

STAFF REPORT

AGENDA ITEM: OHMVR Commission determination that concession services are in compliance with General Plans

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Background: According to Public Resources Code (PRC) 5080.20¹, no contract which is expected to involve a total investment of estimated annual gross sales in excess of \$500,000 may be advertised for bid, negotiated, renegotiated, or amended unless and until the Commission has reviewed the proposed services, facilities, and/or location of the concession, determined the concessions meet the requirements of Sections 5001.9² and 5080.03³, and are compatible with the classification of the unit in which the concession will be operated.

A budget change proposal was submitted to the Legislature as part of the FY 09/10 budget to request the authority to bid new concession contracts at Oceano Dunes and Hollister Hills State Vehicular Recreation Areas (SVRAs). Following determination by the Commission and review and approval by the Legislature, a Request for Proposal (RFP) will be prepared.

Report: The OHMVR Division requests determination by the OHMVR Commission, pursuant to Sections 5080.20 of the PRC that proposed concession services for Oceano Dunes and Hollister Hills SVRAs are compatible with their General Plans.

The Oceano Dunes and Hollister Hills park units are classified as a "State Vehicular Recreation Area". In accordance with PRC 5090.43⁴, SVRAs shall be established on lands where there are quality recreational opportunities for off-highway motor vehicles. These areas shall be developed, managed, and operated for the purpose of making the fullest public use of the outdoor recreational opportunities present while continuously maintaining and protecting the natural and cultural resources.

Oceano Dunes SVRA: Concession Contract Overview

The five short-term concession contracts for all-terrain vehicle (ATV) and Dune Buggy rentals expired on April 30, 2005. As a result, the concessionaires are now operating on a month-to-month arrangement.

To meet public demand for OHV rentals, including increased demand for RUV rentals at Oceano Dunes SVRA, up to five concession contracts may be approved. The new contracts will be for a term of up to ten (10) years for OHV rental services.

Concession Information

Currently, there are four concessionaires providing ATV rentals and one concessionaire providing Dune Buggy rentals at Oceano Dunes SVRA. The OHMVR Division entered into short-term contracts with the five operators with the intent of issuing one longer-term contract through the competitive RFP process. In the interim, data was collected on gross receipts, number of customers, operational practices, and carrying capacity to determine the services to be provided in a long-term contract. Based on the success of the five operations and to meet public demand, the OHMVR Division determined that five separate concession operations are necessary.

The concession services described in this report have historically been provided through concession agreement with private sector operators. These services are identified and authorized in the park's General Plan. The services provided cannot be efficiently or economically administered by state employees, hence, it is requested a new contract be offered to interested private sector providers through a RFP process. The new contract will provide for continued OHV recreation and the facilitation of education opportunities and will address the following needs of the park visitor.

1. In accordance with Oceano Dunes SVRA's General Plan, OHV rentals are considered necessary to provide for, and to enhance the recreational experiences, enjoyment, and safety of the public and their use of Oceano Dunes SVRA.
2. Existing ATV rental operations have been in existence on the beach for over 28 years with high visitor use.
3. The visiting public has demonstrated a demand for other types of OHV rentals in addition to ATV rentals.

4. A contract term of up to ten years will be required to maintain consistent public services.

Oceano Dunes General Plan

Oceano Dunes SVRA's General Plan was approved in 1974 with amendments in 1982 and 1994. With respect to any unit of the state park system for which a general development plan has been approved by the Commission, any proposed concession at that unit shall be compatible with its General Plan. Pertinent sections and recommendations from the 1974 General Plan that apply to OHV recreation include the following.

1. *Two thousand acres of sand dunes for OHV recreation.*
2. *Primitive camping facilities for dune vehicles.*
3. *Inland camping area for OHV users.*
4. *Vehicle association center with administration facilities for OHV recreation.*
5. *Concession-operated facilities for dune vehicle service, rental, and storage and food service.*
6. *Operation center with information and first aid facilities.*

In addition, the General Plan indicates a day use staging area will serve as the base for OHV recreation activities and the area must serve the following functions.

1. *Parking and a trailered vehicle unloading area should be provided for OHV operators. This will require a vast area for parking during peak use, which occurs on relatively few days of the year. Consequently, it is reasonable that the paved parking area serve only the basic needs and that less costly turf areas be provided for expansion of parking during peak use periods.*
2. *The basic needs of the OHV operator should be met in this area. This would include concession facilities, such as fuel and service. Eventually a concession-operated storage and rental service may prove economically feasible. Food and beverage supplies in the early stages of the project might best be offered through a mobile facility during heavy use periods.*
3. *OHV organizations should have the opportunity to develop administrative facilities for their activities in this staging area. This could be a center developed for information and competition event registration. These groups could possibly implement a patrol and safety program similar to that undertaken by ski patrols.*

4. *It is essential that vehicular recreation area operational facilities be located in this area. This would include a state-operated control center with first aid facilities and an information and education program.*

Lastly, the General Plan provides for support facilities in connection with OHV use in the sand dunes, including the following.

- *Concession-operated vehicle service and storage area with related food and beverage services.*

Hollister Hills SVRA: Concession Contract Overview

The concession contract for operation and maintenance of the park store, as well as retail services including sale of food, nonalcoholic beverages, sundry items, motorcycle replacement parts, motorcycle gear, and minor motorcycle repair services at Hollister Hills SVRA expired on August 1, 2007. The concession contract has continued to operate on a month-to-month arrangement. To meet public demand for concession services at the park, one contract may be approved. The new contract will be for a term of up to ten (10) years for the operation and maintenance of the park store including retail services.

