



Air Pollution Control District
San Luis Obispo County

VIA EMAIL ONLY

January 22, 2026

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SUBJECT: Draft Habitat Conservation Plan and Draft Environmental Assessment for the California Department of Parks and Recreation, Oceano Dunes District, San Luis Obispo County, California. [Docket No. FWS-R8-ES-2025-0143; FXES11140800000-256-FF08EVEN00]

Dear Catherine Darst,

Thank you for the opportunity to comment on the draft Habitat Conservation Plan (HCP) and draft Environmental Assessment (EA) prepared by the California Department of Parks and Recreation (State Parks) in support of their application for an Incidental Take Permit (ITP).¹ The San Luis Obispo Air Pollution Control District (District) is the local government agency working to protect the health of over 280,000 county residents by preserving good air quality. By partnering with the local communities, businesses, and other government agencies, we implement regulations and programs to reduce air pollution and assist the county in reaching outdoor air quality standards.

The District has reviewed the draft HCP and EA, which propose certain activities at the Oceano Dunes State Vehicular Recreation Area (ODSVRA), which is within our jurisdiction. We offer the following comments related to the potential impacts on air quality.

Background

The vicinity of the ODSVRA experiences strong onshore winds, particularly in the spring and fall. Because of the long history and continued use of motor vehicles within the present-day ODSVRA, the open sands within the park are much more emissive of dust under high wind conditions than they would be otherwise. As a result, windblown dust

¹ "Receipt of Incidental Take Permit Application and Draft Habitat Conservation Plan and Draft Environmental Assessment for the California Department of Parks and Recreation, Oceano Dunes District, San Luis Obispo County, California," 90 Fed. Reg. 52993, November 24, 2025.

from the ODSVRA is the predominant air quality challenge affecting southern San Luis Obispo County, causing numerous exceedances of air quality standards for particulate matter each year.

For more than two decades, the District has worked with State Parks to improve regional air quality. As of early 2026, there are approximately 740 acres of dust control projects within the ODSVRA, including 412 acres of new vegetation, 35 acres of the Park that are seasonally closed to vehicles, and nearly 300 acres where vehicles are now prohibited year-round. These changes, nearly all of which have occurred in the last decade, have resulted in real, measurable improvements in air quality downwind of the ODSVRA. For example, in 2017, 97 exceedances of California's 24-hour PM₁₀ standard were recorded at the District's "CDF" monitoring station downwind of the ODSVRA. In 2024, only 14 such exceedances were recorded.²

Most of these dust control projects and the associated improvements in air quality have occurred in the context of the Stipulated Order of Abatement in Case 17-01 (SOA). The SOA is a legally binding order approved by and issued under the authority of the District's Hearing Board.³ The SOA requires State Parks to reduce PM₁₀ emissions from the ODSVRA to a level consistent with a pre-disturbance scenario which assumes no vehicular disturbance. Compliance with this requirement is based on emissions modeling, and air quality measurements are used to corroborate the model's results.

The SOA process has been a success—as already noted, air quality metrics show continued improvement. The District and State Parks continue to refine details of the emissions modeling but agree that PM₁₀ emissions from the ODSVRA have been greatly reduced. State Parks has either achieved the emission reduction goal of the SOA or is very close to doing so.⁴

The District has no expertise in nor authority over biological resource management. Rather, we reviewed the HCP and EA focusing specifically on how the proposed activities may interact with SOA-mandated dust control projects. Our intent in providing these comments is to ensure that efforts to manage air quality and biological resources complement each other rather than come into conflict. We believe these efforts can, in fact, be synergistic.

General Comments

Overall, the District is pleased to see air quality impacts are considered in the HCP and EA. Regarding the mechanical raking component of the General Facility Maintenance activity (CA-21), we agree that air quality impacts are likely negligible, as long as raking is confined to the camping and open riding

² San Luis Obispo County Air Pollution Control District, "2024 Annual Air Quality Report," June 2025. Available online at <https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/2024%20Annual%20Air%20Quality%20Report.pdf>

³ San Luis Obispo County Air Pollution Control District Hearing Board, "Order To Modify Existing Stipulated Order Of Abatement," Case 17-01, filed October 16, 2025. Available online at https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/2025%20Fourth%20Amendment%20to%20Stipulated%20Order%20of%20Abatement%2017-01_FILED%2010-16-2025.pdf.

