' other obligations under applicable land use laws and environmental laws. State Parks states that it "would emphasize projects that would avoid adverse effects on other... biological resources." State Parks does not adequately explain what it means to "emphasize projects that would avoid adverse effects." In fact, by stating that it would emphasize such projects indicates that it would not exclusively use such projects. In turn, that would mean certain projects would not avoid adverse effects on biological resources. Accordingly, such projects may have adverse impacts, including take, of listed species and/or their respective critical habitats. State Parks admits that vegetation projects would be a permanent form of dust control. State Parks asserts that it would avoid planting vegetation as much as possible in the open riding area. This statement is inconsistent with its statement just two paragraphs earlier in which it stated it would give preference to projects that are in compliance with Rule 1001. The EIR fails to explain or provide any meaningful criteria for determining whether State Parks intends to choose locations most supportive of compliance with Rule 1001 or locations that completely avoid and are most supportive of biological resources. Likewise, the EIR fails to explain or provide any meaningful criteria for determining whether State Parks intends to choose locations most supportive of compliance with Rule 1001 or whether State Parks intends to maximize and enhance OHV recreational opportunities as required by its organic statutes and land use planning documents.

K45

42. Figure 2-8 fails to clearly show the area designated as plover critical habitat. If the area designated as "high biological sensitivity" is the plover critical habitat area, please state whether a depiction is based on official FWS maps. The EIR should also indicate the distance between the critical habitat boundary and the Program Area boundary. Figure 2-8 is misleading to the public in that it attempts to show "conceptual" vegetation areas and seasonal control areas that may be quite different from where those areas ultimately are placed. As a result, there may be substantially greater impacts to biological resources and to OHV recreational areas than suggested by this program EIR. All of these same concerns also exist in figure 2-9. The EIR would be more accurate in assuming the entire Program Area may be covered with vegetation since vegetation could be placed anywhere in the Program Area.

K46

43. In section 2.3.4.1, State Parks states that it would plant vegetation outside of the open riding and camping area "to the maximum extent feasible." The EIR does not define what "to the maximum extent feasible" means in this context. This is particularly confusing given the many conflicting obligations and goals, i.e.,

K47

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conflicts between the organic SVRA statute, land use plans, land use laws, environmental laws, and Rule 1001. State Parks has failed to articulate which of the conflicting laws takes priority. Will ESA compliance trump Rule 1001 needs? Will SVRA Act requirements trump Rule 1001 requirements? Do land use plans trump Rule 1001 requirements?

K47

44. Friends strongly objects to the alternate dust control program scenario identified in section 2.3.4.2. In addition, it is inappropriate for the EIR to identify this scenario as the “worst-case” scenario given that this is only a Program EIR and the specifics have yet to be determined. Thus, the EIR should strike any reference to this being the “worst-case” scenario.

K48

45. Section 2.4 of the EIR makes clear that taken together, the seasonal dust control measures and the permanent dust control measures will ensure there are expansive dust control measures throughout the year. Specifically, the EIR states that vegetation projects will be planted in the fall, and seasonal measures would be deployed beginning in March and remain in place until September 30. Thus, at the very time that State Parks is removing seasonal dust control measures it will be implementing new permanent control measures. OHV riding activity will be impacted every month of the year. The EIR does not adequately discuss this or consider this impact to OHV recreation.

K49

46. Friends objects to section 2.4.1 of the EIR in that the proposed dust control annual review process does not provide for public notice, review or input. It is essentially a hidden, behind-the-scenes review process, with no public hearings. Since this is a public project subject to CEQA, there should be opportunities for greater public oversight and input in a process expressly designed to change the project during operation.

K50

47. The EIR appears to designate State Parks as both a lead agency and a trustee agency under CEQA. Please clarify the significance of State Parks assuming this dual role and any conflicts on the roles.

K51

48. State Parks appears to be proposing “standard project requirements” in its mitigation program as noted in section 2.5. State Parks states in section 2.5 that as a trustee agency, it has the responsibility to ensure that *actions that protect* both the cultural and natural resources “of the State Parks’ *system*” are “*always taken* on all projects.” State Parks also indicates that the mitigation included here is “based on” State Parks’ “standard requirements,” which may or may not be modified. State Parks then appears to incorporate certain Standard Project Requirements, or SPRs, into the mitigation for this project. To the extent that these SPRs include standard requirements used in all similar situations, State Parks needs to identify which specific elements are “standard requirements.” With respect to “standard requirements,” State Parks needs to state the source of the “standard requirement.” In other words, is it a regulation, policy, guidance, custom, practice or protocol? What is the specific citation?

K52

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49. To the extent that any standard project requirements are of general applicability to the State Parks' system, they are therefore a regulation under the Administrative Procedure Act. All regulations under the APA must be adopted in accordance with APA notice and procedures. If not, they are void. Thus any standard project requirements incorporated into this EIR which have not been adopted as regulations through the APA procedures are void and should not be considered or adopted as part of this EIR.

K53

50. Table 2-5 indicates one of the standard project requirements is to design the dust control program "to disturb and occupy as little land as possible." Again, the EIR is not clear on how State Parks intends to comply simultaneously with its obligations under the SVRA Act, land use law and plans, environmental law and Rule 1001. These laws appear rife with conflict.

K54

51. Table 2-5 on page 2.36 also discusses standard project requirements for biological resources. One such SPR is to "restore all disturbed areas to the maximum extent feasible." State Parks fails to define what it means by "the maximum extent feasible." Also, if State Parks disturbs areas that are habitat or critical habitat of a sensitive or listed species, restoring the area "to the maximum extent feasible" may nonetheless result in a take of the species, which is contrary to the California Endangered Species Act (CESA) and the federal Endangered Species Act (ESA). This SPR therefore is inconsistent with the avoidance requirements and principles in both the state and federal Endangered Species Acts.

K55

52. In table 2-5, State Parks also proposes as an SPR that a qualified biologist survey for the presence of special-status plants within 100 feet of work areas. The EIR fails to discuss or analyze typical, customary or applicable FWS or CDFW protocols in terms of buffer areas around special-status and listed plants. The EIR is devoid of substantial evidence to establish that a 100-foot buffer is adequate. In addition, State Parks includes an SPR that the qualified biologist "map, flag and protect" special-status plants during surveys. The SPR fails to define what it means for a qualified biologist to "protect" a plant. No measurable or definable criteria are provided. In addition, table 2-5 provides an SPR that the qualified biologist shall establish a clear avoidance area around a special-status plant of a minimum of 25 feet from all work activities. The EIR is devoid of substantial evidence to establish that a 25-foot avoidance area is adequate.

K56

53. Table 2-5 also appears to establish an SPR for the replanting or restoration of disturbed areas where it is not feasible to avoid the loss of special-status plants. The SPR fails to identify any standard for compensating this loss or any criteria for determining such a standard.

K57

54. Table 2-5 also attempts to establish SPRs for special-status amphibians and reptiles. The same deficiencies that were identified in the plant SPRs also appear in the amphibian and reptile SPRs, i.e., inadequate and unsupported buffer areas.

K58

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- 55. In table 2-5, State Parks also attempts to establish SPRs for impacts to the California red-legged frog. Here, the standard purports to leave the determination of the appropriate size buffer entirely within the hands of an unspecified biologist, without any requirement that the biologist follow FWS or CDFW protocols, guidelines, requirements or standards. Further, the frog SPR makes no effort to establish any specific standard itself.

K59
- 56. In table 2-5, State Parks purports to create SPRs for special-status birds. Under this SPR, State Parks itself establishes a buffer zone of nests of special-status birds but leaves the size of the buffer in the hands of an unspecified biologist, without any requirement to follow FWS or CDFW protocols, standards, guidelines or criteria. It also purports to conclude that a 50-foot buffer around bird species is adequate, which is contrary to FWS protocols for many listed and special status birds.

K60
- 57. In table 2-5, State Parks also purports to create SPRs for impacts to wetlands. The SPR is devoid of substantial evidence supporting the minimum buffer areas and setback areas created and the buffers proposed appear contrary to state and federal laws protecting wetlands.

K61
- 58. State Parks' SPRs for special-status birds does not appear to distinguish between sensitive birds, birds listed as endangered or threatened under state or federal Endangered Species Acts or fully-protected birds under state law. For that reason, the proposed SPRs violate both state and federal endangered species and other species laws.

K62
- 59. Table 2-5 also describes the proposed SPRs in a way that appears to allow dust control activities in the close vicinity of special-status birds, which may interfere with their normal breeding activity, resulting in harm and a take of the species. The SPRs also acknowledge that the dust control program activities "could facilitate predator movement" into known nesting areas for the plover and tern. Yet, the SPRs simply require that the facilitation of predator movement be "minimized." Minimization virtually ensures that additional predator take will result from the dust control activities. This in turn demonstrates that the dust control activities will in fact result in the take of listed species such as plover and least tern. Further, the SPR admits that avoidance may not be feasible. For this reason, the SPR and the dust control program are not consistent with the federal Endangered Species Act or the California Endangered Species Act. Also, the California brown pelican remains a fully protected species under state law and the EIR contains no analysis of the potential take of that species from the dust control measures or resulting increase in predator movement into sensitive areas.

K63
- 60. State Parks neglects to create any SPR to control likely increased predation by red foxes, coyotes, skunk and opossum that will use the additional 100 acres of vegetation as cover for their predation of plover and tern. Friends submits

K64
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K65

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herewith a biological analysis as Ex. 6. It shows that there will be increased predation from mammals as a result of 100 acres of additional vegetation that will provide excellent cover for red foxes, coyotes and other predators.

K65

61. Section 2.6 of the EIR admits that the proposed project is within the jurisdiction of Grover Beach and San Luis Obispo County, and that those entities have LCPs that have been certified by the CCC. To promote efficiency and goodwill between agencies, and prevent injurious reliance by property owners, State Parks and the Commission should consider the contents and findings of the certified land use plan.

K66

62. Section 3.1 of the EIR illegally incorporates the SPRs even though many of the SPRs are underground regulations in violation of the APA.

K67

63. The proposed dust control program is inconsistent with State Parks' mandate to expand long-term OHV recreational opportunities in areas. Public Resources Code section 5090.02(c)(1).

64. Oceano Dunes SVRA was established in an area that is uniquely suited for OHV recreation. It cannot be replicated or replaced. Thus, permanently removing portions of that area through the planting of vegetation islands conflicts with Public Resources Code section 5090.02(c)(1).

K68

65. The dust control program conflicts with Public Resources Code sections 30001.5 and 30210 because it fails to maximize access and recreational opportunities on the coast. Removing more than 100 acres of prime recreational coastal lands through the planting of large and impermeable vegetation islands fails to maximize access and recreational opportunities at the SVRA.

K69

66. The dust control program conflicts with the California Constitution's right of public access to the beach by imposing barriers in the form of 100 acres of new vegetation islands. (Art. 10, section 4.)

K70

67. Planting of more than 100 acres of permanent and impermeable vegetation islands is development that interferes with the right of access to the sea, contrary to Public Resources Code section 30211. A primary focus of the Coastal Act's public access and recreational policies is the direct physical impedance of access.

K71

68. The dust control program is inconsistent with Public Resources Code section 30214 in that it creates obstacles and barriers to public access by changing topographic and geologic site characteristics of the SVRA. See Public Resources Code Section 30255.

K72

69. The dust control program is contrary to Public Resources Code section 30223 in that it fails to reserve coastal upland areas necessary to support recreational uses

K73

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by planting more than 100 acres of permanent and impenetrable vegetation highlands.

K73

70. The dust control program is inconsistent with the Coastal Act by allowing additional development in and adjacent to environmentally sensitive habitat areas as defined in the Coastal Act and defined and designated in the applicable certified LCP. The EIR provides no reasoning or basis for ignoring, disregarding, or refusing to follow the LCP's designation and mapping of ESHA. Jonna Engel, PhD, is a staff ecologist for the California Coastal Commission. She gave a presentation on September 22, 2016 in Los Angeles on ESHA and wetlands. During her presentation, she stated that "bare sand can be ESHA because it is so rare." (Ex. 3.) She also stated "most ESHA is disturbed." The EIR ignores this. Also, PRC section 30240 does not permit a process by which the habitat values of an ESHA can be isolated and then recreated in another location. The statute protects the area of an ESHA from uses which threaten the habitat values which exist in the ESHA. Importantly, while the obvious goal of section 30240 is to protect habitat values, the express terms of the statute do not provide that protection by treating those values as intangibles which can be moved from place to place to suit the needs of development. Rather, the terms of the statute protect habitat values by placing strict limits on the uses which may occur in an ESHA.

K74

71. While the EIR notes that Oceano Dunes SVRA is more frequently used than any SVRA in the state park system, it inappropriately discounts the impact on those users by further reducing the lands available for OHV recreation within Oceano Dunes SVRA. Oceano Dunes SVRA is already the third smallest SVRA in the state, in terms of acreage, even though it is by far the most visited in the state. The dust control program will further exacerbate this condition. As table 4-3 acknowledges, the lands available at Oceano Dunes SVRA for OHV recreation have already been reduced from 3,497 acres to 1,224 acres. See also Figure 4-1.

K75

72. The EIR fails to identify the location of lands within the SVRA that are owned by Phillips 66.

K76

73. On page 4-11 of the EIR, State Parks acknowledges that the beach and dune oriented recreational opportunities at Oceano Dunes SVRA are coastal dependent recreational activities that fall within the definition of coastal dependent development or use as that term is used in Public Resources Code section 30101. As such, these uses should be protected and given priority under the Coastal Act.

K77

74. Section 4.2.3.1 indicates that there are 1,530 acres open to vehicular recreation, an acreage that's inconsistent with similar statements elsewhere in the EIR.

K78

75. Oceano Dunes SVRA also provides more than 1,000 campsites on the beach, which is a unique resource in California. The camping fees are low cost compared to other facilities in the state, and thus are consistent with Public Resources Code

K79

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section 30213, which states that lower-cost visitor and recreation facilities shall be protected, encouraged, and provided.

K79

76. In section 4.3.2, the EIR admits that the dust control program and project elements “would occupy open sand areas in the SVRA where OHV recreation currently occurs.” The EIR further acknowledges that the areas covered by the program would expand each year. The EIR further acknowledges that the area covered may be even greater if the alternative program is implemented. See EIR, p. 4-22. However, State Parks miscalculates and misrepresents the percentage of lost acreage due to the program, which causes the EIR to underestimate the impact on OHV recreation. The EIR does acknowledge other factors that need to be considered, such as the site’s history, popularity, and unique coastal recreational opportunity, plus the lack of similar facilities in the state. The EIR also acknowledges that this experience has been substantially limited and reduced over time. In order to address these impacts, the EIR proposes certain mitigation measures, such as planting vegetation outside the open riding and camping areas, planting vegetation outside of the “Sand Highway,” employing seasonal dust control measures, and identifying other areas to provide camping and OHV recreation. State Parks fails to either identify specific areas to provide additional camping or OHV recreational opportunities in order to offset the loss of OHV recreational opportunities caused by the program/project. State Parks also fails to identify a mitigation ratio, standard or guideline for offsetting the loss of OHV recreational areas caused by the program/project.

K80

77. On page 5-1, the EIR is unclear whether it is applying the standards from the certified LCP to its analysis.

K81

78. If the CCC has jurisdiction over this project, Friends previously requested evidence from State Parks and the CCC that it had complied with Public Resources Code section 30601.5 by inviting all persons and entities with a property interest to be co-applicants in any such permit. Under State Parks’ theory, this would include San Luis Obispo County, Phillips 66 and an array of private property owners who own parcels within the defined Program Area. (See Ex. 7.) Even assuming that the CCC has jurisdiction to process this CDP, it still could not do so without first complying with Public Resources Code 30601.5.

K82

79. The proposed dust control program is inconsistent with the Pismo State Beach and Pismo Dunes SVRA General Development Plan and Resource Management Plan. For instance, the General Development Plan identifies the dunes as “ideal for off-road vehicle operation.” It also states that the SVRA was established “to make available to the people opportunities for recreational use of off-road vehicles in a large area of unstabilized sand dunes exceptionally adapted to this recreational activity...” (p. 43) In addition, the General Development Plan states that State Parks will manage the SVRA “in ways that perpetuate and enhance the uses and values enumerated in the Declaration of Purpose,” i.e., making the area available for off-road vehicle use. The General Development Plan does provide for the

K83

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preservation of vegetation islands that existed *at the time that the SVRA was formed.* (p. 43) The General Development Plan also emphasizes the continuation of beach camping. In 1994, the General Development Plan was amended and updated. The dust control program must also comply with the standards adopted in the General Development Plan amendment.

K83

80. The EIR admits in section 5.1.2 that after the CCC certifies a LCP, the CCC's permitting authority is delegated to the local government. The EIR agrees that the CCC has appeal authority, not original permit authority, except for original permit jurisdiction over development on tidelands and public trust lands in the Coastal Zone. However, the EIR ignores this finding in the balance of its analysis. It appears to assert that the CCC has jurisdiction over the CDP permitting process. The EIR is internally inconsistent on this point.

K84

81. In table 5-1, the EIR repeatedly determines that the dust control program "may not be consistent" with various provisions of the Coastal Act. State Parks has an obligation to determine through the EIR process and otherwise whether the dust control program complies with the Coastal Act or not. It cannot simply determine that the project "may not be consistent." It needs to make a determination as to whether it believes it is consistent or not consistent. The information and analysis in the EIR clearly demonstrates that the dust control program is not consistent with numerous provisions of the Coastal Act, including Public Resources Code sections 30210, 30213, 30214, 30223, 30240, 30251, 30253 and 30255. Thus, State Parks should include that finding in order to comply with CEQA. Further, State Parks ignores PRC § 30007.5 ["The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the *most protective of significant coastal resources.*"]

K85

82. The dust control program violates Public Resources Code 30213 because it does not maximize recreational opportunities and low-cost visitor and recreation facilities; nor does it protect, encourage, or provide them.

K86

83. The dust control program violates Public Resources Code 30214 because it impedes the natural dune formation process, which would substantially adversely impact the SVRA topography and geologic site characteristics.

K87

84. The dust control program violates Public Resources Code 30223 by permanently removing upland areas necessary to support coastal recreational uses.

K88

85. The dust control program violates Public Resources Code section 30240 by creating 100 acres of additional vegetation islands that will serve as cover and vectors for increased predator activity and predation of listed species.

K89

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86. The dust control program violates Public Resources Code section 30240 by purporting to authorize dust control activity, measures, equipment and development in ESHA even though the dust control program is not a "use dependent on those resources." The Program Area is entirely ESHA. (See Ex. 8.)

87. The dust control program violates Public Resources Code section 30240 by purporting to authorize dust control activity, measures, equipment and development in ESHA even though it would create a significant disruption of habitat values as explained herein.

88. State Parks and the CCC have de facto illegally amended the County LCP by purporting to authorize unlawful development within ESHA.

89. The dust control program violates Public Resources code section 30251 by introducing artificial dust control measures including wind fencing and other similar measures that are visually inconsistent with the natural dune environment, substantially impeding scenic and visual resources in the coastal area in the SVRA.

90. The dust control program violates Public Resources code section 30255 by supplanting coastal dependent uses with 100 acres of vegetation islands where those uses currently exist.

91. The dust control program is inconsistent with the Oceano County Airport Land Use Plan.

92. State Parks has violated the Oceano County Airport Land Use Plan (ALUP) by failing to submit a dust program to the Airport Land Use Commission (ALUC) to make a consistency determination. Page 3 of the ALUP reads as follows: "Review of Specific Proposed Development Projects – Review of proposed individual development projects is not a responsibility mandated to the ALUC by the Public Utilities Code when such projects do not require adoption of or amendments to a general or specific plan, zoning ordinance, or building code. The ALUC may, however, review individual development projects when they have been referred by a local agency or under the terms of an agreement with a local agency. In San Luis Obispo County, the General Plan and supporting planning instruments do not incorporate detailed provisions for land use or development in the vicinity of the Oceano County Airport, but rather state that such development must be consistent with the ALUP. **Since no body other than an ALUC is empowered by state law to make a determination of consistency with respect to an adopted ALUP, all individual projects within the Airport Planning Area require review by the ALUC. This has, in fact, been the historical practice in this County.**" Page 15 of the ALUP reads, in part: "Policy G-1 ALUP right of review – No project or land use may be established within the Airport Planning Area nor may any building or use permit be issued for a proposed development unless the proposed project or land use has been reviewed by the ALUC of San Luis Obispo

K90

K91

K92

K93

K94

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County and has been determined by that Commission to be consistent with this ALUP. If a project has been determined by the ALUC to be inconsistent, the project or land use may not be established and no building or use permit may be issued for such project or land use unless and until...."

K94

93. For many years, State Parks has been negotiating a Habitat Conservation Plan for Oceano Dunes SVRA. The EIR should discuss potential requirements of that plan as they may interact with the dust control program and the mitigation measures proposed in this EIR.

K95

94. On page 5-15, the EIR admits that the dust control program conflicts with the General Development Plan and the Resource Management Plan for Oceano Dunes SVRA. Because the EIR identifies this as a significant and unavoidable impact, State Parks is required to amend the General Development Plan and Resource Management Plan prior to commencement of this project.

K96

95. On pages 5-16 through 5-18, the EIR continues to avoid finding that the dust control program conflicts with the Coastal Act even though its analysis shows that it does. By taking this ambiguous position, the EIR inadequately alerts the public to the consequences of the dust control program and therefore violates CEQA. In addition, because the EIR clearly establishes that the dust control program, even with mitigation, is not consistent with multiple divisions of the Coastal Act, neither the local jurisdiction nor the CCC may approve this project.

K97

96. On page 5-18, State Parks purports to make determinations regarding conformity or consistency with the applicable airport land use plan when this determination is expressly reserved to the appropriate ALUC. Ironically, State Parks refuses to make a determination on Coastal Act consistency when it should, but then makes an Airport Land Use Plan consistency determination when it shouldn't.

K98

97. State Parks' proposal to color the wind fencing green is insufficient to make the wind fencing "visually compatible" with the character of the surrounding area, as required by Public Resources Code section 30251. For instance, if this fencing were proposed as part of a housing development, the CCC would never approve such fencing simply because it was colored green. By way of example, recently the CCC staff rejected in discussions much less visually intrusive fencing on a hotel resort project in Sand City, California.

K99

98. State Parks' visual quality analysis is inadequate. The analysis provides only a handful of viewpoints for a 690-acre Program Area. By contrast, the CCC in other projects located on less than a 40-acre parcel has required substantially more viewpoints. **Ex. 3.** To be consistent with the CCC's usual practice (on an acreage basis), a 690-acre site should have a viewpoint analysis that includes between 60 and 120 viewpoints.

K100

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99. Figure 6-10 and 6-11 show that the proposed temporary measures would have a substantial visual impact on the site and is not visually compatible with the surrounding environment. This is also shown in figure 6-12. The EIR acknowledges on page 6-21 that the proposed seasonal dust control measures are neither native nor common to the natural dune landscape. It is also inappropriate for State Parks to speculate without substantial evidence, whether certain park visitors may or may not be sensitive to visual changes caused by the dust control measures. That is not the standard under the Coastal Act. Another example of the dramatic impact of the dust control measures on visual resources is reflected in figure 6-13. Figure 6-14 shows the expanded vegetation and makes clear how this would provide additional protection to predators.

K101

100. Figure 6-15 shows that merely coloring the artificial wind fencing does not remedy the significant impact on visual resources so that it is compliant with the Coastal Act.

K102

101. The EIR fails to specify which fully protected species under the California Fish and Game Code may be adversely affected by the dust control program.

K103

102. The EIR indicates that there are wetlands within the Program Area. However, the EIR does not indicate that State Parks in any way consulted the U.S. Army Corps of Engineers in determining whether any waters of the U.S. or areas under the jurisdiction of the U.S. Army Corps of Engineers may be affected by the dust control program. It doesn't appear that there has been any wetlands delineation under federal protocols (3 parameter) or Coastal Commission (one parameter) protocols. State Parks needs to do both to comply with federal and state law. Have soil pits been dug? The EIR does not provide adequate information either in narrative or graphic form to show where within the Program Area the wetlands exist, or may exist. Furthermore, because State Parks does not presently know precisely where either the permanent or seasonal dust control measures will be placed, it cannot conclude whether the wetlands will be affected. Similarly, it cannot now conclude whether a Section 404 permit will be required. And finally, the EIR fails to indicate whether compliance with NEPA is necessary given the potential impact to wetlands. If wetlands are affected, then NEPA compliance will be required. Also, a consistency determination will be required to comply with the Coastal Zone Management Act, 16 USC sections 1451-1464, and its implementing regulations. Also, Pub. Res. Code section 30233(a) limits impacts to wetlands. The project does not appear to comply with section 30233(a) since it is quite possible that the project will result in discharge or fill of those areas. In addition, CCC policies require wetland buffers of up to 200 feet. Finally, the EIR fails to take analyze whether the drought has concealed wetlands that will reemerge once the drought ends. The Army Corps and FWS have protocols to address this. Annual precipitation shifts can impact accurate delineation. Modifications to the area can also impact delineation. The EIR fails to consider these factors, or discuss them.

K104

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- 103. FWS has determined that critical habitat for La Graciosa Thistle within Oceano Dunes SVRA (Unit 1) is occupied. 74 Fed. Reg. 56978-57046 [“Unit 1 was occupied at the time of listing, is currently occupied, and contains the physical and biological features essential to the conservation of the species”][“best available science at that time indicated that *Cirsium loncholepis* [is] still extant at a number of locations throughout its range.”] This EIR conflicts with this finding. See p. 7-10.

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K105
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- 104. La Graciosa thistle is listed as threatened by the state of California, which means that killing or possessing the plant is prohibited by the California Endangered Species Act (CESA).

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K106
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- 105. On page 7-14, the EIR fails to adequately disclose, analyze and address the impact of predation on the western snowy plover. Because of this failure, the EIR underestimates the impact of expanding vegetation by 100 acres on predation of the western snowy plover. This same flaw exists with respect to the California least tern analysis.

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K107
[
- 106. The EIR contains no significant analysis of predators or predation of the western snowy plover and the California least tern. It fails to acknowledge that significant predation has occurred due to red foxes, coyotes, skunk and opossum. It fails to consider that adding 100 acres of vegetation will provide substantial ground cover that will allow red foxes, coyotes, skunk and opossum to hide and prey on existing species such as the western snowy plover and the California least tern. See **Ex. 6**.

]
K108
[
- 107. In section 7.3.2, State Parks again seeks to create standard project requirements, which would appear to apply to projects within the state park system generally. As such, these SPRs violate the APA and are illegal underground regulations, as described previously.

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K109
[
- 108. One of the SPRs is to disturb and occupy as little land as possible. The EIR does not explain how this can be implemented in light of Rule 1001 requirements. It also proposes a SPR of restoring all disturbed areas to the “maximum extent feasible” and fails to define what “maximum extent feasible” means. It also ensures that disturbed areas within critical habitat will not be restored to their original condition, which may result in harm to listed species.

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K110
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- 109. Since there is the potential for the tree planting to be included in the Program Area, State Parks and the CCC should invite the landowners to be project applicants.

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K111
[
- 110. In section 8.2.4, the EIR describes the Program Area as 985 acres. This figure is inconsistent with previous statements that the Program Area is 690 acres.

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K112
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111. On page 9-9, the EIR concludes that State Parks is not proposing to place fill in regulated waters. However, because wetlands exist within the Program Area and because the Program Area may yet expand due to tree planting, the EIR has no reasonable basis to conclude that fill would never be placed in a wetland.

K113

112. The EIR attaches a March 6, 2015 letter from CDFW. The comment letter fails to provide a comprehensive list of sensitive and listed species that may be affected by the dust control program. The proposed mitigation measures articulated by CDFW are virtually nonexistent and provide little or no guidance to State Parks. They amount to little more than suggesting that a biologist conduct surveys prior to implementation of a dust control program. If this were a housing development project, one could not imagine CDFW having so few comments, given the level of impacts already identified by State Parks. CDFW failed to protect La Graciosa thistle, a threatened species under state law, or the brown pelican, a fully protected species. CDFW has completely failed in its responsibilities as a trustee under CEQA. In addition, CDFW has exceeded its jurisdiction by "encouraging" State Parks to implement the dust control program. CDFW's authority is limited to recommendations regarding impacts to biological resources. It has no standing or authority to encourage another agency to move forward or not to move forward with something that has nothing to do with biological resources and has no impact on biological resources. CDFW should spend less time being a cheerleader and more time doing its statutorily required job.

K114

113. The EIR includes also a March 9, 2015 letter from the CCC. The CCC opines, in agreement with Friends, that State Parks has failed to develop or consider a full range of potential project alternatives.

K115

114. Page 7-14 of the EIR states that the plover critical habitat extends more than 1,300 feet inland. Elsewhere in the EIR the document states that the program area boundary is between 1,000 and 1,500 feet inland. This strongly suggests that there are locations where the program area extends into the plover critical habitat designated by FWS.

K116

115. Page 7-5 of the EIR states that "the western boundary of the Program Area is set back from the Pacific Ocean by approximately 1,000 feet in the vicinity of marker post four and five to 1,500 feet in the vicinity of marker post seven to avoid western snowy plover critical habitat." This is misleading. The Pacific Ocean is not the boundary of critical habitat for the plover. In fact, the plover critical habitat reaches very far inland because the FWS wanted to take into account alleged sea level rise 100 years from now.

K117

116. The EIR does not evaluate how adding 100 acres of vegetation would affect emergency access for first responders. The dust control program violates Public Resources Code section 5090.3 subsection c by establishing what is effectively a natural preserve or wilderness area within the SVRA.

K118

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- 117. The dust control program violates Public Resources Code section 5019.62 by including new improvements within the SVRA, which do not directly enhance the public enjoyment of the natural scenic cultural, ecologic values of the seashore. K119
- 118. The dust control program violates Public Resources Code section 5090.02(c) by failing to expand opportunities for OHV recreational activity within the SVRA. K120
- 119. The dust control program violates the Coastal Act and the applicable certified LCP by de facto removing the environmentally sensitive habitat area determination contained in the LCP when analyzing the consistency of this program/project with the San Luis Obispo County LCP. To promote efficiency and goodwill between agencies, State Parks and the Commission should consider the contents and findings of the certified LCP. To the extent that there is a conflict between the LCP and the Coastal Act, the Coastal Act should prevail. K121
- 120. The dust control projects are inconsistent with the LCP policies and standards. For instance, Policy 29 protects terrestrial environments in SLO County's coastal zone, which includes unique plant habitats and rare and endangered animal habitats: "Designated plant and wildlife habitats are environmentally sensitive habitat areas and emphasis for protection should be placed on the entire ecological community. Only uses dependent on the resource shall be permitted within the identified sensitive habitat portion of the site." (LCP, at 6-16 to 6-17.) Even development adjacent to ESHA areas and "holdings of the State Department of Parks and Recreation shall be sited and designed to prevent impacts that would significantly degrade such areas and shall be compatible with the continuance of such habitat areas." (Id. at 6-17.) K122
- 121. The dust control program violates and is inconsistent with the San Luis Obispo County General Plan. K123
- 122. The EIR failed to consider substantial new information and data as described in this comment letter, thus triggering the need to recirculate the draft EIR as required by Public Resources Code section 21092.1. All of the information included in this letter and not adequately discussed or not at all discussed in this EIR lead to new or greater impacts compared to what's described in this draft EIR. In addition, as set forth in this letter, the EIR failed to consider a feasible alternative that would reduce impacts, and therefore recirculation is required. K124
- 123. CDFW has exceeded its authority in its comments. CEQA establishes specific limitations on the scope of EIR comments by public agencies. Any public agency may comment on a draft EIR for a project that will affect resources within the agency's expertise, 14 Cal Code Regs section 15209. A reviewing agency must, however, limit its comments to project activities that are within its area of expertise, PRC 21104 (c); 14 Cal Code Regs sections 15086(c), 15204(d). Also, comments must be supported by documentation – CDFW did not. Pub. Resources Code section 21104 (c) 21153, 14 Cal Code Regs section 15086(c). K125

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- 124. The EIR is internally inconsistent. On the one hand, it says that the dust control program conflicts with many Coastal Act policies but then concludes that the CCC might find it consistent with the Coastal Act.

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K126
- 125. Friends request that State Parks include as appendices all relevant plans and policies.

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K127
- 126. The EIR fails to propose mitigation that shows that there will be no take of listed species.

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K128
- 127. The provisions of Public Resources Code section 30601 apply only to those cases where there is not a certified LCP.

]
K129
- 128. Under Public Resources Code section 30601.5, a CDP applicant must “demonstrate a legal right, interest, or other entitlement to use the property.” The EIR fails to disclose on what legal basis State Parks has jurisdiction over the La Grande Tract, i.e., is there a lease or some other interest in the property. Friends requests that State Parks include a copy of that document in the EIR.

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K130
- 129. A program EIR should contain a sufficient degree of analysis, in the light of what is reasonably feasible, to provide decision makers with information that enables them to make a decision which intelligently takes account of environmental consequences. *Center for Biological Diversity v. Department of Fish and Wildlife* (2015) 234 Cal.App.4th 214, 234. For the foregoing reasons, this Program EIR does not meet that standard.

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K131
- 130. Given the extent of noncompliance with the Coastal Act and the certified LCP, no set of terms and conditions imposed on any permit could ensure that the development will be in accordance with the Coastal Act and LCP. The Commission may only grant coastal development permits in compliance with the Coastal Act.

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K132
- 131. The EIR indicates there will be multiple 33-foot towers with monitoring equipment. (p. 2-24.) The Federal Aviation Administration requires that it be notified if a person plans to erect a structure that may affect navigable airspace. Such notification extends to structures that “may cause electromagnetic interference to aircraft” or “may cause transmitted signals to be reflected upon ground-based or airborne air navigation communications equipment, or affect instrument procedures.” Even temporary equipment falls within this requirement. Also, if any towers have lighting, FAA review is necessary. State Parks has not indicated whether it has notified the FAA or consulted with that agency regarding the monitoring equipment. Oceano Dunes SVRA falls within areas assessed for airport safety. Civil penalties may be imposed for failure to notify the FAA.

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K133

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132. The EIR does not discuss whether the monitoring equipment or the placement towers require approval of the Federal Communications Commission, or whether the structure is subject to FCC licensing requirements.

K134

133. State Parks has violated CEQA by engaging in unlawful "segmentation" of the project by dividing up the overall dust control program into separate annual subprojects even though those actions are an integral part of the overall program and located in the same program area.

K135

134. Noncompliance with law renders EIR invalid. State Parks cannot use an unlawful EIR to approve a project that violates the law. The dust control program is not lawful because it violates the Coastal Act, the federal Endangered Species Act, the California Endangered Species Act, the SVRA Act and the San Luis Obispo County General Plan and LCP, as well as State Parks governing General Development Plan and Resource Management Plan (as described herein).

K136

Sincerely,



Jim Suty
President – Friends of Oceano Dunes

CC: Tom Roth, Esq.
FRIENDS Board of Directors

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4.11 RESPONSE TO COMMENTS FROM FRIENDS OF OCEANO DUNES

The OHMVR Division received 136 comments from Friends of Oceano Dunes (FOOD) on a wide variety of topics and issues contained in the Draft Program EIR. Friends of Oceano Dunes also submitted Exhibits 1 – 10 with their comment letter. These exhibits, which comprised more than 340 pages of material, contained information and evidence referenced in Friends of Oceano Dunes main comments on the Draft Program EIR. The OHMVR Division has reviewed these exhibits and concluded they do not constitute significant new information, nor do they substantially change the EIR's analysis and conclusions regarding the potential impacts of the proposed Dust Control Program. Friends of Oceano Dunes' Exhibits 1 – 10 are not reproduced in this Final Program EIR, but are available for review at the Oceano Dunes District Office (340 James Way, Suite 270, Pismo Beach, CA 93449), Oceano Dunes SVRA Ranger Station (928 Pacific Boulevard, Oceano, CA 93445), and OHMVR Division Headquarters 1725 23rd Street, Sacramento, CA 95816) during normal business hours.

Comment K1: Friends of Oceano Dunes notes it has submitted its comments on the Draft Program EIR at a disadvantage because the OHMVR Division has not yet provided documentation in response to Friends' September 2, 2016 Public Records Act request for information related to operating policies, agency coordination, and land ownership within the SVRA.

Response to Comment K1: Comment noted.

Comment K2: Friends of Oceano Dunes states the Draft Program EIR provides different acreages for the proposed Dust Control Program area at different places in the document and requires clarification on the exact acreage of the proposed Program's area.

Response to Comment K2: Comment noted. Friends of Oceano Dunes does not provide specific examples or page numbers in the Draft Program EIR that can be addressed in the response. Nonetheless, as a general clarification, the proposed Program area totals 983 acres (also referred to in the Draft Program EIR as approximately 985 acres). The OHMVR Division directs Friend of Oceano Dunes to Draft Program EIR Section 2.3.1, which indicates the proposed Program area consists of: 1) a primary, 688-acre area at Oceano Dunes SVRA where vegetation plantings, seasonal dust control measure deployment, and monitoring would occur; and 2) a 295-acre area downwind of Oceano Dunes SVRA where tree plantings could occur. The Draft Program EIR is consistent in its identification of the proposed Program area. Nonetheless, the OHMVR Division has clarified Draft Program EIR Section 2.3.1 to provide the exact total acreage of the proposed Dust Control Program (see Section 3.3 of this Final Program EIR).

Comment K3: Friends of Oceano Dunes notes the Draft Program EIR indicates the proposed Dust Control Program area avoids USFWS-designated critical habitat area for western snowy plover. Friends asserts the proposed Dust Control Program area encompasses critical habitat for western snowy plover because USFWS maps indicate the critical habitat area extends inland from the mean high tide line approximately 1,372 feet. Friends of Oceano Dunes requests the OHMVR Division provide detailed maps showing the relationship between the Dust Control Program area and critical habitat for the western snowy plover.

Response to Comment K3: Friends of Oceano Dunes is correct the Draft Program EIR indicates the proposed Dust Control Program area avoids critical habitat for western snowy plover. The Draft Program EIR acknowledges the proposed Dust Control Program

area is bordered on the west by the critical habitat area (Draft Program EIR pages S-1, 2-20, 7-14), which is graphically depicted in Draft Program EIR Figure 2-5. The Draft Program also clearly identifies the proposed Program area is setback from the Pacific Ocean by approximately 1,100 feet (in the vicinity of marker posts 4 and 5) to 1,500 feet (in the vicinity of marker post 7) to avoid western snowy plover critical habitat and the seasonal nesting exclosure (Draft Program EIR pages 2-25 and 7-5).

Friends of Oceano Dunes' assertion that the proposed Dust Control Program area encompasses critical habitat for western snowy plover is incorrect. The location of the critical habitat area depicted on Draft Program EIR Figure 2-5 and new Figure 7-2 (see Chapter 3 of this Final Program EIR) consists of Geographic Information System (GIS) data provided by the USFWS via its critical habitat portal (USFWS 2012, 2016¹⁰). This data indicates the critical habitat area borders the northern extent of the proposed Dust Control Program area (between marker posts 4 and 5), but is approximately 240 feet west of the southern extent of the proposed Program area (near marker post 7).

In addition, the western snowy plover 2012 final critical habitat designation is not accurately depicted in the Friends of Oceano Dunes Exhibit 2 and does not appear to be rendered with GIS. The final designation (USFWS 2012) does not discuss the western boundary of the western snowy plover critical habitat except to say that:

“Establishing a western boundary is difficult, but the “water’s edge” is a boundary that is easily determined on the ground...and will change with seasonal and daily tides, storm events, beach configuration, etc. Our maps and the inclusion of the intertidal zone are an attempt to address the water’s edge issue and include the full range of habitat available to the Pacific Coast WSP.”

This indicates that the western boundary of the final designated western snowy plover is not the mean high tide line as asserted by Friends of Oceano Dunes, but rather farther west encompassing more of the intertidal zone (see new Figure 7-2). The western boundary of Pismo State Beach is periodically adjusted to coincide with the mean high tide line. Draft Program EIR page 7-14, as revised by this Final EIR (see Section 3.7), states that the western boundary of the western snowy plover critical habitat is farther west than the Pismo State Beach boundary. Thus, Friends of Oceano Dunes is incorrect when they assert that the critical habitat area extends inland from the mean high tide line approximately 1,372 feet.

Comment K4: Friends of Oceano Dunes requests the OHMVR Division clarify whether the area where additional trees may be planted falls within the proposed Program area.

Response to Comment K4: Yes, the potential tree planting area is included in the Dust Control Program area. The OHMVR Division directs Friends of Oceano Dunes to Draft Program EIR page 2-18, which states, “The proposed Dust Control Program area also includes an approximately 295-acre area of privately-owned lands located immediately downwind and adjacent to Oceano Dunes SVRA (see Figure 2-5). All potential tree plantings would occur within this area.” See also the response to Friends of Oceano Dunes Comment K2.

¹⁰ USFWS. 2016. Environmental Conservation Online System <<https://ecos.fws.gov/ecp/report/table/critical-habitat.html>>. Accessed December 10, 2016.

Comment K5: Friends of Oceano Dunes asserts the California Coastal Act does not grant the California Coastal Commission jurisdictional authority for the proposed Dust Control Program CDP and requests clarification of what is meant by the term “master” CDP.

Response to Comment K5: The OHMVR Division has coordinated with staff from CCC, as well as the City of Grover Beach and San Luis Obispo County, regarding the appropriate and most efficient jurisdictional authority for the OHMVR Division’s Dust Control Program CDP. Draft Program EIR Section 5.1.2 provides a description of the California Coastal Act, including permitting authority and directs Friends of Oceano Dunes to Draft Program EIR page 5-1, which states, “For the proposed Dust Control Program, the OHMVR Division, SLO County, the City of Grover Beach, and the CCC have consented to a consolidated CDP process (pursuant to California Public Resource Code Section 30601.3) by which the CCC will process and act upon the OHMVR Division’s CDP application.”

The Coastal Act does not specifically define or include the term “Master CDP.” Nonetheless, CCC staff recommended the OHMVR Division use this term when submitting its CDP application because the permit is intended to address the review and approval of subsequent Dust Control Program activities over a multi-year period that could otherwise require a project-specific CDP each year.

Comment K6: Friends of Oceano Dunes states the EIR fails to inform the public if the OHMVR Division has had discussions with private landowners regarding activities on private lands.

Response to Comment K6: Comment noted. The Draft Program EIR acknowledges that tree plantings “would only occur if the OHMVR Division could successfully negotiate with private landowners to plant trees (Draft Program EIR page 2-22).” As of the writing of this Final Program EIR (March 2017), the OHMVR Division has not initiated discussions with any private landowners. The annual review process described in Draft Program EIR Section 2.4.1, as revised by Section 3.3 of this Final Program EIR, includes a requirement for the OHMVR Division to secure authorization prior to starting dust control projects on private or state-leased lands.

Comment K7: Friends of Oceano Dunes states Draft Program EIR Section S.1.1.4 fails to advise the public which other agencies would review Dust Control Program activities and what standards the OHMVR Division would be required to comply with as part of the annual review process.

Response to Comment K7: Friends of Oceano Dunes references summary text from the Draft Program EIR that is not intended to be exhaustive. The OHMVR Division directs Friends of Oceano Dunes to Draft Program EIR Section 2.4.1, which describes the proposed annual review process in detail. Since the exact location of potential Dust Control Program activities is not yet known (see Draft Program EIR Sections 1.3 and 2.3.3), the annual review process requires the OHMVR Division to develop a list of annual projects, evaluate their consistency with the Program EIR and any CDP conditions, and obtain approval from all necessary agencies. As shown in Section 3.3 of this Final Program EIR, the OHMVR Division has revised the text on Draft Program EIR page 2-32 to indicate which potential agency approvals may be required (e.g., USFWS, CDFW). In regards to standards, proposed Dust Control Program activities would be subject to the requirements incorporated into the Dust Control Program (see Draft Program EIR Table 2-5) as well as mitigation measures included in the Program EIR;

however, conditions related to the CDP or other potential future approval are not known at this time and therefore cannot be described.

Comment K8: Friends of Oceano Dunes states the Draft Program EIR fails to identify specifically “other established paths of travel.”

Response to Comment K8: Comment noted. Friends of Oceano Dunes’ remarks do not provide a specific recommendation or request for a change to the Draft Program EIR. Nonetheless, the phrase “established paths of travel” is intended to describe those routes at Oceano Dunes SVRA that are demarcated by posts, such as Sand Highway and emergency response vehicle routes, and fencing, such the maintained travel lanes that provide access from the beach to the interior of the dunes. Outside of the riding area, established paths of travel are considered to be the least damaging path to get to a project area, which would typically consist of open, unvegetated sand away from sensitive resource areas.

Comment K9: Friends of Oceano Dunes states the Draft Program EIR fails to identify an area, mitigation ratio, and standards or guidelines for replacing the loss of camping and OHV recreational opportunities caused by the Dust Control Program.

Response to Comment K9: As shown in Section 3.4 of this Final Program EIR, the OHMVR Division has augmented and clarified Draft Program EIR Mitigation Measure REC-1 and the discussion pertaining to this measure to address mitigation ratios, areas, and standards.

Comment K10: Friends of Oceano Dunes states that the Draft Program EIR does not consider the combined impact on recreational opportunities from the proposed Dust Control Program and long-term sea level rise.

Response to Comment K10: Comment noted. Friends of Oceano Dunes’ remarks do not provide specific evidence that this effect would be potentially significant or a specific recommendation or request for a change to the Draft Program EIR. Nonetheless, the OHMVR Division is providing the following response for information purposes.

Friends of Oceano Dunes is correct that the Draft Program EIR does not discuss the combined recreational impact from Dust Control Program activities and potential long-term sea level rise. As shown in Section 2.3 of this Final Program EIR, the OHMVR Division has added information on predicted sea level rise at and near Oceano Dunes SVRA to the EIR. This additional information indicates the potential for sea level rise at Pismo State Beach would not result in a new or more severe impact on recreation than that identified in the Draft Program EIR.

Comment K11: Friends of Oceano Dunes states that the Draft Program EIR does not consider the combined impact on western snowy plover critical habitat and California least tern habitat from the proposed Dust Control Program and long-term sea level rise.

Response to Comment K11: Comment noted. Friends of Oceano Dunes’ remarks do not provide specific evidence that this effect would be potentially significant or a specific recommendation or request for a change to the Draft Program EIR. Nonetheless, the OHMVR Division is providing the following response for information purposes.

Friends of Oceano Dunes is correct that the Draft Program EIR does not discuss the combined impact on critical habitat from Dust Control Program activities and potential long-term sea level rise. As shown in Section 2.3 of this Final Program EIR, the OHMVR

Division has added information on predicted sea level rise at and near Oceano Dunes SVRA to the EIR, including new Figure 9-1, which shows the projected flooding impacts from sea level rise in the Program area based on a 1.4 m (4.6 ft) sea level rise by 2100. If loss of beach occurs due to sea level rise as expected, the beach and dunes will migrate east and if this occurs, it is expected that western snowy plovers and California least terns could move east as well. But, as discussed in the response to Friends of Ocean Dunes' Comment K3, the western boundary of the final designated western snowy plover critical habitat encompasses much of the intertidal zone. Thus, sea level rise may not necessarily impact critical habitat for western snowy plover. In fact, the USFWS' final critical habitat designation "expanded critical habitat to the east from past designations to help ensure there will be adequate potential for habitat in the future as sea-level rise occurs" (USFWS 2012). Finally, the OHMVR Division has incorporated Standard and Specific Project Requirements into the planning, design, and implementation of the proposed Dust Control Program that would avoid and minimize impacts on western snowy plover, thus rendering any potential cumulative impact from the Dust Control Program and sea level rise less than significant.

Comment K12: Friends of Oceano Dunes notes Draft Program EIR page S-5 states the current open riding and camping area is 1,453 acres, which is different than the acreage presented in other planning documents, and asserts the OHMVR Division has underestimated the percentage loss in recreation lands that would occur with the proposed Dust Control Program.

Response to Comment K12: The Draft Program EIR is based upon the most recent information available to the OHMVR Division and consistently identifies the amount of acres open to OHV use as 1,453 acres or approximately 1,450 acres (see, for example, Draft Program EIR Tables 2-1, 4-6, 4-8, and 4-9). Friends of Oceano Dunes does not provide any specific examples from the Draft Program EIR where "wildly" different acreages for current OHV recreation are reported, nor does Friends of Oceano Dunes provide any specific examples of wildly different acreages from other planning documents. There are a number of factors that could lead to perceived inconsistencies with stated acreages. For example, information could be limited to specific park units (e.g., limited to Pismo State Beach), limited to specific recreational activities (e.g., area open to street legal vehicles versus the area open to OHVs), limited by season and /or time of year when some areas of the SVRA are subject to temporary closure or, if from sources other than the Program EIR, out of date. The OHMVR Division does acknowledge that Oceano Dunes District staff were recently (the last several years) reporting the size of the SVRA's open riding and camping area as 1,490 acres; however, this is no longer the case. The size of the SVRA's open riding and camping area has been updated to reflect the recent expansion of cultural resources protection measures (16 acres, see Draft Program EIR 11-5) and a 2016 land survey of the SVRA's eastern boundary.

Comment K13: Friends of Oceano Dunes notes the Draft Program EIR identifies a significant conflict with the Oceano Dunes SVRA General Development Plan and Resource Management Plan. Friends of Oceano Dunes states the proposed Program may not proceed without an amendment to the SVRA's General Development Plan and Resource Management Plan.

Response to Comment K13: Comment noted. Friends of Oceano Dunes SVRA is correct that Draft Program EIR Impact LUP-1 identifies that the implementation of the proposed Dust Control Program would result in a significant and unavoidable conflict with the Oceano Dunes SVRA General Development Plan and Resource Management Plan

because the proposed Program's potential loss in OHV recreational lands is considered a significant recreational impact due to the SVRA's history, popularity, unique coastal recreational opportunities, and the lack of similar facilities in the state. Friends of Oceano Dunes Comment K13 does not provide a specific reason why the proposed Dust Control Program may not proceed without an amendment to these plans, or present any new information that changes the findings of the EIR.

Comment K14: Friends of Oceano Dunes notes the Draft Program EIR indicates the proposed Dust Control Program "could" significantly conflict with the California Coastal Act, and states the OHMVR Division must make a determination under CEQA whether the proposed Program conflicts with the Coastal Act or not.

Response to Comment K14: The OHMVR Division disagrees with Friends of Oceano Dunes. As explained in the responses to CCC Comments C3 and C11 (see Section 4.3 of this Final Program EIR), the OHMVR Division, acting as the CEQA Lead Agency, is required to consider the proposed Program's consistency with the Coastal Act. Accordingly, the OHMVR Division has determined the proposed Dust Control Program could result in a significant and unavoidable conflict with the Coastal Act because it does not maximize existing, historical, and traditional coastal OHV recreation opportunities at Oceano Dunes SVRA (see Draft Program EIR Impact LUP-2). The OHMVR Division cannot make a determination with certainty regarding the proposed Program's consistency with the Coastal Act because the OHMVR Division's CDP application and the proposed Program's consistency with the Coastal Act is ultimately subject to the jurisdiction and authority of the CCC. Accordingly, the Draft EIR also notes (page 5-18), "the CCC may determine the Dust Control Program, as described in this EIR, is consistent with the Coastal Act and/or impose additional conformance on the Program as necessary to support its issuance of a CDP and the Program's conformance with the Coastal Act."

Comment K15: Friends of Oceano Dunes reiterates the size of the current riding area is not consistent with other planning documents and asserts that this inconsistency renders the Draft Program EIR's cumulative impact analysis flawed.

Response to Comment K15: As explained in the response to Friends of Oceano Dunes Comment K12 above, there are several reasons why different documents may report different sizes for the Oceano Dunes SVRA open riding and camping area. Comment K15 does not provide any specific examples from other planning documents that can be responded to at this time. The Draft Program EIR was prepared using the most recent information available to the OHMVR Division and consistently identifies the amount of acres open to OHV use as 1,453 acres or approximately 1,450 acres (see, for example, Draft Program EIR Table 2-1, 4-6, 4-8, and 4-9). The cumulative impact analysis is not flawed because it also incorporated the use of the most recent information available to the OHMVR Division.

