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4 BEFORE THE HEARING BOARD OF THE SAN LUIS OBISPO COUNTY

5 AIR POLLUTION CONTROL DISTRICT

6 STATE OF CALIFORNIA

7 In the Matter of

Case No.: 17-01

8 CALIFORNIA DEPARTMENT OF PARKS AND  
9 RECREATION- OFF-HIGHWAY MOTOR VEHICLE  
RECREATION DIVISION- OCEANO DUNES STATE  
10 VEHICLE RECREATION AREA

PETITION FOR ABATEMENT ORDER

11 The San Luis Obispo County Air Pollution Control Officer (APCO), through his enforcement  
12 authority under the California Health and Safety Code, hereby petitions the Hearing Board for an order of abatement  
13 pursuant to California Health and Safety Code section 41700, which provides as follows:

14 Except as otherwise provided in Section 41705, no person shall discharge from any source  
15 whatsoever quantities of air contaminants or other material that cause injury, detriment, nuisance,  
16 or annoyance to any considerable number of persons or to the public or that endanger the comfort,  
17 repose, health or safety of any of those persons or the public, or that cause or, or have a natural  
tendency to cause, injury or damage to business or property.

18 The provisions of California Health and Safety Code section 41700 are also set forth in San Luis Obispo County  
19 APCD Rule 402.

20 Petitioner alleges, that respondent, California Department of Parks and Recreation- Off-Highway Motor  
21 Vehicle Division, is a California State Agency, authorized by and acting under the laws of the State of California,  
22 with its principal offices located in Sacramento, California. Petitioner further alleges that said respondent oversees  
23 and operates the Oceano Dunes State Vehicle Recreation Area (ODSVRA). The mailing address for the respondent  
24 is as follows:

25 State of California  
26 Department of Parks and Recreation  
27 Off-Highway Motor Vehicle Recreation Division  
1725 23<sup>rd</sup> Street, Suite 200  
28 Sacramento, CA 95816

1                   Background and Statement of Problem

2                   APCD has received numerous complaints from residents downwind of the ODSVRA regarding airborne  
3 particulate matter (dust). The complainants attribute the origin of the dust to activities associated with off-road  
4 vehicle riding within the ODSVRA. Complainants state the level of airborne particulate is unhealthy, creating an  
5 injurious environment and impacting their ability to go outdoors and enjoy their homes or property, or to participate  
6 in outdoor activities in their neighborhoods. Complainants further state they associate difficulty breathing,  
7 respiratory issues, exacerbation of pre-existing conditions such as asthma and COPD, watery and stinging eyes and  
8 other health impacts with exposure to airborne particulate matter from the ODSVRA.

9                   Complaints regarding dust from the ODSVRA have been documented since May of 2010, and are received  
10 in varying frequencies. Sometimes the complaints are isolated; at other times numerous complaints are made by  
11 residents over a series of days. The APCD has registered complaints throughout most months of the year, with the  
12 exception of November and December; the majority of complaints, however, are received between the months of  
13 March through June during periods of historically higher wind levels. The incident rate of complaints has fluctuated  
14 through the years with 19 complaints received in 2010, 4 in 2011, 9 in both 2012 and 2013, 7 in 2014, 8 in 2015, and  
15 increasing to 21 in 2016 and 77 to date in 2017. A total of 122 complaints have been received since the  
16 implementation of District Rule 1001, beginning in May 2012. Complaints are also often associated with days  
17 where measured particulate matter (PM) levels exceed state and/or federal health-based air quality standards, and/or  
18 periods defined as “unhealthy for sensitive groups” by the Environmental Protection Agency when the Air Quality  
19 Index (AQI) exceeds 100.

20                   The Environmental Protection Agency and the California Air Resources Board have set standards for both  
21 coarse particulate matter (PM10) and fine particulate matter (PM2.5) to protect human health and the environment.  
22 Exposure to particulate matter can affect both the lungs and the heart, with well over a thousand scientific and  
23 epidemiological studies linking particle pollution exposure to a wide variety of significant health problems,  
24 including premature death in people with heart or lung disease; nonfatal heart attacks; irregular heartbeat;  
25 aggravated asthma; decreased lung function; and increased or exacerbation of respiratory problems such as irritation  
26 of the airways, coughing or difficulty breathing. People with heart or lung disease, children and older adults are the  
27 most vulnerable population groups to adverse health impacts from exposure to airborne particulate pollution.

1 Locally, the District has performed extensive scientific studies that identified the potential for dust emissions from  
2 the ODSVRA to adversely affect public health, resulting in the November 2011 adoption of Rule 1001, Coastal  
3 Dunes Dust Control Requirements.

