

## STAFF SUMMARY FOR DECEMBER 6-7, 2017

**13. NON-MARINE PETITIONS FOR REGULATION CHANGE****Today's Item****Information** ☐**Action** ☒

This is a standing agenda item for FGC to act on regulation petitions from the public that are non-marine in nature. For this meeting:

- (A) Action on petitions for regulation change received at the Oct 2017 meeting.
- (B) Update on pending regulation petitions referred to staff or DFW for review.
- (C) Request for reconsideration of Petition #2017-002.

**Summary of Previous/Future Actions**

(A)

- Receipt of new petitions Oct 11-12, 2017; Atascadero
- **Today's action on petitions** Dec 6-7, 2017; San Diego

(B)

- **Today's update and possible action on referrals** Dec 6-7, 2017; San Diego

(C)

- **Today's action on request for reconsideration** Dec 6-7, 2017; San Diego

**Background**

As of Oct 1, 2015, any request for FGC to adopt, amend, or repeal a regulation must be submitted on form FGC 1, "Petition to the California Fish and Game Commission for Regulation Change" (Section 662, Title 14). Petitions received at an FGC meeting are scheduled for consideration at the next business meeting, unless the petition is rejected under 10-day staff review as prescribed in subsection 662(b).

Petitions scheduled for consideration today under (A) were received at the Oct 2017 meeting in one of three ways: (1) submitted by the comment deadline and published as tables in the meeting binder, (2) submitted by the late comment deadline and delivered at the meeting, or (3) received during public forum. Petitions considered under (B) were scheduled for action at a previous meeting and were referred by FGC to DFW or FGC staff for further evaluation prior to action.

- (A) ***Petitions for regulation change.*** Exhibit A1 summarizes the regulation petitions scheduled for action today and provides staff recommendations for each. Two non-marine regulation petitions from Aug 2017 are scheduled for FGC action at this meeting:

- I. *Petition #2017-008 (ban use of neonicotinoid pesticides on DFW lands)* (Exhibit A2).
- II. *Petition #2017-009 (eliminate parking use exemption for County of Los Angeles leases)* (Exhibit A3).

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- (B) ***Pending regulation petitions.*** This item is an opportunity for staff to provide a recommendation on non-marine petitions previously referred by FGC to staff or DFW for review. FGC may act on any staff recommendations made today. One update on pending non-marine petitions referred to FGC staff or DFW is scheduled for action at this meeting:
- I. *Petition #2015-013 (allow transit of San Felipe Wildlife Area to pursue game on adjacent U.S. Bureau of Land Management property):* DFW's Law Enforcement Division (LED) completed its evaluation and determined that there is no regulation in place that prohibits the activity described by the petitioner. Therefore, a regulation change is not needed and LED recommends the petition be denied (see petition and DFW memo in exhibits B1 and B2, respectively).
- (C) ***Request to reconsider decision on petition.*** At its Jun 2016 meeting, FGC denied Petition #2017-002 to eliminate the parking use exemption for County of Los Angeles leases at Ballona Wetlands Ecological Reserve. The petitioner submitted a request for FGC to reconsider its decision on the petition based on the lack of factual substance in the staff recommendation for denial. FGC received the request for reconsideration at its Oct 2017 meeting (Exhibit C1). Following the request submittal, the petitioner also submitted a new petition (#2017-009) with the same request for regulation change as the original petition (#2017-002), along with additional supporting information. Petition #2017-009 is scheduled for action under (A) of this agenda item.

**Significant Public Comments**

- (A) Petition #2017-008: Petitioner submitted a publication on the potential effects of neonicotinoid pesticides on migratory songbirds as additional rationale in support of the petition (Exhibit A4).

Petition #2017-009: Received 25 postcards (see example, Exhibit A5) and two comments in support of the petition (exhibits A6-A7). Also received one letter from the LAX Coastal Chamber of Commerce supporting continued use of the parking lot by the County of Los Angeles (Exhibit A8).

**Recommendation**

- (A) Adopt the staff recommendation for each regulation petition to (1) deny, (2) grant, or (3) refer to committee, staff or DFW for further evaluation or information-gathering. See Exhibit A1 for staff recommendations.
- (B) Adopt DFW LED recommendation for Petition #2015-013.
- (C) Deny request for reconsideration consistent with the staff recommendation for Petition #2017-009, under section A.

**Exhibits**

- A1. [FGC table of non-marine petitions for regulation change received through Oct 22, 2017, for action in Dec 2017](#)
- A2. [Petition #2017-008: Ban neonicotinoid pesticides on DFW lands](#)

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- A3. [Petition #2017-009: Eliminate parking use exemption for County of Los Angeles leases](#)
- A4. [Letter from Earthjustice, received Nov 22, 2017](#)
- A5. [Example postcard, received Oct 27, 2017](#)
- A6. [Letter from Ballona Wetlands Land Trust, received Nov 22, 2017](#)
- A7. [Email from Lynn Bossone, received Nov 22, 2017](#)
- A8. [Letter from Christina Davis, LAX Coastal Chamber of Commerce, received Nov 21, 2007](#)
- B1. [Petition #2015-013: Allow transit of San Felipe Wildlife Area to pursue game on adjacent U.S. Bureau of Land Management property](#)
- B2. [DFW LED memo regarding Petition #2015-013, received Nov 14, 2017](#)
- C1. [Letter from the Law Offices of Brian Acree on behalf of Ballona Wetlands Land Trust, dated Aug 28, 2017](#)

**Motion/Direction**

(A-C) Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission *adopts* the staff recommendations for action on October 2017 petitions for regulation change, *adopts* the staff recommendation for pending Petition #2015-013 for regulation change, and *adopts* the staff recommendation on the request for reconsideration of Commission action on Petition #2017-002.

**OR**

Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission *adopts* the staff recommendations for action on October 2017 petitions for regulation change, *adopts* staff recommendations for action on pending Petition #2015-013 for regulation change, and *adopts* staff recommendation on the request for reconsideration of Commission action on Petition #2017-002, except for item(s) \_\_\_\_\_ for which the action is \_\_\_\_\_.

**CALIFORNIA FISH AND GAME COMMISSION**  
**DECISION LIST FOR NON-MARINE PETITIONS FOR REGULATION CHANGE RECEIVED THROUGH OCT 12, 2017**  
Revised 11-20-2017

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

**Grant:** FGC is *willing to consider* the petition through a process   **Deny:** FGC is *not willing to consider* the petition   **Refer:** FGC *needs more information* before deciding whether to grant or deny the petition

Tracking No.	Date Received	Accept or Reject	Name of Petitioner	Subject of Request	Code or Title 14 Section Number	Short Description	FGC Decision	Staff Recommendation
<a href="#">2017-008</a>	9/19/2017	A	Trent Orr and Gregory Loarie, Earthjustice, on behalf of American Bird Conservancy	Pesticide use on DFW lands	Subdivision 2, Chapter 8, T14	Ban the use of any neonicotinoid pesticides on DFW refuges	<b>RECEIPT: 10/11-12/2017</b> <b>ACTION: Scheduled 12/6-7/2017</b>	<b>DENY;</b> a regulation change is unnecessary since this is a state agency management activity rather than a public use activity. However, given the potential biological impacts from pesticide use, a policy that takes a more holistic approach to general pesticide use, including but not limited to consideration of types, application methods, and use settings, may be appropriate.
<a href="#">2017-009</a>	9/28/2017	A	Walter Lamb Ballona Wetlands Land Trust	Ballona Wetlands Land Trust	630(h)(3), T14	Eliminate parking use exemption for County of Los Angeles leases	<b>RECEIPT: 10/11-12/2017</b> <b>ACTION: Scheduled 12/6-7/2017</b>	<b>Deny;</b> do not recommend making any land use changes until after the environmental impact report for the Ballona Wetlands Restoration Plan is complete.