Comment K16: Friends of Oceano Dunes reiterates the project may not proceed without formal amendments to the Oceano Dunes SVRA General Development Plan and Resource Management Plan, and notes that it does not appear these plans can be amended in a way that is consistent with the SVRA Act.

Response to Comment K16: Comment noted. Refer to the response to Comment K13 for an explanation of why an amendment to the General Development Plan is not necessary at this time.

Comment K17: Friends of Oceano Dunes states the OHMVR Division did not consider a reasonable range of alternatives and submits information on an alternative consisting of 50-foot-high fences that could be implemented in-lieu of and /or in combination with seasonal dust control measures.

Response to Comment K17: As explained in the response to CCC Comments C6, C7, and C8 (see Section 4.3 of this Final Program EIR), Draft Program EIR Chapter 12 includes a robust evaluation of alternatives to the proposed Program, including: a different dust control program location (Draft Program EIR Section 12.2.1); an accelerated Dust Control Program schedule (Draft Program EIR Section 12.2.2); OHV use restrictions (Draft Program EIR Sections 12.2.3.1 and 12.2.3.2); off-site residential filtration systems (Draft Program EIR Sections 12.2.4.1 and 12.2.4.2); two versions of the No Project Alternative (Draft Program EIR Sections 12.3.1 and 12.3.2); and, an alternate dust control program recommended by the SLOAPCD. As a point of clarification, the PMRP the OHMVR Division prepared to comply with SLOAPCD Rule 1001 (see Draft Program EIR Section 1.1.4) eliminated the use of wind breaks from further consideration as a dust control measure. As shown in Section 3.8 of this Final Program EIR, the OHMVR Division has revised the Draft Program EIR's discussion of alternatives to include an evaluation of artificial windbreaks both in-lieu of or in combination with seasonal dust control measures. This evaluation concludes the use of artificial wind breaks is not feasible for technical reasons involving pole foundations and material breakdown. In addition, while this alternative could reduce (but not substantially lessen) the proposed Program's significant recreation impacts, it would result in new, significant and unavoidable aesthetic and biological resources impacts.

Comment K18: Friends of Oceano Dunes states it strongly objects to the SLOAPCD-recommended alternate dust control program evaluated in the Draft Program EIR and notes the Draft Program EIR erroneously presumes that this alternative is feasible. Friends of Oceano Dunes also states this alternative would not be the most protective of significant coastal resources.

Response to Comment K18: Comment noted. The OHMVR Division directs Friends of Oceano Dunes to the discussion on pages 12-10 and 12-11 of the Draft Program EIR, which briefly explains the OHMVR Division's rationale for discussing this alternative (not potentially limiting the OHMVR Division's ability to comply with Rule 1001) and the economic and logistical uncertainty regarding the feasibility of the alternative. The Draft EIR does presume the alternate dust control program is feasible for analysis and discussion purposes; however, after considering this alternative in appropriate detail, the Draft Program EIR concludes this alternative would not avoid or substantially lessen the proposed Program's significant recreation and land use impacts, and could result in new, significant and unavoidable aesthetic and biological resources impacts. Accordingly, the Draft Program EIR does not identify this alternative as the environmentally superior alternative. The OHMVR Division also notes that the Coastal Commission has jurisdiction with regards to PRC Section 30007.5. Refer also to the response to Comments C2 and C11 for additional information on this issue (see Section 4.3 of this Final Program EIR).

Comment K19: Friends of Oceano Dunes suggests the Draft Program EIR consider an alternative that consists of only temporary dust control measures (i.e., no vegetation expansion).

Response to Comment K19: The Draft Program EIR considers an alternative involving only the use of temporary dust control measures. The OHMVR Division directs Friends of Oceano Dunes to the discussion of the No Comprehensive Dust Program Alternative in Draft Program EIR Section 12.3.2. As described in the Draft Program EIR (page 12-9), this alternative consists of “an interim series of dust control projects, which, for the purposes of this alternatives analysis, would consist of approximately 40 acres of seasonal dust control measures such as wind fencing, straw bales, or PREs.” The Draft Program EIR concludes the No Comprehensive Dust Program Alternative would substantially reduce and/or avoid most of the proposed Program’s significant impacts but obtain only some of the basic objectives set for the Program to a degree. Comment K19 does not provide any specific suggestion or recommendation that warrants the evaluation of an additional alternative in the EIR at this time.

Comment K20: Friends of Oceano Dunes states the EIR erroneously concludes that the No Action Alternative and the No Comprehensive Dust Program Alternative are the least environmentally damaging alternatives and suggests the alternative described in Friends of Oceano Dunes Comment K19 is the environmentally superior alternative.

Response to Comment K20: The Draft Program EIR accurately concludes the No Action Alternative and the No Comprehensive Dust Program Alternative are the least environmentally damaging alternatives. The OHMVR Division directs Friends of Oceano Dunes to Draft Program EIR Section 12.3.1, which explains the No Action Alternative would result in minimal changes to the environment, thereby avoiding the proposed Program’s significant recreation, land use, and noise impacts. Similarly, the OHMVR Division directs Friends of Oceano Dunes to Draft Program EIR Section 12.3.2, which explains the No Comprehensive Dust Program Alternative would not result in the planting of 100 acres of vegetation, nor track-out prevention devices. Thus, this alternative would substantially reduce or avoid the proposed Program’s significant recreation, land use, and noise impacts. The OHMVR Division also notes Draft Program EIR Table 12-2 compares the proposed Program’s impacts against the impacts of the alternatives evaluated in detail in the Draft Program EIR. Finally, as a point of clarification, CEQA Guidelines section 15126.6(e)(2) specifies that if the environmental analysis indicates the no project alternative is environmentally superior, the EIR shall also identify an environmentally superior alternative among the other alternatives considered in the EIR. Accordingly, the Draft Program EIR identifies the proposed Program as the environmentally superior alternative because it obtains all of the objectives the OHMVR Division has set for the proposed program and results in lower magnitude impacts than the other alternatives considered in detail in the Draft Program EIR.

Comment K21: Friends of Oceano Dunes states Draft Program EIR Section S.1.4 does not indicate if the proposed annual review process would include measures to ensure public notice and participation in the process. In addition, Friends of Oceano Dunes notes that since the review process may result in changes to the proposed Program, the public should be given an opportunity to participate in the review.

Response to Comment K21: The proposed annual review process referenced in Comment K21 is described in detail in Draft Program EIR Section 2.4.1. This process is the mechanism by which the CCC and other potential agencies would evaluate the proposed Dust Control Program’s compliance with applicable CDP conditions (if the CCC issues a CDP for the proposed Program). This review process did not include public notice and

participation measures because the proposed Dust Control Program is subject to public review, comment, and revision as part of the OHMVR Division's CEQA review process. Similarly, the CCC's review and issuance of a CDP is subject to a public review process. Thus, the public has now and will continue to have an opportunity to participate in the review of the proposed Program.

The annual review process also provides an opportunity for the OHMVR Division to review subsequent dust control activities and determine if they are within the scope of the Program EIR that is this subject of this public CEQA review process. Draft Program EIR Section 1.3 explains the OHMVR Division is required (pursuant to CEQA) to consider subsequent dust control activities against the scope and content of the Program EIR. Specifically, page 1-11 states, "In accordance with CEQA Guidelines Section 15168(c), if dust control activities implemented later under this Program EIR are within the scope of this Program EIR, no further CEQA review is necessary. If the OHMVR Division determines the later activity would have effects that were not examined in this Program EIR, it would evaluate potential impacts under PRC Section 21166, which only requires subsequent CEQA review in certain circumstances. Any feasible mitigation measures or alternatives developed in this Program EIR must also be included in the subsequent activity." Thus, should the proposed Program change in a manner such that it would result in effects that were not examined in the Program EIR, the OHMVR Division would need to prepare a new Initial Study or EIR, which may include public noticing and participation requirements.

Nonetheless, as shown in Section 3.3 of this Final Program EIR, the OHMVR Division has revised the annual review process to make the final documents pertaining to the annual review process available for public review.

Comment K22: Friends of Oceano Dunes states that previous dust control activities dating back to 2010 are part of the same series of actions pertaining to the proposed Dust Control Program, are not exempt from CEQA, and should be analyzed in the EIR.

Response to Comment K22: The Draft Program EIR describes the physical environmental conditions at and in the vicinity of the Dust Control Program area as they existed in February 2015, which was when the OHMVR Division issued the Revised NOP for the EIR (see response to SLOAPCD Comment D13 in Section 4.4 of this Final Program EIR). Draft Program EIR Section 2.2.7.4 describes ongoing and completed dust control activities implemented at Oceano Dunes SVRA and Pismo State Beach, noting (page 2-13), "some of these ongoing and completed activities are part of the baseline environmental conditions and some are not." As explained in Draft Program EIR Section 2.2.7.4, as revised by Section 3.3 of this Final Program EIR, the ongoing and recently completed dust control activities that are not part of baseline conditions include the 2015 and 2016 wind fencing arrays, the 2016 PRE array, and the 2015 and 2016 dust and meteorological monitoring projects. (See CEQA Guidelines Section 15125(a) [the baseline physical conditions are those "as they exist at the time the notice of preparation is published"]; *North Coast Rivers Alliance v. Westlands Water Dist.* (2014) 227 Cal.App.4th 832, 872.)

In general, ongoing and recently completed dust control projects described in the Draft Program EIR are related to, but independent from, the proposed Dust Control Program. These past projects were intended to inform development of a potential comprehensive dust control program at Oceano Dunes SVRA. Specifically, Draft Program EIR pages 2-

15 to 2-16 state, “Since 2011, the OHMVR Division has undertaken an iterative series of dust control projects at Oceano Dunes SVRA. The purpose of these projects was three-fold: 1) To test how effective different dust control measures are at controlling and minimizing dust emissions; 2) To test the ability of different dust control measures and monitoring equipment to withstand harsh dune conditions (e.g., salt, sand blasting); and 3) To test the ability of different dust control measures to be feasibly installed at Oceano Dunes SVRA, given dune topography, equipment and staffing resources, and other factors.” Each ongoing and recently completed dust control project described in Draft Program EIR Section 2.2.7.4 was subject to an independent CEQA review that concluded the projects were exempt from CEQA, was noticed as necessary pursuant to CEQA, and for which the statute of limitations period set forth under CEQA Guidelines Section 15112 has expired in most cases¹¹. Furthermore, nearly all of these projects are complete (with the dust control measures and monitoring equipment removed) and thus do not have the potential to result in impacts that could combine with the proposed Dust Control Program activities. The exception to this is 2014 straw bale array (which remains partially in place) and ongoing meteorological monitoring projects, both of which are properly evaluated in Draft Program EIR Chapter 11, Cumulative Impacts.

Thus, for the reasons described above, the Draft Program EIR adequately evaluates ongoing and recently completed dust control projects under CEQA. These projects are related to, but independent of, the Dust Control Program, exempt from CEQA, and are properly evaluated for their potential to result in impacts that could combine with the proposed Dust Control Program activities.

Comment K23: Friends of Oceano Dunes states the Draft EIR should identify SLO County as a responsible agency because the County owns the La Grande Tract within Oceano Dune SVRA where dust control activities could occur. Friends of Oceano Dunes also states the OHMVR Division needs to determine which agencies are CEQA responsible agencies.

Response to Comment K23: Draft Program EIR section 1.4.1 explains that the state CEQA Guidelines define a responsible agency as a public agency which proposes to carry out or approve a project for which a Lead Agency has prepared an EIR. SLO County is not proposing to carry out any portion of the OHMVR Division’s Dust Control Program. In addition, the OHMVR Division operates the part of the SVRA within the County’s La Grande Tract under an existing operating agreement. This operating agreement provides the OHMVR Division with the authority to implement the proposed Dust Control Program. Thus, SLO County is not a responsible agency under CEQA for the proposed Dust Control Program EIR.

In general, CEQA and the state CEQA Guidelines require a lead agency to consult with and notify all responsible and trustee agencies, which the OHMVR Division has done (see Draft Program EIR Section 1.5 and Section 1.1 of this Final Program EIR). Neither CEQA nor the state CEQA Guidelines explicitly require an EIR to conclusively determine whether a public agency will act as responsible agency. The OHMVR Division has, therefore, distributed the NOP and Draft EIR to *potential* responsible agencies. These agencies may subsequently rely upon the OHMVR Division’s EIR should the

¹¹ The OHMVR Division’s CEQA review of its Spring 2016 Dust Control Project is the subject of ongoing litigation regarding whether those activities are in fact exempt from CEQA (Friends of Oceano Dunes, Inc. v. California Department of Parks and Recreation, San Luis Obispo Superior Court Case No. 16-CV-0113).

proposed Program require approval from one or more of these potential responsible agencies in the future.

Comment K24: Friends of Oceano Dunes states the Draft Program EIR fails to define the term “Master CDP” and describe the provisions of the Coastal Act that authorize such a permit. Friends of Oceano Dunes also states the Draft Program EIR fails to describe the provisions of the Coastal Act that grant the CCC original permit jurisdiction for the proposed Dust Control Program.

Response to Comment K24: Comment noted. Matters pertaining to the CCC’s administrative authority and procedures for processing a CDP application are outside the scope of the OHMVR Division’s CEQA review of the proposed Dust Control Program. Nonetheless, for information purposes, the OHMVR Division notes:

- CCC staff recommended the OHMVR Division use the term “Master CPD” because the CDP is intended to address the programmatic review and approval of subsequent Dust Control Program activities over a multi-year period that could otherwise require a project-specific CDP each year.
- Draft Program EIR Section 5.1.2 provides a description of the California Coastal Act, including provisions pertaining to CDP permitting authority, and specifically states (page 5-1), “For the proposed Dust Control Program, the OHMVR Division, SLO County, the City of Grover Beach, and the CCC have consented to a consolidated CDP process (pursuant to California Public Resource Code Section 30601.3) by which the CCC will process and act upon the OHMVR Division’s CDP application.”

Refer to response to Comment K5 for additional information regarding this topic.

Comment K25: Friends of Oceano Dunes states Draft Program EIR section 2.1 does not define the terms “maximum extent feasible” and “consistent with public safety and environmental protection needs.”

Response to Comment K25: Comment noted. The term “maximum extent feasible” is used within the context of CEQA and the state CEQA guidelines, which define “feasible” as “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors (PRC Section 15364).” “Consistent with public safety and environmental protection needs” is a plain language phrase meant to qualify the text immediately preceding this clause. Thus, as a point of clarification, in the context of Draft Program EIR Section 2.1, the OHMVR Division would maintain existing public access routes to the extent the continued use of these routes is consistent with public safety considerations (e.g., visitor health and safety) and environmental protection needs (e.g., natural resources management considerations, dust control considerations).

Comment K26: Friends of Oceano Dunes states that Draft Program EIR Figure 2-1 fails to clearly delineate the County’s boundaries.

Response to comment K26: Comment noted. As shown in Chapter 2 of this Final Program EIR, the OHMVR Division has revised Draft Program EIR Figure 2-1 to more clearly show the SLO and Santa Barbara County line.

Comment K27: Friends of Oceano Dunes summarizes information from Draft Program EIR Section 2.2.2 on dune advancement and states planting 100 acres of vegetation would impede,

impact, and interfere with the natural dune formation process. Friends of Oceano Dunes also states the Draft Program EIR fails to note such interference is inconsistent with the Coastal Act (PRC Section 30214).

Response to Comment K27: Comment noted. Friends of Oceano Dunes' summary of Draft Program EIR Section 2.2.2 is partially accurate. Draft Program EIR Section 2.2.2 does not state "the slowing of [dune] advancement is a naturally occurring process" as Friends of Oceano Dunes indicates. Rather, the Draft Program EIR states (page 2-4), "The slow movement of sand dunes over time is a naturally occurring process, but can disturb resources and infrastructure in and near the beach and dunes." Thus, the Draft Program EIR does not conclude that a reduction in the rate of dune advancement is a naturally occurring process. As described in Draft Program EIR Section 3.4.3, the proposed Dust Control Program would not significantly impede, impact, or interfere with natural dune formation processes. Accordingly, Draft Program EIR Table 5-1 identifies the proposed Program would not conflict with the Coastal Act provisions contained in PRC Section 30214.

Comment K28: Friends of Oceano Dunes states the Draft Program EIR fails to identify the specific policy regarding "no net loss of vegetation" at Oceano Dunes SVRA. Friends of Oceano Dunes states such a policy appears to be an underground regulation that is inconsistent with the SVRA's General Development Plan and other regulations.

Response to Comment K28: Draft Program EIR page 2-5 incorrectly references a "no net loss of vegetation" policy at Oceano Dunes SVRA. As shown in Section 3.3 of this Final Program EIR, the OHVMR Division has deleted this text from the EIR.

Comment K29: Friends of Oceano Dunes notes Draft Program EIR Table 2-1 indicates OHV Recreation is allowed on approximately 1,450 acres and states this figure is inconsistent with the recreational acreage listed elsewhere in the EIR.

Response to Comment K29: Friends of Oceano Dunes is correct that Draft Program EIR Table 2-1, Table Note (D), states that OHV recreation is allowed on approximately 1,450 acres of land at Pismo State Beach and Oceano Dunes SVRA. Friends of Oceano Dunes does not provide a specific inconsistency in the EIR that can be addressed by the OHMVR Division at this time. Nonetheless, as explained in more detail in response to Comment K12, the Draft Program EIR is based upon the most recent information available to the OHMVR Division and consistently identifies the amount of acres open to OHV use as 1,453 acres or approximately 1,450 acres (see, for example, Draft Program EIR Table 2-1, 4-6, 4-8, and 4-9).

Comment K30: Friends of Oceano Dunes requests the OHMVR Division amend Draft Program EIR Figure 2-2 to show the proximity of the proposed Dust Control Program area to western snowy plover critical habitat. Friends of Oceano Dunes also requests an explanation regarding why the potential tree planting area is not considered part of the Program area and states the Draft Program EIR should evaluate impacts from potential tree plantings.

Response to Comment K30: Comment noted. As explained in more detail in response to Comment K3, the location of the western snowy plover critical habitat area is depicted on Draft Program EIR Figure 2-5 and new Figure 7-2 (see Chapter 3 of this Final Program EIR) and therefore there is no need to revise Draft Program EIR Figure 2-2. In addition, as explained in more detail in response to Comment K2, the proposed Program area consists of: 1) a primary, 688-acre area at Oceano Dunes SVRA where vegetation

plantings, seasonal dust control measure deployment, and monitoring would occur; and 2) a 295-acre area downwind of Oceano Dunes SVRA where tree plantings could occur. Thus, the potential tree planting area is considered part of the overall Program area (see Draft Program EIR Figure 2-2 through 2-5, 2-8, and 2-9). Accordingly, the Draft Program EIR does evaluate the potential impacts of this activity where necessary and appropriate (see Draft Program EIR Sections 3.4.1, 4.3.2, Draft Program EIR Table 5-1, and Draft Program EIR Impacts AES-1, BIO-1, BIO-2, and BIO-3).

Comment K31: Friends of Oceano Dunes notes that the Draft Program EIR identifies that visitation to the SVRA is highest from late May through early September, when seasonal dust control measures would be in place, and states the Draft Program EIR does not accurately or adequately discuss the “constant” impact of dust control measures on OHV recreation access.

Response to Comment K31: Comment noted. It is not clear what Friends of Oceano Dunes refers to in regards to the “constant” impact of dust control measures on OHV recreation access. But, the OHMVR Division does note Draft Program EIR Sections 2.2.5, 4.2, and 4.2.3.4 contain detailed visitor information, and Draft Program EIR 4.3.2 does describe the amount of land that could be temporarily and permanently occupied by the proposed dust control measures. Furthermore, Draft Program EIR Impact REC-1 and CML-1 factor the park’s popularity into consideration, as well as the fact that seasonal dust control measures would be in place during periods of high visitation such as holidays and summer break for the traditional school year. The Draft Program EIR concludes the proposed Program’s impacts on coastal vehicular recreation opportunities would be significant and unavoidable impacts of the proposed Program. Friends of Oceano Dunes does not provide any clear, specific evidence or reason why the Draft Program EIR’s evaluation of potential impacts to OHV recreation is inaccurate and/or inadequate.

Comment K32: Friends of Oceano Dunes requests the OHMVR Division revise Draft Program EIR Figure 2-3 to show the precise location of western snowy plover critical habitat in relation to the proposed Program area, as well as areas of known least tern habitat.

Response to comment K32: Comment noted. As explained in more detail in response to Comment K3, the location of the western snowy plover critical habitat area is depicted on Draft Program EIR Figure 2-5 and new Figure 7-2 (see Chapter 3 of this Final Program EIR) and, therefore, there is no need to revise Draft Program EIR Figure 2-3. In addition, as explained in Draft Program EIR Section 7.2.2.2 and Section 2.1 of this Final Program EIR, the Program area contains suitable breeding, foraging, and roosting habitat for California least tern, which is known to nest in habitat that is also suitable for western snowy plover, including western snowy plover critical habitat areas.

Comment K33: Friends of Oceano Dunes notes Draft Program EIR Section 2.2.7 indicates some previous dust control activities are considered part of the baseline environmental conditions and states these previous activities were illegally exempt from CEQA.

Response to comment K33: As explained in more detail in response to Comment K22, each ongoing and recently completed dust control project described in Draft Program EIR Section 2.2.7.4 was subject to an independent CEQA review that concluded the projects were exempt from CEQA, was noticed as necessary pursuant to CEQA, and for which the statute of limitations period set forth under CEQA Guidelines Section 15112 has expired in most cases.

Comment K34: Friends of Oceano Dunes states the Draft Program EIR erroneously concludes the seasonal installation of 1,700 feet of wind fencing is an ongoing activity that is part of the environmental baseline conditions because this activity is installed anew each year and thus cannot legally be considered part of the baseline.

Response to comment K34: As explained in more detail to response to Comment K22 above and SLOAPCD Comment D13 (see Section 4.4 of this Final Program EIR), the Draft Program EIR describes the physical environmental conditions at and in the vicinity of the Dust Control Program area as they existed in February 2015, which was when the OHMVR Division issued the Revised NOP for the EIR. These conditions constitute the baseline conditions against which the effects of the proposed Dust Control Program are evaluated. Draft Program EIR Section 2.2.7.1 describes the installation of fencing upwind of Grand Avenue, Pier Avenue, and Strand Way as a recurring activity that occurs from March to July of each year. Thus, the Draft Program EIR appropriately concludes this activity is part of the baseline environmental conditions at Oceano Dunes SVRA. In addition, as a point of clarification, the OHMVR Division notes this activity is included in the OHMVR Division's CDP application and is therefore part of the proposed Dust Control Program; however, since the proposed Program would merely continue a baseline activity, there is no new change to the physical environment that requires detailed analysis in the EIR.

Comment K35: Friends of Oceano Dunes states the OHMVR Division should revise Draft Program EIR Figure 2-4 to a scale that allows the public to more clearly see the location of the ongoing and recently completed dust control activities. Friends of Oceano Dunes also requests the OHMVR Division add western snowy plover critical habitat, California least tern habitat, and jurisdictional wetland habitat to Draft Program EIR Figure 2-4.

Response to comment K35: The OHMVR Division directs Friends of Oceano Dunes to Chapter 3 of this Final Program EIR, which contains a revised version of Figure 2-4 presented at a larger scale, and inclusive of western snowy plover critical habitat, California least tern habitat, and wetland habitat. Draft Program EIR Section 7.2.1.3 discusses wetlands in and near the proposed Program Area, and native wetland alliance vegetation communities are depicted on Draft Program EIR Figure 7-1. A wetland delineation has not been performed within the Dust Control Program area so jurisdictional wetland habitat cannot be shown; however, vegetation that is known to be facultative wetland vegetation (Lichvar et al. 2016) is shown on revised Figure 2-4 (specifically, arroyo willow and the native wetland alliance are shown). These areas have the potential to be considered wetland habitat according to the CCC. Facultative wetland vegetation usually occurs in wetlands, but may occur in non-wetlands as well.

Comment K36: Friends of Oceano Dunes states the Draft Program EIR incorrectly concludes that dust control measures implemented since 2010 are part of the baseline conditions and have therefore been incorrectly excluded from the EIR's analysis. Friends of Oceano identifies that Draft Program EIR page 2-16 states the OHMVR Division planned removal of straw bales is an activity that would occur after the NOP for the EIR was issued and as such should be considered in the Draft Program EIR's cumulative impact analysis.

Response to Comment K36: As explained in more detail to response to Comment K22 above and SLOAPCD Comment D13 (see Section 4.4 of this Final Program EIR), ongoing and recently completed dust control projects described Draft Program EIR Section 2.2.7 are related to, but independent from, the proposed Dust Control Program.

These past projects were intended to inform development of a potential comprehensive dust control program at Oceano Dunes SVRA, and the Draft Program EIR appropriately and clearly identifies which activities are and are not part of the baseline environmental conditions at Oceano Dunes SVRA. As points of clarification, the OHMVR Division notes:

- Friends of Oceano Dunes SVRA is correct that the Draft Program EIR page 2-16 identifies that the OHMVR Division, at the request of the CCC, planned to remove straw bales installed in 2014. As shown in Section 3.3 of this Final Program EIR, the OHMVR Division has revised this text to indicate that few, if any straw bales would be removed due to logistical concerns. In addition, the OHMVR Division also notes that, as of March 2017, approximately 25 acres of the 30-acre straw bale array installed in 2014 have been part of vegetation restoration projects undertaken by the OHMVR Division (see Draft Program EIR Section 2.2.6.1). The potential removal of any remaining straw bales could occur at the same time as the proposed Dust Control Program activities; however, each project would be subject to requirements for avoiding and minimizing potential impacts to sensitive resources, rendering any cumulative effect less than significant.
- The 2014, 2015, and 2016 temporary wind fencing arrays described on Draft Program EIR page 2-16 are no longer in place. Thus, any potential impact from these arrays has ceased and cannot combine with future Dust Control Program activities. Accordingly, the Draft Program EIR correctly concludes on page 2-16 that these activities “have no potential to result in activities that could combine with the proposed Dust Control Program activities.” Friends of Oceano Dunes does not provide any specific evidence or reason to suggest why potential impacts from previous wind fence arrays and future Dust Control Program activities have the potential to combine and result in significant cumulative impacts that the OHMVR Division can respond to at this point.

Comment K37: Friends of Oceano Dunes states the Draft Program EIR considers the use of soil stabilizers to be part of the environmental baseline and notes the use of soil stabilizers should be analyzed by the Draft Program EIR.

Response to comment K37: Friends of Oceano Dunes is mistaken. The OHMVR Division has not used soil stabilizers at Oceano Dunes SVRA for dust control purposes, and their use is therefore not part of the baseline environmental conditions described in the Draft Program EIR. Specifically, Draft Program EIR states (page 2-16, emphasis added), “In Spring 2015, the SLOAPCD and the OHMVR Division proposed the use of soil stabilizers on an approximately two-acre area east of the northern end of Sand Highway (see Figure 2-4); however, this proposal was rejected by the CCC.” Draft Program EIR page 2-23 provides a description regarding the potential use of soil stabilizers as part of the proposed Dust Control Program. Accordingly, the Draft Program EIR does evaluate the potential impacts of this activity where necessary and appropriate (see Draft Program EIR Sections 6.3.3 and 9.3.2, Draft Program EIR Tables 2-5 and 12-1, and Draft Program EIR Impacts BIO-2 and HYD-1). In addition, Draft Program EIR Table 2-5 and Section 9.3.2 describes the requirements the OHMVR Division has incorporated into the Dust Control Program to avoid and minimize impacts from the use of soil stabilizers. These requirements include, but are not limited to, the selection and use of a non-toxic, environmentally friendly stabilizer in consultation with the CCC and in consideration of

factors such as surface runoff, breakdown of products, ingestion of product by animals and humans, and downwind drift of any potential stabilizer product.

Comment K38: Friends of Oceano Dunes states the Draft Program EIR fails to consider the cumulative impacts of previous dust control activities.

Response to comment K38: As explained in more detail to response to Comment K22 and K36 above and SLOAPCD Comment D13 (see Section 4.4 of this Final Program EIR), the ongoing and recently completed dust control projects described Draft Program EIR Section 2.2.7 are related to, but independent from, the proposed Dust Control Program. These past projects were intended to inform development of a potential comprehensive dust control program at Oceano Dunes SVRA, and the Draft Program EIR appropriately and clearly identifies which activities are and are not part of the baseline environmental conditions at Oceano Dunes SVRA. Activities such as the 2013 monitoring sites and 2014 to 2014 temporary wind fencing arrays are completed and no longer in place. Thus, any potential impact from these arrays has ceased and cannot combine with future Dust Control Program activities. Friends of Oceano Dunes does not provide any specific evidence or reason to suggest why potential impacts from previous wind fence arrays and future Dust Control Program activities have the potential to combine and result in significant cumulative impacts that the OHMVR Division can respond to at this point.

Comment K39: Friends of Oceano Dunes notes SLO County has been in a severe drought for the last five years, requests information on annual rainfall for the last 10 years, and states the Draft Program EIR “ignores” drought conditions and the “likely need” for substantial water transport or irrigation to support vegetation plantings. In addition, Friends of Oceano Dunes submits an analysis as evidentiary support for its estimate of the proposed Program’s potential water transport and/or irrigation needs, and states that the OHMVR Division must show that future water supplies are reasonably likely to be available for the proposed Program.

Response to comment K39: First, the Draft Program EIR does not “ignore” the drought and already contains similar rainfall information as that requested by Comment K39. The Draft Program clearly identifies that proposed vegetation projects “could be hampered by environmental factors such as a short growing season, drought, hardness of individual plants, etc. (Draft Program EIR page 2-21)”, and that the lack of available on-site water is one reason why an accelerated schedule is not a feasible Program alternative (see Draft Program EIR Section 12.2.2). In addition, Draft Program EIR Section 9.2.1 presents information on annual rainfall amounts for 2004 to 2015, stating (page 9-5), “Average annual precipitation varied from 19.3 to 28.2 inches and average temperature varies from 57.7 and 58.6 degrees Fahrenheit from 2004 to 2010. More recent precipitation data from 2011-2015 reflects the recent drought suffered by all of California. Annual precipitation from 2011 to 2015 was approximately 15.7 inches, 8.5 inches, 6.0 inches, 14.1 inches, and 8.3 inches, respectively (CIMIS 2016).”

Second, as a point of clarification, water transport and/or irrigation of newly planted dune vegetation is not part of the OHMVR Division’s ongoing restoration program described in Draft Program EIR Section 2.2.6.1 or the proposed Dust Control Program. In addition, the OHMVR Division would plant Dust Control Program vegetation during the rainy season and would not use irrigation or other supplemental water supplies to support vegetation planted under the proposed Program. The OHMVR Division grows existing seedlings and container plants in an existing nursery that would also be used to grow seedlings and container plants for the proposed Program. The nursery is served by an

existing hose and irrigation system intended to establish seedlings and maintain container stock, and water use would remain substantially the same with or without the proposed Program because the OHMVR Division is not proposing to expand or modify the nursery at this time. Water use fluctuates according to planting volume and annual rainfall volumes, but, as explained on Draft Program EIR page 3-11 the proposed Dust Control Program would not require new or expanded water use entitlements.

Comment K40: Friends of Oceano Dunes notes USFWS-designated critical habitat for western snowy plover seems to overlap with the proposed Program area and requests the OHMVR Division provide a revised map at a scale that more clearly shows the location of critical habitat in relationship to the proposed Program area. Friends of Oceano Dunes also requests the OHMVR Division confirm the critical habitat depicted on Draft Program EIR Figure 2-2 is to scale and based on official USFWS maps.

Response to comment K40: As discussed in more detail in response to Comment K3 above, the OHMVR Division directs Friends of Oceano Dunes to Chapter 3 of this Final Program EIR, which contains new Figure 7-2 that graphically depicts the proposed Program area and western snowy plover critical habitat at a larger scale. The OHMVR Division confirms the location of the critical habitat area depicted on new Figure 7-2 consists of Geographic Information System (GIS) data provided by the USFWS (USFWS 2012, 2016). This data indicates the critical habitat area borders the northern extent of the proposed Dust Control Program area (between marker posts 4 and 5), but is approximately 240 feet west of the southern extent of the proposed Program area (near marker post 7). As shown on new Figure 7-2, the proposed Dust Control Program area borders, but does not overlap with or otherwise include, western snowy plover critical habitat.

Comment K41: Friends of Oceano Dunes states the USFWS critical habitat maps indicate there is some overlap between western snowy plover critical habitat and the proposed Dust Control Program Area.

Response to comment K41: Friends of Oceano Dunes is incorrect. The OHMVR Division directs Friends of Oceano Dunes to Chapter 3 of this Final Program EIR, which contains new Figure 7-2 that graphically depicts the proposed Program area and western snowy plover critical habitat at a larger scale. As explained in more detail in response to Comments K3, K30, K32, K35, and K40 above, USFWS-designated western snowy plover critical habitat borders the northern extent of the proposed Dust Control Program area (between marker posts 4 and 5), but is approximately 240 feet west of the southern extent of the proposed Program area (near marker post 7). As shown on new Figure 7-2, the proposed Dust Control Program area borders, but does not overlap with or otherwise include, western snowy plover critical habitat.

Comment K42: Friends of Oceano Dunes requests the OHMVR Division explain why the potential tree planting area is not included in the description of the proposed Program area included in Draft Program EIR Section 2.3.1.3.

Response to comment K42: Friends of Oceano Dunes is incorrect that the potential tree planting area is not included in the Draft Program EIR's description of the proposed Dust Control Program area. As discussed in more detail in response to Comment K4, the potential tree planting area is included in the Dust Control Program area and Draft Program EIR Section 2.3.1.3 specifically states (emphasis added), "*The proposed Program's potential tree planting area includes privately-owned lands downwind of*

Oceano Dunes SVRA. This area is south of the community of Oceano and west of the Nipomo Mesa and is approximately 295 acres in size. The area consists of private agricultural, open space, and recreational lands and includes older sand dune and dune lake ecosystems. The area is accessible via SR 1 and private access roads. The OHMVR Division would not plant trees on 295 acres of land; rather the identified area reflects the location where trees could be planted. The exact amount of trees that could be planted (if any) is unknown at this time.”

Comment K43: Friends of Oceano Dunes states the Draft Program EIR identifies that vegetation reduces sand movement but fails to consider whether this reduction in sand movement adversely affects natural dune processes and is inconsistent with the Coastal Act. In addition, Friends of Oceano Dunes states the Draft Program EIR “does not know whether ‘seedling’ projects would be effective.” Finally, Friends of Oceano Dunes states the EIR does not adequately evaluate planting vegetation both adjacent to existing vegetation and in areas where no vegetation exists, and fails to evaluate potential adverse impacts from using herbicide to remove non-native or exotic plants.

Response to comment K43: In regards to Comment K43, the OHMVR Division notes:

- Friends of Oceano Dunes is incorrect when it states the Draft Program EIR fails to consider potential impacts on dune geology. As explained in more detail in response to Comment K27, Draft Program EIR Section 3.4.3 identifies why the proposed Dust Control Program would not significantly impede, impact, or interfere with natural dune formation processes and Draft Program EIR Table 5-1 identifies why the proposed Program would not conflict with the Coastal Act provisions contained in PRC Section 30214.
- Friends of Oceano Dunes misquotes the Draft Program EIR’s discussion of vegetation seedling projects. The OHMVR Division directs Friends of Oceano Dunes to Draft Program EIR page 2-21, which states (emphasis added), “A 2011 pilot project study conducted at Oceano Dunes SVRA concluded vegetation reduced sand transport by as much as 90% to 95% within the first 165 feet (50 meters) from the upwind boundary of the vegetated area, and 90% to 99% farther downwind (DRI 2011). *The effectiveness of seedling vegetation projects is uncertain, but presumably lower than mature, established vegetation.*” This sentence does not mean that seedling vegetation is ineffective; it means the use of seedling vegetation is likely, at first, to be less effective at reducing sand movement when compared with mature, well-established vegetation. This is one reason why the OHMVR Division is proposing to “monitor vegetation growth to ensure vegetation projects become established and meet their design control efficiency (Draft Program EIR page 2-21). It is also a reason why the OHMVR Division is proposing the use of seasonal dust control projects, which as noted on Draft Program EIR page 2-22, “can be designed to provide a specific control efficiency, can be deployed over a large area rapidly and, once installed, begin to provide immediate sand transport and dust control . . .”. Refer also to response to Comment K39 above for additional information regarding the factors that could limit the successful establishment of Dust Control Program vegetation projects.
- Friends of Oceano Dunes states the Draft Program EIR does not adequately evaluate planting vegetation both adjacent to existing vegetation and in areas where no vegetation exists. Friends of Oceano Dunes does not provide any

specific evidence for why the Draft Program EIR does not adequately evaluate vegetation planting options that can be responded to by the OHMVR Division. Nonetheless, for information purposes, the OHMVR Division notes Draft Program EIR Section 2.3.2.1 clearly identifies both planting options, and the Draft Program EIR adequately evaluates these planting options where appropriate and necessary (see, for example, Draft Program EIR Sections 3.4.3 and 6.3.1 and Draft Program EIR Impacts AES-1, BIO-1, and BIO-4).

- Friends of Oceano Dunes is correct the Draft Program EIR did not analyze the potential use of herbicide when removing non-native and exotic plants from newly planted Dust Control Program vegetation. As shown in Section 3.7 of this Final Program EIR, the OHMVR Division has revised the discussion under Draft Program EIR Impact BIO-1 to include an evaluation of this activity. This revision does not change the significance findings contained in the Draft Program EIR or otherwise constitute significant new information that would require recirculation of the Draft Program EIR.

Comment K44: Friends of Oceano Dunes states the Draft Program EIR’s inclusion of soil stabilizers as part of the proposed Program seems inconsistent with the CCC’s previous determination that the use of soil stabilizers was inappropriate for use in a sensitive coastal environment,

Response to comment K44: Comment noted. As explained in more detail in response to Comment K37 above, the use of soil stabilizers is described in Draft Program EIR Section 2.3.2.4 and evaluated under Draft Program EIR Impacts BIO-2 and HYD-1. The use of non-toxic soil stabilizers would require approval by the CCC prior to use.

Comment K45: Friends of Oceano Dunes states Draft Program EIR Section 2.3.3 does not define the factors it would consider when siting dust control measures, provide meaningful criteria for determine what projects the OHMVR Division would implement, or describe how the OHMVR Division would balance its obligations under various laws, plans, etc. Friends of Oceano Dunes also states Draft Program EIR Section 2.3.3 implies the proposed Dust Control Program could result in adverse impacts including take of listed species.

Response to comment K45: Friends of Oceano Dunes is incorrect and misinterprets the Draft Program EIR.

First, Draft Program EIR clearly identifies the factors the OHMVR Division would consider when siting individual dust control project. Specifically, Draft Program EIR page 2-25 states (emphasis added), “Although the precise location of vegetation plantings and seasonal dust control deployment is not known at this time, there are several environmental, technical, and logistical factors that would generally guide where the OHMVR Division could potentially plant vegetation and deploy seasonal dust control measures. These include Rule 1001 compliance, resource and recreation management considerations, and material availability and cost factors.” The Draft Program EIR then proceeds to generally define these factors and provide examples of how the OHMVR Division would evaluate and consider these factors. As a point of clarification, the phrase “if all other factors are equal” refers to the environmental, technical, and logistical factors defined in Draft Program EIR Section 2.3.3.

Second, as explained in the response to Comment C4 (see Section 4.3 of this Final Program EIR), the Draft Program EIR does provide a general description of how the

OHMVR Division would apply the environmental, technical, and logistical factors described in Draft Program EIR Section 2.3.3 to balance a variety of public objectives under CEQA. The Draft Program EIR is clear that if all factors are equal the OHMVR Division would give preference and priority to projects that most support compliance with Rule 1001 (Draft Program EIR page 2-25). All factors may not be equal, however, in which the case the Draft Program EIR explains the OHMVR Division would emphasize projects that avoid adverse effects on natural and other park resources over projects that do not avoid adverse effects on natural and other park resources. For example, the Draft Program EIR identifies a significant and unavoidable impact to coastal vehicular recreation opportunities, meaning a project located within the open riding and camping area would be consistent with the findings of this Program EIR and would likely be approved without further CEQA review. In contrast, the Draft Program EIR does not identify a significant and unavoidable impact on biological or cultural resources, meaning a project that results in such an impact would not be within the scope of this Program EIR. While such a project (i.e., a project that significantly impacts biological or cultural resources) would not be preferred, it would also not be precluded; however, the project would be subject to additional environmental review in the form of a new Initial Study or EIR. Furthermore, factors such as material availability and costs would also inform the selection of specific dust control projects. Thus, the Draft EIR does provide sufficient information on how the OHMVR Division would give preference and priority to potential Dust Control Projects. As a point of clarification, it is not possible for the OHMVR Division at this time to provide a definite explanation of how these factors would affect the siting of individual, future dust control projects because each project would be subject to site-specific conditions that are not known at this time.

Finally, Comment 45 does not provide any specific evidence or example to support its statement that the proposed Program would result in adverse effects on biological resources such as take of listed species. Draft Program EIR Section 7.3.2, as revised by this Final EIR, describes the standard and project specific requirements the OHMVR Division has incorporated into the Dust Control Program to avoid and minimize impacts on potential biological resources that could be present in and near the Program area. With these requirements, the proposed Program would not result in significant adverse impacts on biological resources and/or take of listed species.

Comment K46: Friends of Oceano Dunes states Draft Program EIR Figures 2-8 and 2-9 of the fail to clearly show western snowy plover critical habitat and are not clear what is meant by “high biological sensitivity.” Friends of Oceano Dunes also states the Draft Program EIR should also provide the distance between critical habitat and the proposed Program area. Finally, Friends of Oceano Dunes states Figures 2-8 and 2-9 are misleading because they show “conceptual” vegetation areas that may be different than actual planting projects (resulting in substantially greater impacts to biological and recreation resources) and that it would be “more” accurate to assume the entire Program area may be covered with vegetation.

Response to comment K46: Friends of Oceano Dunes is correct - Figure 2-8 and Figure 2-9 do not show the western snowy plover final designated critical habitat As discussed in more detail in response to Comment K3 above, the OHMVR Division directs Friends of Oceano Dunes to Chapter 3 of this Final Program EIR, which contains new Figure 7-2 that graphically depicts the proposed Program area and western snowy plover critical habitat at a larger scale. The western snowy plover critical habitat and the Dust Control Program area are adjacent, but they do not overlap. The area depicted as a “high

biological sensitivity” area along the shoreline is more than just western snowy plover critical habitat but rather indicates suitable breeding habitat for western snowy plover and California least tern.

The OHMVR Division disagrees with Friends of Oceano Dunes characterization that Figures 2-8 and 2-9 are misleading. As the Draft Program EIR discusses in Section 1.3, page 1-12, a Program EIR is intended to provide information with a general level of detail because the subsequent, specific activities of the Program are yet to be defined in detail. Page 2-29 of the Draft Program EIR explains that Figures 2-8 and 2-9 show concept locations and that actual locations may vary. The Draft Program EIR is adequate because it does presume vegetation installation or seasonal dust control measures could be installed anywhere within the 690-acre primary Program area. See, for example, the Draft Program EIR’s discussion of vegetation and seasonal dust control measures and their potential location in Draft Program EIR Impact BIO-1 and Draft Program EIR Impact CUL-1.

Comment K47: Friends of Oceano Dunes states Draft Program EIR Section 2.3.4.1 does not define the term “maximum extent feasible” or articulate which of the statutes, laws, and plans, etc. would take priority.

Response to comment K47: Comment noted. As explained in response to Comment K25 above, the term “maximum extent feasible” is used within the context of CEQA and the state CEQA guidelines, which define “feasible” as “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors (PRC Section 15364).”

With regards to the priority of various statutes, laws, and plans, the OHMVR Division has, as explained in more detail in response to CCC Comment C4 (see Section 4.3 of this Final Program EIR), prepared a Program EIR with clear and flexible Program objectives that balance a variety of factors and public objectives. A major reason for the preparation of a Program EIR with clear and flexible objectives is the uncertainty surrounding the magnitude of the dust control measures needed to comply with Rule 1001. The OHMVR Division would implement Program activities in compliance with all applicable plans, statutes, etc., and no one provision of any plan, policy, or statute would necessarily take priority over another. As noted in response to Comment C4, the OHMVR Division, as CEQA Lead Agency, is required to balance the proposed Program’s economic, legal, social, technological, and other benefits and determine if these benefits outweigh the proposed Program’s adverse environmental effects.

Comment K48: Friends of Oceano Dunes states it strongly objects to the alternate dust control program scenario described in Section 2.3.4.2 and that is inappropriate for the EIR to identify this scenario as the “worst-case” scenario.

Response to comment K48: As explained in more detail in response to CCC Comment C5 (see Section 4.3 of this Final Program EIR), the discussion of the preferred and alternate Dust Control Program scenarios provided in Draft Program EIR Section 2.3.4 is intended to facilitate public understanding of the proposed Program and the OHMVR Division’s evaluation of potential environmental effects associated with the implementation of the proposed Program. As a point of clarification, Draft Program EIR Section 2.3.4 does not state the alternate scenario is the “worst-case scenario” as Friends of Oceano Dunes states. While it is true Draft Program EIR Section 2.3.4 does state, “The alternate [Dust Control Program] scenario represents the worst-case impact to public recreation lands at

Oceano Dunes SVRA,” the Draft Program EIR evaluates both the preferred (up to 78 acres) and alternate (up to 113 acres) scenarios and concludes both scenarios would result in a significant impact on coastal vehicular recreation lands.

Comment K49: Friends of Oceano Dunes states the Draft EIR does not adequately discuss that OHV riding activity will be impacted every month.

Response to Comment K49: Friends of Oceano Dunes is incorrect. The Draft EIR discusses and considers both temporary (or seasonal) and permanent impacts on OHV recreation. The OHMVR Division directs Friends of Oceano Dunes to the discussion under Draft Program EIR Impact REC-1, which states (page 4-22 to 4-23, emphasis added), “As shown in Table 4-8 and Table 4-9, the proposed Dust Control Program could occupy between 78 and 113 acres of land at Oceano Dunes SVRA where vehicle activity is permitted (i.e., the SVRA’s open riding and camping area). *Under the OHMVR Division’s preferred scenario, approximately 35 acres of land inside the Oceano Dunes SVRA open riding and camping area would be vegetated, protected, and permanently closed to OHV recreation. Under the alternate scenario, approximately 70 acres of land in the Oceano Dunes SVRA open riding and camping area would be vegetated, protected, and permanently closed to OHV recreation. In addition, under both scenarios, the OHMVR Division would protect and close, on a seasonal basis (March 1 to September 30), approximately 43 acres of land inside the open riding and camping area due to the installation of wind fencing or other seasonal dust control measures and associated monitoring equipment that pose a safety risk to OHV riders.*” The discussion under Impact REC-1 goes on to acknowledge that Oceano Dunes SVRA provides a unique opportunity for recreation that has been substantially limited and reduced over time, and that the loss of between 78 to 113 acres of OHV recreation lands would constitute an approximately 5.3 to 7.7 percent loss in OHV recreation lands at the SVRA. This is considered a significant impact of the proposed Dust Control Program.

Comment K50: Friends of Oceano Dunes reiterates the proposed dust control annual review process does not provide for public notice, review, or input.

Response to Comment K50: Refer to the response to comment K21.

Comment K51: Friends of Oceano Dunes states the Draft Program EIR designates State Parks as both a lead agency and trustee agency under CEQA and requests clarification on the significance of, and any potential conflicts with, these dual roles.

Response to Comment K51: The OHMVR Division directs Friends of Oceano Dunes to Draft Program EIR Sections 1.2 and 1.4.1. Draft Program EIR explains defines Lead Agency and explains that CEQA and the CEQA Guidelines establish the OHMVR Division as the Lead Agency for the proposed Program. Draft Program EIR Section 1.4.1 explains that the OHMVR Division of CDPR is also considered a Trustee Agency because it is a state agency with jurisdiction by law over the natural resources held in trust for the people of the State of California. There is no “significance” associated with these dual roles, except to that extent that the OHMVR Division has the responsibility to ensure its actions protect the resources of State Parks system. In addition, there is no conflict associated with the OHMVR Division’s role as both a Lead Agency and Trustee Agency.

Comment K52: Friends of Oceano Dunes states the OHMVR Division appears to propose Standard and Specific Project Requirements and notes the OHMVR Division needs to identify the source of such requirements, such as a regulation, policy, or other specific citation.

Response to Comment K52: The Standard and Specific Project Requirements listed in Draft Program EIR Table 2-5 consist of measures that are known to minimize and reduce potential adverse environmental effects, such as survey requirements, buffer areas, and design features. The standard project requirements reflect generic measures, whereas the specific project requirements have been tailored to the resources at Oceano Dunes SVRA and the proposed Program activities. The requirements are not contained in any specific regulation, policy, or guidance document, but reflect typical best management practices implemented by environmental professionals in general and that the OHMVR Division has adopted specifically for the proposed Program.

Comment K53: Friends of Oceano Dunes states that to the extent the standard project requirements identified in the Draft Program EIR are of general applicability, they are therefore a regulation under the Administrative Procedure Act and must be adopted in accordance with this act's notice and procedure.

Response to Comment K53: Comment noted. The Administrative Procedure Act prohibits a state agency from issuing a regulation unless it has been adopted and filed with the Secretary of State. The Act defines the term regulation to mean "every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulations, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure (California Government Code Section 11342.600)." As noted on Draft Program EIR page 3-1, "The EIR incorporates SPRs into the proposed Program activities and components that are designed to minimize impacts to the existing environmental setting. The application of SPRs is presumed and therefore they are not considered mitigation measures but rather resource protection measures that are part of the proposed project." As such, these requirements apply to the proposed Dust Control Program only and are not of "general applicability." They also are not relevant to any law or procedure of law enforced or administered by the OHMVR Division and as such are not subject to the California Administrative Procedure Act.

Comment K54: Friends of Oceano Dunes states it is not clear how the OHMVR Division will "disturb and occupy as little land as possible" or simultaneously comply with the SVRA Act, land use law and plans, environmental law, and Rule 1001.

Response to Comment K54: The OHMVR Division has incorporated a requirement to minimize ground disturbance and land occupancy into the proposed Program. As specified in this requirement (see Draft Program EIR Table 4-5), the OHMVR Division would accomplish this by identifying the minimum area required to complete planned work activities, designating this minimum area, using existing paths of travel to access work areas, and restoring all disturbed areas to the maximum extent feasible. In addition, as discussed in more detail in response to Comment K47 above, the OHMVR Division would implement Program activities in compliance with all applicable plans, statutes, etc. and no one provision of any plan, policy, or statute would necessarily take priority over another.

Comment K55: Friends of Oceano Dunes states the EIR includes a requirement for the OHMVR Division to restore all disturbed areas to the maximum extent feasible but does not

define the phrase “maximum extent feasible.” Friends of Oceano Dunes also states that if the OHMVR Division disturbs areas that support sensitive or listed species, restoring the area to the maximum extent feasible may nonetheless result in “take” of the species, which is inconsistent with the Federal and California Endangered Species Acts.

Response to Comment K55: CEQA and the state CEQA Guidelines define “feasible” as “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors (PRC Section 15364).” The Draft Program EIR included a requirement to restore all disturbed areas to the maximum extent feasible because it may not possible to restore disturbed areas to the exact same pre-project conditions. For example, restored sensitive dune vegetation is subject to growing season conditions that may reduce the efficacy of the restoration project. Friends of Oceano Dunes does not provide specific evidence why restoring disturbed areas to the maximum extent feasible would result in take of listed sensitive or listed plant or wildlife species. But, as a point of clarification, the OHMVR Division notes that even if restoration projects are hampered by environmental or other technological factors, the proposed Program would not result in take or other significant effects on sensitive or listed species. As explained in more detail in the response to CDFW Comments B4 and B5, the Draft Program EIR includes detailed information on the biological resources present at and in the vicinity of the Program area, the regulations that govern these resources (including CESA and FESA), and the potential impacts associated with proposed Program activities. In addition, Draft Program EIR Section 7.3.2, as revised by this Final EIR, describes the standard and project specific requirements the OHMVR Division has incorporated into the Dust Control Program to avoid and minimize impacts on potential biological resources that could be present in and near the Program area. These requirements include, but are not limited to, site-specific surveys for biological resources prior to implementing specific dust control activities. Furthermore, the annual review process involves reporting (to the CCC and appropriate wildlife agencies) on measures incorporated into the planned activities to avoid or minimize potential adverse impacts on sensitive biological resources. Thus, the proposed Program would not be inconsistent with CESA or FESA.

