Final

BALLONA WETLANDS RESTORATION PROJECT

Environmental Impact Report
State Clearinghouse No. 2012071090

Volume 3: Comment Letter O11 Part 2 of 3

Prepared for

California Department of Fish and Wildlife,
South Coast Region (Region 5)

December 2019

Final

BALLONA WETLANDS RESTORATION PROJECT

Environmental Impact Report
State Clearinghouse No. 2012071090

Volume 3: Comment Letter O11 Part 2 of 3

Prepared for

California Department of Fish and Wildlife,
South Coast Region (Region 5)

December 2019

626 Wilshire Boulevard
Suite 1100
Los Angeles, CA 90017
213.599.4300
www.esassoc.com

Bend
Camarillo
Delray Beach
Destin
Irvine
Oakland
Orlando
Pasadena
Petaluma
Portland
Sacramento
San Diego
Santa Monica
San Francisco
Sarasota
Seattle
Tampa

120367

TABLE OF CONTENTS

Ballona Wetlands Restoration Project Final EIR

Volume 3: Comment Letter O11 Part 2 of 3

Page

Chapter 1, Introduction 1-1
1.1 Purpose 1-1
1.2 Context 1-1
1.3 Project Overview 1-2
1.4 Agency and Public Involvement 1-4
1.4.1 Agency and Public Review of the Draft EIS/EIR 1-4
1.4.2 Availability of the Final EIR 1-6
1.4.3 Additional Agency and Public Input 1-7

Chapter 2, Responses to Comments 2-1
2.1 Approach to Comment Responses 2-1
2.1.1 Input Received 2-1
2.1.2 Comment Coding 2-16
2.2 General Responses 2-16
2.2.1 General Response 1: Agency and Other Involvement 2-17
2.2.2 General Response 2: Proposed Project 2-22
2.2.3 General Response 3: Alternatives 2-35
2.2.4 General Response 4: Drains 2-46
2.2.5 General Response 5: Biological Resources 2-49
2.2.6 General Response 6: Hydrology and Water Quality 2-64
2.2.7 General Response 7: Requests for Recirculation 2-72
2.2.8 General Response 8: Public Participation 2-74
2.3 Individual Responses 2-75
2.3.1 Responses to Federal Agency Comments 2-75
2.3.2 Responses to State Agency Comments 2-121
2.3.3 Responses to Local Agency Comments 2-175
2.3.4 Responses to Native American Community 2-213
2.3.5 Responses to Form Comments 2-306
2.3.6 Responses to Organizations' Comments 2-394
2.3.7 Responses to Individuals' Comments 2-3509
2.3.8 Responses to Public Hearing Comments 2-4559

Chapter 3, Revisions to the Draft EIS/EIR 3-1
3.1 Introduction 3-1
3.2 Text Changes to the Draft EIS/EIR 3-2
3.2.1 Title Page 3-2
3.2.2 Key Definitions and Acronyms 3-2
3.2.3 Executive Summary 3-2
3.2.4 Chapter 1, *Introduction* 3-15
3.2.5 Chapter 2, *Description of Alternatives* 3-19

Page

Chapter 3, Revisions to the Draft EIS/EIR (continued)

3.2.6 Chapter 3, *Environmental Consequences* 3-27
3.2.7 Chapter 4, *Other Considerations* 3-45
3.2.8 Chapter 5, *List of Preparers and Contributors* 3-48
3.2.9 Appendices 3-48

Appendices

A. Notices A-1
B. Commenting Parties B-1
C. Endorsement C-1
D. Recipients of the Final EIR D-1
E. Revised Figures E-1

The September 2017 Draft EIS/EIR is provided on a USB drive enclosed inside the back cover of printed versions of this Final EIR.

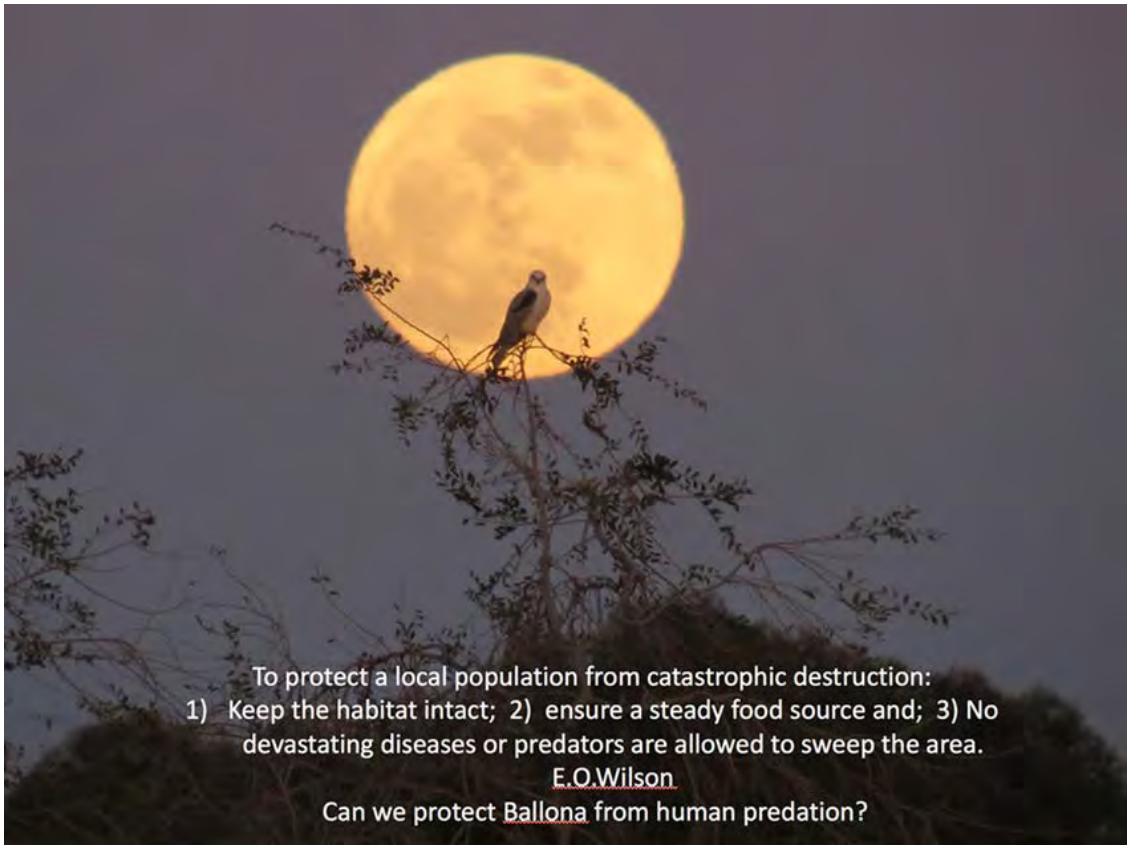
Tables

Table 2-1 Responses to Non-substantive Comments 2-3
Table 2-2 Locations of Species' Descriptions in the Draft EIS/EIR 2-51
Table 2-3 Existing and Target Restoration Species by Habitat 2-1222

CHAPTER 2

Responses to Comments (continued)

This page intentionally left blank



O11-90

patricia mc pherson
patriciamcpherson1@verizon.net

CLASSIFICATION: UNCLASSIFIED

STATE OF CALIFORNIA
Edmund G. Brown Jr., Governor

Fish and Game Commission

Wildlife Heritage and Conservation
Since 1870

Valerie Termini, Executive Director
1416 Ninth Street, Room 1320
Sacramento, CA 95814
(916) 653-4899
www.fgc.ca.gov

MEETING AGENDA
October 11-12, 2017

SpringHill Suites by Marriott
900 El Camino Real, Atascadero, CA 93422

The meeting will be live streamed at www.cal-span.org

NOTE: See important meeting deadlines and procedures at the end of the agenda. Unless otherwise indicated, the California Department of Fish and Wildlife is identified as Department.

Invitation: The Commission invites interested stakeholders to join a discussion on October 11 at 3:00 p.m. (or following completion of Day 1 of the Commission meeting agenda) at SpringHill Suites to explore what may contribute to resiliency and long-term prosperity of fishing communities in California. The discussion is part of an ongoing dialogue to help clarify common concerns through the state and help inform future Commission action.

O11-91

DAY 1 – OCTOBER 11, 2017, 8:30 A.M.

Call to order/roll call to establish quorum

1. Approve agenda and order of items

2. Public forum for items not on agenda
   The Commission **may not** discuss or take action on any matter raised during this item, except to decide whether to place the matter on the agenda of a future meeting. (Sections 11125, 11125.7(a), Government Code)

3. Tribal Committee

   (A) October 2017 meeting summary
      I. Receive and adopt recommendations
   (B) Work plan development
      I. Update on work plan and draft timeline
      II. Discuss and approve new topics

4. Wildlife Resources Committee

   (A) September 2017 meeting summary
      I. Receive and adopt recommendations
   (B) Work plan development
      I. Update on work plan and draft timeline
      II. Discuss and approve new topics

5. Authorize publication of notice of intent to adopt regulations concerning the incidental take of tricolored blackbird during candidacy period
(Section 749.9, Title 14, CCR)

6. Discuss proposed changes to sport fishing regulations
(Sections 1.05, 1.11, 1.18, 1.61, 1.74, 2.10, 2.25, 5.35, 5.41, 5.88, 7.00, 7.50 and 8.00; repeal Section 1.60; and add Section 2.05, Title 14, CCR)

7. Discuss proposed changes to regulations for the use of GPS-equipped dog collars and treeing switches for dogs used to pursue/take mammals or for dog training
(Section 265, Title 14, CCR)

8. Discuss and adopt proposed regulations for the commercial use and possession of native rattlesnakes for biomedical and therapeutic purposes
(Sections 43, 651 and 703; add Section 42; Title 14, CCR)

O11-91 cont.

9. Consider the petition, Department's evaluation report, and comments received to determine whether listing Cascades frog (*Rana cascadae*) as endangered or threatened under the California Endangered Species Act may be warranted
(Pursuant to Section 2074.2, Fish and Game Code)
Note: If the Commission determines listing may be warranted, a one-year status review will commence before the final decision on listing is made.

10. Discuss staff proposal for stakeholder engagement on American bullfrog and non-native turtle statutes and regulations

11. Department update on Ballona Wetlands Ecological Reserve

   (A) County parking leases
   (B) Draft environmental impact report/environmental impact report

12. Non-marine items of interest from previous meetings

13. Non-marine petitions for regulation change from previous meetings

   (A) Action on petitions for regulation change – none scheduled at this time
   (B) Action on pending regulation petitions referred to staff and the Department for review
      I. Petition #2015-009 to raise commercial trapping license fees
      II. Petition #2016-028 to clarify fire service members authorized to validate deer and elk tags

14. Non-marine, non-regulatory requests from previous meetings

15. Department informational items (non-marine)

    (A) Director's report
    (B) Wildlife and Fisheries Division, and Ecosystem Conservation Division
    (C) Law Enforcement Division
    (D) Other

16. Announce results from Executive Session

Recess

DAY 2 – OCTOBER 12, 2017, 8:30 A.M.

Call to order/roll call to establish quorum

17. Public forum for items not on agenda
    The Commission **may not** discuss or take action on any matter raised during this item, except to decide whether to place the matter on the agenda of a future meeting. (Sections 11125, 11125.7(a), Government Code)

O11-91 cont.

CONSENT ITEM

18. Receive and approve request to transfer California Halibut Bottom Trawl Vessel Permit No. BT0002 from Bruce A. Bramel to Michael A. Peery

19. Marine Resources Committee

    (A) Work plan development
        I. Update on work plan and draft timeline
        II. Discuss and approve new topics

20. Adopt proposed changes to commercial nearshore and deeper nearshore fishing permit and appeal regulations
    (Sections 150, 150.02, 150.03, and 705, Title 14, CCR)

21. Adopt proposed commercial take of sea cucumber regulations
    (Add Section 128, Title 14, CCR)

22. Discuss proposed changes to recreational abalone regulations
    (Section 29.15, Title 14, CCR)

23. Discuss proposed changes to commercial sea urchin regulations
    (Sections 120.7 and 705, Title 14, CCR)

24. Discuss and adopt proposed commercial fisheries landing requirements regulations
    (Add Section 197, Title 14, CCR)

25. Discuss and adopt a resolution on the National Marine Fisheries Service rejection of hard caps for the swordfish drift gillnet fishery

26. Marine items of interest from previous meetings

    (A) Discuss the Commission's role related to desalination plants and living marine resources
    (B) Staff report regarding razor clam domoic acid levels

27. Marine petitions for regulation change from previous meetings

    (A) Action on petitions for regulation change
        I. Petition #2017-004 to authorize commercial access fishing opportunity for market squid in northern California
        II. Petition #2017-006 to add European green crab to list of restricted species
    (B) Action on pending regulation petitions referred to staff and the Department for review

28. Marine non-regulatory requests from previous meetings

    (A) Action on non-regulatory requests
    (B) Action on non-regulatory requests referred to staff and the Department for review

29. Department informational items (marine)

    (A) Director's report
    (B) Marine Region

30. Other informational items

    (A) Staff report
    (B) Legislative update and possible action
    (C) Federal agencies report
    (D) Other

31. Discuss and act on Commission administrative items

    (A) Next meetings
    (B) Rulemaking calendar updates
    (C) New business
    (D) Other

Adjourn

O11-91 cont.

EXECUTIVE SESSION
(Not Open to Public)

Pursuant to the authority of Government Code Section 11126(a)(1), (c)(3), and (e)(1), and Section 309 of the Fish and Game Code, the Commission will meet in closed Executive Session. The purpose of this Executive Session is to consider:

(A) Pending litigation to which the Commission is a Party

I. California Fish and Game Commission v. Central Coast Forest Assoc. and Big Creek Lumber Company (Coho listing, south of San Francisco)

II. Tri-State Crab Producers Assoc v. California Department of Fish and Wildlife; California Fish and Game Commission (Dungeness Crab "Fair Start" provision in section 8279.1 of the Fish and Game Code).

III. Dennis Sturgell v. California Fish and Game Commission, California Department of Fish and Wildlife, and Office of Administrative Hearings (revocation of Dungeness crab vessel permit No. CT0544-T1)

IV. Kele Young v. California Fish and Game Commission, et al. (restricted species inspection fee waiver)

V. Public Interest Coalition v. California Fish and Game Commission (California Environmental Quality Act)

VI. California Cattlemen's Association and California Farm Bureau Federation v. California Fish and Game Commission (gray wolf listing)

VII. Center for Biological Diversity and Project Coyote/Earth Island Institute v. California Fish and Game Commission and California Department of Fish and Wildlife (trapping fees)

O11-91 cont.

(B) Possible litigation involving the Commission

(C) Staffing

(D) Deliberation and action on license and permit items

I. Take action on the appeal by John M. Becker regarding Sea Urchin Diving Permit No. LO3032

II. Take action on the appeal by the Estate of Kevin L. Clifton regarding Salmon Vessel Permit No. SA0633

CALIFORNIA FISH AND GAME COMMISSION
2017 AND 2018 MEETING SCHEDULE

Note: As meeting dates and locations can change, please visit www.fgc.ca.gov for the most current list of meeting dates and locations.

Meeting Date	Commission Meetings	Committee Meetings	Other Meetings
October 11			**Coastal Fishing Communities Public Meeting** SpringHill Suites by Marriott 900 El Camino Real Atascadero, CA 93422
October 18			**Coastal Fishing Communities Public Meeting** E.P. Foster Library 651 East Main Street Ventura, CA 93001
November 8			**Coastal Fishing Communities Public Meeting** Middlebury Institute of International Studies at Monterey 460 Pierce Street Monterey, CA 93940
November 9		**Marine Resources** Marina Branch Public Library 190 Seaside Circle Marina, CA 93933	
December 5			**Coastal Fishing Communities Public Meeting** Handlery Hotel 950 Hotel Circle North San Diego, CA 92108
December 6-7	Handlery Hotel 950 Hotel Circle North San Diego, CA 92108		
2018			
January 11		**Wildlife Resources** Santa Rosa or Sacramento	
February 6		**Tribal** Resources Building Auditorium, First Floor 1416 Ninth Street Sacramento, CA 95814	

O11-91 cont.

Meeting Date	Commission Meetings	Committee Meetings	Other Meetings
February 7-8	Resources Building Auditorium, First Floor 1416 Ninth Street Sacramento, CA 95814		
March 6		**Marine Resources** Petaluma	
March 15	Teleconference — Arcata, Napa, Sacramento, Los Alamitos, and San Diego		
April 12	Teleconference — Arcata, Napa, Sacramento, Los Alamitos and San Diego		
April 18-19	Ventura		
May 17		**Wildlife Resources** Los Alamitos	
June 19		**Tribal** Resources Building Auditorium, First Floor 1416 Ninth Street Sacramento, CA 95814	
June 20-21	Resources Building Auditorium, First Floor 1416 Ninth Street Sacramento, CA 95814		
July 17		**Marine Resources** San Clemente	
August 22-23	North Coast		
September 20		**Wildlife Resources** Resources Building Auditorium, First Floor 1416 Ninth Street Sacramento, CA 95814	
October 16		**Tribal** San Joaquin Valley	
October 17-18	San Joaquin Valley		
November 14		**Marine Resources** Resources Building Auditorium, First Floor 1416 Ninth Street Sacramento, CA 95814	
December 12-13	Los Angeles or San Diego		

O11-91 cont.

OTHER MEETINGS OF INTEREST

Association of Fish and Wildlife Agencies

- September 9-12, 2018, Tampa, FL

Pacific Fishery Management Council

- November 14-20, 2017, Costa Mesa, CA
- March 7-14, 2018, Rohnert Park, CA
- April 4-11, 2018, Portland, OR
- June 6-14, 2018, Spokane, WA
- September 5-12, 2018, Seattle, WA
- November 1-8, 2018, San Diego, CA

Pacific Flyway Council

- March 2018
- August 2018

Western Association of Fish and Wildlife Agencies

- January 3-8, 2018, San Diego, CA
- July 12-17, 2018, Eugene, OR

Wildlife Conservation Board

- November 30, 2017, Sacramento, CA
- February 2018, Sacramento, CA
- May 2018, Sacramento, CA
- August 2018, Sacramento, CA
- November 2018, Sacramento, CA

O11-91 cont.

IMPORTANT COMMISSION MEETING PROCEDURES INFORMATION

WELCOME TO A MEETING OF THE CALIFORNIA FISH AND GAME COMMISSION
This is the 147th year of operation of the Commission in partnership with the California Department of Fish and Wildlife. Our goal is the preservation of our heritage and conservation of our natural resources through informed decision making; Commission meetings are vital in achieving that goal. In that spirit, we provide the following information to be as effective and efficient toward that end. Welcome and please let us know if you have any questions.

PERSONS WITH DISABILITIES
Persons with disabilities needing reasonable accommodation to participate in public meetings or other Commission activities are invited to contact the Reasonable Accommodation Coordinator at (916) 651-1214. Requests for facility and/or meeting accessibility should be received at least 10 working days prior to the meeting to ensure the request can be accommodated.

STAY INFORMED
To receive meeting agendas and regulatory notices about those subjects of interest to you, please visit the Commission's website, www.fgc.ca.gov, and sign up on our electronic mailing lists.

O11-91 cont.

SUBMITTING WRITTEN COMMENTS
The public is encouraged to comment on any agenda item. Submit written comments by one of the following methods: **E-mail** to fgc@fgc.ca.gov; **delivery** to Fish and Game Commission, 1416 Ninth Street, Room 1320, Sacramento, CA 95814; or **hand-deliver to a Commission meeting.** Materials provided to the Commission may be made available to the general public.

COMMENT DEADLINES
The **Written Comment Deadline** for this meeting is **5:00 p.m. on September 28, 2017.** Written comments received at the Commission office by this deadline will be made available to Commissioners prior to the meeting.

The **Late Comment Deadline** for this meeting is **noon on October 6, 2017.** Comments received by this deadline will be marked "late" and made available to Commissioners at the meeting.

After these deadlines, written comments may be delivered in person to the meeting – Please bring ten (10) copies of written comments to the meeting.

NON-REGULATORY REQUESTS
All non-regulatory requests will follow a two-meeting cycle to ensure proper review and thorough consideration of each item. All requests submitted by the **Late Comment Deadline** (or heard during public forum at the meeting) will be scheduled for receipt at this meeting, and scheduled for consideration at the next business meeting.

PETITIONS FOR REGULATION CHANGE
Any person requesting that the Commission adopt, amend, or repeal a regulation must complete and submit form FGC 1, titled, "Petition to the California Fish and Game Commission for Regulation Change" (as required by Section 662, Title 14, CCR). The form is available at http://www.fgc.ca.gov/public/information/petitionforregulatorychange.aspx. To be received by the Commission at this meeting, petition forms must have been delivered by the **Late Comment Deadline** (or delivered during public forum at the meeting) and will be scheduled for consideration at the next business meeting, unless the petition is rejected under staff review pursuant to subsection 662(b), Title 14, CCR.

VISUAL PRESENTATIONS/MATERIALS
All electronic presentations must be submitted by the **Late Comment Deadline** and approved by the Commission executive director before the meeting.

1. Electronic presentations must be provided by email to fgc@fgc.ca.gov.
2. All electronic formats must be Windows PC compatible.
3. It is recommended that a print copy of any electronic presentation be submitted in case of technical difficulties.
4. A data projector, laptop and presentation mouse will be available for use at the meeting.

CONSENT CALENDAR
A summary of all items will be available for review at the meeting. Items on the consent calendar are generally non-controversial items for which no opposition has been received and will be voted upon under single action without discussion. Any item may be removed from the consent calendar by the Commission upon request of a Commissioner, the Department, or member of the public who wishes to speak to that item, to allow for discussion and separate action.

O11-91 cont.

LASER POINTERS may only be used by a speaker during a presentation; use at any other time may result in arrest.

SPEAKING AT THE MEETING
To speak on an agenda item, please complete a "Speaker Card" and give it to the designated staff member before the agenda item is announced. Cards will be available near the entrance of the meeting room. Only one speaker card is necessary for speaking to multiple items.

1. Speakers will be called in groups; please line up when your name is called.
2. When addressing the Commission, give your name and the name of any organization you represent, and provide your comments on the item under consideration.
3. If there are several speakers with the same concerns, please appoint a spokesperson and avoid repetitive testimony.
4. The presiding commissioner will allot between one and three minutes per speaker per agenda item, subject to the following exceptions:
    a. The presiding commissioner may allow up to five minutes to an individual speaker if a minimum of three individuals who are present when the agenda item is called have ceded their time to the designated spokesperson, and the individuals ceding time forfeit their right to speak to the agenda item.

b. Individuals may receive advance approval for additional time to speak if requests for additional time to speak are received by email or delivery to the Commission office by the **Late Comment Deadline**. The president or designee will approve or deny the request no later than 5:00 p.m. two days prior to the meeting.

c. An individual requiring an interpreter is entitled to at least twice the allotted time pursuant to Government Code Section 11125.7(c).

d. An individual may receive additional time to speak to an agenda item at the request of any commissioner.

5. If you are presenting handouts/written material to the Commission at the meeting, please provide ten (10) copies to the designated staff member just prior to speaking.

O11-91 cont.

-----Original Message-----
From: patricia mc pherson [mailto:patriciamcpherson1@verizon.net]
Sent: Monday, 29 January, 2018 1:42 PM
To: Rogers, Bonnie L CIV USARMY CESPL (US) <Bonnie.L.Rogers@usace.army.mil>
Subject: Re: [Non-DoD Source] Fwd: DEIR/S RESPONSE, BALLONA WETLANDS ECOLOGICAL RESERVE; Fish & Game Commission Hearing Oct. 11, Item 11--BAllona Wetlands Ecological Reserve

Ms. Rogers,
Thank you for your response. It appears that the Corps has already reviewed the SCOPING documents prepared by GC and others and has chosen to be non responsive to, for instance, geotechnical hazards of the Ballona Wetlands site. And, due to that lack of responsiveness to those issues of known and established environmental and human welfare concerns, those issues such as the oilfield gas issues are not even marginally addressed in the DEIR/S and, in fact as cited in some of GC's initial responses, the DEIR/S therefore has provided very misleading and dangerously incomplete analysis thus far.
Additionally, since the federal congressional issues of approval needs cited by the Corps for its 2005-12 Joint EIR/S and Feasibility Study are not addressed in this 2012-17 DEIR/S even though GC and others included this as a need in SCOPING, it appears that likewise the Corps has no intention of being responsive to these serious and significant issues.
The Feasibility Study and the 2005-12 Joint EIR/S of BAllona are the materials of this current 2012-17 DEIR/S therefore, they are tied and responsiveness, we believe should be forthcoming from the Corps.

O11-92

GC states again, that the DEIR/S should have included these issues for transparency of process and to let the public know that the exclusion of discussion of that process and lack of discussion of the shut down of that process and how it directly affects the incompleteness of the information supplied into the current 2012- 17 DEIR/S from the 2005-12 EIR/S — is highly significant and we believe, constitutes a prejudicial abuse of discretion, and the NEPA equivalency language.
Thank you for your response and GC will review the CFR citation in an attempt to understand how the CORPS is operating and is excluding such significant analysis.
Sincerely,
Patricia McPherson, Grassroots Coalition

O11-93

On Jan 29, 2018, at 11:58 AM, Rogers, Bonnie L CIV USARMY CESPL (US) <Bonnie.L.Rogers@usace.army.mil <mailto:Bonnie.L.Rogers@usace.army.mil> > wrote:

Hi Patricia,

To clarify, I will not be providing a direct response to each person/entity who sends a comment/letter/call. However, as I mentioned in my previous email, we carefully evaluate all comments received, include them in our analysis, and they become part of the record, as well as the Final EIS. If you would like to review the specific regulations, please see 40 CFR 1503.4.

Sincerely,
--
Bonnie L. Rogers
Senior Project Manager / Ecologist
L.A. and San Bernardino Counties Section
North Coast Branch
Regulatory Division
U.S. Army Corps of Engineers
213.452.3372

Please complete our brief customer survey:
Blockedhttp://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey

-----Original Message-----
From: patricia mc pherson [mailto:patriciamcpherson1@verizon.net]
Sent: Monday, 29 January, 2018 11:17 AM
To: Rogers, Bonnie L CIV USARMY CESPL (US) <Bonnie.L.Rogers@usace.army.mil <mailto:Bonnie.L.Rogers@usace.army.mil> >
Subject: Re: [Non-DoD Source] Fwd: DEIR/S RESPONSE, BALLONA WETLANDS ECOLOGICAL RESERVE; Fish & Game Commission Hearing Oct. 11, Item 11--BAllona Wetlands Ecological Reserve

Ms. Rogers, hello,
I attended and spoke at the single public hearing, at Burton Chase Park, that the Corps has had on Ballona and its DEIR/S issues —late 2017.
Thank you for the links, I'll review what they provide.

Also, I don't understand the point you make about not responding to individual comments. Or, are you citing that persons of USACE do not, respond to
comments as specific individual requests and/or comments?
In any case, if there is no response to specific comments and queries received, how will the public receive actual answers to significant queries and issues?
And, or will USACE LIST ISSUES that it chooses to not be responsive? In order to have clarity as to what USACE considers significant?

O11-94

Sincerely,
Patricia Mcpherson,GC

On Jan 29, 2018, at 10:57 AM, Rogers, Bonnie L CIV USARMY CESPL (US) <Bonnie.L.Rogers@usace.army.mil <mailto:Bonnie.L.Rogers@usace.army.mil> <mailto:Bonnie.L.Rogers@usace.army.mil> > wrote:

Hi Patricia,

Are you signed up for our Public Notice distribution (links below)?, or were you at the Public Hearing? Those are our two main sources of contacts.

BlockedBlockedhttp://www.spl.usace.army.mil/Missions/Regulatory.aspx
BlockedBlockedhttp://www.spl.usace.army.mil/Portals/17/docs/regulatory/Projects/SPL_FORM_10_1.pdf

For your awareness, we do not respond individually to comments. However, we will carefully review and consider all comments in our analysis.

Sincerely,
--
Bonnie L. Rogers
Senior Project Manager / Ecologist
L.A. and San Bernardino Counties Section
North Coast Branch
Regulatory Division
U.S. Army Corps of Engineers
213.452.3372

Please complete our brief customer survey:
BlockedBlockedhttp://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey

From: patricia mc pherson [mailto:patriciamcpherson1@verizon.net]
Sent: Monday, 29 January, 2018 9:46 AM
To: Rogers, Bonnie L CIV USARMY CESPL (US) <Bonnie.L.Rogers@usace.army.mil <mailto:Bonnie.L.Rogers@usace.army.mil> <mailto:Bonnie.L.Rogers@usace.army.mil> >
Subject: Re: [Non-DoD Source] Fwd: DEIR/S RESPONSE, BALLONA WETLANDS ECOLOGICAL RESERVE; Fish & Game Commission Hearing Oct. 11, Item 11--BAllona Wetlands Ecological Reserve

<image001.png>

Ms. Rogers, thank you for your prompt response.

I am still concerned though as GC has had no notification of the change. Considering, GC has been engaged heavily on Ballona issues since
at least the late 80's, it is disconcerting our lack of notification. We only learned of the potential of change via TATTN and have now had it confirmed.

However, I am reassured by your comment that you will receive all comments sent to Mr. Swenson that were sent and will likely continue to go there.
Numerous responses are undoubtedly coming in due to public outreach provided by various organizations as to the existence of the DEIR/S and what it entails about
Ballona. Both the Corps and other MOU partners inclusive of CDFW have not provided the public outreach promised and/or have not been responsive to public comments or meeting requests therefore, your distribution list is likely quite narrow.

O11-95

Looking forward to a positive outcome for BAllona Wetlands Ecological Reserve,
Patricia McPherson, GC

On Jan 29, 2018, at 9:20 AM, Rogers, Bonnie L CIV USARMY CESPL (US) <Bonnie.L.Rogers@usace.army.mil <mailto:Bonnie.L.Rogers@usace.army.mil> <mailto:Bonnie.L.Rogers@usace.army.mil> > wrote:

Hi Patricia McPherson,

Thank you for your email. You are correct in that I am the point of contact for the Ballona Draft EIS and available to receive all comments.

For your awareness, prior to Dan Swenson's departure we notified all our distribution lists, of the change. Further my team has coordinated internally to ensure I will receive all comments emailed or mailed to Dan

throughout the comment period.

Sincerely,
--
Bonnie L. Rogers
Senior Project Manager / Ecologist
L.A. and San Bernardino Counties Section
North Coast Branch
Regulatory Division
U.S. Army Corps of Engineers
213.452.3372

Please complete our brief customer survey:
BlockedBlockedBlockedhttp://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey <blockedBlockedBlockedhttp://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey>

From: patricia mc pherson [mailto:patriciamcpherson1@verizon.net <mailto:patriciamcpherson1@verizon.net>]
Sent: Monday, 29 January, 2018 8:42 AM
To: Rogers, Bonnie L CIV USARMY CESPL (US) <Bonnie.L.Rogers@usace.army.mil <mailto:Bonnie.L.Rogers@usace.army.mil> <mailto:Bonnie.L.Rogers@usace.army.mil> >
Subject: [Non-DoD Source] Fwd: DEIR/S RESPONSE, BALLONA WETLANDS ECOLOGICAL RESERVE; Fish & Game Commission Hearing Oct. 11, Item 11--BAllona Wetlands Ecological Reserve

Ms. Rogers,

GC is concerned that documents sent to Mr. Swenson may not be included in DEIR/S review by the Corps and was just recently alerted by a third party that
the Corps has changed its person for reception of the responses.
(Please also note that the DEIS is deficient due to the lack of alert to the public that Mr. Swenson is no longer the recipient of the DEIR/S comments for the USACE.)
And, that you have presumably been assigned the task of receiving the responses.

If not already changed on any/all DEIR/S websites for the BAllona project, please do so for public awareness.
And, please let us know if the comments already sent/ or that may continue to be sent to Mr. Swenson will be included for the DEIR/S review.

O11-96

Concerned,
Patricia McPherson, Grassroots Coalition

Begin forwarded message:

From: patricia mc pherson <patriciamcpherson1@verizon.net <mailto:patriciamcpherson1@verizon.net> <mailto:patriciamcpherson1@verizon.net> >
Subject: DEIR/S RESPONSE, BALLONA WETLANDS ECOLOGICAL RESERVE; Fish & Game Commission Hearing Oct. 11, Item 11--BAllona Wetlands Ecological Reserve
Date: January 25, 2018 at 10:10:14 AM PST
To: Daniel SPL Swenson P <daniel.p.swenson@USACE.ARMY.MIL <mailto:daniel.p.swenson@usace.army.mil> <mailto:daniel.p.swenson@usace.army.mil> >, BWERComments@wildlife.ca.gov <mailto:BWERComments@wildlife.ca.gov> <mailto:BWERComments@wildlife.ca.gov>

O11-97

Mr.(s) Swenson and Brody,

Please include the following comments/queries as part of RESPONSES TO THE DEIR/S BALLONA WETLANDS ECOLOGICAL RESERVE, which need address from USACE AND CDFW per the DEIR/S, from Grassroots Coalition.

Thank you,
Patricia McPherson,

Begin forwarded message:

From: patricia mc pherson <patriciamcpherson1@verizon.net <mailto:patriciamcpherson1@verizon.net> <mailto:patriciamcpherson1@verizon.net> >
Subject: Fish & Game Commission Hearing Oct. 11, Item 11--BAllona Wetlands Ecological Reserve
Date: October 10, 2017 at 1:44:14 PM PDT
To: FGC <fgc@fgc.ca.gov <mailto:fgc@fgc.ca.gov> <mailto:fgc@fgc.ca.gov> >, "Termini, Valerie@FGC" <valerie.termini@fgc.ca.gov <mailto:valerie.termini@fgc.ca.gov> <mailto:valerie.termini@fgc.ca.gov> >
Cc: Jeanette Vosburg <Jeanette@saveballona.org <mailto:Jeanette@saveballona.org> <mailto:Jeanette@saveballona.org> >, Todd Cardiff <todd@tcardifflaw.com <mailto:todd@tcardifflaw.com> <mailto:todd@tcardifflaw.com> >, "Gibson, Thomas@CNRA" <thomas.gibson@resources.ca.gov <mailto:thomas.gibson@resources.ca.gov> <mailto:thomas.gibson@resources.ca.gov> >, sierraclub8@gmail.com <mailto:sierraclub8@gmail.com> <mailto:sierraclub8@gmail.com>

<image002.png>

To: All California Fish & Game Commissioners, Ms Termini and staff
(hard copies will also be provided on Oct. 11, 2017)

State of California, Fish and Game Commission
MEETING AGENDA Item 11 A, B October 11, 2017
SpringHill Suites by Marriott 900 El Camino Real, Atascadero, CA 93422
BlockedBlockedBlockedBlockedhttps://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149700&inline <blockedblockedBlockedBlockedhttps://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149700&inline>
<image004.png>

<image006.png>
- Travis Longcor PhD, co-author of Historical Ecology of the Ballona Creek Watershed-- a bond funded study done to provide the historical
baseline for restoration efforts)

ITEM 11. Department update on Ballona Wetlands Ecological Reserve
(A) County parking leases on historic wetlands
(B) Draft environmental impact statement report/environmental impact report

-GC requests the Fish & Game Commission to help provide for a 180 day extension per the 2005-2017 EIR/S.

-GC CALLS FOR RESCINDING OF THE 2005-17 DEIR/S UNTIL IT IS CORRECTED OF ITS FLAWS AND THEN RECIRCULATED

-GC supports an Alternative that provides a meaningful review to restore Ballona Wetlands as a predominantly

O11-97 cont.

seasonal freshwater wetland which comports with the

DEIR's PURPOSE STATEMENT—namely to MAINTAIN THE FRESHWATERS OF BALLONA WETLANDS. There is currently no adequate Alternative analysis for this

historically relevant restoration, no hydrology analysis to this goal and no disclosure of the ongoing diversion and throw away of Ballona's groundwater and seasonal surface ponding water.

-GC supports restoration of Ballona's groundwaters that are currently being drained by CDFW and diverted and thrown away by CDFW AND PV.

BACKGROUND

The 2017 DEIR/S has come out after what is believed by GC to be a wholly flawed, inadequate and even fraudulent process. The consultants & writers of the DEIR/S are believed to have high conflict of interest as they are consultants and leadership of the Playa Vista development stemming from Playa Capital LLC, a consortium of Wall Street companies and Union groups. As explained, in part below, the Playa Vista development site has extensive needs for flood control, oilfield gas mitigation, and an historic Settlement Agreement with numerous agencies that, while no longer cogent,

Such high conflict of interest and/or the appearance of such highly conflicted interest gave rise to the City of Los Angeles enlisting scientists from outside the state of California in order to bring in unbiased and nonconflicted scientists and consultants to review the geological setting and oilfield gas hazards of the Playa Vista development project & SoCalGas leakage concerns. (The ETI Study gave rise to the new City of LA- Methane Code & Playa's Vista's own experimental methane code known as the Playa Vista Methane Protection Detection and Monitoring Program.

In contrast,

The EIR/S has been written and performed by the very companies that the City of Los Angeles avoided in order to defray conflict of interest and biased, false and/or misleading studies and reports.

The EIR/S caters to conflicted interests including entities that are part of the Project Management Team and the leadership of a private business(Bay Foundation) that was created by and now run by a long standing consultant and leader of the Playa Vista development— a development that has much to gain by the current Alternatives which echo the Settlement Agreement language (1990) and 'embayment' creation sought by the developers ostensibly to fulfill flood control needs. (California Coastal Commission v Friends of Ballona Settlement Agreement which included state and federal agencies)

O11-97 cont.

In creating an 'embayment' which is the Preferred Alternative, the Playa Vista development receives, according to leading restoration ecologists who can

now compare i.e. Bolsa Chica 'restoration' efforts to the preferred Ballona Alternative, a DRAINAGE BOWL WILL BE CREATED that will act to further drain

the freshwater groundwaters away from the Playa Vista site hence, providing both flood control and a drainage of freshwater that can and does clog methane

gas mitigation systems.

INADEQUACIES OF THE DEIS/R- INCLUDE BUT ARE NOT LIMITED TO THE FOLLOWING:

1. GC is reviewing the current DEIS/R and finds it totally incomplete and inadequate and will require complete technical and editorial revision/updating.

The document contains numerous inaccurate, false and misleading statements as well as omission of pertinent facts and therefore no informed decision making is possible.

We have environmental, biological, and Pleistocene geological consultants inclusive of those with more than 30-years of worldwide experience in preparation and reviews of EIRs, EISs, and EAs including coastal habitats/wetlands in California, Washington, Hawaii, Texas, Louisiana, Florida, East Coast, Marshall Islands, Africa, and Asia.

2. The EIS/EIR fails to provide access to referenced documents and fails to be consistent in its use of acronym and definitions/glossary.

The EIS/EIR lacks use of USGS 1923 vertical aerial photos for mapping of historic resources, biological resources, and hazards/hazardous materials-contamination (often used by City of Los Angeles).

Example:

At 3.6.8 Exploration Technologies Inc. (ETI Report 2000) is referenced but no access to the report is provided. The ETI Report characterizes the extreme dangers of the Ballona Wetlands area due to the established fact that the Ballona area is one of the largest oilfield gas seepage areas in the world. The failure to include and utilize the information for both hazards to humans and wildlife in restoration activities is deliberate and dangerous to both the public and flora and fauna.

The ETI follow up report to the City of LA entitled, Still Workin On It contains critical oil and gas field documentation and information and Lincoln Blvd. Fault information and analysis that was excluded from the DEIR/S while DEIR/S writers draw cherry picked conclusions without data and/or information to support their conclusions.

3. DELIBERATE INADEQUACIES AND FALSE REPRESENTATION OF FACTS is evidenced by the fact that all of the state, federal, local department, agency, consultant input is from entities that have had many years to work on the DEIR/S and, are: highly paid; schooled and, have had many years to provide for a fair, reasonable and credible DEIR/S BUT HAVE FAILED TO DO SO.

The Working Groups, Public and Stakeholders have not been allowed access to meaningful discussion of Alternatives with authorities and instead have been deliberately muzzled and controlled to not be part of the process —all contrary to what is stated in the DEIR/S and included within bond requirements and promises.

DEIR/S authors utilize a mischaracterization and falsification of the history of Ballona to provide for a FALSE PREMISE of: purpose and outcome to 'restore' Ballona Wetlands.

For example:

a. The ongoing mantra of the DEIR/S provides the false narrative that there is an absolute need to RESTORE the ebb and flow of the ocean in order for Ballona's survival as a wetland. The DEIR/S fails to inform the reader of Ballona's freshwater history and fails to identify AS MANMADE, and AS HARMFUL TO THE UNDERLYING FRESHWATER AQUIFERS--- the SALTWATER INTRUSIVE DEVELOPMENTS that now provide more saltwater intrusion into Ballona than has ever existed but for thousands of years ago: Marina del Rey; Ballona Channel, Del Rey Lagoon, Ballona Lagoon.

O11-97 cont.

b. The aspects of MAINTAINING BALLONA'S FRESHWATERS are given lip service as PURPOSE in the DEIR/S narrative but, the DEIR/S inadequately fails to analyze Ballona's freshwater maintenance needs.

TO THE CONTRARY-

CDFW excludes information of its participation in the DRAINING OF BALLONA WETLANDS for the past 20 years inclusive of the timeframe of CDFW's 'wetland delineation' studies.

CDFW fails to analyze the ongoing CDFW sanctioned DRAINING of Ballona's ponding rainwaters and fails to provide analysis of how such drainage has negatively impacted Ballona Wetlands. (CDFW, Playa Vista v Grassroots Coalition. Currently, CDFW has not provided a good faith effort to adhere to the Settlement Agreement with GC and provide complete information as part of its Coastal Development Permit Application to stop drainage. Twice the application has been rejected by the California Coastal Commission who provided the investigation and findings that the drains were unpermitted, Violated the Coastal Act and were harming the wetlands due to the drainage and diversion of Ballona's freshwater.)

c. The DEIR/S states that the Exploration Technologies Inc. (ETI) Report was done for the ADJACENT Playa Vista Project OFFSITE OF THE BALLONA RESTORATION PROJECT. This statement is false, provides omission of material fact and deliberately marginalizes hazards and potential hazards and misleads the reader regarding information of extreme oil/gas/ liquefaction/corrosion hazards that ARE AND /OR WILL BE PART OF RESTORATION ACTIVITIES.

The writer fails to point out that the ETI Report, was performed for the City of Los Angeles across what was, the entire Playa Vista property which included ALL OF WHAT IS CURRENTLY THE BALLONA WETLANDS ECOLOGICAL RESERVE AND THE STATE LANDS COMMISSION PROPERTY THAT IS PLAYA VISTA'S FLOOD CONTROL SYSTEM. The writer fails to inform the reader that LA Department of Building & Safety created a 'buffer zone' surrounding the SCG reservoir area and determined that

no residential building would be allowed west of Lincoln Blvd. over the underlying SCG oil/gas reservoir and its operations. The DEIR/S fails to inform that as a direct result of the ETI studies, a new City of LA Methane Code (Citywide Methane Code) was created as well as the experimental Playa Vista Methane Code known as the

Playa Vista Methane Protection Detection and Monitoring Program. Furthermore, as a direct result of the ETI studies LADBS determined that no residential construction

would be allowed west of Lincoln Blvd. , over the gas storage operations of SoCalGas/Playa del Rey. Additionally, buffer zones were created around the SOCALGAS operational zone for additional mitigation needs.

While the DEIR/S casually discusses that oil/gas wells and pipelines may be 'decommissioned, relocated', the DEIR/S provides no data or analysis as to the viability

of doing such and does not specifically cite what 'decommissioning' is.

TO THE CONTRARY-

The DEIR/S inadequately fails to inform the reader that current ABANDONED OIL WELLS have, for years, and are leaking oilfield gases including Prop. 65 gases and H2S through the water table and throughout the Playa Vista flood Control System (including west of Lincoln Blvd) and are currentlyl acting as conduits for unchecked

large volumes of oilfield gases to leak into the environment. No studies have been done to determine the negative impacts to wildlife and the public despite knowledge that levels of off gassing meet Prop 65 levels of exposure for carcinogens and birth defects in humans. (CDM Report contained in the Scoping Documents provided by

GC, contains the raw testing data)

4. FAILURE TO UTILIZE AND/OR make the public aware of critical information that was provided to the EIS/EIR writers in SCOPING. Failure to utilize these documents is self evident due to false and misleading statements made to the reader of the EIS/R. Examples are provided below.

Failure to include and/or address and/or analyze the critical health and safety issues and data provided by the public to the SCOPING documents makes the EIS/R highly flawed in its lack of inclusion and assessment of critical and pertinent data including, but not limited to -- geotechnical hazards.

O11-97 cont.

Examples:

SOCALGAS RESERVOIR GAS LEAKAGE INTO BALLONA WETLANDS AND SURROUNDING/ OVERLYING COMMUNITIES-deliberately excluded from DEIR/S

1. Scoping response by the public included the 2010 Division of Oil & Gas & Geothermal Order.

This Order shut down the SoCalGas oil/gas operations at Playa del Rey DUE TO DOCUMENTED AND ACKNOWLEDGED RESERVOIR GAS LEAKAGE. This leakage

is documented as having been occurring for over a year. The shut down of the PDR/SCG oil/gas operations lasted approximately another year before its reopening.

The inadequate EIR/S provides only scattered bits and pieces of narrative pertaining to the oil/gas issues of Ballona, making conclusory statements without actual data support. The narratives provide misleading and false information to the reader, for example:

a. The DEIR/S alludes that no oilfield gases have been studied west of Lincoln Blvd. while citing to the Texas based Exploration Technologies Inc. STUDY done in 2000. The DEIR/S misleadingly and falsely labels the study as having been performed for the Playa Vista development project that the DEIR/S labels as ADJACENT TO the Ballona Wetlands restoration area. This is a false and misleading statement. The ETI Report 2000, was conducted over the entirety of what was, at the time Playa Vista property which is now the public's land known as the Ballona Wetlands Ecological Reserve (BWER)

b. The EIR/S misleadingly states that there are no migrating SOCALGAS RESERVOIR GASES by way of stating that the ETI Report 2000 resolved this issue to determine

there was no identification of SOCALGAS RESERVOIR GAS LEAKAGE having occurred. This narrative EXCLUDES the ETI Report 2000 and excludes its follow up Report, given to the City of Los Angeles by ETI titled 'Still Workin On It', which clarifies ETI's continued concerns and beliefs regarding the existence of the Lincoln Blvd. fault as well as citations to specific failures of key experimental gas mitigation systems to perform safely and reliably.

c. a. EIR has flawed modeling for liquefaction aspects due to failure to include liquefaction aspects that are

ENHANCED due to oilfield gas migration throughout the site.

d. EIR has flawed modeling for liquefaction aspects due to failure to include current hydrology study of Ballona Wetlands Ecological Reserve and the effects of current pumping and dewatering and draining of Ballona by both the Playa Vista development site and CDFW's illegal drains.

e. Subsidence studies provided by oilfield/gas migration and mathematician Bernard Endres PhD as part of the SCOPING documents reveal ongoing subsidence in Ballona. DOGGR records of subsidence in relation to SOCALGAS' daily removal of 2500 barrels of brine fluids was also provided while the DEIR/S inexplicably provides a conclusory narrative, without
support that no fluid withdrawal is taking place therefore no subsidence is occurring.

5. The EIS/EIR lacks adequate and complete setting, review, and assessment of one of the most significant elements for wetlands: sub-, near-, and shallow-surface freshwaters. Current and proposed diversions of freshwater from Ballona are absent in the EIS/EIR . Onsite hydrology studies and comparisons to past and future are absent.
Indexes provide piecemeal and cherrypicked information and diagrams without providing access to the report in its entirety. For example borehole diagrams lack mapping of where the boreholes exist, therefore they provide no ability for the reader to utilize the information in context with the site itself.

a. Concerns regarding the use of WRDA funds for flood control projects that are in need of funding due to actual safety issues have not
been addressed while internal comments by LA County Flood Control personnel specifically appear to undermine transparency and need
for areawide levee review. The following email discusses the need to " provide recommendations and associated data, analyses and mitigation measures that they will construct to repair all of the existing levees."Josh Svensson
The DEIR/S fails to address this issue of WRDA use on the portion of Ballona Channel within Ballona Wetlands as opposed to needs up channel with adjacent homes and communities where priority funding may likely be better used.

O11-97 cont.

<image008.png>

b. And, the WRDA use for levees of Ballona Wetlands that already protect Ballona sufficiently and LA County Flood Control engineer
cites that the Ballona project is NOT THEIR PROJECT and further cites mitigation cost concerns.

<image010.png>

6. The EIS/EIR lacks adequate and complete setting, review, and assessment for hydrological modeling of historic, existing, and proposed maximum flood, high, median, low, and zero flows across the floodplain. Corps Permits and Operations Manual(s) referenced are absent from the EIS/EIR and no access is provided to the reader of the Flood Control System which is onsite and affects the Ballona Wetlands Ecological Reserve.

7. The EIS/EIR lacks adequate and complete review of the many projects on and adjacent to the Project Site since 1972, therefore there is piece-mealing of the reserve for its related and dependent habitats.

8. EIR lacks inclusion of the source of funding for the restoration and the requirements of that funding.

9. The DEIR/S is inadequate as it does not provide the genesis of the funding for acquisition and restoration of Ballona. Public bond funds with attendant requirements and promises both provided for acquisition and restoration of Ballona Wetlands. The DEIR/S marginalizes and attempts to deliberately delete public bond funding requirements and promises by simply stating the Coastal Conservancy is paying for the restoration.

10. ECONOMICS- the DEIR/S is inadequate and lacks funding information; there is no specific economic or

financial analysis to demonstrate the financial viability of the Alternatives. And, the DEIR/S is inadequate as it does not provide response/ accountability to the public per bond requirements (Prop.12, 50) for: restoration options budgeted in the bonds and there is a lack of accountability for bond requirements and promises of process for public and working group inclusion in the Alternatives selection—which has failed to occur. And, the DEIR/S is deficient due to its lack of

accountability for the time frames for restoration stipulated in the bond language and; deficient due to lack of funding accountability for the WRDA derived process attached in 2012 -2017(who paid for this review process and were Prop. 12 funds utilized to pay the County and/or USACE in this process?

The DEIR/S is deficient as it does not providing specific funding information for a Project and/or a Program EIR/S process. Which process is even being utilized?

O11-97 cont.

The DEIR/S lacks inclusion of the source of funding for the restoration and the requirements of that funding and the attendant accountability

The DEIR/S misleadingly supplies short shifted information that the Coastal Conservancy is paying for the restoration. The DEIR needs to provide a clear line

of financial payments for the public to, at least, have a legitimate outline of financial payments. Without such blueprint, the DEIR/S continues to

be without transparency and accountability.

Grassroots Coalition, Patricia McPherson

<image012.png>

<image014.png>

---

patricia mc pherson

patriciamcpherson1@verizon.net <mailto:patriciamcpherson1@verizon.net> <mailto:patriciamcpherson1@verizon.net>

patricia mc pherson

patriciamcpherson1@verizon.net <mailto:patriciamcpherson1@verizon.net> <mailto:patriciamcpherson1@verizon.net>

patricia mc pherson
patriciamcpherson1@verizon.net <mailto:patriciamcpherson1@verizon.net>
<mailto:patriciamcpherson1@verizon.net>

patricia mc pherson
patriciamcpherson1@verizon.net <mailto:patriciamcpherson1@verizon.net>
<mailto:patriciamcpherson1@verizon.net>

patricia mc pherson
patriciamcpherson1@verizon.net <mailto:patriciamcpherson1@verizon.net>

From: patricia mc pherson [mailto:patriciamcpherson1@verizon.net]
Sent: Monday, January 29, 2018 4:16 PM
To: Wildlife Ballona Wetlands Ecological Reserve EIR <BWERcomments@wildlife.ca.gov>; Cespl Rogers, Bonnie L CIV USARMY <bonnie.l.rogers@usace.army.mil>
Subject: Ballona Wetlands DEIR/S Response (Section A) Grassroots Coalition

GRASSROOTS COALITION
ENVIRONMENTAL INTEGRITY & PUBLIC POLICY

The Grassroots Coalition Response to the Draft EIR/S for the Ballona Wetlands Ecological Reserve

ABSTRACT

The DEIR/S inaccurately and misleadingly provides a **proposal, purportedly, as the stated DEIR/S' Goal and Purpose. The 'Proposal" purpose has been arbitrarily changed from the purposes of the acquisition and reserve status goals of: management of the property to protect threatened and endangered plants, animals and specialized habitat types as an ecological reserve*…"Into "Returning the daily ebb and flow of tidal waters to achieve predominantly estuarine conditions"**….** O11-98

*Section 1580 Fish & Game Code; Section 630 Title 14 CCR

** See attached Settlement Agreement (1990) between Playa Vista, Friends of Ballona and the California Coastal Commission, (USACE 404 Permit for Playa Vista), written prior to the historical evaluation of Ballona Wetlands (Longcore et al) which describes turning Ballona Wetlands into a full tidal embayment.

The Proposal is:

1) contrary to the purposes, description and goals set forth by the California Department of Fish & Wildlife's overarching agency-- The Fish & Game Commission-- which acquired the Ballona Wetlands for specific purposes in trust, on behalf of the public using public bond funds dedicated for specific purposes.

2) contrary to the purposes and specifics attached with the use of the public's bond funds given by the public for restoration and protection of Ballona and its natural resources—namely, the Proposition 50 and Proposition 12 bond funds. O11-99

3) historically inaccurate as it has been thousands of years since there was a natural ebb and flow of tidal waters to Ballona Wetlands. (Historical Ecology-Longcore et al.) Currently, there exists more tidal activity that has been created, via manmade activities, upon Ballona's environment and ecology than existed but for thousands of years ago. Hence, the Goal is contrary to the acquisition statements of restoration and bond language of restoration and protection of Ballona's wildlife and environment. The Goal provides for no reasonable or balanced approach to the restoration of Ballona. O11-100

The Joint EIR/S 2005-12 process for Ballona was to be an iterative process in which all reasonable alternatives were considered. Most, if not all of the studies and information from this improperly ended process* are the basis of this DEIR/S.

*SCC's Mary Small states (per 6/2/10 Coastal Conservancy, SMBRC, USACE Ballona Coordination Meeting Minutes)

"II.b. Mary Small: Have all the PMP sections looked at the same project area? Parts still refer to Ballona Lagoon, Grand Canal, Venice Canals and Oxford Basin, which are no longer in

the study area" (this document is contained in 3/28/12 Conservancy Hearing; J. Davis attachment above) O11-101

Why was Mary Small allowed to truncate and remove Ballona portions of significance that relate to the whole of Ballona's functions? The DEIR/S is deficient in evaluating the Reserve within the context of the tidal areas of historic Ballona in order to determine balance of ecosystems still in existence at Ballona.

Why was this type of evaluation not occurred?

"Mary Small: It was always our understanding that the Corps would use our restoration alternatives. It makes us nervous that this was never in writing." (6/28/10 Ballona Ecosystem Restoration Planning Management

What understanding? The Public Record Act retrieved comment by Ms. Small, appears to show an abusive use of O11-102

power in controlling the outcome of the 2005-12 Joint EIR/S process that excludes the overall Ballona area for understanding and providing for the best balance of current ecosystems and, excludes any hydrology evaluation of the Reserve and the effects already exerted upon the freshwater hydrology by saltwater intrusion proposals made in the 2017 DEIR/S.

The screen shot portion below is from the attached Additional Comments pdf

The *quoted emails* are part of a Coastal Conservancy PRA response to GC & is included in the Davis Complaint attached.

The SCC, CDFW exchange appears to attempt to explain why there are concurrent Joint DEIR/S processes in 2012. The explanation as cited below was given to Mr. Davis. This tortured effort of twisting processes while excluding the public's inclusion reveals the lack of transparency and lack of public inclusion in any honest, meaningful participation. And, provides a demonstration of a process twisted by both the State Coastal Conservancy and the Ca. Dept. of Fish & Game that deserves explanation now.

O11-102 cont.

Considering the 2005-12 process was never completed yet all the information contained in the 2017 DEIR is from this never completed process which never fulfilled its goals of information inclusion, there Is now a need to explain the cherry picking of information from that ended process.

O11-103

It was never the public's understanding that the Corps would be held to Coastal Conservancy and Foundation staff"s restoration alternatives. Legal legitimacy for such behavior is also questionable. And,

"Suggested response

1) *The EIS/EIR process begun in 2005 was for the Army Corps' Lower Ballona Ecosystem Restoration Feasibility Study, that project and the associated environmental review has not been completed and is not moving forward at this time. The EIR/S process for the proposed enhancement project will be separate." 2/7/12*

CC/Mary Small to Ca.Dept. Fish & Game- Rick Mayfield per response to Davis Ballona CEQA process query. (JDavis attachment 3/28/12 Request to CC Board)

8

Thus, the CC switch in process is 'suggested' to be disclosed to a member of the public after seeking and garnering approval for the 1/19/12 Staff Recommendation.
(3/28/12 CC Hearing, Davis PRA attachment to Request)

By 2012, Shelly Luce, presumably at the request of Mary Small, did request and end the Joint EIR/S process with the Corps. The Corps, per FOIA requests, never questioned Ms. Luce per any approvals from SMBRC governing board and simply utilized Ms. Luce's request to end the process. However, the two Joint EIR/S processes coincided for several months as the NEW PROCESS began via the Water Resource Development Act (WRDA) PERMIT PROCESS began ALONGSIDE CDFW stating itself the new lead agency in 2012.

Why did the Corps, after having utilized millions of public dollars for the Joint EIR/S process and Feasibility Report let both be ended without adequate proof of the legitimacy of the request?

O11-104

As a result of failing to conform to the processes dictated by Congress and other alleged mishandling of process (described in detail in attached Sierra Club letters) and failing to conform to the Purposes and Goals cited as terms of acquisition and use of public bond funds; the current DEIR/S lacks a reasonable range of Alternatives and sufficient information to facilitate informed decision-making. O11-105

Please respond to the queries and comments of both attached Sierra Club Letters.

Even if, the current DEIR/S Purposes and Goals were not false premises, which they are, the current DEIR/S is still deficient in that it lacks a reasonable range of Alternatives and sufficient information to facilitate informed decision-making. CEQA Guidelines 15126.6(a) requires that a range of reasonable alternatives to the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any significant effects of the project, be discussed in an EIR.

-The current DEIR/S is deficient because it fails to identify and analyze a range of reasonable alternatives. O11-106

- The Alternatives heavily promoted in the DEIR/S 1-3 are all alternatives that do not avoid or do not substantially lessen any significant effects of the project but instead are alternatives that require risky, massive, industrial scale CREATION of landscaping that has never existed at Ballona. O11-107

-**Why? Please explain,** in detail why the historic ecology of Ballona, namely that of a predominantly seasonal freshwater wetland (having multiple underlying freshwater aquifers) is not a reasonable alternative that would/ should be included as an Alternative within the DEIR/S. This alternative, when included, would avoid and significantly lessen any significant effects as it is a RESTORATION PROJECT and requires no large scale earthmoving; provides for low/ insignificant risk to current flora and fauna; would provide a balance of ecosystem types as required by the bonds allocated for the project and; fulfills the requirements of the acquisition terms and Ecological Reserve designation requirements and goals. O11-108

- **Why** are there are no onsite hydrology studies done for analyzing the current hydrological conditions of Ballona Wetlands and studies that would necessarily be included to analyze adjacent site impacts upon the hydrology of Ballona and vs versa? Why is there no inclusion, discussion, evaluation in the DEIR/S of the multiple underlying freshwater aquifers and how the proposed Alternatives 1-3 would impact the hydrology of the site?

Ballona's aquifers are classified by the LA Regional Water Quality Control Board as 'potential drinking water'. O11-109

-**Why** is there no discussion of the impacts upon these groundwaters and the ecology they support from the proposed saltwater intrusion of Alternatives 1-3? The DEIR/S is deficient without such evaluation and discussion. O11-110

The project's purposes and objectives are too narrowly defined, and its reasons for dismissing various alternatives, including alternatives cursorily provided, are arbitrary, capricious and self-fulfilling. O11-111

Grassroots Coalition sees no viable path from the current DEIR/S to an approved Final EIR/S that would make it environmentally and legally defensible without first revising the DEIR/S and recirculating it for comment. The following sections of comments, queries and information provided by Grassroots Coalition (GC) are intended to help incorporate the needed revisions. O11-112

Abstract continued:

"All aquatic resources within the reserve are degraded. The California Department of Fish and

Wildlife (CDFW) proposes a large-scale restoration that would entail enhancing and establishing native

coastal aquatic and upland habitats within the Ballona Reserve. The proposal is intended to return the

daily ebb and flow of tidal waters where practically feasible to achieve **predominantly estuarine**

conditions, maintain freshwater conditions, and enhance physical and biological functions within the

Ballona Reserve."P.3 of 1242.

"The proposal is intended to **return** the daily ebb and flow of tidal waters"..

The DEIR/S falsely misleads the reader to believe a premise that Ballona Wetlands had formerly had a daily ebb and flow of tidal waters. Such a false premise is contrary to the acquisition language and establishment language of the designation of the site as an Ecological Reserve.

-**Why** does the DEIR/S imply this false history?

-**Why** doesn't the DEIR/S declare its proposal is actually a CREATIVE PROPOSAL to create something that never was Ballona for hundreds of years?

O11-113

Aquatic resources is not well defined within the DEIR/S therefore, the DEIR/S comment regarding it--all being degraded-- leaves the reader without actual area of degradation, value of degradation and/or amount of 'degradation'.

O11-114

-**How will a reconfiguration** a, new landscaping of Ballona Wetlands stop, alter, or otherwise end or change the current degradation of 'aquatics'?

-The DEIR/S is lacking as it does not provide any comparison of how the aquatics of Ballona will be any less degraded than the DEIR/S claims it is now v after any alternative is implemented. Therefore, there is no information to compare for decision making that would allow for a choice of Alternative that would end such degradation.

O11-115

-There are studies, ie Weston –Ballona Channel toxicity studies, that show the Channel waters to be toxic. Therefore, it would appear that the DEIR/S proposal Alts. 1-3 would allow for enhanced degradation and toxic contamination to enter Ballona Wetlands whereas it does not presently occur. (LARWQCB No Further Action citations upon Ballona eg. Area A and B, C due to a lack of contamination)

O11-116

-**Please explain what contamination that the DEIR/S references** in these areas (A,B,C) that would require decontamination per LARWQCB's Clean Up and Abatement Order 98-125.

O11-117

-Aquatic resources appears to mean a sphere of influence of saltwater intrusion upon Ballona **is this correct?**

O11-118

If aquatic resources-for this DEIR/S- only defines the saltwater intrusion aspects into the Ballona coastal area ;

Why does the DEIR/S exclude the freshwater resources and exclude the freshwater aquifers of the Ballona Wetlands? And, why does the DEIR/S exclude any analysis of the current and past

O11-119

dynamics of saltwater v freshwater aspects of the site and the specifics of climate change's potential saltwater intrusion upon the unique coastal features of freshwater that Ballona possesses?

What source data is CDFW using that demonstrates perpetual saltwater intrusion into Ballona that would constitute NATIVE (not man-made) coastal aquatics? **Native** coastal aquatics applies to the native freshwater aspects of Ballona.

O11-119 cont.

Please define aquatic resources. Please provide actual data support for such comments in order for informed decision making by the public and agencies.

O11-120

The DEIR/S is deficient as it provides no onsite hydrology analysis. Hydraulics studies of fluids moving through the Ballona Channel are insufficient to determine how such hydraulics affect the current site's hydrology—**in order to maintain freshwater conditions** and consequences of such hydraulics upon all of Ballona Wetlands including its flora, fauna and human health and safety.

GC has been requesting such studies for over ten years, hence the lack of such studies and lack of response from any of the MOU partners and their private business associates—both the Bay Foundation and Playa Capital LLC(Playa Vista) consultants pertaining to reasoning for not doing such studies has never been forthcoming. Instead a BLACK HOLE has been created by the administrators and writers of this DEIR/S.

Please provide a hydrology analysis for providing a basis of understanding what are the coastal native aquatic conditions cited to in the Abstract and, in order to <u>maintain freshwater conditions,</u>

O11-121

One would have to have analyzed what the current conditions are, what environmental and/or manmade conditions are currently affecting them in order to provide informed decision-making on how to proceed with restoration and/or how saltwater intrusion that is being improperly promoted in the DEIR/S will significantly impact or not impact the freshwater aquifers of Ballona Wetlands and the consequences of that/those impacts are in relation to flora, fauna and humans as it pertains to already known hazards of dwindling freshwater supplies, freshwater aquifer depletion and/or contamination and oilfield gas issues of corrosion, explosion, fire, toxins etc.that may likely negatively impact the infrastructure of both SCG operations* and oil/gas wells not under the jurisdiction of SCG—including but not limited to University City Syndicate whose last operator was and is Playa Capital LLC. * Note SCG wells known to have corroded via saltwater intrusion at the western end of Ballona Wetlands. DEIR/S is deficient in gathering any information pertaining to both SCG wells and history of the site as well as other oil/gas wells onsite not under the jurisdiction of SCG. The gravity of such potential hazards should be proportional to the evaluation under CEQA/NEPA. In this case, no such evaluation and/or even mention of the potential hazards are noted to the public, let alone addressed in a meaningful way.

-GC requests a thorough and meaningful evaluation of these potentially hazardous -–short and long term -- impacts to Ballona Wetlands environment and the public.

O11-122

This Section A portion of GC's response ends on Page 5 and includes the attachments of this email

Patricia McPherson, Grassroots Coalition

SIERRA CLUB LETTER TO CORPS OCT. 7, 2014
March 15, 2013 Sierra Club Letter to Corps & CDFW

Neither of these letters have received response.

O11-123

As part of the DEIR/S comments and query response, please respond to both, inclusive of CEQA and NEPA requirements.

Angeles Chapter
Airport Marina Regional Group
3435 Wilshire Blvd., Ste. 320
Los Angeles, CA 90010

California Department of Fish and Wildlife March 15, 2013
U.S. Army Corp of Engineers Los Angeles District
Att: Charles Bonham Executive Director CaDFW
Att: Col Mark Toy, Commander U.S. ACE Los Angles District
CC: Secretary of the U.S. Army John M. McHugh
Subject: 2nd NOP Issued by CaDWF

Mr. Bonham, Col. Toy,

Under Standing Rule 2.2.2 of the Sierra Club, I submit this letter
On behalf of Airport Marina Regional Group. O11-124

Please find the Sierra Clubs Questions in CAP format.

The State has made changes to a joint EIR/EIS process and the USACE has not made corresponding changes to the Notice of Intent issued in 2012.

1. DID THE CA DFW NOTIFY USACE OF THE SECOND NOP ISSUED IN 2013?

2. IF NOT, WHY?

3. WILL USACE MODIFY THE NOI TO MATCH THE 2013 NOP?

4. IF NOT, WHY?

California Environmental Quality Act *Guideline 15082{a)* of the Public Resource Code authorizes the California Office of Planning and Research to induct a single NOP for a single project, and no more. There is no statute or regulation authorizing a second NOP.

There is no evidence that the Legislature of the State intended a second NOP.

The request for public records by John Davis to Cal OPR is below. Page 2 includes a list of requests. Numbers 5 - 26 request the statutory authority for a second NOP.

EXHIBIT 1. PUBLIC RECORDS ACT REQUEST TO Cal OPR

In a legal response Cal OPR responds there is no authority for a second NOP for a single project under CEQA. See Page 1, last line. There are no records responsive to requests 5 - 26.

EXHIBIT 2. Cal OPR RESPONSE TO PUBLIC RECORDS ACT REQUEST

CEQA Guideline 15082{a) requires the submission of only one NOP for a single project to Cal OPR. The Guideline authorizes only one NOP issued for a single project as soon as an Agency determines an Environmental Impact Report will be necessary.

The issuance of a second NOP is inconsistent with the provisions CEQA.

A lawful NOP was issued by the Cal DFW in 2012.

5. UNDER WHAT PROVISION OF LAW IS Cal DFW SUBMITTING A SECOND NOP?

O11-124 cont.

EXHIBIT 3. Cal DFW NOP DATED 2012

CEQA Guideline 15803 requires that scoping will be necessary when preparing an EIR/EIS jointly with a federal agency.

Cal DFW and USACE lawfully submitted an NOP and an NOI, respectively, for the project in 2012. The NOP did **NOT** list recreation, education, office or commercial as a development type.

6. IF Cal DFW COULD SPECIFIY THE DETAILS OF THE PROJECT IN THE FIRST NOP, WHY DID IT FAIL TO DO SO?

Cal DFW transmitted the NOP to Cal OPR for circulation to Responsible and Trustee Agencies to determine the scope of the Project.

Once the scope had been determined, both Agencies held a joint scoping meeting, wherein the public could comment on alternatives to the scope of the project already established by the government. The public lawfully commented in the scoping process.

A second Notice of Preparation was issued by the Cal DFW in 2013.
Cal DFW submitted a second NOP to Cal OPR for a single project.
Cal DFW announced the second NOP **did not change** the lawful NOP. Page 8.

7. UNDER WHAT PROVISION OF LAW IS Cal DFW REQUESTING THE PUBLIC TO COMMENT ON A SECOND NOP?

8. WHY ISNT THE Cal DFW REQUESTIING THE PUBLC TO COMMENT UNDER *CEQA Guideline 15803* AS REQUIRED BY LAW?

A new scoping meeting has not been opened for comment as required by CEQA Guideline 15803. The Public cannot lawfully provide comments on alternatives to the scope already defined by the government in 2012.

"This revised notice does not change any information in the July NOP but should be considered in addition to the July Nop's information."

It further described a dog and cat kennel, a veterinarian facility, retail (commercial) use, and office space, in a large development placed directly inside the ecological preserve, displacing valuable habitat.

Cal DFW **did change** the project in the 2013 NOP form.
Here, the development type for educational and recreational are now checked, contrary to the 2012 NOP. Compare Page 4 the 2012 NOP to the 2013 NOP Page 6 for Development Type.

O11-124 cont.

This change contradicts the 2012 NOP wherein certain development types are not checked. Furthermore, office and commercial are announced in the narrative but not checked as a development type. A retail development use is a commercial development type.

8. WHY DID Cal DFW INFORM THE PUBLIC NO CHANGE WAS MADE TO THE LAWFUL NOP SUBMITTED IN 2012, WHEN IT DID CHANGE THE DEVELOPMENT TYPES ON THE SECOND NOP FORM?

EXHIBIT 4. Cal DFW NOP 2013

CEQA does not provide an opportunity for the public to comment on any NOP under the provisions of CEQA. Cal DFW cannot lawfully induct comments of this type into the official project record for this reason.

Cal DFW misled the public by announcing the second issuance of an NOP claiming no change and requesting comments.

Cal DFW has changed a project undertaken under CEQA without specifying the exact nature of the project as it was known to the proponent when it announced a scoping meeting for the public to comment in 2012.

The 2012 NOP contradictory to the 2013 NOP, thusly, and **did change it**.

An email was obtained via a Public Records Request from Cal DFW. Relating to the Annenberg project, Dr. Shelly Luce provided legal guidance to the attorney for Cal DFW, Kevin Takei, and other Lead Agency staff regarding how to proceed with the change to the project.

"From: Shelley Luce
Sent: Wednesday, June 20, 2012 3:38 PM
To: 'Kevin Takei'; David Lawhead; Ed Pert; 'Terri Stewart'; 'Mary Small'
Cc: Diana Hurlbert
Subject: FW: Ballona: MOU
Below in red are my and Diana's thoughts on AF responses.
Nutshell:
- We can't agree to their language about the fill. Not possible.
- We can't agree to separate CEQA, it will hurt us.
- We can't agree to the leftovers of their $100M because that could be too little to accomplish things we will need to do, such as removing fill offsite (since we can't put it in the VC area), rebuilding ball fields, endowing the site for O&M, building safe access between C and A, etc.).
Finally, I need to let you know that I have spent many, many unbudgeted hours on this potential partnership since Annenberg contacted us last fall, and I know all of you have too, as well as other staff. It's probably cost us all a couple hundred thousand in staff and consultant time already. I cannot keep putting time into it if they cannot agree to these basic needs of the project. You don't need me to keep working on it, I know, but I wanted to let you know that. if it was my call, I would give them one more chance to agree to our must-haves and then I would walk away. Sadly, because it could have been a great partnership, but I'd walk away nonetheless.
Thanks all,
Shelley
Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160
1 LMU Drive, Loyola Marymount University"

O11-124 cont.

CEQA provides strict rules governing how Lead Agencies must employ for a single project.

Dr. Luce advises that no agreement with Annenberg Foundation will occur if a new CEQA process is required because it will. "hurt us".

The Lead Agency and its legal staff have apparently adopted Dr. Luce's suggestion.

Rather treating the Annenberg Project as a stand alone project under CEQA, the Lead Agency has shoehorned it into the existing project.

8. WHY DID Cal DFW FAIL TO PREPARE A NEW CEQA PROJECT FOR THE PROPOSED ANNENBERG DEVELOPMENT?

9. DID Cal DFW FAIL TO INIATATE A NEW CEQA PROCESS BECAUSE IT ACCEPTED THE ADVICE OF DR. SHELLY LUCE THAT IT WOULD "HURT US"?

The announced leasing of the land is inconsistent with the Land Deed.
The exclusive long-term leasing of public property, without first fully defining the project, and without producing a Request for Proposals, providing the opportunity for equally or more qualified entities to enter, may represent an unconstitutional gift of public property pursuant to the Constitution of the State of California.

Page 3 of the Land Deed for Area C states the following:

"This grant is subject to the restriction , set forth in Public Resources Code section 21080.29, that the property be used for conservation, restoration, or recreation only, with the right to transfer the property for those uses to another agency of the State of California."

The Restrictions placed on the deed do not permit transference of a recreational use to private business by long-term lease, but only to the State itself.

O11-124 cont.

The Lead Agency has apparently entered into an exclusive lease with the Little League, a private business. In part, a letter obtained under the Public Records Act states the following:

"Briefing notes for Ed and Director meeting Nov 8, 2011
Regarding Annenberg Foundation "Concept Proposal" for Ballona Wetlands Ecological Reserve {BWER)
Background:

- *Area C is of low quality habitat, not connected to the marsh, and has little league fields on the site, which came with the property, and have a valid month-to-month lease with DFG;"*

Cal DFW now proposes to enter an exclusive long-term lease on public land with the Annenberg Foundation.

The deed restrictions only provide that the land may be transferred to a another State Agency for recreational purposes. The deed does not make any provisions whatsoever for educational purposes. And, the deed does not authorize commercial (retail), office, a dog and cat pound, and or veterinarian facility land uses.

10. WHY HAS Cal DFW LEASED PUBLIC LANDS TO A PRIVATE BUSINESS FOR RECREATOINAL PURPOSES WHEN THAT PURPOSE IS RESTRICTED TO TRANSFERS

TO OTHER STATE AGENCIES, ONLY, IN ACCORDANCE WITH THE DEED RESTRICTIONS FOR AREA C?

EXHIBIT 5. LAND DEED AREA C

A grid of underground drainage pipes has been installed in area B, apparently, without first obtaining a Coastal Development Permit as required by the California Coastal Act and without federal approvals. The pipes are attached to risers that drain naturally ponding waters. The surface waters are under the jurisdiction of the United States and the Coastal Commission and other regulatory Agencies.

11. WHAT ENTITIY INSTALLED THE PIPES AND RISER TO DRAIN WATERS OF UNITED STATES FROM THE SURFACE TO THE SUB-SURFACE?

12. WHAT ENTITY IS RESPONOSIBLE FOR MAINTAINING THE FUNCTION AND SAFETY OF THE DRAING SYSTEM?

13. WHAT STATE AND FEDERAL PERMITS AUTHORIZE THE DRAINAGE SYSTEM?

14. IF THE SYSTEMS ARE NOT AUTHORIZED BY LAW, WILL THEY BE REMOVED?

O11-124 cont.

15. IF THE SYSTEMS ARE NOT AUTHORIZED BY LAW WILL THE STATE TAKE ACTION TO LOCATE THE DEVELOPER?

16. IF NOT, WHY?

EXHIBIT 6. DRAIN PIPE RISER

The entire project, including the proposed changes made thereto, are inconsistent with CEQA and the National Environmental Protection Policy.

The project is not consistent with the U.S. Rivers and Harbors Act of 1954 or the U.S. Flood Control Act as it relates to the dredging and filling of wetlands and or the diversion of an existing flood control channel.

It is not consistent with the Rivers and Harbors Act of 1954 for the Inlet at Play Del Rey, Los Angeles California, Project, as that plan, set forth by the Secretary of the Army, approved by the U.S. Congress in House of Representatives Document 389, and signed into law by the President. That project provides no authority for changing the existing project. Such a change would require the approval of the U.S. Congress first. The materials referenced above were submitted by John Davis in 2012.

The project is not consistent with the U.S. Clean Water Act, as it will not protect water resources. The project has proposed to fill the Ballona Estuary and dredge existing productive wetlands.

The project is inconsistent with the provisions of the U.S. CWA that are protective of sole source aquifers.

Abuse of State Water Resources has been and is occurring in a development adjacent to the project. The Playa Vista Development is hydrologicly up gradient of the project.

The development is and has been engaged in the unpermitted extraction of Waters of the State as defined by the State Water Code to the surface. Quantities of extraction remain unknown.

The Los Angeles Regional Water Quality Control Board does not inspect the NPDES facilities for flow meters to gage the extracted volume. The Development did not obtain a permit to divert a surface water course that is required when ground water flows in a channel, as it does here according the LAUSD EIR for the Playa Vista School.

There is no evidence of Well Completion Reports for the grid of extraction wells the project operates.

O11-124 cont.

Extraction affects the natural groundwater recharge. The effects of the massive extractions on the Ballona Wetlands are therefore unknown.

It most certainly affects surface ponding of water due to the reduction of the natural levels of the Bellflower Aquitard, historically located near or at the surface.

The extractions of Waters of the State further invites saltwater incursion into the Ballona and Silverado Aquifers. The Poland Report conducted by the US Geological Survey indicates the Silverado Aquifer is the basins sole source aquifer extending South of the Palos Verdes Peninsula. This report was submitted to the record by John Davis in 2012. U.S. Congressional House Document 389 speaks to this issue and was also submitted.

The U.S. Clean Water Act provides for protection of such aquifers, and the project must fully investigate to insure the aquifer will not be damaged by salt-water intrusion.

17. HOW WILL THE PROJECT DETERMINE THE VOLUME OF GROUNDWATER EXTRACTION BY THE PLAYA VISTA DEVELOPMENT TO GUAGE THE AFFECTS ON THE BALLONA ECOLOGICAL PERSERVE?

18. IF THE PROJECT WILL NOT MAKE THE ABOVE DETERMINATION, WHY?

The Project does not speak to the requirement to obtain a Flood Plain alteration approvals from FEMA, which requires exact hydrological studies to be submitted to that Agency for review.

19. WILL THE PROJECT FIRST OBTAIN AUTHORIZATION FROM FEMA TO ALTER A FLOOD PLAIN?

20. IF NOT, WHY?

21. IF SO, WHEN?

The wetlands jurisdictional to the State were delineated by the Cal DFW in 1982. The wetlands jurisdictional to the United States were delineated by USACE in 1991.

EXHIBIT 7. WETLAND DELINATION MAPS

The GIS maps presented to the public in the NOP of 2012 do not accurately reflect the aforesaid formal delineations, but reduce them.

22. WHY DO THE UNAPPROVED PROJECT MAPS FAIL TO CONFORM TO THE APPROVED STATE AND FEDERAL DELINATIONS OF FRESHWATER WETLANDS AT THE SITE?

O11-124 cont.

In January, the Gas Company, which stores pressurized natural gas below the preserve, leaked gas and oil to the surface. Oil was spilled into the wetlands. The atmospheric release erupted into flames.

EXHIBIT 8. GAS COMPANY PICTURE AND SPILL REPORT

23. WHAT AFFECTS DOES THE GAS COMPANY OPERATION HAVE ON THE PRESERVE?

24. DOES THE GAS COMPANY EXTRACT OR INJECT WATER INTO THE SUB-SURFACE.

25. DOES THE GAS COMPANY INJECT GAS INTO THE EARTH THAT LEAKS INTO THE ATMOSPHERE?

26. HAS THE CALIFORNIA PUBLIC UTILITIES COMMISSION APPROVED THE STRORAGE FACILITYS CURRENT OPERATIONS?

27. IF NOT, WHY?

Lastly, the Airport Marina Regional Group of the Angeles Chapter of the Sierra Club submitted its resolution opposing the project in 2012. Changing the project and

issuing a second NOP does not change the Clubs submission in that regard.

The Club opposes this project, inclusive of any future changes made after 2012.

On behalf of the Airport Marina Regional Group, Sierra Club, Angeles Chapter,

John Davis,
Member Sierra Club Airport Marina Regional Group

LIST OF EXHIBITS

O11-124
cont.

EXHIBIT 1. PUBLIC RECORDS ACT REQUEST TO Cal OPR

EXHIBIT 2. Cal OPR RESPONSE TO PUBLIC RECORDS ACT REQUEST

EXHIBIT 3. Cal DFW NOP DATED 2012

EXHIBIT 4. Cal DFW NOP 2013

EXHIBIT 5. LAND DEED AREA C

EXHIBIT 6. DRAIN PIPE RISER

EXHIBIT 7. WETLAND DELINATION MAPS

EXHIBIT 8. GAS COMPANY PICTURE AND SPILL REPORT

EXHIBIT 1. PUBLIC RECORDS ACT REQUEST TO Cal OPR

O11-124 cont.

Ca. Governor's Office of Planning and Research
Att: Ken Alex, Executive Director
Att: Scott Morgan Deputy Director
Subject: REQUEST FOR PUBLIC RECORDS

Executive Director Alex,

Deputy Director Scott Morgan left a message on my phone service yesterday. He was responding to my request for the Agency to identify any Statute or Regulation of the State that allows this Agency to accept more than one Notice of Preparation for the same project at the same location.

The Deputy Director stated that no such Statute or Regulation exists in this regard. He then went on to describe a second NOP transmitted to and accepted by this Agency for a CEQA project No. 2012071090.

The Deputy Director also indicated the public can comment on the second NOP. However, there is no provision of CEQA whatsoever that allows for the public to comment on a NOP, initial or otherwise. The scope of the project is determined by the NOP. The public comments can be legally inducted only after the submission of the NOP and through a scoping meeting that determines alternatives, and or the Draft EIR, or or the FEIR.

O11-124 cont.

Given that CEQA Guideline 15082 Governs the Notice of Preparation, and given that provision is only made for one NOP submission, and given that when read conversely the submission of multiple NOPs would not be consistent with the Statute. It is my belief that is not legal for this Agency to accept more than one NOP from an Agency.

If multiple NOPs were allowed, there would be no legal limit to the number of NOPs that could be submitted by Agencies, circumventing due process of law guaranteed by the State and U.S. Constitutions.

Furthermore, there would be no final date by which an NOP could be submitted, opening the door for an NOP to be submitted even after the FEIR has been approved and gone unchallenged. Such an acceptance by this Agency of more than one NOP would in my opinion represent tampering with the CEQA record.

I understand, from the Deputy Director, that acceptance of multiple NOPs for a single CEQA process occurred about twice a year. This appears to be a pattern and practice of this Agency.

Therefore, I request this Agency immediately cure this deficiency of law. And, to respond to the California Department of Fish and Wildlife that the submission of a second Notice of Preparation is not consistent with (CEQA Guideline 15082).

There is no provision of law that permits this Agency to accept the **"REVISED NOTICE OF PREPARATION NO. 2012071090 ".**

Conversly, reading (CEQA Guideline 15082) prohibits this Agency from accepting a second Notice of Preperation from an Agency for the same project as defined by CEQA.

Having read the Legislative Intent of CEQA, there is nothing to support that the notion that Legislature of the State of California intended for the NOP process to be open-ended, with no limit to the number of NOPs that can be submitted by an Agency and or without time limits for NOPs submitted after the notice.

THIS IS A REQUEST FOR PUBLIC RECORDS PURSUANT TO THE CALIFORNIA PUBLIC RECORDS ACT.

Each numbered item is a distinct request for public records. Please respond within the time constraints of the
of the Act.

1. **Provide any and all public records that demonstrate that a letter was sent by the California Department of Fish and Wildlife to the State Clearinghouse with what the CaDFW termed a "REVISED NOTICE OF PREPARATION" NO. 2012071090.**
2. **Provide any and all public records that demonstrate that this Agency received and accepted a "REVISED NOTICE OF PREPARATION" NO. 2012071090 from the Ca. Dpt. Of Fish and Wildlife inclusive of the NOP with the Agency Stamp, any Record Recorded in an Electronic format, or any other such record of a type described by the California Public Records Act as a public record.**
3. **Provide any and all public records that demonstrate that a letter was sent by this Agency to the Ca. Dpt. of Fish and Wildlife acknowledging acceptance of a "REVISED NOTICE OF PREPARATION" NO. 2012071090 from the Ca. Dpt. Of Fish and Wildlife inclusive of such a letter.**
4. **Provide any and all public records that demonstrate that this Agency transmitted a letter to any and or all Trustee or Responsible Agencies regarding a "REVISED NOTICE OF PREPARATION" NO. 2012071090 from the Ca. Dpt. Of Fish and Wildlife inclusive of such a letter.**
5. **Provide any and all public records that demonstrate legal Statutes and or Regulations and or Policies and or Rules, which allow this Agency to accept more than one Notice of Preparation of an EIR from another agency for the same project as defined by CEQA.**
6. **Provide any and all public records that demonstrate the Intent of the California Legislature to allow this Agency to receive, accept, and or transmit to Trustee and or Responsible Agencies more than one Notice of Preparation (CEQA Guideline 15082), for the same project as defined by CEQA.**

O11-124 cont.

7. **Provide any and all public records that demonstrate legal Statutes and or Regulations and or Policies and or Rules that allow Public Comment to be recorded by the State in regard to an Agency submission of more than one Notice of Preparation (CEQA Guideline 15082), to this Agency and or of any NOP.**
8. **Provide any and all public records that demonstrate the Intent of the California Legislature to allow Public Comment to be recorded by the State in regard to an Agency's submission more than one Notice of Preparation (CEQA Guideline 15082), to this Agency and or of any NOP.**
9. **Provide any and all public records that demonstrate legal Statutes and or Regulations and or Policies and or Rules that describe the number of Notice of Preparation this Agency may legally accept and record pursuant to CEQA.**
10. **Provide any and all public records that demonstrate legal Statutes and or Regulations and or Policies and or Rules that describe the last date this Agency can legally accept more than one Notice of Preparation submitted by another agency for the same CEQA EIR process**
11. **Provide any and all emails from the California Department of Fish and Wildlife to this Agency in regard to a "REVISED NOTICE OF PREPARATION" NO. 2012071090.**
12. **Provide any and all emails to the California Department of Fish and Wildlife from this Agency in regard to a "REVISED NOTICE OF PREPARATION" NO. 2012071090.**
13. **Provide any and all emails from the California Coastal Conservancy to this Agency in regard to a "REVISED NOTICE OF PREPARATION" NO. 2012071090.**
14. **Provide any and all emails to the California Coastal Conservancy from this Agency in regard to a "REVISED NOTICE OF PREPARATION" NO. 2012071090.**
15. **Provide any and all emails from the California Santa Monica Bay Restoration Commission to this Agency in regard to a "REVISED NOTICE OF PREPARATION" NO. 2012071090.**
16. **Provide any and all emails to the Santa Monica Bay Restoration Commission from this Agency in regard to a "REVISED NOTICE OF PREPARATION" NO. 2012071090.**
17. **Provide any and all emails from the any entity to this Agency in regard to a "REVISED NOTICE OF PREPARATION" NO. 2012071090 which end with santamonicabay.org**
18. **Provide any and all emails from the any entity to this Agency in regard to a "REVISED NOTICE OF PREPARATION" NO. 2012071090 which end with santamonicabay.org**
19. **Provide any and all emails from this Agency to any and all entitles in regard to a "REVISED NOTICE OF PREPARATION" NO. 2012071090 which end with santamonicabay.org**

O11-124 cont.

20. **Provide any and all emails from the any entity to this Agency in regard to a "REVISED NOTICE OF PREPARATION" NO. 2012071090 <u>which end with ifci.com</u>**
21. **Provide any and all emails from this Agency to any and all entitles in regard to a "REVISED NOTICE OF PREPARATION" NO. 2012071090 <u>which end with ifci.com</u>**
22. **Provide any and all emails from any entity excluding those listed in Requests 11-21 in regard to a "REVISED NOTICE OF PREPARATION" NO. 2012071090**
23. **Provide any and all emails from any entity whatsoever excluding those entities listed in Requests 11-21, in regard to a "REVISED NOTICE OF PREPARATION" NO. 2012071090**
24. **Provide any and all emails to any entity whatsoever excluding those entities listed in Requests 11-21, in regard to a "REVISED NOTICE OF PREPARATION" NO. 2012071090 from this Agency**
25. **Provide any and all public records that demonstrate this Agency <u>did not violate</u> the Statutory and or Regulatory provisions of the California Environmental Quality Act in accepting "REVISED NOTICE OF PREPARATION" NO. 2012071090 from the California Department of Fish and Wildlife contrary to (CEQA Guideline 15082).**
26. **Provide any and all public records that demonstrate this Agency <u>did not engage in misconduct</u> by violation of the Statutory or and Regulatory provisions of the California Environmental Quality Act in accepting "REVISED NOTICE OF PREPARATION" NO. 2012071090 from the California Department of Fish and Wildlife contrary to (CEQA Guideline 15082).**

O11-124 cont.

Thank you for your kind assistance,

John Davis
PO Box 10152
Marina del Rey Ca. 90295

EXHIBIT 2. Cal OPR RESPONSE TO PUBLIC RECORDS ACT REQUEST

O11-124 cont.

Comment Letter O11

STATE OF CALIFORNIA
GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH

EDMUND G. BROWN JR.
GOVERNOR

KEN ALEX
DIRECTOR

February 13, 2013

John Davis
PO Box 10152
Marina Del Rey, CA. 90295

Re: Public Records Act Request

Mr. Davis:

This letter responds to your Public Records Act request received by the Governor's Office of Planning and Research (OPR) via e-mail on February 6, 2013. You have requested communications and other documents concerning the "Revised Notice of Preparation" for CEQA Project No. 2012071090, in a list of twenty-six closely related items.

O11-124 cont.

Attachment A contains copies of documents responsive to numbered Items 1-4 of your Public Records Act request. Attachment A includes the Notice of Preparation and the Notice of Completion as provide by the Department of Fish and Game to OPR on January 29, 2013. Attachment A also includes the OPR Cover letter, Document Details Report, and NOP Distribution list which with the NOP and NOC were forwarded to state agencies on January 29, 2013 for review and comment.

OPR does not possess any documents responsive to Items 5-26 of your request.

Sincerely:

Scott Morgan
State Clearinghouse Director

Enclosures: Attachment A

EXHIBIT 3. Cal DFW NOP DATED 2012

O11-124
cont.

John Davis Public Records Act Request

OPR Response

Attachment A

O11-124
cont.

Comment Letter O11

STATE OF CALIFORNIA

GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH

STATE CLEARINGHOUSE AND PLANNING UNIT

EDMUND G. BROWN JR.
GOVERNOR

KEN ALEX
DIRECTOR

Notice of Preparation

July 27, 2012

To: Reviewing Agencies

Re: Ballona Wetlands Restoration Project
SCH# 2012071090

Attached for your review and comment is the Notice of Preparation (NOP) for the Ballona Wetlands Restoration Project draft Environmental Impact Report (EIR).

Responsible agencies must transmit their comments on the scope and content of the NOP, focusing on specific information related to their own statutory responsibility, within 30 days of receipt of the NOP from the Lead Agency. This is a courtesy notice provided by the State Clearinghouse with a reminder for you to comment in a timely manner. We encourage other agencies to also respond to this notice and express their concerns early in the environmental review process.

O11-124 cont.

Please direct your comments to:

David Lawhead
California Department of Fish and Game
3883 Ruffin Road
San Diego, CA 92123

with a copy to the State Clearinghouse in the Office of Planning and Research. Please refer to the SCH number noted above in all correspondence concerning this project.

If you have any questions about the environmental document review process, please call the State Clearinghouse at (916) 445-0613.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Attachments
cc: Lead Agency

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

Document Details Report
State Clearinghouse Data Base

SCH# 2012071090
Project Title Ballona Wetlands Restoration Project
Lead Agency Fish & Game #5

Type NOP Notice of Preparation

Description The Ballona Wetlands Ecological Reserve is located in the western portion of the city of Los Angeles (partially within unincorporated Los Angeles County), south of Marina Del Rey and north of Playa Del Rey. The entire project site is held by the State of CA, with part owned by CDFG and part owned by SLC. The site is bisected by and includes a channelized span of Ballona Creek, and it is traversed by Culver Boulevard, Jefferson Boulevard, and Lincoln Boulevard. The project entails restoring, enhancing, and creating native coastal wetland and upland habitats in the approximately 600-acre Ecological Reserve. The reserve comprises previously filled and dredged coastal wetland and upland habitat that would be restored by increasing tidal flow throughout the project area, removing invasive species, and planting native vegetation.

Lead Agency Contact

Name David Lawhead
Agency California Department of Fish and Game
Phone 858 627 3997 **Fax**
email
Address 3883 Ruffin Road
City San Diego **State** CA **Zip** 92123

O11-124 cont.

Project Location

County Los Angeles
City
Region
Cross Streets Hwy 1 & Fiji Way
Lat / Long 33° 58' 33.83" N / 118° 26' 20.20" W
Parcel No.
Township **Range** **Section** **Base**

Proximity to:

Highways Hwy 1 & 90
Airports Los Angeles Int'l
Railways
Waterways Ballona Creek, Santa Monica Bay
Schools Multiple
Land Use

Project Issues

Reviewing Agencies

Date Received 07/27/2012 **Start of Review** 07/27/2012 **End of Review** 08/27/2012

Note: Blanks in data fields result from insufficient information provided by lead agency.

Print Form

Appendix C

Notice of Completion & Environmental Document Transmittal

Mail to: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613
For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

SCH # 2012071000

Project Title: Ballona Wetlands Restoration Project

Lead Agency: California Dept of Fish & Game — Contact Person: David Lawhead
Mailing Address: 3883 Ruffin Road — Phone: 858-627-3997
City: San Diego — Zip: 92123 — County: San Diego

Project Location: County: Los Angeles — City/Nearest Community: Marina del Rey
Cross Streets: Hwy 1 & Fiji Way — Zip Code: 90292
Longitude/Latitude (degrees, minutes and seconds): 33 ° 58 ′ 33.83″ N / 118 ° 26 ′ 20.20″ W Total Acres: 600
Assessor's Parcel No.: — Section: — Twp.: — Range: — Base:
Within 2 Miles: State Hwy #: 1 & 90 — Waterways: Ballona Creek, Santa Monica Bay
Airports: Los Angeles Int'l — Railways: — Schools: Multiple

Document Type:

CEQA: ☒ NOP ☐ Draft EIR — NEPA: ☒ NOI — Other: ☒ Joint Document
☐ Early Cons ☐ Supplement/Subsequent EIR ☐ EA ☐ Final Document
☐ Neg Dec (Prior SCH No.) ☐ Draft EIS ☐ Other:
☐ Mit Neg Dec Other: ☐ FONSI

Local Action Type:

☐ General Plan Update ☐ Specific Plan ☐ Rezone ☐ Annexation
☐ General Plan Amendment ☐ Master Plan ☐ Prezone ☐ Redevelopment
☐ General Plan Element ☐ Planned Unit Development ☐ Use Permit ☒ Coastal Permit
☐ Community Plan ☐ Site Plan ☐ Land Division (Subdivision, etc.) ☒ Other: Restoration

O11-124 cont.

RECEIVED
JUL 27 2012
STATE CLEARING HOUSE

Development Type:

☐ Residential: Units ____ Acres ____
☐ Office: Sq.ft. ____ Acres ____ Employees ____
☐ Commercial: Sq.ft. ____ Acres ____ Employees ____
☐ Industrial: Sq.ft. ____ Acres ____ Employees ____
☐ Educational:
☐ Recreational:
☐ Water Facilities: Type ____ MGD ____
☐ Transportation: Type
☐ Mining: Mineral
☐ Power: Type MW
☐ Waste Treatment: Type MGD
☐ Hazardous Waste: Type
☒ Other: 600 acres of wetland restoration

Project Issues Discussed in Document:

☒ Aesthetic/Visual ☐ Fiscal ☒ Recreation/Parks ☒ Vegetation
☒ Agricultural Land ☒ Flood Plain/Flooding ☒ Schools/Universities ☒ Water Quality
☒ Air Quality ☒ Forest Land/Fire Hazard ☐ Septic Systems ☒ Water Supply/Groundwater
☒ Archeological/Historical ☒ Geologic/Seismic ☒ Sewer Capacity ☒ Wetland/Riparian
☒ Biological Resources ☒ Minerals ☒ Soil Erosion/Compaction/Grading ☒ Growth Inducement
☒ Coastal Zone ☒ Noise ☒ Solid Waste ☒ Land Use
☒ Drainage/Absorption ☒ Population/Housing Balance ☒ Toxic/Hazardous ☒ Cumulative Effects
☒ Economic/Jobs ☒ Public Services/Facilities ☒ Traffic/Circulation ☐ Other:

Present Land Use/Zoning/General Plan Designation:

Project Description: *(please use a separate page if necessary)*
The Ballona Wetlands Ecological Reserve is located in the western portion of the city of Los Angeles (partially within unincorporated Los Angeles County), south of Marina Del Rey and north of Playa Del Rey. The entire project site is held by the State of California, with part owned by CDFG and part owned by SLC. The site is bisected by and includes a channelized span of Ballona Creek, and it is traversed by Culver Boulevard, Jefferson Boulevard, and Lincoln Boulevard. The project entails restoring, enhancing, and creating native coastal wetland and upland habitats in the approximately 600-acre Ecological Reserve. The reserve comprises previously filled and dredged coastal wetland and upland habitat that would be restored by increasing tidal flow throughout the project area, removing invasive species, and planting native vegetation.

Note: The State Clearinghouse will assign identification numbers for all new projects. If a SCH number already exists for a project (e.g. Notice of Preparation or previous draft document) please fill in.

Revised 2010

Reviewing Agencies Checklist

Lead Agencies may recommend State Clearinghouse distribution by marking agencies below with and "X".
If you have already sent your document to the agency please denote that with an "S".

X	Air Resources Board	X	Office of Historic Preservation
X	Boating & Waterways, Department of		Office of Public School Construction
X	California Emergency Management Agency	X	Parks & Recreation, Department of
	California Highway Patrol		Pesticide Regulation, Department of
X	Caltrans District #7	X	Public Utilities Commission
	Caltrans Division of Aeronautics	X	Regional WQCB #4
	Caltrans Planning		Resources Agency
	Central Valley Flood Protection Board		Resources Recycling and Recovery, Department of
	Coachella Valley Mtns. Conservancy		S.F. Bay Conservation & Development Comm.
X	Coastal Commission		San Gabriel & Lower L.A. Rivers & Mtns. Conservancy
	Colorado River Board		San Joaquin River Conservancy
X	Conservation, Department of		Santa Monica Mtns. Conservancy
	Corrections, Department of	X	State Lands Commission
	Delta Protection Commission		SWRCB: Clean Water Grants
	Education, Department of	X	SWRCB: Water Quality
X	Energy Commission		SWRCB: Water Rights
	Fish & Game Region #		Tahoe Regional Planning Agency
	Food & Agriculture, Department of		Toxic Substances Control, Department of
	Forestry and Fire Protection, Department of	X	Water Resources, Department of
	General Services, Department of		
	Health Services, Department of		Other:
	Housing & Community Development		Other:
X	Native American Heritage Commission		

O11-124 cont.

Local Public Review Period (to be filled in by lead agency)

Starting Date July 27, 2012 Ending Date September 10, 2012

Lead Agency (Complete if applicable):

Consulting Firm: ICF International
Address: 1 Ada, Suite 100
City/State/Zip: Irvine, CA 92618
Contact: Donna McCormick
Phone: 949-333-6611

Applicant: California Department of Fish & Game
Address: 3883 Ruffin Road
City/State/Zip: San Diego, CA 92123
Phone: 858-467-4201

Signature of Lead Agency Representative: Date: July 26, 2012

Authority cited: Section 21083, Public Resources Code. Reference: Section 21161, Public Resources Code.

Revised 2010

Notice of Preparation

Notice of Preparation

To: State Clearinghouse
1400 Tenth Street
Sacramento, CA 95814
(Address)

From: ICF International
1 Ada, Suite 100
Irvine, CA 92618
(Address)

Subject: Notice of Preparation of a Draft Environmental Impact Report

The California Dept of Fish & Game will be the Lead Agency and will prepare an environmental impact report for the project identified below. We need to know the views of your agency as to the scope and content of the environmental information which is germane to your agency's statutory responsibilities in connection with the proposed project. Your agency will need to use the EIR prepared by our agency when considering your permit or other approval for the project.

O11-124 cont.

The project description, location, and the potential environmental effects are contained in the attached materials. A copy of the Initial Study (☐ is ☒ is not) attached.

Due to the time limits mandated by State law, your response must be sent at the earliest possible date but not later than 30 days after receipt of this notice.

Please send your response to Ballona Wetlands Restoration Project, C/O Donna McCormick at the address shown above. We will need the name for a contact person in your agency.

Project Title: Ballona Wetlands Restoration Project

Project Applicant, if any: California Department of Fish & Game

RECEIVED
JUL 27 2012
STATE CLEARING HOUSE

Date July 26, 2012

Signature

Title Principal

Telephone 949-333-6611

Reference: California Code of Regulations, Title 14, (CEQA Guidelines) Sections 15082(a), 15103, 15375.

2012071080

NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT

Ballona Wetlands Restoration Project

Introduction

The California Department of Fish & Game (CDFG), the State Coastal Conservancy (Conservancy), and the California State Lands Commission (SLC) are considering a large-scale restoration of the Ballona Wetlands, a State-owned Ecological Reserve located in the western portion of the city and county of Los Angeles. As the primary landowner, project proponent, and permitting agency for the state, CDFG is serving as the lead agency under the California Environmental Quality Act (CEQA). The project will require permits from the U.S. Army Corps of Engineers, Los Angeles District (Corps), who will serve as lead agency under the National Environmental Policy Act (NEPA). The agencies are examining the environmental consequences associated with implementing the project. CDFG is hereby issuing this Notice of Preparation (NOP) that they will be preparing a draft environment impact report (EIR) to satisfy the environmental review requirements of CEQA. The Corps is also issuing a separate Notice of Intent to prepare a draft environment impact statement (EIS) to satisfy the requirements of NEPA. The two documents will be prepared as a joint document (EIS/EIR). This notice solicits input as to the content of environmental review for the project from the public and federal, state, and local agencies relevant to their respective statutory responsibilities.

Project Location

The Ballona Wetlands Ecological Reserve is located in the western portion of the city of Los Angeles (partially within unincorporated Los Angeles County), south of Marina Del Rey and north of Playa Del Rey, as shown in Figure 1. The site is approximately 1.5 miles west of Interstate 405 and approximately 0.25 mile east of Santa Monica Bay. The entire project site is held by the State of California, with part owned by CDFG and part owned by SLC. The site is bisected by and includes a channelized span of Ballona Creek, and it is traversed by Culver Boulevard, Jefferson Boulevard, and Lincoln Boulevard. An aerial photograph of the project site is shown in Figure 2.

O11-124 cont.

Project Summary and Proposed Action

The project entails restoring, enhancing, and creating native coastal wetland and upland habitats in the approximately 600-acre Ecological Reserve. The reserve comprises previously filled and dredged coastal wetland and upland habitat that would be restored by increasing tidal flow throughout the project area, removing invasive species, and planting native vegetation. Figure 3 shows a conceptual design of the proposed restoration. The main components of the project are:

- Habitat restoration of estuarine wetland and upland habitats connected to a realigned Ballona Creek.
- Removal of existing Ballona Creek levees and realignment of Ballona Creak to restore a more meandering channel.
- Construction of new levees to replace the existing Ballona Creek levees and to allow restoration of tidally influenced wetlands while providing flood protection for Culver Boulevard and surrounding areas.
- Installation of water control structures, including culverts with self-regulating tide gates or similar structures, to provide a full range of tides up to an elevation acceptable for flood management and storm drainage, while protecting against some storm events.
- Maintenance of existing levels of flood protection for areas surrounding the Ballona Wetlands site and inclusion of flood hazard management measures into the restored wetlands.

- Provision of erosion protection as an integral part of the restoration design.
- Modification of infrastructure and utilities as necessary to implement the restoration project.
- Improving public access by realigning existing trails, creating new trails, repairing existing fences, constructing overlook platforms, and providing other visitor-oriented facilities.
- Long-term operations and management activities including inspections, repairs, clean-up, vegetation maintenance, and related activities.

As this project is anticipated to be implemented over the course of several years, the project would include an adaptive management component whereby lessons learned from initial stages would be considered as further work is planned, designed, and implemented, allowing maximum realization of project objectives and minimization of on- and offsite environmental impacts. Additionally, the restoration and flood management approaches to the project will consider the effects of future sea-level rise, per the California Governor's Executive Order S-13-08 and the Conservancy's Climate Change Policy, adopted June 4, 2009.

The primary federal action associated with this project is the issuance by the Corps of permits pursuant to Clean Water Act Section 404 and Section 408. The 404 permit is required for dredge and fill of material within jurisdictional waters of the U.S.; the 408 permit is required for demolition of the concrete-lined flood control channel and realignment of Ballona Creek. The Corps and CDFG also anticipate formally consulting with the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act, with the State Historic Preservation Officer under Section 106 of the National Historic Preservation Act, and with the Native American Heritage Commission regarding this project.

O11-124 cont.

Potential Environmental Effects

The project's effects with respect to the following environmental issue areas will be analyzed and addressed in the EIS/EIR: aesthetics, air quality and greenhouse gas emissions, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, public services, recreation, sea-level rise, traffic, and utilities. Additional issues may be identified during the scoping process. The EIS/EIR will consider direct, indirect, and cumulative impacts, and will present a coequal level of detail for impact analysis on a reasonable range of alternatives to the project, including the No Action/No Project Alternative.

Scoping Process

CDFG and the Corps will conduct a public scoping meeting for the EIS/EIR to receive agency and public comment regarding the appropriate scope and preparation of the environmental document. Potential significant issues to be addressed in the EIS/EIR include aesthetics, air quality and greenhouse gas emissions, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, public services, recreation, sea-level rise, traffic, and utilities. Additional issues may be identified in during the scoping process. Comments are invited from the public and affected agencies.

A public scoping meeting to receive input on the scope of the EIS/EIR will be conducted on August 16, 2012, beginning at 4:00 pm at the Fiji Gateway entrance to the Ballona Wetlands (13720 Fiji Way, Marina del Rey, CA 90292, across from Fisherman's Village and the Los Angeles County Department of Beaches and Harbors). Participation in the public meeting by federal, state, and local agencies and other interested persons and organizations is encouraged. If you have any questions regarding the meeting, please contact Donna McCormick at (949) 333-6611 (Donna.Mccormick@icfi.com).

California Department of Fish & Game

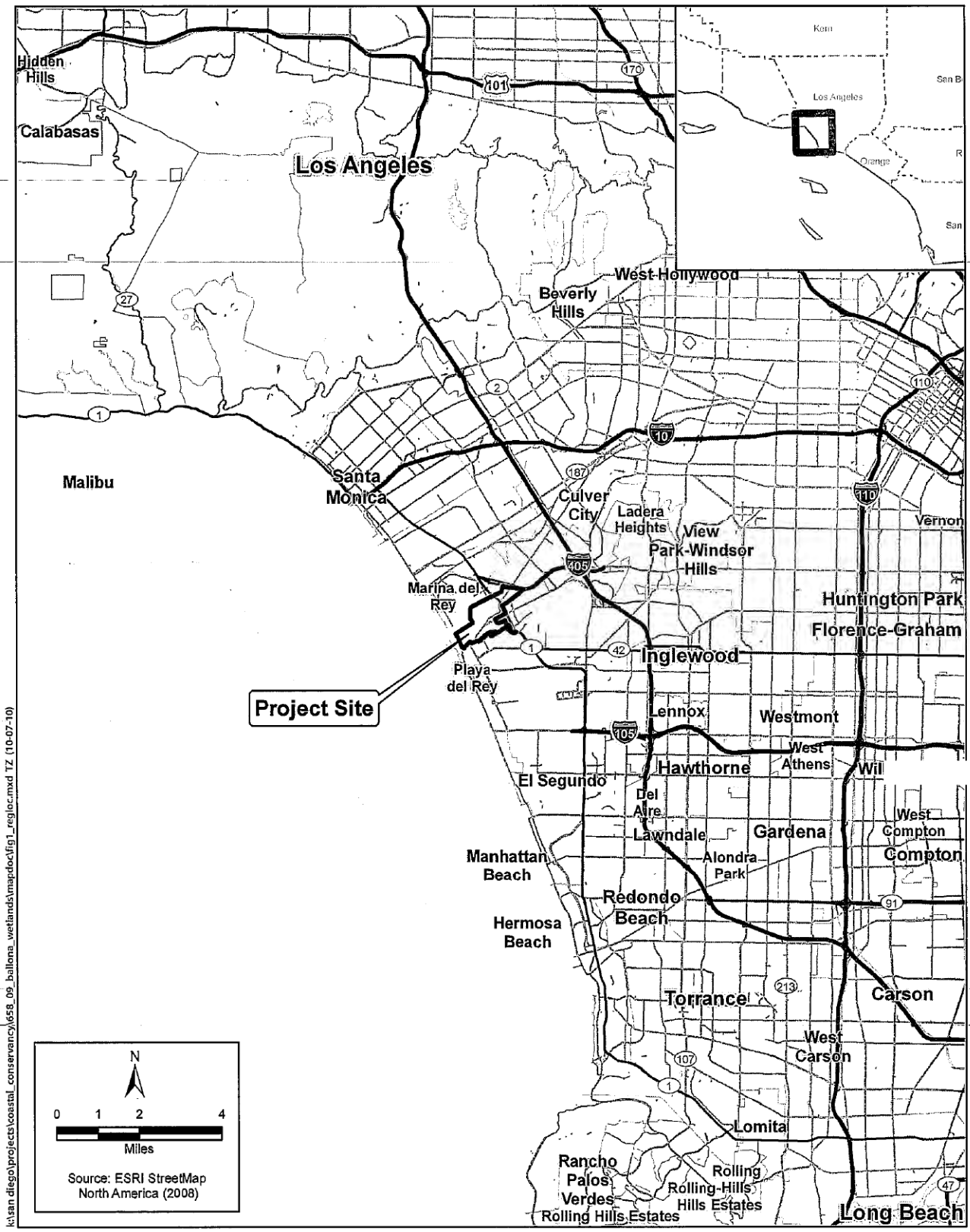
Written comments on the scope of environmental review may be submitted at the scoping meeting or sent to the address listed below. Comments will be accepted until September 10, 2012.

Ballona Wetlands Restoration Project
C/O Donna McCormick
1 Ada, Suite 100
Irvine, CA 92816

or by email to:
Donna.McCormick@icfi.com

O11-124 cont.

Additional information on the project and the environmental review process is available on the Ballona Wetlands Restoration website at: www.ballonarestoration.org.



O11-124 cont.

ICF INTERNATIONAL

Figure 1
Regional Location

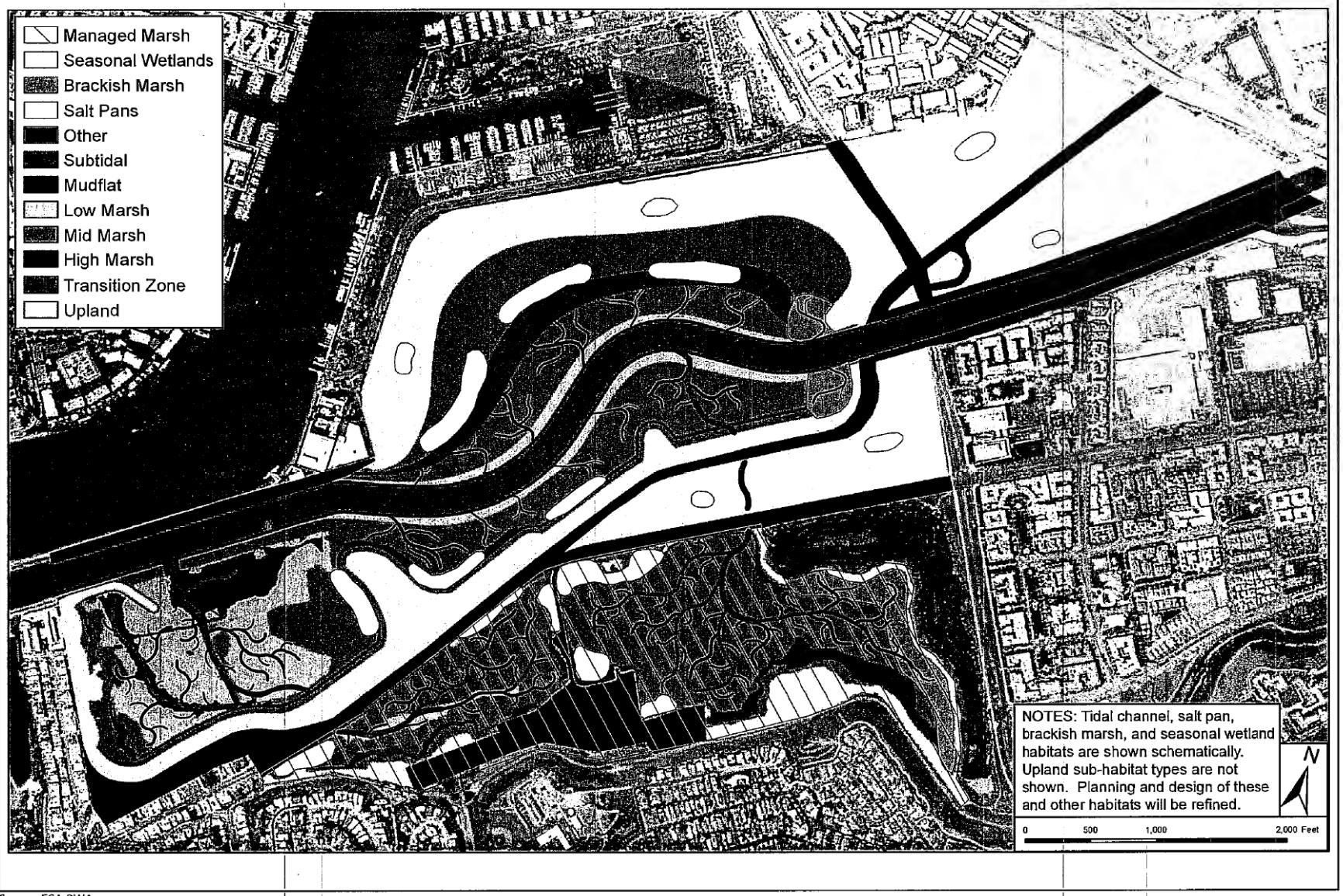
k:\san diego\projects\coastal conservancy\658 09 ballona wetlands\mxd\cnop\fig2 projvic.mxd TZ (10-07-10)

Source: Digital Globe Imagery, 2008

ICF INTERNATIONAL

O11-124 cont.

Figure 2
Project Site



i:\san diego\projects\coastal conservancy\658 09 ballona wetlands\mapdoc\Fig03 proposed project.ai 55 (04-30-12)

Source: ESA PWA

ICF INTERNATIONAL

O11-124 cont.

Figure 3
Proposed Project

John Davis Public Records Act Request

OPR Response

Attachment B

O11-124
cont.

State of California -The Natural Resources Agency
DEPARTMENT OF FISH AND GAME
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201
www.dfg.ca.gov

EDMUND G. BROWN, JR, Governor
CHARLTON H. BONHAM, Director

RECEIVED
SEP 05 2012
STATE CLEARING HOUSE

September 4, 2012

State Clearinghouse
P.O. Box 3044
Sacramento, CA 95812-3044

Subject: Extension of Notice of Preparation (NOP) Scoping Period for the Ballona Wetlands Restoration Project (SCH# 2012071090)

To whom it may concern:

The California Department of Fish and Game, as Lead Agency for the Ballona Wetlands Restoration Project Environmental Impact Report (EIR), has decided to extend the close of the NOP scoping period to October 23, 2012 (previous closing date was September 10, 2012), to be consistent with the end of the federal scoping period for the project's Environmental Impact Statement (EIS), as set by the U.S. Army Corps of Engineers.

O11-124 cont.

Respectfully submitted,

Edmund Pert
Regional Manager
South Coast Region

EDMUND G. BROWN JR.
GOVERNOR

STATE OF CALIFORNIA
GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT

KEN ALEX
DIRECTOR

Memorandum

Date: September 5, 2012

To: All Reviewing Agencies

From: Scott Morgan, Director

Re: SCH # 2012071090
Ballona Wetlands Restoration Project

Pursuant to the attached letter, the Lead Agency has extended the review period for the above referenced project to **October 23, 2012** to accommodate the review process. All other project information remains the same.

O11-124
cont.

cc: David Lawhead
California Department of Fish and Game
3883 Ruffin Road
San Diego, CA 92123

John Davis Public Records Act Request

OPR Response

Attachment C

O11-124
cont.

State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director

February 13, 2013

State Clearinghouse
P.O. Box 3044
Sacramento, CA 95812-3044

Subject: Extension of Revised Notice of Preparation (NOP) Scoping Period for the Interpretative Center Component of the Ballona Wetlands Restoration Project (SCH# 2012071090)

To whom it may concern:

The California Department of Fish and Wildlife, as Lead Agency for the Ballona Wetlands Restoration Project Environmental Impact Report (EIR), has decided to extend the close of the revised NOP scoping period for the interpretative center component to March 16, 2013 (previous closing date was March 1, 2013), to address the public's request for additional time to respond.

O11-124 cont.

Respectfully submitted,

Edmund Pert
Regional Manager
South Coast Region

Edmund G. Brown Jr.
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit

Ken Alex
Director

Memorandum

Date: February 14, 2013

To: All Reviewing Agencies

From: Scott Morgan, Director

Re: SCH # 2012071090
Ballona Wetlands Restoration Project

Pursuant to the attached letter, the Lead Agency has *extended* the review period for the above referenced project to **March 15, 2013** to accommodate the review process. All other project information remains the same.

O11-124 cont.

cc: David Lawhead
California Department of Fish and Wildlife
3883 Ruffin Road
San Diego, CA 92123

EXHIBIT 4. Cal DFW NOP 2013

O11-124
cont.

John Davis Public Records Act Request

OPR Response

Attachment A

O11-124
cont.

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit

Edmund G. Brown Jr.
Governor

Ken Alex
Director

Notice of Preparation

January 29, 2013

To: Reviewing Agencies

Re: Ballona Wetlands Restoration Project
SCH# 2012071090

Attached for your review and comment is the Notice of Preparation (NOP) for the Ballona Wetlands Restoration Project draft Environmental Impact Report (EIR).

Responsible agencies must transmit their comments on the scope and content of the NOP, focusing on specific information related to their own statutory responsibility, within 30 days of receipt of the NOP from the Lead Agency. This is a courtesy notice provided by the State Clearinghouse with a reminder for you to comment in a timely manner. We encourage other agencies to also respond to this notice and express their concerns early in the environmental review process.

O11-124 cont.

Please direct your comments to:

David Lawhead
California Department of Fish and Game
3883 Ruffin Road
San Diego, CA 92123

with a copy to the State Clearinghouse in the Office of Planning and Research. Please refer to the SCH number noted above in all correspondence concerning this project.

If you have any questions about the environmental document review process, please call the State Clearinghouse at (916) 445-0613.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Attachments
cc: Lead Agency

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044
TEL (916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

Document Details Report
State Clearinghouse Data Base

SCH# 2012071090
Project Title Ballona Wetlands Restoration Project
Lead Agency Fish & Game #5

Type NOP Notice of Preparation
Description NOTE: Revised

The Ballona Wetlands Ecological Reserve is located in the western portion of the city of Los Angeles (partially within unincorporated Los Angeles County), south of Marina Del Rey and north of Playa Del Rey. The entire project site is held by the State of CA, with part owned by CDFW and part owned by SLC. The site is bisected by and includes a channelized span of Ballona Creek, and it is traversed by Culver Boulevard, Jefferson Boulevard, and Lincoln Boulevard. The project entails restoring, enhancing, and creating native coastal wetland and upland habitats in the approximately 600-acre Ecological Reserve. The reserve comprises previously filled and dredged coastal wetland and upland habitat that would be restored by increasing tidal flow throughout the project area, removing invasive species, and planting native vegetation. This revised NOP is for an interpretive center.

Lead Agency Contact

Name David Lawhead
Agency California Department of Fish and Game
Phone 858 627 3997 **Fax**
email
Address 3883 Ruffin Road
City San Diego **State** CA **Zip** 92123

O11-124 cont.

Project Location

County Los Angeles
City
Region
Cross Streets Hwy 1 & Fiji Way
Lat / Long 33° 58' 33.83" N / 118° 26' 20.20" W
Parcel No.
Township **Range** **Section** **Base**

Proximity to:

Highways Hwy 1 & 90
Airports Los Angeles Int'l
Railways
Waterways Ballona Creek, Santa Monica Bay
Schools Multiple
Land Use

Project Issues Agricultural Land; Air Quality; Archaeologic-Historic; Biological Resources; Coastal Zone; Drainage/Absorption; Economics/Jobs; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Growth Inducing; Landuse; Cumulative Effects; Aesthetic/Visual

Reviewing Agencies Resources Agency; Department of Boating and Waterways; Department of Conservation; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; Office of Emergency Management Agency, California; Native American Heritage Commission; Public Utilities Commission; State Lands Commission; Caltrans, District 7; State Water Resources Control Board, Division of Water Quality; Department of Toxic Substances Control; Regional Water Quality Control Board, Region 4; California Coastal Commission

Document Details Report
State Clearinghouse Data Base

Date Received	01/29/2013	***Start of Review***	01/29/2013	***End of Review***	02/27/2013

Comment Letter O11

NOP Distribution List

County: Los Angeles SCH# 2012071090

Resources Agency

- [x] Resources Agency
  Nadell Gayou
- [x] Dept. of Boating & Waterways
  Nicole Wong
- [x] California Coastal Commission
  Elizabeth A. Fuchs
- [ ] Colorado River Board
  Gerald R. Zimmerman
- [x] Dept. of Conservation
  Elizabeth Carpenter
- [ ] California Energy Commission
  Eric Knight
- [ ] Cal Fire
  Dan Foster
- [ ] Central Valley Flood Protection Board
  James Herota
- [x] Office of Historic Preservation
  Ron Parsons
- [x] Dept of Parks & Recreation
  Environmental Stewardship Section
- [ ] California Department of Resources, Recycling & Recovery
  Sue O'Leary
- [ ] S.F. Bay Conservation & Dev't. Comm.
  Steve McAdam
- [x] Dept. of Water Resources Resources Agency
  Nadell Gayou

Fish and Game

- [ ] Depart. of Fish & Game
  Scott Flint
  Environmental Services Division
- [ ] Fish & Game Region 1
  Donald Koch
- [ ] Fish & Game Region 1E
  Laurie Harnsberger
- [ ] Fish & Game Region 2
  Jeff Drongesen
- [ ] Fish & Game Region 3
  Charles Armor
- [ ] Fish & Game Region 4
  Julie Vance
- [ ] Fish & Game Region 5
  Leslie Newton-Reed
  Habitat Conservation Program
- [ ] Fish & Game Region 6
  Gabrina Gatchel
  Habitat Conservation Program
- [ ] Fish & Game Region 6 I/M
  Brad Henderson
  Inyo/Mono, Habitat Conservation Program
- [ ] Dept. of Fish & Game M
  George Isaac
  Marine Region

Other Departments

- [ ] Food & Agriculture
  Sandra Schubert
  Dept. of Food and Agriculture
- [ ] Depart. of General Services
  Public School Construction
- [ ] Dept. of General Services
  Anna Garbeff
  Environmental Services Section
- [ ] Dept. of Public Health
  Bridgette Binning
  Dept. of Health/Drinking Water
- [ ] Delta Stewardship Council
  Kevan Samsam

Independent Commissions,Boards

- [ ] Delta Protection Commission
  Michael Machado
- [x] Cal EMA (Emergency Management Agency)
  Dennis Castrillo
- [x] Native American Heritage Comm.
  Debbie Treadway
- [x] Public Utilities Commission
  Leo Wong
- [ ] Santa Monica Bay Restoration
  Guangyu Wang
- [x] State Lands Commission
  Jennifer Deleong
- [ ] Tahoe Regional Planning Agency (TRPA)
  Cherry Jacques

Business, Trans & Housing

- [ ] Caltrans - Division of Aeronautics
  Philip Crimmins
- [ ] Caltrans - Planning
  Terri Pencovic
- [ ] California Highway Patrol
  Suzann Ikeuchi
  Office of Special Projects
- [ ] Housing & Community Development
  CEQA Coordinator
  Housing Policy Division

Dept. of Transportation

- [ ] Caltrans, District 1
  Rex Jackman
- [ ] Caltrans, District 2
  Marcelino Gonzalez
- [ ] Caltrans, District 3
  Gary Arnold
- [ ] Caltrans, District 4
  Erik Alm
- [ ] Caltrans, District 5
  David Murray
- [ ] Caltrans, District 6
  Michael Navarro
- [x] Caltrans, District 7
  Dianna Watson
- [ ] Caltrans, District 8
  Dan Kopulsky
- [ ] Caltrans, District 9
  Gayle Rosander
- [ ] Caltrans, District 10
  Tom Dumas
- [ ] Caltrans, District 11
  Jacob Armstrong
- [ ] Caltrans, District 12
  Marlon Regisford

Cal EPA

Air Resources Board

- [ ] Airport/Energy Projects
  Jim Lerner
- [ ] Transportation Projects
  Douglas Ito
- [ ] Industrial Projects
  Mike Tollstrup
- [ ] State Water Resources Control Board
  Regional Programs Unit
  Division of Financial Assistance
- [x] State Water Resources Control Board
  Student Intern, 401 Water Quality Certification Unit
  Division of Water Quality
- [ ] State Water Resouces Control Board
  Phil Crader
  Division of Water Rights
- [x] Dept. of Toxic Substances Control
  CEQA Tracking Center
- [ ] Department of Pesticide Regulation
  CEQA Coordinator

Regional Water Quality Control Board (RWQCB)

- [ ] RWQCB 1
  Cathleen Hudson
  North Coast Region (1)
- [ ] RWQCB 2
  Environmental Document Coordinator
  San Francisco Bay Region (2)
- [ ] RWQCB 3
  Central Coast Region (3)
- [x] RWQCB 4
  Teresa Rodgers
  Los Angeles Region (4)
- [ ] RWQCB 5S
  Central Valley Region (5)
- [ ] RWQCB 5F
  Central Valley Region (5)
  Fresno Branch Office
- [ ] RWQCB 5R
  Central Valley Region (5)
  Redding Branch Office
- [ ] RWQCB 6
  Lahontan Region (6)
- [ ] RWQCB 6V
  Lahontan Region (6)
  Victorville Branch Office
- [ ] RWQCB 7
  Colorado River Basin Region (7)
- [ ] RWQCB 8
  Santa Ana Region (8)
- [ ] RWQCB 9
  San Diego Region (9)

- [ ] Other _____
- [ ] _____
  Conservancy

Last Updated 6/26/2012

O11-124 cont.

Comment Letter O11

Print Form

Appendix C

Notice of Completion & Environmental Document Transmittal

Mail to: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613
For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

SCH # 2012071090

Project Title: Ballona Wetlands Restoration Project

Lead Agency: California Department of Fish & Wildlife — Contact Person: David Lawhead
Mailing Address: 3883 Ruffin Road — Phone: 858-627-3997
City: San Diego — Zip: 92123 — County: San Diego

Project Location: County: Los Angeles — City/Nearest Community: Marina del Rey
Cross Streets: Hwy 1 & Fiji Way — Zip Code: 90292
Longitude/Latitude (degrees, minutes and seconds): 33 ° 58 ′ 33.83″ N / 118 ° 26 ′ 20.09″ W Total Acres: 600
Assessor's Parcel No.: — Section: — Twp.: — Range: — Base:
Within 2 Miles: State Hwy #: 1 & 90 — Waterways: Ballona Creek, Santa Monica Bay
Airports: Los Angeles Int'l — Railways: — Schools: Multiple

Document Type:

CEQA: ☒ NOP ☐ Early Cons ☐ Neg Dec ☐ Mit Neg Dec ☐ Draft EIR ☐ Supplement/Subsequent EIR (Prior SCH No.) ☐ Other: Revised NOP

NEPA: ☒ NOI ☐ EA ☐ Draft EIS ☐ FONSI

Other: ☒ Joint Document ☐ Final Document ☐ Other:

RECEIVED
JAN 29 2013
STATE CLEARING HOUSE

Local Action Type:

☐ General Plan Update ☐ General Plan Amendment ☐ General Plan Element ☐ Community Plan
☐ Specific Plan ☐ Master Plan ☐ Planned Unit Development ☐ Site Plan
☐ Rezone ☐ Prezone ☐ Use Permit ☐ Land Division (Subdivision, etc.)
☐ Annexation ☐ Redevelopment ☒ Coastal Permit ☒ Other: Restoration

Development Type:

☐ Residential: Units — Acres
☐ Office: Sq.ft. — Acres — Employees
☐ Commercial: Sq.ft. — Acres — Employees
☐ Industrial: Sq.ft. — Acres — Employees
☒ Educational: Interpretive Center
☒ Recreational: Interpretive Center
☐ Water Facilities: Type — MGD
☐ Transportation: Type
☐ Mining: Mineral
☐ Power: Type — MW
☐ Waste Treatment: Type — MGD
☐ Hazardous Waste: Type
☒ Other: 600 acres of wetland restoration

Project Issues Discussed in Document:

☒ Aesthetic/Visual ☒ Agricultural Land ☒ Air Quality ☒ Archeological/Historical ☒ Biological Resources ☒ Coastal Zone ☒ Drainage/Absorption ☒ Economic/Jobs
☐ Fiscal ☒ Flood Plain/Flooding ☒ Forest Land/Fire Hazard ☒ Geologic/Seismic ☒ Minerals ☒ Noise ☒ Population/Housing Balance ☒ Public Services/Facilities
☒ Recreation/Parks ☒ Schools/Universities ☐ Septic Systems ☒ Sewer Capacity ☒ Soil Erosion/Compaction/Grading ☒ Solid Waste ☒ Toxic/Hazardous ☒ Traffic/Circulation
☒ Vegetation ☒ Water Quality ☒ Water Supply/Groundwater ☒ Wetland/Riparian ☒ Growth Inducement ☒ Land Use ☒ Cumulative Effects ☐ Other:

Present Land Use/Zoning/General Plan Designation:

Project Description: *(please use a separate page if necessary)*
The Ballona Wetlands Ecological Reserve is located in the western portion of the city of Los Angeles (partially within unincorporated Los Angeles County), south of Marina del Rey and north of Playa del Rey. The entire project site is held by the State of California, with part owned by CDFW and part owned by SLC. The site is bisected by and includes a channelized span of Ballona Creek, and it is traversed by Culver, Jefferson, and Lincoln Boulevards. The project entails restoring, enhancing, and creating native coastal wetland and upland habitats in the approximately 600-acre Ecological Reserve. The reserve comprises previously filled and dredged coastal wetland and upland habitat that would be restored by increasing tidal flow throughout the project area, removing invasive species, and planting native vegetation. This revised NOP is for an interpretive center.

Note: The State Clearinghouse will assign identification numbers for all new projects. If a SCH number already exists for a project (e.g. Notice of Preparation or previous draft document) please fill in.

Revised 2010

O11-124 cont.

Reviewing Agencies Checklist

Lead Agencies may recommend State Clearinghouse distribution by marking agencies below with and "X".
If you have already sent your document to the agency please denote that with an "S".

X	Air Resources Board	X	Office of Historic Preservation
X	Boating & Waterways, Department of		Office of Public School Construction
X	California Emergency Management Agency	X	Parks & Recreation, Department of
	California Highway Patrol		Pesticide Regulation, Department of
	Caltrans District #7	X	Public Utilities Commission
	Caltrans Division of Aeronautics	X	Regional WQCB #4
	Caltrans Planning		Resources Agency
	Central Valley Flood Protection Board		Resources Recycling and Recovery, Department of
	Coachella Valley Mtns. Conservancy		S.F. Bay Conservation & Development Comm.
X	Coastal Commission		San Gabriel & Lower L.A. Rivers & Mtns. Conservancy
	Colorado River Board		San Joaquin River Conservancy
X	Conservation, Department of		Santa Monica Mtns. Conservancy
	Corrections, Department of	X	State Lands Commission
	Delta Protection Commission		SWRCB: Clean Water Grants
	Education, Department of	X	SWRCB: Water Quality
X	Energy Commission		SWRCB: Water Rights
	Fish & Game Region #		Tahoe Regional Planning Agency
	Food & Agriculture, Department of		Toxic Substances Control, Department of
	Forestry and Fire Protection, Department of	X	Water Resources, Department of
	General Services, Department of		
	Health Services, Department of		Other:
	Housing & Community Development		Other:
X	Native American Heritage Commission		

O11-124 cont.

Local Public Review Period (to be filled in by lead agency)

Starting Date January 29, 2013 Ending Date March 1, 2013

Lead Agency (Complete if applicable):

Consulting Firm: ICF International
Address: 1 Ada
City/State/Zip: Irvine, CA 92618
Contact: Donna McCormick
Phone: 949-333-6611

Applicant: California Department of Fish & Wildlife
Address: 3883 Ruffin Road
City/State/Zip: San Diego, CA
Phone: 858-467-4201

Signature of Lead Agency Representative: Date: Jan. 29, 2013

Authority cited: Section 21083, Public Resources Code. Reference: Section 21161, Public Resources Code.

RECEIVED

JAN 29 2013

STATE CLEARING HOUSE

REVISED NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT

Ballona Wetlands Restoration Project

Introduction

The California Department of Fish and Wildlife (CDFW), previously the California Department of Fish and Game, is issuing this revised Notice of Preparation (NOP) for an environmental impact report (EIR) to inform applicable public agencies and the public about refinements to the planned restoration of the Ballona Wetlands, a state-owned ecological reserve located in the western portion of the City and County of Los Angeles. CDFW is the primary landowner within the Ballona Wetlands, the project proponent, and the permitting agency for the state, and as such is serving as the lead agency under the California Environmental Quality Act (CEQA). The EIR will be prepared in conjunction with an environmental impact statement (EIS), with the U.S. Army Corps of Engineers as the lead agency under the National Environmental Policy Act (NEPA). CDFW previously issued a notice of preparation on July 26, 2012, State Clearinghouse No. 2012071090 (July NOP). By issuing this revised notice, CDFW is providing additional information about visitor-oriented facilities, specifically an interpretive center component for the Ballona Wetlands Restoration Project. This revised notice does not change any information in the July NOP but should be considered in addition to the July NOP's information. CDFW is also issuing this revised notice to solicit input as to the content of environmental review for the project, as refined with the interpretive center component, from the public and federal, state, and local agencies relevant to their respective statutory responsibilities.

Interpretive Center Component of the Project

O11-124 cont.

In addition to the project components described in the July NOP, the proposed project will also include the construction and operation of an interpretive center within a portion of the Ballona Wetlands known as Area C. Area C contains Little League baseball fields, is bisected by Culver Boulevard, and is bordered by Lincoln Boulevard to the west, the Marina Freeway (State Route 90) to the east, Ballona Creek to the south, and development to the north. The interpretive center would not eliminate the Little League baseball fields. More detailed location information for the entire Ballona Wetlands is contained in the July NOP.

The interpretive center would have a footprint of approximately 46,000 square feet of building and include: an auditorium, classrooms, public lobby, facilities for an animal adoption and care program, exhibits on wildlife and domestic animals, veterinary facilities limited to care for program-related animals housed on site only, office space for administrative and educational staff, optional retail and concessions space, and associated parking. Space within the interpretive center would be utilized as follows: up to 25% of the interpretive center would be used for live animal programming, approximately 50% for other types of education, and approximately 25% for administration and support spaces. The live animal programming would include an animal adoption program with themed adoption rooms for dogs and cats, holding/intake space for future adoptive pets, and veterinary services for the pets while in residence. Other types of educational programs and exhibits would provide interpretation about animals and their habitats, such as the importance of wetlands and its wildlife.

Potential Environmental Effects

The project's effects, as refined with information about the interpretive center, will be analyzed and addressed in the EIR/EIS for the following environmental topics: aesthetics, air quality and greenhouse gas emissions, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, public services, recreation, sea-level rise, traffic, and utilities. Additional issues may be identified during the scoping process. The EIR/EIS will consider direct, indirect, and cumulative impacts, and will present a coequal level of detail for impact analysis on a reasonable range of alternatives to the project, including the No Action/No Project Alternative.

Scoping Process

CDFW is inviting affected agencies and the public to provide additional comments regarding the appropriate scope and preparation of the environmental document, especially in light of the refined project information concerning an interpretive center. As stated above, potential significant issues to be addressed in the EIR/EIS include aesthetics, air quality and greenhouse gas emissions, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, public services, recreation, sea-level rise, traffic, and utilities. Scoping comments previously submitted are already part of the administrative record and do not need to be resubmitted.

New written comments on the scope of environmental review may be submitted to the address listed below. Such comments should be submitted by March 1, 2013.

Ballona Wetlands Restoration Project
C/O Donna McCormick
1 Ada, Suite 100
Irvine, CA 92618

or by email to:
Donna.McCormick@icfi.com

Additional information on the project and the environmental review process is available on the Ballona Wetlands Restoration website at: www.ballonarestoration.org.

O11-124 cont.

EXHIBIT 5. LAND DEED AREA C

O11-124
cont.

This page is part of your document - DO NOT DISCARD

04 2398257

RECORDED/FILED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA
09/17/04 AT 08:00am

TITLE(S) :

FEE		D.T.T
FREE Z 19		
CODE 20		
CODE 19		
CODE 9____		

Assessor's Identification Number (AIN)
To be completed by Examiner OR Title Company in black ink. Number of AIN's Shown

82 2092

THIS FORM NOT TO BE DUPLICATED

O11-124 cont.

9/17/04

RECORDING REQUESTED BY

04 2398257

STEWART TITLE OF CALIFORNIA, INC.
040220853

WHEN RECORDED MAIL TO:

Wildlife Conservation Board
Department of Fish and Game
1807 13th Street, Suite 103
Sacramento, California 95814

Attention: Al Wright, Executive Director

O11-124 cont.

GRANT DEED

APN: 4211-007-001, 002, 003, 005,006

THIS DOCUMENT IS RECORDED AT THE REQUEST OF AND FOR THE BENEFIT OF THE STATE OF CALIFORNIA, AND THEREFORE IS EXEMPT FROM THE PAYMENT OF A RECORDING FEE PURSUANT TO CALIFORNIA GOVERNMENT CODE § 27383 AND FROM PAYMENT OF DOCUMENTARY TRANSFER TAX PURSUANT TO CALIFORNIA REVENUE AND TAXATION CODE § 11922

3

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Wildlife Conservation Board
Department of Fish and Game
1807 13th Street, Suite 103
Sacramento, California 95814

Attention: Al Wright, Executive Director

(Space Above This Line For Recorder's Use Only)

Assessor's Parcel Nos. 4211 007 001,
4211 007 002, 4211 007 003,
4211 007 005 and 4211 007 006

This document, recorded at the request and for the benefit of the State of California, is exempt from payment of a recording fee pursuant to Government Code section 27383 and a documentary transfer tax pursuant to Revenue and Taxation Code section 11922.

O11-124
cont.

GRANT DEED

For good and valuable consideration, receipt of which is hereby acknowledged, BNY Western Trust Company, a California banking association, successor to First Nationwide Savings as trustee under the Declaration of Trust, dated August 29, 1984, as amended on December 11, 1984, and known as the HRH Inheritance Tax Security Trust (Trust), grants to the State of California, acting by and through the Wildlife Conservation Board of the Department of Fish and Game, the real property in Los Angeles County, California, referred to in the Trust as the Playa Vista Property, commonly known as Playa Vista Area C, and described in Exhibit A, which is attached and incorporated by reference. The property is shown for reference purposes only on a map attached as Exhibit B.

This grant is made at the direction of the California State Controller, acting pursuant to Article VI of the Trust and Public Resources Code section 21080.29. The Controller's written directive to the trustee is attached as Exhibit C. This grant is subject to the restriction, set forth in Public Resources Code section 21080.29, that the property be used for conservation, restoration or recreation purposes only, with the right to transfer the property for those uses to another agency of the State of California.

The Wildlife Conservation Board has fulfilled Public Resources Code section 21080.29's prerequisite to the Controller's directive and this grant by acquiring other

04 2398257

ACKNOWLEDGMENT

State of California
County of Los Angeles

On August 5, 2004, before me, TERESA PEREA,
personally appeared Sandee' PARKS, personally known to me, and acknowledged to me that she executed the instrument in her authorized capacity, and that by her signature on the instrument, the entity on whose behalf she acted, executed the instrument.

O11-124 cont.

WITNESS my hand and official seal.

Teresa Perea

TERESA PEREA
Comm. # 1481641
NOTARY PUBLIC - CALIFORNIA
Los Angeles County
My Comm. Expires April 9, 2008

04 2398257

EXHIBIT A

O11-124
cont.

(AREA C STATE OWNED PARCEL)

DESCRIPTION: THE LAND REFERRED TO HEREIN IS SITUATED IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

THAT PORTION OF THE RANCHO BALLONA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHWESTERLY LINE OF THE INGLEWOOD DIVISION OF THE LOS ANGELES PACIFIC COMPANY (NOW PACIFIC ELECTRIC RAILWAY COMPANY) DESCRIBED IN THE DEED TO SAID COMPANY, RECORDED IN BOOK 4581 PAGE 147 OF DEEDS, RECORDS OF SAID COUNTY, WITH THE NORTHWESTERLY LINE OF THE 60 FOOT STRIP OF LAND DESCRIBED IN THE DEED TO LOS ANGLES, HERMOSA BEACH AND REDONDO RAILWAY COMPANY, RECORDED IN BOOK 1633 PAGE 143 OF SAID DEED RECORDS; THENCE ALONG SAID SOUTHWESTERLY LINE NORTH 76 DEGREES 56 MINUTES 03 SECONDS WEST 866.85 FEET, MORE OR LESS, TO THE NORTHWESTERLY LINE OF THE 42.24 ACRE TRACT OF LAND ALLOTTED TO GREGORIA TALAMANTES BY THE FINAL DECREE OF PARTITION TO SAID RANCHO LA BALLONA HAD IN CASE NO. 965 OF THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF CALIFORNIA; THENCE ALONG SAID NORTHWESTERLY LINE, SOUTH 9 DEGREES 12 MINUTES 58 SECONDS WEST 728.89 FEET SOUTH 62 DEGREES 13 MINUTES 03 SECONDS WEST 1129.02 FEET TO THE NORTHEASTERLY LINE OF LINCOLN BOULEVARD; THENCE SOUTHEASTERLY ALONG SAID NORTHEASTERLY LINE TO THE NORTHWESTERLY LINE OF THE ABOVE 60 FOOT STRIP OF LAND; THENCE ALONG SAID NORTHWESTERLY LINE, NORTH 34 DEGREES 13 MINUTES 20 SECONDS EAST 2069.14 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION OF SAID LAND LYING NORTHEASTERLY OF THE SOUTHWESTERLY LINE OF THE FOLLOWING DESCRIBED STRIP OF LAND;

A STRIP OF LAND 25.00 FEET WIDE LYING 12.50 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTER LINE:

BEGINNING AT A POINT IN THE CENTERLINE OF THE INGLEWOOD DIVISION OF THE LOS ANGELES PACIFIC COMPANY'S (NOW PACIFIC ELECTRIC RAILWAY) RAILWAY RIGHT OF WAY DISTANT SOUTH 77 DEGREES 15 MINUTES 40 SECONDS EAST 321.22 FEET FROM ITS INTERSECTION WITH THE NORTHERLY LINE OF THE GREGORIA TALAMANTES ALLOTMENT HEREINABOVE RECORDED; THENCE SOUTHERLY ON A CURVE CONCAVE TO THE RIGHT, HAVING A RADIUS OF 400 FEET, A DISTANCE OF 775.83 FEET TO A POINT IN THE CENTER OF THE TRACTS OF THE DEL REY DIVISION SOUTH 33 DEGREES 52 MINUTES 30 SECONDS WEST 583.52 FEET TO THE INTERSECTION WITH THE CENTER LINE OF THE INGLEWOOD DIVISION AFORESAID.

ALSO EXCEPT THEREFROM THAT PORTION OF SAID LAND, WITHIN A STRIP

O11-124 cont.

8

OF LAND 30 FEET WIDE, THE SOUTHWESTERLY LINE OF SAID STRIP BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTHEASTERLY LINE OF LINCOLN BOULEVARD, 100 FEET WIDE, AS DESCRIBED IN DEED TO THE STATE OF CALIFORNIA, RECORDED IN BOOK 11130 PAGE 339, OF OFFICIAL RECORDS OF SAID COUNTY, DISTANT ALONG SAID SOUTHEASTERLY LINE SOUTH 51 DEGREES 00 MINUTES 20 SECONDS EAST 98.74 FEET FROM THE SOUTHEASTERLY LINE OF LOT 7 OF PRADERA TRACT, AS SHOWN ON MAP RECORDED IN BOOK 16 PAGE 38 OF MAPS, RECORDS OF SAID COUNTY:

THENCE NORTH 51 DEGREES 00 MINUTES 28 SECONDS WEST 98.74 FEET.

PARCEL 2:

THAT PORTION OF THE RANCHO LA BALLONA, IN THE COUNTY OF LOS ANGELES, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHWESTERLY LINE OF THE INGLEWOOD DIVISION OF THE LOS ANGELES PACIFIC COMPANY (NOW PACIFIC ELECTRIC RAILWAY COMPANY) DESCRIBED IN THE DEED TO SAID COMPANY, RECORDED IN BOOK 4581 PAGE 147 OF DEEDS, RECORDS OF SAID COUNTY, WITH THE NORTHWESTERLY LINE OF THE 60 FOOT STRIP OF LAND DESCRIBED IN THE DEED TO LOS ANGELES, HERMOSA BEACH AND REDONDO RAILWAY COMPANY, RECORDED IN BOOK 1633 PAGE 143 OF SAID DEED RECORDS; THENCE ALONG SAID SOUTHWESTERLY LINE, NORTH 76 DEGREES 56 MINUTES 03 SECONDS WEST 866.85 FEET, MORE OR LESS, TO THE NORTHWESTERLY LINE OF THE 42.24 ACRE TRACT OF LAND ALLOTTED TO GREGORIA TALAMANTES BY THE FINAL DECREE OF PARTITION TO SAID RANCHO LA BALLONA HAD IN CASE NO. 965 OF THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF CALIFORNIA; THENCE ALONG SAID NORTHWESTERLY LINE, SOUTH 9 DEGREES 12 MINUTES 58 SECONDS WEST 728.29 FEET AND SOUTH 62 DEGREES 13 MINUTES 03 SECONDS WEST 1129.02 FEET TO THE NORTHEASTERLY LINE OF LINCOLN BOULEVARD; THENCE SOUTHEASTERLY ALONG SAID NORTHEASTERLY LINE TO THE NORTHWESTERLY LINE OF THE ABOVE 60 FOOT STRIP OF LAND; THENCE ALONG SAID NORTHWESTERLY LINE, NORTH 34 DEGREES 13 MINUTES 20 SECONDS EAST 2069.14 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION OF SAID LAND LYING SOUTHWESTERLY OF THE NORTHEASTERLY LINE OF THE FOLLOWING DESCRIBED STRIP OF LAND:

A STRIP OF LAND 25.00 FEET WIDE AND LYING 12.50 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTER LINE:

BEGINNING AT A POINT IN THE CENTER LINE OF THE INGLEWOOD DIVISION OF THE LOS ANGELES PACIFIC COMPANY'S (NOW PACIFIC ELECTRIC RAILWAY COMPANY) RAILWAY RIGHT OF WAY DISTANT SOUTH 77 DEGREES 15 MINUTES 40 SECONDS EAST 321.22 FEET FROM ITS INTERSECTION WITH THE NORTHERLY LINE OF THE GREGORIA TALAMANTES

O11-124 cont.

ALLOTMENT HEREINBEFORE RECITED; THENCE SOUTHERLY ON A CURVE CONCAVE TO THE RIGHT, HAVING A RADIUS OF 400 FEET, A DISTANCE OF 775.88 FEET TO A POINT IN THE CENTER OF THE TRACTS OF THE DEL REY DIVISION OF THE RAILWAY OF THE SAID LOS ANGELES PACIFIC COMPANY, DISTANT SOUTH 33 DEGREES 52 MINUTES 30 SECONDS WEST 583.52 FEET FROM ITS INTERSECTION WITH THE CENTER LINE OF THE INGELWOOD DIVISION AFORESAID.

PARCEL 3:

A STRIP OF LAND 60 FEET IN WIDTH BEING A PORTION OF THAT CERTAIN REAL PROPERTY 60 FEET WIDE, DESCRIBED IN DEED RECORDED IN BOOK 1633 PAGE 143 OF DEEDS, LOS ANGELES COUNTY RECORDS LYING BETWEEN THE NORTHEASTERLY BOUNDARY OF THAT CERTAIN REAL PROPERTY DESCRIBED IN DEED OF EASEMENT TO THE STATE OF CALIFORNIA RECORDED IN BOOK 11722 PAGE 329, OFFICIAL RECORDS, IN THE OFFICE OF THE RECORDER OF LOS ANGELES COUNTY, AND A LINE PARALLEL TO SAID NORTHEASTERLY BOUNDARY AND DISTANT NORTHEASTERLY THEREFROM 259.19 FEET, MEASURED AT RIGHT ANGLES.

PARCEL 4:

THAT PORTION OF THE RANCHO LA BALLONA, IN THE COUNTY OF LOS ANGELES, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHWESTERLY LINE OF 380 FOOT STRIP OF LAND DESCRIBED IN THE DECREE OF CONDEMNATION TO LOS ANGELES FLOOD CONTROL DISTRICT, RECORDED IN BOOK 16382 PAGE 191, OFFICIAL RECORDS OF SAID COUNTY, WITH NORTHEASTERLY LINE OF ROOSEVELT HIGHWAY; THENCE NORTHEASTERLY ALONG SAID NORTHWESTERLY LINE 2362.69 FEET, MORE OR LESS, TO THE SOUTHWESTERLY LINE OF THE LAND DESCRIBED IN THE DEED TO THE DOW CHEMICAL COMPANY, DATED MARCH 7, 1946 AND RECORDED MAY 6, 1946 AS INSTRUMENT NO. 1173, IN THE OFFICIAL RECORDS OF SAID COUNTY, THENCE ALONG SAID SOUTHWESTERLY LINE, NORTH 76 DEGREES 56 MINUTES 03 SECONDS WEST, 1010.67 FEET, MORE OR LESS, TO THE MOST WESTERLY CORNER OF THE LAND DESCRIBED IN SAID LAST MENTIONED DEED, SAID MOST WESTERLY CORNER BEING IN THE SOUTHEASTERLY LINE OF THE 50 FOOT STRIP OF LAND DESCRIBED IN THE DEED TO SAID COUNTY, RECORDED IN BOOK 4049 PAGE 265 OF DEEDS, RECORDS OF SAID COUNTY; THENCE ALONG SAID SOUTHEASTERLY LINE, SOUTH 34 DEGREES 13 MINUTES 20 SECONDS WEST, 2240.62 FEET, MORE OR LESS, TO SAID NORTHEASTERLY LINE OF ROOSEVELT HIGHWAY; THENCE ALONG SAID NORTHEASTERLY LINE, SOUTH 28 DEGREES 34 MINUTES 28 SECONDS EAST, 223.61 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION OF SAID LAND WITHIN THE LINES OF BAY STREET, AS SHOWN ON THE MAP RECORDED IN BOOK 3 PAGE 204 ET SEQ. OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

O11-124 cont.

10

ALSO EXCEPT THAT PORTION OF SAID LAND, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST WESTERLY CORNER OF THE LAND DESCRIBED IN THE DEED TO DOW CHEMICAL COMPANY, DATED MARCH 7, 1946 AND RECORDED MAY 6, 1946, AS INSTRUMENT NO. 1173, IN THE OFFICIAL RECORDS OF SAID COUNTY; SAID MOST WESTERLY CORNER IN THE SOUTHEASTERLY LINE OF THE 50 FOOT STRIP OF LAND DESCRIBED IN THE DEED TO SAID COUNTY, RECORDED IN BOOK 4049 PAGE 265 OF DEEDS, RECORDS OF SAID COUNTY; THENCE ALONG SAID SOUTHEASTERLY LINE, SOUTH 34 DEGREES 13 MINUTES 20 SECONDS WEST, 480 FEET; THENCE SOUTH 55 DEGREES 46 MINUTES 40 SECONDS EAST, 18.50 FEET; THENCE PARALLEL WITH SAID SOUTHEASTERLY LINE, NORTH 34 DEGREES 13 MINUTES 20 SECONDS EAST, 487.16 FEET TO THE SOUTHWESTERLY LINE OF SAID LAND OF THE DOW CHEMICAL COMPANY; THENCE ALONG SAID SOUTHWESTERLY LINE, NORTH 76 DEGREES 56 MINUTES 03 SECONDS WEST, 19.84 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPT THEREFROM THAT PORTION OF SAID LAND DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHEASTERLY LINE OF THAT CERTAIN 100 FOOT STRIP OF LAND DESCRIBED IN DEED TO COUNTY OF LOS ANGELES FOR LINCOLN BOULEVARD (FORMERLY ROOSEVELT HIGHWAY), RECORDED SEPTEMBER 11, 1928 IN BOOK 7188 PAGE 367, OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY, WITH THE SOUTHEASTERLY LINE OF CULVER BOULEVARD, SHOWN AS AN UNNAMED STREET ON MAP RECORDED IN BOOK 4049 PAGE 267 OF DEEDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE NORTH 34 DEGREES 12 MINUTES 47 SECONDS EAST, ALONG SAID CULVER BOULEVARD, 365.00 FEET; THENCE SOUTH 55 DEGREES 47 MINUTES 13 SECONDS EAST, 190.00 FEET; THENCE SOUTH 16 DEGREES 44 MINUTES 26 SECONDS EAST, 187.40 FEET TO A POINT IN THE NORTHWESTERLY BOUNDARY OF SAID CERTAIN 380 FOOT STRIP OF LAND DESCRIBED IN SAID DECREE OF CONDEMNATION RECORDED IN BOOK 16382 PAGE 191, OFFICIAL RECORDS OF SAID COUNTY, DISTANT NORTHEASTERLY THEREON 375.00 FEET FROM SAID NORTHEASTERLY LINE OF LINCOLN BOULEVARD; THENCE SOUTHWESTERLY ALONG SAID NORTHWESTERLY BOUNDARY 375.00 FEET TO SAID NORTHEASTERLY LINE; THENCE NORTH 28 DEGREES 34 MINUTES 28 SECONDS WEST, ALONG SAID LINCOLN BOULEVARD 223.60 FEET TO THE POINT OF BEGINNING.

PARCEL 5:

THAT PORTION OF THE RANCHO LA BALLONA, IN THE COUNTY OF LOS ANGELES, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT OF INTERSECTION OF THE SOUTHERLY LINE OF THE PACIFIC ELECTRIC RAILWAY COMPANY, INGLEWOOD DIVISION, RIGHT OF WAY, AS DESCRIBED IN DEED TO THE LOS ANGELES PACIFIC COMPANY RECORDED IN BOOK 4581 PAGE 147 OF DEEDS AND THE NORTHWESTERLY LINE OF THE 380 FEET STRIP OF LAND DESCRIBED IN THE DECREE OF

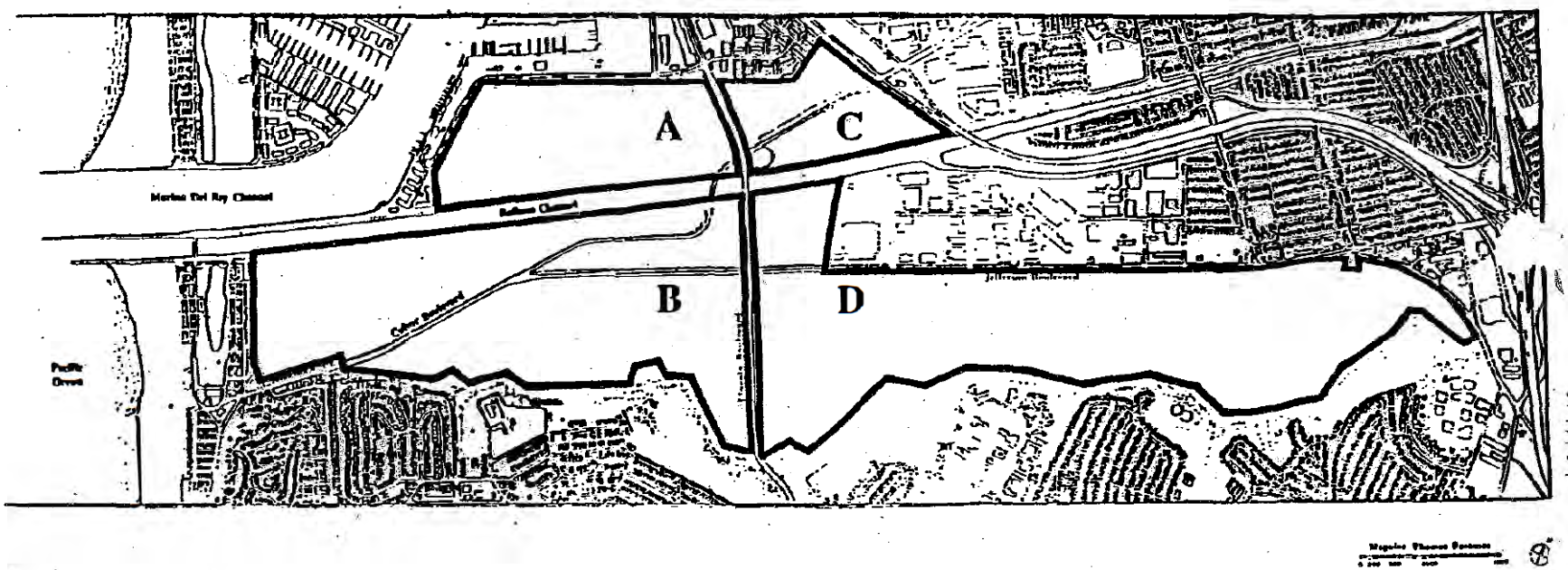
O11-124 cont.

CONDEMNATION TO LOS ANGELES COUNTY FLOOD CONTROL DISTRICT, RECORDED IN BOOK 16382 PAGE 191, OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE SOUTH 48 DEGREES 06 MINUTES 00 SECONDS WEST, ALONG SAID NORTHWESTERLY LINE OF SAID EASEMENT, 112.92 FEET; THENCE SOUTHWESTERLY 286.44 FEET, MORE OR LESS, ALONG SAID NORTHWESTERLY LINE OF SAID EASEMENT ON A CURVE CONCAVE TO THE NORTHWEST WHICH WAS A RADIUS OF 18,810.0 FEET AND THE SUBCHORD OF WHICH BEARS SOUTH 48 DEGREES 32 MINUTES 10 SECONDS WEST 286.44 FEET; THENCE NORTH 76 DEGREES 56 MINUTES 03 SECONDS WEST, 1,010.67 FEET TO THE SOUTHEASTERLY LINE OF CULVER BOULEVARD 50 FEET WIDE, AS DESCRIBED IN DEED RECORDED IN BOOK 4049 PAGE 265 OF DEEDS; THENCE NORTH 34 DEGREES 18 MINUTES 20 SECONDS EAST, ALONG SAID SOUTHEASTERN LINE OF CULVER BOULEVARD, 76.97 FEET; THENCE ALONG THE SOUTHEAST LINE OF THE TRIANGULAR PARCEL DESCRIBED IN DEED TO LOS ANGELES, HERMOSA BEACH AND REDONDO RAILWAY COMPANY, RECORDED IN BOOK 1633 PAGE 143 OF DEEDS, AS FOLLOWS: SOUTH 55 DEGREES 46 MINUTES 40 SECONDS EAST, 18.00 FEET AND NORTH 52 DEGREES 43 MINUTES 20 SECONDS EAST, 173.15 FEET AND NORTH 68 DEGREES 38 MINUTES 38 SECONDS EAST, 70.00 FEET AND NORTH 79 DEGREES 49 MINUTES 23 SECONDS EAST, 115.00 FEET AND NORTH 85 DEGREES 30 MINUTES 23 SECONDS EAST, 139.57 FEET TO THE SOUTHERLY LINE OF SAID PACIFIC ELECTRIC COMPANY RIGHT OF WAY; THENCE SOUTH 76 DEGREES 56 MINUTES 03 SECONDS EAST, ALONG SAID NORTHEASTERLY LINE OF SAID RIGHT OF WAY 790.12 FEET, TO THE POINT OF BEGINNING.

O11-124 cont.

EXHIBIT B

O11-124
cont.



PLAYA VISTA - Site Area

O11-124
cont.

9/17/04

04 2900957

13

14

EXHIBIT C

O11-124
cont.

9/17/04

15

STEVE WESTLY
California State Controller

July 7, 2004

Sandee Parks, Vice President
BNY Western Trust Company
Trustee Under HRH Inheritance Tax Security Trust
700 South Flower Street, Suite 500
Los Angeles, CA 90017

RE: Controller's Directive to Trustee to Convey Title to Playa Vista Area C to Wildlife Conservation Board

Dear Ms. Parks:

On August 29, 1984, First Nationwide Savings, predecessor to BNY Western Trust Company, as trustee, Summa Corporation, as trustor, and the Controller of the State of California, as beneficiary, entered into a Declaration of Trust known as the HRH Inheritance Tax Security Trust. This trust agreement was amended and restated in an Amendment to Declaration of Trust dated December 11, 1984. Pursuant to Article VI of the Amendment to Declaration of Trust, the State of California, acting through the State Controller, has the right and power to direct the trustee to convey title to all or part of the trust estate to the State or an agency of the State only if enabling legislation for the conveyance of title is enacted. This enabling legislation was enacted as Chapter 739 of the Statutes of 2003 and was codified in section 21080.29 of the Public Resources Code.

O11-124 cont.

Section 21080.29(c)(1) of the Public Resources Code provides:

> "If the Wildlife Conservation Board of the Department of Fish and Game acquires property within the coastal zone that is a minimum of 400 acres in size pursuant to a purchase and sale agreement with Playa Capital Company, LLC, the Controller shall direct the trustee under the Amendment to Declaration of Trust entered into on or about December 11, 1984, by First Nationwide Savings, as trustee, Summa Corporation, as trustor, and the Controller, as beneficiary, known as the HRH Inheritance Tax Security Trust, to convey title to the trust estate of the trust, including real property commonly known as Playa Vista Area C, to the State of

300 Capitol Mall, Suite 1850, Sacramento, CA 95814 ♦ P.O. Box 942850, Sacramento, CA 94250
Phone: (916) 445-2636 ♦ Fax: (916) 445-6379 ♦ Web Address: www.sco.ca.gov ♦ E-Mail: steve@sco.ca.gov
2-1554

04 2398257

9/1/04

> California acting by and through the Wildlife Conservation Board of the Department of Fish and Game for conservation, restoration, or recreation purposes only, with the right to transfer the property for those uses to any other agency of the State of California."

Section 21080.29(c)(2) of the Public Resources Code provides:

> "This subdivision shall constitute the enabling legislation required by the Amendment to Declaration of Trust to empower the Controller to direct the trustee to convey title to the trust estate under the HRH Inheritance Tax Security Trust to the State of California or an agency thereof."

The Wildlife Conservation Board has made the property acquisition from Playa Capital that is the prerequisite to the Controller's making a directive to the trustee to convey title to the trust estate, which is Playa Vista Area C, to the Wildlife Conservation Board. Therefore, acting pursuant to the trust agreement and the enabling legislation, the Controller directs the trustee to convey to the Wildlife Conservation Board title to Playa Vista Area C, which comprises the trust estate under the HRH Inheritance Tax Security Trust. The conveyance is to be subject to the restrictions set forth in the enabling legislation. Those restrictions are that the Wildlife Conservation Board shall use the property for conservation, restoration, or recreation purposes only, with the right to transfer the property for those uses to another agency of the State.

O11-124 cont.

A Quitclaim Deed for making the conveyance subject to this directive is enclosed.

Sincerely,

STEVE WESTLY
California State Controller

SW/ac

Enclosure

04 2398257

EXHIBIT D

O11-124
cont.

18

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.

O11-124 cont.

Motion carried.

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Wildlife Conservation Board
Department of Fish and Game
1807 13th Street, Suite 103
Sacramento, California 95814

Attention: Al Wright, Executive Director

(Space Above This Line for Recorder's Use Only)

Assessor's Parcel Nos. 4211 007 001,
4211 007 002, 4211 007 003,
4211 007 005 and 4211 007 006

This document, recorded at the request and for the benefit of the State of California, is exempt from a recording fee pursuant to section 27283 of the Government Code.

O11-124 cont.

CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORDING
(Government Code section 27281)

The State of California, acting by and through the Wildlife Conservation Board of the Department of Fish and Game, certifies that it accepts the interest in the real property conveyed by the Grant Deed, dated August 5, 2004, from BNY Western Trust Company, a California banking association, successor trustee under the HRH Inheritance Tax Security Trust, to the State of California, acting by and through the Wildlife Conservation Board of the Department of Fish and Game, and consents to the recording in this Grant Deed.

This acceptance and consent to recording is made on behalf of the State of California, acting by and through the Wildlife Conservation Board of the Department of Fish and Game, by its Executive Director, pursuant to authority conferred by the action of the Wildlife Conservation Board, as reflected in the minutes of its regular public meeting on September 30, 2003.

Dated: August 13, 2004.

Wildlife Conservation Board

By _____
Al Wright, Executive Director

Acknowledgment of signature attached.

I hereby certify that all conditions for exemption have been complied with and this document is exempt from Department of General Services approval.
WILDLIFE CONSERVATION BOARD
By: _____
(authorized signatory)

2-1558

04 2398257

9/17/04 **Comment Letter O11**

20

ACKNOWLEDGMENT

State of California
County of Sacramento

On 8/13, 2004, before me, Terri L. Muzik, Notary Public

personally appeared AC Wright, ✓ personally known to me, or_____ proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the instrument in his authorized capacity, and that by his signature on the instrument, the person, or entity on whose behalf the person acted, executed the instrument.

O11-124 cont.

WITNESS my hand and official seal.

Terri L. Muzik

TERRI L. MUZIK
Comm. # 1288856
NOTARY PUBLIC-CALIFORNIA
Sacramento County
My Comm. Expires Dec. 30, 2004

04 2398257

EXHIBIT 6. DRAIN PIPE RISER

O11-124
cont.

O11-124
cont.

EXHIBIT 7. WETLAND DELINATION MAPS

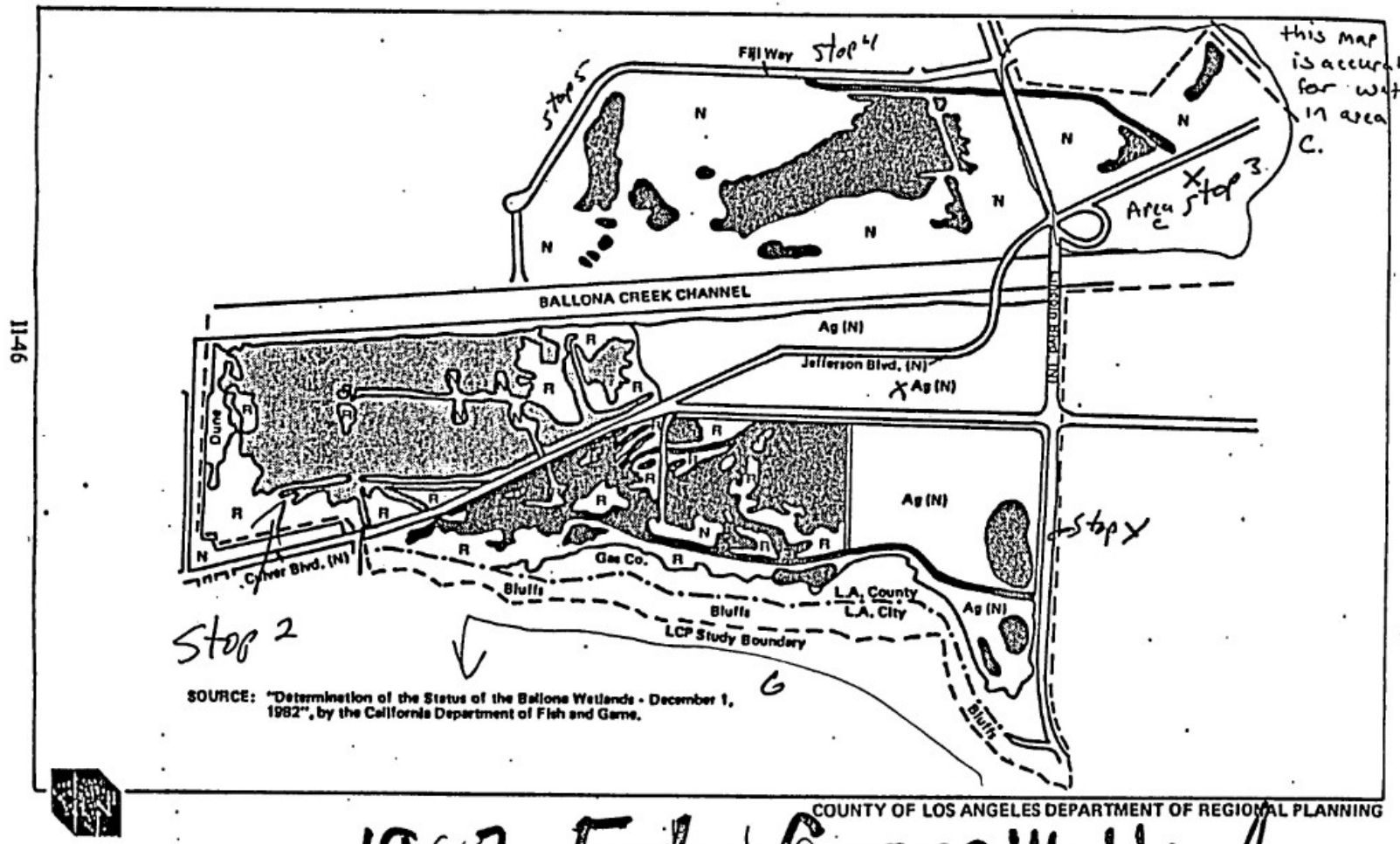
O11-124 cont.

local coastal program

marina del rey/ba

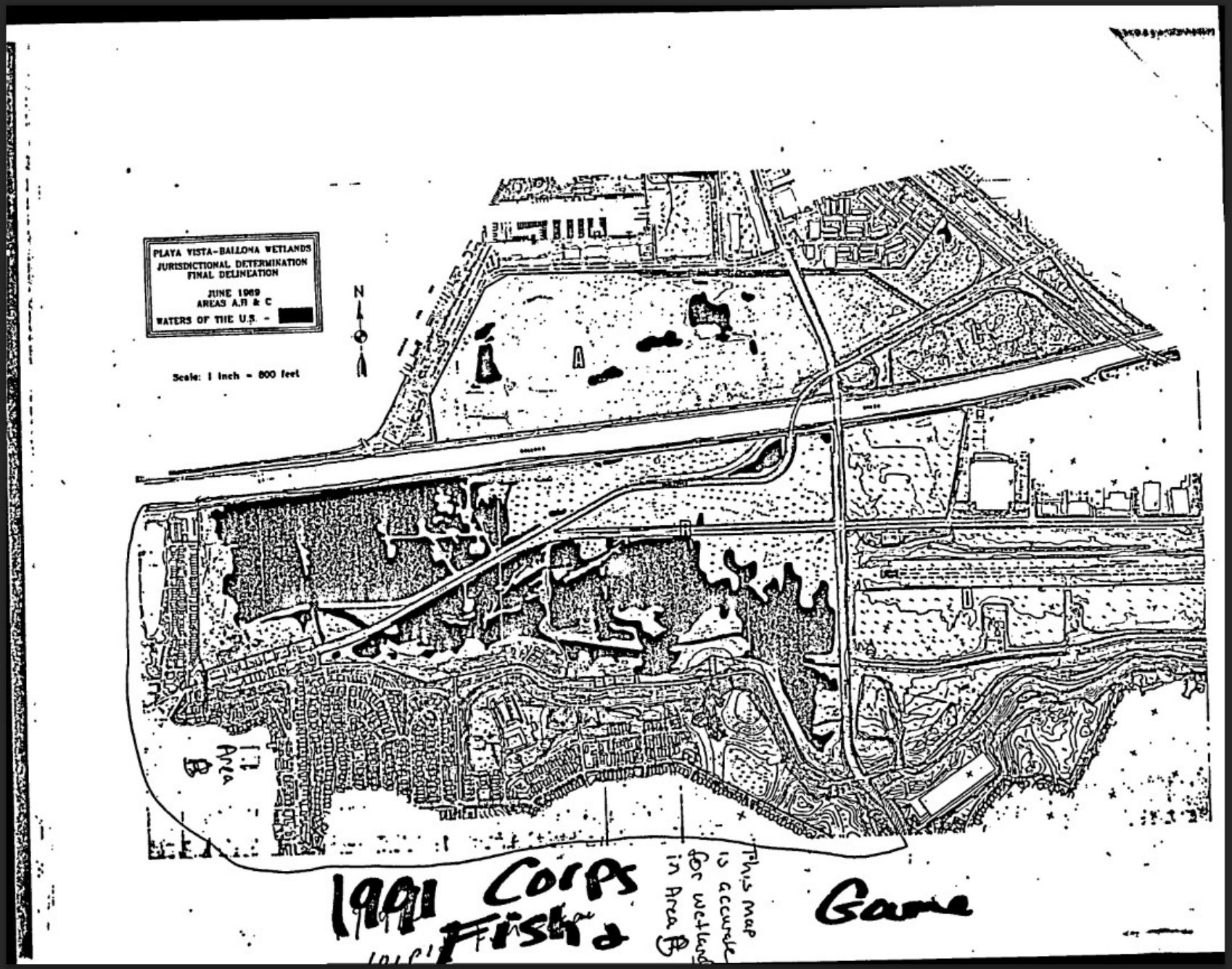
map 14

PRESENT STATUS OF THE BALLONA REGION



1982 Fish + Game Wetland

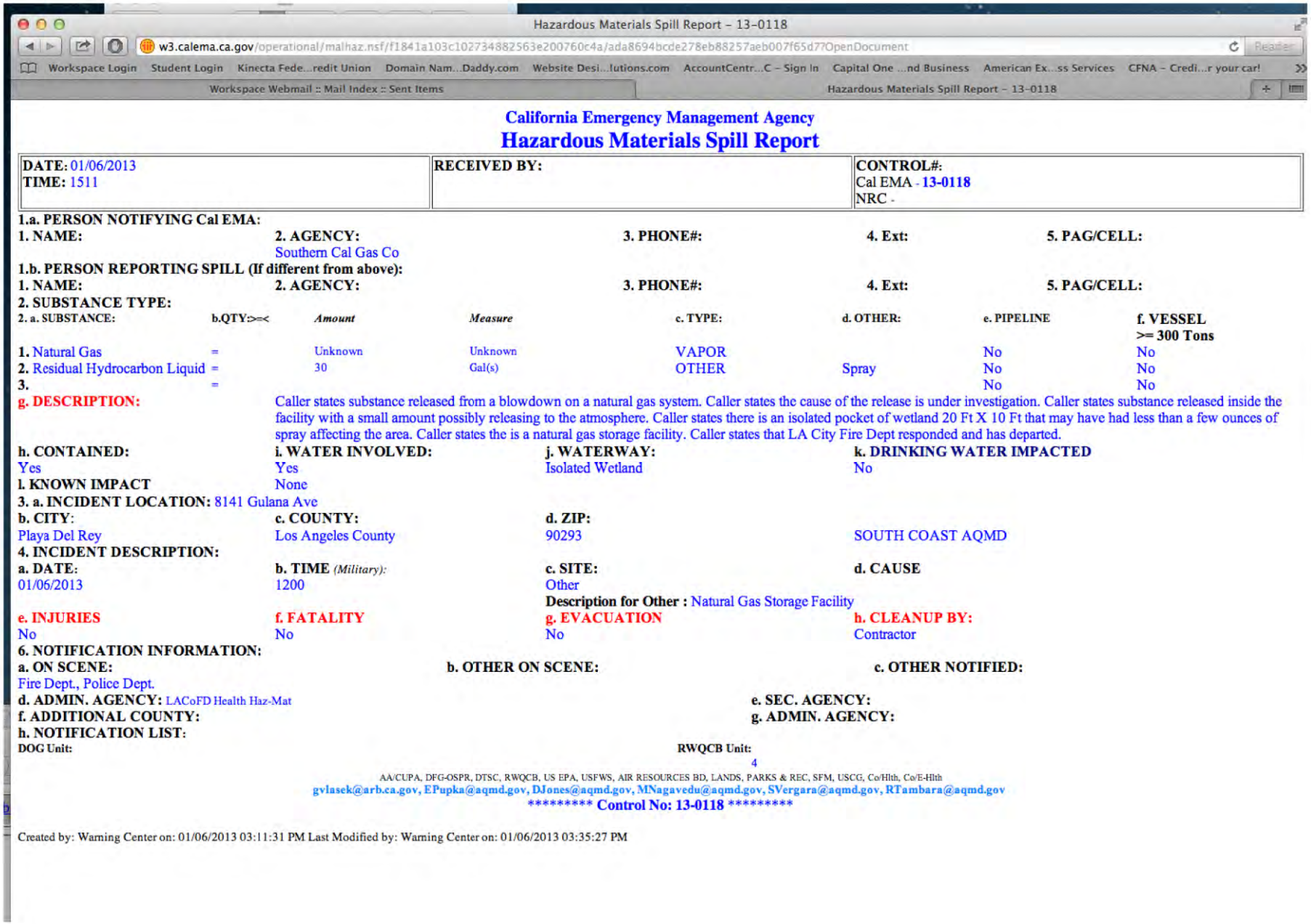
O11-124 cont.


PLAYA VISTA-BALLONA WETLANDS
JURISDICTIONAL DETERMINATION
FINAL DELINEATION
JUNE 1989
AREAS A, B & C
WATERS OF THE U.S.
Scale: 1 inch = 800 feet
N
A
B
Area B
1991 Corps
Fish &
Game
This map is accurate for wetlands in Area B

O11-124 cont.

EXHIBIT 8. GAS COMPANY PICTURE AND SPILL REPORT

O11-124
cont.



Hazardous Materials Spill Report – 13-0118

w3.calema.ca.gov/operational/malhaz.nsf/f1841a103c102734882563e200760c4a/ada8694bcde278eb88257aeb007f65d7?OpenDocument

Workspace Login | Student Login | Kinecta Fede...redit Union | Domain Nam...Daddy.com | Website Desi...lutions.com | AccountCentr...C – Sign In | Capital One ...nd Business | American Ex...ss Services | CFNA – Credi...r your car!

Workspace Webmail :: Mail Index :: Sent Items | Hazardous Materials Spill Report – 13-0118

California Emergency Management Agency

Hazardous Materials Spill Report

DATE: 01/06/2013 **TIME:** 1511	**RECEIVED BY:**	**CONTROL#:** Cal EMA - **13-0118** NRC -

1.a. PERSON NOTIFYING Cal EMA:

1. NAME:	2. AGENCY:	3. PHONE#:	4. Ext:	5. PAG/CELL:
	Southern Cal Gas Co			

1.b. PERSON REPORTING SPILL (If different from above):

1. NAME:	2. AGENCY:	3. PHONE#:	4. Ext:	5. PAG/CELL:

2. SUBSTANCE TYPE:

2. a. SUBSTANCE:	b.QTY>=<	*Amount*	*Measure*	c. TYPE:	d. OTHER:	e. PIPELINE	f. VESSEL >= 300 Tons
1. Natural Gas	=	Unknown	Unknown	VAPOR		No	No
2. Residual Hydrocarbon Liquid	=	30	Gal(s)	OTHER	Spray	No	No
3.	=					No	No

g. DESCRIPTION: Caller states substance released from a blowdown on a natural gas system. Caller states the cause of the release is under investigation. Caller states substance released inside the facility with a small amount possibly releasing to the atmosphere. Caller states there is an isolated pocket of wetland 20 Ft X 10 Ft that may have had less than a few ounces of spray affecting the area. Caller states the is a natural gas storage facility. Caller states that LA City Fire Dept responded and has departed.

h. CONTAINED:	i. WATER INVOLVED:	j. WATERWAY:	k. DRINKING WATER IMPACTED
Yes	Yes	Isolated Wetland	No

l. KNOWN IMPACT None

3. a. INCIDENT LOCATION: 8141 Gulana Ave

b. CITY:	c. COUNTY:	d. ZIP:	
Playa Del Rey	Los Angeles County	90293	SOUTH COAST AQMD

4. INCIDENT DESCRIPTION:

a. DATE:	b. TIME *(Military)*:	c. SITE:	d. CAUSE
01/06/2013	1200	Other	

Description for Other : Natural Gas Storage Facility

e. INJURIES	f. FATALITY	g. EVACUATION	h. CLEANUP BY:
No	No	No	Contractor

6. NOTIFICATION INFORMATION:

a. ON SCENE: Fire Dept., Police Dept.

b. OTHER ON SCENE:

c. OTHER NOTIFIED:

d. ADMIN. AGENCY: LACoFD Health Haz-Mat

e. SEC. AGENCY:

f. ADDITIONAL COUNTY:

g. ADMIN. AGENCY:

h. NOTIFICATION LIST:

DOG Unit:

RWQCB Unit: 4

AA/CUPA, DFG-OSPR, DTSC, RWQCB, US EPA, USFWS, AIR RESOURCES BD, LANDS, PARKS & REC, SFM, USCG, Co/Hlth, Co/E-Hlth

gvlasek@arb.ca.gov, EPupka@aqmd.gov, DJones@aqmd.gov, MNagavedu@aqmd.gov, SVergara@aqmd.gov, RTambara@aqmd.gov

********* **Control No: 13-0118** *********

Created by: Warning Center on: 01/06/2013 03:11:31 PM Last Modified by: Warning Center on: 01/06/2013 03:35:27 PM

O11-124 cont.

O11-124
cont.

Angeles Chapter
Airport Marina Regional Group
3435 Wilshire Blvd. Ste. 660
Los Angeles Ca. 90010-1904

October 7, 2014

U.S. Secretary of the Army
Cc: Office of the Honorable Henry Waxman
Cc: Office of the Honorable Diane Feinstein
Cc: Office of the Honorable Maxine Waters

Distinguished Secretary of the Army, John McHugh,

The Sierra Club respectfully seeks the assistance of the Secretary of the Army.

The goals and policies of the Club are in part to; enjoy and protect the wild places of the earth; to promote the responsible use of the earth's ecosystems and resources; to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives; to sustain natural life-support systems, avoid impairing them, and avoid irreversible damage to them; to facilitate species survival; to maintain genetic diversity: to avoid hastened extinction of species; to protect prime natural habitat: to establish and protect natural reserves, including representative natural areas in each biome, displays of natural phenomena, and habitats for rare and endangered species. The Club furthermore promotes access to the environment for recreational purposes.

O11-124 cont.

U.S. Public Law 780, the Rivers and Harbors Act of 1954 was signed into law by the President and Commander in Chief of the Armed Forces. The project of concern to the Sierra Club is named the Inlet at Playa del Rey (Marina del Rey).

Federal participation in the project was and is predicated on the condition of the non-federal local sponsor providing without cost to the United States all lands, easements, and rights of way for the for the construction and maintenance of the proposed improvements.

However, the benefiting Agency, USACE, has failed to note ownership to the federal record in accordance with the aforesaid condition and, thusly, ownership of the United States has not been officially recorded U.S. Bureau of Land Management as required by federal law.

The federal government has participated in the project, nonetheless, and has constructed and maintained and funded the project for over fifty years inclusive of unauthorized changes made thereto. As a result the goals of the Sierra Clubs interests have been affected by adversely.

REQUEST 1.
Inform the Congress of the United States the benefiting Agency has failed to note to the record of the U.S. Bureau of Land Management the federal of ownership of the project.

REQUEST 2.
Inform the Congress of the United States that major unauthorized changes have been made to the project since 1954 that are inconsistent with the conditions set forth by Congress in House of Representatives Document 389, 83rd Congress, Second Session.

