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AB-1426 Public resources: San Onofre State Beach: Richard H. and Donna O'Neill Conservancy: road construction. (2019-2020)

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Assembly Bill No. 1426

CHAPTER 168

An act to add Section 5002.8 to the Public Resources Code, relating to public resources.

[Approved by Governor September 25, 2020. Filed with Secretary of State September 25, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1426, Boerner Horvath. Public resources: San Onofre State Beach: Richard H. and Donna O'Neill Conservancy: road construction.

Existing law vests the Department of Parks and Recreation with control of the state park system, which includes state beaches. Existing law vests the Department of Transportation with full possession and control of the state highway system and associated property.

This bill would prohibit certain joint powers agencies from constructing, funding, or operating a major thoroughfare within a specified area of Southern California, and would restrict the authority of the Department of Transportation to approve, permit, take possession of, or otherwise authorize the construction of a major thoroughfare in that same area, as specified. The bill would prohibit a state agency, city, county, joint powers authority, regional transportation agency, or other local government entity, or any other person or entity, from constructing, funding, approving, or otherwise authorizing the building of a street, road, or highway in or on, or that encroaches on, San Onofre State Beach or lands that are part of the Richard H. and Donna O'Neill Conservancy, with specified exceptions.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

- (a) San Onofre State Beach is California's sixth most popular state park and serves more than 2,000,000 visitors each year.
- (b) San Onofre State Beach's campgrounds provide greatly needed affordable coastal accommodations that provide critical coastal access opportunities for California families and visitors who contribute to California's economy.
- (c) Studies indicate that visitors to San Onofre State Beach contribute more than \$6,000,000 to California's coastal economy.
- (d) San Onofre State Beach is home to the world-class Trestles surfing area that was immortalized in the famous Beach Boys song "Surfin' USA."
- (e) Protecting San Onofre State Beach is important to California's economy, quality of life, and environment.

(f) In 2016, the Attorney General, State Park and Recreation Commission, Native American Heritage Commission, Foothill/Eastern Transportation Corridor Agency, and conservation organizations entered into a legal settlement agreement protecting San Onofre State Beach and the Richard H. and Donna O'Neill Conservancy from a proposed tollroad project.

(g) As part of the settlement agreement, the Foothill/Eastern Transportation Corridor Agency agreed to not construct a road through the agreement's defined "avoidance area," which consists of undeveloped lands that are critical to maintaining the integrity of, and connectivity to, habitat conservation plan areas in the Counties of Orange and Riverside, as recognized in the California Essential Habitat Connectivity Project prepared for the Department of Fish and Wildlife, and includes San Onofre State Beach and the Richard H. and Donna O'Neill Conservancy. The avoidance area does not include Interstate 5 and certain lands immediately adjacent to Interstate 5.

(h) In 2016, the Natural Resources Agency, the Department of Transportation, the Foothill/Eastern Transportation Corridor Agency, and conservation organizations signed an agreement whereby the Department of Transportation agreed to not authorize the construction of a major thoroughfare in the agreement's avoidance area, except for projects to widen Interstate 5, and the Foothill/Eastern Transportation Corridor Agency agreed to not fund or construct a road in the agreement's avoidance area.

(i) This act is necessary to ensure the protection of San Onofre State Beach and the Richard H. and Donna O'Neill Conservancy.

SEC. 2. Section 5002.8 is added to the Public Resources Code, to read:

5002.8. (a) For purposes of this section, the following definitions apply:

- (1) "Avoidance area" means the lands encompassed within the avoidance area as defined in the consent decree.
- (2) "Consent decree" means the judgment confirming and implementing the settlement agreement as entered by the San Diego Superior Court on January 19, 2017, for case numbers GIN051194, GIN051371, 37-2013-00049797-CU-WM-CTL, 37-2013-00050001-CU-WM-NC, and GIN051370.
- (3) "Orange County Southern Subregion Habitat Conservation Plan" means the habitat conservation plan developed pursuant to Section 10(a)(1)(B) of the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.) as approved by the United States Fish and Wildlife Service on January 10, 2007.
- (4) "Protective agreement" means the Agreement to Address Traffic Congestion in South Orange County and Protect Sensitive Environmental, Cultural and Recreational Resources entered into by the Department of Transportation, the Natural Resources Agency, the Foothill/Eastern Transportation Corridor Agency, and the Save San Onofre Coalition, on or about March 10, 2017, pursuant to the consent decree.
- (5) "Richard H. and Donna O'Neill Conservancy" means those lands that are part of the Richard H. and Donna O'Neill Conservancy and all lands that were part of the Richard H. and Donna O'Neill Conservancy on July 1, 2019.
- (6) "San Onofre State Beach" means those lands that are currently part of San Onofre State Beach and all lands that were part of San Onofre State Beach on July 1, 2019, including, but not limited to, that portion of Cristianitos Road within the boundaries of San Onofre State Beach.

(b) Notwithstanding any other law, a joint powers agency acting pursuant to Section 66484.3 of the Government Code shall not construct, fund, or operate a major thoroughfare within the avoidance area.

(c) The authority of the Department of Transportation to approve, permit, take possession of, or otherwise authorize the construction of a major thoroughfare in the avoidance area shall be restricted in accordance with the terms and conditions of the protective agreement.

(d) (1) Except as provided in paragraph (2), a state agency, city, county, joint powers authority, regional transportation agency, or other local government entity, or any other person or entity, shall not construct, fund, approve, or otherwise authorize the building of a street, road, or highway in or on, or that encroaches on, San Onofre State Beach or the Richard H. and Donna O'Neill Conservancy.

(2) This subdivision does not apply to the construction, funding, approval, or authorization of any of the following:

(A) Any new road by the Department of Parks and Recreation that is designed primarily to serve visitors to, or for the management of, San Onofre State Beach and has the sole and exclusive terminus within San Onofre State Beach.

(B) Any new road by the Richard H. and Donna O'Neill Conservancy that is designed primarily to serve visitors to, or for the management of, the Richard H. and Donna O'Neill Conservancy and has the sole and exclusive terminus within the Richard H. and Donna O'Neill Conservancy.

(C) Any improvement to an existing road in San Onofre State Beach or the Richard H. and Donna O'Neill Conservancy, the primary purpose of which is to serve visitors to those facilities, but excluding improvements primarily designed to serve through traffic.

(D) Any proposed widening of the existing Interstate 5 facility by the Department of Transportation.

(E) Other projects to widen or construct a road or a highway, including any related improvements, mitigation measures, or other requirements, that are located outside of, and do not cause direct adverse impacts to, the avoidance area.

(F) Mitigation measures that improve nonmotorized trails or natural resources within San Onofre State Beach or the Richard H. and Donna O'Neill Conservancy.

(G) Any road, improvement, or facility that encroaches on the northwestern boundary of the Richard H. and Donna O'Neill Conservancy if all of the following conditions are met:

(i) The road, improvement, or facility is a covered activity under the Orange County Southern Subregion Habitat Conservation Plan.

(ii) The road, improvement, or facility does not exceed by more than 10 percent the impacts contemplated in the Orange County Southern Subregion Habitat Conservation Plan for that road, improvement, or facility.

(iii) The entire length of the encroachment abuts the northwestern boundary of the Richard H. and Donna O'Neill Conservancy.

(e) This section does not limit the authority of the federal government to construct roads within Camp Pendleton.