Final

BALLONA WETLANDS RESTORATION PROJECT

Environmental Impact Report
State Clearinghouse No. 2012071090

Volume 5: Comment Letter O12 through Comment Letter I26

Prepared for

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

December 2019

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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

CHAPTER 2

Responses to Comments (continued)

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Harbor Real Estate Group

Gregory F. Schem
President/CEO

February 6, 2018

Mr. Richard Brody, CDFW
c/o ESA (jas)
550 Kearney Street, Suite 800
San Francisco, CA 94108

Via email: BWERcomments@wildlife.ca.gov

RE: Ballona Wetlands Restoration Project Draft EIR

Mr. Brody:

I currently own and operate the BoatYard on parcel 53 on Fiji Way and had previously owned the apartment project known as Villa Venetia also on Fiji Way. Over the years it has become clear to me that the heavily used bike path, currently located on Fiji as well as the pedestrian walkway is poorly located and dangerous. The obvious and proper location for this infrastructure would be on parcel A at the Ballona Wetlands. At this location the public would have increased access and safety while being able to enjoy the natural beauty of the wetlands habitat.

O12-1

Please accept this letter as my request that the relocation of the bike path be considered in connection with the alternatives being reviewed for the utilization of this area. Not only would this provide a tremendous benefit for public access it would take the universal vision of connecting the bike path around the entire marina one big step closer to being realized.

Thank you for your consideration.

Sincerely,

Gregory F. Schem

cc: Tim Riley

13555 Fiji Way, Marina del Rey, CA 90292 P: (310) 822-4878 F: (310) 821-0569 Email: Greg@HighlandInvestCo.com

Letter O12: Harbor Real Estate Group

O12-1 This input regarding the location of the bike path and pedestrian walkway is acknowledged, and is now part of the record of information that will be considered as part of CDFW's decision-making process. Elements of the proposed public access improvements common to all of the alternatives analyzed in detail are described in Draft EIS/EIR Section 2.2.1.3. Public access improvements specific to the Project are described in Section 2.2.2.3. See also Section 2.2.3.3 (Alternative 2), Section 2.2.4.3 (Alternative 3), and Section 2.2.5.3 (Alternative 4).

Heal the Bay

February 5, 2018

Daniel Swenson, Regulatory Division
U.S. Army Corps of Engineers
Los Angeles District
915 Wilshire Blvd, Suite 930
Los Angeles, CA 90017

Richard Brody
California Department of Fish and Wildlife
c/o ESA (jas)
550 Kearney Street, Suite 800
San Francisco, CA 94108

Submitted via email to: daniel.p.swenson@usace.army.mil and BWERcomments@wildlife.ca.gov

Re: Comments on the Draft Environmental Impact Statement/Environmental Impact Report for the Ballona Wetlands Restoration Project; Support of Alternative 1 with modifications

Dear Mr. Swenson and Mr. Brody:

On behalf of Heal the Bay, we submit the following comments on the Draft Environmental Impact Statement/Environmental Impact Report for the Ballona Wetlands Restoration Project ("Draft EIR/S" or DEIR/S"). Heal the Bay supports the joint comment letter submitted by the Wetlands Restoration Principles Coalition Steering Committee and provides additional comments here. We appreciate the extended public comment period and the opportunity to provide comments. O13-1

Heal the Bay is an environmental organization with over 30 years of experience and 15,000 members dedicated to making the coastal waters and watersheds of greater Los Angeles safe, healthy, and clean. Heal the Bay has advocated for, initiated, and participated in numerous riparian and wetland habitat restoration projects throughout our history. Heal the Bay was a leader in over twenty years of research and advocacy that lead to the successful restoration of Malibu Lagoon in 2013. That estuary was impacted by fill and upstream pollution, and suffered from poor circulation, low dissolved oxygen, eutrophication and poor biodiversity. In the five years since the Malibu Lagoon restoration plan was implemented, the health of the Lagoon has improved immensely. Endangered fish and birds are present in the Lagoon, dissolved oxygen is higher, nutrient levels are lower, and biodiversity is increasing.[1]

[1] Malibu Lagoon Restoration and Enhancement Project Comprehensive Monitoring Report (Year 4), August 31, 2017. http://www.santamonicabay.org/wp-content/uploads/2014/04/Malibu-Lagoon_YR4-Report_FINAL_Aug2017.pdf viewed on 2/1/2018.

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Heal the Bay's long involvement with the Ballona Wetlands includes supporting the purchase of the land by the State of California, providing technical guidance on the creation of the Freshwater Marsh in Area B, and working closely with Congresswoman Jan Harman to improve tide gate management in West Area B, which resulted in substantial improvements in hydrology and biodiversity in a limited portion of Area B. Heal the Bay participated in design workshops hosted by the State Coastal Conservancy and The Bay Foundation, and supported public outreach and tours of various parts of the Ballona Wetlands Ecological Reserve. This outreach served to increase public awareness of this degraded habitat and the enormous potential for ecological improvements and world-class public amenities such as trails and outdoor education facilities.

The restoration of Ballona Wetlands for habitat and public access is long overdue. Public demand for recreational open space and restoration of natural habitats in Los Angeles is enormous. In 2003 the state of California completed their acquisition of over 600 acres that is now the Ballona Wetlands Ecological Reserve. The Ballona Wetlands are listed on the state's Clean Water Act Section 303(d) list of impaired water bodies for "reduced tidal and freshwater flow to support habitat and aquatic life."[2] Nearly all of the Reserve has remained in an extremely degraded state since it was purchased, with virtually no public access. In a densely populated urban metropolis facing the combined pressures of lack of public open space, loss of biodiversity, polluted water and sea level rise, the Ballona Wetlands is a critical component of our region's natural infrastructure. A robust, science-based restoration designed for habitat enhancement, water quality improvement and public access and will be an asset to health and quality of life in our region and a prized jewel of the LA County coast.

O13-2

The Draft EIR/S provides a thorough analysis of current conditions and potential projects. Alternative 1 is clearly the best alternative to meet the seven stated goals of the State of California, which include among others: to restore, enhance, and create estuarine and associated habitats; establish natural processes and functions that support estuarine and associated habitats; and develop and enhance wildlife-dependent uses and secondary compatible on-site public access for recreation and educational activities (pages ES-8-ES-10, Draft EIR/S).

Heal the Bay supports implementation of Alternative 1 with three modifications to the plan. Our support for Alternative 1, the necessary modifications to the plan, and our comments on the other Alternatives and details of the Draft EIR/S are provided below.

O13-3

Alternative 1 Best Achieves the Goals of the State

The restoration of the Ballona Wetlands should restore, enhance, and create functioning wetland habitats that are resilient and self-sustaining and provide benefits for native species as well as

O13-4

[2] U.S. Environmental Protection Agency. 2012. Ballona Creek Wetlands Total Maximum Daily Loads for Sediment and Invasive Exotic Vegetation. Available at: https://www3.epa.gov/region9/water/tmdl/ballona/BallonaCreekWetlandsTMDL-final.pdf

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increased public access for education and enjoyment. Specifically, the restoration plan must include:

- Removal of significant amounts of legacy fill and sediment that has been placed on the wetlands, causing severe impairment of natural wetlands functions
- Removal of concrete levees along Ballona Creek to reconnect the Creek to its floodplains and the wetlands
- Restoration and/or creation of wetland habitats including subtidal, low marsh, mid and high marsh, and salt pan habitats
- Wetland habitats that support diverse, rare, and sensitive species of plants and animals
- A project with maximal self-sustainability and minimal required on-going maintenance
- A project that accounts for and adapts to sea level rise, providing maximal long-term benefits
- A project that creates publicly accessible trails and educational opportunities that are compatible with ecological goals

O13-4 cont.

Alternative 1 Restores and Enhances Habitat

Alternative 1 in the DEIR/S will best achieve these goals for the Ballona Wetlands. Historically, the greater Ballona Wetlands complex was comprised primarily of salt marsh habitat (1238 acres or 70%)[3]; today, the remaining Wetlands are much reduced in size and only have 18.2 acres of muted (not fully functional) salt marsh (Table 2-3, page 2-45, Draft EIR/S). In total, the limited tidal salt marsh and non-tidal impaired salt marsh make up 25% (or 155 acres) of the current Wetlands.[4] Salt marsh is the habitat that has primarily been lost in the Ballona Wetlands and must now be restored or created. Alternative 1 is the preferred plan because it restores, enhances, and creates the greatest number of acres of tidal salt marsh habitat at 153.4 acres (Table 2-3, page 2-45, Draft EIR/S), relative to all the other alternatives (124.3 acres in Alternative 2, 42.8 acres in Alternative 3, and zero acres in Alternative 4; see pages 2-163 and 2-188, Draft EIR/S). The Environmental Protection Agency (EPA) Total Maximum Daily Load (TMDL) lists the Wetlands as impaired for reduced tidal flushing[5]; the State must implement Alternative 1 to reverse the 303(d)-listed impairments and result in the most tidal salt marsh habitat.

O13-5

Alternative 1 Restores Tidal Flows

The Ballona Wetlands are on the state's Clean Water Act (CWA) Section 303(d) list of impaired water bodies for "reduced tidal and freshwater flow to support habitat and aquatic life."[6] The EPA TMDL for the Ballona Wetlands identifies the stressors causing this impairment as the levees and tide gates that prevent connection of the creek to the floodplain, and do not allow the wetlands to experience a full range of tides.[7] Alternative 1 is the only alternative that removes all the concrete

O13-6

[3] U.S. Environmental Protection Agency. 2012. Ballona Creek Wetlands Total Maximum Daily Loads for Sediment and Invasive Exotic Vegetation. Available at: https://www3.epa.gov/region9/water/tmdl/ballona/BallonaCreekWetlandsTMDL-final.pdf, Table 6 and Figure 14.
[4] Ibid, Table 7 and Figure 14.
[5] Ibid.
[6] Ibid, Table 4, page 33.
[7] Ibid.

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levees along Ballona Creek, including the tide gates that currently prevent a full tidal range in West Area B. Alternatives 3 and 4 do not meet the State's restoration goals because they do not fully reconnect the Creek with its floodplains or fully restore tidal flushing. Alternative 2, while removing significant amounts of concrete levees along the Creek, falls short in reconnecting West Area B hydrologically to the Creek and maintains in perpetuity the tide gates that currently prevent full tidal flushing in that area. The removal of concrete along this portion of Ballona Creek will set a precedent for further concrete removal along other sections of the Creek and in other urban watersheds.

O13-6 cont.

Alternative 1 Reduces Sediment Impairment

The Ballona Wetlands are also on the state's CWA Section 303(d) list of impaired water bodies due to excess sediment, and Alternative 1 is the plan that best addresses this impairment. The excess sediment was dumped onto the Ballona wetlands in the 1960s when Marina del Rey was constructed, and raised the elevation in Areas A and C well above tidal influence. The dumped sediment, combined with the construction of concrete levees to channelize Ballona creek, have prevented tidal influence in those areas (with the exception of the small drainage known as Fiji ditch). This is the major cause of the loss of wetland habitat, the alteration of habitat composition, and the loss and modification of species diversity and abundance in Areas A and C.[8] Due to existing infrastructure including major roads and bridges and existing recreational facilities on Area C, the most practical way to achieve new wetland habitat is to remove the excess sediment from Area A.

Alternative 1 removes the greatest volume of sediment from Area A, between 2,400,000 to 2,430,000 cubic yards (Table 2-8, page 2-120, Draft EIR/S). Alternatives 2 and 3 remove 2.09M cubic yards and 1.42M cubic yards respectively (Tables 2-24 and 2-28, Draft EIR/S). Alternative 4 removes zero cubic yards of fill. Alternative 1 removes the most excess sediment and will best achieve habitat that is at an appropriate elevation to maintain a connection to the Ballona estuary, and contribute to a healthy, functioning wetlands system.

O13-7

Alternative 1 Improves Local Resilience to Climate Change

Alternative 1 creates the greatest local resiliency to climate change and sea level rise. Alternative 1 will extend the lifetime of the salt pan by approximately 20 years (by protecting it from sea level rise and flooding) and will allow habitat to advance inland and upslope as sea level rises. The salt pan is a unique habitat that provides overwintering, foraging, and nesting habitat for many species of birds. In contrast, Alternatives 2, 3, and 4 will result in loss of the salt pan in West Area B more rapidly, likely before 2050. Further, the tide gates in West Area B are predicted to fail between 2030 and 2050, and the tide gates would then be permanently closed due to sea level rise; West Area B would become permanently flooded or a mudflat at that point. Establishing natural processes with minimal reliance on on-going maintenance (such as pumping water) are important elements of a successful project. Restoring West Area B to fully tidal will create greater resiliency

O13-8

[8] U.S. Environmental Protection Agency. 2012. Ballona Creek Wetlands Total Maximum Daily Loads for Sediment and Invasive Exotic Vegetation. Available at: https://www3.epa.gov/region9/water/tmdl/ballona/BallonaCreekWetlandsTMDL-final.pdf

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and space for habitat to advance as sea level rises; habitat will be able to transition within West Area B and also retreat towards South Area B.

O13-8 cont.

Alternative 1 Provides the Greatest Level and Quality of Public Access

Alternative 1 results in the most opportunities for well-regulated public access through pedestrian and bike paths. Alternative 1 would result in the creation of 19,000 linear feet (approximately 3.6 miles) of pedestrian and bicycle paths (Page 2-100, Draft EIR/S) as well as 29,000 linear feet of pedestrian only trails and 2,000 linear feet of elevated boardwalks (Page 2-106, Draft EIR/S). The exact amounts of trails for the other Alternatives are not clearly stated in the Draft EIR/S but based on the figures showing the Public Access Plans for Alternatives 2 and 3 (Figures 2-45 and 2-54, respectively, Draft EIR/S), it appears that Alternative 1 has the most paths. Alternative 2 has less extensive pedestrian trails in Area A and West Area B; however, Alternative 2 does have a bike path around East Area B where Alternative 1 does not (Figures 2-23 and 2-45, Draft EIR/S). Public access in Alternative 3 is greatly reduced compared to Alternative 1, with virtually no access in Area B (Figure 2-54, Draft EIR/S). Alternative 4, or the no project alternative, is not an option given that there is basically no public access now, which is unacceptable given that it is State land and open space in the middle of urban Los Angeles. Clearly, care needs to be taken to balance access with ecological benefits and the restoration project is a prime opportunity to increase educational and recreational opportunities in this open-space gem.

O13-9

Support for the Draft EIR/S and Alternatives Analyzed

We commend the hard work and detailed analysis that went into the preparation of this long-awaited document. We acknowledge the work of CDFW, USACE, and countless other agencies and groups that have added to the body of knowledge of the Ballona Wetlands and upon which this document is based. Specifically, we applaud the Draft EIR/S for exploring appropriate alternatives and carrying forward analyses of the alternatives that are feasible and best meet the goals of the project. Heal the Bay would love to see a project in which the fragmentation of the wetlands is reduced by removing or raising surrounding roads (as explored in Alternative 9, page 2-217, Draft EIR/S). However, we understand that this Alternative is not feasible given the extensive infrastructure that would have to be moved and protected; further, this would nearly double the cost per restored acre for all alternatives. We appreciate that the Draft EIR/S examined this Alternative and clearly justified the reasons for not carrying it forward for further analysis.

O13-10

Similarly, we appreciate that the Draft EIR/S considered the possibility of returning the Ballona Wetlands to a historical, specifically, 19th century state (Alternative 11, page 2-234, Draft EIR/S). The Draft EIR/S finds that a proposal to return the wetlands to a seasonally closed lagoon (coastal bar-built estuary system) is not reasonable and we agree. "Restoring" to a specific point in time is not typically possible for any restoration in urban environments, due to present-day constraints that did not exist 200 years ago. Further, restoring to a specific point in time ignores future threats, such as climate change and sea level rise and is therefore not responsible policy or use of public funds.

O13-11

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It is possible and appropriate to use the known historical ecology of the Ballona Wetlands and other coastal California wetlands as a basis for setting overall habitat restoration goals. For instance, the Ballona Creek Wetlands EPA TMDL for sediment and invasive exotic vegetation[9] sets objectives based on historic elevation ranges and habitats at Ballona Wetlands and similar wetland systems in Southern California. The TMDL relied upon credible sources such as the historical T-sheet map[10] for the Ballona Wetlands as well as historical ecology studies[11]. The Draft EIR/S acknowledges the Ballona Wetlands TMDL and while the restoration alternatives do not explicitly meet all the load allocations set in the TMDL, the Draft EIR/S uses dual approaches to achieve sediment removal and restoration of historical tidal wetland habitats. The Draft EIR/S appropriately considers and aims for historical wetlands habitats while accommodating current and future constraints. O13-12

Further, arguments have been made for restoring Ballona Wetlands to a historical state as a predominantly freshwater wetland. However, as described above, it is not appropriate to restore any wetlands to a specific point in time without considering current and future constraints. Additionally, it is not clear that the Wetlands were predominantly freshwater. The EPA TMDL defines the Ballona Wetlands as a "tidal marsh-tidal flat dominant system"[12] and based on the historical ecology[13], the freshwater wetlands were further inland than the extent of the proposed restoration project. The TMDL specifies that the 303(d) impairment listing is for "reduced tidal flushing" and acknowledges that compared to freshwater inputs, "…the more limiting factor, comparatively, is a significant reduction in tidal flow."[14] The EPA TMDL shows a graph (copied below) of habitat proportions for Greater Ballona Wetlands Complex (1752 acres), current Ballona Wetlands, and Historical Ballona Creek Wetlands (626 acres).[15] The graph shows that there was some freshwater marsh in the project area historically (approximately 10%) but the primary loss of habitat compared to historical conditions is in the loss of salt marsh habitat. We do acknowledge that historically, the Ballona Creek Wetlands were typically closed to the ocean and only opened periodically during storms; however, returning to a periodically closed lagoon system is infeasible O13-13

[9] U.S. Environmental Protection Agency. 2012. Ballona Creek Wetlands Total Maximum Daily Loads for Sediment and Invasive Exotic Vegetation. Available at: https://www3.epa.gov/region9/water/tmdl/ballona/BallonaCreekWetlandsTMDL-final.pdf

[10] Grossinger R et al. 2011. Historical Wetlands of the Southern California Coast: An Atlas of US Coast Survey Sheets, 1851-1889. San Francisco Estuary Institute Contribution No. 586 and Southern California Costal Water Research Project Technical Report No. 589.

[11] Dark S et al. 2011. Historical Ecology of the Ballona Creek Watershed. Southern California Coastal Water Research Project Technical Report no. 671.

[12] U.S. Environmental Protection Agency. 2012. Ballona Creek Wetlands Total Maximum Daily Loads for Sediment and Invasive Exotic Vegetation. Available at: https://www3.epa.gov/region9/water/tmdl/ballona/BallonaCreekWetlandsTMDL-final.pdf, page 14.

[13] Dark S et al. 2011. Historical Ecology of the Ballona Creek Watershed. Southern California Coastal Water Research Project Technical Report no. 671

[14] U.S. Environmental Protection Agency. 2012. Ballona Creek Wetlands Total Maximum Daily Loads for Sediment and Invasive Exotic Vegetation. Available at: https://www3.epa.gov/region9/water/tmdl/ballona/BallonaCreekWetlandsTMDL-final.pdf, page 32.

[15] Ibid, page 43.

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given current infrastructure. Therefore, given current constraints and feasibility issues, future sea level rise, and historical ecology evidence, moving forward with a restoration that emphasizes estuarine tidal wetlands is the best option.

O13-13 cont.

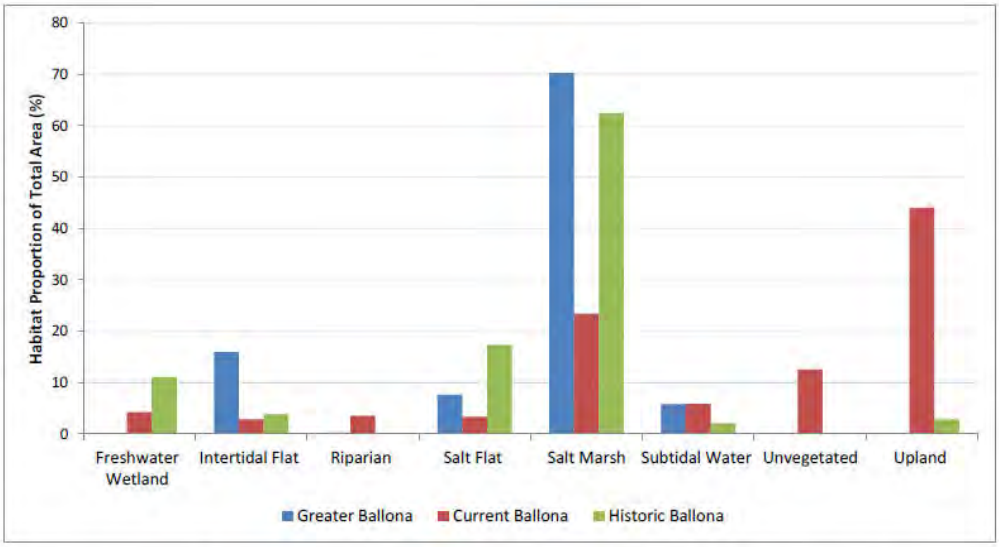

Figure 14. Habitat Proportions for the Greater Ballona Wetlands Complex (1762 acres), Current Ballona Creek Wetland area, and Historical Ballona Creek Wetlands (626 acres). Percentage of freshwater wetland, intertidal, riparian, salt flat, salt marsh, subtidal, unvegetated, and upland estimated from historical and current maps.

O13-14

Proposed Modifications to Alternative 1

Heal the Bay supports Alternative 1 as the best option to achieve the ecological and public access goals set by the State. However, some modifications to Alternative 1 would help to ensure the goals are achieved. The proposed modifications to Alternative 1 could be accomplished through the permitting process for the project and should not require additional major analysis or recirculation of the DEIR/S. The following three changes, described in more detail below, would further ensure the final project meets the State's goals:

1. **Include additional criteria for the Belding's Savannah Sparrow populations before Phase 2 is initiated.**
2. **Add additional pedestrian and bike paths in Phase 1, and restrict public access to sensitive dune habitats in West Area B.**
3. **Include in the Final DEIR/S a parking needs analysis, and reduce the parking lot footprints and add restroom facilities.**

O13-15

1. Include additional criteria for the Belding's Savannah Sparrow population before Phase 2 is initiated

O13-16

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We appreciate that Mitigation Measure BIO-1i-ii (page 3.4-101, Draft EIR/S) is included to protect the Belding's Savannah Sparrow. However, this mitigation measure needs to be strengthened to ensure the sparrows are adequately protected before Phase 2 of Alternative 1 is implemented. The requirement of one nesting pair of Belding's Savannah Sparrow in Area A prior to Phase 2 may be inadequate. Heal the Bay recommends a criterion of five nesting pairs because this is the lowest recorded number of Belding's nesting territories documented at the Ballona Wetlands from 1973 to 2016.[16] The population has varied over the years; however, it appears that five breeding pairs are somewhat stable in that, five years later, the number of territories was 37. Further, as the Draft EIR/S suggests, low numbers of nesting pairs of Belding's indicate suitable habitat, and the number of nesting pairs would likely increase as temporary construction impacts cease and habitat matures. A well-justified requirement of more than one nesting pair of sparrows should be added to the numbered criteria listed on page 3.4-101 of the Draft EIR/S. This additional criterion will ensure that the state endangered Belding's Savannah Sparrow will be adequately protected in order to ensure its persistence and success at the Ballona Wetlands.

O13-16 cont.

2. Add additional pedestrian and bike paths in Phase 1 and restrict public access to sensitive dune habitat

We support the public access plan for Alternative 1; however, the plan could provide even more access. We support the addition of a major pedestrian and bike path around East Area B, as seen in the Alternative 2 Public Access Plan. This will provide further linkages and recreational and educational opportunities, connecting the freshwater marsh and the wetlands south of Jefferson Blvd to the larger project. The existing pedestrian path through the dune habitat at the west end of West Area B should be restricted and not opened to the general public because general public access could negatively impact the fragile dune habitat that is home to the endangered El Segundo Blue Butterfly. However, additional pedestrian trails are needed elsewhere in West Area B. The existing trail to the viewing platform should be extended along the old trolley berm to connect with the proposed pedestrian trail that runs along Culver Blvd. as seen in Figure 2-18 of the DEIR/S (page 2-91).

O13-17

3. Complete a parking needs analysis, reduce the parking lot footprints and add restroom facilities

Improved public access that is well-regulated is desperately needed at the Ballona Wetlands. Parking is a required element of a strong public access plan; parking lots should be appropriately sized, their impacts to local habitats should be minimized, and they should be located at major trailheads. The justification for the number and sizes of the parking lots in the Draft EIR/S needs to be strengthened. The Draft EIR/S does not discuss or analyze the expected number of visitors to a restored Ballona Wetlands and how many parking spaces or other amenities are needed. There should be a clear nexus between parking needs identified and the parking that is proposed. Alternatives 1, 2, and 3 present the same parking lot options:

O13-18

[16] Zembal et al. 2015. A survey of the Belding's savannah sparrow (*Passerculus sandwichensis beldingi)* in California, 2015. State of California, Natural Resources Agency, Department of Fish and Wildlife, Wildlife Branch.

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three parking areas in Area A, including a three story lot with 302 spaces, and an improved parking lot in West Area B with 40 spaces. The Draft EIR/S states that the parking is for use by the public, LA County Department of Beaches and Harbors, and CDFW; however, parking for the public should be the top priority, with State and Local use minimized. The figures of the parking lots in Area A in the Draft EIR/S (Figures 2-2-20 and 2-21) are labeled as "Beaches and Harbor's Parking Structure" and "Beaches and Harbor's Parking Lot". The Draft EIR/S should clarify why the parking structures are labeled as such and what this means. Who has jurisdiction over these parking lots and will uses be renegotiated to ensure compatibility with ecological goals? We do appreciate that the footprint of the parking lots in Area A have been reduced by 0.8 acres from the current lot; however, further reducing the footprint of the proposed lots should be explored, ideally to one lot in Area A. We are not opposed to a multi-story lot but we would like further justification for the size of this structure and impacts (if any) of the structure need to be identified and mitigated. We support the observation deck on the top of the structure, which will provide excellent educational opportunities. O13-18 cont.

Along with parking, appropriate restroom facilities need to be provided for visitors to the Wetlands. The Draft EIR/S does not present any plans for restrooms. It is not realistic to assume that people should rely on neighboring businesses for restroom facilities or in the worst-case scenario, that the wetlands themselves might be used as a bathroom. Restrooms need to be included in the restoration plans, ideally located at parking lots and major trailheads. O13-19

Comments and Questions by Section

Hydrology/Water Quality

Correct Beneficial Uses in Table 3.9-1

The beneficial uses that are listed in Table 3.9-1 (page 3.9-6) of the Draft EIR/S are not complete. The Los Angeles Regional Water Quality Control Board Basin Plan[17] should be consulted to update the table. For instance, the Recreational Beneficial Uses for Ballona Creek, Estuary, and Wetlands are missing from the table in the Draft EIR/S. O13-20

Add All 303(d) Listings

Table 3.9-3 in the Draft EIR/S for 303(d) pollutant assessments in the project area should also include impairments in the Wetlands for habitat alteration, hydromodification, reduced tidal flushing, exotic vegetation, and trash as indicated on the 2010 State Water Board's 303(d) list.[18] O13-21

[17] Los Angeles Regional Water Quality Control Board (LARWQCB). 1994. Water Quality Control Plan: Los Angeles Region. Basin Plan for the Coastal Watersheds of Los Angeles and Ventura County. Available at: https://www.waterboards.ca.gov/losangeles/water_issues/programs/basin_plan/basin_plan_documentation.shtml

[18] State Water Quality Control Board. 2010. 2010 Integrated Report (Clean Water Act Section 303(d) List/305(b) Report. Available at: https://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml

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Update Table 3.9-4 and Include Further Discussion of TMDL Compliance Schedule
Table 3.9-4 in the Draft EIR/S shows a schedule for TMDL Implementation projects in relation to the construction schedules for the proposed Alternatives. The table shows TMDL compliance dates as written into TMDL implementation plans but not whether those compliance goals have actually been met. For instance, we know that dry weather compliance has not been achieved for the Bacteria TMDL, however, the schedule implies that this was achieved in 2013. Further, the Toxics and Metals TMDLs are shown as having achieved compliance of 75% reduction by January 2017 – has this actually been achieved or demonstrated? Evidence of TMDL compliance achievements should be added in as a separate column in the Table. The construction schedules are already out of date and need to be updated. There is an assumption that the TMDLs for bacteria, metals, and toxics will be met by 2021, which will correspond to completion of Phase 1 of Alternative 1 and Alternatives 2 and 3 (page 3.9-26, Draft EIR/S). While we realize that TMDL compliance is not within the scope of this project, nor within the lead agencies' jurisdiction, we recommend that a more thorough discussion be included on possible impacts if the TMDLs are not on track to being met in conjunction with restoration construction schedules. For instance, the trash waste load allocation of zero will be hard to achieve and we can assume that trash will be present to some degree in the Wetlands, despite best management practices. This does not mean that we should not restore the Wetlands and reconnect the Creek to its floodplains; the restoration aims to address numerous impairments and having some low levels of pollutants enter the Wetlands should not prevent action. In this case, a management plan for periodic cleanups could be developed and implemented to address potential impacts to habitat and wildlife from trash. O13-22

We recommend addressing more directly how upstream water quality improvement projects are compatible with the restoration goals for water quality and sediment loads. Provide more information about how the project design will handle changes, including in terms of the extent of monitoring that will occur. While we recognize that much of the Ballona Creek Watershed is beyond the scope of the restoration project, it is reasonably foreseeable that the timing, scope and overall approach of projects and planning efforts happening upstream to address environmental concerns, including the Ballona Creek Bacteria TMDL Project and Ballona Creek Enhanced Watershed Management Program, will affect water quality and sediment loading downstream. We strongly recommend a cumulative impacts and sensitivity discussion to disclose the impacts, both positive and negative, of upstream projects on the project site. The lead agencies (CDFW and ACOE) should work closely with the Los Angeles Regional Water Quality Control Board to stay updated on TMDL compliance progress and adaptively manage the project based on compliance dates.

Address Inconsistency with EPA TMDL More Thoroughly
While the Draft EIR/S addresses compliance with the EPA Ballona Wetlands TMDL, we are concerned that none of the alternatives of the Draft EIR/S will meet the TMDL sediment load allocations or the alternative load allocations for habitat acreage. For instance, the TMDL sets a number of 300,000 cubic yards of sediment to be removed from Area C; however, none of the proposed Alternatives remove any sediment from Area C, and in fact, add sediment from other Areas to Area C (Table 3.9-5, page 3.9-28, Draft EIR/S). The Draft EIR/S justifies this "…because O13-23

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the Project has been designed to achieve both sediment removal and restoration of historical tidal wetland habitats."[19] The alternate habitat acreage goals show that all Alternatives fall short on habitat acreage goals for intertidal and vegetated wetland habitat but have more subtidal and salt flat habitat than is required (Table 3.9-6, page 3.9-28, Draft EIR/S). The Draft EIR/S lead agencies should work with the Los Angeles Regional Board and EPA to ensure that the original goals of the TMDL are achieved. Further justification may be warranted for altering the original targets of the TMDL primarily due to increased understanding of climate change impacts. When the EPA TMDL was written, there was limited information available on localized climate change and sea level rise impacts. The Draft EIR/S appears to be better addressing future sea level rise than the EPA TMDL by creating and restoring more upland, as opposed to low-marsh, which will become inundated more quickly under sea level rise. However, we would like further clarification and justification on the amounts and types of habitat. Table 3.9-6 (page 3.9-28, Draft EIR/S) shows the TMDL load allocations for habitats compared to the habitat acreages by alternative. Alternative 1 has relatively more subtidal and salt pan habitat and less mudflat and low marsh and mid and high marsh than the TMDL load allocations; however, upland habitat is not included here and the total habitat acres are different. Please provide clarification on whether the differences in total acreage are due to upland habitat and why the load allocations are not being met. The goals of the EPA TMDL and Draft EIR/S are compatible and virtually the same; the lead agencies must ensure that regulatory requirements are being met or there is appropriate justification when they are not met.

O13-23 cont.

Further information requested and recommendations for Hydrology section

- Please provide more discussion of channel morphology. How was the Creek meander determined in Area A? The channel in West Area B seems unnaturally straight – will this be contoured at all or allowed to change course on its own?

O13-24

- Water salinity needs further discussion. A goal of the project is stated on page ES-9 of the Draft EIR/S as "a more natural salinity gradient" but this is not discussed in the Hydrology section. What are the expectations for salinity in different areas of the restoration? Can you set salinity goals based on tidal, freshwater, and groundwater influence? Expectations would help set clear criteria for success.

O13-25

- As discussed in the Climate Change/Greenhouse Gas Section, we recommend including the most updated information and referencing updated studies concerning climate change and sea level rise. As new information continually emerges, we recommend that adaptive management be prioritized related to climate change and sea level rise issues.

O13-26

- We recommend that adequate steps are taken to protect water quality during the restoration process from temporary impacts of construction (such as sediment inputs), that regular water quality monitoring is conducted, and that data are released to the public in a timely manner.

O13-27

- Clarify the sediment load for Ballona Creek. Different numbers are given in the Draft EIR/S; on page 3.9-4, the sediment yield is given at 9,100 cy/yr and on page 3.9-13, the average sediment delivery is estimated to be 7,000 cy/yr.

O13-28

[19] Draft EIR/S page 3.9-28

- The discussion on excavation and grading impacts on water quality (page 3.9-43, Draft EIR/S) focuses on sediment quality only of newly deposited sediment. What about older sediment; why isn't that considered or discussed here? Further, there is the assumption that new sediment accretion or erosion won't be contaminated due to TMDL compliance but, as discussed above, this assumption needs to be addressed with further discussion.
- In the Alternative 1 Impacts and Mitigation Measures discussion, impacts are focused on West Area B (specifically, when addressing erosion and accretion). Why are Areas A and North B not addressed as well? For instance, it is stated that sediment from the Creek could degrade sediment quality in West Area B after storm events, but there is no mention of Area A or North Area B (Page 3.9-52, Draft EIR/S).

O13-29

- The language on pages 3.9-52 and 3.9-55 of the Draft EIR/S are exactly the same. Is this correct? The language on page 3.9-52 does not directly relate to contaminated water and sediment from the watershed, unless it is only addressing historical contamination. Again, there is the assumption that TMDLs will be in compliance by the time of the restoration, an assumption which we would like further discussion on as addressed above.

O13-30

Alternative 1 Monitoring Program

The monitoring program for Alternative 1 (pages 2-136 to 2-152, Draft EIR/S) is comprehensive and appropriately based on adaptive management principles. To further strengthen the monitoring program, we recommend the following changes:

- Specify how the different habitat types will be identified in order to know which performance criteria (Tables 2-12 to 2-20, Draft EIR/S) will be applied. For instance, will habitat be identified by elevation or through mapping of current and proposed habitats?
- Presumably, the 10-year monitoring program begins after Phase 2 of Alternative 1. However, monitoring clearly needs to be occurring after Phase 1 as well in order for Phase 2 to proceed. We would like to see this monitoring specifically identified and described in the monitoring program and performance criteria. Table 2-12 (page 2-139, Draft EIR/S) sets performance criteria for birds in tidal marsh habitat in years 8-10 as "successful breeding… for at least one (Belding's savannah sparrow) tidal marsh-associated bird species." This is confusing because it appears to be the same criteria for being able to proceed to Phase 2 but this is in the post-restoration monitoring plan. Please clarify how the two plans are related and whether we might expect breeding of Belding's savannah sparrow before 8-10 years.
- The performance criteria (Tables 2-12 to 2-20, Draft EIR/S) should specify that the goals are for native species except when they are explicitly about invasive or non-native species. For instance, Table 2-13 sets criteria for fish richness and abundance in criteria A for different monitoring years, but does not specifically state that the richness and abundance should be native species. We think this is an important distinction and should be added to all criteria in Tables 2-12 to 2-20 that don't explicitly name species as native.

O13-31

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Biological Resources

Heal the Bay supports Alternative 1 with the additional safeguards for the Belding's Savannah Sparrow as described above. Removing concrete levees will enhance fish foraging, spawning, and nursery habitat and, along with Malibu Lagoon and Topanga Lagoon, provide one of only three relatively healthy estuary habitats for fish reproduction and feeding in the entire Santa Monica Bay. Additional questions and comments related to Biological Resources are detailed below.

Further information requested and recommendations for Biological Resources section

- Strengthen requirements (page ES-20, Draft EIR/S) to protect and relocate animals during construction. Similar to what occurred during the Malibu Lagoon restoration, biological monitors should be on site and at every piece of equipment to survey, trap, and move any wildlife that may be impacted by restoration activities.
- Ensure that sensitive plants are surveyed and relocated via plant or seed, particularly in Area C.
- Ensure that restoration plantings are from local genetic stocks when possible.
- In order to protect the willows in Southeast Area B, we recommend that the channel be moved away from the willows to prevent salt water intrusion and impacts to the willows. We are concerned that relying on a future mitigation plan if impacts are seen will be inadequate since it will hard to reverse the impacts of salt water and tidal flow once they have begun.

O13-32

Greenhouse Gas Emissions/ Climate Change

Alternative 1 provides the greatest local resilience to climate change. Wetland restoration is widely accepted as a tool for carbon sequestration as well as a management technique for sea level rise. Additional questions and comments related to Climate Change are detailed below.

O13-33

Further information requested and recommendations for Climate Change/GHG Emissions section

- This section references University of California, Los Angeles (UCLA) and Los Angeles Regional Collaborative for Climate Action and Sustainability (LARC) studies published in 2012. We recommend utilizing regional LA climate change prediction updates that are more current, like the University of Southern California Sea Grant LA Region study released in early 2017 based on the newest data and coastal storm modeling system (CoSMoS), available at: http://dornsife.usc.edu/uscseagrant/adaptla/.

O13-34

- The summary of relevant policies focuses on emissions related law in California. We recommend also including natural resources policies that support wetlands as a climate mitigation strategy (e.g. California Coastal Commission Sea Level Rise Policy Guidance[20],

O13-35

[20] California Coastal Commission. 2015. Sea Level Rise Policy: Interpretive Guidelines for Addressing Sea Level Rise in Local Coastal Programs and Coastal Development Permits. Available at: https://documents.coastal.ca.gov/assets/slr/guidance/August2015/0_Full_Adopted_Sea_Level_Rise_Policy_Guidance.pdf

California Natural Resources Agency Safeguarding California Plan: California's Climate Adaptation Strategy[21]).

- We recommend referencing the City of LA Sustainability Plan[22], which has updated goals relative to what is referenced in the Draft EIR/S for the City of LA. The goals in the City of LA plan are for GHG reduction of 60% by 2035, and 80% by 2050 (below 1990 baseline).
- The Draft EIR/S calculates GHG emissions for each alternative, none of which are significant. However, it doesn't account for carbon sequestration generally or specifically, which is an important benefit of wetlands restoration and helps to differentiate among the alternatives.

O13-35 cont.

Recreation/Access Comments

Heal the Bay strongly believes that this restoration project needs to provide access to critical open space with an emphasis on being welcoming to all Angelenos from across the whole region as well as visitors to the region. Accessibility includes parking, alternative transportation options, bathrooms, and educational opportunities. Every effort should be made to ensure that these types of access are in harmony with the Wetlands and their ecological health. Parking and bathrooms have been discussed above as well as additional bike and pedestrian paths. With those changes, we support the Access Plan for Alternative 1. Additional comments related to access are detailed below.

O13-36

Further information requested and recommendations for Recreation/Access section

- Section 3.11.2.2, Environmental Setting, of the Draft EIR/S does not include the nearby Ballona Discovery Park. This park should be added to the table and description of nearby parks and recreational opportunities.

O13-37

- Section 3.11.3.3 of the Draft EIR/S on Local Laws, Regulations, Plans, and Standards should refer to and address the recently completed LA County Parks needs assessment.[23] In March 2015, the Los Angeles County Board of Supervisors approved a motion to initiate the Countywide Comprehensive Parks and Recreation Needs Assessment. This represents an unprecedented effort to document existing parks and recreation facilities in cities and unincorporated communities in Los Angeles County, and to use these data to determine the scope, scale, and location of park need in the County. The inventory and analysis of parks and open space that was completed during the course of the Parks Needs Assessment

O13-38

[21] California Natural Resources Agency. 2018. Safeguarding California Plan: 2018 Update. California's Climate Adaptation Strategy. Available at: http://resources.ca.gov/docs/climate/safeguarding/update2018/safeguarding-california-plan-2018-update.pdf

[22] City of Los Angeles. 2017. Sustainable City pLAn: 2nd Annual Report 2016-2017. Available at: http://plan.lamayor.org/

[23] LA County Department of Parks & Recreation. 2016. Los Angeles Countywide Comprehensive Parks & Recreation Needs Assessment. Available at: www.lacountyparkneeds.org

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generated many maps and new datasets, which should be incorporated into the Ballona Wetlands restoration project. O13-38 cont.

- Section 3.11.3.3 of the Draft EIR/S should also refer to the City of Los Angeles Sustainability Plan.[24] This plan set a goal of 65% of Angelenos living within ½ mile of a park by 2025. The Ballona Restoration project could help achieve that goal and should be discussed. O13-39
- We recommend that the restoration project engage community members in restoration activities when possible. Promoting local community involvement will build stewardship and provide educational opportunities. O13-40

As expressed above, we urge CDFW and the ACOE to:

- Select Alternative 1 to best meet the ecological and public access goals; Alternatives 3 and 4 do not meet the goals and will result in further ecological degradation and limited public access.
- Modify Alternative 1 in the Final EIR/S to include a parking needs analysis, parking lot(s) with reduced footprints, restrooms, additional access paths, and an additional safeguard for the Belding's savannah sparrow. O13-41
- Consider our other specific comments as well as the amendments recommended by the Wetlands Principles Coalition Steering Committee as detailed in our joint letter.

Heal the Bay is thrilled that the restoration process for the Ballona Wetlands is underway with the public release of the Draft EIR/S and we anxiously await implementation of a robust restoration project. Alternative 1 will best achieve an ecosystem that is functioning, healthy, and resilient to climate change by reconnecting the Creek to its floodplain, removing legacy sediment, establishing tidal wetland habitat, and opening the Wetlands to well-regulated public access for all. Doing nothing is not an option; the Wetlands are degraded and will only continue to worsen without action. We must act now, guided by the best science, to restore this open space gem so that generations of plants, animals, and people can rely on it and enjoy it. O13-42

Thank you for your consideration of these comments. Please feel free to contact us at (310) 451-1500 with any questions.

Sincerely,

Katherine Pease, Ph.D.
Watershed Scientist

Shelley Luce, D.Env.
President & CEO

[24] City of Los Angeles. 2017. Sustainable City pLAn: 2nd Annual Report 2016-2017. Available at: http://plan.lamayor.org/

Letter O13: Heal the Bay

O13-1 The stated support for comments of the Wetlands Restoration Steering Committee (Letter O28) is acknowledged. Responses to those comments are provided later in this Final EIR Section 2.3.6.

O13-2 The commenter's history of involvement with, participation in, and support for restoration of the Ballona Reserve are acknowledged.

O13-3 The stated support for the Project with requested modifications is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

O13-4 The elements of restoration identified in this comment as necessary are consistent with the Project; substantially consistent with Alternative 2, which would remove less of the Ballona Creek channel levee than the Project; and also consistent with Alternative 3, pursuant to which the existing armored levees on the Ballona Creek channel adjacent to the Ballona Reserve would remain and levee breaching would not occur.

O13-5 The comment's identification of the reduction in acreage over time of the wetlands ecosystem in the vicinity of the Ballona Reserve and the Clean Water Act 303(d)–listed status of Ballona Creek within the Ballona Reserve are consistent with information provided in the Draft EIS/EIR. See, e.g., Section ES.1, Section 1.2.2, and Section 3.9. The stated preference for the Project is acknowledged and will be considered as part of CDFW's decision-making process.

O13-6 The statement that the Project would restore tidal flows is consistent with information presented in the Draft EIS/EIR. See Response O13-5 regarding the Clean Water Act 303(d)–listed status of Ballona Creek within the Ballona Reserve. See Response O13-4 regarding the amount of the existing levee that would be removed under each of the alternatives analyzed in detail.

O13-7 The statement that the Project would reduce sediment (and sediment-related impairment) is consistent with information presented in the Draft EIS/EIR. See Draft EIS/EIR Section 2.2.1.1 for elements of the proposed ecosystem restoration that would occur under all of the alternatives analyzed in detail and Section 2.2.2.1 specifically with respect to the Project. See also Draft EIS/EIR Section 3.9.6.1 (in the context of Impacts 1-WQ-1a and 1-WQ-1b) regarding how the implementation of the Project would affect existing impairment conditions.

O13-8 The statement that the Project would improve local resiliency to sea-level rise is consistent with information presented in the Draft EIS/EIR. See Draft EIS/EIR Section 3.9.6.1 (in the context of Impact 1-WQ-4) and General Response 6 (Final EIR Section 2.2.6.2) regarding sea-level rise.

O13-9 The statement that the Project would provide the greatest level and quality of public access within the Ballona Reserve is consistent with information presented in the Draft EIS/EIR. See Draft EIS/EIR Section 2.2.1.3, which describes elements of the proposed public access improvements common to all alternatives analyzed in detail in the Draft EIS/EIR and compare Section 2.2.2.3 (the Project), Section 2.2.3.3 (Alternative 2), and Section 2.2.4.3 (Alternative 3).

O13-10 The commenter's support for the range of potential alternatives considered in the Draft EIS/EIR, including Alternative 9 and other potential alternatives explored but not carried forward for more detailed analysis, is acknowledged.

O13-11 The commenter's support for the range of potential alternatives considered in the Draft EIS/EIR, including Alternative 11 and other potential alternatives explored but not carried forward for more detailed analysis, is acknowledged.

O13-12 The commenter's support for the Draft EIS/EIR's consideration of historical and existing conditions and constraints is acknowledged.

O13-13 The stated support for "moving forward with a restoration that emphasizes estuarine tidal wetlands" is acknowledged. See General Response 3, Alternatives, regarding requests for consideration of a "freshwater alternative" (Final EIR Section 2.2.3.1), and the historical accuracy of the alternatives analyzed in EIS/EIR (Final EIR Section 2.2.3.2).

O13-14 This graphic representation of habitat proportions is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.

O13-15 The three suggested modifications to the Project are acknowledged and are now part of the record of information that will be considered as part of CDFW's decision-making process. Regarding Belding's savannah sparrow, see General Response 5, *Biological Resources* (Final EIR Section 2.2.5.4). Regarding paths and public access, see Response O13-17. Regarding the requested parking improvements, see Response O13-18. Although the suggestions will be available for consideration as part of CDFW's decision-making process, this comment does not address the adequacy or accuracy of the EIR or the merits of the alternatives.

O13-16 See Response O13-15.

O13-17 Regarding potential impacts of the proposed public access to sensitive dune habitat for the El Segundo blue butterfly, see Draft EIS/EIR Section 3.4.6.1, which explains that no direct impacts are anticipated to suitable or occupied habitat for El Segundo blue butterflies. Further, as discussed in the context of Impact 1-BIO-2e, the Project would avoid all 4.2 acres of sensitive southern dune scrub habitat. The request for additional public access is acknowledged and, as explained in Response O13-15, is

now part of the record of information that will be considered as part of CDFW's decision-making process.

O13-18 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.4) which addresses multiple comments regarding parking facilities within the Ballona Reserve.

O13-19 The comment accurately notes that none of the alternatives analyzed in the Draft EIS/EIR proposes additional restroom facilities. The request to include them is acknowledged and now is part of the record of information that will be considered as part of CDFW's decision-making process.

O13-20 Draft EIS/EIR Table 3.9-1 was updated in response to this comment.

O13-21 The comment is noted that exotic vegetation, habitat alterations, hydromodification, reduced tidal flushing and trash are pollutants listed for the Ballona Creek Wetlands, a separate entry from the Ballona Creek Estuary. Draft EIS/EIR Table 3.9-3 has been modified to include the aforementioned pollutants.

O13-22 The comment accurately notes that TMDL compliance and construction schedules associated with the TMDLs are outside of the scope of the Project. See General Response 6, *Hydrology and Water Quality* (Final EIR Section 2.2.6.1), for more information about the relationship between the proposed restoration and the TMDL. As stated in the general response, the Project does not rely on achievement of the TMDL goals to protect habitat and wildlife. With implementation of the Adaptive Management Plan (Mitigation Measure WQ-1a-i), the Project would be able to provide the flexibility to address a range of conditions that might occur from varying conditions of upstream sources.

O13-23 As explained in Draft EIS/EIR Section 3.9.3.3, "In the case where the sediment load allocation cannot be met, the TMDL allows for the use of an alternative load allocation based on the acres of salt marsh habitats restored. Draft EIS/EIR Table 3.9-6, Alternative Load Allocations for Ballona Wetland TMDL and Estimated Project Habitat Acreage, provides a summary of the TMDL alternative load allocations based on attainment of beneficial uses through habitat restoration. These alternative load allocations may supersede the sediment load allocations in Table 3.9-5, if the proposal to use these alternative allocations is submitted to USEPA and the LARWQCB, and approved by the Executive Officer of the LARWQCB with no objections from USEPA. As summarized in Draft EIS/EIR Table 3.9-6, the alternative load allocations under the TMDL for acreage of specific habitat types are based on elevation ranges in Ballona Creek Wetlands and similar wetland systems in southern California. The Project habitat acreages do not match the TMDL load allocation because the Project has been designed to achieve both sediment removal and restoration of historical tidal wetland habitats. Although the quantities do not rely solely on sediment or habitat load allocations to meet the individual load allocations, the combined achievements provide the best set of alternatives that achieve both goals for the site conditions and for the sustainable, long-term future of the site. A request

for modification of the load allocations that combines both sediment and habitat load allocations for the Project is planned as part of the final permitting and design phase for submittal after discussions with USEPA and the LARWQCB." See also General Response 6, *Hydrology and Water Quality* (Final EIR Section 2.2.6.1) for more information about the relationship between the proposed restoration and the TMDL.

O13-24 For information about the hydrological modeling that informed the overall design of the Project and other restoration alternatives, see Draft EIS/EIR Appendix F. Post-restoration habitats are shown in Appendix F Figure 12; West Area B is shown as marsh, low marsh, and mudflat, which is intended to be functional for stormwater and flood protection. The morphology of West Area B would be expected to change over time within the limits of the constraints intended to maintain stormwater capacity and flood protection. The Monitoring and Adaptive Management Plan (MAMP) that would be implemented in accordance with Mitigation Measure WQ-1a-i would ensure that changes to morphology of the sites would be monitored to effectively maintain acceptable capacities for stormwater and flood protection.

O13-25 Regarding salinity, see General Response 6, *Hydrology and Water Quality* (Final EIR Section 2.2.6.2), under the heading "Freshwater Habitats."

O13-26 The analysis of potential impacts to the physical and human environment that is documented in the Draft EIS/EIR evaluates Project-caused changes relative to baseline conditions. Updating baseline information would result in a never-ending analytical loop and is not required by CEQA.

O13-27 Potential impacts that could result from the Project's restoration and construction activities are analyzed in Draft EIS/EIR Section 3.9.6.1, which describes the steps that would be taken to protect water quality during the restoration phase. It identifies the regulatory requirements that would apply, and describes the project design features that would be incorporated to further protect water quality. See, e.g., Mitigation Measure WQ-1a-I, which describes the Monitoring and Adaptive Management Plan that would be required to monitor the site. During the 10-year monitoring program, a summary report of the monitoring findings would be produced annually. These reports would be available for public inspection upon request. This comment does not suggest that the proposed provisions would be insufficiently protective.

O13-28 To clarify, 9,100 cubic yards per year is the average volume of sediment that is transported through Ballona Creek. By comparison, 7,000 cubic yards per year is the average volume of sediment that is deposited into Santa Monica Bay and the Marina del Rey Harbor.

O13-29 The discussion of potential impacts associated with the disturbances to sediments and surface soils in Impact 1-WQ-1a (Draft EIS/EIR Section 3.9.6) addresses the potential impacts not only of newly deposited sediments, but also of the exposure of existing topsoils, sub-soils, and sediment. As stated in the Draft EIS/EIR, all

construction activities would be required to comply with the Construction General Permit, the County MS4 Permit, and Section 401 Water Quality Certification to minimize the potential for adverse impacts related to exposure of existing sediments in the Project area.

The analysis in Impact 1-WQ-1a does not rely solely on the scheduled completion of the TMDL goals. However, the coincident timing of the Project breaching the levees to Area A and North Area B and the scheduled timeline of the TMDL is referenced. Regardless of the actual completion of the TMDL goals, the Draft EIS/EIR discusses how the Project would cover a portion of the impacted sediment when the channel meander shapes are constructed as well as the beneficial effects that would occur from the stormwater management features that would be added and restoration of the marsh. All of these improvements would contribute to the finding of a less-than-significant impact.

The analysis in Impact 1-WQ-1a, specifically in relation to erosion and accretion, addresses the entire Project Site. Areas such as Area A, North Area B, and West Area B are called out specifically as appropriate to the discussion. The final sentence under the Water and Sediment Quality subsection discusses Area A. The Erosion Under Tidal Conditions subsection discusses the entire channel. The Erosion from the Wetlands subsection discusses Area A and North Area B. Impact 1-WQ-1b, however, does focus on West Area B because of the specific proposed ground disturbances in that area where previous sampling efforts have confirmed that West Area B is impacted by metals and organics. West Area B has been characterized as a sink where these contaminants are deposited due to the limited tidal circulation and flushing. The sediment sampling results from Area A and North Area B differ from West Area B and do not present the same potential for concern as West Area B.

O13-30 See General Response 6, *Hydrology and Water Quality* (Final EIR Section 2.2.6), which addresses multiple comments received regarding hydrology and water quality.

O13-31 The stated support for the proposed monitoring program and suggestions to supplement it are acknowledged and are now part of the record of information that will be considered as part of CDFW's decision-making process. Regarding how created habitats would be identified to know which performance criteria to apply, the commenter's inference is correct that aquatic habitats would be characterized by a combination of the following: elevation relative to the tidal stage, site plans, and as-build plans. For example, tidal marsh would include the vegetated fringes above approximately mean sea level (MSL); mudflat would include unvegetated habitat below MSL that will be regularly exposed (approximately MSL to mean low water; about -1.5 feet MSL). Site seeding and vegetation planting would additionally define habitat areas for the monitoring program.

Regarding clarification of the start time for the 10-year monitoring program for Phase 1 and Phase 2 of the Project, the 10-year monitoring program and associated

performance criteria would begin separately for each phase. As presented in the Draft EIS/EIR Table 2-12, the "Monitoring Year" column denotes the time frame following site restoration for each project phase. The Phase 1 work areas in Area A are expected to support Belding's savannah sparrow breeding within several years following site restoration.

The comment also suggests that the performance criteria for fish identified in Draft EIS/EIR Table 2-13 (e.g., richness and abundance of fish will each meet or exceed pre-restoration levels) should specify that the goals should apply only to native species. Because the baseline assessment included non-native fish in determining fish abundance and richness, the future fish surveys need to duplicate the prior survey methodology. The performance criteria in Draft EIS/EIR Table 2-13 provide separate consideration for the health of native fish populations, stating, "native species richness and abundance of fish will not decrease continually across three or more consecutive years, when evaluated across the entire year." Hence, the health of native fish populations is an important long-term monitoring consideration. The commenter's statement that a similar non-native species exemption standard should be added to all performance criterial in Draft EIS/EIR Tables 2-12 to 2-20 is noted. For birds and macroinvertebrates, it is standard for an assessment of species richness and abundance to include non-native species. Accordingly, no changes have been made to the Final EIR in response to this comment.

O13-32 The stated support for the Project and recommendations to supplement it with respect to Biological Resources are acknowledged. Regarding the recommendation that biological monitors be on-site to survey and relocate animals that may be impacted by restoration activities, CDFW notes that a provision already is provided in the Draft EIS/EIR to do so: see Mitigation Measure BIO-1b-ii, Biological Monitoring, which would provide for biological monitoring during ground-disturbing construction to capture and relocate native wildlife species. Regarding the request that sensitive plants be relocated, particularly in Area C, using local genetic stocks when possible is acknowledged. Plant salvage in all areas is detailed in Draft EIS/EIR Mitigation Measure BIO-1b-I, Special-Status Plants. The overall restoration approach is described in the Conceptual Habitat Restoration and Adaptive Management Plan (Conceptual Plan) described in the discussion of Revegetation of Graded and Disturbed Areas in Draft EIS/EIR Section 2.3.2.5, *Alternative 1: Implementation and Construction Process*, included as Draft EIS/EIR Appendix B3. CDFW concurs with the recommendation to use locally sourced plant materials whenever possible to maintain local genetic diversity. The recommendation to relocate the channel away from willow trees to protect them from the effects of saltwater is also noted. Final engineering designs for the site will help ensure that saltwater inputs would not affect the health or viability of the subject willow trees. For example, existing tidal channels in West Area B are located near existing willow habitat and the willows and cottonwood have persisted for many years with no indication of any negative effects. These tidal channels will be used as a reference for the proposed tidal channels in South East Area B and the channel-to-willow distance finalized during the

engineering and permitting process. Mitigation Measure 1-BIO-1k has been updated to reflect use of the West Area B tidal channels as a reference. The requests in this comment are acknowledged, but do not update or change the conclusions of the analysis.

O13-33 The stated support for the Project as it relates to climate change resilience is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.

O13-34 See Response O13-26, which explains why the Draft EIS/EIR's description of existing (baseline) conditions has not been updated. The reference in this comment to the 2017 USC study is acknowledged.

O13-35 Each of the suggested additional references was published after July 2012, which is the baseline that was established for this analysis. See Draft EIS/EIR Section 1.8.5, *NEPA and CEQA Baselines*. See Response O13-26, which explains why the Draft EIS/EIR's description of existing (baseline) conditions has not been updated. Regarding carbon sequestration, see Draft EIS/EIR Section 3.7.6.

O13-36 See Response O13-17 regarding the commenter's prior input on public access. See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.4), regarding parking facilities within the Ballona Reserve. See Response O13-19 regarding restroom facilities.

O13-37 In response to this comment, Ballona Discovery Park has been added to Draft EIS/EIR Table 3.11-1 in Section 3.11.2.2.

O13-38 See Response O13-35 regarding the decision not to update the Draft EIS/EIR to include materials that post-date the baseline. Nonetheless, the availability of the 2016 inventory of L.A. County parks generated as a result of the Countywide Comprehensive Parks and Recreation Needs Assessment is acknowledged and may be considered as part of CDFW's decision-making process.

O13-39 See Response O13-35 regarding the decision not to update the Draft EIS/EIR to include materials that post-date the baseline, including the City of Los Angeles's 2017 sustainability plan. Nonetheless, its availability for consideration by CDFW as part of the decision making process is acknowledged.

O13-40 The commenter's suggestion to engage community members in the restoration activities, thereby promoting stewardship and educational opportunities, is acknowledged as consistent with the proposed restoration. See, e.g., Draft EIS/EIR Section 2.2.2.7, which explains how, under the Project, it is anticipated that the removal of invasive species and other activities would occur onsite in perpetuity through a combination of a volunteer program and long-term management of the site.

O13-41 See Response O13-1, Response O13-3, Response O13-15, and the responses to other specific comments made in this letter.

O13-42 The stated support for the proposed restoration is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.

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LAX COASTAL
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January 19, 2018

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E-mail: BWERcomments@wildlife.ca.gov

Re: Support Ballona Wetlands Draft Environment Impact Report (DEIR)

Dear Mr. Brody:

On behalf of the LAX Coastal Chamber of Commerce representing more than 500 businesses in Playa del Rey, Westchester, Del Rey, Marina del Rey and Playa Vista, I am writing to express our strong support to the Ballona Wetlands Draft Environment Impact Report (DEIR). This report is adequate and provides a reasonable number of options. It also analyzes all necessary subject matter and should be approved.

Furthermore, we feel that Alternative 1: Full Tidal Restoration is the best suited for the restoration of the Ballona Wetlands. As stated in the DEIR, Alternative 1 is intended to return the daily ebb and flow of tidal waters, enhance freshwater conditions, and enhance physical and biological functions within the Ballona Reserve. Restoring wetland functions and services would reestablish native wetland vegetation and provide important habitat for a variety of wildlife species. A restored, high-functioning wetland would also benefit the adjacent marine environment and enhance the quality of tidal waters. O14-1

This plan also will include new trails, two pedestrian/bike bridges, and bike paths. The Ballona Reserve would be open for recreational, educational, and other public uses allowing for local residents and visitors to enjoy this valuable resource. Additionally, the new three-story parking structure along Fiji Way would be constructed within the existing parking lot footprint without disruption to existing wetland. We also support the improvements that would be made to the existing dirt parking lot off Culver Boulevard at Pershing Drive (the West Culver lot). O14-2 O14-3

For these reasons, we support the Ballona Wetlands Draft Environment Impact Report (DEIR) and encourage Alternative 1 as the preferred plan for restoration.

Sincerely,

Christina Davis
President/CEO

Letter O14: LAX Coastal Chamber of Commerce

O14-1 The stated support for the analysis included in the Draft EIS/EIR and for the Project are acknowledged and are now part of the record of information that will be considered as part of CDFW's decision-making process.

O14-2 This summary of the public access improvements is consistent with the description provided in the Draft EIS/EIR. Elements of the proposed public access improvements common to all of the alternatives analyzed in detail are described in Draft EIS/EIR Section 2.2.1.3. Public access improvements specific to the Project are described in Section 2.2.2.3. By comparison, see Section 2.2.3.3 (Alternative 2), Section 2.2.4.3 (Alternative 3), and Section 2.2.5.3 (Alternative 4). The commenter's support for the Project's proposed public access improvements is acknowledged.

O14-3 The stated support for proposed parking improvements, including the proposed three-story parking structure, is acknowledged. See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.4), which addresses multiple comments regarding parking facilities within the Ballona Reserve.

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February 5, 2018

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Re: DEIR/DEIS comments - Ballona Wetlands Restoration Project:. (State Clearinghouse No. 2012071090) and Federal Document: Public Notice/Application No.: SPL-2010-1155

Dear Ms. Rogers and Mr. Brody:

On behalf of Los Angeles Audubon Society, we submit the following comments regarding the Draft Environmental Impact Statement/Environmental Impact Report (hereinafter "EIR") for the Ballona Wetlands Restoration Project (Ballona Wetlands Project).

Los Angeles Audubon Society (LAAS) was founded in 1910. Its mission is to promote the study and protection of birds, other wildlife, and their habitats throughout the diverse landscapes of the Los Angeles area, and to stimulate popular interest in and access to nature for all Los Angeles communities. LAAS has over 2,000 members and supporters, 520 active volunteers per year, and provides environmental educational programs to over 5,000 students per year in grades 3–12 and in community college. LAAS operates the longest-running environmental education program in the Ballona

O15-1

Wetlands, serving over 2,300 students in grades 3–5 each year, nearly all from underserved areas of Los Angeles. In addition, LAAS, under its access agreement with California Department of Fish and Wildlife, provides the only opportunity for the general public to access the Ballona Wetlands, as a part of the monthly Open Wetlands program, staffed entirely by LAAS staff and volunteers. LAAS members have visited and birded the Ballona Wetlands since 1910, and LAAS is the largest bird conservation stakeholder in Los Angeles. LAAS is also the publisher of *Los Angeles County Breeding Bird Atlas* (Allen, Garrett, and Wimer, 2016), which contains definitive reviews of the history and status of breeding birds in the County. LAAS therefore has a substantial interest in the Ballona Wetlands and its management that is reflected in these comments. O15-1 cont.

First, the project is misnamed as a restoration project. As discussed by the attached report of Land Protection Partners, the project is not restoration but rather removal of currently existing wetlands and replacement with a non-naturally occurring wetland. Therefore, the project description is misleading. O15-2

Furthermore, the EIR fails to (1) adequately describe the existing environmental setting as a baseline for analysis, (2) provide a stable project description, (3) adequately analyze and mitigate impacts to the existing wetlands and sensitive species that currently inhabit or use it, (4) analyze the land use impacts of an alternative that would violate the Coastal Act because it involves filling a wetland but is not a restoration project and (5) present a reasonable range of alternatives that would allow the Department to develop a project that could be a long term benefit to all the sensitive biological resources on the site and the surrounding community. O15-3 O15-4 O15-5 O15-6 O15-7

CEQA requires that responses to comments must be as detailed as comment: "The level of detail required in a response to a comment depends on factors such as the significance of the issues raised, the level of detail of the proposed project, the level of detail of the comment, and the extent to which the matter is already addressed in the DEIR or responses to other comments." (*City of Maywood v. Los Angeles Unified School Dist.* (2012) 208 Cal.App.4th 362, 398.) As required by CEQA, we ask that you respond to each point made in this letter and in the attached LPP Report.

A. The EIR Does Not Meet the Requirements of CEQA.

In numerous ways addressed below and in the accompanying LPP report, the many deficiencies in the EIR for the Ballona Wetlands Project are detailed. In *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, Stanislaus County prepared an EIR in connection with approving a residential and commercial development project that was inadequate because it failed to adequately describe the environmental setting, alternatives, or cumulative effects of the project. (*Id.* at pp. 718–719, 728–740.) The reviewing court concluded that "the [final EIR] is a mass of flaws. Beginning with an incomplete project description, continuing with an inaccurate

and misleading description of the site followed by an inadequate discussion of alternatives and concluding with an incomplete and conclusionary discussion of the cumulative effects of the development project, the [final EIR] fails to comply with CEQA in all major respects." The same may be said regarding the EIR for the Ballona Wetlands Project. It does not contain an accurate, stable project description, and has no adequate baseline analysis; it fails to adequately investigate and report potential impacts; it does not analyze a reasonable range of alternatives; and it impermissibly defers necessary mitigation. These serious omissions or inaccuracies must be remedied in a revised EIR and recirculated.

O15-8

O15-9

1. CEQA Requires an Accurate, Stable Project Description.

A stable, finite, and accurate project description is the sine qua non of an adequate EIR. An EIR must contain a detailed statement of all significant effects on the environment *of the proposed project.* (Pub. Resources Code § 21100.) The Notice of Completion of an EIR is required to include "[a] brief description of the project." (Cal. Code Regs., tit. 14 (hereafter "Guidelines") § 15085.) The courts have stated that: "An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR." (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192-93.) "The defined project *and not some different project* must be the EIR's bona fide subject." (*M.M. Homeowners v. San Buenaventura City* (1985) 165 Cal.App.3d 357, 365, emphasis added.) Further, a project description, including anticipated future uses, must be accurate. (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, fn. 6 and 397 ("*Laurel Heights I*") [the EIR described the project as occupying only part of a building even though the university had decided to occupy the entire facility]; *City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1450 [the EIR for a county detention facility understated the likely duration of temporary facilities, thus minimizing traffic and other impacts].) The Guidelines provide that "project" means "the *whole* of the action." (Guidelines, § 15378, subd. (c).)

A Draft EIR must disclose a single proposed project, as this requirement is mandated throughout CEQA and the CEQA Guidelines. For example, pursuant to CEQA, an EIR must contain a detailed statement of "[a]ll significant effects on the environment of *the proposed project*." (Pub. Resources Code § 21100 subd. (b)(1), *emphasis added.*) The EIR must include "[a]lternatives to *the proposed project.*" (Pub. Resources Code § 21100 subd. (b)(4), *emphasis added.*) The CEQA Guidelines also provide that the project description shall include the "precise location and boundaries of the proposed *project* ..." (Guidelines § 15124 subd. (a), *emphasis added.*) Examples abound of the presumption by CEQA and the CEQA Guidelines that there must be a single proposed project that is the subject of the environmental analysis. Since statutes should be interpreted according to their plain and unambiguous wording (*Sutton v.*

Industrial Acc. Com. (1956) 46 Cal.2d 791, 797), CEQA plainly requires the identification and analysis of a single proposed project.

Here, the EIR fails to accurately describe the project. (LPP Report, Section 3.1.) The proposed project is not a restoration within the plain meaning of that term, nor a restoration as that term is defined in the Code of Federal Regulations. (*Ibid.*) O15-10 O15-11

Furthermore, the EIR fails to identify a single preferred or proposed project and instead provides a description of various alternatives that might be carried out. (DEIR, Chapter 2.) O15-12

CEQA has always required identification and description of the proposed project. Recently, the Court of Appeal explained in detail why identification of a single proposed project is required and presentation of multiple alternatives without emphasis on which one the public agency anticipates approving is uninformative. In a recent case condemning such an uninformative practice, the court explained:

> [the EIR] presented five different alternatives for addressing the Upper Truckee River's contribution to the discharge of sediment into Lake Tahoe, and indicated that following a period for public comment, one of the alternatives, or a variation thereof, would be selected as the project. As the trial court indicated in its statement of decision, "for a project to be stable, the DEIR, the FEIR, and the final approval must describe substantially the same project. A DEIR that states the eventual proposed project will be somewhere in 'a reasonable range of alternatives' is not describing a stable proposed project. A range of alternatives simply cannot be a stable proposed project." The DEIR in this case functioned more as a scoping plan under Guidelines section 15083…
>
> the failure to identify or select any project at all, impairs the public's right and ability to participate in the environmental review process. A description of a broad range of possible projects, rather than a preferred or actual project, presents the public with a moving target and requires a commenter to offer input on a wide range of alternatives that may not be in any way germane to the project ultimately approved.

(*Washoe Meadows Community v. Department of Parks and Recreation* (2017) 17 Cal.App.5th 277, 288.)

The EIR states CDFW preliminarily identified Alternative 2 as the Environmentally Superior Alternative". (EIR, p. 4-13.) This being the case, the EIR must clarify if Alternative 2 is the proposed project under consideration. With that identification made, the DEIR must be recirculated. O15-13 O15-14

2. CEQA Requires an Adequate Environmental Setting Baseline Description.

The baseline environmental setting is a critical component of an EIR. The baseline for CEQA analysis must be the "existing physical conditions in the affected area" (*Environmental Planning Information Council v. County of El Dorado, supra,* 131 Cal.App.3d at p. 354, 182 Cal.Rptr. 317), that is, the " 'real conditions on the ground' " (*Save Our Peninsula Committee v. Monterey County Bd. of Supervisors, supra,* 87 Cal.App.4th at p. 121, 104 Cal.Rptr.2d 326; see *City of Carmel–by–the–Sea v. Board of Supervisors, supra,* 183 Cal.App.3d at p. 246, 227 Cal.Rptr. 899), rather than the level of development or activity that *could* or *should* have been present according to a plan or regulation. (*Communities For A Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 320–21.)

Here, the EIR fails to adequately describe the baseline. (LPP Report, Section 3, "Baseline Conditions.") The EIR does not adequately described the baseline conditions for sensitive vegetation (LPP section 4.1), nor sensitive wildlife species in the form of invertebrates (LPP, 3.2.1), reptiles (LPP 3.2.2) or birds (LPP 3.2.3.) O15-15

Furthermore, even though usually the baseline is taken as conditions on the ground at the time of the notice of preparation, where that baseline is uninformative or misleading, a different baseline should be used. A departure from the norm stated in Guidelines section 15125(a) is justified by unusual aspects of the project or the surrounding conditions. (*Neighbors for Smart Rail v. Exposition Metro Line Const. Authority* (2013) 57 Cal.4th 439, 451.) Here, the unusual circumstance of past illegal drainage that is currently being addressed justifies use of a baseline of conditions that existed before illegal drainage began.

In this case, illegal drainage has contributed to a destruction of a portion of the Ballona Wetlands that otherwise would be thriving. On December 14, 2017, the California Coastal Commission ordered the capping of illegal drains installed by the developers of Playa Vista at the Ballona Wetlands Ecological Reserve that have prevented rainwater from soaking into the marshy soils. Therefore, the EIR should address a baseline condition that accounts for the end of illegal drainage activities. Neither the Guidelines nor case law allows an agency to set an illusory no-enforcement baseline that absorbs all *ongoing* illegal actions. While the baseline may include the effects of *prior* illegal activity, the situation is different when an agency has a concurrent, present responsibility to remedy ongoing illegality. A baseline may not assume non-enforcement of an established regulatory scheme. The rationale in *League to Save Lake Tahoe v. Tahoe Reg'l Planning Agency* (E.D. Cal. 2010) 739 F. Supp. 2d 1260 (*LSLT*"), is applicable to the instant case by illustrating how an agency may not shirk its enforcement responsibilities and then absorb its disregard into the baseline. In *LSLT*, the O15-16

agency sought to regulate the number of authorized buoys on Lake Tahoe in order to improve water quality. (*LSLT*, 739 F. Supp. 2d at 1266.) The EIR's baseline incorporated all existing buoys, including unpermitted ones, which were to either be granted permits or replaced with permitted buoys. (*Id.* at 1273.) However, under its governing statute, the agency was explicitly required to improve environmental quality, which included removing unauthorized buoys. (*Id.* at 1276.) The Court of Appeal concluded that the baseline allowing ongoing illegal activities was inappropriate. (*Id.* at 1277.)

3. The EIR Fails to Adequately Investigate and Report Potential Impacts.

An EIR must analyze all potentially significant impacts of a proposed Project on the environment. (Public Resources Code § 21082.2(a).) "*[A]n agency must use its best efforts to find out and disclose all that it reasonably can.*" *Berkeley Keep Jets Over the Bay Committee v. Board of Port Com'rs* (2001) 91 Cal.App.4th 1344, 1370, quoting Guidelines, § 15144, italics added by court.)

"CEQA is essentially an environmental full disclosure statute, and the EIR is the method by which this disclosure is made." (*Rural Landowners Assn. v. City Council* (1983) 143 Cal.App.3d 1013, 1020.) "In many respects the EIR is the heart of CEQA." (*County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.) The purpose of an EIR "is to provide public agencies and the public in general with detailed information about the effect which a proposed Project is likely to have on the environment, . . ." (Pub. Resources Code § 21061; emphasis added.) Contrary to these principles, numerous of the impacts that are analyzed in the DEIR are understated.

"The agency should not be allowed to hide behind its own failure to gather relevant data." (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.) Deferral of the disclosure and analysis of these impacts violates CEQA and results in the failure of the EIR as an informational document. An EIR should provide "the environmental price tag for a project" such that decision makers and the public know, "how much they-and the environment-will have to give up." (*Natural Resources Defense Council v. City of Los Angeles* (2002) 103 Cal.App.4th 268, 271.)

As explained in the LPP Report (Section 4), the impact analysis of various impacts is woefully deficient in the EIR. Impacts from the proposed trail system are understated. (LPP, section 4.1). There is a lack of post-restoration vegetation maps. (LPP, 4.2.) Impacts to endangered species are not sufficiently addressed, including to the El Segundo Blue Butterfly (LPP 4.3.1), California Least Tern (LPP 4.3.2) , Coastal California Gnatcatcher (LPP, 4.3.3), and Least Bell's Vireo (LPP, 4.3.4) . Similarly, impacts to special status plants are not sufficiently addressed including the Lewis' Evening Primrose (LPP, 4.4.1) and Woolly Seabite (LPP, 4.4.2). Nor are impacts to Special-Status

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invertebrates or reptiles such as the Silvery Legless Lizard or San Bernardino Ring-necked Snake sufficiently understood (LPP, section 4.6). O15-20 cont.

Impacts to sensitive status birds must be more fully analyzed including the following: Belding's Savannah Sparrow, California Gnatcatcher, California Horned Lark, Burrowing Owl, Nesting Raptors, and other special status upland, marsh, and shorebird species (LPP, section 4.7). Furthermore, impacts to special status mammals are not adequately analyzed, nor the impacts from night lighting and noise (LPP, sections 4.8, 4.9 and 4.10). O15-21

4. **CEQA Requires a Reasonable Range of Project Alternatives.**

An analysis of alternatives to a proposed project is a critical component of an EIR. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.) The alternatives analysis serves an important purpose in providing the reviewing agency adequate information about feasible means to avoid impacts and gives the public a clear window into governmental decisionmaking about environmental impacts. (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 404.)

> A public agency may not approve a project "if there are … feasible mitigation measures available which would substantially lessen the significant environmental effects . . ." (Pub. Resources Code § 21002.) The California Supreme Court concluded that:
> Under CEQA, the public agency bears the burden of *affirmatively demonstrating* that . . . the agency's *approval* of the proposed project *followed meaningful consideration of* alternatives and *mitigation measures*.

(*Mountain Lion Foundation v. Fish and Game Commission* (1997) 16 Cal.4th 105, 134, emphasis added; accord *Village Laguna of Laguna Beach v. Board of Supervisors* (1982) 134 Cal.App.3d 1022, 1035.) While an EIR is "the heart of CEQA", the "core of an EIR is the mitigation and alternatives sections." (*Citizens of Goleta Valley v. Bd. Of Supervisors* (1990) 52 Cal.3d 553, 564 ("*Goleta II*").)

Here, the EIR fails to provide a reasonable range of alternatives. (LPP Report 2.4.) O15-22

a. Project Objectives May Not Be Unreasonably Narrowly Defined.

As the LPP Report explains, the EIR's project objectives are unreasonably narrowly defined. (LPP Report, section 2.4.1.) CEQA does not allow a project proponent or agency to so narrowly define project objectives that it eliminates feasible O15-23

alternatives. The objectives should not limit development to only one type of wetlands project (a newly created wetlands without historical precedent) as compared to other viable alternatives that would be more similar to historic natural conditions. O15-23 cont.

The CEQA Guidelines recognize that "The objectives of a project are important to consider in determining what constitutes a reasonable range of alternatives to a project." (Guidelines § 15124(b).) However, the objectives for a project cannot be so narrowly defined so that they essentially foreordain the selection of the agency's proposed alternative. Case law under NEPA can be helpful in interpreting CEQA. Early CEQA cases relied heavily on NEPA case law. (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 80, and *Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d 247, 261.) "NEPA cases continue to play an important role in adjudication of CEQA cases, especially when a concept developed in NEPA decisions has not yet been applied to CEQA cases. (*Del Mar Terrace Conservancy, Inc. v. City Council* (1992) 10 Cal.App. 4th 712, 732.)

NEPA case law is indeed helpful here. As the 7th Circuit said in *Simmons v. U.S. Army Corps of Eng'rs* (7th Cir. 1997) 120 F.3d 664, 669,

> the purpose [the NEPA term used for objectives] of a project is a slippery concept, susceptible of no hard-and-fast definitions. One obvious way for an agency to slip past the strictures of NEPA is to contrive a purpose so slender as to define competing 'reasonable alternatives' out of consideration (and even out of existence). The federal courts cannot condone an agency's frustration of Congressional will.

Similarly, to allow the specific objectives to serve the interest of precluding an environmentally preferred alternative would defeat the will of the California legislature in enacting CEQA. O15-24

b. Feasible Alternatives Must Be Analyzed in the EIR.

The LPP Report correctly identifies how alternatives dismissed from the analysis are intentionally misrepresented as infeasible. (LPP Report, p. 2.4.2.) A potentially feasible alternative may not be eliminated unless its costs would make proceeding with a project impractical. Before a more costly or less profitable alternative may be rejected, a project proponent must present evidence that lost profits or added costs are so severe as to make it "impractical to proceed with the project." (*Uphold Our Heritage v. Town of Woodside* (2007), 147 Cal. App. 4th 587, 599.) When the public offers reasonable alternatives to the proposed Project, the agency should provide a meaningful analysis of them. (Pub. Res. Code § 21091(d)(2)(B); Guidelines § 15088(c); *Berkeley Jets, supra*, 91 Cal.App.4th at 1367.) O15-25

While "An EIR need not consider every conceivable alternative to a project, 'it must consider 'a reasonable range of potentially feasible alternatives...'" (Guidelines § 15126.6(a), emphasis added.) "The range of feasible alternatives [for an EIR] shall be selected and discussed in a manner to foster meaningful public participation and informed decision making." (Guidelines ' 15126.6 (f).) "[T]he discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly." (Guidelines § 15126.6(b).)

A public agency has the duty to prove that mitigation measures and alternatives are "truly infeasible." (*City of Marina v. Board of Trustees of the California State University* (2006) 39 Cal.4th 341, 369; *Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 134.)

c. The No-Project Alternative Must Be Accurate By Including Likely Changes Even Without a Project Approval.

One of the required components of an adequate EIR is the No Project Alternative. "The 'no project' analysis shall discuss the existing conditions at the time the notice of preparation is published ... *as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved,* based on current plans and consistent with available infrastructure and community services." (Guidelines, § 15126.6, subd. (e)(2), emphasis added.) "[W]here failure to proceed with the project will not result in preservation of existing environmental conditions, the analysis should identify the practical result of the project's non-approval and not create and analyze a set of artificial assumptions that would be required to preserve the existing physical environment." (Guidelines, § 15126.6, subd. (e)(3)(B).) The Guidelines state that the no-project alternative is not necessarily the same as the environmental baseline. (Guidelines, § 15126.6, subd. (e)(1). "[A]s a practical matter, these provisions mean the no-project discussion will often be primarily devoted to comparing the proposed project to a project that could be built under existing zoning and plan designations even though the baseline is existing physical conditions. The Guidelines have repudiated "the proposition that the analysis of the 'no project' alternative in an EIR 'must describe maintenance of the existing environment as a basis for comparison of the suggested alternatives to the status quo.' " (*Woodward Park Homeowners Ass'n, Inc. v. City of Fresno* (2007) 149 Cal.App.4th 892, 715–716.)

In the present case, the no project alternative impermissibly assumes no activities will occur at all. (EIR, p. 2-16 [Alternative 4].) Instead, the EIR analysis must include in the no-project alternative the likelihood that flood control improvements will be made even in the absence of a wetlands project approval.

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5. Deferral of Mitigation Measures Is Forbidden By CEQA.

CEQA requires formulation and analysis of mitigation measures as part of the EIR review process. Deferral of mitigation is prohibited because it deprives the public of the opportunity to review the effectiveness of potential measures.

Mitigation measures must be "required in, or incorporated into" a project. (Pub. Resources Code § 21081 (a)(1); *Federation of Hillside and Canyon Assoc. v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261.) Deferral of the analysis of the feasibility and adoption of mitigation measures violates CEQA. (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 306-308.)

Here, as the LPP Report states, the EIR improperly defers analysis of a habitat restoration plan, failing to even include a final vegetation map for the project alternatives. (LPP, section 2.7.) O15-27

B. The Project May Not Violate the Coastal Act By Filling Wetlands for an Impermissible Purpose.

As explained in the LPP Report (section 2.1.2), the project would not be allowed by the Coastal Act since it proposes dumping marina dredge spoils on existing jurisdictional wetlands under the guise of a restoration project. Any project that is not a true restoration project, but rather replacement of existing wetlands with a newly created wetland of a different type would be prohibited by the Coastal Act. The Coastal Act allows destruction or filling of wetlands in only very narrowly limited circumstances set forth in Public Resources Code section 30233 (a). (LPP Report, section 2.1.2.) Filling of wetlands is allowed only when "there is no feasible less environmentally damaging alternative" and is limited to, among others, "Restoration purposes." (*Ibid.*) O15-28

Public Resources Code section 30240 contains a mandate to protect wetlands and a prohibition against their destruction: "Environmentally sensitive habitat areas [ESHA] *shall* be [1] protected against any significant disruption of habitat values, and [2] *only* uses dependent on those resources shall be allowed within those areas." (*Id.*, emphasis added.) Section 30107.5 of the Coastal Act defines "environmentally sensitive area" as an "area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments." It is a well-established rule of statutory construction that the word 'shall' connotes mandatory action . . ." (*Rea Enterprises v. California Coastal Zone Conservation Com.* (1975) 52 Cal.App.3d 596, 606).

In *Bolsa Chica Land Trust v. Superior Court* (1999) 71 Cal.App.4th 493, the court confirmed that, for ESHA resources, the requirement for protection is "heightened." (*Id.*, at p. 506; see, also, *Feduniak v. California Coastal Com'n* (2007) 148 Cal.App.4th 1346, 1376.) That protection is guaranteed by imposing "consequences of ESHA status," i.e., "strict preferences and priorities that guide development." (*Sierra Club v. California Coastal Comm'n* (1993) 12 Cal.App.4th 602, 611; *McAllister v. California Coastal Commission, supra,* 169 Cal.App.4th 912, 923.)

"The language of section 30240(a) is simple and direct." *(McAllister, supra,* 169 Cal.App.4th at 928.) As the court stated:

> The statute unambiguously establishes *two restrictions* on development in habitat areas: (1) there can be no significant disruption of habitat values; and (2) only resource-dependent uses are allowed. The only potential ambiguity involves the phrase 'those resources,' which does not refer back to a list of resources. However, the context makes it clear that the phrase could only be referring to the resources that make an area a protected habitat—i.e., 'plant or animal life or their habitats [that] are either rare or especially valuable because of their special nature or role in an ecosystem....' (§ 30107.5)
>
> Thus, together, the two restrictions limit development inside habitat areas to uses that are dependent on the resources to be protected and that do not significantly disrupt habitat values. This interpretation not only reflects the plain meaning of the statutory language but also harmonizes the two parts of section 30240(a) in the only way that makes sense, protects habitat areas, promotes the goals of the Coastal Act, and complies with our mandate to construe the Coastal Act liberally to achieve its purposes and objective.

(*McAllister, supra*, 169 Cal.App.4th at pp. 928-929.)

For these reasons, the Coastal Act does not authorize a development in, or use of, ESHA that requires that ESHA be *buried and destroyed* in order to accommodate the so called restoration project. Furthermore, delineation of existing wetlands areas may not be deferred to other processes such as Coastal Commission review of the Ballona Wetlands Project. (*Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1233.) A word search of the EIR reveals it does not mention the acronym "ESHA" or refer to the "Coastal Commission" at all. O15-29

C. If the Proposed Project Is to Be Further Considered, the EIR Must Be Recirculated.

The EIR must be recirculated after information, including identification of the specific proposed project, is added to make it legally adequate. It will not be possible to rely upon the response to comments because the EIR is so deficient as to render public comment "in effect meaningless." (*Laurel Heights I, supra*, 6 Cal.4th at 1130.) The purpose of an EIR is to provide the public with detailed information about a project before it is approved. (Pub. Resources Code §§ 21002.1; 21003.1.) "[W]hen significant new information is added to the EIR after public notice is given of the availability of the RDEIR, but before certification, the EIR must be recirculated for public review...." (CEQA Guidelines § 15088.5; Pub. Resources Code § 21092.1.) After the information to address the deficiencies identified here and by other public comments is added, a revised RDEIR must be recirculated. O15-30

Conclusion.

