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SAN LUIS OBISPO SUPERIOR COURT

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8 Association, Sierra Club, Surfrider Foundation,  
and San Luis Obispo Coastkeeper

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **COUNTY OF SAN LUIS OBISPO**

11  
12 FRIENDS OF OCEANO DUNES, INC., a  
13 California not-for profit corporation,

14 Petitioner and Plaintiff,

15 v.

16 CALIFORNIA COASTAL COMMISSION, a  
commission of the state of California; and  
17 DOES 1-50, inclusive,

18 Respondent and Defendant;

19 CALIFORNIA DEPARTMENT OF PARKS  
AND RECREATION, a department of the  
20 State of California; and DOES 1-50, inclusive,

21 Respondent and Defendant as  
to the First Cause of Action,  
22 Count 4, and, as a Real Party-  
in-Interest as to the remaining  
23 Counts, and

24 COUNTY OF SAN LUIS OBISPO, a  
governmental unit and subdivision of the State  
25 of California, and DOES 1-50, inclusive,

26 Real Party-in-Interest,

27 NORTHERN CHUMASH TRIBAL  
COUNCIL, CENTER FOR BIOLOGICAL  
28 DIVERSITY, OCEANO BEACH

**Case No. 21CV-0214 (Lead Case)**

*Consolidated with Case Nos.: 21CV-0219,  
21CV-0246, and 21CV-0541*

**NORTHERN CHUMASH  
TRIBAL COUNCIL, CENTER  
FOR BIOLOGICAL DIVERSITY,  
OCEANO BEACH COMMUNITY  
ASSOCIATION, SIERRA CLUB,  
SURFRIDER FOUNDATION, AND  
SAN LUIS OBISPO COASTKEEPER  
NOTICE OF MOTION AND  
MOTION TO INTERVENE;  
DECLARATIONS IN SUPPORT THEREOF**

Date: March 9, 2022

Time: 9:00 a.m.

Dept.: 9

Judge: Hon. Tana L. Coates

Trial Date: July 21, 2022

Action Filed: 04/12/2021

Case No. 21CV-0214

APPLICANT INTERVENORS' NOTICE OF MOTION AND MOTION TO INTERVENE

1 COMMUNITY ASSOCIATION, SIERRA  
2 CLUB, SURFRIDER FOUNDATION, AND  
3 SAN LUIS OBISPO COASTKEEPER,

4 Applicant-Intervenors.

5 ECOLOGIC PARTNERS, INC., a California  
6 Non-Profit Corporation; SPECIALTY  
7 EQUIPMENT MARKETASSOCIATION, a  
8 California Non-Profit Corporation,

9 Petitioners,

10 v.

11 CALIFORNIA COASTAL COMMISSION;  
12 JOHN AINSWORTH, as Executive Director of  
13 the California Coastal Commission; *et al.*,

14 Respondents,

15 COUNTY OF SAN LUIS OBISPO; and DOES  
16 1-10.

17 Real Parties in Interest,

18 NORTHERN CHUMASH TRIBAL  
19 COUNCIL, CENTER FOR BIOLOGICAL  
20 DIVERSITY, OCEANO BEACH  
21 COMMUNITY ASSOCIATION, SIERRA  
22 CLUB, SURFRIDER FOUNDATION, AND  
23 SAN LUIS OBISPO COASTKEEPER,

24 Applicant-Intervenors.

**Case No. 21CV-0219**

25 FRIENDS OF OCEANO DUNES, INC., a  
26 California not-for profit corporation,

27 Petitioner and Plaintiff,

28 v.

CALIFORNIA COASTAL COMMISSION, a  
commission of the State of California; and  
DOES 1-50, inclusive,

Respondent and Defendant;

CALIFORNIA DEPARTMENT OF PARKS  
AND RECREATION, a department of the  
State of California; and DOES 1-50, inclusive,

**Case No. 21CV-0246**

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Real Party-in-Interest;  
COUNTY OF SAN LUIS OBISPO, a county of  
the State of California, and DOES 1-50,  
inclusive,  
Real Party-in-Interest,  
NORTHERN CHUMASH TRIBAL  
COUNCIL, CENTER FOR BIOLOGICAL  
DIVERSITY, OCEANO BEACH  
COMMUNITY ASSOCIATION, SIERRA  
CLUB, SURFRIDER FOUNDATION, AND  
SAN LUIS OBISPO COASTKEEPER,  
Applicant-Intervenors.

**Case No. 21CV-0541**

FRIENDS OF OCEANO DUNES, INC., a  
California not-for profit corporation,  
Petitioner and Plaintiff,  
v.  
CALIFORNIA COASTAL COMMISSION, a  
commission of the State of California; and  
DOES 1-50, inclusive,  
Respondents and Defendants,  
CALIFORNIA DEPARTMENT OF PARKS  
AND RECREATION, a department of the  
State of California; and DOES 1-50, inclusive,  
Real Party-in-Interest, and  
COUNTY OF SAN LUIS OBISPO a  
governmental unit and subdivision of the State  
of California, and DOES 1-50, inclusive,  
Real Party-in-Interest,  
NORTHERN CHUMASH TRIBAL  
COUNCIL, CENTER FOR BIOLOGICAL  
DIVERSITY, OCEANO BEACH  
COMMUNITY ASSOCIATION, SIERRA  
CLUB, SURFRIDER FOUNDATION, AND  
SAN LUIS OBISPO COASTKEEPER,  
Applicant-Intervenors.

1 **NOTICE OF MOTION AND MOTION TO INTERVENE**

2 TO ALL PARTIES AND COUNSEL OF RECORD:

3 Please take notice that pursuant to California Code of Civil Procedure 387 the Northern  
4 Chumash Tribal Council, the Center for Biological Diversity, Oceano Beach Community  
5 Association, Sierra Club, Surfrider Foundation, and San Luis Obispo Coastkeeper (collectively,  
6 “Applicants”) move to intervene in this matter. The Motion will be heard before the Honorable Tana  
7 L. Coates on March 9, 2022, at 9:00 a.m., in Department 9, located at 1050 Monterey St., San Luis  
8 Obispo, CA 93408.

9 Applicants seek leave to intervene as Defendants and Respondents in this case as a matter of  
10 right pursuant to California Code of Civil Procedure section 387, subdivision (d)(1). Alternatively,  
11 Applicants request leave to intervene with the Court’s permission pursuant to California Code of  
12 Civil Procedure 387, subdivision (d)(2). This Motion to Intervene is based on the Notice, Motion,  
13 Memorandum of Points and Authorities, attached Declarations, exhibits, papers, and any necessary  
14 oral arguments heard before the Court.

15 DATED: February 14, 2022

ENVIRONMENTAL LAW CLINIC  
University of California, Irvine School of Law

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17  
18 /s/ \_\_\_\_\_  
19 RYAN RIEDMUELLER  
Certified Law Student

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21 /s/ \_\_\_\_\_  
22 MICHAEL ROBINSON-DORN  
Director and Supervising Attorney

23  
24 /s/ \_\_\_\_\_  
DANIEL JACOBS  
Senior Counsel

25  
26 Attorneys for Applicant Intervenors  
27 Northern Chumash Tribal Council,  
Center for Biological Diversity, Oceano  
28 Beach Community Association, Sierra  
Club, Surfrider Foundation, and San Luis  
Obispo Coastkeeper

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25 *Exhibits*,<https://documents.coastal.ca.gov/reports/2021/4/Th13a/th13a-4-2021-exhibits.pdf>

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28 *Listed Species*, <http://www.coastal.ca.gov/recap/slo/slo-map-4-a.pdf> (last visited Jan. 28, 2022).....3

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **INTRODUCTION**

3 This litigation concerns the fate of Oceano Dunes (“Dunes”), a critical part of the Guadalupe-  
4 Nipomo Dunes which is an 18-mile stretch of coastline that is the world’s largest intact coastal dune  
5 ecosystem.<sup>1</sup> Many rare and endangered species live in the Dunes’ biomes, and the Dunes are sacred  
6 to the Indigenous Northern Chumash Tribe.

7 Despite the fragility and importance of the Dunes, Off-Highway Vehicles (“OHVs”) have  
8 been permitted for decades in the Oceano Dunes State Vehicular Recreation Area (“ODSVRA”), a  
9 nearly one-thousand-acre portion of a large State Park. Vehicular recreation in the ODSVRA is  
10 damaging to both the Dunes and to the health and safety of the surrounding area. Vehicular recreation  
11 directly impacts sensitive coastal habitats including areas of the Dunes that provide nesting and  
12 rearing habitat for the threatened western snowy plovers and endangered California least tern. OHVs  
13 also kick up dust that plagues the air breathed by nearby disadvantaged and minority communities.  
14 Applicants have witnessed decades of destruction to sensitive habitats, and Chumash sacred sites  
15 from the thousands of OHVs and other vehicles that are operated through the Oceano Dunes SVRA.<sup>2</sup>

16 On March 18, 2021, the California Coastal Commission (“the Commission”), voted to phase  
17 out the use of OHVs in the ODSVRA over the next three years, to limit areas of the park open to  
18 street-legal vehicle use, and to eliminate the Pier Avenue vehicular entrance.<sup>3</sup> In making this  
19 decision, the Commission cited harms caused by OHV use at the Dunes to sensitive coastal habitats  
20 and threatened and endangered species, the deleterious impact of OHV use on residents of Oceano  
21 and Nipomo, and concerns for Tribal justice. Plaintiffs have challenged this amendment.

22  
23  
24 <sup>1</sup> Cal. Coastal Comm’n, *CDP 3-12-050-A2 (Oceano Dunes Dust Control Amendment) April 15, 2021, Exhibits*, <https://documents.coastal.ca.gov/reports/2021/4/Th13a/th13a-4-2021-exhibits.pdf> (last  
25 visited Feb. 8, 2022).

26 <sup>2</sup> Cal. Coastal Comm’n, *Oceano Dunes Coastal Development Permit 4-82-300 Review, Prepared July*  
27 *30, 2021 for August 12, 2021 Hearing* at 27, [https://documents.coastal.ca.gov/reports/2021/8/](https://documents.coastal.ca.gov/reports/2021/8/Th20a/th20a-8-2021-report.pdf)  
28 [Th20a/th20a-8-2021-report.pdf](https://documents.coastal.ca.gov/reports/2021/8/Th20a/th20a-8-2021-report.pdf) (last visited Feb. 11, 2022).

<sup>3</sup> *Id.* at 25.

1 Applicant Intervenors (“Applicants”) seek to join the captioned consolidated cases to protect  
2 their interests that “may be affected by [a] judgment.” *People ex rel. Rominger v. County of Trinity*,  
3 147 Cal. App. 3d 655, 660 (1983). Although Applicants share with the Commission an interest in  
4 phasing out OHVs in the Ocano Dunes to protect resources and public health, Applicants’ interests  
5 do not entirely align: the Commission and State Parks must balance the needs of many stakeholders  
6 in the coastal zone, while Applicants are narrowly focused on promoting the strongest possible  
7 environmental and cultural protections for the Dunes. Further, Applicants also have localized  
8 knowledge that will help the Court understand the practical application of Plaintiffs’ claims. Finally,  
9 Applicants will not raise new issues or expand the scope of this litigation. *Id.* at 661.

10 Through counsel, the California Department of Parks and Recreation and Friends of Oceano  
11 Dunes indicated they would like to review the moving papers before taking a position on this Motion;  
12 EcoLogic Partners, Inc. and Specialty Equipment Market Association (“SEMA”) indicated they  
13 will oppose this Motion; the California Coastal Commission indicated it will not oppose this Motion;  
14 and the County of San Luis Obispo has not been able to provide a response indicating its position.

### 15 **LEGAL BACKGROUND**

16 In passing the Coastal Act, the California Legislature found and declared that “permanent  
17 protection of the state's natural and scenic resources” is of the utmost importance for Californians,  
18 present and future, and that “it is necessary to protect the ecological balance of the coastal zone and  
19 prevent its deterioration and destruction.” Cal. Pub. Res. Code § 30001(b), (c). The Legislature’s  
20 goals in passing the Coastal Act were, among others, to “[p]rotect, maintain, and, where feasible,  
21 enhance and restore the overall quality of the coastal zone environment and its natural and artificial  
22 resources;” “ensure orderly, balanced utilization and conservation of coastal zone resources taking  
23 into account the social and economic needs of the people of the state;” and “maximize public access  
24 to and along the coast and maximize public recreational opportunities in the coastal zone consistent  
25 with sound resources conservation principles.” Cal. Pub. Res. Code § 30001.5.

26 The Coastal Act specifies that “Environmentally Sensitive Habitat Areas” (“ESHAs”) are  
27 worthy of particular protection and restricts activities permitted in ESHAs. Notably, ESHAs are  
28 protected from “any significant disruption of habitat values,” and the Coastal Act permits “only uses

1 dependent on those resources” unique to the site. Cal. Pub. Res. Code 30240(a). Environmentally  
2 sensitive areas are those lands in which “plant or animal life or their habitats are either rare or  
3 especially valuable because of their special nature or role in an ecosystem and which could be easily  
4 disturbed or degraded by human activities and developments.” Cal. Pub. Res. Code § 30107.5. The  
5 majority of Oceano Dunes, including the entirety of the ODSVRA, is designated as an ESHA.<sup>4</sup>

6 The California Coastal Commission has the primary responsibility of implementing the  
7 Coastal Act. Cal. Pub. Res. Code § 30330. The Commission regulates development on coastal land  
8 through the Coastal Development Permit (“CDP”) process. Cal. Pub. Res. Code § 30604. CDPs are  
9 required of any individual or organization “wishing to perform or undertake any development in the  
10 coastal zone.” Cal. Pub. Res. Code § 30600.<sup>5</sup>

11 The Coastal Commission approved CDP 4-82-300 in 1982. That CDP, a *temporary* permit  
12 subject to annual review, regulated the use of OHVs in the ODSVRA and included conditions  
13 designed to protect ESHAs. CDP 4-82-300. Over the years, CDP 4-82-300 has been amended to  
14 increase protection of the Dunes from OHVs and other vehicles. For example, in 2001, the Coastal  
15 Commission amended CDP 4-82-300 to introduce a Technical Review Team to monitor and protect  
16 the natural resources in the ODSVRA, specifically including “species of concern” such as the  
17 Western snowy plover and the California least tern.<sup>6</sup> Despite these efforts, the Dunes continued to  
18 suffer damage from OHVs, threatened and endangered species continued to be harmed, and residents  
19 of Oceano and Nipomo remained impacted by reduced air quality. Miller ¶¶ 14, 17. As a result, on  
20 March 18, 2021, the Coastal Commission amended CDP 4-82-300 and mandate a phase-out of OHV  
21 use in the ODSVRA over a period of three years.

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23 <sup>4</sup> Cal. Coastal Comm’n, *County’s ESHA Combining Designation and Areas Containing Federally-*  
24 *Listed Species*, <http://www.coastal.ca.gov/recap/slo/slo-map-4-a.pdf> (last visited Jan. 28, 2022).

25 <sup>5</sup> The Coastal Act broadly defines “development” to include, among other things, “change in the  
26 density or intensity of use of land”, and therefore includes projects such as the regulation of OHV use  
in coastal land in addition to the operation of the ODSVRA. Cal. Pub. Res. Code § 30106.

27 <sup>6</sup> Cal. Coastal Comm’n, *CDP 4-82-300 (2019 ODSVRA Review), Exhibit 4, CDP 4-82-300-A5*,  
28 <https://documents.coastal.ca.gov/reports/2019/7/Th12a/Th12a-7-2019-exhibits.pdf> (last visited Jan.  
28, 2022).

1 **FACTUAL BACKGROUND**

2 **I. The Significance of Oceano Dunes and the Impacts from OHV Use**

3 The Nipomo Dunes, “which includes much of ... [the] ODSVRA, are the largest coastal  
4 dunes-lagoon complex in California.” Miller Decl. ¶ 14. “Intact and large coastal wetlands are an  
5 exceedingly rare and imperiled habitat type in California.” Miller Decl. ¶ 14. The presence of OHVs  
6 is severely damaging to the Dunes’ fragile ecosystem. Christie Decl. ¶ 18. The “freshwater marsh,  
7 riparian habitat, coastal saltmarsh, woodland, mudflats, beach, open water and transition areas” of the  
8 Nipomo dunes-wetlands complex host “numerous endangered and threatened species.” Miller Decl. ¶  
9 14; *see also* Christie Decl. at ¶¶ 19, 20. Imperiled species include the Western snowy plover, the  
10 California least tern, the steelhead trout, and the tidewater goby. Miller Decl. ¶ 14. Vehicles crossing  
11 Arroyo Grande Creek can crush the threatened steelhead trout. Christie Decl. ¶ 20. Snowy plover and  
12 California least tern suffer “direct mortality from off-road vehicles and vehicles driving on the beach”  
13 and “disturbance of nesting and fledging and habitat loss and alteration due to vehicles and  
14 management activities associated with off-roading.” Miller Decl. ¶ 24; *see also* Christie Decl. ¶ 19.

15 The thousands of vehicles driving on the beach strips the foredunes of natural vegetation,  
16 “causing erosion and releasing miles-long plumes of fine particulate matter.” Christie Decl. ¶ 18; *see*  
17 *also* Hensely Decl. ¶ 12. The County of San Luis Obispo Health Commission reports that residents of  
18 the area suffer from “on-going, unresolved, serious health consequences of exposure to Particulate  
19 Matter (PM) blowing from the dunes.”<sup>7</sup> The Health Commission reports that studies conducted by the  
20 Air Pollution Control District “unequivocally conclude” that the dust exposure the community is  
21 experiencing is the direct result of the use of OHVs in the ODSVRA.<sup>8</sup> Residents suffer from “very  
22 serious acute, chronic, and cumulative impacts” to their health as a result of the dust exposure  
23 brought on by the use of OHVs on the dunes.<sup>9</sup>

24 \_\_\_\_\_  
25 <sup>7</sup> County of San Luis Obispo Health Commission, *May 15, 2017 Letter*,  
26 [https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/Health%  
20Commission%202017%2005-15%20Ltr%20to%20Board%20of%20Supervisors%20-  
%20PM%20Oceano%20Dunes.pdf](https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/Health%20Commission%202017%2005-15%20Ltr%20to%20Board%20of%20Supervisors%20-%20PM%20Oceano%20Dunes.pdf) (last visited Jan. 28, 2022).

27 <sup>8</sup> *Id.*

28 <sup>9</sup> *Id.*

1 In addition to the health consequences of dust caused by the dune erosion, residents face  
2 increased safety concerns related to the presence of OHVs in the ODSVRA. In 2018 alone, park  
3 rangers reportedly made 82 arrests in the ODSVRA,<sup>10</sup> which reportedly included 49 felony arrests for  
4 such crimes as gang-related activity and rape,<sup>11</sup> and made 84 arrests in 2019.<sup>12</sup>

## 5 **II. Applicants' Interest in Oceano Dunes and Concerns of OHV Use**

### 6 **A. Organizational Goals and Histories of Advocacy**

7 Applicants — the Northern Chumash, Center for Biological Diversity, Oceano Beach  
8 Community Association, the Sierra Club, San Luis Obispo Coastkeeper, and the Surfrider Foundation  
9 — each has interests in the present litigation due to its potential impact on their members. Applicants  
10 have all advocated to end OHV use on the Dunes. Each Applicant also provided public comment in  
11 support of the Commission's proposed CDP Amendment.

12 The Northern Chumash are a tribe with over 10,000 years of history with the Dunes. Walker  
13 Decl. ¶ 5. The Tribe's "overarching mission [is] to utilize [] Indigenous knowledge developed over  
14 millennia to lead the San Luis Obispo region on sustainable development and governance." *Id.* ¶ 3.  
15 Chumash Heritage maintains a deep appreciation for the "immeasurable ecological, cultural, and  
16 scenic value along with educational and scientific importance embedded in the Dunes." *Id.* ¶ 7. OHV  
17 use threatens the ecological stability of the Dunes which in turn, threatens Chumash culture. *Id.* The  
18 Northern Chumash's ecological knowledge, traditions, songs, cuisine, and history all depend on the  
19 health of the Dunes. *Id.* ¶¶ 7, 8. Further, the Northern Chumash have conducted multiple  
20 consultations with the Coastal Commission in pursuit of greater protection of sacred lands. *Id.* ¶ 4.

21 Center for Biological Diversity is an organization with over 89,000 members that "works to  
22 secure a future for all species, great and small, hovering on the brink of extinction, through science,  
23 law and creative media, with a focus on protecting the lands, waters and climate that species need to

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25 <sup>10</sup> San Luis Obispo Grand Jury, *Dunes Report*, 6, (June 24, 2020),  
<https://drive.google.com/drive/folders/1fATISdbl0hX4iUgG7jniUaE6BXGuEa0M>.

26 <sup>11</sup> Julie Cart, *The dust-up over California's off-road beach; COVID highlights conflicts over air*  
27 *pollution, crime and accidents on California's central Coast*, HIGH COUNTRY NEWS, (Nov. 25, 2020),  
<https://www.hcn.org/articles/recreation-the-dust-up-over-californias-off-road-beach>.

28 <sup>12</sup> San Luis Obispo Grand Jury, *supra* note 10, at 16.

1 survive.” Miller Decl. ¶¶ 4, 6. The Center has a long history of advocacy in protecting wildlife from  
2 the damage caused by OHVs in the ODSVRA. *Id.* ¶ 20.

3       Oceano Beach Community Association consists of “a coalition of residents and Oceano  
4 businesses owners” whose goal is “improving livability, accessibility, and beauty while preserving  
5 cultural diversity, historic character, and coastal environmental health.” Casalnuovo Decl. ¶ 5. Low-  
6 impact, affordable beach access is critical to an Oceano that can be enjoyed by locals and visitors  
7 alike. The population of Oceano, which is nearly half Hispanic, is currently unable to safely engage  
8 in low-impact recreation on its local beach, and Oceano’s economy suffers from a lack of tourism  
9 compared to nearby cities with more serene and less dangerous coastal lands. *Id.* ¶¶ 5, 6, 8. OBCA’s  
10 members have “documented the degradation of the Dunes” for the Coastal Commission and have  
11 consistently attended meetings held by the Commission regarding OHV use in the Dunes. *Id.* ¶ 11.

12       The Sierra Club is an environmental group with over 3.8 million members and supporters,  
13 including 500,000 in California. Christie Decl. ¶ 5. Among the Club’s several goals includes a focus  
14 to “steward our natural resources to safeguard them for present and future generations.” *Id.* ¶ 7. The  
15 Sierra Club has fought to preserve and defend the Dunes for over fifty years. *Id.* ¶ 15.

16       The Surfrider Foundation is a national grassroots nonprofit organization with more than  
17 350,000 supporters and members, 79 local chapters, and 92 school clubs in the United States. Snook  
18 Decl. ¶ 4. Eighteen of those local chapters, including Surfrider’s San Luis Obispo Chapter, and  
19 approximately 13,900 active members, are in California. *Id.* Surfrider’s mission is “the protection and  
20 enjoyment of our ocean, waves and beaches for all people,” with an emphasis on accessible low-  
21 impact beach use. Snook Decl. ¶ 5. Surfrider’s San Luis Obispo Chapter is also dedicated to  
22 preserving the “unique and dynamic landscapes” of California’s coastal lands. *Id.* ¶ 9. The San Luis  
23 Obispo Chapter has organized a “Protect Oceano Dunes” campaign since March 2019, when the local  
24 chapter joined an opposition letter concerning the ODSVRA Public Works Plan regarding the Oso  
25 Flaco Campground and Public Access Project. *Id.* ¶ 10. It has since joined multiple letters to State  
26 Parks recommending the phase-out of OHVs at the Dunes. *Id.* ¶ 11.

27       The San Luis Obispo Coastkeeper (“SLO Coastkeeper”) is a member of the Waterkeeper  
28 Alliance — an international organization dedicated to conservation and the protection of fishable,

1 swimmable, and drinkable water. Hensley Decl. ¶ 7. SLO Coastkeeper aims to protect and improve  
2 healthy and diverse ecosystems on Central Coast Marine habitats and watershed ecosystems and has  
3 approximately 900 supporting members. SLO Coastkeeper has participated in past litigation  
4 involving State Parks, engaged with the Coastal Commission and State Parks, and attended County  
5 Board of Supervisors hearings such that it holds an understanding and perspective on how the State  
6 Parks OHV Division affects residential life and environmental health. *Id.* ¶ 10

7 **B. Health and Safety Interests**

8 OHV activity exacerbates dune erosion and releases “miles-long plumes of fine particulate  
9 matter” which results in a “public health threat.” Christie Decl. ¶ 18. Local members of Applicants  
10 face an increased threat of “severe health risks” due to the low air quality in the areas surrounding the  
11 Dunes, which is directly connected to the use of OHVs in the ODSVRA.<sup>13</sup>

12 Furthermore, vehicles in the ODSVRA cause Applicants concern for the safety of their  
13 members. Miller Decl. ¶ 15; Casalnuovo Decl. ¶ 8; Snook Decl. ¶ 8 . In 2019 alone, vehicular  
14 accidents in the ODSVRA resulted in six deaths, one of which was confirmed to be alcohol related,  
15 the others resulting from “inexperience, inattentiveness, and speed.”<sup>14</sup> Several Applicants expressed  
16 that their members/supporters avoid visiting certain areas of the Dunes due to the presence of  
17 speeding vehicles and the dangers this poses to themselves and their families for low-impact uses  
18 such as picnics and beach walks. Miller Decl. ¶ 15; Casalnuovo Decl. ¶ 8; Snook Decl. ¶ 8.

