

STAFF SUMMARY FOR OCTOBER 11-12, 2017

2. PUBLIC FORUM (DAY 1)**Today's Item****Information** ☒**Action** ☐

Receipt of public comments, petitions for regulation change, and requests for non-regulatory actions.

Summary of Previous/Future Actions

- | | |
|---|------------------------------|
| • Today's receipt of requests and comments | Oct 11-12; Atascadero |
| • Direction to grant, deny or refer | Dec 6-7; San Diego |

Background

This agenda item is primarily to provide the public an opportunity to address FGC on topics not on the agenda. Staff also includes written materials and comments received prior to the meeting as exhibits in the meeting binder (if received by written comment deadline), or as late comments at the meeting (if received by late comment deadline), for official FGC "receipt."

Public comments are generally categorized into three types under public forum: (1) petitions for regulation change; (2) requests for non-regulatory action; and (3) informational-only comments. Under the Bagley-Keene Open Meeting Act, FGC cannot discuss any matter not included on the agenda, other than to schedule issues raised by the public for consideration at future meetings. Thus, petitions for regulation change and non-regulatory requests generally follow a two-meeting cycle (receipt and direction); FGC will determine the outcome of the petitions for regulation change and non-regulatory requests received at today's meeting at the next in-person FGC meeting following staff evaluation.

As required by the Administrative Procedure Act, petitions for regulation change will be either denied or granted and notice made of that determination. Action on petitions received at previous meetings is scheduled under a separate agenda item titled "Petitions for regulation change from previous meetings." Action on non-regulatory requests received at previous meetings is scheduled under a separate agenda item titled "Non-regulatory requests from previous meetings."

Significant Public Comments

1. Petitions for regulation change are summarized in Exhibit 1, and the original petitions are provided in exhibits 3-4.
2. Non-regulatory requests are summarized in Exhibit 2, and the original requests are provided in exhibits 5-7.
3. Informational comments are provided in exhibits 8-12.
4. FGC also received a request to reconsider Petition #2017-002, related to the parking use exemption for the County of Los Angeles leases at the Ballona Wetlands Ecological Reserve, based on the lack of factual substance in the staff recommendation for denial (Exhibit 13).

STAFF SUMMARY FOR OCTOBER 11-12, 2017

Recommendation

Consider whether any new future agenda items are needed to address issues that are raised during public comment and are within FGC's authority.

Exhibits

1. [Summary table of new petitions for regulation change received by Sep 28 at 5:00 p.m.](#)
2. [Summary table of new non-regulatory requests received by Sep 28 at 5:00 p.m.](#)
3. [Petition 2017-008: Ban the use of any neonicotinoid pesticides](#)
4. [Petition 2017-009: Parking exemption at Ballona Wetlands Ecological Reserve](#)
5. [Email from Peter Flournoy regarding experimental fishing permit for octopus, received Aug 24, 2017](#)
6. [Email from Steve McCormick regarding waterfowl hunting, received Sep 18, 2017](#)
7. [Email from Ron Ellis regarding experimental fishing permit for box crab, received Sep 28, 2017](#)
8. [Email from John Kovach regarding Roosevelt elk, received Aug 19, 2017](#)
9. [Email from Fred Seaman regarding new falconry regulations, received Aug 31, 2017](#)
10. [Email from Raymond Levy regarding P.E.T.A. purchasing hunting licenses and deer tags, received Sep 18, 2017](#)
11. [Email from Bill Corkery regarding effect of restriction on buying licenses, received Sep 20, 2017](#)
12. [Letter from Phoebe Lenhart regarding Roosevelt elk, received Sep 21, 2017](#)
13. [Letter from the Law Offices of Brian Acree on behalf of the Ballona Wetlands Land Trust, dated Aug 28, 2017](#)

Motion/Direction (N/A)

CALIFORNIA FISH AND GAME COMMISSION
RECEIPT LIST FOR REGULATORY REQUESTS: RECEIVED BY 5 PM ON SEP 28, 2017
 Revised 09-29-2017

FGC - California Fish and Game Commission **DFW** - California Department of Fish and Wildlife **WRC** - Wildlife Resources Committee **MRC** - Marine Resources Committee

Tracking No.	Date Received	Response Due (10 work days)	Response letter to Petitioner	Accept or Reject	Name of Petitioner	Subject of Request	Code or Title 14 Section Number	Short Description	FGC Decision
2017-008	9/19/2017	10/3/2017			Trent Orr, Earthjustice and Gregory Loarie, American Bird Conservancy	Pesticide use on DFW lands	Subdivision 2, Chapter 8, T14	Ban the use of any neonicotinoid pesticides on DFW refuges	Receipt: 10/11-12/2017 Action: scheduled 12/6-7/2017
2017-009	9/28/2017	10/12/2017			Walter Lamb Ballona Wetlands Land Trust	Ballona Wetlands Land Trust	630(h)(3), T14	Eliminate parking use exemption for County of Los Angeles leases	Receipt: 10/11-12/2017 Action: scheduled 12/6-7/2017

CALIFORNIA FISH AND GAME COMMISSION
RECEIPT LIST FOR NON-REGULATORY ACTION: RECEIVED BY 5 PM ON SEP 28, 2017
Revised 10-4-2017

FGC - California Fish and Game Commission **DFW** - California Department of Fish and Wildlife **WRC** - Wildlife Resources Committee **MRC** - Marine Resources Committee

Date Received	Name of Petitioner	Subject of Request	Short Description	FGC Decision
8/24/2017	Peter Flournoy On behalf of Dan Major	Experimental fishing permit - octopus	Requests experimental fishing permit to target octopus using a new gear type	Receipt: 10/11-12/2017 Action: scheduled 12/6-7/2017
9/18/2017	Steve McCormick	Waterfowl hunting	Requests reduction in daily bag limit for mallards to no more than three birds	Receipt: 10/11-12/2017 Action: scheduled 12/6-7/2017
9/28/2017	Ron Ellis F/V Defiance	Experimental fishing permit - box crab	Requests experimental fishing permit for brown box crab in support of developing a box crab fishery	Receipt: 10/11-12/2017 Action: scheduled 12/6-7/2017



Tracking Number: **2017-008** (Click here to enter text.)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, 1416 Ninth Street, Suite 1320, Sacramento, CA 95814 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

- 1. Person or organization requesting the change (Required)**
Name of primary contact person: Trent Orr, Gregory Loarie on behalf of American Bird Conservancy
Address: Earthjustice, 50 California St., Ste 500, San Francisco, CA 94111
Telephone number: 415-217-2000
Email address: torr@earthjustice.org; gloarie@earthjustice.org
- 2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested:** F&G Code § 399 ("the commission, when adopting...a regulation pursuant to authority vested in it by this code, may, after at least one hearing, adopt...that regulation pursuant to Section 11346.1 of the Government Code, if it [finds]: That the adoption...is necessary for the immediate conservation, preservation, or protection of birds, mammals, fish, amphibians, or reptiles...."); (F&G Code § 10502 ("The commission may: (a) Exercise control over all mammals and birds in a game refuge; ... (d) Adopt regulations not in conflict with any law for the protection of birds, mammals, fish, amphibians, reptiles, or marine life within a refuge."); F&G Code § 10503 "For the purposes of ... protecting birds, mammals, fish, amphibians, and reptiles, the commission may do all of the following: Acquire ... and administer land... suitable for ... game refuges."); F&G Code § 10504 ("Any property acquired for game refuges shall ... be subject to such regulations as may be prescribed from time to time by the commission for the occupation, use, operation, protection, and administration of such property as game refuges.")
- 3. Overview (Required) - Summarize the proposed changes to regulations:** Ban the use of neonicotinoid pesticides, which are both directly and indirectly harmful to birds, mammals, amphibians, and other vertebrates, on refuge lands subject to the Commission's management jurisdiction.
- 4. Rationale (Required) - Describe the problem and the reason for the proposed change:** See attached "Rationale," which, together with the Section I items above, does not exceed five pages.



SECTION II: Optional Information

5. **Date of Petition:** September __, 2017
6. **Category of Proposed Change**
- ☐ Sport Fishing
 - ☐ Commercial Fishing
 - ☐ Hunting
 - ☒ Other, please specify: wildlife conservation
7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*
- ☐ Amend Title 14 Section(s):.
 - ☒ Add New Title 14 Section(s): to ban the use of any neonicotinoid pesticides on refuges under the California Fish and Game Commission's jurisdiction..
 - ☐ Repeal Title 14 Section(s): [Click here to enter text.](#)
8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition .**
Or ☒ Not applicable.
9. **Effective date:** If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: As soon as possible, especially if any neonicotinoid pesticides are currently being used in any wildlife refuges under the Fish and Game Commission's jurisdiction.
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: 1. U.S. Fish & Wildlife Service memorandum banning use of neonicotinoids in agricultural practices in the National Wildlife Refuge System (July 17, 2014) 2. Gibbons et al. 2015. A review of the direct and indirect effects of neonicotinoids and fipronil on vertebrate wildlife. 3. Hallmann, et al. 2014. Declines in insectivorous birds are associated with high neonicotinoid concentrations. 4. Hladik, et al. 2015. First national-scale reconnaissance of neonicotinoid insecticides in streams across the USA. 5. Mineau & Palmer. 2013. The Impact of the Nation's Most Widely Used Insecticides on Birds. 6. Morrissey, et al. 2015. Neonicotinoid contamination of global surface waters and associated risk to aquatic invertebrates: A review. 7. Sánchez-Bayo, et al. 2016. Contamination of the Aquatic Environment with Neonicotinoids and Its Implication for Ecosystems. 8. Van der Sluijs, et al. 2014. Conclusions of the Worldwide Integrated Assessment on the risks of neonicotinoids and fipronil to biodiversity and ecosystem functioning. 9. Wood, et al. 2017. The Environmental Risks of Neonicotinoid Pesticides: A review of the evidence post-2013.
11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: Petitioner American Bird Conservancy is not aware of any impacts that a ban on the use of neonicotinoid pesticides on California wildlife refuges would have on revenues to the Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing..



12. Forms: If applicable, list any forms to be created, amended or repealed:

not applicable

SECTION 3: FGC Staff Only

Date received: [Click here to enter text.](#)

FGC staff action:

- ☐ Accept - complete
- ☐ Reject - incomplete
- ☐ Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: _____

Meeting date for FGC consideration: _____

FGC action:

- ☐ Denied by FGC
- ☐ Denied - same as petition _____

Tracking Number

- ☐ Granted for consideration of regulation change

2017 SEP 18 PM 1:00

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION

Rationale for Petition by American Bird Conservancy to the California Fish and Game Commission

American Bird Conservancy recognizes that the California Fish and Game Commission works to ensure the long-term sustainability of California's wildlife resources and, to that end, plays a critical role in protecting the State's extensive network of refuges supporting California's wildlife. In furtherance of those efforts, American Bird Conservancy petitions the Commission to adopt a prohibition against the use of neonicotinoid pesticides on the more than 1,173,000 acres of wildlife habitat under its jurisdiction. These persistent and systemic insecticides are lethal to songbirds and also harm mammals such as bats. And they are deadly to many of the terrestrial and aquatic invertebrates – including bees, butterflies, earthworms, and mayflies – that are critical food sources for birds and other vertebrates.

Neonicotinoids are a relatively new class of chemicals that have the potential to derail California's efforts to safeguard its unique ecosystems. First introduced in the U.S. in 1994, they have quickly become the most widely used insecticides in the nation. Neonicotinoids persist in the soils – from months to years – and are prone to runoff and groundwater infiltration. Recent work by Morrissey, Mineau, et al. reviews the current state of knowledge on neonicotinoids in surface waters from 29 studies in nine countries worldwide and includes published data on acute and chronic toxicity to 49 species of aquatic insects and crustaceans spanning 12 invertebrate orders. That review concludes that “neonicotinoids represent a significant risk to surface waters and the diverse aquatic and terrestrial fauna that these ecosystems support.”¹ A recent survey of the concentrations of six neonicotinoids in streams across the United States found at least one neonicotinoid in 68 percent of the 48 streams sampled.² A 2016 report on neonicotinoid contamination levels in California highlights the state's underprotective aquatic life benchmarks and suggests that levels currently found in California's waters could harm aquatic species and cause cascading effects up the food chain.³

Neonicotinoids are highly toxic to a broad range of invertebrates and to birds and other wildlife, as confirmed by a growing body of research, including an authoritative global review of more than 1100

¹ Morrissey, CA, P Mineau, JH Devries, F Sanchez-Bayo, M Liess, MC Cavallaro, and K Liber. 2015. Neonicotinoid contamination of global surface waters and associated risk to aquatic invertebrates: A review. *Environment International*, 74: 291-303.
https://www.researchgate.net/publication/268333947_Neonicotinoid_contamination_of_global_surface_waters_and_associated_risk_to_aquatic_invertebrates_A_review; Sánchez-Bayo F, K Goka and D Hayasaka. 2016. Contamination of the Aquatic Environment with Neonicotinoids and its Implication for Ecosystems. *Front. Environ. Sci.* 4:71. doi: 10.3389/fenvs.2016.00071. <http://journal.frontiersin.org/article/10.3389/fenvs.2016.00071/full>; Hladik ML, et al. 2014. Widespread occurrence of neonicotinoid Insecticides in streams in a high corn and soybean producing region, USA. *Env. Poll.* 193:189-196. <http://dx.doi.org/10.1016/j.envpol.2014.06.033>; Carnemark, M, P Jenkins, and L Walker. 2015. *Water Hazard: Aquatic Contamination by Neonicotinoid Insecticides in the United States*. Unpublished report, Center for Food Safety, Washington, DC. www.centerforfoodsafety.org/files/neonic-water-report-final-242016_web_33288.pdf.

² Hladik, ML, and DW Kolpin. 2016. First national-scale reconnaissance of neonicotinoid insecticides in streams across the USA. *Environ. Chem.* <http://dx.doi.org/10.1071/EN15061>
<https://ca.water.usgs.gov/pubs/2015/HladikKolpin2015.pdf>.

³ Hoyle, S and A Code. 2016. *Neonicotinoids in California's Surface Waters: A Preliminary Review of Potential Risk to Aquatic Invertebrates*. Report by The Xerces Society for Invertebrate Conservation. Online at: http://www.xerces.org/wp-content/uploads/2016/10/XercesCAAquaticNeonics_Dec2016_Final.pdf.

published peer-reviewed studies conducted in 2014 under the auspices of the International Union for Conservation of Nature.⁴ The authors conclude that levels of these chemicals documented in the environment are “sufficient to cause adverse impacts on a wide range of non-target organisms in terrestrial, aquatic, wetland, marine and benthic habitats.” They warn of risks to ecosystem functioning, resilience, and ecological services such as pollination and nutrient cycling.

A meticulous 2017 review of the most recent science, *The Environmental Risks of Neonicotinoid Pesticides: A review of the evidence post-2013*,⁵ emphasizes the ongoing risks of neonicotinoids’ lethal and sublethal effects on a wide range of taxa. The review highlights the extreme sensitivity of aquatic invertebrates, particularly insect larvae, at levels regularly exceeded in surface waters in the United States and around the world, including Australia, Brazil, Canada, China, Hungary, Japan, the Netherlands, Sweden, Switzerland, and Vietnam. The authors state that this contamination is likely to impact significantly the abundance of aquatic insects and, thus, food availability for their predators, including fish, birds, and amphibians. Beneficial invertebrates such as earthworms and butterflies are also killed by neonicotinoids at extremely low doses.⁶ The review concludes that “new research strengthens arguments for the imposition of a moratorium, in particular because it has become evident that [neonicotinoids] pose significant risks to many non-target organisms, not just bees.”

Neonicotinoid coatings on seeds are a particular hazard to birds. As little as a single corn kernel coated with a neonicotinoid can kill a songbird, and exposure to just 1/10 of a coated seed per day during the

⁴ Van der Sluijs JP, et al. 2014. Conclusions of the Worldwide Integrated Assessment on the risks of neonicotinoids and fipronil to biodiversity and ecosystem functioning. *Environ Sci Pollut Res*. doi:10.1007/s11356-014-3229-5. Full report at: http://www.tfsp.info/assets/WIA_2015.pdf; Goulson, D. 2013. An Overview of the Environmental Risks Posed by Neonicotinoid Insecticides. *Journal of Applied Ecology*. Doi:10.1111/1365-2664.12111. <http://onlinelibrary.wiley.com/doi/10.1111/1365-2664.12111/full>; Goulson, D. 2014. Pesticides linked to bird declines. *Nature*. Doi: 10.1038/nature 13642.

⁵ Wood, TJ and D Goulson. 2017. *The Environmental Risks of Neonicotinoid Pesticides: A review of the evidence post-2013*. <http://biorxiv.org/content/biorxiv/early/2017/01/06/098897.full.pdf>
See also, Gibbons, D, C Morrissey, P Mineau. 2015. A review of the direct and indirect effects of neonicotinoids and fipronil on vertebrate wildlife. *Environ. Sci. Pollut. Res. Int.* 22:103-118. <http://dx.doi.org/10.1007/s11356-014-3180-5>. For research on bird population-level effects from reduced food abundance, see: Hallmann CA, et al. 2014. Declines in insectivorous birds are associated with high neonicotinoid concentrations. *Nature* doi: 10.1038/nature13531. <https://www.nature.com/nature/journal/v511/n7509/full/nature13531.html>. Full text at: https://pdfs.semanticscholar.org/ffa8/f7a41a8c377a613107994bde29f0e5553253.pdf?_ga=2.32271095.816967692.1498753472-614696370.1498753472

⁶ Wood, TJ and D Goulson. 2017; Van der Sluijs JP, et al. 2014. See also, Hopwood, J, SH Black, M Vaughn, and E Lee-Mader. 2013. *Beyond the Birds and the Bees: Effects of Neonicotinoid Insecticides on Agriculturally Important Beneficial Invertebrates*. Report by the Xerces Society. Online at: http://www.xerces.org/wpcontent/uploads/2013/09/XercesSociety_CBCneonics_sep2013.pdf.

egg-laying season is enough to impair reproduction.⁷ A number of recent studies have been parsing out the mechanisms of reproductive damage.⁸

Additional studies have found other sublethal effects at very low doses—for example, house sparrows become uncoordinated and unable to fly, Japanese quail exhibit DNA damage, and red-legged partridges experience reduced immune response.⁹ A 2016 study from France¹⁰ examined 103 wildlife mortality incidents totaling at least 734 dead birds. Since there is no simple biomarker for diagnosing neonicotinoid poisonings,¹¹ the researchers developed a diagnostic approach to estimate the degree of certainty that these mortalities resulted from poisoning by imidacloprid, a neonicotinoid pesticide. The probability that mortality was due to poisoning by imidacloprid-treated seeds was ranked “likely” or higher in 70 percent of incidents.

In 2014, the U.S. Fish and Wildlife Service (FWS) announced a formal decision to phase out, by 2016, all neonicotinoid use on thousands of acres of National Wildlife Refuge lands. James Kurth, Chief of the National Wildlife Refuge System at that time, stated:¹²

We have determined that prophylactic use, such as seed treatment, of the neonicotinoid pesticides that can distribute systematically in a plant and potentially affect a broad spectrum of non-target species is not consistent with Service policy.

