

March 17, 2021

California State Parks  
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Submitted By email: [OceanoDunes.PWP.EIR@parks.ca.gov](mailto:OceanoDunes.PWP.EIR@parks.ca.gov)

RE: Pismo State Beach and Oceano Dunes SVRA Draft Public Works Plan and Draft Environmental Impact Report Available for Review

To Whom it May Concern:

We are pleased to submit these comments regarding the Pismo State Beach and Oceano Dunes SVRA Draft Public Works Plan and Draft Environmental Impact Report.

We appreciate efforts made by State Parks to address the California Coastal Commission staff recommendations dated June, 2019 and specifically the 15 recommended actions described therein, by completing a Draft Public Works Plan. Audubon supported these original recommendations as a first step in improving habitat management of Oceano Dunes SVRA for birds and other wildlife. The Draft PWP attempts to address most, but not all of these actions. Furthermore, we fully support the letter submitted by Morro Coast Audubon Society, dated March 17, 2021, and the legal analysis conducted by the Stanford Law Clinic and submitted to State Parks, dated March 18, 2021. The letter from Stanford exposes multiple legal deficiencies regarding state and federal laws. Specifically, they state:

“PWP itself violates state and federal laws governing the coastal zone, recreation, and the protection of endangered species. Second, the DEIR does not consider a reasonable range of alternatives as required by California Environmental Quality Act (CEQA), particularly regarding an alternative that would eliminate off-highway vehicle (OHV) use from the Park. Third, the DEIR description of the Oceano Dunes project – as presented in the PWP – is inadequate and inaccurate because it fails to account for future visitor growth or the effects of the COVID-19 pandemic. Fourth, the DEIR fails to adequately analyze or mitigate the significant environmental impacts attributable to the projects proposed by the PWP in a number of key topic areas. Fifth and finally, the DEIR fails to account for the cumulative impacts that have occurred over decades of intense recreational use that would only be exacerbated by the PWP”

We are concerned that the PWP not only ignores some of the 2019 Coastal Commission recommendations but also does not go far enough to address others. Below we address specific concerns related to night riding, Oso Flaco Lake development, public access, and snowy plover/shorebird habitat protection and management.

### **Night riding**

Night riding needs to be eliminated immediately rather than studied, as suggested in both the PWP and the Biodiversity Management Plan. Countless studies exist documenting the impact that night riding has on mammals and birds (see <https://www.darksky.org/light-pollution/wildlife/>) and creating a study just further “kicks the can down the road” instead of reducing unnecessary impacts to wildlife. We are particularly concerned that State Parks recent efforts to restore and revegetate 175 acres of dune islands that surround OHV riding

areas will actually increase wildlife mortality if night riding is allowed. The sandy areas between these habitat islands become routes for wildlife to disperse between and many of these animals will be most active at night. Direct mortality of birds, amphibians, and mammals is the primary concern and we also know that lights and sounds from OHVs and/or lights at night can impact:

- owls hunting at night by causing confusion, inability to hunt;
- roosts on the ground of resting shorebirds, causing flight and increasing risk of predation;
- amphibians crossing from one vegetated dune system to another;
- animals' ability to communicate, particularly owls and frogs/toads;
- night migrating songbirds, causing confusion and disorientation;
- hunting ability, social interaction and movement for nocturnal mammals.

In 2020, California Department of Fish and Wildlife published a special issue of the California Fish and Wildlife Journal "Effects of Non-consumptive Recreation on Wildlife in California" (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=178944&inline>). The journal, while not addressing night riding from OHVs, does address an increase in mountain biking in the dark. We can assume any impacts from night mountain biking are only increased by night OHV riding. An excerpt from the journal states this:

“Biking in the dark.—Mountain biking in the dark (i.e., night riding), which is on the rise in protected areas, can disrupt the natural balance between diurnal and nocturnal wildlife. Consequently, night riding poses a dual threat to wildlife that exhibit diel shifts toward night: night riding can compound the pressure such wildlife experience from daytime recreational activities by increasing encounters with competitors and even further reducing the time available for foraging and breeding (Reilly et al. 2017). Night riding can also startle naturally nocturnal wildlife and wildlife that has become increasingly nocturnal to avoid daytime recreationists and other anthropogenic disturbances. Generally, temporal shifts by wildlife involve disruptions to both the shifting wildlife and to the wildlife naturally active during the time frame the shifting wildlife move into. In this way, such shifts set both groups of wildlife up for conflict and competition, disrupt predator/prey relationships, reduce feeding/hunting time and success, and disrupt breeding and other activities (Gaynor 2018).”