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](mailto: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](mailto: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](mailto:torr@earthjustice.org); [gloarie@earthjustice.org](mailto: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

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## **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.”<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup>

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

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<sup>1</sup> 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](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](http://www.centerforfoodsafety.org/files/neonic-water-report-final-242016_web_33288.pdf).

<sup>2</sup> 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>.

<sup>3</sup> 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](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.<sup>4</sup> 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*,<sup>5</sup> 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.<sup>6</sup> 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

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<sup>4</sup> 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](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.

<sup>5</sup> 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](https://pdfs.semanticscholar.org/ffa8/f7a41a8c377a613107994bde29f0e5553253.pdf?_ga=2.32271095.816967692.1498753472-614696370.1498753472)

<sup>6</sup> 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](http://www.xerces.org/wpcontent/uploads/2013/09/XercesSociety_CBCneonics_sep2013.pdf).

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

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.<sup>9</sup> A 2016 study from France<sup>10</sup> examined 103 wildlife mortality incidents totaling at least 734 dead birds. Since there is no simple biomarker for diagnosing neonicotinoid poisonings,<sup>11</sup> 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:<sup>12</sup>

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.<sup>13</sup> Neonicotinoids were

<sup>7</sup> 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](http://www.abcbirds.org/abcprograms/policy/toxins/Neonic_FINAL.pdf);

<sup>8</sup> 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](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>.

<sup>9</sup> Wood and Goulson, at 53.

<sup>10</sup> 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>

<sup>11</sup> 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>

<sup>12</sup> 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](http://www.centerforfoodsafety.org/files/agricultural-practices-in-wildlife-management_20849.pdf)

<sup>13</sup> 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.<sup>14</sup> 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."<sup>15</sup> 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.<sup>16</sup> 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.

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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.)

<sup>14</sup> 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).

<sup>15</sup> 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](http://www.hc-sc.gc.ca/cps-spc/pest/part/consultations/_prvd2016-20/prvd2016-20-eng.php#s1)

<sup>16</sup> 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](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.

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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](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](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](mailto: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](mailto: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](mailto: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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CALIFORNIA  
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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 16<sup>th</sup> 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](http://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

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**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](mailto: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.

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SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval with conditions

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### 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

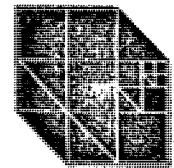
320 West Temple Street  
Los Angeles  
California 90012

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:

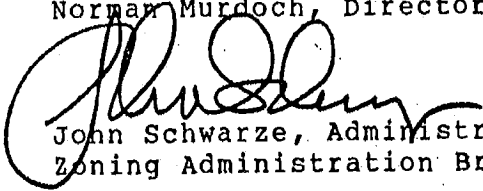
(See attached legal description.)

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*

DATE:

*October 6, 1987*

Raymond Ristic

HEARING OFFICER

Department of Regional Planning

County of Los Angeles

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](mailto:CMiyamoto@bh.lacounty.gov)

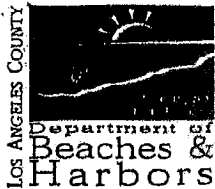


Posting	Document	Document		Project	Customer			Revenue	Applies-	Applies-	
Date	Date	Type	Document No.	Code	No.	Description	Reason Code	Amount	Account	to Doc.	to Doc.
12/1/2006	12/1/2006	Invoice	RIC01201	LMDR-12	GOLCOV-T3	Gold Coast Village, LLC	CONCESSION	1,925.17	8301-31		
1/8/2007	1/8/2007	Payment	4873		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: [Signature]

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 2<sup>nd</sup> 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 4<sup>th</sup>, 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*