Thank you for your consideration of these comments. The EIR as currently written is inadequate, and an appropriate project alternative has not been proposed. Extensive revisions would be needed to make the EIR legally sufficient. As currently proposed, the No Project alternative is the superior option. Please advise us of any future hearings about this matter in accordance with Public Resources Code section 21092.2. O15-31

Sincerely,

Douglas P. Carstens

Enclosure:
Land Protection Partners Report dated February 2, 2018 entitled "Review of Biological Impacts Assessment in Draft Ballona Wetlands Restoration Project Environmental Impact Statement/Environmental Impact Report, State Clearinghouse No. 2012071090"

ENCLOSURE

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Review of Biological Impacts Assessment in Draft Ballona Wetlands Restoration Project Environmental Impact Statement/Environmental Impact Report, State Clearinghouse No. 2012071090

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February 2, 2018

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1 Introduction

The remnants of the Ballona Wetlands are mostly owned by the California Department of Fish and Wildlife (CDFW) as the Ballona Wetlands Ecological Reserve, with a portion owned by the State Lands Commission. Planning for restoration of the natural resources on this public property has been led by a private nonprofit, The Bay Foundation, operating as an agent of the Santa Monica Bay Restoration Commission. The results of that planning process have now been analyzed in the Draft Ballona Wetlands Restoration Project Environmental Impact Statement/ Environmental Impact Report (Draft EIS/EIR), issued in September 2017. The combined document serves as compliance under the National Environmental Policy Act (NEPA), with the U.S. Army Corps of Engineers (USACE) as Lead Agency, and the California Environmental Quality Act (CEQA), with the California Department of Fish and Wildlife as Lead Agency.

We have reviewed the Draft EIS/EIR and its appendices and provide the comments here on behalf of The Urban Wildlands Group and Los Angeles Audubon Society. We have based our comments on the documents presented by the project proponents, published scientific literature, other scientific information available to us, and our expert opinion as supported by the best available scientific evidence.

In this review, we consider the analysis for Alternative 1, even though the Draft EIS/EIR does not clearly identify it as the preferred project. It is evident that Alternatives 2 and 3 would have fewer impacts because their footprints are smaller, but the analytical flaws that we identify for Alternative 1 apply for the most part to the analyses of Alternatives 2 and 3 as well. We also limit our analysis to biological resources with a particular focus on birds, notwithstanding important issues arising from discussion of hydrology, groundwater, and flooding risk.

O15-32

This review is organized with a series of thematic critiques at the outset, starting with the fundamental problem that the designed wetland system does not represent a "restoration" that creates conditions similar to those present historically. We then provide additional information pertaining to and analyzing baseline conditions for biological resources, drawing attention to incorrect assumptions about the presence and/or distribution of sensitive species and vegetation types. The remainder of the report addresses the analysis of impacts on biological resources and documents that the Draft EIS/EIR lacks crucial information to support the absurd conclusion that the proposed project would be a long-term benefit to all sensitive biological resources on the site. To the contrary, although some species will benefit, others will be harmed significantly.

O15-33

O15-34

2 Overall Comments

2.1 Project Is Not a Restoration

The fundamental premise behind many of the assumptions in the project description and analysis of impacts is that the earthworks and planting proposed for the Ballona Wetlands Ecological Reserve represent a restoration of conditions that were present historically. The project is defined as "Restoration of the Ballona Reserve" (p. 1-7) and the project's basic purpose under NEPA is "ecological restoration" (p. 1-2). The Draft EIS/EIR further describes project activities as "restoring, enhancing, and establishing native coastal wetland and upland habitats within the

O15-35

Ballona Reserve" (p. 1-8). Although this sentence includes "enhancing" and "establishing" as activities, they are presented in conjunction with "native" habitats, implying that those are the habitats that belong (e.g., were present in the past). The idea that the project is intended to be a restoration is stated in plain language, and the word restoration is defined in the Draft EIS/EIR:

> "Restoration" means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded resource; restoration may be divided into two categories: re-establishment and rehabilitation (33 C.F.R. §332.2).

Here, and elsewhere, the language of the EIS/EIR leans on the idea of returning the site to a prior condition, often with an emphasis on function. For example, the text describes a goal of "realigning" Ballona Creek into the form of a meander, implying that such a form existed in the past and that the project is returning the site to those conditions (p. 1-10). Similarly, the Draft EIS/EIR suggests that the project will "reconnect" Ballona Creek to its floodplain, implying that the creek formerly ran in a channel through the Ballona Wetlands (p. 1-10), and that the project will "return" daily tidal action to the site, suggesting that prior to disturbance the site was subject to daily tidal action.

All of the language about *restoration* and use of terms such as *return*, *realign*, and *reconnect* are important, because they are used to imply superiority by virtue of being natural and historically present. The entire restoration design is built on the idea that certain habitats must be restored and others can be obliterated because those being restored are natural and those that are to be obliterated are not. Sadly, however, the conditions to which the project proponents seek to restore are not natural.

O15-35 cont.

Unfortunately, for various fiscal and regulatory reasons, coastal wetland restoration in southern California has been defined as establishment of full-tidal wetlands that are jettied open to the ocean and remain open year-round. Research over the past seven years has shown that this type of wetland is not the natural state for nearly all southern California coastal estuaries, which naturally are closed from tidal action in full or in part for some to most of the year (Jacobs et al. 2011). In addition to being demonstrated for Ballona (Dark et al. 2011), seasonal closure is also the case for the lagoons of northern San Diego County (Beller et al. 2014) and Ventura County (Beller et al. 2011). The only exception is San Diego Bay.

To be clear, the project description should be corrected to eliminate the word "restoration." The proposed project does not represent "the return of an ecosystem to a close approximation of its condition prior to disturbance," which is the widely accepted definition of "restoration" (National Research Council 1992). Wetlands similar to those designed for the site have not been present in the system for over 2,000 years (Palacios-Fest et al. 2006, Dark et al. 2011) and would be, in fact, out of equilibrium with the hydrogeomorphological forces present in the current day watershed (Jacobs et al. 2011).

The site will not be "restored" by introducing permanent tidal flows and maximizing estuarine conditions and minimizing water residence time. Rather, in its historical condition prior to being jettied open to the ocean in the late 1800s, the Ballona Wetlands were only open to the ocean periodically in response to winter rains. As summarized by Dark et al. (2011):

> Approximately half of the aggregate Ballona Lagoon area consisted of a freshwater and tidally affected saltmarsh and brackish habitats that transitioned into a more alkaline/freshwater system about 1.5 miles (2.4 km) inland. Historical habitat of the Ballona Lagoon coastal complex consisted of substantial amounts of brackish to salt marsh/tidal marsh habitat (29%), followed by salt flat/tidal flat (10%). Open water made up less than 3 percent of the lagoon and one of the more salient features of the complex was a long but narrow strip of open water referred to by some as a "lake" at what we call today Del Rey/Ballona Lagoon (Sheridan 1887). This strip of open water periodically emptied into the ocean at the documented location of seasonal tidal access (figure 22). *We found no evidence that the lagoon remained perennially open*, but rather the textual sources indicate that access to the ocean depended on hydraulic forces during any given year (LAT 1887, Sheridan 1887, Hansen and Jackson 1889, Solano 1893). The migration of the Los Angeles River away from the lagoon transitioned the system into a lower energy system where only on rare occasions was there enough freshwater flow from Ballona Creek to break through the buildup of sediment along the coast. As a result, gradual build up of sediment around the terminus of the previous estuary formed dunes and created this "trapped" lake-like feature. The coastal dunes, which occupied four percent of the Ballona Lagoon coastal complex, played a significant role in the formation of the lake and the limited tidal access (see Jacobs et al. 2011).

O15-35 cont.

The Draft EIS/EIR does get around to acknowledging the historical fact of the frequent and prolonged closure of tidal flows to the wetlands (p. 2-231), but relies on the idea that daily tidal flows are the natural and desirable condition throughout the Draft EIS/EIR despite this conflict with historical fact. As a result, it wastes the opportunity of designing a restoration that would benefit numerous extant special-status species associated with historical conditions and could aid in recovery of more such special-status species through passive recolonization and active reintroduction.

Ballona Creek as it exits through the Ballona Wetlands is an entirely artificial feature. There was no Ballona Creek extending across the project site before it was constructed as a flood control channel (Dark et al. 2011). Ballona Creek existed as a recognizable riparian feature that drained water between the large inland freshwater wetland complex on the east side of the Baldwin Hills to the inland terminus of the large brackish to saltwater wetland complex at the coast. The creek did not extend through the wetlands and out to the ocean; it lost its identity as a channel around the middle of Area C. Therefore, the creation of a meandering channel across the project site for Ballona Creek would not be a "restoration." The historical system did not have a large main channel; that channel was created as flood control infrastructure. Changing the shape of an unnatural channel does not "restore" it. The whole idea of a meander is that it is caused by the natural erosion and deposition patterns in a floodplain in the lower reaches of a watershed. The proposed "meander-shaped channel" is solely an artistic device on the part of the designers; no meander was present historically and the meander cannot even meander like a natural channel. A restoration would allow for natural processes such as erosion and deposition to take place and not require that the "natural" feature be armored in place and immovable.

O15-36

Similarly, moving the tidal channels on the project site will not "restore" the wetlands. To the contrary, this element of the project would introduce permanent tidal flows to areas that did not historically have such flows. The Draft EIS/EIR should be accurate in the use of the term "restoration" and not extend it to the creation of novel wetland systems that, because they would

O15-37

not be supported by the existing or proposed hydrology, would require significant maintenance (i.e., dredging) and would destroy existing biodiversity.

Figure 1. Historical habitats of the Ballona Wetlands (Dark et al. 2011). Note that Ballona Creek did not extend across the marsh plain to the ocean.

O15-37 cont.

Furthermore, the designers of the project afforded no consideration to restoring the historic vegetation type of Area C. This area was alkali meadow, which is a habitat type that is rarer than estuarine salt marsh in the Los Angeles basin and would historically have supported several rare and endangered plant species such as Salt Marsh Bird's-Beak (Stein et al. 2007, Stein et al. 2010, Dark et al. 2011). Faced with the opportunity to salvage and restore some of this unique habitat type, the project proponents propose to bury this site under piles of marina dredge spoils removed from Area A. It is the complete opposite of restoration to turn an alkali meadow site on a marsh plain into a series of hills covered with an unspecified mix of scrub species.

O15-38

Zedler (1996) warned about the need to assess the regional distribution of historical habitat types in restoration planning and to avoid a trend of restoring more deepwater habitat (which is now over-represented in southern California as a result of previous mitigation-driven projects) at the expense of now-rare historic habitat types, which include brackish marsh and especially salt flats (Beller et al. 2014).

2.1.1 Importance for Assessing Functions and Values

O15-39

The failure of project proponents to recognize the historical habitat conditions leads to inappropriate metrics for assessing the functions and values of the current conditions and planned constructed wetlands. If one makes the assumption that a wetland's natural condition is

to have daily tidal flows when its natural state is to be seasonally tidal or brackish, then it will score inappropriately low on metrics for wetlands that have daily tidal flows.

The Draft EIS/EIR compares wetlands at the project site with fully tidal wetlands (p. 3.4-62), when they are not, and were not historically. The choice of reference type for the rapid wetland assessment protocols strongly influences the resulting score. Use of the "estuarine" protocol for areas that are not estuarine in nature can only be seen as intending to obtain a low score to justify restoration actions. But it is sort of like saying that a vernal pool is not a good lake. It is true, but a bad comparison. In this instance, an estuarine reference type makes for a bad comparison being used to justify adverse impacts on resources.

O15-39 cont.

2.1.2 Importance for Regulatory Permitting

That the proposed project is not a restoration — it creates new wetland conditions but does not restore conditions prior to disturbance in terms of vegetation type, function, or values — is particularly relevant because the project proposes to fill wetlands, converting them to uplands. Filling wetlands is allowed only for specific purposes under Coastal Act (Section 30233(a)):

> (a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following: … (6) Restoration purposes. …

O15-40

That is, the proposed project would be dumping marina dredge spoils on existing jurisdictional wetlands under the guise that the project is a restoration. Doing so depends on the project meeting the Coastal Commission's standards for what constitutes a restoration. Such a determination should take into account the existing scientific information that the proposed project does not meet the generally accepted definition of restoration. It also means that the project must demonstrate that filling of wetlands cannot be avoided through a less environmentally damaging alternative. In this design, many of the wetlands to be filled are only being filled because it is convenient to dump dredge spoils from other portions of the site on them. A less damaging alternative would be to dispose of all of the marina dredge spoils off site so that the issue of sequentially impacting wetlands with the dumping of spoils can be ended once and for all. The current proposal is like *The Cat in the Hat Comes Back*; the dredge spoils are the pink mess, and the project proponents are playing the role of the alphabet cats, trying to clean up the mess but only spreading it around.

O15-41

2.2 Project Purpose to Provide Recreation Is Too Broadly Construed

The project objective for public access needs to be very carefully considered. To be consistent with the overall project and land use, recreation should be passive and compatible with protection of sensitive habitats. The degree of visitor-serving infrastructure is inconsistent with the primary purpose of an ecological reserve in California. The California Code of Regulations makes clear that the primary purpose of ecological reserves is for conservation of biodiversity, with visitor-serving uses optional and only upon Fish and Game Commission determination that such use is compatible:

O15-42

> All ecological reserves are maintained for the primary purpose of developing a statewide program for protection of rare, threatened, or endangered native plants, wildlife, aquatic organisms, and specialized terrestrial or aquatic habitat types. Visitor uses are dependent upon the provisions of applicable laws and upon a determination by the commission that opening an area to such visitor use is compatible with the purposes of the property. Visitor use is subject to the regulations below, in sections 550 and 550.5 of these regulations, as well as any other commission regulations that may apply (14 CCR 630).

The Fish and Game Code reinforces the biological focus of ecological reserves:

> The Legislature hereby declares that the policy of the state 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 for the future use of mankind through the establishment of ecological reserves (Fish and Game Code Section 1580).

O15-42 cont.

It is therefore unnerving that the Draft EIS/EIR describes a project that attempts to maximize visitor infrastructure through a system of bicycle trails, walking trails, boardwalks, entry plazas, and even public art (p. 2-90). All of this infrastructure is presented without any serious analysis of impacts on biological resources.

O15-43

The trail system for the proposed project should be limited to the perimeter of each of the land units rather than constructing multiple trails, including trails that cut through new or existing habitats. Any trails extending into habitat areas for wildlife viewing should be spurs and not loops to minimize disturbance to wildlife. As discussed in more detail below, the public trail system envisioned constitutes a large area (on the order of 12 acres) that fragments habitat, thereby introducing disturbance that will degrade the proposed restored habitats, and takes away from the area of those habitats. The reduction in habitat area resulting from the trail system is not disclosed.

O15-44

It is furthermore difficult to evaluate the impacts of disturbance from the trail system because the project description is not consistent throughout the document on the location and nature of the trails. A different trail system is mapped in Figure 2-1 (Alternative 1, Phase 2: Proposed Habitats) from that shown in Figure 2-23 (Alternative 1: Public Access Plan Detail). The impacts of the two systems would be different, both because of their physical locations and the amount of traffic by different users that would be expected from their configurations.

O15-45

A large trail system is not needed to achieve the passive nature education uses that are appropriate for an ecological reserve. It should not be, and statutorily is not, the responsibility of an ecological reserve to provide extensive recreational opportunities.

O15-46

2.3 Project Purpose to Protect Public Infrastructure Is Inappropriate for Land Use

The property is an ecological reserve, established to protect native biodiversity. Yet one of the project purposes is to provide flood control for a 100-year flood event (p. 1-2). The proposed design of the project uses land set aside for biodiversity conservation to construct flood protection levees and berms.

O15-47

The existing Ballona Creek Flood Control Channel provides adequate flood risk management. By breaking open the channel and creating a large meandering creek (which has no historical precedent), the project designers create a need to provide flood risk management elsewhere. Rather than elevating the infrastructure that they need to protect (e.g., by raising Culver Boulevard), they instead propose to construct at least 36 acres of levees on the ecological reserve. This levee system is not an optimum land use within an ecological reserve because the planting options on levees are highly constrained and their morphology is utterly and obviously unnatural within a coastal marsh plain. The design also includes levees to be constructed in the middle of existing brackish marsh habitats that would not need to be impacted except for the decision to remove the flood control channel.

O15-47 cont.

A better option to protect Culver Boulevard that would not take up valuable land within the ecological reserve or leave it as a valley between raised levees would be to raise this road. The Draft EIS/EIR dismisses this option as too expensive. The preparers err, however, in comparing the expense with the cost per acre of wetland restoration projects only, rather than the cost of wetland restoration coupled with flood risk management as is proposed in this project. In fact, in the future, funding will be available to prepare for coastal sea level rise for key infrastructure such as Culver Boulevard and the cost would be reasonable within that context. Instead, we have project designers causing the need to construct flood risk management infrastructure by proposing to remove the existing channel and then allocating valuable land that could be used for species conservation instead to piles of dirt.

O15-48

The inclusion of flood risk reduction in the purpose of the project is also done incompletely. If the project is needed to improve flood safety, then the description of the No Project alternative should include a description of the current flood risk and what actions would need to be taken in the absence of the project to address those risks. If no additional actions would be needed in the No Project alternative to reduce flood risk, then it is inappropriate for the proposed project to include flood risk management as a project element and objective. Instead, increased flood risk must be seen as a significant adverse impact of the proposed project that must be mitigated. The levee system should be considered to be a mitigation for increased flood risk caused by the wetland creation project, not an element of the project.

O15-49

2.4 Range of Alternatives Is Inappropriately Narrowed in Project Development Process

The Draft EIS/EIR contains a long and reasonably transparent discussion of alternatives brought forward to analysis in the document. The alternatives screening process appears, however, to be designed to give the appearance of being rational while having the function of excluding restoration options not favored by the project proponents.

The alternatives are unreasonably limited in two main ways. First, the project objectives are written in a manner that mandates certain hydrological functions. Second, the dismissed alternatives appear to be intentionally misrepresented to make them easier to exclude.

O15-50

2.4.1 Project Objectives Are Unreasonably Narrowly Defined

The project objectives are written too narrowly, in that they specify a means to achieve an objective rather than the objective itself. For example, the objectives specify certain ways by which water quality goals must be achieved such as mandating that the project should:

> "establish natural processes and functions … that support estuarine and associated habitats through measures such as improving tidal circulation into the wetlands to enlarge the amount of area that is tidally inundated, increasing tidal prism and excursion, lowering residence time of water, ensuring a more natural salinity gradient, and creating dynamic hydrologic interactions between the Ballona Creek channel, wetlands within the Ballona Reserve, and the Santa Monica Bay" (p. 1-3–1-4).

This project objective enshrines an incorrect notion of the historic function of wetlands at Ballona. By specifying these functional criteria, the preparers of the Draft EIS/EIR guarantee that no alternative that attempts to restore and enhance wetlands representing the historic types could make it through the screening process and be considered.

The U.S. Fish and Wildlife Service (USFWS) appears to have raised this issue while they were still acting as a Cooperating Agency in the development of the Draft EIS/EIR. They argued that the project purpose should not be to maximize tidal influence, but rather to provide tidal influence that is "appropriate and practical" to the site (USFWS letter to USACE, October 23, 2015). Had the project proponents taken the advice of this federal agency, a more reasonable range of alternatives employing different approaches to increase wetland values on the project site could have been brought forward for analysis; such alternatives might have significantly reduced environmental impacts compared with the proposed project.

O15-51

2.4.2 Dismissed Alternatives Appear Intentionally Misrepresented

The Draft EIS/EIR gives the appearance of carefully considering a range of alternatives before dismissing them, but the details indicate a clear preference to eliminate any proposals that were not close variants of the proposed project. Some of the reasons for eliminating alternatives are silly at best. For example, one of the reasons Alternative 5 was eliminated was that it was deemed to be not reasonable because heavy equipment would be needed to remove pampas grass and the alternative was intended to represent a light touch restoration effort. First of all, pampas grass can be removed by hand. Second, it would not be unreasonable to assume that appropriate equipment might be used to remove invasive vegetation, even in a light touch restoration. The idea that vegetation could not be managed with small-scale equipment appears to be used simply as a pretext to exclude the alternative.

O15-52

Other alternatives are eliminated because they assume that no changes to infrastructure could be made in the future, intentionally misrepresenting those proposals.

Alternative 10 is excluded because it calls for using fresh water to restore wetlands and proposing to restore more brackish marsh. The preparers of the Draft EIS/EIR dismiss it because, "In contrast to historic conditions, the Ballona Creek channel was designed to have a permanent opening between Ballona Creek and the ocean and, as a result, the historic water regime is no longer available to make large amounts of freshwater and brackish marsh self-

O15-53

sustaining" (p. 2-231). This is a ridiculous argument. Just because Ballona Channel exits to the ocean does not mean that fresh water is not available to sustain freshwater and brackish wetlands on the project site.

O15-53 cont.

Alternatives that would require pumps and management of tide gates are eliminated because it would take time and money to manage such gates. Yet, such management would be far less expensive than the extensive monitoring and levee management obligations associated with the proposed project.

O15-54

Raising Culver Boulevard is excluded from consideration on the basis of cost. This exclusion is because the Draft EIS/EIR imagines that the only source of funding for such a project would be from the restoration project itself and compares the cost of a project that raises roads as part of a restoration to the cost per acre of a "tidal habitat restoration project" (p. 2-3). Elsewhere, the screening standard is phrased as: "Would the alternative be practicable in terms of cost for a tidal habitat restoration project?" (p. 2-9). Comparing the cost of a combined restoration/flood risk management project with the cost of projects only restoring wetlands is a fatally flawed approach, because flood risk management is one of the stated purposes of the project. Instead, the cost must be compared with combined coastal wetland restoration/flood risk management projects. From that perspective, raising Culver Boulevard is not exorbitantly expensive and would be part of an appropriate coastal resiliency strategy.

O15-55

2.5 Restoration Lacks Target Species

The Draft EIS/EIR defines a project need as providing coastal aquatic resources to increase "available breeding and foraging habitat for wildlife" (p. 1-2). The project does not, however, define the target species for which benefits are sought. The argument appears to be that by establishing a generic function and structure (tidal flushing within a gently sloping basin) all species will benefit. Not all species can benefit. It is useful, and indeed essential, to decide at the outset of a project which species will be the targets so that design can be adjusted to ensure benefits accrue to those species. Quoting Miller and Hobbs (2007), "Identifying a focal or target species or group of species must necessarily be the first step in habitat restoration; their requirements will thereafter serve to guide the process." Wildlife species are not tied to generic vegetation types, but respond to particular attributes within the landscape that may have little to do with vegetation.

O15-56

The need to clearly specify target species for the proposed project is compounded by the poor record of restorations without target species at recreating natural services and function. Comprehensive worldwide comparison of constructed and native wetlands shows that constructed (i.e., "restored") wetlands do not provide the same ecosystem services as natural wetlands, even after long periods of slow recovery (Moreno-Mateos et al. 2012). As for uplands, recent research compared rodent, snake, and raptor densities in California annual grasslands before and after restoration to perennial grasslands. Reduction in abundance of non-native rodents through restoration resulted in a decreased abundance of native snakes and raptors, leading to this conclusion (Wolf et al. 2017):

> Our results reveal that while grassland restoration may promote persistence of native plant communities, restoration may not be beneficial to some higher trophic levels, and in

> fact may reduce habitat value for some native predators in grasslands invaded by Mediterranean plant species. Changes in vegetation structure can strongly impact wildlife species composition, suggesting a more nuanced approach is required for the restoration of desired wildlife communities. Thus, species-specific goals should be carefully considered to ensure improved alignment of restoration methods with expected restoration outcomes (Wolf et al. 2017).

O15-56 cont.

It is therefore important that key target species be identified and their specific habitat needs be designed into any restoration project and especially relative to wetlands and grasslands at Ballona. Without an explicit focus on appropriate target species that are locally or globally rare, the proposed project will have the result of decreasing native biodiversity and homogenizing the biological diversity by increasing the extent of habitat types that are already over-represented relative to the historical condition (e.g., open water).

2.6 No Basis to Create One Wetland Type at Expense of Another

It is only the preferences of the project proponents that prioritizes estuarine habitat in the proposed project. No regulation or law specifies that this should be the focus of the project, and research has shown that full tidal estuarine conditions are unnatural at this site (Dark et al. 2011, Jacobs et al. 2011). It would be equally valid and more beneficial to concentrate on other even rarer habitat types, such as alkali meadow (Area C), and seasonal wetlands and brackish marsh (Area B).

O15-57

The only rationale to fill seasonal wetlands or to construct levees on extremely rare salt pan habitat is that it would be difficult to dispose of marina dredge spoils off site. These are choices on the part of the project designers to favor one habitat type over another and to ignore the historical conditions in favor of creating even more subtidal and open-water conditions.

Within this context, the design of the wetlands in Area A deserves to be reconsidered. Not only does the design remove dredge spoils to then fill other wetlands, the grading would cut down below the original marsh plain to create conditions that are lower in elevation than before the construction of the marina. There is no need to create the proposed tidal channels and the excessive excavation serves only to make the created wetlands less resilient to sea level rise. If the project is to prepare for higher sea level, there is no reason to excavate down below original elevations, which were in the mid-to-high intertidal (Jacobs et al. 2011).

O15-58

2.7 Deferral of Habitat Restoration Plan

Remarkably, the Draft EIS/EIR does not contain a final vegetation map for the project alternatives. Rather, it contains this description:

> Habitat types that would be rehabilitated, re-established or enhanced within the Ballona Reserve include subtidal, intertidal, tidal wetland, brackish marsh, salt pan, dune, annual grassland, transitional, upland scrub, and riparian scrub. Restored habitat distribution and acreages vary by alternative (p. 2-17).

O15-59

It is unclear why annual grassland is included in this list, since no native habitats are dominated by annual grasses in this region (the exception might the Los Angeles Coastal Prairie, but it was

dominated by forbs; Mattoni and Longcore 1997). More troubling is the inclusion of "upland scrub," which is not a known habitat type. Furthermore, the distribution of the different vegetation types that might be included in the term "upland scrub" is not shown in any maps of the project alternatives.

O15-59 cont.

The reason for this vague description is that the final distribution of vegetation types has not been established (p. B5-12). This is rather astonishing for a restoration project and reveals that the project really is about creating the tidal wetlands desired by the proponents and not at all about the uplands. The project description in this regard is incomplete and the Draft EIS/EIR should be recirculated when these details have been worked out. One wonders why the project proponents have rushed to release the Draft EIS/EIR without having this most basic element of a restoration project: a map of vegetation types to be created.

O15-60

The reason the upland vegetation types are not included is that the two Lead Agencies do not appear to have been able to come to agreement on the vegetation that will be allowed and maintained on the extensive levee network proposed for the project. The levees must have a "vegetation free zone" along the levee core in which only perennial upland grasses can be planted. This zone extends 15 feet beyond the toe of the levee core (p. B5-12). Then another zone of vegetation management with limited vegetation would extend another 15 feet. So a cross-section of a levee would consist of 30 feet of limited vegetation (small shrubs) and 30 feet of grass in addition to grass over the entire width of the levee core.

The total length of the two largest levees is 14,300 ft. If we assume from the cross-sections provided in the Draft EIS/EIR that the levee core is at least 50 ft across then the area restricted to perennial grass cover will be ~26 acres with an additional ~10 acres of limited vegetation cover, which means that there will be a minimum of ~36 acres for which rodents must be excluded and vegetation type is dictated by USACE regulations. These calculations do not include the additional levees and berms on the south side of Culver Boulevard, around the salt pan, or in the existing marsh in the southeastern portion of Area B.

Despite the significant restrictions on planting design and management imposed by the responsibility of levee ownership, the Draft EIS/EIR makes the assumption that upland habitats will be enhanced for all sensitive species that use uplands. Such an assumption strains credulity when a map of the vegetation types is not provided and the vegetation composition is so severely constrained by the construction of the extensive levee system.

O15-61

Ironically, the Draft EIS/EIR states that a restoration plan will be developed as a project design feature (p. 2-22). The project is described as a restoration, so it should not have the restoration plan be something developed in the future as a mitigating feature. A conceptual restoration plan is in the appendices, but lacks adequate detail as discussed below.

What is known of the final restoration plan is unsatisfactory. The project designers do not even commit to using locally sourced native plants, but rather propose that they would include species not found in the region because they are easier to grow (p. B5-21). Use of species not native to the site is completely inappropriate, and certainly does not qualify as restoration (Longcore et al. 2000).

O15-62

The creation of different wetland features in the proposed project is also speculative. The text suggests that salt pans can be created in the high marsh by grading depressions to capture water and using adaptive management to "encourage" the salt pans to form. This technique is unproven. Although it is good that the project designers recognize that salt pans are important and rare habitats, the pans need to be large, flat areas that slowly accumulate salt from freshwater runoff and pond shallow water in the winter to serve their historical function as bird habitats (Beller et al. 2014). The size allows birds to have roosts with a view of any approaching predators and shallow ponding of different depths under flood conditions gives habitat to the maximum range of migratory bird species (e.g., waders of different sizes, dabblers, divers). O15-63

3 Baseline Conditions

The vegetation mapping in the Draft EIS/EIR collapses a number of different habitat types into the composite category "invasive monoculture" (see Figure 3.4-2). This category is not an appropriate mapping unit for the purpose of impact analysis because it conflates different vegetation types that benefit different species. For example, one of the vegetation types included in "invasive monoculture" is *Brassica nigra* stands (see Appendix D2). Wild mustard is not always a monoculture even if it is mapped as such, and this vegetation type can be used as foraging habitat by threatened California Gnatcatchers (Campbell et al. 1998, Atwood and Bontrager 2001), while other vegetation types are also lumped into "invasive monoculture" (e.g., *Carpobrotus edulis* stand). The "invasive monoculture" category needs to be divided out by life form (grass, herbaceous, shrub, tree) and the term should be avoided in most instances because invasive species are almost never found in monocultures, with limited exceptions such as Ice Plant Mats that can be classified separately. Finally, "invasive monoculture" is not a recognized vegetation classification by CDFW. O15-64

The Draft EIS/EIR describes an area in the southeast of Area B as a "stabilized dune" (p. 3.4-11). Although it has little impact on the analysis, the proper understanding of this feature is as a sandy alluvial fan associated with erosion of the Ballona Bluffs, not as an Aeolian dune feature. O15-65

Description of baseline conditions also draws into question the appropriate mapping of areas of the wetlands that have been subject to drainage from illegal infrastructure for over 20 years. The illegal drains are located north and south of Culver Boulevard near the underground outflow from Ballona Freshwater Marsh to Ballona Creek. With the Coastal Commission now ordering those drains to be capped, seasonal wetlands in East Area B should be remapped so that the full extent of the impacts of the project on seasonal wetlands can be assessed. The capping of the illegal drains to restore natural hydrology has been separated from the wetlands project by the California Coastal Commission (December 14, 2017 meeting, Item 10c, Application 5-17-0253) and therefore the proper baseline would be the condition of the site before this ongoing illegal activity. O15-66

3.1 Sensitive Vegetation

The map of sensitive habitat types (Figure 3.4-3) does not fully describe the extent of sensitive vegetation types. Specifically, Coastal Sage Scrub on site is not identified as a CDFW special-status vegetation community (p. 3.4-18). The scrub habitat in the upland zone is variously called upland scrub, which is not a formal classification, and Coastal Sage Scrub (p. 2-45). The O15-67

dominant species in these areas are described as coyote bush (*Baccharis pilularis*), big saltbush (*Atriplex lentiformis*), and California sagebrush (*Artemisia californica*), along with lemonade berry (*Rhus integrifolia*) and seacliff buckwheat (*Eriogonum parvifolium*) (p. 2-132). Of the 52.3 acres of Coastal Sage Scrub on site, 48.8 acres will be impacted by the proposed project.

Saltbush Scrub (10.5 acres) and "Coastal Scrub" (41.7 acres) are described in the biological resources section of the document (p. 3.4-11). Because of their combined area, presumably these two vegetation types make up the category called Coastal Sage Scrub elsewhere in the document. The problem is that the description of sensitive vegetation in the main text of the Draft EIS/EIR does not include the 52.3 acres of Coastal Sage Scrub, even though underlying biological reports do acknowledge that it is a sensitive vegetation type (e.g., Table D5-8).

The failure to list Coastal Sage Scrub as a sensitive vegetation type illustrates an overall lack of consistency in the mapping and classification of upland vegetation in the Draft EIS/EIR as a whole. It is important that the analysis of impacts not be based on vegetation classifications that are not generally recognized (e.g., upland scrub, nontidal saltmarsh, stablilized dune) and instead use the California Natural Diversity Database categories or vegetation alliances (Sawyer et al. 2009). In this respect the Draft EIS/EIR does not even follow CDFW's own guidelines for the description of natural communities (Department of Fish and Game 2009) in the habitat maps. For example, the wetland and upland habitats on the map should be remapped (Table 1).

O15-67 cont.

Table 1. Habitat crosswalk for assessment of impacts on biological resources.

Draft EIS/EIR Category	*Natural Community*
Coastal Brackish Marsh	Coastal Brackish Marsh
Muted Tidal Marsh	Southern Coastal Salt Marsh
Non-tidal Salt Marsh	Coastal Brackish Marsh
Disturbed Non-tidal Marsh	Coastal Brackish Marsh (disturbed)
Saltbrush Scrub	Remap to Venturan Coastal Sage Scrub, Coastal Salt Marsh, or Alkali Sink
Willow/Mulefat Thicket	Remap to Southern Willow Scrub, Southern Riparian Scrub
Stabilized Dune	Southern Dune Scrub
Coastal Scrub	Venturan Coastal Sage Scrub (not Riversidian Coastal Sage Scrub; see Westman 1981)
Eucalyptus Grove	Eucalyptus Grove
Annual Grassland	Annual Bromus Grassland
Invasive Monoculture	Remap to Upland Mustard Stands, Ice Plant Mats, and other categories

3.2 Sensitive Wildlife Species

To add further documentation to the description of sensitive wildlife, we have compiled photographs of sensitive species in each of the major project areas (A, B, and C) from photographs that have been taken by Jonathan Coffin and archived under the user name *stonebird* on the image-sharing website Flickr. With Mr. Coffin's permission and assistance, we present a series of maps with documentation of these distributions, some of which extend beyond

O15-68

the described ranges in the Draft EIS/EIR. In the interest of full documentation, we have included more than one image of some of the sensitive species, even when limited to the same management area.

The maps and photographs in Figure 2 through Figure 11 provide documented, verifiable information about the distribution of plant and animal species in different subsets of the project site that should be used to augment the information provided in the Draft EIS/EIR. Mr. Coffin and other local naturalists have spent far more time (thousands of hours) observing nature in the Ballona Wetlands than the effort described in the surveys conducted for this Draft EIS/EIR. The difference in time alone, and the spread of the survey effort throughout the whole year, means that Mr. Coffin will have observed more species and be more familiar with their distributions than the preparers of the Draft EIS/EIR.

O15-68 cont.

3.2.1 Invertebrates

The Draft EIS/EIR makes unsupported assumptions about the probability of presence and distribution of special-status invertebrates (see Table 3.4-4).

Wandering Skipper is assumed to be present only in Area B West and Southeast (Figure 3.4-7). It should be assumed that Wandering Skipper is found at any location where saltgrass is present. We have presented photographic evidence of the species in Area A (Figure 3).

Belkin's Dune Tabanid Fly is described as only having a "low potential" to occur. This species was found in the dune habitat at the western end of Area B in 1981 (Nagano et al. 1981) and earlier (Middlekauff and Lane 1980) and no significant disturbance has occurred since then to support a conclusion that it would be absent now. To the contrary, significant removal of invasive species and propagation of native vegetation has taken place. The species has a narrowly limited range that includes only the El Segundo Dunes and the Silver Strand in San Diego and should be a target species for restoration.

Dorothy's El Segundo Dune Weevil is evaluated as having only a "moderate potential" to be present. This species was present in the past (Nagano et al. 1981), however, and no disturbance has occurred that would have extirpated it from the site. Local entomological experts have located this species on site as recently as 2016 (Jeremiah N. George, Ph.D., August 2016, pers. comm.; observation submitted to the California Natural Diversity Database [CNDDB], which is maintained by CDFW), so the surveyors involved in the preparation of the Draft EIS/EIR must have lacked the experience or appropriate technique to find this species.

O15-69

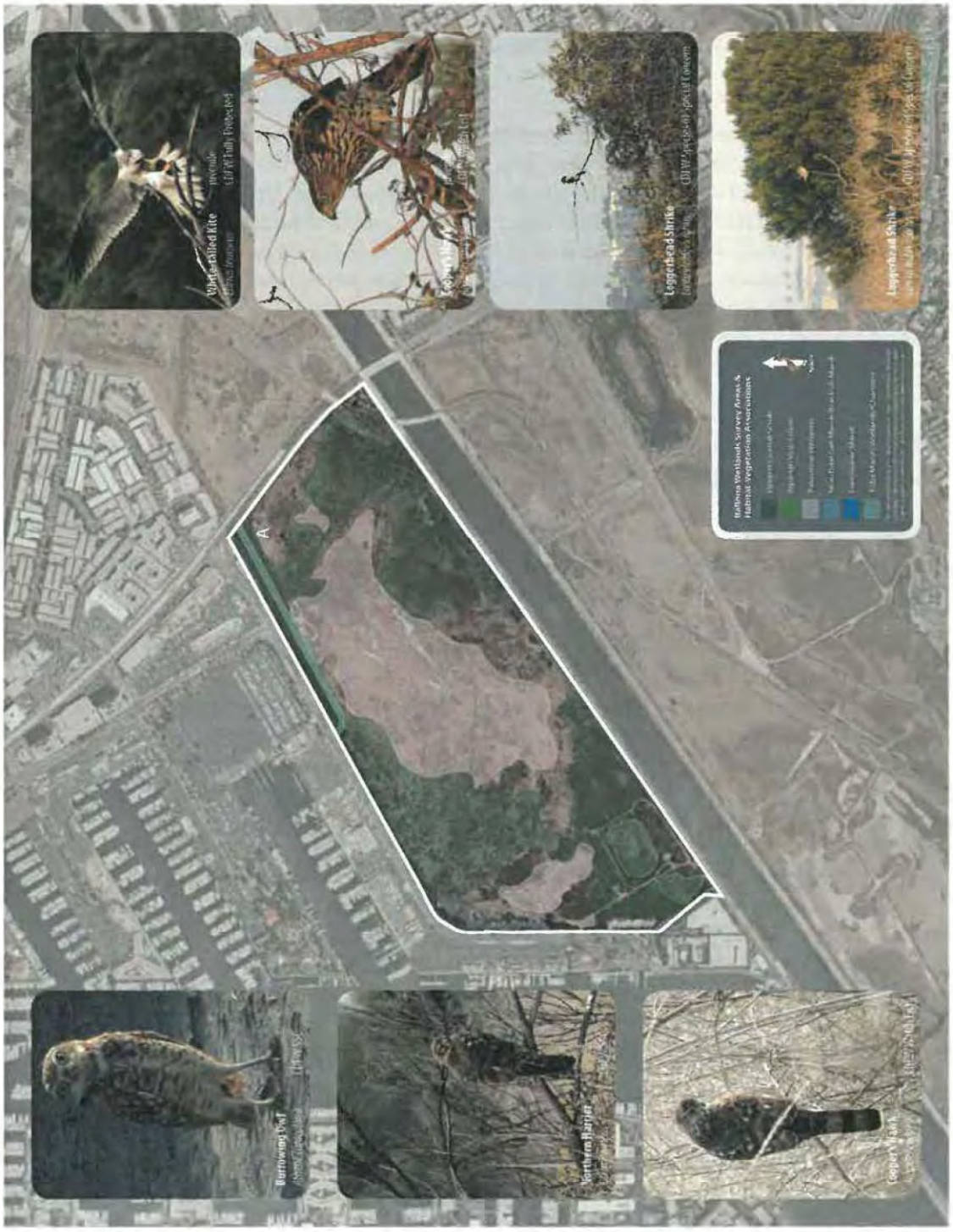

Figure 2. Part 1 of sensitive species documented in Area A with photographs (J. Coffin): Burrowing Owl, Northern Harrier, Cooper's Hawk, White-tailed Kite (juvenile), Loggerhead Shrike. Data compiled and mapped in 2014 by B. MacDonald.

O15-70

Figure 3. Part 2 of sensitive species documented in Area A with photographs (J. Coffin): Wandering Skipper, Monarch Butterfly, Snowy Egret, Belding's Savannah Sparrow, Yellow-headed Blackbird, Black-crowned Night-Heron. Data compiled and mapped in 2014 by B. MacDonald.

O15-71

Figure 4. Part 1 of sensitive species documented in Area B North with photographs (J. Coffin): Vaux's Swift, White-tailed Kite, Short-eared Owl, American Peregrine Falcon, Northern Harrier (juvenile), Merlin, Yellow-headed Blackbird, Loggerhead Shrike. Data compiled and mapped in 2014 by B. MacDonald.

O15-72

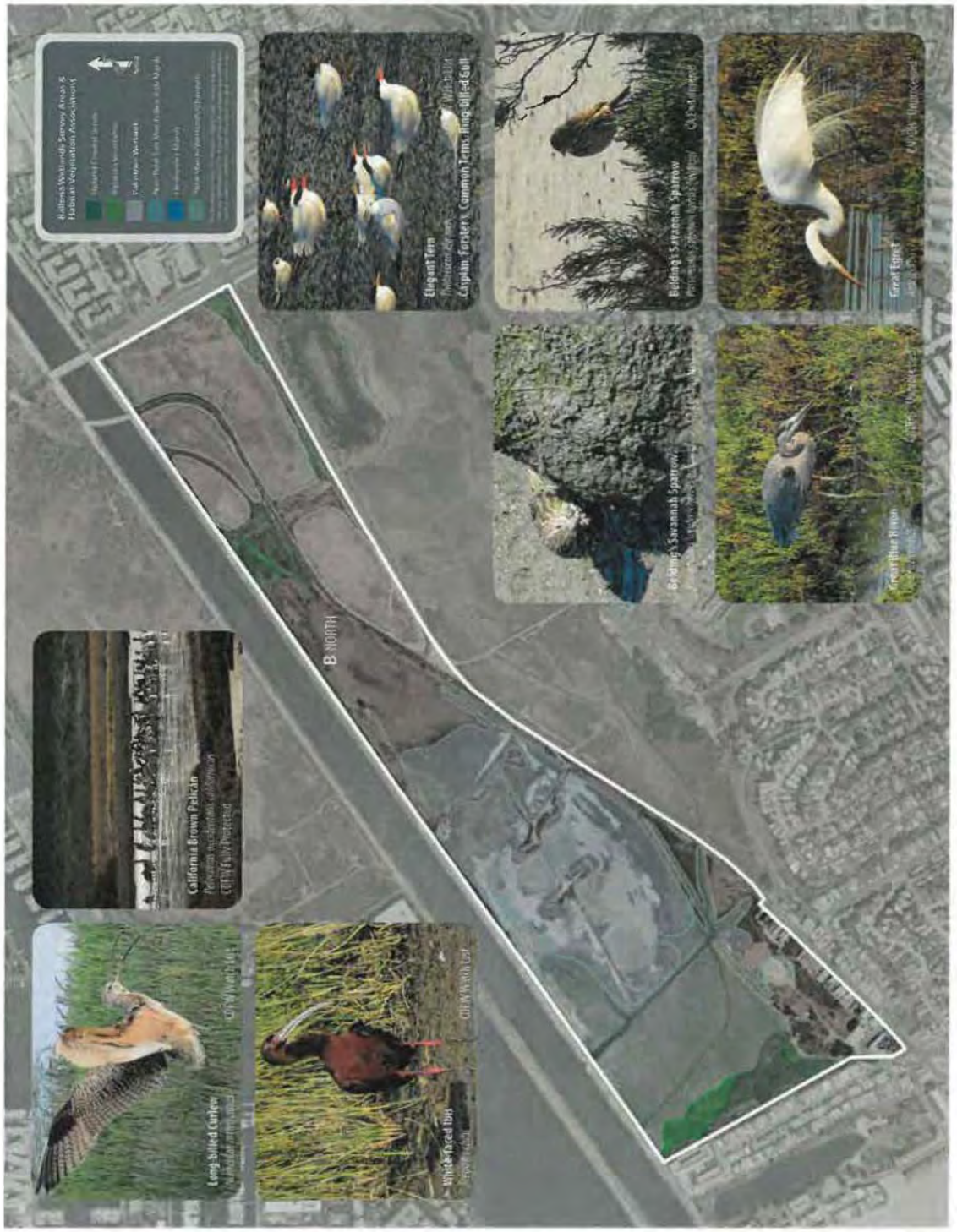

Figure 5. Part 2 of sensitive species documented in Area B North with photographs (J. Coffin): Long-billed Curlew, California Brown Pelican, White-faced Ibis, Elegant Tern, Belding's Savannah Sparrow, Great Blue Heron, Great Egret. Data compiled and mapped in 2014 by B. MacDonald.

O15-73

Figure 6. Part 3 of sensitive species documented in Area B North with photographs (J. Coffin): White-tailed Kite, Northern Harrier, American Peregrine Falcon, Burrowing Owl, Yellow-breasted Chat, Loggerhead Shrike. Data compiled and mapped in 2014 by B. MacDonald.

O15-74

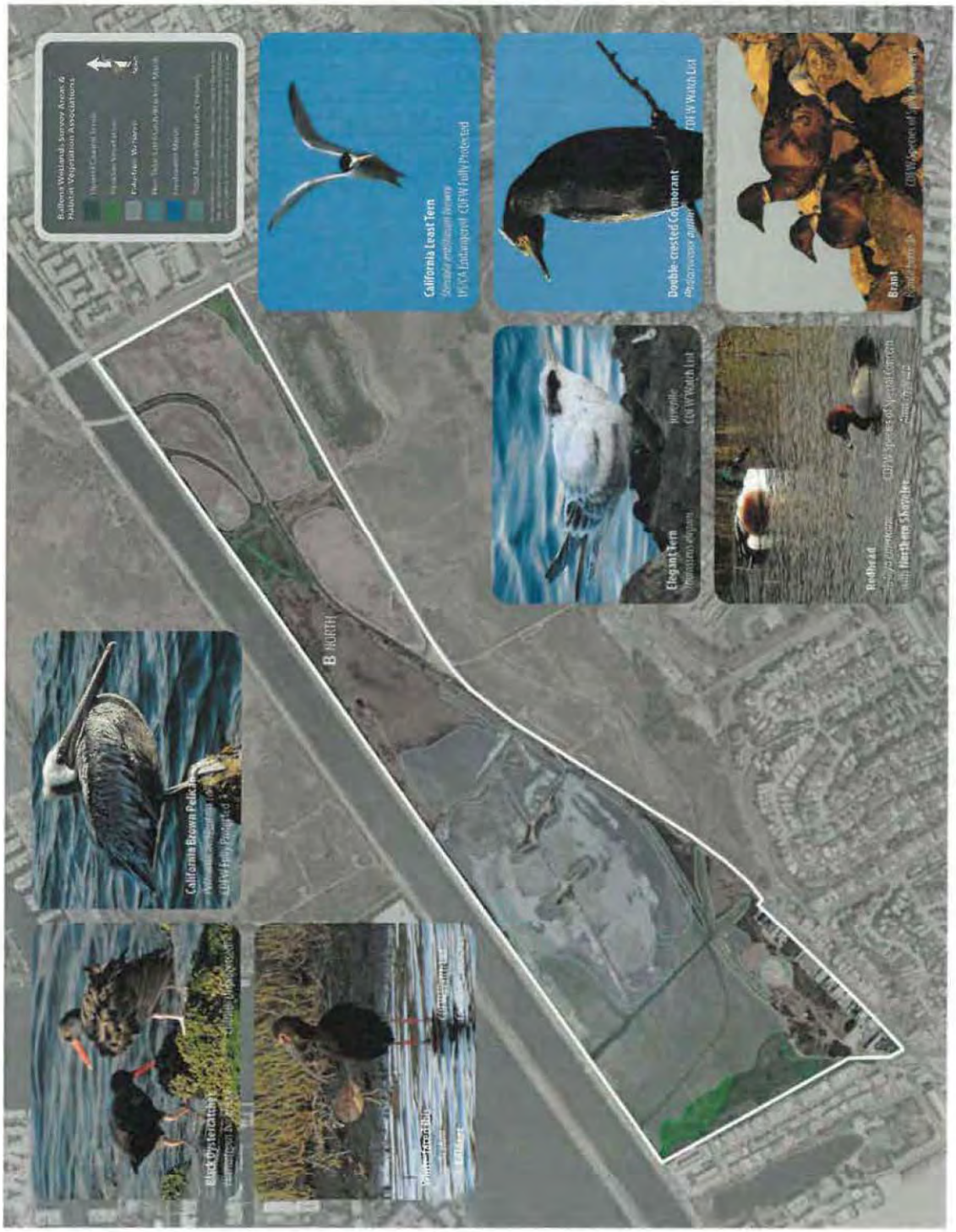

Figure 7. Part 4 of sensitive species documented in Area B North with photographs (J. Coffin): Black Oystercatcher, California Brown Pelican, White-faced Ibis, California Least Tern, Elegant Tern (juvenile), Double-crested Cormorant, Redhead, Brant. Data compiled and mapped in 2014 by B. MacDonald.

O15-75

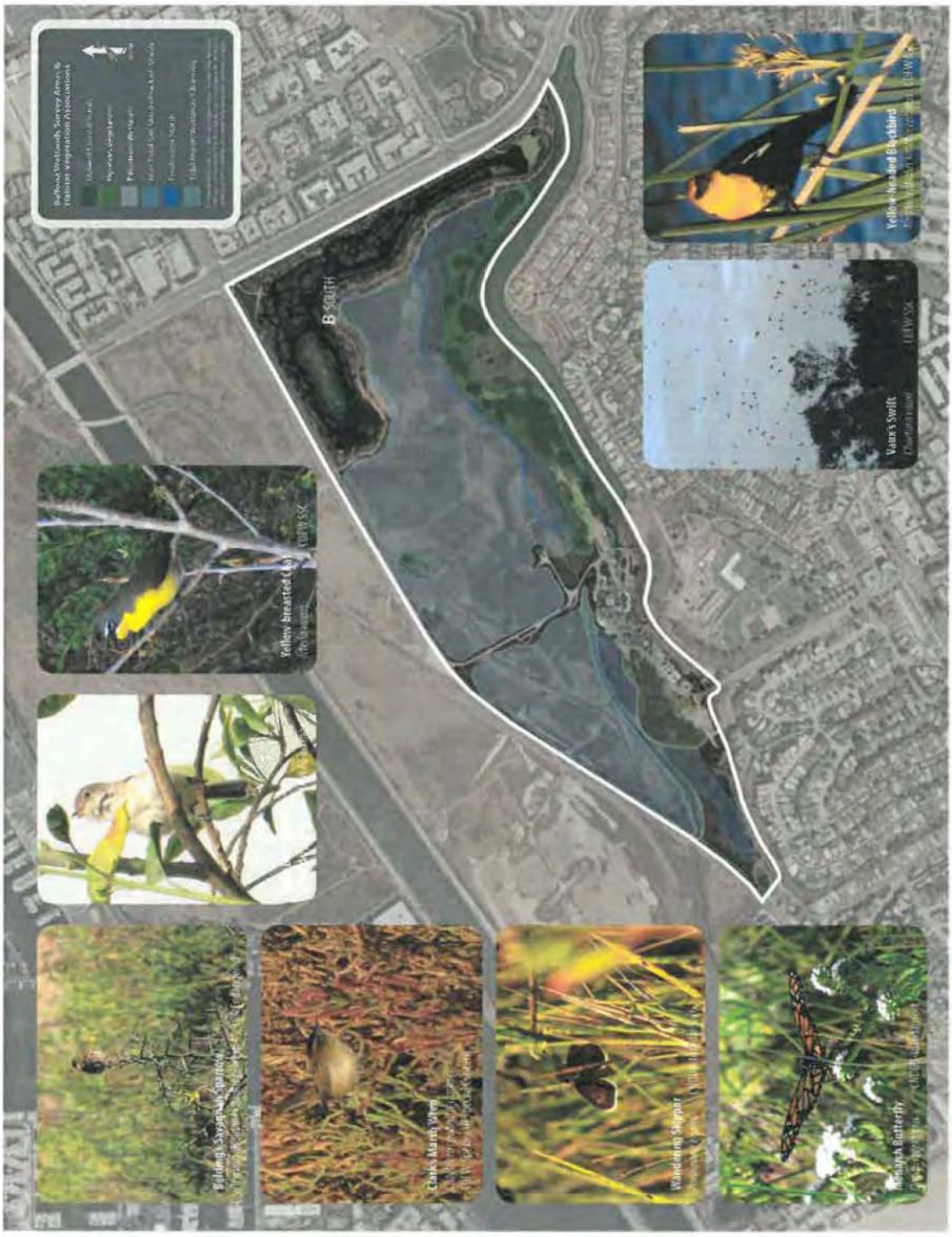

Figure 8. Part 1 of sensitive species documented in Area B South with photographs (J. Coffin): Belding's Savannah Sparrow, Least Bell's Vireo, Yellow-breasted Chat, Clark's Marsh Wren, Wandering Skipper, Monarch Butterfly, Vaux's Swift, Yellow-headed Blackbird. Data compiled and mapped in 2014 by B. MacDonald.

O15-76

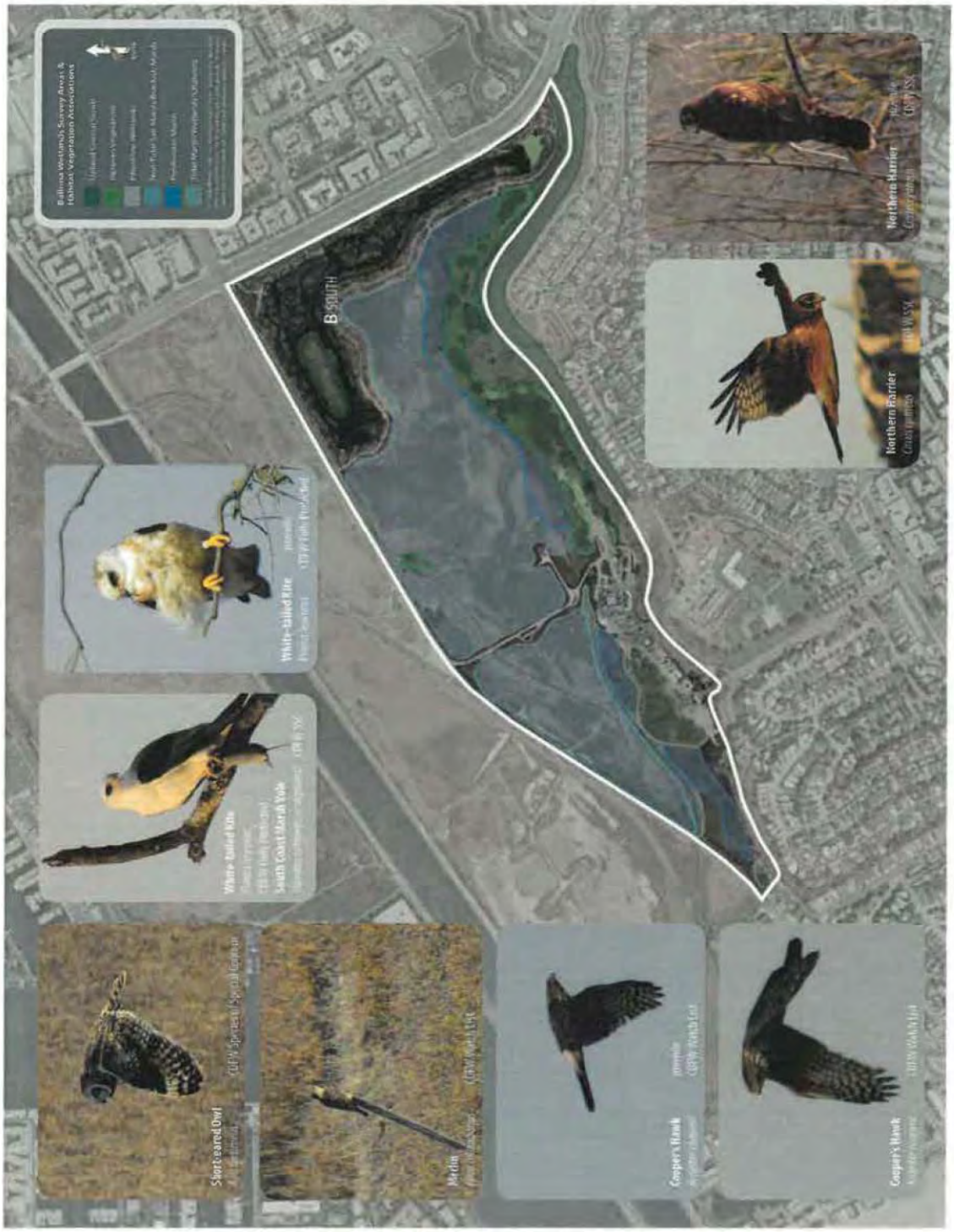

Figure 9. Part 2 of sensitive species documented in Area B South with photographs (J. Coffin): Short-eared Owl, White-tailed Kite (inc. juvenile), South Coast Marsh Vole, Cooper's Hawk, Northern Harrier. Data compiled and mapped in 2014 by B. MacDonald.

O15-77

Figure 10. Part 1 of sensitive species documented in Area C with photographs (J. Coffin): Monarch Butterfly, Burrowing Owl, Lewis' Evening-primrose, California Horned Lark, California Gnatcatcher. Data compiled and mapped in 2014 by B. MacDonald.

O15-78

Figure 11. Part 2 of sensitive species documented in Area C with photographs (J. Coffin): California Brown Pelican, Osprey, White-tailed Kite, Loggerhead Shrike, Yellow-headed Blackbird, Great Egret, Great Blue Heron. Data compiled and mapped in 2014 by B. MacDonald.

O15-79

Globose Dune Beetle is assumed to be absent. It was observed on site in 2016 by an entomologist (Jeremiah N. George, Ph.D., August 2016, pers. comm.; observation submitted to CNDDB) and failure to locate it speaks to the inadequacy of the survey efforts involved in preparation of the Draft EIS/EIR.

Western S-banded Tiger Beetle (*Cicindela trifasciata sigmoidea*) is listed as having only a "low potential" to occur (p. 3.4-26). This species, along with the other two tiger beetle species recorded at the site in the 1980s (Western Tiger Beetle, *Cicindela oregona*, and Wetsalts Tiger Beetle, *Cicindela haemorrhagica*) represent a significant contribution to the biodiversity of this wetland system (Nagano 1982). *C. t. sigmoidea* was present in the 1980s and 1990s and it should still be present. Each of these three species was found along Ballona Creek and *C. t. sigmoidea* was found in the salt pan and mud flats of Area B (Nagano et al. 1981, Nagano 1982). It would be startling if these species were no longer present.

O15-80

The map for presence of El Segundo Blue Butterfly distinguishes between occupied and non-occupied stands of *Eriogonum parvifolium* (Figure 3.4-5). Having worked extensively with this species, it must be assumed that all of the plants are occupied, given the published (Arnold 1983) and observed dispersal distances (>1,200 ft; T. Longcore, pers. obs.), far exceeding the distance between plants at the Ballona dune. To do otherwise is naïve.

3.2.2 Reptiles

It should be emphasized that Southern Pacific Rattlesnake is present within the project site (Figure 12; Appendix D). Observations reported on iNaturalist have been verified by Greg Pauly, Ph.D., the herpetology curator at the Los Angeles County Natural History Museum. This population is important to recognize, because its elimination would result in a significant contraction in the range of the species regionally, which would be a significant impact under CEQA. It is the only population between the Santa Monica Mountains and the Palos Verdes Peninsula on the coastal plain. Recent efforts to detect Southern Pacific Rattlesnake in the public lands of the Baldwin Hills were unsuccessful (Pauly et al. 2016). Snakes are easily killed by earthmoving equipment and restoration activities (Hinds 2017), so a specific and enforceable plan would be needed to protect the Ballona population.

O15-81

3.2.3 Birds

The treatment of presence of birds at the site should be updated with reference to the *Los Angeles County Breeding Bird Atlas* (Allen et al. 2016). The project site was covered by surveyors for the Atlas in 1995–1999 and the results are reported for two Atlas "blocks" that cover the western and eastern portions of the site (Figure 13). These blocks contain more than simply the project site and so not all breeding records in these blocks indicate breeding at the site itself. However, they do indicate species of birds that either were breeding on the site or were breeding in the vicinity of the site and for which the site could be an important foraging area to support that breeding activity. Presence of breeding species is indicated as possible, probable, or confirmed for each Atlas block (Allen et al. 2016).

O15-82

The Draft EIS/EIR states that the only raptor species breeding at the project site is Cooper's Hawk (p. 3.4-57). During the Atlas period, however, Red-shouldered Hawk, Red-tailed Hawk,

and White-tailed Kite were possible or confirmed breeders in the two blocks including the project site (Table 2). The breeding of White-tailed Kite at the project site is further supported by recent photographs of juvenile White-tailed Kite across the project site (Area A, Figure 2; Area B, Figure 9) and adults across all areas (A, B, and C).

O15-82 cont.

Figure 12. Distribution of Southern Pacific Rattlesnake in the region. Data from research-grade observations on iNaturalist (https://www.inaturalist.org/taxa/30713-Crotalus-oreganus-helleri). The grayed-out blue circular marks in Santa Monica are obscured locations and do not represent actual observation sites.

O15-83

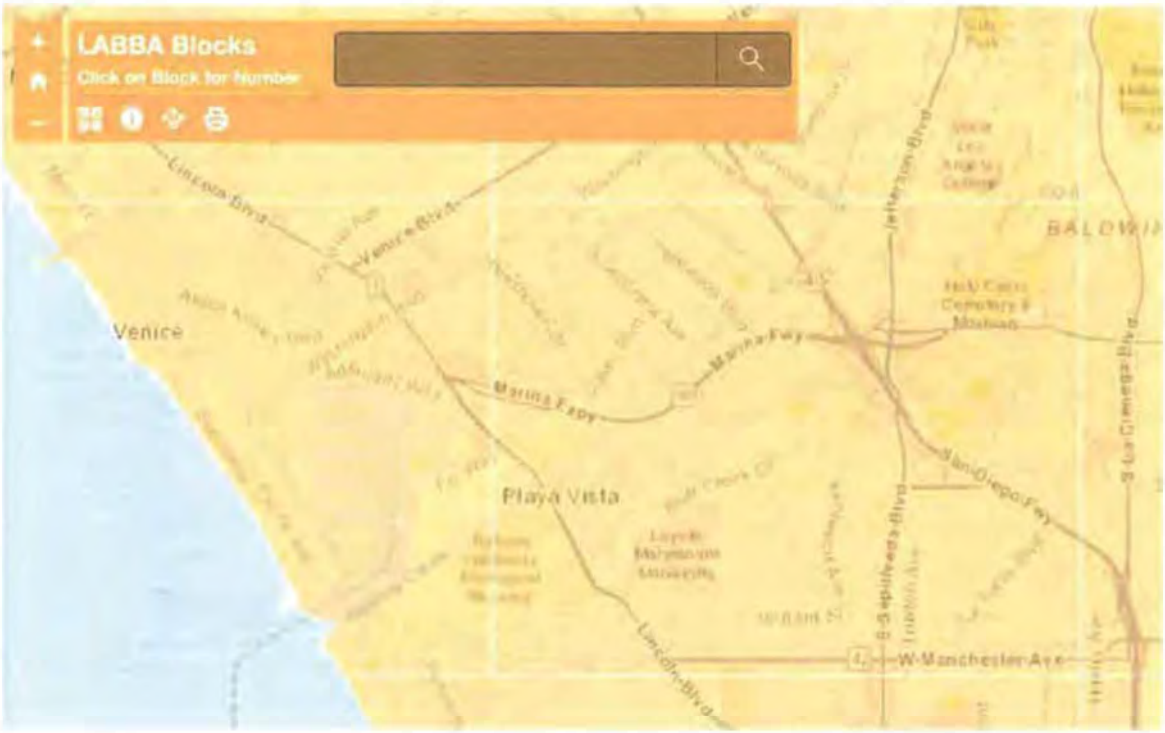

Figure 13. Location of western and eastern survey blocks encompassing project site from *Los Angeles County Breeding Bird Atlas* (Allen et al. 2016).

O15-84

The Draft EIS/EIR treats nesting raptors and other sensitive bird species separately. For sensitive bird species (not raptors), the Draft EIS/EIR lists four nesting on site: California Towhee, Loggerhead Shrike, Tree Swallow, and Western Meadowlark. These are confirmed by the *Los Angeles County Breeding Bird Atlas* (although Tree Swallow colonized after the Atlas period), and records suggest breeding by both Blue Grosbeak and Black-headed Grosbeak in the project vicinity (Table 2).

Table 2. Presence of sensitive bird species and raptors breeding in vicinity of project site (Allen et al. 2016).

Species	*Western Block*	*Eastern Block*
Black-headed Grosbeak		Possible
Blue Grosbeak	Possible	Confirmed
California Towhee	Possible	Confirmed
Loggerhead Shrike	Confirmed	Probable
Western Meadowlark	Confirmed	Probable
White-tailed Kite		Possible
Red-shouldered Hawk	Possible	Possible
Red-tailed Hawk	Possible	Confirmed

3.2.4 Small Mammals

The surveys most recently conducted for small mammals should not be interpreted as showing the absence of any species. It is possible, and in fact likely, that failure to detect some species during the surveys had as much to do with survey protocols as with presence of the species.

For example, it is highly unlikely that Southern California Salt Marsh Shrew (*Sorex ornatus salicornicus*) is absent from the site. The specimen that resulted in the scientific description of this unique subspecies was collected at Ballona (Owen and Hoffmann 1983). The subspecies was present in the 1980s (Friesen et al. 1981) and in later surveys. However, to capture shrews in Sherman traps it is necessary to have extra-sensitive traps because shrews weigh less than other small mammal target species (Friesen et al. 1981). In the 1980s surveys on the project site, especially sensitive live traps ("Museum Specials") were set in particular areas where shrews were previously collected (Friesen et al. 1981). The more recent surveys by Johnston et al. did not involve use of specialized traps for shrews and probably were done without awareness of the collecting localities so their failure to capture shrews is to be expected. The conclusion that Southern California Salt Marsh Shrew is only of "moderate potential" to occur should be revised (p. 3.4-29). If they are not present, their loss represents a significant degradation of the biodiversity on the project site.

O15-85

4 Impact Analysis

4.1 Impacts from Trail System

The Draft EIS/EIR does not currently but should consider the impacts on native wildlife from trail use facilitated by development of an extensive trail system (e.g., Boyle and Samson 1985, Steven et al. 2011). The current evaluation does not consider the impacts of the spatial design of the trail system or the potential adverse consequences of their use.

The Draft EIS/EIR does not calculate the amount of the ecological reserve that is taken up with the trail system itself. The analysis of impacts on sensitive species does not subtract the trail area from its vegetation type totals, even though some of the trails will be 18 ft across and their influence from disturbance will extend outward hundreds of feet. This is a major flaw in the analysis in the Draft EIS/EIR, because most sensitive species by definition need significant setbacks (hundreds of feet) from disturbance such as trails.

O15-86

The Draft EIS/EIR describes development of 19,000 ft of pedestrian and Class I bicycle paths (18 ft wide; p. 2-100), which would have a footprint of 7.85 acres. An additional 29,000 ft of pedestrian trails of 6 ft width would cover 4.00 acres. The 2,000 ft of boardwalks of 10 ft width over marsh would reduce that habitat area by 0.5 acres. In sum, the resulting trail system would cover an area of over 12 acres that is improperly counted as wildlife habitat in the impact analysis.

The Draft EIS/EIR does not account for the fragmentation caused by the configuration of the trail network. It also fails to map the distance that detrimental impacts caused by different trail users (e.g., pedestrians, cyclists, pedestrians with dogs) would extend outward from the trails. The spatial extent and size of trails guarantee extensive use and concomitant disturbance of

wildlife in the ecological reserve by visitors and their pets. Movement along trails, especially rapid movement and with pets, disturbs wildlife that can see and hear the activity. Rather than hugging the edges of the property and minimizing the visibility of the trails from sensitive habitat, trails are designed in a way that maximizes visitor access at the expense of sensitive wildlife. The primary purpose of an ecological reserve is to conserve biological diversity, and the intense fragmentation that would be caused by the trail network would diminish what should be the core value of the project. The trail system has a compounding negative impact of being raised on levees around the open wetland areas. This will make activities on the levees more prominent and be disturbing to prey species. Part of the reason that birds roost in open areas like salt pans is that they can see predators from a great distance. The berm and trail system would bring activity that would be perceived as dangerous closer to prey species, decreasing the value of the habitat for those species.

O15-86 cont.

Trail presence significantly depresses breeding density of sensitive open-land species such as Western Meadowlark. For example, density of breeding Western Meadowlark was depressed by about 25% at 100 m from a recreational trail, and >50% at 50 m (Miller et al. 1998). Across many wetland species, it is recommended that a buffer of 50–250 m be provided from disturbance such as trails (Carney and Sydeman 1999).

O15-87

Both dogs and cats are allowed in State wildlife areas if on a leash (14 CCR Section 550(m)). The Draft EIS/EIR assumes that humans and pets will have no impact if kept to the developed trail system (p. 3.4-87). This is false; the mere presence of pedestrians and dogs can disturb and adversely impact shorebirds (Lafferty 2001), grassland birds (Miller et al. 2001), and forest birds (Thompson 2015). Passive recreation can have a large adverse environmental impact (Klein et al. 1995) and this is not properly addressed in the Draft EIS/EIR.

O15-88

The Draft EIS/EIR contains a mitigation measure to reduce the impacts of disturbance on nesting birds and raptors, but this measure would only extend through the construction phase of the project. The Draft EIS/EIR contains no analysis of or mitigation measures for the permanent impacts on birds associated with the project (e.g., greatly increased maintenance activities and recreational use).

O15-89

Furthermore, the inclusion of such an extensive trail network will work against restoration efforts because invasive species introductions are greater closer to trails (Benninger-Truax et al. 1992).

O15-90

4.2 Absence of Post-Restoration Vegetation Maps

The impacts analysis makes magically optimistic assumptions that all of the species that are currently found on the site will have their habitat needs fulfilled and enhanced (i.e., long-term beneficial impacts) by the end of the project. This analysis is not supported by adequate information and it cannot be true because of the different habitat needs of the many sensitive species on the project site. There will be winners and losers in terms of species diversity, but those winners and loser cannot be identified because the Draft EIS/EIR does not provide post-restoration vegetation maps, instead providing maps that show large areas of "Upland" without vegetation types.

O15-91

The reason for the absence of post-restoration vegetation maps is that the planting design for the levees has not yet been approved:

> [U]pland habitats would be subject to regular maintenance. Actual acreage of upland habitats dedicated to maintenance will be quantified after perimeter levee design has received approval. Maintenance in uplands is intended to meet multiple objectives, such as providing wildlife habitat, flood protection, and fuel modification. Please see Appendix B5 for additional details on activities and methods of maintenance to be conducted in these habitats (p. 2-45).

Flood control levees are subject to very particular requirements, including no-root zones, limited perennial vegetation, and a need to eliminate rodent burrows (U.S. Army Corps of Engineers 2014). It is unknown at this time what vegetation will be permitted on the extensive levees to be constructed around the project site, meaning that all of the assumptions about long-term beneficial effects on scrubland and grassland species are unsupported. Furthermore, by claiming broad benefits from restoration of uplands without providing a map of vegetation distributions, the preparers of the Draft EIS/EIR inappropriately shield themselves from questions about whether the uplands can be all things to all species. That is, can the requisite habitat elements for each species for which upland mitigation is claimed actually be fit within the area left over after converting a large area to wetlands, having vegetation type constrained on the levees, removing the area taken up by trails and other visitor-serving infrastructure, and accounting for disturbance from recreational activity? The Draft EIS/EIR does not even provide the most basic information, a post-project vegetation map, that could be used to answer that question.

O15-91 cont.

4.3 Impacts to Endangered Species

4.3.1 El Segundo Blue Butterfly

Comparison of the map of final habitat types and the map of foodplant for El Segundo Blue Butterfly suggests that some of the habitat area for this species will be lost. The constructed levee extends up to and over several *E. parvifolum* patches. The final footprint of construction extends considerably into the area mapped as El Segundo Blue Butterfly habitat (Figure 3.4-5). Furthermore, the area of some of these patches is depicted as undifferentiated "upland" and therefore should be considered a permanent impact. Construction of the levee in that location will likely result in take from construction activities in addition to loss of existing habitat.

O15-92

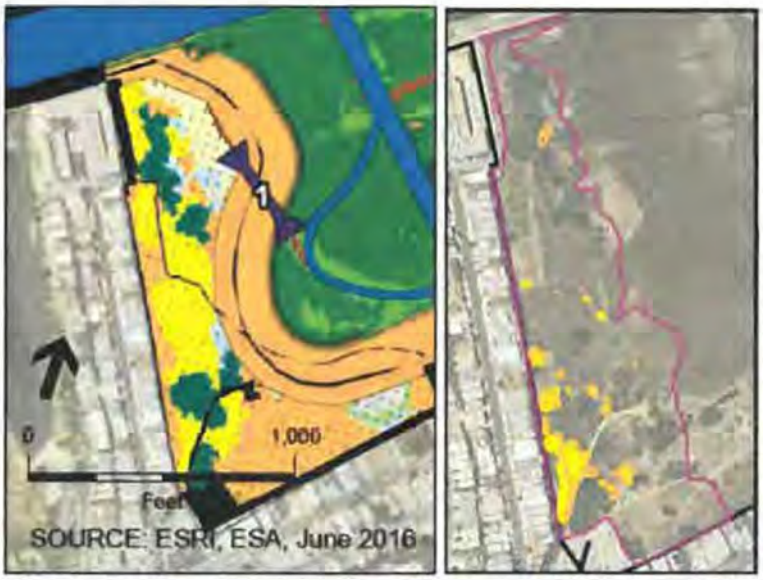

Figure 14. Comparison of final proposed habitats for Alternative 1 (left) with extent of El Segundo Blue Butterfly habitat (purple outline; right).

O15-92 cont.

The project management plan acknowledges that pesticides will be used to control mosquitoes, midges, and/or black flies at the project site (p. 3.4-139; see details in Appendix B5). The plan describes the use of *Bacillus thuringiensis* (Bt) as a control agent. Bt is a known pathogen of lycaenid butterflies (Tanada and Kaya 1993, Mattoni et al. 2003), and lycaenid larvae exposed to Bt experience mortality in a dose-dependent relationship (Herms et al. 1997). Assessment of the impacts of the proposed project on El Segundo Blue Butterfly (a lycaenid) therefore should consider non-target impacts of vector control activities.

O15-93

The project design includes a levee immediately adjacent to occupied habitat and a culvert that drains under that levee (Figure 14; purple line). The risk of accidental or intentional flooding of El Segundo Blue Butterfly habitat throughout the life of the project should be assessed, because inundation of habitat would constitute a significant adverse impact; the pupae of the butterfly live in the soil underneath host plants for most of the year (Mattoni 1992) and are consequently vulnerable to flooding.

O15-94

4.3.2 California Least Tern

The impact analysis for California Least Tern makes the unsupportable assertion that the project site is not used by this species:

> This species is not expected to breed or forage on the Project site considering the habitat conditions onsite and the lack of recent observations of this species. This species unsuccessfully attempted to breed in Area B in 2014, so potential impacts to nesting could occur if this species attempts to nest onsite again (p. 3.4-80).

O15-95

The juxtaposition of the two sentences in this rather paltry analysis is striking. The salt pan is a potential breeding site where breeding has been attempted in the recent past, yet the Draft EIS/EIR claims that the species is not expected to breed or forage. In addition to being observed

roosting in the project site at the salt pan and at a freshwater pond in Area B (see many eBird reports), the species forages in Ballona Creek, which is part of the project site and would be significantly impacted during project construction.

O15-95 cont.

4.3.3 California Gnatcatcher

The impact analysis for California Gnatcatcher is problematic for a number of reasons. The text reads as follows:

> This species is not expected to breed or forage on the Project site considering the habitat conditions onsite and the lack of recent observations of this species. However, since focused surveys for this species have not been conducted at the Ballona Reserve since 2011, although unlikely, potential impacts to nesting could occur if this species is confirmed present onsite. However, with implementation of Project Design Features and mitigation measures, Alternative 1 may affect, but is not likely to adversely affect coastal California gnatcatcher or its habitat (p. 3.4-80).

First, the Draft EIS/EIR asserts that foraging is not expected even though foraging has been reported on the project site multiple times and as recently as April, October, and November of 2016 (observations easily accessible and verifiable on eBird).

O15-96

Second, the analysis is based on the unverified assumption that the area that would be used for foraging is limited to coastal scrub, when California Gnatcatcher uses many other vegetation types for foraging, including disturbed habitat (Campbell et al. 1998, Atwood and Bontrager 2001). In fact, the species has been observed in Areas A, B, and C. Any conclusion that the post-implementation project would provide more habitat is premature, however, because the acreages of those habitats has yet to be determined.

Third, the analysis presumes that foraging habitat has little value and provides no consideration of how the site might be used in a network of habitat patches allowing for the dispersal of this species across the landscape. The observations of the species reported on eBird suggest dispersal patterns that include the Ballona Wetlands as an intermediate location linking the El Segundo Dunes to the Baldwin Hills (Figure 15).

Fourth, the Draft EIS/EIR does not disclose that California Gnatcatcher has recently (2013) colonized the nearby El Segundo Dunes as a breeding species, suggesting the possibility of breeding at Ballona as well.

It should be noted that the habitat for this threatened species in Area C would not be impacted for any restoration purpose; rather, the habitat in Area C would be destroyed solely for the convenience of dumping excavated material from Area A.

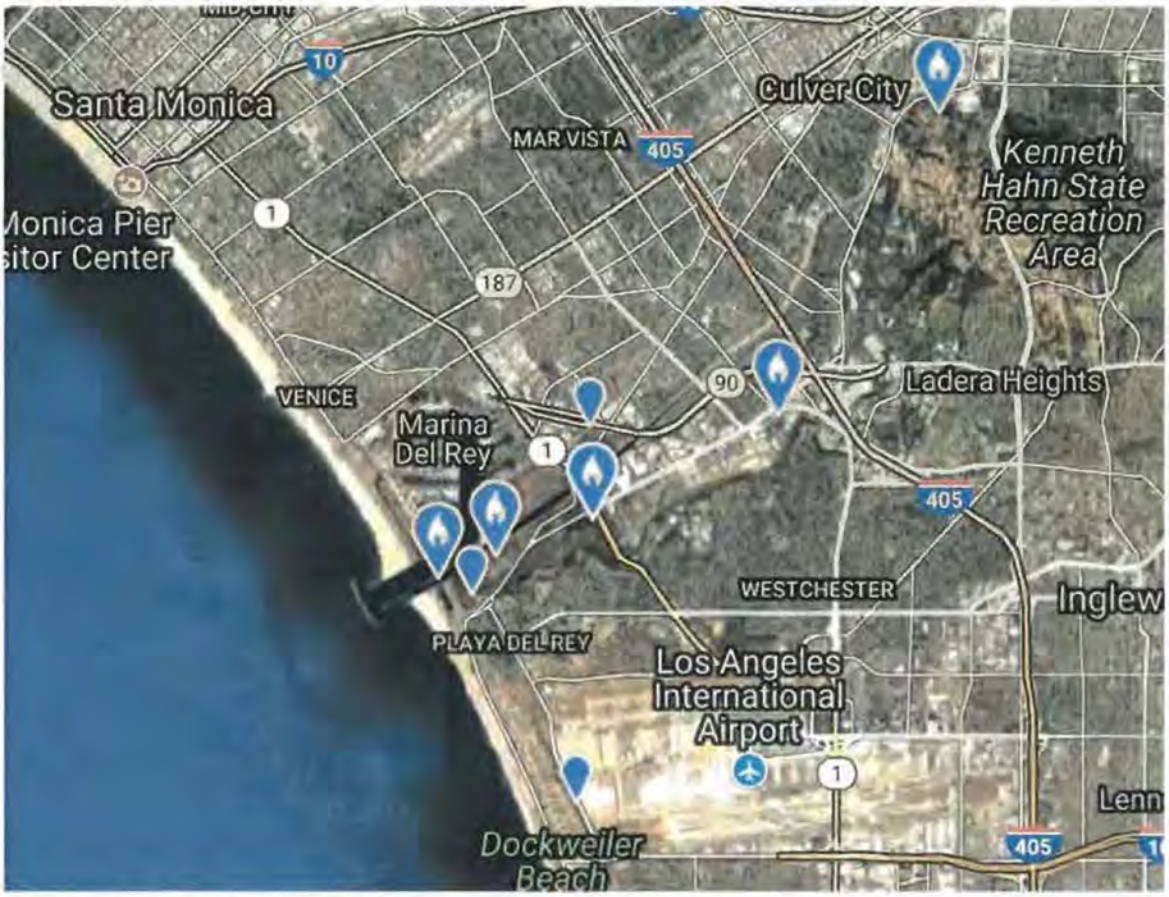

Figure 15. Past 10 years of California Gnatcatcher observations in and around project site (from eBird.org).

O15-96 cont.

4.3.4 Least Bell's Vireo

The analysis of impacts to this species is as follows:

> This species is known to breed and forage in Southeast Area B. Potential impacts to nesting could occur if this species attempts to nest onsite again. However, with implementation of Project Design Features and mitigation measures, occupied habitat for this species would be avoided (p. 3.4-80).

O15-97

The Draft EIS/EIR acknowledges loss of 0.1 acre of habitat (p. 3.4-101) but then claims that the total habitat area will be increased by 2.9 acres at the end of the proposed project. This apparently would be achieved by creation of riparian habitat along a new drainage feature between two piles of dredge spoils in Area C North, because no additional willow habitats are proposed in Area B Southeast. The new willow habitat in Area C North is unlikely to be useful for the species because it is designed with a public access trail immediately adjacent to it. This location is also isolated from the block of habitat provided by the Ballona Freshwater Marsh and Centinela Creek. It is unclear if this is an appropriate location for this habitat or if the

appropriate hydrology will be present to support it. No additional water source is evident that would provide the hydrological conditions necessary to support a riparian forest at this location.

Least Bell's Vireo relies on songs to attract mates and defend territories. Studies of road noise from Europe include similar small songbirds that use acoustical communication. Noise impacts on birds are not fully considered in the Draft EIS/EIR. The threshold levels for two European warbler species (*Phylloscopus sibilatrix* and *Phylloscopus trochilus*) are 26 dB(A) and 39 dB(A), with decrease factors pf 0.61 and 0.38, meaning breeding density was diminished to ~40–60% of undisturbed levels (Reijnen et al. 1995). From the published literature, therefore, a conservative threshold based on similar species for Least Bell's Vireo would be 40 dB(A) or below. The Draft EIS/EIR should include performance criteria for noise impacts in potential Least Bell's Vireo habitat, as well as assess the impacts of noise on areas of non-riparian vegetation that may be used by Least Bell's Vireos. Other habitats, such as coastal sage scrub and chaparral, are documented as foraging habitats for the species (Kus and Miner 1989).

O15-97 cont.

4.4 Impacts to Special-Status Plants

The approach to mitigation of special-status plants in the Draft EIS/EIR is to count the number of plants and then commit to mitigating that number on a 1:1 basis. Such an approach will not ensure that significant adverse impacts are mitigated to a less than significant level. For short-lived plants, the question is not the number of individual plants, since this number will change with conditions on an annual basis, but rather the area of habitat that is providing the appropriate soil, topography, aspect, and competitive conditions for that sensitive species to thrive. It is trivial, and insufficient, to plant and maintain a certain number of a special-status annual plant for a number of years through seeding, but quite another to establish habitat so that the species reproduces and is self-sustaining in perpetuity. It is furthermore inappropriate that the Draft EIS/EIR does not provide a map of locations where special-status species will be restored so the prospects for success in doing so can be assessed.

O15-98

4.4.1 Lewis' Evening-primrose

The proposed project would grade or dump dredge spoils on 96% of the individuals of Lewis' Evening-primrose that were surveyed on the project site (p. 3.4-85). The Draft EIS/EIR commits to a replacement number of plants but not an equal area of habitat or assurance that the population would be viable in perpetuity. Furthermore, the Draft EIS/EIR does not explore the possibility of avoiding impacts to this species. Avoidance is always the preferred mitigation. The only reason for impacts in Area C where the main population of this species is found is that this location has been chosen as the dumping ground for dredge spoils from Area A. Off-site disposal of dredged materials would avoid impacts to sensitive species and habitat in Area C.

O15-99

4.4.2 Woolly Seabite

Mitigation for Woolly Seabite is also proposed at the individual level instead of for the area occupied. Although the marsh habitat for this species is likely to be provided in the proposed project, a map should be included in the Draft EIS/EIR that shows where this species will be restored and how conditions for it will be maintained.

O15-100

4.5 Impacts to Special-Status Invertebrates

The Draft EIS/EIR lacks information and detail to support its conclusion that the impacts on salt marsh invertebrates (e.g., Wandering Skipper, Western S-banded Tiger Beetle, Western Tiger Beetle, and Wetsalts Tiger Beetle) would be less than significant. As discussed above, the Draft EIS/EIR makes flawed assumptions about the distribution of these species and the analysis of impacts is nonexistent.

Saltgrass is the foodplant for Wandering Skipper. A map of post-restoration Saltgrass distribution is needed to compare against current distributions for Wandering Skipper. It is likely that the loss of habitat exceeds the 13.5 acres acknowledged because of the greater distribution of Wandering Skipper than assumed in the Draft EIS/EIR. Notwithstanding the larger distribution than that disclosed, any project alternative that removes a significant proportion of the existing Saltgrass habitat risks extirpating the species from the site through direct impacts and fragmentation.