REQUEST 3.
The Sierra Club requests that the Secretary of the Army note to the federal record a deed of all lands, easements, and rights of way in full conformance with the conditions set forth in H.D. 389, page 7, to the official record of the United States Bureau of Land Management as required by OMB Circular No. A-16, Coordination of Geographic Information and Related Spatial Data Activities (Draft 6/20/01 edition) and 43 U.S.C. 18, Acts of January 23,1823 and July 4, 1836.

REQUEST 4.
Cease and desist from approving and prosecuting flood control projects at the Oxford Lagoon (basin) and Ballona Creek and or Ballona Ecological Reserve if and until the Secretary of the Army answers the resolution of the Congress dated September 28th, 1994, requesting the Secretary of the Army to review H.D. 389 to determine whether modifications of the recommendations contained therein are advisable the present time in the interest of navigation, hurricane, and storm damage reduction, environmental restoration, and other purposes at Marina del Rey Harbor, Los Angeles California, given that both projects are within the geographic scope of the General Plan of Improvement authorized by the Congress in H.D. 389.

O11-124 cont.

NOTE 1.
USACE Los Angles District engaged and EIS/EIR process under the aforesaid authorization (Resolution) on September 20th, 2005 as recorded in the Federal Register (Volume 70, Number 181) [Notices]{Page 55116-55117}.

USACE Los Angeles District entered into a non-federal sponsor agreement in this case with a member of the public, without requiring any credentials, absent authorization to represent the State of California. (FOIA Response from USACE Los Angeles District Dated October 23, 2012)

Subsequently, the same member of the public requested the USACE Los Angeles District terminate the responding EIS/EIR and, thusly, not respond to the Congressional Resolution authorizing the project. Recorded in the Federal Register on September 26, 2012, Volume 77, No.187/Notices Page 59180.

The Secretary of the Army was exclusively tasked with reporting to Congress and neither the State nor a member of the public is authorized to engage and or terminate that process.

REQUEST 5.

Require the USACE Los Angles District to complete a final accounting and close out of the Environmental Statement Process and Local non-federal sponsor Environmental Impact Report that was authorized by the aforesaid resolution of Congress. The action was recorded in the Federal Register on September 20, 2005 (Volume 70, Number 181) [Page 55116-55117] and subsequently terminated at the request of the Local non-federal sponsor (member of the public) on September 26, 2012 as recorded in the Federal Register on September 26, 2012, Volume 77 No. 187 / Notices, without the Secretary of the Army responding to the aforesaid Congressional Resolution.

NOTE 2.
Over two-million federal dollars have been spent, yet the USACE Los Angeles District has failed to date to conduct a final accounting for that process terminated in 2012. The final accounting was due 60 days after the completion of the project and remains incomplete as of the date of this letter.

REQUEST 6.
Employ the rates established by the Congress for the project that are reasonable with equal access to all, rather than market rates currently employed which are contradictory to the conditions set forth by Congress.

NOTE 3.
On November 9, 1987, the local non-federal sponsor took the following action at the Board of Supervisors meeting to revise boat slip price review boat slip price review procedure for Marina del Rey dated October 16th, 1984. The result was to implement fair market value, which has since replaced the rate conditions set forth in H.D. 389, commercializing a federal project, thereby, absent authorization from Congress to change the conditions. Access to the public has, thusly, been restricted.

O11-124 cont.

CONDITIONAL REQUIREMENTS OF THE PROJECT AND CURRENT STATUS

NOTE 4.
References to U.S. Public Law 780 and the Congressional Authorization in House of Representatives No. 389 are referred to as **(U.S. Public Law 780 HD 389)**

References to the National Oceanic and Atmospheric Agency document named ~~Sea~~ Grant Working Paper 1B The Development of the Marina, Sea Grant Publication No. ~~USC-SG-5-72~~. are noted as **(NOAA Sea Grant)**. The report records the unauthorized changes and commercialization of the federal project.

Reference to U.S. Bureau of Land Management **(BLM)** is to a September 7, 2012 email from the BLM to a Sierra Club member in regard to the required recordation of all lands easements and rights of way provided by the local interest to the United States without cost pursuant to the conditions set forth in H.D. 389 Page 7.
END NOTE 4.

The General Plan of improvement was authorized by the Congress, and the conditions of federal participation in the project were specifically described and set forth in House of Representatives Document 389 2nd Session, 83rd Congress.

(U.S. Public Law 780 HD 389) Page 7

"The Board (County of Los Angeles Board of Supervisors) agreed…as it is authorized by law…to assume the following obligations.

*(1) **Provide** without cost to the United States **all lands, easements, and rights-of-way** for the construction and maintenance of the proposed improvements;*

(NOAA Sea Grant) Page 5

"The site of the Marina is totally owned by Los Angles County but most of the land and some of the water area is leased to private developers."

(BLM)

"-------- Original Message --------
Subject: RE: From John Davis Requesting Assistance in regard to Land Deed to the U.S. from California
From: "Montgomery, Karen" <k15montg@blm.gov>
Date: Fri, September 07, 2012 5:02 pm
To: PRIVATE ADDRESS DELETED>
Cc: "Staszak, Cynthia" <cstaszak@blm.gov>

Upon our investigation, we were able to locate several references addressing land title records and the Bureau of Land Management's (BLM's) responsibility to maintain them, two of which are listed below:

By federal statute the BLM is required to make a copy of papers affecting the title of land granted by the United States.Whenever any person claiming to be interested in or entitled to land, under any grant or patent from the United States, applies to the Department of the Interior for copies of papers filed and remaining therein, in anywise affecting the title to such land, it shall be the duty of the Secretary of the Interior to cause such copies to be made out and authenticated, under his hand and the seal of the Bureau of Land Management, for the person so applying. 43 U.S.C. 18, Acts of January 23,1823 and July 4, 1836.
The Office of Management and Budget has designated BLM the lead Federal agency with responsibility for Federal Land Ownership Status.
Federal land ownership status includes the establishment and maintenance of a
system for the storage and dissemination of information describing all title, estate
or interest of the federal government in a parcel of real and mineral property. The
ownership status system is the portrayal of title for all such federal estates or interests in land. OMB Circular No. A-16, Coordination of Geographic Information and Related Spatial Data Activities (Draft 6/20/01 edition).
The above citations verify BLM's responsibility to maintain the "official records" pertaining to Federal Land Ownership Status. These "Land Status Records" are identified in Historical Indices (HI's) and depicted on Master Title Plats (MTP's). HI's are a chronological listing of all actions that affect the use of title to public land and resources for each township. MTP's are

O11-124 cont.

graphic representations of current Federal ownership, agency jurisdiction, and rights reserved to the federal government on private land.

Maintaining these official records is an ongoing process. Although we currently have a backlog of necessary notations, once an official action/request is received, every effort is made to update the official record as soon as possible.

Regarding your specific situation; it is unfortunate a deed executed over fifty years ago has not been noted to the "record". Until the BLM receives a request for notation from a benefitting agency, we are unable to note transactions. We suggest you contact the Army Corps of Engineers concerning the status of the deed in question.

Karen Montgomery Realty Specialist, CA State Lead
California State Office BLM
2800 CoBage Way, Suite 1928W
Sacramento, CA 95825
Office 916-978-4647 FAX 916-978-4657
!
Preservaon begins!with Conservation"

O11-124 cont.

(NOAA Sea Grant) Page 9

"Were the public subsidies from the Federal government and the County general fund justified?"

U.S. Public Law 780 does not exclude non-submerged lands from the project, which represents the integration of a compressive small craft harbor consisting of submerged and non-submerged lands, as set forth in the General Plan of Improvement and which conditions were authorized and set forth by Congress.

To ensure effective use of thereof the facilities provided by the federal government, vessel berthing and shore works were necessary to be furnished (provided) by the local interest. Page 11 of H.D. 389 informs that local interests were to agree to provide adequate berthing and other facilities for small craft and provide adequate parking areas.

(U.S. Public Law 780 HD 389) U.S. Public Law 780 Page 1

Public Law 780 – 83rd Congress 2d Session Chapter 1264, H.R. 9859 AN ACT Title 1 – Rivers and Harbors, authorized the construction, repair, and preservation of certain public works on rivers and harbors for navigation, **flood control**, **and for other purposes**. The Law reads in part:

"Sec. 101. That the following works of improvement of rivers and harbors and other waterways for navigation, ***flood control, and other purposes*** *are* ***hereby adopted and authorized*** *to be prosecuted under the direction of the Secretary of the Army and supervision of the Chief of Engineers,* ***in accordance with the plans and subject to the conditions*** *recommended by the Chief of Engineers in the respective* ***reports hereinafter designated: … California Playa del Rey Inlet and Harbor, Venice, California: House Document 389, Eighty-third Congress****:*

Provided, That Federal participation in the provisions of entrance jetties, entrance channel, interior channel and central basin recommended in the project report and presently estimated to cost $7,738,000 shall not exceed 50 per centum of the cost thereof.

Therefore, shore-works are integrated into the federal project, and were not excluded were not to be under the exclusive control of the non-federal sponsor, the County of Los Angeles.

To ensure effective use of the of the facilities provided by the federal government, vessel berthing and shore works were necessary to be furnished by the local interest. A rate reasonable with equal access is a project condition.

Currently there are about 3000 slips left, and the USACE Los Angles District has allowed the County of Los Angeles to reduce small craft facilities including berths, and parking favoring large yacht slips and luxury development on former boater parking facilities. Access to the public has, thusly, been restricted.

(U.S. Public Law 780 HD 389) HD 389 Page 7

" *Provide without cost to the United States all necessary slips and slip facilities and facilities for repair service, and supply of small craft on terms reasonable and equal access to all:"*

O11-124 cont.

(NOAA Sea Grant) Page 97

"In summary, the basic land use scheme for the Marina was changed from a planned water-related recreation facility to become a residential real estate development…
The tendency to allow almost unlimited development of apartments with high population densities is primarily responsible for the change in the purpose and function of Marina development.

(NOAA Sea Grant) 26-7

"Apartments, restaurants, banks, clothing stores and similar non-recreational uses not only were included in the Marina, but began to be the dominant characteristic of this public recreational facility."

"The change in the basic round form of the Marina to Nicholson's design proposal did more than merely make for more efficient use of land and water area. The new design precluded the use of the Marina by small boats seeking protected waters for recreational boating. This greatly changed the character of he Marina from the traditional recreational harbor, to a berthing harbor whose waters are used only for entrance and exit. ***The Corp of Engineers commented on this loss of a sailing basin but said the plan was acceptable if cost had to be the governing factor.***

This was perhaps the first example in Marina del Rey planning in which a policy decision for the public recreation facility imitated the private market: it is expensive to build a marina, ***therefore it should be designed only for those who can afford such expenses****….No consideration is given to the fact the change*

would alter the demand for launching facilities, or that it might affect the optimal boat capacity for which the Marina should be planned.

The change by Nicholson's plan eliminated a large part of the boating public--- those who owned small boats, which are unsuited for use in the open sea. By making the Marina primarily a berthing harbor, the Plan in effect limited its use to sea-going and therefore larger, more expensive boats.

The change in the character is never acknowledged in any Marina plan documents.

(U.S. Public Law 780 HD 389) HD 389 Page 11

"The harbor would be built almost wholly for the benefit of pleasure craft owned by private individuals in the Los Angeles area."

We note that the proposed report of the Chief of Engineer indicates that the Department of the Army also has serous question as to the soundness of a policy of spending Federal funds on a Single-purpose project primarily of the benefit of local pleasure craft owners."

(a) Provide without cost to the United States all rights of way necessary for construction and maintenance of the improvement…

(b) secure and hold in public interest lands bordering on the proposed development to a width sufficient for the proper functioning of the harbor…

O11-124 cont.

(f) provide adequate berthing and other facilities for small craft…(g) provide adequate parking areas… "

(h) establish a public body to regulate the use and development of the harbor facilities which shall be open to all on equal terms

(U.S. Public Law 780 HD 389) HD 389 Page 13

"3. The proposed improvements are designed to meet recreational boating needs…" Resolved by the Committee on Commerce of the Unites States Senate, That the Board of Engineers for Rivers and Harbors created under section 3 of the River and Harbor Act approved June 13, 1902…"

(U.S. Public Law 780 HD 389) HD 389 Page 15

"The District Engineer finds there is need for additional harbor facilities for small craft…

He estimates that on the basis of the California average of 2.79 boats per 1,000 population, the immediate tributary area would sustain about 6,500 small craft, and on the basis of the Los Los Angeles average of 1.6 per 1, 000 population, the remainder of the tributary area would sustain and additional 960 craft. He points out the number

of craft using the harbor would greatly exceed these figures insomuch as the tributary areas contains a high percentage of persons most able to own small craft and the population is steadily increasing.

He concludes that the present and future needs of the tributary area require an improvement with an ultimate capacity of 8000 craft and estimates that half the ultimate capacity with be reached within 5 years after construction of the improvement."

(U.S. Public Law 780 HD 389) HD 389 Page 17

VIEWS AND RECOMMENDATIONS FO THE BOARD OF ENGINEERS FOR RIVERS AND HARBORS

9. The board of Engineers for Rivers and Harbors concurs in the view of the reporting officer that a need exists for a harbor with an ultimate capacity of 8,000small craft in the vicinity of Playa del Rey…

(U.S. Public Law 780 HD 389) HD 389 Page 18

"Local interests state they will meet the requirements of local cooperation as indicated by this Board."

.Local interests agree to:

(a) provide without cost to the United States all rights of way necessary for construction and maintenance of the improvement…

(b) *secure and hold in public interest lands bordering on the proposed development to a width sufficient for the proper functioning of the harbor**…***

(h) establish a public body to regulate the use and development of the harbor facilities, which shall be open to all on equal terms.

(f) provide adequate berthing and other facilities for small craft…(g) provide adequate parking areas… "

(U.S. Public Law 780 HD 389) HD 389 Page 19

10. The Board accordingly recommends…

(a) provide without cost to the United States all rights of way necessary for construction and maintenance of the improvement…

(b) *secure and hold in public interest lands bordering on the proposed development to a width sufficient for the proper functioning of the harbor**…***

(f) provide adequate berthing and other facilities for small craft…(g) provide adequate parking areas… "

(h) establish a public body to regulate the use and development of the harbor facilities, which shall be open to all on equal terms…

(U.S. Public Law 780 HD 389) HD 389 Page 27-8

A part of the proposed harbor area would be over the Del Rey Hills area and the oceanfront or Venice area of the Playa del Rey oilfield.

O11-124 cont.

IMPROVEMENTS DESIRED

"32. Public Hearings -------- Two public hearings were held in Venice Calif. By the district engineer to consider the advisability of improving Playa del Rey, one on July 29, 1936 and the other on August 12, 1938, in connection with the preliminary examination report. The hearings were attended by public officials, real estate and other business interests and representatives of various civic organizations as well as the general public.

The improvements desired by the Regional Planning Commission consisted of.

(6) constructing boat facilities and recreational park improvements; and

(7) purchasing rights-of-way and land

Local interests' justification of the desired project-

Local interests are unanimous in desiring improvement of Playa del Rey Inlet and Basin for small craft navigation. They offer the following considerations in support of the navigation improvements.

(a) There is a need for added mooring space for small craft in Santa Monica Bay, in view of the increasing scarcity at small craft anchorage areas in Los Angeles Harbor and because of the inconvenience attending the use of that harbor.

O11-124 cont.

(b) The desired improvements are required for recreation and small craft boating by people living in the northern part of Los Angeles County which includes the heavily populated Los Angles city area as well as Hollywood, Beverly Hills, Culver City, Inglewood, Santa Monica and other sub urban districts.

(c) The improvement would be an effective aid in the development of the boatbuilding industry.

(d) The improvement would satisfy an increasing need for small craft facilities, create a widespread economic benefit through an increase in permanent employment and in business and cause in increase in values of both real estate and other property, thereby increasing the tax base.

(U.S. Public Law 780 HD 389) HD 389 Page 29

37. The population of 2,308,000 in the tributary area of Playa del Rey gives and indication that about 6,500 boats would be available for berthing in the harbor…

38. Insomuch as the area tributary to Play del Rey contains a high percentage of persons most able to own small craft, it is expected that the number of 6,500 slips would be considerably exceeded.

To be prepared for future requirements the proposed harbor would have a capacity of 8,000 craft.

(U.S. Public Law 780 HD 389) HD 389 Page 32-3

54. The elliptical harbor would have the capacity for about 5,200 boats. Local interests now believe that a harbor of that capacity would be inadequate to meet all the demands for anchorage…

55. Accordingly, considerations was given to straightening the proposed entrance. This would result in a long and rather wide entrance that would require a large area which would not make the most efficient use of the available space.

59. Recommended plan – The plan recommended by the district engineer provides for he following principal features as shone on enclosure 1.

(d) a main interior channel,600 ft wide and 5,600 long and two southerly side basins(designated C and K), all dredged to a depth of 20 feet below mean lower low water. (h) Slips and facilities for berthing, servicing, supplying, and repairing small craft

60. Under the general plan, 11 mole---style piers and the entrance abutments would divide the bay into 12 side basins with a capacity for berthing 8,000 small craft at slips.

RECOMMENDATIONS

93. The district engineer recommends that a project be adopted to establish a harbor for small---craft navigation at Playa del Rey, Calif, as follows…construct adequate harbor facilities for operating, berthing, maintain, repairing, servicing, and supplying small craft…

95. The district engineer further recommends that adoption of the project be subject to conditions that the local interests shall give assurances satisfactory to the Secretary of the Army that the required cooperation will be furnished,….

"Providing adequate harbor facilities for operation, berthing, maneuvering, repairing, servicing and supplying small craft and developing the harbor for park and recreational purposes…(2) preparing definite plans and construction schedules for construction of a small---craft facilities, including the mole type piers, which shall be subject to the approval of the Army."

CONCLUSION

The end result is that the people of the United States have fully funded, constructed, and maintained project which required federal ownership and control.

The USACE, the benefiting Agency has failed to comply with the provisions of the Congressional authorization, has made major changes to the harbor, has failed to record ownership with the federal government as required by the specific project condition on Page 7 of H.D. 389, and is currently authorizing and prosecuting two flood control projects within the geographic scope of the General Plan of Improvement authorized by the Congress of the United States. The Secretary of the Army has, after receiving funding to respond to the aforesaid Congressional Resolution of 1994, failed to do so twenty years latter.

O11-124 cont.

The Sierra Club, respectfully, seeks the Secretary of the Army to comply with the reasonable requests contained, herein, and to set the record straight for the people of the United States. Only due process of law can now guide this project.

On behalf of the Sierra Club, Member Airport Marina Regional Group Management Committee Angeles Chapter

John Davis

O11-124 cont.

[redacted]

From: Rogers, Bonnie L CIV USARMY CESPL (US) [mailto:Bonnie.L.Rogers@usace.army.mil]
Sent: Wednesday, January 31, 2018 11:02 AM
To: Janna Scott <JScott@esassoc.com>
Cc: Richard Brody <richard.brody@wildlife.ca.gov>
Subject: FW: [Non-DoD Source] Response(Section B) to DEIR/S Ballona Wetlands from Grassroots Coalition

From: patricia mc pherson [mailto:patriciamcpherson1@verizon.net]
Sent: Tuesday, 30 January, 2018 1:59 PM
To: BWERComments@wildlife.ca.gov; Rogers, Bonnie L CIV USARMY CESPL (US) <Bonnie.L.Rogers@usace.army.mil>
Cc: Todd Cardiff <todd@tcardifflaw.com>
Subject: [Non-DoD Source] Response(Section B) to DEIR/S Ballona Wetlands from Grassroots Coalition

GRASSROOTS COALITION
ENVIRONMENTAL INTEGRITY & PUBLIC POLICY

Grassroots Coalition Response to DEIR/S Ballona Wetlands Restoration all comments and queries are requesting both CEQA and NEPA response.

** Settlement Agreement (SA) cited in Section A of GC's response to DEIR/S.
https://drive.google.com/file/d/0B5SGRAMv8RXucVZONDNhb1VpQVE/view?usp=sharing

https://drive.google.com/open?id=0B5SGRAMv8RXuN3lmRk85TzRpTnM

O11-125

Below is page 28-29 of 124 of the 1990 SA. The similarities to the 2017 DEIR/S Alternatives 1-3 are obvious and provide a disturbing, ecologically inaccurate and very controlled bias that should not be allowed to exist and to which there needs to be transparent accountability regarding the use of this antiquated preferential salt marsh mindset and adherence. This SA was reached with both: 1) no ecological evaluations and; 2) a bias that capitulated and allowed the Playa Vista development project to dominate the landscape for its own needs. Additionally, though oversight mechanisms, such as a state engaged Ballona Foundation nonprofit, never reached fruition as detailed within these documents, the CDP & USACE Permit, Playa Vista leadership has taken over instead. Evidence of the biased oversight by Playa Vista and alleged collusion with CDFW, is included herein.

O11-126

BALLONA WETLANDS
RESTORATION GOALS AND OBJECTIVES

Adopted by Representatives of the Friends of Ballona Wetlands, League of Coastal Protection, City of Los Angeles acting though the 6th Council District, Maguire-Thomas Partners-Playa Vista, and State Lands Commission representing the Controller of the State of California.

Final - August 10, 1990

GOAL:
Overall Goal:
To restore a dynamic, self-sustaining tidal wetland ecosystem that results in a net gain in wetland functions and a net gain in wetland acreage south of Jefferson Boulevard and west of Lincoln Boulevard and that serves as an estuarine link between Santa Monica Bay and the freshwater tributaries to the Ballona Wetlands.

The restoration program should either be a full-tidal or a mid-tidal system. The creation of a full-tidal system is the preferred alternative. Should, however, full-tidal restoration not be achievable, a mid-tidal system will then be constructed. O11-127

Definitions:
Full Tidal: Tidal range and/or elevations will be comparable to that in the Ballona Flood Control Channel.

Mid Tidal: Tidal range will be approximately half the mean range (or approximately 3 feet) of a full-tidal system.

Estuarine: A coastal embayment where tidal salt water is measurably diluted by freshwater, at least seasonally.

Habitat: An area that provides appropriate shelter, food, and other factors necessary for the survival of a specific organism.

Objectives:
1. Biological
   a. To create a diverse, integrated salt marsh system that provides habitat for native coastal wetland-dependent fish (including invertebrates) and wildlife.

   b. To create a freshwater marsh that provides functions in water quality enhancement and habitat for fish and wildlife.

   c. To provide mix of habitat types for regional and coastal

dependent sensitive, rare, or endangered species that considers the needs of the species within the region.

d. To contribute to the diversity and production of wetland-dependent fish (including invertebrates) and wildlife in Santa Monica Bay.

e. To restore the natural plant diversity that had been present in the Ballona Wetlands.

f. To create a system that can accommodate the natural succession of coastal wetland ecosystems.

g. To develop a phasing program that protects, as feasible, existing native animal populations.

h. To salvage native wetland plants at the site and to use them to recolonize the reconstructed wetlands during the restoration process.

i. To allow for a brackish water ecotone between the salt marsh and freshwater marsh.

j. To control populations of exotic, non-native plants and animals.

k. To create, where feasible, sufficient and adequate native upland buffers that aid in maintaining and/or restoring wildlife resources and serving as a biological link to the adjacent wetlands.

O11-127 cont.

2. Water Quantity

a. To assure adequate salt water to maintain the salt marsh system.

b. To assure freshwater for the freshwater wetland system.

c. To allow seasonal freshwater flushing of the saltwater system that considers interannual variability.

d. To provide sufficient capacity in water control structures to maintain tidal flushing as the wetland matures.

e. To provide stormflow capacity for the 50-year storm event, both storage and outflow.

f. To allow flexibility in design to modify flows in various systems.

3. Water Quality

a. To maintain dissolved oxygen levels above 5 ppm (parts

Please note—the 'freshwater wetland system' cited above is ONLY the flood control system for Playa Vista. This 'system''oversight today is also fraught with current controversy as it was created by Playa Vista rather than adhering to entities required in the SA —requirements which are also still part of the CCC's CDP 5-91-463. Hence, heavy-handed influence over Ballona Wetlands is being exerted by Playa Vista leadership on behalf of development needs which are not the burden of the public and the Ecological Reserve to bear. **Distinguishing who is doing what for whom is an issue that needs to be addressed directly in the DEIR/S and it is deficient due to the lack of this address and discussion.** O11-128

***SA Page 29 of 124 above describes the intent of creating a predominantly saltwater habitat .*
This SA was reached without the inclusion of environmental evaluations to determine the habitat types of Ballona Wetlands. Consequently, mislabeling of Ballona's intrinsic and native habitat was used in the creation agreements and permits that are still utilized today ie. the USACE 404 permit and the Coastal Development Permit 5-91-463 which is still current but was never fully completed per a tandem CDP to create/ dig out a salt marsh as part of and to benefit the Playa Vista site and its flood control system. Meanwhile, Playa Vista's developments that require a flood control system, have been allowed to continue while a flood control permit has yet to exist and appears dependent upon the digging out of BAllona as formerly required by CDP 5-91-463. Biased decision making based upon these old agreements and permits appears to now be occurring and therefore inculcation of these issues need address in the DEIR/S. **The issues need to be rightfully sorted/ made public to provide for a true RESTORATION of Ballona Wetlands— namely, to provide for a restoration that is not influenced and mishandled due to past agreements based upon faulty ecological assessments and based upon inapplicable flood control needs of the adjacent Playa Vista mega-development and conflicted interests at stake and not made known to the public at large.** O11-129

There has been ample evidence accrued since 2004 of CEQA and NEPA and Permitting irregularities that provide a demonstration of abuse of discretion and prejudicial abuse of discretion that the public has attempted to discuss with the MOU partners and of which evidence has been provided to the MOU partners—that receives no response, no proof to the contrary.
Lawsuits by various groups such as Grassroots Coalition v CDFW & Playa Capital LLC which pertains to CDFW's/ Playa Capital's partnered Coastal Act Violations of Draining the freshwaters of Ballona and coinciding allegations of Clean Water Act Violations and LA City Permit violations by both CDFW and Playa Capital LLC are under current review by CAL EPA and the CCC and the City of LA. The Ballona Wetlands Landtrust litigation against the Santa Monica Bay Restoration Commission, in which the Landtrust prevailed, includes Depositions that point to wrongful application of authority that gave rise to the dismissal of the Corps in the 2005-12 EIR/S process and gave rise to the current Joint EIR/S and Permit (WRDA) process. ALL of which provides an evidential basis for necessary review and evaluation of these significant irregularities under CEQA and NEPA codes for this DEIR/S. The DEIR/S is currently deficient in its lack of raising these and similar issues of conflict of interest ongoing within this DEIR/S process. O11-130

Coastal Act Violation of CDFW for harming Ballona via drainage of its freshwaters since stewardship in 2004. The drainage of freshwaters of Ballona, as cited by Coastal Commission Enforcement in CCC Letter 4/11/14. CDFW's harmful activities are an act of both negligence and deliberate obfuscation of the ongoing harm and that harm's relevance to, at least—baseline wildlife studies done in the area by Karina Johnston of the Bay Foundation. Board members of the private business, the Santa Monica Bay Restoration Foundation, include its Executive Director-Shelly Luce, and the State Coastal Conservancy's Mary Small (at least, during the 2008 timeframe), Catherine Tyrrell (also a key Playa Vista contractor and former VIP as well as creator of the flood control system while employed with Psomas) , Heal the Bay leadership, inclusive of Mark Gold and others. Ms. Johnston's active failure to O11-131

include the drainage and its potential ramifications upon the flora and fauna of the area provides at least, the appearance of conflict of interest and, negligence. (see B (1) BRC newsletter, Karina Johnston quote- acknowledging awareness of the drains for many years)

O11-131 cont.

http://ballonacreek.org/wp-content/uploads/2015/05/bcrnews35.pdf Link to Ballona Creek newsletter per Ms. Johnstons's quote re: knowledge of the drains on Ballona while studying the existing ecology of the wetlands. The studies done by Ms. Johnston's work failed to include reference to the drainage and any/all potential ramifications to the wetlands. The studies are flawed. As can be seen in B(1) imagery and videotape and as written up in the CCC 4/11/14, the drains have been negatively impacting the wetlands and do drain the wetlands of life-supporting freshwaters.
The comment below by Ms. Johnston including her comments of having photos of them while NOT DISCLOSING them to the CCC and not studying any/all of their impacts to the wetlands reflects negligence and/or a deliberate obfuscation of information relative to the health, well being of the wetlands and/or a lack of ability to perform in a professional manner.

O11-132

Playa Vista consultants are also noted in the comment. If she is referencing Psomas consultants who built the freshwater marsh, Psomas is currently a consultant for Playa Vista.
Mike Crehan of Psomas is also on the Project Management Team of the Ballona restoration.

O11-133

The DEIR/S is deficient due to the public's inability to make an informed decision of how the site is actually functioning and how the site is being protected or not protected because the DEIR/S fails to include critical information, such as wetland drainage, freshwater ongoing diversion and the resultant impacts upon the site.

Why are these issues not addressed in the DEIR/S?

O11-134

From a BCR newsletter:

> Karina Johnston, restoration ecologist for the Santa Monica Bay Restoration Commission, a state agency, is among those who have known about these drains for several years while studying the existing ecology of the wetlands in preparation for developing a restoration plan. She says, "The PVC 'drain' has been out there as long as we've been monitoring. We have photos of it from back in 2008. To my understanding (from comments by the consultants who assisted in the building of the Freshwater Marsh), these are permitted overflow pipes that don't "drain" the wetlands in the way that the media is projecting. They are only in the area between Culver and Jefferson and are there to prevent the flooding of Jefferson and the surrounding areas in extreme storm events."

O11-135

Why has CDFW not included these issues within the DEIR/S? Baseline studies are inaccurate due to ongoing dewatering in the areas affected by the illegal CDFW Drains as well as due to CDFW's failure to review or intervene in groundwater removal by Playa Vista that is throwing away the groundwaters of Ballona Wetlands that flow first below Playa Vista.
Meanwhile, CDFW's land manager for Ballona has apparent conflict of interests due to his (Mr.Brody) engagement with Playa Vista as a board member of the private business, the Ballona Conservancy, without CDFW authority(per PRA responses). See Section B (1) for documentation.

O11-136

The following Complaints made by Grassroots Coalition and John Davis have not been addressed by any MOU partners. The Complaints/ requests directly and indirectly pertain to this DEIR/S, Ballona Wetlands restoration, process and transparency. **Please respond to the questions and issues cited.**

https://www.youtube.com/watch?v=BJPDnzHOy_o Shelly Luce acting as Executive Director of Santa Monica Bay Restoration Commission asking, on behalf of SMBRC for the

O11-137

LA County Board of Supervisors to agree to the SMBRC (as part of the SMBRAuthority= SMBRC & County Flood Control Dist.)to engage the Water Resource Development Act (WRDA) use in funding a SMBRAUTHORITY action to SPONSOR/ partner to the Army Corps of Engineers in a WRDA Agreement for Permit Review pertaining to the Ballona Wetlands.

O11-137 cont.

Public Record Act responses provide **no documentation of any authority for Ms. Luce to have acted on behalf of the SMBRC for WRDA implementation.**
GC finds the DEIR deficient in its lack of process explanations regarding this key event which changed the former 2005-12 Joint EIR/S process into a wholly changed process.
Why did the DEIR/S MOU partners(which are the same MOU partners of the 2005-12 process) allow the change without the knowledge and approval of the SMBRC Governing Board?
Does this constitute prejudicial abuse of discretion for purposes of CEQA/NEPA? Both USACE and CDFW have been provided information as evidence of wrongdoing in the WRDA implementation.

O11-138

All comments and queries are directed at both CEQA and NEPA for response to GC's comments and queries.

In Additional Comment PDF, please respond to issues raised within the document. No response has been thus far provided which reveals a lack of public inclusion
in the Ballona restoration process as none of the MOU Partners have been responsive to the issues and contained within the document.

See page 13 of 24 for **CONTROL OF MESSAGE AND OUTCOME**

O11-139

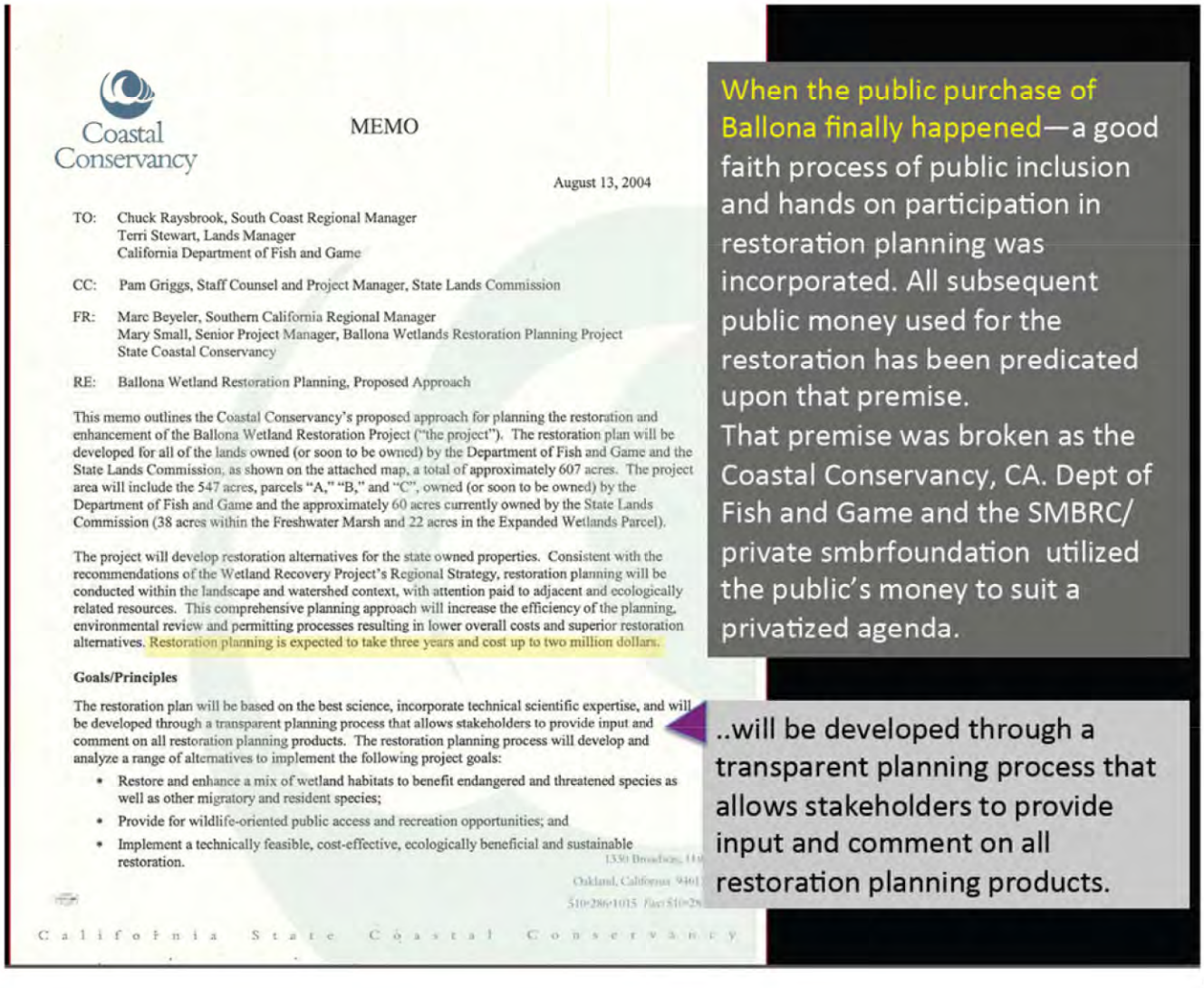
The continual DEIR mantra of public engagement in the Ballona restoration process is false. The only means of knowledge regarding what has been ongoing since 2004, has been via the Public Record Act and Freedom of Information Act requests.
PRAs and FOIAs provide documents but do not provide any means of discussion with the MOU partners. The deliberate failure to communicate with the Working Group
entities is established, in part, via these Complaints to MOU partners that request responses and inclusion of the public.

O11-140

It is also important to note that the Santa Monica Bay Restoration Commission(SMBRC) was also compromised by the Santa Monica Bay
Restoration **Foundation** leadership (which included State Coastal Conservancy Project Manager for BAllona— as Mary Small was
a Bay Foundation board member during the 2008 timeframe when numerous critical decisions were made and changes occurred to
what was promised to the public via the acquisition terms and designation terms as Ecological Reserve. Changes were
made without inclusion of the public and without knowledge of the public and Working Groups. The switch to promotion of a full tidal, estuarine
outcome occurred in roughly 2008 as can be seen in the changes made to MOUs (see PPT-Present doc history) and in language
used by the Science Advisory Committee on pages 13-14 (PRA response CD - June 23, 2008 SAC Conference Call Memo).

O11-141

Page 1 of 12 of PPT-"Present doc history" (contained in full in email GC Response to Ballona DEIR, Section B, (1).



Coastal Conservancy

MEMO

August 13, 2004

TO: Chuck Raysbrook, South Coast Regional Manager
Terri Stewart, Lands Manager
California Department of Fish and Game

CC: Pam Griggs, Staff Counsel and Project Manager, State Lands Commission

FR: Marc Beyeler, Southern California Regional Manager
Mary Small, Senior Project Manager, Ballona Wetlands Restoration Planning Project
State Coastal Conservancy

RE: Ballona Wetland Restoration Planning, Proposed Approach

This memo outlines the Coastal Conservancy's proposed approach for planning the restoration and enhancement of the Ballona Wetland Restoration Project ("the project"). The restoration plan will be developed for all of the lands owned (or soon to be owned) by the Department of Fish and Game and the State Lands Commission, as shown on the attached map, a total of approximately 607 acres. The project area will include the 547 acres, parcels "A," "B," and "C", owned (or soon to be owned) by the Department of Fish and Game and the approximately 60 acres currently owned by the State Lands Commission (38 acres within the Freshwater Marsh and 22 acres in the Expanded Wetlands Parcel).

The project will develop restoration alternatives for the state owned properties. Consistent with the recommendations of the Wetland Recovery Project's Regional Strategy, restoration planning will be conducted within the landscape and watershed context, with attention paid to adjacent and ecologically related resources. This comprehensive planning approach will increase the efficiency of the planning, environmental review and permitting processes resulting in lower overall costs and superior restoration alternatives. Restoration planning is expected to take three years and cost up to two million dollars.

Goals/Principles

The restoration plan will be based on the best science, incorporate technical scientific expertise, and will be developed through a transparent planning process that allows stakeholders to provide input and comment on all restoration planning products. The restoration planning process will develop and analyze a range of alternatives to implement the following project goals:

- Restore and enhance a mix of wetland habitats to benefit endangered and threatened species as well as other migratory and resident species;
- Provide for wildlife-oriented public access and recreation opportunities; and
- Implement a technically feasible, cost-effective, ecologically beneficial and sustainable restoration.

1330 Broadway, 11th
Oakland, California 9461
510-286-1015 FAX 510-28

California State Coastal Conservancy

When the public purchase of Ballona finally happened—a good faith process of public inclusion and hands on participation in restoration planning was incorporated. All subsequent public money used for the restoration has been predicated upon that premise.
That premise was broken as the Coastal Conservancy, CA. Dept of Fish and Game and the SMBRC/ private smbrfoundation utilized the public's money to suit a privatized agenda.

..will be developed through a transparent planning process that allows stakeholders to provide input and comment on all restoration planning products.

O11-142

-The DEIR/S is deficient in its lack of discussion of how the Alternatives were reached and what influences of contracts had upon the estuarine predominance. O11-143

-Please explain why the public has not been informed of the contracts written for the specific outcome of estuarine predominance at Ballona. O11-144

-Why was Ballona's unique function as a predominantly freshwater wetland taken out of the evaluation process as it pertains to flora and fauna biodiversity at Ballona? O11-145

-Why, instead was there no alert to the public that SAC members were contracted to only reach biodiversity richness via equally highest richness of estuarine dependent species?
-Why, wasn't an overall biodiversity that was evenly distributed between the native freshwater dependent species through estuarine dependency considered ? Especially in light of the fact that freshwater coastal wetlands are unique and rare while saltwater marshes have become homogenized in prevalence along the coast? O11-146

-Why in File No. 04-088l 7/21/10 do the MOU partners and NEPA partner allow Mary Small (project manager of Ballona Wetlands/ State Coastal Conservancy) to state that the Feasibility Study was completed? The Army Corps was in performance of the Feasibility Study with SCC/SMBRC as cited in Corps documents as being done to determine feasibility of moving ahead with a Joint EIR/S process which included the congressional needs of approval for such.
-Please discuss what actually occurred to this process as the documents contained and used in the DEIR/S are from this STOPPED PROCESS. The Feasibility Report and the Joint EIR/S was not completed per the recent response to FOIA REQUESTS of GC to the Army Corps of Engineers. O11-147

Begin forwarded message:

From: "Reigns, Julie M CIV USARMY CESPL (US)" <Julie.M.REIGNS@usace.army.mil <mailto:Julie.M.REIGNS@usace.army.mil> <mailto:Julie.M.REIGNS@usace.army.mil> >

Subject: RE: [EXTERNAL] Freedom of Information Act Request

Date: November 8, 2017 at 3:32:31 PM PST

To: patricia mc pherson <patriciamcpherson1@verizon.net <mailto:patriciamcpherson1@verizon.net> <mailto:patriciamcpherson1@verizon.net> >

Hello Ms. McPherson,

We were not able to find any further documents for your request.

1) "any/all Congressional Approvals/ Authorization TO PROCEED — after the Feasibility Study completion —which ostensibly was the report provided back to Congress— into the EIR/S PROCESS which did occur in 2005."
We did not have any reports provided back to Congress since the study was terminated before the report was completed.

2) "documentation that the Feasibility Study was given to Congress for its authorization to proceed into the 2005 DEIR/S process and any/all documentation that Congress reviewed the Feasibility Study."
The Feasibility Report and the DEIR/S were being done concurrently but both were terminated, and neither of these documents were provided to Congress.

O11-148

If you have any further questions, I believe the best person to answer them would be Ms. Susan Ming in our Programs Division. Her contact information is susan.m.ming@usace.army.mil <mailto:susan.m.ming@usace.army.mil> <mailto:susan.m.ming@usace.army.mil> and (213) 452-3789.

Thank you.

Sincerely,

Julie M. Reigns
Paralegal Specialist
Office of Counsel
Los Angeles District
U.S. Army Corps of Engineers
Ph: (213)452-3947
Fax: (213)452-4217
julie.m.reigns@usace.army.mil <mailto:julie.m.reigns@usace.army.mil>
<mailto:julie.m.reigns@usace.army.mil>

Please be aware that out-of-office email alerts for external contacts have been disabled and will no longer notify you when I am out of the office.

And, prior to the dissolution of the Joint 2005-12 EIR/S by Shelly Luce acting as Exec Dir. of SMBRC(but without any documentation of Santa Monica Bay Restoration Commission approval or knowledge)
PG. 8 of Additional Comment pdf—includes quotes below contained on a CD from the Coastal Conservancy—response to a Public Record Act request.

SCC's Mary Small states (per 6/2/10 Coastal Conservancy, SMBRC, USACE Ballona Coordination Meeting Minutes)
"II.b. Mary Small: Have all the PMP sections looked at the same project area? Parts still refer to Ballona Lagoon, Grand Canal, Venice Canals and Oxford Basin, which are no longer in the study area" (this document is contained in 3/28/12 Conservancy Hearing; J. Davis attachment above)

It reveals Ms. Small shortshrifting the purpose of the Feasibility Report/ Joint EIR/S which was a regional review including historic Ballona areas such as Ballona Lagoon.
Why was this not revealed to the public? What authority does the Coastal Conservancy MOU partner have to change the 2005-12 Joint EIR/S process?

O11-149

"Mary Small: It was always our understanding that the Corps would use our restoration alternatives. It makes us nervous that this was never in writing." (6/28/10 Ballona Ecosystem Restoration Planning Management Meeting)

By 2012, Shelly Luce, presumably at the request of Mary Small, did request and ended the Joint EIR/S process which the Corps. The Corps, per FOIA requests, never questioned Ms. Luce per any approvals from SMBRC governing board and simply utilized Ms. Luce's request to end the process. However, the two Joint EIR/S processes coincided for several months as the NEW PROCESS began via the Water Resource Development Act (WRDA) PERMIT PROCESS began ALONGSIDE CDFW stating itself the new lead agency in 2012.

Please see Section B(1) for further documentation associated with comments raised in Section B.
GC, due to the volume of response it is providing, is sending its comments to the DEIR/S in sections.

Thank you,
Patricia McPherson, Grassroots Coalition

FROM: Grassroots Coalition,
Patricia McPherson, President
Patriciamcpherson1@verizon.net

August 2, 2012

TO:
California Coastal Conservancy
Attn. Executive Director, San Schuchat &
All Governing Board Member and Alternates

CC
John Chiang- CA. State Controller
Matosantos- CA. Dept. of Finance Director
Bill Lockyer- CA. State Treasurer
John Laird- Dept. of Natural Resources
U.S. Army Corps of Engineers Attn. Commander Mark Toy
U.S. Senator Barbara Boxer
U.S. Congress Person Maxine Waters
L.A.Councilman Bill Rosendahl

RE: Complaint- Supporting the 3/29/12 REQUEST TO RESCIND APPROVAL FOR STAFF RECOMMENDATION APPROVAL ON 1/19/12 awarding $6,490,00. for: FILE NO. 04-088-

O11-150

BALLONA WETLANDS RESTORATION ENGINEERING AND TECHNICAL STUDIES

The following paper from Grassroots Coalition (GC) represents GC's opinion of its findings and data support garnered via the Public Record Act and the Freedom of Information Act.

This document also requests the Coastal Conservancy to stop its illegitimate interference in the approved and ongoing 2005 Joint EIS/EIR process between the Sponsor-- Santa Monica Bay Restoration Commission (SMBRC)/ LA County Flood Control and, the U.S. Army Corps of Engineers.

The Coastal Conservancy, using its control over public bond money, has shut out the public process and taken its influence as a financially powerful board member of the SMBRC and partner of the California Department of Fish & Game (DFG), the lead agency of the publicly owned Ballona Wetlands-to fund a process that is contradictory to the 2005 federal process that was requested by Congress.

The Coastal Conservancy is propelling a bait and switch - a NEW Joint EIR/EIS process and a NEW Notice of Intent (NOI) that undermines and attempts to extinguish the current 2005 Joint EIS/EIR APPROVED PROCESS with its attendant safeguards of multiple habitat restoration alternatives.

The Coastal Conservancy is instead, illegitimately propelling a singular outcome that stops restoration of Ballona and protection of its endangered species to instead convert the habitat into a non-historical dredged out estuarine habitat that promotes LA Port expansion and other financial deals.

Background:
In 2004, Ballona Wetlands acreage was purchased via PUBLIC funding for approximately $140 million. **The land is owned by the public** and is currently administered by the California Dept. of Fish and Game (freshwater marsh portion by the State Lands Commission) .

Important, new information contained herein reflects a Coastal Conservancy (CC) Public Record Act (PRA) response consisting of numerous heretofore undisclosed CC documents contained on a CD. The CD was provided after the 1/19/12 CC Governing Board Hearing in Los Angeles, CA. and, after the CC Governing Board's Hearing in Ventura, CA. on 3/29/12.

I.
The Coastal Conservancy PRA CD provides evidence to show that misleading and/or incorrect information was presented in the Staff Recommendation of 1/19/12 (File No. 04-088)

O11-150 cont.

The newly disclosed Coastal Conservancy documents (CD) reveal:

A. potential misuse of public bond money (Prop. 12, PRC 5096.352 (f) and or (b)(1));
B. lack of disclosure, lack of public process and transparency of process regarding the Coastal Conservancy's involvement and; associations with other agencies --federal- US Army Corps of Engineers (USACE) and; state agencies and; a private nonprofit- the Santa Monica Bay Restoration Foundation (Foundation) that pertain to Ballona Wetlands in Los Angeles, CA.
C. Prop. 12 (Number 172 of Dept. of Natural Resources Listing of Prop. 12 bond grants; 3760-30203-0005(2)(B)07) Coastal Conservancy bond grant to The Southern California Coastal Water Research Project (SCWRP) -Ballona Wetlands Restoration. The Coastal Conservancy, contrary to the bond grant language and intention of allowing for a "scientific advisory committee" (SAC) to review and advise regarding **'enhancement'** plans for the restoration goals of Ballona Wetlands; the Coastal Conservancy instead propelled and directed SCCWRP members and other contractors to perform a singular outcome of **'creation' of a full tidal/ estuarine, non-historical , treatment wetland as an end of pipe, experimental solution to the toxic contamination of Ballona Creek.**

The CC Staff Recommendation is a non-historically oriented goal and thus fails to adhere to bond language for "enhancement" of Ballona Wetlands and also fails to adhere to "restoration" as defined by Southern California Wetlands Recovery Project (SCWRP). (See p.3 SCWRP restoration definition) And, contrary to publically stated and written goals of transparency and interchange, the CC and SMBRC precluded the public and Working Group from participating and interfacing with SAC. Thus, the CC and SMBRC, utilizing all public bond dollars have effectively shut the public out of the Ballona Wetland Restoration design process.

Contrary to comments made below in the Staff Recommendation 1/19/12 (File No. 04-088), the conceptual restoration plan was **not** developed in a public process and the public and other parties were **precluded** from participation in all facets of the development of the restoration alternatives

"Cooperation: The conceptual restoration plan was developed in a public process with input from a Science Advisory Committee, an Agency Advisor Committee, and the Ballona Working Group made up of representatives of local nonprofit organizations, agency staff and members of the public. Individual public members also participated in all facets of the development of the restoration alternatives."
(p. 9 of 9 1/19/12 Staff Recommendation; Emphasis added.)

O11-150 cont.

The CD documents reveal that the conceptual restoration plan was developed by the Coastal Conservancy and by the executive director and staff of Santa Monica Bay Restoration Commission- a California state agency.

Note- the SMBRCommission's executive director and most staff are not state personnel . Since 2005, the executive director and staff of the SMBRFoundation (a private 501c3) simultaneously act as SMBRC staff and executive director. IRS records reveal payment to the Foundation's executive director and staff from the Foundation. We have found no contractual authority for such private persons to serve as state officers of a state agency or as staff of a state agency. We are currently requesting an assessment and investigation into these matters of great public concern.

The CD documents reveal that the Coastal Conservancy Staff Recommendation was created:

1. in a void of public/ Working Group input acknowledgement and use.
2. in a vacuum of interchange between the Scientific Advisory Committee and the public/ Working Group and the USACE contractual agreements.
3. while failing to disclose scientific findings to all parties and;
4. while failing to provide process as written by the Coastal Conservancy.
5. without adherence to the 2005, contractual agreement between the United States Army Corps of Engineers (USACE) and the Sponsor (aka the Authority- SMBRC & LA County Flood Control) wherein a Joint EIR/ EIS of Corps certified programs of environmental review would take place and;

6. without CC Governing Board authorization and without public disclosure--the CC Project Manager created an enterprise consisting of a 'new' Joint EIR/EIS process ostensibly intended to circumvent the 2005 approved process. (JD submission to CC 3/29/12)
7.

Lack of Disclosure Has Led To An Inability To Make Informed Decisions

I.

A. Proposition 12 Funds-The Public's Intent - To Acquire, Protect and Restore Is Not Fulfilled.

The Prop. 12, Public Resource Code (PRC) Section 5096.352 language states, " (f) Twenty-five million dollars ($25,000,000) of the funds shall be allocated to **acquire, protect, and restore** wetlands projects that are a minimum of 400 acres in size in any county with a population greater than 5,000,000. (Emphasis added. The Ballona Wetlands is distinguished as fulfilling this specific criteria.)

Restoration-specifically refers to actions taken to obtain a former state of a natural condition. (Southern California Wetlands Recovery Project (SCWRP)- Science Advisory Panel (SAP)- Glossary of Terms)

Estuarine wetlands- are subtidal and intertidal habitats that are semi-enclosed by land, have access to the open ocean, and in which ocean water is at least occasionally diluted by freshwater runoff from the land (Cowardin et. Al. 1979)SCWRP, SAP Glossary)

O11-150 cont.

. Ballona was not historically continually open and connected to the ocean and large, inundating flows of fresh water occurred infrequently only during major flood events (CD- SAC docs; USGS docs provided to CC by J. Davis; CC's T-sheets).

"The project we are recommending is enormous in scale." CC- MarySmall (JD PRA Response attachment in 3/28/12 CC Hearing-Request)

Contrary to "protecting and restoring" the Ballona habitat, the approval of the Engineering and Technical Studies & SMBRC bond awards will specifically promote a singular outcome- massive destruction of currently functioning habitat that will not 'obtain a former state of a natural condition' but, will instead endeavor upon a non-historically oriented, experimental estuarine treatment wetland project expected to encounter yearly flooding and scouring events. The project is not expected to be self-sustaining but instead expected to promote a perpetual money pit of contracts for monitoring and unknown but expected repairs and fixes- - future landscape changes further transfiguring the flora and fauna. (CD/SAC)

A failure to adhere to grant proposal requirements, as dictated by the State of Ca. Finance Dept. in recent audits, continues

.

NOTE: While the Coastal Conservancy promotes the idea that it provides bond grants to the SMBRC, the Coastal Conservancy has actually never provided any bond money to the SMBRC as per the 2002,

SB 1381 Keuhl bill that established a Treasury Account for the SMBRC. Instead, the Coastal Conservancy provides public bond money grants to the private nonprofit-the SMBRFoundation— typically without a grant proposal having been provided-as is the case in the 1/19/12 grant approval.
Recent audits of the CC by the California Dept. of Finance require that the CC adhere to grant proposal requirements established by the Dept of Finance. However, the CC's failure to adhere continues as is the case in the 1/19/12 grant approval.

The currently clean land (LARWQCB) and functioning habitats-include endangered and rare Southern California native plants and wildlife, which will be destroyed in order to create the end of pipe, treatment wetland for toxic Ballona Creek waters and sediments. (CD-SAC) The full tidal, estuarine goal also appears to discharge political favors for LA Port expansion(s) approvals that need wetland mitigation credit(s) and/or extensive fill material from Ballona.
(See e-mails regarding LA Port - letters of support for the Staff Reccommendation)

Contrary to the 8/13/04 CC MEMO (p.4), the CD -SAC documents reveal wildlife and habitat destruction and dangers, endless and exorbitant financial costs, inability to show sustainability and potential legal quagmires that were not revealed to the public/ Working Group and other parties-- some of whom were asked to sign onto Coastal Conservancy pre-scripted letters of support for the 1/19/12 Staff Recommendation.*

O11-150 cont.

*Contrary to the promised 'transparency' of process; CC and SMBRC staff improperly lobbied for letters of support for the 1/19/12 Staff Recommendation prior to a public notification of an agenda and release of the Staff Report thusly, discriminating against all others by failing to provide the same comment opportunity prior to the issuance of the Staff Report.

The public has a right to know the full extent of issues regarding changes to Ballona. Whatever decisions are rendered, they should not be based upon piecemealed, truncated and biased information as has currently been provided.

PROPOSITION 12 Identification of Funds; Status of Funds
The Staff Recommendation(SR) is unclear which Proposition 12 funds are being requested. Two possible funding sections of Prop. 12 are:
- Proposition 12 bond money discussed in the SR as specifically for Ballona Wetlands is listed under Public Resource Code (PRC) Section 5096.352 (f)). The accounting for these funds was not provided in the Staff Recommendation and remains unknown.
-Other Prop 12 funds include: PRC Section 5096.352(b)(1)-to the Santa Monica Bay Restoration Project/Bay Watershed Council; that account status remains unclear also.
(In 2002, Senate Bill 1381 (Keuhl) transformed the SMBR"Project" into the SMBRCommission. Prop. 12, PRC language utilizes the Bay Watershed Council. The ByLaws of the the Bay Watershed Council (BWC) remained intact which now give rise to

questions regarding the actual existence of the BWC after SB 1381 which may influence the use of the Prop 12 bond funds.)

I.

B. 5-6. The Coastal Conservancy Project Manager and SMBRC Executive Director/ Staff, Have Not Been Forthright With the Public Regarding Disclosure of Process Changes Pertaining to Federal (USACE) Contractual Agreements

U.S. ARMY CORPS OF ENGINEERS

1994, Sept.28 Adopted- "Resolved by the Committee on Public Works and Transportation of the United States House of Representatives, That the Secretary of the Army is requested to review the report of the Chief of Engineers on Playa del Rey Inlet and Basin, Venice, California published as House Document 389, Eighty-third Congress, Second Session, and other pertinent reports, to determine whether modifications of the recommendations contained therein are advisable at the present time, in the interest of navigation, hurricane and storm damage reduction, environmental restoration and other purposes at Marina del Rey Harbor, Los Angeles, California, with consideration given to the disposal of contaminated sediments from the entrance channel required under the existing operation and maintenance program at Marina del Rey Harbor."

In 2005, USACE Noticed and embarked upon an areawide ecological review- an EIS- of the historic Ballona Wetlands area that included the U.S. 83th Congress -- House Document 389 under Public Law 780. Map-Enclosure No. 1 (General Plan of Improvement) reveals the entire Ballona region as part of this action including but not limited to Ballona Lagoon, Del Rey Lagoon and the Sanctuary area , Ballona Creek, Centinela Creek etc. (See language of the USACE Lower Ballona Creek Restoration Reconnaissance Study and; Feasibility Study). This EIS was predicated upon having a local Sponsor as part of the review process and to aid in the outreach to the PUBLIC and the creation of the Joint EIR/EIS process.
SMBRC/LA Flood Control (the Authority) aka the Sponsor-- contractually agreed to the Joint EIR/EIS in 2005.
The contract included having the Sponsor (Authority) provide at least 6 public meetings dedicated to providing time for USACE representatives to discuss the USACE status of the Joint EIR/ EIS process. The follow through for such meetings has not occurred.
(In various earlier approved bond requests for Ballona projects; Project Manager Mary Small eliminates reference to the 2005 contractual agreement for a Joint EIR/EIS which jointly provides for the Ballona Restoration Alternatives (2005 contract between- USACE and SMBRC/LA Flood Control aka Authority) Instead Ms. Small's staff recommendations inform the CC Governing Board that as of 2005 only the Ca. Dept. of Fish & Game, State Lands Commission and SMBRC are part of the oversight of Ballona and alludes that the Conservancy has the restoration alternatives planning duties:

O11-150 cont.

(Ballona Wetland Improved Public Access; File No. 04-088; 7/21/10)
"In 2005, the Conservancy initiated conceptual planning and feasibility analysis of restoration alternatives

for the property. This project is being implemented in partnership with the DFG and the State Lands Commission, the two state agency owners of the property and the Santa Monica Bay Restoration Commission. The feasibility analysis was completed in 2008, after a delay due to the bond freeze, and the project partners are now initiating environmental review and detailed engineering of a long-term, phased restoration project. When the restoration planning began, the Conservancy funded the development of an Interim Site Stewardship Plan to address the pressing concerns related to site management. As discussed above, in 2008 the Conservancy provided a grant to MRCA to fund construction of some site improvements and to fund planning, design and preparation of permit applications for additional access improvements. Based on the completed planning work, the MRCA and the project partners determined that it will be more cost effective and logical to pursue implementation of most access improvements as part of the environmental review and permitting for the long-term phased restoration project.
PROJECT FINANCING:
Coastal Conservancy $280,000
MRCA 120,000
SMBRC, US EPA funds 20,000
Total Project Cost $420,000"

This is an omission of pertinent and critical fact given in order to garner public bond money. (See J. Davis 3/28/12 Request to CC Gov. Brd.; USACE/CC minutes of meeting(s) and page 6)
See also File No. 04-088 on page 17.
Additionally, the bond money was approved but accountability for its use has not been forthcoming. And,
No fund award was given to SMBRC from the USEPA as cited above. The Treasury Account set up for the SMBRC under SB1381 was not utilized. Instead, ostensibly the USEPA funds went to the private nonprofit, the Foundation. The Foundation, as a private non-profit 501c3, provides no accountability to the public.

O11-150 cont.

The Coastal Conservancy, had also made promises to the public regarding transparency and public inclusion in the entire process of exploring **all reasonable alternatives for enhancement of Ballona.**

For example in an early Coastal Conservancy MEMO dated 8/13/04 to California Department of Fish & Game (DFG) and the State Lands Commission (SLC), the **GOALS/PRINCIPALS read in part-**

*"**The restoration plan** will be based on the best science, incorporate technical scientific expertise and **will be developed through a transparent planning process that allows stakeholders to provide input and comment on all restoration planning products.** The restoration planning process will develop and analyze a **range of alternatives to implement the following project goals**:*
*-**Restore and enhance a mix of wetland habitats to benefit endangered and threatened species as well as other migratory and resident species**;*
-Provide for wildlife-oriented public access and recreation opportunities; and -
***Implement a technically feasible, cost effective, ecologically beneficial and sustainable restoration**." [Emphasis added.)*

And,

"..restoration will be conducted within the landscape and watershed context, with attention paid ***to adjacent and ecologically related resources."*** Pg. 1

According to CD documents, the Coastal Conservancy's Ballona project manager participated in USACE meetings in the 2004 timeframe citing inclusion of the areawide ecosystem eg. Ballona Lagoon, Del Rey Lagoon, the Sanctuary area, Marina del Rey and others that paralleled the activities of ecosystem review as described by the USACE (Reconnaissance Study; Lower Ballona Creek Restoration Feasiblity Study; 3/28/12 J.Davis submission to CC)

However, in contradiction to the 8/13/04 Memo cited above, the context of the larger historic boundaries of Ballona Wetlands were later arbitrarily dropped, without public notification or discussion. The CC Project Manager discusses no longer including the adjacent and ecologically related resources as part of the Joint EIR/EIS restoration evaluation performed with the USACE:

6/2/10 CC, SMBRC, USACE Ballona Coordination Meeting Minutes:

"*II. b. Mary Small: Have all the PMP sections looked at the same project area? Parts still refer to Ballona Lagoon, Grand Canal, Venice Canals and Oxford Basin, which are no longer in the study area.* (3/28/12 CC hearing; J. Davis Attachment)

O11-150 cont.

And, the Project Manager discusses instead a 'new' process for which there is no ostensible authority and to which the public has not been made aware:

"Mary Small: If the Corps falls too behind, we will work with Corps Regulatory for a permit for their activities (NEPA/CEQA, design, permitting, and Phase 1 construction)" and;

"Mary Small: It was always our understanding that the Corps would use our restoration alternatives. It makes us nervous that this was never in writing."(6/28/10 Ballona Ecosystem Restoration Planning Management Meeting)

It was never the public's understanding that the Corps would be held to Coastal Conservancy and Foundation staff"s restoration alternatives. Legal legitimacy for such behavior is also questionable. And,

"Suggested response

1) *The EIS/EIR process begun in 2005 was for the Army Corps' Lower Ballona Ecosystem Restoration Feasibility Study, that project and the associated environmental review has not been completed and is not moving forward at this time. The EIR/S process for the proposed enhancement project will be separate." 2/7/12*

CC/Mary Small to Ca.Dept. Fish & Game- Rick Mayfield per response to Davis Ballona CEQA process query. (JDavis attachment 3/28/12 Request to CC Board)

Thus, the CC switch in process is 'suggested' to be disclosed to a member of the public after seeking and garnering approval for the 1/19/12 Staff Recommendation.
(3/28/12 CC Hearing, Davis PRA attachment to Request)

This new and unauthorized process discussion continues in the same email, 2/7/12, from Shelley Luce to Mary Small and Rick Mayfield (CDFG):

.." The EIR/EIS *that* ***we want to start*** *is for a separate project, i.e. the EWER restoration/ enhancement project. "..* (emphasis added.)

The EIR/EIS that they want to start IS NOT on a separate project but instead on the same project but having eliminated the '94/ 2005 Joint EIR/EIS process; scope of review; environmental safeguards and full range of alternatives
inherent in '94/ 2005 approved process.
In other words, the CC attempts to have the public and the USACE but out of their way so that the CC can control the project --using the public's dollar--alongside its political allies.

And, while Mary Small provides the appearance that the Request For Proposals is new online--*" the request for services ..went out today"*..
2/8/12 CC email (JDavis PRA response attachment in 3/28/12 Request to CC Board)

O11-150 cont.

The Coastal Conservancy, had already put out an online RFP in 2010 for the work requested for approval in the 1/19/12 Staff Recommendation. Thus, it appears that as of 2010, the outcome was already a done deal behind the public scene.

Changes, such as this were not communicated to the Public/ Working Group and the ongoing status of the relationship with the USACE as per the Joint EIR/EIS was not communicated either. In fact, the USACE- Sect. of the Army was not made aware of the attempt to extinguish the earlier, approved process. Any extinguishing of the approved EIR/EIS process (including House Document 389) would have to abide by the USACE process of removal. The process provides accountability for reasoning as to the ending of the project as well as detailed accounting for money spent and what had occurred throughout the process. This activity has not occurred and the USACE has provided a letter stipulating that the approved process is maintained and that investigation into the matter has started. (USACE-J.Davis communication).

It is also unclear whether USACE/SPONSOR information was communicated to the Science Advisory Committee or other parties. Specific USACE work projects, including response to House Document 389 and work quality/certification needs are not communicated in any of the CD-SAC meeting notes which appears to show that the SAC team (contracted and paid for with public funds) were fulfilling ONLY the arbitrary GOALS as set forth by the CC Project Manager and SMBRC staff. Issues

such as the protection of groundwater (classified as potential drinking water), an issue of House Doc. 389 and current Los Angeles- Best Management Practices (BMPs) are absent in the meeting minutes.

Thus, the CC and SMBRC staff, provided for an atmosphere of further disconnect, lack of transparency and compartmentalization of information sharing.
And,
the public/Working Group was not made aware that the CC considered itself a part of the USACE/SPONSOR contract (which it is not) -so much a part, that Mary Small apparently believed that the CC would provide the alternative(s) for the USACE in the Joint EIR/EIS:

6/28/10 Ecosystem Restoration Planning Management Meeting:
II. C. 2." *Mary Small: It was always our understanding that the Corps would use our restoration alternatives. It makes us nervous that this was was never in writing."..*

This type of very questionable influence was not conveyed publically. According to the USACE, Joint EIR/EIS language, the USACE study would provide for all reasonable alternatives and the process would embrace public disclosure and participation.
The Coastal Conservancy and SMBRC staff have not been forthright with the public regarding status of the Joint EIR/EIS.

O11-150 cont.

I.

B. 1- 3. The CD reveals SAC meetings, reports and concerns not shared with the public/the Working Group and other parties. Conversely, the public/ Working Group comments and concerns are not cross- shared.

Contrary to the 1/19/12 Staff Recommendation, the public, Working Group and others have not been engaged by the Coastal Conservancy as promised and have not been provided with full information from the Science Advisory Committee (SAC) group in order to make informed decisions and provide input throughout the process to date.
Prop. 12 bond money was also provided from the Natural Resources Dept. to the Coastal Conservancy specifically to provide a GRANT to the Southern California Coastal Waters Research Project (SCCWRP)(#172) for creation of a SAC team. Thus, the SAC team was paid with public dollars to perform as an independent scientific advisory panel to provide input and advice regarding historical restoration options. Contrary to the GRANT purposes, the Coastal Conservancy's Ballona Project Manager and SMBRC staff instead told the SAC team what the intended outcome was and that all input was to secure that goal-namely full tidal estuarine and levee removal.
Thus, the Prop. 12 bond money was not utilized as intended.
The Coastal Conservancy and SMBRC staff kept the public and the Working Group out of the SAC loop of information and knowledge thereby thwarting and distancing

any meaningful interchanges and participation as falsely stated in the Staff Recommendation below.

Staff Recommendation excerpt:
"Cooperation: The conceptual restoration plan was developed in a public process with input from a Science Advisory Committee, an Agency Advisor Committee, and the Ballona Working Group made up of representatives of local nonprofit organizations, agency staff and members of the public. Individual public members also participated in all facets of the development of the restoration alternatives."
(p. 9 of 9 Staff Recommendation 1/19/12)

And, contrary to assurances that the public would be notified and included on all SAC meetings, the public was not notified or included.

"*MARY S. all SAC meeting are public, all interested parties will be notified and invited, meetings will be structured with SAC addressing issues first and public comment period at the end."* (CD- 7/20/05 LMU Ballona SAC MTG.)

A 2004 MEMO discusses -
"Ballona Restoration Planning Working Group: Stakeholder Committee and Public Involvement
"*A Ballona Restoration Planning Working Group (brpwg) made up of interested organizations, agencies, and individuals, will meet periodically to obtain project status updates, to provide input, and to support the restoration planning process. These meetings will be open to the public. Subcommittees may be established to address specific issues that may arise during planning."*pg.2

O11-150 cont.

The language above provided for the public involvement at the start of the process that began with 'interim stewardship' meetings, (eg. trash cleanup and education tours) which did occur. As time passed, meetings stopped, informational sharing from agencies and the science team became nonexistent and; the public's comments were not included in the planning process that continued behind closed doors.
-Website topic- SAC meeting minutes- was not accessible to the public. Instead, when clicked - the website told the viewer entry was not allowed.
-SAC meetings, though described as open to the public, were not. The CD documents reveal that the SAC meetings were, in the main, telephonic and not inclusive of the public. Reports and Memos were not shared with the public but utilized internally.

A continued failure to acknowledge the public and Working Group is also documented via the 2012 Science Advisory Meeting that was held days after the Staff Recommendation Approval. The SAC meeting was also a first in years for actually occurring and, that public notice was provided.

The Public/ the Working Group:

- provided strong objections to the proposed Plan, providing written testimony as well as oral testimony.
- listed issues that needed to be addressed properly; asked for responses that thus far have gone unanswered and,
- again requested the area be considered in its totality of ecosystem variety and benefits utilizing the historic system of Ballona.
- reminded the SAC that the area now has more saltwater --deep and mid habitat than historically existed at Ballona due to the Marina del Rey; Ballona Lagoon Marine Preserve; Del Rey Lagoon; Ballona Creek itself and; as well as freshwater due to the newly created catch-basin- aka, the freshwater marsh. (historically= the last couple hundred years)
- SAC numerical analysis of habitat types was in error. Ratios of entire Ballona Wetlands historic habitat applied to be fulfilled in Areas A, B, C alone is a faulty analysis. The SAC- ratio numbers that pertained to former water habitat and land elevations were either incorrect and/or not documented by SAC.
- cited and documented that SAC dredge spoils deposition locations and volumes were incorrect. (USGS Documents and maps provided by John Davis to the Coastal Conservancy)

O11-150 cont.

The CC and SMBRC continue to fail to respond.
Note: The CC continues to fail to respond to queries and comments provided by the public and its so-called "Working Group" members from 1/19/12 and 3/29/12.

FAILURE TO INCLUDE THE WORKING GROUP COMMENTS AND REQUESTS
Despite providing comments, documentation and evidence regarding the topics listed above and others; there is no documentation provided from the Coastal Conservancy on the CD that any of the public/ Working Group communications were included for any meaningful response or use.

The CD documents reveal no inclusion of the public in any decision making for the alternatives.
Public comments provided to SMBRC and the Coastal Conservancy regarding Ballona specific studies such as the Phil Williams & Assoc. report, that did not address or incorrectly addressed issues, such as the migrating oilfield gas and reservoir gas leakage from SOCALGAS had no meaningful response. There is no showing that the CC or SMBRC staff ever shared these concerns with the SAC team, much less did any meaningful, good faith follow up with the public to understand how the gases may impact restoration. The same holds true for issues regarding protection and utilization of the Ballona aquifer groundwater hydrology. Repeated requests from stakeholders to be given ½ hour presentation time to provide information regarding hydrology and groundwater diversion issues, before the SMBRC have been met with silence (The CC is part of the SMBRC) .

1.B.

CONTROL OF MESSAGE AND OUTCOME
The CC and SMBRC Staff :
Allow For No Public/ Working Group Participation In The Planning Process;
Fail to Disclose Science Advisory Committee (SAC) Conference Calls, Memorandums and Reports For Planning of Alternatives;
Feasibility, Cost, Sustainability, Ecosystem Pros and Cons Are Not Disclosed;
And
The CC & SMBRC Staff Arbitrarily Define Project Goal=Estaurine

Staff Recommendation excerpt:
"Cooperation: The conceptual restoration plan was developed in a public process with input from a Science Advisory Committee, an Agency Advisor Committee, and the Ballona Working Group made up of representatives of local nonprofit organizations, agency staff and members of the public. Individual public members also participated in all facets of the development of the restoration alternatives."
(p. 9 of 9 Staff Recommendation 1/19/12)

The 1/19/12 Staff Recommendation excerpt is false. The public/ Working Group was neither privy to the SAC meetings and information created nor included in the planning process to participate in all facets of the development of the restoration alternatives.

O11-150 cont.

The following excerpts from the CD document an internal discussion revealing the CC and SMBRC staff created and controlled the alternative selection:

"Wayne {Wayne Ferren) suggested that biological sustainability be defined as no loss of habitat types & functions, major guilds, and sensitive species over the project site as a whole." July 7, 2008 SAC Conference Call.

And;

"]oy {]oy Zedler) asked how biodiversity is being defined? ***Sean indicated that biodiversity = highest richness of estuarine dependent species****. If this is how we are defining biodiversity, it should be stated clearly in the document.* (emphasis added; Sean Berquist was SMBRC staff and Foundation staff during this timeframe) and,

"*Wayne suggested that we clarify that biodiversity is the sustainable richness of representative interdependent native estuarine habitats along with their associated and expected species biodiversity.* "(CD-June 23, 2008 SAC Conference Call)

The next parargraph, written by the note-taker- cited by CC as being CC or SMBRC staff- states the goal-
"Estuarine biodiversity is the primary objective of the analysis."
(CD- June 23, 2008 SAC Conference Call Memo)

This same Memo also sets forth a GOAL that was not shared with the public/ Working Group.
"The project goal is to create functional estuarine habitat…";
"1. Maximize area of estuarine habitat.";
Opportunities to create regionally significant habitat including vernal pools and…should be pursued but ***not at the expense of restoration of estuarine habitat."***

The public/Working Group was not allowed to participate in the decision making and was not advised as to the differing opinions rendered by the SAC team.

Since this timeframe and without public notification or disclosure the Coastal Conservancy and staff of the Foundation have worked to eliminate the areawide review of ecosystem function and alternative habitat plans—including a public debate regarding the pros and cons of each system -- to instead focus upon a predetermined singular outcome of removal of Ballona Creek levees and dredging of Ballona to 'landscape' and convert the land from its historic natural function to an entirely new, artificial and unnatural function that precludes all habitat function that does not primarily promote the estuarine full tidal premise.

And though asked publically where this 'Plan- Alternative 5 " came from, no response has been forthcoming from either the CC or Foundation staff.

O11-150 cont.

The CD docs however now shed light as to the creation of this "preferred plan". The overtones of financial leverage dominate the first half of the letter and serve to advance a predetermined outcome that is seen fulfilled in the Coastal Conservancy Staff Recommendation—the removal of levees to create the treatment wetlands.

July 10, 2007 SMBRC letter from Shelley Luce to Coastal Conservancy's Ballona Project Manager- Mary Small:

"Dear Mary,
The Santa Monica Bay Restoration Commission, a National Estuary Program of the US EPA, has been pleased to participate in the acquisition and restoration of the Ballona wetlands at all levels over the last several years. We are proud partners in the restoration planning, and currently have one staff member dedicated full time to the planning effort, while I serve on the Ballona Wetlands Science Advisory Committee (SAC). The SMBRC is also an active local partner in the Army Corps of Engineers' Lower Ballona Ecosystem Restoration Feasibility Study and are participating in clean up and restoration plans for Ballona Lagoon, the Grand Canal, Marine del Rey and the Oxford Basin. We have also awarded several millions of dollars of bond monies under our purview to projects designed to improve water quality and habitat in the Ballona Creek watershed. Ballona wetlands restoration is clearly a very high priority of the SMBRC and the EPA.
I have reviewed the restoration design alternatives that are being developed by the consulting team and I am disappointed that they do not fully consider important restoration options, thereby limiting potential habitat, biodiversity and water quality improvements in the wetlands complex. The Ballona SAC requested design alternatives that encompass the "extremes" of restoration planning, i.e. from minimal intervention to maximal structural changes, as well as alternatives in between. The current proposed

alternatives do not provide this and need to be modified, or an additional (fourth) alternative is needed.
SMBRC feels that the restoration design for Ballona wetlands must represent a true restoration of maximum ecological functions and services for the area. Actual restoration work will not begin for months or years, and will be a long term and costly process. The best approach is to include design alternatives that are not limited by current infrastructure or fiscal concerns, since these factors will certainly change over the duration of the restoration process. Similarly, factors such as poor water quality in Ballona Creek will continue to change as Total Maximum Daily Loads and other regulatory measures are implemented. It does not serve us to design the restoration as though it would be undertaken and completed in the very near future, under existing physical or financial constraints.
I would like to request that the design team include at least one design alternative that proposes to
• remove all or part of the levees on one or both sides of Ballona Creek;
• daylight the channel connecting the freshwater marsh to the creek in Area B, and Stingray Creek to Marina del Rey in Area A;
• raise Culver Boulevard to increase flows between the north and south sections of Area B; and
• increase connectivity between Ballona Creek and Areas A and B."

Our staff Wetlands Restoration Manager Sean Bergquist is available to work closely with the consulting team to ensure the revised or new alternatives include features that stakeholders and the SAC members supported. The revised or new alternatives should be presented as one of the group of alternatives for consideration under CEQA and by stakeholders and the SAC.

Given our experience in and commitment to the Ballona wetlands and surrounding interconnected areas, the SMBRC staff, Governing Board and Watershed Council have a great deal to contribute to the restoration process. Please feel free to consult us further during development of the restoration design alternatives and we look forward to continuing our partnership to restore Ballona wetlands.
Sincerely,
Shelley Luce, D.Env.
Executive Director

O11-150 cont.

An e-mail 7/17/07 from SMBRCommission & Foundation executive officer Shelley Luce,
"RE: design alternative for Ballona wetland restoration" and Phil Williams & Associates' (PWA) Jeremy Lowe -
"We've sketched out Alternative 5 as described in Shelley's letter. Is this what you were envisaging?"

Luce: *" Thank you for your response Jeremy. This is a good start for a 5th alternative. Sean and Jessica are adding/changing some details and will forward to you. "*
(presumably-Sean Berquist and Jessica Hall- both Foundation paid staff/ SMBRC staff)

The CD documents also reveal two sets of drawings and plans for the levy removal and levy replacement-by Jessica Hall, a Foundation paid staffer.

Ms. Luce is the Executive Director of the Foundation; no contractual agreements

have been produced by the SMBRCommission or the State Water Board that provide any authority for her to act in capacity of Executive Director of the State Agency-

Santa Monica Bay Restoration Commission which was created under SB 1381 Keuhl as a non regulatory state agency within the State Water Board. There have been no contractual agreements forthcoming by the State Water Board or federal authorities that provide for any SMBRC or federal EPA- National Estuary Program (NEP)- dedicated funding to be handed over to the SMBR Foundation. There is a treasury account that was formed under SB1381 in 2002.

The treasury account has never been used. The attendant oversight and accountability by the State Treasurer has likewise not been utilized.

Ms. Luce has been utilizing both the e-mail address and physical location of the LARWQCB as her work address. The utilization of the addresses has led to common belief that Ms. Luce is a Water Board employee. It is unknown but possible at this time to believe that the utilization of the addresses created a belief that Ms. Luce is LARWQCB personnel, which has in turn, provided Ms. Luce with access to controlling positions on various committees such as IRWMP (Integrated Resource Water Management Program). It would seem that by creating, via continued use of LARWQCB email address and business address, a very public belief that Ms. Luce is a Water Board employee may constitute impersonating a Water Board employee. The following is an e-mail exchange between Ms. Luce and a person with long associations with the Water Board and has acted as a contractor in Ballona restoration matters.

'Travis Longcore travislongcore@laaudubon.org wrote:

Bounced from your waterboards address. Are you no longer a Water Board employee? –

Travis

On Sep 19, 2011, at 2:29 PM, Shelley Luce wrote:

***No, not for many years**. Most of our staff are with our SMBR Foundation. I will check my calendar and get back to you on this meeting, thank you for the invitation.*

Shelley" (emphasis added)

Ms. Luce does not appear to answer directly about herself with regard to the Foundation, or what she means by "our SMBR Foundation". She also does not explain her past personal use of the LARWQCB addresses while not employed and why she suddenly discontinued the practice.

Ms. Luce's resume cites her experience prior to SMBRCommission / Foundation as having been employed by Heal the Bay- the organization that has become institutionalized as part of the SMBRC. Our research indicates Ms. Luce was working in some capacity at LARWQCB during the years 1999-2001- prior to her finishing degrees from UCLA. It appears that her continued use of the Water Board e-mail address after no longer providing service to the California Water Resources Control Board has led/misled many people. (A PRA to LARWQCB is pending for identification of duties.)

Coastal Conservancy- PRA Response to J. Davis

Rare ecosystems of the coastal marsh area are discussed internally by the SAC team with the CC project manager and staff of the Foundation; the information

O11-150 cont.

is not broadcasted for public awareness, inclusion of discussion and decision making as promised.

"Rich noted that the discussion of grasslands should include mention of the historical native grassland prairie ecosystems that previously existed in the area. The rarity of native grasslands should be discussed,,," (CD- 6/28/08 SAC Conference Call)

"Rarity section.complex of prairie and vernal pool.
Wet grasslands formed extensive areas were also palustrine wetlands above highest high tide.." (CD- SAC Call 6/23/08)

".there is native biodiversity in the non-tidal saline soils. . . At Ballona, these wetlands at Area A, for example, are the only habitat where Alkali Barley {Hordeum depressum) is known to occur in the Ballona Ecosystem. This annual grass was probably the dominant native annual grass in naturally occurring non-tidal saline soils at Ballona." (CD- 11/23/08, Wayne Ferren communication to Mary Small..)

And,
"The region has a shortage of mudflat for shorebirds, high marsh for animals and salt marsh bird's beak, marsh-upland transition for rare shrubs {eg. , box thorn) that are used by animals,.

The region has a shortage of dune habitat and back - dune depressions that support clean-water brackish marsh for aquatic plants and animals.

One could also list maritime scrub, which remains in several places ".
(CD- Joy Zedler (SAC) correspondence)

Thus , without public /Working Group inclusion and input into the formation of the alternatives and later failure to include the public /Working Group comments and concerns regarding the PWA Alternatives that are presented at one public meeting--the CC and Foundation staff continue to work behind publically closed doors to focus upon the 'Preferred Alternative", now known as Alternative 5 presented in the 1/19/12, Staff Recommendation request for funding. Alternative 5 requires massive, non-historic, extraordinary, experimental and knowingly toxic changes to occur on the land masses of Area A and B so that **"biodiversity = highest richness of estuarine dependent species."**

Contrary to the 8/13/04 CC Memo which promised transparency and public inclusion in the alternative planning process which would "restore and enhance" a mix of wetland habitats...and that would implement a technically feasible, cost effective, ecologically beneficial and sustainable restoration.
Instead, <u>the public was shut out of the planning process; and SAC knowledge regarding the **needs and dangers posed by Alternative 5 are not made public:**</u>

O11-150 cont.

"This alternative makes the greatest change to the site, would be the hardest to reverse and consequently has the most risk." (CD- 9/12/08 MEMO from SAC to PMT)

" *..this alternative would* ***require reliance on upstream flood control and pollutant removal****, and could necessitate periodic removal of accumulated pollutants for some portions of the restored wetlands. Furthermore, it is unknown how the flow and sediment yield from the upper watershed would affect the sustainability of the marsh in terms of scour or sediment deposition*." CD, P. 4of 9, 10/15/08 SAC MEMO, emphasis added.

There is no evidence of any such large scale BMP (Best Management Practice) planning or proposals for 'flood control and pollutant removal" occurring upstream on Ballona Creek.

And,

"*Eric suggested that there be a statement up front indicating that this site will not be self-sustainable, but will need to be actively managed in perpetuity. "* (CD- 7/7/08 SAC Conference Call)

Discussion and comments made from key federal agencies were withheld from the public, including but not limited to **NOAA communications regarding concern of toxicity of Ballona Creek upon the remaining wetlands should the levee removal and dredging take place.** (CD- National Oceanic Atmospheric Association email)

O11-150 cont.

Studies that discuss the toxicity of the Ballona Creek waters and sediment to life in the waters and sediment were not released or shared with the public:

"These sediments were toxic to aquatic organisms, potentially from organic compounds in these sediments. Ballona Creek has been identified as a potential source of tidal flows into Areas A, B, and C in each of the proposed restoration alternatives. Therefore, there is concern to tidal marsh areas, resulting in a negative impact to the habitats and biological resources." (CD- Weston –Technical Memorandum 11/26/07; Water Quality Data Gap Investigation Ballona Wetlands Restoration Project- Pohl , P.E., Ph.D.)

And,

" The July 2006 report by Weston also concludes that there are concerns related to water and sediment quality adjacent to the tidal channels. Consequently there is a need to develop a strategy to evaluation the potential ecological risk associated with influent water or sediment quality to the restored wetlands.

The scientific questions regarding sediment and water quality cannot be answered based on the information currently available, and will ultimately depend on the design of the project." (CD- Memorandum 3/8/08; Subject:

APPROACH FOR ADDRESSING SEDIMENT AND WATER QUALITY ISSUES)

And;

"*Eric- Conc(ept) D-is it attempt to move water and sediment into system*

Wayne- breaching levee bringing trash, water pollution and sediment into entire area is problematic.

John Dixon-important to describe these NOT as projects, but a directions.

Ambrose- maybe D is too extreme-this won't happen anyway.

Dixon- do feasible maximum tidal, not D-need to scale back

Jeremy- may need to do that, take out realignment Ballona-include realign on Hydrologic options"
(CD-10/30/06 SAC Conference Call)

Additional -SPECIFICS OF THE STAFF RECOMMENDATION 1/19/12

The 1/19/12 Staff Recommendation misleads the public and the Governing Board as seen on pg. 3 of 9, paragraph 5-

" In order to complete the environmental analysis required under the National Environmental Policy Act and the California Environmental Quality Act ***and to apply for permits*** *to implement the project,* ***detailed technical work must be completed."*** *(Emphasis added.)*

What is not disclosed to the reader, is an entire change of process from the Congressionally approved 2005 Joint EIR/EIS process requirements.

The Staff Recommendation sentence itself is also very misleading. The applications for permits to the USACE for implementation of the Coastal Conservancy "Plan", namely the destruction of the levees and the dredging of Ballona have been in process prior to this Staff Recommendation. The Plan-regarding garnering the USACE permits-including the 408- was already in process. (CD)

The Conservancy in its partnership with SMBRC fails to let the public know that they have been working to end the congressionally approved federal portion of the study which entails a full ecological review of the area between the Westchester Bluffs, the Santa Monica Bay, the Santa Monica mountains to a few miles inland - which would also provide for a full review of ALL REASONABLE ALTERNATIVES for enhancement of the ecosystem. (See minutes of USACE/Sponsor meetings provided in the 3/28/12 Request to Rescind File No.04-088; EIS Lower Ballona Creek Restoration Feasibility Study 2005)

O11-150 cont.

Undisclosed is the take-over of process for Ballona 'restoration' guided by the Coastal Conservancy that may disengage the USACE analysis provided for in the established 2005 Joint EIR/EIS.
Instead, it appears that the Coastal Conservancy along with SMBRC staff seek to simply garner permits from the USACE ostensibly for destruction of habitat on Ballona, in particular Area A and B of Ballona. Specifically, the CC and SMBRC staff seek permits (eg 408) for levee and land destruction and removal. It appears that the extensive dredging and massive bulldozing may provide the necessary fill for the LA Port. Questions from the public regarding the CC/SMBRC/ USACE status have gone unanswered. (CD docs and SMBRC April meeting -submission by GC)

Contrary to discussion in the Staff Recommendation-Area A is vegetated primarily by native plants and native wildlife and, is host to endangered species including but not limited to the Belding's Savannah Sparrow.
Not provided to the public are documents and communications which provide, in part, narrative of 'moving' Belding Savannah Sparrows to areas not planned for dredging. This information is vital for public discussion especially since, destruction of the Belding's habitat may wreak havoc upon the Belding population that utilizes Ballona year round. (CD)

O11-150 cont.

- Pg. 3 of 9 discusses hydrology/hydraulics studies that need to be done. What is not discussed with the reader are the multiple public requests for actual onsite hydrology studies that would include Ballona aquifer and groundwater studies that would provide the knowledge for alternatives inclusive of groundwater use onsite. Ballona has multiple aquifers underlying the site. The aquifers are classified as potential drinking water sources and are part of the West Basin aquifers which intermingle to the south and east. (Poland Report)

- None of the concerns raised in House Document 389 (part of the USACE review) regarding problems associated with further saltwater intrusion have been discussed. The elimination of the USACE EIS as part of the Joint EIR/EIS would hasten the Coastal Conservancy's and SMBRC staff GOALS = Estuarine which in turn would potentially threaten contamination of the underground aquifers as per House Document 389 literature. None of the above has been made a part of any review despite repeated requests from the public for such studies.

- The SOCALGAS operations and oilfield gas migration throughout the Ballona area have also not been discussed despite repeated requests from the public.
- Thus pg 9 of 9 is insufficient and incorrect in its comments regarding the Local Coastal Program and the Coastal Act, including but not limited to the

fact that there is no LCP language that states Ballona requires action as the Staff Recommendation implies as per 31252.

-
- Staff Recommendation- Pg. 8 of 9 Under "Sea level rise vulnerability"
- The Staff fail to alert the reader that the 'broad areas of mid marsh and high marsh" depicted--showing a meandering Ballona Creek mid-way between Area A and B-- will be inundated with yearly flood waters of the contaminated Ballona Creek -potentially killing nesting or burrowing life in the low, mid and high marsh areas. Concerns by the SAC team regarding scouring, trash and contamination were not disclosed in the Staff Report and have not been shared with the public.
- The Staff fail to inform the reader that the Preferred Plan creates a non historic cycling of yearly floods, debris and contamination as part of an end of pipe solution, a treatment wetland device .
- The Staff Recommendation does not disclose the SAC discussion of concerns regarding the creation of a treatment wetland.
- The Staff Recommendation does not alert the reader as to what is achieved with the use of the bond funds via "hydraulics" information. Will the hydraulics information be exclusive to new levy construction?
- The Staff Recommendation does not disclose to the reader, the need for upcreek flood control or contamination control as is discussed by SAC.
-

O11-150 cont.

31400- The Staff Recommendation cites enhancement of future NEW trails.
The Coastal Conservancy has already awarded large grants specifically for the Ballona Bike Trail (File No. 07-058-01) which, currently exists and is heavily utilized by the public. Since, much public funding has already been utilized and will be utilized further for the pathway, why should that same importance of pathway be taken away at Ballona?
Removal of the levees would not only take away a heavily utilized public biking and hiking trail but would also take away the pathway's use as an observatory promenade for viewing the interior of Ballona. The levees provide an important opportunity for viewing without intruding.

The Coastal Conservancy and other agencies have failed to embrace and include the public on this issue as well. Using the public's hard earned money while keeping the public out of the planning process reveals the Coastal Conservancy has not acted in good faith.

Grant Award of $280,000 to Mountains Recreation and Conservation Authority (MRCA) File No. 04-088 from Staff Recommendation 7/21/10.

1. The Mountains Recreation and Conservation Authority governing board refused to approve the use of bond money for the trailhead(s) and other enhancement s at Ballona. The Board agreed with members of the public. Namely, that due to the ongoing **Joint EIR/EIS** process' requirements being

more stringent than a singular EIR; those added requirements had to be fulfilled prior to any further decision making taking place.

Mr. Edmiston, at the meeting, asked did they want him to return the money?-

Ostensibly the bond money had already been approved and given to MRCA. Where did the money go? And;

2. The 1/19/12 Staff Recommendation cites NEW levy demolition and bike trails ,
"*the proposed project could provide a new segment of the Coastal Trail . ..the project is located at the intersection of the California Coastal Trail and the Ballona Creek Trail, and may offer a significant opportunity for the development of improved connections between these trails."* P. 7 of 9 .

- Since the Coastal Conservancy has been intent upon levee removal of Ballona Creek and dredging the land in the near future; why did the Conservancy give bond money to MRCA for trail head construction and enhancements for Area A (in particular)--apparently an area it intends to soon demolish and dredge? These inconsistencies appear to show misuse of public funds; paying for contractors and salaries for projects that lead nowhere.
- Furthermore, it appears that when the CC Project Manager of Ballona desires to garner public bond money; the wetlands (or bike path) are discussed in a decidedly positive depiction as below:

O11-150 cont.

"Despite the degradation of site resources, significant wetland habitat remains within the Ballona Wetlands. Plant species within the project site include wetland indicators such as pickleweed, marsh heather, saltgrass, arrowgrass and glasswort, and a variety of upland and exotic species including brome, iceplant, oxalis, and ryegrass. Bird surveys indicate that the site is used seasonally by a variety of migratory shorebirds, as well as by typical shoreline residents (gulls, terns, and ducks) and typical upland birds including small raptors. Bird species of special interest observed in the project area include nesting pairs of Belding's Savannah sparrow and foraging use by California least terns.
The proposed project will be implemented primarily on the portion of the BWER north of the Ballona Creek channel (Exhibit 2). This area of the reserve currently has very limited public access and suffers from illegal uses. The proposed project seeks to improve the resources on the site, increasing public use while discouraging illegal activities through improvements to fencing and signage." File No. 04-088

This same project manager provides an entirely different depiction in the negative—when public bond money is requested for demolition purposes on the same piece of property. Note also the language of utilizing funds to safeguard the property directly contradicts the 1/19/12 Staff Recommendation of the 6 plus million wherein the Project Manager cites the need to demolish and dredge the same area as a means of eliminating public use by the homeless instead of—the aforementioned request for money to protect the same area. (See also Ms. Small e-mails discussing need to show greater degradation in order to secure the desired outcome. (J. Davis 3/28/12 Request to CC))
It appears that the Ballona habitat is characterized dependent upon financial requests---not on reality or science based requests.

- Despite repeated requests for public follow up with regard to the bond money and that project, (including a request made for information at the recent Ballona Watershed Task Force Meeting) none has been forthcoming from MRCA staff or CC staff.

"In 2008, the Conservancy authorized funds to the MRCA for planning, final design and implementation of specific public access improvements identified in the Ballona Wetlands Early BALLONA WETLANDS PUBLIC ACCESS IMPROVEMENTS
Action Plan. MRCA has completed much of that work and as a result of that planning effort, the project partners determined that some of the specific access improvements identified in that plan may need to be re-evaluated and others should be reviewed and permitted as part of the larger wetland restoration project. Rather than pursue the Early Action Plan improvements, the project partners decided that it is a higher priority to develop targeted educational and public access programs in the northern 300 acre portion of the site where there is currently almost no public access. The proposed project would also provide funding for MRCA to continue working on planning public access improvements for inclusion in the ultimate restoration project."

This inconsistency for request/approval and follow-up on bond funds continues to remain unexplained.

O11-150 cont.

And,how does removal of the levees the lower leg of the "Class 1 bike path" fit with the public's money expended below?:
"I_n_ _2_0_0_0_,_ _t_h_e_ _C_o_n_s_e_r_v_a_n_c_y_ _h_e_l_p_e_d_ _f_u_n_d_ _a_ _r_e_g_i_o_n_a_l_ _p_l_a_n_ _f_o_r_ _c_r_e_a_t_i_o_n_ _o_f_ _a_ _"P_a_r_k_ _t_o_ _P_l_a_y_a_" _r_i_v_e_r_ _p_a_r_k_w_a_y_ _f_r_o_m_ _t_h_e_ _B_a_l_d_w_i_n_ _H_i_l_l_s_ _t_o_ _M_a_r_i_n_a_ _D_e_l_ _R_e_y_._ _T_h_e_ _p_l_a_n_ _e_n_v_i_s_i_o_n_e_d_ _c_r_e_a_t_i_o_n_ _o_f_ _a_ _p_a_r_k_w_a_y_ _a_l_o_n_g_ _B_a_l_l_o_n_a_ _C_r_e_e_k_ _t_o_ _l_i_n_k_ _e_x_p_a_n_d_e_d_ _p_a_r_k_s_ _a_t_ _t_h_e_ _B_a_l_d_w_i_n_ _H_i_l_l_s_ _t_o_ _t_h_e_ _b_e_a_c_h_e_s_ _a_n_d_ _t_h_e_ _C_o_a_s_t_a_l_ _T_r_a_i_l_._ _I_n_ _2_0_0_1_,_ _t_h_e_ _C_o_n_s_e_r_v_a_n_c_y_ _h_e_l_p_e_d_ _f_u_n_d_ _t_h_e_ _B_a_l_l_o_n_a_ _C_r_e_e_k_ _a_n_d_ _T_r_a_i_l_ _F_o_c_u_s_e_d_ _S_p_e_c_i_a_l_ _S_t_u_d_y_ _w_h_i_c_h_ _i_d_e_n_t_i_f_i_e_d_ _p_o_t_e_n_t_i_a_l_ _i_m_p_r_o_v_e_m_e_n_t_s_ _t_o_ _t_h_e_ _c_r_e_e_k_ _a_n_d_ _t_r_a_i_l_._ _C_o_n_s_i_s_t_e_n_t_ _w_i_t_h_ _t_h_a_t_ _s_t_u_d_y_,_ _t_h_e_ _C_o_n_s_e_r_v_a_n_c_y_ _h_a_s_ _a_l_s_o_ _p_r_o_v_i_d_e_d_ _f_u_n_d_i_n_g_ _f_o_r_ _t_h_e_ _c_o_n_s_t_r_u_c_t_i_o_n_ _o_f_ _a_ _p_e_d_e_s_t_r_i_a_n_ _b_r_i_d_g_e_ _i_n_ _C_u_l_v_e_r_ _C_i_t_y_ _w_h_i_c_h_ _i_n_c_r_e_a_s_e_d_ _a_c_c_e_s_s_ _t_o_ _t_h_e_ _B_a_l_l_o_n_a_ _C_r_e_e_k_ _T_r_a_i_l_._ _T_h_a_t_ _p_r_o_j_e_c_t_ _h_a_s_ _b_e_e_n_ _c_o_m_p_l_e_t_e_d_._ _T_h_i_s_ _p_r_o_j_e_c_t_ _w_i_l_l_ _h_e_l_p_ _t_o_ _i_m_p_l_e_m_e_n_t_ _t_h_e_ _v_i_s_i_o_n_ _o_f_ _t_h_e_ _"P_a_r_k_ _t_o_ _P_l_a_y_a_" _a_n_d_ _t_h_e_ _F_o_c_u_s_e_d_ _S_t_u_d_y_,_ _d_e_v_e_l_o_p_i_n_g_ _a_ _m_u_l_t_i_-_b_e_n_e_f_i_t_,_ _g_a_t_e_w_a_y_ _p_a_r_k_ _t_h_a_t_ _w_i_l_l_ _i_n_c_r_e_a_s_e_ _a_c_c_e_s_s_ _t_o_ _t_h_e_ _t_r_a_i_l_ _a_n_d_ _e_n_h_a_n_c_e_ _t_h_e_ _e_x_p_e_r_i_e_n_c_e_ _o_f_ _t_r_a_i_l_ _u_s_e_r_s_._ _**File No. 07-058-01; Project Manager Mary Small**

C_o_n_s_e_r_v_a_n_c_y_ _f_u_n_d_s_ _f_o_r_ _t_h_i_s_ _p_r_o_j_e_c_t_ _a_r_e_ _e_x_p_e_c_t_e_d_ _t_o_ _d_e_r_i_v_e_ _f_r_o_m_ _t_h_e_ _C_o_n_s_e_r_v_a_n_c_y_'s_ _F_Y_2_0_0_2_/_0_3_ _a_p_p_r_o_p_r_i_a_t_i_o_n_ _f_r_o_m_ _P_r_o_p_o_s_i_t_i_o_n_ _4_0_")

3. Staff Reccommendation pg. 9 of 9 re: Consistency With Local Coastal Policies fails to provide accurate Local Coastal Plan (LCP)background information.

The Coastal Commission certified the first LUP in 1984, the La Ballona MDR Land Use

Plan.

The Land Use Plan was then changed to reflect two distinctly different Land Use Plans, the La Ballona
Plan and the new and different MDR LUP.

It is questionable as to if the California Coastal Commission certified another Land Use Plan for the Playa Vista Project.

Consistency with the California Coastal Act must be consistent with Chapter 3 of that Act.

The Project will not restore, but will instead convert the land from one historic natural function to an entirely new function that is unnatural.
Lack of saltwater connection is demonstrated in historic maps from the U.S. Geological Survey. (A USGS map was submitted at the public hearing on Jan 19,2012. The CC remains nonresponsive)

O11-150 cont.

Grassroots Coalition respectfully requests a written response to this Additional Complaint and maintains its request for response to the 3/29/12 REQUEST TO RESCIND APPLICATION FOR STAFF RECOMMENDATION APPROVAL ON 1/19/12, to award $6,490,000 Ballona Wetlands Restoration Engineering and Technical Studies. (File 04-088)

The PRA response CD cited herein, is on file with the Coastal Conservancy. Copies of the CD are available upon request and/or are being forwarded.

GC also reserves its right to amend this Complaint and Request with additional information.

Attached is the 3/28/12 Request to Rescind from John Davis to Ca.Coastal Conservancy regarding File No. 04-088

Respectfully,
Patricia McPherson, Grassroots Coalition-President

California Coastal Conservancy March 28, 2012
Att: All Governing Board Members and Alternates
Re: PUBLIC COMMENT 3/29/12:
Request to Hold Emergency Meeting to Rescind Approval Action on File No. 04-088

Douglas Bosco
Marisa Moret
Ann Nothoff
John Laird
Ana J. Matosantos
Mary Shallenberger
Susan Hancsh
Karen Finn
Bryan Cash
Noreen Evens
Joe Simitan
Anthony Cannella
Bill Mornning
Luis Alejo
Das Williams

CC
John Chiang State Controller
California Department of Finance Director Ana Matosantos
U.S. Army Corp of Engineers Att: Commander Mark Toy
U.S. Senator Barbara Boxer
U.S. Congress Person Maxine Waters

O11-151

Honorable Chair Bosco, Distinguished Commissioners,

Attachments will be submitted to the Governing Board on March 29, 2012.

I hereby request this public body instruct its Staff to schedule an emergency meeting in accordance with the Bagley Keene Act section 11125.5(b) to rescind its approval of File No. 04-088 on January 19, 2012 for the following reasons;

1. NON-COMPLIANCE DEPARTMENT OF FINANCE ATTACHMENT 1
Final Report—Audit of California State Coastal Conservancy's Propositions 12, 13, 40, 50 Bond Funds

The Department of Finance, Office of State Audits and Evaluations, has completed its audit of the California State Coastal Conservancy's (Conservancy) Propositions 12, 13, 40, and 50 bond funds for the period ending June 30, 2008.

Staff Project Manager Mary Small **failed to require Potential Grantee**, the Santa Monica Bay Restoration Foundation, **to fill out a Grant Application Form** on the Conservancy Website.

Background:

On January 24, 2011 The **California Department of Finance Issued a Final Report – Audit** of the California State Coastal Conservancy. The Report Found that ;

*The Conservancy did not establish formal program guidelines: project awarding criteria; and **grant applications** to document its project merit review process.*
Also, the Conservancy website included limited or incomplete information about ongoing programs and efforts, regional priorities, and funding opportunities.

On October 7, 2010, Executive Director Samuel Schuchat responded to the Audit.

*The **Conservancy website has been updated to included the standardized grant application**, more information about funding opportunities.*

The Conservancy has formally adopted project selection criteria, and a formal, transparent awarding process that follows statute.

*It generally does not institute grant rounds but instead has an **open grant process. Application can be and are made, and these are considered at any time.***

*With respect to the form of **grant applications**, based on discussions with the auditors, we have created a **uniform grant application** that is posted on our website. There is now more information available to the public concerning priorities and how to apply for funding.*

*We have developed a **standard grant application that is now in use**.*

A. Staff Project Manager Mary Small failed to obtain any written documentation to identify the Potential Grantee,no address, no agent name, nor an account to which the grant could be deposited is recorded.

B. Staff Project Manager Mary Small had no paperwork whatsoever from the Potential Grantee prior to January 19, 2012 nor did the Potential Grantee request funding. Staff did not provide public notice that such Grant Funds were available to other qualified entities.

C. Staff Project Manager Mary Small failed to determine if the private business, Santa Monica Bay Restoration Foundation was legally operating out of a State Water Board Office, the Los Angeles Regional Water Quality Control Board. Filings with the California Secretary of State show the private business is operating out of a State Office. There is no legal authority allowing for this.

D. Staff Project Manager Mary Small failed to disclose the fact she was a Director of the Corporation of the Proposed Grantee in 2006 creating an appearance of impropriety.

O11-151 cont.

2. FALSEFICATION OF PUBLIC RECORDS ATTACHMENT 2

Staff falsified a Form SCC 08-08, Work Transmittal.
The Form was initialized by;
Executive Director - Sam Schuchat
Project Manager - Mary Small
Legal - Elena Eger

Staff filled out the form as follows:

Will this project receive federal or other outside funding? Yes___ No X

The January 19, 2012 **Staff Report contradicts on page 6 :**

"The SMRBF in-kind ***funds would come from U.S. EPA funding*** *provided to the SMRBF for its staff* ***and from a U.S. EPA Wetland Program Development Grant*** *received for work at Ballona"*

3. INCOMPLETE PUBLIC RECORDS ATTACHMENT 2

O11-151 cont.

Staff failed to complete Form SCC 08-08, Work Transmittal.
The Form was initialized by;
Executive Director - Sam Schuchat
Project Manager - Mary Small
Legal - Elena Eger

Is the Grantee a Nonprofit Organization Yes___ No__ - NOT CHECKED
If nonprofit: Is the status file complete and current Yes___ No___ - NOT CHECKED
GRANT / CONTRACT AMMENDMENTS REVIEW - BLANK
MAIL OUT APPROVALS - BLANK
APPLICATION - BLANK
GRANT TRANSMITTAL - BLANK
REVIEW OF AGREEMENT - BLANK

4. DISCRIMINATION ATTACHMENT 3

Staff Project Manager Mary Small has improperly lobbied private individuals, private businesses, State and Federal Officials and entities prior to the release of the Staff Report, thusly, discriminating against all others by failing to provide the same comment opportunity prior to the issuance of the Staff Report.

Further Discrimination has taken place because only one Potential Grantee has been selected by Staff Project Manager Mary Small, excluding all others that may have chosen to apply.

Moreover, Discrimination has taken place in that only a select group of Potential contractors was noticed by Staff Project Manager Mary Small, in non-compliance with the California Contract Code, excluding all other qualified firms.

5. PREJUDICE OF PROCESS ATTACHMENT 4

Staff Project Manager Mary Small requested Potential Grantee to help write Staff Report.

Staff Project Manager Mary Small worked with Potential Grantee to engage in media spin to avoid scrutiny.

6. STAFF REPORT EXCLUDED VITAL INFORMATION ATTACHMENT 5

The Staff Report is ambiguous. It describes the Grantee in detail with no supporting documentation whatsoever.

The Staff Report does not establish terms of compliance for the Proposed Grantee nor for entities that will complete the described studies.

The Staff Report does not define that contractors will be hired. Staff Project Manager Mary Small discussed hiring contractors with the Potential Grantee and others before the Staff Report was approved, purposely avoiding the requirement under the Bagley Keene Act for the Governing Board to approve contractors and Notice requirements of the California Contract Code.

O11-151 cont.

Legal Staff Elena Eger encouraged Staff Project Manager Mary Small to complete a grant agreement form because I requested it pursuant to the Public Records Act. The form should have been completed without my request for it.

The Staff Report failed to inform this Board that a Federal Environmental Protection Act Process was initiated by the Army Corp of Engineers Los Angeles in 2005 that governs the Ballona Wetlands.

Staff has failed to inform the Governing Board and Public that the Project Manager, Mary Small, lobbied the Department of Fish and Game to ignore the EIS Notice published in the Federal Register, in favor of a new EIR/EIS process desired by the Project Manager and the Proposed Grantee, without informing and seeking authorization from this Governing Board. This clearly constitutes interference with a legally noticed federal NEPA process. Furthermore Staff Project Manager Mary Small failed to inform this Governing Board that the entire area is governed by U.S. Public Law 780, the Rivers and Harbors Act of 1954, which is the subject of the EIS process currently being conducted by the USACE.

In the Minutes of the Ballona Ecosystem Restoration Planning Management Committee, obtained from the USACE by FOIA Staff Project Manager Mary Small, without the

authorization of this Board, represented to the Army Corp of Engineers on June 28, 2010 that:

Coastal Conservancy is supplying most of the funding toward the in-kind local sponsor efforts.

The Governing Board has not authorized Mary Small to represent the Coastal Conservancy at a meeting of the Army Corp of Engineers and the Local Sponsor (Santa Monica Bay Restoration Authority). The Conservancy is neither a partner nor is there any MOU to with the SMRBA, which is under contract to the USACE. Minutes of other such meetings provide evidence that Mary Small also discussed;

A. Changing the scoping of an Environmental Protection Act process began by the USACE in 2005.

B. Using only the Conservancy's Alternatives.

C. Attempting to gain in kind credits from the USACE.

D. Further documents provided by the USACE provide evidence that the local sponsor, never provided any funding to the USACE whatsoever nor did it provide any in-kind credit.

O11-151 cont.

E. Resumes provided to the Coastal Conservancy by potential contractors for this Project include studies finished and paid for by federal funding stated in the resume(s) as part of the Lower Ballona Creek Feasibility Studies of the Joint EIR/EIS (2005) initiated by the USACE.

7. VIOLATIONS OF CALIFORNIA CONTRACT CODE ATTACHMENT 6

Staff Project Manager Mary Small failed to comply with the California Contract Code Notification and Conflict requirements, Sections 10140-10141 and 10515-10518.

Staff Project Manager Mary Small conducted a Request for Services for Contractors in 2009, and again in 2010 in regard to a Project not noticed to the Public or Governing Board until 2012, both in non-compliance with California Contract Code.

Staff Project Manager Mary Small purports to have initiated another Request for Services in February 2012 with responses due on the 29th of that month outside in non-compliance with the California Contract Code.

8. VIOLATIONS OF BAGLEY KEENE ATTACHMENT 6

Staff failed to obtain permission from the Governing Board to hire contractors to complete studies.

9. QUID PRO QUO INFERED ATTACHMENT 7

The attached e-mails contain an inference of a quid pro quo. The request for a support letter is accompanied by a discussion of bond money provisions. In one email a support letter request exists alongside a discussion to close out another matter, without specificity.

10. INIMIDATION AND HARRASSNMENT OF PUBLIC BY LEGAL STAFF VIOLATING STATE LAW AND AGENCIES PRIVACY POLICY
ATTACHMENT 8

Legal Staff Elena Eger has attempted to intimidate and harass me by copying private business persons on emails to me which disclose my private address, even after I requested the practice cease in writing, in clear contradiction to Information Practices Act (Civil Code section 1798 et seq.) and the Agencies Privacy Policy.

Staff has violated the Conservancy Privacy Policy by the aforesaid action(s).

Privacy Policy

Pursuant to Government Code § 11019.9, all departments and agencies of the State of California shall enact and maintain a permanent privacy policy, in adherence with the Information Practices Act of 1977 (Civil Code § 1798 et seq.), that includes, but is not necessarily limited to, the following principles:

O11-151 cont.

(a) Personally identifiable information may only be obtained through lawful means.

(b) The purposes for which personally identifiable data are collected shall be specified at or prior to the time of collection, and any subsequent use of the data shall be limited to and consistent with the fulfillment of those purposes previously specified.

(c) Personal data may not be disclosed, made available, or otherwise used for a purpose other than those specified, except with the consent of the subject of the data, or as required by law or regulation.

(d) Personal data collected shall be relevant to the purpose for which it is needed.

(e) The general means by which personal data is protected against loss, unauthorized access, use, modification, or disclosure shall be posted, unless the disclosure of those general means would compromise legitimate agency objectives or law enforcement purposes.

Each department shall implement this privacy policy by:

- *Designating which position within the department or agency is responsible for the implementation of and adherence to this privacy policy;*
- *Prominently posting the policy physically in its offices and on its internet website, if any;*
- *Distributing the policy to each of its employees and contractors who have access to personal data;*
- *Complying with the Information Practices Act (Civil Code § 1798 et seq.); the Public Records Act (Government Code § 6250 et seq.); Government Code § 11015.5, and all other laws pertaining to information privacy;*
- *Using appropriate means to successfully implement and adhere to this privacy policy.'*

Sincerely,

John Davis
PO 10152
Marina del Rey Ca. 90295

O11-151
cont.

ATTACHMENT 1

O11-152
cont.

RE: Public Records Request from John Davis

From: Philip Wyels <PWyels@waterboards.ca.gov>(Add as Preferred Sender)
Date: Tue, Feb 21, 2012 2:26 pm
To: <jd@johnanthonydavis.com>

Mr. Davis, I apologize for the delay in responding to your request. I have been unable to locate any records within the possession of the State Water Resources Control Board that are responsive to your requests. The attached two documents may be of interest to you, however, in that they indicate that the Santa Monica Bay Restoration Project's relationship with the Santa Monica Bay Restoration Foundation (Foundation) pre-dated the conversion of the Santa Monica Bay Restoration Project to the Santa Moniea Bay Restoration Commission (Commission). Also, as I explained to you by telephone, the Commission staff is currently undertaking a number of steps to more clearly distinguish the Commission from the Foundation. Unfortunately, some of those steps are taking some time. I will let you know when I receive a timetable for those steps from Commission staff.

Sincerely,
Phil

Philip G. Wyels
Assistant Chief Counsel
State Board Water Quality Unit
State Water Resources Control Board

1001 I Street
P.0. Box 95812-0100
Sacramento, CA 95814

(916) 341-5178 (phone)
(916) 341-5199 (fax)
pwyels@waterboards.ca.gov>>>

From: <jd@johnanthonydavis.com>
To: Philip Wyels <pwyels@waterboards.ca.gov>
CC: Michael Lauffer <MLauffer@waterboards.ca.gov>
Date: 2/21/2012 10:00 AM
Subject: RE: Public Records Request from John Davis

California State Water Board
Att: Phil Wyels
Re: Status Request Public Record Request

Councel Wyels,

The California Public Records Act requires that Agencies subject to the Act reply to request for records
within 10 days after a request is made.

The State Water Resources Board has not complied with the law in this respect in regard to the request for
records made on 2/7/12.

O11-152 cont.

Please advise as to if or when the State Agency will reply.

Thanks,

John Davis

-------- Original Message --------
Subject: Public Records Request from John Davis
From: <jd@johnanthonydavis.com>
Date: Tue, February 07, 2012 3:03 pm
To: "Philip Wyels" <pwyels@waterboards.ca.gov>
Cc: "Elena Eger" <eeger@scc.ca.gov>

California State Water Board
Att: Phil Wyels
Re: Public Record Request

Dear Mr. Wyeles,

This is a request for public records pursuant to the California Public Records Act. Each numbered request is distinct.

O11-152 cont.

1. Please provide any record of any law, regulation, or policy of the State Water Board which allows
a private business to operate out of a State Water Board Office.

2. Please provide any record of any law, regulation,or policy that allows a private business to use a State Water Board Office as a corporate street address of principal office in California, and or as a mailing address of the corporation, and or mailing address of the corporation, and or address of a corporate Chief Executive Officer, and or of a corporate secretary, and or of a corporate financial agent.

3. Please provide any law, and or regulation, and or policy that allows any State Water Board Commission to
designate a private business as its "FISCAL AGENT"

4. Please provide any law, and or regulation, and or policy that allows any State Water Board Commission to designate a private business to receive, manage, and to treat money granted by the U.S. Government to the State of California as revenue of the private business.

Thank you for your continued assistance,

John Davis
PO 10152
Marina del Rey Ca. 90295
310.795.9640

From:	Elena Eger
To:	"jd@johnanthonydavis.com"
Cc:	"Shelley Luce"; "svalor@santamonicabay.org"; "Mary Small"; "Dick Wayman"; "Nadine Peterson"; "Samuel Schuchat"
Subject:	Davis call to Eger of 2-6-12
Date:	Tuesday, February 07, 2012 1:00:00 PM
Attachments:	SWRCB memo2011aug re accusations.pdf SWRCB Ltr to Davis re PRAs.pdf

Dear Mr. Davis:

Pursuant to our phone conversation of yesterday, February 6, 2012, in which you provided a warning to me that the Conservancy should be informed that the Santa Monica Bay Foundation allegedly is appropriating public resources for private gain, attached please find the State Water Resources Control Board's (SWRCB) August 15, 2011 legal memo addressing your contentions and a September 13, 2011 letter to you regarding the same.

As analyzed in the SWRCB memo, especially in #3, pp. 4-5 of that memo, your contentions that the Foundation is improperly utilizing public resources for private use, namely in your assertions yesterday when you identified as improper the fact that the Foundation uses the same mailing address as the SWRCB's Los Angeles office, are specifically addressed. Frances McChesney, Esq., Office of the Chief Counsel for the SWRCB concludes in that memo that the Foundation is not improperly appropriating public resources for its private use.

The Conservancy intends to proceed with its grant to the Foundation approved as Item #5 at its January 19, 2012 meeting.

Sincerely,

Elena Eger
Senior Staff Counsel
California Coastal Conservancy
1330 Broadway, Ste. 1300
Oakland, CA 94612
510-286-4089 tele/voicemail
510-286-0470 fax

O11-152 cont.

[redacted]

State of California

Secretary of State

E-945038

FILED

In the office of the Secretary of State
of the State of California

Feb - 5 2010

This Space For Filing Use Only

STATEMENT OF INFORMATION

(Domestic Nonprofit, Credit Union and Consumer Cooperative Corporations)

Filing Fee $20.00. If amendment, see instructions.

IMPORTANT - READ INSTRUCTIONS BEFORE COMPLETING THIS FORM

1. **CORPORATE NAME** (Please do not alter if name is preprinted.) **N**

C1481142
SANTA MONICA BAY RESTORATION FOUNDATION

320 W 4TH ST STE 200
LOS ANGELES CA 90013

DUE DATE:

COMPLETE PRINCIPAL OFFICE ADDRESS (Do not abbreviate the name of the city. Item 2 cannot be a P.O. Box.)

2. STREET ADDRESS OF PRINCIPAL OFFICE IN CALIFORNIA, IF ANY — CITY — STATE — ZIP CODE
320 W 4TH ST STE 200 LOS ANGELES CA 90013

3. MAILING ADDRESS OF THE CORPORATION, IF REQUIRED — CITY — STATE — ZIP CODE
320 W 4TH ST STE 200 LOS ANGELES CA 90013

NAMES AND COMPLETE ADDRESSES OF THE FOLLOWING OFFICERS (The corporation must have these three officers. A comparable title for the specific officer may be added; however, the preprinted titles on this form must not be altered.)

4. CHIEF EXECUTIVE OFFICER/ ADDRESS — CITY — STATE — ZIP CODE
SHELLY LUCE 320 W 4TH ST STE 200 LOS ANGELES, CA 90013

5. SECRETARY/ ADDRESS — CITY — STATE — ZIP CODE
CATHERINE TYRRELL 320 W 4TH ST STE 200 LOS ANGELES CA 90013

6. CHIEF FINANCIAL OFFICER/ ADDRESS — CITY — STATE — ZIP CODE
LAURIE NEWMAN 320 W 4TH ST STE 200 LOS ANGELES CA 90013

AGENT FOR SERVICE OF PROCESS (If the agent is an individual, the agent must reside in California and Item 8 must be completed with a California street address (a P.O. Box address is not acceptable). If the agent is another corporation, the agent must have on file with the California Secretary of State a certificate pursuant to Corporations Code section 1505 and Item 8 must be left blank.)

7. NAME OF AGENT FOR SERVICE OF PROCESS
SHELLEY LUCE

8. STREET ADDRESS OF AGENT FOR SERVICE OF PROCESS IN CALIFORNIA, IF AN INDIVIDUAL — CITY — STATE — ZIP CODE
320 W 4TH ST STE 200 LOS ANGELES, CA 90013

DAVIS-STIRLING COMMON INTEREST DEVELOPMENT ACT (California Civil Code section 1350, et seq.)

9. ☐ Check here if the corporation is an association formed to manage common interest development under the Davis-Stirling Common interest Development Act and proceed to items 10, 11 and 12.

NOTE: Corporations formed to manage a common interest development must also file a Statement by Common Interest Development Association (Form SI-CID) as required by California Civil Code section 1363.6. Please see instructions on the reverse side of this form.

10. ADDRESS OF BUSINESS OR CORPORATE OFFICE OF THE ASSOCIATION, IF ANY — CITY — STATE — ZIP CODE

11. FRONT STREET AND NEAREST CROSS STREET FOR THE PHYSICAL LOCATION OF THE COMMON INTEREST DEVELOPMENT (Complete if the business or corporate office is not on the site of the common interest development.) — 9-DIGIT ZIP CODE

12. NAME AND ADDRESS OF ASSOCIATION'S MANAGING AGENT, IF ANY — CITY — STATE — ZIP CODE

13. THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT.

02/05/2010	SHELLEY LUCE	EXECUTIVE DIRECTOR	
DATE	TYPE OR PRINT NAME OF PERSON COMPLETING THE FORM	TITLE	SIGNATURE

SI-100 (REV 01/2008) — APPROVED BY SECRETARY OF STATE

O11-152 cont.

Form **990**

Department of the Treasury
Internal Revenue Service

Return of Organization Exempt From Income Tax

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation)

▶ The organization may have to use a copy of this return to satisfy state reporting requirements

OMB No 1545-0047

2006

Open to Public Inspection

A For the 2006 calendar year, or tax year beginning Jul 01, 2006, and ending Jun 30, 2007

B Check if applicable: ☐ Address change ☐ Name change ☐ Initial return ☐ Final return ☐ Amended return ☐ Application pending

Please use IRS label or print or type See Specific Instructions

C Name of organization, number and street, city, town, state, and ZIP code

Santa Monica Bay Restoration Foundation
320 West 4th Street Suite 200
LOS ANGELES CA 90013

D Employer identification number: 33-0420271

E Telephone number: 213-576-6642

F Acctg. method: ☒ Cash ☐ Accrual ☐ Other (specify) ▶

• Section 501(c)(3) organizations and 4947(a)(1) nonexempt charitable trusts must attach a completed Schedule A (Form 990 or 990-EZ).

G Website: ▶ WWW.SANTAMONICABAY.ORG

H and I are not applicable to section 527 organizations

H(a) Is this a group return for affiliates? ☐ Yes ☒ No

H(b) If "Yes," enter number of affiliates ▶

H(c) Are all affiliates included? (If "No," attach a list See instructions) ☐ Yes ☐ No

H(d) Is this a separate return filed by an organization covered by a group ruling? ☐ Yes ☒ No

J Organization type (check only one) ▶ ☒ 501(c)(3) ◀ (insert no) | 4947(a)(1) or | 527

K Check here ▶ ☐ if the organization is not a 509(a)(3) supporting organization and its gross receipts are normally not more than $25,000 A return is not required, but if the organization chooses to file a return, be sure to file a complete return

I Group Exemption Number ▶

L Gross receipts Add lines 6b, 8b, 9b, and 10b to line 12 ▶ 979,681.

M Check ▶ ☐ if the organization is not required to attach Sch B (Form 990, 990-EZ, or 990-PF)

Part I Revenue, Expenses, and Changes in Net Assets or Fund Balances (See the instructions)

Revenue	1 Contributions, gifts, grants, and similar amounts received			
	a Contributions to donor advised funds	1a		
	b Direct public support (not included on line 1a)	1b	342,406.	
	c Indirect public support (not included on line 1a)	1c		
	d Government contributions (grants) (not included on line 1a)	1d	576,050.	
	e Total (add lines 1a through 1d) (cash $ 918,456. noncash $)			1e 918,456.
	2 Program service revenue including government fees and contracts (from Part VII, line 93)			2 18,485.
	3 Membership dues and assessments			3
	4 Interest on savings and temporary cash investments			4 41,773.
	5 Dividends and interest from securities			5 967.
	6 a Gross rents	6a		
	b Less rental expenses	6b		
	c Net rental income or (loss) Subtract line 6b from line 6a			6c
	7 Other investment income (describe ▶)			
	8 a Gross amount from sales of assets other than inventory	(A) Securities 8a	(B) Other	
	b Less cost or other basis & sales expenses	8b		
	c Gain or (loss) (attach schedule)	8c		
	d Net gain or (loss) Combine line 8c, columns (A) and (B)			8d
	9 Special events and activities (attach schedule) If any amount is from gaming, check here ▶ ☐			
	a Gross revenue (not including $ of contributions reported on line 1b)	9a		
	b Less direct expenses other than fundraising expenses	9b		
	c Net income or (loss) from special events Subtract line 9b from line 9a			9c
	10 a Gross sales of inventory, less returns and allowances	10a		
	b Less cost of goods sold	10b		
	c Gross profit or (loss) from sales of inventory (attach schedule) Subtract line 10b from line 10a			10c
	11 Other revenue (from Part VII, line 103)			11
	12 **Total revenue.** Add lines 1e, 2, 3, 4, 5, 6c, 7, 8d, 9c, 10c, and 11			12 979,681.
Expenses	13 Program services (from line 44, column (B))			13 757,878.
	14 Management and general (from line 44, column (C))			14 102,224.
	15 Fundraising (from line 44, column (D))			15 7,373.
	16 Payments to affiliates (attach schedule)			16
	17 **Total expenses.** Add lines 16 and 44, column (A)			17 867,475.
Net Assets	18 Excess or (deficit) for the year Subtract line 17 from line 12			18 112,206.
	19 Net assets or fund balances at beginning of year (from line 73, column (A))			19 872,326.
	20 Other changes in net assets or fund balances (attach explanation)			20
	21 Net assets or fund balances at end of year Combine lines 18, 19, and 20			21 984,532.

RECEIVED
FEB 19 2008
IRS-OSC
861
OGDEN, UT

SCANNED MAR 04 2008

O11-152 cont.

For Privacy Act and Paperwork Reduction Act Notice, see the separate Instructions. Form **990** (2006)

BCA Copyright form software only, 2006 Universal Tax Systems, Inc All rights reserved US990SS1 Rev 1

97

33-0420271 3

US 990 **List of Officers, Directors, Trustees and Key Employees**
990: Page 5, Part V; 990EZ: Page 2 Part IV; 990-PF: Page 6, Part VIII **2006**

Name and Address	Title/Average Hours Per Week Devoted to Position	Amount Paid	Amount for Employee Benefit Plan	Expense Account and Other Allowances
Rod Spackman 320 W 4th St	President 2			
Randal Orton 320 W 4th St	CFO 2			
Mark Gold 320 W 4th St	Director 1			
Tom Ford 320 W 4th St	Director 1			
Richard Bloom 320 W 4th St	Director 1			
Fran Diamond 320 W 4th St	Director 1			
Marvin Sachse 320 W 4th St	Director 1			
Bob Hoffman 320 W 4th St	Director 1			
S Wisniewski 320 W 4th St	Director 1			
Laurie Newman 320 W 4th St	Director 1			
Mary Small 320 W 4th St	Director 1			
Bryant Chesney 320 W 4th St	Director 1			
Dean Kubani 320 W 4th St	Director 1			
Shelley Luce 320 W 4th St	Executive 40	55,830.		
		55,830.		

O11-152 cont.

ATTACHMENTS 2

O11-152
cont.

SCC 03-08

WORK TRANSMITTAL

Project Development Approval

Date: 12/13/11 WG Leader: MS Date: 12/13/11

Project Manager: Mary Small Project #: 04-088-01

Project Name: Ballona Wetlands County/City: LA²

Grantee/Contractor Name: Ltd / Santa Monica Bay Foundation

Is Grantee a Nonprofit Organization? ___ Yes ___ No If Nonprofit: Is status file complete and current? ____ Yes ____ No

Nature of Job Planning / design

RESERVATION OF FUNDS

Will this project receive federal or other "outside" funding? ___ Yes X No. *If Yes, fill out back side of this form (Grant Transmittal - A)*

Will this project receive state / other funding? ___ Yes *(Reimb. -0995)* X No. *If Yes, fill out back side of this form (Grant Transmittal - B)*

Total Amount to be Reserved: $ 6,490,000.00

Prop 84 - Planning? ____ Yes X No

Proposed Budget Item(s):	Fiscal Year (Budget Act)	Amount	Encumb. Expiration Date	Liquid. Date
1: 3760-30203-0005 (2)(B)( )	2000 Chapter: 057/00	$ 6,490,000.00	(6/13	)(6/15)
2. 3760-____ ( )( )( )	____ Chapter: ___	$ ____	(____	)(____)
3. 3760-____ ( )( )( )	____ Chapter: ___	$ ____	(____	)(____)

Reap. by Chapter: 712/10 *for Item* 1. *Reap. by Chapter:* ____ *for Item* ___ *Reap. by Chapter:* ____ *for Item* ___

Program: enhancement

Project Info entered onto applicable Bond Data Spreadsheet? ___ Y X N Date: NA

____ Public Access: VRA (Capital Outlay)

____ Habitat Conservation Fund (0262)

____ Support: 001 Fund 0565 only: ___ Yes

IT ___ Consult & Prof: (External) ___ (Inter-Dept.) ___

Repayment Feature? (Loan Receivable) ___ Yes ✓ No

Private Activity ? ___ Yes ___ No ✓ N/A (Tax Reportable to Treasurer's Office)

Expected Date of Board Action: 4/19/12 Project Entered onto SCC Database? ✓ Y ___ N Date: 12/13/11

1. WG Leader: MS Date: 12/13/11 4. Legal: [illegible] Date: 12/14/11

2. Acctg Officer: HT 6.49M Date: 12/13/11 5. EO/DEO: SS Date: 12/15/11

3. Additional WG Leader responsible for management of specific funds (if applicable): ____ Date: ____

STAFF RECOMMENDATION REVIEW (For 4/19/12 Board Meeting)

1. WG Leader: MS Date: 12/13/11 3. EO/DEO: SS Date: 12/15/11

2. Legal: [illegible] Date: 12/14/11 4. *Legal: ____ Date: ____

** At EO/DEO's discretion*

GRANT/CONTRACT AMENDMENTS REVIEW

(CEQA Submitted? ___ Yes ___ No ___ N/A Project Manager ____ Date: ____)

Amount Encumbered: $ ____ Grant/Contract No.: ____

Termination Date: ____ Amendment No.: ____

Disabled Veteran Business Enterprise (DVBE)? ____ Yes ____ No 20-yr Agreement? ____ Yes ____ No

Small Business Enterprise (SBE)? ____ Yes ____ No

(If Yes, provide DSDS# ____)

MAIL OUT APPROVALS

1. Legal: ____ Date: ____ 2. Project Manager: ____ Date: ____

3. Proofreader: ____ Date: ____

O11-152 cont.

GRANT TRANSMITTAL

Grant No._____

(for receivable grants)

INTENT TO APPLY

Date: _____

Project Manager: _____

SCC Program: _____

Grant Program Name: _____ Grant Amount: _____

Granting Agency: _____

Project Name: _____ Project Number: _____

SCC required Matching Funds: (if other than in-kind services, please use reverse side of this form to reserve SCC funds)

In - Kind: $ _____ (Copy from reverse side)

Support: $ _____ Fund No.: _____ FY _____

Capital Outlay: $ _____ Fund No.: _____ FY _____

TOTAL: $ _____

Funding Mechanism: Will or will not hit SCC account? _____ Electronic Transfer ? _____

Paid in Arrears ? _____ Cash Advance ? _____

___ ***(A) For Federal Grant***

Support (Staff, travel, equipment): $ _____ 3760 - 001- 0890 FY : _____

Capital Outlay: $ _____ 3760 - 301- 0890 FY : _____

Other (Specify) _____ : $ _____ 3760 - _____ FY : _____

TOTAL: $ _____

___ **(B) For State Reimbursable Grant** (Please use reverse side of this form to reserve up-front SCC funds)

Support (Staff, travel, equipment): $ _____ 3760 - 001 - 0565 - F90 FY : _____

Capital Outlay: $ _____ 3760 - 301 - _____ - F90 FY : _____

Other (Specify) _____ : $ _____ 3760 - _____ - _____ - F90 FY : _____

TOTAL: $ _____

Authorization:

Program Manager: _____ Date: _____

Accounting Officer: _____ Date: _____

Grants Manager: _____ Date: _____

APPLICATION *(Provide copy of Application to Grants Manager)*

Legal * _____ Date: _____

**Please inform Grants Manager if signature are missing in the "INTENT TO APPLY" SECTION*

EO/DEO: _____ Date: _____

Date Applied: _____ Expected Date of Grant Award: _____

REVIEW OF AGREEMENT (for receipt of funds)

Board Authorization To Spend The Grant: Date (s): _____

Project Manager: _____ Date: _____

Program Manager: _____ Date: _____

Legal: _____ Date: _____

EO/DEO: _____ Date: _____

Grants Manager: _____ Date: _____ Inform Acct. Date: _____

Amendment #: _____ Legal Reviewed by: _____ Date: _____

O11-152 cont.

ATTACHMENT 3

O11-152 cont.

From: Mary Small
To: sluce@santamonicabay.org; "Barbara Romero"
Subject: FW: hard copy in the mail tomorrow
Date: Friday, January 06, 2012 4:04:00 PM

-----Original Message-----
From: Ruth Galanter [mailto:ruth.galanter@verizon.net]
Sent: Friday, January 06, 2012 3:57 PM
To: Mary Small
Subject: Re: hard copy in the mail tomorrow

I am planning to attend the meeting, and I'm trying to get some more support letters and maybe attendees. You have no idea how much pleasure I would get from foiling your opponents. I can either stand up during the hearing, or if you want, I can instead meet you and the board between the tour and the meeting (since you must be going to feed them someplace) and just chat informally.

Your choice. I'm free at about 11:30 and have a meeting at 3 pm. In between I am at your service.

On Jan 6, 2012, at 3:50 PM, Mary Small wrote:

> Thanks that's a very generous offer. If you have time to attend the
> meeting, that would be great. It starts at 1pm at Baldwin Hills Scenic
> Overlook and this is the first substantive item on the agenda. I will have
> pretty limited time to present, but could acknowledge you and if you were
> willing to speak in public comment on the item that would fantastic.
> Mary
>
> -----Original Message-----
> From: Ruth Galanter [mailto:ruth.galanter@verizon.net]
> Sent: Friday, January 06, 2012 9:52 AM
> To: Mary Small
> Subject: Re: hard copy in the mail tomorrow
>
> I'm available after about 11:30, and you might want to use me as part of a
> board briefing in light of my nearly two decades dealing with the issue.
> That of course is up to you, and I promise not to get huffy if you'd rather
> not.
>
> On Jan 6, 2012, at 9:10 AM, Mary Small wrote:
>
>> Thank you very much, you letter is perfect and I appreciate your quick
>> response. It would be great to have a few supporters at the meeting, I am
>> sure the opponents will attend.
>>
>> We are also going to take the Coastal Conservancy board on a quick tour of
>> the site the morning before the meeting from 10-12. I know you are very
>> busy but it would be great if you wanted to join us for either the tour or
>> to attend the meeting.
>> Mary
>>
>> -----Original Message-----
>> From: Ruth Galanter [mailto:ruth.galanter@verizon.net]
>> Sent: Thursday, January 05, 2012 9:13 PM
>> To: Small Mary
>> Subject: hard copy in the mail tomorrow
>>

O11-152 cont.

>> Hi Mary,
>>
>> I've emailed you my letter and will send the hard copy tomorrow.
>>
>> I've also emailed various people to suggest attending the hearing in case
>> the eco-loonies show up, as I suppose they will.
>>
>> Have a good weekend.
>>
>> Ruth
>>
>>
>>
>
>
>
>

O11-152
cont.

From: Mary Small
To: "Shelley Luce"
Subject: FW: Letter for Coastal Conservancy Board
Date: Tuesday, December 13, 2011 1:21:00 PM

Do you know Ruth?

From: Joan Cardellino [mailto:jcard@scc.ca.gov]
Sent: Tuesday, December 13, 2011 11:57 AM
To: 'Mary Small'
Subject: RE: Letter for Coastal Conservancy Board

It might be worth calling Ruth Galanter to see if she'd speak in support of the project. She has some good credentials. She might know of other supporters to ask too.

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Tuesday, December 13, 2011 10:38 AM
To: 'Shelley Luce'
Cc: 'Joan Cardellino (Joan Cardellino)'
Subject: RE: Letter for Coastal Conservancy Board

Hi Shelley-
Do you have time to talk about our Jan meeting? I know you have a board meeting this week, so we could also do this via email – or next week, but before next Fri I'd like to work through some ideas:

1) Tour – we'll probably do a tour the morning of the meeting, I think maybe the tour we did with Colonel Toy – view from Cabora Rd and then walk out to boyscout platform
2) Press – do you think we could use this meeting as an opportunity to get either local papers and/or try for LA Times to cover the project? I am worried that once the agenda is out Marcia will use as opportunity to get bad press. Our agenda will be mailed out Jan 6th
3) Public support – who could we have come to support the project at the meeting or with letters? Geraldine is critical (at least her letter) but how about MRCA?, Joe Geever?, Ballona Creek Renaissance?, Friends?, Miguel Luna?, Audubon? HtB? Baykeeper?

Thanks,
Mary

O11-152 cont.

From: Shelley Luce [mailto:sluce@santamonicabay.org]
Sent: Monday, December 12, 2011 3:22 PM
To: Mary Small
Subject: FW: Letter for Coastal Conservancy Board

Hi Mary, Geraldine thought her letter went out already. Have you received? I also invited her to tour the wetlands with us after the meeting.

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission

From:	Mary Small
To:	"Bryant Chesney"
Cc:	"sluce@santamonicabay.org"
Subject:	FW: support letter for Ballona Funding
Date:	Friday, January 06, 2012 9:57:00 AM
Attachments:	Ballona Wetlands Engineering and Technical Studies.docx ballona support letter 1.docx ballona support letter 2.docx

Hi Bryant
I was wondering if you would be willing to send a letter of support (samples attached) to the Coastal Conservancy for the Ballona wetlands project. Also attached is the draft staff recommendation. The Conservancy will be considering this authorization in LA on Jan 19th, we will take the board on a quick tour of the site before the meeting. If you have time, it would be great to have you attend either of those events too.

This is the request for all funding to complete the environmental review, 100% engineering, and all of the hydrology/hydraulics modeling that the Army Corps is requiring for its permit to modify the flood control levees. The later analysis is the about half of the cost estimate.

Since the meeting will be in LA, opponents of the project are likely to show up. This approval is pretty critical to moving the project forward. If the Conservancy Board gets frightened away from large scale, ecological restoration then I think we will have very limited options for the future.

Thanks for your consideration and please let me know if you have any questions.
Mary

O11-152 cont.

From: Mary Small
To: "Miguel Luna"
Cc: "Shelley Luce"
Subject: FW: draft support letter for SCC board meeting
Date: Tuesday, January 03, 2012 1:29:00 PM
Attachments: SCC_Ballona_Tech_Support_Ltr.docx

Hi Miguel
Happy New year! Hope you are well.

Is there any chance you would be willing to send a letter of support to the Coastal Conservancy for authorization of funding to continue design of the restoration project? I don't know if Shelley contacted you, but it would be great to get community groups weighing in who support ecological restoration. Our meeting will be in LA, so I expect there will be some opposition.

Please let me know if you have any questions or need more info.
Thanks,
Mary

O11-152 cont.

December 14, 2011

Mr. Doug Bosco, Chairman
State Coastal Conservancy
1330 Broadway, #1300
Oakland, CA 94612
Attn: Mary Small

RE: Proposed Conservancy Authorization for Ballona Wetlands Restoration Engineering and Technical Studies

Dear Chairman Bosco:

I am writing to encourage the Conservancy to authorize funding for the Ballona Wetlands Ecological Reserve Restoration Project planning process. These authorizations would enable the development of technical assessments and engineering design, technical review and agency coordination to support environmental impact analysis and permit applications for the restoration of the Ballona Wetlands Ecological Reserve (BWER).

O11-152 cont.

The Ballona Wetlands Ecological Reserve is 600 acres, surrounded by urban Los Angeles County. The BWER provides valuable and scenic open space in the heart of congested Los Angeles County and offers one of the largest and most promising opportunities for coastal wetland restoration in the region. When restored and opened to the public, the site will allow millions of residents and visitors a rare opportunity to experience a coastal wetland. I support this project because it will help to move the restoration of the Ballona Wetlands Ecological Reserve closer to fruition. Thank you for your consideration of this project.

Sincerely,

From: Mary Small
To: "Shelley Luce"
Subject: RE: draft support letter for SCC board meeting
Date: Tuesday, January 03, 2012 1:27:00 PM

Thanks!
I will talk to Sam about Boxer and Feinstein. Can LA Co DPW send a letter or do you think that is covered by the Supervisors?
Mary

From: Shelley Luce [mailto:sluce@santamonicabay.org]
Sent: Tuesday, January 03, 2012 1:25 PM
To: Mary Small; Diana Hurlbert
Subject: RE: draft support letter for SCC board meeting

Hi Mary,
We are working on:
Knabe
MRT
Friends of BW
So Cal Edison
So Cal Gas
LMU
Waxman
Lieu
Butler
Rosendahl

O11-152 cont.

And Anyone else you want to add to that list. Figured Feinstein and Boxer will be more important later, and that you and Sam are the best ones to approach them.

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160
1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-961-4444

www.santamonicabay.org

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Tuesday, January 03, 2012 1:06 PM
To: Shelley Luce; Diana Hurlbert
Subject: FW: draft support letter for SCC board meeting

Hi
I belatedly just sent this request to DFG and SLC. The only support letter I have is from MRCA, though I know the port is working on one too. Can you let me know who you are working on

getting letters from and if there is anyone else I should follow-up with?
Thanks
Mary

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Tuesday, January 03, 2012 1:04 PM
To: 'Griggs, Pamela@SLC'; 'Terri Stewart'; 'dlawhead@dfg.ca.gov'; 'Rick Mayfield (rmayfield@dfg.ca.gov)'
Subject: draft support letter for SCC board meeting

Hi
Sorry I didn't send this to you earlier, I meant to send it before the holidays, but forgot. I was wondering if your agencies would send a support letter to Coastal Conservancy for the requested authorization for funds for engineering and final design for Ballona. Our meeting will be in LA so I expect there will be some opposition and it is a huge funding request since we decided to do the EIR and permitting for the whole project.

If you could attend the site tour of Ballona and the meeting (both on Jan 19th) that would be great too.

Please let me know if you have any questions or need more info.
Thanks
Mary

O11-152 cont.

Pereira Annex MS:8160
1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-961-4444

www.santamonicabay.org

From: Knatz, Geraldine [mailto:knatz@portla.org]
Sent: Sunday, December 11, 2011 1:00 PM
To: Shelley Luce; Zordilla, Eunice
Cc: Tankersley, Eileen
Subject: Re: Letter for Coastal Conservancy Board

The letter was drafted the day after you asked me. Not sure what happened. Eunice- can you check.
Geraldine Knatz
Executive Director
Port of Los Angeles

From: Shelley Luce [mailto:sluce@santamonicabay.org]
Sent: Friday, December 09, 2011 04:26 PM
To: Knatz, Geraldine
Cc: Tankersley, Eileen
Subject: Letter for Coastal Conservancy Board

O11-152 cont.

Dear Geraldine,
When we spoke a month or so ago, I asked if you would provide a letter to Sam Schuchat and his Board regarding your interest in the Ballona Wetlands restoration project. The January meeting of the Conservancy Board will be in Los Angeles and Sam will ask the Board to approve a large sum for continuing the planning and permitting of the restoration project, so your support of the project and interest in providing mitigation funding is important. Do you still intend to provide a letter and can I help with drafting? Also, we will give the Board members a tour of the wetland and briefing on the restoration plan before or after the Board meeting. As soon as we have a date I will send you an invitation and hope that you could come along.

Thank you Geraldine,
Shelley

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160
1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-961-4444

www.santamonicabay.org

O11-152 cont.

Mark Gold, D.Env. | President
Heal the Bay | 1444 9th Street | Santa Monica CA 90401
Tel: 310 451 1500 X123 | Fax: 310 496 1902 | mgold@healthebay.org
DONATE NOW to protect what you love: make an Aquadoption, shop at our online store or dedicate a Heal the Bay membership or donation.

O11-152 cont.

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Tuesday, January 03, 2012 2:16 PM
To: Mark Gold
Subject: support letter for SCC board meeting?

Hello Mark,
Happy New Year. I am emailing to see if Heal the Bay would be willing to send a letter of support to the Coastal Conservancy for the recommendation that we authorize $6.5M for the design and engineering of the proposed restoration project? My draft staff report is attached along with a sample letter. I know you have talked to Shelley about the project, but I would be happy to give you an update at any time. Of course I understand if you are not prepared to take a position on this project at this point, but our meeting will be in Culver City, so I expect there will be some opposition.

Please let me know if you have any questions or need more info.
Thanks,
Mary

From: Shelley Luce
To: Mary Small; Karina Johnston
Subject: Fw: Coastal Conservancy funding to complete Ballona Wetlands restoration planning
Date: Wednesday, January 18, 2012 10:13:14 PM
Attachments: BCR Support for SCC Ballona Wetlands Funding Authorization.pdf

Jim Lank comes through! Karina or Elena can you please print a copy for me when you get in the office tomorrow? Thank you.

Shelley,

Emails have been flying today, with the end result that BCR is a strong supporter of the requested authorization. See the attached letter. Should we bring copies to give to the board and staff?

As I said before, both Bobbi Gold and I plan to be at the Scenic Overlook for the 1pm meeting start. Bobbi plans to be there for the whole discussion of the agenda item, while I'll stay as long as I can. Both of us plan to sign in to speak on the item. As part of that, I assume it would be appropriate to read the letter, at least in part. If not, let me know.

I hope the tour and meeting both go well. FYI, I'll be leaving soon for another meeting.

O11-152 cont.

Thanks again for your quick response with the helpful cost information.
Jim

Jim Lamm, President
Ballona Creek Renaissance (BCR)...Connecting Creek and Community from the Hills to the Bay
310-839-6896, 310-367-0336 (c), http://facebook.com/ballonacreekrenaissance, www.ballonacreek.org

From: Shelley Luce <sluce@santamonicabay.org>
To: Jim Lamm <jim.lamm@sbcglobal.net>
Sent: Wed, January 11, 2012 11:19:55 AM
Subject: RE: [REPLY] Fw: Coastal Conservancy funding to complete Ballona Wetlands restoration planning

Thank you very much Jim! I hope you had a nice holiday too. It's going to be a great 2012.
Shelley

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160
1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-961-4444

www.santamonicabay.org

From: Jim Lamm [mailto:jim.lamm@sbcglobal.net]
Sent: Wednesday, January 11, 2012 10:58 AM
To: Shelley Luce

Subject: Re: [REPLY] Fw: Coastal Conservancy funding to complete Ballona Wetlands restoration planning

Shelley,

Please accept my apologies for this late response. Cathi and I were away on a 2 1/2 week driving trip to the Seattle area for a holiday visit with our kids and grandkids. Then after returning late last Thursday, we've been focused on moving Cathi's 93-year-old mom in with us. I'm just now beginning to turn more of my attention to a backlog of BCR and other matters.

Unfortunately I have an important 3pm meeting at Culver City Hall on the afternoon of the 1pm SCC board meeting at the Scenic Overlook. If I were able to speak on the restoration planning agenda item before about 2:40pm, it could work. Otherwise (or in addition) I might be able to get Bobbi Gold or another knowledgeable BCR board member to represent us.

As for a BCR support letter, I'm pretty sure that would not be a problem. This is on my list of things to bounce off the board prior to our next board meeting.

Here's to a great new year, despite the challenges ahead!
Jim

Jim Lamm, President
Ballona Creek Renaissance (BCR)...Connecting Creek and Community from the Hills to the Bay
310-839-6896, 310-367-0336 (c), http://facebook.com/ballonacreekrenaissance, www.ballonacreek.org

O11-152 cont.

From: Shelley Luce <sluce@santamonicabay.org>
To: Jim Lamm <jim.lamm@sbcglobal.net>
Sent: Fri, January 6, 2012 5:32:52 PM
Subject: Coastal Conservancy funding to complete Ballona Wetlands restoration planning

Hello Jim,
I hope you had a lovely Christmas and a happy new year! I did enjoy a nice break.

You may have heard that the Board of the Coastal Conservancy will meet in LA on Jan. 19 and will consider a request from their staff to authorize funding to complete the Ballona Wetlands restoration planning. The request is for about $6.3M and most will go to consultants for additional engineering (through final design), to create a public access master plan, and to do extensive hydraulic modeling as required by Army Corp permitting (the major expense). About $240k will come to SMBRF to fund Diana's position as well as monitoring on the site for the next three years. I don't know if there will be active opposition to this but I am preparing for that nonetheless. Also I see this as a good opportunity to let the SCC board members see the great support that exists in our community for restoration at Ballona.

Please let me know if you are able to support by letter or by attending the meeting. It was posted today on SCC website http://scc.ca.gov/2012/01/06/coastal-conservancy-public-meeting-january-19-2012/
I am attaching the staff report for the item and a couple of example support letters as well. Thank you Jim!
shelley

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160

Subject: Re: Letter for Coastal Conservancy Board

The letter was drafted the day after you asked me. Not sure what happened. Eunice- can you check.
Geraldine Knatz
Executive Director
Port of Los Angeles

From: Shelley Luce [mailto:sluce@santamonicabay.org]
Sent: Friday, December 09, 2011 04:26 PM
To: Knatz, Geraldine
Cc: Tankersley, Eileen
Subject: Letter for Coastal Conservancy Board

Dear Geraldine,
When we spoke a month or so ago, I asked if you would provide a letter to Sam Schuchat and his Board regarding your interest in the Ballona Wetlands restoration project. The January meeting of the Conservancy Board will be in Los Angeles and Sam will ask the Board to approve a large sum for continuing the planning and permitting of the restoration project, so your support of the project and interest in providing mitigation funding is important. Do you still intend to provide a letter and can I help with drafting? Also, we will give the Board members a tour of the wetland and briefing on the restoration plan before or after the Board meeting. As soon as we have a date I will send you an invitation and hope that you could come along.

O11-152 cont.

Thank you Geraldine,
Shelley

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160
1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-961-4444

www.santamonicabay.org

From: Mary Small
To: "Shelley Luce"; "Diana Hurlbert"
Subject: FW: draft support letter for SCC board meeting
Date: Tuesday, January 03, 2012 1:05:00 PM
Attachments: SCC_Ballona_Tech_Support_Ltr.docx

Hi
I belatedly just sent this request to DFG and SLC. The only support letter I have is from MRCA, though I know the port is working on one too. Can you let me know who you are working on getting letters from and if there is anyone else I should follow-up with?
Thanks
Mary

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Tuesday, January 03, 2012 1:04 PM
To: 'Griggs, Pamela@SLC'; 'Terri Stewart'; 'dlawhead@dfg.ca.gov'; 'Rick Mayfield (rmayfield@dfg.ca.gov)'
Subject: draft support letter for SCC board meeting

Hi
Sorry I didn't send this to you earlier, I meant to send it before the holidays, but forgot. I was wondering if your agencies would send a support letter to Coastal Conservancy for the requested authorization for funds for engineering and final design for Ballona. Our meeting will be in LA so I expect there will be some opposition and it is a huge funding request since we decided to do the EIR and permitting for the whole project.

If you could attend the site tour of Ballona and the meeting (both on Jan 19th) that would be great too.

Please let me know if you have any questions or need more info.
Thanks
Mary

O11-152 cont.

1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-216-9827
www.santamonicabay.org

From: Jim Lamm [jim.lamm@sbcglobal.net]
Sent: Monday, November 14, 2011 8:51 PM
To: Jessica Hall
Cc: Diana Hurlbert; Shelley Luce
Subject: Re: Request for Support Letters - Urban Greening - Cochran Avenue

Jessica,

BCR's letter of support is attached. Here's to a successful project!
Jim

Jim Lamm, President
Ballona Creek Renaissance (BCR)...Connecting Creek and Community from the Hills to the Bay
310-839-6896, 310-367-0336 (c), http://facebook.com/ballonacreekrenaissance, www.ballonacreek.org

---

From: Jessica Hall <jishica@mac.com>
To: Jim Lamm <jim.lamm@ballonacreek.org>; diana hurlbert <dhurlbert@santamonicabay.org>
Cc: shelley <sluce@santamonicabay.org>
Sent: Mon, November 14, 2011 10:44:14 AM
Subject: Request for Support Letters - Urban Greening - Cochran Avenue

Hi Jim and Diana,
I am working on the urban greening grant for SMBRF for Cochran Avenue Gateway project. Jim, I was wondering if BCR would write a letter of support, and Diana, I was wondering if there were other stakeholders in the Ballona community that you have contact info for, that would also provide a letter of support. Any technical experts would be especially appreciated. A draft letter is enclosed.

The grant is due Thursday.

Thanks!
Jessica

O11-152 cont.

From:	Mary Small
To:	"Mark Gold"
Cc:	sluce@santamonicabay.org
Subject:	RE: support letter for SCC board meeting?
Date:	Friday, January 06, 2012 4:23:00 PM

I was just talking to Shelley and we were wondering if you could send a staff person to the meeting even if you don't want to sign a letter? Maybe Meredith or someone on her staff could come to talk about the need to open the site to public access and restore nature in the city?

This authorization doesn't commit to any one project, we still will be going through CEQA and NEPA.

Thanks
Mary

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Tuesday, January 03, 2012 3:00 PM
To: 'Mark Gold'
Subject: RE: support letter for SCC board meeting?

Thanks, the meeting is the 19th so that's the deadline. Yes, I totally understand.

O11-152 cont.

I was just sending Sarah an email about possible dates I'll be in LA when I'd like to stop in ad talk about OPC, so maybe I'll see you then.

Happy new year (and MLPA implementation)
Mary

From: Mark Gold [mailto:mgold@healthebay.org]
Sent: Tuesday, January 03, 2012 2:39 PM
To: Mary Small
Subject: RE: support letter for SCC board meeting?

Mary – Happy new year to you too. We will definitely take a look at this and think it through. It is a great project and needs to happen. The political baggage that goes with it is no picnic as you know.

When is the deadline?

Mark Gold, D.Env. | President
Heal the Bay | 1444 9th Street | Santa Monica CA 90401
Tel: 310 451 1500 X123 | Fax: 310 496 1902 | mgold@healthebay.org

---

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Tuesday, January 03, 2012 2:16 PM
To: Mark Gold
Subject: support letter for SCC board meeting?

Hello Mark,
Happy New Year. I am emailing to see if Heal the Bay would be willing to send a letter of support to the Coastal Conservancy for the recommendation that we authorize $6.5M for the design and engineering of the proposed restoration project? My draft staff report is attached along with a sample letter. I know you have talked to Shelley about the project, but I would be happy to give you an update at any time. Of course I understand if you are not prepared to take a position on this project at this point, but our meeting will be in Culver City, so I expect there will be some opposition.

Please let me know if you have any questions or need more info.
Thanks,
Mary

O11-152 cont.

From: Mary Small
To: "Dick Wayman"
Subject: FW: Ballona Wetlands presentation materials at SCC meeting
Date: Friday, January 20, 2012 4:03:00 PM

From: Shelley Luce [mailto:sluce@santamonicabay.org]
Sent: Friday, January 20, 2012 3:12 PM
To: Mary Small; Karina Johnston; Diana Hurlbert
Subject: RE: Ballona Wetlands presentation materials at SCC meeting

Yes Mary - Karina or Diana can you please?
Also wanted to make sure you saw/heard the NPR coverage:
http://www.scpr.org/news/2012/01/20/30859/coastal-conservancy-releases-55-million-ballona-wet/

The MDR patch did a pretty good job covering - except Lisa F's comments which are confusing to me, but I will call her about it - and LATimes is going to run something this weekend, I am told. Fingers crossed.
http://venice.patch.com/articles/coastal-conservancy-approves-6-5-million-for-ballona-wetlands-restoration-plans

Thank you Diana and Karina for helping get this press coverage - the advance work we did made a HUGE difference! Please stay on top of me in the future to make sure we have the same success next time. great job.
shelley

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex M5:8160
1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-216-9827
www.santamonicabay.org

From: Mary Small [msmall@scc.ca.gov]
Sent: Friday, January 20, 2012 2:52 PM
To: Karina Johnston; Diana Hurlbert
Cc: Shelley Luce
Subject: Fwd: Ballona Wetlands presentation materials at SCC meeting

Could one of you email this to him?
Thanks

sent from my phone

Begin forwarded message:

> **From:** Rex Frankel <rexfrankel@yahoo.com>
> **Date:** January 20, 2012 12:46:45 PST
> **To:** Mary Small <msmall@scc.ca.gov>
> **Subject: Re: Ballona Wetlands presentation materials at SCC meeting**
> **Reply-To:** Rex Frankel <rexfrankel@yahoo.com>
>
> Mary,
> thank you for the presentation materials. However, on the Baseline monitoring report page,
> http://santamonicabay.org/smbay/ProgramsProjects/HabitatRestorationProject/BaselineAssessmentReport/tabid/203/Default.aspx
>
> the Chapter 4--Vegetation report does not come up when you click on it. I assume this is where Dr. Luce's conclusion comes from.
>
> If you can, please email that chapter to me.
>
> Thank you, Rex Frankel
>
> ---
>
> **From:** Mary Small <msmall@scc.ca.gov>
> **To:** 'Rex Frankel' <rexfrankel@yahoo.com>
> **Sent:** Friday, January 20, 2012 12:09 PM
> **Subject:** RE: Ballona Wetlands presentation materials at SCC meeting
>
> Hello Rex
> Attached is our slide presentation.
>
> Yes, Dr. Luce was referring to the findings of the baseline assessment. I just went to the project website and clicked on the image of the report cover and was able to download the documents, but if there are specific chapters that you are unable to download, please let us know and we'll get them to you.
>
> Mary
>
> ---
>
> **From:** Rex Frankel [mailto:rexfrankel@yahoo.com]

O11-152 cont.

Sent: Friday, January 20, 2012 10:13 AM
To: msmall@scc.ca.gov
Subject: Ballona Wetlands presentation materials at SCC meeting

Mary,

I am interested in getting a copy of your slide presentation from yesterday's SCC Board meeting. Can you email it to me?

I am also interested in seeing the source documents that were used to make Dr. Luce's point that very little of the site is now functioning habitat.

Are they in the recently released SMBRC's Ballona Wetlands Baseline Assessment Program reports? The SMBRC has a website, ballonarestoration.org, with the Baseline Assessment Program report, unfortunately, most of these documents do not open when clicked upon. They are posted here: http://santamonicabay.org/smbay/ProgramsProjects/HabitatRestorationProject/BaselineAssessmentReport/tabid/203/Default.aspx

Please call me or email if you can help.

Thanks, Rex Frankel, 310-738-0861

O11-152 cont.

From: Mary Small
To: "Joe Geever"
Cc: "Shelley Luce"; "Diana Hurlbert"
Subject: Coastal Conservancy Jan 19th Meeting
Date: Thursday, December 15, 2011 11:25:00 AM
Attachments: Ballona_Wetlands_Engineering and Technical Studies.docx

Hi Joe
Nice to talk to you this morning, and thanks for agreeing to come to the Coastal Conservancy meeting in Jan. It will be on Jan 19th at the Baldwin Hills Scenic Overlook starting around noon. Ballona funding (draft staff report attached) will be the first major item on the agenda. We are planning to take the Board on a tour of Ballona that morning. The tour and meeting are open to the public and details will be posted on our website by the 6th of Jan.

O11-152 cont.

As I mentioned, we (Shelley and I) would be happy to provide additional information to you &/or your chapters at any point. Since we are finally getting ready to initiate the public environmental review, now would be a good time to get you engaged.

Thanks,
Mary

~~~~~~~~~~~~~~~~

Mary Small
Deputy Executive Officer, Coastal Conservancy
1330 Broadway #1300 Oakland, CA 94612
510-286-4181
~~~~~~~~~~~~~~~~

ATTACHMENT 4

O11-152
cont.

From: Mary Small
To: "Shelley Luce"
Cc: "Joan Cardellino (Joan Cardellino)"; "Diana Hurlbert"
Subject: RE: Letter for Coastal Conservancy Board
Date: Tuesday, December 13, 2011 1:11:00 PM

Thanks

Sorry, the plan is to have the tour from roughly 9-11:30 and then start the meeting at noon or 12:30 – something like that. We're afraid that if we do the tour after the meeting none of the board members will come.

I'll call Barbara today to get her ideas and see if they will help with the tour, come to the mtg or send a letter
Mary

From: Shelley Luce [mailto:sluce@santamonicabay.org]
Sent: Tuesday, December 13, 2011 1:08 PM
To: Mary Small
Cc: 'Joan Cardellino (Joan Cardellino)'; Diana Hurlbert
Subject: RE: Letter for Coastal Conservancy Board

Mary, here are some thoughts from me and Diana:

1) Tour – we'll do the tour anytime that works for your members but it seems tight to finish it by 9:15 in order to get them all to Baldwin Hills Overlook for a 10 am meeting. I know we have the Toy meeting the day before so right after the board meeting makes most sense. Could you convince your members to stick around for it?
2) Press – this is troubling. It'll be hard for us to get good press on a $7M expenditure... we can spin this if we get the right people. What if we did a brief presentation on the Monitoring Report before hand? We'll have beautiful hard copies, it's over 400 pages and very impressive and did not cost a lot for the amount of work and info. I think it makes SCC and SMBRC look great. Could we make this the press focus, i.e. with Molly Peterson at least? I'll give her a call for starters.
3) Support – I will talk with Geever, Jim Lamm, Miguel, Lisa Fimiana, Baykeeper, HTB, Nate from Rosendahl's office, Napolitano from Knabe's and Karly from MRT's. I can't say who will show up or do a letter but I will make the asks. I'll also ask Pestrella. Can you talk to MRCA Mary? Also what about the Corps – Rick Liefiled's support would be very meaningful, or Toy's if we can get it. Maybe a letter from Toy with Rick or someone else attending the meeting?

We'll draft a support letter asap and run it by you.
Shelley

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160

O11-152 cont.

1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-961-4444

www.santamonicabay.org

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Tuesday, December 13, 2011 10:38 AM
To: Shelley Luce
Cc: 'Joan Cardellino (Joan Cardellino)'
Subject: RE: Letter for Coastal Conservancy Board

Hi Shelley-
Do you have time to talk about our Jan meeting? I know you have a board meeting this week, so we could also do this via email – or next week, but before next Fri I'd like to work through some ideas:

1) Tour – we'll probably do a tour the morning of the meeting, I think maybe the tour we did with Colonel Toy – view from Cabora Rd and then walk out to boyscout platform
2) Press – do you think we could use this meeting as an opportunity to get either local papers and/or try for LA Times to cover the project? I am worried that once the agenda is out Marcia will use as opportunity to get bad press. Our agenda will be mailed out Jan 6th
3) Public support – who could we have come to support the project at the meeting or with letters? Geraldine is critical (at least her letter) but how about MRCA?, Joe Geever?, Ballona Creek Renaissance?, Friends?, Miguel Luna?, Audubon? HtB? Baykeeper?

O11-152 cont.

Thanks,
Mary

From: Shelley Luce [mailto:sluce@santamonicabay.org]
Sent: Monday, December 12, 2011 3:22 PM
To: Mary Small
Subject: FW: Letter for Coastal Conservancy Board

Hi Mary, Geraldine thought her letter went out already. Have you received? I also invited her to tour the wetlands with us after the meeting.

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160
1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-961-4444

www.santamonicabay.org

From: Knatz, Geraldine [mailto:knatz@portla.org]
Sent: Sunday, December 11, 2011 1:00 PM
To: Shelley Luce; Zordilla, Eunice
Cc: Tankersley, Eileen

From: Shelley Luce
To: Mary Small
Subject: RE: board presentation
Date: Wednesday, January 11, 2012 6:55:23 PM

Hi Mary,
I think the presentation looks good. I think we should include some comparative data to show the need for restoration – e.g. the seed bank data, the exotic veg data and some of the animal data (birds and herps). I saw what karina sent you and it doesn't help us – we need numbers like "99% invasive plants" and "lowest seed bank of any so cal wetland". we also need her graphs that show huge percent exotic veg. versus tiny percent native veg, etc. along with those photos of invasive plants that you already included.

I also think we should mention the TMDL –or not the TMDL itself, but we can list the impairments listed on the 303d list, note that TMDL implementation would be consistent with the restoration and that we can work with partners on my governing board and other agencies and leverage resources that would go into implementing the TMDL.

I can help with slides – why don't you send me one or two in your formatting and I will make some with the graphs imentioned and see if you like them. Or rather, since you have to finish by tomorrow and I am out of the office all day, we will ask karina to insert some graphs. Okay with you?
Shelley

O11-152 cont.

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160
1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-961-4444

www.santamonicabay.org

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Wednesday, January 11, 2012 2:49 PM
To: Shelley Luce
Subject:

Hi Shelley
Attached is a draft powerpoint, I want to keep it as simple as we can. There are several extra slides at the end, I just want one picture I can leave up when I walk through the actual requested action, maybe just the bird with its head in the water?

There are two slides about the baseline monitoring program – I think we only need one of them, do you prefer lots of words or just a picture.

I am sending in .pdf because the actual powerpoint is too big. If you want me to ftp the powerpoin so you can edit directly, let me know. I have to finish this by tomorrow night.

Thanks!
Mary

From: Shelley Luce
To: Karina Johnston
Cc: msmall@scc.ca.gov
Subject: graphs needed for SCC board presentaiton
Date: Thursday, January 12, 2012 7:57:56 AM

Hi Karina,
Thank you for the bullets you prepped for Mary, they are helpful. The photos are also perfect. What we still need for the presentation are graphics or numbers that will really make our case. Mary needs to complete the presentation today so can you and your team help us prep the following ASAP?

- one map of existing conditions that shows the site today: an aerial photo with transparent overlay of BASIC habitat types - how much is wetland, how much is upland/vacant lot style. goal is to illustrate how little of the site can be said to be funcitoning habitat.

- one simple graph showing predominance of invasive species - the one in the BWER draft TMDL is fine, can you please send that to mary? we need to say "x percent of the site is covered with 99% invasive vegetation" or whatever the actual numbers are. rather than "dominate by invasives" which could mean only 55% covered.

- some species diversity numbers/charts that show how extremely depaupurate poor Ballona is. not just "reduced relative to other wetlands" but "lowest seed bank abundance and diversity of any wetland in southern california" - but i need you to give me the right language so i am not mis-stating anything. please give me those #s or charts or langauge for seed bank, veg, mammals, birds, fish and herps separately and we'll decide which ones to mention in our presentation.

O11-152 cont.

- any other features of the site or results from your surveys that really illustrate to non-scientists how desperate is the need to restore ecological function and habitat at the site.

I am sorry to ask you for all this today, I hope you or one of your team has time. I think you have all this info readily accessible - f there is someihting i've requested that is a big pain check with me and we'll decide if it's really needed. please call my cell or email, i will be out of the office all day but checking my phone compulsively. also please suggest other stuff if you think of it - you know these data better than we do! thank you KJ talk to you later today.
shelley

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160
1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-216-9827
www.santamonicabay.org

From: Mary Small
To: "Karina Johnston"; "Diana Hurlbert"; "Shelley Luce"
Subject: please review these two paragraphs
Date: Tuesday, December 13, 2011 9:09:00 AM

Hi
I'm wrapping up my staff report and I needed to add a little more detail about what SMBRF will do with the grant funds and who you are. Can you please review this and let me know if you have any edits? If you can get it to me today, that'd be great.
Mary

The recommended grant to the SMBRF would provide funds for data collection, technical review and agency coordination to support the proposed restoration project. The SMBRF has implemented a multidisciplinary baseline data collection program using volunteers, students and professional technical experts. The baseline report is the first comprehensive assessment of biological and physical resources at the BWER. It was just published and is available online: http://www.ballonarestoration.org. This grant would allow the SMBRF to conduct additional targeted studies based on the resources identified in the baseline assessment as needed to support the environmental impact analysis of the proposed project. In addition, the SMBRF will continue coordination of the agency review, identification of funding partners, and technical review of work products associated with this project.
The SMBRF is a non-profit organization that was created in 1991 to implement the priorities of the Santa Monica Bay Restoration Plan and to support the work of the Santa Monica Bay Restoration Commission. The SMBRF has a number of initiatives including research, public education, and planning, to support these goals. The SMBRF and the Seaver College of Science and Engineering at Loyola Marymount University (LMU) created the Center for Santa Monica Bay Studies to engage in multidisciplinary research on environmental and social issues affecting Santa Monica Bay and its watershed, and to contribute to policies and actions that improve the environmental condition of the Bay. The partnership with LMU has been very valuable to the data collection efforts, SMBRF has used student volunteers to conduct fieldwork and some faculty have coordinated their own research to support the baseline assessment, resulting in hundreds of hours of field work being donated to the project.

O11-152 cont.

Mary Small
Deputy Executive Officer, Coastal Conservancy
1330 Broadway #1300 Oakland, CA 94612
510-286-4181

ATTACHMENT 5

O11-152
cont.

U.S. House of Representatives
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

SUITE 2165 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-4472

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C.

RESOLUTION

O11-152 cont.

Marina del Rey, California
Docket 2455

Resolved by the Committee on Public Works and Transportation of the United States House of Representatives, That the Secretary of the Army is requested to review the report of the Chief of Engineers on Playa del Rey Inlet and Basin, Venice, California, published as House Document 389, Eighty-third Congress, Second Session, and other pertinent reports, to determine whether modifications of the recommendations contained therein are advisable at the present time, in the interest of navigation, hurricane and storm damage reduction, environmental restoration, and other purposes at Marina del Rey Harbor, Los Angeles, California, with consideration given to the disposal of contaminated sediments from the entrance channel required under the existing operation and maintenance program at Marina del Rey Harbor.

Adopted: September 28, 1994

ATTEST: NORMAN Y. MINETA, Chair

[Federal Register: September 20, 2005 (Volume 70, Number 181)]
[Notices] [Page 55116-55117] From the Federal Register
Online via GPO Access [wais.access.gpo.gov] [DOCID:fr20se05-36]
[[Page 55116]]

DEPARTMENT OF DEFENSE Department of the Army; Corps of Engineers Notice of Intent To Prepare an Environmental Impact Statement/ Environmental Impact Report for the Ballona Creek Ecosystem Restoration Feasibility Study, Los Angeles County, CA AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD. ACTION: Notice of intent. --

SUMMARY: The Los Angeles District intends to prepare an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) to support a cost-shared ecosystem restoration feasibility study with the Santa Monica Bay Restoration Commission. The proposed project study areas has been degraded by encroachment of non-native plants, placement of fill from Marina Del Rey, interruption of the hydrologic regime, trash accumulation, and varied attempts at bank protection along the creek using rock and concrete. Direct benefits of the proposed project include improved habitat and water quality, reductions in waste and trash, and aesthetics. The watershed is an important resource for both recreational uses and for fish, and wildlife and further degradation could jeopardize remaining. The purpose of the feasibility study is to evaluate alternatives for channel modification, habitat restoration (coastal and freshwater wetlands and riparian), recreation, and related purposes along the lower reach of the Ballona Creek. DATES: A public scoping meeting will be held on September 29, 2005 at 6 p.m. ADDRESSES: U.S. Army Corps of Engineers, Los Angeles District, CESPL-PD, P.O. Box 532711, Los Angeles, CA 90053 and Santa Monica Bay Restoration Commission, 320 West 4th Street, Los Angeles, CA 90013. FOR FURTHER INFORMATION CONTACT: Shannon Dellaquila, Project Environmental Manager, at (213) 452-3850 or Malisa Martin, Project Study Manager at (213) 452-3828. SUPPLEMENTARY INFORMATION: 1. Authorization This study was prepared as an interim response to the following authorities provided by Congress under Section 216 of the Flood Control Act of 1970, which states: The Secretary of the Army, acting through the Chief of Engineers, is authorized to review the operation of projects the construction of which has been completed and which were constructed by the Corps of Engineers in the interest of navigation, flood control, water supply, and related purposes, when found advisable due the significantly changed physical or economic conditions, and to report thereon to Congress with recommendations on the advisability of modifying the structures or their operation, and for improving the quality of the environment in the overall public interest; supplemented by House Resolution on Public Works and Transportation dated September 28, 1994 which states: **The Secretary of the Army is requested to review the report of the Chief of Engineers on Playa del Rey Inlet and Basin, Venice, California, published as House Document 389, Eighty-third Congress, Second Session,** and other pertinent reports, to determine whether modifications of the recommendations contained therein are advisable at present time, in the interest of navigation, hurricane and storm damage reduction, environmental restoration, and other purposes at Marina del Rey Harbor, Los Angeles, California, with consideration given to disposal of contaminated sediments from the entrance channel required under the existing operation and maintenance program at Marina del Rey. 2. Background The Ballona Creek Ecosystem

O11-152 cont.

Restoration study area lies within Los Angeles County, CA and includes portions of Marina del Rey, Culver City, Playa del Rey, and the City of Los Angeles. The study area, a component of the greater Ballona Creek Watershed, includes the lower reach of Ballona Creek extending southwest from Cochran Avenue, in Los Angeles, to Pacific Ocean in Marina del Rey. specific features of the Ballona Creek watershed, including existing and historic wetland areas, the Ballona Lagoon, Del Rey Lagoon, Venice Canal, Grand Canal, the Oxford Drain and the Ballona Channel and tributaries, will be addressed in this study. The greater Ballona Creek system drains a watershed of approximately 329 square kilometers (81,300 acres), and is the largest tributary that drains into the Santa Monica Bay. Ballona Creek collects runoff from several partially urbanized canyons on the south slopes of the Santa Monica Mountains as well as from intensely urbanized areas of West Los Angeles, Culver City, Beverly Hills, Hollywood, and parts of Central Los Angeles. The urbanized areas account for 80 percent of the watershed area, and the partially developed foothills and mountains make up the remaining 20 percent. The watershed boundary includes the Santa Monica Mountains on the north, the unincorporated area known as Baldwin Hills, and the City of Inglewood on the south. The Ballona Creek Ecosystem Restoration study footprint's southern boundary is defined by the Westcheste Bluffs, which run southwest from the San Diego (405) Freeway beyond Loyola Marymount University. The western boundary extends from the Pacific Ocean. The eastern boundary begins where Ballona Creek daylights at Cochran Avenue and Venice Boulevard in a section of Los Angeles known as the Mid City. Tributaries of Ballona Creek include Centinela Creek, Sepulveda Canyon Channel, Benedict Canyon Channel, and numerous storm drains. The Ballona Creek watershed ecosystem has been altered by intense land development, encroachment of non-native plants, trash accumulation, and varied attempts at bank protection along the creek using rock and concrete. Although an important function of the Ballona Creek is as a flood control channel, the lower watershed is still an important resource for both recreational uses and for fish and wildlife habitat. Further impairment could jeopardize remaining habitat. This study will evaluate opportunities for habitat restoration (including wetland and riparian habitat), improvements to water quality, trash mitigation, and recreation and related purposes along the lower reach of the Ballona creek. 3. Problems and Needs At least ninety (90) percent of historic coastal wetlands in California have been lost due to filing, dredging, flood control and intensive development. Within the Lower Ballona Creek Watershed, remaining fragmented wetland areas have been degraded due to diminished hydraulic function, poor water quality and introduction of exotic plants and animals. While functioning wetland systems and riparian habitat remain, they are stressed. Channelization of the Ballona Creek and filling of historic wetland and riparian areas have contributed to degradation and loss of habitat due to impeded tidal exchange and circulation. Contaminated stormwater runoff and trash loading has degraded Ballona Creek water quality. Habitat alteration and loss has decreased biodiversity and overall ecological health, threatening the survival of native endangered species such as the California least tern (Sterna antillarum brown), snowy plover (Charadrius alexandrinus), and the Belding's Savannah Sparrow (Sandwichensis beldingi). The current design of the Flood Control channel has resulted in a lack [[Page 55117]] of recreational opportunities and is considered aesthetically challenged. At present there is no integrated approach and partnership amongst stakeholders to resolve lower Ballona Creek in-stream and wetland

O11-152 cont.

degradation issues, which has led to uncoordinated and sometimes redundant and unsuccessful improvement measures. 4. Proposed Action and Alternative The Los Angeles District will investigate and evaluate all reasonable alternatives to address the problems and need stated above. In addition to a without project (No Action) Alternative, both structural and non-structural environmental measures will be investigated. An assessment of the feasibility of removing impervious surfaces from the Ballona Channel will also be evaluated. Proposed restoration measures include: re-grading and removal of fill, remove invasive and non-native plant species, reintroduction of a water source and installation of native plants to restore previously filled coastal wetlands. Other measures to be evaluated include features to improve or restore tidal regime in Oxford Basin, the Grand and Venice canals, and Ballona and Del Rey Lagoons; the potential for in stream wetland development in Centinela, Sepulveda and Ballona Creek; sediment loading in the upper watershed; and related recreation and educational opportunities. 5. Scoping Process The scoping process is on-going, and has involved preliminary coordination with Federal, State, and local agencies and the general public. A public scoping meeting is scheduled for Thursday September 29th from 6-8 p.m. at the Rotunda Room of the Veteran's Memorial Building, 4117 Overland Avenue, Culver City, CA. This information is being published in the local news media, and a notice is being mailed to all parties on the study mailing list to ensure that public will have an opportunity to express opinions and raise any issues relating to the scope of the Feasibility Study and the Environmental Impact Study/Environmental Impact Report. The public as well as Federal, state, and local agencies are encouraged to participate by submitting data, information, and comments identifying relevant environmental and socioeconomic issues to be addressed in the study. Useful information includes other environmental studies, published and unpublished data, alternatives that could be addressed in the analysis, and, potential mitigation measures associated with the proposed action. All comments will be considered in the project development. Concerns may be submitted in writing to the Santa Monica Bay Restoration Commission, or to the Los Angeles District (see ADDRESSES). Comments, suggestions, and request to be placed on the mailing list for announcements should be sp101.usace.army.mil. Availability of the Draft EIS/EIR The Draft EIS/EIR is scheduled to be published and circulated in December 2007, and a public hearing to receive comments on the Draft EIS/EIR will be held after it is published. Dated: September 13, 2005. Alex C. Dornstauder, Colonel, U.S. Army, District Engineer. [FR Doc. 05-18651 Filed 9-19-05; 8:45 am] BILLING CODE 3710-KF-M

O11-152 cont.

From: Shelley Luce
To: Mary Small; "Rick Mayfield"
Cc: "Terri Stewart"
Subject: RE: From John Davis Re Ballona CEQA process
Date: Tuesday, February 07, 2012 1:39:26 PM

Agreed. The doc he references was for a completely different project, a feasibility study in which SMBRC was the local sponsor for the Corps' study. The EIR/EIS that we want to start is for a separate project, i.e. the BWER restoration/enhancement project. As the landowner, DFG will be the lead agency.

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160
1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-961-4444

www.santamonicabay.org

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Tuesday, February 07, 2012 1:30 PM
To: 'Rick Mayfield'; Shelley Luce
Cc: 'Terri Stewart'
Subject: RE: From John Davis Re Ballona CEQA process

Suggested response.
1) The EIS/EIR process begun in 2005 was for the Army Corps' Lower Ballona Ecosystem Restoration Feasibility Study, that project and the associated environmental review has not been completed and is not moving forward at this time. The EIR/S process for the proposed enhancement project will be separate.
2) The CEQA statute where lead agency is defined is Public Resources Code Section 21000.
3) DFG as landowner intends to be the lead agency on the proposed enhancement project that will be analyzed in the EIR/EIS.

From: Rick Mayfield [mailto:rmayfield@dfg.ca.gov]
Sent: Tuesday, February 07, 2012 9:30 AM
To: Mary Small; Shelley Luce
Cc: Terri Stewart
Subject: Fwd: From John Davis Re Ballona CEQA process

Please take a look at the attached from Mr. Davis and let me know if you can provide any further information before I respond.

Thanks,

Rick
>>> <jd@johnanthonydavis.com> 2/6/2012 5:11 PM >>>

Ca DFG
Att: Mr. Mayfield

O11-152 cont.

Hi Mr. Mayfield, attached is the congressional and corp docs we discussed.

The document states an joint EIS/EIR process was begun in 2005 per the request of Congress.

The Santa Monica Bay Restoration Commission is noted as the lead agency for CEQA in the joint EIR/EIS.

It also states that at least one scoping hearing has already occured.

My question is does DFG plan on beginning another EIR process for the same area that is already been started by the SMRBC and Corp. If so, how can there be two lead agencies.

To me, logic indicates the SMRBC should be lead.

Thanks,

John Davis
PO 10152
Marina del Rey Ca. 90045

O11-152 cont.

From: Mary Small
To: "Diana Hurlbert"; "David Lawhead (DLawhead@dfg.ca.gov)"; "Eichler, Monica SPL"; "Eric Gillies"; "griggsp@slc.ca.gov"; "Hamamoto, Bruce"; "Patrick Holland (pholland@dpw.lacounty.gov)"; "Rick Mayfield (rmayfield@dfg.ca.gov)"; "Serpa, Phillip J SPL"; "Shelley Luce"; "Strum, Stuart R MVN-Contractor"; "Swenson, Daniel P SPL"; "Terri Grant (tgrant@dpw.lacounty.gov)"; "Youn Sim (ysim@dpw.lacounty.gov)"
Subject: FW: request for services - ballona wetlands
Date: Wednesday, February 08, 2012 4:46:00 PM
Attachments: Ballona Civil Engineering and Geotech.pdf
Ballona Hydrology and Engineering.pdf

The request for services for the civil engineering and geotechnical contract and the hydrology and engineering contracts went out today. Feel free to forward to other potential contractors, I sent it to about 60 in our database and we will post it on the web. Proposals are due on Feb 29th.

Mary

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Wednesday, February 08, 2012 4:39 PM
Subject: FW: request for services - ballona wetlands

The California State Coastal Conservancy is requesting proposals for consultant services for two separate contracts related to the proposed enhancement of the Ballona Wetlands Ecological Reserve in Los Angeles County. Services are needed to complete engineering and geotechnical evaluations, hydrology, technical studies, design and related services to support completion of a project level EIR/EIS and preparation and processing of a Section 408 permit through the Army Corp of Engineers. One contract will be for Civil and Geotechnical Engineering and a second contract will be for Hydrology and Engineering Design Analysis.

Mary Small
Deputy Executive Officer, Coastal Conservancy
1330 Broadway #1300 Oakland, CA 94612
510-286-4181

O11-152 cont.

Ballona Ecosystem Restoration Planning Management Meeting
June 28, 2010
3:00-5:00pm

Attendees:

Josephine Axt, USACE	Ed Demesa, USACE	Julian Serafin, USACE
Rene Vermeeren, USACE	Ben Nakayama, USACE	Rhiannon Kucharski, USACE
Diana Hurlbert, SMBRC	Sean Bergquist, SMBRC	Kathy Anderson, USACE
Larry Smith, USACE	Mary Small, Coastal Conservancy (by phone)	

I. Mary Small: Coastal Conservancy is supplying most of the funding toward the in-kind local sponsor efforts.

II. Ed Demesa: Corps Process Overview
   a. We are coming up to our first major milestone (F3)
      i. Baseline and future without project conditions; preliminary alternatives analysis
         1. Describes problems and opportunities, planning objectives
         2. This product will be the basis for future steps
      ii. Next milestone (F4A/F4)
         1. Formulation, evaluation and comparison of alternatives
         2. F4A: SPD requirement, Alternative Formulation Briefing
      iii. (F5) Public Draft Feasibility Report
         1. Headquarters Policy and Public Review
   b. Josephine Axt: New Review Guidance (Estimated at $500,000; IEPR is federally funded)
      i. Agency Technical Review (ATR) - Requires coordination with the planning center of expertise, and coordinates a team of reviewers from another Corps Division
      ii. Model certifications required
      iii. Independent External Peer Review (IEPR)
      iv. Note for budget: call out what IEPR is estimated to cost, and that it does not have to be cost shared
      v. Diana Hurlbert: Under each discipline, there are costs for responding to comments. Are those related to ATR?
         1. Josephine Axt: Yes. There is a formal comment and response system that must be used for ATRs (DrChecks)
   c. Kathy Anderson: Partnership
      i. Communication
         1. Sean Bergquist: Communication has been much better since Rhiannon has taken over as Lead Planner.
         2. Mary Small: Rhiannon has been great in communication.
      ii. Cost share
         1. Sean Bergquist: Our cost share component is 100% in-kind. It is anticipated that most of that work is and will continue to be in the wetlands.
            a. We are finished our F3 equivalent (2006)
            b. We are also finished our alternatives development and analysis (2008)
               i. We want to make sure that all of the products feed in to the Corps process and products.
            c. The Corps and us on not on the same timeline.