19 **C. Cultural and Recreational Interests**

20 The Northern Chumash have “over a 10,000 year-long history of cherishing the Dunes as a  
21 sacred and culturally imperative site.” Walker Decl. ¶ 5. Moreover, the Northern Chumash have an  
22 imperative cultural interest in the maintenance of the Dunes and its wildlife, both of which are  
23 threatened by OHV use in the ODSVRA. Walker Decl. ¶ 6. Members of the Northern Chumash have  
24 continuously engaged in essential cultural activity, including the education and nourishment of their  
25 children and ceremonies in remembrance of their dead in the Dunes throughout this period. *Id.* ¶¶ 5,  
26 7, 8. The Tribe has understood itself to be stewards of the Dunes and its wildlife for millennia and

27 <sup>13</sup> County of San Luis Obispo Health Commission, *supra* note 7.

28 <sup>14</sup> San Luis Obispo Grand Jury, *supra* note 10, at 7.

1 have a culture that is “intimately tied to the Dunes’ ecology.” *Id.* ¶¶ 5, 7. The tribe, over several  
2 decades, has noted the effects OHVs have inflicted on the sacred Dunes, leading to “consistent  
3 degradation of both the Dunes and its attending ecosystem,” *Id.* ¶ 6. For example, in recorded  
4 memory, there have been at least 186 species of water and terrestrial birds noted at the Dunes, which  
5 “are supported by an immense natural system of geologic, meteorologic, and oceanographic forces  
6 that summon nutrients from the ocean floor to the dependent micro flora and fauna on the tides and  
7 shores of the Oceano Dunes.” *Id.* ¶ 7. This ecosystem has been undermined by OHV use at the  
8 Dunes. *Id.*

9 Applicants also have an interest in the sustainable, low-impact recreational use of the Dunes,  
10 which is inconsistent with the present permitted use of OHVs in the ODSVRA. In addition to the  
11 concerns about the future of the Dunes and its wildlife, the use of OHVs also interferes with  
12 members of Applicants enjoying the beaches near their homes. For example, as they careen across the  
13 fragile dunes, the noisy OHVs disturb the serenity of the venue, and their riders frequently litter in the  
14 area. Miller Decl. ¶¶ 16; 29. Applicants wish to enjoy low-impact uses of the Dunes, such as “hiking,  
15 sunbathing, swimming, surfing, fishing, birdwatching, nature study, beachcombing, and  
16 photography.” *Id.* ¶ 19. They cannot do so while vehicles dominate the ODSVRA and effectively turn  
17 the beach into a highway. Snook Decl. ¶ 8.

## 18 ARGUMENT

19 California Code of Civil Procedure § 387 provides for two types of intervention: as-of-right  
20 and permissive. Cal. Civ. Proc. Code § 387. Intervention is intended to “promote fairness by  
21 involving” all affected parties. *Simpson Redwood Co. v. State of California*, 196 Cal. App. 3d 1192,  
22 1199 (1987). Courts recognize that California Code of Civil Procedure section 387 “should be  
23 liberally construed in favor of intervention.” *City of Malibu v. Cal. Coastal Comm’n*, 128 Cal. App.  
24 4th 897, 902 (2005). Here, Applicants meet the standards for both types of intervention.

### 25 **I. Applicants Are Entitled to Intervene as of Right.**

26 Pursuant to section 387, courts “shall” grant intervention where an applicant: (1) files a timely  
27 application; (2) claims an interest relating to the subject of the action; (3) is so situated that the  
28 disposition of the action may impair or impede their ability to protect that interest; and (4)



1 demonstrates that an existing party does not adequately represent their interest. *See* Cal. Civ. Proc.  
2 Code § 387(d)(1)(B). Applicants have established each of these requirements.

3 Applicants bring this Motion in a timely fashion to intervene consistent with their dedication,  
4 interests, and participation in the administrative process leading up to the Commission’s March 2021  
5 CDP amendment. Applicants seek intervention to protect threatened species, Miller Decl. ¶ 14,  
6 restore the health of the the Dunes and the vitality of the surrounding communities, protect public  
7 rights to low impact recreational access, and safeguard the cultural practices of the Northern  
8 Chumash, the ancestral keepers of the Dunes. The Coastal Commission and State Parks are  
9 collectively unable to adequately defend Applicants’ interests as demonstrated by four decades of  
10 failure to meaningfully cooperate to protect the Dunes.

11 **A. Applicants’ Motion is timely.**

12 Timeliness is construed “broadly in favor of the party seeking intervention.” *Silver v. Babbitt*,  
13 166 F.R.D. 418, 424 (D. Ariz. 1994), *aff’d*, 68 F.3d 481 (9th Cir. 1995); *see also United States v.*  
14 *Oregon*, 745 F.2d 550, 552 (9th Cir. 1984). The “right to intervene should be asserted within a  
15 reasonable time” such that it will not delay the suit. *Sanders v. Pac. Gas & Elec. Co.*, 53 Cal. App. 3d  
16 661, 668–69 (1975). The present case consists of four cases that were consolidated, with the first  
17 complaint filed on April 12, 2021. A subsequent Order consolidating three of the cases was filed on  
18 July 13, 2021, and a new Order adding a more recent case was filed on October 28, 2021. Applicants  
19 contacted the Court in late August 2021 to secured the earliest available date – March 9, 2022 – for  
20 the Court to hear this intervention motion. Opening briefs will not be filed for months, and the  
21 administrative record is not yet finalized, so the case is in its early stages and intervention would not  
22 disrupt or delay proceedings. *See Citizens for Balanced Use v. Mont. Wilderness Ass’n*, 647 F.3d 893,  
23 897 (9th Cir. 2011) (motion to intervene was timely because it would not disrupt or delay  
24 proceedings);<sup>15</sup> *Mar v. Sakti Int’l Corp.*, 9 Cal. App. 4th 1780, 1785 (1992) (motion to intervene was  
25 timely when filed before the conclusion of trial on the facts).

26  
27  
28 <sup>15</sup> California’s as-of-right intervention under section 387 is substantively “an exact counterpart to rule 24(a) of the Federal Rules of Civil Procedure.” *Hodge v. Kirkpatrick Development, Inc*, 130 Cal.

1           **B. Applicants have clear interests at stake that may be impaired or impeded**  
2           **by this litigation.**

3           Under section 387, the person seeking intervention must “claim[ ] an interest relating to the  
4           property or transaction that is the subject of the action.” Code Civ. Proc. § 387(d)(1)(B). Nonprofits  
5           can demonstrate an interest in an action by showing their support for a measure at issue in a case. *See*  
6           *Citizens for Balanced Use*, 647 F.3d at 897-98 (conservation groups had interest in action  
7           adjudicating administrative decision related to the groups’ interests and goals); *Idaho Farm Bureau*  
8           *Fed’n v. Babbitt*, 58 F.3d 1392, 1397 (9th Cir. 1995) (a nonprofit is “entitled as a matter of right to  
9           intervene in an action challenging the legality of a measure it has supported”). For intervention as a  
10          matter of right, parties need to show that the “disposition of the action may impair or impede” their  
11          ability to safeguard their interests. Cal. Civ. Proc. Code § 387(d)(1)(B). The outcome of this case may  
12          impair Applicants’ interests in protecting and restoring the Dunes, which includes sacred lands;  
13          Applicants’ interests in protecting endangered species and habitats; and Applicants’ interests in  
14          protecting the public health in Oceano and surrounding communities.

15          Courts have consistently granted intervention as-of-right when applicants seek to intervene in  
16          litigation challenging an agency decision that applicants supported or that concerns issues closely tied  
17          to applicants’ organizational missions or goals. In *Idaho Farm Bureau*, for example, the Ninth Circuit  
18          found that an action that could overturn a decision to list a species as endangered could impair the  
19          mission and investment of the organization that petitioned for the listing. *Idaho Farm Bureau Fed’n*,  
20          58 F.3d at 1397-98. Similarly, in *Idaho v. Freeman*, 625 F.2d 886 (9th Cir. 1980), the court held that  
21          the applicant, National Organization for Women, had the right to intervene in a suit challenging  
22          procedures for ratification of the proposed Equal Rights Amendment to the Constitution of the United  
23          States because the interests of the organization were contingent on the outcome of the litigation.

24          Like the intervenors in *Citizens for Balanced Use* and *Idaho Farm Bureau*, Applicants here  
25          have collectively invested several decades in the protection and restoration of the Dunes. Further,  
26          App. 4th 540, 556 (2005). Thus, “the Legislature must have intended that they should have the same  
27          meaning, force and effect as have been given the federal rules by the federal courts.” *Id.* Federal  
28          cases are therefore appropriate guides to intervention in state proceedings. *See also Ziani*  
*Homeowners Ass’n v. Brookfield Ziani, LLC*, 243 Cal. App. 4th 274, 280-82 (2015) (concluding that  
intervention under section 387 should “be interpreted consistently with federal cases”).

1 Applicants have advocated for phasing out OHV use on the Dunes consistently since at least 2017;  
2 documented the degradation of the Dunes; collected sand and vegetative samples for the  
3 government’s consideration; provided pictures, videos, interviews, letters, and signatures to the  
4 Coastal Commission; and attended Coastal Commission and State Parks Public meetings. Christie  
5 Decl. ¶ 17; Casalnuovo Decl ¶ 11; Snook Decl. ¶¶ 10, 11; Miller Decl. ¶¶ 21, 22; Hensley Decl. ¶  
6 10. Certain Applicants have met with commissioners several times, advocated for support at  
7 neighboring town meetings and Board of Supervisors meetings, and lobbied elected officials. Christie  
8 Decl. ¶ 15; Casalnuovo Decl ¶ 11; Snook Decl. ¶¶ 10, 11; Hensley Decl. ¶ 10. Applicants also  
9 provided written comments to the Coastal Commission draft staff report in support of the CDP  
10 Amendment to phase out OHV use and to the State Parks PWP. Miller Decl. ¶ 22; Christie Decl. ¶  
11 17; Snook Decl. ¶ 11. Applicants’ history of action shows they have a clear interest in this litigation  
12 in order to protect the Dunes, the health and safety of the surrounding communities, and members  
13 who wish to engage in low-impact recreation on and around the Dunes.

14 Should Plaintiffs successfully challenge the Coastal Commission’s authority to administer  
15 protections for the Dunes, Applicants’ interests in protecting and restoring the Dunes would be  
16 impaired. Christie Decl. ¶ 25; Snook Decl. ¶¶ 5, 12; Miller ¶ 30; Hensley Decl. ¶¶ 7, 15. Invalidating  
17 the Commission’s CDP Amendment would also undermine the timely protection of coastal resources  
18 at the Dunes, which would further damage each Applicant’s ability to use the Coastal Act to fulfill  
19 their own missions to protect habitat, species, native culture and heritage, and public health.

20 **C. The existing parties cannot adequately represent Applicants’ interests.**

21 Where an action may impede an applicant’s interest, intervention must be granted unless that  
22 “interest is adequately represented by one or more of the existing parties.” Cal. Civ. Proc. Code §  
23 387(d)(1)(B). The adequate representation requirement is satisfied “if the Intervenor shows that  
24 representation of his interest ‘may be’ inadequate; and the burden of making that showing should be  
25 treated as minimal.” *Lewis v. Cty. of Sacramento*, 218 Cal. App. 3d 214, 219 (1990) (quoting  
26 *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972)).

27 Government agencies do not adequately represent an intervenor’s interests when it has  
28 narrow, specific, or personal interests because those agencies are “constrained” to representing broad

1 public interests. *Conservation Law Found. of New Eng., Inc. v. Mosbacher*, 966 F.2d 39, 44 (1st Cir.  
2 1992); *see Forest Conservation Council v. U.S. Forest Serv.*, 66 F.3d 1489, 1499 (9th Cir. 1995);  
3 *United States v. City of Los Angeles*, 288 F.3d 391, 402 (9th Cir. 2002); *Am. Farm Bureau Fed'n v.*  
4 *U.S. E.P.A.*, 278 F.R.D. 98, 110–11 (M.D. Pa. 2011) (finding environmental groups “with regional  
5 and local interests, including aesthetic, economic, educational, recreational, and resource interests”  
6 were not adequately represented because agency “must consider . . . possibly conflicting interests  
7 from agriculture, municipal stormwater associations, and land developers.”); *see also California*  
8 *Dump Truck Owners Ass’n v. Nichols*, 275 F.R.D. 303, 308 (E.D. Cal. 2011) (finding that the agency  
9 did not adequately represent an environmental group’s interests despite “shar[ing] the same ‘ultimate  
10 objective’ ” because the Board had to balance competing interests of various constituencies).  
11 Compared to the agencies, Applicants here have narrow interests and specialized expertise that the  
12 government agencies may not adequately represent. The development of this litigation itself helps to  
13 demonstrate that the agencies are incapable of adequately representing Applicants’ interests. The  
14 agency parties have retained separate counsel, indicating the possibility of disagreement amongst the  
15 agencies about how to best defend the challenged agency action. The apparent divisiveness between  
16 the state agencies further militates in favor of permitting the moving parties to intervene so that they  
17 may ensure their interests are adequately and vigorously defended.

18           Moreover, while both Applicants and the Commission seek to uphold the CDP Amendment,  
19 their ultimate goals in this litigation are distinct. Here, Applicants are united in their representation of  
20 interests that seek to protect the natural ecology of the Dunes, the public health of the surrounding  
21 communities, and the cultural and historical heritage of the area for the Northern Chumash Tribe to  
22 the maximum extent possible. The Commission, in its defense of the amendment, must consider a  
23 broader set of interests, competing constituencies, and the broad public interest as a whole. The  
24 Commission may not, therefore, adequately represent the Applicants’ narrow and more specific  
25 interests, even if they share the same ultimate goal.

26           Furthermore, a government agency cannot substitute for an intervenor with specialized  
27 expertise or perspective. *Sagebrush Rebellion, Inc. v. Watt*, 713 F.2d 525, 528 (9th Cir. 1983) (“In  
28 addition to having expertise apart from that of the [the agency], the intervenor offers a perspective

1 which differs materially from that of the present parties to this litigation . . . [t]hese facts support  
2 intervention”). Applicants have expertise regarding the Dunes and its ecological, recreational, and  
3 cultural resources. Several Applicants have witnessed firsthand the degradation of the Dunes over  
4 many decades and can speak to the growing impacts on the habitat and imperiled species at the  
5 Dunes. Walker Decl. ¶¶ 6, 8; Hensley Decl. ¶ 12. Applicants are uniquely qualified representatives  
6 who can describe to the Court how Plaintiffs’ claims, if successful, could impair Applicants’ efforts  
7 to protect the Dunes and the surrounding communities from the impacts from OHV. Thus,  
8 Applicants’ “offer[] a necessary element to the proceedings that would be neglected” if this Motion  
9 were denied. *Sagebrush Rebellion, Inc.*, 713 F.2d at 528.

10 Ultimately, should the Court block intervention and invalidate the CDP Amendment at issue,  
11 decades of participation and conservation efforts, as well as millennia of stewardship, would be  
12 undone. Without intervention, the narrow and specific interests of Applicants would be inadequately  
13 represented, and the present litigation would lack necessary and essential expertise and perspective.  
14 For all these reasons, Applicants are entitled to as-of-right intervention.

15 **II. Applicants Also Meet the Requirements for Permissive Intervention.**

16 Applicants also qualify for permissive intervention. California Code of Civil Procedure §  
17 387(d)(2) provides that “[t]he court may, upon timely application, permit a nonparty to intervene in  
18 the action or proceeding if the person has an interest in the matter in litigation.” Trial courts enjoy the  
19 “discretion to permit a nonparty to intervene” when that party meets the following criteria: “(1) the  
20 proper procedures have been followed; (2) the nonparty has a direct and immediate interest in the  
21 action; (3) the intervention will not enlarge the issues in the litigation; and (4) the reasons for the  
22 intervention outweigh any opposition by the parties presently in the action.” *City & Cty. of San*  
23 *Francisco v. State of California*, 128 Cal. App. 4th 1030, 1036 (2005). Applicants meet these  
24 requirements.

25 The purpose of permissive intervention is to “balance[] the interests of others who will be  
26 affected by the judgment against the original parties in pursuing their litigation unburdened by  
27 others.” *Lindelli v. Town of San Anselmo*, 139 Cal. App. 4th 1499, 1504–05 (2006). Because the  
28

1 procedure is designed to provide a voice to parties that have interests at stake in the litigation that are  
2 not represented, “[s]ection 387 should be liberally construed in favor of intervention.” *Id.* at 1505.

3 (1) Permissive intervention must be timely. *Mar*, 9 Cal. App. 4th at 1783. Timeliness in  
4 permissive intervention, while evaluated more strictly, is analyzed under the same factors as in  
5 intervention as-of-right. *League of United Latin Am. Citizens v. Wilson*, 131 F.3d 1297, 1308 (9<sup>th</sup> Cir.  
6 1997). As explained above, opening briefs will not be filed for months and the administrative record  
7 is not yet finalized, so the case is in its earliest stages and intervention would not disrupt or delay  
8 proceedings. Thus, the Motion is timely.

9 (2) Applicants each meet the requirement for direct and immediate interest due to Applicants’  
10 recreational interests; deep historical ties to the Dunes and its ecosystem; the cultural and historical  
11 significance of the Dunes to the Northern Chumash Tribe; the effect of OHV use on the health and  
12 safety of their members; the continuous involvement Applicants have displayed in defending the  
13 Dunes from the damage caused by OHVs; and the impact of the litigation on the interests of their  
14 organizations. Courts often grant permissive intervention to nonprofit organizations seeking to defend  
15 challenges to government agency decisions when a judgment might harm the organization’s interests  
16 or its members’ interests. *See, e.g., U.S. Ecology, Inc. v. State*, 92 Cal. App. 4th 113, 139 (2001);  
17 *Simpson Redwood*, 196 Cal. App. 3d at 1201 (permitting environmental organization to intervene  
18 when it played an instrumental role in establishing a redwood forest conservation area); *Rominger*,  
19 147 Cal. App. 3d at 661–62 (permitting intervention to environmental organization to defend  
20 ordinance that prevented pesticide spraying because its members used forest lands in question).

21 (3) Moreover, Applicants will not distract from the central issue at stake in the consolidated  
22 case: defending the California Coastal Commission’s CDP Amendment phasing out OHVs in the  
23 ODSVRA. The relevant test for enlargement is whether intervenors will expand the case to “litigate  
24 matters not raised by the original parties.” *Rominger*, 147 Cal. App. 3d at 661. Although the interests  
25 driving Applicants to participate in litigation are distinct from those of Defendants, and although  
26 Applicants bring new perspectives, Applicants raise no new legal issues and wish to intervene to  
27 support the decision of the Coastal Commission in full.

28

1 (4) Finally, the reasons for intervention outweigh any potential opposition Plaintiffs could  
2 raise. In evaluating this prong, courts look to whether intervention “would retard the principal suit, or  
3 require a reopening of the case for further evidence, or delay the trial of the action, or change the  
4 position of the original parties.” *In re Marriage of Kerr*, 185 Cal. App. 3d 130, 134 (1986). There is  
5 no risk of delay because the suit is in its early stages. There can be no reopening for further evidence  
6 because the administrative record has not even been established. If this Motion were granted,  
7 Applicants’ addition to the case would not change the position of the original parties.

8 **CONCLUSION**

9 For the foregoing reasons, Applicants respectfully request that the Court grant the Applicant’s  
10 Motion to Intervene as Defendants and Respondents in these consolidated cases, and permit the filing  
11 of the Answers in Intervention submitted herewith.

12  
13 DATED: February 14, 2022

ENVIRONMENTAL LAW CLINIC  
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14  
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26 Center for Biological Diversity, Oceano  
27 Beach Community Association, Sierra  
28 Club, Surfrider Foundation, and San Luis  
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and San Luis Obispo Coastkeeper

9  
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **COUNTY OF SAN LUIS OBISPO**

12 FRIENDS OF OCEANO DUNES, INC., a  
13 California not-for profit corporation,

14 Petitioner and Plaintiff,

15 v.

16 CALIFORNIA COASTAL COMMISSION, a  
commission of the state of California; and  
17 DOES 1-50, inclusive,

18 Respondent and Defendant;

19 CALIFORNIA DEPARTMENT OF PARKS  
AND RECREATION, a department of the  
20 State of California; and DOES 1-50, inclusive,

21 Respondent and Defendant as  
to the First Cause of Action,  
22 Count 4, and, as a Real Party-  
in-Interest as to the remaining  
23 Counts, and

24 COUNTY OF SAN LUIS OBISPO, a  
governmental unit and subdivision of the State  
25 of California, and DOES 1-50, inclusive,

26 Real Party-in-Interest,

27 NORTHERN CHUMASH TRIBAL  
COUNCIL, CENTER FOR BIOLOGICAL  
28 DIVERSITY, OCEANO BEACH

**Case No. 21CV-0214 (Lead Case)**  
*Consolidated with Case Nos.: 21CV-0219,  
21CV-0246, and 21CV-0541*

**DECLARATION OF LUCIA  
CASALINUOVO IN SUPPORT OF  
MOTION TO INTERVENE**

Date: March 9, 2022

Time: 9:00 a.m.

Dept.: 9

Judge: Hon. Tana L. Coates

Trial Date: July 21, 2022

Action Filed: 04/12/2021



1 COMMUNITY ASSOCIATION, SIERRA  
2 CLUB, SURFRIDER FOUNDATION, AND  
3 SAN LUIS OBISPO COASTKEEPER,

4 Applicant-Intervenors.

5 ECOLOGIC PARTNERS, INC., a California  
6 Non-Profit Corporation; SPECIALTY  
7 EQUIPMENT MARKET ASSOCIATION, a  
8 California Non-Profit Corporation,

9 Petitioners,

10 v.

11 CALIFORNIA COASTAL COMMISSION;  
12 JOHN AINSWORTH, as Executive Director of  
13 the California Coastal Commission; *et al.*,

14 Respondents,

15 COUNTY OF SAN LUIS OBISPO; and DOES  
16 1-10.

17 Real Parties in Interest,

18 NORTHERN CHUMASH TRIBAL  
19 COUNCIL, CENTER FOR BIOLOGICAL  
20 DIVERSITY, OCEANO BEACH  
21 COMMUNITY ASSOCIATION, SIERRA  
22 CLUB, SURFRIDER FOUNDATION, AND  
23 SAN LUIS OBISPO COASTKEEPER,

24 Applicant-Intervenors.

25 FRIENDS OF OCEANO DUNES, INC., a  
26 California not-for profit corporation,

27 Petitioner and Plaintiff,

28 v.

CALIFORNIA COASTAL COMMISSION, a  
commission of the State of California; and  
DOES 1-50, inclusive,

Respondent and Defendant;

CALIFORNIA DEPARTMENT OF PARKS  
AND RECREATION, a department of the  
State of California; and DOES 1-50, inclusive,

**Case No. 21CV-0219**

**Case No. 21CV-0246**

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Real Party-in-Interest;  
COUNTY OF SAN LUIS OBISPO, a county of  
the State of California, and DOES 1-50,  
inclusive,  
Real Party-in-Interest,  
NORTHERN CHUMASH TRIBAL  
COUNCIL, CENTER FOR BIOLOGICAL  
DIVERSITY, OCEANO BEACH  
COMMUNITY ASSOCIATION, SIERRA  
CLUB, SURFRIDER FOUNDATION, AND  
SAN LUIS OBISPO COASTKEEPER,  
Applicant-Intervenors.

**Case No. 21CV-0541**

FRIENDS OF OCEANO DUNES, INC., a  
California not-for profit corporation,  
Petitioner and Plaintiff,  
v.  
CALIFORNIA COASTAL COMMISSION, a  
commission of the State of California; and  
DOES 1-50, inclusive,  
Respondents and Defendants,  
CALIFORNIA DEPARTMENT OF PARKS  
AND RECREATION, a department of the  
State of California; and DOES 1-50, inclusive,  
Real Party-in-Interest, and  
COUNTY OF SAN LUIS OBISPO a  
governmental unit and subdivision of the State  
of California, and DOES 1-50, inclusive,  
Real Party-in-Interest,  
NORTHERN CHUMASH TRIBAL  
COUNCIL, CENTER FOR BIOLOGICAL  
DIVERSITY, OCEANO BEACH  
COMMUNITY ASSOCIATION, SIERRA  
CLUB, SURFRIDER FOUNDATION, AND  
SAN LUIS OBISPO COASTKEEPER,  
Applicant-Intervenors.

1 **DECLARATION OF LUCIA CASALINUOVO**

2 I, LUCIA CASALINUOVO, hereby declare:

3 1. I make this declaration upon my personal knowledge and, if called upon to testify,  
4 could and would do so competently.

5 2. I am a resident of the City of Oceano, the locality closest to the Oceano Dunes, and  
6 have lived here since 1988.

7 3. I am a retired public school and language teacher. In retirement I cofounded the local  
8 Oceano Beach Community Association (the “Community”) and have been its president for two years.

9 4. I am also a member of the Oceano Advisory Council, a supervisory board formed by  
10 the Board of Supervisor’s adoption of Resolution 96-485 on December 10, 1996. The Advisory  
11 Council serves to promote community involvement in the sound planning and development in  
12 Oceano as well as advise on matters pertaining to, but not limited to, land uses, public services,  
13 circulation, public improvements, and community growth.

14 5. The Community is comprised of a dozen formal members and 140 supporters. The  
15 Community, a coalition of residents and Oceano businesses owners, works to create positive change  
16 for Oceano with a set of core focus areas on improving livability, accessibility, and beauty while  
17 preserving cultural diversity, historic character, and coastal environmental health. To these ends, we  
18 foster sustainable economic growth and tourism levels that are compatible with, and respectful of, the  
19 community’s needs and resources.

20 6. The Community advocates and organizes on behalf of the local residents, as Oceano is  
21 a small and underserved locality with a population that is nearly half Hispanic, many being migrant  
22 workers. The Community is dedicated to the success of the local populace. Success, as exemplified  
23 by our core focus areas, is defined by the just management of gentrification, the long vitality of  
24 Oceano’s livability, as well as the growth of attractive job opportunities for its present low income  
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1 and culturally diverse residents.