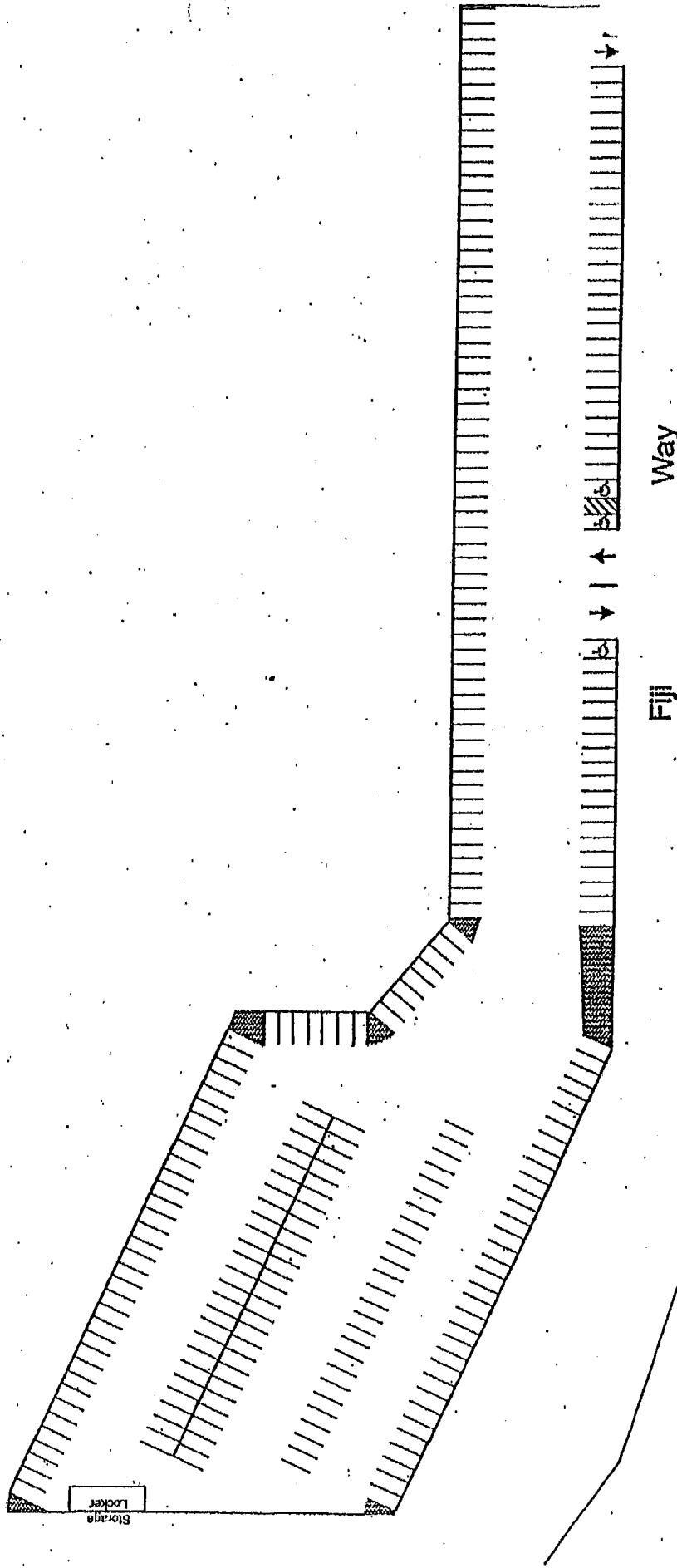
Name in Print: Michael Pasbair

Title: Managing Member

Date: 5-31-06



# FISHERMAN'S VILLAGE (Parcel 56) OVERFLOW LOT



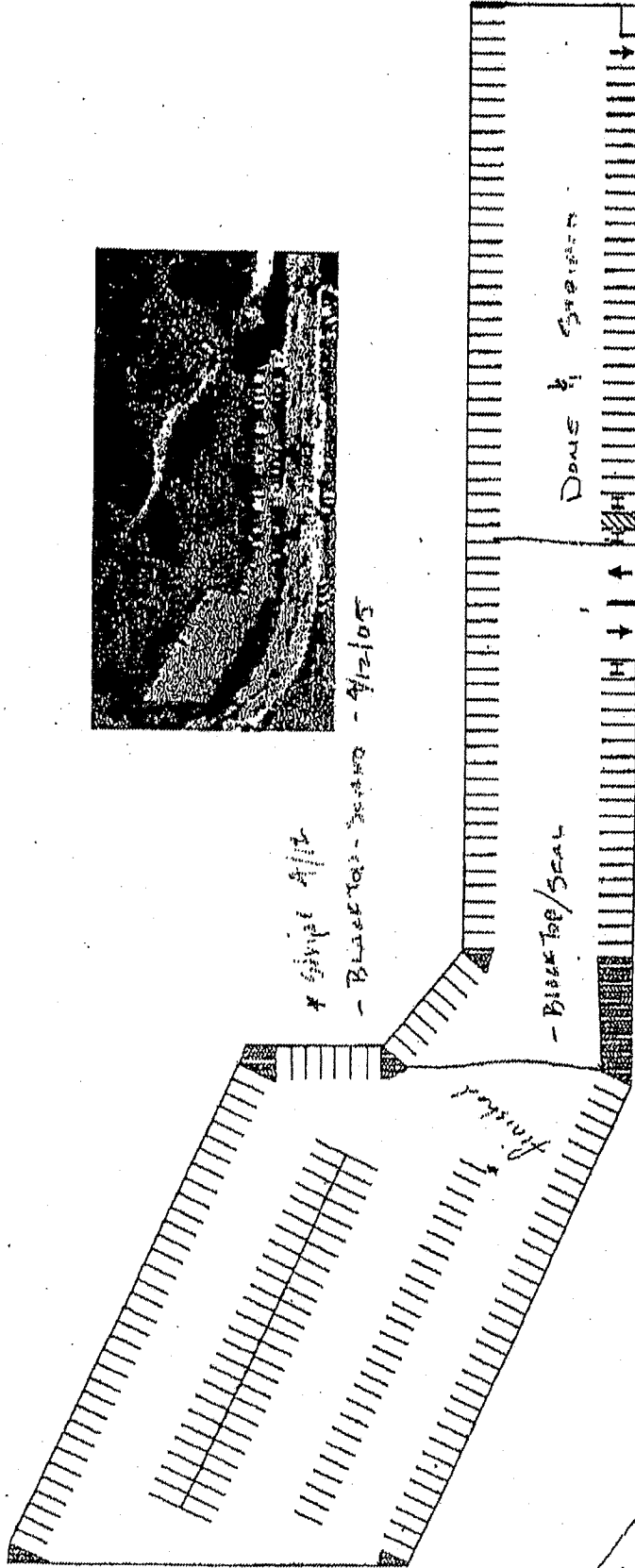
Fisherman's  
Village

PERMIT 04-015  
EXHIBIT A

REGULAR SPACES	262*
DISABLED	3
TOTAL	265

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

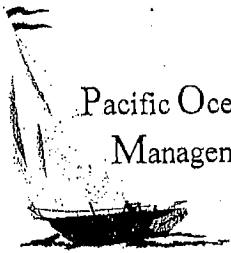
L.A. COUNTY DEPARTMENT OF BEACHES AND HARBORS Revised 8 / 2002 by CLS



# 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

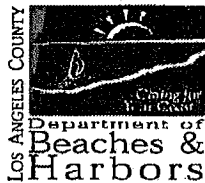
FOR

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

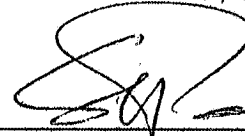
**EQUIPMENT TO BE USED:** N/A

**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 31<sup>st</sup>, payable in advance on annual basis on January 1<sup>st</sup> 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
<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 AUTO ONLY: EA ACC	\$ XXXXXXXX	
						AGG	\$ XXXXXXXX	
		EXCESS / UMBRELLA LIABILITY	NOT APPLICABLE			EACH OCCURRENCE	\$ XXXXXXXX	
		<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$ XXXXXXXX	
		<input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> UMBRELLA FORM					\$ XXXXXXXX	
		<input type="checkbox"/> RETENTION \$					\$ XXXXXXXX	
C		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	
		OTHER				E.L. DISEASE - POLICY LIMIT	\$ 1,000,000	

**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	--
<b>Account Balance</b>								\$ 11,000.00	

DEPARTMENT OF FISH AND GAME

**WILDLIFE CONSERVATION BOARD**

1807 13<sup>TH</sup> STREET, SUITE 103  
SACRAMENTO, CALIFORNIA 95814  
(916) 445-8448  
FAX (916) 323-0280  
[www.dfg.ca.gov/wcb](http://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

**WILDLIFE CONSERVATION BOARD**

1807 13<sup>TH</sup> STREET, SUITE 103  
SACRAMENTO, CALIFORNIA 95814  
(916) 445-8448  
FAX (916) 323-0280  
[www.dfg.ca.gov/wcb](http://www.dfg.ca.gov/wcb)

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 13<sup>th</sup> 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.



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November 16, 2017

2017 NOV 21 PM 2:06

Valerie Termini, Executive Director  
California Fish and Game Commission  
1416 Ninth Street, Room 1320  
Sacramento, CA 95814

**Re: Petition for regulation change (Tracking No. 2017-008) -- new study relevant to petition request for prohibition of neonicotinoid pesticide use on wildlife refuges under CFGC jurisdiction**

Dear Ms. Termini:

A study of the potential effects of the use of neonicotinoid pesticides on migratory songbirds was published online on November 9, 2017 at [www.nature.com/scientificreports](http://www.nature.com/scientificreports). The study is Eng, ML, BJM Stutchbury & CA Morrissey 2017, Imidacloprid and Chlorpyrifos Insecticides Impair Migratory Ability in a Seed-eating Songbird. The study concludes that wild songbirds consuming the equivalent of just four tiny canola seeds treated with imidacloprid (a neonicotinoid) per day over three days could suffer impaired condition, migration delays, and improper migratory direction, which could lead to increased risk of mortality or lost breeding opportunity. A copy of this study is attached.

We believe that the materials cited in the "Rationale" section of the petition that we filed on behalf of American Bird Conservancy, along with the nine attachments submitted with the petition, make a compelling case for prohibiting the use of neonicotinoid pesticides on the refuges under the Commission's jurisdiction. We are submitting the new study to demonstrate that the evidence keeps mounting that neonicotinoids pose a variety of grave threats to birds and other wildlife and hope that it will be useful to staff in preparing for the December 6-7 meeting at which the question whether to grant our petition for further consideration will be determined.

Please let me know whether there is a more formal manner by which we should submit this study. Given the relatively short period of time before the December meeting, we wanted to bring this to your attention as expeditiously as possible.

Thank you for your attention to this submission. Please contact me or Cynthia Palmer at American Bird Conservancy ([cpalmer@abcbirds.org](mailto:cpalmer@abcbirds.org)) if you or your staff have any questions.