More recently, FWS identified neonicotinoid toxicity as one of the factors that led to its decision to list the rusty patched bumble bee as endangered under the Endangered Species Act.¹³ Neonicotinoids were

⁷ Mineau, P and C Palmer. 2013. *The Impact of the Nation's Most Widely Used Insecticides on Birds*. Report by American Bird Conservancy. Online at: www.abcbirds.org/abcprograms/policy/toxins/Neonic_FINAL.pdf;

⁸ Bro E, Devillers J, F Millot, A Decors. 2016. Residues of plant protection products in grey partridge eggs in French cereal ecosystems. *Environmental Science and Pollution Research International*. 2016; 23:9559-9573.

doi:10.1007/s11356-016-6093-7. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4871908/>; Pandey, SP, B Mohanty. 2014. The neonicotinoid pesticide imidacloprid and the dithiocarbamate fungicide mancozeb disrupt the pituitary–thyroid axis of a wildlife bird. *Chemosphere*. https://www.researchgate.net/publication/269558419_The_neonicotinoid_pesticide_imidacloprid_and_the_dithiocarbamate_fungicide_mancozeb_disrupt_the_pituitary-thyroid_axis_of_a_wildlife_bird;

Chao-jie Wang, G Wang, X Wang, M Liu, M Chual, KKH Lee, XS He, D Lu, and X Yang. Imidacloprid Exposure Suppresses Neural Crest Cells Generation during Early Chick Embryo Development. 2016. *Journal of Agricultural and Food Chemistry* 2016 64 (23), 4705-4715. <http://pubs.acs.org/doi/ipdf/10.1021/acs.jafc.6b01478>.

⁹ Wood and Goulson, at 53.

¹⁰ Millot, F, A Decours, O Mastain et al. 2017. Field evidence of bird poisonings by imidacloprid-treated seeds: a review of incidents reported by the French SAGIR network from 1995 to 2014. *Environ Sci Pollut Res* DOI 10.1007/s11356-016-8272-y. <https://doi.org/10.1007/s11356-016-8272-y>

¹¹ Some techniques are under development. See, e.g., Talianky-Chamudis, A, P Gomez-Ramirez, M Leon-Ortega, and AJ Garcia-Fernandez. 2017. Validation of a QuEChERS method for analysis of neonicotinoids in small volumes of blood and assessment of exposure in Eurasian eagle owl (*Bubo bubo*) nestlings. *Sci. Total Environ*. 2017 Oct 1; 595:93-100. <https://doi.org/10.1016/j.scitotenv.2017.03.246>

¹² July 17, 2014, Memorandum on “Use of Agricultural Practices in Wildlife Management in the National Wildlife Refuge System,” issued by the then-Chief of the FWS National Wildlife Refuge System, James W. Kurth, to all Regional Refuge Chiefs. http://www.centerforfoodsafety.org/files/agricultural-practices-in-wildlife-management_20849.pdf

¹³ Department of the Interior, US Fish and Wildlife Service. Final rule, Endangered Species Status for Rusty Patched Bumble Bee, 82 Fed. Reg. 3186, Jan. 11, 2017. (“Neonicotinoids are a class of insecticides used to target pests of

also implicated in listings of two butterflies, the Dakota skipper and the Poweshiek skipperling. Among other endangered species affected, internationally recognized experts John Stark of Washington State University, John Losey of Cornell University, and Pierre Mineau, formerly with Environment Canada, have identified the Hines emerald dragonfly, Salt Creek tiger beetle, Mississippi sandhill crane, whooping crane, and Attwater's prairie chicken.¹⁴ Many other organisms are at risk.

Europe enacted a two-year moratorium on the use of neonicotinoids, likely to be extended as a total ban. And Canada's Pest Management Regulatory Agency (PMRA) has proposed to ban the neonicotinoid imidacloprid nationwide. Last November PMRA completed an aquatic risk assessment for imidacloprid, concluding that, "in aquatic environments in Canada, imidacloprid is being measured at levels that are harmful to aquatic insects. These insects are an important part of the ecosystem, including as a food source for fish, birds and other animals. Based on currently available information, the continued high volume use of imidacloprid in agricultural areas is not sustainable."

The Canadian assessment found that "there is a potential risk to birds and small mammals from feeding on seeds that are treated with imidacloprid..." Given the seriousness of the environmental threat, "PMRA is proposing to phase-out all the agricultural and a majority of other outdoor uses of imidacloprid over three to five years."¹⁵ In addition, many U.S. companies (including Home Depot, Lowe's, Walmart, True Value, and BJ's Wholesale Club), as well as state and local legislatures, are reining in the use of neonicotinoids.

In sum, hundreds of studies show that these pesticides are killing birds, bees, earthworms, butterflies, other beneficial insects, and quite possibly bats and other wildlife as well.¹⁶ Neonicotinoids can also harm threatened and endangered species on state refuge lands, both directly and through loss of their prey species.

Accordingly, American Bird Conservancy urges the Commission to adopt a state-wide prohibition on the use of neonicotinoids in all wildlife refuges under its jurisdiction.

agricultural crops, forests ..., turf, gardens, and pets and have been strongly implicated as the cause of the decline of bees in general (European Food Safety Authority 2015, p. 4211; Pisa et al. 2015, p. 69; Goulson 2013, pp. 7–8), and specifically for rusty patched bumble bees, due to the contemporaneous introduction of neonicotinoid use and the precipitous decline of the species (Colla and Packer 2008, p. 10)." *Id.* at 3190.)

¹⁴ Expert Declarations of Drs. Stark, Losey, and Mineau, in support of Plaintiffs' Memorandum of Points and Authorities in Support of Motion for Summary Judgment, *Ellis v. Housenger*, No. 3:13-cv-01266-MMC, ECF No. 215-1 (N.D. Cal. Apr. 14, 2016).

¹⁵ Health Canada, Pest Management Regulatory Agency. 2017. Proposed Re-evaluation Decision PRVD2016-20, *Imidacloprid*. <https://www.canada.ca/en/health-canada/services/consumer-product-safety/pesticides-pest-management/public/consultations/proposed-re-evaluation-decisions/2016/imidacloprid/document.html>; Pest Management Regulatory Agency, 23 November 2016, ISSN: 1925-0967. Catalogue number: H113-27/2016-20E-PDF. Proposed Re-evaluation Decision PRVD2016-20, *Imidacloprid*. http://www.hc-sc.gc.ca/cps-spc/pest/part/consultations/_prvd2016-20/prvd2016-20-eng.php#s1

¹⁶ Van der Sluijs JP, et al. 2014, *supra*.

Attachments

US Fish and Wildlife Service. Memorandum on Use of Agricultural Practices in Wildlife Management in the National Wildlife Refuge System. 2014.

http://www.centerforfoodsafety.org/files/agricultural-practices-in-wildlife-management_20849.pdf

Gibbons, D, C Morrissey, and P Mineau. 2015. A review of the direct and indirect effects of neonicotinoids and fipronil on vertebrate wildlife.

<http://dx.doi.org/10.1007/s11356-014-3180-5>.

Hallmann CA, et al. 2014. Declines in insectivorous birds are associated with high neonicotinoid concentrations.

<https://pdfs.semanticscholar.org/ffa8/f7a41a8c377a613107994bde29f0e5553253.pdf? ga=2.32271095.816967692.1498753472-614696370.1498753472>

Hladik, ML, and DW Kolpin. 2015. First national-scale reconnaissance of neonicotinoid insecticides in streams across the USA.

<https://ca.water.usgs.gov/pubs/2015/HladikKolpin2015.pdf>

Mineau, P and C Palmer. 2013. The Impact of the Nation's Most Widely Used Insecticides on Birds.

<https://abcbirds.org/article/birds-bees-and-aquatic-life-threatened-by-gross-underestimate-of-toxicity-of-worlds-most-widely-used-pesticide-2/>

Morrissey, CA, P Mineau, JH Devries, F Sanchez-Bayo, M Liess, MC Cavallaro, and K Liber. 2015. Neonicotinoid contamination of global surface waters and associated risk to aquatic invertebrates: A review.

https://www.researchgate.net/publication/268333947_Neonicotinoid_contamination_of_global_surface_waters_and_associated_risk_to_aquatic_invertebrates_A_review

Sánchez-Bayo F, K Goka and D Hayasaka. 2016. Contamination of the Aquatic Environment with Neonicotinoids and its Implication for Ecosystems.

<http://journal.frontiersin.org/article/10.3389/fenvs.2016.00071/full>

Van der Sluijs JP, et al. 2014. Conclusions of the Worldwide Integrated Assessment on the risks of neonicotinoids and fipronil to biodiversity and ecosystem functioning.

http://www.tfsp.info/assets/WIA_2015.pdf

Wood, TJ and D Goulson. 2017. The Environmental Risks of Neonicotinoid Pesticides: A review of the evidence post-2013. <http://biorxiv.org/content/biorxiv/early/2017/01/06/098897.full.pdf>



2017-009
Tracking Number: (Click here to enter text.)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, 1416 Ninth Street, Suite 1320, Sacramento, CA 95814 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. **Person or organization requesting the change (Required)**
Name of primary contact person: Walter Lamb, Ballona Wetlands Land Trust
Address:
Telephone number:
Email address: landtrust@ballona.org
2. **Rulemaking Authority (Required)** - Reference to the statutory or constitutional authority of the Commission to take the action requested: Fish and Game Code Section 1580 ["The commission may adopt regulations for the occupation, utilization, operation, protection, enhancement, maintenance, and administration of ecological reserves."]
3. **Overview (Required)** - Summarize the proposed changes to regulations: This petition proposes to amend Section 630 of the Code of California Regulations, Title 14 to eliminate the parking use exception for "[e]xisting parking areas under leases to the County of Los Angeles" in the Ballona Wetlands Ecological Reserve, by striking that language from paragraph (h)(3). The purpose of this proposed change is to convert approximately 72,600 square feet of paved parking lot, used primarily by employees a private shopping plaza, and to a lesser extent by agencies of Los Angeles County, to a use more compatible with a public ecological reserve.
4. **Rationale (Required)** - Describe the problem and the reason for the proposed change: California taxpayers spent \$139 million over a decade ago to acquire the land which now makes up the Ballona Wetlands Ecological Reserve. This includes approximately 72,600 square feet of land currently leased to Los Angeles County, Department of Beaches and Harbors ("Beaches and Harbors"), for purposes that are primarily unrelated to the purpose of the ecological reserve (i.e. parking for Beaches and Harbors vehicles and parking for patrons and visitors to the Fisherman's Village shopping plaza across the street from the ecological reserve). The current parking exception was adopted by the Commission at its August 19, 2005 meeting. At least as early as 2011, the record shows that the California Department of Fish and Wildlife (previously Department of Fish and Game) began contemplating Beaches and Harbors' desire to construct a three-level parking garage within the

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COMMISSION
2017 SEP 28 AM 9:10



boundaries of the ecological reserve. This proposal is currently part of all three alternatives under consideration for the Ballona Wetlands Restoration Project. The “No Project” alternative is the only alternative not to include the parking structure component.

Los Angeles County currently pays the Department of Fish and Wildlife \$1,608 per year to lease approximately 254 parking spaces, the same amount it has paid since approximately 1995. Only a small portion of this lot is used by the Department of Fish and Wildlife for its vehicles and an office trailer.

Section 630 currently provides the Department with sole discretion as to whether a more appropriate use of this parcel should take precedence over the existing parking use. There is no question that this parcel of land can and would be more appropriately used if the Department exercised that discretion, but the Department has not done so. Therefore the only available remedy short of litigation available to stakeholders of the ecological reserve is to request this regulatory change.

New information since submission of original petition:

On June 21, 2017, the Fish and Game Commission voted 3-1 to deny petition 2017-002 based on the staff recommendation asserting that the parking lot in question serves a public purpose. The staff report contained no substantive evidence in support of the denial. Two county agencies who benefit from the existing parking lots submitted letters that were highly misleading, as evidenced by new information included with this petition resubmission. Although much of this information became available prior to the August 16th hearing of a similar petition, that new information was not considered because it had not been submitted with that petition. The new information includes:

- Records from the Los Angeles County Department of Beaches and Harbors showing that the primary purpose of the existing parking lot and proposed garage is to provide parking for employees of the commercial shops and restaurants in the Fisherman’s Village shopping plaza across the street.
- Records showing that Beaches and Harbors has steadily increased the amount it charges to these commercial entities for parking in the ecological reserve but has not increased the amount it pays to CDFW. Currently it appears that the County may be receiving over three times in payments than what it is paying to CDFW.
- Records showing the limited maintenance services provided by Beaches and Harbors regarding maintenance of the parking lot.
- A Coastal Development Permit showing that the parking lot was intended to be temporary.
- Archived audio recording of a CDFW employee testifying to the Fish and Game Commission in 2005 that the restoration plan for the Ballona Wetlands would analyze the compatibility of the County parking lots.
- The recently published draft Environmental Impact Report for the Ballona Wetlands which does not analyze the compatibility of the existing parking lots but instead proposed the construction of a three-story parking garage without indicating that the primary purpose of the garage relates to Fisherman’s Village, not to the ecological reserve itself.
- The minutes from the 2003 Wildlife Conservation Board meeting at which the ecological reserve land



was acquired by the state, indicating that the state had the right to terminate the leases to the County regarding the parking lots.

- An internal e-mail from Beaches and Harbors indicating that a CDFW employee asked Beaches and Harbors what it wanted to do with the parking lots after the public scoping comment period for the draft EIR had ended and despite making no mention of the parking areas in the Notice of Preparation.

Additional information that was not discussed at previous hearings is that the purpose of the Proposition 50 bond funds used to acquire the ecological reserve land. Parking for private businesses or even for County agencies is not consistent with the purpose for which taxpayers approved those bond funds.

SECTION II: Optional Information

5. Date of Petition: September 27, 2017

6. Category of Proposed Change

- ☐ Sport Fishing
- ☐ Commercial Fishing
- ☐ Hunting
- ☒ Other, please specify: Ecological Reserves

7. The proposal is to: *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*

- ☒ Amend Title 14 Section(s):630
- ☐ Add New Title 14 Section(s): [Click here to enter text.](#)
- ☐ Repeal Title 14 Section(s): [Click here to enter text.](#)

8. If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition 2017-002

Or ☐ Not applicable.

9. Effective date: If applicable, identify the desired effective date of the regulation. If the proposed change requires immediate implementation, explain the nature of the emergency: As soon as practically possible, but not an emergency

10. Supporting documentation: Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Please see attached documents relating to the existing parking use and proposed parking structure, including new information that the Land Trust obtained after the June 21 hearing on our original petition

The Ballona Wetlands Draft EIR is on the CDFW site: <https://www.wildlife.ca.gov/Regions/5/Ballona-EIR>

The archived audio of the 2005 Fish and Game Commission hearing is at <http://cal->



span.org/media/audio_files/cfg/cfg_05-08-19/cfg_05-08-19.mp3 and the discussion of the parking lots occurs at 223 minutes and 25 seconds (3:43.25).

- 11. Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: Eliminating the existing parking lease with Beaches and Harbors would result in the loss of \$1,608 in annual lease payments, which is substantially below market value. That amount would be more than offset by lease payments offered by the Land Trust to use the parcel to promote environmental education and passive recreation activities consistent with the purpose of the ecological reserve. The Department could open a competitive bidding process for other appropriate uses that also generate more income than the current lease payments. Loss of parking spaces to the County and to Fisherman's Village may have some limited economic impact, but parking does not currently appear to be a constraint in the area.

Additionally, due to lease payments that are clearly well below market value, and because parking for a shopping plaza and an unrelated County agency do not further the public purpose of the ecological reserve and the Department of Fish and Wildlife generally, the state could be in violation of the constitutional provision against gifts of public funds between agencies.

- 12. Forms:** If applicable, list any forms to be created, amended or repealed:

[Click here to enter text.](#)

SECTION 3: FGC Staff Only

Date received: 9/28/17
[Click here to enter text.](#)

FGC staff action:

- ☐ Accept - complete
☐ Reject - incomplete
☐ Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: September 29, 2017

Meeting date for FGC consideration: _____

FGC action:

- ☐ Denied by FGC
☐ Denied - same as petition _____
Tracking Number
☐ Granted for consideration of regulation change

Walter Lamb

From: Don Geisinger
Sent: Thursday, March 10, 2011 12:57 PM
To: Gary Jones; Charlotte Miyamoto; Kerry Silverstrom
Cc: Vivian Paquin-Sanner; Kenneth Foreman; testSK
Subject: Area A Parking Lots

I had 2 conversations with David Lawhead of the Department of Fish and Game (DFG) yesterday and would like to recap the issues that were discussed.

1. Parking Lots: DFG is now willing to discuss leasing the parking lots to DBH. Rather than pay rent, DFG is proposing that we maintain (Facilities) and monitor (Parking) the Gordon's Market parking lot. In our initial conversation, David was reluctant to discuss a long-term lease or sale although he acknowledged that there had been discussions about building a parking structure in connection with the development of Fisherman's Village. I explained that DBH needs a long-term commitment in order to factor the parking lots into the Department's long-term visioning plan.
2. I discussed the conversation with both Santos and Kerry. Santos prefers a sale and would be willing to agree to maintain the Gordon's Market parking lot in exchange. Kerry raised the issue of parking and asked that I check with Vivian about the difficulties the Department would have in providing a monitoring program. (In a later conversation with Vivian, Vivian stated that there is no problem at all in providing monitoring.)
3. I spoke with David about a sale. He initially had several objections that included: a) he did not know whether a portion of the Ballona Wetlands could be sold as bonds were issued to purchase the land. b) DFG is finalizing or near finalizing the proposed plan for the development of the Ballona Wetlands and is concerned that the environmental groups might reject the plan if it were announced that the parking lots would be sold. c) if a sale could be accomplished, the money would go to the State's General Fund and would not benefit the Ballona Wetlands. This last objection appears to be critically significant because DFG appears to be concerned about having sufficient funds to maintain the Wetlands once it is developed.
4. In this connection, David raised another issue-whether DBH would be willing to have the baseball field in Area C transferred to DBH with the understanding that: a) the baseball field would be kept as a baseball field; and b) DBH would maintain the area.
5. As soon as David raised this issue, I asked why DFG could not transfer the parking lots if DFG is able and willing to "transfer" the baseball field. It appears as if it may be more an issue of timing (after the plans have been approved so that the environmental groups will not oppose the entire plans).
6. Ken Foreman and I visited both Gordon's Market and the baseball field. Several issues arose about the size and scope of work on each location. I will call DFG for more detailed information.

Finally, in discussions about negotiating for the parking lots, the issue arose as to which entity, DBH or the CEO, will be the lead agency. I will check but would appreciate any comments on this issue.

This is simply an outline of what has been discussed. If anyone has any comments or wants to give advice or instructions please do so. It appears as if there is an opportunity to acquire or control the parking lots in Area A.

