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October 26, 2017

Ray Biering
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Mitchell Rische, Deputy Attorney General
Attorney for Oceano Dunes State Vehicle Recreation Area
Public Rights Division, Land Law Section
CALIFORNIA DEPARTMENT OF JUSTICE
300 South Spring Street, Suite 1702
Los Angeles, California 90013

VIA EMAIL BY CLERK OF THE BOARD AND BY SUBSEQUENT POSTAL SERVICE

**RE: CASE NO 17-01 PETITION FOR ABATEMENT ORDER
SAN LUIS OBISPO COUNTY AIR POLLUTION CONTROL
DISTRICT (DISTRICT AND PETITIONER)
CALIFORNIA DEPARTMENT OF PARKS AND RECREATION-OFF
HIGHWAY MOTOR VEHICLE RECREATION DIVISION - OCEANO DUNES
STATE VEHICLE RECREATION AREA (ODSVRA AND RESPONDENT)**

REQUEST FOR VOLUNTARY RECUSAL, WITHOUT CAUSE

Dear Mr. Biering and Mr. Rische:

Yesterday morning, I received an emailed letter from the San Luis Obispo Air Pollution Control Officer, Larry Allen, submitted through the clerk of the board, requesting that I voluntarily recuse myself from the above referenced matter. The request states no grounds for any conflict on my part and the writer gives the opinion that he believes I am "fully capable of acting objectively in this matter." The request refers to my spouse having given opinions at past public meetings about the property that is the subject of this Petition and concedes that such opinions are those of the speaker and not mine. At the same time, there is an indication of concern regarding the issue possibly being raised at the hearing or later, thus delaying and complicating the procedures.

Later, at 4.P.M on the same day, while participating in a teleconference with counsel for both parties and for the hearing board, I opened a letter via email, directly to me, from counsel for the California Department of State Parks and Recreation, Mitchell Rische, stating that the agency "joins" in the APCO's request earlier that day. Again, the request provides no concrete grounds for any actual conflict or recusal. It states only that I reside in Nipomo and that my husband had expressed an opinion on the subject of the Oceano Dunes State Vehicular Recreation Area. Mr. Rische states that under those circumstances, my participation "creates an appearance of a conflict of interest." Given that the state

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joined in the APCO's request, it is reasonable to surmise that the State concurs with the APCO's position that I am capable of objectivity and that my relative's opinions do not represent mine.

After a good deal of research on the matters of disqualification and recusal, I have concluded that I have no actual conflict of interest in the matter that is the subject of Petition 17-01, which conclusion accords with the APCO's position. Further, I believe that my research confirms that my circumstances creates no perceived conflict of interest under California laws or regulations, case law or the California Fair Political Practice Commission Guidelines. I have no financial interest in the subject of this hearing or in any action of any of the parties, nor do any of my relatives have any direct or indirect financial or employment interests. Any effects that I might experience as a result of any actions or inactions of the parties would not be distinguishable from the effects on the 16,000 others who live in the Nipomo area and probably less impact than that on the six or seven thousand who live north of Nipomo in the Oceano area. I have found no authority that supports any presumption or appearance of conflict based on opinions or voting records of any relative of an official, without financial or employment issues. To find such would burden the thousands of public officials and others who voluntarily serve on civic boards and committees by charging them with the insurmountable task of restraining family members from exercising their rights to political speech and assembly. I cannot recuse myself from service based on the premise that the political speech of another indicates a perception of a conflict of interest. This would set a poor precedent for our district.

That being said, I have recused myself from all participation in this matter (Case 17-01) as of the date and time of transmission of this letter to the clerk of the board. The purpose of my recusal is to facilitate procedural efficiency in this particular action, to the best of my ability, by eliminating an issue that otherwise might delay an airing and resolution of the substantive matters in this case. I am directing the clerk to file this decision on the parties' October 25, 2017 request for recusal in this action and to make this decision and its rationale, part of the record of Case 17-01

I am confident that our co-chair is well equipped to carry out impartially and fairly the duties of chair of the hearing board in Case 17-01.

I wish to thank each of you for the opportunity to work with you on this matter. I have learned a great deal from each of you and it has been a pleasure meeting with you.

Sincerely



Eileen Mackin Getzoff
Chair
San Luis Obispo County Air Pollution District Hearing Board

cc: Susan Adams, Counsel for Hearing Board