Very truly yours,

Trent W. Orr  
Attorney for American Bird Conservancy

# SCIENTIFIC REPORTS

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## Imidacloprid and chlorpyrifos insecticides impair migratory ability in a seed-eating songbird

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Birds that travel long distances between their wintering and breeding grounds may be particularly susceptible to neurotoxic insecticides, but the influence of insecticides on migration ability is poorly understood. Following acute exposure to two widely used agricultural insecticides, imidacloprid (neonicotinoid) and chlorpyrifos (organophosphate), we compared effects on body mass, migratory activity and orientation in a seed-eating bird, the white-crowned sparrow (*Zonotrichia leucophrys*). During spring migration, sparrows were captured, held and dosed by gavage daily for 3 days with either the vehicle control, low (10% LD50) or high (25% LD50) doses of imidacloprid or chlorpyrifos and tested in migratory orientation trials pre-exposure, post-exposure and during recovery. Control birds maintained body mass and a seasonally appropriate northward orientation throughout the experiment. Imidacloprid dosed birds exhibited significant declines in fat stores and body mass (mean loss: −17% low, −25% high dose) and failed to orient correctly. Chlorpyrifos had no overt effects on mass but significantly impaired orientation. These results suggest that wild songbirds consuming the equivalent of just four imidacloprid-treated canola seeds or eight chlorpyrifos granules per day over 3 days could suffer impaired condition, migration delays and improper migratory direction, which could lead to increased risk of mortality or lost breeding opportunity.

Declines in migratory bird populations have been linked to a range of complex factors, including the large-scale application of agricultural pesticides<sup>1,2</sup>. Two of the most widely used classes of insecticides worldwide are the neonicotinoids, which entered the market in the 1990s<sup>3</sup>, and the older and more diverse chemistry of organophosphates, which increased in popularity following the regulation of organochlorine pesticides in the 1970s<sup>4</sup>. Both classes target cholinergic neurotransmission, although through different modes of action. Neonicotinoids are nicotinic acetylcholine receptor (nAChR) agonists<sup>5</sup>, and organophosphates are acetylcholinesterase (AChE) enzyme inhibitors<sup>6</sup>. Neonicotinoids typically bind more strongly to insect receptors than vertebrate receptors, and were thought to pose a lower risk for humans and non-target vertebrates than the organophosphates<sup>3,5</sup>. However, there is increasing evidence that both neonicotinoids and organophosphate insecticides can have direct and indirect effects on wildlife at environmentally relevant concentrations<sup>7–13</sup>.

Birds that utilize agricultural landscapes may be exposed to insecticides through consumption of treated seeds, granules, or sprayed soils and prey items. Small migratory songbirds that regularly use farmland habitats as a stopover and refuelling source may be particularly susceptible to exposure and the negative effects of neurotoxic insecticides. Successful migration requires optimizing refueling and departure decisions, as well as accurate orientation<sup>14,15</sup>. Nocturnally migrating birds can use different compass systems (solar, stellar, magnetic) for orientation, and they can also use different environmental cues (e.g. olfactory, geomagnetic) for orientation and navigation<sup>16</sup>. Both the orientation and navigation systems in birds have a neural basis. The specific underlying neuronal mechanisms of long-distance migration are largely unknown<sup>17</sup>, but it is possible that neurotoxic insecticides that disrupt acetylcholine transmission could have effects on cognitive and motor functions that play important roles in refueling, orientation and navigation. Organophosphates and neonicotinoids have effects on survival, as well as sublethal neurophysiological and behavioural effects in birds, including impaired thermoregulation and food consumption<sup>8–10,13,18,19</sup>.

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(dose\*time interaction:  $F_{12,157} = 9.97$ ,  $p < 0.0001$ ). During the captive acclimation period, prior to any dosing, birds in the control and high dose group gained mass ( $p < 0.001$ ) and birds in the low dose group maintained mass ( $p = 0.580$ ). Control birds then maintained body mass for the duration of the experiment ( $p > 0.213$ ). Body mass significantly declined compared to pre-dosing body mass within 24 hours of the first dose in both the low ( $p < 0.001$ ) and high ( $p < 0.0001$ ) imidacloprid dose groups, and continued to decline over the 3 days of dosing. After three days of exposure, the high dose imidacloprid group had lost on average 25.5% body mass and the low dose imidacloprid group had lost an average of 17% body mass, compared to 3.5% body mass loss in the control group. Body mass recovered in the low dose group ( $p = 0.156$ ) within 3 days post-exposure, while the high dose group still had significantly reduced body mass ( $p < 0.0001$ ) compared to the pre-dosing mass. Mass in both groups had recovered within 2 weeks following exposure ( $p \geq 0.639$ ). Overall females weighed less than males ( $F_{1,29} = 51.10$ ,  $p < 0.0001$ ); however, there was no interaction between dose and sex ( $F_{2,27} = 1.09$ ,  $p = 0.352$ ), indicating that males and females did not respond differently to exposure. Fat scores followed a similar pattern. Prior to dosing there was no difference in fat scores among treatment groups ( $\chi^2_2 = 2.94$ ,  $p = 0.230$ ), and after 3 days of dosing body fat was significantly lower in dosed birds compared to control ( $\chi^2_2 = 12.5$ ,  $p = 0.002$ ). These lower fat scores persisted to 3 days post-dosing ( $\chi^2_2 = 8.61$ ,  $p = 0.014$ ), and then returned to control levels by 2 weeks post-dosing ( $\chi^2_2 = 0.236$ ,  $p = 0.889$ ).

There was no statistical effect of imidacloprid treatment on mortality (Fisher's exact test,  $p = 0.512$ ). However, within 24 hours of receiving the third dose, 2 birds in the low imidacloprid dose group exhibited severe respiratory distress and were euthanized (18%), and 2 birds in the high imidacloprid dose group were found dead (17% mortality). None of the control birds died during the study. Symptomatic excess saliva in the crop and foaming at the mouth was observed in 2 low dose birds (18%) and 5 high dose birds (42%), compared to zero control birds (0%). The difference between treatment groups in the proportion of birds exhibiting these symptoms did not formally reach significance (Fisher's exact test,  $p = 0.071$ ). Although not quantified, treated birds also displayed general ataxia and lethargy during the dosing period even after a single oral dose. We did not weigh food to determine food consumption rates, however we observed that several high dose birds appeared to stop eating completely and low dose birds noticeably reduced food consumption during the dosing period.

In birds exposed to chlorpyrifos, there were no mortalities or overt signs of acute toxicity. There was a change in body mass over time ( $F_{6,147} = 8.30$ ,  $p < 0.0001$ ) with birds gaining weight following capture then losing weight during the 3 day dosing period, and then regaining weight during the recovery period, but there was no significant interaction between time and dose for body mass ( $F_{12,147} = 1.37$ ,  $p = 0.187$ ), indicating these changes in mass were similar for all dose groups. After 3 days of exposure, birds in the high chlorpyrifos exposure group lost an average of 9% of body mass, compared to 4% of body mass lost in the low chlorpyrifos group, and 3.5% of body mass lost in the controls. Average body mass across the whole experiment was not statistically different between the three groups ( $F_{2,22} = 0.52$ ,  $p = 0.604$ ). On average, females weighed less than males across all dose groups ( $F_{1,22} = 73.20$ ,  $p < 0.0001$ ). Fat scores were not different between chlorpyrifos treatment groups for any time point ( $p > 0.298$ ). No mortality was observed in the chlorpyrifos treated birds.

