

Evidence Confirms Prohibition of Dogs at Scott Creek Beach  
to be Santa Cruz County Policy of Record

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submitted to Parks and Recreation Commission  
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Documentation contradicts Director Gaffney's statement in his email dated January 13, 2020:

*"The Biological Opinion was created for a project **that was never completed or adopted by the county**. The signs that are currently in place at Scott Creek require dogs to be on leash. Those signs have been in place at Scott Creek for over a decade. It would not be appropriate to make such a sweeping policy change without consultation with county counsel, regulatory agencies and providing public notice/meetings to discuss it."*

There is no policy change to make. The policy preceded Director Gaffney.

The following documents (I through XII), all available from online county websites, provide the evidence.

**Document I.** Historically, as soon as the County of Santa Cruz Department of Parks, Open Space and Cultural Services (County) began to provide access enhancement at Scott Creek Beach, intending to use Federal Highway Administration's (FHWA) funding, the dye was cast. The 1996 USFWS (the Service) November 14, 1996 Biological Opinion was the result and its "beach rules" remain in effect today as **county policy**.

**1993 - 1996 Consultation History with USFWS**  
(pages 1 and 2 of the 1996 Biological Opinion Scott Creek Beach)

"At issue are the effects that the Federal Highway Administration's (FHWA) partial funding of beach access enhancement and dune restoration at Scott Creek Beach, Santa Cruz County, California, may have on the federally threatened western snowy plover (*Charadrius alexandrinus nivosus*) and on its proposed critical habitat."

"During **September 1993**, the County of Santa Cruz Department of Parks, Open Space and Cultural Services (County) requested that the Service review beach enhancement projects at Laguna and Scott Creek beaches with regard to their potential effect on the western snowy plover. After a field visit to these sites during the fall of 1993, **the Service recommended, in a letter dated December 28, 1993, that the County apply for a permit**, pursuant to section 10 (a)(1)(B) of the Act. The Service envisioned the County preparing a

habitat conservation plan that would evaluate and mitigate all the proposed activities at both Scott Creek and Laguna Beaches.

"The Service received a draft **habitat conservation plan** (HCP) for the western snowy plover at Scott Creek Beach on December 5, **1994**. Laguna Creek Beach was not included in this draft HCP because the improvements proposed there consisted solely of preserving and protecting sensitive habitat. The Service provided comments on the draft HCP to the County on January 10, 1995. **A final draft HCP, in response to the Service's comments, was received on April 4, 1995 and again on July 26, 1995.**

"Upon further review of this proposal in January 1996, the Service concluded that an incidental take permit pursuant to section 7 of the Act may be more appropriate for this project because **a majority of the funding for the project was being provided by the FHWA**. The Service, County, and the California Department of Transportation (Caltrans) (acting as the agent for FHWA) discussed this conclusion through a conference call on January 29, 1996.

"A meeting was held at the proposed project site on February 7, 1996 to obtain additional information on the project and the proposed mitigation measures. That meeting was attended by staff from the Service, the County, and the Point Reyes Bird Observatory. Based on information presented at the meeting, the Service recommended that the County make a few minor modifications to its HCP and upon approval by FHWA and Caltrans, the original HCP would be submitted to the Service as a biological assessment to initiate formal consultation in accordance with section 7 of the Act."

**Document II.** The Snowy Plover was listed federally as a threatened species on March 5, 1993.

### **Determination of Threatened Status for the Pacific Coast Population of the Western Snowy Plover 50 CFR Part 17**

<https://www.fws.gov/arcata/es/birds/WSP/documents/1993Mar5%20Determination%20of%20Threatened%20Status%20for%20WSP%2058%20FR%2012864.pdf>

**Document III.** During the 1993 - 1996 Scott Creek Beach process (above) the Santa Cruz County General Plan was amended and its LCP provides an overarching layer of protections for the Western Snowy Plover at Scott Creek Beach.

