

Justice is Coming to Oceano Dunes

by Andrew Christie



USFWS

On February 21, the California Coastal Commission filed its opening brief in its appeal of the ruling in *Friends of Oceano Dunes v. California Coastal Commission*, the most consequential legal battle in the lawsuit-laden history of the Oceano Dunes State Vehicular Recreation Area.

The California 2nd District Court of Appeals will hear arguments later this year and decide whether to uphold or strike down the superior court's ruling barring the Coastal Commission from removing off-highway vehicles from the dunes to halt the environmental damage done by OHVs. After the appellate court issues its ruling -- and after that ruling is inevitably appealed by one party or the other to the California Supreme Court -- the fate of the Oceano-Nipomo Dunes complex will be decided: Either local residents will be able walk on their beach without taking their lives in their hands, the dunes will finally be allowed to recover and flourish as habitat for multiple endangered and threatened species and dust pollution emissions will fall to insignificant levels, or the dunes will continue to be ground to dust under the wheels of a special interest group.

A hopeful portent of things to come: In January, the appellate court affirmed that protective measures the Coastal Commission put in place [in its 2021 decision](#) amending the Oceano Dunes coastal development permit shall be in effect while litigation continues over the big enchilada: No more off-road vehicles allowed.



Oceano SVRA in 2020, when it was safe to walk on the beach. Photo by Carole Mintzer

In full force per the court's order:

- State Parks must regularly monitor the Arroyo Grande Creek area to ensure that users are not allowed to cross to the southern side of the creek when it flows at a depth of 12 inches or more.
- A ban on off-roading in areas of the dunes that are fenced off for restoration or the protection of habitat and Native American sites has been reinstated.
- A 300-acre enclosure of habitat for the endangered California least tern and threatened western snowy plover, closing the area to vehicle traffic, is now in effect year-round.
- Another shorebird habitat enclosure south of milepost 4.5 must be closed seasonally between March 1 and Sept. 30 every year.

For environmental advocates, the biggest victory in the court's order is the 300-acre, year-round closure of least tern and plover habitat. For decades, the Coastal Commission, Sierra Club, and a scientific committee implored State Parks to at least experiment with a year-round closure of the habitat area instead of its standard practice of closing the area to traffic only during nesting season. That practice meant that from March through September, the plovers could make use of any wrack that washed up on the beach and natural contours in the sand for their nests -- all of which would then be smashed flat from October through February. The obvious biological advantages of year-round closure will now be realized.

"We commend the appellate court for recognizing the state's obligation to protect our coastal resources," said Sierra Club Santa Lucia Chapter Chair Mila Vujovich-LaBarre. "We hope they will continue that trend and go on to uphold all the other protective permit conditions the Coastal Commission mandated in 2021."

State Parks' coastal development permit caps camping reservations at 1,000 per day, but from now through September a seasonal reduction in reservations is in place to protect the snowy plovers during their nesting season.