**Migratory behaviour.** Migratory activity, measured as cumulative distance moved via outward hops in the funnels over 30 sec intervals, decreased over the course of experimental trials (i.e. time) ( $F_{3,127} = 20.45$ ,  $p < 0.0001$ ). There was no effect of imidacloprid or chlorpyrifos treatment ( $F_{4,46} = 0.73$ ,  $p = 0.575$ ) on activity level, and no interaction between treatment and trial ( $F_{12,127} = 1.38$ ,  $p = 0.183$ ) (Fig. 2). In addition, sex did not affect activity patterns ( $F_{41} = 0.06$ ,  $p = 0.813$ ) and the interaction between sex and treatment was also not significant ( $F_{41} = 0.44$ ,  $p = 0.776$ ).

Pre-dosing, all treatment groups showed significant northward orientation (between  $320^\circ$  to  $33^\circ$ ,  $p \leq 0.038$ ) (Fig. 3). In the control group, the mean orientation direction did not change over repeated trials (Hotelling's paired test  $p \geq 0.22$ ), although the strength of the orientation decreased with time (Rayleigh statistics; pre-dosing:  $Z = 5.57$ ,  $p = 0.002$ ; post-dosing:  $Z = 5.024$ ,  $p = 0.004$ ; 3 d recovery:  $Z = 2.765$ ,  $p = 0.059$ ; 14 d recovery:  $Z = 2.385$ ,  $p = 0.09$ ).

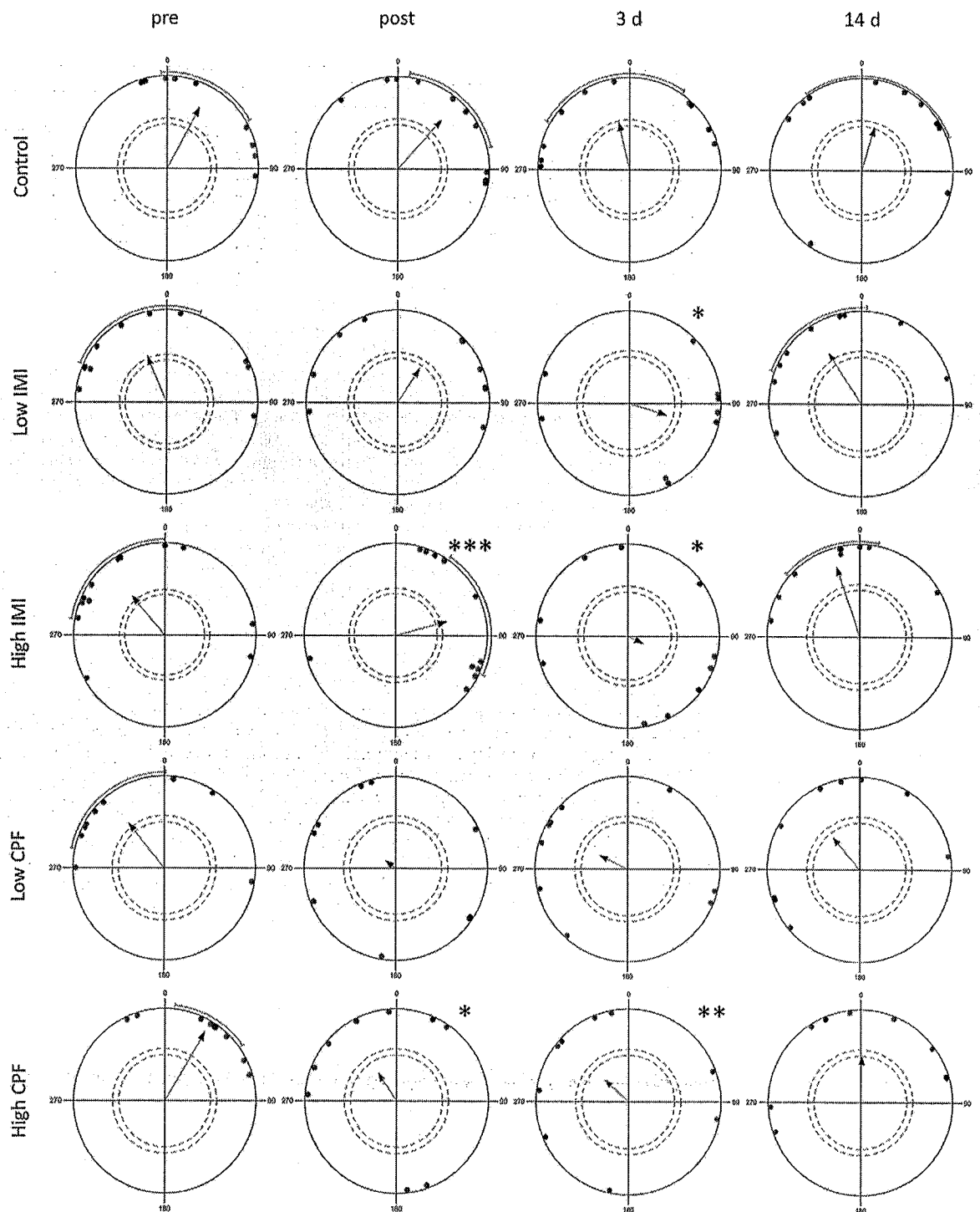
In the low dose imidacloprid group, birds failed to orient post-dosing ( $Z = 1.888$ ,  $p = 0.152$ ), but recovered by 2 weeks after exposure ( $Z = 3.812$ ,  $p = 0.017$ ). In the high imidacloprid dose group, the mean orientation direction changed post-dosing ( $75^\circ$ ) compared to pre-dosing ( $320^\circ$ ) (Hotelling's  $F = 7.908$ ,  $p = 0.01$ ) and no orientation was observed 3 days after dosing ended ( $Z = 0.328$ ,  $p = 0.73$ ). Recovery of high dose imidacloprid birds to a northward orientation occurred at 2 weeks after exposure ( $Z = 5.628$ ,  $p = 0.001$ ).

Birds exposed to the low dose of chlorpyrifos showed no significant orientation post-dosing and no recovery of orientation at 3 and 14 days after dosing ended ( $p \geq 0.163$ ). Similarly, birds exposed to the high dose of chlorpyrifos also showed no significant orientation post dosing ( $p > 0.108$ ). High dose chlorpyrifos birds changed the mean direction of orientation at 3 days post-dosing ( $313^\circ$ ) compared to pre-dosing ( $30^\circ$ ) ( $F = 5.463$ ,  $p = 0.037$ ), although the 3 day post-dosing directional vector was not significant ( $p = 0.35$ ). In contrast to the imidacloprid treatment groups, there was no recovery of migratory orientation at 2 weeks post-exposure for chlorpyrifos, whereas controls maintained seasonally appropriate northward orientation throughout.

## Discussion

White-crowned sparrows exposed to realistic concentrations of imidacloprid exhibited rapid and substantial declines in body mass and fat stores within 24 hours of exposure. Other symptoms of acute poisoning observed only in imidacloprid dosed birds include loss of appetite, excess saliva in the crop, and death. Both imidacloprid and chlorpyrifos disrupted orientation in captive trials during spring migration, while control birds maintained a seasonally appropriate northward bearing. Migration is a critical life stage, and birds that use agricultural habitats for refueling during migration may be particularly susceptible to exposure to neurotoxic insecticides. Species associated with grassland and agricultural landscapes are exhibiting severe population declines in North





**Figure 3.** Migration orientation of white-crowned sparrows dosed with the vehicle control (sunflower oil), low (10% LD50) or high (25% LD50) concentrations of imidacloprid (IMI) or chlorpyrifos (CPF). Solid dots represent mean directions of individual birds. Arrows represent the mean orientation of all birds in a dose group for each time point, outer arc represents 95% confidence interval for each significant vector. Arrow length indicates how closely individuals are clustered around the mean ( $r$  = length of mean vector), and the dashed circles indicate the critical values for Rayleigh's uniformity test at  $\alpha = 0.05$  (outer) and  $\alpha = 0.10$  (inner); vectors that pass these critical values are significant. Asterisks indicate difference in mean orientation direction compared to pre-dosing direction of birds within each treatment group for each time point following Hotelling's paired test. Significance level: \*\*\* < 0.01, \*\* < 0.05, \* < 0.1.