## 1994/5/24 Santa Cruz County General Plan

<https://www.federalregister.gov/documents/2012/06/19/2012-13886/endangered-and-threatened-wildlife-and-plants-revised-designation-of-critical-habitat-for-the>

### Objective 5.1 - Biodiversity

#### 5.1.7 Site Design and Use Regulations (LCP)

Protect sensitive habitats against any significant disruption or degradation of habitat values in accordance with the Sensitive Habitat Protection ordinance. Utilize the following site design and use regulations on parcels containing these resources, excluding existing agricultural operations:

#### **(d) Prohibit domestic animals where they threaten sensitive habitats.**

### Objective 5.3 - Aquatic and Marine Habitats

#### 5.3.2 Protecting shorebird Nesting Sites

Discourage all activities within 100 feet of shorebird nesting sites during nesting season (March-July). **Prohibit dogs from beaches having nesting sites.**

**Document IV.** Beach rules specified in the USFWS Biological Opinion, listed by the Federal Government as a requirement for a permit to develop access infrastructure using FHWA funding included that pets (dogs) are prohibited.

#### **11/14/1996 Biological Opinion Scott Creek Beach (page 8)**

"A sign, or signs, informing beach users of the sensitivity of the western snowy plover and its nesting habitat, describing applicable recreational access restrictions, and clearly stating beach use rules shall be placed at the parking area and at designated access points for Scott Creek Beach.

*"Beach rules to be posted shall include the following:*

- Overnight camping is prohibited.
- **Pets are prohibited.**
- Littering is prohibited.
- Open fires are prohibited.
- Off-road vehicles of any type are prohibited."

**Document V.** Somehow, over the years, the access enhancement project became known as the "North Coast Beaches Project Phase 1, Scott Creek Beach." As an example, here is an update from then Parks Director Barry Samuel, on the work in progress, as submitted to the Board of Supervisors on 5/12/2000.

[https://sccounty01.co.santa-cruz.ca.us/BDS/Govstream2/Bdsvdata/non\\_legacy\\_2.0/agendas/2000/20001114-124/pdf/033.pdf](https://sccounty01.co.santa-cruz.ca.us/BDS/Govstream2/Bdsvdata/non_legacy_2.0/agendas/2000/20001114-124/pdf/033.pdf)

**Document VI.** Notice of completion of the project for which the USFWS Biological Opinion was written with beach rules (as above) was presented to the Board of Supervisors on 6/25/2002. It includes an extensive list of the components of the project.

### **North Coast Beaches Project, Phase I, Scott Creek Beach Project Notice of Completion**

[https://sccounty01.co.santa-cruz.ca.us/BDS/Govstream2/Bdsvdata/non\\_legacy\\_2.0/agendas/2002/20020625-183/pdf/062.pdf](https://sccounty01.co.santa-cruz.ca.us/BDS/Govstream2/Bdsvdata/non_legacy_2.0/agendas/2002/20020625-183/pdf/062.pdf)

**Document VII.** Twelve years after the completion of the access project at Scott Creek Beach, an additional layer of management responsibility was added with "critical habitat" designation at SCott Creek Beach by USFWS.

**6/19/2012 Snowy plover Federal Register notice of "critical habitat" designation** (page 36765)

<https://www.federalregister.gov/documents/2012/06/19/2012-13886/endangered-and-threatened-wildlife-and-plants-revised-designation-of-critical-habitat-for-the>

*"This unit is essential to the conservation of the species because, with proper management, and in conjunction with the other two relatively small units designated in Santa Cruz County (CA 17 and 19), it can attract additional breeding Pacific Coast WSPs and thereby facilitate interchange between the larger units at Half Moon Bay (CA 16)."*

**Document VIII.** In a report to the Parks and Recreation Commission on December 10, 2014 regarding Off-Leash Dog Areas, then Director of Public Works John Presleigh, by signature of Betsey Lynberg, explained the county policy of the **prohibition of dogs** at both Scott Creek Beach and Quail Hollow Ranch.