Comment K56: Friends of Oceano Dunes states the Draft Program EIR fails to discuss, analyze, and/or provide substantial evidence to document that the requirements the OHMVR Division has incorporated into the Dust Control Program to minimize and /or avoid impacts on special-status plant species are adequate and sufficient for doing so.

Response to Comment K56: Comment noted. The OHMVR Division disagrees with Friends of Oceano Dunes and notes Comment K56 does not provide any specific evidence explaining why the special-status plant requirements incorporated into the proposed Program are insufficient and/or inadequate, nor provide any specific recommendation for alternative avoidance protocols, buffer sizes, etc. The special-status plant requirements incorporated into the proposed Program are adequate for the following reasons:

- First, USFWS and CDFW protocols for special-status plant species do not define what an appropriate survey area is and instead require that the surveys are comprehensive over the entire site, including areas that will be directly or indirectly impacted by the project. As described in Draft Program EIR Section 7.3.2, as revised by Section 3.7 of this Final Program EIR, the OHMVR Division is proposing to survey for the presence of special-status plants during the

appropriate blooming period in and within 100 feet of work areas and access paths. The OHMVR Division would use a 100-foot survey area because no impacts from Program activities (e.g., planting vegetation, installing wind fencing or straw bales, planting trees, installing meteorological monitoring equipment) are expected to occur greater than 100 feet from the work area or access path. In addition, the Standard and Specific Project Requirements for special-status plants in Draft Program EIR Section 7.3.2 (page 7-18) establish that surveys follow protocols established by the USFWS, CDFW, and CNPS for special-status plants. Therefore, the surveys for special-status plants proposed in the Draft EIR are consistent with state and federal regulations for special-status plants.

- Second, Friends of Oceano Dunes is incorrect when it states the Draft Program EIR fails to define what it means to “protect” a plant. The Draft Program EIR special-status plant requirement first states (page 7-18), “A qualified biologist shall map, flag, and protect special-status plants identified during surveys.” Then, importantly, the requirement defines (in sub-bullets) *how* special-status plants shall be protected. Specifically, the Draft Program EIR special-status plant requirement states (page 7-18), “The qualified biologist shall establish clear avoidance areas around special-status plant locations. This avoidance area shall provide a minimum 25-foot buffer from all work activities (the biologist may establish a larger buffer if appropriate). Sturdy, visible fencing or other protective features shall be installed around all avoidance areas. Fencing shall be securely staked and installed in a manner that would be reasonably expected to withstand winds and sand transport levels typical of Oceano Dunes SVRA. Fencing and other protective features shall be removed upon completion of work activities.” Thus, the Draft Program does define how the OHMVR Division shall protect special-status plant species.
- Finally, Friends of Oceano Dunes notes the Draft Program EIR lacks substantial evidence to establish that a 25-foot buffer is adequate to avoid impacts on special-status plants. As a point of clarification, the 25-foot buffer requirement is a *minimum* requirement. Specifically, the Draft Program EIR special-status plant requirement states (page 7-18, emphasis added), “The qualified biologist shall establish clear avoidance areas around special-status plant locations. This avoidance area shall provide a minimum 25-foot buffer from all work activities (*the biologist may establish a larger buffer if appropriate*).” This buffer is based on the OHMVR Division’s field experience with the special-status species known to occur in the Program area, as well as the Program activities proposed, and would minimize and avoid Program impacts for most of the special-status plants with the potential to occur in the Program area. As stated above, a larger buffer would be established if warranted by species- and site-specific conditions. For example, a larger buffer may be necessary to ensure associated species, canopy, or other cover is not removed during work activities. In sum, this standard and specific project requirement was created with the flexibility to ensure that special-status plants are protected from impacts by establishing the appropriate buffer to ensure that no direct or indirect impacts occur.

Thus, for the reasons described above, the requirements the OHMVR Division has incorporated into the proposed Dust Control Program to avoid and/or minimize potential

adverse impacts on special-status plants are sufficient and do not require substantial revision.

Comment K57: Friends of Oceano Dunes reiterates the Draft Program EIR's requirement for replanting and restoration of disturbed areas fails to identify any standard for compensating for the loss of special-status plants or any criteria for determining such a standard.

Response to Comment K57: Refer to the response to Comments K54, K55, K56, K74, K80, K105, and K106.

Comment K58: Friends of Oceano Dunes states the Draft Program EIR fails to discuss, analyze, and/or provide substantial evidence to document that the requirements the OHMVR Division has incorporated into the Dust Control Program to minimize and /or avoid impacts on special-status amphibian and reptile species are adequate and sufficient for doing so.

Response to Comment K58: Comment noted. The OHMVR Division disagrees with Friends of Oceano Dunes and notes Comment K58 does not provide any specific evidence explaining why the special-status amphibian and reptile requirements incorporated into the proposed Program are insufficient and/or inadequate, nor provide any specific recommendation for alternative avoidance protocols, buffer sizes, etc. The Draft Program EIR's requirements to minimize and/or avoid impacts to special-status amphibians and reptiles include: pre-construction surveys within 100 feet of work areas to determine if special-status amphibian and reptile species are present; coordination with and approval from CDFW to capture and relocate special-status amphibians and reptiles found during the pre-construction surveys; site management measures to avoid attracting animals to work areas (e.g., preventing trash and open trenches); and employee education to ensure workers can properly identify and avoid special-status amphibians and reptiles impacts. These measures would minimize and avoid impacts to special-status amphibian and reptile species. Furthermore, as described in the response to CDFW Comment B4 and Comment B5, the OHMVR Division is also proposing an annual review process as part of the EIR that consists of planning, resource evaluation, agency reporting and review, and implementation phases (Draft Program EIR Section 2.4.1). The OHMVR Division notes that the resource evaluation phase of the review process includes a requirement to conduct biological resource evaluations for specific project locations at appropriate time periods (e.g., blooming seasons), which would ensure that impacts to species at specific dust control project locations are identified and addressed prior to implementing the project.

Comment K59: Friends of Oceano Dunes states the Draft Program EIR purports to leave the EIR's requirements pertaining to minimizing and avoiding impacts on California red-legged frog to an "unspecified" biologist without any requirement for the biologist to follow appropriate protocols. Friends of Oceano Dunes also states the requirement makes no effort to establish any specific standard.

Response to Comment K59: Friends of Oceano Dunes has misinterpreted the Draft Program EIR. First, the Draft Program EIR does not identify that an "unspecified" biologist is responsible for implementing California red-legged frog avoidance and minimization requirements. Nor does the Draft Program EIR omit requirements to follow protocols recommended by appropriate wildlife agencies such as the USFWS. Rather, the Draft Program EIR California red-legged frog requirement states (page 7-18, emphasis added), "Immediately prior to starting all work under the Dust Control Program, a *qualified* biologist shall survey the work site for California red-legged frogs. If found, the

biologist shall delineate and maintain an appropriate sized buffer and *contact the USFWS to determine if moving the animal(s) is appropriate*. As shown in Section 3.7 of this Final Program EIR, the OHMVR Division has revised the Draft Program EIR to include a definition of qualified biologist. In addition, the Draft Program EIR's California red-legged frog requirement specifies (emphasis added) "*Only USFWS-approved biologists shall participate in activities associated with the capture and handling of California red-legged frogs.*" Thus, all relocations of California red-legged frog would be conducted in consultation with the USFWS and follow their guidance and standards. The OHMVR Division notes that CDFW does not have a separate protocol for California red-legged frog from the USFWS.

Second, the Draft Program EIR's California red-legged frog requirement establishes a clear standard: minimizing and avoiding impacts to this special-status species. The Draft Program EIR's requirements to minimize and/or avoid impacts to California red-legged frog, as revised by Section 3.7 of this Final Program EIR, include: pre-construction surveys to determine if California red-legged frog is present; establishment of an appropriate-sized avoidance buffer and/or coordination with and approval from USFWS to capture and relocate any California red-legged frogs found during the pre-construction surveys; site management measures to avoid attracting animals to work areas (e.g., preventing trash and open trenches); and employee education to ensure workers can properly identify and avoid California red-legged frog.

Comment K60: Friends of Oceano Dunes states the Draft Program EIR purports to leave the EIR's requirements pertaining to minimizing and avoiding impacts on special-status birds to an "unspecified" biologist without any requirement for the biologist to follow appropriate protocols established by the USFWS or CDFW. Friends of Oceano Dunes also states the Draft EIR's requirement to provide a 50-foot buffer around bird species is contrary to USFWS protocols for listed and special-status birds.

Response to Comment K60: Draft Program EIR Section 7.3.2 describes the requirements the OHMVR Division has incorporated into the Dust Control Program to minimize and avoid impacts on nesting and special-status birds that could be present in and near the Program area. These requirements include, but are not limited to, pre-construction nest surveys and the establishment of buffer zones around active nests. As shown in Section 3.7 of this Final Program EIR, the OHMVR Division has revised these requirements to state that the size of the buffer for non-listed nesting birds shall be determined by a qualified biologist and shall depend on the species and topography. The qualified biologist will evaluate Dust Control Program activities, the nesting bird species, and topography/visibility of the nest to determine the appropriate avoidance buffer size to ensure that nesting birds nearby the activities are not disturbed. The revisions shown in Section 3.7 of this Final Program EIR include a definition for qualified biologist and also modify and increase the minimum nest buffer requirements for non-listed raptors (from 300 feet to 500 feet) and other non-listed bird species (from 50 feet to 250 feet). These buffer zones are similar to those recommended in CDFW Comment B11 (see Section 4.2 in this Final Program EIR).

As a point of clarification, nesting and special-status bird requirements described in the Draft Program EIR include separate measures for non-listed nesting birds and special-status nesting birds (e.g., burrowing owl, western snowy plover, California least tern). As a result, the general nesting bird measure does not apply to special-status nesting birds.

Comment K61: Friends of Oceano Dunes states the Draft Program EIR does not include appropriate buffers for impacts to wetlands. Friends of Oceano Dunes also state that the minimum buffer areas and setback areas appear “contrary” to state and federal laws protecting wetlands.

Response to Comment K61: The OHMVR Division disagrees with Friends of Oceano Dunes and notes Comment K61 does not provide any specific evidence explaining why the wetland habitat requirements incorporated into the proposed Program are inadequate and “contrary” to state and federal law, nor provide any specific recommendations or regulatory requirements for wetland habitat buffers. The OHMVR Division notes the wetland habitat requirements incorporated into the proposed Program are adequate for the following reasons:

- The Federal Clean Water Act requires the U.S. Army Corps of Engineers (USACE) Regional Water Quality Control Board to permit projects that place any dredged or fill material below the ordinary high water mark or mean high tide line of any water of the U.S. As explained in Draft Program EIR Section 7.3.4 and Impact BIO-4, the proposed Program will not place any dredged or fill material below the ordinary high water mark or mean high tide line of waters of the U.S.; therefore, the Program complies with the Federal Clean Water Act.
- California Fish and Game Code Section 1600 regulates activities that affect the flow, bed, channel, or banks of rivers, streams, and lakes. The Draft Program EIR’s wetland habitat requirements prohibit the installation of any project feature within wetlands or other jurisdictional waters and establish a 150-foot setback from such areas. These requirements would ensure that no impacts to the flow, bed, channel, or banks of rivers, streams, and lakes would occur. Therefore, the proposed Program complies with California Fish and Game Code Section 1600 et seq.
- The California Coastal Act regulates impacts to wetlands within the coastal zone and recommends a minimum buffer width of 100 feet around wetlands. The Draft Program EIR’s wetland habitat requirement establishes a 150-foot setback from wetlands and other jurisdictional waters. As a result, the proposed Program complies with the California Coastal Act.

Comment K62: Friends of Oceano Dunes states the Draft Program EIR’s requirements for minimizing and avoiding impacts to nesting and special-status birds do not appear to distinguish between sensitive birds, birds listed as endangered or threatened under state or federal ESAs, or fully protected species.

Response to Comment K62: Friends of Oceano Dunes is incorrect. The OHMVR Division directs Friends of Oceano Dunes to pages 7-13 to 7-16 of the Draft Program EIR, which discusses special-status birds that have a moderate to high potential to occur in the Program Area. The OHMVR Division also directs Friends of Oceano Dunes to updated EIR Appendix B, which provides a full list special-status bird species that could occur near the Program area, their listing status, and likelihood of occurrence. Finally, the OHMVR Division directs Friends of Oceano Dunes to Draft Program EIR Section 7.3.2, as revised by Section 3.7 of this Final Program EIR, which includes the requirements the OHMVR Division has incorporated into the proposed Program to minimize and avoid impacts to migratory bird species, as well as threatened, endangered, and/or fully protected birds that are presumed present in the Program area, including California

burrowing owl, California least tern, and western snowy plover. The OHMVR Division notes requirements for burrowing owl avoidance generally follow the CDFW Staff Report on Burrowing Owl Mitigation (CDFW 2012¹²). The Draft Program EIR establishes a minimum 100-foot buffer around occupied burrows since Program activities are expected to have a low disturbance level. The OHMVR Division recognizes that buffers around burrowing owl burrows are important to protect the burrowing owls from potential disturbance from nearby Program activities. The establishment of a 100-foot buffer is based on past field experience with the burrowing owl in the Program area, the Program activities proposed, as well as the knowledge that burrowing owl do not breed in the Program area. Therefore, a minimum 100-foot buffer would provide a suitable level of protection from Program impacts in most instances. The OHMVR Division has revised this requirement such that a qualified biologist would increase the buffer area if it was determined that a larger buffer was necessary to reduce disturbance (see Section 3.7 of this Final Program EIR. See also the response to Comment K60.

Comment K63: Friends of Oceano Dunes states the Draft Program EIR's requirements to "minimize" the facilitation of predator movement into known nesting areas for western snowy plover and California least tern virtually ensures take will occur as a result of Dust Control Program activities and notes the EIR identifies that it may not be not feasible to avoid predator movement. As such, Friends of Oceano Dunes states the proposed Program is inconsistent with the federal and state Endangered Species Acts.

Response to Comment K63: The OHMVR Division disagrees with Friends of Oceano Dunes. Draft Program EIR Impact BIO-2 (page 7-23), as revised by Section 3.7 of this Final Program EIR, identifies that predation on western snowy plover and/or California least tern as a result of Program implementation would not be significant with the implementation of Standard and Specific Project Requirements. Program activities would avoid planting vegetation within western snowy plover critical habitat or active nest areas. As a result, western snowy plover and California least tern nesting habitat would remain open (or wide) and sparsely vegetated, which would allow western snowy plover and California least tern to detect predators moving towards the nest location early enough to escape.

Furthermore, Draft Program EIR Section 7.3.2, as revised by Section 3.7 of this Final Program EIR, specifically includes requirements pertaining to predator management and control related to Program activities. As explained in Section 2.1.3 of this Final Program EIR, the OHMVR Division's predator management strategy and methods have been successful at protecting breeding western snowy plover and California least tern. The methods implemented have increased the overall population (i.e., number of breeding adults) and reproductive success (i.e., number of fledglings per nesting pair) for both western snowy plover and California least tern in the Oceano Dunes District. Given the experience and results with existing predator management and control at Oceano Dunes SVRA, the Draft Program EIR appropriately concludes that the implementation of similar predator management strategies for the proposed Dust Control Program would render any impacts to western snowy plover and California least tern from planting 100 acres of vegetation in the Program area less than significant.

¹² CDFW. 2012. Staff Report on Burrowing Owl Mitigation. Sacramento, California.

Refer also to response to Comment K65 below for more information on this issue.

Comment K64: Friends of Oceano Dunes notes California brown pelican is a Fully Protected Species and states the Draft Program EIR contains no analysis of the potential for take of this species as a result of Program activities.

Response to Comment K64: California brown pelican nesting colonies and communal roosts are fully protected in California (CDFW 2016). The OHMVR Division directs Friends of Oceano Dunes to updated EIR Appendix B, which addresses the California brown pelican and concludes that no breeding or communal roosting habitat for this species is present in proposed Program area, although some foraging habitat is present. California brown pelican nest colonies are located from the Channel Islands in the Southern California Bight (approximately 100 miles south of the Program area) to the islands off Nayarit, Mexico. Brown pelicans have not nested north of the Channel Islands since the late 1950s. The OHMVR Division has however, observed some individual and/or small groups of California brown pelicans resting on the shoreline near the proposed Program area. These resting individuals or groups of pelicans could be temporarily disturbed during travel to/from seasonal dust control areas). Although only nesting colonies and communal roosts of California brown pelican are fully protected, the OHMVR Division has incorporated Standard and Specific Project Requirements into the Dust Control Program to avoid and minimize disturbance to California brown pelican and other special-status species. Specifically, for California brown pelican, these would include a requirement for OHMVR Division staff to scan ahead while driving to avoid special status birds and limiting vehicle speeds to 15 miles per hour. With these requirements, the proposed program would not result in any direct or indirect impacts to this species.

Comment K65: Friends of Oceano Dunes states the Draft Program EIR's requirements for minimizing and avoiding impacts to nesting and special-status birds neglect to control for the likely increased predation by red foxes, coyotes, skunks, and opossums that will use the additional 100 acres of vegetation as cover. In addition, Friends of Oceano Dunes submits a biological analysis as evidentiary support for its statement.

Response to Comment K65: First, as points of clarification regarding the Draft Program EIR's analysis of potential impacts to western snowy plover and California least tern, the OHMVR Division notes:

- Friends of Oceano Dunes' statement that the Draft Program EIR "neglects to create any" requirement to control increased predation of western snowy plover and California least tern is incorrect. The OHMVR Division directs Friends of Oceano Dunes to the Draft Program EIR's discussion under Impact BIO-2 (page 7-23), which specifically states, "Although the OHMVR Division has developed the Dust Control Program area to avoid critical habitat and seasonal nesting enclosure areas, vegetation – and to a lesser degree wind fencing – that is planted on the western part of the Dust Control Program area could impact active nests by providing habitat for predators to hide and stalk nesting western snowy plovers and California least terns. In addition, protective perimeter fence posts, wind fencing, and some temporary dust and meteorological monitoring equipment would be tall and sturdy enough to provide perching habitat for common ravens, gull species, raptors, or other avian species that could prey on western snowy plover and/or California least tern nests" In addition, Draft Program EIR

Section 7.3.2, as revised by Section 3.7 of this Final Program EIR, specifically includes requirements pertaining to predator management and control related to Program activities. As explained in Section 2.1.3 of this Final Program EIR, although predation is an ongoing factor affecting snowy plover and least tern nesting, the OHMVR Division's predator management strategy and methods have been successful at protecting breeding western snowy plover and California least tern populations, which together have increased in terms of both overall numbers of breeding adults and reproductive success at the Oceano Dunes District. Given the experience and results with existing predator management and control at Oceano Dunes SVRA, the Draft Program EIR appropriately concludes that the implementation of similar predator management strategies for the proposed Dust Control Program would render any impacts to California least tern and western snowy plover from planting 100 acres of vegetation less than significant.

- As clarified and described in Section 3.7 of this Final Program EIR, the more significant concern with planting additional vegetation in the proposed Program area is that the vegetation could reduce available western snowy plover and California least tern breeding and/or wintering habitat by decreasing the amount of open, wide beaches. Previous studies have found that western snowy plover and California least tern select habitats that are open (or wide) and have less vegetative cover in order to facilitate early detection of predators and reduce predation risk (Muir and Colwell 2010, Brindock and Colwell 2011, Patrick and Colwell 2014). Reducing western snowy plover and California least tern habitat by planting vegetation in suitable habitat for these species could lead to less open (or wide), sparsely vegetated beaches and could, thus, increase predation on adults, chicks, and/or eggs if western snowy plover and California least tern are not able to detect predators moving towards the nest location. The Draft Program EIR (Chapter 7) sufficiently addresses this impact and ensures it is reduced to a less than significant level by avoiding suitable western snowy plover and California least tern habitat in the Program Area (i.e., western snowy plover critical habitat, active nesting areas, and near-shore areas).

Second, as explained in more detail below, the OHMVR Division has reviewed the evidentiary support provided by Friends of Oceano Dunes (attached as Exhibit 6 to Friends of Oceano Dunes comments) and concluded the biological analysis does not constitute significant new information, nor does it substantially change the EIR's analysis and conclusions regarding potential impacts on western snowy plover and California least tern. In addition, as explained in more detail below, the OHMVR Division disagrees with several of the specific points raised by the biological analysis.

- The biological analysis states the Draft Program EIR "misrepresents" the proximity of the proposed project to western snowy plover habitat. The OHMVR Division disagrees with this characterization. As explained in more detail in the response to Comment K3, the final designation of western snowy plover critical habitat does not discuss the western boundary of the critical habitat; however, the description of habitat indicates that the western boundary is not the mean high tide line, but rather farther west encompassing more of the intertidal zone. In addition, as explained in more detail in response to Comment K3, the location of the western snowy plover critical habitat area depicted on Draft Program EIR Figure 2-5 and new Figure 7-2 (see Chapter 3 of this Final Program EIR) consists

of GIS data provided by the USFWS via its critical habitat portal (USFWS 2016). This data indicates the critical habitat area extends approximately 1,100 feet inland from the Pismo State Beach western boundary and borders the northern extent of the proposed Dust Control Program area (between marker posts 4 and 5), but is approximately 240 feet west of the southern extent of the proposed Program area (near marker post 7). Thus, the proposed Dust Control Program area borders, but does not overlap with or otherwise include, USFWS-designated critical habitat for western snowy plover. No vegetation will be planted within critical habitat as part of the Program activities.

- The biological analysis states that the Oceano Dunes SVRA Technical Review Team (TRT), as illustrated by discussions at its December 11, 2015, meeting, recognized the problems associated with the overgrowth and spread of vegetated islands and hummocks in plover and tern nesting habitat. The biological analysis indicates that the TRT's concerns are related to predators denning, resting, or hunting in these vegetated areas. The OHMVR Division disagrees with this interpretation of the TRT concerns raised in the TRT meeting. As described the December 11, 2015, meeting notes, the TRT discussed concerns related to the reduction in suitable habitat for western snowy plover and California least tern. Specifically, the TRT was concerned that the vegetated islands and hummocks were reducing the amount of available open habitat with sparse vegetation for western snowy plover and least tern nesting, foraging, and roosting. The meeting notes do not address concerns about the habitat the vegetation islands and hummocks are providing for potential mammalian predators.
- The biological analysis states the proposed Dust Control Program will increase predation on western snowy plovers and California least terns. Although the biological analysis does not explicitly state why this is true, the basis for this statement appears to be located on page 4 of the analysis, which states, "It is readily apparent from Figure C.1 from the 2015 plover and tern nesting report that these species avoid nesting near vegetated areas. And, figures C2 to C10 show that, virtually all depredated nests are in or adjacent to vegetated areas." While the OHMVR Division concurs that predators and predation can, in general, be an important factor limiting California least tern and western snowy plover reproductive success, it does not agree that the proposed Program's specific activities would increase predation on western snowy plovers and California least terns for the following reasons. First, the proposed Program avoids planting vegetation within critical habitat area entirely, and most of the proposed Program area is set back 50 feet or more from critical habitat area. Thus, the proposed Program would not result in the establishment of vegetation that could support a den or otherwise provide cover for predators within critical habitat area. Second, the OHMVR Division has conducted a literature review to determine if a relationship between vegetation near shorebird nesting sites and predation on shorebird eggs, chicks, and adults has been identified. But no studies were found that conclusively documented a direct relationship between predation on shorebirds, including western snowy plover and California least tern, and vegetation near the nest sites. In addition, as described in Section 2.1.1.2 of this Final Program EIR, many beaches that support western snowy plover nesting, foraging, and wintering are already bordered to the east by dense stands of European beach grass (*Ammophila arenaria*) (Patrick and Colwell 2014), which

can provide suitable cover habitat for mammalian predators. Thus, the mere presence of adjacent vegetation does not preclude nesting activity nor guarantee predation would occur. Third, as shown in Section 2.1.4 of this Final Program EIR and presented in the biological analysis submitted by Friends of Oceano Dunes, predation of western snowy plovers and California least terns by coyote is well documented at Oceano Dunes SVRA and part of the existing environmental conditions, regardless of the proposed Program. Thus, in order to result in a significant, adverse change on the environment, the proposed Program would need to increase the likelihood of predation. This would not occur as a result of the proposed Program activities. Planting 100 acres of vegetation could provide some additional cover habitat for potential mammalian predators, but this vegetation would be outside the critical habitat areas (meaning predators would have to traverse open sand areas) and would not significantly increase the number of potential predators in the Program Area or the amount of predation on California least tern and western snowy plover. Furthermore, as described in Section 2.1.3.1 of this Final Program EIR, species known to be predators of California least tern and western snowy plover are monitored, documented, and relocated or lethally removed, further reducing the likelihood that the proposed Program activities would increase predation of western snowy plover and California least tern.

Comment K66: Friends of Oceano Dunes notes the Draft Program EIR identifies that the proposed Program is within the jurisdiction of the City of Grover Beach and SLO County, which have Local Coastal Programs (LCP) certified by the CCC. Friends of Oceano Dunes states the OHMVR Division should consider the contents and findings of these LCP's "to promote efficiency and goodwill" between agencies.

Response to Comment K66: Comment noted. The OHMVR Division directs Friends of Oceano Dunes to Draft Program EIR Chapter 5, page 5-1, which states (emphasis added), "The proposed Dust Control Program would be located on state-owned and state-operated land that, with the exception of coastal development permitting usually conducted through local agencies, is not subject to local land use restrictions and zoning regulations. For the proposed Dust Control Program, the OHMVR Division, SLO County, the City of Grover Beach, and the CCC have consented to a consolidated CDP process (pursuant to California Public Resource Code Section 30601.3) by which the CCC will process and act upon the OHMVR Division's CDP application. Under this process, the standard of review will follow Chapter 3, Coastal Resources Planning and Management Policies, of the California Coastal Act, and the CCC will use the appropriate LCPs as a reference and guidance document when acting upon the consolidated CDP. Accordingly, this chapter focuses on the Program's conformance with Chapter 3 of the Coastal Act." Thus, there is no need for the OHMVR Division to consider the content and findings of the Grover Beach and SLO County LCPs in the Draft Program EIR.

Comment K67: Friends of Oceano Dunes states the Draft Program EIR illegally incorporates Standard and Specific Project Requirements that are "underground regulations" in violation of the Administrative Procedures Act.

Response to Comment K67: Comment noted. As explained in more detail in response to Comments K52 and K53 above, the Standard and Specific Project Requirements the OHMVR Division has incorporated into the proposed Program to minimize and avoid

potential adverse impacts apply to the proposed Dust Control Program activities only. They are not relevant to any law or procedure of law enforced or administered by the OHMVR Division and as such are not subject to the California Administrative Procedure Act.

Comment K68: Friends of Oceano Dunes states Oceano Dunes SVRA is established in an area that is uniquely suited for OHV recreation that cannot be replicated or replaced and that permanently removing portions of the SVRA by planting vegetation conflicts with PRC Section 5090.02(c)(1).

Response to Comment K68: The Draft Program EIR acknowledges the SVRA is situated in a unique location (see, for example, Draft Program EIR pages 2-4 and 4-23). In addition, the OHMVR Division considered both the ability of visitors to use similar facilities instead of Oceano Dunes SVRA and the legislative mandate and mission of the OHMVR Division in evaluating the proposed Program's recreation impacts (see Draft Program EIR pages 4-20 to 4-21). Friends of Oceano Dunes does not provide any specific evidence for why planting vegetation conflicts with Public Resources Code Section 5090.02(c)(1) that the OHMVR Division can respond to at this time; however, Draft Program EIR REC-1 is considered a significant and unavoidable impact of the proposed Program.

Comment K69: Friends of Oceano Dunes states the proposed Dust Control Program conflicts with PRC Sections 30001.5 and 30210 because it fails to maximize access and coastal recreational opportunities.

Response to Comment K69: This comment is consistent with information and findings in the Draft Program EIR. As explained in more detail in response to CCC Comments C6, C11, and C12 (see Section 4.3 of this Final Program EIR), response to Sierra Club Comment I3 (see Section 4.9 of this Final Program EIR), and response to Comments K5, K14, and K18 above, Draft Program EIR Impact LUP-2 concludes the proposed Program could result in a significant and unavoidable conflict with the Coastal Act because it does not maximize existing, historical, and traditional coastal OHV recreation opportunities at Oceano Dunes SVRA. The OHMVR Division notes the proposed Program's consistency with the Coastal Act is ultimately subject to the jurisdiction and authority of the CCC.

Comment K70: Friends of Oceano Dunes states the proposed Dust Control Program conflicts with the California Constitution's right of public access to the beach by imposing barriers in the form of 100 acres of new vegetation islands.

Response to Comment K70: The proposed Dust Control Program does not conflict with the California Constitution. Draft Program EIR page 4-20 identifies that the proposed Program would not alter public access to Oceano Dunes SVRA and Pismo State Beach. In addition, Draft Program EIR Mitigation Measure REC-1 requires the OHMVR Division to integrate recreational opportunities into dust control measures, such as motorized and non-motorized trails through large, continuous blocks of planted vegetation. Thus, the public would continue to be able to ride or walk around, or walk through, any dust control measures installed as part of the proposed Program.

Comment K71: Friends of Oceano Dunes states planting more than 100 acres of "permanent and impermeable" vegetation is development that interferes with access to the sea in conflict with PRC Section 30211.

Response to Comment K71: The OHMVR Division disagrees with Friends of Oceano Dunes assertion that Program vegetation would be “impermeable.” Visitor’s would continue to be able to ride or walk around, or walk through, any new vegetation planted as part of the Dust Control Program. In addition, Draft Program EIR Mitigation Measure REC-1 requires the OHMVR Division to integrate recreational opportunities into dust control measures, such as motorized and non-motorized trails through large, continuous blocks of planted vegetation. Accordingly, the Draft Program EIR (page 4-20, Table 5-1) appropriately concludes the proposed Program would not alter existing public access to Pismo State Beach or Oceano Dunes SVRA. Refer also to response to Comment K70 above for more information on this issue.

Comment K72: Friends of Oceano Dunes states the proposed Dust Control Program creates obstacles and barriers that change topographic and geologic site characteristics and are inconsistent with PRC Section 30214 and 30255.

Response to Comment K72: Comment noted. As explained in more detail in response to Comments K27 and K43 above, the proposed Dust Control Program would not significantly impede, impact, or interfere with natural dune formation processes. Accordingly, Draft Program EIR Table 5-1 identifies that the proposed Program would not conflict with the Coastal Act provisions contained in PRC Section 30214 or 30255. Nonetheless, Draft Program EIR Impact LUP-2 concludes the proposed Program could result in a significant and unavoidable conflict with the Coastal Act because it does not maximize existing, historical, and traditional coastal OHV recreation opportunities at Oceano Dunes SVRA. The OHMVR Division also notes the proposed Program’s consistency with the Coastal Act is ultimately subject to the jurisdiction and authority of the CCC. Refer to response to CCC Comments C2, C6, and C11 (see Section 4.3 of this Final Program EIR) and response to Sierra Club Comment I3 (see Section 4.9 of this Final Program EIR), and response to Comments K5, K14, and K18 above for more information on this issue.

Comment K73: Friends of Oceano Dunes states planting more than 100 acres of “permanent and impermeable vegetation highlands” conflicts with PRC Section 30223 because it fails to reserve coastal upland areas necessary to support recreational uses.

Response to Comment K73: This comment is consistent with the information and findings in the Draft Program EIR. Draft Program EIR Table 5-1 notes the proposed Program could conflict with PRC Section 30223, and Draft Program EIR Impact LUP-2 concludes the proposed Program could result in a significant and unavoidable conflict with the Coastal Act because it does not maximize existing, historical, and traditional coastal OHV recreation opportunities at Oceano Dunes SVRA. The OHMVR Division also notes the proposed Program’s consistency with the Coastal Act is ultimately subject to the jurisdiction and authority of the CCC. Refer to the response to CCC Comments C6, C11, and C12 (see Section 4.3 of this Final Program EIR), response to Sierra Club Comment I3 (see Section 4.9 of this Final Program EIR), and response to Comments K5, K14, and K18 above for more information on this issue.

In addition, as explained in the response to Comment K71 above, the proposed Program vegetation would not be “impermeable” because visitors would continue to have access through and around any new vegetation planted as part of the Dust Control Program.

Comment K74: Friends of Oceano Dunes states the proposed Dust Control Program is inconsistent with the Coastal Act (PRC Section 30240) because it allows development in and

adjacent to ESHA. Friends of Oceano Dunes also states the Draft Program EIR provides no explanation for not following the applicable LCP and submits evidence that a CCC staff ecologist has publically commented that bare sand can be ESHA. The comment also notes PRC Section 30240 does not permit recreating ESHA habitat values in another location.

Response to Comment K74: First, as a point of clarification, the Draft Program EIR does not claim that any ESHA values will be recreated in a different location. Second, as described in Draft Program EIR Table 5-1, PRC Section 30240 protects ESHA from significant disruption of habitat values, limits development within ESHA to only uses dependent on the ESHA resources, and limits development adjacent to ESHA to uses that are compatible with the continuance of the ESHA. Accordingly, Draft Program EIR Table 5-1 explains the OHMVR Division has incorporated requirements into the proposed Dust Control Program that protect against significant disruption of habitat values, such as avoiding special-status species habitat, and that the proposed activities are dependent on the resources present at Oceano Dunes SVRA. Third, as explained in more detail in the response to Comment K66 above, the Draft Program EIR explains (page 5-1) the proposed Program is subject to a consolidated CDP process by which the CCC will act upon the OHMVR Division's CDP application. Under this process, the standard of review is Chapter 3, Coastal Resources Planning and Management Policies, of the Coastal Act, and not the applicable LCP (although the CCC may use the LCP as a guide when acting upon the CDP). Thus, there is no need for the OHMVR Division to consider the content and findings of the Grover Beach and SLO County LCPs in the Draft Program EIR. Finally, the Draft Program EIR contains information on ESHA similar to that provided by Comment K74. Specifically, Draft Program EIR Section 7.1.6 provides the Coastal Act definition of ESHA. In addition, Draft Program EIR page 7-24 states, "California's coastal dunes and the vegetation communities they support are generally considered to be sensitive because they support a number of special-status plant and wildlife species, such as those described in Section 8.3, because there are only 27 dune fields remaining in California (CCC 1987), and because they continue to be threatened by a number of factors. In addition, Oceano Dunes SVRA is considered ESHA by the SLO County Local Coastal Program."

Comment K75: Friends of Oceano Dunes notes the Draft Program EIR "inappropriately discounts" the impact on SVRA users by reducing the lands available for OHV recreation despite the fact the SVRA is already the third smallest SVRA in the state in terms of acreage.

Response to Comment K75: The comment's information about Oceano Dunes SVRA's size and usage is consistent with the information in the Draft Program EIR; however, the Draft Program EIR does not discount the Dust Control Program's impact on recreational opportunity. The discussion under Draft Program EIR Impact REC-1 identifies that Oceano Dunes SVRA is a unique, popular destination that provides low-cost coastal OHV recreational opportunities that have been subject to historical reductions in acreage. Draft Program EIR REC-1 is considered a significant and unavoidable impact of the proposed Program.

Comment K76: Friends of Oceano Dunes states the Draft Program EIR fails to identify the location of lands within the SVRA that are owned by Phillips 66.

Response to Comment K76: Friends of Oceano Dunes is incorrect. The Draft Program EIR does describe the location of Phillips 66 lands located within Oceano Dunes SVRA. See, for example:

- Draft Program EIR Section 4.2.3 (page 4-10), which states “Approximately 845 acres of the SVRA is closed to all public access and recreation. This area is located in the eastern portion of Oceano Dunes SVRA (see Figure 2-2). This part of Oceano Dunes SVRA includes lands operated by the OHMVR Division but owned by Phillips 66 and lands leased from the OHMVR Division for agricultural purposes.”
- Draft Program EIR Section 7.2 (page 7-5), which states “The southern border of the Program area is situated north of Oso Flaco and Little Oso Flaco lakes, and on the east are the Phillips 66 Leasehold. A small portion of the Program area overlaps with the Phillips 66 leasehold at the extreme southeast portion.”
- Draft Program EIR Section 7.2.2.1 (page 7-11), which states “A portion of the habitat also occurs with a California Department of Transportation right-of-way and within the eastern portion of the Oceano Dunes SVRA on lands leased from Phillips 66, outside the riding area.”

Comment K77: Friends of Oceano Dunes notes Draft Program EIR page 4-11 identifies beach and dune recreational opportunities at Oceano Dunes SVRA are coastal dependent recreational activities pursuant to the Coastal Act and should be protected and given priority under the Coastal Act.

Response to Comment K77: Comment noted. As explained in more detail in the response to Comment C12 (see Section 4.3 of this Final Program EIR), the OHMVR Division, at the request of the CCC, has revised the discussion on page 4-11 of the Draft EIR to indicate camping and OHV recreation at Pismo State Beach and Oceano Dunes SVRA may not be considered coastal-dependent development by the CCC. This revision does not change any of the Draft Program EIR’s findings regarding the proposed Dust Control Program’s potential impacts on recreation.

Comment K78: Friends of Oceano Dunes states that Draft Program EIR Section 4.2.3.1 indicates there are 1,530 acres open to vehicular recreation, which is inconsistent with similar statements elsewhere in the Draft Program EIR.

Response to Comment K78: As explained in the response to Comment K12 above, the Draft Program EIR was prepared using the most recent information available to the OHMVR Division. The Draft Program EIR consistently identifies the amount of acres open to OHV use as 1,453 acres, or approximately 1,450 acres (see, for example, Draft Program EIR Table 2-1, 4-6, 4-8, and 4-9), and the amount of acres open to all vehicular recreation (i.e., street legal and OHV use) as 1,531 acres or approximately 1,530 acres (see, for example, Draft Program EIR Table 2-1, 4-6, 4-8, and 4-9). Thus, the Draft Program EIR is consistent in its reporting of the OHV and total vehicular recreation lands at Oceano Dunes SVRA.

Comment K79: Friends of Oceano Dunes states Oceano Dunes SVRA provides more than 1,000 campsites on the beach with low-cost fees that are consistent with PRC Section 30213.

Response to Comment K79: Draft Program EIR Section 4.1.4 (page 4-3) described PRC 30213 and Draft Program EIR Section 4.2 (page 4-6, Table 4-2) discussed the number of beach campsites (exactly, but not more than, 1,000) at Oceano Dunes SVRA. In addition, Draft Program EIR Section 4.2.3.3 states that these campsites represent a low-cost camping and recreation opportunity. Thus, the OHMVR Division concurs that Oceano Dunes SVRA provides low-cost camping opportunities; however, Draft Program EIR

Impact LUP-2 concludes the proposed Program could result in a significant and unavoidable conflict with the Coastal Act because it does not maximize existing, historical, and traditional coastal OHV recreation opportunities at Oceano Dunes SVRA.

Comment K80: Friends of Oceano Dunes summarizes information from Draft Program EIR Section 4.3.2. Friends of Oceano Dunes reiterates the Draft Program EIR has miscalculated and misrepresented the percent of OHV recreation lands lost due to the proposed Dust Control Program and fails to identify an area, mitigation ratio, and standards or guidelines for replacing the loss of camping and OHV recreational opportunities caused by the proposed Program.

Response to Comment K80: Friends of Oceano Dunes' summary of Draft Program EIR Section 4.3.2 is accurate. Refer to the response to Comments K9 and K12 above for more information on OHV acreage and Mitigation Measure REC-1.

Comment K81: Friends of Oceano Dunes states the Draft Program EIR is not clear whether the standards from the certified LCP apply to the EIR's analysis.

Response to Comment K81: As explained in more detail in the response to Comment K66 above, the Draft Program EIR explains (page 5-1) the proposed Program is subject to a consolidated CDP process by which the CCC will act upon the OHMVR Division's CDP application. Under this process, the standard of review is Chapter 3, Coastal Resources Planning and Management Policies, of the Coastal Act, and not the applicable LCP (although the CCC may use the LCP as a guide when acting upon the CDP). Thus, there is no need for the OHMVR Division to consider the content and findings of the Grover Beach and SLO County LCPs in the Draft Program EIR.

Comment K82: Friends of Oceano Dunes notes it has previously requested evidence from the OHMVR Division and the CCC that the OHMVR Division has complied with PRC Section 30601.5 by inviting all persons and entities with a property interest to be co-applicants in the proposed Dust Control Program CDP permit. Friends of Oceano Dunes also notes the CCC cannot process the proposed Dust Control Program CDP without first complying with Public Resource Code Section 30601.5.

Response to Comment K82: Comment noted. As described in the response to Comment K24, matters pertaining to the CCC's administrative authority and procedures for processing a CDP application are outside the scope of the OHMVR Division's CEQA review of the proposed Dust Control Program.

Comment K83: Friends of Oceano Dunes again states the proposed Dust Control Program is inconsistent with the Pismo State Beach and Pismo Dunes SVRA General Development Plan and Resource Management Plan.

Response to Comment K83: The Draft Program EIR contains information consistent with Comment K83. As explained in the response to SLOAPCD Comment D10 (see Section 4.4 of this Final Program EIR) and Comments K13 and K16 above, Draft Program EIR Impact LUP-1 identifies that the proposed Dust Control Program would conflict with the General Development Plan.

Comment K84: Friends of Oceano Dunes summarizes information in Draft Program EIR Section 5.1.2 and states the Draft Program EIR is inconsistent regarding jurisdiction for the proposed Dust Control Program CDP.

Response to Comment K84: The Draft Program EIR is consistent regarding jurisdiction for the proposed Dust Control Program CDP. Draft Program EIR Section 5.1.2, explains

that CDP permitting authority is typically delegated to the local government following certification of an LCP; however, the section also describes situations where the CCC retains original permit authority, including development on public trust lands in the Coastal Zone. Furthermore, as described in more detail in the response to Comment K66 above, the Draft Program EIR explains (page 5-1) the proposed Program is subject to a consolidated CDP process by which the CCC will act upon the OHMVR Division's CDP application. Under this process, the standard of review is Chapter 3, Coastal Resources Planning and Management Policies, of the Coastal Act, and not the applicable LCP.

Comment K85: Friends of Oceano Dunes reiterates the Draft Program EIR, in various places, determines the proposed Dust Control Program “may not be consistent” with the Coastal Act. Friends of Oceano Dunes reiterates the OHMVR Division needs to make a determination regarding the proposed Program's consistency with the Coastal Act.

Response to Comment K85: Refer to the response to Comment K14 above.

Comment K86: Friends of Oceano Dunes states the proposed Dust Control Program violates PRC Section 30213 because it does not maximize, protect, or encourage recreational opportunities and low-cost visitor and recreational facilities.

Response to Comment K86: This comment is generally consistent with the information and findings in the Draft Program EIR. Draft Program EIR Table 5-1 describes the proposed Program could conflict with PRC Section 30213, and Draft Program EIR Impact LUP-2 concludes the proposed Program could result in a significant and unavoidable conflict with the Coastal Act because it does not maximize existing, historical, and traditional coastal OHV recreation opportunities at Oceano Dunes SVRA. The OHMVR Division also notes the proposed Program's consistency with the Coastal Act is ultimately subject to the jurisdiction and authority of the CCC. Refer to the response to CCC Comments C6, C11, and C12 (see Section 4.3 of this Final Program EIR), response to Sierra Club Comment I3 (see Section 4.9 of this Final Program EIR), and response to Comments K5, K14, and K18 above for more information on this issue.

Comment K87: Friends of Oceano Dunes states the proposed Dust Control Program violates PRC Section 30214 because it impedes the natural dune formation process, which would substantially and adversely impact topography and geologic site characteristics.

Response to Comment K87: As explained in more detail in response to Comment K27, Draft Program EIR Section 3.4.3 identifies why the proposed Dust Control Program would not significantly impede, impact, or interfere with natural dune formation processes, and Draft Program EIR Table 5-1 identifies why the proposed Program would not conflict with the Coastal Act provisions contained in PRC Section 30214. Nonetheless, Draft Program EIR Impact LUP-2 concludes the proposed Program could result in a significant and unavoidable conflict with the Coastal Act because it does not maximize existing, historical, and traditional coastal OHV recreation opportunities at Oceano Dunes SVRA. The OHMVR Division also notes the proposed Program's consistency with the Coastal Act is ultimately subject to the jurisdiction and authority of the CCC. Refer to response to CCC Comments C2, C6, and C11 (see Section 4.3 of this Final Program EIR), response to Sierra Club Comment I3 (see Section 4.9 of this Final Program EIR), and response to Comments K5, K14, and K18 above for more information on this issue.

Comment K88: Friends of Oceano Dunes again states the proposed Dust Control Program violates PRC Section 30223 by permanently removing upland areas necessary to support coastal recreational uses.

Response to Comment K88: Refer to the response to Comment K73.

Comment K89: Friends of Oceano Dunes again states the proposed Dust Control Program violates PRC Section 30240 by creating 100 acres of additional vegetation that will serve as cover and vectors for increased predator activity and predation of listed species.

Response to Comment K89: Refer to the response to Comment K74.

Comment K90: Friends of Oceano Dunes again states the proposed Dust Control Program violates PRC Section 30240 by authorizing activities that are not depending on ESHA resources and would significantly disrupt habitat values.

Response to Comment K90: Refer to the response to Comment K74. In addition, as a point of clarification, the OHMVR Division is not proposing and does not have the authority to amend the SLO County LCP.

Comment K91: Friends of Oceano Dunes states the proposed Dust Control Program violates PRC Section 30251 by introducing wind fencing and other similar measures that are visually inconsistent with the natural dune environment, substantially impeding scenic and visual resources.

Response to Comment K91: Draft Program EIR Table 5-1 assesses the Dust Control Program's consistency with PRC Section 30251. Comment K91 does not provide specific evidence changing that analysis. Additionally, Draft Program EIR Section 6.2 includes a text description and graphics depicting the existing scenic and visual resources setting of Oceano Dunes SVRA. As stated on page 6-4, "In addition to views of the ocean, beach, open sand areas, and vegetated dunes (i.e., landscapes and landforms), Pismo State Beach and Oceano Dunes SVRA are active recreation areas in which fishing, camping, street-legal and OHVs, equestrian and other recreational activities regularly occur (i.e., cultural modifications). Visitor vehicles and campers may be brightly colored and have flags elevated above the vehicle (particularly parked campers); some campers also install wood or fencing around the camper to reduce sand blasting and erosion during high winds. Pismo State Beach and Oceano Dunes SVRA also include visitor-serving facilities such as marker posts, restrooms, garbage receptacles, and vendors; fencing that protects vegetation, biological and cultural resources, and generally defines where OHV activity is permitted. Furthermore, there are several ongoing and completed dust control activities at Oceano Dunes SVRA that contribute to the baseline scenic quality of the park, including brightly-colored, seasonal wind fencing at Grand Avenue, Pier Avenue, and Strand Way, dust and meteorological monitoring equipment (e.g. the S1 meteorological tower), and remnant straw bales from a 2014 seasonal dust control project."

Draft Program EIR Impact AES-1 evaluates the potential for the proposed Dust Control Program to impact the existing visual character and scenic qualities of Oceano Dunes SVRA and its surroundings. The discussion under Draft Program EIR Impact AES-1 specifically states, in part (page 6-21 to 6-22), "Vegetation and seasonal dust control measures would both occupy open sand areas; however, as shown in Figure 6-13 to Figure 6-15 (pages 6-24 to 6-26), the visual change resulting from vegetation would be less pronounced than that resulting from a seasonal array of fencing, straw bales, or other artificial materials . . . seasonal dust control measures such as wind fencing and straw

bales are not native or common to the natural dune landscape. . . the size, rectilinear design, and potential to contrast with natural dune landscape colors would make seasonal dust control measures a noticeable and distinct change to the visual character and quality of Oceano Dunes SVRA and its surroundings, much more so than Dust Control Program vegetation. But noticeable and distinct objects or landscape features do not necessarily imply significant and adverse impacts to the visual character and quality of an area or landscape. Factors such as the individual visitor's visual context and sensitivity to materials such as fencing, straw bales, etc., the ability of the visitor to still enjoy unmodified views, and whether the potential change would be temporary or permanent influence whether a noticeable and distinct visual change is substantial and adverse. Park visitors may or may not be highly sensitive to the visual change resulting from the deployment of seasonal dust control measures such as wind fencing and straw bales. While it is not possible to know each individual visitor's sensitivity to such objects and features, the general visual context in which the typical visitor would view these objects and features may be considered . . .”

The Draft Program EIR then proceeds to discuss a visitor's potential visual context and sensitivity to seasonal dust control measures, but concludes (page 6-23). “Regardless of whether the individual visitor is sensitive or indifferent to seasonal dust control measures being deployed on the dunes, the seasonal dust control measures would occupy a small part of the overall landscape and would not obstruct or detract from the landscape as a whole . . . the proposed seasonal dust control measures, though noticeable and distinct, would not constitute a substantial and adverse change to the visual character and quality of Oceano Dunes SVRA and its surroundings for park visitors.”

Thus, the Draft Program EIR adequately evaluated the potential aesthetic impact of wind fencing and other similar measures and provides a fact-based justification for why this impact would be less than significant. See also response to Peterson Team Realty Comment F3 in Section 4.6 of this Final Program EIR.

Comment K92: Friends of Oceano Dunes again states the proposed Dust Control Program violates PRC Section 30255 by supplanting coastal dependent uses with 100 acres of vegetation where those uses currently exist.

Response to Comment K92: Refer to the response to Comment K27, K43, and K72. . Refer also to the response to CCC Comment C12 (see Section 4.3 of this Final Program EIR) for more information on this issue.

Comment K93: Friends of Oceano Dunes states the proposed Dust Control Program is inconsistent with the Oceano County Airport Land Use Plan (ALUP).

Response to Comment K93: Comment noted. Friends of Oceano Dunes does not provide any specific reason or evidence for this assertion that the OHMVR Division can respond to at this time. Refer also to the response to Comment K94 below for more information on this issue.

Comment K94: Friends of Oceano Dunes states the OHMVR Division has violated the Oceano County ALUP by failing to submit the proposed Dust Control Program to the Airport Land Use Commission (ALUC) for a consistency determination.

Response to Comment K94: The OHMVR Division directs Friends of Oceano Dunes to Draft Program EIR Section 5.1.3, which describes the ALUP policy referenced by Friends of Oceano Dunes (Policy G-1) and states (page 5-12, emphasis added), “In

regards to Policy G-1, the Oceano County ALUP identifies that no entity other than an ALUC is empowered by state law to make a determination of consistency with respect to an adopted ALUP, *but that the review of individual development projects such as the proposed Dust Control Program is not a responsibility mandated to the ALUC when such projects do not require adoption or amendment of a general plan, zoning ordinance, etc.*” Thus, while it may be common and /or historical practice for proposed, individual development projects within Oceano County Airport Planning Areas to be subject to review by the ALUC, there is no requirement to do so. The OHMVR Division, therefore, has not violated the Oceano County ALUP.

Comment K95: Friends of Oceano Dunes notes the OHMVR Division is negotiating a Habitat Conservation Plan (HCP) for Oceano Dunes SVRA and states the Draft Program EIR should discuss the potential requirements of the HCP that may interact with the proposed Dust Control Program.