2           7.       Per our goals, the Community understands that the Oceano Guadalupe-Nipomo Dunes  
3 complex (the “Oceano Dunes”) is the core, most vital, and most important resource for the success of  
4 the local community. Long ago, untouched and healthy Dunes drew native peoples like the Northern  
5 Chumash to the San Luis Obispo region and supported them for many millennia. Then, the Dunes,  
6 undamaged for thousands of years, drew State Parks and innumerable recreational off-highway  
7 vehicles to its sands. This activity has brought about the obliteration of the Oceano Dunes over the  
8 past several decades. The local residents want to respect and maintain the Dunes’ majesty for future  
9 generations.  
10

11           8.       If the Coastal Commission’s amendments to CDP 4-82-300 are upheld, the Dunes will  
12 be soon be free of off-highway vehicle traffic, and the vision the Community has for Oceano can be  
13 brought to fruition. As stated, in order to improve the lives of the local community the Dunes must be  
14 broadly protected and only enable uses that are not incongruent with the Dunes’ many vulnerabilities.  
15 Right now, pedestrian visitors do not visit the Dunes to walk its sands, to picnic with friends, or to let  
16 their children play in the tides. The typical tourists are afraid of the dangers posed by the vehicles  
17 throttling around them and so they do not come. This is hugely painful for the people of Oceano. Just  
18 north lies Pismo Beach, a well-to-do beach town that enjoys a bustling local economy based on  
19 tourism; Pismo outlawed off-highway vehicles on its beach many decades ago. Meanwhile, the  
20 residents of Oceano have watched off-highway vehicles demolish the Dunes and beach for decades.  
21

22           9.       Should the permit amendment survive legal challenge, Oceano’s future prospects will  
23 change. Pedestrian visitors will be able to safely enjoy the Dunes’ beauty, as footprints in no way  
24 harm the vitality of the Dunes as the thousands of tires that trample the sands yearly do. With new  
25 permit conditions, the locality will adapt as tourism increases; tourists will enjoy Oceano’s cafes and  
26 restaurants, our historic buildings, and our art. Local inns and bed and breakfasts will house new  
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1 visitors, and the local economy will grow and strengthen as a result. The county will certainly  
2 welcome new resulting tax revenue that, as with a positive feedback loop, can be used for public  
3 programming such as farmers markets, concerts, and community events to further expand healthful  
4 recreation and tourism.

5           10. All of these benefits are out of reach for Oceano because of the current permit  
6 conditions allowing for recreational off-highway vehicle use. Most of the vehicle riders are not local  
7 residents. They arrive in Oceano from around the state but largely and consistently fail to interact  
8 with local businesses upon arrival. For one thing, they do not arrive to sustainably enjoy the Dunes'  
9 environment or tour the town, but rather to ride the Dunes and then cheaply camp on the sands. The  
10 Community has consistently held that the recreational riding is incompatible with a healthful,  
11 sustainable model for tourism because the riders dominate the beach to the detriment of all others:  
12 local residents, prospective pedestrian tourists, and the natural ecology.

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15           11. To reach our mission and achieve a better Oceano for all, the Community has, since its  
16 inception, been in communication with the California Coastal Commission. We have documented the  
17 degradation of the Dunes, collected samples, and sent pictures, videos, interviews, letters, and  
18 signatures to the Coastal Commission staff and board. We have attended almost every meeting held  
19 by the Commission, in person or otherwise, to plead on behalf of the local residents, and have met  
20 with the Coastal Commission staff several times. We have lobbied at neighboring town meetings, the  
21 county's Board of Supervisor's meetings, and have sought out elected officials to listen to our cause.  
22 Crucially, we have sought out State Parks and participated in their stakeholder meetings for its Public  
23 Work Plan workshops. At these stakeholder events, we presented on our vision for a new Oceano  
24 without vehicle recreation. We were extremely disappointed to see that despite our efforts and all of  
25 the taxpayer money, resources, and time that went into State Parks' new Public Works Plan, the Plan  
26 ignored our pleas to ban motorized recreation for the sake of the local residents and in fact expanded  
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1 the scope of such recreation. State Parks' failure to address our concerns is also contextual: we had to  
2 lobby State Parks to allow the Community to join the stakeholder meetings for the Public Works  
3 Plan; despite our invitations, State Parks failed to hold public workshops in Oceano; they did not  
4 accept our offer to present our vision and projects for Oceano; State Parks failed to provide  
5 information about the Public Works Plan to Oceano's Spanish speaking residents..  
6

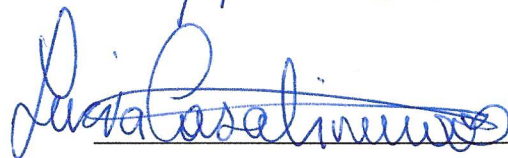
7 12. The Coastal Commission's staff report for the March 18, 2021 hearing is more closely  
8 aligned to the Community's mission, interests, and perspective. Our communications with the  
9 Commission are demonstrated through the report's careful consideration of environmental justice  
10 concerns. However, our communications have only recently affected the Commission, for many years  
11 our pleas and concerns were not formally recognized by the Commission. The Community, for  
12 example, recently had to explain to the Commission that English-only announcements are not  
13 sufficient to reasonably put local residents on notice. The Community is able to fill in the sensitive  
14 context regarding the residents of Oceano for the Commission in ways that aid the Commission's  
15 fact-finding.  
16

17 13. In 2020, the Oceano Dunes were closed to all motorized recreation for the first time in  
18 my 32 years of residence in Oceano. Without vehicles trampling across the barriers protecting  
19 environmentally sensitive habitat areas, or scaring away local animals from taking refuge on the  
20 sands, the Community noticed a tremendous number of benefits. The people of Oceano were able to  
21 experience the Oceano Dunes without fearing vehicles for the first time in many decades, and several  
22 local residents visited the Dunes during the Covid-related closure for their first time. The beach and  
23 dunes began to heal and restore to their original and natural beauty. At the entrance of the beach, we  
24 noticed the foredunes beginning to reform, the beach was finally clear of litter and pollution, and the  
25 noise of the motorized recreation was absent. The large indentation from the sand ramp near the  
26 mouth of the beach's entrance disappeared and began to resemble a traditional beachfront. The local  
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1 residents brought their children to play on the tides, enjoyed picnics, and helped the elderly walk to  
2 see the Dunes. Oceano also noticed far less sand built up along the town streets and corridors. Our  
3 Community members found several plover's nests in the Dune's complex, a sign that the endangered  
4 animal was still able to utilize the habitat. Dozens of plovers were spotted foraging the wet sands of  
5 the Dunes, far more than any other sighting in recent decades. The Pismo Clam, a species that has not  
6 been sighted in two decades, returned to the beach.

7  
8 14. Unfortunately, visitors to the Dunes witnessed decades of pollution and trash built up  
9 in the sands. We pleaded with State Parks to clean up the pollution; we have video footage of the  
10 agency's response. State Parks elected not to pick up the trash and clean the beach, but rather to plow  
11 sand over the trash in select areas and leave vast swaths of beach front as it was.

12  
13 I declare under penalty of perjury under the laws of the State of California that the foregoing  
14 is true and correct and that I executed this declaration on 2/4 2022, in Oceano, California.

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18 LUCIA CASALINUOVO

1 MICHAEL ROBINSON-DORN (CA Bar No. 159507)  
DANIEL JACOBS (CA Bar. No. 295494)  
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6 Attorneys for Applicant Intervenors  
7 Northern Chumash Tribal Council, Center for  
Biological Diversity, Oceano Beach Community  
8 Association, Sierra Club, Surfrider Foundation,  
and San Luis Obispo Coastkeeper

9  
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **COUNTY OF SAN LUIS OBISPO**

12 FRIENDS OF OCEANO DUNES, INC., a  
13 California not-for profit corporation,

14 Petitioner and Plaintiff,

15 v.

16 CALIFORNIA COASTAL COMMISSION, a  
commission of the state of California; and  
17 DOES 1-50, inclusive,

18 Respondent and Defendant;

19 CALIFORNIA DEPARTMENT OF PARKS  
AND RECREATION, a department of the  
20 State of California; and DOES 1-50, inclusive,

21 Respondent and Defendant as  
to the First Cause of Action,  
22 Count 4, and, as a Real Party-  
in-Interest as to the remaining  
23 Counts, and

24 COUNTY OF SAN LUIS OBISPO, a  
governmental unit and subdivision of the State  
25 of California, and DOES 1-50, inclusive,

26 Real Party-in-Interest,

27 NORTHERN CHUMASH TRIBAL  
COUNCIL, CENTER FOR BIOLOGICAL  
28 DIVERSITY, OCEANO BEACH

**Case No. 21CV-0214 (Lead Case)**  
*Consolidated with Case Nos.: 21CV-0219,  
21CV-0246, and 21CV-0541*

**DECLARATION OF BRAD SNOOK  
IN SUPPORT OF MOTION TO  
INTERVENE**

Date: March 9, 2022

Time: 9:00 a.m.

Dept.: 9

Judge: Hon. Tana L. Coates

Trial Date: July 21, 2022

Action Filed: 04/12/2021



1 COMMUNITY ASSOCIATION, SIERRA  
2 CLUB, SURFRIDER FOUNDATION, AND  
3 SAN LUIS OBISPO COASTKEEPER,

4 Applicant-Intervenors.

5 ECOLOGIC PARTNERS, INC., a California  
6 Non-Profit Corporation; SPECIALTY  
7 EQUIPMENT MARKETASSOCIATION, a  
8 California Non-Profit Corporation,

9 Petitioners,

10 v.

11 CALIFORNIA COASTAL COMMISSION;  
12 JOHN AINSWORTH, as Executive Director of  
13 the California Coastal Commission; *et al.*,

14 Respondents,

15 COUNTY OF SAN LUIS OBISPO; and DOES  
16 1-10.

17 Real Parties in Interest,

18 NORTHERN CHUMASH TRIBAL  
19 COUNCIL, CENTER FOR BIOLOGICAL  
20 DIVERSITY, OCEANO BEACH  
21 COMMUNITY ASSOCIATION, SIERRA  
22 CLUB, SURFRIDER FOUNDATION, AND  
23 SAN LUIS OBISPO COASTKEEPER,

24 Applicant-Intervenors.

25 FRIENDS OF OCEANO DUNES, INC., a  
26 California not-for profit corporation,

27 Petitioner and Plaintiff,

28 v.

CALIFORNIA COASTAL COMMISSION, a  
commission of the State of California; and  
DOES 1-50, inclusive,

Respondent and Defendant;

CALIFORNIA DEPARTMENT OF PARKS  
AND RECREATION, a department of the  
State of California; and DOES 1-50, inclusive,

**Case No. 21CV-0219**

**Case No. 21CV-0246**

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Real Party-in-Interest;  
COUNTY OF SAN LUIS OBISPO, a county of  
the State of California, and DOES 1-50,  
inclusive,  
Real Party-in-Interest,  
NORTHERN CHUMASH TRIBAL  
COUNCIL, CENTER FOR BIOLOGICAL  
DIVERSITY, OCEANO BEACH  
COMMUNITY ASSOCIATION, SIERRA  
CLUB, SURFRIDER FOUNDATION, AND  
SAN LUIS OBISPO COASTKEEPER,  
Applicant-Intervenors.

**Case No. 21CV-0541**

FRIENDS OF OCEANO DUNES, INC., a  
California not-for profit corporation,  
Petitioner and Plaintiff,  
v.  
CALIFORNIA COASTAL COMMISSION, a  
commission of the State of California; and  
DOES 1-50, inclusive,  
Respondents and Defendants,  
CALIFORNIA DEPARTMENT OF PARKS  
AND RECREATION, a department of the  
State of California; and DOES 1-50, inclusive,  
Real Party-in-Interest, and  
COUNTY OF SAN LUIS OBISPO a  
governmental unit and subdivision of the State  
of California, and DOES 1-50, inclusive,  
Real Party-in-Interest,  
NORTHERN CHUMASH TRIBAL  
COUNCIL, CENTER FOR BIOLOGICAL  
DIVERSITY, OCEANO BEACH  
COMMUNITY ASSOCIATION, SIERRA  
CLUB, SURFRIDER FOUNDATION, AND  
SAN LUIS OBISPO COASTKEEPER,  
Applicant-Intervenors.

1 **DECLARATION OF BRAD SNOOK**

2 I, BRAD W. SNOOK, hereby declare:

3 1. I make this declaration upon my personal knowledge and, if called upon to testify, could  
4 and would do so competently.

5 2. I am a resident of Arroyo Grande, California, and I have resided there for 15 years.

6 3. I currently serve as the Coordinator of the “Know your H2O” Program of the San Luis  
7 Obispo Chapter of Surfrider Foundation. I have been involved with Surfrider Foundation in San Luis  
8 Obispo for approximately 15 years. During that time, I have served on the Chapter Executive  
9 Committee as Chair, Vice Chair, and Volunteer Coordinator.

10 4. The Surfrider Foundation is a national grassroots nonprofit organization with more than  
11 350,000 supporters and members, 79 local chapters, and 92 school clubs in the United States. 18 of  
12 those local Chapters, including Surfrider’s San Luis Obispo Chapter, and approximately 13,900 active  
13 members are in California. Surfrider has over 120,000 supporters in California, including former  
14 members, individuals who have attended Surfrider events, and individuals who receive Surfrider action  
15 alerts and emails. Surfrider’s San Luis Obispo Chapter has 625 active members and over 2,500  
16 supporters.

17 5. Surfrider’s mission is the protection and enjoyment of our ocean, waves and beaches,  
18 for all people, through a powerful activist network. Surfrider strives to protect our beaches. The San  
19 Luis Obispo Chapter represents beachgoers who want to enjoy Oceano Dunes in low impact, non-  
20 motorized recreational pursuits.

21 6. Surfrider pursues its mission of protecting the ocean and its beaches through five  
22 primary initiatives: advocating for full and fair low impact beach access; working on issues pertaining  
23 to coastal preservation; protecting healthy and sustainable clean water; defending our oceans from  
24 threats to the vitality of its ecosystem; and preventing plastic pollution.

25 7. With respect to Oceano Dunes, the San Luis Obispo Chapter of Surfrider (“the  
26 Chapter”) has been advocating for: enhancement of light-footprint recreational opportunities (e.g.  
27 hiking, tent camping, surfing, sandboarding, birdwatching); the restoration of dunes, dune vegetation,  
28 and healthy beach and dune environment; and enhanced protection of culturally and environmentally

1 sensitive areas and wildlife.

2 8. The present litigation relates to Surfrider’s beach access initiative. Surfrider Foundation  
3 has a firm belief that beaches should be accessible to everyone, and it has worked both to retain existing  
4 public coastal access and to increase opportunities for low-impact beach access. As such, Surfrider  
5 supports Coastal Commission’s transition to low impact uses at Oceano Dunes. The use of vehicles at  
6 the park has essentially turned the beach there into a highway, making it unsafe and largely inaccessible  
7 for low impact uses like beach walks, sunbathing, and picnics.

8 9. The present litigation also directly relates to Surfrider’s coastal preservation initiative.  
9 Surfrider thinks of beaches as unique and dynamic landscapes that should be protected for the future.  
10 The use of OHVs in ODSVRA has led to dune erosion, which is harming the beach’s ecosystem. The  
11 California Coastal Commission’s amendment to Coastal Development Permit No. 4-82-300 (“the  
12 Amendment”) to phase out the use of OHVs would allow the natural dune and beach environment to  
13 be restored.

14 10. The Chapter has been engaged in our “Protect Oceano Dunes” campaign since March  
15 2019. In March 2019, the Chapter joined a letter concerning the ODSVRA Public Works Plan (“PWP”)  
16 regarding the Oso Flaco Campground and Public Access Project. The Chapter and Surfrider staff have  
17 encouraged the California Coastal Commission via public comment at Commission meetings, action  
18 alerts, etc. to phase out high-impact OHV at Oceano Dunes.

19 11. The Chapter is a member of the Dunes Alliance, a coalition of community and  
20 environmental organizations on the California Central Coast that formed in 2019 and is dedicated to  
21 the safe and environmentally sustainable use and enjoyment of the Guadalupe-Nipomo Dunes  
22 Complex, which stretches from Pismo Beach to Point Sal and includes the Oceano Dunes State  
23 Vehicular Recreation Area (“ODSVRA”) and the Oso Flaco Lake Natural Area. The Chapter  
24 coordinated and joined multiple letters by the Dunes Alliance to the California Department of Parks &  
25 Recreation (“CDPR”) including: a June 1, 2020 letter concerning the Oceano Dunes District Habitat  
26 Conservation Plan (“HCP”) and draft Environmental Impact Report (“EIR”); a December 21, 2020  
27 letter concerning the Oceano Dunes District HCP; and a January 10, 2021 letter concerning the  
28 ODSVRA and Pismo State Beach. The Chapter also joined the Dunes Alliance in a March 8, 2021

1 letter providing public comment to the California Coastal Commission reviewing the Oceano Dunes  
2 Coastal Development Permit (“CDP”). The Stanford Mills Legal Clinic submitted legal comments on  
3 behalf of Surfrider San Luis Obispo Chapter (as a member of the Dunes Alliance) before the March  
4 2021 Commission hearing.

5 12. If Friends of Oceano Dunes is successful in reversing the Amendment, our members  
6 would continue to be adversely affected, as the use of OHVs interferes with more affordable, low  
7 impact recreational beach uses, like beach walks, beach picnics, and general beach visits at Oceano  
8 Dunes State Park, which our members would enjoy.

9 13. Although Surfrider Foundation wishes to defend the California Coastal Commission’s  
10 Amendment, our position is not identical with the Commission’s. For example, in spite of Surfrider’s  
11 urging, the Commission’s CDP Amendment did not require active measurements and management of  
12 the impacts of the remaining vehicular access on the beach between Grand and Pier avenues.

13

14 I declare under penalty of perjury under the laws of the State of California that the foregoing  
15 is true and correct and that I executed this declaration on Feb. 4, 2022, in Grover Beach, California.

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BRAD SNOOK

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1 MICHAEL ROBINSON-DORN (CA Bar No. 159507)  
DANIEL JACOBS (CA Bar. No. 295494)  
2 RYAN RIEDMUELLER (CA Bar Student Cert. 00760110)  
ELIZABETH SCHATZ CORDERO (CA Bar Student Cert. 00739940)  
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6 Attorneys for Applicant Intervenors  
7 Northern Chumash Tribal Council, Center for  
Biological Diversity, Oceano Beach Community  
8 Association, Sierra Club, Surfrider Foundation,  
and San Luis Obispo Coastkeeper

9  
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF SAN LUIS OBISPO**

12 FRIENDS OF OCEANO DUNES, INC., a  
13 California not-for profit corporation,

14 Petitioner and Plaintiff,

15 v.

16 CALIFORNIA COASTAL COMMISSION, a  
commission of the state of California; and  
17 DOES 1-50, inclusive,

18 Respondent and Defendant;

19 CALIFORNIA DEPARTMENT OF PARKS  
AND RECREATION, a department of the  
20 State of California; and DOES 1-50, inclusive,

21 Respondent and Defendant as  
to the First Cause of Action,  
22 Count 4, and, as a Real Party-  
in-Interest as to the remaining  
23 Counts, and

24 COUNTY OF SAN LUIS OBISPO, a  
governmental unit and subdivision of the State  
25 of California, and DOES 1-50, inclusive,

26 Real Party-in-Interest,

27 NORTHERN CHUMASH TRIBAL  
COUNCIL, CENTER FOR BIOLOGICAL  
28 DIVERSITY, OCEANO BEACH

**Case No. 21CV-0214 (Lead Case)**  
*Consolidated with Case Nos.: 21CV-0219,  
21CV-0246, and 21CV-0541*

**DECLARATION OF JEFFREY MILLER  
IN SUPPORT OF MOTION TO  
INTERVENE**

Date: March 9, 2022

Time: 9:00 a.m.

Dept.: 9

Judge: Hon. Tana L. Coates

Trial Date: July 21, 2022

Action Filed: 04/12/2021

1 COMMUNITY ASSOCIATION, SIERRA  
2 CLUB, SURFRIDER FOUNDATION, AND  
3 SAN LUIS OBISPO COASTKEEPER,

4 Applicant-Intervenors.

5 ECOLOGIC PARTNERS, INC., a California  
6 Non-Profit Corporation; SPECIALTY  
7 EQUIPMENT MARKETASSOCIATION, a  
8 California Non-Profit Corporation,

9 Petitioners,

10 v.

11 CALIFORNIA COASTAL COMMISSION;  
12 JOHN AINSWORTH, as Executive Director of  
13 the California Coastal Commission; *et al.*,

14 Respondents,

15 COUNTY OF SAN LUIS OBISPO; and DOES  
16 1-10.

17 Real Parties in Interest,

18 NORTHERN CHUMASH TRIBAL  
19 COUNCIL, CENTER FOR BIOLOGICAL  
20 DIVERSITY, OCEANO BEACH  
21 COMMUNITY ASSOCIATION, SIERRA  
22 CLUB, SURFRIDER FOUNDATION, AND  
23 SAN LUIS OBISPO COASTKEEPER,

24 Applicant-Intervenors.

25 FRIENDS OF OCEANO DUNES, INC., a  
26 California not-for profit corporation,

27 Petitioner and Plaintiff,

28 v.

CALIFORNIA COASTAL COMMISSION, a  
commission of the State of California; and  
DOES 1-50, inclusive,

Respondent and Defendant;

CALIFORNIA DEPARTMENT OF PARKS  
AND RECREATION, a department of the  
State of California; and DOES 1-50, inclusive,

**Case No. 21CV-0219**

**Case No. 21CV-0246**

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Real Party-in-Interest;  
COUNTY OF SAN LUIS OBISPO, a county of  
the State of California, and DOES 1-50,  
inclusive,  
Real Party-in-Interest,  
NORTHERN CHUMASH TRIBAL  
COUNCIL, CENTER FOR BIOLOGICAL  
DIVERSITY, OCEANO BEACH  
COMMUNITY ASSOCIATION, SIERRA  
CLUB, SURFRIDER FOUNDATION, AND  
SAN LUIS OBISPO COASTKEEPER,  
Applicant-Intervenors.

**Case No. 21CV-0541**

FRIENDS OF OCEANO DUNES, INC., a  
California not-for profit corporation,  
Petitioner and Plaintiff,  
v.  
CALIFORNIA COASTAL COMMISSION, a  
commission of the State of California; and  
DOES 1-50, inclusive,  
Respondents and Defendants,  
CALIFORNIA DEPARTMENT OF PARKS  
AND RECREATION, a department of the  
State of California; and DOES 1-50, inclusive,  
Real Party-in-Interest, and  
COUNTY OF SAN LUIS OBISPO a  
governmental unit and subdivision of the State  
of California, and DOES 1-50, inclusive,  
Real Party-in-Interest,  
NORTHERN CHUMASH TRIBAL  
COUNCIL, CENTER FOR BIOLOGICAL  
DIVERSITY, OCEANO BEACH  
COMMUNITY ASSOCIATION, SIERRA  
CLUB, SURFRIDER FOUNDATION, AND  
SAN LUIS OBISPO COASTKEEPER,  
Applicant-Intervenors.



1 **DECLARATION OF JEFFREY KIRK MILLER**

2 I, JEFFREY KIRK MILLER, hereby declare:

3 1. I make this declaration upon my personal knowledge and, if called upon to testify, could  
4 and would do so competently.

5 2. I am a resident of Morro Bay, California, and I have lived along the California coast  
6 since 1963.

7 3. I am currently employed as a conservationist by the Center for Biological Diversity  
8 (“the Center”). I have been a member of the Center since 1995, and I became a full-time staff member  
9 of the Center in 2001. I am a senior conservation advocate. In that role, I write press and outreach  
10 materials for endangered species issues, work on endangered-species listing petitions, and do  
11 community organizing and media work for numerous Center campaigns in California, including the  
12 Center’s campaign to protect snowy plovers, least terns, and other wildlife at Oceano Dunes.

13 4. The Center has 89,610 members. It has more than 1.7 million supporters and online  
14 activists; over 190,000 of these supporters are residents of California, and more than 2,200 of these  
15 supporters are residents of San Luis Obispo County.

16 5. I also work part-time with the Alameda Creek Alliance, and I am an active participant  
17 in the Dunes Alliance in San Luis Obispo, which works to protect the natural ecosystem of Oceano  
18 Dunes.

19 6. The Center believes that the welfare of human beings is deeply linked to nature — to  
20 the existence in our world of a vast diversity of wild animals and plants. Because diversity has intrinsic  
21 value, and because its loss impoverishes society, the Center works to secure a future for all species,  
22 great and small, hovering on the brink of extinction, through science, law and creative media, with a  
23 focus on protecting the lands, waters and climate that species need to survive.

24 7. The Center’s Endangered Species Program works to secure legal protection for all  
25 species in danger of extinction and to enact conservation strategies that will save them. The Center is  
26 the nation's leader in preserving endangered species, having secured Endangered Species Act  
27 protection for hundreds of species and hundreds of millions of acres of land and water. The program  
28 compiles and analyzes data about species status and recovery; submits legal petitions, filing lawsuits

1 when necessary, using the leverage of our supporters' voices and taking multiple other actions to ensure  
2 that imperiled species are federally protected; obtains adequate amounts of critical habitat for species;  
3 advocates for sound conservation policy; watchdogs Congress and government agencies; and uses  
4 creative media to keep our supporters informed.

5       8.       Our Endangered Species Program to save unique species and lands is necessary because  
6 our planet's biodiversity is under relentless pressure from habitat destruction and climate change  
7 associated with exploding human populations: species are going extinct at up to 1,000 times the natural  
8 rate, and the diversity of life that sustains ecological systems and human cultures around the world is  
9 collapsing. Almost half of the United States is owned by the American public and managed on our  
10 behalf by government agencies. Our Public Lands Program responds to global warming and the  
11 accelerating extinction crisis by ensuring public lands provide safe harbor for species by protecting the  
12 ecological systems upon which they and we ultimately depend. There is voluminous and extensive  
13 scientific reasoning and support on our website ([www.biologicaldiversity.org](http://www.biologicaldiversity.org)) for our efforts to use  
14 science, law, policy advocacy, and strategic collaboration to protect and restore wildlands and protect  
15 and recover endangered species.