O11-152 cont.

2. Mary Small: It was always our understanding that the Corps would use our restoration alternatives. It makes us nervous that this was never in writing. We have done our F4 equivalent.
3. Because of Federal funding starts and stops, the Corps is still in the F3 process, while the sponsor has completed alternatives analysis (F4 equivalent).
4. Diana Hurlbert: We want to make sure you are maximizing our products, and we want to understand what if any deficiencies are found.
5. Josephine Axt: In-kind has to be formally submitted, directly applicable to the project and it must be understood that in-kind increases increase the overall budget increases.
    a. Mary Small: We fear that our in-kind is not properly reflected in the PMP.
    b. Rhiannon Kucharski: This may be the case. We need to go in detail in to this upon receipt of in-kind submissions, quality check them and revisit the PMP.
6. Sean Bergquist: For credit, do we get credit for what we paid or for what it would have cost the Corps to do the same work?
    a. Josephine Axt: The in-kind credit needs to match the estimate for that work in the PMP. Likewise, if the work costs more than estimated, credit will only be given for up to the estimated amount.

iii. Ed Demesa: As the project goes up the chain, we have to be careful for policy issues. When the project is competing nationally, it starts to become a factor. The cost of land acquisition is part of the project costs. We can only credit up to 35% of total project costs.

iv. Mary Small: If the Corps falls too behind, we will work with Corps Regulatory for a permit for their activities (NEPA/CEQA, design, permitting, and Phase 1 construction).
    1. Josephine Axt: If you are going full steam ahead, what is your timeline?
    2. Sean Bergquist: We purchased the property in 2005, and have to do something with the property in the near future. There is no set deadline, but they must show the state that something is being done.
        a. In about 4 years, they would like to be constructing something.
        b. Early phase: Do South portion of Area B, South of Jefferson and below Gas Company (low areas, reconnect tidal flows)
    3. Ed Demesa: The law to partially build a project and receive credit for a larger project applies only to flood control when there is imminent need. Unfortunately, that law does not apply to ecosystem restoration. There is not an authority for us to give credit for it down the line. So, this may be something you want to consider for a WRDA request to change the authorization.

III. Project Status
- a. Corps is working on baseline (F3) right now. Due to H&H delays, the milestone will most likely happen early in FY11.
- b. PMP amendment
    - i. Study area
        1. Will be clearly defined in the PMP amendment (to the satisfaction of all parties).

O11-152 cont.

a. Definition: Ballona Creek from the Pacific Ocean to Cochran, Del Rey Lagoon; and Centinela and Sepulveda Channels from Ballona Creek to where they go underground.

2. Grand canal is out.
3. Sean Bergquist: We have always planned on the daylighted part of Ballona Creek up to Cochran.
4. Coordination needs to go through Diana Hurlbert and Rhiannon Kucharski.

ii. Costs

1. Ed Demesa: For in-kind credit, it is important to let the PDT know what work the sponsor is doing, even if it will not be submitted for in-kind credit.
2. Sean Bergquist: Historical analysis of the watershed is in the works. We are also working with UCLA to do a watershed budget.
3. Sean Bergquist: When things have to be redone, how does the cost share work?
    a. Hydraulic study
        i. Rene Vermeeren: Our H&H models are in DRAFT form and have not yet had the first ATR. They are not ready for use on alternatives.
4. SMBRC Governing Board will have to sign the PMP and FCSA amendments.
5. In construction phase, can the cost of the land/property be used toward sponsor in-kind credit?
    a. Kathy Anderson: Yes, as long as the constructed project uses those lands. The state paid $140 million in 2005 for the property that makes up areas A, B and C.

iii. In-kind submittals

1. Mary Small: Is there really much more additional work that needs to be done to review the submittals? How much is left to be done by the Army Corps depends on the in-kind submittals?
    a. Diana and Rhiannon can work together with each PDT member to work through these. Set up meetings ASAP.
    b. Kathy Anderson: The whole PDT needs to sit down and go through the PMP, in-kind and costs step-by with SMBRC.
2. Mary Small: I am worried about the water quality report in terms of the data being what is needed per the Corps and less worried about the write-up
    a. Confirm with James Chieh that the data is what is needed.

c. Kathy Anderson: Sponsor financial capability?

i. Even in light of cost increases, the sponsor has enough money to fund all of their study activities and even begin phase I construction (Area B).
ii. Corps needs to get details of sponsor plans for "phase I" in Area B and determine if this must be added as a future without project condition or not.

IV. Action items are noted in RED.

O11-152 cont.

Lower Ballona Creek Ecosystem Restoration Study Monthly Coordination Meeting Minutes
April 28, 2010
10-11am

Attendees:

Mary Small, CC	Sean Bergquist, SMBRC	Rhiannon Kucharski, USACE
Kathy Anderson, USACE	James Chieh, USACE	

I. Comments to the DRAFT Corps F3 products and the DRAFT PMP update are due by the next coordination meeting, May 26, 2010.
   a. Comment from Sean related to updated costs/project area: SMBRC considers lower Ballona Creek to be everything from Cochran Avenue to the Ocean.
   b. Sean is concerned about how SMBRC can come up with matching funds and/or in-kind work for a study totaling $6.2 million (the updated estimated study cost total)
      i. Mary: We may not be able to get approval for the cost increases

II. Frank Wu was not able to attend today's meeting. He will contact Mary and Sean independently to discuss his question on the Engineering and Design Section I, Task 3 from the PMP.

III. In-kind submittals
   a. Mary and Sean will try to submit the first set within one week.

IV. Water Quality Analysis
   a. Document forthcoming from SCCWRP (early June)
   b. Document forthcoming from Geosyntech (June)
      i. Delay due to 2 very dry seasons
   c. Some data is already available on the website (Ballonarestoration.org)
      i. Some prior reports from previous years are available
   d. The Corps (James Chieh) will need to translate and analyze the data and put it into the Appendix Report.
      i. Sean will send everything that is currently available to James Chieh, Cc Rhiannon ASAP. This will include the Geosyntech scope of work and cost estimate for water quality data analysis.

V. Other Discussion
   a. There will be a site tour with the Corps, URS and Sean on May 5, 2010.
   b. Kathy: We were able to request $345k for FY11, but need to get amended FCSA executed.
      i. Mary: We need to credit in-kind work before amending the FCSA. We hope this will bring down the overall study cost.

VI. Action items noted in ORANGE.

O11-152 cont.

Ballona Coordination Meeting Minutes
June 2, 2010
10am

Attendees:

Mary Small, Coastal Conservancy	Diana Hurlbert, SMBRC	Heather Schlosser, USACE
Julian Serafin, USACE	Rhiannon Kucharski, USACE	
Ben Nakayama, USACE	Robert Browning, USACE	Robert Grimes, USACE

I. In kind submittals
   a. For In-kind submittals, Mary, Sean and Diana tried to break down the submittals per the PMP, but had a hard time. Please see in-kind spreadsheet submitted last week.
   b. SMBRC and Coastal Conservancy will submit the In Kind Submittal sheets that correspond with each document from the website, along with reference to the document or file they correspond to and a link to that document on the web.

II. PMP updates
   a. Mary Small is concerned that the revised PMP does not reflect the products they have completed, and very concerned about the cost increases.
   b. Mary Small: Have all the PMP sections looked at the same project area? Parts still refer to Ballona Lagoon, Grand Canal, Venice Canals and Oxford Basin, which are no longer in the study area. O11-152 cont.
      i. All sections should include: Del Rey Lagoon; Areas A, B and C; Ballona Creek from the Ocean to Cochran; and Centinela and Sepulveda Channels from where they daylight to Ballona Creek.
   c. Mary and Diana requested that the Corps add geographic location to the PMP amendment chapter. The scopes of work are confusing because they do not make the study area clear.
   d. Mary: Why have the F3 economics costs gone up?
      i. Ben Nakayama: Economics had to re-run their model due to the revised flood plain hence their cost increase. The potential flooded parcels went from 6000 to 600.
      ii. Sponsor wants to understand why the economics costs for F3 doubled. The model was originally run at a larger scope (6000 parcels) and is now being re-run at a smaller scope (600 parcels). That should not cost double. There should be economies of scale.
      iii. Ben Nakayama: The model had to be completely re-run for the new parcels. This along with added review costs are the reasons behind the cost increase.
   e. Review Guidance has led to approximately $505k in cost increases. $260k of that is for Independent External Peer Review (IEPR), which is NOT cost shared. The other levels of review such as Agency Technical Review (ATR) and model certification ARE cost shared.
      i. Rhiannon will send another copy of the review guidance.
   f. The Coastal Conservancy is worried that there will be no political appetite to support a feasibility study at this cost level.

g. The language in the PMP needs to itemize what the additional costs would go towards.
    i. Rhiannon will send the detailed cost estimates from each PDT member.
h. The Coastal Conservancy believes their GIS work should decrease the revised GIS costs.
    i. This can be investigated further in conjunction with the in-kind review process. USACE will ask Dave Bianco to review the GIS products and scope and cost estimate after the formal in-kind submittal.

III. Coordination

a. Heather Schlosser: It is hard to assure proper coordination when the Corps is trying to complete the baseline F3 this year, while the sponsor is well in to alternatives analysis in the wetlands areas (A, B, C).
    i. Mary and Diana, what do you see as the Corps' role in this feasibility study?
        1. Mary Small: The discussion was that the Corps would focus on the Creek (there aren't state funds for that) and that the wetlands study would go forward separate from the larger feasibility study, but feed in to the project as in-kind credit. The restoration of the wetlands (A, B, C) is being led by SMBRC in conjunction with the State of California.
        2. SMBRC and Coastal Conservancy are both interested in the Creek as well.
            a. Heather Schlosser: Are you willing to cost share the implementation phase of a recommended alternative that includes the Creek and Wetlands?
            b. Mary Small: Our funding strategy for implementing the restoration is the value of the land. However, the Coastal Conservancy's focus is the restoration planning at the wetlands.

IV. Executive Management Meeting

a. Aim to have this in June. SMBRC and Coastal Conservancy will send potential dates and times to Rhiannon Kucharski, who will coordinate with USACE management schedules.

O11-152 cont.

Ballona Telecon Minutes
March 29, 2010

Attendees:

Rhiannon Kucharski, USACE	Kathy Anderson, USACE	Larry Smith, USACE
John Killeen, USACE	James Chieh, USACE	Frank Wu, USACE
Julian Serafin, USACE	Michael Hallisy, USACE	Patrick Singh, USACE
Mary Small, Coastal Conservancy		Sean Berqquist, SMBRC

I. Introductions
II. PMP update
  a. DRAFT SOW Amendment Chapter distributed
  b. Cost estimates
    i. Frank Wu: Coastal Engineering F3 Baseline Conditions
      1. Need to incorporate PWA information in to the appendix
  c. SMBRC Board will have to buy off on the updated PMP and cost estimates
    i. At this Thursday's meeting they are asking the Board to generally support the study
    ii. Cost increase approval will have to come through the Coastal Conservancy's Board
  d. FCSA amendment would come after the PMP update is complete
    i. Have to work with Corps Legal Counsel and SMBRC Legal/Board
  e. Study Area
    i. For F4, the Corps suggests focused study area of A,B & C plus the Creek up to the I-405, and the Centinela Channel and Sepulveda Wash
      1. H&H and Survey and Mapping Sections believe this focused area is best due to cost considerations
      2. Per Frank Wu: Coastal Engineering work has focused on A, B, & C
    ii. Sponsors feel that we need to keep Ballona Creek up to Cochran Boulevard. Otherwise, the map is okay.
  f. Rhiannon and Kathy will set up a meeting between the sponsors and Survey and Mapping (Alan Nichols).[1]
  g. URS and the Corps are in negotiations for the Plan Formulation and Environmental Appendix
III. Corps work Audit
  a. Environmental Resources Branch (ERB)
    i. Review of sponsor work
    ii. Fish survey of creek and channels
    iii. Work with SAC on HEP evaluation
      1. Including scope of work to score A, B & C and the creek between the marsh areas
      2. Mary can re-start the Conservancy agreement with the SAC to possibly fund them.
        a. Larry will send Mary the scope of work he has written.
  b. Cultural Resources
      1. Write-up from PWA, which summarizes a library record search
        a. Corps and Conservancy both feel that the write-up is inadequate

O11-152 cont.

[1] Action Items marked in GREEN.

b. NEPA agency coordination for cultural must be done by a federal agency; it cannot be done by the sponsor or their contractor.
    i. Michael Bever and Bob Stark, with Jones and Stokes and John Killeen need to be in touch with eachother.
2. John Killeen has completed a full record search in the last few months
    a. He is re-writing the F3 input based on the new, more adequate record search.
3. NOTE: Important burials located in the Northwest corner of Area C that have been determined eligible that will need serious consideration for avoidance or mitigation.
4. Also, cultural will have to look at channel as a resource. Where we are pulling out channel, if we decide to, will have to be investigated by cultural.

c. Coastal Engineering
    i. Draft F3 Appendix complete
d. Geotech
    i. Diaz-Yourman contract
    ii. Contract oversite
e. H&H
    i. Baseline Hydrology and Hydraulic Appendices
    ii. Baseline Groundwater Appendix
    iii. Sedimentation will be done during F4 analysis due to funding availability
        1. PWA is looking at sedimentation modeling in their contract with the sponsor. Mary will send their scope of work.
    iv. Water Quality Appendix – We are relying on this product from the sponsor (SCCWRP).
        1. Mary will get us the Appendix as it is available.
f. Socioeconomics
    i. Efforts to date have been on the flood risk management component
        1. Originally the work was going to be done in-house, in L.A.
        2. Original structure inventory and database, site surveys
            a. Subsequent to that work, the H&H floodplain mapping was updated with a fairly significantly reduced floodplain delineation, which demanded that the economics be updated. This update was based on the first revision of the draft Hydraulic Appendix
            b. Update to the economics work will be done through Albuquerque District Economics Section
                i. Finalize F3 analysis
            c. FLO-2D data conversion to HEC format
                i. Will be done through Sacramento District
g. PWA and Jones and Stokes are doing on-going work. Mary will send both scopes of work.

IV. In-kind process (Kathy Anderson)
a. To date there has been no in-kind logged in to the Corps financial system. We need to catch up on that. It should be done yearly.
b. Update in-kind numbers in PMP and in cost summary spreadsheet.
    i. List all in-kind work in a table with associated amount spent on the work, along with a list of work already scoped and contracted to be done. Also, Shelly Luce of SMBRC would need to sign the official submittal.

O11-152 cont.

I. Sponsor needs to keep records of the in-kind and the values in case of an audit.
ii. Mary Small: What is the best way to do that?
iii. Kathy Anderson: We can have a separate meeting to go through the in-kind line by line with Kathy, Rhiannon, Sean and Mary.
iv. Mary Small: Is it what we spend on the product that gets credited or is it what the federal government would have spent to do the same thing?
1. It is up to the PDT to QA/QC the products and agree to the accounting both in amount and content.
2. Coastal Conservancy would feel more comfortable if the in-kind is credited at the value they spent on the product.

V. Coordination
a. Corps requests going forward
i. Each PDT member needs to coordinate with their equivalent on the sponsor's contractor team(s)
1. Rhiannon will send a PDT list to Sean and Mary so that coordination contacts can be filled in next to the corresponding PDT member(s).
b. Sponsor requests
i. Tie up the in-kind process and update more often
c. Our coordination meetings from now on will be the last Wednesday of every month at 10am.

VI. Other Discussion
a. Bike tour with Congresswoman Harman April 9th.
i. Kathy will forward info to Mary and Sean.

O11-152 cont.

DRAFT
ITINERARY FOR
COL R. MARK TOY
MEETING WITH SANTA MONICA BAY
RESTORATION COMMISSION AND
VISIT TO BALLONA CREEK

26 MAY 2011

TIME/ACTIVITY		TRANSP/REMARKS
THURSDAY – 26 MAY 2011		**UNIFORM: ACUs**
0830	Depart SPL for Loyola-Marymount University (LMU) – 1 LMU	Govt vehicle Driver: Phil Serpa Rick Leifield Josephine Axt
	310-338-2700 PAX: Monica Eichler Stuart Strum Dan Swenson	
0920	Arrive LMU – Santa Monica Bay Restoration Commission Staff Office (SMBRC)	Location: University Hall Room ECC1857 Note: Met by Stuart Strum and Dan Swenson
0930	Executive Management Meeting with SMBRC and California State Coastal Conservancy (CC) Los Angeles County Public Works Dr. Shelley Luce, Executive Director, SMBRB Mary Small, Deputy Executive Officer, Coastal Conservancy Mark Prestrella, Deputy Director	

O11-152 cont.

TIME/ACTIVITY		TRANSP/REMARKS
THURSDAY – 26 MAY (Continued)		
	Agenda: - Introductions - Project Overview – SMBRC/CC o Project goals and regional importance o Planning Process (Science Advisory Committee and Public Meetings) o Proposed Project o Schedule - Partnership with Corps: Discussion (All) o 408 Permit – Outstanding Questions o Status of Feasibility Study o Discussion of Future Coordination	O11-152 cont.
1100	Depart for Ballona Creek PAX: See above	Govt Vehicle Driver: Phil Serpa
1110	Ballona Creek Site Visit - Overview of the Site - Ballona Channel - Muted Tidal Wetland SMBRC/CC and LAPW Participants: Dr. Luce, Mary Small and Mark Prestrella	
1210	Depart for Ballona Creek for SPL PAX: See above Note: Lunch enroute	Govt Vehicle Driver: Phil Serpa
1330	Arrive SPL	

From: Mary Small
To: Diana Hurlbert; sluce@santamonicabay.org
Subject: talking points ballona - scc board
Date: Thursday, January 05, 2012 2:08:00 PM
Attachments: talking points ballona board item.docx

Hi
Shelley, I am hoping that you will share the presentation of this item to the Conservancy board with me. Attached is an outline of what I am thinking we should cover, please take a look and give me your thoughts. My suggestion is that I'd introduce the project and you, you'd cover the need for restoration and the proposed project and then I could go through the details of the proposed action. I am thinking we will have a short (10ish slide) powerpoint with few words but good pictures. I can pull a draft of it together.

O11-152 cont.

Diana, I am hoping you can fill in the highlighted sections in the attached to help me think about how to explain the work that will done if approved, why it's so expensive and why we are going with this approach, as opposed to phasing differently etc.

Thanks,
Mary

Outline for the presentation

(Mary)
Background

- 600 acres owned by the state, DFG and State Lands
- Designated State Ecological Reserve
- Purchased for the purpose of wetland restoration

Project Partners, introduce Shelley

(Shelley)
Need For Restoration, Site Mgt

- Currently no open public access, very restricted
- Site management issues: homeless encampments, trespass, trash, eyesore

Need for restoration, biology

- Very degraded ecological resources – key findings of baseline assessment
- Regional significance – wetland loss around SM Bay and throughout So CA

Proposed project

- Description of grand vision
- Ecological benefits
- Sustainability – adaption to SLR, restoration of ecological processes
- Public access components

O11-152 cont.

Planning process to date 2 slides(?)

- Public and Science Based Process
- Evaluation of broadest possible range of alternatives
- Refinement and assessment of preferred alternative –ideas we rejected, scaling down due to cost considerations, planning for phased implementation

(Mary)
Recommended action:

1) Authorization for a grant of $250 K to SMBRC to fund their ongoing work to advance this restoration project, including continuation of data collection, agency coordination and technical review and oversight.

2) Authorization of $6.25 million to be contracted by SCC through competitive environmental services contracts for specific technical studies that are needed to complete the environmental review and permitting.

Description of the technical work (what will be done and why so expensive)
This authorization would provide funds for several specific scopes of work to support environmental impact review and permitting of the restoration project.

- Soils and Geotechnical assessment – Some soil sampling has been completed onsite, however the main cost for implementation of the project will be soil management.. To

reduce construction costs, the project is designed to balance cut and fill onsite. To effectively implement that program, we have to have clear understanding of soil characteristics – which soils can be used to construct levees, which soils should be used to create upland habitat, etc.

- Landscape Architect to design public access improvements. Conceptual designs for public access improvements have been included in the project from the very start. Now that we have a project description for the land-form of the restoration, it will be important to design the public access improvements. One of the major benefits of this project will be to create a new natural area in the urban center of Los Angeles. We intend to design public access amenities
- Civil engineering – design of levees and construction details up to ___% details of proposed work…
- Hydraulics and Hydrology – evaluation of flood risk and uncertainty details of proposed work…

In addition to environmental impact review, this project will need the following permits: Coastal Commission CDP, LA RWQCB permit, and an Army Corps Section 408 permit. Much of the additional technical work that is recommended in this action will be needed to comply with the 408 permit process.

The 408 permit is a permit issued by the Corps to modify an existing flood control project. After Hurricane Katrina, these permit requirements became much stricter and more comprehensive. This permit will have to be approved in DC and will require that the project have ___% design completed. *Explain why so expensive…*

O11-152 cont.

Over the past several months, the project management team has been in conversation with the ACOE and internally discussing the best path forward given the significant costs to complete the design and hydraulic/hydrology studies.

We considered several options of initial projects that would involve installation of tide gates or breaches rather than full levee removal. Tide gate projects were determined to be less desirable because they do not restore full tidal range, are unable to adapt to sea level rise and have higher maintenance costs. We also considered a moving forward only with a smaller Phase 1 project that would restore wetlands north of the channel.

This would reduce the design and technical review costs now, but if we were ever to implement the full restoration project, we would have to go through some of the permit processes again. Our estimate is that the total planning costs would increase by *X-XX* amt in the end.

Of course the actual amount will be determined through contractor selection process and evaluation of proposals, but we have based this recommendation on a comprehensive, conservative but complete estimate to finish all of the pre-project work.

Acknowledge Some Opposition

- Is restoration needed, impacts to existing resources?

Some individuals think that this site is providing important habitat as is. This is a case of shifting baselines, the site does provide some habitat, but is severely degraded. Example - data pt from Karina's work?. To restore estuarine wetlands at Ballona, the land needs to be reconnected to the ocean.

- Can project be done with volunteers and without bulldozers?

The project that we are recommending is enormous in scale. It involves uncovering the wetlands that were buried with the construction of the marina and that have been cut off from the ocean for almost 90 years. We will work to continue working with youth groups and volunteers to implement portions of this restoration.

- Money would be better spend buying small parcels in the neighborhood

Some neighbors to the project have advocated that the restoration of the wetlands is a poor investment and the bond money should be spent to acquire small parcels (each 3-5 acres) rather than to restore the ecological reserve.

O11-152 cont.

Funds are limited to Ballona, consequences if not approved, who will pay for construction?

Conclusion:
Even though this is a major investment and a controversial project, your staff recommends that you approve it. The ecological restoration of the Ballona wetlands is a rare opportunity to bring back coastal wetlands and to develop an urban natural area that will enhance the lives of millions of Californians. To really restore this site we have to implement a big vision and in order to do that we

Questions I will need to be prepared to answer:
Consequences if not approved
Who will pay for construction?
Why not grant all funds to SMBRC?

NOTES

Cost of other wetland restoration projects – engineering and environmental review

South Bay Salt Ponds Initial Planning, EIR and Phase I Design (15,000 acres)	$23 M
Batiquitos Lagoon	$5 M
San Elijo Lagoon	$1.9 M
S San Diego Bay Salt Ponds	$550K

Questions we need to answer:

Why is this so expensive?
How does it compare to the costs other wetland restoration projects?
Is it needed? Is it a waste of money?
Is this the right alternative?
Will there be more habitat destruction than restoration
Who will implement the project?
Wouldn't we be better off with ngos and volunteers?
What about long term management?

Key Points
Plan developed with extensive scientific review and public input
Plan goals: habitat restoration, sustainability, public access, lower maintenance cost
Funds are specific to Ballona

O11-152 cont.

From: Shelley Luce
To: Mary Small
Cc: Diana Hurlbert
Subject: RE: timelines...
Date: Monday, January 30, 2012 4:44:09 PM

Let's meet downtown at 11 am at Bottega Louie, it's on the corner of 7th and Grand. We can eat or just have coffee for as long as we want there, and then head over. Sound good?

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160
1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-961-4444

www.santamonicabay.org

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Monday, January 30, 2012 4:30 PM
To: Shelley Luce
Cc: Diana Hurlbert
Subject: Re: timelines...

O11-152 cont.

Great, let's meet before maybe 11?
Downtown would be easy for me but I could also fly to LAX and meet at LMU, if we do that maybe we could meet a little earlier?

Sam can't make it, this rescehduled time didn't work for him.
Mary

sent from my phone

On Jan 27, 2012, at 12:38, Shelley Luce <sluce@santamonicabay.org> wrote:

> I have kept the whole day open. You can Sam can tell us what works for you - meet earlier downtown or at LMU, anytime after 9:30 is good for me. We can reserve a conf room at water board offices or meet at a coffee shop if we do it downtown.
>
> *Shelley Luce, D.Env.*
> *Executive Director*
> *Santa Monica Bay Restoration Commission*
> *Pereira Annex MS:8160*
> *1 LMU Drive, Loyola Marymount University*
> *Los Angeles, CA 90045*
> *310-216-9827*
> *www.santamonicabay.org*
>
> ---
>
> **From:** Diana Hurlbert
> **Sent:** Friday, January 27, 2012 10:07 AM
> **To:** Mary Small; Shelley Luce
> **Subject:** RE: timelines...

The 1st works for me. As for timeline this is what I am shooting for....

Early Feb for Nick's revised engineering/construction PD
Late Feb/early March for summary NOP/NOI to be circulated
March/April for Habitat/Adaptive Mgmnt Plan
Early May for draft geotech, recreation/Area C, hydraulics, traffic, and 30% engineering/design
Working over summer on & circulating admin draft chapters and finalizing reports, recreation/Area C etc.
Finalizing Public review Draft for circulation in late Sept.

Please keep in mind that we will be creating and circulating draft chapters for review as information is available. All document preparation will be on concurrent paths. Keeping to the timeline depends mostly on how responsive reviewers are to deadlines for comment (ie. a 2 week turn around). The consultants are all aware of these targets and have committed to meeting them.

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Thursday, January 26, 2012 3:24 PM
To: Shelley Luce
Cc: Diana Hurlbert
Subject: Re: timelines...

O11-152 cont.

Hi
Sorry if I misspoke I feel like I have promised dates that we haven't met so many times that I instinctively underestimate when we'll get things done. It would be super valuable to have some key milestones on a schedule that we all are working off of- MRCA asked for that too. I can draft it up nxt week or you guys can send it to me.

I think there may be a role for Sci input going fwd but after I'm not sure I think we should have more SAC mtgs. Do you guys have time on the 1st? I think there are a few things we should touch base on and I could meet before or immediately after our mtg w ACOE.

Thanks
Mary

sent from my phone

On Jan 26, 2012, at 15:47, Shelley Luce <sluce@santamonicabay.org> wrote:

> Hi Mary,
> I wanted to check in on our timelines but I forgot to mention yesterday. I've been shooting for end of Feb. release of the NOP/NOI and public review draft of EIR/EIS in Sept. 2012. In the SAC meeting I thought I heard you say something longer than that – a few months until the NOP comes out. Also in the SAC meeting we kind of indicated there could be more SAC meetings to resolve

things that we were discussing and I didn't think that was part of our plan. I do think we can continue discussion of relevant things with SAC members as we write the draft EIR, and reconvene if necessary. Is that what you were thinking?

Talk to you Monday!
Shelley

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160
1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-961-4444

www.santamonicabay.org

O11-152 cont.

From: Mary Small
To: "Shelley Luce"
Subject: LA Co
Date: Tuesday, December 13, 2011 9:14:00 AM

Hi
Do you think there is any chance that we could get a commitment from LA Co to fund the permit process before Jan? Then I could add them as matching funds to my staff report.

O11-152 cont.

Mary

~~~~~~~~~~~~~~~~

Mary Small
Deputy Executive Officer, Coastal Conservancy
1330 Broadway #1300 Oakland, CA 94612
510-286-4181
~~~~~~~~~~~~~~~~

From: Mary Small
To: "Mary Small"; "Shelley Luce"
Cc: "Diana Hurlbert"
Subject: RE: draft agmt SMBRF 2
Date: Monday, February 13, 2012 9:28:00 AM

Hi
Can you let me know if this looks basically ok so I can send it to Mr. Davis?
Thanks
Mary

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Tuesday, February 07, 2012 2:28 PM
To: 'Shelley Luce'
Cc: 'Diana Hurlbert'
Subject: draft agmt SMBRF 2

Hi Shelley
Attached is a draft of the grant agmt to the SMBRF for the $240K. We'll need to develop a work plan and budget separately.

Can you take a quick review and let me know if it looks ok? Elena has asked me to produce this draft quickly as it seems the best way to respond to our most recent PRA from Mr. Davis.

Thanks
Mary

O11-152 cont.

ATTACHMENT 6

O11-152
cont.

Coastal Conservancy

REQUEST FOR SERVICES

Ballona Wetlands Ecological Reserve
Environmental Analysis and Permit Assistance

May 11, 2009

O11-152 cont.

Contract Type: Environmental Professional Services

Scope:
Perform environmental analysis and assist in applying for permits for habitat enhancement and public access improvements at the Ballona Wetlands Ecological Reserve in Los Angeles.

Submittal Deadline: **June 1, 2009**
Proposals should be submitted electronically in adobe acrobat format and must be received at the Conservancy by June 1, 2009.

Contact: Mary Small, California Coastal Conservancy, msmall@scc.ca.gov

From: Mary Small
To: "Ivan Medel"
Cc: "Shelley Luce"; "Karina Johnston"; "Diana Hurlbert"
Subject: FW: post to web?
Date: Wednesday, February 08, 2012 4:48:00 PM
Attachments: Ballona Civil Engineering and Geotech.pdf
Ballona Hydrology and Engineering.pdf

Hi Ivan
Could you post the following on the homepage of the Ballona Restoration Project website?

The California State Coastal Conservancy is requesting proposals for consultant services for two separate contracts related to the proposed enhancement of the Ballona Wetlands Ecological Reserve in Los Angeles County. Services are needed to complete engineering and geotechnical evaluations, hydrology, technical studies, design and related services to support completion of a project level EIR/EIS and preparation and processing of a Section 408 permit through the Army Corp of Engineers. One contract will be for Civil and Geotechnical Engineering and a second contract will be for Hydrology and Engineering Design Analysis.

Please unhighlight the text above but insert hyperlinks to the attached docs to the highlighted text to the RFS, does that make sense?

Thanks,
Mary

O11-152 cont.

REQUEST FOR SERVICES

Ballona Wetlands Ecological Reserve
Civil and Geotechnical Engineering and Permit Assistance

February 8, 2010

Contract Type: Civil Engineering and Geotechnical Professional Services

Scope: Provide engineering and geotechnical evaluations, design and related services for the proposed wetland restoration design of the Ballona Wetlands Ecological Reserve in Los Angeles. Technical studies, evaluations, and designs will be of sufficient detail to support completion of a project level EIR/EIS and preparation and processing of a Section 408 permit through the Army Corp of Engineers.

Submittal Deadline: February 29, 2012

Proposals should be submitted electronically in adobe acrobat format and must be received at the Conservancy by February 29, 2012.

Contact: Mary Small, California Coastal Conservancy, msmall@scc.ca.gov

O11-152 cont.

From: Mary Small
To: "Diana Hurlbert"; "David Lawhead (DLawhead@dfg.ca.gov)"; "Eichler, Monica SPL"; "Eric Gillies"; "griggsp@slc.ca.gov"; "Hamamoto, Bruce"; "Patrick Holland (pholland@dpw.lacounty.gov)"; "Rick Mayfield (rmayfield@dfg.ca.gov)"; "Serpa, Phillip J SPL"; "Shelley Luce"; "Strum, Stuart R MVN-Contractor"; "Swenson, Daniel P SPL"; "Terri Grant (tgrant@dpw.lacounty.gov)"; "Youn Sim (ysim@dpw.lacounty.gov)"
Subject: RE: request for services - ballona wetlands
Date: Thursday, February 09, 2012 5:02:00 PM

Hello all-
Here's some more information about the Coastal Conservancy's contractor selection process. It is a quick process and I am hoping PMT members will assist us so I want to be sure you are aware of the schedule.

I am really hoping the PMT will help in reviewing proposals and that staff from the County and Corp will participate on the selection panel. These contracts are for work to support the County's 408 submittal. Here's the schedule for the review/selection:

- Proposals will be submitted electronically to me on 2/29
- I will post them on a secure site by 3/1 for PMT review
- PMT will select the top 3 or 4 firms we'll interview for each contract by 3/5
- PMT will do a detailed review of the written proposals of the top proposals by 3/13
- Interviews will be in LA on 3/13 – all day

I am assuming the selection panel will be Diana, me, and a representative from the County and the Corps. If anyone else wants to spend March 13th interviewing firms, please let me know.

Mary

O11-152 cont.

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Wednesday, February 08, 2012 4:46 PM
To: 'Diana Hurlbert'; 'David Lawhead (DLawhead@dfg.ca.gov)'; 'Eichler, Monica SPL'; 'Eric Gillies'; 'griggsp@slc.ca.gov'; 'Hamamoto, Bruce'; 'Patrick Holland (pholland@dpw.lacounty.gov)'; 'Rick Mayfield (rmayfield@dfg.ca.gov)'; 'Serpa, Phillip J SPL'; 'Shelley Luce'; 'Strum, Stuart R MVN-Contractor'; 'Swenson, Daniel P SPL'; 'Terri Grant (tgrant@dpw.lacounty.gov)'; 'Youn Sim (ysim@dpw.lacounty.gov)'
Subject: FW: request for services - ballona wetlands

The request for services for the civil engineering and geotechnical contract and the hydrology and engineering contracts went out today. Feel free to forward to other potential contractors, I sent it to about 60 in our database and we will post it on the web. Proposals are due on Feb 29th.

Mary

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Wednesday, February 08, 2012 4:39 PM
Subject: FW: request for services - ballona wetlands

The California State Coastal Conservancy is requesting proposals for consultant services for two separate contracts related to the proposed enhancement of the Ballona Wetlands Ecological

Reserve in Los Angeles County. Services are needed to complete engineering and geotechnical evaluations, hydrology, technical studies, design and related services to support completion of a project level EIR/EIS and preparation and processing of a Section 408 permit through the Army Corp of Engineers. One contract will be for Civil and Geotechnical Engineering and a second contract will be for Hydrology and Engineering Design Analysis.

O11-152 cont.

~~~~~~~~~~~~~~~~

Mary Small
Deputy Executive Officer, Coastal Conservancy
1330 Broadway #1300 Oakland, CA 94612
510-286-4181
~~~~~~~~~~~~~~~~

Subject: RE: PUBLIC RECORDS REQUEST FROM JOHN DAVIS MARCH 27, 2012
From: "Elena Eger" <eeger@scc.ca.gov>(Add as Preferred Sender)
Date: Wed, Mar 28, 2012 8:46 am
To: <jd@johnanthonydavis.com>
Cc: "'Mary Small'" <msmall@scc.ca.gov>, <sschuchat@scc.ca.gov>

Dear Mr. Davis:

The Conservancy does not possess a responsive record to your request, below.

Sincerely,

O11-152 cont.

Elena Eger

Senior Staff Counsel

California Coastal Conservancy

1330 Broadway, Ste. 1300

Oakland, CA 94612

510-286-4089 tele/voicemail

510-286-0470 fax

From: jd@johnanthonydavis.com [mailto:jd@johnanthonydavis.com]
Sent: Tuesday, March 27, 2012 5:55 PM
To: Elena Eger
Cc: 'Mary Small'; sschuchat@scc.ca.gov
Subject: RE: PUBLIC RECORDS REQUEST FROM JOHN DAVIS MARCH 27, 2012

California Coastal Conservancy

Re: Public Records Request

Please provide any statute which exempts the California Coastal Conservancy from the California Contract Code as it relates to the Agency entering into contracts of any type.

Thank you,

John Davis

-------- Original Message --------
Subject: RE: PUBLIC RECORDS REQUEST FROM JOHN DAVIS MARCH 21, 2012
From: "Elena Eger" <eeger@scc.ca.gov>
Date: Tue, March 27, 2012 5:27 pm
To: <jd@johnanthonydavis.com>
Cc: "'Mary Small'" <msmall@scc.ca.gov>, <sschuchat@scc.ca.gov>

O11-152 cont.

Dear Mr. Davis:

Your request below does not constitute a request for a record pursuant to the Public Records Act. Rather, your request is for an analysis of statutory law. I am ethically prohibited from providing counsel to anyone other than my client. Assuming that you are not a lawyer, I am also ethically bound to suggest to you that you obtain your own counsel to advise you on such matters. You may utilize the California State Bar website for referrals to counsel at www.calbar.ca.gov.

Sincerely,

Elena Eger

Senior Staff Counsel

California Coastal Conservancy

1330 Broadway, Ste. 1300

Oakland, CA 94612

510-286-4089 tele/voicemail

510-286-0470 fax

From: jd@johnanthonydavis.com [mailto:jd@johnanthonydavis.com]
Sent: Tuesday, March 27, 2012 1:38 PM
To: Elena Eger
Subject: RE: PUBLIC RECORDS REQUEST FROM JOHN DAVIS MARCH 21, 2012

Hello,

Thank you for the citations. However, neither removes the requirement of the Coastal Conservancy to comply with Public Contract Code Sectoins 10140-10141 nor 10515-10518.

If the Conservancy is exempt from the California Contract Code, please inform me as to what statute or code provides for such an exemption.

John Davis

-------- Original Message --------
Subject: RE: PUBLIC RECORDS REQUEST FROM JOHN DAVIS MARCH 21, 2012
From: "Elena Eger" <eeger@scc.ca.gov>
Date: Tue, March 27, 2012 12:50 pm
To: <jd@johnanthonydavis.com>
Cc: "'Schuchat, Sam'" <sschuchat@scc.ca.gov>, "'Mary Small'" <msmall@scc.ca.gov>, "'Dick Wayman'" <dwayman@scc.ca.gov>, "'Nadine Peterson'" <npeterson@scc.ca.gov>, "'Heather Baugh'" <heather.baugh@resources.ca.gov>, <kimg@resources.ca.gov>

O11-152 cont.

Dear Mr. Davis:

This correspondence contains the Coastal Conservancy's (Conservancy) response to your March 21, 2012 Public Records Act request, below.

The Conservancy does not possess any responsive records to either of your numbered requests. However, we direct you to Government Code Sections 4525 *et seq*. and 14 California Code of Regulations Sections 13870 *et seq.* for our contracting process.

Sincerely,

Elena Eger

Senior Staff Counsel

California Coastal Conservancy

1330 Broadway, Ste. 1300

Oakland, CA 94612

510-286-4089 tele/voicemail

510-286-0470 fax

O11-152 cont.

From: jd@johnanthonydavis.com [mailto:jd@johnanthonydavis.com]
Sent: Wednesday, March 21, 2012 2:11 PM
To: "Samuel Schuchat"; "John Laird"; 'Dick Wayman'; 'Nadine Peterson'; carmenp@scc.ca.gov; kimg@resources.ca.gov
Cc: John Chang
Subject: PUBLIC RECORDS REQUEST FROM JOHN DAVIS MARCH 21, 2012

California Coastal Conservancy

Att: Executive Director Sam Schuchat

California Coastal Conservancy March 21, 2012

To: Governing Board and Management

Douglas Bosco
Marisa Moret
Ann Nothoff
John Laird
Susan Hancsh

Karen Finn

Bryan Cash

Noreen Evens

Joe Simitan

Anthony Cannella

Bill Mornning

Luis Alejo

Das Williams

O11-152
cont.

CC
John Chang State Controller

Att: Executive Director Schuchat, Please Send This Letter to All California Coastal Conservancy Governing Board and Management.

This is a request for public records made pursuant to the California Public Records Act. Each numbered item is a distinct request for public records.

1. Please provide any and all public records that demonstrate compliance with California Public Contract Code Section 10140-10141 in regard to the California Coastal Conservancy approval onf January 19, 2012 of File No. 04-088 which approved money to be disbursed for engineering, hydrologic analyses, geotechnical assessments, and public design.

2. Please provide any and all public records that demonstrate compliance with California Public Contract Code Section 10515-10518 in regard to the California Coastal Conservancy approval on January 19, 2012 of File No. 04-088 which approved money to be disbursed for engineering, hydrologic analyses, geotechnical assessments, and public design.

No such records have been requested or received by me to date.

See Attached Approval for File No. 04-088

Thank you,

John Davis
PO 10152
Marina del Rey Ca. 90295

O11-152
cont.

PUBLIC CONTRACT CODE SECTION 10140-10141

10140. **Public notice of a project shall be given by publication once a week for at least two consecutive weeks or once a week for more than two consecutive weeks if the longer period of advertising is deemed necessary by the department, as follows:** (a) **In a newspaper of general circulation published in the county in which the project is located**, or if located in more than one county, in such a newspaper in a county in which a major portion of the work is to be done. (b) **In a trade paper of general circulation published** in San Francisco for projects located in County Group No. 1, as defined in Section 187 of the Streets and Highways Code, or **in Los Angeles for projects located in County Group No. 2, as defined in said Section 187, devoted primarily to the dissemination of contract and building news among contracting and building materials supply firms. The department may publish the notice to bidders for a project in additional trade papers or newspapers of general circulation that it deems advisable.** 10141. The notice shall state the time and place for the receiving and opening of sealed bids, describing in general terms the work to be done and that the bids will be required for the entire project and for the performance of separate designated parts of the entire project, when the department determines that segregation is advisable.

PUBLIC CONTRACT CODE SECTION 10515-10518

10515. (a) No person, firm, or subsidiary thereof who has been awarded a consulting services contract may submit a bid for, nor be awarded a contract on or after July 1, 2003, for the provision of services, procurement of goods or supplies, or any other related action that is required, suggested, or otherwise deemed appropriate in the end product of the consulting services contract. (b) Subdivision (a) does not apply to either of the following: (1) Any person, firm, or subsidiary thereof who is awarded a subcontract of a consulting services contract that amounts to no more than 10 percent of the total monetary value of the consulting services contract. (2) Consulting services contracts that comply with Article 2.5 (commencing with Section 10510.4). (c) (1) Subdivision (a) does not apply to any person, firm, or subsidiary awarded a consulting services contract by a University of California medical center when the provision of service, procurement of goods or supplies, or any other related action required, suggested, or otherwise deemed appropriate in the end product of the consulting services contract, is necessary to avoid a competitive disadvantage in the hospital industry, improve patient care, protect the privacy of patient information, or avoid significant delay and additional expense. (2) The University of California shall report within 30 days on any exemption granted under paragraph (1) to the Joint Legislative Budget Committee and the Department of Finance. The report shall include a description of the circumstances that warranted the exemption, the effects of the exemption on patient care or patient privacy, and a calculation of the projected costs savings to the institution as a result of the exemption. 10516. No officer or employee of the University of California shall engage in any employment, activity, or enterprise from which the officer or employee receives compensation or in which the officer or employee has a financial interest if that employment, activity, or enterprise is sponsored or funded, or sponsored and funded, by any university department through or by a university contract unless the employment, activity, or enterprise is within the course and scope of the officer's or employee's regular university employment. No officer or employee in the university shall contract on his or her own individual behalf as an independent contractor with any university department to provide services or goods. This section shall not apply to officers or employees of the university with teaching or research responsibilities, nor shall it apply to student employees for payment for additional campus activities or engagements outside of the scope of their primary university employment. 10517. (a) No retired, dismissed, separated, or formerly employed person of the University of California employed with the university or otherwise appointed to serve in the university may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements, or any part of the decisionmaking process relevant to the contract while employed in any capacity by any university department. The prohibition of this subdivision shall apply to a person only during the two-year period beginning on the date the person left university employment. (b) For a period of 12 months following the date of his or her retirement, dismissal, or separation from the University of California, no person employed in the university or otherwise appointed to serve in the university may enter into a contract with any university department, if he or she was employed by that department in a policymaking position in the same general subject area as the proposed contract within the 12-month period prior to his or her retirement, dismissal, or separation.

O11-152 cont.

The prohibition of this subdivision shall not apply to a contract requiring the person's services as an expert witness in a civil case or to a contract for the continuation of an attorney's services on a matter he or she was involved with prior to leaving the university. (c) This section does not prohibit the rehire or reappointment of University of California employees after retirement, consistent with university administrative policies, nor does it apply to inventors and authors of intellectual property licensed under technology transfer agreements. 10518. (a) Except as otherwise provided in subdivision (b), each contractor who enters into a contract with a University of California campus for ten thousand dollars ($10,000) or more shall be assigned an identification number by the chancellor of that university campus. Each contractor who has been assigned a number shall list it on each contract the contractor enters into with the university campus, regardless of the amount of the contract. In the case of a corporation or firm, the chancellor's assigned number shall be used exclusively on each contract with that particular chancellor's campus. The assigned number shall remain unchanged regardless of future name changes. (b) If the identification numbers cannot be tracked centrally by the Regents of the University of California, then the regents, and not the chancellors, shall assign the identification numbers.

O11-152 cont.

ATTACHMENT 7

O11-152 cont.

From: Mary Small
To: "Barbara Romero"
Cc: "Melissa Guerrero"; "Diana Hurlbert"; "Shelley Luce"
Subject: SCC mtg in Jan
Date: Monday, December 19, 2011 3:30:00 PM
Attachments: Ballona_Wetlands_Engineering_and_Technical_Studies.docx

Hi Barbara,
Thanks for agreeing to support the recommendation for funding for engineering work at Ballona. Attached is the draft staff report, the project will be heard at our Jan 19th meeting at the Baldwin Hills Scenic Overlook. As you can see it's a pretty big authorization, so we'd love your support. I think we may take the Board on a tour of Ballona that morning and then the meeting will start around 12:30. It would be great to have MRCA join us for either the tour or the meeting.

O11-152 cont.

Thanks also for the message about the early action plan grant. When you have time submit any final billing or just a letter stating that the work is all done and I'll close it out.

Hope you are doing well and have a great holiday.
Mary

From: Mary Small
To: "Shelley Luce"; "Scott Valor"
Subject: FW: support letter for SCC board meeting?
Date: Wednesday, January 11, 2012 3:53:00 PM

Good news

From: Sarah Sikich [mailto:ssikich@healthebay.org]
Sent: Wednesday, January 11, 2012 3:44 PM
To: Mary Small
Subject: RE: support letter for SCC board meeting?

Hi Mary,

Mark forwarded me your email about the Ballona technical study support letter for the SCC board meeting. We discussed it at our department meeting this week, and will send in a letter. Is an electronic copy fine, or do you need a hard copy? Also, should I just send it to you?

Additionally, Alix Hobbs would like to join our meeting while you are at Heal the Bay to discuss some of our Coastal Conservancy projects and potential future ideas. Is it okay with you if she joins for the second half of the meeting?

O11-152 cont.

Thanks,
Sarah

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Tuesday, January 03, 2012 3:00 PM
To: Mark Gold
Subject: RE: support letter for SCC board meeting?

Thanks, the meeting is the 19th so that's the deadline. Yes, I totally understand.

I was just sending Sarah an email about possible dates I'll be in LA when I'd like to stop in ad talk about OPC, so maybe I'll see you then.

Happy new year (and MLPA implementation)
Mary

From: Mark Gold [mailto:mgold@healthebay.org]
Sent: Tuesday, January 03, 2012 2:39 PM
To: Mary Small
Subject: RE: support letter for SCC board meeting?

Mary – Happy new year to you too. We will definitely take a look at this and think it through. It is a great project and needs to happen. The political baggage that goes with it is no picnic as you know.

When is the deadline?

ATTACHMENT 8

O11-152
cont.

From: jd@johnanthonydavis.com [mailto:jd@johnanthonydavis.com]
Sent: Wednesday, March 21, 2012 12:34 PM
To: "Samuel Schuchat"; "John Laird"; 'Dick Wayman'; 'Nadine Peterson'; carmenp@scc.ca.gov; kimg@resources.ca.gov
Cc: David Lawhead; John Chang
Subject: To All California Coastal Conservancy Board Members from John Davis

California Coastal Conservancy
Att: Executive Director Sam Schuchat

California Coastal Conservancy March 21, 2012

To: Governing Board and Management
Douglas Bosco
Marisa Moret
Ann Nothoff
John Laird
Susan Hancsh
Karen Finn
Bryan Cash
Noreen Evens
Joe Simitan
Anthony Cannella
Bill Mornning
Luis Alejo
Das Williams

CC
John Chang State Controller

Att: Executive Director Schuchat, Please Send This Letter to All California Coastal Conservancy Governing Board and Management.

Your Staff Attorney, Elena Eger has indicted this State Agency will not answer the fair questions I, as a member of the public asked regarding the procedures of the Conservancy.

Failure to answer such questions is contrary to the role of the State Agency to enjoin the public in the processes.

Please request that Staff respond to the questions I have asked.

Furthermore I have requested that your Staff not copy any Private Business or Individuals on responses to me as I consider it harassment and intimidation by the State Agency.

Should any such private business or individual wish to obtain such email records, such records should ONLY be provide if requests for such records are made pursuant to the Law, the California Public Records Act.

O11-152 cont.

The Information Practices Act (Civil Code section 1798 et seq.) generally prohibits agencies from disclosing an individual☺s personal information to the public.

Thank you,

John Davis
PO 10152
Marina del Rey Ca. 90295

From: jd@johnanthonydavis.com [mailto:jd@johnanthonydavis.com]
Sent: Thursday, February 16, 2012 1:29 PM
To: Elena Eger
Cc: 'Mary Small'; 'Sam Schuchat'; 'Dick Wayman'; 'Shelley Luce'; svalor@santamonicabay.org
Subject: Reply from John Davis RE: Davis' Requests for Information

California Coastal Conservancy
Att: E.Eger
Re: Reply

O11-152 cont.

Dear E. Eger,

The request for public records submitted on 2/14/2012 remains outstanding.

The Commission still needs to reply to this request within 10 days of the submission date. I do expect a reply by 2/24/2012 as
the Public Records Act requires under law.

I also would take issue with your recent email stating that I made a DEMAND of the Commission. This is far from true.

In fact my email stated the INTENDED PURPOSE of the email and made no demands as you stated to me in your email to me.

Prior to that, you inferred in another email that I made statements and or asserted things that I clearly did not.

I corrected you once alreadyin writing, and find I must do so yet again.

Your accuracy in characterizing my telephonic conservations or written documents should not be clouded by your misconceptions
as I do not find it to be professional in your role as a State Attorney.

Regards,

John Davis
PO 10152
Marina del Rey Ca. 90295

****

Subject: Reply from John Davis RE: PUBLIC RECORDS REQUEST FROM JOHN DAVIS
From: <jd@johnanthonydavis.com>(Add as Preferred Sender)
Date: Tue, Feb 14, 2012 2:05 pm
To: "Elena Eger" <eeger@scc.ca.gov>

California Coastal Conservancy
Att: Elana Eger Councel
Re: Reply to your communication

Counsel Eger,

Please pardon my typo in your title.

Also, I still do not understand why a State Agency would share my letter, and personal email
address with a private business, unless requested pursuant to the Public Records Act. I am not
sure what other private businesses you intend to copy on my letters to the State Agency using State facillities.

I do understand that you will continue to provide my emails to this State Agency with private businesses:

" Indeed, we will continue to share communications to you or from you with our other Ballona project partners, irrespective of whether the partner is a public or private organization, when we, at our sole discretion, determine that dissemination to be useful for our project purposes.".

How does the Coastal Conservancy define the term "partner" as used in your statement?

How, at the Coastal Conservancy, is a determination made at its sole discretion whether the dissemination
of my email to the State Agency would be useful for the Conservancy's project purposes?

What entity of the Coastal Conservancy is entitled to make such a determination and under what authority?

These are fair questions given that my letters to you have already been shared with a private business.

Thank you for your continued assistance.

John Davis
PO 10152
Marina del Rey Ca. 90295
-------- Original Message --------
Subject: RE: PUBLIC RECORDS REQUEST FROM JOHN DAVIS

O11-152 cont.

From: "Elena Eger" <eeger@scc.ca.gov>
Date: Tue, February 14, 2012 12:32 pm
To: <jd@johnanthonydavis.com>
Cc: "'Mary Small'" <msmall@scc.ca.gov>, <svalor@santamonicabay.org>, "'Shelley Luce'" <sluce@santamonicabay.org>, "'Dick Wayman'" <dwayman@scc.ca.gov>

Mr. Davis:

This is in partial response to your PRA, below and your request of yesterday at 5:15 p.m. in which you demand that we not share your communications with "any private business" and in which you characterize such communications as "private".
While we will provide you with your requests to the extent possible and in compliance with the PRA, we must clarify to you that communications between you, as a member of the public, and the Conservancy, a public agency, are not considered under the PRA and thus not by the Conservancy to be "private communications", subject to any privilege or exception under the Act. Indeed, we will continue to share communications to you or from you with our other Ballona project partners, irrespective of whether the partner is a public or private organization, when we, at our sole discretion, determine that dissemination to be useful for our project purposes.
I would also like to clarify for you for your future purposes that my title is not "council" but "counsel", that is, I am a lawyer, not a member of a council.
Sincerely,

O11-152 cont.

Elena Eger
Senior Staff Counsel
California Coastal Conservancy
1330 Broadway, Ste. 1300
Oakland, CA 94612
510-286-4089 tele/voicemail
510-286-0470 fax

****

From: jd@johnanthonydavis.com [mailto:jd@johnanthonydavis.com]
Sent: Tuesday, February 14, 2012 10:49 AM
To: Elena Eger
Subject: PUBLIC RECORDS REQUEST FROM JOHN DAVIS

California Coastal Conservancy
Att: Council E. Eger
Re: Public Records Request

This is a public records request made pursuant to the California Public Records Act. Each numbered item is a separate and distinct request for public records. This letter is only intended to for the California Coastal Conservancy and NOT FOR ANY PRIVATE BUSINESS, unless requested by such a business via the California Public Records Act.

1. Provide any and all emails to and received by the California Coastal Conservancy

from the following email address in regard and prior to Item 5 of the Conservancy hearing on January 19, 2012: sluce@santamonicabay.org

2. Provide any and all emails to and received by the California Coastal Conservancy from the following email address in regard and prior to Item 5 of the Conservancy hearing on January 19, 2012: svalor@santamonicabay.org

3. Provide any and all emails to and received by the California Coastal Conservancy from the following email address AFTER the Conservancy hearing on January 19, 2012: sluce@santamonicabay.org

4. Provide any and all emails to and received by the California Coastal Conservancy from the following email address AFTER the Conservancy hearing on January 19, 2012: svalor@santamonicabay.org

6. Provide any and all emails sent by the Conservancy to following email address in regard and prior to Item 5 of the Conservancy hearing on January 19, 2012: sluce@santamonicabay.org

7. Provide any and all emails sent by the Conservancy to following email address in regard and prior to Item 5 of the Conservancy hearing on January 19, 2012: svalor@santamonicabay.org

8. Provide any and all email sent by the California Coastal Conservancy to following email address in AFTER the Conservancy hearing on January 19, 2012: sluce@santamonicabay.org

9. Provide any and all email sent by the California Coastal Conservancy to following email address in AFTER the Conservancy hearing on January 19, 2012: svalor@santamonicabay.org

O11-152 cont.

Thank you for your assistance,

John Davis
PO 10152
Marina del Rey Ca. 90295

-------- Original Message --------
Subject: RE: Reply from John Davis RE: Davis' Requests for Information
From: "Elena Eger" <eeger@scc.ca.gov>
Date: Thu, February 16, 2012 7:48 pm
To: <jd@johnanthonydavis.com>
Cc: "'Mary Small'" <msmall@scc.ca.gov>, "'Sam Schuchat'" <sschuchat@scc.ca.gov>, "'Dick Wayman'" <dwayman@scc.ca.gov>, "'Shelley Luce'" <sluce@santamonicabay.org>, <svalor@santamonicabay.org>

Dear Mr. Davis:

As I stated in my email of yesterday to you, we intend to comply with your records request to us of 2/14. We are working on compiling the records that you have requested. Please clarify whether you wish to receive the emails pertaining to correspondence among Mr. Valor, Ms. Luce and Conservancy staff with respect to the Item #5 on the 1-19-12 agenda only.

Please clarify that you are referring to the Conservancy when you make reference to the "Commission" in your message below.

As to your other allegations contained in your email below, I remind you that, as I said yesterday, we will make no further comment, which, of course, does not mean that we agree or disagree with your interpretations. Again, unless you are requesting a record from us under the Public Records Act, we do not intend to make further explanatory comments to you.

Sincerely,

Elena Eger
Senior Staff Counsel
California Coastal Conservancy
1330 Broadway, Ste. 1300
Oakland, CA 94612
510-286-4089 tele/voicemail
510-286-0470 fax

O11-152 cont.

-------- Original Message --------
Subject: Davis' Requests for Information
From: "Elena Eger" <eeger@scc.ca.gov>
Date: Wed, February 15, 2012 6:45 pm
To: <jd@johnanthonydavis.com>
Cc: "'Mary Small'" <msmall@scc.ca.gov>, "'Sam Schuchat'" <sschuchat@scc.ca.gov>, "'Dick Wayman'" <dwayman@scc.ca.gov>, "'Shelley Luce'" <sluce@santamonicabay.org>, <svalor@santamonicabay.org>

Dear Mr. Davis:

In response to your inquiry below, I am providing you with the link to our website's contents of Item 5, Ballona Restoration Project, approved at the Conservancy's 1-19-12 public meeting unanimously. All my references are to the contents in this link. http://scc.ca.gov/webmaster/ftp/pdf/sccbb/2012/1201/20120119Board05_Ballona_Wetlands.pdf.

I believe in your message below you are referencing Exhibit 4. This record reads at the bottom of the page in the key: "Existing habitat units based on field survey conducted by the California Department of Fish and Game, October – December 2000. Map created by GreenInfo Network October 20, 2011." The Conservancy's logo is next to this statement.

With respect to the remainder of your email to us, below, except for our response to your last statement regarding the Conservancy's

dissemination of your correspondence to and with us, which we responded to in my earlier email to you of yesterday at 11:32 a.m., we wish to direct your attention to the Public Records Act (PRA), which provides the public with the mechanism to request a public record from a public agency. Additionally, we wish to direct your attention to the Ballona Restoration website, linked on our Conservancy website at www.scc.ca.gov , which among other resources, has project documents and provides a calendar of upcoming meetings, if any, where you have the opportunity to seek clarification and information regarding the restoration project.

We have cooperatively provided you with both oral and written clarifications on requests you have made to us for information or on allegations you have made that we or our project partners are violating particular laws or practices or conducting our respective project business improperly. In fact, since the Conservancy unanimously approved Item 5 for Ballona Restoration Planning, on 1-19-12, we responded to every one of your requests for records under the PRA or for explanations or to answer your allegations, which now amount to some 16 written requests to date for both information and records in the 18 business days from our 1-19-12 meeting, except for two requests for information and one request for records, received yesterday. Additionally, you have spoken by phone with six of our staff numerous times each, none of which were records requests but were rather in the nature of your seeking more information or explanation from us. Despite our willingness to provide you with explanations and/or clarifications, we continue to receive more requests for the same information from you, often accompanied by accusations of improper behavior.

O11-152 cont.

In compliance with our obligations under the Public Records Act, we will continue to provide our records to you upon written request for such records. However, we will not be responding to your further requests for non-record information or explanation or to your allegations of improper business practices beyond this request, below. We cannot conduct our regular business in service of the public and continue to respond to your almost-daily and, if daily, often numerous daily requests for non-record information or to answer your allegations. Despite our willingness to provide you with explanations, clarifications and information, our good-faith responses back to you seem to be unsatisfactory to you since you follow-up often with yet another request for the same information. Continuing this "asked and answered" process seems an unproductive use of public resources.

So, with respect to your statement that DFG produced this map, please note that as cited above here, GreenInfo Network produced the map for the Conservancy and its project partners/team's use; DFG is

our restoration partner on this project. We direct you to the Conservancy's website at www.scc.ca.gov, Ballona restoration for identification of our project partners on this project.
With respect to whether DFG provided the Conservancy with permission to put our logo on this proposed restoration design, please note that the Conservancy is a project partner with DFG and that within this partnership, the Conservancy acts as the lead in restoration planning with the full agreement of the other project partners, including the DFG.
Sincerely,

Elena Eger
Senior Staff Counsel
California Coastal Conservancy
1330 Broadway, Ste. 1300
Oakland, CA 94612
510-286-4089 tele/voicemail
510-286-0470 fax

From: jd@johnanthonydavis.com [mailto:jd@johnanthonydavis.com]
Sent: Monday, February 13, 2012 5:15 PM
To: 'Elena Eger'
Cc: 'Nadine Peterson'; 'Sam Schuchat'; 'Dick Wayman'; Mary Small
Subject: RE: Davis call to Eger of 2-6-12

California Coastal Conservancy
Att: Elena Eger Legal Council
CC Mary Small Project Manager
Re: Item 5 January 19th 2012 Meeting

Hello Council Eger,

Mary Small directed me to you to answer a question about the hearing noted above.

The attached map was presented as a projection.

It bears the seal of the State Coastal Conservancy. The small text below the legend is hard to read but it
does reference the California Dpt. of Fish and Game in 2011. The text is not clear. It appears to say Ballona Wetlands units.....summary conducted the California Dpt of Fish and Game .....Map created by .....October 20, 2011.

Could you provide the correct reading of this text?

For what purpose did Fish and Game produce this map?

Did Fish and Game provide specific permission for the Conservancy to place its seal (logo) on this

O11-152 cont.

map for official purposes such as for grant approvals?

I understand the Conservancy is a partner of Fish and Game in the Ballona preserve.

However it is unclear if Fish and Game authorized the use of this map for purposes of another Agency
to consider in its grant process.

Please DO NOT CC ANY PRIVATE BUSINESSES ON MY E-Mail COMMUNICATIONS anymore. This is met
to be a private communication between myself and the State Agency, and not to be shared with any private
business, whatsoever.

O11-152 cont.

Again,

Thank you for your assistance,

John Davis
PO 10152
Marina del Rey Ca. 90045

From: Mary Small
To: "Elena Eger"
Cc: "Scott Valor"
Subject: FW: State Water Board Legal"s Memo to our Governing Board
Date: Monday, February 06, 2012 4:47:02 PM
Attachments: SWRCB memo2011aug re accusations.pdf
SWRCB Ltr to Davis re PRAs.pdf

Hi Elena

Scott Valor emailed this to you but he had the wrong address.

Mary

From: Scott Valor [mailto:svalor@santamonicabay.org]
Sent: Monday, February 06, 2012 3:42 PM
To: msmall@scc.ca.gov; eeeger@scc.ca.gov
Subject: State Water Board Legal's Memo to our Governing Board

Mary & Elena--

The attached memo to our Governing Board may help with some background. It was not only given to our Governing Board, it is posted on our website, and was forwarded to John Davis and Patricia McPherson, among others. It addresses virtually all of the accusations made against the Foundation and Commission.

Attached also is a direct letter to John Davis from SWRCB legal noting how Foundation staff and contractors legally serve the SMBRC. For example, I am a contractor to the Foundation, but I am authorized to act on behalf of the Commission. He refuses to acknowledge that, which will never change. However, the documents speak for themselves.

One reason he may be contacting you (again) is that SWRCB legal told him that any future PRA queries to the Commission must be directed to me. He simply won't do that so he seeks ways around it. It would be entirely appropriate for you to re-direct any queries relevant to the SMBRC to me.

Call me if/when questions arise.

/s

Scott Valor
Director of Government Affairs
Santa Monica Bay Restoration Commission
310-922-2376

visit us at www.smbrc.ca.gov

O11-152 cont.

STATE OF CALIFORNIA - NATURAL RESOURCES AGENCY EDMUND G. BROWN, JR., *Governor*

CALIFORNIA COASTAL COMMISSION
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

April 11, 2014

Playa Capital Company, LLC
c/o Rick Zbur
355 South Grand Avenue
Los Angeles, CA 90071

Re: Unpermitted drains located in Ballona Ecological Reserve

Dear Mr. Zbur:

Thank you for your December 11, 2013 response to our June 12, 2013 letter. Our June 12 letter described installation of two drains and drain lines in the Ballona Ecological Reserve without the required coastal development permit. After carefully reviewing the information that you included with your letter, our position on installation of the drains at issue has not changed: installation of the drains requires a coastal development permit from the Coastal Commission. As explained below, the unpermitted drains were not authorized, as you contend, by Coastal Development Permit No. 5-91-463, as amended ("the CDP"), which authorized construction of the Ballona Freshwater Marsh ("BFM"). Moreover, the subject drains are located in the Ballona Ecological Reserve within natural habitat and a wetland that rely on water to function. Thus the presence of the subject drains is clearly detrimental to natural habitat and the hydraulic functioning of the wetland. O11-153

The two unpermitted drains at issue ("Unpermitted Drains") are located in the Ballona Ecological Reserve, one north of Culver Boulevard and the other south of Culver Boulevard. The Unpermitted Drains are not located within the BFM, but instead within natural saltmarsh and habitat areas separated from the marsh area of the BFM by Jefferson Boulevard. The Unpermitted Drains are not described in the CDP application, nor are the drains identified in the plans submitted with the application and presented to the Commission for approval. Thus the Unpermitted Drains were never authorized through the CDP, or by the Commission in any way that we are aware of.

As a point of clarification since your letter appears to conflate several separate structures, the Commission-approved BFM main drain line and the two other outlets from the BFM (in addition to the main drain line) that are critical to maintaining water levels in the BFM, and which are specifically identified in the CDP application and accompanying plans ("Approved BFM Drain" and "Approved BFM Outlets"), are not at issue in this enforcement matter. Each of these components is identified and described in the CDP application and accompanying plans, which comprise the development approved by the Commission via the CDP. By contrast, the Unpermitted Drains were not identified in the CDP application or its accompanying materials or plans. For reference I've attached a site plan submitted to the Coastal Commission that show the Approved BFM Drain and the Approved BFM Outlets. I've also annotated the plan to show the locations of the Unpermitted Drains, which are not depicted on the approved plan.

Below, I respond to points raised in your December 11 letter related to the Unpermitted Drains. However, first I provide some background and clarification on the purpose and functions of the BFM in order to explain that the Unpermitted Drains function inconsistently with the habitat enhancement, water quality and flood control objectives of the BFM and in no way does the BFM rely on the Unpermitted Drains to perform its necessary functions. Please note that some of our responses to the points you raised in your December 11 letter are provided in the background section below.

Background

The BFM was approved by the Commission pursuant to CDP No. 5-91-463 (as amended) on September 13, 1991. The project is designed to integrate water quality protection functions, habitat creation and restoration, and stormwater control. The first function of the BFM is to collect runoff via inlets specifically identified in the CDP application and accompanying plans. Each of these approved inlets flow into the BFM. The CDP application describes the process by which the BFM achieves its water quality objectives:

> The water quality functions would be performed by the input of a year-round supply of clean freshwater into the system and through the natural processes of a wetlands – sedimentation, adsorption, and transformation – which would reduce levels of pollutants in stormwater and other urban runoff that drains into the system. The freshwater wetlands system would trap and remove pollutants in stormwater runoff as the water moves slowly through the system. Water cleaner that the stormwater runoff originally put into the system would then flow into the Ballona Flood Control Channel or into the salt marsh, thus enhancing the resource values of those areas. [Appendix 5, page 2]

O11-153 cont.

The Unpermitted Drains do not support the water quality objectives of the BFM; the Unpermitted Drains do not direct water into the BFM to be subject to the wetland treatment processes described above. Instead, water flows into the Unpermitted Drains, then untreated into the Ballona Channel.

The second function of the BFM, habitat creation and restoration, is the product of collecting stormwater and treated groundwater within the marsh area of the BFM. This process fosters vegetation growth and, in turn, provides wildlife habitat. The habitat function of the BFM and its reliance upon stormwater is further described in the CDP application:

> The 52-acre freshwater wetland system proposed by Maguire Thomas Partners – Playa Vista, includes a 25-acre riparian corridor and a 27-acre freshwater marsh. This system is to be planted with marsh vegetation, willow woodland and mixed riparian habitat over a three-phase construction period lasting 10 years. It is designed to create new and restore currently degraded freshwater wetland habitat and to enhance their associated uplands. In order to maintain the proposed vegetation and habitat of the system, a water supply of reliable quantity and quality is needed.
>
> ...

- Using two sources of supply (storm runoff and treated groundwater) that are consistent with the urban setting of the Playa Vista project, a completely satisfactory quantity of fresh water would be provided to establish and sustain 52-acres of wetland vegetation and the freshwater need of wildlife. (Appendix 11, ps. EX1-2)

As noted above, the Unpermitted Drains do not drain into the BFM, thus they do not contribute water to the BFM and thus do not contribute to its habitat function. In fact the effect of the functioning of the Unpermitted Drains is deleterious to habitat because the Unpermitted Drains direct water away from habitat areas within the Ballona Ecological Reserve, including a wetland area.

Another function of the BFM is stormwater management and this indeed was a stated objective for constructing the BFM. In contrast to the functioning of the BFM, during all but the most extreme storm events, the Unpermitted Drains do not provide any necessary flood protection because of the elevation of adjacent Culver Boulevard. The BFM project engineer, in describing the value of the Unpermitted Drains, or lack thereof, notes in July 11, 2013 email to staff at the Santa Monica Bay Restoration Commission, and others, that: "If these inlets were plugged, there would be no chance of any flooding ever reaching the adjacent roadways as the roads are about three feet higher than the surrounding grades. A three foot storm would be something on the order of the 1,000,000-year event (purely a guess, but you get the idea) and L.A. would not notice a little flooding here." O11-153 cont.

Moreover, the Unpermitted Drains are not designed to function when flood control devices would be expected to, i.e. during storm events. During storm events when the water levels in Ballona Channel are elevated, the flapgates in the Approved BFM Drain close in order to prevent water from flowing from the Ballona Channel and out through the Approved BFM Outlets into the BFM. When these flapgates in the Approved BFM Drain close during storm events, water will not flow through the Unpermitted Drains into the Approved BFM Drain, consequently, water will pond in the location of the Unpermitted Drains. Thus, it appears that the idea that stormwater control benefits are provided by the Unpermitted Drains is, at best, dubious. However, as a result of below-grade and at-grade inlets in the Unpermitted Drains, the Unpermitted Drains remove water in the ground and on the surface at all other times water is present. This is a continuous detriment to wetland hydrology and habitat that relies on water to function.

Coastal Development Permit Required

The Unpermitted Drains were not identified in the CDP application or accompanying plans and materials. Therefore, the Unpermitted Drains were not reviewed by the Coastal Commission and installation of the Unpermitted Drains was not authorized via the CDP. Furthermore, the Unpermitted Drains do not, as detailed above, perform any of the intended functions of the BFM and thus could not have been somehow approved in concept by the Commission.

Pursuant to Section 30600(a) of the Coastal Act, any person wishing to perform or undertake development in the Coastal Zone must obtain a coastal development permit, in addition to any other permit required by law. "Development" is defined by Coastal Act Section 30106 as:

> "Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of the use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvest of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations....[underling added for emphasis]

Installation of the Unpermitted Drains constitutes development under the Coastal Act and, therefore, requires a coastal development permit. Any development activity conducted in the Coastal Zone without a valid coastal development permit, or which does not substantially conform to a previously issued permit, constitutes a violation of the Coastal Act.

O11-153 cont.

Our goal is to resolve this situation amicably and as quickly as possible so that all parties can move forward. We greatly appreciate your time and input and look forward to discussing this matter further and working on a consensual resolution to this matter. To that end, subsequent to the substantive responses to your letter, below, I propose a potential path forward to resolve this matter collaboratively.

Staff Responses to Section A

You note, as a preliminary matter, that Playa Capital Company, LLC ("PCC") does not currently own the property upon which the Unpermitted Drains are located. You do not specifically argue that as a result of this lack of property interest at the present time, PCC is not liable for installation of the Unpermitted Drains, however, I note that liability for Coastal Act violations attaches to the property owner upon which unpermitted development is located *and to the party that undertook the unpermitted development*. Documents submitted to the City of Los Angeles regarding construction of the Approved BFM Drain indicate that installation of the Approved BFM Drain was commenced by PCC's predecessor-in-interest, Maguire Thomas Partners ("MTP"), and completed by PCC. The Unpermitted Drains connect to the Approved BFM Drain (but as noted above, do not contribute to the functioning of the BFM) and logically then were constructed by PCC and/or its predecessor-in-interest at the time the Approved BFM Drain was constructed. Contemporaneous construction of the Unpermitted Drains and the Approved BFM Drain does not establish, however, that the Unpermitted Drains were authorized pursuant to the CDP. As described above, the Unpermitted Drains are not described in the CDP application or depicted in the accompanying plans, in contrast to the Approved BFM Drain, which is described and depicted in the CDP application and plans.

You also provide in Section A your description of the function of the Approved BFM Outlets and equate the Unpermitted Drains with the Approved BFM Outlets. You assert that:

> *The outlet drains in question were initially incorporated in the Freshwater Marsh design with the approval of the City of Los Angeles, to protect the Ballona salt marsh located to the west of the Freshwater Marsh from imminent construction impacts, and, ultimately, to prevent flooding of the roadways adjacent to the Freshwater Marsh during severe storm events in the long-term.*

However, the Unpermitted Drains are distinct from the Approved BFM Outlets. The three Approved BFM Outlets (including the Approved BFM Drain) are identified in the CDP application and plans. These outlets allow for freshwater to be directed from the BFM into the Ballona Channel or into the saltmarsh west of the BFM when needed to adjust salinity levels in the saltmarsh. The CDP application specifically identifies the Approved BFM Outlets as such:

> *Three water management structures are included in the design of the system: a spillway system between the freshwater marsh and the salt marsh, a sluice-gate structure between the freshwater marsh and the salt marsh, and a control weir with a tide-gated outlet between the freshwater marsh and the Ballona Channel.* [pgs. II-7-8]

Clearly none of these descriptions pertain to the Unpermitted Drains. The Unpermitted Drains can be further distinguished from the Approved BFM Outlets in a number of ways. First, the Unpermitted Drains are not depicted in the CDP application or the plans, as the Approved Outlets are, and thus the Unpermitted Drains were not approved by the Commission. Second, the Unpermitted Drains are not outlet drains. The Approved BFM Outlets provide outlets for freshwater water to move from the BFM into Ballona Channel and into the saltmarsh west of the BFM for salinity level management purposes. In contrast, the Unpermitted Drains do not outlet water from the BFM. Thus, categorically, the Unpermitted Drains are not "outlets" from the BFM. Instead, they drain water from native habitat and a wetland area separated from the BFM by Jefferson Boulevard. Third, the Unpermitted Drains do not direct drained water into the saltmarsh, thus they also do not share the function of the Approved BFM Outlets to provide the saltmarsh with freshwater. Finally, the saltmarsh that is protected by the Approved BFM Outlets that is referenced in the CDP application and associated documents is west of the BFM. In contrast, the Unpermitted Drains are located in the saltmarsh and habitat area north of the BFM.

O11-153 cont.

Regarding the assertion in Section A that the Unpermitted Drains are necessary flood control measures that were approved by the City of Los Angeles, the lack of any flood prevention provided by the Unpermitted Drains is addressed above. In addition, as you are no doubt aware, even if the Unpermitted Drains were approved by the City of Los Angeles through local processes, such approval is not a substitute for authorization from the Commission and does not waive the coastal development permit requirements of the Coastal Act. Furthermore, no regulation is cited in the City's letter attached to your December 11 letter that confirms that there is a basis for the City to require construction of the Unpermitted Drains for flood protection. Nor could City staff identify such regulation in its discussions with Commission staff. In fact, in discussions with us, City staff had no objections to removal of the Unpermitted Drains, which is not surprising since the Unpermitted Drains provide negligible (if any) flood control benefits.

Staff Responses to Section B

In Section B, you again apparently confuse the Unpermitted Drains with the Approved BFM Outlets. As detailed above, in contrast to the Unpermitted Drains, the Approved BFM Outlets were approved by the Commission pursuant to the CDP and, again in contrast to the Unpermitted Drains, perform important habitat enhancement, water quality and flood control functions.

You also assert that staff was made aware of the plans to construct the Unpermitted Drains prior to construction of said drains (but subsequent to Commission approval of the BFM) and that staff concurred with their construction. Regardless of whether this assertion is true, and it is not, as explained below, the Unpermitted Drains were not a component of the CDP application; were not presented in narrative or graphic form, or in any manner to the Commission for review; were not authorized by the Commission pursuant to the CDP in any way; and there is no other Commission action that authorized the Unpermitted Drains. Furthermore, the assertion that staff was aware of plans to build the Unpermitted Drains prior to construction of said drains and concurred with their construction, which we did not, has no bearing on whether the Commission authorized construction of the Unpermitted Drains.

To support your assertion noted above that staff was aware of installation of the Unpermitted Drains, you outline staff's receipt of plans that depict the Unpermitted Drains and staff's investigation of construction of the Approved BFM Drain, which you mistakenly describe as an investigation of the Unpermitted Drains. In 1995, subsequent to the Commission's approval of the BFM, staff was provided with a copy of the BFM Habitat Mitigation and Monitoring Plan ("HMMP") prepared by PCC's predecessor for the U.S. Army Corps of Engineers, which included plans depicting the Unpermitted Drains. This document was not a requirement of the coastal development permit authorizing the BFM, and therefore, staff was under no obligation to review and approve it. Thus, it cannot be concluded from the mere submittal of the HMMP that staff was aware of its contents. Furthermore, in reviewing compliance with the CDP, the HMMP document would not be central to staff's review since the Commission's approval is embodied in the CDP application and accompanying documents, as wells as the CDP and staff report, none of which depict the Unpermitted Drains. O11-153 cont.

As you note in your letter, in 1996 staff investigated alleged unpermitted grading in the vicinity of the BFM. Commission staff investigated the incident and determined that the grading was undertaken in order to install the Approved BFM Drain. To investigate the report, staff reviewed the CDP application and associated plans, which describe and depict the Approved BFM Drain. Thus, staff confirmed that the Approved BFM Drain and associated grading was approved by the CDP and sent a letter dated July 10, 1996 to that effect to PCC's predecessor. Staff gave no indication in the letter or otherwise that we were aware of the plan to install the Unpermitted Drains. You claim that an April 4, 1996 letter from MTP to staff would have made staff aware of the plan to install the Unpermitted Drains. Although the Approved BFM Drain is described in detail in the April 4 letter, there is no mention in the letter of the Unpermitted Drains, nor are the Unpermitted Drains identified in the attachments to the April 4 letter. In fact, one of the exhibits to the April 4 letter, which delineates the limits of work required for installation of the Approved BFM Drain, does not include in its delineation the areas where the Unpermitted Drains are located. Thus, far from making staff aware of a plan to install the Unpermitted Drains, the letter

would do the opposite and indicate that there were no plans to disturb the area where the Unpermitted Drains were ultimately constructed.

In addition, staff would not have been aware from visiting the site that MTP or Playa Capital planned to install the Unpermitted Drains. At the time staff visited the site, grading had occurred to begin the process of installing the Approved BFM Drain, but neither the Approved BFM Drain nor the Unpermitted Drains had been installed yet, so staff would not have been made aware of their presence in that way either.

Again, regardless of whether the April 4 letter made staff aware of the plan to install the Unpermitted Drains, which was not the case, the Unpermitted Drains were not a component of the CDP application; were not presented in narrative or graphic form, or in any manner to the Commission for review; were not authorized by the Commission pursuant to the CDP in any way; and there is no other Commission action that authorized the Unpermitted Drains. Thus the Unpermitted Drains constitute unpermitted development and a violation of the Coastal Act.

Staff Responses to Section C

You assert in Section C that the Unpermitted Drains have not had any adverse impacts on wetlands. You attach a memorandum from your biological consultant that purportedly supports this claim. However, the memorandum is limited in scope to a comparison of surveys of the vegetative communities around the Unpermitted Drains before and after installation of the Unpermitted Drains. There is no discussion of the effects the Unpermitted Drains might have on wetland hydrology. O11-153 cont.

Attached to the memorandum is a vegetation survey of the vegetation in the Ballona Wetlands area in 1990, prepared by MTP's biological consultant, and results of a survey of the vegetation in 2006, undertaken by the California Department of Fish and Game. The prior survey show the vegetation around the Unpermitted Drains to be arguably upland before installation of the Unpermitted Drains, the subsequent survey shows seasonal saltmarsh south of Culver Boulevard and a mix of seasonal saltmarsh and riparian vegetation north of Culver Boulevard. You thus assert that wetland habitat has expanded since installation of the Unpermitted Drains. However, the dominance by wetland vegetation documented in the survey conducted after installation of the Unpermitted Drains is evidence of a trend to dominance by wetland vegetation that began at the time agriculture use of the site ceased in the 1980's, before installation of the Unpermitted Drains.

In a 1991 memorandum, the Department of Fish and Game, which delineated wetlands in the Ballona Wetlands area in 1991, stated "During the evolution of the now certified Playa Vista Land Use Plan, we predicted that, were it not for the then ongoing agricultural operation, wetlands in Area B would expand. These agricultural activities ceased for approximately three years prior to the Corps' wetland determination, and, as we predicted, the wetlands did expand into the area which was formerly used for the production of barley and lima beans." The Unpermitted Drains are located in such a formerly farmed area. The 1990 MTP vegetation survey notes of the area where the Unpermitted Drains are located that "All of this area at some

time has been disturbed, and much of it has been used for agriculture, some within the past 10 years."

The survey goes on to say that "The elevations of the flats appear to reflect the original elevations and except for the elevated roadways, the areas appear not to have been artificially filled." Indeed the survey labels the areas where the Unpermitted Drains are located as "old marsh flats." It is not surprising then, given the history of the site, that the 2006 survey found that wetland vegetation has returned to much of the area around the Unpermitted Drains, despite the limiting effects on hydrology that the Unpermitted Drains have had.

Again your general assertion in Section C is that the Unpermitted Drains have not had any adverse impacts on wetlands. As explained above, the memorandum attached to your letter does not persuasively support this assertion. Moreover, this assertion is both conceptually and factually incorrect. Water is the main requirement for a functional wetland. Any fill or alteration of wetland hydrology reduces a wetland's ability to function. If water is drained or removed, or isn't present in the wetland for as long, then wetland function is degraded. Therefore, wetland function is degraded by actions that disrupt water supply through direct fill of a wetland or draining. The Unpermitted Drains disrupt water supply through direct fill and draining of a wetland and habitat within the reserve.

One of the chief components of wetland habitat is wetland vegetation. Thus, removal of wetland plant species, whether through removal or physical preclusion of growth, reduces the habitat value of a wetland. In addition, degradation of wetland function through alteration of hydrology means that the same plants may not grow and habitat value and wildlife use of the wetland are reduced. This has clearly happened in the vicinity of the Unpermitted Drains. It is readily apparent from a review of the vegetation in the vicinity of the Unpermitted Drain located in a wetland south of Culver Boulevard that the drain is precluding growth of wetland plant species. Moreover, since the Unpermitted Drain is designed to drain water from the soil in the wetland around it, as well as ponding water that flows into the drain, this deleterious effect would not be limited to just the immediate vicinity where water pools, but would extend to any area hydrologically connected to the Unpermitted Drain.

O11-153 cont.

You also point out in Section C that the Commission approved limited fill of wetlands through authorization of the BFM project, and thus argue that fill of wetlands for purpose of constructing the Unpermitted Drains is consistent with that approval. Please note that the Commission did not review fill of wetlands for the purpose of constructing the Unpermitted Drains because such structures were never before the Commission for its review. The Commission did review the proposal for the Approved BFM Drain, since this structure was part of the application and proposal for the BFM. The Commission found that limited fill of wetlands for the purpose of constructing the Approved BFM Drain was consistent with the Coastal Act. Coastal Act Section 30233 allows for fill of wetlands through the coastal development permit process in certain circumstances, including for restoration purposes. The Approved BFM Drain is a necessary component of a restoration project, the BFM, approved via the coastal development permit process. However, in contrast, no coastal development permit was applied for nor obtained for the Unpermitted Drains, and the drains do not facilitate the restoration functions of the BFM, nor do they serve any restoration purpose independent of the BFM. In fact, the Unpermitted Drains

detract from wetland and habitat function. Thus the Unpermitted Drains are both unpermitted and could not be found to be consistent with Section 30233 of the Coastal Act.

Resolution

As we have expressed to you throughout our discussions, we would like to work with you to resolve these issues amicably. One option that you may want to consider is agreeing to consent orders. Consent cease and desist and restoration orders would provide your with an opportunity to have more input into the process and timing of removal of the Unpermitted Drains and mitigation of the damages caused by installation and functioning of the Unpermitted Drains, and could potentially allow you to negotiate a penalty amount with Commission staff in order to resolve the violation without any formal legal action. Another advantage to agreeing to a consent order is that it replaces the need for costly and time consuming litigation. Further, in a consent order proceeding, Commission staff will be promoting the agreement between the parties and staff, rather than addressing the violations through a disputed hearing, which could only highlight the violations of the Coastal Act for which the parties are responsible.

O11-153 cont.

If you are interested in discussing the possibility of agreeing to consent orders, please contact me by no later than April 25, 2014 to discuss options to resolve this case. Staff would be happy to meet with you before the date noted above to discuss the steps necessary to resolve the unpermitted development described in this letter and to discuss the necessary scope of that resolution. Our goal is to resolve this situation amicably and as quickly as possible so that all parties can move forward. We greatly appreciate your time and input and look forward to discussing this matter further and working together on a consensual resolution. If you have any questions about this letter or the pending enforcement case, please do not hesitate to contact me as soon as possible at (562) 590-5071.

Sincerely,

Andrew Willis
Enforcement Analyst

cc: Rick Mayfield, Department of Fish and Wildlife
Michael Patonai, City of Los Angeles

Encl: Annotated plan

BALLONA CREEK Renaissance

33Newsletter Issue Number 35 Fall 2013

Ballona Creek Renaissance...
A 501c(3) nonprofit organization dedicated to renewing Ballona Creek and its watershed for a healthier, more sustainable environment and community.

(We're also known as BCR)
www.ballonacreek.org

Contact us:
Ballona Creek Renaissance
PO Box 843
Culver City, CA 90232

Jim Lamm, President
310-839-6896
jim.lamm@ballonacreek.org

In this issue:

1. BCR honors 4 CCHS students
2. Centinela Ave. creek cleanups
3. POSSIBLE!
4. Coastal Cleanup Day
5. Wetlands Restoration Updates
7. Working collaboratively
8. LA River Kayaking
9. Around the Watershed: SEED awards, Drainwatch, Fracking, and Creek Bikepath Projects

Printed on 30% recycled post-consumer FSC-certified paper

BCR HONORS FOUR CULVER HIGH SCHOOL STUDENTS

At its June 25th board meeting, Ballona Creek Renaissance (BCR) presented Awards of Excellence to three Culver City High School Students: Priya Patel, Emma Kurihara, and Yvonne Ball. A fourth, Zacky Ezedin, received his award on June 13. Honored for their longtime high quality volunteer contributions to BCR's work on behalf of community and environment, each received a personalized, illustrated and framed certificate and a $250 check.

Zacky Ezedin, left, with BCR boardmember Irene Reingold and president Jim Lamm at the flourishing Native Plant Garden.

Because Zacky was leaving to begin a summer program at Cornell University in New York, BCR's Irene Reingold and Jim Lamm presented him with his award early at BCR's Creekside Native Plant Learning Garden. As a freshman, Zacky was the first CCHS student to connect with BCR's Creekside Native Plant Learning Garden project at Culver City Middle School, just on the other side of the fence from the Ballona Creek Bikepath. With a strong interest in gardening, Zacky brought skills and enthusiasm to the planning and preparation phase and was able to continue spot involvement with advice or hands-on help one-on-one or with a group during the planting and care phase. BCR also appreciated his initiative to test the soil. At Cornell, Zacky will study plant pathology.

As a junior, Emma asked BCR to advise her for her Girl Scout Gold Award project to design and implement a native plant garden at Culver City Middle School (see our Fall 2012 issue). In addition, Emma and her mother, Carol Inge, helped in BCR's Baldwin Hills Earth Day restoration. Later Emma provided

O11-154

great education and outreach at BCR's Fiesta La Ballona booth and creek cleanups at Overland and Centinela Avenues. This fall, she began studies at Brown University in Rhode Island.

(L. to R) Emma Kurihara, Priya Patel and Yvonne Ball display award plaques.

Whether working with her loving father Shas or alone, Priya was especially effective as a restoration and gardening volunteer at the Middle School Creekside Garden at Culver City Middle School and along the Culver Boulevard bike and pedestrian path in Del Rey. Priya began her studies at Santa Monica College this Fall, majoring in art.

Often with her mother Cheryl, Yvonne actively and enthusiastically participated as an effective planting and restoration volunteer for BCR's Creekside Garden project at Culver City Middle School and BCR's Ballona Creek cleanups at Centinela Avenue. Yvonne looks forward to entering West Los Angeles College in Fall 2014 to become an elementary school teacher.

CENTINELA AVENUE CREEK CLEANUPS BECOME VERY POPULAR

Our creek cleanups at the Centinela Avenue entrance to Ballona Creek continue to become more and more popular with adults, students and even young children. At Centinela, the upstream concrete channel bottom becomes natural silt, many kinds of plants have sprouted along the sides of the creek, birds, fish and invertebrates are found there, and it looks much more like a natural living creek than the dreary concrete storm drain upstream.

UCLA Freshman Volunteer Day

Tuesday, September 24, saw all incoming UCLA freshman students participating in about 30 different volunteer activities across the County. One of those activities was the BCR creek cleanup at Centinela Avenue, when about 50 incoming students (in blue T-shirts) , led by a dozen experienced returning students (yellow shirts), fished trash and other objects out of the creek and its banks and plants. Objects collected, aside from paper and plastic trash, included assorted balls, a tire, sunglasses, cosmetics, clothing, a condom, broken glass, a bone, spray paint cans, scrap metal, and dead geese. Many students, especially those from inland areas, had never before seen close-up what travels down our storm drains into coastal waters. One student's dismayed assessment of the situation: "It's disgusting!" They all found it satisfying to help improve conditions for animals and plants (and human swimmers) downstream and in coastal waters, and they expressed a desire to come back and help some more. And the BCR volunteers enjoyed working with the enthusiastic students!

O11-154 cont.

The entire group of UCLA students at the finish of the cleanup, plus BCR president Jim Lamm at the left.

POSSIBLE cleans up, too.

By Sandrine Cassidy Schmitt

Welcome to our new Business Member, POSSIBLE! Located along Ballona Creek, POSSIBLE has recently joined the BCR family by becoming a new BCR Business Member.

POSSIBLE is a digital agency with capabilities that include research and analytics, strategy and planning, creative, user experience, technology and project management, with over 1200 employees worldwide. Their LA office, with a staff of 75, is in a business park adjacent to Ballona Creek at National and Jefferson Blvds.

POSSIBLE volunteers, flanked by BCR president Jim Lamm and board-member Sandrine Cassidy Schmitt.

POSSIBLE has made it possible (!) for us to conduct our monthly meetings in their beautiful conference room with a view of LA, the Santa Monica Mountains and the Metro Expo rail line running by the conference room window.

On May 31st, BCR had the pleasure of organizing a private creek clean-up just for POSSIBLE volunteers. Stepping away from their desks and busy lives, a group of employees discovered a beautiful location on the creek at the Centinela bridge and were also surprised by the amount of trash they found. This was an eye-opening experience for them as they filled up bags of litter and their efforts helped our mission of greening, teaching and cleaning Ballona Creek. Managing Director Andrew Solmssen said of the clean-up, "Working with BCR was amazing. Not only did we get to discover and beautify an area close to our office that none of us had explored; we also had a morale-boosting experience for the team."

By becoming a BCR business member, POSSIBLE has:

- Enhanced its business's eco-friendly image by helping to improve the creek.
- Made employees aware of the creek bikepath as an alternate route to work, avoiding traffic and benefitting from exercise.
- Been highlighted in our newsletters and e-news to over two thousand subscribers and on our Facebook page.

O11-154 cont.

- Created a close relationship with a dedicated local environmental organization.
- Benefitted from a Ballona Creek clean-up (and gardening project coming this fall 2013)
- Contributed to the welfare of a cleaner, safer and friendlier ecosystem.

Thank you, POSSIBLE, for your support! We appreciate your collaboration and look forward to continue building our relationship.

Check out www.possible.com for information on the company. To learn more about BCR's business membership program, please contact sandrine@ballonacreek.org

Andrew Solmssen, Managing Director of Possible/Los Angeles office, snagging trash.

Coastal Cleanup Day, September 21

The third Saturday in September (Sept. 21, this year) is always Coastal Cleanup Day for Californians. Thousands of people hit the beaches to clean up trash. Some inland sites also participate, such as creeks and storm drains that carry trash to the beach. The purpose is to remove as much debris as possible before winter rains carry it to the ocean, creating ugly and unhealthful conditions for swimmers and marine animals and birds. Many families volunteer, since it's a good opportunity for parents to teach children the value of public service and the importance of caring for our environment.

BCR Boardmember David Valdez explains safe procedures to cleanup volunteers and provides plastic bags, buckets, gloves, and tools to reach and pick up debris.

The City of Culver City organized four cleanup stations at four entrances to Ballona Creek: at Syd Kronenthal Park (the end of the bikepath), Duquesne Avenue, Overland Avenue and Sepulveda Blvd. Once again, BCR managed the Overland Avenue entrance cleanup. Here are some photos:

A family pitches in.

BCR organizes several creek cleanups open to the public during the year. The bikepath entrance at Centinela Avenue is a popular location.

More information including dates is available on our website at www.ballonacreek.org in the right-hand column, or subscribe to our monthly e-News via the link on the website, top of the right-hand column.

O11-154 cont.

BALLONA WETLANDS RESTORATION PROJECT UPDATES

Schedule of plans

The schedule of events released last spring called for the State of California to release the draft Environmental Impact Report (EIR) to the public on October 31, followed by 90 days of public comment and then public comment meetings in February. That schedule has slipped a lot, and it appears the EIR will not be released until spring 2014 or later, though we have no official revised dates. The EIR will present the restoration plans in great detail. When it is available, BCR will publish a link in its monthly E-news and on our website, www.ballonacreek.org.

BWLT lawsuit

On September 11, the non-profit organization Ballona Wetlands Land Trust filed suit against the California Department of Fish and Wildlife (DFW), which owns the Ballona Wetlands Ecological Reserve including Area C, over lack of access to public records regarding the Annenberg Proposal for Area C. See our 4-page article about the Annenberg project in the BCR Spring 2013 newsletter, http://www.ballonacreek.org/images/stories/newsletr/bcrnews34.pdf.

On January 27 of this year, the L.A. Times startled many with an article announcing that "The Annenberg Foundation plans to build a $50-million interpretive center in the Ballona Wetlands Ecological Reserve under an agreement to be signed Monday with the California Department of Fish and Wildlife." The Times followed with an editorial praising the environmental benefits of the project.

However, both DFW and the Annenberg Foundation have been generally evasive about the specific details, including a rumored (but never clearly announced) dog-and-cat adoption center, veterinary services, and allowing dogs on the trails through the reserve. Even certain government employees have expressed concern over the lack of transparency about those portions of the Annenberg plan which are not being clearly detailed publicly but which everyone knows about anyway. Many are concerned that the secrecy is deliberately misleading. However, at least the dog and cat adoption center and veterinary services were part of the state's "Revised Notice of Preparation," one of the steps in the formal process.

Here's a link to a mid-February video of DFW Director Chuck Bonham announcing the general but vague concept of an Annenberg-financed interpretive center in Area C: https://docs.google.com/file/d/0B-y1V3mUqBDXbHpPUWtGSzRRZ0U/edit?usp=sharing. He uses various favorable words such as "sustainable" and "LEED certified" but never mentions that the Annenberg Foundation envisions anything other than promoting wetlands environment and education. Many suspect that DFW evaded mentioning the domestic animal aspects of the proposal because some might find it very objectionable.

DFW claims that it does not have the public documents BWLT requested, that any such documents are the property of the Annenberg Foundation, and that anything relevant to the interpretive center will be included in the state's EIR. The BWLT suit dismisses these reasons as invalid and demands immediate release of all related documents.

On September 20, the L.A. Times ran another editorial, this time opposing those domestic animal portions of the Annenberg proposal.

Despite the degraded conditions of Area C, many native birds such as egrets and herons and this black phoebe forage there. Photo by Walter Lamb.

Surprise! A new wetlands controversy!

They've been there for over a decade, possibly since the late 1990s. Some have known about them for years, others have learned about them recently.

They are a pair of drains installed in the eastern portion of Area B of the wetlands, on opposite sides of Culver Blvd, north of the Freshwater Marsh. The tops are about 4 feet wide and 12-18" above the ground.

Marc Huffman, Vice President of Planning and Entitlements for Brookfield Residential (formerly Playa Capital, builder of Playa Vista as well as the Freshwater Marsh), reports that "the drains were installed at the same time the outlet from the FWM to Ballona Creek

O11-154 cont.

was constructed, probably in the late 90's/early 2000's. They were on the final engineering drawings that were sent to all the permitting agencies (including the Coastal Commission) for their review and approval in 1995. They do not have anything to do with the functioning of the marsh – they appear to have been included in the plans at the request of the City in order to prevent flooding of adjacent streets in the event of a very large storm."

Nevertheless, a controversy suddenly arose among some wetlands advocates about the purpose and environmental consequences of these drains, and whether all the permits required were actually taken out. The two drains are in a low-lying portion of the wetlands, through which both Culver Blvd and the end of Jefferson Blvd were built. Despite the roads, the unpaved portion is still classified as wetlands and is off-limits to visitors. Even knowledgeable persons with extensive experience in restoring wetlands may disagree on the effect of these drains and of a very large storm with fresh water "ponding" on the salt marsh plants.

Karina Johnston, restoration ecologist for the Santa Monica Bay Restoration Commission, a state agency, is among those who have known about these drains for several years while studying the existing ecology of the wetlands in preparation for developing a restoration plan. She says, "The PVC 'drain' has been out there as long as we've been monitoring. We have photos of it from back in 2008. To my understanding (from comments by the consultants who assisted in the building of the Freshwater Marsh), these are permitted overflow pipes that don't "drain" the wetlands in the way that the media is projecting. They are only in the area between Culver and Jefferson and are there to prevent the flooding of Jefferson and the surrounding areas in extreme storm events."

O11-154 cont.

Marc Huffman further stated that “permits were pulled in accordance with all requirements of the U.S. Army Corps of Engineers, the Coastal Commission, the California Department of Fish and Game (now DFW), and the Regional Water Quality Control Board, in addition to the City (these are all the permitting agencies for the Freshwater Marsh), and we are working with the Coastal Commission and DFW staff to resolve the issue. I promise that as more information becomes available I’ll let you know.”

For the Freshwater Marsh itself, an overflow drain was constructed to carry overflow water from the Marsh to Ballona Creek in case of an immense storm. The two drains next to Culver Blvd. simply tie into that existing drain. Since they are raised above, not flush with, the ground, they would remove only standing water that is more than a foot deep, not ordinary rainfall. The coming wetlands restoration should consider this situation, especially in the light of expected sea-level rise due to global warming. *Images provided by David Kay.*

WORKING COLLABORATIVELY

By Jim Lamm, BCR President

Over the years, both with Ballona Creek Renaissance (BCR) and in other areas of my life, I have found that working collaboratively with others is key to a successful outcome. In fact, in the case of an all-volunteer organization such as ours, this approach is essential. We can’t do it all alone!

Both BCR and I have learned a lot from dialog and cooperative efforts, whether in co-founding and helping lead the Ballona Creek Watershed Task Force for over a decade or working with a variety of artists, agencies, students, and volunteers on mural projects, habitat restoration, and creek cleanups. In fact various government departments have been moving more in this direction, too, as multi-dimensional and cross-disciplinary aspects of their work have become more apparent and resources more scarce.

With a growing cache of valuable knowledge and institutional memory about the people, places, plans, projects, and problems of Ballona Creek and its watershed, BCR continues to initiate dialog with others about project ideas and to see how we might work together. Sometimes that takes the form of a bike ride along the creek to look at areas needing improvements, such as the eastern stretch of the bike path. At other times it might be an informal chat over coffee or during a creek cleanup, restoration event, a school visit, service club talk, or field trip. Connecting creek and community is key to what we do!

Recently at the LA River Watershed Conference in Downtown LA, I was reminded by speakers and colleagues of the importance of building these collaborative relationships as well as connecting people with the physical reality of the river or its community. As I knew, many of the folks working to transform the LA River and its watershed also have been doing the same types of things in Ballona. These friendships and shared visions and experiences are all part of what keeps me going and gives me hope---even if on some issues or details we might have different ideas and approaches. And although the proposed and quite dramatic LA River plans could divert valuable people and funding resources away from Ballona, I prefer to think that it will be just the opposite- that we’ll gain great nearby examples and new momentum for the ongoing renaissance of Ballona Creek.

BCR would like to collaborate more with you, too! As an all-volunteer organization with hopes to add staff, BCR would welcome your active participation, even on a spot basis, in ways that suit your skills, experience, and interests. These might include co-leading events and activities or helping as a docent, educator, mural restorer, outreach person, or especially an overall BCR Volunteer Coordinator. All this could really help us work collaboratively within BCR and with others. To dust off an early BCR tag line, please join us in “Working Together to Change the Channel!”

The best way to reach Jim is by email: jim.lamm@ballonacreek.org.

O11-154 cont.

KAYAKING THE L.A. RIVER

L.A. River Pilot Recreation Zone

Almost all parts of the 50-mile-plus Los Angeles River are a concrete-bottom channel, like most of Ballona Creek (the portion east of Centinela Avenue). But there are a few more natural short sections.

This past summer, from Memorial Day to Labor Day, a short but attractive section of the L A River was open to public recreation such as kayaking. The 2½ -mile section of the river between Fletcher Drive and Oros Street in the Glendale Narrows part of the river has a natural bottom. In this natural section are small islands, trees and other vegetation, and birds such as egrets and herons, black-necked stilts and cormorants. And fish, the most plentiful species being catfish, mosquito fish, and carp. There are also plenty of rocks, submerged cement and other hazards to navigate around, with the possibility of getting wet and dirty if your kayaking skills are inadequate. And there's a bike/walking path on the west bank of the river for those who prefer to enjoy the scenery dry.

On July 9, the Mountains Recreation & Conservation Authority (MRCA) invited members of several partner organizations to spend an afternoon kayaking on this section of the river. MRCA provided kayaks and equipment including helmets and flotation vests. BCR President Jim Lamm participated. Afterwards, he said "Although I've walked and ridden my bike along this more natural Glendale Narrows stretch, I was surprised at how special a water experience it provided--from a gentle flow to rushing rapids and chutes, with depths of one to several feet, among rocks, greenery, and water birds."

The recreation period is restricted to summer because that's when rain is very unlikely. A sudden storm could increase water levels and flow speeds significantly and suddenly, posing a severe hazard for people in the river.

The Recreation Zone is managed by MRCA in cooperation with US Army Corps of Engineers, Los Angeles County Flood Control District, and the City of Los Angeles. For more information, visit http://www.lariverrecreation.org/LA_River_Recreation/home.html. *Photos by Ana Petrlic, MRCA.*

This newsletter is available as a print edition and an online document in PDF format (both in color). If you're getting one version and prefer the other, let us know at editor@ballonacreek.org and we'll switch you. Note that in the online version, the blue text represents clickable links.

(Above and below:) Jim Lamm (yellow helmet) and kayak partner Fernando navigate the rapids and hazards.

Black-necked stilts are among water birds found here.

O11-154 cont.

BCR Recognized at SEED award ceremony

At a special October 26th gathering at Terranea Resort in Rancho Palos Verdes, Ballona Creek Renaissance was recognized for its “Education and Outreach” by the South Bay Business Environmental Coalition (SBBEC) as part of the 6th Annual SoCal Environmental Excellence Development (SEED) Awards. President Jim Lamm, Outreach Coordinator Sandrine Cassidy Schmitt, and Newsletter Editor Bobbi Gold represented BCR at the gala event, where they were welcomed by Culver City Environmental Coordinator Cathi Vargas, an SBBEC member.

With awards in six categories, “Trash for Teaching” won the Education and Outreach Award. In addition to BCR, the other E&O nominees were City 2 Sea and Cornerstone School at Pedregal. The other award categories were Resource Preservation, Innovation, Pollution Prevention, Environmental Leadership, and Bridge-Builder. More information: www.sbbec.org.

(L. to R:) Culver City Environmental Coordinator Cathi Vargas, a frequent partner with BCR, and BCR board members Bobbi Gold, Sandrine Cassidy Schmitt and Jim Lamm.

O11-154 cont.

LA Waterkeeper’s DrainWatch

The mission of Los Angeles Waterkeeper is to protect the waters of coastal Los Angeles County through testing and enforcement actions.

LA Waterkeeper (formerly named Santa Monica Baykeeper) held one of its frequent DrainWatch volunteer events on July 14 to train volunteers how to take sample of fluids emerging from some of the many drains that empty into Ballona Creek. Lara Meeker, Waterkeeper’s Watershed Program Manager, demonstrated proper methods of collecting water from drains entering the creek at Overland Ave., Centinela Ave., and Lincoln Blvd.

Lara Meeker extracts a sample of creek water for lab testing, taking measures to prevent contamination from anything on her hands, feet or clothing .

Samples are then tested for various contaminants. Some tests can be performed immediately on site, but others must be done in a lab within 6 hours of collection. Trained volunteers can then participate in an ongoing sampling and testing program.

On this particular day, all four drains that were flowing into the creek between Centinela and Overland Ave. (on the bike path side only) failed water quality standards (limits) for E. Coli or other bacteria. This water flows into the Santa Monica Bay, affecting not only marine animals but also human swimmers. The likelihood of getting sick is especially high in the days immediately after rain flushes a lot of pollutants that have been lurking in underground drains into the ocean.

Water quality in our nation’s rivers, streams, and other channels emptying into the ocean is governed by the federal Clean Water Act, which mandates a gradual improvement process. Adjacent cities and counties must put in place measures to decrease the pollutants that get into the water stream.

Waterkeeper's paid staff of five (including an attorney) tracks pollutants to their source and attempts to rectify the cause. Often, a business must alter its practices that allow pollutants to enter the drains.

LA Waterkeeper's investigative team is looking into more than two dozen industrial facilities throughout LA County suspected of violating federal and state clean water laws. With the season's first rain on October 9, staff and volunteers were out in the rain collecting water runoff samples from the facilities and taking them to a state certified lab for testing. In an effort to stop waste transfer stations, scrap yards and waste recyclers from discharging harmful pollutants that end up in our water (heavy metals, trash and fecal bacteria), data collected from the samples will be submitted to the Regional Water Quality Control Board and other agencies to take action. If necessary, Los Angeles Waterkeeper will proceed with its own litigation to force the facilities to eliminate their water pollution discharges and comply with water quality standards.

Waterkeeper and its DrainWatch program are an invaluable resource to those of us who care about Ballona Creek and the coast. To learn more about their programs including advocacy, water quality monitoring, litigation and restoration, or to volunteer, visit their website at https://lawaterkeeper.org or email Lara Meeker at lara@lawaterkeeper.org.

Fracking in L.A.: Hear Their Stories

As part of a "Global Frackdown" to raise awareness about the hydraulic fracturing ("fracking") locally and globally, BCR's Jim Lamm, Amy Rosenstein and Sandrine Cassidy Schmitt participated in "Fracking in L.A.: Hear Their Stories" on Saturday, October 19, at Veterans Park, Culver City. Organized by Food & Water Watch/Los Angeles and co-sponsored by Ballona Creek Renaissance, the event featured speakers from local groups, highlighting the harmful effects of fracking on our health, local watersheds, and property values.
"Fracking," short for "hydraulic fracturing", is the highly controversial process of injecting millions of gallons of water, sand and toxic chemicals thousands of feet into the ground to break up oil and gas formations for extraction. Even when the most up-to-date techniques are used, toxic leakage can and does occur.

Jim Lamm addresses attendees.

At the rally, we heard from neighbors in communities already affected by fracking, from Culver City Vice Mayor Meghan Sahli Wells and LA City councilman Mike Bonin about efforts to stop fracking in their cities, from health and other sectors, and even from New York City! Jim Lamm spoke from his directly related watershed experience as an architect, a university urban ecology instructor, and BCR president.

After the rally in Veterans Park, bicyclists and walkers took different routes through the city to call attention to the issue and to see first-hand the hills-creek-community connection---with all fracking waste water and its contaminants ending up in Ballona Creek while some slant drilling extends under Ballona Creek to neighborhoods in east Culver City.

The bike ride was escorted for safety by trained volunteers along a pre-approved route; Culver City Police were also present. Most of the riders were dismayed to see the oil wells and fracking sites so close to West Los Angeles College and the city.

BCR supports strong legislation to address this matter. We have been heartened by strong support from our local representatives in Culver City, Los Angeles, Sacramento and Washington. A primary goal of the Ballona Creek Watershed Management Plan is to conserve and improve our water supply and to restore ecological health to Ballona Creek and its watershed or drainage area; with its prodigious use and pollution of scarce water, many see fracking as a major threat.

Riders leaving West Los Angeles College with its adjacent oil wells and fracking sites.

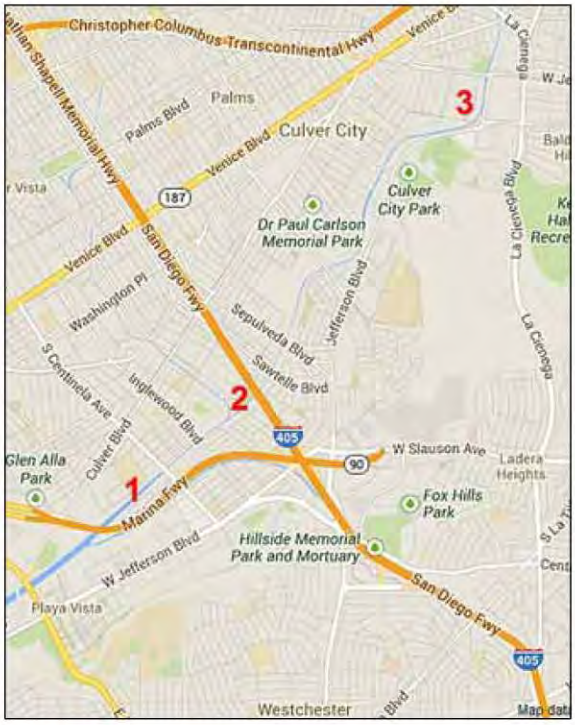
O11-154 cont.

Creek Bikepath Projects in the Works

Milton Street Park (#1 on the map) will encompass the bikepath and the adjacent unbuilt plot of land opposite Marina del Rey Middle School, just downstream from the Centinela Entrance Mini-Park. This project is managed by the Mountains Recreation and Conservation Authority (MRCA), the same agency that installed the artistic gates and entrance parks at McConnell, Centinela, Inglewood and Duquesne Avenues and Sepulveda Blvd. We wrote about this future park in our January 2009 newsletter; designs at that time included an overlook at the creek edge of the bikepath to observe birds and other creek life and a meandering bikepath. Designs have changed according to public input and requirements from other public agencies. The project is awaiting permits, and MRCA hopes construction can start early in 2014.

Ballona Greenway Section (#2) A little further east, another MRCA project is in progress between Inglewood Ave. and the 405 Freeway. Says Ana Petrlic, Deputy Chief of Urban Projects and Watershed Planning Division: "We just completed the installation of a separate pedestrian path along that section of the bike path [see photo at left]. This project is funded by a grant from LA County Regional Park and Open Space District - Prop A. This is another step in making the bike path safer for the users and in helping to resolve the conflict between pedestrians and bicyclists. The planting will hopefully be installed this winter." The LA Conservation Corps and local youth will provide the planting labor and irrigation. Interpretive signs have also been installed.

Higuera Street Access Ramp (#3). A new access ramp will be constructed near the eastern end of the bikepath, where it passes under Higuera Street at Jefferson Blvd. This Culver City project addresses both convenience and safety concerns, because it's a long distance between the last bikepath exit at National Blvd and the next-to-last at Duquesne Ave. Between those two exits, the bikepath is below street level, so any cyclist or pedestrian who has a problem in that section would not be seen by passersby and has a long way to go just to get off the bikepath onto the street. Construction will begin in 2015/2016 when funding becomes available. The editor, who lives nearby, is waiting impatiently.



New pedestrian walkway, with interpretive signs.

O11-154 cont.

Editor: Bobbi Gold
This newsletter reflects and celebrates the diversity of the people and activities of the watershed and beyond. La Ballona Creek Renaissance Program is a 501(c)(3) nonprofit organization. Our Tax ID # is 95-4764614. Contributions are tax-deductible to the extent allowed by law. Please mail contributions to Ballona Creek Renaissance, P.O. Box 843, Culver City, CA 90232. For address corrections, additions or deletions, please call (310) 837-3661 or email editor@ballonacreek.org. Unattributed photos are the property of BCR.

BALLONA CREEK Renaissance

P.O. Box 843 Culver City, CA 90232

Address correction requested

FALL 2013 NEWSLETTER

O11-154 cont.

BALLONA CREEK RENAISSANCE needs your help to renew the Westside's forgotten river and its watershed!

___$1,000 ___$500 ___$250 ____$100 _____$50 ____$25 $_____other

____I would like to volunteer my time ____ I would like to join the board of directors/advisory council

Other _____

_____ Please use my entire contribution to benefit BCR's programs, ***OR***

_____ I'd like a tote bag for my donation of $50 or more, ***OR***

_____ I'd like a T-shirt for my donation of $50 or more (circle size: S M L XL)

Name/Title

_____

Organization/Firm: _____

Address: _____ City: _____ Zip: _____

Telephone:____/_____Fax:____/_____Email: _____

Please make your donation payable to "Ballona Creek Renaissance"

Mail to: Ballona Creek Renaissance, PO Box 843, Culver City, CA 90232.

Or donate online using our website, **www.ballonacreek.org**.

10/18/90
Signed Original (Executed) Copy

AGREEMENT FOR SETTLEMENT OF LITIGATION

This Agreement for Settlement of Litigation (the "Agreement") is made and entered into as of this 18th day of October, 1990 by and between Friends of the Ballona Wetlands, League for Coastal Protection, League of Women Voters of California and Mary Thomson (the "Petitioners") and Maguire Thomas Partners-Playa Vista ("MTP-PV"), with reference to the following facts:

RECITALS

A. On or about December 7, 1984, Petitioners filed a Petition for Writ of Mandate in Los Angeles Superior Court in the action entitled Friends of Ballona Wetlands, et al. v. the California Coastal Commission, Case No. C525-826 (the "Action"), challenging the California Coastal Commission's approval and certification of the County of Los Angeles' Marina del Rey/Ballona Land Use Plan.

B. As of February 14, 1989, MTP-PV became a real party in interest in the Action.

C. Petitioners and MTP-PV have been negotiating the terms and conditions of a settlement of the Action, which would facilitate restoration and management of the Ballona Wetlands in accordance with a to-be-developed Wetlands Restoration Plan and development of Playa Vista in accordance with a proposed Revised Playa Vista Plan, subject to obtaining all necessary Regulatory Approvals through the exercise of the complete and thorough discretionary review and authority of the Public Agencies.

O11-155

D. The Revised Playa Vista Plan and the Wetlands Restoration Plan would together provide many public benefits, including: (i) deletion of the proposed extension of Falmouth Avenue; (ii) expansion of the Ballona Wetlands by approximately 60 acres to include all land located west of Lincoln Boulevard and south of Jefferson Boulevard; (iii) restoration of the Ballona Wetlands, including fresh water wetlands; (iv) reduction of commercial density through elimination of a regional shopping center and reduction of commercial retail and office development; (v) reduction of traffic impacts on regional roadways through the reconfiguration of development and the reduction in commercial density; and (vi) improvement of the jobs/housing balance.

E. The negotiations between Petitioners and MTP-PV, and concurrent discussions with the other Parties to the Action, have been memorialized in several drafts of a Stipulation for Entry of Judgment, the most recent draft of which is attached hereto as Exhibit A (the "Draft Stipulation").

F. Petitioners and MTP-PV have reached agreement on the terms and conditions upon which they are willing to settle the Action and desire to memorialize and bind one another through this

HALL & PHILLIPS
Carlyle Hall
10951 West Pico Blvd., 3rd Floor
Los Angeles, CA 90064
(213) 629-9040

HEDGES, POWE & CALDWELL
A Professional Corporation
Josephine E. Powe
606 S. Olive Street, Suite 1410
Los Angeles, CA 90014

Attorneys for Petitioners
FRIENDS OF BALLONA WETLANDS,
LEAGUE FOR COASTAL PROTECTION,
LEAGUE FOR WOMEN VOTERS OF

Additional Counsel on Next Page

O11-156

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

FRIENDS OF BALLONA WETLANDS, a non-profit corporation, et al., Petitioners/Plaintiffs, v. THE CALIFORNIA COASTAL COMMISSION, Respondent/Defendant. COUNTY OF LOS ANGELES, et al., Real Parties in Interest.	Case No. C525 826 STIPULATION FOR ENTRY OF JUDGMENT DATE: _____ TIME: _____ DEPT: 81

ADDITIONAL COUNSEL

John K. Van DeKamp
CALIFORNIA ATTORNEY GENERAL
Richard M. Frank
ACTING ASSISTANT ATTORNEY GENERAL
Steven H. Kaufmann
DEPUTY ATTORNEY GENERAL
3580 Wilshire Boulevard
Los Angeles, CA 90010
(213) 736-2136
Attorneys for Respondents CALIFORNIA COASTAL COMMISSION, STATE OF CALIF., GRAY DAVIS and FIRST NATIONWIDE SAVINGS

LATHAM & WATKINS
David H. Vena
Robert K. Break
Daniel E. Corey
633 W. 5th Street, Suite 4000
Los Angeles, CA 90071-2466
(714) 540-1235 / (213) 485-1234
Attorneys for Real Party In Interest MAGUIRE THOMAS PARTNERS-PLAYA VISTA

ASSISTANT CITY ATTORNEY
Edward Dygert
1700 City Hall East
200 North Main Street
Los Angeles, CA 90071
(213) 485-5449
Attorneys for Real Party in interest the CITY OF LOS ANGELES

SMITH, MORROW & PADLESCHAT
Randall R. Morrow
801 S. Grand Ave., Ste.
Los Angeles, CA 90012
(213) 895-5140
Attorneys for Real Party in Interest SO. CALIF. GAS CO.

De Witt W. Clinton,
COUNTY COUNSEL
Charles J. Moore,
PRINCIPAL DEPUTY COUNTY COUNSEL
648 Hall of Administration
500 W. Temple Street
Los Angeles, CA 90012

HILL, FARRER & BURRILL
Darlene Fischer Phillips
Dean E. Dennis
445 S. Figueroa, 34th Floor
Los Angeles, CA 90071
(213) 620-0460
Attorneys for County

O11-156 cont.

TABLE OF CONTENTS

		Page
1.0	DEFINITIONS	5
1.1	"Application(s)"	5
1.2	The "Application Schedule"	5
1.3	"Area A," "Area B," "Area C," and "Area D"	6
1.4	"Area C Agreements"	6
1.5	"Ballona Wetlands"	6
1.6	"Building and Improvement Standards"	6
1.7	"CEQA"	7
1.8	"City"	7
1.9	"City's LUP"	7
1.10	"CLIPI"	7
1.11	"Coastal Commission"	7
1.12	"Cognizant"	7
1.13	"Condition(s)"	7
1.14	"Controller"	7
1.15	"Council Office"	7
1.16	"County"	7
1.17	"County's LUP"	7
1.18	"Develop" or "Development"	8
1.19	"Development Exactions"	8
1.20	"Effective Approval Date"	8
1.21	"Effective Land Use Regulations"	9
1.22	"Eight-Acre Parcel"	9
1.23	"EIR(s)"	9
1.24	"Existing Development Approvals"	9
1.25	"Infrastructure Improvements"	9
1.26	"Judgment"	9
1.27	"Land Use Regulations"	10
1.28	"Laws"	10
1.29	"Local Agency"	10
1.30	"Marina del Rey"	10
1.31	"Marina Plan"	11
1.32	"MTP-PV"	11
1.33	"Nexus Test"	11
1.34	"Obligation(s)"	11
1.35	"Party" or "Parties"	11
1.36	"Party Agency(ies)"	11
1.37	"Permitted Development Exactions"	12
1.38	"Permitted Interim Development"	12
1.39	"Petitioners"	12
1.40	"Petitioners/MTP-PV Agreement"	12
1.41	"Playa Vista"	12
1.42	"Prohibited Development Exaction(s)"	12
1.43	"Project"	12
1.44	"Public Agency(ies)"	12
1.45	"Recycling Facilities"	13
1.46	"Referee"	13
1.47	"Regulatory Approval(s)"	13
1.48	"Representatives"	13
1.49	"Revised Playa Vista Plan"	13

O11-156 cont.

-----Original Message-----
From: patricia mc pherson [mailto:patriciamcpherson1@verizon.net]
Sent: Tuesday, 30 January, 2018 2:24 PM
To: BWERComments@wildlife.ca.gov; Rogers, Bonnie L CIV USARMY CESPL (US) <Bonnie.L.Rogers@usace.army.mil>
Subject: [Non-DoD Source] Response (Section B (1)) to DEIR/S Ballona Wetlands from Grassroots Coalition

Grassroots Coalition Response to Ballona Wetlands DEIR/S -Section B(1)

The following link is provided for access to the Ballona Wetlands Land Trust lawsuit litigation and attendant DEPOSITIONS of Ms. Luce and others that
are referenced in GC Response to DEIR/S, Section B and are provided here within Section B (1).

Blockedhttp://www.ballona.org/litigation/

The following PDF contains multiple emails/documents pertaining to the
lack of approval by the SMBR Commission to allow Ms. Luce to represent the Commission as requesting the ending of the 2005-12 Joint EIR/S process.

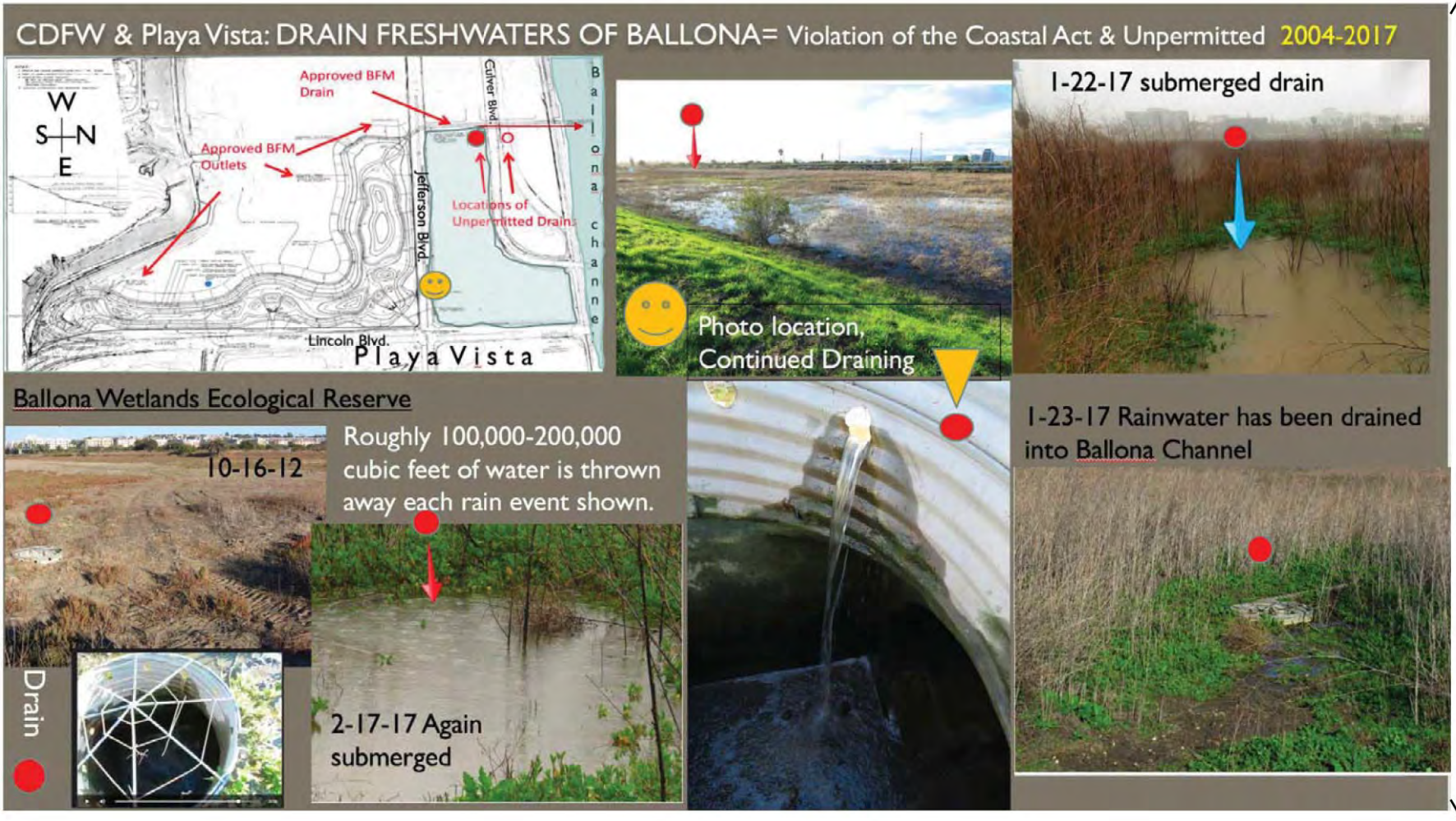
Blockedwww.saveballona.org/ Grassroots Coalition LINK IS PROVIDED as it contains additional drainage visuals and information

The email below between Mr. Brody, the CDFW land manager for Ballona Reserve and Playa Vista's VP of Planning & Entitlements reveals a relationship between CDFW staff and
Playa Vista, the adjacent, private development site and its private business known as the Ballona Conservancy. The DEIR/S is deficient due to a lack of transparency to the public to allow the public to make an informed decision as to what the actual needs of Ballona Wetlands are verses what the needs of an adjacent development project are and how the needs of Playa Vista potentially compromise the health and well being of Ballona Wetlands per the DEIR/S process. The apparent conflict of interest issues that are raised between Playa Vista development needs and the actual needs of BAllona Wetlands as an Ecological Reserve appear to have been improperly merged. Also, Public Record Act requests to CDFW asking for any/all board membership of CDFW in the private Playa Vista entity known as the Ballona Conservancy have resulted in response that no such records of any such relationship exist. Obviously, there is a relationship and that relationship needs to be explained and
divulged in the DEIR/S in order for the public to make informed decisions regarding Ballona Wetlands and its future.

O11-157

What abuse of discretion and prejudicial abuse of discretion is infused within the entirety or portions of the DEIR/S and its process because of the relationship between CDFW and Playa Capital LLC and Playa Vista/ Brookfield?

Thank you,
Patricia McPherson, Grassroots Coalition


CDFW & Playa Vista: DRAIN FRESHWATERS OF BALLONA= Violation of the Coastal Act & Unpermitted 2004-2017
W
S
N
E
Approved BFM Drain
Approved BFM Outlets
Culver Blvd.
Jefferson Blvd.
Locations of Unpermitted Drains
Ballona channel
Lincoln Blvd.
Playa Vista
Photo location, Continued Draining
1-22-17 submerged drain
Ballona Wetlands Ecological Reserve
10-16-12
Drain
Roughly 100,000-200,000 cubic feet of water is thrown away each rain event shown.
2-17-17 Again submerged
1-23-17 Rainwater has been drained into Ballona Channel

O11-158 cont.

---------- Forwarded message ----------
From: Marc Huffman <Marc.Huffman@brookfieldrp.com>
To: "Brody, Richard@Wildlife" <Richard.Brody@wildlife.ca.gov>
Cc:
Date: Fri, 22 Jul 2016 23:10:27 +0000
Subject: RE: Mosquito Breeding - Second Notice of Intent to Issue a Public Health & Safety Nuisance Notice of Violation

You have voting authority. Every year we have voted to approve a budget, maybe a couple of other items. That's pretty much all we've done as a board.

Yes we carry liability insurance with director and officer's coverage.

Marc Huffman
Vice President of Planning & Entitlements

Brookfield Residential
12045 Waterfront Drive Suite 400, Playa Vista, CA. 90094
D: 310.448.4629 **C:** 310.968.5233 **F:** 714.338.8229
Marc.Huffman@brookfieldrp.com
www.BrookfieldSoCal.com
Valued Team Member since 2012

Brookfield Residential | *The Best Places to Call Home*

From: Brody, Richard@Wildlife [mailto:Richard.Brody@wildlife.ca.gov]
Sent: Friday, July 22, 2016 4:05 PM
To: Marc Huffman
Subject: RE: Mosquito Breeding - Second Notice of Intent to Issue a Public Health & Safety Nuisance Notice of Violation

Hi Marc,

Couple questions:

1. Am I on the board in strictly an advisory capacity only or do I have voting authority? I can't remember if I have voted before or not.
2. Does your Conservancy carry general liability insurance to protect its board members in the case of this sort of law suit?

Thanks,

Brody

O11-159

INDEX OF DOCUMENTS

Santa Monica Bay Restoration Commission Reply to Public Records Request

USACE Los Angeles District Reply to Freedom of Information Act

2005 Notice of Intent to Conduct Joint EIS/EIR, USACE LA/SMRBC

2012 Notice of Intent to Withdraw from Joint EIS/EIR, USACE LA/SMRBC

10/14/2012

Response from the Santa Monica Bay Restoration Commission to request for public records submitted by John Davis on 10/07/2012.

Print | Close Window

Subject: SMBRC Response to Public Records Act Request of October 7, 2012
From: Scott Valor <svalor@santamonicabay.org>
Date: Sun, Oct 14, 2012 1:13 pm
To: "jd@johnanthonydavis.com" <jd@johnanthonydavis.com>
Cc: "fmcchesney@waterboards.ca.gov" <fmcchesney@waterboards.ca.gov>, "GWang@waterboards.ca.gov" <GWang@waterboards.ca.gov>
Attach: Davis PRA Response 14Oct12.pdf

Mr. Davis:

Attached please find the SMBRC response to your Public Records Act request made via email on October 7, 2012. If you have any questions, do not hesitate to contact me. O11-160

/s

Scott Valor
Director of Government Affairs
Santa Monica Bay Restoration Commission
310-922-2376

visit us at www.smbrc.ca.gov

bay restoration commission
STEWARDS OF SANTA MONICA BAY
santa monica bay restoration commission ✐ 320 west 4th street, ste 200; los angeles, california 90013
213/576-6615 phone ✐ 213/576-6646 fax ✐ www.smbrc.ca.gov

October 14, 2012

John Anthony Davis
Via Email: jd@johnanthonydavis.com

Re: Response to Request for Documents Pursuant to Public Records Act, as Submitted via Email on October 7, 2012

Dear Mr. Davis:

This letter serves as the response to your request for documents pursuant to the California Public Records Act, dated October 7, 2012. I am the designated staff contact for the SMBRC for all Public Records Act requests. Your request is listed, verbatim, below, with the response below it in **bold**.

Request #1:
1.Please provide the public record, dated July 17, 2012, requesting termination of the joint EIS/EIR notice in the U.S. Federal Register in 2005 named the Ballona Creek Ecosystem Restoration Feasibility Study, Los Angeles Ca. from the Santa Monica Bay Restoration Commission to the U.S. Army Corp of Engineers, Los Angeles District, which was resultant of an action of the Governing Board of the Santa Monica Bay Restoration Commission, taken at a public meeting, pursuant to the Bagley Keene Open Meetings Act.

O11-160 cont.

Response:
The Commission does not have documents that are responsive to this request.

Request #2:
2. Please provide the public record, dated July 17, 2012, requesting termination of the joint EIS/EIR notice in the U.S. Federal Register in 2005 named the Ballona Creek Ecosystem Restoration Feasibility Study, Los Angeles Ca. from a private individual, with no formal and legal authority to represent the State of California in such matters named Shelly Luce.

Response:
The Commission does not have documents that are responsive to this request.

If you have any further questions or comments, do not hesitate to contact me. You may also wish to review our California Public Records Act Guidelines and protocols on our website, which can be found here: http://www.smbrc.ca.gov/records.shtml .

Very truly yours,

Scott Valor, Director of Government Affairs

Cc: Frances McChesney, SWRCB Legal Counsel
Guangyu Wang, Deputy Director

our mission: to restore and enhance the santa monica bay through actions and partnerships that improve water quality, conserve and rehabilitate natural resources, and protect the bay's benefits and values

10/23/2012

Response from U.S. Army Corp of Engineers Los Angeles District to request for information submitted by John Davis on 10/05/2012.

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, CORPS OF ENGINEERS
P.O. BOX 532711
LOS ANGELES, CALIFORNIA 90053-2325

REPLY TO
ATTENTION OF

October 23, 2012

Office of
District Counsel

John Davis
PO Box 10152
Marina Del Rey, CA 90295

RE: Withdrawal of Intent to Prepare a DEIS/EIR for the Ballona Creek Restoration Feasibility Study

Dear Mr. Davis,

This letter concerns your Freedom of Information Act (FOIA) request dated October 5, 2012. Your request, assigned number FA-13-0005, is enclosed. Please use this reference number in any further correspondence regarding this request.

In your letter, you requested documents related to the Withdrawal of Intent to Prepare a DEIS/EIR for the Ballona Creek Restoration Feasibility Study, specifically:

1) The request by the Santa Monica Bay Restoration Committee (hereinafter "SMBRC") to the Corps of Engineers to terminate the Ballona Creek Restoration Feasibility Study.

2) The authority of the person making the request to represent the State of California on behalf of the SMBRC.

3) The Governing Board Action of the SMBRC to request the termination of the EIS/EIR.

4) The Governing Board Action of the SMBRC to participate in the terminated EIS/EIR.

5) The final accounting of the local sponsor as required by the local sponsor agreement pursuant to the aforesaid EIS/EIR noticed in 2005.

6) A full and complete itemized accounting of all monies provided to the Corps for the purpose of conducting the aforesaid EIR/EIS.

O11-161

We have conducted our search and have determined:

1) We are releasing a copy of a letter from the SMBRC, dated July 17, 2012. We have also enclosed a copy of the Agreement between the Department of the Army and the SMBRC, dated June 30, 2005.

2) No responsive documents exist.

3) and 4) These documents were never provided to the Corps. They would have to be obtained directly from the SMBRC.

5) and 6) These documents are considered to be exempt from release under FOIA Exemption 5, 5U.S.C.§ 552(b)(5) as they contain attorney-client privileged communications or are considered pre-decisional and deliberative material. There are two fundamental requirements, which must both be met, in order for the pre-decisional privilege to be invoked. First, the communication must be pre-decisional, i.e., created prior to the adoption of an agency policy. Jordan v. United States Department of Justice, 591 F.2d 753, 774 (D.C. Cir. 1978). Second, the communication must be deliberative, i.e., make recommendations or express opinions related to legal or policy decisions. Vaughn v. Rosen, 523 F.2d 1136, 1143-44 (D.C. Cir. 1975). Pursuant to FOIA Exemption 5, we are withholding these documents. The comments and information contained in these records represent the opinions of the author during the decision-making process.

O11-161 cont.

This completes your FOIA request. If you have any questions, please contact Julie Witt at (213) 452-3947 or by email at julie.m.witt@usace.army.mil.

Sincerely,

Burke S Large

Burke S. Large
Assistant District Counsel

Enclosures

Comment Letter O11

FA 13-0005
FP 13-000694

FOIA-SPL

From: jd@johnanthonydavis.com
Sent: Friday, October 05, 2012 1:42 PM
To: FOIA-LIAISON; FOIA-SPL
Cc: Guangyu Wang; Director
Subject: FOIA October 5, 2012

U.S. Army Corps of Engineers
CECC-G
441 G Street, NW
Washington, DC 20314-1000

CESPL-OC
P.O. Box 532711
Los Angeles, CA 90053-2325

This is a FOIA. The USACE Los Angeles District announced in the Federal Register on Septermber 26,
2012 Withdrawal of Intent to Prepare a Draft Environmental Impact Statement, Environmental Impact Report for the Ballona Creek Restoratoin Feasibility Study, Los Angeles County California. See link for notice.

http://www.gpo.gov/fdsys/pkg/FR-2012-09-26/pdf/2012-23669.pdf

Please provide the following information. Each numbered request is a distinct FOIA.

1. Provide the request by SMRBC to the Corp to terminate the Study.

2. Provide the authority of the person making the request to represent the State of California on behalf of the SMRBC.

3. Provide Governing Board Action of the SMRBC to reqest termination of the EIS/EIR.

5. ProvideGoverning Board Action of the SMRBC to paticipate in the terminated EIS/EIR.

6. Provide the final accounting of the local sponsor as required by the local sponsor agreement pursuant to the afore stated EIS/EIR noticed in 2005.

7. Provide a full and complete itemized accounting of all moneys provided to the corp for the purpose of conducting the aforesaid EIR/EIS.

Regards,

John Davis
PO 10152
Marina del Rey Ca. 90295

O11-162 cont.

bay restoration commission
STEWARDS OF SANTA MONICA BAY
santa monica bay restoration commission ~ 320 west 4th street, ste 200; los angeles, california 90013
213/576-6615 phone ~ 213/576-6646 fax ~ www.smbrc.ca.gov

July 17, 2012

Colonel R. Mark Toy
District Commander
Los Angeles District, US Army Corp of Engineers
915 Wilshire Blvd.
Los Angeles, CA 90017

RE: Request to Terminate the Lower Ballona Ecosystem Restoration Feasibility Study (LBERFS)

Dear Colonel Toy:

On June 30th, 2005 the US Army Corps of Engineers and the Santa Monica Bay Restoration Authority (SMBRA), as the project's Sponsor, entered into an agreement to conduct a Feasibility Phase Study and cost share agreement to evaluate restoration alternatives for the Ballona Creek Ecosystem and its watershed.

Since the initiation of the agreement seven years ago, some studies and modeling have been conducted, including the baseline conditions report in January 2012. We have also worked with Corps staff to develop hydrodynamic modeling of the lower creek and some of the data collected by the Corps will be helpful for the proposed project. However, limited progress has been made by the Corps toward completion of most of the deliverables required in the PMP. In addition, Corps staff has recommended amending the PMP and the Study budget. The original total estimated cost for the *Study* at the time of the agreement was $4,612,000. Corps staff is currently recommending that the PMP budget be amended to a new total estimated cost of $9,458,124.

At this time, the SMBRA does not have funds available for a cost increase of this size nor do we expect the necessary funds to become available in the foreseeable future. We are also now working with the Regulatory Division of the Corps on a Section 408 permit that requires all of our available resources. This being the case, we respectfully request that the LBERFS be terminated at this time.

If you would like to discuss this further or need additional information please feel free to contact me at (310) 216-9827, or Diana Hurlbert of my staff at (831) 241-3463.

Sincerely,

Dr. Shelley Luce. D.Env.
Executive Director

our mission: to restore and enhance the santa monica bay through actions and partnerships that improve water quality, conserve and rehabilitate natural resources, and protect the bay's benefits and values

O11-163 cont.

2005 Joint EIS/EIR Announcement in the Federal Register by USACE Los Angeles District – Santa Monica Bay Restoration Commission noted as Local Sponsor, Page 1

[Federal Register: September 20, 2005 (Volume 70, Number 181)]
[Notices] [Page 55116-55117] From the Federal Register
Online via GPO Access [wais.access.gpo.gov] [DOCID:fr20se05-36]
[[Page 55116]]

DEPARTMENT OF DEFENSE Department of the Army; Corps of Engineers
Notice of Intent To Prepare an Environmental Impact Statement/
Environmental Impact Report for the Ballona Creek Ecosystem Restoration
Feasibility Study, Los Angeles County, CA AGENCY: Department of the
Army, U.S. Army Corps of Engineers, DoD. ACTION: Notice of intent. --

---

SUMMARY: The Los Angeles District intends to prepare an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) to support a cost-shared ecosystem restoration feasibility study with the Santa Monica Bay Restoration Commission. The proposed project study areas has been degraded by encroachment of non-native plants, placement of fill from Marina Del Rey, interruption of the hydrologic regime, trash accumulation, and varied attempts at bank protection along the creek using rock and concrete. Direct benefits of the proposed project include improved habitat and water quality, reductions in waste and trash, and aesthetics. The watershed is an important resource for both recreational uses and for fish, and wildlife and further degradation could jeopardize remaining. The purpose of the feasibility study is to evaluate alternatives for channel modification, habitat restoration (coastal and freshwater wetlands and riparian), recreation, and related purposes along the lower reach of the Ballona Creek. DATES: A public scoping meeting will be held on September 29, 2005 at 6 p.m. ADDRESSES: U.S. Army Corps of Engineers, Los Angeles District, CESPL-PD, P.O. Box 532711, Los Angeles, CA 90053 and Santa Monica Bay Restoration Commission, 320 West 4th Street, Los Angeles, CA 90013. FOR FURTHER INFORMATION CONTACT: Shannon Dellaquila, Project Environmental Manager, at (213) 452-3850 or Malisa Martin, Project Study Manager at (213) 452-3828. SUPPLEMENTARY INFORMATION: 1. Authorization This study was prepared as an interim response to the following authorities provided by Congress under Section 216 of the Flood Control Act of 1970, which states: The Secretary of the Army, acting through the Chief of Engineers, is authorized to review the operation of projects the construction of which has been completed and which were constructed by the Corps of Engineers in the interest of navigation, flood control, water supply, and related purposes, when found advisable due the significantly changed physical or economic conditions, and to report thereon to Congress with recommendations on the advisability of modifying the structures or their operation, and for improving the quality of the environment in the overall public interest; supplemented by House Resolution on Public Works and Transportation dated September 28, 1994 which states: **The Secretary of the Army is requested to review the report of the Chief of Engineers on Playa del Rey Inlet and Basin, Venice, California, published as House Document 389, Eighty-third Congress, Second Session,** and other pertinent reports, to determine whether modifications of the recommendations contained therein are advisable at present time, in the interest of navigation, hurricane and storm damage reduction, environmental restoration, and other purposes at Marina del Rey Harbor, Los Angeles, California, with consideration given to disposal of contaminated sediments from the entrance channel required under the existing operation and maintenance program at Marina del Rey. 2. Background The Ballona Creek Ecosystem

O11-164

2012 Joint EIS/EIR Withdrawal Announcement in the Federal Register by USACE Los Angeles District – Santa Monica Bay Restoration Commission noted as Local Sponsor Requesting Withdrawal

deposit rate will be 5.53 percent; (2) for subject merchandise exported by Golden Dragon but not manufactured by Golden Dragon, the cash deposit rate will be the all others rate (*i.e.*, 26.03 percent); (3) for subject merchandise manufactured by Golden Dragon but exported by any party other than Golden Dragon, the cash deposit rate will be the all others rate. These requirements, when imposed, shall remain in effect until further notice.

Further, effective upon publication of the final results, we intend to instruct CBP that importers may no longer post a bond or other security in lieu of a cash deposit on imports of seamless refined copper pipe and tube from Mexico, manufactured and exported by Golden Dragon. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notifications to Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of doubled antidumping duties.

In accordance with 19 CFR 351.305(a)(3), this notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under the APO, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

We are issuing and publishing this new shipper review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: September 20, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I—Issues and Decision Memorandum

Comment 1: Date of Sale
Comment 2: Adjustment to U.S. Price
Comment 3: Entitlement to New Shipper Review

[FR Doc. 2012–23686 Filed 9–25–12; 8:45 am]

BILLING CODE 3510–DS–P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 12–1]

Telephonic Prehearing Conference Cancellation

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Cancellation of Telephonic prehearing conference.

SUMMARY: Cancellation of Telephonic prehearing conference on September 25, 2012, in the matter of Maxfield and Oberton Holdings, LLC, CPSC Docket 12–1.

FOR FURTHER INFORMATION CONTACT: Katy J.L. Duke, Esq., U.S. Coast Guard ALJ Program, 504/671–2213.

Dated: September 21, 2012.

Todd A. Stevenson,

Secretary.

[FR Doc. 2012–23664 Filed 9–25–12; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Withdrawal of Intent To Prepare a Draft Environmental Impact Statement/ Environmental Impact Report for the Ballona Creek Ecosystem Restoration Feasibility Study, Los Angeles County, CA

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The Los Angeles District of the U.S. Army Corps of Engineers (Corps) published a Notice of Intent to Prepare a Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Ballona Creek Ecosystem Restoration Feasibility Study in the **Federal Register** on September 20, 2005 (70 FR 55116). The study's purpose is to evaluate structural and non-structural means of restoring diminished ecosystem functions and services within the lower reach of Ballona Creek including coastal wetlands. Santa Monica Bay Restoration Commission (SMBRC) is the local sponsor for the cost-shared study.

On September 29, 2005, a public scoping meeting was held pursuant to requirements of the National Environmental Policy Act and Engineer Regulations 1105–2–100. Baseline conditions portions of the EIS/EIR have been completed as of January, 2012. On July 17, 2012, the SMBRC requested the Corps terminate the study. Therefore, the Corps is withdrawing the Notice of Intent to Prepare a draft EIS/EIR.

FOR FURTHER INFORMATION CONTACT: Ms. Jodi Clifford, Chief, Environmental Resources Branch. Mailing Address: Ms. Jodi Clifford, Chief, Environmental Resources Branch, Corps of Engineers, Los Angeles District, CESPL–PD–R, 915 Wilshire Boulevard, Los Angeles, CA 90017. Telephone: (213) 452–3840. Email: *Jodi.L.Clifford@usace.army.mil.*

SUPPLEMENTARY INFORMATION: The Corps is no longer pursing restoration within Ballona Creek as a cost-shared study within its Civil Works program. Although SMBRC requested the Corps terminate the feasibility study, SMBRC, acting on behalf of the California Department of Fish and Game, is moving forward with plans for ecosystem restoration within Ballona Creek. SMBRC must obtain permissions from the Corps to proceed with implementation of its restoration proposals. Therefore, the Corps is initiating an EIS pursuant to its authorities under Section 404 of the Clean Water Act, Section 10 of the 1899 Rivers and Harbors Act, and Title 33, U.S. Code, Section 408 for a project to be planned and carried out by SMBRC. To that end, the Corps published a Notice of Intent to Prepare an EIS in the **Federal Register** on July 25, 2012 (77 FR 43575). A scoping meeting was held on August 16, 2012. All technical studies and reports prepared under the Civil Works feasibility study authority will be utilized to the maximum practical extent in support of the EIS/EIR process now underway.

O11-165

Dated: September 12, 2012.

R. Mark Toy,

Colonel, U.S. Army Commander and District Engineer.

[FR Doc. 2012–23669 Filed 9–25–12; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Notice of Intent To Prepare a Draft Environmental Impact Statement for a Proposed Aquatic Ecosystem Restoration Project for the Quiver River, MS

AGENCY: Department of Defense, U.S. Army Corps of Engineers, DoD.

Official Press Release

February 1, 2016 – A Los Angeles Superior Court Judge has ruled that records withheld from the public by the Santa Monica Bay Restoration Commission regarding the Ballona Wetlands Restoration Project must be disclosed under the California Public Records Act (CPRA). The case number is BS154128 and more information can be found at lacourt.org. Court filings can be found below:

Rulings of the Court:

The proposed statement of decision partially granting our Motion for Writ of Mandate can be found here.

10/29/2015 – The Court's minute order granting our Motion to Compel Further Responses to Discovery can be found here.

O11-166

Submitted Briefs:

Our Motion for Writ of Mandate to compel CPRA responses can be found here.

SMBRC's Opposition to our Motion for Writ of Mandate can be found here.

Our Reply to SMBRC's Opposition to our Motion for Writ of Mandate can be found here.

10/29/2015 – Our Motion to Compel Further Discovery Responses can be found here.

10/29/2015 – SMBRC's Opposition to our Motion to Compel Further Discovery Responses can be found here.

10/29/2015 – Our Reply to SMBRC's Opposition to our Motion to Compel Further Discovery Responses can be found here.

Discovery Documents:

05/19/2015 – The Deposition of SMBRC's current Executive Director can be found here.

07/10/2015 – The Deposition of SMBRC's former Executive Director can be found here.

08/10/2015 – The Deposition of SMBRC's Director of Watershed Programs can be found here.

08/17/2015 – The Deposition of SMBRC's Deputy Director can be found here. 08/17/2015

– The Deposition of SMBRC's Administrative Director can be found here.

08/19/2015 – The Deposition of SMBRC's Director of Government Affairs can be found here.

11/18/2015 – SMBRCs Revised Responses to BWLT's 2nd Request for Admissions can be found here.

Declarations:

The Declaration of SMBRC's Administrative Director can be found here.

Original Complaint:

02/11/2015 – Our verified petition can be found here.

Explanation of SMBRC's multiple, contradictory answers regarding whether Karina Johnston was ever the SMBRC's Director of Watershed Programs can be found here.

O11-166 cont.

GRASSROOTS COALITION

Environmental Integrity & Public Policy

Patricia McPherson President
Jeanette@SaveBallona.org (310) 721-3512
Also Official Website: SaveBallona.Org

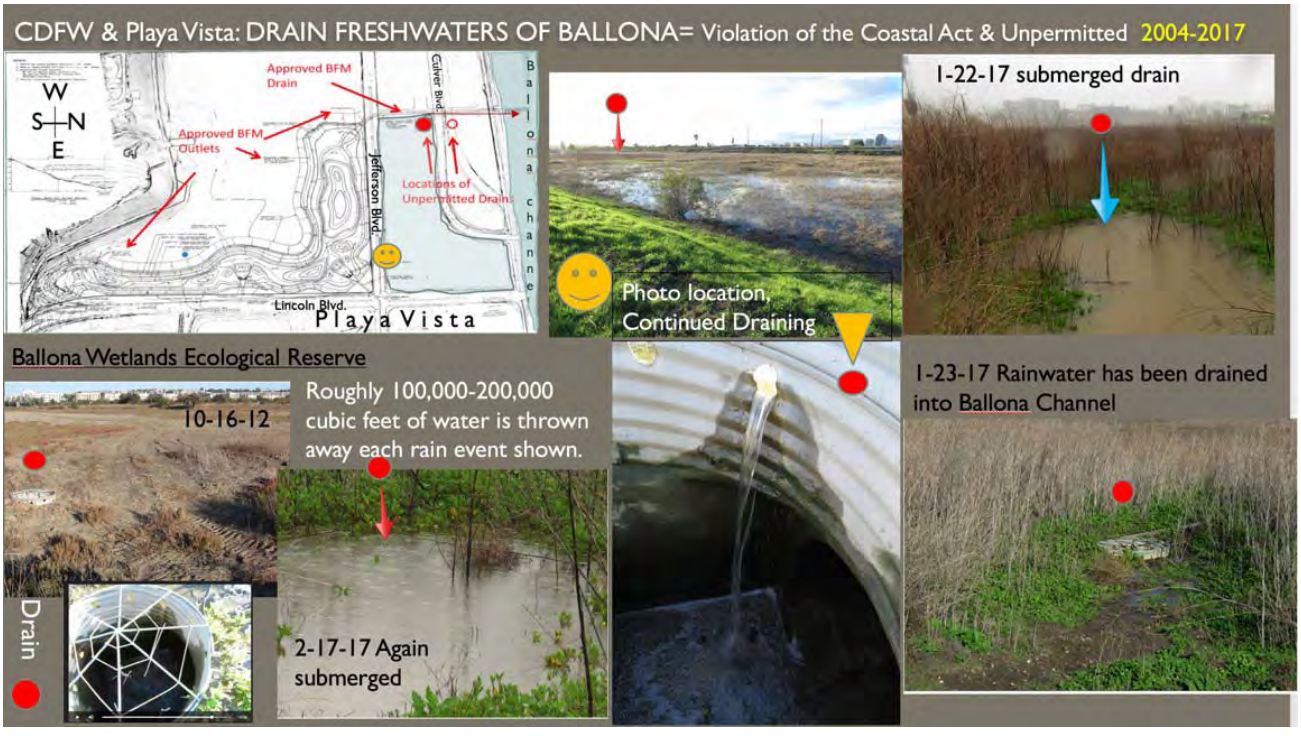
GC Ballona
Ballona Watershed
Wetlands/Uplands
Upper Ballona
Lower Ballona videos
Habitat Restoration
Flyway Connectors
Playa Vista Dewatering

GC Marina
Marina Del Rey Created in 1954 for All Oxford Lagoon Bird Sanctuary
Privatizing Public Land
Dewatering Fresh Water
Density, Hi-Rises, Hotels
Villages Marineers & Fishermans

GC Water Wise
W ater Wise
Rainwater Capture
Residential Commercial Public
Aquifer Depletion
Frack Water/Farming
Drought Tolerant Plants
Permeable Rock/Gravel/Pavers

GC Oil & Gas
Oil & Gas
Reference Materials
Greed & Gridlock video
KNBC4 Burning video
Legal History
Health & Safety
Lessons Learned

Visuals and Grassroot Coalition Letter to California Coastal Commission requesting investigation to prove the legitimacy or illegitimacy the history of Ballona's Restoration Process. What permits are completed and which are not? What damage has been done and how will the damage being fixed?



O11-167

Press Release

Grassroots Coalition Prevails in Settlement Agreement, Supporting the California Coastal Commission's Findings That Playa Capital's Unpermitted Water Drainage Devices Are Destructive to Ballona Wetlands Ecological Reserve in Los Angeles
The California Department of Fish and Wildlife and Playa Capital LLC have agreed to stop draining freshwaters from Ballona Wetlands via the unpermitted drains. CDFW has applied for a Coastal Development Permit to cease the drainage.

Grassroots Coalition invites you to attend and participate at the Coastal Commission Meeting, expected in August 2017 in Los Angeles. The topic is the review of the CDFW requested permit to cease the drainage.

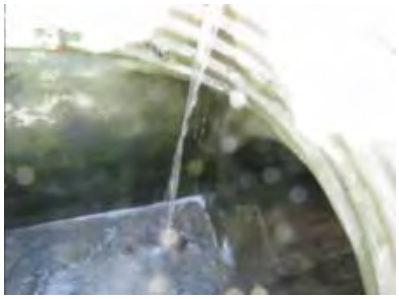
O11-167 cont.

GRASSROOTS COALITION
ENVIRONMENTAL INTEGRITY & PUBLIC POLICY

Enviros, Calif. Coastal Commission Settle Records Spat

BIANCA BRUNO March 24, 2017
SAN DIEGO (CN) – An environmentalist group that sued the California Coastal Commission last year over the agency's ouster of its executive director has settled the case out of court.

Support a slow, carefulrestoration
of Ballona Wetlands Ecological Reserve - Click Here.



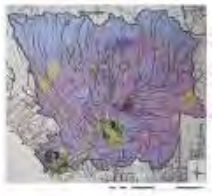
"The greatest threat to our planet is the belief that someone else will save it."
Robert Swan, Explorer & Inspirational Speaker

► Ballona Watershed ► Marina del Rey ► Water Wise ► Gas & Oil

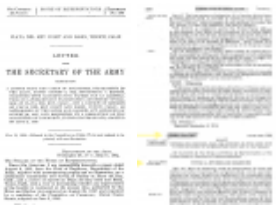
BALLONA WATERSHED FLYOVER IS A BIRD'S EYE VIEW OF A NEW VISION FOR LOS ANGELES
www.youtube.com/watch?v=SEOiBNfbfQ 10 minutes

"When the People Lead, the Politicians Follow"

BALLONA WATERSHED
photos 1923-1952



MARI NA DEL REY
1954 U.S. Docs 389 and 780



Docu ments and Excerp ts That

O11-167 cont.

Beginning in the early 1900's over 120 miles of streams were replaced with Storm Drains. Today, rainwater rushes down driveways to streets gathering pollutants, entering storm drains that flow into concrete rivers like Ballona and finally into Santa Monica Bay.

BALLONA WATERSHED FLY-OVER IS A BIRD'S EYE VIEW OF A NEW VISION FOR LOS ANGELES
https://youtu.be/clfESHDxOew

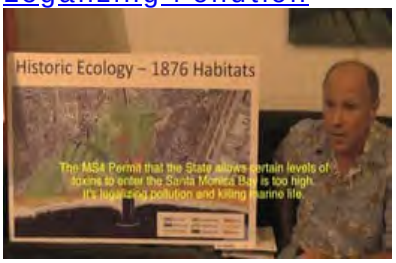
Ballona Watershed Google Fly-Over from the Ocean to Griffith Park where Ballona Creek Daylights again. 11.1.16

Watch the 2005 Bus Tour Video with Melanie Winter, River Project, Jessica Hall, Ballona Watershed Coordinator and others. - 6 min

There is

State Why and How MDR Was Created a small craft harbor, 5.5 miles of wider beaches, a bird sanctuary. The intent: healthy recreation for all of greater Los Angeles with almost equal funding by LA City, LA County and US Congress.

Douglas Fay Interview - 60+ Years of Santa Monica Bay History.
Legalizing Pollution



Commercializing Public Recreation. A WINDFALL Profit for Developers.

What might have been. A County Wide Study between 1927 and 1930 by Olmsted (NY Central Park Designer) and Bartholomew proposed "Future: Parks, Playgrounds and Beaches for the Los Angeles Region.

Fly

O11-167 cont.

anot her way

. Capture, cleanse and reuse rain water in Urban Parks, on Private and Public Property. Use cisterns, swales, rock gardens and rain barrels. Daylight streams. Restore underground aquifers.

Watch: Save the Ballona Wetlands habitat from the Bulldozer. Congressman Ted Lieu is working on a plan to bring the Ballona Wetlands into the National Park System. Learn more. Watch this: http://saveballona.org/water/marcia-hanscom-sierra-club-airport-marina-g...

Read: 35 former members of CA Coastal Commission oppose effort to oust executive director http://www.latimes.com/local/politics/la-me-0202-coastal-commission-20160202-story.html

WATER WI SE

Join the effort. Water Capture Reuse

Los Ang eles imp orts 85% of its fresh drinking water from more than 200 miles away. It costs 30% of our state electricity to send drinkable water to southern California.

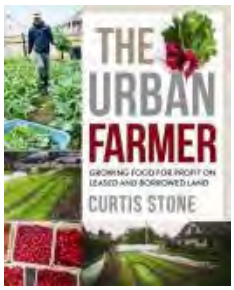
Over of Ball ona and Marina Del Rey, CA - Having a Say In Our Future. Let's recapture the promise of a small boat harbor, wildlife habitat, and equal access for all at a reasonable cost in Marina del Rey.

Since 1954, Los Angeles County has grown from 2 Million to 10 Million Residents. We need to review each 49 to 60 year lease and decide if, instead of renewal, we should expand parks and habitat.

O11-167 cont.

Watch the 2015 Culver City Garden Club Video Reduce Water Use. How? Replace thirsty grass with drought tolerant plants, concrete with rock, gravel and permeable pavers.

The Urban Farmer
Growing Food for Profit on Leased and Borrowed Land



by Curtis Stone

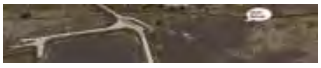
GAS & OI L

W hen Oil Derricks Ruled

Beginning in the 1920's thousands of oil wells were drilled in the Los Angeles area: many are still producing, many are leaking harmful gases, some are capped but leaking. Each well needs to be inspected and made safe, especially in residential areas.

SoCalGas /

O11-167 cont.



Sempra Energy imports and stores millions of cubic feet of natural gas at high pressure underground in old oil fields in Playa del Rey, Montebello, Santa Clarita, and

Monterey Becomes California's First Major Oil-Producing County to Ban Fracking

55% of Voters in Monterey County, California's fourth-largest oil-producing county, on Tuesday, 11.8.16 passed Measure Z to ban fracking and other dangerous extraction techniques.

Porter Ranch. *Underground Gas Storage Field Hazards*: http://www.laweekly.com/news/what-went-wrong-at-porter-ranch-6405804 and http://www.latimes.com/local/california/la-me-porter-ranch-delay-_20160102-story.html

O11-167 cont.

Links for Ballona (Watershed) Menu:
- Wetlands/Uplands
- Lower Ballona
- videos
- Habitat Restoration
- Flyway Connectors
- Playa Vista
- Dewatering

Links for Marina Del Rey Menu:
- Created in 1954 for All
- Dewatering Fresh Water

Links for Oil & Gas Menu:
- Reference Materials
- Greed & Gridlock
- video
- KNBC4 Burning
- Health & Safety
- Lessons Learned

Links for Water Wise Menu:
- Rainwater Capture
- Residential

Commercial
Public
Aquifer Depletion

Links for Top Horizontal Menu:

Photos
Videos
Full Disclosure of Health and Safety Issues
Transparency
Teamwork
Oil and Gas
Resources
Water
Wildlife

New est Content

REGISTER TO ATTEND UPPER BALLONA CREEK WATERSHED DIALOGUE / WORKSHOP April 14-15, 2018

Nature-for-water-protection-of-ecosystems-is-key-to-water-security/

BALLONA WETLANDS Ecological Reserve Draft EIR/EIS - All Email Comments Submitted to Fish and Wildlife / Army Corps through 2.5.18

Seven Ballona Wetlands Power-Point Presentations prepared by Patrica McPherson, President of Grassroots Coalition

Seeking Streams: A landscape framework for urban and ecological revitalization in the upper Ballona Creek watershed

more

O11-167 cont.

-----Original Message-----
From: Rogers, Bonnie L CIV USARMY CESPL (US) [mailto:Bonnie.L.Rogers@usace.army.mil]
Sent: Thursday, February 1, 2018 8:53 AM
To: Janna Scott <JScott@esassoc.com>
Cc: Richard Brody <richard.brody@wildlife.ca.gov>
Subject: FW: [Non-DoD Source] Ballona Wetlands DEIR/S Response (Section B (1) continued) Grassroots Coalition

-----Original Message-----
From: patricia mc pherson [mailto:patriciamcpherson1@verizon.net]
Sent: Wednesday, 31 January, 2018 6:07 PM
To: BWERComments@wildlife.ca.gov; Rogers, Bonnie L CIV USARMY CESPL (US) <Bonnie.L.Rogers@usace.army.mil>
Subject: [Non-DoD Source] Ballona Wetlands DEIR/S Response (Section B (1) continued) Grassroots Coalition

The Grassroots Coalition Response to the Draft EIR/S for the Ballona Wetlands Ecological Reserve

What abuse of discretion and prejudicial abuse of discretion may be infused within the entirety or portions of the DEIR/S and its process because of the relationship between CDFW and Playa Capital LLC and Playa Vista/ Brookfield? The DEIR/S is deficient for its lack of defining the relationship between the Playa Vista development site, its leadership and CDFW & its MOU Partners. O11-168

Coastal Commission Dec.14, 2017 Meeting per the CDP request of CDFW to both cap illegal drains and removal of those illegal drains harming Ballona Wetlands.

Blockedhttp://cal-span.org/static/meetings-CCC.php

In this meeting at 3:56…CCC Mr. Hudson cites, without CDFW objection or comment, that the CDFW -was always O11-169

planning on removal of the drains as part of the larger project…(paraphrase)
IF so, why doesn't the DEIR/S include the fact that the Drains are illegal, a violation of the Coastal Act due to their harm to Ballona Wetlands as was known and litigated
long PRIOR to the release of the DEIR/S?
And, why doesn't the DEIR/S provide any independent hydrology evaluation per the actions of the illegal Drains as part of
INFORMED DECISION MAKING of how the drains impact the area via both their drainage AND the saltwater intrusion that currently occurs and appears to be a violation of the Clean Water Act and is also NOT PERMITTED.
And, why does the DEIR/S not disclose the freshwater drainage into the Ballona Channel that is
a violation of the County Flood Control Permit which disallows water discharge into Ballona Channel during winter months? The images of the Drain submersion on (eg.)
1-22-17 with the next day visual of the area having drained out 1-23-17 provides evidence of unpermitted drainage to the Channel by CDFW.

O11-169 cont.

O11-170

Potentials of conflict of Interest need to be openly addressed within the DEIR/S to provide the public and decision makers with transparency of who is doing what for whom, and for what outcome and financial or other compensation. Due to Playa Vista-Playa Capital LLC interests and needs that involve the Ballona Wetlands Ecological Reserve- (inclusive of all the public trust land paid for via public bond money and that is being stewarded by various agencies including the CDFW)- it is imperative for work done to be held to a standard of credibility not marred by conflict of interest. Unfortunately, virtually all of the contractors' work used in the DEIR/S are contractors that
have strong and current employment ties with the Playa Capital LLC and Playa Vista. A 2006 Settlement Agreement is an updated version of the 1990 Settlement Agreement pertaining to Ballona, that further provides Playa Vista control to what occurs in the Ballona Wetlands and the portions of Ballona that are or may be affected by the the Playa Vista flood control system. The 2006 (Settlement Agreement) financial and oversight agreement no longer includes any state entities though state entities such as CDFW are working almost exclusively, if not exclusively, with them to the detriment of transparency and independent evaluation through exclusion of independent, unconflicted contractors, the public at large and organizations. There has been a long history of exclusion to the general public and Working Groups by CDFW in both communication and access to BAllona while CDFW's inclusion of what appears to be persons and organizations that are tied directly and/or indirectly with the Playa Vista development project--an ongoing project with its ongoing needs, such as flood control— there is the appearance of conflicted interests that may likely be affecting the alternatives provided by CDFW.

O11-171

The DEIR/S needs to explain to the public how and why such apparently conflicted entities are also directly engaged in the DEIR/S creation and work.
Example:
The Coastal Commission Meeting of 12/14/17 Item 10C pertained to CDFW's Violation of the Coastal Act for past and ongoing degradation to the Ballona Wetlands via unpermitted Drains, draining away the freshwaters of Ballona. The Commissioners were addressing a CDFW Coastal Development Permit request to cap the unpermitted drains & removal of the drains as a result of a Settlement Agreement with GC to seek a CDP from the Commission that would end the harmful drainage.

Mike Crehan of Psomas, at 2:40:37 on the CSPAN VIDEOTAPE, states that he has , " been the engineer of record for Ballona Wetlands for Playa Capital and
for the Department of Fish & Wildlife for the past 19 years."

The public and decision makers deserve to know if this is 1) true and, if so 2) what contracts have been given by CDFW to Psomas and Mr. Crehan?
-Why is Mr. Crehan and Psomas allowed to be on the project management team for Ballona's restoration?
- Why is Mr. Crehan and Psomas(which are the installers of the illegal drains that have been harming Ballona's wetlands for over 20 years) allowed
to represent and speak for CDFW? Why has CDFW not provided protection to the best interests of the Ballona ecosystem and the public it is legally
obliged to serve rather than cater to a private development interest and its long term contractors?

O11-172

Even the City of Los Angeles and its Building & Safety Department engaged independent analysis of the gas issues of Ballona because there was a demonstrable showing that independent oversight was necessary for the public's protection from Playa Capital LLC's pattern and practice of providing misleading information and marginalization of the true hazards of the site from oilfield gas migration. Similarly, the restoration of Ballona needs independent, unbiased stewardship and work products. O11-173

Unresolved conflicted Interests, that are part of the DEIR/S process and creation, place a cloud over the DEIR/S include but are not limited to the following:

The Bay Foundation (SMBRFoundation- a private business whose founding and leadership are Playa Capital LLC contractor (i.e.. PSomas, and employee C. Tyrrell)) -- was recently engaged in closed legal settlement agreement talks with the Ballona Wetlands Land Trust which gave rise to the Executive Director of the Santa Monica Bay Restoration Commission (a state agency within the State Regional Water Quality Control Board) and all Bay Foundation staff's removal from the state Santa Monica Bay Restoration Commission's leadership positions. The SMBRCommission leadership positions were formerly held, for at least the past 10-15 years by Bay Foundation staff, thus compromising the integrity of the Commission, at best, only in the appearance of conflict of interest. O11-174

Hence, GC believes these issues need to be included within the response to the DEIR/S for comment by CDFW, USACE and the MOU partners.
CEQA/NEPA issues of abuse of discretion and prejudicial abuse of discretion need address as providing cause for the lack of providing an historically correct RESTORATION set of alternatives which are absent in the current DEIR/S due to a failure to evaluate and include the unique freshwater aspects of Ballona Wetlands in both its seasonal wetland ponding aspects as well as its multiple underground freshwater aquifers that are currently classified as potential drinking water under State Water Board classification. O11-175

The Alternatives 1-3 provided in the current DEIR are not restoration alternatives as described by the Coastal Act but instead are creation themes that appear to be provided to assist the adjacent Playa Vista development site in its needed flood control system aspects. Such 'gifting of public funds' to assist the development project is prohibited by law. The Ballona Wetlands were garnered via public dollars for the specific purposes of restoration not creation and not to fulfill Playa Vista flood control needs. O11-176

A compromised process including pattern and practice of wrongdoing by various agency/ LA County involvement in other projects has been documented and litigated by GC that includes but is not limited to the County of LA Flood Control District (County) who GC litigated a Public Record Act lawsuit in which GC prevailed that revealed the County illegally withheld key biological information from the public and decision makers which, but for that illegal activity, the Oxford Basin—a historic portion of Ballona Wetlands—would have had a likely different and more flora and fauna protected outcome. O11-177

The State Coastal Conservancy (SCC) has been found by the Dept. of Finance to have failed in numerous ways to perform as required. See Scoping Documents which include a 2010 Dept. of Finance audit revealing improper practices by the SCC. GC has documented (included in DEIR response) continuing problems of SCC that GC documents via County audits and other materials pertaining to Ballona Wetlands which provide part of a cumulative array of problems that have led to a compromised, inadequate, false and misleading DEIR/S for Ballona Wetlands Ecological Reserve. (See Dept. of Finance audit request by GC as part of this DEIR/S response) O11-178

Please address the following concerns:
One example of potential abuse of discretion/ prejudicial abuse of discretion at best is the Bay Foundation's / SMBRCommission's Executive Director, Shelly Luce in communication with former Bay Foundation board member and SCC project manager for BAllona—Mary Small:

O11-179

The email provides an appearance of an attempt to prejudicially abuse an outcome.
The creation of charts and inaccurate information for the purposes of furthering a predetermined outcome is at stake in such abuse.
Prejudicial control of the outcome of information, alternatives, money requests is at stake in the DEIR/S and needs to be
addressed in full transparency to the public and agency decision makers for an informed decision process to take place.

By way of comparison, the April 2012 video documentation done by GC, during roughly the same time frame as these emails, appears
to show a very different portrait of actual conditions on Ballona Wetlands that reveal more native plants than cited by Ms Johnston in Area A charts used
in the DEIR/S. The video also documents historic salt pan areas of Area A.
The following video is a walk through of Area C and Area A that GC believes contradicts comments and mapping pertaining to Ballona having a lack of native plants &
ecological function. Please review and comment. A fair argument for an alternative of freshwater predominance in restoration is thwarted by a DEIR/S that excludes such an alternative, and excludes an onsite hydrology evaluation, leading
a DEIR/S reader to falsely believe that there is no freshwater natural resource of Ballona which is wholly false, misleading and
prejudicial to a fair process. The public and decision makers can only make informed decisions if the information is provided.
The 2017 DEIR/S is deficient, inadequate, and therefore false and misleading and should be rescinded, corrected and recirculated for
public and agency review.

O11-180

O11-181

April 2012 Grassroots Coalition video documentation of Area C and Area A- comments in this video are directed towards a
response to the Bay Foundation's - MAPPING of Ballona habitat that appears to have been prejudicially done to promote an outcome
for creation of a saltwater embayment creation on Area A.

Blockedhttps://youtu.be/yqpyLj0nAPg

O11-182

Inaccurate and deficient DEIR/S AREA A SITE ASSESSMENT, DELIBERATELY LEAVING OUT SAC discussions of need for maintaining rare native grasses.
Prejudicially absent in the DEIR/S ARE UNIQUE native plants and discussion of the uniqueness and rarity in the SoCal coastal wetland areas from the
Science Advisory Committee pertaining to AREA A and its unique plant life as being ONLY FOUND IN AREA A at Ballona.

O11-183

Why is this rare ecosystem and its plants on Area A not discussed in the DEIR/S?
How does exclusion of this rare, native grass habitat on Area A in the DEIR/S allow the public/agencies to make an informed decision as to what areas of Ballona are more in need of protection due to unique remaining habitat areas and areas that can maintain such a unique prairie coastal grassland species?

O11-183 cont.

The segments of discussion cited above are from a CD retrieved via a Public Record Act request from the State Coastal Conservancy.
The public was never made privy to the discussions above for informed decision making for Ballona and the DEIR/S continues to exclude information of
this important resource on Area A which
inaccurately and falsely misleads the public regarding Ballona resources existence, in order to prejudicially abuse their powers for a predetermined outcome of
tidal intrusion that will destroy the rare grassland area of Area A and all of its current ecosystem.

O11-184

Documentation of the unique and rare native grassland ecosystem of Ballona was also noted by Wayne Ferren in email communications
with Jonathan Coffin who documented, via photographs some of the Area A Alkali Barley. (Wayne Ferren cites 'harvesting' some of the
Ballona Area A Alkali Barley for another restoration area.)

O11-185

Jonathan Coffin's subsequent mail to W. Ferren after having photographed Hordeum Depressum —Alkali Barley on Area A
of Ballona Wetlands.

O11-186

Frogs are also excluded in discussion for AREA A in the DEIR/S. The DEIR/S is deficient.
Native California frogs have been abundant in Area A and the proposed dig out to allow for tidal flow will kill the frogs due to the excessive salt exposure.
Why does the DEIR/S exclude discussion of the saltwater intrusion damage to species due to saltwater exposure as well as inundation with saltwater exposure?

O11-187

End of Section B(1) continued)

Patricia McPherson, Grassroots Coalition

O11-188

From: Wayne Ferren <WFerren@maserconsulting.com>
Sent: Thursday, April 16, 2009 8:55 AM
To: jonathan coffin
Subject: Hordeum depressum at Ballona

Hi Jonathan! My turn to share! We are using the native grass *Hordeum depressum* (Alkali Barley) in the plant palette for the Grand Canal Project. It has been located in Basin-A along the northern-western (?) margin of the interior intermittent wetland. The photos attached were taken my Monica from the LA Conservation Corps, who will grow the material for us. I found the barley there last spring and I am pleased Monica has relocated it!

I thought you might want to see/photo it in the field if you have not observed it before. It is an annual and does not last too long once it gets warm. The introduced *Hordeum marinum* (Mediterranean Barley) also occurs there, so don't get them confused.

Cheers! Wayne.

O11-189

Wayne R. Ferren Jr.
Project Manager

Maser Consulting P. A.
331 Newman Springs Road
Suite 203
Red Bank, NJ 07701

Phone 732.383.1950 X 3362
Fax 732.383.1990
www.maserconsulting.com

From: Wayne Ferren <WFerren@maserconsulting.com>
Sent: Friday, April 17, 2009 1:00 PM
To: jonathan coffin
Subject: RE: Hordeum depressum photos

Good job! A successful treasure hunt!

Have a great weekend! Wayne.

Wayne R. Ferren Jr.
Project Manager

Maser Consulting P. A.
331 Newman Springs Road
Suite 203
Red Bank, NJ 07701

Phone 732.383.1950 X 3362
Fax 732.383.1990
www.maserconsulting.com

Engineering and Consulting Design Firm | Maser Consulting

www.maserconsulting.com

Maser Consulting is a privately owned, multidiscipline engineering and consulting design firm, headquartered in

O11-190

From: jonathan coffin [mailto:jonathan_coffin@hotmail.com]
Sent: Friday, April 17, 2009 3:48 PM
To: Wayne Ferren
Subject: Hordeum depressum photos

I took many photos

From: jonathan coffin <jonathan_coffin@hotmail.com>
Sent: Friday, April 17, 2009 12:48 PM
To: Wayne Ferren
Subject: Hordeum depressum photos

I took many photos

O11-191

From: jonathan coffin
<jonathan_coffin@hotmail.com>
Sent: Thursday, February 25, 2010 10:07 AM
To: Wayne Ferren
Subject: BWER, Flowering Hordeum depressum,

Wayne

Hordeum depressum flowers

Jonathan

O11-192

Images for california tree frog at ballona stonebird flickr

→ More images for california tree frog at ballona stonebird flickr

Report images

O11-193

From: Shelley Luce
To: Mary Small
Subject: RE: board presentation
Date: Wednesday, January 11, 2012 6:55:23 PM

Hi Mary,
I think the presentation looks good. I think we should include some comparative data to show the need for restoration – e.g. the seed bank data, the exotic veg data and some of the animal data (birds and herps). I saw what karina sent you and it doesn't help us – we need numbers like "99% invasive plants" and "lowest seed bank of any so cal wetland". we also need her graphs that show huge percent exotic veg. versus tiny percent native veg, etc. along with those photos of invasive plants that you already included.

I also think we should mention the TMDL –or not the TMDL itself, but we can list the impairments listed on the 303d list, note that TMDL implementation would be consistent with the restoration and that we can work with partners on my governing board and other agencies and leverage resources that would go into implementing the TMDL.

O11-194

I can help with slides – why don't you send me one or two in your formatting and I will make some with the graphs imentioned and see if you like them. Or rather, since you have to finish by tomorrow and I am out of the office all day, we will ask karina to insert some graphs. Okay with you?
Shelley

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160
1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-961-4444

www.santamonicabay.org

From: Shelley Luce
To: Karina Johnston
Cc: msmall@scc.ca.gov
Subject: graphs needed for SCC board presentaiton
Date: Thursday, January 12, 2012 7:57:56 AM

Hi Karina,
Thank you for the bullets you prepped for Mary, they are helpful. The photos are also perfect. What we still need for the presentation are graphics or numbers that will really make our case. Mary needs to complete the presentation today so can you and your team help us prep the following ASAP?

- one map of existing conditions that shows the site today: an aerial photo with transparent overlay of BASIC habitat types - how much is wetland, how much is upland/vacant lot style. goal is to illustrate how little of the site can be said to be funcitoning habitat.

- one simple graph showing predominance of invasive species - the one in the BWER draft TMDL is fine, can you please send that to mary? we need to say "x percent of the site is covered with 99% invasive vegetation" or whatever the actual numbers are. rather than "dominate by invasives" which could mean only 55% covered.

- some species diversity numbers/charts that show how extremely depaupurate poor Ballona is. not just "reduced relative to other wetlands" but "lowest seed bank abundance and diversity of any wetland in southern california" - but i need you to give me the right language so i am not mis-stating anything. please give me those #s or charts or langauge for seed bank, veg, mammals, birds, fish and herps separately and we'll decide which ones to mention in our presentation. O11-195

- any other features of the site or results from your surveys that really illustrate to non-scientists how desperate is the need to restore ecological function and habitat at the site.

I am sorry to ask you for all this today, I hope you or one of your team has time. I think you have all this info readily accessible - f there is someihting i've requested that is a big pain check with me and we'll decide if it's really needed. please call my cell or email, i will be out of the office all day but checking my phone compulsively. also please suggest other stuff if you think of it - you know these data better than we do! thank you KJ talk to you later today.
shelley

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160
1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-216-9827
www.santamonicabay.org

"Rich noted that the discussion of grasslands should include mention of the historical native grassland prairie ecosystems that previously existed in the area. The rarity of native grasslands should be discussed,,," (CD- 6/28/08 SAC Conference Call)

"Rarity section...complex of prairie and vernal pool...
Wet grasslands formed extensive areas were also palustrine wetlands above highest high tide.." (CD- SAC Call 6/23/08)

"...there is native biodiversity in the non-tidal saline soils. .... At Ballona, these wetlands at Area A, for example, are the only habitat where Alkali Barley (Hordeum depressum) is known to occur in the Ballona Ecosystem. This annual grass was probably the dominant native annual grass in naturally occurring non-tidal saline soils at Ballona." (CD- 11/23/08, Wayne Ferren communication to Mary Small...)

O11-196

-----Original Message-----
From: patricia mc pherson [mailto:patriciamcpherson1@verizon.net]
Sent: Thursday, 1 February, 2018 3:37 PM
To: BWERComments@wildlife.ca.gov; Rogers, Bonnie L CIV USARMY CESPL (US)
<Bonnie.L.Rogers@usace.army.mil>
Cc: Todd Cardiff <todd@tcardifflaw.com>
Subject: [Non-DoD Source] Ballona Wetlands DEIR/S Response (Section B (2 continued)) Grassroots Coalition

The Grassroots Coalition Response to the Draft EIR/S for the Ballona Wetlands Ecological Reserve

(Please note that the previous email from GC marked as Section B (2) is correct; the designation of(Section B(1) addition) is Section B (2))

The DEIR/S is deficient as it does not explain how the process as described in the Acquisition terms; the terms of designation as an Ecological Reserve and does not
explain how the process as set forth in 2004, as seen below was not adhered to and was instead SWITCHED to the goals of the inaccurate premise of 'restoring the ebb and flow
of the tides' at Ballona when no such ebb and flow was a part of the history of Ballona Wetlands.
-Why does the DEIR/S not explain to the voters and public at large, the voters and public who paid for Ballona and

O11-197

O11-198

its restoration funds per specific terms of its acquisition, designation as an Ecological Reserve and the bond funds and language defined below from 2004? O11-198 cont.

-How does the DEIR/S rationalize the 2017 DEIR/S Alternatives that propose a CREATION of something that is not what BAllona historically is and propose to destroy
the unique and rare aspects of Ballona as it has been historically? Please explain the radical and risky concept change of turning the freshwater aquifers and seasonal ponding of Ballona Wetlands into a predominantly saltwater system. O11-199

-The DEIR/S is inadequate due to its lack of address of how the current ecosystem will be exposed to potential, and/or actual annihilation and then be able to recover any of its former
life sustaining abilities. O11-200

-Please explain how the proposed Alts. 1-3 will affect the adjacent properties, inclusive of Playa Vista pertaining to hydrology, gas migration, wildlife movement, species survival,
road kill that is already occurring due to lack of wildlife protective crossing on Lincoln Blvd and Jefferson Blvd. and Culver Blvd. O11-201

-The DEIR/S is deficient due to conclusory statements made without data support such as the purported 'wildlife crossing' under Lincoln Blvd. that the DEIR/S purports:
allows for wildlife movement of raccoons, opossums and similar sized creatures that may attempt to move between the riparian corridor of Playa Vista under Lincoln Blvd. to the freshwater marsh system. O11-202

-What, if any data supports such conclusory statements made in the DEIR/S? GC was not able to find any however, GC has had a lengthy history with CDFW in requesting that
CDFW help to enforce Playa Vista's Vesting Tract Map Conditions for Phase 1, that state a wildlife crossing will be provided TO PREVENT ROAD KILL between the riparian corridor and the freshwater marsh. CDFW has never provided any assistance in review of the matter, never requested of Playa Vista to enforce its Vesting Tract Conditions of Approval and has never provided any information that the high water culvert, inclusive of its attendant screens, wires and fencing, has EVER ACTED AS A WILDLIFE CORRIDOR OF ANY KIND. Instead, CDFW has negligently allowed for inadequate monitoring done by Playa Capital LLC and Playa Vista representatives which has led to citations by Vector Control and harm to the habitat. See CDFW Streambed Agreement violation notice and Vector Control warnings due to failures to manage the site in a safe manner.* See B (2) attachments of Vector Control email to CDFW, SLC, Playa Capital LLC, Brookfield(Play Vista)Edith Read(Playa Capital LLC contractor), Catherine Tyrrell- Ballona Conservancy/ Playa Capital LLC contractor and VIP and Bay Foundation founder/ leadership/ Friends of Ballona Wetlands. O11-203

-Why are the following issues of CDFW and its MOU partners- Bay Foundation, oversight and Playa Capital LLC influence, not addressed or discussed in the
DEIR/S? The DEIR/S instead paints a skewed and biased broad brush stroke opinion of how CDFW and its MOU partners have provided positive oversight of the Ballona Wetlands O11-204

Ecological Reserve. The public and decision makers cannot make an informed decision making based upon the DEIR/S's CHERRY PICKED information that leaves out
the history of Ballona under the stewardship of CDFW and leaves out the problems of failures in Playa Vista's flood control system (including that owned by the public in the Reserve)
that have negatively impacted BAllona Wetlands and will continue to impact the Reserve. O11-205

The following is a portion of the Notice of Violation of Fish & Game Code Section 1602:

Please respond to the following queries contained within the powerpoint

Present doc history, including:

-Why was the process not allowed to continue as cited in the document below?
The public was systematically excluded from the process of participation in the restoration of Ballona. O11-206

-The DEIR/S FAILS to inform the reader that the Science Advisory Team was contracted
for a singular outcome that was to promote saltwater intrusion thereby, arbitrarily and without public knowledge, foregoing needs
of maintenance of Ballona' s freshwaters and flora and fauna dependent upon the seasonal freshwater system including rare and
endangered plants and animals. O11-207

-Why does the DEIR/S fail to provide the public and decision makers with knowledge of key and critical language changes that
occurred arbitrarily and without the public's approval or knowledge. The documents within this powerpoint were retrieved by GC via
the Public Record Act. Had a meaningful 'working relationship' existed with the public, as promised, there would have been no need to utilize
the Public Record Act in an attempt to figure out what was going on and learn that these critical changes were being made —behind closed doors.
-The DEIR/S is deficient because the public and decision makers cannot make informed decisions without knowing what has been ongoing and what has
created the changes that have led to the current DEIR/S alternatives including why a true restoration based upon Ballona's freshwater history, has been
extricated from the field of options. O11-208

Since the 2013 timeframe, the Bay Foundation and CDFW have put forth language that appears to be an attempt to extirpate any engagement of the Santa Monica Bay Restoration Commission while simultaneously stating that the tasks of SMBRCommission are instead, inexplicably—the private business Bay Foundation whose
leadership and founder are Playa Capital LLC contractors and employees. O11-209

All of this needs explanation for transparency purposes within the DEIR/S as the very WRDA process that has now engaged USACE is based upon SMBRCommission
having engaged them via the Santa Monica Bay Restoration Authority= the Santa Monica Bay Restoration Commission partnership with LA County Flood Control District. (See WRDA hearing and Luce comments on youtube) O11-210

Therefore, the DEIR/S is deficient unless and until these issues are made transparent to the public and define why a private business which has, at least a very high appearance of conflicted interests with the Playa Vista development site are explained and shown to be legally without conflict of interest. O11-211

See the next email for continuing response from Grassroots Coalition ,
Patricia McPherson, Grassroots Coalition

GOALS/ PRINCIPLES—2004 Memo Coastal Conservancy / California Department Fish & Game

Goals/Principles

The restoration plan will be based on the best science, incorporate technical scientific expertise, and will be developed through a transparent planning process that allows stakeholders to provide input and comment on all restoration planning products. The restoration planning process will develop and analyze a range of alternatives to implement the following project goals:

* Restore and enhance a mix of wetland habitats to benefit endangered and threatened species as well as other migratory and resident species;
* Provide for wildlife-oriented public access and recreation opportunities; and
* Implement a technically feasible, cost-effective, ecologically beneficial and sustainable restoration.

