



## Westport Municipal Advisory Council

P. O. Box 307, Westport, CA 95488  
www.westportmac.org

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July 8, 2013

Major General Anthony L. Jackson, Director  
Attn: Alexandra Stehl, Statewide Trails Program Manager  
California Department of Parks and Recreation  
P.O. Box 942896  
Sacramento, CA 94296

Re: Proposed Rulemaking—CCR 4351 and 4360 (Trails in State Wildernesses and Preserves)

Dear Director Jackson:

The Westport Municipal Advisory Council only recently became aware of this proposed rulemaking process. Substantive community concerns about this matter were expressed at our latest hearing held on July 2, 2013. One concern is the lack of meaningful outreach to local stakeholders like our Council at earlier stages of deliberation. Based on input received by the WMAC, our community will only support passage of this rule if it is substantively revised to address issues discussed here. Before providing specific comments on the proposed rulemaking, we offer some local background to place our comments in their local context.

### Background

Our interest in this matter stems from community objections to CDPR plans to destroy 2.7 miles of existing coastal trail known as the haul road in the Inglenook Fen-Ten Mile Dunes Natural Preserve within MacKerricher State Park. The haul road was designated as the existing coastal trail in the Mendocino County Local Coastal Program certified by the Coastal Commission in 1985 (see attached map). Policies in the LCP stated the road should be acquired for access if the private owner was willing. CDPR acquired the road in 1992. It was designated for ongoing use, repair, and maintenance as the main trail through the Park in a General Plan adopted by the California State Parks and Recreation Commission June 21, 1995 (see excerpts attached).

The portion of that coastal trail in the Inglenook Fen-Ten Mile Dunes Natural Preserve has suffered ongoing degradation through intentional neglect since it was acquired by CDPR. In direct conflict with the management directives of the Park's General Plan, a 1998 survey we have attached indicates CDPR made plans to thwart repair of the damaged road at least two years prior to a 57-page feasibility study undertaken in early 2000 to reconnect that damaged section of coastal trail. As such, the 2000 "feasibility" study was deceptive since the outcome had already been determined. We thus have little confidence the restrictive language in this proposed rule will ever allow maintenance, repair, and reconnection of this important existing segment of Coastal Trail. This trail with its level grade has supplied access for many users including the less able and bicyclists for years, despite demolition by CDPR neglect.

While the proposed rule might in theory allow findings that support repair of an existing trail or creation of a new trail because it would keep visitors on a designated route and thus protect cultural and natural resources, in practice CDPR's well established record since the late 1990s on the Mendocino coast reveals the intent is to restrict access in a highly discriminatory manner. We believe no findings supporting trail construction projects in preserves will ever be made if this rule is passed as it is now worded. Bicyclists and less able users will as a result be intentionally and progressively excluded from the Inglenook Fen-Ten Mile Dunes Natural Preserve as the existing trail is destroyed through neglect and even purposeful demolition. Visitors will effectively be forced to create their own social trails, causing unplanned impacts on many resources that might be prevented with a more thoughtful approach that plans controlled access.

The proposed rule reinforces that intent by specifically excluding bicycles, motorized and mechanical wheelchairs, and strollers used for young children. Those discriminatory practices do not appear consistent with the requirements of either the federal Americans with Disabilities Act, the California Coastal Act, or the regulations and implementing guidance for those laws. The draft rule will effectively preclude any new or alternative coastal trail segments that might replace existing segments through preserves, preempting and thwarting the purposes of the Coastal Act of 1976, its implementing regulations, and Local Coastal Programs like the one certified in Mendocino County. Those policies mandate balancing resource protection and public access, not excluding as many visitors as possible.

In addition, it will no longer be possible to build the Pacific Coast Bike Route where Highway 1 borders any State preserve or construct other bike lanes along Preserve boundaries. The reason is that no basis other than resource protection is allowed for a finding that will support creation of new bicycle trail structures in State preserves. This will effectively preclude safe bike travel both within or along the border of any State preserve because it cannot be justified under such restrictive conditions.

For all of the foregoing reasons we strongly urge extensive revision of the language of the proposed rule. Our suggestions for revision of the rule are as follows:

1. Existing trails recognized in approved General Plans for State Parks should be exempt from the requirement to make Findings listed in CCR 4351(a). The maintenance, rerouting, and reconnection of those existing trails in Natural Reserves should not have to undergo additional hurdles to allow the public to continue to enjoy such public lands. It is reasonable to require that the cultural and natural values in a Preserve be conserved when maintaining and repairing such existing trails. Existing policies, regulations, and laws already make provisions for striking that necessary and desirable balance. It is inappropriate to extinguish existing access without making provisions for the construction of comparable alternate trails in Preserves.

