



## **Wasted Time and Resources: Three Examples of State Parks' Abandonment of Its Mission**

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The Mission of California Department of State Parks and Recreation (State Parks) is to provide for the health, inspiration and education of the people of California by helping to preserve the state's extraordinary biological diversity, protecting its most valued natural and cultural resources, and creating opportunities for high-quality outdoor recreation. In the past decade, State Parks has strayed too often from this mission while the environmental and social needs for a robust steward of California's State Parks system have intensified.

Parks advocates, conservation organizations and scientists have coalesced in recent years to oppose State Parks' seeming abdication of its mission and legislative mandates. Three examples of this abandonment include the matters of Washoe Meadows State Park, Oceano Dunes State Vehicle Recreation Area, and what is commonly referred to as Tesla Park. These three contentious and tenaciously fought matters illustrate the depth of dedication by parks advocates to compel State Parks to embrace its public interest mission. But they also illuminate a nagging reluctance by State Parks to follow that same mission to resolve disputes that drain resources and establish barriers between State Parks and organizations—like Sierra Club—that would otherwise be natural allies. A simple resolution of these disputes could give truth to Governor Gavin Newsom's executive order and verbal commitment to preserve biodiversity.

With this paper, we briefly describe each of the three matters and urge State Parks to return to its mission and in doing that, resolve these disputes in the best interest of providing health, inspiration and education while protecting biodiversity and valued cultural and natural resources.

### **Washoe Meadows State Park**

The state purchased Washoe Meadows, located near South Lake Tahoe, for a state park in 1984, citing the land's natural resource values, including meadows, forests, cultural sites, fens and other wetlands. In 2006 State Parks began a move to strip the park of its 1984 legislated protection by proposing an unprecedented downgrade in classification that would allow up to 9 holes of a golf course to move into the park. The project was to open the way to remedy a stretch of the Upper Truckee River that had been damaged in great part due to the presence of the original golf course.

Fens are peat-forming, bog-like wetlands that take up to 10,000 years to be formed through the cycles of groundwater inflow and slow plant decomposition. They are awe-inspiring settings of great biological significance. They support unique and diverse plant and animal communities and provide important watershed benefits. The fens of Washoe Meadows have thrived under park protection, and they represent a scientifically noted triumph among wetlands worldwide as encroaching development and ground water disturbance increasingly threaten the stability of these fragile ecosystems.

The California Native Plant Society examined the fens in Washoe Meadows and declared them among the most outstanding sites according to their Conservation Significance rankings. Protection for these special wetlands is imperative, but the State Parks to expand the golf course into the park did not represent the best choice for the fens or other natural and cultural resources in the park. State Parks' environmental documents did not initially highlight the fens as important features, instead referring to them as "spring complexes."

Despite continual and coherent opposition by scientists, park advocates and economists, State Parks spent 13 years (2006 to 2019) pushing this environmentally destructive plan to move the golf course holes into the park. Among the resources wasted by State Parks in the furtherance of their proposal to move the golf course into the park:

- Countless hours of their staff, contractors, attorneys in defense of the plan.
- \$358K spent on logging, including an area where State Parks planned to put a golf course bridge across the river to allow access to the planned golf course holes in the park.
- \$25K in contracts with public relations firms in order to promote State Park's ill-conceived plan.
- An unknown amount of money to hire a contractor to install an over-capacity pump in order to expand golf course irrigation from the current location to the new location planned for inside the Park.

Finally, after 12 years of public activism, including lawsuits requiring State Parks to pay \$578,000 in legal fees, and after persistent public outcry to the California Parks & Recreation Commission, the Commission voted in 2019 to prohibit locating any golf holes into the Park.

However, even now, Washoe Meadows remains at risk as State Parks continues to resist public input, including information raised by scientists, about the best ways to protect all of the park's resources. Public input on environmental documents seems to be no more than a pro forma, "check the box" process, rather than receiving serious consideration.

State Parks' resistance to addressing legitimate concerns in Washoe Meadows is illustrated by its aggressive and premature work to replace a culvert and rebuild a road—located next to a fen—that over 37 years had reverted to a trail. Parks had designated the new road as a "haul road" in the environmental documents prepared for the golf course project that has been thwarted. Nevertheless, State Parks completed the road to allow truck traffic for unknown

purposes. This is of concern because of the fen's sensitivity to vehicle emissions and due to an incised stream that threatens over-drainage of the fen through the culvert. Attempts to meet with high level State Parks staff to resolve these issues have met with delegation and superficial rejection of the concerns.