1330 Broadway, 11th Floor
Oakland, California 94612-2530
510-286-1015 Fax: 510-286-0470
alifornia State Coastal Conservancy

.....developed through a transparent planning process that allows stakeholders to provide input and analyze a range of alternatives to ...

O11-212

- Restore and enhance a mix of wetland habitats to benefit endangered and threatened species as well as other migratory and resident species;

NOTE: THERE IS NO ESTUARINE GOAL HERE, Instead this follows the USACE GOALS OF THE 2005 JOINT EIR/EIS which requires an ITERATIVE process and ALL REASONABLE ALTERNATIVES reviewed.

O11-213

Groundwater hydrology studies have not been done and no historically relevant freshwater alternative has been explored or shared with the public.

O11-214

- Provide for wildlife-oriented public access and recreation opportunities;

NOTE: Recreation & access are set within the context of wildlife-oriented, nothing else.

O11-215

* Implement a technically feasible, cost-effective, ecologically beneficial and sustainable restoration.

NOTE: The State's Plan is not cost effective but has spent all of the public's $25 million and expectations are for $100 million plus for construction and future maintenance and dredging costs –thus it is not self-sustaining AND THE BULLDOZING AND FILLING OF ALL BALLONA IS NOT ECOLOGICALLY BENEFICIAL.

O11-216

From: "_1_Saviskas, Robert" <rsaviskas@lawestvector.org>
Date: Tuesday, November 22, 2016 5:00 PM
To: "'Marc Huffman'" <Marc.Huffman@brookfieldrp.com>
Cc: "_8_McAllister, George" <gmcallister@lawestvector.org>; <Chau.Victoria@Wildlife.ca.gov>; "'Edith Read'" <marshmistress@msn.com>; "Chris Ball" <Chris.Ball@brookfieldrp.com>; "Calvo, Lucinda@SLC" <Lucinda.Calvo@slc.ca.gov>; <'catherine.a.tyrrell@gmail.com'>; <'Debbie.dynerharris@lacity.org'>; <'richard.brody@wildlife.ca.gov'>; <'Pamela.Griggs@slc.ca.gov'>; "Wilson, Erinn@Wildlife" <Erinn.Wilson@wildlife.ca.gov>; <christine_medak@fws.gov>
Subject: RE: Violation of the H & S Codes and Directives by the District to the Ballona Wetlands Conservancy (BWC)

One of the problems we have with your operation for over the past year is that no one seems to be in charge or publicly willing to take responsibility for your work crews actions. It has been seen on numerous occasions that your work staff begins to perform unapproved work and continues until someone happens to catch up them in their unapproved work. This is reflected in your statement below when you said, "We inspected the corridor this morning and noticed the crew was proceeding to create channels in the corridor and clearances from the shoreline, which we knew was contrary to our prior discussions."

It is clear to the District, for some time now, that someone is either directing your staff to proceed with work that is contrary to our directives and the Health & Safety Codes, until they get caught, or that there is no or insufficient management of these crews. The third possibility is that your staff members are acting independently against your wishes and our directive in an insubordination manner. That would be an individual misdemeanor criminal act by each of the workers for prosecution. If that is the case, we would need you to provide the District with their names for prosecution. Your staff needs to be informed that if one of our staff directs them to stop or start any particular maintenance work, they are to comply forthwith.

The District is requesting the names and line of authority of the Playa Vista Marsh and Riparian Corridor management responsibility under the BWC and any other corporate or legal entity that now exist that are involved. This has line of authority and legal responsibility has been vague and needs to be defined.

I am not available until Tuesday 11-29-16. And will not schedule a meeting before then until the above information is provided to me.

Beginning tomorrow, you are directed to cut all reeds and vegetation to the ground without any channels or stands as designated in the week inspection report.

O11-217

Robert Saviskas M.S., R.E.H.S.
Executive Director
Los Angeles County West Vector
& Vector-Borne Disease Control District
6750 Centinela Avenue
Culver City, CA 90230
Ph.: (310) 915-7370 x 223
Email: rsaviskas@lawestvector.org

State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director

September 7, 2016

Ballona Wetlands Conservancy
Attn: Mr. Marc Huffman
Executive Director
12045 E. Waterfront Drive, Suite 400
Playa Vista, CA 900094
Marc.Huffman@brookfieldrp.com

Subject: Notice of Violation of Fish and Game Code Section 1602

Dear Mr. Huffman:

On August 22, 2016, Department of Fish and Wildlife (Department) Environmental Scientist Victoria Chau, Taylor Van Berkum, and Wildlife Officer Warden James Nguyen visited the property at Ballona Freshwater Marsh located southwest of West Jefferson Boulevard and Lincoln Boulevard, Playa Del Rey, County of Los Angeles (Figure 1). This site can be located at Latitude 33° 58' 14" North, Longitude -118° 25' 51" West. During the visit, Ms. Chau and Mr. Van Berkum entered the property from West Jefferson Boulevard and immediately observed an aquatic weed harvester (aquatic vegetation removal equipment) from Aquatic Environments, Inc. next to large areas of recently cut cattail vegetation (Figure 2 and 3). As they continued walking around the southwest boundary of the marsh, they observed an approximately 15-foot-wide path of cut vegetation at the edge of the wetted areas that extends around the perimeter of the marsh. A second aquatic vegetation removal equipment (aquamog) was observed in the middle of the marsh (Figure4).

On June 21, 2016, a Ridgway's rail (*Rallus obsoletus levipes*) was observed at Ballona Freshwater Marsh and reported on eBird (Figure 5; http://ebird.org/ebird/view/checklist/S30331635). Ridgway's rail (also known as light-footed clapper rail) is a designated as State and federally endangered and State fully protected species pursuant to Fish and Game Code section 3511, in which take of any fully protected species is prohibited and cannot be authorized by the Department.

On September 3, 2016, the Department discovered that Teal Trail had been modified impacting riparian vegetation. The trail improvements have impacted riparian vegetation, including mulefat scrub, willow riparian, and sycamores and cottonwood trees. The area has been known to support least Bell's vireo. The impacts include earthwork, depositing fill into a stream, and burying riparian vegetation.

Fish and Game Code section 1602 requires a person to notify the Department before
1) substantially diverting or obstructing the natural flow of a river, stream, or lake;
2) substantially changing the bed, channel, or bank of a river, stream, or lake;
3) using any material from the bed, channel, or bank of a river, stream, or lake; and/or 4) depositing or disposing of debris, waste, material containing crumbled, flaked, or ground pavement where it may pass into a river, stream, or lake.

O11-218

Conserving California's Wildlife Since 1870

What happened to this process?

Documents obtained through Public Record Act requests and Freedom of Information Act requests reveal the eradication of this process as the predetermined- estuarine plan- destroyed any iterative process for true alternative options- such as historically oriented freshwater models.

O11-219

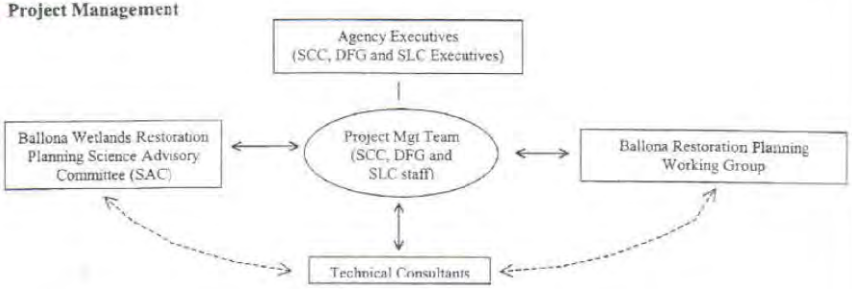
Eg. The SAC team was contracted to fulfill the goal of estuarine planning. The SAC team meetings were primarily telephonic and minutes of meetings gotten via PRAs reveal the restrictions imposed by the Coastal Conservancy and SMBRC 'STAFF' to extend the Santa Monica Bay inland.

O11-220

Ballona Restoration Planning Working Group: Stakeholder Committee and Public Involvement (BRPWG) made up of interested organizations, agencies, and individuals, will meet periodically to obtain project status updates, to provide input, and to support the restoration planning process. These meetings will be open to the public. Subcommittees may be established to address specific issues that may arise during planning.

O11-221

Project Management



The principal state agencies, the State Coastal Conservancy (SCC) and Department of Fish and Game (DFG) will work together to develop a restoration plan for the Ballona Wetlands. The two principal state agencies will cooperate with the State Lands Commission (SLC), the current owners of a portion of the Ballona Wetlands, including the recently constructed Freshwater Marsh. All the cooperating state agencies will actively encourage and plan for the participation of interested stakeholders, agency representatives, technical and scientific experts, and members of the general public.

Decisions about the restoration plan will be based on the best available science, with input from technical scientific experts, stakeholders and the public. Each state agency involved in the planning process will respect the right and discretion of its own decision-making body and will work cooperatively to resolve planning, funding, or other issues as they arise. A project management team consisting of staff from SCC, DFG, and SLC will meet regularly to provide updates on the restoration planning.

The SCC will develop and manage the workplan, budget, and schedule for restoration planning. The SCC will provide funding for the planning effort, which is estimated to take about three years. The SCC will manage funds made available to or by SCC for restoration planning, hire and manage contractors, and ensure availability of its project management staff to oversee day-to-day project management.

DFG, as the landowner, will be the applicant for any permits needed for the restoration project and the lead agency for purposes of CEQA. DFG and, to the extent its lands are proposed for restoration, SLC, will have final discretionary authority and approval of the environmental document, with respect to their respective ownerships, prepared for the restoration planning and construction.

Ballona Restoration Planning Working Group: Stakeholder Committee and Public Involvement

A Ballona Restoration Planning Working Group (BRPWG) made up of interested organizations, agencies, and individuals, will meet periodically to obtain project status updates, to provide input, and to support the restoration planning process. These meetings will be open to the public. Subcommittees may be established to address specific issues that may arise during planning.

Restoration Planning Approach- Ballona Wetlands p.2

O11-222

O11-225

O11-223

MEMORANDUM OF UNDERSTANDING

among the

CALIFORNIA DEPARTMENT OF FISH AND GAME

and the

STATE COASTAL CONSERVANCY

and the

STATE LANDS COMMISSION

regarding

RESTORATION PLANNING FOR THE BALLONA WETLANDS

This Memorandum of Understanding (MOU) by and between the California Department of Fish and Game, hereinafter called the "Department", the State Lands Commission, hereinafter called "SLC", and the State Coastal Conservancy, hereinafter called "SCC," is for the purpose of defining the partnership of these agencies in restoration planning for the Ballona Wetlands Ecological Reserve (BWER).

WHEREAS, the Ballona Wetland Restoration plan is being developed for all of the lands owned by the State of California as shown on the attached map, a total of approximately 607 acres, including the 547 acres, parcels "A," "B," and "C", under the jurisdiction of the Department and the approximately 60 acres under the jurisdiction of the SLC (36 acres within the Freshwater Marsh and 24 acres in the Expanded Wetlands Parcel); and

WHEREAS, Section 1580 of the Fish and Game Code states that the policy of the State of California is to protect threatened or endangered native plants, wildlife, or aquatic organisms or specialized habitat types, both terrestrial and nonmarine aquatic, or large heterogeneous natural gene pools through the establishment of ecological reserves; and

WHEREAS, the SLC was established in 1938 with authority detailed in Division 6 of the California Public Resources Code; and holds the Freshwater Marsh and Expanded Wetlands Parcel as real property of the legal character of tidelands and submerged lands subject to the Public Trust Doctrine; and,

WHEREAS, the SLC leased the Expanded Wetlands Parcel to the Department

O11-224

2004 Memo-GOAL:
"1.Restore and enhance a mix of wetland habitats to benefit endangered and threatened species as well as other migratory and resident species."
Ballona is predominantly a seasonal freshwater wetlands closed off to the Santa Monica Bay. Ballona is the rarest type of remaining coastal wetlands having numerous rare, endangered and imperiled species."

MOU 2008
CDFG; SCC;
SLC
The SWITCH
to ESTUARINE
from an
historically
relevant
restoration.

The acreage cited herein is approximately 607 acres inclusive of Areas A, B, C under the jurisdiction of the Dept. of Fish and Game and;
State Lands Commission jurisdiction over the freshwater marsh and the Expanded Wetlands Parcel.
THE BALLONA CHANNEL IS NOT PART OF THE BWER Legal acreage.
The Channel is under USACE and Los Angeles County Flood Control.

O11-227

effective July 1, 2005, for a period of 49 years, and the Expanded Wetlands Parcel is part of the BWER; and,

WHEREAS, the Freshwater Marsh is managed by the Ballona Wetlands Conservancy under a Conservation Easement and is subject to numerous deed restrictions that mandate its use as a freshwater marsh in perpetuity, and, although it is not part of the BWER, there may be opportunities to incorporate it into the Project; and,

WHEREAS, it is the SCC's mission to act with others to preserve, protect and restore the resources of the California coast and the San Francisco Bay Area; and,

WHEREAS, the Department, SLC and SCC have previously concurred in a planning approach for the Project embodied in the memo dated August 13, 2004, and

WHEREAS, the Department, SLC and SCC wish to now formally reaffirm this planning approach,

NOW THEREFORE, the Department, SLC and SCC agree as follows:

I. PURPOSE

The Ballona Wetland Restoration Project ("the Project") will develop project alternatives, conduct environmental review, obtain permits, and complete planning for the restoration of all the state-owned properties. The purpose of this comprehensive planning approach is to increase the efficiency of the planning, environmental review and permitting processes resulting in a superior restoration plan.

II. GOALS AND PRINCIPLES

The purpose of the restoration plan will be to implement the Project goals:

1. Restore, enhance, and create estuarine habitat and processes in the Ballona Ecosystem to support a natural range of habitat and functions, especially as related to estuarine dependent plants and animals.;
2. Create opportunities for aesthetic, cultural, recreation, research and educational use of the Ballona Ecosystem that are compatible with the environmentally sensitive resources of the area.

The restoration plan will be based on the best available science, incorporate technical scientific expertise, and will be developed through a public planning process that allows stakeholders to provide input and comment on restoration planning.

May 19, 2008 Page 2 of 4

O11-228

THE SWITCH- Inconsistent With 2004 Memo & PUBLIC BOND APPROVALS
II. GOALS AND PRINCIPLES
1. Restore, enhance, and create estuarine habitat and processes in the Ballona Ecosystem to support a natural range of habitat and functions, especially as related to estuarine dependent plants and animals.;

O11-226

O11-229

O11-230

MEMORANDUM OF UNDERSTANDING

among the

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

and the

STATE COASTAL CONSERVANCY

and the

SANTA MONICA BAY RESTORATION COMMISSION

and

THE ANNENBERG FOUNDATION

regarding

RESTORATION PLANNING FOR THE BALLONA WETLANDS

This Memorandum of Understanding ("MOU") is by and between the California Department of Fish and Wildlife, hereinafter called the "Department," the State Coastal Conservancy, hereinafter called "SCC," the Santa Monica Bay Restoration Commission, hereinafter called "SMBRC," and The Annenberg Foundation, hereinafter called the "Foundation." The Department, SCC, SMBRC, and Foundation are collectively the "Parties." The Department, SCC, and SMBRC are collectively the "Public Agencies." This MOU is for the purpose of defining the objectives and planning processes for the collaborative development of an innovative public/private partnership to facilitate the possible creation of an interpretive center and related public access amenities that would greatly improve the benefit to the public of the proposed restoration of the Ballona Wetlands Ecological Reserve ("BWER"). One goal of the Parties is that this collaboration could serve as a model for similar joint efforts that are intended to facilitate the implementation of public projects while incorporating philanthropic partners and community programs. This MOU memorializes the Parties' understanding concerning their expectations, goals, and objectives related to the BWER, and as such, is not intended to create any legal obligation between or among any of the Parties.

WHEREAS, Section 1580 of the Fish and Game Code states that the policy of the State of California is to protect threatened or endangered native plants, wildlife, or aquatic organisms or specialized habitat types, both terrestrial and nonmarine aquatic, or large heterogeneous natural gene pools through the establishment of ecological reserves; and

WHEREAS, the Department, SCC, SMBRC, and the State Lands Commission ("SLC") are undertaking the Ballona Wetland restoration project (the "Restoration Project") for lands owned by the State of California adjacent to Ballona Creek near the Santa Monica Bay, a total of approximately 571 acres that include the 547 acres, parcels "A," "B," and "C," under the fee title ownership of the Department and the approximately 24 acres under the fee title ownership of SLC; and

WHEREAS, the Department, SCC and SLC have previously agreed to a planning approach for the Restoration Project set forth in those certain memoranda dated August 13, 2004, and May 19, 2008 for the purpose of developing project alternatives, conducting environmental review, obtaining permits, and completing planning for the restoration of all the state-owned properties, including Area C; and

WHEREAS, the Foundation is a non-profit, charitable organization that exists to advance the public well-being through improved communication and by creating opportunities and experiences that enhance quality of life, and

WHEREAS, the Foundation supports the goals and objectives of the entire 571 acre Restoration Project and desires to construct and operate interpretive facilities within a portion of Area C comprising approximately fifteen to twenty (15-20) acres (the "Ballona Interpretive Center") as well as provide funding for a uniform and consistent design related to the Restoration Project and more specifically to certain areas surrounding the Ballona Interpretive Center in furtherance of the conservation, restoration, educational and recreational uses on the BWER.

NOW THEREFORE, the Department, SCC, SMBRC, and the Foundation agree as follows:

I. GOALS AND PRINCIPLES

The Parties agree that the Ballona Interpretive Center furthers the goals and objectives of the Restoration Project and could serve as a model for future public private philanthropic partnerships. The Parties agree to work together to evaluate the feasibility of locating the Ballona Interpretive Center within Area C. The goal of the Ballona Interpretive Center is to promote respect, appreciation and stewardship among people, animals and all natural ecosystems, including the wildlife that lives within BWER and Santa Monica Bay. This goal furthers the restoration and enhancement of BWER by creating opportunities for aesthetic, cultural, recreation, conservation, research, and educational use of BWER that are compatible with the environmentally sensitive resources of the area and Department regulations and policies.

The Foundation is willing to design, construct, maintain, and operate the Ballona Interpretive Center and supporting infrastructure which could include such items as restrooms, interpretive elements, recreation elements, and landscape elements. The Foundation intends to plan and design the area surrounding the Ballona Interpretive Center as an integrated element of the Restoration Project.

The Foundation's objective is to start construction of the Ballona Interpretive Center in 2014. The Parties agree that the Ballona Interpretive Center may be planned, designed, and permitted to proceed in a phased approach that would enable its construction to commence prior to the restoration work on Areas A, B, as well as the balance of Area C.

January 2013

MOU

Annenberg Foundation is added/ CDFW/ SCC/ SMBRC

No State Lands Comm. ???

WHEREAS Section 1580 of the Fish and Game Code states that the policy of the State of California is to protect threatened or endangered native plants, wildlife, or aquatic organisms or specialized habitat types, both terrestrial and nonmarine aquatic, or large hetrerogenous natural gene pools through the establishment of ecological reserves; and…

1580 disallows the Annenberg Project

WHEREAS, the Department, SCC and SLC have previously agreed to a planning approach for the Restoration Project set forth in those certain memoranda dated August 13, 2004,.. (& inconsistent SWITCHED MOU GOAL of 2008)… for the purpose of developing project alternatives, conducting environmental review, obtaining permits, and completing planning for the restoration of all the state-owned properties, including Area C; and…

The STATE COASTAL CONSERVANCY contracts The SOUTHERN CALIFORNIA COASTAL WATER RESEARCH PROJECT (SCCWRP) to subcontract a Science Advisory Committee (SAC) -for both to adhere to a Preferred Goal of Saltwater influenced wetland.

O11-231

Thus, the GOAL of ESTAURINE restoration is pre-ordained and no meaningful alternative analysis is performed.

SOUTHERN CALIFORNIA COASTAL WATER RESEARCH PROJECT
7171 FENWICK LANE WESTMINSTER, CA 92683-5218
714-894-2222 FAX 714-894-9699

April 29, 2005

Dear Dr. :

Thank you for agreeing to participate on the Science Advisory Committee (SAC) for the Ballona Wetlands Restoration Project. This project is one of the most important restoration projects in Southern California and we appreciate your assistance in developing the long-term plan for the property. We have assembled a very impressive group of scientists to serve of this committee, and the process promises to be challenging and exciting. The SAC will be co-chaired by Eric Stein of the Southern California Coastal Water Research Project (SCCWRP) and Richard Ambrose of UCLA. A full list of the committee members is provided in the attached materials.

The Conservancy and its project partners are committed to developing a restoration plan for the Ballona Wetlands based on the best available science. The SAC will help achieve this objective by reviewing scientific issues related to restoration approach, design and monitoring. The SAC will contribute to the development and analysis of the preferred restoration alternative. We anticipate that the SAC will meet seven to ten times over the next three years, until the restoration and monitoring plan is complete.

O11-232

The Ballona Wetlands SAC will act as a sub-committee of the Southern California Wetlands Recovery Project Science Advisory Panel (SAP). In this capacity activities of the Ballona Wetlands SAC will be distinct from the overall SAP activities, but will be closely coordinated with the SAP's ongoing efforts to develop a regional wetlands monitoring and assessment program. This coordination will occur via the numerous individuals who serve on both the SAC and the SAP.

Schedule and Time Commitment

We realize that you are all very busy and that some members are located far away from the Ballona Wetlands. However, we want to encourage all of you to participate in this process in a meaningful way. If individuals can not attend in person, there will be opportunities to join meetings via conference phone or provide written comments. In addition to the meetings of the full SAC, we may ask individual members to provide input on specific issues depending on their expertise. The SAC may also elect to recruit individuals for technical input on specific elements of the project.

The proposed schedule for the first year of the project is outlined below.

Meeting #1: Initial Meeting with Tech Consultants and Working Group (may including site tour) Review of proposed consultant scope of work	May-June
Meeting #2: Data Needs Analysis and Data Collection Recommendations Review data report and recommendations	September '05
Meeting #3: Restoration Approach Comment on proposed approach to restoration design	October '05
Meeting #4: Preliminary Alternatives Review conceptual alternatives	January '06

Compensation

The Conservancy has approved a grant to the SCCWRP to pay for costs associated with the SAC. These funds will be used to fund administration and support of the SAC, and to reimburse SAC members for their time and travel costs. In addition, some funding will be available to bring additional expertise to the SAC if needed. SCCWRP will manage the SAC sub-contracting and administration elements of this effort. , including reimbursement for you time and expenses.

We expect Committee members to allocate 6 hrs to attend each meeting plus an additional 4 hours per meeting to review material. We propose to reimburse scientists for their participation based on their current billing rate, up to a maximum of $125/hr. For those scientists who do not have a current billing rate, we propose either a flat fee of $1,000per meeting (include prep time) or $100/hr. We may also request and compensate individuals on a hourly basis for additional review time on specific issues that may be identified by the Project Management Team or the SAC.

In addition to compensation for your time, SCCWRP will compensate members for the actual cost of their travel. Rates for travel reimbursement must comply with the state's grant guidelines, which are included as an attachment to this letter.

Next Steps

Individual members will need to enter into working agreements with SCCWRP in order to be compensated for their participation. A draft agreement is included for your review, if this is acceptable please sign it and return it to SCCWRP. Again, thank you for agreeing to serve on the Ballona Wetlands SAC and we look forward to working with you on this project.

Sincerely,

Eric D. Stein, D.Env.
Co-chair

Richard F. Ambrose, Ph.D.
Co-chair

O11-232 cont.

In 2004, an SCC grant is awarded to the BAY FOUNDATION for studies on Ballona. In early 2006, this grant is amended to include an "unanticipated" study– HydraulicsModeling of the watershed flowing into the Channel and the preferred alternative, the end of pipe catch basin project.

O11-232 cont.

Timeline:

2004- Memo August 13, that all later MOUs and SCC grants cite for adherence and consistency. This premise, reinforced via Deed restrictions, Public Resource Codes, California Fish & Game Codes and bond language was drastically altered and switched. While all later MOUs and grants continued to claim consistency with the 2004 Memo and attendant Codes and Deeds, a new goal was quietly inserted that provided for the singular outcome of creating a totally different habitat – a saltwater/ estuarine catchbasin.

From the initial premise of:

" Restoration planning is expected to take three years and cost up to two million dollars." 2004 MOU

Instead, the new and not disclosed Estuarine goal, was cause for the 2006 amended grant of 2004. The SCC 2006 amended grant provided more funding for what was labeled as "unanticipated Hydraulic Modeling". The Hydraullic Modeling became the Grading Plan of the demise of Ballona via dredging, bulldozing and surcharging over almost the entirety of the Reserve. This Plan gave rise to the need of securing a 408 USACE Permit for the removal of the existing Ballona Channel levees and placement of new earthen levees on the perimeter of Ballona. (May 2012 Application)

O11-233

A 404 Clean Water Act Permit authorization by the USACE for dredging and filling of Ballona was also applied for by CDFG in 2010. Both require flood control Water Resource Development Act (WRDA) funding for Permit review by the USACE and approval by the County Board of Supervisors for WRDA use. In Cecember of 2013, Ballona was approved for placement on a WRDA Priority Listing. However, the Ballona Project must come back for approval prior to any WRDA funding usage.

O11-234

Ballona costs taxpayers $140 million, most of which is from Wildlife Conservation bond funds. The State of California acquired the 640 plus acres, dedicating the public land as the Ballona Wetlands Ecological Reserve to protect its ecologically sensitive species. Proposition 12 bond funds provided $25 million – $10 million was spent as part of the acquisition fees.

The acreage does not encompass the Ballona Channel (80 + acres) whose jurisdiction is under USACE and LA County Public Works- Flood Control.

O11-235

2005- SCC contracts the Southern California Wetlands Recovery Project Science Advisory Panel (SAP) for oversight of Estuarine Plan and to subcontract a Science Advisory Committee (SAC) to provide for an Estuarine Goal. Numerous SAP and SAC members overlap. The public became shut out of the planning process. (April 2005)

O11-236

Meanwhile, in 2005, the Santa Monica Bay Restoration Commission (SMBRC) becomes the Sponsor to the USACE in a Joint EIR/S process having engaged with USACE during the Feasibility Study for restoration of the Lower Ballona Channel Watershed. Ballona was to to be part of an iterative process of including all reasonable alternatives for its restoration set within the broader context of the historic Ballona Wetlands-inclusive of Marina del Rey, Del Rey Lagoon, Ballona Lagoon and the Ballona Channel. The latter sites, already estuarine habitats. SCC and SMBRC engage with USACE which ends in a collapsed contractual agreement with SMBRC having not provided neither money nor the in kind contribution necessary. No close out reports for state and/or federal money spent has since been provided—though requested via Freedom of Information Act requests and Public Record Act requests.

Meanwhile, just prior to the USACE Noticed end of the 2005-12 Joint EIR/S, a NEW JOINT EIR/S is Noticed by USACE and announced

O11-237

as the EIR that is finally just underway. However, thus far, no sponsor is known for the Joint EIR/S to be taking place.

2005- Dec. SCC grant to the Santa Monica Bay Restoration FOUNDATION. The SMBRFOUNDATION is a private non-profit.
"This authorization would provide funding to advance the efforts of the SMBRFoundation(Foundation) to improve the health of the Santa Monica Bay by helping to restore the former Ballona Wetlands and to implement the Santa Monica Bay Plan."
The improvement of the health of the Santa Monica Bay appears to trump Ballona's historic ecosystem welfare. The historic nature of Ballona but, for thousands of years ago, has been predominantly a freshwater, seasonal wetland that was closed to the Bay but for large winter/spring storm events.

2006- The 2004 SCC grant is amended to provide funding for the "unanticipated hydraulic modeling."

2008- MOU language for Goal is switched to Estuarine.

2010- Feb.SCC Request for Services- Ballona Wetlands Ecological Reserve Hydrology and Engineering Design Analysis and Permit Assistance. Technical studies, evaluations, and designs will be of sufficient detail to support completion of a project level EIR/S and preparation and processing of a Section 408 permit thought the USACE. DEADLINE FEB. 2012.

2012-

Goal. We believe that the money paid for work already done per the 2010 Request for Services, even though the grant claimed new work was to be done as the same Request of 2010 was utilized per the 2012 Jan. approval.

2012 Joint EIR/S ends and begins anew.

2013 MOU

O11-237 cont.

Comment Letter O11

From: patricia mc pherson [mailto:patriciamcpherson1@verizon.net]
Sent: Friday, February 02, 2018 2:25 PM
To: Wildlife Ballona Wetlands Ecological Reserve EIR < BWERcomments@wildlife.ca.gov>; Cespl Rogers, Bonnie L CIV USARMY <bonnie.l.rogers@usace.army.mil>
Cc: Todd Cardiff <todd@tcardifflaw.com>; Jeanette Vosburg <Jeanette@saveballona.org>
Subject: Ballona Wetlands DEIR/S Response (Section C 1) Grassroots Coalition

GRASSROOTS COALITION
ENVIRONMENTAL INTEGRITY & PUBLIC POLICY

The Grassroots Coalition Response to the Draft EIR/S for the Ballona Wetlands Ecological Reserve

Section C -1

The DEIR/S is deficient due to its lack of address of CDFW oversight engagement of its LAND MANAGER of Ballona Wetlands-Mr. Brody having direct ties as a Board Member (which is NOT acknowledged in IRS documents of the Ballona Conservancy) of a Playa Vista business which provides, at the very least, an appearance of conflict of interest, bias hence the DEIR/S is compromised in its integrity as an honest informational document. The email between Mr. Brody/CDFW and Marc Huffman/Playa Capital LLC/ Brookfield reveals the Playa Vista/ CDFW intimate relationship within the private business known as the **Ballona Conservancy.** Playa Capital LLC created and has used the Ballona Conservancy for its control of the riparian corridor area and the catch-basin portion and main drain to the Ballona Channel as its flood control system. Hence, **questions of gifting of public funds to Playa Vista are still unaddressed and unanswered in the DEIR/S as well for allowing public land to be used for private purposes.** CDFW/ Brody have been included in citation letters from Vector Control for failure to safely maintain the flood control system from heavy mosquito population over many years. The flood control system has since had required maintenance changes assigned to it by Vector Control, to which **neither USACE or CDFW have included in the DEIR/S that would provide the public with any knowledge of the problems of oversight, maintenance and ability to function safely that have occurred and may affect the flood control system's function and Ballona Wetlands, in perpetuity.**

O11-238

O11-239

2016 email correspondence between Marc Huffman of Playa Vista and Richard Brody / CDFW is as follows and was retrieved via a Public Record Act request.

O11-240

---------- Forwarded message ----------
From: Marc Huffman <Marc.Huffman@brookfieldrp.com>
To: "Brody, Richard@Wildlife" <Richard.Brody@wildlife.ca.gov>
Cc:
Date: Fri, 22 Jul 2016 23:10:27 +0000
Subject: RE: Mosquito Breeding - Second Notice of Intent to Issue a Public Health & Safety Nuisance Notice of Violation

You have voting authority. Every year we have voted to approve a budget, maybe a couple of other items. That's pretty much all we've done as a board.

Yes we carry liability insurance with director and officer's coverage.

Marc Huffman
Vice President of Planning & Entitlements

Brookfield Residential
12045 Waterfront Drive Suite 400, Playa Vista, CA. 90094
D: 310.448.4629 **C:** 310.968.5233 **F:** 714.338.8229
Marc.Huffman@brookfieldrp.com
www.BrookfieldSoCal.com
Valued Team Member since 2012

Brookfield Residential | *The Best Places to Call Home*

From: Brody, Richard@Wildlife [mailto:Richard.Brody@wildlife.ca.gov]
Sent: Friday, July 22, 2016 4:05 PM
To: Marc Huffman
Subject: RE: Mosquito Breeding - Second Notice of Intent to Issue a Public Health & Safety Nuisance Notice of Violation

Hi Marc,

Couple questions:

1. Am I on the board in strictly an advisory capacity only or do I have voting authority? I can't remember if I have voted before or not.
2. Does your Conservancy carry general liability insurance to protect its board members in the case of this sort of law suit?

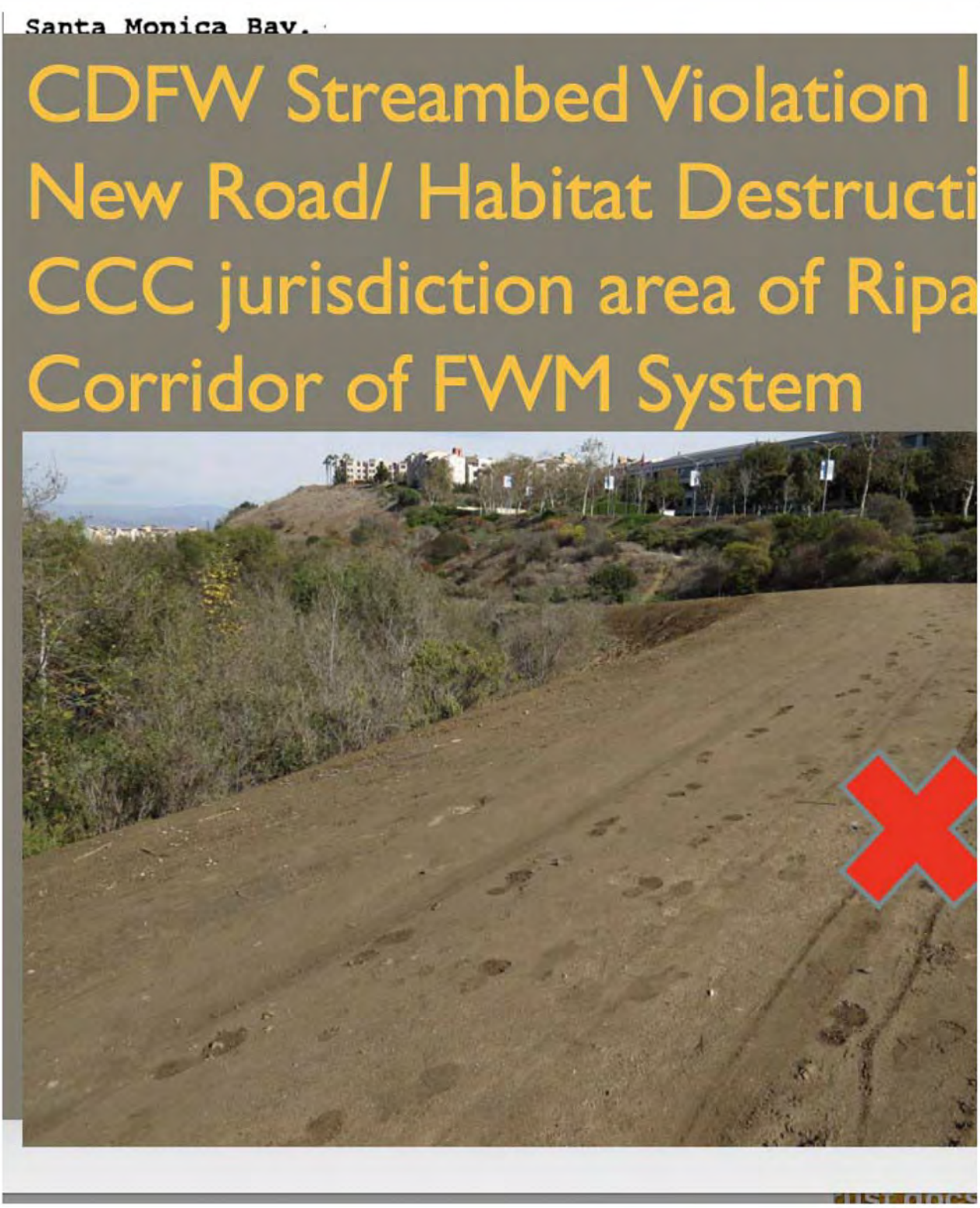
Thanks,

Brody

O11-240 cont.

The Playa Vista site/Ballona Conservancy has also been recently cited by CDFW in a STreambed Violation Citation due to violations of bulldozing, and road
creation etc. in areas of Ballona Wetlands that are home and host to endangered species. Hence, Richard Brody, as a board member is also
implicated for participation in such habitat degradation aspects alongside Playa Capital LLC and Brookfield. The City of Los Angeles' Building & Safety Department has also stated that the roadway created was done without any city permitting and as such was illegal. Hence, Richard Brody, as participatory in the Ballona Conservancy has also conflicted interests and compromised for his lack of integrity as the Land Manager for Ballona Wetlands and CDFW's protection of Ballona and its endangered species.

O11-241



O11-242

The private business'— the Bay Foundation's role in the creation of the DEIR/S is highly controversial due to its known ties to Playa Vista development.

O11-243

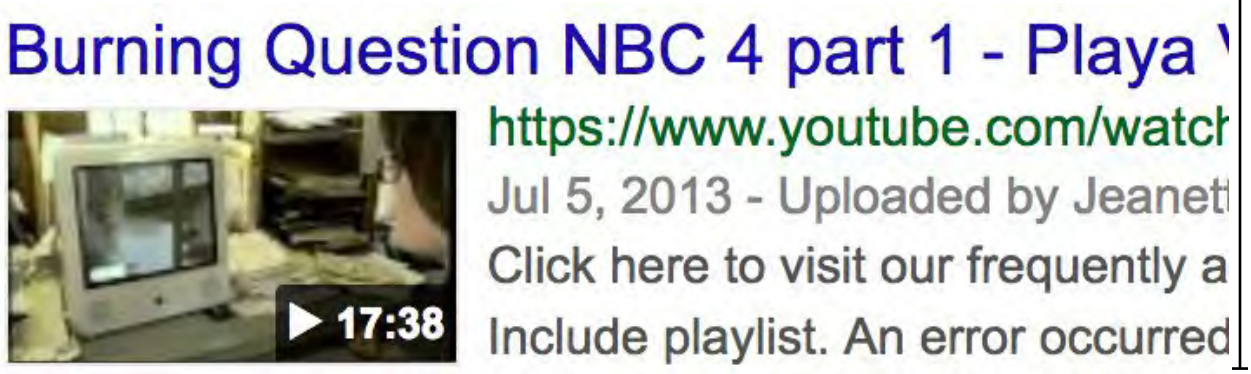
The founder of the Santa Monica Bay Restoration Foundation, Catherine Tyrrell, has been engaged professionally with Playa Vista owners for approximately 30 years. Ms. Tyrrell is also in a leadership position on Playa Vista's Ballona Conservancy. The ties of the Bay Foundation to
the State Coastal Conservancy(SCC) include board membership of SCC's BALLONA WETLANDS Project Manager, Mary Small. Therefore,
it becomes apparent that there is at least, the appearance of conflict of interest ongoing pertaining to the protection of the Playa Vista development project.

O11-243 cont.

Conflicted interests and prejudicial abuse of discretion affecting the alternatives and information contained and deliberately excluded in the DEIR/S is a very real concern and issue. As can be seen in the first **NBC's Peabody Award winning- Newstory** **BURNING QUESTIONS**, former California Public Utilities Commissioner, Loretta Lynch cites, on camera, that agency personnel were told to 'look the other way' on behalf of the Playa Vista development project which, at its onset was touted as the largest development project in the United States.

O11-244

https://www.youtube.com/watch?v=c4O6jI2y_m4



O11-245

US ARMY CORPS ENGAGEMENT for the DEIR/S/ Permit process. The Corps has been non responsive to public queries and requests for

O11-246

a public forum to address Ballona Wetlands issues of concern. Hence, the DEIR/ S is deficient in response to issues raised by the public and fails to include acknowledgement and discussion of the information supplied in the scoping documents by GC and others. The following emails to the USACE provide examples of public outreach to the Corps that had no response.

O11-247

Pertaining to the DEIR/S-Permitting via WRDA, GC continues to request the USACE respond to concerns raised about illegitimate engagement
of the USACE and the WRDA process due to the SMBRC unauthorized request by S. Luce, at the WRDA hearings before the LA County Board of Supervisors.
The following email of the County references that need for SMBRC engagement-

O11-248

What also needs explaining is why the Bay Foundation and CDFW have changed all their PR materials to apparently attempt to mislead the public into thinking the SMBRC was not part of the 20012-17 process and that instead, it has only been the Bay Foundation.

O11-249

The DEIR/S assignment of who has done what and who is partnered with who has not been established in the DEIR/S and therefore, needs to be fully addressed and explained to the public from whom they are taking the money to create the DEIR/S.

O11-250

From: Svensson, Joshua
Sent: Monday, October 28, 2013 7:46 AM
To: Sharp, Daniel B.
Subject: RE: Ballona Wetlands Restoration TRC
16

These agreements are still well in the future,
hammering out the framework in the next couple
see us moving forward. Some of these tasks wil
is the general order:

1. Submit 408 Application (DONE)

2. Enter into WRDA agreement with Corps
hearing)

3. Start reviewing EIR

4. Enter into MOA with SMBRC to accept i

a. I have been hesitant to "cash this ch
final. We've seen so many delays I wouldn't wa
without a way to spend it.

b. This agreement will likely specify the
but also may cover Ballona project - as far as
any formal agreement between SMBRC/FCD

5. Final plans, etc…

6. Securing funding

7. Permitting

O11-251

DEIR/S and Permitting information is deficient and therefore misleading pertaining to the Corps failure to include well completion reports from
the site and its adjacent environment. Ms. Martin/USACE, as part of the Recon. Study and/or Feasibility/2005-12 Joint EIR/S studies requested all
WELL COMPLETION REPORTS within a mile or so of the Ballona Project site. No WELL COMPLETION REPORTS were given to the Corps from the Playa Vista site according to a FOIA request for information. Numerous water wells exist on the Playa Vista site as can be seen in the attached document
below. However, NO WELL COMPLETION REPORTS exist for Playa Vista. The significance of WELL COMPLETION REPORTS is that these legally required reports for water wells, are compiled to
help determine aquifer levels. The Corps is well aware of the significance of determining aquifer levels for hydrologic evaluation however, the Corps has been negligent, at best, in requiring hydrology reports, including known dewatering well information from the adjacent site, Playa Vista.
-Why hasn't the Corps discussed the hydrology of the Ballona site as it is affected by the known dewatering of the Playa Vista site for both its gas mitigation systems and for use in the Playa Vista flood control system's catch-basin and as part of the decontamination of toxics being done under the LARWQCB'S CleanUp & Abatement Order 98-125.
-Why has the Army Corps of Engineers failed to include these issues in order for the public to make informed decisions per changing the
hydrology of the area from one of multiple underlying freshwater aquifers classified as potential drinking water, into a predominantly saltwater environment as proposed in Alts. 1-3?
-It appears that the Corps' lack of inclusion of the freshwater resources of Ballona Wetlands constitutes WILLFUL BLINDNESS alongside the same being done by CDFW.

O11-252

Please respond to the issues cited within the document attached above.

Patricia McPherson, Grassroots Coalition

22. It is alleged on information and belief that Defendants and each of them have delayed almost 3 years (June 12, 2013) since being initially informed by the Coastal Commission that the drains were unpermitted and needed to be removed.

23. Plaintiff has no financial interest at stake in this lawsuit.

24. Plaintiff has no speedy or adequate relief under the law in that pecuniary damages are not available and will not make them whole.

25. Plaintiff has brought this action within three years of discovery of the unpermitted nature of the drains. (Pub. Res. Code § 30805.5.)

26. Successful prosecution of this action will bring about significant benefits to the wetlands and the public entitling Plaintiff to Attorney's Fees under Code of Civil Procedure section 1021.5.

FIRST CAUSE OF ACTION
DECLARATORY RELIEF
(Grassroots Coalition v. All Defendants)

O11-253

27. Plaintiff re-alleges all previous paragraphs as if fully set forth herein.

28. In passing the Coastal Act, the Legislature declared : "That the California coastal zone is a distinct and valuable natural resource of vital and enduring interest to all the people and exists as a delicately balanced ecosystem." (Pub. Resources Code § 30001(a).)

29. The Legislature further declared that "it is necessary to protect the ecological balance of the coastal zone and prevent its deterioration and destruction." (Pub. Resources Code § 30001(c).)

30. The Coastal Act is to be interpreted strongly in favor of its resource protective mandate. (Pub. Res. Code § 30009.)

31. All public agencies shall comply with the provisions of the Coastal Act. (Pub. Res. Code § 30003.)

32. Development is defined very broadly under the Coastal Act:

> "Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).
>
> As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

(Pub. Res. Code § 30106.)

O11-253 cont.

33. The installation of drains and a drainage system within the Ballona Wetlands falls within the definition of "development." Removal of the drains would also be considered development under the Coastal Act.

34. It is alleged on information and belief that the drains were installed within an area that is historically considered state tide-lands and/or public trust lands. (Pub. Res. Code § 30519(b).)

35. The drains are installed in area considered "wetlands" under the California Coastal Act. (Pub. Res. Code § 30121.)

36. It is alleged on information and belief that the area impacted by the drains is environmentally sensitive habitat area (ESHA) within the meaning of the Coastal Act. (Pub. Res. Code § 30107.5.)

37. Defendants Playa Capital and Does 1-10 were required to seek and obtain a coastal development permit, prior to installing the drains. (Pub. Res. Code §§ 30519(b), 30600.)

38. Defendant California Department of Fish and Wildlife, upon discovery that the drains lacked a coastal development permit, were required to either seek an after-the-fact coastal development permit to maintain the drains, or a coastal development permit to remove the drains and excavate the drainage system.

39. Defendants, and each of them, have failed to apply and obtain a coastal development permit to install, maintain or remove the illegally installed drains and drainage system within Ballona Wetlands.

40. Defendants and each of them have been informed by the Coastal Commission to obtain the necessary coastal development permits.

41. Such failure to seek and obtain a coastal development permit constitutes a violation of the Coastal Act.

42. Plaintiff is entitled to declaratory that Defendants and each of them have violated the Coastal Act.

43. Plaintiff is entitled to equitable relief compelling Defendants and each of them to seek a coastal development permit to either remove or maintain the drains and drainage system. (Pub. Res. Code §§ 30803, 30804.)

O11-253 cont.

SECOND CAUSE OF ACTION
INJUNCTIVE RELIEF
(Grassroots Coalition v. California Department of Fish and Wildlife)

44. Plaintiff alleges all previous paragraphs as if full set forth herein.

45. Defendants actions, and each of them, continue to harm the plant life and wildlife in the Ballona Wetlands in that the drains and drainage system removes water from the wetlands.

46. Plaintiff alleges on information and belief that the drains not only drain water from protected wetlands, but also discharge water, untreated, directly into Ballona Creek in violation of City, State and Federal Law.

47. If not restrained, defendants will continue to drain precious water from the wetlands, and continue to discharge untreated water into Ballona Creek.

48. Plaintiff has no remedy at law in that pecuniary relief is unavailable to Plaintiff and such damages would be extremely difficult to ascertain.

49. The California Coastal Commission has requested that the California Department of Fish and Wildlife remove the drains or block, plug or otherwise prevent water from entering the drains to prevent further harm to the Ballona Wetlands.

50. It is alleged on information and belief that the California Department of Fish and Wildlife has not acted to block, plug or otherwise prevent water from entering the unpermitted drains.

51. A preliminary injunction must issue prohibiting the California Department of Fish and Wildlife from allowing water to enter the unpermitted drains and discharge into Ballona Creek during the pendency of this lawsuit

52. A permanent injunction must be issued, prohibiting the California Department of Fish and Wildlife from allowing water to enter the unpermitted drains and discharging into Ballona Creek until the California Coastal Commission issues a coastal development permit to either maintain or remove the unpermitted drains in the Ballona Wetlands.

O11-253 cont.

THIRD CAUSE OF ACTION
WRIT OF MANDAMUS
(Grassroots Coalition v. Charlton H. Bonham and California Department of Fish and Wildlife)

53. Plaintiff alleges and incorporates all previous paragraphs as if fully set forth herein.

54. Defendant California Department of Fish and Wildlife has a duty to comply with the Coastal Act. (Pub. Res. Code § 30003.)

55. Defendant Charlton H. Bonham has a duty as a director of CDFW to do all acts necessary to ensure that CDFW complies with the Coastal Act.

56. Upon discovery of the unpermitted nature of the drains in the Ballona Wetlands Ecological Reserve, on land owned and controlled by CDFW, Bonham and CDFW had a mandatory duty to seek a coastal development permit for an after-the-fact permit or removal of the unpermitted drains.

57. CDFW and Bonham have breach a mandatory duty enjoined by law by failing to seek a coastal development permit.

58. Plaintiff is beneficially interested in that the protection of the Ballona Wetlands is directly germane to its central purpose and mission.

59. Plaintiff has no plain, speedy or adequate remedy in the ordinary course of the law, in that pecuniary damages are unavailable and would not compensate for the harm done.

60. A writ of mandamus is necessary ordering Charlton Bonham to cause CDFW to apply for a coastal development permit. (Code Civ. Procedure section 1085.)

61. The court should order Defendants Bonham and CDFW to return within 60 days demonstrating that they have complied with the writ.

O11-253 cont.

FOURTH CAUSE OF ACTION
CIVIL PENALTIES FOR VIOLATION OF THE COASTAL ACT
(Grassroots Coalition v. All Defendants)

62. Plaintiff alleges and incorporates all previous paragraphs as if fully set forth herein.

63. Plaintiff does not currently know when the drains were installed.

64. Plaintiff alleges that the drains were installed without permits.

65. Plaintiff alleges, upon information and belief, that Playa Capital and Does 1-10 installed the drains, without permits, to either catch storm water run-off or to help lower the water table at Playa Vista.

66. Drains of this type and purpose are not permitted within wetlands and violate major Coastal Act policies including, but not limited to, sections 30231, 30233, 30236 and 30240.

67. Plaintiff alleges that defendant Playa Vista and Does 1-10 intentionally and knowingly installed the drains without permits to avoid public scrutiny and because they knew that the Coastal Commission would not approve drains that would impact the wetlands.

68. Plaintiff alleges that the California Department of Fish and Wildlife in knowingly and intentionally refusing to act to protect the Ballona Wetlands by not seeking a coastal development permit and allowing continuing harm caused by the unpermitted drains.

69. Defendants are liable for the following civil liabilities:

a. Up to $30,000 per violation (Pub. Res. Code § 30820(a)(1) & (a)(2).)

b. Up to $1,000 per day per violation (Pub. Res. Code § 30820(b).)

70. Defendants and each of them are liable for exemplary damages for knowingly violating the Coastal Act by installing the drains, refusing to remove the drains and drainage system, or refusing to seek a coastal development permit. (Pub. Res. Code § 30822)

72. Civil liabilities shall be deposited with Violation Remediation Account of the Coastal Conservancy Fund. (Pub. Res. Code § 30823.)

73. Plaintiff is entitled attorneys fees and costs for bringing this action. (Code of Civil Procedure section 1021.5.

O11-253 cont.

/././

/././

/././

/././

/././

/././

PRAYER FOR RELIEF

WHEREFORE Petitioner pray the court grant the following:

1. For declaratory relief that defendants, and each of them, violated the Coastal Act by installing and maintaining drains in the Ballona Wetlands without a coastal development permit;

2. For preliminary and permanent injunction prohibiting the California Department of Fish and Wildlife from allowing water to enter the drains or discharge water from the drains;

3. For a peremptory writ of mandate ordering the California Department of Fish and Wildlife to apply for a coastal development permit to maintain or remove the drains in the Ballona Wetlands;

4. For a return within 60 days of service of the writ on California Department of Fish and Wildlife and/or Charlton Bonham demonstrating compliance with the writ or to show cause why they have not done so;

5. For permanent injunction ordering the California Department of Fish and Wildlife to remove the drains, if it cannot obtain after-the-fact coastal development permit to install the drains;

6. For the court to take continuing jurisdiction over the matter until the writ is discharged;

7. For civil penalties of $30,000 per drain;

8. For civil penalties of up to $1,000 per day from the date of installation to the date of removal;

9. For costs of suit incurred;

10. For attorney's fees and costs pursuant to Code of Civil Procedure section 1021.5;

11. And for such additional relief and further relief as the Court deems proper in the interest of justice.

O11-253 cont.

DATE: May 4, 2016

Todd T. Cardiff, Esq.
Attorneys for Plaintiff and Petitioner
Grassroots Coalition

VERIFICATION

I, Patricia McPherson, declare:

I am a board member and an officer of Plaintiff Grassroots Coalition. I have read the above complaint and petition and know the contents thereof. The same is true of my own knowledge, except for facts stated on information and belief, and as to such facts I believe them to be true. I declare under penalty of perjury, under the laws of the State of California, that the above is true and correct. Executed this 4th day of May, 2016 in the County of Los Angeles.

Patricia McPherson

O11-253 cont.

STATE OF CALIFORNIA - NATURAL RESOURCES AGENCY EDMUND G. BROWN, JR., *Governor*

CALIFORNIA COASTAL COMMISSION
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

April 11, 2014

Playa Capital Company, LLC
c/o Rick Zbur
355 South Grand Avenue
Los Angeles, CA 90071

Re: Unpermitted drains located in Ballona Ecological Reserve

Dear Mr. Zbur:

Thank you for your December 11, 2013 response to our June 12, 2013 letter. Our June 12 letter described installation of two drains and drain lines in the Ballona Ecological Reserve without the required coastal development permit. After carefully reviewing the information that you included with your letter, our position on installation of the drains at issue has not changed: installation of the drains requires a coastal development permit from the Coastal Commission. As explained below, the unpermitted drains were not authorized, as you contend, by Coastal Development Permit No. 5-91-463, as amended ("the CDP"), which authorized construction of the Ballona Freshwater Marsh ("BFM"). Moreover, the subject drains are located in the Ballona Ecological Reserve within natural habitat and a wetland that rely on water to function. Thus the presence of the subject drains is clearly detrimental to natural habitat and the hydraulic functioning of the wetland. O11-254

The two unpermitted drains at issue ("Unpermitted Drains") are located in the Ballona Ecological Reserve, one north of Culver Boulevard and the other south of Culver Boulevard. The Unpermitted Drains are not located within the BFM, but instead within natural saltmarsh and habitat areas separated from the marsh area of the BFM by Jefferson Boulevard. The Unpermitted Drains are not described in the CDP application, nor are the drains identified in the plans submitted with the application and presented to the Commission for approval. Thus the Unpermitted Drains were never authorized through the CDP, or by the Commission in any way that we are aware of.

As a point of clarification since your letter appears to conflate several separate structures, the Commission-approved BFM main drain line and the two other outlets from the BFM (in addition to the main drain line) that are critical to maintaining water levels in the BFM, and which are specifically identified in the CDP application and accompanying plans ("Approved BFM Drain" and "Approved BFM Outlets"), are not at issue in this enforcement matter. Each of these components is identified and described in the CDP application and accompanying plans, which comprise the development approved by the Commission via the CDP. By contrast, the Unpermitted Drains were not identified in the CDP application or its accompanying materials or plans. For reference I've attached a site plan submitted to the Coastal Commission that show the Approved BFM Drain and the Approved BFM Outlets. I've also annotated the plan to show the locations of the Unpermitted Drains, which are not depicted on the approved plan.

Below, I respond to points raised in your December 11 letter related to the Unpermitted Drains. However, first I provide some background and clarification on the purpose and functions of the BFM in order to explain that the Unpermitted Drains function inconsistently with the habitat enhancement, water quality and flood control objectives of the BFM and in no way does the BFM rely on the Unpermitted Drains to perform its necessary functions. Please note that some of our responses to the points you raised in your December 11 letter are provided in the background section below.

Background

The BFM was approved by the Commission pursuant to CDP No. 5-91-463 (as amended) on September 13, 1991. The project is designed to integrate water quality protection functions, habitat creation and restoration, and stormwater control. The first function of the BFM is to collect runoff via inlets specifically identified in the CDP application and accompanying plans. Each of these approved inlets flow into the BFM. The CDP application describes the process by which the BFM achieves its water quality objectives:

> The water quality functions would be performed by the input of a year-round supply of clean freshwater into the system and through the natural processes of a wetlands - sedimentation, adsorption, and transformation - which would reduce levels of pollutants in stormwater and other urban runoff that drains into the system. The freshwater wetlands system would trap and remove pollutants in stormwater runoff as the water moves slowly through the system. Water cleaner that the stormwater runoff originally put into the system would then flow into the Ballona Flood Control Channel or into the salt marsh, thus enhancing the resource values of those areas. [Appendix 5, page 2]

O11-254 cont.

The Unpermitted Drains do not support the water quality objectives of the BFM; the Unpermitted Drains do not direct water into the BFM to be subject to the wetland treatment processes described above. Instead, water flows into the Unpermitted Drains, then untreated into the Ballona Channel.

The second function of the BFM, habitat creation and restoration, is the product of collecting stormwater and treated groundwater within the marsh area of the BFM. This process fosters vegetation growth and, in turn, provides wildlife habitat. The habitat function of the BFM and its reliance upon stormwater is further described in the CDP application:

> The 52-acre freshwater wetland system proposed by Maguire Thomas Partners - Playa Vista, includes a 25-acre riparian corridor and a 27-acre freshwater marsh. This system is to be planted with marsh vegetation, willow woodland and mixed riparian habitat over a three-phase construction period lasting 10 years. It is designed to create new and restore currently degraded freshwater wetland habitat and to enhance their associated uplands. In order to maintain the proposed vegetation and habitat of the system, a water supply of reliable quantity and quality is needed.

- Using two sources of supply (storm runoff and treated groundwater) that are consistent with the urban setting of the Playa Vista project, a completely satisfactory quantity of fresh water would be provided to establish and sustain 52-acres of wetland vegetation and the freshwater need of wildlife. (Appendix 11, ps. EXl-2)

As noted above, the Unpermitted Drains do not drain into the BFM, thus they do not contribute water to the BFM and thus do not contribute to its habitat function. In fact the effect of the functioning of the Unpermitted Drains is deleterious to habitat because the Unpermitted Drains direct water away from habitat areas within the Ballona Ecological Reserve, including a wetland area.

Another function of the BFM is stormwater management and this indeed was a stated objective for constructing the BFM. In contrast to the functioning of the BFM, during all but the most extreme storm events, the Unpermitted Drains do not provide any necessary flood protection because of the elevation of adjacent Culver Boulevard. The BFM project engineer, in describing the value of the Unpermitted Drains, or lack thereof, notes in July 11, 2013 email to staff at the Santa Monica Bay Restoration Commission, and others, that: "If these inlets were plugged, there would be no chance of any flooding ever reaching the adjacent roadways as the roads are about three feet higher than the surrounding grades. A three foot storm would be something on the order of the 1,000,000-year event (purely a guess, but you get the idea) and L.A. would not notice a little flooding here."

O11-254 cont.

Moreover, the Unpermitted Drains are not designed to function when flood control devices would be expected to, i.e. during storm events. During storm events when the water levels in Ballona Channel are elevated, the flapgates in the Approved BFM Drain close in order to prevent water from flowing from the Ballona Channel and out through the Approved BFM Outlets into the BFM. When these flapgates in the Approved BFM Drain close during storm events, water will not flow through the Unpermitted Drains into the Approved BFM Drain, consequently, water will pond in the location of the Unpermitted Drains. Thus, it appears that the idea that stormwater control benefits are provided by the Unpermitted Drains is, at best, dubious. However, as a result of below-grade and at-grade inlets in the Unpermitted Drains, the Unpermitted Drains remove water in the ground and on the surface at all other times water is present. This is a continuous detriment to wetland hydrology and habitat that relies on water to function.

Coastal Development Permit Required

The Unpermitted Drains were not identified in the CDP application or accompanying plans and materials. Therefore, the Unpermitted Drains were not reviewed by the Coastal Commission and installation of the Unpermitted Drains was not authorized via the CDP. Furthermore, the Unpermitted Drains do not, as detailed above, perform any of the intended functions of the BFM and thus could not have been somehow approved in concept by the Commission.

Pursuant to Section 30600(a) of the Coastal Act, any person wishing to perform or undertake development in the Coastal Zone must obtain a coastal development permit, in addition to any other permit required by law. "Development" is defined by Coastal Act Section 30106 as:

> "Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or any gaseous, liquid, solid, or thermal waste: grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of the use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division ofland, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvest of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations ...[underling added for emphasis]

Installation of the Unpermitted Drains constitutes development under the Coastal Act and, therefore, requires a coastal development permit. Any development activity conducted in the Coastal Zone without a valid coastal development permit, or which does not substantially conform to a previously issued permit, constitutes a violation of the Coastal Act.

O11-254 cont.

Our goal is to resolve this situation amicably and as quickly as possible so that all parties can move forward. We greatly appreciate your time and input and look forward to discussing this matter further and working on a consensual resolution to this matter. To that end, subsequent to the substantive responses to your letter, below, I propose a potential path forward to resolve this matter collaboratively.

Staff Responses to Section A

You note, as a preliminary matter, that Playa Capital Company, LLC ("PCC") does not currently own the property upon which the Unpermitted Drains are located. You do not specifically argue that as a result of this lack of property interest at the present time, PCC is not liable for installation of the Unpermitted Drains, however, I note that liability for Coastal Act violations attaches to the property owner upon which unpermitted development is located *and to the party that undertook the unpermitted development.* Documents submitted to the City of Los Angeles regarding construction of the Approved BFM Drain indicate that installation of the Approved BFM Drain was commenced by PCC' s predecessor-in-interest, Maguire Thomas Partners ("MTP"), and completed by PCC. The Unpermitted Drains connect to the Approved BFM Drain (but as noted above, do not contribute to the functioning of the BFM) and logically then were constructed by PCC and/or its predecessor-in-interest at the time the Approved BFM Drain was constructed. Contemporaneous construction of the Unpermitted Drains and the Approved BFM Drain does not establish, however, that the Unpermitted Drains were authorized pursuant to the CDP. As described above, the Unpermitted Drains are not described in the CDP application or depicted in the accompanying plans, in contrast to the Approved BFM Drain, which is described and depicted in the CDP application and plans.

You also provide in Section A your description of the function of the Approved BFM Outlets and equate the Unpermitted Drains with the Approved BFM Outlets. You assert that:

> *The outlet drains in question were initially incorporated in the Freshwater Marsh design with the approval of the City of Los Angeles, to protect the Ba/Iona salt marsh located to the west of the Freshwater Marsh from imminent construction impacts, and, ultimately, to prevent flooding of the roadways adjacent to the Freshwater Marsh during severe storm events in the long-term.*

However, the Unpermitted Drains are distinct from the Approved BFM Outlets. The three Approved BFM Outlets (including the Approved BFM Drain) are identified in the CDP application and plans. These outlets allow for freshwater to be directed from the BFM into the Ballona Channel or into the saltmarsh west of the BFM when needed to adjust salinity levels in the saltmarsh. The CDP application specifically identifies the Approved BFM Outlets as such:

> *Three water management structures are included in the design of the system: a spillway system between the freshwater marsh and the salt marsh, a sluice-gate structure between the freshwater marsh and the salt marsh, and a control weir with a tide-gated outlet between the freshwater marsh and the Ba/Iona Channel.* [pgs. II-7-8]

Clearly none of these descriptions pertain to the Unpermitted Drains. The Unpermitted Drains can be further distinguished from the Approved BFM Outlets in a number of ways. First, the Unpermitted Drains are not depicted in the CDP application or the plans, as the Approved Outlets are, and thus the Unpermitted Drains were not approved by the Commission . Second, the Unpermitted Drains are not outlet drains. The Approved BFM Outlets provide outlets for freshwater water to move from the BFM into Ballona Channel and into the saltmarsh west of the BFM for salinity level management purposes. In contrast, the Unpermitted Drains do not outlet water from the BFM. Thus, categorically, the Unpermitted Drains are not "outlets" from the BFM. Instead, they drain water from native habitat and a wetland area separated from the BFM by Jefferson Boulevard. Third, the Unpermitted Drains do not direct drained water into the saltmarsh, thus they also do not share the function of the Approved BFM Outlets to provide the saltmarsh with freshwater. Finally, the saltmarsh that is protected by the Approved BFM Outlets that is referenced in the CDP application and associated documents is west of the BFM. In contrast, the Unpermitted Drains are located in the saltmarsh and habitat area north of the BFM.

O11-254 cont.

Regarding the assertion in Section A that the Unpermitted Drains are necessary flood control measures that were approved by the City of Los Angeles, the lack of any flood prevention provided by the Unpermitted Drains is addressed above. In addition, as you are no doubt aware, even if the Unpermitted Drains were approved by the City of Los Angeles through local processes, such approval is not a substitute for authorization from the Commission and does not waive the coastal development permit requirements of the Coastal Act. Furthermore, no regulation is cited in the City's letter attached to your December 11 letter that confirms that there is a basis for the City to require construction of the Unpermitted Drains for flood protection. Nor could City staff identify such regulation in its discussions with Commission staff. In fact, in discussions with us, City staff had no objections to removal of the Unpermitted Drains, which is not surprising since the Unpermitted Drains provide negligible (if any) flood control benefits.

Staff Responses to Section B

In Section B, you again apparently confuse the Unpermitted Drains with the Approved BFM Outlets. As detailed above, in contrast to the Unpermitted Drains, the Approved BFM Outlets were approved by the Commission pursuant to the CDP and, again in contrast to the Unpermitted Drains, perform important habitat enhancement, water quality and flood control functions.

You also assert that staff was made aware of the plans to construct the Unpermitted Drains prior to construction of said drains (but subsequent to Commission approval of the BFM) and that staff concurred with their construction. Regardless of whether this assertion is true, and it is not, as explained below, the Unpermitted Drains were not a component of the CDP application; were not presented in narrative or graphic form, or in any manner to the Commission for review; were not authorized by the Commission pursuant to the CDP in any way; and there is no other Commission action that authorized the Unpermitted Drains. Furthermore, the assertion that staff was aware of plans to build the Unpermitted Drains prior to construction of said drains and concurred with their construction, which we did not, has no bearing on whether the Commission authorized construction of the Unpermitted Drains.

To support your assertion noted above that staff was aware of installation of the Unpermitted Drains, you outline staffs receipt of plans that depict the Unpermitted Drains and staffs investigation of construction of the Approved BFM Drain, which you mistakenly describe as an investigation of the Unpermitted Drains. In 1995, subsequent to the Commission's approval of the BFM, staff was provided with a copy of the BFM Habitat Mitigation and Monitoring Plan ("HMMP") prepared by PCC's predecessor for the U.S. Army Corps of Engineers, which included plans depicting the Unpermitted Drains. This document was not a requirement of the coastal development permit authorizing the BFM, and therefore, staff was under no obligation to review and approve it. Thus, it cannot be concluded from the mere submittal of the HMMP that staff was aware of its contents. Furthermore, in reviewing compliance with the CDP, the HMMP document would not be central to staffs review since the Commission's approval is embodied in the CDP application and accompanying documents, as wells as the CDP and staff report, none of which depict the Unpermitted Drains.

O11-254 cont.

As you note in your letter, in 1996 staff investigated alleged unpermitted grading in the vicinity of the BFM. Commission staff investigated the incident and determined that the grading was undertaken in order to install the Approved BFM Drain. To investigate the report, staff reviewed the CDP application and associated plans, which describe and depict the Approved BFM Drain. Thus, staff confirmed that the Approved BFM Drain and associated grading was approved by the CDP and sent a letter dated July 10, 1996 to that effect to PCC's predecessor. Staff gave no indication in the letter or otherwise that we were aware of the plan to install the Unpermitted Drains. You claim that an April 4, 1996 letter from MTP to staff would have made staff aware of the plan to install the Unpermitted Drains. Although the Approved BFM Drain is described in detail in the April 4 letter, there is no mention in the letter of the Unpermitted Drains, nor are the Unpermitted Drains identified in the attachments to the April 4 letter. In fact, one of the exhibits to the April 4 letter, which delineates the limits of work required for installation of the Approved BFM Drain, does not include in its delineation the areas where the Unpermitted Drains are located. Thus, far from making staff aware of a plan to install the Unpermitted Drains, the letter

would do the opposite and indicate that there were no plans to disturb the area where the Unpermitted Drains were ultimately constructed.

In addition, staff would not have been aware from visiting the site that MTP or Playa Capital planned to install the Unpermitted Drains. At the time staff visited the site, grading had occurred to begin the process of installing the Approved BFM Drain, but neither the Approved BFM Drain nor the Unpermitted Drains had been installed yet, so staff would not have been made aware of their presence in that way either.

Again, regardless of whether the April 4 letter made staff aware of the plan to install the Unpermitted Drains, which was not the case, the Unpermitted Drains were not a component of the CDP application; were not presented in narrative or graphic form, or in any manner to the Commission for review; were not authorized by the Commission pursuant to the CDP in any way; and there is no other Commission action that authorized the Unpermitted Drains. Thus the Unpermitted Drains constitute unpermitted development and a violation of the Coastal Act.

Staff Responses to Section C

You assert in Section C that the Unpermitted Drains have not had any adverse impacts on wetlands. You attach a memorandum from your biological consultant that purportedly supports this claim. However, the memorandum is limited in scope to a comparison of surveys of the vegetative communities around the Unpermitted Drains before and after installation of the Unpermitted Drains. There is no discussion of the effects the Unpermitted Drains might have on wetland hydrology.

O11-254 cont.

Attached to the memorandum is a vegetation survey of the vegetation in the Ballona Wetlands area in 1990, prepared by MTP's biological consultant, and results of a survey of the vegetation in 2006, undertaken by the California Department of Fish and Game. The prior survey show the vegetation around the Unpermitted Drains to be arguably upland before installation of the Unpermitted Drains, the subsequent survey shows seasonal saltmarsh south of Culver Boulevard and a mix of seasonal saltmarsh and riparian vegetation north of Culver Boulevard. You thus assert that wetland habitat has expanded since installation of the Unpermitted Drains. However, the dominance by wetland vegetation documented in the survey conducted after installation of the Unpermitted Drains is evidence of a trend to dominance by wetland vegetation that began at the time agriculture use of the site ceased in the I 980's, before installation of the Unpermitted Drains.

In a 1991 memorandum, the Department of Fish and Game, which delineated wetlands in the Ballona Wetlands area in 1991, stated "During the evolution of the now certified Playa Vista Land Use Plan, we predicted that, were it not for the then ongoing agricultural operation, wetlands in Area B would expand. These agricultural activities ceased for approximately three years prior to the Corps' wetland determination, and, as we predicted, the wetlands did expand into the area which was formerly used for the production of barley and lima beans." The Unpermitted Drains are located in such a formerly farmed area. The 1990 MTP vegetation survey notes of the area where the Unpermitted Drains are located that "All of this area at some

time has been disturbed, and much of it has been used for agriculture, some within the past 10 years."

The survey goes on to say that "The elevations of the flats appear to reflect the original elevations and except for the elevated roadways, the areas appear not to have been artificially filled." Indeed the survey labels the areas where the Unpermitted Drains are located as "old marsh flats." It is not surprising then, given the history of the site, that the 2006 survey found that wetland vegetation has returned to much of the area around the Unpermitted Drains, despite the limiting effects on hydrology that the Unpermitted Drains have had.

Again your general assertion in Section C is that the Unpermitted Drains have not had any adverse impacts on wetlands. As explained above, the memorandum attached to your letter does not persuasively support this assertion. Moreover, this assertion is both conceptually and factually incorrect. Water is the main requirement for a functional wetland. Any fill or alt eration. of wetland hydrology reduces a wetland's ability to function. If water is drained or removed, or isn't present in the wetland for as long, then wetland function is degraded. Therefore, wetland function is degraded by actions that disrupt water supply through direct fill of a wetland or draining. The Unpermitted Drains disrupt water supply through direct fill and draining of a wetland and habitat within the reserve.

One of the chief components of wetland habitat is wetland vegetation. Thus, removal of wetland plant species, whether through removal or physical preclusion of growth, reduces the habitat value of a wetland. In addition, degradation of wetland function through alteration of hydrology means that the same plants may not grow and habitat value and wildlife use of the wetland are reduced. This has clearly happened in the vicinity of the Unpermitted Drains. It is readily apparent from a review of the vegetation in the vicinity of the Unpermitted Drain located in a wetland south of Culver Boulevard that the drain is precluding growth of wetland plant species. Moreover, since the Unpermitted Drain is designed to drain water from the soil in the wetland around it, as well as ponding water that flows into the drain, this deleterious effect would not be limited to just the immediate vicinity where water pools, but would extend to any area hydrologically connected to the Unpermitted Drain.

O11-254 cont.

You also point out in Section C that the Commission approved limited fill of wetlands through authorization of the BFM project, and thus argue that fill of wetlands for purpose of constructing the Unpermitted Drains is consistent with that approval. Please note that the Commission did not review fill of wetlands for the purpose of constructing the Unpennitted Drains because such structures were never before the Commission for its review. The Commission did review the proposal for the Approved BFM Drain, since this structure was part of the application and proposal for the BFM. The Commission found that limited fill of wetlands for the purpose of constructing the Approved BFM Drain was consistent with the Coastal Act. Coastal Act Section 30233 allows for fill of wetlands through the coastal development permit process in certain circumstances, including for restoration purposes. The Approved BFM Drain is a necessary component of a restoration project, the BFM, approved via the coastal development permit process. However, in contrast, no coastal development permit was applied for nor obtained for the Unpermitted Drains, and the drains do not facilitate the restoration functions of the BFM, nor do they serve any restoration purpose independent of the BFM. In fact, the Unpermitted Drains

detract from wetland and habitat function. Thus the Unpermitted Drains are both unpermitted and could not be found to be consistent with Section 30233 of the Coastal Act.

Resolution

As we have expressed to you throughout our discussions, we would like to work with you to resolve these issues amicably. One option that you may want to consider is agreeing to consent orders. Consent cease and desist and restoration orders would provide your with an opportunity to have more input into the process and timing of removal of the Unpermitted Drains and mitigation of the damages caused by installation and functioning of the Unpermitted Drains, and could potentially allow you to negotiate a penalty amount with Commission staff in order to resolve the violation without any formal legal action. Another advantage to agreeing to a consent order is that it replaces the need for costly and time consuming litigation . Further, in a consent order proceeding, Commission staff will be promoting the agreement between the parties and staff, rather than addressing the violations through a disputed hearing, which could only highlight the violations of the Coastal Act for which the parties are responsible.

If you are interested in discussing the possibility of agreeing to consent orders, please contact me by no later than April 25, 2014 to discuss options to resolve this case. Staff would be happy to meet with you before the date noted above to discuss the steps necessary to resolve the unpermitted development described in this letter and to discuss the necessary scope of that resolution. Our goal is to resolve this situation amicably and as quickly as possible so that all parties can move forward. We greatly appreciate your time and input and look forward to discussing this matter further and working together on a consensual resolution . If you have any questions about this letter or the pending enforcement case, please do not hesitate to contact me as soon as possible at (562) 590-5071.

O11-254 cont.

Sincerely,

Andrew Willis
Enforcement Analyst

cc: Rick Mayfield, Department of Fish and Wildlife
Michael Patonai, City of Los Angeles

Encl: Annotated plan

Todd T. Cardiff, Esq. (SBN 221851)
LAW OFFICE OF TODD T. CARDIFF
1901 First Avenue, Suite 2 19
San Diego, CA 9210 I
Tel: (619) 546-5123
Fax: (619) 546-5133
todd@tcardiftlaw.com

Bryan W. Pease, Esq. (SBN 239139)
LAW OFFICE OF BRYAN PEASE
302 Washington Street #404
San Diego, CA 92103
Tel: (619) 723-0369
Fax: (619) 923-1001
bryanpease@gmail.com

Attorneys for Plaintiff
GRASSROOTS COALITION

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

BC 6 19 4 44

GRASSROOTS COALITION, a California Non-Profit Corporation;

Plaintiffand Petitioner,

V.

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE. a State Agency; CHARLTON H. BONHAM, in his Official Capacity as Director ofCALIFORN!A DEPARTMENT OF FISH AND WILDLIFE; PLAYA CAPITAL COMPANY LLC. an unknown entity and DOES 1-10, inclusive,

Defendants and Respondents.

Case No.:

COMPLAINT FOR DECLARATORY RELIEF, INJUNCTIVE RELIEF, AND CIVIL PENALTIES; PETITION FOR WRIT OF MANDAMUS

O11-255

INTRODUCTION

1. This case seeks to compel the California Department of Fish and Wildlife to seek a coastal development permit from the Coastal Commission to remove (or maintain) two illegal drains and drainage system installed by Playa Capital Company LLC and/or its predecessor-in-interest in the Ballona Wetlands, to mitigate the damages caused by the unpermitted drains and hold defendants accountable for violating the California Coastal Act.

PARTIES

2. Plaintiff GRASSROOTS COALITION is a registered 501(c)(3) tax-exempt non-profit organization that has worked for decades protecting the Ballona Wetlands. Plaintiff Grassroots Coalition is defined as a "person" within the Coastal Act. (Pub. Res. Code § 30111.)

3. CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE (CDFW) is a state agency. The drains and drain lines are located on land that is owned by CDFW and therefore it is the responsibility of CDFW to remove the drains that have been installed illegally on its property.

4. CHARLTON H. BONHAM is being named in his official capacity as the Director of the California Department of Fish and Wildlife. It is alleged on information and belief that Mr. Bonham has a mandatory duty to apply on behalf of CDFW for a coastal development permit.

5. PLAYA CAPITAL COMPANY LLC, is an unknown business entity. It is alleged on information and belief that PLAYA CAPITAL installed the drains illegally to benefit its development in Playa Vista.

6. The names and capacities of Does 1 through 10 are currently unknown to the Plaintiff. It is alleged on information and belief that does 1 through 10 are principles, employees, agents, successors-in-interest, predecessors-in-interest, appointed officials,

O11-255 cont.

departments or subcontractors of the Defendants and in some way responsible for the illegally installed drains in the Ballona Wetlands. Plaintiff will add such Doe defendants upon learning their nature and capacity.

7. The California Coastal Commission is the agency responsible for issuing permits and enforcing the Coastal Act in the Coastal Zone. It is alleged on information and belief that the California Coastal Commission is not a necessary or responsible party under Code of Civil Procedure section 389 in that complete relief can be granted without its presence and participation. A courtesy copy of this complaint will be sent to the Coastal Commission as an invitation to intervene in this lawsuit. In addition, Plaintiff will add the Coastal Commission to the lawsuit upon order of the court or the Coastal Commission's request to be named as a real party-in-interest.

BACKGROUND

O11-255 cont.

8. The Ballona Wetlands stretch from the City of Los Angeles to the Playa Del Rey. The current wetlands are generally located to west of Lincoln Boulevard, and to the South of Marina Del Rey. It is adjacent to Playa Vista, a mixed use residential development, developed by defendant Playa Capital.

9. The Ballona Wetlands Ecological Reserve is approximately 600 acres of protected habitat, which is a fraction of the historical wetlands. Recharging the Ballona Wetlands multiple freshwater aquifers is dependent upon both rainfall and near-surface and subsurface freshwater flows. The freshwater flows are critical to protect and maintain the wetlands habitat.

10. Despite the degraded quality of the Ballona Wetlands, it supports a large population of diverse wildlife, marine life and plant life, including seven animal species considered endangered or threatened, including: Least Bell's Vireo, California Gnatcatcher, El Segundo Blue Butterfly, California Least Tern, Salt-marsh Harvest Mouse, Western Snowy Plover, and Belding's Savannah Sparrow. There are also numerous endangered or threatened

plant species at the Ballona Wetlands including, but not limited to: Lewis' Evening Primrose, Southern Tarplant, and Orcutt's Pincushion

11. There are other species that make that the Ballona Wetlands an important ecological haven, including Saltgrass - important for Wandering Skippers and Pickleweed- *Falicornia Pacifica* - important for Belding Savannah Sparrow.

12. On or about June 12, 2013, the Coastal Commission sent a letter to Playa Capital concerning the discovery of two unpermitted drains within the Ballona Wetlands. On information and belief that the Coastal Commission alleged that he drains led into a pipe/culvert that discharged directly into the Ballona Creek, without treatment of storm water.

13. On or about April 11, 2014, the Coastal Commission sent another letter to Playa Capital LLC (carbon copied to CDFW and City of Los Angeles) in response to comments made by Playa Capital LLC regarding the drains. The Coastal Commission reasserted, that after careful consideration of the information provided by Playa Capital LLC, that the drains and drain lines were unpermitted. Moreover, the Coastal Commission cited that the drains' location in the Ballona Ecological Reserve was within natural habitat and a wetland that relies on water to function. In its April 11, 2014 letter the Coastal Commission stated:

> [T]he effect of the functioning of the Unpermitted drains is deleterious to habitat because the Unpermitted Drains direct water away from habitat areas within the Ballona Ecological Reserve, including a wetland area….
>
> the Unpermitted Drains detract from wetland and habitat function. Thus the Unpermitted Drains are both unpermitted and could not be found to be consistent with Section 30233 of the Coastal Act

(CCC Letter dated April 11, 2014.)

14. It is alleged on information and belief that the drains, particularly during the drought, removes water from the wetland habitat making it more difficult for native wetland species to thrive or survive. This was noted by the Coastal Commission, which stated:

> One of the chief components of wetland habitat is wetland vegetation. Thus, removal of wetland plant species, whether through removal or physical preclusion

O11-255 cont.

> of growth, reduces the habitat value of a wetland. In addition, degradation of wetland function through alteration of hydrology means that the same plants may not grow and habitat value and wildlife use of the wetland are, reduced. This has clearly happened in the vicinity of the Unpermitted Drains. It is readily apparent from a review of the vegetation in the vicinity of the Unpermitted Drain located in a wetland south of Culver Boulevard that the drain is precluding growth of wetland plant species. Moreover, since the Unpermitted Drain is designed to drain water from the soil in the wetland around it, as well as ponding water that flows into the drain, this deleterious effect would not be limited to just the immediate vicinity where water pools, but would extend to any area hydrologically connected to the Unpermitted Drain.

(CCC Letter dated April 11, 2014.)

15. On or about July 16, 2015, the Coastal Commission sent another letter to both CDFW and Playa Capital emphasizing the need to seek a coastal development permit.

16. It is alleged on information and belief that, as of this date, defendants, and each of them, have failed to apply for a coastal development permit.

17. It is further alleged on information and belief that drainage of this type cannot be located within wetland habitat, pursuant to the Coastal Act, and may also be impacting environmentally sensitive habitat areas, as that term is defined under the Coastal Act. (Pub. Res. Code § 30240.)

18. As an interim measure, capping and plugging the drains should be completed before the next rainy season to prevent any further water from being drawn down the drains and further impacting the wetlands.

19. It is alleged on information and belief that if a coastal development permit had been sought from the California Coastal Commission to install the drains in the Ballona Wetlands, it would likely have been denied.

20. It is further alleged on information and belief that removal of the drains also requires a coastal development permit from the Coastal Commission.

21. But for, Plaintiff bringing this action, the California Department of Fish and Wildlife would further delay in seeking a coastal development permit from the Coastal Commission resulting in a continuing harm to the Ballona Wetlands.

O11-255 cont.

22. It is alleged on information and belief that Defendants and each of them have delayed almost 3 years (June 12, 2013) since being initially informed by the Coastal Commission that the drains were unpermitted and needed to be removed.

23. Plaintiff has no financial interest at stake in this lawsuit.

24. Plaintiff has no speedy or adequate relief under the law in that pecuniary damages are not available and will not make them whole.

25. Plaintiff has brought this action within three years of discovery of the unpermitted nature of the drains. (Pub. Res. Code § 30805.5.)

26. Successful prosecution of this action will bring about significant benefits to the wetlands and the public entitling Plaintiff to Attorney's Fees under Code of Civil Procedure section 1021.5.

FIRST CAUSE OF ACTION
DECLARATORY RELIEF
(Grassroots Coalition v. All Defendants)

O11-255 cont.

27. Plaintiff re-alleges all previous paragraphs as if fully set forth herein.

28. In passing the Coastal Act, the Legislature declared : "That the California coastal zone is a distinct and valuable natural resource of vital and enduring interest to all the people and exists as a delicately balanced ecosystem." (Pub. Resources Code § 30001(a).)

29. The Legislature further declared that "it is necessary to protect the ecological balance of the coastal zone and prevent its deterioration and destruction." (Pub. Resources Code § 30001(c).)

30. The Coastal Act is to be interpreted strongly in favor of its resource protective mandate. (Pub. Res. Code § 30009.)

31. All public agencies shall comply with the provisions of the Coastal Act. (Pub. Res. Code § 30003.)

32. Development is defined very broadly under the Coastal Act:

> "Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).
>
> As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

(Pub. Res. Code § 30106.)

O11-255 cont.

33. The installation of drains and a drainage system within the Ballona Wetlands falls within the definition of "development." Removal of the drains would also be considered development under the Coastal Act.

34. It is alleged on information and belief that the drains were installed within an area that is historically considered state tide-lands and/or public trust lands. (Pub. Res. Code § 30519(b).)

35. The drains are installed in area considered "wetlands" under the California Coastal Act. (Pub. Res. Code § 30121.)

36. It is alleged on information and belief that the area impacted by the drains is environmentally sensitive habitat area (ESHA) within the meaning of the Coastal Act. (Pub. Res. Code § 30107.5.)

37. Defendants Playa Capital and Does 1-10 were required to seek and obtain a coastal development permit, prior to installing the drains. (Pub. Res. Code §§ 30519(b), 30600.)

38. Defendant California Department of Fish and Wildlife, upon discovery that the drains lacked a coastal development permit, were required to either seek an after-the-fact coastal development permit to maintain the drains, or a coastal development permit to remove the drains and excavate the drainage system.

39. Defendants, and each of them, have failed to apply and obtain a coastal development permit to install, maintain or remove the illegally installed drains and drainage system within Ballona Wetlands.

40. Defendants and each of them have been informed by the Coastal Commission to obtain the necessary coastal development permits.

41. Such failure to seek and obtain a coastal development permit constitutes a violation of the Coastal Act.

42. Plaintiff is entitled to declaratory that Defendants and each of them have violated the Coastal Act.

43. Plaintiff is entitled to equitable relief compelling Defendants and each of them to seek a coastal development permit to either remove or maintain the drains and drainage system. (Pub. Res. Code §§ 30803, 30804.)

O11-255 cont.

SECOND CAUSE OF ACTION
INJUNCTIVE RELIEF
(Grassroots Coalition v. California Department of Fish and Wildlife)

44. Plaintiff alleges all previous paragraphs as if full set forth herein.

45. Defendants actions, and each of them, continue to harm the plant life and wildlife in the Ballona Wetlands in that the drains and drainage system removes water from the wetlands.

46. Plaintiff alleges on information and belief that the drains not only drain water from protected wetlands, but also discharge water, untreated, directly into Ballona Creek in violation of City, State and Federal Law.

47. If not restrained, defendants will continue to drain precious water from the wetlands, and continue to discharge untreated water into Ballona Creek.

48. Plaintiff has no remedy at law in that pecuniary relief is unavailable to Plaintiff and such damages would be extremely difficult to ascertain.

49. The California Coastal Commission has requested that the California Department of Fish and Wildlife remove the drains or block, plug or otherwise prevent water from entering the drains to prevent further harm to the Ballona Wetlands.

50. It is alleged on information and belief that the California Department of Fish and Wildlife has not acted to block, plug or otherwise prevent water from entering the unpermitted drains.

51. A preliminary injunction must issue prohibiting the California Department of Fish and Wildlife from allowing water to enter the unpermitted drains and discharge into Ballona Creek during the pendency of this lawsuit

52. A permanent injunction must be issued, prohibiting the California Department of Fish and Wildlife from allowing water to enter the unpermitted drains and discharging into Ballona Creek until the California Coastal Commission issues a coastal development permit to either maintain or remove the unpermitted drains in the Ballona Wetlands.

O11-255 cont.

THIRD CAUSE OF ACTION
WRIT OF MANDAMUS
(Grassroots Coalition v. Charlton H. Bonham and California Department of Fish and Wildlife)

53. Plaintiff alleges and incorporates all previous paragraphs as if fully set forth herein.

54. Defendant California Department of Fish and Wildlife has a duty to comply with the Coastal Act. (Pub. Res. Code § 30003.)

55. Defendant Charlton H. Bonham has a duty as a director of CDFW to do all acts necessary to ensure that CDFW complies with the Coastal Act.

56. Upon discovery of the unpermitted nature of the drains in the Ballona Wetlands Ecological Reserve, on land owned and controlled by CDFW, Bonham and CDFW had a mandatory duty to seek a coastal development permit for an after-the-fact permit or removal of the unpermitted drains.

57. CDFW and Bonham have breach a mandatory duty enjoined by law by failing to seek a coastal development permit.

58. Plaintiff is beneficially interested in that the protection of the Ballona Wetlands is directly germane to its central purpose and mission.

59. Plaintiff has no plain, speedy or adequate remedy in the ordinary course of the law, in that pecuniary damages are unavailable and would not compensate for the harm done.

60. A writ of mandamus is necessary ordering Charlton Bonham to cause CDFW to apply for a coastal development permit. (Code Civ. Procedure section 1085.)

61. The court should order Defendants Bonham and CDFW to return within 60 days demonstrating that they have complied with the writ.

O11-255 cont.

FOURTH CAUSE OF ACTION
CIVIL PENALTIES FOR VIOLATION OF THE COASTAL ACT
(Grassroots Coalition v. All Defendants)

62. Plaintiff alleges and incorporates all previous paragraphs as if fully set forth herein.

63. Plaintiff does not currently know when the drains were installed.

64. Plaintiff alleges that the drains were installed without permits.

65. Plaintiff alleges, upon information and belief, that Playa Capital and Does 1-10 installed the drains, without permits, to either catch storm water run-off or to help lower the water table at Playa Vista.

66. Drains of this type and purpose are not permitted within wetlands and violate major Coastal Act policies including, but not limited to, sections 30231, 30233, 30236 and 30240.

67. Plaintiff alleges that defendant Playa Vista and Does 1-10 intentionally and knowingly installed the drains without permits to avoid public scrutiny and because they knew that the Coastal Commission would not approve drains that would impact the wetlands.

68. Plaintiff alleges that the California Department of Fish and Wildlife in knowingly and intentionally refusing to act to protect the Ballona Wetlands by not seeking a coastal development permit and allowing continuing harm caused by the unpermitted drains.

69. Defendants are liable for the following civil liabilities:

a. Up to $30,000 per violation (Pub. Res. Code § 30820(a)(1) & (a)(2).)

b. Up to $1,000 per day per violation (Pub. Res. Code § 30820(b).)

70. Defendants and each of them are liable for exemplary damages for knowingly violating the Coastal Act by installing the drains, refusing to remove the drains and drainage system, or refusing to seek a coastal development permit. (Pub. Res. Code § 30822)

72. Civil liabilities shall be deposited with Violation Remediation Account of the Coastal Conservancy Fund. (Pub. Res. Code § 30823.)

73. Plaintiff is entitled attorneys fees and costs for bringing this action. (Code of Civil Procedure section 1021.5.

O11-255 cont.

/././

/././

/././

/././

/././

/././

PRAYER FOR RELIEF

WHEREFORE Petitioner pray the court grant the following:

1. For declaratory relief that defendants, and each of them, violated the Coastal Act by installing and maintaining drains in the Ballona Wetlands without a coastal development permit;

2. For preliminary and permanent injunction prohibiting the California Department of Fish and Wildlife from allowing water to enter the drains or discharge water from the drains;

3. For a peremptory writ of mandate ordering the California Department of Fish and Wildlife to apply for a coastal development permit to maintain or remove the drains in the Ballona Wetlands;

4. For a return within 60 days of service of the writ on California Department of Fish and Wildlife and/or Charlton Bonham demonstrating compliance with the writ or to show cause why they have not done so;

5. For permanent injunction ordering the California Department of Fish and Wildlife to remove the drains, if it cannot obtain after-the-fact coastal development permit to install the drains;

6. For the court to take continuing jurisdiction over the matter until the writ is discharged;

7. For civil penalties of $30,000 per drain;

8. For civil penalties of up to $1,000 per day from the date of installation to the date of removal;

9. For costs of suit incurred;

10. For attorney's fees and costs pursuant to Code of Civil Procedure section 1021.5;

11. And for such additional relief and further relief as the Court deems proper in the interest of justice.

O11-255 cont.

DATE: May 4, 2016

Todd T. Cardiff, Esq.
Attorneys for Plaintiff and Petitioner
Grassroots Coalition

VERIFICATION

I, Patricia McPherson, declare:

I am a board member and an officer of Plaintiff Grassroots Coalition. I have read the above complaint and petition and know the contents thereof. The same is true of my own knowledge, except for facts stated on information and belief, and as to such facts I believe them to be true. I declare under penalty of perjury, under the laws of the State of California, that the above is true and correct. Executed this 4th day of May, 2016 in the County of Los Angeles.

Patricia McPherson

O11-255 cont.

[Federal Register Volume 77, Number 143 (Wednesday, July 25, 2012)] [Notices] [Pages 43575-43577] From the Federal Register Online via the Government Printing Office [www.gpo.gov] [FR Doc No: 2012-18166]

DEPARTMENT OF DEFENSE Department of the Army, Corps of Engineers Intent To Prepare a Draft Environmental Impact Statement/ Environmental Impact Report for the Proposed Ballona Wetlands Restoration Project at Ballona Creek Within the City and County of Los Angeles, CA AGENCY: U.S. Army Corps of Engineers, Department of the Army, DoD. ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers (Corps) and the California Department of Fish and Game (CDFG) intend to jointly prepare a Draft Environmental Impact Statement/Environmental Impact Report (DEIS/EIR) for the proposed Ballona Wetlands Restoration Project. The proposed project is intended to return the daily ebb and flow of tidal waters, maintain freshwater circulation, and augment the physical and biological functions and services in the project area. Restoring the wetland functions and services would allow native wetland vegetation to be reestablished, providing important habitat for a variety of wildlife species. As a restored site, the Ballona Wetlands would play an important role to provide seasonal habitat for migratory birds. A restored, optimally functioning wetland would also benefit the adjacent marine environment and enhance the quality of tidal waters. DATES: Submit comments on or before September 10, 2012. FOR FURTHER INFORMATION CONTACT: Dr. Daniel P. Swenson at (213) 452-3414 (daniel.p.swenson@usace.army.mil), U.S. Army Corps of Engineers, Los Angeles District, P.O. Box 532711, Los Angeles, CA 90053-2325. SUPPLEMENTARY INFORMATION: The Corps intends to prepare a joint EIS/EIR to assess the environmental effects associated with the proposed project. CDFG is the state lead agency for the EIR pursuant to the California Environmental Quality Act (CEQA). 1. Background. The 600-acre Ballona Wetlands Ecological Reserve is located in the western portion of the City of Los Angeles (partially within unincorporated Los Angeles County), south of Marina Del Rey and north of Playa Del Rey. The project site is situated approximately 1.5 miles west of Interstate 405 and approximately \1/4\-mile east of Santa Monica Bay. The project site is owned by the State of California, and is bisected by and includes a channelized span of Ballona Creek, a component feature of a federal flood risk management project. 2. Project Purpose and Need. A substantial portion of California's historic coastal wetlands have been lost. Restoration of coastal wetlands is needed in order to increase available nursery and foraging habitat for wildlife and to provide recreational and educational opportunities to the public. The Ballona Wetlands ecosystem is one of the last remaining major coastal wetlands in Los Angeles County. It is estimated that historically the wetlands ecosystem spanned more than 2,000 [[Page 43576]] acres in the vicinity of the site. Development occurring over the last century greatly reduced the Ballona wetland area, now estimated at approximately 600 acres. In addition, the wetland habitat and natural hydrological functions in the area have been substantially degraded. The project site provides habitat for a diversity of plant and wildlife species, but most on-site habitat exhibits relatively low physical and biological functions and services. The proposed project is intended to return the daily ebb and flow of tidal waters, maintain freshwater circulation, and augment the physical and biological functions and services in the project area. Restoring the wetland functions and services would allow native wetland vegetation to be reestablished, providing important habitat

O11-256

for a variety of wildlife species. As a restored site, the Ballona Wetlands would play an important role to provide seasonal habitat for migratory birds. A restored, optimally functioning wetland would also benefit the adjacent marine environment and enhance the quality of tidal waters. The proposed project would provide the community with a valuable educational resource and access to a large wetland area. The purpose of the project is to restore ecological functions of the site, in part, by enhancing tidal flow. 3. Proposed Action. CDFG is proposing a large-scale restoration of the Ballona Wetlands Ecological Reserve. The proposed project entails restoring, enhancing, and establishing native coastal wetland and upland habitats in the approximately 600-acre Ballona Wetlands Ecological Reserve. The reserve currently supports large expanses of previously filled and dredged coastal wetland and upland habitat that would be restored by increasing tidal flow throughout the project area, removing invasive species, and planting native vegetation. The main components of the proposed project are: Habitat restoration of estuarine wetland and upland habitats connected to a realigned Ballona Creek. Removal of existing Ballona Creek levees and realignment of Ballona Creak to restore a more meandering channel. Construction of levees along the perimeter of the project area to allow restoration of tidally influenced wetlands in the project area while providing flood risk management for Culver Boulevard and surrounding developed areas. Installation of water control structures, including culverts with self-regulating tide gates or similar structures, to provide a full range of tides up to an elevation acceptable for flood risk management and storm drainage, while reducing the risk of damage from storm events. Maintenance of existing levels of flood risk management for areas surrounding the Ballona Wetlands site. Provision of erosion protection as an integral part of the restoration design. Modification of infrastructure and utilities as necessary to implement the restoration project. Improving public access by realigning existing trails, creating new trails, repairing existing fences, constructing overlook platforms, and providing other visitor-oriented facilities. Long-term operations and management activities including inspections, repairs, clean-up, vegetation maintenance, and related activities. The proposed project requires a permit under section 404 of the Clean Water Act (CWA) and section 10 of the Rivers and Harbors Act to conduct dredge and fill activities in waters of the United States and for work and (or) structures in or affecting navigable waters of the United States associated with restoring wetlands and associated habitat within the project site. Dredge and fill activities in waters of the United States are proposed to construct new levees, form new tidal channels, modify existing tidal channels, re-contour areas to enhance tidal flow, and to create elevations conducive to establishing wetland habitat. Preliminary conservative estimates indicate the project would result in a balanced total of 1,782,000 cubic yards of excavation and 1,782,000 cubic yards of fill placement, not all of which would affect jurisdictional areas. Based on these preliminary estimates, the volumes and areas of fill are estimated as follows: Permanent discharge of fill within 43.5 acres of non-wetland waters of the U.S. (435,000 cubic yards) and within 65 acres of wetland waters of the U.S. (600,000 cubic yards), as well as temporary discharge of fill within 3.5 acres of non- wetland waters of the U.S. (30,000 cubic yards) and within 0.3 acres of wetland waters of the U.S. (structural fill). The project will also require a permit from the Corps to the Los Angeles County Department of Public Works, as the non-Federal sponsor of the Los Angeles County

O11-256 cont.

Drainage Area (LACDA) project, pursuant to 33 U.S.C. section 408 (408 permit). A section 408 permit is required to alter/modify a completed Corps project. The Ballona Creek levees were constructed by the Corps in the 1930s as part of LACDA. This project proposes to remove levees, construct a larger levee reach around the perimeter of the proposed side, reconfigure the existing concrete-lined Ballona Creek flood-control channel and realign the creek. A permit for modification/alteration of this magnitude would require Corps Headquarters approval. 4. Alternatives Considered. The feasibility of several alternatives is being considered and will be addressed in the DEIS/EIR. The No Federal Action/No Project Alternative, as required by NEPA and CEQA, would maintain the status quo and would include no improvements or discharges of fill material in waters of the United States or work or structures in or affecting navigable waters of the United States. Other alternatives that may be considered include restoring smaller portions of the 600-acre site, alternative designs that would provide differing amounts of various habitats types, and alternative designs for enhancing tidal flow. Additional alternatives may be developed during scoping and will also be considered in the DEIS/EIR. 5. Scoping Process. a. Affected federal, state and local resource agencies, Native American groups and concerned interest groups/individuals are encouraged to participate in the scoping process. Public participation is critical in defining the scope of analysis in the DEIS/EIR, identifying significant environmental issues in the DEIS/EIR, providing useful information such as published and unpublished data, and knowledge of relevant issues and recommending mitigation measures to offset potential impacts from proposed actions. b. Potential impacts associated with the proposed project will be fully evaluated. Potential significant issues to be addressed in the DEIS/EIR include aesthetics, air quality and greenhouse gas emissions, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, public services, recreation, sea-level rise, traffic, flood control, and utilities. Additional issues may be identified during the scoping process. c. Individuals and agencies may offer information or data relevant to the environmental or socioeconomic impacts of the proposed project by submitting comments, suggestions, and requests to be placed on the mailing list for announcements to (see FOR FURTHER INFORMATION CONTACT) or the following email address: Daniel.p.swenson@usace.army.mil. [[Page 43577]] d. The Corps anticipates formally consulting with the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act, the National Marine Fisheries Service under Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), and with the State Historic Preservation Officer under Section 106 of the National Historic Preservation Act. The CDFG, as the project proponent, will need to obtain a CWA section 401 water quality certification or waiver and a consistency certification from the California Coastal Commission in accordance with the Coastal Zone Management Act. 6. Scoping Meeting Date, Time, and Location. A public scoping meeting to receive input on the scope of the DEIS/EIR will be conducted on August 16, 2012, from 4:00-7:00 p.m. at the Fiji Gateway entrance to the Ballona Wetlands (13720 Fiji Way, Marina del Rey, CA 90292, across from Fisherman's Village and Los Angeles County Department of Beaches and Harbors). 7. Availability of the DEIS/EIR. The DEIS/EIR is expected to be published and circulated in late 2012. A public hearing will be held after its publication to field comments on the document. David

O11-256 cont.

J. Castanon, Chief, Regulatory Division, Corps of Engineers. [FR Doc. 2012-18166 Filed 7-24-12; 8:45 am] BILLING CODE 3720-58-P

O11-256 cont.

From:	patricia mc pherson
To:	Williams, Thizar@Waterboards; Ly, Jillian@Waterboards; Hinojosa Jr., Arthur@DWR; Friend, Janiene@DWR; COMPLAINTS@EPA; Townsend, Jeanine@Waterboards
Cc:	Todd T. Cardiff, Esq.
Subject:	Ballona Wetlands Ecological Reserve/ Freshwaters are Pumped Out, Diverted & Drained
Attachments:	Screen Shot 2014-10-27 at 12.06.07 PM.png Screen Shot 2017-07-21 at 1.22.46 PM.png Screen Shot 2017-07-21 at 1.23.01 PM.png Screen Shot 2017-07-21 at 1.23.14 PM.png Screen Shot 2017-07-21 at 1.21.30 PM.png Screen Shot 2017-07-21 at 1.21.45 PM.png Screen Shot 2017-07-21 at 3.16.35 PM.png Screen Shot 2017-07-21 at 3.16.15 PM.png Screen Shot 2017-04-22 at 8.55.19 AM.png CCC lttr 4.11.14 copy.pdf Docs Already Submitted to EPA (electronic format).pdf

Hello Waterboard-State and Regional and Ca. Dept. of Water Resources,

USING WATER WISELY —Executive Order B-37-16
The aquifers underlying Ballona Wetlands are classified as 'potential drinking water'. Historically, the groundwater is at or near the surface. (EIR 1990 PLAYA VISTA)

> *"Water is the main requirement for a functional wetland. Any fill or alteration of wetland hydrology reduces a wetland's ability to function. If water is drained or removed, or isn't present in the wetland for as long, then wetland function is degraded. Therefore, wetland function is degraded by actions that disrupt water supply through direct fill and draining of a wetland and habitat within the reserve.*" pg. 8 of 9, 4/11/14. PDF attached below.

O11-257

(*The PDF references California Coastal Commission identification of Coastal Act violations and unpermitted drainage sites in Ballona Wetlands Ecological Reserve.*
An August Meeting of the CCC will address an Application by the Ca. Dept. of Fish & Wildlife(CDFW) to stop the drainage from these sites. The Application is a result
of a Settlement Agreement between CDFW & Grassroots Coalition after CDFW & Playa Vista failed to act per CCC requests that are included within the CCC Letter.)

This is a request for review and analysis to determine potential harm to Ballona Wetlands Ecological Reserve from the diversion of all the waters east of Lincoln Blvd. that would ordinarily flow into the Ballona Wetlands and provide the life-giving waters to Ballona Wetlands.

The following image depicts a portion of Ballona Wetlands, in Los Angeles and is intended to convey a simplified image of
one source of freshwaters that could be restored to Ballona Wetlands Ecological Reserve. This source and other dewatering areas have been being pumped out and diverted away from Ballona Wetlands. The 950,000 GPD comes from a 2008 document (attached) describing Playa Vista dewatering of groundwater that ordinarily would be supplying Ballona Wetlands. The image only includes one portion of dewatering elements of Playa Vista. Playa Vista has multiple dewatering elements.

The bottom of page 2 (attached below) states, " There are no other feasible reuse options for the groundwater other than for dust control purposes at the site. Therefore, the majority of pumped and treated groundwater will be discharged to the storm drain."

Playa Vista's reasoning that water reuse cleanup efforts are COST PROHIBITIVE is their only rational for throwing its groundwaters into the sanitary sewer system.
(Agreement attached- Groundwater Discharge Into City's Sewer System)

REALITY: THERE ARE EXTREMELY BENEFICIAL REUSE OPTIONS FOR GROUNDWATER; NAMELY, RETURN THESE WATERS TO BALLONA WETLANDS ECOLOGICAL RESERVE. 'Cost prohibitive' citations by Playa Vista should be evaluated in context of causing unnecessary harm to the publicly acquired, Ballona Wetlands and the millions of dollars of public funds placed in jeopardy.

1. The EIR, Phase 1 of Playa Vista cites that there should be no long term dewatering of the site. The EIR and Vesting Tract Agreements
speak to any groundwaters brought to the surface, will be cleansed and reused onsite to eg. recharge the underlying aquifers. This is not occurring.

2. Best Management Practices provide for protection of the groundwater. The groundwater of Playa Vista and Ballona Wetlands are
classified as potential drinking water.

Ballona Wetlands Ecological Reserve is downgradient of freshwater that flows from east to west from the surrounding watershed.
The EIR for Playa Vista, phase 1 reveals the groundwaters are at or near the surface.

3. Over the years, since the development of Playa Vista and, since the acquisition by the public of much of the Ballona Wetlands,
there has been a progressive theme cited by agencies with oversight of the public lands. Namely, that Ballona Wetlands
is drying out. These agencies which include the California Coastal Conservancy, California Dept. of Fish & Wildlife(CDFW) and private businesses such as the Bay Foundation. These entities profess oversight of the restoration of Ballona Wetlands but none have had hydrology studies performed for Ballona Wetlands itself. Instead, these entities have excluded any actual onsite hydrology studies, excluded any acknowledgement of the illegal drains and drainage happening within Ballona Wetlands and have
excluded any review or analysis of upstream dewatering of Ballona-- by Playa Vista-- that is directly adjacent to and part of the historic
Ballona Wetlands. Playa Vista needs to dewater due to toxic remediation and its need to lower the waters away from their methane gas mitigation systems. Playa Vista must also be responsive to the overall problem of being located within a 100% liquefaction, floodplain area. **None of these problems however, means that the waters that are taken out, cannot be returned to Ballona Wetlands.**

O11-257 cont.

This is a request for review and analysis to determine potential harm to Ballona Wetlands from the diversion of all the waters east of Lincoln Blvd. that would ordinarily flow into the Ballona Wetlands and provide the life-giving waters to Ballona Wetlands.

Already, Playa Vista and the CDFW have been determined by the California Coastal Commission to be in violation of the Coastal Act for harm being done to Ballona Wetlands Ecological Reserve via the unpermitted drains and drainage directly within Ballona Wetlands.

-When this illegal drainage is combined with all the Playa Vista constantly ongoing dewatering, what is the cumulative volume of water that is being deprived from reaching the Ballona Wetlands?

The Ballona Wetlands is historically, a predominantly seasonal freshwater wetlands. Its history does include its ancient saltwater influx from hundreds of years ago and historic but occasional saltwater influx when sand dune barriers were temporarily broken from storms. But now, Ballona's unique and rare freshwater aspects are currently being destroyed due to the diversion and throw-away of its freshwaters to both the sanitary sewer and the Santa Monica Bay via the Ballona Channel. The City of LA Dept of Sanitation is allowing, without any consideration of the negative environmental consequences, for Playa Vista to simply throw away this precious groundwater into the sanitary sewer. The Waterboards are aiding this endeavor due to the lack of review of how diverting and taking away a wetland's groundwaters has deleterious environmental consequences. We ask that the Waterboards investigate this matter and act to protect the historic groundwater flows into Ballona via any and all codes and other legal means available.

O11-257 cont.

Best Management Practices should allow for Ballona's freshwaters to be restored to Ballona Wetlands Ecological Reserve. The public has paid millions of dollars for the restoration of Ballona Wetlands Ecological Reserve which should intrinsically include the return of its freshwaters to flow into Ballona Wetlands as occurred prior to the development of Playa Vista.

Past meetings with LARWQCB staff has alerted Grassroots Coalition to their acknowledgement that the water table of Playa Vista has been lowered approximately 15-20 feet.
The historic water table of the area has thus been lowered and consequently the normal flow of groundwater and surface rainwater flowing into Ballona Wetlands has been removed.
The California Coastal Commission has stated that if Ballona Wetlands is being harmed from the diversion and removal of the waters then, action can be taken to restore those waters. LARWQCB and Dept. of Water Resources have the ability to investigate and determine what are the actual volumes of water being diverted from Ballona Wetlands.

-There are no well completion permits for Playa Vista according to USACE documents that requested all such permits within a few mile radius of Ballona Wetlands.
Only a couple of well completion reports were provided to USACE and none were from Playa

Vista.
The SPIDER MAPS included in this request letter, provide a visual for the numerous dewatering well locations at Playa Vista.
- The monitoring of dewatering volumes needs to be assessed in light of the difficulties of actual valid measuring dependent upon specific measuring device(s) that may or may not be being utilized by the Dept. of Sanitation and/or LARWQCB.

DWR Portion copied:

Article 2.
Definitions
13710.
"Well" or "water well" as used in this chapter, means any artificial excavation constructed by any method for the purpose of extracting water from, or injecting water into, the underground. This definition shall not include: (a) oil and gas wells, or geothermal wells constructed under the jurisdiction of the Department of Conservation, except those wells converted to use as water wells; or (b) wells used for the purpose of (1) dewatering excavation during construction, or
(2)
stabilizing hillsides or earth embankments.

O11-257 cont.

Well Completion Reports

DWR is responsible for maintaining a file of well completion reports, which must be submitted whenever a driller constructs, alters, or destroys a well. This is a valuable resource and service to landowners who want to find out about subsurface geologic conditions on their property or to determine particular well construction details for their water wells. The information is also valuable to researchers trying to better understand the groundwater basin.

Other Well Forms for Well Drillers, Water Well Contractors, and Well Owners

To protect the State's groundwater supplies, the Legislature authorized the establishment of well standards (Department of Water Resources Bulletins 74-81 and 74-90) and regulations pertaining to the construction, alteration, and destruction of wells. California Water Code Section 13750.5 requires that those responsible for the construction, alteration, or destruction of water wells, cathodic protection wells, groundwater monitoring wells, or geothermal heat exchange wells possess a C-57 Water Well Contractor's License. This license is issued by the Contractors State License Board. California Water Code Section 13751 requires that anyone who constructs, alters, or destroys a water well, cathodic protection well, groundwater monitoring well, or geothermal heat exchange well must file with the Department of Water Resources a report of completion within 60 days of the completion of the work.

The following documents highlight significant volumes of dewatering taking place that need to have cumulative impact analysis.

This next 2002 document discusses 25,000 GPD and Playa Vista's need to have perpetual dewatering and the sending of that groundwater to the sanitary sewer. While, through time there may be variation in groundwater dewatering, the focus of this review request is to raise awareness and promote action towards a cumulative dewatering analysis that includes what has been done since buildout of Playa Vista started and a bringing up to date the current volumes of dewatering that are occurring.

Other dewatering that is being done at Playa Vista, includes the building sites themselves as continual dewatering is
done to keep groundwater and any rainfall or sprinkler system waters from percolating down into the
methane gas mitigation systems. Included below are images (SPIDER MAPS) of building sites and dewatering locations.
Please note the date of the map as 2000, hence prior to actual buildout of the sites and hence questimated/ not actual dewatering.

Thank you for review of this information. Grassroots Coalition looks forward to a positive resolution of these issues that
will benefit the public and the environment,
Patricia McPherson, Grassroots Coalition

O11-257 cont.

STATE OF CALIFORNIA - NATURAL RESOURCES AGENCY EDMUND G. BROWN, JR., *Governor*

CALIFORNIA COASTAL COMMISSION
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

April 11, 2014

Playa Capital Company, LLC
c/o Rick Zbur
355 South Grand Avenue
Los Angeles, CA 90071

Re: Unpermitted drains located in Ballona Ecological Reserve

Dear Mr. Zbur:

Thank you for your December 11, 2013 response to our June 12, 2013 letter. Our June 12 letter described installation of two drains and drain lines in the Ballona Ecological Reserve without the required coastal development permit. After carefully reviewing the information that you included with your letter, our position on installation of the drains at issue has not changed: installation of the drains requires a coastal development permit from the Coastal Commission. As explained below, the unpermitted drains were not authorized, as you contend, by Coastal Development Permit No. 5-91-463, as amended ("the CDP"), which authorized construction of the Ballona Freshwater Marsh ("BFM"). Moreover, the subject drains are located in the Ballona Ecological Reserve within natural habitat and a wetland that rely on water to function. Thus the presence of the subject drains is clearly detrimental to natural habitat and the hydraulic functioning of the wetland. O11-258

The two unpermitted drains at issue ("Unpermitted Drains") are located in the Ballona Ecological Reserve, one north of Culver Boulevard and the other south of Culver Boulevard. The Unpermitted Drains are not located within the BFM, but instead within natural saltmarsh and habitat areas separated from the marsh area of the BFM by Jefferson Boulevard. The Unpermitted Drains are not described in the CDP application, nor are the drains identified in the plans submitted with the application and presented to the Commission for approval. Thus the Unpermitted Drains were never authorized through the CDP, or by the Commission in any way that we are aware of.

As a point of clarification since your letter appears to conflate several separate structures, the Commission-approved BFM main drain line and the two other outlets from the BFM (in addition to the main drain line) that are critical to maintaining water levels in the BFM, and which are specifically identified in the CDP application and accompanying plans ("Approved BFM Drain" and "Approved BFM Outlets"), are not at issue in this enforcement matter. Each of these components is identified and described in the CDP application and accompanying plans, which comprise the development approved by the Commission via the CDP. By contrast, the Unpermitted Drains were not identified in the CDP application or its accompanying materials or plans. For reference I've attached a site plan submitted to the Coastal Commission that show the Approved BFM Drain and the Approved BFM Outlets. I've also annotated the plan to show the locations of the Unpermitted Drains, which are not depicted on the approved plan.

Below, I respond to points raised in your December 11 letter related to the Unpermitted Drains. However, first I provide some background and clarification on the purpose and functions of the BFM in order to explain that the Unpermitted Drains function inconsistently with the habitat enhancement, water quality and flood control objectives of the BFM and in no way does the BFM rely on the Unpermitted Drains to perform its necessary functions. Please note that some of our responses to the points you raised in your December 11 letter are provided in the background section below.

Background

The BFM was approved by the Commission pursuant to CDP No. 5-91-463 (as amended) on September 13, 1991. The project is designed to integrate water quality protection functions, habitat creation and restoration, and stormwater control. The first function of the BFM is to collect runoff via inlets specifically identified in the CDP application and accompanying plans. Each of these approved inlets flow into the BFM. The CDP application describes the process by which the BFM achieves its water quality objectives:

> The water quality functions would be performed by the input of a year-round supply of clean freshwater into the system and through the natural processes of a wetlands – sedimentation, adsorption, and transformation – which would reduce levels of pollutants in stormwater and other urban runoff that drains into the system. The freshwater wetlands system would trap and remove pollutants in stormwater runoff as the water moves slowly through the system. Water cleaner that the stormwater runoff originally put into the system would then flow into the Ballona Flood Control Channel or into the salt marsh, thus enhancing the resource values of those areas. [Appendix 5, page 2]

O11-258 cont.

The Unpermitted Drains do not support the water quality objectives of the BFM; the Unpermitted Drains do not direct water into the BFM to be subject to the wetland treatment processes described above. Instead, water flows into the Unpermitted Drains, then untreated into the Ballona Channel.

The second function of the BFM, habitat creation and restoration, is the product of collecting stormwater and treated groundwater within the marsh area of the BFM. This process fosters vegetation growth and, in turn, provides wildlife habitat. The habitat function of the BFM and its reliance upon stormwater is further described in the CDP application:

> The 52-acre freshwater wetland system proposed by Maguire Thomas Partners – Playa Vista, includes a 25-acre riparian corridor and a 27-acre freshwater marsh. This system is to be planted with marsh vegetation, willow woodland and mixed riparian habitat over a three-phase construction period lasting 10 years. It is designed to create new and restore currently degraded freshwater wetland habitat and to enhance their associated uplands. In order to maintain the proposed vegetation and habitat of the system, a water supply of reliable quantity and quality is needed.
>
> ...

- Using two sources of supply (storm runoff and treated groundwater) that are consistent with the urban setting of the Playa Vista project, a completely satisfactory quantity of fresh water would be provided to establish and sustain 52-acres of wetland vegetation and the freshwater need of wildlife. (Appendix 11, ps. EX1-2)

As noted above, the Unpermitted Drains do not drain into the BFM, thus they do not contribute water to the BFM and thus do not contribute to its habitat function. In fact the effect of the functioning of the Unpermitted Drains is deleterious to habitat because the Unpermitted Drains direct water away from habitat areas within the Ballona Ecological Reserve, including a wetland area.

Another function of the BFM is stormwater management and this indeed was a stated objective for constructing the BFM. In contrast to the functioning of the BFM, during all but the most extreme storm events, the Unpermitted Drains do not provide any necessary flood protection because of the elevation of adjacent Culver Boulevard. The BFM project engineer, in describing the value of the Unpermitted Drains, or lack thereof, notes in July 11, 2013 email to staff at the Santa Monica Bay Restoration Commission, and others, that: "If these inlets were plugged, there would be no chance of any flooding ever reaching the adjacent roadways as the roads are about three feet higher than the surrounding grades. A three foot storm would be something on the order of the 1,000,000-year event (purely a guess, but you get the idea) and L.A. would not notice a little flooding here."

O11-258 cont.

Moreover, the Unpermitted Drains are not designed to function when flood control devices would be expected to, i.e. during storm events. During storm events when the water levels in Ballona Channel are elevated, the flapgates in the Approved BFM Drain close in order to prevent water from flowing from the Ballona Channel and out through the Approved BFM Outlets into the BFM. When these flapgates in the Approved BFM Drain close during storm events, water will not flow through the Unpermitted Drains into the Approved BFM Drain, consequently, water will pond in the location of the Unpermitted Drains. Thus, it appears that the idea that stormwater control benefits are provided by the Unpermitted Drains is, at best, dubious. However, as a result of below-grade and at-grade inlets in the Unpermitted Drains, the Unpermitted Drains remove water in the ground and on the surface at all other times water is present. This is a continuous detriment to wetland hydrology and habitat that relies on water to function.

Coastal Development Permit Required

The Unpermitted Drains were not identified in the CDP application or accompanying plans and materials. Therefore, the Unpermitted Drains were not reviewed by the Coastal Commission and installation of the Unpermitted Drains was not authorized via the CDP. Furthermore, the Unpermitted Drains do not, as detailed above, perform any of the intended functions of the BFM and thus could not have been somehow approved in concept by the Commission.

Pursuant to Section 30600(a) of the Coastal Act, any person wishing to perform or undertake development in the Coastal Zone must obtain a coastal development permit, in addition to any other permit required by law. "Development" is defined by Coastal Act Section 30106 as:

> "Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of the use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvest of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations....[underling added for emphasis]

Installation of the Unpermitted Drains constitutes development under the Coastal Act and, therefore, requires a coastal development permit. Any development activity conducted in the Coastal Zone without a valid coastal development permit, or which does not substantially conform to a previously issued permit, constitutes a violation of the Coastal Act.

O11-258 cont.

Our goal is to resolve this situation amicably and as quickly as possible so that all parties can move forward. We greatly appreciate your time and input and look forward to discussing this matter further and working on a consensual resolution to this matter. To that end, subsequent to the substantive responses to your letter, below, I propose a potential path forward to resolve this matter collaboratively.

Staff Responses to Section A

You note, as a preliminary matter, that Playa Capital Company, LLC ("PCC") does not currently own the property upon which the Unpermitted Drains are located. You do not specifically argue that as a result of this lack of property interest at the present time, PCC is not liable for installation of the Unpermitted Drains, however, I note that liability for Coastal Act violations attaches to the property owner upon which unpermitted development is located *and to the party that undertook the unpermitted development*. Documents submitted to the City of Los Angeles regarding construction of the Approved BFM Drain indicate that installation of the Approved BFM Drain was commenced by PCC's predecessor-in-interest, Maguire Thomas Partners ("MTP"), and completed by PCC. The Unpermitted Drains connect to the Approved BFM Drain (but as noted above, do not contribute to the functioning of the BFM) and logically then were constructed by PCC and/or its predecessor-in-interest at the time the Approved BFM Drain was constructed. Contemporaneous construction of the Unpermitted Drains and the Approved BFM Drain does not establish, however, that the Unpermitted Drains were authorized pursuant to the CDP. As described above, the Unpermitted Drains are not described in the CDP application or depicted in the accompanying plans, in contrast to the Approved BFM Drain, which is described and depicted in the CDP application and plans.

You also provide in Section A your description of the function of the Approved BFM Outlets and equate the Unpermitted Drains with the Approved BFM Outlets. You assert that:

> *The outlet drains in question were initially incorporated in the Freshwater Marsh design with the approval of the City of Los Angeles, to protect the Ballona salt marsh located to the west of the Freshwater Marsh from imminent construction impacts, and, ultimately, to prevent flooding of the roadways adjacent to the Freshwater Marsh during severe storm events in the long-term.*

However, the Unpermitted Drains are distinct from the Approved BFM Outlets. The three Approved BFM Outlets (including the Approved BFM Drain) are identified in the CDP application and plans. These outlets allow for freshwater to be directed from the BFM into the Ballona Channel or into the saltmarsh west of the BFM when needed to adjust salinity levels in the saltmarsh. The CDP application specifically identifies the Approved BFM Outlets as such:

> *Three water management structures are included in the design of the system: a spillway system between the freshwater marsh and the salt marsh, a sluice-gate structure between the freshwater marsh and the salt marsh, and a control weir with a tide-gated outlet between the freshwater marsh and the Ballona Channel.* [pgs. II-7-8]

Clearly none of these descriptions pertain to the Unpermitted Drains. The Unpermitted Drains can be further distinguished from the Approved BFM Outlets in a number of ways. First, the Unpermitted Drains are not depicted in the CDP application or the plans, as the Approved Outlets are, and thus the Unpermitted Drains were not approved by the Commission. Second, the Unpermitted Drains are not outlet drains. The Approved BFM Outlets provide outlets for freshwater water to move from the BFM into Ballona Channel and into the saltmarsh west of the BFM for salinity level management purposes. In contrast, the Unpermitted Drains do not outlet water from the BFM. Thus, categorically, the Unpermitted Drains are not "outlets" from the BFM. Instead, they drain water from native habitat and a wetland area separated from the BFM by Jefferson Boulevard. Third, the Unpermitted Drains do not direct drained water into the saltmarsh, thus they also do not share the function of the Approved BFM Outlets to provide the saltmarsh with freshwater. Finally, the saltmarsh that is protected by the Approved BFM Outlets that is referenced in the CDP application and associated documents is west of the BFM. In contrast, the Unpermitted Drains are located in the saltmarsh and habitat area north of the BFM.

O11-258 cont.

Regarding the assertion in Section A that the Unpermitted Drains are necessary flood control measures that were approved by the City of Los Angeles, the lack of any flood prevention provided by the Unpermitted Drains is addressed above. In addition, as you are no doubt aware, even if the Unpermitted Drains were approved by the City of Los Angeles through local processes, such approval is not a substitute for authorization from the Commission and does not waive the coastal development permit requirements of the Coastal Act. Furthermore, no regulation is cited in the City's letter attached to your December 11 letter that confirms that there is a basis for the City to require construction of the Unpermitted Drains for flood protection. Nor could City staff identify such regulation in its discussions with Commission staff. In fact, in discussions with us, City staff had no objections to removal of the Unpermitted Drains, which is not surprising since the Unpermitted Drains provide negligible (if any) flood control benefits.

Staff Responses to Section B

In Section B, you again apparently confuse the Unpermitted Drains with the Approved BFM Outlets. As detailed above, in contrast to the Unpermitted Drains, the Approved BFM Outlets were approved by the Commission pursuant to the CDP and, again in contrast to the Unpermitted Drains, perform important habitat enhancement, water quality and flood control functions.

You also assert that staff was made aware of the plans to construct the Unpermitted Drains prior to construction of said drains (but subsequent to Commission approval of the BFM) and that staff concurred with their construction. Regardless of whether this assertion is true, and it is not, as explained below, the Unpermitted Drains were not a component of the CDP application; were not presented in narrative or graphic form, or in any manner to the Commission for review; were not authorized by the Commission pursuant to the CDP in any way; and there is no other Commission action that authorized the Unpermitted Drains. Furthermore, the assertion that staff was aware of plans to build the Unpermitted Drains prior to construction of said drains and concurred with their construction, which we did not, has no bearing on whether the Commission authorized construction of the Unpermitted Drains.

To support your assertion noted above that staff was aware of installation of the Unpermitted Drains, you outline staff's receipt of plans that depict the Unpermitted Drains and staff's investigation of construction of the Approved BFM Drain, which you mistakenly describe as an investigation of the Unpermitted Drains. In 1995, subsequent to the Commission's approval of the BFM, staff was provided with a copy of the BFM Habitat Mitigation and Monitoring Plan ("HMMP") prepared by PCC's predecessor for the U.S. Army Corps of Engineers, which included plans depicting the Unpermitted Drains. This document was not a requirement of the coastal development permit authorizing the BFM, and therefore, staff was under no obligation to review and approve it. Thus, it cannot be concluded from the mere submittal of the HMMP that staff was aware of its contents. Furthermore, in reviewing compliance with the CDP, the HMMP document would not be central to staff's review since the Commission's approval is embodied in the CDP application and accompanying documents, as wells as the CDP and staff report, none of which depict the Unpermitted Drains.

O11-258 cont.

As you note in your letter, in 1996 staff investigated alleged unpermitted grading in the vicinity of the BFM. Commission staff investigated the incident and determined that the grading was undertaken in order to install the Approved BFM Drain. To investigate the report, staff reviewed the CDP application and associated plans, which describe and depict the Approved BFM Drain. Thus, staff confirmed that the Approved BFM Drain and associated grading was approved by the CDP and sent a letter dated July 10, 1996 to that effect to PCC's predecessor. Staff gave no indication in the letter or otherwise that we were aware of the plan to install the Unpermitted Drains. You claim that an April 4, 1996 letter from MTP to staff would have made staff aware of the plan to install the Unpermitted Drains. Although the Approved BFM Drain is described in detail in the April 4 letter, there is no mention in the letter of the Unpermitted Drains, nor are the Unpermitted Drains identified in the attachments to the April 4 letter. In fact, one of the exhibits to the April 4 letter, which delineates the limits of work required for installation of the Approved BFM Drain, does not include in its delineation the areas where the Unpermitted Drains are located. Thus, far from making staff aware of a plan to install the Unpermitted Drains, the letter

would do the opposite and indicate that there were no plans to disturb the area where the Unpermitted Drains were ultimately constructed.

In addition, staff would not have been aware from visiting the site that MTP or Playa Capital planned to install the Unpermitted Drains. At the time staff visited the site, grading had occurred to begin the process of installing the Approved BFM Drain, but neither the Approved BFM Drain nor the Unpermitted Drains had been installed yet, so staff would not have been made aware of their presence in that way either.

Again, regardless of whether the April 4 letter made staff aware of the plan to install the Unpermitted Drains, which was not the case, the Unpermitted Drains were not a component of the CDP application; were not presented in narrative or graphic form, or in any manner to the Commission for review; were not authorized by the Commission pursuant to the CDP in any way; and there is no other Commission action that authorized the Unpermitted Drains. Thus the Unpermitted Drains constitute unpermitted development and a violation of the Coastal Act.

Staff Responses to Section C

You assert in Section C that the Unpermitted Drains have not had any adverse impacts on wetlands. You attach a memorandum from your biological consultant that purportedly supports this claim. However, the memorandum is limited in scope to a comparison of surveys of the vegetative communities around the Unpermitted Drains before and after installation of the Unpermitted Drains. There is no discussion of the effects the Unpermitted Drains might have on wetland hydrology.

O11-258 cont.

Attached to the memorandum is a vegetation survey of the vegetation in the Ballona Wetlands area in 1990, prepared by MTP's biological consultant, and results of a survey of the vegetation in 2006, undertaken by the California Department of Fish and Game. The prior survey show the vegetation around the Unpermitted Drains to be arguably upland before installation of the Unpermitted Drains, the subsequent survey shows seasonal saltmarsh south of Culver Boulevard and a mix of seasonal saltmarsh and riparian vegetation north of Culver Boulevard. You thus assert that wetland habitat has expanded since installation of the Unpermitted Drains. However, the dominance by wetland vegetation documented in the survey conducted after installation of the Unpermitted Drains is evidence of a trend to dominance by wetland vegetation that began at the time agriculture use of the site ceased in the 1980's, before installation of the Unpermitted Drains.

In a 1991 memorandum, the Department of Fish and Game, which delineated wetlands in the Ballona Wetlands area in 1991, stated "During the evolution of the now certified Playa Vista Land Use Plan, we predicted that, were it not for the then ongoing agricultural operation, wetlands in Area B would expand. These agricultural activities ceased for approximately three years prior to the Corps' wetland determination, and, as we predicted, the wetlands did expand into the area which was formerly used for the production of barley and lima beans." The Unpermitted Drains are located in such a formerly farmed area. The 1990 MTP vegetation survey notes of the area where the Unpermitted Drains are located that "All of this area at some

time has been disturbed, and much of it has been used for agriculture, some within the past 10 years."

The survey goes on to say that "The elevations of the flats appear to reflect the original elevations and except for the elevated roadways, the areas appear not to have been artificially filled." Indeed the survey labels the areas where the Unpermitted Drains are located as "old marsh flats." It is not surprising then, given the history of the site, that the 2006 survey found that wetland vegetation has returned to much of the area around the Unpermitted Drains, despite the limiting effects on hydrology that the Unpermitted Drains have had.

Again your general assertion in Section C is that the Unpermitted Drains have not had any adverse impacts on wetlands. As explained above, the memorandum attached to your letter does not persuasively support this assertion. Moreover, this assertion is both conceptually and factually incorrect. Water is the main requirement for a functional wetland. Any fill or alteration of wetland hydrology reduces a wetland's ability to function. If water is drained or removed, or isn't present in the wetland for as long, then wetland function is degraded. Therefore, wetland function is degraded by actions that disrupt water supply through direct fill of a wetland or draining. The Unpermitted Drains disrupt water supply through direct fill and draining of a wetland and habitat within the reserve.

One of the chief components of wetland habitat is wetland vegetation. Thus, removal of wetland plant species, whether through removal or physical preclusion of growth, reduces the habitat value of a wetland. In addition, degradation of wetland function through alteration of hydrology means that the same plants may not grow and habitat value and wildlife use of the wetland are reduced. This has clearly happened in the vicinity of the Unpermitted Drains. It is readily apparent from a review of the vegetation in the vicinity of the Unpermitted Drain located in a wetland south of Culver Boulevard that the drain is precluding growth of wetland plant species. Moreover, since the Unpermitted Drain is designed to drain water from the soil in the wetland around it, as well as ponding water that flows into the drain, this deleterious effect would not be limited to just the immediate vicinity where water pools, but would extend to any area hydrologically connected to the Unpermitted Drain.

O11-258 cont.

You also point out in Section C that the Commission approved limited fill of wetlands through authorization of the BFM project, and thus argue that fill of wetlands for purpose of constructing the Unpermitted Drains is consistent with that approval. Please note that the Commission did not review fill of wetlands for the purpose of constructing the Unpermitted Drains because such structures were never before the Commission for its review. The Commission did review the proposal for the Approved BFM Drain, since this structure was part of the application and proposal for the BFM. The Commission found that limited fill of wetlands for the purpose of constructing the Approved BFM Drain was consistent with the Coastal Act. Coastal Act Section 30233 allows for fill of wetlands through the coastal development permit process in certain circumstances, including for restoration purposes. The Approved BFM Drain is a necessary component of a restoration project, the BFM, approved via the coastal development permit process. However, in contrast, no coastal development permit was applied for nor obtained for the Unpermitted Drains, and the drains do not facilitate the restoration functions of the BFM, nor do they serve any restoration purpose independent of the BFM. In fact, the Unpermitted Drains

detract from wetland and habitat function. Thus the Unpermitted Drains are both unpermitted and could not be found to be consistent with Section 30233 of the Coastal Act.

Resolution

As we have expressed to you throughout our discussions, we would like to work with you to resolve these issues amicably. One option that you may want to consider is agreeing to consent orders. Consent cease and desist and restoration orders would provide your with an opportunity to have more input into the process and timing of removal of the Unpermitted Drains and mitigation of the damages caused by installation and functioning of the Unpermitted Drains, and could potentially allow you to negotiate a penalty amount with Commission staff in order to resolve the violation without any formal legal action. Another advantage to agreeing to a consent order is that it replaces the need for costly and time consuming litigation. Further, in a consent order proceeding, Commission staff will be promoting the agreement between the parties and staff, rather than addressing the violations through a disputed hearing, which could only highlight the violations of the Coastal Act for which the parties are responsible.

If you are interested in discussing the possibility of agreeing to consent orders, please contact me by no later than April 25, 2014 to discuss options to resolve this case. Staff would be happy to meet with you before the date noted above to discuss the steps necessary to resolve the unpermitted development described in this letter and to discuss the necessary scope of that resolution. Our goal is to resolve this situation amicably and as quickly as possible so that all parties can move forward. We greatly appreciate your time and input and look forward to discussing this matter further and working together on a consensual resolution. If you have any questions about this letter or the pending enforcement case, please do not hesitate to contact me as soon as possible at (562) 590-5071.

O11-258 cont.

Sincerely,

Andrew Willis
Enforcement Analyst

cc: Rick Mayfield, Department of Fish and Wildlife
Michael Patonai, City of Los Angeles

Encl: Annotated plan

STATE OF CALIFORNIA - NATURAL RESOURCES AGENCY EDMUND G. BROWN, JR., *Governor*

CALIFORNIA COASTAL COMMISSION
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

July 16, 2015

Playa Capital Company, LLC
Attn: Marc Huffman
5510 Lincoln Boulevard, Suite 100
Playa Vista, CA 90094

Rick Mayfield
California Department of Fish and Wildlife
3600 Harbor Blvd., #55
Oxnard, CA 93035

Re: Capping of alleged unpermitted drains located in the Ballona Ecological Reserve

Dear Mr. Huffman and Mr. Mayfield:

As you'll recall, we last met on May 21, 2014 to discuss the issue of drains located within the Ballona Ecological Reserve that Commission staff alleged to be unpermitted under the Coastal Act in letters dated June 12, 2013 and April 11, 2014, and in other communications. We understand that the parties have somewhat different views of this issue, however, there was a general consensus during our meeting to work together to reach a resolution to this issue. In the interim, a preliminary step toward resolving this matter would be to cap the drains at issue in order to prevent their functioning. Staff expressed support for this measure at our meeting and continues to support such an action. O11-259

In order to facilitate this measure, we are asking that California Department of Fish and Wildlife and Playa Capital collaborate as necessary to submit an application for a coastal development permit to cap the drains and monitor the area to ensure that there are no adverse impacts from the work and to ensure that the drains are successfully capped to prevent draining of water from the surrounding wetlands, where nearby.

Staff hopes to work with you to process the application quickly to ensure capping prior to the next rainy season, as it is. In order for staff to process a permit within this timeframe, please submit an application for a coastal development permit to cap the drains by no later than August 14, 2015. As we have expressed to you throughout our discussions, we would like to work with you to resolve this issue amicably, and we believe that monitoring the wetlands in the area of the drains subsequent to their capping will help inform a final resolution of this matter. Thank you for your continued attention to this matter; if you have any questions about this letter, the coastal development permit process, or the pending enforcement case, please do not hesitate to contact

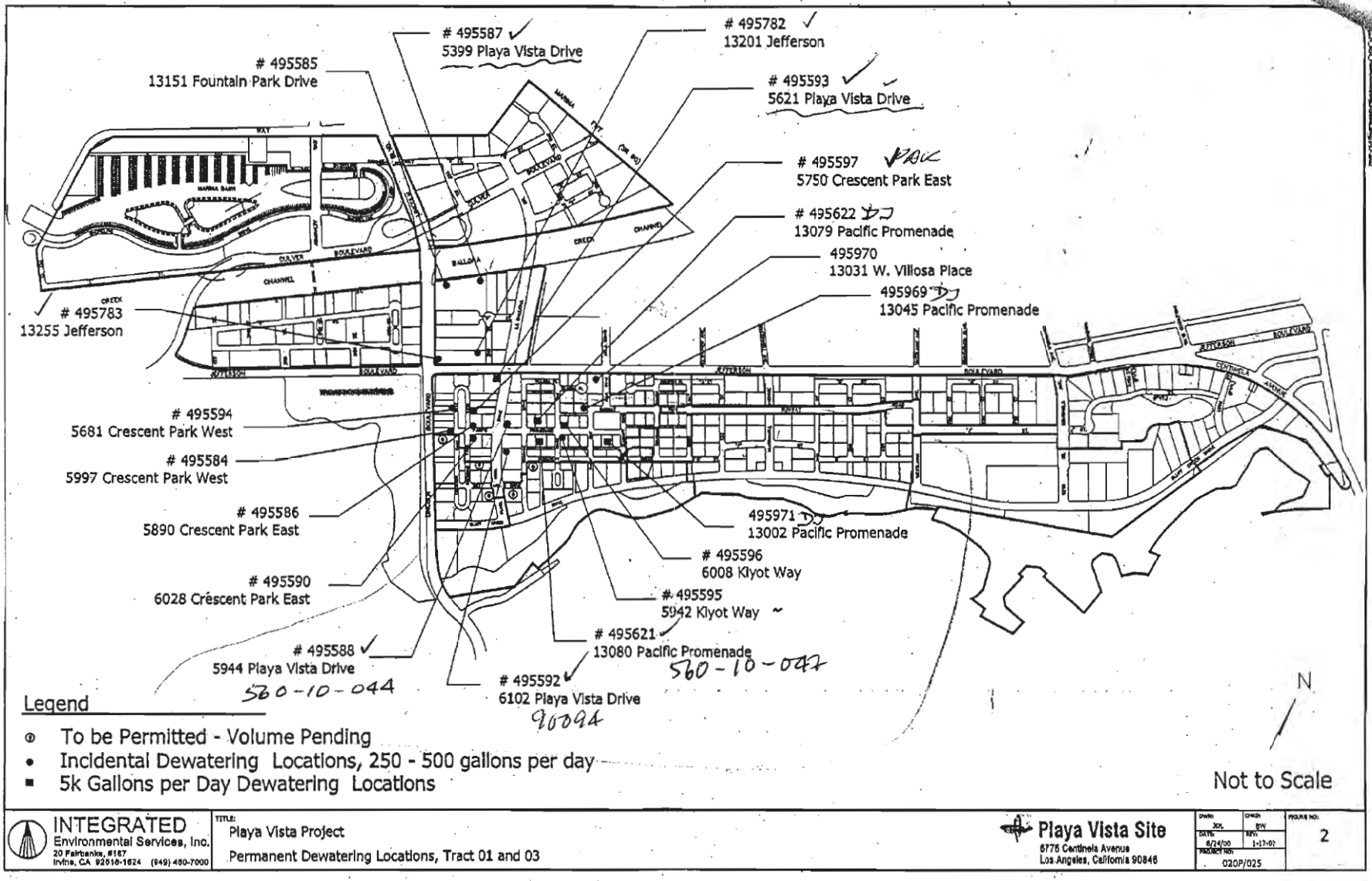
me as soon as possible at (562) 590-5071.

Sincerely,

Andrew Willis
Enforcement Supervisor

cc: Al Padilla, Permit Supervisor, CCC

O11-259
cont.



INTEGRATED Environmental Services, Inc.
20 Fairbanks, #187
Irvine, CA 92618-1624 (949) 480-7000

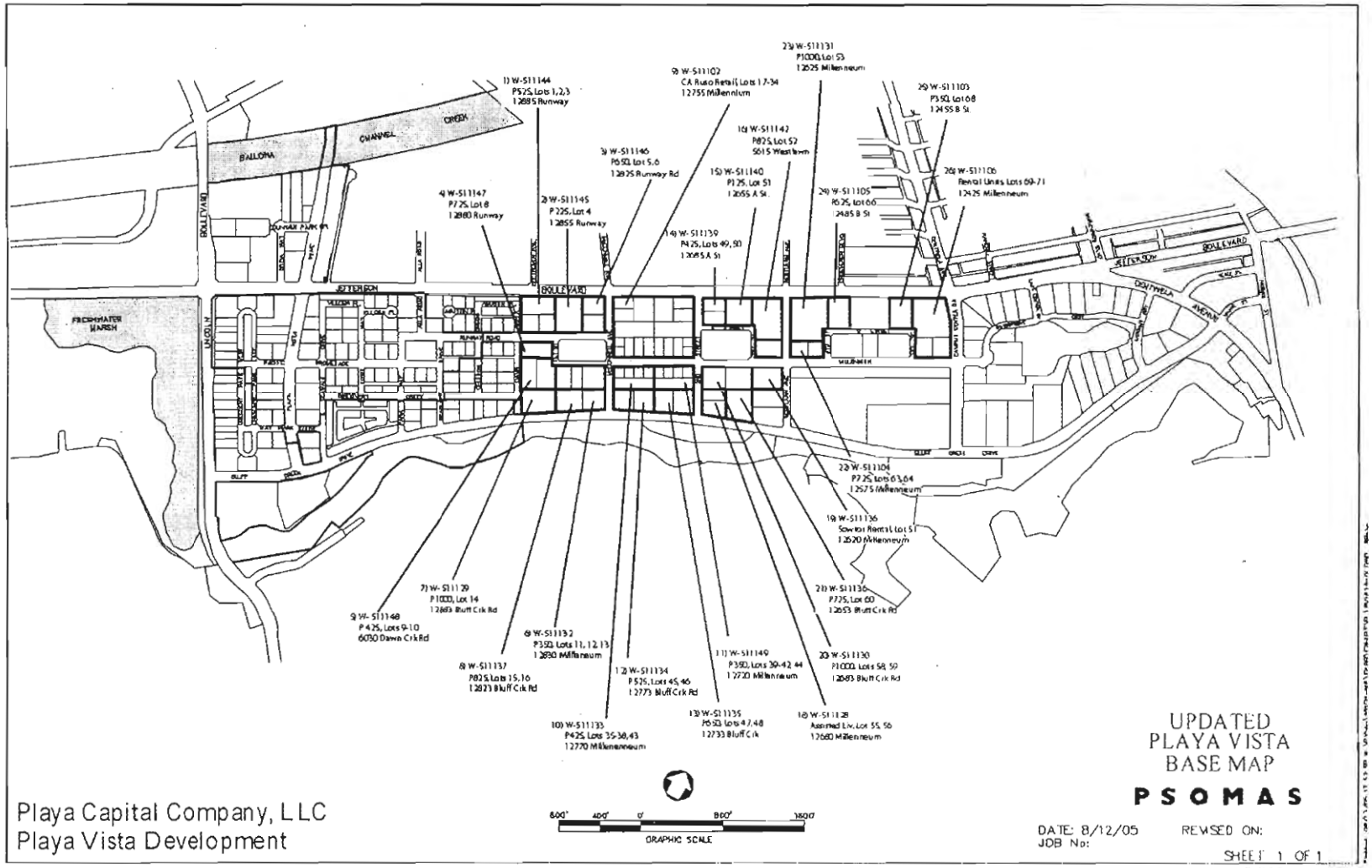
Playa Vista Project
Permanent Dewatering Locations, Tract 01 and 03

Playa Vista Site
6775 Centinela Avenue
Los Angeles, California 90045

DWN: JOL | CHKD: BW | FIGURE NO: 2
DATE: 6/24/00 | REV: 1-17-02
PROJECT NO: 020P/025

O11-260

Appendix B: Attachment 2 of 5 Page 1 of 1
DBA: PLAYA VISTA IU018634
Permit(s): W-500124



O11-260
cont.

Playa Vista
Industrial Waste Discharge Permits

Map ID	Permit Number	Project Number	Project Name	Project Address	Permitted Discharge (gal/day)	Billing Company Name	Billing Contact Person	Billing Address
1	W-510028	200	Avalon	13068 Pacific Promenade	5,000	Avalon Maintenance Corp	Shelle Xanthos	16430 Roscoe Blvd. Ste 205 Bldg 3 Van Nuys CA 91406
2	W-502607	550-1	Bridgeway Mills	5300 Playa Vista Drive	1,000	Playa Capital	Accounting	12555 W Jefferson Blvd Ste 300 Los Angeles CA 90066
4	W-502599	500-2	Carabela	12982 Augstin Place	1,000	Playa Capital	Accounting	12555 W Jefferson Blvd Ste 300 Los Angeles CA 90066
5	W-510026	200-2	Catalina	12983 Runway Road	1,000	Catalina Maintenance Corp	Shelle Xanthos	16430 Roscoe Blvd. Ste 205 Bldg 3 Van Nuys CA 91406
25	W-503027	-	CenterPointe Club	6200 Playa Vista Drive	1,000	Playa Vista Parks & Landscape	Terrance Smith	6200 Playa Vista Dr Playa Vista CA 90094
32	W-503029	1000	Chatelaine	5721 Crescent Park West	1,000	Merit Property Management	Terrance Smith	25910 Acero St 2nd Fl Mission Viejo CA 92691
7	W-495596	325	Concerto	6008 Kiyot Way	5,000	Playa Capital	Accounting	5510 Lincoln Blvd Ste 100 Los Angeles CA 90094
20	W-502105	-	Construction	12900 Runway Road	1,500	Playa Capital	Accounting	5510 Lincoln Blvd Ste 100 Los Angeles CA 90094
29	W-508846	625	Coronado	7101 S. Playa Vista Drive	1,000	Warmington Group	Accounting	3090 Pullman Street Costa Mesa CA 92626
9-A	W-500133	2000	Crescent Park Apts	5750 Crescent Park East	5,000	Fairfield Residential LLC	Accounting	5510 Morehouse Dr Ste 200 San Diego CA 92121
9B	W-500135	2000	Crescent Park Apts	5621 Crescent Pk East	5,000	Fairfield Residential LLC	Accounting	5510 Morehouse Dr Ste 200 San Diego CA 92121
10-B	[redacted]	100	Crescent Walk	6028 Crescent Park East, bldg 2	1,000	Crescent Walk @ PV	Shelle Xanthos	16340 Roscoe Blvd, Ste 205 Van Nuys CA 91406
10-A	[redacted]	100	Crescent Walk	6028 Crescent Park East, bldg 1	1,000	Crescent Walk @ PV	Shelle Xanthos	16340 Roscoe Blvd, Ste 205 Van Nuys CA 91406
6-2	W-502606	1000-2	Dorian	6135 Crescent Park West	1,000	Playa Capital	Accounting	5510 Lincoln Blvd Ste 100 Los Angeles CA 90094
11	W-503028	500	Esplanade	13080 Pacific Promenade	1,000	Merit Property Management	Terrance Smith	25910 Acero St 2nd Fl Mission Viejo CA 92691
	W-507619	-	Firestation	5450 Playa Vista Drive		Playa Capital	Accounting	5510 Lincoln Blvd Ste 100 Los Angeles CA 90094
12-1	W-495585	-	Fountain Park Apts	13151 Fountain Park Drive	1,000	Playa Capital	Accounting	5510 Lincoln Blvd Ste 100 Los Angeles CA 90094
12-2	W-495587	-	Fountain Park Apts	5399 Playa Vista Drive	1,000	Playa Capital	Accounting	5510 Lincoln Blvd Ste 100 Los Angeles CA 90094
14	W-495971	300/1250	Lofts/Park Houses	13002 Pacific Promenade	5,000	Playa Capital	Accounting	5510 Lincoln Blvd Ste 100 Los Angeles CA 90094
13-A	W-500127	800	Paraiso	13073 Pacific Promenade, bldg 1	1,000	Shea Homes	Melinda Kuhn	603 S Valencia Ave Brea CA 92823
13-B	W-500129	800	Paraiso	13073 Pacific Promenade, bldg 2	1,000	Shea Homes	Melinda Kuhn	603 S Valencia Ave Brea CA 92823
15	W-503026	400	Promenade	13044 Pacific Promenade	1,000	Western Pacific Housing	Rodney Singh	6701 Center Dr W #900 Los Angeles CA 90066
8	W-508847	850	Runway Lofts	12920 W. Runway Road		Playa Capital	Accounting	5510 Lincoln Blvd Ste 100 Los Angeles CA 90094
16	W-495970	825	Serenade	13031 W. Villosa Place	1,000	Playa Capital	Accounting	5510 Lincoln Blvd Ste 100 Los Angeles CA 90094
17	W-502604	2000	South Crescent Park Apts 1	7225 Crescent Park West	10,000	Playa Capital	Accounting	5510 Lincoln Blvd Ste 100 Los Angeles CA 90094
26	W-502605	2000	South Crescent Park Apts 2	6555 Crescent Park West	5,000	Playa Capital	Accounting	5510 Lincoln Blvd Ste 100 Los Angeles CA 90094
18	[redacted]		Sunrise	5555 Playa Vista Drive	-			
19	W-505382	900	Tapestry	5700 Seawalk Drive	1,000	Tapestry Maintenance Corp.	Bruce Ratliff	16340 Roscoe Blvd, Ste 205 Van Nuys CA 91406
19	W-505383	900	Tapestry	5701 Kiyot Way	1,000	Tapestry Maintenance Corp.	Bruce Ratliff	16340 Roscoe Blvd, Ste 205 Van Nuys CA 91406
27	W-495969	250	Tempo	13045 Pacific Promenade	1,000	Playa Capital	Accounting	5510 Lincoln Blvd Ste 100 Los Angeles CA 90094
	W-500124	-	Test Site 2	12890 Discovery Creek Road		Playa Capital	Accounting	5510 Lincoln Blvd Ste 100 Los Angeles CA 90094
21-A	W-500132	600-1	The Metro	5681 Crescent Park West	1,000	Crescent Park Ventures	Accounting	1663 Sawtelle Blvd Los Angeles CA 90025
21-B	W-500134	600-1	The Metro	5625 Crescent Park West	1,000	Crescent Park Ventures	Accounting	1663 Sawtelle Blvd Los Angeles CA 90025
22-B	W-510025	700	Villa D'Este	13201 West Pacific Promenade	1,000	Villa D' Este	Shelle Xanthos	16340 Roscoe Blvd, Ste 205 Van Nuys CA 91406
22-A	W-500137	700	Villa D'Este	13215 West Pacific Promenade	1,000	Villa D' Este	Shelle Xanthos	16340 Roscoe Blvd, Ste 205 Van Nuys CA 91406
23	W-502609	700-2	Villa Savona	7204 Crescent Park East	1,000	Playa Capital	Accounting	5510 Lincoln Blvd Ste 100 Los Angeles CA 90094
26-A	W-495782	-	Waters Edge	13201 Jefferson Boulevard	1,000	Playa Capital	Accounting	5510 Lincoln Blvd Ste 100 Los Angeles CA 90094
26-B	W-495783	-	Waters Edge	13255 Jefferson Boulevard	1,000	Playa Capital	Accounting	5510 Lincoln Blvd Ste 100 Los Angeles CA 90094
24	W-502601	102	Waterstone	6400 Crescent Park East	5,000	Playa Capital	Accounting	5510 Lincoln Blvd Ste 100 Los Angeles CA 90094
Total Permitted Discharge Volume					72,500			

O11-260 cont.

Last Revision: 11/07/05
Printed: 11/10/2005, 2:37 PM

2622

Comment Letter O11

PLAYA VISTA

12555 W. JEFFERSON BLVD. #300 TEL: 310.678.4062
LOS ANGELES, CALIFORNIA 90066 FAX: 310.305.3729

DATE: MAY 8, 2003

TO: BERTILIA CUYUGAN FAX: (310) 648-5630

COMPANY: INDUSTRIAL WASTE MANAGEMENT FROM: ROBERT WEINBERGER

CC:

RE: PERMANENT DEWATERING PERMITS

NUMBER OF PAGES INCLUDING COVER SHEET: 3

FACSIMILE

BETH,

HERE'S THE LIST THAT WE DISCUSSED. PLEASE, LET ME KNOW IF YOU HAVE ANY QUESTIONS AT (310) 678 – 4062.

O11-261

THANK YOU,

BOB WEINBERGER

5/9/03

Bob,

Please go through my comments and let me know on Wednesday what changes I need to make (or sooner if you have time). Thanks.

Beth

you can fax me those that need changes.

FAX (310) 648-5630

Comment Letter O11

PERMANENT [redacted] LOCATIONS, VOLUMES AND PERMIT NUMBERS

Status	Permit No.	Location/Address	Volume
A	1) W-495585	Fountain Park Apartments, 13151 Fountain Park Drive	1,000 gal/day
A	2) W-495587	Fountain Park Apartments, 5399 Playa Vista Drive	1,000 gal/day
A	3) W-495782	Waters Edge, 13201 Jefferson Boulevard	1,000 gal/day
A	4) W-495783	Waters Edge, 13255 Jefferson Boulevard	1,000 gal/day
A	5) W-500132 (495594)	Product 600-1, Salter Cnstr Co, 5681 Crescent Park West	1,000 gal/day
A	6) W-500134	Product 600-1, Salter Cnstr Co, 5625 Crescent Park West	1,000 gal/day
A	7) W-500135 (495593)	~~North Crescent Apartments, 5621 Playa Vista Drive~~	5,000 gal/day
A	8) W-500133 (495597)	~~North Crescent Apartments~~, 5750 Crescent Park East	5,000 gal/day
A	9) W-497872	Warmington Homes, 13201 West Pacific Promenade	1,000 gal/day
A	10) W-500137	Warmington Homes, 13215 West Pacific Promenade	1,000 gal/day
	11) W-503029 (495584)	Standard Pacific, 5721 Crescent Park West	1,000 gal/day
	12) W-500125 (495590)	Olsen Urban Housing, 6028 Crescent Park East, bldg 2	1,000 gal/day
	13) W-500128	Olsen Urban Housing, 6028 Crescent Park East, bldg 1	1,000 gal/day
A	14) W-500129	Shea Homes, 13073 Pacific Promenade, bldg 1	1,000 gal/day
A	15) W-500127 (495588)	Shea Homes, 13073 Pacific Promenade, bldg 2	1,000 gal/day
	16) W-503027 (495592)	Community Center, 6200 Playa Vista Drive	1,000 gal/day
A	17) W-496104	Warmington, 13068 Pacific Promenade	5,000 gal/day
	18) W-503028 (495621)	The Esplanade Assoc, 13080 Pacific Promenade	1,000 gal/day
	19) W-495596	Product 325 (lots 9, 10, 11), 6008 Kiyot Way	Hold for fees/Volume
	20) W-503026 (495595)	Western Pacific Housing, 13044 Pacific Promenade	1,000 gal/day
	21) W-495970	Product 800 (lot 17), 13031 W. Villosa Place	1,000 gal/day

O11-261 cont.

Comment Letter O11

PERMANENT DEWATERING LOCATIONS,
VOLUMES AND PERMIT NUMBERS

22) W-495969 Product 325 (lots 62, 63, 64) 13045 Pacific Promenade	1,000 gal/day
23) W-495971 Product 300/1250 (lots 3, 4, 5), 13002 Pacific Promenade	5,000 gal/day
24) W-502607 Product 550-1 (lot 13), 5300 Playa Vista Drive	1,000 gal/day
25) W-502606 Product 1000-2 (lots 1, 2, 3), 6135 Crescent Park West	1,000 gal/day
26) W-502605 Product 1000 (lots 5, 6, 7), 6555 Crescent Park West	5,000 gal/day
27) W-502604 Product 2000 (lots 9 thru 13), 7225 Crescent Park West	10,000 gal/day
28) W-502603 Product 700-2 (lots 14, 15), 7204 Crescent Park East	1,000 gal/day
29) W-502601 Product 102 (lots 18, 19, 20), 6400 Crescent Park East	5,000 gal/day
30) W-502599 Product 500-2 (lots1, 24, 25, 26, 27), 12982 Austin Place	1,000 gal/day
31 W-502598 Product 200-2 (lots 21, 22, 23), 12963 Runway Road	1,000 gal/day

O11-261 cont.

PERMANENT DEWATERING LOCATIONS
OWNERS AND PERMIT NUMBERS

Permit No.	Owner (new owner)	Address
1)W-495585	Fountain Park Apartments	13151Fountain Park drive
2)W-495587	Fountain Park Apartments	5399 Playa Vista drive
3)W-495782	Waters Edge	13201 Jefferson Boulevard
4)W-495783	Waters Edge	13255 Jefferson Boulevard
5)W-495594	PV (product 600-1, Salter Cnstr)	5681 Crescent Park West
6)W-495584	PV (product 1000 lots 47, 48, 49)	5997 Crescent Park West
7)W-495593	PV (North Crescent Apts)	5621 Playa Vista drive
8)W-495597	PV (North Crescent Apts)	5750 Crescent Park East
9)W-497872	Warmington	13201 West Pacific Promenade
10)W-496104	Warmington	13068 Pacific Promenade
11)W-495590	PV (product 100, lots 42, 43, 44)	6028 Crescent Park East
12)W-495588	PV (Shea Homes)	5944 Playa Vista drive
13)W-495592	PV (Community Center)	6102 Playa Vista drive
14)W-495621	PV (product 400, lots 31, 32, 33)	13080 Pacific Promenade
15)W-495970	PV (product 800, lots 16, 17)	13031 West Villosa Place (no hyp fee)
16)W-495969	PV (product 325, lots 61, 62, 63, 64)	13045 Pacific Promenade ?
17)W-495595	PV (product 500, lots 6, 7, 8)	5942 Kiyot Way
18)W-495596	PV (product 325, lots 9, 10, 11, 12)	6008 Kiyot Way
19)W-495971	PV (product 300, lots 3,4,5,65,66)	13002 Pacific Promenade (no hyp fee)

O11-261 cont.

(4/25/2008) Timeyin Dafeta - PLAYA VISTA PERMITS.xls

PLAYA VISTA FACILITIES THAT NEED INDUSTRIAL WASTEWATER PERMITS

	IU #	PERMIT #	Status	DBA	BLDG STATUS	No.	Street Name	Permit Application	Totalizer	Sump #
1	IU106480	513125	PENDING	FOUNTAIN PARK APARTMENTS	CONSTRUCTED	13141	FOUNTAIN PARK DRIVE	YES	NO	1
2	IU106479	513124	PENDING	FOUNTAIN PARK APARTMENTS	CONSTRUCTED	13141	FOUNTAIN PARK DRIVE	YES	NO	1
3				WATERSEDGE	CONSTRUCTED	13201	JEFFERSON BLVD	NO	NO	1
4				WATERSEDGE	CONSTRUCTED	13255	JEFFERSON BLVD	NO	NO	1
5	IU105696	512476	PENDING	THE METRO CONDOMINIUM ASSOCIATION	CONSTRUCTED	5625	CRESCENT PARK WEST	YES	NO	1
6	IU105696	512477	PENDING	THE METRO CONDOMINIUM ASSOCIATION	CONSTRUCTED	5625	CRESCENT PARK WEST	YES	NO	1
7				SOUTH CRESCENT PARK APARTMENTS 2	IN CONSTRUCTION	6555	CRESCENT PARK WEST	NO	NO	2
8				SOUTH CRESCENT PARK APARTMENTS 1	IN CONSTRUCTION	7225	CRESCENT PARK WEST	NO	NO	2
9	IU106481	513126	PENDING	CRESCENT PARK APARTMENTS	CONSTRUCTED	5621	CRESCENT PARK EAST	YES	NO	1
9	IU106482	513127	PENDING	CRESCENT PARK APARTMENTS	CONSTRUCTED	5750	CRESCENT PARK EAST	YES	NO	2
10	IU102894	510023	PENDING	CRESCENT WALK @ PLAYA VISTA 1	CONSTRUCTED	6028	CRESCENT PARK EAST	YES	NO	1
11	IU102896	510024	PENDING	CRESCENT WALK @ PLAYA VISTA 2	CONSTRUCTED	6028	CRESCENT PARK EAST	YES	NO	1
12	IU099092	505365	PENDING	WATERSTONE CONDOMINIUMS	CONSTRUCTED	6400	CRESCENT PARK EAST	YES	NO	2
13	IU102900	510025	PENDING	VILLA D' ESTE	CONSTRUCTED	5935	PLAYA VISTA DRIVE	YES	NO	?
14	IU105693	512474	PENDING	CENTER POINTE CLUB	CONSTRUCTED	6200	PLAYA VISTA DRIVE	YES	NO	2
15	IU101692	508846	PENDING	CORONADO	IN CONSTRUCTION	7101	PLAYA VISTA DRIVE	YES	NO	?
16	IU102904	510027	PENDING	PARAISO	CONSTRUCTED	13073	PACIFIC PROMENADE	YES	NO	2
17	IU102906	510028	PENDING	AVALON MAINTENANCE CORP	CONSTRUCTED	13068	PACIFIC PROMENADE	YES	NO	2
18				ESPLANADE	CONSTRUCTED	13080	PACIFIC PROMENADE	NO	NO	?
19	IU099105	505382	INACTIVE	TAPESTRY MAINTENANCE CORP	CONSTRUCTED	5700	SEAWALK DRIVE	PERMIT TO BE REACTIVATED	YES	2
20	IU099106	505383	INACTIVE	TAPESTRY MAINTENANCE CORP	CONSTRUCTED	5701	KIYOT WAY	PERMIT TO BE REACTIVATED	YES	2
21	IU106016	512921	PENDING	PH & L COMMUNITY ASSOCIATION	CONSTRUCTED	13020	PACIFIC PROMENADE	YES	NO	1
22	IU102903	510026	CANCELLE	CATALINA MAINTENANCE CORP	CONSTRUCTED	12963	RUNWAY ROAD	PERMIT TO PENDING	NO	?
23	IU104185	510810	PENDING	TEMPO	CONSTRUCTED	12930	RUNWAY ROAD	NO	NO	2
	IU021530	503029	INACTIVE	CHATELAINE	CONSTRUCTED	5721	CRESCENT PARK WEST	PERMIT TO BE REACTIVATED	?	?
				THE DORIAN	IN CONSTRUCTION	6135	CRESCENT PARK WEST	NO	?	?
				SERENADE	IN CONSTRUCTION	13031	VILLOSA PLACE	NO	?	?
				CARABELA	CONSTRUCTED	12982	AGUSTIN PLACE	NO	?	?
				RUNWAY LOFTS	IN CONSTRUCTION	12920	RUNWAY ROAD	NO	?	?
				CONCERTO LOFTS	IN CONSTRUCTION	6008	KIYOT WAY	NO	?	?
				VILLA SAVONA	CONSTRUCTED	7204	CRESCENT PARK EAST	NO	?	?

To be confirmed if permit is needed

All processes are ground dewatering system. The groundwater flows to the sump or sumps then the submersible pumps discharge it to the POTW.

O11-261 cont.

State of California
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION
320 West 4th Street, Suite 200, Los Angeles

REVISED FACT SHEET
WASTE DISCHARGE REQUIREMENTS
FOR
PLAYA CAPITAL COMPANY, LLC
(PLAYA VISTA)
NPDES NO. CAG994004
CI-7648

PROJECT LOCATION
Playa Capital Company, LLC
6775 Centinela Avenue
Los Angeles, California 90094

FACILITY MAILING ADDRESS
12555 W. Jefferson Boulevard, #300
Los Angeles, CA 90066

PROJECT DESCRIPTION

The Playa Vista Development is a residential/commercial development project and part of the Playa Vista Freshwater Wetland Project. The dewatering activities include Riparian Corridor construction and excavation and installation of a liner. Dewatering activities may occur concurrently in more than one area at the site. Playa Capital Company expects to discharge permanent subterranean dewatering flows to the sanitary sewer. In the April 13, 2006, letter, Playa Capital Company requested to relocate the discharge outfall No. 01 from the Riparian Corridor east of Lincoln Boulevard to the Riparian Corridor west of Lincoln Boulevard.

O11-262

VOLUME AND DESCRIPTION OF DISCHARGE

Playa Capital is authorized to discharge groundwater from dewatering activities to the storm drain system at the following locations, below (See also Figure 1). Discharges from the outfalls listed below flow to Centinela Ditch or the storm drain, through Ballona Wetlands, to Ballona Creek, a water of the United States.

Outfall	Location	Latitude	Longitude	Maximum Daily Flow (gallons per day)
01	Teale St., West of Lincoln Blvd.	33° 57' 57"	118° 25' 32"	500,000
02	North East corner of Bay St. and Jefferson Blvd.	33° 58' 26"	118° 25' 39"	50,000
03	Central Drain on Lincoln Blvd between Teale St. and Jefferson Blvd.	33° 58' 13"	118° 26' 01"	400,000

Certain areas of the Playa Vista Development Project are also subject to a groundwater cleanup effort under General NPDES Permit CAG834001. The area proposed for

dewatering under this permit is located at least 800 feet from the areas of known or suspected contamination. However, Playa Capital will maintain a settling tank, bag filter, activated carbon, and Zeolite treatment facilities on site to treat any groundwater contamination that may be encountered. See Figure 2 for a schematic of treatment flow diagram.

APPLICABLE EFFLUENT LIMITATIONS

Based on the information provided in the NPDES Application Supplemental Requirements, and previous monitoring reports, the following constituents listed in the Table below have been determined to show reasonable potential to exist in the discharge. The discharge of treated groundwater flows to Ballona Creek; therefore, the discharge limitations under the "Other Waters" and "saltwater waterbodies" columns apply to your discharge

This table lists the specific constituents and effluent limitations applicable to the discharge.

Constituents	Units	Discharge Limitations	
		Daily Maximum	Monthly Average
Total Suspended Solids	mg/L	150	50
Turbidity	NTU	150	50
$BOD_5 20°C$	mg/L	30	20
Oil and Grease	mg/L	15	10
Settleable Solids	ml/L	0.3	0.1
Sulfides	mg/L	1.0	---
Phenols	mg/L	1.0	---
Residual Chlorine	mg/L	0.1	---
Methylene Blue Active Substances (MBAS)	mg/L	0.5	---
Organic Compound			
Trichloroethylene	µg/L	5.0	---
Metals			
Arsenic	µg/L	50	29
Copper	µg/L	5.8	2.9

O11-262 cont.

FREQUENCY OF DISCHARGE

The discharges will be intermittent.

REUSE OF WATER

There are no other feasible reuse options for the groundwater other than for dust control purposes at the site. Therefore, the majority of pumped and treated groundwater will be discharged to the storm drain.

7225 S CRESCENT PARK WEST 90094 — Bldg-Alter/Repair — 03016 10000 24010 / Page 1

Permit Information - B1PERMIT
- *Permit Type*: Bldg-Alter/Repair Apartment No Submit Plan Check
- *Project Number*: 1
- *Exist Bldg on Lot/Use*: PRODUCT 2000-B (BLDG 1) METHANE

Permit Issuance Status - G6PERMIT
1. PC Approved 06/18/04 by RICARDO TRES
2. Ready to Issue 06/18/04 by RICARDO TRES
3. Issued 06/18/04 by THANG LAM
4. Pre-Insp not Required 05/12/04 by RICARDO TRES
5. Corrections Issued 05/12/04 by RICARDO TRES

Work Description - BWORKDES

METHANE MITIGATION SYSTEM: GRAVEL BLANKET AND IMPERVIOUS MEMBRANE, SUBSLAB VENTS, AND DE-WATERING.

Application Comment - G3COMMNT

It has being determined by C. K. that the existing abandoned oil well acts as deep vent well. - R. Tres 5/12/2004

Project Address - B1ADDRES
- *Address 1 . P*: 7225 S CRESCENT PARK WEST 90094

Applicant Information - B1AGENT

1. NICHOLSON STEVE / Owner-Bldr /
OWNER-BUILDER
99 DETERING SUITE 200 HOUSTON, TEXAS 77007
Phone - 3102005138 / 7138643313 / Fax - 713-867-7045

Owner Information - B1OWNERS
- *Owner 1 . P*: THE FINGER COMPANIES
99 DETERING 200 HOUSTON, TX 77007
Phone - 713-864-3313 / Fax - 713-867-7045

Legal Description - B1PARCEL

1. Tract - \TR 49104-05-C\
Block - \\ / Lot - \9\
Map Ref - \M B 1272-88/93\
Arb - \\ / Modifier - \\
Pin - \099B157 497\
Book - \4211\ / Page - \025\ / Parcel - \009\
2. Tract - \TR 49104-05-C\
Block - \\ / Lot - \10\
Map Ref - \M B 1272-88/93\
Arb - \\ / Modifier - \\
Pin - \099B157 498\
Book - \4211\ / Page - \025\ / Parcel - \010\
3. Tract - \TR 49104-05-C\
Block - \\ / Lot - \11\
Map Ref - \M B 1272-88/93\
Arb - \\ / Modifier - \\
Pin - \099B157 499\
Book - \4211\ / Page - \025\ / Parcel - \011\
4. Tract - \TR 49104-05-C\
Block - \\ / Lot - \12\
Map Ref - \M B 1272-88/93\
Arb - \\ / Modifier - \\
Pin - \099B157 500\
Book - \4211\ / Page - \025\ / Parcel - \012\
5. Tract - \TR 49104-05-C\
Block - \\ / Lot - \13\
Map Ref - \M B 1272-88/93\
Arb - \\ / Modifier - \\
Pin - \099B157 501\
Book - \4211\ / Page - \025\ / Parcel - \013\

Geographical Indicators - B1GEOGRA

Airport Hazard Area (AHA) = 150\ Height Limit Above Elevation 126
Area Planning Commission (APC) = West Los Angeles
LADBS Branch Office (BASB) = WLA
Council District (CD) = 11
Certified Neighborhood Council (CNC) = Westchester-Playa del Rey
Census Tract (CT) = 2756.01
Energy Zone (EZ) = 6
Fire District (FD) = 2
High Potential Methane Zone (HPMZ) = YES, PER METHANE REPORT
Earthquake-Induced Liquefaction Area (LIQ) = YES
Near Source Zone Distance (NSZD) = 7.8
Near Source Zone Distance (NSZD) = 7.9
Thomas Brothers Map Grid (TBMG) = 672-D7
Thomas Brothers Map Grid (TBMG) = 702-D1
Zone (ZONE) = C2(PV)

Zoning Use - BZONEUSE
1. 5 - E Apartment
2. 5 - P Apartment
3. 7 - B Garage - Private
4. 7 - P Garage - Private

CAE Information - B1CONTRA
- *Owner-Bldr*: OWNER-BUILDER
- *Engineer*: TOPANI GLENN DAVID
(C 44229 / BTRC# / WC:)
23636 LAGARTO MISSION VIEJO CA 92691
Phone - 949-580-1818 /

CERTIFIED A TRUE COPY
By _____ Dept. of Bldg. & Safety
11/15/04

Documents - XAPPDOCI
1. Document # DIR 2003-836-SPP / Type - DTRM
2. Document # Los Angeles Coastal Transportation Corridor / Type - SPA
3. Document # ORD-160523 / Type - ORD
4. Document # ORD-174995 / Type - ORD
5. Document # Playa Vista (Area D) / Type - SPA
6. Document # ZI-1320 / Type - ZI
7. Document # ZI-1874 / Type - ZI

Project Valuation - BVALUATN
- *Fee Period*: Final

O11-263

City of Los Angeles
CALIFORNIA

DEPARTMENT OF
PUBLIC WORKS

BUREAU OF SANITATION

RITA L. ROBINSON
DIRECTOR

ENRIQUE C. ZALDIVAR
EXECUTIVE OFFICER

VAROUJ S. ABKIAN
TRACI J. MINAMIDE
ASSISTANT DIRECTORS

FINANCIAL MANAGEMENT DIVISION
1149 South Broadway, Suite 900
Los Angeles, CA 90015
1 800 540-0952 / 213 473-4181
FAX: (213) 485-4269
TTY: (213) 473-4112

Mr. Derek Fraychineaud, Vice President
Playa Vista
5510 Lincoln Boulevard
Playa Vista CA 90094

Dear Mr. Fraychineaud,

INDUSTRIAL WASTE PERMIT AND PAYMENT AGREEMENT FOR GROUNDWATER DISCHARGE INTO THE CITY's SEWER SYSTEM

O11-264

The City of Los Angeles (City), Bureau of Sanitation (Bureau) has recently conducted an audit of your property. Results of the Bureau's audit indicate that the discharge of groundwater from your property into the City's sewer system is subject to Sewer Service Charge (SSC) payments. The SSC is a charge to all users on the volume of sewage discharged to the sewer system from a property. According to the Los Angeles Municipal Code (LAMC), Section 64.41.03, SSC is imposed on all users of the sewer system for the receiving, transporting, pumping, treating and or disposing of sewage through the sewer system.

Currently, the SSC for domestic sewage is being billed by the Department of Water and Power (DWP). The domestic sewage volume is based on the metered domestic water consumption. The volume of groundwater generated from your property and discharged into the sewer system was not included in DWP's billing since the groundwater is not delivered by DWP. The SSC for groundwater discharged into the sewer system will be invoiced by the Department of Public Works (DPW), Bureau of Sanitation.

In order for your property to continue the discharge of groundwater into the City's sewer system, you are required to execute a payment agreement with the City. You are also required to pay the SSC to the City for the past services starting from the date of occupancy of the residential building associated with each groundwater discharge connection. Furthermore, in order to accurately determine the volume of discharge, you are required to retrofit each point of discharge, as regulated under the Industrial Wastewater Permit, with a flow measuring device or a totalizer.

Alternatively, you may choose to discontinue the discharge of groundwater into the City's sewer

system and provide other legal means to dispose of the groundwater. If you chose not to use City's sewer system to dispose of the groundwater generated from your property, you shall notify the City of your intent in writing by MMDDYY. You shall complete the disconnection within 180 days from the date of your notification to the City. Discontinuance of the groundwater discharge from the City sewer system does not relieve you from paying SSC for all past services provided up to the date of disconnection.

Continuation of the discharge of groundwater into the sewer system without signing the payment agreement to reimburse the City for the services provided will result in enforcement action leading to the suspension and/or revocation of the groundwater discharge Industrial Wastewater Permits. Any discharge, after a permit has been suspended and or revoked, would constitute an unlawful discharge. In addition to the costs of corrective action arising from an unlawful discharge as stated in LAMC Section 64.30.D.13 and Penalties for Violations as stated in LAMC Section 64.30.E.7, all unlawful dischargers are liable for any and all costs associated with any legal fees, regulatory penalties and any other settlement costs or judgments against the CITY as a result of the unlawful discharge.

If you have considered entering into an agreement with the City for the continuation of groundwater discharges into City's sewer system, please contact Mr. Lonnie Ayers of my staff at 323-342-6098 to start the agreement process. You may also contact Mr. Ayers if you have any questions.

O11-264 cont.

Sincerely,

RITA L. ROBINSON, Director
Bureau of Sanitation

INDUSTRIAL WASTE
MANAGEMENT DIVISION
2714 MEDIA CENTER DRIVE
LOS ANGELES, CA 90065
OFFICE: (323) 342-6200
FAX: (323) 342-6111

April 16, 2008

Waterstone Condominium Association
Dba: Waterstone
6400 Crescent Park East
Playa Vista, CA 90094

Attn: Katie Marcoe, Account Executive

SEWAGE CHARGES AND INDUSTRIAL WASTE FEE FOR THE DISCHARGE OF GROUNDWATER TO THE CITY OF LOS ANGELES SEWER SYSTEM

The City of Los Angeles (City), Bureau of Sanitation (Bureau), Industrial Waste Management Division recently issued to Waterstone an Industrial Wastewater Permit (W-505365) on March 18, 2008. The permit is the legal document that conveys the requirements under which Waterstone is allowed to discharge groundwater from the designated property into the City's sewer collection system. As a user of the City's sewer system, there is an Industrial Waste Fee and several Sewage Charges that are applicable to Waterstone for the control and proper disposal of the groundwater.

O11-265

In accordance with 64.30.D.3 of the Los Angeles Municipal Code (LAMC), Industrial Waste Control Ordinance, Waterstone must pay an annual Inspection and Control Fee. The fee pays for the basic level of services such as inspection of the property, sampling of groundwater, inventory control, and reporting. This fee is billed quarterly and in arrears. Inspection of the property will initially occur twice a year (July and January), so it will be necessary to make available personnel to accompany the inspector to perform routine activities and gather necessary data.

In order for the City to maintain the sewer system, LAMC Section 64.41.03, imposes a Sewer Service Charge (SSC) for all users of the sewer system for the receiving, transportation, pumping, treatment and or disposal of groundwater through the sewer system. The SSC is a charge to all users on the volume of groundwater discharged to the sewer system from a property. There is also imposed a Temporary Facilities Usage Fee (TFUF) for access to the sewer system based upon a share of the equity of the system for the disposal of groundwater. The TFUF rate shall be based on the Sewage Facilities Charge in accordance with Section 64.11.3 of the Los Angeles Municipal Code.

The volume of groundwater generated from your property and discharged into the sewer system is not included in Department of Water and Power (DWP) billing since the groundwater is not delivered by DWP. Billing has been assigned to the City's Department of Public Works, Bureau of Sanitation and will require Waterstone to execute a payment agreement with the City for the recovery of the SSC and TFUF.

In the near future, Mr. Lonnie Ayers, Environmental Engineer, will contact Waterstone to discuss and begin the payment agreement process. You may also contact Mr. Ayers at (323)-342-6098 if you have any questions or need any explanation of the permit requirements, future payment agreement, or any other matter related to the discharge of groundwater into the City's sewer system.

O11-265 cont.

Sincerely,

ENRIQUE C. ZALDIVAR, Director
Bureau of Sanitation

By:

TIMEYIN DAFETA, Manager
Industrial Waste Management Division

cc: Groundwater Program

Comment Letter O11

From: David Cheung
To: Bhupendra Patel; Hagekhalil, Adel H; Timeyin Dafeta
CC: Robert Tanowitz
Date: 5/10/2005 11:06 AM
Subject: Methane Mitigation System
Attachments: Methane Standard DRAFT04-20-04_1.pdf

We received two requests for permanent discharge because of Methane Mitigation System. One is for Park La Brea and the other is for Playa Vista development. I was provided with the latest Building and Safety Methane Mitigation System Ordinance that was adopted by City Council on 6/04. The ordinance directs the operator of the system to apply discharge permit from BPW, please refer to page 16, section A.1.D. Playa Vista also mentioned that Jim Langley assured them that they can continue the Phase One practice for the rest of the development.

I set up an executive meeting on June 2. This will be one of the discussion items. Playa Vista can wait til then, Park La Brea may need a decision sooner. Any suggestions?

O11-266

Meeting Minutes
Playa Vista Development Groundwater Discharge Permits and Payment Agreements
May 24, 2007

Location: Media Center, Bureau of Sanitation
Time: 9-11 AM

Introduction

1) Derek provided a brief history of the Playa Vista groundwater situation.
2) The Playa Vista Company (PVC) bought the land originally but has since sold parts of the land in phases to multiple developers. Some of these developers have built and kept the land while others have changed owners multiple times. (ex. Water's Edge). Each developer is responsible for own design, including the design of the groundwater discharge pumps. PVC usually sells 3-4 projects (land) and then when construction has started PVC will sell the next 3-4 projects. Management companies for each project may have changed also.
3) The first apartment to come online is the Fountain Park Apartment 4 years ago. The management company may have changed for Fountain Park.
4) PVC took out permits for groundwater discharge originally with the assumption that these were one-time fees but without realizing that there are ongoing fees (SFC) for processing the groundwater. Derek asked about City ordinance for SFC.
5) David replied that the City ordinance goes back to 1972 and that everybody in the City of Los Angeles has to pay this fee.
6) PVC took out permits originally as insurance with another assumption that the City may not grant additional permits.
7) PVC may have more permits than necessary.
8) David Cheung mentioned that by allowing PVC to discharge into the sewers, the City was taking the risk for any City owned-sewer spills from the Regional Board instead of PVC having spills at Playa Vista. Normally the sewers were not designed for groundwater discharge originally.

O11-267

Update on reconciliation of the 106 permits with their locations.

1) City inspector Mano (?) is in charge of inspecting pumps and permit at the Playa Vista site.
2) Mano made a spreadsheet that detailed 25 pumps that require permit and discharge agreements. In addition there are 5 more pumps for phase II. (PVC later mentioned that 4 of the 5 additional new pumps do not have groundwater discharge)
3) Mano inspected the majority of these pumps and requested additional access in the future for further inspections.

Past Payment Due

1) City has to collect past payments.
2) However the problem is that the lands or complexes were sold to different developers/HOA. However PVC's name is still on the permits.
3) PVC has to explain to HOA and developers the reason for collecting these past payments. PVC prefers an annual payment. PVC to educate the management companies on maintaining pumps.
4) PVC mentioned that explaining groundwater discharge to HOA is like talking about rocket science.
5) City will work with PVC to collect past payments.

O11-267 cont.