2. Keeping people on designated trails should be recognized as one of the best ways to protect cultural and natural preserves. The rule should explicitly allow construction of trail structures and signage to avoid the proliferation of destructive social trails. Explicit priority should be given to establishing such routes not only to protect resources, but to contribute to public enjoyment and stewardship through education, signage, and other means. The reasons for making the Findings specified in CCR 4351(a) should be expanded to include specific

allowances for: 1) creation of new multi-use segments of the California Coastal Trail through State preserves in conformity with Public Resources Code (PRC 30001.5[c]; 31408; and 31409); and 2) creation of new segments of the Pacific Coast Bicycle Route along portions of State Preserves that border State Route 1.

3. The discriminatory access in CCR 4351(a), 4351(a)(1), 4360 should be revised to allow bicycles, strollers (perambulators), and mechanical or motorized wheelchairs to use both existing and new trails through State preserves. It is reasonable to post speed limits. It is not reasonable to exclude the less able from enjoying recreational access to cultural and natural preserves. We also do not believe the draft language in these sections is fair or likely to survive a legal challenge.

Thank you for carefully considering the concerns we have expressed and our suggestions for remedies. We would like the opportunity to review any additional changes to the proposed rule and ask that you place us on the notification list for further review or hearings that may be scheduled to address public concerns like ours. Electronic notifications and communication can be directed to WMAC95488@wildblue.net or you can call me at (707) 964-7272 if you would like to clarify the matters raised in this letter.

Sincerely,



Thad M. Van Bueren, Chairperson

Attachments:

- Portions of 1985 LCP maps showing Coastal Trail in MacKerricher SP's Preserve
- Excerpts from MacKerricher SP General Plan adopted by Commission June 21, 1995
- 1998 survey showing CDPR planned to block trail repair before studying feasibility

cc: California State Parks and Recreation Commission  
Loren Rex, Superintendent, CDPR Mendocino District  
Bob Merrill, North Coast District Manager, California Coastal Commission  
Linda Locklin, Coastal Access Coordinator, California Coastal Commission  
Rex Jackman, Local Assistance, Caltrans District 1  
Karyn Gear, North Coast Region, State Coastal Conservancy  
Dan Gjerde, Fourth District Supervisor, Mendocino County  
Disability Rights Education & Defense Fund