It is time to see a new river restoration project that does not damage park resources and which is not primarily designed to satisfy commercial interests. Park resources must be preserved as part of the public trust doctrine duties of State Parks. Washoe Meadows State Park must be protected for present and future generations.

### **Oceano Dunes State Vehicle Recreation Area**

The litany of State Parks' management failures at the Oceano Dunes State Vehicular Recreation Area (ODSVRA), located in San Luis Obispo County, is four decades long.

In summary:

- For 38 years, State Parks has failed to comply with its Coastal Development Permit (CDP), which required designation of a permanent entrance and staging area within 18 months of the State Parks receiving its permit for the ODSVRA in 1982.
- For 32 years, the ODSVRA has failed to conform with San Luis Obispo County's Local Coastal Program (LCP), which requires designation of 580 acres of County-owned land (the La Grande Tract) within the park as a buffer between the riding area and the Dunes Preserve and which prohibits off-highway vehicle activity in environmentally sensitive habitat areas (ESHA).
- *Interim* vehicle limits were set 19 years ago and have never been adjusted. State Parks has failed to conduct a carrying capacity study to determine how many vehicles the dunes ecosystem can withstand without long-term environmental damage.
- For 17 years, State Parks has refused to heed the advice of the Technical Review Team's scientific subcommittee to study the potential benefits of a year-round closure of the ODSVRA's snowy plover nesting area to vehicle traffic.
- For 11 years and counting, State Parks has disputed the findings of a peer-reviewed study commissioned by the San Luis Obispo County Air Pollution Control District, which found that dust plumes blowing off the dunes, largely the result of OHV activity, are the reason why this area of the county is frequently the site of the worst air quality in the nation. State Parks has devoted funding and energy to dispute the study's findings and has dragged its feet on implementing agreed-upon dust control measures. In the words of Larry Allen, former Air Pollution Control Officer for San Luis Obispo County: *"I've never dealt with a more recalcitrant or unscrupulous organization than State Parks' OHV Division. Their corporate culture is simply not conducive to solving any issue that's not beneficial to their core mission: To enhance and expand OHV parks."* State law defines environmental justice as *"... the fair treatment of people of all races, cultures, and*

*incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.”* Residents downwind of ODSVRA have suffered through hazardous air pollution levels due to State Parks’ allowed access for millions of vehicles per year, and residents of Oceano have been excluded from the benefits of pedestrian access to its beach, available to all other coastal communities.

State Parks has released a draft Habitat Conservation Plan (HCP) predicated on the idea that an HCP must “balance” the requirement to conserve habitat against the desire to perpetuate and expand activities which adversely impact that habitat. The HCP proposes not to increase protections for dune habitat and listed species to ensure their recovery, but to expand riding areas, opening up currently protected areas to increased off-road activity -- contrary to the requirement of the Endangered Species Act to assure the protection and recovery of listed species, the fundamental purpose of a Habitat Conservation Plan.

In conjunction with the draft HCP, State Parks has issued a draft [Public Works Plan](#) (PWP) for the future management of the ODSVRA and Pismo State Beach. The draft PWP ignores hundreds of public comments submitted over the last few years urging conservation of the park’s Oso Flaco Lake Natural Area. Instead, State Parks has drafted a plan that would aggressively develop and transform this natural area with an “Improvement Project” that would convert 120 acres of prime agricultural and dune land in designated ESHA, adding 200 RV campsites with 12 restroom/shower buildings; 100 drive-in tent sites with 8 restroom/shower buildings; 20 cabins; 40 parking spaces for large vehicles, including RV’s, buses, and trailers; 45 parking spaces for fleet and emergency response vehicles including ATV’s, trailers, and watercraft; 95 parking spaces for year-round staff parking; and many other structures and facilities, including three new dump stations, a half-acre multi-purpose area, concession buildings with a camper convenience store, amphitheater, office buildings, staff residences, maintenance and storage equipment and facilities, and single and multi-family residences and 30 parking spaces for year-round and seasonal staff. A new vehicle trail would connect the Oso Flaco Lake development to a new southern entrance to the Oceano Dunes off-highway vehicle area, carved out of dunes ESHA.