⁴ San Luis Obispo County Air Pollution Control District, "Comments on the California Department of Parks and Recreation's August 15, 2025, Oceano Dunes SVRA Draft 2025 Annual Report and Work Plan in Response to Stipulated Order of Abatement Number 17-01," September 5, 2025. Available online at <https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/APCD%20Comments%20SP%20Draft%202025%20ARWP%20-%201st%20Draft.pdf>.

area, where the sand surface is already disturbed by vehicular activity. Our comment letter on the 2020 HCP draft⁵ expressed concerns over the air quality impacts of this activity, however a study has since demonstrated that mechanical raking does not increase emissions from sand surfaces that are already disturbed by off-roading. This study was conducted Desert Research Institute and employed methodology developed by the Scientific Advisory Group established under the SOA.⁶

The District also agrees that the Limited Trail Riding activity (CA-42) is likely to have negligible impact on air quality. We are encouraged that Dust Control Activities (CA-44) are included in the HCP, and we generally agree with how they are described. The Reduction of Boneyard and 6 Enclosures activity (CA-50) will be discussed in more detail later, but we are encouraged that the HCP's discussion of this activity always includes the caveat that it would be implemented only "if opening the area is consistent with the requirements of other programs," which we take to include compliance with the SOA.

Disposition of the Southern Enclosure

The Southern Enclosure is the approximately 300-acre area comprising the Boneyard, 6 Enclosure, 7 Enclosure, and 8 Enclosure; State Parks calls this area the "Plover Enclosure" in other contexts, e.g., the Annual Reports and Work Plans (ARWPs) prepared under the SOA. For at least two decades, the South Enclosure has been closed to vehicles and pedestrians at least seasonally to protect western snowy plovers (SNPL) and California least terns (CLTE), two special status bird species. Until 2021 vehicle and pedestrian access to the Southern Enclosure was allowed from October 1 through the end of February, but the area has been closed to vehicles and pedestrian year-round since then. The HCP and EA are not clear about this and tend to discuss the Southern Enclosure as though vehicular activity and camping continue to be allowed there seasonally. Examples include:

- HCP page 2-15: "Each year, from approximately March 1 through September 30 during the SNPL and CLTE breeding season, CDPR encloses approximately 300 acres of Oceano Dunes SVRA open riding area plus approximately 68 acres in North Oso Flaco Enclosure within a 6-foot-tall seasonal enclosure." This paragraph later clarifies that "The seasonal enclosure and the adjacent shoreline fencing remained in place 2021 to 2024 and was closed year-round during this period," but even this is not entirely accurate since the fences have remained in place beyond 2024. As discussed below, the earliest the fences could be removed and vehicular access restored is October 2026.
- HCP page 4-50: "Public access between Oso Flaco and East Boneyard is allowed via a gate (Boneyard gate), but this access is currently inaccessible during the SNPL breeding season

⁵ San Luis Obispo County Air Pollution Control District, "Subject: Draft Environmental Impact Report (EIR) for the Oceano Dunes District Habitat Conservation Plan (HCP) (State Clearinghouse No. 2018011012)," May 28, 2020. Available online at https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/APCD_HCP_DEIR_CommentLetter.pdf.

⁶ J.A. Gillies and G. Nikolich, "Evaluation of Potential Changes in Dust Emissions due to Mechanical Raking of ODSVRA Beach Areas," Attachment 05 to California Department of Parks and Recreation, Off-Highway Motor Vehicle Recreation Division, "Oceano Dunes State Vehicular Recreation Area Dust Control Program: Provisional Final 2025 Annual Report and Work Plan," September 26, 2025. Available online at https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/2025_ARWP_Provisional_Final_Attachments_reduced_ALL.pdf

since it is enclosed within the southern end of East Boneyard Enclosure. [Emphasis added.]” This statement implies that the enclosure fences are removed seasonally.