Don Geisinger
Senior Real Property Agent
County of Los Angeles
Department of Beaches and Harbors
13837 Fiji Way
Marina del Rey, CA 90292
Office: (310) 305-9506
e-mail: dgeisinger@bh.lacounty

FILE COPY

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
245 WEST BROADWAY, SUITE 380
LONG BEACH, CA 90802
(213) 590-5071

Page 1 of 3

Date: December 16, 1988

Permit No. 5-88-593/AP:ak

COASTAL DEVELOPMENT PERMIT

On September 14, 1988, the California Coastal Commission granted to

Co. of LA, Dept. of Beaches and Harbors

this permit subject to the attached Standard and Special conditions, for development consisting of

Construction of a 158-car parking facility covering 98,000 square foot located just south of Fiji Way. The parking facility will be temporary, approximately five years, and used by employees and visitors to Fisherman's Village. In addition, the parking at Fisherman's Village, which is currently free to the public, will be changed to paid parking by the installation of a swing gate at the various entrances of the parking lot.

more specifically described in the application file in the Commission offices.

The development is within the coastal zone in Los Angeles County at
13715 Fiji Way, Marina Del Rey, CA 90792

Issued on behalf of the California Coastal Commission by

DBA LOT

PETER DOUGLAS
Executive Director

By: 

Title: Staff Analyst

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance. . . of any permit. . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGEMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

Date

Signature of Permittee

A6: 4/88

COASTAL DEVELOPMENT PERMIT

Page 2 of 3
Permit No. 5-88-593

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

1. Prior to permit issuance, the applicant shall submit for review and approval by the Executive Director, engineered plans showing the construction of the parking facility, including surface material, drainage, curb and gutter locations, striping, lighting fixtures, fencing, and landscaping. The plans shall conform to the following conditions:
 - a) All drainage shall be directed away from wetland area and towards the street (Fiji Way)
 - b) A cyclone (chain-link) shall be erected around the perimeter of the parking lot. The fence shall be at least 48 inches in height and shall not exceed 60 inches.
 - c) All lighting shall be shielded away from the habitat area and directed towards the parking lot or the street.

- d) There shall be a landscaped buffer area planted along the outside of the perimeter of the fence. Landscaping shall consist of native vegetation only or other plants approved by the Department of Fish and Game. A temporary irrigation system may be installed to ensure that the newly planted vegetation grows to maturity. Once established, the irrigation shall be removed as the plant material will not need to be irrigated.

8279A

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
245 WEST BROADWAY, SUITE 380
LONG BEACH, CA 90802
(213) 590-5071



Filed: 7/25/88
49th Day: 9/12/88
180th Day: 1/21/89
Staff: A. Padilla:mr
Staff Report: 8/26/88
Hearing Date: 9/13-16/88

REGULAR CALENDAR
STAFF REPORT AND RECOMMENDATION

Application No.: 5-88-593

Applicant: County of Los Angeles, Department of Beaches and Harbors

Description: Construction of a 158-car parking facility covering 98,000 square foot located just south of Fiji Way. The parking facility will be temporary, approximately five years, and used by employees and visitors to Fisherman's Village. In addition, the parking at Fisherman's Village, which is currently free to the public, will be changed to paid parking by the installation of a swing gate at the various entrances of the parking lot.

Site: 13715 Fiji Way, Marina del Rey, Los Angeles County.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval with conditions

III. SPECIAL CONDITIONS:

1. Prior to permit issuance, the applicant shall submit for review and approval by the Executive Director, engineered plans showing the construction of the parking facility, including surface material, drainage, curb and gutter locations, striping, lighting fixtures, fencing, and landscaping. The plans shall conform to the following conditions:
 - a) All drainage shall be directed away from wetland area and towards the street (Fiji Way)
 - b) A cyclone (chain-link) shall be erected around the perimeter of the parking lot. The fence shall be at least 48 inches in height and shall not exceed 60 inches.
 - c) All lighting shall be shielded away from the habitat area and directed towards the parking lot or the street.
 - d) There shall be a landscaped buffer area planted along the outside of the perimeter of the fence. Landscaping shall consist of native vegetation only or other plants approved by the Department of Fish and Game. A temporary irrigation system may be installed to ensure that the newly planted vegetation grows to maturity. Once established, the irrigation shall be removed as the plant material will not need to be irrigated.

IV. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. Project Description

The applicant, County of Los Angeles Beaches and Harbors, proposes to construct a 158 car parking facility covering an area approximately 98,000 sq. ft. in area just south and adjacent to Fiji Way, in Marina del Rey. The parking facility will be temporary, approximately five years, and used by employees and visitors to Fisherman's Village which is located on the opposite side of Fiji Way. The parking facility will be used until commercial uses in "Area A" are developed in accordance with the LUP. The applicant also proposes to install swing gates at the entrances of the parking lot at Fisherman's Village to change the currently free public parking to paid parking.

B. Background

In the County's certified LUP the Ballona wetlands area is divided into three separate areas: "Area A" which is located north of the Ballona Creek

The Commission found, however, that construction of the new boat basin in Area A is consistent with Sections 30233 and 30411 of the Coastal Act for a number of reasons. First, the Commission fully concurred with the DFG's findings and determination of degraded wetland acreage, and their recommendations regarding restoration of this acreage. The Commission found that the severely degraded wetlands occurring in Area A are not feasibly restorable on-site, due to the extensive amount of fill material that would have to be removed, and that the most feasible, and biologically superior, way to achieve restoration of this wetland acreage is to transfer and consolidate this acreage into a single, integrated management unit south of the Flood Control Channel, in Area B.

C. Environmentally Sensitive Habitat Area

Section 30240 of the Coastal Act states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

The proposed project will be located in "Area A". This area is considered to contain degraded wetlands. Though the wetlands are degraded they are considered "viably functioning wetlands" (DFG). The 37.5 acres of wetlands will be eliminated once the County begins developing the marina, however, the 37.5 acres are to be transferred and consolidated into a single integrated restoration management unit in "Area B". However, until the County begins the implementation of the development policies and the restoration program of the LUP, the existing "viably functioning wetlands" should be protected.

The proposed parking facility will be located adjacent to Fiji Way. The proposed site is the former site of the temporary parking lot constructed for the 1984 Olympics [5-84-403(Real Property Management Inc.)]. The site was selected for temporary parking for the Olympics due to its minimal habitat value. During a recent site visit with a Department of Fish and Game biologist it was observed that there was limited habitat value in the area. However, there is an identified wetland just south of the site (See Exhibit 2). Because of the location of the wetlands the proposed site functions as a buffer between the wetland habitat area and development (Fiji Way and Fisherman's Village). Therefore in order to protect the existing wetland habitat area the proposed project should be mitigated to avoid any adverse impacts to the wetland habitat. Therefore, only as conditioned to protect the existing wetlands, will this project be consistent with Section 30240 of the Coastal Act.

5-88-593

Los Angeles County
DEPARTMENT OF
REGIONAL PLANNING

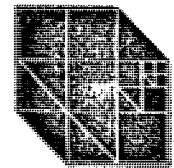
320 West Temple Street
Los Angeles
California 90012

974-6401

Norman Murdoch
Planning Director

~~5-87-848~~

CERTIFIED-RECEIPT
REQUESTED



October 13, 1987

County of Los Angeles
Department of Beaches and Harbors
13837 Fiji Way
Marina del Rey, California 90292

RECEIVED
OCT 23 1987

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

Dear Sirs:

RE: CONDITIONAL USE PERMIT CASE NO. 87298-(4)
To use a site located at 13715 Fiji Way,
Marina del Rey, for a temporary public
parking lot.
Playa del Rey Zoned District, Zone A-1-1

The case hearing officer on October 6, 1987, GRANTED the
above described permit. Documents pertaining to this grant
are enclosed.

You should carefully review each condition of the grant. In
particular, your attention is called to Condition No. 2
requiring the filing of the enclosed affidavit.

The hearing officer's decision may be appealed to the Regional
Planning Commission at the office of the Commission's secretary,
Room 170, Hall of Records, 320 West Temple Street, Los Angeles,
California 90012. Contact the Commission's secretary for the
necessary forms and the amount of the appeal fee at (213)
974-6409. The appeal must be postmarked or delivered in person
within 15 days after this notice is received by the applicant.
The hearing officer's decision may also be called up of review
by the Regional Planning Commission during the appeal period.
This grant will not become effective until and unless this
period has passed without an appeal or call for review.

This grant affects the following described property:

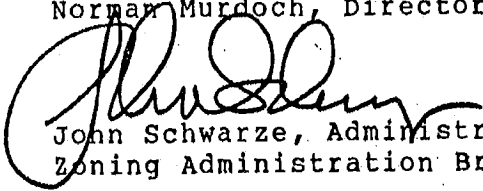
(See attached legal description.)

County of Los Angeles
Department of Beaches and Harbors
October 13, 1987
Page 2

For further information on appeal procedures, compliance with conditions or any other matter pertaining to this grant, please contact the Variances and Permits Section at (213) 974-6446.

Very truly yours,

DEPARTMENT OF REGIONAL PLANNING
Norman Murdoch, Director of Planning



John Schwarze, Administrator
Zoning Administration Branch

JS:RF:eh

Enclosures: Affidavit; Findings and Conditions

cc: Commissioners; Zoning Enforcement; Building & Safety;
Road Section;
Howard Hughes Properties, Division Summa Corp., Playa
Vista-P. O. BOX 9000, Marina del Rey, CA 90295

LEGAL DESCRIPTION

The land described herein is a portion of the Rancho La Ballona, in the County of Los Angeles, State of California:

Commencing at the most easterly corner of Lot 2, Tract No. 25165, as shown on Map recorded in Book 674, Pages 30 et seq. of Maps, Records of Los Angeles County; thence along the boundary of Said Tract No. 25165, South $62^{\circ}-01'-26''$ West, 1921.44 feet; thence South $62^{\circ}-02'-50''$ West, 1117.91 feet to the True Point of Beginning; thence Southwesterly along the Southeasterly line of said Tract No. 25165, South $31^{\circ}-01'-18''$ West, 291.35 feet; thence South 525 feet; thence East 175 feet; thence North 525 feet; thence North $31^{\circ}-01'-18''$ East, 291.35 feet; thence West 175 feet to the True Point of Beginning.

LEGAL INTEREST IN PROPERTY

The property located at 13715 Fiji Way in Marina del Rey is owned by Howard Hughes Properties/Summa Corporation. The County of Los Angeles has received a verbal approval for its use as a temporary parking lot pending actual development of the Playa Vista project. The Department of Beaches and Harbors Revenue Properties Division is working out final language with Summa Corporation for the lease of this property and a signed agreement is expected in four to six weeks. We request that the California Coastal Commission issue a coastal development permit for this project subject to a signed lease agreement between Summa Corporation and the County.

5-88-593

5-87-848

RECEIVED
JUL 18 1988

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

RECEIVED
OCT 23 1987
CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

CONDITIONAL USE PERMIT NO. (PD) 87298-(4)

HEARING OFFICER'S FINDINGS AND ORDER

FACTUAL SUMMARY:

The request is to use a site located at 13715 Fiji Way, Marina del Rey, for a temporary public parking lot serving Fisherman's Village and adjacent areas of the Marina.

The site is a level irregular shaped parcel of 2.5 acres surrounded on the north, south and east by vacant land and on the west by retail commercial businesses.

The subject property is zoned A-1-1 (Light Agriculture, one acre lots) and is within the Playa del Rey Zoned District of Los Angeles County. This zone requires a Conditional Use Permit for a parking lot.

The parking lot is designed to handle the parking overflow from the Fisherman's Village commercial area on the west side of Fiji Way. The present intent is that it will be used primarily for employee parking and will be temporary for approximately 5 years until permanently developed as set forth in the Marina Plan (Parking, commercial and new boat basin). The site was previously used as a temporary parking lot during the Olympics.

The site plan, Exhibit "A", shows the 158 space paved parking lot fronting along the easterly side of Fiji Way opposite the Fisherman's Village commercial area. Two driveways will provide access to the lot near its southerly boundary.

The project is categorically exempt (Class II) from the environmental impact reporting requirements in that the parking lot is a minor accessory structure to an existing commercial use.

A public hearing was held on September 29, 1987 at which the applicant's representative testified in favor of the request.

There was no opposition testimony.

FINDINGS:

- A. The requested use will be consistent with the adopted general plan.

The site is designated for commercial use under the County General Plan and specifically designated for parking lot use under the Local Coastal Program for Marina Del Rey.

- B. With the attached restrictions and conditions, the requested use, at the location proposed, will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, and will not be materially

CONDITIONAL USE PERMIT NO. (PD) 87298-(4)

detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site, and will not jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.

The parking lot is designed to relieve parking congestion within the existing parking lot of the adjacent commercial center and will serve both employees and the public. No adverse impacts should result from such use.

- C. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in the Zoning Ordinance, and as is otherwise required in order to integrate the use requested with the uses in the surrounding area.

The parking lot will meet all required development standards of the County Code.

- D. The proposed site has adequate traffic access and said site is adequately served by other public or private service facilities which it requires.

The parking lot will take access via 2 driveways to Fiji Way. No new utility services will be required.

And, therefore, the information submitted by the applicant and presented at the public hearing substantiates the required findings for a Conditional Use Permit as set forth in Section 25.56.090 of Title 22 of the Los Angeles County Code, the Zoning Ordinance.

HEARING OFFICER'S ACTION:

1. I find that the project is categorically exempt (Class II) from the requirements of the California Environmental Quality Act, and that the project will not have a significant effect on the environment.
2. In view of the findings of fact presented above, Conditional Use Permit 87298-(4) is GRANTED with the attached conditions.

BY: Raymond Ristic
Raymond Ristic
HEARING OFFICER
Department of Regional Planning
County of Los Angeles

DATE: October 6, 1987

1. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation, or other entity making use of this grant.
2. This grant will expire unless used within 2 years of the date of approval unless the subject property is acquired and posted within one year of the date of grant as provided in Section 22.56.140 of the County Code. A one year time extension may be requested before the expiration date.
3. If any provision of this grant is held or declared to be invalid, the permit shall be void and the privileges granted hereunder shall lapse.
4. The subject property shall be developed, maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance or other regulation applicable to any development or activity on the subject property.
5. This grant allows the development of a paved parking lot operated by a public agency.
6. The subject property shall be developed and maintained in substantial compliance with the plans on file marked Exhibit "A". In the event that subsequent revised plans are submitted the written authorization of the property owner is necessary.
7. All requirements of the Zoning Ordinance and of the specific zoning of the subject property must be complied with unless otherwise set forth in these conditions or shown on the approved plans.
8. Provisions shall be made for all natural drainage to the satisfaction of the Department of Public Works.

RF:JS:eh
10/5/87

Michael Tripp

From: Charlotte Miyamoto
Sent: Tuesday, April 16, 2013 6:39 PM
To: Gary Jones; Michael Tripp; John Kelly
Cc: Kerry Silverstrom
Subject: Area A Parking Lots

I met with Rick Mayfield of State Fish and Wildlife Department today and we discussed the following:

- Ballona Wetlands DEIR is expected to be out for public comment early to mid summer. The State wants to address the issue of building the interpretive center on Pcl 49 (launch ramp parking) and the parking lots on Area A.
- A cursory evaluation is being conducted on locating the proposed interpretive center that Annenberg wants to build on Pcl 49R. You may recall there is a pet adoption facility proposed as part of the interpretive center. Michael has determined this isn't an allowed use and would require an LCP amendment. I passed this along to Rick.
- Rick would like us to get back to him this week with what we'd like to see in the future for the Area A parking lots. Some of the options we discussed were:
 - Leave them as is. State and or County would need to get a CDP amendment (if that's even possible since the permit was issued by the Coastal Commission in connection with the 1984 Olympics). I believe the permit under which the lots were built required them to be removed.
 - Build a parking structure under a long term agreement (for which legislation will be needed) that includes a viewing deck and the like. This would reduce the area of the preserve covered by parking facilities. County (Sheriffs too) will need to fund the construction.
 - Eliminate the parking lots and restore habitat.
- It might be a good idea to have Rick join the meeting with Susan McCabe scheduled for April 30. He works very closely with the Annenberg folks and is willing to attend.

As for any land tenure issues, if the State acquires the lease for Pcl 49 (or whatever other conveyance document is used), there are Government code sections (65402 and 25365 among them) that would allow the Board with a 4/5 vote, to lease directly with the State.

If ultimately the interpretive center is built on Area C, Fish and Wildlife would need to seek legislation for a long term lease or other agreement of some kind with Annenberg. I would imagine if the parking structure option was selected by the County, the long term use of the State's property for that would be part of the Annenberg legislation.

Next Step: We need to discuss what we want to tell Rick about the use of the Area A parking lots.

Thank you,

Charlotte Miyamoto, Chief
Planning Division
County of Los Angeles
Department of Beaches and Harbors
13837 Fiji Way
Marina del Rey, CA 90292
Office: 310-305-9512
email: CMiyamoto@bh.lacounty.gov

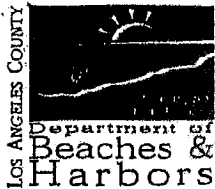


Posting Date	Document Date	Document Type	Document No.	Project Code	Customer No.	Description	Reason Code	Amount	Revenue Account	Applies- to Doc. Type	Applies- to Doc. No.
12/1/2006	12/1/2006	Invoice	RIC01201	LMDR-12	GOLCOV-T3	Gold Coast Village, LLC	CONCESSION	1,925.17	8301-31		
1/8/2007	1/8/2007	Payment	4873		GOLCOV-T3	Gold Coast Village, LLC	CON-APPLIC	-1,925.17	8301-31	Invoice	RIC01201
								0.00			
8/1/2007	8/1/2007	Invoice	RIC01202	LMDR-01	GOLCOV-T3	Gold Coast Village, LLC	CONCESSION	3,032.16	8301-31		
8/1/2007	8/1/2007	Credit Memo	CONADJ00073		GOLCOV-T3	Gold Coast Village, LLC	CONCESSION	-3,032.16	8301-31	Invoice	RIC01202

Posting Date	Document Date	Document Type	Document No.	Project Code	Customer No.	Description	Reason Code	Amount	Revenue Account	Applies-to Doc. Type	Applies-to Doc. No.	Entry No.
8/1/2008	8/1/2008	Invoice	RIC01575		56 GOLCOV-T2	Gold Coast Village, LLC	CONCESSION	3,123.08	8301-31			275799
9/30/2009	8/3/2009	Payment		6524	56 GOLCOV-T2	Gold Coast Village, LLC	CON-APPLIC	-3,216.77	8301-31			343938
								-94				
8/1/2009	8/1/2009	Invoice	RIC01839		56 GOLCOV-T2	Gold Coast Village, LLC	CONCESSION	3,279.23	8301-31			344353
10/5/2009	8/3/2009	Payment		6524	56 GOLCOV-T2	Gold Coast Village, LLC	CON-APPLIC	-3,216.77	8301-31	Invoice	RIC01839	344356
10/5/2009	9/1/2009	Payment		6577	56 GOLCOV-T2	Gold Coast Village, LLC	CON-APPLIC	-62.46	8301-31	Invoice	RIC01839	344358
								0				
8/1/2010	8/1/2010	Invoice	RIC02021		56 GOLCOV-T2	Gold Coast Village, LLC	CONCESSION	3,123.08	8301-31			382719
8/5/2010	8/5/2010	Payment		7278	56 GOLCOV-T2	Gold Coast Village, LLC	CON-APPLIC	-3,123.08	8301-31	Invoice	RIC02021	385826
								0				
8/1/2011	8/1/2011	Invoice	RIC02251		56 GOLCOV-T2	Gold Coast Village, LLC	CONCESSION	3,123.08	8301-31			426799
8/1/2011	8/1/2011	Payment		7857	56 GOLCOV-T2	Gold Coast Village, LLC	CON-APPLIC	-3,123.08	8301-31	Invoice	RIC02251	429538
								0				

Fisherman Overflow Work Orders for the last three years

8990	Fisherman's OVerflow	6/15/14	Key broken in keypad and keycard reader not working	6/15/14	10:05	11:45	e.goodman	Diagnosed, cant remove broken key. Going to need locksmith. ISD to remove and repair keycard and keypad needs to be re- programmed.
9761	Fisherman's OVerflow	6/21/14	Key card reader not working	6/22/14	n/a	n/a	e.goodman	Keycard reader is repaired needs to be programmed by Erick or Frank.
8941	Fisherman's OVerflow	7/27/14	Inspect medeco tumbler to ensure it is in good working condition	7/27/14	2:45	3:15	e.goodman	Checked and locked cylinder working properly and waiting on program
8943	Fisherman's OVerflow	7/30/14	Install keypad on pedastal	8/19/14	9:30	9:45	J. Romero	Per F. Vargas, we are to remain with the secure key card reader
9825	Fisherman's OVerflow	11/7/14	Install blue no unauthorized parking sign at enterance. Remove old black/white sign	11/12/14	2:00	2:58	E. Goodman	Removed old sign, drilled out new sign and installed
11233	Fisherman's OVerflow	1/19/16	Ensure all belts are in normal shape inside gate arm boxes	1/26/16	1:35	2:30	E. Goodman	Checked 4 belts and replaced 2 of them; all others ok
11544	Fisherman's OVerflow	7/5/16	spike light out	7/12/16	10:30	11:10	E. Goodman	checked spike light unit, no power going to spike light unit to repair. Need electrician to find power source
12023	Fisherman's OVerflow	1/5/17	MPI reported gatearm unit not working properly	1/5/17	9:00	12:00	J. Romero	Replaced



LOS ANGELES COUNTY DEPARTMENT OF BEACHES AND HARBORS
13837 Fiji Way, Marina del Rey, California 90292

PERMIT NO. 04-015

Effective date: 8/2/05

Expiration date: month-to-month

BEACH/FACILITY (Premises): Parcel W-2, Fisherman's Village Overflow Lot, as shown in Exhibit A attached hereto and made a part hereof.