O15-101

The sensitive nature of tiger beetles must be considered, and their presence on the rocks of Ballona Creek (Nagano et al. 1981, Nagano 1982) should be addressed in more detail. How will these species be protected during construction? Lacking a focused survey for tiger beetles by credential experts, these species should be assumed present and made target species for design of any restoration proposal.

It is furthermore not logical that a loss of 2.4 acres of Southern Dune Scrub would not have a significant adverse impact on dune-associated special-status invertebrates. To the contrary, this acreage would be a significant loss, both of a special-status vegetation type and of the special-status invertebrates associated with that habitat. The resulting impact after mitigation would still be significant.

4.6 Impacts to Special-Status Reptiles

4.6.1 Silvery Legless Lizard

The Draft EIS/EIR draws the conclusion that impacts to special-status reptiles would not be significant after mitigation, but does not provide data to support that claim. The general argument is that the loss of 2.4 acres of sandy soils appropriate for Silvery Legless Lizard would be offset by increased quality of habitat elsewhere that would increase density. This is not a good metric of impacts or mitigation. The question is whether the distribution of this species would be decreased after implementation of the proposed project, which it would.

O15-102

The Draft EIS/EIR does not provide evidence of differing densities of legless lizards in different areas of the project site, which is, admittedly, a difficult thing to do (Kuhnz et al. 2005). The highest density of legless lizards ever measured was at a development site at Moss Landing in Central California. It took 1,572 person-hours to clear 0.2 hectare of lizards (with "clearing" defined as searching for 40 hours without locating a lizard) (Kuhnz et al. 2005). Without such an effort, the preparers of the Draft EIS/EIR do not have adequate information to make statements about lizard density. Furthermore, the survey approaches in the Draft EIS/EIR are inadequate to determine presence, as shown by the Moss Landing study:

> These results provide evidence that coverboard surveys and pitfall trap arrays do not accurately determine the presence (or absence when used for habitat management decisions) of this species, and we suggest that these methods be avoided when surveying for California Legless Lizards as a predevelopment or predisturbance mitigation. In situations where it is essential to know whether legless lizards are present, a full depletion survey should be conducted in a discrete area within the habitat (Kuhnz et al. 2005).

The Draft EIS/EIR also proposes to relocate legless lizards. This would be a very time-consuming endeavor for the area they describe (potentially >7,500 person-hours for 1 hectare/2.4 acres). Furthermore, relocating into existing habitat would not provide a conservation benefit, because existing habitat presumably already supports the species at its carrying capacity. The Draft EIS/EIR is based on the assumption that it can increase carrying capacity or create new habitat, but provides no evidence to show that is feasible and can be implemented and measured. Finally, assumptions about the density of legless lizards at the project site may well be wrong; the highest density of legless lizards ever recorded at a site was at a location with 50% cover of invasive plant species (Kuhnz et al. 2005) rather than a site with predominantly native plant cover.

To draw a conclusion about a beneficial effect, the Draft EIS/EIR would need to account for the decrease in dune habitat, deal with the survey issues, and map where lower quality habitat will be improved. As it is, these benefits are speculative and insufficiently supported.

O15-102 cont.

4.6.2 San Bernardino Ring-necked Snake

The Draft EIS/EIR concludes that the proposed project will have a less than significant impact on San Bernardino Ring-necked Snake (p. 3.4-97). It is unclear how this would be possible, given that 56 acres of upland habitats would be converted to salt marsh. The Draft EIS/EIR contemplates enhancing 200 acres of "invasive monoculture," arguing that this would benefit this species and offset the loss of over 50 acres of habitat. The Draft EIS/EIR contains no information about density of the species and, importantly, does not map the pre- or post-restoration distribution of essential habitat features for the species. Ring-necked Snakes hide under rocks and logs and in moist soil (Pauly et al. 2016). Such conditions are not necessarily tied to vegetation type. The Draft EIS/EIR argues that 8.1 acres of levees would be potentially suitable habitat in the post-project condition, but does not list any specific design features that would be incorporated to support that assumption. The levees are elevated and dry and cannot include rocks and logs. In fact, the guidelines that must be followed specify that vegetation must be controlled on levees "to limit those habitat characteristics that encourage the creation of animal burrows" (U.S. Army Corps of Engineers 2014). The amount of habitat promised upon project completion has not been mapped, nor has any evidence been shown to conclude that the 200 acres of uplands will be better habitat for San Bernardino Ring-necked Snake following the project. It is not possible to conclude, therefore, that reducing the available upland habitat for a sensitive upland species by 50 acres, reducing it further by exclusion of vegetation and desirable physical features on levees, and reducing it even further through an extensive trail network where visitors are prone to kill snakes that they find (see description of hikers killing snakes in the nearby Baldwin Hills; Pauly et al. 2016) could possibly result in a net benefit for the species.

O15-103

4.7 Impacts to Special-Status Birds

4.7.1 Belding's Savannah Sparrow

Belding's Savannah Sparrow should be a target species for any wetland enhancement at Ballona. Indeed, the species, a specialist of the upper marsh zone that naturally predominated the historical landscape, has long been the focus of conservation efforts for this site (Dock and Schreiber 1981, Corey and Massey 1990). It should be noted at the outset that this species does not require full tidal flushing to create habitat and in fact the muted tidal regime in place in Area B maintains a significant amount of habitat and the population of sparrows has been increasing there.

During the two phases of the proposed project, 7.9 acres of occupied habitat and 20.2 acres of potentially suitable habitat would be destroyed. A typical coastal wetland mitigation ratio for habitat destruction of salt pan or salt marsh is 4:1 (e.g., San Diego Municipal Code, Land Development Code, Biology Guidelines, 2012). The proposed project would permanently impact 28.1 acres of potential or occupied Belding's Savannah Sparrow habitat. Approximately 32% of the existing occupied habitat will be directly impacted, and much of the remainder will be significantly disturbed by construction of channels and berms in the middle of the occupied breeding territories (compare Figure 2-1 and Figure 3.4-12). If this were a development project, mitigation of 112.4 acres would be required. The project does not meet this standard (it proposes 97.7 acres of potential habitat), which is only a net increase of 69.6 acres to offset a loss of 28.1 acres and construction in the middle of breeding habitat.

O15-104

The Draft EIS/EIR fails to recognize that not all of the new or old habitats will be suitable because of the trail system proposed for the project. Based on field observations, ornithologists recommend at least a 63 m (200 ft) buffer around potential Belding's Savannah Sparrow breeding habitat (Fernández-Juricic et al. 2009). This means that mitigation credit should not be allowed for any existing or restored habitat that is located within 200 ft of any of the recreational infrastructure. Because males defend territories around dry, non-inundated sites in the upper marsh zone (Fernández-Juricic et al. 2009), the potential is high for the recreational trail system to substantially degrade the habitat quality of the salt marsh areas assumed to mitigate for loss of existing habitat.

The proposed project envisions a scenario where new potential habitat is created during Phase 1 and then Phase 2 (with larger impacts on occupied habitat) would proceed when the species nests in habitat created in Phase 1. All that is necessary for the new Phase 1 habitat to be considered as providing acceptable mitigation for loss of occupied habitat is one nesting pair of sparrows (p. 3.4-101). This threshold is far too low; only when a number of breeding pairs of sparrows is supported in created habitats that equals the number to be impacted in Phase 1 and Phase 2 should the Phase 2 efforts be allowed to proceed.

Despite nesting in the upper salt marsh, Belding's Savannah Sparrow is a terrestrial species; it nests on and forages on dry ground in grasslands, fields, and upper marsh and transition zones. Creation of lower marsh habitats and additional mudflat and subtidal habitats does not help this species, which by all rights should be the primary focus of Ballona Wetlands management as a resident endangered species. It would be a far greater conservation benefit to create only mid-

and high-marsh habitats in Area A, which would have a range of advantages, including 1) reducing the amount of grading, 2) increasing the amount of Belding's Savannah Sparrow habitat, 3) providing more habitat farther from pedestrian disturbance, and 4) being more resilient to sea level rise.

O15-104 cont.

4.7.2 California Gnatcatcher

As discussed above, the project site is used regularly by California Gnatcatchers, which appear to be dispersing individuals. The Draft EIS/EIR dismisses this use as inconsequential, but in doing so fails to grapple with the use and value of the site for the dispersal of the species and its recovery in the region. The future upland plantings on the site are unknown and undetermined, so any conclusion that impacts to this species are insignificant cannot be supported. One of the key areas of analysis in CEQA is the value of habitat to animals moving across the landscape and the Draft EIS/EIR categorically denies that the site has any role in local wildlife connectivity. We documented above that gnatcatchers are capable of using more than scrub habitats for foraging, which further undermines the conclusion in the Draft EIS/EIR that the project would not adversely impact California Gnatcatchers.

O15-105

4.7.3 California Horned Lark

As one of the last remaining open grasslands in the Los Angeles basin, the ecological reserve is disproportionately important to grassland species. The Draft EIS/EIR should analyze the impacts of the proposed project on California Horned Lark. Dean Schaff observed this species at the Ballona Freshwater Marsh in 2016 (submitted to eBird by D. Cooper http://ebird.org/ebird/view/checklist/ S31800195). We also have provided an image taken by Jonathan Coffin of Horned Lark foraging in Area C of the project site (Figure 10). The Draft EIS/EIR provides no analysis of impacts on this sensitive species.

O15-106

4.7.4 Burrowing Owl

The proposed project would impact wintering (and former breeding) habitat for Burrowing Owl. The Draft EIS/EIR acknowledges that grading of the project site would destroy existing ground squirrel burrows, but then it states that ground squirrels would construct new burrows. This claim is disingenuous because it is not reconciled with the reality that much of the new "uplands" will be in the form of earthen levees, which must be managed according to regulations to maintain safety. Those regulations include steps to destroy animal burrows in the levees by filling them and taking steps to prevent burrows from being constructed in the levees at all (U.S. Army Corps of Engineers 2014).

Furthermore, although the Draft EIS/EIR expresses a desire to avoid lethal control of rodents ("limiting or prohibiting lethal rodent control measures," p. 3.4-109), it does not commit to this as a mitigation, nor does it commit to banning rodenticides on the project site. Unless the Operations and Management plan is revised to specifically prohibit the use of poisons, impacts on sensitive native mammals and birds, especially predator species, must be analyzed.

The analysis does not take disturbance (especially pedestrians with dogs) from the recreational infrastructure into account when projecting future habitat area (Cavalli et al. 2016).

O15-107

Furthermore, the project description is incomplete in that it does not include a map of vegetation types to be established and maintained in the uplands or reconcile the competing needs of Burrowing Owls (low, open vegetation) with those of other species that would be found in the uplands. The claim in the Draft EIS/EIR that lost habitat for Burrowing Owl will be mitigated at a 7:1 ratio is therefore not supported by the project description. The map of the extent of current Burrowing Owl activity is an educated hypothesis at best, and only a fraction of the future upland would be suitable for the species once taking rodent control measures and disturbance from recreation into account.

O15-107 cont.

The Ballona project site is one of the few locations where it would be possible to re-establish a breeding population of Burrowing Owl on the Los Angeles coastal slope. Sadly, the design of the restoration would not accomplish this reasonable and appropriate goal, squandering the opportunity to maintain and improve native biodiversity appropriate to the local ecology.

4.7.5 Nesting Raptors

The analysis in the Draft EIS/EIR should address impacts on raptors nesting both in and near the project site because of the importance of foraging in breeding ecology. The Draft EIS/EIR only includes Cooper's Hawk as a nesting species and downplays the importance the site for foraging. Based on historical records and current photographic evidence, impacts to nesting raptors, including impacts to the foraging areas necessary to support nesting, should also consider White-tailed Kite, Red-tailed Hawk, and Red-shouldered Hawk.

The Draft EIS/EIR argues that the post-restoration site would provide improved foraging habitat for raptors, which is meant to apply to Merlin, Northern Harrier, Osprey, Peregrine Falcon, Sharp-shinned Hawk, Short-eared Owl, White-tailed Kite, and Turkey Vulture. Recent research (Wolf et al. 2017) suggests that replacing annual grassland with native perennial grassland would significantly reduce native raptor densities, so a species-by-species approach is necessary to predict impacts. We focus on two species for the purpose of discussion.

O15-108

White-tailed Kite forages at the project site but nesting was not detected in studies for the Draft EIS/EIR. However, juvenile White-tailed Kites are regularly observed at the project site and it was a probable breeder in 1995–1999 (Allen et al. 2016). White-tailed Kite territories must include foraging habitat rich in rodent prey, which could be high marsh, grasslands, rangelands, agricultural land, "barren" land, and weedy fields. Preferred prey items are small mammals of 20–70 g (Dunk 1995). Voles are likely the preferred prey item at Ballona because of their size, and White-tailed Kites have been observed at the project site with this prey item. South Coast Marsh Vole (*Microtus californicus stephensi*) at Ballona Wetlands is closely associated with Saltgrass (*Distichlis spicata*) as well as the high marsh (Friesen et al. 1981). In a study of diet of White-tailed Kites in grassland habitat in California, *Microtus* spp. was found in 80% of pellets and *Mus musculus* in 20% (Stendell 1972).

Evaluation of the impacts on White-tailed Kite depends on the abundance of its rodent prey in the post-restoration landscape. The analysis should compare the current areas of ruderal grassland, high marsh, brackish marsh, and saltgrass habitats and their *Mus* and *Microtus* densities with their areas and rodent densities after the project. To conserve and enhance White-tailed Kite on the project site (as required for a Fully Protected Species), it would be necessary to

include more high marsh and transitional habitats compared with middle and low marsh, tidal channels, and open water to make up for the predictable reduction in *Mus* density with restoration of annual grassland to a native vegetation type (Wolf et al. 2017).

The Draft EIS/EIR does not provide an analysis with final vegetation and habitat maps showing the needs of all of the foraging and resident raptor species would be met and increased after the proposed project.

The analysis in the Draft EIS/EIR does not incorporate the dramatic increase in disturbance that would result from the recreational trail network. This is evident for Northern Harrier, a sensitive species. This species needs open habitats, making use of freshwater or brackish marshes, wet meadows or pastures, and grasslands. It is considered rare and declining locally (Gallagher 1997), and the species is extremely rare in southern California (Price et al. 1995). It is at risk of being extirpated completely from cismontane southern California because it requires "large areas of undisturbed open space" (Gallagher 1997). Females defend habitats of 9.6–308.6 acres (mean 83.0 acres) in California (Temeles 1987, 1989). The total area used as foraging territory is larger (Dechant et al. 1998). The species preys on a variety of small mammals and birds (Selleck and Glading 1943). The analysis of impacts on this species does not consider the effects of construction of multi-modal trails that fragment the open spaces, nor the effects of adding the topographic variation of levees and dredge spoils piles on a species that needs large, undisturbed open space habitats.

O15-108 cont.

Finally, the Draft EIS/EIR describes a project that only includes habitat enhancement for birds if it is required as mitigation, rather than because it is the right thing to do to promote sensitive bird species at the project site. For example, an excellent design feature for the project would be a nesting platform for Osprey, which is probably all that is needed for the species to become resident (Allen et al. 2016). The Draft EIS/EIR only treats this possibility from an impact mitigation perspective, stating, "The inclusion of one or more osprey nesting platforms in the Project under Alternative 1, 2, or 3, therefore, is both possible and recommended although no potential significant adverse impact has been identified in Section 3.4, Biological Resources, that would support a requirement that they be included" (p. 2-241). If it is possible and recommended, what is stopping the designers of the restoration from including it?

4.7.6 Additional Special-Status Upland Bird Species

The Draft EIS/EIR analysis of impacts to the remainder of upland species other than raptors is lumped into one section. As background to this analysis, the proposed project would reduce upland habitats from 271.9 acres to 195.8 acres (a loss of 76 acres that is acknowledged), further reduce them by approximately 12 acres of trails, and constrain them by the conversion of uplands to over 36 acres of levees with specific limits on vegetation (e.g., grasses only, no rodents, and clearance for fire safety). Nevertheless, the Draft EIS/EIR presents one mitigation measure for all special-status upland bird species, without regard to the habitat requirements of each:

O15-109

> Although a portion of suitable upland foraging habitat would be converted to tidal marsh, the marsh also would provide suitable foraging habitat for these species, and thus no net loss of foraging habitat is expected. Enhancement of existing non-native habitats within

the site also is likely to expand foraging and potentially nesting habitat for these species resulting in a potential net beneficial effect (p. 3.4-112).

Evidence is not provided to support the conclusion that all of the upland bird species of concern could: a) also forage in salt marsh, and b) have more habitat post-restoration if not salt-marsh foragers. Because final vegetation types for restoration have not been established, at best the conclusion that all upland species will benefit is premature. At worst, it is woefully misguided and will result in the extirpation of certain species and result in contraction of the range of grassland species in the Los Angeles basin.

To illustrate this problem, we compiled the foraging habitat requirements of all of the upland special-status bird species (Table 3). For some species, more riparian forest would be needed to have a beneficial impact, while for others more scrubland. For other species, additional shrub cover would be deleterious.

Table 3. Foraging habitat requirements of special-status "upland" species according to *Birds of North America* (Cornell Lab of Ornithology/American Ornithological Society).

Species	***Habitat***
Belted Kingfisher	Open water
Black-headed Grosbeak	Large trees with well-developed understory
Blue Grosbeak	More medium than small trees and low shrub density
California Towhee	Array of shrubby habitats
Gray Flycatcher	Riparian habitats
Hermit Thrush	Trees with shrubs and undergrowth
Hermit Warbler	Riparian and oak woodland, suburban park
Lincoln's Sparrow	Shrub-dominated habitats, particularly riparian
Loggerhead Shrike	Open country with short vegetation
MacGillivray's Warbler	Dense shrubs or well-shaded habitats
Nashville Warbler	Drier habitats along forest edges
Olive-sided Flycatcher	Riparian forest
Purple Martin	Aerial habitats, often near beaches during migration
Red-breasted Nuthatch	Winters in wide range of forest habitats
Ruby-crowned Kinglet	Winters in wide range of forests and shrublands
Swainson's Thrush	Willow thickets
Tree Swallow	Freshwater marsh
Tricolored Blackbird	Cattail and bulrush marshes near open foraging habitat
Vaux's Swift	Aerial forager
Vesper Sparrow	Scrub, areas with sparse vegetation
Virginia's Warbler	Riparian corridors
Western Meadowlark	Grasslands with good litter cover, little shrub cover
Western Wood-Pewee	Forest edge and riparian zones
Wilson's Warbler	Riparian shrub understory
Yellow Warbler	Scrub/shrub, often near wetlands
Yellow-breasted Chat	Riparian and shrubby habitats
Yellow-headed Blackbird	Forages in open fields, roosts in emergent wetland vegetation

O15-109 cont.

It is highly unlikely that with less upland habitat, additional and extensive human disturbance from a trail system that fragments the remaining habitat blocks, and an unnatural topography created by hills of dredge spoils and levees, that all of the upland species will have additional habitat after project creation.

The project has a significant probability of extirpating Loggerhead Shrike. This sensitive species is already nearly extirpated from the coastal slope of Los Angeles County. The habitat for this predaceous songbird is grassland and open scrub habitats. Surveys in 2003 for breeding Loggerhead Shrikes recorded fewer than six pairs within the Los Angeles basin (Kimball Garrett, Los Angeles County Museum of Natural History, pers. comm.), and the species had disappeared by the early 2000s from regularly surveyed sites such as Holy Cross Cemetery, Madroña Marsh, and other Los Angeles locations (Professor Hartmut Walter, UCLA Department of Geography, pers. comm.). Territory size for Loggerhead Shrikes is 10.9–39.5 acres (Miller 1931). Despite use of scrub habitats, the species is typically found in a "scraggly open field" (Gallagher 1997), which is precisely the type of habitat that will not be protected once the project is built. Loss of Loggerhead Shrike as a breeding species would represent a significant adverse impact and the current plan does not provide reassurance that the specific needs of the species will be addressed in the restoration design when it is finally completed.

O15-109 cont.

4.7.7 Special-Status Shorebirds

Similar to the analysis of upland special-status bird species, the Draft EIS/EIR treats all shorebird species as if they have the same habitat requirements, which they do not (Table 4). The argument that the specific conditions needed for each of these species will be increased is easier to make for shorebirds than for upland birds, but it is not a given, nor has the Draft EIS/EIR provided the assessments and calculations necessary to evaluate the proposed project and alternatives.

Table 4. Foraging or nesting habitat requirements of special-status shorebird species according to *Birds of North America* (Cornell Lab of Ornithology/American Ornithological Society).

Species	*Habitat*
American Pipit	Coastal beaches and marshes
Black Skimmer	Open water
Black-bellied Plover	Coastal beaches and estuaries
Bonaparte's Gull	Wetlands, bays, estuaries
Brant	Shallow marine waters, eelgrass
California Brown Pelican	Coastal marine and estuarine habitat
California Gull	Open habitats for foraging
California Least Tern	Open sand or salt flat for breeding, shallow water for foraging
Caspian Tern	Shallow-water habitat
Common Loon	Coastal waters
Eared Grebe	Open water, including coastal lagoons
Elegant Tern	Inshore coastal waters
Long-Billed Curlew	Estuary, salt marsh, sandy beach
Red Knot	Sandy beach, salt pan, mud flats
Redhead	Shallow, low-energy, coastal habitats with grasses

O15-110

Royal Tern	Inshore coastal open water for foraging
Spotted Sandpiper	Coastal, forages in open habitat
Western Snowy Plover	Beach and dunes, historically nested on salt pan at Ballona (Page et al. 1991)
White-faced Ibis	Nests in freshwater marsh and historically nested at Ballona (Grinnell 1898); forages in shallow, flooded wetlands
Wilson's Phalarope	Open, shallow-water habitats

O15-110 cont.

4.7.8 Special-Status Marsh Birds

The analysis of impacts on special-status marsh birds states that all marsh bird species will benefit from an increase of 38.6 acres of habitat. This cannot be possible because each of the species listed has different habitat requirements (Table 5). For those species needing brackish marsh, the increase in area would be at most 6 acres. The Draft EIS/EIR should include a species-by-species analysis, which would reveal that these sensitive species would benefit by more brackish marsh in general, rather than the focus on the mid-marsh, low marsh, open water, and subtidal habitats of the proposed project. Furthermore, brackish and freshwater marsh conditions are created by designing wetlands that have freshwater inputs, an approach that the project designers have eschewed.

O15-111

Table 5. Foraging or nesting habitat requirements of special-status shorebird species according to *Birds of North America* (Cornell Lab of Ornithology/American Ornithological Society).

Species	*Habitat*
Light-footed Ridgway's Rail	Salt and brackish marshes near the coast (Willett 1912)
American Bittern	Breeding in freshwater wetlands with tall emergent vegetation; wintering sometimes in brackish coastal marshes
Clark's Marsh Wren	Winters in salt marsh
Common Gallinule	Well-vegetated ponds and marshes, forages throughout lower Ballona
Least Bittern	Breeds in brackish marshes
Sora	Freshwater, brackish, and salt marshes
Virginia Rail	*Typha* and bulrush in freshwater and brackish marshes for breeding

4.8 Special-Status Mammals

The analysis in the Draft EIS/EIR to support a conclusion that the project will have no impacts to special-status mammals lacks necessary information. Maps of habitat for each of the two species pre- and post-restoration are not provided. The association of South Coast Marsh Vole with *Distichlis spicata* as a food source (Coulombe 1970, Friesen et al. 1981) is not considered or evaluated. The assumptions about current distributions need to be updated with an appropriate trapping method for Southern California Salt Marsh Shrew (*Sorex ornatus salicornicus*) (see details in Friesen et al. 1981).

O15-112

The Draft EIS/EIR puts forth the notion that impacts from the project will be minimized by incorporating a plan to "salvage native wildlife species..." (p. 3.4-88). Presumably this applies to small mammals and reptiles; it certainly cannot apply to invertebrates. Relocating native wildlife is, however, at best a controversial mitigation measure and often such relocations are incorporated more to facilitate development than to benefit the species. As summarized by Villaseñor et al. (2013), "Wildlife rescues seem to be performed for conservation purposes but are really aimed at solving conflicts between development projects and wildlife." Simply "moving" the wildlife out of the path of immediate harm is not a mitigation measure because any suitable destination site would very likely already be occupied. Translocation can also move diseases and disrupt genetic structure (Villaseñor et al. 2013). Relocation should only be undertaken as a last resort and then must be properly planned.

Relocation is difficult and can be counterproductive because wildlife is often already at carrying capacity in nearby areas and introducing new individuals can cause adverse interactions within species. For example, male California Meadow Voles maintain territories and are aggressive to interlopers, which is especially true during breeding (Ostfeld 1985a, Ostfeld 1985b). Female voles are aggressive toward unfamiliar females (Ostfeld 1986). This makes relocation a wholly inappropriate mitigation measure for this group of animals. Any recipient site for relocated individuals would have to be unoccupied by the species to avoid intraspecific interactions, and the density of the relocated individuals could not exceed the carrying capacity of the habitat. In addition, translocated small animals have low site fidelity and suffer high mortality after relocation as they try to return to their native habitats (Villaseñor et al. 2013).

Since the project proponents have been unable to locate the population of Southern California Salt Marsh Shrew, it is not at all likely that they would be able to relocate them in advance of construction.

O15-112 cont.

4.9 Night Lighting

As can be seen from a view of the project area from space at night (Figure 16), very little outdoor lighting currently exists, with the exception of roadway lighting on Culver Boulevard through Area C, a roadway light at the intersection of Culver Boulevard and Jefferson Boulevard, and at the Southern California Gas Company facility. The Draft EIS/EIR should recognize the relative darkness as an intrinsically valuable feature of the project site and include measures to reduce illumination sources associated with the project.

The mitigation measure for lighting (AE-4b; Lighting Plan) is insufficient to protect natural resources. The measure does not appear in the wildlife section and the language about lights being "directed downward and focused away from adjacent sensitive uses and habitats" does not address quantitative performance measures and cannot be adapted to all of the different lighting scenarios. For example, lighting is proposed for a multi-story garage (which appears to serve nearby commercial uses instead of the reserve) and on bridges. Light that is "directed downward" from such infrastructure could be shining into habitat (Longcore and Rich 2004).

The inclusion of extensive recreational trails within the ecological reserve raises the issue of adverse impacts from lights on bicycles and nighttime access by pedestrians (Longcore and Rich 2017). Even the short burst of light from bicycles can interfere with vision of wildlife species

O15-113

(Baker and Richardson 2006). Political pressure to light bike paths can be high and the Draft EIS/EIR should establish that no night lighting of any sort will ever be allowed on the property.

Figure 16. Nighttime image of project vicinity from International Space Station in 2010 (NASA image 23 UT ISS026-E-6229). Note the only lighting visible is the intersection of Culver Boulevard and Jefferson Boulevard, Culver Boulevard through Area C, and the Southern California Gas Company facility.

O15-113 cont.

4.10 Noise

The monitoring locations and analysis approach for noise impacts only applies to people. This may be appropriate for the Noise section of a CEQA analysis, but the noise analysis is useless for purposes of analyzing the impacts to wildlife in the pre- and post-project conditions or during construction.

The noise analysis does not employ the generally accepted techniques needed to describe the impacts of noise on wildlife and other sensitive receptors. The Draft EIS/EIR analysis does not provide accurate estimates of cumulative noise levels resulting from the many noise-generating aspects of project construction and use (e.g., maintenance, recreation), and/or changes in noise distribution resulting from changes to the topography. Current technology allows for production of maps to show sound level contours throughout a project site and to compare pre- and post-development sound levels. This analysis can be completed by a professional sound engineer employing commercially available, widely used sound level prediction software that takes into

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account site topography, building shape and size, and location of noise sources (including construction equipment, bells, playgrounds, roads, loading docks, etc.). Several software packages are available, including NoiseMap, CadnaA, Predictor-LimA, and SoundPLAN, all of which incorporate three-dimensional georeferenced site plans with automated sound propagation calculations to produce maps of sound levels.

O15-114 cont.

5 About the Authors

Dr. Travis Longcore and Catherine Rich are principals of Land Protection Partners. Dr. Longcore is Assistant Professor of Architecture, Spatial Sciences, and Biological Sciences at the University of Southern California. At USC, and previously at UCLA, he has taught, among other courses, Bioresource Management, Environmental Impact Analysis, Field Ecology, and Ecological Factors in Design. He was graduated *summa cum laude* from the University of Delaware with an Honors B.A. in Geography, holds an M.A. and a Ph.D. in Geography from UCLA, and is professionally certified as a Senior Ecologist by the Ecological Society of America. Catherine Rich is Executive Officer of The Urban Wildlands Group. She holds an A.B. with honors from the University of California, Berkeley, a J.D. from the UCLA School of Law, and an M.A. in Geography from UCLA. She is lead editor of *Ecological Consequences of Artificial Night Lighting* (Island Press, 2006) with Dr. Longcore. Longcore and Rich have authored or co-authored over 35 scientific papers in top peer-reviewed journals such as *Auk, Avian Conservation and Ecology*, *Biological Conservation*, *Conservation Biology*, *Environmental Management*, *Trends in Evolution and Ecology*, and *Frontiers in Ecology and the Environment*. Longcore and Rich have provided scientific review of environmental compliance documents and analysis of complex environmental issues for local, regional, and national clients for 19 years.

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Letter O15: Los Angeles Audubon

O15-1 Receipt of this information about the Los Angeles Audubon Society and its access to the Ballona Reserve is acknowledged. Although it does not inform CDFW's consideration of the potential impacts of the proposed restoration, it is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

O15-2 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of "restoration."

O15-3 The opinion that the Draft EIS/EIR's description of baseline conditions is inadequate is not supported in this comment. Without some indication of why the commenter believes this to be the case, CDFW does not have enough information to provide a detailed response.

O15-4 The opinion that the Draft EIS/EIR's description of the Project is inadequate is not supported in this comment. Without some indication of why the commenter believes this to be the case, CDFW does not have enough information to provide a detailed response.

O15-5 The opinion that the Draft EIS/EIR's analysis and mitigation of potential adverse impacts to wetlands and species is inadequate is not supported in this comment. Without some indication of why the commenter believes this to be the case, CDFW does not have enough information to provide a detailed response.

O15-6 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of "restoration." Each of the alternatives analyzed in detail in the Draft EIS/EIR is a restoration alternative. Recognizing that the commenter may have a different definition of restoration in mind, CDFW notes that disagreement on this point does not suggest that the EIR is inadequate or inaccurate.

As indicated in Draft EIS/EIR Table 1-1, Summary of Required Permits and Approvals, Coastal Commission concurrence with state coastal program consistency would be required pursuant to Coastal Zone Management Act Section 307(c)(3) before any applicant for a required federal license or permit may conduct an activity affecting the coastal zone. Because any activity not in compliance with the state coastal program would not be allowed to proceed, consistency of an activity is assured.

For information about the California Coastal Commission's jurisdiction as it relates to the proposed restoration, see Draft EIS/EIR Section 3.2.3.2 and Section 3.4.3.2, which provide background information about the California Coastal Act of 1976; Draft EIS/EIR Figure 3.4-18 and Table 3.4-20B, which summarize anticipated changes in the extent of wetland/waters habitat within the Coastal Commission's

jurisdiction as a result of the Project; and the analysis of Impact 1-BIO-3a (Draft EIS/EIR Section 3.4.6), which analyzes the Project's consistency with the Coastal Act and concludes that impacts to biological resources would be less than significant.

O15-7 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.3), which addresses multiple questions about the range of alternatives analyzed in the EIR.

O15-8 The Draft EIS/EIR summarizes the Project in Section ES.4.1 and describes it in considerable detail in Section 2.2.2; see also General Response 2, *Proposed Project* (Final EIR Section 2.2.2.3). Regarding the baseline, see Draft EIS/EIR Section 1.8.5 and the discussions of existing (baseline) conditions that are described as the environmental setting on a resource-by-resource basis throughout Draft EIS/EIR Chapter 3. Chapter 3 also analyzes the potential impacts of the Project and the other restoration alternatives on a resource-by-resource basis. CDFW acknowledges the fact that the commenter may find wanting these aspects of the Draft EIS/EIR; however, without some indication of the reason for the commenter's opinion, the comment provides CDFW with insufficient information to allow for a detailed response. Regarding mitigation measures, see Draft EIS/EIR Section 1.8.6; Table ES-1, Summary of Impacts and Mitigation Measures for Alternative 1; and Chapter 3. CDFW acknowledges that the commenter believes that impermissible deferral may have occurred, but this belief alone, unsupported by any examples, does not provide sufficient information to CDFW to provide a more detailed response.

O15-9 See General Response 7, *Requests for Recirculation* (Final EIR Section 2.2.7), which addresses multiple comments received regarding recirculation.

O15-10 See Response O15-8 regarding the description of the Project.

O15-11 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of "restoration."

O15-12 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2), which clarifies that Alternative 1 is the proposed Project for purposes of CEQA; and General Response 3, *Alternatives* (Final EIR Section 2.2.3.5), which addresses multiple comments received regarding a "preferred alternative" and distinguishes the concept of proposed Project from preferred alternative. The comment accurately notes that Draft EIS/EIR Chapter 2 describes three restoration alternatives that might be carried out. See Draft EIS/EIR Section 2.2.2 (Alternative 1), Section 2.2.3 (Alternative 2), Section 2.2.4 (Alternative 3), and Section 2.2.1 (attributes common to all of the restoration alternatives).

O15-13 This comment accurately summarized the conclusions of Draft EIS/EIR Section 4.4, *Environmentally Superior Alternative*. However, as noted in Section 4.4, CDFW, as the CEQA Lead Agency, reserved the right to reach a different conclusion in finalizing the EIR based in part on its consideration of input received during the agency and public review process. Comments were requested and received on the

Draft EIS/EIR from public agencies including responsible agencies, trustee agencies and other state, Federal, and local agencies with jurisdiction over resources that could be affected by the Project (see Final EIR Appendix B, *Commenting Parties*). CDFW also sought input from individuals with special expertise regarding the potential environmental impacts of the Project and from members of the general public. On the basis of this input, and upon further consideration, CDFW has concluded that the Project is the Environmentally Superior Alternative. See Final EIR Section 2.2.3.6 for an explanation of the rationale for the change.

O15-14 Alternative 2 is not the proposed Project. See Response O15-12. For the reasons explained in General Response 7, *Requests for Recirculation* (Final EIR Section 2.2.7), correction of this misunderstanding on the commenter's part does not trigger recirculation.

O15-15 The Draft EIS/EIR describes the affected environment for biological resources in Section 3.4.2.2, including sensitive habitats, special-status natural vegetation communities (i.e., state- and federally listed special-status plants and California rare plant ranked plants), and special-status wildlife species (i.e., invertebrates, fish, reptiles and amphibians, birds, and mammals). See Draft EIS/EIR Table 3.4 2, CDFW Special-Status Natural Vegetation Communities on the Project Site, and Table 3.4-4, Special-Status Wildlife Species Known to Occur or Potentially Occurring within the Project Site. Additional information is provided in Draft EIS/EIR Appendix D11, *Special-Status Plants*, and in Appendix D12, *Special-Status Wildlife*. CDFW acknowledges that the commenter believes the descriptions of baseline conditions to be inadequate for special-status invertebrates, reptiles, and birds; however, without some indication of why the commenter believes this to be the case, the comment does not provide enough information for CDFW to provide a more detailed response.

O15-16 See General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about these drains. See also General Response 7, *Requests for Recirculation* (Final EIR Section 2.2.7).

O15-17 See Response O15-8. A general statement of dissatisfaction with the impacts analysis documented in the Draft EIS/EIR does not provide sufficient information to allow CDFW to provide a detailed response.

O15-18 See Response O15-8 and Response O15-86. A general statement of dissatisfaction with the analysis of impacts of the proposed trail system does not provide sufficient information to allow CDFW to provide a detailed response. See, generally, Draft EIS/EIR Section 3.4.6, which analyzes the potential direct and indirect impacts of the proposed restoration to biological resources and concludes that impacts to wildlife species could occur due to increased human activity associated with reopening the Ballona Reserve for passive recreation. For instance, Issue 1-BIO-1n analyzes impacts from public access and concludes that, "[i]ndirect impacts to breeding

success could occur due to noise, vibration, lighting, and increased human activity. In addition, the spread of invasive plants by vehicles and equipment during restoration activities could result in reduced habitat quality. Following the application of Project Design Feature BIO-1 (WEAP), the remaining limited adverse impacts could be reduced to a less-than-significant level through implementation of Mitigation Measures BIO-1b-iii (Noxious Weed Control Plan) and BIO-1i-i (Nesting Bird and Raptor Avoidance)." In addition, issue 2-BIO-1n concludes for special-status upland birds that, "… potential significant (although limited) adverse indirect impacts could occur due to a potential increase in human activity associated with reopening the Ballona Reserve for passive recreation. Following the application of Project Design Feature BIO-3 (Habitat Restoration and Monitoring Plan), remaining potential impacts could be reduced by the implementation of Mitigation Measure BIO-1i-i (Nesting Bird and Raptor Avoidance). Residual impacts would be similar to those described for Alternative 1. Following mitigation, this impact would be less than significant."

O15-19 CEQA does not require post-Project vegetation mapping. To the contrary, "An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. … courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure." (14 CCR §15151).

The absence of a map does not alter the conclusion that the Draft EIS/EIR reasonably, and good faith, discloses the potential environmental consequences of the Project and other restoration alternatives on vegetation. See Draft EIS/EIR Section 3.4.6, *Direct and Indirect Impacts*, and Section 3.4.7, *Cumulative Impacts*. See also Draft EIS/EIR Table ES-2, which presents the habitat acreages created and enhanced for each alternative compared to existing conditions, and Figure 2-1, Alternative 1, Phase 2, which shows the conceptual native wetland, transition zone, and upland habitats that would be established, restored, and enhanced throughout the site under the Project. Nonetheless, the commenter's apparent opinion that post-restoration vegetation maps should have been provided is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Responses O15-27 and O15-59.

O15-20 See Response O15-8. A general statement of dissatisfaction with the analysis of impacts to endangered species does not provide sufficient information to allow CDFW to provide a detailed response. General responses regarding the identified species are provided below.

El Segundo blue butterfly: Potential direct and indirect impacts to the El Segundo blue butterfly are analyzed in Draft EIS/EIR Section 3.4.6. See, e.g., Impact 1-BIO-

1c, which concludes that the Project would, if not mitigated, result in a substantial adverse impact on El Segundo blue butterflies, both directly and through habitat modifications. Cumulative impacts are analyzed in Draft EIS/EIR Section 3.4.7. See also General Response 5, *Biological Resources* (Final EIR Section 2.2.5.2), which addresses multiple comments received regarding impacts to El Segundo blue butterfly. Under the heading "FESA Species Effect Determinations to Support Section 7 Consultation," Draft EIS/EIR Section 3.4.6.1 further analyzes impacts to this species and concludes that no direct impacts to suitable or occupied habitat for El Segundo blue butterflies would occur, there is limited potential for butterfly collisions with equipment during the flight season, and potential indirect impacts could occur related to accumulation of fugitive dust, vibration, trail maintenance, and increased human activity. See Response O15-92.

California least tern: Potential direct and indirect impacts to California least tern are analyzed in Draft EIS/EIR Section 3.4.6. See, e.g., Impact 1-BIO-1o, which concludes that the Project would, unless mitigated, result in a substantial short-term, adverse impact on special-status shorebirds, but that following Phase 2, it would have a beneficial effect on available breeding and foraging habitat for shorebirds. Cumulative impacts are analyzed in Draft EIS/EIR Section 3.4.7. Draft EIS/EIR Section 3.4.6.1, under the heading "FESA Species Effect Determinations to Support Section 7 Consultation," further analyzes impacts to this species and concludes that it is not expected to breed or forage on the Project Site, but that potential impacts to nesting could occur if this species attempts to nest onsite. See Response O15-95.

California gnatcatcher: Potential direct and indirect impacts to, California gnatcatcher are analyzed in Draft EIS/EIR Section 3.4.6. See, e.g., Impact 1-BIO-1j, which concludes that the Project would, unless mitigated, result in adverse impacts on coastal California gnatcatcher through temporary habitat modifications, but that following the Phase 2 restoration effort, the Project would result in a potential beneficial effect in the quality and quantity of habitat for this species. As presented in Response O34-4, implementation of Mitigation Measure BIO-1j-i (Coastal California Gnatcatcher Avoidance) would avoid or minimize impacts to active nests during restoration, construction, and ongoing activities, and would ensure that a comparable amount of high-quality upland habitat would be available to the species following restoration. Cumulative impacts are analyzed in Draft EIS/EIR Section 3.4.7. Draft EIS/EIR Section 3.4.6.1, under the heading "FESA Species Effect Determinations to Support Section 7 Consultation," further analyzes impacts to this species and concludes that it is not expected to breed or forage on the Project Site but that, although unlikely, potential impacts to nesting could occur if this species is confirmed present onsite. See also Draft EIS/EIR Section 3.4.2.2.

Least Bell's vireo: Potential direct and indirect impacts to least Bell's vireo are analyzed in Draft EIS/EIR Section 3.4.6. See, e.g., Impact 1-BIO-1k, which concludes that the Project would, unless mitigated, result in a substantial adverse impact on least Bell's vireo through temporary habitat modifications, but that

following the Phase 2 restoration effort, the Project would result in a substantial beneficial effect in the quality and quantity of habitat for this species. Cumulative impacts are analyzed in Draft EIS/EIR Section 3.4.7. Draft EIS/EIR Section 3.4.6.1, under the heading "FESA Species Effect Determinations to Support Section 7 Consultation," further analyzes impacts to this species and reaches a similar conclusion: potential impacts to nesting could occur but would be avoided by the implementation of project design features and mitigation measures. See also General Response 5, *Biological Resources* (Final EIR Section 2.2.5.5), which addresses multiple comments received regarding impacts to least Bell's vireo. See Response O15-97.

Rare and special-status plants: Direct and indirect impacts to Lewis' evening primrose and woolly seablite are analyzed in Draft EIS/EIR Section 3.4.6. See, e.g., Impact 1-BIO-1b, which concludes that the Project would cause a less-than-significant impact with mitigation incorporated. Cumulative impacts to each of these species are analyzed in Draft EIS/EIR Section 3.4.7. See Responses O15-99 and O15-100.

Reptiles: Direct and indirect impacts to silvery legless lizard and San Bernardino ring-necked snake are analyzed in the Draft EIS/EIR Section 3.4.6. See, e.g., Impact 1-BIO-1g, which concludes that the Project (with mitigation incorporated) would cause a less-than-significant impact to the silvery legless lizard, and Impact 1-BIO-1h, which reaches the same conclusion with respect to the Project's potential impacts to San Bernardino ring-necked snake. Cumulative impacts to each of these species are analyzed in Draft EIS/EIR Section 3.4.7. See Responses O15-102 and O15-103.

O15-21 See Response O15-8. A general statement of dissatisfaction with the analysis of impacts to special-status birds and mammals, or with respect to lighting and noise, does not provide sufficient information to allow CDFW to provide a detailed response. General responses regarding the identified species are provided below.

Belding's Savannah Sparrow: Potential direct and indirect impacts to Belding's savannah sparrow are analyzed in Draft EIS/EIR Section 3.4.6. See, e.g., Impact 1-BIO-1i, which concludes that the Project would, unless mitigated, result in a substantial adverse impact on Belding's savannah sparrow, both directly and through habitat modifications, but that, following the Phase 2 restoration effort, the Project would result in a substantial beneficial effect in the quality and quantity of habitat for this species. Cumulative impacts are analyzed in Draft EIS/EIR Section 3.4.7. See also General Response 5, *Biological Resources* (Final EIR Section 2.2.5.4), which addresses multiple comments received regarding impacts to Belding's savannah sparrow.

California Gnatcatcher: See Response O15-20.

California Horned Lark: Draft EIS/EIR Appendix D12, *Special-Status Bird Species*, addresses California horned lark and under "Habitat Requirements/Regional

Trends" notes that "[t]his small bird breeds in bare and short-grass areas in open grassland, desert washes, wetland edges, above tree line in mountains, along dirt roads and other disturbed areas, and even in recently burned areas. It is well-adapted to certain types of human disturbance, such as agriculture and cattle grazing, though it cannot tolerate intensive activity at the nest site, which is located directly on the ground" and concludes under "Likelihood of Occurrence" that is "[l]ess than reasonable as breeder" and "[l]ess than reasonable as a forager as this species is considered extirpated as a perennial resident and now a casual fall transient." Since it was identified as a less than reasonable as a breeder and forager, it was not carried forward into Draft EIS/EIR Section 3.4 for further analysis. If it had been carried forward, the analysis for this species would be similar to western meadowlark, which has similar habitat requirements and is included in Draft EIS/EIR Section 3.4. See Impact 1-BIO-1n. In addition, Section III, *Habitat Descriptions*, in Draft EIS/EIR Appendix B8, *Ballona Wetland Feasibility Report*, identifies habitat categories and types with descriptions of dominant and associated plants, characteristic animals, ecosystem functions, recovery opportunities and other elements. The description for "Grasslands" identifies horned lark as a characteristic animal and recovery opportunity species. The biological monitoring program is included as part of the Habitat Restoration and Monitoring Plan (BIO-3), which, as a site-wide plan, would address impacts to every special-status species impacted by the Project. Post-restoration habitat monitoring would include avian monitoring that includes the horned lark. See Response O15-106.

Burrowing Owl: Potential direct and indirect impacts to burrowing owl are analyzed in Draft EIS/EIR Section 3.4.6. See, e.g., Impact 1-BIO-1l, which concludes that the Project would, unless mitigated, result in a substantial adverse impact on burrowing owl wintering habitat, but that following the Phase 2 restoration effort, the Project would provide suitable foraging habitat and could expand foraging, wintering and potentially nesting habitat for this species. Cumulative impacts are analyzed in Section 3.4.7. See also General Response 5, Biological Resources (Final EIR Section 2.2.5.7), which addresses multiple comments received regarding impacts to burrowing owl. See Response O15-107.

Nesting Raptors: Potential direct and indirect impacts to nesting raptors are analyzed in Draft EIS/EIR Section 3.4.6. See, e.g., Impact 1-BIO-1m, which concludes that the Project would, unless mitigated, results in a limited adverse impact on nesting raptors. Cumulative impacts are analyzed in Draft EIS/EIR Section 3.4.7. Several special-status raptor species have the potential to occur within the Project Site, including burrowing owl, merlin, northern harrier, osprey, peregrine falcon, sharp-shinned hawk, short-eared owl, turkey vulture, and white-tailed kite. Of these, only Cooper's hawk has the potential to nest within the Project Site; the others occur in the Project Site largely in a foraging role. Within the Project Site, suitable nesting areas currently exist within the stand of eucalyptus in South Area B. The proposed restoration would have no impact on this grove, although indirect impacts could result due to noise, vibration, lighting, and increased human activity. See Response O15-108.

Other special-status upland, marsh, and shorebird species: See Response O15-20 regarding California least tern. In Draft EIS/EIR Section 3.4.6, Impact 1-BIO-1n analyzes impacts to special-status upland birds and concludes that impacts would be less than significant with mitigation incorporated. Impact 1-BIO-1o analyzes impacts to special-status shorebirds and concludes that impacts would be less than significant with mitigation incorporated. Impact 1-BIO-analyzes impacts to special-status marsh birds and also concludes that impacts would be less than significant with mitigation incorporated.

Special-Status Mammals: Potential direct and indirect impacts to special-status mammals are analyzed in Draft EIS/EIR Section 3.4.6. See, e.g., Impact 1-BIO-1q, which concludes that the Project would, unless mitigated, result in a substantial adverse impact on Southern California salt marsh shrew and South Coast marsh vole, but that following the Phase 2 restoration effort, the Project would expand the total area of suitable habitat for these species within the Ballona Reserve. Draft EIS/EIR Table 3.4-13, Summary of Changes in the Extent of Southern California Salt Marsh Shrew and South Coast Marsh Vole Habitat as a Result of Alternative 1, shows that after Phase 1, there would be a net increase of 69.1 acres of habitat, with an additional 4.2 acres of increase after Phase 2 for a total net increase of 73.3 acres. Cumulative impacts are analyzed in Draft EIS/EIR Section 3.4.7. See Response O15-112.

Night Lighting and Noise: Draft EIS/EIR Section 3.4.1 clearly states that restoration could result in temporary noise and lighting that "could indirectly impact biological resources by disrupting or interfering with wildlife behavior and natural ecosystem processes." It further states that post-restoration indirect impacts could result from operations activities that result in lighting and noise, and that increased mortality, reduced productivity, and/or reduced value and function of natural open spaces for the native species that inhabit it could occur. See also Impact 1-BIO-1h (analyzing the Project's potential lighting and noise impacts to San Bernardino ring-necked snakes), Impact 1-BIO-1i (Belding's Savannah sparrow), Impact 1-BIO-1k (least Bell's vireo), Impact 1-BIO-1l (burrowing owl), Impact 1-BIO-1m (nesting raptors), Impact 1-BIO-1n (special-status upland birds), Impact 1-BIO-1p (special-status marsh birds), and Impact 1-BIO-1q (special-status mammals). See Response O15-113.

O15-22 The commenter's dissatisfaction with the range of alternatives is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. Nonetheless, without some indication of the reason for the commenter's opinion, this comment does not provide sufficient specificity for CDFW to provide a detailed response. See General Response 3, *Alternatives* (Final EIR Section 2.2.3.3), which addresses multiple questions about the range of alternatives analyzed in the Draft EIS/EIR. See also General Response 3, *Alternatives* (Final EIR Section 2.2.3.2).

O15-23 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of "restoration." See also

General Response 3, *Alternatives* (Final EIR Section 2.2.3), which addresses multiple comments regarding the alternatives, including the range of alternatives analyzed in detail (Final EIR Section 2.2.3.2). Regarding potential alternatives considered but not carried forward for more detailed review, see General Response 3, *Alternatives* (Final EIR Section 2.2.3.4). Regarding requests for consideration of a "freshwater alternative" and the historical accuracy of the alternatives analyzed, see General Response 3, Alternatives (Final EIR Section 2.2.3.1).

O15-24 CEQA project objectives are described in Draft EIS/EIR Section ES.3.2 and Section 1.1.2. The CEQA objectives' role in developing the range of alternatives is described in Section 2.1.2. CDFW disagrees with the suggestion that the objectives of the Project would lead to a result that frustrates the will of the State legislature. Nonetheless, the commenter's opinion is now part of the record of information that will be considered as part of CDFW's decision-making process. See also General Response 3. Regarding the environmentally preferred alternative, General Response 3, *Alternatives* (Final EIR Section 2.2.3.6).

O15-25 The commenter's opinion about conclusions reached later in the letter are acknowledged and is now part of the record that will be considered as part of CDFW's decision-making process. However, this comment provides insufficient information for CDFW to provide a more detailed response.

O15-26 The comment inaccurately characterizes Alternative 4 as assuming that no activities would occur at all. To the contrary, Draft EIS/EIR Section ES.4.4 summarizes and Section 2.2.5 explains in more detail the assumptions that some existing habitats may be enhanced through continued volunteer efforts, small-scale removal of invasive nonnative species by volunteers using hand tools, and other operation and maintenance activities by CDFW and the LACFCD would continue to occur. The comment is correct that Alternative 4 assumes that no modification to the Ballona Creek channel or the levee system would be made and insists that the Draft EIS/EIR must include in the no project alternative an assumption that flood control improvements would be made even in the absence of a wetlands project approval. However, the comment provides no basis for this insistence, which entity would support and fund such project, or any details about what those improvements would be.

In the context of under Alternative 4, Draft EIS/EIR Section 2.2.5 explains, "No new storm drains, culverts, or tide gates would be constructed and the existing armored levees channelizing Ballona Creek would remain unchanged. In addition, under this alternative, Ballona Creek would not be modified to reconnect with the wetland floodplain. Management of existing tide gates to provide some acclimation to sea-level rise would be possible temporarily, but the tide gates eventually would have to be closed permanently to avoid flooding in West Area B and behind Culver Boulevard that would result from projected higher sea levels." This comment provides no information

about why this assumption is inadequate or inaccurate. Therefore, it provides insufficient information for CDFW to provide a more detailed response.

O15-27 See Responses AS5-23 and AS5-39 regarding the BIO-3 (Habitat Restoration Plan) as a project design feature. As an element of the proposed restoration, analysis of the potential impacts of project design feature BIO-3 has not been deferred, but rather has occurred on a resource-by-resource basis throughout Draft EIS/EIR Chapter 3. See Responses O15-19 and O15-59.

O15-28 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of "restoration." See also Responses AS5-18, AS5-19, AS5-29, and AS-45 regarding placement of fill and consistency with the Coastal Act. As noted in Draft EIS/EIR Table 1-1, Summary of Required Permits and Approvals, Coastal Commission authorization pursuant to Section 307(c)(3) of the Coastal Zone Management Act and the Coastal Act (Public Resources Code §30000 et seq.) before the proposed use of land and water in the coastal zone could proceed. Activities prohibited by the Coastal Act presumably (as posited in this comment) would not be allowed. This comment regarding consistency with the Coastal Act is acknowledged, but does not inform CDFW's consideration of the potential impacts of the proposed restoration. See Final EIR Section 2.1.1, *Input Received*.

O15-29 See Response O15-28 regarding questions of compliance with the Coastal Act. The comment is incorrect in its statement that the Draft EIS/EIR ignores areas of Coastal Commission jurisdiction and the role of the Coastal Commission itself. See Draft EIS/EIR Figure 3.4-18, California Coastal Commission Jurisdiction, which shows the wetlands and non-wetland waters (open water) within the Project Site that are under the Coastal Commission's jurisdiction. See also Draft EIS/EIR Table 3.4-20B, which summarizes anticipated changes in the extent of wetland/waters habitat within the Coastal Commission's jurisdiction as a result of the Project, and Draft EIS/EIR Section 3.4.2.2 under the heading "Wetlands and Waters of the State under CCC Jurisdiction." Specifically, 195.8 acres of Coastal Commission wetlands and 83 acres of Coastal Commission non-wetland waters (open water) were identified during the jurisdictional delineation conducted on the Project Site and verified by the Coastal Commission. References to the Coastal Commission and its jurisdictional resources also are addressed in Draft EIS/EIR Section 3.2.3.2, *Aesthetics*, and Section 3.4.3.2, *Biological Resources*. For input provided by Coastal Commission staff following the issuance of the Draft EIS/EIR, see Final EIR Section 2.3.2 (Letter AS5) and the responses thereto.

Regarding the comment's statement related to Coastal Commission ESHAs, see Response I71-6.

CDFW believes on the basis of the analysis in the Draft EIS/EIR that the Project, with mitigation incorporated, would be consistent with Section 30240(a) of the Coastal Act

in that it would provide a net benefit to plant and animal life within rare and valuable tidal habitats and help ensure that environmentally sensitive habitat areas are protected against significant disruption of habitat values.

O15-30 Alternative 1 (Full Tidal Restoration) is identified consistently throughout the Draft EIS/EIR as the Project. See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.4), which clarifies this fact. See General Response 7, *Requests for Recirculation* (Final EIR Section 2.2.7), regarding requests for recirculation.

O15-31 The stated opinions about the adequacy of the Draft EIS/EIR and range of alternatives analyzed, as well as the preference expressed for Alternative 4, are acknowledged and are now part of the record that will be considered as part of CDFW's decision-making process. However, this comment provides insufficient information for CDFW to provide a more detailed response.

O15-32 Regarding the respective roles of various entities in the preparation of the Draft EIS/EIR, see Draft EIS/EIR Section ES.2, *Formal Involvement*; Section 1.4, *Lead, Cooperating, Responsible, and Trustee Agencies*; and Chapter 5, *List of Preparers and Contributors*. See General Response 3, *Alternatives* (Final EIR Section 2.2.3), regarding the planning process that led to the development of the alternatives considered in the Draft EIS/EIR. CDFW understands that the comments that follow focus on the Project, even though the Draft EIS/EIR also analyzes Alternatives 2, 3, and 4 in relation to every impact area considered in the analysis. Contrary to this comment, the Draft EIS/EIR clearly and consistently identifies Alternative 1 as the Project. See Response O15-30 in this regard.

O15-33 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), regarding the definition of "restoration" and CDFW's acknowledgement of the commenter's apparent disagreement with it.

O15-34 This statement of intent with respect to the comments that follow is acknowledged but in and of itself does not provide sufficient information for CDFW to provide a detailed response. Baseline conditions for purposes of the analysis of potential; impacts to biological resources are described in Draft EIS/EIR Section 3.4.2, including Section 3.4.2.2, which describes the environmental setting. Potential direct and indirect impacts to biological resources are analyzed in Draft EIS/EIR Section 3.4.6; cumulative impacts are analyzed in Section 3.4.7. The commenter's opinions about the adequacy of the information provided in Draft EIS/EIR and about the conclusions reached are acknowledged and are now part of the record of information that will be considered as part of CDFW's decision-making process.

O15-35 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), regarding the definition of "restoration." See also General Response 3, *Alternatives* (Final EIR Section 2.2.3.2), regarding multiple requests that the Lead Agencies consider a "historically accurate" alternative.

O15-36 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), regarding the definition of "restoration."

O15-37 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), regarding the definition of "restoration." Maintenance expected to be required for the Project is described in Draft EIS/EIR Section 2.2.2.7 and is analyzed throughout Draft EIS/EIR Chapter 3 on a resource-by-resource basis. The Project's direct and indirect impacts to biological resources are presented in Draft EIS/EIR Section 3.4.6; cumulative impacts are presented in Section 3.4.7.

O15-38 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), regarding the definition of "restoration." See General Response 3, *Alternatives* (Final EIR Section 2.2.3), for information about the development of the range of alternatives considered in the Draft EIS/EIR. The commenter's apparent preference for a different approach to the restoration of Area C than the one described in Draft EIS/EIR Section 2.2.2.1 is acknowledged, but does not inform CDFW's evaluation of the adequacy and accuracy of the EIR. Nonetheless, this comment is now part of the record of information that will be considered as part of CDFW's decision-making process.

Due to extensive urbanization, the Project area has been substantially altered during the last century with the channelization of Ballona Creek and construction of Marina del Rey. Rehabilitating the Ballona wetlands to its historic extent and conditions prior to channelization and development of the marina as depicted in the map provided in this comment is not possible. In Draft EIS/EIR Section 2.3.7, the Lead Agencies describe and preliminarily assess Alternative 11, a 19th century wetlands ("historic conditions") alternative. General Response 3, *Alternatives* (Final EIR Section 2.2.3.3), discusses Alternative 11 and other alternatives that were initially considered, but not carried forward for more detailed review.

O15-39 Regarding the commenter's suggestion that CDFW failed to recognize the historical habitat conditions, to the contrary, see Draft EIS/EIR Section 2.3.7, which describes Alternative 11, a 19th century wetlands ("historic conditions") alternative, and General Response 3, *Alternatives* (Final EIR Section 2.2.3.2), which provides more information about Alternative 11 and other alternatives that were initially considered, but not carried forward for more detailed review.

CDFW acknowledges that other, potentially equally valid, metrics could have been used in lieu of the California Rapid Assessment Method (CRAM), which is described in Draft EIS/EIR Section 3.4.2.2, to assess the functions and values of the current wetland conditions. However, neither the availability of other methods nor the commenter's preference for the use of a different method is an indication that the one selected by CDFW is inadequate or leads to inaccurate results. Regarding the commenter's criticism that CDFW improperly relied on the CRAM estuarine module,

CDFW believes this is the most appropriate CRAM module. Also, the commenter does not identify a more appropriate CRAM module for CDFW's consideration.

O15-40 See Response O15-28.

O15-41 The range of alternatives analyzed in detail consider a range of off-site soil export volumes, with the most soil to be exported off-site as a result of Alternative 3 (1,230,000 cubic yards [cy]) and the least amount of soil to be exported off-site as a result of Alternative 2 (10,000 cy); the volume of soil to be exported off-site as a result of the Project would be between 10,000 cy and 110,000cy of off-site soil export (Draft EIS/EIR Table 2-1c, Summary of Alternatives). The commenter's preference for an alternative that would dispose of all of soils off-site is acknowledged, but does not inform CDFW's consideration of the potential impacts of the proposed restoration. Nonetheless, the stated preference is now part of the record of information that will be considered as part of CDFW's decision-making process. See Draft EIS/EIR Section 2.3, which describes the range of alternatives considered and the screening process to arrive at those evaluated in detail. See General Response 3, *Alternatives* (Final EIR Section 2.2.3), for additional information in this regard.

O15-42 CDFW agrees with the statements in this comment that the "project objective for public access needs to be very carefully considered" and that recreation should be compatible with the protection of sensitive habitats. However, the proposed restoration project does not, as the comment suggests, attempt to maximize visitor infrastructure at the expense of restoration and habitat objectives. CEQA Objective 4 is to "[d]evelop and enhance wildlife dependent uses and secondary compatible on-site public access. …" To emphasize, the public access objective is described as both secondary and compatible with wildlife dependent uses (Draft EIS/EIR Section ES.3.2 and Section 1.1.2). See also Responses O1-9, O1-11, and O1-15, emphasizing wetland restoration priorities over public access amenities.

O15-43 See Response O15-18 regarding the Final EIR's analysis of potential impacts to biological resources due to increased human activity associated with reopening the Ballona Reserve for passive recreation. See also Response AS5-16 regarding the proposed location of public access in the least sensitive areas within the Ballona Reserve.

O15-44 CDFW acknowledges the stated preferences that the proposed trail system be limited to the perimeter of each of the land units and for spur trails rather than loops. See Response AF1-12 regarding this same concern.

Regarding the acreage of habitat that would be lost as a result of the proposed public access, Draft EIS/EIR Section 2.2.2.3 states, under the heading "Trails and Bridges": "As shown in Figure 2-3, Alternative 1, Phase 2: Public Access Plan, approximately 19,000 linear feet (approximately 3.6 miles) of combined pedestrian and Class I bicycle paths would be built on the Ballona Reserve under Alternative 1." Section 2.2.2.3 states, "The bike path component of proposed new trails would be a

Class I bicycle path, marked for two-way traffic, at least 12 feet wide, and paved with a drivable surface. … The adjacent pedestrian path component would be 6 feet wide. … A planted buffer approximately 2 feet wide would separate the bicycle and pedestrian traffic and be compatible or removable for flood fighting. …" Furthermore, under the heading "Pedestrian Trails and Elevated Boardwalks," Draft EIS/EIR Section 2.2.2.3 describes, "Approximately 29,000 additional linear feet of pedestrian-only trails would be provided under Alternative 1 (Figure 2-3, Alternative 1, Phase 2: Public Access Plan). In addition, Alternative 1 would include construction of approximately 2,000 linear feet of elevated boardwalks to allow visitors to walk adjacent to the wetlands and obtain closer habitat views. In general, pedestrian trails would be 6 feet wide. … boardwalks, which would be ADA compliant, would be 10 feet wide. …" In summary, the Draft EIS/EIR discloses that the Project would provide approximately 19,000 linear feet of combined pedestrian and bike paths at 12 feet wide (228,000 sf or 5.23 acres), 29,000 linear feet of pedestrian only paths at 6 feet wide (174,000 acres or 3.99 acres) and 2,000 linear feet of elevated boardwalk at 10 feet wide (20,000 sf or 0.46 acres).

O15-45 See Response O15-44 regarding the acreage of disturbance associated with the proposed trail system. See also Response AF1-12 regarding a recommendation to use spur trails instead of loop trails. Ultimately, any trails would be established on the restored areas and give rise to potential impacts to future resources from future recreational use. CDFW analyzed such future impacts to future resources in the EIR with the information it had; however, the analysis remains speculative because the resources to be impacted and the activities that would impact such resources (if any impact) are anticipated, but not yet known.

O15-46 The proposed public access improvements are consistent with regulations governing the use of Ballona Reserve, including general regulations for public use on all Department of Fish and Wildlife lands (14 CCR §550) and additional visitor use regulations on department lands designated as ecological reserves (14 CCR §630). The stated disagreement with the proposed public access improvements is acknowledged, but does not inform CDFW's consideration of the potential impacts of the proposed restoration. Nonetheless, this disagreement is now part of the record of information that will be considered as part of CDFW's decision-making process.

O15-47 The comment accurately notes that one of the overall project purposes relates to flood control. As set forth in Draft EIS/EIR Section ES.3.1 and Section 1.1.1, the first of two project purposes is to restore ecological functions and services within the Ballona Reserve; the second is to ensure that any alteration/ modification to the LACDA project components within the Ballona Reserve maintain the authorized LACDA project levels of flood risk management. The commenter's preference not to alter the existing flood control channel is acknowledged, and would be the outcome is Alternative 3 or Alternative 4 were selected. See General Response 3, *Alternatives* (Final EIR Section 2.2.3.2), which addresses alternatives that were initially

considered, but not carried forward for more detailed review, including alternatives that would include relocating or raising key roads such as Culver Boulevard.

O15-48 CDFW acknowledges that the commenter would approach the cost comparison differently than by considering the relative cost-per-acre of wetland restored (see Draft EIS/EIR Appendix B9 and Appendix B10). However, neither the availability of a different approach nor the commenter's preference for the use of a different approach is an indication that the one selected by CDFW is inadequate or leads to inaccurate results. The comment asserts without citing any basis that funding will be available in the future to prepare for coastal sea-level rise for key infrastructure such as Culver Boulevard, and that the cost of such an effort would be reasonable. This unsupported assumption alone does not persuade CDFW to change the way costs have been compared for purposes of the proposed restoration project.

O15-49 As described in Draft EIS/EIR Section 2.2.5.2, "Under Alternative 4, the existing flood risk management and stormwater management would remain unchanged from current conditions. No new storm drains, culverts, or tide gates would be constructed and the existing armored levees channelizing Ballona Creek would remain unchanged. In addition, under this alternative, Ballona Creek would not be modified to reconnect with the wetland floodplain. Management of existing tide gates to provide some acclimation to sea-level rise would be possible temporarily, but the tide gates eventually would have to be closed permanently to avoid flooding in West Area B and behind Culver Boulevard that would result from projected higher sea levels." This is an accurate statement. Baseline (existing) flood risk is accommodated by the existing flood control channel. That some action conceivably would need to be taken in the future to address sea-level rise or other conditions is acknowledged; however, CEQA does not require a Lead Agency to speculate what those future actions might be; where they would need to be implemented; what implementation would cause in terms of air emissions, noise, earth movement, or other activities that could affect the quality of the human and physical environment. Speculating about potential future events would not reasonably inform decision-makers about the environmental consequences of the decisions before them.

The comment's suggestion that the proposed restoration would increase flood risk is incorrect and runs counter to the overall project purposes and the project objectives, and misunderstands the purpose of the baseline conditions (with existing flood protection) in the environmental analysis. In accordance with CEQA, CDFW evaluated the change from existing conditions that would be attributable to the proposed restoration. CDFW acknowledges the commenter's opinions about relative risk, but, without more detailed information, has decided to rely on the expertise of the Corps through the Section 408 process.

O15-50 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.2), which addresses multiple questions about the range of alternatives analyzed in the Draft EIS/EIR.

CDFW acknowledges the commenter's concerns about the project objectives, but the comment is insufficiently specific to allow CDFW to provide a detailed response.

O15-51 See General Response 3, *Proposed Project* (Final EIR Section 2.2.3.2), which addresses multiple comments regarding the definition of "restoration." See also General Response 3, *Alternatives* (Final EIR Section 2.2.3), regarding the range of alternatives, the historical accuracy of the alternatives analyzed in Draft EIS/EIR, and development of CEQA objectives.

O15-52 Regarding the use of mechanized equipment versus restoration by hand, see General Response 3, *Alternatives* (Final EIR Section 2.2.3.3), which addresses Alternative 5 and other alternatives that were initially considered, but not carried forward for more detailed review.

Regarding the elimination of alternatives that assume no changes to infrastructure, this comment does not specify which alternative this applies to. As described in Draft EIS/EIR Section 1.1.2, one of the objectives of the project is to "[p]rotect and avoid impacts to existing and planned roadways, utilities, adjacent properties and uses by maintaining or improving flood protection and storm water management, ensuring consistency with future implementation of regional plans, and limiting the need for significant modification to regionally important infrastructure." While the Draft EIS/EIR does weigh the cost and logistics of modifying infrastructure into the screening criteria, it does not assume no changes to infrastructure as a way to automatically screen out alternatives, but rather includes modification to infrastructure as one of the factors in determining overall feasibility. Modification to infrastructure is factored into the following screening criteria identified in Draft EIS/EIR Section 2.1.3: "d. Would the alternative be practicable in terms of cost for a tidal habitat restoration," "e. Would the alternative be practicable to implement, operate, and maintain (logistics)?," "f. Would the alternative be practicable to construct using existing technology?," and "i. Would the alternative be feasible for purposes of CEQA?"

O15-53 As described in Draft EIS/EIR Section 2.3.6, "Alternative 10 has not been carried forward for more detailed review because it would not meet the purpose and need and overall project purpose; would not meet most of the basic objectives of Alternative 1, would not be practicable in terms of cost for a tidal habitat restoration project, would not avoid or substantially lessen Alternative 1's significant impacts; and would be infeasible." The suggested support for Alternative 10 is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See also General Response 3, *Alternatives* (Final EIR Section 2.2.3.3).

O15-54 CDFW acknowledge the assertion about relative costs, but without some information to support it, CDFW declines to revisit the documented, supported cost analysis provided in the Draft EIS/EIR (see, e.g., Draft EIS/EIR Appendix B9 and

Appendix B10). See also General Response 3 (Final EIR Section 2.2.3.1) and General Response 6 (Final EIR Section 2.2.6.2).

O15-55 To clarify, CDFW is proposing a restoration project, not a flood risk management project. See, for example, Draft EIS/EIR Section ES.3.1, which states, "The basic purpose of this Project is ecological restoration." In effecting that basic purpose, CDFW still prioritizes maintaining existing levels of flood protection. Nonetheless, CDFW would not propose alterations of LACDA Project facilities within the Ballona Reserve but for the proposed restoration. CDFW does not dispute that raising key roadways within the Ballona Reserve could have environmental or other value; however, the cost of such work far overshadows the restoration benefits that would result. Nonetheless, the proposed restoration would not preclude U.S. Fish and Wildlife Service (see Comment AF1-4) or any other entity from raising the roads. As explained in Draft EIS/EIR Section 2.3.5, following through with any of the restoration alternatives analyzed in detail in the Draft EIS/EIR would not preclude or affect the ability to raise roadways such as Culver Boulevard in the future. See also Response O15-48.

O15-56 Contrary to the suggestion in this comment, the Draft EIS/EIR does identify target species for restoration. Draft EIS/EIR Section 2.2.2.5, under the heading "Wetland and Transitional Areas," explains that "[h]igh marsh and transition zone areas would be planted and seeded to establish target species in this area of high competition from weeds and dry and often hyper-saline conditions" and that "[t]he seasonal wetlands would be revegetated with a combination of planting and/or seeding. Initial irrigation would be provided in dry years to help establish target species." As described in Draft EIS/EIR Section 2.2.1.1, "[t]he success of restoration efforts would be measured based on established performance criteria focusing on the abundance and diversity of native vegetation and the plants and wildlife that use the Ballona Reserve (see Section 2.2.6, Monitoring and Adaptive Management)." In addition, as stated in the Conceptual Habitat Restoration and Adaptive Management Plan (Draft EIS/EIR Appendix B3 Section 1.2.2), "[t]he restoration will improve overall habitat quality for native wildlife species, with the goal of increasing abundance and diversity of native animals that use the Reserve. The specific focus will be on improving habitat for wildlife species associated with tidal wetland habitat, including birds, fish, and benthic invertebrates."

Section 3.1 of the Conceptual Habitat Restoration and Adaptive Management Plan (Draft EIS/EIR Appendix B3) identifies target habitats and states, "[t]he composition of habitats targeted for the restoration at the [Ballona Reserve] are primarily based on historical accounts of the habitat previously present at the [Ballona Reserve] (Ambrose and Bear 2012; Dark et al. 2011; Mattoni and Longcore 1997; Schreiber 1981) and habitat characterizations provided by Ferren et al. (2008) and Barbour et al. (2007). Given the constraints imposed by the surrounding development, the highly modified nature of the watershed supporting Ballona Creek, existing conditions within the [Ballona Reserve], and projected impacts related to global climate change,

re-creation of historical conditions is not possible. Within these constraints, the proposed extent and distribution of habitats in the restored [Ballona Reserve] is based on the ecological and biological goals of the restoration (Section 1.2), specifically those related to increasing the total area of tidal wetland habitat and providing high-value habitat for special-status plant and wildlife species. Physical and biological characteristics of restored habitats within the [Ballona Reserve] are expected to develop and evolve over time, particularly given changes expected as a result of global climate change. Restoration will require reliance on natural ecological processes such as sedimentation, erosion, and plant succession. Adaptive management will require an understanding of the expected trajectory of habitat development and the underlying ecological processes involved. The following sections provide an overview of the habitats to be restored at the [Ballona Reserve], including the main ecological drivers of habitat development and a description of the vegetation communities and wildlife populations expected to become established in each habitat."

Section 3.0 of Appendix B3 goes on to describe target habitats and associated species for tidal wetland-tidal channel, mudflat, tidal marsh (§3.1.1), brackish marsh (§3.1.2), salt panne (§3.1.3), seasonal wetland (§3.1.4), riparian scrub and woodland (§3.1.5), dune (§3.1.6), and upland scrub and grassland (§3.1.7).

Draft EIS/EIR Section 3.4.2.2, under the subheading "Wildlife," summarizes the wildlife resources associated with habitat types in the Ballona Reserve that also would be considered target or focal species, including aquatic and terrestrial invertebrates, fish, reptiles and amphibians, birds, and mammals. The performance criteria for each habitat (see Draft EIS/EIR Tables 2-12 through 2-20) would be compared to existing conditions. In addition, all those species identified as "confirmed present" or "high" or "moderate" potential as a breeder or forager and would be considered "target" restoration species. Special-status species with low potential to occur would not be considered target or focal species but would be incorporated into the survey/monitoring program. The five special-status plant species detected within the Project Site (Draft EIS/EIR Table 3.4-3) would be considered target or focal restoration species.

In addition, Draft EIS/EIR Appendix B8 Section III provides a list of habitat categories for each targeted restored habitat with descriptions of dominant and associated plants, characteristic animals, ecosystem functions, recovery opportunities and other elements; the characteristic dominant/associated plants, characteristic animals and recovery opportunities represent target or focal species for the restoration.

O15-57 CDFW acknowledges the commenter's preference for different restoration priorities and has included the commenter's view as part of the record of information that will be considered as part of CDFW's decision-making process. Nonetheless, this difference of opinion does not indicate that the EIR is inadequate or inaccurate.

CDFW disagrees with the suggestion that the motivating factor behind the proposed restoration design is to remove marina dredge spoils from the site. To the contrary, the restoration alternatives analyzed in detail were developed based on the objectives of the project, the Preliminary Design Report (Draft EIS/EIR Appendix B1), and otherwise as explained in Draft EIS/EIR Section 2.1 and General Response 2, *Proposed Project* (Final EIR Section 2.2.3). See Response O15-38 and Response O15-39, which show how historical conditions have been considered in the development of the project design and in the Draft EIS/EIR.

O15-58 See Response O15-57. Regarding sea-level rise, see, e.g., Draft EIS/EIR Section 2.2.2.6, *Alternative 1: Monitoring and Adaptive Management*; Draft EIS/EIR Appendix B7, *Ballona Wetlands Inundation Memo*; and General Response 6 (Final EIR Section 2.2.6.2).

O15-59 See Response O15-19, which discusses the commenter's request for final post-project vegetation mapping. See also Draft EIS/EIR Figure 2-1, which conceptually shows the general areas and vegetation types that are expected to occur immediately after Phase 2 of Alternative 1, and Draft EIS/EIR Table 2-3, which shows Alternative 1 post-restoration habitats and acreages. Regarding Alternative 2, see Draft EIS/EIR Figure 2-43 and Table 2-33. For Alternative 3, see Draft EIS/EIR Figure 2-52 and Table 2-26. See also Responses O15-27, AS5-23, and AS5-39.

As summarized in Draft EIS/EIR Section 2.2.1.8, *Project Design Features*, and as explained in more detail in Draft EIS/EIR Appendix B3, the Habitat Restoration and Monitoring Plan that is part of the Project includes annual vegetation performance goals and would periodically document the extent of each habitat. As described in Draft EIS/EIR Section 3.4.6 in the context of Impact 1-BIO-3a, "[a]ll restored native habitats, including wetlands and other aquatic habitat, would be monitored for success in achieving approved vegetative performance criteria for up to 10 years." Draft EIS/EIR Section 2.2.2.6 states, "the goal of monitoring would be to document trends in habitat development and assess progress toward meeting restoration objective as the restoration evolves during the 10-year monitoring period."

Regarding "grasslands," where the Draft EIS/EIR discusses existing grasslands, it refers to predominately non-native grasses and where it discusses restoration of grasslands, it means restoration with native grass and forb species. See also Response AS5-26.

The location of "upland scrub" referenced in this comment would be in the location where "Upland" is shown in the Draft EIS/EIR Figure 2-1. The "upland scrub" habitat type shown in Draft EIS/EIR Table 2-4 refers to coastal sage scrub species as shown in Table 2-3. As stated in the Conceptual Habitat Restoration and Adaptive Management Plan (Draft EIS/EIR Appendix B3 Section 1.2.1), "[t]he specific focus for upland habitats will be on the preservation and enhancement of dunes; however, enhancing grassland and coastal scrub will also be important." Moreover, Draft

EIS/EIR Appendix B3 Section 3.1.7, *Upland Scrub and Grassland*, clarifies that "[t]he primary goal of upland habitat restoration at the [Ballona Reserve] is to provide support functions for the larger tidal wetland restoration, including reducing sediment loads to seasonal and tidal wetlands and providing high tide refuge for tidal wetland wildlife … Target vegetation includes grasslands dominated by species such as California barley (*Hordeum brachyantherum* ssp. *californicum*), purple needlegrass (*Stipa* [*Nassella*] *pulchra*), saltgrass, and alkali ryegrass (*Elymus triticoides*) and scrub dominated by species such as coyote brush, California sagebrush (*Artemisia californica*), mugwort (*Artemisia douglasiana*), big saltbush, lemonade berry (*Rhus integrifolia*), and seacliff buckwheat (*Eriogonum parvifolium*). Additional species will be included in both upland habitat types to increase overall native plant diversity. It should be expected that non-native annual grasses will also form a major component of both grassland and scrub habitats given their prevalence in the seed bank." The habitat descriptions provided in Draft EIS/EIR Appendix B8 Section III provides a list of habitat categories and types for each targeted restored habitat, including "upland habitats (Habitat Category V)" with descriptions of dominant and associated plants, characteristic animals, ecosystem functions, recovery opportunities and other elements.

O15-60 CDFW believes that the detailed 245-page description of the Project and alternatives as supplemented by the specifics included in 10 technical appendices, are, contrary to as suggested in the comment, in fact complete and represent a good faith effort at disclosing information to the public. That the commenter would prefer information in addition to what has been provided (see Response O15-59) is acknowledged, but does not indicate that the document as a whole is inadequate. General Response 7, *Requests for Recirculation* (Final EIR Section 2.2.7), addresses multiple comments received regarding recirculation.

O15-61 CDFW acknowledge the commenter's speculation regarding vegetation and mapping, but this unsubstantiated guesswork as to the rationale for decision-making and does not inform CDFW's evaluation of the adequacy of the EIR. Regarding vegetation and mapping, see Response O15-50 and Response O15-60. See Response AF1-13 for clarification of vegetation maintenance along the proposed levees and related analysis in the Draft EIS/EIR.

See also Draft EIS/EIR Section 2.2.2.2 ("Consistent with the primary purpose of the Proposed Action to create and restore native habitats, the Proposed Action design would limit the use of traditional armor [especially concrete] to a minimum as described further in the Preliminary Design Report, Appendix B1"). In addition, see Draft EIS/EIR Figure 2-16 and Figure 2-17, showing levee areas where the Project's revegetation planting could occur pursuant to Phase 1 and Phase 2, respectively; and Draft EIS/EIR Appendix F2, which discusses the Corps' guidelines for vegetation on levees.

O15-62 The comment accurately notes that the Conceptual Habitat Restoration and Adaptive Management Plan provided in Draft EIS/EIR Appendix B3 will be finalized once it is known whether an alternative receives all necessary approvals and is implemented. See also Response AS5-39 regarding the conceptual restoration plan as a Project feature and Response AS5-23 regarding salvaging native plants for restoration.

Contrary to the suggestion in this comment, the Draft EIS/EIR commits CDFW to using native plants local to the area to the maximum extent practicable. As described in Draft EIS/EIR Appendix B3 Section 3.2.3, "A potential plant palette is provided as Appendix A. This list was developed based on the suite of native species documented in the existing conditions and baseline studies reports [citations omitted] as well as on historical references and plant lists from other coastal wetlands in southern California [citations omitted]. The species included in the list are all native to southern California. Efforts have been made to limit the species on this list to those historically present in the greater Los Angeles region; however, some species have been included based their ease of propagation and adaptability to a wide range of environmental conditions … It is unlikely that all of the plant material needed for the restoration can come from salvaged plant material, and propagation of additional plant material will be necessary. Plant propagation should be accomplished through collection of seeds and cuttings from healthy populations within the Santa Monica Bay watershed. If suitable donor populations cannot be located within this watershed, plant propagules may be sourced from adjacent watersheds; however, efforts should be made to collect plant material from as close to the [Ballona Reserve] as possible to maintain the genetic integrity of the regional flora and to ensure that the plants are adapted to the local climate."

O15-63 Draft EIS/EIR Appendix B3 discloses uncertainty about the salt pan plan. As stated in Appendix B3 Section 3.1.3, "Two hydrologically distinct forms of salt panne habitat currently occur at the [Ballona Reserve]: (1) those that receive water input primarily from spring and other high tides, depending on the levels at which the tide gates are set and (2) those that receive water input from seasonally shallow saline groundwater and stormwater runoff. In both cases, extended periods of evaporation result in the concentration of salts in the upper portion of the soil, resulting in a lack of vegetation over large portions of these habitats. Created salt panne habitat at the [Ballona Reserve] will be primarily of the first type, receiving water input primarily from spring and other extreme tides. However, given the presence of saline soils and the likelihood of saline groundwater occurring in many portions of the Reserve, some of areas designed as seasonal wetland habitat may develop high concentrations of salts at the soil surface, thus resulting in the formation of salt panne-like conditions. It is unclear how long it may take for salinity to reach levels sufficient to exclude most plants, and creation of salt panne habitat at the [Ballona Reserve] will benefit from incorporation of high-salinity soils salvaged from existing salt panne habitat that will be lost to tidal wetland restoration or from high-salinity soils excavated from deeper within the soil profile. In addition, it may be desirable to add salt to the pannes to increase salinity levels more rapidly. Given the uncertainty regarding salt panne

development and function, a phased approach will be used wherein salt panne design will be tested in Area A, and the results will be carefully evaluated prior to implementation in the other portions of the Reserve."

The restoration design and the analysis of potential direct, indirect, and cumulative impacts to salt pan habitat are based on the expertise of the professional engineers and environmental specialists identified in Draft EIS/EIR Chapter 5 and are informed by the reference materials cited in Draft EIS/EIR Section 3.4. CDFW recognizes that experts may differ in their professional opinions about the best approach regarding the salt pans; however, this difference of opinion does not indicate an inadequacy in the EIR. CDFW acknowledges the preference stated in this comment as well as the San Francisco Estuary Institute's work entitled "Historical Ecology of the Lower Santa Clara River, Ventura River, and Oxnard Plain: An Analysis of Terrestrial, Riverine, and Coastal Habitats"[108] and has included the comment and the reference material as part of the record of information that will be considered as part of CDFW's decision-making process.

O15-64 Draft EIS/EIR Table 3.4-1, Habitat Categories, Types, Descriptive Characteristics and Existing Acreage, provides details on dominant the vegetation within the "invasive monoculture" category. While it is true that "invasive monoculture" is not a recognized CDFW vegetation classification, for the purposes of this EIR, "invasive monoculture" was used to distinguish it from eucalyptus grove, annual grassland and developed area within the Ballona reserve for purposes of environmental review. The comment provides no facts, reasonable assumptions based on facts, or expert opinion supported by facts, indicating the categorization used is inadequate or precludes informed decision-making about the potential environmental consequences of the proposed restoration. CDFW acknowledges the commenter's preference that CDFW use a different vegetation categorizations, but as noted in previous responses, this difference in opinion about the preferred approach does not indicate an inadequacy in the EIR.

O15-65 Draft EIS/EIR Section 3.4.2.2 describes the dunes as follows: "The stabilized dune habitats in West Area B and Southeast Area B are remnants of historical sand dune systems that have been affected by coastal development. Due to the surrounding development, these remnant dunes no longer can migrate in response to natural aeolian processes and are considered to be stabilized." CDFW acknowledges receipt of the clarification provided in the comment and has included it as part of the record of information that will be considered as part of CDFW's decision-making process.

O15-66 See General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about these drains.

[108] Beller, E. E.; Grossinger, R. M.; Salomon, M.; Dark, S.; Stein, E.; Orr, B. K.; Downs, P. W.; Longcore, T.; Coffman, G.; Whipple, A.; et al. 2011. Historical Ecology of the lower Santa Clara River, Ventura River, and Oxnard Plain: an analysis of terrestrial, riverine, and coastal habitats. SFEI Contribution No. 641. SFEI: Oakland.

