

Michael C. Normoyle  
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Nipomo, CA 93444

January 19, 2018

By Email to Alyssa Roslan, Clerk of the Hearing Board  
[aroslan@co.slo.ca.us](mailto:aroslan@co.slo.ca.us)

**San Luis Obispo County Air Pollution Control District Hearing Board**

Yarrow Nelson, Acting Chair  
William Johnson  
Paul Ready  
Robert Carr  
Thomas Richards

**Re: Comments re: Proposed Stipulated Abatement Order**

Dear Acting Chair Nelson and Hearing Board Members:

I have submitted written comments previously (dated January 18, 2018) and I have presented oral remarks at previous hearing sessions. My previous comments have focused on the legal status of the portion of the La Grande Tract property owned by San Luis Obispo County - and how that status could have an impact on any decision you make about any abatement order.

The "La Grande Tract" issue was addressed extensively during Coastal Commission hearings and deliberations prior to issuing a Coastal Development Permit to State Parks in September 2017. The Coastal Commission ultimately adopted a Special Condition 1(d) based on input from the public and a recommendation from staff. Special Condition 1(d) essentially requires that State Parks provide the Coastal Commission with written evidence of "landowner approval" for any work, including mitigation work, State Parks intends to undertake on land it does not own. This

SLO APCD Hearing Board  
March 19, 2018  
Page 2

special condition for landowner approval is thus required for any work, including mitigation work, State Parks intends to undertake on or with the County-owned portion of the La Grande Tract.

Subsequent to the Coastal Commission's early February 2018 review of State Parks' compliance with the CDP, I initiated communication with CCC staff, through the CCC Executive Director, to find out what steps had or would be taken by the CCC to ensure that State Parks was complying with the requirements of Special Condition 1(d). My first communication was sent February 12, 2018.

In response to a follow-up communication I sent to CCC staff on February 28, 2018, I received a reply from Kevin Kahn, the CCC's assigned analyst for the ODSVRA, with a copy of a letter he had sent to State Parks and SLO County on February 26, 2018. A copy of the letter is attached.

In this letter you will see CCC confirmation of SLO County's current position which is that there currently is no operating agreement in effect with State Parks.

In further communications with Mr. Kahn I have inquired about (a) whether the CCC had received any response to the letter and (b) the identity of the representatives of SLO County with whom Mr. Kahn had been communicating. Mr. Kahn provided the names of two County representatives, including a representative from County Counsel's office, and he confirmed, as recently as March 15, 2018, that no written response had been provided from either the County or State Parks to the February 26, 2018 letter request.

I also have had email communication with APCO Gary Willey about this subject, also starting on February 12, 2018. Mr.

SLO APCD Hearing Board  
March 19, 2019  
Page 3

Willey's position has been that it is up to the CCC to obtain evidence of landowner approval and that he is not aware of any landowner approval that has been furnished by either State Parks or the County.

My last communication with Gary Willey on this subject came this morning, March 19, 2018. I asked again in today's email whether Mr. Willey was aware of the existence of any landowner approval being furnished to CCC by State Parks or the County. His answer was: "Haven't seen anything on that."

The reasons I point these things out to you as being critically important for your consideration - whether of a proposed stipulated order or an abatement order you issue -- are the following:

- (1) Your current APCO has never seen actual evidence of current landowner approval;
- (2) Your current APCO has no actual evidence of current landowner approval;
- (3) Your current APCO plays a vital oversight and enforcement role in making certain that State Parks can actually deliver on what it promises or is required to do in terms of permit or rule or mitigation or abatement compliance.
- (4) If there is no current evidence of landowner approval, State Parks is not in compliance with Special Condition 1(d) of its CDP and State Parks has no authority to undertake any work, including mitigation or nuisance abatement work, WITHIN the County-owned La Grande Tract;

- (5) The County's current position, as reflected in Mr. Kahn's February 26, 2018 letter, is that there is no agreement in place that gives State Parks the right to occupy, operate, or do any work of any kind within the County-owned La Grande Tract.
  
- (6) With that being the case, the only nuisance abatement action that State Parks WOULD have the ability to actually implement - again whether by stipulation or Hearing Board action -- would be total closure of County-owned land to riding and vehicular traffic. In other words, OPTION D of the options presented in Larry Allen's list of possible abatement orders before the nuisance abatement hearing commenced.