Site Priority to process (no particular order)

1) Fountain Park Apartments
2) Water's Edge
3) Crescent Park Apartment
4) Crescent Walk
5) Waterstone
6) Tapestry
7) Tapestry 2
8) Carabella

Other

PERMITTEE INFORMATION SHEET

W-505365 IU#-IU099092 STATUS: A SIU SECT.: N DISTRICT: 06 SUBDIST: 00
FOG ZONE: SUB-ZONE:

INSPECTOR: 69932 EUGENE HALL

---

* APPLICATION

APPL. REASON: Existing, but Unpermitted Point of Discharge
RECEIVED DATE: 02/27/08 RECEIPT #:

* INDUSTRIAL USER

LEGAL BUS. NAME: Waterstone Condominium Association
DBA NAME: Waterstone
BUSINESS TYPE Condominium Complex
OWNERSHIP TYPE Corporate
ADDRESS: 6400 Crescent Park East
Playa Vista, CA 90094
CONTACT NAME: Katie Marcoe TITLE: Account Executive
BTRC: Exempt PHONE: (661) 288-0100

* INDUSTRIAL USER MAILING ADDRESS

NAME: Waterstone c/o Seabreeze Mgmt. Corp.
ADDRESS: 27201 Tourney Road, Suite 201D
Valencia, CA 91355
OR P.O. BOX: PHONE: (661) 288-0100
ATTENTION: Katie Marcoe

O11-268

* BILLING ADDRESS

NAME: Waterstone c/o Seabreeze Mgmt. Corp.
ADDRESS: 39 Argonaut, Suite 100
Aliso Viejo, CA 92656
OR P.O. BOX:
ATTENTION: Katie Marcoe

Permit Information Sheets & Inspection Reports

* CORPORATE OFFICERS

NAME 1: Guy Silliman
TITLE 1: President

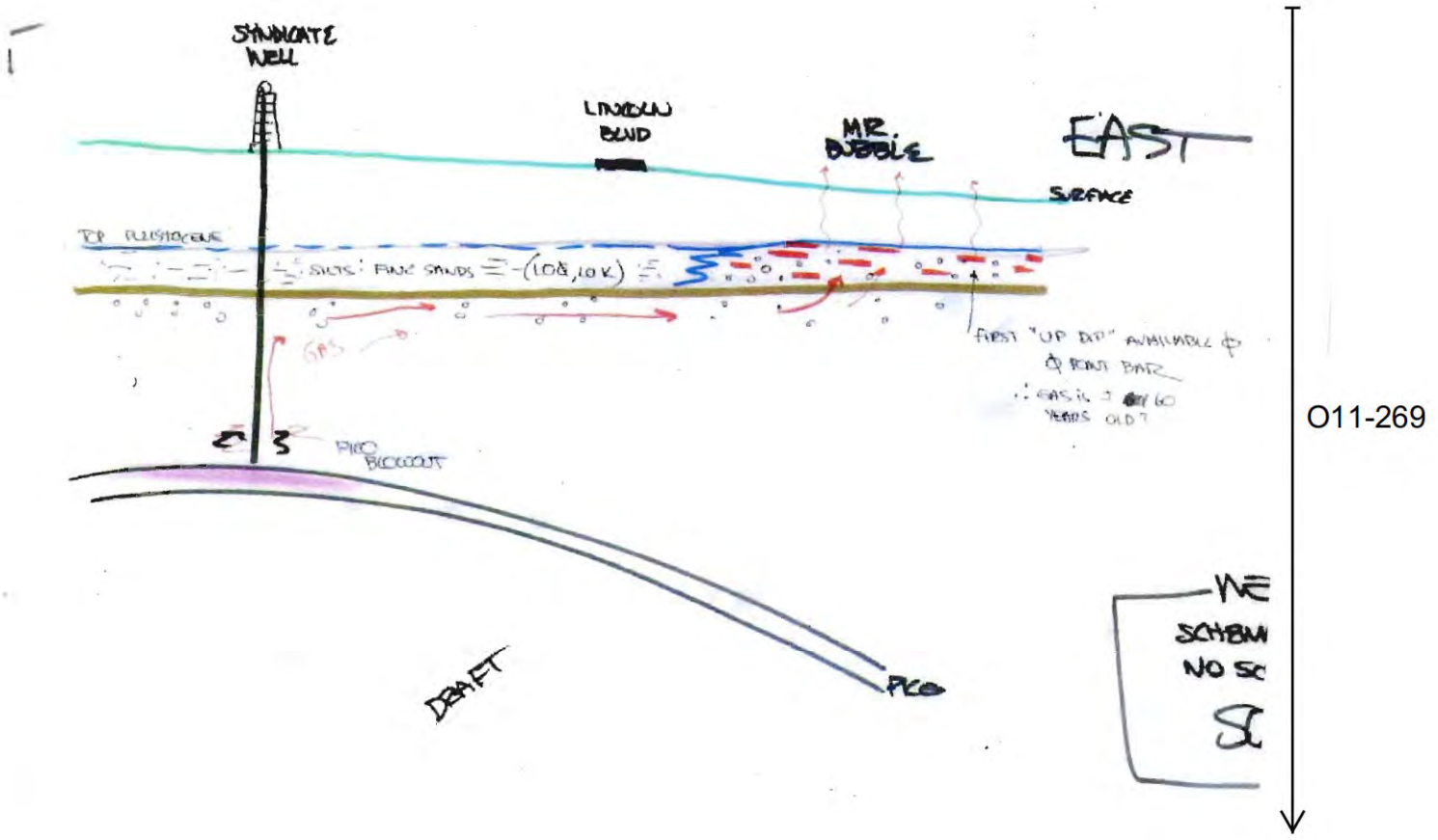
NAME 2: Kevin Tsai
TITLE 2: Member

* PROPERTY OWNER

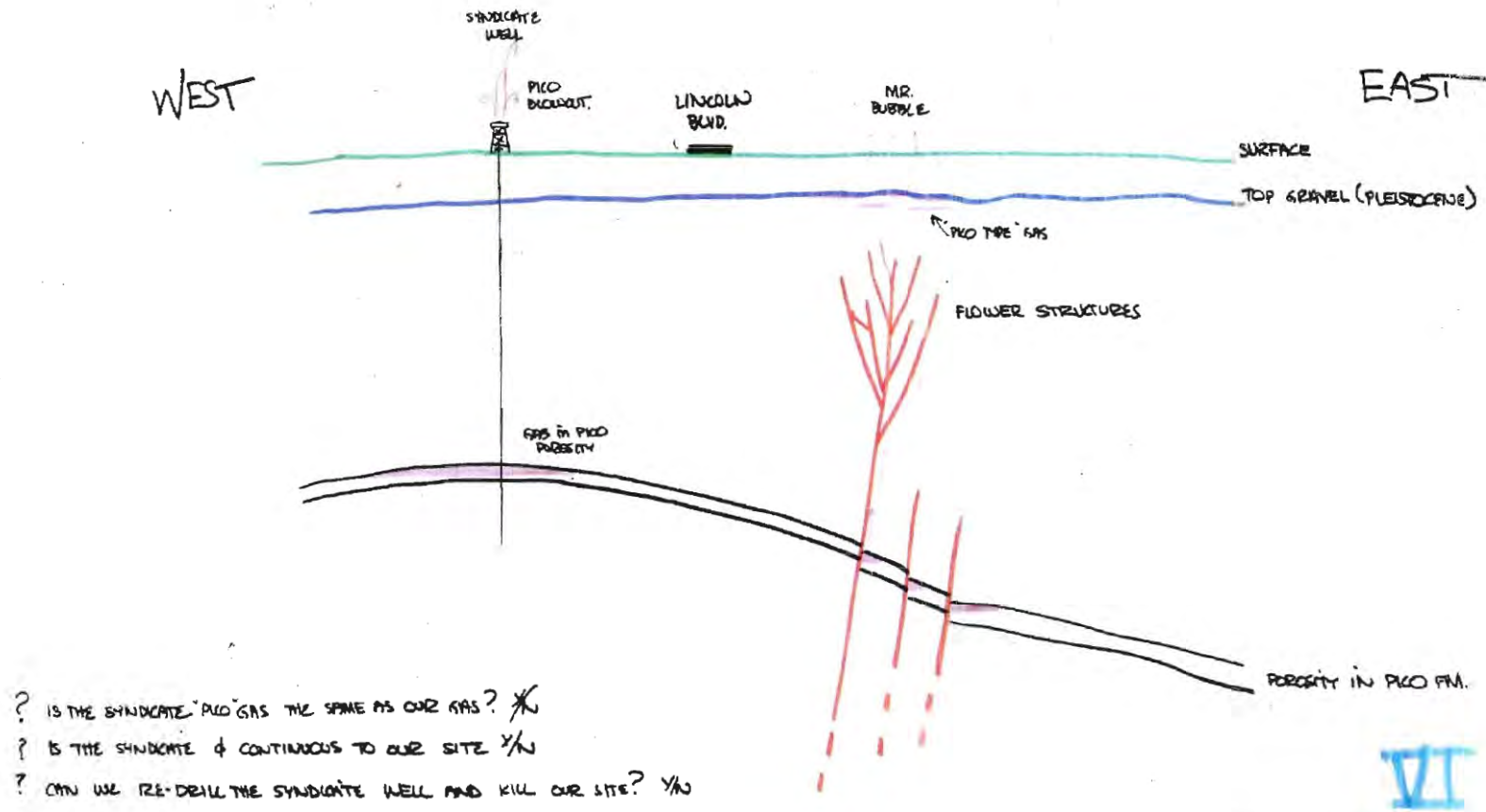
NAME: Waterstone c/o Seabreeze Mgmt. Corp.
ADDRESS: 27201 Tourney Road, Suite 201D
Valencia, CA 91355
OR P.O. BOX: PHONE: (661) 288-0100
ATTENTION: Katie Marcoe

* PERMITTEE LOCATION ADDRESS

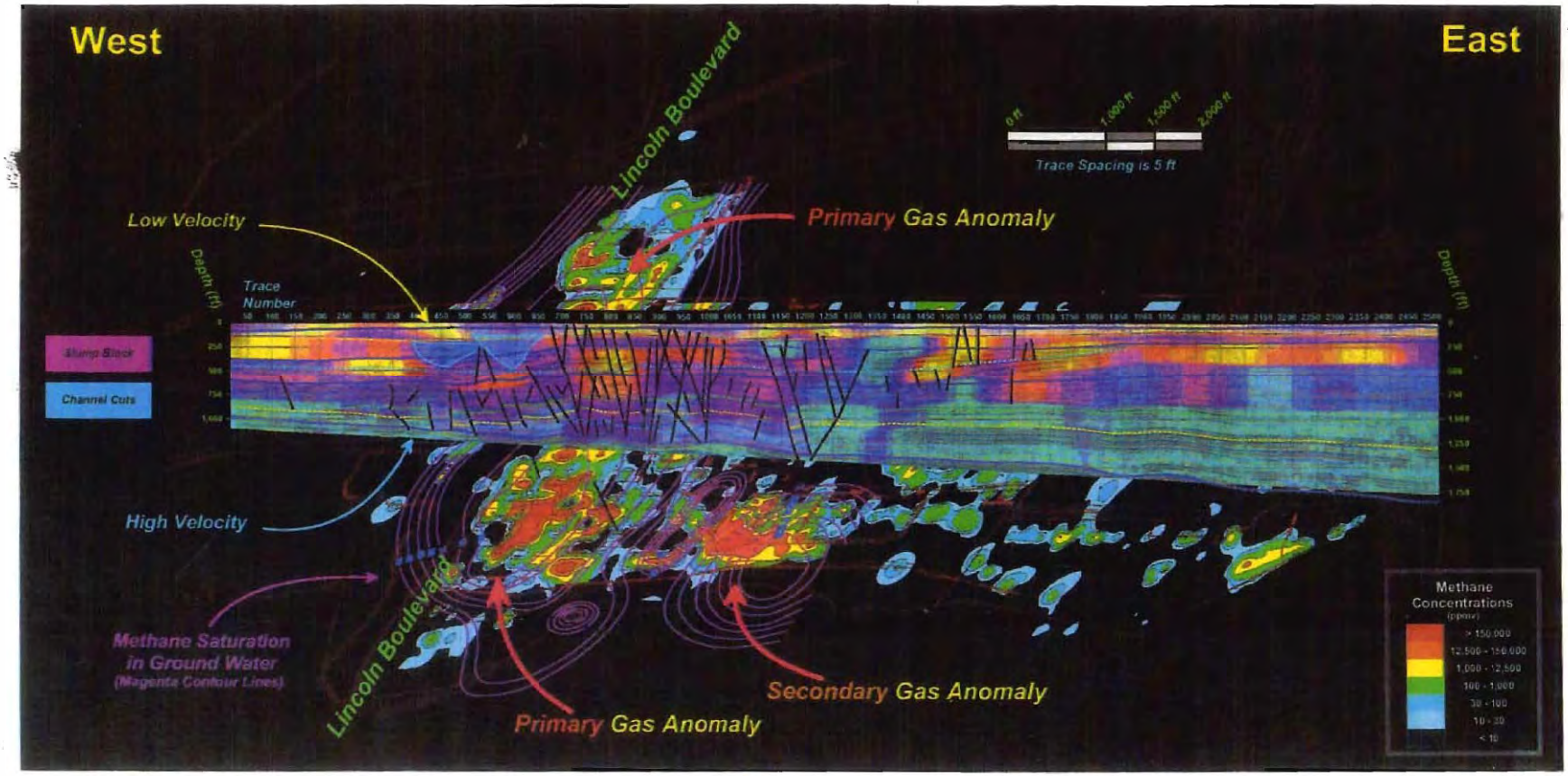
DESCRIPTION: Waterstone Condominium Association
ADDRESS: 6400 Crescent Park East
Playa Vista, CA 90094
OR P.O. BOX: PHONE: (661) 288-0100
ATTENTION: Katie Marcoe


SYNDICATE WELL
LINCOLN BLVD
MR. BUBBLE
EAST
SURFACE
PP PLEISTOCENE
SILTS: FINE SANDS (10Ω, 10K)
FIRST "UP DIP" AVAILABLE
GAS
PKO BLOWOUT
DRAFT
PKO
WE
SCHEM
NO SC
SI

O11-269


SYNDICATE WELL
WEST
PICO BLOWOUT
LINCOLN BLVD.
MR. BUBBLE
EAST
SURFACE
TOP GRAVEL (PLEISTOCENE)
PICO TYPE GAS
FLOWER STRUCTURES
GAS in PICO POROSITY
POROSITY IN PICO FM.
? IS THE SYNDICATE "PICO" GAS THE SAME AS OUR GAS? Y/N
? IS THE SYNDICATE & CONTINUOUS TO OUR SITE Y/N
? CAN WE RE-DRILL THE SYNDICATE WELL AND KILL OUR SITE? Y/N
"PICO" OPTIONS
A. RE DRILL SYNDICATE
B. DRILL MR. BUBBLE (MORE SEISMIC) $ vs A.
C. SLANT SYNDICATE
DRAFT
W. MERSCHAT
SCHEMATIC DIAGRAM
NO SCALE FEB 2001
SOURCE A

O11-269
cont.



Exploration Technologics (ETI)

O11-269 cont.

Meeting Minutes
Playa Vista Development Groundwater Discharge Permits
and Payment Agreements
August 28, 2007

1) Introduction

2) Update on reconciliation of permit applications

- Maguire Properties is working with Playa Vista Company (PV) to resolve the problems at Watersedge.
- There are a total of 25 permits that needs to be resolved
- Watersedge need 2 permits and currently doesn't have any.
- We went from 106 permits to 25 permits. 6 are already connected to the sewer but have ownership change.
- Permits were pulled but never activated, others were activated but had change of ownership since (ex. Watersedge), and others were cancelled.
- PV requested that we write "draft" on all documents.
- Each existing sewer permit has sewer capacity check and was paid. As long as the current capacity hasn't been exceeded then we don't need new sewer capacity.
- PV will check address on City sheet with its own.
- PV mentioned that the difficult is in getting HOA to understand the process.
- The permits are all pending or inactive.
- PV still hold 19 permits.
- Crescent Park filed application trying to get transfer.
- Initially PV pulled all the permits, but as the projects got built, the project were transferred to other developers who may have sold the properties.
- HOA will sign the permits.
- PV will have one permit eventually for construction dewatering.
- There are questions about the locations of the hard copies of the agreements.
- We need legal owners names and property management companies for the permits.
- The permit # and data have been entered.

O11-270

- Equate to $5-10 per week.
- Avalon has 208 gal/first week. 335 gal/2nd week.
- PV will clean up their sheet and track the groundwater discharge for a while by gallons per week.

5) Past Flow determination

- Item #5 will be gabled for now.
- At some point PV will not be around.
- City Inspectors may go out to the field every quarter.
- PV mentioned that rarely is there a maintenance group there. The HOA already have trouble understanding methane and fire detection.
- City would like to figure out a mechanism for inspectors to get access to flow.
- PV can put together a map with station locations. PV can take weekly reading but needs to hand off responsibilities.
- HOA are made up of a board of residents who own the units but then hire professional property management companies that take care of the accounting.
- The Contracting party can use property management company but the HOA is responsible for the agreement.
- There may be a price change for inspection.
- The industrial waste permit fee usually don't apply for groundwater.
- Currently $244/year.

O11-270 cont.

AGREEMENT

GROUNDWATER DISCHARGE INTO CITY'S SEWER SYSTEM

This Agreement ("AGREEMENT") is made and entered into by and between the CITY OF LOS ANGELES ("CITY"), a municipality, and XXXXXXX ("XXXXXX"), a private company/corporation, collectively referred to herein as the "Parties" or individually as "Party".

RECITALS

WHEREAS, XXXXXX identifies a need to remove groundwater from the parcel commonly known as *address* for methane mitigation system dewatering purposes; and

WHEREAS, the current National Pollution Discharge Elimination System (NPDES) permit has very stringent requirements for discharging groundwater into the storm drainage system; and

WHEREAS, compliance with the NPDES permit requirements for discharging into the storm drainage system are cost prohibitive; and

O11-271

WHEREAS, the CITY's sewer system has the capacity for such groundwater discharge; and

WHEREAS, XXXXXX selects to discharge the groundwater into the CITY's sewer system; and

WHEREAS, XXXXXX agrees to pre-treat the groundwater to the standard as stated in the Industrial Waste Permit (PERMIT), permit number W-NNNNNN, prior to discharge into CITY's sewer system; and

WHEREAS, XXXXXX is willing to reimburse the CITY for all the costs in handling, conveying and disposing of the groundwater; and

NOW, THEREFORE, in consideration of the mutual promises specified herein and for other good and valuable consideration, the Parties do hereby agree as follows:

Comment Letter O11

From: Sunday Owairu
To: Bellete Yohannes
Date: 12/8/2006 9:42 AM
Subject: Re: Fwd: Playa Vista Phase 2 industrial Waste Discharge Permits

Will do, thanks.

>>> Bellete Yohannes 12/07/06 5:15 PM >>>
Schedule a date and let's pick it up.
Thanks

>>> Sunday Owairu 12/7/2006 3:30 PM >>>
Bellete:

I did bring up my concerns on Playa Vista Building Project with several permits with IWMD activated or in the pending mode (about 21 on my desk) without sewer availability record or FMD agreement. Lonnie Ayers is not willing to activate any groundwater permits without sewer availability clearance or FMD signed agreement. Your input will be needed during the first quarter of 2007 to resolve this lingering issue.

Thank you,
Sunny

O11-272

From:	patricia mc pherson
To:	kirk.e.gibbs@USACE.army.mil; Daniel SPL Swenson P; usarmy.pentagon.hqda-oaa.mbx.oaa-communications-poc@mail.mil; Menerva Ariki; Joshua Svensson; ExecutiveOffice; Karly Katona
Cc:	Todd T. Cardiff, Esq.
Subject:	Notification to USACE & County of LA of Ongoing Litigation Against CDFW pertaining to Ballona Wetlands Ecological Reserve
Attachments:	Pleading_FINAL Conformed.pdf CCC lttr 4.11.14.pdf CCC lttr 7.16.15.pdf

Attn. USACE- Col.Kirk Gibbs, Mr.Dan Swenson,Ms. Kimberly Collaton
LA COUNTY PUBLIC WORKS- Minerva Ariki; Josh Svennson
LA County Board of Supervisors

,

This letter serves as information provided to you from Grassroots Coalition (GC).
GC has filed litigation against the California Department of Fish & Wildlife(CDFW),CDFW Director Charlton H. Bonham and Playa Capital LLC. pertaining to the illegal drains and draining of
fresh waters of Ballona Wetlands Ecological Reserve. Case BC 619444.

O11-273

This lawsuit is compelled due to failure of the CDFW to cooperate with the California Coastal Commission(CCC)-- to remove and/or cap harmful and unpermitted
drainage devices in Ballona Wetlands Ecological Reserve, in the coastal zone which are harming the environment and are in violation of the Coastal Act.

As you have already been made aware, the CCC has determined after lengthy response from Playa Capital LLC and CDFW--- the CCC maintains its
dual position that the unpermitted drains in the Ballona Ecological Reserve are :
"Unpermitted Drains" and are inconsistent with Section 30233 of the Coastal Act.

…"degradation of wetland function through alteration of hydrology means that the same plants may not grow and habitat value and wildlife use of the wetland are reduced. This has clearly happened in the vicinity of the Unpermitted Drains. It is readily apparent from a review of the vegetation in the vicinity of the Unpermitted Drain located in a wetland south of Culver Boulevard that the drain is precluding growth of wetland plant species. Moreover, since the Unpermitted Drain is designed to drain water from the soil in the wetland around it, as well as ponding water that flows into the drain, this deleterious effect would not be limited to just the immediate vicinity where water pools, but would extend to any area hydrologically connected to the Unpermitted Drain." excerpt pg. 8 of 9, April 11, 2014 CCC Letter.

For your information,
Patricia McPherson, Grassroots Coalition

Todd T. Cardi ff, Esq. (SBN 221851)
LAW OFFICE OF TODD T. CARDIFF
1901 First Ave nue , Suite219
San Diego, CA 9210 I
Tel: (619) 546-5123
Fax: (619)546-5133
tod d@tcardi ffiaw.com

Bryan W. Pease, Esq. (SBN 239139)
LAW OFFICE OF BRYAN PEASE
302 Washington Street #404
San Diego, CA 92103
Tel: (6 I 9) 723-0369
Fax: (619) 923-I00I
brya npe ase@gma il .c om

Att o rneys for Plaintiff
GRASSROOTS COALITION

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

BC 6 1944 4

GRASSROOTS COALITION, a California Non-Profit Corporation;

Plaintiff and Peti ti oner,

v.

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE, a State Agency ; CHARLTON H. BONHAM, in his Official Capacity as Director of CALIFORNIA DEPARTMENT OF FISH AND W I LDLIFE ; PLAY A CAPITAL COMPANY LLC. an unknown entity and DOES 1-1 0, inclusive,

Defendants and Respondents.

Case No.:

COMPLAINT FOR DECLARATORY RELIEF, INJUNCTIVE RELIEF, AND CIVIL PENALTIES; PETITION FOR WRIT OF MANDAMUS

O11-274

INTRODUCTION

1. This case seeks to compel the California Department of Fish and Wildlife to seek a coastal development permit from the Coastal Commission to remove (or maintain) two illegal drains and drainage system installed by Playa Capital Company LLC and/or its predecessor-in-interest in the Ballona Wetlands, to mitigate the damages caused by the unpermitted drains and hold defendants accountable for violating the California Coastal Act.

PARTIES

2. Plaintiff GRASSROOTS COALITION is a registered 501(c)(3) tax-exempt non-profit organization that has worked for decades protecting the Ballona Wetlands. Plaintiff Grassroots Coalition is defined as a "person" within the Coastal Act. (Pub. Res. Code § 30111.)

3. CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE (CDFW) is a state agency. The drains and drain lines are located on land that is owned by CDFW and therefore it is the responsibility of CDFW to remove the drains that have been installed illegally on its property.

4. CHARLTON H. BONHAM is being named in his official capacity as the Director of the California Department of Fish and Wildlife. It is alleged on information and belief that Mr. Bonham has a mandatory duty to apply on behalf of CDFW for a coastal development permit.

5. PLAYA CAPITAL COMPANY LLC, is an unknown business entity. It is alleged on information and belief that PLAYA CAPITAL installed the drains illegally to benefit its development in Playa Vista.

6. The names and capacities of Does 1 through 10 are currently unknown to the Plaintiff. It is alleged on information and belief that does 1 through 10 are principles, employees, agents, successors-in-interest, predecessors-in-interest, appointed officials,

O11-255 cont.

departments or subcontractors of the Defendants and in some way responsible for the illegally installed drains in the Ballona Wetlands. Plaintiff will add such Doe defendants upon learning their nature and capacity.

7. The California Coastal Commission is the agency responsible for issuing permits and enforcing the Coastal Act in the Coastal Zone. It is alleged on information and belief that the California Coastal Commission is not a necessary or responsible party under Code of Civil Procedure section 389 in that complete relief can be granted without its presence and participation. A courtesy copy of this complaint will be sent to the Coastal Commission as an invitation to intervene in this lawsuit. In addition, Plaintiff will add the Coastal Commission to the lawsuit upon order of the court or the Coastal Commission's request to be named as a real party-in-interest.

BACKGROUND

O11-255 cont.

8. The Ballona Wetlands stretch from the City of Los Angeles to the Playa Del Rey. The current wetlands are generally located to west of Lincoln Boulevard, and to the South of Marina Del Rey. It is adjacent to Playa Vista, a mixed use residential development, developed by defendant Playa Capital.

9. The Ballona Wetlands Ecological Reserve is approximately 600 acres of protected habitat, which is a fraction of the historical wetlands. Recharging the Ballona Wetlands multiple freshwater aquifers is dependent upon both rainfall and near-surface and subsurface freshwater flows. The freshwater flows are critical to protect and maintain the wetlands habitat.

10. Despite the degraded quality of the Ballona Wetlands, it supports a large population of diverse wildlife, marine life and plant life, including seven animal species considered endangered or threatened, including: Least Bell's Vireo, California Gnatcatcher, El Segundo Blue Butterfly, California Least Tern, Salt-marsh Harvest Mouse, Western Snowy Plover, and Belding's Savannah Sparrow. There are also numerous endangered or threatened

plant species at the Ballona Wetlands including, but not limited to: Lewis' Evening Primrose, Southern Tarplant, and Orcutt's Pincushion

11. There are other species that make that the Ballona Wetlands an important ecological haven, including Saltgrass - important for Wandering Skippers and Pickleweed- *Falicornia Pacifica* - important for Belding Savannah Sparrow.

12. On or about June 12, 2013, the Coastal Commission sent a letter to Playa Capital concerning the discovery of two unpermitted drains within the Ballona Wetlands. On information and belief that the Coastal Commission alleged that he drains led into a pipe/culvert that discharged directly into the Ballona Creek, without treatment of storm water.

13. On or about April 11, 2014, the Coastal Commission sent another letter to Playa Capital LLC (carbon copied to CDFW and City of Los Angeles) in response to comments made by Playa Capital LLC regarding the drains. The Coastal Commission reasserted, that after careful consideration of the information provided by Playa Capital LLC, that the drains and drain lines were unpermitted. Moreover, the Coastal Commission cited that the drains' location in the Ballona Ecological Reserve was within natural habitat and a wetland that relies on water to function. In its April 11, 2014 letter the Coastal Commission stated:

> [T]he effect of the functioning of the Unpermitted drains is deleterious to habitat because the Unpermitted Drains direct water away from habitat areas within the Ballona Ecological Reserve, including a wetland area….
>
> the Unpermitted Drains detract from wetland and habitat function. Thus the Unpermitted Drains are both unpermitted and could not be found to be consistent with Section 30233 of the Coastal Act

(CCC Letter dated April 11, 2014.)

14. It is alleged on information and belief that the drains, particularly during the drought, removes water from the wetland habitat making it more difficult for native wetland species to thrive or survive. This was noted by the Coastal Commission, which stated:

> One of the chief components of wetland habitat is wetland vegetation. Thus, removal of wetland plant species, whether through removal or physical preclusion

O11-255 cont.

> of growth, reduces the habitat value of a wetland. In addition, degradation of wetland function through alteration of hydrology means that the same plants may not grow and habitat value and wildlife use of the wetland are, reduced. This has clearly happened in the vicinity of the Unpermitted Drains. It is readily apparent from a review of the vegetation in the vicinity of the Unpermitted Drain located in a wetland south of Culver Boulevard that the drain is precluding growth of wetland plant species. Moreover, since the Unpermitted Drain is designed to drain water from the soil in the wetland around it, as well as ponding water that flows into the drain, this deleterious effect would not be limited to just the immediate vicinity where water pools, but would extend to any area hydrologically connected to the Unpermitted Drain.

(CCC Letter dated April 11, 2014.)

15. On or about July 16, 2015, the Coastal Commission sent another letter to both CDFW and Playa Capital emphasizing the need to seek a coastal development permit.

16. It is alleged on information and belief that, as of this date, defendants, and each of them, have failed to apply for a coastal development permit.

17. It is further alleged on information and belief that drainage of this type cannot be located within wetland habitat, pursuant to the Coastal Act, and may also be impacting environmentally sensitive habitat areas, as that term is defined under the Coastal Act. (Pub. Res. Code § 30240.)

18. As an interim measure, capping and plugging the drains should be completed before the next rainy season to prevent any further water from being drawn down the drains and further impacting the wetlands.

19. It is alleged on information and belief that if a coastal development permit had been sought from the California Coastal Commission to install the drains in the Ballona Wetlands, it would likely have been denied.

20. It is further alleged on information and belief that removal of the drains also requires a coastal development permit from the Coastal Commission.

21. But for, Plaintiff bringing this action, the California Department of Fish and Wildlife would further delay in seeking a coastal development permit from the Coastal Commission resulting in a continuing harm to the Ballona Wetlands.

O11-255 cont.

22. It is alleged on information and belief that Defendants and each of them have delayed almost 3 years (June 12, 2013) since being initially informed by the Coastal Commission that the drains were unpermitted and needed to be removed.

23. Plaintiff has no financial interest at stake in this lawsuit.

24. Plaintiff has no speedy or adequate relief under the law in that pecuniary damages are not available and will not make them whole.

25. Plaintiff has brought this action within three years of discovery of the unpermitted nature of the drains. (Pub. Res. Code § 30805.5.)

26. Successful prosecution of this action will bring about significant benefits to the wetlands and the public entitling Plaintiff to Attorney's Fees under Code of Civil Procedure section 1021.5.

FIRST CAUSE OF ACTION
DECLARATORY RELIEF
(Grassroots Coalition v. All Defendants)

O11-255 cont.

27. Plaintiff re-alleges all previous paragraphs as if fully set forth herein.

28. In passing the Coastal Act, the Legislature declared : "That the California coastal zone is a distinct and valuable natural resource of vital and enduring interest to all the people and exists as a delicately balanced ecosystem." (Pub. Resources Code § 30001(a).)

29. The Legislature further declared that "it is necessary to protect the ecological balance of the coastal zone and prevent its deterioration and destruction." (Pub. Resources Code § 30001(c).)

30. The Coastal Act is to be interpreted strongly in favor of its resource protective mandate. (Pub. Res. Code § 30009.)

31. All public agencies shall comply with the provisions of the Coastal Act. (Pub. Res. Code § 30003.)

32. Development is defined very broadly under the Coastal Act:

> "Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).
>
> As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

(Pub. Res. Code § 30106.)

O11-255 cont.

33. The installation of drains and a drainage system within the Ballona Wetlands falls within the definition of "development." Removal of the drains would also be considered development under the Coastal Act.

34. It is alleged on information and belief that the drains were installed within an area that is historically considered state tide-lands and/or public trust lands. (Pub. Res. Code § 30519(b).)

35. The drains are installed in area considered "wetlands" under the California Coastal Act. (Pub. Res. Code § 30121.)

36. It is alleged on information and belief that the area impacted by the drains is environmentally sensitive habitat area (ESHA) within the meaning of the Coastal Act. (Pub. Res. Code § 30107.5.)

37. Defendants Playa Capital and Does 1-10 were required to seek and obtain a coastal development permit, prior to installing the drains. (Pub. Res. Code §§ 30519(b), 30600.)

38. Defendant California Department of Fish and Wildlife, upon discovery that the drains lacked a coastal development permit, were required to either seek an after-the-fact coastal development permit to maintain the drains, or a coastal development permit to remove the drains and excavate the drainage system.

39. Defendants, and each of them, have failed to apply and obtain a coastal development permit to install, maintain or remove the illegally installed drains and drainage system within Ballona Wetlands.

40. Defendants and each of them have been informed by the Coastal Commission to obtain the necessary coastal development permits.

41. Such failure to seek and obtain a coastal development permit constitutes a violation of the Coastal Act.

42. Plaintiff is entitled to declaratory that Defendants and each of them have violated the Coastal Act.

43. Plaintiff is entitled to equitable relief compelling Defendants and each of them to seek a coastal development permit to either remove or maintain the drains and drainage system. (Pub. Res. Code §§ 30803, 30804.)

O11-255 cont.

SECOND CAUSE OF ACTION
INJUNCTIVE RELIEF
(Grassroots Coalition v. California Department of Fish and Wildlife)

44. Plaintiff alleges all previous paragraphs as if full set forth herein.

45. Defendants actions, and each of them, continue to harm the plant life and wildlife in the Ballona Wetlands in that the drains and drainage system removes water from the wetlands.

46. Plaintiff alleges on information and belief that the drains not only drain water from protected wetlands, but also discharge water, untreated, directly into Ballona Creek in violation of City, State and Federal Law.

47. If not restrained, defendants will continue to drain precious water from the wetlands, and continue to discharge untreated water into Ballona Creek.

48. Plaintiff has no remedy at law in that pecuniary relief is unavailable to Plaintiff and such damages would be extremely difficult to ascertain.

49. The California Coastal Commission has requested that the California Department of Fish and Wildlife remove the drains or block, plug or otherwise prevent water from entering the drains to prevent further harm to the Ballona Wetlands.

50. It is alleged on information and belief that the California Department of Fish and Wildlife has not acted to block, plug or otherwise prevent water from entering the unpermitted drains.

51. A preliminary injunction must issue prohibiting the California Department of Fish and Wildlife from allowing water to enter the unpermitted drains and discharge into Ballona Creek during the pendency of this lawsuit

52. A permanent injunction must be issued, prohibiting the California Department of Fish and Wildlife from allowing water to enter the unpermitted drains and discharging into Ballona Creek until the California Coastal Commission issues a coastal development permit to either maintain or remove the unpermitted drains in the Ballona Wetlands.

O11-255 cont.

THIRD CAUSE OF ACTION
WRIT OF MANDAMUS
(Grassroots Coalition v. Charlton H. Bonham and California Department of Fish and Wildlife)

53. Plaintiff alleges and incorporates all previous paragraphs as if fully set forth herein.

54. Defendant California Department of Fish and Wildlife has a duty to comply with the Coastal Act. (Pub. Res. Code § 30003.)

55. Defendant Charlton H. Bonham has a duty as a director of CDFW to do all acts necessary to ensure that CDFW complies with the Coastal Act.

56. Upon discovery of the unpermitted nature of the drains in the Ballona Wetlands Ecological Reserve, on land owned and controlled by CDFW, Bonham and CDFW had a mandatory duty to seek a coastal development permit for an after-the-fact permit or removal of the unpermitted drains.

57. CDFW and Bonham have breach a mandatory duty enjoined by law by failing to seek a coastal development permit.

58. Plaintiff is beneficially interested in that the protection of the Ballona Wetlands is directly germane to its central purpose and mission.

59. Plaintiff has no plain, speedy or adequate remedy in the ordinary course of the law, in that pecuniary damages are unavailable and would not compensate for the harm done.

60. A writ of mandamus is necessary ordering Charlton Bonham to cause CDFW to apply for a coastal development permit. (Code Civ. Procedure section 1085.)

61. The court should order Defendants Bonham and CDFW to return within 60 days demonstrating that they have complied with the writ.

O11-255 cont.

FOURTH CAUSE OF ACTION
CIVIL PENALTIES FOR VIOLATION OF THE COASTAL ACT
(Grassroots Coalition v. All Defendants)

62. Plaintiff alleges and incorporates all previous paragraphs as if fully set forth herein.

63. Plaintiff does not currently know when the drains were installed.

64. Plaintiff alleges that the drains were installed without permits.

65. Plaintiff alleges, upon information and belief, that Playa Capital and Does 1-10 installed the drains, without permits, to either catch storm water run-off or to help lower the water table at Playa Vista.

66. Drains of this type and purpose are not permitted within wetlands and violate major Coastal Act policies including, but not limited to, sections 30231, 30233, 30236 and 30240.

67. Plaintiff alleges that defendant Playa Vista and Does 1-10 intentionally and knowingly installed the drains without permits to avoid public scrutiny and because they knew that the Coastal Commission would not approve drains that would impact the wetlands.

68. Plaintiff alleges that the California Department of Fish and Wildlife in knowingly and intentionally refusing to act to protect the Ballona Wetlands by not seeking a coastal development permit and allowing continuing harm caused by the unpermitted drains.

69. Defendants are liable for the following civil liabilities:

a. Up to $30,000 per violation (Pub. Res. Code § 30820(a)(1) & (a)(2).)

b. Up to $1,000 per day per violation (Pub. Res. Code § 30820(b).)

70. Defendants and each of them are liable for exemplary damages for knowingly violating the Coastal Act by installing the drains, refusing to remove the drains and drainage system, or refusing to seek a coastal development permit. (Pub. Res. Code § 30822)

72. Civil liabilities shall be deposited with Violation Remediation Account of the Coastal Conservancy Fund. (Pub. Res. Code § 30823.)

73. Plaintiff is entitled attorneys fees and costs for bringing this action. (Code of Civil Procedure section 1021.5.

O11-255 cont.

/././

/././

/././

/././

/././

/././

PRAYER FOR RELIEF

WHEREFORE Petitioner pray the court grant the following:

1. For declaratory relief that defendants, and each of them, violated the Coastal Act by installing and maintaining drains in the Ballona Wetlands without a coastal development permit;

2. For preliminary and permanent injunction prohibiting the California Department of Fish and Wildlife from allowing water to enter the drains or discharge water from the drains;

3. For a peremptory writ of mandate ordering the California Department of Fish and Wildlife to apply for a coastal development permit to maintain or remove the drains in the Ballona Wetlands;

4. For a return within 60 days of service of the writ on California Department of Fish and Wildlife and/or Charlton Bonham demonstrating compliance with the writ or to show cause why they have not done so;

5. For permanent injunction ordering the California Department of Fish and Wildlife to remove the drains, if it cannot obtain after-the-fact coastal development permit to install the drains;

6. For the court to take continuing jurisdiction over the matter until the writ is discharged;

7. For civil penalties of $30,000 per drain;

8. For civil penalties of up to $1,000 per day from the date of installation to the date of removal;

9. For costs of suit incurred;

10. For attorney's fees and costs pursuant to Code of Civil Procedure section 1021.5;

11. And for such additional relief and further relief as the Court deems proper in the interest of justice.

O11-255 cont.

DATE: May 4, 2016

Todd T. Cardiff, Esq.
Attorneys for Plaintiff and Petitioner
Grassroots Coalition

VERIFICATION

I, Patricia McPherson, declare:

I am a board member and an officer of Plaintiff Grassroots Coalition. I have read the above complaint and petition and know the contents thereof. The same is true of my own knowledge, except for facts stated on information and belief, and as to such facts I believe them to be true. I declare under penalty of perjury, under the laws of the State of California, that the above is true and correct. Executed this 4th day of May, 2016 in the County of Los Angeles.

Patricia McPherson

O11-255 cont.

From:	patricia mc pherson
To:	kirk.e.gibbs@USACE.army.mil; Daniel SPL Swenson P; usarmy.pentagon.hqda-oaa.mbx.oaa-communications-poc@mail.mil
Cc:	Hamilton Cloud; Ari.Ruiz@asm.ca.gov; joey.apodaca@mail.house.gov; lila.kalaf@sen.ca.gov; Tina.Andolino@sen.ca.gov; Andrew.Lachman@mail.house.gov
Subject:	USACE/ BALLONA CHANNEL/ Ballona Wetlands Ecological Reserve (1)
Attachments:	Screen Shot 2016-01-29 at 12.08.27 PM.png Screen Shot 2016-07-20 at 1.17.49 PM.png Screen Shot 2016-07-20 at 1.31.11 PM.png 2012 Withdrawal.png Pleading_FINAL Conformed.pdf CCC ltr 4.11.14.pdf 2012 NOTICE OF EIS.pdf

REQUEST FOR PUBLIC FORUM

Grassroots Coalition (GC), respectfully requests a public forum for the following issues to be addressed and provided meaningful response PRIOR to any Joint EIR/S; inclusive of 404/408 Permit review being issued to the public.
There is ample evidence to show cause for need of USACE address of the issues of concern touched upon below. Ballona Wetlands Ecological Reserve (BWER) restoration planning has not occurred per bond language requirements and/or promises which would necessarily be inclusive of the
public and stakeholders and WORKING GROUP-which includes the many groups that worked over 20 years to save the lands purchased with public bond money in 2004 . The inclusivity has not occurred and instead, at best, the appearance of Conflicted Interests driving the project is well apparent and at worst, outright Conflict of Interest and possible fraud is documented through Public Record Act and Freedom of Information Act responses that necessarily need to be addressed publicly by USACE, CDFW and others.

O11-275

Ballona Wetlands maintains some of the rarest coastal wetland habitat among California's coastal wetlands. It is itself, a rare and endangered place that is currently under extreme threat of destruction due to multi-million dollar grant developmental deals.

The 'Preferred Alternative' is NOT the least damaging Alternative and is NOT historically accurate per BAllona's unique qualities of being a **seasonal freshwater wetland.** A seasonal freshwater wetland Alternative HAS NOT BEEN MADE PART OF ANY MEANINGFUL REVIEW; IS NOT AN ALTERNATIVE OFFERED AS PART OF THE 404/408 REVIEW AND/OR JOINT EIR/S. **A seasonal freshwater wetland Alternative IS NOT a DO NOTHING ALTERNATIVE.**

**Current preferred Alternative(s) appear to fulfill the private interests of a Settlement Agreement(SA), the outcome of a lawsuit that has no standing since the private Playa Capital LLC lands of Ballona were sold to the State of California via the bond money and wishes of the
citizens of California. The SA's intent cites the fulfillment of the CREATION OF AN EMBAYMENT at Ballona Wetlands. The SA was, in great part, on behalf of the private developers of Playa Vista. Current BAllona restoration review is being done by Project Management Team members that have been and/or are currently, under the employ of Playa Vista management and/or Playa Capital llc. Playa Vista's flood control needs, that have as yet been unmet, appear to provide the need for the Preferred Alternative's**

configuration. These troubling issues need to be vetted in open public forum and resolved.

USACE'S ROLE

Unlike the federal Reconnaissance Study and the Feasibility Study that were touted as:
- leading up to an iterative process that would produce ALL REASONABLE ALTERNATIVES for Ballona Wetlands restoration and;
- after millions of public federal dollars were spent in that process which has yielded no CLOSE OUT REPORT as required by Corps legal language and;
-after that process was stopped by a few people with no legal authority to do so;
-we are now ostensibly left with a Corps that is simply acting as a collaborating agency which reviews only a very narrow, historically incorrect and devastatingly destructive set of Alternatives produced by what appears to be, a local private business.

A permit review under questionable use of WRDA funds and an EIS/R that do not represent a independent consideration of all reasonable alternatives should not be presented to the public as 'restoration of Ballona'. Instead, **GC requests an open public forum to first engage, vet and resolve**
with USACE and all parties attached to the Corps review— the many issues of dispute of what is actually happening to and with Ballona Wetlands Ecological Reserve and its stakeholders.

O11-275 cont.

A few reasons why:

GC attaches the **Federal Register Notice** below to **note misleading and inaccurate statements** of the Notice portion **pertaining to Ballona Wetlands Ecological Reserve** and, in particular inaccuracies that are made readily apparent via the Ca. Coastal Commission's letter to Playa Capital LLC and CDFW regarding illegal drainage devices and requests for hydrology studies to determine the damage to Ballona Wetlands by the illegal drainage. Obviously, there is a lack of baseline hydrology data of Ballona Wetlands Ecological Reserve.

USACE incorrectly cites to having baseline data in order for it to proceed with a 404 and 408 PERMIT REVIEW under the auspices of WRDA and to be able to prepare an EIS.

No studies produced through The Bay Foundation (TBF) analyze Ballona Wetlands Ecological Reserver (BWER) hydrology. (TBF is a private business not known to be legislatively approved to represent the National Estuary Project (NEP).
The Santa Monica Bay Restoration Project was legislatively approved for NEP representation. The Project name was later changed, legislatively, to Santa Monica Bay Restoration Commission (SMBRC). TBF is not the SMBRCommission. Records reveal that TBF provided, via its own internal and private website, all of the information PASSED THROUGH to
the County of LA Public Works in order to take questionable advantage of the Water Resource Development Act (WRDA) by using the LA County Public Works as local sponsor for what appears to be a TBF project.
- NO BASELINE STUDY OR ANALYSIS has been performed via The Bay Foundation or the California Coastal Conservancy or CDFW or any other entity—of the site hydrology of Ballona Wetlands inclusive of its freshwater aquifers and effects to these

aquifers from the draining of rainwaters, and/or groundwaters through the illegal drainage systems and/or drainage and removal of Ballona's groundwaters (classified as potential drinking water) via any other process under the control of either CDFW and/or Playa Capital LLC.

1. The Corps provides a highly misleading statement that leads a reader to believe that the fundamental baseline conditions— that would naturally include the specific hydrology of a site, are included as a baseline condition already garnered. The hydrology of the site has not been garnered. The Corps provides a very ambiguous statement that " BASELINE conditions portions of the EIS/EIR have been completed as of January, 2012." **The Corps' does NOT provide knowledge to the reader that these 'portions' are part of a fragmented, biased, discontinued, potentially fraudulent cost-share failure that remains without legitimate start or closing data**. Public Record Act and Freedom of Information Act documents reveal the potential and/or likely illegitimate nature of this 'cost-shared' failure.

The 2005-12 EIR/S CLOSE OUT REPORT remains UNDONE per USACE requirements of CLOSE OUT REPORTS and has not been provided to the public.

Freedom of Information Act (FOIA) response from the USACE documents a failure of Work In Kind (WIK) or money to have been matched locally as part of the 2005-12 EIR/S process. However, the Corps' financial graphic of the 2005-12 process portray the WIK as having been done by the
local sponsor- SMBRC/AUTHORITY. (SMBRC/AUTHORITY governing boards did not provide any approvals of the 2005-12 process and internal emails demonstrate that entrance into such a process was done without approval and/or knowledge by SMBRC/SMBRAUTHORITY)

O11-275 cont.

The USACE's 2012 Federal Register Notice that states it will utilize whatever is retrievable from that process, provides:
- no accountability for what it will use or not use and,
- the studies were done under an unapproved authority, which provides, at minimum, the appearance of conflict of interest and at worst, a high conflict of interest. The conflicted materials SHOULD BE DISMISSED FOR USE.
- does not acknowledge that the entire 2005-12 Joint process was based on illegal local authority for entrance and exit. Namely, the person that signed into an Agreement with the Corps and exited that Agreement with the Corps—had no authority to do so and, did so without approval
from the alleged state sponsor—Santa Monica Bay Restoration Commission AS WELL AS FOR Santa Monica Bay Restoration Authority. Audit analysis and PRA/FOIA responses demonstrate the lack of legitimate sponsorship in the 2005-12 EIR/S process. The 2012-process
continues to be governed by the same individuals of leadership as provided leadership in the SMBRC/AUTHORITY unapproved and failed 2005-12 EIR/S process.

THERE IS NO BASELINE STUDY FOR BALLONA'S FRESHWATERS and there has been no accounting for any/all interruption of those freshwaters' capacity for biological support to Ballona as a wetland.

No hydrology studies have been performed upon Ballona Ecological Reserve that would:

a. Account for the illegal drains and drainage damage from the removal of Ballona's freshwaters.

b. No hydrology studies have been performed to assess the actual freshwater aquifers and/or surface waters of Ballona and how they may be being negatively impacted by ongoing illegal draining and/or other draining. Draining of Ballona's groundwaters could be averted via adherence to Best Management Practices and the mitigation requirements of the Playa Vista EIR- namely, that waters brought to the surface are to be cleansed and reused onsite to replenish the underlying aquifers. LA Dept. of Sanitation records and LARWQCB records reveal that significant Playa Vista groundwater dewatering is occurring and the waters removed are either being sent into the sanitary sewer and/or to Ballona Channel via an NPDES permit(s). The groundwaters are being removed as a result of detoxification processes of the Howard Hughes contamination underlying Playa Vista and/or through groundwater pumping and removal to maintain groundwaters below the level of oilfield gas mitigation intake systems. Harming Ballona Wetlands by the take away of both surface and/or groundwater would be a violation of the Coastal Act and is addressed in the California Coastal Commission Letter attached herein (CCC lttr pdf).

c. No hydrology studies have been performed to assess any/all potential effects upon the freshwaters of Ballona by the Alternatives cited in environmental documents produced by the private non profit, The Bay Foundation, which are being used and commented upon by the LA County Public Works. These documents are the Application documents for the current Corps WRDA 404/408 review given over from TBF as 'passed through' to the County Public Works Department and then passed to USACE.

O11-275 cont.

d. No hydrologies studies have been performed specific to the surface rainwater and subsurface aquifers (and/or interface of both) of Ballona Wetlands Ecological Reserve. (PRA and FOIA responses to GC from both County and USACE acknowledge the lack of such studies.)

Hence, a REASONABLE Alternative that is historically correct for BAllona Wetlands is NOT included in any Corps review and needs to be meaningfully addressed and included.

- The USACE fails to make clear to the public that it plays no role in oversight to ensure that ALL REASONABLE ALTERNATIVES BE CONSIDERED for BWER. Instead, USACE engages under an incorrect historical premise—"to restore the ebb and flow of tidewaters" upon Ballona Wetlands—a historically seasonal freshwater wetland and thereby engages in an artificial, speculative and highly industrial scale CREATION EFFORT that first requires the full destruction of historical habitat and function of Ballona Wetlands before attempting to force an ecological system upon Ballona Wetlands that was never there.

- The USACE engages in an incorrect premise -- The 'return of the ebb and flow of the ocean' to Ballona Wetlands is an incorrect premise. BWER is historically and uniquely a predominantly seasonal freshwater system. (**Historical Implications of the Ballona Creek Watershed**..Travis Longcore Phd et al,)

https://www.youtube.com/watch?v=1viLaZaVhQY

-The USACE engages with entities having the appearance of conflicted interests, as part of the

Project Management Team(PMT), including individuals purporting to represent state and/or federal representatives while an abundance of evidence, including litigation that has prevailed, demonstrates- at least the appearance of-- conflict of interest and potentially fraudulent representation taking place as key PMT entities flip-flop, incoherently as to who they do or don't represent at any given moment. The confusion of authority and/or standing is well apparent in agency and department internal emails.

- The USACE fails to engage the public and stakeholders in any meaningful manner that would allow for integrity of process to occur.

FINANCING TO THE USACE

-The USACE fails to make clear to the public and the LA County Board of Supervisors, how WRDA money will be spent.
-Public Record Act response from the LA County Board of Supervisors cites that no records exist for LA County Board of Supervisors approval for any money use in an Environmental Impact Statement (Study) (EIS). The Records only reference a state EIR. (see Exhibit 1)
Meanwhile, USACE personnel cite that the EIS is being paid for with LA County funds.
Resolution of who is paying for what and under what legal basis is requested.
-WRDA funds are intended for projects in a high priority ranking for safety issues. NO SAFETY ISSUES arise at BWER for use of WRDA funds. The current levees were created straight in order to remove water from up creek as quickly as possible and have performed this action well and continue to do so.
Earlier twisted, curved versions of CORPS creation of Ballona Channel FAILED and were cause of litigation after the occurrence of flooding. Corps financing under Section 1135 has earlier been utilized and pronounced as successful on Ballona Channel. Therefore, why hasn't the 1135 project been discussed publicly in context with Ballona's restoration?

O11-275 cont.

Exhibit 1

The pdf(s) are attached in the #2 GC email of same title.

(Ballona Wetlands Ecological Reserve (BWER) IS A SEPARATE LAND AREA that is adjacent to the Ballona Channel. While, any changes to the Channel that may affect BWER must be analyzed,
the BWER itself is Not under the jurisdiction of the County of LA—who is the sole sponsor for WRDA expenses. CDFW, the lead agency for BWER, has responded to PRA requests that no financing of the Ballona project review has been provided by CDFW.

And, **Proposition 12, BAllona bond money is inappropriate for use on WRDA** issues as WRDA was never a component part of Proposition 12 language or approval by the public. PRA responses from LA County Public Works reveal at least, two attempts of the CA. Coastal Conservancy to provide direct and/or indirect funding of Prop. 12 funds to USACE. LA County Public Works attorneys and PRA responses claim that
these attempts were never consummated with Prop. 12 money disbursement, in any fashion, to USACE.
If USACE, has received BWER and/or Ballona Channel project review financing through Prop. 12 funds, please provide the public with the financing information.

2. The SMBRC DID NOT REQUEST THE CORPS TERMINATE THE STUDY referenced in the 2012 Federal Notice below and cited by USACE as occurring between 2005-12.

3. The USACE has failed to produce a CLOSE OUT REPORT per USACE requirements of accountability for the millions of dollars spent of public funds.

(Only a graph of dollar amounts is presented without any data support that would identify what occurred between 2005-12. Furthermore, USACE, FOIA response documents from the 2005-12 timeframe cite the lack of Work In Kind (WIK) and lack of any money share with USACE.)

Exhibit 2 includes the California Coastal Commission Letter to CDFW and Playa Vista.

LITIGATION

The Grassroots Coaltion litigation against CDFW and Playa Capital LLC regarding illegal drainage of the freshwaters of Ballona Wetlands Ecological Reserve is attached. (Exhibit 2)

4. Attached is a link to a litigation outcome in which the BAllona Wetlands Landtrust(Landtrust) prevailed against the Santa Monica Bay Restoration Commission. The **Ruling** and the **Depositions** contained within the website link, reveal serious misrepresentations on the part of specific people that essentially claim that virtually all their actions have been as representatives of the private non profit—The Bay Foundation.
(The Bay Foundation is Not the legislatively approved local steward of the National Estuary Project which is legislatively assigned to the SMBRC.)
As noted by the court, the deposed people did mischaracterize themselves in representation repeatedly. While, the Landtrust prevailed in this action-- a Public Record Act lawsuit, the implications
of the behavior of the deposed people and the liberties that the deposed took, without approval by the SMBRC's governing board and/or without the approval of the County Board of Supervisors while roleplaying
as representing either the SMBRC and/or the SMBRAUTHORITY—gives rise to much more serious implications of fraud.

O11-275 cont.

5. According to the Depositions of the litigation between the Landtrust v SMBRC, the SMBRC is not performing as cited below in the Federal Notice.

Instead, the private business, The Bay Foundation (TBF) is claimed by the entities deposed(all members of TBF) , to be having oversight of the 'plans for ecosystem restoration within Ballona Creek.
Therefore, a mischaracterization has been again attributed to the SMBRC.
6. THE COUNTY BOARD OF SUPERVISORS ONLY APPROVED that WRDA 408, 404 REVIEW financing be provided to USACE for the WRDA PERMIT REVIEW.
The WRDA permit review is ONLY the jurisdiction of the County of LA as its has specific land jurisdiction over the BALLONA CHANNEL ITSELF.
7. If, as USACE personnel stated, County money is being spent for EIS work, then it would appear that --

a. The USACE has not explained itself to the County Board of Supervisors and/or the public and/or CDFW and/or SMBRC and/or TBF--- that WRDA money is used for federal EIS study on the Channel and/or the land outside the Channel—the Ballona Wetlands Ecological Reserve.

(albeit outside the Channel HAS NO LOCAL SPONSOR FOR WRDA FUNDS as the County's sponsorship for WRDA funds are relegated to the Channel itself. The Corps needs to explain how the various components are paid for and addressed.)

b. If the WRDA COUNTY funds are being taken in and used by USACE for any EIS, then it appears to be being done without informed consent and knowledge of the County Board of Supervisors and the public.

2012 FEDERAL NOTICE CITES:

"The Corps is initiating…...404…408 for a process to be planned and carried out by SMBRC." GC believes that this is a false and misleading statement.

In addition to what has been cited above regarding the lack of legitimate engagement of SMBRC, the following links provide quotes and information regarding the highly controversial SMBRC and its control by The Bay Foundation private business. There should be clear and unbiased oversight for any restoration process and not one plagued by controversy and the appearance of conflict of interest, which is what is now occurring. These issues are wholly unaddressed by USACE despite repeated requests from stakeholders to do so in a public forum.

O11-275 cont.

"Ford cautioned that the public may be misled in believing that the Commission has a decision to make on Ballona, other than a resolution, and reminded all that the California Department of Fish and Wildlife is the state lead agency." (Tom Ford is the current lead at SMBRC and is TBF)

- October 2014 Governing Board meeting minutes: http://www.smbrc.ca.gov/about_us/agendas/2014dec/101614_gb_mins.pdf

"With respect to the Ballona Wetlands project, the SMBRC voted in October 2010 to support the restoration process consistent with the Bay Restoration Plan. Like many projects to restore the Santa Monica Bay and identified in the Work Plan, the SMBRC does not have a direct role in that project."

- June 2015 staff report: http://www.smbrc.ca.gov/about_us/agendas/2015jun/item3b_staffreport_fy2016_workplan.pdf

"To the extent Mr. Medel, Mr. Abbott, Ms. Hurlbert, and Mr. Bergquist were involved in the Ballona Wetlands Restoration Project, that work was done under grants to TBF, not to he SMBRC, to assist DFW with its project."

- November 2015 Declaration of Tom Ford (Ballona Wetlands Landtrust website)
T**he Governing Board has not taken a single vote relating to Ballona since 2010. Not to close the previous EIS, not to sign on the Annenberg proposal MOU, not to accept Annenberg funding for SMBRC positions, etc.**

Please respond and provide an open public forum for review and resolution of the issues cited in this letter PRIOR to any release of the Ballona Wetlands Ecological Reserve's Joint EIR/S and, thereafter, upon legitimate resolution, include and provide for the inclusion of a meaningful Seasonal Freshwater Wetland Alternative in any Joint EIR/S released to the public for consideration and review.

O11-275 cont.

Thank you for your consideration of these matters of great public importance and concern,
Patricia McPherson, **Grassroots Coalition**

-----Original Message-----
From: patricia mc pherson [mailto:patriciamcpherson1@verizon.net]
Sent: Friday, 2 February, 2018 5:14 PM
To: BWERComments@wildlife.ca.gov; Rogers, Bonnie L CIV USARMY CESPL (US) <Bonnie.L.Rogers@usace.army.mil>
Cc: Todd Cardiff <todd@tcardifflaw.com>; Jeanette Vosburg <Jeanette@saveballona.org>
Subject: [Non-DoD Source] Ballona Wetlands DEIR/S Response (Section C-2) Grassroots Coalition

The Grassroots Coalition Response to the Draft EIR/S for the Ballona Wetlands Ecological Reserve Section C-2

The following Notification to USACE was notification pertaining to the illegal drainage ongoing in Ballona Wetlands Ecological Reserve.

The CDFW did go before the Coastal Commissioners in December of 2017 wherein the CDFW was granted a CDP with conditions -to Cap the illegal Drains and to come back before the Commissioners within 180 days to fulfill the attendant condition of removal of the illegal drains as part of an attendant CDP.

-WHY does the Corps NOT address the hydrology issues of these drains dewatering Ballona for at least 20 years and the attendant affects upon the flora and fauna in the DEIR/S?

-Why has the Corps not addressed the freshwater hydrology of the BallonaWetlands?

O11-276

-Why has the Corps not required a hydrology study done that would determine the effects upon Ballona's freshwater aquifers and seasonal ponding that would occur from Alts 1-3 levee removal and replacement elsewhere?

-Please respond to the questions above and please respond to the queries and comments within the Ballona Wetlands email inclusive of the PDF 2.8MB ATTACHED AGAIN alongside the email from which it was sent to the USACE.

O11-277

A MIME attachment of type <message/rfc822> was removed here by a drop-attachments-by-name filter rule on the host <gw3.usace.army.mil>.

A MIME attachment of type <message/rfc822> was removed here by a drop-attachments-by-name filter rule on the host <gw3.usace.army.mil>.

WHAT IS THE GROUNDWATER CONDITION AT BALLONA WETLANDS ECOLOGICAL RESERVE?
-evaluation not conducted—
THE DEIR/S IS DEFICIENT AS THERE IS NO ONSITE HYDROLOGY STUDY AND NO IMPACT ASSESSMENT AS TO HOW THE ALTS. 1-3 will impact the hydrology of Ballona Wetlands Ecological Reserve. No Alternative is provided that would maintain the freshwaters of the Ballona Wetlands. O11-278

There is no Alternative provided that offers the public what they paid for….a restoration. The DEIR/S is deficient. There is no ability for the public to make an informed decision because there is no evaluation that includes the freshwater resources of Ballona. O11-279

The Bay Foundation, the private business having received funding for providing study of Ballona Wetlands has not provided any hydrology evaluation of Ballona's freshwater aquifers and historic seasonal ponding. O11-280 Instead, the Bay Foundation has produced with funding provided through the SCC, a PR campaign that does not provide any information to the public of Ballona's freshwater resources-its multiple underlying freshwater aquifers and seasonal ponding history which provides evidence that the private Bay Foundation has used public money to produce false, misleading and highly prejudicial information to the public which does not allow for informed decision making. Stressors noted in the PPT do not reveal the draining of Ballona's freshwaters by Playa Capital LLC and CDFW, there is no mention of the ongoing diversion of groundwater by Playa Capital LLC that is thrown away into either the Ballona Channel and/or the sanitary sewer. There is no address or inquiry toward protecting Ballona's freshwaters. The figures used in the PR Campaign provide no data support for wild claims made and instead provides skewed, prejudicial and biased information promoting a full tidal creation scheme. Such arrogant, willful disregard for the truth reveals CDFW's prejudicial abuse of discretion for allowing its 'partner' to promote the lies. O11-281

-Such false advertising, seen above, fails to inform the reader that there is no 3.1 million cubic feet data source for soils placement on Area A and C, instead data does demonstrate that the marina soils were used to create widening of the beaches for 5 miles to the north and south of the
Marina and Channel mouth & was used to create the moles that currently support buildings in the marina. (House Doc 389) O11-282
- The historic salt pans still exist in Area A, not buried by fill. Raised roadways were created to oil/gas wells by SoCalGas in order to keep the maintenance
vehicles above the seasonal pond areas that dominate Area A. O11-283
- Water? The ppt fails to include that CDFW & its partner Playa Capital LLC have been illegally draining ponding rainwaters via illegal drains for at least 20 years. Beneficial to Ballona would be keeping its freshwaters and stopping the pumping, diversion and throwaway of Ballona's fresh groundwater that is currently ongoing. The ppt promotes a false premise that Ballona was regularly inundated with tidal flow—false advertising. Ballona's unique and rare freshwater resources do need to be protected and will not be via the promotion of more saltwater intrusion and contamination. O11-284

Blockedhttps://www.youtube.com/watch?v=3_BB1VmryiQ O11-285

Tom Ford, recently resigned as Director of the Santa Monica Bay Restoration Commission (SMBRC) due to a O11-286

Settlement Agreement
between the Bay Foundation and the Ballona Wetlands Land Trust. Tom Ford became, after Shelly Luce, the Director of the Bay Foundation and
was simultaneously the Director of the SMBRC until his recent resignation. The extensive controversy of the private business' influence upon and use of SMBRC's name should be addressed in the DEIR/S for public transparency purposes.

O11-286 cont.

Blockedhttps://www.youtube.com/watch?v=lJyeKpIGwwg

O11-287

Patricia McPherson, Grassroots Coalition; DEIR/S continues in next sequenced email

CALIFORNIA COASTAL COMMISSION **First sent 2/16/17**
Attn: Enforcement Officer Andrew Willis - Amended March 5, 2017

REQUEST TO MEET AND HAVE RESPONSE TO QUERIES REGARDING THE PLAYA VISTA CDP(S) --

a. their fulfillment and/or lack of fulfillment & subsequent consequences and,
b. CCC SA, CDP(s} --current impacts upon Ballona's restoration alternatives.

As we have previously discussed, the plan for the "restoration" of Ballona Wetlands has been heavily influenced and controlled by Playa Vista's development history. The Settlement Agreement between the California Coastal Commission, Playa Vista and Friends of Ballona included factual misstatements that created a pre-determined outcome for 'restoration' proposals. Most specifically, the CCC's Settlement Agreement Language arising out the Friends of Ballona lawsuit appears to have included language for "restoration of Ballona" to create an "embayment" and restore the "ebb and flow of the Ocean" to Ballona as a salt marsh. Such language was also inserted into the CDP's for Playa Vista**.**

Unbeknownst to the public at large, was that this Settlement Agreement included the California Coastal Commission, LA County, City of LA, the State Lands Commission & the State Controller's Office, Playa Vista, Friends of Ballona who were all divvy up the land uses of the immediate area and who all agreed that in order to do this, and save a small portion of Ballona Wetlands-- that they would agree to fast tracking the slightly altered Playa Vista development project. All parties became legally bound to a predetermined outcome, set forth in the SA.

None of this information was relayed to the public at large and none of it was inserted into the bond language that the public approved when it voted to approve the bond money that was used for the acquisition and restoration of Ballona Wetlands Ecological Reserve in 2003-4. The bond language contradicts this predetermined outcome via citations of inclusion of 'all reasonable alternatives' studied for restoration and includes the transparent and complete inclusion of the public in the entire process.

O11-288

Through recent historical reports including, Historical Ecology of the Ballona Creek Watershed- Travis Longcore PhD et al., paid for with public bond money earmarked for Ballona's restoration, we now know that historically, the Ballona Wetlands was not a salt water marsh. It was a freshwater marsh that occasionally broke through to the Ocean, which allowed for some saltwater interaction. We now know that the CCC Settlement Agreement, which gave rise to the language of Playa Vista's CDP(s} and later USACE permit language utilized incorrect historical and geological characteristics in describing the Ballona Wetlands.

This factually incorrect description made its way into EIR for the Playa Vista development project and has continued to be wrongfully applied to Ballona Wetlands ever since. **More recent studies and legal challenges have proven Ballona is a rare, predominantly seasonal freshwater wetlands.**

WRONGFUL PREMISE

The wrongful characterizations of Ballona as a salt marsh continue into present language used by USACE and CDFW, and the California Coastal Commission which has created **an 'agency used false premise' upon which all 'restoration alternatives' are based.**

Ballona Wetlands is a predominantly freshwater, seasonal wetland along our coast and has had historic saltwater influence during years of unusually heavy rainfall which broke through coastal dunes allowing for short lived tidal influence directly from Santa Monica Bay.

IMPROPER PROCESS

None of the state's alternative planning includes restoration for Ballona as a seasonal freshwater wetland. No Ballona freshwater hydrology studies have been done as part of the restoration planning for Ballona. Only HYDRAULIC STUDIES of the Ballona Channel water flows have been prepared, which precludes any

Alternatives and studies that would illuminate the preservation needs and utilization of the freshwaters of Ballona Wetlands - inclusive of runoff,

1} The Playa Vista/ CDFW unpermitted drains are also a violation of the Coastal Act. They continue to illegally take away Ballona's freshwaters both surface and subsurface. CDFW continues to fail to seek a CDP through the CCC and fails to stop the ongoing drainage.

2} Playa Vista dewatering-- done for both decontamination, as well as methane gas mitigation systems-- removes virtually all historic freshwater flows into Ballona from east to west. Both surface and ground waters, that historically provide Ballona's near surface waters, are being removed through dewatering. Such near surface waters are removed from the historical wetlands located at what is now Playa Vista via either the sanitary sewer systems to Hyperion and/or via the Playa Vista Flood Control System (aka Freshwater Marsh System} which flushes Ballona's freshwaters out into the Santa Monica Bay using the Ballona Channel.

3} The freshwater storm runoff into the Playa Vista flood control basin system, is also diverted away from Ballona Wetlands into the Ballona Channel to the sea.

No hydrology studies of Ballona Wetlands itself have been done to determine the negative impacts of the cumulative freshwater dewatering to Ballona Wetlands as can be noted in the following document portion produced by a member of the Project Management Team in the current EIR/S; Water Resource Development Act (WRDA} process. (Public Record Act response document}

5670662	Geotechnical	Appendix B – Geotechnical Memorandum	n/a	n/a

Comment Classification: **For Official Use Only (FOUO)**

What is the groundwater condition at the project site?

Submitted By: David Tran (213-452-3563). Submitted On: Jun 05 2014

Evaluation not conducted

O11-288 cont.

LACK OF TRANSPARENCY- MISLEADING THE PUBLIC

The overall lack of transparency and use of misleading the public into responding to an EIR/S that would include only the wrongfully premised alternatives- industrial scale digging out of Ballona to create 'an embayment' as Ballona's restoration---- is an ongoing goal promoted by conflicted interests and a corrupted process.

Examples of the pattern and practice of lack of transparency and misleading the public:
Please SEE the parking structure e-mail attachment on page 9. Such email evidences inter-agency manipulation of information to deceive the public intended to create an outcome favorable to county development interests and CDFW work issues. See also, Vector Control Letter p. 4, for lack of accountability and confusion.

CONFLICTS OF INTEREST

Multiple conflicts of interest impact decisionmaking on the Ballona Wetlands Restoration

1} Due to prior agreements not disclosed to the public and/or not amended to reflect the changed circumstances of public ownership of Ballona Wetlands since 2004.

2} The EIR/S Project Management Team includes Playa Vista consultants promoting the Interests of Playa Vista. These interests date back to fulfillment of the CCC's Settlement Agreements.

3} Partnerships that have the appearance of conflict of interest, such as 1. The Ballona Conservancy* whose origin, board members and use remains mysterious and murky, with questionable inclusion of state agencies: a. the State Lands Commission*; b. the Ca. Dept. of Fish & Wildlife*; c. the local CD 11 council district personnel and; d. developer interests - Playa Capital LLC/ Brookstone*; e. Friends of Ballona (leadership of this group are directly or indirectly related to Playa Vista}. The Ballona Wetlands Conservancy was NOT a part of the Settlement Agreement which required the parties to the SA (The Committee} to create a Ballona Wetlands Foundation that would provide oversight of the Freshwater Marsh System (Playa Vista's Flood Control System} and yet, the CCC has been accepting reports from the Ballona Wetlands Conservancy, regarding the viability of the Playa Vista Flood Control System since, at least mid-2000. The relationship between the CCC and the Ballona Wetlands Conservancy needs to be historically unravelled and explained to the public.

The leadership of the Ballona Conservancy, created by Playa Vista, ostensibly for Playa Vista, provides questionable oversight of the Playa Vista flood control system for Playa Capital LLC/Brookstone development---a money making venue that, but for its required completion under the CDP(s) and interwoven Army Corps of Engineers Permit---the development would not be allowed.

4} Playa Vista/ CDFW drains in Ballona Wetlands Reserve are both unpermitted and a violation of the Coastal Act. The drains continue to illegally take away Ballona's freshwaters both surface and subsurface.

5} Playa Vista dewatering-- done for both historic toxic decontamination, as well as for keeping clear the methane gas intake systems-- removes virtually all historic freshwater flows into Ballona from east to west. Both surface and ground waters, that historically provide Ballona's near surface waters, are being removed through dewatering. Such near surface waters are removed from the historical wetlands by Playa Vista via both the sanitary sewer systems to Hyperion and/or the Playa Vista Flood Control System (aka Freshwater Marsh System} that drains into the Santa Monica Bay via Ballona Channel. The fresh rainwater runoff that is diverted into the Playa Vista flood control system, is drained away from Ballona Wetlands to the sea.

O11-288 cont.

* Number 3:

1. * The Ballona Conservancy has employed contractors that have direct links to Playa Capital. For example, it has employed Psomas, which also worked on behalf of the development of Playa Vista and its flood control needs. Psomas has been allowed by State and Federal agencies to be employed in a position of authority over Ballona's restoration--namely as a member of the Project Management Team- - for oversight of Ballona Wetlands restoration permits currently sought from USACE through the ongoing WRDA- Water Resource Development Act processes engaging LA County, CDFW and the Santa Monica Bay Restoration Commission(SMBRC}.

a. *SLC, was a part of the CCC's SA inclusion as part of the Ballona Committee. The SLC claims it is NOT a member of the Ballona Conservancy, however it 'owns' the land of the freshwater marsh. SLC's role has become ambiguous and vague and needs to be made clear to the public.

b. *CDFW is assigned the role of stewardship of Ballona Wetlands Ecological.

c..* CD 11 has apparent conflicted interests in its decision making regarding Playa Vista. Examples include but are not limited to:

1} The failure of CD11 to alert the public and the LA City Council to the multi-year warnings from Vector Control and failure to inform the public and LA City Council regarding the Vector Control threats of fines imposed upon the membership of the Ballona Conservancy for its failure to properly maintain the Playa Vista flood control system and; 2} the failure of CD 11 to alert anyone to the illegal roadway creation (2016} at Playa Vista along the riparian corridor section of Playa Vista's flood control system. This roadway was also cited as a CDFW Stream Bed Agreement Violation; 3} CDP fulfillment needs not addressed by CD 11; 4} Playa Vista Vesting Tract Agreements regarding the Playa Vista flood control systems, not addressed for fulfillment.

d. * Playa Vista has direct interests in fulfillment of its flood control needs per its CDP(s} and its USACE permits. Its flood control needs appear to be unfulfilled at this time and tied to the "embayment" restoration of Ballona. Playa Vista and its contractors, as part of the EIR/S Project Management Team, have-at least-the appearance of a direct conflict of interest.

e. * Friends of Ballona has had a lengthy history of friendly take-over by Playa Vista leadership.

The following is one email correspondence between LA County Vector Control and the Ballona Wetlands Conservancy via Playa Vista's leadership figure, Marc Huffman.

O11-288 cont.

From: _1_Saviskas, Robert
Sent: Tuesday, November 22, 2016 5:00 PM
To: 'Marc Huffman'
Cc: _8_McAllister, George ; 'Chau.Victoria@Wildlife.ca.gov' ; 'Edith Read' ; Chris Ball ; Calvo, Lucinda@SLC ; 'catherine.a.tyrrell@gmail.com'; 'Debbie.dynerharris@lacity.org'; 'richard.brody@wildlife.ca.gov'; 'Pamela.Griggs@slc.ca.gov'; Wilson, Erinn@Wildlife ;'christine_medak@fws.gov'
Subject: RE: Violation of the H & S Codes and Directives by the District to the Ballona Wetlands Conservancy (BWC)

One of the problems we have with your operation for over the past year is that no one seems to be in charge or publicly willing to take responsibility for your work crews actions. It has been seen on numerous occasions that your work staff begins to perform unapproved work and continues until someone happens to catch up them in their unapproved work. This is reflected in your statement below when you said, "We inspected the corridor this morning and noticed the crew was proceeding to create channels in the corridor and clearances from the shoreline, which we knew was contrary to our prior discussions."

It is clear to the District, for some time now, that someone is either directing your staff to proceed with work that is contrary to our directives and the Health & Safety Codes, until they get caught, or that there is no or insufficient management of these crews. The third possibility is that your staff members are acting independently against your wishes and our directive in an insubordination manner. That would be an individual misdemeanor criminal act by each of the workers for prosecution. If that is the case, we would need you to provide the District with their names for prosecution. Your staff needs to be informed that if one of our staff directs them to stop or start any particular maintenance work, they are to comply forthwith.

The District is requesting the names and line of authority of the Playa Vista Marsh and Riparian Corridor management responsibility under the BWC and any other corporate or legal entity that now exist that are involved. This has line of authority and legal responsibility has been vague and needs to be defined.

I am not available until Tuesday 11-29-16. And will not schedule a meeting before then until the above information is provided to me.

Beginning tomorrow, you are directed to cut all reeds and vegetation to the ground without any channels or stands as designated in the week inspection report.

Robert Saviskas M.S., R.E.H.S.
Executive Director
Los Angeles County West Vector
& Vector-Borne Disease Control District
6750 Centinela Avenue
Culver City, CA 90230
Ph.: (310) 915-7370 x 223
Email: rsaviskas@lawestvector.org

1} Ballona Wetlands Landtrust v Santa Monica Bay Restoration Commission (SMBRC}

http://www.ballona.org/litigation/

Public Record Act litigation reveals in **depositions** from key SMBRC personnel, who are also leaders of the Santa Monica Bay Restoration Foundation (a private business overseen by numerous parties that historically and currently have financial and influential interests tied to Playa Vista and Playa Capital LLC} and, who have provided a false pretense of authority that was utilized in order to ensure agreements were reached between the LA County Flood Control District and the U.S. Army Corps of Engineers, ensuring: 1} the WRDA process would be engaged to streamline/ piecemeal the process into a permit process, while extinguishing without accountability, the formerly approved EIR/S process (2005-12} which was to review ALL REASONABLE ALTERNATIVES and, 2} a singular outcome-namely saltmarsh, either full tidal and/or muted tidal, for Ballona's restoration would be the only alternatives studied and paid for with bond funds. (Ballona Wetlands Landtrust prevailed in the PRA litigation.}

The false representations made have secured an inaccurately premised WRDA permit process as part of a deceitfully contrived and truncated, EIS/R process that ensures that the historically correct geography and geology of Ballona Wetlands will not be a part of the WRDA Permit--EIS/R process.

Instead, the restoration alternatives under study and review, only appear to pertain to the unresolved and incomplete flood control needs of the Playa Vista development site. Namely, a digging out of Ballona to create the 'embayment' envisioned in the Settlement Agreement between the CCC and Friends of Ballona et al., including Playa Vista.

O11-288 cont.

California Coastal Commission's Playa Vista CDP(s)

The second CDP Application—digging out Ballona in the extended wetland parcel of the freshwater marsh system, if approved by the CCC, as Playa Vista intended, would have provided completion of the Playa Vista flood control system.
The completion of the flood control system was based upon digging out a portion of the freshwater marsh system, just south of the freshwater marsh aka the 'extended wetland parcel'. This second CDP action is cited in the CCC approved CDP, utilizing USACE flood control permit description language. It is believed that the two coastal development permits, acting together, were intended to complete a flood control system as a two phase approach for a singular goal-- for fulfillment of a completed flood control system-- that would allow for all phases of Playa Vista's development to either proceed and/or remain in place.

The second CDP Application, whether ever submitted to the CCC, has no recordation at the CCC of approval. However, it does appear that the second CDP action—that of digging out a portion of Ballona in the freshwater marsh system, is still necessary for fulfillment of Playa Vista's flood control needs. Email correspondence between the SMBRFoundation, CDFW and a Playa Vista consultant appear to corroborate that the current "alternatives" that are being promoted by CDFW and the Coastal Conservancy–namely the digging out of Ballona—will fulfill the flood control needs that were never completed by Playa Vista. In other words, the digging out of the extended wetland parcel, would fulfill the USACE permit needs. Both the USACE PERMIT approval and the CCC's CDP(s} language both cite a phased approach to the completion of the flood control system (aka freshwater marsh system} in which the dig out of the extended wetland parcel was to

occur within a reasonable time. **However, to present, this development portion of the CDP and USACE Permit has not been done. It appears that the flood control system of Playa Vista remains undone.**

The following 2012 email references an outlet drain being discussed while Playa Vista's , Psomas contractor-Mike Crehan, discusses the future,
" .the ultimate condition when the brackish marsh is developed."

O11-288 cont.

Hicks, Rebecca SPL

From: Mike Crehan [mcrehan@psomas.com]
Sent: Wednesday, March 21, 2012 11:42 AM
To: Diana Hurlbert; David Lawhead (DLawhead@dfg.ca.gov); Eichler, Monica SPL; Gillies, Eric@SLC; Griggs, Pamela@SLC; Haines, Deanna; Hamamoto, Bruce; Houston, Don; Mary Small; McCormick, Donna; Nick Garrity; Patrick Holland (pholland@dpw.lacounty.gov); Phipps, Krista L; Rick Mayfield (rmayfield@dfg.ca.gov); Serpa, Phillip J SPL; Shelley Luce; 'Stark, Bob'; Strum, Stuart SPL; Swenson, Daniel P SPL; Terri Grant (tgrant@dpw.lacounty.gov); Vaughn, Stephen H SPL; Youn Sim (ysim@dpw.lacounty.gov)
Subject: RE: Ballona Wetlands comments

This is a good comment and valid concern. As a bit of history, this outlet drain is in the original Fresh Water Marsh (FWM) design and is intended for the ultimate condition when the brackish marsh is developed. In fact, there is a valve structure in place ready for the addition of the last portion of the culvert. The operation and water quality treatment of the FWM will not be degraded as there is a clay cut-off trench along the entire perimeter of the FWM effectively eliminating salt water intrusion into the FWM. And I agree that the operation of the FWM should be maintained to eliminate flooding potential upstream.

Thanks: Mike

-----Original Message-----
From: Diana Hurlbert [mailto:dhurlbert@santamonicabay.org]
Sent: Wednesday, March 21, 2012 10:20 AM
To: Mike Crehan; David Lawhead (DLawhead@dfg.ca.gov); Diana Hurlbert; Eichler, Monica SPL; Gillies, Eric@SLC; Griggs, Pamela@SLC; Haines, Deanna; Hamamoto, Bruce; Houston, Don; Mary Small; McCormick, Donna; Nick Garrity; Patrick Holland (pholland@dpw.lacounty.gov); Phipps, Krista L; Rick Mayfield (rmayfield@dfg.ca.gov); Serpa, Phillip J SPL; Shelley Luce; 'Stark, Bob'; Strum, Stuart R MVN-Contractor; Swenson, Daniel P SPL; Terri Grant (tgrant@dpw.lacounty.gov); Vaughn, Stephen H SPL; Youn Sim (ysim@dpw.lacounty.gov)
Subject: FW: Ballona Wetlands comments

FYI...D

-----Original Message-----
From: Griggs, Pamela@SLC [mailto:Pamela.Griggs@slc.ca.gov]
Sent: Tuesday, March 20, 2012 7:51 PM
To: Diana Hurlbert; Nick Garrity; Mary Small
Cc: Gillies, Eric@SLC
Subject: RE: Ballona Wetlands comments

My comments are attached. I'm not sure if Eric has had a chance to review yet and I believe he's out of the office tomorrow also.

Thanks.

- Pam Griggs (916) 574-1854

PRIVILEGE AND CONFIDENTIALITY NOTICE

This message and its contents, together with any attachments, are intended only for the use of the individual to whom or entity to which it is addressed and may contain information that is legally privileged, confidential, and exempt from disclosure under applicable law. If you are not the intended recipient of this message, you are hereby notified that any dissemination, distribution, or copying of this communication and any attachments or other

1

O11-288 cont.

It is not incumbent upon the public, who paid for Ballona, to fulfill the flood control needs of the development project-Playa Vista.

History is again key, since it was the Settlement Agreement (SA) of the Coastal Commission that set into motion the language of the approved CDP(s) of Playa Vista which inculcated the USACE FLOOD CONTROL PERMIT description and needs.

The public's bond money dedicated to Ballona's restoration-Proposition 12 funds-have been overseen and disbursed by the Ca. Coastal Conservancy and have been disbursed largely to the bank accounts of the SMBRFoundation which theoretically but wrongly was citing itself as the " fiscal agent" on behalf of the Santa Monica Bay Restoration Commission. (The relationship between the state agency-SMBRCommission and the private business- SMBRFoundation however ,was wrongly stated by SMBRFoundation leaders in their portrayal of BEING and ACTING AS the SMBRCommission. SEE Landtrust Public Record Act lawsuit for detailed misrepresentations and false statements made by SMBRFoundation leaders.

The Prop. 12 funds have virtually all been expended by the Coastal Conservancy, with much to the SMBRFoundation for studies that ONLY pertain to the digging out of Ballona, the saltwater "embayment" envisioned in the SA and CDP language.

O111-288 cont.

The Coastal Conservancy lead person for Ballona Wetlands was a board member of the SMBRFOUNDATION at the time that alternative decisions for Ballona were being made by the Coastal Conservancy.
The SMBRFOUNDATION has been an entity created by a Playa Vista consultant, a creator of the Playa Vista flood control system, whose history reveals its dedication to the goal of a saltwater 'embayment' and whose board members misrepresented themselves as acting as SMBRC leadership, in order to further the USACE, WRDA -streamlined permit process toward that goal.

The very serious implications of a process gone awry with conflict of interest and false representation, needs to be openly and publicly vetted. The CCC's role in the history of Ballona, though one of good intent, needs to be reviewed in light of how its CDP(s) are currently affecting Ballona's restoration.

Attachments per comments on Page 2:
This parking structure was never made public during any scoping process and was instead concealed

Continued page 8

from the public as can be determined in the attached e-mail regarding the structure.

From: Don Geisinger
Sent: Thursday, March 10, 2011 12:57 PM
To: Gary Jones <gjones@bh.lacounty.gov>; Charlotte Miyamoto <CMiyamoto@bh.lacounty.gov>; Kerry Silverstrom <KSilverstrom@bh.lacounty.gov>
Cc: Vivian Paquin-Sanner <VPaquin-Sanner@bh.lacounty.gov>; Kenneth Foreman <KForemanSr@bh.lacounty.gov>; testSK <testSK@isd.lacounty.gov>
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.

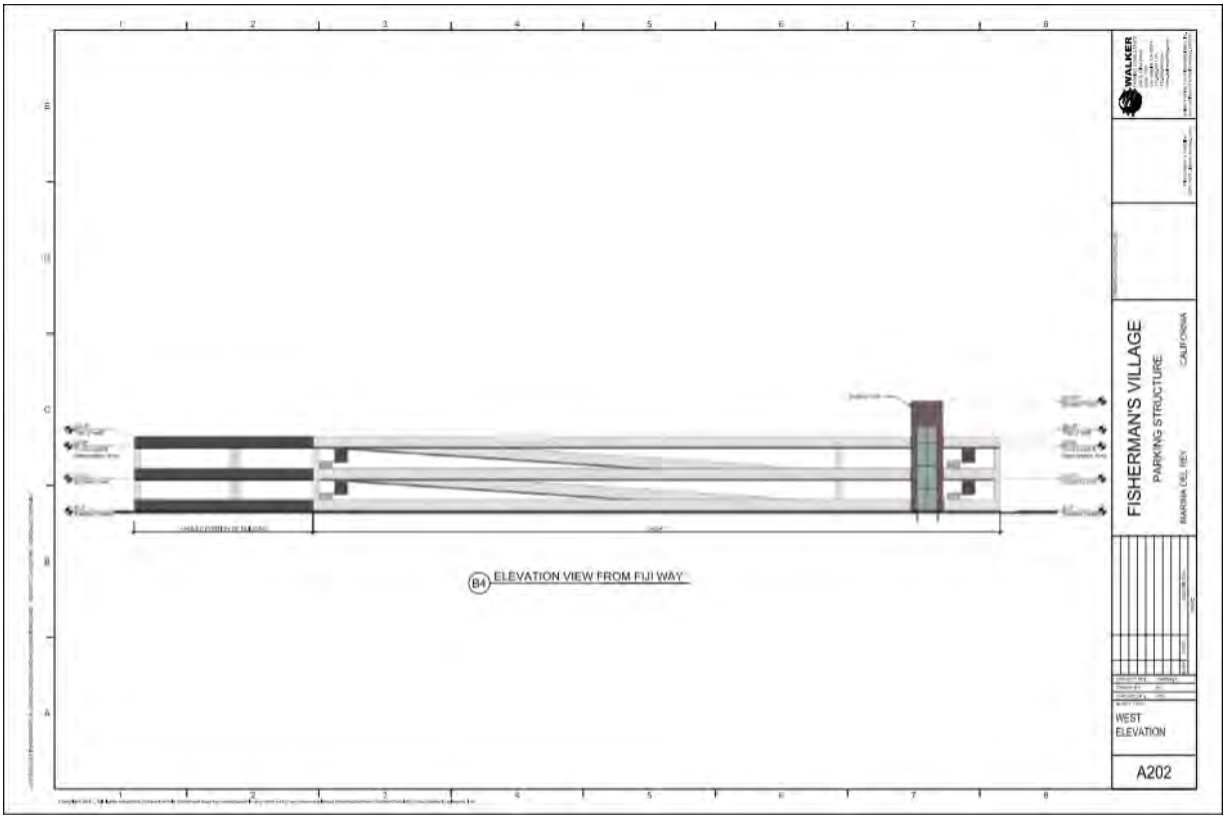
1. Parking Lots: DFG is now willing to discuss leasing the parking lots to DBH. Rather than pay rent, DFG is proposing that we maintain (Facilities) and monitor (Parking) the Gordon's Market parking lot. In our initial conversation, David was reluctant to discuss a long-term lease or sale although he 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

O11-288 cont.



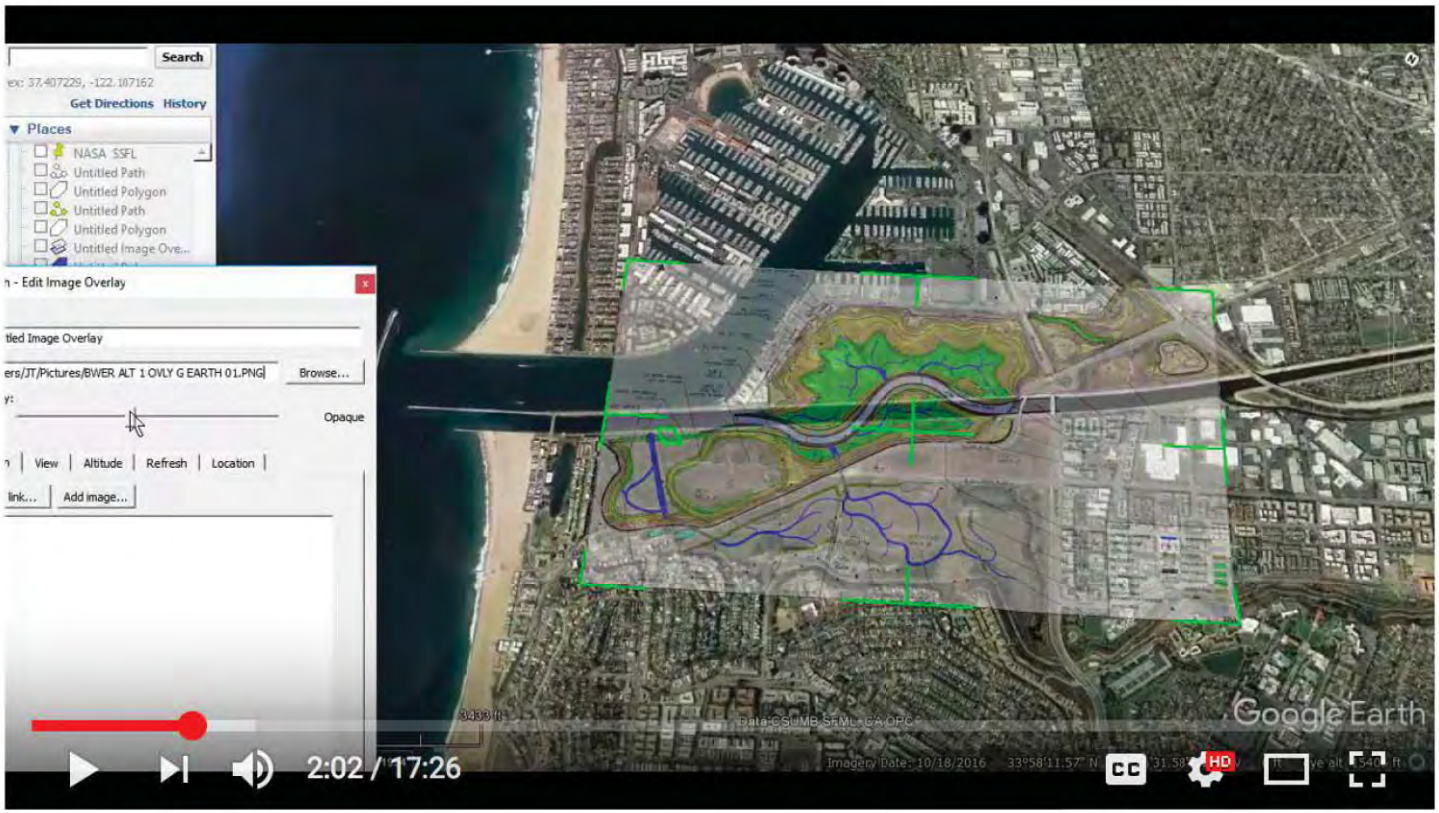
O11-288 cont.

<u>In Conclusion</u>,
GC requests meeting to vet the CDP issues. There is urgency in meeting and addressing the CCC history and CDP(s) influence upon Ballona's restoration. It is necessary to to resolve the Playa Vista CDP(s) issues.

It is with great urgency that there is need to unravel what has occurred through time. The public's interests are not served by an EIR/S that is highly flawed and without a concept alternative that embraces meaningfully, a seasonal freshwater ecosystem for Ballona Wetlands Ecological Reserve. The CCC's input for a BWER EIR/S would be ill-served and a waste of time and money if its historic characteristics-namely as a predominantly freshwater seasonal wetland are not provided as a viable alternative in any EIR/S.

Sincerely,
Patricia McPherson, Grassroots Coalition
310 397 5779

YouTube Search



VIDEO ON BWER EIS/EIR ALT 1 VS FRESHWATER WETLANDS WITH HISTORICAL US SURVEY

60 views LIKE DISLIKE SHARE

T **TATTN MEDIA PRODUCTIONS**
Published on Oct 29, 2017

SUBSCRIBE 1

BALLONA WETLANDS ALTERNATIVE 1 FROM DEIS /DEIR

O11-288 cont.

No hydrology studies of Ballona Wetlands itself have been done to determine the negative impacts of the cumulative freshwater dewatering to Ballona Wetlands as can be noted in the following document portion produced by a member of the Project Management Team in the current EIR/S; Water Resource Development Act (WRDA) process. (Public Record Act response document)

5670662	Geotechnical	Appendix B – Geotechnical Memorandum	n/a	n/a

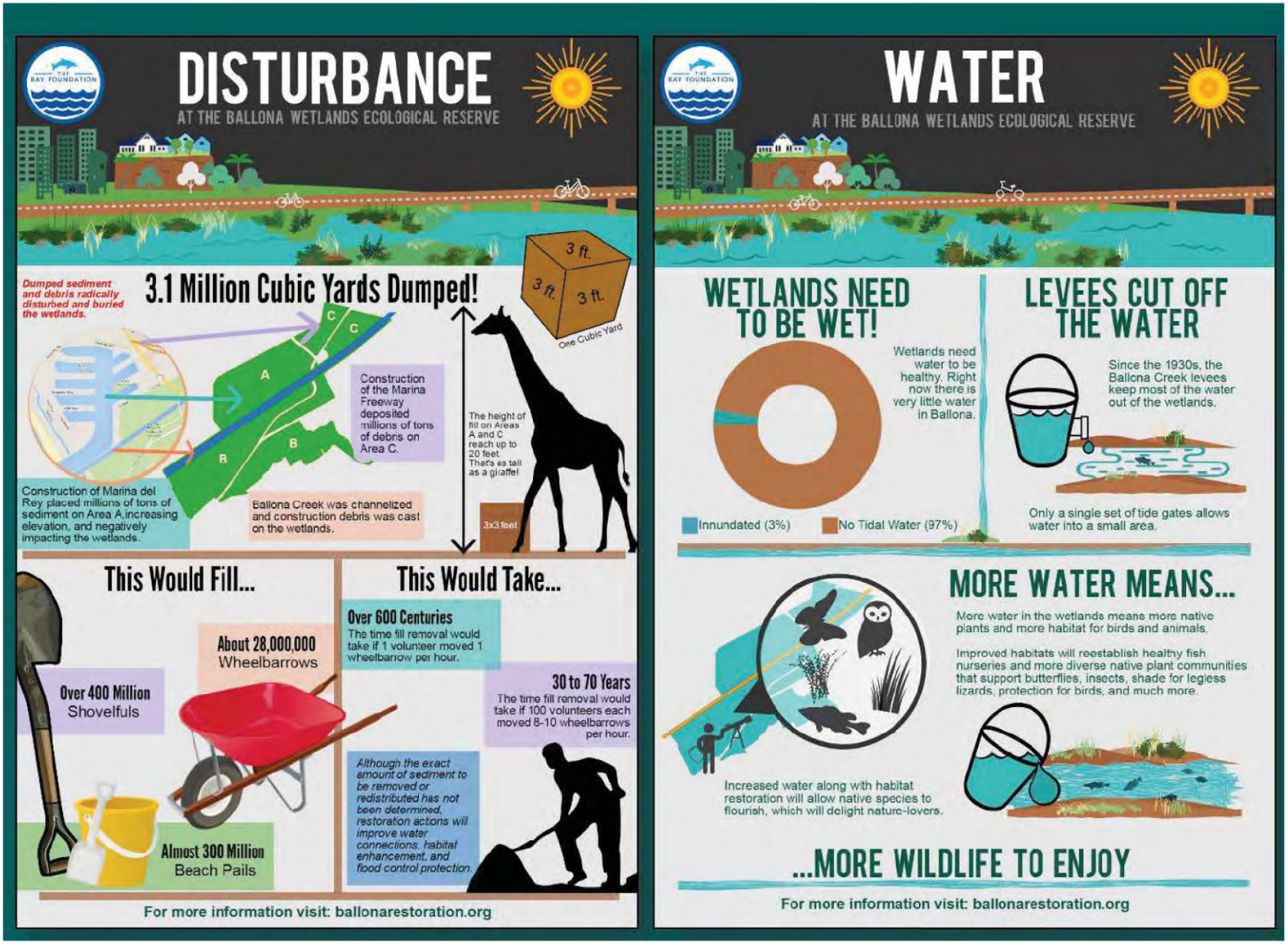
Comment Classification: **For Official Use Only (FOUO)**

What is the groundwater condition at the project site?

Submitted By: David Tran (213-452-3563). Submitted On: Jun 05 2014

Evaluation not conducted

O11-289


DISTURBANCE
AT THE BALLONA WETLANDS ECOLOGICAL RESERVE
Dumped sediment and debris radically disturbed and buried the wetlands.
3.1 Million Cubic Yards Dumped!
3 ft.
3 ft.
3 ft.
One Cubic Yard
A
B
C
C
Construction of the Marina Freeway deposited millions of tons of debris on Area C.
The height of fill on Areas A and C reach up to 20 feet. That's as tall as a giraffe!
3x3 feet
Construction of Marina del Rey placed millions of tons of sediment on Area A, increasing elevation, and negatively impacting the wetlands.
Ballona Creek was channelized and construction debris was cast on the wetlands.
This Would Fill...
Over 400 Million Shovelfuls
About 28,000,000 Wheelbarrows
Almost 300 Million Beach Pails
This Would Take...
Over 600 Centuries
The time fill removal would take if 1 volunteer moved 1 wheelbarrow per hour.
30 to 70 Years
The time fill removal would take if 100 volunteers each moved 8-10 wheelbarrows per hour.
Although the exact amount of sediment to be removed or redistributed has not been determined, restoration actions will improve water connections, habitat enhancement, and flood control protection.
For more information visit: ballonarestoration.org
WATER
AT THE BALLONA WETLANDS ECOLOGICAL RESERVE
WETLANDS NEED TO BE WET!
Wetlands need water to be healthy. Right now there is very little water in Ballona.
Innundated (3%)
No Tidal Water (97%)
LEVEES CUT OFF THE WATER
Since the 1930s, the Ballona Creek levees keep most of the water out of the wetlands.
Only a single set of tide gates allows water into a small area.
MORE WATER MEANS...
More water in the wetlands means more native plants and more habitat for birds and animals.
Improved habitats will reestablish healthy fish nurseries and more diverse native plant communities that support butterflies, insects, shade for legless lizards, protection for birds, and much more.
Increased water along with habitat restoration will allow native species to flourish, which will delight nature-lovers.
...MORE WILDLIFE TO ENJOY
For more information visit: ballonarestoration.org

O11-290

From: patricia mc pherson [mailto:patriciamcpherson1@verizon.net]
Sent: Saturday, 3 February, 2018 4:02 PM
To: BWERComments@wildlife.ca.gov; Rogers, Bonnie L CIV USARMY CESPL (US) <Bonnie.L.Rogers@usace.army.mil>
Cc: Todd Cardiff <todd@tcardifflaw.com>
Subject: [Non-DoD Source] Ballona Wetlands DEIR/S Response (Section C-3) Grassroots Coalition

GRASSROOTS COALITION

The Grassroots Coalition Response to the Draft EIR/S for the Ballona Wetlands Ecological Reserve
Section C-3

PROCESS

The following email, retrieved via the Public Record Act has been highlighted by GC for comment purposes.
The 2014 LA County email communication raises questions that are not addressed in the DEIR/S and need to be answered to allow for informed decision making by the public and other agencies.
1. **The Prop.12 bond funds, a**pproved by voters, was for RESTORATION of Ballona. The Coastal Conservancy's use of Prop. 12 funds for both 408 preparation, inclusive of who actually provided the 408 Application to the County, needs to be made clear to the public.
It is apparent that the Bay Foundation, a private business, ostensibly funded via the Coastal Conservancy, created the 408 Application materials which were incomplete, consisted of documents and partial documents of the shut-down 2005-12 Joint EIR/S process.
2. **The potentials of illegality and/or improper use of bond funds,** give rise to the need to define and openly document how the 2017 DEIR/S was created, what it consists of, and who contracted who for the work done.
As can be seen below, the internal County email provides questions and purported answers to some of the questions which the County felt needed answers. **The public, likewise has these questions and likewise should have the following responses verified and/or updated to the reality of what has transpired and not just the 'assumptions' as cited below.**

O11-291

From: Svensson, Joshua
Sent: Monday, January 13, 2014 4:35 PM
To: Ariki, Maneyra; Chebabi, Youssef; Grant, Terri; Hildebrand, Gary
Subject: Ballona Questions

Categories: Ballona Wetlands

1. Who funded 408 preparation?

a. Part of $6.25 million through Prop 12 bond, approved by CA voters, for planning of restoration project

b. http://argonautnews.com/coastal-conservancy-approves-funding-for-hydrological-studies-public-access-design-in-environmental-reserve/

The funding, provided Jan. 19 from Proposition 12 by the California Coastal Conservancy, amounts to approximately $6.25 million for hydrological analysis and scenic trail design in the 600-acre ecological reserve.

Prop. 12 is a state parks bond that was passed by voters as a ballot measure in 2000. It authorized $2.1 billion for various land and water quality programs.

2. Who is funding WRDA? Breakdown?

a. The following was prepared by Patrick Holland in 2012. We've tentatively agreed to option i1: LACFCD $190,000, State $300,000

The USACE's total estimated cost for the expedited 214 review of 408 Permit is $492,020. Below are my recommendations for FCD cost sharing options. This cost sharing will be in addition to the in-kind review services FCD will provide as the permit applicant.

i.

$75,000: This is based on the assumption that the FCD's future maintenance or right of way will be limited to the new perimeter levees. The approximate area of the new levee is estimated to be 18% of the total project area (See attached map). When this areal proportion is applied to of the USACE's total estimated cost of $492,020, FCD's portion would be approximately $75,000.

ii.

$190,000: This is based on the assumption the FCD could pay 50% of the costs for the review items that pertain to the FCD. The cost breakdowns for each review item were provided by the USACE (See the attached table). Of total $492,020, the items pertained to the FCD are totaled to $380,100, 50% of which would be $190,000.

iii.

$250,000 This is based on the understanding that FCD is a partner of the project. As a partner, FCD is willing to pay 50% of the estimated $492,020. The rationale for this sizable contribution is that the District is not planning to contribute toward capital costs, but will be gaining replacement of existing infrastructure.

3. Who is funding construction?

a. Total estimate approx. $100m or less (varying with economy/construction costs)

b. Coastal Conservancy will have some funds available

c. Grant funding, private donations, agency contributions, etc

O11-292

3. Why is there no inclusion in the DEIR/S, as is cited in the email above, 15%-- the percentage of former habitat area that will be destroyed to create non-habitat areas DUE to the USACE regulations of animal abatement on levees; restrictions of only very small root systems such as has grass; and the construction elements that are non-habitat that will be used in the creation of the levees proposed?
Where is any discussion of the pros and cons of actual levee removal and new levees function v the levees left as is, and/or the current levees enhanced-- within an Ecological Reserve context?

O11-293

4. The role of the Santa Monica Bay Restoration Commission has become INEXPLICABLY made absent as a key partner in process involvement of the County and USACE per the CDFW DEIR/S notifications.

Ballona Wetlands Restoration Project Draft EIR Released

The California Department of Fish and Wildlife (CDFW) released the Draft Environmental Impact Report (DEIR) for the Ballona Wetlands Restoration Project.

CDFW is the lead agency for the DEIR.

CDFW, in partnership with the State Coastal Conservancy and The Bay Foundation, has spent years working with the public and envisioning a plan for the revitalization of the Ballona Wetlands Ecological Reserve (BWER). The Ballona Wetlands were once a 2,000-acre expanse of marshes, mud flats, salt pans and sand dunes that stretched from Playa del Rey to Venice and inland to the Baldwin Hills. Today, BWER is 600 acres of open space that remains of the former wetlands and is owned by CDFW.

Ballona wetlands

O11-294

- **Why is Santa Monica Bay Restoration Commission(SMBRC) left out of this announcement?**
-The WRDA/ USACE process was engaged via SMBRC's specific involvement, **why is this not made clear to the public?**
-SMBRC was sponsor to the 2005-12 shut-down Feasibility Study and the shut-down Joint EIR/S studies which these studies are the basis of the DEIR/S. **WHY is this not made clear to the public in the DEIR/S? Why doesn't the DEIR/S explain who has been doing what in order for the public to make informed decisions as to what has occurred, been left out, needs to be included and for the ability to make informed comparisons?**

O11-295

***CDFW has NOT spent years working with the public and envisioning a plan for the revitalization of the BWER.**
(The land is owned by the citizens of California. CDFW plays a stewardship role for this land held in trust for the public.)
*The DEIR/S also cites this false statement which is conclusory and without evidence support.
Only a very early stewardship program that allowed for public participation was ongoing for a short duration.
Instead, the public has been shut out and disallowed participation in the planning of alternatives for Ballona Wetlands Ecological Reserve.

O11-296

- **What contracts,** if any, has CDFW performed in a lead agency capacity, to study Ballona?
-**Who** has CDFW ever hired for studies performed on Ballona and,
-**What** input can CDFW demonstrate that it has requested studies/ maintenance/ protective measures occur for Ballona Wetlands Ecological Reserve?

O11-297

- **Why** has CDFW not required hydrology studies be performed that are Project site specific?
-**Why has** CDFW not required hydrology evaluations of existing site conditions and include historical comparisions of studies already performed as well as include adjacent site influences upon Ballona's hydrology conditions?
-**Why** did CDFW allow for drainage of Ballona Wetlands via unpermitted Playa Capital LLC drains since its stewardship role in 2003/4?
-**Why has CDFW not provided independent, unconflicted studies for the DEIR/S of the effects of the unpermitted drainage via the illegal drains?**
-**Why** is there no mention of the ongoing degradation to Ballona Wetlands as cited by the California Coastal Commission letter of 2014 pertaining to the drainage of the wetlands via the drains in the DEIR/S?

O11-298

Please see Section C-3 continued which follows this email DEIR/S portion from Grassroots Coalition.
Patricia McPherson, Grassroots Coalition

-----Original Message-----
From: patricia mc pherson [mailto:patriciamcpherson1@verizon.net]
Sent: Saturday, 3 February, 2018 4:24 PM
To: BWERComments@wildlife.ca.gov; Rogers, Bonnie L CIV USARMY CESPL (US) <Bonnie.L.Rogers@usace.army.mil>
Cc: Todd Cardiff <todd@tcardifflaw.com>
Subject: [Non-DoD Source] Ballona Wetlands DEIR/S Response (Section C-3 continued) Grassroots Coalition

Continued from C-3 Ballona Wetlands DEIR/S Response , Grassroots Coalition

Actual links are below:
Blockedhttps://www.flickr.com/gp/stonebird/z73k28

Blockedhttps://www.flickr.com/gp/stonebird/zUDp88

Blockedhttps://www.flickr.com/gp/stonebird/W71618

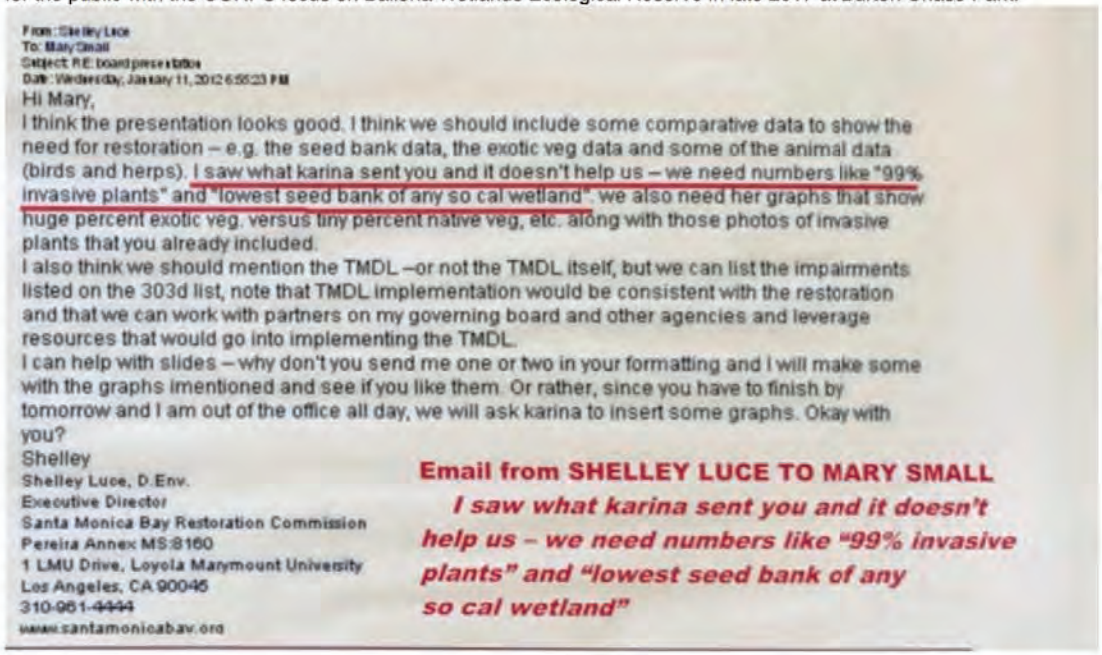
Blockedhttps://flic.kr/p/bqn1SL

See continued email document (Section C-3 continued additional)which follows this(Section C-3 continued)
Patricia McPherson, Grassroots Coalition

5, **IMPLICATIONS OF COMPROMISED, PREJUDICIAL ABUSE OF DISCRETION; ABUSE OF DISCRETION, WILLFULL BLINDNESS, inaccurate and misleading information contained in the DEIR/S .**

-As cited previously in Section B-1 continued- (1/31/18-GC email RESPONSE TO DEIR/S)

The email below was provided to the USACE, with highlights added, during the single public meeting ever held for the public with the CORPS focus on Ballona Wetlands Ecological Reserve in late 2017 at Burton Chase Park.



From: Shelley Luce
To: Mary Small
Subject: RE: board presentation
Date: Wednesday, January 11, 2012 6:55:23 PM

Hi Mary,

I think the presentation looks good. I think we should include some comparative data to show the need for restoration – e.g. the seed bank data, the exotic veg data and some of the animal data (birds and herps). I saw what karina sent you and it doesn't help us – we need numbers like "99% invasive plants" and "lowest seed bank of any so cal wetland". we also need her graphs that show huge percent exotic veg. versus tiny percent native veg, etc. along with those photos of invasive plants that you already included.

I also think we should mention the TMDL –or not the TMDL itself, but we can list the impairments listed on the 303d list, note that TMDL implementation would be consistent with the restoration and that we can work with partners on my governing board and other agencies and leverage resources that would go into implementing the TMDL.

I can help with slides – why don't you send me one or two in your formatting and I will make some with the graphs imentioned and see if you like them. Or rather, since you have to finish by tomorrow and I am out of the office all day, we will ask karina to insert some graphs. Okay with you?

Shelley

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160
1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-961-4444
www.santamonicabay.org

Email from SHELLEY LUCE TO MARY SMALL

I saw what karina sent you and it doesn't help us – we need numbers like "99% invasive plants" and "lowest seed bank of any so cal wetland"

The email delivers a message of, at least, the appearance of a biased abuse of discretion, prejudicial abuse of discretion, conflict of interest, and is a communication between Mary Small, the SCC project manager for Ballona and Shelley Luce, who, when this was written, was in the employ of and Director of the private business-Bay Foundation and simultaneously role playing as Director of Santa Monica Bay Restoration Commission. Both positions provide a platform for potential abuse.

O11-299

This and similar comments need to be specifically addressed as they appear to have negatively and improperly influenced the outcome of mapping for species at Ballona. Both flora and fauna have been subjected to such bias and as such, materials that the public should be able to rely upon for making informed decisions appears highly faulty and compromised in order to achieve the narrowed outcome at Ballona via Alts 1-3. Evidence to the contrary of mapping done, bolsters the fact that the mapping is inaccurate, false and/or misleading.

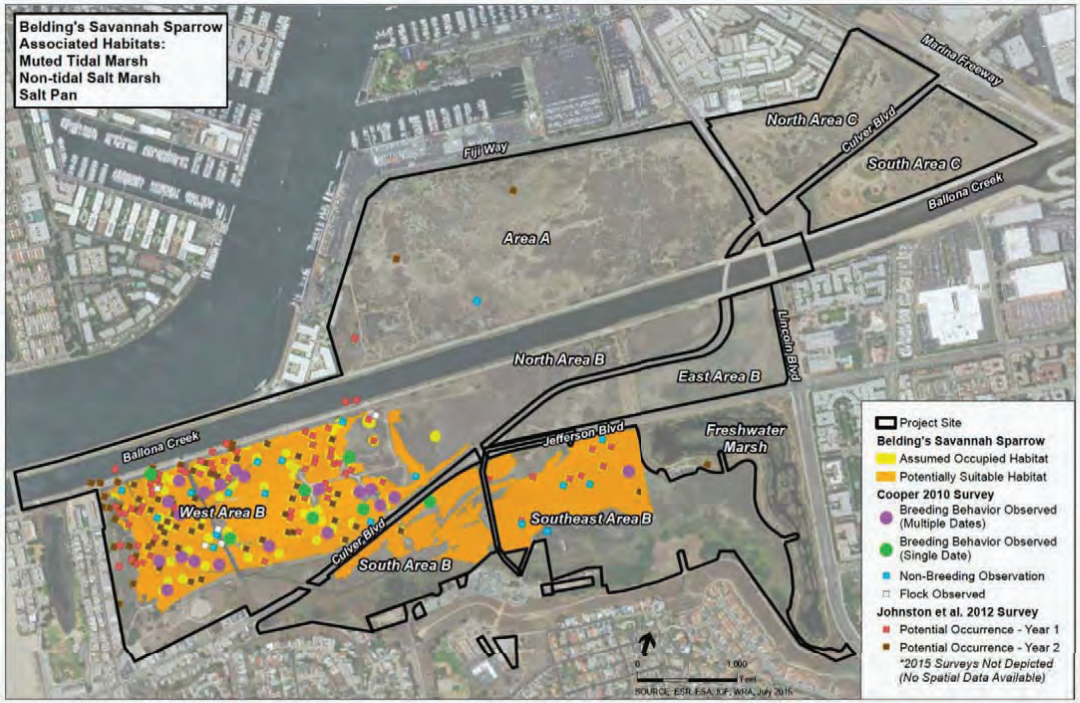
O11-300

GC submitted a 2012 video walk through of Areas A and C that contradicts mapping for bird species—ie Belding Savannah Sparrow and native plants, including but not limited to wetland species in Area A and C. The following still images, taken by Jonathan Coffin are from the same day, 2012, of the walk through. Numerous Belding's Savannah Sparrows are photographed in Area A that DEIR/S MAPS cite no Belding activity or presence.

O11-301

GC has a lengthy history of study of Area A and I have been observing and photographing Belding Savannah Sparrow activities- including breeding behavior- there since the late 1980s. There has never been a time that Belding's were not heard and/or seen while surveying for them in Area A. Therefore, it appears that the mapping done in the DEIR/S is either very faulty due to lack of presence to witness Belding activity by Bay Foundation employees and/or their contractors or the mapping has been deliberately falsified in order to forward Alt. 1 and 2-3 which would destroy in whole and/or part of the Belding's Savannah Sparrow habitat of AREA A.

O11-302



Ballona Wetlands Restoration Project

Figure 3.4-12
Potentially Suitable Belding's Savannah Sparrow Habitat and Occurrences

wra

3.4-43

Contrary to the mapping of Figure 3.4-12 WRA, the following Belding Savannah Sparrow images were taken in 2012 showing Belding's presence in Area A. More photos from multiple and different years as well as recent photos also show the presence of Belding Savannah Sparrows in A and C . ALL OF the images of Belding's below are photographed in Area A, 3/11/12 —in roughly the same area marked above as —AREA A (in the white lettering, outlined with black)

O11-303

Meadowlarks are also highly prolific in Area A as they were on the day of these photographs and GC's video.

O11-304

Begin forwarded message:

From: Jonathan Coffin
Subject: **Belding's Area A, 3-11-12**
Date: February 1, 2018 at 12:08:08 PM PST
To: Patricia McPherson

Belding's Area A, 3-11-12

https://www.flickr.com/gp/stonebird/z73k28

https://www.flickr.com/gp/stonebird/zUDp88

https://www.flickr.com/gp/stonebird/W71618

https://flic.kr/p/bqn1SL

O11-305

O11-306

O11-307

O11-308

-----Original Message-----
From: patricia mc pherson [mailto:patriciamcpherson1@verizon.net]
Sent: Saturday, 3 February, 2018 4:22 PM
To: BWERComments@wildlife.ca.gov; Rogers, Bonnie L CIV USARMY CESPL (US) <Bonnie.L.Rogers@usace.army.mil>
Cc: Todd Cardiff <todd@tcardifflaw.com>
Subject: [Non-DoD Source] Ballona Wetlands DEIR/S Response (Section C-3 continued additional) Grassroots Coalition

Continued from Section C-3 continued—Grassroots Coalition Response to DEIR/S Ballona Wetlands

The following photographs of Belding's Savannah Sparrows in Area A, and native pickle weed and other natives contradicts the findings in the mapping done for the DEIR/S hence,
the inaccuracies of the DEIR/S need to be corrected to allow for informed decision making. O11-309

Blockedhttps://www.flickr.com/gp/stonebird/z73k28

Blockedhttps://www.flickr.com/gp/stonebird/zUDp88

Blockedhttps://www.flickr.com/gp/stonebird/W71618

Blockedhttps://flic.kr/p/bqn1SL This following image is taken in the salt pan area of A .

The mapping of plant species in Area A is also inaccurate in the DEIR/S and needs to be corrected. It appears that Mary Small's and Shelly Luce's needs for
skewed mapping is done to prejudicially propose Alts. 1 in particular but also for Alts. 2-3 and is used inaccurately for Alt 4, similar to the Friends of Ballona Wetlands public relations attempt to denigrate a salt pan area on Area A, which is the site of the pickle weed growth and the salt pan with the Belding Savannah Sparrow shown above and below. Area A is unique for its freshwater seasonal ecosystem and its numerous rare and endangered species. O11-310 O11-311 O11-312

Legitimate study of the Belding population needs to be done at Ballona. Alts 1-3 are risky experiments of turning a predominantly freshwater habitat into a creation of saltwater embayment that has no mitigation for restoration of Ballona's flora and fauna populations. O11-313 O11-314

Below is a Belding Savannah Sparrow photographed in Area A by Patricia McPherson. O11-315

End section C-3 continued additional; see next in Grassroots Coalition submissions in Section D
Patricia McPherson, Grassroots Coalition

O11-315
cont.

O11-315
cont.

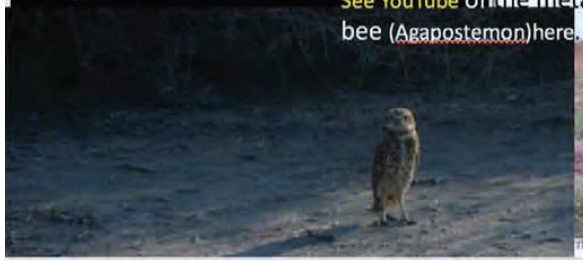
O11-315
cont.

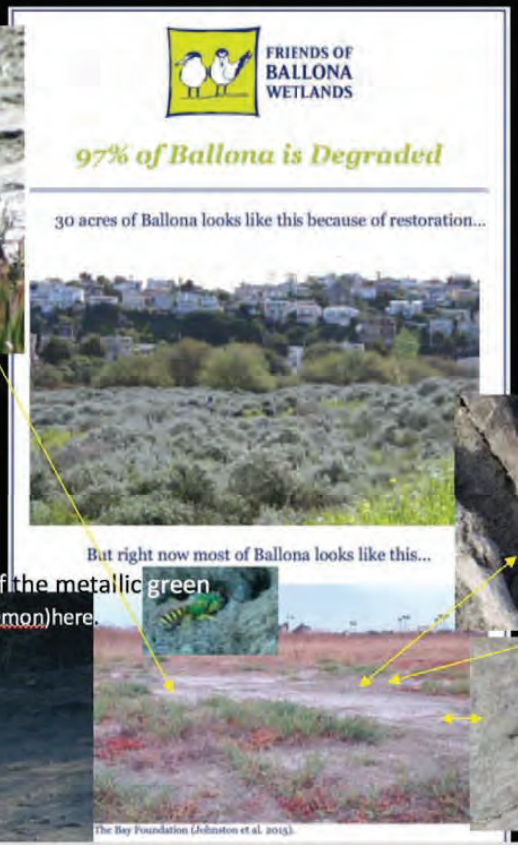
O11-315
cont.

The upland area in the top photo is beautiful, the long term hand-hewn restoration appears to be successful. The lower photo shows a very special, historic panne area that ponds readily with rainwater. The water table through here is about 5 feet beneath the surface according to recent borings performed in soil samplings. This area supports endangered Belding Savannah Sparrows, that harbor & hide in the pickleweed and tall flora. Snakes, gophers here, are the food chain critical for the upland-wetland connection survival.

This and many more endangered Belding Savannah Sparrows call this area home, as do meadowlarks, herons & other birds videotaped using this area.

This burrowing owl was photographed along here.

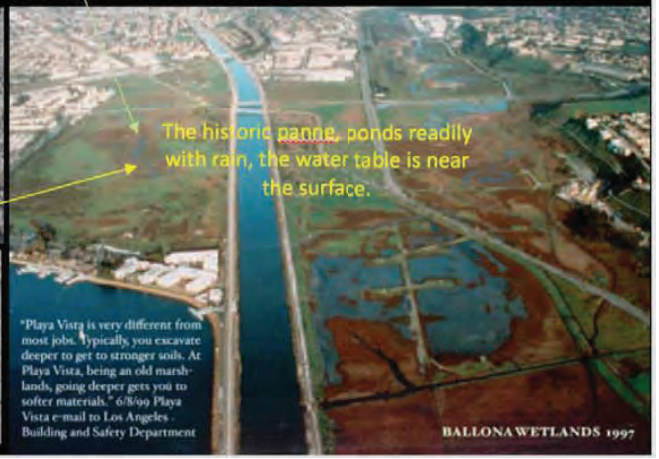




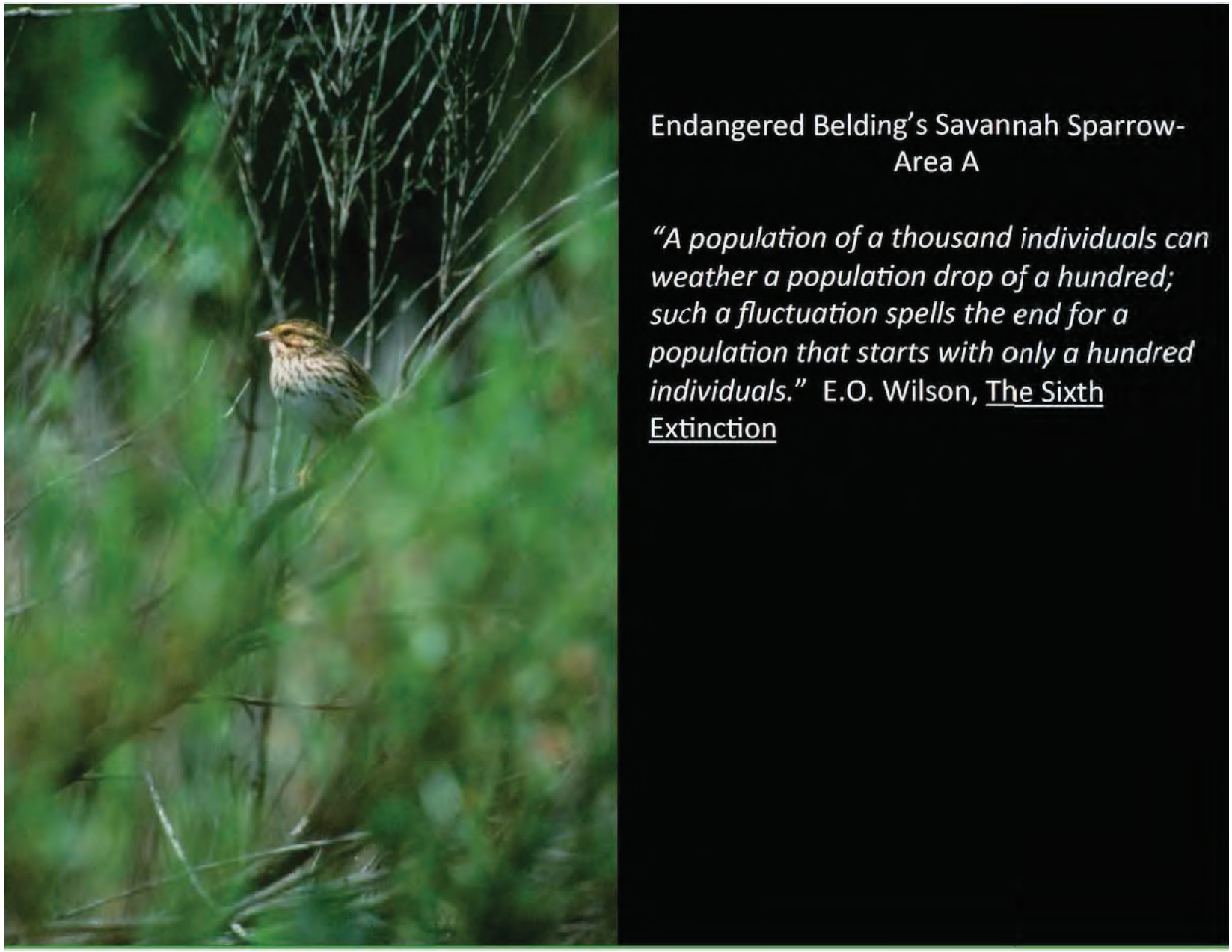
See YouTube of the metallic green bee (Agapostemon)here.

The lower photo has pickleweed (salicornia)on both sides of the historic panne area which has been used as a roadway off and on. It PONDS readily with rain, the water table is near surface.

The food chain- this photo is from near the 2nd photo. A Kingsnake taking a gopher.



O11-316


Endangered Belding's Savannah Sparrow-
Area A
"A population of a thousand individuals can weather a population drop of a hundred; such a fluctuation spells the end for a population that starts with only a hundred individuals." E.O. Wilson, The Sixth Extinction

O11-317

O11-317
cont

O11-317
cont

O11-317
cont

O11-317
cont

From: patricia mc pherson [mailto:patriciamcpherson1@verizon.net]
Sent: Sunday, 4 February, 2018 6:35 PM
To: BWERComments@wildlife.ca.gov; Rogers, Bonnie L CIV USARMY CESPL (US) <Bonnie.L.Rogers@usace.army.mil>
Cc: Todd Cardiff <todd@tcardifflaw.com>
Subject: [Non-DoD Source] Ballona Wetlands DEIR/S Response (Section D-1 -PROCESS) Grassroots Coalition

GRASSROOTS COALITION
ENVIRONMENTAL INTEGRITY & PUBLIC POLICY

The Grassroots Coalition Response to the Draft EIR/S for the Ballona Wetlands Ecological Reserve

Section D-1

Please respond to the queries and comments of the following document pertaining to **Process, Goals.**

Portions of OSAE Complaint/ Audit Request:

A MIME attachment of type <message/rfc822> was removed here
by a drop-attachments-by-name filter rule on the host <gw8.usace.army.mil>.

A MIME attachment of type <message/rfc822> was removed here
by a drop-attachments-by-name filter rule on the host <gw8.usace.army.mil>.
A MIME attachment of type <message/rfc822> was removed here
by a drop-attachments-by-name filter rule on the host <gw8.usace.army.mil>.
A MIME attachment of type <message/rfc822> was removed here
by a drop-attachments-by-name filter rule on the host <gw8.usace.army.mil>.

GC Response to DEIR-D-1

Process

The current Draft Environmental Impact Report/Statement (DEIR/S) is deficient in that it lacks an accurate and transparent description of process leading to the current DEIR/S including but not limited to the source documents of the new 2012- 17 DEIR/S. Most, if not all documents contained in the DEIR/S are the product of two earlier processes—a Feasibility Study and a Joint EIR/S 2005-12—both of which were never completed and the Joint EIR/S: 1) never received the required congressional approval for its go ahead and 2) was stopped by Shelly Luce acting on her own while claiming to represent the Santa Monica Bay Restoration Commission (SMBRC) of which she was acting as Executive Director. However, documentation received via the Public Record Act and via Freedom of Information Act requests appear to provide evidence that Ms. Luce was never authorized by the SMBRC to do so and the governing board of the SMBRC was not informed of Ms. Luce's illegitimate use of the Commission's authority in either: 1) the cessation of the 2005-12 Joint EIR/S process with the Army Corps of Engineers and, 2) the use of the SMBRC's authority to enter into the WRDA process with the Army Corps of Engineers. (SMBRC was key to the WRDA process engagement because SMBRC along with the County of LA, form what is known as the Santa Monica Bay Restoration AUTHORITY. The County of LA as sponsor to the Corps for the WRDA deal, utilized the SMBRAUTHORITY for that sponsorship. (Also, when asked of the governing board and individual board members by GC what they were aware of per the WRDA hearings before the County Board of Supervisors, the responses indicated a total lack of knowledge. Internal emails between Ms. Luce and County personnel indicate that prior to the WRDA hearings, there was a lack of County knowledge that the SMBRAUTHORITY was being utilized by Ms. Luce, which included financial transfers, for issues pertaining to BAllona Wetlands. Later, County audits done, reveal that the County Board of Supervisors had not been kept in the loop for SMBRAUTHORITY decisions and financial transactions.)

O11-318

Please note and be responsive to the attached portions of an OSAE Complaint made by Grassroots Coalition to the State of California, Department of Finance. Specific issues of misappropriation of Prop 12 bond funds allocated for specific purposes of Ballona Restoration (not Creation and not for WRDA use) are raised in the Complaint which awaits response. In the OSAE Request for Audit, use of the SMBRA pertaining to Ballona Wetlands contracted work by Mary Small, Shelly Luce is addressed for response.

O11-319

The following 2014 news story provides a brief review of the issues that are part of the OSAE Audit Request. The 2012 County Audit is also contained within GC's OSAE Complaint/Request for Audit.

https://freevenicebeachhead.org/2014/06/01/envirogate/

O11-320

FREE VENICE BEACHHEAD
SINCE 1968

BALLONA WETLANDS

ENVIROGATE

BY FREEVENICEBEACHHEAD ON JUNE 1, 2014 • (LEAVE A COMMENT)

By John Davis

Many murky deals have come and gone in the Ballona Wetlands, and most of the time the bad players enriched themselves, got away, or are still getting rich at the expense of the public and the environment.

The people involved today are Los Angeles County Supervisor Don Knabe and a person named Shelly Luce. Both engaged in an obscure agreement that was signed by Knabe and countersigned by Luce in 2005. It purported to create a Joint Powers Agreement between the County and a State Agency, the Santa Monica Bay Restoration Commission (SMBRC). The result of this agreement is named the Santa Monica Bay Restoration Authority (SMBRA).

At the time of signing, Luce was a member of the public claiming to be the Executive Director of the State Agency (SMBRC). After the agreement was signed, she claimed she was also executive director of the Santa Monica Bay Restoration Authority (SMBRA). She has since resigned from her alleged posts.

According to the joint powers agreement, the Los Angles County Board of Supervisors had to approve and authorize the annual budgets of the SMBRA.

The problem is, the Supervisors only authorized budgets for fiscal years 2004, 2006, and 2011. Eight out of the ten required budget approvals are absent, according to County records, leaving expenditures from those years unauthorized as required by the agreement. Yet the money was still spent by SMBRA staff.

To determine if misuse of public funds has occurred, the State Attorney General starts with the principle that public funds must be used for "an authorized public purpose." A public interest benefits the public "rather than a private individuals or a private purpose."

It appears that public funds were not used for an authorized public purpose, begging the question of misuse.

State and federal money provided to the SMBRA have been disbursed to the Santa Monica Bay Restoration Foundation (SMBRF), a private business. Luce was the executive director of t[illegible] years..

continued on page 3…

O11-320 cont.

Restoration Foundation (SMBRF), a private business. Luce was the executive director of this business for years..

The Supervisors approved the 2006 budget. But it did not authorize any funds for the SMBRF. Yet, out of the $184,000 spent, SMBRF took away $60,002.

The authorized 2011 outlay totaled over $48,000. This time SMBRF got it all. The Supervisors included a line that said federal money would be distributed through the SMBRF. Other non-profits were excluded from this opportunity.

The unauthorized budgets show that state and federal funds were inducted by SMBRA and spent without authorization.

Records from 2007 reveal that SMBRA disbursed a total of $289,000. SMBRF raked in a cool $152,000.

Disbursements from 2012 indicate that of the $36,523 that was available to the SMBRA, SMBRF walked off with it all.

The 2012 County Auditor reports prove that $228,333 of SMBRA money went straight to SMBRF accounts.

In 2013 the SMBRA hemorrhaged more public money to SMBRF. This time the total was $271,032.

By March 2014 SMBRA disbursed more cash, and $66,890 went to SMBRF. If the pattern holds, more will go into the non-profit black hole this year.

The Authority loses formal control of the money after it leaves SMBRA and is deposited into SMBRF accounts. SMRBF treats this money as revenue of the business when it reports according to IRS records.

The total public funds disbursed to the SMBRF without authorization by the Supervisors is $815,780.

As an end result of the Supervisor's inaction, the public funds so badly needed for public purposes are being used by the SMBRA for unauthorized, private purposes.

BALLONA SIDEBAR: Scientific instruments deployed near the Playa Vista School and residential development have detected dangerous explosive gas. Sensitive instruments picked up massive amounts of methane, beyond the background (ambient) levels at the corner of Jefferson and Lincoln Blvd. The story begins by reporting on other dangerous leaks on Wilshire Blvd. Frank Snepp, a Peabody Award winning Los Angeles television news reporter, covers the reference to Playa Vista at the end of the report. We hope he covers Playa Vista next (http://bit.ly/1u3DjZL).

O11-320 cont.

- The legitimacy or lack thereof for engagement of the WRDA permit process needs to be explained to the public. The entirety of the 'restoration' and 'management' of Ballona has been via the use of public bond funds hence the public's need for transparency in what has transpired to reach the current DEIR/S.
-**What** explanations and what transparency of process will the EIR/S for the Ballona restoration project provide per comments made above?

GC and other organizations and entities have raised the issues cited above to the MOU partners and have never received response. (Examples are provided.)

O11-321

-The DEIR/S is deficient due to its lack of specific process explanation and who is managing the process and how those 'managers' are related—including but not limited to Conflicts of Interest. Contractors have not been hired that are free from conflict of interest. Most, if not all the hired contractors, are

O11-322

Playa Capital llC employed and as such are conflicted due to the needs of Playa Vista that are ongoing and unresolved such as need of a completed flood control system, and a functioning gas mitigation system. The need for Playa Vista to dewater in order to keep its gas mitigation systems free from inundation with groundwater and attendant failure conflicts with the wetland's need to maintain that freshwater groundwater onsite. While the freshwaters that flow from east to west are available for Ballona, Playa Vista has been intercepting those groundwaters and throwing them away. Digging out the wetlands creates a bowl, a sink to drain away any freshwaters away from Playa Vista however, changing a predominantly seasonal freshwater system into a saltwater embayment system is CREATION and violates the Porter-Cologne Act, the Clean Water Act and turns Ballona's ecosystem on its head into a dangerous, experimental Frankenstein which, the DEIR/S fails to discuss and alert the public and decision makers. The prejudiced, false premise of need to bring back the ebb and flow of the ocean to allow Ballona Wetlands to thrive, is simply but dangerously a desguised biased used to protect the private development of Playa Vista.

Why is the historically accurate and very feasible and reasonable restoration alternative- a seasonal freshwater alternative that would utilize the freshwater groundwater flowing from east of Lincoln (as is already happening) and instead of throwing them away --- direct them westward and northerly into Area A, B and C as has historically occurred.

The freshwater alternative does need inclusion in the DEIR/S. The fact that there are no existing site hydrology evaluations that include the adjacent Playa Vista groundwater removal is not explained and needs to be explained.

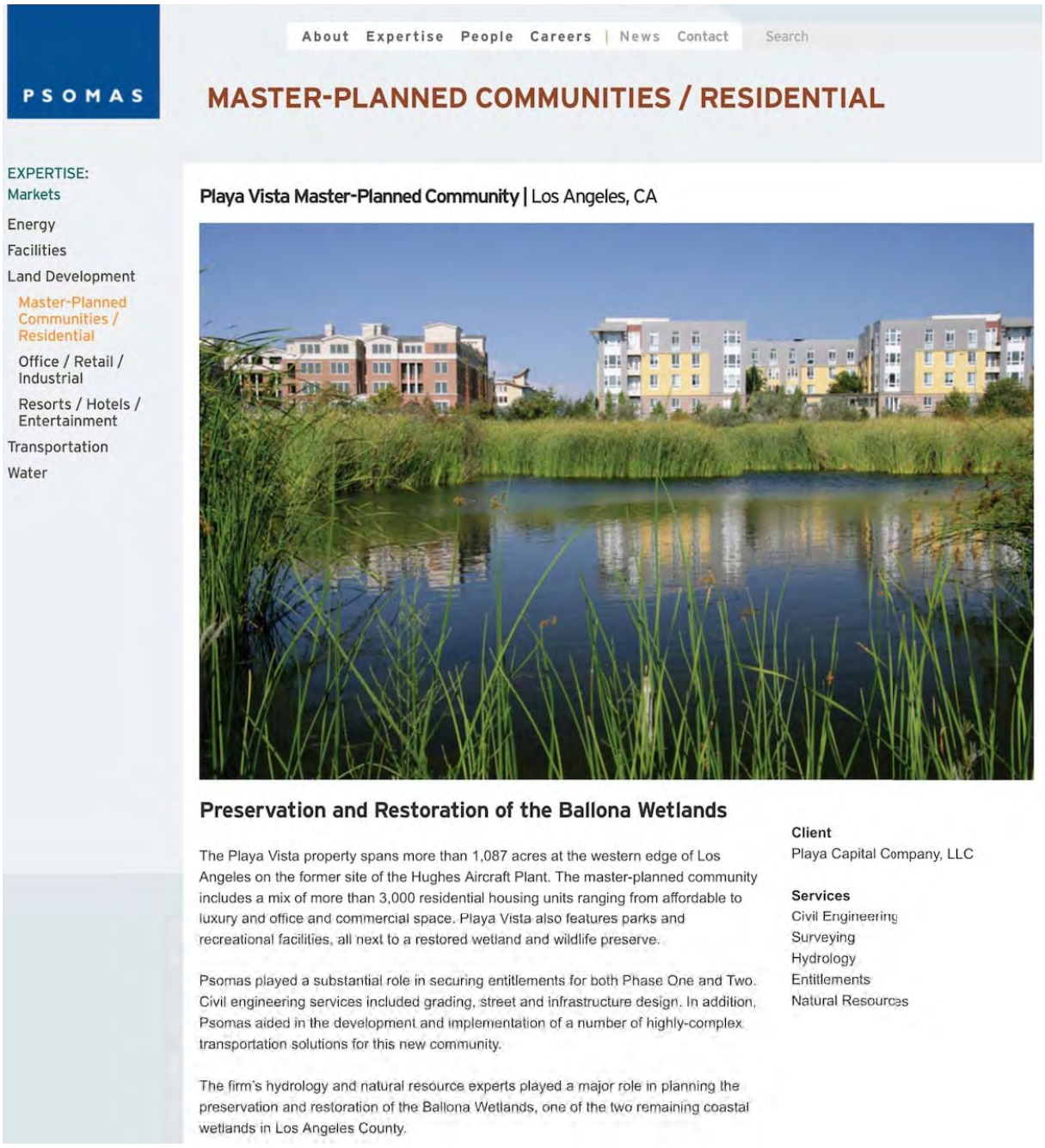
CONFLICTS OF INTEREST

It is apparent that the Playa Vista contractors ie. Psomas, which is also a 'Project Management Team Partner' promoting saltwater intrusion, while silent on the fresh groundwater aquifers and seasonal ponding natural resources of Ballona, have at the very least, the appearance of conflicted interests. SCC's and CDFW's engagement with Playa Capital's contractors provides at the very least, the appearance of **wilful blindness** as they promote a saltwater intrusion scheme designed to protect a private development site.

Meanwhile, both SCC and CDFW fail to protect Ballona Wetlands and instead, share in degrading it further ie. allowing the Ca. Coastal Commission declared -illegal drains to drain ponding waters for the past 14 years. It took a lawsuit by Grassroots Coalition to illicit a response from CDFW to the Coastal Commission that has resulted in a temporary capping of the illegal drains.

While the DEIR/S' narrative continually claims of eg. Public process inclusion that led to the Alternatives in the current DEIR/S. The statements are false. The public has been excluded from the process. The statement below by CDFW is similarly false and falsely cites its 'partnership' with the private business and its conflicted board members of the Bay Foundation. The Santa Monica Bay Restoration Foundation was founded and is managed by highly conflicted persons with direct ties, including salaries from the development site owners of Playa Vista, including but perhaps not limited to Playa Capital LLC. None of these conflicted relationships have been made known to the public and need to be revealed in the DEIR/S in order for the public to understand and make informed decisions that, at the very least,

O11-322 cont.
O11-323
O11-324
O11-325
O11-326
O11-327
O11-328
O11-329



PSOMAS

About Expertise People Careers | News Contact Search

MASTER-PLANNED COMMUNITIES / RESIDENTIAL

EXPERTISE:
Markets
Energy
Facilities
Land Development
Master-Planned Communities / Residential
Office / Retail / Industrial
Resorts / Hotels / Entertainment
Transportation
Water

Playa Vista Master-Planned Community | Los Angeles, CA

Preservation and Restoration of the Ballona Wetlands

The Playa Vista property spans more than 1,087 acres at the western edge of Los Angeles on the former site of the Hughes Aircraft Plant. The master-planned community includes a mix of more than 3,000 residential housing units ranging from affordable to luxury and office and commercial space. Playa Vista also features parks and recreational facilities, all next to a restored wetland and wildlife preserve.

Psomas played a substantial role in securing entitlements for both Phase One and Two. Civil engineering services included grading, street and infrastructure design. In addition, Psomas aided in the development and implementation of a number of highly-complex transportation solutions for this new community.

The firm's hydrology and natural resource experts played a major role in planning the preservation and restoration of the Ballona Wetlands, one of the two remaining coastal wetlands in Los Angeles County.

Client
Playa Capital Company, LLC

Services
Civil Engineering
Surveying
Hydrology
Entitlements
Natural Resources

O11-329 cont.

incorporate transparency and knowledge that the Bay Foundation parties have contract ties to Playa Capital LLC and Playa Vista which, at the very least, provide the appearance of conflict of interest for their input on Ballona Wetlands

The California Department of Fish and Wildlife (CDFW) released the **Draft Environmental Impact Report (DEIR) for the Ballona Wetlands Restoration Project**.

CDFW is the lead agency for the DEIR.

CDFW, in partnership with the State Coastal Conservancy and The Bay Foundation, has spent years working with the public and envisioning a **plan for the revitalization of the Ballona Wetlands Ecological Reserve (BWER)**. The Ballona Wetlands were once a 2,000-acre expanse of marshes, mud flats, salt pans and sand dunes that stretched from Playa del Rey to Venice and inland to the Baldwin Hills. Today, BWER is 600 acres of open space that remains of the former wetlands and is owned by CDFW.

Ballona wetlands

Process explanations should be included within the DEIR/S as the restoration project & process of Ballona Wetlands Ecological Reserve is one of the most significant undertakings along the coast of California and, as such serves as a model for all restoration processes in California. O11-330

Numerous claims of irregularities of process have been raised inclusive of illegal performance of process including conflict of interest and misrepresentation of authority that may be construed as fraud. While, CEQA and NEPA may not be the perfect platform for address of these issues,
CEQA, NEPA and permits are a platform to raise abuse of discretion, prejudicial abuse of discretion and other process issues that were or have the appearance of compromised actions by the lead agency and its MOU partners. O11-331

Included within GC's response are numerous outreaches to the MOU partners and lead agency to which no response was forthcoming which contradicts the conclusory narrative claiming , 'years of working with the public' supplied in the DEIR/S without data support. Similarly, the DEIR should provide explicit documentation to support its claims of public inclusion, including but not limited to any decision-making to exclude the public due to the public's independent and un-conflicted outcry over the Alternatives selected-properly and/or improperly per CEQA/NEPA and all other applicable laws. O11-332

- Please note the following portion of the Airport/Marina Sierra Club letter 3/15/13 for its Added inclusion of the Land Deed for Area C which does not provide for the ALTs. 1-3's destruction and creation upon Area C : O11-333

Page 3 of the Land Deed for Area C states the following:

"This grant is subject to the restriction , set forth in Public Resources Code section 21080.29, that the property be used for conservation, restoration, or recreation only, with the right to transfer the property for those uses to another agency of the State of California."

O11-333 cont.

-**The DEIR/S is deficient** in that it lacks address of critical process components that have led properly and/or improperly to the current DEIR/S. O11-334

-**The DEIR/S utilizes only portions of studies and studies that were resultant from the -never completed --"Feasibility Study" and the Joint EIR/S of 2005-12.** O11-335

Both the Feasibility Study and the Joint EIR/S were predicated upon approvals given by Congress yet no approvals are forthcoming via Freedom of Information Act requests or state Public Record Act requests for such authority to engage in the Joint EIR/S of 2005-12. Significantly, these processes were both cancelled, the legalities of that cancellation are still at issue since conflict of issue, misrepresentation of authority is known to have occurred as can be demonstrated via the Ballona Wetlands Landtrust's lawsuit involving the Santa Monica Bay Restoration Commission. (See Litigation-BWLT Depositions- http://www.ballona.org/litigation/) O11-336

To the point is the leadership of the SMBRCommission, Shelly Luce Exec. Director, did not have the SMBRCommission's approval to stop the ongoing Joint EIR/S process as evidence reveals. O11-337

The Corps' withdrawal and switch to a permitting processes to which the 404, 408 permit process under the Water Resource Development Act is now the current DEIR/S process, is an apparent subterfuge for narrowing the alternatives to only include the saltwater intrusion variations that Mary Small, board member of the Bay Foundation and project manager of Ballona for the State Coastal Conservancy had predetermined for Ballona. Meanwhile, the O11-338

'iterative' process of the 2005-12 which was intended to provide for reasonable alternatives was stopped and only studies from that truncated and ended process are cherry picked for use to promote the saltwater intrusion schemes laid out in the DEIR/S. O11-339

To GC's knowledge no studies have been done since the engagement of the switched end goal. **It is important for the DEIR/S to include and address how this switch occurred and what materials are included/ or not included in the DEIR/S as a result of the former process that was cancelled**. O11-340

It is imperative to inform the public and agencies as to the overall objectives and purposes of the 2005-12 Joint EIR/S process because it is important to find out what was never accomplished through that process due to its cancellation. The conclusions of the 2005-12 Joint EIR/S – which based itself upon an 'iterative process' wherein ALL REASONABLE ALTERNATIVES for Ballona's restoration were never learned or completed because it was prematurely ended. Therefore, conclusions drawn from an INCOMPLETED PROCESS provides O11-341 O11-342

for highly questionable conclusions that are rendered via the cherry picked studies and piecemealed portions of studies that are now the basis of the current Joint DEIR/S. O11-342 cont.

- The lead agency and MOU partners never responded to the issues contained in the Oct. 7, 2014 Sierra Club letter to USACE, and still need address to provide clarity and transparency to the process that has led to the current DEIR/S. Therefore, please respond to the issues requested and if not, please explain why not in detail that is sufficiently meaningful. (Sierra Club 2014 Letter is contained in Section A, GC Response) O11-343

Project Purpose and Objectives

The DEIR/S provides no preferred Alternative and instead provides a limited array of confusingly similar but narrow alternatives alongside a No Project Alternative that does not appear to fulfill either CEQA and/or NEPA standards of fulfillment. O11-344

The DEIR/S purpose and objectives appear to fail to comport with the acquisition purposes and objectives as well as the designation of Ballona Wetlands as an Ecological Reserve's -purposes and objectives thereby creating an outcome with Alternatives 1-3 that are a far cry from what was intended in its acquisition and designation as an Ecological Reserve. O11-345

The acquisition and Ecological Reserve designation provided for protection, restoration (a well defined term that is not mean creation) and enhancement to the greatest extent possible. The Alternatives 1-3 are Creationist concepts that provide for extensive destruction prior to speculative, at best, creation of a saltwater embayment and/or extensive full/muted tidal creation upon a landscape that never had such tidal flow. O11-346

The saltwater embayment concept appears to stem from the MOU partners to fulfill an outdated (1990 SA; update 2006 SA) California Coastal Commission lawsuit Settlement Agreement that also included USACE 404 permits and entailed the creation of the flood control system for the adjacent Playa Vista development project of whom even the project management team for the current restoration includes the same Playa Vista contractors-who are simultaneously currently contracted still with Playa Vista (Playa Capital LLC). The flood control system, part of which is now owned by the state as part of the acquired BWEReserve yet controlled by Playa Vista-hence, at least the appearance of a great deal of conflicted interests. O11-347

(include SA and embayment plan-all done prior to any environmental review for either PV and prior to the historical ecological study, Longcore et al., that reveal BAllona is not a salt marsh but is a predominantly seasonal freshwater wetland-a very unique and now very rare habitat and ecosystem site. O11-348

The Ballona Wetlands restoration project came into being after over twenty years of public work, including lawsuits, to compel the release of the private property for a public bonds buyout predicated upon acquisition, protection and restoration of this unique coastal habitat. Once, a willing seller was achieved, the acquisition and designation of the land as Ballona Wetlands Ecological Reserve was finally accomplished via the Wildlife Conservation Board (WCB) and the California Fish & Game Commission(FGC) The purposes & objectives of that acquisition and Ballona's designation as an Ecological Reserve were all predicated upon the mission statements of WCB-
"*The Wildlife Conservation Board* ***protects, restores and enhances*** *California's most spectacular natural resources for wildlife and for the public's use and enjoyment in partnership with conservation groups, government agencies and the people of California*." emphasis added.
And, the FGC's designation of Ballona as a Reserve, passed over other designations of lessor protection such as:

"..designating the Ballona Wetlands Ecological Reserve at this time as proposed by the Department, would lay an immediate regulatory function for protection of the sensitive species and habitats the area supports." P. 3 Wildlife Resources Committee meeting per designation of Ecological Reserve status -Section 630 Title 14 CCR.

"The site is not designated as a wildlife area- Section 550, Title 14,CCR. This alternative is inappropriate because of the purposes for which these properties were acquired. ***The sensitive habitats and species require additional protection*** *not provided under Section 550*." P.4 Emphasis added.

O11-349

"The proposed regulatory action is proposed ***to provide maximum protection of wildlife and habitat*** *and to manage appropriate public use*." Emphasis added, P. 5

"The reasons for listing these properties on Title 14 are to regulate public use and provide the ***best available protection for the species and habitats the properties were acquired to protect."*** Emphasis added. P. 8

Initial Statement of Reason 3/24/05; Hearing 5/5/2005; Adoption Hearing 8/19/05 :
Section 1580 of the Fish & Game Code provides for the acquisition, designation and management of the property to protect threatened and endangered plants, animals and specialized habitat types as ecological reserves. P.1
Ballona Wetlands-
"Designation of this proposed ecological reserve will provide necessary regulatory protection for wildlife resources for which the property was acquired."
"Since this property contains important species, including a state endangered species, sensitive vegetation communities and acts as an important linkage to other protected lands, it is necessary and appropriate to provide this level of regulatory protection to prevent improper use and degradation of wildlife resources."

"**Licensed recreational and leased parking are not normally permitted on Ecological Reserves.**

Emphasis added. P.2 e.

Ballona Wetlands was given an **SEA -sensitive environmental area**-designation, which is given **to land that contains irreplaceable biological resources.** Emphasis added.

Therefore, it appears that the Alternatives 1-3 are in conflict with the terms of Ballona's acquisition and designation as an Ecological Reserve. All three of these alternatives are CREATIONS of a new type of habitat for Ballona that are all based upon speculative, and risky construct on a massively destructive scale.

-**Please explain how the current Alternatives 1-3 are compatible with the acquisition and designation language provided above.**

O11-349 cont.

-The DEIR/S is deficient in its lack of inclusion and/or address of the riskiness of such proposals and the inability to reverse course once embarked upon such massive destruction and creation.

O11-350

-The DEIR/S is deficient in its lack of address of the historic freshwater aspects of Ballona inclusive of its underlying freshwater acquifers and historic ponding with rainwater.
-There is no address of Ballona's unique, and rare overall aspects as a predominantly seasonal freshwater wetland habitat.

O11-351

-The DEIR/S should include discussion pertaining to the purposes and objectives as stated in its acquisition and designation as an Ecological Reserve and how the Alternatives 1-3 are in alliance with such goals or are not in alliance with such goals and include specifics that meaningfully address the issues.

O11-352

-The DEIR/S should include alternatives that are protective of and enhancing for the seasonal and year round (eg. groundwater) freshwater aspects of Ballona to be maintained, enhanced, protected and predominate as historical records now reveal its history as a predominantly freshwater seasonal wetland.
- Why is there no address of the freshwater aspects meaningfully discussed in the DEIR/S that can provide a full comparison between greater saltwater intrusion and landscape alteration (Alts. 1-3) and maintenance of the historic freshwaters and/or enhancement of the freshwaters alongside minimal landscape alterations which would provide the least environmentally damaging alternative?
-Why is there no discussion that meaningfully compares the risks to specific flora and fauna and habitat in the CREATIONIST aspects of Alternatives 1-3 and the
RESTORATION aspects of alternatives predominantly and/or evenly respected/divided between saltwater influence and freshwater influence?

O11-353

NEPA-
40 CFR 230.10 (a) prohibits the permitting , "if there is a practicable Alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem."
The USACE permit and NEPA review is deficient including but not limited to:
O11-354

USACE has not engaged in any baseline studies of Ballona's onsite hydrology, and has not Included historical data of hydrology of the actual Ballona site for use in comparison to determine what would have less adverse impact on the aquatic ecosystem of Ballona Wetlands.
O11-355

The overly narrow Alternatives that the state has engaged USACE in review provides for a predetermined outcome that is biased towards extensive saltwater intrusion and physical large scale destruction of the site in order to then CREATE something that never was at Ballona.
O11-356

The Corps' duty under NEPA and its permitting processes is to exercise its own independent judgment regarding the applicant's point of view and the public's point of view.
Thus far, at its only meeting with the public in Nov. of 2017, the Corps stipulated that it Was neither for the project or against it.
O11-357

One should be able to safely assume that because the Corps is neither for or against the proposed large scale creation or other, that the Corps does not feel there is any imminent danger to the public for any of the alternatives.

-**The DEIR/S is deficient inasmuch** as there is no meaningful discussion as to the current state of the Ballona Channel in its entirety and in the Ballona Reach portion for its needs or lack thereof to perform safely as it has for over 60 years.
O11-358

-There is no discussion of potential changes to the current levees of Ballona Channel either for the Ballona reach or the reaches to the east which have the same the construction as the Ballona reach.
O11-359

-There is no discussion of the use of Water Resource Development Act funds on levees per actual needs for safety including all of the Ballona Channel reaches as well as the Ballona Wetlands reach portion.
-The use of WRDA funding should be explained and identified as to its specific applicability to the Ballona Wetlands site project and in relation to the inland reaches of Ballona Channel.
O11-360

Patricia McPherson, Grassroots Coalition

From: patricia mc pherson [mailto:patriciamcpherson1@verizon.net]
Sent: Monday, 5 February, 2018 10:15 AM
To: BWERComments@wildlife.ca.gov; Rogers, Bonnie L CIV USARMY CESPL (US) <Bonnie.L.Rogers@usace.army.mil>
Subject: [Non-DoD Source] GAS 2 JDFwd: Fwd: BAllona Wetlands: broiling gas 7-23-17 video

Subject: Fwd: BAllona Wetlands: broiling gas 7-23-17 video
Date: Thu, 2 Nov 2017 15:16:05 -0700
From:patricia mc pherson <patriciamcpherson
To: Daniel SPL Swenson P <daniel.p.swenson@USACE.ARMY.MIL>, Gibbs, Kirk E COL USARMY CESPL (US) <kirk.e.gibbs@USACE.army.mil>
CC: Jeanette Vosburg <saveballona@hotmail.com>

Col. Gibbs, Mr. Swenson,

Grassroots Coalition(GC) has attempted through numerous outreaches to USACE to provide information and alert regarding the numerous hazardous oilfield gas migration/ well leakage issues due to the Playa del Rey oilfield & the SoCalGas oil/gas operations within the Playa del Rey oilfield. GC, herein again, provides an alert.

The DEIR/S that has just been released pertaining to BAllona Wetlands Ecological Reserve is absent any meaningful review of the oil/gas field issues for this region and is absent any review of oilfield related subsidence issues. This absence is keenly lacking, especially since GC and others provided oil/gas field data and information into the Scoping Documents in hopes of a prudent review of the health and safety issues. The DEIS contains no reference, inclusion or response to the documents provided.

Not only is the DEIR/S lacking in any analysis, the few sentences that are vaguely about the oil/gas issues, are overwhelmingly misleading and /or outright false.

Grassroots Coalition requests that the USACE withdraw its EIS, correct it and recirculate it.
Patricia McPherson, Grassroots Coalition

Begin forwarded message:

From: patricia mc pherson <patriciamcpherson
Subject: Fwd: BAllona Wetlands: broiling gas 7-23-17 video
Date: November 1, 2017 at 12:04:28 PM PDT
To: arthur.heath@waterboards.ca.gov, LB.Nye@waterboards.ca.gov, solomon.ejigu@waterboards.ca.gov, thizar.williams@waterboards.ca.gov, "Ly, Jillian@Waterboards" <jillian.ly@waterboards.ca.gov>
Cc: "Pamela@SLC Griggs" <pamela.griggs@slc.ca.gov>, "Willis, Andrew@Coastal" <andrew.willis@coastal.ca.gov>, "Haage," <lisa.haage@coastal.ca.gov>, "Revell," <mandy.revell@coastal.ca.gov>, "Unger," <Samuel.Unger@waterboards.ca.gov>, Bonin Mike <mike@11thdistrict.com>, ExecutiveOffice <executiveoffice@bos.lacounty.gov>, FourthDistrict@bos.lacounty.gov, Sheila <sheila@bos.lacounty.gov>, firstdistrict@bos.lacounty.gov, "Apodaca, Joey" <joey.apodaca@mail.house.gov>, Karly Katona <KKatona@bos.lacounty.gov>, markridley-thomas@bos.lacounty.gov, "Weber, Mark" <mark.weber@asm.ca.gov>, Samuel.Liu@sen.ca.gov, len.nguyen@lacity.org, Tina.Andolino@sen.ca.gov, Chad Molnar <chad.molnar@lacity.org>, Jeanette Vosburg <saveballona@hotmail.com>, Joe Piasecki <joe@argonautnews.com>

Should anyone have had difficulty in viewing the video attached with GC's email below, here is another LINK TO THE GAS VIDEO.

Blockedhttps://www.flickr.com/gp/stonebird/5KU61h

Thank you for watching,
Patricia McPherson, GC

Begin forwarded message:

From: patricia mc pherson <patriciamcpherson
Subject: BAllona Wetlands: broiling gas 7-23-17 video
Date: October 31, 2017 at 10:59:22 AM PDT
To: arthur.heath@waterboards.ca.gov, LB.Nye@waterboards.ca.gov, solomon.ejigu@waterboards.ca.gov, thizar.williams@waterboards.ca.gov, "Ly, Jillian@Waterboards" <jillian.ly@waterboards.ca.gov>
Cc: "Pamela@SLC Griggs" <pamela.griggs@slc.ca.gov>, "Willis, Andrew@Coastal" <andrew.willis@coastal.ca.gov>, "Haage," <lisa.haage@coastal.ca.gov>, "Revell," <mandy.revell@coastal.ca.gov>, "Unger," <Samuel.Unger@waterboards.ca.gov>, Bonin Mike <mike@11thdistrict.com>, ExecutiveOffice <executiveoffice@bos.lacounty.gov>, FourthDistrict@bos.lacounty.gov, Sheila <sheila@bos.lacounty.gov>, firstdistrict@bos.lacounty.gov, "Apodaca, Joey" <joey.apodaca@mail.house.gov>, Karly Katona <KKatona@bos.lacounty.gov>, markridley-thomas@bos.lacounty.gov, "Weber, Mark" <mark.weber@asm.ca.gov>, Samuel.Liu@sen.ca.gov, Tina.Andolino@sen.ca.gov, Chad Molnar <chad.molnar@lacity.org>, Jeanette Vosburg <saveballona@hotmail.com>, Joe Piasecki <joe@argonautnews.com>

GRASSROOTS COALITION
ENVIRONMENTAL INTEGRITY & PUBLIC POLICY

Removed htm or html attachment:Attached Message Part.html
Removed htm or html attachment:Attached Message Part.html

O11-361 cont.

O11-361 cont.

Removed htm or html attachment:Attached Message Part.html

CHAPTER 13

ACCOUNTING FOR CIVIL WORKS COST SHARED PROJECTS

13-1. General. The purpose of this chapter is to provide accounting guidance and procedures for applying non-Federal contributions toward the cost of project planning, engineering, design, construction, and operations and maintenance of Civil Works cost shared projects.

a. The Water Resources Development Act of 1986, Public Law 99-662, as amended, (hereinafter "WRDA 86" or "the Act") entered the Corps of Engineers into a new era of project financing through cost sharing with various non-Federal sponsors (public entities). Although the acceptance of funds from private parties is allowed under section 4, Rivers and Harbor Act (38 Stat. 1053; 33 U.S.C. 560) navigation authority, and other authorities, it is HQUSACE policy that funds shall be accepted only from duly appointed public entities. See ER 1165-2-30 for further guidance.

b. WRDA 86 specifies that the cost sharing provisions set forth therein apply to any studies for a water resources project commenced after November 17, 1986, or any water resources project, or any separable element thereof (as defined in the Act), for which a contract for physical construction had not been awarded before November 17, 1986. The Act further provides that, unless otherwise specified, the cost sharing provisions of Title I of the Act shall apply to all projects authorized therein. WRDA 86 further states that prior to initiating work on a project, other than hydropower, a legally binding cooperative agreement must be executed between the Department of the Army and the non-Federal sponsor to document the Government's responsibility and the non-Federal sponsor's responsibility for the project including, but not limited to, paying the non-Federal share of the costs of construction, paying 100 percent of the costs of the operation, maintenance, replacement, and rehabilitation costs, and holding and saving the Government free from damages. Similar requirements are included in the Act regarding planning and engineering of a project authorized by the Act. Model cost sharing agreements for feasibility studies (Feasibility Cost Sharing Agreement (FCSA)), for preconstruction, engineering and design (Design Agreement (DA)), and for construction, operation and maintenance (Project Cooperation Agreement (PCA)) of water resources projects have been approved by HQUSACE and by the Assistant Secretary of the Army (Civil Works) (ASA (CW)) for many of the Corps missions and authorities. The approved model agreements are maintained on the website for Civil Works: http://www.usace.army.mil/civilworks/cecwp/branches/policy_compliance/ccpca.htm

O11-362

Further guidance regarding cost sharing requirements may be found in ER 1165-2-131, ER 1105-2-100, as well as in other engineering regulations, circulars and pamphlets, and Planning, Policy,

and Project Management Guidance Letters.

c. Many pre-WRDA 1986 projects are still active, and these projects may be subject to different cost-sharing obligations and existing assurance agreements or local cooperation agreements, which contain the contractual agreement of the non-Federal sponsor regarding the project cost-sharing obligations and the method of payment under the specific project authority. Unless these pre-WRDA 86 projects, or a separable element thereof, have been expressly made subject by Congress to the cost-sharing requirements of WRDA 86, as amended, the Government cannot unilaterally alter the contractual obligations of the non-Federal sponsor beyond those obligations set forth in the pre-existing cost sharing agreement executed by the sponsor.

d. Interdisciplinary teams led by the Project Manager are recommended by HQUSACE for development, negotiation and execution of PCAs, FCSAs, DAs, and escrow agreements. It is recommended that the team include a Resource Management (RM) representative. The RM representative must be familiar with the accounting procedures for all agreements and cost sharing procedures of all references in appendix A.

O11-362
cont.

13-2. Policy.

a. General. The Corps of Engineers Financial Management System cost share programming reflects the financial requirements specified in law, regulation, and study or project specific cooperative agreements between the Government and non-Federal sponsors for each cost-share project. For Congressional Add projects with unique cost-sharing allowances during study, design, or construction, the PM will provide RM with copies of the authorizing language supporting the project cost-sharing allowance, with additional support from OC, if requested by RM. When a purchase request is certified, the Federal Government and all non-Federal sponsors must have their respective proportional shares (e.g., Federal cash, sponsor cash, or authorized and approved sponsor credit) available. (See PM Guidance letter No. 11 Revised, SUBJECT: Provisions of Non-federal Cash for Construction of Civil Works Projects and Separable Elements at: http://www.usace.army.mil/inet/functions/cw/cecwp/branches/policy_compliance/pmg11.htm

Only the Secretary of the Army or the ASA (CW) can waive the non-Federal sponsor's proportionate share requirements. If there is no such waiver and the Government's and/or any non-Federal sponsor's proportionate share (net of any authorized and approved creditable work) is not available when a purchase request is processed, then the purchase request will not be certified. Purchase requests cannot be certified until the Government and each non-Federal sponsor's proportionate share requirements are met.

b. Feasibility Phase. Section 105(a) of WRDA 86 specifies the cost sharing requirements for studies that were initiated after 17 November 1986. Feasibility studies are cost shared 50% Federal and 50% non-Federal and are typically accomplished with General Investigations funding.

As originally enacted in WRDA 86, at least 50% of a non-Federal sponsor's share (25% of the total feasibility phase cost) was required to be in cash. With the passage of WRDA 2000, P.L. 106-541, Section 225, the non-Federal sponsor may now provide 100% of its share in "in-kind service" credit. No credit may be given to the non-Federal sponsor for work performed prior to execution of the FCSA or after completion of the feasibility phase.

(1) The Project Manager assigned to the feasibility study will coordinate actions with the RM representative prior to completion of the negotiations on the FCSA with the non-Federal sponsor. Coordination and accounting mechanisms will be established for: allocating and tracking non-Federal cash contributions, crediting the value of approved in-kind service contributions, and distribution of charges against the Federal and non-Federal sponsor accounts. They will document the effective, departmental overhead and any other rates, and identify increases that could trigger an amendment to the FCSA, or Project Management Plan (PMP).

O11-362 cont.

(2) The Project Manager coordinates a draft FCSA with RM to ensure compliance of the following: procedures for receipt and accounting of non-Federal sponsor cash funds; establishment and handling of escrow accounts, if used; prohibitions pertaining to commingling of funds; the direct charging rule for recording direct labor cost; frequency of charges against the non-Federal sponsor contributed fund accounts; crediting the value of approved in-kind contributions; the F&A reporting products and their interpretation; circumstances precipitating increases in effective and departmental overhead rates; partial reconciliation of the accounts for the non-Federal sponsor and Federal end-of-year budgetary requirements; end of study reconciliation mechanism; and the provision and maintenance of accounting records for inspection and audit by Federal or non-Federal sponsor representatives.

c. Credits for work-in-kind during Feasibility Phase. In-kind services represent study work performed by the non-Federal sponsor during the feasibility phase per Section 105(a) of WRDA 86, as amended, for which credit may be given and counted towards the required non-federal contribution. A PMP is the basis for assigning tasks between the Government and the non-Federal sponsor and for establishing the value for credit for in-kind services. Examples of in-kind services are services, materials, supplies and other in-kind work items other than cash necessary to prepare the feasibility report. The determination of the initial dollar value of in-kind products or services will be based on negotiation of a detailed
Government estimate and a non-Federal sponsor proposal. The value of in-kind services will be stated as fixed fee amounts determined by applying applicable Federal regulations, including

OMB Circular A-87. Acceptance of the product will be as described in the PMP.

d. Preconstruction Engineering and Design (PED) Phase.

(1) Section 105(c) of WRDA 86 specifies that the cost sharing for design of projects will be shared in the same percentages as the project purpose. CECW-AG Memorandum, 3 August 1998, Subject: Model Design Agreement, requires that the Government and the non-Federal sponsor execute a design agreement for all Preconstruction Engineering and Design activities funded by General Investigations, and all engineering and design activities funded by either Construction, General or Operations and Maintenance, General appropriations with certain limited exceptions set forth therein. Since most project purposes have different cost sharing formulas, HQUSACE and ASA (CW) developed the model DA using 75/25 percent cost sharing. To ensure costs of design are ultimately shared in the same percentages as the project purpose, once design is complete total design costs are included in total project costs in the PCA for the project. Any adjustments required ensuring the non-Federal sponsor has contributed the correct percentage of total design costs are accomplished by adjusting the cash requirement from the non-Federal sponsor in the first year of construction. It is important to note that unlike Section 105(a) of WRDA 86, Section 105(c) of WRDA 86 does not authorize or permit any in-kind services to meet a portion of non-Federal sponsor contributions during design.

O11-362 cont.

(2) Section 105(b) of WRDA 86 specifies the cost sharing for projects authorized in WRDA 86 for Planning and Engineering only. Non-Federal sponsors must contribute 50 percent of the cost of planning and engineering during the period of planning and engineering. The costs included herein are all costs necessary to produce a feasibility report. Once the period of planning and engineering is complete, the Government and non-Federal sponsor must execute a DA to cost share the costs of design.

(3) All Other PED. These costs may be incurred under several classes below: All PED costs incurred subsequent to the feasibility study, other than costs incurred during the period of planning and engineering discussed in 2. above, are considered a part of, and included in, the total project cost to be cost shared and included in the PCA. The PED costs are to be treated as a component of the first year construction costs and included in the non-Federal sponsor's first year cash requirements.

(a) Continuing Planning and Engineering. All such costs are subject to cost sharing, if incurred on or after 1 October 1985.

(b) Advance Engineering and Design.

e. Construction. The draft PCA is sent through RM for comment to insure the PCA cost sharing provisions will track and comply with established accounts. Coordination and accounting mechanisms will be established for: allocating and tracking non-Federal sponsor cash contributions, crediting for the value of authorized and approved Lands, Easements, Rights-of-Way, and initial and final Relocations, and Disposal Areas (except for general navigation projects/features), Section 104/215 and other authorized credits to the non-Federal sponsor's cost share; and distribution of charges against Federal and non-Federal sponsor accounts. Project cost estimates reflecting the detailed current schedule and cost share requirements are prepared annually by the project manager/programmer. The project programmer creates and updates the Cost Share Control Record in CEFMS that includes this summarized information annually.

(1) Non-Federal sponsor contributions of Project Cost. The non-Federal sponsor cost sharing and project financing responsibilities must be determined for each project based upon the statutory authority as spelled out in the cost sharing agreement and the project. Except as discussed in the next paragraph, the non-Federal sponsor must provide its share of total project costs during the period of construction. The non-Federal sponsor has flexibility to determine whether to make the total estimated non-Federal share of construction cost available prior to the start of construction or incrementally over the period of construction. The specific policy is generally outlined in ER 1165-2-131 and updated by Policy and Project Management Guidance Letters listed on the Planning and Policy Website.

O11-362 cont.

(2) Authorities Allowing Deferred Payment by the non-Federal sponsor.

(a) For commercial navigation projects, Section 101(a)(1) of WRDA 86 provides that a portion of the non-Federal sponsor's share will be paid during construction. Section 101(a)(2) of WRDA 86 requires an additional 10 percent of the cost of general navigation features to be paid by the non-Federal sponsor over a period not to exceed 30 years at an interest rate determined pursuant to Section 106 of WRDA 86.

(b) In special circumstances (see ER 1165-2-131) where non-Federal sponsors request, non-Federal sponsor financing may be deferred under Sections 101(d) and 103(l) if approved by the Assistant Secretary of the Army (Civil Works) (ASA (CW)). In such an instance, the Government will finance the construction costs from Federal appropriations and the non-Federal sponsor will repay its share over time, plus interest at a stated rate. When this approach is taken, Interest During Construction (IDC) will be assessed, as well as interest during the repayment phase, since the Government is incurring an interest cost in financing the non-Federal share. All interest will be recorded in the Federal project account as miscellaneous receipts funds returned to the U.S. Treasury. Interest methodology is defined in ER 1165-2-131, Appendix I. This methodology will be followed for all projects subject to the provisions of WRDA 86, P.L. 99-662,

but will not be retroactively applied to projects when construction was begun under previous legislative authorities.

f. Flood Control and Coastal Emergencies.

(1) Cost-sharing provisions under natural disaster procedures specified in ER 500-1-1 require that 20 percent of the cost to rehabilitate a non-Federal levee be provided by non-Federal sponsors. This contribution may be cash or in-kind services provided during the period of construction.

(2) In certain circumstances, notably for construction of wells to provide emergency drinking water, any construction of wells by USACE will be paid by the applicant. USACE may construct wells only when commercial or other sources cannot construct them within a reasonable time. The purpose of the well will be for human and livestock consumption only.
Reference ER 500-1-1.

g. Inland Waterways Transportation. Projects authorized under Section 102 of WRDA 86 are to be financed in part through transfer appropriation 96-20X8861 (Inland Waterways Trust Fund).
The Inland Waterways Trust Fund will be used to pay 50 percent of total construction cost. The term "construction" as used in Section 102 of WRDA 86 includes planning, designing, engineering, surveying, the acquisition of all lands, easements, and rights-of-way necessary for the project, including lands for disposal of dredged material, and relocations necessary for the project.

O11-362
cont.

h. Operation, Maintenance, Repair, Replacement and Rehabilitation (OMRR&R). The non-Federal cost of OMRR&R of projects shall be in accordance with the statutory authority for the project.

i. Reimbursement For Advance Non-Federal Construction of Authorized Federal Harbors and Inland Harbor Improvement.

(1) Section 204(e) of WRDA 86, as amended, provides authority to reimburse a non-Federal sponsor for construction of an authorized Federal harbor or inland improvement or separable element thereof provided that certain statutory requirements are met.

(2) In accordance with the statutory authority, after project authorization and before initiation of construction of the project or separable element, the Secretary of the Army must approve the plans of construction of the project by the non-Federal interest, the non-Federal interest must execute an agreement to pay the non-Federal share, if any, of the cost of operation

and maintenance of the project, and the Secretary must determine before plan approval that the project or separable element of the project is economically justified and environmentally acceptable. Reimbursement cannot be made until appropriated funds are available and the Secretary has certified that the work has been performed in accordance with applicable permits and approved plans.

j. Lands, Easements, Rights-of-Way, Relocations and Disposal Areas (LERRD).

(1) In addition to cash requirements, the non-Federal sponsors are required, under many project authorities, to provide all lands, easements, rights-of-way, and to perform or assure performance of relocations (see paragraph (3) below) or bear the costs of such work if performed by the Government on behalf of the non-Federal sponsor. Except for commercial navigation projects, non-Federal sponsors also are generally required to provide all dredged or excavated material disposal areas.

For commercial navigation projects, the non-Federal sponsor does not generally provide dredged material disposal areas. They must provide the underlying lands, but the disposal area features will be treated as cost shared general navigation features. However, in order to determine the responsibility for a specific project, the statutory authority for the project must be examined. (See ER 1165-2-131 and chapter 12 of ER 405-1-12.)

O11-362 cont.

(2) The non-Federal sponsor shall receive credit toward its share of total project costs for the fair market value of the lands, easements, and rights-of-way that it provides for the project and for the incidental costs of acquiring such interests. Fair market value, and the credit amount to be afforded shall be determined in accordance with the requirements of the cost-sharing agreement executed by the Government and the non-Federal sponsor.

(3) The general policy for performing and cost sharing of relocations, removal or alteration of highway bridges, railroad bridges, utilities and certain structures has been addressed in a series of policy guidance letters (PGL Nos. 1, 2, 2R 44 and 45). They may be found on the web at:
http://www.usace.army.mil/inet/functions/cw/cecwp/branches/guidance_dev/pgls/pgl101.htm
http://www.usace.army.mil/inet/functions/cw/cecwp/branches/guidance_dev/pgls/pgl02.htm
http://www.usace.army.mil/inet/functions/cw/cecwp/branches/guidance_dev/pgls/pgl02r.htm
http://www.usace.army.mil/inet/functions/cw/cecwp/branches/guidance_dev/pgls/pgl44.htm
http://www.usace.army.mil/inet/functions/cw/cecwp/branches/guidance_dev/pgls/pgl45.htm

Specific project statutory authority may provide a different cost-sharing responsibility.

k. Methods for Providing Non-Federal Funds.

(1) General. For projects involving a single or lump sum contract to be completed in one fiscal year or a project that will be completed in one fiscal year, the non-Federal sponsor shall provide its full cash requirement on or before the scheduled date of issuance of the solicitation of the first construction contract. For projects that will take more than one fiscal year to complete, the non-Federal sponsor may provide its share in periodic payments. The timing of these payments may be on a Federal fiscal year, quarterly, or fiscal year of the non-Federal sponsor basis in accordance with the cost-sharing agreement for the project. The non-Federal sponsor's payment may be made by any of the methods of payment (check, escrow account, letter of credit, or electronic funds transfer) outlined in the cost-sharing agreement executed by the Government and the non-Federal sponsor.

(2) Check.

(3) Escrow Accounts.

(a) Non-Federal sponsors of water resource projects, especially those projects that will be constructed over a period of years, may wish to provide their required contributions in an interest bearing escrow account. The escrow account provides a means for the non-Federal sponsor to earn interest on its funds and ensures that funds are available for use immediately by the Government when needed. Funds are not available for obligation purposes by the Government until withdrawn from the non-Federal sponsor's escrow account and deposited into the U.S. Treasury. Usually, the District Commander or another designated official for deposit will withdraw funds in escrow into the U.S. Treasury in increments as needed. Approval from HQUSACE (CECC-G) is required only when escrow agreements differ from the model escrow agreement. Further discussion is provided in ER 1165-2-30, ER 1165-2-131, ER 37-1-30, in Memorandum, CECC-ZA, 8 October 1997, subject: Escrow Agreements in Support of Agreements Other than Project Cooperation Agreements, as amended by Memorandum, CECW-PG, 28 September 2000, Subject: Revision to Model Escrow Agreement, and references cited therein.

(1) The model escrow agreement found in those ERs has been modified. The revised model is located at the following Internet address:
http://www.usace.army.mil/civilworks/cecwp/branches/policy_compliance/ccpca.htm

(b) Escrow accounts must meet certain criteria. The financial institution must be financially secure. The financial institution that holds the escrow account must hold a national charter (i.e., be a member of the Federal Reserve) or at least be insured by the Federal Deposit

O11-362 cont.

Insurance Corporation (FDIC). In addition, the deposit of funds must be irrevocable. The non-Federal sponsor must not be able to withdraw the funds until the Government has certified that no additional funds will be needed. The funds will not be used for speculative investment. Any investment by the financial institution must be a direct obligation of the Federal Government (e.g., Treasury bills) or obligations of Federal agencies guaranteed by the Federal Government (e.g., certificates issued by the Government National Mortgage Association), or in a money market mutual fund consisting solely of such obligations.

(4) Letter of Credit. The non-Federal sponsor may wish to provide an irrevocable letter of credit for its share of project costs. A letter of credit is similar to an escrow account. With a letter of credit, a financial institution guarantees to the Federal Government that funds are available upon request from the non-Federal sponsor to meet the required cash outlays. HQUSACE (CECC-G) must approve the letter of credit. A suggested example of a letter of credit has been placed on the HQUSACE Civil Works website at:
http://www.usace.army.mil/civilworks/cecwp/branches/policy_compliance/ccpca.htm

O11-362 cont.

(5) Electronic Funds Transfer.

(6) Deferred Payments. Deferred payments by non-Federal sponsors are covered in ER 1165-2-131 and the mechanisms would need to be specifically provided in the project cooperation agreement.

(7) There are occasions when non-Federal sponsors may wish to meet their cost sharing responsibilities at least in part with funds they have received from the Government. As a general rule, non-Federal shares of project cost are to be satisfied through the use of non-Federal funds. Federal funds may not be used to meet the non-Federal sponsor's share of project costs unless the expenditure of such funds is expressly authorized by statute as verified in writing by the granting agency. (See ER 1165-2-131.)

l. Voluntary contributions for recreation and natural resources activities, 33 USC 2325.

(1) Acceptance. USACE is authorized to accept contributions of cash, funds, materials, and services from persons, including governmental entities but excluding the project sponsor in connection with management of recreation and natural resources activities at water resources development projects.

(2) Deposit. Any cash or funds received shall be deposited in the U.S. Treasury into account "Contributions and Advances, Rivers and Harbors, Corps of Engineers (96X8862)" and shall be available until expended.

m. Challenge Partnership Agreements program for the management of recreation and natural resources activities, 33 USC 2328.

(1) General. USACE is authorized to develop and implement a program to share the cost of managing recreation and natural resources activities at water resources development projects.

(2) Cooperative agreements. To implement this program, USACE is authorized to enter into cooperative agreements with non-Federal public and private entities to provide for operation and management of natural resources activities at Civil Works projects.

(3) Contributions. USACE may accept contributions of funds, materials, and services from non-Federal public and private entities for the Challenge Partnership Agreements program. Any funds received shall be deposited in the U.S. Treasury into account "Contributions and Advances, Rivers and Harbors, Corps of Engineers (96X8862)" and shall be available until expended.

O11-362 cont.

13-3. Procedures.

a. Cost Shared Accounting Procedures can be found at: http://www.usace.army.mil/inet/functions/rm/finance/finance.htm

b. Financial Management System. The Corps of Engineers Financial Management System (CEFMS) user manual at http://rmf31.usace.army.mil/cefmsdoc provides detailed financial system procedures for cost sharing management.

APPENDIX A

Required Publications

P.L. 99-662 (The Water Resources Development Act of 1986)

P.L. 100-676 (The Water Resources Development Act of 1988)

P.L. 106-541 (The Water Resources Development Act of 2000)

38 Stat. 1053; (Rivers and Harbor Act of 1915) 33 U.S.C. 560, Section 4

OMB Circular A-87 (Cost Principles for State and Local Governments)

EFARS (Engineer Federal Acquisition Regulation Supplement)

ER 37-1-30 (Accounting and Reporting)

ER 405-1-12 (Real Estate Handbook)

ER 500-1-1 (Natural Disaster Procedures)

ER 1105-2-100 (Guidance for Conducting Civil Works Planning Studies)

ER 1165-2-30 (Acceptance and Return of Required, Contributed or Advanced Funds for Construction or Operation)

ER 1165-2-120 (Reimbursement for Advance Non-Federal Construction of Federally Authorized Harbor and Inland Harbor Improvements)

ER 1165-2-131 (Project Cooperation Agreements for New Start Construction Projects)

O11-362
cont.

APPENDIX B

Final Accounting Report

13-B-1. The terms of the FCSA, PCA, and Design Agreement require that the Corps must provide the non-Federal sponsor with a final accounting report of total study/project cost. The project manager and the F&A office will prepare the final accounting report. The project manager, RM representative and non-Federal sponsor may develop the final accounting report format during the preliminary negotiations of the FCSA or PCA. It is recommended that a draft report format be presented to the non-Federal sponsor for concurrence. The F&A office must ensure that the final report agrees with the cost recorded in the official accounting records (CEFMS). Commanders and project managers must ensure that responsibilities are clearly assigned, since the report may require a billing or refund to the non-Federal sponsor. An independent review of the final accounting report must be performed prior to billing or returning funds to the sponsor. CEIR reviews the USACE records and DCAA reviews the sponsor records.

13-B-2. The percentage of total project cost which the non-Federal sponsor must provide is normally a joint effort between Project Management, Resource Management, Counsel, and Real Estate and determined based on Federal laws. Under P.L. 99-662, cost sharing requirements for certain project feature/purposes are different from others. The final accounting report must contain clear splits where different project purposes exist. The cost accountant must coordinate with the project manager to determine if different project purposes are involved and hence the applicable cost share percentages have been established prior to start of work.

O11-362 cont.

13-B-3. The terms of the model FCSA require that the final accounting report of study cost be provided to the non-Federal sponsor within 90 days of the study completion. The terms of the FCSA require the following items to be included in the final accounting report:

(1) Government disbursement of Federal Funds.

(2) Cash contributions from the sponsor.

(3) Credits for the negotiated cost of the non-Federal sponsor.

Within 30 days after the final accounting report, the Government shall refund to the sponsor the excess of cash contributions and credits over 50 percent of total study cost, if any, subject to the availability of appropriation funds. Within 30 days after the final accounting report, the non-Federal sponsor shall provide the Government any cash contributions required so that total sponsor's share equals 50 percent of total study cost.