Concession Information

Currently there is one concessionaire maintaining and operating the park store and selling food, sundry items, motorcycle parts and gear, as well as providing minor motorcycle repair services. The OHMVR Division entered into a short-term contract with the operator with the intent of issuing one longer-term contract through the competitive RFP process.

The concession services described for Hollister Hills SVRA have historically been provided through concession agreement with a private sector operator and are identified and authorized in the park's General Plan. These services provide a significant and beneficial need, in addition to facilitating safe OHV recreation and education opportunities for the park visitor. Because these services cannot be efficiently or economically administered by the park, a new contract should be offered to an interested private sector provider through a RFP process.

The new contract will address the following needs of the park visitor, in addition to providing for continued OHV-related concessions and facilitation of education and the safe operation of OHVs.

1. In accordance with the Hollister Hills SVRA General Plan, concession services are considered necessary to provide for and to enhance the recreational experiences, enjoyment, and safety of the public and their use of park.
2. The visiting public has demonstrated a demand for retail/concession services at the park.
3. The visiting public has demonstrated a demand for OHV rentals.
4. A contract term of up to ten years will be required to maintain consistent public services.

In addition to the services currently provided, the contract may include up to \$60,000 in capital improvements to the structure and may consider the inclusion of rental equipment services.

Hollister Hills SVRA General Plan

With respect to any unit of the state park system for which a general development plan has been approved by the Commission, any proposed concession at that unit shall be compatible with its General Plan. The General Plan for Hollister Hills SVRA was approved in 1977. It identifies the need for a park concession supporting OHV visitors. The information provided in the 1977 General Plan that applies to concessions at Hollister Hills SVRA is as follows:

A minimum service concession that sells motorcycle repair, motor oil, food, and non-alcoholic beverages has been operating on a trial basis. This concession has been very popular with the users and also has proved profitable to the concessionaire. It is recommended that this type of concession service be continued.

The General Plan also provides for the safe, serviceable condition of the concession building.

Commission action: The Commission will review proposed concession services, facilities, and/or locations for Oceano Dunes and Hollister Hills SVRAs to determine compatibility with the SVRA's General Plans. Following determination by the Commission and review and approval by the Legislature, the OHMVR Division will prepare and advertise to the public a RFP.

ENDNOTES

Public Resources Code Sections

¹ **5080.20.** No contract, including a contract entered into on lands operated pursuant to an agreement entered into under Article 2 (commencing with Section 5080.30), which is expected to involve a total investment or estimated annual gross sales in excess of five hundred thousand dollars (\$500,000), may be advertised for bid, negotiated, renegotiated, or amended in any material respect unless and until all of the following requirements have been complied with:

(a) The commission has reviewed the proposed services, facilities, and location of the concession and determined that they meet the requirements of Sections 5001.9 and 5080.03 and are compatible with the classification of the unit in which the concession will be operated.

(b) The Legislature has reviewed and approved the proposed concession as part of the annual budget process or the requirements of subdivision (c) have been complied with. No proposed concession shall be submitted for review by the Legislature until the commission has made its determination pursuant to subdivision (a), unless deferring review by the Legislature would be adverse to the interests of the public, in which case the Legislature's review may precede the commission's determination.

(c) Following enactment of the Budget Bill, the board has determined that the proposed concession could not have been presented to the Legislature for review and approval in the course of its consideration of the Budget Bill, or the proposed concession was reviewed and approved but it is necessary to revise the terms of the invitation to bid or the contract in a material respect, and that it would be adverse to the interests of the public to defer that review and approval to a time when the Legislature next considers a Budget Bill. Upon making that determination, the board may review and approve the proposed concession, or any revision thereof, after giving at least 20 days' written notice to the Chairman of the Joint Legislative Budget Committee and to the chairmen of the fiscal and appropriate policy committees of its intended action. All actions taken by the board pursuant to this subdivision shall be reported to the Legislature in the next Governor's Budget.

(d) The proposed concession is accompanied with documentation sufficient to enable the Legislature, the commission, and the board, as the case may be, to ascertain whether the concession will conform to the requirements of this article and, as to the Legislature and the board, to evaluate fully all terms on which the concession is proposed to be let, including the rent and other returns anticipated to be received.

² **5001.9.** (a) Any improvement existing within the state park system as of January 1, 1979, which fails to comply with the provisions of former Section 5001.5 as they read immediately prior to January 1, 1979, or Article 1.7 (commencing with Section 5019.50) of this chapter shall not be expanded.

(b) No new facility may be developed in any unit of the state park system unless it is compatible with the classification of the unit.

³ **5080.03.** (a) The department may enter into contracts with natural persons, corporations, partnerships, and associations for the construction, maintenance, and operation of concessions within units of the state park system for the safety and convenience of the general public in the use and enjoyment of, and the enhancement of recreational and educational experiences at, units of the state park system.

(b) Concessions shall not be entered into solely for their revenue producing potential.

(c) With respect to any unit of the state park system for which a general development plan has been approved by the commission, any proposed concession at that unit shall be compatible with that plan.

⁴ **5090.43.** (a) State vehicular recreation areas shall be established on lands where there are quality recreational opportunities for off-highway motor vehicles and in accordance with the requirements of Section 5090.35. Areas shall be developed, managed, and operated for the purpose of making the fullest public use of the outdoor recreational opportunities present. The natural and cultural elements of the environment may be managed or modified to enhance the recreational experience consistent with the requirements of Section 5090.35.