With these points as background, what is deeply disturbing and most troublesome is that in the Stipulated Order of Abatement collaboratively crafted by Mr. Willey and State Parks, the following flat-out false statement is made in Paragraph on page 3 of the findings of "GOOD CAUSE" these parties want you to accept:

"The County owned land, as well as the private  
Parcels, are included in the SVRA through operating  
Agreements with the owners."

Everything you are being presented with in the Stipulated Order of Abatement depends on the assumed accuracy of a key fact where the parties presenting the proposed stipulation know the truth about that key fact but are wanting to hide that truth from you.

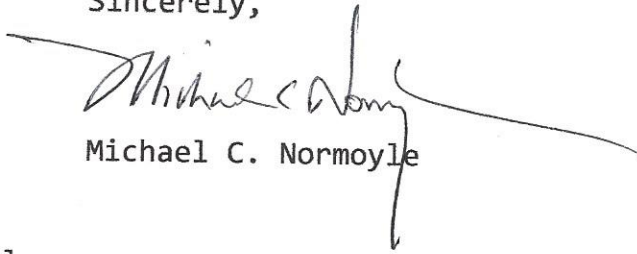
SLO APCD Hearing Board

March 19, 2019

Page 5

This major misrepresentation regarding an operating agreement for the County-owned land may be the largest, or certainly one of the largest, failings of a proposed stipulation that should be strongly rejected on multiple grounds. The interests of citizens who contribute toward the salaries of the agency representatives who are supposed to be servants of the public are not being well served by this woefully inadequate offering.

Sincerely,



Michael C. Normoyle

cc: Mr. Ray Biering, APCD Counsel

**CALIFORNIA COASTAL COMMISSION**

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SANTA CRUZ, CA 95060  
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**February 26, 2018**

Mat Fuzie, Deputy Director  
Off-Highway Motor Vehicle Recreation Division  
California Department of Parks and Recreation  
PO Box 942896  
Sacramento, CA 94296-0001

Matt Janssen, Division Manager  
San Luis Obispo County  
1055 Monterey Street  
San Luis Obispo, CA 93408

**Re: State Parks' Authority to Operate in the County-owned La Grande Tract**

Dear Mr. Fuzie and Mr. Janssen:

We recently received inquiries from members of the public regarding State Parks' legal right, interest, entitlement, or other authority to use the San Luis Obispo County-owned La Grande Tract as part of the Oceano Dunes State Vehicular Recreation Area (ODSVRA).

In an attempt to respond to these inquiries, we reached out to County Planning Staff on February 16 and the County Counsel's Office on February 22, as well as to State Parks' Legal Counsel on February 23 to better understand the basis for State Parks' use of the La Grande Tract property. Although we understood both State Parks and the County to be operating under a common understanding when the Commission approved CDP 3-12-050 last September, namely that State Parks was operating in the La Grande Tract on the basis of an ongoing 'holdover' month-to-month agreement with the County, it is now our current understanding that that is no longer the County's position. Given CDP 3-12-050 only allows State Parks to undertake development on land where it has landowner authorization, we would strongly recommend that State Parks and the County come to some mutual understanding regarding State Parks' authorization as soon as possible.

Please confer with each other and provide us with information and guidance on how to best understand State Parks' legal right, interest, entitlement, or other authority to use the County-owned La Grande Tract as part of ODSVRA. Thank you in advance for your attention to this matter as soon as possible. Please do not hesitate to contact me if you have any questions or concerns.

Mat Fuzie (State Parks), Matt Janssen (San Luis Obispo County)  
State Parks' La Grande Tract Use  
February 26, 2018  
Page 2

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Kahn". The signature is fluid and cursive, with the first name "Kevin" and last name "Kahn" clearly distinguishable.

Kevin Kahn  
District Supervisor  
Central Coast District Office  
California Coastal Commission

cc: Kevin Pearce/Ronnie Glick, ODSVRA  
Tim McNulty, San Luis Obispo County County Counsel's Office  
Kathryn Tobias, State Parks' Legal Counsel