16       9.       The Center's Public Land Program advocates for the highest and best use of public lands,  
17 which is to provide safe harbor for species by protecting the ecological systems upon which they and  
18 we ultimately depend. To this end, Center advocacy directly confronts land uses that harm species and  
19 ecosystems — from off-road vehicle use and livestock grazing to industrial logging and uranium and  
20 fossil fuel extraction — while advancing precedent-setting litigation, policies, and strategic  
21 collaborations to usher in a hopeful new era of biodiversity conservation for our public lands system.  
22 The program works toward a future in which species and ecosystems are finally afforded primacy  
23 among public lands priorities.

24       10.       The Center's Public Land Program has a specific goal of protecting the ecological  
25 integrity of public lands, including dunes, from Off-Highway Vehicles ("OHVs"). The Center views  
26 the use of OHVs in public lands as a devastating scourge, posing an existential threat to our public  
27 lands. The Center thus runs an aggressive campaign to curb OHV access to public lands. The Center  
28 published an extensive report in 2008 on the climate and public health implications of off-road vehicle

1 pollution in California.

2           11.     The Center also runs a Climate Program, which works to eliminate greenhouse gas  
3 pollution. This includes reducing emissions from off-road vehicles. Our Climate Program is an urgent  
4 response to climate change, the single greatest threat we've ever faced — not only to human society  
5 but to the Earth's web of life.

6           12.     The Center has extensive expertise in the protection and recovery of endangered species,  
7 public land management policy, and the legal requirements of state and federal environmental  
8 protection laws. Our staff includes a wide array of scientists, lawyers, policy experts, advocates, media  
9 experts, and community organizers. As a non-profit advocacy group, the Center acts as a public  
10 watchdog for government agencies to ensure that their management decisions adequately protect  
11 endangered species and native wildlife and their habitat, are consistent with agency policies and  
12 environmental protection laws, and are in the public interest. The Center is not constrained in the way  
13 that public agencies are by lobbying, political pressure from special interests and elected officials, and  
14 publicity, which sometimes result in agencies making bad policy decisions rather than following the  
15 law or acting in the public interest. The Center can freely advocate for the best interests of those who  
16 have no ability to speak or advocate for themselves: the imperiled animals and plants that are impacted  
17 by agency decisions. All of these factors make the Center's perspective on the present matter unique.

18           13.     Many of the Center's members and supporters, including more than 2,200 who live in  
19 San Luis Obispo County, regularly visit Oceano Dunes and Oso Flaco Lake for non-motorized  
20 recreation including hiking, surfing, fishing, birdwatching, nature study, beachcombing, and  
21 photography. Since I moved to San Luis Obispo County in early 2018, I have gone to Oso Flaco Lake  
22 at Oceano Dunes regularly, usually several times per month, for birdwatching and wildlife and bird  
23 photography, and hiking on the beach. I visit Oso Flaco and the beach south of the off-road riding area  
24 specifically because vehicles and off-road vehicles are not allowed there. I also regularly visit (usually  
25 once per week) the Oceano Dunes beach during spring and summer snowy plover nesting and fledging  
26 season to document and photograph plover use of the beach and foredunes, and to document the  
27 detrimental impacts of vehicles, off-roading and park management actions on plovers and other  
28 endangered wildlife.

1           14.     According to a Coastal Wetlands Series Report published by the U.S. Fish and Wildlife  
2 Service and the California Department of Fish and Game in 1976, *The Natural Resources of the Nipomo*  
3 *Dunes and Wetlands*, the Nipomo Dunes and associated wetlands, which includes much of Oceano  
4 Dunes State Vehicular Recreation Area (“ODSVRA”), are the largest coastal dunes-lagoon complex  
5 in California. Intact and large coastal wetlands are an exceedingly rare and imperiled habitat type in  
6 California. Functional dunes ecosystems with intact wetlands are very uncommon. The Nipomo dunes-  
7 wetlands complex has a wide variety of habitat types including coastal dunes, freshwater marsh,  
8 riparian habitat, coastal saltmarsh, woodland, mudflats, beach, open water and transition areas, which  
9 in turn supports a large diversity of plants and wildlife. These include birds, mammals, reptiles,  
10 amphibians, fishes, insects, and invertebrates. There are several endemic (occurring nowhere else) and  
11 rare plant species, and numerous endangered and threatened species such as the snowy plover, least  
12 tern, tidewater goby, steelhead trout, and red-legged frog. The dunes-wetlands complex is extremely  
13 important for educational and scientific studies by universities and researchers, as an example of a large  
14 intact dunes ecosystem. It is also important recreationally for hiking, beach touring, surfing, swimming,  
15 horseback riding, birding, nature study, sightseeing, photography, and fishing. Access to nature, quiet,  
16 coastal beauty, and clean air is a valuable community asset.

17           15.     The use of OHVs has made the experience of visiting Oceano Beach unpleasant for me  
18 and for other members of the Center. I do not go to the vehicle portion of Oceano Beach on weekends  
19 because of the congested vehicle traffic, aggressive drivers, knowledge of death threats from off-  
20 roaders toward conservationists, and the dangerous and unpoliced atmosphere promoted by the use of  
21 OHVs in the ODSVRA. Speeding, drunken driving, and the prominent display of hateful flags,  
22 including the Confederate flag, are all common in the ODSVRA.

23           16.     The main threat to the vitality of Oceano Dunes is intense and destructive recreational  
24 use, mainly off-roading and driving on the beach. Off-road vehicle activity is accelerating the advance  
25 of sand dunes toward Oso Flaco Lakes and their marsh, through wind-blown dust and sand, and is also  
26 damaging native vegetation. Off-roading is documented to cause direct injury and mortality to  
27 protected shorebirds, both snowy plovers and least terns, by vehicles running over birds. Off-roading  
28 also disturbs nesting birds, sometimes causing nesting failures; disturbs and flushes fledging birds,

1 leading to increased chance of mortality or predation; and disturbs roosting or loafing birds, with the  
2 potential to drive off the species, as has happened with least terns abandoning Osos Flaco recently.  
3 Off-roading also causes habitat damage for numerous endangered species. It destroys vegetation in the  
4 back dunes that plovers and terns use for cover, and it pulverizes wrack on the beach, removing  
5 the basis of the food chain that plovers need to forage. Off-roading directly crushes endangered plant  
6 species, or indirectly harms them by burying them in sand or sediment, and accelerating sedimentation  
7 of lake and lagoon habitats in dune ecosystems. Night riding harasses and disrupts wildlife due to noise  
8 and light. Thousands of vehicles driving through and crossing Arroyo Grande Creek during winter and  
9 spring flow periods risks killing threatened steelhead trout. Vehicles driving on the beach below mean  
10 tide have been documented recently to have crushed rare Pismo clam beds. Off-roading has numerous  
11 indirect impacts on wildlife. The trash from beach camping and off-roaders attracts and subsidizes  
12 artificially high populations of predators, which then predate on snowy plovers. Because of excessive  
13 trash on Oceano Beach, State Parks has proposed mechanical trash removal and beach grooming,  
14 activities which remove kelp and wrack from the beach and remove the basis of the food chain which  
15 shorebirds depend upon for forage. Off-roading and beach driving pulverize and mobilize sand and  
16 dust particles which results in abysmal air quality downwind.

17         17.     Managing Oceano Dunes for off-roading has other hidden impacts. Because of the harm  
18 to endangered species and air quality from off-roading, State Parks conducts attempted mitigation  
19 measures that actually cause additional harm to plovers and other wildlife species. These include  
20 installing fence enclosures around plover nesting sites, which provide extensive perches for predators  
21 of plovers. These fences, as well as other facilities such as ramps, bathrooms, and fencing to protect  
22 vegetation planted for dust remediation, require grading and use of heavy equipment to keep from being  
23 buried in sand. State Parks runs graders and other heavy equipment, and has active fence construction  
24 and maintenance crews working immediately adjacent to plover nesting areas, during nesting and  
25 fledging season, causing disturbance of the birds. As a misguided attempt to offset killing of plovers  
26 by off-road vehicles, State Parks persecutes native raptors that naturally predate on plovers. State Parks  
27 traps and removes peregrine falcons, and traps and kills other raptors such as northern harriers, for  
28 natural predation on plovers (the death toll of plovers from natural predation by raptors would likely

1 not be biologically significant in the absence of direct and indirect off-road vehicle impacts).

2 18. Off-roading requires excessive spending of public funds on monitoring, compliance,  
3 mitigation, and management of protected species, attempts to eliminate conflicts between off-roading  
4 and natural resources, fencing, predator control, dust remediation, enforcement, and emergency  
5 response, etc. Off-roading and beach driving deter and preclude many other non-motorized public uses  
6 of the beach and dunes portions of the park.

7 19. The California Coastal Commission's March 18, 2021, amendment to Coastal  
8 Development Permit No. 4-82-300 ("the Amendment") phases out all off-road vehicle use in the park  
9 and limits beach driving and camping to the northern section of beach between Grand and Pier avenues.  
10 Dust control and mitigation efforts would continue in the park. This will allow the dunes and foredunes  
11 to stabilize and will reduce movement of dust and sand. It will stop vehicle damage of native vegetation.  
12 Defending the Coastal Commission's Amendment is critical to the Center's interests in defending the  
13 continued existence of the wildlife and plant species present in Oceano Dunes. Protecting the natural  
14 ecosystems of Oceano Dunes from destructive off-roading activity aligns with the Center's goals to  
15 protect and recover endangered species, to manage public lands primarily for protecting native wildlife  
16 and the ecological systems they depend upon and reducing carbon emissions to ensure a livable planet.  
17 The Amendment will continue to allow full public access to Oceano Dunes beaches, coastal lands, and  
18 tidal lands, but with more destructive motorized recreation and intensive beach vehicle camping limited  
19 to the beach between Grand Ave. and Pier Ave., where such uses will not cause conflicts with protected  
20 species and other sensitive natural resources. The Amendment will result in increased general public  
21 and local use of the beaches south of Pier Ave. with the removal of dangerous, crowded and noisy  
22 vehicle traffic. Many more people will use the beaches and foredunes for hiking, sunbathing,  
23 swimming, surfing, fishing, birdwatching, nature study, beachcombing, and photography.

24 20. The Center has an extensive history of involvement in preventing damage caused by  
25 OHVs in Oceano Dunes and protecting snowy plovers, least terns, and other endangered wildlife from  
26 the impacts of these vehicles. The Center sued State Parks in 2008 and forced the agency to rescind its  
27 multi-year approval of off-road vehicle races and jet-ski competitions at the Oceano Dunes, which  
28 would have allowed thousands of dirt bikes and off-road vehicles to run rampant over endangered

1 species habitat without any environmental review. The Center filed notice of intent to sue State Parks  
2 in 2009 for allowing motorized vehicle use at Oceano Dunes for the reason that these vehicles  
3 continuously killed protected snowy plovers. State Parks responded by increasing protective measures  
4 at the beach, resulting in a temporary decrease in plover deaths. Center staff spent most of a decade  
5 communicating with State Parks in an attempt to get the agency to comply with the Endangered Species  
6 Act and stop killing protected species and damaging habitat. The Center filed another formal notice of  
7 intent to sue in 2017, after plover deaths from off-roading increased, and the U.S. Fish and Wildlife  
8 Service warned the agency that it was in violation of the Endangered Species Act for harassing and  
9 killing plovers at Oceano Dunes without any authorization or permit. From 2018 to 2021, the Center  
10 submitted hundreds of pages of extensive scientific, policy and legal comments on the Oceano Dunes  
11 Coastal Development Permit (“CDP”) review, State Parks’ proposed Public Works Plan (“PWP”), and  
12 the proposed Habitat Conservation Plan (“HCP”) for Oceano Dunes. The Center submitted formal  
13 comments and made presentations to the Coastal Commission on the Oceano Dunes CDP on January  
14 6, 2017; July 1, 2019; October 11, 2019; June 10, 2020; July 19, 2020; October 8, 2020; December  
15 2020; January 10, 2021; and March 5, 2021. The Center also testified at the March 18, 2021 hearing at  
16 which the Amendment was passed.

17           21.     Additionally, in 2020, the Center exposed and documented that State Parks was illegally  
18 interfering with western snowy plovers’ nesting activities at Oceano Dunes and sent a warning letter  
19 to State Parks for violating the Endangered Species Act. The Center monitored snowy plover nesting  
20 and deaths in 2019 and 2020, and published reports that went to State Parks, the Coastal Commission,  
21 and the media. The Center's expose and documentation led to an investigation by the Coastal  
22 Commission, and ultimately a cease-and-desist order that forced State Parks to stop interfering with  
23 nesting. The Center submitted comments on the PWP on March 18, 2019; June 9, 2018, January 23,  
24 2020; and January 24, 2020. The Center also submitted extensive comments on the DEIR for the PWP  
25 on March 17, 2021. Center staff and members attended several public hearings and meetings with State  
26 Parks on the PWP. The Center submitted extensive comments and testified at hearings on State Parks'  
27 HCP for Oceano Dunes, on March 12, 2018; in May 2020; on June 1, 2020; December 20, 2020; and  
28 on December 21, 2020. In June 2020, the Center supplemented its Notice of Intent to sue State Parks

1 for further illegal take of plovers and further violations of the Endangered Species Act. In October  
2 2020, the Center finally sued State Parks for continuing to allow motorized vehicle use that kills  
3 protected shorebirds, in violation of the Endangered Species Act. That court case is pending.

4 22. The Center has spent considerable effort submitting comprehensive scientific, policy  
5 and legal comments on the CDP and PWP for Oceano Dunes, monitoring State Parks' compliance with  
6 the Endangered Species Act and the CDP, seeking to enforce the ESA, organizing our members to  
7 submit comments and attend meetings about the CDP and PWP, preparing educational materials about  
8 protection of endangered species at Oceano Dunes, and putting out press releases and providing  
9 information to reporters about the legal and biological issues at Oceano Dunes. From 2018 through  
10 2022 I have been personally involved in all of these efforts on behalf of the Center.

11 23. The Center has a robust campaign to protect imperiled bird species, including the snowy  
12 plovers present at Oceano Dunes, and has secured Endangered Species Act listing and critical habitat  
13 protections for dozens of bird species. The Center has been working to protect and recover Western  
14 snowy plovers since at least 2005, filing petitions and several lawsuits to secure designation of critical  
15 habitat in California, Oregon and Washington for snowy plovers. The Center has also worked to stop  
16 developments that would harm key plover habitat, fought off-road vehicle use that kills plovers in their  
17 winter habitat, pushed for restrictions on oil drilling, petitioned for dog-leash laws to protect nesting  
18 and wintering birds on plover beaches, and published a report detailing the devastating effects of  
19 pesticide use on plovers. The Center works extensively to protect birds and bird habitat on public lands,  
20 to stop urban sprawl development in important bird habitats, and to reduce the threats to bird  
21 populations from climate change, pesticide use, oil and gas development, logging, livestock grazing,  
22 off-roading, invasive species, and poor water management practices. The Center published a seminal  
23 report in 2016 on the effectiveness of the Endangered Species Act in protecting endangered birds.

24 24. The main threats to western snowy plovers and California least terns at Oceano Dunes  
25 are: direct mortality from off-road vehicles and vehicles driving on the beach; disturbance of plovers  
26 and terns by vehicle activity, including disturbance of nesting and fledging; and habitat loss and  
27 alteration due to vehicles and management activities associated with off-roading. Plovers and terns are  
28 also subject to increased predation by elevated populations of predators such as gulls and ravens, which



1 are attracted by the food and garbage associated with off-roading and beach camping. Plovers and terns  
2 are also subject to natural predation by peregrine falcons and other raptors, but in the absence of off-  
3 roading impacts natural predation would have negligible impact on plover population growth rates and  
4 survival.

5       25. The Center has a robust campaign to protect imperiled fish species, and it has worked  
6 extensively to protect both the steelhead trout and the tidewater goby, both of which are present in  
7 Oceano Dunes and are threatened by the presence of OHVs in the ODSVRA. The Center began  
8 working in 1997 to secure full Endangered Species Act protections for all listed West Coast populations  
9 of steelhead trout. A Center lawsuit resulted in designation of critical habitat, to secure legal protections  
10 for streams essential to their survival and recovery, and regulations preventing illegal “take” of  
11 steelhead for all California listed populations. The Center has also worked to improve habitat  
12 conditions for steelhead in the four Southern California national forests, including the Los Padres  
13 National Forest, submitting a conservation alternative to protect stream habitat for steelhead,  
14 challenging Forest Service management plans, protecting steelhead streams along the Big Sur coast,  
15 working to rein in inappropriate and illegal livestock grazing that damages steelhead streams, and  
16 fighting development projects and proposed water diversions that would affect steelhead. I personally  
17 have been involved since 1997 in numerous campaigns to protect and recover steelhead trout  
18 throughout California, both for the Center and for the Alameda Creek Alliance. The Center has taken  
19 numerous actions to protect the tidewater goby and its habitat, including a campaign to rein in pesticide  
20 use that runs off into tidewater goby habitat, fighting proposals for a gas powerplant in Southern  
21 California wetlands and oil and gas drilling in goby habitat in San Luis Obispo County, and forcing the  
22 federal agency Wildlife Services to stop shooting and trapping California beavers on California rivers,  
23 which provide important habitat for tidewater gobies and steelhead trout.

24       26. The main threats to tidewater gobies and steelhead trout at Oceano Dunes are vehicle  
25 crossings of lower Arroyo Grande Creek during the wet season when gobies and steelhead may be  
26 present in the creek mouth lagoon and lower creek. Vehicles pose the risk of direct mortality, as well  
27 as inputs of pollutants into the creek and lagoon.

28       27. State Parks has generally ignored the substance of over thirteen years’ worth of

1 comments and concerns from the Center, to the point where the Center has had to file lawsuits against  
2 State Parks for legal violations and to report endangered species violations to the Coastal Commission.  
3 State Parks staff have made it abundantly clear throughout the CDP and PWP process that they believe  
4 that the off-roading community is their only meaningful constituency, and that Oceano Dunes is not a  
5 state park for everyone, it is only a state park for vehicle use. This has risen to the degree that State  
6 Parks deliberately allows continued killing and harm to endangered species and refuses to implement  
7 any of the take reduction or mitigation measures recommended by the Coastal Commission or U.S.  
8 Fish and Wildlife Service and will go out of their way to promote continued and expanded off-roading  
9 at the expense of endangered species, natural ecosystems, air quality, human health and safety, and  
10 fiscal responsibility. State Parks presented the U.S. Fish and Wildlife Service with a proposed HCP for  
11 snowy plovers and other endangered wildlife at Oceano Dunes that prioritizes off-roading and vehicle  
12 use over endangered species protection and would remove protections for endangered shorebirds to  
13 allow more off-roading, despite the Center's extensive efforts to protect snowy plovers. State Parks  
14 illegally tried to prevent protected snowy plovers from nesting in large areas of Oceano Dunes during  
15 COVID, when the park was shut down to off-roading, so that they could get the plovers out of the way  
16 to open back up to off-roaders more quickly, risking criminal violations and fines to move endangered  
17 species out of the way of the "real park users," off-roaders.

18         28.       During the COVID-19 pandemic, when the beach was closed to vehicles and the dunes  
19 were closed to off-roading but the beach remained open for the non-motorized public to enjoy and  
20 recreate, visiting Oceano Dunes was a much more pleasant experience. I visited weekly and enjoyed  
21 the absence of vehicles and the peace and quiet of the beach, waves, and wildlife. I documented and  
22 published reports on snowy plovers expanding their nesting areas in the absence of off-roading into  
23 areas that usually would be overrun by vehicles. I ran into many other local residents enjoying the  
24 vehicle-free beach for walking, jogging, horseback riding, beachcombing, surfing, fishing,  
25 photography, birding, tanning, and picnicking.

26         29.       If the Amendment were not invalidated, a huge proportion of the public, local and  
27 visitors, myself included, would be able to reclaim the beach and dunes for non-motorized recreation  
28 and enjoyment. Vehicles would still be allowed for access and camping north of Pier Avenue to Grand

1 Avenue, in an area where there are not conflicts with natural resources and endangered wildlife. Non-  
2 motorized park visitors would be able to enjoy the beach and dunes south of Pier Avenue without the  
3 noise, traffic, and health risks that come with the vehicle use. Birdwatchers and wildlife photographers  
4 such as myself would be able to experience and enjoy seeing snowy plovers and least terns unmolested  
5 in their natural habitats, and take part in habitat restoration efforts to reverse the damage done by off-  
6 roading. I would not have to find threatened snowy plovers flattened on the beach in tire tracks. I could  
7 continue to enjoy birdwatching at Oso Flaco Lake, the premiere birding spot in SLO County, without  
8 having the habitat destroyed and degraded by proposed development and being run off by vehicle traffic  
9 and noise from a new off-road vehicle entrance to the dunes.

10           30.     If the Amendment were to be invalidated, myself and large swaths of the public would  
11 no longer visit the beach or dunes areas of Oceano Dunes for recreation or wildlife observation due to  
12 vehicle traffic, noise, personal safety, and rare wildlife such as snowy plovers being driven off and  
13 driven over. Threatened snowy plovers and least terns would continue to be killed and harassed by off-  
14 road vehicle activity and their nesting and fledging disrupted. Populations of these protected shorebirds  
15 would decline and could even be extirpated with the proposed expansion of off-roading and disturbance  
16 from other development proposed in the PWP. Lagoon and creek habitat for steelhead trout and  
17 tidewater goby would be damaged by vehicles driving through the creek, and sedimentation and dust  
18 impacts. This would negate countless hours of the Center's work, and it would contradict the Center's  
19 direct interest in defending the continued existence of threatened and endangered species. Numerous  
20 acres of habitat for rare and endangered plant species would be damaged or destroyed by development,  
21 new off-roading trails, sedimentation, and spread of invasive species. The important bird habitat at Oso  
22 Flaco Lake would be disrupted and degraded by new adjacent off-roading, increased vehicles, and  
23 massive development, including camping, offices, parking, and other infrastructure, and the best  
24 birdwatching spot in San Luis Obispo County would be ruined. Dust and pulverized sand from off-  
25 roading would continue to degrade air quality at Oceano Dunes and downwind. Massive amounts of  
26 trash and debris would continue to accumulate on the beach from beach campers and off-roaders,  
27 attracting predators such as gulls, ravens and raccoons that then impact protected shorebird populations.  
28 Off-road vehicles at Oceano would contribute significantly to greenhouse gas emissions, making it

1 more difficult for California to reach its carbon reduction goals for a livable planet.

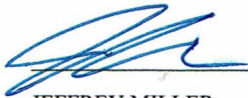
2           31. If Friends of Oceano Dunes is successful in invalidating the Coastal Commission's  
3 Amendments, the extensive off-roading and associated infrastructure development planned by State  
4 Parks to support expanded off-road recreation will severely damage the Oceano Dunes ecosystem,  
5 including dunes, beach, lakes and lagoons. It would cause increased killing of protected snowy plovers  
6 and least terns, and declines and possibly extirpation of numerous endangered species such as snowy  
7 plovers, least terns, tidewater goby, red-legged frogs, steelhead trout, and numerous rare plant species.  
8 It would prevent any meaningful restoration efforts for the habitats of Oceano Dunes and would impede  
9 recovery of numerous endangered and threatened species. It would sabotage the Center's interests in  
10 protecting natural ecosystems and imperiled species on public lands. Pollution from off-road vehicles  
11 would continue to contribute greatly to harmful greenhouse gas emissions and the Oceano Dunes  
12 emissions would sabotage the state of California's climate and greenhouse gas reduction goals. It would  
13 also set a terrible precedent for mismanagement of state park lands by prioritizing destructive and  
14 damaging motorized recreation over all other public uses. It would damage the Center's interests in  
15 protecting and recovering endangered species, restoring coastal ecosystems, protecting wildlife habitat  
16 on public lands, reducing greenhouse gas emissions, and promoting low impact recreation and use of  
17 public lands.

18           32. The Center's reputation would be damaged if Friends of Oceano Dunes succeeds in  
19 invalidating the CDP amendments. Protecting Oceano Dunes from off-road damage has been a major  
20 campaign that the Center has invested considerable time and effort in, and we have engaged thousands  
21 of our members to take action by commenting on the CDP and PWP. The CDP amendments are  
22 necessary to protect sensitive coastal resources, are within the Coastal Commission's authority, are  
23 consistent with the mission of State Parks, and are required by the Coastal Act, as well as state and  
24 federal laws such as the state and federal Endangered Species Acts – to have them invalidated would  
25 tarnish our reputation for supporting and upholding environmental protection laws, providing accurate  
26 information to our members and the public about conservation issues, and would undermine our work  
27 to enforce and uphold the Coastal Act and other environmental laws elsewhere.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that I executed this declaration on 2/2, 2022, in Los Angeles, California.

  
\_\_\_\_\_  
JEFFREY MILLER

1 MICHAEL ROBINSON-DORN (CA Bar No. 159507)  
DANIEL JACOBS (CA Bar. No. 295494)  
2 RYAN RIEDMUELLER (CA Bar Student Cert. 00760110)  
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6 Attorneys for Applicant Intervenors  
7 Northern Chumash Tribal Council, Center for  
Biological Diversity, Oceano Beach Community  
8 Association, Sierra Club, Surfrider Foundation,  
and San Luis Obispo Coastkeeper

9  
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **COUNTY OF SAN LUIS OBISPO**

12 FRIENDS OF OCEANO DUNES, INC., a  
13 California not-for profit corporation,

14 Petitioner and Plaintiff,

15 v.