Response to Comment K95: The OHMVR Division directs Friends of Oceano Dunes to Draft Program EIR Section 7.3, which states, “The Dust Control Program does not have the potential to conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan because no such plan is in effect that covers the Dust Control Program area. An HCP that would cover the Oceano Dunes SVRA and Pismo State Beach is currently being prepared, but has not yet been published. The proposed Dust Control Program would be a Covered Activity under the HCP and is not expected to conflict with the provisions of the HCP, once it is approved.” As of the time of publishing this Final Program EIR (March 2017), there is no draft HCP available for public review. A discussion of potential policies in this future plan, therefore, would be purely speculative and have no bearing on the setting or impact discussions presented in the Draft Program EIR. Furthermore, the future HCP would be subject to a separate, independent review pursuant to CEQA, as well as the National Environmental Policy Act, which would include an evaluation of all covered HCP activities, including activities related to the proposed Dust Control Program.

Comment K96: Friends of Oceano Dunes again states the OHMVR Division is required to amend the SVRA’s General Development Plan and Resource Management Plan.

Response to Comment K96: Refer to the response to Comment K13.

Comment K97: Friends of Oceano Dunes again states the proposed Dust Control Program is not consistent with the Coastal Act and cannot be approved by the CCC.

Response to Comment K97: Refer to the response to Comments K5, K14, K24, K27, K43, K66, K72, K74, K77, K79, K81, and K86 through K92 above.

Comment K98: Friends of Oceano Dunes again states the OHMVR Division and Draft Program EIR have made incorrect conclusions regarding the proposed Dust Control Program’s consistency with the Coastal Act and the Oceano County ALUP.

Response to Comment K97: Refer to the response to CCC Comments C2, C6, and C11 (see Section 4.3 of this Final Program EIR), response to SLOAPCD Comment D11 (see Section 4.4 of this Final Program EIR), response to Sierra Club Comment I3 (see Section 4.9 of this Final Program EIR), and response to Comments K14, K93, and K94 above.

Comment K99: Friends of Oceano Dunes states that the OHMVR Division’s proposal to use green wind fencing is insufficient to make such fencing visually compatible with the visual

character of the surrounding area as required by PRC Section 30251. In addition, Friends of Oceano Dunes notes CCC staff rejected “in discussions” much less visually intrusive fencing for a hotel resort project in Sand City, California.

Response to Comment K99: First, as explained in the response to Comment K91, the Draft Program EIR adequately evaluates the potential aesthetic impact of wind fencing and other similar measures and provides a fact-based justification for why this impact would be less than significant. In addition, Draft Program EIR page 6-21 states, “Thus, a brightly-colored, large seasonal dust control array (such as orange wind fencing) against the dune landscape is presumed to be at least partially visible to most visitors from most areas of the SVRA for approximately seven months out of the year (March 1 to September 30). Even green- or neutral-colored fencing would be visible from close proximity (see Figure 6-15), although green-colored fencing would better integrate with landscape level views of Oceano Dunes SVRA (see Figure 6-20).” Thus, as a point of clarification, the Draft Program EIR concludes the potential visual impact from wind fencing would be less than significant regardless of whether orange or green fencing is used (see discussion under Draft Program EIR Impact AES-1). In other words, the Draft Program EIR does not require the use of green fencing to make the use of potential wind fencing visually compatible with the visual character and quality of Oceano Dunes SVRA.

Second, Friends of Oceano Dunes does not provide a specific document or citation for the CCC staff discussions referenced in Comment K99 for the OHMVR Division to consider, and it is speculative to state what CCC staff “would never” approve. Nonetheless, for information purposes, the OHMVR Division notes it conducted a general internet search for hotel projects in Sand City, California, which identified a CCC staff report and CDP Application (A-3-SNC-98-114) for the Monterey Bay Shores Resort in Sand City, California (CCC 2014). Presuming this is the project referenced in Comment K99, this is not a meaningful comparison to the proposed Dust Control Program. The Monterey Bay Shores Resort project involved a multi-story hotel resort with active grading and re-contouring of dune habitat near an officially designated State Scenic Highway (State Route 1). In addition, any discussion regarding the Monterey Bay Shores Resort would have occurred in the context of the jurisdiction- and geographic-specific LCP policies against which the project was evaluated (the City of Sand City LCP). The proposed Dust Control Program involves a different type of development entirely, in a different area, and is not subject to LCP policies.

Comment K100: Friends of Oceano Dunes states the Draft Program EIR’s visual quality analysis is inadequate because it provides only a handful of viewpoints for the Program area. Friends of Oceano Dunes also notes the CCC has, for other projects, required substantially more viewpoints, and that the OHMVR Division should prepare viewpoint analysis for 60 to 120 viewpoints.

Response to Comment K100: Comment K100 purports that the Draft Program EIR’s visual resource analysis is inadequate solely because the CCC has required more view points for other projects. The CCC, in its comments on the Draft Program EIR, did not comment on the Draft Program EIR’s visual resource analysis or the number of viewpoints identified in the Draft Program EIR. Furthermore, Comment K100 does not provide a reason or evidence specific to the Draft Program EIR explaining why the EIR’s visual resource analysis is inadequate, nor does it suggest any specific viewpoint for additional consideration. Therefore, no further response is necessary at this time. Refer

also to the OHMVR Division's response to Comment K91 above and Comments K101 and 102 below for additional information on this issue.

Comment K101: Friends of Oceano Dunes states Draft Program EIR Figures 6-10 to 6-13 show that the proposed Dust Control Program's seasonal dust control measures would have a substantial visual impact. Friends of Oceano Dunes also states it is inappropriate to "speculate without substantial evidence" whether visitors may or may not be sensitive to visual changes at Oceano Dunes SVRA. Finally, Friends of Oceano Dunes states Draft Program EIR Figure 6-14 "makes clear" how expanded vegetation would provide protection to predators.

Response to Comment K101: Comment K101 asserts Draft Program EIR Figures 6-10 to 6-13 "show" the proposed Dust Control Program would have a substantial visual impact, but does not provide a reason or evidence specific to the Draft Program EIR explaining why the change shown on these figures is substantial nor significant and adverse. In contrast, Draft Program EIR Chapter 6 provides a detailed regulatory and environmental setting, complete with a description of the scenic quality and sensitivity of the Program area and surroundings and accompanying graphics, as well as an objective, fact-based analysis of the proposed Program's potential visual impact, complete with visual simulations for sensitive receptor points. As part of this analysis, the Draft Program EIR indicates some components of the proposed Dust Control Program would be noticeable and distinct, but not represent a substantial adverse change to the visual character and quality of the site. Thus, the Draft Program EIR has adequately evaluated the potential aesthetic impact of wind fencing and other similar measures and provided a fact-based justification for why this impact would be less than significant. Refer also to the response to Comment K91 for additional information on this issue.

The OHMVR Division has not speculated on whether or not visitors would be sensitive to the visual change resulting from the proposed Dust Control Program. The OHMVR Division directs Friends of Oceano Dunes to Draft Program EIR Section 3.2.1, which summarizes written comments received on the Revised NOP prepared for the Draft Program EIR and notes that commenters expressed a concern for a less intrusive approach to dust control, particularly as it related to diminished aesthetics for OHV riders. In addition, aesthetic appeal is generally a subjective determination made by the individual view, and Draft Program EIR page 6-4 describes factors that affect the public's sensitivity or concern for the scenic qualities of an area that are based on the U.S. Bureau of Land Management's Visual Resource Inventory Manual. Accordingly, the discussion under Draft Program EIR Section 6.4.3 describes the factors that the OHMVR Division considered when evaluating the proposed Program's potential visual impacts. Specifically, Draft Program EIR page 6-21 states, "The size, rectilinear design, and potential to contrast with natural dune landscape colors would make seasonal dust control measures a noticeable and distinct change to the visual character and quality of Oceano Dunes SVRA and its surroundings, much more so than Dust Control Program vegetation. But noticeable and distinct objects or landscape features do not necessarily imply significant and adverse impacts to the visual character and quality of an area or landscape. Factors such as the individual visitor's visual context and sensitivity to materials such as fencing, straw bales, etc., the ability of the visitor to still enjoy unmodified views, and whether the potential change would be temporary or permanent influence whether a noticeable and distinct visual change is substantial and adverse."

Furthermore, the Draft Program EIR is clear that the individual sensitivity of a viewer was not the determinate factor in determining whether the visual change resulting from

the proposed Program significant. For example, the discussion under Draft Program EIR Impact AES-1 states, in various places, “Park visitors may or may not be highly sensitive to the visual change resulting from the deployment of seasonal dust control measures such as wind fencing and straw bales. While it is not possible to know each individual visitor’s sensitivity to such objects and features, the general visual context in which the typical visitor would view these objects and features may be considered (page 6-22) . . . although it is not possible to know the individual sensitivity of each individual receptor, the visual context in which the proposed seasonal dust control measures would be located is considered to lower the typical viewer’s sensitivity somewhat, although it is possible the opposite may be true for some individual viewers (page 6-23) . . . Regardless of whether the individual visitor is sensitive or indifferent to seasonal dust control measures being deployed on the dunes, the seasonal dust control measures would occupy a small part of the overall landscape and would not obstruct or detract from the landscape as a whole (page 6-23.” Thus, the visual context of the project, the remaining ability to take in unobstructed views of dune landscapes, and the temporary nature of the proposed Program’s seasonal dust control measures were the key factors in the Draft Program EIR’s finding of significance.

Finally, as explained in the response to Comment K65 above, the proposed Program would not increase predation of western snowy plover and California least tern.

Comment K102: Friends of Oceano Dunes again states that coloring the artificial wind fencing does not remedy the significant impact to visual resources such that it complies with the Coastal Act.

Response to Comment K102: Refer to the response to Comment K99.

Comment K103: Friends of Oceano Dunes states the Draft Program EIR fails to specify which fully protected species may be adversely affected by the proposed Dust Control Program.

Response to Comment K103: Friends of Oceano Dunes is mistaken. The OHMVR Division directs Friends of Oceano Dunes to updated EIR Appendix B, which provides a list of all special-status species with potential to occur in the Program area and their associated listing status. This table eliminates some fully protected species (e.g., bald eagle) from the analysis because they are unlikely to occur in the proposed Program area. See response to Comment K64 regarding impacts to California brown pelican. In addition, the OHMVR Division directs Friends of Oceano Dunes to Draft Program EIR Section 7.2.2.2, which describes special-status wildlife species, including fully protected species such as the white-tailed kite and California least tern, that are known to be present or have a moderate to high potential to occur in the proposed Program area and thus may be affected by the project. This section states that although white-tailed kite is present (foraging) in the Program area, it is not likely to nest in the Program area. As a result, no significant impacts to white-tailed kite are expected to occur. Impacts to California least tern are discussed in Draft Program EIR Impact BIO-2, as revised by Section 3.7 of this Final Program EIR, and the Draft Program EIR incorporates requirements to minimize and/or avoid impacts to nesting and special-status birds, including the fully protected California least tern (see Draft Program EIR Section 7.3.2, as revised by Section 3.7 of this Final Program EIR).

Comment K104: Friends of Oceano Dunes states: 1) the Draft Program EIR does not indicate if the OHMVR Division consulted with the USACE regarding the proposed Dust Control Program or conducted any wetland delineation for the proposed Program; 2) the Draft Program EIR fails

to provide adequate information regarding whether there are wetlands in the proposed Program area; 3) the OHMVR Division cannot conclude the proposed Program will not affect wetland resources or require a Section 404 permit or review under the National Environmental Policy Act (NEPA); 4) the proposed Program requires a consistency determination with the Coastal Zone Management Act; 5) the proposed Program does not appear to comply with PRC Section 30233(a) because it will result in discharge of fill to wetlands; 6) the CCC requires wetland buffers up to 200 feet; and 7) the Draft Program EIR fails to consider the impact of drought on the OHMVR Division's ability to identify present day wetlands.

Response to Comment K104: First, as a point of clarification, the OHMVR Division did not consult with the USACE or conduct a wetland delineation because the proposed Program activities are not anticipated to result in impact to federally-protected wetlands (see Draft Program EIR Section 7.3.4).

Second, Draft Program EIR Section 7.2.1.3 and Figure 7-1 textually and graphically depict the location and type of wetlands present within the proposed Program area. Thus, the Draft Program EIR does provide adequate information regarding potential wetlands in the proposed Program area. In addition, as explained in the response to Comment K35, the OHMVR Division has revised Draft Program EIR Figure 2-4 to show areas that have the potential to be considered wetland habitat at a larger scale (see Chapter 3 of this Final Program EIR).

Third, Draft Program EIR Section 7.1.5.1 explains that a Federal Clean Water Act Section 404 permit is required by the USACE if a project would place any dredged or fill material below the ordinary high water mark or mean high tide line of any water of the U.S. But, as explained in Draft Program EIR Section 7.3.4, the OHMVR Division is not proposing to place any dredged or fill material below the ordinary high water mark or mean high tide line of waters of the U.S. Therefore, the proposed Program would not require a Section 404 permit or NEPA review by the USACE.

Fourth, the proposed Program does not require a consistency determination with the Federal Coastal Zone Management Act because it does not involve actions undertaken or permitted by a federal agency.

Fifth, the proposed Dust Control Program would not dike, fill, or dredge open coastal waters, wetlands, estuaries, or lakes and thus would not conflict with PRC Section 30233(a). Furthermore, Draft Program EIR Section 7.3.2, as revised by this Final EIR (see Section 3.7), and Draft Program EIR Section 9.3.2 describes the requirements the OHMVR Division has incorporated into the Dust Control Program to avoid and minimize impacts on potential jurisdictional waters in areas where they are present. As part of these requirements, the OHMVR Division would establish a 150-foot setback from wetlands and other jurisdictional waters for all Program components. Accordingly, the Draft Program EIR evaluates the proposed Dust Control Program's potential impacts on regulated waters, including changes in water quality, in Impacts BIO-3 and HYD-1 and finds these impacts to be less than significant.

Sixth, Friends of Oceano Dunes does not provide a specific CCC policy mandating a 200-foot wetlands buffer. The California Coastal Act regulates impacts to wetlands within the coastal zone and recommends a minimum buffer width of 100 feet around wetlands. The Draft Program EIR's wetland habitat requirement establishes a 150-foot setback from wetlands and other jurisdictional waters, which is consistent with the Coastal Act.

Finally, as explained in the response to Comment K39 above, the Draft Program EIR identifies current drought conditions in SLO County. While these drought conditions may hinder the identification of present day wetlands, this is unlikely the case within the proposed Program area, which consists primarily of well drained, upland sandy soils that do not support large wetlands. In addition, the OHMVR Division's management of Oceano Dunes SVRA predates the current drought conditions, and staff are not aware of any local wetland or water feature within the identified Program area disappearing due to the recent drought conditions.

Comment K105: Friends of Oceano Dunes states the Draft Program EIR conflicts with the USFWS' finding that critical habitat Unit 1 for La Graciosa thistle, which lies within Oceano Dunes SVRA, is occupied.

Response to comment K105: The Draft Program EIR does not conflict with the USFWS finding that La Graciosa thistle is still extant at several locations throughout its range. Draft Program EIR page 7-10, states, "There is approximately 300 acres of La Graciosa thistle critical habitat within the Dust Control Program area. Since federal listing, populations of this species have severely declined. At the time of listing there were 11 extant occurrences distributed among 7 populations. Currently, La Graciosa thistle is considered to be extant at seven occurrences that are distributed among four populations (USFWS 2008). There is suitable dune habitat within the Program area but this species is not known to occur within the Program area. It was recently observed nearby approximately two miles southeast of Oso Flaco Lake during CDPR surveys (CDPR 2015a), and has a moderate potential to occur in the Program area."

Comment K106: Friends of Oceano Dunes states La Graciosa thistle is listed as threatened by the state of California and that killing or possessing the plant is prohibited by the California Endangered Species Act.

Response to Comment K106: This comment is consistent with the information presented in the Draft Program EIR. The OHMVR Division directs Friends of Oceano Dunes to the description of La Graciosa thistle on Draft Program EIR page 7-10, which identifies this species is federal and state listed as threatened. The OHMVR Division also directs Friends of Oceano Dunes to the discussion under Draft Program EIR Impact BIO-1, as revised by Section 3.7 of this Final Program EIR, which identifies that the OHMVR Division is not proposing to nor anticipating that the proposed Dust Control Program would impact listed plant species. Finally, as explained in more detail in the response to Comments K56 and 57 above, the OHMVR Division has incorporated requirements into the proposed Dust Control Program that would avoid and/or minimize potential adverse impacts on special-status plants and ensure the proposed Program complies with the California Endangered Species Act.

Comment K107: Friends of Oceano Dunes again states the Draft Program EIR fails to adequately disclose, analyze and address the impact of predation on the western snowy plover and California least tern.

Response to Comment K107: Refer to the response to Comment K65.

Comment K108: Friends of Oceano Dunes again states the Draft Program EIR does not contain the appropriate level of analysis of predators and predation on the western snowy plover and California least tern, specifically predation by red foxes, coyotes, skunk, and opossum.

Response to Comment K108: Refer to the response to Comment K65.

Comment K109: Friends of Oceano Dunes states the OHMVR Division has created standard project requirements that would appear to apply to projects within the State Parks system generally, making them illegal underground regulations.

Response to Comment K109: Comment noted. As explained in more detail in response to Comments 52 and 53 above, the Standard and Specific Project Requirements the OHMVR Division has incorporated into the proposed Program to minimize and avoid potential adverse impacts apply to the proposed Dust Control Program activities only. They are not relevant to any law or procedure of law enforced or administered by the OHMVR Division and as such are not subject to the California Administrative Procedure Act, nor or they illegal underground regulations.

Comment K110: Friends of Oceano Dunes states the Draft Program EIR does not define the phrase “maximum extent feasible,” fails to explain how the OHMVR Division can disturb and occupy as little land as possible in light of Rule 1001 requirements, and “ensures” that disturbed areas within critical habitat will be restored to their original condition.

Response to Comment K110: First, as explained in the response to Comment K25, the term “maximum extent feasible” is used within the context of CEQA and the state CEQA guidelines and means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors. Second, Friends of Oceano Dunes misinterprets the Draft Program EIR. As explained in the response to Comment K54 above, the OHMVR Division would disturb and occupy as little land as possible by identifying the minimum area required to complete planned work activities, designating this minimum area, using existing paths of travel to access work areas, and restoring all disturbed areas to the maximum extent feasible; however, this requirement does not limit proposed dust control measures nor preclude compliance with Rule 1001. In addition, the only critical habitat that would potentially be affected is La Graciosa thistle; however, Program components avoid La Graciosa thistle wetland habitat, and Standard and Specific Project Requirements incorporated into the Program discussed in Section 7.3.3 render any impact less than significant.

Comment K111: Friends of Oceano Dunes states since there is the potential for tree planting to be included in the proposed Dust Control Program the OHMVR Division and the CCC should invite landowners to be project applicants.

Response to Comment K110: Comment noted. As explained in more detail in the response to Comment K6 and K24 above, the OHMVR Division has not initiated discussions with any private landowners yet; however, the annual review process described in Draft Program EIR Section 2.4.1, as revised by Section 3.3 of this Final Program EIR, includes a requirement for the OHMVR Division to secure authorization prior to planting vegetation on lands not operated by the state. In addition, matters pertaining to the CCC’s administrative authority and procedures for processing a CDP application are outside the scope of the OHMVR Division’s CEQA review of the proposed Dust Control Program.

Comment K112: Friends of Oceano Dunes states Draft Program EIR Section 8.2.4 describes the proposed Dust Control Program area as 985 acres which is inconsistent with other parts of the EIR that identify the proposed Program area as 690 acres.

Response to Comment K112: Friends of Oceano Dunes is mistaken. Footnote 16 in Draft Program EIR Section 8.2.4 (page 8-11) states, “The 985-acre area includes the primary 690-acre Program area where most activities would occur and the 295-acre potential tree planting area.” This description is consistent with description of the proposed Program area in Draft Program EIR Section 2.3.1. Refer also to the response to Comment K2 above.

Comment K113: Friends of Oceano Dunes cites Draft Program EIR page 9-9, which concludes the OHMVR Division is not proposing to place fill in regulated waters, and notes that since the proposed Program area “may yet expand due to tree planting” the Draft Program EIR has no reasonable basis to conclude that fill would never be placed in a wetland.

Response to Comment K113: Draft Program EIR Section 7.2.1.3 discusses wetlands in and near the proposed Program Area, and native wetland alliance vegetation communities are depicted on Draft Program EIR Figure 7-1. As explained in the response to Comment K35, the OHMVR Division has revised Draft Program EIR Figure 2-4 to show areas that have the potential to be considered wetland habitat (see Chapter 3 of this Final Program EIR), including within the potential tree planting area. Furthermore, Draft Program EIR Section 7.3.2, as revised by this Final EIR (see Section 3.7), and Draft Program EIR Section 9.3.2 describes the requirements the OHMVR Division has incorporated into the Dust Control Program to avoid and minimize impacts on potential jurisdictional waters in areas where they are present. As part of these requirements, the OHMVR Division would establish a 150-foot setback from wetlands and other jurisdictional waters for all Program components. Accordingly, the Draft Program EIR evaluates the proposed Dust Control Program’ potential impacts on regulated waters, including changes in water quality, in Impacts BIO-3 and HYD-1 and finds these impacts to be less than significant. Friends of Oceano Dunes does not provide specific evidence to the contrary that the OHMVR Division can address at this time. Refer also to the response to CDFW Comment B7 (see Section 4.2 of this Final Program EIR) and Comments K35, K61, and K104 above.

Comment K114: Friends of Oceano Dunes summarizes the CDFW comment letter submitted on the Revised NOP the OHMVR Division prepared for the Draft Program EIR and states CDFW has failed in its responsibilities as a Trustee Agency, including by failing to protect La Graciosa thistle and brown pelican, and exceeded its jurisdictional authority. Friends of Oceano Dunes also states CDFW has no standing or authority regarding the proposed Dust Control Program because it is something “that has nothing to do with biological resources and has no impact on biological resources.”

Response to Comment K114: Comment noted. First, speculation on the intent of CDFW’s comment letter and its role as a Trustee Agency is outside the scope of the Draft Program EIR. Second, as explained in the OHMVR Divisions response to CDFW Comment B10 (see Section 4.2 of this Final Program EIR) and Comments K64, K103, K105, K106, K110 above, the Draft Program EIR does provide an adequate level of information and analyses regarding potential impacts on La Graciosa thistle and the California brown pelican. Finally, Friends of Oceano Dunes’ statement that the proposed Program would not have a significant impact on biological resources is consistent with the findings of the Draft Program EIR.

Comment K115: Friends of Oceano Dunes states the CCC is in agreement with Friends of Oceano Dunes that the Draft Program EIR failed to develop or consider a full range of potential project alternatives.

Response to Comment K115: Comment 115 does not provide or suggest any reason why the Draft Program EIR's alternatives analysis is inadequate nor suggest any specific additional alternatives for the OHMVR Division to consider. Nonetheless, for information purposes, as explained in the response to CCC Comments C6 and C7 (see 4.3 of this Final Program EIR), Draft Program EIR Chapter 12 includes a robust evaluation of alternatives to the proposed Program, consistent with the requirements of CEQA and the CEQA Guidelines. Section 12.1 of the Draft Program EIR provides information on how the OHMVR Division selected alternatives for consideration and evaluation in the Draft Program EIR. Section 12.2 identifies alternatives considered but rejected and, as required by CEQA, provides a brief explanation of why the alternative was rejected from further consideration. Section 12.3 of the Draft Program EIR considers two different versions of the "No Project Alternative" required by CEQA. In addition, the Draft EIR evaluated the following alternatives: a different dust control program location (Draft Program EIR Section 12.2.1); an accelerated Dust Control Program schedule (Draft Program EIR Section 12.2.2); OHV use restrictions (Draft Program EIR Sections 12.2.3.1 and 12.2.3.2); off-site residential filtration systems (Draft Program EIR Sections 12.2.4.1 and 12.2.4.2); two versions of the No Project Alternative (Draft Program EIR Sections 12.3.1 and 12.3.2); and, an alternate dust control program recommended by the SLOAPCD (Draft Program EIR Section 12.3.4). Finally, as shown in Section 3.8 of this Final Program EIR, the OHMVR Division has added an evaluation of artificial wind breaks as an alternative to the proposed Program that concludes the use of wind breaks reduce (but not substantially lessen) the proposed Program's significant recreation impacts while resulting in new, significant and unavoidable aesthetic and biological resources impacts.

Comment K116: Friends of Oceano Dunes states Draft Program EIR page 7-14 identifies that USFWS-designated critical habitat for western snowy plover extends 1,300 feet inland. Friends of Oceano Dunes notes the Draft Program EIR states, at various points, that the proposed Program area is set back between 1,000 and 1,500 feet inland, which strongly suggests that there are locations where the proposed Program Area extends into critical habitat.

Response to Comment K116: The OHMVR Division directs Friends of Oceano Dunes to Chapter 3 of this Final Program EIR, which contains new Figure 7-2 that graphically depicts the proposed Program area and western snowy plover critical habitat at a larger scale. As explained in more detail in response to Comment K3, the location of the western snowy plover critical habitat area depicted on Draft Program EIR Figure 2-5 and new Figure 7-2 consists of GIS data provided by the USFWS via its critical habitat portal (USFWS 2012, 2016). This data indicates the critical habitat area extends approximately 1,100 feet inland from the Pismo State Beach western boundary and borders the northern extent of the proposed Dust Control Program area (between marker posts 4 and 5), but is approximately 240 feet west of the southern extent of the proposed Program area (near marker post 7). Thus, the proposed Dust Control Program area borders, but does not overlap with or otherwise include, USFWS-designated critical habitat for western snowy plover. Refer also to the response to Comments K3, K30, K32, K35, K40, K41, and K65 for additional information on this issue.

Comment K117: Friends of Oceano Dunes states that Draft Program EIR page 7-5 is misleading because it identifies that the proposed Dust Control Program's western boundary is set back between 1,000 and 1,500 feet from the Pacific Ocean to avoid western snowy plover critical

habitat. Friends of Oceano Dunes notes the Pacific Ocean is not the boundary for the critical habitat, which reaches “very far inland.”

Response to comment K117: As explained in more detail in response to Comment K3, the location of the western snowy plover critical habitat area depicted on Draft Program EIR Figure 2-5 and new Figure 7-2 (see Chapter 3 of this Final Program EIR) consists of GIS data provided by the USFWS via its critical habitat portal (USFWS 2012, 2016). This data indicates the critical habitat area extends approximately 1,100 feet inland from the Pismo State Beach western boundary and borders the northern extent of the proposed Dust Control Program area (between marker posts 4 and 5), but is approximately 240 feet west of the southern extent of the proposed Program area (near marker post 7). Thus, the proposed Dust Control Program area borders, but does not overlap with or otherwise include, USFWS-designated critical habitat for western snowy plover. Refer also to the response to Comments K3, K30, K32, K35, K40, K41, and K65 for additional information on this issue.

Comment K118: Friends of Oceano Dunes states the Draft Program EIR does not evaluate how adding 100 acres of vegetation would affect emergency access for first responders and notes the proposed Program violates PRC Section 5090.03 (c) by establishing a natural preserve or wilderness area within Oceano Dunes SVRA.

Response to Comment K118: Draft Program EIR Mitigation Measure REC-1 requires the OHMVR Division to plant vegetation and deploy seasonal dust control measures in a manner that does not interfere with established paths of travel, which as described in the response to Comment K8 above, includes emergency response vehicle routes located inside Oceano Dunes SVRA. In addition, presuming Friends of Oceano Dunes is referring to PRC 5090.43(c), the OHMVR Division notes cultural preserves, natural preserves, and wilderness areas are officially designated units of the State Parks system. The proposed Program does not include the establishment of such a State Park unit and thus does not conflict with PRC Section 5090.43(c).

Comment K119: Friends of Oceano Dunes asserts that the Dust Control Program violates PRC Section 5019.62 by including new improvements within the SVRA that do not directly enhance the public enjoyment of the natural scenic cultural, ecologic values of the seashore.

Response to K119: PRC Section 5019.62 specifies that improvements undertaken within the state seashore shall be for the purpose of making the areas available for public enjoyment, recreation, and education in a manner consistent with the perpetuation of their natural, scenic, cultural, ecological, and recreational value. The code specifies that improvements that do not directly enhance these values shall not be undertaken.

The proposed Dust Control Program does not conflict with PRC Section 5019.62. While the proposed Program activities would limit and interfere with coastal vehicular recreational opportunities at Oceano Dunes SVRA, the Draft Program EIR states (page 2-20), “newly planted vegetation would primarily enhance areas where vegetation already exists (e.g., adjacent to an existing vegetation island)” and (page 7-25) “The planting of 100 acres of native dune vegetation could result in a beneficial impact to the unique Guadalupe Nipomo Dunes Complex.” In addition, this newly planted vegetation would also provide non-motorized recreational opportunities.

Furthermore, Mitigation Measure REC-1 requires the OHMVR Division to integrate recreation opportunities into the proposed dust control measures by: 1) providing

educational kiosks that provide information on dune (i.e., seashore) ecosystems; 2) establishing and maintaining motorized and non-motorized trails through large, continuous blocks of planted vegetation; and 3) embedding OHV training or vendor areas within large dust control projects. The proposed Program would also minimize and avoid potential impacts to biological and cultural resources.

Thus, for the reasons outlined above, the proposed Program activities would provide for and enhance various portions of the natural, scenic, cultural, ecological, and recreational values present at Oceano Dunes SVRA, Pismo State Beach, and the San Luis Obispo State Seashore.

Comment K120: Friends of Oceano Dunes states that the proposed Dust Control Program violates PRC Section 5090.02(c) by failing to expand OHV recreational activity at Oceano Dunes SVRA.

Response to K120: PRC Section 5090.02 generally sets forth legislative findings, declarations and intent for OHV recreation. The section referenced by Comment K120 sets forth that it is the intent of the Legislature that existing off-highway motor vehicle recreational areas, facilities, and opportunities should be expanded and managed in a manner consistent with the full provisions of the Off-Highway Motor Vehicle Recreation Act. Addressing potential off-site effects such as particulate emissions is consistent with the Legislative intent expressed in PRC Section 5090.02(c)(1) that existing OHV areas be managed in a manner that sustains long-term use. The OHMVR Division notes that, per PRC Section 5090.02(c)(3), the Legislature has found that off-highway recreation includes both motorized recreation and motorized off-highway access to nonmotorized recreation activities, such as exploring a vegetation island. In addition, PRC Section 5035 lists management priorities for SVRA, including protection of public safety and the appropriate utilization and conservation of lands. While the proposed Dust Control Program would result in a significant and unavoidable impact on coastal OHV recreational opportunities at Oceano Dunes SVRA, it would not violate PRC Section 5090.02(c).

Comment K121: Friends of Oceano Dunes again states the proposed Dust Control Program violates the Coastal Act and applicable LCPs, and that the OHMVR Division should consider the content findings of applicable LCPs to promote efficiency and goodwill between agencies.

Response to comment K121: Refer to the response to Comments K5, K14, K24, K27, K43, K66, K72, K74, K77, K79, K81, and K86 through K92 above.

Comment K122: Friends of Oceano Dunes states the proposed Dust Control Program is inconsistent with SLO County LCP policies and standards, citing Policy 29 which protects terrestrial environmental in SLO County's coastal zone.

Response to comment K122: As explained in more detail in the response to Comment K66 above, the Draft Program EIR explains (page 5-1) the proposed Program is subject to a consolidated CDP process by which the CCC will act upon the OHMVR Division's CDP application. Under this process, the standard of review is Chapter 3, Coastal Resources Planning and Management Policies, of the Coastal Act, and not the applicable LCP (although the CCC may use the LCP as a guide when acting upon the CDP). Thus, there is no need for the OHMVR Division to consider the content and findings of the Grover Beach and SLO County LCPs in the Draft Program EIR. In addition, response to Comment K74 above describes that PRC Section 30240 protects ESHA from significant

disruption of habitat values, limits development within ESHA to only uses dependent on the ESHA resources, and limits development adjacent to ESHA to uses that are compatible with the continuance of the ESHA. Accordingly, Draft Program EIR Table 5-1 explains the OHMVR Division has incorporated requirements into the proposed Dust Control Program that protect against significant disruption of habitat values, such as avoiding special-status species habitat, and that the proposed activities are dependent on the resources present at Oceano Dunes SVRA.

Comment K123: Friends of Oceano Dunes states the proposed Dust Control Program violates and is inconsistent with the SLO County General Plan.

Response to comment K123: Comment K123 does not provide specific evidence identifying how the proposed Dust Control Program is inconsistent with the SLO County General Plan. Regardless, the OHMVR Division directs Friends of Oceano Dunes to Draft Program EIR page 5-1, which states, “The proposed Dust Control Program would be located on state-owned and state-operated land that, with the exception of coastal development permitting usually conducted through local agencies, is not subject to local land use restrictions and zoning regulations.” Thus, the SLO County General Plan is not applicable to the proposed Program.

Comment K124: Friends of Oceano Dunes states it has provided substantial new information and data that has led to new or greater impacts compared to what is described in the Draft Program EIR, as well as a new feasible alternative that would reduce impacts.

Response to comment K124: As explained in Section 1.2 of this Final Program EIR, CEQA Guidelines section 15088.5 sets forth that when significant new information is added to an EIR after public noticing of the Draft EIR, the EIR must be recirculated to give the public a meaningful opportunity for review. Significant new information is defined as 1) a new significant environmental impact, 2) a substantial increase in the severity of an environmental impact requiring new mitigation, or 3) a feasible project alternative or mitigation measure considerably different from those previously analyzed that would clearly reduce environmental impacts. Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR. As explained in the responses to the comments submitted by Friends of Oceano Dunes (Comments K1 to K136), the OHMVR Division has reviewed the materials submitted by Friends of Oceano Dunes and determined these materials do not significant new information that requires recirculation of the Draft Program EIR.

Comment K125: Friends of Oceano Dunes again states that CDFW has exceeded its authority as a reviewing agency under CEQA.

Response to Comment K125: Comment noted. Refer to the responses to State Clearinghouse Comment A2 (see Section 4.1 of this Final Program EIR), CDFW Comment B2 (see Section 4.2 of this Final Program EIR), and K114 above.

Comment K126: Friends of Oceano Dunes states the Draft Program EIR is internally inconsistent because it finds the proposed Dust Control Program could conflict with the Coastal Act but concludes the CCC might find the proposed Dust Control Program consistent with the Coastal Act.

Response to Comment K126: The Draft Program EIR is internally consistent regarding the proposed Dust Control Program’s consistency with the Coastal Act. As explained in

the response to Comment C2, the OHMVR Division, acting as the CEQA Lead Agency, has determined the proposed Dust Control Program could result in a significant and unavoidable conflict with the Coastal Act because it does not maximize existing, historical, and traditional coastal OHV recreation opportunities at Oceano Dunes SVRA. Regardless of this CEQA determination, the OHMVR Division's CDP application and the proposed Program's consistency with the Coastal Act is ultimately subject to the jurisdiction and authority of the CCC. Accordingly, the Draft EIR also notes (page 5-18), "the CCC may determine the Dust Control Program, as described in this EIR, is consistent with the Coastal Act and/or impose additional conformance on the Program as necessary to support its issuance of a CDP and the Program's conformance with the Coastal Act." Refer also to the response to CCC Comments C6 and C11 (see Section 4.3 of this Final Program EIR), response to SLOAPCD Comment D11 (see Section 4.4 of this Final Program EIR) response to Sierra Club Comment I3 (see Section 4.9 of this Final Program EIR), and responses to Comments K14, K93, and K94 above for additional information on this issue.

Comment K127: Friends of Oceano Dunes requests that the OHMVR Division include as appendices all relevant plans and policies.

Response to Comment K127: Comment K127 does not provide context for its request. The Draft Program EIR was prepared using the general knowledge and expertise of the OHMVR Division and its consultants. The Draft Program EIR's regulatory setting section also lists and discusses the plans, regulations, statutes relevant to the proposed Dust Control Program. In addition, each Draft Program EIR Chapter includes a list of references and sources of information used to prepare the Draft Program EIR. As such, these are considered incorporated into the EIR by reference and do not need to be included separately as appendices.

Comment K128: Friends of Oceano Dunes states that the Draft Program EIR fails to propose mitigation that shows there will be no take of listed species.

Response to Comment K128: Comment K128 does not provide specific evidence explaining why the requirements the OHMVR Division has incorporated into the Draft Program EIR would not prevent take of listed species. Nonetheless, as explained in more detail in the response to CDFW Comments B4 and B5 (see Section 4.2 of this Final Program EIR), the Draft Program EIR includes detailed information on the biological resources present at and in the vicinity of the Program area, the regulations that govern these resources (including CESA and FESA), and the potential impacts associated with proposed Program activities. In addition, Draft Program EIR Section 7.3.2, as revised by this Final EIR, describes the standard and project specific requirements the OHMVR Division has incorporated into the Dust Control Program to avoid and minimize impacts on potential biological resources that could be present in and near the Program area. These requirements include, but are not limited to, site-specific surveys for biological resources prior to implementing specific dust control activities. Furthermore, the annual review process involves reporting (to the CCC and appropriate wildlife agencies) on measures incorporated into the planned activities to avoid or minimize potential adverse impacts on sensitive biological resources. Thus, the proposed Program would not result in take of listed species.

Comment K129: Friends of Oceano Dunes states the provisions of PRC Section 30601 apply only to those cases where there is no certified LCP.

Response to Comment K129: As explained in more detail in the response to Comment K66 above, the Draft Program EIR explains (page 5-1) the OHMVR Division, SLO County, the City of Grover Beach, and the CCC have consented to a consolidated CDP process by which the CCC will act upon the OHMVR Division's CDP application.

Comment K130: Friends of Oceano Dunes requests the OHMVR Division provide a copy of the document that, pursuant to PRC Section 30601.5, provides the OHMVR Division with a legal right, interest, or other entitlement to the La Grande tract.

Response to Comment K130: As explained in the response to Comment K23 above, the OHMVR Division operates the part of the SVRA within the County's La Grande Tract under an existing operating agreement. This operating agreement provides the OHMVR Division with the authority to implement the proposed Dust Control Program.

Comment K131: Friends of Oceano Dunes states the Draft Program EIR does not contain a sufficient degree of analysis to provide decision makers the ability to intelligently consider the proposed Dust Control Program's environmental consequences.

Response to Comment K131: Comment noted. The Draft Program EIR was prepared in accordance with CEQA and the CEQA Guidelines. The OHMVR Division disagrees with Friends of Oceano Dunes and notes Comment K131 does not provide any specific evidence explaining why the Draft Program EIR lacks a sufficient degree of analysis.

Comment K132: Friends of Oceano Dunes states no set of terms and conditions could ensure the proposed Program would be in compliance with the Coastal Act.

Response to Comment K132: Comment noted. Matters pertaining to the CCC's administrative authority and procedures for processing and issuing a CDP are outside the scope of the OHMVR Division's CEQA review of the proposed Dust Control Program.

Comment K133: Friends of Oceano Dunes states the Draft Program EIR does not indicate whether it has notified the Federal Avian Administration (FAA) regarding the proposed meteorological monitoring equipment.

Response to Comment K133: Friends of Oceano Dunes is mistaken. The OHMVR Division directs Friends of Oceano Dunes to Draft Program EIR Section 5.1.3, which discusses the Oceano County ALUP, including policies related to FAA regulations. Friends of Oceano Dunes also directs Friends of Oceano Dunes to the discussion under Draft Program EIR Impact LUP-3, which states, "The proposed Dust Control Program would not significantly increase airport-related risks for park visitors or interfere with takeoff, landing, or maneuvering of pilots, nor would it exceed the height of any FAA civil airport surface." Since the proposed Program would not exceed any FAA civil airport surface areas, it would not require FAA notification.

Comment K134: Friends of Oceano Dunes states the Draft Program EIR does not discuss whether the monitoring equipment or the placement of towers requires Federal Communications Commission (FCC) approval or licensing.

Response to Comment K134: The proposed 10-meter meteorological towers would not require an FCC license because they are below the height (200 feet) needed to obtain a license from the FCC and the FAA and the weak cellular data connection that would be used retrieve data from the meteorological monitoring equipment would not interfere with broadcast communications.

Comment K135: Friends of Oceano Dunes states the OHMVR Division has engaged in unlawful segmentation by dividing up the proposed Dust Control Program into separate annual subprojects.

Response to Comment K135: The OHMVR Division has not engaged in unlawful segmentation of the proposed Dust Control Program. As explained in Draft Program EIR Section 1.3, “the proposed Dust Control Program constitutes a series of related activities that would occur regularly, in approximately the same geographic area, and result in generally similar environmental effects that can be mitigated in similar ways. Thus, the OHMVR Division has determined a Program EIR is the appropriate type of EIR for the project.” The OHMVR Division has properly planned and implemented previous dust control-related activities at Oceano Dunes SVRA, and the Draft Program EIR thoroughly describes and captures baseline environmental conditions to adequately evaluate the potential impacts of the proposed Dust Control Program on an individual and cumulative basis.

Comment K136: Friends of Oceano Dunes states noncompliance with law renders an EIR invalid. Friends of Oceano Dunes states the proposed Dust Control Program violates the Coastal Act, FESA, CESA, the SVRA Act, the SLO County General Plan and LCP, and the Oceano Dunes SVRA General Development Plan and Resource Management Plan.

Response to Comment K136: Comment K136 does not provide any specific evidence to support its claim that the proposed Dust Control Program violates the listed regulations, statutes, and plans. As explained in the responses to comments K1 to K135, the proposed Program activities would proceed in a manner consistent with all applicable laws, regulations, and plans, with the exception of the General Development Plan. Regarding the General Development Plan, see response to Comment K13.

COMMENT LETTER "L"

L1

NOTICE OF AVAILABILITY DRAFT PROGRAM ENVIRONMENTAL IMPACT REPORT FOR THE OCEANO DUNES SVRA DUST CONTROL PROGRAM

TO: County Clerks; State Clearinghouse; Responsible Agencies; Trustee Agencies; Federal Agencies with potential approval authority; Interested Parties

SUBJECT: Notice of Availability of a Draft Program Environmental Impact Report (EIR) for the Oceano Dunes State Vehicular Recreation Area (SVRA) Dust Control Program, State Clearinghouse No. 2012121008

LEAD AGENCY: California Department of Parks and Recreation (CDPR)
Off-Highway Motor Vehicle Recreation (OHMVR) Division
1725 23rd Street, Suite 200
Sacramento, CA 95816

Contact: Ronnie Glick, Senior Environmental Scientist
Oceano Dunes District
CDPR, OHMVR Division
340 James Way, Suite 270
Pismo Beach, CA 93449
(805) 773-7180

Notice is hereby given that the OHMVR Division has prepared a Draft Program EIR for the Program identified above and is requesting comments on the content of this Draft Program EIR.

PROJECT LOCATION: Southwest San Luis Obispo (SLO) County – Oceano Dunes SVRA

PROJECT DESCRIPTION: The OHMVR Division of CDPR proposes to implement a five-year program (Program) to control and minimize emissions of dust and particulate matter (PM) that are generated at Oceano Dunes SVRA during periods of strong, persistent winds and subsequently blown downwind of the SVRA and onto the Nipomo Mesa. Oceano Dunes SVRA is located in southwestern SLO County, approximately twelve miles south of the City of SLO, within the Coastal Zone established by the California Coastal Act. The SVRA borders and is contiguous with parts of Pismo State Beach. The two parks provide public access to beaches and other coastal recreation opportunities, including off-highway motor vehicle (OHV) recreation in certain designated areas. The OHMVR Division has applied for a Master Coastal Development Permit from the California Coastal Commission, Central Coast District, for the Program because it involves development in the Coastal Zone.

The OHMVR Division would accomplish this Program by planting vegetation and deploying seasonal dust control measures such as wind fencing (or equivalent control measures) at Oceano Dunes SVRA. Planting vegetation and deploying seasonal dust control measures would occur annually. The OHMVR Division would plant approximately 20 acres of native dune vegetation, and deploy approximately 40 acres of seasonal dust control measures per year for a period of five years (seasonal measures could be installed as early as March 1 and removed as late as September 30). These activities would take place on approximately 690 acres of land within Oceano Dunes SVRA that are located upwind of the Nipomo Mesa. The SLO County Air Pollution Control District and OHMVR Division studies have identified this area as the area most likely area influencing air quality downwind of Oceano Dunes SVRA. Dust and meteorological monitoring to support these activities would occur as part of the Program. The OHMVR Division

I'm sending you all the information I have on the worst polluted beach, or air in California

Ms. S. Radwan 8-1-16

Honorable Darrell Steinberg
California State Senator

Dear Senator:

How is it that the Off Highway Vehicle (OHV) industry has such influence in Sacramento? We are told that the legislature supports this type of recreation, and has mandated that it take precedence over non motorized recreation on our public beach in Oceano. We are told that the legislature demands that it continue, even if the pollution from it threatens public health.

Perhaps the attached link to Oral History of Chappie will help clarify how the off highway vehicle industry got its grip. It tells what happened in Sacramento starting fifty years ago at the hand of assembly representative Eugene Chappie, known as "the father of the OHV" (The document can be advanced easily if you download it).

Chappie talks about his involvement with off-roaders and their industry and how his power, influence, and connections led to the diversion of the fuel tax (\$65 million dollars last year) to OHV (when it should be going to counties, cities, and for road maintenance). Surely this has to be the biggest coup to benefit corporate lobbyists in the California legislature's history, and the most regrettable for the environment and local government budgets. Your Senate Bill 742 did nothing to curb this runaway give-away.

Chappie, who died at age 72, left us his oral history. At page 145 he begins to tell how he fed the OHV industry with bill after bill; and and at page 156 how thousands of dollars in cash gifts from the oil companies fed him.

Times have changed, hopefully. We must stop the off highway vehicle industry's fuel tax rip off that Chappie and the off highway vehicle industry (and the related oil industry) managed to get past the public fifty years ago. The funding should be stopped. The off highway vehicle industry (and not counties and cities) should pay for the places for their products to be used, and the consequences of that use.

A recent study by the San Luis Obispo Air Pollution Control District found that off roading on the Oceano Dunes State Vehicular Recreation causes health threatening concentrations of particulate matter to us in nearby neighborhoods. See the study at slocleanair.org.

For this and other impacts caused by the Chappie Z'berg law and your extension of it with SB 742, see our documentaries at safebeachanddunes.org.

Sincerely,

Nell Langford, Ph.D.
P.O. Box 27
Pismo Beach, CA 93448
805 773 4771

8-1-16

As you can see I worked on this problem for 3 yrs I got nowhere, even had an interview with The man who is the head of California parks. I'm now 88 tired, old, have breathing problem (angestine heart failure) I give up & so am sending you everything I have. Dont The public own the beaches above? The high tide mark?

13.02 (CBI) Une Skadden

6/12/2010

4.12 RESPONSE TO COMMENTS FROM UNA SKADDEN

The OHMVR Division received two comments from Una Skadden. In general, these comments relayed information in the form of newspaper articles, correspondence with government officials regarding air pollution, and other documents pertaining to dust and air quality in communities downwind of Oceano Dunes SVRA.

Comment L1: Mrs. Skadden indicates she is transmitting information regarding existing air quality conditions, including the NOA for the Draft Program EIR for the Dust Control Program, letters to elected officials from herself, Nell Langford, Ph. D., Sunny Bode and articles from The Adobe Press and The Tribune. This information is generally from the years 2010 and 2011, although not all information submitted contains a date of publication, transmittal, etc.

Response to Comment L1: Comment L1 refers to existing conditions and does not raise any specific points on the Draft Program EIR's evaluation of the proposed Dust Control Program's potential environmental impacts. In addition, Comment L1 generally provides information that is consistent with that contained in the Draft Program EIR. The OHMVR Division directs the commenter to Draft Program EIR Section 1.1.1, which discusses saltation and dust generation at Oceano Dunes SVRA, and Section 1.1.3, which discusses the various dust and particulate matter studies that have been conducted at the site.

Comment L2: Mrs. Skadden reiterates she has transmitted information, states she is having health problems, and asks if the public owns the beaches above the high tide mark.

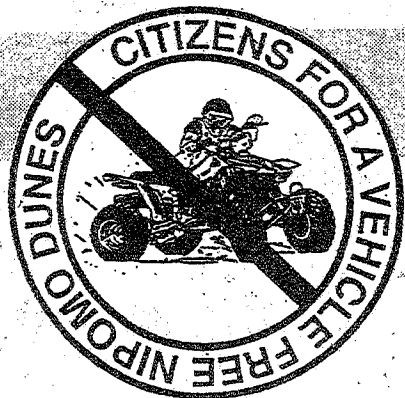
Response to Comment L2: Comment noted. The OHMVR Division appreciates the time Mrs. Skadden has taken to participate in dust control issues and to provide comments on the Draft Program EIR; however, Comment L2 does not provide a specific comment or raise any significant, new information regarding the contents and findings of the Draft Program EIR. As a point of clarification, the California Department of Parks and Recreation does hold certain lands at Pismo State Beach and Oceano Dunes SVRA above the high tide line in trust for all the people of the State of California; however, other agencies and property owners also have a public or private interest in lands above the high tide line, such as the SLO County.

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COMMENT LETTER "M"

Citizens For A Vehicle Free Nipomo Dunes

P.O. Box 73 • Nipomo, California 93444-0073



INSPIRATIONAL

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Ian McMillan

EXECUTIVE DIRECTOR

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Lois Barber
Betty Schetzter
Eva Betz
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Anita Hurley
Sandy Schweiger
Coralie McMillan
Anita Judd
David Stroup
David C. Morrow
Dick Celestato
Lisa Vern Der Stad
Jerald D. Mullen
Trecy Rockwell
Donna Miller
Steve O'Neill
Susan Case
Joyce Malone
Suzy Ficker
I.W. Boxer
Laura Larsen
Richard Frye
Anne Alexander
Arthur Van Rhyn
Dannis Sheridan
Tess Derry
Carl Samuelson
Alex Abele
J.P. Forrest
Mike Mattison
Anastasia Bail
Larry Spanne
Mike Zarate
Frank Meurner
Diane Long
Margaret Brown
Patricia Van Rhyn
Susan Mullen
Bill Malone
Neil Langford
John Beccia
Steve Danneen
Glenn Peterson
Dirk Walters
Jerald Mullen
David Morrow
Anita Judd
Coralie McMillan
Dige Howard
Hilary White
Theresa Lavitt
Adele Anderson
Kathryn Booth
Donna Mills

Erin Englund
Jennifer von Reis
Bruce Sarnet
Melinde Forbes
Edith Schroeder
Ann Freeman
Shirley Bionchi
Nancy Best
Lindsay Hampton
Alden F. Shiers
Charles J. Gulyeah
Gheraldine Brocher
Nancy Hodges
Heian M. Bennett
Dick Wermaner
James R. Stroud
John H. Grogg
Bill Mills
June Theriot
Sue Sunderland
Kevin Doyle
Larry Wright
Barbara King
Irv McMillan
Dynthia Jelenik
Joseph Hampton
Marsha Benson
Yan de Waddell
David Krause
Gary Paleman
Eric Schug
Bonnie Walters
Lianne Hutton
Diane LaPado
Lucinde Grayum
Jeannie Laird
Ian Marx
Will Alexander
Sally Pienaslowski
John Gustafson
Jaime Chavez
Marie Van Balen
August Van Der Stad
Bonnie Wameley
Jeff Stephens
Nancy Koren
Nathan Koren
Pat Connolly
Ann Batterson
Judith A. Whitmore
David N. Smith
Don Smith
Agatha Berwanger
Laurie Stroup
Gari Welch
Sheila Wynne
Carol Gulyeah
Jack Forrest
Vic Obern
Gudrun Grell
John Keieler
Mercedee Martin
Ann Morris
Margaret Price
Hollis Marriott
Pat Senger
Jason Tong
Don Ward
Keren Schombach
Greg Perello
Nathan Karen
Eric Schug
Jeff Stephens
Diane Owens
Jerry Hill
Marie Van Balen
Jaime Chavez
Frank Wells
Inge Geene
Lucinde Grayum
Donna Kendel
Orly Halpern
Katie Denneen
Phil Compton
Susan Blessek
Pat Brown
Nancy Frey
Angela Ficker White
Sharon Hill
Joe Clokey
Kurt Kupper
Ken Wolf
Penny Shusta
Betsy De Janette
Alene Luckley
Irene Delaney

Our group represents about 400 members - most unable to attend meeting Aug. 23, 6-8 PM. M1

Compliments on your efforts at dust control as the air coming from the SVRA to Nipomo Mass is often unfit to breathe.