Mendocino County Certified  
Local Coastal Program Maps

EVERYTHING WEST OF HIGHWAY ONE IS DESIGNATED A HIGHLY SCENIC AREA

VEHICLE ACCESS VIA GEORGIA PACIFIC RAILROAD LIMITED TO WEEKENDS ONLY

WACKERSCHICK STATE PARK NATURAL AREA

- 15 -  
- 89 -

TEN MILE BEACH DUNES NATURAL AREA

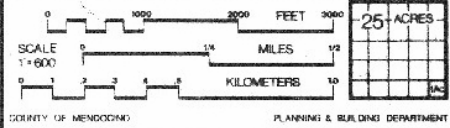
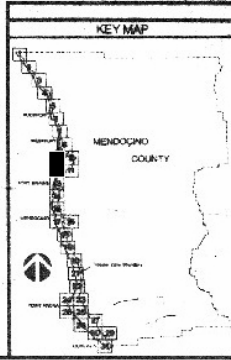
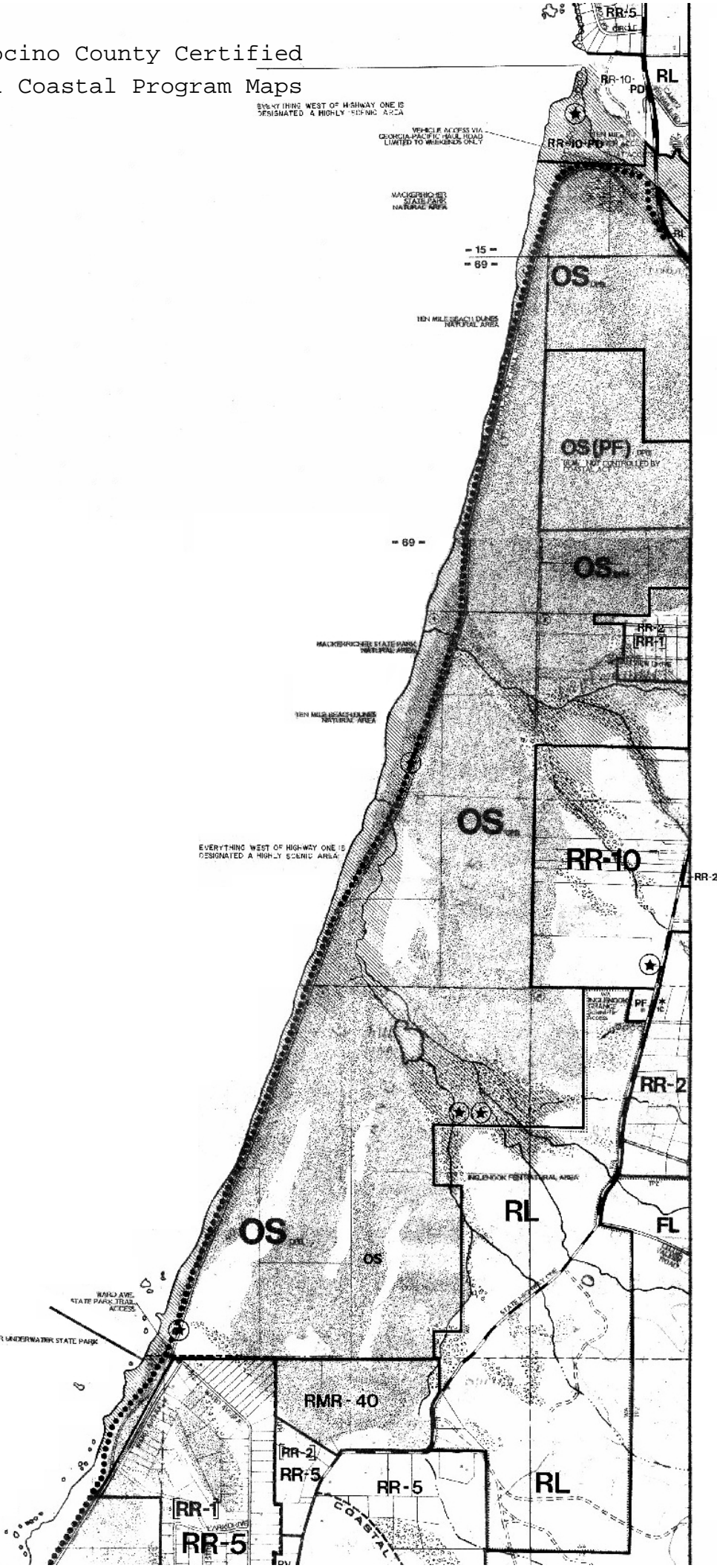
- 89 -

WACKERSCHICK STATE PARK NATURAL AREA

TEN MILE BEACH DUNES NATURAL AREA

EVERYTHING WEST OF HIGHWAY ONE IS DESIGNATED A HIGHLY SCENIC AREA

WALD AVENUE STATE PARK TRAIL ACCESS



COUNTY OF MENDOCINO PLANNING & BUILDING DEPARTMENT  
**MAP 10**  
OF 31 MAPS

**Newport**

**COUNTY OF MENDOCINO COASTAL ZONE**

ADOPTED BY BOARD OF SUPERVISORS  
AUGUST 17, 1983

*[Signature]*  
CHAIRMAN

REVISED  
JULY 3, 1985

AMENDMENTS  
NOVEMBER 15, 1980  
NOVEMBER 8, 1993  
AUGUST 26, 1996

CERTIFIED BY THE COASTAL COMMISSION  
NOVEMBER 20, 1985

**MAP 12**  
OF 31 MAPS  
**Cleone**

the plan's Resource Element. The Mendocino County Local Coastal Plan (LCP) is also particularly important with respect to this general plan. It concentrates mostly on protecting views, rare or sensitive species and habitats, and on improvements at the park's points of access. It also mandates maintaining a coastal trail from Pudding Creek to Ten Mile River. Specific recommendations will be taken up in the discussions for each of the park areas.

### **PUBLIC OPINION**

Public opinion is an integral parameter in the process that the department uses to prepare general plans. Public dialogue represents an intensive effort on the part of the department to ensure that future park management and use considers the desires of the statewide and local visitors who use state parks and of those potentially impacted by this use (e.g., adjacent property owners). Public opinion concerning critical issues helps shape planning alternative proposals and the subsequent choice of a single park plan.

### **LAND USE ANALYSIS: APPLYING THE PLANNING PARAMETERS**

Land use at MacKerricher State Park is uneven. The park contains some sensitive landscapes that do not invite or endure human intrusion well. The park also experiences high visitation. To date, human activity has been almost entirely confined to the most easily accessible areas in the park. This has led to heavy levels of concentrated use.