16 CALIFORNIA COASTAL COMMISSION, a  
commission of the state of California; and  
17 DOES 1-50, inclusive,

18 Respondent and Defendant;

19 CALIFORNIA DEPARTMENT OF PARKS  
AND RECREATION, a department of the  
20 State of California; and DOES 1-50, inclusive,

21 Respondent and Defendant as  
to the First Cause of Action,  
22 Count 4, and, as a Real Party-  
in-Interest as to the remaining  
23 Counts, and

24 COUNTY OF SAN LUIS OBISPO, a  
governmental unit and subdivision of the State  
25 of California, and DOES 1-50, inclusive,

26 Real Party-in-Interest,

27 NORTHERN CHUMASH TRIBAL  
COUNCIL, CENTER FOR BIOLOGICAL  
28 DIVERSITY, OCEANO BEACH

**Case No. 21CV-0214 (Lead Case)**  
*Consolidated with Case Nos.: 21CV-0219,  
21CV-0246, and 21CV-0541*

**DECLARATION OF ANDREW  
CHRISTIE IN SUPPORT OF MOTION  
TO INTERVENE**

Date: March 9, 2022

Time: 9:00 a.m.

Dept.: 9

Judge: Hon. Tana L. Coates

Trial Date: July 21, 2022

Action Filed: 04/12/2021

1 COMMUNITY ASSOCIATION, SIERRA  
2 CLUB, SURFRIDER FOUNDATION, AND  
3 SAN LUIS OBISPO COASTKEEPER,

4 Applicant-Intervenors.

5 ECOLOGIC PARTNERS, INC., a California  
6 Non-Profit Corporation; SPECIALTY  
7 EQUIPMENT MARKETASSOCIATION, a  
8 California Non-Profit Corporation,

9 Petitioners,

10 v.

11 CALIFORNIA COASTAL COMMISSION;  
12 JOHN AINSWORTH, as Executive Director of  
13 the California Coastal Commission; *et al.*,

14 Respondents,

15 COUNTY OF SAN LUIS OBISPO; and DOES  
16 1-10.

17 Real Parties in Interest,

18 NORTHERN CHUMASH TRIBAL  
19 COUNCIL, CENTER FOR BIOLOGICAL  
20 DIVERSITY, OCEANO BEACH  
21 COMMUNITY ASSOCIATION, SIERRA  
22 CLUB, SURFRIDER FOUNDATION, AND  
23 SAN LUIS OBISPO COASTKEEPER,

24 Applicant-Intervenors.

25 FRIENDS OF OCEANO DUNES, INC., a  
26 California not-for profit corporation,

27 Petitioner and Plaintiff,

28 v.

CALIFORNIA COASTAL COMMISSION, a  
commission of the State of California; and  
DOES 1-50, inclusive,

Respondent and Defendant;

CALIFORNIA DEPARTMENT OF PARKS  
AND RECREATION, a department of the  
State of California; and DOES 1-50, inclusive,

**Case No. 21CV-0219**

**Case No. 21CV-0246**

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Real Party-in-Interest;  
COUNTY OF SAN LUIS OBISPO, a county of  
the State of California, and DOES 1-50,  
inclusive,  
Real Party-in-Interest,  
NORTHERN CHUMASH TRIBAL  
COUNCIL, CENTER FOR BIOLOGICAL  
DIVERSITY, OCEANO BEACH  
COMMUNITY ASSOCIATION, SIERRA  
CLUB, SURFRIDER FOUNDATION, AND  
SAN LUIS OBISPO COASTKEEPER,  
Applicant-Intervenors.

**Case No. 21CV-0541**

FRIENDS OF OCEANO DUNES, INC., a  
California not-for profit corporation,  
Petitioner and Plaintiff,  
v.  
CALIFORNIA COASTAL COMMISSION, a  
commission of the State of California; and  
DOES 1-50, inclusive,  
Respondents and Defendants,  
CALIFORNIA DEPARTMENT OF PARKS  
AND RECREATION, a department of the  
State of California; and DOES 1-50, inclusive,  
Real Party-in-Interest, and  
COUNTY OF SAN LUIS OBISPO a  
governmental unit and subdivision of the State  
of California, and DOES 1-50, inclusive,  
Real Party-in-Interest,  
NORTHERN CHUMASH TRIBAL  
COUNCIL, CENTER FOR BIOLOGICAL  
DIVERSITY, OCEANO BEACH  
COMMUNITY ASSOCIATION, SIERRA  
CLUB, SURFRIDER FOUNDATION, AND  
SAN LUIS OBISPO COASTKEEPER,  
Applicant-Intervenors.



1 **DECLARATION OF ANDREW CHRISTIE**

2 I, ANDREW CHRISTIE, hereby declare:

3 1. I make this declaration upon my personal knowledge and, if called upon to testify,  
4 could and would do so competently.

5 2. I am a resident of San Luis Obispo County (“the County”) and have lived there for  
6 17 years.

7 3. I am currently employed by the Sierra Club as Chapter Director of the Santa Lucia  
8 Chapter of the Club. I have held this position at the Club for 17 years.

9 4. In the period of 2004-2021, I have personally provided written and oral testimony  
10 at numerous public meetings of the San Luis Obispo Planning Commission and Board of  
11 Supervisors, Air Pollution Control District, and the California Coastal Commission.

12 5. Nationally, the Sierra Club has 3.8 million members and supporters. In California,  
13 the Sierra Club has nearly 500,000 members and supporters.

14 6. The missions of the Sierra Club are to explore, enjoy, and protect the wild places of  
15 the earth; to practice and promote the responsible use of the Earth’s ecosystems and resources; to  
16 educate and enlist humanity to protect and restore the quality of the natural and human environment;  
17 and to use all lawful means to carry out these objectives.

18 7. The Sierra Club has a number of goals in furtherance of these core missions. Some  
19 goals of the Sierra Club are to solve the climate crisis in a way that protects the environment and is  
20 also enduring, fair, and equitable; to steward our natural resources to safeguard them for present  
21 and future generations; to attract and empower a base of supporters and activists strong enough to  
22 challenge the status quo and accomplish the programmatic goals of the Club; and to function as a  
23 high-performance environmental organization by building on the Club’s legacy and embracing  
24 innovation.

25 8. Among the strategies the Sierra Club deploys in pursuit of the goal of protecting our  
26 nation’s lands, waters, air and wildlife are: to protect and restore wildlands and waterways to  
27 provide suitable habitat for the protection and restoration of rare and endangered species; to protect  
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1 our air, water, land, and communities from pollution; and to ensure that all who live in the United  
2 States have access to natural areas, including in or near their communities, as well as the opportunity  
3 to experience the natural world.

4 9. The Sierra Club believes that its goals are those necessary to meet the challenges of  
5 a warming climate, unprecedented levels of pollution, and powerful special interests undermining  
6 basic protections. The Sierra Club is bringing together a national community of volunteers,  
7 advocates, and grassroots activists to realize these goals, giving them the tools and resources to  
8 make themselves heard in every district in every state across the country and partnering with other  
9 organizations, nonprofits, and campaigns, building the most powerful and effective environmental  
10 movement the world has ever seen to achieve the ultimate goal of ensuring everyone has access to  
11 clean air, clean water, and a healthy environment.

12 10. Sierra Club has a further interest in promoting environmental justice for all and in  
13 lifting the economic and health burdens of local communities adversely impacted by environmental  
14 factors.

15 11. Sierra Club's goals of exploring, enjoying, and protecting the planet are aligned with  
16 protecting the coastal lands of California, including Oceano Dunes and Pismo State Beach.

17 12. The coastal sand dune habitat seen at Oceano Dunes is one of the world's rarest  
18 ecosystems. The Sierra Club has a special interest in protecting and preserving such ecosystems for  
19 present and future generations.

20 13. Members of the Sierra Club regularly visit local coastal areas, including Pismo State  
21 Beach and the Oceano Dunes State Vehicular Recreation Area ("ODSVRA") to enjoy the unique  
22 natural resources and engage in passive recreational activities, such as walking, hiking, observing  
23 animal and plant species, in the areas free of Off-Highway Vehicles ("OHVs").

24 14. Sand dune structures like those found at Oceano Dunes, when they are not eroded,  
25 are capable of curbing the threat of sea level rise. Sierra Club's overarching goal of responding to  
26 the climate crisis is thus directly intertwined with the fate of the Dunes.

27 15. The Sierra Club has been involved in efforts to protect natural resources in the  
28

1 Oceano Dunes for over 50 years. The Santa Lucia chapter of the Sierra Club actively participated  
2 in efforts to protect and preserve the Oceano Dunes in the 1960s, when chapter's co-founder  
3 Kathleen Goddard Jones worked tirelessly to protect the Dunes from exploitation and excessive  
4 development. Goddard Jones led the campaign to stop Pacific Gas & Electric ("PG&E") from  
5 building a nuclear power plant in the Dunes. Facing stiff opposition to its plans, in 1974 PG&E sold  
6 its 854 acres in the Dunes to the Department of Parks & Recreation ("State Parks") and acquired  
7 the Diablo Canyon property site to the north. In 2001, Sierra Club sued State Parks in federal court  
8 because State Parks' management of the ODSVRA continued to result in unpermitted "take" of  
9 federally protected species. After Sierra Club filed a motion for preliminary injunction and  
10 temporary restraining order, the parties began a course of negotiations that led to a settlement  
11 agreement. Pursuant to the Settlement Agreement and Consent Judgment, State Parks is directed to  
12 annually fence off a portion of the beach during breeding season of the federally protected western  
13 snowy plover. In addition to these seasonal exclosures, State Parks is required to implement a  
14 predator management plan and a rigorous monitoring program.

15         16. Under my tenure, the Sierra Club was instrumental in convincing the County  
16 Planning Commission that sale of the La Grande Tract to State Parks would be inconsistent with  
17 provisions of the County's land use policies. The Sierra Club brought to the Planning Commission's  
18 attention a map of County lands in the ODSVRA and the language in the County's Local Coastal  
19 Program and Coastal Area Plan prohibiting OHV use on County-owned land in the ODSVRA.  
20 Faced with this evidence, the County determined that the proposed sale of the County-owned land  
21 in the ODSVRA to State Parks for inclusion within the ODSVRA would be inconsistent with  
22 County land use policies. When the County was sued over this decision in *Friends of Oceano*  
23 *Dunes, Inc. v. County of San Luis Obispo, et al.* (San Luis Obispo Superior Court ("SLOC") Case  
24 No. 070591, filed July 9, 2007, with State Parks named as real party in interest), Sierra Club was  
25 granted leave to intervene. The Friends case was consolidated with *Sierra Club v. California*  
26 *Department of Parks and Recreation, et al.* (SLOC Case No. 080344) and Friends of Oceano Dunes  
27 was granted intervener status in the Sierra Club case on December 23, 2008. Sierra Club's lawsuit

1 sought to compel State Parks to comply with the County’s Local Coastal Program, as codified in  
2 the South County-Coastal Area Plan. In July 2008, Sierra Club participated in a stakeholders’  
3 mediation with Friends of Oceano Dunes, State Parks, the Coastal Commission, San Luis Obispo  
4 County, and local NGOs in an attempt to arrive at a global solution and final contract on the scope  
5 and scale of management at the Oceano Dunes.

6 17. I attended and spoke at a “public listening session” on the Public Works Plan  
7 (“PWP”) held by California State Parks in Pismo Beach in 2017. Our attorney sent comments to  
8 State Parks in 2018 on behalf of the Sierra Club regarding the Notice of Preparation for the PWP  
9 and its Environmental Impact Report (“EIR”). The Sierra Club is a member of the Dunes Alliance,  
10 a coalition of community and environmental organizations active on the California Central Coast  
11 and dedicated to the safe and environmentally-sustainable use and enjoyment of the Guadalupe-  
12 Nipomo Dunes Complex, which stretches from Pismo Beach to Point Sal and includes the Oceano  
13 Dunes State Vehicular Recreation Area and the Oso Flaco Lake Nautral Area. I have a personal  
14 history of involvement with the Coastal Commission amendment at issue presently. I was the  
15 primary author of a series of letters sent by the Dunes Alliance to State Parks Director Quintero and  
16 Governor Newsom in 2019-2020 regarding State Parks’ compliance with the directives issued by  
17 the Coastal Commission at its July 2019 meeting on the PWP and Oceano Dunes management. As  
18 a member of the Dunes Alliance, the Sierra Club signed a comment letter on State Parks’ PWP and  
19 draft Environmental Impact Review (“DEIR”) in March 2021. Sierra Club’s testimony was entered  
20 into the record of the Coastal Commission’s March 18, 2021 meeting, at which the California  
21 Coastal Commission passed an amendment to Coastal Development Permit No. 4-82-300 (“the  
22 Amendment”) to phase out the use of OHVs and other changes implemented in the amendment.

23 18. The use of OHVs in Oceano Dunes is severely deleterious to the ecosystem of  
24 Oceano Dunes. OHV activity strips the foredunes of natural vegetation from the foredunes, causing  
25 erosion and releasing miles-long plumes of fine particulate matter. Driving thousands of vehicles  
26 through the beach impacts the foraging and nesting habitat of listed species resulting in a combined  
27 environmental and public health threat.

1           19.     The use of OHVs in Oceano Dunes is also harmful to local wildlife, including  
2 federally protected birds. The main threats to the threatened western snowy plover and the  
3 endangered California least tern, both present in Oceano Dunes, are vehicle strikes, habitat loss,  
4 and the attraction of predators to the area by overflowing trash bins. The use of OHVs in the  
5 ODSVRA are directly responsible for each of these threats. Sierra Club’s interest in protecting  
6 wildlife is directly linked to the Coastal Commission’s decision to phase out the use of OHVs in  
7 the Amendment.

8           20.     Protected fish such as the endangered tidewater goby and the threatened steelhead  
9 trout are also threatened by the use of vehicles. Vehicle crossings in Arroyo Grande Creek as well  
10 as the erosion of lagoons in Oceano Dunes pose vital threats to these fish. Sierra Club’s interest in  
11 protecting wildlife is again here tied to the Coastal Commission’s Amendment.

12           21.     Ongoing off-road recreation enabled by State Parks’ management of the ODSVRA  
13 interferes with Sierra Club members’ passive recreational activities and enjoyment of the Oceano  
14 Dunes and causes significant environmental harm. Our environmental protection goals for the  
15 sensitive species and habitat of the dunes would not be met, our members would continue to be  
16 impeded in any attempt to engage in passive recreation there, and our goal of seeking environmental  
17 justice for the local community by lifting the economic and health burden of off-road use would be  
18 thwarted if the Coastal Commission’s amendment is reversed.

19           22.     The use of OHVs is harmful to local air quality. Air Pollution Control District  
20 consultants hold that the most effective measure for improving air quality in areas currently  
21 impacted by the Dunes would be a cessation of OHV activity in the Dunes.

22           23.     Over the last 20 years, we have witnessed the dramatic increase in OHV activity and  
23 intensity of use at the Dunes and seen the data and study results of the Air Pollution Control District  
24 showing neighboring communities sometimes suffer the worst air quality in the nation due to OHV  
25 use on the Dunes. We have been forced to devote a large amount of staff and volunteer time and  
26 our annual budget to petitioning the County, the Coastal Commission, and State Parks for redress  
27 of harms and reduction of the hazards as a result of management of the Dunes, which has become  
28

1 a central focus of our local chapter.

2         24. During a 3-month period early in the pandemic, when the Dunes were closed to  
3 OHVs and also when closed to all other vehicles, flora and fauna were observed to flourish, passive  
4 recreational use increased, and air quality improved. If the Amendments are not invalidated, we  
5 would expect to see the environmental, passive recreational, and public health benefits observed  
6 during the Park’s temporary vehicle closure in 2020 increase significantly once the permanent  
7 closure to OHV use and reduction of beach driving area goes into effect. If the Amendments were  
8 to be invalidated, ongoing off-road recreation would continue to bar passive recreational activities  
9 by our members and the general public and continue to cause significant damage to coastal  
10 resources, local communities, and tribal interests.

11         25. In the event that the Coastal Commission’s Amendment is reversed, Sierra Club’s  
12 interests in protecting local communities from environmental harm and promoting environmental  
13 justice would be injured. The ongoing heavy vehicular use of the dunes and beach would continue  
14 to depress the area’s local economy due to vehicular impediment of traditional passive recreational  
15 activities enjoyed by all other California beach communities. A reversal of the Coastal  
16 Commission’s Amendment would lead to ongoing vegetation loss and erosion of the dunes, and  
17 fail to restore protective foredunes at the end of Pier Avenue, which would leave the community  
18 and infrastructure vulnerable to sea level rise. Ongoing PM 10 pollution linked to OHV activity  
19 would continue to cause hazardous air quality and impose the cost of health care for pollution-  
20 related illness; area hospitals would continue to bear the costs of treating OHV injury from  
21 accidents.

22         26. The issue of the use of vehicles in Oceano Dunes has been a primary issue for the  
23 Sierra Club in San Luis Obispo County for decades; a reversal of the Coastal Commission’s  
24 decision and return to “square one” would demoralize our members, volunteers and activists  
25 working on all other issues.

26  
27         I declare under penalty of perjury under the laws of the State of California that the foregoing  
28 is true and correct and that I executed this declaration on Feb. 4, 2022, in San Luis Obispo,

1 California.

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ANDREW CHRISTIE

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1 MICHAEL ROBINSON-DORN (CA Bar No. 159507)  
DANIEL JACOBS (CA Bar. No. 295494)  
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6 Attorneys for Applicant Intervenors  
7 Northern Chumash Tribal Council, Center for  
Biological Diversity, Oceano Beach Community  
8 Association, Sierra Club, Surfrider Foundation,  
and San Luis Obispo Coastkeeper

9  
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **COUNTY OF SAN LUIS OBISPO**

12 FRIENDS OF OCEANO DUNES, INC., a  
13 California not-for profit corporation,

14 Petitioner and Plaintiff,

15 v.

16 CALIFORNIA COASTAL COMMISSION, a  
commission of the state of California; and  
17 DOES 1-50, inclusive,

18 Respondent and Defendant;

19 CALIFORNIA DEPARTMENT OF PARKS  
AND RECREATION, a department of the  
20 State of California; and DOES 1-50, inclusive,

21 Respondent and Defendant as  
to the First Cause of Action,  
22 Count 4, and, as a Real Party-  
in-Interest as to the remaining  
23 Counts, and

24 COUNTY OF SAN LUIS OBISPO, a  
governmental unit and subdivision of the State  
25 of California, and DOES 1-50, inclusive,

26 Real Party-in-Interest,

27 NORTHERN CHUMASH TRIBAL  
COUNCIL, CENTER FOR BIOLOGICAL  
28 DIVERSITY, OCEANO BEACH

**Case No. 21CV-0214 (Lead Case)**  
*Consolidated with Case Nos.: 21CV-0219,  
21CV-0246, and 21CV-0541*

**DECLARATION OF GORDON HENSLEY  
IN SUPPORT OF MOTION TO  
INTERVENE**

Date: March 9, 2022

Time: 9:00 a.m.

Dept.: 9

Judge: Hon. Tana L. Coates

Trial Date: July 21, 2022

Action Filed: 04/12/2021



1 COMMUNITY ASSOCIATION, SIERRA  
2 CLUB, SURFRIDER FOUNDATION, AND  
3 SAN LUIS OBISPO COASTKEEPER,

4 Applicant-Intervenors.

5 ECOLOGIC PARTNERS, INC., a California  
6 Non-Profit Corporation; SPECIALTY  
7 EQUIPMENT MARKETASSOCIATION, a  
8 California Non-Profit Corporation,

9 Petitioners,

10 v.

11 CALIFORNIA COASTAL COMMISSION;  
12 JOHN AINSWORTH, as Executive Director of  
13 the California Coastal Commission; *et al.*,

14 Respondents,

15 COUNTY OF SAN LUIS OBISPO; and DOES  
16 1-10.

17 Real Parties in Interest,

18 NORTHERN CHUMASH TRIBAL  
19 COUNCIL, CENTER FOR BIOLOGICAL  
20 DIVERSITY, OCEANO BEACH  
21 COMMUNITY ASSOCIATION, SIERRA  
22 CLUB, SURFRIDER FOUNDATION, AND  
23 SAN LUIS OBISPO COASTKEEPER,

24 Applicant-Intervenors.

25 FRIENDS OF OCEANO DUNES, INC., a  
26 California not-for profit corporation,

27 Petitioner and Plaintiff,

28 v.

CALIFORNIA COASTAL COMMISSION, a  
commission of the State of California; and  
DOES 1-50, inclusive,

Respondent and Defendant;

CALIFORNIA DEPARTMENT OF PARKS  
AND RECREATION, a department of the  
State of California; and DOES 1-50, inclusive,

**Case No. 21CV-0219**

**Case No. 21CV-0246**

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Real Party-in-Interest;  
COUNTY OF SAN LUIS OBISPO, a county of  
the State of California, and DOES 1-50,  
inclusive,  
Real Party-in-Interest,  
NORTHERN CHUMASH TRIBAL  
COUNCIL, CENTER FOR BIOLOGICAL  
DIVERSITY, OCEANO BEACH  
COMMUNITY ASSOCIATION, SIERRA  
CLUB, SURFRIDER FOUNDATION, AND  
SAN LUIS OBISPO COASTKEEPER,  
Applicant-Intervenors.

**Case No. 21CV-0541**

FRIENDS OF OCEANO DUNES, INC., a  
California not-for profit corporation,  
Petitioner and Plaintiff,  
v.  
CALIFORNIA COASTAL COMMISSION, a  
commission of the State of California; and  
DOES 1-50, inclusive,  
Respondents and Defendants,  
CALIFORNIA DEPARTMENT OF PARKS  
AND RECREATION, a department of the  
State of California; and DOES 1-50, inclusive,  
Real Party-in-Interest, and  
COUNTY OF SAN LUIS OBISPO a  
governmental unit and subdivision of the State  
of California, and DOES 1-50, inclusive,  
Real Party-in-Interest,  
NORTHERN CHUMASH TRIBAL  
COUNCIL, CENTER FOR BIOLOGICAL  
DIVERSITY, OCEANO BEACH  
COMMUNITY ASSOCIATION, SIERRA  
CLUB, SURFRIDER FOUNDATION, AND  
SAN LUIS OBISPO COASTKEEPER,  
Applicant-Intervenors.

1 **DECLARATION OF GORDON HENSLEY**

2 I, GORDON HENSLEY, hereby declare:

3 1. I make this declaration upon my personal knowledge and, if called upon to testify, could  
4 and would do so competently.

5 2. I was born in the City of San Luis Obispo, California and am a resident of Los Osos,  
6 California, where I have lived for 48 years.

7 3. I am currently employed as the Executive Director of San Luis Obispo Coastkeeper  
8 (“SLO Coastkeeper”) at Environment in the Public Interest (“EPI”). I have been Executive Director for  
9 SLO Coastkeeper/EPI for 19 years.

10 4. In addition to my work at SLO Coastkeeper/EPI, I was a member of the Central Coast  
11 Regional Water Bord Technical Advisory Committee, which was tasked with evaluating  
12 bacterial contamination sources at Morro Bay National Estuary. I am also a member of Dunes  
13 Alliance. SLO Coastkeeper/EPI serves as a fiscal sponsor for Dunes Alliance and People for the  
14 Dunes. Further, I am the Co-Chair for the San Luis Obispo MPA Collaborative. Finally, I am a  
15 member of the Audubon Society, the local Morro Coast Audubon, The Wildlife Society, and the  
16 Central Coast Chapter of the Wildlife Society.

17 5. Prior to my role with SLO Coastkeeper/EPI, I was an Environmental Analyst for  
18 Environmental Defense Center for 4 years. In that role I provided biology research support for Sierra  
19 Club’s ODSVRA litigation and served as ecological support for permit analysis and litigation support.  
20 Additionally, I was Sole Proprietor for Bioenvironmental Consulting (previously Bowker & Hensley)  
21 for 5 years. Finally, I was a Partner & Senior Biologist at Bowker & Hensley, Environmental  
22 Consulting for 7 years. Further, I was a committee member of the Morro Bay National Estuary Program  
23 during the development of the Comprehensive Conservation & Management Plan. Additionally, I was  
24 appointed to the California Department of Resources Department Central Coast Region MPA Network  
25 Creation Committee. Finally, while with SLO Coastkeeper/EPI, I was appointed to the State Parks  
26 ODSVRA Technical Review Team where I served as a co-Environmental Representative with Andrew  
27 Christie (Sierra Club) from inception to completion of the OSDSVRA review.

1           6.       Finally, in 1983, I completed my Master’s Degree Thesis, titled “Mobbing Behavior in  
2 Three Species of Blackbird” (unpublished). I was, and remain, a certified San Luis Obispo Coastkeeper  
3 by the Waterkeeper Alliance since 2003. I was awarded the Coastal Protection achievement Award by  
4 Environment Now in 2006. In addition, I was awarded a Certificate of Recognition for Participation  
5 on the Oceano Dunes Task Force by the San Luis Obispo County Board of Supervisors in 2007.

6           7.       SLO Coastkeeper/EPI aims to protect and improve healthy and diverse ecosystems on  
7 Central Coast Marine habitats and watershed ecosystems. SLO Coastkeeper is a member of the  
8 Waterkeeper Alliance which is an international organization dedicated to the conservation and  
9 protection of fishable, swimmable, and drinkable water. Protecting Oceano Dunes, dunes, tidelands,  
10 and other coastal lands of California completely align with the SLO Coastkeeper/EPI’s goals.

11          8.       Further, SLO Coastkeeper/EPI regularly conducts environmental patrols to support our  
12 agency permit and environmental regulation compliance monitoring programs. Our focus is achieving  
13 environmental permit and regulatory compliance by (1) establishing standing, (2) participating in the  
14 administrative process and providing substantive comments and/or testimony, (3) exhausting  
15 administrative processes, and (4) initiating litigation if necessary (alone or in collaboration with citizens  
16 or groups). We feel this process of achieving compliance is efficient and produces results.

