

CALIFORNIA COASTAL COMMISSION

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October 21, 2011

Assemblymember Jared Huffman, Chair
Assembly Water, Parks and Wildlife Committee
1020 N St., Room 160
Sacramento, CA 94249

Assemblymember Roger Dickenson, Chair
Assembly Accountability & Administrative Review Committee
1020 N St., Room 357
Sacramento, CA 94249

RE: Joint Oversight Hearing on State Park Closures

Dear Assemblymembers Dickenson and Huffman:

I write on behalf of the Coastal Commission and in response to your staff's request to Coastal Commission Chair Shallenberger, in preparation for your November 1, 2011 oversight hearing, for information from the California Coastal Commission regarding possible future closures of state parks in the coastal zone. Specifically, your committees are interested in whether or how Coastal Act (PRC Sec. 30000 et seq.) policies may apply to certain state-mandated actions to close beach park facilities to effect budgetary cost-savings.

The Coastal Commission is charged with implementing and enforcing the coastal resource protection policies of the Coastal Act. Public access policies are contained in Sections 30210-30214. The Act calls for maximizing public access in balance with resource protection and private property rights, and prohibits any new development from interfering with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. Of particular note, Coastal Act 30210 explicitly references section 4 of Article X of the California Constitution as a fundamental basis for the Act's mandate to provide maximum coastal access and recreational opportunities. The public access provisions of the Act are a cornerstone of the State's coastal management program. As such, these policies receive heightened scrutiny by the Commission. For example, local government actions on a coastal development permits between the first public road and the sea are, by definition, appealable to the Commission.

The Coastal Commission realizes that this is a difficult and challenging time for the Department of Parks and Recreation (DPR), and the decision to close parks anywhere in the state is not undertaken lightly. In addition, our agency has a long history of partnership and collaboration with DPR borne of a shared mission, values and vision for the state to provide maximum public access and coastal recreational opportunities for all Californians. We understand that due to budget cuts, it may not be possible to continue to operate some coastal park facilities at their

current levels of service to the public. While it would certainly be regrettable should DPR find it necessary to close or reduce hours of operation of a park, including amenities such as restrooms, visitor centers, interpretive centers, etc., the Commission does not foresee any conflict between such actions and Coastal Act policies, as long as these actions do not fundamentally interfere with the public's ability to get to and along the shoreline, as elaborated below.

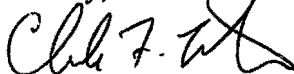
On the other hand, the Coastal Act does establish clear coastal permitting requirements for new development in the coastal zone. In this case, for example, any closure-related actions requiring the construction of physical structures such as fences, gates, or other physical barriers would meet the definition of development under the Coastal Act and thus normally require a Coastal Development Permit (CDP) review from the Commission or local governments where there is a certified LCP. In fact, in most cases above the mean high tide a local government is more likely to be the lead coastal permitting agency as approximately 88% of the shoreline is covered by a certified LCP. Depending on the situation, such developments may or may not trigger a more in-depth permit requirement. Consultation with the relevant local government, as well as the Commission, would be in order to determine any permitting requirements in specific cases.

In addition, any action resulting in significant physical interference with existing public access to or along the coast could also require a CDP depending on the facts of the situation. Actions such as permanently dropping logs or boulders across accessways, or posting signs that deter public use of areas currently used by the public typically would require a coastal development permit authorization. Similarly, establishment of new or stricter curfew for access to or along beaches or the shoreline would also require a CDP. The need to obtain permits for parking lot closures would need to be determined on a case-by-case basis, depending on whether adequate parking was available nearby and other relevant factors. Finally, in some circumstances, proposed development might qualify for an exemption or a permit waiver. The Commission would be available to confer with DPR and local governments regarding the eligibility of proposed development for an exemption or waiver.

To reiterate, the Commission is concerned about the closure of any state park facility, but also realizes that in the current fiscal and political climate it may well be necessary. However, absent the construction of new structures, the only closures that the Commission would assert regulatory jurisdiction over would be those that would significantly reduce or impede the public's current ability to access shoreline areas, and particularly those areas below the mean high tide. We are committed to continuing to work closely with DPR concerning specific situations as we do our best to meet our state's coastal access and recreation needs in these challenging budgetary times.

Please do not hesitate to contact us if we can be of further assistance in this matter.

Sincerely,



Charles Lester
Executive Director
California Coastal Commission

cc: Ruth Coleman, Director, California Department of Parks and Recreation
Bill Herms, Deputy Director, California Department of Parks and Recreation