Another factor to consider when discussing land use is the wide array of landscape types within the park, including beach, grassy terrace, forest, and lonesome dunes, to name a few. It would be impossible to discuss land use for all of these at one time. Instead, the following discussion will treat the discrete areas that make up the park one by one.

Because the classification and declaration of purpose apply to all areas within the park, they will not be recapitulated for each of them. The suitability of the park's resources for public uses in the various parts of the park appears on Map No. 10, Allowable Use Intensities. Therefore, park area discussions will focus on existing conditions, relevant guidelines from the Resource Element and directives from other planning agencies, and public opinion, as well as problems in each area that should be resolved through the general planning process. There will also be a brief site analysis for each area. Map No. 11, Park Areas and Existing Conditions, appears in the following section. It illustrates how the park's areas relate to each other and to the park as a whole.

### **PARK TRAILS**

Park trails comprise a discrete land use. The heavy public use areas in the park have many trails. The coastal trail on the haul road is the main park trail. Other major trails are the equestrian trail paralleling the haul road, the trail alongside Mill Creek Drive that provides access for equestrians, and the boardwalks on Laguna Point and around Lake Cleone.

The park also has innumerable volunteer trails. These crisscross Laguna Point, as well as the rest of the coastal terrace. There are also many around Lake Cleone and that cut through the dunes, especially between Pinewood Campground and the beach.

### **THE HAUL ROAD**

The haul road is the most unifying element throughout the park, as it traverses most of MacKerricher's varied landscapes. Many of the park's finest and most distant views are from the haul road. It is popular with local residents and park visitors alike.

The trestle across Pudding Creek, the haul road, and the associated equestrian trail comprise a critical part of the coastal trail on the Mendocino coast. The coastal trail within the park should soon connect with Fort Bragg, furnishing coastal access to large numbers of people, including disabled persons. This unique recreational resource will run the entire length of the park and will allow pedestrians and bicyclists to approach beach and dune areas that they otherwise could not easily. Maintaining the haul road in a condition suitable for bicycle use will provide an alternative for bicyclists to busy Highway 1, with an associated avoidance of hazards and accidents.

### **EXISTING CONDITIONS**

Even while active, the haul road functioned for many years as part of the park, as the Georgia-Pacific Company allowed people to drive on it on weekends. Washouts north of Ward Avenue and west of Lake Cleone in the early 1980s brought about the road's closure to logging trucks. Use of the road by joggers, hikers, and bikers increased. Automobiles continued to be allowed south of Surfwood Campground during daylight hours under terms of an agreement between Georgia-Pacific and the department, which then took on the operation and management of the road. The possible sale of the haul road to a private party in early 1992 led Georgia-Pacific to close it to motorized traffic. It has remained closed to this use.

The department has now acquired all of the haul road within the park boundaries and has recently received federal grant funding for needed improvements. The City of Fort Bragg has completed construction of a trailhead and staging area for coastal trail users at the south end of the trestle.

### **RESOURCE ELEMENT GUIDELINES AND/OR OTHER AGENCY DIRECTIVES**

The Resource Element cites previous motorized recreation traffic on the haul road as contributing to the decline of wildlife in its vicinity and favors continued closure of the haul road to such traffic.

The county Local Coastal Plan mandates the department to provide maximum coastal access via an off-highway hiking and biking trail, specifically for non-vehicular use, for the eight miles from Pudding Creek to Ten Mile River.

The Fort Bragg LCP calls for an alternate river crossing in addition to Highway 1 at Pudding Creek. The grant-funded new surface and railings to make the trestle ready for public use and the city's trailhead at its south end will fulfill this recommendation.

### **PUBLIC OPINION**

Public opinion regarding the haul road was diverse. Only a few visitor surveys mentioned the haul road, probably indicating that it is less of an attraction to out-of-town visitors than many of the park's other features. The people who live nearby the park, however, were much concerned with repairing the washed out sections. Some members of the public also had strong feelings as to whether or not motorized traffic should be allowed to continue using the haul road.

### **SITE ANALYSIS**

The haul road now has several deficiencies as a coastal trail. In addition to the washed out parts, it has been poorly maintained and needs resurfacing. The trestle also needs surfacing and a railing to make it safe for public use. Furthermore, access to the haul road is poor in some locations, notably Ten Mile River. Nevertheless, large numbers of people access it at many points even though this requires trespassing on private property in some locations.

For recommendations for improving the haul road and the coastal trail experience, see the Facilities Element, page 153.

- Provide rest areas where pedestrians must walk long distances.
- Avoid subsurface disturbances in areas containing archeological sites.