13-B-4. The terms of the PCAs for civil works projects require the Corps, upon completion of construction and resolution of all relevant claims and appeals, to compute total cost of construction and tender to the non-Federal sponsor a final account of the sponsor's share of total project cost. The final accounting report should be provided within 90 days.

a. In the event that the total contributions by the non-Federal sponsor are less than its required share, the sponsor shall, no later than 90 calendar days after receipt of written notice, make cash payment to the Government to meet its required share of project cost.

b. Structural flood control model PCA. See Article VI D for requirements regarding refund of the non-Federal sponsor's contribution.

c. Harbor model PCA.

13-B-5. If interest on deferred payments or during construction applies, it must be computed as earned and reflected in the final accounting report for proper accounting and to preclude allegations that the Corps failed to disclose all cost.

O11-362 cont.

From: patricia mc pherson
To: Wildlife Ballona Wetlands Ecological Reserve EIR; Cespl Rogers, Bonnie L CIV USARMY
Cc: Todd Cardiff
Subject: Ballona Wetlands DEIR/S Response (Section D-1 continued -PROCESS) Grassroots Coalition
Date: Monday, February 5, 2018 2:27:06 PM
Attachments: Screen Shot 2017-04-22 at 8.55.19 AM.png
Fwd_ GC Complaint(Brandy 7) Dept. Finance; AUTHORITY AUDIT A.eml.msg
GC COMPLAINT (BRANDY #1 add (Exhibit 3-screen shot) Dept. of Finance.eml.msg
20130717-SCC 12-107.pdf
GC Complaint(Brandy 13)Dept.Finance:AUTHORITY AUDIT..continued 12-107 and others.eml.msg
GC Complaint(Brandy 17) Dept Finance; AUTHORITY AUDIT 4_7_15 3.eml.msg

---

The Grassroots Coalition Response to the Draft EIR/S for the Ballona Wetlands Ecological Reserve

Section D-1continued

Please respond to the queries and comments of the following document pertaining to **Process, Goals.**

Continued: OSAE COMPLAINT/AUDIT REQUEST;

Please respond to the use of Prop.12 funds for WRDA process and demonstrate what language of Prop.12
allows for use outside restoration definitions and for purposes
Prop. 12 funds specifically for use on Ballona's restoration do not discuss any removal of levees for a
creation project. Therefore, the 2013 approval is outside Prop. 12 voter approved uses and here, the SCC-Mary Small, Shelly Luce and S. Schuchat provide at least,
the appearance of approval of misappropriation of bond fund use on Ballona Wetlands. O11-363

The project purposes as stated in the DEIR/S and utilized for the 12-107 grant approval create a project purpose and objectives that promote their narrowed outcome to
expressly avoid and bypass the analysis and evaluation of ALL REASONABLE ALTERNATIVES built into the 2005-12 Joint EIR/S process that was cancelled in order to expressly avoid and bypass CEQA/NEPA analysis and evaluation. O11-364

Instead, a deficient short-cutted process has ensued where here, there is the demonstration of wrongful use of Prop. 12 money for WRDA product and use for USACE that was never envisioned or intended for a 404/ 408 permit payment use to the USACE. O11-365

Grant 12-107 Approval Document retrieved by GC via Public Record Act request. O11-366

O11-366 cont.

What happened to this funding?
How has the Corps 404/408 permitting and NEPA involvement been funded for its role in the DEIR/S & PERMITS?
The public deserves to know how the Corps has been paid for its engagement on Ballona DEIR/S and permitting.
If the County has paid for the Corps work, who paid the County to pay the Corps?
Please provide the answers to the queries above.

O11-367

See continued docs of the OSAE Complaing in Section D-1 addition

Patricia McPherson, GC

FROM: Grassroots Coalition,
Patricia McPherson, President
Patriciamcpherson1@verizon.net

August 2, 2012

TO:
California Coastal Conservancy
Attn. Executive Director, San Schuchat &
All Governing Board Member and Alternates

CC
John Chiang- CA. State Controller
Matosantos- CA. Dept. of Finance Director
Bill Lockyer- CA. State Treasurer
John Laird- Dept. of Natural Resources
U.S. Army Corps of Engineers Attn. Commander Mark Toy
U.S. Senator Barbara Boxer
U.S. Congress Person Maxine Waters
L.A.Councilman Bill Rosendahl

RE: Complaint- Supporting the 3/29/12 REQUEST TO RESCIND APPROVAL FOR STAFF RECOMMENDATION APPROVAL ON 1/19/12 awarding $6,490,00. for: FILE NO. 04-088-

O11-368

BALLONA WETLANDS RESTORATION ENGINEERING AND TECHNICAL STUDIES

The following paper from Grassroots Coalition (GC) represents GC's opinion of its findings and data support garnered via the Public Record Act and the Freedom of Information Act.

This document also requests the Coastal Conservancy to stop its illegitimate interference in the approved and ongoing 2005 Joint EIS/EIR process between the Sponsor-- Santa Monica Bay Restoration Commission (SMBRC)/ LA County Flood Control and, the U.S. Army Corps of Engineers.

The Coastal Conservancy, using its control over public bond money, has shut out the public process and taken its influence as a financially powerful board member of the SMBRC and partner of the California Department of Fish & Game (DFG), the lead agency of the publicly owned Ballona Wetlands-to fund a process that is contradictory to the 2005 federal process that was requested by Congress.

The Coastal Conservancy is propelling a bait and switch - a NEW Joint EIR/EIS process and a NEW Notice of Intent (NOI) that undermines and attempts to extinguish the current 2005 Joint EIS/EIR APPROVED PROCESS with its attendant safeguards of multiple habitat restoration alternatives.

The Coastal Conservancy is instead, illegitimately propelling a singular outcome that stops restoration of Ballona and protection of its endangered species to instead convert the habitat into a non-historical dredged out estuarine habitat that promotes LA Port expansion and other financial deals.

Background:
In 2004, Ballona Wetlands acreage was purchased via PUBLIC funding for approximately $140 million. **The land is owned by the public** and is currently administered by the California Dept. of Fish and Game (freshwater marsh portion by the State Lands Commission) .

Important, new information contained herein reflects a Coastal Conservancy (CC) Public Record Act (PRA) response consisting of numerous heretofore undisclosed CC documents contained on a CD. The CD was provided after the 1/19/12 CC Governing Board Hearing in Los Angeles, CA. and, after the CC Governing Board's Hearing in Ventura, CA. on 3/29/12.

O11-368 cont.

I.

The Coastal Conservancy PRA CD provides evidence to show that misleading and/or incorrect information was presented in the Staff Recommendation of 1/19/12 (File No. 04-088)

The newly disclosed Coastal Conservancy documents (CD) reveal:

A. potential misuse of public bond money (Prop. 12, PRC 5096.352 (f) and or (b)(1));
B. lack of disclosure, lack of public process and transparency of process regarding the Coastal Conservancy's involvement and; associations with other agencies --federal- US Army Corps of Engineers (USACE) and; state agencies and; a private nonprofit- the Santa Monica Bay Restoration Foundation (Foundation) that pertain to Ballona Wetlands in Los Angeles, CA.
C. Prop. 12 (Number 172 of Dept. of Natural Resources Listing of Prop. 12 bond grants; 3760-30203-0005(2)(B)07) Coastal Conservancy bond grant to The Southern California Coastal Water Research Project (SCWRP) -Ballona Wetlands Restoration. The Coastal Conservancy, contrary to the bond grant language and intention of allowing for a "scientific advisory committee" (SAC) to review and advise regarding **'enhancement'** plans for the restoration goals of Ballona Wetlands; the Coastal Conservancy instead propelled and directed SCCWRP members and other contractors to perform a singular outcome of **'creation' of a full tidal/ estuarine, non-historical , treatment wetland as an end of pipe, experimental solution to the toxic contamination of Ballona Creek.**

The CC Staff Recommendation is a non-historically oriented goal and thus fails to adhere to bond language for "enhancement" of Ballona Wetlands and also fails to adhere to "restoration" as defined by Southern California Wetlands Recovery Project (SCWRP). (See p.3 SCWRP restoration definition) And, contrary to publically stated and written goals of transparency and interchange, the CC and SMBRC precluded the public and Working Group from participating and interfacing with SAC. Thus, the CC and SMBRC, utilizing all public bond dollars have effectively shut the public out of the Ballona Wetland Restoration design process.

Contrary to comments made below in the Staff Recommendation 1/19/12 (File No. 04-088), the conceptual restoration plan was **not** developed in a public process and the public and other parties were **precluded** from participation in all facets of the development of the restoration alternatives

"Cooperation: The conceptual restoration plan was developed in a public process with input from a Science Advisory Committee, an Agency Advisor Committee, and the Ballona Working Group made up of representatives of local nonprofit organizations, agency staff and members of the public. Individual public members also participated in all facets of the development of the restoration alternatives."
(p. 9 of 9 1/19/12 Staff Recommendation; Emphasis added.)

O11-368 cont.

The CD documents reveal that the conceptual restoration plan was developed by the Coastal Conservancy and by the executive director and staff of Santa Monica Bay Restoration Commission- a California state agency.

Note- the SMBRCommission's executive director and most staff are not state personnel . Since 2005, the executive director and staff of the SMBRFoundation (a private 501c3) simultaneously act as SMBRC staff and executive director. IRS records reveal payment to the Foundation's executive director and staff from the Foundation. We have found no contractual authority for such private persons to serve as state officers of a state agency or as staff of a state agency. We are currently requesting an assessment and investigation into these matters of great public concern.

The CD documents reveal that the Coastal Conservancy Staff Recommendation was created:

1. in a void of public/ Working Group input acknowledgement and use.
2. in a vacuum of interchange between the Scientific Advisory Committee and the public/ Working Group and the USACE contractual agreements.
3. while failing to disclose scientific findings to all parties and;
4. while failing to provide process as written by the Coastal Conservancy.
5. without adherence to the 2005, contractual agreement between the United States Army Corps of Engineers (USACE) and the Sponsor (aka the Authority- SMBRC & LA County Flood Control) wherein a Joint EIR/ EIS of Corps certified programs of environmental review would take place and;

6. without CC Governing Board authorization and without publicdisclosure--the CC Project Manager created an enterprise consisting of a 'new' Joint EIR/EIS process ostensibly intended to circumvent the 2005 approved process. (JD submission to CC 3/29/12)
7.

Lack of Disclosure Has Led To An Inability To Make Informed Decisions

I.

A. Proposition 12 Funds-The Public's Intent - To Acquire, Protect and Restore Is Not Fulfilled.

The Prop. 12, Public Resource Code (PRC) Section 5096.352 language states, " (f) Twenty-five million dollars ($25,000,000) of the funds shall be allocated to **acquire, protect, and restore** wetlands projects that are a minimum of 400 acres in size in any county with a population greater than 5,000,000. (Emphasis added. The Ballona Wetlands is distinguished as fulfilling this specific criteria.)

Restoration-specifically refers to actions taken to obtain a former state of a natural condition. (Southern California Wetlands Recovery Project (SCWRP)- Science Advisory Panel (SAP)- Glossary of Terms)

O11-368 cont.

Estuarine wetlands- are subtidal and intertidal habitats that are semi-enclosed by land, have access to the open ocean, and in which ocean water is at least occasionally diluted by freshwater runoff from the land (Cowardin et. Al. 1979)SCWRP, SAP Glossary)

. Ballona was not historically continually open and connected to the ocean and large, inundating flows of fresh water occurred infrequently only during major flood events (CD- SAC docs; USGS docs provided to CC by J. Davis; CC's T-sheets).

"The project we are recommending is enormous in scale." CC- MarySmall (JD PRA Response attachment in 3/28/12 CC Hearing-Request)

Contrary to "protecting and restoring" the Ballona habitat, the approval of the Engineering and Technical Studies & SMBRC bond awards will specifically promote a singular outcome- massive destruction of currently functioning habitat that will not 'obtain a former state of a natural condition' but, will instead endeavor upon a non-historically oriented, experimental estuarine treatment wetland project expected to encounter yearly flooding and scouring events. The project is not expected to be self-sustaining but instead expected to promote a perpetual money pit of contracts for monitoring and unknown but expected repairs and fixes- - future landscape changes further transfiguring the flora and fauna. (CD/SAC)

A failure to adhere to grant proposal requirements, as dictated by the State of Ca. Finance Dept. in recent audits, continues

.

NOTE: While the Coastal Conservancy promotes the idea that it provides bond grants to the SMBRC, the Coastal Conservancy has actually never provided any bond money to the SMBRC as per the 2002,

SB 1381 Keuhl bill that established a Treasury Account for the SMBRC. Instead, the Coastal Conservancy provides public bond money grants to the private nonprofit-the SMBRFoundation-typically without a grant proposal having been provided-as is the case in the 1/19/12 grant approval.
Recent audits of the CC by the California Dept. of Finance require that the CC adhere to grant proposal requirements established by the Dept of Finance. However, the CC's failure to adhere continues as is the case in the 1/19/12 grant approval.

The currently clean land (LARWQCB) and functioning habitats-include endangered and rare Southern California native plants and wildlife, which will be destroyed in order to create the end of pipe, treatment wetland for toxic Ballona Creek waters and sediments. (CD-SAC) The full tidal, estuarine goal also appears to discharge political favors for LA Port expansion(s) approvals that need wetland mitigation credit(s) and/or extensive fill material from Ballona.
(See e-mails regarding LA Port - letters of support for the Staff Reccommendation)

Contrary to the 8/13/04 CC MEMO (p.4), the CD -SAC documents reveal wildlife and habitat destruction and dangers, endless and exorbitant financial costs, inability to show sustainability and potential legal quagmires that were not revealed to the public/ Working Group and other parties-- some of whom were asked to sign onto Coastal Conservancy pre-scripted letters of support for the 1/19/12 Staff Recommendation.*

O11-368 cont.

*Contrary to the promised 'transparency' of process; CC and SMBRC staff improperly lobbied for letters of support for the 1/19/12 Staff Recommendation prior to a public notification of an agenda and release of the Staff Report thusly, discriminating against all others by failing to provide the same comment opportunity prior to the issuance of the Staff Report.

The public has a right to know the full extent of issues regarding changes to Ballona. Whatever decisions are rendered, they should not be based upon piecemealed, truncated and biased information as has currently been provided.

PROPOSITION 12 Identification of Funds; Status of Funds
The Staff Recommendation(SR) is unclear which Proposition 12 funds are being requested. Two possible funding sections of Prop. 12 are:
- Proposition 12 bond money discussed in the SR as specifically for Ballona Wetlands is listed under Public Resource Code (PRC) Section 5096.352 (f)). The accounting for these funds was not provided in the Staff Recommendation and remains unknown.
-Other Prop 12 funds include: PRC Section 5096.352(b)(1)-to the Santa Monica Bay Restoration Project/Bay Watershed Council; that account status remains unclear also.
(In 2002, Senate Bill 1381 (Keuhl) transformed the SMBR"Project" into the SMBRCommission. Prop. 12, PRC language utilizes the Bay Watershed Council. The ByLaws of the the Bay Watershed Council (BWC) remained intact which now give rise to

questions regarding the actual existence of the BWC after SB 1381 which may influence the use of the Prop 12 bond funds.)

I.

B. 5-6. The Coastal Conservancy Project Manager and SMBRC Executive Director/ Staff, Have Not Been Forthright With the Public Regarding Disclosure of Process Changes Pertaining to Federal (USACE) Contractual Agreements

U.S. ARMY CORPS OF ENGINEERS

1994, Sept.28 Adopted- "Resolved by the Committee on Public Works and Transportation of the United States House of Representatives, That the Secretary of the Army is requested to review the report of the Chief of Engineers on Playa del Rey Inlet and Basin, Venice, California published as House Document 389, Eighty-third Congress, Second Session, and other pertinent reports, to determine whether modifications of the recommendations contained therein are advisable at the present time, in the interest of navigation, hurricane and storm damage reduction, environmental restoration and other purposes at Marina del Rey Harbor, Los Angeles, California, with consideration given to the disposal of contaminated sediments from the entrance channel required under the existing operation and maintenance program at Marina del Rey Harbor."

O11-368 cont.

In 2005, USACE Noticed and embarked upon an areawide ecological review- an EIS- of the historic Ballona Wetlands area that included the U.S. 83th Congress -- House Document 389 under Public Law 780. Map-Enclosure No. 1 (General Plan of Improvement) reveals the entire Ballona region as part of this action including but not limited to Ballona Lagoon, Del Rey Lagoon and the Sanctuary area , Ballona Creek, Centinela Creek etc. (See language of the USACE Lower Ballona Creek Restoration Reconnaissance Study and; Feasibility Study). This EIS was predicated upon having a local Sponsor as part of the review process and to aid in the outreach to the PUBLIC and the creation of the Joint EIR/EIS process.
SMBRC/LA Flood Control (the Authority) aka the Sponsor-- contractually agreed to the Joint EIR/EIS in 2005.
The contract included having the Sponsor (Authority) provide at least 6 public meetings dedicated to providing time for USACE representatives to discuss the USACE status of the Joint EIR/ EIS process. The follow through for such meetings has not occurred.
(In various earlier approved bond requests for Ballona projects; Project Manager Mary Small eliminates reference to the 2005 contractual agreement for a Joint EIR/EIS which jointly provides for the Ballona Restoration Alternatives (2005 contract between- USACE and SMBRC/LA Flood Control aka Authority) Instead Ms. Small's staff recommendations inform the CC Governing Board that as of 2005 only the Ca. Dept. of Fish & Game, State Lands Commission and SMBRC are part of the oversight of Ballona and alludes that the Conservancy has the restoration alternatives planning duties:

(Ballona Wetland Improved Public Access; File No. 04-088; 7/21/10)
"In 2005, the Conservancy initiated conceptual planning and feasibility analysis of restoration alternatives

for the property. This project is being implemented in partnership with the DFG and the State Lands Commission, the two state agency owners of the property and the Santa Monica Bay Restoration Commission. The feasibility analysis was completed in 2008, after a delay due to the bond freeze, and the project partners are now initiating environmental review and detailed engineering of a long-term, phased restoration project. When the restoration planning began, the Conservancy funded the development of an Interim Site Stewardship Plan to address the pressing concerns related to site management. As discussed above, in 2008 the Conservancy provided a grant to MRCA to fund construction of some site improvements and to fund planning, design and preparation of permit applications for additional access improvements. Based on the completed planning work, the MRCA and the project partners determined that it will be more cost effective and logical to pursue implementation of most access improvements as part of the environmental review and permitting for the long-term phased restoration project.
PROJECT FINANCING:
Coastal Conservancy $280,000
MRCA 120,000
SMBRC, US EPA funds 20,000
Total Project Cost $420,000"

This is an omission of pertinent and critical fact given in order to garner public bond money. (See J. Davis 3/28/12 Request to CC Gov. Brd.; USACE/CC minutes of meeting(s) and page 6)
See also File No. 04-088 on page 17.
Additionally, the bond money was approved but accountability for its use has not been forthcoming. And,
No fund award was given to SMBRC from the USEPA as cited above. The Treasury Account set up for the SMBRC under SB1381 was not utilized. Instead, ostensibly the USEPA funds went to the private nonprofit, the Foundation. The Foundation, as a private non-profit 501c3, provides no accountability to the public.

O11-368 cont.

The Coastal Conservancy, had also made promises to the public regarding transparency and public inclusion in the entire process of exploring **all reasonable alternatives for enhancement of Ballona.**

For example in an early Coastal Conservancy MEMO dated 8/13/04 to California Department of Fish & Game (DFG) and the State Lands Commission (SLC), the **GOALS/PRINCIPALS read in part-**

*"**The restoration plan** will be based on the best science, incorporate technical scientific expertise and **will be developed through a transparent planning process that allows stakeholders to provide input and comment on all restoration planning products.** The restoration planning process will develop and analyze a **range of alternatives to implement the following project goals**:*
*-**Restore and enhance a mix of wetland habitats to benefit endangered and threatened species as well as other migratory and resident species**;*
-Provide for wildlife-oriented public access and recreation opportunities; and - ***Implement a technically feasible, cost effective, ecologically beneficial and sustainable restoration**." [Emphasis added.)*

And,

"..restoration will be conducted within the landscape and watershed context, with attention paid ***to adjacent and ecologically related resources."*** Pg. 1

According to CD documents, the Coastal Conservancy's Ballona project manager participated in USACE meetings in the 2004 timeframe citing inclusion of the areawide ecosystem eg. Ballona Lagoon, Del Rey Lagoon, the Sanctuary area, Marina del Rey and others that paralleled the activities of ecosystem review as described by the USACE (Reconnaissance Study; Lower Ballona Creek Restoration Feasiblity Study; 3/28/12 J.Davis submission to CC)

However, in contradiction to the 8/13/04 Memo cited above, the context of the larger historic boundaries of Ballona Wetlands were later arbitrarily dropped, without public notification or discussion. The CC Project Manager discusses no longer including the adjacent and ecologically related resources as part of the Joint EIR/EIS restoration evaluation performed with the USACE:

6/2/10 CC, SMBRC, USACE Ballona Coordination Meeting Minutes:

"*II. b. Mary Small: Have all the PMP sections looked at the same project area? Parts still refer to Ballona Lagoon, Grand Canal, Venice Canals and Oxford Basin, which are no longer in the study area.* (3/28/12 CC hearing; J. Davis Attachment)

O11-368

And, the Project Manager discusses instead a 'new' process for which there is no ostensible authority and to which the public has not been made aware:

"Mary Small: If the Corps falls too behind, we will work with Corps Regulatory for a permit for their activities [NEPA/CEQA, design, permitting, and Phase 1 construction)" and;

"Mary Small: It was always our understanding that the Corps would use our restoration alternatives. It makes us nervous that this was never in writing."(6/28/10 Ballona Ecosystem Restoration Planning Management Meeting)

It was never the public's understanding that the Corps would be held to Coastal Conservancy and Foundation staff"s restoration alternatives. Legal legitimacy for such behavior is also questionable. And,

"Suggested response

1) *The EIS/EIR process begun in 2005 was for the Army Corps' Lower Ballona Ecosystem Restoration Feasibility Study, that project and the associated environmental review has not been completed and is not moving forward at this time. The EIR/S process for the proposed enhancement project will be separate." 2/7/12*

CC/Mary Small to Ca.Dept. Fish & Game- Rick Mayfield per response to Davis Ballona CEQA process query. (JDavis attachment 3/28/12 Request to CC Board)

Thus, the CC switch in process is 'suggested' to be disclosed to a member of the public after seeking and garnering approval for the 1/19/12 Staff Recommendation.
(3/28/12 CC Hearing, Davis PRA attachment to Request)

This new and unauthorized process discussion continues in the same email, 2/7/12, from Shelley Luce to Mary Small and Rick Mayfield (CDFG):

*.." **The EIR/EIS** that **we want to start** is for a separate project, i.e. the BWER restoration/ enhancement project. ".*. (emphasis added.)

The EIR/EIS that they want to start IS NOT on a separate project but instead on the same project but having eliminated the '94/ 2005 Joint EIR/EIS process; scope of review; environmental safeguards and full range of alternatives
inherent in '94/ 2005 approved process.
In other words, the CC attempts to have the public and the USACE but out of their way so that the CC can control the project --using the public's dollar--alongside its political allies.

And, while Mary Small provides the appearance that the Request For Proposals is new online--*" the request for services ..went out today"*..
2/8/12 CC email (JDavis PRA response attachment in 3/28/12 Request to CC Board)

O11-368 cont.

The Coastal Conservancy, had already put out an online RFP in 2010 for the work requested for approval in the 1/19/12 Staff Recommendation. Thus, it appears that as of 2010, the outcome was already a done deal behind the public scene.

Changes, such as this were not communicated to the Public/ Working Group and the ongoing status of the relationship with the USACE as per the Joint EIR/EIS was not communicated either. In fact, the USACE- Sect. of the Army was not made aware of the attempt to extinguish the earlier, approved process. Any extinguishing of the approved EIR/EIS process (including House Document 389) would have to abide by the USACE process of removal. The process provides accountability for reasoning as to the ending of the project as well as detailed accounting for money spent and what had occurred throughout the process. This activity has not occurred and the USACE has provided a letter stipulating that the approved process is maintained and that investigation into the matter has started. (USACE-J.Davis communication).

It is also unclear whether USACE/SPONSOR information was communicated to the Science Advisory Committee or other parties. Specific USACE work projects, including response to House Document 389 and work quality/certification needs are not communicated in any of the CD-SAC meeting notes which appears to show that the SAC team (contracted and paid for with public funds) were fulfilling ONLY the arbitrary GOALS as set forth by the CC Project Manager and SMBRC staff. Issues

such as the protection of groundwater (classified as potential drinking water), an issue of House Doc. 389 and current Los Angeles- Best Management Practices (BMPs) are absent in the meeting minutes.

Thus, the CC and SMBRC staff, provided for an atmosphere of further disconnect, lack of transparency and compartmentalization of information sharing.
And,
the public/Working Group was not made aware that the CC considered itself a part of the USACE/SPONSOR contract (which it is not) -so much a part, that Mary Small apparently believed that the CC would provide the alternative(s) for the USACE in the Joint EIR/EIS:

6/28/10 Ecosystem Restoration Planning Management Meeting:
II. C. 2." *Mary Small: It was always our understanding that the Corps would use our restoration alternatives. It makes us nervous that this was was never in writing."..*

This type of very questionable influence was not conveyed publically. According to the USACE, Joint EIR/EIS language, the USACE study would provide for all reasonable alternatives and the process would embrace public disclosure and participation.
The Coastal Conservancy and SMBRC staff have not been forthright with the public regarding status of the Joint EIR/EIS.

O11-368 cont.

I.

B. 1- 3. The CD reveals SAC meetings, reports and concerns not shared with the public/the Working Group and other parties. Conversely, the public/ Working Group comments and concerns are not cross- shared.

Contrary to the 1/19/12 Staff Recommendation, the public, Working Group and others have not been engaged by the Coastal Conservancy as promised and have not been provided with full information from the Science Advisory Committee (SAC) group in order to make informed decisions and provide input throughout the process to date.
Prop. 12 bond money was also provided from the Natural Resources Dept. to the Coastal Conservancy specifically to provide a GRANT to the Southern California Coastal Waters Research Project (SCCWRP)(#172) for creation of a SAC team. Thus, the SAC team was paid with public dollars to perform as an independent scientific advisory panel to provide input and advice regarding historical restoration options. Contrary to the GRANT purposes, the Coastal Conservancy's Ballona Project Manager and SMBRC staff instead told the SAC team what the intended outcomewas and that all input was to secure that goal-namely full tidal estuarine and levee removal.
Thus, the Prop. 12 bond money was not utilized as intended.
The Coastal Conservancy and SMBRC staff kept the public and the Working Group out of the SAC loop of information and knowledge thereby thwarting and distancing

any meaningful interchanges and participation as falsely stated in the Staff Recommendation below.

Staff Recommendation excerpt:
"Cooperation: The conceptual restoration plan was developed in a public process with input from a Science Advisory Committee, an Agency Advisor Committee, and the Ballona Working Group made up of representatives of local nonprofit organizations, agency staff and members of the public. Individual public members also participated in all facets of the development of the restoration alternatives."
(p. 9 of 9 Staff Recommendation 1/19/12)

And, contrary to assurances that the public would be notified and included on all SAC meetings, the public was not notified or included.

"*MARY S. all SAC meeting are public, all interested parties will be notified and invited, meetings will be structured with SAC addressing issues first and public comment period at the end."* (CD- 7/20/05 LMU Ballona SAC MTG.)

A 2004 MEMO discusses -
"Ballona Restoration Planning Working Group: Stakeholder Committee and Public Involvement
"*A Ballona Restoration Planning Working Group [brpwg) made up of interested organizations, agencies, and individuals, will meet periodically to obtain project status updates, to provide input, and to support the restoration planning process. These meetings will be open to the public. Subcommittees may be established to address specific issues that may arise during planning."*pg.2

O11-368 cont.

The language above provided for the public involvement at the start of the process that began with 'interim stewardship' meetings, (eg. trash cleanup and education tours) which did occur. As time passed, meetings stopped, informational sharing from agencies and the science team became nonexistent and; the public's comments were not included in the planning process that continued behind closed doors.
-Website topic- SAC meeting minutes- was not accessible to the public. Instead, when clicked - the website told the viewer entry was not allowed.
-SAC meetings, though described as open to the public, were not. The CD documents reveal that the SAC meetings were, in the main, telephonic and not inclusive of the public. Reports and Memos were not shared with the public but utilized internally.

A continued failure to acknowledge the public and Working Group is also documented via the 2012 Science Advisory Meeting that was held days after the Staff Recommendation Approval. The SAC meeting was also a first in years for actually occurring and, that public notice was provided.

The Public/ the Working Group:

- provided strong objections to the proposed Plan, providing written testimony as well as oral testimony.
- listed issues that needed to be addressed properly; asked for responses that thus far have gone unanswered and,
- again requested the area be considered in its totality of ecosystem variety and benefits utilizing the historic system of Ballona.
- reminded the SAC that the area now has more saltwater --deep and mid habitat than historically existed at Ballona due to the Marina del Rey; Ballona Lagoon Marine Preserve; Del Rey Lagoon; Ballona Creek itself and; as well as freshwater due to the newly created catch-basin- aka, the freshwater marsh. (historically= the last couple hundred years)
- SAC numerical analysis of habitat types was in error. Ratios of entire Ballona Wetlands historic habitat applied to be fulfilled in Areas A, B, C alone is a faulty analysis. The SAC- ratio numbers that pertained to former water habitat and land elevations were either incorrect and/or not documented by SAC.
- cited and documented that SAC dredge spoils deposition locations and volumes were incorrect. (USGS Documents and maps provided by John Davis to the Coastal Conservancy)

O11-368 cont.

The CC and SMBRC continue to fail to respond.
Note: The CC continues to fail to respond to queries and comments provided by the public and its so-called "Working Group" members from 1/19/12 and 3/29/12.

FAILURE TO INCLUDE THE WORKING GROUP COMMENTS AND REQUESTS
Despite providing comments, documentation and evidence regarding the topics listed above and others; there is no documentation provided from the Coastal Conservancy on the CD that any of the public/ Working Group communications were included for any meaningful response or use.

The CD documents reveal no inclusion of the public in any decision making for the alternatives.
Public comments provided to SMBRC and the Coastal Conservancy regarding Ballona specific studies such as the Phil Williams & Assoc. report, that did not address or incorrectly addressed issues, such as the migrating oilfield gas and reservoir gas leakage from SOCALGAS had no meaningful response. There is no showing that the CC or SMBRC staff ever shared these concerns with the SAC team, much less did any meaningful, good faith follow up with the public to understand how the gases may impact restoration. The same holds true for issues regarding protection and utilization of the Ballona aquifer groundwater hydrology. Repeated requests from stakeholders to be given ½ hour presentation time to provide information regarding hydrology and groundwater diversion issues, before the SMBRC have been met with silence (The CC is part of the SMBRC) .

I.B.

CONTROL OF MESSAGE AND OUTCOME
The CC and SMBRC Staff :
Allow For No Public/ Working Group Participation In The Planning Process;
Fail to Disclose Science Advisory Committee (SAC) Conference Calls, Memorandums and Reports For Planning of Alternatives;
Feasibility, Cost, Sustainability, Ecosystem Pros and Cons Are Not Disclosed;
And
The CC & SMBRC Staff Arbitrarily Define Project Goal=Estaurine

Staff Recommendation excerpt:
"Cooperation: The conceptual restoration plan was developed in a public process with input from a Science Advisory Committee, an Agency Advisor Committee, and the Ballona Working Group made up of representatives of local nonprofit organizations, agency staff and members of the public. Individual public members also participated in all facets of the development of the restoration alternatives."
(p. 9 of 9 Staff Recommendation 1/19/12)

The 1/19/12 Staff Recommendation excerpt is false. The public/ Working Group was neither privy to the SAC meetings and information created nor included in the planning process to participate in all facets of the development of the restoration alternatives.

O11-368 cont.

The following excerpts from the CD document an internal discussion revealing the CC and SMBRC staff created and controlled the alternative selection:

"Wayne [Wayne Ferren) suggested that biological sustainability be defined as no loss of habitat types & functions, major guilds, and sensitive species over the project site as a whole." July 7, 2008 SAC Conference Call.

And;

"]oy []oy Zedler) asked how biodiversity is being defined? ***Sean indicated that biodiversity = highest richness of estuarine dependent species****. If this is how we are defining biodiversity, it should be stated clearly in the document.* (emphasis added; Sean Berquist was SMBRC staff and Foundation staff during this timeframe) and,

"*Wayne suggested that we clarify that biodiversity is the sustainable richness of representative interdependent native estuarine habitats along with their associated and expected species biodiversity.* "(CD-June 23, 2008 SAC Conference Call)

The next parargraph, written by the note-taker- cited by CC as being CC or SMBRC staff- states the goal-
"Estuarine biodiversity is the primary objective of the analysis."
(CD- June 23, 2008 SAC Conference Call Memo)

This same Memo also sets forth a GOAL that was not shared with the public/ Working Group.
"The project goal is to create functional estuarine habitat.";
"1. Maximize area of estuarine habitat.";
Opportunities to create regionally significant habitat including vernal pools and.should be pursued but ***not at the expense of restoration of estuarine habitat."***

The public/Working Group was not allowed to participate in the decision making and was not advised as to the differing opinions rendered by the SAC team.

Since this timeframe and without public notification or disclosure the Coastal Conservancy and staff of the Foundation have worked to eliminate the areawide review of ecosystem function and alternative habitat plans-including a public debate regarding the pros and cons of each system -- to instead focus upon a predetermined singular outcome of removal of Ballona Creek levees and dredging of Ballona to 'landscape' and convert the land from its historic natural function to an entirely new, artificial and unnatural function that precludes all habitat function that does not primarily promote the estuarine full tidal premise.

And though asked publically where this 'Plan- Alternative 5 " came from, no response has been forthcoming from either the CC or Foundation staff.

O11-368 cont.

The CD docs however now shed light as to the creation of this "preferred plan". The overtones of financial leverage dominate the first half of the letter and serve to advance a predetermined outcome that is seen fulfilled in the Coastal Conservancy Staff Recommendation-the removal of levees to create the treatment wetlands.

July 10, 2007 SMBRC letter from Shelley Luce to Coastal Conservancy's Ballona Project Manager- Mary Small:

"Dear Mary,
The Santa Monica Bay Restoration Commission, a National Estuary Program of the US EPA, has been pleased to participate in the acquisition and restoration of the Ballona wetlands at all levels over the last several years. We are proud partners in the restoration planning, and currently have one staff member dedicated full time to the planning effort, while I serve on the Ballona Wetlands Science Advisory Committee (SAC). The SMBRC is also an active local partner in the Army Corps of Engineers' Lower Ballona Ecosystem Restoration Feasibility Study and are participating in clean up and restoration plans for Ballona Lagoon, the Grand Canal, Marine del Rey and the Oxford Basin. We have also awarded several millions of dollars of bond monies under our purview to projects designed to improve water quality and habitat in the Ballona Creek watershed. Ballona wetlands restoration is clearly a very high priority of the SMBRC and the EPA.
I have reviewed the restoration design alternatives that are being developed by the consulting team and I am disappointed that they do not fully consider important restoration options, thereby limiting potential habitat, biodiversity and water quality improvements in the wetlands complex. The Ballona SAC requested design alternatives that encompass the "extremes" of restoration planning, i.e. from minimal intervention to maximal structural changes, as well as alternatives in between. The current proposed

alternatives do not provide this and need to be modified, or an additional (fourth) alternative is needed.
SMBRC feels that the restoration design for Ballona wetlands must represent a true restoration of maximum ecological functions and services for the area. Actual restoration work will not begin for months or years, and will be a long term and costly process. The best approach is to include design alternatives that are not limited by current infrastructure or fiscal concerns, since these factors will certainly change over the duration of the restoration process. Similarly, factors such as poor water quality in Ballona Creek will continue to change as Total Maximum Daily Loads and other regulatory measures are implemented. It does not serve us to design the restoration as though it would be undertaken and completed in the very near future, under existing physical or financial constraints.
I would like to request that the design team include at least one design alternative that proposes to
• remove all or part of the levees on one or both sides of Ballona Creek;
• daylight the channel connecting the freshwater marsh to the creek in Area B, and Stingray Creek to Marina del Rey in Area A;
• raise Culver Boulevard to increase flows between the north and south sections of Area B; and
• increase connectivity between Ballona Creek and Areas A and B."

Our staff Wetlands Restoration Manager Sean Bergquist is available to work closely with the consulting team to ensure the revised or new alternatives include features that stakeholders and the SAC members supported. The revised or new alternatives should be presented as one of the group of alternatives for consideration under CEQA and by stakeholders and the SAC.

Given our experience in and commitment to the Ballona wetlands and surrounding interconnected areas, the SMBRC staff, Governing Board and Watershed Council have a great deal to contribute to the restoration process. Please feel free to consult us further during development of the restoration design alternatives and we look forward to continuing our partnership to restore Ballona wetlands.
Sincerely,
Shelley Luce, D.Env.
Executive Director

O11-368 cont.

An e-mail 7/17/07 from SMBRCommission & Foundation executive officer Shelley Luce,
"RE: design alternative for Ballona wetland restoration" and Phil Williams & Associates' (PWA) Jeremy Lowe -
"We've sketched out Alternative 5 as described in Shelley's letter. Is this what you were envisaging?"

Luce: *" Thank you for your response Jeremy. This is a good start for a 5th alternative. Sean and Jessica are adding/changing some details and will forward to you. "*
(presumably-Sean Berquist and Jessica Hall- both Foundation paid staff/ SMBRC staff)

The CD documents also reveal two sets of drawings and plans for the levy removal and levy replacement-by Jessica Hall, a Foundation paid staffer.

Ms. Luce is the Executive Director of the Foundation; no contractual agreements

have been produced by the SMBRCommission or the State Water Board that provide any authority for her to act in capacity of Executive Director of the State Agency-

Santa Monica Bay Restoration Commission which was created under SB 1381 Keuhl as a non regulatory state agency within the State Water Board. There have been no contractual agreements forthcoming by the State Water Board or federal authorities that provide for any SMBRC or federal EPA- National Estuary Program (NEP)- dedicated funding to be handed over to the SMBR Foundation. There is a treasury account that was formed under SB1381 in 2002.

The treasury account has never been used. The attendant oversight and accountability by the State Treasurer has likewise not been utilized.

Ms. Luce has been utilizing both the e-mail address and physical location of the LARWQCB as her work address. The utilization of the addresses has led to common belief that Ms. Luce is a Water Board employee. It is unknown but possible at this time to believe that the utilization of the addresses created a belief that Ms. Luce is LARWQCB personnel, which has in turn, provided Ms. Luce with access to controlling positions on various committees such as IRWMP (Integrated Resource Water Management Program). It would seem that by creating, via continued use of LARWQCB email address and business address, a very public belief that Ms. Luce is a Water Board employee may constitute impersonating a Water Board employee. The following is an e-mail exchange between Ms. Luce and a person with long associations with the Water Board and has acted as a contractor in Ballona restoration matters.

'Travis Longcore travislongcore@laaudubon.org wrote:

Bounced from your waterboards address. Are you no longer a Water Board employee? –

Travis

On Sep 19, 2011, at 2:29 PM, Shelley Luce wrote:

***No, not for many years**. Most of our staff are with our SMBR Foundation. I will check my calendar and get back to you on this meeting, thank you for the invitation.*

Shelley" (emphasis added)

Ms. Luce does not appear to answer directly about herself with regard to the Foundation, or what she means by "our SMBR Foundation". She also does not explain her past personal use of the LARWQCB addresses while not employed and why she suddenly discontinued the practice.

Ms. Luce's resume cites her experience prior to SMBRCommission / Foundation as having been employed by Heal the Bay- the organization that has become institutionalized as part of the SMBRC. Our research indicates Ms. Luce was working in some capacity at LARWQCB during the years 1999-2001- prior to her finishing degrees from UCLA. It appears that her continued use of the Water Board e-mail address after no longer providing service to the California Water Resources Control Board has led/misled many people. (A PRA to LARWQCB is pending for identification of duties.)

Coastal Conservancy- PRA Response to J. Davis

Rare ecosystems of the coastal marsh area are discussed internally by the SAC team with the CC project manager and staff of the Foundation; the information

O11-368 cont.

is not broadcasted for public awareness, inclusion of discussion and decision making as promised.

"Rich noted that the discussion of grasslands should include mention of the historical native grassland prairie ecosystems that previously existed in the area. The rarity of native grasslands should be discussed,,," (CD- 6/28/08 SAC Conference Call)

"Rarity section.complex of prairie and vernal pool.
Wet grasslands formed extensive areas were also palustrine wetlands above highest high tide.." (CD- SAC Call 6/23/08)

".there is native biodiversity in the non-tidal saline soils. _ . At Ballona, these wetlands at Area A, for example, are the only habitat where Alkali Barley [Hordeum depressum) is known to occur in the Ballona Ecosystem. This annual grass was probably the dominant native annual grass in naturally occurring non-tidal saline soils at Ballona." (CD- 11/23/08, Wayne Ferren communication to Mary Small _)

And,
"The region has a shortage of mudflat for shorebirds, high marsh for animals and salt marsh bird's beak, marsh-upland transition for rare shrubs [eg. , box thorn) that are used by animals,.

The region has a shortage of dune habitat and back - dune depressions that support clean-water brackish marsh for aquatic plants and animals.

One could also list maritime scrub, which remains in several places ".
(CD- Joy Zedler (SAC) correspondence)

O11-368 cont.

Thus , without public /Working Group inclusion and input into the formation of the alternatives and later failure to include the public /Working Group comments and concerns regarding the PWA Alternatives that are presented at one public meeting--the CC and Foundation staff continue to work behind publically closed doors to focus upon the 'Preferred Alternative", now known as Alternative 5 presented in the 1/19/12, Staff Recommendation request for funding. Alternative 5 requires massive, non-historic, extraordinary, experimental and knowingly toxic changes to occur on the land masses of Area A and B so that **"biodiversity = highest richness of estuarine dependent species."**

Contrary to the 8/13/04 CC Memo which promised transparency and public inclusion in the alternative planning process which would "restore and enhance" a mix of wetland habitats..and that would implement a technically feasible, cost effective, ecologically beneficial and sustainable restoration.
Instead, the public was shut out of the planning process; and SAC knowledge regarding the **needs and dangers posed by Alternative 5 are not made public:**

"This alternative makes the greatest change to the site, would be the hardest to reverse and consequently has the most risk." [CD- 9/12/08 MEMO from SAC to PMT)

" *..this alternative would* ***require reliance on upstream flood control and pollutant removal****, and could necessitate periodic removal of accumulated pollutants for some portions of the restored wetlands. Furthermore, it is unknown how the flow and sediment yield from the upper watershed would affect the sustainability of the marsh in terms of scour or sediment deposition*." CD, P. 4of 9, 10/15/08 SAC MEMO, emphasis added.

There is no evidence of any such large scale BMP (Best Management Practice) planning or proposals for 'flood control and pollutant removal" occurring upstream on Ballona Creek.

And,

"*Eric suggested that there be a statement up front indicating that this site will not be self-sustainable, but will need to be actively managed in perpetuity. "* (CD- 7/7/08 SAC Conference Call)

Discussion and comments made from key federal agencies were withheld from the public, including but not limited to **NOAA communications regarding concern of toxicity of Ballona Creek upon the remaining wetlands should the levee removal and dredging take place.** (CD- National Oceanic Atmospheric Association email)

O11-368 cont.

Studies that discuss the toxicity of the Ballona Creek waters and sediment to life in the waters and sediment were not released or shared with the public:

"These sediments were toxic to aquatic organisms, potentially from organic compounds in these sediments. Ballona Creek has been identified as a potential source of tidal flows into Areas A, B, and C in each of the proposed restoration alternatives. Therefore, there is concern to tidal marsh areas, resulting in a negative impact to the habitats and biological resources." (CD- Weston –Technical Memorandum 11/26/07; Water Quality Data Gap Investigation Ballona Wetlands Restoration Project- Pohl , P.E., Ph.D.)

And,

" The July 2006 report by Weston also concludes that there are concerns related to water and sediment quality adjacent to the tidal channels. Consequently there is a need to develop a strategy to evaluation the potential ecological risk associated with influent water or sediment quality to the restored wetlands.

The scientific questions regarding sediment and water quality cannot be answered based on the information currently available, and will ultimately depend on the design of the project." (CD- Memorandum 3/8/08; Subject:

APPROACH FOR ADDRESSING SEDIMENT AND WATER QUALITY ISSUES)

And;

"*Eric- Conc[ept) D-is it attempt to move water and sediment into system*

Wayne- breaching levee bringing trash, water pollution and sediment into entire area is problematic.

]ohn Dixon-important to describe these NOT as projects, but a directions.

Ambrose- maybe D is too extreme-this won't happen anyway.

Dixon- do feasible maximum tidal, not D-need to scale back

]eremy- may need to do that, take out realignment Ballona-include realign on Hydrologic options"
(CD-10/30/06 SAC Conference Call)

Additional -SPECIFICS OF THE STAFF RECOMMENDATION 1/19/12

O11-368 cont.

The 1/19/12 Staff Recommendation misleads the public and the Governing Board as seen on pg. 3 of 9, paragraph 5-

" In order to complete the environmental analysis required under the National Environmental Policy Act and the California Environmental Quality Act ***and to apply for permits*** *to implement the project,* ***detailed technical work must be completed."*** *[Emphasis added.)*

What is not disclosed to the reader, is an entire change of process from the Congressionally approved 2005 Joint EIR/EIS process requirements.

The Staff Recommendation sentence itself is also very misleading. The applications for permits to the USACE for implementation of the Coastal Conservancy "Plan", namely the destruction of the levees and the dredging of Ballona have been in process prior to this Staff Recommendation. The Plan-regarding garnering the USACE permits-including the 408- was already in process. (CD)

The Conservancy in its partnership with SMBRC fails to let the public know that they have been working to end the congressionally approved federal portion of the study which entails a full ecological review of the area between the Westchester Bluffs, the Santa Monica Bay, the Santa Monica mountains to a few miles inland - which would also provide for a full review of ALL REASONABLE ALTERNATIVES for enhancement of the ecosystem. (See minutes of USACE/Sponsor meetings provided in the 3/28/12 Request to Rescind File No.04-088; EIS Lower Ballona Creek Restoration Feasibility Study 2005)

Undisclosed is the take-over of process for Ballona 'restoration' guided by the Coastal Conservancy that may disengage the USACE analysis provided for in the established 2005 Joint EIR/EIS.
Instead, it appears that the Coastal Conservancy along with SMBRC staff seek to simply garner permits from the USACE ostensibly for destruction of habitat on Ballona, in particular Area A and B of Ballona. Specifically, the CC and SMBRC staff seek permits (eg 408) for levee and land destruction and removal. It appears that the extensive dredging and massive bulldozing may provide the necessary fill for the LA Port. Questions from the public regarding the CC/SMBRC/ USACE status have gone unanswered. (CD docs and SMBRC April meeting -submission by GC)

Contrary to discussion in the Staff Recommendation-Area A is vegetated primarily by native plants and native wildlife and, is host to endangered species including but not limited to the Belding's Savannah Sparrow.
Not provided to the public are documents and communications which provide, in part, narrative of 'moving' Belding Savannah Sparrows to areas not planned for dredging. This information is vital for public discussion especially since, destruction of the Belding's habitat may wreak havoc upon the Belding population that utilizes Ballona year round. (CD)

O11-368 cont.

- Pg. 3 of 9 discusses hydrology/hydraulics studies that need to be done. What is not discussed with the reader are the multiple public requests for actual onsite hydrology studies that would include Ballona aquifer and groundwater studies that would provide the knowledge for alternatives inclusive of groundwater use onsite. Ballona has multiple aquifers underlying the site. The aquifers are classified as potential drinking water sources and are part of the West Basin aquifers which intermingle to the south and east. (Poland Report)

- None of the concerns raised in House Document 389 (part of the USACE review) regarding problems associated with further saltwater intrusion have been discussed. The elimination of the USACE EIS as part of the Joint EIR/EIS would hasten the Coastal Conservancy's and SMBRC staff GOALS = Estuarine which in turn would potentially threaten contamination of the underground aquifers as per House Document 389 literature. None of the above has been made a part of any review despite repeated requests from the public for such studies.

- The SOCALGAS operations and oilfield gas migration throughout the Ballona area have also not been discussed despite repeated requests from the public.
- Thus pg 9 of 9 is insufficient and incorrect in its comments regarding the Local Coastal Program and the Coastal Act, including but not limited to the

fact that there is no LCP language that states Ballona requires action as the Staff Recommendation implies as per 31252.

-
- Staff Recommendation- Pg. 8 of 9 Under "Sea level rise vulnerability"
- The Staff fail to alert the reader that the 'broad areas of mid marsh and high marsh" depicted--showing a meandering Ballona Creek mid-way between Area A and B-- will be inundated with yearly flood waters of the contaminated Ballona Creek -potentially killing nesting or burrowing life in the low, mid and high marsh areas. Concerns by the SAC team regarding scouring, trash and contamination were not disclosed in the Staff Report and have not been shared with the public.
- The Staff fail to inform the reader that the Preferred Plan creates a non historic cycling of yearly floods, debris and contamination as part of an end of pipe solution, a treatment wetland device .
- The Staff Recommendation does not disclose the SAC discussion of concerns regarding the creation of a treatment wetland.
- The Staff Recommendation does not alert the reader as to what is achieved with the use of the bond funds via "hydraulics" information. Will the hydraulics information be exclusive to new levy construction?
- The Staff Recommendation does not disclose to the reader, the need for upcreek flood control or contamination control as is discussed by SAC.
-

O11-368 cont.

31400- The Staff Recommendation cites enhancement of future NEW trails.
The Coastal Conservancy has already awarded large grants specifically for the Ballona Bike Trail (File No. 07-058-01) which, currently exists and is heavily utilized by the public. Since, much public funding has already been utilized and will be utilized further for the pathway, why should that same importance of pathway be taken away at Ballona?
Removal of the levees would not only take away a heavily utilized public biking and hiking trail but would also take away the pathway's use as an observatory promenade for viewing the interior of Ballona. The levees provide an important opportunity for viewing without intruding.

The Coastal Conservancy and other agencies have failed to embrace and include the public on this issue as well. Using the public's hard earned money while keeping the public out of the planning process reveals the Coastal Conservancy has not acted in good faith.

Grant Award of $280,000 to Mountains Recreation and Conservation Authority (MRCA) File No. 04-088 from Staff Recommendation 7/21/10.

1. The Mountains Recreation and Conservation Authority governing board refused to approve the use of bond money for the trailhead(s) and other enhancement s at Ballona. The Board agreed with members of the public. Namely, that due to the ongoing **Joint EIR/EIS** process' requirements being

more stringent than a singular EIR; those added requirements had to be fulfilled prior to any further decision making taking place.

Mr. Edmiston, at the meeting, asked did they want him to return the money?-

Ostensibly the bond money had already been approved and given to MRCA. Where did the money go? And;

2. The 1/19/12 Staff Recommendation cites NEW levy demolition and bike trails ,
"*the proposed project could provide a new segment of the Coastal Trail . ..the project is located at the intersection of the California Coastal Trail and the Ballona Creek Trail, and may offer a significant opportunity for the development of improved connections between these trails."* P. 7 of 9 .

- Since the Coastal Conservancy has been intent upon levee removal of Ballona Creek and dredging the land in the near future; why did the Conservancy give bond money to MRCA for trail head construction and enhancements for Area A (in particular)--apparently an area it intends to soon demolish and dredge? These inconsistencies appear to show misuse of public funds; paying for contractors and salaries for projects that lead nowhere.
- Furthermore, it appears that when the CC Project Manager of Ballona desires to garner public bond money; the wetlands (or bike path) are discussed in a decidedly positive depiction as below:

O11-368 cont.

"Despite the degradation of site resources, significant wetland habitat remains within the Ballona Wetlands. Plant species within the project site include wetland indicators such as pickleweed, marsh heather, saltgrass, arrowgrass and glasswort, and a variety of upland and exotic species including brome, iceplant, oxalis, and ryegrass. Bird surveys indicate that the site is used seasonally by a variety of migratory shorebirds, as well as by typical shoreline residents (gulls, terns, and ducks) and typical upland birds including small raptors. Bird species of special interest observed in the project area include nesting pairs of Belding's Savannah sparrow and foraging use by California least terns.
The proposed project will be implemented primarily on the portion of the BWER north of the Ballona Creek channel (Exhibit 2). This area of the reserve currently has very limited public access and suffers from illegal uses. The proposed project seeks to improve the resources on the site, increasing public use while discouraging illegal activities through improvements to fencing and signage." File No. 04-088

This same project manager provides an entirely different depiction in the negative—when public bond money is requested for demolition purposes on the same piece of property. Note also the language of utilizing funds to safeguard the property directly contradicts the 1/19/12 Staff Recommendation of the 6 plus million wherein the Project Manager cites the need to demolish and dredge the same area as a means of eliminating public use by the homeless instead of—the aforementioned request for money to protect the same area. (See also Ms. Small e-mails discussing need to show greater degradation in order to secure the desired outcome. (J. Davis 3/28/12 Request to CC))
It appears that the Ballona habitat is characterized dependent upon financial requests---not on reality or science based requests.

- Despite repeated requests for public follow up with regard to the bond money and that project, (including a request made for information at the recent Ballona Watershed Task Force Meeting) none has been forthcoming from MRCA staff or CC staff.

  "In 2008, the Conservancy authorized funds to the MRCA for planning, final design and implementation of specific public access improvements identified in the Ballona Wetlands Early
  BALLONA WETLANDS PUBLIC ACCESS IMPROVEMENTS
  Action Plan. MRCA has completed much of that work and as a result of that planning effort, the project partners determined that some of the specific access improvements identified in that plan may need to be re-evaluated and others should be reviewed and permitted as part of the larger wetland restoration project. Rather than pursue the Early Action Plan improvements, the project partners decided that it is a higher priority to develop targeted educational and public access programs in the northern 300 acre portion of the site where there is currently almost no public access. The proposed project would also provide funding for MRCA to continue working on planning public access improvements for inclusion in the ultimate restoration project."

This inconsistency for request/approval and follow-up on bond funds continues to remain unexplained.

And,how does removal of the levees- the lower leg of the "Class 1 bike path" fit with the public's money expended below?:

O11-368 cont.

*"I_n_ _2_0_0_0_,_ _t_h_e_ _C_o_n_s_e_r_v_a_n_c_y_ _h_e_l_p_e_d_ _f_u_n_d_ _a_ _r_e_g_i_o_n_a_l_ _p_l_a_n_ _f_o_r_ _c_r_e_a_t_i_o_n_ _o_f_ _a_ _"P_a_r_k_ _t_o_ _P_l_a_y_a_" _r_i_v_e_r_ _p_a_r_k_w_a_y_ _f_r_o_m_ _t_h_e_ _B_a_l_d_w_i_n_ _H_i_l_l_s_ _t_o_ _M_a_r_i_n_a_ _D_e_l_ _R_e_y_._ _T_h_e_ _p_l_a_n_ _e_n_v_i_s_i_o_n_e_d_ _c_r_e_a_t_i_o_n_ _o_f_ _a_ _p_a_r_k_w_a_y_ _a_l_o_n_g_ _B_a_l_l_o_n_a_ _C_r_e_e_k_ _t_o_ _l_i_n_k_ _e_x_p_a_n_d_e_d_ _p_a_r_k_s_ _a_t_ _t_h_e_ _B_a_l_d_w_i_n_ _H_i_l_l_s_ _t_o_ _t_h_e_ _b_e_a_c_h_e_s_ _a_n_d_ _t_h_e_ _C_o_a_s_t_a_l_ _T_r_a_i_l_._ _I_n_ _2_0_0_1_,_ _t_h_e_ _C_o_n_s_e_r_v_a_n_c_y_ _h_e_l_p_e_d_ _f_u_n_d_ _t_h_e_ _B_a_l_l_o_n_a_ _C_r_e_e_k_ _a_n_d_ _T_r_a_i_l_ _F_o_c_u_s_e_d_ _S_p_e_c_i_a_l_ _S_t_u_d_y_ _w_h_i_c_h_ _i_d_e_n_t_i_f_i_e_d_ _p_o_t_e_n_t_i_a_l_ _i_m_p_r_o_v_e_m_e_n_t_s_ _t_o_ _t_h_e_ _c_r_e_e_k_ _a_n_d_ _t_r_a_i_l_._ _C_o_n_s_i_s_t_e_n_t_ _w_i_t_h_ _t_h_a_t_ _s_t_u_d_y_,_ _t_h_e_ _C_o_n_s_e_r_v_a_n_c_y_ _h_a_s_ _a_l_s_o_ _p_r_o_v_i_d_e_d_ _f_u_n_d_i_n_g_ _f_o_r_ _t_h_e_ _c_o_n_s_t_r_u_c_t_i_o_n_ _o_f_ _a_ _p_e_d_e_s_t_r_i_a_n_ _b_r_i_d_g_e_ _i_n_ _C_u_l_v_e_r_ _C_i_t_y_ _w_h_i_c_h_ _i_n_c_r_e_a_s_e_d_ _a_c_c_e_s_s_ _t_o_ _t_h_e_ _B_a_l_l_o_n_a_ _C_r_e_e_k_ _T_r_a_i_l_._ _T_h_a_t_ _p_r_o_j_e_c_t_ _h_a_s_ _b_e_e_n_ _c_o_m_p_l_e_t_e_d_._ _T_h_i_s_ _p_r_o_j_e_c_t_ _w_i_l_l_ _h_e_l_p_ _t_o_ _i_m_p_l_e_m_e_n_t_ _t_h_e_ _v_i_s_i_o_n_ _o_f_ _t_h_e_ _"P_a_r_k_ _t_o_ _P_l_a_y_a_" _a_n_d_ _t_h_e_ _F_o_c_u_s_e_d_ _S_t_u_d_y_,_ _d_e_v_e_l_o_p_i_n_g_ _a_ _m_u_l_t_i_-_b_e_n_e_f_i_t_,_ _g_a_t_e_w_a_y_ _p_a_r_k_ _t_h_a_t_ _w_i_l_l_ _i_n_c_r_e_a_s_e_ _a_c_c_e_s_s_ _t_o_ _t_h_e_ _t_r_a_i_l_ _a_n_d_ _e_n_h_a_n_c_e_ _t_h_e_ _e_x_p_e_r_i_e_n_c_e_ _o_f_ _t_r_a_i_l_ _u_s_e_r_s_._ _**File No. 07-058-01; Project Manager Mary Small**

C_o_n_s_e_r_v_a_n_c_y_ _f_u_n_d_s_ _f_o_r_ _t_h_i_s_ _p_r_o_j_e_c_t_ _a_r_e_ _e_x_p_e_c_t_e_d_ _t_o_ _d_e_r_i_v_e_ _f_r_o_m_ _t_h_e_ _C_o_n_s_e_r_v_a_n_c_y_'s_ _F_Y_2_0_0_2_/_0_3_ _a_p_p_r_o_p_r_i_a_t_i_o_n_ _f_r_o_m_ _P_r_o_p_o_s_i_t_i_o_n_ _4_0_")

3. Staff Reccommendation pg. 9 of 9 re: Consistency With Local Coastal Policies fails to provide accurate Local Coastal Plan (LCP)background information.

The Coastal Commission certified the first LUP in 1984, the La Ballona MDR Land Use

Plan.

The Land Use Plan was then changed to reflect two distinctly different Land Use Plans, the La Ballona
Plan and the new and different MDR LUP.

It is questionable as to if the California Coastal Commission certified another Land Use Plan for the Playa Vista Project.

Consistency with the California Coastal Act must be consistent with Chapter 3 of that Act.

The Project will not restore, but will instead convert the land from one historic natural function to an entirely new function that is unnatural.
Lack of saltwater connection is demonstrated in historic maps from the U.S. Geological Survey. (A USGS map was submitted at the public hearing on Jan 19,2012. The CC remains nonresponsive)

O11-368 cont.

Grassroots Coalition respectfully requests a written response to this Additional Complaint and maintains its request for response to the 3/29/12 REQUEST TO RESCIND APPLICATION FOR STAFF RECOMMENDATION APPROVAL ON 1/19/12, to award $6,490,000 Ballona Wetlands Restoration Engineering and Technical Studies. (File 04-088)

The PRA response CD cited herein, is on file with the Coastal Conservancy. Copies of the CD are available upon request and/or are being forwarded.

GC also reserves its right to amend this Complaint and Request with additional information.

Attached is the 3/28/12 Request to Rescind from John Davis to Ca.Coastal Conservancy regarding File No. 04-088

Respectfully,
Patricia McPherson, Grassroots Coalition-President

From: patricia mc pherson
To: jd@johnanthonydavis.com; Jeanette Vosburg
Subject: Fwd: GC Complaint(Brandy 7) Dept. Finance; AUTHORITY AUDIT A
Attachments: Screen Shot 2015-03-23 at 3.09.10 PM.png
Screen Shot 2015-03-23 at 3.33.32 PM.png
Screen Shot 2015-03-23 at 3.36.58 PM.png
Screen Shot 2015-03-23 at 3.49.23 PM.png
Screen Shot 2015-03-23 at 3.55.30 PM.png
ADDITIONAL COMMENTS JD COMMENTS copy.pdf
CA CONSERVENCY PUBLIC COMMENTS JOHHN DAVIS 3-29-2012.pdf

Begin forwarded message:

From: patricia mc pherson <patriciamcpherson1@verizon.net>
Subject: GC Complaint(Brandy 7) Dept. Finance; AUTHORITY AUDIT A
Date: May 19, 2015 12:30:55 PM PDT
To: OSAEHotline@DOF.CA.GOV

Begin forwarded message:

O11-369

From: patricia mc pherson <patriciamcpherson1@verizon.net>
Subject: AUTHORITY AUDIT A
Date: March 26, 2015 4:41:06 PM PDT
To: hchu@bcawatsonriceca.com

Ms. Chu,
Please accept the documents contained within this letter to the Coastal Conservancy as the
SANTA MONICA BAY RESTORATION FOUNDATION seems to be intwined with the audit you are performing.
Thank you and Authority Audit B will also be sent to you today.
Patricia McPherson , Grassroots Coalition

Begin forwarded message:

From: patricia mc pherson <patriciamcpherson1@verizon.net>
Subject: Prop 1 Grant Program
Date: March 23, 2015 4:44:32 PM PDT
To: comments@scc.ca.gov

California State Coastal Conservancy (SCC)
Proposition 1 Grant Program Guidelines Draft
February 2015 Comments

Thank you for the opportunity to provide comments regarding SCC'S Draft Prop 1 Grant Program Guidelines of 3/23/15 (extension date for comments).

Grassroots Coalition (GC) believes that most people wish to see California be able to maintain a healthy environment and to have self sustainable healthy ecosystems hence, the public approval of Prop. 1 bond funds. The public's trust and faith in our state agencies is however, wearing thin. We are at a crossroads, throughout the state and the nation that requires a reality of good faith effort, transparency and accountability for all hard earned taxpayer dollars. To that end, Grassroots Coalition submits the following comments and models of past experience with SCC's use of bond dollars, in the hopes that
integrity of process and fulfillment of environmentally protective goals may be achieved.

Grassroots Coalition supports comments made by Kathryn E. Campbell, President of Beach Cities Democrats.

O11-369 cont.

1) GC supports the 2011 Dept. of Finance audit performed upon the SCC. Numerous issues are set forth in this audit that required address and fulfillment by SCC in all future business. Many of the changes that needed to take place did not take place as required by the Finance Dept. The Finance Dept's requirements need to be fulfilled, such as the need for applications to be filed. (Screen shot below- Prepared March 2010..Dept. of Finance Audit)

a. One example of an SCC grant award AFTER the Dept of Finance audit comments was for Ballona Wetlands. The grant award lacked the application for a grant from SCC to the Santa Monica Bay Restoration Foundation(SMBRFOUNDATION) . An SCC grant of $6 1/2 million was awarded to the Foundation without the Foundation having provided an application for the money. (**ATTACHMENT 1-** yellow form grant award garnered via a Public Record Act request.)

b. A staff recommendation, File No. 04-088, was apparently provided to SCC Commissioners for approval at a Jan. 19, 2012 meeting. This staff recommendation, filed by Project Manager : Mary Small, authorizes disbursement of Prop. 12 public bond dollars of up to $6, 250,000 for engineering, hydrologic analyses, geotechnical assessments, and public access design -- ostensibly by the Coastal Conservancy and, an additional $240,000 authorization to disburse up to $240,000 to the Santa Monica Bay Restoration Foundation for data collection, technical review and agency coordination…

Upon Public Record Act requests (Davis) for any/all applications provided to SCC from the SMBRFOUNDATION for grant funds, none was available written prior to the award by SCC. Instead, apparently, after the fact, language for use in a grant agreement appears in PRA requested emails of the Project Manager.

At the very lease, public discussion regarding such activities should be disclosed and discussed openly with SCC to determine what occurred.

(ATTACHMENT 2)

O11-369 cont.

A) Grant Application Process & Timeline, Application Review & Evaluation, Scoring.
1. (See 1) above for issues regarding the need for application fulfillments.

2. It would be helpful for the public to view applications submitted and thereby be able to be part of an open process. Issues of which the SCC reviewers may not be aware regarding a particular project could then be vetted between the public and project stakeholders and the SCC in order to ensure a diverse
opinion and knowledge base are utilized thereby reducing the potential for a biased or preconceived outcome to occur where multiple alternatives and public inclusion were written into the bond language. This

process would also likely save public dollars from frivolous, inappropriate and/or incompetent use. This process would also provide for a more legally defensible project.

3. **. <u>Potential conflicts of interest-</u>** while important that the SCC maintain requirements for disclosure of potential conflicts of interest, it would be better to include an open period for potential reviewers to be named and open to public comment prior to confirmation. Citizen concerns and knowledge regarding
potential conflicts of interest would be able to be addressed and vetted, providing for transparency of process and also help to ensure that a reviewer has had an opportunity to consider and vet publicly any potential conflicted interests of contractors and/ or project management/ scientific teams.

Example of concern to the public which should be addressed- **ATTACHMENT 3.** This attachment, provides information that is not generally known and provides **an example of a potential conflict of interest**. The SCC Project Manager is listed on the Board of Directors to a non-profit that receives grant money from the SCC. The non-profit is the same nonprofit in receipt of SCC grant money in ATTACHMENT 1. Whether one is a board member or simply a member of a nonprofit receiving money from the SCC of which that same board member/ member is also the SCC project manager to the project where the SCC money goes--- needs to be disclosed and vetted publicly for an open and transparent process to occur. Time frames and historical ties should be taken into account, disclosed and publicly vetted since even the hint of potential conflicted interest should be resolved openly.

O11-369 cont.

(The Santa Monica Bay Restoration Foundation IRS page from 2006- Mary Small (SCC Project Manager for Ballona Wetlands Restoration Project)

The SMBRFOUNDATION IRS page from 2006 above provides the language, "…The Project, which

later became the Foundation,…"

AT NO TIME DID THE SANTA MONICA BAY RESTORATION PROJECT BECOME THE FOUNDATION.
After legislatively created, the Santa Monica Bay Restoration Project, in 2002 under new legislation became the Santa Monica Bay Restoration Commission. The Santa Monica Bay Restoration Foundation is simply an independent non-profit. Public Record Act requests requesting any/all contracts
between the SMBRCommission and the SMBRFOUNDATION have yielded no contracts.

The question arises, that since Mary Small is a board member of the SMBRFOUNDATION, what legal or moral implications arise from her
association with the SMBRFOUNDATION and SCC as well as for the misrepresentation of the SMBRFOUNDATION as BEING THE SMBRPROJECT?

For the purposes of this comment opportunity, GC would like to see the SCC openly address these issues with the public as a good faith showing and example of how further Proposition FUNDS will be addressed to avoid such apparent inconsistencies in real life operational practices.

4. All of the stakeholders and public need to be embraced in a meaningful, unbiased fashion. The SCC can be seen in Complaint by John Davis **(Attachment A)**
to be deliberately picking and choosing entities which SCC believes will promote its agenda/ fixed outcome and then providing those entities with early information and even drafting support letters for them to sign onto regarding specific SCC Commissioner grant approval meetings. Alongside this inappropriate behavior, the same SCC entities openly discuss and color their email discussions to the disadvantage and exclusion of those stakeholders and members of the public that SCC chooses to exclude and otherwise cause disadvantage. Such behavior should not be tolerated as it is prejudiced and precludes transparency and fairness and is wholly contradictory to what is stated as happening in the grant staff reports.

The example provided (Attachment A) reveals that the

O11-369 cont.

Ballona Working Group, which include numerous stakeholder group nonprofits that have worked for the past 20 plus years to save Ballona Wetlands from development, DID NOT COME UP WITH THE CONCEPTUAL RESTORATION PLAN that SCC has been promoting. Instead, handpicked SCC proponents, organizations that had little or nothing to do with the saving of Ballona, were actively engaged to promote the SCC agenda.

SCC Complaint by Grassroots Coalition (Both Complaint by GC and Davis were previously submitted as examples of problem issues that need to be addressed regarding grant award protocol and processing.

Attachment A, SCC Complaint by John Davis

B) Program Purposes, Required Criteria and Eligibility, Conservancy Required Project Selection Criteria.

The SCC has guidelines that are generally good. It is in the definition of specifics that needs address as well as new and changing times of knowledge and need that need to be readdressed and kept open for clarity and change. Specific terminology including actual definition PER THE PROJECT would provide better clarity and communication.

O11-369 cont.

1. Terminology of 'restore', and 'enhance' are terms that we now know extend from an environmentally gentle hand-hewn and phased (over time in order to not risk further loss of habitat and wildlife) approaches to industrial scale bulldozing that destroys the entirety of what currently exists in order to attempt to CREATE an ecosystem. The intent of SCC's use of public bond dollars and use for grants needs to be written clearly and with language that will provide for accountability and not vagueness.

2. New scientific study and knowledge, including those paid for by the SCC are revealing many wetlands as having been predominantly closed to the ocean, including Ballona. With this new knowledge comes the need for undoing past incorrect statements that the SCC has been promoting. For instance, regarding Ballona Wetlands, the SCC paid for/ awarded grants for studies that revealed Ballona as predominantly an historically closed system. Meanwhile, the SCC has also provided

money, awarded grants to contractors and the SMBRFOUNDATION for oversight of such language into permit applications that we now know to be factually incorrect. There needs to be an undoing of factually incorrect historical information from the permit application that the
SCC awarded grant money. Furthermore, future awarded grants must rely upon factually correct information in order to provide for a best good faith effort .

3. When grants are given for studies, there needs to be accountability for how a study is carried out, by whom is it being carried out and for what intended purpose. Potential conflicted interests need to be vetted publicly up front and public input needs to have a meaningful response during the project planning and all steps of project process. Public Record Act requests reveal that the public, in the main, becomes invisible in process records and only appear as names signed onto attendance sheets that are later used to display outreach by SCC. This is hardly a meaningful inclusion of the public, instead it simply resonates as tool of pretense in order to promote a biased, predetermined agenda.

O11-369 cont.

4. Thus, the public, when approving bond funds, needs to have disclosure, transparency and openness to what they are asked to monetarily provide and or provide via inclusion in a project's planning and implementation.
For example, Ballona Wetlands restoration was based upon a relatively fixed amount and approach that stakeholders and those that had worked over 20 years to save the area, were promised by SCC and bond agreements. Unfortunately, and contrary to the bond language and contrary to grant staff reports of public support, there has occurred instead a systematic and deliberate obfuscation of process and change of what was envisioned and written.

5. Should there be changes to a project's concept then it would be better to be responsive to the public and exchange such ideas in an open forum of meaningful discussion wherein the pros and cons of changing a project and/or excluding basic data can be publicly vetted and dealt with openly and directly. Today, there is a great deal of public outcry against the SCC's Plan for Ballona Wetlands Restoration. This outcry should be heeded as there are significant

and scientific reasons for such dissension against the SCC Plan. Perhaps, even more importantly statewide, the basis for such dissension comes from the failure of due process that this grant process comment period attempts to address. Ballona exists as a model of what
has gone wrong and the need for change in the SCC award process.

In conclusion, Grassroots Coalition seeks to allow the public to make an informed decision and to be able to participate fully in decision making.
GC also seeks to work with our state and federal agencies in an atmosphere of genuine openness, transparency and mutual respect.

Thank you for your attention to these matters of great public concern.
Patricia McPherson, Grassroots Coalition

O11-369 cont.

From:	patricia mc pherson
To:	OSAEHotline@DOF.CA.GOV
Cc:	Antony, Diana@DOF; David.BoTELHO@DOF.CA.GOV
Bcc:	jd@johnanthonydavis.com; Jeanette Vosburg
Subject:	GC COMPLAINT (BRANDY #1 add (Exhibit 3-screen shot) Dept. of Finance
Attachments:	Conservancy Work Transmital.pdf Screen Shot 2015-05-19 at 3.46.12 PM.png

O11-370

Cover letter exhibit 3, from Grassroots Coalition to Dept. of Finance

Exhibit 3-- Screen shot, pdf of SCC Grant 12/13/11; $6,490,000.00

California Coastal Conservancy March 28, 2012
Att: All Governing Board Members and Alternates
Re: PUBLIC COMMENT 3/29/12:
Request to Hold Emergency Meeting to Rescind Approval Action on File No. 04-088

Douglas Bosco
Marisa Moret
Ann Nothoff
John Laird
Ana J. Matosantos
Mary Shallenberger
Susan Hancsh
Karen Finn
Bryan Cash
Noreen Evens
Joe Simitan
Anthony Cannella
Bill Mornning
Luis Alejo
Das Williams

CC
John Chiang State Controller
California Department of Finance Director Ana Matosantos
U.S. Army Corp of Engineers Att: Commander Mark Toy
U.S. Senator Barbara Boxer
U.S. Congress Person Maxine Waters

O11-370 cont.

Honorable Chair Bosco, Distinguished Commissioners,

Attachments will be submitted to the Governing Board on March 29, 2012.

I hereby request this public body instruct its Staff to schedule an emergency meeting in accordance with the Bagley Keene Act section 11125.5(b) to rescind its approval of File No. 04-088 on January 19, 2012 for the following reasons;

1. NON-COMPLIANCE DEPARTMENT OF FINANCE ATTACHMENT 1
Final Report—Audit of California State Coastal Conservancy's Propositions 12, 13, 40, 50 Bond Funds

The Department of Finance, Office of State Audits and Evaluations, has completed its audit of the California State Coastal Conservancy's (Conservancy) Propositions 12, 13, 40, and 50 bond funds for the period ending June 30, 2008.

Staff Project Manager Mary Small **failed to require Potential Grantee**, the Santa Monica Bay Restoration Foundation, **to fill out a Grant Application Form** on the Conservancy Website.

Background:

On January 24, 2011 The **California Department of Finance Issued a Final Report – Audit** of the California State Coastal Conservancy. The Report Found that ;

*The Conservancy did not establish formal program guidelines: project awarding criteria; and **grant applications** to document its project merit review process.*
Also, the Conservancy website included limited or incomplete information about ongoing programs and efforts, regional priorities, and funding opportunities.

On October 7, 2010, Executive Director Samuel Schuchat responded to the Audit.

*The **Conservancy website has been updated to included the standardized grant application**, more information about funding opportunities.*

The Conservancy has formally adopted project selection criteria, and a formal, transparent awarding process that follows statute.

*It generally does not institute grant rounds but instead has an **open grant process. Application can be and are made, and these are considered at any time.***

*With respect to the form of **grant applications**, based on discussions with the auditors, we have created a **uniform grant application** that is posted on our website. There is now more information available to the public concerning priorities and how to apply for funding.*

*We have developed a **standard grant application that is now in use**.*

A. Staff Project Manager Mary Small failed to obtain any written documentation to identify the Potential Grantee,no address, no agent name, nor an account to which the grant could be deposited is recorded.

B. Staff Project Manager Mary Small had no paperwork whatsoever from the Potential Grantee prior to January 19, 2012 nor did the Potential Grantee request funding. Staff did not provide public notice that such Grant Funds were available to other qualified entities.

C. Staff Project Manager Mary Small failed to determine if the private business, Santa Monica Bay Restoration Foundation was legally operating out of a State Water Board Office, the Los Angeles Regional Water Quality Control Board. Filings with the California Secretary of State show the private business is operating out of a State Office. There is no legal authority allowing for this.

D. Staff Project Manager Mary Small failed to disclose the fact she was a Director of the Corporation of the Proposed Grantee in 2006 creating an appearance of impropriety.

O11-370 cont.

2. FALSEFICATION OF PUBLIC RECORDS ATTACHMENT 2

Staff falsified a Form SCC 08-08, Work Transmittal.
The Form was initialized by;
Executive Director - Sam Schuchat
Project Manager - Mary Small
Legal - Elena Eger

Staff filled out the form as follows:

*Will this project receive federal or other outside funding? Yes___ No X_*

The January 19, 2012 **Staff Report contradicts on page 6 :**

*"The SMRBF in-kind **funds would come from U.S. EPA funding** provided to the SMRBF for its staff **and from a U.S. EPA Wetland Program Development Grant** received for work at Ballona"*

3. INCOMPLETE PUBLIC RECORDS ATTACHMENT 2

Staff failed to complete Form SCC 08-08, Work Transmittal.
The Form was initialized by;
Executive Director - Sam Schuchat
Project Manager - Mary Small
Legal - Elena Eger

Is the Grantee a Nonprofit Organization Yes___ No__ - NOT CHECKED
If nonprofit: Is the status file complete and current Yes___ No___ - NOT CHECKED
GRANT / CONTRACT AMMENDMENTS REVIEW - BLANK
MAIL OUT APPROVALS - BLANK
APPLICATION - BLANK
GRANT TRANSMITTAL - BLANK
REVIEW OF AGREEMENT - BLANK

4. DISCRIMINATION ATTACHMENT 3

Staff Project Manager Mary Small has improperly lobbied private individuals, private businesses, State and Federal Officials and entities prior to the release of the Staff Report, thusly, discriminating against all others by failing to provide the same comment opportunity prior to the issuance of the Staff Report.

Further Discrimination has taken place because only one Potential Grantee has been selected by Staff Project Manager Mary Small, excluding all others that may have chosen to apply.

O11-370 cont.

Moreover, Discrimination has taken place in that only a select group of Potential contractors was noticed by Staff Project Manager Mary Small, in non-compliance with the California Contract Code, excluding all other qualified firms.

5. PREJUDICE OF PROCESS ATTACHMENT 4

Staff Project Manager Mary Small requested Potential Grantee to help write Staff Report.

Staff Project Manager Mary Small worked with Potential Grantee to engage in media spin to avoid scrutiny.

6. STAFF REPORT EXCLUDED VITAL INFORMATION ATTACHMENT 5

The Staff Report is ambiguous. It describes the Grantee in detail with no supporting documentation whatsoever.

The Staff Report does not establish terms of compliance for the Proposed Grantee nor for entities that will complete the described studies.

The Staff Report does not define that contractors will be hired. Staff Project Manager Mary Small discussed hiring contractors with the Potential Grantee and others before the Staff Report was approved, purposely avoiding the requirement under the Bagley Keene Act for the Governing Board to approve contractors and Notice requirements of the California Contract Code.

O11-370 cont.

Legal Staff Elena Eger encouraged Staff Project Manager Mary Small to complete a grant agreement form because I requested it pursuant to the Public Records Act. The form should have been completed without my request for it.

The Staff Report failed to inform this Board that a Federal Environmental Protection Act Process was initiated by the Army Corp of Engineers Los Angeles in 2005 that governs the Ballona Wetlands.

Staff has failed to inform the Governing Board and Public that the Project Manager, Mary Small, lobbied the Department of Fish and Game to ignore the EIS Notice published in the Federal Register, in favor of a new EIR/EIS process desired by the Project Manager and the Proposed Grantee, without informing and seeking authorization from this Governing Board. This clearly constitutes interference with a legally noticed federal NEPA process. Furthermore Staff Project Manager Mary Small failed to inform this Governing Board that the entire area is governed by U.S. Public Law 780, the Rivers and Harbors Act of 1954, which is the subject of the EIS process currently being conducted by the USACE.

In the Minutes of the Ballona Ecosystem Restoration Planning Management Committee, obtained from the USACE by FOIA Staff Project Manager Mary Small, without the

authorization of this Board, represented to the Army Corp of Engineers on June 28, 2010 that:

Coastal Conservancy is supplying most of the funding toward the in-kind local sponsor efforts.

The Governing Board has not authorized Mary Small to represent the Coastal Conservancy at a meeting of the Army Corp of Engineers and the Local Sponsor (Santa Monica Bay Restoration Authority). The Conservancy is neither a partner nor is there any MOU to with the SMRBA, which is under contract to the USACE. Minutes of other such meetings provide evidence that Mary Small also discussed;

A. Changing the scoping of an Environmental Protection Act process began by the USACE in 2005.

B. Using only the Conservancy's Alternatives.

C. Attempting to gain in kind credits from the USACE.

D. Further documents provided by the USACE provide evidence that the local sponsor, never provided any funding to the USACE whatsoever nor did it provide any in-kind credit.

O11-370 cont.

E. Resumes provided to the Coastal Conservancy by potential contractors for this Project include studies finished and paid for by federal funding stated in the resume(s) as part of the Lower Ballona Creek Feasibility Studies of the Joint EIR/EIS (2005) initiated by the USACE.

7. VIOLATIONS OF CALIFORNIA CONTRACT CODE ATTACHMENT 6

Staff Project Manager Mary Small failed to comply with the California Contract Code Notification and Conflict requirements, Sections 10140-10141 and 10515-10518.

Staff Project Manager Mary Small conducted a Request for Services for Contractors in 2009, and again in 2010 in regard to a Project not noticed to the Public or Governing Board until 2012, both in non-compliance with California Contract Code.

Staff Project Manager Mary Small purports to have initiated another Request for Services in February 2012 with responses due on the 29th of that month outside in non-compliance with the California Contract Code.

8. VIOLATIONS OF BAGLEY KEENE ATTACHMENT 6

Staff failed to obtain permission from the Governing Board to hire contractors to complete studies.

9. QUID PRO QUO INFERED ATTACHMENT 7

The attached e-mails contain an inference of a quid pro quo. The request for a support letter is accompanied by a discussion of bond money provisions. In one email a support letter request exists alongside a discussion to close out another matter, without specificity.

10. INIMIDATION AND HARRASSNMENT OF PUBLIC BY LEGAL STAFF VIOLATING STATE LAW AND AGENCIES PRIVACY POLICY
ATTACHMENT 8

Legal Staff Elena Eger has attempted to intimidate and harass me by copying private business persons on emails to me which disclose my private address, even after I requested the practice cease in writing, in clear contradiction to Information Practices Act (Civil Code section 1798 et seq.) and the Agencies Privacy Policy.

Staff has violated the Conservancy Privacy Policy by the aforesaid action(s).

Privacy Policy

Pursuant to Government Code § 11019.9, all departments and agencies of the State of California shall enact and maintain a permanent privacy policy, in adherence with the Information Practices Act of 1977 (Civil Code § 1798 et seq.), that includes, but is not necessarily limited to, the following principles:

O11-370 cont.

(a) Personally identifiable information may only be obtained through lawful means.

(b) The purposes for which personally identifiable data are collected shall be specified at or prior to the time of collection, and any subsequent use of the data shall be limited to and consistent with the fulfillment of those purposes previously specified.

(c) Personal data may not be disclosed, made available, or otherwise used for a purpose other than those specified, except with the consent of the subject of the data, or as required by law or regulation.

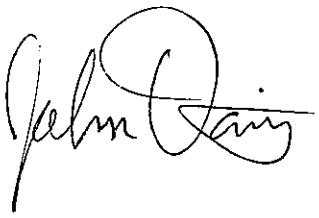
(d) Personal data collected shall be relevant to the purpose for which it is needed.

(e) The general means by which personal data is protected against loss, unauthorized access, use, modification, or disclosure shall be posted, unless the disclosure of those general means would compromise legitimate agency objectives or law enforcement purposes.

Each department shall implement this privacy policy by:

- *Designating which position within the department or agency is responsible for the implementation of and adherence to this privacy policy;*
- *Prominently posting the policy physically in its offices and on its internet website, if any;*
- *Distributing the policy to each of its employees and contractors who have access to personal data;*
- *Complying with the Information Practices Act (Civil Code § 1798 et seq.); the Public Records Act (Government Code § 6250 et seq.); Government Code § 11015.5, and all other laws pertaining to information privacy;*
- *Using appropriate means to successfully implement and adhere to this privacy policy.'*

Sincerely,



John Davis
PO 10152
Marina del Rey Ca. 90295

O11-370
cont.

ATTACHMENT 1

RE: Public Records Request from John Davis

From: Philip Wyels <PWyels@waterboards.ca.gov>(Add as Preferred Sender)
Date: Tue, Feb 21, 2012 2:26 pm
To: <jd@johnanthonydavis.com>

Mr. Davis, I apologize for the delay in responding to your request. I have been unable to locate any records within the possession of the State Water Resources Control Board that are responsive to your requests. The attached two documents may be of interest to you, however, in that they indicate that the Santa Monica Bay Restoration Project's relationship with the Santa Monica Bay Restoration Foundation (Foundation) pre-dated the conversion of the Santa Monica Bay Restoration Project to the Santa Moniea Bay Restoration Commission (Commission). Also, as I explained to you by telephone, the Commission staff is currently undertaking a number of steps to more clearly distinguish the Commission from the Foundation. Unfortunately, some of those steps are taking some time. I will let you know when I receive a timetable for those steps from Commission staff.

Sincerely,
Phil

Philip G. Wyels
Assistant Chief Counsel
State Board Water Quality Unit
State Water Resources Control Board

1001 I Street
P.0. Box 95812-0100
Sacramento, CA 95814

(916) 341-5178 (phone)
(916) 341-5199 (fax)
pwyels@waterboards.ca.gov>>>

From: <jd@johnanthonydavis.com>
To: Philip Wyels <pwyels@waterboards.ca.gov>
CC: Michael Lauffer <MLauffer@waterboards.ca.gov>
Date: 2/21/2012 10:00 AM
Subject: RE: Public Records Request from John Davis

California State Water Board
Att: Phil Wyels
Re: Status Request Public Record Request

Councel Wyels,

The California Public Records Act requires that Agencies subject to the Act reply to request for records
within 10 days after a request is made.

The State Water Resources Board has not complied with the law in this respect in regard to the request for
records made on 2/7/12.

O11-370 cont.

Please advise as to if or when the State Agency will reply.

Thanks,

John Davis

-------- Original Message --------
Subject: Public Records Request from John Davis
From: <jd@johnanthonydavis.com>
Date: Tue, February 07, 2012 3:03 pm
To: "Philip Wyels" <pwyels@waterboards.ca.gov>
Cc: "Elena Eger" <eeger@scc.ca.gov>

California State Water Board
Att: Phil Wyels
Re: Public Record Request

Dear Mr. Wyeles,

This is a request for public records pursuant to the California Public Records Act. Each numbered request is distinct.

O11-370 cont.

1. Please provide any record of any law, regulation, or policy of the State Water Board which allows
a private business to operate out of a State Water Board Office.

2. Please provide any record of any law, regulation,or policy that allows a private business to use a State Water Board Office as a corporate street address of principal office in California, and or as a mailing address of the corporation, and or mailing address of the corporation, and or address of a corporate Chief Executive Officer, and or of a corporate secretary, and or of a corporate financial agent.

3. Please provide any law, and or regulation, and or policy that allows any State Water Board Commission to
designate a private business as its "FISCAL AGENT"

4. Please provide any law, and or regulation, and or policy that allows any State Water Board Commission to designate a private business to receive, manage, and to treat money granted by the U.S. Government to the State of California as revenue of the private business.

Thank you for your continued assistance,

John Davis
PO 10152
Marina del Rey Ca. 90295
310.795.9640

From:	Elena Eger
To:	"jd@johnanthonydavis.com"
Cc:	"Shelley Luce"; "svalor@santamonicabay.org"; "Mary Small"; "Dick Wayman"; "Nadine Peterson"; "Samuel Schuchat"
Subject:	Davis call to Eger of 2-6-12
Date:	Tuesday, February 07, 2012 1:00:00 PM
Attachments:	SWRCB memo2011aug re accusations.pdf SWRCB Ltr to Davis re PRAs.pdf

Dear Mr. Davis:

Pursuant to our phone conversation of yesterday, February 6, 2012, in which you provided a warning to me that the Conservancy should be informed that the Santa Monica Bay Foundation allegedly is appropriating public resources for private gain, attached please find the State Water Resources Control Board's (SWRCB) August 15, 2011 legal memo addressing your contentions and a September 13, 2011 letter to you regarding the same.

As analyzed in the SWRCB memo, especially in #3, pp. 4-5 of that memo, your contentions that the Foundation is improperly utilizing public resources for private use, namely in your assertions yesterday when you identified as improper the fact that the Foundation uses the same mailing address as the SWRCB's Los Angeles office, are specifically addressed. Frances McChesney, Esq., Office of the Chief Counsel for the SWRCB concludes in that memo that the Foundation is not improperly appropriating public resources for its private use.

The Conservancy intends to proceed with its grant to the Foundation approved as Item #5 at its January 19, 2012 meeting.

Sincerely,

Elena Eger
Senior Staff Counsel
California Coastal Conservancy
1330 Broadway, Ste. 1300
Oakland, CA 94612
510-286-4089 tele/voicemail
510-286-0470 fax

O11-370 cont.

[redacted]

State of California

Secretary of State

E-945038

FILED

In the office of the Secretary of State
of the State of California

Feb - 5 2010

This Space For Filing Use Only

STATEMENT OF INFORMATION

(Domestic Nonprofit, Credit Union and Consumer Cooperative Corporations)

Filing Fee $20.00. If amendment, see instructions.

IMPORTANT - READ INSTRUCTIONS BEFORE COMPLETING THIS FORM

1. **CORPORATE NAME** (Please do not alter if name is preprinted.) **N**

C1481142
SANTA MONICA BAY RESTORATION FOUNDATION

320 W 4TH ST STE 200
LOS ANGELES CA 90013

DUE DATE:

COMPLETE PRINCIPAL OFFICE ADDRESS (Do not abbreviate the name of the city. Item 2 cannot be a P.O. Box.)

2. STREET ADDRESS OF PRINCIPAL OFFICE IN CALIFORNIA, IF ANY	CITY	STATE	ZIP CODE
320 W 4TH ST STE 200	LOS ANGELES	CA	90013

3. MAILING ADDRESS OF THE CORPORATION, IF REQUIRED	CITY	STATE	ZIP CODE
320 W 4TH ST STE 200	LOS ANGELES	CA	90013

NAMES AND COMPLETE ADDRESSES OF THE FOLLOWING OFFICERS (The corporation must have these three officers. A comparable title for the specific officer may be added; however, the preprinted titles on this form must not be altered.)

	ADDRESS	CITY	STATE	ZIP CODE
4. CHIEF EXECUTIVE OFFICER/ SHELLY LUCE	320 W 4TH ST STE 200	LOS ANGELES,	CA	90013
5. SECRETARY/ CATHERINE TYRRELL	320 W 4TH ST STE 200	LOS ANGELES	CA	90013
6. CHIEF FINANCIAL OFFICER/ LAURIE NEWMAN	320 W 4TH ST STE 200	LOS ANGELES	CA	90013

AGENT FOR SERVICE OF PROCESS (If the agent is an individual, the agent must reside in California and Item 8 must be completed with a California street address (a P.O. Box address is not acceptable). If the agent is another corporation, the agent must have on file with the California Secretary of State a certificate pursuant to Corporations Code section 1505 and Item 8 must be left blank.)

7. NAME OF AGENT FOR SERVICE OF PROCESS

SHELLEY LUCE

8. STREET ADDRESS OF AGENT FOR SERVICE OF PROCESS IN CALIFORNIA, IF AN INDIVIDUAL	CITY	STATE	ZIP CODE
320 W 4TH ST STE 200	LOS ANGELES,	CA	90013

DAVIS-STIRLING COMMON INTEREST DEVELOPMENT ACT (California Civil Code section 1350, et seq.)

9. ☐ Check here if the corporation is an association formed to manage common interest development under the Davis-Stirling Common Interest Development Act and proceed to items 10, 11 and 12.

NOTE: Corporations formed to manage a common interest development must also file a Statement by Common Interest Development Association (Form SI-CID) as required by California Civil Code section 1363.6. Please see instructions on the reverse side of this form.

10. ADDRESS OF BUSINESS OR CORPORATE OFFICE OF THE ASSOCIATION, IF ANY	CITY	STATE	ZIP CODE

11. FRONT STREET AND NEAREST CROSS STREET FOR THE PHYSICAL LOCATION OF THE COMMON INTEREST DEVELOPMENT (Complete if the business or corporate office is not on the site of the common interest development.)	9-DIGIT ZIP CODE

12. NAME AND ADDRESS OF ASSOCIATION'S MANAGING AGENT, IF ANY	CITY	STATE	ZIP CODE

13. THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT.

02/05/2010	SHELLEY LUCE	EXECUTIVE DIRECTOR	
DATE	TYPE OR PRINT NAME OF PERSON COMPLETING THE FORM	TITLE	SIGNATURE

SI-100 (REV 01/2008) APPROVED BY SECRETARY OF STATE

O11-370 cont.

Form **990**

Department of the Treasury
Internal Revenue Service

Return of Organization Exempt From Income Tax

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation)

▶ The organization may have to use a copy of this return to satisfy state reporting requirements

OMB No 1545-0047

2006

Open to Public Inspection

A For the 2006 calendar year, or tax year beginning Jul 01, 2006, and ending Jun 30, 2007

B Check if applicable: ☐ Address change ☐ Name change ☐ Initial return ☐ Final return ☐ Amended return ☐ Application pending

Please use IRS label or print or type See Specific Instructions

C Name of organization, number and street, city, town, state, and ZIP code

Santa Monica Bay Restoration Foundation
320 West 4th Street Suite 200
LOS ANGELES CA 90013

D Employer identification number: 33-0420271

E Telephone number: 213-576-6642

F Acctg. method: ☒ Cash ☐ Accrual ☐ Other (specify) ▶

• Section 501(c)(3) organizations and 4947(a)(1) nonexempt charitable trusts must attach a completed Schedule A (Form 990 or 990-EZ).

G Website: ▶ WWW.SANTAMONICABAY.ORG

J Organization type (check only one) ▶ ☒ 501(c)(3) ◀ (insert no) | 4947(a)(1) or | 527

K Check here ▶ ☐ if the organization is not a 509(a)(3) supporting organization and its gross receipts are normally not more than $25,000 A return is not required, but if the organization chooses to file a return, be sure to file a complete return

H and I are not applicable to section 527 organizations

H(a) Is this a group return for affiliates? ☐ Yes ☒ No

H(b) If "Yes," enter number of affiliates ▶

H(c) Are all affiliates included? (If "No," attach a list See instructions) ☐ Yes ☐ No

H(d) Is this a separate return filed by an organization covered by a group ruling? ☐ Yes ☒ No

I Group Exemption Number ▶

M Check ▶ ☐ if the organization is not required to attach Sch B (Form 990, 990-EZ, or 990-PF)

L Gross receipts Add lines 6b, 8b, 9b, and 10b to line 12 ▶ 979,681.

Part I Revenue, Expenses, and Changes in Net Assets or Fund Balances (See the instructions)

Revenue	1 Contributions, gifts, grants, and similar amounts received			
	a Contributions to donor advised funds	1a		
	b Direct public support (not included on line 1a)	1b	342,406.	
	c Indirect public support (not included on line 1a)	1c		
	d Government contributions (grants) (not included on line 1a)	1d	576,050.	
	e Total (add lines 1a through 1d) (cash $ 918,456. noncash $)			1e 918,456.
	2 Program service revenue including government fees and contracts (from Part VII, line 93)			2 18,485.
	3 Membership dues and assessments			3
	4 Interest on savings and temporary cash investments			4 41,773.
	5 Dividends and interest from securities			5 967.
	6 a Gross rents	6a		
	b Less rental expenses	6b		
	c Net rental income or (loss) Subtract line 6b from line 6a			6c
	7 Other investment income (describe ▶)			
	8 a Gross amount from sales of assets other than inventory	(A) Securities 8a	(B) Other	
	b Less cost or other basis & sales expenses	8b		
	c Gain or (loss) (attach schedule)	8c		
	d Net gain or (loss) Combine line 8c, columns (A) and (B)			8d
	9 Special events and activities (attach schedule) If any amount is from gaming, check here ▶ ☐			
	a Gross revenue (not including $ of contributions reported on line 1b)	9a		
	b Less direct expenses other than fundraising expenses	9b		
	c Net income or (loss) from special events Subtract line 9b from line 9a			9c
	10 a Gross sales of inventory, less returns and allowances	10a		
	b Less cost of goods sold	10b		
	c Gross profit or (loss) from sales of inventory (attach schedule) Subtract line 10b from line 10a			10c
	11 Other revenue (from Part VII, line 103)			11
	12 **Total revenue.** Add lines 1e, 2, 3, 4, 5, 6c, 7, 8d, 9c, 10c, and 11			12 979,681.
Expenses	13 Program services (from line 44, column (B))			13 757,878.
	14 Management and general (from line 44, column (C))			14 102,224.
	15 Fundraising (from line 44, column (D))			15 7,373.
	16 Payments to affiliates (attach schedule)			16
	17 **Total expenses.** Add lines 16 and 44, column (A)			17 867,475.
Net Assets	18 Excess or (deficit) for the year Subtract line 17 from line 12			18 112,206.
	19 Net assets or fund balances at beginning of year (from line 73, column (A))			19 872,326.
	20 Other changes in net assets or fund balances (attach explanation)			20
	21 Net assets or fund balances at end of year Combine lines 18, 19, and 20			21 984,532.

RECEIVED
FEB 19 2008
OGDEN, UT
IRS-OSC 861

SCANNED MAR 04 2008

O11-370 cont.

For Privacy Act and Paperwork Reduction Act Notice, see the separate instructions. Form **990** (2006)

BCA Copyright form software only, 2006 Universal Tax Systems, Inc All rights reserved US990SS1 Rev 1

97

33-0420271

List of Officers, Directors, Trustees and Key Employees

US 990 990: Page 5, Part V; 990EZ: Page 2 Part IV; 990-PF: Page 6, Part VIII 2006

Name and Address	Title/Average Hours Per Week Devoted to Position	Amount Paid	Amount for Employee Benefit Plan	Expense Account and Other Allowances
Rod Spackman 320 W 4th St	President 2			
Randal Orton 320 W 4th St	CFO 2			
Mark Gold 320 W 4th St	Director 1			
Tom Ford 320 W 4th St	Director 1			
Richard Bloom 320 W 4th St	Director 1			
Fran Diamond 320 W 4th St	Director 1			
Marvin Sachse 320 W 4th St	Director 1			
Bob Hoffman 320 W 4th St	Director 1			
S Wisniewski 320 W 4th St	Director 1			
Laurie Newman 320 W 4th St	Director 1			
Mary Small 320 W 4th St	Director 1			
Bryant Chesney 320 W 4th St	Director 1			
Dean Kubani 320 W 4th St	Director 1			
Shelley Luce 320 W 4th St	Executive 40	55,830.		
		55,830.		

O11-370 cont.

O11-370
cont.

ATTACHMENTS 2

SCC 08-08

WORK TRANSMITTAL

Project Development Approval

Date: 12/13/11 WG Leader: MS Date: 12/13/11

Project Manager: Mary Small Project #: 04-088-01

Project Name: Ballona Wetlands County/City: LA

Grantee/Contractor Name: ICF / Santa Monica Bay Foundation

Is Grantee a Nonprofit Organization? ___ Yes ___ No If Nonprofit: Is status file complete and current? ___ Yes ___ No

Nature of Job Planning / design

RESERVATION OF FUNDS

Will this project receive federal or other "outside" funding? ___ Yes X No. *If Yes, fill out back side of this form (Grant Transmittal - A)*

Will this project receive state / other funding? ___ Yes *(Reimb. -0995)* X No. *If Yes, fill out back side of this form (Grant Transmittal - B)*

Total Amount to be Reserved: $ 6,490,000.00

Prop 84 - Planning? ___ Yes X No

Proposed Budget Item(s):	Fiscal Year (Budget Act)	Amount	Encumb. Expiration Date	Liquid. Date
1: 3760-30203-0005 (2)(B)( )	2000 Chapter: 057/00	$ 6,490,000.00	(6/13	)(6/15)
2. 3760-( )( )( )	Chapter:	$	(	)( )
3. 3760-( )( )( )	Chapter:	$	(	)( )

Reap. by Chapter: 712/10 for item 1. Reap. by Chapter: ___ for item ___ Reap. by Chapter: ___ for item ___

Program: enhancement

Project Info entered onto applicable Bond Data Spreadsheet? ___ Y X N Date: N/A

___ Public Access: VRA (Capital Outlay)

___ Habitat Conservation Fund (0262)

___ Support: 001 Fund 0565 only: ___ Yes

IT: ___ Consult& Prof. (External) ___ (Inter-Dept.) ___

Repayment Feature? (Loan Receivable) ___ Yes ✓ No

Private Activity ? ___ Yes ___ No ✓ N/A (Tax Reportable to Treasurer's Office)

Expected Date of Board Action: 1/19/12

Project Entered onto SCC Database? ✓ Y ___ N Date: 12/13/11

1. WG Leader: MS Date: 12/13/11

2. Acctg Officer: HT 6.49M Date: 12/13/11

3. Additional WG Leader responsible for management of specific funds (if applicable): ___ Date: ___

4. Legal: [illegible] Date: 12/14/11

5. EO/DEO: SS Date: 12/15/11

STAFF RECOMMENDATION REVIEW (For 1/19/12 Board Meeting)

1. WG Leader: MS Date: 12/13/11

2. Legal: [illegible] Date: 12/14/11

3. EO/DEO: SS Date: 12/15/11

4. *Legal: ___ Date: ___

**At EO/DEO's discretion*

GRANT/CONTRACT AMENDMENTS REVIEW

(CEQA Submitted? ___ Yes ___ No ___ N/A Project Manager ___ Date: ___)

Amount Encumbered: $ ___ Grant/Contract No.: ___

Termination Date: ___ Amendment No.: ___

Disabled Veteran Business Enterprise (DVBE)? ___ Yes ___ No

Small Business Enterprise (SBE)? ___ Yes ___ No

(If Yes, provide OSDS# ___)

20-yr Agreement? ___ Yes ___ No

MAIL OUT APPROVALS

1. Legal: ___ Date: ___

2. Project Manager: ___ Date: ___

3. Proofreader: ___ Date: ___

O11-370 cont.

GRANT TRANSMITTAL

Grant No._____

(for receivable grants)

INTENT TO APPLY

Date: _____

Project Manager: _____

SCC Program: _____

Grant Program Name: _____ Grant Amount: _____

Granting Agency: _____

Project Name: _____ Project Number: _____

SCC required Matching Funds: (if other than in-kind services, please use reverse side of this form to reserve SCC funds)

In - Kind: $ _____ (Copy from reverse side)

Support: $ _____ Fund No.: _____ FY_____

Capital Outlay: $ _____ Fund No.: _____ FY_____

TOTAL: $ _____

Funding Mechanism: Will or will not hit SCC account? _____ Electronic Transfer ? _____

Paid in Arrears ? _____ Cash Advance ? _____

___ ***(A) For Federal Grant***

Support (Staff, travel, equipment): $ _____ 3760 - 001- 0890 FY : _____

Capital Outlay: $ _____ 3760 - 301- 0890 FY : _____

Other (Specify) _____ : $ _____ 3760 - _____ FY : _____

TOTAL: $ _____

___ **(B) For State Reimbursable Grant** (Please use reverse side of this form to reserve up-front SCC funds)

Support (Staff, travel, equipment): $ _____ 3760 - 001 - 0565 - F90 FY : _____

Capital Outlay: $ _____ 3760 - 301 - _____ - F90 FY : _____

Other (Specify) _____ : $ _____ 3760 - _____ - _____ - F90 FY : _____

TOTAL: $ _____

Authorization:

Program Manager: _____ Date: _____

Accounting Officer: _____ Date: _____

Grants Manager: _____ Date: _____

APPLICATION *(Provide copy of Application to Grants Manager)*

Legal * _____ Date: _____

**Please inform Grants Manager if signature are missing in the "INTENT TO APPLY" SECTION*

EO/DEO: _____ Date: _____

Date Applied: _____ Expected Date of Grant Award: _____

REVIEW OF AGREEMENT (for receipt of funds)

Board Authorization To Spend The Grant: Date (s): _____

Project Manager: _____ Date: _____

Program Manager: _____ Date: _____

Legal: _____ Date: _____

EO/DEO: _____ Date: _____

Grants Manager: _____ Date: _____ Inform Acct. Date: _____

Amendment #: _____ Legal Reviewed by: _____ Date: _____

O11-370 cont.

O11-370
cont.

ATTACHMENT 3

From: Mary Small
To: sluce@santamonicabay.org; "Barbara Romero"
Subject: FW: hard copy in the mail tomorrow
Date: Friday, January 06, 2012 4:04:00 PM

-----Original Message-----
From: Ruth Galanter [mailto:ruth.galanter@verizon.net]
Sent: Friday, January 06, 2012 3:57 PM
To: Mary Small
Subject: Re: hard copy in the mail tomorrow

I am planning to attend the meeting, and I'm trying to get some more support letters and maybe attendees. You have no idea how much pleasure I would get from foiling your opponents. I can either stand up during the hearing, or if you want, I can instead meet you and the board between the tour and the meeting (since you must be going to feed them someplace) and just chat informally.

Your choice. I'm free at about 11:30 and have a meeting at 3 pm. In between I am at your service.

On Jan 6, 2012, at 3:50 PM, Mary Small wrote:

> Thanks that's a very generous offer. If you have time to attend the
> meeting, that would be great. It starts at 1pm at Baldwin Hills Scenic
> Overlook and this is the first substantive item on the agenda. I will have
> pretty limited time to present, but could acknowledge you and if you were
> willing to speak in public comment on the item that would fantastic.
> Mary
>
> -----Original Message-----
> From: Ruth Galanter [mailto:ruth.galanter@verizon.net]
> Sent: Friday, January 06, 2012 9:52 AM
> To: Mary Small
> Subject: Re: hard copy in the mail tomorrow
>
> I'm available after about 11:30, and you might want to use me as part of a
> board briefing in light of my nearly two decades dealing with the issue.
> That of course is up to you, and I promise not to get huffy if you'd rather
> not.
>
> On Jan 6, 2012, at 9:10 AM, Mary Small wrote:
>
>> Thank you very much, you letter is perfect and I appreciate your quick
>> response. It would be great to have a few supporters at the meeting, I am
>> sure the opponents will attend.
>>
>> We are also going to take the Coastal Conservancy board on a quick tour of
>> the site the morning before the meeting from 10-12. I know you are very
>> busy but it would be great if you wanted to join us for either the tour or
>> to attend the meeting.
>> Mary
>>
>> -----Original Message-----
>> From: Ruth Galanter [mailto:ruth.galanter@verizon.net]
>> Sent: Thursday, January 05, 2012 9:13 PM
>> To: Small Mary
>> Subject: hard copy in the mail tomorrow
>>

O11-370 cont.

>> Hi Mary,
>>
>> I've emailed you my letter and will send the hard copy tomorrow.
>>
>> I've also emailed various people to suggest attending the hearing in case
>> the eco-loonies show up, as I suppose they will.
>>
>> Have a good weekend.
>>
>> Ruth
>>
>>
>>
>
>
>
>

O11-370
cont.

From: Mary Small
To: "Shelley Luce"
Subject: FW: Letter for Coastal Conservancy Board
Date: Tuesday, December 13, 2011 1:21:00 PM

Do you know Ruth?

From: Joan Cardellino [mailto:jcard@scc.ca.gov]
Sent: Tuesday, December 13, 2011 11:57 AM
To: 'Mary Small'
Subject: RE: Letter for Coastal Conservancy Board

It might be worth calling Ruth Galanter to see if she'd speak in support of the project. She has some good credentials. She might know of other supporters to ask too.

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Tuesday, December 13, 2011 10:38 AM
To: 'Shelley Luce'
Cc: 'Joan Cardellino (Joan Cardellino)'
Subject: RE: Letter for Coastal Conservancy Board

Hi Shelley-
Do you have time to talk about our Jan meeting? I know you have a board meeting this week, so we could also do this via email – or next week, but before next Fri I'd like to work through some ideas:

1) Tour – we'll probably do a tour the morning of the meeting, I think maybe the tour we did with Colonel Toy – view from Cabora Rd and then walk out to boyscout platform
2) Press – do you think we could use this meeting as an opportunity to get either local papers and/or try for LA Times to cover the project? I am worried that once the agenda is out Marcia will use as opportunity to get bad press. Our agenda will be mailed out Jan 6th
3) Public support – who could we have come to support the project at the meeting or with letters? Geraldine is critical (at least her letter) but how about MRCA?, Joe Geever?, Ballona Creek Renaissance?, Friends?, Miguel Luna?, Audubon? HtB? Baykeeper?

Thanks,
Mary

O11-370 cont.

From: Shelley Luce [mailto:sluce@santamonicabay.org]
Sent: Monday, December 12, 2011 3:22 PM
To: Mary Small
Subject: FW: Letter for Coastal Conservancy Board

Hi Mary, Geraldine thought her letter went out already. Have you received? I also invited her to tour the wetlands with us after the meeting.

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission

From: Mary Small
To: "Bryant Chesney"
Cc: "sluce@santamonicabay.org"
Subject: FW: support letter for Ballona Funding
Date: Friday, January 06, 2012 9:57:00 AM
Attachments: Ballona_Wetlands_Engineering and Technical Studies.docx
ballona support letter 1.docx
ballona support letter 2.docx

Hi Bryant
I was wondering if you would be willing to send a letter of support (samples attached) to the Coastal Conservancy for the Ballona wetlands project. Also attached is the draft staff recommendation. The Conservancy will be considering this authorization in LA on Jan 19th, we will take the board on a quick tour of the site before the meeting. If you have time, it would be great to have you attend either of those events too.

This is the request for all funding to complete the environmental review, 100% engineering, and all of the hydrology/hydraulics modeling that the Army Corps is requiring for its permit to modify the flood control levees. The later analysis is the about half of the cost estimate.

Since the meeting will be in LA, opponents of the project are likely to show up. This approval is pretty critical to moving the project forward. If the Conservancy Board gets frightened away from large scale, ecological restoration then I think we will have very limited options for the future.

Thanks for your consideration and please let me know if you have any questions.
Mary

O11-370 cont.

From: Mary Small
To: "Miguel Luna"
Cc: "Shelley Luce"
Subject: FW: draft support letter for SCC board meeting
Date: Tuesday, January 03, 2012 1:29:00 PM
Attachments: SCC_Ballona_Tech_Support_Ltr.docx

Hi Miguel
Happy New year! Hope you are well.

Is there any chance you would be willing to send a letter of support to the Coastal Conservancy for authorization of funding to continue design of the restoration project? I don't know if Shelley contacted you, but it would be great to get community groups weighing in who support ecological restoration. Our meeting will be in LA, so I expect there will be some opposition.

Please let me know if you have any questions or need more info.
Thanks,
Mary

O11-370 cont.

December 14, 2011

Mr. Doug Bosco, Chairman
State Coastal Conservancy
1330 Broadway, #1300
Oakland, CA 94612
Attn: Mary Small

RE: Proposed Conservancy Authorization for Ballona Wetlands Restoration Engineering and Technical Studies

Dear Chairman Bosco:

I am writing to encourage the Conservancy to authorize funding for the Ballona Wetlands Ecological Reserve Restoration Project planning process. These authorizations would enable the development of technical assessments and engineering design, technical review and agency coordination to support environmental impact analysis and permit applications for the restoration of the Ballona Wetlands Ecological Reserve (BWER). O11-370 cont.

The Ballona Wetlands Ecological Reserve is 600 acres, surrounded by urban Los Angeles County. The BWER provides valuable and scenic open space in the heart of congested Los Angeles County and offers one of the largest and most promising opportunities for coastal wetland restoration in the region. When restored and opened to the public, the site will allow millions of residents and visitors a rare opportunity to experience a coastal wetland. I support this project because it will help to move the restoration of the Ballona Wetlands Ecological Reserve closer to fruition. Thank you for your consideration of this project.

Sincerely,

From: Mary Small
To: "Shelley Luce"
Subject: RE: draft support letter for SCC board meeting
Date: Tuesday, January 03, 2012 1:27:00 PM

Thanks!
I will talk to Sam about Boxer and Feinstein. Can LA Co DPW send a letter or do you think that is covered by the Supervisors?
Mary

From: Shelley Luce [mailto:sluce@santamonicabay.org]
Sent: Tuesday, January 03, 2012 1:25 PM
To: Mary Small; Diana Hurlbert
Subject: RE: draft support letter for SCC board meeting

Hi Mary,
We are working on:
Knabe
MRT
Friends of BW
So Cal Edison
So Cal Gas
LMU
Waxman
Lieu
Butler
Rosendahl

O11-370 cont.

And Anyone else you want to add to that list. Figured Feinstein and Boxer will be more important later, and that you and Sam are the best ones to approach them.

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160
1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-961-4444

www.santamonicabay.org

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Tuesday, January 03, 2012 1:06 PM
To: Shelley Luce; Diana Hurlbert
Subject: FW: draft support letter for SCC board meeting

Hi
I belatedly just sent this request to DFG and SLC. The only support letter I have is from MRCA, though I know the port is working on one too. Can you let me know who you are working on

getting letters from and if there is anyone else I should follow-up with?
Thanks
Mary

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Tuesday, January 03, 2012 1:04 PM
To: 'Griggs, Pamela@SLC'; 'Terri Stewart'; 'dlawhead@dfg.ca.gov'; 'Rick Mayfield (rmayfield@dfg.ca.gov)'
Subject: draft support letter for SCC board meeting

Hi
Sorry I didn't send this to you earlier, I meant to send it before the holidays, but forgot. I was wondering if your agencies would send a support letter to Coastal Conservancy for the requested authorization for funds for engineering and final design for Ballona. Our meeting will be in LA so I expect there will be some opposition and it is a huge funding request since we decided to do the EIR and permitting for the whole project.

If you could attend the site tour of Ballona and the meeting (both on Jan 19th) that would be great too.

Please let me know if you have any questions or need more info.
Thanks
Mary

O11-370 cont.

Pereira Annex MS:8160
1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-961-4444

www.santamonicabay.org

From: Knatz, Geraldine [mailto:knatz@portla.org]
Sent: Sunday, December 11, 2011 1:00 PM
To: Shelley Luce; Zordilla, Eunice
Cc: Tankersley, Eileen
Subject: Re: Letter for Coastal Conservancy Board

The letter was drafted the day after you asked me. Not sure what happened. Eunice- can you check.
Geraldine Knatz
Executive Director
Port of Los Angeles

From: Shelley Luce [mailto:sluce@santamonicabay.org]
Sent: Friday, December 09, 2011 04:26 PM
To: Knatz, Geraldine
Cc: Tankersley, Eileen
Subject: Letter for Coastal Conservancy Board

O11-370 cont.

Dear Geraldine,
When we spoke a month or so ago, I asked if you would provide a letter to Sam Schuchat and his Board regarding your interest in the Ballona Wetlands restoration project. The January meeting of the Conservancy Board will be in Los Angeles and Sam will ask the Board to approve a large sum for continuing the planning and permitting of the restoration project, so your support of the project and interest in providing mitigation funding is important. Do you still intend to provide a letter and can I help with drafting? Also, we will give the Board members a tour of the wetland and briefing on the restoration plan before or after the Board meeting. As soon as we have a date I will send you an invitation and hope that you could come along.

Thank you Geraldine,
Shelley

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160
1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-961-4444

www.santamonicabay.org

Mark Gold, D.Env. | President
Heal the Bay | 1444 9th Street | Santa Monica CA 90401
Tel: 310 451 1500 X123 | Fax: 310 496 1902 | mgold@healthebay.org
DONATE NOW to protect what you love: make an Aquadoption, shop at our online store or dedicate a Heal the Bay membership or donation.

O11-370 cont.

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Tuesday, January 03, 2012 2:16 PM
To: Mark Gold
Subject: support letter for SCC board meeting?

Hello Mark,
Happy New Year. I am emailing to see if Heal the Bay would be willing to send a letter of support to the Coastal Conservancy for the recommendation that we authorize $6.5M for the design and engineering of the proposed restoration project? My draft staff report is attached along with a sample letter. I know you have talked to Shelley about the project, but I would be happy to give you an update at any time. Of course I understand if you are not prepared to take a position on this project at this point, but our meeting will be in Culver City, so I expect there will be some opposition.

Please let me know if you have any questions or need more info.
Thanks,
Mary

From: Shelley Luce
To: Mary Small; Karina Johnston
Subject: Fw: Coastal Conservancy funding to complete Ballona Wetlands restoration planning
Date: Wednesday, January 18, 2012 10:13:14 PM
Attachments: BCR Support for SCC Ballona Wetlands Funding Authorization.pdf

Jim Lank comes through! Karina or Elena can you please print a copy for me when you get in the office tomorrow? Thank you.

Shelley,

Emails have been flying today, with the end result that BCR is a strong supporter of the requested authorization. See the attached letter. Should we bring copies to give to the board and staff?

As I said before, both Bobbi Gold and I plan to be at the Scenic Overlook for the 1pm meeting start. Bobbi plans to be there for the whole discussion of the agenda item, while I'll stay as long as I can. Both of us plan to sign in to speak on the item. As part of that, I assume it would be appropriate to read the letter, at least in part. If not, let me know.

I hope the tour and meeting both go well. FYI, I'll be leaving soon for another meeting.

O11-370 cont.

Thanks again for your quick response with the helpful cost information.
Jim

Jim Lamm, President
Ballona Creek Renaissance (BCR)...Connecting Creek and Community from the Hills to the Bay
310-839-6896, 310-367-0336 (c), http://facebook.com/ballonacreekrenaissance, www.ballonacreek.org

From: Shelley Luce <sluce@santamonicabay.org>
To: Jim Lamm <jim.lamm@sbcglobal.net>
Sent: Wed, January 11, 2012 11:19:55 AM
Subject: RE: [REPLY] Fw: Coastal Conservancy funding to complete Ballona Wetlands restoration planning

Thank you very much Jim! I hope you had a nice holiday too. It's going to be a great 2012.
Shelley

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160
1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-961-4444

www.santamonicabay.org

From: Jim Lamm [mailto:jim.lamm@sbcglobal.net]
Sent: Wednesday, January 11, 2012 10:58 AM
To: Shelley Luce

Subject: Re: [REPLY] Fw: Coastal Conservancy funding to complete Ballona Wetlands restoration planning

Shelley,

Please accept my apologies for this late response. Cathi and I were away on a 2 1/2 week driving trip to the Seattle area for a holiday visit with our kids and grandkids. Then after returning late last Thursday, we've been focused on moving Cathi's 93-year-old mom in with us. I'm just now beginning to turn more of my attention to a backlog of BCR and other matters.

Unfortunately I have an important 3pm meeting at Culver City Hall on the afternoon of the 1pm SCC board meeting at the Scenic Overlook. If I were able to speak on the restoration planning agenda item before about 2:40pm, it could work. Otherwise (or in addition) I might be able to get Bobbi Gold or another knowledgeable BCR board member to represent us.

As for a BCR support letter, I'm pretty sure that would not be a problem. This is on my list of things to bounce off the board prior to our next board meeting.

Here's to a great new year, despite the challenges ahead!
Jim

Jim Lamm, President
Ballona Creek Renaissance (BCR)...Connecting Creek and Community from the Hills to the Bay
310-839-6896, 310-367-0336 (c), http://facebook.com/ballonacreekrenaissance, www.ballonacreek.org

O11-370 cont.

From: Shelley Luce <sluce@santamonicabay.org>
To: Jim Lamm <jim.lamm@sbcglobal.net>
Sent: Fri, January 6, 2012 5:32:52 PM
Subject: Coastal Conservancy funding to complete Ballona Wetlands restoration planning

Hello Jim,
I hope you had a lovely Christmas and a happy new year! I did enjoy a nice break.

You may have heard that the Board of the Coastal Conservancy will meet in LA on Jan. 19 and will consider a request from their staff to authorize funding to complete the Ballona Wetlands restoration planning. The request is for about $6.3M and most will go to consultants for additional engineering (through final design), to create a public access master plan, and to do extensive hydraulic modeling as required by Army Corp permitting (the major expense). About $240k will come to SMBRF to fund Diana's position as well as monitoring on the site for the next three years. I don't know if there will be active opposition to this but I am preparing for that nonetheless. Also I see this as a good opportunity to let the SCC board members see the great support that exists in our community for restoration at Ballona.

Please let me know if you are able to support by letter or by attending the meeting. It was posted today on SCC website http://scc.ca.gov/2012/01/06/coastal-conservancy-public-meeting-january-19-2012/
I am attaching the staff report for the item and a couple of example support letters as well. Thank you Jim!
shelley

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160

Subject: Re: Letter for Coastal Conservancy Board

The letter was drafted the day after you asked me. Not sure what happened. Eunice- can you check.
Geraldine Knatz
Executive Director
Port of Los Angeles

From: Shelley Luce [mailto:sluce@santamonicabay.org]
Sent: Friday, December 09, 2011 04:26 PM
To: Knatz, Geraldine
Cc: Tankersley, Eileen
Subject: Letter for Coastal Conservancy Board

Dear Geraldine,
When we spoke a month or so ago, I asked if you would provide a letter to Sam Schuchat and his Board regarding your interest in the Ballona Wetlands restoration project. The January meeting of the Conservancy Board will be in Los Angeles and Sam will ask the Board to approve a large sum for continuing the planning and permitting of the restoration project, so your support of the project and interest in providing mitigation funding is important. Do you still intend to provide a letter and can I help with drafting? Also, we will give the Board members a tour of the wetland and briefing on the restoration plan before or after the Board meeting. As soon as we have a date I will send you an invitation and hope that you could come along.

O11-370 cont.

Thank you Geraldine,
Shelley

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160
1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-961-4444

www.santamonicabay.org

From: Mary Small
To: "Shelley Luce"; "Diana Hurlbert"
Subject: FW: draft support letter for SCC board meeting
Date: Tuesday, January 03, 2012 1:05:00 PM
Attachments: SCC_Ballona_Tech_Support_Ltr.docx

Hi
I belatedly just sent this request to DFG and SLC. The only support letter I have is from MRCA, though I know the port is working on one too. Can you let me know who you are working on getting letters from and if there is anyone else I should follow-up with?
Thanks
Mary

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Tuesday, January 03, 2012 1:04 PM
To: 'Griggs, Pamela@SLC'; 'Terri Stewart'; 'dlawhead@dfg.ca.gov'; 'Rick Mayfield (rmayfield@dfg.ca.gov)'
Subject: draft support letter for SCC board meeting

Hi
Sorry I didn't send this to you earlier, I meant to send it before the holidays, but forgot. I was wondering if your agencies would send a support letter to Coastal Conservancy for the requested authorization for funds for engineering and final design for Ballona. Our meeting will be in LA so I expect there will be some opposition and it is a huge funding request since we decided to do the EIR and permitting for the whole project.

If you could attend the site tour of Ballona and the meeting (both on Jan 19th) that would be great too.

Please let me know if you have any questions or need more info.
Thanks
Mary

O11-370 cont.

1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-216-9827
www.santamonicabay.org

From: Jim Lamm [jim.lamm@sbcglobal.net]
Sent: Monday, November 14, 2011 8:51 PM
To: Jessica Hall
Cc: Diana Hurlbert; Shelley Luce
Subject: Re: Request for Support Letters - Urban Greening - Cochran Avenue

Jessica,

BCR's letter of support is attached. Here's to a successful project!
Jim

Jim Lamm, President
Ballona Creek Renaissance (BCR)...Connecting Creek and Community from the Hills to the Bay
310-839-6896, 310-367-0336 (c), http://facebook.com/ballonacreekrenaissance, www.ballonacreek.org

O11-370 cont.

From: Jessica Hall <jishica@mac.com>
To: Jim Lamm <jim.lamm@ballonacreek.org>; diana hurlbert <dhurlbert@santamonicabay.org>
Cc: shelley <sluce@santamonicabay.org>
Sent: Mon, November 14, 2011 10:44:14 AM
Subject: Request for Support Letters - Urban Greening - Cochran Avenue

Hi Jim and Diana,
I am working on the urban greening grant for SMBRF for Cochran Avenue Gateway project. Jim, I was wondering if BCR would write a letter of support, and Diana, I was wondering if there were other stakeholders in the Ballona community that you have contact info for, that would also provide a letter of support. Any technical experts would be especially appreciated. A draft letter is enclosed.

The grant is due Thursday.

Thanks!
Jessica

From: Mary Small
To: "Mark Gold"
Cc: sluce@santamonicabay.org
Subject: RE: support letter for SCC board meeting?
Date: Friday, January 06, 2012 4:23:00 PM

I was just talking to Shelley and we were wondering if you could send a staff person to the meeting even if you don't want to sign a letter? Maybe Meredith or someone on her staff could come to talk about the need to open the site to public access and restore nature in the city?

This authorization doesn't commit to any one project, we still will be going through CEQA and NEPA.

Thanks
Mary

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Tuesday, January 03, 2012 3:00 PM
To: 'Mark Gold'
Subject: RE: support letter for SCC board meeting?

Thanks, the meeting is the 19th so that's the deadline. Yes, I totally understand.

I was just sending Sarah an email about possible dates I'll be in LA when I'd like to stop in ad talk about OPC, so maybe I'll see you then.

Happy new year (and MLPA implementation)
Mary

From: Mark Gold [mailto:mgold@healthebay.org]
Sent: Tuesday, January 03, 2012 2:39 PM
To: Mary Small
Subject: RE: support letter for SCC board meeting?

Mary – Happy new year to you too. We will definitely take a look at this and think it through. It is a great project and needs to happen. The political baggage that goes with it is no picnic as you know.

When is the deadline?

Mark Gold, D.Env. | President
Heal the Bay | 1444 9th Street | Santa Monica CA 90401
Tel: 310 451 1500 X123 | Fax: 310 496 1902 | mgold@healthebay.org

O11-370 cont.

reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication or other use of a transmission received in error is strictly prohibited. If you have received this transmission in error, immediately notify us at 310-451-1500.

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Tuesday, January 03, 2012 2:16 PM
To: Mark Gold
Subject: support letter for SCC board meeting?

O11-370 cont.

Hello Mark,
Happy New Year. I am emailing to see if Heal the Bay would be willing to send a letter of support to the Coastal Conservancy for the recommendation that we authorize $6.5M for the design and engineering of the proposed restoration project? My draft staff report is attached along with a sample letter. I know you have talked to Shelley about the project, but I would be happy to give you an update at any time. Of course I understand if you are not prepared to take a position on this project at this point, but our meeting will be in Culver City, so I expect there will be some opposition.

Please let me know if you have any questions or need more info.
Thanks,
Mary

From: Mary Small
To: "Dick Wayman"
Subject: FW: Ballona Wetlands presentation materials at SCC meeting
Date: Friday, January 20, 2012 4:03:00 PM

From: Shelley Luce [mailto:sluce@santamonicabay.org]
Sent: Friday, January 20, 2012 3:12 PM
To: Mary Small; Karina Johnston; Diana Hurlbert
Subject: RE: Ballona Wetlands presentation materials at SCC meeting

Yes Mary - Karina or Diana can you please?
Also wanted to make sure you saw/heard the NPR coverage:
http://www.scpr.org/news/2012/01/20/30859/coastal-conservancy-releases-55-million-ballona-wet/

The MDR patch did a pretty good job covering - except Lisa F's comments which are confusing to me, but I will call her about it - and LATimes is going to run something this weekend, I am told. Fingers crossed.
http://venice.patch.com/articles/coastal-conservancy-approves-6-5-million-for-ballona-wetlands-restoration-plans

Thank you Diana and Karina for helping get this press coverage - the advance work we did made a HUGE difference! Please stay on top of me in the future to make sure we have the same success next time. great job.
shelley

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex M5:8160
1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-216-9827
www.santamonicabay.org

From: Mary Small [msmall@scc.ca.gov]
Sent: Friday, January 20, 2012 2:52 PM
To: Karina Johnston; Diana Hurlbert
Cc: Shelley Luce
Subject: Fwd: Ballona Wetlands presentation materials at SCC meeting

Could one of you email this to him?
Thanks

sent from my phone

Begin forwarded message:

> **From:** Rex Frankel <rexfrankel@yahoo.com>
> **Date:** January 20, 2012 12:46:45 PST
> **To:** Mary Small <msmall@scc.ca.gov>
> **Subject: Re: Ballona Wetlands presentation materials at SCC meeting**
> **Reply-To:** Rex Frankel <rexfrankel@yahoo.com>
>
> Mary,
> thank you for the presentation materials. However, on the Baseline monitoring report page,
> http://santamonicabay.org/smbay/ProgramsProjects/HabitatRestorationProject/BaselineAssessmentReport/tabid/203/Default.aspx
>
> the Chapter 4--Vegetation report does not come up when you click on it. I assume this is where Dr. Luce's conclusion comes from.
>
> If you can, please email that chapter to me.
>
> Thank you, Rex Frankel
>
> ---
>
> **From:** Mary Small <msmall@scc.ca.gov>
> **To:** 'Rex Frankel' <rexfrankel@yahoo.com>
> **Sent:** Friday, January 20, 2012 12:09 PM
> **Subject:** RE: Ballona Wetlands presentation materials at SCC meeting
>
> Hello Rex
> Attached is our slide presentation.
>
> Yes, Dr. Luce was referring to the findings of the baseline assessment. I just went to the project website and clicked on the image of the report cover and was able to download the documents, but if there are specific chapters that you are unable to download, please let us know and we'll get them to you.
>
> Mary
>
> ---
>
> **From:** Rex Frankel [mailto:rexfrankel@yahoo.com]

O11-370 cont.

Sent: Friday, January 20, 2012 10:13 AM
To: msmall@scc.ca.gov
Subject: Ballona Wetlands presentation materials at SCC meeting

Mary,

I am interested in getting a copy of your slide presentation from yesterday's SCC Board meeting. Can you email it to me?

I am also interested in seeing the source documents that were used to make Dr. Luce's point that very little of the site is now functioning habitat.

Are they in the recently released SMBRC's Ballona Wetlands Baseline Assessment Program reports? The SMBRC has a website, ballonarestoration.org, with the Baseline Assessment Program report, unfortunately, most of these documents do not open when clicked upon. They are posted here:
http://santamonicabay.org/smbay/ProgramsProjects/HabitatRestorationProject/BaselineAssessmentReport/tabid/203/Default.aspx

Please call me or email if you can help.

Thanks, Rex Frankel, 310-738-0861

O11-370 cont.

From: Mary Small
To: "Joe Geever"
Cc: "Shelley Luce"; "Diana Hurlbert"
Subject: Coastal Conservancy Jan 19th Meeting
Date: Thursday, December 15, 2011 11:25:00 AM
Attachments: Ballona_Wetlands_Engineering and Technical Studies.docx

Hi Joe
Nice to talk to you this morning, and thanks for agreeing to come to the Coastal Conservancy meeting in Jan. It will be on Jan 19th at the Baldwin Hills Scenic Overlook starting around noon. Ballona funding (draft staff report attached) will be the first major item on the agenda. We are planning to take the Board on a tour of Ballona that morning. The tour and meeting are open to the public and details will be posted on our website by the 6th of Jan.

O11-370 cont.

As I mentioned, we (Shelley and I) would be happy to provide additional information to you &/or your chapters at any point. Since we are finally getting ready to initiate the public environmental review, now would be a good time to get you engaged.

Thanks,
Mary

~~~~~~~~~~~~~~~~

Mary Small
Deputy Executive Officer, Coastal Conservancy
1330 Broadway #1300 Oakland, CA 94612
510-286-4181
~~~~~~~~~~~~~~~~

ATTACHMENT 4

O11-370
cont.

From: Mary Small
To: "Shelley Luce"
Cc: "Joan Cardellino (Joan Cardellino)"; "Diana Hurlbert"
Subject: RE: Letter for Coastal Conservancy Board
Date: Tuesday, December 13, 2011 1:11:00 PM

Thanks

Sorry, the plan is to have the tour from roughly 9-11:30 and then start the meeting at noon or 12:30 – something like that. We're afraid that if we do the tour after the meeting none of the board members will come.

I'll call Barbara today to get her ideas and see if they will help with the tour, come to the mtg or send a letter
Mary

From: Shelley Luce [mailto:sluce@santamonicabay.org]
Sent: Tuesday, December 13, 2011 1:08 PM
To: Mary Small
Cc: 'Joan Cardellino (Joan Cardellino)'; Diana Hurlbert
Subject: RE: Letter for Coastal Conservancy Board

O11-370 cont.

Mary, here are some thoughts from me and Diana:

1) Tour – we'll do the tour anytime that works for your members but it seems tight to finish it by 9:15 in order to get them all to Baldwin Hills Overlook for a 10 am meeting. I know we have the Toy meeting the day before so right after the board meeting makes most sense. Could you convince your members to stick around for it?
2) Press – this is troubling. It'll be hard for us to get good press on a $7M expenditure... we can spin this if we get the right people. What if we did a brief presentation on the Monitoring Report before hand? We'll have beautiful hard copies, it's over 400 pages and very impressive and did not cost a lot for the amount of work and info. I think it makes SCC and SMBRC look great. Could we make this the press focus, i.e. with Molly Peterson at least? I'll give her a call for starters.
3) Support – I will talk with Geever, Jim Lamm, Miguel, Lisa Fimiana, Baykeeper, HTB, Nate from Rosendahl's office, Napolitano from Knabe's and Karly from MRT's. I can't say who will show up or do a letter but I will make the asks. I'll also ask Pestrella. Can you talk to MRCA Mary? Also what about the Corps – Rick Liefiled's support would be very meaningful, or Toy's if we can get it. Maybe a letter from Toy with Rick or someone else attending the meeting?

We'll draft a support letter asap and run it by you.
Shelley

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160

1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-961-4444

www.santamonicabay.org

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Tuesday, December 13, 2011 10:38 AM
To: Shelley Luce
Cc: 'Joan Cardellino (Joan Cardellino)'
Subject: RE: Letter for Coastal Conservancy Board

Hi Shelley-
Do you have time to talk about our Jan meeting? I know you have a board meeting this week, so we could also do this via email – or next week, but before next Fri I'd like to work through some ideas:

1) Tour – we'll probably do a tour the morning of the meeting, I think maybe the tour we did with Colonel Toy – view from Cabora Rd and then walk out to boyscout platform
2) Press – do you think we could use this meeting as an opportunity to get either local papers and/or try for LA Times to cover the project? I am worried that once the agenda is out Marcia will use as opportunity to get bad press. Our agenda will be mailed out Jan 6th
3) Public support – who could we have come to support the project at the meeting or with letters? Geraldine is critical (at least her letter) but how about MRCA?, Joe Geever?, Ballona Creek Renaissance?, Friends?, Miguel Luna?, Audubon? HtB? Baykeeper?

O11-370 cont.

Thanks,
Mary

From: Shelley Luce [mailto:sluce@santamonicabay.org]
Sent: Monday, December 12, 2011 3:22 PM
To: Mary Small
Subject: FW: Letter for Coastal Conservancy Board

Hi Mary, Geraldine thought her letter went out already. Have you received? I also invited her to tour the wetlands with us after the meeting.

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160
1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-961-4444

www.santamonicabay.org

From: Knatz, Geraldine [mailto:knatz@portla.org]
Sent: Sunday, December 11, 2011 1:00 PM
To: Shelley Luce; Zordilla, Eunice
Cc: Tankersley, Eileen

From: Shelley Luce
To: Mary Small
Subject: RE: board presentation
Date: Wednesday, January 11, 2012 6:55:23 PM

Hi Mary,
I think the presentation looks good. I think we should include some comparative data to show the need for restoration – e.g. the seed bank data, the exotic veg data and some of the animal data (birds and herps). I saw what karina sent you and it doesn't help us – we need numbers like "99% invasive plants" and "lowest seed bank of any so cal wetland". we also need her graphs that show huge percent exotic veg. versus tiny percent native veg, etc. along with those photos of invasive plants that you already included.

I also think we should mention the TMDL –or not the TMDL itself, but we can list the impairments listed on the 303d list, note that TMDL implementation would be consistent with the restoration and that we can work with partners on my governing board and other agencies and leverage resources that would go into implementing the TMDL.

I can help with slides – why don't you send me one or two in your formatting and I will make some with the graphs imentioned and see if you like them. Or rather, since you have to finish by tomorrow and I am out of the office all day, we will ask karina to insert some graphs. Okay with you?
Shelley

O11-370 cont.

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160
1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-961-4444

www.santamonicabay.org

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Wednesday, January 11, 2012 2:49 PM
To: Shelley Luce
Subject:

Hi Shelley
Attached is a draft powerpoint, I want to keep it as simple as we can. There are several extra slides at the end, I just want one picture I can leave up when I walk through the actual requested action, maybe just the bird with its head in the water?

There are two slides about the baseline monitoring program – I think we only need one of them, do you prefer lots of words or just a picture.

I am sending in .pdf because the actual powerpoint is too big. If you want me to ftp the powerpoin so you can edit directly, let me know. I have to finish this by tomorrow night.

Thanks!
Mary

From: Shelley Luce
To: Karina Johnston
Cc: msmall@scc.ca.gov
Subject: graphs needed for SCC board presentaiton
Date: Thursday, January 12, 2012 7:57:56 AM

Hi Karina,
Thank you for the bullets you prepped for Mary, they are helpful. The photos are also perfect. What we still need for the presentation are graphics or numbers that will really make our case. Mary needs to complete the presentation today so can you and your team help us prep the following ASAP?

- one map of existing conditions that shows the site today: an aerial photo with transparent overlay of BASIC habitat types - how much is wetland, how much is upland/vacant lot style. goal is to illustrate how little of the site can be said to be funcitoning habitat.

- one simple graph showing predominance of invasive species - the one in the BWER draft TMDL is fine, can you please send that to mary? we need to say "x percent of the site is covered with 99% invasive vegetation" or whatever the actual numbers are. rather than "dominate by invasives" which could mean only 55% covered.

- some species diversity numbers/charts that show how extremely depaupurate poor Ballona is. not just "reduced relative to other wetlands" but "lowest seed bank abundance and diversity of any wetland in southern california" - but i need you to give me the right language so i am not mis-stating anything. please give me those #s or charts or langauge for seed bank, veg, mammals, birds, fish and herps separately and we'll decide which ones to mention in our presentation.

O11-370 cont.

- any other features of the site or results from your surveys that really illustrate to non-scientists how desperate is the need to restore ecological function and habitat at the site.

I am sorry to ask you for all this today, I hope you or one of your team has time. I think you have all this info readily accessible - f there is someihting i've requested that is a big pain check with me and we'll decide if it's really needed. please call my cell or email, i will be out of the office all day but checking my phone compulsively. also please suggest other stuff if you think of it - you know these data better than we do! thank you KJ talk to you later today.
shelley

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160
1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-216-9827
www.santamonicabay.org

From: Mary Small
To: "Karina Johnston"; "Diana Hurlbert"; "Shelley Luce"
Subject: please review these two paragraphs
Date: Tuesday, December 13, 2011 9:09:00 AM

Hi
I'm wrapping up my staff report and I needed to add a little more detail about what SMBRF will do with the grant funds and who you are. Can you please review this and let me know if you have any edits? If you can get it to me today, that'd be great.
Mary

The recommended grant to the SMBRF would provide funds for data collection, technical review and agency coordination to support the proposed restoration project. The SMBRF has implemented a multidisciplinary baseline data collection program using volunteers, students and professional technical experts. The baseline report is the first comprehensive assessment of biological and physical resources at the BWER. It was just published and is available online: http://www.ballonarestoration.org. This grant would allow the SMBRF to conduct additional targeted studies based on the resources identified in the baseline assessment as needed to support the environmental impact analysis of the proposed project. In addition, the SMBRF will continue coordination of the agency review, identification of funding partners, and technical review of work products associated with this project.
The SMBRF is a non-profit organization that was created in 1991 to implement the priorities of the Santa Monica Bay Restoration Plan and to support the work of the Santa Monica Bay Restoration Commission. The SMBRF has a number of initiatives including research, public education, and planning, to support these goals. The SMBRF and the Seaver College of Science and Engineering at Loyola Marymount University (LMU) created the Center for Santa Monica Bay Studies to engage in multidisciplinary research on environmental and social issues affecting Santa Monica Bay and its watershed, and to contribute to policies and actions that improve the environmental condition of the Bay. The partnership with LMU has been very valuable to the data collection efforts, SMBRF has used student volunteers to conduct fieldwork and some faculty have coordinated their own research to support the baseline assessment, resulting in hundreds of hours of field work being donated to the project.

O11-370 cont.

Mary Small
Deputy Executive Officer, Coastal Conservancy
1330 Broadway #1300 Oakland, CA 94612
510-286-4181

O11-370
cont.

ATTACHMENT 5

U.S. House of Representatives
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

SUITE 2165 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-4472

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C.

RESOLUTION

Marina del Rey, California
Docket 2455

Resolved by the Committee on Public Works and Transportation of the United States House of Representatives, That the Secretary of the Army is requested to review the report of the Chief of Engineers on Playa del Rey Inlet and Basin, Venice, California, published as House Document 389, Eighty-third Congress, Second Session, and other pertinent reports, to determine whether modifications of the recommendations contained therein are advisable at the present time, in the interest of navigation, hurricane and storm damage reduction, environmental restoration, and other purposes at Marina del Rey Harbor, Los Angeles, California, with consideration given to the disposal of contaminated sediments from the entrance channel required under the existing operation and maintenance program at Marina del Rey Harbor.

Adopted: September 22, 1994

ATTEST: NORMAN Y. MINETA, Chair

O11-370 cont.

[Federal Register: September 20, 2005 (Volume 70, Number 181)]
[Notices] [Page 55116-55117] From the Federal Register
Online via GPO Access [wais.access.gpo.gov] [DOCID:fr20se05-36]
[[Page 55116]]

DEPARTMENT OF DEFENSE Department of the Army; Corps of Engineers Notice of Intent To Prepare an Environmental Impact Statement/ Environmental Impact Report for the Ballona Creek Ecosystem Restoration Feasibility Study, Los Angeles County, CA AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD. ACTION: Notice of intent. --

SUMMARY: The Los Angeles District intends to prepare an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) to support a cost-shared ecosystem restoration feasibility study with the Santa Monica Bay Restoration Commission. The proposed project study areas has been degraded by encroachment of non-native plants, placement of fill from Marina Del Rey, interruption of the hydrologic regime, trash accumulation, and varied attempts at bank protection along the creek using rock and concrete. Direct benefits of the proposed project include improved habitat and water quality, reductions in waste and trash, and aesthetics. The watershed is an important resource for both recreational uses and for fish, and wildlife and further degradation could jeopardize remaining. The purpose of the feasibility study is to evaluate alternatives for channel modification, habitat restoration (coastal and freshwater wetlands and riparian), recreation, and related purposes along the lower reach of the Ballona Creek. DATES: A public scoping meeting will be held on September 29, 2005 at 6 p.m. ADDRESSES: U.S. Army Corps of Engineers, Los Angeles District, CESPL-PD, P.O. Box 532711, Los Angeles, CA 90053 and Santa Monica Bay Restoration Commission, 320 West 4th Street, Los Angeles, CA 90013. FOR FURTHER INFORMATION CONTACT: Shannon Dellaquila, Project Environmental Manager, at (213) 452-3850 or Malisa Martin, Project Study Manager at (213) 452-3828. SUPPLEMENTARY INFORMATION: 1. Authorization This study was prepared as an interim response to the following authorities provided by Congress under Section 216 of the Flood Control Act of 1970, which states: The Secretary of the Army, acting through the Chief of Engineers, is authorized to review the operation of projects the construction of which has been completed and which were constructed by the Corps of Engineers in the interest of navigation, flood control, water supply, and related purposes, when found advisable due the significantly changed physical or economic conditions, and to report thereon to Congress with recommendations on the advisability of modifying the structures or their operation, and for improving the quality of the environment in the overall public interest; supplemented by House Resolution on Public Works and Transportation dated September 28, 1994 which states: **The Secretary of the Army is requested to review the report of the Chief of Engineers on Playa del Rey Inlet and Basin, Venice, California, published as House Document 389, Eighty-third Congress, Second Session,** and other pertinent reports, to determine whether modifications of the recommendations contained therein are advisable at present time, in the interest of navigation, hurricane and storm damage reduction, environmental restoration, and other purposes at Marina del Rey Harbor, Los Angeles, California, with consideration given to disposal of contaminated sediments from the entrance channel required under the existing operation and maintenance program at Marina del Rey. 2. Background The Ballona Creek Ecosystem

O11-370 cont.

Restoration study area lies within Los Angeles County, CA and includes portions of Marina del Rey, Culver City, Playa del Rey, and the City of Los Angeles. The study area, a component of the greater Ballona Creek Watershed, includes the lower reach of Ballona Creek extending southwest from Cochran Avenue, in Los Angeles, to Pacific Ocean in Marina del Rey. specific features of the Ballona Creek watershed, including existing and historic wetland areas, the Ballona Lagoon, Del Rey Lagoon, Venice Canal, Grand Canal, the Oxford Drain and the Ballona Channel and tributaries, will be addressed in this study. The greater Ballona Creek system drains a watershed of approximately 329 square kilometers (81,300 acres), and is the largest tributary that drains into the Santa Monica Bay. Ballona Creek collects runoff from several partially urbanized canyons on the south slopes of the Santa Monica Mountains as well as from intensely urbanized areas of West Los Angeles, Culver City, Beverly Hills, Hollywood, and parts of Central Los Angeles. The urbanized areas account for 80 percent of the watershed area, and the partially developed foothills and mountains make up the remaining 20 percent. The watershed boundary includes the Santa Monica Mountains on the north, the unincorporated area known as Baldwin Hills, and the City of Inglewood on the south. The Ballona Creek Ecosystem Restoration study footprint's southern boundary is defined by the Westcheste Bluffs, which run southwest from the San Diego (405) Freeway beyond Loyola Marymount University. The western boundary extends from the Pacific Ocean. The eastern boundary begins where Ballona Creek daylights at Cochran Avenue and Venice Boulevard in a section of Los Angeles known as the Mid City. Tributaries of Ballona Creek include Centinela Creek, Sepulveda Canyon Channel, Benedict Canyon Channel, and numerous storm drains. The Ballona Creek watershed ecosystem has been altered by intense land development, encroachment of non-native plants, trash accumulation, and varied attempts at bank protection along the creek using rock and concrete. Although an important function of the Ballona Creek is as a flood control channel, the lower watershed is still an important resource for both recreational uses and for fish and wildlife habitat. Further impairment could jeopardize remaining habitat. This study will evaluate opportunities for habitat restoration (including wetland and riparian habitat), improvements to water quality, trash mitigation, and recreation and related purposes along the lower reach of the Ballona creek. 3. Problems and Needs At least ninety (90) percent of historic coastal wetlands in California have been lost due to filing, dredging, flood control and intensive development. Within the Lower Ballona Creek Watershed, remaining fragmented wetland areas have been degraded due to diminished hydraulic function, poor water quality and introduction of exotic plants and animals. While functioning wetland systems and riparian habitat remain, they are stressed. Channelization of the Ballona Creek and filling of historic wetland and riparian areas have contributed to degradation and loss of habitat due to impeded tidal exchange and circulation. Contaminated stormwater runoff and trash loading has degraded Ballona Creek water quality. Habitat alteration and loss has decreased biodiversity and overall ecological health, threatening the survival of native endangered species such as the California least tern (Sterna antillarum brown), snowy plover (Charadrius alexandrinus), and the Belding's Savannah Sparrow (Sandwichensis beldingi). The current design of the Flood Control channel has resulted in a lack [[Page 55117]] of recreational opportunities and is considered aesthetically challenged. At present there is no integrated approach and partnership amongst stakeholders to resolve lower Ballona Creek in-stream and wetland

O11-370 cont.

degradation issues, which has led to uncoordinated and sometimes redundant and unsuccessful improvement measures. 4. Proposed Action and Alternative The Los Angeles District will investigate and evaluate all reasonable alternatives to address the problems and need stated above. In addition to a without project (No Action) Alternative, both structural and non-structural environmental measures will be investigated. An assessment of the feasibility of removing impervious surfaces from the Ballona Channel will also be evaluated. Proposed restoration measures include: re-grading and removal of fill, remove invasive and non-native plant species, reintroduction of a water source and installation of native plants to restore previously filled coastal wetlands. Other measures to be evaluated include features to improve or restore tidal regime in Oxford Basin, the Grand and Venice canals, and Ballona and Del Rey Lagoons; the potential for in stream wetland development in Centinela, Sepulveda and Ballona Creek; sediment loading in the upper watershed; and related recreation and educational opportunities. 5. Scoping Process The scoping process is on-going, and has involved preliminary coordination with Federal, State, and local agencies and the general public. A public scoping meeting is scheduled for Thursday September 29th from 6-8 p.m. at the Rotunda Room of the Veteran's Memorial Building, 4117 Overland Avenue, Culver City, CA. This information is being published in the local news media, and a notice is being mailed to all parties on the study mailing list to ensure that public will have an opportunity to express opinions and raise any issues relating to the scope of the Feasibility Study and the Environmental Impact Study/Environmental Impact Report. The public as well as Federal, state, and local agencies are encouraged to participate by submitting data, information, and comments identifying relevant environmental and socioeconomic issues to be addressed in the study. Useful information includes other environmental studies, published and unpublished data, alternatives that could be addressed in the analysis, and, potential mitigation measures associated with the proposed action. All comments will be considered in the project development. Concerns may be submitted in writing to the Santa Monica Bay Restoration Commission, or to the Los Angeles District (see ADDRESSES). Comments, suggestions, and request to be placed on the mailing list for announcements should be sp101.usace.army.mil. Availability of the Draft EIS/EIR The Draft EIS/EIR is scheduled to be published and circulated in December 2007, and a public hearing to receive comments on the Draft EIS/EIR will be held after it is published. Dated: September 13, 2005. Alex C. Dornstauder, Colonel, U.S. Army, District Engineer. [FR Doc. 05-18651 Filed 9-19-05; 8:45 am] BILLING CODE 3710-KF-M

O11-370 cont.

From: Shelley Luce
To: Mary Small; "Rick Mayfield"
Cc: "Terri Stewart"
Subject: RE: From John Davis Re Ballona CEQA process
Date: Tuesday, February 07, 2012 1:39:26 PM

Agreed. The doc he references was for a completely different project, a feasibility study in which SMBRC was the local sponsor for the Corps' study. The EIR/EIS that we want to start is for a separate project, i.e. the BWER restoration/enhancement project. As the landowner, DFG will be the lead agency.

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160
1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-961-4444

www.santamonicabay.org

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Tuesday, February 07, 2012 1:30 PM
To: 'Rick Mayfield'; Shelley Luce
Cc: 'Terri Stewart'
Subject: RE: From John Davis Re Ballona CEQA process

Suggested response.
1) The EIS/EIR process begun in 2005 was for the Army Corps' Lower Ballona Ecosystem Restoration Feasibility Study, that project and the associated environmental review has not been completed and is not moving forward at this time. The EIR/S process for the proposed enhancement project will be separate.
2) The CEQA statute where lead agency is defined is Public Resources Code Section 21000.
3) DFG as landowner intends to be the lead agency on the proposed enhancement project that will be analyzed in the EIR/EIS.

From: Rick Mayfield [mailto:rmayfield@dfg.ca.gov]
Sent: Tuesday, February 07, 2012 9:30 AM
To: Mary Small; Shelley Luce
Cc: Terri Stewart
Subject: Fwd: From John Davis Re Ballona CEQA process

Please take a look at the attached from Mr. Davis and let me know if you can provide any further information before I respond.

Thanks,

Rick
>>> <jd@johnanthonydavis.com> 2/6/2012 5:11 PM >>>

Ca DFG
Att: Mr. Mayfield

O11-370 cont.

Hi Mr. Mayfield, attached is the congressional and corp docs we discussed.

The document states an joint EIS/EIR process was begun in 2005 per the request of Congress.

The Santa Monica Bay Restoration Commission is noted as the lead agency for CEQA in the joint EIR/EIS.

It also states that at least one scoping hearing has already occured.

My question is does DFG plan on beginning another EIR process for the same area that is already been started by the SMRBC and Corp. If so, how can there be two lead agencies.

To me, logic indicates the SMRBC should be lead.

Thanks,

John Davis
PO 10152
Marina del Rey Ca. 90045

O11-370 cont.

From: Mary Small
To: "Diana Hurlbert"; "David Lawhead (DLawhead@dfg.ca.gov)"; "Eichler, Monica SPL"; "Eric Gillies"; "griggsp@slc.ca.gov"; "Hamamoto, Bruce"; "Patrick Holland (pholland@dpw.lacounty.gov)"; "Rick Mayfield (rmayfield@dfg.ca.gov)"; "Serpa, Phillip J SPL"; "Shelley Luce"; "Strum, Stuart R MVN-Contractor"; "Swenson, Daniel P SPL"; "Terri Grant (tgrant@dpw.lacounty.gov)"; "Youn Sim (ysim@dpw.lacounty.gov)"
Subject: FW: request for services - ballona wetlands
Date: Wednesday, February 08, 2012 4:46:00 PM
Attachments: Ballona Civil Engineering and Geotech.pdf
Ballona Hydrology and Engineering.pdf

The request for services for the civil engineering and geotechnical contract and the hydrology and engineering contracts went out today. Feel free to forward to other potential contractors, I sent it to about 60 in our database and we will post it on the web. Proposals are due on Feb 29th.

Mary

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Wednesday, February 08, 2012 4:39 PM
Subject: FW: request for services - ballona wetlands

The California State Coastal Conservancy is requesting proposals for consultant services for two separate contracts related to the proposed enhancement of the Ballona Wetlands Ecological Reserve in Los Angeles County. Services are needed to complete engineering and geotechnical evaluations, hydrology, technical studies, design and related services to support completion of a project level EIR/EIS and preparation and processing of a Section 408 permit through the Army Corp of Engineers. One contract will be for Civil and Geotechnical Engineering and a second contract will be for Hydrology and Engineering Design Analysis.

Mary Small
Deputy Executive Officer, Coastal Conservancy
1330 Broadway #1300 Oakland, CA 94612
510-286-4181

O11-370 cont.

Ballona Ecosystem Restoration Planning Management Meeting
June 28, 2010
3:00-5:00pm

Attendees:

Josephine Axt, USACE	Ed Demesa, USACE	Julian Serafin, USACE
Rene Vermeeren, USACE	Ben Nakayama, USACE	Rhiannon Kucharski, USACE
Diana Hurlbert, SMBRC	Sean Bergquist, SMBRC	Kathy Anderson, USACE
Larry Smith, USACE	Mary Small, Coastal Conservancy (by phone)	

I. Mary Small: Coastal Conservancy is supplying most of the funding toward the in-kind local sponsor efforts.

II. Ed Demesa: Corps Process Overview
   a. We are coming up to our first major milestone (F3)
      i. Baseline and future without project conditions; preliminary alternatives analysis
         1. Describes problems and opportunities, planning objectives
         2. This product will be the basis for future steps
      ii. Next milestone (F4A/F4)
         1. Formulation, evaluation and comparison of alternatives
         2. F4A: SPD requirement, Alternative Formulation Briefing
      iii. (F5) Public Draft Feasibility Report
         1. Headquarters Policy and Public Review
   b. Josephine Axt: New Review Guidance (Estimated at $500,000; IEPR is federally funded)
      i. Agency Technical Review (ATR) - Requires coordination with the planning center of expertise, and coordinates a team of reviewers from another Corps Division
      ii. Model certifications required
      iii. Independent External Peer Review (IEPR)
      iv. Note for budget: call out what IEPR is estimated to cost, and that it does not have to be cost shared
      v. Diana Hurlbert: Under each discipline, there are costs for responding to comments. Are those related to ATR?
         1. Josephine Axt: Yes. There is a formal comment and response system that must be used for ATRs (DrChecks)
   c. Kathy Anderson: Partnership
      i. Communication
         1. Sean Bergquist: Communication has been much better since Rhiannon has taken over as Lead Planner.
         2. Mary Small: Rhiannon has been great in communication.
      ii. Cost share
         1. Sean Bergquist: Our cost share component is 100% in-kind. It is anticipated that most of that work is and will continue to be in the wetlands.
            a. We are finished our F3 equivalent (2006)
            b. We are also finished our alternatives development and analysis (2008)
               i. We want to make sure that all of the products feed in to the Corps process and products.
            c. The Corps and us on not on the same timeline.

O11-370 cont.

2. Mary Small: It was always our understanding that the Corps would use our restoration alternatives. It makes us nervous that this was never in writing. We have done our F4 equivalent.
3. Because of Federal funding starts and stops, the Corps is still in the F3 process, while the sponsor has completed alternatives analysis (F4 equivalent).
4. Diana Hurlbert: We want to make sure you are maximizing our products, and we want to understand what if any deficiencies are found.
5. Josephine Axt: In-kind has to be formally submitted, directly applicable to the project and it must be understood that in-kind increases increase the overall budget increases.
    a. Mary Small: We fear that our in-kind is not properly reflected in the PMP.
    b. Rhiannon Kucharski: This may be the case. We need to go in detail in to this upon receipt of in-kind submissions, quality check them and revisit the PMP.
6. Sean Bergquist: For credit, do we get credit for what we paid or for what it would have cost the Corps to do the same work?
    a. Josephine Axt: The in-kind credit needs to match the estimate for that work in the PMP. Likewise, if the work costs more than estimated, credit will only be given for up to the estimated amount.

iii. Ed Demesa: As the project goes up the chain, we have to be careful for policy issues. When the project is competing nationally, it starts to become a factor. The cost of land acquisition is part of the project costs. We can only credit up to 35% of total project costs.

iv. Mary Small: If the Corps falls too behind, we will work with Corps Regulatory for a permit for their activities (NEPA/CEQA, design, permitting, and Phase 1 construction).
    1. Josephine Axt: If you are going full steam ahead, what is your timeline?
    2. Sean Bergquist: We purchased the property in 2005, and have to do something with the property in the near future. There is no set deadline, but they must show the state that something is being done.
        a. In about 4 years, they would like to be constructing something.
        b. Early phase: Do South portion of Area B, South of Jefferson and below Gas Company (low areas, reconnect tidal flows)
    3. Ed Demesa: The law to partially build a project and receive credit for a larger project applies only to flood control when there is imminent need. Unfortunately, that law does not apply to ecosystem restoration. There is not an authority for us to give credit for it down the line. So, this may be something you want to consider for a WRDA request to change the authorization.

III. Project Status
- a. Corps is working on baseline (F3) right now. Due to H&H delays, the milestone will most likely happen early in FY11.
- b. PMP amendment
    - i. Study area
        1. Will be clearly defined in the PMP amendment (to the satisfaction of all parties).

O11-370 cont.

a. Definition: Ballona Creek from the Pacific Ocean to Cochran, Del Rey Lagoon; and Centinela and Sepulveda Channels from Ballona Creek to where they go underground.

2. Grand canal is out.
3. Sean Bergquist: We have always planned on the daylighted part of Ballona Creek up to Cochran.
4. Coordination needs to go through Diana Hurlbert and Rhiannon Kucharski.

ii. Costs

1. Ed Demesa: For in-kind credit, it is important to let the PDT know what work the sponsor is doing, even if it will not be submitted for in-kind credit.
2. Sean Bergquist: Historical analysis of the watershed is in the works. We are also working with UCLA to do a watershed budget.
3. Sean Bergquist: When things have to be redone, how does the cost share work?
    a. Hydraulic study
        i. Rene Vermeeren: Our H&H models are in DRAFT form and have not yet had the first ATR. They are not ready for use on alternatives.
4. SMBRC Governing Board will have to sign the PMP and FCSA amendments.
5. In construction phase, can the cost of the land/property be used toward sponsor in-kind credit?
    a. Kathy Anderson: Yes, as long as the constructed project uses those lands. The state paid $140 million in 2005 for the property that makes up areas A, B and C.

O11-370 cont.

iii. In-kind submittals

1. Mary Small: Is there really much more additional work that needs to be done to review the submittals? How much is left to be done by the Army Corps depends on the in-kind submittals?
    a. Diana and Rhiannon can work together with each PDT member to work through these. Set up meetings ASAP.
    b. Kathy Anderson: The whole PDT needs to sit down and go through the PMP, in-kind and costs step-by with SMBRC.
2. Mary Small: I am worried about the water quality report in terms of the data being what is needed per the Corps and less worried about the write-up
    a. Confirm with James Chieh that the data is what is needed.

c. Kathy Anderson: Sponsor financial capability?

i. Even in light of cost increases, the sponsor has enough money to fund all of their study activities and even begin phase I construction (Area B).
ii. Corps needs to get details of sponsor plans for "phase I" in Area B and determine if this must be added as a future without project condition or not.

IV. Action items are noted in RED.

Lower Ballona Creek Ecosystem Restoration Study Monthly Coordination Meeting Minutes
April 28, 2010
10-11am

Attendees:

Mary Small, CC	Sean Bergquist, SMBRC	Rhiannon Kucharski, USACE
Kathy Anderson, USACE	James Chieh, USACE	

I. Comments to the DRAFT Corps F3 products and the DRAFT PMP update are due by the next coordination meeting, May 26, 2010.
   a. Comment from Sean related to updated costs/project area: SMBRC considers lower Ballona Creek to be everything from Cochran Avenue to the Ocean.
   b. Sean is concerned about how SMBRC can come up with matching funds and/or in-kind work for a study totaling $6.2 million (the updated estimated study cost total)
      i. Mary: We may not be able to get approval for the cost increases

II. Frank Wu was not able to attend today's meeting. He will contact Mary and Sean independently to discuss his question on the Engineering and Design Section I, Task 3 from the PMP.

III. In-kind submittals
   a. Mary and Sean will try to submit the first set within one week.

IV. Water Quality Analysis
   a. Document forthcoming from SCCWRP (early June)
   b. Document forthcoming from Geosyntech (June)
      i. Delay due to 2 very dry seasons
   c. Some data is already available on the website (Ballonarestoration.org)
      i. Some prior reports from previous years are available
   d. The Corps (James Chieh) will need to translate and analyze the data and put it into the Appendix Report.
      i. Sean will send everything that is currently available to James Chieh, Cc Rhiannon ASAP. This will include the Geosyntech scope of work and cost estimate for water quality data analysis.

V. Other Discussion
   a. There will be a site tour with the Corps, URS and Sean on May 5, 2010.
   b. Kathy: We were able to request $345k for FY11, but need to get amended FCSA executed.
      i. Mary: We need to credit in-kind work before amending the FCSA. We hope this will bring down the overall study cost.

VI. Action items noted in ORANGE.

O11-370 cont.

Ballona Coordination Meeting Minutes
June 2, 2010
10am

Attendees:

Mary Small, Coastal Conservancy	Diana Hurlbert, SMBRC	Heather Schlosser, USACE
Julian Serafin, USACE	Rhiannon Kucharski, USACE	
Ben Nakayama, USACE	Robert Browning, USACE	Robert Grimes, USACE

I. In kind submittals
   a. For In-kind submittals, Mary, Sean and Diana tried to break down the submittals per the PMP, but had a hard time. Please see in-kind spreadsheet submitted last week.
   b. SMBRC and Coastal Conservancy will submit the In Kind Submittal sheets that correspond with each document from the website, along with reference to the document or file they correspond to and a link to that document on the web.

II. PMP updates
   a. Mary Small is concerned that the revised PMP does not reflect the products they have completed, and very concerned about the cost increases.
   b. Mary Small: Have all the PMP sections looked at the same project area? Parts still refer to Ballona Lagoon, Grand Canal, Venice Canals and Oxford Basin, which are no longer in the study area.
      i. All sections should include: Del Rey Lagoon; Areas A, B and C; Ballona Creek from the Ocean to Cochran; and Centinela and Sepulveda Channels from where they daylight to Ballona Creek.
   c. Mary and Diana requested that the Corps add geographic location to the PMP amendment chapter. The scopes of work are confusing because they do not make the study area clear.
   d. Mary: Why have the F3 economics costs gone up?
      i. Ben Nakayama: Economics had to re-run their model due to the revised flood plain hence their cost increase. The potential flooded parcels went from 6000 to 600.
      ii. Sponsor wants to understand why the economics costs for F3 doubled. The model was originally run at a larger scope (6000 parcels) and is now being re-run at a smaller scope (600 parcels). That should not cost double. There should be economies of scale.
      iii. Ben Nakayama: The model had to be completely re-run for the new parcels. This along with added review costs are the reasons behind the cost increase.
   e. Review Guidance has led to approximately $505k in cost increases. $260k of that is for Independent External Peer Review (IEPR), which is NOT cost shared. The other levels of review such as Agency Technical Review (ATR) and model certification ARE cost shared.
      i. Rhiannon will send another copy of the review guidance.
   f. The Coastal Conservancy is worried that there will be no political appetite to support a feasibility study at this cost level.

O11-370 cont.

g. The language in the PMP needs to itemize what the additional costs would go towards.
    i. Rhiannon will send the detailed cost estimates from each PDT member.
h. The Coastal Conservancy believes their GIS work should decrease the revised GIS costs.
    i. This can be investigated further in conjunction with the in-kind review process. USACE will ask Dave Bianco to review the GIS products and scope and cost estimate after the formal in-kind submittal.

III. Coordination

a. Heather Schlosser: It is hard to assure proper coordination when the Corps is trying to complete the baseline F3 this year, while the sponsor is well in to alternatives analysis in the wetlands areas (A, B, C).
    i. Mary and Diana, what do you see as the Corps' role in this feasibility study?
        1. Mary Small: The discussion was that the Corps would focus on the Creek (there aren't state funds for that) and that the wetlands study would go forward separate from the larger feasibility study, but feed in to the project as in-kind credit. The restoration of the wetlands (A, B, C) is being led by SMBRC in conjunction with the State of California.
        2. SMBRC and Coastal Conservancy are both interested in the Creek as well.
            a. Heather Schlosser: Are you willing to cost share the implementation phase of a recommended alternative that includes the Creek and Wetlands?
            b. Mary Small: Our funding strategy for implementing the restoration is the value of the land. However, the Coastal Conservancy's focus is the restoration planning at the wetlands.

IV. Executive Management Meeting

a. Aim to have this in June. SMBRC and Coastal Conservancy will send potential dates and times to Rhiannon Kucharski, who will coordinate with USACE management schedules.

O11-370 cont.

Ballona Telecon Minutes
March 29, 2010

Attendees:

Rhiannon Kucharski, USACE	Kathy Anderson, USACE	Larry Smith, USACE
John Killeen, USACE	James Chieh, USACE	Frank Wu, USACE
Julian Serafin, USACE	Michael Hallisy, USACE	Patrick Singh, USACE
Mary Small, Coastal Conservancy		Sean Berqquist, SMBRC

I. Introductions
II. PMP update
  a. DRAFT SOW Amendment Chapter distributed
  b. Cost estimates
    i. Frank Wu: Coastal Engineering F3 Baseline Conditions
      1. Need to incorporate PWA information in to the appendix
  c. SMBRC Board will have to buy off on the updated PMP and cost estimates
    i. At this Thursday's meeting they are asking the Board to generally support the study
    ii. Cost increase approval will have to come through the Coastal Conservancy's Board
  d. FCSA amendment would come after the PMP update is complete
    i. Have to work with Corps Legal Counsel and SMBRC Legal/Board
  e. Study Area
    i. For F4, the Corps suggests focused study area of A,B & C plus the Creek up to the I-405, and the Centinela Channel and Sepulveda Wash
      1. H&H and Survey and Mapping Sections believe this focused area is best due to cost considerations
      2. Per Frank Wu: Coastal Engineering work has focused on A, B, & C
    ii. Sponsors feel that we need to keep Ballona Creek up to Cochran Boulevard. Otherwise, the map is okay.
  f. Rhiannon and Kathy will set up a meeting between the sponsors and Survey and Mapping (Alan Nichols).[1]
  g. URS and the Corps are in negotiations for the Plan Formulation and Environmental Appendix
III. Corps work Audit
  a. Environmental Resources Branch (ERB)
    i. Review of sponsor work
    ii. Fish survey of creek and channels
    iii. Work with SAC on HEP evaluation
      1. Including scope of work to score A, B & C and the creek between the marsh areas
      2. Mary can re-start the Conservancy agreement with the SAC to possibly fund them.
        a. Larry will send Mary the scope of work he has written.
  b. Cultural Resources
      1. Write-up from PWA, which summarizes a library record search
        a. Corps and Conservancy both feel that the write-up is inadequate

O11-370 cont.

[1] Action Items marked in GREEN.

b. NEPA agency coordination for cultural must be done by a federal agency; it cannot be done by the sponsor or their contractor.
    i. Michael Bever and Bob Stark, with Jones and Stokes and John Killeen need to be in touch with eachother.
2. John Killeen has completed a full record search in the last few months
    a. He is re-writing the F3 input based on the new, more adequate record search.
3. NOTE: Important burials located in the Northwest corner of Area C that have been determined eligible that will need serious consideration for avoidance or mitigation.
4. Also, cultural will have to look at channel as a resource. Where we are pulling out channel, if we decide to, will have to be investigated by cultural.

c. Coastal Engineering
    i. Draft F3 Appendix complete
d. Geotech
    i. Diaz-Yourman contract
    ii. Contract oversite
e. H&H
    i. Baseline Hydrology and Hydraulic Appendices
    ii. Baseline Groundwater Appendix
    iii. Sedimentation will be done during F4 analysis due to funding availability
        1. PWA is looking at sedimentation modeling in their contract with the sponsor. Mary will send their scope of work.
    iv. Water Quality Appendix – We are relying on this product from the sponsor (SCCWRP).
        1. Mary will get us the Appendix as it is available.
f. Socioeconomics
    i. Efforts to date have been on the flood risk management component
        1. Originally the work was going to be done in-house, in L.A.
        2. Original structure inventory and database, site surveys
            a. Subsequent to that work, the H&H floodplain mapping was updated with a fairly significantly reduced floodplain delineation, which demanded that the economics be updated. This update was based on the first revision of the draft Hydraulic Appendix
            b. Update to the economics work will be done through Albuquerque District Economics Section
                i. Finalize F3 analysis
            c. FLO-2D data conversion to HEC format
                i. Will be done through Sacramento District
g. PWA and Jones and Stokes are doing on-going work. Mary will send both scopes of work.

IV. In-kind process (Kathy Anderson)
a. To date there has been no in-kind logged in to the Corps financial system. We need to catch up on that. It should be done yearly.
b. Update in-kind numbers in PMP and in cost summary spreadsheet.
    i. List all in-kind work in a table with associated amount spent on the work, along with a list of work already scoped and contracted to be done. Also, Shelly Luce of SMBRC would need to sign the official submittal.

O11-370 cont.

I. Sponsor needs to keep records of the in-kind and the values in case of an audit.
ii. Mary Small: What is the best way to do that?
iii. Kathy Anderson: We can have a separate meeting to go through the in-kind line by line with Kathy, Rhiannon, Sean and Mary.
iv. Mary Small: Is it what we spend on the product that gets credited or is it what the federal government would have spent to do the same thing?
1. It is up to the PDT to QA/QC the products and agree to the accounting both in amount and content.
2. Coastal Conservancy would feel more comfortable if the in-kind is credited at the value they spent on the product.

V. Coordination
a. Corps requests going forward
i. Each PDT member needs to coordinate with their equivalent on the sponsor's contractor team(s)
1. Rhiannon will send a PDT list to Sean and Mary so that coordination contacts can be filled in next to the corresponding PDT member(s).
b. Sponsor requests
i. Tie up the in-kind process and update more often
c. Our coordination meetings from now on will be the last Wednesday of every month at 10am.

VI. Other Discussion
a. Bike tour with Congresswoman Harman April 9th.
i. Kathy will forward info to Mary and Sean.

O11-370 cont.

Version 3, dtd 5/24/2011

DRAFT
ITINERARY FOR
COL R. MARK TOY
MEETING WITH SANTA MONICA BAY
RESTORATION COMMISSION AND
VISIT TO BALLONA CREEK

26 MAY 2011

TIME/ACTIVITY		TRANSP/REMARKS
THURSDAY – 26 MAY 2011		**UNIFORM: ACUs**
0830	Depart SPL for Loyola-Marymount University (LMU) – 1 LMU	Govt vehicle Driver: Phil Serpa Rick Leifield Josephine Axt
	310-338-2700 PAX: Monica Eichler Stuart Strum Dan Swenson	
0920	Arrive LMU – Santa Monica Bay Restoration Commission Staff Office (SMBRC)	Location: University Hall Room ECC1857 Note: Met by Stuart Strum and Dan Swenson
0930	Executive Management Meeting with SMBRC and California State Coastal Conservancy (CC) Los Angeles County Public Works Dr. Shelley Luce, Executive Director, SMBRB Mary Small, Deputy Executive Officer, Coastal Conservancy Mark Prestrella, Deputy Director	

O11-370 cont.

TIME/ACTIVITY		TRANSP/REMARKS
THURSDAY – 26 MAY (Continued)		
	Agenda: - Introductions - Project Overview – SMBRC/CC o Project goals and regional importance o Planning Process (Science Advisory Committee and Public Meetings) o Proposed Project o Schedule - Partnership with Corps: Discussion (All) o 408 Permit – Outstanding Questions o Status of Feasibility Study o Discussion of Future Coordination	O11-370 cont.
1100	Depart for Ballona Creek PAX: See above	Govt Vehicle Driver: Phil Serpa
1110	Ballona Creek Site Visit - Overview of the Site - Ballona Channel - Muted Tidal Wetland SMBRC/CC and LAPW Participants: Dr. Luce, Mary Small and Mark Prestrella	
1210	Depart for Ballona Creek for SPL PAX: See above Note: Lunch enroute	Govt Vehicle Driver: Phil Serpa
1330	Arrive SPL	

From: Mary Small
To: Diana Hurlbert; sluce@santamonicabay.org
Subject: talking points ballona - scc board
Date: Thursday, January 05, 2012 2:08:00 PM
Attachments: talking points ballona board item.docx

Hi
Shelley, I am hoping that you will share the presentation of this item to the Conservancy board with me. Attached is an outline of what I am thinking we should cover, please take a look and give me your thoughts. My suggestion is that I'd introduce the project and you, you'd cover the need for restoration and the proposed project and then I could go through the details of the proposed action. I am thinking we will have a short (10ish slide) powerpoint with few words but good pictures. I can pull a draft of it together.

Diana, I am hoping you can fill in the highlighted sections in the attached to help me think about how to explain the work that will done if approved, why it's so expensive and why we are going with this approach, as opposed to phasing differently etc.

Thanks,
Mary

O11-370 cont.

Outline for the presentation

(Mary)
Background

- 600 acres owned by the state, DFG and State Lands
- Designated State Ecological Reserve
- Purchased for the purpose of wetland restoration

Project Partners, introduce Shelley

(Shelley)
Need For Restoration, Site Mgt

- Currently no open public access, very restricted
- Site management issues: homeless encampments, trespass, trash, eyesore

Need for restoration, biology

- Very degraded ecological resources – key findings of baseline assessment
- Regional significance – wetland loss around SM Bay and throughout So CA

Proposed project

- Description of grand vision
- Ecological benefits
- Sustainability – adaption to SLR, restoration of ecological processes
- Public access components

O11-370 cont.

Planning process to date 2 slides(?)

- Public and Science Based Process
- Evaluation of broadest possible range of alternatives
- Refinement and assessment of preferred alternative –ideas we rejected, scaling down due to cost considerations, planning for phased implementation

(Mary)
Recommended action:

1) Authorization for a grant of $250 K to SMBRC to fund their ongoing work to advance this restoration project, including continuation of data collection, agency coordination and technical review and oversight.

2) Authorization of $6.25 million to be contracted by SCC through competitive environmental services contracts for specific technical studies that are needed to complete the environmental review and permitting.

Description of the technical work (what will be done and why so expensive)
This authorization would provide funds for several specific scopes of work to support environmental impact review and permitting of the restoration project.

- Soils and Geotechnical assessment – Some soil sampling has been completed onsite, however the main cost for implementation of the project will be soil management.. To

reduce construction costs, the project is designed to balance cut and fill onsite. To effectively implement that program, we have to have clear understanding of soil characteristics – which soils can be used to construct levees, which soils should be used to create upland habitat, etc.

- Landscape Architect to design public access improvements. Conceptual designs for public access improvements have been included in the project from the very start. Now that we have a project description for the land-form of the restoration, it will be important to design the public access improvements. One of the major benefits of this project will be to create a new natural area in the urban center of Los Angeles. We intend to design public access amenities
- Civil engineering – design of levees and construction details up to ___% details of proposed work…
- Hydraulics and Hydrology – evaluation of flood risk and uncertainty details of proposed work…

In addition to environmental impact review, this project will need the following permits: Coastal Commission CDP, LA RWQCB permit, and an Army Corps Section 408 permit. Much of the additional technical work that is recommended in this action will be needed to comply with the 408 permit process.

O11-370 cont.

The 408 permit is a permit issued by the Corps to modify an existing flood control project. After Hurricane Katrina, these permit requirements became much stricter and more comprehensive. This permit will have to be approved in DC and will require that the project have ___% design completed. *Explain why so expensive…*

Over the past several months, the project management team has been in conversation with the ACOE and internally discussing the best path forward given the significant costs to complete the design and hydraulic/hydrology studies.

We considered several options of initial projects that would involve installation of tide gates or breaches rather than full levee removal. Tide gate projects were determined to be less desirable because they do not restore full tidal range, are unable to adapt to sea level rise and have higher maintenance costs. We also considered a moving forward only with a smaller Phase 1 project that would restore wetlands north of the channel.

This would reduce the design and technical review costs now, but if we were ever to implement the full restoration project, we would have to go through some of the permit processes again. Our estimate is that the total planning costs would increase by *X-XX* amt in the end.

Of course the actual amount will be determined through contractor selection process and evaluation of proposals, but we have based this recommendation on a comprehensive, conservative but complete estimate to finish all of the pre-project work.

Acknowledge Some Opposition

- Is restoration needed, impacts to existing resources?

Some individuals think that this site is providing important habitat as is. This is a case of shifting baselines, the site does provide some habitat, but is severely degraded. Example - data pt from Karina's work?. To restore estuarine wetlands at Ballona, the land needs to be reconnected to the ocean.

- Can project be done with volunteers and without bulldozers?

The project that we are recommending is enormous in scale. It involves uncovering the wetlands that were buried with the construction of the marina and that have been cut off from the ocean for almost 90 years. We will work to continue working with youth groups and volunteers to implement portions of this restoration.

- Money would be better spend buying small parcels in the neighborhood

Some neighbors to the project have advocated that the restoration of the wetlands is a poor investment and the bond money should be spent to acquire small parcels (each 3-5 acres) rather than to restore the ecological reserve.

O11-370 cont.

Funds are limited to Ballona, consequences if not approved, who will pay for construction?

Conclusion:
Even though this is a major investment and a controversial project, your staff recommends that you approve it. The ecological restoration of the Ballona wetlands is a rare opportunity to bring back coastal wetlands and to develop an urban natural area that will enhance the lives of millions of Californians. To really restore this site we have to implement a big vision and in order to do that we

Questions I will need to be prepared to answer:
Consequences if not approved
Who will pay for construction?
Why not grant all funds to SMBRC?

NOTES

Cost of other wetland restoration projects – engineering and environmental review

South Bay Salt Ponds Initial Planning, EIR and Phase I Design (15,000 acres)	$23 M
Batiquitos Lagoon	$5 M
San Elijo Lagoon	$1.9 M
S San Diego Bay Salt Ponds	$550K

Questions we need to answer:

Why is this so expensive?
How does it compare to the costs other wetland restoration projects?
Is it needed? Is it a waste of money?
Is this the right alternative?
Will there be more habitat destruction than restoration
Who will implement the project?
Wouldn't we be better off with ngos and volunteers?
What about long term management?

Key Points
Plan developed with extensive scientific review and public input
Plan goals: habitat restoration, sustainability, public access, lower maintenance cost
Funds are specific to Ballona

O11-370 cont.

From: Shelley Luce
To: Mary Small
Cc: Diana Hurlbert
Subject: RE: timelines...
Date: Monday, January 30, 2012 4:44:09 PM

Let's meet downtown at 11 am at Bottega Louie, it's on the corner of 7th and Grand. We can eat or just have coffee for as long as we want there, and then head over. Sound good?

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160
1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-961-4444

www.santamonicabay.org

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Monday, January 30, 2012 4:30 PM
To: Shelley Luce
Cc: Diana Hurlbert
Subject: Re: timelines...

Great, let's meet before maybe 11?
Downtown would be easy for me but I could also fly to LAX and meet at LMU, if we do that maybe we could meet a little earlier?

Sam can't make it, this rescehduled time didn't work for him.
Mary

sent from my phone

On Jan 27, 2012, at 12:38, Shelley Luce <sluce@santamonicabay.org> wrote:

> I have kept the whole day open. You can Sam can tell us what works for you - meet earlier downtown or at LMU, anytime after 9:30 is good for me. We can reserve a conf room at water board offices or meet at a coffee shop if we do it downtown.
>
> *Shelley Luce, D.Env.*
> *Executive Director*
> *Santa Monica Bay Restoration Commission*
> *Pereira Annex MS:8160*
> *1 LMU Drive, Loyola Marymount University*
> *Los Angeles, CA 90045*
> *310-216-9827*
> *www.santamonicabay.org*
>
> **From:** Diana Hurlbert
> **Sent:** Friday, January 27, 2012 10:07 AM
> **To:** Mary Small; Shelley Luce
> **Subject:** RE: timelines...

O11-370 cont.

The 1st works for me. As for timeline this is what I am shooting for....

Early Feb for Nick's revised engineering/construction PD
Late Feb/early March for summary NOP/NOI to be circulated
March/April for Habitat/Adaptive Mgmnt Plan
Early May for draft geotech, recreation/Area C, hydraulics, traffic, and 30% engineering/design
Working over summer on & circulating admin draft chapters and finalizing reports, recreation/Area C etc.
Finalizing Public review Draft for circulation in late Sept.

Please keep in mind that we will be creating and circulating draft chapters for review as information is available. All document preparation will be on concurrent paths. Keeping to the timeline depends mostly on how responsive reviewers are to deadlines for comment (ie. a 2 week turn around). The consultants are all aware of these targets and have committed to meeting them.

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Thursday, January 26, 2012 3:24 PM
To: Shelley Luce
Cc: Diana Hurlbert
Subject: Re: timelines...

O11-370 cont.

Hi
Sorry if I misspoke I feel like I have promised dates that we haven't met so many times that I instinctively underestimate when we'll get things done. It would be super valuable to have some key milestones on a schedule that we all are working off of- MRCA asked for that too. I can draft it up nxt week or you guys can send it to me.

I think there may be a role for Sci input going fwd but after I'm not sure I think we should have more SAC mtgs. Do you guys have time on the 1st? I think there are a few things we should touch base on and I could meet before or immediately after our mtg w ACOE.

Thanks
Mary

sent from my phone

On Jan 26, 2012, at 15:47, Shelley Luce <sluce@santamonicabay.org> wrote:

> Hi Mary,
> I wanted to check in on our timelines but I forgot to mention yesterday. I've been shooting for end of Feb. release of the NOP/NOI and public review draft of EIR/EIS in Sept. 2012. In the SAC meeting I thought I heard you say something longer than that – a few months until the NOP comes out. Also in the SAC meeting we kind of indicated there could be more SAC meetings to resolve

things that we were discussing and I didn't think that was part of our plan. I do think we can continue discussion of relevant things with SAC members as we write the draft EIR, and reconvene if necessary. Is that what you were thinking?

Talk to you Monday!
Shelley

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
Pereira Annex MS:8160
1 LMU Drive, Loyola Marymount University
Los Angeles, CA 90045
310-961-4444

www.santamonicabay.org

O11-370
cont.

From: Mary Small
To: "Shelley Luce"
Subject: LA Co
Date: Tuesday, December 13, 2011 9:14:00 AM

Hi
Do you think there is any chance that we could get a commitment from LA Co to fund the permit process before Jan? Then I could add them as matching funds to my staff report.

Mary

~~~~~~~~~~~~~~~~

Mary Small
Deputy Executive Officer, Coastal Conservancy
1330 Broadway #1300 Oakland, CA 94612
510-286-4181

O11-370 cont.
~~~~~~~~~~~~~~~~

From: Mary Small
To: "Mary Small"; "Shelley Luce"
Cc: "Diana Hurlbert"
Subject: RE: draft agmt SMBRF 2
Date: Monday, February 13, 2012 9:28:00 AM

Hi
Can you let me know if this looks basically ok so I can send it to Mr. Davis?
Thanks
Mary

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Tuesday, February 07, 2012 2:28 PM
To: 'Shelley Luce'
Cc: 'Diana Hurlbert'
Subject: draft agmt SMBRF 2

Hi Shelley
Attached is a draft of the grant agmt to the SMBRF for the $240K. We'll need to develop a work plan and budget separately.