Compliments on reducing this dust with vegetation, wind fencing, grooved concrete panels, planted trees etc. etc. M2

Many of us live in Nipomo. Many of us have lung congestion (like me) and feel the sand coming from your area is the cause.

We urge that when this dust gets excessive all vehicle activity in the Nipomo Dunes is STOPPED. M3

Bill Denneen
Executive Director
CFAVFD

O.H.V. Riding Areas in California

*Coral Canyon, Cleveland National Forest, 1,800 Acres
*Little Rock, Angeles National Forest, 46 Acres
*Rowher Flat, Angeles National Forest, 145 Acres
*San Gabriel Canyon, Angeles National Forest, 180 Acres
*Wildomar, Cleveland National Forest, 340 Acres
*Buttercup Valley, BLM - El Centro Resource Area Office, 30,000 Acres
*Dove Springs, BLM - Ridgecrest Resource Area Office, 161 Acres
*Dumont Dunes, BLM - Barstow Resource Area Office, 2,200 Acres
*El Mirage, BLM - Barstow Resource Area Office, 10,400
*Glamis/Gecko, BLM - El Centro Resource Area Office, 149,000 Acres
*Jawboma, GLM - Ridgecrest Resource Area Office, 133 Acres
*Johnson Valley, BLM - Barstow Resource Area Office, 261 Acres
*Mammoth Wash, BLM - El Centro Resource Area Office, 8,000 Acres
*Plaster City, BLM - El Centro Resource Area Office, 100,000 Acres
*Razor, BLM - Barstow Resource Area Office, 32 Acres
*Rice Valley Dunes, BLM - Palm Springs - South Coast Resource Area Office, 4,000 Acres
*Spangler Hills, BLM - Ridgecrest Resource Area Office, 2,000 Acres
*Stoddard Valley, BLM - Barstow Resource Area Office, 125 Acres
*Cocillio Wells, California Dept. of Parks & Recreation, 4,000 Acres
*Hungry Valley, California Dept. of Parks & Recreation, 5,100 Acres
*Pismo Dunes, California Dept. of Parks & Recreation, 2,000 Acres
*Macabi Regional Park, San Bernardino County, 65 Acres
Total Acres: 319,988

Greg Heck
Mary Simmon
Theresa Guinn
Michelle Anderson
Merian Nelson
Monice Harris
Kathryn Schmidt
Elaine Genson
Susan Johnson
Dorlene Gestineeu
Jodi Teller
Christine Paralta
Michael Sullivan
Kathleen Hawkins
Carloa Diaz
Steve Burne
Mays Andig
Danielle Hoffman
Rita Comp
Claire Mason
Laura Mason
Tina Oglesby
Gary Harner
Jeff Came
Jeniene Cenoz
Vince Duffy
Andrea Parker
Edward Ghisla
Elna Winterskar
Laurel Stephens
Sharon Roundtree
Tanya Paiez
Chris Barnett
Dana Wright
Carol Banger
Michael McMillan
Lisa Wallender
Stan Williams
Laurel Gillasee
Suzanne Lord
Eric Foster
Valerie Von Burg
Helen Ellis
Eric Greaning
Wendy Whitaker
Janene Heddix
Nancy Henry
Krieh Dev
Mary Ann Foster
Laurence Laurent
Lilly Stresser
Leslie Beth Neely
Coralie McMillan
Edith Schroeder
Yolander Waddell
Hilary White
Bev Seesa
Steve Dauber
Cindy Keppner
Dalya Robson
Jesse Arnold
Kleiner Schwyn
Keley Foreman
Margaret Trujillo
Hilda Zecarias
Karen Kewczynski
William Amenites

Perhaps the time has come to re-evaluate the desirability of off-road vehicle use on state-owned property

- ERIC SEASTRAND, 1987

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4.13 RESPONSE TO COMMENTS FROM BILL DENNEEN

The OHMVR Division received three comments from Bill Denneen, Executive Director of Citizens for a Vehicle Free Nipomo Dunes. In general, these comments addressed this organization's background and the OHMVR Division's approach to dust control at Oceano Dunes SVRA.

Comment M1: Citizens for a Vehicle Free Nipomo Dunes provides organizational information and states most members were unable to attend the OHMVR Division's August 23, 2016 public meeting regarding the Draft Program EIR.

Response to Comment M1: Comment noted. The August 23, 2016 meeting reviewed the contents and findings of the Draft Program EIR. As explained in Section 1.1 of this Final Program EIR, the OHMVR Division made available electronic and hardcopies of the NOA and Draft Program EIR for the public's review.

Comment M2: Citizens for a Vehicle Free Nipomo Dunes expresses compliments for the OHMVR Division's efforts to control dust at Oceano Dunes SVRA.

Response to Comment M2: Comment noted. The OHMVR Division appreciates the time Mr. Denneen has taken to participate in dust control issues and to provide his organization's comments on the Draft Program EIR.

Comment M3: Citizens for a Vehicle Free Nipomo Dunes urges that all vehicle activity in the Nipomo Dunes to be stopped when dust levels get excessive.

Response to Comment M3: Comment noted. The OHMVR Division directs Citizens for a Vehicle Free Nipomo Dunes to Draft Program EIR Chapter 12, which includes a robust evaluation of alternatives to the proposed Dust Control Program, consistent with the requirements of CEQA and the CEQA Guidelines. Specifically, Section 12.2.3 addresses alternatives that considered reduced OHV use areas, similar to that suggested by Citizens for a Vehicle Free Nipomo Dunes. The Draft Program EIR concludes these alternatives would not obtain the objectives the OHMVR Division has set for the proposed Dust Control Program and /or would not reduce the proposed Program's significant environmental effects.

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California State Parks
Off-Highway Motor Vehicle Recreation Division

COMMENT
LETTER "N"

Oceano Dunes SVRA Dust Control Project EIR
August 23, 2016 Scoping Meeting Comment Card

DOROTHY MODAFFER1
NAME

1418 VICKI LANE
ADDRESS
NIPOMO, CA 93444

ORGANIZATION /AFFILIATION

dmod7@icloud.com
E-MAIL ADDRESS

Comment: ① Effectiveness of trees to filter PM_{2.5} & PM₁₀ -
EPA official stated that particulate matter is too fine to be
filtered by trees

N1

② Effectiveness of fences as opposed to
vegetation: Cost of placing fences + removing

(Continue on back if necessary)

N2

Thank You
OHMVR Division

as opposed to cost of planting vegetation

③ Monitoring vehicle drivers going over
new vegetation

N3

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4.14 RESPONSE TO COMMENTS FROM DOROTHY MODAFFERI

The OHMVR Division received three comments from Dorothy Modafferi. In general, these comments were related to the effectiveness of the Draft Program EIR's proposed dust control measures.

Comment N1: Ms. Modafferi states the U.S. Environmental Protection Agency has stated that particulate matter is too fine to be filtered by trees.

Response to Comment N1: Comment noted. Trees reduce wind speed and provide a surface for the deposition of airborne particles. Trees may also absorb a small amount of airborne particulates; however, particles deposited on leaf surfaces may subsequently become re-suspended as leaf litter deteriorates. The potential effectiveness of tree plantings cannot be estimated without knowing the density and species of tree planted. Regardless, the Draft Program EIR does not attempt to take any credit or identify any target effectiveness for potential Program tree plantings. Specifically, Draft Program EIR page 2-17 states, "Tree plantings would be unlikely to control or minimize dust emissions during the five-year period covered by this EIR, but could provide for the long term control of dust emissions."

Comment N2: Ms. Modafferi generally questions the effectiveness and costs of installing and removing wind fencing as compared to vegetation.

Response to Comment N2: The Draft Program EIR provides information on the effectiveness of both wind fencing and vegetation.

The OHMVR Division directs the commenter to Draft Program EIR Section 1.1.3, as well as Draft Program EIR Sections 2.3.2.1 and 2.3.2.2, which provide information on the demonstrated effectiveness of vegetation (90% to 99% effective) and seasonal dust control measures (40% to 70% effective on average). Although vegetation is generally accepted to be more effective than wind fencing and other seasonal dust control measures, both types of dust control projects have benefits and disadvantages. With regards to vegetation, the Draft Program EIR states (page 2-21), "The OHMVR Division anticipates that vegetation projects, once established, could cover from 25 to 100 percent of any particular area under control and reach a height of 3 to 5 feet at full growth. Although vegetation would take time to become established and could be hampered by environmental factors such as a short growing season, drought, hardness of individual plants, etc., it has the inherent ability to respond and potentially stabilize dynamic dune conditions and reduce the need for regular and routine maintenance once the vegetation is established." In contrast, with regards to seasonal dust control measures, the Draft Program EIR states (page 2-22), "Wind fencing and straw bale arrays can be designed to provide a specific control efficiency, can be deployed over a large area rapidly and, once installed, begin to provide immediate sand transport and dust control; however, the effectiveness of these measures decreases with time, and they do not have the ability to respond to dynamic dune conditions and thus can become buried over time (and subsequently later exposed)."

The Draft Program EIR also provides information pertaining to costs associated with potential dust control measures. Draft Program EIR Section 2.3.3 identifies that material availability and project costs are both factors that could affect implementation of specific dust control projects, and Draft Program EIR Section 12.2 identifies that the proposed

Dust Control Program would require a substantial amount of staff and contracted labor (up to 2,000 hours of staff time and 7,000 hours of contracted labor), as well as a substantial investment in equipment and other resources, in order to be successfully implemented.

Comment N3: Ms. Modafferi states, “Monitoring vehicle drivers going over new vegetation.”

Response to Comment N3: Comment N3 is not clear; however, presuming the commenter is suggesting the OHMVR Division should monitor vegetation for OHV disturbance, the Draft Program EIR explains that the OHMVR Division would protect and monitor vegetation planted as part of the proposed Dust Control Program. Draft Program EIR Section 2.3.2 states, “The OHMVR Division notes that any dust control measure installed within the Oceano Dunes SVRA open riding and camping area would be surrounded by a perimeter fence for safety reasons.” In addition, Draft Program EIR Section 2.3.2.1 states, “The OHMVR Division would monitor vegetation growth by surveying and photo-monitoring control areas to ensure vegetation projects become established and meet their design control efficiency.”

California State Parks
Off-Highway Motor Vehicle Recreation Division

Oceano Dunes SVRA Dust Control Project
August 23, 2016 EIR Scoping Meeting

COMMENT
LETTER "O"

Comment Card

LINDA REYNOLDS

NAME

ADDRESS

resident

ORGANIZATION /AFFILIATION

LRBYNOLDS151@gmail.com

E-MAIL ADDRESS

Comment:

(presented)

Seems that the presentation was lacking
on information. A lot a vagueness.
Seemed slanted towards the off road
vehicles.

O1

To the there is a lot of desire to
push this issue down the road.
The health issue is serious and was
not discussed; it was put off as
not part of CDDA.

O2

(Continue on back if necessary)

Thank You
OHMVR Division

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4.15 RESPONSE TO COMMENTS FROM LINDA REYNOLDS

The OHMVR Division received two comments from Linda Reynolds. In general, these comments were in regards to the content of the OHMVR Division's August 23, 2016 public meeting presentation on the Draft Program EIR.

Comment O1: Ms. Reynolds states the presentation was lacking in information, vague, and biased in favor of OHVs.

Response to Comment O1: Comment noted. As explained during the presentation, the public meeting was intended to provide an overview of the proposed Dust Control Program's background, purpose, and key elements, explain why the OHMVR Division prepared a Program EIR, highlight the key findings of the Draft Program EIR, and explain the OHMVR Division's EIR process, including ways to comment on the Draft Program EIR. Due to the volume of information contained in the Draft EIR, the public meeting was focused primarily on the major components of the proposed Dust Control Program and their potential environmental impacts associated with it. Comment O1 does not provide any specific reason or explanation for why the commenter states the presentation was "slanted towards off-road vehicles." As a point of clarification, the Draft Program EIR does identify significant and unavoidable impacts to coastal OHV recreational opportunities, which is a key finding of the Draft Program EIR that required explanation in the public meeting. But, as explained in Draft Program EIR Section 1.4, the Draft Program EIR itself is an objective, informational document that contains a sufficient degree of analysis to inform decision makers about the proposed Dust Control Program's potential direct and indirect physical, environmental effects. The Draft Program EIR does explain the mission and role of the OHMVR Division, and the OHMVR Division is obligated to consider its actions within this context, but the information and findings of the Draft Program EIR are objective and not biased towards any one particular form of recreation.

Comment O2: Ms. Reynolds comments that there is a desire to "push this issue down the road" and that the health issue is serious and was not described as not part of CEQA.

Response to Comment O2: The public meeting presentation explained the proposed Dust Control Program is a near-term program that would be implemented as early as 2017. The presentation did not convey any desire to delay the proposed Program in any way. Regarding health issues, the public meeting presentation summarized information contained in Draft Program EIR Sections 1.1.1 and 1.1.2 regarding the health effects of PM10 and the existing air quality conditions downwind of Oceano Dunes SVRA; however, the commenter has misinterpreted the presentation and the Draft Program EIR. As explained in more detail in the response to SLOAPCD Comment D13 (see Section 4.4 of this Final Program EIR), the Draft Program EIR describes the physical environmental conditions at and in the vicinity of the Dust Control Program area at the time the OHMVR Division issued the Revised NOP for the EIR (February 2015). The proposed Dust Control Program would not exacerbate any existing air quality conditions. Rather, as explained in Draft Program EIR Section 3.4.2, the proposed Program activities would "block the flow of wind across the dune landscape, slow or stop sand movement and corresponding dust generation at Oceano Dunes SVRA, and improve downwind air quality." Thus, the proposed Program would not have an adverse impact on air quality conditions that requires discussion in the Draft Program EIR.

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COMMENT LETTER "P"

California State Parks Off-Highway Motor Vehicle Recreation Division

Oceano Dunes SVRA Dust Control Project EIR August 23, 2016 Scoping Meeting Comment Card

Joan Rice
NAME

722 Avocet Way
ADDRESS
Arroyo Grande, CA 93420

ORGANIZATION /AFFILIATION

joan@joanrice.us
E-MAIL ADDRESS

Comment: I am very concerned about the air quality on the mesa
affecting all residents living there, hurting their health.
Particulate Matter 10 is harmful to the health of Californians.
A compromise can be reached with the off road vehicular
traffic and the health of the area residents.

P1

(Continue on back if necessary)

Thank You
OHMVR Division

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4.16 RESPONSE TO COMMENTS FROM JOAN RICE

The OHMVR Division received one comment from Joan Rice. This comment pertains to unhealthy air quality conditions on the Nipomo Mesa.

Comment P1: Ms. Rice expresses concern for existing air quality conditions on the Nipomo Mesa and the effect these conditions are having on the health of the Mesa's residents.

Response to Comment P1: Comment noted. The OHMVR Division appreciates the time the commenter has taken to participate in dust control issues and to provide comments on the Draft Program EIR; however, Comment P1 does not provide a specific comment or raise any significant, new information regarding the contents and findings of the Draft Program EIR. Draft Program EIR Sections 1.1.1 and 1.1.2 provide information regarding the health effects of PM10 and the existing air quality conditions downwind of Oceano Dunes SVRA. As explained in the response to Comment O2 (see Section 4.15 of this Final Program EIR), the proposed Program would improve air quality conditions on the Nipomo Mesa.

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COMMENT LETTER "Q"

California State Parks
Off-Highway Motor Vehicle Recreation Division

Oceano Dunes SVRA Dust Control Project EIR
August 23, 2016 Scoping Meeting Comment Card

Rachelle Toti
NAME

ADDRESS

ORGANIZATION /AFFILIATION

rachelletoti@yahoo.com
E-MAIL ADDRESS

Comment: The presentation did not cover
the plans or timeline only the
development process and way to
submit comments.

Q1

(Continue on back if necessary)

Thank You
OHMVR Division

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4.17 RESPONSE TO COMMENTS FROM RACHELLE TOTI (AUGUST 23, 2016)

The OHMVR Division received one comment from Rachelle Toti. This comment pertains to the content of the OHMVR Division's August 23, 2016 public meeting presentation on the Draft Program EIR.

Comment Q1: Ms. Toti states the August 23, 2016 public meeting presentation did not cover the plans or timeline for the Dust Control EIR, only the development process and way to submit comments.

Response to Comment Q1: Comment noted. As explained in the response to Comment O1 (see Section 4.15 of this Final Program EIR), the public meeting was intended to provide an overview of the proposed Dust Control Program, highlight the key findings of the Draft Program EIR, and explain the OHMVR Division's EIR process, including ways to comment on the Draft Program EIR. The public meeting was not intended to provide an exhaustive summary of the EIR's content or findings. As a point of clarification, the public meeting presentation did explain and summarize information from Draft Program EIR Section 2.3 regarding the initial, five-year scope of the proposed activities that is anticipated to begin in 2017. In addition, Draft Program EIR Section 2.4 describes the proposed schedule of activities for the proposed Dust Control Program.

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California State Parks
Off-Highway Motor Vehicle Recreation Division

COMMENT
LETTER "R"

Oceano Dunes SVRA Dust Control Project
August 23, 2016 EIR Scoping Meeting

Comment Card

MICHAEL YOUNG

NAME

1928 EUCALYPTUS ROAD

ADDRESS

NIPOMO, CA 93444

ORGANIZATION /AFFILIATION

MIKRO1eMAC.COM

E-MAIL ADDRESS

Comment: WHERE DOES STATE PARKS DERIVE ITS AUTHORITY TO DO ANY ACTIVITY ON THE LAGERAND TRACT OWNED BY SAN LUIS OBISPO COUNTY? IS CONSENT FROM THE COUNTY FOUND IN ANY WRITTEN DOCUMENT?

R1

HAS THERE BEEN ANY ECONOMIC ANALYSIS OF THE ADVERSE IMPACT OF THE AIRBORNE DUST ON HEALTH, SAFETY, WELFARE, OR PROPERTY VALUES OF PEOPLE OR PROPERTY AFFECTED? IF SO, WHERE IS IT? IF NOT, WHY HAS IT NOT BEEN DONE?

R2

WHAT ABOUT THE AESTHETICS OF DUNE VEHICLES TRESPASSING ON LAND OWNED BY S.L.O. COUNTY?

R3

(Continue on back if necessary)

Thank You
OHMVR Division

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4.18 RESPONSE TO COMMENTS FROM MICHAEL YOUNG

The OHMVR Division received three comments from Michael Young. In general, these comments are related to the OHMVR Division's authority to implement the proposed Dust Control Program in the proposed Program area and the proposed Program's potential economic and aesthetic impacts.

Comment R1: Mr. Young asks where the OHMVR Division's authority to implement the proposed Dust Control Program on the Le Grande Tract is derived from.

Response to Comment R1: As explained in the response to Comment K23 (see Section 4.11 of this Final Program EIR), the OHMVR Division operates the part of the SVRA within the County's La Grande Tract under an existing operating agreement that provides the OHMVR Division with the authority to implement the proposed Dust Control Program.

Comment R2: Mr. Young asks if the OHMVR Division has conducted an economic analysis of the adverse impact of dust on the health, safety, welfare or property values of people and property affected.

Response to Comment R2: The OHMVR Division has not conducted an economic analysis of the potential adverse health, safety, welfare, or property value impacts associated with existing air quality conditions. Such a study is not a necessary part of CEQA review of the proposed Dust Control Program. Draft Program EIR Sections 1.1.1 and 1.1.2 provide information regarding the health effects of PM10 and the existing air quality conditions downwind of Oceano Dunes SVRA. As explained in more detail in the response to SLOAPCD Comment D13 (see Section 4.4 of this Final Program EIR), the Draft Program EIR describes the existing environmental conditions at and in the vicinity of the Dust Control Program area the time the OHMVR Division issued the Revised NOP for the EIR (February 2015). As explained in the response to Comment O2 (see Section 4.15 of this Final Program EIR), the proposed Program would improve air quality conditions on the Nipomo Mesa and thus is not anticipated to result in the adverse impacts raised by Comment R2.

Comment R3: Mr. Young asks what about the aesthetics of dune vehicles trespassing on land owned by SLO County.

Response to Comment R3: As explained in more detail in the OHMVR Division's response to SLOAPCD Comment D13 (see Section 4.4 of this Final Program EIR), the Draft Program EIR describes the existing environmental conditions at and in the vicinity of the Dust Control Program area the time the OHMVR Division issued the Revised NOP for the EIR (February 2015). Specifically, Draft Program EIR Section 6.2 describes the existing visual resource setting of the proposed Dust Control Program and states (page 6-4), "In addition to views of the ocean, beach, open sand areas, and vegetated dunes (i.e., landscapes and landforms), Pismo State Beach and Oceano Dunes SVRA are active recreation areas in which fishing, camping, street-legal and OHVs, equestrian and other recreational activities regularly occur (i.e., cultural modifications). Visitor vehicles and campers may be brightly colored and have flags elevated above the vehicle (particularly parked campers); some campers also install wood or fencing around the camper to reduce sand blasting and erosion during high winds. Pismo State Beach and Oceano Dunes SVRA also include visitor-serving facilities such as marker posts, restrooms, garbage

receptacles, and vendors; fencing that protects vegetation, biological and cultural resources, and generally defines where OHV activity is permitted, is a common sight throughout the park.” The proposed Dust Control Program would not alter the aesthetics of OHV recreation at Oceano Dunes SVRA. In addition, as a point of clarification, Oceano Dunes SVRA provides legally authorized recreation opportunities, and the OHMVR Division maintains fencing and other barricades to ensure trespassing onto private and other lands closed to public recreation does not occur.

COMMENT LETTER "S"

Phillip Gleason

From: Chris Dugan
Sent: Sunday, September 11, 2016 11:25 AM
To: Phillip Gleason
Subject: FW: Oceano Dunes SVRA Dust Control Draft Program EIR

From: Glick, Ronnie@Parks [mailto:Ronnie.Glick@parks.ca.gov]
Sent: Wednesday, August 24, 2016 3:23 PM
To: Dugan Christopher (cdugan@migcom.com)
Subject: FW: Oceano Dunes SVRA Dust Control Draft Program EIR

From: Davis, Jennifer @Parks **On Behalf Of** OHV, OHVINFO@Parks
Sent: Wednesday, August 24, 2016 7:53 AM
To: Glick, Ronnie@Parks
Subject: FW: Oceano Dunes SVRA Dust Control Draft Program EIR

Jennifer Davis
Grant Administrator

California State Parks
Off-Highway Motor Vehicle Recreation Division
1725 23rd Street, Suite 200
Sacramento, California 95816
916-324-3788
jennifer.davis@parks.ca.gov



From: sellps@aol.com [mailto:sellps@aol.com]
Sent: Tuesday, August 23, 2016 3:35 PM
To: OHV, OHVINFO@Parks <OHVINFO.OHV@parks.ca.gov>
Subject: Oceano Dunes SVRA Dust Control Draft Program EIR

Attention Ronnie Glick, Senior Environmental Specialist

My husband and I own one of five units at 1256 Strand Way in Oceano. This is located right next to the Pier Avenue entrance to Pismo State Beach, where the draft EIR is recommending installation of grooved concrete panels to reduce

S1

the amount of sand tracked off the beach. I'm the President of this Homeowners Association, and I know our neighbors here are just as upset as we are over what is already too much noise pollution at this entrance.

We would like to go on record as strongly opposing installation of these grooved concrete panels at the Pier Avenue entrance, due to increased noise. There is so much noise at this entrance already, with heavy equipment loading and unloading the dumpsters off the beach, right next to our condo complex. Please don't add to what is already unacceptable noise levels, 24/7.

S1

15 mph driving on and off the beach is one thing, but speed limits don't matter much to some after that gate closes at night. These are homes right by this gate. For the sand you might not track off the beach, how much more noise pollution will we be subjected to?

Do you have any information on decibel levels at various speed limits, and various types of tires, especially with the number of RV's and ATV haulers that go on and off this beach, that might now be going over grooved concrete panels? And, will you now need more heavy equipment to clean out those grooved tracks that you know will inevitably be constantly filled with sand?

S2

At least the street sweepers you have now are much quieter than the ones you used to have, so thank you for that. It would probably be more cost effective in the long run, and less noise considerations, to just continue with your current system of sand removal.

Sincerely,

Norma and Ron Van Meeteren, Owners
1256 Strand Way, #3
Oceano, CA 93445

4.19 RESPONSE TO COMMENTS FROM NORMA AND RON VAN MEETEREN

The OHMVR Division received two comments from Norma and Ron Van Meeteren. In general, these comments were related to the proposed Dust Control Program's potential noise impacts on Pier Avenue.

Comment S1: The Van Meeterens explain they own property next to the Pier Avenue entrance to Pismo State Beach and state they are strongly opposed to the installation of grooved concrete panels at this entrance due to potential increase noise impacts.

Response to Comment S1: The commenter's opposition to the installation of grooved concrete panels is noted. Draft Program EIR Impact NOI-2 evaluates the potential increases in noise from vehicle passing over the proposed Pier Avenue track-out prevention device. The evaluation describes existing noise levels, potential changes in noise sources / and noise levels with the proposed concrete panels, and notes that the increase in noise levels could be annoying and / or represent a significant increase in noise levels depending on the device's final design and the specific vehicle mix passing over the device. Accordingly, the OHVMR Division has incorporated Mitigation Measure NOI-1 into the Draft Program EIR, which requires the OHMVR Division to implement design features that are estimated to reduce the potential increase in noise above existing conditions to approximately 1 decibel and thus render Draft Program EIR Impact NOI-1 a less than significant impact.

Comment S2: The Van Meeterens ask if the OHMVR Division has information on decibel levels at various speed limits and various types of tires that might go over the proposed grooved concrete panels and whether more heavy equipment operation would be necessary to clean-out the grooved concrete panels.

Response to Comment S2: The OHMVR Division does not have information on decibel levels at various speed limits for various vehicle of types because the use of grooved concrete panels as track-out prevention devices has not been implemented at any other SVRA or other unit of the State Parks system. Grooved concrete panels are used to provide traction at boat launch ramps, but this application is not the same as this typically involves a few trailers moving at very low speeds over wet grooved concrete. Draft Program EIR Section 10.4 does describe the grooved concrete panels would produce an intermittent but recurring noise, the level of which would depend on the device material and the speed, size, and weight of the vehicle passing over the device. Draft Program EIR Section 10.4 also summarizes the results of a Caltrans' investigation of traffic noise generated by rumble strips (primarily permanent rumble strips used in the center or on the side of highways) which found that milled rumble strips increase external noise levels by 5 to 19 decibels, and that sinusoidal rumble strips are 3 to 7 decibels quieter than rectangular strips and increase noise levels by only 0.5 to 1.0 decibels.

In addition, Draft Program EIR Impact NOI-1 discusses the proposed project's potential for temporary and intermittent increases in noise as a result of heavy equipment operation, such as bulldozers and backhoes. Draft Program EIR page 10-8 states, "These vehicles and equipment already operate at and in the vicinity of Pismo State Beach and Oceano Dunes SVRA; under the proposed Program, the use of this equipment could temporarily increase slightly as a result of new dust control measures that would occur in the Program area, and as a result of maintenance of the proposed track-out prevention devices. This increase in equipment operation could result in intermittent increases in

ambient noise levels both in and adjacent to the Program area.” The Draft Program EIR concludes noise generated by maintenance of the track-out devices would not be significant because maintenance activities would take no more than a few hours every one to three weeks, which would not represent a substantial temporary increase in noise levels.

To: OHV, OHVINFO@Parks <OHVINFO.OHV@parks.ca.gov>
Subject: Oceano Dunes SVRA Dust Control Draft Program EIR

To Whom It May Concern: **COMMENT LETTER "T"**

I attended your public meeting on the draft EIR and am providing these comments. Since your public meeting failed to discuss the particulars of the program, it is left to the public to wade through 282 pages, which is a huge time commitment. Perhaps that was the point.

1) Although I am no expert on EIRs, this one strikes me as being especially problematic as its primary focus is not on impact to the environment, or to the real related environmental issue in question- dust air pollution. The impact is focused on impact to recreational riding. The only reference I could find in CEQA related to recreation follows:

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?

If this is your substantiation, I submit it is an incredibly tortured interpretation. So my point: This EIR does not focus on environmental impacts but on recreational impacts.

2) There is no evidence that the controls you propose have been scientifically analyzed to prove their effectiveness. Contrary to your comments at the public meeting, the APCD has NOT determined that your measures to date have reduced the dust pollution to any real extent.

3) On page 1-7, you indicate that the agencies involved in resolving this health hazard have reached a consensus on your proposed approach. If so, why would the APCD propose an alternative, which you reject.

4) Why do you say you want to reduce the dust to meet federal air quality standards but only make ongoing progress on meeting state standards? State standards protect public health and that should be your goal. S-9 is the first time there is reference to making progress toward Rule 1001 performance standards. It would seem THAT should be the focus of this EIR.

5) You have excluded from the program all of the area that is most emissive.

6) You fail to consult with representatives of the Chumash on this program. There is also no mention of fencing off native sites to protect them, if identified.

7) You fail to mention the County as owner of the LaGrande Tract in the project description

8) What constitutes a 'significant impact' is not defined.

9) You mention potential trails through planted vegetation. Given the track record of the riders and photos I have demonstrating their lack of respect for fencing and Chumash middens, any such suggestion should be moot.

Arlene Versaw
Nipomo Mesa

T1

T2

T3

T4

T5

T6

T7

T8

T9

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4.20 RESPONSE TO COMMENTS FROM ARLENE VERSAW

The OHMVR Division received nine comments from Arlene Versaw. In general, these comments were related to the adequacy of the Draft Program EIR.

Comment T1: Ms. Versaw states that the Draft Program EIR is problematic and is not focused on impacts to the environment or dust air pollution. Ms. Versaw states that the Draft Program EIR is focused on impacts to recreational riding.

Response to Comment T1: Comment T1 does not present any specific information or evidence explaining why the Draft Program EIR does not address environmental impacts, including air pollution. Draft Program EIR Chapter 1 explains the OHMVR Division prepared the Draft Program EIR “to evaluate the potentially significant environmental impacts that may result from Oceano Dunes SVRA Dust Control Program (page 1-1)” and that the Draft Program EIR was prepared in accordance with CEQA and the CEQA Guidelines. In addition, Draft Program EIR Section 1.5.5 states, “In accordance with CEQA Guidelines Section 15126, this EIR identifies and focuses on the potentially significant environmental effects of the proposed project, as determined based on the project description contained in this EIR, oral comments received at the public scoping meeting for the EIR on February 17, 2015, and written comments received during the public review period for the NOP (February 6, 2015 to March 9, 2015). Accordingly, this EIR focuses on one or more significant impacts to the following resource areas identified in Appendix G to the State CEQA Guidelines: Recreation, Land Use and Planning, Aesthetics, Biological Resources, Cultural Resources, Hydrology and Water Quality, and Noise.” Finally, as explained in the OHMVR Division’s response to Sierra Club Comment I2 (see Section 4.9 of this Final Program EIR), the OHMVR Division, as CEQA Lead Agency, determined that the temporary and / or permanent change in the allowable form (i.e., vehicular and non-vehicular activities), availability, and location of coastal recreation opportunities at Oceano Dunes SVRA that could occur with implementation of the proposed Program constituted a physical change to the recreation environment that *required* evaluation under CEQA.

Comment T2: Ms. Versaw states the Draft Program EIR does not contain evidence that the proposed dust control measures have been scientifically analyzed to prove their effectiveness. Ms. Versaw states the SLOAPCD has not determined that dust control measures implemented to date have reduced dust pollution.

Response to Comment T2: The commenter is mistaken regarding available scientific evidence. As explained in the OHMVR Division’s response to Comment N2 (see Section 4.14 of this Final Program EIR), the Draft Program EIR provides information on the demonstrated effectiveness of vegetation (90% to 99% effective) and seasonal dust control measures (40% to 70% effective on average). In addition, Draft Program EIR Section 1.1.3 summarizes the results of eight different studies that examined dust and PM generation at Oceano Dunes SVRA and which helped to form the basis for the proposed Dust Control Program. None of these studies describe the level of dust control necessary to achieve compliance with the Rule 1001 performance standard. Even the SLOAPCD, in its comments on the Draft Program EIR, acknowledges that the magnitude of emissions reductions, as well as the areas where mitigation will be most effective, is still being evaluated (see response to Comment D2 in Section 4.4 of this Final EIR).

The commenter is partly correct the SLOAPCD has not conclusively determined dust control measures installed at Oceano Dunes SVRA in the past have not reduced dust pollution – as measured at the SLOAPCD’s CDF station. Draft Program EIR Section 1.1.3, as revised by this Final Program EIR (see Section 3.2), clearly states, “SLOAPCD analysis have indicated that the 2015 seasonal dust control measures may not have been effective at reducing PM10 levels at the SLOAPCD’s CDF station due to anomalous meteorological conditions in 2015” But, as described above, several studies have documented the effectiveness of vegetation and seasonal dust control measures within and immediately downwind of the treatment area.

Comment T3: Ms. Versaw states Draft Program EIR page 1-7 is incorrect when it states agencies have reached a consensus on the proposed Dust Control Program.

Response to Comment T3: As shown in Section 3.2 of this Final Program EIR, the OHMVR Division has revised the text on Draft Program EIR page 1-7 to reflect that only the OHMVR Division and CARB have reached consensus on the proposed Dust Control Program.

Comment T4: Ms. Versaw states the goal and focus of the Draft Program EIR should be to make progress toward the state ambient air quality standard and Rule 1001 performance standard.

Response to Comment T4: As explained in the OHMVR Division’s response to CCC Comment C4 (see Section 4.3 of this Final Program EIR), the uncertainty surrounding the magnitude of dust control measures needed to comply with the Rule 1001 performance standard is a major reason why the OHMVR Division has set forth clear and flexible objectives for the proposed Program (e.g., see Draft EIR page 2-1, objective 3, to “make ongoing and best possible progress toward compliance with SLOAPCD Rule 1001 performance standard”). Importantly, the clear and flexible objectives set for the proposed Program do not preclude achieving compliance with the Rule 1001 performance standard or the state’s PM10 ambient air quality standard.

Comment T5: Ms. Versaw states the proposed Dust Control Program area excludes all of the area that is most emissive.

Response to Comment T5: Comment T5 does not define what is meant by the “area that is most emissive.” Presuming the commenter is referring to the La Grande Tract, the OHMVR directs the commenter to Draft Program EIR Section 2.3.1.1, which provides a discussion on the basis for selecting the proposed Dust Control Program area, stating, “The Program area includes most of the open sand areas in the central to northern portion of the Oceano Dunes SVRA open riding and camping area, commonly referred to as the “La Grande Tract.” SLOAPCD and OHMVR Division studies have identified this area as the area most likely influencing air quality measurements at the CDF station and air quality conditions on the Nipomo Mesa.”

Comment T6: Ms. Versaw states the OHMVR Division has failed to consult with representatives of the Chumash regarding the proposed Dust Control Program and that Draft Program EIR does not mention fencing native sites to protect them.

Response to Comment T6: The commenter is incorrect. Draft Program EIR Sections 3.3 and 8.2.4 describe the Native American consultation that has occurred for the proposed Dust Control Program, including communication with the Northern Chumash Tribe. In addition, Draft Program EIR Section 8.3.2 describes the requirements the OHMVR

Division has incorporated into the proposed Dust Control Program to minimize and avoid potential adverse effects on cultural resources, including a requirements to inventory, monitor, and avoid resources with the use of flagging or fencing as deemed necessary by a qualified cultural resource specialist.

Comment T7: Ms. Versaw states the Draft Program EIR fails to mention the County as the owner of the La Grande Tract.

Response to Comment T7: The commenter is correct. Portions of Oceano Dunes SVRA and the proposed Dust Control Program area are owned by SLO County. The OHMVR Division operates the part of the SVRA within the County's La Grande Tract under an existing operating agreement. This existing operating agreement provides the OHMVR Division with the existing authority to implement the proposed Dust Control Program. As a point of clarification, Draft Program EIR Section 2.3.1 does state that the primary Dust Control Program area consist of "state-owned" and "state-operated" lands. This information does not change any of the findings or conclusions of the Draft Program EIR.

Comment T8: Ms. Versaw states that the Draft EIR does not define what constitutes a significant impact.

Response to Comment T8: The commenter is incorrect. The Draft Program EIR evaluates the proposed Dust Control Program's potential impacts against thresholds of significance specific to the resource being evaluated. See, for example, Draft Program EIR Sections 4.3.1, 5.3.1, etc. The significance criteria are based primarily on Appendix G to the CEQA Guidelines; however, thresholds from other sources, such as the SLOAPCD's CEQA significance thresholds, were considered and used where appropriate. Refer also to the OHMVR Division's response to SLOAPCD Comment D9 (see Section 4.4 of this Final Program EIR) and Sierra Club Comment I2 (see Section 4.9 of this Final Program EIR) for more information on this issue.

Comment T9: Ms. Versaw implies that trails through planted vegetation is not a good idea. Ms. Versaw refers to photographic evidence that OHV activity impacts vegetation and cultural resources but does not provide the referenced evidence.

Response to Comment T9: The Draft Program EIR explains that the OHMVR Division would protect and monitor vegetation planted as part of the proposed Dust Control Program. Draft Program EIR Section 2.3.2 states, "The OHMVR Division notes that any dust control measure installed within the Oceano Dunes SVRA open riding and camping area would be surrounded by a perimeter fence for safety reasons." In addition, Draft Program EIR Section 2.3.2.1 states, "The OHMVR Division would monitor vegetation growth by surveying and photo-monitoring control areas to ensure vegetation projects become established and meet their design control efficiency."

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September 5, 2016

COMMENT LETTER "U"

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

SUBJECT: Oceano Dunes SVRA Dust Control Draft Program EIR

Dear Mr. Glick:

The ODSVRA is a relatively small public area and is unique for our state by providing the only public vehicle access on our beaches. The off-highway vehicle (OHV) recreational opportunity consists of ~1,500 acres, and these coastal dunes are recognized worldwide. Closing the dunes to off-roaders and closing the beach to vehicles are not options or solutions in my opinion. With courtesy, cooperation, patience, teamwork, and communication by all who have an interest, acceptable resolutions should be forthcoming.

The wind, sand and ATV riders came before homes were built on the mesa (the wind and sand in fact are what created the mesa). Dune buggies have been on the dunes since the 1930s and vehicles have been on the beach since the early 1900s. The homeowners on the mesa have a responsibility to check out the area before buying; not unlike building or buying a home in a known flood plain.

Instead of the mesa homeowners complaining and demanding the state take action to solve their health concerns for them, I suggest they take the initiative and make a concerted effort to resolve the problem themselves first. This can be done in various ways utilizing wind fences or planting trees/vegetation around their property perimeters to block or shield against the blowing dust particles into their homes, and provide privacy.

I have questions regarding the subject program:

- 1) What happens to this program after the five-year period? If the program produces desired and measured results (what are the results criteria?), then will it be implemented permanently? What if these measures do not produce significant impacts (what's Plan B)?
- 2) Is it possible or would it be feasible to provide another vehicle access closer to the dunes than from Pier Avenue in Oceano? Perhaps from Oso Flaco Road? The Pier Avenue access requires vehicles driving past the protected Snowy Plover area and crossing Arroyo Grande Creek to get to the dunes. I'm thinking that if there was a shorter and more-direct route to the dunes from the other end of the riding area, it might reduce the amount of particulates in the air? I may be over-reaching but it's an idea that the experts might consider.
- 3) How many homes on the mesa are within the air currents and affected by the air pollution from the dunes? Is it a large area or relatively small? I would think this information would help to determine what measures need to be taken and where.

U1

U2

U3

U4

I have concerns and suggestions regarding the subject program:

- 1) I have environmental safety concerns about using a soil stabilizer and any effects it may have in the future. I think it can be a viable option if a product can be found that is safe for the environment, humans, native vegetation, and wildlife. I did some Internet surfing and found this product for your consideration: <http://www.soilworks.com/media/101960/sqs1507021-gorilla-snot-safety-data-sheet.pdf>. Despite the name "Gorilla-Snot", it appears to be a reputable product. U5
- 2) I'm concerned that the annual planting of 20 acres of native dune vegetation will not be cost-effective as it will require initial care and watering to establish the plants. Also, it will require closing off this planting area to off-roaders which in turn further decreases the off-road recreating area. U6
- 3) My concern with the track-out prevention devices is how to keep the sand buildup cleaned out; unless they will be installed into the sloped asphalt ramps at both locations? Even if this is the case, I envision sand still accumulating below the tracks which would require some sort of vacuum system for the sand removal? I'm assuming a product such as the Grizzly Trackout Control Device is being considered: http://www.trackoutcontrol.com/about_page.htm U7
- 4) Wind fencing requires constant maintenance to keep them taut, stable and the sand away. This is evidenced by the yearly fencing installed near the access ramps at Grover Beach and Pier Avenue. It does not take long for the sand accumulation to break down the fencing and support posts. I think this would be even more prevalent within the dune area requiring constant maintenance. U8
- 5) As indicated on Page 2-18 of Volume 1 of the subject EIR, I think the downwind tree planting is a good idea but I suggest planting on government-owned lands in lieu of privately-owned lands where permissions will have to be obtained which will lead to some in agreement and others against; or stipulations demanded. Homeowners can plant trees/vegetation on their own property (see the third paragraph of this letter on page 1 above). The planting on government-owned land gives the state more control of what to plant and where and provide an aesthetic boundary for the area. It would drastically reduce the air pollution for mesa residents and still allow off-roaders a place to recreate; thus retaining the much-needed and unique source of income for our local communities, county, and state that the off-roaders provide. I would also suggest planting non-native Eucalyptus trees as the climate is suited to them, they grow fast and tall and they require little water. If there is a native tree that fits these criteria, all the better. The trees will provide a dust screen located downwind and within air currents between the dunes and the mesa. The tree planting can be a community event and I bet the off-roaders would even be willing and happy to pitch in as well. U9

Thank you for the opportunity to respond to the subject EIR.

Sincerely,

Ms. Betty Cary
2531 Cienaga Street, Space 25
Oceano, CA 93445-8920
(805) 474-1087
bty8boop@att.net

4.21 RESPONSE TO COMMENTS FROM BETTY CARY

The OHMVR Division received nine comments from Betty Cary. In general, these comments were related to existing conditions, proposed dust control measures, and alternatives evaluated in the Draft Program EIR.

Comment U1: Ms. Cary summarizes information on Oceano Dunes SVRA, notes Oceano Dunes SVRA predates homes on the Nipomo Mesa, and argues private homeowners should plant trees around their properties to block dust particles.

Response to Comment U1: Comment noted. The information provided by the commenter is consistent with the information contained in Draft Program EIR Section 2.2.3 and Chapter 4. Comments on the actions of private landowners are outside the scope of the OHMVR Division's environmental review; however, Draft Program EIR Section 2.3.2.3 does describe that the OHMVR Division may plant trees as part of a longer-term dust control process on private lands immediately located immediately east of Oceano Dunes SVRA.

Comment U2: Ms. Cary asks whether the proposed Dust Control Program would be permanently implemented if it is successful and whether there is a back-up plan if the measures are not successful.

Response to Comment U2: Draft Program EIR Chapter 2 describes that the OHMVR Division is proposing to implement the Oceano Dunes SVRA Dust Control Program for a period of five years, although some specific components, such as planting vegetation and track-out devices would be permanent components that would remain in place for longer than five years. The OHMVR Division would, after the fifth year of implementation of the proposed Program, evaluate to what degree the proposed Dust Control Program has met the objectives it has set forth for the proposed Program in Draft Program EIR Section 2.1 and whether changes in the proposed Dust Control Program area necessary and /or required. As described in Draft Program EIR Section 1.3, if the OHMVR Division determines the later activities would have effects that were not examined in this Program EIR, it would evaluate potential impacts under PRC Section 21166, which only requires subsequent CEQA review in certain circumstances. At this time, there is no back-up plan, or "Plan B," only the proposed Dust Control Program described and analyzed in the Draft Program EIR.

Comment U3: Ms. Cary asks whether it is possible or feasible to provide another vehicle access point besides Pier Avenue, such as an access point from Oso Flaco Road

Response to Comment U3: Changes to public access points to Pismo State Beach and Oceano Dunes SVRA are not part of the proposed Dust Control Program and are therefore outside the scope of the OHMVR Division's environmental review of the proposed Program. Establishing a southerly entrance to Oceano Dunes SVRA would be very unlikely to change the Oceano Dunes SVRA open riding and camping area or the requirements of SLOAPCD Rule 1001 and need for the OHMVR Division to develop a dust control program at Oceano Dunes SVRA pursuant to Rule 1001.

Comment U4: Ms. Cary asks how many homes on the Nipomo Mesa are affected by air pollution from the dunes and states this information would help determine what measures need to be taken and where.

Response to Comment U4: No SLOAPCD study identifies the number of homes located on the Nipomo Mesa, or more specifically the number of homes within the SLOAPCD's CDF air quality forecast zone, which is the zone that experiences the worst air quality conditions during high wind and dust events. Draft Program EIR page 2-6 does state, "In December 1998, SLO County approved the Woodlands Specific Plan, which permits up to 1,320 total residential units on approximately 300 acres of land southeast of the SVRA, plus other recreational (e.g., golf course) and commercial land uses." But, regardless of the exact number of homes on the Nipomo Mesa, the Draft Program EIR discloses the most current scientific information regarding the areas at Oceano Dunes SVRA that have the highest potential to generate dust and PM10 emissions. The OHMVR directs the commenter to Draft Program EIR Section 2.3.1.1, which provides a discussion on the basis for selecting the proposed Dust Control Program area, stating, "The Program area includes most of the open sand areas in the central to northern portion of the Oceano Dunes SVRA open riding and camping area, commonly referred to as the 'La Grande Tract.'" SLOAPCD and OHMVR Division studies have identified this area as the area most likely influencing air quality measurements at the CDF station and air quality conditions on the Nipomo Mesa."

Comment U5: Ms. Cary expresses concern about potential effects of using a soil stabilizer and suggests the use of a product named Gorilla Snot.

Response to Comment U5: The OHMVR Division appreciates the commenter's time and effort to research soil stabilizers. Draft Program EIR page 2-23 provides a description regarding the potential use of soil stabilizers as part of the proposed Dust Control Program. Accordingly, the Draft Program EIR does evaluate the potential impacts of this activity where necessary and appropriate (see Draft Program EIR Sections 6.3.3 and 9.3.2, Draft Program EIR Tables 2-5 and 12-1, and Draft Program EIR Impacts BIO-2 and HYD-1). In addition, Draft Program EIR Table 2-5 and Section 9.3.2 describes the requirements the OHMVR Division has incorporated into the Dust Control Program to avoid and minimize impacts from the use of soil stabilizers. These requirements include, but are not limited to, the selection and use of a non-toxic, environmentally friendly stabilizer in consultation with the CCC and in consideration of factors such as surface runoff, breakdown of products, ingestion of product by animals and humans, and downwind drift of any potential stabilizer product. The commenter's proposed product may be considered for use if it meets these conditions.

Comment U6: Ms. Cary expresses concern that planting 20 acres of vegetation will not be cost-effective and will require initial care and watering, as well as decrease the area open to OHV recreation.

Response to Comment U6: Comment U6 is consistent with the information presented in the Draft Program EIR. Draft Program EIR page 2-28 states, "The OHMVR Division would consider the capital and recurring costs associated with Dust Control Program activities, with preference to projects that are most cost-effective." In addition, as explained in more detail in the response to Comment N2 (see Section 4.14 of this Final Program EIR), vegetation and seasonal dust control projects have benefits and disadvantages, and Draft Program EIR page 2-21 identifies that vegetation would take time to become established and could be hampered by environmental factors such as a short growing season, drought, hardness of individual plants, etc. Finally, Draft Program EIR Impact REC-1 evaluates the potential for the proposed Dust Control Program to limit and interfere with coastal vehicular recreation areas and concludes the proposed Program

would result in a significant and unavoidable impact to vehicle recreation at Oceano Dunes SVRA.

Comment U7: Ms. Cary expresses concern regarding keeping sand out of the proposed track-out prevention devices.

Response to Comment U7: Comment noted. Draft Program EIR page 10-8 describes that maintenance of the track-out devices would take no more than a few hours every one to three weeks.

Comment U8: Ms. Cary expresses concern that wind fencing requires constant maintenance.

Response to Comment U8: Comment U8 is consistent with the information presented in the Draft Program EIR. As explained in more detail in the response to Comment N2 (see Section 4.14 of this Final Program EIR), both vegetation and seasonal dust control projects have benefits and disadvantages. With regards to seasonal dust control measures, the Draft Program EIR states (page 2-22) “Wind fencing and straw bale arrays can be designed to provide a specific control efficiency, can be deployed over a large area rapidly and, once installed, begin to provide immediate sand transport and dust control; however, the effectiveness of these measures decreases with time, and they do not have the ability to respond to dynamic dune conditions and thus can become buried over time (and subsequently later exposed).”

Comment U9: Ms. Cary supports the proposed Dust Control Program’s tree plantings, but suggests the OHMVR Division focus on planting trees on public lands, not private lands where the OHMVR Division would have to receive permission.

Response to Comment U9: Comment noted. Draft Program EIR page 2-22 states, “. . . the area under the control of the OHMVR Division does not contain, and is not conducive to the growth of, large groves of trees . . .” Thus, the OHMVR Division identified private lands adjacent to SR 1 and which contain non-native eucalyptus stands as an area for potential tree plantings. Furthermore, as explained on Draft Program EIR page 2-22, the planting of trees would only occur if the OHMVR Division could successfully negotiate with private landowners to plant trees.

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COMMENT LETTER "V"

October 3, 2016

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

RE: Draft Program Environmental Impact Report (EIR) for the Oceano Dunes State Vehicle Recreation Area (SVRA) Dust Control Program, State Clearinghouse No. 2012121008

Dear Mr. Glick,

In light of comments made by Air Pollution Control Officer, Larry Allen, at the September 28, 2016 meeting of the SLO County Air Pollution Control District, it appears premature to move forward with any significant dust control project or environmental review at this time. Mr. Allen specifically stated upon completion of additional computer modeling and the compilation of additional data an appropriate suite of mitigation measures would be identified. Mr. Allen went on to say, that based on this new information State Parks would duplicate their environmental review process and Coastal Development Permits for the new project description. Perhaps that is why the EIR is programmatic.

V1

It appears the current suite of options for particulate matter reduction include many of the same strategies used since 2011 when emergency permits were obtained for projects deployed by State Parks. It also appears the current term is for just 5 years. Additionally, the program area should not include any private property or consider any tree planting scheme.

V2

I object to seasonal dust control measures such as wind fencing, straw bales, and porous roughness elements because they are labor intensive, expensive and marginally effective. Non-toxic environmentally friendly soil stabilizers on this large scale project do not pass the "laugh test" for deployment.

V3

The new track out prevention device to be constructed at Pier Avenue is too little too late. What about all of the other adverse impacts of SVRA activity such as noise, traffic congestion and pedestrian conflicts, dust, creek crossing which adversely affect coastal resources, just to name a few. None of the projects contemplated in the EIR provide any added measure of mitigation for impacts imposed upon the community of Oceano and its residents. The SVRA should follow 1982 CDP and relocated the Pier Ave. entrance to the south.

V4

The La Grande Tract owned by the county of San Luis Obispo is one of the most emissive areas for particulate matter. Coincidentally a portion (approximately 2 miles) of the Sand Highway traverses the La Grande Tract. It would appear a substantial source of dust emissions is resulting from off highway vehicle traffic on the Sand Highway and from the La Grande Tract in general. However, it appears the project will not interfere with traffic along this highway by placing hay bales, wind fencing or plantings. Much of the traffic using the Sand Highway is destined for the primary riding area south of the La Grande Tract.

V5

An alternative to the proposed project is to establish a southerly entrance to the SVRA as required by the 1982 Coastal Development Permit. A new southerly location would have the result of reducing Vehicle Miles Traveled (VMT) by approximately 1,400,000 miles as an example, (2 miles x 2 for ingress and egress (350,000 vehicles) per year. Please see the letter from J.H. Edwards to Ryan Hostetter dated September 29, 2016 regarding the County of San Luis Obispo Planning Commission consideration of the Phillips 66 Rail Spur Extension project sent to you under separate cover. New access should be considered as an alternative to the proposed project.