O15-67 The Draft EIS/EIR includes information on special-status vegetation using accepted vegetation alliances. Draft EIS/EIR Section 3.4.2.2 explains under the heading "Special-Status Natural Vegetation Communities" that "[b]ased on vegetation categorization and mapping conducted by The Bay Foundation in 2013, there are 12 CDFW special-status alliances or associations in the Project Site (CDFG 2010)" and then goes on to list them. These special-status alliances or associations occur almost exclusively within the special-status communities shown in Draft EIS/EIR Table 3.4-2, are depicted in Draft EIS/EIR Figure 3.4-3, and are not analyzed separately from the communities in which they occur. The *Rhus integrifolia* alliance is a notable exception and does not occur within a designated special-status community. However, the total area of this alliance within the Ballona Reserve (0.06 acres) is below the typical minimum mapping unit used to map rare vegetation (CNPS 2011); therefore, it is not included on Figure 3.4-3.[109]

As the commenter notes, Draft EIS/EIR Table D5-8 identifies special-status natural vegetation communities in the Project area. "Coastal scrub" habitat, described in Draft EIS/EIR Section 4.3 and presented in Figure 3.4-2, describes areas that have been colonized by coyote brush following historic disturbance. Vegetation in these areas is comprised principally of coyote brush with an understory of bromes, spurge, and black mustard; and limited presence of California sagebrush. These coastal scrub areas could similarly be described by the non-sensitive habitat type "coyote brush scrub." Impacts to this common vegetation community is recognized in the Draft EIS/EIR and would be less than significant. The use of the term "coastal sage scrub" in the document to describe habitat impacts is inaccurate and unintentional

The saltbush scrub community dominated by *Atriplex lentiformis* occurs principally in Areas A and C, as identified in Draft EIS/EIR Figure 3.4-2. CDFW's California Natural Community List recognizes the community as a non-sensitive vegetation alliance. Hence, impacts to this non-sensitive vegetation community are recognized in the Draft EIS/EIR, and are less than significant.

Several other vegetation species that the commenter describes "will be impacted by the proposed project," include lemonade berry (*Rhus integrifolia*) and seacliff buckwheat (*Eriogonum parvifolium*). These species were discussed in Draft EIS/EIR Chapter 2's description of the Project in the context of the site restoration plant palette and do not constitute coastal sage scrub.

In consideration of the above information, the wetland and upland habitats have not been remapped as requested in this comment.

O15-68 Receipt of supplementary descriptive information about the sensitive wildlife described and evaluated in the Draft EIS/EIR is acknowledged and has been included as part of the record of information that will be considered as part of CDFW's

[109] [CNPS] California Native Plant Society. 2011. Guidelines for Mapping Rare Vegetation, January. Available online: http://www.cnps.org/cnps/vegetation/pdf/guidelines-rare_veg_mapping.pdf.

decision-making process. However, its receipt does not change the analysis or the conclusions reached. Accordingly, the Draft EIS/EIR has not been revised in response to this comment.

O15-69 Draft EIS/EIR Table 3.4-4, Special-Status Wildlife Species Known to Occur or Potentially Occurring within the Project Site, identifies wandering skipper as follows: "Confirmed Present. Distributed along a narrow coastal strip from Santa Barbara and Ventura to San Diego County. Often associated with host plant, saltgrass (*Distichlis spicata*) (CNDDB 2014)." Moreover, Draft EIS/EIR Section 3.4.2.2 states under the heading "Special-Status Invertebrates" that "[w]andering skipper were reported in Area A and Area B during surveys in 1995, 1991, and 1981 (PSOMAS and Lockhart 2001, Hawks Biological Consulting 1996, Mattoni 1991, and Nagano 1981). Johnston et al. (2011, 2012) reported ancillary observations of wandering skipper in the lower marsh habitat of western Area B during vegetation surveys." See also Draft EIS/EIR Figure 3.4-7, which depicts the distribution of potentially suitable habitat for wandering skipper. In addition, Draft EIS/EIR Appendix D12, *Special-Status Wildlife*, states that wandering skipper was detected in marsh habitats of western Area B during vegetation surveys: "Detected in 2010 and 2011 in the salt marsh of Area B. Detected in Areas A and B during 1981, 1991, 1995, and 2001 surveys (CNDDB 2014). Host plant present during floristic surveys from 1991-2011." While the information presented on wandering skipper in Area A confirms or helps to clarify the distribution of this species, it does not change the conclusion or mitigation for this species presented in Draft EIS/EIR Section 3.4.6 in the context of Impact 1-BIO-1f.

Regarding Belkin's dune tabanid fly, Draft EIS/EIR Section 3.4 summarizes this species' occurrence within the Ballona Reserve: "In 1980, one adult was taken on the sand dunes and larvae were collected below the soil surface (CDFW 2014), but the species not been found in the Project region since the 1980s (Mattoni 1991)." The distribution of potentially suitable habitat for this species is depicted on Draft EIS/EIR Figure 3.4-8. Since it has not been observed since the 1980s at Ballona, it is considered to have a "low potential" to occur; nevertheless, the Draft EIS/EIR accounts for this potential and concludes in Section 3.4.6 (in the context of Impact 1-BIO-1f) that following the application of Project Design Features BIO-3 (Habitat Restoration and Monitoring Plan) and BIO-4 (Water Pollution and Erosion Control Plan), and the implementation of Mitigation Measures BIO-1b-ii (Biological Monitoring) and BIO-1b-iii (Noxious Weed Control Plan), impacts to Belkin's dune tabanid fly would be less than significant. While the information presented on Belkin's dune tabanid fly confirms or helps to clarify the distribution of this species, it does not change the conclusion or mitigation for this species presented in the Draft EIS/EIR. For information about species targeted for restoration, see Response O15-56.

Draft EIS/EIR Section 3.4 states (with citations omitted), "Dorothy's El Segundo dune weevil was found in Area B in 1995 and more recently in the dune system

immediately west of Area B. It was the fifteenth most common insect collected by pitfall traps in 1991 and one of the most abundant weevils on the dunes. The distribution of potentially suitable habitat for this species is depicted on Figure 3.4-8." In addition, Draft EIS/EIR Appendix D12, *Special-Status Wildlife*, states that Dorothy's El Segundo dune weevil was "[d]etected in 1995, 1996, and 2001 terrestrial invertebrate surveys is the dune system immediately west of Area B" and that it was not detected in 2009 and 2011 terrestrial invertebrate surveys.

Dune scrub vegetation is present in Area B. The Draft EIS/EIR accounts for this potential and concludes in Section 3.4.6, in the context of Impact 1-BIO-1f, that following the application of Project Design Features BIO-3 (Habitat Restoration and Monitoring Plan) and BIO-4 (Water Pollution and Erosion Control Plan) and the implementation of Mitigation Measures BIO-1b-ii (Biological Monitoring) and BIO-1b-iii (Noxious Weed Control Plan), impacts to Dorothy's El Segundo dune weevil would be less than significant. While the information presented on Dorothy's El Segundo dune weevil confirms or helps to clarify the distribution of this species, it does not change the conclusion or mitigation for this species presented in the Draft EIS/EIR.

O15-70 See Response O15-68 acknowledging receipt of supplementary information about sensitive species.

O15-71 See Response O15-68.

O15-72 See Response O15-68.

O15-73 See Response O15-68.

O15-74 See Response O15-68.

O15-75 See Response O15-68.

O15-76 See Response O15-68.

O15-77 See Response O15-68.

O15-78 See Response O15-68.

O15-79 See Response O15-68.

O15-80 Contrary to the suggestion in the comment, Draft EIS/EIR Table 3.4-4, Special-Status Wildlife Species Known to Occur or Potentially Occurring within the Project Site, identifies globose dune beetle as having a "moderate potential" to occur. See also Draft EIS/EIR Section 3.4.2.2, which states (with citations omitted), "[t]he globose dune beetle was found in Area B in 1995, and more recently in the dune system immediately west of Area B. It also occurs at the Los Angeles Airport dunes. The distribution of potentially suitable habitat for these species is depicted on

Figure 3.4-8." In addition, Draft EIS/EIR Appendix D12 states (with citations omitted) that globose dune beetle was "[d]etected in dunes in Area B in 1996 and 2001. Although this species was not detected in recent terrestrial invertebrate surveys, coastal sand dune habitat still present on the Reserve."

The Draft EIS/EIR accounts for impacts to this species and concludes in Section 3.4.6 in the context of Impact 1-BIO-1f that impacts to globose dune beetle would be less than significant following the application of Project Design Features BIO-3 (Habitat Restoration and Monitoring Plan) and BIO-4 (Water Pollution and Erosion Control Plan) and the implementation of Mitigation Measures BIO-1b-ii (Biological Monitoring) and BIO-1b-iii (Noxious Weed Control Plan).

Regarding western S-banded tiger beetle, western tiger beetle, and wetsalts tiger beetle, see Response AS5-36 and Response AS5-37. In addition, Draft EIS/EIR Appendix D12 states that western S-banded tiger beetle was "[d]etected during sensitive insect survey (1996) and insect and related terrestrial arthropod survey (1981). Potential suitable habitat occurs on the Reserve." The Draft EIS/EIR accounts for impacts to these species and concludes in Section 3.4.6 in the context of Impact 1-BIO-1e that impacts to western S-banded tiger beetle, and western tidal flat tiger beetle would be less than significant following the application of Project Design Features BIO-3 and BIO-4 and the implementation of Mitigation Measures BIO-1b-ii and BIO-1b-iii (Noxious Weed Control Plan), and "would improve the value of the Ballona Reserve for salt marsh-associated invertebrates through the creation of new, higher quality salt marsh habitat resulting in a potential net beneficial effect."

Regarding El Segundo blue butterfly, Draft EIS/EIR Figure 3.4-5 depicts the distribution of 12.6 acres of potentially suitable habitat, including coast buckwheat, within the Project Site. CDFW considers all occurrences of coast buckwheat as potentially occupied habitat and important for all life stages of El Segundo blue butterfly (including dispersal) as described in Draft EIS/EIR Table 3.4-4, Special-Status Wildlife Species Known to Occur or Potentially Occurring within the Project Site. In addition, Draft EIS/EIR Appendix D12 discloses that approximately 30 individuals of El Segundo blue butterfly were observed on July 19, 2011. Further, PSOMOS (2013) reported 199 butterflies during presence/absence surveys. The individuals were observed in Area B's dune habitat on coast buckwheat, which was planted as part of the Friends of Ballona Wetlands dune restoration project.

O15-81 As described in Draft EIS/EIR Section 3.4.2.2 under the heading "Reptiles and Amphibians" and shown in Draft EIS/EIR Appendix D5 Table D5-5, Southern Pacific rattlesnake has been observed on the Project Site. This snake is not a special-status species, as identified by federal or state regulations; and though uncommon, has not been identified as a locally rare species. Hence, direct and indirect impacts to Southern Pacific rattlesnake would be less than significant. Based on the identified sighting, this species is expected to occur in low densities in portions of the Ballona Reserve. Potential impacts to this species from construction activities are expected to

be similar to that for San Bernardino ring-necked snake as analyzed in Draft EIS/EIR Section 3.4.6 in the context of Impact 1-BIO-1h, which concludes that impacts would be less than significant with mitigation incorporated, "[d]uring each phase, direct mortality or injury to this species could occur during grading and other ground-disturbing activities. Following the application of Project Design Features BIO-1 (WEAP) and BIO-2 (Limit of Disturbance), which would reduce impacts to individual snakes, remaining potentially significant impacts related to the incidental harm to individual snakes would be reduced to less than significant with implementation of Mitigation Measure BIO-1b-ii (Biological Monitoring)." Measure BIO-1b-ii includes provisions for moving species out of harm's way during construction activities and the final Habitat Restoration and Monitoring Plan (BIO-3) would include monitoring for snake species through periodic reptile surveys, maintenance/patrol observations and other efforts.

O15-82 The Draft EIS/EIR analyzes potential impacts to nesting raptors in the context of Impact 1-BIO-1m in Section 3.4.6, and concludes that impacts would be less than significant with mitigation incorporated: "[i]n addition to burrowing owl, several other special-status raptor species have the potential to occur within the Project Site, including merlin (*Falco columbarius*), northern harrier, osprey, peregrine falcon, sharp-shinned hawk (*Accipiter striatus*), short-eared owl, turkey vulture (*Cathartes aura*), and white-tailed kite. Of these, only Cooper's hawk has the potential to nest within the Project Site - the others occur in the Project Site largely in a foraging role. … Following the application of Project Design Features BIO-1 (WEAP), BIO-2 (Limit of Disturbance) and BIO-3 (Habitat Restoration and Monitoring Plan), potential direct and indirect impacts to nesting raptors would be reduced to a less-than-significant level through the implementation of Mitigation Measure BIO-1i-i (Nesting Bird and Raptor Avoidance)." As a result, if other raptors are present, Mitigation Measure BIO-1i-I would apply and therefore reduce the impacts to those species to a less than significant level. See also Draft EIS/EIR Appendix D12, *Special-Status Wildlife*, regarding these species.

O15-83 See Response O15-81 regarding the southern pacific rattlesnake. Receipt of supplementary information is acknowledged and has been included as part of the record of information that will be considered as part of CDFW's decision-making process. However, its receipt does not change the analysis or the conclusions reached.

O15-84 See Response O15-82 regarding the Bird Breeding Atlas. Receipt of supplementary information is acknowledged and has been included as part of the record of information that will be considered as part of CDFW's decision-making process. However, its receipt does not change the analysis or the conclusions reached.

The Draft EIS/EIR addresses the potential of blue grosbeak and black-headed grosbeak to occur within the Ballona Reserve. See Draft EIS/EIR Appendix D12, which states that the likelihood of Blue Grosbeak occurrence is "[l]ess than reasonable for nesting" and of "[m]oderate potential as forager as this species is an

uncommon transient and rare summer resident and spring transients." For Black-headed Grosbeak Draft EIS/EIR Appendix D12 reports occurrence as "Less than reasonable for nesting as this species is considered extirpated as a breeder" and as "High potential as forager as this species is a fairly common transient and rare (irregular?) summer resident."

The Draft EIS/EIR also analyzes potential impacts to blue grosbeak and black-headed grosbeak in Section 3.4.6 in the context of Impact 1-BIO-1n, which concludes that impacts would be less than significant following the application of Project Design Features BIO-1 (WEAP) and BIO-3 (Habitat Restoration and Monitoring Plan), and the implementation of Mitigation Measures BIO-1b-iii (Noxious Weed Control Plan) and BIO-1i-i (Nesting Bird and Raptor Avoidance).

O15-85 CDFW acknowledges the suggestion in this comment to change the conclusion in Draft EIS/EIR Table 3.4-4 for southern California salt marsh shrew from "moderate potential" presumably to "high" potential. See Response O15-21 regarding the analysis of potential impacts to special-status mammals, including the southern California salt marsh shrew.

O15-86 See Responses AF1-30 and O8-12 regarding the proposed location of public access within the Ballona Reserve and Response O15-18 regarding how, contrary to the suggestion in this comment, the Draft EIS/EIR does evaluate impacts to biological resources from proposed public access. Further, see Response O15-42 and Response O15-44 regarding the amount of area proposed for the trail system. Regarding the comment that the trail system is counted as wildlife habitat, that assertion is incorrect. As shown on Draft EIS/EIR Figure 2-1, the trails are identified as "developed" rather than natural habitat with the exception of the boardwalks, which would allow for the presence and use of habitat beneath them.

Contrary to this comment, the Draft EIS/EIR does analyze fragmentation as a possible impact. As described in Draft EIS/EIR Section 3.4.6 (with emphasis added by underline), "[i]ndirect impacts are those that result from an alternative, but can occur later in time or are farther removed in distance while still reasonably foreseeable and related to the Project. Indirect impacts could occur both during and following restoration. For example, restoration could result in temporary hydrological alteration and water quality impacts, erosion, dust, equipment-related noise, vibration, lighting, and increased human activity. Each of these impacts could indirectly impact biological resources by disrupting or interfering with wildlife behavior and natural ecosystem processes. Post-restoration indirect impacts could occur as a result of landscape-level changes including habitat fragmentation and isolation, altered wildfire regimes, altered hydrology, and the spread of invasive plant species. Post-restoration indirect impacts also could occur as a result of operations activities and increased human activity, which could result in vegetation trampling, trash, lighting, noise, and vehicle collisions. These indirect impacts could increase mortality, reduce

productivity, and/or reduce the value and functions of natural open space for the native species that inhabit it."

It is worth noting that in designing trail locations, CDFW balanced a strong public desire for more public access with the same concerns raised in this and other comments related to the potential impacts on restored habitat from the increased public use. In balancing these competing interests (i.e., greater public access vs. continuation of no public access) and analyzing the potential impacts on restored habitat as presented in the Draft EIS/EIR, CDFW believes it arrived at a reasonable balance between the two important environmental factors. Because such restored habitat that the commenter is concerned about does not yet exist, the monitoring and adaptive management program is an important component of the proposed restoration to provide the necessary flexibility in management to meet the specified restoration goals (see Draft EIS/EIR Section 2.2.2.6). Nevertheless, all comments regarding public access (either for or against) will be considered as part of CDFW's decision-making process.

O15-87 See Response O15-86. CDFW agrees that a buffer is appropriate. See Draft EIS/EIR Section 3.4.6, which states, "CDFW has not adopted formal guidance for determining potential indirect impacts to birds, but generally considers a distance of 250 feet for passerine birds and 500 feet for raptors as the area in which activities could affect nesting birds."

In the context of Impact 1-BIO-1n, the Final EIR addresses potential impacts to special-status upland birds and states under the heading "Phase 1 and Phase 2 Direct Impacts" that, "[i]f site activities commence during the breeding season, native birds such as loggerhead shrike, western meadowlark, California towhee, and tree swallow and their nests could be directly impacted by habitat removal or disturbance associated with grading and levee construction. Potential adverse impacts would be fully avoided and reduced to a less-than-significant level through implementation of Mitigation Measure BIO-1i-i (Nesting Bird and Raptor Avoidance)."

O15-88 Pets, including dogs and cats, are specifically prohibited at the Ballona Reserve. (14 CCR §630(h)(3)). See Response O15-86. See also Draft EIS/EIR Section 3.4.6, which discusses post-restoration operations and maintenance activities and states that, "[i]mproper installation or maintenance of fencing, or improper habitat restoration signage that would otherwise restrict people and dogs to designated trails could result in adverse direct impacts to restored habitats and special-status plants. The direct and indirect impacts caused by these activities could be significant, but would be reduced via the application of Project Design Feature BIO-3 (Habitat Restoration and Monitoring Plan). …"

O15-89 See Responses O15-18, O15-21, and O15-86. In the context of Impact 1-BIO-1m, Draft EIS/EIR Section 3.4.6 addresses potential impacts to nesting raptors outside of construction and states, "Limited negative indirect impacts could occur following the

restoration phases due to a potential increase in human activity and the implementation of maintenance activities. Breeding raptors may be impacted indirectly through noise or visual disturbances caused by ongoing activities. Following the application of Project Design Features BIO-1 (WEAP), BIO-2 (Limit of Disturbance) and BIO-3 (Habitat Restoration and Monitoring Plan), the remaining limited post-restoration-related adverse impacts could be reduced to a less-than-significant level through implementation of Mitigation Measure BIO-1i-i (Nesting Bird and Raptor Avoidance)."

To be clear, the Draft EIS/EIR does analyze potential post-restoration impacts to nesting birds and raptors, and does identify mitigation that if implemented would reduce potential impacts. See, e.g., Mitigation Measures BIO-1b-ii (Biological Monitoring) and BIO-1i-i (Nesting Bird and Raptor Avoidance), which are recommended for implementation following restoration activities are complete in the context of Impact 1-BIO-1m (nesting raptors), Impact 1-BIO-1n (special-status upland birds), Impact 1-BIO-1o (special-status shorebirds), and Impact 1-BIO-1p (special-status marsh birds). The text of Mitigation Measure BIO-1i-i expressly applies to "maintenance activities during operations within and adjacent to avian nesting habitat" and not just construction activities.

O15-90 See Responses AS5-16, O15-18, O15-42, and O15-86. See also Draft EIS/EIR Appendix B3, *Conceptual Habitat Restoration and Adaptive Management Plan*, which discusses Reserve-wide monitoring elements expressly including invasive species. Appendix B3 Section 4.12.3 states, "Although monitoring for invasive plants is included in the monitoring program for individual habitats, it is included here to ensure that monitoring occurs throughout the Reserve. Monitoring for effectiveness of invasive weed control efforts will be conducted at least twice annually during the initial 10-year monitoring period, once near the beginning of the growing season and again during early to mid-summer. More frequent monitoring may desirable given sufficient funds. Thereafter, monitoring will be conducted indefinitely into the future, at intervals to be determined based on data collected during the initial 10 years of monitoring. It is likely that uplands and freshwater habitats will require greater management for invasive weeds than will tidal wetland and salt panne habitats, and monitoring should be conducted more frequently in these habitats."

O15-91 See Responses O15-19, O15-27, O15-59 and O15-60 regarding post-revegetation maps, target habitat types and associated species (including "Uplands"). Regarding levee vegetation, see Response O15-61.

O15-92 See Response O15-20 regarding the analysis of impacts to El Segundo blue butterfly. The comment is correct that some of the habitat area for El Segundo blue butterfly would be lost. As disclosed in Draft EIS/EIR Section 3.4.6 and described in Response AS5-43, up to 0.1 acre of the existing 4.2 acres of southern dune scrub habitat would be impacted by Alternative 1 Phase 2.

Draft EIS/EIR Figure 2-12, Artistic Rendering for Alternative B, shows a rendering of the proposed levee in West Area B. Figure 2-15, Stormwater Basins and Emergency and Bus Access Route, shows a better detail of the proposed toe of slope and existing dune area in West Area B. Draft EIS/EIR Appendix F1, *West Area B Levee Options*, assesses several conceptual options there were considered for providing flood and erosion protection along the Project Site's western boundary and the sand dunes in West Area B. The proposed restoration includes Alternative B from Appendix F1, which would provide a levee along the toe of the existing dunes. As discussed in Appendix F1, this design would "minimize impacts to the existing dunes, avoid significant design and construction feasibility issues, beneficially re-use fill material, and expand restored dune areas, at the expense of filling approximately 10 acres of existing managed wetland habitat." In addition, for this approach, "the toe of the existing dunes would become a depression between the existing dunes and the new levee/habitats. This area could function as a back-dune wetland habitat fed by rainfall-runoff from the adjacent slopes, possibly with an overflow towards the stormwater detention and treatment wetland planned in the southwest corner of Area B." In Draft EIS/EIR Appendix F1, Figure 2, Detailed Section for Alternative B, and Figure 5, Levee Alternative B Plan, provide more details for the proposed West Area B levee, and Table 1 (West Area B levee approach options/alternatives assessment) shows that this approach would have the smallest footprint and impact to existing dune habitat (0.1 acres) among the options considered. Monitoring of West Area B would be conducted as part of the Habitat Restoration and Monitoring Plan (Project Design Feature BIO-3) and routine patrol/maintenance would verify the condition of El Segundo blue butterfly habitat on-site and integrity of the levee.

O15-93 Draft EIS/EIR Section 3.4.6 in the context of Impact 1-BIO-3b discusses the post-restoration use of pesticides. It states, "If pesticide application is determined to be necessary to control mosquitoes or nuisance vectors such as midges or black flies during or following restoration, the Preliminary Operation and Maintenance Plan (Appendix B5) specifies that the least toxic effective control will be used to target the aquatic larval lifestage; adult mosquitos and related vectors would not be targeted. Based on the best available information, this analysis assumes that Bactimos PT or another insecticide that has BTI as an active ingredient would be used in strict accordance with a pesticide application plan that is substantially similar to the Pesticide Application Plan (PAP) for Ballona Creek and Centinela Creek Vector Control Program that LACDPW submitted in support of its 2014 NPDES General Permit for Vector Control Application pursuant to Water Quality Order No. 2011-0002-DWQ for segments of the Ballona Creek channel outside the Project area (LACDPW 2014)." All pesticide applications would use the least toxic effective control and would consider local species in determinations of which type of pesticide to use.

O15-94 See General Response 5, *Biological Resources* (Final EIR Section 2.2.5.2), which addresses multiple comments received regarding impacts to El Segundo blue butterfly.

O15-95 Contrary the suggestion in this comment, the Draft EIS/EIR documents California least tern use and attempted use of the Ballona Reserve in Section 3.4.2.2, *Environmental Setting*, in Section 3.4, *Biological Resources*: "The salt flats of Area B, just east of the main drainage channel, were used by 10 to 22 nesting pairs of least terns from 1973 through 1976. … A small group also nested in 1977 along a channel at the end of Beethoven Street (north of Area C) but this area has not been used since. Approximately 25 pairs of terns used the salt flats of Area B in 1978 and 1979 (PWA 2006). Dock and Schreiber (1981) reported 17 pairs in 1979. Terns continued to nest on the salt flats in 1980 and 1981, although flooding both years precluded the production of any fledglings (PWA 2006). One pair unsuccessfully nested in Area B in 2001 and nine pairs unsuccessfully nested in Area B salt pan habitat in 2014 (all were predated by American crow; R. Brody, personal communication, November 25, 2014). Appendix D5 Table D5-11, History of California Least Tern Nesting in the Vicinity of Ballona Wetlands, 1973–2011, summarizes least tern nesting activity and productivity in the vicinity of the Ballona Reserve from 1973 to 2011. Studies of least tern foraging behavior in 1980 and 1981 included potential foraging habitat in the vicinity of the Venice Beach least tern nesting site just north of Ballona Creek (Atwood and Minsky 1983). The tidal channels of Area B supported up to 13 percent of the total foraging of a given survey date in 1980, but foraging at Area B was less frequent in 1981. In 1995, 1998, and 2001, KBC conducted foraging surveys for least terns at the tidal channels of Area B and Fiji Ditch in Area A. Foraging was documented in Area B tidal channels on three of seven survey dates in 1995, on 3 of 14 survey dates in 1998, and on 7 of 17 survey dates in 2001 (PWA 2006). Most recently in 2012, a least tern foraging study for the Venice Beach nesting site was conducted during Corps-contracted dredging activities taking place at the Marina del Rey entrance channel. During this study, individuals were observed foraging immediately along the coast and in the entrance channel for Marina del Rey Harbor, north of the Ballona Creek channel. The report considered Ballona Creek as potential least tern foraging habitat; however, active foraging was not described (Keane 2013). Based on recent observations, it is unlikely that California least terns would nest successfully again within the Ballona Reserve without an effective predator management plan that includes adequate and well-maintained fencing to reduce the impact of land-based predators and adaptive management to reduce the impact of American crows. As colonial nesters, California least terns may require larger numbers to effectively reduce predation and to successfully nest in this area."

The area where this species previously attempted to nest is considered potentially occupied habitat for the California least tern. However, since it has not been observed in the last few years, it is not expected to occur. The main reason for concluding low potential as breeder and forager as shown in Draft EIS/EIR Table 3.4-4 is that California least tern has not been observed successfully nesting in several years and its primary habitat in the area is the Venice Beach sandy area north of the channel entrance. Nevertheless, considering prior historic use, past attempts to nest and the proximity to the nesting colony at the north entrance of the channel, it is expected this

species could occur within the Project Site and mitigation is proposed to reduce the impact to less than significant.

As discussed in Draft EIS/EIR Section 3.4.6.1, "[t]his species is not expected to breed or forage on the Project Site considering the habitat conditions onsite and the lack of recent observations of this species. This species unsuccessfully attempted to breed in Area B in 2014, so potential impacts to nesting could occur if this species attempts to nest onsite again. However, with implementation of Project Design Features and mitigation measures, Alternative 1 may affect, but is not likely to adversely affect California least tern or its habitat."

The Draft EIS/EIR also analyzes impacts to this species in the context of Impact 1-BIO-1o, which concludes that "[m]ost foraging habitat impacts would be temporary, but some impacts (e.g., levee construction) would result in a permanent conversion of salt pan to upland habitat. In the absence of mitigation, nesting success of special-status shorebirds could be impacted indirectly by noise from on-site activities within 500 feet. Noise disturbance can impact pair formation, territory defense, and communication regarding food and danger responses (FHA 2011). Following the application of Project Design Features BIO-1 (WEAP) and BIO-3 (Habitat Restoration and Monitoring Plan), remaining potential impacts could be minimized with implementation of Mitigation Measures BIO-1b-ii (Biological Monitoring) and BIO-1i-i (Nesting Bird and Raptor Avoidance)."

As a state fully protected species, California least tern may not be taken or possessed at any time and no licenses or permits may be issued for its take except for collecting those species for necessary scientific research and relocation of the bird species for protection of livestock (Fish and Game Code §3511). This species would be considered in the biological monitoring program included as part of the Habitat Restoration and Monitoring Plan (BIO-3). See also Responses O15-20 and O3-33.

O15-96 Regarding potential impacts to California gnatcatcher, see Responses O15-20, O15-105, and I46-10. Regarding the upland restoration proposed for Area C, see Response AS5-19.

O15-97 The Draft EIS/EIR analyzes potential direct and indirect impacts to least Bell's vireo in Section 3.4.6; cumulative impacts are analyzed in Section 3.4.7.

In Section 3.4.6.1, the Draft EIS/EIR documents Federal Endangered Species Act species effect determinations to support the Corps' Section 7 consultation with USFWS. Regarding least Bell's vireo, it states: "This species is known to breed and forage in Southeast Area B. Potential impacts to nesting could occur if this species attempts to nest onsite again. However, with implementation of Project Design Features and mitigation measures, occupied habitat for this species would be avoided. Alternative 1 may affect, but is not likely to adversely affect least Bell's vireo or its habitat."

The Draft EIS/EIR analyzes potential direct and indirect impacts to this species in the context of Impact 1-BIO-1k, which concludes that, "[a]s shown in Table 3.4-10, [Alternative 1] Phase 1 would result in the direct impact to approximately 0.1 acres of least Bell's vireo habitat occupied by one nesting pair, and 0.2 acres of potentially suitable habitat due to the construction of a channel connecting the Freshwater Marsh with the salt marsh habitat in Area B (see Draft EIS/EIR Figure 3.4-14). Potential significant direct impacts to least Bell's vireo or its habitat would be reduced to less than significant through application of Project Design Features BIO-1 (WEAP), BIO-2 (Limit of Disturbance), and BIO-3 (Habitat Restoration and Monitoring Plan), and the implementation of Mitigation Measure BIO-1b-ii (Biological Monitoring) to ensure direct impacts to this species and its habitat are avoided and minimized to the extent practical." Furthermore, "Phase 1 would result in the net increase in the amount of suitable breeding and foraging habitat for least Bell's vireo through the establishment of a new riparian corridor along Fiji Ditch in North Area C. In total, Phase 1 would result in a net increase of 2.9 acres of suitable breeding and foraging habitat for this species, resulting in an overall beneficial effect."

The Draft EIS/EIR discusses potential impacts to this species from noise in the context of Impact 1-BIO-1k and concludes for Phase 1 indirect impacts that, "[i]n the absence of mitigation, nesting success of least Bell's vireos could be impacted indirectly by noise from on-site activities. Birds have noise sensitivity at ranges as low as 0-10 dB. Noise disturbance can impact pair formation, territory defense, and communication regarding food and danger responses (FHA 2011). Typically, a 500-foot buffer for raptors or sensitive bird species, such as the least Bell's vireo, is considered a sufficient buffer from construction activities. Exact distances of construction-related noise sources from occupied or suitable habitat for least Bell's vireos are not yet known, although it is anticipated that construction activities may occur within 500 feet of an active nest in some locations. Additionally, ground vibration and lighting from parking structures or ball fields, and increased human activity from trail use can affect the quality of the habitat for nesting and foraging. In addition, the spread of invasive plant species onto least Bell's vireo habitat through the use of vehicles and heavy equipment could reduce habitat quality. Following the application of Project Design Feature BIO-1 (WEAP), remaining potential significant indirect impacts would be reduced to less than significant through implementation of Mitigation Measures BIO-1b-iii (Noxious Weed Control Plan) and BIO-1k-i (Least Bell's Vireo Avoidance), which would avoid and minimize indirect impacts to habitat and any nesting least Bell's vireos. In total, Phase 1 would result in a net increase of 2.9 acres of suitable breeding and foraging habitat for this species (a beneficial effect)."

For Phase 2 indirect impacts, the Draft EIS/EIR concludes that, "[s]imilar to Phase 1, restoration activities in the vicinity of potential and occupied habitat could indirectly impact habitat quality and/or breeding success due to noise, vibration, lighting, and increased human activity. Following the application of Project Design Feature BIO-1 (WEAP), remaining potential significant indirect impacts would be reduced to less

than significant through the implementation of Mitigation Measures BIO-1b-iii (Noxious Weed Control Plan) and BIO- 1k-i (Least Bell's Vireo Avoidance), which would avoid and minimize indirect impacts to any nesting least Bell's vireos."

Finally, for post-restoration, the Draft EIS/EIR concludes that, "[l]imited direct and indirect post-restoration impacts could occur to nesting least Bell's vireos and disturbance of restored habitats due to a potential increase in human activity from trail use and maintenance activities. Potential nesting impacts could be reduced to less than significant through implementation of Mitigation Measures BIO-1k (Least Bell's Vireo Avoidance), which would require avoidance of nesting least Bell's vireos during post-restoration activities such as weed removal, thereby reducing human disturbance to this species. The application of Project Design Feature BIO-3 (Habitat Restoration and Monitoring Plan) would improve the value of riparian habitats within the Ballona Reserve through restoration and monitoring, as well as by controlling invasive plants; and other measures that would focus specifically on habitat for least Bell's vireos. Further, the overall net change in habitat resulting from Alternative 1 is an increase in 3.0 acres of suitable breeding and foraging habitat for least Bell's vireos (a beneficial effect)." See Mitigation Measure BIO-1k.

The U. S. Fish and Wildlife survey protocol does not identify a noise threshold for least Bell's vireo. The Draft EIS/EIR does not specify a particular noise threshold for indirect impacts to least Bell's vireo, and indeed with the 500-foot buffer, there is no indication that an additional metric is needed to reduce potential indirect noise-related impacts to the species. Nonetheless, CDFW will incorporate a 60 dB(A) threshold into the final Habitat Restoration and Monitoring Plan prepared pursuant to Project Design Feature BIO-3. This threshold would be consistent with the San Diego County Water Authority's Subregional Natural Community Conservation Plan,[110] the results of a traffic-noise impact study conducted by Caltrans for least Bell's vireo habitat along California State Route 83,[111] and the results of a 1994 behavioral study of vireo vocalization behavior in relation to helicopter overflights at Marine Corps Air Station (MCAS), Camp Pendleton.[112]

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110 San Diego County Water Authority, 2010. Subregional Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP). Available online: https://www.sdcwa.org/sites/default/files/files/NCCP-HCP-merged.pdf. October 2010. This NCCP concludes that the "[i]ndirect effects of noise at the nest location of least Bell's vireo at 60 A-weighted decibels (dBA LEQ (1)) or an increase of 3 dB above ambient noise levels, whichever is greater, if construction activities commence during the breeding season (March 15 to September 15) would be a significant impact."

111 Barrett, 1996. Traffic-Noise Impact Study for Least Bell's Vireo Habitat along California State Route 83. Transportation research Record Vol 1559, Issue 1, 1996. January 1, 1996. USFWS established a noise level of 60 dB during the loudest hour as the level at which the noise would have an impact on the least Bell's vireo.

112 Mock, Patrick & Tavares, Rick, 1997. Noise Effects on Least Bell's Vireo: Studies of Military Helicopter Activity, Auto Traffic, and Light Rails. Conference on Noise Effects on Passerine Birds, January 15, 1997. This study found that the intensity of noise influenced vocalization rates, which were significantly depressed when noise levels exceeded 60 dBA Leq (32–35 percent vs. 46–53 percent). The total amount of time the species had available to vocalize without noise interference declined from 95 percent when noise levels were less than 50 dBA Leq to 65 percent when noise levels exceeded 60 dBA Leq. Results also indicated that breeding success was 3 percent to 11 percent higher outside the 60 dBA CNEL contour compared to within it.

Draft EIS/EIR Section 3.4.8, *References*, includes studies on the use of non-riparian habitat that were factored into the Draft EIS/EIR analyses, including "Kus, B.E. and K.L. Miner. 1989. The use of non-riparian habitats by least Bell's vireos (*Vireo bellii pusillus*). In Proceedings of the California Riparian Systems Conference: protection, management, and restoration for the 1990's; September 22–24; Davis, CA. Dana L. Abell, ed., Gen. Tech. Rep. PSW-110, Berkeley, CA., pp. 299–303." This study concludes that there is "sufficient justification for the inclusion of access to non-riparian resources as part of the habit at requirements of nesting vireos, and recommend that protective boundaries encompassing essential resources should include upland areas as well as riparian woodlands." At the Ballona Reserve, the existing least Bell's vireo that occur would have access to the restored uplands and remaining portions of the ecological reserve. To confirm, this species would be considered in the biological monitoring program included as part of the Habitat Restoration and Monitoring Plan (BIO-3).

O15-98 The comment is correct that the Draft EIS/EIR proposes to mitigate for impacts to special-status plants (Mitigation Measure BIO-1b-i) at a minimum ratio of 1:1 (number of plants established: number of plants impacted); however, the comment mischaracterizes the analysis which expressly states in the context of Impact 1-BIO-1b, "Nevertheless, plantings would target a higher ratio than 1:1, to ensure successful establishment at a minimum 1:1 ratio. As a result of these actions, direct impacts would be short-term and reduced to less than significant." The commenter's preference for a different potentially equally valid approach is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. However, the difference of opinion does not indicate that the EIR is inadequate for recommending a minimum mitigation ratio of 1:1.

See also Draft EIS/EIR Figure 2-1, which conceptually shows the areas and types of habitats that are expected to occur immediately after Alternative 1 Phase 2 in combination with Draft EIS/EIR Table 2-3, which shows the proposed habitat acreages. Further, as discussed in Draft EIS/EIR Appendix B3 Section 3.2.4, "Lewis' evening primrose occurs in the dune habitat, but also occurs in large numbers in Area C and in smaller numbers in the southeastern portion of Area B. …" Further, Draft EIS/EIR Figure 3.4-4 shows the distribution of known populations of Lewis' evening primrose on the Project Site. This species is located in uplands and dune areas, and historically occurred in the Ballona Reserve. Lewis' evening primrose could be restored in the upland and/or dune areas in Area B and upland habitat in Area C (see Figure 2-1), ideally in areas where they currently exist (see Figure 3.4-4). The final location of these areas would be determined after a restoration alternative receives all necessary permits and other authorizations and before onsite restoration work begins. CDFW believes that the proposed biological monitoring (BIO-1b-ii), replanting with a ratio greater than 1:1 in appropriate locations (BIO-1b-i) and future monitoring as part of the Habitat Monitoring and Adaptive Management Plan (BIO-3)

would adequately mitigate for direct impacts to this species as described in the Draft EIS/EIR.

With regard to providing a map of where special-status plant species would be restored, See Responses O15-27, O15-59, and O15-60.

O15-99 See Response O15-98 regarding impacts to Lewis' evening primrose. As required by Mitigation Measure BIO-1b-i, special-status plant populations shall be avoided to the extent feasible. Regarding the proposed upland restoration for Area C, see Response AS5-19. Regarding alternatives that would avoid impacts to Lewis' evening primrose, see Responses AS5-51 and O15-41.

O15-100 Draft EIS/EIR Section 3.4.6, in the context of Impact 1-BIO-1b, discusses impacts to rare and special-status plants, and concludes that under Alternative 1 Phase 2 "[a]ll 85 woolly seablite plants would be directly impacted by ground-disturbing activities associated with the breaching and lowering of the south Ballona Creek channel levee along West Area B. Direct impacts could occur due to ground-disturbing activities such as vegetation clearing, grubbing, and re-grading. Further, since the most recent protocol-level rare plant surveys were conducted in 2010–2011, it is possible that the existing population has expanded and/or migrated over time, leading to the potential for unforeseen direct impacts to this species during restoration activities."

Draft EIS/EIR Figure 2-1, Alternative 1, Phase 2: Proposed Habitats, conceptually shows the areas and types of habitats that are expected to occur immediately after Phase 2 is completed and Table 2-3 shows the proposed habitat acreages. As discussed in Draft EIS/EIR Appendix B3 Section 3.2.4, "[w]ooly seablite occurs along the southwestern edge of Ballona Creek. …" Draft EIS/EIR Figure 3.4-4 shows the distribution of known populations of woolly seablite on the Project Site. This species is located in salt marsh, high marsh, salt pan, low transition, uplands, grass and dune areas, and historically occurred in the Ballona Reserve. Woolly seablite could be restored in these areas, primarily the salt marsh, high marsh, salt pan and low transition areas in Area A and Area B that are shown in Figure 2-1, ideally in areas where they currently exist (see Draft EIS/EIR Figure 3.4-4). The final location of these areas would be determined after a restoration alternative receives all necessary permits and other authorizations and before onsite restoration work begins. CDFW believes that the proposed biological monitoring (BIO-1b-ii), replanting with a ratio greater than 1:1 in appropriate locations (BIO-1b-i), and future monitoring as part of the Habitat Monitoring and Adaptive Management Plan (BIO-3) would adequately mitigate for direct impacts to this species as described in the Draft EIS/EIR.

O15-101 Regarding wandering skipper, see Response AS5-33 and Response O15-69; regarding restoration "target species," see Response O15-56. Regarding tiger beetles, see Response AS5-33 and Responses AS35 through AS37.

Regarding southern dune scrub, see Response AS5-43. The Draft EIS/EIR evaluates the loss of southern dune scrub habitat and analyzes impacts to dune-associate invertebrate species. See Draft EIS/EIR Section 3.4.6 in the context of Impact 1-BIO-1f. CDFW acknowledges that the commenter would reach a different post-mitigation significance conclusion. This difference of professional opinion is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process; however, it does not support a conclusion that the EIR is inadequate or inaccurate.

O15-102 Draft EIS/EIR Table 3.4-4 shows that silvery legless lizard was confirmed present on the Project Site. Draft EIS/EIR Section 3.4.2.2 discusses the distribution of silvery legless lizard and states, "Silvery legless lizards regularly have been observed in the restored, stabilized dune habitat in West Area B (Johnston et al. 2011) and was documented in the stabilized dune habitat of Southeast Area B in 2010 (Johnston et al. 2011). It has not been observed in the stabilized dune habitat of Area C despite repeated surveys, and it is presumed absent in this area." Draft EIS/EIR Figure 3.4-10 shows the distribution of potentially suitable habitat for this species within the Ballona Reserve. The information presented on silvery legless lizard is based on several years of surveys within the Ballona Reserve as described in Draft EIS/EIR Appendix D8, including use of cover board array, pitfall trap and driftnet arrays, as well as comprehensive area search methods. Draft EIS/EIR Appendix D8 describes that, "[a]dditionally, site-wide searches involving board and cover flipping, and targeted surveys for the California legless lizard, were conducted (Johnston et al. 2011). Figure D8-3 depicts sample locations for this study."

Draft EIS/EIR Section 3.4.6 concludes in the context of Impact 1-BIO-1g that impacts to silvery legless lizards would be less than significant with the implementation of mitigation, and that following the Phase 2 restoration effort, the proposed project would result in a beneficial effect related to improved habitat quality. Mitigation includes measure BIO-1g-i, which requires, prior to restoration in areas with suitable habitat for special status lizards, a qualified biologist shall conduct focused lizard surveys. Any legless lizards or horned lizards captured shall be re-located to restored or preserved dune habitats. Relocation efforts would include assessments to determine areas within the Ballona Reserve that are most appropriate for this species. If legless lizard or coast horned lizard are relocated, then focused surveys shall occur yearly for a period of 5 years following restoration to monitor legless lizard and or coast horned lizard populations, as applicable, within the dune habitats. See also Response O15-20.

This comments suggests a different metric and survey method than what was used for the Draft EIS/EIR. Still, the information provided in this comment on species survey methods from the Moss Landing effort is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. Relocation efforts would include assessments to determine areas within the Ballona

Reserve that are most appropriate to receive species, in this case silvery legless lizard. Mitigation measure BIO-1g-i is modified to clarify application of this requirement.

O15-103 See Response O15-20 for a general discussion of where impacts to San Bernardino ring-necked snake are analyzed in the Draft EIS/EIR. Contrary to this comment, the Draft EIS/EIR provides information on density, distribution, potential post-restoration areas and habitat requirements. See Draft EIS/EIR Figure 3.4-11, which identifies the distribution of potentially suitable habitat for San Bernardino ring-necked snake on the Project Site. The information provided about this species is based on several years of surveys within the Ballona Reserve as described in Draft EIS/EIR Appendix D8, including use of cover board array, pitfall trap and driftnet arrays, as well as comprehensive area search methods. Draft EIS/EIR Appendix D5 Table D5-5 shows several years of data for the San Bernardino ring-necked snake for the Ballona Reserve, with one observation in central Area B in 2011. Draft EIS/EIR Appendix D12 also states that San Bernardino ring-necked snake was "Confirmed present. Observed in central Area B during year 2 Baseline Assessment Program (Johnston et al.2012)." See Response AS5-32 for more information.

As discussed in Draft EIS/EIR Appendix B8 Section 3.2 under the heading "Estuarine Wetlands," [t]he animals of the higher elevations of the transition zone are primarily terrestrial species. These include various snakes, lizards, small mammals and birds." It is expected that the marsh and marsh high elevation, non-tidal wetlands, upland areas would also provide suitable habitat for San Bernardino ring-necked snake as well post-restoration. Appendix B, *Habitat Descriptions for Restoration Alternatives*, of the 2008 Ballona Wetlands Feasibility Report discusses characteristic snake species for the "High Marsh Transition Zone (including Euryhaline and Hyperhaline Habitats)" and "Grasslands (= DFG Non-native Herbaceous Vegetation)" post-restoration habitats, which would include San Bernardino ring-necked snake.

Draft EIS/EIR Figure 2-1 provides a map of post-restoration habitats after Alternative 1 Phase 2. As described above and in Draft EIS/EIR Appendix B8, areas restored to high marsh transition, upland, and grasslands would include various reptile target species including habitat for San Bernardino ring-necked snake. The habitat requirements for San Bernardino ring-necked snake are described in Draft EIS/EIR Section 3.4.2.2, which provides "[e]levation range for the species as a whole is from sea level to about 7,000 feet (2,100 m). Prefers moist, open, rocky areas within valley-foothill, mixed chaparral, and annual grassland habitats where it preys on salamanders, frogs, lizards, snakes, and earthworms." Draft EIS/EIR Section 3.4.2.2 also explains (under the heading "Nonlisted Special-Status Reptiles and Amphibians") that the "San Bernardino ring-necked snake occurs in open, rocky areas often associated with moist microhabitats near intermittent streams. It avoids moving through open or barren areas by restricting movements to areas of surface litter or herbaceous vegetation (CDFW 2014)."

While the levees would be designed in accordance with U. S. Army Corps design requirements (see Comment and Response O15-61), it is expected that some portions would provide foraging, prey base and other functions for San Bernardino ring-necked snake. As described in Draft EIS/EIR Section 3.4.6.1 in the context of Impact 1-BIO-1h, "With the Project, portions of the Ballona Reserve that do not currently support ring-necked snakes would be enhanced and would provide long-term habitat benefits to this species. During Phase 2, 8.1 acres of suitable habitat would be created through construction of the West Area B levee. The result would be a reduction in the area of potentially suitable habitat by 47.9 acres between both phases. Concurrently, approximately 200 acres of 'invasive monoculture' habitat would be enhanced and made available to ring-necked snakes. During each phase, direct mortality or injury to this species could occur during grading and other ground-disturbing activities. Following the application of Project Design Features BIO-1 (WEAP) and BIO-2 (Limit of Disturbance), which would reduce impacts to individual snakes, remaining potentially significant impacts related to the incidental harm to individual snakes would be reduced to less than significant with implementation of Mitigation Measure BIO-1b-ii (Biological Monitoring)." CDFW believes that the restoration of 200 acres of invasive monoculture to suitable habitat for the loss of 56 acres within the Ballona Reserve, as well as the levee areas, would adequately offset impacts from habitat loss to this species.

O15-104 See General Response 5, *Biological Resources*, regarding Belding's savannah sparrow (Final EIR Section 2.2.5.4). Regarding restoration "target species," see Response O15-56. See also Draft EIS/EIR section 1.2.2 differentiating the proposed restoration from development projects.

O15-105 See Response O15-20 regarding California gnatcatcher.

The Draft EIS/EIR addresses wildlife connectivity and movement in Section 3.4. Section 3.4.2.2 under the heading "Wildlife Movement Corridors" states, "The Ballona Reserve is regionally important as a stopover site for both resident and migratory birds. Numerous resident species such as coastal California gnatcatcher and Cooper's hawk have been observed foraging onsite, while a number of birds including burrowing owl and western snowy plover have been observed overwintering. The state of California, including the Ballona Reserve, is located within the Pacific Flyway, a major north-south flyway for migratory birds in America, extending from Alaska to Patagonia. Each year at least a billion birds migrate along the Pacific Flyway (Audubon 2016). During early spring months, flocks of migratory birds such as elegant terns, Caspian terns, and black-bellied plovers are regularly observed roosting on the salt pan habitats in Area B. During the late summer, several species of sandpiper and plover that arrive in southern California from breeding grounds in Canada and Alaska occasionally make use of Area B tidal channels and salt pan subject to tidal inundation."

The Draft EIS/EIR analyzes impacts to wildlife connectivity in Section 3.4.6 in the context of Impact 1-BIO-4, which acknowledges, "the Project Site facilitates movement of resident and migratory birds within the Pacific Flyway." Further, "Following restoration, no direct or indirect impacts to wildlife corridors or wildlife movement would be expected. Alternative 1 would improve the value of the Ballona Reserve as a stopover site for migratory birds by improving both wetland and upland habitat quality and improving the resiliency of roosting habitat to sea-level rise. This would result in a beneficial effect on wildlife movement and migratory corridors."

Regarding future upland plantings, the proposed concept for restoration of Area C is described in Draft EIS/EIR Section 2.2.2.1 and in Appendix A of Draft EIS/EIR Appendix B3, which identifies a potential plant palette for wetland and upland restoration areas. Appendix B3 further discusses upland habitats and provides, "[e]xisting disturbed uplands would be preserved and their biota enhanced through the removal of exotic plant species and planting of native coastal sage scrub and native grassland species. Coastal sage scrub habitat (CSS) would be enhanced through planting of species such as coastal sagebrush (*Artemisia californica*), California buckwheat (*Eriogonum fasciculatum*), deerweed (*Lotus scoparius*), sage species (*Salvia* spp.) and lemonadeberry (*Rhus integrifolia*). Planting of these vascular plant species would, in turn, provide nesting and foraging habitat for a number of migratory and non-migratory terrestrial passerine bird species, including the federally listed threatened coastal California gnatcatcher (*Polioptila californica californica*), towhees (*Pipilo* spp.), wrens (*Troglodytes* spp.), and finches (*Carduelis* spp.)." See also Response O15-59.

Draft EIS/EIR Appendix B8 provides a list of habitat categories and types for each targeted restored habitat, including "upland habitats (Habitat Category V)" with descriptions of dominant and associated plants, characteristic animals, ecosystem functions, recovery opportunities and other elements. The description for "Coastal Scrub (including Coastal Bluff Scrub)" provides that, "[a] variety of terrestrial animals, including amphibians, reptiles, mammals and birds are supported by coastal scrub habitat. For instance, Coastal Sage Scrub is the preferred breeding habitat of the coastal California Gnatcatcher (*Polioptila californica californica*)" and under "Recovery opportunities" identifies the California gnatcatcher.

O15-106 Contrary to this comment, the Draft EIS/EIR does address California horned lark. See Response O15-21. See also Draft EIS/EIR Appendix D12, which addresses California horned lark and notes that this "small bird breeds in bare and short-grass areas in open grassland, desert washes, wetland edges, above tree line in mountains, along dirt roads and other disturbed areas, and even in recently burned areas. It is well-adapted to certain types of human disturbance, such as agriculture and cattle grazing, though it cannot tolerate intensive activity at the nest site, which is located directly on the ground" and concludes under "Likelihood of Occurrence" that it is "[l]ess than reasonable as breeder" and [l]ess than reasonable as a forager as this species is considered extirpated as a perennial resident and now a casual falls transient." Draft

EIS/EIR Section 3.4.5 describes that, "potential adverse impacts and beneficial effects on species and natural communities were evaluated according to the likelihood of occurrence while taking into account the biology and/or life history of each resource potentially impacted by the Project alternatives. Several considerations were made in determining the potential for each considered special-status species to occur on the Project Site, and the distribution of potential habitat on the site. In cases where the species is known or expected to occur on-site, the analysis undertook a conservative approach in identifying the extent of potential habitat on the site (i.e., evaluated the maximum possible impact area)." Because this species has a less than reasonable likelihood of occurrence as a breeder and forager, it was not carried forward for further analysis in Draft EIS/EIR Section 3.4.

O15-107 See Response O15-21. While the levees would be designed in accordance with the Corps' design requirements, it is expected that some portions would provide foraging, prey base and other functions for burrowing owl. See Response O15-61 and Response O15-103 regarding levee burrows and vegetation.

Regarding post-restoration mapping of habitats, see Response O15-59 and Response O15-60. Draft EIS/EIR Appendix B3 Section 3.2 discusses upland habitats and provides, "[n]ative grassland habitat would be created from disturbed upland habitat through the removal of exotics and planting with a variety of native grasses and annual forbs. Examples include purple needlegrass (*Nassella pulchra*), nodding needlegrass (*N. cernua*), bluegrass (native *Poa* spp.) goldenstar (*Bloomeria* spp.), brodiaea (*Brodiaea* spp.), clarkia (*Clarkia* spp.) and valley tassels (*Castilleja attenuata*). Populations of these vascular plant species would enhance nesting and foraging habitat for passerine birds such as western meadowlark (*Sternella neglecta*) and grasshopper sparrow (*Ammodramus savannarum*), and also wading birds such as killdeer (*Charadrius vociferous*) and owls, including burrowing owl (*Athene cunicularia*). Grasslands are important foraging grounds for raptors including red-tailed hawk (*Buteo jamaicensis*) and white-tailed kite (*Elanus leucurus*). Like coastal sage scrub, this upland habitat would increase the diversity of flowering plants which, in turn, would support a variety of insects." See also Response AS5-26. Regarding analysis of impacts from proposed rodenticide use, see Response O15-93.

Draft EIS/EIR Section 3.4.6 under the heading "Special-Status Birds" in the context of Impact 1-BIO-1l analyzes potential impacts to burrowing owl from recreational use of the Ballona Reserve and discloses that "[b]urrowing owls could be indirectly impacted by restoration activities due to noise, vibration, lighting, and increased human activity, and habitat quality could be reduced by the spread of invasive plants. Following the application of Project Design Feature BIO-3 (Habitat Restoration and Monitoring Plan), remaining potential significant indirect impacts could be reduced to a less than-significant level through implementation of Mitigation Measures BIO-1b-iii (Noxious Weed Control Plan) and BIO-1l-i: (Burrowing Owl Surveys)." Burrowing owl will be included in the biological monitoring program that is part of the Habitat Restoration and Monitoring Plan (BIO-3).

O15-108 Regarding the Draft EIS/EIR's analysis of potential impacts to raptors, including nesting raptors, see Responses O15-21, O15-82, and O15-89.

Raptor foraging abilities at the Project Site will be largely retained through the phasing of the Project over time such that large areas of grassland habitat will be available to white-tailed kite, red-shouldered hawk, red-tailed hawk and other raptor species during and following restoration-related construction activities. The replacement of several hundred acres of invasive monoculture stands with annual and perennial grasslands will provide an important improvement to foraging habitat for many raptor species. The availability and quality of habitat on the site will change dramatically with the Project, and while the site may experience an overall lift in raptor foraging habitat quality when restored; the restoration effort may not benefit all raptors equally. The Wolf et al. (2017) article cited by the commenter is interesting, and found that an annual grassland and restored perennial grassland examined by the researcher had a slightly different capacity to support wildlife and raptors.[113] In comparing treatments, it found more wildlife, including raptors, on unrestored sites. The commenter's suggestion that it is necessary to evaluate pre-project mouse and vole densities, and modify the Project to provide more high marsh and transitional areas to increase future mouse and vole densities is interesting and unique, but such a study is not warranted to estimate future raptor use of the site, and is beyond the scale of what is required under CEQA. Under CEQA, projects are not required to balance current and future raptor foraging capacity. Following project implementation, the site will continue support small mammals such as mice and voles, which are an important foraging species for many raptors including white-tailed kite, and is expected to support many of the same raptor species that presently use the site.

O15-109 See Response O15-61. The Draft EIS/EIR analyzes impacts to special-status upland birds in Section 3.4.6 in the context of Impact 1-BIO-1n and concludes that during restoration, "[p]otential foraging habitat would be temporarily impacted; however, ground-disturbing activities would proceed in stages, leaving a majority (74 percent) of upland areas available for foraging throughout the restoration process." Post-restoration, the Draft EIS/EIR concludes that the Project "would result in the on-site enhancement of temporarily impacted habitat, and no direct impacts to special-status upland birds or associated habitat would be anticipated. There would be no net loss of nesting or foraging habitat following restoration. Although a portion of suitable upland foraging habitat would be converted to tidal marsh, the marsh also would provide suitable foraging habitat for these species, and thus no net loss of foraging habitat is expected. Enhancement of existing non-native habitats within the site also is likely to expand foraging and potentially nesting habitat for these species resulting in a potential net beneficial effect."

Regarding maps and information on post-restoration vegetation, see Responses O15-27, O15-59, and O15-60. This comment provides no evidence that

[113] Wolf, K.M., M.A. Whalen, R.P. Bourbour, and R.A. Baldwin. 2017. Rodent, snake and raptor use of restored native perennial grasslands is lower than use of unrestored exotic annual grasslands. Journal of Applied Ecology 0:1-12.

implementation of the proposed restoration at the Ballona Reserve would result in extirpation of certain grassland species or reduce ranges in Los Angeles County. In contrast, the Project is expected to result in no net loss of nesting or foraging habitat following restoration as described in Section 3.4.6 in the context of Impact 1-BIO-1n. See also Draft EIS/EIR Table ES-2, which presents the habitat acreages created and enhanced for each alternative compared to existing conditions.

In addition, comparison of Table 3 provided in this comment and Draft EIS/EIR Table 2-3 shows that habitats, for all the upland bird species (except for "beach" and western snowy plover) would be provided at the Ballona Reserve post-restoration. The Habitat Management and Monitoring Plan that is a feature of the Project would annually monitor, track and report on vegetation for 10 years post-restoration as described in Draft EIS/EIR Section 2.2.2.6. As part of the Habitat Restoration and Monitoring Plan (BIO-3), special-status upland birds would be included in surveys and tracked overtime to evaluate biodiversity and refine adaptive management strategies to ensure there is sufficient area with suitable habitat to actually support these species.

CDFW believes that the retaining and restoring 195 acres of the 271 total "upland" acres of existing upland habitat within the Ballona Reserve would retain substantial areas for use by special-status upland bird species, adequately offset impacts to foraging from 76 acres of habitat loss, and would not result in a reduction in grassland species range or extirpation of species. CDFW acknowledges that the commenter may reach different conclusions based on the evidence presented, but this difference of opinion does not indicate that the EIR is inadequate or inaccurate. Nonetheless, this comment is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.

Draft EIS/EIR Section 3.4.2.2 discloses that "[t]he loggerhead shrike no longer breeds in the Project Site, but is an uncommon summer, fall, and winter migrant (June to March). Shrikes last successfully nested at the Ballona Reserve in the mid-1990s. Aggression or courtship displays were observed at the eastern end of the Playa Vista property on June 14, 1998, and another was observed in April 2000, but no evidence of breeding was documented (Cooper 2006)." The Draft EIS/EIR analyzes impacts to loggerhead shrike in Section 3.4.6 in the context of Impact 1-BIO-1n. Loggerhead shrike also is included in the restoration plan. Appendix B, *Habitat Descriptions for Restoration Alternatives,* Section III, *Habitat Descriptions,* in Draft EIS/EIR Appendix B8 provides a list of habitat categories and types for each targeted restored habitat with descriptions of dominant and associated plants, characteristic animals, ecosystem functions, recovery opportunities and other elements. The description for "Coastal Scrub (including Coastal Bluff Scrub)" identifies loggerhead shrike as a characteristic animal and recovery opportunity species. Loggerhead shrike would be included in the biological monitoring program that is part of the Habitat Restoration and Monitoring Plan (BIO-3).

O15-110 The Draft EIS/EIR analyzes impacts to special-status shorebirds in Section 3.4.6 in the context of Impact 1-BIO-1o and concludes that "[n]o direct impacts to special-status shorebirds or associated habitat would be anticipated during post-restoration. Following full implementation, Alternative 1 would increase the amount and quality of shorebird habitat by restoring tidal influence and by creating contiguous salt pan habitat by removing roads within the existing, large salt pan in West Area B (see Table 3.4-11). There still would be a net increase of over 13 acres in the total area of suitable habitat after completion of Phase 2 as compared to existing conditions, which would be a beneficial effect (see Table 3.4-11). Further, the application of Project Design Feature BIO-3 (Habitat Restoration and Monitoring Plan) would require habitat mitigation and monitoring to create and restore sensitive habitats that support special-status shorebirds. In addition, upon completion of restoration activities, the existing salt pan habitat would be more resistant to inundation under sea-level rise scenarios." Draft EIS/EIR Table 3.4-11 shows that a net increase of 13.5 acres of shorebird habitat would occur post-restoration.

In addition, comparison of Table 4 provided in this comment and Draft EIS/EIR Table 2-3 shows that habitats for all the listed shorebird species (except for "beach") would be provided at the Ballona Reserve post-restoration. The Habitat Management and Monitoring Plan (BIO-3) that is a feature of the project would annually monitor, track and report on vegetation for 10 years post-restoration as described in Draft EIS/EIR Section 2.2.2.6. As part of the Habitat Restoration and Monitoring Plan (BIO-3) for the proposed restoration, special-status shorebirds would be included in surveys and tracked overtime to evaluate biodiversity and refine adaptive management strategies to ensure there is sufficient area with suitable habitat to actually support these species.

CDFW acknowledges that the commenter may desire the inclusion of additional information about shorebird species and that it always is possible to add more, this comment provides no basis to conclude that the EIR is inadequate or inaccurate, or that the inclusion of additional information would improve agency decision-making. Nonetheless, this comment is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.

O15-111 The Draft EIS/EIR analyzes impacts to special-status marsh birds in Section 3.4.6 in the context of Impact 1-BIO-1p. It concludes that "[n]o direct impacts to special-status marsh birds or associated habitat would be anticipated during post-restoration. Following full implementation, Alternative 1 would increase the amount and quality of marsh habitats by restoring tidal influence, which would be a beneficial effect. There would be a net increase of 38.6 acres in the total area of marsh habitats after completion of Phase 2 as compared to existing conditions (see Table 3.4-12). Further, the application of Project Design Feature BIO-3 (Habitat Restoration and Monitoring Plan) would require habitat mitigation and monitoring to create and restore sensitive habitats that support special-status marsh birds." Draft EIS/EIR Table 3.4-12 shows that a net increase of 38.6 acres of marsh bird habitat would occur post-restoration. In

addition, Draft EIS/EIR Table 2-3 shows that there are approximately 6.4 acres of existing coastal brackish marsh at the Ballona Reserve, and, post-restoration, there would be 11.7 total acres.

CDFW believes the proposed combination of habitats estimated in Draft EIS/EIR Table 2-3, including coastal brackish marsh, mid-marsh, low-marsh, open water and tidal habitats, would provide the most benefit to the widest range of special-status marsh birds while still providing a substantial increase and net benefit to species that prefer coastal brackish marsh habitat. CDFW acknowledges that the commenter may reach a different conclusion based on the evidence provided; however, this difference of opinion does not indicate that the EIR is inadequate or inaccurate. This comment and the commenter's perspective are included part of the record of information that will be considered as part of CDFW's decision-making process.

A comparison of Table 5 provided in this comment and Draft EIS/EIR Table 2-3 shows that habitats for all the listed marsh bird species would be provided at the Ballona Reserve post-restoration. The Habitat Management and Monitoring Plan (BIO-3) that is a feature of the project would annually monitor, track and report on vegetation for 10 years post-restoration as described in Draft EIS/EIR Section 2.2.2.6. As part of the Habitat Restoration and Monitoring Plan (BIO-3), special-status marsh birds would be included in surveys and tracked overtime to evaluate biodiversity and refine adaptive management strategies to ensure there is sufficient area with suitable habitat to actually support these species.

Contrary to this comment, the proposed design for the Project does consider freshwater sources. Draft EIS/EIR Section 2.2.2.1 under the heading "South and Southeast Area B" states the range of habitats that could be managed for include "[b]rackish marsh, primarily in Southeast Area B, supported by freshwater discharge from the Freshwater Marsh." Further, "[i]n the eastern-most portion of Southeast Area B, brackish marsh would be established by increasing and managing the portion of the Freshwater Marsh outflow that flows into Southeast Area B via new/modified water-control structures. A new berm and water control structure (i.e., weirs) between brackish marsh and managed tidal wetland to the west would allow for management of freshwater retention within the brackish marsh and saline tidal flows to the brackish marsh. These features would provide the ability to manage brackish marsh conditions including inflow, retention, and outflow of freshwater and saline tidal flows." In addition, under the heading "South and Southeast Area B," this section of the Draft EIS/EIR also describes that "[t]he restoration of South and Southeast Area B would include construction of the three new water control structures described in the following section and modifications to the existing Freshwater Marsh water-control structures to provide water sources directly from Ballona Creek and from the Playa Vista Development Freshwater Marsh to create brackish marsh habitat" and goes on to provide specific detail for the Freshwater Marsh (Structures 5, 6, and 8 in Figure 2-4) and Brackish Marsh (Structure 7 in Figure 2-4).

O15-112 See Responses O15-21, O15-56, and O15-85 regarding potential impacts to special-status mammals, including the south coast marsh vole and southern California salt marsh shrew. CDFW acknowledges that the commenter may prefer a different mitigation approach than the one proposed in the Draft EIS/EIR. However, this difference of opinion does not indicate that the EIR is inadequate or inaccurate. This comment and the commenter's perspective are included part of the record of information that will be considered as part of CDFW's decision-making process.

Draft EIS/EIR Section 3.4.2.2 discusses special-status mammals, including the 13 special-status mammal species reported in the Project region. Draft EIS/EIR Appendix D12 identifies each of these mammal species along with regulatory status and species requirements, and evaluates the potential for the species to occur on the Project Site. Of these, only the South coast marsh vole and Southern California salt marsh shrew are known as resident species in the Ballona Reserve. The Pacific pocket mouse and Townsend's big-eared bat are reported near, but not on, the Project Site.

Regarding the south coast marsh vole, Draft EIS/EIR Section 3.4.2.2 states, "The species was captured during small mammal surveys in marsh habitats containing saltgrass. It was recorded in Area A and Area B in 1981, 1991, 1996, and 2001. Subsequently, it was captured only in Area B in 2010 and visually observed in salt marsh habitat in Area B in 2011, despite survey efforts in Areas A and C; therefore, this species is considered present within the Project Site and assumed to occupy Area B (Johnston et al. 2011, 2012)." Regarding southern California salt marsh shrew, Draft EIS/EIS Section 3.4.2.2 describes that "[t]he species was last captured within the Project Site in Area B in 1991. Although recent trapping efforts in the Ballona Reserve have not yielded additional captures, suitable habitat remains present and as targeted surveys for this species were not conducted, it remains likely to be present on site (Johnston et al. 2011, 2012)." Draft EIS/EIR Figure 3.4-16 shows the distribution of potentially suitable habitat for Southern California salt marsh shrew on the Project Site.

The information in the Draft EIS/EIR on special-status small mammals, including California salt marsh shrew and south coast marsh vole, is based on several years of surveys within Ballona Reserve as further described in Draft EIS/EIR Appendix D10 and Appendix D12. Draft EIS/EIR Appendix D5 Table D5-7, Mammal Species Documented as Occurring in the Study Area, also summarizes the multiple years that small mammal species were observed within the Ballona Reserve.

Draft EIS/EIR Section 3.4.6 in the context of Impact 1-BIO-1q analyzes impacts to special-status mammals and concludes that following the Phase 2 restoration effort, the Project would expand the total area of suitable habitat for these species in the Ballona Reserve and direct and indirect impacts to these species would be less than significant with Project Design Feature BIO-1 (WEAP) and Mitigation Measures BIO-1b-ii (Biological Monitoring), BIO-1b-iii (Noxious Weed Control Plan), BIO-2 (Limit of Disturbance) and BIO-3 (Habitat Restoration and Monitoring

Plan). Following full implementation, Alternative 1 would increase the amount and quality of habitats for salt marsh shrew and south coast marsh vole by restoring tidal influence, which would be a beneficial effect. There would be a substantial net increase of 73.3 acres of suitable habitat, as compared to existing conditions (see Draft EIS/EIR Table 3.4-13, Summary of Changes in the Extent of Southern California Salt Marsh Shrew and South Coast Marsh Vole Habitat as a Result of Alternative 1). Further, the application of Project Design Features BIO-3 (Habitat Restoration and Monitoring Plan) would require habitat monitoring and adaptive management to ensure the creation and restoration of sensitive habitats that support Southern California salt marsh shrew or South Coast marsh vole." The information provided in Friesen et al. 1981 as identified in this comment is acknowledged and is now part of the record of information that will be considered as part of the biological monitoring program for these species that is included as part of the Habitat Restoration and Monitoring Plan (BIO-3).

For general information on post-restoration habitat mapping and acreages, see Response O15-50 and Response O15-60. Regarding restoration "target species," see Response O15-56.

Regarding the association of food sources for the south coast marsh voles, see Draft EIS/EIR Section 3.4.2.2, which describes that the south coast marsh vole that "was captured during small mammal surveys in marsh habitats containing saltgrass." In addition, Alternative 1 accounts for south coast marsh vole, salt marsh shrew and for saltgrass habitat in the proposed restoration program. Draft EIS/EIR Appendix B8 Appendix B Section III, *Habitat Descriptions*, lists habitat categories and types for each targeted restored habitat with descriptions of dominant and associated plants, characteristic animals, ecosystem functions, recovery opportunities and other elements. The description for "Transitional Emergent Wetlands (delta distributaries and margins of estuaries)" identifies saltgrass as a "dominant/characteristic plant," small mammals including voles as "characteristic animals," and salt marsh shrew as a "recovery opportunity" species. The description for "Grassland" provides consistent information.

In terms of the appropriateness of including relocation efforts in the Project to minimize direct impacts to terrestrial species, CDFW believes the use of relocation as a last resort to avoid and minimize direct impacts to species is prudent, feasible and appropriate. See, e.g., Mitigation Measure BIO-1b-ii in Draft EIS/EIR Section 3.4.6, which prioritizes avoidance to the extent practicable. Any relocation efforts would include assessments to determine areas within the Ballona Reserve that would be most appropriate to receive species, in this case salt marsh shrew or south coast marsh vole. See Response O15-102 regarding silvery legless lizard.

While it may be true that certain small and elusive species (e.g., salt marsh shrew) may not able to be located before construction, that is not valid reason to avoid making a good faith attempt to detect species prior to implementing restoration

activities by providing a biological monitor to relocate species. In addition, as described above BIO-1b-ii requires biological monitoring for the duration of the Project to avoid disturbance of habitat and special-status species within and adjacent to work areas, which would help to relocate species that may initially go undetected during pre-construction monitoring.

O15-113 Contrary to the suggestion in this comment, the potential impacts of Project lighting to species is analyzed in Draft EIS/EIR Section 3.4. See, e.g., Section 3.4.6, which expressly includes lighting in the examples accompanying the definition of indirect impacts ("Indirect impacts could occur both during and following restoration. For example, restoration could result in … lighting. … Each of these impacts could indirectly impact biological resources by disrupting or interfering with wildlife behavior and natural ecosystem processes. … Post-restoration indirect impacts also could occur as a result of operations activities and increased human activity, which could result in … lighting. …"). The analysis of potential impacts to least Bell's vireo (Impact 1-BIO-1k), for example, states: "Additionally, ground vibration and lighting from parking structures or ball fields, and increased human activity from trail use can affect the quality of the habitat for nesting and foraging." See also the analysis of potential indirect impacts to San Bernardino ring-necked snakes (Impact 1-BIO-1h), special-status birds (Impact 1-BIO-1i), burrowing owl (Impact 1-BIO-1l), nesting raptors (Impact 1-BIO-1m), special-status upland birds (Impact 1-BIO-1n), special-status shorebirds (Impact 1-BIO-1o), special-status marsh birds (Impact 1-BIO-1p), and Southern California salt marsh shrew and South Coast marsh vole (Impact 1-BIO-1q).

As stated repeatedly in the Draft EIS/EIR, the Ballona Reserve would only be open to the public from sunrise to sunset (14 CCR 550[c][2][C]). Exterior lighting at the proposed three story parking structure and the West Culver Parking Lot would provide only enough illumination for security purposes and would be focused away from adjacent, sensitive habitats and residences (see Mitigation Measure AE-4b). Any bridge lighting would be similar to the lighting provided along the existing vehicular bridges. Trail lighting is not present within the Ballona Reserve and is not proposed for installation. Further, because gates to parking lots would be locked at nighttime, it is not expected that vehicle use of the parking lots be a significant source of nighttime illumination within the Ballona Reserve.

As drafted (with emphasis added), Mitigation Measure AE-4b would require the development and implementation of a lighting plan that requires all exterior lighting to be "directed downward **and focused away from … habitats** to encourage way-finding and provide security and safety for individuals walking to and from parking areas." Balancing species needs and public safety considerations, CDFW finds that the mitigation measure as drafted addresses the commenter's concern about the potential for night lighting to shine onto habitat, and so declines to revise the Draft EIS/EIR in response to this comment.

O15-114 See Response O15-21 regarding the potential impacts of noise generally. Contrary to this comment, the Draft EIS/EIR does address potential impacts of noise to wildlife. See, e.g., Section 3.4.2.2, *Environmental Setting*, in Section 3.4, *Biological Resources*, which expressly identifies "tolerably low levels of disturbance and mortality risk (e.g., limited night lighting and noise, low vehicular traffic levels)" as common requirements for wildlife movement corridors. See also Draft EIS/EIR Section 3.4.6, which expressly defines "indirect impact" to include noise whether during or following restoration activities. Further, "many birds are sensitive to indirect impacts related to equipment vehicle movement and increased noise that are often associated with project implementation. CDFW has not adopted formal guidance for determining potential indirect impacts to birds, but generally considers a distance of 250 feet for passerine birds and 500 feet for raptors as the area in which activities could affect nesting birds." The use of professional sound engineers and production software, as the commenter recommends, to identify potential noise impacts to wildlife would be highly atypical for a NEPA/CEQA wildlife impact analysis on a project of the type and scale of this project. As the trustee agency for fish and wildlife resources and as the manager of the Ballona Reserve, CDFW instead relies on the use of varying-sized buffers around active nests to avoid and minimize noise impacts to nesting birds.

The noise analysis in the Draft EIS/EIR addresses impacts to wildlife in several locations, most notably for Belding's Savannah sparrow (Impact 1-BIO-1i: Unless mitigated, "breeding success could be indirectly impacted by restoration activities due to noise, vibration, lighting, and increased human activity"), California gnatcatcher (Impact 1-BIO-1j: Unless mitigated, nesting success "could be impacted indirectly though noise or visual disturbance"), Least Bell's vireo (Impact 1-BIO-1k: Unless mitigated, noise could impact nesting success, pair formation, territory defense, and communication regarding food and danger responses), burrowing owl (Impact 1-BIO-1l: Noise could impact burrowing owl, including breeding or wintering burrowing owls), nesting raptors (Impact 1-BIO-1m: Noise could impact nesting success), special-status upland birds (Impact 1-BIO-1n: Noise could impact breeding success), special-status marsh birds (Impact 1-BIO-1p: Noise could impact breeding success), and migratory wildlife movement (Impact 1-BIO-4: Noise could impact the movement of fish and marine mammals). The mitigation approach for each of these species is clearly identified in Mitigation Measure BIO-1i-i. Generally, if work that causes noise or vibration is performed during the period when sensitive receptors (i.e., nesting birds) are present, a focused survey is required to identify potential species' presence. If birds are present, CDFW-mandated no-work buffers of 250- to 500 feet will be established around sensitive areas to avoid impacts.

CDFW acknowledges the commenter's opinion that noise analysis does not employ "generally accepted" techniques for an analysis of noise impacts on wildlife and other sensitive receptors; however, contrary to the suggestion in this comment, the cumulative analysis does account for the many noise-generating aspects of the restoration, and does use generally accepted techniques. That different methodologies

could have been used does not indicate that the ones employed in the Draft EIS/EIR are either inadequate or inaccurate.

No potential cumulative impacts to nesting birds or other wildlife were identified related to construction or operational noise. Nesting birds are the only identified sensitive receptor for noise on the Project Site. None of the 46 future projects listed in Table 3.1-1 would contribute significant noise on the Project Site, and if avian nesting habitat were present on these other sites they would be subject to preconstruction avian surveys and nest buffers of 250 feet to 500 feet, similar to those identified for the Project. As such, no cumulative impacts to nesting birds or other wildlife would occur from the Project.

Regarding cumulative impacts to human receptors, see Draft EIS/EIR Section 3.10.7, which considers the potential for the incremental noise impacts of other projects located within 0.25 miles of the Project Site to combine with the incremental noise impact of the proposed project to cause or contribute to a significant cumulative impact. As described in Draft EIS/EIR Section 3.10.5, noise levels were estimated using the FHWA's Roadway Construction Noise Model (RCNM) and construction equipment information provided by PSOMAS, the Project Engineer, and provided in Appendix B4. Potential noise levels were identified for the nearest sensitive receptors located off-site based on their respective distances from the Project Site. Over the course of the Project's implementation period, there would be numerous activities performed in different portions of the Project Site by various construction equipment mixes. Noise at any specific off-site receptor would be dominated by the closest and loudest equipment. For the purposes of this analysis, the construction equipment mixes for different activities operating closest to each identified off-site receptor were assessed to obtain a range of noise levels that would be experienced by the receptors. To present a conservative impact analysis, the estimated noise levels for each construction equipment mix were calculated for a scenario in which five representative pieces of construction equipment from each mix were assumed to be operating simultaneously and located at the same work area nearest to the affected receptors. These assumptions are considered conservative because construction activities and equipment typically would be spread throughout the active work area within the Project Site and could be located further away from the affected receptors."

As described in Draft EIS/EIR Section 3.10.5.2, *Off-site Roadway Noise Levels*, "[p]roject-related off-site haul truck noise impacts were analyzed using the FHWA-RD-77-108 model acoustic algorithms, which calculate the average noise level at specific locations based on traffic volumes, vehicle type mix, average speeds, and site environmental conditions. For this analysis, the maximum daily haul truck trips that could occur during the proposed restoration are assessed. Restoration-related off-site truck volumes were obtained from the Project's traffic report (Raju Associates 2015; Appendix H). Noise impacts were determined by comparing the predicted traffic noise levels with that of the existing (baseline) ambient traffic noise levels along the Project's haul route. With respect to post-restoration activities, roadway noise levels

were calculated for selected study roadway segments near the Project Site based on information provided in the traffic report for the Project (Appendix H). The roadway segments selected for analysis are expected to be most directly impacted by Project-related traffic because they are nearest to the Project Site and are also adjacent to noise sensitive receptors. The noise levels were calculated using the FHWARD-77-108 model acoustic algorithms and post-restoration-related traffic volumes obtained from the Project's traffic report."

February 5, 2018

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Re: Comments on the Draft Environmental Impact Statement/Environmental Impact Report for the Ballona Wetlands Restoration Project, **Expressing Support for Alternative 1** (with modifications)

Dear Mr. Brody and Mr. Swenson,

Los Angeles Waterkeeper (LAW) submits the following comments on the *Draft Environmental Impact Statement/Environmental Impact Report for Ballona Wetlands Restoration Project* ("Draft EIR/EIS" or "Restoration Project"). We commend the thoroughness of your environmental review process, including your robust alternatives analysis, and appreciate the opportunity to provide comments on the Draft EIR/EIS. We have also submitted a joint comment letter with the Wetlands Restoration Principles Coalition Steering Committee, which includes Heal the Bay, Friends of Ballona Wetlands, South Bay Surfrider Foundation and The Trust for Public Land. We are submitting these additional comments to add greater nuance to our perspective.

LAW is an environmental organization with over 3,000 members, dedicated to safeguarding Los Angeles County's inland and coastal waters by enforcing laws and empowering communities. We find that the restoration and reopening of the Ballona Wetlands is of critical importance. It is unacceptable that there has been an almost complete lack of public access to the wetlands since the state of California purchased them in 2003, particularly because the California Constitution guarantees access to waters of California.[1] Our L.A. community members from near and far should not have to experience the wetlands by peering through a chain-link fence. At the same time, we strongly believe that all people deserve access to wetlands that are restored to the most robust standards, and there is a need to take restoration action now. With all of this in mind, **we support the implementation of Alternative 1 (phases 1 and 2) with modifications.**

O16-1

We support Alternative 1, as it represents the best step forward toward addressing the restoration needs of the Ballona Wetlands. The Environmental Protection Agency (EPA) writes "that all wetland habitats within the 626 Ballona Wetlands Ecological Reserve are impaired."[2] Meanwhile, the Ballona Wetlands are some of the last remaining wetlands in California, and they are currently on the Clean

O16-2

[1] https://law.justia.com/constitution/california/article_10.html
[2] https://www3.epa.gov/region9/water/tmdl/ballona/BallonaCreekWetlandsTMDL-final.pdf

Water Act Section 303(d) list of impaired waterbodies for "habitat alteration, hydromodification, reduced tidal flushing, and exotic vegetation."[3] O16-2 cont.

The designated beneficial uses for the Ballona Wetlands from the Water Quality Control Plan for the Los Angeles Region (The Basin Plan) include:[4] O16-3

- Estuarine Habitat
- Migration of Aquatic Organisms
- Rare, Threatened or Endangered Species
- Water Contact Recreation
- Non-Contact Water Recreation
- Spawning, Reproduction and/or Early Development
- Wetland Habitat
- Wildlife Habitat

The Ballona Wetlands are not currently meeting their beneficial uses due to ongoing degradation. Two of the primary reasons that the EPA has recognized for this degradation are the legacy of the heavy sediment deposition on the wetlands, and the construction of concrete levees that disconnected the creek from its historic floodplain, which have negatively impacted species diversity, habitat health and water quality.[5] Out of the four alternatives presented, Alternative 1 takes the most extensive steps toward reversing this legacy of environmental degradation, **treating the wetlands and creek in the most interconnected way with a strong emphasis on public access to healthier ecosystems.** O16-4

<u>In order to meet the designated beneficial uses of the wetlands, we need to remove the concrete levees:</u> Alternative 1 is the alternative that removes the greatest amount of concrete levees along Ballona Creek in the project areas, thus restoring tidal flushing, improving water quality, creating fish spawning habitat -- including for the federally-endangered steelhead trout (Page 3.4-37) -- and reconnecting the creek to its historic floodplain. While Alternative 2 shares many of the benefits of Alternative 1, it does not address the need to remove concrete along as much of the Ballona Creek project site area and maintains West Area B's tide gates, even though they are predicted to fail between 2030 and 2050 (Page ES-12). The failure of the tide gates will lead to their permanent closure. Alternative 1 thus goes the farthest to address the need to reconnect the creek and its floodplain. It also goes the farthest to prepare for sea level rise and additional climate change impacts through adaptive management, introducing saltwater in planned phases, rather than waiting for its likely intrusion in later years (Page 3.4-100). O16-5

Perhaps most notably, choosing Alternative 1 would mean setting a precedent for removing concrete levees along our urban waterways and reconnecting waterways and floodplains. O16-6

<u>In order to meet the designated beneficial uses of the wetlands, we need to remove excess and toxic sediment with care:</u> The Ballona Wetlands are on the state's Section 303(d) list of impaired water bodies O16-7

[3] https://www3.epa.gov/region9/water/tmdl/ballona/BallonaCreekWetlandsTMDL-final.pdf
[4] https://www.waterboards.ca.gov/board_info/agendas/2002/february/0206-05.doc
[5] https://www3.epa.gov/region9/water/tmdl/ballona/BallonaCreekWetlandsTMDL-final.pdf

due to excess sediment and sediment toxicity (Page 3.9-8), and Alternative 1 goes the farthest to address these impairments. The sediment in the wetlands is largely the result of the legacy of the construction of Marina del Rey and Ballona Creek's concrete levees, which needs to be addressed. The sediments often carry toxic substances, including pesticides, metals and Polycyclic Aromatic Hydrocarbons (PAHs). Addressing sediment would also mean confronting larger pollution concerns. As indicated in the table (below), Alternative 1 would lead to the removal of the highest volume of sediment.

O16-7 cont.

Amount of Sediment Removed by Alternatives 1-4	
Alternative 1	2.4M to 2.43M cubic yards (Table 2-8)
Alternative 2	2.09M cubic yards (Table 2-24)
Alternative 3	1.42M cubic yards (Table 2-28)
Alternative 4	0

<u>In order to satisfy the requirements of the California Constitution, we need to open access to the wetlands (in ways that are in harmony with restoration goals):</u> Alternative 1 proposes the most extensive access opportunities to the wetlands. We strongly believe that visitors should have access to the wetlands in whatever state of health they may be in, but we advocate for a restoration plan that combines the most robust thinking about ecological health and public access, so that the two planning processes can occur in harmony with one another. This is the case with Alternative 1, which proposes the highest amount of access to the wetlands, including 29,000 linear feet of pedestrian-only trails and 19,000 linear feet of pedestrian and bicycle paths (Pages 2-106 and 2-100). There are two beneficial uses of the Ballona Wetlands that relate to recreation (water contact recreation and non-contact water recreation). Alternative 1 would give visitors access to cleaner water and a healthier ecosystem.

O16-8

Alternative 1 also represents the best way forward for the NEPA Lead Agency and the CEQA Lead Agency (collectively, "Lead Agencies") to uphold their duties under the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA).

O16-9

While we support Alternative 1, we propose the following **modifications** to ensure that we reach our restoration and public access goals.

<u>Hydrology and Water Quality: Modifications</u>

LAW believes that Alternative 1 will lead to improvements in hydrology and water quality, although we ask for additional information regarding the connection of the wetlands to watershed-level planning and regulations.

Address more directly how watershed-level water quality improvement projects are compatible with the restoration goals for water quality and sediment loads.