Funnels were placed upright with birds having a clear view of the sky at least 35 minutes prior to sunset, and were left undisturbed for at least 5 minutes before recording data. Video of funnel trials was recorded from approximately 30 minutes before to 30 minutes after sunset using digital video cameras (ADS-180, Swann Communications) suspended 10 ft above the funnels. Each camera recorded movements from six funnels simultaneously onto a digital video recorder (DVR8-2550, Swann Communications). Each bird was tested in four trials over the course of the experiment: 1) pre-dosing: after the acclimation period to confirm birds are in a state of *zugunruhe* (migratory restlessness), 2) post-dosing: ~10 hours after the final dose, 3) 3 d recovery: 3 days after the post-dosing Emlen trial to test acute recovery, 4) 14 d recovery: 14 days after the post-dosing Emlen trial to test long-term recovery.

**Dosing.** 51 sparrows that were confirmed to be in a state of *zugunruhe* were randomly assigned to one of four dose groups or the control groups. Dosing started the morning after the first (pre-dosing) Emlen trial. Birds were orally dosed between 09:00 and 11:00 by gavage with 4.1 µg imidacloprid/g bw/day (IMI low; n = 11; 7 male, 4 female), 10.25 µg imidacloprid/g bw/day (IMI high; n = 12, 6 male, 6 female), 2.9 µg chlorpyrifos/g bw/day (CPF low; n = 9; 6 male, 3 female), 7.4 µg chlorpyrifos/g bw/day (CPF high; n = 9; 4 male, 5 female) (nominal concentrations), or a vehicle control (food-grade organic sunflower oil, Compliments brand, Sobeys Canada; n = 10; 4 male, 6 female) once per day for 3 days (acute 72 hour exposure) at a volume of 10 µl dosing solution/g bw. Dosing concentrations were selected through pilot studies conducted the previous year, and based on published values for the median lethal dose (LD50) for house sparrows (*Passer domesticus*) for each compound<sup>28,52,53</sup>. Therefore, these doses correspond to 10% or 25% of the predicted house sparrow LD50. Dosing solutions were made by dissolving technical grade imidacloprid (Sigma Aldrich 37894) or chlorpyrifos (Dursban, Sigma Aldrich 442573) in a small volume of acetone, then diluting with sunflower oil. Solutions were stirred overnight to evaporate off acetone, and stored in amber glass bottles in the dark for the duration of the study.

**Monitoring.** Body mass (g) and fat scores (0 to 5) were measured between 09:00 and 11:00 at capture, before each dose, the morning after the last dose, the morning after the 3 day recovery Emlen trial, and the morning after the 14 day recovery Emlen trial. At capture and at the completion of the experiment, structural measures (tarsus, wing length, tail length, bill length, head-bill length) were taken.

**Chemical Analysis.** Concentrations of imidacloprid and chlorpyrifos in dosing solutions were confirmed by liquid chromatography tandem mass spectrometry (LC/MS/MS) analyses at the National Hydrology Research Centre, Environment and Climate Change Canada, Saskatoon, SK.

Dosing solution samples (500 µL) were transferred to a 50 ml centrifuge tube containing 10 ml Milli-Q water. An additional 4.5 ml Milli-Q water was added along with 15 ml of acetonitrile containing 1% acetic acid, then briefly vortexed. AOAC QuEChERS extraction salts (Agilent-#5982-6755) were added and the tube shaken vigorously for 2 minutes. After mixing, the solution was centrifuged (5 min @ 5000 rpm). An EMR Lipid dSPE tube (Agilent-#5982-1010) was prepared by adding 5 ml Milli-Q water and briefly vortexing. 5 mL of the QuEChERS extract (acetonitrile layer) from above was transferred to the EMR lipid dSPE tube, vortexed thoroughly, shaken for 2 minutes followed by 5 minutes of centrifuging at 5000 rpm. 5 mL of this supernatant was transferred to an EMR-Lipid polish tube (Agilent-#5982-0101) and immediately vortexed then centrifuged for 5 min @ 5000 rpm. 200 µL of the acetonitrile layer was transferred into a 1.8 ml amber glass LC vial containing 800 µL of Milli-Q water followed by subsequent dilutions to bring the concentration within the calibration curve. 20 µL of a 2.5 mg/L solution of internal standard (d4-imidacloprid, CDN Isotopes, Pointe-Claire, Quebec, CA) was added to the LC vial and vortex mixed immediately prior to instrumental analysis.

For the LC/MS/MS analysis, a Waters 2695 Alliance HPLC system (Waters Corp., Milford, MA), consisting of a solvent degassing unit, pump and autosampler, was used with a Waters XTerra MS-C18 (3.5 µm dia. particle size) column (2.1–100 mm) (Waters Corp., Milford, MA) at 30 °C. Isocratic elution of the analytes was achieved with an 25:75 (v/v) mix of solvent A (100% water and 0.1% formic acid) and solvent B (100% acetonitrile and 0.1% formic acid) respectively at a flow rate of 200 µL/minute. The run time was 10 min and the sample injection volume was 20 µL. Chlorpyrifos and imidacloprid were quantified (internal standard method) and their concentrations confirmed using the Micromass Quattro Ultima triple quadrupole mass spectrometer (Waters Corp., Milford, MA) equipped with an electrospray ionization interface set to positive ion mode. Ionization and MS/MS conditions were optimized by infusing a 0.5 mg/L solution of each insecticide into the ion source in a 50:50 (v/v) acetonitrile:water solution containing 0.1% formic acid. MRM transitions, selected from the product ion scan and optimal cone voltages and collision energies for each analyte are provided in Table S1. Other instrumental settings were as follows: source temperature, 90 °C; capillary voltage, 3.95 kV; desolvation temperature, 220 °C; nitrogen desolvation gas flow rate, 487 L/h; nitrogen cone gas flow rate, 153 L/h; nitrogen nebulizer gas flow rate was at maximum flow; and multiplier voltage, 700 V. Argon was used as the collision gas at a pressure which increased the Pirani gauge reading to  $2.10 \times 10^{-4}$  torr. Resolution was set to achieve unit mass resolution for quadrupole 1 and approximately 2 amu resolution for quadrupole 3.