### **TRAIL ACCESS FOR VISITORS WITH DISABILITIES**

It is the department's intention to make as many of the park's pedestrian trails as possible usable by visitors with disabilities.

- If feasible, the department will provide a shuttle on the haul road. In the meantime, motorized use of a portion of the haul road should be available to visitors with disabilities on a case by case basis with access from Laguna Point after inquiry at the contact station.
- Furnish non-motorized coastal trail access to the haul road for visitors with disabilities from the Laguna Point parking lot, as well as the north and south coastal trail access points.

### **THE HAUL ROAD/COASTAL TRAIL**

See the Land Use Element, pages 111-112, for the existing condition of the haul road.

- Improve the trestle for visitor safety before opening it to public use. Inspect the pilings for structural integrity; install railings and a safe surface for foot and bicycle traffic.
- Provide required maintenance to the trestle and the haul road. This will entail ongoing planning and funding.
- Keep the haul road closed to motorized traffic except for patrol, maintenance, and emergency vehicles, as well as a shuttle if it is possible to provide this service.
- Improve the surface of the haul road so that it is safe and comfortable for pedestrians and bicyclists.
- Repair areas along the haul road that have erosion problems. In some places, this will require shoring the road up. In others, bypasses will be required due to ongoing erosion by the ocean.
- Remove volunteer trails on the coastal terrace and in the dunes to which the haul road provides access.
- In the area of Lake Cleone, clear the eroded haul road berm of large chunks of asphalt and other debris that could potentially become a hazard. Shape the berm so that access over it to the beach will be possible.
- Direct coastal and equestrian trail traffic down the east side of the haul road berm and bring it past the lake on paths separate from the park road. This will require bridging the Mill Creek outlet to avoid conflicts between automobiles and other kinds of traffic.
- Provide a dune boardwalk to bypass the area north of Ward Avenue where the haul road has been washed out to serve hikers, bikers, and persons with disabilities. Equestrians will use the beach for the northern leg of their coastal trail.
- Provide rest stops along the haul road where there are intersections with major trails serving park use areas. These should be frequent enough to serve elderly and disabled visitors and should include benches, interpretation, and orientation for coastal trail users.

### **EQUESTRIAN TRAIL**

See the Land Use Element, page 113, for the existing condition of the equestrian trail.

- Monitor, maintain, and specially surface where necessary, a designated year-round equestrian trail from Pudding Creek to Ten Mile River.

Table C-1. Summary of existing and additional needed management activities at U.S. Pacific Coast snowy plover breeding and wintering locations. Information based on 1998 survey of land managers as supplemented by subsequent information (from western snowy plover recovery team, U.S. Fish and Wildlife Service field office staff, and other commenters).

no.	Location	Mgt. Goal Breeding Nos. (adult Birds)	Current (=C) and Additional (=A) Management																		Owner and/or Manager			
			Access	Boats	Contaminant	Cooperation	Development	Driftwood	Enforce	Enhance	Exclosures	Fence	Horses	Info. & Ed.	Kites	Livestock	Military	Monitor	OHV's	Pets		Predators	Signs	Vegetation
CA-13	McNutt Gulch	10				A											A							Private
	Additional for CA-13: Seek cooperative agreement to monitor and use exclosures if nests found.																							
CA-14	MacKerricher Beach, 1-2	20				CA			A		A						C	C	CA		A	C	CDPR 1	
			A			CA			A		A	C	A	A			C		CA		A	C	CDPR 2	
	Comment for CA-14: Unit 1 is from Ten Mile Beach to Ward Avenue: Unit 2 is Virgin Creek Beach.																							
	Additional for CA-14: Install informational signs at access points to the two beaches; prohibit development or additional access/parking at Ten Mile beyond what currently exists; <span style="background-color: yellow;">prohibit boardwalk construction north of Ward Avenue</span> ; improve trash control; and remove fence with confusing information at Virgin Creek. Use exclosures when nesting occurs.																							
CA-15	Manchester Beach	0	A				C		A		A						A	C	C		A	A	CDPR	
						A																	Private	
	Additional for CA-15: Use exclosures if nesting occurs. Comment: Monitoring by PRBO.																							
CA-16	Salmon Creek	10		C					A		A	A					A		A				CDPR	
						A																	Private	
CA-17	Bodega Harbor	0																					State	
CA-18	Doran Spit	0				A											A						Sonoma County	
	Additional for CA-18: Use exclosures if nesting occurs. Comment: Monitoring by PRBO.																							
CA-19	Dillon Beach	0				A											A						Private	
	Additional for CA-19: Use exclosures if nesting occurs. Comment: Monitoring by PRBO.																							