O16-10

We ask that the final Draft EIR/EIS provide more information about how the project design will handle upstream changes, including in terms of the extent of monitoring that will occur. While we recognize that much of the Ballona Creek Watershed is beyond the scope of the restoration project, it is reasonably foreseeable that the timing, scope and overall approach of projects and planning efforts happening upstream to address environmental concerns, including the Ballona Creek Bacteria TMDL

Project and Ballona Creek Enhanced Watershed Management Program, will affect water quality and sediment loading downstream. As noted in the Draft EIR/EIS's Table 3.9-2, there are at least ten pollutants of concern flowing from upstream toward the wetlands from the watershed as a whole[6]. We strongly recommend a cumulative impacts and sensitivity discussion to disclose the impacts, both positive and negative, of upstream projects on the project site, especially given that the Draft EIR/EIS points to how West Area B is currently acting as a sink for bacteria and contaminated sediments (Page 3.9-9). The Draft EIR/EIS often focuses on the upstream watershed impacts as though they are static. For instance, it assesses the scouring impact of stormwater coming from upstream with the current amount of heavy flow (Page 3.9-45). What would the impacts of projects be that would reduce or increase flow rates from upstream? We appreciate the efforts to reconnect the creek and the wetlands, but we would like more information.

O16-10 cont.

TABLE 3.9-2
303(D) POLLUTANTS IN BALLONA CREEK UPSTREAM OF THE PROJECT SITE

Pollutant	Source
Cadmium (sediment)	Point Source, Nonpoint Source
Coliform bacteria	Point Source, Nonpoint Source
Copper, Dissolved	Nonpoint Source
Cyanide	Source Unknown
Lead	Source Unknown
Selenium	Source Unknown
Toxicity	Source Unknown
Trash	Source Unknown
Viruses	Point Source, Nonpoint Source
Zinc	Source Unknown

SOURCE: SWRCB 2010

Address How the Project Relates to TMDL Compliance

We are particularly concerned about ensuring that TMDL compliance deadlines are met in connection with this project. While we realize that the Lead Agencies are not responsible for TMDL compliance, we ask that they share their proposed actions for playing a role in meeting TMDLs based on reasonably foreseeable outcomes. Most notably, the Lead Agencies should work with the Los Angeles Regional Water Quality Control Board to stay up to date on TMDL compliance milestones and set benchmarks to ensure that *the original goals of the TMDL* are achieved. For instance, the Draft EIR/EIS seems to imply that the restoration of tidal habitats may take the place of meeting TMDL sediment load allocation requirements (Page 3.9-28). It also seems to rely on the assumption that the TMDLs will be met outside of the restoration activities. The Draft EIR/EIS states "The compliance date for meeting the SQOs and fish tissue targets under the combined Metals and Toxics TMDLs is January 2021. The anticipated schedule for Alternative 1 includes breaching the levees to Area A and North Area B in 2021 – the same time as the TMDL timeline to meet the sediment quality goals" (Page 3.9-44). However, what would the adaptive management plan be if the Metals and Toxics TMDL is not met by January 2021? We would like to see more evidence to suggest that TMDL compliance is being taken seriously. Please also make sure that Table 3.9-4 is clearer about TMDL deadlines, showing a distinction between compliance deadlines

O16-11

and success. *To be clear, the goals of the EPA TMDL and Draft EIR/EIS are interconnected, but we want to ensure that the project fully takes into consideration regulatory requirements and does not foreclose opportunities to do so.*

O16-11 cont.

Provide more information about the monitoring plan

We appreciate the information provided about monitoring and adaptive management, but we ask for the following information to be folded into a more formal monitoring plan, including:

- The frequency, locations and parameters that the Lead Agencies will monitor before, during and after the restoration processes, with a particular focus on steps between Alternative 1, Phase 1 and Alternative 1, Phase 2.
- The frequency of releasing this information to the public and the formats for doing so. We suggest providing information to the public in more ways than just through annual monitoring reports (Page 2-138) and including community members in the monitoring process.
- Enforceable standards for monitoring and clear steps taken if the project does not meet monitoring standards.
- More information about how "lessons learned" will be incorporated into the planning process (Page 2-136).

O16-12

We are seeking clarification about the following questions and concerns relating to the Project's connection to hydrology:

- Self-sufficiency: Have all possible steps been taken to ensure that the project site will be able to achieve the maximum amount of self-sufficiency over the long-term? It seems that a good deal of maintenance will still be required, including sediment removal and control of water conveyance features. It also seems at times that there are excessive amounts of engineering, such as the berm in Southeast Area B that blocks the flow from the freshwater marsh culvert. We ask that plans be made so that the project area is restored to the highest level of self-sufficiency possible.

O16-13

- Ballona Creek meander: We appreciate the non-linear restructuring of the channel, but we are wondering about the reasoning behind the use of such a high amount of bank armoring that will still prevent flows from changing course. Why was the project's channel morphology chosen exactly? Why was so much concrete used in the planning design? Is the only reason for the armoring of levees for the prevention of erosion (page 2-89 – Level 1)? It seems that there are other ways to manage for erosion beyond using a concrete channel lining, which would limit the functioning of the habitat and improvements in water quality. Furthermore, the beginning of the Draft EIR/EIS indicates that in Alternative 1, "the existing armored levees along the banks of the Ballona Creek channel within the Ballona Reserve would be completely removed" (2-30). While this statement is true, it should also point to the plan's intention to reintroduce armored levees in another form. Finally, how does the use of concrete bank armoring relate to the Ballona Wetlands' 303(d) impairment for hydromodification?

O16-14

- Daylighting streams: Have you considered additional opportunities to daylight portions of the project area, most notably the culvert in East Area B between the Ballona Freshwater Marsh and Ballona Creek? O16-15
- Sea level rise and salinity: Could you provide more information about the relationship between models of sea level rise and expected gradients of salinity over time? How will the project use adaptive management strategies based on evolving sea level rise predictions, and what sources of information will you use? O16-16
- Detention basins: Could you provide more information on the detention basins for stormwater run-off planned in West Area B and to what extent they would improve water quality? O16-17

Biological Resources: Modifications

LAW supports Alternative 1's handling of biological resources, although we ask for additional protections for species that will be affected by restoration activities, and in particularly for the Belding's Savannah Sparrow.

- Include additional criteria for protecting the Belding's Savannah Sparrow population before Alternative 1, Phase 2 is initiated. The requirement of only finding one nesting pair of Belding's Savannah Sparrow in Area A to initiate Phase 2 seems arbitrary and insufficient. Use the Minimum Viable Population principles to reach an estimate of the number of nesting pairs needed for a sustainable population to flourish in Area A. Ensure that the project reaches this goal before moving into Alternative 1, Phase 2. O16-18
- Prioritize connectivity, not only when it comes to public access, but also when it pertains to wildlife and its movement throughout the project area. O16-19
- Strengthen the requirements for moving sensitive plants and animals prior to earthmoving processes. O16-20
- Ensure that there are biological monitors (and a sufficient number) on site during any earthmoving activities to care for impacted wildlife. This pertains not only to digging sediment, but also depositing it elsewhere. O16-21
- Keep the public informed on a more regular basis than just annually about the process of protecting biological resources, including in terms of surveying, moving and replanting species.

Public Access: Modifications

LAW supports Alternative 1's handling of public access, although we ask for additional amenities and needs analyses, particularly as they relate to Phase 1.

- Prioritize the opening of public access toward the beginning of Alternative 1, Phase 1. We would like to see restored public access as soon as possible without interfering with restoration goals. Consider integrating additional pedestrian and bike paths in Phase 1 around East Area B, as featured in the Alternative 2 Public Access Plan. Also, reduce access to the dunes in West Area B, given that it is the endangered El Segundo Blue Butterfly's habitat. O16-22

- Complete a parking needs analysis and determine actual parking needs. Prioritize parking options for visitors to the wetlands, and incentivize non-fossil fuel means of transportation (i.e. include bike racks, charging stations for electric vehicles, etc.). O16-23
- Ensure that there are bathroom facilities at the primary trailheads. Adequate bathroom facilities are necessary for ensuring that visitors who are not local will feel comfortable visiting. O16-24
- Engage community members in restoration and monitoring activities whenever possible and create a public communications plan that spans beyond publishing an annual report. O16-25

Thank you for this opportunity to provide comments on the Ballona Wetlands Draft EIR/EIS. We are delighted to see that the restoration process is moving forward, and we ask that the Lead Agencies select Alternative 1. At the same time, we ask that you consider the aforementioned modifications and answer our questions in the final environmental review documents. If you have any questions or need additional information, please do not hesitate to contact us at 310-394-6162 ext. 101.

Sincerely,

Melissa von Mayrhauser
Watershed Programs Manager
Los Angeles Waterkeeper

Arthur Pugsley
Senior Attorney
Los Angeles Waterkeeper

Letter O16: Los Angeles Water Keeper

O16-1 The stated support for the alternatives analysis in general, for the Project with suggested modifications, and for the proposed public access components is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. Responses are provided to comments of the Wetlands Restoration Steering Committee (Letter O28) below, later in this Section 2.3.6.

O16-2 The comment's identification of the Clean Water Act 303(d)–listed status of Ballona Creek within the Ballona Reserve is consistent with information provided in the Draft EIS/EIR. See, e.g., Section 3.9. The stated preference for the Project is acknowledged and will be considered as part of CDFW's decision-making process.

O16-3 This summary of designated beneficial uses is consistent with the information provided in Draft EIS/EIR Table 3.9-1.

O16-4 The stated support for the Project based on the reduction in sediment (and sediment-related impairment) is consistent with information presented in the Draft EIS/EIR. See Draft EIS/EIR Section 2.2.1.1 for elements of the proposed ecosystem restoration that would occur under all of the alternatives analyzed in detail and Section 2.2.2.1 specifically with respect to the Project. See also Section 3.9.6.1 (in the context of Impacts 1-WQ-1a and 1-WQ-1b) regarding how the implementation of the Project would affect existing impairment conditions.

O16-5 This comment accurately states that the Project would reduce the amount of existing concrete levees within the Ballona Reserve relative to the other alternatives analyzed in detail. The stated support for the Project on this basis is acknowledged and is now part of the record of information will be considered as part of CDFW's decision-making process.

O16-6 Support of the Project on the stated basis is acknowledged.

O16-7 This comment accurately concludes that the Project would remove more sediment than the other alternatives analyzed in detail in the Draft EIS/EIR. The stated support for the Project on this basis is acknowledged.

O16-8 This comment accurately notes that the Project would provide more extensive public access improvements than the other alternatives analyzed in detail in the Draft EIS/EIR. See Draft EIS/EIR Section 2.2.1.3, which describes elements of the proposed public access improvements common to all alternatives analyzed in detail in the Draft EIS/EIR. See also Section 2.2.2.3 (the Project), Section 2.2.3.3 (Alternative 2), and Section 2.2.4.3 (Alternative 3). The stated support for the Project on this basis is acknowledged.

O16-9 Support for the Project based on the commenter's understanding of the Lead Agencies' responsibilities under NEPA and CEQA is acknowledged.

O16-10 The comment accurately notes that watershed-level water quality improvement projects, including those that may be focused on TMDL compliance, are outside of the scope of the Project and this EIR. See General Response 6, *Hydrology and Water Quality* (Final EIR Section 2.2.6.1), for more information about the relationship between the proposed restoration and the TMDL. As stated in the general response, the Project does not rely on achievement of the TMDL goals to protect habitat and wildlife. With implementation of the proposed Adaptive Management Plan, the project would provide the flexibility to address a range of conditions that might occur from varying conditions of upstream sources.

O16-11 See General Response 6, *Hydrology and Water Quality* (Final EIR Section 2.2.6.1), for more information about the relationship between the proposed restoration and the TMDL.

O16-12 The Hydrodynamics and Water and Sediment Quality Monitoring and Adaptive Management Plan (MAMP) is presented in Draft EIS/EIR Appendix F11. This plan provides the framework for addressing the identified potential impacts. A final (more detailed) MAMP would be developed once it is known whether the Project or a different alternative is approved. The requested details regarding locations, frequency, thresholds, and other monitoring specifics are the types of information expected to be provided once sufficient information is known about whether and where restoration would occur.

O16-13 As explained in Draft EIS/EIR Section ES.3.2 and Section 1.1.2, CEQA Project Objective 1b is to "restore, enhance, and create estuarine and associated habitats. … that are self-sustaining by allowing for adaptation to sea-level rise, minimizing the need for active management, and reducing impacts of human activities and invasive species through the provision of large, contiguous areas of diverse intertidal wetland habitats with wide transition and buffer areas." See also General Response 6, *Hydrology and Water Quality*, for sea-level rise (Final EIR Section 2.2.6.2), which discusses sustainability and self-sufficiency. The Project and other restoration alternatives have been developed with this and the other project objectives in mind. Acknowledging that the alternatives balance this objective with others, the commenter's request that the Project Site be restored to the highest level of self-sufficiency possible is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.

O16-14 The Project's channel morphology was based on studies of other similar systems and designed to match the sinuosity of those examples. The level 1 armoring is not limited to concrete. Armoring for these areas could also include rock revetment. Additionally, these areas would likely be buried and vegetated, so the channel system would provide habitat benefits, while reducing the risk of dramatic channel avulsion.

This method is expected to provide habitat and improvements in water quality, while reducing flood and erosion risk. For information about the hydrological modeling that informed the overall design of the Project and other restoration alternatives, see Draft EIS/EIR Appendix F.

O16-15 The suggestion to consider daylighting the culvert in East Area B is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. As part of this process, CDFW will investigate the project design for freshwater runoff into southeast area B to determine if freshwater requirements for the proposed brackish marsh will balance with the freshwater requirements for daylighting the freshwater marsh culvert. However, none of the alternatives analyzed in detail in the Draft EIS/EIR have been revised in response to this comment.

O16-16 Regarding salinity, see General Response 6, *Hydrology and Water Quality* (Final EIR Section 2.2.6.2), under the heading "Freshwater Habitats."

O16-17 Draft EIS/EIR Section 2.2.2.2, under the heading "Stormwater Management," addresses the available details for the stormwater basin in West Area B. The basin would be designed to meet applicable water quality regulations.

O16-18 The stated support for the Project as it related to potential benefits and impacts on Biological Resources, is acknowledged. Regarding Belding's savannah sparrow, see General Response 5, *Biological Resources* (Final EIR Section 2.2.5.4).

O16-19 The suggestion that the Project should prioritize connectivity for public access and wildlife movement throughout the project area is acknowledged. The restoration of terrestrial and hydrologic connectivity between Ballona Creek and the project area has been an important element of the project design. Creek enhancement actions would encourage wildlife movement between all areas within the Ballona Reserve, consistent with the commenter's recommendation.

O16-20 The request to strengthen the requirements for moving sensitive plants and animals prior to earthmoving processes is acknowledged; however, without an indication of why the proposed provisions may warrant supplementation, CDFW does not have enough information to provide a detailed response.

O16-21 The request to ensure that a sufficient number of biological monitors are onsite during earthmoving activities is acknowledged; however, without an indication of why the proposed monitoring may warrant supplementation, CDFW does not have enough information to provide a detailed response.

O16-22 Support for the proposed public access and request that it be prioritized to occur early in the restoration process is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. Regarding potential impacts of the proposed public access to sensitive dune habitat

for the El Segundo blue butterfly, see Draft EIS/EIR Section 3.4.6.1, which explains that no direct impacts are anticipated to suitable or occupied habitat for El Segundo blue butterflies. Further, as discussed in the context of Impact 1-BIO-2e, the Project would avoid all 4.2 acres of sensitive southern dune scrub habitat.

O16-23 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.4), which addresses multiple comments regarding parking facilities within the Ballona Reserve. The request for bike racks is consistent with the Project. See, e.g., Draft EIS/EIR Section 2.2.2.3, which explains that the entrance across from Fisherman's Village along Fiji Way, the entrance at the West Culver Parking Lot, and the entrance at the southeast corner of Area A all would provide bicycle parking. Electric vehicle charging stations are not proposed as part of any of the restoration alternatives. However, this request is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.

O16-24 The comment accurately notes that none of the alternatives analyzed in the Draft EIS/EIR proposes additional restroom facilities. The request to include them is acknowledged and now is part of the record of information that will be considered as part of CDFW's decision-making process.

O16-25 The commenter's suggestion to engage community members in the restoration activities, thereby promoting stewardship and educational opportunities, is acknowledged as consistent with the Project. See, e.g., Draft EIS/EIR Section 2.2.2.7, which explains how, under Project conditions, it is anticipated that the removal of invasive species and other activities would occur onsite in perpetuity through a combination of a volunteer program and long-term management of the site.

MARINA DEL REY
convention and visitors bureau

February 1, 2018

Mr. Richard Brody, CDFW
c/o ESA (jas)
550 Kearney Street, Suite 800
San Francisco, CA 94108

Via email: BWERcomments@wildlife.ca.gov

RE: Support Ballona Wetlands Restoration Project Draft EIR

Dear Mr. Brody:

The Marina del Rey Convention and Visitors Bureau is a joint venture of private hospitality businesses in Marina del Rey and the County of Los Angeles. Our mission is to stimulate economic development by marketing Marina del Rey as a tourist destination for leisure and business travel. It is vital that we advocate for policies that ensure greater public access to Marina del Rey's public attractions and visitor amenities.

On behalf of the Marina del Rey Convention and Visitors Bureau I am writing to express our support of the Ballona Wetlands Draft Environmental Impact Report. The report provides three options that would include recreational trails, bike paths, and opportunities for the tidal restoration of the Ballona Wetlands. The restoration of wetland functions would reestablish native wetland vegetation and provide a secure habit for numerous wildlife species. O17-1

In 2016, we estimate that approximately 1 million visitors came to Marina del Rey, of which 433,000 were overnight guests in Marina del Rey's hotels. We are confident that the improvements to the Ballona Ecological Reserve would boost eco-tourism in the area and provide visitors with a rich, cultural and educational opportunity to learn about the native plants and wildlife in the area. O17-2

We strongly support the inclusion of a parking facility and/or additional parking spaces which is imperative in accommodating tourists who desire to visit the wetlands and other nearby visitor-serving attractions including the coastal waters, Fisherman's Village, charter yachts, dining cruises, Sportfishing, parasailing, kayak and boat rentals, restaurants, retail shops and more. O17-3

Currently parking in Marina del Rey during holidays, peak seasons, and special events is a challenge and it can be difficult for visitors coming to the area to find a parking spot. Therefore we welcome the provisions to include additional parking near the Ballona Wetlands. O7-3 cont.

The Marina del Rey Convention and Visitors Bureau and the tourism and hospitality businesses it represents are very enthusiastic about the future of the Ballona Wetlands. The developments presented in the Draft Environmental Impact Report provide an incredible opportunity to enhance the recreational and educational amenities available to both locals and tourists. For these reasons, we support the Ballona Wetlands Draft Environmental Impact Report. O17-4

Sincerely,

Janet Zaldua
CEO

Letter O17: Marina del Rey Convention and Visitors Bureau

O17-1 The stated support of the Draft EIS/EIR is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

O17-2 CDFW acknowledges the commenter's confidence that the proposed restoration would have a positive effect on tourism. Support for the proposed restoration on this basis also is acknowledged. See Final EIR Section 2.1.1, *Input Received*.

O17-3 The stated support for proposed parking improvements is acknowledged. See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.4), which addresses multiple comments regarding parking considerations.

O17-4 See Response O17-1.

Comment Letter O18

From:	Tim Riley
To:	Wildlife Ballona Wetlands Ecological Reserve EIR
Subject:	Comment Letter on Ballona Wetlands Restoration Project Draft EIR
Date:	Thursday, February 1, 2018 11:30:54 AM
Attachments:	Ballona Wetlands Restoration Project DRAFT EIR - Comment Letter to CDFW - February 1, 2018.pdf

Dear Mr. Brody,

As the executive director of the Marina del Rey Lessees Association, I am submitting by this email the Association's comment letter on the Draft EIR for the Ballona Wetlands Restoration Project.

The Association represents major stakeholders in unincorporated Marina del Rey, and we appreciate your consideration of our comments during the California Department of Fish and Wildlife's review of proposed improvements for the Ballona Reserve to serve the public interest.

Thank you for your consideration.

Tim Riley
Tim Riley & Associates
8537 Wakefield Avenue
Panorama City, CA 91402
Tel. (818) 891-0495
email: timriley7@roadrunner.com

Marina del Rey
Lessees Association

C/o Mr. Timothy C. Riley, Executive Director
8537 Wakefield Avenue
Panorama City, CA 91402
Telephone: 818-891-0495; FAX: 818-891-1056

February 1, 2018

Mr. Richard Brody, CDFW
c/o ESA (jas)
550 Kearney Street, Suite 800
San Francisco, CA 94108

Via email: BWERcomments@wildlife.ca.gov

RE: Ballona Wetlands Restoration Project Draft EIR

Dear Mr. Brody:

The Marina del Rey Lessees Association represents the leaseholders of anchorages, residential, commercial, marine and visitor-serving properties in unincorporated Marina del Rey. The members of the Association operate their businesses under long-term leases with the County of Los Angeles.

Our businesses also function under the County's goal of providing a balance of public and private uses in Marina del Rey, and as a result, we find ourselves as supportive stewards of the vision of the County of Los Angeles and the California Coastal Commission to maximize visitor-serving uses and public access to the water. O18-1

To this end, we espouse sensible policies to afford greater public access to public attractions in Marina del Rey, and we take great interest in the California Department of Fish and Wildlife's proposed revitalization of the Ballona Wetlands Ecological Reserve that is being considered by the Draft Environmental Impact Report in which alternatives offer recreational features to a site that currently has little access to the public. O18-2

Development of private leaseholds as well as public improvements and facilities in Marina del Rey are guided by the requirements of the Marina del Rey Local Coastal Program (LCP), which was certified by the California Coastal Commission on February 8, 2012. The Coastal Commission assigns high priority to public access to the shoreline and the coast. Shoreline access in the Marina is obtained from public and private parcels that front on the numerous basins of the Marina del Rey Harbor. O18-3

The Coastal Commission also sets a high priority for visitor-serving uses in the Marina. Both shoreline access and visitor-serving uses are provided throughout the O18-4

Marina and in particular by the Fisherman's Village commercial and recreational development that occupies Parcel 56 on Fiji Way, the most proximate property in the Marina that is immediately across from the Ballona Wetlands parking area currently leased to the County. O18-4 cont.

The three alternatives in the Draft EIR, though proposing variations to the alteration of armored levees and alignment of the creek, consistently seek to bring the recreational features of trails and bike paths to the Ballona Wetlands Ecological Reserve that would allow local residents and visitors to more fully enjoy this valuable resource.

Moreover, the alternatives provide a reasonable number of options for the tidal restoration of the Ballona Wetlands, the enhancement of physical and biological functions within the Ballona Reserve and the restoration of wetland functions that would reinstate native wetland vegetation and provide important habitat for a variety of wildlife species. O18-5

The secluded nature of the Ballona Wetlands has resulted in the unfortunate fact that this property has become an attractive nuisance for homeless encampments, dumping and crime. Opening up the site to encourage public use of its recreational features would likely reduce this illegal activity, an intractable problem that has been a source of concern for the community and has vexed local and state law enforcement for many years. O18-6

In addition, the improvements to the Ballona Wetlands would also draw "eco tourists" into Marina del Rey and the surrounding communities. "Eco tourists" drawn to the Ballona Wetlands Ecological Reserve would result in more visitors also enjoying the shoreline and coastal waters as desired by the policies of the Coastal Act to maximize increased public access to and public use of coastal resources in the Los Angeles area.

Marina del Rey offers numerous restaurants, retail shops, harbor cruises, equipment rentals, sightseeing opportunities and fishing along the docks at the Fisherman's Village parcel, which is located in close proximity to potential public entry points into the Ballona Wetlands, thereby providing a nexus of visitor-serving uses that would be complimented by the development of "eco tourism" in connection with an enhanced Ballona Reserve open to public recreational use and enjoyment. O18-7

All three alternatives consider the provision of a parking structure and other parking improvements. For your information, please know that The Marina del Rey LCP in Chapter 2, entitled "Recreation and Visitor-Serving Facilities," observes as an identified issue that "public parking in the Marina is very important because of the County's policy of maximizing recreational use of the area. However, the locations and size of parking lots may not be sufficient to handle peak periods." O18-8

As a result, the public parking improvements envisioned in the Ballona Wetlands O18-9

Restoration Draft EIR would help to draw more local residents and tourists to the Ballona Wetlands, thereby facilitating easy access to the visitor-serving uses of Marina del Rey. We are therefore strongly supportive of the provision of parking which will enable visitors to enjoy a wide variety of services, including but not limited to an outing to the wetlands. O18-9 cont.

Mindful of the desire to generate more recreational use of trails and bike paths to enjoy the Ballona Wetlands, the Association also believes that "eco tourism" may be even more greatly encouraged by the development of an interpretative center, along with educational programs, to increase public awareness of the need to protect endangered native plants, wildlife and aquatic organisms and to encourage the public's understanding of, and activism on behalf of, the wetlands ecosystem. O18-10

Succinctly put, we believe that development of both an adequate parking facility and an exciting interpretive center present excellent opportunities to facilitate public education and recreational opportunities for the residents of the adjacent and nearby communities, for the people of Los Angeles County, and for the visitors and tourists from all around the world who visit California's diverse coastal ecological resources. O18-11

Sincerely,

David O. Levine/m

David O. Levine
President

Letter O18: Marina del Rey Lessees Association

O18-1 The stated support for the visitor-serving improvements proposed by the restoration alternatives is acknowledged. However, because this comment does not address the adequacy or accuracy of the EIR or the merits of the alternatives, it is included as part of the record of information that will be considered as part of CDFW's decision-making process, but has not specifically been considered as part of the environmental review process under CEQA. See Final EIR Section 2.1.1, *Input Received*.

O18-2 Support for the proposed public access improvements and recreational opportunities within the Ballona Reserve is acknowledged and is included as part of the record of information that will be considered as part of CDFW's decision-making process.

O18-3 The Coastal Commission's prioritization of public access to the resources within its jurisdiction is acknowledged. However, because this comment does not address the adequacy or accuracy of the EIR or the merits of the alternatives, it is included as part of the record of information that will be considered as part of CDFW's decision-making process, but has not specifically been considered as part of the CEQA process.

O18-4 Regarding the Coastal Commission's prioritization of public access to the resources within its jurisdiction, see Response O18-3.

O18-5 The suggested support for the range of alternatives analyzed in detail in the Draft EIS/EIR based on the proposed habitat and public access improvements is acknowledged. See Final EIR Section 2.1.1, *Input Received*.

O18-6 See Response I37-3 regarding illegal uses of, and law enforcement efforts within, the Ballona Reserve.

O18-7 See Response O17-2 regarding the proposed restoration's anticipated effect on tourism.

O18-8 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.4), which addresses multiple comments regarding parking facilities within the Ballona Reserve.

O18-9 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.4), which addresses multiple comments regarding parking facilities within the Ballona Reserve.

O18-10 See Response O17-2 regarding the Project's anticipated effect on tourism. CEQA Objective 2 is to "provide appropriate interpretive information about prior human uses of the Ballona Reserve" (Draft EIS/EIR Sections ES.3.2 and 1.1.2) and interpretive and learning opportunities would be included as part of the proposed public access-related improvements (Draft EIS/EIR Section 1.2.2.1). However, to clarify, no interpretive "center" is proposed by any of the restoration alternatives. The suggestion that CDFW consider including one is acknowledged and is included as part of the record of information that will be considered as part of CDFW's decision-

making process; however, none of the restoration alternatives has been revised to include an interpretive center.

O18-11 See General Response 2 (Final EIR Section 2.2.2.4), which addresses multiple comments regarding the proposed parking facilities, and Response O18-10 clarifying that no interpretive "center" is proposed by any of the restoration alternatives.

Pacific Ocean
Management, LLC

February 5, 2018

Via Email: BWERcomments@wildlife.ca.gov

Richard Brody, CDFW
550 Kearney Street, Ste. 800
San Francisco, CA 94108

RE: Ballona Wetland Draft EIR

Dear Mr. Brody:

Pacific Ocean Management manages the leasehold of Fisherman's Village. We are a visitor serving location which is the hub for the public to access the water. We provide the public the opportunity to get out onto the water and access the beautiful Marina del Rey Harbor. Fisherman's Village is the home to the majority of the large charter boats, sport fishing, parasailing, boat rentals and bike rentals. In addition, every Saturday and Sunday free public concerts are held year round which attracts a huge following for those that wish to come and enjoy the beautiful scenery, regardless of whether they are here to spend money or not. People from all over Los Angeles County consistently visit relying on both the free entertainment, waterfront restaurants, above mentioned businesses and the unique opportunities that currently exists. O19-1

The Coastal Commission assigns high priority to public access to the shoreline and the coast. Both shoreline access and visitor serving uses are provided by the Fisherman's Village commercial and recreational businesses that occupy Parcel 56, located on Fiji Way across from the Ballona Wetlands.
We feel it is important to recognize the correlation between these visitor serving businesses as well as the recreational and charter businesses, with the necessity of available parking. In addition to providing parking for the County of Los Angeles and the Sheriff Department vehicles, employees of the visitors serving businesses utilize this lot. This has been the arrangement for the last twenty ++ years. While the majority of the parking serves the needs of law enforcement and the government agencies, the ability to accommodate some parking for employees of the various businesses definitely allows for more parking at Parcel W to be used by the public visiting the Marina to enjoy recreational and visitor-serving opportunities. O19-2

People that come to enjoy the water and all that it has to offer, will also take advantage of the the recreational opportunities as proposed in the alternatives of the Draft EIR such as trails and bike paths and enjoyment of the Ballona Wetlands preserve.

Thank you for your consideration of the Ballona Wetlands Restoration Project.

Best regards,

Jill Peterson
Pacific Ocean Management, LLC

13737 Fiji Way-C10, Marina Del Rey, CA 90292 (310) 822-6866 FAX: (310) 822-4266

Letter O19: Pacific Ocean Management, LLC

O19-1 This information about public use of Fisherman's Village and Marina del Rey is acknowledged. However, because this comment does not address the adequacy or accuracy of the EIR or the merits of the alternatives, it is included as part of the record of information that will be considered as part of CDFW's decision-making process, but has not specifically been considered as part of the CEQA process. See Final EIR Section 2.1.1, *Input Received*.

O19-2 The Coastal Commission's prioritization of public access to the resources within its jurisdiction is acknowledged. See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.4), which addresses multiple comments regarding parking facilities within the Ballona Reserve.

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TRUMAN & ELLIOTT LLP

February 5, 2018

VIA E-MAIL AND U.S. MAIL

Mr. Richard Brody
California Department of Fish and Wildlife
c/o ESA (jas)
550 Kearney Street, Suite 800
San Francisco, California 94108
E-mail: BWERcomments@wildlife.ca.gov

Re: Ballona Wetlands Restoration Project Draft Environmental Impact Statement/Environmental Impact Report, State Clearinghouse No. 2012071090

Dear Mr. Brody:

On behalf of our client, Playa Capital Company, LLC, the master developer of the Playa Vista Project and permittee of resource agency permits and approvals for the 51.1-acre Freshwater Wetland System, we submit this comment letter regarding the Ballona Wetlands Restoration Project Draft Environmental Impact Statement/Environmental Impact Report (Draft EIS/EIR), State Clearinghouse No. 2012071090.

We recognize the Ballona Wetlands Restoration Project (Project) is a monumental endeavor, which will benefit the surrounding communities for many decades to come but which will draw a wide range of comments and criticism as different organizations champion different visions for the restoration. As the master developer of the Playa Vista project, which lies just east of the Project site, Playa Capital Company, LLC looks forward to the restoration of the Ballona Wetlands and to working cooperatively with the California Department of Fish and Wildlife (CDFW) and other stakeholders during the restoration process.

Potential Impacts of the Project on the Freshwater Marsh

The Draft EIS/EIR conceptually discusses potential changes to the 26.1-acre Freshwater Marsh located at the base of the bluffs west of Lincoln Boulevard under Alternative 1 and Alternative 2. As you are aware, the Freshwater Marsh along with the 25-acre Riparian Corridor running along the base of the bluffs east of Lincoln Boulevard form the 51.1-acre Freshwater Wetland System created as part of the Playa Vista Project. The construction, operation and long-term maintenance of the Freshwater Wetland System are governed by a Clean Water Act Section 404 Permit issued by the U.S. Army Corps of Engineers, a California Fish and Game Code Section 1603 Streambed Alteration Agreement from CDFW, a Clean Water Act Section 401

O20-1

Water Quality Certification issued by the California Regional Water Quality Control Board, a California Coastal Act Coastal Development Permit approved by the California Coastal Commission, and mitigation measures and conditions of approval required by the City of Los Angeles for the First Phase Playa Vista Project and the Village at Playa Vista Project. Playa Capital Company LLC is the permittee of these permits and approvals for the Freshwater Wetland System, which is monitored and maintained by the Ballona Wetlands Conservancy. The Draft EIS/EIR describes possible minor changes to the Freshwater Marsh to assist with restoration of the Ballona Wetlands; however, due to conflicting language and limited detail regarding the exact changes the Project proposes for the Freshwater Marsh, the potential effects on the Freshwater Marsh's habitat, flood control and water quality goals, and the potentially significant environmental impacts of those changes are difficult to discern. To assist with your review of these comments, we enclose an aerial photograph of the Freshwater Marsh annotated with the particular structures mentioned in this comment letter.

Page 1-6 of the Draft EIS/EIR indicates the Freshwater Marsh "would not be affected as part of the Project." Page 2-57 of the Draft EIS/EIR then states:

> The Playa Vista Development Freshwater Marsh would be maintained and managed as it is under baseline conditions. Under current conditions, much of the Freshwater Marsh outflow discharges through the culvert to Ballona Creek. The Freshwater Marsh existing water-control structures described below would be adjusted and/or modified and a new water control structure (such as a culvert, weir, or tide gate) would be installed between the Freshwater Marsh and Southeast Area B to allow for a greater portion of the outflow to be conveyed into Southeast Area B to support brackish marsh.
>
> The Freshwater Marsh has three existing water control outlet structures. In the northwest corner, a weir structure controls water levels and outflow to a culvert with flap gates, which then releases flow to Ballona Creek. Under baseline conditions, all dry-weather flows and rain events less than the 1-year storm event flow out of the Freshwater Marsh through this culvert to Ballona Creek. The culvert outlet at Ballona Creek would be maintained as is and drain into a new tidal channel in North Area B, as shown in Figure 2-5, *Alternative 1, Phase 1: Preliminary Grading Plan.*
>
> In the south end of the Freshwater Marsh, the second existing structure, a culvert to Southeast Area B, could be used for maintenance but currently is closed. This structure would be modified (e.g., by installing a weir box and opening the structure) to allow for regular discharge into Southeast Area B while maintaining water levels in the Freshwater Marsh that exist under current operations.
>
> The third existing outlet structure is a weir that allows water to flow into Southeast Area B. Under current operation, during storm events greater than the 1-year event, stormwater flows over this overflow weir to Southeast Area B. This weir structure would not be modified.

O20-1 cont.

See also Pages 2-47 (new water-control structures and modifications to existing water-control structures), 2-48 (brackish marsh established in Southeast Area B by increasing and managing Freshwater Marsh outflows), and 2-86 (existing freshwater marsh function, habitat, and perimeter berm would be maintained with water-control structures adjusted and/or modified to allow greater flows to Southeast Area B) of the Draft EIS/EIR, Pages B1-61 to B1-64 of Appendix B of the Draft EIS/EIR (conceptual discussion of Freshwater Marsh water control structures and management), and Pages F9-5 and F9-9 of Appendix F of the Draft EIS/EIR (conceptual hydrology study). O20-1 cont.

We have the following questions or comments based on the above language:

- Page 1-6 of the Draft EIS/EIR contains the following statement: "Under baseline conditions, all dry-weather flows and rain events less than the 1-year storm event flow out of the Freshwater Marsh through this culvert to Ballona Creek." This statement is inaccurate. Under baseline conditions, all dry-weather flows and rain events less than the 1-year storm event are captured in the Freshwater Marsh for treatment and to keep the water level at a minimum height of +4 MSL during the dry season. Only minor amounts of water overflow the weir and are discharged through the culvert to Ballona Creek. O20-2

- The Draft EIS/EIR should contain a detailed analysis of the potential impacts the proposed modifications to the Freshwater Marsh may have on the habitat, water quality, and flood control goals of the Freshwater Marsh. O20-3

- The Draft EIS/EIR should contain a detailed discussion regarding how the existing water levels in the Freshwater Marsh will be maintained with the Project's installation of a weir box and other modifications to the outflow structures of the Freshwater Marsh. It is unclear how the Project will maintain water levels in the Freshwater Marsh required by resource agency permits and approvals for Playa Vista's Freshwater Wetland System, but allow more flows into the proposed brackish marsh. O20-4

- Alternative 1 in the Draft EIS/EIR is divided into two phases, and the restoration sequence table (Table 2-6) indicates the outlet culvert realignment from the Freshwater Marsh to the Ballona Channel would occur as part of Phase 1. The restoration sequence table for Alternative 2 (Table 2-33) shows the outlet culvert realignment occurring during the final stages of construction. However, none of the restoration sequence tables indicates when the culvert (also known as the old sluice gate – see below) through the Freshwater Marsh berm would be installed/opened relative to the timing of changes envisioned for Southeast Area B. O20-5

- Alternative 3 in the Draft EIS/EIR does not include realignment of the culvert from the Freshwater Marsh to the Ballona Channel. The Draft EIS/EIR does not explicitly discuss new culverts through the Freshwater Marsh berm, but the figure showing proposed habitats (Figure 2-52 on page 2-46 of the Draft EIS/EIR) shows two O20-6

unexplained features at the locations where culverts are shown elsewhere in the Draft EIS/EIR. O20-6 cont.

- The hydrology appendix of the Draft EIS/EIR (Appendix F, page F9-6) states the restoration design will maintain the existing level of flood protection provided by the Freshwater Marsh. However, we are unable to confirm this statement or evaluate the specifics of the management due to a lack of detail in Appendix F, particularly regarding elevations of the various proposed structures. O20-7

- In addition to maintaining flood protection for the Playa Vista project and surrounding areas, a critical benefit of the Freshwater Marsh is to provide valuable freshwater marsh habitat. To do so, a water elevation of +4 MSL (mean sea level) must be maintained outside of the rainy season for at least three reasons: a) to avoid tree mortality; b) to manage the growth of emergent vegetation; and c) to provide enough water for access by mosquito fish. Therefore, if the Project will release water from the Freshwater Marsh through the spillway or an open sluice gate, those releases should occur only during the rainy season when the Freshwater Marsh typically has ample water to spare. O20-8

- Based on our review of the Draft EIS/EIR, it appears the Project would open and redesign the existing sluice gate (Structure # 8 on Figure 2-1 and Figure 2-43), currently closed, to manage flows between the Freshwater Marsh and a proposed "freshwater/brackish" marsh west of the Freshwater Marsh. Page F9-7 of Appendix F states the Project would construct an impoundment berm west of the Freshwater Marsh to retain freshwater and encourage development of a brackish marsh. It is unclear how the goal of maintaining the required levels of water in the Freshwater Marsh can be met while sending more water into Southeast Area B. Because the Draft EIS/EIR does not provide elevations at which the redesigned sluice gate would be set, we cannot evaluate how this system will be managed compared to existing conditions.

- Further, in regard to opening the sluice gate, we question whether it is needed or desired, for three reasons: a) under current conditions, water is released through the spillway more frequently than once a year, and, with removal of the small berm that surrounds the stilling pond just west of the Freshwater Marsh, this water could flow into the proposed brackish marsh without the need for any additional culverts; b) the frequency of water released through the spillway could be increased through management efforts of the existing system, without physical modification; and c) water at the sluice gate location has not yet traveled the full extent of the freshwater wetland treatment system so the water quality by the sluice gate would not be as improved as it would by the existing spillway. O20-9

- Page 2-57 discusses an existing "weir that allows water to flow into southeast Area B" during events that are greater than the 1-year storm event, and states that this weir will not be changed. While we assume this weir is the structure we refer to as the "spillway", there are a couple of issues: a) in practice, we have documented flows through the spillway occur more frequently than once a year; and b) a new culvert (Structure 6 on Figure 2-1 and Figure 2-43) is shown east of the spillway but is not explained in the Draft EIS/EIR. O20-10

- The analysis of water quality impacts concludes there will be a less-than-significant impact of saltwater intrusion into Southeast Area B. However, this analysis is based on the absence of potable groundwater wells in the area. The Draft EIS/EIR contains no analysis of the extent to which saltwater intrusion might impact freshwater-dependent vegetation, such as willows, cottonwoods, and sycamores. O20-11

Thank you for considering our comments. We appreciate the complexity of the Ballona Wetlands Restoration Project and look forward to working cooperatively with you and other stakeholders during the restoration process.

Very truly yours,

Kathleen O'Prey Truman
of TRUMAN & ELLIOTT LLP

Enclosure

cc: Mr. Marc Huffman
Dr. Edith Read


Structure #5 in DEIR/S:
Outlet Weir
(top at +4.8 MSL)
Approximate Location of
Structure #6 in DEIR/S:
Jefferson Inlet
Spillway
(base at +4 MSL)
Stilling Pond
Central Inlet
Structure #8 in DEIR/S:
Sluice Gate
(currently closed)
Riparian Corridor Inlet

Letter O20: Playa Capital Company, LLC

O20-1 See General Response 6, *Hydrology and Water Quality* (Final EIR Section 2.2.6.3), which addresses multiple comments received regarding impacts to the Freshwater Marsh.

O20-2 In response to this comment, Draft EIS/EIR Section 2.2.2.1 has been revised to note that flows out of the Freshwater Marsh are in excess of the minimum marsh water level.

O20-3 See General Response 6, *Hydrology and Water Quality* (Final EIR Section 2.2.6.3), which addresses multiple comments received regarding impacts to the Freshwater Marsh.

O20-4 See General Response 6, *Hydrology and Water Quality* (Final EIR Section 2.2.6.3), which addresses comments received regarding water levels in the Freshwater Marsh under project conditions.

O20-5 Draft EIS/EIR Table 2-6 and Table 2-23 have been updated to clarify in Sequence #2 that South and Southeast Area B would be enhanced at this point.

O20-6 In Alternative 3, there would be no changes to the Freshwater Marsh outlets. Draft EIS/EIR Figure 2-52 shows the existing upland habitat in these areas in orange.

O20-7 See General Response 6, *Hydrology and Water Quality* (Final EIR Section 2.2.6.3), which addresses comments received regarding the flood protection provided by the Freshwater Marsh under project conditions.

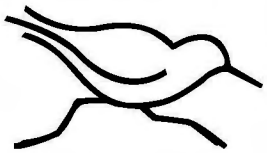
O20-8 See General Response 6, *Hydrology and Water Quality* (Final EIR Section 2.2.6.3), which addresses comments received regarding water levels in the Freshwater Marsh under Project conditions.

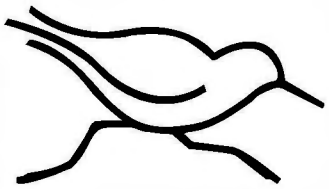
O20-9 See General Response 6, *Hydrology and Water Quality* (Final EIR Section 2.2.6.3). The Project and other restoration alternatives have been designed assuming no change in management to the Freshwater Marsh. The plan allows for a new structure; however, if future management changes could be incorporated into the operation of the Project that would not require the new culvert, then the plan would accommodate this as well.

O20-10 More frequent overflows into the Freshwater Marsh would be beneficial to the brackish marsh habitat. The restoration plan allows for a new water control structure in either location.

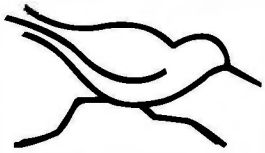
O20-11 See Response O13-32 regarding the willows in Southeast Area B. Mitigation Measure BIO-1k (Least Bell's Vireo Avoidance) addresses the unlikely potential for saltwater intrusion near freshwater dependent vegetation. BIO-1k, in part, requires, "Post-restoration, willow habitat in Southeast Area B shall be monitored to ensure tidal

habitats are not adversely affecting the survival or health of the willow thickets." Given upstream freshwater inputs, salinity is not expected to be an issue for willows and other vegetation that support least Bell's vireo. CDFW would implement post-construction habitat monitoring and carry out adaptive management actions, if necessary, as a contingency to protect woody vegetation that the commenter references may support least Bell's vireo. The Habitat Restoration and Monitoring Plan (Project Design Feature BIO-3) includes measures to prevent salinity-related impacts to willow thickets and ensure persistence of this habitat.





santa monica bay audubon society



TO: BWERcomments@wildlife.ca.gov

Comment RE: Draft EIS for Ballona Wetlands Restoration February 4, 2018

Santa Monica Bay Audubon is in general agreement with many of the principles as listed on the "endorsement" form circulated by Friends of Ballona Wetlands, however we have reservations in signing such a broad general statement. It seems designed to encourage a blanket endorsement of every sentence of a thousand-page document that inevitably has some faults, omissions and some ambiguity. Members of SMBAS who do Ballona bird surveys and participate in educational programs strongly endorse Friends support of law enforcement protection of Ballona's resources. Comments by our Board follow: O21-1

1. We are puzzled by what seems to be the EIR's lack of firm statement of preferred alternative. Number One seems to be the preferred, but many of the discussions of ecological impact in Number Two seem to cast doubt on this conclusion. We return to the oft-asked "How much of this area must be destroyed to be saved?" O21-2

2. There is still no one authoritative source for information, discussion or explanation by the agencies concerned. For five of the past seven years, there seems to have been a curtain drawn by the multiple agencies, foundation, commission, etc. When a solid question needs to be answered, who is the person in charge of this project? Who is the chair of the committee of concerned agencies? O21-3

3. The inclusion of a commercial-use parking lot structure on Reserve land is completely unacceptable and must be withdrawn from the EIR forthwith, no matter what the lighting plan. In fact, the paved areas off Fiji Way should all be restored to wildlands. O21-4

4. The plan states that recreation uses for the Reserve are secondary, however, the plan for acres and miles of trails, many of them loops in the potential avian nesting areas, encourage recreational activities such as jogging, bicycling, and dog-walking. This is not a State Park, it is a Reserve and the trails plan should be reviewed to reflect the primary purpose of the Reserve. Note also that we know of no provision to establish effective, continued enforcement of regulations for the protection of wildlife. O21-5 O21-6

for the Board, Lucien Plauzoles, Community Relations SMBAS

post office box 35 pacific palisades california 90272

Letter O21: Santa Monica Audubon

O21-1 These statements of general agreement with principles set forth by the Friends of Ballona Wetlands, support of law enforcement protection, and suggestion that the 1,000+ page Draft EIS/EIR may not be perfect are acknowledged and are now part of the record of information that will be considered as part of CDFW's decision-making process. Without some information about what the commenter perceives to be a potential fault, omission, or ambiguity, CDFW does not have enough information to provide a detailed response.

O21-2 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.5), and General Response 3, *Preferred Alternative* (Final EIR Section 2.2.3.5).

O21-3 The commenter is correct that there is no one single person "in charge" of the Project. As explained in the Draft EIS/EIR's Executive Summary, "The U.S. Army Corps of Engineers (Corps) and California Department of Fish and Wildlife (CDFW) prepared joint Draft Environmental Impact Statement/Environmental Impact Report (Draft EIS/EIR) for the Ballona Wetlands Restoration Project. … The Corps is the NEPA lead agency and CDFW is the CEQA lead agency." See also Draft EIS/EIR Section ES.2.2 and Section 1.4.1 for more information about the Lead Agencies, Section 1.6.1 about the intended use of the analysis by the Corps, and Section 1.6.2 about the intended use of the analysis by CDFW. The primary point of contact for the Corps and the federal permitting process and the primary point of contact for CDFW and the state and local permitting processes are identified in Draft EIS/EIR Section 1.9.

For clarification of involvement by other agencies and participants in the process, see Draft EIS/EIR Section ES.2, which identifies the permit applicants in Section ES.2.1; Cooperating Agencies for purposes of NEPA in Section ES.2.3 and Section 1.4.2; Responsible and Trustee Agencies for purposes of CEQA in Section ES.2.4 and Section 1.4.3; and formal project proponents in Section ES.2.5. See Final EIR Section 1.2, which provides context for the Draft EIS/EIR and this Final EIR.

O21-4 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.4), which addresses multiple comments regarding parking facilities within the Ballona Reserve.

O21-5 The comment is consistent with information provided in the Draft EIS/EIR. As explained in Draft EIS/EIR Section 1.1.1, "The need for the Project under NEPA is to restore coastal aquatic resources to increase available breeding and foraging habitat for wildlife while maintaining flood protection for surrounding communities; and to provide public access for compatible recreational and educational opportunities that are not currently widely available within the Ballona Reserve." This is consistent with CEQA Project objective 4, which is to "[d]evelop and enhance wildlife dependent uses and secondary compatible on-site public access for recreation and educational activities." The plans for public access shown in Draft EIS/EIR Figure 2-3, Alternative 1, Phase 2: Public Access Plan; Figure 2-18, Alternative 1, Phase 1:

Public Access Plan, Figure 2-23, Alternative 1: Public Access Plan Detail; Figure 2-24, Typical Observation Deck; Figure 2-25, Typical Elevated Pedestrian Boardwalk; Figure 2-26, Typical Trail at Levees' Edge; Figure 2-27, Typical Pedestrian & Bike Trail, Figure 2-45, Alternative 2: Public Access Plan; and Figure 2-54, Alternative 3: Public Access Plan, were developed so as to balance opportunities to minimize disruption to habitat and, secondarily, to maximize public engagement with the wetlands.

According to state law (14 CCR §630), CDFW is charged with the protection and maintenance of designated ecological reserves. This responsibility includes enforcing rules relating to public access and prohibiting the feeding of wildlife; operation of motorized vehicles outside of designated areas; disturbance of bird nests; release of any fish or animal; ignition of any fire, fireworks, or other explosive or incendiary device; disturbance of habitat; and alteration of the landscape or removal of vegetation. CDFW previously has issued reminders to those who visit the Ballona Reserve to be mindful of the site's specific rules and regulations and to be aware that trespassing on ecological reserves and wildlife areas that are closed not only is a crime, but also can be dangerous.[114] Under existing (baseline) conditions, CDFW limits public access to the Ballona Reserve "due to health, safety and resource concerns."[115] CDFW would continue to protect and maintain the Ballona Reserve consistent with its charge regardless of whether the Project or an alternative is approved.

O21-6 See Response O21-5. The commenter's opinion about compatibility is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.

114 CDFW, 2014. CDFW Urges Californians to Be Mindful of Property Rules on Ballona Wetlands Ecological Reserve. Available online: https://cdfgnews.wordpress.com/tag/ballona-wetlands-ecological-reserve/. October 1, 2014.
115 Id.

Comment Letter O22

From: James Flournoy <saveourcommunitysgv@gmail.com>
Sent: Wednesday, October 18, 2017 5:27 PM
To: Wildlife Ballona Wetlands Ecological Reserve EIR; Wildlife Ask R5; Daniel.P.Swenson@usace.army.mil
Subject: Ballona Wetlands EIR cOmments
Attachments: Ballona Wetlands.doc

Save Our Community San Gabriel Valley
8655 Landis View
Rosemead CA 91770

We have recently commented on several projects with similar Hazards. They all share the under determination of the seismic hazard especially the long period, long duration hazard of the San Andreas Fault.
The Whittier Narrows is the most hazardous location in Los Angeles County not directly on the Fault Line. The Whittier Narrows (and Santa Fe Dams) are in harms way as is the Discovery Center- although local Sierra Club chair Linda Strong suggests it could be built as houseboats on a pond- thus isolating the buildings from the extreme ground Motion. The water supply (tanks/ pipes are threatened (with an estimated 6 month recovery period) as are the sewer treatment plants.

There is no possible mitigation for the Newhall Ranch project which is also mostly located over the deep Castaic (river channel alluvial basin which extends to the coast. Fire Stations, Schools, bridges, embankments, levees and the Water Supply/ tanks are extremely vulnerable.
Remember that Mexico City was 67 miles from the epicenter of the recent quake- the distance is not the major factor, It's the deep soils under the site and the PATH of seismic energy from the Source (here from the chain of basins from San Bernadino along the front of the San Gabriels; as well as from the Antelope Valley/ Mojave segment.

O22-1

See attached for Ballona Wetlands

Sincerely yours;

James I Flournoy
secretary

Comments on Draft EIS/EIR September 2017 Appendix E Geotechnical Investigation Report
(State Clearinghouse No. 2012071090)

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Main Office: 3883 Ruffin Road, San Diego, CA 92123
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Daniel.P.Swenson@USACE.Army.mil

We notice that the document is out of date and no update letter is attached.
Also reports should be written under the LA County Department Of Public Works "Guidelines for Geotechnical Reports" AND the latest 2017 Building Code and American Society of Civil Engineers standard ASCE 7-16 in addition to whatever standards Army Corps and County flood have. We see no reference to any standards.
WE are unfamiliar with Group Delta but notice work by well known consultants Diaz Yourman and LeRoy Crandall however we no report by a seismologist AND certified engineering geologist AND Hydrologist AND Oil Field Engineering Geologist rendering analysis invalid.
WE question that "restoration" is the proper descriptor. O22-2

2 Scope of Work
It appears that the current investigation starts at the near subsurface. We find nothing that goes to bedrock, no evaluation of water of oil wells. Please provide location of known wells and an analysis of stratigrtaphy. Do the well cores or geophysics show any faults? Are there any remaining oil field slumps? O22-3

3.0
Is this not the recent and ancestral course of the Los Angeles River? Where is the ancestral river channel (s) in relation to the proposed project and what is the configuration of the channel if relevant? Is there a channel or basin under the project area? Provide a configuration of any subsurface channel or basin. 4.0 states "located in the northwest corner of the Los Angeles Basin "
Note that if the project is near a basin edge there are serious issues with seismic wave reflection which results in "interference" What is known as the "perfect storm" effect. Couple this with basin geometry/ depth amplification and ground motions can be much more severe and of longer duration than given by simplistic on line "look up" methods. O22-4

5.1 We consider a 100 year flood design requirement to be inadequate. We would think consideration of the USGS "ARKSTORM" scenario is required. (see references)
There is a long discussion about the project which may not be appropriate in a geotechnical report as there is no analysis of each of these projects in relation to the geotechnics.
For example it is not shown how and on what the old levees or the new levees are supported to any depth. Levees which appear sound my be sited on alluvium subject to severe ground motions. O22-5

Page 16 Provide an analysis of the potential of subsidence or collapse of any gas storage area. ACOE reports that the Whittier Narrows dam has subsided several feet due to oil/ gasfield operations. O22-6

Page 17 characterizes dense sand and gravel and an aquifer. What is not shown is if this alluvium is excitable in a major earthquake event- giving the "bowl of jello" effect which amplifies the strength and duration of an event. 6000 feet to bedrock can have a major effect on ground motion. This must be quantified and we suggest basin modeling. The San Gabriel river channel through Whittier Narrows is of similar depth and has been shown to be a major hazard, the most hazardous location in Los Angeles County not directly on the San Andreas Fault. Combine the "Bowl of Jello" effect with the "perfect storm" effect. WE would think that computer modeling of the basin and utilization of velocities is required

O22-7

7.3
We suggest that Shear Wave Velocity be continued to bedrock and the 1500 and 2500 shear wave lines be plotted. We would consider 2500 to be bedrock.

O22-8

Page 23 limiting the distance to 30 km leaves the San Andreas unconsidered. The San Andreas may be the major probabilistic hazard to the project due to the frequent re-occurrence rate. The San Andreas may also be the controlling fault at longer periods.

O22-9

Table 2 must be updated.
Since the report was prepared it has been shown that the Newport Inglewood fault connects with faults stretching to San Diego and Baja California, The Santa Monica may be connected with the Hollywood and Raymond Hill and offshore faults (Malibu Coast fault), There are recent reports on Palos Verdes. The Puente Hills Thrust consists of 3 (or more) segments which must be shown as combined (giving at least a 7.5). PHT would be much more hazardous if the segments break from East to West and Updip towards the project
Compton blind thrust which is 20-30,000 feet beneath the site but still capable of around 7.0 is not mentioned
Lower Elysian Park thrust is not mentioned
In the Analysis it must be noted that the moderate Northridge event broke away from the project and still caused major damage in Santa Monica and Culver City and the 10 freeway corridor, Therefore basin geometry must be considered. For example the Upper Elysian Park thrust up slopes toward the project as does the PHT. Therefore direction (directivity- the Doppler effect) must be considered. Near Fault effects must be considered. Basin depth and geometry must be considered. For the strike slip faults Newport Inglewood and Palos Verdes a quick estimate could be made by overlaying the Landers near fault findings over the local fault traces. THE BASIN DEPTH AMPLICATION factor used in one of the NGA relationships is totally inadequate.

The Whittier-Elsinore fault is not shown but recent reports show it as 7.85 for a multiple segment break. CalTrans, in their 710 study, found evidence in San Marino and South Pasadena giving an even longer fault length. However we consider that splay to be the minor one and the un-investigated splay identified by Bullard and Lettis to be the Major one. While Whittier may affect probabilistic studies we would not think it to be a controlling fault at the site.

O22-10

8.2.4 Northridge- restating boilerplate is not useful, there was much nearer major damage An analysis of the effects at the site is required
A complete analysis of the long duration long period ground motion from the Southern San Andreas is requied. Basin Depth amplification has been shown in the Los Angeles Basin greatly increasing the hazard. It's not too far away to be considered as a chain of basins along the San Gabriels and a secondary seismic channel down the Santa Ana Channel focus waves in the Los Angeles channel. One

O22-11

of the focuses is near the 91/ 110 intersection. What is it at the project. There is plenty of data from Cal State San Diego Geology department (Day and Olsen) and Lucy Jones at USGS Pasadena as well as simulations/ scenarios of other local faults including Puente Hills Thrust- the Earthquake that eats Los Angels- Robert Graves USGS Pasadena

O22-11 cont.

8.3.1
Micro Site Micro Seismicity- could be used to develop a site specific basin model (correlated with well and geophysics)

8.4.2 Oil field Gas company. We notice that PXP and Halliburton developed a subsurface description of the Inglewood Oil field and we require that something similar be developed to support this project. The title of the report mentions fracking, which is irrelevant here and could be a red-herring- but looking past the title to the substance. It is an excellent report on the subsurface. Such a report could help show the support for levees and bridges and other long structures which are very vulnerable to long period long duration ground motions. If there are any water tanks or fire fighting water distribution infrastructure planned these must also consider long period ground motion as well as short period from local faults.

O22-12

9.0 PSHA from 2008 is wholly obsolete. In addition to the disaggeration methodology where much is lost in translation the consideration of primary sources must be considered.
THE NGA equations have been superseded and it must be noted that they only consider distance and magnitude. They do not consider Source or Path from source to site- which is required. Start with the SCEC Community Velocity Model and compute the Velocities from the Sources to the Site in addition to the Source to Site via Bedrock method.
Table 4 is appreciated as a welcome addition to the usual two inadequate parameters but will have to be recomputed

O22-13

9.2 Design Earthquake (s) There are several which give completely different waveforms Newport-Inglewood- Rose Canyon, Puente Hills Thrust, Southern San Andreas

O22-14

11 Liquefaction
Will have to be recomputed with new ground motions and with an analysis that considers duration of shaking, which is very important. Southern San Andreas could give 3 minuets and a multiple segment break of Puente Hills Thrust could give long durations if the basin excites.

O22-15

12.1.3 As mentioned above we consider 100 year flood analysis to be inadequate.
It appears that mostly static analysis techniques have been utilized. We require that modern dynamic analysis be utilized once new parameters are generated

We suspect that additional settlements and less support will be found so piles and pile caps will have to be revisited. We note that CalTrans required reconsideration and more and larger and deeper piles when seismology was reconsidered for the Garvey and Beverly blvd bridges over the Rio Hondo river

O22-16

19 we note that invasives seed beds may have to be mitigated for 7-10 years for successful vegetation planting

O22-17

The County internal documents discuss the Ballona Channel reaches that are inland that need retrofitting to secure.

O22-18

t Ballona, the Flood Control Permit for Playa Vista…the CORPS can't even find an approved Operations and Maintenance Manual for the flood control system.

O22-18 cont.

references
Given the very short time for comments we have not and will not have time to give this project the consideration it deserves and requires

O22-19

http://www.hcn.org/issues/47.8/the-los-angeles-wetland-wars

http://westerndigs.org/history-of-ancient-los-angeles-was-driven-by-its-wetlands-8000-year-survey-finds/

http://ballonacreek.org/about-the-creek/

http://www.whittierdailynews.com/2017/09/19/floods-are-a-serious-threat-to-southern-california-say-csuf-geologists/

ARKSTORM https://pubs.usgs.gov/of/2010/1312/

Southern California Gas Company's Application to Value and Sell 4.E-1 June 4, 2004 Surplus Property at Playa del Rey and Marina del Rey (A.99-05-029)
http://www.cpuc.ca.gov/Environment/info/esa/playa/deir_pdfs/4e_geology.pdf

PRELIMINARY GEOTECHNICAL ASSESSMENT FOR A REVISION OF THE GEOLOGY AND SOILS SECTION OF THE DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE WEST LOS ANGELES COLLEGE FACILITIES MASTER PLAN, CULVER CITY, CALIFORNIA
http://www.wlac.edu/DEIR/Appendix%20B,%20Volumes%20I%20and%20II/Appendix%20B,%20Volume%20I,%20Geotechnical%20Report.pdf

O22-20

http://www.latimes.com/local/lanow/la-me-ln-earthquake-newport-inglewood-rose-canyon-20170309-story.html

http://ucsdnews.ucsd.edu/pressrelease/fault_system_off_san_diego_orange_los_angeles_counties_could_produce_a_magn

http://onlinelibrary.wiley.com/doi/10.1002/2016JB013467/abstract

https://www.easyreadernews.com/earthquake-beach/

http://www.latimes.com/local/lanow/la-me-quake-la-houston-flooding-20170901-htmlstory.html

https://www.youtube.com/watch?v=kQIL83TKGP0 Newport Inglewood

https://www.youtube.com/watch?v=0IYfNE-zbSU Newport Inglewood+ Rose Canyon

https://www.youtube.com/watch?v=LB6OSaa35uo Puente Hills Thrust

https://www.youtube.com/watch?v=ucn2lZq5RMA just watch the Ballona Area
https://www.youtube.com/watch?v=jF4Q2Pi_nwo again just focus on duration of shaking in project area

http://www.laweekly.com/news/the-big-one-earthquake-will-hit-la-harder-than-we-thought-scientists-say-4386273

http://www.inglewoodoilfield.com/res/docs/102012study/Halliburton%20Inglewood%20Oil%20Field%20Hydraulic%20Fracturing%20Report.pdf

http://www.inglewoodoilfield.com/res/docs/102012study/Hydraulic%20Fracturing%20Study%20Inglewood%20Field10102012.pdf

focus on the geology and faulting not fracking

Brown and Caldwell, Field Investigations of Soil and Soil Gas at Playa del Rey and Marina del Rey, April, 2004.

California Department of Water Resources (DWR), "Planned Utilization of the Ground Water Basins of the Coastal Plain of Los Angeles County; Bulletin 104," In Ground Water Geology, 1961.

Davis, T.L., Review of the Playa del Rey Gas Storage Field, Los Angeles, California, November 9, 2000a.
Davis, T.L., An Evaluation of the Subsurface Structure of the Playa Vista Project Sites and Adjacent Area, Los Angeles, California, November 16, 2000b.

Hester, R.L, Geology of the Play del Rey Gas Storage Field, Los Angeles County, University of California, Department of Civil Engineering, 1986.

Terralog Technologies, Analysis of Subsidence and Microseismicity Induced by Montebello Gs Field Pressure Depletion, December 19, 2000.

O22-20 cont.

Letter O22: Save Our Community San Gabriel Valley

O22-1 That the Project Site is located in a seismically active region that will likely experience a substantial earthquake sometime in the future is consistent with information provided in the Draft EIS/EIR. See, e.g., Section 3.6.2.1, *Study Area*, and Section 3.6.2.2, *Environmental Setting*, in Draft EIS/EIR Section 3.6, *Geology, Seismicity, and Soils*, which discuss seismicity, faults, and seismic hazards in the project area. Comments regarding the Discovery Center, Newhall Ranch, and other projects do not inform CDFW's consideration of the potential impacts of this Project. See Final EIR Section 2.1.1, *Input Received*.

O22-2 The July 1, 2013, Geotechnical Investigation Report prepared for the Project and provided in Draft EIS/EIR Appendix E was prepared to inform baseline conditions (see Draft EIS/EIR Section 1.8.5 for an explanation). The report summarizes the results of the Project Site-specific geotechnical investigation, laboratory testing, and engineering analyses for the Project and provides geotechnical recommendations for the proposed earthwork and construction. The preliminary geotechnical report included in Appendix E is consistent with geotechnical practices and prepared by a reputable engineering firm in accordance with building code requirements and thus provides a valid basis for analysis of potential impacts of the Project.

Mitigation Measure 1-GEO-1b would require all final design requirements be submitted to the County and the Corps for review prior to commencement of construction. Because the California Building Code requires final geotechnical reports to be signed and stamped by a California licensed geotechnical engineer or engineering geologist, compliance with this requirement for the Project would allay the commenter's concern about the date of the initial report.

To bridge the time frame between preparation of the initial report provided in Appendix E and the final report that would be prepared prior to construction, Draft EIS/EIR Section 3.6.5.2 describes the analysis methodology for geotechnical hazards and how the Project would comply with the most recent version of the California Building Code, which incorporates ASCE 7-16's minimum design loads and associated criteria.

See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of "restoration."

O22-3 The geotechnical investigation included 25 rotary wash borings, 31 cone penetration tests (CPT), 8 hollow stem auger borings and 1 hand auger boring. The depths of exploration were selected based on the characteristics of the proposed improvements, which do not require exploring the subsurface to bedrock. The location of faults in the area of the Project Site were addressed in the geotechnical report (Draft EIS/EIR Appendix E), where the closest fault to the site (Charnock) is approximately 1 mile to the east. See also General Response 2, *Proposed Project* (Final EIR Section 2.2.2.3)

regarding the proposed removal of SoCalGas Company infrastructure from within the Ballona Reserve.

O22-4 Draft EIS/EIR Section 2.3.7 describes the history of the Ballona watershed, including discussion of when the Los Angeles River flowed through the system. Draft EIS/EIR Section 3.9.2.2, *Groundwater Occurrence and Flow*, discusses the groundwater basins at the site. None of the restoration alternatives analyzed in detail in the EIR would have an impact on seismic wave reflection within the groundwater basin at the site.

O22-5 The methodology of the hydraulic modeling is described in Draft EIS/EIR Section 3.9.5.2. Draft EIS/EIR Appendices F7 and F8 present further details on the hydraulic modeling of Ballona Creek and the wetlands. Both of the hydraulic models were run for a 100-year storm event, as well as, the larger "design storm event" and the proposed levees are designed in accordance with widely accepted design thresholds and regulatory requirements. The current levees are designed to protect against flooding during the design storm event. As a result, the Project and Alternatives 2 and 3 were designed and analyzed using the larger "design storm event," in accordance with widely accepted design thresholds and regulatory requirements.

The USGS Arkstorm Scenario project estimates a theoretical modeled event with a recurrence interval of 500 to 1,000 years, which is beyond the design threshold and regulatory requirements. The modeling has not been revised based on USGS Arkstorm Scenario project estimates. Nonetheless, the commenter's preference for the use of this scenario is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.

The geotechnical characteristics of the existing levees and recommendations for the new levees was extensively evaluated in the Project Site–specific report provided in Draft EIS/EIR Appendix E. The geotechnical report included profiling the underlying materials that support the existing levees and the proposed new levees. The recommendations in the report, including measures related to the construction of the new levees, were included (see Draft EIS/EIR Section 3.6.5.2). Potential seismic impacts on the levees is included in Section 3.6.6 in the context of Impact 1-GEO-1c-i. As stated in the Draft EIS/EIR, the new levees would be constructed in accordance with the Corps' engineering requirements.

O22-6 None of the restoration alternatives proposes to conduct oil or gas field operations. To the contrary, existing utility infrastructure would be abandoned, removed, or replaced. See Draft EIS/EIR Section 2.2.1.4, which describes the natural gas monitoring well and associated pipeline abandonment activities common to all of the restoration alternatives as well as Section 2.2.2.4 (the Project), Section 2.2.3.4 (Alternative 2), and Section 2.2.4.4 (Alternative 3). The direct and indirect impacts of the proposed activities relative to seismic considerations, including subsidence, are analyzed on an

alternative-by-alternative basis in Section 3.6.6. See, e.g., Impact 1-GEO-2, which concludes that the Project would, unless mitigated, be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project and, thereby, potentially result in seepage/piping, slope stability issues, or settlement.

O22-7 The site-specific, Project-specific geotechnical report provided in Draft EIS/EIR Appendix E is consistent with California Building Code requirements and was prepared by California licensed geotechnical engineers that provided a level of detail and scope that is appropriate for the characteristics of the proposed improvements. The commenter's preference for additional study is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.

O22-8 See Response O22-7, which explains why additional study beyond what is required to inform the NEPA and CEQA analysis has not been conducted at this time. See also Response O22-2, which explains that the implementation of Mitigation Measure 1-GEO-1b would require the preparation of a final geotechnical report to be prepared before construction begins.

As noted in Response O22-1, the Draft EIS/EIR acknowledges that the Project Site is located in a seismically active area. However, this comment provides no facts, reasonable assumptions based on facts, or expert opinion supported by facts that any of the restoration alternatives would directly or indirectly cause the rupture of a known earthquake fault, cause seismic-related ground failure, or cause the Project Site to become unstable. The fact that additional studies could be conducted, or that other methodologies are available does not change the nature of the proposed activities on the Project Site or the impacts they would cause to the environment.

O22-9 See Response O22-8.

O22-10 See Response O22-8.

O22-11 See Response O22-8.

O22-12 See Response O22-8.

O22-13 See Response O22-8.

O22-14 See Response O22-8.

O22-15 See Response O22-8.

O22-16 The methodology of the hydraulic modeling is described in Draft EIS/EIR Section 3.9.5.2. Draft EIS/EIR Appendices F7 and F8 present further details on the hydraulic modeling of Ballona Creek and the wetlands. As described in Draft EIS/EIR Section 3.9.5.2 and Appendix F7, both a HEC-RAS one-dimensional model

and an EFDC two-dimensional model were used to analyze the Project. HEC-RAS was developed by the Corps' Hydrologic Center, while EFDC received continuing support from the USEPA. Both models have been used extensively in flood and sediment transport analysis applications. Additionally, geomorphic analyses were conducted to understand the dynamics of the system (see Draft EIS/EIR Section 3.9.5.3 and Appendix F7).

As discussed in Response O22-5, the hydraulic models were run for the design storm event, so the Project was analyzed against this same level of flow. In addition, as stated under Impact 1-GEO-1c-i, "the levees proposed under Alternative 1 have been designed to Corps' current design requirements, which prescribe such parameters as construction materials, degree of material compaction during grading, acceptable slope gradients, and seismic thresholds for seismic loading. As a result, the new levees would be constructed to higher structural standards [than the existing levees] and as a result would be expected to perform better than the existing levees during a major earthquake."

O22-17 As described in Mitigation Measure BIO-1b-iii, "a Noxious Weed Control Plan shall be prepared by a qualified biologist for CDFW approval prior to the start of restoration. The plan shall ensure that noxious weeds do not spread or otherwise prevent the establishment of native vegetation. The plan shall also be implemented during all restoration-related activities." The plan would be implemented throughout the restoration phases and would remain a part of the management and control plans that guide management of the Ballona Reserve. See also Draft EIS/EIR Appendix B5, Preliminary Operations and Maintenance Plan, which describes weed monitoring and removal.

O22-18 Reaches of the Ballona Creek channel that are outside the Project Site are beyond the scope of the EIR. The Corps' 1999 Operation, Maintenance, Repair, Replacement and Rehabilitation plan (OMRR&R) is cited and relied upon in the Draft EIS/EIR, and a copy of relevant sections is included with the reference materials.

O22-19 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1) regarding the Lead Agencies' decision not to further extend the comment period beyond 133 days. CDFW disagrees with the characterization of this 19-week review period, which is nearly three times longer than required, as "very short."

O22-20 This list of reference materials is acknowledged, but does not address the adequacy or accuracy of the EIR or the merits of the alternatives. See Final EIR Section 2.1.1, *Input Received*.

SIERRA CLUB
Ballona Wetlands
Restoration Committee
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January 31, 2018

United States Army Corps of Engineers and
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sent via overnight delivery AND electronically via email to the above addresses

re: DEIR/DEIS comments - Ballona Wetlands Restoration Project:. (State Clearinghouse No. 2012071090) and Federal Document: Public Notice/Application No.: SPL-2010-1155

Dear Ms. Rogers and Mr. Brody:

Please find attached one of our submissions from Sierra Club, on behalf of the official voice of our organization, the Sierra Club Ballona Wetlands Restoration Committee, on the matter of the proposed Ballona Wetlands project.

This submission specifically includes expert analysis of tsunami information in the DEIR/DEIS. O23-1

Additional submission will be forthcoming.

Thank you for the opportunity to comment.

Sincerely,

Marcia Hanscom /s/
Chair (310) 877-2634 *(mobile)*

ADVERSE TSUNAMI IMPACTS RELATED TO THE DEIR/DEIS'S PROPOSED MODIFICATIONS OF THE BALLONA WETLANDS ECOLOGICAL RESERVE

Prepared by David DeLange, PhD, and Mansour Rahimi, PhD

for the Sierra Club

January 31, 2018

"It is sad that it took 230,000 deaths to get attention that tsunamis are real, are deadly, and can visit with no notice anywhere causing upheaval in catastrophic proportions."

Dr. Laura S. L. Kong**,** Director, NOAA/NWS, International Tsunami Information Center, referring to the 2004 Sumatra, Indonesia Tsunami.

Introduction

The Draft Environmental Impact Study/Environmental Impact Report, State Clearinghouse No. 2012071090 (for brevity "DEIR"), concludes that regarding the project proposal it studies at the Ballona Wetlands ("Ballona") "the damage potential from a tsunami is expected to be low." (DEIR Appendix E-42) This conclusion is demonstrably and dangerously false, and the DEIR's methodological foundation for it is seriously inadequate. Evidence of these critical deficiencies examined below include:

1) Unassailable recalculations of DEIR predicted tsunami height maximums, correcting both arithmetic and reporting errors in the DEIR, using data found solely either in the DEIR itself or in other documents certified by the Los Angeles County Board of Supervisors;
2) Current land elevation readings taken by the U.S. Geological Survey 3D Elevation Program showing that DEIR land elevation maps—maps that the DEIR relies upon when trying to demonstrate the existence of, and also to depict, alleged tsunami damage-immune project areas—significantly misrepresent supposedly inundation-proof land elevations along and near populated designated tsunami evacuation routes within the Project area;
3) Recalculations of DEIR predicted 100-year tsunami run-up water elevations within and around the Ballona Wetlands, using only DEIR sources. (These recalculations will factor in sea level rise data, high tide levels, and storm surge elevations, which the DEIR-referenced tsunami models do not include);
4) Historical photos showing severe flooding in 1956 along Culver Blvd, the only designated tsunami evacuation route from the project area south of Ballona Creek and west of Lincoln Blvd; and
5) Analysis of a critical methodological deficiency in that the DEIR examines only tsunami "run-up" data while completely failing to study or even acknowledge what will happen when tsunami run-up waters encounter obstacles, bottlenecks and funneling caused by the proposed levees and other structures in the populated project area (Part II of this document).

O23-2

Part I

Proposed Project Description

The most prominent structural component of the project proposal consists of five approximately 20 feet tall armored levees, all of them west of Lincoln Blvd ("Main Levee System", Exhibit 1). The first of these, the Fiji Way levee in Marina del Rey, would run from near Lincoln Blvd, seaward along Fiji Way and Area A, before curving southward, then ending near/at the north side of Ballona Creek. The second, more southerly Culver Blvd. levee in Playa del Rey, would begin somewhat west of Lincoln Blvd. and run seaward along the north side of Culver Blvd, before curving northward and ending at/near the south side of Ballona Creek just across the creek from the seaward most terminus of the Fiji Way levee.

The southwestern most sub-section of the Fiji Way levee (beginning where Fiji Way angles southward at Fisherman's Village) and the northwestern most sub-section of the Culver Blvd. levee (where the levee turns northward away from Culver Blvd.)--these two levee sub-sections run continuously except for the opening at Ballona Creek, where they terminate across Ballona Creek from each other. These two levee subsections, considered together, extend unevenly for about 400 meters very approximately parallel to the Pacific Ocean. For our purposes we will call this 400-meter levee stretch the "Coast-facing Levee System", although again it is actually composed of the seaward most, sea-facing parts of two levees, the Fiji Way and Culver Blvd. levees). The third South Area B/East Area B levee would run parallel to part of the Culver Blvd. levee but on the opposite, southern side of Culver Boulevard. The remaining two levees run immediately adjacent to and on either side of the proposed, reconfigured Ballona Creek.

O23-3

In Part I, when examining tsunami run-up, we will be essentially reanalyzing and updating the DEIR's predictions of future tsunami water levels. Such predictions do not attempt to account for the effect of obstacles, for example levees, encountered as flood water inundates. In Part II, when examining run-up, we will be studying the run-ups of past tsunamis and the implications for future Ballona area tsunamis when they encounter obstacles and especially the levees that the proposed project would create.

Our analysis will show that 100-year tsunami waters predicted by DEIR sources (correctly reanalyzed) will encounter the DEIR's Main Levee System, resulting in flood levels surrounding the levees that are higher than would occur in the absence of this Main Levee System. This increased flooding will occur in important part because the tsunami waters from the Pacific Ocean—waters that would currently flow straight ahead, disbursing across the 400-meter-wide part of the wetlands immediately bordering Ballona Creek—such waters would instead be redirected by the Coast-facing Levee System toward the north along Fiji Way and toward the south along Culver Blvd. Both Fiji Way and Culver Blvd. are designated tsunami escape routes and, in fact, the only such escape routes available to approximately one thousand people. The increased tsunami water levels resulting from this redirection of water will also reach and adversely impact, more generally, the populated areas to the north, south and west of the Main Levee System and also the populated area immediately north of the Fiji Ditch.

The analysis below focuses on tsunami risk factors shared only by Project Alternatives 1 and 2, hereinafter referred to as "project".

O23-4

Predicted Tsunami Elevations

The DEIR discussion of predicted tsunami flood levels at the Ballona Wetlands during the next 100 years is filled with serious errors and omissions of the kind that could cost lives and cause major property loss. The report states: "A 5-foot run-up for a 100-year tsunami (is) predicted near the Marina del Rey area (Ziony, Ed, 1985)." The report adds that "If a 100-year . . .tsunami coincides with high tide the maximum water elevation near the site may reach El +11...feet NAVD. . ." then concludes from these numbers that "although the damage potential from a tsunami is expected to be low, it cannot be ruled out (DEIR, Appendix E-42)

There are a number of fundamental problems with this analysis. First, the DEIR cites only the outdated 1985 Ziony report to support this prediction of a **5-foot** 100-year tsunami run-up[1] However, the DEIR is incorrect. The Ziony report nowhere in its 521 pages asserts or implies a 5-foot run-up for a 100-year tsunami at or near Ballona. Instead, in the attached Figure 208 (locations 79-80) copied from Ziony's report, Ziony predicts a **9-foot** 100-year run-up for the project area (Exhibit 2)[2]

O23-5

The Ziony report's conclusion of a 9-foot 100-year run-up is reinforced by Los Angeles County Board of Supervisor's certification, in the Marina del Rey Land Use Plan, of a J.H. Wiggins finding of a 9.6 foot expected 100-year run-up at Venice Beach (Venice Beach reaches the northern edge of the project area.) [3] This Land Use Plan further clarifies Wiggins' analysis as follows: "the predicted heights are not maximum credible heights and do not presume coincidence of the highest tsunami wave with peak high tied or with storm induced high-water setup and superimposed storm waves...." [4] In other words, the predicted 9.6-foot predicted run-up, as with the DEIR's Ziony source[5], is a **minimum** expected run-up occurring during calm seas and not during high tide.

Returning then to the DEIR's Ziony report, if we add in the assumption of high tide, then, following the DEIR analysis above, which for high tide adds 6 feet above the mistakenly posited run-up of 5 feet, we arrive at a (recalculated) predicted minimum **15-foot** run-up at highest tide (i.e., 9' + (11'-5') for a 100-year tsunami run-up at Ballona. Again, this conclusion is based entirely on recalculating corrected data from the DEIR and its sources. Furthermore, high tides will often be even higher than the 6 feet posited here as can be seen from 2018 Santa Monica Bay high tide charts.[6]

Tsunami and Sea Level Rise

The materials on 100-year run-up examined above (Ziony, 1985, Wiggins, 1974 and DEIR Appendix E) never mention or show any awareness of the additional contribution sea level rise will make to tsunami flood levels. We discover the reason for this silence by turning to the main body of the DEIR, which does examine sea level rise. There we learn that the earliest study that attempted to project future sea level rise along the west coast of the United States was done by Hayhoe et al. in the year

O23-6

1 Ziony, J.I., Editor, 1985, "Evaluating Earthquakes in the Los Angeles Region-An Earth Science Perspective", United States Geological Survey Professional Paper 1360.

2 Ibid., p. 400

3 Los Angeles County Planning Department, Marina del Rey Land Use Plan, 2012, p. 10-6

4 The original MDR Land Use Plan for this information is *Seismic Safety Study, City of Los Angeles*, Technical Report 74-1199-1, John H. Wiggins, et al, 1974

5 The Ziony report, according to the DEIR as we saw above, adds 6-feet to the 5-feet, totaling 11-feet high tide, but adds in no increased elevation to account for Wiggins' "storm induced high-water setup and superimposed storm waves".

6 https://tidesandcurrents.noaa.gov/noaatidepredictions.html?id=9410777&units=standard&bdate=20180129&edate=20180130&timezone=LST/LDT&clock=12hour&datum=MLLW&interval=hilo&action=dailychart

2004.[7] And so, these 20th century investigators were silent because such a scientific sea level rise prediction post-dated and therefore was not available to Wiggins or Ziony.

By contrast, in the main body of the DEIR, there is an examination of the National Research Council's (NRC) study, a study which acknowledges that "estimates of sea level rise can be used to evaluate potential flooding conditions. (DEIR, p. 3.7-4) The DEIR, referencing this same source, then tells us to expect sea level rise on the California Coast by 2100 of 43-69 inches.[8] The NRC document itself then adds that its own estimate is similar to an Army Corp of Engineers estimate of 59 inches of sea level rise by 2100 for California.[9] So, a mean of approximately 5 feet of sea rise is being predicted by both the NRC and the Army Corp, two DEIR sources, (approximately) during the next 83 years of the current century.

If we add this 5-feet of sea level rise to the previous recalculated finding of a predicted 100 year 15-foot run-up at Ballona, we now have a run-up predicted solely by DEIR sources that will reach **20 feet** during the current century. This 20-feet prediction is subject to two further variations. First the 5-foot predicted increase will occur progressively throughout the century. On the other hand, 20 feet is a low estimate, because as the NRC study points out: ". . . the predicted heights are not maximum credible heights and do not presume coincidence of the highest tsunami wave with peak high tide *or with storm-induced high-water setup and superimposed storm waves*." (Italics ours)[10] In other words, since we have already added, as per the DEIR, 6 feet for a predicted high tide tsunami, we must now additionally consider that when the predicted 20 foot high tide run-up tsunami potential reaches Ballona during already pre-existing storm-induced high-water set-up and superimposed storm wave conditions, then these preexisting conditions will result in a **20+ feet** water level, where the height above 20 feet could amount to several feet depending on the storm-related sea conditions greeting its arrival.

O23-6 cont.

DEIR Land Elevation Map

The added fact that there are significantly lower land elevation levels immediately surrounding the project area than is portrayed by DEIR maps makes this entire populated area much more vulnerable to catastrophic tsunami inundation than the DEIR claims. This is especially true throughout the entire populated areas including: 1) on and near the roadways immediately outside the Fiji Way and Culver Blvd. levees, 2) west of the "Coast-facing Levee System" and 3) along the two Ballona Creek levees and along the Fiji Ditch just to the east of Lincoln Blvd. The DEIR authors indicate little awareness of this risk not only because of their underestimates of tsunami waters that we have just considered, but also, in important part, because their risk assessment relies on two outdated, substantially inaccurate land elevation-based tsunami inundation maps (Exhibits 3 and 4).

O23-7

By contrast, evidence from more recent U.S. Geological Survey based elevation readings, together with the above analysis of 20+ feet 100-year tsunami run-up risk, imply that a tsunami can be expected to cause deep flooding as follows: 1) along both the Fiji Way and the Culver Boulevard designated tsunami evacuation routes, 2) throughout nearby neighborhoods, 3) to the Playa del Rey neighborhood just west of the Coast-facing Levee System and finally 4) to the business/residential areas immediately adjacent to Ballona Creek and also to the business/residential areas just east of Lincoln Blvd.

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7 National Research Council (NRC), 2012. *Sea-Level Rise for the Coasts of California, Oregon, and Washington: Past, Present, and Future*. [http://www.nap.edu/catalog.php?record_id=13389] June 2012, p. 95

8 The DEIR posits a 59-inch sea-rise, an average between the high/low range predicted by the NRC.

9 NRC, Ibid.

10 NRC, Ibid., p. 399

immediately north of the Fiji Ditch. Furthermore, as we will see more fully in Part II, the proposed Main Levee System, functioning at points as an obstacle and/or a funnel, will even further significantly increase the destructive potential of the 100-year tsunami predicted for the Ballona project area.

The DEIR's first Ballona area map (DEIR, Ap., F7-112, also Exhibit 3), color codes land elevations in the project area on a scale ranging from 0 to >16-foot elevation. (DEIR F7-112, Figure 5) It inaccurately portrays almost the entire (maroon-colored) land area exterior to the proposed Main Levee System as standing at >16 feet. In fact, much of this area, and almost all of the land portrayed south of the Culver Blvd. levee, stands at less than 16 feet. This inaccurate map based on an outdated 1997 methodology[11] also shows that inundation of a 100-year tsunami (green line), on the Playa del Rey or southern side of Ballona creek, is expected to stop short of the Culver Blvd Levee, thus traveling no further inland than Vista del Mar, a street which is approximately parallel to and about 125-meters yards inland from the Pacific shoreline. On the Marina del Rey side, this map shows that a tsunami would reach some of the Marina channel-facing structures at the seaward most end of Fiji Way from the Breakwater Apartments landward past Fisherman's Village and also would reach a raft of boats at and near Dock 52 even though all of those areas are (inaccurately) colored maroon and thus allegedly lie above 16 feet.