V6

Installation of new enhanced filtration systems for existing residential heating and cooling (HVAC) units for homes on the Mesa and elsewhere downwind of the SVRA is more laughable than soil binders.

V7

Please consider the seasonal closure of the entire ODSVRA from mid-February to just before Memorial Day for a period of three years. While this alternative may not meet State Parks objectives for the provision of recreational lands, it could be an important precedent with regard to ruling out the SVRA as a primary contributing source to dust emissions.

V8

The No Comprehensive Dust Control Program (NCDCP) appears to be the best immediate option because it conserves resources until the APCD and CARB buy in to the best mitigation programs, if any.

V9

On a miscellaneous note, the project likely must comply with Assembly Bill 2616. Please add a section to the DEIR to discuss the new law in the context of the proposed project.

V10

Known Areas of Controversy:

Pursuant to CEQA Guidelines please identify the potential violation of the permit conditions by State Parks of the Coastal Development Permit No. 4-82-300 as amended which requires under Special Condition 1.B. (part of the original 1982 CDO) a relocation of the current SVRA entrance at Pier Avenue to a southerly location as a known area of controversy.

V11

On balance, the projects proposed represent form over substance. To date, over \$5 million has been spent by State Parks on remedial efforts with limited results. A better use of resources in the short term is the NCDCP with the additional provision of monitoring equipment. However, it appears a viable long term approach is the processing of a CDP amendment to relocate the entrance to the SVRA at the Phillips 66 Santa Maria Refinery on land dedicated by Phillips 66.

V12

Please feel free to contact me with any questions you may have.

Sincerely,

Jeff Edwards

Jeff Edwards

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4.22 RESPONSE TO COMMENTS FROM JEFF EDWARDS

The OHMVR Division received twelve comments from Jeff Edwards. In general, these comments are related to existing conditions and operations at Oceano Dunes SVRA and the Draft Program EIR's description of seasonal dust control measures and alternatives analysis.

Comment V1: Mr. Edwards references comments made by the SLOACPD Air Pollution Control Officer at the September 28, 2016 SLOAPCD Board meeting.

Response to Comment V1: Comment noted. As explained in the response to CCC Comment C4 (see Section 4.3 of this Final Program EIR) and SLOAPCD Comment D2 (see Section 4.4 of this Final Program EIR), it is currently not possible for the OHMVR Division or any other agency, including the SLOAPCD, to definitively and conclusively identify what magnitude of dust control is necessary to achieve compliance with the Rule 1001 performance standard. The SLOAPCD acknowledges that the OHMVR Division, the SLOAPCD, and CARB are currently in the preliminary stages of undertaking a modeling exercise that may inform the location and magnitude of dust control measures installed at Oceano Dunes SVRA; however, as described in Section 2.1.3.1 of this Final Program EIR, this exercise is still only in its preliminary stages. The commenter is correct that this fact is one of the reasons why the OHMVR Division decided to prepare a Program EIR for the proposed Dust Control Program.

Comment V2: Mr. Edwards states that it appears the Draft Program EIR includes similar dust control strategies as that previously implemented at Oceano Dunes SVRA. Mr. Edwards states the proposed Dust Control Program area should not include any private property or consider any tree planting scheme.

Response to Comment V2: The commenter is correct that the proposed Dust Control Program includes planting vegetation and the deployment of seasonal dust control measures, both of which have occurred previously at Oceano Dunes SVRA. The commenter is correct that the OHMVR Division is proposing to implement these dust control strategies for a period of five years. The commenter does not provide any specific reason why the proposed Dust Control Program area should not include private property or consider tree plantings that warrants a response.

Comment V3: Mr. Edwards objects to the proposed seasonal dust control measures because they are labor intensive, expensive, and marginally effective. Mr. Edwards also implies the use of non-toxic soil stabilizers on a large scale is not feasible.

Response to Comment V3: Comment noted. As explained in the response to Comment N2 (see Section 4.14 of this Final Program EIR), the Draft Program EIR provides information on demonstrated effectiveness of vegetation (90% to 99% effective) and seasonal dust control measures (40% to 70% effective on average). Although vegetation is generally accepted to be more effective than wind fencing and other seasonal dust control measures, both types of dust control projects have benefits and disadvantages. With regards to seasonal dust control measures, Draft Program EIR page 2-22 explains that seasonal dust control measures can be designed to provide a specific control efficiency, can be deployed over a large area rapidly and, once installed, begin to provide immediate sand transport and dust control.

With regard to soil stabilizers, the OHMVR Division is not proposing the large scale application of these products at this time. Draft Program EIR Section 2.3.2.4 describes

that soil stabilizers, if used, would be a type of pilot or demonstration project deployed on a small scale. Specifically, Draft Program EIR page 2-23 states, “The proposed Dust Control Program incorporates feasible, scientifically-documented dust control methods available to the OHMVR Division as of the time of the writing of this EIR (June 2016). In the future, additional dust control methods may be tested and/or implemented at Oceano Dunes SVRA. In general, the OHMVR Division would initially test new dust control methods on a small scale. These one- to two-acre pilot and demonstration projects would be located adjacent to the seasonal dust control measures established by the OHMVR Division. Although the exact information and details of such projects are uncertain, the OHMVR Division anticipates that pilot projects may include taller or more narrowly-spaced wind fencing, different-sized PREs, soil stabilizers, or other artificial materials that would block the flow of wind and reduce sand transport and dust generation at Oceano Dunes SVRA.”

Comment V4: Mr. Edwards asks about adverse impacts from existing activities and operations at Oceano Dunes SVRA, such as noise, traffic, and creek crossings. Mr. Edwards notes the Draft Program EIR does not identify any measures that improve impacts on the community of Oceano and states the OHMVR Division should follow the 1982 CDP and relocate the Pier Avenue entrance to the south.

Response to Comment V3: As explained in more detail in the response to SLOAPCD Comment D13 (see Section 4.4 of this Final Program EIR), the existing physical environmental conditions in the vicinity of the project constitute the baseline conditions by which a lead agency determines whether an impact is significant (CEQA Guidelines Section 15125). As described Draft Program EIR Section 10.3, Pismo State Beach and Oceano Dunes SVRA are very popular destinations, with millions of visitors passing through the park entrance kiosks on Pier Avenue and Grand Avenue, as well as other park access points. As such, community effects from noise and traffic queues associated with daily park operations are part of the baseline environmental conditions presented in the Draft Program EIR. Comment V4 does not provide a specific comment or raise any significant, new information regarding the contents and findings of the Draft Program EIR. Rather, Comment V4 primarily refers to existing access through the Pier Avenue entrance, which the proposed Program does not change. But, as a point of clarification and as explained in the response to Comment O2 (see Section 4.15 of this Final Program EIR), the proposed Program would improve air quality conditions on the Nipomo Mesa. The proposed grooved concrete panels would also control track-out onto Pier Avenue, which does benefit the community of Oceano.

The OHMVR Division is not proposing to close Pier Avenue, and changes in access to Pismo State Beach and Oceano Dunes SVRA are outside the scope of the OHMVR Division’s review of the proposed Dust Control Program. Similarly, Draft Program EIR Section 2.2.4.2 states, “The OHMVR Division is not proposing to perform any activities that would change compliance with existing CDP 4-82-300 conditions, as amended.”

Comment V5: Mr. Edwards states OHVs driving on the Sand Highway and the La Grande Tract in general area are a substantial source of particulate matter. Mr. Edwards states the proposed Dust Control Program would not interfere with the Sand Highway.

Response to Comment V5: Comment V5 is generally consistent with the information presented in the Draft Program EIR. Draft Program EIR Sections 1.1 and 2.3.1.1 note the primary Program area includes the La Grande Tract, which studies have identified as the

area most likely influencing air quality measurements at the SLOAPCD CDF station and the air quality conditions on the Nipomo Mesa. In addition, Draft Program EIR Figures 2-2 to 2-5 graphically depict the location of the Sand Highway at Oceano Dunes SVRA. The commenter is correct that the proposed Dust Control Program would not interfere with the Sand Highway. Specifically, Mitigation Measure REC-1 requires the OHMVR Division to plant vegetation and deploy seasonal dust control measures in a manner that does not interfere with the Sand Highway and other established paths of travel.

Comment V6: Mr. Edwards states that an alternative to the proposed Dust Control Program is to establish a southerly entrance to Oceano Dunes SVRA, possibly as part of the Phillips 66 Refinery Rail Spur Project.

Response to Comment V6: Comment noted. Changes to public access points to Pismo State Beach and Oceano Dunes SVRA are not part of the proposed Dust Control Program and are therefore outside the scope of the OHMVR Division's environmental review of the proposed Program. Furthermore, establishing a southerly entrance to Oceano Dunes SVRA would not eliminate SLOAPCD Rule 1001 or the need for the OHMVR Division to develop a dust control program at Oceano Dunes SVRA.

Comment V7: Mr. Edwards implies the use of enhanced filtration systems is less feasible and desirable than the use soil stabilizers on a large scale.

Response to Comment V7: Comment noted. Draft Program EIR Section 12.2.4 evaluates off-site mitigation in the form of enhanced filtration systems for residential heating and cooling systems and concludes this alternative is infeasible and would not achieve most of the proposed Program's objectives or reduce or substantially lessen the proposed Program's significant environmental effects.

Comment V8: Mr. Edwards asks the OHMVR Division to consider closing Oceano Dunes SVRA from mid-February to just before Memorial Day for a period of three years. Mr. Edwards acknowledges that this may not meet the OHMVR Division's objectives to provide recreational lands, but notes it could provide information on whether or not Oceano Dunes SVRA is a primary contributor to dust emissions.

Response to Comment V8: The OHMVR Division appreciates the commenter's careful review of the objectives the OHMVR Division has set for the proposed Dust Control Program; however, Draft Program EIR Section 12.2.3, as revised by Section 3.8 of this Final Program EIR, evaluates a Reduced OHV Use Alternative in which the OHMVR Division would voluntarily restrict the size of the area open to vehicular recreation at Oceano Dunes SVRA. The text indicates vehicle use restrictions are not likely to be as effective at reducing saltation and associated dust production at Oceano Dunes SVRA as the proposed Dust Control Program activities and further concludes the alternative would not obtain most of the basic objectives set for the proposed Program nor avoid or substantially lessen the proposed Program's significant and unavoidable impacts. Accordingly, the OHMVR Division has rejected this alternative from more detailed consideration. Refer also to the response to Comment D12 (see Section 4.4 of this Final Program EIR) for additional information on this issue.

Comment V9: Mr. Edwards states the No Comprehensive Dust Control Program appears to be the best immediate option because it conserves resources until the SLOAPCD and CARB buy into the best mitigation programs.

Response to Comment V9: Draft Program EIR Section 12.3.2 describes the No Comprehensive Dust Program Alternative referenced in Comment V9. As described in the Draft Program EIR (page 12-9), this alternative consists of “an interim series of dust control projects, which, for the purposes of this alternatives analysis, would consist of approximately 40 acres of seasonal dust control measures such as wind fencing, straw bales, or PREs.” The Draft Program EIR concludes the No Comprehensive Dust Program Alternative would substantially reduce and/or avoid most of the proposed Program’s significant impacts but would only obtain some of the basic objectives set for the Program.

Comment V10: Mr. Edwards states the proposed Dust Control Program likely must comply with Assembly Bill 2616 and requests the OHMVR Division add a section to the Draft Program EIR to discuss the new law.

Response to Comment V10: As described in Section 2.4 of this Final Program EIR, Assembly Bill 2616 does not amend Chapter 3, Coastal Resources Planning and Management Policies, of the Coastal Act, which as explained in Draft Program EIR Chapter 5 is the standard of review for the Dust Control Program CDP permit. As such, Assembly Bill 2616 is not significant new information that changes the findings of the Draft Program EIR. Nonetheless, the proposed Dust Control Program would not alter visitor access levels and does not have the potential to result in the unfair treatment of any person.

Comment V11: Mr. Edwards requests the OHMVR Division identify potential violations of CDP 4-82-300, as amended, at Oceano Dunes SVRA.

Response to Comment V10: The OHMVR Division directs the commenter to Draft Program EIR Section 2.2.4.2, which describes CDP 4-82-300 (as amended), explains how the OHMVR Division continues to manage Oceano Dunes SVRA in compliance with this permit (i.e., is not in violation of this permit as the commenter suggests), and states, “The OHMVR Division is not proposing to perform any activities that would change compliance with existing CDP 4-82-300 conditions, as amended.”

Comment V12: Mr. Edwards reiterates that past dust control measures have had limited results, the No Comprehensive Dust Control Program is a better use of resources, and the entrance to Oceano Dunes SVRA should be relocated to the Phillips 66 refinery.

Response to Comment V10: Refer to the responses to V3, V9, and V6 above.

October 3, 2016

COMMENT LETTER "W"

Mr. Ronnie Glick, Sr. Environmental Scientist
Oceano Dunes SVRA

Re: Comments on Oceano Dunes SVRA Draft Environmental Impact Report

Dear Mr. Glick,

I would like to submit the following comments on the Draft Environmental Impact Report released August 1, 2016. I will deliver a hard copy to your office today.

1. S. 1 Project Description

The Project Description does not include any information about the size of the problem the proposed activities are supposed to address. The decision makers would be better informed and able to better assess the potential effectiveness of these measures if the actual PM10 dust plume were described. To my knowledge, the plume is more than 2 miles wide and travels inland up to 12 miles. See attached diagram from the 2012 Community Monitoring Project. Further, the project description does not mention Dust Rule 1001 which is the impetus for this program.

W1

2. S.1.1 Program Area

The Program Area does not include the dimensions of the La Grande tract, and the fact that it is County owned land, identified as a non-riding "buffer area" in the county Local Coastal Plan. See attached Figure 4. Using the ½ mile post markers as a guide, La Grande tract is approximately 1 1/2 miles long and 1/2 mile wide. In order to judge the potential for actual mitigation of the emissions, a reasonable person would need to consider the area emitting (approx... 3/4 sq. miles) and the measures being proposed (approx. 100 acres over five years). One square mile equals about 640 acres. The proposed mitigation is a) mostly in non-emitting areas and b) equals less than 20% of the source of the dust plume.

W2

3. S. 1.1 Targeting the CDF monitor should not be the purpose of the project. Bringing down the dust level over the entire range of the plume to the background level should be the purpose. Your consultants, did not appear to understand that thousands of people are affected by the crystalline silica particles produced by the recreation in the OHV Park.

W3

4. S.1.1 Avoiding U.S. Fish and Wildlife Service designated critical habitat for the western snowy plover is given as the reason for not mitigating within 1500 feet of the high tide mark. This is misleading and erroneous because as the seasonal least tern and snowy plover enclosure

W4

demonstrates, these birds nest and live much closer to the shore. Further, the attached OHV handout titled “Protect These Birds and your Recreational Opportunities” states in paragraph 2, “These birds are sensitive to disturbances by people and dogs”. And “Young chicks roam the beach in search of food and travel to and from the surf line both day and night.” So, reducing the number of campers and vehicles would actually help the birds survive.

W4

5. S.1.1.1. Proposed activities in the Program Area

The proposed activities omits the least expensive and least disruptive alternative which would be to discontinue disturbance on all or a significant portion of La Grande tract. If this is “critical habitat” for a threatened species, eliminating the over use of this area, and allowing the natural vegetation to return naturally is the logical approach. Installing and removing fencing during the breeding season most likely affects the birds as there are big machines involved.

W5

- Planting approx... 20 acres of native vegetation - This is too little and non-specific as to the location.

- 40 acres of seasonal dust control measures – The effectiveness of this method is questionable and the fact that it is not permanent defeats the purpose of reducing the public’s exposure to crystalline silica year around.

W6

- Potentially planting trees downwind – No previous study has validated any usefulness in planting trees downwind. Obviously, as the planting location is right in front of the CDF monitor, the object is to further interfere with the monitor by planting something tall enough and dense enough to affect the readings. Anecdotal comments that the dust increased when local eucalyptus trees were removed, fail to consider that over the same time period, vegetation was destroyed in the La Grande tract as OHV riding activity increased dramatically. Tree planting downwind of the SVRA will not control or minimize dust emissions, as the trees are not in the emissive area. This activity is misleading in many ways not the least of which is the proposed location.

W7

- Deploying dust and meteorological monitoring equipment - This has been done for the past four years and has not resulted in any significant change to the OHMVR division’s approach of targeting the monitor. Further, the OHV Park is required to monitor the dust emissions under the 2008 Soil Conservation Standards and their own Strategic Plan, page 50, Goal 1.5 By 2014, implement a dust monitoring and management program with the aim of reducing the amount of dust generated by OHVs.

W8

- Preventing track out of sand onto Grand Ave - These notched concrete receptacles should be installed in the asphalt roadway, not in the sand slope leading down to the beach. The diagram seems to show them in the sand, which would be 1) hard to keep free of sand washed in with a high tide, 2) might be a traffic hazard, if vehicles are caught in soft sand waiting for the vehicle in front of it to move onto the grates 3) will cause sound and vibration which might disturb the wildlife and residents.

W9

Chapter 2 Project Description

“ Recreation in the SVRA produces PM 10 emissions by disturbing surface sands in the dune “play area” according to the 1994 ODSVRA General Plan Amendment. The first sentence of the description, gives no indication that this pollution is caused by the recreation in the SVRA, which has been known for more than 20 years and further validated by recent studies. That sentence should be changed to accurately describe the source of the dust problem so it may be addressed effectively.

W10

2.1 Dust Control Program Objectives

Item #1 again, fails to identify the actual cause of the dust generation and instead blames it on “saltation”.

Item #3 should be Item #1, and read “Control and Reduce the PM generated by the recreation in the SVRA to no more than 20% above the background or “natural” levels as measured at the control monitor site (Oso Flaco) in compliance with San Luis Obispo County Air Pollution Control District Rule 1001.

W11

Items #4 and #5 do not pertain to the dust control project. Maintaining public access routes and OHV recreation opportunities do not belong in the list of “Control Program Objectives”. Vehicle impacts on the natural vegetation and dune structure has been identified as the major cause of the dust problem. OHV management of the riding area and non-riding areas does not protect the resources and does not comply with the Coastal Commission permit as well as other laws and regulations pertaining to management of an OHV park, such as the OHMVR Act. And 2008 Soil Conservation Standards.

2.2.1 Location and Access

Figure 2.1 incorrectly identifies the La Grande tract as part of the Oceano Dunes SVRA. The rectangular northern most portion of the figure, is San Luis Obispo County owned land, which could be returned to non-riding area at any time. See attached Figure 4 from the South County Coastal Plan.

W12

2.2.2 Dune Setting

This description again fails to identify the loss of the fore dunes and back dunes on the La Grande tract as the cause of the PM 10 emissions. The attached map Fig. 8 shows (in grey) the vegetation lost. Per the CDP, “Vegetation whether fenced or unfenced is off limits to riding”. Most of the vegetation gains were in non-riding areas like the Pismo Dune Preserve and around Oso Flaco Lakes or inside a fenced island. The notion of “no net loss of vegetation” was always in conflict with the Coastal Commission provisions and the Calif. Code of Regulations, section 4306, prohibition on destruction of vegetation. See the attached photos of natural dunes compared to riding area dunes.

W13

2.2.3 Page 2-6

The first paragraph again fails to describe the size of the dust plume, which reaches 12 miles inland. It is misleading in that it implies that wind generated dust and the loss of eucalyptus trees are the problem rather than denuding of the dunes. See the attached photos of natural dunes compared to riding area dunes.

W14

2.2.4 Table 2-1, Figures 2-2, 2-3, 2-4, 2-5

The La Grande Tract, intended to be non-riding "buffer area" is again incorrectly included in the Oceano Dunes SVRA. The actual Oceano Dunes SVRA riding area is about 850 acres. All of these figures, mis-identify the County owned land as part of the SVRA. Further, the top 30% approximately of the tract is not included in the project, when it is the most emissive area.

W15

2.2.4.4 pg. 2-10

In paragraph 2, it reads, " Amendment 5 to this CDP, approved in 2001, sets an interim limit of 1,000 overnight camping units at Oceano Dunes SVRA (defined as one street-legal vehicle that enters the park under its own power), although the permit limit does not apply on Memorial Day, July 4th, Labor Day, and Thanksgiving. This is incorrect, in 2005, the Sierra Club and the State Parks Dept. entered into a Consent Decree which eliminated these "bump days", so that the permit limit is in effect 365 days per year. See exhibit 9.

W16

2.3.1.1 Basis for Dust Control Program Area

Page 2-20 first paragraph explains why the northern portion of the La Grande tract was not included "because they were considered substantially more north of the optimum trajectory for the wind path to CDF." As previously mentioned, mitigating only in areas, targeting the CDF monitor is inappropriate. Further, the schools noted did in fact show elevated levels of particulate matter, which corresponded to the levels at the Mesa 2 monitor. As there are no "safe" levels for particulate matter, and as children are considered especially affected by it because they run around and breathe faster and weigh less than adults, this cavalier attitude toward public health is certainly callous and irresponsible. By the way, there is a child care center at Lopez High School.

W17

2.3.2.1 Vegetation Planting

Paragraph 2 states the establishment of vegetation in areas where no vegetation presently exists is less likely because it is more difficult due to wind exposure. In the 2007 Calif. Geological Survey report commissioned by the ODSVRA, State Parks was told, 1) establishing fore dunes first, then planting inland was recommended. 2) On pgs 90 -94, it describes how in 1989-93, in the Oso Flaco lake area, State Parks, did build fore dunes, and replant the area to stop sand from filling up the lakes. 3) the report recommended rotating riding areas. 4) On page 10, the report described the fore dunes in the Western Snowy Plover enclosure beginning to self- restore as soon as the protective fence was erected; then being destroyed by vehicles after Oct. 1st when the fence is removed. See attached pages .

W18

2.3.3 Dust Control Siting Considerations

Resource Management – The protection of the Least Tern and Snowy Plover was non-existent, prior to 2005 when that Consent Decree mentioned earlier was enforced. Park Management continues to show a callous disregard for these species by not following the Scientific Sub-Committee’s repeated requests for a year around study of the enclosure. Annually, the plants and wrack in the nesting enclosure are destroyed by vehicle traffic in Oct, Nov, Dec., Jan., and Feb. when it is open to the public. The arriving pairs of terns and plovers have no food source for themselves and their chicks. Park management “fix” this problem, by hauling in wrack and insects to distribute over the 200+ acres before March 1st. Further, management does not stop the disturbance of these species by illegal fireworks, night riding, and not enforcing the setback of 100 feet from the fencing. Looking at that enclosure, one can see, it is not 1100 feet from the surf line. Therefore the argument that nothing can be planted in the first 1100 feet is not for the birds, it is for the campers and vehicles benefit.

W19

Recreation Management - Ironically, the failure of the OHV park management to control intensity of use, destruction of vegetation and dune structure, and increasing the density of campers/users year after year, created this problem. And now they are worried about minimizing the loss of beach camping and motorized recreation lands. “The OHMVR Division would therefore avoid planting vegetation as much as possible within the Oceano Dunes SVRA open riding and camping area in order to minimize loss of beach camping and motorized recreation lands. Obviously, had the original vegetation remained and grown over 30 years, the dust pollution problem would not have occurred, and there would be a totally different camping and riding experience. Restoration of the natural resources is part of the Coastal permit for this park. See CC letter to Zilke. Rather than worry about a few lost acres, the consultants should be figuring out how to solve the problem as quickly and inexpensively as possible. Wait, they already did, in the Desert Research Institute Stage 1 pilot Project report, March 2011 the scientists identified these potential control measures: 1) Add artificial roughness (straw bales) 2) Add vegetation or enhance natural vegetation 3) stabilize the surface using straw bales 4) reduce surface disturbance by restricting vehicle access 5) create artificial dunes using sand fences 6) stabilize the surface using a cover of material. See attached report, executive summary. Vegetation and reducing vehicle disturbance were the least expensive. See exhibit 11, chart on page 15.

W20

Figure 2-6 and 2-7 Track out Prevention

These figures do not seem to correspond to the location described in paragraph 2 of 2.3.2.6 which is the roadway. These figures show the concrete panels in the sloping sand leading down to the beach. It might be hard to keep the grates clean, if the high tide comes in a fill them with sand. Further, vehicles may get stuck in the sand, while waiting to cross the concrete panels. Safety issue.

W21

Figure 2-8 Dust Control Program – Preferred Scenario

The long pink area described as “High Biological Sensitivity Area” is actually a huge parking lot for RV’s, and vehicles of all sizes and shapes. Were it treated as highly biologically sensitive, there would be no need to fence in birds and vegetation to protect them from death and destruction. Compared to Figure 2-9, this is an inadequate plan as it does not add much vegetation to the La Grande tract, or elsewhere where it is missing.

W22

Figure 2-9 Dust Control Program – Alternate Scenario

This plan at least attempts to fill in the gaps where the vegetation was destroyed. If you look at marker 3 and below marker 8 you will see the fore dunes actually naturally occur closer to the ocean surf line. Fore dunes are missing in this diagram. They are important to shelter the new vegetation inland.

W23

2.3.4.1 Preferred Dust Control Scenario

The stated reason for the preference of this scenario is to minimize the loss of OHV recreational lands. By not basing the preference on the main objective (meeting the Rule 1001 criteria of not exceeding the background PM 10 levels by more than 20 %) this preference is not logical or defensible. It should be preferred based on the effectiveness in reducing the air pollution produced. Involves planting 35 acres in the La Grande tract which is riding and camping area.

W24

2.3.4.2 Alternate Dust Control Scenario

This scenario involves planting 70 acres in the riding and camping area. It is described as the “worst – case impact to public recreation lands at Oceano Dunes SVRA. This is not really correct, as the worst-case scenario would be closing the area to all motorized use, as was done in Clear Creek Management Area in 2008. The problem the U. S. EPA discovered there was naturally occurring asbestos in the rocks, which was crushed by OHV’s and became airborne by OHV traffic. Riders could inhale it and be affected by the known carcinogen. The particulate matter coming from the Oceano Dunes SVRA is mostly crystalline silica, also a known carcinogen. This analysis of the alternate scenario, should be concentrating on the amount of PM10 and 2.5 it would eliminate from the air, instead of the impact to recreation.

W25

2.4.1 Dust Control Program Annual Review

According to the timeline described, June 1, 2017 would be the start of the planning for the dust control projects. Actual planting in the dunes, would not occur until 365 days following Oct. 1, 2017 if I understand the process. This means on Nov. 16, 2018 the actual work begins. Considering that the dunes will start to self-restore immediately once disturbance ceases, it would be wise to begin the dust control measures, by simply preventing riding on the most emissive acres immediately. That way, riders would see where vegetation will be and change routes accordingly.

W26

Chapter 3 Impact Analysis Methodology

In the last sentence of the first paragraph of 3.4.3, the area is characterized as having “very high sand blowing hazard”. This is incorrect in that it implies that the high particulate levels coming from the OHV Park, are the same as those in other parts of this Dune Land unit. In reality, the air quality in the Pismo Dune Preserve, or around Oso Flaco Lakes is not emitting this air pollution (crystalline silica) to any appreciable degree. In fact, the Oso Flaco monitor is used to determine what the background levels of PM would be absent the OHV activity.

W27

The 2008 Soil Conservation Standards, section vaguely referred to in the second paragraph, actually reads

“Off-highway vehicle (OHV) recreation facilities shall be managed for Sustainable long-term prescribed use without generating soil loss that exceeds restorability, and without causing erosion or sedimentation which significantly affects resource values beyond the facilities. Management of OHV facilities shall occur in accordance with Public Resources Code, Sections 5090.2, 5090.35, and 5090.53. “

This park is causing erosion which significantly affects resource values beyond the facilities. On page 14 the report notes

o General mitigation measures may be needed at an OHV area for dust control.

o Naturally occurring minerals such as asbestos and silica may be exposed on ground surfaces at an OHV facility. There is a potential for OHV activity to disturb these minerals. When airborne, these minerals can be a health concern. Mitigation measures to control the airborne release of these minerals may be needed.

W28

The Public Resource Code cited 5090.2 requires

“(4) When areas or trails or portions thereof cannot be maintained to appropriate established standards for sustained long-term use, they should be closed to use and repaired, to prevent accelerated erosion. Those areas should remain closed until they can be managed within the soil conservation standard or should be closed and restored.

If the Oceano Dunes SVRA actually followed the PRC, portions of La Grande Tract would be closed to use and repaired to prevent accelerated erosion.

These are examples of how the authors of this DEIR select what portions of the pertinent laws and codes they wish to refer to and follow.

3.4.8 Public Services

This paragraph states that the plants, materials and structures needed to implement the Dust Control Program could pose collision risks to OHV enthusiasts. Obviously, that is why the PRC states areas should be closed to use and repaired. 3.4.8 goes on to state that the reduction of recreation opportunities for restoration would increase the rider concentration and the possibility of vehicle to vehicle or vehicle to pedestrian collisions. This possibility should be considered and evaluated by law enforcement, along with the track out receptacles potential for accidents. Public services, especially rescue/fire services, San Luis Obispo County Sheriff and Calif. Highway Patrol should all be consulted on these issues. Also, adjustment to the number of OHV riders allowed in the area should also be considered and evaluated.

W29

I have run out of time to comment on Chapters 4 thru 12 in detail, so I will just make these observations.

Chapter 5 Land Use and Planning

Throughout this chapter, the authors neglected to identify the La Grande Tract, the most emissive area, as being owned by the County of San Luis Obispo and not by State Parks.

W30

Chapter 6 Aesthetics

6.2.1 third paragraph notes that in the SVRA “Unstabilized dunes are mostly within the OHV riding area.” What is not mentioned is that the riding itself is what has de-stabilized the dunes and destroyed the vegetation.

Chapter 12 Alternatives

12.1.1 Summary of Project Objectives and Significant Effects

- 1) Again, this objective should read “Control and Reduce the PM generated by the recreation in the SVRA to no more than 20% above the background or “natural” levels as measured at the control monitor site (Oso Flaco).
- 2) Reducing concentrations at one monitor is not an appropriate objective. October 1, 2016 the 24 hour PM10 (BAM) readings for all three monitors on the Nipomo Mesa, exceeded the State of Calif. Standard of 50 micrograms. CDF was 145.9; Mesa 2 was 89.5 and Nipomo Regional Park was 71.0 . This demonstrates the size of the plume, as the Nipomo Regional Park is about 6 miles away from the SVRA.
- 3) This objective is unnecessary and is not being followed in the DEIR process.
- 4 and 5) do not pertain to a Dust Control Program.

W31

12.2 Alternatives Considered But Rejected

I do not have time to comment on this analysis except to say that the authors apparently were not aware that the dunes “self-restore” when not disturbed by vehicle traffic.

W32

Several alternatives were not considered, I’ll describe them briefly.

#1 Follow Figure 4 and return La Grande Tract to a “Buffer area”. Simply, return the fence line to that shown on the map and let the dunes “self-restore”. Cost – moving of the fence. Impact to camping and driving on the beach, none. Impact to OHV riding area, reduced to its original size. At a later time, the buffer area may be opened to limited non-motorized activities if appropriate.

W33

#2 Follow the Public Resource Code and close and repair the emissive areas. Obviously, the places where vegetation used to be are the best starting point. See attached Exhibit D from the coastal permit. Cost – fencing and planting. Impact to camping, may be reduced if it is occurring in previously vegetated area. Impact to driving on the beach, none. Impact to OHV riding area, reduced by size of vegetation that will be restored. This option currently occurs in other OHV parks.

W34

#3 Follow the provisions of the Coastal permit #4-82-300 and place fencing 100 feet away from all vegetation islands and restore vegetation shown in Exhibit D. Ensure that recommendations from the 2015 Calif. Coastal Commission annual review are incorporated such as identifying appropriate use limits and carrying capacities and completion of the Habitat Conservation Plan. See attached report.

W35

#4 Review and evaluate the recommendations of Dr. Melvin D. Zeldin, Environmental Consultant which are presented in a letter to APCD Ex. Director, dated January 21, 2015 and included in the above named annual review.

W36

#5 Follow the options for creating fore dunes described in the ODSVRA 2001 Wildlife Habitat Protection Plan, August 2001 cited in Exhibit 14 of the annual review. Excerpt below.

“This information is from the ODSVRA Wildlife Habitat Protection Plan, August 2001, p. 22.

8 The six options are:

1. Fence 1 to 5 acre fore dune areas utilizing sand barriers/fences to trap the sand and gradually build up the dunes and actively revegetate with native plants.
 2. Fence ¼ to 1-acre fore dune areas utilizing sand barriers/fences to trap the sand and gradually build up the dunes and actively revegetate with native plants.
 3. Fence ¼ to 5-acre fore dune areas and allow both vegetation and sand to grow and /or move naturally.
 4. Construct artificial sand dunes with heavy equipment between ¼ to 5 acres in size before fencing and revegetating.
 5. Fence and revegetate a minimum ¼ acre utilizing sand barriers/fences to trap the sand and gradually build up the dunes to duplicates the original fore dune system (aligned with the prevailing wind direction).
 6. Use heavy equipment to reduce the height of existing sand dunes 1.5 feet in front of the slack dune vegetated islands. The sand would then be pushed north or south of the islands and allowed to move down-wind naturally away from the vegetated islands.
- Three control/comparison areas were identified: the Dune Preserve north of pole 3, the protected fore dune area south of pole 8, and areas of existing OHV use.

W37

Exhibit 14

4-82-300 (ODSVRA Review)

Thank you for the opportunity to submit comments. I request a written response to my comments, via email.

Sincerely,

Rachelle Toti

List of Exhibits

- 1) Community Monitoring Report, plume dimensions
- 2) Figure 4 diagram
- 3) Protect These Birds handout
- 4) Goal 1.5 OHV Strategic Plan
- 5) Page VII-3 of the 1994 ODSVRA General Plan
- 6) Figure 8 map
- 7) Sec. 4306 of the Calif Code of Regulations
- 8) Photo of natural dunes and riding area
- 9) Page 9 of Consent Degree
- 10) Pages 10 and 90 thru 94 of 2007 Vegetated Islands report
- 11) Page 15 of Desert Research Institute 2011 Stage 1 Pilot Project Report
- 12) Page 14 of 2008 Soil Conservation Standards
- 13) Exhibit D from 2015 Coastal Commission Staff Report
- 14) 2015 Dr. Zeldin Letter
- 15) 2007 Coastal Commission letter to Andy Zilke

4.23 RESPONSE TO COMMENTS FROM RACHELLE TOTI (OCTOBER 3, 2016)

The OHMVR Division received 37 comments from Rachelle Toti. In general, these comments were related to existing conditions present in and near the proposed Dust Control Program area, the Draft Program EIR's content and findings, and the Draft Program EIR's evaluation of alternatives to the proposed Program. Ms. Toti also submitted Exhibits 1 – 15 with their comment letter. These exhibits, which comprised more than 400 pages of material, contained information and evidence referenced in Ms. Toti's main comments on the Draft Program EIR. The OHMVR Division has reviewed these exhibits and concluded they do not constitute significant new information, nor do they substantially change the EIR's analysis and conclusions regarding the potential impacts of the proposed Dust Control Program. Ms. Toti's Exhibits 1 – 15 are not reproduced in this Final Program EIR, but are available for review at the Oceano Dunes District Office (340 James Way, Suite 270, Pismo Beach, CA 93449), Oceano Dunes SVRA Ranger Station (928 Pacific Boulevard, Oceano, CA 93445), and OHMVR Division Headquarters 1725 23rd Street, Sacramento, CA 95816) during normal business hours.

Comment W1: Ms. Toti states Draft Program EIR Section S.1 does not include any information about the size of the dust problem and does not mention the impetus for the proposed Dust Control Program, which is Rule 1001.

Response to Comment W1: Draft Program EIR Section S.1. was prepared in accordance with CEQA Guidelines Section 15123, which specifies that an EIR shall contain a brief summary of the proposed action and its consequences in language that is as clear and simple as reasonably practical. As explained in the response to CCC Comment C5 (see Section 4.3 of this Final Program EIR), the Draft Program EIR discloses the most current scientific information regarding dust emission potential at Oceano Dunes SVRA and provides a discussion of scientific and environmental factors that provide the basis for the proposed Dust Control Program area. Specifically, Draft Program EIR page 1-6 presents a summary of the SLOAPCD's 2013 South County Community Monitoring Report, which is the source of the figure provided by the commenters. Thus, this figure does not constitute significant new information. Refer also to the responses to SLOAPCD Comments D2, D3, D4, D9, D12, and D13 (see Section 4.4 of this Final Program EIR) for additional information regarding this topic.

Comment W2: Ms. Toti states Draft Program EIR Section S.1.1 does not include the dimensions of the La Grande Tract and states the proposed level of dust control is located in mostly non-emitting areas and equals less than 20% of the source of the dust plume.

Response to Comment W2: As a point of clarification, the La Grande Tract, which constitutes a series of parcels owned by SLO County, constitutes approximately 585 acres in size, nearly 53% of which (313 acres) is located within the proposed Dust Control Program area. But, regardless of the size of the La Grande Tract, the commenter oversimplifies and misrepresents the dynamics of dust generation at Oceano Dunes SVRA by implying the La Grande Tract is 100% responsible for dust generation and other areas are "non-emitting." As explained in the response to CCC Comment C8 (see Section 4.3 of this Final Program EIR), emissions vary throughout the dune system (both riding and non-riding areas). It is true that some important tests and studies have generally concluded the highest levels of dust emission potential and PM10 concentrations occur in the central to northern portion of the Oceano Dunes SVRA open riding and camping area (i.e., the La Grande tract). Accordingly, Draft Program EIR

Sections 1.1 and 2.3.1.1 identify that the primary Program area includes the La Grande Tract, which studies have identified as the area most likely influencing air quality measurements at the SLOAPCD CDF station and the air quality conditions on the Nipomo Mesa. Refer also to the response to SLOAPCD Comments D2, D3, D4, D9, D12, and D13 (see Section 4.4 of this Final Program EIR) for more information regarding this topic.

Comment W3: Ms. Toti states the purpose of the proposed Dust Control Program should not be to target the CDF monitor and that OHMVR Division consultants do not understand that thousands of people are affected by the dust issue.

response to Comment W3: As described in the response to CCC Comment C4 (see Section 4.3 of this Final Program EIR), none of the dust studies conducted at Oceano Dunes SVRA to date describe the level of dust control necessary to achieve compliance with the Rule 1001 performance standard or reduce dust levels to “background” conditions. Even the SLOAPCD, in its comments on the Draft Program EIR, acknowledges that the magnitude of emissions reductions, as well as the areas where mitigation will be most effective, is still being evaluated (see response to Comment D2 in Section 4.4 of this Final EIR). The uncertainty surrounding the magnitude of dust control measures needed to comply with the Rule 1001 performance standard is a major reason why the OHMVR Division has set forth clear and flexible objectives for the proposed Program (e.g., see Draft EIR page 2-1, objective 3, to “make ongoing and best possible progress toward compliance with SLOAPCD Rule 1001 performance standard”). Importantly, the clear and flexible objectives set for the proposed Program do not preclude achieving compliance with the Rule 1001 performance standard. Second, the OHMVR Division notes that reducing concentrations at the CDF monitor would be a demonstrable means of demonstrating that concentrations on the Nipomo Mesa in general have also been reduced. For example, the SLOAPCD’s 2013 South County Community Monitoring Project referenced by the commenter in Comment W1 identifies that “The very highest concentration areas are consistently in the vicinity of the District’s permanent CDF monitoring station, with slightly lower concentrations to the north and south (SLOAPCD 2013, page 11).” Thus, reducing PM levels at the CDF monitoring station should also reduce PM10 levels on the Nipomo Mesa in general. Finally, the OHMVR Division and its consultants are aware there are citizens and communities located downwind of Oceano Dunes SVRA. The Draft Program EIR clearly articulates this on page 1-1, which states, “An ambient air quality monitoring station (the “CDF” station) operated by the SLO County Air Pollution Control District (SLOAPCD) is located downwind of the SVRA, on the Nipomo Mesa, as are residential areas.”

Comment W4: Ms. Toti states the Draft Program EIR is misleading and erroneous because it identifies that USFWS-designated critical habitat for western snowy plover is the basis for setting the proposed Dust Control Program area back from the Pacific Ocean. Ms. Toti provides information indicating western snowy plover and California least tern nest much closer to the shore and can be impacted by people and dogs. Ms. Toti states reducing the number of campers and vehicles would actually help these species survive.

Response to Comment W4: The Draft Program EIR is not misleading or erroneous regarding the basis for the proposed Dust Control Program area.

First, Draft Program EIR Section 7.2.2.2 describes the USFWS has designated a portion of the habitat suitable for western snowy plover present at Pismo State Beach and Oceano

Dunes as “critical habitat.” The location of this critical habitat area is depicted on Draft Program EIR Figure 2-5 and new Figure 7-2 (see Chapter 3 of this Final Program EIR). As described in more detail in the response to SLOAPCD Comment D13 (see Section 4.4 of this Final Program EIR), critical habitat areas at Pismo State Beach and Oceano Dunes SVRA contain the physical and biological features essential to western snowy plover (see Section 2.1 of this Final Program EIR). Accordingly, planting vegetation in critical habitat/near shore areas would alter these essential physical and biological features and could increase the risk of western snowy plover predation during nesting, foraging, and/or roosting if plovers are not able to detect approaching predators. As a result, planting vegetation in the near shore areas could result in a significant impact to western snowy plover, which is why the OHMVR Division has designed the proposed Dust Control Program area to avoid critical habitat for this species.

Second, as identified in the information referenced by Comment W4, human activity at Pismo State Beach and Oceano Dunes SVRA, including vehicular and non-vehicular recreation, is part of the physical environmental conditions that constitute the EIR’s baseline conditions against which the proposed Program is being evaluated. This does not mean these existing activities do not have the potential to influence the environment. As explained in the response to SLOAPCD Comment D13 (see Section 4.4 of this Final Program EIR) and Sierra Club Comment I4 (see Section 4.9 of this Final Program EIR), unmanaged human activity at Pismo State Beach and Oceano Dunes SVRA, including camping and OHV activity, may affect western snowy plover and California least tern reproductive success. But, importantly, the OHMVR Division actively manages the SVRA to enhance and protect these species’ nest sites.

Finally, the OHMVR Division is not proposing changes to any camping or visitor limits established by CDP 4-82-300, as amended, as part of the proposed Dust Control Program. Such considerations are outside the scope of the OHMVR Division’s environmental review of the proposed Program.

Comment W5: Ms. Toti states the proposed Dust Control Program omits the least expensive and least disruptive alternative which would be to discontinue disturbance on all or a significant portion of the La Grande Tract.

Response to Comment W5: The Draft Program EIR is not misleading or erroneous regarding the basis for the proposed Dust Control Program area. Draft Program EIR Section 12.2.3 evaluates a Reduced OHV Use Alternative in which the OHMVR Division would voluntarily restrict the size of the area open to vehicular recreation at Oceano Dunes SVRA. The text indicates vehicle use restrictions are not likely to be as effective at reducing saltation and associated dust production at Oceano Dunes SVRA as the proposed Dust Control Program activities and further concludes the alternative would not obtain most of the basic objectives set for the proposed Program nor avoid or substantially lessen the proposed Program’s significant and unavoidable impacts. Accordingly, the OHMVR Division has rejected this alternative from more detailed consideration. Refer also to the response to Comment D12 (see Section 4.4 of this Final Program EIR) for additional information on this issue..

As a point of clarification, the USFWS-designated critical habitat area for western snowy plover only slightly overlaps the westernmost portion of SLO County’s La Grande Tract.

Comment W6: Ms. Toti states the proposed vegetation plantings are too little and non-specific and that the effectiveness of 40 acres of seasonal dust control measures is questionable. Ms. Toti

also states seasonal dust control measures only reduce the public's exposure to dust for a part of the year.

Response to Comment W6: The commenter's opinion on the size of the proposed vegetation plantings (20 acres per year) is noted. The commenter is correct that the Draft Program EIR does not identify the specific locations for vegetation plantings; however, as explained in the response to CCC Comment C4 (see Section 4.3 of this Final Program EIR), this is because there is uncertainty regarding the magnitude and location of dust control measures needed to reduce PM10 concentrations consistent with Program objectives. The proposed Dust Control Program, as described in the Draft Program EIR, represents the OHMVR Division's best approach to dust control and is based on the latest scientific information that has been investigated and agreed upon by the OHMVR Division and CARB and can be feasibly implemented in a reasonable timeframe with available funding, staffing, and environmental, logistical, and technical resource constraints.

With regards to seasonal dust control measures, the OHMVR Division disagrees that the effectiveness of this method is limited or questionable. As explained in more detail in the response to CCC Comment C6 (see Section 4.3 of this Final Program EIR), studies conducted at Oceano Dunes SVRA have shown seasonal dust control measures are capable of achieving a 73% to 87% reduction in sand transport inside the array and a 37% reduction in PM10 concentrations immediately downwind of the array (as compared to upwind concentrations), which is a substantial reduction when compared to open sand areas. The commenter is correct seasonal dust control measures would not be permanent; however, they could be in place from approximately March 1 to September 30, or the 7 months of the year in which Oceano Dunes SVRA is most often exposed to strong and frequent prevailing winds from the northwest.

Comment W7: Ms. Toti states no previous study has validated the usefulness of planting trees downwind to control or minimize dust emissions.

Response to Comment W7: Draft Program EIR Section 2.3.2.3 states, "Planted trees would take time to grow and thus improved air quality conditions may not be fully or even partially achieved within the five-year period covered by this EIR; however, the planting of trees may provide longer-term dust benefits and become part of a longer-term dust control strategy implemented by the OHMVR Division in the future." Thus, the Draft Program EIR recognizes the efficacy of this measure is not certain and does not take credit for any near-term reductions associated with this activity.

Comment W8: Ms. Toti states previous monitoring has not informed or resulted in any significant change to the OHMVR Division's approach to dust control. The commenter also states the OHMVR Division is required to monitor dust emissions under its 2008 Soil Conservation Standards and 2009 Strategic Plan.

Response to Comment W8: The OHMVR Division disagrees that previous monitoring has not informed the OHMVR Division's approach to reducing dust. Draft Program EIR Section 1.1.3 summarizes the results of eight different studies that examined dust and PM generation at Oceano Dunes SVRA and which helped to form the basis for the proposed Dust Control Program. The proposed Dust Control Program would further monitoring efforts to evaluate the dust and PM10 emissions generated at Oceano Dunes SVRA. The commenter is correct the 2008 Soil Conservation Standard and Guidelines and 2009 Strategic Plan do generally identify guidelines and goals for monitoring dust and wind

transport of sediment. The proposed Program would, therefore would be consistent with the Strategic Plan and Soil Conservation Standard.

Comment W9: Ms. Toti states the grooved concrete panels should be installed in the asphalt roadway and not in the sand slope leading down to the beach. Ms. Toti states the proposed design would be difficult to keep free of sand, could be a traffic hazard if waiting vehicles sink into the soft sand while waiting to enter the track out device, and could cause sound or vibration that could disturb residents or wildlife.

Response to Comment W9: Comment W9 is consistent with the information and findings contained in the Draft Program EIR. First, as a point of clarification, the Draft Program EIR states (page 2-25), “The concrete panels would be between 50 to 125 feet in length, and would be located in the Grand Avenue and Pier Avenue roadways, potentially extending down the entrances’ sand ramps.” Thus, it is possible the final design may include new grooved concrete down a portion of the sand ramp entrances; however, as noted on Draft Program EIR page 7-24, the design of the track-out prevention devices would not be impacted by the Pacific Ocean. Furthermore, the Draft Program EIR states (page 2-24 to 2-25), “The greatest technical challenge is to develop a system that can deal with the quantities of sand expected to occur in the area. In addition to accommodating the sand that adheres to vehicles, the structural devices would need to function with the large quantity of naturally blowing sand from the beach area. The greatest logistical challenge is maintenance. Structural devices would need to be easy to use and would need to quickly remove sand attached to vehicles. In addition, the structures would need to accommodate a wide-array of vehicle types.” Accordingly, the Draft Program EIR adequately evaluates potential vehicle queues and traffic back-ups (pages 4-20 and 5-18) and potential for increases in noise associated with maintenance (Draft Program EIR Impact NOI-1) and vehicles passing over the devices (Draft Program EIR Impact NOI-2).

Comment W10: Ms. Toti references the 1994 Oceano Dunes SVRA General Plan Amendment and states the first sentence of the Draft Program EIR project description gives no indication of the source of the dust pollution. Ms. Toti states the sentence should be changed so the dust issue may be addressed effectively.

Response to Comment W10: Comment noted. As explained in the response to Comment W2 above, the commenter oversimplifies the dynamics of dust generation at Oceano Dunes SVRA. The primary mechanism for dust generation and transport is the saltation process that is activated during certain wind conditions. Without wind, the saltation process would not be activated and dust emissions would not be transported downwind. The proposed Dust Control Program, as described in the Draft Program EIR, represents the OHMVR Division’s best approach to dust control and is based on the latest scientific information that has been investigated and agreed upon by the OHMVR Division and CARB and can be feasibly implemented in a reasonable timeframe with available funding, staffing, and environmental, logistical, and technical resource constraints.

Comment W11: Ms. Toti expresses disagreement with the objectives the OHMVR Division has set for the proposed Dust Control Program.

Response to Comment W11: Comment noted. As explained in more detail in the response to CCC Comment C4 (see Section 4.3 of this Final Program EIR), the OHMVR Division, as CEQA lead agency has developed objectives for the proposed Program that balance a variety of factors, a consideration expressly noted in CEQA and the CEQA Guidelines. The objectives the OHMVR Division has set forth for the proposed Program consider the

various public safety, recreation, and natural resource objectives the OHMVR Division must balance when considering whether to approve the proposed Program.

Comment W12: Ms. Toti states Draft Program EIR Figure 2-1 incorrectly identifies the La Grande Tract as part of Oceano Dunes SVRA, and submits Figure 4 from the South County Coastal Plan as evidence of this.

Response to Comment W12: Comment noted. The Draft Program EIR makes numerous references to the La Grande Tract and notes the primary Dust Control Program area consists of state-owned and state-leased lands. As a point of clarification, the OHMVR Division operates the part of the SVRA within the County's La Grande Tract under an existing operating agreement. This existing operating agreement provides the OHMVR Division with the existing authority to implement the proposed Dust Control Program. Nonetheless, as shown in Section 3.3 of this Final Program EIR, the OHMVR Division has revised Draft Program EIR text to explicitly state that the La Grande Tract is primarily owned by SLO County.

Comment W13: Ms. Toti states Draft Program EIR Section 2.2.2 fails to identify the loss of foredunes and backdunes and again refers to the La Grande Tract as the cause of the PM10 emissions. Ms. Toti submits evidence documenting the loss of vegetation that has occurred at Oceano Dunes SVRA. Ms. Toti also states the notion of "no net loss" of vegetation was in conflict with the Coastal Commission provisions and Section 4306 of the California Code of Regulations, and submits photo evidence comparing natural dunes to riding area dunes.

Response to Comment W13: Comment noted. As explained in the OHMVR Division's response to Comment W2 above, the commenter oversimplifies the dynamics of dust generation at Oceano Dunes SVRA when referring to the La Grande Tract as "the cause of the PM10 emissions." The evidence submitted by the commenter documenting the loss of vegetation that has occurred at Oceano Dunes SVRA is not significant new information. The OHMVR Division directs the commenter to the last paragraph in Draft Program EIR Section 2.2.2., which discusses this CGS mapping analysis. Specifically, Draft Program EIR page 2-5 states, "Since the 1930's, the area has lost 254 acres of vegetation and gained 450 acres of vegetation, for a net gain of 196 acres. Most of the vegetation loss since 1930 occurred in a north-south trending line of vegetation islands approximately 0.4 miles from the shore." As explained in more detail in the OHMVR Division's response to SLOAPCD Comment D13 (see Section 4.4 of this Final Program EIR), the existing physical environmental conditions in the vicinity of the project constitute the baseline conditions by which a lead agency determines whether an impact is significant (CEQA Guidelines Section 15125). Accordingly, the Draft Program EIR focuses on the potential impacts of the proposed Program based on the existing vegetation patterns in the Program area.