PERMITTEE:

Gold Coast Village, LLC
9255 Sunset Blvd., Suite 620
West Hollywood, CA 90069

CONTACT:

Jill Peterson, Sr. Property Manager
Pacific Ocean Management
Phone: (310) 822-6866

PURPOSE OF PERMIT: Parking for employees of Fisherman's Village.

EQUIPMENT TO BE USED: N/A

STAGING AREA: N/A

APPLICATION DATE: N/A

PROCESSING FEE: (WAIVED)

DEPOSIT: (WAIVED)

MONTHLY RENT: \$ 229.19

DUE DATE: See condition 2 below

ISSUE DATE: 5/31/06

STAN WISNIEWSKI, DIRECTOR

By: 

Charlotte Miyamoto, Chief Property Manager
Asset Management Division

RECEIPT NO. N/A 021084 C

**THIS PERMIT IS SUBJECT TO THE TERMS AND CONDITIONS LISTED BELOW
AND TO THE PROVISIONS LISTED UNDER THE "GENERAL PROVISIONS" SECTION HEREIN**

1. The term of this Permit is one (1) month and shall continue on a month-to-month basis until the Permit is terminated as outlined under General Provisions A through O.
2. The current monthly rent, through August 1, 2006, shall be \$229.19. Commencing August 2, 2006 through August 1, 2007 the monthly rent shall be \$240.64, payable in advance on an annual basis. All payments owed the County through August 1, 2006 are due by May 31, 2006. The payment for the period of August 2, 2006 through August 1, 2007 totaling \$2,887.73 is due on or before August 2, 2006. Subsequently, on August 2, 2007 and every August 2nd thereafter that this Permit is in effect, the rent will be increased by five percent (5%), and will be due and payable in advance on an annual basis on the second day of August.
3. This Permit is issued solely to provide parking for the employees of Fisherman's Village, located on Parcel 56, during an employee's work shift. Employees may access the Premises by paying the daily rate of \$5.00 or by using the key card and parking pass issued to that employee. Each employee wanting a key card and pass shall make an application with PCI, the County's parking contractor, and pay a \$50 deposit, which shall be refunded to the employee/applicant when the key card and pass are returned to the Department. Each pass must be clearly displayed on the rear view mirror of each vehicle. Photocopies of parking passes are not acceptable. Vehicles

PERMIT NO. 04-015

displaying a photocopy of the parking pass or parked without a valid parking pass or a paid parking ticket displayed on the dashboard, are subject to a \$50 citation. This Permit shall be subject to revocation if employees are using their key card and pass to park for non work-related reasons.

4. Employees use of the premises is limited to their working hours. If the employee's vehicle becomes disabled and the vehicle must remain on the lot for more than 24 hours, the Department should be notified at (310) 305-9534 to avoid a \$50 citation. Vehicles stored for longer than 24 hours and not called in will be cited and will be subject to towing.
5. County shall designate 16 to 20 spaces for County use and shall re-stripe the designated spaces at the South end of the premises and indicate for "County use only."
6. No storage containers or equipment are allowed on the property.
7. Permittee is responsible for ensuring that any persons, or vehicles, entering the Premises under this Permit refrain from littering the Premises.
8. Permittee agrees to keep all advertising signs and marketing material off the Premises, other than signs displaying the name of Permittee.
9. Permittee agrees to keep and perform all provisions contained in any Permit issued or to be issued to Permittee by any governmental agency or commission.
10. Permittee agrees to conduct the permitted activities in a courteous and non-profane manner, operate without interfering with the use of the Premises by the County or the public, except as herein permitted, and remove any agent, servant or employee who fails to conduct permitted activities in the manner heretofore described.
11. Permittee acknowledges that this Permit is issued by County of Los Angeles to Permittee for the intended activities and is not intended, and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between County and Permittee. It is expressly understood by Permittee that in permitting the right to use the Premises, no estate or interest in real property is being conveyed to Permittee, and that the right to use is only a nonexclusive, revocable and unassignable permission to occupy the Premises in accordance with the terms and conditions of the Permit for the purpose of conducting the permitted activities.
12. Permittee shall accommodate the Public's need by freeing up as many parking spaces as possible on, but not limited to, the following days: Memorial Day, July 4th, Labor Day and on the day the Christmas Boat Parade is held.

13. GENERAL PROVISIONS

- A. Permittee has examined the Premises and knows the conditions thereof. Permittee accepts the Premises in the present state and condition and waives any and all demand upon County for alteration, repair, or improvement thereof. Permittee shall make no alteration or improvements to the Premises without prior written approval from the County. Permittee shall arrange for and bear the cost of any other Permits required by Federal, State or local law, site preparation, installation of utilities, treatment of surface, enclosure of Premises, insurance premiums, utility bills, and other costs of any nature whatsoever, which are necessary in connection with or appurtenant to the operation and maintenance of Premises as used by the Permittee. County will allow no credit for the cost of any such expenditure, work performed, or ordered done by Permittee.
- B. Permittee shall re-stripe the parking lot at least every 3 years and seal and re-slurry the parking lot every 5 years or at the request of County.
- C. Permittee may terminate this Permit at anytime by giving County not less than thirty-(30)-days advance written notice of intention to terminate. However, the termination shall not be effective unless Permittee has complied with all of the following:



PERMIT NO. 04-015

- Returned all key cards and parking passes.
 - Vacated the Premises.
 - Removed all improvements Permittee has constructed or placed upon the Premises, if applicable.
 - Restored the Premises to as good a condition as existed on the day possession of Premises was taken by Permittee, allowing for the ordinary wear and tear associated with the normal usage during occupancy and to reimburse the County for any damage done to the Premises.
 - An authorized County representative shall inspect the site for safety hazards before a release is issued. Until a release is issued, Permittee shall continue to be responsible for the condition of the Premises.
- D. County may terminate this Permit at any time by giving Permittee not less than thirty (30) days advance written notice of intention to terminate. Upon receipt of such notice, Permittee shall vacate the Premises as required herein. Permittee agrees that should it fail to vacate as herein provided, the County or its authorized agents may enter upon said Premises and remove Permittee's personal property therefrom, and in this event, Permittee waives any and all claims for damages against the County, its officers, agents, or employees. Permittee shall reimburse County for all expenses incurred by County plus maximum interest allowed by law accruing from the day County incurred the expenses until such time as the principal and interest are fully paid by Permittee. Nothing herein shall be deemed a waiver of any rights of the County to demand and obtain permission of the Premises in accordance with law in the event Permittee violates any part of any of the terms or conditions herein.
- E. It is understood and agreed to be part of the herein consideration that County may temporarily suspend or terminate the Permit without notice to Permittee in order to allow the performance by County, its officers, agents, and employees, of work necessary to protect persons or property, including the Premises, from impending danger, hazard or harm. In the event County exercises such right, County will credit Permittee a prorated share of the prepaid rent based on the time period County has possession of the Premises.
- F. Permittee shall keep Premises and any improvements it constructed or placed on Premises in good working order and maintain such in a neat, clean, and orderly condition at all times during occupancy and not permit graffiti, rubbish, tin cans, garbage, etc., to accumulate, nor to use or allow use of Premises for any illegal or unauthorized purposes, and to comply with all State laws and local ordinances concerning Premises and the use thereof.
- G. Permittee is responsible for any and all damages done to the Premises by Permittee, agents, contractors, subcontractors, invitees, visitors and anyone holding under the Permittee. Permittee shall promptly repair any such damage as soon as Permittee is aware of the damages but not later than 10 days upon receipt of notification from the County.
- H. It is understood and agreed that County shall not be responsible for any damage to Premises or injuries to persons which may arise from or be incidental to the use and occupancy of Premises, or for damages to the property of Permittee, or for injuries to the person of Permittee, Permittee's agents, servants, successors, subtenants, invitees or others who may be on Premises at anyone's invitation, arising from or incidental to the use of Premises by the Permittee or anyone under the Permittee or County, and/or its agents, contractors, employees or assigns. Permittee agrees to indemnify, defend, and hold the County, its elected officials, officers, employees and agents, harmless from any and all such claims, including defense costs and legal fees.
- I. This Permit shall cancel and terminate any prior oral or written agreement, if any, between County and Permittee for use of the Premises, as of the commencement date of this Permit.
- J. This Permit may create a possessory interest upon which a property tax may be levied. In such event, Permittee shall pay before delinquency all such taxes or assessments.



PERMIT NO. 04-015

K. Without limiting Permittee's indemnification of the County, Permittee shall at its own expense take out and maintain in force, at all times during the term of this Permit, a policy or policies of insurance covering Premises. Such insurance shall be provided by insurer(s) satisfactory to the County Risk Manager. At a minimum, the policy shall meet the following minimum criteria:

- Coverage for comprehensive general liability and property damage in the amount not less than One Million Dollars (\$1,000,000) per occurrence, Two Million Dollars (\$2,000,000) aggregate.
- Coverage for automobile liability in the amount not less than One Million Dollars (\$1,000,000) per occurrence.
- The COUNTY OF LOS ANGELES, its governing board, officers, and employees shall be named as Additional Insured on all policies of liability insurance to be evidenced by an endorsement or similar instrument. (If County is not named as an Additional Insured in the original policy, an endorsement will be necessary to satisfy this provision.)
- This Permit No. 04-015 is included as part of the insured premises to be evidenced by an endorsement or a similar instrument. (If the premises or this Permit is not named as an Additional Insured in the original policy, an endorsement will be necessary to satisfy this provision.)
- Coverage for Workers' Compensation insurance in an amount and form to meet all applicable requirements of the Labor Code of the State of California and which specifically covers the persons and risks involved in this Permit. Permittee understands and agrees that all persons furnishing services to the County pursuant to this Permit are, for purposes of Workers' Compensation liability, employees solely of Permittee and not of County. Permittee shall bear the sole responsibility and liability for furnishing Workers' Compensation benefits to any person for injuries arising from or connected with services performed on behalf of Permittee pursuant to this Permit.

All policies of insurance shall be with a company or companies authorized by law to transact insurance business in the State of California. Prior to the commencement date of this Permit, Permittee shall furnish to County a copy of the policy of insurance evidencing Permittee's insurance coverage. Failure on the part of Permittee to procure or maintain required insurance shall constitute a material breach of contract upon which the County may immediately terminate this Permit.

Upon renewal of any of the policies of insurance, Permittee shall furnish to County a Certificate of Insurance evidencing Permittee's continued insurance coverage. The County shall be given notice in writing at least (30) days in advance of cancellation or modification of such policy.

In the event any of the policies are changed or if the insurance carrier is changed, Permittee shall provide County a copy of the replacement policy meeting the minimum requirements as above noted.

- L. Permittee expressly acknowledges that Permittee is a post acquisition tenant and shall not be entitled to any claim of status as a "displaced person" as such is defined in Section 7260 of the Government Code of the State of California. Permittee hereby acknowledges Permittee's ineligibility for relocation assistance as provided in Government Code Sections 7260 through 7277, inclusive, as it exists or as it may be amended.
- M. Permittee shall not construct or place any improvements on the premises.
- N. County may, at its sole discretion, enter premises to conduct Environmental Site Assessments. Upon review of such Assessments, County may, at its sole discretion, terminate this Permit consistent with General Provision D. Permittee shall bear any and all responsibility, expense, and liability incurred in the cleanup and treatment of any



PERMIT NO. 04-015

hazardous materials or condition found on the Premises caused by Permittee's use, storage, or treatment of any hazardous materials on/or within the Premises.

- O. Each County Lobbyist as defined in Los Angeles County Code Section 2.160.010, retained by Permittee, shall fully comply with the County Lobbyist Ordinance, Los Angeles County Code Chapter 2.160. Failure on the part of any Lobbyist retained by Permittee to fully comply with the County Lobbyist Ordinance, shall constitute a material breach of this Permit upon which the County may terminate or suspend this Agreement.

ACCEPTANCE

We, the undersigned Permittee, have read, understood and agreed to all the terms, conditions, and restriction contained in this Permit.

PERMITTEE:

GOLD COAST VILLAGE, LLC

Signature: *Michael Pasbair*

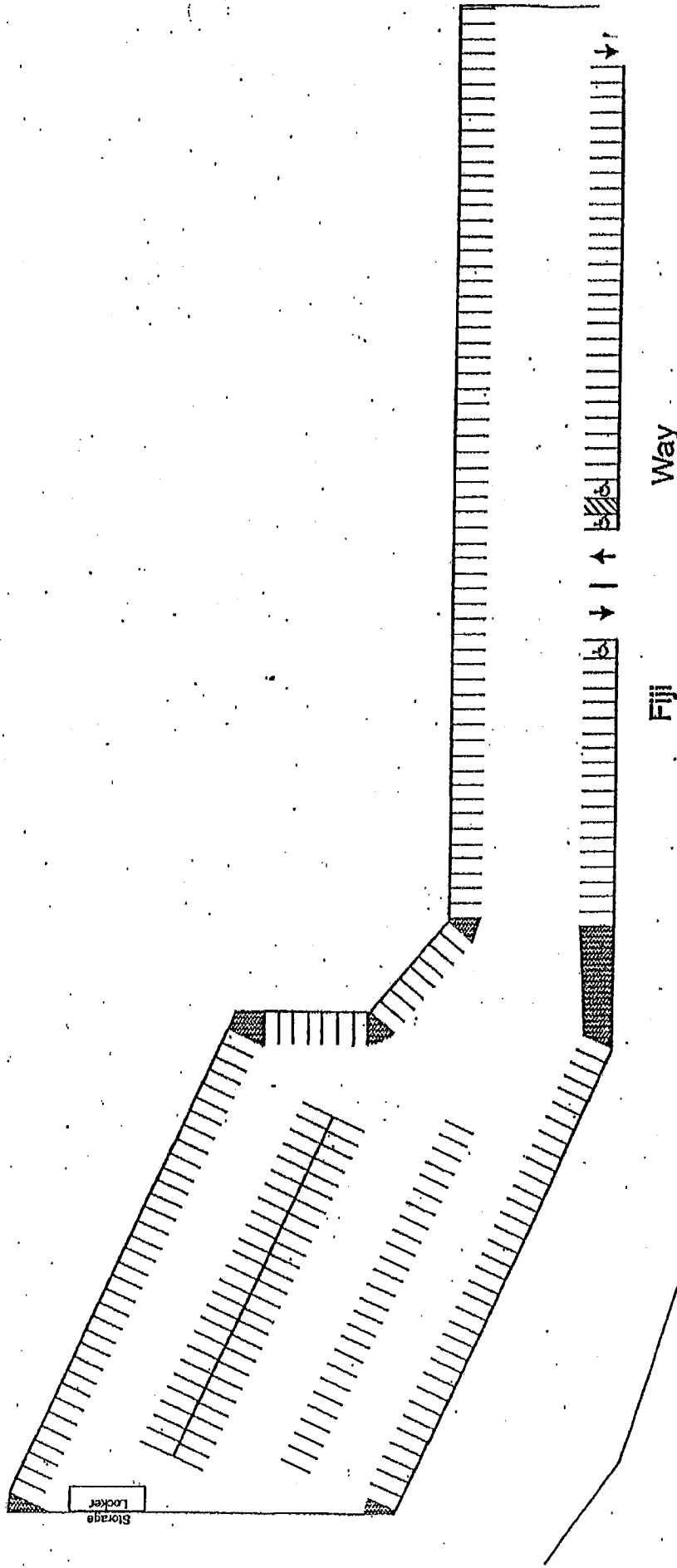
Name in Print: Michael Pasbair

Title: Managing Member

Date: 5-31-06



FISHERMAN'S VILLAGE (Parcel 56) OVERFLOW LOT



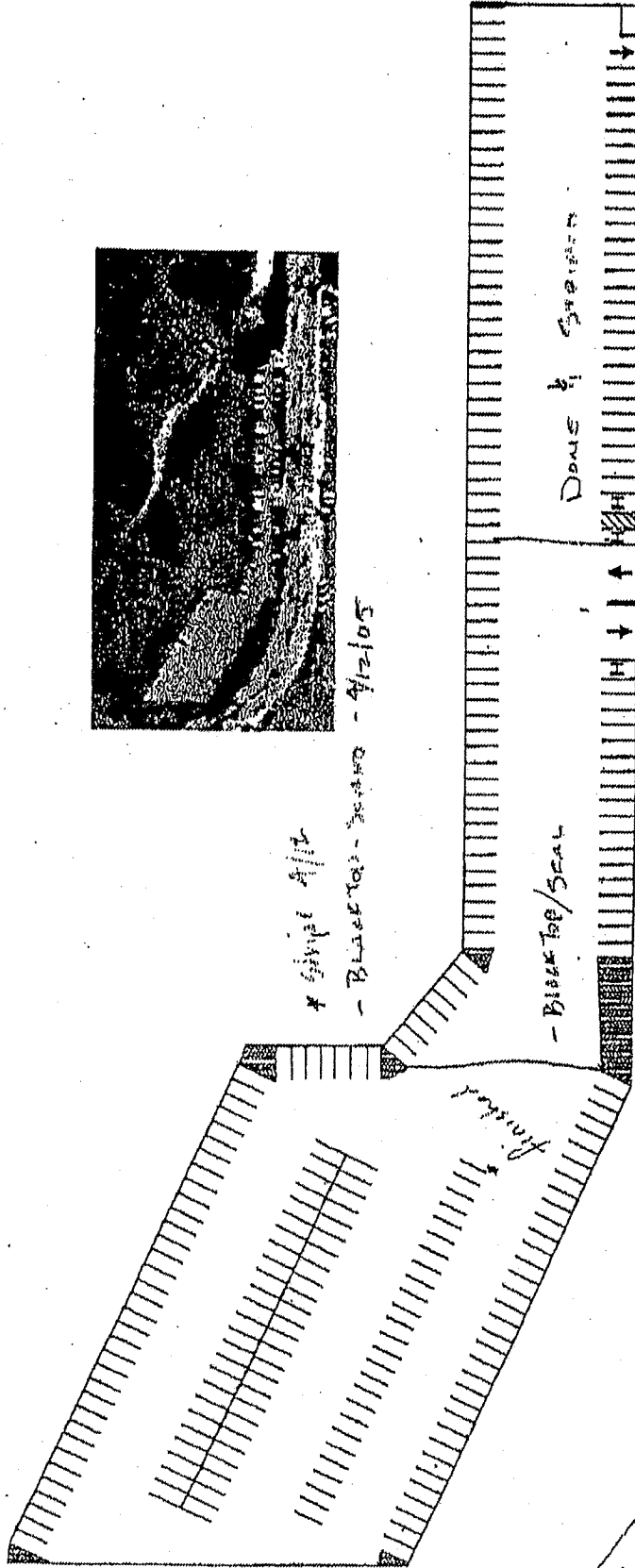
Fisherman's
Village

PERMIT 04-015
EXHIBIT A

REGULAR SPACES	262*
DISABLED	3
TOTAL	265

* Count is approximate, due to poor stippling condition of lot.