There's a pervasive, fundamental flaw in this map and conclusions drawn from it, especially with respect to the flooding dangers south of Ballona Creek including along the Culver/Jefferson Boulevard designated tsunami evacuation route. Proof of this flaw comes from current elevation measurements taken by use of a software Google Application called "My Elevation". "My Elevation, Version 1.39" was developed for Google by RDH Software in 2014. For purposes of the present analysis, this application was installed in a Samsung 5S Smartphone which uses an Android operating system. On December 4, 2017, this elevation recording device was placed at various locations in and near the project area for the purpose of recording land elevations at those localities. Use of the application requires an internet connection since the application uses coordinates built into the software to determine precise latitude and longitude where the measurements are being recorded. United States elevation level readings in this application are based on data taken from the U.S. Geological Survey 3D Elevation Program. Elevation values are expressed as surface or ground level elevations above mean sea level. Each elevation reading taken was sent from the "My Elevation" application by email to one of the authors' email addresses, dr.delange@socal.rr.com. These emailed elevation readings, numbered 1-15, were then copied and pasted from west to east in sequence in Exhibit 5.

O23-7 cont.

There are several pathways in Playa del Rey from the Pacific Ocean to Lincoln Boulevard that reach no higher than 16 feet elevation. The "My Elevation" readings numbered 1-15 were taken along one of these pathways. The 15 measurements begin on the Playa del Rey shore directly west of the southern end of the Del Rey Lagoon, then next on nearby Argonaut Street, then on the one block of Vista del Mar connecting Argonaut St. to Culver Blvd, next eastward on Culver Blvd until it connects with Jefferson Blvd and finally eastward on Jefferson ending in the #15 reading near Lincoln Blvd. These same 15 elevation readings from Exhibit 5 are also superimposed on the (inaccurate) color-coded DEIR-provided elevation Map referenced above as Exhibit 3, revealing the map's substantial inaccuracies. (Other maximum-16-foot available tsunami pathways exist, for example, running immediately to the north of Vista del Mar between Argonaut St. and Culver Blvd. before connecting

11 The methodology was published by Titov and Sinolakis in 1997 at: http://www.conservation.ca.gov/cgs/geologic_hazards/Tsunami/Inundation_Maps/Documents/AGU08_tsunami_poster.pdf (Inundation Map Methodology Poster)

eastward to Culver Blvd.)

The "My Elevation" findings provide clear proof that the DEIR's outdated elevation map (Exhibit 3) significantly over-states elevation levels along the only designated tsunami evacuation route south of Ballona Creek and north of the Playa del Rey bluffs.[12] The DEIR map shows alleged elevation levels along almost the entire designated Playa del Rey side tsunami evacuation route, which runs northeast along Culver Blvd, then onto Jefferson Blvd. as standing at >16 feet elevation (illustrated by the map's maroon color). However, as described just above, "My Elevation" readings show that there is an available tsunami pathway from the ocean to Lincoln Blvd. that never exceeds 16 feet elevation. Only an approximately 75 meters stretch of Culver Blvd, inland of the mapped Vista del Mar inundation line, measures between 12 and this maximal 16 feet, and the remainder of the tsunami evacuation route measures 7 feet elevation. Put another way, landward of the DEIR's acknowledged (green) inundation line, there is a path to the ocean which (briefly) reaches no higher than a maximum elevation of 16 feet before descending to and remaining at 7 feet all the way to Lincoln Blvd.

O23-7 cont.

Putting all the numbers together, we conclude that, based on DEIR sources together with the U.S. Geological Survey based elevation readings just cited, a 100-year tsunami would not be obstructed by land elevations from deeply flooding the populated areas west of Vista del Mar between Ballona Creek and the Playa del Rey Bluffs as well as the Culver/Jefferson Boulevard tsunami evacuation route with a predicted 100-year run-up exceeding the highest correctly measured land level throughout that area by **at least 4 feet** ((20+)-16 feet). Where Culver and Jefferson Boulevards west of Lincoln are at 7 feet elevation—which they are over the vast majority of their extent—the predicted tsunami waters would be much deeper than the minimum of 4 feet shown by the immediately preceding analysis.

Ballona Tsunami Inundation Area Map

The second map presented in the DEIR (DEIR F7-110), unlike the map just considered, contains no elevation data, only an outline of where tsunami 100-year inundation is expected to occur. This map appears to set the inundation lines at the same place as the first map. The DEIR's use of this map and the map itself are also seriously flawed. To begin, the DEIR fails to disclose the "Method of Preparation" from the original source that was used in creating the map.[13] This "Method of Preparation," is the missing bottom part of the map as the map is presented in the DEIR. This "Method of Preparation", copied from the DEIR's just cited source, reveals three key oversights in the DEIR's use of the map, oversights which, once again, have the effect of diminishing tsunami risk. First, the "Method of Preparation" states: "The accuracy of the inundation line shown on these maps is subject to limitation in the accuracy and completeness of available terrain and tsunami source information, and the current understanding of tsunami generation and propagation phenomena as experienced in the models. Thus, although an attempt has been made to identify a credible upper bound to inundation at any location along the coastline, *it remains possible that actual inundation could be greater in a major tsunami event."* (Italics mine) A second problem with the map is that all of the reference sources used in constructing it come from the year 2004 and earlier thus making it outdated in that the tsunami "models" it refers to are neither the most recent nor the most relevant tsunami modeling available. To

O23-8

[12] Only approximately 60 meters of Culver Blvd. west of Lincoln Blvd elevates above 16 feet (to 18 feet). This stretch of Culver Blvd lies immediately inland of the ocean. But gravity would presumably first take a tsunami through a 16-foot maximum pathway from just south of the Del Rey Lagoon via Argonaut St. to Vista del Mar, disbursing from there, as sketched above, along various sub-16-foot pathways eastward to Lincoln Blvd.

[13] State of California. (2009). Tsunami Inundation Map for Emergency Planning, Venice Quadrangle, County of Los Angeles; produced by California Emergency Management Agency, California Geological Survey, and University of Southern California – Tsunami Research Center; dated March 1, 2009, mapped at 1:24,000 scale.

this point, as we saw above, the first tsunami model specifically designed for the west coast of the United States was created by Hayhoe et. al. (see footnote 7); yet all but one of the map's referenced sources are dated prior to 2004 and the remaining one from 2004 is not authored by Hayhoe et. al. Third, the source for this second map is the same as for the first map, which as we saw, is based on a methodology published in 1997. A map constructed from 20-year-old information does not include and could not have included the updated sea level rise predictions of 2012, which were considered above. (See footnote 6) Finally this second map fails to incorporate an analysis of possible preexisting storm induced high-water setup and superimposed storm waves that might be encountered by the arriving tsunami. For all these reasons this map significantly under-reports 100-year run-up tsunami risk for Ballona.

Still, despite these serious deficiencies and the resulting implicit underestimates of sea level rise and non-inclusion of storm-induced high-water setup and superimposed storm waves surge contributions to tsunamic risk, this second map portrays all of Marina del Rey, which is north of Ballona Creek, with its thousands of inhabitants, and its businesses, boaters, visitors and frequent traffic intensities along Admiralty Way and Lincoln Blvd., as being just a little underwater come the predicted 100-year tsunami. What the DEIR does not recognize, however, is just how far under water Fiji Way will be when this tsunami arrives at 20+ feet elevation. The U.S. Geological Survey ('My Elevation") places the terminus of Fiji Way at 15 feet. Just seaward of this terminus, the 240-unit Breakwater Apartments, contrary to the DEIR Map in Exhibit 3, sit on land a mere 12 feet above sea level. (Exhibit 5, #16-17)

O23-8 cont.

As we will see in part II of this report, the presence of the proposed levee system will significantly worsen the destructive power of the predicted flooding. This is because, instead of being allowed to disburse from the Fiji Way area southward and from Culver Blvd northward across the Ballona wetlands, arriving tsunami flood waters will instead be forced by the presence of the Fiji Way levee, and the Culver Blvd. levees together with the Playa del Rey Bluffs, to gather in higher volumes than they otherwise would along these two tsunami evacuation routes and also across the inhabited areas north of the Fiji Way levee and south and west of the Culver Blvd. levee.

Potential Tsunami Impacts East of Lincoln Blvd.

Tidal waters from Marina del Rey's Basin H currently reach project areas east of Lincoln Blvd. via the Fiji Ditch. The Fiji Ditch passes via a culvert containing a catchment beneath Lincoln Blvd. The Fiji Ditch is an essentially unobstructed, very low elevation pathway for tsunami inundation of the residential/business area immediately east of Lincoln Blvd. Perhaps because the DEIR authors believed that a considerably lower than 20+ foot 100-year tsunami would hit the Ballona Valley, they did not mention, much less analyze, any flooding possibilities to this neighborhood. However, immediately east of Lincoln, all along the Fiji Ditch's north side before it turns more southward, the business/residential area sits unprotected from the Fiji Ditch at 12 feet elevation (See Exhibit 5, #18-19 for sample elevation readings.) The presence of a berm south of the Fiji Ditch would only further force any flood waters northward toward this populated area by preventing these waters from disbursing to the south.

O23-9

Historic Flood Photo South of Ballona Creek

The large majority of the project area south of Ballona Creek and along Culver and Jefferson Blvds. we have seen, consists of a flood plain. The majority of this plain is at a continuous 7 feet elevation. Once tsunami waters have cleared the tsunami pathway's highest elevation point between the sea and Lincoln Blvd at 16 feet, tsunami waters would descend inland into this flood plain. That the drainage of this plain is very poor can be seen from the attached before and after photos of a 1956 flooding of Culver Blvd. (Exhibit 6) One of the structures depicted in the photo still stands at 335 Culver Blvd in Playa del

O23-10

Rey. This location is approximately 100 meters inland from the inaccurately drawn inundation line at Vista del Mar as portrayed in the two DEIR cited maps above. "My Elevation" places these flooded structures at 10-foot elevation. ("My Elevation", RDH Software, Google, Inc., 2014) All of the continuous 7-foot elevations along Culver Blvd. discussed above lie even further inland from these flooded structures. Clearly, this documented vulnerability to flooding along this designated and only tsunami evacuation route for this area illustrates the destructive potential of the 20+ foot tsunami inundation predicted over the next 100 years. But this added tsunami risk as illustrated in the photos has neither been analyzed, much less disclosed, in the DEIR.

O23-10 cont.

DEIR Maps' Inundation Line Reconsidered

The two DEIR tsunami-related maps, as we noted above, place the Playa del Rey inundation line (green line, Exhibits 3 and 4) along Vista del Mar, near the Pacific Ocean. When we outlined the lowest available tsunami pathway across Culver Blvd to Lincoln Blvd, we found that the highest elevation (at 16 feet) through which tsunami waters would have to pass on their way to Lincoln Blvd occurred at the junction of Vista del Mar with Culver Blvd. But this implies that this small stretch of the DEIR sources' inundation line through which tsunami waters would pass lies at 16 feet. Reconsidered in this different way, we can see clearly once again that, based on the DEIR sources' maps, the predicted 20+ foot 100-year tsunami waters will have a clear path eastward as elevations immediately east of Vista del Mar descend rapidly to a continuous 7 feet all the way to Lincoln Blvd.

O23-11

Summary

Because the DEIR, as we have just seen, used inaccurate ground elevation maps that placed almost all of the project area exterior to the Fiji Way and Culver Blvd levees at >16 feet, and at the same time used outdated, understated tsunami run-up elevations (alleging a maximum of a mere11-foot 100 year run up at high tide, Ziony, 1985), the DEIR had no basis for studying the impacts related to the Main Levee System of the predicted 100-year tsunami as recalculated herein at 20+ feet. This is because the DEIR incorrectly predicts an inundation that stops about 125 meters inland in Playa del Rey at Vista del Mar and just barely onshore along Fiji Way, all of this well short of the Culver Blvd. and Fiji Way levees. Our recalculated findings, however, showing the predictable occurrence of 100-year run-up tsunami waters at 20+ feet across land no higher than 16 feet means that such tsunami waters would have a clear path to not only what we labeled the populated Coast-facing Levee System but thereafter further inland along the populated and sometimes heavily trafficked Culver Blvd. and Fiji Way levees. We turn in the second part of the present report to a deeper analysis of what happens when this now more accurately analyzed tsunami hits Ballona.

O23-12

Part II

The following bullet points give the specific supporting facts used to further analyze the impact of a future tsunami on Ballona given construction of the proposed project. We then offer our summary statement.

- One of the most prominent structural components of the proposed project (Alternatives 1&2) consist of a main levee system (Exhibit 1). The proposed levee system is designed to protect the low-lying areas and other structures (e.g., roads) from potential flooding of the Ballona Creek (e.g., DEIR pages 3.9-67, 3.9-76, 3.9-77). To provide this protection, the levees are being designed at significant heights.
- Under Alternatives 1 & 2, Culver Blvd will be protected by two levees, stretching along its north side and its south side., two more levees running along Ballona Creek, and a levee running along

O23-13

Fiji Way and Area A ("Main Levee System")

- The Playa Del Rey bluffs, stretching across the entire south side of the proposed project area are over 150 feet high.
- The Los Angeles County Office of Emergency Management has designated Culver Blvd as the only tsunami evacuation route out of the Playa del Rey side of the Ballona area. See below for a map of the county designated tsunami evacuation routes in the Marina del Rey and Playa del Rey areas (Exhibit 7). Populated Culver Blvd. is the most southern route between the Ballona Creek and the Playa del Rey bluffs. Besides, populated Fiji Way, alongside the northernmost levee is especially vulnerable to tsunami flooding (DEIR Map in Exhibit 3 and Exhibit 8)
- Studies show that "… a simulation of inundation and run-up remains challenging, especially in the case of urban areas. These aspects of local tsunami behavior not only are sensitive to high-resolution bathymetric and topographic data, wave breaking, diffraction, and the other hydrodynamic effects, but also relate to the locations of buildings, streets, and other elements of urban infrastructure" (e.g., Karlsson et al., 2009).[14] Other studies show that tsunami damages depend on its run-up height, which in turn depends on complex water diffractions. Built structures have been implicated for increased tsunami hazards in recent tsunamis[15]. Moreover, wave propagation distance depends on the shapes of structures, rivers, channels, roads, etc. For Tohoku tsunami, the water damage was experienced about a kilometer inland. Had it been the same magnitude earthquake near field, the water would have moved eastbound along Culver Blvd and Jefferson Blvd. Also, it is important to note that during the Tohoku tsunami, the water moved inland about 5 kilometers in some areas, especially where channels, rivers or creeks were present.
- The 2004 Indian Ocean earthquake and tsunami generated waves of 15 to 30 meters (50 to 100 ft.) with maximum run-up of 51 m (167.3 ft.) at shoreline, and in many places the waves reached as far as 2 km (1.2 mi) inland (source: visited on 12/1/2017). This tsunami demonstrates what happens when an incoming tsunami wave encounters obstacles and is forced to a much higher elevation.

O23-13 cont.

Analysis

There is a clear and significant tsunami hazard (loss of life and property damage) associated with the proposed project due to the positioning of the proposed levees. Especially in a strong near field earthquake, the tsunami waves of massive force would move from west to east entering into the opening between the Playa Del Rey bluffs and the proposed levees. The bluffs and the West Area B levee (south of Culver Blvd.) will act as a funnel/channel, forcing the water into the Culver Blvd corridor, possibly reaching Lincoln Blvd and beyond. We may also experience a situation where the tsunami waves enter the main Marina channel and Ballona Creek. And as the waters move eastbound, they will break into two distinct flows where the Area A (northside of Ballona Creek) and Fiji Way levees join together. One flow enters Ballona Creek, and the other moves onto the Marvin Braude Bike

[14] Karlsson, J. M., A. Skelton, M. Sanden, M. Ioualalen, N. Kaewbanjak, N. Pophet, J. Asavanant, and A. von Matern (2009), Reconstructions of the coastal impact of the 2004 Indian Ocean tsunami in the Khao Lak area, Thailand, Journal of Geophysical Research, 114, C10023, doi:10.1029/2009JC005516.

[15] Wilson, R.I., Admire, A.R., Borrero, J.C., Dengler, L.A., Legg, M.R., Lynett, P., McCrink, T.P., Miller, K.M., Ritchie, A., Sterling, K., Whitmore, P.M. (2013). Observations and Impacts from the 2010 Chilean and 2011 Japanese Tsunamis in California (USA). Pure and Applied Geophysics, Volume 170, Issue 6–8, pp 1127–1147.

Path, then encounters the Breakwater at Marina del Rey Apartments and thereafter Fiji Way. The following map (Exhibit 8) is designed to show the major flows of tsunami waves into these areas and their direction based on the current DEIR Alternative 1 and 2 designs. The background black lines are given by the current DEIR (Alternative 1, Phase 2: Preliminary Grading Plan, page 2-33). The large hollow red arrows are designed by the authors of this document to indicate the direction of large tsunami waves. The solid red arrows are the effects of water channeling into the tsunami evacuation route and Fiji Way. The solid red lines are dangerous water flows primarily due to the location, positioning, angle, and height of the proposed levees.

O23-13 cont.

Summary

The 20-foot-high Culver Blvd and Fiji Way levees are proposed to replace the existing levees so as to contain increased future downstream flooding from Ballona Creek that the DEIR states will result in part from expected sea rise. Yet, during the predicted 100-year tsunami run-up, these same proposed levees would significantly increase flooding levels along Culver Blvd and Fiji Way, the only evacuation routes available to some inhabitants, and also increase flooding throughout surrounding neighborhoods. If these levees were designed substantially lower, the rising water in Ballona Creek from inland storms would, in the view of the DEIR, flood Fiji Way and Culver Blvd. If the levees are designed high as proposed, the levees will act as walls along Culver Blvd and Fiji Way, channeling and guiding the tsunami waves into the Culver Blvd and Fiji Way levees instead of allowing these flood waters to disburse across the part of the Ballona Wetlands enclosed by the Culver Blvd and Fiji Way levees. There's an added danger along Culver Blvd. caused by the presence of the Playa del Rey Bluffs and the South Area B/East Area B levee which, together with the Culver Blvd levee will cause a funneling and thus rising and rushing of water through the bottleneck created by their conjoint presence. The presence of the project next to the Fiji Ditch, which is completely open to the ocean waters via the Marina del Rey boat basin to the north of the Dock 52 parking lot, brings with it yet one more increased flooding risk. None of these impacts have been analyzed or even recognized by the DEIR. This is due in important part to the fact that, as we saw in Part I, the DEIR seriously understated the height of the predicted 100-year tsunami flood waters and also significantly overstated the height of existing land elevations throughout the project area. Clearly, Project Alternatives 1 and 2 would significantly increase the risk of death and destruction throughout the western end of the Ballona Valley.

O23-14

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About the Authors

Mansour Rahimi, has a PhD in Industrial and Systems Engineering from Virginia Polytechnic and State University (Virginia Tech). Over the past 30 years, he has performed a wide variety of research in health, safety and environmental aspects of industries and technologies. He has also performed research for the National Science Foundation on earthquake safety and human behavior. He is a professor at the University of Southern California's Epstein Department of Industrial and Systems Engineering in Los Angeles.

David DeLange has an M.A. from the University of Chicago and a PhD in Analytic Philosophy from Brown University, where he specialized in conceptual analysis and research. He is the former President and Executive Director of the Coalition to Save the Marina. He has regularly, for the past 20 years, provided research based expert analysis and commentary on the environmental and human impacts of various development proposals in California's Coastal Zone.

Exhibit 1

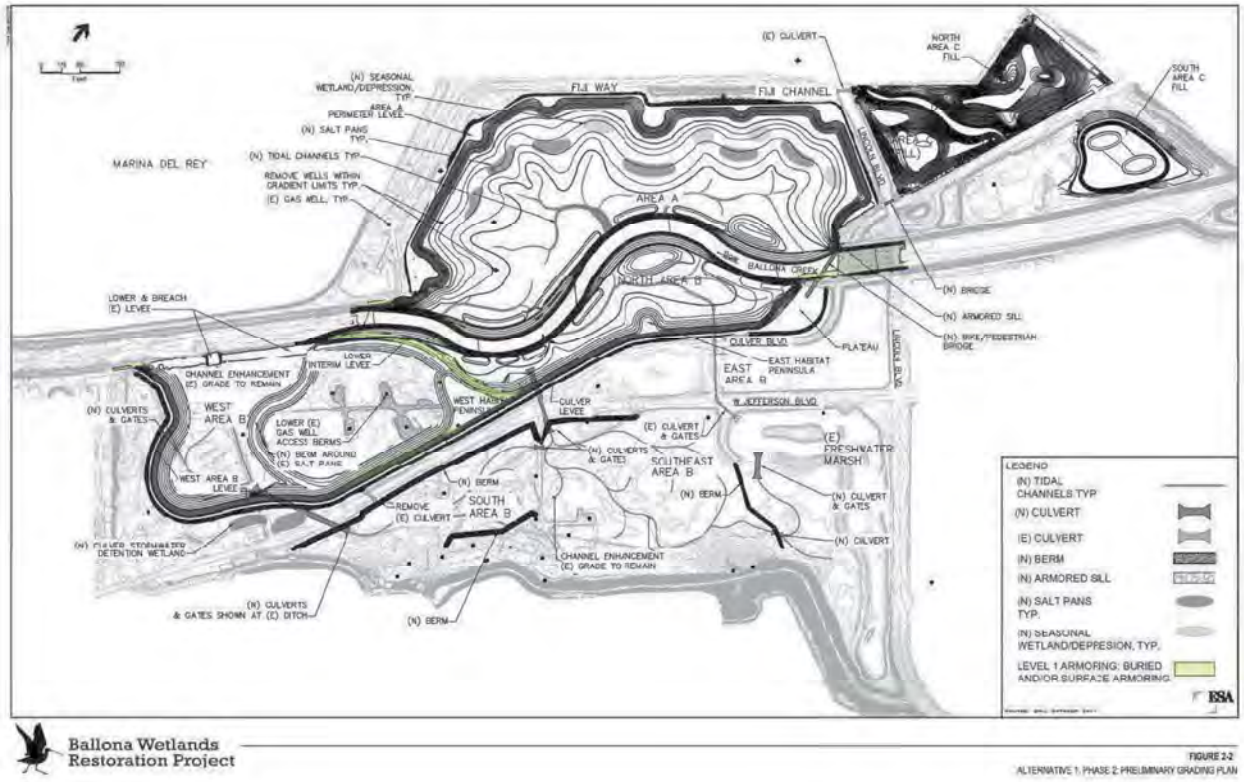

(E) CULVERT
NORTH AREA C FILL
SOUTH AREA C FILL
(N) SEASONAL WETLAND/DEPRESSION, TYP.
AREA A PERIMETER LEVEE
(N) SALT PANS TYP.
(N) TIDAL CHANNELS TYP.
REMOVE WELLS WITHIN GRADIENT LIMITS TYP.
(E) GAS WELL, TYP.
MARINA DEL REY
FIJI WAY
FIJI CHANNEL
AREA A FILL
LINCOLN BLVD.
AREA A
NORTH AREA B
BALLONA CREEK
(N) BRIDGE
(N) ARMORED SILL
(N) BIKE/PEDESTRIAN BRIDGE
LOWER & BREACH (E) LEVEE
CHANNEL ENHANCEMENT (E) GRADE TO REMAIN
LOWER INTERIM LEVEE
CULVER BLVD.
PLATEAU
EAST AREA B
EAST HABITAT PENINSULA
W. JEFFERSON BLVD.
(N) CULVERTS & GATES
WEST AREA B
LOWER (E) GAS WELL ACCESS BERMS
(N) BERM AROUND (E) SALT PANS
WEST AREA B LEVEE
WEST HABITAT PENINSULA
CULVER LEVEE
(E) CULVERT & GATES
(N) CULVERTS & GATES
SOUTHEAST AREA B
(E) FRESHWATER MARSH
(N) BERM
(N) CULVERT & GATES
(N) CULVERT
REMOVE (E) CULVERT
SOUTH AREA B
(N) BERM
CHANNEL ENHANCEMENT (E) GRADE TO REMAIN
(N) CULVERTS & GATES SHOWN AT (E) DITCH
(N) BERM
LEGEND
(N) TIDAL CHANNELS TYP.
(N) CULVERT
(E) CULVERT
(N) BERM
(N) ARMORED SILL
(N) SALT PANS TYP.
(N) SEASONAL WETLAND/DEPRESION, TYP.
LEVEL 1 ARMORING: BURIED AND/OR SURFACE ARMORING
ESA
Ballona Wetlands Restoration Project
FIGURE 2-2
ALTERNATIVE 1, PHASE 2 PRELIMINARY GRADING PLAN
2-23

Exhibit 2

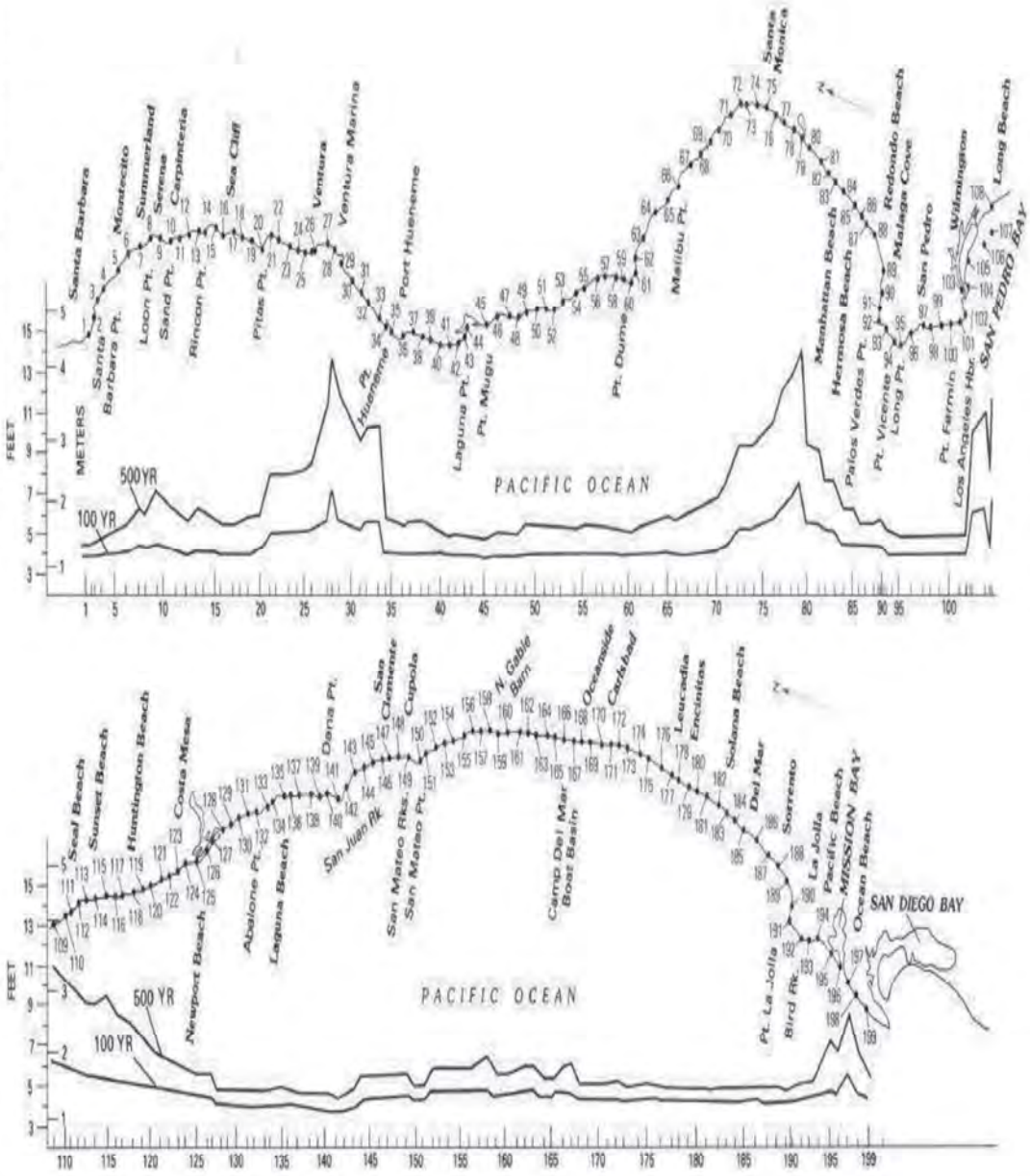


FIGURE 208.—Heights of the 100- and 500-yr tsunamis along the southern California coast (Santa Barbara to San Diego) as predicted by numerically modeled tsunamis. Modified from Houston (1980). Wave heights given for each numbered coastal location are the values predicted as the wave crosses the shoreline and include the effects of astronomical tides. Runup elevations may be higher where waves encounter steep topography at or near the shoreline or lower where waves flood low-lying or estuarine areas.

Exhibit 3

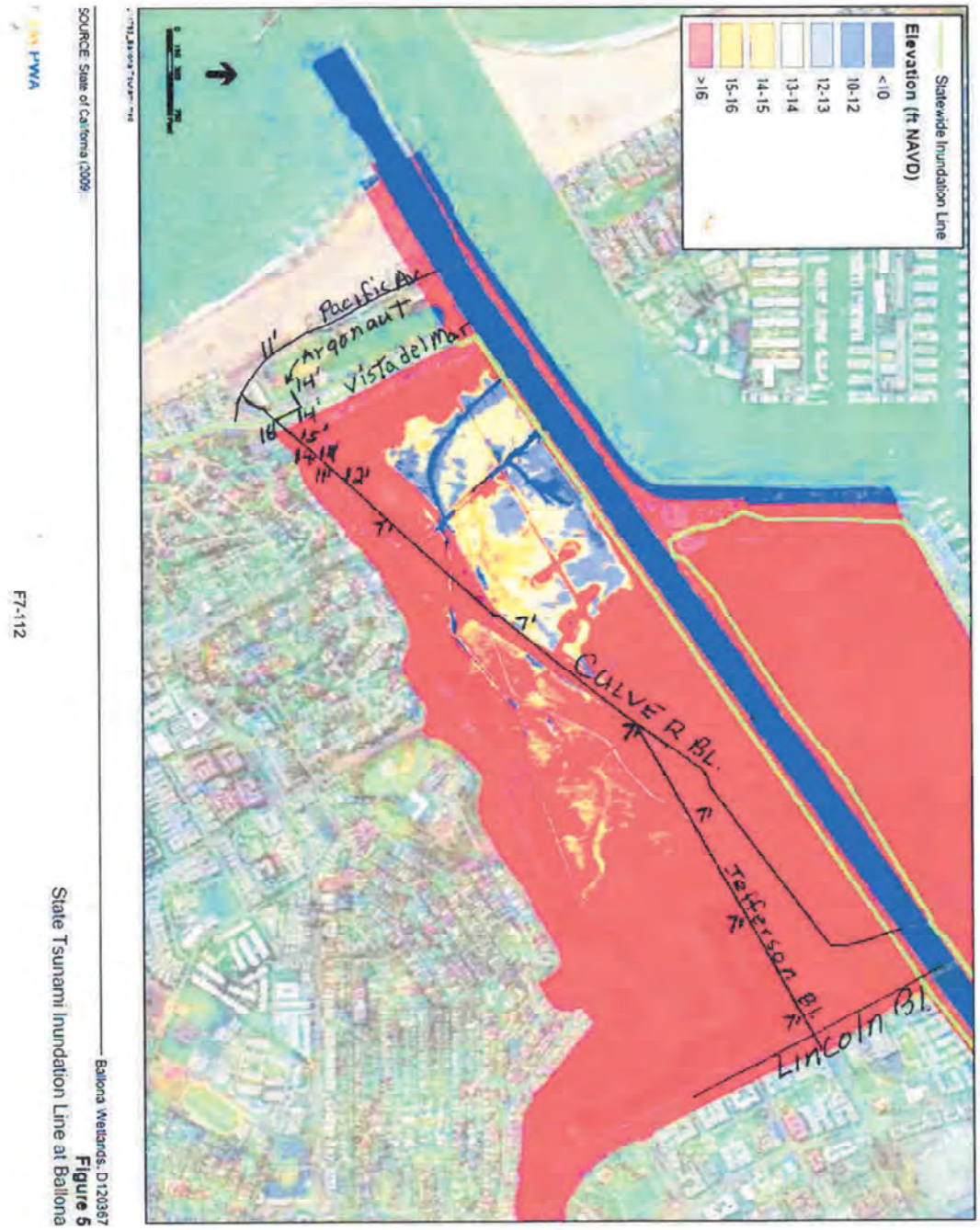


Figure 5
State Tsunami Inundation Line at Ballona

Exhibit 4

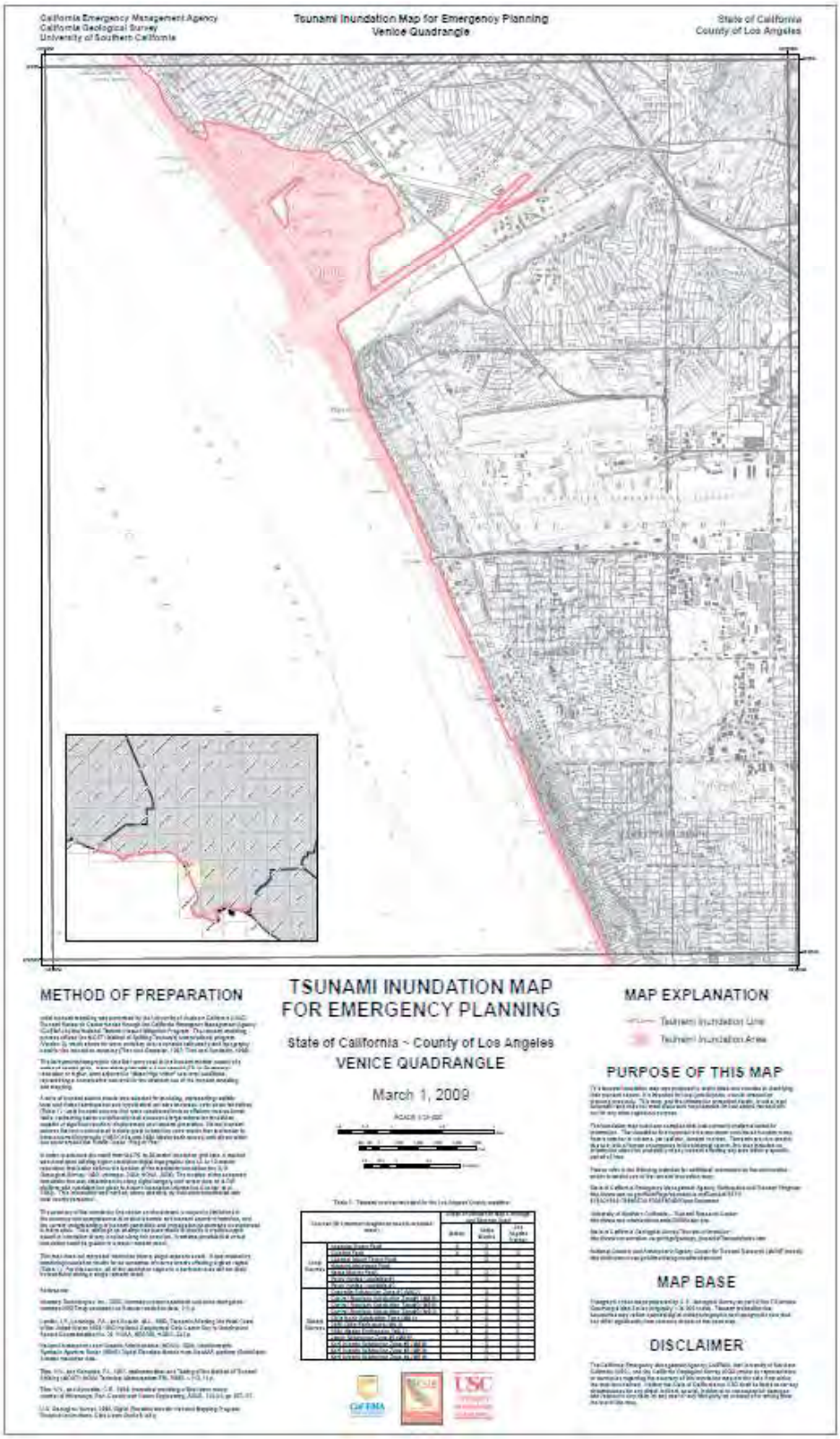

California Emergency Management Agency
California Geological Survey
University of Southern California
Tsunami Inundation Map for Emergency Planning
Venice Quadrangle
State of California
County of Los Angeles
METHOD OF PREPARATION
TSUNAMI INUNDATION MAP
FOR EMERGENCY PLANNING
State of California ~ County of Los Angeles
VENICE QUADRANGLE
March 1, 2009
MAP EXPLANATION
Tsunami Inundation Line
Tsunami Inundation Area
PURPOSE OF THIS MAP
MAP BASE
DISCLAIMER

Exhibit 5

Results Below Created by using "My Elevation" based on data from the U.S. Geological Survey 3D Elevation Program.
http://goo.gl/ntnR9r

Culver Blvd. Area

1) Look Where I Am!. I am at Elevation: 11 ft. and located at Lat:33.95816 Lng:-118.45073
See it In Google Maps
http://maps.google.com/maps?z=18&t=m&q=loc:33.95816,-118.45073

2) Look Where I Am!. I am at Elevation: 14 ft. and located at Lat:33.95843 Lng:-118.45019
See it In Google Maps
http://maps.google.com/maps?z=18&t=m&q=loc:33.95843,-118.45019

3) Look Where I Am!. I am at Elevation: 14 ft. and located at Lat:33.95925 Lng:-118.44868
See it In Google Maps
http://maps.google.com/maps?z=18&t=m&q=loc:33.95925,-118.44868

4) Look Where I Am!. I am at Elevation: 16 ft. and located at Lat:33.95899 Lng:-118.44857
See it In Google Maps
http://maps.google.com/maps?z=18&t=m&q=loc:33.95899,-118.44857

5) Look Where I Am!. I am at Elevation: 15 ft. and located at Lat:33.95900 Lng:-118.44849
See it In Google Maps
http://maps.google.com/maps?z=18&t=m&q=loc:33.95900,-118.44849

6) Look Where I Am!. I am at Elevation: 14 ft. and located at Lat:33.95910 Lng:-118.44856
See it In Google Maps
http://maps.google.com/maps?z=18&t=m&q=loc:33.95910,-118.44856

7) Look Where I Am!. I am at Elevation: 14 ft. and located at Lat:33.95910 Lng:-118.44856
See it In Google Maps
http://maps.google.com/maps?z=18&t=m&q=loc:33.95910,-118.44856

8) Look Where I Am!. I am at Elevation: 11 ft. and located at Lat:33.96049 Lng:-118.44659
See it In Google Maps
http://maps.google.com/maps?z=15&t=m&q=loc:33.96049,-118.44659

9) Look Where I Am!. I am at Elevation: 12 ft. and located at Lat:33.96088 Lng:-118.44608
See it In Google Maps
http://maps.google.com/maps?z=15&t=m&q=loc:33.96088,-118.44608

10) Look Where I Am!. I am at Elevation: 7 ft. and located at Lat:33.96343 Lng:-118.44337
See it In Google Maps
http://maps.google.com/maps?z=15&t=m&q=loc:33.96343,-118.44337

11) Look Where I Am!. I am at Elevation: 7 ft. and located at Lat:33.96584 Lng:-118.44134
See it In Google Maps
http://maps.google.com/maps?z=15&t=m&q=loc:33.96584,-118.44134
12) Look Where I Am!. I am at Elevation: 7 ft. and located at Lat:33.96807 Lng:-118.43862
See it In Google Maps
http://maps.google.com/maps?z=15&t=m&q=loc:33.96807,-118.43862

13) Look Where I Am!. I am at Elevation: 7 ft. and located at Lat:33.96894 Lng:-118.43681
See it In Google Maps
http://maps.google.com/maps?z=15&t=m&q=loc:33.96894,-118.43681

14) Look Where I Am!. I am at Elevation: 7 ft. and located at Lat:33.97068 Lng:-118.43309
See it In Google Maps
http://maps.google.com/maps?z=15&t=m&q=loc:33.97068,-118.43309

15) Look Where I Am!. I am at Elevation: 7 ft. and located at Lat:33.97186 Lng:-118.4307
See it In Google Maps
http://maps.google.com/maps?z=15&t=m&q=loc:33.97186,-118.43073

Fiji Way Area

16) Marvin Braude Bike Path, Marina Del Rey, CA 90292, USA, Marina del Rey, United States
It is at Elevation = 15 feet and located at Lat:33.96891 Lng:-118.44564
http://maps.google.com/maps?z=17&t=m&q=loc:33.96891,-118.44564

17) 13906 Fiji Way, Marina Del Rey, CA 90292, USA, Marina del Rey, United States
It is at Elevation = 12 feet and located at Lat:33.96876 Lng:-118.44602
http://maps.google.com/maps?z=17&t=m&q=loc:33.96876,-118.44602

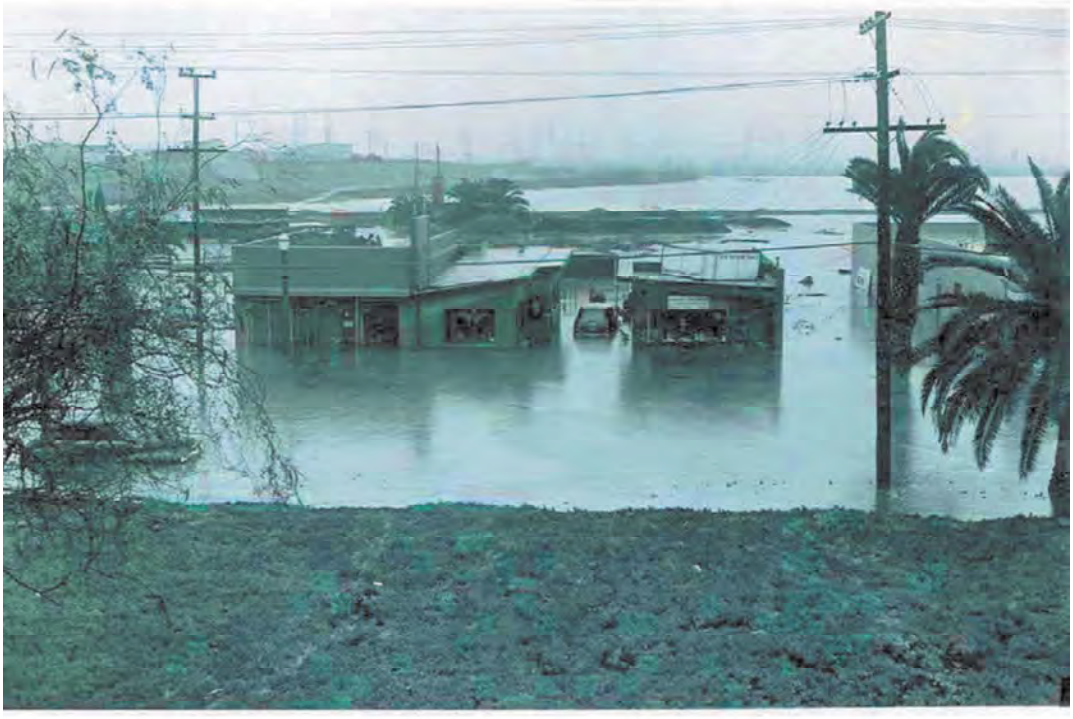
Fiji Ditch Area

18) It is at Elevation = 12 ft. and located at Lat:33.97824 Lng:-118.43548
See it In Google Maps
http://maps.google.com/maps?z=18&t=m&q=loc:33.97824,-118.43548

19) 13234 Fiji Way, Marina Del Rey, CA 90292, USA, Marina del Rey, United States
It is at Elevation = 12 ft. and located at Lat:33.97893 Lng:-118.43387
See it In Google Maps
http://maps.google.com/maps?z=17&t=m&q=loc:33.97893,-118.43387

Exhibit 6

Before November 1956 Flood



After November 1956 Flood

Exhibit 7

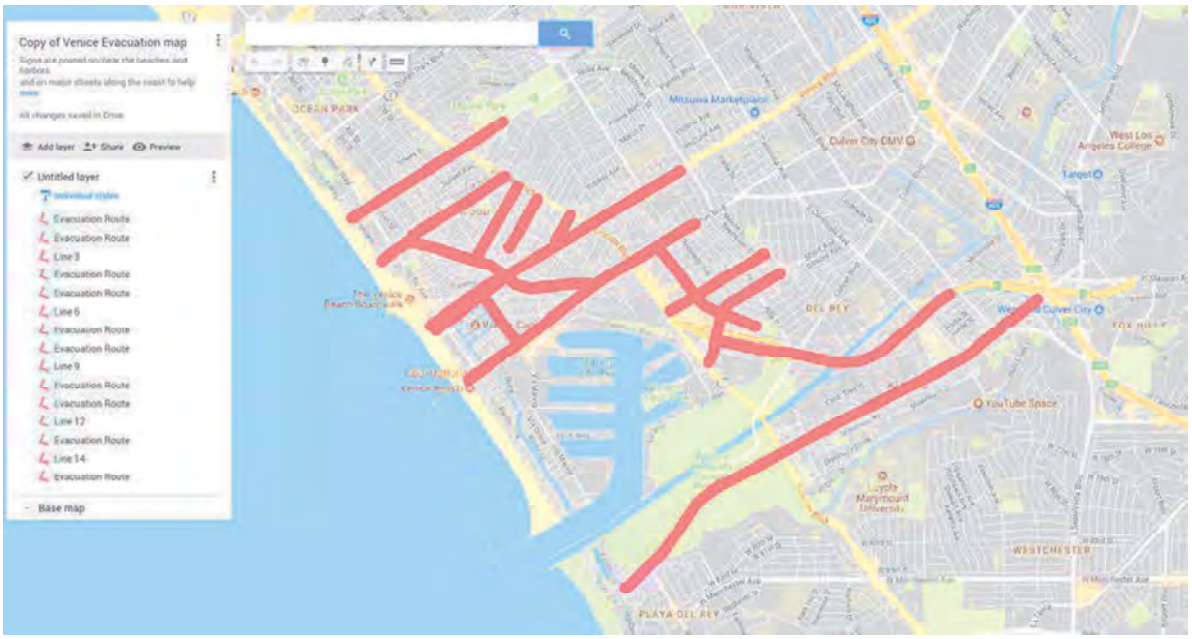
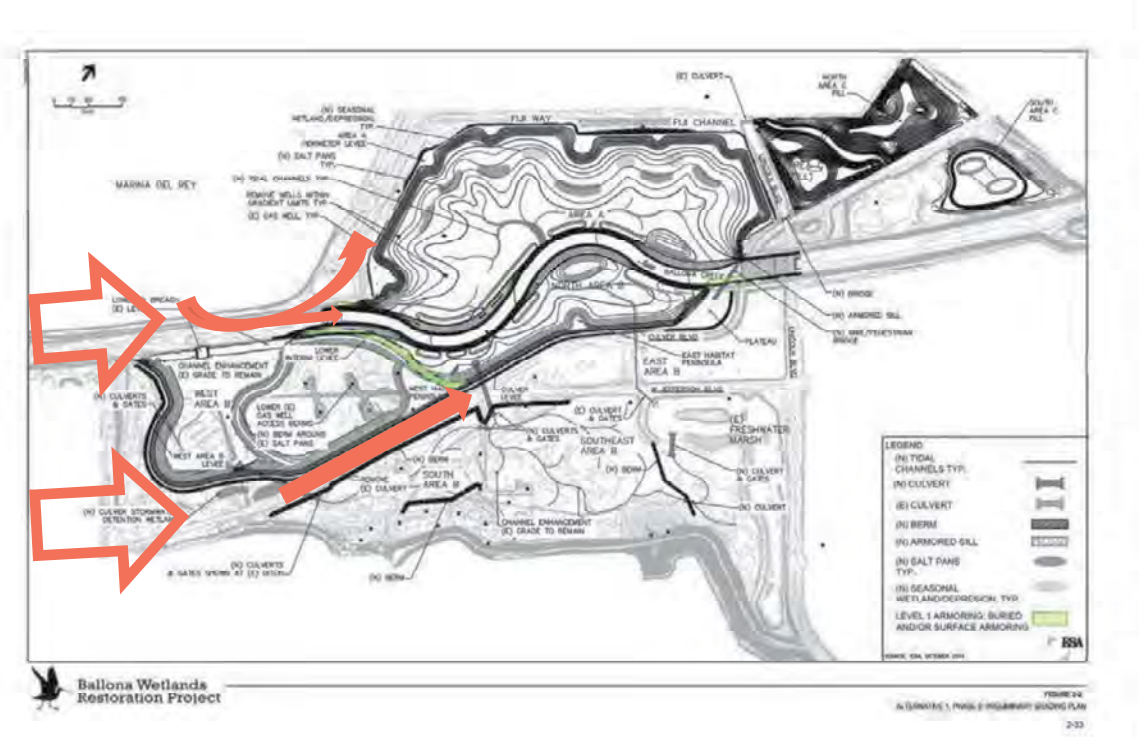


Exhibit 8

West to East Tsunami Pathways When Forced by Project Levees to Circumvent Them



From: David De Lange PhD
To: bonnie.l.rogers@usace.army.mil; Wildlife Ballona Wetlands Ecological Reserve EIR
Subject: Addendum to Already Submitted Sierra Club Doc on Tsunami Risk
Date: Monday, February 5, 2018 4:43:27 PM
Attachments: ADDENDUM To DDL RH Ballona.pdf

Hello Ms. Rogers and Mr. Brody
Attached please find an addendum to a document by David DeLange, PhD and Mansour Rahimi, PhD. The document to which this is an addendum is entitled "Adverse Tsunami Impacts Related to the DEIS/DEIR's Proposed Modifications of the Ballona Ecological Reserve." The Addendum itself is entitled "Tsunami Risks for the Ballona Valley Related to the Cascadia Subduction Zone." The author is David DeLange, PhD. Submission of the document has been authorized by the Sierra Club.
Sincerely, David De Lange, PhD

ADDENDUM TO

ADVERSE TSUNAMI IMPACTS RELATED TO THE DEIR/DEIS'S PROPOSED MODIFICATIONS OF THE BALLONA WETLANDS ECOLOGICAL RESERVE

Which was submitted by Fedex (1/31/2018) and electronically (2/01/2018) to CDFW and ACOE

Prepared by David DeLange, PhD

For the Sierra Club

TSUNAMI RISKS FOR THE BALLONA VALLEY RELATED TO THE

CASCADIA SUBDUCTION ZONE

"The Cascadia subduction zone remained hidden from us for so long because we could not see deep enough into the past. It poses a danger to us today because we have not thought deeply enough about the future. That is no longer a problem of information; we now understand very well what the Cascadia fault line will someday do. Nor is it a problem of imagination. If you are so inclined, you can watch an earthquake destroy much of the West Coast this summer in Brad Peyton's "San Andreas" …But such apocalyptic visions are a form of escapism, not a moral summons, and still less a plan of action. Where we stumble is in conjuring up grim futures in a way that helps to avert them." Kathryn Schulz, *The New Yorker*, July 20, 2015

The Ballona DEIR/DEIS (for brevity, "DEIR") authors acknowledge that "Southern California is threatened by both near and farfield tsunamis," (DEIR, F7-104) then proceed to minimize these threats. They assure us that a tsunami from Japan, the closest possible farfield threat they mention, would take 10-15 hours to arrive, allowing plenty of time for evacuation. (DEIR, F7-104) Then, after listing what they characterize as nearfield tsunami risk zones--they mention only the Santa Cruz-Santa Catalina Ridge, Palos Verdes Slide, and San Pedro Basin faults--they clearly imply that these much closer fault zones would bring fairly harmless wave run-up to Ballona (F7-104).

Remarkably missing from the DEIR's list of nearfield fault zones is the immensely dangerous Cascadia Subduction Zone ("Cascadia"). The southern end of the Cascadia Subduction Zone reaches as far south as California's Cape Mendocino, approximately 580 miles north of Ballona. The DEIR informs us that tsunamis, for example, the aforementioned tsunami waves from Japan, travel at 350-500 km (221-315 miles) per hour (DEIR F7-104). This means that the arrival time for a Cascadia subduction zone generated tsunami could be less than two hours and no more than three hours. Such a tsunamic arrival could occur when evacuation times would be increased, for example, in the middle of the night or during peak traffic intensities along Culver

O23-15

and Lincoln Boulevards.

The Cascadia subduction zone is a tectonic plate convergence zone where the Juan de Fuca, Explorer and Gorda tectonic plates move from the west toward the east beneath the North American Plate. This subduction zone lies approximately 80 miles off the West Coast extending from near Vancouver to south of Cape Mendocino. The Cascadia subduction zone contains approximately 30 times the potential energy of the San Andreas Fault according to Oregon State University's Professor Paul Goldfinger.[1] It is the same type and length of tectonic plate convergence that generated the Sumatra, Indonesia, tsunami of 2004, the tsunami that killed 230,000 people.[2] Furthermore, the coming earthquake "could approach the intensity of the Tohoku quake that devastated Japan in March of 2011, according to Goldfinger's research team.[3]

This massive underwater fault, according to Goldfinger, has created "major earthquakes" (magnitude 8.5+) 43 times in the past 10,000 years; it last ruptured in the year 1700.[4] Professor Goldfinger further warns:

> It's been known for some time, and still believed to be accurate, that the southern portions of the subduction zone south of Newport, Oregon, tend to rupture more frequently—an average of about every. . .220-240 years from Coos Bay to Eureka, California.[5]

In other words, the next Cascadia generated tsunami is statistically overdue by over half a century.

The next major Cascadian rupture will adversely impact Ballona in various cumulative ways not analyzed, much less disclosed, by the DEIR. To begin, when Cascadia ruptures, the resulting sea-rise will add to the 5 feet of global-warming related sea-level rise predicted by the DEIR's NSF source for the Ballona area over the next 100 years. In this regard, the DEIR's own NSF source warned in 2012:

> The biggest game changer for future sea-level rise along the U.S. west coast would be a great earthquake (magnitude greater than 8) along the Cascadia Subduction Zone. …During a great earthquake, some land areas would immediately subside and relative sea level would suddenly rise, perhaps by 1 meter or more. This earthquake-induced rise in sea level would be added to the projected rise in relative sea level (about 60 cm by 2100).[6]

O23-15 cont.

[1] http://activetectonics.coas.oregonstate.edu/cascadia_turbs.htm and https://www.cnn.com/2016/02/11/us/cascadia-subduction-zone-earthquakes/index.html
[2] http://www.cbc.ca/doczone/features/factsheet-cascadia-subduction-zone1 (Accessed 2/5/2018)
[3] https://pubs.usgs.gov/pp/pp1661f/ (Accessed 2/5/2018)
[4] http://oregonstate.edu/ua/ncs/archives/2016/aug/subduction-zone-earthquakes-oregon-washington-more-frequent-previous-estimates (Accessed 2/4/2018) Also published in *Marine Geology*, week of 8/05/2106
[5] Ibid
[6] https://www.nap.edu/read/13389/chapter/7#108, (Accessed 2/4/2018)

The wave height that such an event could generate is of further concern: Rick Wilson of the California Geological Survey warns as follows in *Scientific American*:

> Waves from a large event, such as a high-magnitude Cascadian earthquake, could affect up to 350,000 people along the California coast—not including the people who may be visiting the state's beaches on a warm summer day… Waves could typically reach 45 feet at Crescent City, in the northernmost part of the state, and 10 to 12 feet in Southern California…. [7]

It's important to note here that this 10-12-foot Cascadian wave height expected along Southern California coasts is a baseline from which actual predicted inundation levels are calculated upward. As we saw in the main body of this document and above, the following seven factors frequently or always will **increase** inundation levels: 1) pre-existing storm-induced high-water set-up; 2) pre-existing super-imposed storm-waves, 3) tides higher than mean sea level (adding as much as 6 feet water rise above mean sea level), 4) sea-level rise caused by global warming (increasing 5 feet by 2118), 5) just referenced coastal subsidence (which will bring an immediate 3+ feet sea-level rise during the predicted Cascadia rupture), 6) immediate off-shore shoaling caused by the tsunami hitting the continental shelf [8] and 7) land based obstacles, including buildings and levees, encountered as the tsunami inundates.

O23-15 cont.

It is obvious from these numbers that there are many scenarios, and not only worst-case scenarios, under which inundation levels at Ballona following a nearfield Cascadia subduction zone rupture would exceed 20 feet. The resulting devastation of a 20+ foot tsunami hitting the DEIR's proposed levee system, as we saw in the main body of this document, would be tremendous. The tidal wave would arrive in as little as two hours compounding the risk significantly.

Summary and Conclusion

The entire DEIR/DEIS makes only one passing reference to the Cascadia subduction zone (F7-105) but is completely silent on the massive overdue tsunami that the next major Cascadian rupture will generate. As a result, the DEIR utterly fails to analyze, much less disclose, the added serious danger inhabitants of the Ballona Valley's west end would face when the Cascadia tsunami arrives if the levee system proposed by the DEIR/DEIS's Alternatives 1 and 2 were built.

Postscript

More generally, the DEIR/DEIS's analysis of tsunami risk at Ballona is methodologically negligent because it uses only outdated source materials and inundation maps. One of the DEIR/DEIS's own sources, Rick Wilson, head of the California Geological Survey's tsunami

O23-16

[7] https://www.scientificamerican.com/article/new-maps-reveal-tsunami-california/ (Accessed 2/4/2009)

[8] The DEIR itself makes this point for us when it explains that "viewed at sea, a tsunami is barely noticeable; however, as the waves reach the coast, they shoal on the continental shelf with water piling up as the sea floor becomes shallower, and the height of the wave increases dramatically." (DEIR, F7-104)

program, tells us that "before (the 2010 Chilean tsunami and the 2011 Japanese tsunami) ". . .we really didn't have any detailed information about tsunamis along our coast. But because those two events occurred, we were able to have staff go out and collect the data -- it was priceless, really." [9] Yet every DEIR assertion examined in this addendum and in the 18-page main body of this report rely on sources that are at least seven years old. (DEIR 2009 inundation maps at F7-110 and F112, and DEIR References at F7-110 and 3.9:87-90).

O23-16 cont.

[9] http://www.latimes.com/local/lanow/la-me-ln-california-officials-drawing-tsunami-flood-maps-to-aid-future-construction-20140321-story.html (Accessed 2/5/2018)

From:	Marcia Hanscom
To:	bonnie.l.rogers@usace.army.mil; Wildlife Ballona Wetlands Ecological Reserve EIR
Subject:	Sierra Club submission - Ballona Wetlands DEIR/DEIS
Date:	Monday, February 5, 2018 10:30:56 AM
Attachments:	Ballona Wetlands Sierra Club DEIR_DEIS submission2_Hanscom.pdf Endangered & Imperiled Species Ballona 12_11_17.pdf Palmer"s Goldenbush Ballona Roy.pdf

Dear Ms. Rogers and Mr. Brody ~

Please find attached - for the DEIR/DEIS for the Ballona Wetlands project - the comments from Sierra Club, including two attachments to those comments.

~ Marcia

Marcia Hanscom
Sierra Club
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Los Angeles Times

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Health threat in red states

GOP plan to repeal insurance mandate could wreak havoc in many regions.

By Noam N. Levey

WASHINGTON — The Senate Republican plan to use tax legislation to repeal the federal requirement that Americans have health coverage threatens to derail insurance markets in conservative, rural swaths of the country, according to a Los Angeles Times data analysis.

That could leave consumers in these regions — including most or all of Alaska, Iowa, Missouri, Nebraska, Nevada and Wyoming, as well as parts of many other states — with either no options for coverage or health plans that are prohibitively expensive.

"It's very, very concerning to us," said Denise Burke, healthcare analyst at the Department of Insurance in Wyoming, where the cheapest plan for a 40-year-old consumer in most of the state will cost $586 a month next year.

The precise nationwide impact of the Senate GOP tax plan, which would eliminate the Affordable Care Act's unpopular mandate penalty, is unclear, as many forces affect how much insurance costs and where insurers sell plans.

But the legislation is widely expected to cause insurers to raise prices or exit markets out of fear that fewer healthy people will buy plans if there is no longer a penalty for going without coverage.

The risk is greatest in places where health insurance is already very expensive and where there are few insurers.

For example, there are 454 counties where there will be only one insurer selling marketplace plans in 2018

[See Healthcare, A11]

Photographs by Brian van der Brug Los Angeles Times

"MAYOR ED" HUMERICKHOUSE was an evacuee of the 2003 fire in Harbison Canyon, Calif. Afterward, the clouds of ash were so unrelenting that he would drive out of the burn area just to look at something green.

Lessons from losses

The 2003 fire wrecked their homes and sense of identity. Today, they have insights for Northern California victims.

By Thomas Curwen

HARBISON CANYON, Calif. — During the last month's heat wave, residents of Harbison Canyon tried not to worry.

Ed Humerickhouse went for his midday walk. Mary Manning designed a flier for the Lion's Club while the children in her home day-care napped. Shirlee McAndrews drove to El Cajon for a swim, and Eutha and Bill Scholl rested in their garden, sparrows fluttering around them.

But with highs pushing 110 and humidity at 2%, even the most routine activities were strained. The wind chimes tinkling in the distance didn't help.

Fourteen years ago, the sky was just as blue and cloudless when a deer hunter 17 miles away started a fire

[See Canyon, A7]

THE 2003 CEDAR fire destroyed 287 homes in Harbison Canyon and killed 15 in San Diego County. Above, a view of the community from Crows Nest Lane.

Politics roiled by sex abuse claims

Top Democrat steps aside from House Judiciary post as Trump backs Moore.

By Tracy Wilkinson

WASHINGTON — Sexual abuse allegations continued to roil U.S. politics Sunday, with Democratic Rep. John Conyers Jr. stepping down from a powerful House post and President Trump again voicing support for Republican Alabama Senate candidate Roy Moore.

Conyers announced he was stepping down as ranking member of the House Judiciary Committee while he faces an ethics investigation into allegations he sexually harassed female staffers.

The announcement came shortly after House Minority Leader Nancy Pelosi repeatedly called on the Michigan Democrat to "do the right thing." At the same time, she said he deserved due process.

Conyers, 88, has denied the allegations. But he said the investigation and the allegations are a distraction to the important work of the committee, which he noted handles civil rights cases and voters' access to the ballot box.

Pelosi, of California, defended Conyers as an "icon" who had "done a great deal to protect women" over the years. Asked whether she believed his accusers, she said it was up to the ethics committee to determine that.

"I believe he will do the right thing," she said on NBC News' "Meet the Press" before he announced his decision to give up his committee post.

The news website BuzzFeed reported last week that Conyers' office paid $27,000 to settle a complaint from a women in 2015 who said she was fired after rejecting the congressman's sexual advances. It reported

[See Misconduct, A9]

Drew Angerer Getty Images

REP. John Conyers Jr. is stepping down as ranking member of the House Judiciary Committee.

Christina House Los Angeles Times

RETIRED federal biologist Robert van de Hoek takes a closer look at what he believes is a Palmer's goldenbush in the heart of the Ballona Wetlands.

Another rare plant might uproot a wetlands project

Renegade biologist hopes his latest find brings Ballona restoration to a halt.

By Louis Sahagun

With his long ponytail, floppy sun hat and a peace symbol dangling from his neck, retired federal biologist Robert "Roy" van de Hoek looks like a man bent on saving the environment.

And when he's crawling through a hole in the fence to sneak into the Ballona Wetlands, it's clear he's intent on doing it on his own terms.

He has, after all, released parasitic native plants into the park in a personal strategy to battle flora he considers invasive. And Van de Hoek, 60, has faced vandalism charges and a temporary ban from Ballona for taking pruning shears to other plants he believed were crowding out rare native species.

His renegade approach has earned him accolades and adversaries in environmental circles — in part because of his passion, and because he sometimes gets results.

He's known for eleventh-hour discoveries of rare plants in portions of the wetlands slated for projects he believes will compromise the ecosystem. In 2010, he discovered Orcutt's yellow pincushions, a dandelion-like plant, sprouting in the center of a $400,000 recreation and wildlife enhancement project that included landscaping and a walkway. Work was temporarily halted while the walkway was redesigned to avoid harming the flowers.

Now he says he's discovered yet another rare plant, this time in the heart of the wetlands where Ballona

[See Ballona, A12]

Tunisian makes it his mission to bury migrants lost to sea

'I am their family,' the former fisherman says of the hundreds whose bodies he laid to rest.

By Molly Hennessy-Fiske

ZARZIS, Tunisia — Despite his injured ankle, he ran as best he could in his rubber boots to reach the graves.

Chamseddine Marzoug was in a hurry, taking advantage of a break in torrential rains to check the swelling cemetery he has spent the last dozen years building for hundreds of African migrants who never made it to Europe.

Marzoug, 51, paused to catch his breath this month in a field littered with Berber brand beer cans and reeking of manure. He pointed about half a mile north, across trash-strewn olive groves bordering the town dump, to two red-brick pillars that marked the entrance to the soccer-field-size cemetery on a finger of land stretching toward Italy.

It's an increasingly crowded plot of mostly unmarked graves. And fall is the season when most bodies wash ashore in southern Tunisia, driven by strong sea winds. Marzoug pointed again, this time to the east. Across the source, he said, of both the storm clouds and the influx of migrants: Libya.

At least 33,761 migrants have died or gone missing in the Mediterranean since 2000, according to a report released Friday by the United Nations' International Organization for Migration. Although fewer migrants have drowned this year than in 2016 — 2,993 compared with 4,720 as of Nov. 24 — in some ways crossing the Mediterranean has become more perilous. The number of migrants reaching Europe also has decreased dramatically, meaning that, proportionally, more of them are dying.

One migrant died for every 54 who reached Europe this year, compared with 1 for every 73 this time last year, according to the IOM. The organization's officials blame the increase, in part, on more crossings in the central Mediterranean, where 93% of migrant deaths were reported this year, and where more migrants are traveling because of enforcement efforts blocking routes through the Aegean Sea and the Balkans.

"Stopping migration and eradicating deaths at sea may [be] conflicting objectives. Shutting the shorter and less dangerous routes can open longer and more dangerous routes, thus increasing the likelihood of dy-

[See Tunisia, A4]

Meredith Corp. will purchase Time Inc.

The Iowa-based magazine publisher and broadcast company says it will pay $2.8 billion. NATION, A9

Jurist embraced the underdog

Harry Pregerson, a federal appeals court judge who let his conscience inform his rulings, dies at 94. CALIFORNIA, B1

Weather

Showers, then sun. L.A. Basin: 71/53. B8

Printed with soy inks on partially recycled paper.

O23-17

O23-17 cont.

Another find stokes the feud

[**Ballona,** from A1]
Creek meets the ocean south of Marina del Rey. And he hopes its presence will bring to a screeching halt a $185-million restoration project proposed by the California Department of Fish and Wildlife and supported by several leading environmental groups.

Jordan Traverso, a spokeswoman for the department, declined to comment "until he provides us with more information."

In the meantime, Van de Hoek's discovery claim is straining deep passions among more than a dozen groups with environmentalist-sounding names. Some side with Van de Hoek and favor a total ban on development in the wetlands. In others, his finding has triggered whispers of a last-minute ploy by an activist who operates under his own rules.

"This new plant is a much bigger deal than the pincushions," Van de Hoek said while visiting the plant recently.

To reach it, Van de Hoek crawled through a hole in the fence and then made his way along a circuitous route through dense stands of nonnative mustard.

Finally, he came to an abrupt stop and nodded appreciatively toward a clump of bushes about 3 feet high, 30 feet across and surrounded by pebbly soil. "There it is: Palmer's goldenbush," he said with a proud smile.

Dropping to his knees for a closer look at its fuzzy seed pods, he suggested, "This plant could be the snail darter of 2017," referring to the little fish whose discovery in 1973 brought construction of a multimillion-dollar federal hydroelectric project to a halt on the Little Tennessee River.

"That's because it's growing right where the restoration project calls for construction of a berm 20 feet high," he said. "It's not hard to imagine people and schoolkids wearing T-shirts emblazoned with the rallying cry: Save the goldenbush!"

That remains to be seen. In the meantime, Van de Hoek is inflaming a historic feud over the fate of the wetlands that once covered 2,100 acres.

Once owned by industrialist Howard Hughes, the property is home to ring-necked snakes, great blue herons and the federally endangered El Segundo blue butterfly.

The state paid $139 million in voter-approved bond money in 2003 to buy what was left of the Ballona Wetlands from Playa Capital, the developer of Playa Vista. The deal made the highly degraded expanse of marshes, mud flats and salt pans off limits to development.

Now the state and U.S. Army Corps of Engineers have issued an environmental impact report for creating earthen levees and lowering the land in areas where years of neglect and millions of tons of landfill from the dredging of Marina del Rey in the 1950s curtailed tidal flows and freshwater channels.

Proponents of the wetlands, including Van de Hoek, have vowed to fight any bulldozing of the site on grounds it would be harmful to wildlife. Other conservationists believe the plan presents the only hope of rejuvenating natural rhythms of life in the remnant wetlands.

CHRISTINA HOUSE Los Angeles Times

SOME SIDE with Robert van de Hoek and favor a total ban on development in the Ballona Wetlands. In others, his latest discovery has triggered whispers of a last-minute ploy by an activist who works by his own rules.

Sources: Mapzen, OpenStreetMap   Los Angeles Times

"This discovery, if true, is really good news — I'm a huge fan of biological diversity," said Shelley Luce, president and chief executive officer of Heal the Bay, which supports the restoration project. "But finding a rare plant does not mean we shouldn't restore the wetlands.

"If he's right, we may decide to move the proposed berm, or the plant — and I can't say which is preferable," she said. "But during a restoration project at Malibu Lagoon, for example, we temporarily kept native plants from there in pots for replanting later."

That kind of talk doesn't fly with Van de Hoek and a group of vocal environmental nonprofits that are strongly opposed to the restoration plan, including Food and Water Watch, Earthrace Conservation and Christians Caring for Creation.

"Uproot and replant? No way," Van de Hoek said. "That's not going to happen."

In Van de Hoek's corner is Marcia Hanscom, chair of the Sierra Club Angeles Chapter's Ballona Wetlands Restoration Committee. "We are opposed to massive bulldozing that would destroy homes and food sources for thousands of native animals," she said, "some of which no longer exist elsewhere on the Los Angeles coast."

The question now is whether the shrub is actually the rare variety of Palmer's goldenbush, which the California Native Plant Society says has been documented only at a few sites north of San Diego County: Carbon Canyon in Orange County, the city of Redlands in San Bernardino County, and the Santa Rosa Hills in Riverside County.

Judging from photos of the plant provided by The Times, David Magney, manager of the rare plant program for the California Native Plant Society, withheld judgment. "Without having a specimen in my hands, I can't rule it out. But without that physical evidence, it's still a rumor as far as I'm concerned."

Van de Hoek recently alerted state wildlife authorities of his intention to provide them in the coming weeks with specific information about the plant.

But Andrew Sanders, curator at UC Riverside's herbarium, said, "Get me a piece of the plant 6 to 10 inches in length and I'll give you a determination based on its characteristics within 15 minutes."

That determination, he said, would be reported to the Consortium of California Herbaria at UC Berkeley, a gateway to information on more than 2 million specimen records.

"Of course," he added with a chuckle, "someone else might have a different opinion."

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February 5, 2018

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sent electronically via email to the above addresses

re: DEIR/DEIS comments - Ballona Wetlands Restoration Project:. (State Clearinghouse No. 2012071090) and Federal Document: Public Notice/Application No.: SPL-2010-1155

Dear Ms. Rogers and Mr. Brody:

Please accept this as one of our submissions from Sierra Club, on behalf of the official voice of our organization, the Sierra Club Ballona Wetlands Restoration Committee. Sierra Club, which has been involved with protection efforts of the Ballona Wetlands for more than 30 years, and was instrumental in the public acquisition of the lands known now as the Ballona Wetlands Ecological Reserve, was founded by legendary conservationist John Muir in 1892. We are the nation's largest and most influential grassroots environmental organization, with three million members and supporters. In the Angeles Chapter alone, we are more than 50,000 members.

We have additionally sent under separate cover via overnight mail (fedex) and via email an expert analysis on tsunami risk and a short addendum to that submission is being sent today via email. O23-18

I write to you on behalf of this august organization on the matter of the proposed Ballona Wetlands project – referred to as a "restoration." Even the title of this project ignores the most recent science, including historical ecology evidence that clearly would lead one to conclude that none of the three proposed alternatives would be a "restoration." In fact, the three alternatives proposed, if carried out, would ignore the mandates that the State of California has for protection of wildlife and landscapes in an ecological reserve, and also would ignore state and federal laws that were meant to protect species like those that would be displaced, killed or extirpated due to the industrial mechanized removal of life-filled soils and hundreds of acres of plants that provide habitat for some of California's most sensitive wildlife and plant populations. O23-19

While we will provide some comments on an array of specifics related to this plan, perhaps it's best to get right to the crux of our current concerns:

Illegal Drains Depriving Wetlands of Rain; Baseline Information Flawed

On December 14, 2017, the California Coastal Commission voted unanimously to require that the California Department of Fish & Wildlife close up two illegally constructed and installed drains that depleted of its primary component – water - the seasonal wetlands, ponds and meadows west of Lincoln Blvd. north of Jefferson Blvd., east of the Culver/Jefferson split, and south of Ballona Creek. Those drains were capped last month, as mandated and approved by the Coastal Commission. *(personal communication, observation by naturalist Jonathan Coffin.)*

According to the company that built and installed these drains, Psomas (who happens to be one of the contractors for the engineering work that is at the heart of the proposals that cause me to write to you), these structures were installed in 1996, at the direction of Psomas' client, the Playa Vista developers (now known as Playa Capital LLC.) O23-20

What this means is that rainwater, which is what fed much of this at least 54 acre site – on the part of Area B which was under option by Trust for Public Land to expand the public acquisition in 2001, was denied to the soils and the living organisms on which they relied until 1996. (https://www.tpl.org/media-room/ballona-wetlands-deal-announced-ca#sm.00001vg4ycu4rkdeur7ghrn3o1h26) It is possible that even more acreage of Area B, west of the Culver/Jefferson split was impacted by the draining of these fresh rainwaters, as well. The lack of an adequate hydrology report is evident.

A hydrology assessment of the damage done by more than 20 years of illegally draining rainwaters from the marshy soils and sending them directly into the ocean via Ballona Creek is necessary. The authors of this DEIR/DEIS failed to even disclose the situation related to these drains, even though the engineering contractor working on this project for the State Coastal Conservancy is the same one who built the illegal drains and was knowledgeable of the fact that the California Coastal Commission enforcement division O23-21

had determined there was a notice of violation of the Coastal Act that needed to be remedied. Such an assessment needs to be completed before decision-makers and the public can even consider what is appropriate in terms of restoration on this site to best protect the wetlands and the wildlife the State is entrusted with.

O23-21 cont.

In addition, the baseline relied on throughout the entirety of the DEIR/DEIS is flawed because of this situation. The wetland delineation alone is in error, because more than 20 years of drying out many acres of the wetlands was occurring. In addition, species which relied on that land prior to 1996, likely diminished in these areas over that time period. Other species may have moved in. All of the "baseline surveys" undertaken by The Bay Foundation/Santa Monica Bay Restoration Foundation are inaccurate, relying on a condition that was not normal. The conditions had changed significantly because of the illegal structures depriving the seasonal wetlands, ponds and meadows of rain water that would normally soak into the sponge-like soils of wetlands that were created over many thousands of years by the confluence of the Los Angeles River and several other streams – one emanating from what is now Inglewood, and one emanating from what is now the UCLA area.

O23-22

O23-23

The following article provides more detail about the history of these illegally constructed and installed structures, and hopefully provides some idea of why there is such grave concern about this matter that should weigh heavily in any future decisions about proposed projects at the Ballona Wetlands Ecological Reserve:

https://www.laprogressive.com/ballona-wetlands/

O23-24

Because of this situation alone, this project proposal must be withdrawn, as all of the baseline information, the conclusions based on that erroneous baseline information and the plans made for the restoration are irrelevant and need to be reassessed. The assessments and studies mentioned above need to be completed (or completed again) AFTER it is determined what damage was done, and after an appropriate amount of time for winter rains has passed in order to return the land to conditions prior to the 1996 illegal structures being installed.

We are puzzled as to why there is no mention of this situation in the DEIR/DEIS nor an adequate analysis of the wetland delineation or species surveys being flawed due to this situation. Could you please explain this for the public?

O23-25

Is the Land Dead & Dying & SOMETHING NEEDS TO BE DONE NOW?

No. And No. The rationale being used in the public arena for needing to move ahead quickly with this project is that the Ballona Wetlands Ecological Reserve is "dead and dying" – in fact, in the DEIR/DEIS there are various assertions that only 3% of the land is viable. This "alternative fact" is in direct contradiction to the many species

O23-26

documented both in species surveys relied on by the DEIR/DEIS authors as "references" and also in the public domain.

There are eight – or maybe seven now (see below) - species that are listed either on the State of California or federal Endangered Species Lists that have been documented as using this ecological reserve since the land was acquired. Several of these species have returned on their own due to federal recovery efforts (like the Least Bell's Vireo *Vireo bellii pusillus* and the El Segundo Blue Butterfly *Euphilotes battoides allyni* – the butterfly helped also by the planting of Seacliff Buckwheat *Eriogonum parvifolium* by a local community group.)

There are also dozens of species otherwise protected by federal or state laws, including the California List of Species of Special Concern, the Fully Protected Species law, and other agreements with California Native Plant Society and Center for Biological Diversity. I am attaching with this letter a four-page summary of those endangered and otherwise protected species.

Why did the DEIR/DEIS not fully disclose the presence of these species nor provide a complete analysis of their protections, what habitat needs these species have, what impacts (locally, regionally, statewide and nationally) the proposed alternatives would have on these species and what could be done to avoid the complete annihilation of the habitat for these species? Please correct this deficiency in the DEIR/DEIS for each of the species included on the four-page color submission attached to this submittal.

O23-26 cont.

Please note additionally, since the DEIR/DEIS was released, and we've been able to review it in part (we really needed much more time for a thorough review of the more than 8,000 pages in this report and its associated appendices), it appears that a correction must have been made to the Karina Johnston/Bay Foundation species surveys related to *Suaeda californica*. While we questioned the presence of that endangered species at the Ballona Wetlands Ecological Reserve (BWER), based on our consultation with Ballona Institute's biologist, Roy van de Hoek, we included the presence of this species in the Endangered Species list since The Bay Foundation identified it as such, out of an abundance of caution.

Would you please clarify whether or not a qualified botanist with expertise related to this species has verified that the *Suaeda* species at the BWER is indeed *Suaeda californica* (which is listed on the federal Endangered Species List) or *Suaeda taxifolia*, which is now included in the DEIR/DEIS as a California Rare Plant Ranking 4.2. Either way, this species needs protection, and the presence of it as identified on page 527 of the DEIR/DEIS – Figure 3.4-4 – growing ON THE LEVEES which are contemplated for removal is yet one more reason why the current levees need to remain in place. It is clear that this population of *Suaeda* has been growing on the south levee for a significant amount of time, and that there are conditions at this particular location that appear to be nowhere else on the site, allowing for this rare plant population to thrive.

O23-27

Removing the levees, planting these plants in pots and attempting to plant them in soil dug up, moved around, with soil characteristics (including microbes and other important soil components) highly disturbed after bulldozing, excavation and replacement elsewhere – is an experiment at best, and a failure that most expert plant ecologists and restoration experts would conclude to likely be futile. This is one reason why rare plants on the CNPS list – like *Suaeda taxifolia* – when on public land – are treated as if they are on the endangered species list and are to remain in place – not potted and considered for replanting, like in a residential home garden. Why was this usual practice not considered here, nor even revealed or analyzed?

This is not a backyard home garden. This is a rare and fragile ecosystem, and CDFW is mandated to treat it as such. Can you please explain why this standard for protection has not been revealed in the DEIR/DEIS and also provide an alternative that will protect all rare and special status plants and plant populations as required by this standard of protection.

O23-27 cont.

This discussion brings into the light the clear concern we have that – this project was not conceived of by the California Dept of Fish & Wildlife, but was, rather, conceived of by private interests – while paid by public funds (as in the case of the leader of the group, Dr. Richard Ambrose of UCLA) – and was led by the private Bay Foundation (with a Chevron Vice President at the helm during the time it was being conceived of). Please explain why the genesis of the planning for this proposed project was not revealed nor analyzed for appropriateness by the Army Corps of Engineers – who should have provided federal oversight for such a departure in required legal procedures, even if CDFW management was otherwise conflicted by such a revelation.

O23-28

To clarify our concerns, knowing of the many professional and caring stewards and biologists that are employed by CDFW, we are confident that CDFW would not have ever dreamed of putting forward a project proposal like this one that contemplates removal of nearly every (if not every – as the engineering documents submitted with the Section 408 application to the Army Corps of Engineers show) plant and animal on the landscape of what has been designated by the California Fish & Game Commission to be worthy of status as an ecological reserve and, then, virtually, starting over.

O23-29

When so many rare and imperiled species are clearly using the mosaic of habitats at the Ballona Wetlands Ecological Reserve, it is negligent and irresponsible to even apply for these permits, let alone to approve them, and we are hopeful that the good biologists in the CDFW will be alerted to this sham of a proposal and somehow persuade the political higher-ups who have been promised overhead funding to participate in this project that there are better ways to achieve the funding needed for management and maintenance of this land that the Governor has so far neglected to provide (both Schwarzenegger and Brown.) Sierra Club would volunteer to help obtain management funding – we have good relationships with our elected officials inSacramento.

O23-30

If CDFW does not rise to the occasion (which we hope it does in order to remain a relevant agency entrusted with the care and protection of rare and endangered species and landscapes), we remain hopeful (and insistent!) that other agency professionals and legislators will cry out for justice to this land and for the people of California who not only cherish fragile landscapes like this, but who have been denied true, yet sensitive, public access paths for 14 years since the public acquisition of this ecological reserve land.

O23-30 cont.

New Species, Inadequate Surveys, Misidentifications of Species

In addition to the apparent misidentification of the Suaeda species discussed above, we would like a full disclosure in the final EIR/EIS (if the project is not withdrawn, which we believe it should be because of the necessary new baseline surveys and conditions needed once the rains are allowed to replenish the wetland soils again) of the many misidentifications of species that Ballona Institute, naturalist Jonathan Coffin and others have identified in the work of The Bay Foundation.

O23-31

O23-32

We are also interested in reading a full disclosure of all biological surveys on the BWER site. Please inform us of how many seasons in which these surveys were undertaken and by which experts with which credentials. We've read some internal email messages where Shelley Luce (then-executive director of The Bay Foundation, now with Heal the Bay) informed Karina Johnston that her assessment of nonnative species was insufficient, suggesting they needed bigger numbers to persuade decision-makers to undertake such a significant alteration of the entire landscape and various habitats.

O23-33

One reason we would like to see these disclosures and analyses is the discovery by naturalist Jonathan Coffin and then confirmed by biologist Robert Roy van de Hoek to be Palmer's Goldenbush *Ericameria palmeri*– another rare plant species (CNPS 1.B.1) that experts agree should be listed as an endangered species (van de Hoek was confirmed as a botanist through testing by the California Dept of Fish & Wildlife – then Fish & Game and considered for employment as both a botanist and a wildlife biologist before he decided to accept employment with Los Angeles County Parks.)

This discovery, as documented on Page 1 of the Los Angeles Times (see attached article, for the record), makes us all question the extent of surveys completed in certain areas and the bias those undertaking those surveys might have had. For example, we hear the CDFW representative at Ballona repeatedly saying publicly that there is nothing worthy in terms of biodiversity – he is not a biologist, we are led to believe – in areas outside of the area in the western-most part of Area B, near the Observation Deck. He states in this publicly available interview/video, for instance, while pointing east of where he sits on the Observation Deck: "…after the salt pannes, the rest of the reserve is quite a bit of fill…" – ignoring the abundance of wildlife and native plant populations that have been documented in those areas.

O23-34

http://spectrumlocalnews.com/section/in-focus/in-focus-shows/2018/01/27/in-focus--restoring-the-ballona-wetlands

O23-34 cont.

Biodiversity and Abundance of Wildlife and Native Plants at the Ballona Wetlands

The Bay Foundation surveys alone – even considering the misidentification of numerous species – still documents an abundance of species that exist in all of the areas of the Ballona Wetlands Ecological Reserve.

The wildlife is returning – in part because no longer are wayward bulldozers from Playa Vista developers entering the landscape, and, in part because of the success of federal and state efforts to protect rare and imperiled species, such as those on the Endangered Species Lists. Why was this not revealed in the DEIR/DEIS to the fullest extent possible and an alternative fully analyzed where protection of these species were to be given the highest and most important priority?

O23-35

Also for your reference and to correct the record related to the heading of the previous category of our submittal, please review the photos taken by naturalist Jonathan Coffin during the past approximately 10-12 years at the Ballona Wetlands Ecological Reserve.

Go to this site, and hopefully, you will see this place is filled with such biodiversity and life that bringing in bulldozers to remove all of this life would be a terrible mistake.

tinyurl.com/ballonaphotos

Conflicts and Incongruencies Between CDFW and Resource Agency Wildlife and Habitat Protection Mandates and Project Purposes, Needs and Objectives

While originally the goal appeared to be some sort of "restoration," – as we discussed earlier in these comments, that goal has apparently changed. Can you please reveal the full decisions for these changes, and explain why all interested stakeholders and members of the public were left out of these discussions?

O23-36

One of the documents listed under "Reference Documents" is the study by Dr. Travis Longcore, Dr. David Jacobs and Dr. Eric Stein – outlining the newly discovered science from historical ecology reports (including the report by Dark, et al – also one of the documents under "Reference Documents" on the public page of CDFW that show the DEIR and related Appendices.)