Analytical standards of imidacloprid and chlorpyrifos were purchased from Chem Service (West Chester, PA, USA). A five-level calibration curve (5 to 100 µg/L) was analyzed before and after each batch of samples which also contained a laboratory or field blank and a fortified sample. Intermediate (1.0 mg/L) and working calibration standards were prepared fresh daily in Milli-Q water by serially diluting a substock containing each analyte at 100 mg/L in pure acetonitrile. This was necessary as it was observed that chlorpyrifos standards made in water were subject to degradation but were found stable in acetonitrile. All dosing solutions, blanks, and QC samples were run in triplicate. Measured concentrations of imidacloprid were  $1.07 \mu\text{g}/\mu\text{L} \pm 2\% \text{RSD}$  and  $0.40 \mu\text{g}/\mu\text{L} \pm 11.8\% \text{RSD}$  (nominal concentrations 1.03 µg/µL and 0.41 µg/µL). Measured concentrations of chlorpyrifos were  $0.65 \mu\text{g}/\mu\text{L} \pm 12.7\% \text{RSD}$  and  $0.23 \mu\text{g}/\mu\text{L} \pm 5.7\% \text{RSD}$  (nominal 0.74 and 0.29 µg/µL). Mean recoveries from sunflower oil fortified with chlorpyrifos at 0.51 µg/µL (n = 3) was  $62.5\% \pm 3.1\% \text{RSD}$  while sunflower oil fortified



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## Author Contributions

C.A.M. and B.J.M.S. conceived the experiment and M.L.E. contributed to experimental design. M.L.E. conducted the experiment, analyzed the results and led the writing. All authors contributed to the writing of the final manuscript.

## Additional Information

**Supplementary information** accompanies this paper at <https://doi.org/10.1038/s41598-017-15446-x>.

**Competing Interests:** The authors declare that they have no competing interests.

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*wildlife belongs inside an ecological reserve*

Dear Fish and Game Commission:

There is not enough land in the Ballona Wetlands Ecological Reserve to continue to allow special interest parking on land purchased for restoration of native wildlife habitat. In 2005, the CA Department of Fish and Wildlife promised to analyze the environmental impact of such parking, but has never done so. It is now up to the Commission to exercise its discretion on the matter and safeguard the public's interest in preserving wildlife habitat on this public conservation property.

A Concerned Voter and Taxpayer

Re: Petition #2017-009



*special interest parking does not*

McPherson / GARRETT

LA, CA 90066

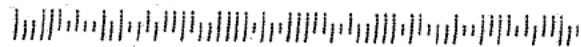


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Eric Sklar, President  
Fish and Game Commission  
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Sacramento, CA 94244-2090

44-2090





# Ballona Wetlands Land Trust

November 22, 2017

Fish and Game Commission  
California Fish and Game Commission  
1416 Ninth Street, Suite 1320  
Sacramento, CA 95814

Via e-mail: [fgc@fgc.ca.gov](mailto:fgc@fgc.ca.gov)

Dear President Sklar and Members of the Fish and Game Commission:

Thank you for agreeing to rehear our petition regarding outside interest parking uses inside the Ballona Wetlands Ecological Reserve. Your decision on December 6<sup>th</sup> will have a significant impact on the future of not only this important natural resource, but on the ecological reserve system in general, which depends on a delineation between conservation interests and other, outside interests.

Your decision will either discontinue an incompatible land use that is unique to the Ballona Wetlands Ecological Reserve, or it will essentially make that incompatible land use permanent, depriving the restoration effort of valuable land needed to expand contiguous wildlife habitat. That permanence would result because the restoration plans call for perimeter levees to be offset from the paved parking lots (and open space between the two lots), thus **forever reducing by several acres the amount of contiguous habitat.**

Put bluntly, it would be highly inappropriate for the California Fish and Game Commission to entangle itself in the complex planning decisions relating to the ongoing redevelopment of Marina del Rey, which is the responsibility of numerous County agencies and Commissions.

As evidenced by the regulation adopted in 2005, and by related documents and meeting audio from that time, it is clear that **your predecessors never envisioned these parking areas as permanent fixtures in a restored ecosystem.**

As such please reconsider the following facts:

- The business owners at Fisherman's Village, along with the Los Angeles County Department of Beaches and Harbors and Los Angeles County Sheriff's Department, have always known that these parking lots were of a temporary nature, as evidenced by their

current leases, their expired coastal development permits (which have never been renewed), and numerous other public records.

- As memorialized in an audio recording of the meeting, the Department of Fish and Wildlife assured the Commission and the public in August 2005 that the compatibility of the parking lots in the ecological reserve would be analyzed in the draft restoration plans. However, the draft plans published 12 years later, on September 25, do not include any such analyses.
- Instead of analyzing the ecological benefit of restoring those paved areas to wildlife habitat, the Department of Fish and Wildlife is actually proposing the construction of a three-story garage in the ecological reserve, which would be the first structure of its kind in any ecological reserve in the state, according to our research.
- If the garage were to be built, .8 of an acre of the existing lot would be unpaved, but that patch of land would have minimal restoration value under this scenario because it would be bordered by remaining parking lot areas on two sides, by Fiji Way on a third side, and by a flood protection levee on the fourth side. Contiguous habitat is exponentially more valuable in a restoration than fragmented habitat.
- **The Coastal Commission already rejected arguments by local business interests that there is insufficient parking in the area** or that the Coastal Act protects parking that isn't listed in the Marina del Rey Land Use Plan. The Coastal Commission approved, at the request of the County, the conversion of a nearby parking lot into a dry-dock boat storage facility. Since this project is not currently moving forward, that extra parking still remains available for the area, further undermining the argument that parking lots in the ecological reserve are in any way essential to the operation of Marina del Rey. <https://documents.coastal.ca.gov/reports/2017/3/Th15-3-2017.pdf>
- **Conversely, the Coastal Act clearly does protect coastal wildlife habitat**, the restoration of which was precisely the purpose of the people of California in acquiring this land for \$139 million in Proposition 50 bond funds in 2003.
- It is simply disingenuous to imply that the businesses at Fisherman's Village offer affordable access to the coast. Offerings include expensive cruise packages (such as corporate parties), yachts for upwards of six figures, plush toys and other items unrelated to the coast, and dining experiences that include upscale restaurants. This kind of "coastal access" should not be confused with the many locations up and down the coast where families of diverse ethnicity and income levels can affordably experience the coast, such as exploring tide pools or coastal dune habitats.
- Neither the Department of Beaches and Harbors nor the Sheriff's Department has provided any detailed records to the Commission to support the assertion that they provide regular or essential services related to the maintenance of the ecological reserve. The Department of Fish and Wildlife has also been unable to provide such documentation. To the contrary, the records gathered by the Land Trust have shown that these services are infrequent and sporadic. For instance, a \$190,000 funding agreement referenced by the Sheriff's Department, both in written and verbal

comments, makes no mention of the Ballona Wetlands, and instead appears to be related to the County-owned Burton Chase Park.

- Any services conducted by the Department of Beaches and Harbors and/or the Sheriff's Department directly benefit residents of Los Angeles County. For instance, the stolen bike operation referenced by Sheriff's Department in its June 8 letter to the Commission, was of primary interest to the County residents whose property was being stolen. Countless agencies (LAPD, CalTrans, County Flood Control District, etc.) assist with various activities that simultaneously benefit the ecological reserve and further the missions of those agencies. None of these other agencies expect a *quid pro quo* in the form of below market parking.
- The fair market value of the parking in question, based on the County's own revenue figures for the County-owned lots across the street, is over \$700 per space per year (over \$115,000 for the roughly 180 spots currently utilized in the ecological reserve lots). Yet, the County pays the Department of Fish and Wildlife only \$1,608 per year for these parking spaces.
- Although there are numerous County commissions and planning departments responsible for ensuring adequate parking for County employees and visitors to the Marina, there is no record of any of these commissions or departments being involved in the current discussions about the ecological reserve parking lots. Instead, users of these parking lots are suggesting that the Fish and Game Commission is somehow obligated to donate over two acres of state conservation land to this purpose.
- E-mail records show that the public was intentionally bypassed with regard to discussion of what would happen to these paved areas as part of the restoration plans. The Department of Fish and Wildlife abdicated its decision-making authority regarding this land to the County.