Can you take a quick review and let me know if it looks ok? Elena has asked me to produce this draft quickly as it seems the best way to respond to our most recent PRA from Mr. Davis.

Thanks
Mary

O11-370 cont.

O11-370
cont.

ATTACHMENT 6

Coastal Conservancy

REQUEST FOR SERVICES

Ballona Wetlands Ecological Reserve
Environmental Analysis and Permit Assistance

May 11, 2009

O11-370 cont.

Contract Type: Environmental Professional Services

Scope:
Perform environmental analysis and assist in applying for permits for habitat enhancement and public access improvements at the Ballona Wetlands Ecological Reserve in Los Angeles.

Submittal Deadline: **June 1, 2009**
Proposals should be submitted electronically in adobe acrobat format and must be received at the Conservancy by June 1, 2009.

Contact: Mary Small, California Coastal Conservancy, msmall@scc.ca.gov

From: Mary Small
To: "Ivan Medel"
Cc: "Shelley Luce"; "Karina Johnston"; "Diana Hurlbert"
Subject: FW: post to web?
Date: Wednesday, February 08, 2012 4:48:00 PM
Attachments: Ballona Civil Engineering and Geotech.pdf
Ballona Hydrology and Engineering.pdf

Hi Ivan
Could you post the following on the homepage of the Ballona Restoration Project website?

The California State Coastal Conservancy is requesting proposals for consultant services for two separate contracts related to the proposed enhancement of the Ballona Wetlands Ecological Reserve in Los Angeles County. Services are needed to complete engineering and geotechnical evaluations, hydrology, technical studies, design and related services to support completion of a project level EIR/EIS and preparation and processing of a Section 408 permit through the Army Corp of Engineers. One contract will be for Civil and Geotechnical Engineering and a second contract will be for Hydrology and Engineering Design Analysis.

Please unhighlight the text above but insert hyperlinks to the attached docs to the highlighted text to the RFS, does that make sense?

Thanks,
Mary

O11-370 cont.

REQUEST FOR SERVICES

Ballona Wetlands Ecological Reserve
Civil and Geotechnical Engineering and Permit Assistance

February 8, 2010

Contract Type: Civil Engineering and Geotechnical Professional Services

Scope: Provide engineering and geotechnical evaluations, design and related services for the proposed wetland restoration design of the Ballona Wetlands Ecological Reserve in Los Angeles. Technical studies, evaluations, and designs will be of sufficient detail to support completion of a project level EIR/EIS and preparation and processing of a Section 408 permit through the Army Corp of Engineers.

Submittal Deadline: February 29, 2012

Proposals should be submitted electronically in adobe acrobat format and must be received at the Conservancy by February 29, 2012.

Contact: Mary Small, California Coastal Conservancy, msmall@scc.ca.gov

O11-370 cont.

From: Mary Small
To: "Diana Hurlbert"; "David Lawhead (DLawhead@dfg.ca.gov)"; "Eichler, Monica SPL"; "Eric Gillies"; "griggsp@slc.ca.gov"; "Hamamoto, Bruce"; "Patrick Holland (pholland@dpw.lacounty.gov)"; "Rick Mayfield (rmayfield@dfg.ca.gov)"; "Serpa, Phillip J SPL"; "Shelley Luce"; "Strum, Stuart R MVN-Contractor"; "Swenson, Daniel P SPL"; "Terri Grant (tgrant@dpw.lacounty.gov)"; "Youn Sim (ysim@dpw.lacounty.gov)"
Subject: RE: request for services - ballona wetlands
Date: Thursday, February 09, 2012 5:02:00 PM

Hello all-
Here's some more information about the Coastal Conservancy's contractor selection process. It is a quick process and I am hoping PMT members will assist us so I want to be sure you are aware of the schedule.

I am really hoping the PMT will help in reviewing proposals and that staff from the County and Corp will participate on the selection panel. These contracts are for work to support the County's 408 submittal. Here's the schedule for the review/selection:

- Proposals will be submitted electronically to me on 2/29
- I will post them on a secure site by 3/1 for PMT review
- PMT will select the top 3 or 4 firms we'll interview for each contract by 3/5
- PMT will do a detailed review of the written proposals of the top proposals by 3/13
- Interviews will be in LA on 3/13 – all day

I am assuming the selection panel will be Diana, me, and a representative from the County and the Corps. If anyone else wants to spend March 13th interviewing firms, please let me know.

O11-370 cont.

Mary

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Wednesday, February 08, 2012 4:46 PM
To: 'Diana Hurlbert'; 'David Lawhead (DLawhead@dfg.ca.gov)'; 'Eichler, Monica SPL'; 'Eric Gillies'; 'griggsp@slc.ca.gov'; 'Hamamoto, Bruce'; 'Patrick Holland (pholland@dpw.lacounty.gov)'; 'Rick Mayfield (rmayfield@dfg.ca.gov)'; 'Serpa, Phillip J SPL'; 'Shelley Luce'; 'Strum, Stuart R MVN-Contractor'; 'Swenson, Daniel P SPL'; 'Terri Grant (tgrant@dpw.lacounty.gov)'; 'Youn Sim (ysim@dpw.lacounty.gov)'
Subject: FW: request for services - ballona wetlands

The request for services for the civil engineering and geotechnical contract and the hydrology and engineering contracts went out today. Feel free to forward to other potential contractors, I sent it to about 60 in our database and we will post it on the web. Proposals are due on Feb 29th.

Mary

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Wednesday, February 08, 2012 4:39 PM
Subject: FW: request for services - ballona wetlands

The California State Coastal Conservancy is requesting proposals for consultant services for two separate contracts related to the proposed enhancement of the Ballona Wetlands Ecological

Reserve in Los Angeles County. Services are needed to complete engineering and geotechnical evaluations, hydrology, technical studies, design and related services to support completion of a project level EIR/EIS and preparation and processing of a Section 408 permit through the Army Corp of Engineers. One contract will be for Civil and Geotechnical Engineering and a second contract will be for Hydrology and Engineering Design Analysis.

O11-370 cont.

~~~~~~~~~~~~~~~~

Mary Small
Deputy Executive Officer, Coastal Conservancy
1330 Broadway #1300 Oakland, CA 94612
510-286-4181
~~~~~~~~~~~~~~~~

Subject: RE: PUBLIC RECORDS REQUEST FROM JOHN DAVIS MARCH 27, 2012
From: "Elena Eger" <eeger@scc.ca.gov>(Add as Preferred Sender)
Date: Wed, Mar 28, 2012 8:46 am
To: <jd@johnanthonydavis.com>
Cc: "'Mary Small'" <msmall@scc.ca.gov>, <sschuchat@scc.ca.gov>

Dear Mr. Davis:

The Conservancy does not possess a responsive record to your request, below.

Sincerely,

O11-370 cont.

Elena Eger

Senior Staff Counsel

California Coastal Conservancy

1330 Broadway, Ste. 1300

Oakland, CA 94612

510-286-4089 tele/voicemail

510-286-0470 fax

From: jd@johnanthonydavis.com [mailto:jd@johnanthonydavis.com]
Sent: Tuesday, March 27, 2012 5:55 PM
To: Elena Eger
Cc: 'Mary Small'; sschuchat@scc.ca.gov
Subject: RE: PUBLIC RECORDS REQUEST FROM JOHN DAVIS MARCH 27, 2012

California Coastal Conservancy

Re: Public Records Request

Please provide any statute which exempts the California Coastal Conservancy from the California Contract Code as it relates to the Agency entering into contracts of any type.

Thank you,

John Davis

-------- Original Message --------
Subject: RE: PUBLIC RECORDS REQUEST FROM JOHN DAVIS MARCH 21, 2012
From: "Elena Eger" <eeger@scc.ca.gov>
Date: Tue, March 27, 2012 5:27 pm
To: <jd@johnanthonydavis.com>
Cc: "'Mary Small'" <msmall@scc.ca.gov>, <sschuchat@scc.ca.gov>

Dear Mr. Davis:

Your request below does not constitute a request for a record pursuant to the Public Records Act. Rather, your request is for an analysis of statutory law. I am ethically prohibited from providing counsel to anyone other than my client. Assuming that you are not a lawyer, I am also ethically bound to suggest to you that you obtain your own counsel to advise you on such matters. You may utilize the California State Bar website for referrals to counsel at www.calbar.ca.gov.

Sincerely,

Elena Eger

Senior Staff Counsel

O11-370 cont.

California Coastal Conservancy

1330 Broadway, Ste. 1300

Oakland, CA 94612

510-286-4089 tele/voicemail

510-286-0470 fax

From: jd@johnanthonydavis.com [mailto:jd@johnanthonydavis.com]
Sent: Tuesday, March 27, 2012 1:38 PM
To: Elena Eger
Subject: RE: PUBLIC RECORDS REQUEST FROM JOHN DAVIS MARCH 21, 2012

O11-370 cont.

Hello,

Thank you for the citations. However, neither removes the requirement of the Coastal Conservancy to comply with Public Contract Code Sectoins 10140-10141 nor 10515-10518.

If the Conservancy is exempt from the California Contract Code, please inform me as to what statute or code provides for such an exemption.

John Davis

-------- Original Message --------
Subject: RE: PUBLIC RECORDS REQUEST FROM JOHN DAVIS MARCH 21, 2012
From: "Elena Eger" <eeger@scc.ca.gov>
Date: Tue, March 27, 2012 12:50 pm
To: <jd@johnanthonydavis.com>
Cc: "'Schuchat, Sam'" <sschuchat@scc.ca.gov>, "'Mary Small'" <msmall@scc.ca.gov>, "'Dick Wayman'" <dwayman@scc.ca.gov>, "'Nadine Peterson'" <npeterson@scc.ca.gov>, "'Heather Baugh'" <heather.baugh@resources.ca.gov>, <kimg@resources.ca.gov>

Dear Mr. Davis:

This correspondence contains the Coastal Conservancy's (Conservancy) response to your March 21, 2012 Public Records Act request, below.

The Conservancy does not possess any responsive records to either of your numbered requests. However, we direct you to Government Code Sections 4525 *et seq*. and 14 California Code of Regulations Sections 13870 *et seq.* for our contracting process.

Sincerely,

Elena Eger

Senior Staff Counsel

California Coastal Conservancy

1330 Broadway, Ste. 1300

Oakland, CA 94612

510-286-4089 tele/voicemail

510-286-0470 fax

O11-370 cont.

From: jd@johnanthonydavis.com [mailto:jd@johnanthonydavis.com]
Sent: Wednesday, March 21, 2012 2:11 PM
To: "Samuel Schuchat"; "John Laird"; 'Dick Wayman'; 'Nadine Peterson'; carmenp@scc.ca.gov; kimg@resources.ca.gov
Cc: John Chang
Subject: PUBLIC RECORDS REQUEST FROM JOHN DAVIS MARCH 21, 2012

California Coastal Conservancy

Att: Executive Director Sam Schuchat

California Coastal Conservancy March 21, 2012

To: Governing Board and Management

Douglas Bosco
Marisa Moret
Ann Nothoff
John Laird
Susan Hancsh

Karen Finn

Bryan Cash

Noreen Evens

Joe Simitan

Anthony Cannella

Bill Mornning

Luis Alejo

Das Williams

O11-370
cont.

CC
John Chang State Controller

Att: Executive Director Schuchat, Please Send This Letter to All California Coastal Conservancy Governing Board and Management.

This is a request for public records made pursuant to the California Public Records Act. Each numbered item is a distinct request for public records.

1. Please provide any and all public records that demonstrate compliance with California Public Contract Code Section 10140-10141 in regard to the California Coastal Conservancy approval onf January 19, 2012 of File No. 04-088 which approved money to be disbursed for engineering, hydrologic analyses, geotechnical assessments, and public design.

2. Please provide any and all public records that demonstrate compliance with California Public Contract Code Section 10515-10518 in regard to the California Coastal Conservancy approval on January 19, 2012 of File No. 04-088 which approved money to be disbursed for engineering, hydrologic analyses, geotechnical assessments, and public design.

No such records have been requested or received by me to date.

See Attached Approval for File No. 04-088

Thank you,

John Davis
PO 10152
Marina del Rey Ca. 90295

O11-370
cont.

PUBLIC CONTRACT CODE SECTION 10140-10141

10140. **Public notice of a project shall be given by publication once a week for at least two consecutive weeks or once a week for more than two consecutive weeks if the longer period of advertising is deemed necessary by the department, as follows:** (a) **In a newspaper of general circulation published in the county in which the project is located**, or if located in more than one county, in such a newspaper in a county in which a major portion of the work is to be done. (b) **In a trade paper of general circulation published** in San Francisco for projects located in County Group No. 1, as defined in Section 187 of the Streets and Highways Code, or **in Los Angeles for projects located in County Group No. 2, as defined in said Section 187, devoted primarily to the dissemination of contract and building news among contracting and building materials supply firms. The department may publish the notice to bidders for a project in additional trade papers or newspapers of general circulation that it deems advisable.** 10141. The notice shall state the time and place for the receiving and opening of sealed bids, describing in general terms the work to be done and that the bids will be required for the entire project and for the performance of separate designated parts of the entire project, when the department determines that segregation is advisable.

PUBLIC CONTRACT CODE SECTION 10515-10518

10515. (a) No person, firm, or subsidiary thereof who has been awarded a consulting services contract may submit a bid for, nor be awarded a contract on or after July 1, 2003, for the provision of services, procurement of goods or supplies, or any other related action that is required, suggested, or otherwise deemed appropriate in the end product of the consulting services contract. (b) Subdivision (a) does not apply to either of the following: (1) Any person, firm, or subsidiary thereof who is awarded a subcontract of a consulting services contract that amounts to no more than 10 percent of the total monetary value of the consulting services contract. (2) Consulting services contracts that comply with Article 2.5 (commencing with Section 10510.4). (c) (1) Subdivision (a) does not apply to any person, firm, or subsidiary awarded a consulting services contract by a University of California medical center when the provision of service, procurement of goods or supplies, or any other related action required, suggested, or otherwise deemed appropriate in the end product of the consulting services contract, is necessary to avoid a competitive disadvantage in the hospital industry, improve patient care, protect the privacy of patient information, or avoid significant delay and additional expense. (2) The University of California shall report within 30 days on any exemption granted under paragraph (1) to the Joint Legislative Budget Committee and the Department of Finance. The report shall include a description of the circumstances that warranted the exemption, the effects of the exemption on patient care or patient privacy, and a calculation of the projected costs savings to the institution as a result of the exemption. 10516. No officer or employee of the University of California shall engage in any employment, activity, or enterprise from which the officer or employee receives compensation or in which the officer or employee has a financial interest if that employment, activity, or enterprise is sponsored or funded, or sponsored and funded, by any university department through or by a university contract unless the employment, activity, or enterprise is within the course and scope of the officer's or employee's regular university employment. No officer or employee in the university shall contract on his or her own individual behalf as an independent contractor with any university department to provide services or goods. This section shall not apply to officers or employees of the university with teaching or research responsibilities, nor shall it apply to student employees for payment for additional campus activities or engagements outside of the scope of their primary university employment. 10517. (a) No retired, dismissed, separated, or formerly employed person of the University of California employed with the university or otherwise appointed to serve in the university may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements, or any part of the decisionmaking process relevant to the contract while employed in any capacity by any university department. The prohibition of this subdivision shall apply to a person only during the two-year period beginning on the date the person left university employment. (b) For a period of 12 months following the date of his or her retirement, dismissal, or separation from the University of California, no person employed in the university or otherwise appointed to serve in the university may enter into a contract with any university department, if he or she was employed by that department in a policymaking position in the same general subject area as the proposed contract within the 12-month period prior to his or her retirement, dismissal, or separation.

O11-370 cont.

The prohibition of this subdivision shall not apply to a contract requiring the person's services as an expert witness in a civil case or to a contract for the continuation of an attorney's services on a matter he or she was involved with prior to leaving the university. (c) This section does not prohibit the rehire or reappointment of University of California employees after retirement, consistent with university administrative policies, nor does it apply to inventors and authors of intellectual property licensed under technology transfer agreements. 10518. (a) Except as otherwise provided in subdivision (b), each contractor who enters into a contract with a University of California campus for ten thousand dollars ($10,000) or more shall be assigned an identification number by the chancellor of that university campus. Each contractor who has been assigned a number shall list it on each contract the contractor enters into with the university campus, regardless of the amount of the contract. In the case of a corporation or firm, the chancellor's assigned number shall be used exclusively on each contract with that particular chancellor's campus. The assigned number shall remain unchanged regardless of future name changes. (b) If the identification numbers cannot be tracked centrally by the Regents of the University of California, then the regents, and not the chancellors, shall assign the identification numbers.

O11-370 cont.

ATTACHMENT 7

O11-370
cont.

From: Mary Small
To: "Barbara Romero"
Cc: "Melissa Guerrero"; "Diana Hurlbert"; "Shelley Luce"
Subject: SCC mtg in Jan
Date: Monday, December 19, 2011 3:30:00 PM
Attachments: Ballona_Wetlands_Engineering and Technical Studies.docx

Hi Barbara,
Thanks for agreeing to support the recommendation for funding for engineering work at Ballona. Attached is the draft staff report, the project will be heard at our Jan 19th meeting at the Baldwin Hills Scenic Overlook. As you can see it's a pretty big authorization, so we'd love your support. I think we may take the Board on a tour of Ballona that morning and then the meeting will start around 12:30. It would be great to have MRCA join us for either the tour or the meeting.

Thanks also for the message about the early action plan grant. When you have time submit any final billing or just a letter stating that the work is all done and I'll close it out.

Hope you are doing well and have a great holiday.
Mary

O11-370 cont.

From: Mary Small
To: "Shelley Luce"; "Scott Valor"
Subject: FW: support letter for SCC board meeting?
Date: Wednesday, January 11, 2012 3:53:00 PM

Good news

From: Sarah Sikich [mailto:ssikich@healthebay.org]
Sent: Wednesday, January 11, 2012 3:44 PM
To: Mary Small
Subject: RE: support letter for SCC board meeting?

Hi Mary,

Mark forwarded me your email about the Ballona technical study support letter for the SCC board meeting. We discussed it at our department meeting this week, and will send in a letter. Is an electronic copy fine, or do you need a hard copy? Also, should I just send it to you?

Additionally, Alix Hobbs would like to join our meeting while you are at Heal the Bay to discuss some of our Coastal Conservancy projects and potential future ideas. Is it okay with you if she joins for the second half of the meeting?

O11-370 cont.

Thanks,
Sarah

From: Mary Small [mailto:msmall@scc.ca.gov]
Sent: Tuesday, January 03, 2012 3:00 PM
To: Mark Gold
Subject: RE: support letter for SCC board meeting?

Thanks, the meeting is the 19th so that's the deadline. Yes, I totally understand.

I was just sending Sarah an email about possible dates I'll be in LA when I'd like to stop in ad talk about OPC, so maybe I'll see you then.

Happy new year (and MLPA implementation)
Mary

From: Mark Gold [mailto:mgold@healthebay.org]
Sent: Tuesday, January 03, 2012 2:39 PM
To: Mary Small
Subject: RE: support letter for SCC board meeting?

Mary – Happy new year to you too. We will definitely take a look at this and think it through. It is a great project and needs to happen. The political baggage that goes with it is no picnic as you know.

When is the deadline?

O11-370
cont.

ATTACHMENT 8

From: jd@johnanthonydavis.com [mailto:jd@johnanthonydavis.com]
Sent: Wednesday, March 21, 2012 12:34 PM
To: "Samuel Schuchat"; "John Laird"; 'Dick Wayman'; 'Nadine Peterson'; carmenp@scc.ca.gov; kimg@resources.ca.gov
Cc: David Lawhead; John Chang
Subject: To All California Coastal Conservancy Board Members from John Davis

California Coastal Conservancy
Att: Executive Director Sam Schuchat

California Coastal Conservancy March 21, 2012

To: Governing Board and Management
Douglas Bosco
Marisa Moret
Ann Nothoff
John Laird
Susan Hancsh
Karen Finn
Bryan Cash
Noreen Evens
Joe Simitan
Anthony Cannella
Bill Mornning
Luis Alejo
Das Williams

CC
John Chang State Controller

Att: Executive Director Schuchat, Please Send This Letter to All California Coastal Conservancy Governing Board and Management.

Your Staff Attorney, Elena Eger has indicted this State Agency will not answer the fair questions I, as a member of the public asked regarding the procedures of the Conservancy.

Failure to answer such questions is contrary to the role of the State Agency to enjoin the public in the processes.

Please request that Staff respond to the questions I have asked.

Furthermore I have requested that your Staff not copy any Private Business or Individuals on responses to me as I consider it harassment and intimidation by the State Agency.

Should any such private business or individual wish to obtain such email records, such records should ONLY be provide if requests for such records are made pursuant to the Law, the California Public Records Act.

O11-370 cont.

The Information Practices Act (Civil Code section 1798 et seq.) generally prohibits agencies from disclosing an individual⊙s personal information to the public.

Thank you,

John Davis
PO 10152
Marina del Rey Ca. 90295

From: jd@johnanthonydavis.com [mailto:jd@johnanthonydavis.com]
Sent: Thursday, February 16, 2012 1:29 PM
To: Elena Eger
Cc: 'Mary Small'; 'Sam Schuchat'; 'Dick Wayman'; 'Shelley Luce'; svalor@santamonicabay.org
Subject: Reply from John Davis RE: Davis' Requests for Information

California Coastal Conservancy
Att: E.Eger
Re: Reply

Dear E. Eger,

The request for public records submitted on 2/14/2012 remains outstanding.

The Commission still needs to reply to this request within 10 days of the submission date. I do expect a reply by 2/24/2012 as
the Public Records Act requires under law.

I also would take issue with your recent email stating that I made a DEMAND of the Commission. This is far from true.

In fact my email stated the INTENDED PURPOSE of the email and made no demands as you stated to me in your email to me.

Prior to that, you inferred in another email that I made statements and or asserted things that I clearly did not.

I corrected you once alreadyin writing, and find I must do so yet again.

Your accuracy in characterizing my telephonic conservations or written documents should not be clouded by your misconceptions
as I do not find it to be professional in your role as a State Attorney.

Regards,

John Davis
PO 10152
Marina del Rey Ca. 90295

O11-370
cont.

****

Subject: Reply from John Davis RE: PUBLIC RECORDS REQUEST FROM JOHN DAVIS
From: <jd@johnanthonydavis.com>(Add as Preferred Sender)
Date: Tue, Feb 14, 2012 2:05 pm
To: "Elena Eger" <eeger@scc.ca.gov>

California Coastal Conservancy
Att: Elana Eger Councel
Re: Reply to your communication

Counsel Eger,

Please pardon my typo in your title.

Also, I still do not understand why a State Agency would share my letter, and personal email
address with a private business, unless requested pursuant to the Public Records Act. I am not
sure what other private businesses you intend to copy on my letters to the State Agency using State facillities.

I do understand that you will continue to provide my emails to this State Agency with private businesses:

" Indeed, we will continue to share communications to you or from you with our other Ballona project partners, irrespective of whether the partner is a public or private organization, when we, at our sole discretion, determine that dissemination to be useful for our project purposes.".

How does the Coastal Conservancy define the term "partner" as used in your statement?

How, at the Coastal Conservancy, is a determination made at its sole discretion whether the dissemination
of my email to the State Agency would be useful for the Conservancy's project purposes?

What entity of the Coastal Conservancy is entitled to make such a determination and under what authority?

These are fair questions given that my letters to you have already been shared with a private business.

Thank you for your continued assistance.

John Davis
PO 10152
Marina del Rey Ca. 90295
-------- Original Message --------
Subject: RE: PUBLIC RECORDS REQUEST FROM JOHN DAVIS

O11-370 cont.

From: "Elena Eger" <eeger@scc.ca.gov>
Date: Tue, February 14, 2012 12:32 pm
To: <jd@johnanthonydavis.com>
Cc: "'Mary Small'" <msmall@scc.ca.gov>, <svalor@santamonicabay.org>, "'Shelley Luce'" <sluce@santamonicabay.org>, "'Dick Wayman'" <dwayman@scc.ca.gov>

Mr. Davis:

This is in partial response to your PRA, below and your request of yesterday at 5:15 p.m. in which you demand that we not share your communications with "any private business" and in which you characterize such communications as "private".
While we will provide you with your requests to the extent possible and in compliance with the PRA, we must clarify to you that communications between you, as a member of the public, and the Conservancy, a public agency, are not considered under the PRA and thus not by the Conservancy to be "private communications", subject to any privilege or exception under the Act. Indeed, we will continue to share communications to you or from you with our other Ballona project partners, irrespective of whether the partner is a public or private organization, when we, at our sole discretion, determine that dissemination to be useful for our project purposes.
I would also like to clarify for you for your future purposes that my title is not "council" but "counsel", that is, I am a lawyer, not a member of a council.
Sincerely,

O11-370 cont.

Elena Eger
Senior Staff Counsel
California Coastal Conservancy
1330 Broadway, Ste. 1300
Oakland, CA 94612
510-286-4089 tele/voicemail
510-286-0470 fax

****

From: jd@johnanthonydavis.com [mailto:jd@johnanthonydavis.com]
Sent: Tuesday, February 14, 2012 10:49 AM
To: Elena Eger
Subject: PUBLIC RECORDS REQUEST FROM JOHN DAVIS

California Coastal Conservancy
Att: Council E. Eger
Re: Public Records Request

This is a public records request made pursuant to the California Public Records Act. Each numbered item is a separate and distinct request for public records. This letter is only intended to for the California Coastal Conservancy and NOT FOR ANY PRIVATE BUSINESS, unless requested by such a business via the California Public Records Act.

1. Provide any and all emails to and received by the California Coastal Conservancy

from the following email address in regard and prior to Item 5 of the Conservancy hearing on January 19, 2012: sluce@santamonicabay.org

2. Provide any and all emails to and received by the California Coastal Conservancy from the following email address in regard and prior to Item 5 of the Conservancy hearing on January 19, 2012: svalor@santamonicabay.org

3. Provide any and all emails to and received by the California Coastal Conservancy from the following email address AFTER the Conservancy hearing on January 19, 2012: sluce@santamonicabay.org

4. Provide any and all emails to and received by the California Coastal Conservancy from the following email address AFTER the Conservancy hearing on January 19, 2012: svalor@santamonicabay.org

6. Provide any and all emails sent by the Conservancy to following email address in regard and prior to Item 5 of the Conservancy hearing on January 19, 2012: sluce@santamonicabay.org

7. Provide any and all emails sent by the Conservancy to following email address in regard and prior to Item 5 of the Conservancy hearing on January 19, 2012: svalor@santamonicabay.org

8. Provide any and all email sent by the California Coastal Conservancy to following email address in AFTER the Conservancy hearing on January 19, 2012: sluce@santamonicabay.org

9. Provide any and all email sent by the California Coastal Conservancy to following email address in AFTER the Conservancy hearing on January 19, 2012: svalor@santamonicabay.org

O11-370 cont.

Thank you for your assistance,

John Davis
PO 10152
Marina del Rey Ca. 90295

-------- Original Message --------
Subject: RE: Reply from John Davis RE: Davis' Requests for Information
From: "Elena Eger" <eeger@scc.ca.gov>
Date: Thu, February 16, 2012 7:48 pm
To: <jd@johnanthonydavis.com>
Cc: "'Mary Small'" <msmall@scc.ca.gov>, "'Sam Schuchat'" <sschuchat@scc.ca.gov>, "'Dick Wayman'" <dwayman@scc.ca.gov>, "'Shelley Luce'" <sluce@santamonicabay.org>, <svalor@santamonicabay.org>

Dear Mr. Davis:

As I stated in my email of yesterday to you, we intend to comply with your records request to us of 2/14. We are working on compiling the records that you have requested. Please clarify whether you wish to receive the emails pertaining to correspondence among Mr. Valor, Ms. Luce and Conservancy staff with respect to the Item #5 on the 1-19-12 agenda only.

Please clarify that you are referring to the Conservancy when you make reference to the "Commission" in your message below.

As to your other allegations contained in your email below, I remind you that, as I said yesterday, we will make no further comment, which, of course, does not mean that we agree or disagree with your interpretations. Again, unless you are requesting a record from us under the Public Records Act, we do not intend to make further explanatory comments to you.

Sincerely,

Elena Eger
Senior Staff Counsel
California Coastal Conservancy
1330 Broadway, Ste. 1300
Oakland, CA 94612
510-286-4089 tele/voicemail
510-286-0470 fax

O11-370 cont.

-------- Original Message --------
Subject: Davis' Requests for Information
From: "Elena Eger" <eeger@scc.ca.gov>
Date: Wed, February 15, 2012 6:45 pm
To: <jd@johnanthonydavis.com>
Cc: "'Mary Small'" <msmall@scc.ca.gov>, "'Sam Schuchat'" <sschuchat@scc.ca.gov>, "'Dick Wayman'" <dwayman@scc.ca.gov>, "'Shelley Luce'" <sluce@santamonicabay.org>, <svalor@santamonicabay.org>

Dear Mr. Davis:

In response to your inquiry below, I am providing you with the link to our website's contents of Item 5, Ballona Restoration Project, approved at the Conservancy's 1-19-12 public meeting unanimously. All my references are to the contents in this link. http://scc.ca.gov/webmaster/ftp/pdf/sccbb/2012/1201/20120119Board05_Ballona_Wetlands.pdf.

I believe in your message below you are referencing Exhibit 4. This record reads at the bottom of the page in the key: "Existing habitat units based on field survey conducted by the California Department of Fish and Game, October – December 2000. Map created by GreenInfo Network October 20, 2011." The Conservancy's logo is next to this statement.

With respect to the remainder of your email to us, below, except for our response to your last statement regarding the Conservancy's

dissemination of your correspondence to and with us, which we responded to in my earlier email to you of yesterday at 11:32 a.m., we wish to direct your attention to the Public Records Act (PRA), which provides the public with the mechanism to request a public record from a public agency. Additionally, we wish to direct your attention to the Ballona Restoration website, linked on our Conservancy website at www.scc.ca.gov , which among other resources, has project documents and provides a calendar of upcoming meetings, if any, where you have the opportunity to seek clarification and information regarding the restoration project.

We have cooperatively provided you with both oral and written clarifications on requests you have made to us for information or on allegations you have made that we or our project partners are violating particular laws or practices or conducting our respective project business improperly. In fact, since the Conservancy unanimously approved Item 5 for Ballona Restoration Planning, on 1-19-12, we responded to every one of your requests for records under the PRA or for explanations or to answer your allegations, which now amount to some 16 written requests to date for both information and records in the 18 business days from our 1-19-12 meeting, except for two requests for information and one request for records, received yesterday. Additionally, you have spoken by phone with six of our staff numerous times each, none of which were records requests but were rather in the nature of your seeking more information or explanation from us. Despite our willingness to provide you with explanations and/or clarifications, we continue to receive more requests for the same information from you, often accompanied by accusations of improper behavior.

O11-370 cont.

In compliance with our obligations under the Public Records Act, we will continue to provide our records to you upon written request for such records. However, we will not be responding to your further requests for non-record information or explanation or to your allegations of improper business practices beyond this request, below. We cannot conduct our regular business in service of the public and continue to respond to your almost-daily and, if daily, often numerous daily requests for non-record information or to answer your allegations. Despite our willingness to provide you with explanations, clarifications and information, our good-faith responses back to you seem to be unsatisfactory to you since you follow-up often with yet another request for the same information. Continuing this "asked and answered" process seems an unproductive use of public resources.

So, with respect to your statement that DFG produced this map, please note that as cited above here, GreenInfo Network produced the map for the Conservancy and its project partners/team's use; DFG is

our restoration partner on this project. We direct you to the Conservancy's website at www.scc.ca.gov, Ballona restoration for identification of our project partners on this project.
With respect to whether DFG provided the Conservancy with permission to put our logo on this proposed restoration design, please note that the Conservancy is a project partner with DFG and that within this partnership, the Conservancy acts as the lead in restoration planning with the full agreement of the other project partners, including the DFG.
Sincerely,

Elena Eger
Senior Staff Counsel
California Coastal Conservancy
1330 Broadway, Ste. 1300
Oakland, CA 94612
510-286-4089 tele/voicemail
510-286-0470 fax

From: jd@johnanthonydavis.com [mailto:jd@johnanthonydavis.com]
Sent: Monday, February 13, 2012 5:15 PM
To: 'Elena Eger'
Cc: 'Nadine Peterson'; 'Sam Schuchat'; 'Dick Wayman'; Mary Small
Subject: RE: Davis call to Eger of 2-6-12

O11-370 cont.

California Coastal Conservancy
Att: Elena Eger Legal Council
CC Mary Small Project Manager
Re: Item 5 January 19th 2012 Meeting

Hello Council Eger,

Mary Small directed me to you to answer a question about the hearing noted above.

The attached map was presented as a projection.

It bears the seal of the State Coastal Conservancy. The small text below the legend is hard to read but it
does reference the California Dpt. of Fish and Game in 2011. The text is not clear. It appears to say Ballona Wetlands units.....summary conducted the California Dpt of Fish and Game .....Map created by .....October 20, 2011.

Could you provide the correct reading of this text?

For what purpose did Fish and Game produce this map?

Did Fish and Game provide specific permission for the Conservancy to place its seal (logo) on this

map for official purposes such as for grant approvals?

I understand the Conservancy is a partner of Fish and Game in the Ballona preserve.

However it is unclear if Fish and Game authorized the use of this map for purposes of another Agency
to consider in its grant process.

Please DO NOT CC ANY PRIVATE BUSINESSES ON MY E-Mail COMMUNICATIONS anymore. This is met
to be a private communication between myself and the State Agency, and not to be shared with any private
business, whatsoever.

O11-370 cont.

Again,

Thank you for your assistance,

John Davis
PO 10152
Marina del Rey Ca. 90045

From: Mary Small
To: "Elena Eger"
Cc: "Scott Valor"
Subject: FW: State Water Board Legal"s Memo to our Governing Board
Date: Monday, February 06, 2012 4:47:02 PM
Attachments: SWRCB memo2011aug re accusations.pdf
SWRCB Ltr to Davis re PRAs.pdf

Hi Elena

Scott Valor emailed this to you but he had the wrong address.

Mary

From: Scott Valor [mailto:svalor@santamonicabay.org]
Sent: Monday, February 06, 2012 3:42 PM
To: msmall@scc.ca.gov; eeeger@scc.ca.gov
Subject: State Water Board Legal's Memo to our Governing Board

Mary & Elena--

The attached memo to our Governing Board may help with some background. It was not only given to our Governing Board, it is posted on our website, and was forwarded to John Davis and Patricia McPherson, among others. It addresses virtually all of the accusations made against the Foundation and Commission.

Attached also is a direct letter to John Davis from SWRCB legal noting how Foundation staff and contractors legally serve the SMBRC. For example, I am a contractor to the Foundation, but I am authorized to act on behalf of the Commission. He refuses to acknowledge that, which will never change. However, the documents speak for themselves.

One reason he may be contacting you (again) is that SWRCB legal told him that any future PRA queries to the Commission must be directed to me. He simply won't do that so he seeks ways around it. It would be entirely appropriate for you to re-direct any queries relevant to the SMBRC to me.

Call me if/when questions arise.

/s

Scott Valor
Director of Government Affairs
Santa Monica Bay Restoration Commission
310-922-2376

visit us at www.smbrc.ca.gov

O11-370 cont.

SCC 08-08

WORK TRANSMITTAL

Project Development Approval

Date: 12/13/11 WG Leader: MS Date: 12/13/11

Project Manager: Mary Small Project #: 04-088-01

Project Name: Ballona Wetlands County/City: LA²

Grantee/Contractor Name: tbd / Santa Monica Bay Foundation

Is Grantee a Nonprofit Organization? ___ Yes ___ No If **Nonprofit**: Is status file complete and current? _____ Yes _____ No

Nature of Job planning/design

RESERVATION OF FUNDS

Will this project receive **federal or other "outside" funding?** ___ Yes X No. *If Yes, fill out back side of this form (Grant Transmittal - A)*

Will this project receive **state / other funding?** ___ Yes *(Reimb. -0995)* X No. *If Yes, fill out back side of this form (Grant Transmittal - B)*

Total Amount to be Reserved: $ 6,490,000.00

Prop 84 - Planning? _____ Yes X No

Proposed Budget Item(s):	Fiscal Year (Budget Act)	Amount	Encumb. Expiration Date	Liquid. Expiration Date
1. 3760-30203-0005 (2)(B)( )	2000 Chapter: 052/10	$ 6,490,000.00	(6/13)	(6/15)
2. 3760-_____( )( )( )	_____ Chapter: ___	$_____	(_____)	(_____)
3. 3760-_____( )( )( )	_____ Chapter: ___	$_____	(_____)	(_____)

Reap. by Chapter: 712/10 *for item* 1. *Reap. by Chapter:* _____ *for item* ___ *Reap. by Chapter:* _____ *for item* ___

Program: enhancement

Project Info entered onto applicable Bond Data Spreadsheet? ___Y X N **Date:** N/A

_____ **Public Access:** VRA (Capital Outlay)

_____ **Habitat Conservation Fund (0262)**

_____ **Support:** 001 Fund 0565 only: ___Yes

IT ___ Consult & Prof: (External) ___ (Inter-Dept.) ___

Repayment Feature? (Loan Receivable) ___ Yes ✓ No

Private Activity ? ___ Yes ___ No ✓ N/A

(Tax Reportable to Treasurer's Office)

Expected Date of Board Action: 1/19/12 **Project Entered onto SCC Database?** ✓ Y ___ N **Date:** 12/13/11

1. WG Leader: MS Date: 12/13/11
2. Acctg Officer: HT 6.49M Date: 12/13/11
3. Additional WG Leader responsible for management of specific funds (if applicable): _____ Date: _____
4. Legal: KE Date: 12/14/11
5. EO/DEO: SS Date: 12/15/11

STAFF RECOMMENDATION REVIEW (For 1/19/12 Board Meeting)

1. WG Leader: MS Date: 12/13/11
2. Legal : KE Date: 12/14/11
3. EO/DEO : SS Date: 12/15/11
4. *Legal: _____ Date: _____

* At EO/DEO's discretion

GRANT/CONTRACT AMENDMENTS REVIEW

(CEQA Submitted? ___Yes ___No ___N/A Project Manager _____ Date: _____)

Amount Encumbered: $ _____

Termination Date: _____

Grant/Contract No.: _____

Amendment No.: _____

Disabled Veteran Business Enterprise (DVBE)? _____Yes _____No

Small Business Enterprise (SBE)? _____Yes _____No

(If Yes, provide OSDS#_____)

20-yr Agreement? _____Yes _____No

MAIL OUT APPROVALS

1. Legal: _____ Date: _____
2. Project Manager: _____ Date: _____
3. Proofreader: _____ Date: _____

O11-370 cont.

GRANT TRANSMITTAL

Grant No._____

(for receivable grants)

INTENT TO APPLY

Date: _____

Project Manager: _____

SCC Program: _____

Grant Program Name: _____ Grant Amount: _____

Granting Agency: _____

Project Name: _____ Project Number: _____

SCC required Matching Funds: (if other than in-kind services, please use reverse side of this form to reserve SCC funds)

In - Kind: $ _____ (Copy from reverse side)

Support: $ _____ Fund No.: _____ FY_____

Capital Outlay: $ _____ Fund No.: _____ FY_____

TOTAL: $ _____

Funding Mechanism: Will or will not hit SCC account? _____ Electronic Transfer ? _____

Paid in Arrears ? _____ Cash Advance ? _____

___ ***(A) For Federal Grant***

Support (Staff, travel, equipment): $ _____ 3760 - 001- 0890 FY : _____

Capital Outlay: $ _____ 3760 - 301- 0890 FY : _____

Other (Specify) _____ : $ _____ 3760 - _____ FY : _____

TOTAL: $ _____

___ **(B) For State Reimbursable Grant** (Please use reverse side of this form to reserve up-front SCC funds)

Support (Staff, travel, equipment): $ _____ 3760 - 001 - 0565 - F90 FY : _____

Capital Outlay: $ _____ 3760 - 301 - ____ - F90 FY : _____

Other (Specify) _____ : $ _____ 3760 - ____ - ____ - F90 FY : _____

TOTAL: $ _____

Authorization:

Program Manager: _____ Date: _____

Accounting Officer: _____ Date: _____

Grants Manager: _____ Date: _____

APPLICATION *(Provide copy of Application to Grants Manager)*

Legal * _____ Date: _____

**Please inform Grants Manager if signature are missing in the "INTENT TO APPLY" SECTION*

EO/DEO: _____ Date: _____

Date Applied: _____ Expected Date of Grant Award: _____

REVIEW OF AGREEMENT (for receipt of funds)

Board Authorization To Spend The Grant: Date (s): _____

Project Manager: _____ Date: _____

Program Manager: _____ Date: _____

Legal: _____ Date: _____

EO/DEO: _____ Date: _____

Grants Manager: _____ Date: _____ Inform Acct. Date: _____

Amendment #: _____ Legal Reviewed by: _____ Date: _____

O11-370 cont.

Coastal Conservancy

June 20, 2013

Dr. Shelley Luce, Executive Director
Santa Monica Bay Restoration Authority
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Subject: Designation of Conservancy Project Manager/Contract No. 12-107

Dear Ms. Luce: Shelley

The agreement mentioned above requires that I name someone to serve as the Executive Officer's designee. I have selected Mary Small for this role.

I have enclosed a signed copy of the agreement. I look forward to our continued work together on this project.

Sincerely,

Samuel Schuchat
Executive Officer

SS:rr

EC

Enclosure

O11-371

1330 Broadway, 13th Floor
Oakland, California 94612-2512
510·286·1015 Fax: 510·286·0470

AGREEMENT SUMMARY [Model Form 215 Igov – SCC Rev. 11/12]
STD 215 (Rev 4/2002)

☐ CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED

AGREEMENT NUMBER	AMENDMENT NUMBER
12-107	

1. CONTRACTOR'S NAME: Santa Monica Bay Restoration Authority
2. FEDERAL I.D. NUMBER: 02-0752393
3. AGENCY TRANSMITTING AGREEMENT: State Coastal Conservancy
4. DIVISION, BUREAU, OR OTHER UNIT: Contracts Unit
5. AGENCY BILLING CODE: 13090
6. NAME AND TELEPHONE NUMBER OF CONTRACT ANALYST FOR QUESTIONS REGARDING THIS AGREEMENT: Mary Small, Project Manager, 510-286-4181
7. HAS YOUR AGENCY CONTRACTED FOR THESE SERVICES BEFORE?
☒ NO ☐ YES (*If YES, enter prior contractor name and Agreement Number*)
8. BRIEF DESCRIPTION OF SERVICES - LIMIT 72 CHARACTERS INCLUDING PUNCTUATION AND SPACES: The SMBRA will support a proposed restoration project with technical review and public outreach.
9. AGREEMENT OUTLINE *(Include reason for Agreement: Identify specific problem, administrative requirement, program need or other circumstances making the Agreement necessary; include special or unusual terms and conditions.)*

Santa Monica Bay Restoration Authority ("SMBRA") is a joint powers authority comprised of the Santa Monica Bay Restoration Commission ("SMBRC") and the Los Angeles County Flood Control District ("LACFCD"). The State Coastal Conservancy is working with the SMBRA and several other partner agencies to develop a restoration project for the Ballona Wetlands State Ecological Reserve. The proposed project will require a Section 408 permit from the US Army Corps of Engineers ("Corps") and LACFCD will be the permit applicant. This agreement will provide funding to the SMBRA to support the proposed restoration project, including obtaining early permit consultation and technical review by the Corps staff and public outreach about the proposed project. The SMBRA is uniquely qualified to complete this work because its member agency, LACFCD is the permit applicant. Funding is from Proposition 12 funds specifically for the Ballona Wetlands.

O11-371 cont.

10. PAYMENT TERMS *(More than one may apply.)*
☐ MONTHLY FLAT RATE ☐ QUARTERLY ☐ ONE-TIME PAYMENT ☐ PROGRESS PAYMENT
☒ ITEMIZED INVOICE ☒ WITHHOLD 10 % ☐ ADVANCED PAYMENT NOT TO EXCEED
☐ REIMBURSEMENT/REVENUE $ _____ or _____ %
☐ OTHER *(Explain)* _____

11. PROJECTED EXPENDITURES

FUND TITLE	ITEM	F.Y.	CHAPTER	STATUTE	PROJECTED EXPENDITURES
Safe Neighborhood Parks, Clean Water, Air &…	3760-30203-0005 (2)(B) Reap. by Ch. 712/10;47/06;208/04	2000	052	00/01	$300,000.00

OBJECT CODE: Enhancement
AGREEMENT TOTAL $ 300,000.00
OPTIONAL USE: Ballona Wetlands
AMOUNT ENCUMBERED BY THIS DOCUMENT $ 300,000.00
I CERTIFY upon my own personal knowledge that the budgeted funds for the current budget year are available for the period and purpose of the expenditure stated above.
PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT $ -0-
ACCOUNTING OFFICER'S SIGNATURE: Hong Ullucci
DATE SIGNED: 6/14/13
TOTAL AMOUNT ENCUMBERED TO DATE $ 300,000.00

12.

AGREEMENT	TERM From	TERM Through	TOTAL COST OF THIS TRANSACTION	BID, SOLE SOURCE, EXEMPT
Original	Signature	06/30/2015	$ 300,000.00	Exempt
Amendment No. 1			$ -0-	
		TOTAL	$ 300,000.00	

(Continue)

STATE OF CALIFORNIA

AGREEMENT SUMMARY

STD. 215 (Rev 04/2002)

13. BIDDING METHOD USED:

☐ REQUEST FOR PROPOSAL (RFP) ☐ INVITATION FOR BID (IFB) ☐ USE OF MASTER SERVICE AGREEMENT

(Attach justification if secondary method is used)

☐ SOLE SOURCE CONTRACT *(Attach STD. 821)* ☒ EXEMPT FROM BIDDING *(Give authority for exempt status)* ☐ OTHER *(Explain)* PCC §§10335(a); See SCM 5.80

NOTE: *Proof of advertisement in the State Contracts Register or an approved form STD. 821, Contract Advertising Exemption Request, must be attached*

14. SUMMARY OF BIDS *(List of bidders, bid amount and small business status) (If an amendment, sole source, or exempt, leave blank)*

N/A

15. IF AWARD OF AGREEMENT IS TO OTHER THAN THE LOWER BIDDER, PLEASE EXPLAIN REASON(S) *(If an amendment, sole source, or exempt, leave blank)*

N/A

16. WHAT IS THE BASIS FOR DETERMINING THAT THE PRICE OR RATE IS REASONABLE?

N/A

17. JUSTIFICATION FOR CONTRACTING OUT *(Check one)*

☐ Contracting out is based on cost savings per Government Code 19130(a). The State Personnel Board has been so notified.

☒ Contracting out is justified based on Government Code 19130(b). Justification for the Agreement is described below.

Justification:

The services contracted related to the review of the Section 408 permit are not available within civil service and are of such a highly specialized or technical nature that the necessary expert knowledge, experience and ability are only available from Corps staff. The public outreach task is also highly specialized and requires a locally based public agency that can represent the proposed restoration project at local meetings and respond to the public in a timely manner. This is one time contract to funds specific work to support a proposed wetland restoration project, this work is not an ongoing function. The proposed restoration project is currently undergoing environmental review and permit submittals are being prepared, it is expected that this work will be completed by April 2015.

O11-371 cont.

18. FOR AGREEMENTS IN EXCESS OF $5,000, HAS THE LETTING OF THE AGREEMENT BEEN REPORTED TO THE DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING?

☐ NO ☒ YES ☐ N/A

19. HAVE CONFLICT OF INTEREST ISSUES BEEN IDENTIFIED AND RESOLVED AS REQUIRED BY THE STATE CONTRACT MANUAL SECTION 7.10?

☐ NO ☐ YES ☒ N/A

20. FOR CONSULTING AGREEMENTS, DID YOU REVIEW ANY CONTRACTOR EVALUATIONS ON FILE WITH THE DGS LEGAL OFFICE?

☐ NO ☐ YES ☐ NONE ON FILE ☒ N/A

21. IS A SIGNED COPY OF THE FOLLOWING ON FILE AT YOUR AGENCY FOR THIS CONTRACTOR?

A. CONTRACTOR CERTIFICATION CLAUSES ☐ NO ☐ YES ☒ N/A

B. STD. 204, VENDOR DATA RECORD ☐ NO ☒ YES ☐ N/A

22. REQUIRED RESOLUTIONS ARE ATTACHED

☐ NO ☐ YES ☒ N/A

23. ARE DISABLED VETERANS BUSINESS ENTERPRISE GOALS REQUIRED? *(If an amendment, explain changes, if any)*

☒ NO *(Explain below)* ☐ YES *(If YES complete the following)*

DISABLED VETERAN BUSINESS ENTERPRISES: _____ % OF AGREEMENT

☐ Good faith effort documentation attached if 3% goal is not reached.

☐ We have determined that the contractor has made a sincere good faith effort to meet the goal.

Explain:

N/A

24. IS THIS A SMALL BUSINESS CERTIFIED BY OSBCR?

☒ NO ☐ YES *(Indicate Industry Group)*

SMALL BUSINESS REFERENCE NUMBER

25. IS THIS AGREEMENT (WITH AMENDMENTS) FOR A PERIOD OF TIME LONGER THAN ONE YEAR? *(If YES, provide justification)*

☐ NO ☒ YES

This is a highly complex restoration project, the engineering work to support the permit application and the outreach to the public will take longer than one year to complete.

I certify that all copies of the referenced Agreement will conform to the original Agreement sent to the Department of General Services.

CONTRACT MANAGER'S SIGNATURE

DATE SIGNED 6/19/13

STATE OF CALIFORNIA
STANDARD AGREEMENT
STD 213 (Rev 06/03)

AGREEMENT NUMBER	12-107
REGISTRATION NUMBER	

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME
State Coastal Conservancy

CONTRACTOR'S NAME
Santa Monica Bay Restoration Authority

2. The term of this Agreement is: Signature through June 30, 2015

3. The maximum amount of this Agreement is: $300,000.00 (Three hundred thousand dollars)

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work	2 pages
Exhibit A – Attachment 1	2 pages
Exhibit B – Budget Detail and Payment Provisions	3 pages
Exhibit B – Attachment 1	1 pages
Exhibit C*– General Terms and Conditions (GTC-610)	2 pages
Check mark one item below as Exhibit D:	
☒ Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement)	3 pages
☐ Exhibit - D* Special Terms and Conditions	
Exhibit E – Additional Provisions	

O11-371 cont.

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at www.ols.dgs.ca.gov/Standard+Language. A copy is also attached for ease of reference.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME *(if other than an individual, state whether a corporation, partnership, etc.)*
Santa Monica Bay Restoration Authority

BY *(Authorized Signature)* — DATE SIGNED *(Do not type)*: 6/3/13

PRINTED NAME AND TITLE OF PERSON SIGNING
Dr. Shelley Luce, Executive Director

ADDRESS
320 W. 4th Street, Suite 200, Los Angeles, CA 90013

STATE OF CALIFORNIA

AGENCY NAME
State Coastal Conservancy

BY *(Authorized Signature)* — DATE SIGNED *(Do not type)*: 6/19/13

PRINTED NAME AND TITLE OF PERSON SIGNING
Samuel Schuchat, Executive Officer

ADDRESS
1330 Broadway, Suite 1300, Oakland, CA 94612

California Department of General Services Use Only

APPROVED
JUL - 5 '13
DEPT OF GENERAL SERVICES

☐ Exempt per:

STATE OF CALIFORNIA
STANDARD AGREEMENT
STD 213 (Rev 06/03)

AGREEMENT NUMBER	REGISTRATION NUMBER
12-107	

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME
State Coastal Conservancy

CONTRACTOR'S NAME
Santa Monica Bay Restoration Authority

2. The term of this Agreement is: Signature through June 30, 2015

3. The maximum amount of this Agreement is: $300,000.00 (Three hundred thousand dollars)

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work	2 pages
Exhibit A – Attachment 1	2 pages
Exhibit B – Budget Detail and Payment Provisions	3 pages
Exhibit B – Attachment 1	1 pages
Exhibit C*– General Terms and Conditions (GTC-610)	2 pages
Check mark one item below as Exhibit D:	
☒ Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement)	3 pages
☐ Exhibit - D* Special Terms and Conditions	
Exhibit E – Additional Provisions	

O11-371 cont.

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at www.ols.dgs.ca.gov/Standard+Language. A copy is also attached for ease of reference.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME *(if other than an individual, state whether a corporation, partnership, etc.)*
Santa Monica Bay Restoration Authority

BY *(Authorized Signature)* ✍ [signature] — DATE SIGNED *(Do not type)* 6/13/13

PRINTED NAME AND TITLE OF PERSON SIGNING
Dr. Shelley Luce, Executive Director

ADDRESS
320 W. 4th Street, Suite 200, Los Angeles, CA 90013

STATE OF CALIFORNIA

AGENCY NAME
State Coastal Conservancy

BY *(Authorized Signature)* ✍ [signature] — DATE SIGNED *(Do not type)* 6/14/13

PRINTED NAME AND TITLE OF PERSON SIGNING
Samuel Schuchat, Executive Officer

ADDRESS
1330 Broadway, Suite 1300, Oakland, CA 94612

California Department of General Services Use Only

☐ Exempt per:

EXHIBIT A
(Standard Agreement)

SCOPE OF WORK

Santa Monica Bay Restoration Authority ("SMBRA") is a joint powers authority comprised of the Santa Monica Bay Restoration Commission ("SMBRC") and the Los Angeles County Flood Control District ("LACFCD"). The State Coastal Conservancy is working with the SMBRA and several other partner agencies to develop a restoration project for the Ballona Wetlands State Ecological Reserve in Los Angeles County.

This agreement will fund two tasks to be completed by the SMBRA:

Task 1: Section 408 Permit Review and Technical Coordination

The proposed Ballona Wetlands Restoration Project involves modification of an existing flood control channel that was built by the U.S. Army Corps of Engineers ("Corps") and that is maintained by LACFCD. The proposed modification will require a Section 408 permit from the Corps; LACFCD will be the permit applicant. Under the provisions of Section 214 of Federal Water Resources Development Act of 2000 ("WRDA"), LACFCD has entered into an agreement with the Corps to provide funding to support early coordination, technical review and expedited permit evaluation. LACFCD and the other project partners support this agreement because completing the permit application requires significant engineering work and public investment. Obtaining early consultation, review and comment from the Corps at each stage of the permit process will help ensure that the engineering work adequately supports the Corps needs. The purpose of this task is to provide funding to SMBRA to support up to $240,000 of the costs incurred under the Section 214 agreement with the Corps for the Ballona Wetlands Restoration Project's Section 408 permit.

O11-371 cont.

The detailed work program for the U.S. Army Corps of Engineers Section 408 Permit Coordination and Technical Review is described in the MOU between LACFCD and the Corps, attached as Exhibit A.

Total Budget Task 1: $240,000

Task 2: Public Outreach

SMBRA will coordinate efforts to communicate with the public about the proposed Ballona Wetlands Restoration Project. This outreach will include maintaining a project website, posting information for the public, responding to inquiries from the press and making presentations to the public. The project partners are committed to planning the proposed restoration project with

public transparency, including posting completed documents and reports. Under this agreement, SMBRA will be responsible for maintaining the project website to ensure timely communication with the public. In addition, funding will be used to pay for SMBRA or Santa Monica Bay Restoration Foundation (SMBRF) staff to answer inquiries (from the press or others), and to make presentations at public forums.

Total Budget Task 2: $60,000

The project representatives during the term of this agreement will be:

Requesting Agency: Santa Monica Bay Restoration Authority	Providing Agency: State Coastal Conservancy
Name: Dr. Shelley Luce	Name: Mary Small
Phone: 310-961-4444	Phone: 510-286-4181
Email: sluce@santamonicabay.org	Email: msmall@scc.ca.gov

O11-371 cont.

Direct all billing inquiries to:

Requesting Agency: Santa Monica Bay Restoration Authority	Providing Agency: State Coastal
Section/Unit:	Section/Unit: Contracts Unit
Attention: Marcelo Villagomez	Attention: Erlinda Corpuz
Address: 320 W 4th Street, Suite 200	Address: 1330 Broadway, Suite 1300 Oakland, CA 94612
Phone: 213-576-6645	Phone: 510-286-4159
Fax:	Fax: 510-286-0470
Email: mvillagomez@santamonicabay.org	Email: ecorpuz@scc.ca.gove

EXHIBIT A – ATTACHMENT 1
(Standard Agreement)

WORK PLAN

Task 1 A. Permit Review and Comments

The Corps staff will provide technical review and comments on each submittal in the Section 408 Permit process, including Submittal A, Submittal B, and the final submittal. In addition, the Corps stall will prepare the District submittal to the Division and Headquarters and will ensure that comments from Division and Headquarters are communicated to the project applicant.

- Corps staff will review Submittal A and provide comments to the applicant
- Corps staff will conduct Agency Technical Review (ATR) of Submittal B and provide comments to applicant
- Corps staff will check that comments were addressed in revised submittals
- Corps staff will prepare Division and Headquarters submittals
- Corps staff will provide Headquarters and Division comments to applicant
- Corps staff will review Submittal C and provide comments to applicant
- Corps staff will review revised submittals to ensure that comments were addressed.

Task 1 B. Oversight and Technical Coordination

The Corps staff will meet with the project applicant to provide input into each submittal as it is being prepared. The Corps staff will provide additional support to the project applicant through the sharing of previous knowledge, expertise with Corps' policy, technical requirements to assist in limiting rework of the technical studies, engineering and design of the project.

Task 2 C. Public Outreach

SMBRA will coordinate efforts to communicate with the public about the proposed Ballona Wetlands Restoration Project, this will include maintaining a project website, posting information for the public. The project partners are committed to planning the proposed restoration project with public transparency, including posting completed documents and reports. Under this agreement, SMBRA will be responsible for maintaining the project website to ensure timely communication with the public. In addition, funding will be used to pay for SMBRA staff to answer inquiries (from the press or others), and to make presentations at public forums.

Tasks for public outreach shall include:

O11-371
cont.

1. Develop a 1-year strategic communications plan, with a budget, schedule and milestones/deliverables, for educational outreach about Ballona Wetlands and wetland restoration, which may include but not be limited to:

   a. An outreach plan for local online/offline outlets (i.e. website, newspaper, radio, internet, co-op advertising, freestanding direct mail, internet/banners).

   b. Social media strategies and messaging.

   c. Educational tours for students, the public, government officials and others.

   d. Identifying outreach opportunities such as special events like farmers markets, environmental fairs, etc.

2. Update and maintain a project website to provide the public with current information about the proposed Ballona Wetlands restoration project. This task will include planning, creating, designing, writing, developing layouts, producing and updating the project website.

3. Identify and produce deliverables for outreach that may include, but not be limited to, the following:

   a. Create talking points (modified ongoing as needed) & Key Words (English/Spanish).

   b. Print and other materials, and miscellaneous graphic needs, in English and Spanish.

      - Printed materials may include signs, stickers, bumper stickers, etc.
      - Electronic materials – i.e. newsletters, YouTube videos, slideshows

   c. Plan/implement tours and special events such as tables at local Farmer's Markets, connecting with online sites, etc.

4. Collaborate with partner organizations/agencies, stakeholder groups, and other interested parties.

5. Implement other tools/processes for effectively communicating information about the project and understanding community concerns about the project. This may include developing graphics or visuals to communicate the proposed project to the public.

6. Provide communications support and assistance to project partners interacting with media or presenting the project to the public.

The Contractor shall perform all services in close consultation with Conservancy staff.

O11-371
cont.

EXHIBIT B
(Standard Agreement)

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing

   A. For services satisfactorily rendered, and upon receipt and approval of Requests for Disbursement, the Conservancy agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates specified herein, which is attached hereto and made a part of this Agreement.

   B. Requests for Disbursement shall include the Agreement Number and shall be submitted in triplicate not more frequently than monthly in arrears to Erlinda Corpuz, Contracts Manager, 1330 Broadway, Suite 1300, Oakland, CA 94612.

2. Budget Contingency Clause

   A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.

   B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

3. Payment

   A. Costs for this Agreement shall be computed in accordance with State Administrative Manual Sections 8752 and 8752.1.

   B. Nothing herein contained shall preclude advance payments pursuant to Article 1, Chapter 3, Part 1, Division 3, Title 2 of the Government Code of the State of California.

O11-371 cont.

4. Additional Payment Provisions

The total amount of funds disbursed under this contract shall not exceed $300,000 (three hundred thousand dollars).

The Conservancy shall make disbursements to Contractor on the basis of services rendered and costs incurred to date, less ten percent, upon satisfactory progress in accordance with schedules, budgets, and other provisions of this contract, and upon submission of a "Request for Disbursement" form (available from the Conservancy), which shall be submitted no more frequently than monthly but no less frequently than quarterly.

Services shall be billed at no more than the rates for the personnel of Contractor and its subcontractors, as specified in Attachment 1 to this Exhibit B.

The Conservancy will reimburse Contractor for direct expenses necessary to the provision of services under Task 2 of this contract when documented by appropriate receipts. The Conservancy will reimburse travel and related expenses at actual costs not to exceed the rates provided in Title 2, Division 1, Chapter 3, Subchapter 1, Article 2 of the California Code of Regulations, except that reimbursement may be in excess of these rates upon provision of documentation that rates in compliance are not reasonably available to Contractor. Reimbursement for the cost of operating a private vehicle shall not, under any circumstance, exceed the current rate specified by the State of California for unrepresented state employees as of the date the cost is incurred. All travel other than automobile travel within the County of Los Angeles must be approved in advance by the Executive Officer of the Conservancy ("the Executive Officer"). The Conservancy will reimburse Contractor at cost for other necessary expenses if those expenses are reasonable in nature and amount taking into account the services provided and other relevant factors.

O11-371 cont.

No overhead or indirect expenses of the Contractor or its subcontractors will be reimbursed.

Each Request for Disbursement submitted by Contractor must include Contractor's name and address, the number of this contract, Contractor's authorized signature, the date of submission, the total amount of costs incurred for the period, a brief description of the services rendered and work products completed, and an itemized description, including time, materials and expenses incurred, of all work done for which disbursement is requested. The Request for Disbursement must also indicate itemized cumulative expenditures to date, expenditures during the reporting period, and the unexpended balance of contract funds. Each Request for Disbursement shall be accompanied by:

1. All receipts and any other source documents for direct expenditures and costs incurred by Contractor.

2. Invoices from subcontractors that the contractor engaged to complete any portion of the work funded under this contract and any receipts and any other source documents for costs incurred and expenditures by any such subcontractor, unless the Executive Officer makes a specific exemption in writing.

3. A supporting progress report summarizing the current status of the tasks under this contract and comparing it to the status required by the "WORK PLAN" described above in Attachment 1 to Exhibit A, and including written substantiation of completion of the portion of the tasks for which disbursement is requested.

Contractor shall submit a final Request for Disbursement within thirty days after the completion date provided in the "Term of Agreement" section.

Contractor's failure to submit and supporting documents, as required by this section, will relieve the Conservancy of its obligation to disburse funds to Contractor until Contractor corrects all deficiencies.

O11-371
cont.

EXHIBIT B – ATTACHMENT 1

BUDGET DETAIL

Overall Budget

Description	SCC	LACFCD	Total
Task 1A. Basic Permit Review	$200,000.00	$98,740.00	$298,740.00
Task 1B. Oversight and Technical Coordination	40,000.00	91,260.00	131,260.00
Task 2: Public Outreach	60,000.00	0.00	60,000.00
	$300,000.00	$190,000.00	$490,000.00

***Note limitations of subcontracting out more than $50,000 or 25% of the contract, which ever is less (SCM § 3.06(D).**

O11-371 cont.

Task 1 – Budget Detail

Funds under this task will be expended to pay the costs incurred by the SMBRA or its member entities associated with the Ballona Wetlands project. Costs may include Corps staff (including salary and associated benefits) dedicated to completing the work in this interagency agreement. Funds may be used to pay for staff performing technical analyses and writing, Agency Technical Review, real estate evaluation, risk analysis, copying or other clerical/support tasks, acquisition of data, site visits, coordination activities, additional personnel (including support/clerical staff), construction quality assurance and control, environmental documentation preparation and review; other permit evaluation related activities. Funds from this agreement will NOT be used for overhead, travel, or costs associated with the review of the Corps' work undertaken by supervisors or other persons or elements of the Corps in the decision-making chain of command. However, if a supervisor is performing staff work and not supervisory oversight, funds may be used.

Task 2 – Budget Detail

Funds under this task will be expended to pay the costs of staff (including salary and associated benefits) of the Santa Monica Bay Restoration Authority dedicated to completing the work in this interagency agreement. Within the limitations noted above, some funds may be used to pay for subcontractors to work on specific outreach tasks, if approved by the Coastal Conservancy. Funds under Task 2 may also be used to pay for direct expenses associated with the project outreach, such as website services and publications. Funds under this agreement will not be used to purchase food or pay for travel.

EXHIBIT C - GIA 610
(Standard Agreement)

GENERAL TERMS AND CONDITIONS

NOTE: the General Terms and Conditions are included in the contract by reference to the internet site http://www.ols.dgs.ca.gov/Standard+Language/default.htm. A copy of the version of the General Terms and Conditions applicable to this contract may be downloaded from that site and printed for your files. In addition, for ease of reference, a copy of the applicable General Terms and Conditions ("Exhibit C") are attached, below.

1. APPROVAL: This Agreement is not valid until signed by both parties and approved by the Department of General Services, if required.

2. AUDIT: The agency performing work under this Agreement agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement if it exceeds $10,000. The agency performing work agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of record retention is stipulated.

3. PAYMENT: Costs for this Agreement shall be computed in accordance with State Administrative Manual Section 8752 and 8752.1.

4. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties, and approved as required. No oral understanding or agreement not incorporated in the Agreement is binding on any of the parties.

5. SUBCONTRACTING: All subcontracting must comply with the requirements of the State Contracting Manual, Section 3.06.

6. ADVANCE PAYMENT: The parties to this interagency agreement may agree to the advancing of funds as provided in Government Code Sections 11257 through 11263.

7. DISPUTES: The agency performing work under this Agreement shall continue with the responsibilities under this Agreement during any dispute.

8. TIMELINESS: Time is of the essence in this Agreement.

O11-371 cont.

9. NON-PAYMENT OF INVOICES – FUND TRANSACTION REQUEST: In accordance with Government Code Section 11255, the parties agree that when an invoice is not paid by the requested due date to the Contractor (agency providing the service) and the invoice is not disputed by the contracting Department (agency receiving the service), Contractor may send the contracting Department a 30-day notice that it intends to initiate a transfer of funds through a Transaction Request sent to the State Controller's Office. To facilitate a Transaction Request should one be needed, the contracting Department shall no later than 10 business days following execution of this agreement provide data to the Contractor for the appropriation to be charged including: fund number, organization code, fiscal year, reference, category or program, and, if applicable, element, component, and task.

O11-371
cont.

EXHIBIT D
(Standard Agreement)

SPECIAL TERMS AND CONDITIONS

1. Term of Agreement

This agreement shall be deemed executed and effective when signed by both parties and approved by the Department of General Services and received in the office of the Conservancy. An authorized representative of Contractor shall sign the first page of the originals of this agreement in ink. This agreement shall run from the effective date through June 30, 2015 (the "termination date") unless otherwise terminated or amended as provided in this agreement. However, all work shall be completed by March 31, 2015. The final Request for Disbursement must be received by April 25, 2015.

The term of this contract is based on the current level of funding available for the services to be provided under this contract. If additional funding is authorized, the parties anticipate that the term of the contract will be extended and the scope of work will be revised by amendment.

O11-371 cont.

2. Early Termination, Suspension or Failure to Perform

The Conservancy may terminate this contract for any reason by providing seven days written notice to the Contractor. During the term, the Conservancy may also suspend the contract before the work is complete. In either case, upon receipt of notice of termination, the Contractor shall immediately stop work under the contract and take whatever measures are necessary to prevent further costs to the Conservancy under this contract. The Conservancy shall be responsible for any reasonable and non-cancelable obligations incurred by the Contractor in the performance of this contract up to the date of notice to terminate or suspend, but only up to the unpaid balance of total funds authorized under this contract. Any notice suspending work under this contract shall remain in effect until further written notice from the Conservancy authorizes work to resume. On or before the date of termination of the contract under this section, the Contractor shall provide the Conservancy with all work, material, data, information, and written, graphic or other work produced or developed under this contract (whether completed or partial), in appropriate, readily useable form. The Contractor shall include in any contract with any subcontractor retained for work under this contract a provision that entitles the Contractor to suspend or terminate the contract with the subcontractor for any reason on written notice and on the same terms and conditions specified in this section.

3. Authorization

The signature of the Executive Officer of the Conservancy ("Executive Officer") on this agreement certifies that at its January 19, 2012 meeting, the Conservancy authorized this agreement and the agreement is executed pursuant to that authorization.

4. Expenditure of Funds and Allocation of Funding Among Budget Items

The total amount of this contract may not be increased except by written amendment to this agreement. The contractor shall expend funds consistent with the approved project budget. Expenditure on items contained in the approved project budget may vary by as much as ten percent without prior approval by the Executive Officer, provided the contractor submits a revised budget prior to requesting disbursement based on the revised budget. Any deviation greater than ten percent must be identified in a revised budget and approved in advance and in writing by the Executive Officer. The Conservancy may withhold payment for items which exceed the amount allocated in the project budget by more than ten percent and which have not received the approval required above. Any increase in the funding for any particular budget item shall mean a decrease in the funding for one or more other budget items unless there is a written amendment to this agreement.

O11-371 cont.

5. Executive Officer's Designee

The Executive Officer shall designate a Conservancy project manager who shall have authority to act on behalf of the Executive Officer with respect to this agreement. The Executive Officer shall notify Contractor of the designation in writing.

6. Project Completion

Contractor shall complete the work under this agreement by the completion date completion date provided in the "TERM OF AGREEMENT" section, above. Upon completion of the project, Contractor shall supply the Conservancy with evidence of completion by submitting: (1) the required work products; and (2) a fully executed final Request for Disbursement form. Within thirty days of Contractor's compliance with this paragraph, the Conservancy shall determine whether the project has been satisfactorily completed. If the Conservancy determines that the project has been satisfactorily completed, the Conservancy shall issue to Contractor a letter of acceptance of the project. The project shall be deemed complete as of the date of the letter of acceptance.

7. Computer Software

   Contractor certifies that it has instituted and will employ systems and controls appropriate to ensure that, in the performance of this Agreement, state funds will not be used for the acquisition, operation or maintenance of computer software in violation of copyright laws.

8. Work Products

   Contractor hereby assigns to the Conservancy and the Conservancy accepts the assignment of all rights and interest in all material, data, information, and written, graphic or other work produced under this contract, including, without limitation, any right to copyright, patent or trademark the work. All material, data, information, and written, graphic or other work produced under this contract shall be in the public domain and shall be available to the public generally.

   Contractor shall include in any subcontract with a third party for work under this contract a provision that preserves the rights created by the first paragraph of this section, and that identifies the Conservancy as a third-party beneficiary of that provision.

   Pursuant to Government Code section 7550, any document or written report that is produced under this contract by non-state employees at a cost of greater than $5,000 shall contain a separate section disclosing all contracts and subcontracts related to the production of the document or written report, including the contractor or subcontractor name, contract number, and total amount of the contract or subcontract.

9. Locus

   This agreement is deemed to be entered into in the County of Alameda.

O11-371 cont.

From:	patricia mc pherson
To:	OSAEHotline@DOF.CA.GOV
Subject:	GC Complaint(Brandy 13)Dept.Finance;AUTHORITY AUDIT..continued 12-107 and others
Attachments:	Screen Shot 2015-04-02 at 1.12.56 PM.png Screen Shot 2015-04-02 at 1.08.47 PM.png Screen Shot 2015-04-02 at 2.01.35 PM.png 20140318-Background Info - Ballona Colonel Colloton v1.docx 20140318-Annotated Agenda - Ballona Colonel Colloton v2.docx

exhibit 13,GC Complaint…Dept. Finance

Begin forwarded message:

From: patricia mc pherson <patriciamcpherson1@verizon.net>
Subject: AUTHORITY AUDIT..continued 12-107 and others
Date: April 2, 2015 3:33:22 PM PDT
To: HChu@bcawatsonriceca.com

Ms. Chu,
Thank you for the opportunity to send these Public Record Act and/or Freedom of Information Act requested responsive documents for your review.
The following documents have notes attached above each document.

12-107 GRANT-continued
Below is another email from the independent non-profit, the Santa Monica Bay Restoration Foundation to LA County Public Works regarding grant SCC 12-107.

O11-372

Conceivably, the money is being given by the Ca. Coastal Conservancy to LA County Public Works for the County to provide to USACE for WRDA review on the Ballona Wetlands
project. (We are not aware of how the Prop. 12 funds can be legally used for WRDA purposes pertaining to Ballona Wetlands)

The money to the Bay Foundation was ostensibly for public outreach--to which we have nothing to indicate that any public outreach occurred regarding Ballona and anything having to do with the USACE, the County and/or WRDA funding for a USACE project on Ballona. The Board of Supervisors meeting regarding the expedited review of Ballona and the WRDA approvals, occurred during the December holidays and we had had no forewarning that such decision making would be taking place.

Furthermore, we are not aware of any approvals by the SMBRC governing board regarding this grant and do not believe that any took place. No public meetings took place with the SMBRC that alerted the public to anything
regarding Ballona Wetlands and/or County Board of Supervisors readying for a vote to approve WRDA funding and/or WRDA funding agreements including an expedited review of Ballona Wetlands (408permit for levee removal) was about to take place.

While many, if not most SMBRC governing board members are unaware of WRDA meaning and/or 408 meanings and generally many if not most things

pertaining to Ballona Wetlands,
currently the SMBRFoundation staff have been heading up SMBRCOMMISSION meetings and Bay Watershed Council meetings, telling the governing board members, the Bay Watershed
Council members that the SMBRCOMMISSION is not engaged upon Ballona, hence no decision making is necessary regarding Ballona Wetland issues by any of its members.

SMBRFOUNDATION staff addresses, to SMBRCOMMISSION and Bay Watershed members and the public that the California Dept. of Fish & Wildlife is the sole moderator of Ballona issues with the USACE and the ongoing permit reviews and EIR/S.

Since the SMBRA (AUTHORITY) is a JPA between the SMBRCOMMISSION and LA County Public Works, the SMBRCOMMISSION is clearly engaged as a partner with LA County per anything pertaining to Ballona Wetlands and its restoration. The insertion of a private, independent non-profit and its paid staff that are the SMBRFOUNDATION has overwhelmingly caused apparent confusion to the public, members of the BayWatershed Council, SMBRCommission and, multiple state agencies.
Blurring of financial accounts between the private business, the SMBRFOUNDATION and the state agency, the Authority that we are just now seeing and questionable accountability in all aspects is of great concern to us.

O11-372 cont.

Below from relevant portion of their IRS Form 990, the Santa Monica Bay Restoration Foundation falsely claims to be the Santa Monica Bay Restoration Project (after 2001 known as the
Santa Monica Bay Restoration Commission).

Be

The following email may have already been provided to you. It is from a GC PRA response.

The following document- Ballona Wetland Restoration Project
Meeting with US Army Corps of Engineers Colonel Kimberly Colloton (2014) contains issues of finance. Problems noted in the document appear to reflect the desire to not have financing provided via the Authority.

And, regarding the meeting with USACE, the Ca. Coastal Conservancy created the following 2014 document-

Thankyou for your time in review of these documents,
Patricia McPherson, Grassroots Coalition

O11-372 cont.

Ballona Wetlands Restoration Project
Meeting with US Army Corps of Engineers Colonel Kimberly Colloton

Tuesday, March 18, 2014, 1:00 to 2:00 p.m.

BACKGROUND INFORMATION AND CURRENT ISSUES

1. Will the Corps' 408 permit review cost more than $492,000?
    a. *Summary*: On 4/9/2012 ~~the~~ Stephen Vaughn of the Corps provided a "price tag" of $492,000 for 408 Permit review, but this did not include Regulatory staff review of the NEPA document, which will require an additional $50,000 to maintain pace with the 408 permit schedule of 18-24 months. Without this allocation, Regulatory staff estimate a 6-month extension in the review schedule.

    b. *Current options:*
        i. LA County increases its funding commitment (currently at $190,000, calculated as 50% of the review costs for FCD-related work). We told the SCC this option is currently off the table.
        ii. The State increases its funding commitment (currently $302,000)
        iii. Corps Asset management staff revises its estimate downward and makes funds available to the Regulatory staff, keeping the total at $492,000. This could result in potential shortfalls later.
        iv. Corps Regulatory staff performs its review without WRDA funding, potentially affecting project review schedule. Aaron Allen estimates this would create an approximately 6-month delay.

    c. *Next Steps/Recommendation*: The SCC must choose from options ii, iii, or iv above.

2. SMBRC / SCC $60,000 "shortfall"
    a. *Summary*: Due to unknown reasons, the State was only planning to provide $240,000 of the required $302,000 for their share of WRDA funding for the 408 permit review.

    b. *Background*: In June 2013 the State Coastal Commission and the SMBRC created an agreement between the Coastal Commission and the SMBRA (JPA) providing $300,000 of funding to the JPA, $60,000 of which was set aside for SMBRC's communication budget. Public Works was sent a copy of this agreement, but was not part of the agreement formation, and was not aware of the intended use. According to Counsel, this agreement is not sufficient by itself for the County to accept funds for WRDA funded review by the Corps. Additionally, utilizing the JPA requires catching up on required audits as well as the passing of a JPA budget by the SMBRC and the County Board of Supervisors.

O11-372 cont.

c. *Current options:*
   i. State increases its funding
   ii. County increases its funding (the SMBRC will likely be requesting that we provide the additional $60,000).

d. *Recommendation*: County must decide if we are willing to increase our funding commitment. If not, the State must find additional funds. If the State refuses, the County must consider whether we are willing to commit our funds to 408 permit review by the Corps that may not be completed. If the State refuses to provide additional funding, we recommend withdrawing all County funding for the 408 permit review.

3. How to transfer funds from State Coastal Conservancy to the County?
   a. *Summary*: The County has informally agreed to fund $190,000 of the WRDA review, and the State the remaining $302,000. There is not any current mechanism for these funds to be transferred to the County.

   b. *Current options*:
      i. The County and the State Coastal Conservancy enter into a new agreement, authorizing this funding. The County will fund WRDA review in the interim months.
      ii. The State and the SMBRC amend the existing agreement between the SMBRA and the SCC, adding the County as a party and delivering funding directly to the County.
      iii. The SMBRA and the County enter into a new agreement, keeping the agreement between the SMBRA and the SCC intact.

   c. *Next Steps/Recommendation*: According to Counsel, our best option is to enter into a new agreement between the County and the SCC. We recommend this course of action (Option i) if the State is amenable. Option ii is not recommended. Option iii above may be possible, but may be less politically feasible.

O11-372 cont.

Ballona Wetlands Restoration Project
Meeting with US Army Corps of Engineers Colonel Kimberly Colloton

Tuesday, March 18, 2014, 1:00 to 2:00 p.m.

12th Floor Conference Room
U.S. Army Corps of Engineers, Los Angeles District
915 Wilshire Blvd. Los Angeles, CA 90017

ANNOTATED AGENDA
(Desired outcomes and agenda items prepared by State Coastal Conservancy)

Desired Outcomes

1. Corps on board as a partner working to implement this important project
2. Corps willing to make changes to speed up their staff work
3. Corps commitment to complete all the work they need to do with the existing approved budget
4. Process for senior management to check in regularly as project advances
5. Understanding of what other project partners need to do to help the Corps make this a success

Scheduled Attendees:

- Santa Monica Bay Restoration Commission: Shelley Luce *(Director)*
- California Dept. of Fish and Wildlife: Terri Stewart *(Environmental Programs Manager)*, Richard Brody *(Land Manger, Ballona Reserve)*
- L.A. County Dept. of Public Works / Flood Control District: Gary Hildebrand, Terri Grant, Josh Svensson
- California State Coastal Conservancy: Mary Small *(Deputy Executive Officer)*, Christopher Kroll *(Project Manager)*
- U.S. Army Corps of Engineers: Colonel Kimberly Colloton, Rick Leifield *(Chief-Engineering)*, Josephine Axt *(Chief-Planning)*, Larry Minch *(Counsel)*, Funke Ojuri *(Civil Engineer)*, David Castanon *(Chief-Regulatory)*, Aaron Allen *(Branch Chief-Regulatory)*, Dan Swenson *(Section Chief-Regulatory)*, Terri Kaplan *(Chief-Asset Mgmt.),* Stephen Vaughn *(Branch Chief-Asset Management)*, Phil Serpa *(Project Manager-Asset Mgmt.)*

O11-372 cont.

Agenda:

1. Overview of the Ballona Project
   a. Important, incredible opportunity
   b. Role of the Corps (408, 404, Section 108)
   c. 214 agreement
      - *The Ballona project is currently included on both the 404 and 408 WRDA lists, but the State does not intend to fund an expedited 404 review.*
      - *The cost for an "expedited" 408 review is estimated at $492,000.*
      - *The County/FCD has tentatively agreed to fund $190,000 of this cost.*
      - *The SMBRC may be requesting additional funds from the FCD for Corps' 408 permit review or public outreach efforts.*
      - *The County/FCD needs to enter into an MOA between the State Coastal Conservancy and/or the Santa Monica Bay Restoration Authority JPA*

2. Schedule
   a. Present the current schedule
      - *The project schedule is being pushed heavily by the State and the Annenberg foundation.*
      - *Public Works has indicated the proposed EIR/EIS and 408 schedule is probably too ambitious due to the size and complexity of the project.*
      - *Public review of the EIR/EIS is currently scheduled for winter 2014, but the delivery of the initial chapters for internal review is already 2 months behind schedule.*
   b. What that means for ACOE - commitment needed to meet schedule
   c. Near term commitments - finalize 214, doc review schedule
      - *Public works is bringing signed copies of the 404 and 408 WRDA section 214 agreements to hand-deliver to the Colonel for her signature*
      - *The Corps estimates 3-4 weeks to process the County's check*
      - *Kick-off meeting with the Corps will be scheduled in mid to late April 2014*
      - *Review can begin with the County contribution in advance of finalizing the agreement to receive the State's share*

3. Budget
   a. Resolve the current ~~$120,000~~ $50,000 shortfall
      - *County and Conservancy staff discussed this with Corps staff on Thursday 3/17/14 leaving the Conservancy with three viable options for them to consider. This shortfall is needed to cover the expedited review of the EIR/EIS*
        - *Conservancy increases funding.*
        - *Corps compensates for the shortfall somewhere in its estimate, potentially creating 408 shortfalls later.*
        - *Corps staff review the EIR/EIS without expediting, potentially leading to project delays estimated at 6 months.*

O11-372 cont.

From:	patricia mc pherson
To:	OSAEHotline@DOF.CA.GOV
Bcc:	jd@johnanthonydavis.com; Jeanette Vosburg
Subject:	GC Complaint(Brandy 17) Dept Finance; AUTHORITY AUDIT 4/7/15 , 3
Attachments:	McPherson PRR Emails 2014-12-18.pdf Screen Shot 2015-04-07 at 7.59.17 PM.png

GC exhibit 17 Dept Finance

Begin forwarded message:

From: patricia mc pherson <patriciamcpherson1@verizon.net>
Subject: AUTHORITY AUDIT 4/7/15 , 3
Date: April 7, 2015 8:10:16 PM PDT
To: HChu@bcawatsonriceca.com

Ms. Chu,
Here is number 3 for today which is a PRA response to Grassroots Coalition regarding the 408 permit review USACE payments.
There is discussion of how to pay and issues that address the AUTHORITY and machinations of doing or undoing.

O11-373

One email from the above pdf is in screen shot below.

Thank you for your review of these records,
Patricia McPherson, Grassroots Coalition

Joshua Svensson

From: Gomez, Robert
Sent: Monday, August 25, 2014 2:02 PM
To: Chris Kroll
Cc: 'Ojuri, Olufunke A SPL'; Svensson, Joshua; Lim, Christian J.
Subject: RE: Expedited 408 permit review budget
Attachments: FW: Ballona Creek Section 214 Scope & Costs (UNCLASSIFIED); FW: Meeting Notes: Ballona Wetlands with Corps 3/18/14

Chris,

Attached is the documentation that we have for the cost of the US Army Corps Review for the Ballona Wetlands Restoration Project. One is the initial cost estimate emailed by the US Army Corps of $492,000. The second is the meeting minutes for the March 18, 2014 meeting with the Corps where it was discussed that the review would cost an additional $50,000 for a total of $542,000.

Please let me know if you have any questions,

Robert Gomez
County of Los Angeles
Department of Public Works
Watershed Management Division
(626) 458-4344

O11-373 cont.

From: Chris Kroll [mailto:ckroll@scc.ca.gov]
Sent: Friday, August 22, 2014 11:37 AM
To: Gomez, Robert; 'Ojuri, Olufunke A SPL'
Subject: Expedited 408 permit review budget

Robert/Funke --

I am preparing an intergovernmental agreement between the Coastal Conservancy and the County in order to convey the Conservancy's share of costs related to the expedited permit review/process. In order to complete the agreement I need to get a copy of the budget estimate for this review with the breakdown of services. Christian Lim (see below) said the Corps sent an estimate to the County some time ago. May I get a copy from one of you? I need to show a budget for this project in my agreement.

Chris

Christopher Kroll
Project Manager
State Coastal Conservancy
1330 Broadway, Suite 1300
Oakland, California 94612
ckroll@scc.ca.gov
(510) 286-4169 (ph)
(510) 286-0470 (fax)

From: Lim, Christian J. [mailto:CHLIM@dpw.lacounty.gov]
Sent: Wednesday, April 23, 2014 10:58 AM

To: Chris Kroll
Cc: Svensson, Joshua; Chebabi, Youssef; Ariki, Menerva
Subject: RE: Comments on County's proposed MOU

A few years ago we received an estimate from the Corps for the 408 Permit review which totaled $492,000, which included a breakdown of services.
Of the $492,000, the amount of services pertinent to flood control totaled $380,000.
The LA County Flood Control District has agreed to fund 50% of the review which is pertinent to flood control, which comes out to $190,000.

This leaves $302,000 to be funded by the SCC.

O11-373 cont.

Joshua Svensson

From: Lim, Christian J.
Sent: Thursday, August 21, 2014 11:12 AM
To: Svensson, Joshua; Gomez, Robert
Subject: RE: Green Sheet - Ballona Wetlands Restoration Project - MOA with State Coastal Conservancy

FYI. I spoke with Frank Kuo and told him to let Fiscal Division know that they should reject the Green Sheet, since the terms of the agreement with Coastal Conservancy have yet to be finalized.
This means eventually you'll have to resubmit to Fund Management Section for Green Sheet processing.

It also would be a good idea to follow up with Chris Kroll on the status of their inter-governmental agreement.

From: Lim, Christian J.
Sent: Tuesday, August 19, 2014 3:21 PM
To: Pantoja, Teresa
Cc: Svensson, Joshua; Gomez, Robert; Kuo, Frank
Subject: RE: Green Sheet - Ballona Wetlands Restoration Project - MOA with State Coastal Conservancy

Hi Teresa,

Attached is the MOA per your request.

Christian Lim
Watershed Management Division
Los Angeles County Department of Public Works
626.458.4392 | chlim@dpw.lacounty.gov

From: Pantoja, Teresa
Sent: Tuesday, August 19, 2014 8:57 AM
To: Lim, Christian J.
Subject: RE: Green Sheet - Ballona Wetlands Restoration Project - MOA with State Coastal Conservancy
Importance: High

Good morning Christian, is there a MOA to go along with this BL. If so, please email it to me so that I can open the FIR (Green Sheet). Thank you

---

From: Lim, Christian J.
Sent: Monday, August 18, 2014 1:27 PM
To: Quirk, Christine; Pantoja, Teresa
Cc: Kuo, Frank; Gomez, Robert; Svensson, Joshua
Subject: Green Sheet - Ballona Wetlands Restoration Project - MOA with State Coastal Conservancy

Christine, Teresa, et al.

Please process the Green Sheet for this Board Letter (attached).
This Board Letter is to allow the State Coastal Conservancy to transfer funds in the amount of $302,000 which will go towards the Army Corps' 408 Permit Review of the Ballona Wetlands Restoration Project.

From here on, the contact person for this Agenda Item will be Robert Gomez.
Thank you.

O11-373 cont.

Christian Lim
Watershed Management Division
Los Angeles County Department of Public Works
626.458.4392 | chlim@dpw.lacounty.gov

Joshua Svensson

From: Lim, Christian J.
Sent: Wednesday, August 20, 2014 8:59 AM
To: Chris Kroll; Gomez, Robert
Cc: Svensson, Joshua; Ariki, Menerva
Subject: RE: Comments on County's proposed MOU
Attachments: Ballona MOA - LA Co - CA Coastal Conservancy 2014-08-19.docx

Hi Chris,

As we discussed yesterday, please send a sample inter-governmental agreement for our reference. The one previously used with the SMBRA would suffice.
Also, it would be great if you can give us an estimate on when we can expect to receive a draft of this new agreement for our Administration and Counsel to review.

In addition, there have been some staff changes here. Robert Gomez will be the new primary contact for this agreement. Please coordinate with him from here on out.
As an FYI, I've attached the latest version of our MOA for your reference.

Christian Lim
Watershed Management Division
Los Angeles County Department of Public Works
626.458.4392 | chlim@dpw.lacounty.gov

O11-373 cont.

From: Chris Kroll [mailto:ckroll@scc.ca.gov]
Sent: Tuesday, August 19, 2014 2:02 PM
To: Lim, Christian J.
Cc: Svensson, Joshua; Ariki, Menerva
Subject: RE: Comments on County's proposed MOU

Christian –

I've talked with my attorney and we will have to prepare an inter-governmental agreement between the Conservancy and the County to convey the funds to the County. I am starting to prepare that document now. I will be in contact with you with questions and a draft soon.

Chris

Christopher Kroll
Project Manager
State Coastal Conservancy
1330 Broadway, Suite 1300
Oakland, California 94612
ckroll@scc.ca.gov
(510) 286-4169 (ph)
(510) 286-0470 (fax)

From: Lim, Christian J. [mailto:CHLIM@dpw.lacounty.gov]
Sent: Monday, August 04, 2014 2:49 PM
To: Chris Kroll

Cc: Svensson, Joshua; Ariki, Menerva
Subject: RE: Comments on County's proposed MOU

Hi Chris,

We currently in the process of putting together the Board Letter for this MOA to be adopted by our County Board. We had our County Counsel review the comments that you provided. There were no changes to the actual content of the MOA, but merely a few formatting changes were made.

Attached is the latest version of the draft for your view.
Feel free to contact me if you have any further questions.

Regards,

Christian Lim
Watershed Management Division
Los Angeles County Department of Public Works
626.458.4392 | chlim@dpw.lacounty.gov

From: Chris Kroll [mailto:ckroll@scc.ca.gov]
Sent: Monday, August 04, 2014 2:19 PM
To: Lim, Christian J.
Subject: RE: Comments on County's proposed MOU

Hi Christian –

I'm wondering where we are in the MOU process. Last I remember, I sent you my attorney's comments on the County's proposed MOU. Do you have a revised draft for us?

Chris

Christopher Kroll
Project Manager
State Coastal Conservancy
1330 Broadway, Suite 1300
Oakland, California 94612
ckroll@scc.ca.gov
(510) 286-4169 (ph)
(510) 286-0470 (fax)

From: Lim, Christian J. [mailto:CHLIM@dpw.lacounty.gov]
Sent: Wednesday, April 23, 2014 10:58 AM
To: Chris Kroll
Cc: Svensson, Joshua; Chebabi, Youssef; Ariki, Menerva
Subject: RE: Comments on County's proposed MOU

A few years ago we received an estimate from the Corps for the 408 Permit review which totaled $492,000, which included a breakdown of services.
Of the $492,000, the amount of services pertinent to flood control totaled $380,000.
The LA County Flood Control District has agreed to fund 50% of the review which is pertinent to flood control, which comes out to $190,000.

This leaves $302,000 to be funded by the SCC.

O11-373 cont.

From: Chris Kroll [mailto:ckroll@scc.ca.gov]
Sent: Wednesday, April 23, 2014 10:41 AM
To: Lim, Christian J.
Cc: Svensson, Joshua; Chebabi, Youssef; Ariki, Menerva
Subject: RE: Comments on County's proposed MOU

Thanks Christian. Can any of you answer the question highlighted below?

Christopher Kroll
Project Manager
State Coastal Conservancy
1330 Broadway, Suite 1300
Oakland, California 94612
ckroll@scc.ca.gov
(510) 286-4169 (ph)
(510) 286-0470 (fax)

From: Lim, Christian J. [mailto:CHLIM@dpw.lacounty.gov]
Sent: Wednesday, April 23, 2014 10:07 AM
To: ckroll@scc.ca.gov
Cc: Svensson, Joshua; Chebabi, Youssef; Ariki, Menerva
Subject: RE: Comments on County's proposed MOU

Hi Chris,

Thanks for sending back your comments on our draft agreement. We will now proceed with getting this agreement approved by our Board of Supervisors.
This process will take around 6-8 weeks. Hopefully we can get this on the Board Agenda in early June.
If you have any further questions/comments, feel free to contact myself of Josh.
Thanks!

Christian Lim, PE
Associate Civil Engineer
Watershed Management Division
Los Angeles County Department of Public Works
626.458.4392 | chlim@dpw.lacounty.gov

From: Chris Kroll [mailto:ckroll@scc.ca.gov]
Sent: Monday, April 21, 2014 4:25 PM
To: Svensson, Joshua
Subject: FW: Comments on County's proposed MOU

Josh –

Attached are our comments.

Question – why is the amount $302,000? In the existing agreement with the SMBRA, the amount is $300,000. Where did the $2000 come from?

Chris

Christopher Kroll
Project Manager

O11-373 cont.

State Coastal Conservancy
1330 Broadway, Suite 1300
Oakland, California 94612
ckroll@scc.ca.gov
(510) 286-4169 (ph)
(510) 286-0470 (fax)

Joshua Svensson

From: Joshua Svensson
Sent: Tuesday, August 19, 2014 4:53 PM
To: Christian J. Lim
Cc: Robert Gomez
Subject: RE: Comments on County's proposed MOU

Expires: Sunday, February 15, 2015 12:00 AM

Christian-
As discussed, please bring Robert up to date on this issue.

Thanks,

Josh SVENSSON
Watershed Management Division
Los Angeles County Dept. of Public Works
(626) 458-7157 | jsvensson@dpw.lacounty.gov

From: Lim, Christian J.
Sent: Tuesday, August 19, 2014 4:09 PM
To: Svensson, Joshua
Cc: Ariki, Menerva
Subject: RE: Comments on County's proposed MOU

I spoke to Chris. His counsel has just informed him that our draft MOA is an insufficient document to transfer funds. What SCC wants to do is to have an inter-governmental agreement – this will allow SCC to encumber the funds so that they can transfer it to the County.
This agreement would possibly also involve the County having to invoice the SCC – some sort of documentation showing that their funds went toward the 408 Review for Ballona.

We need to discuss this. Since we probably want to go to the Board only once, we might want this inter-governmental agreement to replace our draft MOA.

From: Svensson, Joshua
Sent: Tuesday, August 19, 2014 2:49 PM
To: Lim, Christian J.
Cc: Ariki, Menerva
Subject: RE: Comments on County's proposed MOU

Christian-
Do you know if when Chris Kroll says “inter-governmental agreement” he is talking about the MOA we’ve already drafted or something else?

We’ll need to make sure that our Board letter incorporates whatever agreement he’s talking about.

Josh SVENSSON
Watershed Management Division
Los Angeles County Dept. of Public Works
(626) 458-7157 | jsvensson@dpw.lacounty.gov

O11-373 cont.

From: Chris Kroll [mailto:ckroll@scc.ca.gov]
Sent: Tuesday, August 19, 2014 2:02 PM
To: Lim, Christian J.
Cc: Svensson, Joshua; Ariki, Menerva
Subject: RE: Comments on County's proposed MOU

Christian –

I've talked with my attorney and we will have to prepare an inter-governmental agreement between the Conservancy and the County to convey the funds to the County. I am starting to prepare that document now. I will be in contact with you with questions and a draft soon.

Chris

Christopher Kroll
Project Manager
State Coastal Conservancy
1330 Broadway, Suite 1300
Oakland, California 94612
ckroll@scc.ca.gov
(510) 286-4169 (ph)
(510) 286-0470 (fax)

From: Lim, Christian J. [mailto:CHLIM@dpw.lacounty.gov]
Sent: Monday, August 04, 2014 2:49 PM
To: Chris Kroll
Cc: Svensson, Joshua; Ariki, Menerva
Subject: RE: Comments on County's proposed MOU

Hi Chris,

We currently in the process of putting together the Board Letter for this MOA to be adopted by our County Board. We had our County Counsel review the comments that you provided. There were no changes to the actual content of the MOA, but merely a few formatting changes were made.

Attached is the latest version of the draft for your view.
Feel free to contact me if you have any further questions.

Regards,

Christian Lim
Watershed Management Division
Los Angeles County Department of Public Works
626.458.4392 | chlim@dpw.lacounty.gov

From: Chris Kroll [mailto:ckroll@scc.ca.gov]
Sent: Monday, August 04, 2014 2:19 PM
To: Lim, Christian J.
Subject: RE: Comments on County's proposed MOU

Hi Christian –

O11-373 cont.

I'm wondering where we are in the MOU process. Last I remember, I sent you my attorney's comments on the County's proposed MOU. Do you have a revised draft for us?

Chris

Christopher Kroll
Project Manager
State Coastal Conservancy
1330 Broadway, Suite 1300
Oakland, California 94612
ckroll@scc.ca.gov
(510) 286-4169 (ph)
(510) 286-0470 (fax)

From: Lim, Christian J. [mailto:CHLIM@dpw.lacounty.gov]
Sent: Wednesday, April 23, 2014 10:58 AM
To: Chris Kroll
Cc: Svensson, Joshua; Chebabi, Youssef; Ariki, Menerva
Subject: RE: Comments on County's proposed MOU

A few years ago we received an estimate from the Corps for the 408 Permit review which totaled $492,000, which included a breakdown of services.
Of the $492,000, the amount of services pertinent to flood control totaled $380,000.
The LA County Flood Control District has agreed to fund 50% of the review which is pertinent to flood control, which comes out to $190,000.

This leaves $302,000 to be funded by the SCC.

O11-373 cont.

From: Chris Kroll [mailto:ckroll@scc.ca.gov]
Sent: Wednesday, April 23, 2014 10:41 AM
To: Lim, Christian J.
Cc: Svensson, Joshua; Chebabi, Youssef; Ariki, Menerva
Subject: RE: Comments on County's proposed MOU

Thanks Christian. Can any of you answer the question highlighted below?

Christopher Kroll
Project Manager
State Coastal Conservancy
1330 Broadway, Suite 1300
Oakland, California 94612
ckroll@scc.ca.gov
(510) 286-4169 (ph)
(510) 286-0470 (fax)

From: Lim, Christian J. [mailto:CHLIM@dpw.lacounty.gov]
Sent: Wednesday, April 23, 2014 10:07 AM
To: ckroll@scc.ca.gov
Cc: Svensson, Joshua; Chebabi, Youssef; Ariki, Menerva
Subject: RE: Comments on County's proposed MOU

Hi Chris,

Thanks for sending back your comments on our draft agreement. We will now proceed with getting this agreement approved by our Board of Supervisors.
This process will take around 6-8 weeks. Hopefully we can get this on the Board Agenda in early June.
If you have any further questions/comments, feel free to contact myself of Josh.
Thanks!

Christian Lim, PE
Associate Civil Engineer
Watershed Management Division
Los Angeles County Department of Public Works
626.458.4392 | chlim@dpw.lacounty.gov

From: Chris Kroll [mailto:ckroll@scc.ca.gov]
Sent: Monday, April 21, 2014 4:25 PM
To: Svensson, Joshua
Subject: FW: Comments on County's proposed MOU

O11-373 cont.

Josh –

Attached are our comments.

Question – why is the amount $302,000? In the existing agreement with the SMBRA, the amount is $300,000. Where did the $2000 come from?

Chris

Christopher Kroll
Project Manager
State Coastal Conservancy
1330 Broadway, Suite 1300
Oakland, California 94612
ckroll@scc.ca.gov
(510) 286-4169 (ph)
(510) 286-0470 (fax)

Joshua Svensson

From: Lim, Christian J.
Sent: Tuesday, August 19, 2014 4:09 PM
To: Svensson, Joshua
Cc: Ariki, Menerva
Subject: RE: Comments on County's proposed MOU

I spoke to Chris. His counsel has just informed him that our draft MOA is an insufficient document to transfer funds. What SCC wants to do is to have an inter-governmental agreement – this will allow SCC to encumber the funds so that they can transfer it to the County.
This agreement would possibly also involve the County having to invoice the SCC – some sort of documentation showing that their funds went toward the 408 Review for Ballona.

We need to discuss this. Since we probably want to go to the Board only once, we might want this inter-governmental agreement to replace our draft MOA.

From: Svensson, Joshua
Sent: Tuesday, August 19, 2014 2:49 PM
To: Lim, Christian J.
Cc: Ariki, Menerva
Subject: RE: Comments on County's proposed MOU

Christian-
Do you know if when Chris Kroll says "inter-governmental agreement" he is talking about the MOA we've already drafted or something else?

We'll need to make sure that our Board letter incorporates whatever agreement he's talking about.

Josh SVENSSON
Watershed Management Division
Los Angeles County Dept. of Public Works
(626) 458-7157 | jsvensson@dpw.lacounty.gov

From: Chris Kroll [mailto:ckroll@scc.ca.gov]
Sent: Tuesday, August 19, 2014 2:02 PM
To: Lim, Christian J.
Cc: Svensson, Joshua; Ariki, Menerva
Subject: RE: Comments on County's proposed MOU

Christian –

I've talked with my attorney and we will have to prepare an inter-governmental agreement between the Conservancy and the County to convey the funds to the County. I am starting to prepare that document now. I will be in contact with you with questions and a draft soon.

Chris

Christopher Kroll
Project Manager
State Coastal Conservancy

O11-373 cont.

1330 Broadway, Suite 1300
Oakland, California 94612
ckroll@scc.ca.gov
(510) 286-4169 (ph)
(510) 286-0470 (fax)

From: Lim, Christian J. [mailto:CHLIM@dpw.lacounty.gov]
Sent: Monday, August 04, 2014 2:49 PM
To: Chris Kroll
Cc: Svensson, Joshua; Ariki, Menerva
Subject: RE: Comments on County's proposed MOU

Hi Chris,

We currently in the process of putting together the Board Letter for this MOA to be adopted by our County Board. We had our County Counsel review the comments that you provided. There were no changes to the actual content of the MOA, but merely a few formatting changes were made.

Attached is the latest version of the draft for your view.
Feel free to contact me if you have any further questions.

Regards,

Christian Lim
Watershed Management Division
Los Angeles County Department of Public Works
626.458.4392 | chlim@dpw.lacounty.gov

From: Chris Kroll [mailto:ckroll@scc.ca.gov]
Sent: Monday, August 04, 2014 2:19 PM
To: Lim, Christian J.
Subject: RE: Comments on County's proposed MOU

Hi Christian –

I'm wondering where we are in the MOU process. Last I remember, I sent you my attorney's comments on the County's proposed MOU. Do you have a revised draft for us?

Chris

Christopher Kroll
Project Manager
State Coastal Conservancy
1330 Broadway, Suite 1300
Oakland, California 94612
ckroll@scc.ca.gov
(510) 286-4169 (ph)
(510) 286-0470 (fax)

From: Lim, Christian J. [mailto:CHLIM@dpw.lacounty.gov]
Sent: Wednesday, April 23, 2014 10:58 AM
To: Chris Kroll
Cc: Svensson, Joshua; Chebabi, Youssef; Ariki, Menerva
Subject: RE: Comments on County's proposed MOU

O11-373 cont.

A few years ago we received an estimate from the Corps for the 408 Permit review which totaled $492,000, which included a breakdown of services.
Of the $492,000, the amount of services pertinent to flood control totaled $380,000.
The LA County Flood Control District has agreed to fund 50% of the review which is pertinent to flood control, which comes out to $190,000.

This leaves $302,000 to be funded by the SCC.

From: Chris Kroll [mailto:ckroll@scc.ca.gov]
Sent: Wednesday, April 23, 2014 10:41 AM
To: Lim, Christian J.
Cc: Svensson, Joshua; Chebabi, Youssef; Ariki, Menerva
Subject: RE: Comments on County's proposed MOU

Thanks Christian. Can any of you answer the question highlighted below?

Christopher Kroll
Project Manager
State Coastal Conservancy
1330 Broadway, Suite 1300
Oakland, California 94612
ckroll@scc.ca.gov
(510) 286-4169 (ph)
(510) 286-0470 (fax)

From: Lim, Christian J. [mailto:CHLIM@dpw.lacounty.gov]
Sent: Wednesday, April 23, 2014 10:07 AM
To: ckroll@scc.ca.gov
Cc: Svensson, Joshua; Chebabi, Youssef; Ariki, Menerva
Subject: RE: Comments on County's proposed MOU

Hi Chris,

Thanks for sending back your comments on our draft agreement. We will now proceed with getting this agreement approved by our Board of Supervisors.
This process will take around 6-8 weeks. Hopefully we can get this on the Board Agenda in early June.
If you have any further questions/comments, feel free to contact myself of Josh.
Thanks!

Christian Lim, PE
Associate Civil Engineer
Watershed Management Division
Los Angeles County Department of Public Works
626.458.4392 | chlim@dpw.lacounty.gov

From: Chris Kroll [mailto:ckroll@scc.ca.gov]
Sent: Monday, April 21, 2014 4:25 PM
To: Svensson, Joshua
Subject: FW: Comments on County's proposed MOU

Josh –

Attached are our comments.

O11-373 cont.

Question – why is the amount $302,000? In the existing agreement with the SMBRA, the amount is $300,000. Where did the $2000 come from?

Chris

Christopher Kroll
Project Manager
State Coastal Conservancy
1330 Broadway, Suite 1300
Oakland, California 94612
ckroll@scc.ca.gov
(510) 286-4169 (ph)
(510) 286-0470 (fax)

O11-373 cont.

Joshua Svensson

From: Lim, Christian J.
Sent: Monday, August 04, 2014 2:49 PM
To: Chris Kroll
Cc: Svensson, Joshua; Ariki, Menerva
Subject: RE: Comments on County's proposed MOU
Attachments: LA Co - CA Coastal Conservancy Ballona MOA 2014-08-04.docx

Hi Chris,

We currently in the process of putting together the Board Letter for this MOA to be adopted by our County Board. We had our County Counsel review the comments that you provided. There were no changes to the actual content of the MOA, but merely a few formatting changes were made.

Attached is the latest version of the draft for your view.
Feel free to contact me if you have any further questions.

Regards,

Christian Lim
Watershed Management Division
Los Angeles County Department of Public Works
626.458.4392 | chlim@dpw.lacounty.gov

O11-373 cont.

From: Chris Kroll [mailto:ckroll@scc.ca.gov]
Sent: Monday, August 04, 2014 2:19 PM
To: Lim, Christian J.
Subject: RE: Comments on County's proposed MOU

Hi Christian –

I'm wondering where we are in the MOU process. Last I remember, I sent you my attorney's comments on the County's proposed MOU. Do you have a revised draft for us?

Chris

Christopher Kroll
Project Manager
State Coastal Conservancy
1330 Broadway, Suite 1300
Oakland, California 94612
ckroll@scc.ca.gov
(510) 286-4169 (ph)
(510) 286-0470 (fax)

From: Lim, Christian J. [mailto:CHLIM@dpw.lacounty.gov]
Sent: Wednesday, April 23, 2014 10:58 AM
To: Chris Kroll
Cc: Svensson, Joshua; Chebabi, Youssef; Ariki, Menerva
Subject: RE: Comments on County's proposed MOU

A few years ago we received an estimate from the Corps for the 408 Permit review which totaled $492,000, which included a breakdown of services.
Of the $492,000, the amount of services pertinent to flood control totaled $380,000.
The LA County Flood Control District has agreed to fund 50% of the review which is pertinent to flood control, which comes out to $190,000.

This leaves $302,000 to be funded by the SCC.

From: Chris Kroll [mailto:ckroll@scc.ca.gov]
Sent: Wednesday, April 23, 2014 10:41 AM
To: Lim, Christian J.
Cc: Svensson, Joshua; Chebabi, Youssef; Ariki, Menerva
Subject: RE: Comments on County's proposed MOU

Thanks Christian. Can any of you answer the question highlighted below?

Christopher Kroll
Project Manager
State Coastal Conservancy
1330 Broadway, Suite 1300
Oakland, California 94612
ckroll@scc.ca.gov
(510) 286-4169 (ph)
(510) 286-0470 (fax)

From: Lim, Christian J. [mailto:CHLIM@dpw.lacounty.gov]
Sent: Wednesday, April 23, 2014 10:07 AM
To: ckroll@scc.ca.gov
Cc: Svensson, Joshua; Chebabi, Youssef; Ariki, Menerva
Subject: RE: Comments on County's proposed MOU

Hi Chris,

Thanks for sending back your comments on our draft agreement. We will now proceed with getting this agreement approved by our Board of Supervisors.
This process will take around 6-8 weeks. Hopefully we can get this on the Board Agenda in early June.
If you have any further questions/comments, feel free to contact myself of Josh.
Thanks!

Christian Lim, PE
Associate Civil Engineer
Watershed Management Division
Los Angeles County Department of Public Works
626.458.4392 | chlim@dpw.lacounty.gov

From: Chris Kroll [mailto:ckroll@scc.ca.gov]
Sent: Monday, April 21, 2014 4:25 PM
To: Svensson, Joshua
Subject: FW: Comments on County's proposed MOU

Josh –

Attached are our comments.

O11-373 cont.

Question – why is the amount $302,000? In the existing agreement with the SMBRA, the amount is $300,000. Where did the $2000 come from?

Chris

Christopher Kroll
Project Manager
State Coastal Conservancy
1330 Broadway, Suite 1300
Oakland, California 94612
ckroll@scc.ca.gov
(510) 286-4169 (ph)
(510) 286-0470 (fax)

O11-373 cont.

Joshua Svensson

From: Lim, Christian J.
Sent: Tuesday, April 15, 2014 4:13 PM
To: Svensson, Joshua
Cc: Chebabi, Youssef
Subject: RE: 408 funding

Chris,

I just spoke to Chris Kroll from SCC. He said he just gave our draft MOU over to their counsel for review. He's going to try to get back to us sometime next week. He didn't indicate whether or not they would be OK with entering into this new agreement.

From: Svensson, Joshua
Sent: Thursday, April 03, 2014 3:59 PM
To: Lim, Christian J.
Subject: RE: 408 funding

Chris-
As discussed with Josh, the County's preference is to enter into a new MOA between the Conservancy and the County for the funding of the Corps' review of the Ballona 408 permit. I'm sending you the attached draft MOA to give you an idea of what we had in mind, but please note this draft has not been reviewed by my management or County Counsel. I'll be working to revise this document, and we'll plan to send a revised version over for your agency's comments/edits, hopefully within a week or so.

Please let me know if you have any questions or concerns.

Josh SVENSSON
Watershed Management Division
Los Angeles County Dept. of Public Works
(626) 458-7157 | jsvensson@dpw.lacounty.gov

From: Chris Kroll [mailto:ckroll@scc.ca.gov]
Sent: Thursday, April 03, 2014 12:20 PM
To: Svensson, Joshua
Subject: 408 funding

Good news Josh. Shelley and Mary agreed that we should assign the existing intergovernmental agreement between the Coastal Conservancy and the JPA to the County for the entire $300,000. The project attorney is out this week but I can start the paperwork now. I can email you an electronic version of the existing agreement if you or your attorneys want to see it first.

Chris

Christopher Kroll
Project Manager
State Coastal Conservancy
1330 Broadway, Suite 1300
Oakland, California 94612
ckroll@scc.ca.gov

O11-373 cont.

(510) 286-4169 (ph)
(510) 286-0470 (fax)

Joshua Svensson

From: Svensson, Joshua
Sent: Thursday, April 03, 2014 5:01 PM
To: Lim, Christian J.; Yanai, Mark
Cc: Chebabi, Youssef; Ariki, Menerva
Subject: RE: Ballona Wetlands Restoration Project - MOU with SCC for 408 Permit

Tracking:

Recipient	Read
Lim, Christian J.	
Yanai, Mark	
Chebabi, Youssef	Read: 4/3/2014 5:25 PM
Ariki, Menerva	Read: 4/7/2014 7:23 AM

Mark, Christian-
I think a minor clarification is needed. We don't want to amend the existing agreement between the JPA and the Conservancy, we want to nullify it and create a new agreement between the County and the Conservancy. The Conservancy has not yet agreed to this plan.

More details:

1. Today I received an email from Christopher Kroll from the Conservancy that stated:
    a. *"Good news Josh. Shelley and Mary agreed that we should assign the existing intergovernmental agreement between the Coastal Conservancy and the JPA to the County for the entire $300,000."*
    b. In this email, Chris Kroll was proposing to somehow amend the existing agreement between the JPA and the Conservancy.
2. It appears Chris Kroll forgot that we had previously discussed that the County preferred to create an entirely new agreement between the County and the Conservancy, nullifying the previous agreement between the JPA and the Conservancy.
3. I called Chris to remind him that amending the existing agreement is not the County's preference, that we prefer to use a new agreement between the Conservancy and the County, and that I had already sent him our draft on March 11.
4. We are waiting on Chris to check this plan with his management.

O11-373 cont.

Josh SVENSSON
Watershed Management Division
Los Angeles County Dept. of Public Works
(626) 458-7157 | jsvensson@dpw.lacounty.gov

From: Lim, Christian J.
Sent: Thursday, April 03, 2014 4:14 PM
To: Yanai, Mark
Cc: Svensson, Joshua; Chebabi, Youssef; Ariki, Menerva
Subject: RE: Ballona Wetlands Restoration Project - MOU with SCC for 408 Permit

Mark,

SCC has agreed to amend their previous agreement with SMBRA and enter into a new agreement with the County in order to transfer the $302k directly.
Attached is the latest version of the draft agreement. Since this agreement involves a transfer of funds, we've decided to convert it from an MOU to an MOA. Please correct if this is inappropriate.

Also, we are still unsure if there needs to be any additional language inputted into the MOA. There is a sample MOA attached as an example of this additional language.

Please view the draft MOA and provide comments.
Thank you.

Christian Lim
Watershed Management Division
Los Angeles County Department of Public Works
626.458.4392 | chlim@dpw.lacounty.gov

From: Yanai, Mark [mailto:Myanai@counsel.lacounty.gov]
Sent: Friday, March 14, 2014 3:41 PM
To: Lim, Christian J.
Cc: Svensson, Joshua; Chebabi, Youssef; Ariki, Menerva
Subject: RE: Ballona Wetlands Restoration Project - MOU with SCC for 408 Permit

Christian,

My responses to your questions are:

1. If SCC's $ are with the SMBRA pursuant to the Agreement and SCC does not want to "undo" or cancel/rescind the Agreement with SMBRA to get that $ back, the County could enter into the funding agreement with the SMBRA instead of SCC.

2. I believe that the Director of DPW is one of the members of the governing board of the SMBRA, so it would be hard to argue that the FCD did not have knowledge of the SCC-SMBRA Agreement (unless the Agreement was not agendized for SMBRA Board approval)?

3. An amendment to the SCC-SMBRA agreement would only be effective if the amendment were a three-party agreement that included the County. This would probably be more complicated than just doing a new agreement between the SMBRA and the County.

I will be out of the office next week, but will review the draft MOU when I return on March 24.

Mark T. Yanai
Principal Deputy County Counsel

From: Lim, Christian J. [mailto:CHLIM@dpw.lacounty.gov]
Sent: Thursday, March 13, 2014 3:19 PM
To: Yanai, Mark
Cc: Svensson, Joshua; Chebabi, Youssef; Ariki, Menerva
Subject: Ballona Wetlands Restoration Project - MOU with SCC for 408 Permit

Hello Mark,

O11-373 cont.

We recently came across an Agreement between the State Coastal Conservancy (SCC) and the Santa Monica Bay Restoration Authority (SMBRA), in which the SCC would transfer their portion of the funds for the 408 Permit review of the Ballona Wetlands Project to the JPA (see attachment). In our recent phone conversation with Mary Small and Christopher Kroll from the State Coastal Conservancy, we expressed to them that we would rather create a new Agreement to have the SCC transfer the funds directly to the County rather than going through the JPA. In light of our phone call, we have a few questions for you:

1. Is creating a separate MOU between the SCC and the County to have the SCC transfer their portion of the cost (~$302k) to the County still the best option?
2. As far as we know, no one from the County was aware of this Agreement between the SCC and SMBRA. Do they have the authority to execute this Agreement without the Flood Control District's knowledge?
3. Mary mentioned that the SCC could make an amendment to this Agreement to transfer the funds directly to the County. Would that be an acceptable legal action to make?

I have also attached the latest version of the draft MOU between the County and the SCC for your comments (based on our meeting on 3/3).
Thank you

O11-373 cont.

Christian Lim
Watershed Management Division
Los Angeles County Department of Public Works
626.458.4392 | chlim@dpw.lacounty.gov

Joshua Svensson

From: Lim, Christian J.
Sent: Thursday, April 03, 2014 4:14 PM
To: Yanai, Mark
Cc: Svensson, Joshua; Chebabi, Youssef; Ariki, Menerva
Subject: RE: Ballona Wetlands Restoration Project - MOU with SCC for 408 Permit
Attachments: LA Co - CA Coastal Conservancy Ballona MOA 2014-04-03.doc; SMBBB TMDL CMP MOA.doc

Mark,

SCC has agreed to amend their previous agreement with SMBRA and enter into a new agreement with the County in order to transfer the $302k directly.
Attached is the latest version of the draft agreement. Since this agreement involves a transfer of funds, we've decided to convert it from an MOU to an MOA. Please correct if this is inappropriate.
Also, we are still unsure if there needs to be any additional language inputted into the MOA. There is a sample MOA attached as an example of this additional language.

Please view the draft MOA and provide comments.
Thank you.

Christian Lim
Watershed Management Division
Los Angeles County Department of Public Works
626.458.4392 | chlim@dpw.lacounty.gov

O11-373 cont.

From: Yanai, Mark [mailto:Myanai@counsel.lacounty.gov]
Sent: Friday, March 14, 2014 3:41 PM
To: Lim, Christian J.
Cc: Svensson, Joshua; Chebabi, Youssef; Ariki, Menerva
Subject: RE: Ballona Wetlands Restoration Project - MOU with SCC for 408 Permit

Christian,

My responses to your questions are:

1. If SCC's $ are with the SMBRA pursuant to the Agreement and SCC does not want to "undo" or cancel/rescind the Agreement with SMBRA to get that $ back, the County could enter into the funding agreement with the SMBRA instead of SCC.

2. I believe that the Director of DPW is one of the members of the governing board of the SMBRA, so it would be hard to argue that the FCD did not have knowledge of the SCC-SMBRA Agreement (unless the Agreement was not agendized for SMBRA Board approval)?

3. An amendment to the SCC-SMBRA agreement would only be effective if the amendment were a three-party agreement that included the County. This would probably be more complicated than just doing a new agreement between the SMBRA and the County.

I will be out of the office next week, but will review the draft MOU when I return on March 24.

Mark T. Yanai
Principal Deputy County Counsel

From: Lim, Christian J. [mailto:CHLIM@dpw.lacounty.gov]
Sent: Thursday, March 13, 2014 3:19 PM
To: Yanai, Mark
Cc: Svensson, Joshua; Chebabi, Youssef; Ariki, Menerva
Subject: Ballona Wetlands Restoration Project - MOU with SCC for 408 Permit

Hello Mark,

We recently came across an Agreement between the State Coastal Conservancy (SCC) and the Santa Monica Bay Restoration Authority (SMBRA), in which the SCC would transfer their portion of the funds for the 408 Permit review of the Ballona Wetlands Project to the JPA (see attachment). In our recent phone conversation with Mary Small and Christopher Kroll from the State Coastal Conservancy, we expressed to them that we would rather create a new Agreement to have the SCC transfer the funds directly to the County rather than going through the JPA. In light of our phone call, we have a few questions for you:

O11-373 cont.

1. Is creating a separate MOU between the SCC and the County to have the SCC transfer their portion of the cost (~$302k) to the County still the best option?
2. As far as we know, no one from the County was aware of this Agreement between the SCC and SMBRA. Do they have the authority to execute this Agreement without the Flood Control District's knowledge?
3. Mary mentioned that the SCC could make an amendment to this Agreement to transfer the funds directly to the County. Would that be an acceptable legal action to make?

I have also attached the latest version of the draft MOU between the County and the SCC for your comments (based on our meeting on 3/3).
Thank you

Christian Lim
Watershed Management Division
Los Angeles County Department of Public Works
626.458.4392 | chlim@dpw.lacounty.gov

Joshua Svensson

From: Svensson, Joshua
Sent: Thursday, April 03, 2014 3:59 PM
To: Lim, Christian J. (CHLIM@dpw.lacounty.gov)
Subject: RE: 408 funding
Attachments: LA Co - CA Coastal Conservancy Ballona MOA 2014-04-03.doc

Chris-
As discussed with Josh, the County's preference is to enter into a new MOA between the Conservancy and the County for the funding of the Corps' review of the Ballona 408 permit. I'm sending you the attached draft MOA to give you an idea of what we had in mind, but please note this draft has not been reviewed by my management or County Counsel. I'll be working to revise this document, and we'll plan to send a revised version over for your agency's comments/edits, hopefully within a week or so.

Please let me know if you have any questions or concerns.

Josh SVENSSON
Watershed Management Division
Los Angeles County Dept. of Public Works
(626) 458-7157 | jsvensson@dpw.lacounty.gov

O11-373 cont.

From: Chris Kroll [mailto:ckroll@scc.ca.gov]
Sent: Thursday, April 03, 2014 12:20 PM
To: Svensson, Joshua
Subject: 408 funding

Good news Josh. Shelley and Mary agreed that we should assign the existing intergovernmental agreement between the Coastal Conservancy and the JPA to the County for the entire $300,000. The project attorney is out this week but I can start the paperwork now. I can email you an electronic version of the existing agreement if you or your attorneys want to see it first.

Chris

Christopher Kroll
Project Manager
State Coastal Conservancy
1330 Broadway, Suite 1300
Oakland, California 94612
ckroll@scc.ca.gov
(510) 286-4169 (ph)
(510) 286-0470 (fax)

From:	patricia mc pherson
To:	Wildlife Ballona Wetlands Ecological Reserve EIR; Cespl Rogers, Bonnie L CIV USARMY
Cc:	Todd Cardiff
Subject:	Ballona Wetlands DEIR/S Response (Section D-1 addition--PROCESS) Grassroots Coalition
Date:	Monday, February 5, 2018 2:56:41 PM
Attachments:	Screen Shot 2017-04-22 at 8.55.19 AM.png GC Complaint (Brandy 11) Dept.Finance; AUTHORITY AUDIT - 12-107 and JPA ..doc oct. 2012 .eml.msg GC Complaint (Brandy 14) Dept. Finance; AUTHORITY AUDIT (County auditor communications with Mr. Hartnett USACE docs pertain to Close Out Report for 2005-12 Joint EIR_S-AUTHORITY_USACE.eml.msg GC Complaint (Brandy 12)Dept.Finance; AUTHORITY AUDITGrant 12-107 and FOUNDATION FUNDING SOURCES PER CA. COASTAL CONSERVANCY PRA response.eml.msg GC COMPLAINT (o Brandy- Supplemental 6_9_15); AUTHORITY AUDIT (Supplemental 6_9_15) 1.eml.msg

The Grassroots Coalition Response to the Draft EIR/S for the Ballona Wetlands Ecological Reserve

Section D-1continued

Please respond to the queries and comments of the following document pertaining to **Process, Goals.**

Continued: OSAE COMPLAINT/AUDIT REQUEST;

The documents contained with the file 11, at left, are inconsistent with what the County is being directed with
regard to 12-107, as the SCC provided no similar notice to the County with regard to the funds.
-What happened to the grant money?
-What is the chain of payment that is paying for USACE engagement on Ballona Wetlands?

Please explain if the Bay Foundation, cited herein, after mixing funds of the Bay Foundation with the SMBRAuthority funds,
how it was actually sorted out. Conflict of interest and improper use of bond funds needs to be openly addressed with the public.

What happened to the 12-107 funds? And, why was this source of funding allowed?

Who is paying the Corps for its 404/408 Permit and NEPA review? What funds are being funneled to the Corps via the State Coastal Conservancy ?

Please see Section E as GC's continued response to the Ballona DEIR/S.

Patricia McPherson, Grassroots Coalition

O11-374

From: patricia mc pherson
To: OSAEHotline@DOF.CA.GOV
Bcc: jd@johnanthonydavis.com; Jeanette Vosburg
Subject: GC Complaint (Brandy 11) Dept.Finance; AUTHORITY AUDIT - 12-107 and JPA ..doc oct. 2012
Attachments: Screen Shot 2015-03-27 at 5.04.25 PM.png
Screen Shot 2015-03-14 at 2.48.22 PM.png
Screen Shot 2015-03-14 at 2.46.45 PM.png
Screen Shot 2014-07-25 at 3.48.08 PM.png

Begin forwarded message:

From: patricia mc pherson <patriciamcpherson1@verizon.net>
Subject: AUTHORITY AUDIT - 12-107 and JPA ..doc oct. 2012
Date: March 27, 2015 5:13:32 PM PDT
To: hChu@bcawatsonriceca.com

O11-375

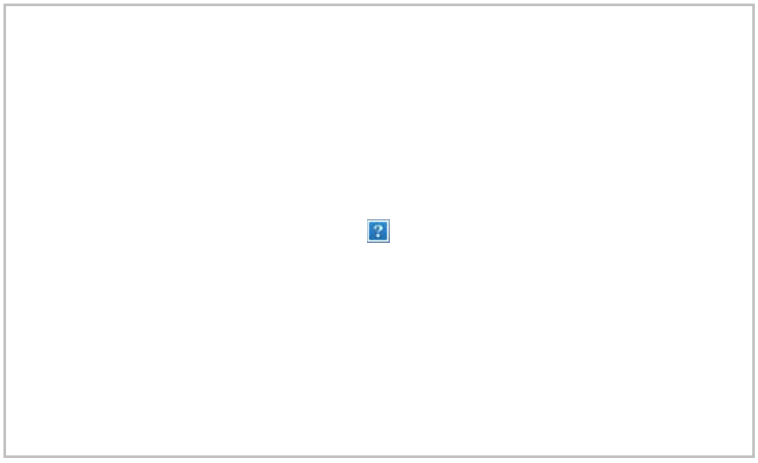
mary small letter re: withdrawal of 12-107 dated 5/15/14 …..about a month after the Chriss Kroll letter below - 4/3/14 and the Authority 'staff' meeting on 4/2/14 (which discusses nullification of grant while

next day C.Kroll says 'good news' it's on).

Portion of p. 157/213 PRA

4/2/14- (document below the 4/3/14 email below)
note #3…'Nullification of Ballona Grant…

on 4/3/14



O11-375
cont.

From:	patricia mc pherson
To:	OSAEHotline@DOF.CA.GOV
Bcc:	jd@johnanthonydavis.com; Jeanette Vosburg
Subject:	GC Complaint (Brandy 14) Dept. Finance; AUTHORITY AUDIT (County auditor communications with Mr. Hartnett & USACE docs pertain to Close Out Report for 2005-12 Joint EIR/S-AUTHORITY/USACE
Attachments:	Screen Shot 2015-03-26 at 4.25.12 PM.png SPL OM 5-1-3.pdf ER 37-1-30 ch13.pdf

exhibit 14, GC Complaint Dept. Finance

Begin forwarded message:

From: patricia mc pherson <patriciamcpherson1@verizon.net>
Subject: AUTHORITY AUDIT (County auditor communications with Mr. Hartnett & USACE docs pertain to Close Out Report for 2005-12 Joint EIR/S-AUTHORITY/USACE
Date: April 3, 2015 3:33:51 PM PDT
To: HChu@bcawatsonriceca.com

Ms. Chu,

Please excuse any re-sends on my part.
The email below from COUNTY personnel inclusive of County financial personnel appears to cite
to concerns regarding mingling of SMBRFOUNDATION's account with that of the JPA fund in the LA County Treasury Pool.

O11-376

The following information is sent in regard to the 2005-12 Joint EIR/S which was between the AUTHORITY and
USACE. The entry and exit was signed by Ms. Luce on behalf of the AUTHORITY(previously sent to you).
This project still needs to have the CLOSE OUT Report for money spent. The Report needs to have the
AUTHORITY attend to its portion of the CLOSE OUT Report that would then be a part of the USACE
overall Close Out Report for the Joint EIR/S that was cancelled by Ms. Luce. It appears, from our research, that there are no
approvals for the actions performed by Ms. Luce from either the SMBRC governing board (and/or any public
disclosure during SMBRC meetings) or from LA County. Nevertheless, the canceling of the Joint EIR/S did occur
as noted in the signature page by Ms. Luce and Col. Toy. There appear to be fees for the assembly of the Report. We have a standing request for any/all
Close Out Reports but thus far, none has been provided.

Procedural Document(s) of USACE

O11-376
cont.

From:	patricia mc pherson
To:	OSAEHotline@DOF.CA.GOV
Bcc:	JD@johnanthonydavis.com; Jeanette Vosburg
Subject:	GC Complaint (Brandy 12)Dept.Finance; AUTHORITY AUDIT...Grant 12-107 and FOUNDATION FUNDING SOURCES PER CA. COASTAL CONSERVANCY PRA response
Attachments:	5. TBF Funding Source Summary.pdf 12-107.pdf Screen Shot 2015-03-31 at 6.25.22 PM.png

Begin forwarded message:

From: patricia mc pherson <patriciamcpherson1@verizon.net>
Subject: AUTHORITY AUDIT…Grant 12-107 and FOUNDATION FUNDING SOURCES PER CA. COASTAL CONSERVANCY PRA response
Date: March 31, 2015 6:29:25 PM PDT
To: hChu@bcawatsonriceca.com

Ms. Chu,
Here is another document that was retrieved via a Public Record Act request from the organization the Ballona Wetlands Landtrust.

In addition to the all the funding sources cited, please note the Grant 12-107 that I have already sent you documents, shows up in this SMBRFoundation funding document.

Note the letter below from Ms. Small (SCC) citing the termination of 12-107 interagency agreement with the Authority and /or LA County Public Works.
It is this grant that was to be parsed out to the County and the Foundation as cited in the additional emails I've sent you regarding this money.

O11-377

DEPARTMENT OF THE ARMY
Los Angeles District, Corps of Engineers
P.O. Box 2711
CESPL-PM Los Angeles, California 90053-2325

OFFICE MEMORANDUM
NO. 5-1-3 2 November 1995

Management
PROCEDURE FOR CONTRACT CLOSEOUT AND FINANCIAL ACCOUNTING TO CIVIL WORKS SPONSOR

1. Purpose. This regulation prescribes guidelines for managing, controlling and reporting Federal and non-Federal project administrative costs for civil works projects.

2. Applicability. This procedure is applicable to the administrative costs for all civil works projects under the supervision of the Los Angeles District (LAD), and for LERRDS (Lands, Easements, Rights-of-way, Relocations, and Disposal areas) work being performed for the sponsor.

3. Reference. EC 5-1-48, 24 April 1992, Implementation to Project Management.

O11-377 cont.

4. Background. This financial account process was developed at the request of the sponsors and IAW with the provisions of Article X of the Project Cooperation Agreement (PCA). This office memorandum outlines procedures for accounting, project costs, contract closeout, and project credit provided to the sponsor.

5. Project Cost Accounting. Within 60 days after the start of General Construction, the Project Manager will prepare and provide the sponsor with a project cost matrix report by fiscal year. The report will be updated quarterly by the Project Manager and provided to the sponsor.

6. Contract Closeout. Within 30 days after award of the construction contract, the Project Manager will prepare and provide the local sponsor an initial contract closeout package. This package will be finalized 60 days after the contract has been completed and the final pay estimate has been submitted. Portions of the contract closeout package will be updated semi-annually. The contract closeout package will consist of the following items (See Appendix A for a sample contract closeout package):

a. Copy of the construction contract.

b. List of change orders. This will be updated semi-annually.

c. Work Order (ENG Form 3013) will be prepared by the Project Manager at the start of the contract.

d. Memorandum to the Resource Management Office from the Project Manager.

e. Spreadsheet that identifies all cost to date. This will be updated semi-annually.

f. Civil Works Detail Report. This will be updated semi-annually.

g. Latest Pay Estimate. The latest pay estimate will be included in this package on a semi-annual basis.

h. Record of Funds (FW and VW accounts). A listing of funds paid by the sponsor will be updated semi-annually.

i. Completion Memorandum (Con-Ops). A memorandum will be prepared by the Resident Engineer upon completion of the contract. A sample memorandum will be included in the original contract closeout package.

O11-377 cont.

j. Line Item Completion. A completion form will be prepared by the Resident Engineer upon completion of the contract. A sample memorandum will be included in the original contract closeout package.

k. Performance Evaluation (Construction and A/E). A performance evaluation will be prepared by the Resident Engineer upon completion of the contract. A sample performance evaluation will be included in the original contract closeout package.

l. Corps of Engineers' Letter to the Sponsor. A letter is provided to the sponsor at the completion of the contract closeout process with final accounting of the contract costs. The letter will be prepared by the Project Manager and a draft copy of the letter will be included in the original contract closeout package.

m. Completion Report (Eng Form 3013) will be prepared by the Project Manager upon completion of the contract closeout process. A sample Completion Report will be included in the original contract closeout package.

7. Local Sponsor Credit. According to the PCA, the sponsor can be provided credit towards the sponsor share of total project

costs that are over and above the sponsor required 5% cash contribution.

a. The credit process is as follows:

(1) The sponsor will submit a letter requesting credit to Program and Project Management Division (PPMD);

(2) PPMD will prepare a written response to the sponsor approving the credit request or requesting that LAD comments be addressed (PPMD is encouraged to resolve credit comments through informal communication with the sponsor);

(3) LAD should respond to sponsor credit request within 45 calendar days of receipt.

b. The following project credit is allowable per the PCA:

(1) **ADMINISTRATIVE CREDIT:** The costs of participation in the Project Coordination Team shall be included in total project costs and cost shared IAW the provisions of the PCA. Administrative credit can only be applied toward additional cash portions of project costs and NOT toward the required 5% cash.

O11-377 cont.

Costs associated with Project Coordination Team meetings, public or workshop meetings, construction awareness meetings, partnering meetings, technical review meetings and special meetings such as In-Progress-Meetings, Basic Change Document (BCD) meetings, etc. Administrative costs associated with the review of technical reports, plans and specifications, Project Management Plans (PMP), review and updates of the project schedule, review of Schedule And Cost Change Request (SACCR), and project cost reports. Administrative costs associated with the supervision and administration of the Corps of Engineers construction contract insofar as these costs relate to Project Coordination Team issues and/or directives. These creditable costs can include attending the pre-construction conference, weekly contractor meetings, and special meetings to address a change order that substantially increases the cost sharing.

(2) In order to document administrative credit the sponsor must submit a brief narrative on a quarterly basis describing the labor performed on the project (i.e., description of work performed and number of hours to accomplish work). After the Project Manager approves the submission, it is sent to the Resource Management Office for execution.

(3) Two sets of cost keys will be maintained to track credit charges. A general Project Coordination Team cost key will be set up to keep a running total of PCT costs associated with the project. A second set will tabulate Real Estate credit. The project manager will distribute these charges to the project elements at a of minimum once per fiscal year.

8. Special Forms.

a. Work Order/Completion Report (ENG Form 3013).

b. Pay Estimate-Contract Performance (ENG Form 93).

c. Line Item Completion (SF 452).

d. Performance Evaluation-Construction (DD Form 2626) Contracts.

e. Schedule and Cost Change Request (SACCR) (ENG Form 5040).

O11-377 cont.

FOR THE COMMANDER:

JEROME J. DITTMAN
LTC, EN
Deputy Commander

1 Appendix
APP A - Contract Closeout Package

DISTRIBUTION:
B

SAMPLE

CESPL OM 5-1-3
2 Nov 95
APP A

SANTA ANA RIVER MAINSTEM PROJECT
CLOSEOUT SUBMITTAL
SEMI-ANNUAL PROGRESS REPORT
REPORT DATE: 8 June 1995

PROJECT ELEMENT: Lower Santa Ana River, Reach 5&6

CLOSURE ITEM: Construction Contract No. DACW09-94-C-0026, C.A. Rasmussen, Inc.

PROJECT MANAGER: Ed Andrews

AWARD OF CONTRACT: 15 April 1994

COMPLETION DATE: 1 February 1996

TOTAL CONTRACT AMOUNT: $21,796,747.00

CURRENT AMOUNT PAID:

FEDERAL -	$19,942,380.93
NON-FEDERAL -	$ 1,218,893.88
WORK FOR OTHERS -	$ 635,472.69

O11-377 cont.

SAMPLE

CESPL OM 5-1-3
2 Nov 95
APP A

SANTA ANA RIVER MAINSTEM
PROJECT CLOSEOUT SUBMITTAL
SEMI-ANNUAL PROGRESS REPORT
TABLE OF CONTENTS

1. CONTRACT

2. CHANGE ORDER LISTING

3. WORK ORDER, ENG 3013, (BEGINNING OF PROJECT)

4. MEMORANDUM TO RESOURCE MANAGEMENT FROM PROJECT MANAGER (CLOSURE MEMO)

5. SPREADSHEET

6. CIVIL WORKS DETAIL REPORT (CURRENT)

7. FINAL PAY ESTIMATE OR LATEST PAY ESTIMATE

8. RECORD OF FUNDS (FW/VW ACCOUNTS)

9. COMPLETION MEMO (CON-OPS)

10. LINE ITEM COMPLETION

11. PERFORMANCE EVALUATION (CONSTRUCTION, A-E)

12. CORPS OF ENGINEERS LETTER TO SPONSOR (EXPLANATION OF CLOSE-OUT)

13. COMPLETION REPORT, ENG 3013 (END OF PROJECT)

O11-377 cont.

SAMPLE

CONTRACT

CESPL OM 5-1-3
2 Nov 95
APP A

O11-377
cont.

Item 1

A-3

SAMPLE

CESPL OM 5-1-3
SOI 2 Nov 95
APP A
(Construc

1. SOLICITATION NO.	2. TYPE OF SOLICITATION	3. DATE ISSUED	PAGE OF PAGES
DACW09-94-B-0003	☒ SEALED BID (IFB) ☐ NEGOTIATED (RFP)	15 FEB 94	1 of 3

IMPORTANT: ...e fully completed by offeror.

4. CONTRACT N
DACW(

5. REQUISITION/PURCHASE REQUEST NO.

6. PROJECT NO.

7. ISSUED BY

U.S. ARMY ENGINEER DISTRICT,
LOS ANGELES
P.O. Box 2711
Los Angeles, California 90053-2325

8. ADDRESS OFFER TO

U.S. ARMY ENGINEER DISTRICT,
LOS ANGELES
P.O. Box 2711
Los Angeles, California 90053-2325

9. FOR INFORMATION CALL:	A. NAME	B. TELEPHONE NO. (Include area code) (NO COLLECT CALLS)
	See "INSTRUCTIONS TO BIDDERS"	

SOLICITATION

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder."

10. THE GOVERNMENT REQUIRES PERFORMANCE OF THE WORK DESCRIBED IN THESE DOCUMENTS (Title, identifying no., date):

LOWER SANTA ANA RIVER CHANNEL (RIVERVIEW GOLF COURSE TO GLASSELL STREET) at Orange County, California

Project consists of construction of approximately 6.2 miles of stone and grouted stone channel, 800 feet of reinforced concrete trap, channel, modification of concrete drop structures, construction of retaining walls, pier nosing, site clearing, excavation and fill, fencing, A.C. Paving, and appurtenant work.

O11-377 cont.

The estimated cost of construction is over $10,000,000.

11. The Contractor shall begin performance within ** calendar days and complete it within ** calendar days after receiving

☐ award, ☒ notice to proceed. This performance period is ☒ mandatory, ☐ negotiable. (See ** SPECIAL CLAUSES.)

12A. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE AND PAYMENT BONDS? (If "YES," indicate within how many calendar days after award in Item 12B.)	12B. CALENDAR DAYS
☒ YES ☐ NO	10

13. ADDITIONAL SOLICITATION REQUIREMENTS:

A. Sealed offers in original and no copies to perform the work required are due at the place specified in Item 8 by 1:00 PM (hour) local time 15 MAR 94 (date). If this is a sealed bid solicitation, offers must be publicly opened at that time. Sealed envelopes containing offers shall be marked to show the offeror's name and address, the solicitation number, and the date and time offers are due.

B. An offer guarantee ☒ is, ☐ is not required.

C. All offers are subject to the (1) work requirements, and (2) other provisions and clauses incorporated in the solicitation in full text or by reference.

D. Offers providing less than 60 calendar days for Government acceptance after the date offers are due will not be considered and will be rejected.

NSN 7540-01-155-3212 1442-101 STANDARD FORM 1442 (REV 4-85) Prescribed by GSA FAR (48 CFR) 53.236-1(e)

, Contract awarded under this solicitation is set-aside pursuant to Public Law 100-656,
all Business Competitiveness Demonstration Program.

SAMPLE

Contract No DACW09-94-C-0026
CESPL OM 5-1-3
2 Nov 95
APP A

OFFER (Must be fully completed by offeror)

AND ADDRESS OF OFFEROR (Include ZIP Code)	15. TELEPHONE NO (Include area code)
A RASMUSSEN, INC. 2360 SHASTA WAY SIMI VALLEY, CA 93065	805-527-9332 16. REMITTANCE ADDRESS (Include only if differ
E X1345 FACILITY CODE 04505918F	

The offeror agrees to perform the work required at the prices specified below in strict accordance with the terms of this solicitation, if this offer is accepted by the Government within _____ calendar days after the date offers are due. (Insert any number equal to or greater than the minimum requirement stated in item 13D. Failure to insert any number means the offeror accepts the minimum in

Approved 4MAY94
As to Form and Legality
By _____
For District Counsel

IOUNTS	In accordance with the attached BIDDING SCHEDULE.

The offeror agrees to furnish any required performance and payment bonds.

19. ACKNOWLEDGMENT OF AMENDMENTS
(The offeror acknowledges receipt of amendments to the solicitation – give number and date of each)

NDMENT NO	0001	0002	0003	0004						
DATE	01 MAR94	11MAR94	17MAR94	18MAR94						

20A. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)	20B. SIGNATURE	20C. OFFER DATE
Gary A. Gibson Area Manager		29 MAR 94

AWARD (To be completed by Government)

EMS ACCEPTED:

tem Nos. 1-135 as per attached Schedule of Payment, Invitation for Bid Number DACW09-94-B-0003, nendment Nos. 1-4 relating thereto, drawings and conditions set forth therein, all of which are ade a part of this contract. Small Business and Small Disadvantaged Business Subcontracting lan is attached and made a part of this contract

AMOUNT	22. ACCOUNTING AND APPROPRIATION DATA
21,190,032.00	96X3122 CONST GEN S96041 BE069 09 000E 000L (NS) in the amount of $8,610,000.00, 96X8862 RIV & HBRS CONTR FUNDS REOD S96041 FW090 09 000E 000L (NS) in the amount of $250,000.00 and 96X4902 REVOLVING FUND*

SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified)	ITEM	25. OTHER THAN FULL AND OPEN COMPETITION PURSUANT TO
▶	26	☐ 10 USC 2304(c)( ) ☐ 41 USC 253(c)( )

ADMINISTERED BY CODE	27. PAYMENT WILL BE MADE BY
epartment of the Army os Angeles District Corps of Engineers ainstem Resident Office 50 N. Fairview Street anta Ana, CA 92703	Department of the Army Los Angeles District Corps of Engineers ATTN: Finance and Accounting Officer P.O. Box 2711 Los Angeles, CA 90053-2325

CONTRACTING OFFICER WILL COMPLETE ITEM 28 OR 29 AS APPLICABLE

28. NEGOTIATED AGREEMENT (Contractor is required to sign this document and return _____ copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all work, requisitions identified on this form and any continuation sheets for the consideration stated in this contract. The rights and obligations of the parties to this contract shall be governed by (a) this contract award, (b) the solicitation, and (c) the clauses, representations, certifications, and specifications or incorporated by reference in or attached to this contract.

XX 29. AWARD (Contractor is not required to sign this document.) Your offer on this solicitation, is hereby accepted as to the items listed. This award consummates the contract, which consists of (a) the Government solicitation and your offer, and (b) this contract award. No further contractual document is necessary.

28A. NAME AND TITLE OF CONTRACTOR OR PERSON AUTHORIZED TO SIGN (Type or print)	29A. NAME OF CONTRACTING OFFICER (Type or print)
	B. J. Meirowsky Chief, Contracting Division
28B. SIGNATURE / 28C. DATE	29B. UNITED STATES OF AMERICA BY / 29C. AWARD DATE
	BJ Meirowsky / 94 APR 15

*S96041 VW813 10200 09118 (NS).

A-8

STANDARD FORM 1442 BACK (REV 4-85)

O11-377 cont.

SAMPLE

JOINT VENTURER, COMPLETE THE FOLLOWING

	(Signature)	(Title)
(Company Name)	(Signature)	(Title)
(Company Name)	(Signature)	(Title)

NOTE. If a Corporation is participating as a member of a Joint Venture, the Certificate as to Corporate Principal in item (3) below must also be completed and signed

(2) IF THE OFFEROR IS A PARTNERSHIP, LIST FULL NAME OF ALL PARTNERS.

(Name)	(Signature)
(Name)	(Signature)
(Name)	(Signature)

O11-377 cont.

(3) IF THE OFFEROR IS A CORPORATION, THE FOLLOWING CERTIFICATE SHOULD BE COMPLETED

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, Larry Rasmussen (name), certify that I am the _____

Secretary of the corporation named as offeror in the within offer; that Gary A. Gibson (name), who signed said offer on behalf of the corporation, was then Area Manager (title) of said corporation; that the signature thereto is genuine; and that said contract was duly signed, sealed and attested for and in behalf of said corporation by authority of its governing body

C. A. Rasmussen Inc. (Name of Corporation)

(Affix) (CORPORATE SEAL)

Larry Rasmussen (Secretary)

1. Project Title: LOWER SANTA ANA RIVER CHANNEL

SAMPLE

Solicitation No.: DACW09-94-B-0008

CESPL OM 5-1-3
2 Nov 95
APP A

2 Contractor Name: C. A. RASMUSSEN, INC.

Division:

3. Individual completing this plan: GARY A. GIBSON

Telephone Number: (909) 278-8383

4. Statement of: (i) total dollars planned to be subcontracted; (ii) total dollars planned to be subcontracted to small business; and (iii) total dollars to be subcontracted to small disadvantaged business

Total Amount of Prime Contract $ 21,190,032.00

(Percentage Goals and dollar amounts must be shown separately for the base year and any options.)

Estimated Amount of Subcontracts $ 8,908,000.00

Percentage Goals

Large Business	$ 759,000.00	8.5 %
Small Business (ALL)	$ 8,149,000.00	91.4 %
(i) To Small Non-Disadvantaged	$ 6,197,000.00	69.5 %
(ii) To Small Disadvantaged	$ 1,952,000.00	21.9 %

O11-377 cont.

5. Provide information pertaining to the following:

a. A description of the principal supply and service areas to be subcontracted and an identification of those areas where it is planned to use (i) small business subcontractors, (ii) small disadvantaged business subcontractors, and (iii) large business subcontractors:

SEE ATTACHED SCHEDULE

b. A statement of the method used in developing proposed subcontracting goals for small business and small disadvantaged business concerns:

SEE ATTACHED STATEMENT

c. Statement of the method used for solicitation purposes to assure small and small disadvantaged participation:

SEE ATTACHED STATEMENT

6. A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and if so, a description of the method used to determine the proportionate share of indirect costs to be incurred with: (i) small business concerns and (ii) small disadvantaged business concerns.

SEE ATTACHED STATEMENT

7. The designated individual will be the employee of the offeror who will administer the subcontracting program of this contract is:

Name: GARY A. GIBSON

Number: AREA MANAGER (909) 278-8383

CESPL OM 5-1-3
2 Nov 95
APP A

SAMPLE

SMITH AVE., SUITE 111

Code: CORONA, CA 91720

follows: (Attachment may be used)

) STATEMENT

8. Describe the efforts the offeror will make to assure that small business and small disadvantaged business concerns will have an equitable opportunity to compete for subcontracts as they pertain to this contract.

SEE ATTACHED STATEMENT

9. Provide a recitation of the types of records the offeror will maintain to demonstrate procedures which have been adopted to comply with the requirements and goals set forth in the plan, including the establishment of source lists of small business and small disadvantaged business concerns; and efforts to identify and award subcontracts to such small business concerns.

SEE ATTACHED STATEMENT

10. I, the undersigned, a designated officer of: C.A. Rasmussen Inc
(Company Name)
do herewith assure that this concern will include the clause entitled "Utilization of Small Business and Small Disadvantaged Business Concerns" in all subcontracts which offer further subcontracting possibilities in the United States and will require all subcontractors (except small business concerns) who receive subcontracts in excess of $500,000 or, in the case of a contract for construction of any public facility, $1 million, to adopt a plan in consonance with the clause. Also assure that this concern will (i) cooperate in any studies or surveys as may be required, (ii) submit periodic reports in order to allow the government to determine the extent of compliance with the subcontracting plan, (iii) submit Standard Form (SF 294, Subcontracting Report for Individual Contracts and SF 295, Summary Subcontract Report. in accordance with the Instructions on the forms, and (iv) ensure that its subcontractors agree to submit Standard Forms 294 and 295.

(signature)

GARY A GIBSON
(type or print name)

AREA MANAGER
(title)

11 APRIL 1996
(date)

O11-377 cont.

(form PLAN 182)

SCHEDULE OF PAYMENT

FOR

CONTRACT NO DACW09-94-C-0026 SAMPLE

CESPL OM 5-1-3
2 Nov 95
APP A

ITEM	DESCRIPTION	QUANTITY	U/M	U/P	
0001	DIVERSION AND CONTROL OF WATER	1	JB	675000	
0002	CLEARING AND GRUBBING	1	JB	350000 000000	350000.00
0003	DEMOLITION	1	JB	1460000 000000	1460000.00
0004	EXCAVATION, CHANNEL	843000	CY	0 900000	758700 00
0005	EXCAVATION, TOE	247000	CY	2 090000	516230.00
0006	COMPACTED FILL, CHANNEL	546000	CY	0 550000	300300.00
0007	BACKFILL, TOE	162500	CY	1 010000	164125 00
0008	MISCELLANEOUS FILL	28000	CY	0.230000	6440.00
0009	CONCRETE, CHANNEL INVERT	5350	CY	100 000000	535000.00
0010	CONCRETE, CHANNEL SLOPE	1560	CY	125.000000	195000.00
0011	CONCRETE, CUTOFF WALL	65	CY	265.000000	17225.00
0012	STEEL REINFORCEMENT	503000	LB	0 480000	241440.00
0013	SUBDRAINAGE SYSTEM	1	JB	216350 000000	216350.00
0014	RETAINING WALL A	1	JB	23200.000000	23200.00
0015	RETAINING WALL B	1	JB	73600.000000	73600.00
0016	RETAINING WALL D	1	JB	64900.000000	64900.00
0017	RETAINING WALL F	1	JB	37000 000000	37000.00
0018	RIPRAP, 36-INCH	40500	TN	13 500000	546750.00
0019	RIPRAP, 33-INCH	16500	TN	12.000000	198000.00
0020	RIPRAP, 30-INCH	8900	TN	12 000000	106800.00
0021	RIPRAP, 24-INCH	50900	TN	12 000000	610800.00
0022	RIPRAP, 21-INCH	21300	TN	12 000000	255600.00

O11-377 cont.

SAMPLE

CESPL OM 5-1-3
2 Nov 95
APP A

	CRIPTION	QUANTITY	U/M	U/P	AMOUNT
		19600	TN	12 000000	235200 00
		11700	TN	12.000000	140400 00
0025	RIPRAP, 15-INCH GROUTED	144000	TN	12.000000	1728000 00
0026	FILTER STONE	34500	TN	12.000000	414000.00
0027	DERRICK STONE	24000	TN	12 000000	288000.00
0028	BEDDING STONE	6800	TN	12 000000	81600 00
0029	GROUTING STONE PROTECTION	44500	CY	70 000000	3115000 00
0030	SIDE DRAIN, STA 526+47 RT	1	JB	12550 000000	12550 00
0031	SIDE DRAIN, STA 528+41 2 RT	1	JB	8700.000000	8700.00
0032	SIDE DRAIN, STA 528+68 LT	1	JB	6800.000000	6800.00
0033	SIDE DRAIN, STA 532+65 LT	1	JB	5400 000000	5400.00
0034	SIDE DRAIN, STA. 533+70 50 LT	1	JB	38400.000000	38400.00
0035	SIDE DRAIN, STA 536+36 RT	1	JB	13600.000000	13600.00
0036	SIDE DRAIN STA. 554+19 RT	1	JB	9200.000000	9200.00
0037	SIDE DRAIN, STA. 554+50 LT	1	JB	4100.000000	4100.00
0038	SIDE DRAIN, STA. 560+48 RT	1	JB	10900.000000	10900.00
0039	SIDE DRAIN, STA. 581+26 RT	1	JB	99500.000000	99500.00
0040	SIDE DRAIN, STA. 583+87 LT	1	JB	15200.000000	15200.00
0041	SIDE DRAIN, STA 590+85 LT	1	JB	7000.000000	7000.00
0042	SIDE DRAIN, STA 600+09 LT	1	JB	13000.000000	13000.00
0043	SIDE DRAIN, STA 604+59 LT	1	JB	19700.000000	19700.00
0044	SIDE DRAIN, STA. 605+92 RT	1	JB	5300.000000	5300.00

O11-377 cont.

SAMPLE

CHANGE ORDER LISTING

CESPL OM 5-1-3
2 Nov 95
APP A

O11-377
cont.

SAMPLE

CESPL OM 5-1-3
2 Nov 95
APP A

LSAR REACH 5&6
CHANGE ORDERS

CONT C-0026
CONT SEN, INC
COMI UARY 1996

PO No	DESCRIPTION	BE069 09000E000L	FW090 09000E000L	VW81 31020009118	TOTAL
2	Additional stock pile areas	-	-	-	0 00
4	Replace filter w/geotextile	-	-	-	0 00
5	Provide TYP side drn sta591+60	-	-	-	0 00
6	Rnv & disp steel wire/post rev	-	-	-	0 00
7	Grout riprap@ drop struc&stabe	-	-	-	0 00
9	Revised r/c boxes sta621+13 71	-	-		0 00
10	Unsuitable material removal	-	-	-	0 00
11	Remv rocks sta 535+00/600+00	-	-	-	0 00
12	Remv & disp grouted rk sta 563	-	-		0 00
16	Concrete collars arnd waterlin	-	-	-	0 00
18	Bike trail maintenance			-	0 00
19	Reinf steel @ bitterbush ch tr			-	0 00
22	Under obsorbed overhead		-	-	0.00
24	Side drain changes	-	-	-	0.00
25	Side drain safety fences	-	-	-	0.00
27	Topographic survey	-	-	-	0 00
28	Repair & relocate irrigation	-	-		0 00
29	Side drain redesign	-	-	-	0.00
31	Side drain adg repairs				0 00
33	Qty variation bid# 9,10 & 12	-	-		0 00
34	Side drain @ sta 583+87	-	-		0 00
35	Install 12" storm drain @ 627+	-	-	-	0 00
36	Retaining wall @ 5 freeway				0 00
37	Raise manholes @ sta 627+628	-			0 00
38	Revise side drain sta 627+19				0 00
41	Access road re-alginment	49,048 00	2,998.00		52,046 00
44	Trailer security & maintenance	8,051 00	495.00	-	8,546 00
45	Access road erosion control	33,992 00	2,078 00		36,070 00
					0 00
				-	0 00
				-	0 00
					0 00
		A-12			
	TOTALS	91,091.00	5,571.00	0.00	96,662.0

O11-377 cont.

SAMPLE

WORK ORDER, ENG 3013, (BEGINNING OF PROJECT)

O11-377 cont.

CESPL OM 5-1-3
2 Nov 95
APP A

SAMPLE

~~[redacted]/COMPLETION REPORT~~ (ER 37 2-10; 37 345-10)

DISTRICT: LOS ANGELES

APPROPRIATION: 96X3122

PROJECT SANTA ANA RIVER MAINSTEM ~~PHOENIX AZ~~ LSAR Reach 5+6

CLASS OF WORK: CONSTRUCTION GENERAL

~~PHOENIX AZ~~ LSAR Rch 5+6

~~THIS ENG 3013 IS TO CLOSE OUT CONT COST THE PROJECT (CONT DACW09 75 C 0010) WAS TURNED OVER TO THE CUSTOMER~~

ORIGINAL ESTIMATE: DATE | AMOUNT

DATE WO[RK] ... ESTIMATE ~~31AUG94~~

METHOD OF WORK: X CONTRACT | HIRED LABOR

BASIS FOR ORDER: JOB | FY

TYPE OF ESTIMATE: ORIGINAL | ACTUAL

FEATURE: ~~BE064 09~~

ACCOUNT NUMBER	DESCRIPTION OF WORK	ESTIMATED TOTAL QUANTITIES	ESTIMATED TOTAL COST	ESTIMATED UNIT COST	ACTUAL TOTAL QUANTITIES	ACTUAL TOT[AL] CO[ST]
~~BE054 04~~ BE061 09	DAMS AND OTHER WATER COLLECTING FAC					
10B0 0000	75C0010 DAMS & OTH WATER COLL FAC CONTR		$58 424 60			$58 424 60
CODE COOL						
	TOTALS		$58 424 60			$58 424 60

A-14

SUBMITTED BY: BRIAN M MOORE
(NAME) (ORGANIZATION UNIT) (DATE)

FUNDS FOR THIS WORK ARE AVAILABLE: GERALD K APO
(NAME) (ORGANIZATION UNIT) (DATE)

THIS WORK IS INCLUDED IN THE APPROVED PROGRAM: PATRICIA A GRABLIN
(NAME) (ORGANIZATION UNIT) (DATE)

APPROVED: COL MICHAL R ROBINSON DE — SEP 2 1994
(DISTRICT COMMANDER US ARMY CORPS OF ENGINEERS) (DATE)

WORK DESCRIBED ABOVE HAS BEEN COMPLETED: BRIAN M MOORE PPMO 7/1/95
(NAME) (ORGANIZATION UNIT) (DATE)

AMOUNTS REPORTED ABOVE AS ACTUAL COSTS ARE REFLECTED IN THE COST ACCOU[NTS] AS OF THIS DATE: MARTIN J DENSE
(NAME) (OFFICE OF THE COMPTROLLER) (DATE)

ENG FORM 3013 AUG 81 — EDITION — MAY BE USED — PROPONENT ...

O11-377 cont.

SAMPLE

DRAFT MEMORANDUM BY PROJECT MAJ

CESPL OM 5-1-3
2 Nov 95
APP A

CESPL-PM-SM

MEMORANDUM FOR Chief, Resource Management Off
ATTN: CESPL-RM-FW

SUBJECT: Review of Contract No DACW09-94-C-0
River Channel (Riverview Gulf Course to Glasse
County, California, BE06909000E000L (NS), FW09009000E000L (NS), and
VW8131020009118 (NS)

1 Reference

a Authority of Water Resources Development Act of 1986, (P L 99-662)
b Civil Work Detail Report of Cost and Funds, report dated _____(Date of Progress Report _____ (encl 1)
c Pay Estimate Line Item Control Record No 11 (encl 2)
d Funding and Payment Record (encl 3)

2. This Memorandum addresses the work performed by the Corps of Engineers on Contract No DACW09-94-C-0026

O11-377 cont.

3 Description of the project:

The channel improvements on Reaches 5 and 6 consist of

a Replacing the rock-revetted slide slopes with trapezoidal riprap side slopes 15 to 33 inches thick, placed on bedding stone 6 inches thick on the earthen levees The earthen bottom channel will remain 260 to 330 feet wide Channel depths will range from 10 1/2 to 20 1/2 feet, with the levees generally extending up to 4 feet above the surrounding flood plain

b Modifying the current drop structures and adding two new ones to further reduce the velocity of flood flows and prevent erosion

c. Excavating portions of the channel to accommodate the new drop structures

d. Constructing 9 concrete stabilizers across the channel bottom at about every 3,000 feet to stabilize the channel bottom during flood flows

4. The total construction (original) cost of $21,190,032 00 and final construction cost is ___Blank____ The payment estimate number __Blank__ has been paid, dated ___Blank___which was cost shared by the Federal Government 94.24 %, Local Sponsor 5.76%, and Work for Others 100% The contract was completed on ___Blank___

SAMPLE

CESPL OM 5-1-3
2 Nov 95
APP A

·ates the following expenditures based on
__BLANK___

ıil Report of Cost and Funds, report dated
ıclosure)

›nstruction cost	$21,190,032 00
:ct expenditure	__ BLANK_____
unobligated balance	__ BLANK_____

Available funds on each account as follows

BE069		BLANK
FW090		BLANK
VW81	9118	BLANK
TOTAL		BLANK

Encls

EDWARD ANDREWS, P E
Project Manager
Lower Santa Ana River

O11-377 cont.

A-16

SAMPLE

SPREADSHEET

CESPL OM 5-1-3
2 Nov 95
APP A

O11-377
cont.

Item 5

A-17

SAMPLE

CESPL OM 5-1-3
2 Nov 95
APP A

SPREADSHEET
CONTRACT NO DACW09-94-C-0026

LOWER SANTA ANA RIVER
REACH 5 & 6
ORANGE COUNTY, CALIFORNIA
JUNE 8, 1995

ITEM NO	DESCRIPTION	TOTAL AMOUNT($)	FEDERAL $ (COST KEY)	ORANGE COUNTY NON-FEDERAL $ (COST KEY)	ORANGE CO BETTERMENT NON-FEDERAL $ (COST KEY)
1.	CONSTRUCTION(ORIGINAL)	$21,190,032 00	$19,370,815.41	$1,183,943.80	$ 635,472.69
2.	MODIFICATION (NO. 1 THRU 45)	$ 606,715 00	$ 571,765.00	$ 34,950.00	$ 0.00
3.	TOTAL PROJECT FUNDS	$21,796,747 00	$19,942,380.41	$1,218,893.90	$ 635,472.89
4	CW DETAIL REPORT		$	$	[redacted]
5	PAY EST NO 13 (ENG FORM 93)		$13 168,992.35	$ 804 900 00	$ 211,699.19
6.	FUNDS AVAILABLE	$	$	$	$
7	REQUIRE FUNDS FOR				

O11-377
cont.

SAMPLE

CIVIL WORKS DETAIL REPORT (CURRENT) CESPL OM 5-1-3
2 Nov 95
APP A

O11-377
-
cont.

SAMPLE

CESPL OM 5-1-3
2 Nov 95
APP A

SANTA ANA

		00	8[illegible]899 32		
		00	8[illegible]899 32	0	0
		00	2697462 40		
		00	2697462 40	0	0
		00	34172381 85	0	0
		00	00	00	
		00	00	00	0 0
		00	28272 00	29375 55	
		00	28272 00	29375 55	0 28272
		00	28272 00	29375 55	0 28272

0
0BE06909000 AR
0 00
1*********

REPORT DATE [illegible] CIVIL WORKS DETAIL REPORT OF COST AND FUNDS PAGE NUMBER 1447
RUN DATE 06/05/95 DISTRICT LOS ANGELES

96X3122 CONSTRUCTION GENERAL
0BE069 BE069 SANTA ANA RIVER, MAINSTEM 06

WORKCODE / ORG CODE	DESCRIPTION	CURRENT MONTH COST	FY COST TO DATE	TOTAL COST TO DATE	CFY CWE	CWE BALANCE
	OFFSET	00	00	00		
0	TOTAL ORG COST	00	00	00	0	0
0 NS	MAIN STREAM RESIDENT OFFICE CONTRACT	00	8205211 98	17452122 87		
0	TOTAL ORG COST	00	8205211 98	17452122 87	0	-8205212
0	TOTAL COST ACCOUNT	00	8205211 98	17452122 87	0	-8205212
0BE06909000E00FL	94C0026, CN, REACH 5&6, LSAR					
0 00	BLANK ORGANIZATION CODE					
	OFFSET	00	00	00		
0	TOTAL ORG COST	00	00	00	0	0
0 NS	MAIN STREAM RESIDENT OFFICE CONTRACT	1067605 93	4050239 48	13168992 35		
0	TOTAL ORG COST	1067605 93	4050239 48	13168992 35	0	-4050239
0	TOTAL COST ACCOUNT	1067605 93	4050239 48	13168992 35	0	4050239
0BE06909000F00DU	93C0053 CN UPPER REACH					
0 00	BLANK ORGANIZATION CODE					
	OFFSET	00	00	00		
0	TOTAL ORG COST	00	00	00	0	0
0 HQ	PROG & PROJ MGT - SANTA ANA RIVER PROJ MOTOR VEHICLE CHARGES	00	34 00	34 00		
0	TOTAL ORG COST	00	34 00	34 00	0	-34
0 NS	MAIN STREAM RESIDENT OFFICE CONTRACT	00	230693 72	304728 33		
0	TOTAL ORG COST	00	230693 72	304728 33	0	-230694
0	TOTAL COST ACCOUNT	00	230727 72	304762 33	0	-230728

1**********

REPORT DATE 05/31/95 CIVIL WORKS DETAIL REPORT OF COST AND FUNDS PAGE NUMBER 1448
RUN DATE 06/05/95 DISTRICT LOS ANGELES

96X3122 CONSTRUCTION GENERAL
0BE069 BE069 SANTA ANA RIVER, MAINSTEM 06

WORKCODE / ORG CODE	DESCRIPTION	CURRENT MONTH COST	FY COST TO DATE	TOTAL COST TO DATE	CFY CWE	CWE BALANCE
0BE06909000G00CU	93C0013 CN LOWER REACH					
0 00	BLANK ORGANIZATION CODE					
	OFFSET	00	00	00		
0	TOTAL ORG COST	00	00	.00	0	0
0 NS	MAIN STREAM RESIDENT OFFICE CONTRACT	00	58808 51	58808 51		
0	TOTAL ORG COST	00	58808.51	58808 51	0	-58809
0	TOTAL COST ACCOUNT	00	58808 51	58808.51	0	-58809
0BE06909000J00CT	94C0063 CN REACH 1, SAN TIMOTEO					
0 00	BLANK ORGANIZATION CODE					
	OFFSET	00	00	00		
0	TOTAL ORG COST	00	00	00	0	0
0 CP	CP C-O,OPNS BR,O&M SEC,DAM OPRS UNIT MOTOR VEHICLE CHARGES	00	17 00	17.00		
0	TOTAL ORG COST	00	17 00	17 00	0	17

A-20

O11=377 cont.

SAMPLE

LATEST PAY ESTIMATE

CESPL OM 5-1-3
2 Nov 95
APP A

O11-377
cont.

NTRACT PERFORMANCE **SAMPLE**

1 DATE 19 May 95 | SHEET 1 OF 8

CESPL OM 5-1-3
2 Nov 95
APP A

A RASMUSSEN, INC.
Y SIMI VALLEY, CA 93065

PAYMENT DUE 30 May 95

4 ESTIMATE NO 13 FINI

TA ANA RIVER REACH 5 & 6

6 REQUIRED COMPLETION 15 Nov 95

7 DISTRICT Los Angeles

LOWER SANTA ANA RIVER

9 CONTRACT NO DACW09-94-C-0026

10 PERIOD COVERED BY ESTIMATE 15 Apr 95 thru 15 May 95

11 APPROPRIATION SEE PAGES 6-8

CONTRACT		EARNINGS	
DESCRIPTION	CONTRACT AMOUNT	PERCENT	EARNINGS TO DATE
BASIC CONTRACT	$ 21,190,032 00	64%	$ 13,584,429 92
MODIFICATIONS thru P045	$ 606,715.00	99%	$ 601,162.00
TOTAL CONTRACT --►	$ 21,796,747.00	TOTAL EARNINGS --►	$ 14,185,591.92

12 A PREVIOUS DEDUCTIONS NOT RETAINED %	0.00	
B PREVIOUS RETAINED PERCENTAGE	0 00	
C PREVIOUS PAYMENTS	13,233,886 52	
D PREVIOUS EARNINGS (A + B + C)		13,233,886 52
E EARNINGS THIS PERIOD (TOTAL EARNINGS D)		951,705.40
F LESS RETAINED PERCENTAGE	0 00	
G LESS DEDUCTION OTHER THAN RETAINED %	0 00	
H TOTAL DEDUCTIONS THIS PERIOD (F + G)		0.00
I RETAINAGE REFUNDED	0 00	
J OTHER REFUNDS	0 00	
K TOTAL REFUNDS THIS PERIOD (I + J)		0.00
L AMOUNT DUE TO CONTRACTOR (E H + K)		951,705.40

13 PRESENTED FOR PAYMENT PAYEE:

PER TITLE DATE

16 D O VOUCHER NO

17 CHECK NO

14 APPROVED FOR PAYMENT

I CERTIFY that I have checked the quantities covered by this estimate that the work was actually performed that the quantities are correct and consistent with all previous computations as actually checked that the quantities and and amounts are wholly consistent with the requirements of the contract

Jal S Gulley for ANWAR HEDJAZI 5/19/95
SIGNATURE ACO DATE

WILLIAM I GALLEGOS 5/19/95
CONTRACTING OFFICER APPROVAL ARCO DATE

18 PAID BY

19 I CERTIFY this account is correct and proper for payment

CERTIFYING OFFICER DATE

15. RECAPITULATION:

TOTAL EARNINGS	- TOTAL RETAINED PCTG	- TOTAL OTHER DEDUCTIONS	= TOTAL PAID
$ 14,185,591.92	$ 0.00	$ 0.00	$ 14,185,591.92

ENG FORM 93 (FACSIMILE)

A-22

O11-377 cont.

PAY ESTIMATE - CONTRACT PERFORMANCE 15 May 95

SAMPLE

DACW09-94-C-0026
C A RASMUSSEN, INC
2360 SHASTA WAY SIMI VALLEY, CA 93065

CESPL OM 5-1-3
2 Nov 95
15
APP A

B I D I T E M S U M M A R Y — E A

DESCRIPTION	CONTRACT AMOUNT	EARNINGS TO DATE	ACCRUAL THIS PERIOD
001 -DIVERSION AND CONTROL OF WATER	675,000 00	607,500.00	33,750.00
002 -CLEARING AND GRUBBING	350,000 00	350,000 00	35,000.00
003 -DEMOLITION	1,460,000 00	1,314,000 00	146,000 00
004 -EXCAVATION, CHANNEL	758,700 00	342,021 60	37,778 40
005 -EXCAVATION, TOE	516,230 00	490,832.32	33,440 00
006 -COMPACTED FILL, CHANNEL	300,300 00	212,646 50	0.00
007 -BACKFILL, TOE	164,125 00	164,125 00	0 00
008 -MISCELLANEOUS FILL	6,440 00	6,325 00	0 00
009 -CONCRETE, CHANNEL INVERT	535,000 00	535,000 00	0 00
010 -CONCRETE, CHANNEL SLOPE	195,000 00	195,000.00	0 00
011 -CONCRETE, CUT-OFF WALL	17,225 00	17,225 00	0 00
012 -STEEL REINFORCEMENT	241,440 00	241,440 00	0 00
013 -SUBDRAINAGE SYSTEM	216,350 00	216,350 00	0 00
014 -RETAINING WALL A	23,200 00	0 00	0 00
015 -RETAINING WALL B	73,600 00	0 00	0 00
016 -RETAINING WALL D	64,900 00	0 00	0 00
017 -RETAINING WALL F	37,000 00	37,000 00	0 00
018 -RIPRAP, 36-INCH	546,750 00	237,546 00	0 00
019 -RIPRAP, 33-INCH	198,000 00	0 00	0 00
020 -RIPRAP, 30-INCH	106,800 00	0 00	0 00
021 -RIPRAP, 24-INCH	610,800 00	195,636 00	0.00
022 -RIPRAP, 21-INCH	255,600 00	227,292 00	0.00
023 -RIPRAP, 18 INCH	235,200 00	160,632 00	2,784 00
024 -RIPRAP, 15-INCH	140,400 00	78,324 00	21,048 00
025 -RIPRAP, 15-INCH GROUTED	1,728,000 00	1,233,420 00	243,156 00
026 -FILTER STONE	414,000 00	41,580 00	0 00
027 -DERRICK STONE	288,000 00	216,000 00	0.00
028 -BEDDING STONE	81,600 00	50,016 00	0 00
029 -GROUTING STONE PROTECTION	3,115,000 00	1,726,340 00	53,620.00
030 -SIDE DRAIN, STA 526+47 RT	12,550 00	12,550 00	0.00
031 -SIDE DRAIN, STA. 528+41.2 RT	8,700 00	8,700 00	0 00
032 -SIDE DRAIN, STA 528+68 RT	6,800 00	6,800 00	0.00
033 -SIDE DRAIN, STA 532+65 LT	5,400 00	5,400 00	0 00
034 -SIDE DRAIN, STA 533+70 LT	38,400 00	38,400 00	0 00
035 -SIDE DRAIN, STA 536-36 RT	13,600 00	13,600 00	0 00
036 -SIDE DRAIN, STA 554+19 RT	9,200.00	9,200 00	0 00
037 -SIDE DRAIN, STA 554+50 LT	4,100.00	4,100 00	0.00
038 -SIDE DRAIN, STA. 560+48 RT	10,900.00	10,900 00	0.00
039 -SIDE DRAIN, STA 581+26 RT	99,500.00	99,500 00	0 00
040 -SIDE DRAIN, STA 583+87 LT	15,200 00	15,200 00	0 00
041 -SIDE DRAIN, STA. 590+85 LT	7,000 00	7,000 00	0.00
042 -SIDE DRAIN, STA. 600+09 LT	13,000 00	13,000.00	0 00
043 -SIDE DRAIN, STA. 604+59 LT	19,700 00	19,700 00	0 00
044 -SIDE DRAIN, STA 605+92 RT	5,300 00	5,300.00	0 00
045 -SIDE DRAIN, STA. 613+32 RT	5,000 00	0 00	0 00
046 -SIDE DRAIN, STA 620+42 RT	11,100 00	0.00	0 00
047 -SIDE DRAIN, STA 621+11 68 LT	80,200 00	80,200 00	0 00

A-23

ENG FORM 93a (FACSIMILE)

O11-377 cont.

NTRACT PERFORMANCE — 15 May 95 — SHEET 3 OF 8

SAMPLE

CESPL OM 5-1-3
2 Nov 95
APP A

/ALLEY, CA 93065

ESTIMATE NO 13
PERIOD COVERED
15 Apr 95 thru 15 May

: M S U M M A R Y -cont.

DESCRIPTION	CONTRACT AMOUNT	EARNINGS TO DATE	ACCRUAL THIS PERIOD
		E A R N I N G S	
048 -SIDE DRAIN, STA 625+53 76	16,700 00	16,700 00	0 00
049 -SIDE DRAIN, STA 626+06 LT	12,900 00	12,900.00	0 00
050 -SIDE DRAIN, STA 627+19 RT	2,100 00	2,100.00	0 00
051 -SIDE DRAIN, BITTERBUSH CHANNEL	226,800 00	226,800 00	0.00
052 -SIDE DRAIN, STA 638+21 LT	6,800 00	6,800 00	0 00
053 -SIDE DRAIN, STA 640+00 LT	7,500.00	7,500 00	0 00
054 -SIDE DRAIN, STA 642+84 RT	121,900 00	121,900 00	0.00
055 -SIDE DRAIN, STA 655+44 LT	9,600 00	9,600 00	9,600 00
056 -SIDE DRAIN, STA 656+07 LT	5,800.00	5,800 00	5,800 00
057 -SIDE DRAIN, STA 658+80 LT	12,000 00	12,000 00	12,000 00
058 -SIDE DRAIN, STA 664+49 RT	4,100 00	4,100 00	4,100 00
059 -SIDE DRAIN, STA 669+73 LT	23,262 00	0 00	0 00
060 -SIDE DRAIN, STA 682+86 LT	4,808.00	4,808 00	4,808 00
061 -SIDE DRAIN, STA 683+21 RT	6,137 00	6,137 00	6,137 00
062 -SIDE DRAIN, STA 683+92 LT	1,711 00	1,711 00	1,711.00
063 -SIDE DRAIN, STA 687+10 65 RT	12,626 00	12,626 00	12,626 00
064 -SIDE DRAIN, STA 687+72 RT	6,782 00	6,782 00	6,782 00
065 -SIDE DRAIN, STA 690+31 RT	5,059 00	5,059 00	5,059 00
066 -SIDE DRAIN, STA 694+85 RT	10,123 00	1,012 00	1,012 (
067 -SIDE DRAIN, STA 695+32 50 LT	15,532 00	15,532 00	15,532 (
068 -SIDE DRAIN, STA 698+99 23 LT3	190,000.00	47,500 00	47,500.00
069 -SIDE DRAIN, STA 703+16 RT	3,000.00	300 00	300.00
070 -SIDE DRAIN, STA 708+81 LT	2,000 00	0 00	0.00
071 -SIDE DRAIN, STA 713+93 50 RT	8,000 00	800.00	800 00
072 -SIDE DRAIN, STA 718+37 RT	11,000.00	1,100 00	1,100 00
073 -SIDE DRAIN, STA 724+84 LT	4,000.00	2,000 00	2,000 00
074 -SIDE DRAIN, STA 728+77 RT	5,000 00	500.00	500 00
075 -SIDE DRAIN STA 734+17 46 LT	30,000 00	7,500 00	7,500.00
076 -SIDE DRAIN, STA 739+62 80 LT	8,000 00	0 00	0 00
077 -SIDE DRAIN, STA 747+92 86 LT	11,000.00	0.00	0.00
078 -SIDE DRAIN, STA 753+82 RT	7,000.00	0 00	0.00
079 -SIDE DRAIN, STA 762+78 LT	22,000 00	2,200.00	2,200 00
080 -SIDE DRAIN, FLETCHER CHANNEL	125,000 00	0 00	0 00
081 -SIDE DRAIN, STA 797+31 LT	10,000 00	0 00	0 00
082 -SIDE DRAIN, STA 801+12 LT	10,000.00	0 00	0 00
083 -SIDE DRAIN, STA 804+72 LT	3,000 00	0 00	0 00
084 -SIDE DRAIN, STA 829+59 LT	5,000.00	0 00	0 00
085 -SIDE DRAIN, STA 857+80 LT	3,000 00	0 00	0 00
086 -PIER NOSE, GARDEN GROVE BLVD.	129,000.00	129,000.00	0 00
087 -PIER NOSE, GARDEN GROVE FWY	107,000 00	107,000.00	0 00
088 -PIER NOSE, ORANGEWOOD AVE	120,000 00	108,000.00	0 00
089 -PIER NOSE SCOUR PROTECTION	12,000 00	12,000 00	0.00
090 -PIER NOSE SCOUR PROTEC. ORANGE	12,000 00	10,800 00	0 00
091 -PIER NOSE SCOUR PROTEC OR FWY	12,000 00	0 00	0 00
092 -PIER NOSE SCOUR PROTEC. KATELA	12,000 00	0.00	0 (
093 -PIER NOSE PROTEC PACIFIC R R	12,000.00	0.00	0 (
094 -PIER NOSE SCOUR PROTEC BALL	12,000 00	0 00	0 00

A-24

ENG FORM 93a (FACSIMILE)

O11-377 cont.

PAY ESTIMATE - CONTRACT PERFORMANCE

SAMPLE

15 May 95

DACW09-94-C-0026
C A RASMUSSEN, INC
2360 SHASTA WAY SIMI VALLEY, CA 93065

CESPL OM 5-1-3
2 Nov 95
APP A
15

B I D I T E M S U M M A R Y -cont.

E A

DESCRIPTION	CONTRACT AMOUNT	EARNINGS TO DATE	ACCRUAL THIS PERIOD
095 -PIER NOSE SCOUR PRO. LINCOLN	12,000 00	0.00	0 00
096 -PIER NOSE SCOUR PRO GARDEN GR	12,000 00	12,000.00	0 00
097 -PIER NOSE SCOUR PR GARDEN FWY	12,000 00	12,000.00	0 00
098 -CONCRETE PILES FURNISHED	54,018 00	54,018.00	0 00
099 -CONCRETE PILES INSTALLED	96,050 00	90,400.00	0 00
100 -CONCRETE WINGWALLS STA 533+30	110,000 00	110,000 00	0 00
101 -CONCRETE DROP STRUC STA. 601	472,000 00	472,000.00	0 00
102 -CONCRETE DROP STRUC STA 644	415,000 00	415,000 00	0 00
103 -CONCRETE DROP STRUC STA 689	452,000 00	452,000 00	0 00
104 -CONCRETE DROP STRUC STA 745	507,000.00	101,400.00	101,400 00
105 -CONCRETE DROP STRUC. STA 811	496,000.00	0 00	0 00
106 -CONCRETE DROP STRUC STA 844	496,000.00	0 00	0 00
107 -GROUTED STONE DROP STRUCTURE	818,000.00	818,000 00	0 00
108 -ACCESS RD U-CROSSING, LINCOLN	35,000 00	0.00	0 00
109 -ACCESS RD, U-CROSSING, BALL	41,000 00	0.00	0 00
110 -ACCESS RD U-CROSSING, SPT RR	24,000 00	0.00	0 00
111 -ACCESS RD U-CROSSING, KATELLA	40,000 00	0 00	0 00
112 -ACCESS RD U-CROSSING, ATSF RR	32,000 00	0 00	0.00
113 -ACCESS RD U-CROSSING, ORANGEWO	27,000 00	0 00	0 00
114 -ACCESS RD U-CROSSING, CHAPMAN	33,000 00	33,000.00	0 00
115 -ACCESS RD U-CROSSING, SANTA AN	40,000 00	40,000.00	0 00
116 -ACCESS RD U-CROSSING, GARDEN G	1,000 00	1,000.00	0 00
117 -ACCESS RD U-CROSSING, GARDEN B	4,000 00	4,000.00	0 00
118 -BICYCLE TRAIL DETOUR	153,000.00	91,800 00	0 00
119 -ASPHALT CONCRETE PAVING	314,130.00	49,025 00	0 00
120 -AGGREGATE BASE	182,400.00	104,728 00	0 00
121 -DECOMPOSED GRANITE	57,200.00	0 00	0 00
122 -FENCING, RIGH-OF-WAY	102,000.00	10,896.00	0 00
123 -GATES	2,968.00	424.00	0 00
124 -SCOUR GAGE	68,370.00	29,415.00	0 00
125 -STATION MARKING	10,600.00	5,300.00	0 00
126 -SEEDING	2,200.00	555.50	0 00
127 -QUALITY ASSURANCE VEHICLES	424,000.00	424,000.00	0 00
128 -WATER LINE PROTECTION, STA 632	5,300.00	5,300.00	0 00
129 -END PROTECTION, STA 865+00	283,000.00	0 00	0 00
130 -STEEL SHEET PILE	10,600.00	10,600 00	0 00
131 -STRIPING	26,000.00	13,000 00	0.00
132 -SEWER LINE PROTECTION, STA 692	5,300.00	0 00	0.00
133 -SEWER LINE PROTECTION, STA 708	4,346.00	0 00	0 00
134 -BRIDGE DEMOLITION, STA 624+40	180,000.00	70,200.00	0 00
135 -TRACTOR RAMP	12,000 00	0.00	0 00
BASIC CONTRACT	21,190,032 00	$13,584,429 92	855,043 40

A-25

ENG FORM 93a (FACSIMILE)

O11-377 cont.