L.A. COUNTY DEPARTMENT OF BEACHES AND HARBORS Revised 8 / 2002 by CLS



* Sample 4/12
- Black Top Seal - 4/12/05

- Black Top Seal

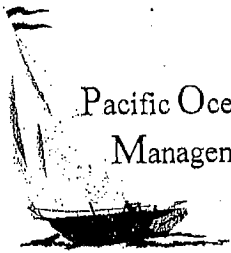
Dome & Storage

Fiji Way

Parcel W Overflow Lot

REGULAR SPACES	262
DISABLED	3
TOTAL	265

Revised 03/2002
Site Verified 03/20/2002 by CS
Coverage approximate, due to poor striping conditions of lot.



Pacific Ocean
Management, LLC

May 31, 2006

Hand Delivered

Mr. Paul Wong, Chief Property Manager
County of Los Angeles
Dept. of Beaches & Harbors
13837 Fiji Way
Marina del Rey, CA 90292

Re: Parcel W-2 Fisherman's Village Overflow Lot Notice to Pay Rent

Dear Mr. Wong:

Attached please find the signed copy of permit #04-015 in regards to the overflow lot for Fisherman's Village. Per your conversation today with Michael Pashaie, the total cost of our recent improvements to the overflow lot amounting to \$4,750.00 has been deducted from the requested amount due. Check #4550 is attached for \$11,959.40. Thank you!

Best regards,

Michael Selden
Controller

cc: Michael Pashaie

CPR SERVICES LLC
Commercial Property Repair Services

PHONE: (909) 874-9773 * FAX: (909) 874-9774
1760 N. Date Ave., Rialto, CA 92376

INVOICE # 250

Company: **Pacific Ocean Management**

Property: **Dock 52**

Address: **13575 Mindanao Way**

Location: **Marina Del Rey, CA**

City/State/Zip: **Marina Del Rey, CA, 90292**

Contact: **Doris**

Phone: **(310) 822-4266**

Service Rendered: **Seal Coat and Strip**

Date Work Completed

Date invoiced:

Due on Completion

April 11, 2005

April 11, 2005

April 12, 2005

DESCRIPTION: Contract sold for: Asphalt, seal coating with new striping layout

Price \$ 4,750.00

Amount Due \$ 4,750.00

Thank You For The Work!

REMITTANCE ADVICE

TOTAL

4,750.00

0.00

4,750.00

(80501)

GOLD COAST VILLAGE, LLC
BY PACIFIC OCEAN MANAGEMENT, LLC
13575 MINDANAO WAY
MARINA DEL REY, CA 90292

CITY NATIONAL BANK
9229 SUNSET BLVD.
W. HOLLYWOOD, CA 90069

16-1608
1220

DATE	CHECK NO.	AMOUNT
04/12/05	003926	\$*****4,750.00*

FOUR THOUSAND SEVEN HUNDRED FIFTY AND NO/100 DOLLARS *****

PAY
TO THE
ORDER OF

CPR SERVICES, LLC

1760 N. DATE AVE.
RIALTO, CA 92376

⑈003926⑈ ⑆122016066⑆ 006⑈707882⑈

Amount Due \$ 4,750.00

Thank You For The Work!

COUNTY OF LOS ANGELES DEPARTMENT OF BEACHES AND HARBORS

DEPARTMENTAL RECEIPT No. 021084 C

RECEIVED FROM

5/31 20 06
Gold Coast Village \$ 11,959.40Eleven thousand nine hundred fifty nine & 40 cents DOLLARS

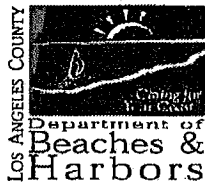
FOR

Right of entry permit for overflow parking at
Permit #04-015City National Bank
004530

SIGNATURE

OFFICIAL TITLE

DIVISION COPY



LOS ANGELES COUNTY DEPARTMENT OF BEACHES AND HARBORS
13837 Fiji Way, Marina del Rey, California 90292

PERMIT NO. 10-001

Effective Date: **04/01/2010**

Expiration Date: **month-to-month**

BEACH/FACILITY (Premises): Parcel XT (Fisherman's Village Overflow Lot, as shown in Exhibit A attached hereto and made a part hereof.

PERMITTEE:

Dey Rey Restaurant Corporation
Specialty Restaurants Corp.
Shanghai Red's Restaurant
8191 E. Kaiser Blvd, Anaheim, CA 92808-2214

CONTACT: Parviz Gerami
~~Francisco Perez~~, General Manager
Phone #: 310-823-4522
Emergency #: 714-240-2584

PURPOSE OF PERMIT: Parking for employees of Shanghai Red's Restaurant, MdR

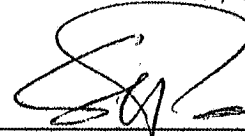
EQUIPMENT TO BE USED: N/A

STAGING AREA: N/A

APPLICATION DATE: 2/3/2010

ISSUE DATE: 4-5-2010

SANTOS H. KREIMANN, DIRECTOR

By: 

Paul Wong, Chief Property Manager
Asset Management Division

PROCESSING FEE: (WAIVED)

DEPOSIT: (WAIVED)

MONTHLY RENT: \$150.00 / \$250.00 (see Terms and Conditions #3)

TOTAL DUE: \$2200.00 for calendar year 2010.

RECEIPT NO. _____

PERMIT NO. 10-001

**THIS PERMIT IS SUBJECT TO THE TERMS AND CONDITIONS LISTED BELOW
AND TO THE PROVISIONS LISTED UNDER THE "GENERAL PROVISIONS" SECTION HEREIN**

1. The term of this Permit is one (1) month and shall continue on a month-to-month basis until the Permit is terminated as outlined under General Provisions A through O.
2. Permittee understands and acknowledges that parking privileges herein are nonexclusive.
3. The monthly rental rates shall be \$150.00 per month October 1st through May 31st and \$250.00 per month June 1st through September 31st, payable in advance on annual basis on January 1st of each year the Permit is in effect. The rental rates are subject to change as directed by the County of Los Angeles Board of Supervisors. County shall notify Permittee no less than thirty (30) days prior to any increase. If Permittee disagrees with a rent adjustment, Permittee shall have the option to terminate this Permit as provided herein. Permittee's continued occupancy of the Premises on and after the effective date of the rental adjustment shall constitute the Permittee's agreement to remain in possession of the Premises subject to the new rental rate specified in the notice.
4. This Permit is issued solely to provide parking for the employees of Shanghai Red's Restaurant, located on Parcel 61, Marina del Rey, during an employee's work shift. Employees may access the Premises by using the key card and parking pass issued to that employee. Only the Permittee's management may apply directly to PCI, the County's parking contractor, for key cards and parking passes. A total of no more than forty-five (45) key cards and parking passes will be made available to the Permittee. Each application for a key card and parking pass must be in a form and manner as prescribed by PCI and must be accompanied by a \$50 deposit, which shall be refunded to the Permittee when the key card and parking pass are returned to PCI. Each parking pass must be clearly displayed on the rear view mirror of each vehicle, unless otherwise instructed. Photocopies of parking passes are not acceptable. Vehicles displaying a photocopy of the parking pass or parked without a valid parking pass are subject to a parking citation. This Permit shall be subject to revocation if key cards and parking passes are used to access the Premises for non-work-related reasons.
5. Employee's use of the Premises is limited to their working hours. If the employee's vehicle becomes disabled and the vehicle must remain on the lot for more than 24 hours, the Department should be notified at (310) 305-9534 to avoid a parking citation. Vehicles stored for longer than 24 hours and not called in will be cited and will be subject to towing at the owner's expense.
6. No storage containers or equipment are allowed on the Premises.
7. Permittee is responsible for ensuring that any person or vehicles entering the Premises under this Permit refrain from littering the Premises.
8. This Permit does not grant any special parking privileges to Permittee. Permittee must obey all posted parking lot rules and regulations. For any County parking lot other than the Premises, Permittee must pay the posted parking lot entry fee for each vehicle upon entry.
9. Permittee agrees to keep and perform all provisions contained in any permit issued or to be issued to Permittee by any governmental agency or commission. Failure to comply with this condition shall constitute a material breach of contract upon which the County may immediately terminate or suspend this Permit.
10. Permittee agrees to keep all advertising signs and marketing material off the Premises.
11. Permittee agrees to conduct the permitted activities in a courteous and non-profane manner, to operate without interfering with the use of the Premises by the County or the public, except as herein permitted, and to remove any agent, servant or employee who fails to conduct permitted activities in the manner heretofore described.

PERMIT NO. 10-001

12. Permittee acknowledges that this Permit is issued by County of Los Angeles to Permittee for the intended activities and is not intended, and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between County and Permittee. It is expressly understood by Permittee that in permitting the right to use the Premises, no estate or interest in real property is being conveyed to Permittee, and that the right to use is only a nonexclusive, revocable and unassignable permission to occupy the Premises in accordance with the terms and conditions of the Permit for the purpose of conducting the permitted activities.
13. Permittee shall accommodate the Public's need for parking by freeing up as many parking spaces as possible on, but not limited to, the following days: Memorial Day, Independence Day, Labor Day and on the day the Christmas Boat Parade is held.

14. GENERAL PROVISIONS

- A. Permittee has examined the Premises and knows the conditions thereof. Permittee accepts the Premises in the present state and condition and waives any and all demand upon County for alteration, repair, or improvement thereof. Permittee shall make no alteration or improvements to the Premises without prior written approval from the County. County will allow no credit for the cost of any expenditure for any work performed by Permittee, or for any work ordered done by Permittee.
- B. Permittee may terminate this Permit at anytime by giving County no less than thirty (30) days advance written notice of intention to terminate. However, the termination shall not be effective unless Permittee has vacated the Premises; returned all key cards and parking passes.
- C. County may terminate this Permit at any time by giving Permittee no less than thirty (30) days' advance written notice of intention to terminate. Upon receipt of such notice, Permittee shall vacate the Premises as required herein. Permittee agrees that should it fail to vacate as herein provided, the County or its authorized agents may enter upon said premises and remove Permittee's personal property therefrom, and in this event, Permittee waives any and all claims for damages against the County, its officers, agents, or employees. Permittee shall reimburse County for all expenses incurred by County plus maximum interest allowed by law accruing from the day County incurred the expenses until such time as the principal and interest are fully paid by Permittee. Nothing herein shall be deemed a waiver of any rights of the County to demand and obtain possession of the Premises in accordance with law in the event Permittee violates any part of any of the terms or conditions herein.
- D. It is understood and agreed to be part of the herein consideration that County may temporarily suspend or terminate the Permit without notice to Permittee in order to allow the performance by County, its officers, agents, and employees, of work necessary to protect persons or property, including the Premises, from impending danger, hazard or harm. In the event County exercises such right, County will credit Permittee a prorated share of the prepaid rent based on the time period County has possession of the Premises.
- E. Permittee shall not permit graffiti, rubbish, tin cans, garbage, etc., to accumulate, nor to use or allow use of Premises for any illegal or unauthorized purposes, and to comply with all State laws and local ordinances concerning Premises and the use thereof.
- F. Permittee is responsible for any and all damages done to the Premises by Permittee, agents, contractors, subcontractors, invitees, visitors and anyone holding under the Permittee. Permittee shall promptly repair any such damage as soon as Permittee is aware of the damages but not later than 10 days upon receipt of notification from the County.
- G. It is understood and agreed that County shall not be responsible for any damage to Premises or injuries to persons or property that may arise from or be incidental to the use and occupancy of Premises, or for damages to the property of Permittee, or for injuries to the person of Permittee, Permittee's agents, servants, successors, subtenants, invitees or others who may be on Premises at anyone's invitation, arising from or incidental to the use

PERMIT NO. 10-001

of Premises by the Permittee or anyone under the Permittee, and/or its agents, contractors, employees or assigns. Permittee agrees to indemnify, defend, and hold harmless the County, for such claims and liability pursuant to the condition immediately below.

- H. Permittee shall indemnify, defend, and hold harmless County, its Special Districts, elected and appointed officers, employees and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs and expenses (including attorney and expert witness fees), arising from or caused by, in whole or in part, the activities of Permittee, its agents, contractors, employees or assigns on the Premises.
- I. This Permit shall cancel and terminate any prior oral or written agreement, if any, between County and Permittee for use of the Premises, as of the commencement date of this Permit.
- J. This Permit may create a possessory interest upon which a property tax may be levied. In such event, Permittee shall pay before delinquency all such taxes or assessments.
- K. Without limiting Permittee's indemnification of the County, Permittee shall at its own expense take out and maintain in force, at all times during the term of this Permit, a policy or policies of insurance covering Premises. Such insurance shall be provided by insurer(s) satisfactory to the County Risk Manager. At a minimum, the policy shall meet the following minimum criteria:
 - Coverage for comprehensive general liability and property damage in the amount not less than One Million Dollars (\$1,000,000) per occurrence, Two Million Dollars (\$2,000,000) aggregate.
 - Coverage for automobile liability in the amount not less than One Million Dollars (\$1,000,000) per occurrence.
 - The COUNTY OF LOS ANGELES, its governing board, officers, and employees shall be named as Additional Insured on all policies of liability insurance to be evidenced by an endorsement or similar instrument. (If County is not named as an Additional Insured in the original policy, an endorsement will be necessary to satisfy this provision.)
 - This Permit No. is included as part of the insured premises to be evidenced by an endorsement or a similar instrument. (If the Premises or this Permit number is not included in the original policy, an endorsement will be necessary to satisfy this provision.)
 - Coverage for Workers' Compensation insurance in an amount and form to meet all applicable requirements of the Labor Code of the State of California and which specifically covers the persons and risks involved in this Permit. Permittee understands and agrees that all persons furnishing services to the County pursuant to this Permit are, for purposes of Workers' Compensation liability, employees solely of Permittee and not of County. Permittee shall bear the sole responsibility and liability for furnishing Workers' Compensation benefits to any person for injuries arising from or connected with services performed on behalf of Permittee pursuant to this Permit.

To the fullest extent permitted by law, the Permittee hereby waives its rights and its insurer(s)' rights of recovery against County under all the insurance required under this Permit for any loss arising from or relating to this Permit. The Permittee shall require its insurers to execute any waiver of subrogation endorsements which may be necessary to effect such waiver.

All policies of insurance shall be with a company or companies authorized by law to transact insurance business in the State of California. Prior to the commencement date of this Permit, Permittee shall furnish to County a copy of the policy of insurance evidencing Permittee's insurance coverage. Failure on the part of Permittee to procure or maintain required insurance shall constitute a material breach of contract upon which the County may immediately terminate or suspend this Permit.

PERMIT NO. 10-001

Upon renewal of any of the policies of insurance, Permittee shall furnish to County a Certificate of Insurance evidencing Permittee's continued insurance coverage. The County shall be given notice in writing at least (30) days in advance of cancellation or modification of such policy.

In the event any of the policies are changed or if the insurance carrier is changed, Permittee shall provide County a copy of the replacement policy meeting the minimum requirements as above noted.

- L. Permittee expressly acknowledges that Permittee is a post acquisition tenant and shall not be entitled to any claim of status as a "displaced person" as such is defined in Section 7260 of the Government Code of the State of California. Permittee hereby acknowledges Permittee's ineligibility for relocation assistance as provided in Government Code Sections 7260 through 7277, inclusive, as it exists or as it may be amended.
- M. Permittee shall not construct or place any improvements on the Premises.
- N. County may, at its sole discretion, enter Premises to conduct Environmental Site Assessments. Upon review of such Assessments, County may, at its sole discretion, terminate this Permit consistent with General Provision C. Permittee shall bear any and all responsibility, expense, and liability incurred in the cleanup and treatment of any hazardous materials or condition found on the Premises caused by Permittee's use, storage, or treatment of any hazardous materials on/or within the Premises.
- O. Each County Lobbyist as defined in Los Angeles County Code Section 2.160.010, retained by Permittee, shall fully comply with the County Lobbyist Ordinance, Los Angeles County Code Chapter 2.160. Failure on the part of any Lobbyist retained by Permittee to fully comply with the County Lobbyist Ordinance shall constitute a material breach of this Permit upon which the County may terminate or suspend this Permit.

ACCEPTANCE

We, the undersigned Permittee, have read, understood and agreed to all the terms, conditions, and provisions contained in this Permit.

PERMITTEE:

Signature: _____

Name in Print: _____

Title: _____

Date: _____



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/31/2011

3/24/2010

PRODUCER Lockton Insurance Brokers, LLC
725 S. Figueroa Street, 35th Fl.
CA License #0F15767
Los Angeles CA 90017
(213) 689-0065

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED Shanghai Reds
1315305 13813 Fiji Way
Marina del Rey CA 90291

INSURERS AFFORDING COVERAGE**NAIC #**

INSURER A: Great American Alliance Insurance Co

26832

INSURER B: Allied Insurance Company

36528

INSURER C: American Zurich Insurance Company

40142

INSURER D:

INSURER E:

COVERAGES

SPERE01

FA

THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER AND THE CERTIFICATE HOLDER.