Why is this new science being dismissed simply because it does not comply with the Project Objectives? Wouldn't new science – like the Earth not being flat – then cause conscientious scientists who were counting on the Earth being flat to re-evaluate the

Project Objectives if new evidence is presented that disproves the theories once thought to be valid? O23-36 cont.

(Which reminds us of this: it is a matter of transparency and legally mandated CEQA and NEPA requirements – this "Reference Documents" category was **not** present when the DEIR/DEIS were released and only appeared sometime in late January, 2018. Such additional materials relied on by the DEIR/DEIS needed to be available to the public during the entire CEQA/NEPA comment periods and **noticed** that it was available to the public – neither of which was done.) O23-37

I participated in the one-day charrette that purports to hold up this entire 1,242-page DEIR/DEIS document as being valid, and my experience does not match the suggested outcome. I also attended many of the "Science Advisory Committee" meetings – (many of them were not noticed to the public nor open to us) – and, while it did appear that there was a predetermined outcome that the Co-Chairs, Richard Ambrose and Eric Stein, desired, those of us from the public who were allowed our 2 or 3 minutes at the end of each day of attendance provided substantive comments and questions that never were answered – questions like:

- What species are we managing for?

- What habitat types and how much habitat is needed for recovery or at least thriving of endangered or otherwise imperiled species on the site?

- Why are outcomes of elevations and moving of levees being discussed before baseline surveys are completed so we know where are locations that must not be disturbed?

(notes: a) some meetings of which were convened in Orange County, far from the project site, so few members of the public attended these meetings; and b) the final "S"-shaped alteration of the levees and deep excavation and bulldozing of most of the BWER – then referred to as Alternative 5; now in this DEIR/DEIS referred to as Alternative 1 – was "decided" on by the "Science Advisory Committee" before any current baseline surveys were undertaken by The Bay Foundation. These surveys, being completed after the decision as to what the preferred outcome would be, reflected the proverbial "cart before the horse"; and c) the members of the Science Advisory Committee were not Wildlife Biologists who had any expertise on wildlife that relies on land habitat – wetland, lowland or uplands.) O23-38

Please explain this conundrum further and explain why and how the mandates CDFW and other resource agencies (like the US Fish & Wildlife Service) can possibly be met when the Ballona Wetlands Ecological Reserve lands are contemplated to be almost entirely altered, covered up or moved around, as if they are pieces of a puzzle that would – or even could - magically turn from a depiction of a cat to a dog. As far as we can see – while "human disturbance" is the rationale given repeatedly for the heavy- O23-39

mechanized alteration of the lands and habitats, the plans are to yet bring even more "human disturbance" to Ballona – moving wetlands to uplands and uplands to wetlands and covering up functioning habitat and rare, imperiled populations of wildflowers and wildlife habitat with soils that are in the way (albeit life-filled soils that are functioning as habitat today!) of the pretty, "S"-shaped meandering picture that was drawn by a landscape architect who couldn't possibly know what all of this alteration would mean to the wildlife that currently rely on Ballona as it exists today.

O23-39 cont.

In addition, could you please explain how the NEPA Purpose and Need for the project was developed, and compare it with the CEQA Project Objectives.

While there are stated reasons for doing this project, the project alternatives are puzzling to so many of us because the question has never been answered:

What, specifically, is the problem that these alternatives attempt to solve?

What species does the State California Dept. of Fish & Wildlife purport to manage for?

Which species on the endangered species list and which species which are otherwise protected species (included on the four-page attachment to this letter) will be helped by these alternatives? Which species will be harmed by the various alternatives?

These questions still have not been answered directly, and they need to be answered in the Final EIR/EIS – or, preferably, the proposed project needs to be withdrawn and re-thought once the rainwaters are allowed to soak into the soils now that the illegal drain structures have been capped.

O23-40

Conflicts of Interest and Questions Related to Bond Spending

$130 million of the $140 million that was allocated by the State of California from bond moneys that were voted on by the people of California were from **Wildlife Conservation bonds, approved by the Wildlife Conservation Board.** I attended that board meeting, spoke in favor of the use of those bonds, as did our Sierra Club California staff, and we watched and listened to the deliberations by that board before they voted unanimously for these funds to be allocated. There was no intention stated that this land was in such dire shape that it needed to all be bulldozed or scraped and completely altered into something else. In fact, it was the rich wildlife habitat that we were all there celebrating would not be turned into more of Playa Vista condos.

Can you explain how the three main alternatives selected by The Bay Foundation and its consultants and allies (including CDFW) will ***conserve wildlife*** – which appears to be a larger mandate for this land from the acquisition funds than to create tidal wetlands

O23-41

that would create a system that is far greater in saltwater influences than has been in this region for at least 4,000 years?

We are also very puzzled as to how the engineering firm (Psomas) for the Playa Vista development ended up with the contract for the engineering drawings for this proposed project. We are especially troubled by this fact, given that this firm is the one that constructed and installed the illegal drains – on what is now the Ballona Wetlands Ecological Reserve - that were recently ordered to be capped by the California Coastal Commission.

We note that the President of that organization (Psomas) was also the President of the Friends of Ballona Wetlands for several years, and they are one of only a couple of groups allowed to have public access to the land. It's almost as if the land at Ballona has been managed to be private for the past 10 or so years.

O23-41 cont.

Public Access Denied; Management, Ranger Presence and Maintenance Needed

One of the most disconcerting issues related to the Ballona Wetlands Ecological Reserve is that public access, except for a couple of years – from about 2006 to 2008 – has been mostly denied to stakeholder groups and even more concerning to the general public. Now, the greatly desired sensitive public access that all stakeholders say they want – and we are among them – is being held out as a carrot – or as a bribe – for approval of this proposed project – a project that is highly problematic, except it suggests that public access will finally be achieved.

When US Rep. Ted Lieu (CD-33), one of our representatives in the United States Congress, was a state legislator, and was working with us to attempt to transfer the land at Ballona to the California State Parks (which was the original intent of Governor Gray Davis and his Resources Secretary, Mary Nichols), the Director of State Parks informed then-Assemblymember Lieu and me that her staff had done an assessment of Ballona, and they believed the only thing that Ballona needed was sufficient funding – about $1 million a year was what she calculated at the time – for a full-time ranger, a full-time maintenance worker and a full-time land manager – and a boardwalk for public access that would be on the perimeter or otherwise not intrude on to sensitive habitat. We agreed, but unfortunately, for about a ten-year time period, the natural resource agencies were all starved in Sacramento due to budget concerns, and while the State now has a surplus of funds, the budgets for these agencies have not even been restored.

Most of the complaints from nearby residents, people who drive by or otherwise are stakeholders of this fragile, yet important recreational and habitat resource, would be taken care of if proper staffing were in place for maintenance and management.

O23-42

Spending $180 million or more for the boondoggle project proposed that is not based on science, but rather on a dream of accessing public moneys (outside of the regular government budget process) for private and public entities, will not solve the problems that Ballona will always have if not properly staffed and unfunded for proper management and maintenance.

Public access that is sensitive to fragile habitat, by opening a few gates, with a minimum of expense for signage and supervision of docents could happen without any large, "robust" mechanized habitat destruction and rebuilding project.

O23-42 cont.

Paving Paradise, Putting Up (a Bigger) Parking Lot?

We all know the song, but that doesn't mean we have to follow it in this, presumably, more enlightened year of 2018.

Our Sierra Club Ballona Wetlands Restoration Committee, through a series of historical records reviews, learned that the parking lots along Fiji Way, which are on a month-to-month lease to private interests in Marina del Rey, via the Los Angeles County Beaches & Harbors Department, were opposed to be constructed by the Friends of Ballona Wetlands when they were being permitted by the California Coastal Commission in the 1980s for **temporary use** by the 1984 Olympics Committee.

According to the records, there are no current coastal development permits allowing for use of this land that is part of the Ballona Wetlands Ecological Reserve for parking lots, let alone for bigger, taller, less sustainable (concrete and steel) parking structures that are designed (also according to the records.) Thus, these lots are currently in use as illegal parking lots.

O23-43

Why, then, would CDFW and The Bay Foundation contemplate constructing these even bigger, taller, less sustainable parking lots on land that was required by the Coastal Commission to be returned to its original habitat state? We also understand from reviewing public records other stakeholders have accessed that the purpose of these parking lots includes use by private businesses in the County unincorporated portion of Marina del Rey. Isn't this a "gift of public funds?" If not, why not?

Our understanding is that there is no other ecological reserve in the State of California that has a three-story parking structure on its land. Is that a correct statement?

The Draft EIR/EIS failed to disclose any of this information or to analyze it in the context of the plans for Alternatives #1, 2 & 3. CDFW knew about this situation, as it has been in front of the California Fish & Game Commission.

Wildlife – While Under Construction

Sierra Club has reviewed many, many environmental documents in the past. But rarely, have we seen one where it appears the preparers of these documents had to twist themselves into pretzels to justify destroying wildlife habitat on public land. In addition, we are horrified at the thoughts of what may happen when the excavators and bulldozers proposed to damage this landscape and fragile mosaic of habitats enter into soils where much of the wildlife habitat lives underground. O23-44

Do the proponents of this project (including the County of Los Angeles, which we are very upset is listed as a project proponent – since this arrangement apparently was made behind closed doors, without any public input except for the hearing at the LA County Board of Supervisors where former Supervisor Zev Yaroslavsky was assured by Shelley Luce and LA County Public Works officials that such an arrangement was **not** going to happen!) really believe that the abundance of bird life will return to the Ballona Wetlands Ecological Reserve if and when most of their food sources living underground (small mammals, herpetofauna, and insects) are bulldozed and killed? O23-45

Do these same project proponents really think they will be able to capture thousands of animals and cage them while the 10-year project is being constructed?

Please include this article in the record for the Final EIR/EIS:

http://www.laweekly.com/news/is-the-state-of-california-plotting-the-ballona-wetlands-demise-4304938

On a number of occasions, Shelley Luce and other proponents of the project have responded to public concerns about wildlife and wildlife habitat being bulldozed as part of this proposed project. The response has been, including in a meeting where I was present (as were many others) with then-US Rep. Janice Hahn (now an LA County Supervisor) that there was a plan for capturing and caging animals while the bulldozing and excavation would be happening. Given that the construction plans appear to conclude that such work could go on for approximately ten years, why is that plan not included in the DEIR/DEIS? I can't seem to find anything backing up this plan that The Bay Foundation has told people would be part of the construction. O23-46

The DEIR/DEIS fails to disclose where these animals will stay and how they will be cared for and whether or not it is appropriate to capture, cage and move wild animals around – like they are in a zoo. Please provide further details of this scheme in the Final EIR/EIS and include documentation that such a plan will work for each of the species contemplated to be captured and/or caged. It is also unacceptable to "move" rare and imperiled species, such as the Silvery Legless Lizard, as it is most likely that other suitable habitats already have individuals occupying those habitats.

Sacred Sites

In Section 3.5 of the DEIR/DEIS, the subject of First Nation rights is somewhat addressed, but we wonder why there is no acknowledgement, disclosure or of the more recent State of California laws related to this topic. O23-47

Also, we wonder how the people who were reached out to as "Most Likely Descendants" were chosen. We note that several on the list provided by the State Historic Preservation Office (pg A-65), including Cindy Alvitre and Anthony Morales – both of whom have expressed keen interest in the Ballona Wetlands in the past, were not reached out to. Please explain why and also please reach out to them for future involvement. Also, Gary Stickle commented on this topic during the scoping time period, I believe, and he represents yet another tribal interest that does not appear to have been reached out to for consultation, as required by Section 106 of the National Historic Preservation Act. O23-48

As cited in the DEIR/DEIS: "In summary, the NAHC indicated that while the Ballona Reserve is not itself registered as a sacred site in the SLF, individual sacred sites are recorded within the Ballona Reserve, and the Ballona Reserve should be considered extremely sensitive for Native American resources." O23-49

Given the many years during which developers at Playa Vista claimed "nothing was found" during pre-construction archaeological assessments, and then hundreds of individuals were unearthed as this developer dug up a sacred cemetery, which I watched with horror after a whistle-blower came to us and sought our help to tell others of this tragedy, we wonder why no disclosure or analyses of a similar possibility might exist when digging into these sacred soils. O23-50

Please include this article in the record for the DEIR/DEIS and provide further disclosures and analyses about this situation and how it relates to the sacred sites that are within or directly adjacent to the project site at the Ballona Wetlands Ecological Reserve.

http://www.nytimes.com/2004/06/02/us/developer-unearths-burial-ground-and-stirs-up-anger-among-indians.html O23-51

Failure to Address Scoping Comments or to Analyze Important Scoping Comments

Because of the manner in which Scoping Comments were arranged in the DEIR/DEIS, it is nearly impossible to determine whether or not scoping comments – especially ones submitted by others – were fully addressed, information requested disclosed or analyzed. O23-52

Still, we can tell by reviewing just a few of the scoping comments we made that the DEIR/DEIS failed to fully disclose or analyze the topics that we raised in our letter of 10.23.12 during the Public Comment Scoping period.

O23-52 cont.

For this and other reasons already articulated, at the very least, a re-circulation of the entire document must be done in order to comply with CEQA (California Environmental Quality Act) and NEPA (National Environmental Policy Act.) Because of the cumulative problems inherent in this very confusing, and inadequate environmental document, it would be best to withdraw the project, and start over – which would also be best for nature.

O23-53

One instance – and there are many more – is the impacts of the proposed project alternatives to Tule Fog. This is an issue that was raised for study – and it is included in the chart, but no disclosure or analyses of the issue was undertaken. Tule Fog – very clearly is a natural phenomenon at the Ballona Wetlands, and it can be considered that the moisture from the Tule Fog relates to freshwater in the seasonal marshes.

Observations by our members of our organization, as well as by local residents, conclude that this Tule Fog does not seem to be present over deeply dug water bodies, like Ballona Creek, whereas it does exist on the higher elevation areas where there is significant soil and plant cover. Why was this topic not analyzed for the impacts that loss of such Tule Fog might happen with the proposed alternatives? What is the impact of more seawater into this area? Is salinity a factor? What organisms rely on Tule Fog?

O23-54

This is but one example of many scoping comments that were not fully disclosed nor analyzed for impacts.

Area A – Completely and Entirely Discounted

Area A – north of Ballona Creek, south of Fiji Way and east of Lincoln Blvd., where the most disturbance and habitat alteration is contemplated – appears to be complete discounted in terms of habitat importance throughout the DEIR/DEIS document, leading one to conclude that there was a bias already operating toward gutting this special location where numerous populations of native plants thrive. Alkali Barley, Lewis' Evening Primrose, Palmer's Goldenbush are just a few.

O23-55

Additionally, this is the area where the Great Blue Heron that has its rookery in adjacent trees at Mariners Village **relies** on for the juvenile Heron feeding once these birds are fledged from the nests. As Roy van de Hoek, who has studied this Heron rookery for nearly 20 years, has written about in a report to the CDFW (formerly CDFG) and the California Coastal Commission, has written and spoken about, the Great Blue Heron juvenile birds take a couple of years to learn how to fish, and so they rely on the small mammals and herpetofauna that thrives in Area A. Many, many small mammals live beneath the surface of the soil there, which is why this is such a fertile hunting ground for the Heron and for numerous species of raptors.

O23-56

There is so much more on Area A, and the failure of this DEIR/DEIS to accurately portray the habitat there leads the reader to conclude these project alternatives biased the project proponents to select such drastic proposals without accurately assessing the biological richness and diversity there. Perhaps this is because the Scientific Advisory Committee had a bias toward ocean tidal species, and little knowledge or appreciation of land species. When I asked Rich Ambrose why he insisted on continuing on with the proposal to bring full tidal waters into more of the Ballona Wetlands, when the new science research on the historical Please clarify and provide backgrounds for all of the members of the Science Advisory Committee that worked alongside The Bay Foundation to develop these project alternatives.

O23-57

O23-58

Area C Also Discounted

Area C – east of Lincoln Blvd., and north of Ballona Creek, bordered on the east by the 90 fwy., and on the north by the Villa Marina residential complex – also appears to have been discounted, with unwanted soil from the nearly 3 million cubic yards of excavation contemplated from Area A to be dumped and re-sculpted into walls on Area C – and in a few locations on Area B. As can be seen by the maps of the Lewis' Evening Primrose, several significant populations of this rare plant species exists in Area C, yet no disclosure or analysis of why these populations would not be preserved in place, instead to have soil dumped on top of these locations. There is a failure in this DEIR/DEIS to disclose whether or not such plant populations have ever successfully been transplanted, especially given the very fragile and ancient soils on which these plants rely.

O23-59

O23-60

Carbon Sequestration/Climate Change

The following appears in the DEIR/DEIS:

"Carbon Sequestration"

Plants take up CO2 from the atmosphere through the process of photosynthesis. CO2 is absorbed by the plant tissue, along with water and nutrients, to allow the plant to grow. Through this process carbon is sequestered into the plant and stored as carbon stock. Some portion of the carbon removed from the atmosphere is returned to the atmosphere through several processes, including respiration, decay, and disturbance (PCOR, 2016).

The soil carbon sequestration rate captures the below ground carbon stocks through time. When land is covered with vegetation, soil carbon increases over time according to the soil sequestration rate of the habitat, due to the incorporation of dead organic matter back into the soil. When a habitat converts to another habitat (e.g. from upland to salt marsh), aboveground biomass changes (may increase or decrease) due to the

O23-61

different type of vegetation, but soil sequestration continues. When salt marsh converts to mudflat, aboveground biomass is lost and soil sequestration halts, but soil carbon stored prior to the conversion remains sequestered within the mudflat. In contrast, when wetlands are diked or drained, the belowground carbon stock can be released as CO2 (PCOR, 2016)."

Yet, the DEIR/DEIS fails to explain how this impact to the soils – excavation of some 3 million cubic yards of soil (and the plants growing in that soil) – will contribute to climate change impacts, especially since the "S" shaped curve will obviously bring more mudflat to an area that now sequesters carbon in significant amounts due to thousands and thousands of years of dead plant and animal life being in those soils that came from the historical Ballona marsh that was destroyed to build the small craft harbor called Marina del Rey, but which the project proponents persist in calling "fill" or "dredge spoils.

O23-61 cont.

Gas Company Infrastructure

Sierra Club is on record of being in full support of the City of Los Angeles and the State of California moving to 100% renewable energy. This DEIR/DEIS fails to calculate the damage to our atmosphere and impacts to climate change that enabling SoCalGas to remain on site with toxic and dangerous chemicals and gas storage operations beneath the ecological reserve for however long these more modern equipment upgrades contemplated in the DEIR/DEIS allow. There is also a serious failure to disclose exactly what is entailed in this operation and how much public money would be sought for these upgrades.

O23-62

Elevation Inaccuracies

As explained in our additional submission by experts, including engineering expert Dr. Mansour Rahimi, the elevations that are depicted in the DEIR/DEIS are in error. The experts who have written that report for us, and for the public, which has already been submitted, explain how those inaccurate surface elevation levels relate to tsunami risks being inaccurate.

O23-63

We wonder now – what else is inaccurate – given the surface elevations being incorrect?

For example, the new levee walls that would arise from the ground along Culver Blvd., Fiji Way and in Area C are stated to be at certain heights above grade. How different might these be, given the surface elevation inaccuracies? The failure to provide 3D imaging of these massive walls causes another legal flaw in the documents. The public needs and deserves to understand just how high these walls (otherwise referred to as "berms") will be.

O23-64

The failure to disclose these inaccuracies means this DEIR/DEIS process must begin again, with new, accurate elevations, and calculations, at the very least. O23-64 cont.

AVOIDANCE

One of the most important guidance aspects for the US Army Corps of Engineers to consider when authorizing wetland destruction permits allowed under the Clean Water Act is the primary tenet of **avoidance**. This DEIR/DEIS failed to properly or fully consider numerous other alternatives that would have avoided destruction of precious and fragile wetlands – protecting wetlands being the most important goal the Corps could and should strive for, according to guidance documents the Corps is required to follow. O23-65

SUMMARY

In summary, Sierra Club again stresses its position that the only proper legal pathway to proceed would be to withdraw this extremely flawed DEIR/DEIS (for many reasons articulated in this letter, as well as in other comments being submitted by stakeholders and the interested public) and the entire project proposal until the conditions at Ballona can return due to rain waters now being able to soak into the marsh lands, as they did before the illegal drains were installed in 1996. Thus, a new baseline survey wetland delineation and new surveys of species can happen after an appropriate time, which would need to be determined by scientific experts (10-12 years?) O23-66

In the meantime, for the sake of environmental justice and the State's commitment to genuine public access and protecting the natural heritage of this region, let's get the public access extricated from the restoration proposals, assess the amazing diversity of species of wildlife that rely on this ecosystem, and determine what is needed to **protect** those species, consider what species might be important to recover at Ballona (without bulldozing and wiping out habitat), secure the land with regular range presence, develop a stakeholder-driven maintenance and community-engaged gentle restoration and get on with educating the public about the wonders of nature we have here on the Los Angeles coast. O23-67

Thank you for the opportunity to comment.

Sincerely,
Marcia Hanscom /s/
Chair, Sierra Club Ballona Wetlands Restoration Committee
(310) 877-2634 *(mobile)*

Cc: Jeanette Vosburg, Kathy Knight – Sierra Club Airport Marina Group
Steve Wicke, Angélica Gonzalez – Sierra Club Angeles Chapter Conservation leadership

Endangered & Imperiled Species Documented in Recent Years at the Ballona Wetlands Ecological Reserve

Federal Endangered Species List – [E] = Endangered [T] = Threatened

1. Least Bell's Vireo *Vireo bellii pusillus* [E]
(resident songbird) nesting

2. Coastal California Gnatcatcher *Polioptila californica californica* [T]
(migratory songbird) nesting at nearby Playa del Rey Dunes at LAX

3. El Segundo Blue Butterfly *Euphilotes battoides allyni* [E]
reproducing in dunes at BWER;
also reproducing in PDR Dunes at LAX

4. California Least Tern *Sterna antillarum browni* [E] (migratory shorebird – migrates from Guatemala and southern Mexico; nests on nearby Venice Beach in specially fenced preserve; feeds on fish in the shallow water sloughs and in Ballona Creek; mating documented on salt pannes)

5. California Sea-Lite – *Suaeda californica* [E]
Growing in Area B, south of Ballona Creek

6. Western Snowy Plover *Charadrius nivosas nivosas* [T] – nesting at nearby Dockweiler Beach; sheltering at BWER salt panne

7. Light-footed Ridgway's Rail (Light-footed Clapper Rail) *Rallus longirostris levipes* – [E]
Female for at least last 2 years at freshwater marsh on edge of BWER (land owned by State Lands Commission)

O23-68

12.9.17- photos by Jonathan Coffin, Don Sterba List compiled by:

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Ballona Wetlands
Restoration Committee

State of California Endangered Species List - [E] = Endangered [T] = Threatened

1. **Belding's Savannah Sparrow *Passerculus sandwichensis beldingi* [E]**
(resident songbird) (nesting)

2. **Least Bell's Vireo *Vireo bellii pusillus* [E]** (resident songbird) nesting

3. **Light-footed Ridgway's Rail (Light-footed Clapper Rail) *Rallus longirostris levipes* – [E]**
female 2 years at freshwater marsh on edge of BWER (land owned by State Lands Commission)

O23-68 cont.

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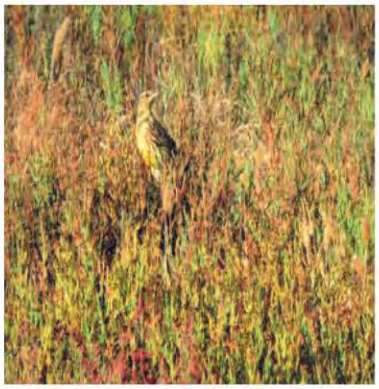
Imperiled Species - Special Status

Treated as if on endangered species list by state officials due to settlement agreement with CA Native Plant Society or Center for Biologist Diversity; listing package submitted for endangered species list; ***Species of Special Concern****, or on other special status State of California lists*

1. Lewis' Evening-Primrose *Camissoniopsis lewisii*
2. Wandering Skipper Butterfly *Panoquina errans*
3. South Coast Marsh Vole *Microtus californicus stephensi*
4. Silvery Legless Lizard *Anniella stebbinsi*
5. Southern Tarplant *Centromadia parryi* ssp. *australis*
6. Southern California Ornate Shrew *Sorex ornatus salicornicus*
7. Grasshopper Sparrow, *Ammodramus savannarum*
8. California Horned Lizard *Phrynosoma blainvillii blainvillii* (Gray)
9. Western Sand Spurrey *Spergularia canadensis*
10. Southern Marsh Harvest Mouse *Reithrodontomys megalotis limicola*
11. Grasshopper Sparrow *Ammodramus savannarum*
12. Cooper's Hawk *Accipiter cooperii*
13. Double-crested Cormorant (breeding) *Phalacrocorax auritus*
14. Oregon Vesper Sparrow *Pooecetes gramineua affinis*
15. Wigeon Grass (rare SAV) *Ruppia maritima*
16. Spiral Wigeon Grass (rare SAV) *Ruppia cirrhosa*
17. Vernal Barley *Hordeum intercedens*
18. South Coast Branching Phacelia *Phacelia ramosissima*
19. Monarch Butterfly *Danaus plexippus*
20. Orcutt's Yellow Pincushion *Chaenactis glabriuscula var. orcuttiana*
21. Slender Arrowgrass *Triglochin concinnum*
22. Ballona Wallflower *Erysimum suffrutescens* (type locality-Ballona)
23. Alkali Barley *Hordeum depressum*
24. Woolly Sea-Lite *Suaeda taxifolia*
25. Slender Salamander (entire pop. Less than 1,000) *Batrachoseps attenuatus attenuatus* (Eschscholtz)
26. Ballona California Kingsnake (special markings) *Lampropeltis getula californiae*
27. Loggerhead Shrike *Lanius ludovicianus*
28. Western Meadowlark *Stumella neglecta*
29. Northern Harrier *Circus cyaneus*
30. Great Blue Heron (breeding) *Ardea herodias*
31. Great Egret (breeding) *Ardea alba*
32. Snowy Egret (breeding) *Egretta thula*
33. Black-crowned Night Heron *Nycticorax nycticorax*
34. Western Pony's-Foot *(Dichondra occidentalis)*
35. Burrowing Owl *Athene cunicularia*
36. Ferruginous Hawk *Buteo regalis*





O23-68 cont.

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*Other Noted &/or Protected Species**

1. **California Brown Pelican** – Pelecanus occidentalis californicus - feeds and rests in Ballona Creek channel – de-listed from federal endangered species list in 2009, but still being watched by officials, biologists
2. **American Peregrine Falcon** Falco peregrinus anatum – 3 **foraging at Ballona** in 2017:– **de-listed from federal endangered species list in 2009, but still being watched by officials, biologists – CA "FULLY PROTECTED SPECIES"**
3. **White-tailed Kite –** *Elanus leucurus*
4. resident in the Ballona Valley/nests in nearby neighborhood trees/forages in grasslands at Ballona; has its own law in California – CA "FULLY PROTECTED SPECIES"
5. **Palmer's Goldenbush -** ***Ericameria palmeri var. palmeri*** – CNPS 1B1 list – State of California: imperiled S2
6. ***Numerous Lichens that have recently been documented and are awaiting protected status.***
7. **AND** – MANY, MANY insect and spider species, including numerous native ant populations, dragonflies, damselflies, butterflies and so much more that is not being accounted for or dismissed as "they will come back" – well, these natural heritage species will not all come back – and we are losing them fast, as habitat is destroyed for urbanization and extractive industries

*Note: The Migratory Bird Treaty Act protects many of the bird species at Ballona not mentioned here or listed under "Other Noted Species." **More than 200 bird species have been documented at the Ballona Wetlands Ecological Reserve.**

O23-68 cont.

12.9.17- photos by Jonathan Coffin, Don Sterba, John Rusk List compiled by:

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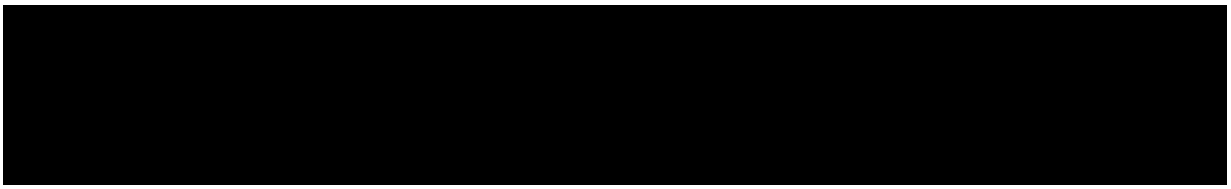


This Changes Everything: Ballona Wetlands to Get its Rainwater Back!

O23-69

BY MARCIA HANSCOM

Two Great Blue Herons – an adult and a juvenile – in the marsh. (Photo by Jonathan Coffin)

Victory for the Ballona Wetlands at the California Coastal Commission

For more than 30 years activists have worked to protect undeveloped land where some of the last native plants and animals of the Los Angeles coast still thrive – a place nestled in the Ballona Valley in between Los Angeles International Airport and Marina del Rey. The remaining open spaces and the marina were once part of a vast coastal marsh floodplain that was created by the confluence of the Los Angeles River, three other streams and the Pacific Ocean.

What still remains undeveloped is a place known as the Ballona Wetlands. A significant part of these wetlands, along with adjacent grasslands and meadows, were acquired by the State of California when a purchase agreement was finalized in 2003 with Playa Capital, LLC, the latest in a series of speculative developers that had included the heirs of Howard Hughes, legendary downtown developer Rob Maguire and the golden boys of Hollywood in the 1990s, DreamWorks SKG – Steven Spielberg, David Geffen and Jeffrey Katzenberg.

O23-69 cont.

After Spielberg and his partners bowed out of being one-third development partners of the proposed Playa Vista development in 1999, remaining were some real estate investment trusts (REITs) owned by Morgan Stanley, Goldman Sachs and pension fund investors Union Labor Life Insurance Company. But grassroots environmental groups that had built a coalition of more than 100 organizations allied with them to be – as Variety put it – "relentless" – in their opposition to developing this last remnant of coastal wetlands in the heart of the migratory Pacific Flyway for birds – did not stop their activism just because DreamWorks left the project. In fact, the political street theatre troupe, FrogWorks (with its name inspired by DreamWorks), soon took its story to Wall Street and performed on the streets near the New York Stock Exchange, as well as outside of Morgan Stanley's New York City headquarters – in January, no less!

Activists organized letter-writing campaigns, scheduled citizen town hall meetings, got involved with LA City mayoral campaigns and continued with the constant drum-beat that these lands should not be built on. When then-Governor Gray Davis finally decided to use funding the activists had helped include in a couple of parks and wildlife bond measures to acquire some 640 acres of the coastal zone land at Ballona, (and Playa Capital was already building on the remaining 400+ acres), the activists who'd long desired to protect these precious lands thought they would be retiring – helping to plant native plants and educate the public about the importance of stewardship of this wild and imperiled coastal mosaic of habitats.

O23-69 cont.

Unfortunately, after Davis was kicked out of office in a recall largely funded by US Congressmember Darrell Issa, the state of California went downhill financially. After that, the Ballona Wetlands mostly had an absentee landowner – an agency that never really wanted the land and that was not used to managing reserves close to urban areas – the California Department of Fish & Wildlife (CDFW.) So perhaps their regular absence explains why this agency didn't notice that there were two large drain mechanisms that prevented rain water from soaking into the wetland sponge-like soils. These mechanisms, according to representatives from Playa Capital, were built by their engineers in 1996, when the company still thought it would be constructing one-half of its massive, dense city atop the areas where these drains were constructed.

One of the illegal drains – demonstrating how the rainwater would enter the structure and be sent out to sea – instead of nourishing the wetlands. (Photo by Jonathan Coffin)

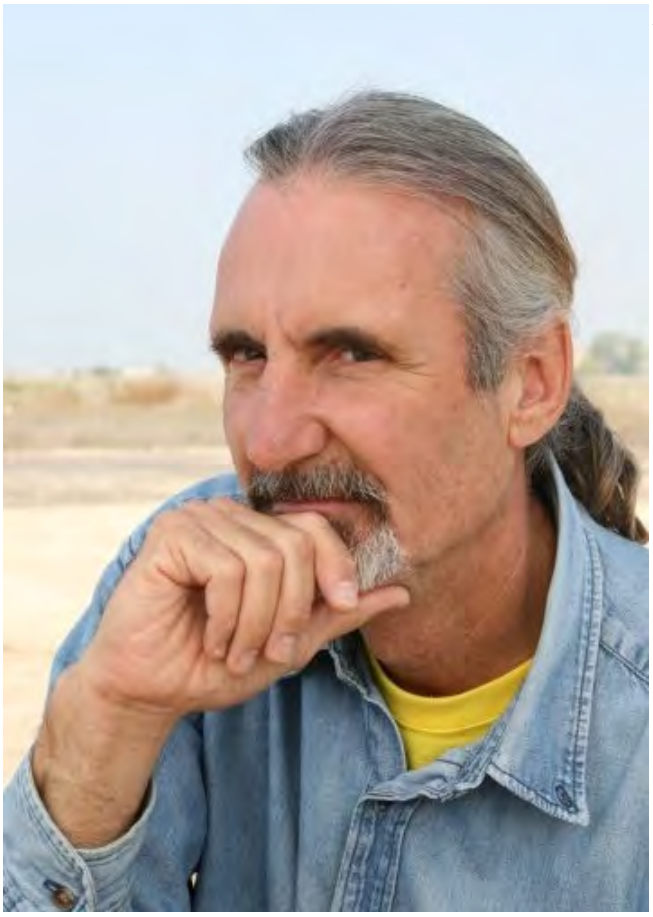
Why would this company have constructed the drains?

Well, if you have land in the California coastal zone and you want to build structures and roads there, you don't want them to be declared to be wetlands – due to an important Bolsa Chica Wetlands lawsuit that clarified in the state appellate courts that the Coastal Act would not allow such activities. They wanted dry land so they could obtain permits from the Coastal Commission once they were ready to build Phase 2 of their project. Did Playa Capital forget about the drains when they sold all of the land they owned in the coastal zone? The record is unclear on this count.

But it is clear that these illegal, unpermitted drains (which would have required permits from the California Coastal Commission), prevented rain water – the primary source of water for the wetlands – from making the wetlands wet – for more than 20 years!

O23-69 cont.

This became transparent as a result of a series of actions. I first noticed the drains and wondered aloud about them to my partner, a biologist also trained in hydrology, Roy van de Hoek, who'd seen them, but began observing them more closely and we also conferred with one of our Ballona Wetlands naturalists, Jonathan Coffin. Jonathan began photographing the drains at different times of year, including during rainy times, and that's when it became obvious that the rainwater was indeed draining out from some significant parts of the wetlands where a number of activists had noticed and remarked that they missed seeing ducks and shorebirds in what used to be heavily ponded water areas. Jonathan showed his photos to Patricia McPherson at Grassroots Coalition, an activist who had been uncovering illegal and questionable activities by Southern California Gas – at their methane storage field at Ballona for years.



Robert Roy van de Hoek

O23-69 cont.

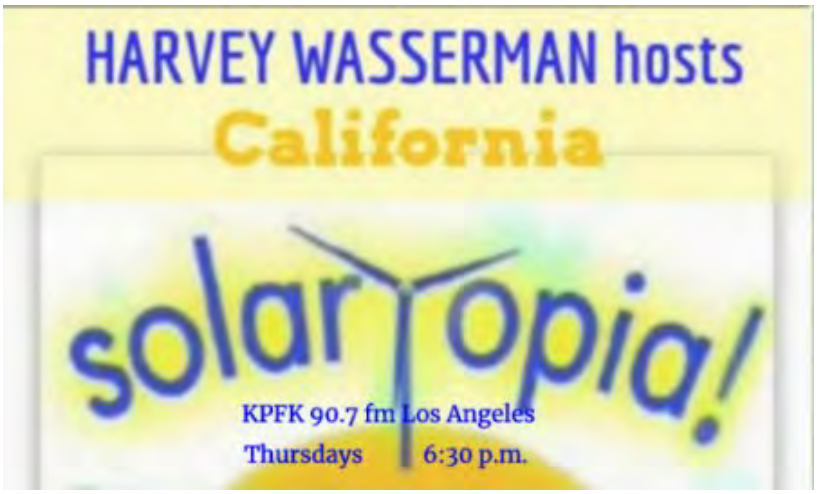
Patricia then reported these findings to enforcement staff at the Coastal Commission, who corresponded with Playa Capital and the current landowner, CDFW, to determine how and when the drainage structures had gotten there. The Coastal Commission staff then declared that these were indeed illegally installed structures, and concluded that there were violations of the California Coastal Act that needed to be remedied.

Then nothing happened.

Because the Coastal Commission shares legal counsel (the state Attorney General) with CDFW, they do not as a rule file litigation against their sister agencies. But the Coastal Act allows for citizens and citizen groups to file enforcement actions, so Patricia hired public interest lawyer Todd Cardiff, who filed an enforcement lawsuit that resulted in a settlement which required that the California Department of Fish & Wildlife would file an application to cap these illegal drains so that rainwater could once again feed these coastal marsh lands.

This past December 14th, in Dana Point, the Coastal Commission met and after a lengthy hearing, voted unanimously to require CDFW to cap these drains. Staff for the Commission had suggested – at the request of CDFW – that the drains not be removed until a determination had been made about a terribly destructive plan CDFW has on its agenda, in cooperation with SoCalGas. Activists call this plan an industrial habitat alteration, and Sierra Club, Los Angeles Audubon Society, Food & Water Watch, Ballona Institute and numerous other groups have opposed the plans, warning they would be detrimental to the wildlife at this fragile ecological reserve.

SoCalGas is involved because they have a huge network of gas pipes and wells under the wetlands where they store fracked gas they pipe in from Oklahoma and Texas (the storage field is similar to the one in Aliso Canyon that is still leaking gas and toxic chemicals which are making residents sick.)



Marcia Hanscom and Roy van de Hoek will be Harvey Wasserman's guests this evening on the 6:30 pm Thursday, December 28th edition of California Solartopiaradio show on KPFK 90.7 fm. The show will focus on the Ballona Wetlands and provide an update on community efforts to save Santa Monica's unique and magnificent 100 year old California Sycamore which is in danger of being chopped down. Please tune in to the show and learn how you can help save the wetlands and save this important tree.

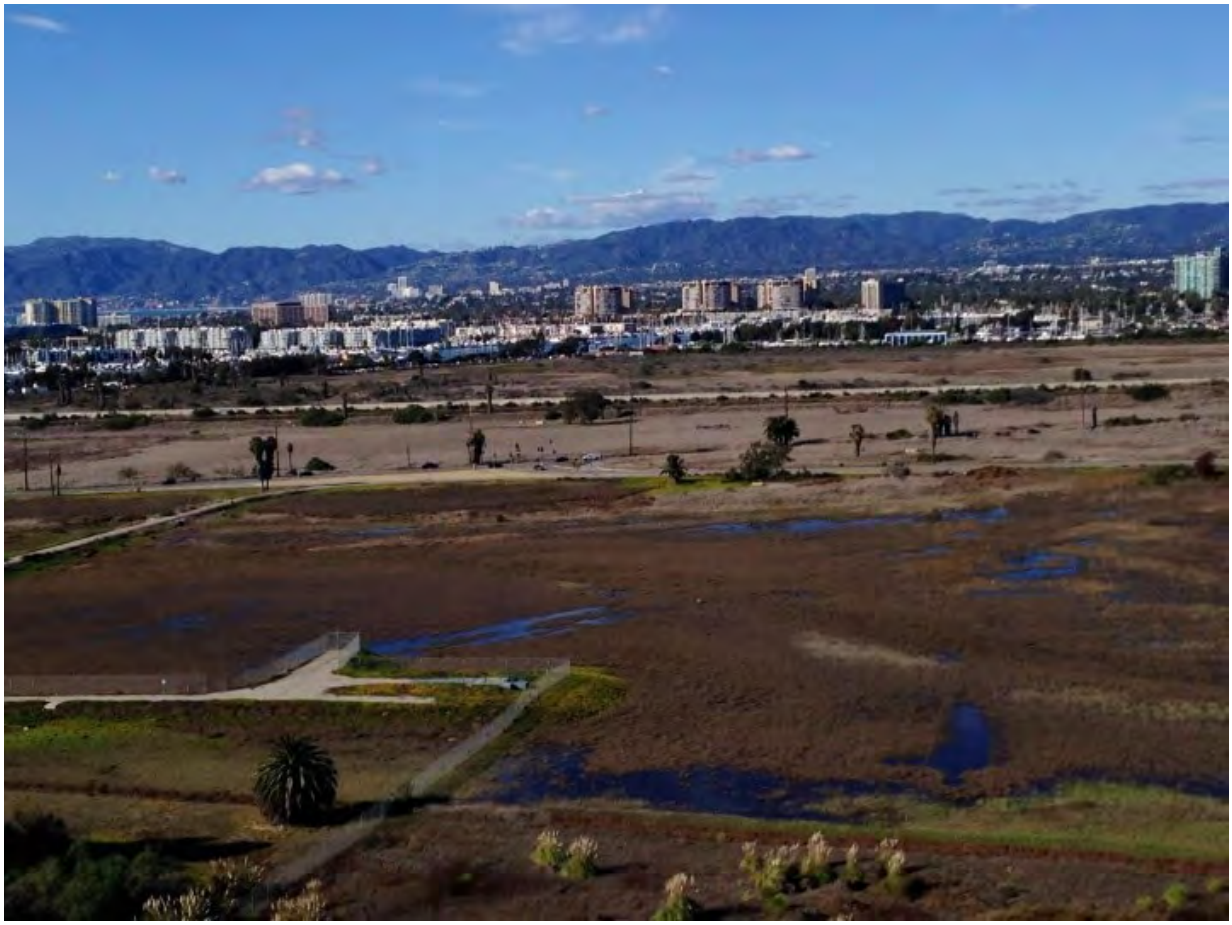
O23-69 cont.

And SoCalGas wants to access public funding through this massive industrial project to modernize their equipment, implement slant drilling and ensure they can continue the storage operations for many years. Food & Water Watch, Ballona Institute and Indivisible-43 are working to shut this facility down, so that the City of Los Angeles can make good on its stated commitment to only have 100% renewable energy (gas from this storage field currently powers LADWP's Scattergood power plant down the road from Ballona.)

After the Coastal Commissioners heard about all of these complications, they became concerned over staff's recommendations, as activists warned that this plan would bulldoze everything and start over, converting a mostly fresh and brackish water coastal wetland into an extension of Santa Monica Bay. Such a plan is not only historically inaccurate according to restoration ecologists and scientists (like Dr. Margot Griswold and Dr. Travis Longcore) who've studied the historical geography and ecology of the area – but would essentially wipe out functioning habitat for eight

species on the California or federal Endangered Species lists, and dozens of species on other sensitive lists, like the California List of Species of Special Concern.

In light of these expressed concerns, the Coastal Commission, led by a couple of newly-appointed Commissioners who appear to be taking their jobs very seriously to protect coastal resources, declared that the illegal drain situation was not to be tied to what may be a flawed plan for Ballona that activists even hesitate to call a “restoration,” – but that CDFW would be required to return to the Commission within months with a plan for fully removing these drain structures. Given that there are methane gas pipelines beneath the surface of the soils, that application process will also likely prove highly controversial.



Winter, 2014, where in the foreground are the wetlands which show the blue water ponding and sloughs from the rains – in the part of the wetlands where there were no illegal drains – and – in the background, the wetlands are obviously dry, where the illegal drains exist. (photo by Marcia Hansom)

Nevertheless, activists from Sierra Club, Grassroots Coalition, Ballona Institute and Ballona Ecosystem Education Project were all thrilled that the Commission voted unanimously to close up those illegal drains so that the winter rains could refresh the wetlands, and that the more complete

O23-69 cont.

drain removal would not be tied to what some activists refer to as the bulldozing project masquerading as a restoration.

This Coastal Commission victory is a huge win for the Ballona Wetlands. The implications of learning that these drains have been not allowing rainwaters to enter the soils in parts of the ecological reserve for more than 20 years are significant.

All of the scientific studies that CDFW and the US Army Corps of Engineers have relied on in their draft Environmental Impact Report (EIR) and Environmental Impact Statement (EIS) were compiled during the past decade when an important portion of the wetlands was being deprived of its most important water source.
Therefore, activists maintain that the EIR/EIS must be withdrawn, and the wetlands allowed to have its fresh rainwater soaking into the soils for at least 8 to 10 years before a new baseline for scientific study can be properly employed.

With this new, dramatic information now having been revealed, Ballona Wetlands advocates are asking that members of the public write to and/or call the following decision-makers to ask that the draft EIR/EIS be withdrawn until a new baseline for scientific study can be assured, including new delineations of wetlands – which must be undertaken after a proper amount of time can pass (8-10 years) once the rain waters again are soaking into the soils. All of these elected officials have some discretionary influence or actual decision-making authority for this project.

O23-69 cont.

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The Honorable Maxine Waters
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The Honorable Kamala Harris
United States Senate

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The Honorable Dianne Feinstein
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The Honorable Janice Hahn
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Tel: (213) 974-4444

O23-69 cont.

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The Honorable Autumn Burke
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The Honorable Mike Bonin
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Marcia Hanscom
Ballona Institute
The Voice for Nature on the Los Angeles Coast

Is the State of California Plotting the Ballona Wetlands' Demise?

JOSEPH TSIDULKO | JANUARY 9, 2014 | 4:00AM

30

Late last month, as L.A. residents got ready for the holidays, 40 impassioned environmentalists and Westside residents donned lime green T-shirts declaring their cause at a meeting of the Los Angeles County Board of Supervisors: "Don't Bulldoze Ballona."

AA

They took turns beseeching the five supervisors to not allow the County Department of Public

O23-70

County Department of Public Works to expedite a project that would drastically alter the mouth of Ballona Creek adjacent to Marina del Rey, as well as its surrounding 600-acre wetlands ecosystem.

Which was strange because, according to two county Public Works officials who testified immediately after, there is no project slated for the Ballona Wetlands or Ballona Creek, which originates nine miles east of the ocean at La Cienega Boulevard and drains water from the Los Angeles Basin into Santa Monica Bay.

Public Works deputy director Massood Eftekhari at first danced around the question, saying he was before the supervisors simply to request funding to expedite a U.S. Army Corps of Engineers review of a number of flood-control projects.

"This is not an authorization at all about the project known as Ballona Creek," he told them.

O23-70 cont.

But Supervisor Zev Yaroslavsky seemed as baffled as the activists. So he proposed a simple solution: Remove the Ballona Wetlands Restoration Project from the list of 12 "priority" projects across L.A., named in a draft Memorandum of Understanding between county Public Works and the federal Army Corps.

"What harm would it do, to what you're trying – what we're collectively trying – to achieve?" Yaroslavsky asked.

Eftekhari answered definitively: "No harm whatsoever."

"This is not approving any kind of a project – that's what you got through saying," Yaroslavsky reflected. "That's what you've been telling us and the public for several weeks," he added, explaining that he wanted to be clear because Public Works wouldn't come before the elected board "unless you're going to start doing something."

O23-70 cont.

doing something.

Eftekhari reiterated: "The removal of reference to Ballona Creek does not impact the process at all."

But then Eftekhari conferred with Public Works assistant deputy director Gary Hildebrand and reversed himself. Ballona needed to be on the priority list, Eftekhari said, but he cryptically insisted: "It's only authorization to work on 'whatever.' "

The crowd of environmentalists jeered, prompting another round of incredulous examination from Yaroslavsky. He asked why he should believe "there is no project" or view the project's opponents as inventing "these conspiracy theories that this is really a secret way to get this project going."

"If I wait five minutes, maybe you'll give me a different answer on that?" Yaroslavsky asked. Eftekhari's response: "This is a very complex project."

Public Works spokesman Kerjon Lee later told *L.A. Weekly* that his department is just "assisting an administrative review" on behalf of the Santa Monica Bay Restoration Commission, an autonomous state agency governed by a 37-member board

O23-70 cont.

governed by a 37-member board of state and federal officials, scientists and citizens, whose mandate is to protect Santa Monica Bay and its 130 square miles of watershed.

Lee insists that Public Works favors no particular vision for restoring Ballona's sensitive coastal estuary, wetlands and protective uplands.

One of a handful of coastal wetlands that has survived development in L.A. County, Ballona was the focus of a long war waged by environmentalists against the L.A. City Council and Army Corps of Engineers. By 2003, the activists had saved 600 acres, which were obtained by the state and designated a protected area.

Lee tells the *Weekly* that any proposed project to alter the estuary is a long way from an Environmental Impact Report and public comment.

But outraged activists from several environmental groups believe the obscure Santa Monica Bay Restoration Commission, part of California's Environmental Protection Agency, is quietly pushing through its preferred alternative. They say the expedited

O23-70 cont.

review the Corps wants county supervisors to fund would clear a key hurdle to dramatically reconstructing Ballona Creek – a project that John Ulloth of the Ballona Institute colorfully described to county supervisors as one that would "break that condom."

On paper, the project looks like one wildlife enthusiasts would love – a man-made, meandering stream instead of the man-made channel that spills Ballona Creek's freshwater into the salty wetlands and estuary. The remake would require tearing down the earthen levees that encased Ballona Creek more than 70 years ago.

But some who study the state-protected wetlands say removing the levees is a formula for environmental disaster in the flora- and fauna-rich ecosystem.

David De Lange, former president of the Los Angeles Audubon Society, says the "so-called restoration" is derided as the "bathtub plan" by many environmentalists, because it would transform the estuary into a flood basin with constant tidal flow, destroying habitat for rare and endangered plants, birds,

O23-70 cont.

marine life and other wildlife.

Nor will a curvy, prettier stream return the habitat to its condition of 70 years ago, when the Corps built the levees to end storm flooding, according to University of Southern California geographer and environmental scientist Travis Longcore.**

Removing Ballona Creek's levees would let excessive ocean surge into seasonal freshwater and brackish habitats, Longcore wrote in a letter imploring officials to reject the plan. He says the "full tidal system" envisioned by the Santa Monica Bay Restoration Commission is the opposite of restoration: It creates something that has never existed, at least in the last 2,000 years.

Marcia Hanscom, who chairs the Sierra Club's Ballona Wetlands Restoration Committee, says removing the levees would also drain urban runoff into the ecological reserve.

So is the state's Santa Monica Bay Restoration Commission, which includes such powerful figures as Gov. Jerry Brown's Secretary for Environmental Protection, Matt Rodriguez, advancing a plan many environmentalists oppose – or

O23-70 cont.

environmentalists oppose not?

The commission's executive director, Shelley Luce, insisted in a written statement to the *Weekly*, that no specific plan exists – merely an agreement between the Army Corps and the county's Flood Control District to "pay for some Corps staff time" so the Army's engineers can review "certain county projects."

"The state is drafting several alternative designs for the wetlands restoration" Luce insisted, and once the Environmental Impact Report assessing those designs is made public, anyone can offer feedback.

Luce said the Santa Monica Bay Restoration Commission and its nonprofit partner, the Bay Foundation, are working on the restoration plan with the California Department of Fish and Wildlife, which controls the land.

Luce is also executive director of the Bay Foundation, and the state commission and private foundation seem to share much of their other staff. Bay Foundation staff "carry out the wetlands science and education related to Ballona," according to Luce.

O23-70 cont.

But the *Weekly* obtained written details of the "county projects" that suggest Luce may not be speaking forthrightly.

In the proposal Public Works submitted to the Corps, six pages are devoted to an extensive and detailed project to create "a more sinuous channel" by removing the levees. Of six other alternatives suggested for study, only two don't call for remaking Ballona Creek. Each of those two alternatives is described in only a brief sentence.

Representatives of the Audubon Society, Sierra Club, Grassroots Coalition, the League of Humane Voters and other organizations suggest that Luce and others who work for the Bay Foundation and Santa Monica Bay Restoration Commission, without its 37-member board's approval, have chosen the first option, and with the imprimatur of the Department of Public Works are making premature claims to the Corps that reconstructing Ballona Creek is an "environmentally acceptable and technically sound project," De Lange says.

Hanscom alleges, "They have been going about planning this whole project behind the scenes."

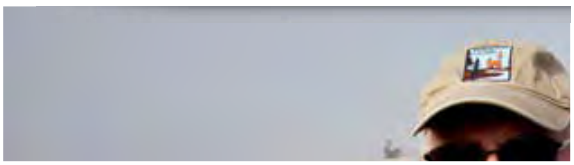
O23-70 cont.

Hanscom helped lead the battle that saved 600 acres at Ballona Wetlands – after a group calling itself Friends of Ballona Wetlands had signed a legal settlement with Playa Capital that protected far less land from the developer's ambitions.

But Eftekhari and Hildebrand, of the county Department Public Works, appear to be shrugging off the activists' demands. This month, they are expected to again ask supervisors to approve the list, including Ballona Creek.

Hanscom says she's not about to let an ill-advised new project undermine the last decade's victory. "We've saved this land once before," she says.

**An earlier version of this article incorrectly identified University of Southern California geographer and environmental scientist Travis Longcore as a geologist.



David De Lange of the Audubon Society at the mouth of Ba

O23-70
cont.

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Anaheim Duc... Fri., Mar. 30, 7:00pm TICKETS	Anaheim Duc... Sun., Apr. 1, 6:00pm TICKETS
Los Angeles L... Fri., Mar. 30, 7:30pm TICKETS	Los Angeles L... Sun., Apr. 1, 6:30pm TICKETS
Studio Movie ... Wed., Mar. 14, 7:30pm TICKETS	CSUN Mens B... Tue., Apr. 3, 2:00pm TICKETS

Comment Letter O23

IN FOCUS: RESTORING THE BALLONA WETLANDS

By Renee Eng | January 27, 2018 @3:44 PM

SHARE

Renee learns about the Ballona Wetlands from Richard Brody, a land manger with the California Department of Fish and Wildlife, and how proposed restoration will benefit plants and animals.

O23-71

Comment Letter O23

The New York Times

U.S.

Developer Unearths Burial Ground and Stirs Up Anger Among Indians

By NICK MADIGAN JUNE 2, 2004

With the precision of a watchmaker, an archaeologist clasped a small paintbrush and gently swept the brown, sandy dirt off the spine of a Native American woman buried some 200 years ago.

From the condition of the bones, the archaeologist, Penny Minturn, deduced that the woman was 30 to 40 years old when she died, had suffered from arthritis and had recently given birth, and that her diet had probably consisted of shellfish, native plants, nuts and berries.

O23-72

''This is one of the most fascinating sites I've been on,'' Ms. Minturn, an archaeologist for 25 years, said as she worked under a large tent in the Ballona wetlands here, less than two miles from the ocean. ''We're finding out a lot about this time period and letting these people tell their story.''

But many Native Americans are outraged that the bones of their ancestors are being dug up from the ancient burial ground, known to the Tongva tribe as Saa'angna and filled with the skeletal remains of people whose predecessors hunted and roamed across Southern California 7,000 years ago or more. Archaeologists here

The skeletons, most of them female, are being removed for the development of Playa Vista, a complex of condominiums, apartments and townhouses, some selling for more than $1 million. The burial grounds, which were discovered late last year, stand in the way of a proposed stream that opponents call a drainage ditch and that the developer more elaborately calls a riparian corridor.

So far, about 275 skeletons as well as countless artifacts and funerary objects have been unearthed, and no one knows how many remain.

Native Americans like Rhonda Robles, an elder of the Acjachemen, said the excavation was being conducted over her strenuous objections. ''Our ancestors are being put in buckets and boxes, and they're being separated from the things they were buried with,'' said Ms. Robles, whose tribe is commonly known as the Juaneño. Like many tribes, the Acjachemen and the Tongva see themselves as spiritually united.

O23-72 cont.

Ms. Robles said of the developers: ''They're being disrespectful. All around the world, cemeteries are respected, even pet cemeteries. We'd be up in arms if our pet cemeteries were desecrated. But our culture and our cemeteries are not respected by law.''

Steve Soboroff, a former Los Angeles parks commissioner who is president of Playa Vista, the developer, said his company had hired ''the best people with the best experience to do the right job out of respect and out of dignity to the remains that are being disinterred.''

Mr. Soboroff dismissed claims by some Native Americans that their objections had been ignored. ''There's a big difference between not responding and not giving them the answers they wanted,'' he said.

He said the remains would be reburied somewhere on the property and that many of the artifacts would be displayed at the U.C.L.A. Fowler Museum of Cultural History on the campus of the University of California, Los Angeles. At Playa Vista, outdoor displays will recall the site's history.

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Donn R. Grenda, chief archaeologist at the site, said the discoveries would be scientifically and culturally beneficial. Most of the bodies in the current excavation were buried relatively recently, between about 1770 and 1810, and the deaths were possibly the result of an epidemic. The oldest remains found so far are about 500 years old, but Mr. Grenda said there was evidence of human habitation as long ago as 4,600 years or so.

To the Native Americans, the land is sacred ground. ''Our people have lived on this land five times longer than the present culture,'' Ms. Robles said. ''But we were cheated out of our land and cheated out of recognition. We're an extreme minority in our homeland, but that doesn't mean we should be shown such disregard.'' Playa Vista is the most recent name given to a huge marsh where oil rigs predominated early last century and where Howard Hughes built an aircraft plant in the 1940's. The plant produced the Spruce Goose and, later, helicopters for the Vietnam War. More recently, the land was to be the site of the DreamWorks film studio, until Steven Spielberg and his partners backed out in the face of disagreements with a previous developer and lawsuits by environmentalists eager to save the wetlands.

O23-72 cont.

Similar burial grounds have been found elsewhere in California, many of them south of here in Orange County.

Jordan David is a member of the Tongva, also known as the Gabrieleño, and has been monitoring such sites for 11 years. He was permitted to observe the Saa'angna excavation and has been harshly critical of the work.

Mr. David said that at least three of the approximately 70 archaeologists and osteologists had quit because they were unhappy about what they were being asked to do. Mr. David said some archaeologists had shown ''appalling disrespect to the people who have passed.''

He said one archaeologist had waved a carved bone tube used to draw out sickness or bad spirits and had exclaimed, ''Oh, look, I can do magic!'' A supervisor told her to stop, he said.

On another occasion, Mr. David said, he saw someone walking atop a wooden plank on the ground. He lifted it. ''There was a cranium underneath, and it was

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crushed,'' he recalled. ''I cried for 45 minutes. Spiritually, it was like having a hot poker in my eye. It felt like the ancestors were crying through me.''

The man who had stepped on the plank was not an archaeologist but an employee of a company erecting a tent on the site, Mr. Grenda said. ''When you're working with fragile bones, sometimes they break,'' he said. ''I don't think that comes from carelessness.''

During a recent visit, a reporter saw an archaeological team member in heavy boots standing within an inch of a skeleton as he took notes on a clipboard, so close that a misstep could have crushed the bones.

Other experts appeared to be working with great care around the remains, most of which were covered with cloths. Debby Cogan, an archaeologist, spoke excitedly about finding ceremonial shells and beads, as well as tools, bowls, grinding stones and a ''beautifully intact'' whistle made from a deer tibia.

O23-72 cont.

Another archaeologist, Don Tatum, resigned last month after working at the site for five weeks because, he said, ''I wasn't comfortable with the situation.''

One of his objections centered on a forced lack of communication with at least one of the designated Native American observers, whom Mr. Tatum said workers were told not to speak to. ''Part of his job was to observe and discuss what we were doing, and he wasn't allowed to do his job,'' Mr. Tatum said in a telephone interview. ''It didn't seem right to me.''

Mr. Tatum said the problem with digging for bones at Saa'angna came down to human rights.

''If the shoe were on the other foot and this was a cemetery in New England and these were European-Americans, there'd be a huge stink in the community,'' Mr. Tatum, an archaeologist for 15 years, said.

George Mihlsten, a lawyer representing the Playa Vista development, said the company was not legally bound to consider the Tongvas' wishes because they were not members of any of the 562 federally recognized Indian tribes. The Tongvas

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acknowledge that they do not have federal recognition but said their cemetery should be respected nonetheless.

Mr. Mihlsten rejected suggestions that the riparian corridor be moved a few hundred feet to accommodate the cemetery. More bodies might be found there, he said, and besides, any change would open the permit process again and expose the project to more lawsuits.

O23-72 cont.

But he said the company was doing everything it could to respect the remains.

''In the old days, this would all be bulldozed,'' he said. ''Now it's done with brushes.''

Ballona Wetlands Deal Announced (CA)

August 9, 2001
California

LOS ANGELES, 8/9/01 --The Trust for Public Land (TPL), a national land conservation organization, announced today its option agreement with Playa Vista to purchase nearly 190 acres of land located west of Lincoln Boulevard between Marina del Rey and Playa del Rey. The agreement -- covering the 139-acre Parcel A north of Ballona Creek and 54 acres of residential Parcel B south of Ballona Creek -- is the first step toward possible public ownership of the 190 acres for a variety of purposes including wetland creation and restoration, nature preserves, and active urban park space.

"The vision and leadership of Governor Davis, Los Angeles City Councilwoman Ruth Galanter, and the local community have helped to make this agreement possible. Playa Vista has been a cooperative, willing landowner and the Trust for Public Land will continue to work with them to bring this land into public ownership for the creation of an urban park and wetlands," said Reed Holderman, vice president and executive director of the Trust for Public Land-California.

Governor Gray Davis included $25 million in the Coastal Conservancy budget from Proposition 12 to help fund the purchase of this portion of the Playa Vista property. "TPL has a

O23-73

tremendous record of success in crafting these sorts of agreements," said Assembly Member George Nakano (D-Torrance). "While there is still much work to be done to bring the deal to fruition, this is certainly a significant first step."

Earlier this year, Los Angeles City Councilwoman Ruth Galanter invited Playa Vista to explore the possibility of entering into discussions with TPL. These discussions were successful and led to the current option agreement under which TPL has until July 2002 to purchase the portion of Parcel B, which, if accomplished, would then trigger an extension of the agreement until July 2003 to find funding for the purchase of Parcel A.

"I have been working hard for many years to preserve and restore the Ballona Wetlands. I want to thank TPL and Playa Vista for your hard work to reach this agreement. With the Governor's support, I am confident that we can together preserve the land seaward of Lincoln Boulevard for habitat restoration and open space as I first proposed in 1999," said Los Angeles City Councilwoman Ruth Galanter.

"Although we believe we have a master plan for the area west of Lincoln Blvd which is both exciting and environmentally sound, we are also open to this alternative that Councilwoman Ruth Galanter has proposed. Public ownership of that property is a viable option and TPL is the best organization to pursue that option," said Peter Denniston, president of Playa Vista.

O23-73 cont.

The first phase of Playa Vista currently under construction east of Lincoln Blvd and south of the Ballona Channel will, when complete, include more than 3000 homes and 3 million square feet of office and commercial space, habitat restoration, and parks. The property includes the part of Playa Vista where the historic Howard Hughes Aircraft Company was located. Hughes built the famous "flying boat," the Spruce Goose, in huge hangars on this site.

On the western end of the property - which includes the area under the option agreement - the last remnants of the historic Ballona Wetlands can be found. Once stretching along the coast (mostly west of Lincoln Blvd.) from the Playa del Rey bluffs through what is now the community of Venice, a majority of the wetlands have been lost because of the construction of Venice, the Ballona Creek flood control channel, and finally Marina del Rey. The remaining wetlands have been cut off from saltwater tides and are significantly degraded.

"A crucial element of any successful development project is the preservation of open space," Los Angeles County Supervisor Don Knabe said of the announcement by TPL and Playa Vista. "By securing more than 190 acres of additional open space for restoration, a large portion of

the Ballona Wetlands will be revitalized for the long term enjoyment of our future generations." Knabe's Fourth District contains the majority of the County's coastline, including the Playa Vista project area and the unincorporated community of Marina del Rey.

Playa Vista's plans already include restoration and expansion of the wetlands and uplands habitat in the vast majority of Area B. This is in part as a result of a settlement agreement between the Friends of Ballona Wetlands and a former landowner - Maguire Thomas Partners-Playa Vista. As a result of the settlement agreement, Playa Vista committed to a minimum of $13 million for restoration and maintenance of the current saltwater marsh in Area B. Playa Vista is also currently restoring 26 acres at the eastern end of Area B as a freshwater marsh. The 54 acres TPL wants to purchase in this parcel is adjacent to the habitat restoration.

"It's been a long road, but we are very excited about this golden opportunity to achieve our goal of over 20 years: a restored Ballona Wetlands ecosystem. We thank Councilwoman Galanter for initiating this process with the Trust for Public Land and we want to acknowledge Playa Vista for its willingness to work with TPL," said Ruth Lansford, executive director of the Friends of Ballona Wetlands.

O23-73 cont.

Although the property value has not been determined, TPL hopes to contract with a third party, state-approved appraiser in the next 30 days, and expects to have an agreed upon sale price by the end of the year. In the meantime, TPL has begun the search to secure acquisition funding.

Elsewhere in Los Angeles, TPL recently entered into an agreement with Majestic Realty to purchase the 32-acre Cornfield property, adjacent to the Los Angeles River, and hopes to create the first state park in downtown Los Angeles. TPL is also negotiating for several properties in north Long Beach, including the 40-acre Wrigley Heights assemblage that will constitute the largest open space along the southern stretch of the Los Angeles River. Earlier this year, TPL conveyed 5.4 riverside acres to the Mountains Recreation and Conservation Authority for a community park. TPL also conveyed nearly two acres to the City of Maywood as as a part of a a 7-acre assemblage to create the Maywood River Park for California's most densely populated, low-income community. TPL has already conveyed nearly 3 acres to the City of Maywood for the creation of the Maywood River Park.

The Trust for Public Land (TPL) is a national, nonprofit land conservation organization dedicated to conserving land for people as parks, greenways, wilderness areas and natural,

historic and cultural resources for future generations. Founded in 1972, TPL has protected more than 1.2 million acres nationwide.

O23-73 cont.

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Protect
Create

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Parkscore.tpl.org
Landvote.org
Conservationalmanac.org
Conservationeasement.us

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Campaigns near you
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Letter O23: Sierra Club Ballona Wetlands Restoration Committee

O23-1 The commenter's focus on tsunami information is acknowledged.

O23-2 None of the restoration alternatives would cause a tsunami or exacerbate tsunami risk. As noted in Draft EIS/EIR Section 3.9.6 in the context of Impact 1-WQ-5, the Project would have no direct impacts related to tsunami inundation hazards. Tsunami hazards are already present along the coastline. The Draft EIS/EIR uses data provided by the California Emergency Management Agency (CalEMA), which has identified hazard areas from a worst-case scenario from multiple potential tsunami sources. The Draft EIS/EIR Preparers did not produce independent calculations of tsunami hazards, but instead relied on best available science from reliable government agency resources including CalEMA, National Oceanic and Atmospheric Administration (NOAA), and historic recorded data from the Los Angeles area. See Section 3.9.2.2, *Environmental Setting*, in Draft EIS/EIR Section 3.9, *Hydrology and Water Quality*, under the heading "Flooding" and the subheading "Tsunamis." Considering that the Project would increase the heights of the levees that currently run along the Creek, improved flood protection from this existing potential hazard is expected to result.

O23-3 This description of the proposed levee system is acknowledged.

O23-4 CDFW acknowledges that methodologies other than the one described in Draft EIS/EIR Section 3.9 could be used to evaluate tsunami-related risk, and that reasonable minds may differ not only regarding the preferred methodology, but also in reaching conclusions based on existing data. The "reanalysis" provided by the commenter is acknowledged and is included in the record of information that will be considered as part of CDFW's decision-making process. However, neither the analysis in the Draft EIS/EIR nor the conclusions reached have been revised in response to this comment.

O23-5 The comment refers to the tsunami analysis that was included in Draft EIS/EIR Appendix E, which was one of several resources relied upon in the analysis. As noted in Response O23-2, data from California Emergency Management Agency which has used a suite of tsunami source events and "represents the maximum considered tsunami run-up from a number of extreme, yet realistic, tsunami sources" notes on Venice Quadrangle for Tsunami Inundation Map for Emergency Planning, March 1, 2009. As seen from this map, the inundation area on the Project Site is limited to within the Ballona Creek Channel. While the potential for a tsunami event to occur exists with or without the Project, the raising of the existing levee heights would ensure greater protection than currently exists.

O23-6 See Response O23-10. The proposed restoration design would maintain the same level of flood protection to surrounding areas as existing conditions. While more of the site itself would likely be inundated by a tsunami, the wetland vegetation and natural channel bottom would provide friction which would reduce the wave energy that would reach the levees. High water velocities could cause erosion along the

levees and the tsunami could produce seiches within the site – this would result in higher waves. However, Borrero et al (2003) modeled that a slide on the Palos Verdes fault would cause velocities of 3 m/s in the Port of LA, which is no faster than modeled velocities for a 50-year fluvial event. Appendix F7-106 (pdf 396).[116]

O23-7 See Response O23-5 and Response O23-10. See Draft EIS/EIR Appendix B1, Appendix A, Existing Conditions, Overall Existing Topography Exhibit which shows elevations and is similar to elevation data from the commenter.

O23-8 The comment is noted that the depiction of the tsunami inundation hazard zone in Draft EIS/EIR Figure 3.9-5 is sourced from the California Emergency Management Agency (CalEMA). Tsunamis are relatively rare events caused by events that are difficult to predict timing or magnitude with few known occurrences in the historical record. In the event that a tsunami event occurred beyond what has been estimated as a "maximum considered" event based on "extreme, yet realistic" sources, there could be substantial damage across the region's coastline. The levees along Fiji Way or Culver Boulevard that are proposed as part of the Project are not intended to protect the entire coastline.

O23-9 CDFW understands the commenter's scenario to be that a portion of a tsunami would overtop the breakwater at the mouth of Marina del Rey, a portion of that would travel up the marina del Rey main channel, a portion of those tsunami flows would then enter Basin H, a portion of those flows would enter the restricted tide gate to enter Fiji Ditch, then travel within Fiji Ditch, be constrained again at the Lincoln Boulevard culvert, then enter North Area C via the Fiji Ditch, and then fill the recontoured Fiji Ditch, and overtop the Fiji Ditch's northern berm while being constrained by the recontoured Fiji Ditch's southern berm. The commenter also mentions that the existing Fiji Ditch is a "pathway for tsunami inundation of the residential/business area immediately east of Lincoln Blvd." Because there would be berms on either side of the recontoured Fiji Ditch similar to existing conditions, it is unclear from the comment how the Project would increase the inundation risk/effect from a tsunami.

O23-10 The comment is noted that a theoretical tsunami event in excess of 16 to 20 feet could cause considerable damage in the region. Nonetheless, neither the Project nor any of the other restoration alternatives would cause or contribute to triggering any such event.

O23-11 See Response O23-10.

O23-12 See Response O23-10.

O23-13 The commenters' primary concern appears to be that the height, positioning, and location of proposed levees around Area A and Area B, as well as a proposed berm

[116] Borrero et al, 2003. The Regional Economic Cost of a Tsunami Wave Generated by the Palos Verdes Slide. March, 2003.

south of Culver Boulevard in Area B would exacerbate the effects of a tsunami. More specifically, the levees and berm would channel a tsunami that would otherwise have dispersed throughout the Ballona Reserve had the proposed levees and berm not been constructed. Having considered the concern, CDFW determined that the subject levees and berm would not exacerbate the effects of a tsunami. The following facts informed CDFW's consideration.

The commenters do not appear to account for the fact that levee heights are based on the North American Vertical Datum 1988 (see Draft EIS/EIR section 1.2.1, footnote 12 explaining NAVD 88). The commenters' concern seems to arise from the belief that the levees would be 20 feet above existing grade and as a result they would channel a tsunami (i.e., "levees are being designed at significant heights," see also Comment O23-14, "20-foot-high Culver Blvd and Fiji Way Levees," "levees will act as walls," "channeling and guiding the tsunami waves"). Levee heights are preliminary and will be finalized following a full risk and uncertainty analysis to meet the requirements of the Corps. However, the levee around Area A would preliminarily be 20.5 feet NAVD and the levee around Area B is preliminarily set to slope from 18.5 feet NAVD just west of the Culver Boulevard Bridge down to 16.0 feet NAVD at the downstream limit of West Area B (see Draft EIS/EIR, Appendix B1, *Preliminary Design Report*, Section 3.11.1). Because these levee heights, along with existing topography are all presented in NAVD, the proposed levees will not be 20 feet above grade as what seems to be in the comment as described in the following paragraph.

The commenters also do not appear take into account existing topography relative to the proposed levee heights. Within the vicinity of Fiji Way, Area A's existing topography ranges in height between approximately 14 feet NAVD to 18 feet NAVD (Draft EIS/EIR Appendix B1, *Preliminary Design Report*, Appendix A, *Overall Existing Topography*). As a result, the difference between existing topography and the preliminary levee height is at most 6.5 feet, not 20 feet as what appears to be the commenters' concern (see, e.g., Draft EIS/EIR Figure 2-7; see also Draft EIS/EIR Appendix B1, *Preliminary Design Report*, Figure 3.7). Similarly, within the vicinity of Vista Del Mar, where the commenters assert a tsunami would flow over and hit the levee (comment's exhibit 8), the difference between existing topography along the bluffs and the preliminary levee is at most 2 feet, not 20 feet as what appears to be the commenters' concern.

The commenters similarly do not take into account existing development between the Pacific Ocean and the Project Site. The commenters opine about the importance of obstacles in assessing tsunami risk and that CDFW did not "account for the effect of obstacles, for example levees, encountered as flood water inundates" (see Comment O23-4). However, the commenters fail to acknowledge the existing development, including multi-story structures that a tsunami must overcome before arriving at the Project Site. For example, the commenter does not mention the breakwater at the mouth of Marina del Rey, nor the three-story Breakwater Apartments in between

Area A and Marina del Rey as development that could affect a tsunami. Nor are the 3-story residences and apartments between Area B and the Pacific Ocean as well as the Del Rey Lagoon acknowledged as something that could affect a tsunami. Instead, the commenters seem to suggest that the proposed levees would be the first obstacles that a tsunami would encounter.

The commenters also mistakenly refer to the berm proposed to be south of Culver Boulevard as a levee that would allegedly channel a tsunami along Culver Boulevard (Comment O23-14: "South Area B/East Area B levee which, together with the Culver Blvd levee will cause a funneling and thus rising and rushing of water through the bottleneck created by their conjoining presence"). The berm is described in Draft EIS/EIR Section 2.2.2.1, see also Draft EIS/EIR Figure 2-2, berm (n). The berm would be offset from Culver and Jefferson Boulevards by a 30-foot-wide bio-swale to allow for runoff from the road to drain into the area between the road and the berm. The commenters don't appear to account for this offset when they allege the "levees" would channel a tsunami. Also, the berm's height would be 9 feet NAVD. Because Culver and Jefferson Boulevards range in height from approximately 6 to 7 feet NAVD (see Draft EIS/EIR Appendix B1, *Preliminary Design Report*, Figure 3.7), the berm would be at most 3 feet higher than the existing grade. More importantly, at only 9 feet, the berm will not channel a 20+ft tsunami that the commenters are concerned about.

The commenters also appear to mistakenly believe the existing levees on either side of Ballona Creek within the Project Site would remain (see, e.g., in comment "two more levees running along Ballona Creek" and Comment O23-3). Commenters' Exhibit 8 shows tsunami water entering the Ballona Creek and being channeled into the meander and north along Fiji Way. The commenters do not appear to account for the fact that the existing levee south of Ballona Creek would be removed. See Draft EIS/EIR section 2.2.2.1: "A new levee would be constructed north of Culver Boulevard to replace the existing south Ballona Creek channel levee in West Area B and to provide flood risk protection for Culver Boulevard and areas to the south and west." See also Draft EIS/EIR Figure 2-2 with arrows pointing to West Area B and the text "lower & breach (E) levee." Without the levee along the southern side of Ballona Creek, CDFW expects any tsunami water flowing east along the Ballona Creek to enter into Area B.

O23-14 See Response O23-13.

O23-15 See Response O23-10.

O23-16 The 2009 tsunami inundation map is the official map for the Project area based on the California Department of Conservation.[117]

O23-17 See General Response 5, *Biological Resources* (Final EIR Section 2.2.5), which addresses multiple comments about the potential presence of Palmer's goldenbush.

O23-18 Separate receipt of comments regarding tsunami is acknowledged. See responses to those comments, above.

O23-19 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of "restoration." The commenter's opposition to the proposed restoration alternatives is acknowledged and is part of the record of information that will be considered as part of CDFW's decision-making process.

O23-20 See General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about these drains.

O23-21 See General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about these drains.

O23-22 See General Response 4, *Drains* (Final EIR Section 2.2.4).

O23-23 See General Response 4, *Drains* (Final EIR Section 2.2.4).

O23-24 See General Response 4, *Drains* (Final EIR Section 2.2.4).

O23-25 See General Response 4, *Drains* (Final EIR Section 2.2.4).

O23-26 Each of the species discussed in this comment is thoroughly discussed in Draft EIS/EIR Section 3.4, which includes a detailed presentation of baseline conditions for each species and an assessment of potential direct, indirect, and cumulative impacts. Because no deficiencies are identified in the comment, the analysis has not been revised in response to this comment.

O23-27 A qualified botanist has confirmed the identification of the species at issue as the non-listed *Suaeda taxifolia*. See Response O3-27 regarding the location on the levee and the commenter's recommendation not to relocate individual *Suaeda* plants. The commenter states that any CNPS list plant on public land should be treated as an endangered species and should remain in place and not be relocated. The commenter is mistaken, as non-listed plants that are not identified as "State-listed Rare" are not protected by the federal or state Endangered Species Act. *Suaeda taxifolia* is not a State-listed Rare species and is not subject to special protection. Regarding why the

[117] California Department of Conservation (DOC), 2019. California Official Tsunami Inundation Map for Los Angeles County, Venice Quadrangle. Available online: http://www.conservation.ca.gov/cgs/geohazards/tsunami/maps. Accessed April 3, 2019.

rare plant disclosure is not provided in the Draft EIS/EIR, note that the special-status plant protection requirements are fully stated in Draft EIS/EIR Section 3.4.3. In that discussion, the Draft EIS/EIR states that special-status plant species include species "Officially listed by California or the federal government as endangered, threatened, or rare." As stated above, *Suaeda taxifolia* is not an official "rare" species that is identified on CDFW's list of "State and Federally Listed Endangered, Threatened and Rare Plants of California." Hence, greater protection was not afforded to this species.

O23-28 See Draft EIS/EIR Section ES.2.2, Section 1.4.1, and Section 1.6 for information about the respective roles of the Corps and CDFW as Lead Agencies for the Project. For clarification of involvement by other agencies and participants in the process, see Draft EIS/EIR Section ES.2.1, which identifies the permit applicants, and Section ES.2.5, which identifies formal project proponents. As is clear from information provided in the Draft EIS/EIR, the Corps' role is exclusively in an environmental review and permitting capacity. By comparison, CDFW's role is as a permit applicant as well as environmental review and permitting capacity.

O23-29 See Response O23-28 regarding CDFW's roles for this Project. The suggested opposition to the restoration alternatives analyzed in detail in the Draft EIS/EIR is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

O23-30 See Response O23-29.

O23-31 See Response O23-27 regarding the *Suaeda* species. See General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about these drains and related baseline conditions.

O23-32 The suggestion that species misidentification has occurred is acknowledged; however, without any specific examples, CDFW does not have enough information to provide a detailed response. As explained in Response O23-27, the statement that *Suaeda* species have been misidentified is incorrect.

O23-33 Seventeen (17) site-specific, Project-specific biological resource-related studies and study summaries are included in Draft EIS/EIR Appendix D, including: a Botanical Survey Summary (Appendix D1), Vegetation Alliance and Association Acreages by Habitat Type (Appendix D2), Study Area Plant List by Survey Effort (Appendix D3), Benthic Invertebrate Studies (Appendix D4), Biological Resources Existing Conditions (Appendix D5), Terrestrial Invertebrate Studies (Appendix D6), Summary of Fish Studies (Appendix D7), Summary of Reptile and Amphibian Studies (Appendix D8), Summary of Bird Studies (Appendix D9), Summary of Mammal Studies (Appendix D10), Special-Status Plants (Appendix D11), Special-Status Wildlife (Appendix D12), Species Accounts (Appendix D13), Ballona Creek Wetlands Ecological Reserve Preliminary Delineation of Wetlands and Non-Wetland Waters (Appendix D14), Jurisdictional Delineation Report, Potential Well Sites,

Playa del Rey Storage Facility (Appendix D15), Patterns of Vehicle-Based Vertebrate Mortality in the Ballona Wetlands Ecological Reserve, Los Angeles, CA (Appendix D17), and Biological Assessment (Appendix D18). Each provides the requested information about scope and preparation.

O23-34 See General Response 5, *Biological Resources* (Final EIR Section 2.2.5), regarding the potential presence of Palmer's goldenbush.

O23-35 See Response O23-32 regarding suggestions of misidentification of species. The statement that the Ballona Reserve supports many species is consistent with information provided in the EIR. See, e.g., Draft EIS/EIR Section 3.4.2.2, which the describes the environmental setting for purposes of the analysis of potential impacts to biological resources. Regarding development of the suite of alternatives analyzed in detail, see Draft EIS/EIR Section 2.1. See also General Response 3, *Alternatives* (Final EIR Section 2.2.3), which addresses multiple comments received about the selection of Project alternatives. Regarding the 12 years of photographs taken by Mr. Coffin at the Ballona Reserve, see General Response 5, *Biological Resources* (Final EIR Section 2.2.5), which addresses multiple comments received about the biological resources baseline.

O23-36 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of "restoration." Contrary to the suggestion in this comment, reference materials cited in the Draft EIS/EIR were not "dismissed," but rather were considered and evaluated relative to other available information. That reasonable minds may reach different conclusions based on the same information is acknowledged; however, disagreement alone does not indicate that an error has occurred (see Draft EIS/EIR Section 1.8.4).

O23-37 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), which addresses questions about the timeliness of the availability of reference materials relied upon in the Draft EIS/EIR.

O23-38 To be clear, the adequacy and accuracy of the EIR are not based exclusively on the charrette mentioned in the comment. The public participation process for the environmental review processes for this Project are described in Draft EIS/EIR Section 1.9 and Final EIR Section 1.4.1. See also General Response 3, *Alternatives* (Final EIR Section 2.2.3.3), which addresses multiple questions about the development of the range of alternatives analyzed in the Draft EIS/EIR. The suggested dissatisfaction with public involvement components of the environmental review process is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.

O23-39 As described in Section 2.2.1.8, "CDFW has jurisdiction by law over natural resources affected by the Project that are held in trust for the people of the state of California, including fish and wildlife, designated rare or endangered native plants, and the Ballona Reserve, which is administered by CDFW. Seeking to restore

wetland habitat and function within the Ballona Reserve and as described in more detail in this Chapter 2, CDFW is proposing a large-scale effort to restore, enhance, and establish native coastal wetland and upland habitats within the Ballona Reserve. Consistent with CDFW's jurisdiction over these special resources and with its mission of managing 'California's diverse fish, wildlife, and plant resources, and the habitats upon which they depend, for their ecological values and for their use and enjoyment by the public' (CDFW 2015), meaningful, long-term benefits are expected to accrue from the Project." Therefore, although changes in habitat types and acreages would result from the implementation of the Project, the Project would ultimately restore, enhance, and establish functioning, self-sustaining wetland habitat in an area that is currently degraded. Regarding the use of mechanized equipment versus restoration by hand, see General Response 3, *Alternatives* (Final EIR Section 2.2.3.4), which addresses Alternative 5 and other alternatives that were initially considered, but not carried forward for more detailed review. Regarding impacts to biological resources, see Draft EIS/EIR Section 3.4 and General Response 5 (Final EIR Section 2.2.5).

O23-40 The NEPA statement of purpose and need, including the regulatory basis, is described in Draft EIS/EIR Section ES.3.1 and Section 1.1.1. CEQA project objectives, including their regulatory basis, are described in Draft EIS/EIR Section ES.3.2 and Section 1.1.2. The similarity and differences between the two are described in those sections, and the role of each in developing the range of alternatives is described in Section 2.1.1 and Section 2.1.2.

As can be seen from the purpose and need and project objectives, the Project is not intended to manage for a specific species, but rather is intended to restore ecological functions and services within the Ballona Reserve, ensure that any alteration/modification to the Los Angeles County Drainage Area (LACDA) project components within the Ballona Reserve maintain the authorized levels of flood risk management, and also, for example, to protect and respect cultural and sacred resources, establish natural processes and functions within the Ballona Reserve that support estuarine and associated habitats, and develop and enhance wildlife dependent uses and secondary compatible on-site public access.

Potential beneficial effects and adverse impacts that could result from the restoration alternatives are analyzed in Draft EIS/EIR Section 3.4, *Biological Resources*. See General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about these drains.

O23-41 Questions about funding sources are beyond the scope of the EIR, which analyzes the potential environmental consequences of the Project and other restoration alternatives on the Project Site. Potential beneficial effects and adverse impacts that could result from the restoration alternatives are analyzed in Draft EIS/EIR Section 3.4, *Biological Resources*.

See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of "restoration." See also General Response 3, *Alternatives*, regarding requests for consideration of a freshwater alternative (Final EIR Section 2.2.3.1) and the historical accuracy of the alternatives analyzed in Draft EIS/EIR (Final EIR Section 2.2.3.4).

See General Response 1, *Agency and Other Involvement* (Final EIR Section 2.2.1.1), addressing suggestions of improper influence or conflict of interest. The commenter's perception of management purposes over the last decade are noted, but do not inform CDFW's consideration of the potential impacts of the proposed restoration. See Final EIR Section 2.1.1, *Input Received*.

O23-42 See Response O21-5 regarding CDFW's management of the Ballona Reserve, including public access. Support for the proposed provision of greater public access to the Ballona Reserve is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.

O23-43 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.4), which addresses multiple comments regarding parking facilities within the Ballona Reserve. Questions about funding sources and amenities available at other ecological reserves are beyond the scope of the Draft EIS/EIR, which analyzes the potential environmental consequences of the Project and other restoration alternatives.

O23-44 The commenter's suggested dissatisfaction with the Draft EIS/EIR and opposition to the Project are acknowledged and are now part of the record of information that will be considered as part of CDFW's decision-making process.