Under the California Coastal Act, high-impact OHV recreation is not a resource-dependent activity – an activity that must be located in a coastal area in order to occur. The Coastal Act also designates the vast majority of the Oceano Dunes as ESHA. For these reasons, conversion from OHV use to low-impact coastal recreation must be part of State Parks’ future management plan for the area in order for it to comply with the Coastal Act.

State Parks claims that ongoing off-road vehicle activity at Oceano Dunes is mandated and wholly bound by the state’s OHV statute, PRC 5090, a claim rebutted by the California Coastal Commission in its staff report of July 11, 2019, which clarifies that the state’s OHV law:

*“...allows for closing off OHV use where it is causing the types of problems it is causing at ODSVRA. In addition, and perhaps just as compelling, PRC Section 5090 does not somehow preempt other State laws, including the Coastal Act (and by extension the LCP). On the contrary, as with other laws affecting the same resources, it is important to harmonize the laws as much*

*as possible. On that point, here, proper application of both laws based upon facts on the ground would appear to suggest the same outcome: namely that OHV use at this location is not sustainable, and the time has come to transition to other appropriate recreational uses.”*

In the short term, Coastal Commission staff is also recommending increased enforcement of vehicle use limits, additional fencing off of sensitive coastal resource areas, prohibiting nighttime vehicular activity, prohibiting vehicle crossing of Arroyo Grande Creek when it flows to the ocean, and permanent closure of seasonal endangered species exclosure areas, among other measures. As State Parks has refused to voluntarily implement these measures or incorporate them into its draft PWP in the 19 months since the Commission issued this directive, Coastal staff is recommending the immediate amendment of State Parks’ Coastal Development Permit to require their implementation.

### **Tesla Park**

The story of Tesla Park is one of an ill-conceived government purchase decision colliding with science and community demands. This collision has resulted in more than 20 years of unnecessary conflict and wasted funds. It remains a confounding reality that this conflict has not been resolved, even after the legislature paved a way in 2018 for State Parks and its Off-Highway Motor Vehicle Recreation (OHMVR) division to settle the issue without financial loss to OHMVR.

Specifically, in the late 1990s a privately owned 3,100-acre area in the rolling hills of Southeast Alameda County came up for sale. Without producing an environmental impact report—or, one could argue, thinking the issue through--OHMVR worked over about four years to purchase several parcels making up the 3,100 acres. The division paid about \$9 million for the land, which is near, and shares a small border with, Carnegie State Recreational Vehicle Area to the east. For over the last two decades, the division has struggled to win support for developing Tesla into a motorized park.

Had OHMVR used more care before buying the land, it might have realized that the purchase would draw a barrage of opposition. Local and regional residents, city councils and the County of Alameda, national and regional environmental organizations, scientists and indigenous groups rooted in the region have opposed converting Tesla Park into a motorized venue.

Tesla Park sits at a site where several biosystems converge. It is a richly biodiverse area that has drawn naturalists, ecologists, zoologists, and other life scientists to that land for more than 100 years to study nature and natural systems. As a December 8, 2020 Bay Nature op-ed by leading scientists noted:

*...Tesla’s location makes it a bottleneck through a critical wildlife corridor — its degradation would choke off movements of animals and the flow of genes necessary for resilience of their populations throughout the Mt. Diablo habitat region.*

*Tesla is home to 42 special status wildlife species, including the threatened California redlegged frog, the Alameda whipsnake, and endangered Foothill yellow-legged frog (now extirpated from the neighboring Carnegie SVRA). It also holds 13 special status plant species, 28 locally rare plant species, and 7 sensitive vegetation communities.*

*Tesla's faunal and floristic richness arises in part from its location at the triple-junction of ranges of Coast Range, Eastern California, and San Joaquin Desert species. A recent botanical, ecological, and endangerment analysis of habitats statewide for native plant conservation included the Tesla area among the **top conservation priorities for California**. Additionally, Tesla contains irreplaceable cultural resources, including Native Californian archeological and ceremonial sites and the historic town site of Tesla.*