NTRACT PERFORMANCE SAMPLE | 15 May 95 | SHEET 5 OF 8

*CESPL OM 5-1-3
2 Nov 95
APP A

VALLEY, CA 93065

ESTIMATE NO 13
PERIOD COVERED
15 Apr 95 thru 15 May 9

E M S U M M A R Y -cont. E A R N I N G S

DESCRIPTION	CONTRACT AMOUNT	EARNINGS TO DATE	ACCRUAL THIS PERIOD
P001-INC IN FUNDS (CB001)	0 00	0 00	0 00
P002-ADDITIONAL STOCK PILE AREAS	0 00	0 00	0 00
P003-INC IN FUNDS (CB002)	0.00	0 00	0 00
P004-REPLACE FILTER W\ GEOTEXTILE	-12,850 00	-12,850 00	0.00
P005-PROVIDE TYP SIDE DRN STA591+60	42,042 00	42,042 00	0 00
P006-RMV & DISP STEEL WIRE/POST REV	15,784 00	15,784 00	0 00
P007-GROUT RIPRAP@ DROP STRUC&STABE	19,920 00	19,920.00	0.00
P008-INC FUNDS FW090 (CB003)	0 00	0.00	0 00
P009-REVISED R/C BOXES STA621+13 71	59,553 00	59,553 00	0.00
P010-UNSUITABLE MATERIAL REMOVAL	88,309.00	88,309 00	0 00
P011-REMV ROCKS STA 535+00/600+00	81,160 00	81,160.00	0 00
P012-REMV & DISP GROUTED RK STA 563	4,611 00	4,611 00	0 00
P014-PROTECT WELL IN PLACE STA 568+	0 00	0 00	0.00
P015-INC FUNDS BE069 (CB004)	0 00	0 00	0 00
P016-CONCRETE COLLARS ARND WATERLIN	861 00	861 00	0 00
P018-BIKE TRAIL MAINTENANCE	2,900 00	2,900 00	0 00
P019-REINF STEEL @ BITTERBUSH CH TR	16,310 00	14,495 00	0.00
P020-INC FUNDS BE069 (CB005)	0.00	0 00	0 00
P022-UNDER OBSORBED OVERHEAD	42,838 00	42,838 00	0 00
P024-SIDE DRAIN CHANGES	12,452 00	12,452 00	0 00
P025-SIDE DRAIN SAFETY FENCES	14,784.00	14,784 00	0.00
P027-TOPOGRAPHIC SURVEY	2,998.00	2,998 00	0.00
P028-REPAIR & RELOCATE IRRIGATION	2,629 00	2,629 00	0.00
P029-SIDE DRAIN REDESIGN	15,351 00	15,351.00	0.00
P031-SIDE DRAIN ADG REPAIRS	6,972 00	6,972 00	0.00
P033-QTY VARIATION BID# 9, 10, & 12	20,769.00	17,031 00	0.00
P034-SIDE DRAIN @ STA 583+87	26,503.00	26,503 00	0 00
P035-INSTALL 12" STORM DRAIN @ 627+	4,215 00	4,215 00	0.00
P036-RETAINING WALL @ 5 FREEWAY	22,096 00	22,096 00	0.00
P037-RAISE MANHOLES @ STA 627+628	9,113 00	9,113 00	0.00
P038-REVISE SIDE DRAIN STA. 627+19	10,733.00	10,733 00	0.00
P041-ACCESS ROAD RE-ALGINMENT	52,046.00	52,046 00	52,046 00
P044-TRAILER SECURITY & MAINTENANCE	8,546.00	8,546 00	8,546.00
P045-ACCESS ROAD EROSION CONTROL	36,070 00	36,070 00	36,070.00
MODIFICATIONS	606,715 00	$ 601,162 00	96,662 00
TOTAL CONTRACT	21,796,747 00	14,185,591 92	951,705.40

A-26

O11-377 cont.

ENG FORM 93a (FACSIMILE)

PAY ESTIMATE - CONTRACT PERFORMANCE

SAMPLE

15 May 95

DACW09-94-C-0026
C A. RASMUSSEN, INC
2360 SHASTA WAY SIMI VALLEY, CA 93065

CESPL OM 5-1-3
2 Nov 95
15
APP A

BE069 09 000E 000L (NS) — E A

DESCRIPTION	CONTRACT AMOUNT		EARNINGS TO DATE	ACCRUAL THIS PERIOD
BASIC CONTRACT	19,370,615.43	65%	12,602,461 35	805,792.93
P002- ADDITIONAL STOCK PILE AREAS	0 00	0%	0.00	0 00
P004- REPLACE FILTER W\ GEOTEXTILE	-12,110 00	100%	-12,110.00	0 00
P005- PROVIDE TYP SIDE DRN STA591+60	39,620.00	100%	39,620 00	0 00
P006- RMV & DISP STEEL WIRE/POST REV	14,875.00	100%	14,875 00	0 00
P007- GROUT RIPRAP@ DROP STRUC&STABE	18,773.00	100%	18,773 00	0 00
P009- REVISED R/C BOXES STA621+13 71	56,123 00	100%	56,123.00	0 00
P010- UNSUITABLE MATERIAL REMOVAL	83,222.00	100%	83,222 00	0 00
P011- REMV ROCKS STA 535+00/600+00	76,485.00	100%	76,485.00	0 00
P012- REMV & DISP GROUTED RK STA 563	4,345.00	100%	4,345 00	0 00
P016- CONCRETE COLLARS ARND WATERLIN	811.00	100%	811 00	0 00
P018- BIKE TRAIL MAINTENANCE	2,733 00	100%	2,733.00	0 00
P019- REINF STEEL @ BITTERBUSH CH TR	15,371 00	89%	13,660 00	0 00
P022- UNDER OBSORBED OVERHEAD	40,371 00	100%	40,371.00	0 00
P024- SIDE DRAIN CHANGES	11,736.00	100%	11,736 00	0 00
P025- SIDE DRAIN SAFETY FENCES	13,932 00	100%	13,932 00	0 00
P027- TOPOGRAPHIC SURVEY	2,825.00	100%	2,825.00	0.00
P028- REPAIR & RELOCATE IRRIGATION	2,478.00	100%	2,478.00	0 00
P029- SIDE DRAIN REDESIGN	14,467 00	100%	14,467 00	0 00
P031- SIDE DRAIN ADG REPAIRS	6,570 00	100%	6,570 00	0 00
P033- QTY VARIATION BID# 9, 10, & 12	19,573 00	82%	16,050.00	0.00
P034- SIDE DRAIN @ STA 583+87	24,976.00	100%	24,976.00	0.00
P035- INSTALL 12" STORM DRAIN @ 627+	3,972.00	100%	3,972 00	0.00
P036- RETAINING WALL @ 5 FREEWAY	20,823 00	100%	20,823 00	0 00
P037- RAISE MANHOLES @ STA 627+628	8,588 00	100%	8,588 00	0 00
P038- REVISE SIDE DRAIN STA 627+19	10,115.00	100%	10,115 00	0 00
P041- ACCESS ROAD RE-ALGINMENT	49,048 00	100%	49,048.00	49,048 00
P044- TRAILER SECURITY & MAINTENANCE	8,051 00	100%	8,051.00	8,051 00
P045- ACCESS ROAD EROSION CONTROL	33,992.00	100%	33,992 00	33,992.00
A TOTAL CONTRACT	19,942,380 43			
B EARNINGS TO DATE			13,168,992 35	
C EARNINGS THIS PERIOD				896,883 93

	RETAINED PERCENTAGE	OTHER DEDUCTIONS		
D PREVIOUS DEDUCTIONS	0.00	0 00	0 00	
E DEDUCTIONS THIS PERIOD	0 00	0 00	0 00	0 00
F REFUNDS THIS PERIOD	0 00		0 00	0.00
G TOTAL DUE TO CONTRACTOR TO DATE (B - D - E + F)			13,168,992 35	
H AMOUNT DUE TO CONTRACTOR THIS PERIOD (C - E + F)				896,883 93

A-27

ENG FORM 93a (FACSIMILE)

O11-377 cont.

NTRACT PERFORMANCE

SAMPLE

15 May 95 | SHEET 7 OF 8

CESPL OM 5-1-3
2 Nov 95
APP A

/ALLEY, CA 93065

ESTIMATE NO 13
PERIOD COVERED
15 Apr 95 thru 15 May

)E 000L (NS)

DESCRIPTION	CONTRACT AMOUNT	EARNINGS	EARNINGS TO DATE	ACCRUAL THIS PERIOD
BASIC CONTRACT	1,183,943.88	65%	770,269 38	49,250.47
P004- REPLACE FILTER W\ GEOTEXTILE	-740 00	100%	-740 00	0 00
P005- PROVIDE TYP SIDE DRN STA591+60	2,422 00	100%	2,422 00	0.00
P006- RNV & DISP STEEL WIRE/POST REV	909.00	100%	909.00	0.00
P007- GROUT RIPRAP@ DROP STRUC&STABE	1,147 00	100%	1,147.00	0 00
P009- REVISED R/C BOXES STA621+13 71	3,430 00	100%	3,430.00	0 00
P010- UNSUITABLE MATERIAL REMOVAL	5,087.00	100%	5,087 00	0.00
P011- REMV ROCKS STA 535+00/600+00	4,675.00	100%	4,675.00	0 00
P012- REMV & DISP GROUTED RK STA 563	266 00	100%	266.00	0 00
P016- CONCRETE COLLARS ARND WATERLIN	50 00	100%	50 00	0 00
P018- BIKE TRAIL MAINTENANCE	167 00	100%	167 00	0.00
P019- REINF STEEL @ BITTERBUSH CH TR	939.00	89%	835 00	0.00
P022- UNDER OBSORBED OVERHEAD	2,467 00	100%	2,467 00	0 00
P024- SIDE DRAIN CHANGES	716 00	100%	716 00	0 00
P025- SIDE DRAIN SAFETY FENCES	852.00	100%	852 00	0 00
P027- TOPOGRAPHIC SURVEY	173 00	100%	173 00	0 00
P028- REPAIR & RELOCATE IRRIGATION	151 00	100%	151.00	0 00
P029- SIDE DRAIN REDESIGN	884 00	100%	884 00	0 00
P031- SIDE DRAIN ADG REPAIRS	402 00	100%	402 00	0
P033- QTY VARIATION BID# 9, 10, & 12	1,196.00	82%	981 00	0.0
P034- SIDE DRAIN @ STA 583+87	1,527 00	100%	1,527 00	0.00
P035- INSTALL 12" STORM DRAIN @ 627+	243 00	100%	243.00	0.00
P036- RETAINING WALL @ 5 FREEWAY	1,273 00	100%	1,273 00	0 00
P037- RAISE MANHOLES @ STA 627+628	525.00	100%	525 00	0 00
P038- REVISE SIDE DRAIN STA. 627+19	618 00	100%	618.00	0 00
P041- ACCESS ROAD RE-ALGINMENT	2,998 00	100%	2,998 00	2,998 00
P044- TRAILER SECURITY & MAINTENANCE	495 00	100%	495 00	495 00
P045- ACCESS ROAD EROSION CONTROL	2,078 00	100%	2,078 00	2,078 00

A TOTAL CONTRACT	1,218,893.88		
B EARNINGS TO DATE		804,900.38	
C EARNINGS THIS PERIOD			54,821 47

	RETAINED PERCENTAGE	OTHER DEDUCTIONS		
D PREVIOUS DEDUCTIONS	0 00	0 00	0.00	
E DEDUCTIONS THIS PERIOD	0 00	0 00	0 00	0.0
F REFUNDS THIS PERIOD	0 00	A-28	0.00	0
G TOTAL DUE TO CONTRACTOR TO DATE (B - D - E + F)			804,900 38	
H AMOUNT DUE TO CONTRACTOR THIS PERIOD (C - E + F)				54,821.47

ENG FORM 93a (FACSIMILE)

O11-377 cont.

PAY ESTIMATE - CONTRACT PERFORMANCE

15 May 95

SAMPLE

DACW09-94-C-0026
C A RASMUSSEN, INC
2360 SHASTA WAY SIMI VALLEY, CA 93065

CESPL OM 5-1-3.
2 Nov 95
APP A

VW813 10200 09118 (NS)

E A

DESCRIPTION	CONTRACT AMOUNT		EARNINGS TO DATE	ACCRUAL THIS PERIOD
BASIC CONTRACT	635,472.69	33%	211,699.19	0 00
P004- REPLACE FILTER W\ GEOTEXTILE	0 00	0%	0 00	0 00

A TOTAL CONTRACT		635,472 69		
B EARNINGS TO DATE			211,699.19	
C EARNINGS THIS PERIOD				0 00
	RETAINED PERCENTAGE	OTHER DEDUCTIONS		
D PREVIOUS DEDUCTIONS	0.00	0.00	0.00	
E DEDUCTIONS THIS PERIOD	0 00	0.00	0 00	0 00
F REFUNDS THIS PERIOD	0 00	A-29	0.00	0.00
G TOTAL DUE TO CONTRACTOR TO DATE (B - D - E + F)			211,699.19	
H AMOUNT DUE TO CONTRACTOR THIS PERIOD (C - E + F)				0.00

ENG FORM 93a (FACSIMILE)

O11-377
cont.

SAMPLE

CESPL OM 5-1-3
2 Nov 95
APP A

RECORD OF FUNDS (FW/VW ACCOUNTS)

O11-377
cont.

SAMPLE

CESPL OM 5-1-3
2 Nov 95
APP A

CONTRACT CLOSEOUT

OAK STREET DRAIN
LOWER REACH
DACW09-93-C-0013

Funding Records/Received. Contributed Funds (FW)

1	11/13/92	$ 5,000 00
2	11/30/92	$ 34,000 00
3	05/07/93	$ 50,000 00
4	06/09/93	$ 500,000 00
5	07/24/93	$ 50,000 00
6	08/30/93	$ 230,000 00
7	09/15/93	$ 100,000 00
8	09/23/93	$ 39,000 00
	Total	$1,008,000 00

Payments Recorde on VW Account Betterments/Relocations (VW)

1	05/07/93	$ 42,360 00
2	06/15/93	$ 115,440 00
3	07/19/93	$ 221,903 00
4	07/30/93	$ 55,584 00
5	08/26/93	$ 203,713 00
6	09/24/93	$ 327,665.00
7	11/24/93	$ 16,940 00
8	01/24/94	$ 1,962 00
9	01/28/94	$ 106,967 00
10	03/07/94	$ 1,900.00
	Total	$1,094,434 00

O11-377
cont.

08/30/94
Enclosure 3

SAMPLE

O11-377
cont.

CESPL OM 5-1-3
2 Nov 95
APP A

COMPLETION MEMO (CON-OPS)

SAMPLE

RESIDENT OFFICE COPY
READER FILE COPY

CESPL-CO-GO

CESPL OM 5-1-3
2 Nov 95
APP A

MEMORANDUM THRU CESPL-CO-GA (Attn: Pete Reyna)

FOR CESPL-CO CP

SUBJECT: Transmittal of CCASS and ACASS, Contract No DACW09 93 C 0013, Oak Street Drain Sixth Street to Temescal Wash, Riverside, California

1. Transmitted herewith are Standard Form 1420, Engineer Form 3421-R and SPL Form 452 for the subject project

2. Final payment has not been issued since the close-out modification for final quantities is still pending It is currently waiting for the Contracting Officer's signature

3. Final payment will be issued as soon as all modifications and claims, if any, are settled

O11-377 cont.

JERRY BAUTISTA
Resident Engineer

Copies Furnished:

LADD Contract Files (DACW09-93-C-0013)
Resident Office Reader File
CESPL-CO-CM (Beryl Romero)
CESPL-CO-GA Reader File
CESPL-PM-S (Matt Chung)

SAMPLE

O11-377
cont.

LINE ITEM COMPLETION

SAMPLE

LINE ITEM COMPLETION	CONTRACT NO CESPL OM 5-I-3 2 Nov 95
TO: CHIEF, CONSTRUCTION DIVISION, LOS ANGELES DISTRICT	DACW09-93-C-0013 APP A
1. PROJECT Oak Street Drain Sixth Street to Temescal Wash	2. JOB NO
3. CONTRACTOR Steve Bubalo Construction Co , Inc.	4. LINE ITEM NO
5. LINE ITEM DESCRIPTION	
6. DATE WORK STARTED ON THIS LINE ITEM April 1 1993	7. DATE ALL WORK ON THIS L/I PHYSICALLY COMPLETED & NO PENDING WORK IS CONTEMPLATED FOR THIS L/I March 24 1994
8. DATE ALL WORK UNDER THE CONTRACT WAS COMPLETED * (SEE ITEM 14) March 24 1994	
9 ALL CONTRACTOR PAYROLLS HAVE BEEN SUBMITTED	[X] YES [ ] NO (If No explain)
10 CONTRACTOR EVALUATION PERFORMANCE IS ATTACHED	[X] YES [ ] NO (If No, explain)
11 ALL GOVERNMENT-FURNISHED PROPERTY HAS BEEN ACCOUNTED FOR	[ ] YES [ ] NO (If No explain)
N/A	
12 THE CONTRACTOR HAS FULFILLED HIS OBLIGATIONS WITH RESPECT TO WATER AND ELECTRICITY WHICH HE WAS REQUIRED TO FURNISH AT HIS OWN EXPENSE	[X] YES [ ] NO (If No explain)
13 AS BUILTS HAVE BEEN FORWARDED [X] YES [ ] NO (If NO give date that will be submitted) DATE TO BE SUBMITTED:	
14 *COMPLETION OF ALL WORK INCLUDES MODIFICATION NO P00033 (Reference Modification to Part VIII-49 dated 10 March 1967)	
15 REMARKS	
DATE SUBMITTED 6/17/94	SIGNATURE OF PROJECT ENGINEER

EDI FORM 352 PREVIOUS MAY BE USED

O11-377 cont.

SAMPLE

CESPL OM 5-1-3
2 Nov 95
APP A

PERFORMANCE EVALUATION (CONSTRUCTION A/E)

O11-377
cont.

SAMPLE FOR OFFICIAL USE ONLY
(WHEN COMPLETED)

CESPL OM 5-1-3
2 Nov 95
APP A

PERFORMANCE EVALUATION – CONSTRUCTION CONTRACTS

PART I – GENERAL CONTRACT DATA

CONTRACTOR (Name, address and ZIP code)

STEVE BUBALO CONSTRUCTION CO , INC
P O Box 1048
Monrovia, CA 91017

3 TYPE OF CONTRACT (Check): [X] A ADVER | [ ] B NEGOTI | [ ] CPFF

4 COMPLEXITY OF WORK: [ ] DIFFICULT | [X] ROUT

5 DESCRIPTION AND LOCATION OF WORK

OAK STREET DRAIN, SIXTH STREET TO TEMESCAL WASH, Riverside County, CA

Construction of 1480 lin ft of a covered box concrete channel, 3,592 lin ft of a rectangular concrete channel, 1,925 lin ft of grouted stone lined trapezoidal channel, 3 bridge relocations; 1 railroad bridge relocation, various utilities and storm drain relocations, A C paving fencing; and landscaping with irrigation

Quantity variations – <-105 2987 decrease
Modifications -changes + 310 514 increase
205216 total

6 FISCAL DATA	A AMOUNT OF BASIC CONTRACT	B TOTAL AMOUNT OF MODIFICATION	C LIQUIDATED DAMAGES ASSESSED	D NET AMOUNT PAID CONTRACTOR
	$ 6,172,000.00	See Above $ 205,216.00	$ -0-	$ 6,377,216.00

7 SIGNIFICANT DATES	A DATE OF AWARD	B ORIGINAL CONTRACT COMPLETION DATE	C REVISED CONTRACT COMPLETION DATE	D DATE WORK ACCEPTED
	December 1, 1992	December 23, 1993	March 8, 1994	March 24 1994

8 TYPE AND EXTENT OF SUBCONTRACTING

PART II – PERFORMANCE EVALUATION OF CONTRACT *(Check appropriate box)*

9 PERFORMANCE ELEMENTS	OUTSTANDING	SATISFACTORY	UNSATISFACTORY
A QUALITY OF WORK		X	
B TIMELY PERFORMANCE		X	
C EFFECTIVENESS OF MANAGEMENT		X	
D COMPLIANCE WITH LABOR STANDARDS		X	
E COMPLIANCE WITH SAFETY STANDARDS		X	

10 OVERALL EVALUATION

[ ] OUTSTANDING *(Explain in Item 13 on reverse)* [X] SATISFACTORY [ ] UNSATISFACTORY *(Explain in Item 13 on reverse)*

11 EVALUATED BY

A ORGANIZATION (Type or print)
Santa Ana River Area Office
Oak Street Drain Resident Office

B NAME AND TITLE (Type or print)
WILLIAM J GALLEGOS
Resident Engineer

C SIGNATURE

D DATE 6/23/94

12 EVALUATION REVIEWED BY

A ORGANIZATION (Type or print)

B NAME AND TITLE (Type or print)

C SIGNATURE

D DATE

A-37

O11-377 cont.

SAMPLE

CESPL OM 5-1-3
2 Nov 95
APP A

LETTER TO SPONSOR

O11-377
cont.

SAMPLE

DRAFT LETTER TO SPONSOR

CESPL OM 5-1-3
2 Nov 95
APP A

DATE

Programs and Project
Management Division

Mr. William L Zaun
Director of Public Works
Orange County Environmental
Management Agency
Post Office Box 4048
Santa Ana, California 92702-4048

Dear Mr. Zaun

This is to inform you the construction contract close out of the Lower Santa Ana River, Reach 5&6 was completed in _____

Enclosed are spreadsheets presenting the distribution of costs for both Federal and non-Federal to include the required cash contribution and work for others category. The table below is based on the enclosed spreadsheets The result of our project closeout process have concluded that funds will be returned to you A check and voucher in the amount of $_____ is enclosed

O11-377 cont.

Project	Contribution	Net Cost	Excess Funds
Reach 5&6	$_____	$_____	$_____

I want to say it was a please partnering with you and your staff and our contractor, Rasmussen in completing this important segment of the project that will provide flood protection to the County of Orange We had many challenges but our partnering demeanor resolved these obstacles and resulted in a quality product and schedule and within budget The project team is to be commended for a fine job Last continue on

If you have any questions, please contact the project manager, Mr Ed Andrews at 213-894-6386

Sincerely,

Michal R Robinson
Colonel, Corps of Engineers
District Engineer

Enclosure

CESPL OM 5-1-3
2 Nov 95
APP A

SAMPLE

COMPLETION REPORT

O11-377
cont.

SAMPLE

PAGE 1 OF 1 PAGE

WORK ORDER/COMPLETION REPORT (ER 37-2-10; 37-345-10)	DISTRICT LOS ANGELES	APPROPRIATION 96X8862 RIVERS & HARBORS CONTRIBUTED FUND		PROJECT OCEANSIDE HBR STORM DAMAGE
CLASS OF WORK		ORIGINAL ESTIMATE		DATE WORK IS TO START
TROPICANA/FLAMINGO WASHES, NV		DATE	AMOUNT $133,013.84	
THIS 3013 IS TO CLOSE THE PROJECT				ESTIMATED COMPLETION DATE 28 Aug 95
METHOD OF WORK X CONTRACT X HIRED LABOR	BASIS FOR ORDER X JOB FY	TYPE OF ESTIMATE X ORIGINAL REVISED		FEATURE AND SUB-FEATURE NR FW104

ACCOUNT NUMBER	DESCRIPTION OF WORK	ESTIMATED			ACTUAL		
		TOTAL QUANTITIES	TOTAL COST	UNIT COST	TOTAL QUANTITIES	TOTAL COST	UNIT COST
FW104 10 000A 0000 FW104	HL 93C0046, CONTRACT ROCKWORK		1,186,750.00			1,186,750.00	
	35 CN, ALL OTH STDS/INVST SNAR SUR		37,424.66			37,424.66	
	GINEERING & DESIGN DURING CONST		5,463.33			5,463.33	
	MD		39,909.38			39,909.38	
	OJECT CLOSEOUT-ACTIVITIES		1,263.81			1,263.81	
	NTRACT ADMINISTRATION		62,202.66			62,202.66	
	TOTALS		$1,333,013.84			$1,333,013.84	

SUBMITTED BY — FUNDS FOR THIS WORK ARE AVAILABLE

(NAME) (ORGANIZATION UNIT) (DATE) — (NAME) (ORGANIZATION UNIT)

THIS WORK IS INCLUDED IN THE APPROVED PROGRAM — APPROVED

PATRICIA A. GRABLIN, 31-Aug-95 — COL. MICHAL R. ROBINSON, DE

(NAME) (ORGANIZATION UNIT) (DATE) — (DISTRICT COMMANDER-US ARMY CORPS OF ENGINEERS)

WORK DESCRIBED ABOVE HAS BEEN COMPLETED — AMOUNTS REPORTED ABOVE AS ACTUAL COSTS ARE REFLECTED IN THE COS

BRIAN M. MOORE — AS OF THIS DATE MARTIN J. DENSE

(NAME) (ORGANIZATION UNIT) (DATE) — (NAME) (OFFICE OF THE COMPTROLLER)

ENG RM 3013, AUG 81 EDITION 1 MAY BE USED.

CESPL OM 5-1-3
2 Nov 95
APP A

O11-377 cont.

AGREEMENT SUMMARY [Model Form 215 Igov – SCC Rev. 11/12]
STD 215 (Rev 4/2002)

☐ CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED

AGREEMENT NUMBER	AMENDMENT NUMBER
12-107	

1. CONTRACTOR'S NAME: Santa Monica Bay Restoration Authority
2. FEDERAL I.D. NUMBER: 02-0752393
3. AGENCY TRANSMITTING AGREEMENT: State Coastal Conservancy
4. DIVISION, BUREAU, OR OTHER UNIT: Contracts Unit
5. AGENCY BILLING CODE: 13090
6. NAME AND TELEPHONE NUMBER OF CONTRACT ANALYST FOR QUESTIONS REGARDING THIS AGREEMENT: Mary Small, Project Manager, 510-286-4181
7. HAS YOUR AGENCY CONTRACTED FOR THESE SERVICES BEFORE?
☒ NO ☐ YES (*If YES, enter prior contractor name and Agreement Number*)
8. BRIEF DESCRIPTION OF SERVICES - LIMIT 72 CHARACTERS INCLUDING PUNCTUATION AND SPACES: The SMBRA will support a proposed restoration project with technical review and public outreach.
9. AGREEMENT OUTLINE *(Include reason for Agreement: Identify specific problem, administrative requirement, program need or other circumstances making the Agreement necessary; include special or unusual terms and conditions.)*

Santa Monica Bay Restoration Authority ("SMBRA") is a joint powers authority comprised of the Santa Monica Bay Restoration Commission ("SMBRC") and the Los Angeles County Flood Control District ("LACFCD"). The State Coastal Conservancy is working with the SMBRA and several other partner agencies to develop a restoration project for the Ballona Wetlands State Ecological Reserve. The proposed project will require a Section 408 permit from the US Army Corps of Engineers ("Corps") and LACFCD will be the permit applicant. This agreement will provide funding to the SMBRA to support the proposed restoration project, including obtaining early permit consultation and technical review by the Corps staff and public outreach about the proposed project. The SMBRA is uniquely qualified to complete this work because its member agency, LACFCD is the permit applicant. Funding is from Proposition 12 funds specifically for the Ballona Wetlands.

O11-377 cont.

10. PAYMENT TERMS *(More than one may apply.)*
☐ MONTHLY FLAT RATE ☐ QUARTERLY ☐ ONE -TIME PAYMENT ☐ PROGRESS PAYMENT
☒ ITEMIZED INVOICE ☒ WITHHOLD 10 % ☐ ADVANCED PAYMENT NOT TO EXCEED
☐ REIMBURSEMENT/REVENUE $ _____ or _____ %
☐ OTHER (*Explain*) _____

11. PROJECTED EXPENDITURES FUND TITLE	ITEM	F.Y.	CHAPTER	STATUTE	PROJECTED EXPENDITURES
Safe Neighborhood Parks, Clean Water, Air &...	3760-30203-0005 (2)(B) Reap. by Ch. 712/10;47/06;208/04	2000	052	00/01	$300,000.00

OBJECT CODE: Enhancement
AGREEMENT TOTAL $ 300,000.00
OPTIONAL USE: Ballona Wetlands
AMOUNT ENCUMBERED BY THIS DOCUMENT $ 300,000.00
I CERTIFY upon my own personal knowledge that the budgeted funds for the current budget year are available for the period and purpose of the expenditure stated above.
PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT $ -0-
ACCOUNTING OFFICER'S SIGNATURE: Rong Uhuong
DATE SIGNED: 6/14/13
TOTAL AMOUNT ENCUMBERED TO DATE $ 300,000.00

12. AGREEMENT	TERM From	TERM Through	TOTAL COST OF THIS TRANSACTION	BID, SOLE SOURCE, EXEMPT
Original	Signature	06/30/2015	$ 300,000.00	Exempt
Amendment No. 1			$ -0-	
		TOTAL	$ 300,000.00	

(*Continue*)

STATE OF CALIFORNIA
AGREEMENT SUMMARY
STD. 215 (Rev 04/2002)

13. BIDDING METHOD USED:
☐ REQUEST FOR PROPOSAL (RFP) ☐ INVITATION FOR BID (IFB) ☐ USE OF MASTER SERVICE AGREEMENT
(Attach justification if secondary method is used)
☐ SOLE SOURCE CONTRACT *(Attach STD 821)* ☒ EXEMPT FROM BIDDING *(Give authority for exempt status)* ☐ OTHER *(Explain)* PCC §§10335(a); See SCM 5.80
NOTE: *Proof of advertisement in the State Contracts Register or an approved form STD. 821, Contract Advertising Exemption Request, must be attached*

14. SUMMARY OF BIDS *(List of bidders, bid amount and small business status) (If an amendment, sole source, or exempt, leave blank)*
N/A

15. IF AWARD OF AGREEMENT IS TO OTHER THAN THE LOWER BIDDER, PLEASE EXPLAIN REASON(S) *(If an amendment, sole source, or exempt, leave blank)*
N/A

16. WHAT IS THE BASIS FOR DETERMINING THAT THE PRICE OR RATE IS REASONABLE?
N/A

17. JUSTIFICATION FOR CONTRACTING OUT *(Check one)*
☐ Contracting out is based on cost savings per Government Code 19130(a). The State Personnel Board has been so notified.
☒ Contracting out is justified based on Government Code 19130(b). Justification for the Agreement is described below.
Justification:
The services contracted related to the review of the Section 408 permit are not available within civil service and are of such a highly specialized or technical nature that the necessary expert knowledge, experience and ability are only available from Corps staff. The public outreach task is also highly specialized and requires a locally based public agency that can represent the proposed restoration project at local meetings and respond to the public in a timely manner. This is one time contract to funds specific work to support a proposed wetland restoration project, this work is not an ongoing function. The proposed restoration project is currently undergoing environmental review and permit submittals are being prepared, it is expected that this work will be completed by April 2015.

O11-377 cont.

18. FOR AGREEMENTS IN EXCESS OF $5,000, HAS THE LETTING OF THE AGREEMENT BEEN REPORTED TO THE DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING?
☐ NO ☒ YES ☐ N/A

19. HAVE CONFLICT OF INTEREST ISSUES BEEN IDENTIFIED AND RESOLVED AS REQUIRED BY THE STATE CONTRACT MANUAL SECTION 7.10?
☐ NO ☐ YES ☒ N/A

20. FOR CONSULTING AGREEMENTS, DID YOU REVIEW ANY CONTRACTOR EVALUATIONS ON FILE WITH THE DGS LEGAL OFFICE?
☐ NO ☐ YES ☐ NONE ON FILE ☒ N/A

21. IS A SIGNED COPY OF THE FOLLOWING ON FILE AT YOUR AGENCY FOR THIS CONTRACTOR?
A. CONTRACTOR CERTIFICATION CLAUSES ☐ NO ☐ YES ☒ N/A
B. STD. 204, VENDOR DATA RECORD ☐ NO ☒ YES ☐ N/A

22. REQUIRED RESOLUTIONS ARE ATTACHED
☐ NO ☐ YES ☒ N/A

23. ARE DISABLED VETERANS BUSINESS ENTERPRISE GOALS REQUIRED? *(If an amendment, explain changes, if any)*
☒ NO *(Explain below)* ☐ YES *(If YES complete the following)*
DISABLED VETERAN BUSINESS ENTERPRISES: ____ % OF AGREEMENT
☐ Good faith effort documentation attached if 3% goal is not reached.
☐ We have determined that the contractor has made a sincere good faith effort to meet the goal.
Explain:
N/A

24. IS THIS A SMALL BUSINESS CERTIFIED BY OSBCR?
☒ NO ☐ YES *(Indicate Industry Group)*
SMALL BUSINESS REFERENCE NUMBER

25. IS THIS AGREEMENT (WITH AMENDMENTS) FOR A PERIOD OF TIME LONGER THAN ONE YEAR? *(If YES, provide justification)*
☐ NO ☒ YES
This is a highly complex restoration project, the engineering work to support the permit application and the outreach to the public will take longer than one year to complete.

I certify that all copies of the referenced Agreement will conform to the original Agreement sent to the Department of General Services.

CONTRACT MANAGER'S SIGNATURE
DATE SIGNED 6/19/13

STATE OF CALIFORNIA
STANDARD AGREEMENT
STD 213 (Rev 06/03)

AGREEMENT NUMBER	12-107
REGISTRATION NUMBER	

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME
State Coastal Conservancy

CONTRACTOR'S NAME
Santa Monica Bay Restoration Authority

2. The term of this Agreement is: Signature through June 30, 2015

3. The maximum amount of this Agreement is: $300,000.00 (Three hundred thousand dollars)

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work	2 pages
Exhibit A – Attachment 1	2 pages
Exhibit B – Budget Detail and Payment Provisions	3 pages
Exhibit B – Attachment 1	1 pages
Exhibit C*– General Terms and Conditions (GTC-610)	2 pages
Check mark one item below as Exhibit D:	
☒ Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement)	3 pages
☐ Exhibit - D* Special Terms and Conditions	
Exhibit E – Additional Provisions	

O11-377 cont.

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at www.ols.dgs.ca.gov/Standard+Language. A copy is also attached for ease of reference.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME *(if other than an individual, state whether a corporation, partnership, etc.)*
Santa Monica Bay Restoration Authority

BY *(Authorized Signature)* — DATE SIGNED *(Do not type)*: 6/13/13

PRINTED NAME AND TITLE OF PERSON SIGNING
Dr. Shelley Luce, Executive Director

ADDRESS
320 W. 4th Street, Suite 200, Los Angeles, CA 90013

STATE OF CALIFORNIA

AGENCY NAME
State Coastal Conservancy

BY *(Authorized Signature)* — DATE SIGNED *(Do not type)*: 6/19/13

PRINTED NAME AND TITLE OF PERSON SIGNING
Samuel Schuchat, Executive Officer

ADDRESS
1330 Broadway, Suite 1300, Oakland, CA 94612

California Department of General Services Use Only

APPROVED
JUL - 5 2013
DEPT OF GENERAL SERVICES

☐ Exempt per:

STATE OF CALIFORNIA
STANDARD AGREEMENT
STD 213 (Rev 06/03)

AGREEMENT NUMBER: 12-107
REGISTRATION NUMBER:

1. This Agreement is entered into between the State Agency and the Contractor named below:
   STATE AGENCY'S NAME: State Coastal Conservancy
   CONTRACTOR'S NAME: Santa Monica Bay Restoration Authority
2. The term of this Agreement is: Signature through June 30, 2015
3. The maximum amount of this Agreement is: $300,000.00 (Three hundred thousand dollars)
4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work	2 pages
Exhibit A – Attachment 1	2 pages
Exhibit B – Budget Detail and Payment Provisions	3 pages
Exhibit B – Attachment 1	1 pages
Exhibit C*– General Terms and Conditions (GTC-610)	2 pages
Check mark one item below as Exhibit D:	
☒ Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement)	3 pages
☐ Exhibit - D* Special Terms and Conditions	
Exhibit E – Additional Provisions	

O11-377 cont.

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at www.ols.dgs.ca.gov/Standard+Language. A copy is also attached for ease of reference.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME *(if other than an individual, state whether a corporation, partnership, etc.)*: Santa Monica Bay Restoration Authority

BY *(Authorized Signature)*: Shelley Luce — DATE SIGNED *(Do not type)*: 6/3/13

PRINTED NAME AND TITLE OF PERSON SIGNING: Dr. Shelley Luce, Executive Director

ADDRESS: 320 W. 4th Street, Suite 200, Los Angeles, CA 90013

STATE OF CALIFORNIA

AGENCY NAME: State Coastal Conservancy

BY *(Authorized Signature)*: [signature] — DATE SIGNED *(Do not type)*: 6/19/13

PRINTED NAME AND TITLE OF PERSON SIGNING: Samuel Schuchat, Executive Officer

ADDRESS: 1330 Broadway, Suite 1300, Oakland, CA 94612

California Department of General Services Use Only

☐ Exempt per:

EXHIBIT A
(Standard Agreement)

SCOPE OF WORK

Santa Monica Bay Restoration Authority ("SMBRA") is a joint powers authority comprised of the Santa Monica Bay Restoration Commission ("SMBRC") and the Los Angeles County Flood Control District ("LACFCD"). The State Coastal Conservancy is working with the SMBRA and several other partner agencies to develop a restoration project for the Ballona Wetlands State Ecological Reserve in Los Angeles County.

This agreement will fund two tasks to be completed by the SMBRA:

Task 1: Section 408 Permit Review and Technical Coordination

The proposed Ballona Wetlands Restoration Project involves modification of an existing flood control channel that was built by the U.S. Army Corps of Engineers ("Corps") and that is maintained by LACFCD. The proposed modification will require a Section 408 permit from the Corps; LACFCD will be the permit applicant. Under the provisions of Section 214 of Federal Water Resources Development Act of 2000 ("WRDA"), LACFCD has entered into an agreement with the Corps to provide funding to support early coordination, technical review and expedited permit evaluation. LACFCD and the other project partners support this agreement because completing the permit application requires significant engineering work and public investment. Obtaining early consultation, review and comment from the Corps at each stage of the permit process will help ensure that the engineering work adequately supports the Corps needs. The purpose of this task is to provide funding to SMBRA to support up to $240,000 of the costs incurred under the Section 214 agreement with the Corps for the Ballona Wetlands Restoration Project's Section 408 permit.

The detailed work program for the U.S. Army Corps of Engineers Section 408 Permit Coordination and Technical Review is described in the MOU between LACFCD and the Corps, attached as Exhibit A.

Total Budget Task 1: $240,000

Task 2: Public Outreach

SMBRA will coordinate efforts to communicate with the public about the proposed Ballona Wetlands Restoration Project. This outreach will include maintaining a project website, posting information for the public, responding to inquiries from the press and making presentations to the public. The project partners are committed to planning the proposed restoration project with

O11-377
cont.

1. Develop a 1-year strategic communications plan, with a budget, schedule and milestones/deliverables, for educational outreach about Ballona Wetlands and wetland restoration, which may include but not be limited to:

   a. An outreach plan for local online/offline outlets (i.e. website, newspaper, radio, internet, co-op advertising, freestanding direct mail, internet/banners).

   b. Social media strategies and messaging.

   c. Educational tours for students, the public, government officials and others.

   d. Identifying outreach opportunities such as special events like farmers markets, environmental fairs, etc.

2. Update and maintain a project website to provide the public with current information about the proposed Ballona Wetlands restoration project. This task will include planning, creating, designing, writing, developing layouts, producing and updating the project website.

3. Identify and produce deliverables for outreach that may include, but not be limited to, the following:

   a. Create talking points (modified ongoing as needed) & Key Words (English/Spanish).

   b. Print and other materials, and miscellaneous graphic needs, in English and Spanish.

      - Printed materials may include signs, stickers, bumper stickers, etc.
      - Electronic materials – i.e. newsletters, YouTube videos, slideshows

   c. Plan/implement tours and special events such as tables at local Farmer's Markets, connecting with online sites, etc.

4. Collaborate with partner organizations/agencies, stakeholder groups, and other interested parties.

5. Implement other tools/processes for effectively communicating information about the project and understanding community concerns about the project. This may include developing graphics or visuals to communicate the proposed project to the public.

6. Provide communications support and assistance to project partners interacting with media or presenting the project to the public.

The Contractor shall perform all services in close consultation with Conservancy staff.

O11-377 cont.

EXHIBIT B
(Standard Agreement)

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing

   A. For services satisfactorily rendered, and upon receipt and approval of Requests for Disbursement, the Conservancy agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates specified herein, which is attached hereto and made a part of this Agreement.

   B. Requests for Disbursement shall include the Agreement Number and shall be submitted in triplicate not more frequently than monthly in arrears to Erlinda Corpuz, Contracts Manager, 1330 Broadway, Suite 1300, Oakland, CA 94612.

2. Budget Contingency Clause

   A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.

   B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

3. Payment

   A. Costs for this Agreement shall be computed in accordance with State Administrative Manual Sections 8752 and 8752.1.

   B. Nothing herein contained shall preclude advance payments pursuant to Article 1, Chapter 3, Part 1, Division 3, Title 2 of the Government Code of the State of California.

O11-377
cont.

4. Additional Payment Provisions

The total amount of funds disbursed under this contract shall not exceed $300,000 (three hundred thousand dollars).

The Conservancy shall make disbursements to Contractor on the basis of services rendered and costs incurred to date, less ten percent, upon satisfactory progress in accordance with schedules, budgets, and other provisions of this contract, and upon submission of a "Request for Disbursement" form (available from the Conservancy), which shall be submitted no more frequently than monthly but no less frequently than quarterly.

Services shall be billed at no more than the rates for the personnel of Contractor and its subcontractors, as specified in Attachment 1 to this Exhibit B.

The Conservancy will reimburse Contractor for direct expenses necessary to the provision of services under Task 2 of this contract when documented by appropriate receipts. The Conservancy will reimburse travel and related expenses at actual costs not to exceed the rates provided in Title 2, Division 1, Chapter 3, Subchapter 1, Article 2 of the California Code of Regulations, except that reimbursement may be in excess of these rates upon provision of documentation that rates in compliance are not reasonably available to Contractor. Reimbursement for the cost of operating a private vehicle shall not, under any circumstance, exceed the current rate specified by the State of California for unrepresented state employees as of the date the cost is incurred. All travel other than automobile travel within the County of Los Angeles must be approved in advance by the Executive Officer of the Conservancy ("the Executive Officer"). The Conservancy will reimburse Contractor at cost for other necessary expenses if those expenses are reasonable in nature and amount taking into account the services provided and other relevant factors.

O11-377 cont.

No overhead or indirect expenses of the Contractor or its subcontractors will be reimbursed.

Each Request for Disbursement submitted by Contractor must include Contractor's name and address, the number of this contract, Contractor's authorized signature, the date of submission, the total amount of costs incurred for the period, a brief description of the services rendered and work products completed, and an itemized description, including time, materials and expenses incurred, of all work done for which disbursement is requested. The Request for Disbursement must also indicate itemized cumulative expenditures to date, expenditures during the reporting period, and the unexpended balance of contract funds. Each Request for Disbursement shall be accompanied by:

1. All receipts and any other source documents for direct expenditures and costs incurred by Contractor.

2. Invoices from subcontractors that the contractor engaged to complete any portion of the work funded under this contract and any receipts and any other source documents for costs incurred and expenditures by any such subcontractor, unless the Executive Officer makes a specific exemption in writing.

3. A supporting progress report summarizing the current status of the tasks under this contract and comparing it to the status required by the "WORK PLAN" described above in Attachment 1 to Exhibit A, and including written substantiation of completion of the portion of the tasks for which disbursement is requested.

Contractor shall submit a final Request for Disbursement within thirty days after the completion date provided in the "Term of Agreement" section.

Contractor's failure to submit and supporting documents, as required by this section, will relieve the Conservancy of its obligation to disburse funds to Contractor until Contractor corrects all deficiencies.

O11-377 cont.

EXHIBIT B – ATTACHMENT 1

BUDGET DETAIL

Overall Budget

Description	SCC	LACFCD	Total
Task 1A. Basic Permit Review	$200,000.00	$98,740.00	$298,740.00
Task 1B. Oversight and Technical Coordination	40,000.00	91,260.00	131,260.00
Task 2: Public Outreach	60,000.00	0.00	60,000.00
	$300,000.00	$190,000.00	$490,000.00

***Note limitations of subcontracting out more than $50,000 or 25% of the contract, which ever is less (SCM § 3.06(D).**

Task 1 – Budget Detail

Funds under this task will be expended to pay the costs incurred by the SMBRA or its member entities associated with the Ballona Wetlands project. Costs may include Corps staff (including salary and associated benefits) dedicated to completing the work in this interagency agreement. Funds may be used to pay for staff performing technical analyses and writing, Agency Technical Review, real estate evaluation, risk analysis, copying or other clerical/support tasks, acquisition of data, site visits, coordination activities, additional personnel (including support/clerical staff), construction quality assurance and control, environmental documentation preparation and review; other permit evaluation related activities. Funds from this agreement will NOT be used for overhead, travel, or costs associated with the review of the Corps' work undertaken by supervisors or other persons or elements of the Corps in the decision-making chain of command. However, if a supervisor is performing staff work and not supervisory oversight, funds may be used.

Task 2 – Budget Detail

Funds under this task will be expended to pay the costs of staff (including salary and associated benefits) of the Santa Monica Bay Restoration Authority dedicated to completing the work in this interagency agreement. Within the limitations noted above, some funds may be used to pay for subcontractors to work on specific outreach tasks, if approved by the Coastal Conservancy. Funds under Task 2 may also be used to pay for direct expenses associated with the project outreach, such as website services and publications. Funds under this agreement will not be used to purchase food or pay for travel.

O11-377 cont.

EXHIBIT C - GIA 610
(Standard Agreement)

GENERAL TERMS AND CONDITIONS

NOTE: the General Terms and Conditions are included in the contract by reference to the internet site http://www.ols.dgs.ca.gov/Standard+Language/default.htm. A copy of the version of the General Terms and Conditions applicable to this contract may be downloaded from that site and printed for your files. In addition, for ease of reference, a copy of the applicable General Terms and Conditions ("Exhibit C") are attached, below.

1. APPROVAL: This Agreement is not valid until signed by both parties and approved by the Department of General Services, if required.

2. AUDIT: The agency performing work under this Agreement agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement if it exceeds $10,000. The agency performing work agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of record retention is stipulated.

3. PAYMENT: Costs for this Agreement shall be computed in accordance with State Administrative Manual Section 8752 and 8752.1.

4. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties, and approved as required. No oral understanding or agreement not incorporated in the Agreement is binding on any of the parties.

5. SUBCONTRACTING: All subcontracting must comply with the requirements of the State Contracting Manual, Section 3.06.

6. ADVANCE PAYMENT: The parties to this interagency agreement may agree to the advancing of funds as provided in Government Code Sections 11257 through 11263.

7. DISPUTES: The agency performing work under this Agreement shall continue with the responsibilities under this Agreement during any dispute.

8. TIMELINESS: Time is of the essence in this Agreement.

O11-377 cont.

9. NON-PAYMENT OF INVOICES – FUND TRANSACTION REQUEST: In accordance with Government Code Section 11255, the parties agree that when an invoice is not paid by the requested due date to the Contractor (agency providing the service) and the invoice is not disputed by the contracting Department (agency receiving the service), Contractor may send the contracting Department a 30-day notice that it intends to initiate a transfer of funds through a Transaction Request sent to the State Controller's Office. To facilitate a Transaction Request should one be needed, the contracting Department shall no later than 10 business days following execution of this agreement provide data to the Contractor for the appropriation to be charged including: fund number, organization code, fiscal year, reference, category or program, and, if applicable, element, component, and task.

O11-377 cont.

EXHIBIT D
(Standard Agreement)

SPECIAL TERMS AND CONDITIONS

1. Term of Agreement

This agreement shall be deemed executed and effective when signed by both parties and approved by the Department of General Services and received in the office of the Conservancy. An authorized representative of Contractor shall sign the first page of the originals of this agreement in ink. This agreement shall run from the effective date through June 30, 2015 (the "termination date") unless otherwise terminated or amended as provided in this agreement. However, all work shall be completed by March 31, 2015. The final Request for Disbursement must be received by April 25, 2015.

The term of this contract is based on the current level of funding available for the services to be provided under this contract. If additional funding is authorized, the parties anticipate that the term of the contract will be extended and the scope of work will be revised by amendment.

O11-377 cont.

2. Early Termination, Suspension or Failure to Perform

The Conservancy may terminate this contract for any reason by providing seven days written notice to the Contractor. During the term, the Conservancy may also suspend the contract before the work is complete. In either case, upon receipt of notice of termination, the Contractor shall immediately stop work under the contract and take whatever measures are necessary to prevent further costs to the Conservancy under this contract. The Conservancy shall be responsible for any reasonable and non-cancelable obligations incurred by the Contractor in the performance of this contract up to the date of notice to terminate or suspend, but only up to the unpaid balance of total funds authorized under this contract. Any notice suspending work under this contract shall remain in effect until further written notice from the Conservancy authorizes work to resume. On or before the date of termination of the contract under this section, the Contractor shall provide the Conservancy with all work, material, data, information, and written, graphic or other work produced or developed under this contract (whether completed or partial), in appropriate, readily useable form. The Contractor shall include in any contract with any subcontractor retained for work under this contract a provision that entitles the Contractor to suspend or terminate the contract with the subcontractor for any reason on written notice and on the same terms and conditions specified in this section.

3. Authorization

The signature of the Executive Officer of the Conservancy ("Executive Officer") on this agreement certifies that at its January 19, 2012 meeting, the Conservancy authorized this agreement and the agreement is executed pursuant to that authorization.

4. Expenditure of Funds and Allocation of Funding Among Budget Items

The total amount of this contract may not be increased except by written amendment to this agreement. The contractor shall expend funds consistent with the approved project budget. Expenditure on items contained in the approved project budget may vary by as much as ten percent without prior approval by the Executive Officer, provided the contractor submits a revised budget prior to requesting disbursement based on the revised budget. Any deviation greater than ten percent must be identified in a revised budget and approved in advance and in writing by the Executive Officer. The Conservancy may withhold payment for items which exceed the amount allocated in the project budget by more than ten percent and which have not received the approval required above. Any increase in the funding for any particular budget item shall mean a decrease in the funding for one or more other budget items unless there is a written amendment to this agreement.

O11-377 cont.

5. Executive Officer's Designee

The Executive Officer shall designate a Conservancy project manager who shall have authority to act on behalf of the Executive Officer with respect to this agreement. The Executive Officer shall notify Contractor of the designation in writing.

6. Project Completion

Contractor shall complete the work under this agreement by the completion date completion date provided in the "TERM OF AGREEMENT" section, above. Upon completion of the project, Contractor shall supply the Conservancy with evidence of completion by submitting: (1) the required work products; and (2) a fully executed final Request for Disbursement form. Within thirty days of Contractor's compliance with this paragraph, the Conservancy shall determine whether the project has been satisfactorily completed. If the Conservancy determines that the project has been satisfactorily completed, the Conservancy shall issue to Contractor a letter of acceptance of the project. The project shall be deemed complete as of the date of the letter of acceptance.

7. Computer Software

Contractor certifies that it has instituted and will employ systems and controls appropriate to ensure that, in the performance of this Agreement, state funds will not be used for the acquisition, operation or maintenance of computer software in violation of copyright laws.

8. Work Products

Contractor hereby assigns to the Conservancy and the Conservancy accepts the assignment of all rights and interest in all material, data, information, and written, graphic or other work produced under this contract, including, without limitation, any right to copyright, patent or trademark the work. All material, data, information, and written, graphic or other work produced under this contract shall be in the public domain and shall be available to the public generally.

Contractor shall include in any subcontract with a third party for work under this contract a provision that preserves the rights created by the first paragraph of this section, and that identifies the Conservancy as a third-party beneficiary of that provision.

Pursuant to Government Code section 7550, any document or written report that is produced under this contract by non-state employees at a cost of greater than $5,000 shall contain a separate section disclosing all contracts and subcontracts related to the production of the document or written report, including the contractor or subcontractor name, contract number, and total amount of the contract or subcontract.

9. Locus

This agreement is deemed to be entered into in the County of Alameda.

O11-377 cont.

2008 - 2013 FUNDING FOR
THE SANTA MONICA BAY RESTORATION FOUNDATION

FUNDING SOURCES	PROJECT	PERIOD			AMOUNT ($)
US EPA Section 320 GRANT - CE 00TZ4501	General program support	10/1/2011	to	9/30/2014	1,708,133.00
State Water Resources Control Board/Prop. 50- 11-104-550	Arroyo Sequit fish migration barrier removal project	5/1/2012	to	12/31/2014	300,000.00
MSRP/National Fish & Wildlife Foundation	Kelp restoration project	5/1/2012	to	12/31/2014	1,403,088.32
State Coastal Conservancy - 11 086	Ballona Wetlands monitoring project	3/27/2012	to	12/31/2014	240,000.00
CA Dept of Parks & Rec - C1041054	Malibu Lagoon restoration project	2/1/2013	to	12/31/2013	149,450.00
US EPA GRANT - CD 00T73001	Southern California coordinated esturine wetlands monitoring project	10/1/2011	to	9/30/2014	349,940.00
The Campbell Foundation	MPA aerial survey project	11/16/2011	to	8/30/2013	162,000.00
TNC NOAA Abalone - MAR-SMB-011512	Abalone reintroduction pilot project	1/1/2012	to	12/31/2013	84,962.63
SOC Abalone Grant	Abalone genetic study	8/30/2011	to	8/31/2012	34,848.00
ARRA Grant - Rain Garden	Ballona Creek rain gardens project	9/30/2009	to	12/31/2012	1,734,175.83
State Water Resources Control Board/Prop 13 - Rain Garden	Ballona Creek rain gardens enhancement project	6/25/2013	to	12/31/2013	155,486.17
Santa Monica BayKeeper	Malibu Lagoon restoration project	1/1/2009	to	3/31/2013	109,768.09
Occidental College - MME VRG	MPA subtidal rocky reef monitoring project	9/1/2011	to	9/1/2012	25,704.66
USC Sea Grant - 10-069	Study on ecosystem impacts of kelp restoration	2/1/2012	to	1/31/2013	7,607.66
USC SG Halibut Grant	Halibut sex identification study	1/1/2011	to	12/31/2012	8,911.00
Cal State Dominguez Hills	Seafood market innovation project	3//1/2012	to	2/28/2014	29,000.00
US EPA GRANT - CE 96971401	General program support	10/1/2006	to	6/1/2012	2,952,349.00
State Coastal Conservancy - 08-011	Ballona Wetland Monitoring project	9/15/2008	to	6/30/2012	675,000.00
Association of Bay Area Governments	Boater Education Program	1/1/2006	to	12/31/2009	327,857.00
State Coastal Conservancy - 07-171	Ballona Wetlands restoration planning	6/27/2008	to	1/31/2012	600,000.00
CalRecycle Grant - UNP8-07-4	Boater Education Program	6/30/2008	to	3/31/2012	198,271.00
DAARP Kelp Grant	Kelp restoration and assessment project	1/12009	to	12/31/2012	174,761.81
Tetra Tech Grant	Ballona Wetlands hydromodification TMDL technical support	1/12010	to	12/31/2012	46,700.00
LASGRWC Grant	Storm water recharging feasibility study	1/1/2012	to	1/1/2012	16,544.00
US dept of Commerce - UC San Diego	Sea urchin gonad index development	3/1/2011	to	9/30/2011	9,988.00
RLFF Grant	MPA outreach	1/1/2008	to	12/31/2011	90,000.00
State Coastal Conservancy - 07-033	MPA Data Gap analysis project	1/24/2007	to	6/30/2010	210,000.00

O11-377 cont.

2008 - 2013 FUNDING FOR
THE SANTA MONICA BAY RESTORATION FOUNDATION

FUNDING SOURCES	PROJECT	PERIOD			AMOUNT ($)
CA Dept of Boating & Waterways	Boater Education Program	1/1/2010	to	2/7/2014	927,650.00
CA Dept of Parks & Rec - C11341009	Malibu Lagoon Post restoration monitoring		to	12/31/2018	695,847.62
State Coastal Conservancy - 12-107	Ballona Wetlands restoration planning outreach	6/20/2013	to	6/30/2015	300,000.00
Annenberg Foundation	Ballona Wetlands restoration planning	1/1/2014	to	12/31/2014	107,250.00
CRF West Halibut Grant	Halibut EFI Development and testing project	10/1/2013	to	9/30/2014	24,996.00
Other Sources:					
Governing Board Membership	----	1/1/2013	to	12/31/2013	55,000.00
SEP	----	7/1/2008	to	6/30/2013	200,520.25
PIE	----	7/1/2008	to	6/30/2013	69,500.00
Donations, Contributions, & Others	----	7/1/2008	to	6/30/2013	239,821.86
				TOTAL (all funds)	**14,425,131.90**
				TOTAL (leveraged funds)*	**11,122,842.90**

** leveraged funds include all grants except for EPA Sec. 320 (row 10 & 21)*

O11-377 cont.

From:	patricia mc pherson
To:	OSAEHotline@DOF.CA.GOV
Cc:	Antony, Diana@DOF; David.BOTELHO@DOF.CA.GOV
Bcc:	jd@johnanthonydavis.com; Jeanette Vosburg
Subject:	GC COMPLAINT (o Brandy- Supplemental 6/9/15); AUTHORITY AUDIT (Supplemental 6/9/15)
Attachments:	121814_agenda_item3c.pdf 121814_agenda.pdf Screen Shot 2015-06-09 at 5.10.17 PM.png Screen Shot 2015-06-09 at 3.51.06 PM.png Screen Shot 2015-06-09 at 3.42.46 PM.png Screen Shot 2015-06-09 at 3.42.59 PM.png Screen Shot 2015-06-09 at 3.46.20 PM.png Screen Shot 2015-06-09 at 3.41.48 PM.png Screen Shot 2015-06-09 at 3.49.21 PM.png Screen Shot 2015-06-09 at 3.44.41 PM.png SMRBA_INFORMATION FROM JOHN DAVIS.pdf Screen Shot 2015-06-12 at 2.53.21 PM.png Screen Shot 2015-06-12 at 3.32.44 PM.png INFORMATION FOR LACOUNTY DA.pdf

Begin forwarded message:

From: patricia mc pherson <patriciamcpherson1@verizon.net>
Subject: AUTHORITY AUDIT (Supplemental 6/9/15)
Date: June 9, 2015 5:25:04 PM PDT
To: HChu@bcawatsonriceca.com

O11-378

Ms. Chu,
Please accept these records, many-if not most- have already been provided however, perhaps not lined up
together as assembled below.
Grassroots Coalition has numerous (probably hundreds if not more) additional internal emails discussing the Santa Monica Bay Restoration Authority (AUTHORITY).
Please let us know if it would be helpful to continue to provide the emails and our queries and comments pertaining to the documents gathered via
Public Record Act requests and Freedom of Information Act requests.
Thankyou for your attention to these matters of great public concern,
Patricia McPherson, Grassroots Coalition

RE: Grant 12-107
NOTE PER THE FOLLOWING MEETING WITH USACE AND AUTHORITY(starts below the John Davis/ LARWQCB email) :
1. The segment portion below discusses that the County was not aware of the 'intended use'
of the money.
2. The emails that follow the Meeting notes appear to reflect the opposite, that the
Authority (County and SMBRC (Foundation staffer) DID know.
3. Why has the JPA chosen to tell the USACE something that appears to be very incorrect?
4. There has been no USACE NOTICE of any other entity attempting to provide

WRDA funding to USACE per Ballona Wetlands that we can find online.
5. Without NOTICE and public input prior to any potential USACE approval for acceptability of expedited WRDA funding for the 408 review process,
we believe that any outside funding to USACE to be improper (at best).
Therefore, it would appear that the money juggling discussed
in the Meeting notes and the emails appear to reveal a difficult and possibly improper attempt at financing the expedited WRDA (USACE) 408 permit review of Ballona.

During the ongoing AUTHORITY AUDIT, it also appears that one of the JPA partners, the SMBRC (Foundation staffers) have garnered an
approval for the AUTHORITY'S Budget for 2014-2015. (Also, it appears that the 2014-15 monies are already spent prior to
the approval of that budget and without the necessary Board of Supervisors approval on behalf of the JPA partner, the County)

-The "expected approval" by the Board of Supervisors(BOS) in Jan. or Feb., that is noted in the document, did not take place and there has since been no approval by the BOS.

a. The PDF attachment 1, provides background information and the approval acknowledgement.
We believe that the neither the AUTHORITY nor the County District (Public Works, Flood Control)- as a partner in the JPA- have jurisdiction or authority over wetlands and wetland monitoring per the biology/ecosystems.
Therefore, it would appear that the funneling of money, to that end, through this JPA, the AUTHORITY, by the Santa Monica Bay Restoration Foundation (an independent non profit) whether on behalf of itself
or the Santa Monica Bay Restoration Commission appears wholly misplaced.
PDF #1

PDF #2(Agenda SMBRCOMMISSION)

Furthermore, on the face of the documents provided in the attachment #1, the AUTHORITY is represented as being housed within the LARegional Water Quality Control Board. However, upon
phone calls to LARWQCB to Sam Unger's -Executive Officer of the Regional Board-- it appears that he has no knowledge of the Authority working out of the offices of the LARWQCB
at that location. See attached email of John Davis phone call to Mr. Unger.

1. -- AT BOTTOM- is also a Fair Political Practices(FPPC) Complaint presented by John DAvis.
2. And also attached is a PRA response from LARWQCB attorney Ms. McChesney to John Davis responding to various FPPC and other queries.
- # 7 response notes that only Ms. Luce and now Mr. Tom Ford are acknowledged as 'staff" of the Authority.
Thankyou for your attention to these matters of great public concern,

O11-378 cont.

Patricia McPherson, Grassroots Coalition

O11-378 cont.

FAIR POLITICAL PRACTICES COMMISSION COMPLAINT

Pdf

The full PRA response from Ms. McChesney-

O11-378 cont.

bay restoration commission

STEWARDS OF SANTA MONICA BAY

santa monica bay restoration commission 320 west 4th street, ste 200; los angeles, california 90013

213/576-6615 phone 213/576-6646 fax www.smbrc.ca.gov

December 11, 2014 **Agenda Item: 3c**

To: SMBRC Governing Board

From: Tom Ford, Executive Director

Re: The Santa Monica Bay Restoration Authority (Authority) Fiscal Year (FY) 2014-2015 Budget

Action Requested of the Governing Board:

- Approval of the Authority FY 2014-2015 Budget

O11-378 cont.

Background

The Authority was created by a joint exercise of powers agreement between the Santa Monica Bay Restoration Commission (SMBRC) and the Los Angeles County Flood Control District (District) and operates as a local public agency within the Santa Monica Bay Watershed and the jurisdictional boundaries of the SMBRC and the District. The purpose of the Authority is to broaden funding opportunities for projects within the Santa Monica Bay Watershed.

The SMBRC is responsible for the administration of the Authority. The District is responsible for the Authority's Fiscal Controls. At its October 1, 2014 meeting, the Authority approved the FY 2014-2015 budget and the three ongoing programs associated with it. The Los Angeles County Board of Supervisors is expected to approve the budget currently before this body at its January or February meeting.

The Authority provides an efficient method by which state agencies can fund important programs of the Santa Monica Bay National Estuary Program. The three programs contained in the budget, the Clean Boating Education Program, the Wetlands Monitoring Program, and the Malibu Lagoon Monitoring Program, are part of the annual Work Plan that is approved by this Governing Board each year. The funding for these projects will pass from the California State Parks and Recreation agency (Boating and Malibu programs) and the US EPA (Wetlands program) to the Authority to be allocated to The Bay Foundation staff responsible for the three programs.

The detailed budget as well as a description of the three programs are attached to this report.

SMBRA BUDGET 2014-2015

		BUDGET Oct 2014-Sept 2015
BOATER PROGRAM		
Task 1. Education and Outreach Program Management		**$16,875.00**
Task 2. Pumpout Station Monitoring		**$6,041.67**
Task 3. Honey Pot Day Unlimited - Mobile Pumpout Outreach		**$5,833.33**
Task 4. Pilot Harbor Staff Presentations		**$0.00**
Task 5. Boating Events		**$33,958.33**
Task 6. California Clean Boating Network/Newsletter		**$11,208.33**
Task 7. Outreach Materials		**$31,875.00**
Overhead		**$10,579.17**
Total Boater Program		**116,370.83**
WPDG PROGRAM		
Salaries and Benefits:		**$55,400.00**
Contractual		**$30,000.00**
Equipment		**$0.00**
Supplies		**$1,500.00**
Travel		**$3,100.00**
Other		**$0.00**
Overhead		**$0.00**
Total WPDG Program		**$90,000.00**
Malibu Lagoon - Post-Restoration		
1 Project Management		**$22,648.11**
2 Download and clean data, maintain database		**$7,763.66**
3 Field surveys		**$24,132.34**
4 Chemistry lab analyses		**$20,571.43**
5 Benthic macroinvertebrate lab analyses		**$26,331.43**
6 Avian monitoring (Cooper Ecological Monitoring Inc.)		**$9,642.86**
7 Fish Surveys (none)		**$0.00**
8 Annual reporting		**$5,357.14**
9 Data probe maintenance		**$6,428.57**
10 Date probe replacement		**$3,214.29**
11 Mileage		**$1,210.71**
12 Equipment and supplies		**$3,750.00**
13 Volunteer Management		**$9,145.44**
Total ML Post-Restoration Program		**$140,195.98**
TOTAL GRANTS BUDGETS		**346,566.81**
ANNUAL AUDIT	**$**	**14,850.00**
AUDITOR-CONTROLLER FEE - 10%	**$**	**1,485.00**
TOTAL SMBRA BUDGET FOR 2014-2015		**362,901.81**

O11-378 cont.

bay restoration authority

santa monica bay restoration authority ✐ *320 W. 4th Street, Suite 200; Los Angeles; California 90013*
213/576-6615 phone ✐ *213/576-6646 fax*

Statewide Clean Boating Education Program
Clean Vessel Act Grant

Scope of Services and Schedule of Deliverables
Work to be performed April 2014 - January 2015

1. Education and Outreach Program Management
Manage statewide outreach and education efforts to promote proper sewage management and sustainable boating practices.

Statewide

- Complete specialized bi-weekly reporting to CVA grant manager on accomplishments, and give notification of upcoming events, new outreach materials, and future tasks.
- Manage grant invoicing, reporting, and timelines (i.e. grant management and work completion).

Northern California

- Work with program partners (i.e. San Francisco Estuary Partnership, Division of Boating and Waterways) to implement statewide CVA education program.
- Hold annual planning meetings with program partners to coordinate outreach efforts.

Southern California

- Develop annual work plan for Southern California outreach campaign, in accordance to CVA guidelines.
- Create and submit payment request and progress reports.
- Maintain web resources for Boating Education Program.
- Hold biweekly planning meetings with grant manager.

2. Pumpout Station Monitoring
Monitor public sewage pumpout facilities in California, which have been funded with CVA grant funds, in order to maximize performance level of facilities.

- Conduct quarterly visits of vessel sewage pumpout facilities in Southern California to check functionality and condition of pumpouts. Staff will write and submit quarterly reports of visits to grant manager. Reports are due by the last day of the monitoring month.

3. Honey Pot Day Instructional Video – "Honey Pot Live"
Develop a Honey Pot Day program for the web where boaters take an online "class" to receive a free mobile pumpout.

O11-378 cont.

- Develop an online class for boaters about proper sewage management, effects of illegal sewage discharge. Boaters must view the Division of Boating and Waterways and San Francisco Estuary Partnership sewage pumpout video, read educational materials regarding boat sewage, and complete an exam in order to receive a voucher for a free mobile pumpout. Honey Pot Live will be promoted in Marina del Rey, King Harbor, Long Beach, and Los Angeles harbors. The video will be accessible via the Honey Pot Day website. Promote the program via marina and yacht club presentations, flyers, press releases, newsletters, web resources, and social media.
- Coordinate voucher, invoice, and registration processes with mobile pumpout companies.
- The goals of these videos are to decrease staff time and travel expenses to reach boaters, and increase number of boaters reached.
- Performance evaluation will be measured by number of boaters who complete the class, number of vouchers redeemed, number of new contracts with mobile pumpout companies, and gallons of sewage pumped.

4. Boating Events

Promote sustainable boating practices, such as proper management of vessel sewage, at public boating events.

- Conduct outreach at 10 boating events throughout the year including, but subject to change: Sunroad Boat Show (Jan 23-26), Newport Beach Boat Show (April 3-6),Marina Fest (May), Sea Fair (May), Dana Point Boat Show (June), and Santa Barbara Harbor and Seafood Festival (October), Santa Monica City Festival (June), Fiesta Hermosa (May), Manhattan Beach Hometown Fair (October),and Torrance Environmental Day (June).
- Participate in marina and yacht club events and offer presentations and technical assistance throughout the year, as needed.
- Coordinate Coastal Cleanup Day in Marina del Rey, where vessel sewage and other boating related pollution issues will be highlighted.
- Subject to grant manager approval and availability of travel funds, attend at least two marine related conferences and trade shows (e.g., SOBA, and MRA, CA Association of Harbor Masters & Port Captains conferences).
- Coordinate volunteers to conduct face-to-face outreach at boat shows and other events.
- Develop an interactive booth space to attract boaters in addition to use of Boater Kits. Interactivity, subject to change, will include demonstrations, boater activity participation, Boater Guide app display kiosk, and more.
- Produce materials to acquire event sponsorship (i.e. coupons, flyers, signs, etc.).

O11-378 cont.

5. California Clean Boating Network & Changing Tide Newsletter

Coordinate with statewide CCBN partners to promote information exchange of new programs and ideas.

The CCBN consists of three chapters: Northern, Delta, and Southern California chapters. The Northern California chapter is managed by the Division of Boating and Waterways Statewide Boater Program and California Coastal Commission's Clean and Green Campaign. The Delta chapter is managed by Contra Costa County. Each chapter hosts networking events, in their

region, to discuss issues related to boating and maintaining clean waterways. All three chapters contribute Changing Tide articles for their 2-page sections and co-author cover articles.

Newsletters are published three times per year, typically in spring, summer, and winter. The planning of each issue includes one conference call to plan the timeline, choose articles, and discuss other production details. TBF is the lead editor and graphic designer. Research, writing, and graphic design take up about 40 hours of staff time per issue and consulting services for graphic design. On average, 5,700 newsletters are printed: 500 are purchased and distributed by Contra Costa County, 2,700 are purchased and distributed by Division of Boating and Waterways Statewide Boater Education Program, and 2,500 are purchased and distributed by The Bay Foundation. CVA funds pays for 68% of total cost.

- Collaborate with CCBN partners to produce three issues of the Changing Tide newsletter.
- Send staff to Northern California and Delta CCBN meetings, as needed.
- Print approximately 5,700 newsletters per issue, subject to change based on varying number of subscribers.
- Distribute newsletters to marinas, yacht clubs, boating organizations, and marine businesses in San Diego, Orange, Los Angeles, Ventura, and Santa Barbara Counties.

6. Outreach Materials

Create outreach materials to promote sustainable boating practices, such as proper management of vessel sewage, and a performance evaluation tool to measure program success.

O11-378 cont.

6A. Southern California Boater's Guide, 4th Edition and Phase III

- Distribute and promote the Southern California Boater's Guide, 4th Edition.
- Continue to update the e-book, which includes developing short sewage related videos (10-20 seconds in length), updating design and photo images, and revising content such harbor information, telephone numbers, websites, boating laws, statistics, etc.
- Develop mobile phone application for the Smart Boater's Guide. This mobile phone application will include maps from the Boaters Guide, searchable list of mobile pumpouts and other environmental amenities, and real time, user-based comments on environmental amenities such as logging broken pumpouts.

6B. Clean Boating Interactive Booth Space

- Produce an interactive booth space to draw boaters to the booth and give boaters an experience they can remember. The experience based outreach tool will eventually replace the boater packets, thus decreasing material waste and printing expenses. Interactivity, subject to change, will include demonstrations, boater activity participation, Boater Guide app display kiosk, and more. Final ideas will be developed with input by Division of Boating and Waterways Statewide CVA partners and will require final approval by the grant manager.

6C. Boater Packets

- Coordinate fulfillment of boater packets.
- Distribute outreach materials to boaters and volunteers.
- Administer a performance evaluation tool (i.e. clean boating pledge and survey).

6D. Tidebooks

- Produce 4,000 tidebooks for Southern California

- Update environmental facilities in Tidebook (i.e. individual maps of Southern California harbors from Punta Morro to Morro Bay, locations of sewage pumpout stations and other environmental facilities, and clean boating information).

- Distribute tidebooks at boating events, presentations, boating supply stores, etc.

O11-378 cont.

bay restoration authority

santa monica bay restoration authority ✐ *320 W. 4th Street, Suite 200; Los Angeles; California 90013*
213/576-6615 phone ✐ *213/576-6646 fax*

Wetlands Monitoring Program Summary

EPA Wetland Program Development Grant

Abstract:
Monitoring and assessment strategies developed by the State of California and the US Environmental Protection Agency (EPA) universally call for coordinated and consistent approaches to monitoring and assessment. Unfortunately, our ability to meet this goal is limited. Although we have made progress over the last several years in developing standardized rapid (i.e. Level 2) assessment methods, there has been significantly less attention paid to standardized intensive (i.e. Level 3) assessment methods. Intensive assessment methods provide information on ecological function and process, are more diagnostic of restoration performance and regulatory compliance, and are important as a validation measure for rapid assessment methods. The lack of consistent approaches to intensive assessment limits our ability to share information between projects, precludes use of Level 3 data in ambient monitoring, and fosters redundancy as each project develops its own protocols and assessment techniques. With eight major coastal wetland restoration projects currently being planned along the Southern California Bight, timing is optimal for development and testing of standardized Level 3 assessment procedures. This program sets out to accomplish that goal by compiling and analyzing existing assessment procedures, developing proposed standardized approaches in coordination with technical advisors, exploring the covariance between these new Level 3 protocols and existing Level 2 (i.e. California Rapid Assessment Method) assessment tools, and developing protocol documents and training materials to facilitate information transfer to other projects.

O11-378 cont.

Specific project tasks are as follows:

Task 1: Develop Indicators and Preliminary Protocols
This task will build on previous work conducted by the Wetlands Recovery Project members to develop indicators for Level 3 assessment of coastal wetlands. Existing monitoring plans and reports, state and federal guidance documents, and peer-review journals will be compiled and reviewed.

Task 2: Refine Level 3 Monitoring Protocols
The preliminary protocols developed in Task 1 will undergo Technical Advisory Committee (TAC) review to develop final Level 3 protocols for field testing as part of this task. Public meetings of the TAC will provide direct feedback and discussion of the proposed protocols, and will serve as an opportunity to engage science experts and agencies' staff and to refine protocols. Additionally, a Quality Assurance Project Plan will also be prepared and submitted to the EPA as part of this task.

Task 3: Field Test Level 3 Protocols

Sites will be selected to cover the diversity of habitats and conditions, including levels of degradation and restoration, represented in southern California wetlands. Protocols will be selected for each wetland based on habitat (e.g. does the site have submerged aquatic vegetation) and conditions (e.g. muted or restricted tides). Initial field testing will determine feasibility, level of effort, field or lab time, and cost of each protocol. Field protocols will be implemented at all sites over an 18-month period to capture seasonal variability, and allow some repetition of protocols. In addition to reporting on application of the protocols, data will be summarized to produce an initial Level 3 assessment of condition in the study wetlands. These results will be compared to Level 2 data previously collected to demonstrate an integrated assessment of coastal wetland health.

Task 4: Develop Level 3 Monitoring Manual

The final monitoring and assessment documents prepared under Task 3 will undergo TAC review to develop a Level 3 monitoring and assessment manual for southern California coastal wetlands as part of this task. The final Level 3 monitoring manual will be developed through an iterative, public process and the final document will include detailed protocols, recommended priority for implementation (e.g. whether to monitor vegetation or birds), level of effort, field and lab time required to implement protocols.

Task 5: Outreach

Program partners will present the progress and results of the Level 3 protocol development and the Level 3 manual throughout the program period. Presentation will be made at state and national scientific conferences to discuss and receive feedback on the process to develop Level 3 protocols. In addition, program partners will meet directly with monitoring practitioners to discuss the benefits and application of Level 3 monitoring protocols.

O11-378 cont.

bay restoration authority

santa monica bay restoration authority ✐ 320 W. 4th Street, Suite 200; Los Angeles; California 90013
213/576-6615 phone ✐ 213/576-6646 fax

MALIBU LAGOON – RESTORATION AND ENHANCEMENT PROJECT – MONITORING GRANT

Through a grant from California Department of Parks and Recreation to the Santa Monica Bay Restoration Authority (SMBRA), the SMBRA is organizing and performing all required surveys, monitoring, data analysis and reporting to meet the required Coastal Development Permit conditions for the Malibu Lagoon Restoration and Enhancement Project (COP # 4-07-098) as documented in Biological and Water Quality Monitoring Plan and Vegetation Assessment and Monitoring Plan. SMBRA will compile and analyze all data collected each year and produce a cumulative annual report. The report will meet the reporting requirements outlined in the Coastal Development Permit. SMBRA will also provide coordination and supervision for volunteer plant maintenance crews.

GRANT TASKS:

Task 1 – SMBRA will manage the entire project including all sub-contractors to ensure all required monitoring and reporting is completed. SMBRA will prepare a single invoice for work completed during each invoicing period. It is estimated that project management will require three days per month.

O11-378 cont.

Task 2 – Conduct continuous monitoring of water quality using three Yellow Springs Instruments (YSI) data sondes to collect dissolved oxygen, specific conductivity, salinity, pH, Oxygen Reduction Potential (ORP), water temperature and depth every 30 minutes. Conduct monthly data downloading, calibration and re-deployment of YSI data sondes, data cleaning and maintenance of the project database.

Task 3 – Field surveys and water quality data collection will be conducted twice annually, except for benthic macroinvertebrate (see details below). Field surveys include the following:

- Water quality vertical profiles at multiple depths at six locations: pH, Specific conductivity, dissolved oxygen, salinity, temperature;
- Surface and bottom water quality at six locations;
- Topographic cross sectional surveys across five transects;
- Three vegetation transects;
- Vegetation photo point monitoring at three locations;
- Submerged aquatic vegetation (SAV) and algae on eight transects;
- Sediment sample collection from five locations;
- Benthic macroinvertebrates: three samples (2.5 cm core, 10 cm core, littoral sweep) from eight stations per event, five fall events during closed condition and three spring events during open condition.

Task 4 – Chemistry lab analyses will be conducted twice annually by a state-certified laboratory and will include the following:

- Surface and bottom water quality: nitrate as nitrogen, ammonia as nitrogen, total Kjeldahl nitrogen, orthophosphate, total phosphorous, and chlorophyll-A
- Sediment: grain size, total organic carbon, total nitrogen, and total phosphorous.

Task 5 – Benthic macroinvertebrate lab analyses will be conducted by taxonomic professionals.

Task 6 – Avian monitoring will be conducted by an ornithologist a minimum of three days per quarter or 12 days per year. An annual report will be produced that compares the pre-restoration and post-restoration data and changes over time.

Task 7 – None

Task 8 – The Bay Foundation will compile and analyze all data collected on an annual basis and create an Annual Report. The Annual report will satisfy the Coastal Commission's reporting requirements for this project.

O11-378 cont.

Task 9 – Data Probe maintenance: the data sondes will be sent back to YSI annually for maintenance. The probe sensors for ORP, pH, and conductivity will be replaced annually. The average maintenance and replacement cost per year is $2,000.00 per sonde or $6,000.00 for three data sondes.

Task 10 – The two oldest probes may need replacement during the five year monitoring program. Replacement of each probe will cost $7,500.00 or $15,000.00 to replace two data sondes over the course of the project.

Task 11 – Mileage to travel to and from the Lagoon to conduct monitoring and field surveys. Mileage charges to and from State Certified laboratory and to acquire necessary monitoring supplies. It is estimated that these tasks will require 2000 miles per year of travel.

Task 12 – Equipment and supplies includes calibrating solutions and water quality standards to calibrate data sondes and water quality probes, glassware and plastic sampling containers, nets, waders, and miscellaneous equipment associated with sampling. It is estimated that equipment and supplies will cost $2.500.00 per year.

Task 13 – Volunteer coordination and supervision. Advertise for volunteers on the internet, fill out volunteer waiver forms, supply and deliver tools, train and supervise volunteers, track volunteer hours and work accomplished. Three monthly events for one year.

bay restoration commission
STEWARDS OF SANTA MONICA BAY
santa monica bay restoration commission *320 west 4th street, ste 200; los angeles, california 90013*
213/576-6615 phone *213/576-6646 fax* *www.smbrc.ca.gov*

NOTICE OF A MEETING OF THE
SANTA MONICA BAY RESTORATION COMMISSION
GOVERNING BOARD

Date: Thursday, December 18, 2014
Time: 9:30 am to 11:30 am

Meeting Location:
Del Rey Yacht Club
13900 Palawan Way, Marina del Rey CA 90292
(see directions below)

AGENDA

1) **Comments From Members of the Public on Items Not on the Agenda and Public Testimony on All Agenda Items** (20 min.)
Public testimony will be taken for a maximum of 20 minutes. No public testimony will be taken thereafter. In the event that all public speakers have been heard prior to the end of the 20 minutes, the regular order of business for the SMBRC will commence. Members of the public and representatives of organizations/agencies wishing to comment will be allowed up to four minutes to address the Governing Board, providing public testimony on items both on and not on the agenda. Speaker time may be reduced depending on the number of speakers.

2) **Informational Items**

a) Order of Agenda (2 min.)
b) Reports from the Chair and Executive Committee (10 min.)
c) Reports from the Technical Advisory Committee (5 min.)
d) Reports from the Executive Director and Staff (10 min.)

3) **Governing Board Business**

a) Consideration of Approval of October 16, 2014 Meeting Minutes (2 min.)

b) Election of SMBRC Chair and Vice-Chairs (Comprising the Executive Committee) (10 min.)

c) Consideration of Approval of Santa Monica Bay Restoration Authority Fiscal Year 2014-2015 Budget (10 min.)

d) Consideration of Approval of 2015 Governing Board Meeting Dates (5 min.)

e) Board Discussion of Potential Requests for Proposal (Prop. 84) (10 min.)

f) Presentations on Oil Drilling, Shipping, and Pipeline Issues Affecting the Santa Monica Bay Watershed (20 min.)

g) Member Comment—Governing Board members may wish to comment on issues not otherwise on the agenda (5 min.)

O11-378 cont.

bay restoration commission
STEWARDS OF SANTA MONICA BAY

h) Announcement of Next Meeting Date (tentatively scheduled for February 19, 2015 at 9:30 a.m.)

****

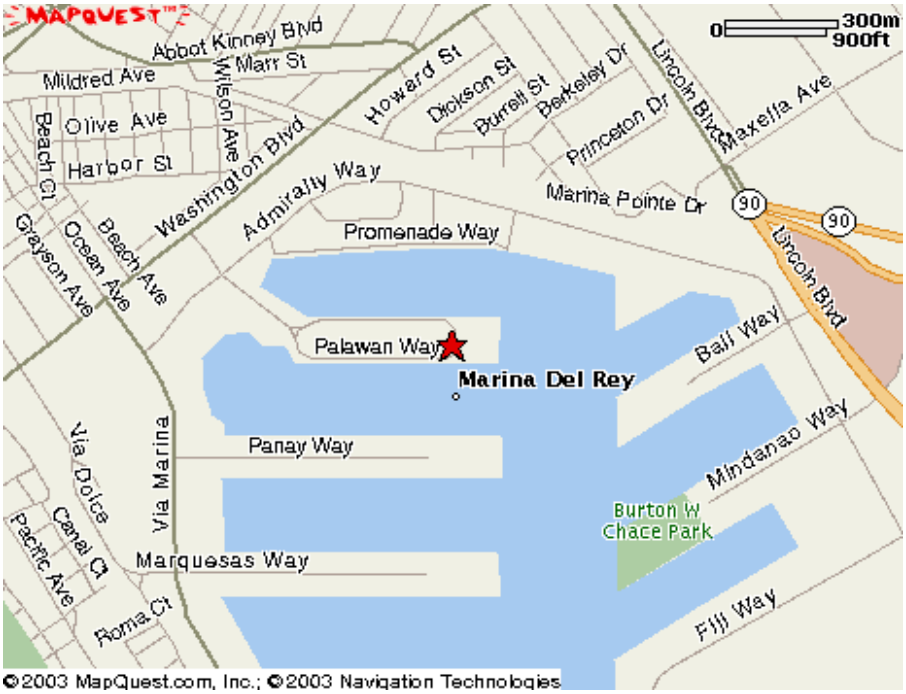
For additional information concerning the meeting, please contact Scott Valor at 310-922-2376 or by e-mail at svalor@santamonicabay.org . You may also visit our website at www.smbrc.ca.gov .

If any individual requires a disability-related modification or accommodation to attend or participate in the meeting, please contact Scott Valor at 310-922-2376 at least 3 days prior to the meeting.

Directions:
From LAX or the 105 Fwy: Travel north on Sepulveda Blvd. Merge onto Lincoln Blvd. Follow Lincoln Blvd. north to Fiji Way. Turn left onto Fiji Way, turn right on Admiralty Way. Follow Admiralty Way to Palawan Way. Left on Palawan to end of loop at Del Rey Yacht Club.

From the North: Travel on 405 South, exit on Washington Blvd., (left onto Sawtelle, right onto Washington Blvd). Head west and make a left on Via Marina, left on Admiralty Way and right on Palawan to end of loop at Del Rey Yacht Club.

See map for details:



O11-378 cont.

****

State of California
California Environmental Protection Agency

Los Angeles County District Attorney
California Fair Political Practices Commission
Re: Complaint Auditor/Controller - Santa Monica Bay Restoration Authority

District Attorney and Fair Politica Practices Commission

PRIVATE BUSINESS COMMUNICATES WITH AUDITOR/CONTROLLER OFFICE

I am providing emails in addition to the materials already supplied. Item No. 7 of the response to public records from the Santa Monica Bay Restoration Authority. Please note that a person named Marcelo Villagomez is not current or former staff of the SMBRA. Please also note that the email address *mvillagomez@santamonicabay.org* is not a government email address. All emails attached were obtained via the California Public Records Act.

On July 17, 2013 at 4:52 PM Marcelo Villagomez communicated with Kathleen Yang using the aforementioned private email address.

It is my understanding that Kathleen Yang is an employee of the County Auditor Controllers Office.

Mr. Villagomez discusses a grant to the Santa Monica Bay Restoration Authority. He refers to the grant within the context of the term "*our grants*". He then states that the other $60,000 will go to Task 2 and the Santa Monica Bay Foundation will lead the Task 2efforts".

He then asks Ms. Yang, "if we can talk about the flow of invoices and back-up review."

Here, a member of the public is discussing the grant to a State Agency and the flow of funds to the private business that employs Mr. Villagomez to my best knowledge.

The discussion is with the Office of the County Auditor/Controller, to whom the initial complaint of unauthorized use of public funds was directed. Note, there are no CCs to any county persons except for Ms. Yang on this communication.

On August 1, 2013 at 8:44 PM, Kathleen Yang communicates directly with Joshua Svensson of the Los Angeles County Flood Control District. Mr. Villagomez is carbon copied.

Ms. Yang acknowledges Mr. Villagomez as being, "at SMRBA.", and SMRBA is responsible for Task 2 and allocated $60,000. Again, Villagomez stated on June 17 the same money would go to his private employer.

She then proposes the State cut two checks, one to SMRBA.

O11-378 cont.

Here, a member of the public, Villagomez, directly communicated with the County Auditors Office in regard to the budget of a State Agency, how to handle receipts, and that the grant would be provided to his apparent employer. Yang then responded indirectly by CC. Ms. Yang was not entitled to engage in this type of discussion with a member of the public representing private business, insinuating Mr. Villagomez represented the SMRBA, which is demonstrably untrue.

Other PRA records from the Coastal Conservancy indicate that the grant, appearing to originate with the California Coastal Conservancy was not executed and the funds were not granted and or disbursed by the County Auditor/Controller.

COUNTY COUNSEL ADVISES FTB EMPLOYEES ON SMRBA BUSINESS

It is my opinion that County Counsel is not entitled to provide legal advice to the Los Angeles County Flood Control District employees as it regards the operation and direct jurisdiction of the Santa Monica Bay Restoration Authority, a State Agency and without formal disclosure, thereto.

O11-378 cont.

ON March 14, 2014 County Counsel Mark T. Yanai advised Flood Control District employee Christian J. Lim on SMRBA options in regard to grant funding from the California Coastal Conservancy (SCC).

The discussion regarded a grant approved by only the Executive Officer of the SCC, but not the Governing Board of that Agency as required.

The grant to SMRBA was also problematic because the SCC does not have the authority to grant funds for the review of a federal 408 Flood Control Permits, as I understand the legislative authority of the SCC.

SMRBA calculated that the SCC grant would be available to the SMRBA for that purpose, according to public records.

Yanai advises Lim the SCC grant funding agreement could be entered into by the County with the SMRBA. He further notes that Gail Farber, Director of the County Department of Public Works, is a Governing Board member of SMRBA and that she would probably have knowledge of the existing SCC-SMBRA Grant agreement, unless it was not agenized by SMRBA. If this was the case, the grant information was not disclosed to the SMRBA Governing Board and it was not approved by that Board, as required.

It is notable that Yani is not the attorney representing the Santa Monica Bay Restoration Authority, that attorney is supplied by the State and is named Frances McChesney. It is further notable that Mr. Lim or any other FCD employees are staff of the SMRBA, yet they appear to be engaged with Mr. Yani in financial planning for the SMRBA.

Other emails from around 2012 demonstrate that the FCD was also concerned about the failure of the County Auditor/Controller to conduct any annual audits and how the SMRBA would need to be fixed, and the past years audits would have to be completed before the BOS approved the current annual budget for SMRBA.

On August 18, 23014 at 1:27pm Flood Control District Christian J. Lim informed parties named Christine Quirk, Teresa Pantoja, Frank Kuo, Robert Gomez and Joshua Svensson that a "Board Letter" will allow the State Coastal Conservancy to transfer the aforesaid grant funds for the purpose of a federal 408 Permit review.

My concern restated is that Mr. Yani is extrajurisdictional in advising FCD employees on financial matters that regard an independent State Agency, the Santa Monica Bay Restoration Authority and that employees of the FCD are extrajurisdictional in financial planning for the SMRBA.

O11-378 cont.

Mary Small, of the SCC, apparently, with members of the FCD and or the SMRBA and or the Santa Monica Bay Restoration Foundation, a private business met with Col. Kimberly Colloton of the U.S. Army Corp of Engineers. Prior emails demonstrate that Mary Small is the author of the document attached reflecting the meeting agenda.

Small address the 408 funding problem. Small does not represent either the FCD or the SMRBA, and it is questionable as to why the SCC is participating in this meeting.

Small proposes options that would allow the SCC to deliver 408 permit review funding. Option iii advises that the USACE Los Angeles District could revise its estimate to compensate for a shortfall, knowing that it may create a future shortfall. This advise to the USACE from Ms. Small is unjustified and the State employee should not advise the federal government to revise its estimate to cover a State budget shortage, but this is the case here.

Also, the document is falsified because it refers to a grant from the Coastal Commission. A PRA to the Coastal Commission demonstrates that Commission never entered into such an agreement with the SMRBA.

The Santa Monica Bay Restoration Commission approved the annual budget for the SMRBA for the first time, for the year 2014-15, in December of 2015.

FYI,

John Davis
PO 10152
Marina del Rey Ca. 90295

O11-378
cont.

From: Marcelo Villagomez <mvillagomez@santamonicabay.org>
Sent: Wednesday, July 17, 2013 4:52 PM
To: Yang, Kathleen
Subject: New State Coastal Conservancy grant - Ballona Wetlands State Ecological Reserve
Attachments: SCC 12-107.pdf

Hi Kathleen,

This is the grant I mentioned to you awhile ago, just received, please see attached. Unlike our other SMBRA grants, most of the funds on this grant -- $240,000 -- will go to Task 1 where the LACFCD will be the permit applicant. The other $60,000 will be for Task 2 and the Santa Monica Bay Foundation will lead the Task 2 efforts. Let me know if we can talk about the flow of invoices and back-up review since most of the budget is for the County LACFCD.

regards,
Marcelo
(213) 576-6645

O11-378 cont.

From: Yang, Kathleen
Sent: Thursday, August 01, 2013 8:44 AM
To: Svensson, Joshua
Cc: Marcelo Villagomez (mvillagomez@santamonicabay.org)
Subject: Ballona Wetlands State Ecological Reserve Grant $300,000
Attachments: SCC 12-107.pdf

Categories: Ballona Wetlands

Josh,

It appears this grant is between the Coastal Conservancy, SMBRA, and Flood Control District (FCD).

Per discussion with Marcelo at SMBRA, SMBRA is responsible for Task 2 – public outreach and thus alloted $60,000 out of the $300,000 total.

The Flood Control District (FCD) will receive $240,000 for handling Task 1 – the permit process with the State Coastal Conservancy. This task appears to have nothing to do with SMBRA.

When the check comes, I'd like to split the check and record $60,000 for SMBRA and $240,000 for FCD. The FCD's portion of the grant will be handled at your end.

Can the state cut two checks: one to SMBRA and the other to FCD?

Kathleen Yang

Trust & Revenue/ Fiscal / Dept. of Public Works

Phone: (626) 458-6945

Fax: (626) 458-6951

O11-378 cont.

Ballona Wetlands Restoration Project - MOU with SCC for 408 Permit

o your questions are:

are with the SMBRA pursuant to the Agreement and SCC does not want to "undo" or cancel/re
n SMBRA to get that $ back, the County could enter into the funding agreement with the SMBR

at the Director of DPW is one of the members of the governing board of the SMBRA, so it wou
FCD did not have knowledge of the SCC-SMBRA Agreement (unless the Agreement was not a
approval)?

ment to the SCC-SMBRA agreement would only be effective if the amendment were a three-pa
included the County. This would probably be more complicated than just doing a new agreem
d the County.

he office next week, but will review the draft MOU when I return on March 24.

County Counsel

NOTICE: This email message, including any attachments, from the Office of the County Counsel is intended for the official an

011-378
cont.

ıan J.
ugust 18, 2014 1:27 PM
ne; Pantoja, Teresa
omez, Robert; Svensson, Joshua
heet - Ballona Wetlands Restoration Project - MOA with State Coastal Conservancy

et al.

e Green Sheet for this Board Letter (attached).
is to allow the State Coastal Conservancy to transfer funds in the amount of $302,000 which v
/ Corps' 408 Permit Review of the Ballona Wetlands Restoration Project.

e contact person for this Agenda Item will be Robert Gomez.

t Division
artment of Public Works

011-378
cont.

c. *Current options:*
   i. State increases its funding
   ii. County increases its funding (the SMBRC will likely be requesting that we provide the additional $60,000)

d. *Recommendation:* County must decide if we are willing to increase our funding commitment. If not, the State must find additional funds. If the State refuses, the County must consider whether we are willing to commit our funds to 408 permit review by the Corps that may not be completed. If the State refuses to provide additional funding, we recommend withdrawing all County funding for the 408 permit review.

3. How to transfer funds from State Coastal Conservancy to the County?
   a. *Summary:* The County has informally agreed to fund $190,000 of the WRDA review, and the State the remaining $302,000. There is not any current mechanism for these funds to be transferred to the County.

   b. *Current options:*
      i. The County and the State Coastal Conservancy enter into a new agreement, authorizing this funding. The County will fund WRDA review in the interim months
      ii. The State and the SMBRC amend the existing agreement between the SMBRA and the SCC, adding the County as a party and delivering funding directly to the County
      iii. The SMBRA and the County enter into a new agreement, keeping the agreement between the SMBRA and the SCC intact

   c. *Next Steps/Recommendation:* According to Counsel, our best option is to enter into a new agreement between the County and the SCC. We recommend this course of action (Option i) if the State is amenable. Option ii is not recommended. Option iii above may be possible, but may be less politically feasible.

O11-378 cont.

Ballona Wetlands Restoration Project
Meeting with US Army Corps of Engineers Colonel Kimberly Colloton

Tuesday, March 18, 2014, 1:00 to 2:00 p.m.

BACKGROUND INFORMATION AND CURRENT ISSUES

1. Will the Corps' 408 permit review cost more than $492,000?
   a. *Summary*: On 4/9/2012 the Stephen Vaughn of the Corps provided a "price tag" of $492,000 for 408 Permit review, but this did not include Regulatory staff review of the NEPA document, which will require an additional $50,000 to maintain pace with the 408 permit schedule of 18-24 months. Without this allocation, Regulatory staff estimate a 6-month extension in the review schedule.

   b. *Current options*:
      i. LA County increases its funding commitment (currently at $190,000, calculated as 50% of the review costs for FCD-related work). We told the SCC this option is currently off the table.
      ii. The State increases its funding commitment (currently $302,000)
      iii. Corps Asset management staff revises its estimate downward and makes funds available to the Regulatory staff, keeping the total at $492,000. This could result in potential shortfalls later.
      iv. Corps Regulatory staff performs its review without WRDA funding, potentially affecting project review schedule. Aaron Allen estimates this would create an approximately 6-month delay.

   c. *Next Steps/Recommendation*: The SCC must choose from options ii, iii, or iv above.

2. SMBRC / SCC $60,000 "shortfall"
   a. *Summary*: Due to unknown reasons, the State was only planning to provide $240,000 of the required $302,000 for their share of WRDA funding for the 408 permit review.

   b. *Background*: In June 2013 the State Coastal Commission and the SMBRC created an agreement between the Coastal Commission and the SMBRA (JPA) providing $300,000 of funding to the JPA, $60,000 of which was set aside for SMBRC's communication budget. Public Works was sent a copy of this agreement, but was not part of the agreement formation, and was not aware of the intended use. According to Counsel, this agreement is not sufficient by itself for the County to accept funds for WRDA funded review by the Corps. Additionally, utilizing the JPA requires catching up on required audits as well as the passing of a JPA budget by the SMBRC and the County Board of Supervisors.

O11-378 cont.

bay restoration commission

STEWARDS OF SANTA MONICA BAY

santa monica bay restoration commission ✐ 320 west 4th street, ste 200; los angeles, california 90013

213/576-6615 phone ✐ 213/576-6646 fax ✐ www.smbrc.ca.gov

December 11, 2014 **Agenda Item: 3c**

To: SMBRC Governing Board

From: Tom Ford, Executive Director

Re: The Santa Monica Bay Restoration Authority (Authority) Fiscal Year (FY) 2014-2015 Budget

Action Requested of the Governing Board:

- Approval of the Authority FY 2014-2015 Budget

O11-378 cont.

Background

The Authority was created by a joint exercise of powers agreement between the Santa Monica Bay Restoration Commission (SMBRC) and the Los Angeles County Flood Control District (District) and operates as a local public agency within the Santa Monica Bay Watershed and the jurisdictional boundaries of the SMBRC and the District. The purpose of the Authority is to broaden funding opportunities for projects within the Santa Monica Bay Watershed.

The SMBRC is responsible for the administration of the Authority. The District is responsible for the Authority's Fiscal Controls. At its October 1, 2014 meeting, the Authority approved the FY 2014-2015 budget and the three ongoing programs associated with it. The Los Angeles County Board of Supervisors is expected to approve the budget currently before this body at its January or February meeting.

The Authority provides an efficient method by which state agencies can fund important programs of the Santa Monica Bay National Estuary Program. The three programs contained in the budget, the Clean Boating Education Program, the Wetlands Monitoring Program, and the Malibu Lagoon Monitoring Program, are part of the annual Work Plan that is approved by this Governing Board each year. The funding for these projects will pass from the California State Parks and Recreation agency (Boating and Malibu programs) and the US EPA (Wetlands program) to the Authority to be allocated to The Bay Foundation staff responsible for the three programs.

The detailed budget as well as a description of the three programs are attached to this report.

SMBRA BUDGET 2014-2015

		BUDGET Oct 2014-Sept 2015
BOATER PROGRAM		
Task 1. Education and Outreach Program Management		**$16,875.00**
Task 2. Pumpout Station Monitoring		**$6,041.67**
Task 3. Honey Pot Day Unlimited - Mobile Pumpout Outreach		**$5,833.33**
Task 4. Pilot Harbor Staff Presentations		**$0.00**
Task 5. Boating Events		**$33,958.33**
Task 6. California Clean Boating Network/Newsletter		**$11,208.33**
Task 7. Outreach Materials		**$31,875.00**
Overhead		**$10,579.17**
Total Boater Program		**116,370.83**
WPDG PROGRAM		
Salaries and Benefits:		**$55,400.00**
Contractual		**$30,000.00**
Equipment		**$0.00**
Supplies		**$1,500.00**
Travel		**$3,100.00**
Other		**$0.00**
Overhead		**$0.00**
Total WPDG Program		**$90,000.00**
Malibu Lagoon - Post-Restoration		
1 Project Management		**$22,648.11**
2 Download and clean data, maintain database		**$7,763.66**
3 Field surveys		**$24,132.34**
4 Chemistry lab analyses		**$20,571.43**
5 Benthic macroinvertebrate lab analyses		**$26,331.43**
6 Avian monitoring (Cooper Ecological Monitoring Inc.)		**$9,642.86**
7 Fish Surveys (none)		**$0.00**
8 Annual reporting		**$5,357.14**
9 Data probe maintenance		**$6,428.57**
10 Date probe replacement		**$3,214.29**
11 Mileage		**$1,210.71**
12 Equipment and supplies		**$3,750.00**
13 Volunteer Management		**$9,145.44**
Total ML Post-Restoration Program		**$140,195.98**
TOTAL GRANTS BUDGETS		**346,566.81**
ANNUAL AUDIT	**$**	**14,850.00**
AUDITOR-CONTROLLER FEE - 10%	**$**	**1,485.00**
TOTAL SMBRA BUDGET FOR 2014-2015		**362,901.81**

O11-378 cont.

bay restoration authority

santa monica bay restoration authority ✐ 320 W 4th Street, Suite 200; Los Angeles; California 90013
213/576-6615 phone ✐ 213/576-6646 fax

Statewide Clean Boating Education Program
Clean Vessel Act Grant

Scope of Services and Schedule of Deliverables
Work to be performed April 2014 - January 2015

1. Education and Outreach Program Management
Manage statewide outreach and education efforts to promote proper sewage management and sustainable boating practices.

Statewide

- Complete specialized bi-weekly reporting to CVA grant manager on accomplishments, and give notification of upcoming events, new outreach materials, and future tasks.
- Manage grant invoicing, reporting, and timelines (i.e. grant management and work completion).

Northern California

- Work with program partners (i.e. San Francisco Estuary Partnership, Division of Boating and Waterways) to implement statewide CVA education program.
- Hold annual planning meetings with program partners to coordinate outreach efforts.

Southern California

- Develop annual work plan for Southern California outreach campaign, in accordance to CVA guidelines.
- Create and submit payment request and progress reports.
- Maintain web resources for Boating Education Program.
- Hold biweekly planning meetings with grant manager.

2. Pumpout Station Monitoring
Monitor public sewage pumpout facilities in California, which have been funded with CVA grant funds, in order to maximize performance level of facilities.

- Conduct quarterly visits of vessel sewage pumpout facilities in Southern California to check functionality and condition of pumpouts. Staff will write and submit quarterly reports of visits to grant manager. Reports are due by the last day of the monitoring month.

3. Honey Pot Day Instructional Video – "Honey Pot Live"
Develop a Honey Pot Day program for the web where boaters take an online "class" to receive a free mobile pumpout.

O11-378 cont.

bay restoration authority
STEWARDS OF SANTA MONICA BAY

- Develop an online class for boaters about proper sewage management, effects of illegal sewage discharge. Boaters must view the Division of Boating and Waterways and San Francisco Estuary Partnership sewage pumpout video, read educational materials regarding boat sewage, and complete an exam in order to receive a voucher for a free mobile pumpout. Honey Pot Live will be promoted in Marina del Rey, King Harbor, Long Beach, and Los Angeles harbors. The video will be accessible via the Honey Pot Day website. Promote the program via marina and yacht club presentations, flyers, press releases, newsletters, web resources, and social media.
- Coordinate voucher, invoice, and registration processes with mobile pumpout companies.
- The goals of these videos are to decrease staff time and travel expenses to reach boaters, and increase number of boaters reached.
- Performance evaluation will be measured by number of boaters who complete the class, number of vouchers redeemed, number of new contracts with mobile pumpout companies, and gallons of sewage pumped.

4. Boating Events
Promote sustainable boating practices, such as proper management of vessel sewage, at public boating events.

- Conduct outreach at 10 boating events throughout the year including, but subject to change: Sunroad Boat Show (Jan 23-26), Newport Beach Boat Show (April 3-6),Marina Fest (May), Sea Fair (May), Dana Point Boat Show (June), and Santa Barbara Harbor and Seafood Festival (October), Santa Monica City Festival (June), Fiesta Hermosa (May), Manhattan Beach Hometown Fair (October),and Torrance Environmental Day (June).
- Participate in marina and yacht club events and offer presentations and technical assistance throughout the year, as needed.
- Coordinate Coastal Cleanup Day in Marina del Rey, where vessel sewage and other boating related pollution issues will be highlighted.
- Subject to grant manager approval and availability of travel funds, attend at least two marine related conferences and trade shows (e.g., SOBA, and MRA, CA Association of Harbor Masters & Port Captains conferences).
- Coordinate volunteers to conduct face-to-face outreach at boat shows and other events.
- Develop an interactive booth space to attract boaters in addition to use of Boater Kits. Interactivity, subject to change, will include demonstrations, boater activity participation, Boater Guide app display kiosk, and more.
- Produce materials to acquire event sponsorship (i.e. coupons, flyers, signs, etc.).

O11-378 cont.

5. California Clean Boating Network & Changing Tide Newsletter
Coordinate with statewide CCBN partners to promote information exchange of new programs and ideas.

The CCBN consists of three chapters: Northern, Delta, and Southern California chapters. The Northern California chapter is managed by the Division of Boating and Waterways Statewide Boater Program and California Coastal Commission's Clean and Green Campaign. The Delta chapter is managed by Contra Costa County. Each chapter hosts networking events, in their

region, to discuss issues related to boating and maintaining clean waterways. All three chapters contribute Changing Tide articles for their 2-page sections and co-author cover articles.

Newsletters are published three times per year, typically in spring, summer, and winter. The planning of each issue includes one conference call to plan the timeline, choose articles, and discuss other production details. TBF is the lead editor and graphic designer. Research, writing, and graphic design take up about 40 hours of staff time per issue and consulting services for graphic design. On average, 5,700 newsletters are printed: 500 are purchased and distributed by Contra Costa County, 2,700 are purchased and distributed by Division of Boating and Waterways Statewide Boater Education Program, and 2,500 are purchased and distributed by The Bay Foundation. CVA funds pays for 68% of total cost.

- Collaborate with CCBN partners to produce three issues of the Changing Tide newsletter.
- Send staff to Northern California and Delta CCBN meetings, as needed.
- Print approximately 5,700 newsletters per issue, subject to change based on varying number of subscribers.
- Distribute newsletters to marinas, yacht clubs, boating organizations, and marine businesses in San Diego, Orange, Los Angeles, Ventura, and Santa Barbara Counties.

6. Outreach Materials

Create outreach materials to promote sustainable boating practices, such as proper management of vessel sewage, and a performance evaluation tool to measure program success.

6A. Southern California Boater's Guide, 4th Edition and Phase III

- Distribute and promote the Southern California Boater's Guide, 4th Edition.
- Continue to update the e-book, which includes developing short sewage related videos (10-20 seconds in length), updating design and photo images, and revising content such harbor information, telephone numbers, websites, boating laws, statistics, etc.
- Develop mobile phone application for the Smart Boater's Guide. This mobile phone application will include maps from the Boaters Guide, searchable list of mobile pumpouts and other environmental amenities, and real time, user-based comments on environmental amenities such as logging broken pumpouts.

6B. Clean Boating Interactive Booth Space

- Produce an interactive booth space to draw boaters to the booth and give boaters an experience they can remember. The experience based outreach tool will eventually replace the boater packets, thus decreasing material waste and printing expenses. Interactivity, subject to change, will include demonstrations, boater activity participation, Boater Guide app display kiosk, and more. Final ideas will be developed with input by Division of Boating and Waterways Statewide CVA partners and will require final approval by the grant manager.

6C. Boater Packets

- Coordinate fulfillment of boater packets.
- Distribute outreach materials to boaters and volunteers.
- Administer a performance evaluation tool (i.e. clean boating pledge and survey).

O11-378 cont.

bay restoration authority
STEWARDS OF SANTA MONICA BAY

6D. Tidebooks

- Produce 4,000 tidebooks for Southern California

- Update environmental facilities in Tidebook (i.e. individual maps of Southern California harbors from Punta Morro to Morro Bay, locations of sewage pumpout stations and other environmental facilities, and clean boating information).

- Distribute tidebooks at boating events, presentations, boating supply stores, etc.

O11-378 cont.

bay restoration authority

santa monica bay restoration authority ✐ *320 W 4th Street, Suite 200; Los Angeles; California 90013*
213/576-6615 phone ✐ *213/576-6646 fax*

Wetlands Monitoring Program Summary

EPA Wetland Program Development Grant

Abstract:
Monitoring and assessment strategies developed by the State of California and the US Environmental Protection Agency (EPA) universally call for coordinated and consistent approaches to monitoring and assessment. Unfortunately, our ability to meet this goal is limited. Although we have made progress over the last several years in developing standardized rapid (i.e. Level 2) assessment methods, there has been significantly less attention paid to standardized intensive (i.e. Level 3) assessment methods. Intensive assessment methods provide information on ecological function and process, are more diagnostic of restoration performance and regulatory compliance, and are important as a validation measure for rapid assessment methods. The lack of consistent approaches to intensive assessment limits our ability to share information between projects, precludes use of Level 3 data in ambient monitoring, and fosters redundancy as each project develops its own protocols and assessment techniques. With eight major coastal wetland restoration projects currently being planned along the Southern California Bight, timing is optimal for development and testing of standardized Level 3 assessment procedures. This program sets out to accomplish that goal by compiling and analyzing existing assessment procedures, developing proposed standardized approaches in coordination with technical advisors, exploring the covariance between these new Level 3 protocols and existing Level 2 (i.e. California Rapid Assessment Method) assessment tools, and developing protocol documents and training materials to facilitate information transfer to other projects.

O11-378 cont.

Specific project tasks are as follows:

Task 1: Develop Indicators and Preliminary Protocols
This task will build on previous work conducted by the Wetlands Recovery Project members to develop indicators for Level 3 assessment of coastal wetlands. Existing monitoring plans and reports, state and federal guidance documents, and peer-review journals will be compiled and reviewed.

Task 2: Refine Level 3 Monitoring Protocols
The preliminary protocols developed in Task 1 will undergo Technical Advisory Committee (TAC) review to develop final Level 3 protocols for field testing as part of this task. Public meetings of the TAC will provide direct feedback and discussion of the proposed protocols, and will serve as an opportunity to engage science experts and agencies' staff and to refine protocols. Additionally, a Quality Assurance Project Plan will also be prepared and submitted to the EPA as part of this task.

Task 3: Field Test Level 3 Protocols

Sites will be selected to cover the diversity of habitats and conditions, including levels of degradation and restoration, represented in southern California wetlands. Protocols will be selected for each wetland based on habitat (e.g. does the site have submerged aquatic vegetation) and conditions (e.g. muted or restricted tides). Initial field testing will determine feasibility, level of effort, field or lab time, and cost of each protocol. Field protocols will be implemented at all sites over an 18-month period to capture seasonal variability, and allow some repetition of protocols. In addition to reporting on application of the protocols, data will be summarized to produce an initial Level 3 assessment of condition in the study wetlands. These results will be compared to Level 2 data previously collected to demonstrate an integrated assessment of coastal wetland health.

Task 4: Develop Level 3 Monitoring Manual

The final monitoring and assessment documents prepared under Task 3 will undergo TAC review to develop a Level 3 monitoring and assessment manual for southern California coastal wetlands as part of this task. The final Level 3 monitoring manual will be developed through an iterative, public process and the final document will include detailed protocols, recommended priority for implementation (e.g. whether to monitor vegetation or birds), level of effort, field and lab time required to implement protocols.

Task 5: Outreach

Program partners will present the progress and results of the Level 3 protocol development and the Level 3 manual throughout the program period. Presentation will be made at state and national scientific conferences to discuss and receive feedback on the process to develop Level 3 protocols. In addition, program partners will meet directly with monitoring practitioners to discuss the benefits and application of Level 3 monitoring protocols.

O11-378 cont.

bay restoration authority

santa monica bay restoration authority ✐ 320 W 4th Street, Suite 200; Los Angeles; California 90013
213/576-6615 phone ✐ 213/576-6646 fax

MALIBU LAGOON – RESTORATION AND ENHANCEMENT PROJECT – MONITORING GRANT

Through a grant from California Department of Parks and Recreation to the Santa Monica Bay Restoration Authority (SMBRA), the SMBRA is organizing and performing all required surveys, monitoring, data analysis and reporting to meet the required Coastal Development Permit conditions for the Malibu Lagoon Restoration and Enhancement Project (COP # 4-07-098) as documented in Biological and Water Quality Monitoring Plan and Vegetation Assessment and Monitoring Plan. SMBRA will compile and analyze all data collected each year and produce a cumulative annual report. The report will meet the reporting requirements outlined in the Coastal Development Permit. SMBRA will also provide coordination and supervision for volunteer plant maintenance crews.

GRANT TASKS:

Task 1 – SMBRA will manage the entire project including all sub-contractors to ensure all required monitoring and reporting is completed. SMBRA will prepare a single invoice for work completed during each invoicing period. It is estimated that project management will require three days per month.

O11-378 cont.

Task 2 – Conduct continuous monitoring of water quality using three Yellow Springs Instruments (YSI) data sondes to collect dissolved oxygen, specific conductivity, salinity, pH, Oxygen Reduction Potential (ORP), water temperature and depth every 30 minutes. Conduct monthly data downloading, calibration and re-deployment of YSI data sondes, data cleaning and maintenance of the project database.

Task 3 – Field surveys and water quality data collection will be conducted twice annually, except for benthic macroinvertebrate (see details below). Field surveys include the following:

- Water quality vertical profiles at multiple depths at six locations: pH, Specific conductivity, dissolved oxygen, salinity, temperature;
- Surface and bottom water quality at six locations;
- Topographic cross sectional surveys across five transects;
- Three vegetation transects;
- Vegetation photo point monitoring at three locations;
- Submerged aquatic vegetation (SAV) and algae on eight transects;
- Sediment sample collection from five locations;
- Benthic macroinvertebrates: three samples (2.5 cm core, 10 cm core, littoral sweep) from eight stations per event, five fall events during closed condition and three spring events during open condition.

Task 4 – Chemistry lab analyses will be conducted twice annually by a state-certified laboratory and will include the following:

- Surface and bottom water quality: nitrate as nitrogen, ammonia as nitrogen, total Kjeldahl nitrogen, orthophosphate, total phosphorous, and chlorophyll-A
- Sediment: grain size, total organic carbon, total nitrogen, and total phosphorous.

Task 5 – Benthic macroinvertebrate lab analyses will be conducted by taxonomic professionals.

Task 6 – Avian monitoring will be conducted by an ornithologist a minimum of three days per quarter or 12 days per year. An annual report will be produced that compares the pre-restoration and post-restoration data and changes over time.

Task 7 – None

Task 8 – The Bay Foundation will compile and analyze all data collected on an annual basis and create an Annual Report. The Annual report will satisfy the Coastal Commission's reporting requirements for this project.

O11-378 cont.

Task 9 – Data Probe maintenance: the data sondes will be sent back to YSI annually for maintenance. The probe sensors for ORP, pH, and conductivity will be replaced annually. The average maintenance and replacement cost per year is $2,000.00 per sonde or $6,000.00 for three data sondes.

Task 10 – The two oldest probes may need replacement during the five year monitoring program. Replacement of each probe will cost $7,500.00 or $15,000.00 to replace two data sondes over the course of the project.

Task 11 – Mileage to travel to and from the Lagoon to conduct monitoring and field surveys. Mileage charges to and from State Certified laboratory and to acquire necessary monitoring supplies. It is estimated that these tasks will require 2000 miles per year of travel.

Task 12 – Equipment and supplies includes calibrating solutions and water quality standards to calibrate data sondes and water quality probes, glassware and plastic sampling containers, nets, waders, and miscellaneous equipment associated with sampling. It is estimated that equipment and supplies will cost $2.500.00 per year.

Task 13 – Volunteer coordination and supervision. Advertise for volunteers on the internet, fill out volunteer waiver forms, supply and deliver tools, train and supervise volunteers, track volunteer hours and work accomplished. Three monthly events for one year.

Los Angeles District Attorney
Re: Information Re: Complaint against County Auditor /Controller
Via Email

5/14/2015

District Attorney,

This information is provided in regard to a complaint made against the Los Angeles Auditor Controller for unauthorized use of public funds from the account of the Santa Monica Bay Restoration Authority (Authority). A Joint Powers Agreement undertaken pursuant to the State of California Government Code created Authority. Parties to the agreement are the County of Los Angeles and the Santa Monica Bay Restoration Commission.

A response to a request filed under the Public Records Act was received from the Authority. Some of the information relates to fiscal procedures adopted by the Agency. Those procedures relate directly to disbursements of funds by the Auditor Controller, without the required co-authorization of the two members of the JPA. An index was created for the exhibits that came with the PRA response for easy reference.

O11-378 cont.

The Santa Monica Bay Restoration Foundation, a private business, received the majority of funds disbursed by the Auditor/Controller, without full authorization of the both parties to the JPA.

The funds provided were grants, contracts, or a combination, thereof.

The current and former Executive Officer of the SMABA are and or were paid employees of the aforesaid business. An appearance of impropriety arises in my opinion. This matter will be shared with the California Fair Political Reform Commission as conflict of interest is within that jurisdiction.

This information does have bearing on the funds disbursed by the Auditor/Controller in that the Authority must first have approved expenditures. Then BOS and SMRBC authorizations are required by the JPA.

The Authority procedure for fiscal matters is set forth in its adopted Fiscal Procedures.

STATE ATTORNEY GENERAL APPROVAL OF AGENCY FISCAL PROCEDURE

The Deputy Attorney General was not present at the meeting wherein the Authority adopted its Fiscal Procedure. The resolution was signed on the same day as the meeting. It contained a field for the signature of the Attorney General. The signature field was left blank.

The Agency did not seek the approval of the Fiscal Policy from the Attorney General.

FISCAL PROCEDURE

There are at least two avenues for dispersion of funds from the SMRBA accounts, grants or contracts.

The fiscal procedure adopted by the Agency designates the Executive Officer as Purchasing Agent. The Executive Officer may delegate that authority.

CONTRACTS

Section 3.2(c) of the Fiscal Procedure appears to be an unlawful attempt to waive California Contract Code. That particular language lets the Executive Officer waive bid and notice requirements for contracts over $25,000.

This circumstance could represent how contract funds reached the Santa Monica Bay Restoration Foundation, in avoidance of public bid, advertising, or scrutiny.

Section 3.2 (c) reads as follows:

"Authorizes the Executive Officer or his designee to ***waive the requirement*** *of a three-* ***bid procedure and advertisement of bids*** *for the expenditures in excess of $25,000* ***when the bidding procedure is not in the best interest of the WCA for project*** *name; and."*

The term "WCA" is not defined nor is the term "best interest". Contract Code is not cited to for this specific instance.

O11-378 cont.

GRANTS

The Fiscal Procedure limits Grants to only one line.

Under Section 10, the Fiscal Procedure cites that grants "from" 501(c)(3) organizations do not require competitive bidding.

Note: It appears the language in the Procedure is wrong and the term "*fram*" was intended to be "to".

If grants were from the Agency to the Santa Monica Bay Restoration Foundation, the award would avoid a competitive bidding process and public scrutiny. There is no requirement to apply for a grant, only a way to receive one.

POTENTIAL FRAUD

State legislation created one of the two members of the Joint Powers Agreement, the Santa Monica Bay Restoration Commission. In accordance with that legislation the State Water Resources Control board shall provide administrative services to the Commission. Read conversely, any entity that is not the State Water Resources Control Board shall not provide administrative services to the Commission.

O11-378 cont.

Since around 2005, an employee of the Santa Monica Bay Restoration Foundation claims to have been the Executive Director of the Commission, with no paper trail in the case of the first purported Executive Director.

In the case of the second, the Commission entered into a Memorandum of Agreement with the Santa Monica Bay Restoration Foundation. The agreement stated that the private business could "also" provide Administrative Services to the Commission, contrary to State Law.

The Commission cites that U.S. EPA has provided funds to the private business to provide administrative services to the Santa Monica Bay Restoration Commission.

However, the U.S. EPA does not have the jurisdiction to change or influence the California State Law.

The legislation (SB 1836) makes it abundently clear, that administration services shall be provided by the State Water Board , only.

In this case, the JPA requires the Executive Director of the Santa Monica Bay Restoration Commission to act as Executive Officer of the Authority.

POTENTIAL FOR CONFLICT

The past and present Executive Officer of the Santa Monica Bay Restoration Authority may be conflicted because the Authority has provided either grants or contracts or a combination, thereof, directly to the Executive Officer's private employer.

The California Political Reform Act requires the Authority to adopt policy implementing the Act. Certain persons holding Authority positions must file Form 700 Financial Disclosures Forms with the State to avoid conflict.

Here, the Authority as a whole, has not complied at all. No policy has been adopted and filed with the State. No financial disclosures have been made. Any potential conflict of interest is currently veiled, thereby.

INFORMATION STORAGE

It appears the Agency is not retaining its records in accordance with the Records Retention Act, including public financial information regarding grants to or contracts with the Executive Officers private employer.

O11-378 cont.

COMPLIANCE WITH USACE ACCOUNTING

The SMRBA has not yet met its obligation to provide accounting records to the US Army Corp of Engineers in accordance with the non-federal local sponsor agreement it entered into with the USACE in 2005 and ended in 2012.

This information was delivered to me by FOIA from the District. April 27, 2015. The required accounting records are two years overdue. It is unknown where the financial records are stored since the Authority had not adopted a records retention policy.

STAFF OF SMABA

The Agency only provides records of three staff members. However, other persons acting as staff, at public meetings commonly engage in unspecified duties for the Agency such as providing staff reports on agenda items and recording the minutes of the Authority meetings. Many of the meetings were videotaped.

The Agency has no record of the person recording the minutes of its public meetings. The author is a ghost-writer.

One of the persons, Scott Valor, is affiliated with the Santa Monica Bay Restoration Foundation.

For you information,

John Davis
PO 10152
Marina del Rey Ca. 90295

INDEX OF EXHIBITS

EXHIBIT 1 - RESPONSE TO REQUEST FOR PUBLIC RECORDS

EXHIBIT 2 - 2/24/2015 SMRBA MEETING NOTICE AND AGENDA MEETINGS MINUTES ARE PROVIDED WERE NOT REQUESTED

EXHIBIT 3 - RECORDS PROVIDED THAT WERE NOT REQUESTED

EXHIBIT 4 - STAFF REPORT FOR FISCAL PROCEDURES

EXHIBIT 5 - FISCAL PROCDURES

EXHIBIT 6 - RESOULITION APPROVING FISCAL PROCEDURES NOT SIGNED BY DEPUTY ATTORNEY GENERAL

O11-378 cont.

EXHIBIT 1

O11-378
cont.

CALIFORNIA
Water Boards

Edmund G. Brown Jr.
Governor

Matthew Rodriquez
Secretary for
Environmental Protection

State Water Resources Control Board

April 3, 2015

John Davis
P. O. Box 10152
Marina Del Rey, CA 90045

Dear Mr. Davis:

On March 27, 2015, Dr. Guangyu Wang received your request under the Public Records Act requesting documents of the Santa Monica Bay Restoration Authority. I am responding on behalf of Dr. Wang to your request. See responses below. Some of your requests are questions and not requests for documents. The Public Records Act requires the state agency to provide existing documents, not to create new documents.

I have enclosed responsive documents in the possession of the Santa Monica Bay Restoration Authority.

1. Provide any and all public records that demonstrate public notice of the meeting of the Santa Monica Bay Restoration Authority on February 24, 2005. **The same document is responsive to Items 1 and 2. See enclosed.**

2. Provide any and all public records that demonstrate the agenda of the Santa Monica Bay Restoration Authority on February 24, 2005. **See response to Item 1.**

3. Provide any and all public records that demonstrate the Santa Monica Bay Restoration Authority submitted a Conflict of Interest Policy and or any Policy to the California Fair Political Practices Commission. **No responsive records.**

4. Provide any and all public records that demonstrate the Santa Monica Bay Restoration Authority adopted a Records Retention Policy in conformance with the California Records Retention Act. **No responsive records.**

5. Provide any and all public records that demonstrate the Santa Monica Bay Restoration Authority fully conformed with California Contract Code by issuing Requests for Proposals (RFPS) for any and all contracts entered into by the body. **No responsive records.**

6. Provide any and all annual budgets authorized by both bodies that signed the Joint Powers Agreement to create the Santa Monica Bay Restoration Authority. **Records are enclosed.**

7. Provide the names of all current and or former "staff" members of the SMRB Authority, excluding Jack Topal and G. Wang. **There are no records specifically responsive to your**

O11-378 cont.

request. As set forth in Section 9 of the Santa Monica Bay Restoration Authority Joint Exercise of Powers Agreement (JPA), the Executive Director of the Santa Monica Bay Restoration Commission "shall serve *ex officio*, without additional compensation, as the Executive Officer of the Authority". You have previously been provided a copy of that Agreement. Currently, Tom Ford is the Executive Officer of the JPA.

8. Provide any and all records that demonstrate exactly what entity paid the "staff" of SMRB Authority, excluding Jack Topal and G. Wang. **As set forth in Section 9 of the JPA, the Executive Director of the Santa Monica Bay Restoration Commission "shall serve *ex officio*, without additional compensation, as the Executive Officer of the Authority". The Executive Director of the Commission is an employee of the Santa Monica Bay Restoration Foundation and paid by the Foundation. See Joint Powers Agreement and Santa Monica Bay Restoration Commission Annual Workplan, which is on the Commission's website at www.smbrc.gov.**

9. Provide the staff report for item 2 referenced in the minutes of the SMRB Authority dated 2/24/2005. **See enclosed record.**

10. Provide the **Fiscal Policy** adopted by the SMRB Authority, as recorded in the minutes of the SMRB Authority dated 2/24/2005. **See enclosed records.**

11. Provide the name of the person who recorded the minutes of the SMRB Authority dated 2/24/2005. **No responsive records.**

12. Provide any records that demonstrate representation by any State and or County of Los Angeles Lawyers to the SMRBA at the meeting of 2/24/2005. **No responsive records.**

13. Provide the name of any private lawyers acting as "staff" of the SMRB Authority at the meeting of 2/24/2005. **No responsive records.**

If you have any questions, you can reach me at Frances.McChesney@waterboards.ca.gov or at (916) 341-5174.

Sincerely,

Frances L. McChesney
Attorney IV

Enclosure

cc **[via email only]**

Dr. Guangyu Wang
Guangyu.Wang@waterboards.ca.gov

Scott Valor
svalor@santamonicabay.org

O11-378 cont.

O11-378
cont.

EXHIBIT 2

320 W. Fourth Street
2nd Floor
Los Angeles, CA 90013
213/576-6615
Fax 213/576-6646
www.santamonicabay.org

Our mission:
To restore and enhance the Santa Monica Bay through actions and partnerships that improve water quality, conserve and rehabilitate natural resources, and protect the Bay's benefits and values

NOTICE OF
MEETING OF THE
GOVERNING BOARD of the
SANTA MONICA BAY RESTORATION AUTHORITY

Date: Thursday, February 24, 2005
Time: Upon Adjournment of SMBRC Governing Board Meeting

Meeting Location:
Del Rey Yacht Club
13900 Palawan Way, Marina del Rey CA 90292
(see directions below)

DRAFT AGENDA

1. Appointment of Acting Executive Officer
2. Consideration of adoption of Fiscal Policies
3. Consideration of adoption of Fiscal Procedures
4. Consideration of authorization of Executive Officer to enter into a cost sharing agreement with US Army Corps of Engineers for lower Ballona Watershed Study
5. Consideration of authorization of Executive Officer to submit Proposition 50 IRWM grant proposal on behalf of the Malibu IRWM coalition
6. Adjournment

O11-378 cont.

***

For additional information concerning the meeting, please contact Stefanie Hada at 213-576-6804 or by e-mail at shada@rb4.swrcb.ca.gov .

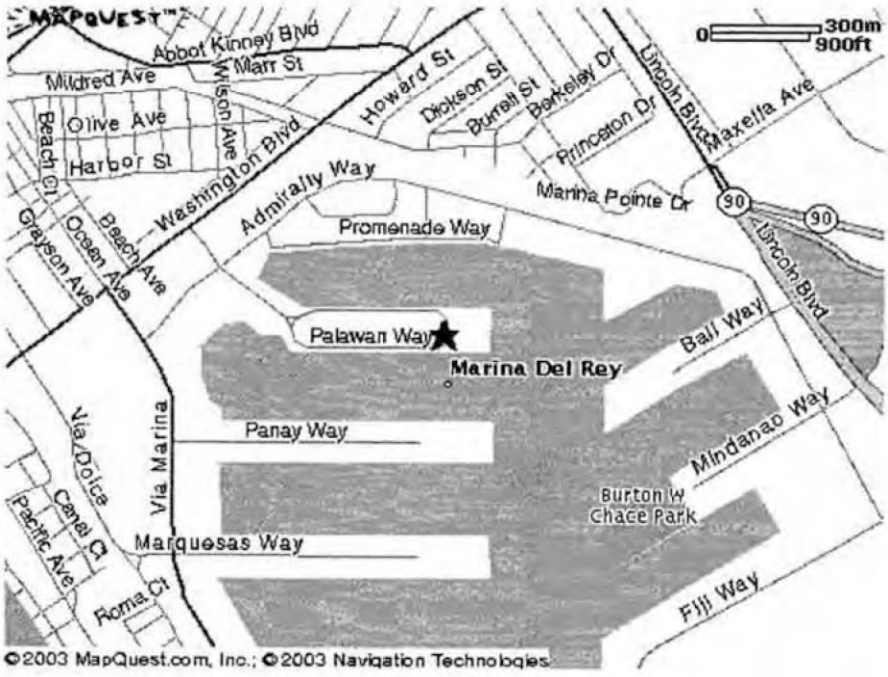
If any individual requires a disability-related modification or accommodation to attend or participate in the meeting, please contact Sonja Gettel, LARWQCB at 213-576-6801 at least 3 days prior to the meeting.

***

Directions:

From LAX or the 105 Fwy: Travel north on Sepulveda Blvd. Merge onto Lincoln Blvd. Follow Lincoln Blvd. north to Fiji Way. Turn left onto Fiji Way, turn right on Admiralty Way. Follow Admiralty Way to Palawan Way. Left on Palawan to end of loop at Del Rey Yacht Club.

From the North: Travel on 405 South, exit on Washington Blvd., (left onto Sawtelle, right onto Washington Blvd). Head west and make a left on Via Marina, left on Admiralty Way and right on Palawan to end of loop at Del Rey Yacht Club.



O11-378
cont.

****

State of California

California Environmental Protection Agency

O11-378
cont.

EXHIBIT 3

SANTA MONICA BAY RESTORATION AUTHORITY

Resolution Approving Work Plan, Budget and Grant Agreement To Implement the Clean Boating Education Program

WHEREAS, in 1996 the Santa Monica Bay Restoration Project established the Boater Education Program (BEP) with the goal of reducing pollution from recreational boating activities in local small craft harbors and coastal areas; and

WHEREAS, the Santa Monica Bay Restoration Authority (Authority) was created by a joint exercise of powers agreement between the Santa Monica Bay Restoration Commission (SMBRC) and the Los Angeles County Flood Control District (District) and operates as a local public agency within the Santa Monica Bay Watershed and the jurisdictional boundaries of the SMBRC and the District., with the purpose of broadening funding opportunities for projects within the Santa Monica Bay Watershed; and

WHEREAS, the Santa Monica Bay Restoration Foundation developed a work plan for boater education programs in Southern California that are funded by the California State Department of Boating and Waterways (DBW); and

WHEREAS, DBW has developed a grant agreement with the Authority, whereby the BEP would continue to implement its program targeting Southern California recreational boaters; and

WHEREAS, the BEP workplan includes additional tasks for coordinating and consulting with other regional boater education programs funded by the DBW; and

WHEREAS, the annual budget for the BEP will fund the statewide program, including the hiring of additional staff; and

WHEREAS, at the local level, the Authority will contract with and coordinate with the Santa Monica Bay Restoration Foundation (Foundation) to carry out the BEP grant, including use of Foundation staff and administrative services;

NOW, THEREFORE, BE IT RESOLVED that the Santa Monica Bay Restoration Authority Governing Board hereby:

1. Approves the Boater Education Program Work Plan and Budget Relevant to the Grant Agreement, as described above;
2. Approves the Grant Agreement with the California State Department of Boating and Waterways;
3. Authorizes the Chair or the Chair's Designee to execute any agreements or contracts necessary to carry out the program, as described above.

The foregoing resolution was passed by the Santa Monica Bay Restoration Authority on December 22, 2010.

Signed: _____ Date: 12/22/2010
John Sibert, Chair

O11-378 cont.

SANTA MONICA BAY RESTORATION AUTHORITY

Resolution Approving Work Plan, Budget and Grant Agreement To Implement the Clean Boating Education Program

WHEREAS, in 1996 the Santa Monica Bay Restoration Project established the Boater Education Program (BEP) with the goal of reducing pollution from recreational boating activities in local small craft harbors and coastal areas; and

WHEREAS, the Santa Monica Bay Restoration Authority (Authority) was created by a joint exercise of powers agreement between the Santa Monica Bay Restoration Commission (SMBRC) and the Los Angeles County Flood Control District (District) and operates as a local public agency within the Santa Monica Bay Watershed and the jurisdictional boundaries of the SMBRC and the District, with the purpose of broadening funding opportunities for projects within the Santa Monica Bay Watershed; and

WHEREAS, the Santa Monica Bay Restoration Foundation would continue to develop a work plan for boater education programs in Southern California that are funded by the California State Department of Boating and Waterways (DBW); and

WHEREAS, DBW has developed a grant agreement with the Authority, whereby the BEP would continue to implement its program targeting Southern California recreational boaters; and

WHEREAS, the BEP workplan includes tasks for coordinating and consulting with other regional boater education programs funded by the DBW; and

WHEREAS, the budget for the BEP will fund the statewide program, including the hiring of additional staff; and

WHEREAS, at the local level, the Authority will contract with and coordinate with the Santa Monica Bay Restoration Foundation (Foundation) to carry out the BEP grant, including use of Foundation staff and administrative services;

NOW, THEREFORE, BE IT RESOLVED that the Santa Monica Bay Restoration Authority Governing Board hereby:

1. Approves the Boater Education Program Work Plan and Budget Relevant to the Grant Agreement, as described above;
2. Approves the Grant Agreement and all future contract amendments with the California State Department of Boating and Waterways;
3. Authorizes the Chair or the Chair's Designee to execute any agreements, contracts, and contract amendments necessary to carry out the program, as described above.

The foregoing resolution was passed by the Santa Monica Bay Restoration Authority on February 23, 2012.

Signed: _____ Date: 2/23/12
John Sibert, Chair

O11-378 cont.

bay restoration commission
STEWARDS OF SANTA MONICA BAY
santa monica bay restoration commission ✓ 320 west 4th street, ste 200; los angeles, california 90013
213/576-6615 phone ✓ 213/576-6646 fax ✓ www.smbrc.ca.gov

SANTA MONICA BAY RESTORATION COMMISSION
December 18, 2014

Resolution No. 14-10

Resolution Approving Fiscal Year 2014-2015 Budget
Of the
Santa Monica Bay Restoration Authority

WHEREAS, the Santa Monica Bay Restoration Authority (Authority) was created by a joint exercise of powers agreement between the Santa Monica Bay Restoration Commission (SMBRC) and the Los Angeles County Flood Control District (District) and operates as a local public agency within the Santa Monica Bay Watershed and the jurisdictional boundaries of the SMBRC and the District with the purpose of broadening funding opportunities for projects within the Santa Monica Bay Watershed; and

WHEREAS, the joint exercise of powers agreement requires the Santa Monica Bay Restoration Commission (SMBRC) to review and approve the Authority's annual budget; and

O11-378 cont.

WHEREAS the SMBRC Governing Board met at a regularly-scheduled meeting, a quorum having been established, to review the Fiscal Year 2014-2015 budget; and

WHEREAS, having reviewed the budget, with staff responding to Governing Board member questions to the Governing Board's satisfaction;

NOW, THEREFORE, BE IT RESOLVED that the SMBRC Governing Board hereby:

1. Approves the Fiscal Year 2014-2015 Budget of the Authority;
2. Requests that the Los Angeles County Board of Supervisors approve the same budget at a regularly-scheduled meeting in the near future.

The foregoing resolution was passed by the SMBRC on December 18, 2014.

BY: Micheál O'Leary
Micheál O'Leary
Chair, Santa Monica Bay Restoration Commission

bay restoration commission

STEWARDS OF SANTA MONICA BAY

santa monica bay restoration commission ✓ 320 west 4th street, ste 200; los angeles, california 90013

213/576-6615 phone ✓ 213/576-6646 fax ✓ www.smbrc.ca.gov

December 11, 2014 **Agenda Item: 3c**

To: SMBRC Governing Board

From: Tom Ford, Executive Director

Re: The Santa Monica Bay Restoration Authority (Authority) Fiscal Year (FY) 2014-2015 Budget

Action Requested of the Governing Board:

- Approval of the Authority FY 2014-2015 Budget

Background

The Authority was created by a joint exercise of powers agreement between the Santa Monica Bay Restoration Commission (SMBRC) and the Los Angeles County Flood Control District (District) and operates as a local public agency within the Santa Monica Bay Watershed and the jurisdictional boundaries of the SMBRC and the District. The purpose of the Authority is to broaden funding opportunities for projects within the Santa Monica Bay Watershed.

The SMBRC is responsible for the administration of the Authority. The District is responsible for the Authority's Fiscal Controls. At its October 1, 2014 meeting, the Authority approved the FY 2014-2015 budget and the three ongoing programs associated with it. The Los Angeles County Board of Supervisors is expected to approve the budget currently before this body at its January or February meeting.

The Authority provides an efficient method by which state agencies can fund important programs of the Santa Monica Bay National Estuary Program. The three programs contained in the budget, the Clean Boating Education Program, the Wetlands Monitoring Program, and the Malibu Lagoon Monitoring Program, are part of the annual Work Plan that is approved by this Governing Board each year. The funding for these projects will pass from the California State Parks and Recreation agency (Boating and Malibu programs) and the US EPA (Wetlands program) to the Authority to be allocated to The Bay Foundation staff responsible for the three programs.

The detailed budget as well as a description of the three programs are attached to this report.

O11-378 cont.

SMBRA BUDGET 2014-2015

		BUDGET Oct 2014-Sept 2015
BOATER PROGRAM		
Task 1. Education and Outreach Program Management		$16,875.00
Task 2. Pumpout Station Monitoring		$6,041.67
Task 3. Honey Pot Day Unlimited - Mobile Pumpout Outreach		$5,833.33
Task 4. Pilot Harbor Staff Presentations		$0.00
Task 5. Boating Events		$33,958.33
Task 6. California Clean Boating Network/Newsletter		$11,208.33
Task 7. Outreach Materials		$31,875.00
Overhead		$10,579.17
Total Boater Program		116,370.83
WPDG PROGRAM		
Salaries and Benefits:		$55,400.00
Contractual		$30,000.00
Equipment		$0.00
Supplies		$1,500.00
Travel		$3,100.00
Other		$0.00
Overhead		$0.00
Total WPDG Program		$90,000.00
Malibu Lagoon - Post-Restoration		
1 Project Management		$22,648.11
2 Download and clean data, maintain database		$7,763.66
3 Field surveys		$24,132.34
4 Chemistry lab analyses		$20,571.43
5 Benthic macroinvertebrate lab analyses		$26,331.43
6 Avian monitoring (Cooper Ecological Monitoring Inc.)		$9,642.86
7 Fish Surveys (none)		$0.00
8 Annual reporting		$5,357.14
9 Data probe maintenance		$6,428.57
10 Date probe replacement		$3,214.29
11 Mileage		$1,210.71
12 Equipment and supplies		$3,750.00
13 Volunteer Management		$9,145.44
Total ML Post-Restoration Program		$140,195.98
TOTAL GRANTS BUDGETS		346,566.81
ANNUAL AUDIT	$	14,850.00
AUDITOR-CONTROLLER FEE - 10%	$	1,485.00
TOTAL SMBRA BUDGET FOR 2014-2015		362,901.81

O11-378 cont.

bay restoration authority

santa monica bay restoration authority ✓ 320 W. 4th Street, Suite 200; Los Angeles; California 90013
213/576-6615 phone ✓ 213/576-6646 fax

Statewide Clean Boating Education Program
Clean Vessel Act Grant

Scope of Services and Schedule of Deliverables
Work to be performed April 2014 - January 2015

1. Education and Outreach Program Management
Manage statewide outreach and education efforts to promote proper sewage management and sustainable boating practices.

Statewide

- Complete specialized bi-weekly reporting to CVA grant manager on accomplishments, and give notification of upcoming events, new outreach materials, and future tasks.
- Manage grant invoicing, reporting, and timelines (i.e. grant management and work completion).

Northern California

- Work with program partners (i.e. San Francisco Estuary Partnership, Division of Boating and Waterways) to implement statewide CVA education program.
- Hold annual planning meetings with program partners to coordinate outreach efforts.

Southern California

- Develop annual work plan for Southern California outreach campaign, in accordance to CVA guidelines.
- Create and submit payment request and progress reports.
- Maintain web resources for Boating Education Program.
- Hold biweekly planning meetings with grant manager.

2. Pumpout Station Monitoring
Monitor public sewage pumpout facilities in California, which have been funded with CVA grant funds, in order to maximize performance level of facilities.

- Conduct quarterly visits of vessel sewage pumpout facilities in Southern California to check functionality and condition of pumpouts. Staff will write and submit quarterly reports of visits to grant manager. Reports are due by the last day of the monitoring month.

3. Honey Pot Day Instructional Video – "Honey Pot Live"
Develop a Honey Pot Day program for the web where boaters take an online "class" to receive a free mobile pumpout.

O11-378 cont.

- Develop an online class for boaters about proper sewage management, effects of illegal sewage discharge. Boaters must view the Division of Boating and Waterways and San Francisco Estuary Partnership sewage pumpout video, read educational materials regarding boat sewage, and complete an exam in order to receive a voucher for a free mobile pumpout. Honey Pot Live will be promoted in Marina del Rey, King Harbor, Long Beach, and Los Angeles harbors. The video will be accessible via the Honey Pot Day website. Promote the program via marina and yacht club presentations, flyers, press releases, newsletters, web resources, and social media.
- Coordinate voucher, invoice, and registration processes with mobile pumpout companies.
- The goals of these videos are to decrease staff time and travel expenses to reach boaters, and increase number of boaters reached.
- Performance evaluation will be measured by number of boaters who complete the class, number of vouchers redeemed, number of new contracts with mobile pumpout companies, and gallons of sewage pumped.

4. Boating Events

Promote sustainable boating practices, such as proper management of vessel sewage, at public boating events.

- Conduct outreach at 10 boating events throughout the year including, but subject to change: Sunroad Boat Show (Jan 23-26), Newport Beach Boat Show (April 3-6),Marina Fest (May), Sea Fair (May), Dana Point Boat Show (June), and Santa Barbara Harbor and Seafood Festival (October), Santa Monica City Festival (June), Fiesta Hermosa (May), Manhattan Beach Hometown Fair (October),and Torrance Environmental Day (June).
- Participate in marina and yacht club events and offer presentations and technical assistance throughout the year, as needed.
- Coordinate Coastal Cleanup Day in Marina del Rey, where vessel sewage and other boating related pollution issues will be highlighted.
- Subject to grant manager approval and availability of travel funds, attend at least two marine related conferences and trade shows (e.g., SOBA, and MRA, CA Association of Harbor Masters & Port Captains conferences).
- Coordinate volunteers to conduct face-to-face outreach at boat shows and other events.
- Develop an interactive booth space to attract boaters in addition to use of Boater Kits. Interactivity, subject to change, will include demonstrations, boater activity participation, Boater Guide app display kiosk, and more.
- Produce materials to acquire event sponsorship (i.e. coupons, flyers, signs, etc.).

5. California Clean Boating Network & Changing Tide Newsletter

Coordinate with statewide CCBN partners to promote information exchange of new programs and ideas.

The CCBN consists of three chapters: Northern, Delta, and Southern California chapters. The Northern California chapter is managed by the Division of Boating and Waterways Statewide Boater Program and California Coastal Commission's Clean and Green Campaign. The Delta chapter is managed by Contra Costa County. Each chapter hosts networking events, in their

O11-378 cont.

region, to discuss issues related to boating and maintaining clean waterways. All three chapters contribute Changing Tide articles for their 2-page sections and co-author cover articles.

Newsletters are published three times per year, typically in spring, summer, and winter. The planning of each issue includes one conference call to plan the timeline, choose articles, and discuss other production details. TBF is the lead editor and graphic designer. Research, writing, and graphic design take up about 40 hours of staff time per issue and consulting services for graphic design. On average, 5,700 newsletters are printed: 500 are purchased and distributed by Contra Costa County, 2,700 are purchased and distributed by Division of Boating and Waterways Statewide Boater Education Program, and 2,500 are purchased and distributed by The Bay Foundation. CVA funds pays for 68% of total cost.

- Collaborate with CCBN partners to produce three issues of the Changing Tide newsletter.
- Send staff to Northern California and Delta CCBN meetings, as needed.
- Print approximately 5,700 newsletters per issue, subject to change based on varying number of subscribers.
- Distribute newsletters to marinas, yacht clubs, boating organizations, and marine businesses in San Diego, Orange, Los Angeles, Ventura, and Santa Barbara Counties.

6. Outreach Materials

Create outreach materials to promote sustainable boating practices, such as proper management of vessel sewage, and a performance evaluation tool to measure program success.

6A. Southern California Boater's Guide, 4th Edition and Phase III

- Distribute and promote the Southern California Boater's Guide, 4th Edition.
- Continue to update the e-book, which includes developing short sewage related videos (10-20 seconds in length), updating design and photo images, and revising content such harbor information, telephone numbers, websites, boating laws, statistics, etc.
- Develop mobile phone application for the Smart Boater's Guide. This mobile phone application will include maps from the Boaters Guide, searchable list of mobile pumpouts and other environmental amenities, and real time, user-based comments on environmental amenities such as logging broken pumpouts.

6B. Clean Boating Interactive Booth Space

- Produce an interactive booth space to draw boaters to the booth and give boaters an experience they can remember. The experience based outreach tool will eventually replace the boater packets, thus decreasing material waste and printing expenses. Interactivity, subject to change, will include demonstrations, boater activity participation, Boater Guide app display kiosk, and more. Final ideas will be developed with input by Division of Boating and Waterways Statewide CVA partners and will require final approval by the grant manager.

6C. Boater Packets

- Coordinate fulfillment of boater packets.
- Distribute outreach materials to boaters and volunteers.
- Administer a performance evaluation tool (i.e. clean boating pledge and survey).

O11-378 cont.

bay restoration authority
STEWARDS OF SANTA MONICA BAY

6D. Tidebooks

- Produce 4,000 tidebooks for Southern California
- Update environmental facilities in Tidebook (i.e. individual maps of Southern California harbors from Punta Morro to Morro Bay, locations of sewage pumpout stations and other environmental facilities, and clean boating information).
- Distribute tidebooks at boating events, presentations, boating supply stores, etc.

O11-378 cont.

bay restoration authority

santa monica bay restoration authority ✓ 320 W. 4th Street, Suite 200; Los Angeles; California 90013
213/576-6615 phone ✓ 213/576-6646 fax

Wetlands Monitoring Program Summary

EPA Wetland Program Development Grant

Abstract:
Monitoring and assessment strategies developed by the State of California and the US Environmental Protection Agency (EPA) universally call for coordinated and consistent approaches to monitoring and assessment. Unfortunately, our ability to meet this goal is limited. Although we have made progress over the last several years in developing standardized rapid (i.e. Level 2) assessment methods, there has been significantly less attention paid to standardized intensive (i.e. Level 3) assessment methods. Intensive assessment methods provide information on ecological function and process, are more diagnostic of restoration performance and regulatory compliance, and are important as a validation measure for rapid assessment methods. The lack of consistent approaches to intensive assessment limits our ability to share information between projects, precludes use of Level 3 data in ambient monitoring, and fosters redundancy as each project develops its own protocols and assessment techniques. With eight major coastal wetland restoration projects currently being planned along the Southern California Bight, timing is optimal for development and testing of standardized Level 3 assessment procedures. This program sets out to accomplish that goal by compiling and analyzing existing assessment procedures, developing proposed standardized approaches in coordination with technical advisors, exploring the covariance between these new Level 3 protocols and existing Level 2 (i.e. California Rapid Assessment Method) assessment tools, and developing protocol documents and training materials to facilitate information transfer to other projects.

Specific project tasks are as follows:

Task 1: Develop Indicators and Preliminary Protocols
This task will build on previous work conducted by the Wetlands Recovery Project members to develop indicators for Level 3 assessment of coastal wetlands. Existing monitoring plans and reports, state and federal guidance documents, and peer-review journals will be compiled and reviewed.

Task 2: Refine Level 3 Monitoring Protocols
The preliminary protocols developed in Task 1 will undergo Technical Advisory Committee (TAC) review to develop final Level 3 protocols for field testing as part of this task. Public meetings of the TAC will provide direct feedback and discussion of the proposed protocols, and will serve as an opportunity to engage science experts and agencies' staff and to refine protocols. Additionally, a Quality Assurance Project Plan will also be prepared and submitted to the EPA as part of this task.

Task 3: Field Test Level 3 Protocols

O11-378 cont.

Sites will be selected to cover the diversity of habitats and conditions, including levels of degradation and restoration, represented in southern California wetlands. Protocols will be selected for each wetland based on habitat (e.g. does the site have submerged aquatic vegetation) and conditions (e.g. muted or restricted tides). Initial field testing will determine feasibility, level of effort, field or lab time, and cost of each protocol. Field protocols will be implemented at all sites over an 18-month period to capture seasonal variability, and allow some repetition of protocols. In addition to reporting on application of the protocols, data will be summarized to produce an initial Level 3 assessment of condition in the study wetlands. These results will be compared to Level 2 data previously collected to demonstrate an integrated assessment of coastal wetland health.

Task 4: Develop Level 3 Monitoring Manual

The final monitoring and assessment documents prepared under Task 3 will undergo TAC review to develop a Level 3 monitoring and assessment manual for southern California coastal wetlands as part of this task. The final Level 3 monitoring manual will be developed through an iterative, public process and the final document will include detailed protocols, recommended priority for implementation (e.g. whether to monitor vegetation or birds), level of effort, field and lab time required to implement protocols.

Task 5: Outreach

Program partners will present the progress and results of the Level 3 protocol development and the Level 3 manual throughout the program period. Presentation will be made at state and national scientific conferences to discuss and receive feedback on the process to develop Level 3 protocols. In addition, program partners will meet directly with monitoring practitioners to discuss the benefits and application of Level 3 monitoring protocols.

O11-378 cont.

bay restoration authority

santa monica bay restoration authority ✓ 320 W. 4th Street, Suite 200; Los Angeles; California 90013
213/576-6615 phone ✓ 213/576-6646 fax

MALIBU LAGOON – RESTORATION AND ENHANCEMENT PROJECT – MONITORING GRANT

Through a grant from California Department of Parks and Recreation to the Santa Monica Bay Restoration Authority (SMBRA), the SMBRA is organizing and performing all required surveys, monitoring, data analysis and reporting to meet the required Coastal Development Permit conditions for the Malibu Lagoon Restoration and Enhancement Project (COP # 4-07-098) as documented in Biological and Water Quality Monitoring Plan and Vegetation Assessment and Monitoring Plan. SMBRA will compile and analyze all data collected each year and produce a cumulative annual report. The report will meet the reporting requirements outlined in the Coastal Development Permit. SMBRA will also provide coordination and supervision for volunteer plant maintenance crews.

GRANT TASKS:

Task 1 – SMBRA will manage the entire project including all sub-contractors to ensure all required monitoring and reporting is completed. SMBRA will prepare a single invoice for work completed during each invoicing period. It is estimated that project management will require three days per month.

Task 2 – Conduct continuous monitoring of water quality using three Yellow Springs Instruments (YSI) data sondes to collect dissolved oxygen, specific conductivity, salinity, pH, Oxygen Reduction Potential (ORP), water temperature and depth every 30 minutes. Conduct monthly data downloading, calibration and re-deployment of YSI data sondes, data cleaning and maintenance of the project database.

Task 3 – Field surveys and water quality data collection will be conducted twice annually, except for benthic macroinvertebrate (see details below). Field surveys include the following:

- Water quality vertical profiles at multiple depths at six locations: pH, Specific conductivity, dissolved oxygen, salinity, temperature;
- Surface and bottom water quality at six locations;
- Topographic cross sectional surveys across five transects;
- Three vegetation transects;
- Vegetation photo point monitoring at three locations;
- Submerged aquatic vegetation (SAV) and algae on eight transects;
- Sediment sample collection from five locations;
- Benthic macroinvertebrates: three samples (2.5 cm core, 10 cm core, littoral sweep) from eight stations per event, five fall events during closed condition and three spring events during open condition.

O11-378 cont.

Task 4 – Chemistry lab analyses will be conducted twice annually by a state-certified laboratory and will include the following:

- Surface and bottom water quality: nitrate as nitrogen, ammonia as nitrogen, total Kjeldahl nitrogen, orthophosphate, total phosphorous, and chlorophyll-A
- Sediment: grain size, total organic carbon, total nitrogen, and total phosphorous.

Task 5 – Benthic macroinvertebrate lab analyses will be conducted by taxonomic professionals.

Task 6 – Avian monitoring will be conducted by an ornithologist a minimum of three days per quarter or 12 days per year. An annual report will be produced that compares the pre-restoration and post-restoration data and changes over time.

Task 7 – None

Task 8 – The Bay Foundation will compile and analyze all data collected on an annual basis and create an Annual Report. The Annual report will satisfy the Coastal Commission's reporting requirements for this project.

Task 9 – Data Probe maintenance: the data sondes will be sent back to YSI annually for maintenance. The probe sensors for ORP, pH, and conductivity will be replaced annually. The average maintenance and replacement cost per year is $2,000.00 per sonde or $6,000.00 for three data sondes.

Task 10 – The two oldest probes may need replacement during the five year monitoring program. Replacement of each probe will cost $7,500.00 or $15,000.00 to replace two data sondes over the course of the project.

Task 11 – Mileage to travel to and from the Lagoon to conduct monitoring and field surveys. Mileage charges to and from State Certified laboratory and to acquire necessary monitoring supplies. It is estimated that these tasks will require 2000 miles per year of travel.

Task 12 – Equipment and supplies includes calibrating solutions and water quality standards to calibrate data sondes and water quality probes, glassware and plastic sampling containers, nets, waders, and miscellaneous equipment associated with sampling. It is estimated that equipment and supplies will cost $2.500.00 per year.

Task 13 – Volunteer coordination and supervision. Advertise for volunteers on the internet, fill out volunteer waiver forms, supply and deliver tools, train and supervise volunteers, track volunteer hours and work accomplished. Three monthly events for one year.

O11-378 cont.

EXHIBIT 4

O11-378
cont.

DATE: **24 February 2005**

TO: **Santa Monica Bay Restoration Authority Governing Board**

FROM: **Guangyu Wang, Acting Executive Officer**

SUBJECT: **Consideration of:**

1. **Resolution Authorizing Procedural and Operational Policies for the Expenditure of Funds**
2. **Resolution Adopting Fiscal Procedures**

BACKGROUND

Two steps are required in order for the JPA to begin receiving money, accepting project bids, paying the Executive Officer, contractors, and other payees, et al.

The first step is to adopt *Procedural and Operational Policies*. These authorize the Authority chair to perform various fiscal functions consistent with an annual budget adopted by the Authority, including execution of contracts and approval of payments to the executive director and staff for services rendered. These policies also authorize the executive officer to expend funds pursuant to an adopted budget, use competitive bids where feasible, purchase property and equipment, et al.

The second step is to adopt *Fiscal Procedures*. The document, entitled *Procedures Governing the Purchase of Goods and Services, Leasing of Equipment, Letting of Contracts for Professional Services, Construct and Improvement Contracts and Maintenance Contracts* details the methods by which the authority may seek these contracts using a competitive process with financial limitations, contracting for professional services, sole source contracts, et al.

STAFF RECOMMENDATION

That the Authority Governing Board adopt these two documents in order to authorize the Executive Officer and Assistant Executive Officer to expend funds and approve payments for certain Authority expenses and also authorize the chair of the Authority Governing Board to approve payments for certain other Authority expenses.

O11-378 cont.

EXHIBIT 5

O11-378
cont.

SANTA MONICA BAY RESTORATION AUTHORITY (SMBRA) PROCEDURES GOVERNING THE PURCHASE OF GOODS AND SERVICES, LEASING OF EQUIPMENT, LETTING OF CONTRACTS FOR PROFESSIONAL SERVICES, CONSTRUCTION AND IMPROVEMENT CONTRACTS AND MAINTENANCE CONTRACTS

SECTION 1: GENERAL

1.0 The Santa Monica Bay Restoration Authority (SMBRA) is a joint exercise of powers agency established pursuant to Government Code Section 6500 *et seq*. The member entities of the SMBRA are the Santa Monica Bay Restoration Commission (SMBRC) and the Los Angeles County Flood Control District (District).

1.1 The following procedures shall be known as the "Santa Monica Bay Restoration Authority Procedures Governing the Purchase of Goods and Services, Leasing of Equipment, Letting of Contracts for Professional Services, Construction and Improvement Contracts and Maintenance Contracts" (Purchasing and Contracting Procedures) and shall constitute the procedures, including bidding procedures, as required by Government Code Section 54201 *et seq*. and as governed by Public Contract Code Section 20815 *et seq*.

O11-378 cont.

1.2 The Executive Officer, or his or her designee, is hereby designated as Purchasing Agent for the SMBRA.

1.3 These procedures shall be applied consistent with the adopted "Procedural and Operational Policies" of the SMBRA which provides in part that prior to entering into any contract for services, the Executive Officer shall consult with the participating entities to ensure that the proposed service to be rendered to the Authority is not one that could be performed by the participating entities. Where resources of the SMBRC or the District cannot be used, the Executive Officer shall ensure competitive bidding in the award of all contracts to the extent possible.

SECTION 2: DEFINITIONS

2.0 General Operating Expense or Project. A general operating expense or project is defined as the expenditure for day-to-day materials, supplies items or services necessary in the normal course of business. These expenditures include, but are not limited to: office supplies, telephone service, cellular telephone service, high speed internet service, paging services, gasoline, computers, uniforms, fire equipment, printing, graphics, law enforcement supplies, gardening supplies and equipment, and building park maintenance materials and supplies.

2.1 Maintenance Project. A maintenance project is defined as the routine maintenance, repair, alteration or upgrade of an existing facility or property.

2.2 Construction Project. A construction or an improvement project is defined as the new development or construction of a new facility or property or an improvement to an existing facility or property.

2.3 Responsive Bidder. The term "responsive bidder" means a bidder who meets the instructions set forth in the request for bid, request for qualifications, or request for proposals. Construction or projects on public property have requirements under the Public Contracts Code (state and local) which requires to advertise and award lowest bidder for $65,000 or more.

2.4 Responsible Bidder. The term "responsible bidder" means a bidder who has demonstrated the attributes of trustworthiness, as well as quality, fitness and capacity and experience to satisfactorily perform the work.

2.5 Three-bid Procedure. A procedure requiring the solicitation by advertisement, verbal solicitation or other appropriate means from a minimum of three potential bidders or professionals responding to a request for qualifications or a request for proposals.

2.6 Short List. A list consisting of trade persons and businesses and/or professionals established after solicitation of a minimum of three-bids and/or advertisement of request for bids, request for qualifications, or request for proposals.

O11-378 cont.

SECTION 3: PURCHASE OF GOODS AND SERVICES, LEASING OF EQUIPMENT, LETTING OF CONTRACTS FOR PROFESSIONAL SERVICES, CONSTRUCTION AND IMPROVEMENT CONTRACTS AND MAINTENANCE CONTRACTS

3.0 General Operating Expense or Projects. The approval of the SMBRA annual budget by the SMBRA governing board will serve as the approval process for the purchase on the open market of all budgeted general operating expenses and projects.
Contracts in excess of twenty-five thousand dollars for supplies and materials not related to new construction, alterations, maintenance, or repairs shall be let after the three-bid procedure and advertisement of bids.

Expenditure(s) for general operating expense or project under twenty-five thousand dollars ($25,000) does not require the use of the established short list or of the three-bid procedure and advertisement of bids. These expenses can be purchased on the open market. Purchasing Agent may at his or her discretion obtain bids by verbal solicitation or other appropriate means which are to be documented by the Purchasing Agent.

Expenditure(s) for the purchase of new vehicles shall be made by the three-bid procedure and advertisement of bids as required herein.

Expenditure(s) for a general operating expense or project that is not included in the SMBRA annual budget and which exceeds twenty-five thousand dollars ($25,000) per one-time expense requires the use of the three-bid procedure and advertisement of bids pursuant to Public Contract Code section 20815 *et seq*. By a four-fifths vote of the Governing Board of the SMBRA, the Governing Board may elect to purchase materials or supplies in excess of twenty-five thousand dollars ($25,000) in the open market.

3.1 Maintenance Projects. The Short List for Maintenance Projects may include, at the discretion of the Purchasing Agent, trade persons and businesses including but not limited to licensed plumbers, electricians, pest control services, roofers, tree trimmers, HV/AC repair services, painters, glass replacement services, and asphalt and concrete repair services. All maintenance projects may also be completed by force account.

(a) Maintenance Projects Less Than $25,000. A maintenance project under $25,000 does not require the use of the established Short List or of the three-bid procedure and advertisement of bids. The Purchasing Agent may at his or her discretion obtain bids by verbal solicitation or other appropriate means which are to be documented by the Purchasing Agent.

(c) Maintenance Projects in Excess of $25,000. A maintenance project over $25,000 requires the use of the three-bid procedure and advertisement of bids pursuant to Public Contract Code Section 20815 *et seq*.

O11-378 cont.

3.2 Construction Projects. All construction projects may also be completed by force account.

(a) Construction Projects Less Than $25,000. A construction project under $25,000 does not require the use of the established Short List or of the three-bid procedure and advertisement of bids. Purchasing Agent may at his or her discretion obtain bids by verbal solicitation or other appropriate means which are to be documented by the Purchasing Agent.

(c) Construction Projects in Excess of $25,000. All construction or improvement project in excess of twenty-five thousand dollars ($25,000) require the use of the three-bid procedure and advertisement of bids pursuant to Public Contract Code section 20815 *et seq*.

All construction and improvement projects in excess of $25,000 must be approved by the Governing Board of the SMBRA.

The resolution approved by the SMBRA Governing Board must contain the following language:
"Resolved that the governing board of the Santa Monica Bay Restoration Authority hereby:

APPROVES *project name*; and

APPROVES any necessary expenditures for this project by force account and on the open market for expenditures under $25,000; and

AUTHORIZES the Executive Officer or his designee to waive the requirement of a three-bid procedure and advertisement of bids for expenditures in excess of $25,000 when the bidding procedure is not in the best interest of the WCA for *project name;* and

ADOPTS the staff report and recommendation dated *date*; and

AUTHORIZES the Executive Officer to perform any and all acts necessary to carry out this resolution.

The resolution must be adopted by a four-fifth vote of the governing board of the SMBRA per the California Public Contract Code section 20815.3(b).

By a four-fifths vote of the Governing Board of the SMBRA, the Governing Board may elect to construct the building, structure, or improvement by force account.

O11-378 cont.

3.3 Professional Services. Contracts for private architectural, landscape architectural, engineering, environmental, land surveying, or construction management services are currently governed by Government Code section 4525 *et seq*. The Purchasing Agent shall before letting a contract for professional services make a determination as to the professional's demonstrated competence and qualifications for the type of services to be performed and at fair and reasonable prices to the SMBRA. The Purchasing Agent shall determine demonstrated competence and qualifications of the services at fair and reasonable prices by reviewing the following documents to be submitted by the professional: 1) a list of the names and contact information for clients for which services were performed in the last five years; 2) samples of the services performed including the scope and cost; 3) a disclosure of any actions taken against the professional; and, 4) a statement of change order(s) to plans or specifications or projects for which services were provided and the reason for the change order(s).

3.4 Sole Source Contracts. The Purchasing Agent may let sole source contracts for under $5,000 after approval by the Governing Board where any of the following circumstances exist.

(a) Related construction or repair construction completion dates cannot be met.

(b) Patented, licensed, or proprietary materials or services are required.

(c) Compatibility with existing equipment is necessary.

(d) Prior experience and/or professional qualifications have proven that a particular make and/or type of equipment, material, supply or service is more satisfactory or economical for SMBRA purposes.

SECTION 4: OUTREACH
(Businesses owned by Minority, Women, Disabled Veterans, and/or disadvantaged and small business enterprises)

4.0 Projects which are funded in whole or in part by the federal, state or local government other than the SMBRA shall, if required by the funding source, be administered according to requirements of the respective federal, state or local outreach programs.

SECTION 5: ADVERTISING

5.0 Notice inviting bids for contracts for which competitive bidding is required shall be published at least one time in a newspaper of general circulation in the SMBRA's jurisdiction at least one week before the time specified for receiving bids.

SECTION 6: BIDS and AWARDS

6.0. Where bids are solicited, the following procedures shall apply. The Purchasing Agent is authorized to establish such additional bidding procedures as are not inconsistent with the following procedures.

6.1 Responsive, Responsible Bidder. An award will be made to the lowest responsive, responsible bidder.

(a) A non-responsive bid may be entirely rejected.

(b) The SMBRA has the discretion to determine which bidders are responsible. In considering whether a bidder is the lowest "responsible" bidder, the following considerations may be made:

i) The ability, capacity, and skill of the bidder to perform the contract or provide the supplies or services required.

ii) The ability of the bidder to provide the supplies or services promptly, or within the time specified, without delay or interference.

iii) The character, integrity, reputation, judgment, experience and efficiency of the bidder.

O11-378 cont.

iv) The quality of bidder's performance on previous purchases or contracts.

v) The ability of the bidder to provide future maintenance, repair parts and services for the use of the subject of the contract.

vi) The previous and existing compliance by the bidder with the laws and provision relating to the contract.

6.2 The SMBRA shall have the right to reject all bids, to accept one part of a bid and reject another in accordance with bid specifications, to waive technical defects and to consider alternative bids if to do so best serves the interests of the SMBRA.

6.3 Should a discrepancy exist in prices, the bid price shown for the unit price or lump sum item shall take precedence over the bid price shown for the total.

6.4 Late Bids. Any bid received after a bid closing date and hour at the place designated for the opening is non-responsive.

6.5 Contractor must supply such bidders' security, payment bonds and/or performance bonds as are required by law or as are determined to be appropriate.

6.6 Confidentiality. All bids received by the SMBRA shall remain confidential until the time for bid opening.

6.7 Bid Award. A Notice of Intent to Award Bid must be delivered by telegram, fax, overnight courier, internet transmission, or personal delivery to all of the bidders stating the SMBRA's intent to award the bid within five calendar days to the lowest responsive and responsible bidder (name the bidder in the notice).

(a) In the event the SMBRA determines that the contract will be awarded to a party other than the apparent lowest responsive and responsible bidder because SMBRA has determined the bidder is either non-responsible or non-responsive, SMBRA will notify that bidder only, at the time it delivers the Notice of Intent to Award Bid, of the following:

(i) That the SMBRA has determined the bidder is non-responsible or non-responsive and therefore the contract will be awarded to another party;

(ii) That non-responsive bidders may not refute the decision of SMBRA;

(iii) That any and all bid protests from non-responsible bidders must be in writing, accompanied with written evidence and argument refuting SMBRA's decision, and sent by fax or hand delivery to a designated SMBRA Project Manager on or

O11-378 cont.

before 4 p.m. on the fifth calendar day from the date appearing on the Notice of Intent to Award Bid;

(iv) That SMBRA will not consider a bid protest that fails to include written evidence and argument refuting SMBRA's decision;

(v) That any bid protests received after 4:00 p.m. on the fifth calendar day from the date appearing on the Notice of Intent to Award Bid will not be considered.

(b) The bid award becomes final at 5 p.m. on the fifth calendar day from the date appearing on the Notice of Intent to Award Bid unless a timely written bid protest, accompanied by written evidence and argument, is received by the designated SMBRA Project Manager as stated above.

(c) In the event a timely written bid protest is received in accordance with this section, the SMBRA will advise the party initially designated to receive the award in the Notice of Intent to Award Bid that a protest has been submitted, and the contract shall not be awarded until the SMBRA has decided the merits of the protest as set forth in Section 8 below.

O11-378 cont.

SECTION 7: BID PROTEST

7.0 Bid Protest. Non-responsive bidders are not entitled to refute the decision of the SMBRA. A non-responsible bidder will be given an opportunity to provide written evidence and argument to refute the SMBRA's decision.

(a) The bid protestor must submit a bid protest accompanied with written evidence and argument refuting the SMBRA's decision by 4:00 p.m. on the fifth calendar day from the date of the Notice of Intent to Award Bid. If the bid protestor does not meet this deadline by timely submitting written evidence and argument with the bid protest, the party initially designated to receive the award will be declared as the lowest responsive and responsible bidder and SMBRA will immediately award the contract to that party.

(b) In the event of receipt of a timely bid protest accompanied with written evidence and argument, the SMBRA Project Manager and a committee appointed by the SMBRA will consider the written evidence and argument to determine the merits of the protest and determine which party will be declared the lowest responsive and responsible bidder. The SMBRA Project Manager and committee with make such determination within a reasonable time but not more than seven

(7) calendar days from the date SMBRA received such evidence and argument. Thereafter, SMBRA will send its Notice of Decision of Bid Protest on the bid protest to the bid protestor and immediately award the contract to the lowest responsive and responsible bidder. The right to extend any deadline as set forth in this section is within the sole discretion of the SMBRA.

SECTION 8: CONTRACT REQUIREMENTS

8.0 The SMBRA shall enter into a contract with all contractors using the standard SMBRA contract agreement form. The contract will indicate the scope of work, the term of the agreement and any other details pertaining to the specific project. The SMBRA shall provide the contractor with a notice to proceed. Contractors shall be obligated to provide the SMBRA with necessary insurance per the SMBRA contract agreement. The SMBRA shall retain copies of all ads, award of bids, notices to proceeds and contracts.

O11-378 cont.

SECTION 9: PURCHASING AND APPROVAL LIMITS

9.0 SMBRA employees and officers are delegated the following purchasing and approval limits:

(a) Executive Officer or Associated Executive Officer (if delegated the authority by Executive Officer) for budgeted items: $0-$10,000
(b) Executive Officer for non-budgeted items: $0-$10,000 and over

SECTION 10: GRANTS

10.0 Grants from non-profit 501(c)(3) organizations do not require competitive bidding.

O11-378
cont.

EXHIBIT 6

RESOLUTION OF
THE SANTA MONICA BAY RESTORATION AUTHORITY
ADOPTING FISCAL PROCEDURES
Resolution No. 05-02

WHEREAS, the Santa Monica Bay Restoration Authority has been established to facilitate joint projects between the Santa Monica Bay Restoration Commission and Los Angeles County Flood Control District; and

WHEREAS, the Santa Monica Bay Restoration Authority plans to enter into fiscal transactions that require the adoption of procedures consistent with the "Procedural and Operational Policies" adopted by the Board; and

WHEREAS, this action is exempt from the environmental impact report requirements of the California Environmental Quality Act (CEQA).

Therefore be it resolved, that the Santa Monica Bay Restoration Authority hereby:

1. FINDS that this action is consistent with the purposes and objectives of the Authority.

2. FINDS that the actions contemplated by this resolution are exempt from the environmental impact report requirements of the California Environmental Quality Act.

3. ADOPTS the staff report dated 24 February 2005 and the broad fiscal procedures submitted under the title: *Santa Monica Bay Restoration Authority Procedures Governing the Purchase of Goods and Services, Leasing of equipment, Letting of Contracts for Professional Services, Construction and Improvement Contracts and Maintenance Contracts.*

4. DIRECTS Authority staff and consultants to continue to monitor and address additional, detailed procedures as needed.

~ End of Resolution ~

Passed and Adopted by the Board of the SANTA MONICA BAY RESTORATION AUTHORITY on February 24, 2005.

Jack Weiss, Chair

ATTEST: _____
Terry Fujimoto
Deputy Attorney General

From:	Todd T. Cardiff, Esq.
To:	Wildlife Ballona Wetlands Ecological Reserve EIR
Cc:	patriciamcpherson1@verizon.net
Subject:	Comments on Ballona Wetlands DEIR
Date:	Monday, February 5, 2018 4:57:30 PM
Attachments:	comment 2.5.2018.pdf

Mr. Brody,

Please see attached comments submitted on behalf of Grassroots Coalition. Such comments are submitted in addition to other comments submitted by Grassroots Coalition. Thank you.

Todd T. Cardiff, Esq.
LAW OFFICE OF TODD T. CARDIFF
1901 First Avenue, Ste. 219
San Diego, CA 92101
Tel: (619) 546-5123
Fax: (619) 546-5133

February 5, 2018

U.S. Army Corps of Engineers
Los Angeles District
Daniel Swenson, Regulatory Division
915 Wilshire Boulevard, Ste. 930
Los Angeles, CA 90017

California Department of Fish and Wildlife
Richard Brody, CDFW
c/o ESA (jas)
550 Kearney Street, Suite 800
San Francisco, California, 94108
E-mail: BWERcomments@wildlife.ca.gov

RE: Comments on Ballona Wetlands Draft EIS/EIR

Dear Mssrs. Swenson and Brody

Please consider these comments to be submitted on behalf of Grassroots Coalition. These comments are in addition to, and not intended to supplant any other comments or objections lodged by Grassroots Coalition.

1. The Range Of Alternatives Is Unlawfully Deficient Because of Factual Errors in the Description of the Historical Nature of the Ballona Wetlands.

One of the primary purposes of the EIR is to evaluate a "reasonable range of alternatives" that would reduce or avoid impacts. While an EIR need to not evaluate every alternative, "an EIR is required to consider those alternatives that will "attain most of the basic objectives" while avoiding or substantially reducing the environmental impacts of the project. (*Watsonville Pilots Assn. v. City of Watsonville* (2010) 183 Cal.App.4th 1059, 1087.)

In this case, the executive summary of the Draft EIR/EIS (hereinafter "DEIR") states "the term Project with a capital "P" means restoration of the Ballona Reserve and incidental work necessitated by the proposed activities." However, all the alternatives contemplated include the restoration of full tidal action when, historically, the Ballona Wetlands were primarily freshwater and were only subject to tidal action on the rare occasion that the rivermouth at Ballona Creek blew out during heavy rains. Thus, the term "restoration" is not accurate.

O11-379

The historically freshwater nature of the Ballona Wetlands was discussed in a scientific paper prepared pursuant to the National Sea Grant Program (Grant # NA 06OAR4170012.) (Jacobs, Stein and Langcore "*Classification of California Estuaries Based on Natural Closure Patterns: Templates for Restoration and Management*" Southern California Coastal Water Research Project, Technical Report 619.a (August 2011 revised).) In the paper, Jacobs et. al. opine that:

> "the longshore drift of sand rapidly closed the berm connecting Ballona to the sea after major storms and a large freshwater lake was the rule, rather than the exception for the wetlands, even reaching inland up to five miles presumably as a consequence of perching of water behind a berm during modest stream flow episodes. These data are consistent with core data which show intermittent freshwater conditions in Ballona over the last 4,0000 [sic] years (Palacios-Fest et al. 2006).

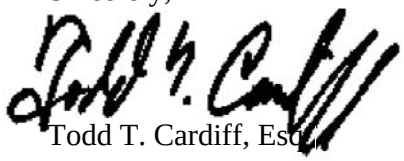
(Classification of California Estuaries, at 34.)

O11-379 cont.

Jacobs et. al., conclude that the Ballona Wetlands is not historically a saltwater marsh subject to tidal influence on a daily basis, but a freshwater wetlands (often a lake) that is intermittently open to the ocean after large storm events. (Id. at 25.) In fact, based on narrative histories, it appears that after a flood event in 1825, where the Los Angeles River shifted away from Ballona Creek, the estuary mouth was increasingly closed.

An accurate definition of "restoration" is important. Unless ACOE and CDFW can cite to other information that demonstrates that the Ballona Wetlands was historically a salt-water marsh, it cannot claim that the project is for restoration of the Ballona Wetlands.

Sincerely,



Todd T. Cardiff, Esq.

CLASSIFICATION OF CALIFORNIA ESTUARIES BASED ON NATURAL CLOSURE PATTERNS: TEMPLATES FOR RESTORATION AND MANAGEMENT

Revised

David Jacobs
Eric D. Stein
Travis Longcore

Southern California Coastal Water Research Project

Technical Report 619.a - August 2011

O11-380 cont.

Classification of California Estuaries Based on Natural Closure Patterns: Templates for Restoration and Management

David K. Jacobs[1], Eric D. Stein[2], and Travis Longcore[3]

[1]*UCLA Department of Ecology and Evolutionary Biology*
[2]*Southern California Coastal Water Research Project*
[3]*University of Southern California - Spatial Sciences Institute*

O11-380
cont.

August 2010
Revised August 2011

Technical Report 619.a

ABSTRACT

Determining the appropriate design template is critical to coastal wetland restoration. In seasonally wet and semi-arid regions of the world coastal wetlands tend to close off from the sea seasonally or episodically, and decisions regarding estuarine mouth closure have far reaching implications for cost, management, and ultimate success of coastal wetland restoration. In the past restoration planners relied on an incomplete understanding of the factors that influence estuarine mouth closure. Consequently, templates from other climatic/physiographic regions are often inappropriately applied. The first step to addressing this issue is to develop a classification system based on an understanding of the processes that formed the estuaries and thus define their pre-development structure. Here we propose a new classification system for California estuaries based on the geomorphic history and the dominant physical processes that govern the formation of the estuary space or volume. It is distinct from previous estuary closure models, which focused primarily on the relationship between estuary size and tidal prism in constraining closure. This classification system uses geologic origin, exposure to littoral process, watershed size and runoff characteristics as the basis of a conceptual model that predicts likely frequency and duration of closure of the estuary mouth. We then begin to validate the proposed model by investigating historical documentation of three representative estuaries to determine if their pre-development condition was consistent with the structure predicted by the classification. In application of the model, eight closure states, based on elevation of barriers to tidal access, were defined. These states can be determined from historic, maps descriptions and photography. These states are then used to validate models of closure state frequency for different classes of estuaries based on the classification. Application of the classification model suggests that under natural conditions, the vast majority of California estuaries experience some degree of closure, and most spend a preponderance of time completely isolated from the sea or with a limited or muted tidal connection. In this state, stream flow rather than tidal influence is the most critical variable controlling mouth opening. Individual estuaries exist in a variety of closure states over multi-year to multi-decadal time frames. An estuary may exist in a given closure state for periods of time ranging from days to years. The distribution of closure states for an estuary over time can be used to guide management decisions based on dominant closure and hydrodynamics of the system. Success of future estuarine restoration projects could be improved by incorporating consideration of mouth closure dynamics.

O11-380 cont.

Table of Contents

Abstract i

Introduction 1

Methods 3

Conceptual Basis for Estuarine Classification 5

Formation of California Estuaries 5

Uplift 5

Sea Level Change 5

Coastal Retreat-Regressive Shorelines 5

Progradational Shorelines and Estuarine Infill 6

Processes that Influence Estuary Opening, Closing, and Migration 6

Tides and Wave Attack 7

Longshore Processes 8

Proposed Classification System for Southern California Estuaries 11

Coastal Setting 12

Coastal Exposure 13

Watershed Characteristics 13

Formation Process 14

Closure Pattern 15

Application of Estuary Classification System in Central and Southern California 24

Closure Model 24

Detailed Assessment of Three Estuaries 27

Ballona Creek 27

Topanga Creek 35

Tijuana Estuary 40

Discussion 46

Implications of Ahistoric "Restoration" of California Estuaries 46

Recommendations for Management 52

Conclusions 56

Acknowledgments 59

Literature Cited 60

O11-380 cont.

List of Figures

Figure 1. California estuaries discussed in this study 4
Figure 2. Coastal T-sheets (ca. 1876) showing lateral migration of estuarine mouth 9
Figure 3. Lagoons south of Point Hueneme as shown on T-sheet 893 (ca. 1857). 10
Figure 4. Series of barrier sand spits generating the prograding shoreline and forming much of the space of Mugu Lagoon (ca. 1860) 11
Figure 5. Distribution of coastal settings in southern California. 12
Figure 6. Illustration of three formation processes for southern California estuaries. 15
Figure 7. Schematic representations and examples of closure states. 18
Figure 8. Visualization of closure regime for southern California estuaries, classified by watershed characteristics, coastal exposure, and closure state. 26
Figure 9. A. Detail of 1876 coast survey map (T-Sheet) of Santa Monica Bay. 29
Figure 9. B. Turn of the century images of the "Lake" feature between the beach and dune line (marked "L" in figure 9A above) 30
Figure 9. C. Late 19a Century photograph of freshwater habitat "Lake" feature between the beach and dune line (marked "L" in figure 9A above) 30
Figure 10. Detail of coastal survey (T-Sheet) from 1887 showing the new piers and entrance to proposed harbor 32
Figure 11. T-sheet (ca. 1876) detail of Tepango Canyon (currently Topanga Canyon). 36
Figure 13. Mouth of Topanga Creek on October 4, 1926 and December 21, 1929 (Spence Air Photo Collection E-742 and E-3040). 37
Figure 14. Shortened span over Topanga Lagoon. 38
Figure 15. Aerial photographs of Topanga lagoon from Google Earth, 1990-2007. 39
Figure 16. Images of the mouth of Tijuana Estuary in May 2002 top and June 2006 bottom showing restriction of the mouth and partial draining of the estuary through the barrier beach as well as ponded areas to the south of the mouth 42
Figure 17. T-sheet of Tijuana Estuary showing ponded areas (P), berms (yellow), location of channels (Ch), and a channel presumed to have been cut by the Tijuana River, in the 19th century (P?) 45
Figure 18. Creation of ahistoric conditions at Bolsa Chica through jettying a perennial deepwater channel 50

O11-380 cont.

List of Tables

Table 1. Estuary attributes, and associated categories, that describe formation and physical process. 12
Table 2. Predicted closure of California estuaries based on coastal setting, exposure, watershed size, and formation process.a 25

INTRODUCTION

Loss of coastal wetlands is widely recognized as contributing to decreased biodiversity, species declines, and increase in coastal hazards (Zedler and Kercher 2005). In semi-arid regions, such as southern California, the effect of wetland loss is particularly acute because wetlands are oases in a relatively dry landscape (Zedler 1996). Unfortunately, the combination of the small, somewhat isolated nature of coastal wetlands and intense development pressure has resulted in California experiencing some of the highest rate of loss of coastal wetlands in the United States (Zedler 1996). As a result, coastal wetland restoration has been a focus of management activity and public funding over the past two decades. Since 1998, more than $500 million have been spent on acquisition and restoration of coastal wetlands in southern California alone (http://www.scwrp.org/index.htm).

One of the most difficult aspects of coastal wetland restoration is determining the restoration template (Brinson and Rheinhardt 1996). Determining the appropriate physical configuration and habitat mix for restored wetlands is complicated when undisturbed reference sites are no longer present on the landscape (Grayson *et al*. 1999). Consequently, templates from other climatic/physiographic regions are often applied to southern California coastal wetland restoration projects. However, the drowned river mouth estuaries and barrier island systems typically found in more humid, less tectonically active areas, such as the eastern United States are fundamentally different than the small geologically active estuaries found in the semi-arid Mediterranean climate of southern California. Of particular note is the critical importance of streamflow, and the seasonal and episodic variability of that flow, in maintaining estuarine settings. These, in combination with difference in watershed size and littoral process, affect the character of estuarine mouths. The frequency and duration of mouth closure is a far more important phenomenon in west coast than east coast estuaries and can serve as a key factor that determines the groundwater hydrology, habitat types, flora and fauna supported by a specific estuary.

O11-380 cont.

Study of the nature of physical and biological processes in closing estuarine systems has been more systematic in other Mediterranean climates settings, such as Australia (Hodgkin and Hesp 1998; Ranasinghe and Pattiaratchi 1999, 2003; Ranasinghe *et al*. 1999; Roy *et al*. 2001; Shuttleworth *et al*. 2005; Stretch and Parkinson 2006) and South Africa (Cooper 1990, 2001, 2002; Nozais *et al*. 2005; Harrison and Whitfield 2006; Anandraj *et al*. 2007) where systematic studies across suites of seasonally closing estuaries have been conducted. The more limited focus on these systems in California may be, in part, due to the influence of studies of East Coast estuaries, and the presence of a few exemplar open systems, such as San Francisco Bay, and, in southern California, San Diego Bay. Application of physical and biological models and restoration templates from estuaries with fundamentally different geologic origins, climate, scale and geomorphic processes typically found in other regions of the United States appears to create conditions in the name of restoration that, depart from local history are at odds with local processes. Such "restored" systems tend to have high maintenance requirements, and are often inappropriate for the species endemic to estuaries of the California Coast, including endangered taxa. Therefore, development of a set of restoration templates appropriate for medium to small-sized estuaries in Mediterranean climates with variable precipitation and streamflow should be a