**12/10/2014 Parks and Recreation Commission agenda packet  
Report on Off-Leash Dog Areas (page 12)**

<https://www.scparks.com/Portals/12/pdfs/PC%20Agenda%20December%202014.pdf>

*"Dogs on-leash are welcome in all Santa Cruz County parks and beaches **with the exception of** Quail Hollow Ranch where dogs are not permitted in sensitive habitat areas and trails located beyond Quail Hollow ranch house and barns, and **Scott Creek Beach** because of sensitive habitat and Snowy Plover nesting areas."*

**Document IX.** The Department of Parks, Open Spaces and Cultural Services applied for a grant on November 5, 2015 from the then County Fish and Game Commission (FGC), to create a new kiosk and signage at Scott Creek Beach. It acknowledged the ESA-listed Snowy Plover.

**2015 Scott Creek Beach sign grant application**

[https://scceh.com/Portals/6/Env\\_Health/water\\_resources/FGC/20151105/4C\\_County%20Parks.pdf](https://scceh.com/Portals/6/Env_Health/water_resources/FGC/20151105/4C_County%20Parks.pdf)

*"The objective of the project is to create a healthier beach and **to better protect** special species that make Scott Creek their home part or all of the year, including **the ESA-listed (threatened) Western Snowy Plover**."*

*"Project goals include: 1) to provide visually compelling and easily understood information about species protection, and in particular how dogs (especially off leash dogs) are harmful to the resident Snowy Plovers; 2) **to offer directions to other nearby beaches where dogs owners can safely take their dogs**; 3) to provide key information about the sensitive beach ecosystems, including why it is important to fish populations to not breach lagoons; and 4) educate members of the public about park rules."*

**Document X.** Although the grant application did not mention that dogs are prohibited at Scott Creek Beach, the Grant Completion Report did so specify, as found in the minutes of the 9/1/2016 now Fish and Wildlife Advisory Commission.

**Grant Completion Report - Scott Creek Beach Signage (next page)**

"In ending, the project was successful in achieving its four established goals:

1) Providing a visually compelling and easily understood information piece about species protection,

2) Offering dog exercise alternatives **while educating dog owners why dogs are not permitted at Scott Creek Beach.**

3) providing key information about sensitive beach ecosystems, and

4) educate visitors about park rules.

[https://www.scceh.org/Portals/6/Env\\_Health/water\\_resources/FGC/2016%20Meetings/FWAC\\_20160901.pdf](https://www.scceh.org/Portals/6/Env_Health/water_resources/FGC/2016%20Meetings/FWAC_20160901.pdf)

**Documents XI and XII.** On October 7, 2021 Director Gaffney reported to the Parks Commission that he did not know why the newly revised Parks website contains ***dogs prohibited*** at Scott Creek Beach on two separate pages. We had downloaded the Dogs in Parks Brochure from the Parks website on March 21, 2012. In fact, the Dogs in Parks Brochure (stating dogs prohibited at Scott Creek Beach and Quail Hollow Ranch) is now documented to have first appeared on the Parks website in October 2008.\*

\* <https://web.archive.org/web/20081007184429/http://www.scparks.com/>

**Parks - Website Dogs in Parks Brochure link (2021)**

<https://www.scparks.com/Portals/12/pdfs/Dog%20park%20rules%20brochure.pdf>

*"Leashed dogs are allowed in all county parks and beaches, **except** for Quail Hollow Ranch **and Scott Creek Beach. These areas have sensitive habitats and dogs are prohibited.**"*

**Parks website - Dogs prohibited at Scott Creek Beach (2021)**

<https://www.scparks.com/Home/ExploreOurParksBeaches/DogsatCountyParks.aspx>

*"Leashed dogs are allowed in all county parks and beaches, **except** for Quail Hollow Ranch County Park **and Scott Creek Beach. These areas have sensitive habitats and dogs are prohibited.**"*

## Appendix A

The following is a list of 43 documents found online specific to Scott Creek Beach, one way or another. In some cases there were multiple online locations of the same document.