*OHV recreation inflicts well-documented damage...on natural landscapes and native species, by destroying vegetation cover, in turn leading to wind-borne dusts and erosive flows during wet periods, gullying and sediment deposition into ponds and streams and degrading channel habitat and water quality. Noise, vibrations and direct collisions kill or drive away birds, mammals, reptiles and amphibians, as well as humans seeking quieter outdoor experiences.*

The scientists further noted that OHV use in the Tesla area would stir massive amounts of soil dust that carries fungal spores. This would increase the risk to people working, recreating or living in the area to the serious fungal disease known as San Joaquin Valley Fever

Katherine Perez, one of the tribal chairpersons for the Northern Valley Yokuts, Bay Me-wuk and Ohlone tribes, published an op-ed in December 2020 in the Stockton Record, calling for protection of Tesla Park and compellingly laying out its importance to Native American groups.

*Tesla is important to the descendants of California Native American Tribes from the East Bay and Northern San Joaquin Valley. Tesla is part of our ancestral lands. Tesla holds exceptional archeological and spiritual features, including sacred ceremonial and burial sites. Tesla is vital to our heritage— it's our history and connection to our future. Tesla also provides an invaluable way to expand the understanding of all Californians of the First Californians to inhabit our state.*

*Northern Valley Yokuts and representatives of other tribes and Native American groups have long opposed State Park's plan to open Tesla to OHV recreation. We participated in the environmental review process, but our requests to exclude ORV recreation from Tesla were not addressed. The response that State Parks will continue to consult with Native peoples echoed the terrible past.*

Other Tesla Park supporters have noted that the Carnegie State Vehicle Recreation Area just east of Tesla, is a prime example of some of the worst impacts that off-highway motor vehicle use can have on the area's landscape. Hillsides have been eroded beyond repair, and have

remained that way for decades, despite State Park efforts to fix the area and prevent further damage.

Proponents for keeping Tesla Park non-motorized and opening its gates to allow passive recreation and nature study, including Sierra Club staff and members, have met many, many times over the years with heads and staff of State Parks and the Natural Resources Agency. They have also met with staff close to the current and previous governor. All meetings have been frustratingly inconclusive. One common theme during some of the meetings has been the argument presented by State Parks that it did not have the authority to a.) remove motorized recreation from Tesla Park's plans and make it a non-motorized park or b.) spend OHMVR resources to set aside Tesla Park as a preserved area as mitigation for damage to other landscapes.

In 2018, by strong majorities in both houses, the California legislature passed a bill that would have allowed—not required, but allowed—State Parks to sell Tesla Park to another entity to conserve the area and protect it from conversion to a motorized park if State Parks received compensation of at least \$9 million. The legislation would have essentially made State Parks “whole” financially while also allowing negotiations to begin for a regional park entity or a land trust to acquire Tesla. The Altamont Landfill Open Space Committee very publicly committed that it would provide the funds required for the transaction. Governor Newsom vetoed the bill, indicating an interest in keeping the land within State Parks.

Over the years, State Parks has failed to produce an acceptable environmental impact report (EIR) for its Tesla Park proposal. In January 2021, a Sacramento Superior Court judge firmly invalidated the current EIR and made it clear that OHMVR may use its funds to preserve Tesla. It is not required to turn the area into a motorized park.

Legislative champions of Tesla Park's preservation have begun developing new legislation to, again, try to resolve this issue before it's too late. Too late would include the loss of available funds to make OHMVR whole. The demand for funds for open space preservation is high, and the Altamont Landfill Open Space Committee's offer of funds in exchange for guarantees that Tesla Park will be permanently nonmotorized is not a timeless offer.

In fact, legislation isn't required to save Tesla Park. State Parks could act on its own to permanently protect Tesla Park. For whatever undefined reason, it has decided not to. Nor has the Natural Resources Secretary or Governor acted to protect the park, as they easily could.

Tesla Park is a sad example of State Parks' inability to act in the best interests of the environment, in the best interests of the vast majority of parks users in the state and region, and in the best interests of science and cultural values.

As the scientists who wrote the Bay Nature op-ed said, “Sacrificing Tesla Park is one of the worst public land stewardship decisions that could be made in California in terms of biodiversity

and public health. Its replacement by an OHV recreation area endangers not only the environment, but also the health of Californians.”

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*Sierra Club California is the legislative and regulatory arm of the Sierra Club in California, representing 13 local chapters and nearly 180,000 members in the state.*

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