- HCP page 5-5: “Following the SNPL and CLTE breeding season (i.e., between October and February), camping, street-legal vehicles, and OHVs are allowed in the Southern Enclosure area (see section 2.2.2.1.1).” This paragraph also states that “staff place material in bare areas of the 6, 7, and 8 Enclosures to enhance SNPL breeding habitat,” however, State Parks staff have related to the District that this has not occurred since the area was closed year-round in 2021.
- EA page 3: “Roughly 300 acres of the open riding area are seasonally restricted (March 1 through September 30) from all public entry by fencing (i.e., Southern Enclosure)[.]”
- EA page 73: “Additionally, with elimination of the East Boneyard Enclosure, 47 acres of seasonally available backdune riding and camping area would be available year-round[.]”
- EA Figure 6: The legend indicates that the Southern Enclosure is “Seasonally open to dogs, horses, camping, and OHV riding from Oct 1-Feb 29.”

In these examples and elsewhere in the HCP and EA, **the Southern Enclosure is portrayed as currently open to vehicles on a seasonal basis, when, in fact, vehicles have not been allowed in the area since 2021.** This reality is occasionally acknowledged in the HCP and EA, but generally only in footnotes and parentheticals, and the various analyses within the HCP and EA nonetheless assume that seasonal access has continued.

Understanding the disposition of the Southern Enclosure is important for at least three reasons:

1. Context for Biological Trends. State Parks tracks various statistics related to SNPL and CLTE including the number of nests, breeding pairs, and fledged chicks. The year-round closure of the Southern Enclosure has resulted in the development of hummocks and the growth of dune vegetation; these changes provide dust control benefits but, according to State Parks, could also degrade habitat for SNPL and CLTE. The trends in biological indicators of these species should be interpreted with accurate knowledge of the status of the Southern Enclosure in mind. While the new hummocks and vegetation appear to have changed nesting patterns, it is not clear that long-term trends in biological indicators have been adversely affected.
2. Alternatives Analysis. As required by statute, the HCP and EA evaluate various alternative projects. The analyses use seasonal management of Southern Enclosure as the baseline or current condition of this area; however, by the time the HCP and EA are approved, and an ITP is issued (if issued), the area will have been closed to vehicle for at least 5 years (i.e., since 2021). Thus, these analyses of alternatives may be defective. For example, in EA section 8.2.4, Alternative 4, “Permanent Year-Round Southern Enclosure,” is determined to have a “moderate” impact on recreation, but this is incorrect: the Southern Enclosure is already closed, so this alternative would have no impact on recreation.

3. Air Quality Impacts of CA-50. The air quality impact of CA-50—the opening the 6 Enclosure and Boneyard to year-round vehicular activity—will be underestimated if the baseline is incorrectly assumed to be seasonal management. Under the SOA, State Parks must achieve certain emissions reduction by October 2028,⁷ so any increase in dust emissions associated with CA-50 will need to be offset elsewhere in the Park in order to remain in compliance with the SOA.

Reduction of the Boneyard and 6 Enclosures (CA-50)

The District has concerns with CA-50, the planned reduction in size of the Southern Enclosure. As discussed above, the entire Southern Enclosure has been closed to vehicles and camping since 2021, though it previously was open to these activities seasonally. The change to year-round closure was made in response to an action taken by the California Coastal Commission, and it remained closed while that action was litigated. While the litigation was resolved in the summer of 2025, seasonal access has not yet resumed, and the area has remained closed.

While the closure was unrelated to air quality, it nonetheless has had beneficial impacts on air quality, and State Parks has therefore sought to “credit” the resulting emissions reductions toward achieving the SOA-mandated emission reduction goal. The 300-acre closure is thus an integral part of State Parks’ most recent ARWP,⁸ and for this reason the District’s approval of the ARWP included a condition requiring that “If the [Southern] Enclosure area, in whole or in part, is reopened to public vehicular access, State Parks shall simultaneously implement District-approved dust controls sufficient to offset the resulting increase in emissions.”⁹

Thus, to simply return the Southern Enclosure to *seasonal* vehicular access will require State Parks to implement offsetting emissions reductions (i.e., dust control projects); to additionally open portions of the area to *year-round* vehicular access will require even more new dust controls. These controls would likely consist of installing vegetation on bare sand areas and/or reducing the area of the ODSVRA available for off-roading. Given the low emissivity of bare sand areas outside of the current riding area, the District is skeptical that State Parks can comply with the SOA while implementing CA-50 unless further restrictions are imposed on vehicular access elsewhere in the park.