The journal goes on to provide this recommendation:

“Limit nighttime access to parks and trails. Since people are primarily active during the daytime, many animal species avoid interactions with people by increasing the proportion of their activity that takes place at night (Gaynor et al. 2018). While the implications of this shift for foraging success and interspecific interactions are largely unknown, limiting activity to daytime hours may be a way for humans and wildlife to coexist in parks and natural areas. Nighttime recreation is growing in popularity but may prevent animals from temporally avoiding people, and should be limited in general, and probably all together avoided in urban-proximate wildland areas where the existence of refugia is already severely limited spatially.”

The impact of night riding on the beach front is also detrimental for both resting/roosting shorebirds and other waterbirds as well as marine mammals. The Marine Mammal Center states: “Night driving on the SVRA presents an even higher risk of vehicle strike to resting marine mammals, with minimal lighting and visibility for drivers to spot and avoid a resting animal. In fact, Oceano Dunes is the only beach across the Center’s 600-mile California coastal range where both California State Parks and the Center have deemed it unsafe for a marine mammal to rest on land day or night for any extended period of time.”

In summary, night riding can have nothing but a negative impact on dune wildlife and we can see no circumstance (other than for emergency situations) where night riding should be allowed considering the level of impact, often undetectable by daybreak. State resources that would be spent to conduct a multi-year study could be put to much greater use.

### **Seasonal Exclosure**

To protect nesting Snowy Plovers and Least Terns, we fully support closure of the Oceano Dunes beach front from the newest 48-acre dune exclosure area south through the 350-acre “seasonal exclosure” from March through September. We believe this measure is the bare minimum needed to protect beach nesting bird populations. The Biodiversity Management Plan recommends closure of the beach in front of the 48-acre area but does not go so far as to recommend closure the entire area. In addition, it suggests interim measures in advance of completing an NCCP, which could take years.

One of the California Coastal Commission recommendations from their July 19 letter was to make the Seasonal exclosure permanent. The PWP fails to do that. Audubon California strongly recommends that this exclosure needs to be made permanent in order to provide habitat, cover, and food resources throughout the year not just for nesting Snowy Plovers and Least Terns, but also for wintering snowy plovers and well as the thousands of migratory and wintering shorebirds that utilize the central coast beaches. We are concerned that State Parks and CDFW have failed to address protection for migratory and wintering shorebirds, and the impacts that OHV driving has on those birds and their food resources.

### **Oso Flaco Lake 120 acre**

The Oso Flaco Lake region is designated as part of the Santa Maria River Valley Important Bird Area by the National Audubon Society. It is also critical habitat along the Pacific Flyway for migratory birds. Countless birders and community members frequent this area to watch and study the avian life and ecology of the dunes and lakes. The expansive 120-acre development proposed in the PWP Improvement Plan, along with increased OHV access, at Oso Flaco Lake will negatively impact many sensitive species by damaging and destroying habitat, increasing air and noise pollution, and increasing invasive species and predation of native species. It could therefore directly impact avian species by reducing population density, diminishing reproductive success, and reducing species diversity and richness.

We support the continued conservation of the Oso Flaco Lake Natural Area for non-motorized public enjoyment and wildlife habitat, with no use of the land for any off-highway motor vehicle activity or facilities. We also continue to support public access at the Oso Flaco Natural Area and do believe public access improvements could be constructed to benefit the surrounding communities in a way to balance access with resource protection, without a 120-acre footprint development. We also oppose siting of any southern OHV entrance to the ODSVRA at, or in close proximity to, Oso Flaco Lake. The current development proposal does not appear to balance cultural and natural resource protection with public access.

In closing, State Parks needs to evaluate habitat protection and public access through the lens of Executive Order 30x30. California is the first state to set priorities and incorporate equity, Indigenous People, and access to nature into its goals. These intentions ensure that disadvantaged communities, including communities of color and tribal communities, have a voice as well as equitable access to a healthy and safe environment. Both Audubon California and Morro Coast Audubon are committed to ensuring that these programs provide benefits to communities that have been deprived of healthy air and access to nature.

Executive Order 30x30 provides an opportunity to close the “nature gap” – as people of color are much more likely to live in communities that are nature deprived. We know California’s access to parks and nature is fundamentally unequal. This inequity exists on many levels including people not feeling comfortable and safe once they can access these natural areas. The PWP does not go far enough to provide equitable public access for all and to balance that with protection of an environmentally sensitive area.

Thank you for your consideration of our comments and we look forward to reading a revised PWP and EIR. Furthermore, we would welcome the opportunity to comment on or discuss the Biodiversity Management Plan, which we believe would benefit from external expert input. Please reach out to us if you have any questions or would like to discuss our comments in greater detail.

Sincerely,

A handwritten signature in cursive script, appearing to read "Andrea Jones".

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