1994/5/24 General Plan dogs on beaches with bird nesting.rtf

1994/5/24 GP\_Chapter 5\_Open Space\_Conservation.pdf

1994/5/24 GP\_Chapter 7\_Parks\_Public Facilities.pdf

1996/11/14 BO Scott Creek.pdf

[1998/6/16 Scott Creek Beach EIR Amendment.pdf](#)

[1998/6/16 Supplemental EIR, Scott Creek Beach Access and Dune Enhancement Plan.pdf](#)

1999/6/15 Scott Creek Beach Access Enhancement and Habitat Restoration Project.pdf

[1999/8/10 Scott Creek Beach Grant.pdf](#)

[2000/1/11 Scott Creek Beach Dune Vegetation Contract.pdf](#)

[2000/1/31 Scott Creek Beach Access and Habitat Improvement Project, Notice of Determination](#)

[2000/4/4 Scott Creek Beach Access Enhancement Project grant.pdf](#)

[2000/6/27 Advertise Scott Creek Beach Access Enhancement Project](#)

[2000/8/15 Scott Creek Beach Bid Openings.pdf](#)

2000/9/12 North Coast Beaches Project Phase 1 bids.pdf

[2000/9/26 North Coast Beaches Project. Phase I contract award.pdf](#)

[2000/10/26 North Coast Beaches Project-Phase I contract award.pdf](#)

[2000/11/6 North Coast Beaches Project-Phase I report.pdf](#)

[2000/11/14 North Coast Beaches Project Phase I contract.pdf](#)

[2000/12/5 North Coast Beaches Project Phase I contractor selection.pdf](#)





[2000/12/17 Scott Creek Beach 2000 goal.pdf](#)

[2000/12/27 Scott Creek Beach started construction.pdf](#)

[2001/1/6 Scott Creek Beach facilities.pdf](#)

[2001/2/6 Scott Creek Beach facilities.pdf](#)

[2001/6/26 Scott Creek Beach report.pdf](#)

[2001/6/26 Cleanup of oil contaminatedsoils at Scott Creek Beach](#)

[2001/9/11 Scott Creek Beach grants.pdf](#)

[2001/12/1 Scott Creek Beach Project amendment.pdf](#)

[2001/12/4 Scott Creek Beach project](#)

[amendment.pdf](#)

[2001/12/28 Completed improvements at Scott Creek Beach.pdf](#)

[2002/1/8 Scott Creek Beach budget allocation.pdf](#)

[2002/1/15 Scott Creek Beach completed improvements.pdf](#)

[2002/6/18 Scott Creek Beach contract amendment.pdf](#)

[2002/6/25 North Coast Beaches Project, Phase I, Scott Creek Beach Project Notice of Completion.pdf](#)

[2003/1/28 Scott Creek Beach final environmental report contract 2.pdf](#)

[2003/1/28 Scott Creek Beach final environmental report contract.pdf](#)

[2007/3/21Barry Samuels Proclamation.pdf](#)

[2010/6/24 Scott Creek Beach Parks trash service.pdf](#)

[2010/12 Nesting of Snowy Plover North Beaches .pdf](#)

[2012/6/19 plover federal register notice.pdf](#)

[2014/12/15 Parks Commission Agenda Report on off-leash dog areas.pdf](#)

[2015/11/5 Scott Creek Beach sign F&WC grant application.pdf](#)

[2016/1/26 Scott Creek Beach Informational and Interpretive Kiosk allocation.pdf](#)

Appendix B

**Sample resolution from Parks Commission  
for December 6, 2021 meeting**

Whereas, a prohibition of dogs at Scott Creek Beach has been duly documented as county policy of record;

Whereas, the Department of Parks, Open Space and Cultural Services (the Department) adhered to that policy from before 2002 (the year of completion of the project for which the USFWS Biological Opinion was provided to the county) through 2014;

Therefore, the Parks Commission directs the Department to do the following:

- begin the corrective measures to replace signage in the kiosk at Scott Creek Beach
- consider additional structurally sound trail head signage in case visitors don't see the signage on the kiosk
- report back to the commission on the status of new signage no latter than April 2022