For all of these reasons, the Ballona Wetlands Land Trust respectfully urges the Fish and Game Commission to grant Petition #2017-009 in order to terminate parking uses that are incompatible with the purpose of the public, state-owned ecological reserve.

Sincerely,



Walter Lamb  
President  
Ballona Wetlands Land Trust  
310-384-1042

cc: Charles Bonham, Director, California Department of Fish and Wildlife

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**From:** Lynn Bossone  
**Sent:** Wednesday, November 22, 2017 1:28 PM  
**To:** FGC  
**Subject:** Petition 2017-009

Please consider locating any parking structures for the Ballona Wetlands outside the Ecological Reserve itself.

2.3 acres may seem small in scope but is more critical to the wildlife than a 3 story parking structure.

Three of the four draft alternatives include, without proper analysis, the construction of this parking structure within the reserve.

When the process of planning the restoration began in 2005 the parking lot was a temporary item to be fully vetted for compatibility and necessity.

Wildlife habitat should not be sacrificed to satisfy the interests of Marina Del Rey development.

Thank you for considering our suggestions.

Lynn Bossone

Ulrike Mehler





9100 S. Sepulveda Blvd., Ste. 210  
Los Angeles, CA 90045  
310.645.5151 | info@laxcoastal.com

RECEIVED  
CALIFORNIA  
FISH AND GAME  
COMMISSION  
2017 NOV 21 PM 2:06

October 17, 2017

CA Fish and Game Commission  
1416 Ninth Street, Ste. 1320  
Sacramento, CA 95814

Re: County Parking Leases at the Ballona Wetlands

Dear Members and Commissioners:

On behalf of the more than 500 local businesses in Playa del Rey, Westchester, Del Rey, Marina del Rey and Playa Vista, the LAX Coastal Chamber of Commerce, I am writing to express our support of continued parking for the County of Los Angeles at the Ballona Wetlands located in Area A. This parking lot located on the outskirts of the wetlands (adjacent to Fiji Way) provides much needed parking and access to many of the businesses, employees and guests of Marina del Rey.

Marina del Rey facilities are guided by the requirement of the Local Coastal Program (LCP) and certified by the California Coastal Commission which assigns high priority to public access. Marina del Rey, known as "Los Angeles' Marina" attracts visitors from all over the County of Los Angeles, the State of California and beyond. People who visit this area enjoy public access to the amenities and resources offered in our harbor. This area located at Fisherman's Village is a heavily utilized, visitor-serving location that provides both commercial and recreational access to the shoreline. During peak periods of activity these community serving lots are often full and reach capacity for the public's use. This parking area allows for the businesses of the Marina to properly accommodate guests and employees of the businesses within Fisherman's Village.

By allowing Los Angeles County to continue to utilize these lots, our community is better able to provide access for all people who visit and live in the area, so that they can enjoy the amenities of this public asset.

In closing, the Chamber requests that you continue to grant access to this parking facility and allow Los Angeles County Department of Beaches and Harbor to operate it. We hope that you will support this parking exemption. Should you have any questions, please do not hesitate to contact me at 310.645.5151.

Sincerely,

Christina Davis,  
President/CEO





Tracking Number: 2015-013 (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](mailto: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](mailto: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: Matthew Richard Berkoben

### **2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested:** California Department of Fish and Game South Region, Wildlife, Fisheries and Lands Program. Title 14 of the California Code of Regulations.

### **3. Overview (Required) - Summarize the proposed changes to regulations:** Allow a legal D16 Deer tag holder to transit the San Felipe Wildlife Area to pursue game on Vulcan Mountain on the BLM lands that can be legally hunted with a D16 tag. Furthermore, if transiting remains illegal, it should be clearly stated in the hunting regulations. If transiting is not allowed, the BLM lands that are paid for and supported by sportsman and taxpayers should then be closed to all hunters to prevent a publicly funded Private Big Game Preserve for only a handful of individuals. The current regulation states that D16 hunting is closed East of S2 in the San Felipe Wildlife Area and the possession of D16 tag while transiting the area to reach D16 open BLM land is a serious infraction and possibly a misdemeanor if game is taken on the BLM legal D16 lands and transited back across the San Felipe Wildlife Area with steep penalties.

### **4. Rationale (Required) - Describe the problem and the reason for the proposed change:** Current access to the Public BLM hunting area is restricted to a few select individuals. Current access to Vulcan BLM land is limited to the surrounding private property owners except one individual that has permission to hunt this public area. To the East of Vulcan is the San Felipe Wildlife Area. This area is open to hunting except for the use of D16 tag West of S2 essentially land-locking the area. Unlike other hunting zones where local authorities have permitted transiting of the area with a tag that cannot be used until you have reached the open zone (BLM D16), citations are given to those who traverse the area with



an unloaded empty shouldered weapon. Due to these current restrictions and regulations money paid through licenses and other support of Fish and Game has created a private and privileged hunting preserve for a few select individuals. Currently there are no clear regulations that states that you cannot transit the San Felipe Wildlife area with a D16 tag to reach the BLM land, but it is enforced this way. The proposed changes to the regulations would allow an individual holding a legal D16 Deer tag to transit the San Felipe Wildlife area in a lawful way to ensure that fawning areas are not disrupted to allow the legal pursuit of game on lands supported by outdoor enthusiasts and taxpayers to reach the BLM land on Vulcan Mountain. It should be noted that the area closed to D16 that would be traversed is open to G13 antlerless deer, archery, and upland game and it is unclear how these activities protect the San Felipe Wildlife Fawning Area, which is one of the reasons we were informed that we cannot transit the area with the D16 tag. If it is the intention of the Fish and Game Commission to create a sanctuary for a “Big” buck population on Vulcan, it should in that case not be opened to those unique individuals that have access either due to property ownership or personal connections. Considering today’s technology, it is very easy to track and show the area in which an individual is hunting. If the requirement to GPS track to indicate where an animal is taken on Vulcan and not in the San Felipe Wildlife Area is required, these restrictions would make sense to ensure protections of the resources that I and other individuals pay to protect and respect.

## SECTION II: Optional Information

5. **Date of Petition: 30 November, 2015**

6. **Category of Proposed Change**

☐ Sport Fishing

☐ Commercial Fishing

X Hunting

☐ Other, please specify: [Click here to enter text.](#)

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

☐ 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** [Click here to enter text.](#)

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

10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: [Click here to enter text.](#)





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

**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: [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

RECEIVED AT

DEC 10 2015

COMMISSION MEETING  
AGENDA ITEM 26

Matthew Berkoben

**State of California**  
**Department of Fish and Wildlife**

# **M e m o r a n d u m**

**Date:** November 14, 2017

**To:** Valerie Termini, Executive Director  
Fish and Game Commission

**From:** David Bess, Deputy Director  
Law Enforcement Division



**Subject:** Petition 2015-013

The California Department of Fish and Wildlife Law Enforcement Division has reviewed the petition (tracking #2015-013) regarding transiting through the San Felipe Wildlife Area to pursue game on Vulcan Mountain on Bureau of Land Management lands that can be legally hunted with a D16 tag.

The Law Enforcement Division has identified that a regulation change is not needed. There is no regulation in place that prohibits the activity the petitioner described. The Law Enforcement Division recommends rejecting the petition based on the above information.

# 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](mailto: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 26<sup>th</sup>, 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