As a point of clarification, Draft Program EIR page 2-5 incorrectly references a "no net loss of vegetation" policy at Oceano Dunes SVRA. As shown in Section 3.3 of this Final Program EIR, the OHMVR Division has deleted this text from the EIR.

Comment W14: Ms. Toti states Draft Program EIR Section 2.2.3 is misleading when it implies the loss of eucalyptus trees are the problem rather than the loss of vegetation on the dunes and references photos of "natural dunes" compared to riding area dunes.

Response to Comment W14: Comment noted. First, as a point of clarification, Draft Program EIR Section 2.2.3 does not imply the loss of eucalyptus trees is the source of the

dust problem, only that historical eucalyptus groves buffeted rural residences, to some extent, from windblown dust emissions. Second, the commenter does not provide a point of reference for the referenced photo comparing “natural dunes” with riding area dunes; however, presuming this photo is looking toward dunes located on private lands east of Oceano Dunes SVRA, the photo depicts a large, open sand area present immediately outside the riding area. Thus, OHV recreation could not be responsible for the lack of vegetation on this portion of the dunes. As described in Draft Program EIR Section 1.1.1, “Oceano Dunes SVRA is situated in the Guadalupe-Nipomo Dunes Complex, an approximately 18,000-acre, 18-mile-long coastal dune landscape that contains large, vegetated and unvegetated sand dunes subject to strong prevailing winds (see Figure 1-1). According to the California Geological Survey (CGS), Oceano Dunes SVRA is located within the youngest, most active formations of the dune complex, where winds transport sand and dunes are actively migrating inland several feet per year (CGS 2007).” Lastly, as explained in more detail in the OHMVR Division’s response to SLOAPCD Comment D13 (see Section 4.4 of this Final Program EIR), the existing physical environmental conditions in the vicinity of the project constitute the baseline conditions by which a lead agency determines whether an impact is significant (CEQA Guidelines Section 15125). Accordingly, the Draft Program EIR focuses on the potential impacts of the proposed Program based on the actual, existing conditions in the Program area and not historical or other comparable areas outside the Program area..

Comment W15: Ms. Toti reiterates that the Draft Program EIR, in various places, incorrectly includes the La Grande Tract as part of Oceano Dunes SVRA. Ms. Toti states the top 30% of the La Grande Tract is the most emissive area.

Response to Comment W15: Refer to the OHVMR Division’s response to Comment W12 above. In addition, the OHVMR Division directs the commenter to Draft Program EIR page 1-7, which states, “considering all data, i.e., temporary monitoring, PI-SWERL, and particle size data, [a] picture has emerged that generally describes the spatial variability of the PM10 emissions. The PM10 emissions measured with the PI-SWERL show a pattern that is corroborated by the temporary monitoring networks, with higher PM10 measurements [in the central to northern part of the open riding and camping area], being associated with areas that the PI-SWERL measurements have identified as having higher emission potential.” In addition, Draft Program EIR Section 2.3.1.1 provides a discussion on the basis for selecting the proposed Dust Control Program area, stating, “The Program area includes most of the open sand areas in the central to northern portion of the Oceano Dunes SVRA open riding and camping area, commonly referred to as the “La Grande Tract.” SLOAPCD and OHMVR Division studies have identified this area as the area most likely influencing air quality measurements at the CDF station and air quality conditions on the Nipomo Mesa.”

Comment W16: Ms. Toti states Draft Program EIR Section 2.2.4.4 incorrectly states that the camping limit set by CDP 4-82-300, as amended, does not apply on Memorial Day, July 4th, Labor Day, and Thanksgiving. Ms. Toti states the 2005 Consent Decree between the Sierra Club and the OHMVR Division eliminated this provision.

Response to Comment W16: The commenter is correct. As shown in Section 3.3 of this Final Program EIR, the OHMVR Division has corrected the EIR’s discussion of camping limits contained in Section 2.2.4.4. The OHMVR Division has been enforcing the vehicle limits on all days, including holidays, in conformance with a consent decree. This information does not change the content or findings of the Draft Program EIR.

Comment W17: Ms. Toti reiterates that targeting the CDF monitor is inappropriate and notes monitoring at schools near Oceano Dunes SVRA show elevated levels of particulate matter corresponding to levels at the SLOACPD Mesa2 air quality station. Ms. Toti states the OHMVR Division has a cavalier attitude toward public health and notes there is a child care center at Lopez High School.

Response to Comment W16: Refer to the response to Comment W3 above. As a point of clarification, the Draft Program EIR indicates monitoring at nearby schools showed particulate matter levels corresponded to other SLOAPCD air quality stations. Specifically, the commenter is directed to Draft Program EIR page 2-20, which states, “Air quality measurements conducted by the SLOAPCD at locations to the north of CDF, including Mesa Middle School and Lopez High School, either did not show elevated PM10 readings or were more comparable to the SLOAPCD’s Mesa2 or NRP monitoring stations (SLOAPCD 2011, 2013a).” As explained in the response to Comment O2 (see Section 4.15 of this Final Program EIR), the proposed Program would improve air quality conditions at the CDF air quality station and the Nipomo Mesa.

Comment W18: Ms. Toti states the Draft Program EIR identifies that establishing vegetation where none presently exists is less likely because it is more difficult. Ms. Toti submits a 2007 CGS report as evidence that vegetation and dunes are capable of self-restoring.

Response to Comment W16: Comment W18 does not provide new, significant information for the OHMVR Division to consider. Draft Program EIR section 2.2.2. includes an excerpt from the same 2007 CGS study submitted by the commenter, and Draft Program EIR Section 2.3.2.1 describes the advantages and disadvantages of vegetation for dust control purposes, stating, “Although vegetation would take time to become established and could be hampered by environmental factors such as a short growing season, drought, hardness of individual plants, etc., it has the inherent ability to respond and potentially stabilize dynamic dune conditions and reduce the need for regular and routine maintenance once the vegetation is established.”

Comment W19: Ms. Toti states the OHMVR Division disregards the Scientific Sub-Committee’s requests for year-round study of the nest enclosure, comments on existing activities that disturb western snowy plover and California least tern, claims the enclosure is not 1,100 feet from the surf line, and reiterates the proposed Dust Control Program area is set back from the Pacific Ocean for the benefit of campers and vehicles.

Response to Comment W19: First, comments on the Scientific Sub-Committee are outside the scope of the OHMVR Division’s environmental review of the proposed Dust Control Program. Second, Draft Program EIR Section 4.2 and Section 7.2, Pismo State Beach and Oceano Dunes SVRA are very popular destinations that also happen to support several special-status species, including western snowy plover and California least tern. In particular, the parks provide nesting and breeding habitat for these two species. As explained in the OHMVR Division response to SLOAPCD Comment D13 (Section 4.4 of this Final Program EIR) and Sierra Club Comment I4 (see Section 4.9 of this Final Program EIR), unmanaged human activity at Pismo State Beach and Oceano Dunes SVRA, including camping and OHV activity, may affect western snowy plover and California least tern reproductive success. But, importantly, the OHMVR Division actively manages the SVRA to enhance and protect these species’ nest sites. Third, as explained in more detail in response to Friends of Oceano Dunes Comment K3 (see Section 4.11 of this Final Program EIR), the location of the western snowy plover critical

habitat area depicted on Draft Program EIR Figure 2-5 and new Figure 7-2 (see Chapter 3 of this Final Program EIR) consists of GIS data provided by the USFWS via its critical habitat portal (USFWS 2012, 2016). This data indicates the critical habitat area extends approximately 1,100 feet inland from the Pismo State Beach western boundary and borders the northern extent of the proposed Dust Control Program area (between marker posts 4 and 5), but is approximately 240 feet west of the southern extent of the proposed Program area (near marker post 7). Thus, the proposed Dust Control Program area borders, but does not overlap with or otherwise include, USFWS-designated critical habitat for western snowy plover. Refer also to the response to Comments K3, K30, K32, K35, K40, K41, and K65 for additional information on this issue. Finally, as explained in more detail in response to Comment W4 above, planting vegetation in the near shore areas could result in a significant impact to western snowy plover, which is why the OHMVR Division has designed the proposed Dust Control Program area to avoid critical habitat for this species.

Comment W20: Ms. Toti expresses several opinions regarding the management of Oceano Dunes SVRA, speculates on the effect historical management activities have had on present day dust issues, and references a letter from the CCC regarding dune restoration activities required by CDP 4-82-300, as amended, as well as 2011 report prepared by DRI which outlines potential dust control measures.

Response to Comment W20: The commenter's opinions regarding the historical and present day management of Oceano Dunes SVRA are noted, but do not raise a significant environmental issue pertaining to the proposed Dust Control Program. Comment W20 does not provide new, significant information for the OHMVR Division to consider. Draft Program EIR Section 2.2.4.2 includes a discussion of CDP 4-82-300, as amended. As described in this section of the Draft Program EIR, the OHMVR Division enhances and protect dune habitat as required by CDP 4-82-300 and is not proposing to perform any activities that would change compliance with existing CDP 4-82-300 conditions, as amended. In addition, Draft Program EIR Section 1.1.3 summarizes the results of eight different studies that examined dust and PM generation at Oceano Dunes SVRA and which helped to form the basis for the proposed Dust Control Program, including the 2011 report by DRI referenced in Comment W20.

Comment W21: Ms. Toti reiterates concerns regarding the proposed track-out prevention devices.

Response to Comment W21: Refer to response to Comment W9 above.

Comment W22: Ms. Toti states the potential Dust Control Program implementation scenario graphically depicted on Draft Program EIR Figure 2-8 is inadequate because it does not add much vegetation to the La Grande Tract. Ms. Toti states the "high biological sensitivity" area depicted on this figure is actually a parking lot for vehicles.

Response to Comment W22: As explained in more detail in the response to CCC Comment C5 (see Section 4.3 of this Final Program EIR), the identification and graphical presentation (see Draft Program EIR Figures 2-8 and 2-9) of preferred and alternate Dust Control Program scenarios is intended to facilitate public understanding of the proposed Program and the OHMVR Division's evaluation of potential environmental effects associated with the implementation of the proposed Program. At this time the OHMVR Division has not selected any implementation scenario for the proposed Dust Control Program. Rather, the EIR identifies two possible scenarios for implementing the

proposed Dust Control Program and notes that the actual implementation would depend on air quality conditions, resource constraints, and logistical factors. The commenter's opinion regarding the "high biological sensitivity" area is noted, but does not raise a significant environmental issue with regards to the proposed Dust Control Program. Nonetheless as a point of clarification, the area depicted as a "high biological sensitivity" on Draft Program EIR figures does not just represent western snowy plover critical habitat but rather indicates suitable breeding habitat for western snowy plover and California least tern.

Comment W23: Ms. Toti expresses a preference for the potential Dust Control Program implementation scenario graphically depicted on Draft Program EIR Figure 2-9.

Response to Comment W23: The commenter's opinion is noted. Refer also to response to Comment W22 above.

Comment W24: Ms. Toti states the OHMVR Division's preference for the Dust Control Program implementation scenario graphically depicted on Draft Program EIR Figure 2-8 is not reasonable because it is not based on reducing air pollution.

Response to Comment W24: As explained in more detail in the response to CCC Comment C5 and W22 above, the OHMVR Division has not selected any implementation scenario for the proposed Dust Control Program. Rather, the EIR identifies two possible scenarios for implementing the proposed Dust Control Program and notes that the actual implementation would depend on air quality conditions, resource constraints, and logistical factors.

Comment W25: Ms. Toti states the implementation scenario graphically depicted on Draft Program EIR Figure 2-9 is not the worst case impact on public recreation lands. Ms. Toti states the worst-case impact would be the closure of Oceano Dunes SVRA to all motorized vehicle use.

Response to Comment W25: The commenter is correct that, hypothetically, the closure of Oceano Dunes SVRA would result in a greater impact to coastal recreation lands than the proposed Dust Control Program; however, the OHMVR Division is not proposing to close Oceano Dunes SVRA. In addition, as described in response to Comment W5 above, the Program EIR, as revised, evaluated and rejected voluntary OHV use restrictions as an alternative to the proposed Dust Control Program because this alternative would not avoid or substantially lessen the proposed Program's significant and unavoidable impacts. Refer also to response to Comment W22 above.

Comment W26: Ms. Toti summarizes Draft Program EIR information on the proposed Dust Control Program schedule and reiterates the OHMVR Division should prevent riding on the most emissive areas immediately.

Response to Comment W26: As a point of clarification, the Draft Program EIR Section 2.4 indicates the OHMVR Division is proposing to implement the proposed Dust Control Program for a multi-year period that is estimated to begin in Spring 2017 and continued through late 2022. Draft Program EIR page 2-32 states, "The conceptual schedule for the Dust Control Program annual review process is shown in Table 2-4. The OHMVR Division would submit two annual work plans during the first year of project implementation to account for initial project start-up." As shown in Section 3.3 of this Final Program EIR, the OHMVR Division has revised proposed schedule of activities described in Draft Program EIR to generally provide for the flexible planning, design, and implementation of proposed dust control projects. As part of these revisions, Draft

Program EIR Table 2-4 has been deleted from the EIR. See response to Comment W5 for a discussion of vehicle restrictions at Oceano Dunes SVRA .

Comment W27: Ms. Toti states the characterization of the proposed Dust Control Program area as having a “very high sand blowing hazard” that is contained Draft Program EIR Section 3.4.3 is incorrect and implies the high particulate matter levels coming from riding area are the same as those in the Pismo Dunes Natural Preserve and the Oso Flaco Lakes area.

Response to Comment W27: The information contained in Draft Program EIR Section 3.4.3 is derived from the Soil Survey of San Luis Obispo County, published by the Natural Resources Conservation Service (formerly the Soil Conservation Service). The information provides a general description of the geologic and soils setting of the Guadalupe-Nipomo Dune Complex and Oceano Dunes SVRA. As described in response to Comment W15 above, the Draft Program EIR summarizes information on studies conducted at Oceano Dunes SVRA, which to date indicate higher dust and PM10 are generally associated with the central to northern part of the Oceano Dunes SVRA open riding and camping area.

Comment W28: Ms. Toti states the Draft Program EIR vaguely refers to the 2008 Soil Conservation Standards, quotes PRC Section 5090.2, and concludes that portions of the La Grande Tract should be closed to use to repair and prevent accelerated erosion.

Response to Comment W28: Draft Program EIR Section 3.4.3 discusses the 2008 Soil Conservation Standards and specifically mentions PRC Sections 5090.2, 5090.35, and 5090.53. As explained in Draft Program EIR Section 3.4.3, Oceano Dunes SVRA is subject to strong winds that continually blow sand from the ocean to create dunes, as well as cause dunes to migrate inland slowly over time. The proposed Dust Control Program would not alter visitor limits, nor would not involve physical changes to the environment that would lead to erosion. Rather, planting vegetation and installing seasonal dust control measures would reduce saltation and temporarily and/or permanently trap sand. In addition, the commenter does not specifically identify a specific resource that could be significantly affected by erosion resulting from the proposed Program activities. The proposed Program would have a less than significant impact on geology and soils, including potential effects of erosion, and would not trigger any potential Soil Conservation Standards in regards to the Oceano Dunes SVRA open riding and camping area.

Comment W29: Ms. Toti summarizes information from Draft Program EIR Section 3.4.8 regarding potential impacts on public services. Ms. Toti states public service impacts should be evaluated by appropriate agencies and an adjustment to the number of OHV riders should be considered and evaluated.

Response to Comment W29: Within Pismo State Beach and Oceano Dunes SVRA, law enforcement and public safety services are provided by State Park Peace Officers (Rangers). Rangers regularly patrol the parks to enforce park regulations. Fire protection services in and outside of Pismo State Beach and Oceano Dunes SVRA are provided by the Five Cities Fire Authority, Station 61 located in Oceano, and CAL FIRE. The nearest CAL FIRE facility is Mesa Station 22. As explained in Draft Program EIR Section 3.4.8, the potential effects of the Dust Control Program on public services do not constitute a physical change to the environment and would not alter emergency service patterns. In addition, as explained in response to Comment W4 above, the OHMVR Division is not proposing changes to any camping or visitor limits established by CDP 4-82-300, as

amended, as part of the proposed Dust Control Program. Such considerations are outside the scope of the OHMVR Division's environmental review of the proposed Program.

Comment W30: Ms. Toti reiterates the Draft Program EIR does not identify that SLO County owns the La Grande Tract. Ms. Toti states Draft Program EIR Chapter 6 does not explain vehicle riding is what has de-stabilized dunes and destroyed vegetation.

Response to Comment W30: See response to Comment W12 above. The reason for unstabilized dunes is not germane to the Draft Program EIR's visual resource analysis; however, the Draft Program EIR Section 6.2.1.1 does describe that Oceano Dunes SVRA is an active recreation area and as such activities including OHV use is part of the baseline environmental conditions against which the proposed Dust Control Program is evaluated.

Comment W31: Ms. Toti reiterates concerns with the objectives the OHMVR Division has set for the proposed Dust Control Program.

Response to Comment W31: See response to Comment W11 above.

Comment W32: Ms. Toti reiterates that dunes self-restore when not disturbed by vehicle traffic.

Response to Comment W32: See response to Comments W14 and W18 above.

Comment W33: Ms. Toti suggests an alternative in which the OHMVR Division return the La Grande Tract to a buffer area by moving the fence line westward.

Response to Comment W33: The suggested alternative is substantially similar to the alternative evaluated in Draft Program EIR Section 12.2.3. As described in response to Comment W5 above, the Draft Program EIR, as revised, evaluated and rejected voluntary OHV use restrictions as an alternative to the proposed Dust Control Program because this alternative would not obtain most of the basic objectives set for the proposed Program nor avoid or substantially lessen the proposed Program's significant and unavoidable impacts.

Comment W34: Ms. Toti suggests an alternative in which the OHMVR Division close and repair emissive areas.

Response to Comment W34: The suggested alternative is substantially similar to the alternative evaluated in Draft Program EIR Section 12.2.3. Refer to response to Comment W33 above.

Comment W35: Ms. Toti suggests an alternative in which the OHMVR Division follow the provisions of CDP 4-82-300, as amended.

Response to Comment W34: Comment W35 does not appear to suggest a specific alternative for consideration. Draft Program EIR Section 2.2.4.2 includes a discussion of CDP 4-82-300, as amended. As described in this section of the Draft Program EIR, the OHMVR Division continues to manage Oceano Dunes SVRA in compliance with CDP 4-82-300 and is not proposing to perform any activities that would change compliance with existing CDP 4-82-300 conditions, as amended.

Comment W36: Ms. Toti suggests an alternative in which the OHMVR Division review and evaluate the recommendations of Dr. Melvin Zeldin contained in a January 2015 letter from the SLOAPCD to the CCC.

Response to Comment W36: The letter referenced by Comment W36 identifies three options for reducing dust emissions that are substantially similar to the proposed Dust Control Program's activities and/or alternative evaluated in the Draft Program EIR.

Option 1 consisted of eliminating all OHV activity in the area impacting the Nipomo Mesa. This suggestion is substantially similar to the alternative evaluated in Draft Program EIR Section 12.2.3. As described in response to Comment W5 above, the Draft Program EIR, as revised, evaluated and rejected voluntary OHV use restrictions as an alternative to the proposed Dust Control Program because this alternative would not obtain most of the basic objectives set for the proposed Program nor avoid or substantially lessen the proposed Program's significant and unavoidable impacts. Furthermore, in regards to this option, the SLOAPCD Air Pollution Control Officer advised the CCC (emphasis added), "While Mr. Zeldin identified eliminating riding upwind of the affected populated areas as the most effective strategy, *that action is not endorsed nor recommended by the SLOAPCD*" (see page 4 of Exhibit 11 to the submitted CCC staff report).

Option 2 consisted of providing two parallel rectangular vegetative areas within the riding area and "of sufficient size" to act as a wind barrier. Dr. Zeldin did not elaborate on the size of these vegetated areas; however, this option is substantially similar to the *proposed* Dust Control Program's vegetation plantings activities (20 acres per year for a period of five years).

Option 3 consisted of "strategically applied soil stabilizers in dual rectangular areas, with perimeter wind fences, within the primary riding areas shown to be most emissive by DRI studies, covering a total area of at least 80 acres." First, with regard to soil stabilizers, Draft Program EIR states (page 2-16, emphasis added), "In Spring 2015, the SLOAPCD and the OHMVR Division proposed the use of soil stabilizers on an approximately two-acre area east of the northern end of Sand Highway (see Figure 2-4); *however, this proposal was rejected by the CCC.*" Nonetheless, the OHMVR Division has retained the potential use of soil stabilizers as a dust control measure, subject to the review and approval of the CCC. Draft Program EIR Section 2.3.2.4 describes that soil stabilizers, if used, would be a type of pilot or demonstration project deployed on a small scale, or possibly within the interior of fencing and straw bale arrays (to provide additional dust control). This use is consistent with that recommend in Option 3. Second, the proposed Dust Control Program involves more vegetation (approximately 100 acres) than the proposed 80 acres of seasonal dust control measures suggested in Option 3. These vegetation plantings would be in addition to the seasonal deployment of 40 acres of wind fencing or other artificial dust control measures. Furthermore, the recommendation for 80 acres of wind fencing is similar to that evaluated in Draft Program EIR Section 12.4, which states, "The alternate dust control program could still involve approximately 40 acres of wind fencing in Year 1; however, the amount of fencing would be increased by 20 percent each year until the Rule 1001 performance standard is met. At worst-case, if the performance standard is not met, this alternative could result in approximately 48, 58, 69, and 83 acres of seasonal wind fencing at Oceano Dunes SVRA in Years 2 to 5, respectively." The Draft Program EIR's evaluation of this alternative concluded it could result in new, potentially significant or significant and unavoidable impacts on aesthetics because the alternative could more than double the amount of wind fencing installed in Year 5 (83 acres versus 40 acres) if the Rule 1001

performance standard is not met, which would increase the visibility of the fencing array from all receptor vantage points.

Thus, for the reasons described above the alternatives suggested by Dr. Zeldin are already consistent with that proposed by the OHMVR Division or have been adequately evaluated in the Draft Program EIR.

Comment W37: Ms. Toti suggests an alternative in which the OHMVR Division creates foredunes and references the Oceano Dunes SVRA Wildlife Habitat Protection Plan as evidence that foredunes protect vegetation further inland.

Response to Comment W37: The suggested alternative is substantially similar to the alternative evaluated in Draft Program EIR Section 12.4. As described in the OHMVR Division response to SLOAPCD Comment D13, the OHMVR Division has added information to the EIR that describes the USFWS designated critical habitat in near shore areas at Pismo State Beach and Oceano Dunes SVRA because, in their existing condition, they contain the physical and biological features essential to western snowy plover (see Section 2.1 of this Final Program EIR). Planting vegetation in near shore areas would reduce the amount of open areas and increase the amount of vegetation, which could increase the risk of western snowy plover predation during nesting, foraging, and/or roosting if plovers are not able to detect approaching predators. As a result, planting vegetation in the near shore areas could result in a new, potentially significant impact to western snowy plover. Accordingly, this alternative would not avoid or substantially lessen the proposed Dust Control Program's significant impacts.

4.24 RESPONSE TO ORAL COMMENTS RECEIVED ON AUGUST 23, 2016

As stated in Section 1.1 of this Final Program EIR, the OHMVR Division held a public meeting to review the contents and findings of the Draft Program EIR on August 23, 2016. The public was invited to make oral comments at this meeting. In total, the OHMVR Division received and answered 41 total comments, many of which were not related to the content and findings of the Draft Program EIR, were not germane to the CEQA process, or were substantially similar to written comments the OHMVR Division received on the Draft Program EIR. Below is a summary of the oral comments received and the answers provided. Where possible, the OHMVR Division has identified responses to written comments that provide additional information on the issue raised during the public meeting.

Oral Comment 1: A member of the public noted that planting vegetation inside the Oceano Dunes SVRA would result in the loss of riding area.

Response to Oral Comment 1: Draft Program EIR Impact REC-1 evaluates the potential for the proposed Dust Control Program to limit and interfere with coastal vehicular recreation areas and concludes the proposed Program would result in a significant and unavoidable impact to vehicle recreation at Oceano Dunes SVRA.

Oral Comment 2: A member of the public asked about land ownership and the operating agreements between the OHMVR Division and SLO County.

Response to Oral Comment 2: The Program area includes most of the open sand areas in the central to northern portion of the Oceano Dunes SVRA open riding and camping area, commonly referred to as the “La Grande Tract.” As explained in the response to Friends of Oceano Dunes Comment K23 and K130 (see Section 4.11 of this Final Program EIR) the OHMVR Division operates the part of the SVRA within the County’s La Grande Tract under an existing operating agreement. This existing operating agreement provides the OHMVR Division with the existing authority to implement the proposed Dust Control Program.

Oral Comment 3: A member of the public asked if federal agencies were involved in the review of the proposed Dust Control Program and whether the proposed Program was subject to review under the National Environmental Policy Act.

Response to Oral Comment 3: As explained in the response to Friends of Oceano Dunes Comment K104 (see Section 4.11 of this Final Program EIR), the proposed Dust Control Program is not subject to NEPA review because it would not require a permit or other approval from a federal agency.

Oral Comment 4: A member of the public suggested the OHMVR Division should evaluate the economic impacts to the local community from the loss of property values and business activity associated with the dust issue.

Response to Oral Comment 4: As explained in the response to Comment R2 (see Section 4.18 of the Final Program EIR), the OHMVR Division has not conducted an economic analysis of the potential adverse health, safety, welfare, or property value impacts associated with existing air quality conditions. As a point of clarification, CEQA Guidelines Section 15064 (e) specifies that economic and social changes resulting from a project shall not be treated as significant effects unless there is a physical change caused by the economic or social effect, and there is no evidence to suggest the community of Oceano, the Nipomo Mesa, or the other surrounding land areas are suffering an adverse physical environmental effect resulting from a social or economic impact associated with the proposed

Dust Control Program. Furthermore, as explained in the response to Comment O2 (see Section 4.15 of this Final Program EIR), the proposed Program would improve air quality conditions on the Nipomo Mesa and thus is not anticipated to result in the adverse impacts raised by the comment.

Oral Comment 5: A member of the public suggested the Draft Program EIR should consider the aesthetics of existing OHV recreation at Oceano Dunes SVRA.

Response to Oral Comment 5: As explained in more detail in the response to SLOAPCD Comment D13 (see Section 4.4 of this Final Program EIR), the Draft Program EIR, describes the existing environmental conditions at and in the vicinity of the Dust Control Program area at the time the OHMVR Division issued the Revised NOP for the EIR (February 2015). Specifically, Draft Program EIR Section 6.2 describes the existing visual resource setting of the proposed Dust Control Program includes visitor vehicles, which may be brightly colored. The proposed Dust Control Program would not alter the existing aesthetics of OHV recreation at Oceano Dunes SVRA and thus this impact does not need to be considered in the Draft Program EIR.

Oral Comment 6: A member of the public asked whether Rule 1001 is still in effect and applicable to the OHMVR Division.

Response to Oral Comment 6: Comment noted. Draft Program EIR Section 1.1.4.1 explains the status of the Rule 1001 settlement agreement, stating, in part, “The trial court excised the permit to operate requirement from Rule 1001, but kept the remainder of Rule 1001 intact. In a separate lawsuit, Friends (of Oceano Dunes) is challenging the settlement agreement as an illegal amendment of Rule 1001. That case is pending.”

Oral Comment 7: A member of the public asked for clarification on whether the OHMVR Division would maintain access to Sand Highway during implementation of the proposed Dust Control Program.

Response to Oral Comment 7: As explained in the response to Comment V5 (see Section 4.22 of this Final Program EIR), Draft Program EIR Figures 2-2 to 2-5 graphically depict the location of the Sand Highway at Oceano Dunes SVRA. The proposed Dust Control Program would not interfere with Sand Highway. Specifically, Mitigation Measure REC-1 requires the OHMVR Division to plant vegetation and deploy seasonal dust control measures in a manner that does not interfere with the Sand Highway and other established paths of travel, such as by providing a setback from these areas.

Oral Comment 8: A member of the public asked about the evolution of dust control measures and the associated costs to date.

Response to Oral Comment 8: Draft Program EIR Section 1.1.3 summarizes the results of eight different studies examining dust and PM10 generation at Oceano Dunes SVRA that helped to inform the basis for the proposed Dust Control Program. In addition, Draft Program EIR Section 12.2 provides information on the labor and costs considered to be the upper bound of what is realistically feasible for the OHMVR Division to implement.

Oral Comment 9: A member of the public provided an observation that noise from OHV activity can be heard after 11:00 PM.

Response to Oral Comment 9: Comment noted. This refers to existing conditions and does not raise any specific points on the Draft Program EIR’s evaluation of the proposed Dust Control Program’s potential environmental impacts. The OHMVR Division is not

proposing changes to camping or visitor limits and the proposed Dust Control Program would not alter park operating hours.

Oral Comment 10: A member of the public asked about the purpose of the EIR and the cost to prepare the document.

Response to Oral Comment 10: Draft Program EIR Section 1.4 states, “An EIR is an objective, informational document that informs governmental agency decision makers and the public of the potential for significant project effects, including possible ways to minimize those effects, and describes reasonable alternatives to the project (CEQA Guidelines §15121(a)).” The section further explains that the OHMVR Division has prepared an objective, informational document that contains a sufficient degree of analysis to inform decision makers about the proposed Dust Control Program’s potential direct and indirect physical, environmental effects. Comments on the costs to prepare the EIR are outside the scope of the OHMVR Division’s environmental review of the proposed Dust Control Program.

Oral Comment 11: A member of the public asked whether the EIR considered the health concerns of the Mesa residents.

Response to Oral Comment 11: Draft Program EIR Section 1.1.2 summarizes information on existing air quality conditions on the Nipomo Mesa and the adverse health effects associated with exposure to particulate matter. The proposed Dust Control Program would not exacerbate any existing air quality conditions. Rather, as explained in Draft Program EIR Section 3.4.2, the proposed Program activities would “block the flow of wind across the dune landscape, slow or stop sand movement and corresponding dust generation at Oceano Dunes SVRA, and improve downwind air quality.” Thus, the proposed Program would not have an adverse impact on air quality conditions on the Nipomo Mesa.

Oral Comment 12: A member of the public asked about baseline conditions for the CEQA process.

Response to Oral Comment 12: As explained in the response to SLOAPCD Comment D13 (see Section 4.4 of this Final Program EIR), CEQA specifies that an EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, and that this environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant. The Draft Program EIR, as required by CEQA, describes the physical environmental conditions at and in the vicinity of the Dust Control Program area as they existed in February 2015, which was when the OHMVR Division issued the Notice of Preparation for the EIR. These descriptions are provided generally in Chapter 2 of the Draft Program EIR, and more specifically in the individual EIR chapters that address specific resource topics, such as recreation and biological resources. As described Draft Program EIR Section 4.2 and Section 7.2, Pismo State Beach and Oceano Dunes SVRA are very popular destinations that also happen to support several special-status species, including western snowy plover and California least tern, as well as cultural resources.

Oral Comment 13: A member of the public question asked if a comparison of the underlying geological conditions at Pismo Beach and Oceano Dunes SVRA have been compared against the conditions at Morro Dunes.

Response to Oral Comment 13: No, the Draft Program EIR does not provide a comparison of conditions at Pismo Beach and Morro Dunes. This refers to existing conditions and does not raise any specific points on the Draft Program EIR's evaluation of the proposed Dust Control Program's potential environmental impacts.

Oral Comment 14: A member of the public suggests the loss of riding area should be replaced 1:1 with new riding areas or opportunities.

Response to Oral Comment 14: As shown in Section 3.4 of this Final Program EIR, the OHMVR Division has augmented and clarified Draft Program EIR Mitigation Measure REC-1 to address mitigation ratios, areas, and standards.

Oral Comment 15: A member of the public suggests the OHMVR Division conduct an economic analysis of closing the SVRA to OHV recreation and/or reducing recreational areas.

Response to Oral Comment 15: Refer to the response to Oral Comment 4 above.

Oral Comment 16: A member of the public asked about direct OHV contribution to dust levels.

Response to Oral Comment 16: Draft Program EIR Section 1.1.3 summarizes the results of eight different studies that examined dust and PM generation at Oceano Dunes SVRA and formed the basis for developing the proposed Dust Control Program, including the SLOAPCD's Phase 1, Phase 2, and Community Monitoring reports. The SLOAPCD's Phase 2 Study concluded OHVs are not a major factor responsible for high PM levels downwind of Oceano Dunes SVRA.

Oral Comment 17: A member of the public suggests an alternative that temporarily closes the SVRA either during high winds or an experimental two-year closure.

Response to Oral Comment 17: The suggested alternative is substantially similar to the alternative evaluated in Draft Program EIR Section 12.2.3, as revised by Section 3.8 of this Final EIR. As described in response to Comment W5 above (see Section 4.23 of this Final Program EIR), the Draft Program EIR, as revised, evaluated and rejected voluntary OHV use restrictions as an alternative to the proposed Dust Control Program because this alternative would not obtain most of the basic objectives set for the proposed Program nor avoid or substantially lessen the proposed Program's significant and unavoidable impacts.

Oral Comment 18: A member of the public asked if the Draft Program EIR considers the historical nature of the OHV recreation at Oceano Dunes SVRA.

Response to Oral Comment 18: Yes, the Draft Program EIR considers historical vehicular recreation in the discussion contained under Draft Program EIR Impact REC-1, beginning on page 4-22, and also details the loss of vehicular recreation area over time at the SVRA.

Oral Comment 19: A member of the public suggested there be a public disclosure of the dust issue to businesses and property owners in impacted areas.

Response to Oral Comment 19: This comment is out of the scope and purview of the OHMVR Division's environmental review of the proposed Dust Control Program and does not raise any specific points on the Draft Program EIR's evaluation of the proposed Program's potential environmental impact.

Oral Comment 20: A member of the public asked about the timing of the Draft Program EIR given the modeling exercise being conducted by the OHMVR Division, CARB, and the SLOAPCD, as well as about recirculation of the Draft Program EIR.

Response to Oral Comment 20: As explained in the response to CCC Comment C4 (see Section 4.3 of this Final Program EIR), it is currently not possible for the OHMVR Division or any other agency, including the SLOAPCD, to definitively and conclusively identify what magnitude of dust control is necessary to achieve compliance with the Rule 1001 performance standard. The OHMVR Division, the SLOAPCD, and CARB are currently in the preliminary stages of undertaking a modeling exercise that may inform the location and magnitude of dust control measures installed at Oceano Dunes SVRA; however, as described in Section 2.1.3.1 of this Final Program EIR, this exercise is still only in its preliminary stages.

In addition, as described in the response to SLOAPCD Comment D2 (see Section 4.4 of this Final Program EIR), the OHMVR Division is required (pursuant to CEQA) to consider subsequent dust control activities against the scope and content of the Program EIR. Specifically, page 1-11 states, “In accordance with CEQA Guidelines Section 15168(c), if dust control activities implemented later under this Program EIR are within the scope of this Program EIR, no further CEQA review is necessary. If the OHMVR Division determines the later activity would have effects that were not examined in this Program EIR, it would evaluate potential impacts under PRC Section 21166, which only requires subsequent CEQA review in certain circumstances. Any feasible mitigation measures or alternatives developed in this Program EIR must also be included in the subsequent activity.” The OHMVR Division would review and evaluate the results of this modeling program to see if they fit within the scope of the Dust Control Program EIR when it is appropriate to do so (e.g., when the modeling is complete to the satisfaction of the OHMVR Division, SLOAPCD, and CARB).

Oral Comment 21: A member of the public asked why the OHMVR Division proposed a five-year program as opposed to a three-year alternative.

Response to Oral Comment 21: Draft Program EIR Section 12.2.2 evaluates an alternative that consists of an accelerated schedule for the proposed Dust Control Program. Specifically, Draft Program EIR page 12-5 states, “The OHMVR Division considered an accelerated schedule for the proposed Dust Control Program in which the proposed activities would be undertaken on a two- or three year schedule; however, an accelerated schedule that guarantees or ensures dust control measures achieve the goals set by the proposed agreement is not considered feasible for several reasons. First, the number of dust control measures necessary to achieve the goals of the proposed agreement is not known for certain. Second, even if the exact level of control were known, vegetation planted on an active dune system takes time to establish and is hampered by a short growing season, lack of available on-site water, and protocols requiring use of locally collected native vegetation. Thus, there are natural limitations to planting schedules. Newly planted vegetation could be augmented with seasonal dust control materials, but this would require the OHMVR Division to acquire, deploy, and maintain what is presumed to be substantial quantities of artificial materials, and the resources (staff and materials) necessary to plant sufficient vegetation or deploy sufficient artificial materials are not available due to state budget limitations and schedule. Accordingly, the OHMVR Division has rejected this alternative because it is not logistically and technically feasible.”

Oral Comment 22: A member of the public expressed support for planting trees to control downwind dust.

Response to Oral Comment 22: Comment noted.

Oral Comment 23: A member of the public asked about the need for track out on Grand Avenue when Grover Beach communities do not have a PM10 issue.

Response to Oral Comment 23: As explained in the response to Comment F2 (see Section 4.6 of this Final Program EIR), the proposed Dust Control Program area includes a small portion of Grand Avenue in the City of Grover Beach for the installation, operation, and maintenance of a track-out prevention device as required by SLOAPCD Rule 1001.

Oral Comment 24: A member of the public asked if the OHMVR Division considered other methods of dust control approved and/or recommended by the SLOAPCD besides fencing.

Response to Oral Comment 24: Draft Program EIR Section 12.4 discusses an alternate dust control program recommended by the SLOAPCD. Specifically, on Draft Program EIR pages 12-10 to 12-11, the EIR states, “The alternate dust control program would still involve planting approximately 20 acres of native dune vegetation per year; however, the planting would be emphasized in areas closer to the shore and where foredunes would be expected in the absence of vehicular recreation.” The Draft Program EIR then goes on to conclude (page 12-11), “The alternate dust control program could also result in direct and/or indirect impacts on biological resources because the emphasis on planting vegetation in near-shore areas would likely modify, to some degree, USFWS-designated critical habitat for the western snowy plover (federal-listed as threatened). Planting vegetation in this critical habitat area could impact active nests by providing habitat for predators to hide and stalk nesting western snowy plovers and California least terns (federal- and state-listed as threatened). The proposed Dust Control Program largely avoids this impact by setting back the Program area at least 1,100 feet from the mean high tide line and avoiding USFWS critical habitat areas.” Thus, the Draft Program EIR did consider other methods of dust control recommended by the SLOAPCD.

Oral Comment 25: A member of the public asked about cumulative sources of PM10.

Response to Oral Comment 25: A discussion of the project’s contribution to cumulative PM10 levels is addressed in Section 11.2.5 of the Draft Program EIR which states, the project would, “result in an air quality benefit from a reduction of dust and PM10 emissions in the vicinity of the Program” and determined the Program’s contribution to cumulative air quality impacts would not be cumulatively considerable.

Oral Comment 26: A member of the public asks why the EIR did not identify a numerical or percentage target for dust reduction and suggests the EIR identify the targeted effectiveness of the dust control measures.

Response to Oral Comment 26: As explained in the response to CCC Comment C4 (see Section 4.3 of this Final Program EIR), Section 1.1.3 of the Draft Program EIR summarizes the results of eight different studies that examined dust and PM generation at Oceano Dunes SVRA and which helped to form the basis for the proposed Dust Control Program. *None of these studies describe the level of dust control necessary to achieve compliance with the Rule 1001 performance standard.* Even the SLOAPCD, in its comments on the Draft Program EIR, acknowledges that the magnitude of emissions reductions, as well as the areas where mitigation will be most effective, is still being evaluated (see response to Comment D2 in Section 4.4 of this Final EIR). Thus, it is not

possible for the OHMVR Division or any other agency, including the SLOAPCD, to definitively and conclusively identify what magnitude of dust control is necessary to achieve compliance with the Rule 1001 performance standard.

Oral Comment 27: A member of the public expressed support for the use of other colors of fencing that blend in with the environment.

Response to Oral Comment 27: Comment noted. As a point of clarification, the Draft Program EIR concludes the potential visual impact from wind fencing would be less than significant regardless of whether orange or green fencing is used (see discussion under Draft Program EIR Impact AES-1). In other words, the Draft Program EIR does not require the use of green fencing to make the use of potential wind fencing visually compatible with the visual character and quality of Oceano Dunes SVRA.

Oral Comment 28: A member of the public stated the orange dust control fencing installed at Oceano Dunes SVRA in Spring 2016 is visible from Port San Luis.

Response to Oral Comment 28: This comment is consistent with the information and findings in the Draft Program EIR. Draft Program EIR Section 6.2.1.2 identifies publicly accessible points along the shoreline as potential sensitive receptors. Specifically, Draft Program EIR page 6-5 states, “As shown in Figure 2-1, Oceano Dunes SVRA is situated near the center of a spiral-shaped stretch of coastline. This location allows the SVRA to be seen from parks and public areas located north and south of Oceano Dunes SVRA, such as the Pismo Pier, Dinosaur Caves Park and other public areas along Ocean Boulevard in Shell Beach, and Rancho Guadalupe Dunes County Park in Santa Barbara County. These public parks and other areas are approximately three to five miles up and down the coast from Oceano Dunes SVRA. The SVRA, therefore, lies in the fore to middle ground of the viewer’s perspective from these areas, with the Nipomo Mesa, elevated parts of Pismo Beach and Grover Beach, and parts of the Coast and Transverse Ranges in the view background when looking east.” In addition, Draft Program EIR Impact AES-1 evaluates the significance of the potential change in view from these sensitive receptors locations and concludes this impact would be less than significant.

Oral Comment 29: A member of the public asked if neutral fencing colors could be used or if orange fencing must be used out of a concern for rider safety.

Response to Oral Comment 29: Draft Program EIR Section 6.4.2 identifies that the OHMVR Division would deploy green- or neutral-colored wind fencing when existing orange-colored fencing supplies deteriorate or run out.

Oral Comment 30: A member of the public asked if the proposed tree plantings would obstruct public views or otherwise displace land or other biological features and requests the potential visual resource impacts of tree plantings be included in the EIR.

Response to Oral Comment 30: Draft Program EIR page 6-14 states, “Any trees planted as part of the Dust Control Program would take several years to grow to the point where they could be visible from a distance and/or distinguishable from groves of trees located along SR 1.” As a point of clarification, the potential tree plantings would only have the potential to obstruct public views from SR 1. Vehicles travelling southbound on SR 1 in the vicinity of the proposed tree planting area would not view trees planted by the OHMVR Division because: 1) some of the proposed tree planting area is situated behind (west of) existing, large eucalyptus groves; 2) the parts southbound SR 1 that are not bordered by eucalyptus groves do not have a view of the ocean (rather, it has a view of

the rail line adjacent to SR 1 and the Phillips 66 refinery); and 3), SR 1 bends to the east, away from the proposed tree planting area. Vehicles travelling northbound on SR 1 near the proposed tree planting area would approach the tree planting area head-on in the vicinity of the Phillips 66 refinery (i.e., from their viewpoint, the trees would be directly in front); however, this stretch of SR 1 does not have ocean views, and eucalyptus trees are a common sight adjacent to the road. Past the Phillips 66 refinery, vehicles travelling northbound view the refinery, the rail line, and large groves of eucalyptus trees. Thus, due to existing topography and landforms, eucalyptus, and development between SR 1 and the proposed tree planting area, the OHMVR Division's proposed tree planting activities, if they occur, would not block or obstruct scenic views of the dunes or ocean from SR 1. The potential impacts from tree plantings on biological resources are evaluated in under Draft Program EIR Impacts BIO-1 and BIO-3.

Oral Comment 31: A member of the public suggests the Draft EIR public meeting presentation should provide more information next time.

Response to Oral Comment 31: Comment noted.

Oral Comment 32: A member of the public requests clarification on the installation of vegetation during the 2017/2018 planting season and noted the Draft Program EIR should be updated if the first year of targeted planting is misidentified.

Response to Oral Comment 32: As explained in the response to Comment W26 (see Section 4.23 of this Final Program EIR), the OHMVR Division is proposing to implement the proposed Dust Control Program for a five-year period that is estimated to begin in Spring 2017 and continue through late 2022. As shown in Section 3.3 of this Final Program EIR, the OHMVR Division has revised the proposed schedule of activities described in Draft Program EIR Section 2.4 and deleted Table 2-4 from the EIR.

Oral Comment 33: A member of the public suggested the OHMVR Division consider installing the temporary measures (wind fencing, soil stabilizers, etc.) on a year-round basis as opposed to a seasonal basis.

Response to Oral Comment 33: The commenter is correct seasonal dust control measures would not be permanent; however, they could be in place from approximately March 1 to September 30, or the 7 months of the year in which Oceano Dunes SVRA is most often exposed to strong and frequent prevailing winds from the northwest.

Oral Comment 34: A member of the public asked about the possible agricultural contributions to dust levels on the Nipomo Mesa.

Response to Oral Comment 34: This comment refers to existing conditions and does not raise any specific points on the Draft Program EIR's evaluation of the proposed Dust Control Program's potential environmental impacts.

Oral Comment 35: A member of the public asked about the location of schools and their proximity to the highest identified emission zone. Following this question, a representative from the SLOAPCD confirmed that three schools (Lopez Continuation, Mesa Middle, and Dorothea Lang) are not within the SLOAPCD CDF forecast zone.

Response to Oral Comment 35: As explained in the response to Comment W16 (see Section 4.23 of this Final Program EIR), Draft Program EIR 2.3.1.1 summarizes monitoring at nearby schools showed particulate matter levels lower than that measured by CDF.

Oral Comment 36: A member of the public expresses concern that the proposed tree plantings will not be effective in controlling PM10 measurements.

Response to Oral Comment 36: As explained in the response to Comment N1 (see Section 4.14 of this Final Program EIR), trees provide a surface for the deposition of airborne particles and may also absorb a small amount of airborne particulates; however, particles deposited on leaf surfaces may subsequently become re-suspended as leaf litter deteriorates. Regardless, the Draft Program EIR recognizes the efficacy of this measure is not certain and does not take credit for any near-term reductions associated with this activity. Refer also to response to Comment W7 (see Section 4.23 of this Final Program EIR).

Oral Comment 37: A member of the public asked if the OHMVR Division has information on PM10 levels measured in other areas in the state such as Salinas, Monterey Bay, and other coastal areas.

Response to Oral Comment 37: This comment does not raise any specific points on the Draft Program EIR's evaluation of the proposed Dust Control Program's potential environmental impacts.

Oral Comment 38: A member of the public commented that the Draft EIR does not include a clear dust reduction goal.

Response to Oral Comment 38: Refer to the response to Oral Comment 26 above.

Oral Comment 39: A member of the public commented the dust issue is unique to San Luis Obispo County.

Response to Oral Comment 39: This comment does not raise any specific points on the Draft Program EIR's evaluation of the proposed Dust Control Program's potential environmental impacts.

Oral Comment 40: A member of the public requested the Draft Program EIR include consideration of technical factors like the differences in sand grain size from the Pismo area to Rancho Guadalupe Dunes.

Response to Oral Comment 40: Draft Program EIR Section 1.1.3 which summarizes the results of eight different studies that examined dust and PM generation at Oceano Dunes SVRA and which helped to form the basis for the proposed Dust Control Program, including a 2013 study that found "factors such as sand grain size, meteorology, and topography all influence PM10 emissions (both potential and actual)." Nonetheless, this comment does not raise any specific points on the Draft Program EIR's evaluation of the proposed Dust Control Program's potential environmental impacts.

Oral Comment 41: A member of the public asked about the EIR certification process.

Response to Oral Comment 41: As explained in Section 1.1 of this Final Program EIR, upon completion of the public review period for the Draft Program EIR, the OHMVR Division prepared written responses to all significant environmental comments and incorporated them into this Final Program EIR. Written responses to comments received from any public agency have been made available to those agencies at least 10 days before the OHMVR Division considers certification of the Final EIR.

The OHMVR Division will consider the comments it received on the Draft Program EIR and the information contained in this document when deciding on whether or not certify

the Final Program EIR and approve the proposed Dust Control Program. Should the OHMVR Division decide to certify the EIR for the proposed Dust Control Program, a statement of overriding considerations would be required because the Draft Program EIR identifies the proposed Program would result in several significant and unavoidable impacts that cannot be avoided or substantially reduced via mitigation measures or Program alternatives. Thus, the OHMVR Division would prepare and adopt a statement of overriding considerations at the time it considers certifying this Program EIR.