17          9.       SLO Coastkeeper/EPI is organized for the purpose of providing educational, scientific,  
18 and technical support services to ensure effective public participation in government decisions affecting  
19 the environment and public trust resources. SLO Coastkeeper/EPI is a non-member 501(c)(3)  
20 corporation with approximately 800 supporters. SLO Coastkeeper/EPI conducts an internship program  
21 primarily serving junior and senior California Polytechnic State University students from a variety of  
22 Departments, including Biology, Environmental and Natural Resources, Soils, and Engineering. EPI  
23 typically hosts 2-6 students per quarter. We have occasionally engaged law students as summer interns.

24          10.       Having participated in past litigation, the State Parks TRT process, Coastal Commission  
25 reviews and updates, County Board of Supervisors hearings, Regional Air Board hearings, USFWS,  
26 CDFW, State lands, and Army Corps processes, SLO Coastkeeper/EPI has an understanding and  
27 perspective on the inability of administrative remedies to provide adequate constraints on the State  
28

1 Parks OHV Division to ensure protection of special status species, protection of a wider scope of coastal  
2 access, and improve the quality of life for residents of Oceano and Nipomo Mesa. The court is the last  
3 and best hope for protecting the integrity of the Coastal Act, the Coastal Commission’s permit  
4 authority, and this special piece of California in particular.

5 11. SLO Coastkeeper/EPI supporters live and/or recreate in and around the beaches of San  
6 Luis Obispo County, including the Oceano Dunes complex. The interest of our organization has been,  
7 and will continue to be, adversely affected if Friends of Oceano Dunes is successful in their effort to  
8 invalidate the amendments at issue. Specifically, the demonstrated reduction in air quality, coastal  
9 access, and loss of biodiversity directly conflicts with the goals and interests of EPI.

10 12. In the late 1950’s into the 1960’s, a main vehicle access to the Oceano Dunes began at  
11 the Pismo pier. Depending on stream flow at the Santa Maria River, it was possible to cruise the beach  
12 all the way to Point Sal. Personally, as a passenger with my older brothers, I have experienced that  
13 more than a few times. Additionally, I have birded the Oceano Dunes Complex for both pleasure and  
14 professional reasons since the 1970s, with the most recent occurrence being in 2020. Given my close  
15 association with the Oceano Dunes throughout my life, I have observed the changes in health and  
16 vitality of the Dunes; in particular, the foredunes and associated vegetation no longer exist in the riding  
17 area.

18 13. Preventing OHV use on the Oceano Dunes will likely allow a “healing” of the Dunes in  
19 several ways. First, while it is still undetermined to be a direct result of OVH use, the Pismo Clam  
20 population has been greatly reduced. Second, while SLO Coastkeeper/EPI has been unable to secure  
21 FWS Fisheries support for review of the possibly millions of vehicle crossings at Arroyo Grande Creek,  
22 there has likely been a significant impact on a blue line stream and the population of Southern  
23 Steelhead Trout. Finally, FWS has said that “take” of endangered species has occurred (and  
24 continues) at SVRA. Regarding the health and vitality of the Oceano Dunes, I have reviewed reports  
25 and research by USFWS and Cal Fish & Wildlife, as well as academic studies on the impacts to  
26 Tern and Plover species in coastal US locations wherein vehicle use has been prohibited.

27 14. The Coastal Commission has determined that continued OHV use in the Oceano Dunes  
28

1 is incompatible with provisions of the Coastal Act. The amendments as approved specifically target  
2 threats to the health and vitality of Oceano Dunes habitats.

3 15. If Friends of Oceano Dunes is successful in invalidating the Coastal Commission's  
4 Amendments, the voter, given Coastal Act authority assigned to the Coastal Commission, would be  
5 greatly (perhaps irrevocably) undermined. The Coastal Commission, established through voter  
6 initiative and made permanent through the Coastal Act, indicates that California residents have spoken  
7 to the importance to the quality of life for all. The Coastal Commission plays a significant role in the  
8 protection of threatened environments, like the Dunes. If the amendments are invalidated, the  
9 Commission's reputation for protecting coasts could be damaged. Moreover, as regular and vigorous  
10 advocates of cases before the Commission, invalidation of these amendments would reflect poorly on  
11 SLO Coastkeeper/EPI as well. Finally, if the amendments are overturned, accessibility and enjoyment  
12 of public trust resources to all outside the OHV community will continue to be reduced.

13 16. While the specifics of how SLO Coastkeeper/EPI's reputation would be damaged if  
14 Friends of Oceano Dunes succeeds in invalidating the CDP amendments are unknown at this time,  
15 reputational damage is quite possible considering the time and effort SLO Coastkeeper/EPI has  
16 invested in this issue. Moreover, invalidation of the amendments would likely erode the Coastal  
17 Commission's authority to protect the coast. We believe that while the California Coastal Commission  
18 has lived up to their mission, the OHV Division of State Parks has failed to adequately protect the  
19 environment under their administration.

20  
21 I declare under penalty of perjury under the laws of the State of California that the foregoing  
22 is true and correct and that I executed this declaration on February 6, 2022, in San Luis Obispo,  
23 California

24 

25 \_\_\_\_\_  
26 GORDON HENSLEY  
27  
28

1 MICHAEL ROBINSON-DORN (CA Bar No. 159507)  
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6 Attorneys for Applicant Intervenors  
7 Northern Chumash Tribal Council, Center for  
Biological Diversity, Oceano Beach Community  
8 Association, Sierra Club, Surfrider Foundation,  
and San Luis Obispo Coastkeeper

9  
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **COUNTY OF SAN LUIS OBISPO**

12 FRIENDS OF OCEANO DUNES, INC., a  
13 California not-for profit corporation,

14 Petitioner and Plaintiff,

15 v.

16 CALIFORNIA COASTAL COMMISSION, a  
commission of the state of California; and  
17 DOES 1-50, inclusive,

18 Respondent and Defendant;

19 CALIFORNIA DEPARTMENT OF PARKS  
AND RECREATION, a department of the  
20 State of California; and DOES 1-50, inclusive,

21 Respondent and Defendant as  
to the First Cause of Action,  
22 Count 4, and, as a Real Party-  
in-Interest as to the remaining  
23 Counts, and

24 COUNTY OF SAN LUIS OBISPO, a  
governmental unit and subdivision of the State  
25 of California, and DOES 1-50, inclusive,

26 Real Party-in-Interest,

27 NORTHERN CHUMASH TRIBAL  
COUNCIL, CENTER FOR BIOLOGICAL  
28 DIVERSITY, OCEANO BEACH

**Case No. 21CV-0214 (Lead Case)**  
*Consolidated with Case Nos.: 21CV-0219,  
21CV-0246, and 21CV-0541*

**DECLARATION OF VIOLET SAGE  
WALKER IN SUPPORT OF MOTION  
TO INTERVENE**

Date: March 9, 2022

Time: 9:00 a.m.

Dept.: 9

Judge: Hon. Tana L. Coates

Trial Date: July 21, 2022

Action Filed: 04/12/2021

1 COMMUNITY ASSOCIATION, SIERRA  
2 CLUB, SURFRIDER FOUNDATION, AND  
3 SAN LUIS OBISPO COASTKEEPER,

4 Applicant-Intervenors.

5 ECOLOGIC PARTNERS, INC., a California  
6 Non-Profit Corporation; SPECIALTY  
7 EQUIPMENT MARKET ASSOCIATION, a  
8 California Non-Profit Corporation,

9 Petitioners,

10 v.

11 CALIFORNIA COASTAL COMMISSION;  
12 JOHN AINSWORTH, as Executive Director of  
13 the California Coastal Commission; *et al.*,

14 Respondents,

15 COUNTY OF SAN LUIS OBISPO; and DOES  
16 1-10.

17 Real Parties in Interest,

18 NORTHERN CHUMASH TRIBAL  
19 COUNCIL, CENTER FOR BIOLOGICAL  
20 DIVERSITY, OCEANO BEACH  
21 COMMUNITY ASSOCIATION, SIERRA  
22 CLUB, SURFRIDER FOUNDATION, AND  
23 SAN LUIS OBISPO COASTKEEPER,

24 Applicant-Intervenors.

25 FRIENDS OF OCEANO DUNES, INC., a  
26 California not-for profit corporation,

27 Petitioner and Plaintiff,

28 v.

CALIFORNIA COASTAL COMMISSION, a  
commission of the State of California; and  
DOES 1-50, inclusive,

Respondent and Defendant;

CALIFORNIA DEPARTMENT OF PARKS  
AND RECREATION, a department of the  
State of California; and DOES 1-50, inclusive,

**Case No. 21CV-0219**

**Case No. 21CV-0246**



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Real Party-in-Interest;  
COUNTY OF SAN LUIS OBISPO, a county of  
the State of California, and DOES 1-50,  
inclusive,  
Real Party-in-Interest,  
NORTHERN CHUMASH TRIBAL  
COUNCIL, CENTER FOR BIOLOGICAL  
DIVERSITY, OCEANO BEACH  
COMMUNITY ASSOCIATION, SIERRA  
CLUB, SURFRIDER FOUNDATION, AND  
SAN LUIS OBISPO COASTKEEPER,  
Applicant-Intervenors.

**Case No. 21CV-0541**

FRIENDS OF OCEANO DUNES, INC., a  
California not-for profit corporation,  
Petitioner and Plaintiff,  
v.  
CALIFORNIA COASTAL COMMISSION, a  
commission of the State of California; and  
DOES 1-50, inclusive,  
Respondents and Defendants,  
CALIFORNIA DEPARTMENT OF PARKS  
AND RECREATION, a department of the  
State of California; and DOES 1-50, inclusive,  
Real Party-in-Interest, and  
COUNTY OF SAN LUIS OBISPO a  
governmental unit and subdivision of the State  
of California, and DOES 1-50, inclusive,  
Real Party-in-Interest,  
NORTHERN CHUMASH TRIBAL  
COUNCIL, CENTER FOR BIOLOGICAL  
DIVERSITY, OCEANO BEACH  
COMMUNITY ASSOCIATION, SIERRA  
CLUB, SURFRIDER FOUNDATION, AND  
SAN LUIS OBISPO COASTKEEPER,  
Applicant-Intervenors.



1 Commission.

2           5.       The Northern Chumash historical records, aided by recent scientific discovery,  
3 describe a 20,000-year long history of the Chumash people in the San Luis Obispo region. As  
4 concerns the Oceano-Guadalupe Dunes (the Oceano Dunes) specifically, our history describes a  
5 10,000-year long history of cherishing the Dunes as a sacred and culturally imperative site. Over  
6 the millennia our people took stewardship of the Dunes, raised children on the fish and abalone  
7 provided by its tides, buried our elders along its coast, and lived harmoniously with all that the  
8 land provides.  
9

10           6.       Then, in 1982, the Coastal Commission issued a Coastal Development Permit  
11 (CDP 4-82-300) to State Parks absent any Chumash voice. The permit temporarily authorized  
12 off-highway vehicle use, which has *temporarily* carried on for forty (40) years. Over the decades,  
13 the tribe has noted the consistent degradation of both the Dunes and its attending ecosystem,  
14 which we see as a direct result of the thousands of off-highway vehicles, rovers, and all-terrain  
15 vehicles that yearly traverse the sacred Dunes. Compared to historical records and our oral  
16 history of the Oceano Dunes passed down over generations, the Dunes themselves are almost  
17 unrecognizable today. Their height is greatly diminished, they unleash far more sand to the ocean  
18 wind, and they no longer sustain a great number of the animal, insect, and plant species our  
19 people have long cared for.  
20

21           7.       In our heritage is a deep appreciation for the immeasurable ecological, cultural,  
22 and scenic value along with educational and scientific importance embedded in the Dunes. At  
23 least 186 species of water and terrestrial birds have been recorded at the Oceano Dunes. These  
24 animals are supported by an immense natural system of geologic, meteorologic, and  
25 oceanographic forces that summon nutrients from the ocean floor to the dependent micro flora  
26  
27  
28

1 and fauna on the tides and shores of the Oceano Dunes. It is our position, as stewards of our  
2 ancestral lands, that the ecological stability of the Oceano Dunes is under grave threat posed by  
3 the off-highway vehicle riders. And, as Chumash culture is directly and intimately tied to the  
4 Dunes' ecology, our way of life is under threat.

5  
6 8. Chumash culture, a 20,000 year-long story, is itself dependent on the lush,  
7 interdependent web of life found at the Dunes. Since Spanish colonization Chumash people have  
8 struggled to pass on our history and maintain our stories and heritage. Throughout the turbulent  
9 periods of enslavement and the introduction of private property, our people could still rely on  
10 local wildlife, nature's vast and many relationships, and the tall Dunes themselves as focal points  
11 to pass our culture. However, since OHV use began decades ago, the land itself has been under  
12 threat. Now, our fear is that our elders cannot teach our children to care for the birds if they are  
13 driven away by decades of disrespect. We fear our children will struggle to understand our  
14 religion if the Dunes themselves are desecrated and obliterated. We fear that the processes of  
15 erasing our way of life that began with Spanish conquest will come to fulfillment if the Dunes  
16 are not protected from off-highway vehicles and their drivers.

17  
18 9. Mercury, benzene, styrene-butadiene, polycyclic aromatic hydrocarbons, and  
19 arsenic are just some of the heavy metals and carcinogens known to emanate from tires. The  
20 thousands of off-highway vehicles' tires grind the sand of the Dunes intoxicating the habitat as  
21 well as dredging up harmful particulate matter that is carried downwind to the townspeople.  
22 Idling cars further pollute the local air as hundreds of cars sit in bumper-to-bumper traffic to get  
23 onto the dunes. Huge tractors without spotters plow the beach to facilitate OHV use, making it  
24 dangerous to walk or play on the beach. The Northern Chumash and local community members  
25 have had to hire private security for people going into meetings relating to the future of Oceano  
26  
27  
28

1 Dunes because of the violence that has been directed towards us from the OHV community.

2 10. However, during the few months in 2020 where vehicles were barred entry, there  
3 were various positive developments. The natural contours of the beach began to return, from  
4 tidal zones to foredunes, as they were no longer compacted by vehicles. The wildlife returned  
5 and sprawled along the corridors of the vehicle-free beach. Bird species such as the black headed  
6 heron were seen in numbers as high as a dozen. Ospreys were noted at the Arroyo Creek.  
7 Coyotes were seen during the day. A flock of terns on the sand at the entryway at Pier Avenue  
8 were spotted. Hundreds of small clams finally returned and nestled in the intertidal zone. The  
9 local residents of Oceano were able to enjoy the beach and Dunes free of exhaust and noise  
10 pollution and anxiety caused by inconsiderate drivers. An unprecedented number of people were  
11 able to enjoy the Oceano Dunes at low costs and without fear.  
12  
13  
14

15 I declare under penalty of perjury under the laws of the State of California that the  
16 foregoing is true and correct and that I executed this declaration on 2/7/2022 in  
17 GUADALUPE, California.

18  
19  
20 DocuSigned by:  
  
21 01B3118C635F45E...

22 VIOLET SAGE WALKER  
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28

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7 Northern Chumash Tribal Council, Center for  
Biological Diversity, Oceano Beach Community  
8 Association, Sierra Club, Surfrider Foundation,  
and San Luis Obispo Coastkeeper  
9

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **COUNTY OF SAN LUIS OBISPO**

13 FRIENDS OF OCEANO DUNES, INC., a  
California not-for profit corporation,

14 Petitioner and Plaintiff,

15 v.

16 CALIFORNIA COASTAL COMMISSION, a  
17 commission of the state of California; and  
DOES 1-50, inclusive,

18 Respondent and Defendant;

19 CALIFORNIA DEPARTMENT OF PARKS  
20 AND RECREATION, a department of the  
State of California; and DOES 1-50, inclusive,

21 Respondent and Defendant as  
22 to the First Cause of Action,  
Count 4, and, as a Real Party-  
23 in-Interest as to the remaining  
Counts, and

24 COUNTY OF SAN LUIS OBISPO, a  
25 governmental unit and subdivision of the State  
of California, and DOES 1-50, inclusive,

26 Real Party-in-Interest,

27 NORTHERN CHUMASH TRIBAL  
28 COUNCIL, CENTER FOR BIOLOGICAL

**Case No. 21CV-0214 (Lead Case)**

*Consolidated with Case Nos.: 21CV-0219,  
21CV-0246, and 21CV-0541*

*This document relates to Case No. 21CV-0214*

**[PROPOSED] ANSWER-IN-  
INTERVENTION TO FRIENDS OF  
OCEANO DUNES' VERIFIED PETITION  
FOR WRIT OF ADMINISTRATIVE  
MANDAMUS (C.C.P. 1094.5)  
and/or TRADITIONAL MANDAMUS  
(C.C.P. 1085); and COMPLAINT  
FOR INJUNCTIVE RELIEF IN CASE**

Date: March 9, 2022

Time: 9:00 a.m.

Dept.: 9

Judge: Hon. Tana L. Coates

Trial Date: July 21, 2022

Action Filed: 04/12/2021

1 DIVERSITY, OCEANO BEACH  
2 COMMUNITY ASSOCIATION, SIERRA  
3 CLUB, SURFRIDER FOUNDATION, AND  
4 SAN LUIS OBISPO COASTKEEPER,

Applicant-Intervenors.

5 ECOLOGIC PARTNERS, INC., a California  
6 Non-Profit Corporation; SPECIALTY  
7 EQUIPMENT MARKET ASSOCIATION, a  
8 California Non-Profit Corporation,

Petitioners,

v.

9  
10 CALIFORNIA COASTAL  
11 COMMISSION; JOHN AINSWORTH, as  
12 Executive Director of the California Coastal  
13 Commission; *et al.*,

Respondents,

14 COUNTY OF SAN LUIS OBISPO; and DOES  
15 1-10.

Real Parties in Interest,

16 NORTHERN CHUMASH TRIBAL  
17 COUNCIL, CENTER FOR BIOLOGICAL  
18 DIVERSITY, OCEANO BEACH  
19 COMMUNITY ASSOCIATION, SIERRA  
20 CLUB, SURFRIDER FOUNDATION, AND  
21 SAN LUIS OBISPO COASTKEEPER,

Applicant-Intervenors.

**Case No. 21CV-0219**

22 FRIENDS OF OCEANO DUNES, INC., a  
23 California not-for profit corporation,

Petitioner and Plaintiff,

v.

24 CALIFORNIA COASTAL COMMISSION, a  
25 commission of the State of California; and  
26 DOES 1-50, inclusive,

Respondent and Defendant;

27 CALIFORNIA DEPARTMENT OF PARKS  
28 AND RECREATION, a department of the

**Case No. 21CV-0246**

1 State of California; and DOES 1-50, inclusive,

2 Real Party-in-Interest;

3 COUNTY OF SAN LUIS OBISPO, a county of  
4 the State of California, and DOES 1-50,  
inclusive,

5 Real Party-in-Interest,

6 NORTHERN CHUMASH TRIBAL  
7 COUNCIL, CENTER FOR BIOLOGICAL  
8 DIVERSITY, OCEANO BEACH  
9 COMMUNITY ASSOCIATION, SIERRA  
CLUB, SURFRIDER FOUNDATION, AND  
SAN LUIS OBISPO COASTKEEPER,

10 Applicant-Intervenors.

11 FRIENDS OF OCEANO DUNES, INC., a  
12 California not-for profit corporation,

13 Petitioner and Plaintiff,

14 v.

15 CALIFORNIA COASTAL COMMISSION, a  
16 commission of the State of California; and  
DOES 1-50, inclusive,

17 Respondents and Defendants,

18 CALIFORNIA DEPARTMENT OF PARKS  
19 AND RECREATION, a department of the  
State of California; and DOES 1-50, inclusive,

20 Real Party-in-Interest, and

21 COUNTY OF SAN LUIS OBISPO a  
22 governmental unit and subdivision of the State  
of California, and DOES 1-50, inclusive,

23 Real Party-in-Interest,

24 NORTHERN CHUMASH TRIBAL  
25 COUNCIL, CENTER FOR BIOLOGICAL  
26 DIVERSITY, OCEANO BEACH  
COMMUNITY ASSOCIATION, SIERRA  
27 CLUB, SURFRIDER FOUNDATION, AND  
SAN LUIS OBISPO COASTKEEPER,

28 Applicant-Intervenors.

**Case No. 21CV-0541**



1 By leave of the Court, Intervenors Northern Chumash Tribal Council, the Center for  
2 Biological Diversity, Oceano Beach Community Association, Sierra Club, Surfrider Foundation, and  
3 San Luis Obispo Coastkeeper (collectively, “Intervenors”) hereby file this answer-in-intervention in  
4 this matter. In Case No. 21CV-0214, the first of four now consolidated cases, Petitioner and Plaintiff  
5 Friends of Oceano Dunes (“FoOD”) challenges Respondent-Defendant California Coastal  
6 Commission’s (“the Coastal Commission”) March 18, 2021 Amendment to CDP 4-82-300 (“the  
7 Phaseout Amendment”), which mandates a phase-out of the use of Off-Highway Vehicles (“OHVs”)   
8 in the Oceano Dunes State Vehicular Recreation Area (“ODSVRA”) over a period of three years.  
9 FoOD also challenges Respondent-Defendant California Department of Parks and Recreation’s  
10 (“State Parks”) implementation of the Phaseout Amendment, alleging the implementation did not  
11 undergo sufficient review under the California Environmental Quality Act (CEQA). Intervenors join  
12 with the Coastal Commission and State Parks in opposing Plaintiff’s claims, and allege as follows:  
13  
14

15 **INTERVENORS’ INTERESTS**

- 16 1. Intervenors and their members have direct and immediate interests in the subject matter of this  
17 litigation, and these interests will be adversely affected if Plaintiffs prevail in this action.
- 18 2. Intervenor NORTHERN CHUMASH TRIBAL COUNCIL are a tribe with over 10,000 years  
19 of history with Oceano Dunes. The Tribe’s mission is to guide the San Luis Obispo region toward a  
20 sustainable future by incorporating traditional Indigenous knowledge in land use decision making.  
21 Oceano Dunes is land sacred to the Tribe, and the Dunes are central to their cultural practices and  
22 traditions.  
23
- 24 3. Intervenor CENTER FOR BIOLOGICAL DIVERSITY (“CBD”) is an organization with more  
25 than 89,000 members and over 1.7 million supporters, 190,000 of whom reside in California. CBD  
26 works to secure a future for all species, especially those on the brink of extinction, with a focus on  
27 protecting the habitats that species need to survive.  
28

1 4. Intervenor OCEANO BEACH COMMUNITY ASSOCIATION (“OBCA”) is a coalition of  
2 business owners and residents of Oceano with the shared goal of improved livability and environmental  
3 health of the region. OBCA has a dozen formal members and 140 supporters, and it advocates on behalf  
4 of the residents of Oceano, who wish for low-impact beach access and a thriving local economy.

5 5. Intervenor SIERRA CLUB is an environmental group with over 3.8 million members and  
6 supporters nationally, including 500,000 who reside in California. The central goal of the Sierra Club  
7 is to protect the natural world and to promote the responsible and sustainable use of its resources in  
8 order to preserve them for future generations. In the furtherance of this goal, the Sierra Club has a  
9 mission of preserving suitable habitats for the protection and restoration of rare and endangered species.  
10

11 6. Intervenor SURFRIDER FOUNDATION (“Surfrider”) is an organization with approximately  
12 13,900 members in California. Surfrider’s central mission is the protection and enjoyment of the ocean,  
13 beaches, and coastal lands for all people. It advocates for full and fair low-impact beach uses and the  
14 preservation of coastal lands.  
15

16 7. Intervenor SAN LUIS OBISPO COASTKEEPER (“SLO Coastkeeper”) is a member of the  
17 Waterkeeper Alliance — an international organization dedicated to conservation and the protection of  
18 fishable, swimmable, and drinkable water. SLO Coastkeeper aims to protect and improve healthy and  
19 diverse ecosystems on Central Coast Marine habitats and watershed ecosystems and has approximately  
20 900 supporting members. SLO Coastkeeper has participated in past litigation involving State Parks,  
21 engaged with the Coastal Commission and State Parks, and attended County Board of Supervisors  
22 hearings such that it holds an understanding and perspective on how the State Parks OHV Division  
23 affects residential life and environmental health.  
24

25 8. Protecting and conserving Oceano Dunes is central to the goals and missions of each Intervenor.  
26 These missions will be furthered by the Coastal Commission Amendment to phaseout the use of OHVs  
27 at Oceano Dunes.  
28

1 9. Each of Intervenor's has staff, members, and/or supporters who work, reside, and/or recreate in  
2 California. These staff and members: study and work to protect the Dunes and other coastal lands of the  
3 State and the habitats and wildlife they sustain; enjoy visiting, observing, and photographing those lands  
4 and wildlife; and benefit from the ecosystem services that come from ensuring that State coastal lands  
5 are adequately protected.

6  
7 10. The ability of Intervenor's staff members and supporters to protect, study, observe, photograph,  
8 recreate near, appreciate, and benefit from Oceano Dunes depends on the Phaseout Amendment. Since  
9 the Phaseout Amendment is intended to protect against the further degradation of Oceano Dunes from  
10 OHV use, Intervenor's interests will be compromised if Plaintiff succeeds on any of the causes of action  
11 asserted in Plaintiff's Verified Petition.

12  
13 11. Intervenor's engage with the Coastal Commission and State Parks on a regular basis. Intervenor's  
14 promote the development of policies that protect the Dunes in compliance with the requirements of the  
15 Coastal Act and challenge those that do not. In the furtherance of a sustainable Oceano Dunes,  
16 Intervenor's support, or challenge as appropriate, Coastal Commission-issued policies and plans.  
17 Intervenor's engage in this advocacy by attending meetings, writing and filing motions, and by lobbying  
18 local officials.