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS		
A	X	GENERAL LIABILITY	PAC2267345	1/31/2010	1/31/2011	EACH OCCURRENCE	\$ 1,000,000	
		<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100,000	
		<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person)	\$ Excluded	
		<input checked="" type="checkbox"/> Liq. Liab. \$1MM				PERSONAL & ADV INJURY	\$ 1,000,000	
		<input checked="" type="checkbox"/> \$25,000 Ded.				GENERAL AGGREGATE	\$ 2,000,000	
		GEN'L AGGREGATE LIMIT APPLIES PER:				PRODUCTS - COMP/OP AGG	\$ 2,000,000	
		<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						
B	X	AUTOMOBILE LIABILITY	7804292173	1/31/2010	1/31/2011	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000	
		<input checked="" type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$ XXXXXXXX	
		<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$ XXXXXXXX	
		<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$ XXXXXXXX	
		<input checked="" type="checkbox"/> HIRED AUTOS						
		<input checked="" type="checkbox"/> NON-OWNED AUTOS						
		<input checked="" type="checkbox"/> Med Pay \$2,000						
		<input checked="" type="checkbox"/> Comp/Coll Ded \$1,000						
		GARAGE LIABILITY	NOT APPLICABLE			AUTO ONLY - EA ACCIDENT	\$ XXXXXXXX	
		<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC	\$ XXXXXXXX	
						AUTO ONLY: AGG	\$ XXXXXXXX	
C	Y/N N	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WC937869806	1/31/2010	1/31/2011	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER		
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)				E.L. EACH ACCIDENT	\$ 1,000,000	
		If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000	
						E.L. DISEASE - POLICY LIMIT	\$ 1,000,000	
		OTHER						

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

This Certificate of Liability relates to the Los Angeles County Department of Beaches and Harbors Permit No. 10-001. The County of Los Angeles, its governing board, officers and employees are an Additional Insured to the extent provided by the policy language or endorsement issued or approved by the insurance carrier.

CERTIFICATE HOLDER

10833225

The County of Los Angeles,
its governing board, officers and employees
13837 Fiji Way
Marina Del Rey CA 90292

CANCELLATION [D447908]

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

ACORD 25 (2009/01)

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For questions regarding this certificate, contact the number listed in the 'Producer' section above and specify the client code 'SPERE01'.



April 1, 2010

The County of Los Angeles, its governing board, officers and employees
13837 Fiji Way
Marina Del Rey , CA 90292

Re: Notice of Cancellation Clause

To Whom It May Concern:

Please be advised that we cannot fulfill the request to alter the cancellation clause of the certificate. The insurance carriers have advised that they will not allow us to do this, as it is impossible for them to guarantee compliance with this request given the large number of certificate holders. However, the certificate will contain the standard "endeavor to" wording.

Thank you for your understanding.

Regards,

A handwritten signature in cursive script, appearing to read "David Burgos".

David Burgos
Assistant Vice President
Lockton Insurance Brokers

SPECIALTY RESTAURANTS CORPORATION



March 31, 2010

Jules Trifler
Los Angeles County Beaches & Harbors
13837 Fiji Way
Marina del Rey, CA 90292

Re: Shanghai Red's Restaurant
Permit No. 10-001

Dear Mr. Trifler:

Enclosed please find the original executed Permit No. 10-001 for Shanghai Red's Restaurant in Marina del Rey. Also enclosed is the Certificate of Insurance that was requested.

If you need anything further, please do not hesitate to contact me or this office. Thank you for your assistance in this matter.

Very truly yours,

Lynn Kellum, PLS
Legal Department Administrator

Enclosures

Los Angeles County
Department of Beaches and Harbors
13575 Mindanao Way
Marina Del Rey, California 90292



CASH APPLIED REPORT

Agreement # R90063 - Del Rey Restaurant Corp.
Parcel # MXT

DEL REY RESTAURANT CORP. (P61)
8191 EAST KAISER BOULEVARD
ANAHEIM, CA 92808-2214

DATE	PAYMENT TYPE	CHECK #	PAYMENT TOTAL	APPLIED TO INVOICE #	REV ACCT	FUNC	FUND	AMOUNT APPLIED	DEPOSIT AMOUNT
02/27/2013	Check	534583	\$ 2,200.00	R19120	8301	PM2	A01	\$ 2,200.00	--
03/28/2016	Check	580634	\$ 6,600.00	B25238	8371	PM2	A01	\$ 2,200.00	--
				B32171	8371	PM2	A01	\$ 2,200.00	--
				M40042	8371	PM2	A01	\$ 2,200.00	--
03/21/2017	Check	595850	\$ 2,200.00	B48923	8371	PM2	A01	\$ 2,200.00	--
Account Balance								\$ 11,000.00	

DEPARTMENT OF FISH AND GAME

WILDLIFE CONSERVATION BOARD

1807 13TH STREET, SUITE 103
SACRAMENTO, CALIFORNIA 95814
(916) 445-8448
FAX (916) 323-0280
www.dfg.ca.gov/wcb

State of California
The Resources Agency
Department of Fish and Game
WILDLIFE CONSERVATION BOARD
Minutes
September 30, 2003

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DEPARTMENT OF FISH AND GAME

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**State of California
The Resources Agency
Department of Fish and Game
WILDLIFE CONSERVATION BOARD**

Minutes
September 30, 2003

The Wildlife Conservation Board met on Wednesday, September 30, 2003, in Room 4203 of the State Capitol in Sacramento, California. The meeting was called to order at 10:00 A.M. by Chairman Michael Flores. Mr. Flores introduced the Board Members and then turned over the meeting to Mr. Al Wright, Executive Director of the Board.

6. Roll Call

WILDLIFE CONSERVATION BOARD MEMBERS

Michael Flores, Chairperson
President, Fish and Game Commission
Fred Klass, Program Budget Manager
Vice, Steve Peace, Member
Director, Department of Finance
Robert C. Hight, Member
Director, Department of Fish and Game

JOINT LEGISLATIVE INTERIM ADVISORY COMMITTEE

Assembly Member Patty Berg
Kristin Stauffacher,
Vice, Senator Michael J. Machado
Jeff Arthur,
Vice, Assembly Member Hannah-Beth Jackson
Debra Gravert,
Vice, Assembly Member Fran Pavley

EXECUTIVE DIRECTOR

Al Wright

Staff Present: Al Wright, Executive Director
John Donnelly, Assistant Executive Director
Marilyn Cundiff, Public Land Management Specialist
Jenny Smith, Staff Services Analyst
Peter Perrine, Public Land Management Specialist
Bonnie Turner, Public Land Management Specialist
Scott Clemons, Public Land Management Specialist
Tony Chappelle, Public Land Management Specialist
Ajit Bindra, Associate Budget Analyst
Gary Cantrell, Research Analyst
Dave Means, Senior Land Agent
William Gallup, Senior Land Agent
Steven Christensen, Senior Land Agent
Ken Morefield, Research Analyst
Elena Salas, Secretary
Mary Grande, Secretary
Jan Beeding, Office Technician
Maureen Rivera, Executive Assistant

Others Present: Susannah Churchill, Environment California
Melanie Choy, Robinson and Associates
Dottie Jensen, WAMU
Jan Owen, WAMU
Victoria Rome, Natural Resources Defense Council
Joe Caves, Conservation Strategy Group
Paul Martin
Tom Francis, Ballona Wetlands Land Trust
Steve Soboroff, Playa Vista
David Vena, Latham and Watkins
Rorie Skei, Santa Monica Mountains Conservancy
Patti Sinclair, Playa Capital Company LLC
Ruth Lansford, Friends of Ballona Wetlands
Jim Landry, Ballona Wetlands Foundation
and Loyola Marymount University
Rex Frankel, Sierra Club
Mathew Hayden, City of Calabasas
Jared Carter, Pacific Lumber Company
Susan McCabe, McCabe and Company
David Nelson, Playa Capital
Liza Riddle, Trust for Public Land
Catherine Tyrrell, Playa Capital
Marcia Hanscom, Wetlands Action Network
Laurie Collins, Santa Monica Mountains Conservancy
Cara Horowitz, Santa Monica Mountains Conservancy
Leslie Purcell
Debra Gravert, Office of Assembly Member Fran Pavley
Nick Smith, Governor's Office
Others Present: Tami Miller, Platinum Advisors

(Continued) John Stevens, State Assembly
Brian Miller, Resources Agency
Linda Parks, County of Ventura
Rick Rayburn, Department of Parks and Recreation
Jim Metropulos, Sierra Club

2. Ballona Wetlands, Los Angeles County \$140,000,000.00

Mr. Wright reported that this proposal was to consider a cooperative project with the State Coastal Conservancy (SCC), the Trust for Public Land (TPL), the Department of Fish and Game (DFG) and the Wildlife Conservation Board (WCB) to acquire approximately 483± acres of private land and property interests in Los Angeles County in order to preserve critical habitat and key open space, including a large portion of what remains of the Ballona Wetlands. The property is located on the western edge of the Los Angeles metropolitan area, in Los Angeles County, just north of Los Angeles International Airport. The subject property is the largest remaining undeveloped and restorable coastal wetland in Los Angeles and consists of three distinct areas identified as Area A (138± acres), B Residential (54± acres) and the Ballona Wetlands Parcel, including the Ballona Creek Channel (291± acres). The total to be conveyed to the State is 483± acres. Mr. John Donnelly described the project and its location.

As part of the transaction, Playa Capital Company, LLC (Playa), the present owner of the property, would also release its right of first refusal to purchase adjacent property identified as Area C. Playa will release its rights to an easement across Area C if relieved of its obligation to construct a road and bridge to connect Culver Boulevard with Playa Vista Drive. A trust currently holds title to Area C for the benefit of the State and legislation has passed to formally transfer title to the State acting by and through the DFG, WCB.

Mr. Donnelly reported that prior to this meeting, a summary paper which discussed several key points of the project, the State's Purchase Agreement and Environmental Site Assessment for this project, were available at the following locations on September 19, 2003:

1. The California Resources Agency, 1416 Ninth Street, Suite 1311, Sacramento, CA 95814 (916) 653-5656
2. Wildlife Conservation Board, 1807 13th Street, Suite 103, Sacramento, CA 95814 (916) 445-8448
3. Los Angeles River Center and Gardens, 570 West Avenue Twenty-six (at San Fernando Road), Los Angeles, CA 90065 (323) 221-9959 Ext. 0
4. Franklin Canyon Park, 2600 Franklin Canyon Drive, Beverly Hills, CA 90210 (310) 858-7272 Ext. 0

Mr. Donnelly explained that the documents and summaries were also available for review on the Internet by accessing the Wildlife Conservation Board's website or the California Resources Agency website.

The subject property is a composition of upland scrub, open salt/mud flat, riparian, coastal dune and grasslands providing habitat for a number of special animal species. A few of the species found on site include Lange's El Segundo dune weevil, Dorothy's El Segundo dune weevil, wandering skipper (federal species of concern), silvery legless lizard, Stevens' California vole (federal and State species of concern), California brown pelican (federally and State-listed endangered), California least tern (federally and State-listed endangered) and Belding's Savannah sparrow (a federal species of concern and State-listed endangered).

Several of the species listed above rely on wetland habitat, which is quickly disappearing. The Ballona Wetlands once consisting of approximately 1,500 acres, has been reduced over time to less than 150 acres. However, several narrow corridors, such as the Ballona Creek Channel connect the subject property with other open areas nearby, including Baldwin Hills to the northeast and a restored dune system at the western end of the Los Angeles International Airport located to the south.

The property will be acquired on behalf of the State and will be under the interim jurisdiction of the DFG. TPL has agreed to pay and provide for management of the property during this interim period (estimated to be approximately five years) which will provide the DFG, SCC and others involved in the transaction, the time needed to complete the planning processes and identify the appropriate entity to manage the property and implement long-term restoration. It is envisioned that restoration will incorporate, as appropriate, Area C, once that property is conveyed to the DFG, and an adjacent fresh water marsh recently restored by Playa as a condition of its present development.

Area A and Area B Residential have been appraised and the value has been reviewed and approved by the Department of General Services (DGS) at \$140,000,000.00, with concurrence from the WCB. Playa Capital Company, LLC has agreed to sell these areas at \$139,000,000.00, thereby providing a donation to the State. In addition, Playa has agreed to transfer the Ballona Wetlands Parcel and release its rights as described above in Area C to the State at no cost. It is estimated that an additional \$1,000,000.00 will be needed for project expenses, including title and escrow company costs, appraisal and the DGS' review charges, bringing the total allocation needed to complete this project to \$140,000,000.00.

The proposed acquisition project is exempt from the California Environmental Quality Act (CEQA) pursuant to Class 13 and 25 categorical exemptions. (California Code of Regulations, Title 14, §15313 and 15325) Class 13 of categorical exemptions consists of acquisitions of land for wildlife conservation purposes. Class 25 of categorical exemptions consists of transfers of land in order to preserve open space, habitat or historical resources. Subject to approval by the Board, the appropriate Notice of Exemption will be filed with the State Clearinghouse. CEQA analysis for restoration will be a component of the restoration planning process.

Mr. Wright reported that the Board received numerous letters of support for this project including letters from Senator John Burton; Zev Yaroslavsky, Third District

Supervisor of Los Angeles County; Larry Myers of the Native American Heritage Commission; the Ballona Valley Preservation League, representing 24 individuals and organizations; and Kathy Knight from the Spirit of the Sage Council. Mr. Wright stated that the Board received a rather lengthy email from Tom Francis raising a number of concerns regarding the acquisition.

Ms. Ruth Lansford, President of Friends of Ballona Wetlands, addressed the Board in support of this project. She stated that Friends of Ballona Wetlands is the longest running organization that has been fighting for over twenty-five years to preserve the wetlands. Ms. Lansford went on to read a prepared statement. (See Attachment A)

Mr. John Tommy Rosas, Vice Chair of the Gabrielino/Tongva Indians of California Tribal Council addressed the Board. He stated that the land of this project is theirs, basically and traditionally, which is all documented. Mr. Rosas stated that he has talked with Mr. Wright who provided Mr. Rosas with requested documents. Mr. Rosas expressed concern that the Native Americans have lost a lot of land, that a lot of land needs to be saved and expressed support for the preservation of the property. He stated that their main objection and concern to this transaction is the way it was proposed and lack of communication with the Tribal Council. Mr. Rosas stated that the Native Americans are protected under CEQA and the Public Resources Code and that those don't seem to work, adding that another burial site was dug up last week at Playa Vista. Mr. Rosas stated that someone cited the letter from Mr. Larry Myers, but in the second sentence of the letter, referring to both the Playa Vista area and Ahmanson Ranch property, both areas contain extremely sensitive Native American cultural sites. He added that in his review of documents faxed to him, there were only two references to historic or cultural resources, yet there was great detail about other aspects of the project and feels they have been left out of the process. He stated that several archeological sites in the Playa Vista area are eligible for listing on the national register for historic places, which usually triggers a 106 consultation, which has not happened. He stated that the area also contains the Ballona Lagoon archeological district, and that district has been determined to be eligible for the national register and is listed on the State register. He stressed the importance of protecting their burial sites and cultural resources and requested they be more involved in the project and their concerns acknowledged ahead of time, and under those conditions they would then lift their opposition to the project. Mr. Rosas provided written comments for the record. (See Attachment B).

At this time Mr. Flores welcomed Assembly member Patty Berg.

Mr. Wright stated that he and Mr. Rosas talked recently and that the Board received a letter from the Native American Heritage Commission in strong support of the acquisition and identifying the area of Playa Vista in total as having cultural resources on it. Mr. Wright stated he is not personally aware of any specific sites on the property that are part of this acquisition, that the State is aware of three

scattered shell sites, and that there may be other information the State is not aware of but is certainly interested in obtaining. Mr. Wright stated that because this project is an acquisition, it does not cause any physical change to the land or the

environment does not trigger the 106 consultation requirements that Mr. Rosas has talked about. He added that as Mr. Donnelly discussed in the presentation, one of the primary goals of the restoration that will be led by the State Coastal Conservancy is to protect cultural resource values that may exist on the property. Mr. Wright agreed with Mr. Rosas before the Board meeting that he would convene a meeting in the near future if it was possible to get all of the parties together with the State Coastal Conservancy and the Department of Fish and Game, who would be managing the property, to meet with Mr. Rosas and hear his concerns more specifically so that when the State Coastal Conservancy begins the restoration planning we have made certain that we have incorporated in the public process the concerns of the Native Americans. Mr. Rosas stated that when there are test digs on the property, the soil is going to be disturbed and that is when there are usually archeological finds. He stated there are archeological sites recorded on this property and a number of others that are not recorded and that is why, when they are consulted, the Council can advise the State of those sites, otherwise the sites are confidential. He again stated that is their issue - it is required that they be consulted.

Mr. Hight agreed with Mr. Wright's statements that the Department of Fish and Game will be happy to work with them in resolving their issues. Mr. Rosas expressed appreciation for the opportunity to further discuss their concerns.

Ms. Leslie Purcell addressed the Board and expressed appreciation to the State, the Trust for Public Land and the many people that have worked on saving the Ballona Wetlands. Ms. Purcell stated she is a member of the Sierra Club and that she has worked with many of the local groups in Los Angeles to try to save the wetlands. She expressed support for the State acquiring the land and considering parts of Area D that are not yet entitled. She stated that she is concerned about the amount of money being spent on this proposal comparing it to the amount of money being spent on the Ahmanson Ranch proposal. Ms. Purcell reported that there are toxic issues that have been skimmed over, old oil field gases and residues in that area, and most of the land west of Lincoln Boulevard is a wetlands area that is not very developable. She commented that she understood the State has an appraisal process but when she looked at the Ahmanson and Grizzly Creek properties, the developer was willing to take a substantially less figure and get a tax benefit, \$20 million for Ahmanson and \$6,300,000.00 for Grizzly Creek, whereas Playa Vista is only taking \$1 million off and still trying to get a tax benefit. Ms. Purcell stated that Playa Vista is also released from a traffic mitigation they were supposed to do which was a bridge and road project that would have cost about \$10 million. She stated they were also supposed to do the wetland restoration at the west end of the wetlands, maybe \$13 million, at the end of the development process they were required to do that restoration. She stated she has been working with several people to save the Ballona west bluff, located above the freshwater marsh. She reported the bluff is being graded at this time and burials are being uprooted and being taken off the site. Ms. Purcell again expressed concern to please consider the bluff area for acquisition.

Mr. Tom Francis, Executive Director of the Ballona Wetlands Land Trust, stated that

since 1994, the sole mission of the organization has been to facilitate the acquisition and preservation of the entire Ballona wetlands ecosystem. He reported that the Trust has several concerns about the way the State is approaching this acquisition, but also has suggestions on how, in the future, the State can do a better job on acquisitions, get more land for the taxpayer and therefore do better for the environment. Mr. Francis stated that the Trust supports acquisition of the Ballona Wetlands in concept, but feels the State should be acquiring the entire ecosystem, not just part of it, adding that there are still 350 acres on the other side of the street that are threatened by development and not part of this proposal. He stated that the Trust urges the Board to postpone this acquisition so that the State has an opportunity to renegotiate it so that the taxpayers get a fair deal and the State do something that truly protects the environment from the threat of development. Mr. Francis commented that this acquisition will likely generate significant interest in reevaluating the State's acquisition policy so that the State can stop competing with itself by overpaying for a small part of land that needs protection while leaving other ecosystems to be paved over due to lack of acquisition funds. He stressed the environmental community and the State need to face the fact that we have a small amount of money relative to the amount of land that needs to be purchased and there is a need to reevaluate how we approach purchases.