4 The District monitors air quality throughout San Luis Obispo County, with multiple monitoring sites on the  
5 Nipomo Mesa and other areas downwind of the ODSVRA. These locations include CDF- Arroyo Grande (2391  
6 Willow Road), Nipomo-Guadalupe Road (Mesa 2), Nipomo Regional Park, and the Oso Flaco Lake Road site; we  
7 have also recently deployed a mobile monitoring station that has monitored PM levels at various other locations on  
8 the Mesa. During the period of complaints received between May 2012 through March 2017, 605 exceedances of  
9 State particulate matter (PM10) standards and 7 exceedances of federal PM10 standards have been recorded  
10 collectively at the CDF, Mesa 2 and Nipomo Regional Park monitoring sites. Preliminary data for the April 1, 2017  
11 through September 17, 2017 timeframe indicates an additional 83 exceedances of state PM10 standards were  
12 collectively measured at these sites during this period. In addition, since the Oso Control Site monitor required by  
13 Rule 1001 was installed on July 1, 2015, District staff have identified 120 days from then through September 17,  
14 2017 where PM10 levels downwind of the ODSVRA have violated the Rule 1001, Section C.3 air quality  
15 performance standard. The high levels of PM10 recorded at the Nipomo Mesa sites downwind of the ODSVRA  
16 riding area during this period also frequently resulted in Air Quality Index readings above 100, defined by EPA as  
17 “unhealthy” for sensitive groups; these AQI readings are provided to the public on a daily basis to inform those  
18 potentially affected of local air quality conditions each day and associated health effects that may be of concern.  
19 Short-term acute exposure to particulate matter includes adverse health impacts to even healthy members of the  
20 public, with sensitive populations at even higher risk, such as children, the elderly, those with existing heart or lung  
21 disease and those working or exercising outdoors. On numerous occasions during this period, the Air Now AQI  
22 system reported that Nipomo, California exhibited the highest hourly concentrations of particulate matter in the  
23 United States, with AQI values in the “unhealthy for all individuals” range.

24 Respondent’s Area of Responsibility Under District Regulation

25 The ODSVRA is operated by the California Department of Parks and Recreation (State Parks) Off-  
26 Highway Motor Vehicle Recreation Division (OHMVR) and is located in the area known as the Oceano Dunes in  
27 southern San Luis Obispo County, about three miles south of Pismo Beach. The property on which the facility is

1 located is comprised of five and one-half miles of open beach and sand dunes bordered on the west by the Pacific  
2 Ocean, and on the east, north and south by other privately held lands. Approximately 600 acres of the lands  
3 comprising the ODSVRA are owned by the County of San Luis Obispo and leased to State Parks. Numerous private  
4 homes, businesses, schools and other entities are located directly downwind of the ODSVRA facility. The facility is  
5 within the jurisdiction of the San Luis Obispo County Air Pollution Control District where, under state statute, the  
6 APCD is responsible for enforcement of California Health and Safety Code section 41700 as well as District Rules  
7 402 and 1001, which are all cited in this petition. State Parks' OHMVR Division is responsible for all activities that  
8 occur within the ODSVRA, including management and control of beach and dune riding areas, resource  
9 management including revegetation and erosion control, and public safety, among other activities.

10 Identification of the ODSVRA as the Source of Particulate Matter.

11 The District and the Off-Highway Division of State Parks have performed numerous scientific studies to  
12 determine the nature, cause and extent of high particulate matter concentrations impacting air quality and public  
13 health on the Nipomo Mesa. The results of the comprehensive Nipomo Mesa Particulate Study (Phase 1 Study)  
14 published in 2007, and the follow-up South County Phase 2 Particulate Matter Study (Phase 2 Study) published in  
15 2010 by the District and its contractors, identified emissions from the ODSVRA facility as the overwhelming  
16 contributor to PM10 health standard exceedances measured on the Nipomo Mesa. The South County Community  
17 Monitoring Project study published by the District in 2013, further delineated the scope and extent of the dust plume  
18 emanating from the ODSVRA. Comprehensive scientific field studies performed and published in both 2014 and  
19 2015 by State Parks' contractor, Desert Research Institute (DRI), confirm the results of the District studies. The DRI  
20 studies found that riding areas within the ODSVRA emit PM at much higher rates than bare sand in the non-riding  
21 areas of the ODSVRA, and that ambient PM10 concentrations measured in and downwind of the riding areas are  
22 substantially higher than those measured in and downwind of the nonriding areas.

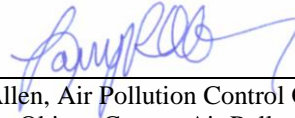
23 Request for Abatement Order

24 Based upon the aforementioned facts, the APCO requests this Board to find, based on substantial evidence,  
25 that the respondent is operating its facility in violation of Section 41700 of the California Health and Safety Code  
26 and District Rules 402 and 1001, in that said respondent is allowing the discharge of air contaminants which cause  
27 injury, detriment, nuisance or annoyance to a considerable number of persons and to the public, and which

1 endangers the comfort, repose, health and safety of such persons or such public, and which causes or has the natural  
2 tendency to cause, injury or damage to business or property.

3           Petitioner further requests this Board to issue an order for abatement requiring respondent to refrain from  
4 violating Section 41700 of the Health and Safety Code and District Rules 402 and 1001, as well as such other and  
5 further relief as this Board deems just and proper. In the event that the order for abatement is conditional, petitioner  
6 requests that the Order contain specific emission reduction control requirements that must be met within specific  
7 timeframes, with interim milestones and periodic reports back to the Hearing Board on status regarding compliance  
8 with the Order and effectiveness in abating the nuisance.

9           Dated this 4<sup>th</sup> day of October 2017.

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13 Larry Allen, Air Pollution Control Officer  
14 San Luis Obispo County Air Pollution Control District  
15 3433 Roberto Court  
16 San Luis Obispo, CA 93401  
17 (805) 781-5912  
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