19  
20 12. Intervenor's were closely involved in the Coastal Commission's process to develop and approve  
21 the March 18, 2021 amendment to CDP-4-82-300. They expended time, money, and other resources to  
22 help shape and support the Procedures. Intervenor's submitted written comments, met with the Coastal  
23 Commission, and attended and provided oral comments at public hearings. Among other things,  
24 Intervenor's provided important information on the damage OHVs have inflicted upon the Dunes and its  
25 wildlife and the impact OHVs have on local and downwind air quality.

26  
27 13. Intervenor's have direct interests in the legal claims that Plaintiff raises in its Verified Petition.  
28 Plaintiff's causes of action allege that, in approving the Phaseout Amendment, the Coastal Commission

1 exceeded its legal authority and/or violated applicable procedures. If Plaintiff succeeds on any of these  
2 claims and the Phaseout Amendment is invalidated, Intervenor's missions and their members' interests  
3 in the habitats, beach, and the health and safety of their members, which the Phaseout Amendment is  
4 designed to protect, will be directly, adversely affected.

**ALLEGATIONS**

7 Intervenor's deny FoOD's allegations and causes of action in its Verified Petition, to wit:

8 14. In response to Paragraphs 1-25 and 37-105, Intervenor's answer that in adopting the Phaseout  
9 Amendment, the Coastal Commission and State Parks acted within their legal authority and fully  
10 complied with all legal requirements. To the extent that Paragraphs 1-25 and 37-105 call for legal  
11 conclusions, no answer is required. To the extent that Paragraphs 1-25 and 37-105 contain material  
12 allegations, Intervenor's lack sufficient knowledge or information to enable them to answer the  
13 allegations and, on that basis, deny each and every allegation contained therein.

15 15. In response to Paragraphs 26-36, Intervenor's answer that the legal provisions cited therein are  
16 the best evidence of their contents. To the extent that Paragraphs 26-36 call for legal conclusions, no  
17 answer is required. To the extent that Paragraphs 26-36 contain material allegations, Intervenor's lack  
18 sufficient knowledge or information to enable them to answer the allegations and, on that basis, deny  
19 each and every allegation contained therein.

**PRAYER FOR RELIEF**

22 WHEREFORE, Intervenor's pray for relief as follows:

- 23 1. That Plaintiff takes nothing by its Verified Petition;
- 24 2. That the Verified Petition be denied in its entirety;
- 25 3. That Plaintiff's requests for a judgment and writs of mandate be denied;
- 26 4. That Plaintiff's requests to suspend, vacate and/or set aside the Phaseout Amendment  
27 be denied;
- 28



**SECOND AFFIRMATIVE DEFENSE**

**(Reservation of Right to Assert Additional Defenses)**

As a separate and distinct affirmative defense to the Verified Petition and to each cause of action contained therein, Plaintiff has failed to particularize its allegations, and/or Intervenors' lack of knowledge of the circumstances surrounding Plaintiff's causes of action prevents Intervenors from asserting all applicable defenses at this time. Upon further particularization of the allegations by Plaintiff or upon discovery of further information concerning Plaintiff's causes of action, Intervenors reserve the right to assert additional defenses.

DATED: February 14, 2022

ENVIRONMENTAL LAW CLINIC  
University of California, Irvine School of Law

By: /s/ \_\_\_\_\_  
ELIZABETH SCHATZ CORDERO  
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/s/ \_\_\_\_\_  
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/s/ \_\_\_\_\_  
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Northern Chumash Tribal Council,  
Center for Biological Diversity, Oceano  
Beach Community Association, Sierra  
Club, Surfrider Foundation, and San Luis  
Obispo Coastkeeper

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6 Attorneys for Applicant Intervenors  
7 Northern Chumash Tribal Council, Center for  
Biological Diversity, Oceano Beach Community  
8 Association, Sierra Club, Surfrider Foundation,  
and San Luis Obispo Coastkeeper  
9

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **COUNTY OF SAN LUIS OBISPO**

13 FRIENDS OF OCEANO DUNES, INC., a  
California not-for profit corporation,

14 Petitioner and Plaintiff,

15 v.

16 CALIFORNIA COASTAL COMMISSION, a  
17 commission of the state of California; and  
DOES 1-50, inclusive,

18 Respondent and Defendant;

19 CALIFORNIA DEPARTMENT OF PARKS  
20 AND RECREATION, a department of the  
State of California; and DOES 1-50, inclusive,

21 Respondent and Defendant as  
22 to the First Cause of Action,  
Count 4, and, as a Real Party-  
23 in-Interest as to the remaining  
Counts, and

24 COUNTY OF SAN LUIS OBISPO, a  
25 governmental unit and subdivision of the State  
of California, and DOES 1-50, inclusive,

26 Real Party-in-Interest,

27 NORTHERN CHUMASH TRIBAL  
28 COUNCIL, CENTER FOR BIOLOGICAL

**Case No. 21CV-0214 (Lead Case)**

*Consolidated with Case Nos.: 21CV-0219,  
21CV-0246, and 21CV-0541*

*This document relates to Case No. 21CV-0219*

**[PROPOSED] ANSWER-IN-  
INTERVENTION TO ECOLOGIC  
PARTNERS, INC. AND SPECIALTY  
EQUIPMENT MARKET ASSOCIATION'S  
VERIFIED FIRST AMENDED PETITION  
FOR WRIT OF MANDATE**

Date: March 9, 2022

Time: 9:00 a.m.

Dept.: 9

Judge: Hon. Tana L. Coates

Trial Date: July 21, 2022

Action Filed: 04/12/2021

1 DIVERSITY, OCEANO BEACH  
2 COMMUNITY ASSOCIATION, SIERRA  
3 CLUB, SURFRIDER FOUNDATION, AND  
4 SAN LUIS OBISPO COASTKEEPER,

Applicant-Intervenors.

5 ECOLOGIC PARTNERS, INC., a California  
6 Non-Profit Corporation; SPECIALTY  
7 EQUIPMENT MARKET ASSOCIATION, a  
8 California Non-Profit Corporation,

Petitioners,

v.

10 CALIFORNIA COASTAL  
11 COMMISSION; JOHN AINSWORTH, as  
12 Executive Director of the California Coastal  
13 Commission; *et al.*,

Respondents,

14 COUNTY OF SAN LUIS OBISPO; and DOES  
15 1-10.

Real Parties in Interest,

16 NORTHERN CHUMASH TRIBAL  
17 COUNCIL, CENTER FOR BIOLOGICAL  
18 DIVERSITY, OCEANO BEACH  
19 COMMUNITY ASSOCIATION, SIERRA  
20 CLUB, SURFRIDER FOUNDATION, AND  
21 SAN LUIS OBISPO COASTKEEPER,

Applicant-Intervenors.

**Case No. 21CV-0219**

21 FRIENDS OF OCEANO DUNES, INC., a  
22 California not-for profit corporation,

Petitioner and Plaintiff,

v.

24 CALIFORNIA COASTAL COMMISSION, a  
25 commission of the State of California; and  
26 DOES 1-50, inclusive,

Respondent and Defendant;

27 CALIFORNIA DEPARTMENT OF PARKS  
28 AND RECREATION, a department of the

**Case No. 21CV-0246**



1 State of California; and DOES 1-50, inclusive,

2 Real Party-in-Interest;

3 COUNTY OF SAN LUIS OBISPO, a county of  
4 the State of California, and DOES 1-50,  
inclusive,

5 Real Party-in-Interest,

6 NORTHERN CHUMASH TRIBAL  
7 COUNCIL, CENTER FOR BIOLOGICAL  
8 DIVERSITY, OCEANO BEACH  
9 COMMUNITY ASSOCIATION, SIERRA  
CLUB, SURFRIDER FOUNDATION, AND  
SAN LUIS OBISPO COASTKEEPER,

10 Applicant-Intervenors.

11 FRIENDS OF OCEANO DUNES, INC., a  
12 California not-for profit corporation,

13 Petitioner and Plaintiff,

14 v.

15 CALIFORNIA COASTAL COMMISSION, a  
16 commission of the State of California; and  
DOES 1-50, inclusive,

17 Respondents and Defendants,

18 CALIFORNIA DEPARTMENT OF PARKS  
19 AND RECREATION, a department of the  
State of California; and DOES 1-50, inclusive,

20 Real Party-in-Interest, and

21 COUNTY OF SAN LUIS OBISPO a  
22 governmental unit and subdivision of the State  
of California, and DOES 1-50, inclusive,

23 Real Party-in-Interest,

24 NORTHERN CHUMASH TRIBAL  
25 COUNCIL, CENTER FOR BIOLOGICAL  
26 DIVERSITY, OCEANO BEACH  
COMMUNITY ASSOCIATION, SIERRA  
27 CLUB, SURFRIDER FOUNDATION, AND  
SAN LUIS OBISPO COASTKEEPER,

28 Applicant-Intervenors.

**Case No. 21CV-0541**

1 By leave of the Court, Intervenor Northern Chumash Tribal Council, the Center for  
2 Biological Diversity, Oceano Beach Community Association, Sierra Club, Surfrider Foundation, and  
3 San Luis Obispo Coastkeeper (collectively, “Intervenor”) hereby file this answer-in-intervention in  
4 this matter. In Case No. 21CV-0219, the second of four now consolidated cases, Petitioners and  
5 Plaintiffs EcoLogic Partners, Inc. (“EcoLogic”) and Specialty Equipment Market Association  
6 (“SEMA”) challenge Respondent-Defendant California Coastal Commission’s (“the Coastal  
7 Commission”) March 18, 2021 Amendment to CDP 4-82-300 (“the Phaseout Amendment”), which  
8 mandates a phase-out of the use of Off-Highway Vehicles (“OHVs”) in the Oceano Dunes State  
9 Vehicular Recreation Area (“ODSVRA”) over a period of three years. EcoLogic and SEMA also  
10 challenge Respondent-Defendant California Department of Parks and Recreation’s (“State Parks”) role in the passage and implementation of the Phaseout Amendment, alleging it did not undergo  
11 sufficient review under the California Environmental Quality Act (CEQA). Intervenor join with the  
12 Coastal Commission and State Parks in opposing Plaintiffs’ claims, and allege as follows:

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15  
16 **INTERVENORS’ INTERESTS**

17 1. Intervenor and their members have direct and immediate interests in the subject matter of this  
18 litigation, and these interests will be adversely affected if Plaintiffs prevail in this action.

19 2. Intervenor NORTHERN CHUMASH TRIBAL COUNCIL are a tribe with over 10,000 years  
20 of history with Oceano Dunes. The Tribe’s mission is to guide the San Luis Obispo region toward a  
21 sustainable future by incorporating traditional Indigenous knowledge in land use decision making.  
22 Oceano Dunes is land sacred to the Tribe, and the Dunes are central to their cultural practices and  
23 traditions.

24  
25 3. Intervenor CENTER FOR BIOLOGICAL DIVERSITY (“CBD”) is an organization with more  
26 than 89,000 members and over 1.7 million supporters, 190,000 of whom reside in California. CBD  
27  
28

1 works to secure a future for all species, especially those on the brink of extinction, with a focus on  
2 protecting the habitats that species need to survive.

3 4. Intervenor OCEANO BEACH COMMUNITY ASSOCIATION (“OBCA”) is a coalition of  
4 business owners and residents of Oceano with the shared goal of improved livability and environmental  
5 health of the region. OBCA has a dozen formal members and 140 supporters, and it advocates on behalf  
6 of the residents of Oceano, who wish for low-impact beach access and a thriving local economy.  
7

8 5. Intervenor SIERRA CLUB is an environmental group with over 3.8 million members and  
9 supporters nationally, including 500,000 who reside in California. The central goal of the Sierra Club  
10 is to protect the natural world and to promote the responsible and sustainable use of its resources in  
11 order to preserve them for future generations. In the furtherance of this goal, the Sierra Club has a  
12 mission of preserving suitable habitats for the protection and restoration of rare and endangered species.  
13

14 6. Intervenor SURFRIDER FOUNDATION (“Surfrider”) is an organization with approximately  
15 13,900 members in California. Surfrider’s central mission is the protection and enjoyment of the ocean,  
16 beaches, and coastal lands for all people. It advocates for full and fair low-impact beach uses and the  
17 preservation of coastal lands.

18 7. Intervenor SAN LUIS OBISPO COASTKEEPER (“SLO Coastkeeper”) is a member of the  
19 Waterkeeper Alliance — an international organization dedicated to conservation and the protection of  
20 fishable, swimmable, and drinkable water. SLO Coastkeeper aims to protect and improve healthy and  
21 diverse ecosystems on Central Coast Marine habitats and watershed ecosystems and has approximately  
22 900 supporting members. SLO Coastkeeper has participated in past litigation involving State Parks,  
23 engaged with the Coastal Commission and State Parks, and attended County Board of Supervisors  
24 hearings such that it holds an understanding and perspective on how the State Parks OHV Division  
25 affects residential life and environmental health.  
26  
27  
28

1 8. Protecting and conserving Oceano Dunes is central to the goals and missions of each Intervenor.  
2 These missions will be furthered by the Coastal Commission Amendment to phase-out the use of OHVs  
3 at Oceano Dunes.

4 9. Each of Intervenor's has staff, members, and/or supporters who work, reside, and/or recreate in  
5 California. These staff and members: study and work to protect the Dunes and other coastal lands of the  
6 State and the habitats and wildlife they sustain; enjoy visiting, observing, and photographing those lands  
7 and wildlife; and benefit from the ecosystem services that come from ensuring that State coastal lands  
8 are adequately protected.

9 10. The ability of Intervenor's staff members and supporters to protect, study, observe, photograph,  
10 recreate near, appreciate, and benefit from Oceano Dunes depends on the Phaseout Amendment. Since  
11 the Phaseout Amendment is intended to protect against the further degradation of Oceano Dunes from  
12 OHV use, Intervenor's interests will be compromised if Plaintiffs succeed on any of the causes of action  
13 asserted in Plaintiffs' Verified Petition.

14 11. Intervenor's engage with the Coastal Commission and State Parks on a regular basis. Intervenor's  
15 promote the development of policies that protect the Dunes in compliance with the requirements of the  
16 Coastal Act and challenge those that do not. In the furtherance of a sustainable Oceano Dunes,  
17 Intervenor's support, or challenge as appropriate, Coastal Commission-issued policies and plans.  
18 Intervenor's engage in this advocacy by attending meetings, writing and filing motions, and by lobbying  
19 local officials.

20 12. Intervenor's were closely involved in the Coastal Commission's process to develop and approve  
21 the March 18, 2021 amendment to CDP-4-82-300. They expended time, money, and other resources to  
22 help shape and support the Procedures. Intervenor's submitted written comments, met with the Coastal  
23 Commission, and attended and provided oral comments at public hearings. Among other things,  
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1 Intervenor provided important information on the damages OHVs have inflicted upon the Dunes and  
2 its wildlife and the impact OHVs have on local and downwind air quality.

3 13. Intervenor has direct interests in the legal claims that Plaintiffs raise in their Verified Petition.  
4 Plaintiffs' causes of action allege that, in approving the Phaseout Amendment, the Coastal Commission  
5 exceeded its legal authority and/or violated applicable procedures. If Plaintiffs succeed on any of these  
6 claims and the Phaseout Amendment is invalidated, Intervenor's missions and their members' interests  
7 in the habitats, beach, and the health and safety of their members, which the Phaseout Amendment is  
8 designed to protect, will be directly, adversely affected.  
9

10 **ALLEGATIONS**

11  
12 14. Intervenor deny EcoLogic and SEMA's allegations and causes of action in its Verified  
13 Petition, to wit:

14 15. In response to Paragraphs 1-44, Intervenor answer that the legal provisions cited therein are  
15 the best evidence of their contents. To the extent that Paragraphs 1-44 call for legal conclusions, no  
16 answer is required. To the extent that Paragraphs 1-44 contain material allegations, Intervenor lack  
17 sufficient knowledge or information to enable them to answer the allegations and, on that basis, deny  
18 each and every allegation contained therein.  
19

20 16. Answering Paragraphs 45-76, Intervenor answer that in adopting the Phaseout Amendment,  
21 the Coastal Commission and State Parks acted within their legal authority and fully complied with all  
22 legal requirements. To the extent that Paragraphs 45-76 call for legal conclusions, no answer is required.  
23 To the extent that Paragraphs 45-76 contain material allegations, Intervenor lack sufficient knowledge  
24 or information to enable them to answer the allegations, and on that basis, deny each and every  
25 allegation contained therein.  
26

27 ///

28 ///

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Intervenor's pray for relief as follows:

- 3 1. That Plaintiffs take nothing by their Verified Petition;
- 4 2. That the Verified Petition be denied in its entirety;
- 5 3. That Plaintiffs' requests for a judgment and writs of mandate be denied;
- 6 4. That Plaintiffs' requests to suspend, vacate and/or set aside the Phaseout Amendment
- 7 be denied;
- 8 5. For entry of judgment in favor of the Respondents-Defendants and Intervenor's on the
- 9 causes of action asserted in the Verified Petition;
- 10 6. That Plaintiffs' request for attorney's fees and costs be denied;
- 11 7. That Intervenor's be awarded their reasonable attorney's fees, expenses, and costs of
- 12 suit, including as authorized by Code of Civil Procedure section 1021.5 and other applicable provisions
- 13 of the law; and
- 14 8. For any such other equitable or legal relief as the Court may deem just and proper.
- 15

16 **AFFIRMATIVE DEFENSES**

17 **FIRST AFFIRMATIVE DEFENSE**

18 **(Incorporation of All Applicable Defenses)**

19 As a separate and distinct affirmative defense to the Verified Petitions and to each cause of  
20 action contained therein, Intervenor's assert all applicable defenses pled or that may be pled by all other  
21 Respondents to this action, and hereby incorporate the same herein by reference.

22 **SECOND AFFIRMATIVE DEFENSE**

23 **(Reservation of Right to Assert Additional Defenses)**

24 As a separate and distinct affirmative defense to the Verified Petitions and to each cause of  
25 action contained therein, Plaintiffs' have failed to particularize its allegations, and/or Intervenor's lack  
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27  
28

1 of knowledge of the circumstances surrounding Plaintiffs’ causes of action prevents Intervenors from  
2 asserting all applicable defenses at this time. Upon further particularization of the allegations by  
3 Plaintiff or upon discovery of further information concerning Plaintiffs’ causes of action, Intervenors  
4 reserve the right to assert additional defenses.  
5

6  
7 DATED: February 14, 2022

ENVIRONMENTAL LAW CLINIC  
University of California, Irvine School of Law

8 By: /s/ \_\_\_\_\_  
9 ELIZABETH SCHATZ CORDERO  
Certified Law Student

10 /s/ \_\_\_\_\_  
11 RYAN RIEDMUELLER  
12 Certified Law Student

13 /s/ \_\_\_\_\_  
14 MICHAEL ROBINSON-DORN  
Director and Supervising Attorney

15 /s/ \_\_\_\_\_  
16 DANIEL JACOBS  
Senior Counsel

17 Attorneys for Applicant Intervenors  
18 Northern Chumash Tribal Council,  
19 Center for Biological Diversity, Oceano  
20 Beach Community Association, Sierra  
21 Club, Surfrider Foundation, and San Luis  
22 Obispo Coastkeeper  
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28

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DANIEL JACOBS (CA Bar. No. 295494)  
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6 Attorneys for Applicant Intervenors  
7 Northern Chumash Tribal Council, Center for  
Biological Diversity, Oceano Beach Community  
8 Association, Sierra Club, Surfrider Foundation,  
and San Luis Obispo Coastkeeper  
9

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **COUNTY OF SAN LUIS OBISPO**  
12

13 FRIENDS OF OCEANO DUNES, INC., a  
California not-for profit corporation,

14 Petitioner and Plaintiff,

15 v.

16 CALIFORNIA COASTAL COMMISSION, a  
17 commission of the state of California; and  
DOES 1-50, inclusive,

18 Respondent and Defendant;

19 CALIFORNIA DEPARTMENT OF PARKS  
20 AND RECREATION, a department of the  
State of California; and DOES 1-50, inclusive,

21 Respondent and Defendant as  
22 to the First Cause of Action,  
Count 4, and, as a Real Party-  
23 in-Interest as to the remaining  
Counts, and

24 COUNTY OF SAN LUIS OBISPO, a  
25 governmental unit and subdivision of the State  
of California, and DOES 1-50, inclusive,

26 Real Party-in-Interest,

27 NORTHERN CHUMASH TRIBAL  
28 COUNCIL, CENTER FOR BIOLOGICAL

**Case No. 21CV-0214 (Lead Case)**

*Consolidated with Case Nos.: 21CV-0219,  
21CV-0246, and 21CV-0541*

*This document relates to Case No. 21CV-0246*

**[PROPOSED] ANSWER-IN-  
INTERVENTION TO FRIENDS OF  
OCEANO DUNES' VERIFIED PETITION  
FOR WRIT OF ADMINISTRATIVE  
MANDAMUS (C.C.P. 1094.5)  
and/or TRADITIONAL MANDAMUS  
(C.C.P. 1085); and COMPLAINT  
FOR INJUNCTIVE RELIEF**

Date: March 9, 2022

Time: 9:00 a.m.

Dept.: 9

Judge: Hon. Tana L. Coates

Trial Date: July 21, 2022

Action Filed: 04/12/2021



1 DIVERSITY, OCEANO BEACH  
2 COMMUNITY ASSOCIATION, SIERRA  
3 CLUB, SURFRIDER FOUNDATION, AND  
4 SAN LUIS OBISPO COASTKEEPER,

Applicant-Intervenors.

5 ECOLOGIC PARTNERS, INC., a California  
6 Non-Profit Corporation; SPECIALTY  
7 EQUIPMENT MARKET ASSOCIATION, a  
8 California Non-Profit Corporation,

Petitioners,

v.

10 CALIFORNIA COASTAL  
11 COMMISSION; JOHN AINSWORTH, as  
12 Executive Director of the California Coastal  
13 Commission; *et al.*,

Respondents,

14 COUNTY OF SAN LUIS OBISPO; and DOES  
15 1-10.

Real Parties in Interest,

16 NORTHERN CHUMASH TRIBAL  
17 COUNCIL, CENTER FOR BIOLOGICAL  
18 DIVERSITY, OCEANO BEACH  
19 COMMUNITY ASSOCIATION, SIERRA  
20 CLUB, SURFRIDER FOUNDATION, AND  
21 SAN LUIS OBISPO COASTKEEPER,

Applicant-Intervenors.

**Case No. 21CV-0219**

21 FRIENDS OF OCEANO DUNES, INC., a  
22 California not-for profit corporation,

Petitioner and Plaintiff,

v.

24 CALIFORNIA COASTAL COMMISSION, a  
25 commission of the State of California; and  
26 DOES 1-50, inclusive,

Respondent and Defendant;

27 CALIFORNIA DEPARTMENT OF PARKS  
28 AND RECREATION, a department of the

**Case No. 21CV-0246**

1 State of California; and DOES 1-50, inclusive,

2 Real Party-in-Interest;

3 COUNTY OF SAN LUIS OBISPO, a county of  
4 the State of California, and DOES 1-50,  
inclusive,

5 Real Party-in-Interest,

6 NORTHERN CHUMASH TRIBAL  
7 COUNCIL, CENTER FOR BIOLOGICAL  
8 DIVERSITY, OCEANO BEACH  
9 COMMUNITY ASSOCIATION, SIERRA  
CLUB, SURFRIDER FOUNDATION, AND  
SAN LUIS OBISPO COASTKEEPER,

10 Applicant-Intervenors.

11 FRIENDS OF OCEANO DUNES, INC., a  
12 California not-for profit corporation,

13 Petitioner and Plaintiff,

14 v.

15 CALIFORNIA COASTAL COMMISSION, a  
16 commission of the State of California; and  
DOES 1-50, inclusive,

17 Respondents and Defendants,

18 CALIFORNIA DEPARTMENT OF PARKS  
19 AND RECREATION, a department of the  
State of California; and DOES 1-50, inclusive,

20 Real Party-in-Interest, and

21 COUNTY OF SAN LUIS OBISPO a  
22 governmental unit and subdivision of the State  
of California, and DOES 1-50, inclusive,

23 Real Party-in-Interest,

24 NORTHERN CHUMASH TRIBAL  
25 COUNCIL, CENTER FOR BIOLOGICAL  
26 DIVERSITY, OCEANO BEACH  
COMMUNITY ASSOCIATION, SIERRA  
27 CLUB, SURFRIDER FOUNDATION, AND  
SAN LUIS OBISPO COASTKEEPER,

28 Applicant-Intervenors.

**Case No. 21CV-0541**

1 By leave of the Court, Intervenor Northern Chumash Tribal Council, the Center for Biological  
2 Diversity, Oceano Beach Community Association, Sierra Club, Surfrider Foundation, and San Luis  
3 Obispo Coastkeeper (collectively, “Intervenor”) hereby file this answer-in-intervention in this matter.  
4 In Case No. 21CV-0246, the third of four now consolidated cases, Petitioner and Plaintiff Friends of  
5 Oceano Dunes (“FoOD”) challenges Respondent-Defendant California Coastal Commission’s (“the  
6 Coastal Commission”) March 18, 2021 Amendment to CDP 4-82-300 (“the Phaseout Amendment”),  
7 which mandates a phase-out of the use of Off-Highway Vehicles (“OHVs”) in the Oceano Dunes State  
8 Vehicular Recreation Area (“ODSVRA”) over a period of three years. Intervenor join with the Coastal  
9 Commission in opposing Plaintiff’s claims, and allege as follows:  
10

11 **INTERVENORS’ INTERESTS**

12 1. Intervenor and their members have direct and immediate interests in the subject matter of this  
13 litigation, and these interests will be adversely affected if Plaintiffs prevail in this action.  
14

15 2. Intervenor NORTHERN CHUMASH TRIBAL COUNCIL are a tribe with over 10,000 years  
16 of history with Oceano Dunes. The Tribe’s mission is to guide the San Luis Obispo region toward a  
17 sustainable future by incorporating traditional Indigenous knowledge in land use decision making.  
18 Oceano Dunes is land sacred to the Tribe, and the Dunes are central to their cultural practices and  
19 traditions.