According to the HCP, the primary motivation for opening the Boneyard and 6 Enclosure to year-round access is to enhance recreational opportunities, but this may amount to “robbing Peter

⁷ San Luis Obispo County Air Pollution Control District Hearing Board, “Order To Modify Existing Stipulated Order Of Abatement,” Case 17-01, filed October 21, 2024. Available online at https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/Modified%20Stipulated%20Order%20of%20Abatement%2017-01_FILED%2010-21-2024.pdf.

⁸ California Department of Parks and Recreation, Off-Highway Motor Vehicle Recreation Division, “Oceano Dunes State Vehicular Recreation Area Dust Control Program: Provisional Final 2025 Annual Report and Work Plan,” September 26, 2025. Available online at https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/2025ARWP_ProvFinal_20250926_reduced.pdf.

⁹ San Luis Obispo County Air Pollution Control District, “Conditional Approval of California Department of Parks and Recreation’s 2025 Annual Report and Work Plan in Response to Stipulated Order of Abatement Number 17-01,” October 16, 2025. Available online at <https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/2025%20ARWP%20Final%20Conditional%20Approval.pdf>.

to pay Paul” if recreational opportunities must be lost elsewhere in the Park to maintain compliance with the SOA. The EA fails to account for this possibility in its analysis of the impact of CA-50 on recreation (EA Section 8.2.2). Therefore, the conclusion that CA-50 will have a beneficial impact on recreation may be erroneous.

Regarding the analysis of air quality impacts of CA-50 (EA Section 6.2.2.3), compliance with the SOA and with National and California Ambient Air Quality Standards is mentioned, but there is no discussion of compliance with San Luis Obispo County Air Pollution Control District Rule 1001, Coastal Dunes Dust Control Requirements. The EA should be revised to discuss Rule 1001. Furthermore, Mitigation Measure AIR-1 is proposed to limit air quality impacts to “moderate,” but it may conflict with the SOA process. Specifically, as described in the EA, AIR-1 contemplates installing dust controls to offset emission increases caused by CA-50 only “If the monitoring shows emissivity within the new areas available for year-round OHV recreation increases.” However, as already noted above, the District’s approval of State Parks ARWP requires the installation of offsetting dust control **before** opening any of the Southern Exclosure to vehicular access, not after.

Finally, the District questions the rationale for rejecting alternatives that would leave the Southern Exclosure intact, with or without seasonal vehicular access. As explained in State Parks’ Recirculated Draft Environmental Impact Report (DEIR)¹⁰ for the HCP, which is explicitly incorporated into the EA by reference, the alternative with CA-50 removed from the list of activities (“Alternative 2: Reduced Disturbance in Dust Emission Areas”) was rejected because it allegedly conflicts with the 2005 Consent Decree between State Parks and the Sierra Club and “thus does not achieve the project objective of facilitating implementation of legal settlement conditions and obligations.” (DEIR page 9-13.)

The District has reviewed the consent decree,¹¹ and while reducing the extent of the 6 Exclosure is *consistent* with the terms of the consent decree, we did not find language that *requires* it. The third term of consent decree states, in part, that “State Parks shall support a northern [Southern Exclosure] boundary of Distance Marker Number 7 in the HCP Process, notwithstanding the terms of this Consent Decree.” State Parks appears to interpret this as meaning they are required to reduce and ultimately eliminate the 6 Exclosure. However, this interpretation stands the intent of the consent decree on its head. The consent decree stems from a lawsuit brought by the Sierra Club that alleged State Parks was violating the Endangered Species Act by allowing take of SNPL and CLTE without a valid ITP. Protecting these species by expanding the Seasonal Exclosure to its present boundaries is a key element of the consent decree. Understood in this context, the third term *allows* State Parks to propose a northern boundary no further south than Marker 7 in the HCP, but it does

¹⁰ California Department of Parks and Recreation, “Recirculated Draft Environmental Impact Report: Habitat Conservation Plan for the Oceano Dunes District,” SCH No. 2018011012, November 2025. Available online at https://cdn.oceanoduneshcp.com/files/managed/Document/461/Oceano%20Dunes%20HCP%20Recirculated%20Draft%20EIR_November2025.pdf.