Mr. Jim Metropulos, representing the Sierra Club California, addressed the Board and read a prepared statement in support of this proposal. (See Attachment C)

Mr. Rex Frankel, President of the Ballona Ecosystem Education Project, addressed the Board in support of the proposed preservation of this area and expressed concern regarding the purchase price of the property. He stated that the Ballona Ecosystem Education Project is the second oldest group that has been working on the Ballona Wetlands issue and that he has been working since 1985 to save the Ballona Wetlands, uplands and open space around it. Mr. Frankel stated he is also a member of the Executive Committee of the Sierra Club of Los Angeles. He praised Governor Davis for his support of this proposal. Mr. Frankel expressed concern regarding the amount of money the State was paying for this acquisition thereby possibly hindering the State's ability to acquire other properties, including Ballona Bluffs, Palos Verdes Peninsula and Santa Clarita Valley in the Newhall area. Mr. Frankel stated that Ballona Bluffs and the Newhall Ranch area face imminent threat of development while the Ballona properties being considered today face enormous regulatory hurdles to build anything, have no permits and may take many years of litigation. He stated that it will take years for permits to be issued and therefore they are concerned that the purchase price may be excessive for the amount of property being acquired in comparison to the Ahmanson Ranch proposal. Mr. Frankel commented that he felt Playa Vista and their supporters are using the panic of the recall to press Governor Gray Davis into making a bad deal for the taxpayers even if it is good for the environment. Mr. Frankel stated that the Board should reconsider the transaction and urge Playa Vista to accept a fair price and save more land.

Ms. Marsha Hanscom, Executive Director of the Wetlands Action Network, addressed the Board in support of this project. She reported that she also serves

on the National Board of Directors of the Sierra Club and wanted to clarify that Mr. Jim Metropulos was the official spokesperson from the Sierra Club regarding this proposal. She reported that their National Board of Directors passed a resolution in support of this acquisition last week at its annual meeting. She stated that Wetlands Action Network is one of the cofounders of the Citizens United coalition to save all of Ballona Wetlands, with 110 groups participating in that coalition. She stated that over the past 30 years, thousands of people have been involved in various ways to protect the Ballona Wetlands. Ms. Hanscom addressed Mr. Frankel's and Mr. Francis' comments regarding issues about entitlements and that the developers could never get permits on this land. She stated that those comments were not entirely accurate and that there are some entitlements on the property from a settlement several years ago and that there is an underlying land use plan where the Coastal Commission would have been required to permit hundreds of houses, a marina and residential units to be built on this land. She added that while there have been some changes in the law or clarifications in the law, there is no question in her mind that after attending many Coastal Commission hearings, the developers would get permits to build something on this land. She stated that development on this land is not acceptable and that it should be protected for the public. She again expressed their support for this proposal and that the management of the property will improve under the Department of Fish and Game and the Trust for Public Land and not stay the same as was mentioned earlier. She stated that they wanted to make sure, before closing escrow, that all of the agreements that are detailed in the purchase agreement are made available to the public; all of the agreements about the parking lots that were originally built for the 1984 Olympics are still there. She commented that today's proposal regarding Grizzly Creek is related to Ballona Wetlands because the Marbled Murrelet, the endangered bird that nests at the top of the redwoods, has actually been seen on several occasions at Marina Del Rey adjacent to the Ballona Wetlands, and that if we restore these wetlands and give the birds more space, we are helping endangered species that travel up and down the Pacific Flyway. She commented that these two acquisitions will be a legacy to Governor Davis and his administration.

Mr. Hight thanked Ms. Hanscom for seeing the connection between the two parcels and that the Department of Fish and Game is very excited about the combination of the two acquisitions.

Ms. Victoria Rome, Policy Analyst with the Natural Resources Defense Council (NRDC), addressed the Board in support of this proposal. On behalf of California's 110,000 members, she asked the Board to approve this proposal. She submitted for the record a copy of a Commentary by Mark Gold and Joel R. Reynolds, Southern California colleagues, which appeared in the Los Angeles Times on July 21, 2003, and provides further detail on all of the reasons why the NRDC supports acquisition of this property and Ahmanson Ranch. (See Attachment D)

Mr. Reed Holderman, Vice President and Regional Director for The Trust for Public Land (TPL), addressed the Board in support of this proposal. Mr. Holderman stated that the TPL is the only national nonprofit land conservation organization dedicated to conserving land for people, no matter where they live. Mr. Holderman stated that

The Trust for Public Land has been in existence for over 30 years and saved over 1.5 million acres in the United States and over 250,000 acres here in California. Mr. Holderman stated that over the past two years his organization has had the pleasure of working with the Board staff, the Department of General Services, Playa Capital and the environmental community to create an opportunity for public purchase of the Ballona Wetlands. This opportunity has been over 20 years in the making, involving studies, land use and public hearings, appraisals and lawsuits. Mr. Holderman stated that the Ballona Wetlands is probably the most analyzed and thought over property in the State and believes that the proposal offers the best chance of saving the portion of Playa Capital's ownership that can be reclaimed and restored as a fully functioning wetland. He added that most groups and elected officials at all levels of government support the Board's acquisition of this property. He stated that the overwhelming support stems from the fact that the Los Angeles area has experienced incredible growth and urbanization without providing the necessary open space and outdoor recreational opportunities to meet the social, recreational and spiritual needs of the community. Mr. Holderman reported that in 1950, the population of New York City was eight million people and Los Angeles County had four million people, and in 2000, New York City still had eight million people, but Los Angeles County had grown to ten million people, an increase of 150 percent. He stated Los Angeles is now known as one of the most "park poor" cities in the United States and the natural areas in Los Angeles are disappearing at an alarming rate. He explained that Southern California has lost all but 10 percent of its historic wetlands and Los Angeles County has been even harder hit with only two to three percent of Los Angeles County's wetlands remaining. He commented that this acquisition is so important to the fragile chain of wetlands dotting California's coast because it will more than double the current wetland supply in Los Angeles by making approximately 500 acres available for wetland restoration. Mr. Holderman stated that the purchase of Ballona Wetlands is arguably the most significant wetland acquisition on the south coast during the last twenty years. He stated this acquisition will also reaffirm a commitment made by Governor Davis to create and expand open space. He reported that the land use plan for the subject properties was approved twice by the City and County of Los Angeles and the California Coastal Commission calls for intensive residential, commercial and visitor serving development on these graded and historic wetlands. The California Coastal Commission signed an agreement a few years ago to expedite project permits and has already approved several infrastructure projects that reference the larger unbuilt development on the subject properties. Mr. Holderman stated that if the Board did not approve today's proposal, Playa Capital will proceed with efforts toward development. He added that The Trust for Public Land enthusiastically supports the recommendation to approve this proposal.

Ms. Susannah Churchill, Preservation Advocate with Environment California, addressed the Board in support of this proposal. She stated that they have been involved in the effort to save Ballona Wetlands since 1996. On behalf of Environment California, she expressed appreciation to the Davis administration, Senator Bowen and Assembly member Nakano for taking action to preserve Ballona Wetlands. She commented that they believe these lands will be valuable as wildlife habitat and as open space in a part of the State where over 95 percent of the

wetlands have been destroyed by development. She added that they also believe \$140 million is a lot of money, that protecting the land is priceless and urged the Board to approve this proposal. She presented for the record a Position Statement representing over 40 groups and individuals in support of this acquisition. (See Attachment E) Ms. Churchill also submitted for the record a response to the Ballona Land Trust Position Paper outlining why the State is justified in moving forward on this proposal. (See Attachment F)

Dr. James Landry, representing Ballona Wetlands Foundation, expressed support for this proposal and their desire to assist the State, especially through the expertise of their science advisory board in the planning and eventual restoration of the salt marsh. He stated that he also represented Loyola Marymount University and expressed the University's support of the acquisition of this land, both as a neighbor and community member. Dr. Landry stated that for many years they have been involved in a variety of activities in the wetlands, from workshops to research, and will be happy to provide assistance to the State in the restoration of the wetlands. He stated that they viewed the wetlands as a great site and opportunity to help education and train their scientists as well as all of their students about the importance of the wetlands and environment in their lives.

Mr. Flores asked if there were any further comments or questions.

Mr. Hight stated that in 1985 Governor Davis, at that time State Controller, became involved in this project and has been heavily involved ever since with the goal in mind of trying to figure out how to preserve and restore as much of the wetlands as possible. Mr. Hight stated that this area has been appraised and reappraised and that he is exceedingly comfortable with the appraised value and that it is fair, just and equitable. He thanked the local activists who have worked through the years and spent many hours to get to this point.

Mr. Flores requested Mr. Wright address some of the issues regarding toxics, Area D, full disclosure of documents, etc. Mr. Wright discussed the property value and stated that no one wants to pay more for the property than they have to, including the Wildlife Conservation Board. He reported that the State must adhere to strict processes in order to make value determinations. He stated that the Trust for Public Land contracted for an appraisal and once that appraisal was done, the Wildlife Conservation Board contracted with another private contractor, also licensed by the State to review the appraisal. Once the review was done, both documents were given to the Department of General Services, who has authority and the mandate to approve all appraisals for the State before we approve the acquisitions. After consultation with others, Mr. Wright felt it would be appropriate for the State to contract with yet another contractor for another appraisal. Another appraisal was done, the fair market value was determined by that appraiser, which came in \$10 million less than the first appraisal that was contracted by The Trust for Public Land. Mr. Wright addressed issues regarding toxics that may or may not exist on the property. He stated that The Trust for Public Land paid for an extensive environmental site assessment done by a contractor, URS, and that report has been made available for public review. Mr. Wright has asked the contractor to update the

site assessment for better interpretation of the data contained in the report and may ask URS to do additional sampling. He stated that, from what is known at this time, there is nothing on the property that would cause the Board concern, that we would ask Playa Capital to pay for remediation since everything we know about the property relative to toxics occurred on the property long before their ownership. He stated there are hydrocarbons in the soils because of the approximate 22 old oil wells, most are currently operated by Southern California Gas Company, either as monitoring or as wells, to inject and withdrawn natural gas from the property and they will have continuing responsibilities in that area. Mr. Wright stated there is an issue about an old agricultural dump and sampling in that area. He stated that from what we know about it today, they have not detected any pesticides even though apparently a pesticide was used on the celery grown in the area and fuel oil might have been used as the celery was discarded to reduce the amount of odor. He stated that none of those contaminants were found in the testing and URS is continuing to evaluate whether or not they need to go in and resample those sites. He added that there were also some heavy metals found, and it is believed some of that is a result of dredge spoils on the property. Mr. Wright stated there is also the issue of soil gases, the methane gas, which some believe would preclude Playa Capital from developing the property and ultimately reducing the value of the property. Mr. Wright passed around a map showing soil gases from a survey of the property and he stated most of the soil gases are in Area D, where Playa Capital is presently developing and very little is found or known to exist on the areas that are the subject of this acquisition. Mr. Wright stated that he has spoken to Southern California Gas Company staff because there have been allegations over the years from people that the gas reservoir that exists 6,000 feet under the ground is leaking and there are gases coming to the surface. In addition to the gas company and Playa Capital investigating that, the City of Los Angeles has also investigated the issue and everybody has come to the conclusion that there is no connection between the underground gas reservoir and the soil gases which is natural occurring methane that appears in several areas in Southern California. Mr. Wright pointed out that the worst gas occurrences are in Area D, and both the city and the county have building codes that provide for construction in those areas by the use of mitigation measures such as venting and impervious soil membranes so that they protect people that live in those areas. He stated that both the Board and the appraiser feel that would have no impact on the value. Mr. Wright addressed zoning and planning. He referred to previous testimony by one of the speakers where they stated there are no entitlements on the property and other speakers have said there are.

Mr. Wright reported that one of the issues in the first appraisals was whether or not there was adequate investigation with the permitting authorities about entitlements and the risk that Playa Capital or the landowner was taking in proceeding with building. Mr. Wright stated that the appraiser discovered in his review regarding entitlements, and by speaking with city and county staff, also talking with the Executive Director, Chair and voting members of the Coastal Commission, that in 1984 there was a land use plan that was approved and it has been resubmitted to the Coastal Commission and accepted by the City of Los Angeles and the County of Los Angeles. He stated that everybody recognizes this will be a difficult place to

develop. In addition to that, because of legal challenges, there was a settlement agreement in 1994, Friends of Ballona Wetlands vs. the California Coastal Commission, in which there were specific agreements reached about building density, building heights and several other things. Mr. Wright stated that these were all taken into consideration by the appraiser in developing the highest and best use scenario of the properties. Mr. Wright stated the appraiser made certain that the proposed development scenario was also compliant with the Bolsa Chica decision.

Mr. Wright stated that discussions with and correspondence from the City and County indicate that they believe that once the applications are perfected, that permits would be issued within a period of about 18 months. Mr. Wright stated that he talked with the appraiser this morning on the issue of litigation because in a conversation with one of the speakers a couple of days ago they raised the issue of how could one assume the litigation would be resolved in a year to a year and a half, and therefore asked what he took into consideration to come to that conclusion. The appraiser advised him that he recognized this is a difficult property to develop, but no more difficult than Area D, where special construction techniques are being used now by Playa Capital to construct. There was a boat basin proposed in one development scenario and this appraiser took that out. He stated that there was a cluster of wetlands, the appraiser drew a line around those wetlands and put a 100 foot buffer on it and assumed that most of the rest of the property could be developed. The wetlands delineations that have been approved previously totaled approximately 25 acres on Area B residential and on Area A this appraiser set aside a total of about 65 acres, so the appraiser believes he has created plenty of room to protect wetlands, provide buffers and open space that are necessary, and if there is mitigation required as a result of the proposed development scenario that he assessed, it could be done on site. Mr. Wright stated that in the end, the appraiser said that in the event litigation went beyond the estimated period, the profit margin that he built into the appraisal would still take care of the additional litigation time. Mr. Wright explained that, in other words, if someone were to go to Playa Capital today and offer them what the State is proposing to pay and they develop this out to where they have a lot ready to sell on the open market to build, there is a huge profit margin built into the appraisal. Mr. Wright went on to say that the appraiser believes that even though this property is appraised at \$140 million, we are dealing with the Los Angeles market and he believes it is a very reasonable value which was approved by the Department of General Services. Mr. Wright acknowledged that when this large amount of money is taken out of a source to purchase and do restoration work, it will have an impact on our ability to purchase other properties in Los Angeles. He stated the funds are coming out of Prop 50 money designated specifically for Los Angeles and Ventura Counties. He stated that another issue that was raised is why we don't buy other lands that Playa Capital may be proposing to develop or other lands that may be held by other parties. Proposition 50 specifically states that we will only purchase land from willing sellers and buyers. Mr. Wright stated that, as far as he knows, this Board has never tried to force a landowner to sell something they don't want to sell and that we are in the business to work with willing sellers and we try to negotiate fair deals for the State and the public, and for the landowners as well. Addressing Ms. Hanscom's question regarding whether or not all of the agreements will be available for the public to view before we close

escrow, Mr. Wright stated that once we complete those licenses, which the Department of Fish and Game will be working with Playa Capital and the WCB on, he did not see any reason why we could not make those available to the public.

Mr. Wright stated that it will be important that we have a strong partnership with the Department of Fish and Game, they are going to need a lot of local support and we hope they will continue to be there after we acquire the property. He added that this acquisition presents a tremendous opportunity to save a large open space in Los Angeles and that the planning and management is done so that there is consensus about how we move forward.

Mr. Flores requested clarification regarding full public access. Mr. Wright stated public access would be decided by the planning process. The Department of Fish and Game will have many discussions regarding that aspect and he assured everything possible would be done to make the property available for public access. Mr. Hight stated there are issues regarding safety and the adjacent Ballona canal, but he assured they would work on providing as much public access as possible. Mr. Wright reported that during his site visits to the wetlands, he observed many students in the area, that there is already a lot of environmental education going on in the community and he expects to continue to see that in the future.

Staff recommended that the Board approve the acquisition of Area A, B Residential and Ballona Wetlands Parcel as proposed; allocate \$140,000,000.00 from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 (Prop. 50), Section 79572(b) to cover acquisition and project expenses; authorize acceptance of any and all interests in Area C, the freshwater marsh, and the expanded wetland parcel, as appropriate; authorize transfer of the property to the appropriate managing entity as identified at the end of the restoration planning process; authorize staff to enter into appropriate agreements as necessary to accomplish this project; and authorize staff and the Department of Fish and Game to proceed substantially as planned.

It was moved by Mr. Robert Hight that the Board approve the acquisition of Area A, B Residential and Ballona Wetlands Parcel as proposed; allocate \$140,000,000.00 from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 (Prop. 50), Section 79572(b) to cover acquisition and project expenses; authorize acceptance of any and all interests in Area C, the freshwater marsh, and the expanded wetland parcel, as appropriate; authorize transfer of the property to the appropriate managing entity as identified at the end of the restoration planning process; authorize staff to enter into appropriate agreements as necessary to accomplish this project; and authorize staff and the Department of Fish and Game to proceed substantially as planned.

Motion carried.

Mr. Wright expressed appreciation to the many people who worked on this project.

From: Peter H Flournoy
Sent: Thursday, August 24, 2017 10:35 AM
To: FGC
Subject: REQUEST FOR EXPERIMENTAL GEAR PERMIT FOR OCTOPUS

Dear Sirs:

Attached is a letter which Sonke Mastrup was supposed to present to the Commission for your June Meeting. Somehow it was misplaced and since then we have not been able to track down its whereabouts. Would you please consider it expeditiously at your next Commission meeting. We will also be submitting for consideration at that meeting a petition to change the rock crab permit regulations to allow octopus to become a directed species under those regulations as contrasted to an allowable bycatch which I understand to be the current consideration.

Please do not hesitate to contact me if you have any questions, Thank you, Peter H. Flournoy

PETER H. FLOURNOY
International Law Offices of San Diego
740 North Harbor Drive
San Diego, CA 92101
619-232-0954
619-203-5349

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established 1989

FACSIMILE

619.923.3618

PETER H. FLOURNOY

June 14, 2017

Re: Request for Experimental Gear Permit to Fish Octopus

Dear Commissioners:

My client's name is **Dan Major**, and he has been a commercial fishermen licensed by the State of California for twenty (20) years. The purpose of this letter is to ask that Dan be allowed to start the process, with the approval of the California Fish and Wildlife Commission, to obtain an experimental gear permit for an octopus fishery. I understand that the Commission is encouraged to develop new types of commercial fishing gear and new methods of using existing gear by the California legislature.