20 3. Intervenor CENTER FOR BIOLOGICAL DIVERSITY (“CBD”) is an organization with more  
21 than 89,000 members and over 1.7 million supporters, 190,000 of whom reside in California. CBD  
22 works to secure a future for all species, especially those on the brink of extinction, with a focus on  
23 protecting the habitats that species need to survive.  
24

25 4. Intervenor OCEANO BEACH COMMUNITY ASSOCIATION (“OBCA”) is a coalition of  
26 business owners and residents of Oceano with the shared goal of improved livability and environmental  
27  
28

1 health of the region. OBCA has a dozen formal members and 140 supporters, and it advocates on behalf  
2 of the residents of Oceano, who wish for low-impact beach access and a thriving local economy.

3 5. Intervenor SIERRA CLUB is an environmental group with over 3.8 million members and  
4 supporters nationally, including 500,000 who reside in California. The central goal of the Sierra Club  
5 is to protect the natural world and to promote the responsible and sustainable use of its resources in  
6 order to preserve them for future generations. In the furtherance of this goal, the Sierra Club has a  
7 mission of preserving suitable habitats for the protection and restoration of rare and endangered species.

9 6. Intervenor SURFRIDER FOUNDATION (“Surfrider”) is an organization with approximately  
10 13,900 members in California. Surfrider’s central mission is the protection and enjoyment of the ocean,  
11 beaches, and coastal lands for all people. It advocates for full and fair low-impact beach uses and the  
12 preservation of coastal lands.

14 7. Intervenor SAN LUIS OBISPO COASTKEEPER (“SLO Coastkeeper”) is a member of the  
15 Waterkeeper Alliance — an international organization dedicated to conservation and the protection of  
16 fishable, swimmable, and drinkable water. SLO Coastkeeper aims to protect and improve healthy and  
17 diverse ecosystems on Central Coast Marine habitats and watershed ecosystems and has approximately  
18 900 supporting members. SLO Coastkeeper has participated in past litigation involving State Parks,  
19 engaged with the Coastal Commission and State Parks, and attended County Board of Supervisors  
20 hearings such that it holds an understanding and perspective on how the State Parks OHV Division  
21 affects residential life and environmental health.

23 8. Protecting and conserving Oceano Dunes is central to the goals and missions of each Intervenor.  
24 These missions will be furthered by the Coastal Commission Amendment to phase-out the use of OHVs  
25 at Oceano Dunes.

26 9. Each of Intervenor has staff, members, and/or supporters who work, reside, and/or recreate in  
27 California. These staff and members: study and work to protect the Dunes and other coastal lands of the  
28

1 State and the habitats and wildlife they sustain; enjoy visiting, observing, and photographing those lands  
2 and wildlife; and benefit from the ecosystem services that come from ensuring that State coastal lands  
3 are adequately protected.

4 10. The ability of Intervenor's staff members and supporters to protect, study, observe, photograph,  
5 recreate near, appreciate, and benefit from Oceano Dunes depends on the Phaseout Amendment. Since  
6 the Phaseout Amendment is intended to protect against the further degradation of Oceano Dunes from  
7 OHV use, Intervenor's interests will be compromised if Plaintiff succeeds on any of the causes of action  
8 asserted in Plaintiff's Verified Petition.

9  
10 11. Intervenor's engage with the Coastal Commission and State Parks on a regular basis. Intervenor's  
11 promote the development of policies that protect the Dunes in compliance with the requirements of the  
12 Coastal Act and challenge those that do not. In the furtherance of a sustainable Oceano Dunes,  
13 Intervenor's support, or challenge as appropriate, Coastal Commission-issued policies and plans.  
14 Intervenor's engage in this advocacy by attending meetings, writing and filing motions, and by lobbying  
15 local officials.

16  
17 12. Intervenor's were closely involved in the Coastal Commission's process to develop and approve  
18 the March 18, 2021 amendment to CDP-4-82-300. They expended time, money, and other resources to  
19 help shape and support the Procedures. Intervenor's submitted written comments, met with the Coastal  
20 Commission, and attended and provided oral comments at public hearings. Among other things,  
21 Intervenor's provided important information on the damages OHVs have inflicted upon the Dunes and  
22 its wildlife and the impact OHVs have on local and downwind air quality.

23  
24 13. Intervenor's have direct interests in the legal claims that Plaintiff raises in its Verified Petition.  
25 Plaintiff's causes of action allege that, in approving the Phaseout Amendment, the Coastal Commission  
26 exceeded its legal authority and/or violated applicable procedures. If Plaintiff succeeds on any of these  
27 claims and the Phaseout Amendment is invalidated, Intervenor's missions and their members' interests  
28

1 in the habitats, beach, and the health and safety of their members, which the Phaseout Amendment is  
2 designed to protect, will be directly, adversely affected.

3  
4 **ALLEGATIONS**

5 14. Intervenor deny FoOD’s allegations and causes of action in its Verified Petition, to wit:

6 15. In response to Paragraphs 1-25 and 44-115, Intervenor answer that in adopting the Phaseout  
7 Amendment, the Coastal Commission acted within its legal authority and fully complied with all legal  
8 requirements. To the extent that Paragraphs 1-25 and 44-115 call for legal conclusions, no answer is  
9 required. To the extent that Paragraphs 1-25 and 44-115 contain material allegations, Intervenor lack  
10 sufficient knowledge or information to enable them to answer the allegations, and on that basis, deny  
11 each and every allegation contained therein.

12  
13 16. In response to Paragraphs 26-43, Intervenor answer that the legal provisions cited therein are  
14 the best evidence of their contents. To the extent that Paragraphs 26-43 call for legal conclusions, no  
15 answer is required. To the extent that Paragraphs 26-43 contain material allegations, Intervenor lack  
16 sufficient knowledge or information to enable them to answer the allegations, and on that basis, deny  
17 each and every allegation contained therein.

18  
19 **PRAYER FOR RELIEF**

20 WHEREFORE, Intervenor pray for relief as follows:

- 21 1. That Plaintiff takes nothing by its Verified Petition;  
22 2. That the Verified Petition be denied in its entirety;  
23 3. That Plaintiff’s requests for a judgment and writs of mandate be denied;  
24 4. That Plaintiff’s requests to suspend, vacate and/or set aside the Phaseout Amendment  
25 be denied;  
26  
27 5. For entry of judgment in favor of the Respondents-Defendants and Intervenor on the  
28 causes of action asserted in the Verified Petition;

1 6. That Plaintiff's request for attorney's fees and costs be denied;

2 7. That Intervenors be awarded their reasonable attorney's fees, expenses, and costs of  
3 suit, including as authorized by Code of Civil Procedure section 1021.5 and other applicable provisions  
4 of the law; and

5 8. For any such other equitable or legal relief as the Court may deem just and proper.  
6

7 **AFFIRMATIVE DEFENSES**

8 **FIRST AFFIRMATIVE DEFENSE**

9 **(Incorporation of All Applicable Defenses)**

10 As a separate and distinct affirmative defense to the Verified Petitions and to each cause of  
11 action contained therein, Intervenors assert all applicable defenses pled or that may be pled by all other  
12 Respondents to this action, and hereby incorporate the same herein by reference.  
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**SECOND AFFIRMATIVE DEFENSE**

**(Reservation of Right to Assert Additional Defenses)**

As a separate and distinct affirmative defense to the Verified Petition and to each cause of action contained therein, Plaintiff has failed to particularize its allegations, and/or Intervenors' lack of knowledge of the circumstances surrounding Plaintiff's causes of action prevents Intervenors from asserting all applicable defenses at this time. Upon further particularization of the allegations by Plaintiff or upon discovery of further information concerning Plaintiff's causes of action, Intervenors reserve the right to assert additional defenses.

DATED: February 14, 2022

ENVIRONMENTAL LAW CLINIC  
University of California, Irvine School of Law

By: /s/ \_\_\_\_\_  
ELIZABETH SCHATZ CORDERO  
Certified Law Student

/s/ \_\_\_\_\_  
RYAN RIEDMUELLER  
Certified Law Student

/s/ \_\_\_\_\_  
MICHAEL ROBINSON-DORN  
Director and Supervising Attorney

/s/ \_\_\_\_\_  
DANIEL JACOBS  
Senior Counsel

Attorneys for Applicant Intervenors  
  
Northern Chumash Tribal Council,  
Center for Biological Diversity, Oceano  
Beach Community Association, Sierra  
Club, Surfrider Foundation, and San Luis  
Obispo Coastkeeper



1 MICHAEL ROBINSON-DORN (CA Bar No. 159507)  
DANIEL JACOBS (CA Bar. No. 295494)  
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6 Attorneys for Applicant Intervenors  
7 Northern Chumash Tribal Council, Center for  
Biological Diversity, Oceano Beach Community  
8 Association, Sierra Club, Surfrider Foundation,  
and San Luis Obispo Coastkeeper  
9

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **COUNTY OF SAN LUIS OBISPO**

13 FRIENDS OF OCEANO DUNES, INC., a  
California not-for profit corporation,

14 Petitioner and Plaintiff,

15 v.

16 CALIFORNIA COASTAL COMMISSION, a  
17 commission of the state of California; and  
DOES 1-50, inclusive,

18 Respondent and Defendant;

19 CALIFORNIA DEPARTMENT OF PARKS  
20 AND RECREATION, a department of the  
State of California; and DOES 1-50, inclusive,

21 Respondent and Defendant as  
22 to the First Cause of Action,  
Count 4, and, as a Real Party-  
23 in-Interest as to the remaining  
Counts, and

24 COUNTY OF SAN LUIS OBISPO, a  
25 governmental unit and subdivision of the State  
of California, and DOES 1-50, inclusive,

26 Real Party-in-Interest,

27 NORTHERN CHUMASH TRIBAL  
28 COUNCIL, CENTER FOR BIOLOGICAL

**Case No. 21CV-0214 (Lead Case)**

*Consolidated with Case Nos.: 21CV-0219,  
21CV-0246, and 21CV-0541*

*This document relates to Case No. 21CV-0541*

**[PROPOSED] ANSWER-IN-  
INTERVENTION TO FRIENDS OF  
OCEANO DUNES' VERIFIED  
PETITION FOR WRIT OF  
ADMINISTRATIVE MANDAMUS  
(C.C.P. 1094.5)  
and/or TRADITIONAL MANDAMUS  
(C.C.P. 1085); and COMPLAINT  
FOR INJUNCTIVE RELIEF**

Date: March 9, 2022

Time: 9:00 a.m.

Dept.: 9

Judge: Hon. Tana L. Coates

Trial Date: July 21, 2022

Action Filed: 04/12/2021

1 DIVERSITY, OCEANO BEACH  
2 COMMUNITY ASSOCIATION, SIERRA  
3 CLUB, SURFRIDER FOUNDATION, AND  
4 SAN LUIS OBISPO COASTKEEPER,

Applicant-Intervenors.

5 ECOLOGIC PARTNERS, INC., a California  
6 Non-Profit Corporation; SPECIALTY  
7 EQUIPMENT MARKET ASSOCIATION, a  
8 California Non-Profit Corporation,

Petitioners,

v.

10 CALIFORNIA COASTAL  
11 COMMISSION; JOHN AINSWORTH, as  
12 Executive Director of the California Coastal  
13 Commission; *et al.*,

Respondents,

14 COUNTY OF SAN LUIS OBISPO; and DOES  
15 1-10.

Real Parties in Interest,

16 NORTHERN CHUMASH TRIBAL  
17 COUNCIL, CENTER FOR BIOLOGICAL  
18 DIVERSITY, OCEANO BEACH  
19 COMMUNITY ASSOCIATION, SIERRA  
20 CLUB, SURFRIDER FOUNDATION, AND  
21 SAN LUIS OBISPO COASTKEEPER,

Applicant-Intervenors.

**Case No. 21CV-0219**

21 FRIENDS OF OCEANO DUNES, INC., a  
22 California not-for profit corporation,

Petitioner and Plaintiff,

v.

24 CALIFORNIA COASTAL COMMISSION, a  
25 commission of the State of California; and  
26 DOES 1-50, inclusive,

Respondent and Defendant;

27 CALIFORNIA DEPARTMENT OF PARKS  
28 AND RECREATION, a department of the

**Case No. 21CV-0246**

1 State of California; and DOES 1-50, inclusive,

2 Real Party-in-Interest;

3 COUNTY OF SAN LUIS OBISPO, a county of  
4 the State of California, and DOES 1-50,  
inclusive,

5 Real Party-in-Interest,

6 NORTHERN CHUMASH TRIBAL  
7 COUNCIL, CENTER FOR BIOLOGICAL  
8 DIVERSITY, OCEANO BEACH  
9 COMMUNITY ASSOCIATION, SIERRA  
CLUB, SURFRIDER FOUNDATION, AND  
SAN LUIS OBISPO COASTKEEPER,

10 Applicant-Intervenors.

11 FRIENDS OF OCEANO DUNES, INC., a  
12 California not-for profit corporation,

13 Petitioner and Plaintiff,

14 v.

15 CALIFORNIA COASTAL COMMISSION, a  
16 commission of the State of California; and  
DOES 1-50, inclusive,

17 Respondents and Defendants,

18 CALIFORNIA DEPARTMENT OF PARKS  
19 AND RECREATION, a department of the  
State of California; and DOES 1-50, inclusive,

20 Real Party-in-Interest, and

21 COUNTY OF SAN LUIS OBISPO a  
22 governmental unit and subdivision of the State  
of California, and DOES 1-50, inclusive,

23 Real Party-in-Interest,

24 NORTHERN CHUMASH TRIBAL  
25 COUNCIL, CENTER FOR BIOLOGICAL  
26 DIVERSITY, OCEANO BEACH  
COMMUNITY ASSOCIATION, SIERRA  
27 CLUB, SURFRIDER FOUNDATION, AND  
SAN LUIS OBISPO COASTKEEPER,

28 Applicant-Intervenors.

**Case No. 21CV-0541**

1 By leave of the Court, Intervenor Northern Chumash Tribal Council, the Center for Biological  
2 Diversity, Oceano Beach Community Association, Sierra Club, Surfrider Foundation, and San Luis  
3 Obispo Coastkeeper (collectively, “Intervenor”) hereby file this answer-in-intervention in this matter.  
4 In Case No. 21CV-0541, the fourth of four now consolidated cases, Petitioner and Plaintiff Friends of  
5 Oceano Dunes (“FoOD”) challenges Respondent-Defendant California Coastal Commission’s (“the  
6 Coastal Commission”) August 12, 2021 adoption of revised findings for its previous March 18, 2021  
7 Amendment to CDP 4-82-300 (“the Phaseout Amendment”), which mandates a phase-out of the use  
8 of Off-Highway Vehicles (“OHVs”) in the Oceano Dunes State Vehicular Recreation Area  
9 (“ODSVRA”) over a period of three years. Intervenor join with the Coastal Commission in opposing  
10 Plaintiff’s claims, and allege as follows:  
11

12 **INTERVENORS’ INTERESTS**

13 1. Intervenor and their members have direct and immediate interests in the subject matter of this  
14 litigation, and these interests will be adversely affected if Plaintiffs prevail in this action.  
15

16 2. Intervenor NORTHERN CHUMASH TRIBAL COUNCIL are a tribe with over 10,000 years  
17 of history with Oceano Dunes. The Tribe’s mission is to guide the San Luis Obispo region toward a  
18 sustainable future by incorporating traditional Indigenous knowledge in land use decision making.  
19 Oceano Dunes is land sacred to the Tribe, and the Dunes are central to their cultural practices and  
20 traditions.  
21

22 3. Intervenor CENTER FOR BIOLOGICAL DIVERSITY (“CBD”) is an organization with more  
23 than 89,000 members and over 1.7 million supporters, 190,000 of whom reside in California. CBD  
24 works to secure a future for all species, especially those on the brink of extinction, with a focus on  
25 protecting the habitats that species need to survive.

26 4. Intervenor OCEANO BEACH COMMUNITY ASSOCIATION (“OBCA”) is a coalition of  
27 business owners and residents of Oceano with the shared goal of improved livability and environmental  
28

1 health of the region. OBCA has a dozen formal members and 140 supporters, and it advocates on behalf  
2 of the residents of Oceano, who wish for low-impact beach access and a thriving local economy.

3 5. Intervenor SIERRA CLUB is an environmental group with over 3.8 million members and  
4 supporters nationally, including 500,000 who reside in California. The central goal of the Sierra Club  
5 is to protect the natural world and to promote the responsible and sustainable use of its resources in  
6 order to preserve them for future generations. In the furtherance of this goal, the Sierra Club has a  
7 mission of preserving suitable habitats for the protection and restoration of rare and endangered species.

9 6. Intervenor SURFRIDER FOUNDATION (“Surfrider”) is an organization with approximately  
10 13,900 members in California. Surfrider’s central mission is the protection and enjoyment of the ocean,  
11 beaches, and coastal lands for all people. It advocates for full and fair low-impact beach uses and the  
12 preservation of coastal lands.

14 7. Intervenor SAN LUIS OBISPO COASTKEEPER (“SLO Coastkeeper”) is a member of the  
15 Waterkeeper Alliance — an international organization dedicated to conservation and the protection of  
16 fishable, swimmable, and drinkable water. SLO Coastkeeper aims to protect and improve healthy and  
17 diverse ecosystems on Central Coast Marine habitats and watershed ecosystems and has approximately  
18 900 supporting members. SLO Coastkeeper has participated in past litigation involving State Parks,  
19 engaged with the Coastal Commission and State Parks, and attended County Board of Supervisors  
20 hearings such that it holds an understanding and perspective on how the State Parks OHV Division  
21 affects residential life and environmental health.

23 8. Protecting and conserving Oceano Dunes is central to the goals and missions of each Intervenor.  
24 These missions will be furthered by the Coastal Commission Amendment to phase-out the use of OHVs  
25 at Oceano Dunes.

26 9. Each of Intervenor has staff, members, and/or supporters who work, reside, and/or recreate in  
27 California. These staff and members: study and work to protect the Dunes and other coastal lands of the  
28

1 State and the habitats and wildlife they sustain; enjoy visiting, observing, and photographing those lands  
2 and wildlife; and benefit from the ecosystem services that come from ensuring that State coastal lands  
3 are adequately protected.

4 10. The ability of Intervenor's staff members and supporters to protect, study, observe, photograph,  
5 recreate near, appreciate, and benefit from Oceano Dunes depends on the Phaseout Amendment. Since  
6 the Phaseout Amendment is intended to protect against the further degradation of Oceano Dunes from  
7 OHV use, Intervenor's interests will be compromised if Plaintiff succeeds on any of the causes of action  
8 asserted in Plaintiff's Verified Petition.

9  
10 11. Intervenor's engage with the Coastal Commission and State Parks on a regular basis. Intervenor's  
11 promote the development of policies that protect the Dunes in compliance with the requirements of the  
12 Coastal Act and challenge those that do not. In the furtherance of a sustainable Oceano Dunes,  
13 Intervenor's support, or challenge as appropriate, Coastal Commission-issued policies and plans.  
14 Intervenor's engage in this advocacy by attending meetings, writing and filing motions, and by lobbying  
15 local officials.

16  
17 12. Intervenor's were closely involved in the Coastal Commission's process to develop and approve  
18 the March 18, 2021 amendment to CDP-4-82-300. They expended time, money, and other resources to  
19 help shape and support the Procedures. Intervenor's submitted written comments, met with the Coastal  
20 Commission, and attended and provided oral comments at public hearings. Among other things,  
21 Intervenor's provided important information on the damages OHVs have inflicted upon the Dunes and  
22 its wildlife and the impact OHVs have on local and downwind air quality.

23  
24 13. Intervenor's have direct interests in the legal claims that Plaintiff raises in its Verified Petition.  
25 Plaintiff's causes of action allege that, in approving the Phaseout Amendment, the Coastal Commission  
26 exceeded its legal authority and/or violated applicable procedures. If Plaintiff succeeds on any of these  
27 claims and the Phaseout Amendment is invalidated, Intervenor's missions and their members' interests  
28

1 in the habitats, beach, and the health and safety of their members, which the Phaseout Amendment is  
2 designed to protect, will be directly, adversely affected.

3  
4 **ALLEGATIONS**

5 14. Intervenor deny FoOD’s allegations and causes of action in its Verified Petition, to wit:

6 15. In response to Paragraphs 1-44, Intervenor answer that in adopting the Amendment and the  
7 revised findings, the Coastal Commission acted within its legal authority and fully complied with all  
8 legal requirements. To the extent that Paragraphs 1-44 call for legal conclusions, no answer is required.  
9 To the extent that Paragraphs 1-44 contain material allegations, Intervenor lack sufficient knowledge  
10 or information to enable them to answer the allegations and, on that basis, deny each and every  
11 allegation contained therein.  
12

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Intervenor pray for relief as follows:

- 15 1. That Plaintiff takes nothing by its Verified Petition;
- 16 2. That the Verified Petition be denied in its entirety;
- 17 3. That Plaintiff’s requests for a judgment and writs of mandate be denied;
- 18 4. That Plaintiff’s requests to suspend, vacate and/or set aside the Phaseout Amendment  
19 be denied;
- 20 5. For entry of judgment in favor of the Respondents-Defendants and Intervenor on the  
21 causes of action asserted in the Verified Petition;
- 22 6. That Plaintiff’s request for attorney’s fees and costs be denied;
- 23 7. That Intervenor be awarded their reasonable attorney’s fees, expenses, and costs of  
24 suit, including as authorized by Code of Civil Procedure section 1021.5 and other applicable provisions  
25 of the law; and  
26 8. For any such other equitable or legal relief as the Court may deem just and proper.  
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**SECOND AFFIRMATIVE DEFENSE**

**(Reservation of Right to Assert Additional Defenses)**

As a separate and distinct affirmative defense to the Verified Petition and to each cause of action contained therein, Plaintiff has failed to particularize its allegations, and/or Intervenors' lack of knowledge of the circumstances surrounding Plaintiff's causes of action prevents Intervenors from asserting all applicable defenses at this time. Upon further particularization of the allegations by Plaintiff or upon discovery of further information concerning Plaintiff's causes of action, Intervenors reserve the right to assert additional defenses.

DATED: February 14, 2022

ENVIRONMENTAL LAW CLINIC  
University of California, Irvine School of Law

By: /s/ \_\_\_\_\_  
ELIZABETH SCHATZ CORDERO  
Certified Law Student

/s/ \_\_\_\_\_  
RYAN RIEDMUELLER  
Certified Law Student

/s/ \_\_\_\_\_  
MICHAEL ROBINSON-DORN  
Director and Supervising Attorney

/s/ \_\_\_\_\_  
DANIEL JACOBS  
Senior Counsel

Attorneys for Applicant Intervenors  
  
Northern Chumash Tribal Council,  
Center for Biological Diversity, Oceano  
Beach Community Association, Sierra  
Club, Surfrider Foundation, and San Luis  
Obispo Coastkeeper

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF SAN LUIS OBISPO**  
3 **Friends of Oceano Dunes, Inc. v. California Coastal Commission, et al.**  
4 **Case No.: 21CV-0214 (Lead Case)**  
5 *Consolidated with Case Nos.: 21CV-0219, 21CV-0246, and 21CV-0541*

6 I, Czarina Ellingson, declare that I am and was at the times of the service hereunder  
7 mentioned, over the age of (18) eighteen years, and not a party to the within cause. My business  
8 address is: UCI Law Clinics, PO Box 5479, Irvine, California 92616-5479.

9 On February 14, 2022, I caused to be served the below listed document(s) entitled:

10 **NORTHERN CHUMASH TRIBAL COUNCIL, CENTER FOR BIOLOGICAL**  
11 **DIVERSITY, OCEANO BEACH COMMUNITY ASSOCIATION, SIERRA CLUB,**  
12 **SURFRIDER FOUNDATION, AND SAN LUIS OBISPO COASTKEEPER**  
13 **NOTICE OF MOTION AND MOTION TO INTERVENE; DECLARATIONS IN**  
14 **SUPPORT THEREOF**

15 To be sent to:

16 **PLEASE SEE ATTACHED SERVICE LIST.**

17  By Mail:

18 [ ] I deposited such envelope(s) in the mail at Irvine, California. The envelope was mailed  
19 with postage thereon fully prepaid.


20 [ ] I am readily familiar with our Clinic’s practice of collection and processing  
21 correspondence for mailing. Under that practice it would be deposited with the U.S. postal service  
22 on that same day with postage thereon fully prepaid at Irvine, California in the ordinary course of  
23 business.

24  By Electronic Service:

25 Based on an agreement of the parties to accept electronic service, I caused the documents to  
26 be sent to the persons at the electronic service addresses listed on the attached service list.

27 I declare under penalty of perjury that the foregoing is true and correct.

28 Executed on February 14, 2022, at Rancho Santa Margarita,  
California.

  
Czarina Ellingson  
Law Clinics Coordinator, UCI Law Clinics

## SERVICE LIST

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9	Jon Ansolabehere Chief Deputy Counsel San Luis Obispo County 1055 Monterey St., Room D-320 San Luis Obispo, CA 93408 E: <a href="mailto:jansolabehere@co.slo.ca.us">jansolabehere@co.slo.ca.us</a>	Attorney for COUNTY OF SAN LUIS OBISPO
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21	Mitchell Rishe Deputy Attorney General, California Dept. of Justice OFFICE OF THE ATTORNEY GENERAL 300 S. Spring St. Los Angeles, CA 90013 E: <a href="mailto:mitchell.rishe@doj.ca.gov">mitchell.rishe@doj.ca.gov</a>	
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