Oceano Dunes SVRA Dust Control Program Final Program Environmental Impact Report

UPDATED EIR APPENDIX B

Biological Resources – Special Status Species Tables

**B1: Special-Status Plant Species with the Potential to Occur in the
Dust Control Program Area**

**B2: Special-Status Wildlife Species with the Potential to Occur in
the the Dust Control Program Area**

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Table B1. Special-status Plant Species with the Potential to Occur in the Dust Control Program Area						
Species	Listing Status ¹	Range in California	Habitat	Life Form/ Blooming Period	Potential to Occur	Sources
red sand verbena <i>Abronia maritima</i>	CRPR 4.2	Along coast from SLO County to Mexican border.	Coastal dunes, 0-100 m.	Perennial herb, Feb.-Nov.	High- Known from CDPR surveys to occur in and around Oceano Dunes SVRA, including near Strand Way, Pismo Dunes Natural Preserve, and on vegetation islands. Suitable habitat present within the project area.	3, 4, 5, 6
Hoover's bent grass <i>Agrostis hooveri</i>	CRPR 1B.2	Endemic, coastal SLO and SB Counties.	Closed cone coniferous forest, chaparral, cismontane woodland or valley and foothill grassland usually on sandy soils; 6-610 m.	Perennial herb, Apr.-Jul.	None- No suitable habitat and no records from area.	2, 3
Douglas' fiddleneck <i>Amsinckia douglasiana</i>	CRPR 4.2	Endemic, west of the Sierras from Monterey County to Santa Barbara & in Tehachapi Ranges.	Cismontane woodland or valley and foothill grassland on Monterey shale; 0-1950 m.	Annual herb, Mar.-May	None- No suitable habitat and no records from area.	3
aphanisma <i>Aphanisma blitoides</i>	CRPR 1B.2	Southern California coast and offshore islands from Santa Maria to Mexican border.	Coastal bluff scrub, coastal dunes or coastal scrub on sandy soils; 1-305 m.	Annual herb, Mar.-Jun.	None- Outside of species range.	3
Eastwood's brittle-leaf manzanita <i>Arctostaphylos crustacea</i> ssp. <i>eastwoodiana</i>	CRPR 1B.1	Endemic to coastal SB County.	Chaparral (maritime, sandy); 90-365 m.	Perennial evergreen shrub, March	None- Outside of species range.	3
Santa Lucia Manzanita <i>Arctostaphylos luciana</i>	CRPR 1B.2	Endemic to SLO County.	Chaparral or cismontane woodland on shale; 350-850 m.	Perennial evergreen shrub, Dec.-Mar.	None- No suitable habitat and no records from area.	3
Morro manzanita <i>Arctostaphylos morroensis</i>	FT, CRPR 1B.1	Endemic to SLO County.	Chaparral (maritime), cismontane woodland, coastal dunes (pre-Flandrian) or coastal scrub on Baywood fine sand; 5-205 m.	Perennial evergreen shrub, Dec.-Mar.	None- No suitable habitat and no records from area.	1, 3

Table B1. Special-status Plant Species with the Potential to Occur in the Dust Control Program Area						
Species	Listing Status	Range in California	Habitat	Life Form/ Blooming Period	Potential to Occur	Sources
Oso manzanita <i>Arctostaphylos osoensis</i>	CRPR 1B.2	Endemic to SLO County.	Chaparral or cismontane woodland on dacite porphyry buttes; 95 to 500 m. (312-1,640 m.).	Perennial evergreen shrub, Feb.-Mar.	None- No suitable habitat and no records from area.	3
Pecho manzanita <i>Arctostaphylos pechoensis</i>	CRPR 1B.2	Endemic to SLO and SB Counties.	Closed-cone coniferous forest, chaparral or coastal scrub on siliceous shale; 125-850 m.	Perennial evergreen shrub, Nov.-Mar.	None- No suitable habitat and no records from area.	3
Santa Margarita manzanita <i>Arctostaphylos pilosula</i>	CRPR 1B.2	Endemic, occurs in SLO, SB and Monterey Counties.	Broad-leaved upland forest, closed-cone coniferous forest, chaparral or cismontane woodland sometimes on sandstone; 170-1100 m.	Perennial evergreen shrub, Dec.-May	None- No suitable habitat and no records from area.	2, 3
La Purisima Manzanita <i>Arctostaphylos purissima</i>	CRPR 1B.1	Endemic to SB County.	Chaparral (sandy), coastal scrub.	Perennial evergreen shrub, Nov.-May	None- Outside of species range.	3
sand mesa manzanita <i>Arctostaphylos rudis</i>	CRPR 1B.2	Endemic to SLO and SB Counties.	Chaparral (maritime) or coastal scrub on sandy soils; 25-322 m.	Perennial evergreen shrub, Nov.-Feb.	Low- Observed within Oceano Dunes SVRA by CDPR staff in 2013. The closest CNDDB record is 1.5 miles east of Oceano Dunes SVRA at Nipomo Mesa. Suitable habitat present in the project area.	2, 3, 5
marsh sandwort <i>Arenaria paludicola</i>	FE, SE, CRPR 1B.1	Remaining extant occurrences are in SLO and Los Angeles Counties.	Sandy openings in marshes and swamps (fresh water or brackish); 3-170 m.	Perennial stoloniferous herb, May-Aug.	Low- Not known to occur within the project area. Only known extant population at Oso Flaco Lake. Black Lake within the potential tree planting area provides some suitable habitat within the project area; however, no other suitable habitat present within the project area.	1, 2, 3, 4, 5
Miles' milk-vetch <i>Astragalus didymocarpus</i> var. <i>milesianus</i>	CRPR 1B.2	Endemic to SLO, SB and Ventura Counties.	Coastal scrub (clay); 20-90 m.	Annual herb, Mar.-Jun.	None- No suitable habitat and no records from area.	3

Table B1. Special-status Plant Species with the Potential to Occur in the Dust Control Program Area						
Species	Listing Status	Range in California	Habitat	Life Form/ Blooming Period	Potential to Occur	Sources
Nuttall's milkvetch <i>Astragalus nuttallii</i> var. <i>nuttallii</i>	CRPR 4.2	Endemic to coast from San Francisco to SB County.	Coastal bluff scrub or coastal dunes; 3-120 m.	Perennial herb, Jan.-Nov.	Moderate- Known from CDPR surveys and CNDDDB records to occur within Oceano Dunes SVRA including in Pismo Dunes Natural Preserve, Phillips 66 Leasehold, Oso Flaco, and vegetation islands. Suitable habitat present in the project area.	3, 4, 5
Coulter's saltbrush <i>Atriplex coulteri</i>	CRPR 1B.2	Along coast from San Luis Obispo to Mexican border.	Coastal bluff scrub, coastal dunes, coastal scrub or valley and foothill grassland on alkaline or clay soils; 3-460 m.	Perennial herb, Mar.-Oct.	None- No suitable habitat and no records from area.	3
Davidson's saltscale <i>Atriplex serenana</i> var. <i> davidsonii</i>	CRPR 1B.2	Along coast from Santa Maria to San Diego.	Coastal bluff scrub or coastal scrub on alkaline soils; 10-200 m.	Annual herb, April-Oct.	None- No suitable habitat and no records from area.	2, 3
San Luis Obispo mariposa lily <i>Calochortus obispoensis</i>	CRPR 1B.2	Endemic to SLO County.	Chaparral, coastal scrub or valley and foothill grassland often on serpentine soils; 50-730 m.	Perennial bulbiferous herb, May-Jul.	None- No suitable habitat and no records from area.	2
La Panza mariposa lily <i>Calochortus simulans</i>	CRPR 1B.3	Endemic to SLO and SB Counties.	Chaparral, cismontane woodland, lower montane coniferous forest or valley and foothill grassland on sandy, often granitic and sometimes serpentine soils; 395-1100 m.	Perennial bulbiferous herb, Apr.-Jun.	None- No suitable habitat and no records from area.	3
Cambria morning-glory <i>Calystegia subacaulis</i> subsp. <i>episcopalis</i>	CRPR 4.2	Endemic to SLO and SB Counties.	Chaparral, cismontane woodland, coastal prairie or valley and foothill grassland usually on clay soils; 30-500 m.	Perennial rhizomatous herb, Mar.-May	None- No suitable habitat and no records from area.	3
San Luis Obispo owl's clover <i>Castilleja densiflora</i> spp. <i>obispoensis</i>	CRPR 1B.2	Endemic to SLO County.	Meadows and seeps or valley and foothill grassland sometimes on serpentine soils; 10-400 m.	Annual herb, Mar.-May	None- No suitable habitat and no records from area.	3

Table B1. Special-status Plant Species with the Potential to Occur in the Dust Control Program Area						
Species	Listing Status	Range in California	Habitat	Life Form/ Blooming Period	Potential to Occur	Sources
Monterey Coast paintbrush <i>Castilleja latifolia</i> ssp. <i>latifolia</i>	CRPR 4.3	Endemic to central coast.	Closed-cone coniferous forest, cismontane woodland (openings), coastal dunes or coastal scrub on sandy soils; 0-185 m.	Perennial herb (hemiparasitic), Feb.-Sep.	High- Known from CDPR surveys to be widespread in the Oceano Dunes SVRA area, including Carpenter Creek, Oso Flaco Lake, vegetation islands, Pismo Dunes Natural Preserve, and Phillips 66 Leasehold. Suitable habitat present in the project area.	4, 5
California jewelflower <i>Caulanthus californicus</i>	FE	Santa Barbara Canyon, the Carrizo Plain in San Luis Obispo County, and the Kreyenhagen Hills in Fresno County	Nonnative Grassland, Upper Sonoran Subshrub Scrub, and Cismontane Juniper Woodland; 75-90 m.	Annual herb, Feb-Mar.	None- No suitable habitat and no records from area.	1
Congdon's tarplant <i>Centromadia parryi</i> ssp. <i>congdonii</i>	CRPR 1B.2	Endemic to the San Francisco Bay Area, Monterey coast and SLO County.	Valley and foothill grassland (alkaline); 0-230 m.	Annual herb, May-Nov.	None- No suitable habitat and no records from area.	3
coastal goosefoot <i>Chenopodium littoreum</i>	CRPR 1B.2	Endemic to SLO, SB and Los Angeles Counties.	Coastal dunes; 10-30 m.	Annual herb, Apr.-Aug.	Moderate- Known from CDPR surveys and CNDDDB records to occur nearby at Oso Flaco and Jack Lakes. Suitable habitat present in the project area.	2, 3, 4, 5
Brewer's spineflower <i>Chorizanthe breweri</i>	CRPR 1B.3	Endemic to SLO and Monterey Counties.	Closed-cone coniferous forest, chaparral, cismontane woodland or coastal scrub on serpentinite, rocky or gravelly soils; 45-800 m.	Annual herb, Apr.-Aug.	None- No suitable habitat and no records from area.	2, 3
Douglas's spineflower <i>Chorizanthe douglasii</i>	CRPR 4.3	Endemic to SLO, San Benito and Monterey Counties.	Chaparral, cismontane woodland, coastal scrub or lower montane coniferous forest on sandy or gravelly soils; 55-1600 m.	Annual herb, Apr.-Jul.	Low- Documented during previous CDPR surveys to occur within the Pavilion Hill vegetation island. Marginal suitable habitat present in the project area.	4, 5
straight-awned spineflower <i>Chorizanthe rectispina</i>	CRPR 1B.3	Endemic to SLO, SB and Monterey Counties.	Chaparral, cismontane woodland or coastal scrub; 85-1035 m.	Annual herb, Apr.-Jul.	None- No suitable habitat and no records from area.	2

Table B1. Special-status Plant Species with the Potential to Occur in the Dust Control Program Area						
Species	Listing Status	Range in California	Habitat	Life Form/ Blooming Period	Potential to Occur	Sources
Bolander's water hemlock <i>Cicuta maculata</i> var. <i>bolanderi</i>	CRPR 2.1	Endemic to the San Francisco Bay Area, Sacramento Valley and central coast.	Coastal, fresh or brackish water marshes and swamps' 0-200 m.	Perennial herb, Jul.-Sep.	None- Presumed extirpated from SLO County.	3
Chorro Creek bog thistle <i>Cirsium fontinale</i> var. <i>obispoense</i>	FE, SE, CRPR 1B.2	Endemic to SLO County.	Chaparral, cismontane woodland, coastal scrub or valley and foothill grassland in serpentinite seeps and drainages; 35-380 m.	Perennial herb, Feb.-Sep.	None- No suitable habitat and no records from area.	1
surf thistle <i>Cirsium rhotophilum</i>	ST, CRPR 1B.2	Endemic to SLO and SB Counties.	Coastal bluff scrub or coastal dunes; 3-60 m.	Perennial herb, Apr.-Jun.	Low- Not known to occur within the project area. Observed during CDPR surveys at nearby Oso Flaco Lake. Suitable habitat present in the project area.	2, 3, 4, 5, 6
La Graciosa thistle <i>Cirsium scariosum</i> var. <i>loncholepis</i>	FE, ST, CRPR 1B.1	Endemic to SLO, SB and Monterey Counties.	Cismontane woodland, coastal dunes, coastal scrub, marshes and swamps (brackish) or valley and foothill grassland on mesic, sandy soils; 4-220 m.	Perennial herb, May-Aug.	Moderate- Known from CDPR surveys and CNDDDB records to occur nearby at Oso Flaco Lake, near Jack Lake, in the Callander Dunes, and at the Dune Lake complex. Suitable habitat present in the project area.	1, 2, 3, 4, 5
seaside cistanthe <i>Cistanthe maritima</i>	CRPR 4.2	Along southern coast from Santa Maria to Mexican border.	Coastal bluff scrub, coastal scrub or valley and foothill grassland on sandy soils; 5-300 m.	Annual herb, Feb.-Aug.	None- Outside of species range.	3
California saw-grass <i>Cladium californicum</i>	CRPR 2.2	Eastern and southern California.	Alkaline or freshwater meadows and seeps; 60-865 m.	Perennial rhizomatous herb, Jun.-Sep.	None- Known from a 1990 CNDDDB record near Oso Flaco Lake. No suitable habitat present in the project area.	2, 3, 5
Pismo clarkia <i>Clarkia speciosa</i> ssp. <i>immaculata</i>	FE, CRPR 1B.1	Endemic to SLO County.	Chaparral (margins, openings), cismontane woodland or valley and foothill grassland on sandy soils; 25-185 m.	Annual herb, May-Jul.	None- No suitable habitat within project area.	1, 2, 3

Table B1. Special-status Plant Species with the Potential to Occur in the Dust Control Program Area						
Species	Listing Status	Range in California	Habitat	Life Form/ Blooming Period	Potential to Occur	Sources
Saltmarsh bird's beak <i>Cordylanthus maritimus</i> ssp. <i>maritimus</i>	SE FE	Central and southern California coast.	Coastal salt marshes and coastal swamps; 0-30 m.	Annual herb, May-Oct.	None- Only known to occur at Morro Bay within San Luis Obispo County. No suitable habitat in the project area.	1, 2, 3
seaside bird's beak <i>Cordylanthus rigidus</i> ssp. <i>littoralis</i>	CRPR 1B.1	Endemic to SB and Monterey Counties.	Closed-cone coniferous forest, chaparral (maritime), cismontane woodland, coastal dunes or coastal scrub on sandy, often disturbed sites; 0-425 m.	Annual herb, Apr.-Oct.	None- Outside of species range.	2
branching beach aster <i>Corethrogyne leucophylla</i>	CRPR 3.2	Endemic to coast from Santa Cruz to Santa Maria.	Closed-cone coniferous forest or coastal dunes; 3-60 m.	Perennial herb, May-Dec.	Low- Not known to occur within or near the project area. Suitable habitat present in the project area.	3, 5
Gaviota tarplant <i>Deinandra increscens</i> ssp. <i>villosa</i>	FE, CE, CRPR 1B.1	Endemic to SB County.	Coastal bluff scrub, coastal scrub or valley and foothill grassland; 35-430 m.	Annual herb, May-Oct.	None- Outside of species range.	3
paniculate tarplant <i>Deinandra paniculata</i>	CRPR 4.2	Several counties in southern California.	Coastal scrub, valley and foothill grassland, and vernal pools, usually on vernal mesic and sometimes on sandy sites; 25- 940 m.	Annual herb, Apr.-Nov.	Low- Observed nearby the project area during previous CDPR surveys in the southern portion of the Phillips 66 Leasehold. Marginal suitable habitat present in the project area.	4, 5
dune larkspur <i>Delphinium parryi</i> ssp. <i>Blochmaniae</i>	CRPR 1B.2	Endemic to SLO, SB and Ventura Counties.	Chaparral (maritime), coastal dunes; 0-200 m.	Perennial herb, Apr.-May	Moderate- Known from CNDDDB records to occur nearby, south of Oso Flaco Lake, at the Callander Dunes, and east of the Oceano Dunes SVRA boundary. Suitable habitat present in the project area.	2, 3, 4, 5
beach spectaclepod <i>Dithyrea maritima</i>	ST, CRPR 1B.1	Southern coast and off-shore islands from San Luis Obispo to Los Angeles.	Coastal dunes, coastal scrub (sandy); 3-50 m.	Perennial rhizomatous herb, Mar.-May	Moderate- Known from CDPR and CNDDDB records to occur nearby at Oso Flaco Lake and south of Oso Flaco Lake. Suitable habitat present in the project area.	2, 3, 4, 5, 6

Table B1. Special-status Plant Species with the Potential to Occur in the Dust Control Program Area						
Species	Listing Status	Range in California	Habitat	Life Form/ Blooming Period	Potential to Occur	Sources
Blochman's dudleya <i>Dudleya blochmaniae</i> ssp. <i>blochmaniae</i>	CRPR 1B.1	Along coast from west of Paso Robles to Mexican border.	Coastal bluff scrub, chaparral, coastal scrub or valley and foothill grassland on rocky, often clay or serpentinite soils; 5-450 m.	Perennial herb; Apr.-Jun.	None- No suitable habitat and no records from area.	2, 3
Blochman's leafy daisy <i>Erigeron blochmaniae</i>	CRPR 1B.2	Endemic to SLO and SB Counties.	Coastal dunes, coastal scrub; 3-45 m.	Perennial rhizomatous herb; Jun.-Aug.	High- Locally common and widespread throughout Oceano Dunes SVRA. Suitable dune habitat present in the project area.	2, 3, 4, 5
Indian Knob mountainbalm <i>Eriodictyon altissimum</i>	FE, SE, CRPR 1B.1	Endemic to SLO County.	Chaparral (maritime), cismontane woodland or coastal scrub; 80-270 m.	Perennial evergreen shrub, Mar.-Jun.	None- No suitable habitat and no records from area.	1, 3
Hoover's button-celery <i>Eryngium aristulatum</i> var. <i>Hooveri</i>	CRPR 1B.1	Extant occurrences in Alameda, San Benito, San Diego and SLO Counties.	Vernal pools, 3-45 m.	Annual/perennial herb, Jul.-Aug.	None- No suitable habitat and no records from area.	2
suffrutescent wallflower <i>Erysimum suffrutescens</i>	CRPR 4.2	Endemic to and southern coast.	Coastal bluff scrub, chaparral (maritime), coastal dunes or coastal scrub; 0-150 m.	Perennial herb, Jan.-Jul.	High- Locally common and widespread throughout Oceano Dunes SVRA. Suitable habitat present in the project area.	3, 4, 5
Mesa horkelia <i>Horkelia cuneata</i> var. <i>puberula</i>	CRPR 1B.1	Endemic to central and southern coast.	Chaparral (maritime), cismontane woodland, coastal scrub on sandy or gravelly soils; 70-810 m.	Perennial herb, Feb.-Sep.	Moderate- Known from CNDDDB records from the Oso Flaco Lake area and in the vicinity of Black Lake. Black Lake provides suitable habitat within the potential tree planting area. Marginal suitable habitat present within the remainder of the project area.	2, 3
Kellogg's horkelia <i>Horkelia cuneata</i> var. <i>sericea</i>	CRPR 1B.1	Endemic to coast from San Francisco Bay Area to vicinity of Lompoc.	Closed-cone coniferous forest, chaparral (maritime), coastal dunes or coastal scrub in sandy or gravelly openings; 10-200 m.	Perennial herb, Apr.-Sep.	Moderate- Known from previous CDPR surveys to occur nearby in the Pismo Dunes Natural Preserve and Phillips 66 Leasehold. Suitable habitat present in the project area.	2, 3, 4, 5

Table B1. Special-status Plant Species with the Potential to Occur in the Dust Control Program Area						
Species	Listing Status	Range in California	Habitat	Life Form/ Blooming Period	Potential to Occur	Sources
southwestern spiny rush <i>Juncus acutus</i> ssp. <i>leopoldii</i>	CRPR 4.2	Central and southern coast.	Coastal dunes (mesic), meadows and seeps (alkaline seeps) or marshes and swamps (coastal salt); 3-900 m.	Perennial rhizomatous herb; Mar.-Jun.	Low- Has been documented during previous CDPR surveys in the Pismo Dunes Natural Preserve and the Eucalyptus Tree vegetation island. Suitable habitat in the project area.	4, 5
Jones' layia <i>Layia jonesii</i>	CRPR 1B.2	Endemic to SLO County.	Chaparral or valley and foothill grassland or clay or serpentinite soils; 5-400 m.	Annual herb, Mar.-May	None- No suitable habitat and no records from area.	3
fuzzy prickly phlox <i>Linanthus californicus</i>	CRPR 4.2	Endemic to SLO and SB Counties.	Coastal dunes, 1-30 m.	Perennial deciduous shrub, Mar.-Aug.	High- Observed during previous CDPR surveys in the Pismo Dunes Natural Preserve, Phillips 66 Leasehold, and the backdunes of South Oso Flaco. Suitable habitat present in the project area.	4, 5
San Luis Obispo County lupine <i>Lupinus ludovicianus</i>	CRPR 1B.2	Endemic to SLO County.	Chaparral or cismontane woodland on sandstone or sandy soils; 50-525 m.	Perennial shrub, Apr.-Jul	None- No suitable habitat and no records from area.	3
Nipomo Mesa lupine <i>Lupinus nipomensis</i>	FE, SE, CRPR 1B.1	Endemic to SLO County.	Coastal dunes; 10-50 m.	Annual herb, Dec.-May	High- Known from SLO County Land Conservancy surveys and CNDDDB records to occur nearby near Jack Lake, near Black Lake, and at the Callander Dunes. Suitable habitat present in the project area.	1, 2, 3, 4, 5
dunedelion <i>Malacothrix incana</i>	CRPR 4.3	Endemic to central and southern coast and off-shore islands.	Coastal dunes or coastal scrub; 2-35 m.	Perennial herb, Jan.-Oct.	Moderate- Observed during CDPR surveys at the Pavilion Hill vegetation island, 7.5 revegetation area, and near Oso Flaco Lake and Creek. Suitable habitat present in the project area.	4, 5, 6

Table B1. Special-status Plant Species with the Potential to Occur in the Dust Control Program Area						
Species	Listing Status	Range in California	Habitat	Life Form/ Blooming Period	Potential to Occur	Sources
crisp monardella <i>Monardella undulata</i> ssp. <i>crispa</i>	CRPR 1B.2	Endemic to SLO and SB Counties.	Coastal dunes or coastal scrub; 10-120 m.	Perennial rhizomatous herb, Apr.-Aug.	Present- Locally common and widespread throughout Oceano Dunes SVRA. Occurs within the vegetation island habitats and at the edges of other vegetation within the project area according to 2012 vegetation mapping and CNDDDB records.	2, 3, 4, 5
San Luis Obispo monardella <i>Monardella undulata</i> ssp. <i>undulata</i>	CRPR 1B.2	Endemic to SLO and SB Counties.	Coastal dunes or coastal scrub (sandy); 10-200 m.	Perennial rhizomatous herb, May-Sep.	Moderate- Known from CNDDDB records to occur nearby in the Pismo Dunes Natural Preserve, near Jack Lake, near Black Lake, in the Callander Dunes, in the Oso Flaco Lake area, and south of Oso Flaco Lake. Suitable habitat present in the project area.	2, 3, 4, 5
California spineflower <i>Mucronea californica</i>	CRPR 4.2	Endemic to central and southern California.	Chaparral, cismontane woodland, coastal dunes, coastal scrub or valley and foothill grassland on sandy soils; 0-1400 m.	Annual herb, Mar.-Aug.	Moderate- Observed during CDPR surveys in the Pismo Dunes Natural Preserve, Phillips 66 Leasehold, and South Oso Flaco. Suitable habitat present in the project area.	3, 4, 5
Gambel's watercress <i>Nasturtium gambelii</i>	FE, ST, CRPR 1B.1	Central and southern coast.	Marshes and swamps (freshwater or brackish).	Perennial rhizomatous herb, Apr.-Oct.	Low- Not known to occur within the project area. Observed during previous CDPR surveys at nearby Oso Flaco Lake in 2013. Black Lake could provide suitable habitat within the potential tree planting area; however, no additional suitable habitat present within the project area.	1, 2, 3, 4, 5
Spreading navarretia <i>Navarretia fossalis</i>	FT	Southern California	Chenopod scrub, marshes and swamps, playas, vernal pools.	Annual herb, Apr.-Jun.	None- Outside of species range.	1

Table B1. Special-status Plant Species with the Potential to Occur in the Dust Control Program Area						
Species	Listing Status	Range in California	Habitat	Life Form/ Blooming Period	Potential to Occur	Sources
coast woolly-heads <i>Nemacaulis denudata</i> var. <i>denudata</i>	CRPR 1B.2	Central and southern coast.	Coastal dunes; 0-100 m.	Annual herb, Apr.-Sep.	Low- One CNDDDB record within the dunes north of Oso Flaco Lake. Suitable habitat present in the project area.	3, 5
short-lobed broomrape <i>Orobanche parishii</i> ssp. <i>brachyloba</i>	CRPR 4.2	Central and southern coast and off-shore islands.	Coastal bluff scrub, coastal dunes or coastal scrub on sandy soils; 3-305 m.	Perennial herb (parasitic), Apr.-Oct.	Low- Known from CDPR surveys and CNDDDB from one occurrence in South Oso Flaco. Suitable habitat present in the project area.	2, 3, 4, 5
Hickman's popcorn flower <i>Plagiobothrys chorisianus</i> var. <i>hickmanii</i>	CRPR 4.2	Endemic to San Mateo, Santa Clara, Santa Cruz, San Benito, Monterey and SLO Counties.	Closed-cone coniferous forest, chaparral, coastal scrub, marshes and swamps or vernal pools; 15-185 m.	Annual herb, Apr.-Jun.	Moderate- Observed during CDPR surveys at four vegetation islands, in the Phillips 66 Leasehold, and at Maidenform. Suitable habitat present in the project area.	4, 5
sand almond <i>Prunus fasciculata</i> var. <i>punctata</i>	CRPR 4.3	Endemic to SLO and SB Counties.	Chaparral (maritime), cismontane woodland, coastal dunes or coastal scrub on sandy soils; 15-200 m.	Perennial deciduous shrub, Mar.-Apr.	Low- Only observed during CDPR surveys within the Phillips 66 Leasehold. Suitable habitat present in the project area.	3, 4, 5
Hoffmann's sanicle <i>Sanicula hoffmannii</i>	CRPR 4.3	Endemic to central coast and off-shore islands.	Broad-leafed upland forest, chaparral or coastal scrub often on serpentinite or clay soils; 30-300 m.	Perennial herb, Mar.-May	None- No suitable habitat and no records from area.	3
black-flowered figwort <i>Scrophularia atrata</i>	CRPR 1B.2	Endemic to SLO and SB Counties.	Closed-cone coniferous forest, chaparral, coastal dunes, coastal scrub or riparian scrub; 10-500 m.	Perennial herb, Mar.-Jul.	Low- Suitable habitat occurs in the project area; however, this species mostly occurs on much older sand dunes than are present in the area. No CNDDDB records or observations from CDPR surveys occur in or near the project area.	2, 3
Blochman's groundsel <i>Senecio blochmaniae</i>	CRPR 4.2	Endemic to SLO and SB Counties.	Coastal dunes, 0-100 m.	Perennial herb, May-Oct.	Moderate- Locally common and widespread throughout Oceano Dunes SVRA. Suitable habitat present in the project area.	3, 4, 5

Species	Listing Status ¹	Range in California	Habitat	Life Form/ Blooming Period	Potential to Occur	Sources
San Bernardino aster <i>Symphotrichum defoliatum</i>	CRPR 1B.2	Endemic to California.	Cismontane woodland, coastal scrub, lower montane coniferous forest, meadows and seeps, marshes and swamps or valley and foothill grassland (vernally mesic) near ditches, streams or springs; 2-2040 m.	Perennial rhizomatous herb, Jul.-Nov.	None- Known from a CNDDDB occurrence from 1993 approximately 0.5-mile from the Pismo Dunes Natural Preserve. No suitable habitat present in the project area.	2, 3, 5
¹ Listing Status Key: FE – Federal Endangered FT – Federal Threatened FC – Federal Candidate SE – State Endangered ST – State Threatened SC – State Candidate		California Rare Plant Rank: CRPR 1B: Plants rare, threatened, or endangered in California and elsewhere. CRPR 2: Plants rare, threatened, or endangered in Calif. but common elsewhere. CRPR 3: More information about this plant needed (Review List). CRPR 4: Limited distribution (Watch List). CRPR Threat Code extensions and their meanings: .1 – Seriously endangered in California (over 80% of occurrences threatened / high degree and immediacy of threat) .2 – Fairly endangered in California (20-80% occurrences threatened) .3 – Not very endangered in California (<20% of occurrences threatened or no current threats known).				

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Table B2. Special-status Animal Species with the Potential to Occur in the Dust Control Program Area					
Species	Listing Status	Range in California	Habitat	Potential to Occur	Sources
Fish					
steelhead - south/central California coast ESU <i>Oncorhynchus mykiss irideus</i>	FT, CSSC	Coastal river basins from the Russian River south to Soquel and Aptos Creek, and the drainages of San Francisco and San Pablo Bays, including the Napa River.	Hatches in fresh water, lives adult life in the ocean, and returns to natal stream or river to spawn; spawning and rearing habitat consists of perennial streams with clear, cool to cold, fast flowing water with a high dissolved oxygen content and abundant gravels and riffles.	None- Collected during CDPR fish surveys in Pismo Creek and Arroyo Grande Creek. No suitable habitat present in the project area.	2, 3, 4
Arroyo chub <i>Gila orcuttii</i>	CSSC	Native to streams from Malibu Creek to San Luis Rey River Basin; introduced into streams in Santa Clara, Ventura and Santa Ynez.	Slow water stream sections with mud or sand bottoms; feeds heavily on aquatic vegetation and associated invertebrates.	None- Has not been observed during CDPR fish surveys at Oceano Dunes SVRA. No suitable habitat present in the project area.	2
unarmored threespine stickleback <i>Gasterosteus aculeatus williamsoni</i>	FE, SE	Weedy pools, backwaters and among emergent vegetation in small southern California streams.	Cool, clear water with abundant vegetation	None- No known records in or near the project area. No suitable habitat present in the project area.	2, 3
tidewater goby <i>Eucyclogobius newberryi</i>	FE, CSSC	Occurs in brackish water habitats along the California coast from Agua Hedionda Lagoon, San Diego County to the mouth of the Smith River.	Found in shallow lagoons and lower stream reaches, they need fairly still but not stagnant water and high oxygen levels.	None- Collected from Arroyo Grande Creek and Pismo Creek during CDPR surveys. No suitable habitat present in the project area.	1, 2, 3, 4
Invertebrates					
monarch butterfly <i>Danaus plexippus</i>		Overwinters along the western coast from Mendocino in northern California, south to Baja California, Mexico.	Roost habitat consists of wind-protected tree groves, typically eucalyptus, Monterey pine, Monterey Cypress, with nectar and water sources nearby.	Low- Known roost location located adjacent to the North Beach Campground in Pismo State Beach. No known roost habitat occurs inside the project area; however, some trees are present in the potential tree planting area that could provide marginal roosting habitat.	2

Table B2. Special-status Animal Species with the Potential to Occur in the Dust Control Program Area					
Species	Listing Status	Range in California	Habitat	Potential to Occur	Sources
Amphibians/Reptiles					
California tiger salamander <i>Ambystoma californianse</i>	FT, ST, CSSC	Endemic, found in isolated populations the Central Valley and Central Coast ranges.	Needs underground refuges, especially ground squirrel burrows, and vernal pools or other seasonal wetlands for breeding.	None- No suitable habitat and not known from project area.	1
California red-legged frog <i>Rana draytonii</i>	FT, CH, CSSC	Historically, this species was found along the coast and Coast Ranges from Mendocino County in northern California south to northern Baja California, and inland east through the northern Sacramento Valley into the foothills of the Sierra Nevada mountains, south to Tulare county, and possibly Kern county.	Inhabits lowlands and foothills in or near permanent sources of deep water with dense, shrubby or emergent riparian vegetation. Requires 11-20 weeks of permanent water for larval development. Must have access to estivation habitat.	Moderate- Observed during CDPR surveys in the Oso Flaco Lake complex, Little Oso Flaco Lake, Jack Lake, Lettuce Lake, Little Oso Flaco Creek, and Arroyo Grande Creek. Suitable habitat present in Black Lake within the potential tree planting area. Could also make overland migrations across the project area.	1, 2, 3, 4
Western spadefoot <i>Spea hammondi</i>	CSSC	Ranges from near Redding south throughout the Great Valley and its associated foothills, through the South Coast Ranges into coastal southern California south of the Transverse mountains and west of the Peninsular mountains, into northwest Baja California.	Occurs primarily in grassland habitats, but can be found in valley-foothill hardwood woodlands; needs vernal pools for egg laying and breeding.	Moderate- Observed at Oso Flaco Lake in February and March of 2000. Marginal suitable habitat present in the vicinity of Black Lake within the tree planting area. Could also make overland migrations across project area.	2, 3, 4
Western pond turtle <i>Emys marmorata</i>	CSSC	From Oregon border of Del Norte and Siskiyou Counties south along the coast to San Francisco Bay, inland through the Sacramento Valley and on western slope of Sierra Nevada.	Ponds, marshes, rivers, streams, and irrigation canals with muddy or rocky bottoms and with watercress, cattails, water lilies, or other aquatic vegetation in woodlands, grasslands, and open forests.	Low- Observed in Oso Flaco Lake, Jack Lake, and Arroyo Grande Creek in 2006. Suitable habitat present in Black Lake within the tree planting area; however, no other suitable aquatic habitat present in the project area.	2, 3, 4

Table B2. Special-status Animal Species with the Potential to Occur in the Dust Control Program Area					
Species	Listing Status	Range in California	Habitat	Potential to Occur	Sources
silvery legless lizard <i>Anniella pulchra pulchra</i>	CSSC	Occurs from the southern edge of the San Joaquin River in northern Contra Costa County south to northwestern Baja California Del Norte just south of Colonia Guerrero. Five lineages; Lineage D occurs in project area.	Dunes, chaparral, pine-oak woodlands, desert scrub, sandy washes, and riparian habitats with moist, sandy soils.	Moderate- Observed in Oceano Dunes SVRA in vegetation islands, at Oso Flaco Lake, Little Oso Flaco Lake, Jack Lake, and near Lettuce Lake. Suitable habitat is present in the project area.	2, 3, 4
coast (California) horned lizard <i>Phrynosoma blainvillii</i>	CSSC	Historically, found along the Pacific coast from the Baja California border west of the deserts and the Sierra Nevada, north to the Bay Area, and inland as far north as Shasta Reservoir, and south into Baja California. Ranges up onto the Kern Plateau east of the crest of the Sierra Nevada. Current range is more fragmented.	Chaparral, grasslands, coniferous forests in fine, loose soils.	Moderate- Observed at Oso Flaco Lake and Little Oso Flaco Lake. Anecdotal reports in vegetation islands at Oceano Dunes SVRA. Suitable habitat present in the project area.	2, 3, 4
two-striped garter snake <i>Thamnophis hammondi</i>	CSSC	Coastal California from vicinity of Salinas to northwest Baja California, from sea level to about 7,000 feet.	Highly aquatic, found in or near permanent fresh water, often along streams with rocky beds and riparian growth.	Low- Observed at Oso Flaco Lake. Black Lake within the potential tree planting area provides marginal suitable habitat. No other suitable habitat present in the project area.	2, 3, 4
Birds					
American white pelican <i>Pelecanus erythrorhynchos</i>	CSSC (nesting)	Year-round resident along the Coast and Central Valley from the San Francisco Bay Area south to the border with Mexico; and a summer resident in the northeast corner of California.	White pelicans nest on the ground in colonies on earthen, sandy or rocky, islands, peninsulas or tule mats. They forage in shallow inland waters or shallow coastal marine waters.	Low- Project area is outside the known breeding range. Observed infrequently during CDPR surveys within Oceano Dunes SVRA. Suitable foraging habitat is present at Black Lake within the project limits. Additional suitable foraging habitat is present at lakes nearby the project area; therefore, this species could fly through the project area.	3

Table B2. Special-status Animal Species with the Potential to Occur in the Dust Control Program Area					
Species	Listing Status	Range in California	Habitat	Potential to Occur	Sources
California brown pelican <i>Pelecanus occidentalis californicus</i>	CFP	Year-round resident along southern California coast, migrant elsewhere along coast.	Colonial nester on coastal islands just outside the surf line.	Low- Project area is outside the known breeding range. Observed during CDPR surveys within Oceano Dunes SVRA. No suitable roosting habitat is present within the project limits. Suitable foraging habitat is present within the potential tree planting area at Black Lake and near the project area within the lakes and ocean.	5
least bittern <i>Ixobrychus exilis</i>	CSSC	Year-round resident in southern California, summer resident in the Central Valley.	Colonial nester in marshlands and borders of ponds and reservoirs which provide ample cover; nests usually placed low in tules, over water.	Low- Not known to breed in or near the project area. County records for this species are scarce. Observed at Oso Flaco Lake. No suitable breeding habitat present within the project limits. Black Lake within the potential tree planting area provides marginal suitable foraging habitat.	3
wood stork <i>Mycteria americana</i>	CSSC	Migrant in southern California, vagrant elsewhere.	Freshwater and saltwater sloughs, shallow ponds and marshes.	Low- One observation during CDPR surveys at Oso Flaco Lake in 2011. No suitable breeding or foraging habitat present within the project area.	3
brant <i>Branta bernicla</i>	CSSC	Winters along entire California coast.	Requires well-protected, shallow marine waters with inter-tidal eel grass beds, primarily within bays and estuaries; primary food is eel grass.	Low- Project area is outside the known breeding range. Winter visitor to Oceano Dunes SVRA. Observed at Oceano Dunes SVRA during CDPR surveys. No suitable foraging habitat present within the project limits.	3
Tricolored blackbird <i>Agelaius tricolor</i>	CSSC	Native to California with the exception of a few small nesting colonies in Oregon, Washington, Nevada, and coastal Baja California. Over 90 percent of the California population resides in the Central Valley.	Typically occur in cattail (<i>Typha</i> spp.) or tule (<i>Schoenoplectus</i> spp.) marshes. Forages in fields and pastures. Breeds in large freshwater marshes.	Low- Project area is outside the known breeding range. Observed in Oceano Dunes SVRA during CDPR surveys. No suitable nesting or foraging habitat present within the project limits.	3

Table B2. Special-status Animal Species with the Potential to Occur in the Dust Control Program Area					
Species	Listing Status	Range in California	Habitat	Potential to Occur	Sources
redhead <i>Aythya americana</i>	CSSC	Year-round resident in central valley, winter resident elsewhere in state.	Nests on marshy lakes and ponds, winters in large flocks on sheltered bays and lakes.	Low- Project area is outside the known breeding range. Observed foraging in Oceano Dunes SVRA during CDPR surveys. No suitable foraging habitat is present within the project limits.	3
Northern harrier <i>Circus cyaneus</i>	CSSC	Throughout lowland California; has been recorded in fall at high elevations.	Grasslands, meadows, marshes, and seasonal and agricultural wetlands.	High- Regularly observed in Oceano Dunes SVRA. Uncommon in the winter and rare, but regular breeding in the Oso Flaco Lake area. Black Lake in the potential tree planting area provides suitable breeding and foraging habitat. Could migrate through the project area.	3, 4, 5
white-tailed kite <i>Elanus leucurus</i>	CFP	Lowland areas west of Sierra Nevada from head of Sacramento Valley south, including coastal valleys and foothills, to western San Diego County at Mexico border.	Low foothills or valley areas with valley or live oaks, riparian areas, and marshes near open grasslands for foraging.	Moderate- Occasionally observed in Oceano Dunes SVRA. Suitable nesting and foraging habitat present in the project area.	3
golden eagle <i>Aquila chrysaetos</i>	CFP	Foothills and mountains throughout California.	Nests on cliffs and escarpments or in tall trees overlooking open country; forages in annual grasslands, chaparral, and oak woodlands with plentiful medium and large-sized mammals.	Low- Observed in Oceano Dunes SVRA during CDPR surveys. No suitable breeding habitat present in the project area. Marginal foraging habitat present within the project limits.	3
bald eagle <i>Haliaeetus leucocephalus</i>	SE, CFP	Year-round resident in northwestern and northeastern California, winter resident elsewhere in the state.	Ocean shore, lake margins and rivers for both nesting and wintering; most nests are within 1 mile of water.	Low- No observations in or near the project area. No suitable breeding habitat present within the project limits. Suitable foraging habitat within and near the project area.	5

Table B2. Special-status Animal Species with the Potential to Occur in the Dust Control Program Area					
Species	Listing Status	Range in California	Habitat	Potential to Occur	Sources
American peregrine falcon <i>Falco peregrines ssp. anatum</i>	CFP	Year-round resident throughout California.	Nests on cliffs or man-made structures such as buildings and bridges; feeds on birds.	Moderate- Regularly observed in flight and hunting within Oceano Dunes SVRA. Not known to nest within Oceano Dunes SVRA. Suitable foraging habitat present within the project area. No suitable breeding habitat present in the project area.	2, 3, 5
California black rail <i>Laterallus jamaicensis ssp. coturniculus</i>	ST, CFP	This endemic subspecies of the black rail (<i>Laterallus jamaicensis</i>) occurs in the San Francisco Bay region, parts of the Central Valley and at the southeastern border of the State.	Inhabits freshwater marshes, wet meadows and shallow margins of saltwater marshes bordering larger bays. It needs water depths of about 1 inch that do not fluctuate during the year and dense vegetation for nesting habitat.	None- Occurs historically at Oso Flaco Lake, but no suitable habitat occurs within the project limits.	2, 3
California clapper rail <i>Rallus longirostris obsoletus</i>	ST, FE	Found year-round along California coastal saline emergent wetlands.	Coastal wetlands and brackish waters.	None- No observations in or near the project area. No suitable habitat occurs within the project limits.	1, 3
Western snowy plover <i>Charadrius alexandrinus nivosus</i>	FT, CSSC	Pacific population of western snowy plover occurs along the entire coastline.	Occurs on sandy beaches, salt pond levees and shores of large alkali lakes. Needs sandy, gravelly or friable soils for nesting.	High- Known to nest and winter in Oceano Dunes SVRA. Suitable nesting habitat present in the project area.	1, 2, 3, 4
California least tern <i>Sternula antillarum browni</i>	FE, SE, CFP	Nests along the coast from San Francisco Bay south to Northern Baja California.	Colonial breeder on bare or sparsely vegetated flat substrates, sandy beaches, alkali flats, landfills or paved areas.	High- Known to nest in Oceano Dunes SVRA. Suitable nesting habitat present in the project area. Black Lake within the potential tree planting area provides suitable foraging habitat.	1, 2, 3, 4
black tern <i>Chidonias niger</i>	CSSC	Breeds primarily in Modoc Plateau region, with some breeding in the Sacramento and San Joaquin valleys.	Freshwater lakes, ponds, marshes and flooded agricultural fields; at coastal lagoons or estuaries during migration.	Low- Project area is outside the known breeding range. Observed within Oceano Dunes SVRA, including at Oso Flaco Lake. No suitable foraging habitat is present within the project limits; however, suitable foraging habitat is present near the project area.	3

Table B2. Special-status Animal Species with the Potential to Occur in the Dust Control Program Area					
Species	Listing Status	Range in California	Habitat	Potential to Occur	Sources
black skimmer <i>Rynchops niger</i>	CSSC	Summer resident in southern California, winter resident on central coast.	Nests on gravel bars, low islets and sandy beaches, in unvegetated sites; colonies usually less than 200 pairs.	Low- Project area is outside the known breeding range. Observed within Oceano Dunes SVRA during CDPDR surveys. No suitable foraging habitat present in the project area. Moderately suitable foraging habitat is present near the project area.	3
marbled murrelet <i>Brachyramphus marmoratus</i>	FT, SE	Nests inland along coast from Eureka to Oregon border and from Half Moon Bay to Santa Cruz.	Nests in old-growth redwood dominated forests, up to six miles inland, often in Douglas fir.	None- Project area is outside the known breeding range. Observed within Oceano Dunes SVRA during CDPDR surveys. No suitable nesting or foraging habitat present within the project area; however, foraging habitat is present within the ocean near the project area.	1, 3
western yellow-billed cuckoo <i>Coccyzus americanus occidentalis</i>	FPT, SE	Breeds at isolated locations in central and southern California.	Riparian forest nester, along the broad, lower flood bottoms of large river systems; nests in riparian jungles of willow, often mixed with cottonwoods, with lower story of blackberry, nettles or wild grape.	Low- Observed at Oso Flaco Lake in 1999 and at Oceano Lagoon in 2010. Marginal nesting habitat present within the project area.	2, 3
western burrowing owl <i>Athene cunicularia</i>	CSSC	Lowlands throughout California, including Central Valley, northeastern plateau, southeastern deserts, and coastal areas; rare along south coast.	Level, open, dry, heavily grazed or low stature grassland or desert vegetation with available burrows.	Moderate- Known to utilize Oceano Dunes SVRA during migration, but not known to breed within the SVRA. Observed at Oso Flaco Lake in 1999, Phillips 66 Leasehold in 2006, near the chemical toilets on the beach in 2005 and 2006, and at Oceano Lagoon in 2010. Suitable wintering and foraging habitat present in the project area.	2, 3, 4, 5
Vaux's swift <i>Chaetura vauxi</i>	CSSC	A summer (breeding) migrant in northern California and coastal California from the Oregon border to Monterey County, and in the Sierra Nevada from the Oregon border to northern Kern County.	Nests in snags and hollow trees in redwood and Douglas fir forests.	Low- Project area is outside the known breeding range. Observed at Oceano Dunes SVRA during CDPDR surveys. No suitable habitat present within the project limits..	3, 5

Table B2. Special-status Animal Species with the Potential to Occur in the Dust Control Program Area					
Species	Listing Status	Range in California	Habitat	Potential to Occur	Sources
black swift <i>Cypseloides niger</i>	CSSC	This species occurs in California as a summer resident and its breeding range is patchily distributed throughout the State excluding the Central Valley and much of the coast.	Nests behind or beside permanent or semi-permanent waterfalls, on perpendicular cliffs near water and in sea caves.	Low- Project area is outside the known breeding range. Observed at Oceano Dunes SVRA during CDPR surveys. No suitable habitat present within the project limits.	3
olive-sided flycatcher <i>Contopus cooperi</i>	CSSC	A summer (breeding) migrant in the Cascade Range and Modoc Plateau in northern California, Sierra Nevada in eastern California, Coast Ranges, and Transverse and Peninsular Ranges in Southern California.	Nests in coniferous forests.	Low- Uncommon breeder in San Luis Obispo County. Observed within Oceano Dunes SVRA during CDPR surveys. No suitable nesting habitat present in the project area. Suitable wintering habitat present in the project area.	3
willow flycatcher <i>Empidonax traillii</i>	SE	Occurs as a summer (breeding) migrant in moist thickets and riparian areas throughout California.	Nests in dense riparian habitats with perennial water.	Low- Observed during CDPR surveys at Oso Flaco Lake in 2003 and 2014. No CNDDB records for the area and no suitable nesting or roosting habitat present in the project area. May migrate through the project area.	1, 3, 4
loggerhead shrike <i>Lanius ludovicianus</i>	CSSC (nesting)	Resident and winter visitor in lowlands and foothills throughout California; rare on coastal slope north of Mendocino County, occurring only in winter.	Prefers open habitats with scattered shrubs, trees, posts, fences, utility lines, or other perches.	High- Regularly observed in Oceano Dunes SVRA. Known to nest and forage within Oceano Dunes SVRA. Suitable nesting and foraging habitat present in the project area..	3, 4, 5
least Bell's vireo <i>Vireo bellii</i> ssp. <i>pusillus</i>	FE, SE	Occurs as a summer (breeding) migrant in the far south of California and in northern Baja California.	Nests in riparian habitats, generally in dense vegetation near surface water.	Low- Limited suitable habitat in riparian areas within the potential tree planting area, but has not been observed in or near the project area.	1, 5
bank swallow <i>Riparia riparia</i>	ST	Occurs primarily around the remaining natural river banks of the Sacramento and Feather Rivers in the Sacramento Valley.	Colonial nester, nests primarily in riparian and other lowland habitats west of the desert. Requires vertical banks/cliffs with fine textured/sandy soils near streams, rivers, lakes or ocean to dig nesting hole.	Low – Project area is outside the known breeding range. Known to forage in and near the project area as recently as 2005.	3

Table B2. Special-status Animal Species with the Potential to Occur in the Dust Control Program Area					
Species	Listing Status	Range in California	Habitat	Potential to Occur	Sources
Lucy's warbler <i>Oreothlypis luciae</i>	CSSC	Lower Colorado River valley and washes and arroyos emptying into it.	Partial to thickets of mesquite, riparian scrub and even stands of tamarisk.	Low- Project area is outside the known breeding range. Observed at Oceano Dunes SVRA during CDPR surveys. Marginal foraging habitat present in the project area.	3
yellow warbler <i>Setophaga petechia</i>	CSSC	Nests over all California except Central Valley, Mojave Desert region, and high altitudes in Sierra Nevada; winters along Colorado River and in parts of Imperial and Riverside Counties.	Nests in riparian areas dominated by willows, cottonwoods, sycamores, or alders or in mature chaparral; may also use oaks, conifers, and urban areas near stream courses.	Moderate- Observed during CDPR surveys at Arroyo Grande Creek, Jack Lake, Little Oso Flaco Lake, and Oso Flaco Lake. Marginal foraging and nesting habitat is present near Black Lake within the potential tree planting area.	3, 4, 5
Allen's hummingbird <i>Selasphorus sasin</i>	CSSC	Breeds along the Pacific coast from southern Oregon to southern California. Winters in Mexico and is an occasional vagrant to the eastern United States.	Requires wooded or bushy canyons, parks, gardens, and mountain meadows. Breeds in riparian scrub, riparian woodland, and coast live oak woodland, as well as ornamental plantings in parks and residential areas.	Low- Observed in Oceano Dunes SVRA during CDPR surveys. Marginal foraging and nesting habitat present within the project area.	4
yellow-breasted chat <i>Icteria virens</i>	CSSC (nesting)	Summer (breeding) migrant in northern California, in portions of the Central Valley and the west slope of the Sierra Nevada, on the Central and Southern coast, and in portions of the southern California deserts.	Nests in dense riparian and shrub habitats.	Low- Recorded at the Oso Flaco Maps Station in 2000 but there was no evidence of breeding. Limited suitable breeding and foraging habitat present within the potential tree planting area portion of the project area near Black Lake.	5
summer tanager <i>Piranga rubra</i>	CSSC (nesting)	Summer resident of desert riparian along lower Colorado River, and locally elsewhere in California deserts.	Requires cottonwood-willow riparian for nesting and foraging; prefers older, dense stands along streams.	Low- Project area is outside the known breeding range. Observed at Oceano Dunes SVRA during CDPR surveys. Limited suitable breeding habitat present within the potential tree planting area portion of the project area near Black Lake.	3

Table B2. Special-status Animal Species with the Potential to Occur in the Dust Control Program Area					
Species	Listing Status	Range in California	Habitat	Potential to Occur	Sources
yellow-headed blackbird <i>Xanthocephalus xanthocephalus</i>	CSSC (nesting)	Winter resident along the central and south coast, summer resident in eastern California, and year-round resident in southern California.	Nests in freshwater emergent wetlands with dense vegetation and deep water, often along the borders of lakes or ponds.	Low- Project area is outside the known breeding range. Observed at Oceano Dunes SVRA during CDPDR surveys. Limited suitable foraging habitat present within the potential tree planting area portion of the project area at Black Lake.	3
Mammals					
pallid bat <i>Antrozous pallidus</i>	CSSC	Throughout California except high Sierra from Shasta to Kern Counties and northwest coast, primarily at lower and mid-elevations.	Occurs in a variety of typically arid habitats including all types of woodland especially oak savanna and grassland. May also be found in riparian areas and wetlands, orchards, vineyards, and cropland if appropriate roosting sites are available.	Low- Recorded at Oso Flaco Lake and south of Oso Flaco. Suitable foraging habitat within the project area, especially in and around Black Lake in the potential tree planting area. Limited suitable roosting habitat present in the project area.	2, 3
Townsend's big-eared bat <i>Corynorhinus townsendii</i>	SCT, CSSC	Found throughout California, but details of its distribution are not well known.	Roosts in caves, buildings, hollow trees; forages in many habitats. Most abundant in mesic habitats.	Low- No records from in or around the project area. Limited roosting sites present in the project area. Suitable foraging habitat present in the project area.	2
Western red bat <i>Lasiurus blossevillii</i>	CSSC	Scattered throughout much of California at lower elevations.	Found primarily in riparian and wooded habitats. Occurs at least seasonally in urban areas. Day roosts in trees within the foliage.	Low- Migrate through the central coast in fall and spring. Some breeding occurs on the Central Coast, but most breeding occurs inland. No CNDDDB records or observations in or near the project area. Limited roosting habitat present within the project area.	1, 2, 3
giant kangaroo rat <i>Dipodomys ingens</i>	FE, SE, FP	Annual grasslands on the western side of the San Joaquin Valley, marginal habitat in alkali scrub.	Needs level terrain and sandy loam soils for burrowing.	None- No records from in or around the project area. No suitable habitat present in the project area.	1
San Diego desert woodrat <i>Neotoma lepida intermedia</i>	CSSC	Coastal scrub of southern California from San Diego County to SLO County.	Moderate to dense canopies preferred; they are particularly abundant in rock outcrops and rocky cliffs and slopes.	Low- No records from in or around the project area. Limited suitable habitat present in the project area..	2

Table B2. Special-status Animal Species with the Potential to Occur in the Dust Control Program Area					
Species	Listing Status¹	Range in California	Habitat	Potential to Occur	Sources
Southern sea otter <i>Enhydra lutris nereis</i>	FT, CFP	Near shore marine environments from about Ano Nuevo, San Mateo County to Point Sal, SB County.	Needs canopies of giant kelp and bull kelp for rafting and feeding; prefers rocky substrates with abundant invertebrates.	None- Has been observed in offshore Oceano Dunes SVRA. No suitable marine habitat present within the project limits.	1, 3
American badger <i>Taxidea taxus</i>	CSSC	Occurs throughout California and the western United States and Canada.	Variety of open habitats with friable soils.	High- Has been observed during CDPR surveys within Oceano Dunes SVRA in vegetation islands and nearby Phillips 66 Leasehold. Inactive badger dens have been observed throughout Oceano Dunes SVRA. Suitable habitat present in the project area.	2, 3, 4
¹ Listing Status Key: FE – Federal Endangered FT – Federal Threatened FPT – Proposed Threatened SE – State Endangered ST – State Threatened SCT – Candidate Threatened CFP – California Fully Protected CSSC – California Species of Special Concern					

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