Over the years Dan has been a commercial fisherman, licensed for and still is involved in the following fisheries: Southern rock crab, nearshore fisheries, lobster, open access ground fish, and highly migratory species. Over the last several years he has been getting a lawful incidental bycatch of octopus in his crab fishery. As you may be aware, octopus is becoming more and more popular in California restaurants. Dan believes there is a healthy octopus resource off the shores of Southern California, and perhaps elsewhere off California, which could be harvested by California fishermen. In other countries octopus is caught in clay pots which rest on the ocean bottom and are marked by a buoy. That would be the subject of the experimental gear permit.

Another possibility for an octopus fishery would be to make it an allowable *target* species for those who possess Southern rock crab permits. I am not sure how this would be handled by the California Fish and Wildlife Department; however, Dan would be willing to work with its staff on this possibility also. Nevertheless, since clay pots would be such a benign gear type, it might be preferable to follow the experimental gear permit process initially.

Dan has given the possibility of an octopus fishery a substantial amount of thought, and he has already researched several of the scientific studies on octopus and on different techniques for harvesting them. He has also explored the possibility of marketing octopus here in California and has been encouraged by the results.

Thank you for your consideration of Dan's request for an experiment gear permit and we look forward to hearing from you.

Sincerely,


Peter H. Flournoy

Cc: Dan Major

letter to Commissioners

Steve McCormick [REDACTED]

Mon 9/18/2017 3:41 PM

To:FGC <FGC@fgc.ca.gov>;

1 attachments (39 KB)

CFG Commission letter.pdf;

The attached letter is a comment on waterfowl hunting regulations.

Thank you
Steve McCormick

Steve McCormick

Los Altos, CA 94022

Date: September 18, 2017

Members, California Fish and Game Commission
1416 Ninth St. Room 1320
Sacramento, CA 95814

Dear Commissioners:

I'm writing to urge the Commission to reduce the daily bag limit for mallards beginning with the 2018/19 season, given the perilously diminished breeding population in California, after years of steady decline.

The 2017 California Waterfowl Breeding Population Survey conducted by DFW reveals that "the total breeding population of ducks in the survey area was down 28% below the long-term average. Mallards (*Anas platyrhynchos*) were down 42% below the long-term average." Further in the Survey it is reported that: The most notable decrease [in mallard populations] occurred in the Sacramento Valley stratum, where the population was estimated at a record low 31,000, *73% below the long-term average* [emphasis mine]."

This downward trend in breeding populations of mallards is very alarming. The Fall 2017 issue of the magazine of the California Waterfowl Association, reporting on the survey, observes, "The mallard count matters because about 70 percent of the mallards we kill are California mallards." Elsewhere the article notes: "reduced nesting and brooding habitat is more than likely the driving force" behind the downward trend in mallards.

Clearly, hunting pressure -- esp. early in the season, before migrating birds arrive -- is contributing significantly to the downward trend. As the Survey reveals, the decline is especially precipitous in the Sacramento Valley. Which is not surprising, given that more ducks are shot at in the Valley than anywhere else in the state. In any event, if indeed there is reduced nesting and brooding, and we're shooting so many of a *diminishing number* mallards, a seven-bird limit is wholly unjustifiable.

I have been a passionate waterfowl hunter since I began hunting ducks in California in the 1960's. I am also a passionate conservationist, having spent over thirty years working in the sector, mostly with The Nature Conservancy. I worked closely with the Department over many years to help create several refuges and hunting areas. As a hunter and a conservationist, I ask you to do the right thing: reduce the daily take of mallards to no more than three birds. If we don't do so, we run the very real risk of getting to where we are with pintails: one male per day.

Sincerely,



Cc: Chuck Bonham, John Carlson

FGC

From: refishsb
Sent: Thursday, September 28, 2017 10:48 AM
To: FGC
Subject: EFP Letter of interest
Attachments: RonEllisBoxCrabLtr9-28-17.docx

Please accept this letter of interest for an experimental fishery permit for the Box crab in California.
thank you,
Ron Ellis

Sent from my Verizon, Samsung Galaxy smartphone

September 28, 2017

Ron Ellis
F/V DEFIANCE

Mr. Eric Sklar, President
And Commissioners
California Fish and Game Commission
P.O Box 944209
Sacramento, CA 94244-2090

RE: EXPERIMENTAL FISHERY PERMIT FOR BOX CRAB, *Lopholithodes foraminatus*

Dear Mr. Sklar and Commissioners:

I am writing to express my interest in working with the Department of Fish and Wildlife to develop an experimental fishery for the brown box crab, *Lopholithodes foraminatus*. In the course of my fishing for rock crab, I have occasionally taken box crab in my rock crab traps. When I bring them to market, this specialty crab has piqued interest at high-end market levels. As such, a low-volume high-value fishery for this species may bring a novel crab to market, assist in fishery development, and satisfy a market demand for this specialty crab. As you aware, the concept of low-volume, high-value fisheries is one embraced, even endorsed, by the ocean conservation community, including The Nature Conservancy.

I have over 20 years experience fishing rock crab, so have the expertise to assist the department in looking into this fishery. I would imagine that this experimental fishery project would fall under the provisions of newly enrolled legislation (AB-1228) amending the California Fish and Game Code, specifically:

FGC Sec. 1022 (g)(1) "Compensation fishing" means fishing conducted for the purpose of recovering costs associated with resource surveys and scientific studies that support the management of a fishery, or fishing that serves as an incentive for participation in those studies. Compensation fishing may include fishing before, during, or following those surveys or studies.

And

FGC Sec. 1022 (g)(3) "Exploratory fishing" means fishing to collect data or conduct other research, typically to provide information that could inform the potential opening of a new fishery or an area currently closed to fishing."

I have spoken with Sea Grant Marine Advisors in this region and Sea Grant Extension is highly interested in collaborative research to gain important biological information on the brown box crab, and willing to work with me on the project. With Sea Grant Extension's expertise in collecting relevant population biology information on the species, the project is assured of getting the right information in

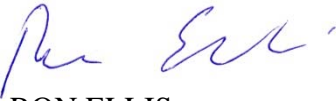
place should the commission decide, down the road, that this would be a good new fishery. I have worked with Sea Grant Extension on two different projects in the past collecting data on the rock crab fishery over the last 8 years. Data included sex ratio by size class, spatial distribution and abundance.

I am also in the process of contacting a crustacean biologist at the University of California, Santa Barbara, Marine Science Institute, who has worked extensively with Sea Grant, with rock crab, and other relevant research, who may also provide valuable expertise in data collection and analysis.

With these scientific underpinnings, I believe that we have an excellent chance to pursue opening a new sustainable, low-volume, high-value fishery for California. I urge you to direct Department staff to contact me at the earliest opportunity to further this experimental fishery permit request. I can be contacted at any time via the information on the letterhead, above.

Thank you for considering this request.

Sincerely,



RON ELLIS

F/V DEFIANCE

Stop the hunt!

john kovach



Sat 8/19/2017 11:34 AM

To:FGC <FGC@fgc.ca.gov>;

Hunting the Roosevelt elk during their mating season is absurd because it is crucial to their survival! They are endangered! Please don't hunt these majestic creatures to extinction!

Re: New falconry regulations

From: Fred Seaman [REDACTED]
Sent: Thursday, August 31, 2017 6:48:02 AM
To: FGC
Subject: New falconry regulations

Let the law suits begin.

Despicable violation of constitutional rights, civil rights and creates a danger to wardens and civilians.

Do you not understand that there are falconers who are veterans (not me) who have PTSD and when confronted by a man with a gun may defend himself as the constitution permits.

--

Fred Seaman
[REDACTED]

P.E.T.A

Raymond ` Levy



Mon 9/18/2017 1:26 PM

To:FGC <FGC@fgc.ca.gov>;

Dear commission, My name is Raymond Levy, and I have hunted here in California all of my adult life, on September 15 , 2017 I and my wife went into the Mendocino national forest , Tehama county above the little town of Paskenta to hunt on opening day of deer season, and to meet up with other people that where to come and meet with us opening morning September 16 2017, the evening of the 15 September I was talking to some fellow campers that where set up about 80 yards away from our camp site , I was not in camo , gust jeans and a tee shirt , as the conversation went on , they told me that they where part of the P.E.T.A organization , and that they are beating the hunters at their own game, I did not tell them that I was there to hunt on opening morning, the group was about 15 strong, they had confided with me that the P.E.T.A organization had paid for them to go to hunters Ed , and then go and perches hunters lic, and deer tags , 1st and 2nd tags ,they bragged about it and told me that because of them 30 deer lives where saved , and they showed me their tags, now this was gust one small grope of people, but how many more of them are doing the same thing?? this is vary disturbing to me, because this is legal for them to do. and true hunters will suffer because they are buying as much tags as they can, this has got to stop.. and we must stop it , how , I do not know how, but it has to, the next morning opening day I came out of my tent in full camo and with my rifle , the P.E.T.A people where dumbfounded to see that I was a hunter, and knew that I knew their secret , my group and I went on the morning hunt, and when we got back to camp for lunch , the P.E.T.A people where gone all of them, they packed up all of their gear and left, my feelings where that they did not want a confrontation, because we where ready to confront them, you have to do something about this, they P.E.T.A are nothing but domestic terrorist , and if need be real hunters will confront them, and the outcome will not be vary nice for them.....yours truly Raymond Levy P.S IT IS IMPORTANT THAT YOU DO SOMETHING ABOUT THIS.....

With all the possible restrictions nobody will be buying a license before long.

Bill Corkery



Wed 9/20/2017 3:51 PM

To:FGC <FGC@fgc.ca.gov>;

Sent from my iPad

.



Supporters for Del Norte Roosevelt Elk

Like us on Facebook: supportersfordelnorteroosevelt.org

Crescent City, CA

Sept. 16, 2017

Ms. Valerie Termini, c/o Fish and Game Commission

P O Box 944209

Sacramento, CA 94244

Dear Wildlife Branch,

This letter is sent to your attention as a prelude to the approaching FGC meeting next month to determine the 2018-2019 hunting regulations as they pertain to Roosevelt elk in Del Norte County.

It is my hope that the poor decision that was made by the FGC to allow a "general hunt" of Roosevelt elk bulls (in Del Norte County) during the peak of "the rut" in 2017-2018 will NOT be repeated. I understand that the DFW, the Northern Region Wildlife Management Program, and the Wildlife Branch make recommendations regarding the fate of the Roosevelt elk for the approaching 2018-2019 hunting season.

If you/FGC plans to repeat the aforementioned poor decision, then I request that you/FGC provide scientific research and data that supports you/FGC's approval of another "general hunt" of Roosevelt elk bulls (in DNC) during the peak of "the rut" as practicing "good stewardship" for the public to review.

In addition, I think it is important for the public to know population counts for bulls and cows (in these very small herds in DNC) that you/FGC plans to permit hunting. I think this data is critical to determine hunting quotas and has NOT been provided for previous hunting seasons. It makes me wonder if you/FGC have ever had the statistics when the quotas are established? As far as I know, to date, there is NO official count of Roosevelt elk in DNC. So then, what population information (if any) is being used? Is it ever a consideration

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COMMISSION
2017 SEP 21 PM 1:00

that the percentage of Roosevelt elk bulls is about ½ the number in hunted herds (compared to the bulls living in the wild)?

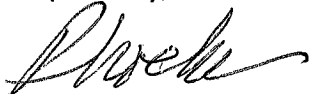
According to public records, it appears that the commissioners on the FGC are the same people as those who serve on the Wildlife Resources Committee. If public records are correct, none of the commissioners on the FGC have a college degree in the biological sciences. Further, if public records are correct, the commissioners on the FGC lack experience in employment in wildlife management.

If you/FGC are making "life and death" decisions regarding any species (particularly the Roosevelt and tule elk-both thought to be extinct species at one point in history), then you/FGC needs to be accountable for their ignorance of nature's laws of "natural selection". If "natural selection" was understood, then it is obvious how critical September is for the Roosevelt elk and what bad timing a "general hunt" of Roosevelt elk bulls is. In my opinion, to practice good stewardship, you/FGC's decisions need to be supported by scientific research and data. I want to read it.

Proceedings of the National Academy of Sciences published that there appears to be signs that this planet is in an irreversible decline of "mass extinction" caused by the destruction of the animals' habitats, pollution, and climate change-to name a few. This study is co-authored by two scientists from Stanford University. I think that is a very credible reference. They have the scientific data that supports this study. It is the same method used by the International Union for Conservation of Nature. They found that 30% of all land vertebrates have declining populations and that 70% of the populations of mammals are declining around the world due to habitat loss.

Are you/FGC are going to be part of the problem or part of the solution?

Respectfully,

A handwritten signature in black ink, appearing to read 'Phoebe', with a stylized, flowing script.

Phoebe Lenhart

LAW OFFICES OF BRIAN ACREE

5042 WILSHIRE BLVD #38524

LOS ANGELES, CA 90036

(510) 517-5196 TEL

(510) 291-9629 FAX

August 28, 2017

VIA ELECTRONIC MAIL

Valerie Termini
Executive Director, California Fish and Game Commission
1416 9th Street, Suite 1320
Sacramento, CA 95814

Email: valerie.termini@fgc.ca.gov

RE: Request for public records and reconsideration of petition (Gov. Code § 11340.7(c))

Dear Ms. Termini:

I represent the Ballona Wetlands Land Trust, a 501(c)(3) non-profit organization dedicated to the protection of the Ballona Wetlands. On June 21, 2017, the California Fish and Game Commission ("Commission") voted to deny my client's petition to strike a provision from the regulations governing the Ballona Wetlands Ecological Reserve that currently allows parking in the reserve for vehicles of Los Angeles County and also many private businesses. This result was based on a staff recommendation claiming that the parking in question provided a public benefit. My client subsequently requested all records from the Commission used to support either the staff recommendation of the Commission vote to deny the petition. On July 26th, 2017, the Commission provided my client with responsive e-mails and other records, but provided no indication that any records had been withheld pursuant to exemptions outlined in the California Public Records Act. The disclosed e-mail records referenced conversations between Commission staff and the staff of other agencies, namely the State Coastal Conservancy and the California Department of Fish and Wildlife. Also on July 26, 2017, my client requested any handwritten or typed notes from those agency discussions. After multiple follow-up requests, the Commission responded that "[d]ocuments that consisted of staff notes were withheld from your response; those documents were withheld from your public records request because the legislature has designated them as exempt from disclosure in Gov. Code, § 6254(a)."

Gov. Code, § 6254(a) exempts from disclosure "[p]reliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, if the public interest in withholding those records clearly outweighs the public interest in disclosure." (emphasis added) In such balancing tests, the burden is on the withholding agency to demonstrate that the public interest is better served by non-disclosure than disclosure. Additionally,

the Courts have generally found that only information that is “recommendatory” in nature will pass this balancing test, whereas information that is factual in nature is to be disclosed. (See for example *Citizens for a Better Environment v. Department of Food & Agriculture* (1985), 171 Cal. App. 3d 704, 217 Cal. Rptr. 504.)

My client is interested in any factual information provided to the Commission from these other agencies that could have contributed to the Commission’s staff finding that the parking in question, largely used for commercial purposes, provided a public benefit. The public has a fundamental right to understand all of the facts used to support the staff recommendation. Therefore, it is in the best interest of all parties for the Commission to voluntarily disclose these notes to the public at the earliest possible time.

Additionally, while my client appreciates that the Commission will include a discussion of the Ballona Wetlands Restoration Project for its October 11 meeting in Atascadero, California, my client believes that the Commission should also have an opportunity to revisit its decision regarding my client’s petition at that time. The Commissioners clearly lacked important information and context at the June 21 hearing that should have been provided in the staff report, such as the history of the parking lots, information regarding who was using the parking lots in question, for what purpose, and based on what financial arrangements, and also the market value of any consideration provided to the State of California in return for the parking. Due to the lack of substantive facts to support the conclusionary findings in the staff report, my client is exploring its legal options with regard to California Code of Civil Procedure Section 1085, which provides remedy for quasi-legislative decisions by an agency which “has acted arbitrarily, capriciously, or without evidentiary basis.” (*Concerned Citizens of Calaveras County v. Board of Supervisors* (1985), 166 Cal.App.3d 90)

However, the best interests of all parties would be better served if Commission staff reconsidered its “public benefit” finding and brought the petition back in front of the Commission for reconsideration with a more factually substantive staff report. As such, please consider this letter as a formal request, pursuant to Gov. Code § 11340.7(c), for the Commission to reconsider my client’s petition (#2017-002). Section 11340.7(c) allows 60 days for a request for reconsideration following the date of the decision involved. Although the decision in question was made on June 21, 2017, my client did not receive official notice until July 6, 2017 (a letter from Fish and Game Commission staff). Nor does the decision appear to have been published in the California Regulatory Notice Register pursuant to Gov. Code § 11340.7(d). If the Commission determines, despite this information, that the 60 day period for request for reconsideration has expired, then my client alternatively requests reconsideration of petition #2017-003, a similar petition heard on August 16, 2017 and denied on procedural grounds.

The request for reconsideration (of either petition) is based on the aforementioned lack of factual substance in the staff recommendations for denial. Specific examples of factual information that was missing from the staff recommendation is outlined below:

- Historical context: The staff recommendation provided Commissioners with no historical context for the existing regulation which currently allows commercial parking and parking by the County of Los Angeles within the ecological reserve. The Director of the California Department of Fish and Wildlife simply described the history as “complicated.” No

historical records were attached to the staff recommendation, such as the statement of reasons for the 2005 regulation change, the purchase agreement for the property, the text of the bond proposition which provided the funds to acquire the property, the local coastal plan, or any other factual historical record.

- Applicable permits and leases: The staff recommendation provided no information regarding whether the parking lots in question have valid Coastal Development Permits and provided no information about the leases which govern use of the parking lots. CDFW's Director acknowledged that he only came into possession of certain lease documents, obtained by my client via a public records act request, days before the August 16 hearing. The records in question were requested from the Los Angeles County Department of Beaches and Harbors by my client on April 12, 2017, and my client is investigating why Beaches and Harbors delayed disclosure of the documents until after the June 21, 2017 hearing, for which Beaches and Harbors was an interested party. That question notwithstanding, these documents should have been obtained by CDFW long ago, and obtained by Commission staff prior to recommending denial of the petition.
- Parking studies, logs of services, market value assessments: The staff recommendation provided no evidentiary support for its conclusionary assertion that the parking in question provided a public benefit. There was no information from any parking studies, no logs of services (or summaries of such logs) provided by the County agencies in question, and no discussion of the market value of the parking area.
- Regulatory context: The staff recommendation broadly discussed a "public benefit" without any discussion of the specific public purpose of the Commissions, which is independent from the public purpose of various departments of Los Angeles County, and certainly different than the commercial purpose of Fisherman's Village.

All of this information was more easily obtainable by the Commission and/or CDFW than by my client. Without this information, the Commission was unable to make an informed policy decision regarding a valuable natural resource. The Commission now has an opportunity to voluntarily remedy that mistake.

Please feel free to have the Commission's legal counsel contact me directly to discuss this matter further. My client is eager to resolve these matters of public interest in a way that is mutually beneficial to all parties.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Brian Acree', with a stylized, flowing script.

Brian Acree
Attorney for Ballona Wetlands Land Trust