¹¹ U.S. District Court. 2005. Sierra Club v. Rusty Areias etc. et al. Consent Decree. Central District of California. Case No. CV 01-10598-GHK.

not preclude leaving the Southern Enclosure as it is today. In fact, as noted in the EA itself (Appendix F, page F-8), the Sierra Club, in their comments on State Parks' 2018 Preliminary Scoping Report for the HCP, specifically opposed the proposal to shrink the Southern Enclosure.¹²

Furthermore, regardless of how the consent decree is interpreted, it applies only to the 6 Enclosure, i.e., the northernmost section of the Southern Enclosure. There is nothing in the third term of consent decree about the Boneyard, so compliance with the consent decree cannot be used as a rationale for removing that area from the Southern Enclosure.

Habitat Manipulation

The HCP contemplates habitat manipulation activities within the Southern Enclosure that could have air quality impacts, but these impacts are not considered in the EA. For example, the description of CA-12b on HCP page 2-24 states that State Parks "anticipates needing to remove during the non-breeding season the non-native sea rocket and larger dune hummocks in heavily vegetated areas where nesting has reduced in the Southern Enclosure." The scope of such manipulation could exceed 5 acres/year. Certain Avoidance, Minimization, and Mitigation Measures (AMMs) also plan for these activities, specifically SNPL AMM 46 (HCP page 5-24 and Table 5-2) and CLTE AMM 37 (HCP page 5-36 and Table 5-3). The development of surface roughness (i.e., vegetation) and topography (i.e., hummocks) in the Southern Enclosure has reduced the potential for dust generation under high winds and thus improved air quality. Therefore, undoing these changes will necessarily have air quality impacts, which the EA and DEIR have neglected to consider. They should be revised to consider these air quality impacts.

New Dune Vegetation

The description of Dust Control Activities (CA-44) on HCP page 2-42 states that "for the purposes of this HCP, Dust Control Program covered activities include: *Continued implementation of annual Dust Control Program activities ... Supplemental foredune planting ... New non-foredune vegetation plantings and seasonal and/or temporary dust control measures ... Preservation of foredune vegetation in the Southern Enclosure ... New track-out control.*" The District agrees that these are ongoing and/or possible future dust control activities that are or may become necessary to achieve compliance with the SOA and air quality goals. However, not mentioned is the possibility of new foredune vegetation plantings *outside* of the 48-acre foredune restoration area. No such projects are currently being considered, but it is possible that such planting could become necessary in the future, especially if dust controls already in place are scaled back (for example, as envisioned in CA-50). As quoted above, the draft HCP does not explicitly state that the list of Dust Control Program covered activities is all-inclusive. Therefore, if approved, the HCP should not be interpreted to preclude the possibility

¹² Sierra Club's written comments are included in full in Appendix A of the DEIR (Reference 10) beginning on page A-86. They state, "The proposed alternative that would reduce current nesting and breeding snowy plover and least tern habitat must be eliminated from further consideration and, instead, the [U.S. Fish and Wildlife] Service should consider expanding the protected area and making the protection year-round."

of foredune planting outside of the current 48-acre area. Simply put: the HCP should not be used to limit the scope of future dust control measures—all possible tools should remain available.

Conclusion

Again, thank you for the opportunity to comment on the draft HCP and EA. If you have any questions regarding these comments, feel free to contact me at (805) 781-4656 or via email at ktupper@co.slo.ca.us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Karl A. Tupper', followed by a long horizontal flourish.

KARL A. TUPPER
Executive Director & Air Pollution Control Officer
San Luis Obispo County Air Pollution Control District

cc: Ronnie Glick, Senior Environmental Scientist, California Department Parks and Recreation,
Oceano Dunes District, Ronnie.Glick@parks.ca.gov