O23-45 See Draft EIS/EIR Section ES.2, which has been revised to clarify the respective roles of the permit applicants (Section ES.2.1); Cooperating Agencies for purposes of NEPA (Section ES.2.3); Responsible and Trustee Agencies for purposes of CEQA (Section ES.2.4); and formal project proponents (Section ES.2.5). Potential beneficial effects and adverse impacts of the Project and other restoration alternatives on biological resources are analyzed in Draft EIS/EIR Section 3.4. The analysis is reasoned, scientific support is documented, and opposing viewpoints are considered. The commenter's apparent disagreement with the analysis is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.

CDFW cannot speak for other Project proponents, but agrees with the statement in the Draft EIS/EIR that CDFW is working with other Project proponents to revitalize and restore the Ballona Reserve. In regards to post-restoration expectations, CDFW believes that the temporary impacts involved with removing fill placed atop historic wetlands and returning tidal flow to hydrologically impaired areas of the Ballona Reserve do not outweigh what we believe will, in the short- and long-term, provide the habitat for a variety of tidal estuarine dependent species, including avian, some of which are listed as threatened or endangered. The construction of the self-regulating

tide gate in West Area B and the Freshwater Marsh at Lincoln and Culver Boulevards are local examples of native species returning to a habitat and thriving after hydrologic improvements. The only proven method to support native wetland species is to provide them with the habitat they require.

O23-46 Receipt of the *LA Weekly* article is acknowledged. The article is now part of the record of information that will be considered as part of CDFW's decision-making process.

Potential beneficial effects and adverse impacts of the Project and alternatives on biological resources are analyzed in Draft EIS/EIR Section 3.4. As identified in Section 3.4, salvaged wildlife species would be relocated to adjacent or nearby suitable habitat that is not subject to site disturbances, or has been previously restored as planned under the Project. CFDW is not planning to hold or retain any animals for any longer than it takes to relocate them within the Ballona Reserve. Such relocation efforts are common even for projects on the scale of the Ballona Wetlands restoration. The commenter's opinion that rare species like the non-listed silvery legless lizard should not be moved does not indicate a deficiency in the EIR, and is noted.

O23-47 The general, unsupported suggestion that the Draft EIS/EIR's analysis of potential impacts to cultural resources is somehow incomplete is acknowledged; however, without some indication of why the commenter believes this to be true, CDFW is not able to provide a detailed response. To the extent the commenter could be referring to Assembly Bill 52 as it modifies CEQA, CDFW notes that it applies only to projects for which a formal notice of preparation (NOP) was filed after July 1, 2015. AB 52 does not apply to the Project because the NOP was filed in 2012. Regardless, tribal consultation was conducted pursuant to applicable requirements as part of the environmental review of the Project.

O23-48 Per California Public Resources Code Section 5097.98, a Most Likely Descendant is identified by the California Native American Heritage Commission (NAHC) should human remains that have been identified as Native American be discovered during the course of a project. Because it is still in the planning stages, a Most Likely Descendant has not been identified by the NAHC for this Project. The NAHC also provides a list of Native American individuals who may have an interest in the project area. Consultation for the Project included outreach efforts to the individuals on the list provided by the NAHC, as well as outreach to additional individuals identified through consultation. As documented in Draft EIS/EIR Section 3.5, consultation required under other state and federal legal authorities was conducted by the Lead Agencies, including the Corps' consultation with Tribes pursuant to Section 106 of the National Historic Preservation Act.

O23-49 The commenter's inclusion of language from the Draft EIS/EIR acknowledging the sensitive nature of cultural sites within the Ballona Reserve is acknowledged.

O23-50 The commenter's experience with other entities as part of other projects is acknowledged; however, they are beyond the scope of the EIR, which analyzes on the potential environmental consequences of the Project and alternatives for restoration within the Ballona Reserve.

Playa Capital LLC has no other status in the environmental review process for this Project than as a commenting party. See Draft EIS/EIR Section ES.2, *Formal Involvement*, which does not identify Playa Capital LLC; Draft EIS/EIR Chapter 5, *List of Preparers and Contributors*, which also does not identify Playa Capital LLC; and Final EIR Section 2.3.6 and Letter O20, which was received from Playa Capital LLC as a commenting party.

Consideration has been given in designing the Project to avoid and respect Native American and Tribal resources, including potential burial sites and a possible Gabrielino-Tongva village site within the Ballona Reserve. Rather than conduct invasive subsurface testing, the analysis assumes that such resources are present. Potential impacts to cultural resources, including Tribal resources and burial sites, are analyzed in Draft EIS/EIR Section 3.5, *Cultural Resources*. Responses to Native American Community concerns are provided in Final EIR Section 2.3.4.

O23-51 Receipt of this June 2, 2004, article is acknowledged. The article is now part of the record of information that will be considered as part of CDFW's decision-making process. See Response O23-50. Further, note that certain archaeological resources information, as well as information obtained through Native American consultation, is protected by confidentiality laws, including National Historic Preservation Act Section 304, as well as state statutes (Government Code §§6254(r), 6254.10) and regulations (14 CCR §15120(d)). Protected information cannot be disclosed in a public document such as this.

O23-52 The Scoping Report provided in Draft EIS/EIR Appendix A summarizes and includes 2,222 pages of input received from 120 sources. That the commenter may have preferred to review the information other than as summarized by resource area is acknowledged, but does not indicate an inadequacy or inaccuracy in the EIR. Nonetheless, the opinion is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

The general suggestion that a less than full response was provided to the commenter's own scoping letter also is acknowledged. However, without some indication of why the commenter believes this to be true, CDFW does not have enough information to provide a detailed response.

O23-53 See General Response 7, *Requests for Recirculation* (Final EIR Section 2.2.7), which addresses multiple comments received requesting recirculation.

O23-54 Tule Fog is a thick radiation fog that settles in the San Joaquin and Sacramento Valley areas. CDFW has observed a type of radiation fog over vegetated areas of the Ballona Reserve, and in particular over West Area B saltwater marsh. One of the objectives of the proposed restoration is to expand the type of habitat found in West Area B saltwater marsh.

O23-55 See General Response 5, *Biological Resources* (Final EIR Section 2.2.5.1), which addresses multiple comments received about the biological resources baseline.

O23-56 The comment claims that the nearby great blue heron rookery relies upon the small mammal and reptile population, and that if uplands in Area A are disturbed the herons would have less to eat and the rookery would collapse. Great blue herons are principally piscivores that forage opportunistically for small fish at the edge of aquatic sites. While their diet can include small mammals and rodents, planned modifications to Area A will not substantially diminish the foraging opportunities during construction. Following construction, Area A will support an abundance of high-quality aquatic foraging habitat, which is the great blue heron's preferred foraging habitat. The Project would thereby improve foraging opportunities for juvenile herons in close proximity to the rookery. See also General Response 5, *Biological Resources* (Final EIR Section 2.2.5.1), which addresses multiple comments received about the biological resources baseline.

O23-57 The statement that there is "much more in Area A" is noted. CDFW disagrees with the statement that the biological richness and habitat in that area has not been accurately assessed. As described in Draft EIS/EIR Appendix D, extensive studies have been performed throughout the Ballona Reserve including in Area A. The biological resources in this area are well characterized following more than a decade of plant and wildlife surveys. Without some indication of why the commenter believes the analysis to be insufficient, CDFW does not have enough information to provide a more detailed response.

O23-58 The commenter's perception of bias is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

O23-59 Area C has not been "discounted" as suggested by the commenter. As described in Final EIS/EIR Section 2.2.2.1, *Alternative 1: Ecosystem Restoration*, under the subheading "Restored Habitats (Alternative 1, Phase 1), "In North and South Area C, upland habitats would be restored and enhanced, with an emphasis on coastal sage scrub and grassland habitat, with smaller areas of seasonal wetlands and a restored Fiji Ditch channel riparian corridor within the upper portion of the Fiji Ditch in North Area C." Therefore, excavated fill would be deposited in Area C to create enhanced upland habitat, transition zones, and perimeter berms.

O23-60 See Response O23-26.

O23-61 The impact of changes in habitat type to carbon sequestration are analyzed in Draft EIS/EIR Section 3.7. In areas where excavation would occur as a part of restoration activities, habitat and vegetation would be reestablished and thereby would provide for carbon sequestration during post-restoration. The analysis of changes to carbon sequestration in Draft EIS/EIR Section 3.7 considered habitat that would convert to mudflat, when calculating the overall change in long-term carbon sequestration. Despite the increase of approximately 13.4 acres of mudflat and approximately 14.2 acres of low salt marsh during restoration, which do not sequester carbon due to the lack of vegetation, the restored habitats under the Project would sequester a greater amount of carbon over time due to the conversion of upland and salt pan habitats to the more densely vegetated salt marsh.[118]

O23-62 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.3), regarding the proposed removal of SoCalGas Company infrastructure from within the Ballona Reserve.

O23-63 See Response to O23-2 regarding tsunami risk.

O23-64 The statement is incorrect that surface elevations are inaccurate. Visual simulations of the proposed restoration elements, including berms, are provided in Draft EIS/EIR Section 3.2.

O23-65 Regarding the Corps' consideration of potential alternatives relative to its authority under the Clean Water Act, see Draft EIS/EIR Section 2.1.

O23-66 See General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about these drains. See also General Response 7, *Requests for Recirculation* (Final EIR Section 2.2.7).

O23-67 The commenter's preferences for how to proceed are acknowledged and are now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

O23-68 Receipt of these photographs is acknowledged. See General Response 5, *Biological Resources* (Final EIR Section 2.2.5.1), which addresses multiple comments received about the biological resources baseline. See also General Response 5, *Biological Resources*, regarding reptiles (Final EIR Section 2.2.5.3), which addresses multiple comments received about reptiles and amphibians.

O23-69 Receipt of this article by Marcia Hanscom regarding the unpermitted drains is acknowledged. See General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about these drains.

[118] Environmental Science Associates (ESA), 2014. "Memo: Ballona Wetlands Restoration Project, Accounting Analysis of Greenhouse Gas Sequestration and Emissions from Wetlands."

O23-70 Receipt of this January 9, 2014, *LA Weekly* article is acknowledged. This comment does not address the adequacy or accuracy of the EIR or the merits of the alternatives, but is now part of the record of information that will be considered as part of CDFW's decision-making process.

O23-71 Receipt of this January 27, 2018, video is acknowledged. The video is now part of the record of information that will be considered as part of CDFW's decision-making process.

O23-72 Receipt of this June 2, 2004, *New York Times* article about the unearthing of a Native American cemetery during the development of Playa Vista is acknowledged. Although the article does not address the adequacy or accuracy of the EIR or the merits of the alternatives, it is part of the record of information that will be considered as part of CDFW's decision-making process.

O23-73 Receipt of this August 9, 2001, article from the Trust for Public Land is acknowledged. Although does not address the adequacy or accuracy of the EIR or the merits of the alternatives, it is now part of the record of information that will be considered as part of CDFW's decision-making process.

THE TRUST FOR PUBLIC LAND

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tpl.org

February 5, 2018

Mr. Richard Brody
CDFW c/o ESA (jas)
550 Kearney Street, Suite 800
San Francisco, California, 94108

Sent Via E-mail to: BWERcomments@wildlife.ca.gov

Dear Mr. Brody:

The Trust for Public Land played a critical role in the purchase of Ballona Wetlands, helping to secure over $139M for the acquisition of the property, and we are excited to continue our engagement through the restoration process. The purchase of the land was predicated on maximal wetlands restoration, habitat enhancement and public access – The Trust for Public Land, the Wildlife Conservation Board, and the people of California, voiced through their votes on the bonds that funded the acquisition, all spoke loudly for robust restoration. The time has come to maximize one of the state's largest investments in natural capital and make Ballona Wetlands the ecological and recreational treasure that the citizens of Los Angeles County and the State of California desire and deserve.

As part of the Wetlands Restoration Principles Coalition Steering Committee, The Trust for Public Land supports the restoration plan outlined in the Draft Environmental Impact Report, Alternative 1, Phase 1, with some alterations. As a national non-profit that protects land for people, we support the maximum level of public access and recreation, grounded in principles of equity, but balanced to ensure ecological vitality and self-sustaining habitat function.

O24-1

In general, The Trust for Public Land advocates for the following principles to be applied in the restoration of Ballona Wetlands:

1. Protect, optimize, enhance and create diverse habitats for native plants and wildlife throughout Ballona including wetland, riparian, dune and upland environments.
2. Maximize and enhance wetland acreage and function. Also maximize diversity of created/restored wetland habitats, i.e. low, mid, and high marshes, salt pan, and brackish marsh.
3. Increase watershed connectivity.

O24-2

4. Create nurseries for fish and nesting habitat for birds.
5. Manage for rare and sensitive species.
6. Create well-regulated trails for public access and educational opportunities that are compatible with ecological goals.
7. Ensure long-term resilience and sustainability with estimated future sea level rise.
8. Reduce habitat fragmentation by providing wildlife travel corridors to minimize wildlife injury and mortality from vehicles.
9. Safeguard wildlife and minimize losses during construction.
10. Provide safe public access to the Reserve including trails, bike paths and rest stops, overlooks, wayfinding, shade structures, information kiosks, restrooms, drinking water, public transit stops and parking.

To the extent that the DEIR supports these objectives, The Trust for Public Land, a member of the Wetlands Restoration Principles Steering Committee supports a Project that maximizes recreational access, restoration and public safety with the following elements including the amendments and safeguards and as illustrated in the diagram at the end of this letter.

Area A: We support the restoration of Area A presented in Alternative 1 Phase 1 with a few minor changes. The 14 feet of dredge fill covering Area A should largely be removed and the existing levees should be replaced with new levees as described. We support a public access system with separate bicycle and walking trails as shown in Alternative 1 Phase 1. We support a trailhead at a parking structure with adequate visitor-serving parking and restrooms for the numbers of visitors that are anticipated to be attracted to the new Ballona public access system.

O24-2 cont.

Our support for this Alternative is based upon the inclusion of the following changes and additions:

1. Survey for rare and sensitive plants and animals and plan for their relocation before removing topsoil.
2. Include a plan for relocating wildlife displaced by restoration activities.
3. Ensure that topography allows for vegetated wetlands to thrive and provide increased water filtration capabilities, while also supporting a diversity of wetland habitats, i.e. low, mid, and high marshes, salt pan, and brackish marsh.
4. Ensure that there is adequate nesting and foraging habitat for Belding's Savannah Sparrow.
    a. Pickleweed habitat cover in Area A should be equal to or greater than currently present in West Area B.
    b. Use principles of Minimum Viable Population to estimate the number of nesting pairs required for a viable, sustainable population size and ensure that the population will be protected from future disturbances.
    c. •Provision of the appropriate wetlands vegetation habitat is very important as it is possible that West Area B will be inundated due to sea level rise.

5. Align primary trailhead and trails with visitor services and parking.
6. Provide a plan for the likely placement of interpretive panels along walking paths, viewing platforms, etc. that are compatible with restoration goals and maximize interpretive opportunities for schools.
7. Ensure that the number of parking spaces provided is adequate for the expected number of visitors to the Reserve. A parking study should determine the correct number of spaces for the anticipated number of visitors to the Reserve. The study should address the need for time limits to reduce unintended parking uses and alternative transportation options.
8. Include bathroom facilities at the primary trailhead in Area A comparable to those at the Upper Newport Back Bay Nature Preserve. Bathrooms are critical to ensure that visitors to the site are using proper facilities and not impacting the wetlands. The type of structure should be determined based on budget and operations and maintenance plans for the site.
9. Create wildlife corridors. Provide more details on bridge design and vegetation. Safe travel corridors over roads are needed not only for people, but also wildlife to help reduce habitat fragmentation and roadkill. Use known principles of wildlife corridor design to determine the cover and type of native vegetation needed.
10. Address more directly how upstream water quality improvement projects are compatible with the restoration goals for water quality and sediment loads. Provide more information about how the project design will handle changes, including in terms of the extent of monitoring that will occur. While we recognize that much of the Ballona Creek Watershed is beyond the scope of the restoration project, it is reasonably foreseeable that the timing, scope and overall approach of projects and planning efforts happening upstream to address environmental concerns, including the Ballona Creek Bacteria TMDL Project and Ballona Creek Enhanced Watershed Management Program, will affect water quality and sediment loading downstream. We strongly recommend a cumulative impacts and sensitivity discussion to disclose the impacts, both positive and negative, of upstream projects on the project site.

O24-2 cont.

Area C: We support the plans for Area C presented in Alternative 1 Phase 1 with a few minor changes. We support the restoration of native upland vegetation where mostly weeds now exist, as well as the addition of walking trails, one major trailhead with parking, and several secondary trailheads. We believe the walking trails will reduce crime and homeless encampments by enhancing the area with greater visibility, law enforcement, and passive recreational opportunities.

Our support for this Alternative is based upon the inclusion of the following changes and additions:

1. Survey for rare and sensitive plants and animals and plan for their relocation before depositing fill.

2. Create a viewing area in South Area C overlooking the Centinela Creek convergence with Ballona Creek for birding. Consider adding benches and scopes for people to view the birds in this area.
3. Create wildlife corridors. Provide more details on bridge design and vegetation. Safe travel corridors over roads are needed not only for people, but also wildlife to help reduce habitat fragmentation and roadkill. Use known principles of wildlife corridor design to determine the cover and type of native vegetation needed.

If the Little League baseball fields remain inside the reserve, then the following changes should be made to their management:

1. The fields, parking lots and surrounding grounds must be maintained, to encourage environmental stewardship.
2. Access should be open to the larger community throughout the year, and parking should be allowed on the lot for visitors to Area C walking trails.
3. Prevent negative environmental and community impacts by increasing patrols by enforcement agencies.
4. Restore as much of the existing area as possible to native uplands vegetation.

O24-2 cont.

North Area B: We support the removal of the levee wall in north area B as described in Alternative 1 Phase 1 and the addition of a meander to the creek in this area. We also support the enhanced public access along the roads in north Area B with walking and biking trails on the new levee paralleling Culver Blvd. and joining with the existing levee wall further to the west where the tidegates are located. We also support the addition of a bridge for bike and walking connection between Area A and North Area B.

Southeast and South Area B: We support the restoration of Southeast and South Area B west of the freshwater marsh as presented in Alternative 1 Phase 1 with a few changes. Creating small tidal channels as proposed in this area will enhance the habitat for native species and possibly support increased numbers of endangered and threatened species in this underperforming wetlands area. We support the protection of the eucalyptus patch to protect Monarch Butterflies, but it should not be allowed to spread further.

Our support for this Alternative is based upon the inclusion of the following changes and additions:

1. Modify proposed channel location to protect willow thickets along bluff from salt water inundation, both on the surface and in groundwater.
2. Do not build berm that prevents brackish marsh from spreading naturally from the freshwater marsh culvert.

3. Ensure that topography allows for vegetated wetlands to thrive and provide additional water quality filtration and also for a diversity of wetland habitats, i.e. low, mid, and high marshes, and brackish marsh.
4. Remove invasive non-native pampas grass, and other invasive species.
5. Maximize vegetated wetland acreage, especially to create nesting and foraging habitat for Belding's Savannah Sparrow.

East Area B: We support the Alternative 1 Phase 1 plan to protect seasonal wetlands in East Area B. To maximize wetland habitat, East Area B should not be buried with fill.

Our support for this Alternative is based upon the inclusion of the following changes and additions:

1. Add major pedestrian and bike path around East Area B as per Alternative 2 Public Access Plan.
2. Remove non-native vegetation.
3. Daylight this portion of the culvert from Ballona Freshwater Marsh to Ballona Creek to allow freshwater to reach seasonal wetland area and allow for riparian and/or brackish habitat to develop, recognizing that rainfall and tidal influences will affect this dynamic area over time.

West Area B: We support the Public Access Plan of Alternative 1, Phase 1 in West Area B. We support the monitoring and protection of Belding's Savannah Sparrow nesting and foraging habitat. We support removal of Gas Company infrastructure.

Our support for this Alternative is based upon the inclusion of the following changes and additions:

1. Survey for rare and sensitive plants and animals and plan for their relocation before depositing fill.
2. Provide bathroom facilities at this primary trailhead comparable to those at the Newport Back Bay Nature Preserve.
3. Provide additional details on the detention basins for stormwater runoff planned in West Area B.
4. Protect existing wetlands habitat and endangered and threatened species as long as possible while expanding their presence in other parts of Ballona.
5. Assure that the connection of the last remaining dunes habitat to the adjacent wetlands is protected.
6. Restrict public access through the sensitive dune habitat that currently hosts the Federally endangered El Segundo Blue Butterfly. This area should not have a public trail.
7. Address more directly how upstream water quality improvement projects are compatible with the restoration goals for water quality and sediment loads. Provide more information about how the project design will handle changes, including in terms of the extent of monitoring that will occur. While we recognize that much of the Ballona Creek Watershed is beyond the scope

O24-2 cont.

of the restoration project, it is reasonably foreseeable that the timing, scope and overall approach of projects and planning efforts happening upstream to address environmental concerns, including the Ballona Creek Bacteria TMDL Project and Ballona Creek Enhanced Watershed Management Program, will affect water quality and sediment loading downstream. We strongly recommend a cumulative impacts and sensitivity discussion to disclose the impacts, both positive and negative, of upstream projects on the project site.

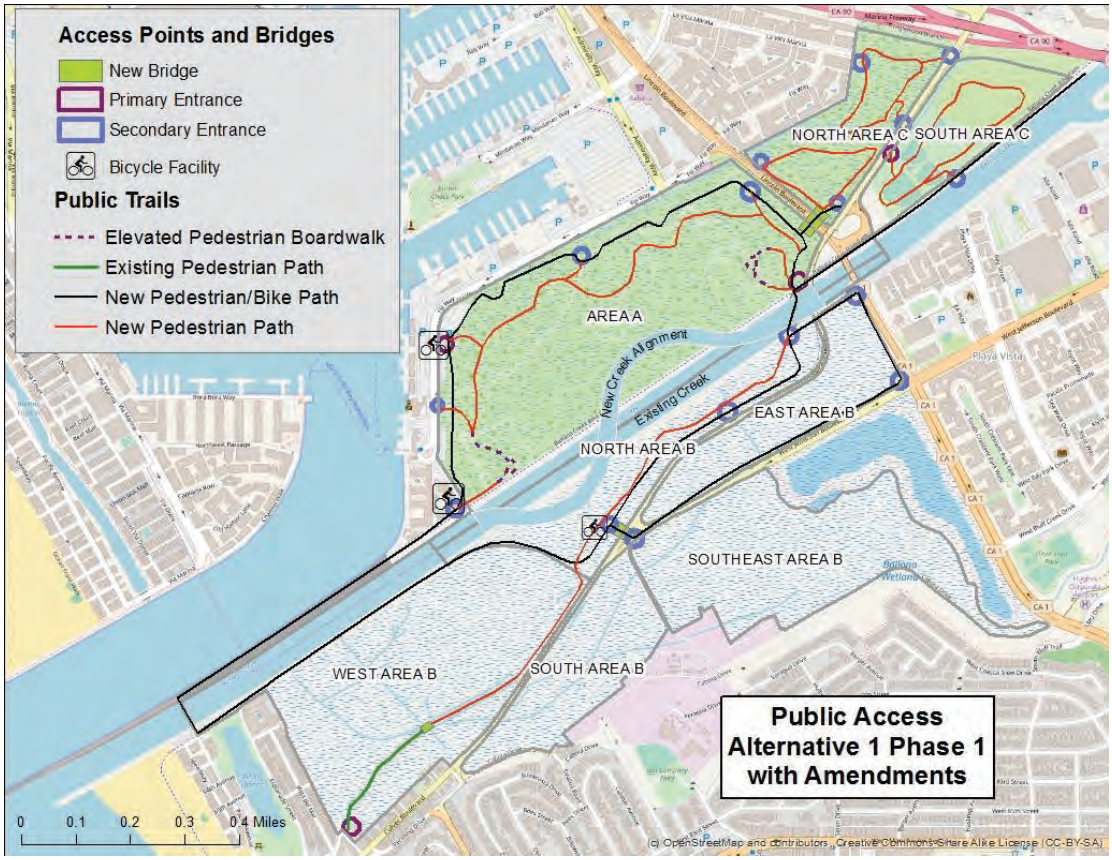
8. Extend pedestrian access trail down the north side of Culver Blvd. and connect to the existing trail leading to the Viewing Platform.
9. Provide more information about the access road in West Area B to demonstrate the need for this development. If the road is not required for emergency use, then it should be eliminated from the plan.
10. Provide additional sources and information for EIR/EIS conclusions on sea level rise impact. Include sea level rise impact on surrounding community and how that will affect Ballona.
11. Investigate increased tidal flow by modifying tide gates to allow some additional flow into West Area B and increase tidal inundation of the salt pan without losing Belding's Savannah Sparrow nesting or foraging habitat or flooding roads/nearby development.

O24-2 cont.

We thank you for the years of effort to bring Ballona Wetlands closer to a regional recreational and habitat treasure and are here to support the best possible outcome for the wetlands and angelenos alike.

Best regards,

Tori Kjer
Los Angeles Program Director
The Trust for Public Land


Access Points and Bridges
New Bridge
Primary Entrance
Secondary Entrance
Bicycle Facility
Public Trails
Elevated Pedestrian Boardwalk
Existing Pedestrian Path
New Pedestrian/Bike Path
New Pedestrian Path
NORTH AREA C
SOUTH AREA C
AREA A
New Creek Alignment
Existing Creek
EAST AREA B
NORTH AREA B
SOUTHEAST AREA B
WEST AREA B
SOUTH AREA B
Public Access Alternative 1 Phase 1 with Amendments
0 0.1 0.2 0.3 0.4 Miles
(c) OpenStreetMap and contributors, Creative Commons-Share Alike License (CC-BY-SA)

O24-2 cont.

Letter O24: Trust for Public Land

O24-1 The stated support for the Project, with suggested modifications, is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. Responses are provided to comments of the Wetlands Restoration Steering Committee (Letter O28) later in this Section 2.3.6.

O24-2 The stated support for these principles, which are consistent with the proposed restoration alternatives, is acknowledged. Responses to specific issues raised in this letter are provided in Responses O28-8 through O28-16.

UNIVERSITY OF CALIFORNIA, LOS ANGELES

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DEPARTMENT OF GEOGRAPHY
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LOS ANGELES, CALIFORNIA 90095-1524
(310) 825-1071 FAX (310) 206-5976

1-31-2018

To Whom It May Concern,

Thank you to the California Department of Fish and Wildlife (CDFW), the State Coastal Conservancy, and The Bay Foundation for working on a plan to restore the Ballona Wetlands Ecological Reserve. Due to development, coastal wetlands are extremely rare in Los Angeles, yet these ecosystems provide important services such as habitat for threatened species, water filtration, and a natural buffer for flooding and sea level rise. The 600 acres of Ballona Wetlands represents one of the last remaining coastal wetland reserves in the city of Los Angeles. However, for decades this area has been in a degraded state with poor water quality and a high proportion of weedy, non-native species. O25-1

We agree with the plan outlined in the Draft of the Environmental Impact Report (Draft EIR) to restore, establish, and enhance native coastal wetland and upland habitats within the Ballona Wetlands. We have seen and worked in the areas of the reserve that need a significant amount of restoration work, including areas overtaken by invasive plant species, which are outcompeting the native species. O25-2

We feel that taking some work of deliberate restoration action, along the lines of Alternatives 1-3, is a preferred course of action rather than simply acquiescing to the status quo at this important marsh. We do feel, however, whatever action is taken must include consideration and planning for the impacts of rising sea level on the restoration. O25-3

If nothing is done, the degradation of Ballona will continue. In order to restore one of the most damaged existing wetlands in California, drastic measures are needed. Some of these measures from the plan include new levees, realigning Ballona Creek, and improving tidal circulation. O25-4

Furthermore, the proposed public access improvements will reduce illegal uses of the reserve and enable the surrounding community to better appreciate and enjoy this valuable natural resource. O25-5

Overall, We agree with the plan described in the Draft EIR. The plan addresses many different aspects in which restoration can help native wildlife habitats and ecosystem services that are provided by wetlands. O25-6

Again, thank you for the detailed report and all your work and support to restore and enhance this wetland.

Sincerely,

Professor Glen MacDonald, John Muir Memorial Chair and
Distinguished Professor of Geography, Ecology and Evolutionary Biology
and the Institute of the Environment and Sustainability

Professor Kyle Cavaungh, Department of Geography, UCLA

Professor Thomas W. Gillespie, Department of Geography, UCLA

Letter O25: UCLA Geography

O25-1 This input regarding the restoration opportunities present within the Ballona Reserve is consistent with information provided in the Draft EIS/EIR, is acknowledged, and is part of the record of information that will be considered as part of CDFW's decision-making process.

O25-2 The stated support for the proposed restoration analyzed in the Draft EIS/EIR is acknowledged and is part of the record of information that will be considered as part of CDFW's decision-making process.

O25-3 The commenter's support for the proposed restoration is acknowledged. Regarding sea-level rise resiliency and the proposed restoration, see General Response 6 (Final EIR Section 2.2.6.2).

O25-4 Support for the proposed restoration approach is acknowledged.

O25-5 Support for the proposed public access improvements is acknowledged. See Response I37-3 for more information about existing and proposed law enforcement within the Ballona Reserve.

O25-6 The stated support for the proposed restoration is acknowledged and will be considered as part of CDFW's decision making processes for the Project.

VILLA NAPOLI Homeowners Association

4750 La Villa Marina · Marina del Rey, CA 90292

February 4, 2018

Mr. Richard Brody
California Department of Fish and Wildlife
c/o ESA (jas)
550 Kearny Street, Suite 800
San Francisco, CA 94108

Dear Mr. Brody:

On behalf of the Villa Napoli Homeowners Association, I would like to submit the following comments on the Ballona Wetlands Restoration Project Draft EIS/EIR.

Villa Napoli is a Homeowners Association of 35 town homes within Villa Marina development directly adjacent to Area C North. We have seen many changes to the Marina del Rey area since our neighborhood was built in 1966, and are grateful that the Ballona Wetlands Ecological Reserve has endured literally in our back yard during this time. But we have also seen the gradual ongoing deterioration of Area C North over the years. We support a plan that restores degraded areas and provides a habitat where native plant, bird and animal species can survive and thrive, as well as affords an opportunity for the public to enjoy the wetlands in an unobtrusive way. While we all agree that Area C North is long overdue for some much-needed rehabilitation, we feel that certain aspects of the Draft EIS/EIR would have a potentially negative impact on our neighborhood.

O26-1

The Del Rey Neighborhood passed a resolution at a board of directors meeting on February 1, 2018 and the board of Villa Napoli supports that resolution. I have included the text of the resolution.

Sincerely,

Paul Lupi
President
Villa Napoli Homeowners Association
(310) 801-7579

cc: Andrew Simpson, Ida Goldenberg, Diane Howard, Verena Schenk

VILLA NAPOLI Homeowners Association

4750 La Villa Marina · Marina del Rey, CA 90292

Motion: The Del Rey Neighborhood Council submits the following comments, questions and opinions on the Ballona Wetlands Restoration Project Draft EIR. Our comments that follow are based on questions and concerns we have within the community and we feel they should be addressed prior to any Alternative being endorsed. We are not for or against a project of the magnitude proposed in these Alternatives. However, any final scheme that is proposed must consider and resolve our concerns and comments.

1 • RECONSTRUCTION, NOT A RESTORATION

There is a concern amongst our community that the project proposed in Alts 1, 2 & 3 are technically not a restoration, instead this may be considered a reconstruction. Justify why Alternative 1, 2 & 3 would be considered to be a 'restoration' of the Ballona Wetlands. Explain further (in simplified summaries with referenced data) how the resulting ecosystem and hydrology will accurately reestablish this area's natural and healthy state and give further consideration to the natural healing taking place currently and further explanation of the need for such a massive project.

O26-2

2 • SOILS DISPLACEMENT TO AREA C

Alternatives 1-3 implement the strategy of removing large amounts of soils from Area A and displacing them into Area C, resulting in significantly higher grade elevations than are existing. There are several reasons why this is not an acceptable approach.

This area is currently one of the most problematic environments on the Westside. Crime and homelessness thrive there. Steps must be taken to limit the opportunity for illegal activities to occur, and homelessness to continue to thrive and address both public health and safety.

Further, as noted in comments from the Villa Marina community, there are concerns about this displacement in both its implementation and final effect. The amount of dirt and dust created during construction must be addressed to the satisfaction of the closest residents and no truck hauling may be done through residential streets.

VILLA NAPOLI Homeowners Association

4750 La Villa Marina · Marina del Rey, CA 90292

In the end, raising the elevation of this area will eliminate any sense of open space from eye level of our community. This part of the project must be considered as important as the other areas instead of being treated as the 'dumping ground' or logistical solution for the benefit of Area A.

3 • IMPACT ON WILDLIFE SPECIES

During construction of the project, many animals will either be killed or chased into our neighborhoods seeking shelter, food and safety. Provide feasible explanation of how the existing wildlife and plant life will be protected during excavation and construction, and justify clearly the desire to remove their habitat and replace it with tidal wetlands. In all alternatives, provide for a land bridge option across Lincoln and Culver Bvds.

4 • PLANS FOR THE LITTLE LEAGUE BASEBALL FIELDS

Culver Marina Little League (CMLL) is one of the few recreational facilities that we have in Del Rey. It provides a rare opportunity in Del Rey for neighbors to meet and play together.

We support the continuous, uninterrupted operation of CMLL. Through the re-grading and habitat enhancements of South Area C in Alternatives 1-3, CMLL's baseball fields would be either impacted or destroyed. Provide specific plans that are acceptable to the community and to the CMLL for the baseball fields to be operating and improved in each Alternative. Provide explanation of how this will be funded in each alternative.

5 • PARKING STRUCTURE

The construction of a multi-level parking structure is inappropriate in this context and within the boundaries of the States' land. Parking should not be provided for current or future commercial uses in the Marina. Provide a parking load calculation that is appropriate for this use and as applicable reduce the number of parking spaces. In all events, provide for and enforce timed parking that limits other uses. Moreover, instead of a single, primary point of access to the boardwalk trails, there should multiple entry access points so that parking can be distributed in different locations.

O26-2 cont.

VILLA NAPOLI Homeowners Association

4750 La Villa Marina · Marina del Rey, CA 90292

6 • CONTINUOUS BIKE PATH OPERATION

The Ballona Creek Bike path is one of the most important outdoor recreational opportunities in Del Rey, as well as part of a vital transportation system for residents and commuters. Uninterrupted operation of the bike path must be provided. Include plans in all alternatives for this to occur.

7 • PUBLIC ACCESS

The status of this area should be maintained as an 'Ecological Reserve'. It is not a Regional Park and public access should be restricted to the Project's edges and primary bisecting thoroughfares. Excessive human infiltration will be detrimental to the wildlife and plant life. Provide an alternative solution with more limited public access. Further, is there a plan to provide enhanced and proper security to ensure transient populations do not continue to disturb the wetlands and contribute to ecological and public safety hazards.

O26-2 cont.

8 • DISPERSAL OF RUNOFF DEBRIS

In all tidal wetlands Alternatives, rubbish and debris runoff from urban pollution that flows through the Ballona Creek will be dispersed throughout the wetlands. Currently, it is contained within the levies and is collectable by pontoon nets and volunteer cleanups along the banks. Provide a detailed description how trash and debris will be controlled and collected in each alternative. Also include explanation of how pollution will be kept from running off into the bay.

9 • STORM DRAINAGE AND FLOODING

We as a community are very concerned about the performance of the Ballona Creek up stream in Del Rey and beyond as a prevention to storm flooding in our area. We must be assured that during and after the Project that the Creek will provide not equal but improved capacity for handling storm water drainage. Provide a comparison of the storm drainage capacity of the Ballona Creek showing these 3 time periods – current, during construction, after completion of Project, as it relates to the project as a whole as well as specifically the Villa Marina neighborhood. Additionally, please provide a plan for financing upkeep of any flood control capacity.

10 • GAS STORAGE FACILITY

VILLA NAPOLI Homeowners Association

4750 La Villa Marina · Marina del Rey, CA 90292

We request that the entirety of the Playa del Rey gas and oil facility (both inside and outside the boundaries of the Project area) be closed permanently and the Del Rey Neighborhood Council is on record stating such. Please clarify the outcome of this facility in all alternatives and fully justify any continued operations within the natural habitat and surrounding residential areas, whether such operations are above ground or under ground (as in slant drilling).

O26-2 cont.

11 • FUTURE MANAGEMENT

Please provide a plan for active on site management, maintenance and security for any future plans. The area is currently vastly understaffed and this impacts both wildlife conservation and public safety and this must be considered in any plan.

Letter O26: Villa Napoli HOA

O26-1 The Villa Napoli neighborhood's proximity to the Ballona Reserve, support for restoration and increased public access, and concern regarding potentially negative impacts to the neighborhood are acknowledged. Although this comment does not address the adequacy or accuracy of the EIR or the merits of the alternatives, it is now part of the record of information that will be considered as part of CDFW's decision-making process.

O26-2 The stated agreement with comments provided by Del Rey Neighborhood Council (Letter O8) is acknowledged. Responses to specific issues raised within the resolution are provided in the context of Letter O8.

Comment Letter O27

From:	Cara Robin
To:	bonnie.l.rogers@usace.army.mil; Wildlife Ballona Wetlands Ecological Reserve EIR
Subject:	Comment on Ballona Wetlands Ecological Reserve
Date:	Monday, February 5, 2018 11:20:04 PM

Dear Ms. Rogers,

On behalf of the West LA Democratic Club, I am writing to register comments on the proposed "restoration" project of the Ballona Wetlands Ecological Reserve. How can this proposed project be considered a "restoration" of a system since, by definition, "restoration" means to restore to the original. O27-1

It is our understanding that the proposed project seeks to *alter* the current ecosystem, which relies primarily on freshwater flows, into a *new* ecosystem that will rely on full tidal flows of brackish water. If the Ballona Wetlands has historically relied on freshwater flows, how can the proposed project be described as a restoration? We object to this proposed project and ask for further studies. O27-2

Sincerely,
Cara Robin
President, West LA Democratic Club

Letter O27: West LA Democratic Club

O27-1 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of "restoration."

O27-2 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of "restoration." See also General Response 3, *Alternatives*, regarding requests for consideration of a freshwater alternative (Final EIR Section 2.2.3.1) and the historical accuracy of the alternatives analyzed (Final EIR Section 2.2.3.4).

FRIENDS OF BALLONA WETLANDS
LOS ANGELES WATERKEEPER
SURFRIDER FOUNDATION
SOUTHERN CALIFORNIA ACADEMY OF SCIENCES
Heal the Bay
THE TRUST FOR PUBLIC LAND

LMU|LA Center for Urban Resilience
Loyola Marymount University

October 6, 2017

Richard Brody
California Department of Fish and Wildlife
c/o ESA (jas)
550 Kearney Street, Suite 800
San Francisco, CA 94108
Submitted via email to: BWERcomments@wildlife.ca.gov

Re: Comment Period for the Draft Environmental Impact Statement/Environmental Impact Report for the Ballona Wetlands Restoration Project– Request for Comment Period Extension and Additional Public Meetings

Dear Mr. Brody:

On behalf of the Wetlands Restoration Principles Coalition Steering Committee, a group of seven leading environmental and academic organizations, we respectfully request that the public comment period for the Draft Environmental Impact Report/Statement (DEIR/S) for the Ballona Wetlands Restoration Project be extended to a total of 120 days. Further, we request that two additional public meetings be held during this comment period to give the public more opportunities to weigh in on this important and exciting project. O28-1 O28-2

Given the length (over 1,200 pages) and the highly technical nature of the DEIR/S, in addition to the numerous supporting appendices, additional time for review by the public and numerous stakeholders is warranted. The complexity of this report is further evidenced by the many years it has taken the lead agencies to complete the report. Therefore, we ask that the public be given more time than the current 60-day review period to comment on this particular DEIR/S. We request a 120-day comment period. O28-3

We appreciate that a public meeting is scheduled for November 8th during the public comment period. However, it would benefit the public and the transparency of the process to hold additional public meetings. We ask for two additional public meetings to be held during the public comment period. Additional opportunities for the public to understand the issues and to voice their opinions on this project will only benefit the selection process. Again, given the complexity, scale, and planning that has gone in to this project, we would like to ensure that all stakeholders have adequate time and opportunities to participate in the process. O28-4

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LMU|LA Center for Urban Resilience

Loyola Marymount University

We appreciate the opportunity to comment on this project and we look forward to a restored Ballona Wetlands. Please consider our request for an extended comment period and additional public meetings.

Sincerely,

Scott Culbertson, Executive Director
Catherine Tyrrell, Jim Kennedy, Ruth Lansford, Board Members
Friends of Ballona Wetlands

Dr. Katherine Pease, Staff Scientist
Heal the Bay

Melissa von Mayrhauser, Watershed Programs Manager
Los Angeles Waterkeeper

Dr. Eric Strauss, Executive Director
Loyola Marymount University, Center for Urban Resilience

Dr. Edith Read, Recording Secretary
Southern California Academy of Sciences

Craig W. Cadwallader, Policy Coordinator
Surfrider Foundation South Bay Chapter

Tori Kjer, Program Director
Paolo Perrone, Project Manager
Trust for Public Land

The Steering Committee of the Wetlands Restoration Principles Coalition

FRIENDS OF BALLONA WETLANDS | Heal the Bay | LOS ANGELES WATERKEEPER | THE TRUST FOR PUBLIC LAND | SURFRIDER FOUNDATION

February 1, 2018

Mr. Richard Brody
CDFW c/o ESA (jas)
550 Kearney Street, Suite 800
San Francisco, California, 94108

Daniel Swenson, Regulatory Division
U.S. Army Corps of Engineers
Los Angeles District
915 Wilshire Blvd, Suite 930
Los Angeles, CA 90017

Sent Via E-mail to: BWERcomments@wildlife.ca.gov and daniel.p.swenson@usace.army.mil

Dear Mr. Brody and Mr. Swenson:

The Wetlands Restoration Principles Coalition Steering Committee, made up of five leading environmental organizations in Southern California representing more than 25,000 members, has come together to support robust science-based restoration of the Ballona Wetlands Ecological Reserve. The undersigned Coalition organizations strongly support the restoration plans described in Phase 1 of Alternative 1, with various important amendments. The Steering Committee members determined that Phase 1 of Alternative 1 with amendments best achieves the nine restoration principles laid out by the Coalition in 2015 (see attachment). Coalition members are also submitting separate letters with individual comments on the various Alternatives. O28-5

We thank you for providing this analysis. This project will be the most important environmental restoration and public access project ever undertaken for the residents of Los Angeles County.

The 21st Century has brought good news for wetlands up and down the California coast. According to the California Coastal Conservancy, two hundred restoration projects have been completed and one hundred more are in progress for a total of 50,000 acres. Plus 50 more are privately financed as mitigation. They are all precious links along the Pacific Flyway, nurseries for the fish of the Pacific and its bays and estuaries, and the breeding ground for the various plants and animals that sustain the circle of life. It is far past time for the Ballona Wetlands to be restored. They are the largest wetlands between Point Mugu and Bolsa Chica, but have deteriorated to the point where they can no longer sustain vital functions. O28-6

In our comments below, the Coalition Steering Committee has addressed habitat and public access issues equally. There are obvious tensions between the goals of creating healthy, protected habitat and allowing human access, but we believe we have suggested good solutions to that problem in our comments. We support generous access points, bicycle and walking trails, and even an additional public access area not addressed explicitly in Alternative 1, Phase 1 but consistent with the project as described. We also have, however, designated areas where public access should be limited by the presence of endangered species and delicate portions of the new ecosystem. We think that well designed trails will also create the means to monitor the area and protect it from illicit activity. O28-7

Human needs and nature's needs have been severely unbalanced for over 100 years, with humans the dominant species. We believe a robust restoration at Ballona will restore nature's balance to the ultimate benefit of residents and visitors who will come to understand and enjoy this beautiful place between land and sea.

O28-7 cont.

As the Draft Environmental Impact Report/Statement (EIR/S) succinctly summarizes:

"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."

While supporting the overall goals of the Draft EIR/S, the Coalition Steering Committee also supports the following objectives for the Reserve as a whole:

1. Protect, optimize, enhance and create diverse habitats for native plants and wildlife throughout Ballona including wetland, riparian, dune and upland environments.
2. Maximize and enhance wetland acreage and function. Also maximize diversity of created/restored wetland habitats, i.e. low, mid, and high marshes, salt pan, and brackish marsh.
3. Increase watershed connectivity.
4. Create nurseries for fish and nesting habitat for birds.
5. Manage for rare and sensitive species.
6. Create well-regulated trails for public access and educational opportunities that are compatible with ecological goals.
7. Ensure long-term RESILIENCE and sustainability with estimated future sea level rise.
8. Reduce habitat fragmentation by providing wildlife travel corridors to minimize wildlife injury and mortality from vehicles.
9. Safeguard wildlife and minimize losses during construction.
10. Provide safe public access to the Reserve including trails, bike paths and rest stops, overlooks, wayfinding, shade structures, information kiosks, restrooms, drinking water, public transit stops and parking.

O28-8

To the extent that the Draft EIR/S supports these objectives, **the Wetlands Restoration Principles Steering Committee supports a Project with the following elements including the amendments and safeguards and as generally mapped in the drawings attached:**

Area A: We support the restoration of Area A presented in Alternative 1 Phase 1 with a few minor changes. The 14 feet of fill covering Area A should largely be removed and the existing levees should be replaced with new perimeter levees as described. We support a public access system with separate bicycle and walking trails as shown in Alternative 1 Phase 1. We support a trailhead at a parking structure with adequate visitor-serving parking and restrooms for the numbers of visitors that are anticipated to be attracted to the new Ballona public access system.

Our support for this Alternative is based upon the inclusion of the following changes and additions:

O28-9

1. Survey for rare and sensitive plants and animals and plan for their relocation before removing topsoil.
2. Include a plan for relocating wildlife displaced by restoration activities.
3. Ensure that topography allows for vegetated wetlands to thrive and provide increased water filtration capabilities, while also supporting a diversity of wetland habitats, i.e. low, mid, and high marshes, salt pan, and brackish marsh.
4. Ensure that there is adequate nesting and foraging habitat for the Belding's Savannah Sparrow.
    a. Pickleweed habitat cover in Area A should be equal to or greater than currently present in West Area B.

   b. Use principles of Minimum Viable Population to estimate the number of nesting pairs required for a viable, sustainable population size and ensure that the population will be protected from future disturbances.
   c. Provision of the appropriate wetlands vegetation habitat is very important as it is possible that West Area B will be inundated due to sea level rise.
5. Align primary trailhead and trails with visitor services and parking.
6. Provide a plan for the likely placement of interpretive panels along walking paths, viewing platforms, etc. that are compatible with restoration goals and maximize interpretive opportunities for schools.
7. Ensure that the number of parking spaces provided is adequate for the expected number of visitors to the Reserve.[1] A parking study should determine the correct number of spaces for the anticipated number of visitors to the Reserve. The study should address the need for time limits to reduce unintended parking uses and alternative transportation options.
8. Include bathroom facilities at the primary trailhead in Area A comparable to those at the Upper Newport Back Bay Nature Preserve. Bathrooms are critical to encourage visitors to use proper facilities by increasing convenience. The type of structure should be determined based on budget, operations, and maintenance plans for the site.
9. Create wildlife corridors. Provide more details on bridge design and vegetation. Safe travel corridors over roads are needed not only for people, but also wildlife to help reduce habitat fragmentation and roadkill. Use known principles of wildlife corridor design to determine the cover and type of native vegetation needed.
10. Address more directly how upstream water quality improvement projects are compatible with the restoration goals for water quality and sediment loads. Provide more information about how the project design will handle changes, including in terms of the extent of monitoring that will occur. While we recognize that much of the Ballona Creek Watershed is beyond the scope of the restoration project, it is reasonably foreseeable that the timing, scope and overall approach of projects and planning efforts happening upstream to address environmental concerns, including the Ballona Creek Bacteria TMDL Project and Ballona Creek Enhanced Watershed Management Program, will affect water quality and sediment loading downstream. We strongly recommend a cumulative impacts and sensitivity discussion to disclose the impacts, both positive and negative, of upstream projects on the project site.

O28-9 cont.

Area C: We support the plans for Area C presented in Alternative 1 Phase 1 with a few minor changes. We support the restoration of native upland vegetation where mostly weeds now exist, as well as the addition of walking trails, one major trailhead with parking, and several secondary trailheads. We believe the walking trails will reduce crime and homeless encampments by enhancing the area with greater visibility, law enforcement, and passive recreational opportunities.

Our support for this Alternative is based upon the inclusion of the following changes and additions:

O28-10

1. Survey for rare and sensitive plants and animals and plan for their relocation before depositing fill.
2. Create a viewing area in South Area C overlooking the Centinela Creek convergence with Ballona Creek for birding. Consider adding benches and scopes for people to view the birds in this area.
3. Create wildlife corridors. Provide more details on bridge design and vegetation. Safe travel corridors over roads are needed not only for people, but also wildlife to help reduce habitat fragmentation and roadkill. Use known principles of wildlife corridor design to determine the cover and type of native vegetation needed.

If the Little League baseball fields remain inside the reserve, then the following changes should be made to their management:

O28-11

1. The fields, parking lots and surrounding grounds must be maintained, to encourage environmental stewardship.

---

[1] In their report, Standards for Outdoor Recreation Areas (https://www.planning.org/pas/reports/report194.htm), the American Planning Association outlines basic standards for amenities at public facilities.

2. Access should be open to the larger community throughout the year, and parking should be allowed on the lot for visitors to Area C walking trails.
3. Prevent negative environmental and community impacts by increasing patrols by enforcement agencies.
4. Restore as much of the existing area as possible to native uplands vegetation.

O28-11 cont.

North Area B: We support the removal of the levee wall in North Area B as described in Alternative 1 Phase 1 and the addition of a meander to the creek in this area. We also support enhancing public access along the roads in North Area B with walking and biking trails on the new levee paralleling Culver Blvd. and joining with the existing levee wall further to the west where the tide gates are located. We also support the addition of a bridge for bike and walking connection between Area A and North Area B.

O28-12

Southeast and South Area B: We support the restoration of Southeast and South Area B west of the freshwater marsh as presented in Alternative 1 Phase 1 with a few changes. Creating small tidal channels as proposed in this area will enhance the habitat for native species and possibly support increased numbers of endangered and threatened species in this underperforming wetlands area. We support the protection of the eucalyptus patch to protect Monarch Butterflies, but it should not be allowed to spread further.

O28-13

Our support for this Alternative is based upon the inclusion of the following changes and additions:

1. Modify proposed channel location to protect Willow Thickets along Bluff from salt water inundation, both on the surface and in groundwater.
2. Do not build berm that prevents brackish marsh from spreading naturally from the freshwater marsh culvert.
3. Ensure that topography allows for vegetated wetlands to thrive and provide additional water quality filtration, and also for a diversity of wetland habitats, i.e. low, mid, and high marshes, and brackish marsh.
4. Remove invasive non-native pampas grass, and other invasive species.
5. Maximize vegetated wetland acreage, especially to create nesting and foraging habitat for Belding's Savannah Sparrow.

O28-14

East Area B: We support the Alternative 1 Phase 1 plan to protect seasonal wetlands in East Area B. To maximize wetland habitat, East Area B should not be buried with fill.

Our support for this Alternative is based upon the inclusion of the following changes and additions:

1. Add major pedestrian and bike path around East Area B as per Alternative 2 Public Access Plan.
2. Remove non-native vegetation.
3. Daylight this portion of the culvert from Ballona Freshwater Marsh to Ballona Creek to allow freshwater to reach seasonal wetland area and allow for riparian and/or brackish habitat to develop, recognizing that rainfall and tidal influences will affect this dynamic area over time.

O28-15

West Area B: We support the Public Access Plan of Alternative 1, Phase 1 in West Area B. We support the monitoring and protection of Belding's Savannah Sparrow nesting and foraging habitat. We support removal of Gas Company infrastructure.

Our support for this Alternative is based upon the inclusion of the following changes and additions:

1. Survey for rare and sensitive plants and animals and plan for their relocation before depositing fill.
2. Provide bathroom facilities at this primary trailhead comparable to those at the Newport Back Bay Nature Preserve.
3. Provide additional details on the detention basins for storm-water runoff planned in West Area B.
4. Protect existing wetlands habitat and endangered and threatened species as long as possible while expanding their presence in other parts of Ballona.

O28-16

5. Assure that the connection of the last remaining dunes habitat to the adjacent wetlands is protected.
6. Restrict public access through the sensitive dune habitat that currently hosts the Federally endangered El Segundo Blue Butterfly. This area should not have a public trail.
7. Address more directly how upstream water quality improvement projects are compatible with the restoration goals for water quality and sediment loads. Provide more information about how the project design will handle changes, including in terms of the extent of monitoring that will occur. While we recognize that much of the Ballona Creek Watershed is beyond the scope of the restoration project, it is reasonably foreseeable that the timing, scope and overall approach of projects and planning efforts happening upstream to address environmental concerns, including the Ballona Creek Bacteria TMDL Project and Ballona Creek Enhanced Watershed Management Program, will affect water quality and sediment loading downstream. We strongly recommend a cumulative impacts and sensitivity discussion to disclose the impacts, both positive and negative, of upstream projects on the project site.
8. Extend pedestrian access trail down the north side of Culver Blvd. and connect to the existing trail leading to the Viewing Platform.
9. Provide more information about the access road in West Area B to demonstrate the need for this development. If the road is not required for emergency use, then it should be eliminated from the plan.
10. Provide additional sources and information for Draft EIR/S conclusions on sea level rise impact. Include sea level rise impact on surrounding community and how that will affect Ballona.
11. Investigate increased tidal flow by modifying tide gates to allow some additional flow into West Area B and increase tidal inundation of the salt pan without losing Belding's Savannah Sparrow nesting or foraging habitat or flooding roads/nearby development.

O28-16 cont.

The Coalition Steering Committee thanks you for your work, and would be pleased to answer any questions and to help with efforts to facilitate the restoration work ahead.

Sincerely,

The Wetlands Restoration Principles Steering Committee:

Friends of Ballona Wetlands

Scott Culbertson, Executive Director
scott@ballonafriends.org

Heal the Bay

Shelley Luce, D.Env., President & CEO
sluce@healthebay.org

Los Angeles Waterkeeper

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Surfrider Foundation, South Bay Chapter

Craig W. Cadwallader
craigc@surfrider-southbay.org

Trust for Public Land

Tori Kjer, Los Angeles Director
tori.kjer@tpl.org

Enclosure: Wetlands Restoration Principles

cc:

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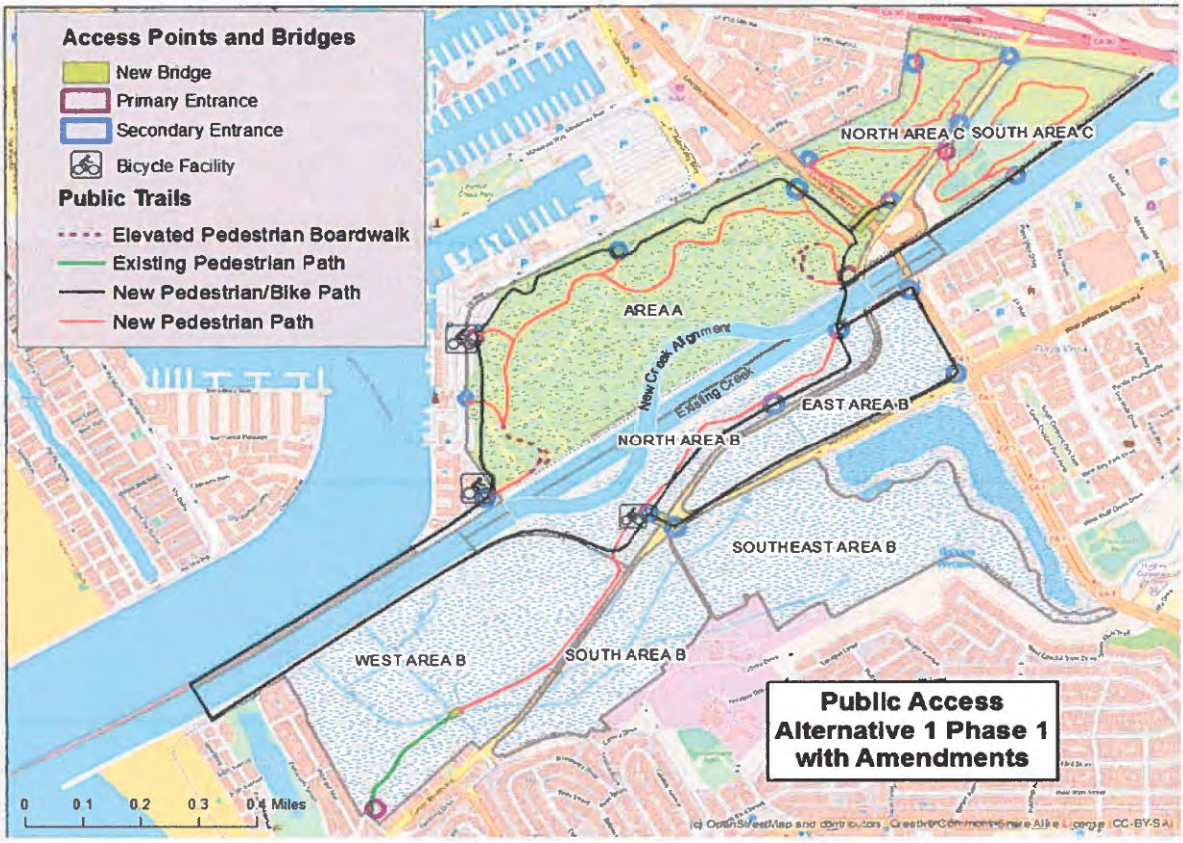
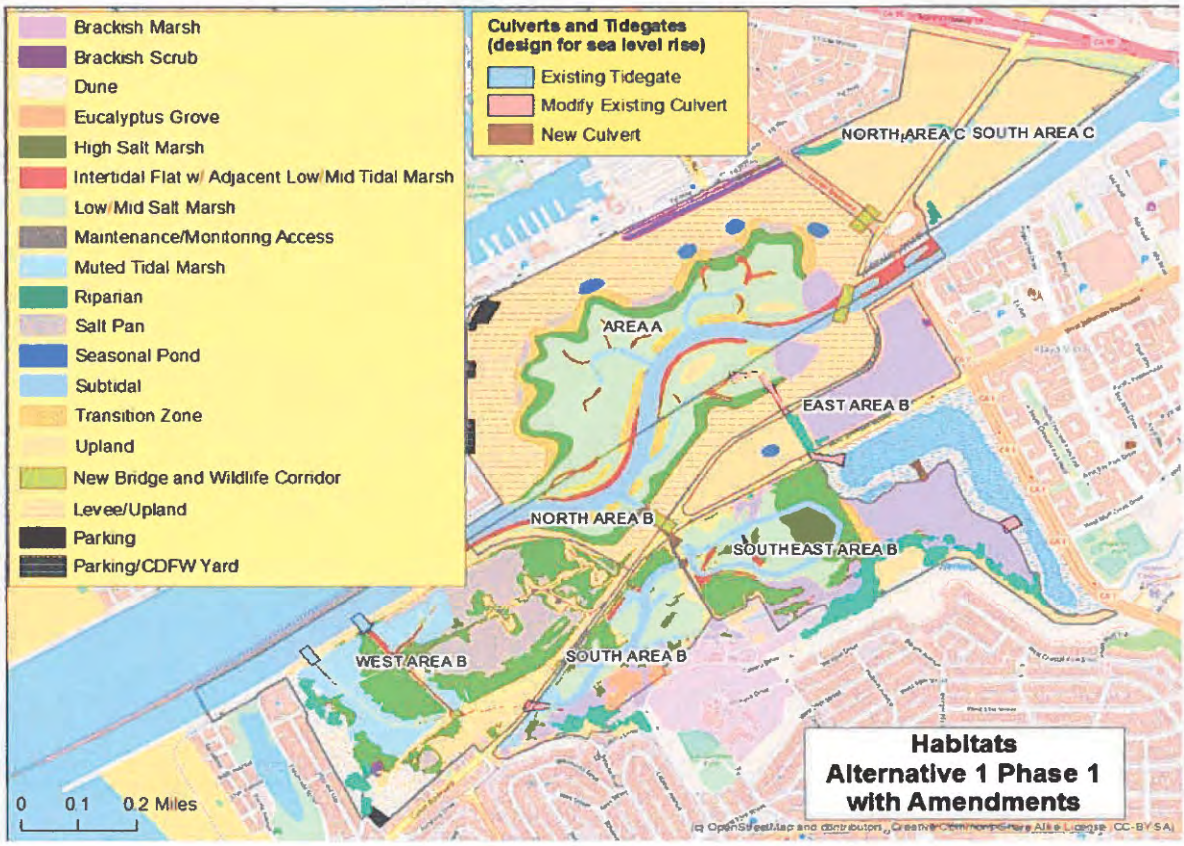

Access Points and Bridges
New Bridge
Primary Entrance
Secondary Entrance
Bicycle Facility
Public Trails
Elevated Pedestrian Boardwalk
Existing Pedestrian Path
New Pedestrian/Bike Path
New Pedestrian Path
NORTH AREA C
SOUTH AREA C
AREA A
New Creek Alignment
Existing Creek
EAST AREA B
NORTH AREA B
SOUTHEAST AREA B
WEST AREA B
SOUTH AREA B
Public Access
Alternative 1 Phase 1
with Amendments
0 0.1 0.2 0.3 0.4 Miles

O28-18


Brackish Marsh
Brackish Scrub
Dune
Eucalyptus Grove
High Salt Marsh
Intertidal Flat w/ Adjacent Low/Mid Tidal Marsh
Low/Mid Salt Marsh
Maintenance/Monitoring Access
Muted Tidal Marsh
Riparian
Salt Pan
Seasonal Pond
Subtidal
Transition Zone
Upland
New Bridge and Wildlife Corridor
Levee/Upland
Parking
Parking/CDFW Yard
Culverts and Tidegates
(design for sea level rise)
Existing Tidegate
Modify Existing Culvert
New Culvert
NORTH AREA C
SOUTH AREA C
AREA A
EAST AREA B
NORTH AREA B
SOUTHEAST AREA B
WEST AREA B
SOUTH AREA B
Habitats
Alternative 1 Phase 1
with Amendments
0 0.1 0.2 Miles

Wetland Restoration Principles



Wetlands are essential for our environmental and economic well-being.

They provide nursery, shelter, and feeding grounds for fish and wildlife; purify water through filtration of pollutants; recycle nutrients; and provide a place where people love to walk, recreate, and learn. Wetlands help buffer against the impacts of climate change by protecting us from flooding, storing carbon from the atmosphere, and maintaining vulnerable plant and animal communities.[i]

Southern California has lost approximately 95% of its historic coastal wetlands, often due to infill and development. Much of the remaining wetland habitat in our densely urbanized region has been filled in and built upon, and is thus destroyed or highly degraded. [ii]

O28-18 cont.

Projects that incorporate the nine fundamental principles of wetland restoration are supported by the following organizations:

Heal the Bay
Surfrider Foundation
Friends of Ballona Wetlands
Environment California
Ocean Conservancy
Los Angeles Waterkeeper
Emerald Necklace
Amigos de los Rios
Defenders of Wildlife
WildCoast / CostaSalvaje
Friends of the LA River
River LA
Audubon California
National Wildlife Federation
The River Project
The Trust for Public Land
LMU | LA Center for Urban Resilience
Friends of Madrona Marsh

See reverse for the full text of the nine Wetland Restoration Principles

wetlandsrestoration.org

Wetland Restoration Principles

The following nine principles are essential elements of any comprehensive wetland restoration program.

1. Restoration projects should bring back the natural processes and functions of healthy wetlands, using broadly accepted scientific evidence of historic, present and potential conditions to set ambitious and achievable restoration goals and quantifiable measures of success.

2. Restoration projects should have clear environmental goals and be based on critical scientific evaluation of all feasible alternatives.[iii]

3. Restoration projects should aim for and achieve outcomes that are representative of the historical ecology of the wetlands before development, take into account the current constraints and adjacent human uses, and maximize the most valuable long-term benefits for plants and animals.

4. Restoration work should be conducted in the manner that most effectively and efficiently meets restoration goals. Wetland restoration projects can range in size and scale, and may require significant earth-moving activities to restore wetland functions. Short-term disruptive activities should only be employed if sensitive areas and native plants and wildlife are safeguarded in the process (e.g. appropriate seasonal timing, monitoring, temporary relocation of plants and animals when necessary).[iv]

5. Wetland restoration efforts should consider watershed hydrology that may impact the project site and function, such as upstream water quality and flow volumes. [v]

6. Restoration efforts should involve sound scientific monitoring to establish baseline environmental characteristics and track site response to the restoration activities.

7. Restoration efforts should consider climate change projections and be designed with a dynamic climate in mind, taking into account projected sea level rise for coastal wetlands. [vi]

8. If public facilities are proposed as part of a wetland restoration project, they should be consistent with the restoration goals, and should not impair native wildlife or the planned ecological functions of the wetland. Public facilities, such as public access opportunities for education and enjoyment, should be well regulated and compatible with both the site and the surrounding community in terms of scale, design, and function.

9. Wetland restoration project planning and implementation should involve all interested stakeholders in a process where public input and discussion opportunities are provided.

O28-18 cont.

References

i. Costanza, R et al. (1997). The value of the world's ecosystem services and natural capital. Nature 387: 253-260.

ii. Dahl TE (2000). Wetlands losses in the United States 1780's to 1980's. U.S. Department of the Interior, Fish and Wildlife Service, Washington D C.

iii. USEPA (2000). Principles for the Ecological Restoration of Aquatic Resources. EPA841-F-00-003. Office of Water (4501F), United States Environmental Protection Agency, Washington D.C. 4pp

iv. USEPA (2000). Principles for the Ecological Restoration of Aquatic Resources. EPA841-F-00-003. Office of Water (4501F), United States Environmental Protection Agency, Washington D.C. 4pp

v. Zedler JB (2000). Progress in wetland restoration ecology. TREE 15: 402-407.

vi. Erwin KL (2009). Wetlands and global climate change: the role of wetland restoration in a changing world. Wetlands Ecology and Management 17: 71-84.

wetlandsrestoration.org

Standards for Outdoor Recreational Areas

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Information Report No. 194 January 1965

Standards for Outdoor Recreational Areas

Download original report (pdf) (https://planning-org-uploaded-media.s3.amazonaws.com/legacy_resources/pas/at60/pdf/report194.pdf)

Prepared by John Moeller

Recreation and recreational standards have long been the subject of much discussion and controversy, extending so far as to question the value of standards as a measure of our recreational needs. This report hopefully will indicate that standards are necessary, not to the extent that they become hard and fast rules, but rather as a point from which one may begin.

It is not easy to define whether or not an area is "adequate," yet recreation specialists have come up with certain rough rules which are often used; one standard, for example, is that a city should have one acre of city park or playground per 100 population, plus another acre of large city or regional park on the outskirts of the city for more extensive types of recreational use. Even this amount of recreational space is not adequate unless the separate tracts are located according to need, and unless they are well planned, well developed, and well managed.

As far back as 1914 Charles Downing Lay, at that time landscape architect for the New York State Department of Parks, estimated the park needs of a city of 100,000 people to be:

Recreational Uses	Area
Reservations	700 acres
1 large city park	400 acres

O28-18 cont.

10 neighborhood parks	250 acres
50 playgrounds	100 acres
Gardens and squares	50 acres
Total	**1,500 acres**

He assumed that 12-1/2 per cent of the total area of the city should be devoted to parks. This meant that a city of 12,000 acres should have 1,500 acres of parks. For a city of 100,000 it meant an average population density of 8-1/3 persons per acre of city and an allowance of one acre of park space to 66-2/3 people.

In 1940, about one-quarter of all cities having park facilities met the standard of one acre per 100 population; some cities exceeded this standard considerably. Since 1940, the relationship between park and recreation area and total population has been a less happy one. Recreational area within the legal boundaries of the larger cities has expanded as population has grown, but, when the population of the surrounding suburbs has been added to that of the central city, the available park area has lagged seriously. The suburbs of a great many urban areas have failed to add park land to meet their own needs, and have tried to rely on the older parks of the central city. In 1956, the total area of the city and county parks was about three-quarter million acres; an adequate area by the above standards would have been two million acres.[2]

It has been suggested, however, that the general rule be modified, especially for densely populated cities. In many cases, it is economically impossible to attain such standards. It has been suggested in a report, *Proposed Standards for Recreational Facilities*, prepared by the Detroit Metropolitan Area Planning Commission (September 1959), that one acre per 200 population is a reasonable standard in cities with populations over 500,000, and perhaps one acre per 300 population for cities over a million inhabitants.

It should be pointed out that developing recreational facilities on the fringe of the city would help meet the recognized deficiency in the larger cities. This variation from the general standard has been adopted in Cleveland, for example, where the city planning commission has sought a standard of one acre per 200 population.

O28-18 cont.

While most cities have recognized the standard of one acre of recreation land per 100 population, there has been much diversity of opinion concerning total open space requirements. Attempts have been made to establish the percentage of recreation space needed in relation to the area of the city. It has been stated that at least one-tenth of the city's acreage should be used for recreation. This type of standard cannot be completely satisfactory, however, since it does not take into consideration the population density. No rigid formula can be prescribed; all specific standards and recommendations are subject to variations, conditions, and peculiarities of the area surrounding the recreational facility.

Recreational standards are affected by the cultural background, age, and socio-economic status of the population, and these factors should be carefully studied to determine whether modification of any set of recommended standards is desirable. Standards should never be blindly adopted without considering modifications since they are predicated on a theoretically typical city that does not exist. The standards in this report should be taken as a point of departure and, as such, they can offer a basis for the intelligent development of local plans. Standards also need to be appraised from time to time, with the idea of adjusting them whenever changing conditions make modifications necessary. The investment in recreation facilities can be, and has been, wasted because local customs and preferences were not given sufficient consideration.

To a limited extent, the type of recreation facilities to be provided will depend upon the degree to which community needs may be met by private facilities or within residences. For example, in many suburban areas, the size of residential lots and living areas is such that there is little need for a neighborhood playlot. On the other hand, in a low-income, high-population density neighborhood where living space is at a premium, playlots become extremely important.

There is general agreement among city planners and recreation authorities that 30 to 50 per cent of the total park and recreation land of a community should be set aside for active recreation.[3] Based on the recommended standard of one acre per 100 population, it has also been stated that from 25 to 50 per cent of the total space should be developed for neighborhood use, with the remaining acreage in community, city-wide, or regional facilities.

In comparing recreation standards, it should be kept in mind that those suggested by the National Recreation Association are probably most applicable to smaller cities, rather than to the more densely populated urban centers. As shown in the samples given in Table 1, published standards for municipal recreation have ranged from four acres per 1,000 population to the 10 acres per 1,000 suggested by the NRA.

Table 1

TOTAL AREA FOR CITY RECREATION — COMPARATIVE CHART

Type of Recreation Area	Standards in Acres Per 1,000 Population			
	N.R.A.	Seattle, Washington	Royal Oak, Michigan*c*	Detroit, Michigan*f*
(Active rec.)				
Playgrounds	1.25	1.25	1.57	0.5
Playfields	1.25	1.25	1.31	1.0
(Total active rec.)	2.50	2.50	2.88	1.5
(Passive rec.)				
Minor parks	2.50	1.25	1.54*d*	. . .*g*
Major parks	5.00	2.50	5.74*e*	2.6
(Total passive rec.)	7.50	3.75	7.28	2.7
All types of municipal recreation	**10.00*a***	**6.25*b***	**10.16*a***	**4.1**

Source — Report on Recreation Standards, 1954; Detroit Metropolitan Area Regional Planning Commission.

a. In addition to the 10 acres of recreation per 1,000 of the population of the municipality, there should be, for each 1,000 people in the region, 10 acres of park land in stream valley parks and parkways, large scenic parks and forest preserves under municipal, county, state, federal or other authorities.

b. In addition to the recreation acreage within the urban area there should be at least 10 acres of reservation or recreational area left in their natural state for each 1,000 persons.

c. This recreation study was completed in April of 1954 by the NRA. Figures based on the ultimate population of Royal Oak as being 85,000.

d. Parks of 20 acres or less in size.

e. Parks of over 20 acres in size.

f. The Detroit City Plan Commission in a master plan report published in 1947 gave the proposed recreation in the city of Detroit based on the population of 1,800,000.

g. Did not have figure for minor parks. Not included, however, is 0.1 acres per 1,000 population which includes greenbelt, park department nurseries, and yards, and barns for equipment located in parks.

In long-range developments, priority should be given to planning recreation areas for neighborhood use in connection with elementary schools. Special attention should be given to subdivisions at the time they are reviewed by the planning agency in order to guarantee that adequate space is set aside to serve the neighborhood park and recreation needs. If the opportunity is missed at this point it is probably lost forever.

The modern municipal park and recreation system is composed of properties that differ in function, size, location, service area, and development. Generally, these recreation areas are divided into three groups based on the areas that they serve: those that serve one neighborhood, which would include playlots, playgrounds, and neighborhood parks; those which serve several neighborhoods or the so-called "community" in the large city, which would take in playfields and community parks; and those that serve a very large section of the city, or even the entire metropolitan area. These latter include parkways, major parks, reservations, regional parks, and highly specialized facilities, rather than multiple use developments.

Because of the vast size of the subject, emphasis in this report is given to standards for recreational *areas* — minimum and maximum space requirements, location of recreational facilities and size of population served, the types of facilities required for various recreational areas, and what age groups can be expected to be served by these facilities. There has been no attempt to include standards of *design* for outdoor recreational facilities, though it is recognized that such standards are of the utmost importance. For this reason, sources for design standards have been included in the bibliography. Also, the scope of this report has not permitted consideration of sociological factors, such as the economic and cultural composition of the population to be served.

O28-18 cont.

The first part of this report deals with the various areas to be served; the second part includes standards for a few specialized facilities that might be located in various recreational areas.

Neighborhood Facilities

A neighborhood is normally considered to be an area served by one elementary school. Its population varies from 2,000 to 10,000, averaging 6,000. Just as standards for elementary school location call for the school to be within walking distance of the homes it serves, so should neighborhood parks and playgrounds be within walking distance of the families in the neighborhood. It is desirable to locate parks and playgrounds adjacent to elementary schools, to make possible the joint use of school, park, and playground areas for the pupils and the general community.

The following discussion of neighborhood recreational facilities, together with the accompanying tables describe and summarize standards that have been published by several different agencies. It is emphasized again that there are no absolutes in recreation criteria. Although these standards are usually declared to be the "minimum," it is certain that the "minimum" will never be reached by all cities. Furthermore, in some communities, the "minimum" will be much more than is actually needed, while in other cities, the recommended "minimum" will be pitifully inadequate. These observations on the standards apply not only to those suggested for neighborhood facilities, but to all other standards covered in this report.

Playlot

Playlots (Table 2) are small areas intended for children of pre-school age. They are essentially a substitute for the individual backyard and are normally provided in high population density areas or as a part of a large-scale housing development. Such facilities are provided by the municipality only occasionally in an underprivileged neighborhood where backyard play opportunities are not available. In most cities the separate playlot is not considered an essential part of the municipal recreation system, and provision for such areas is left to private agencies or housing authorities. It is quite common, however, to include a playlot area as part of a neighborhood playground. The facilities of a playlot should be simple and safe and include the following: swings (low, regular), slides (low), sand box, mountain climber (low), play sculptures, one or more play houses, open area for free play, a shelter with benches for mothers, space for baby carriages, small wading pool or spray pool, concrete walk and paved area for wheeled toys, and with a low fence around the entire area.

O28-18 cont.

Table 2

PLAYLOT

	Min. Area Necessary	Desired Size For Best Results	Age Group Served	Population Served	Service Radius	Average Space per Child
National Recreation Association	2,400 to 5,000 sq. ft.			300 to 800	1 block or 1/8 mile	50 to 60 sq. ft.
Local Planning Admin.	2,000 to 5,000 sq. ft.			300 to 700	1 block or less	
American Public Health Association	Min: 1,500 sq. ft. Max: 5,000 sq. ft.	3,750 sq. ft.	Pre-school	75 children or less	300 to 400' of every house and cross no streets	50 sq. ft. 40 sq. ft.
Recreation & The Town Plan Conn. Develop. Comm'n.*	1/8 acre or 2,000 sq. ft.	1/8 to 1/4 acre or 5,000 to 10,000 sq. ft.	Pre-school, under 6	250 to 700	1/4 miles	
Rockland Co. N.Y. Recreation Study	Max: 5,000 sq. ft.		Pre-school		1/8 mile	50 sq. ft.

*Also recommended is 0.3 acre as minimum per 1,000 population.

Playground

The neighborhood playground (Table 3) is an area which serves primarily the needs of the five–to 12-year age group, but may also afford limited facilities to the entire neighborhood. The playground is the chief center of outdoor play for children, with limited opportunities for recreation for youths and adults. As mentioned previously, a section of the playground may be developed as a playlot. Hopefully, it becomes a center where the people of the neighborhood can find recreation and relaxation with family, neighbors and friends.

Table 3

PLAYGROUND

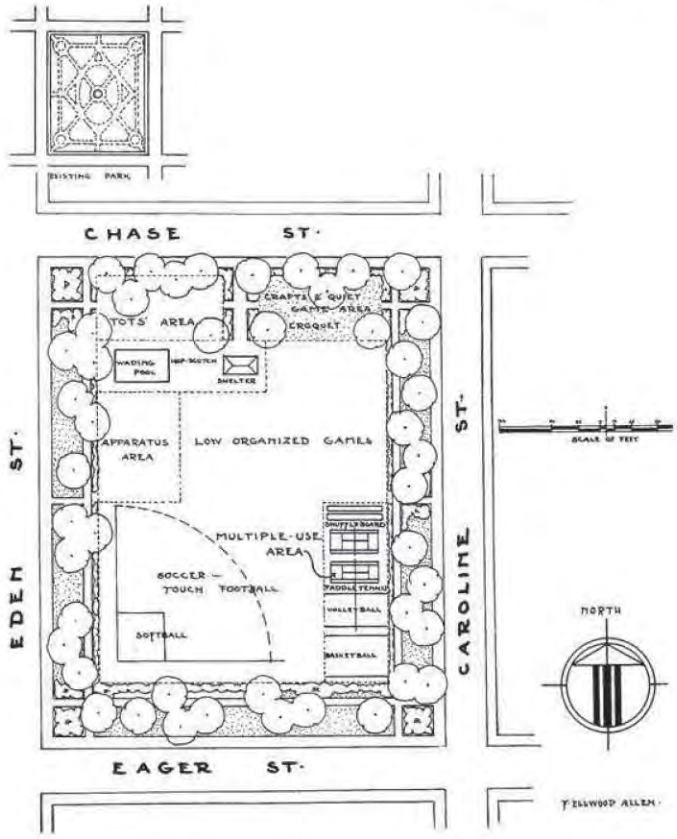
	Min. Acreage Per 1,000 Pop.	Min. Area	Area for Best Results	Age Group Served	Population Served	Service Radius	Location
Local Planning Admin.	1.25	Min. 3 acres; Max. 7 acres	5 acres	All ages but mostly 5-15 years	3,000 to 5,000; ideal 4,000 to 5,000	High density: 1/4 mile Low density: 1/2 mile	Next to an elementary school and also be central in the neighborhood
Rockland Co., N.Y. Medium density High density	5.0 5.3		10 acres 8 acres	5-12 years 5-12 years	Min. 2,000 Min. 1,500	3/4 mile 1/4 mile	
Athletic Institute		2 or more acres	5 acres	5-10 years		1/4 to 1/2 mile	In the neighborhood. If connected to a school more area needed
American Public Health Association	2.75 for 1,000 pop; 6.00 for 5,000 pop.	2.75 acres			1,000 to 5,000		

A basic goal of the neighborhood playground is flexibility in design to meet varied short-term active and passive activities for children. The playground is the basic unit in a city's recreation system. Desirable features in the neighborhood playground will include (see Fig. 1 for playground layout): playlot for pre-school children; apparatus area for older children; open space for informal games and play activities; paved area for older children; open space for informal games and play activities; paved area for court games; field area for games; shade area for story telling; shelter house and drinking fountains; wading or spray pool; shaded passive area for older people; landscaping, with perhaps a small garden and picnic area.

The Rockland County Recreation Study has listed space requirements for a playground which can be found in the Appendix A.

Figure 1

O28-18 cont.



Proposed design for typical neighborhood playground.

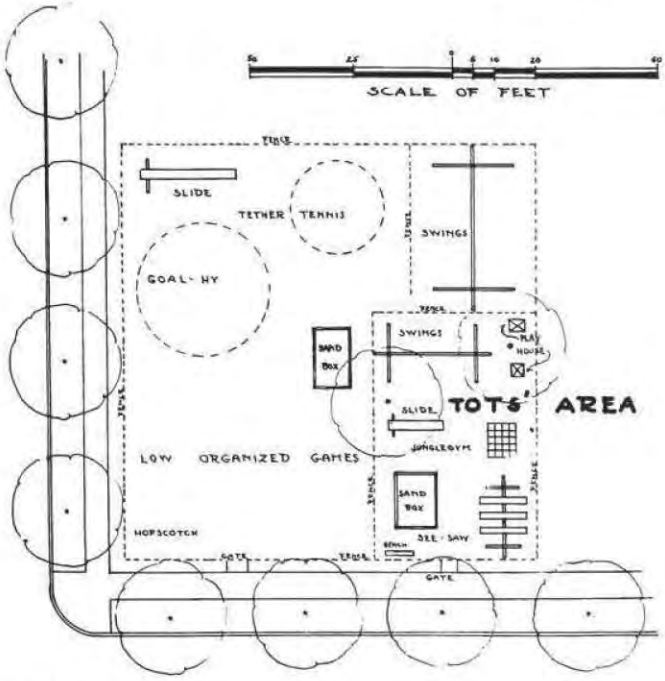
Source: *Long Range Recreation Plan*, City of Baltimore, Maryland. Prepared by The National Recreation Association, 1943.

Junior Playground

In some neighborhoods, because of unusual conditions, it will be practically impossible, short of a drastic redevelopment project, to provide a standard children's playground of the size suggested. If the maximum space which can be made available is less than two-thirds of the desired minimum standard areas suggested in Table 3, it has been suggested that a "junior" playground be provided.[4] A junior playground will include many, but not all, of the same types of areas as the normal playground. Because of the size of these areas, a smaller number of people of various ages will be served. Under such conditions the available space may best be planned for children up to 11 years of age who require much less space than older children.

Figure 2

O28-18 cont.



Study for development of junior playground.

Source: *Long Range Recreation Plan*, Town of Kearny, New Jersey. Prepared by The National Recreation Association, June 1942.

A wading pool would normally be omitted from this type of playground, but a spray pool or shower device is desirable. The landscaped area for adults may be omitted. If it is decided that the playground should be restricted to children under 11, definite plans must be made to care for the play needs of the older children within a reasonable walking distance. The NRA has stated that a playground of one acre restricted to children under the age of 11 may serve the needs of a neighborhood containing 300 children between the ages of five and 11.[5]

The Athletic Institute proposed a minimum site of one acre for a junior playground,[6] but suggested that two or more acres be acquired where possible to provide a park-like setting. The Institute also states that a utility or shelter house is needed on the junior playground. Most park maintenance authorities believe, however, that a two-acre playground is the very minimum that can be economically maintained.

Neighborhood Park

The purpose of the neighborhood park is to provide an attractive neighborhood setting and a place for passive recreation for people of all ages. The area should have trees to give protection from the sun during the summer.

The type of neighborhood influences to a great extent the particular need for neighborhood park space in relation to playground acreage (Table 4). Population density is a significant factor in determining needed neighborhood park space. Several studies recommend that more space should be provided in multifamily, high population density neighborhoods and in areas with a large percentage of elderly adults than will be needed in single-family neighborhoods.

Table 4

NEIGHBORHOOD PARK

	Min. Acreage Per 1,000 Pop.	Min. Area	Area for Best Results	Age Group Served	Population Served	Service Radius	Min. Area Necessary
A.P.H.A.	3.5 for 5,000 pop.; 1.5	1.5 to 3.5					
One or two							

O28-18 cont.

family	for 1,000						
Multifamily	6.0 for 5,000 pop.; 2 for 1,000 pop.	2.0 to 6.0		1,000 to 5,000			1 1/2 to 2 acres
National Recreation Assoc.	1 acre	Not applicable 1/2 to 25 range	All	4,000 to 6,000	Central	Easy walking distance (1/2 mile)	
Local Planning Admin.	1 acre	1/2 to 2 when part of playground; 7 if by itself	All	4,000 to 7,000	Central; in connection with playground	Easy walking distance (1/2 mile)	
Athletic Institute		10	All		Central; small if connected to a school	Walking distance	
Recreation & the Town Plan (Conn.)	1 acre	Varies with population density	All		Central; small if connected to a school	Walking distance	7 acres if not adjoining playground or field

O28-18 cont.

Desirable features for the neighborhood park include: open lawn area; trees and shrubbery; tables and benches for quiet games; walks and shade areas; ornamental pool, fountain, or sundial; play apparatus for children (optional); shelter building with game room, storage, and toilet facilities; multi-purpose, all weather court area; spray basin or wading pool.

Community Facilities

Between the neighborhood facility and the major park which serves the entire city, there should be a large recreation area (20 to 25 acres) to serve several neighborhoods. This facility should be centrally located for the area it serves and, when possible, adjacent to a school. The two most common types of community facilities are the playfield and the community park, which in some cities have been combined to form a playfield-park.

Playfield

The playfield provides varied forms of recreational activity for young people and adults, although a section may be developed as a children's playground (Table 5). The playfield provides for popular forms of recreation that require more space than would be available in the playground, The playfield is a multi-purpose area to provide activities and facilities for all age groups and to serve as a recreation center for several neighborhoods. A portion of a playfield will be developed as an athletic field for highly organized team sports.

Table 5

PLAYFIELD

	Min. Acreage Per 1,000 Pop.	Desired Size for Best Results	Age Group Served	Population Served	Location	Service Radius	Parking

National Recreation Association	1.25 acres	20 to 25 acres	Young people and adults	Not more than 20,000	Central 3 to 5 neighborhoods preferred adjoining a school	1 mile or less from every home (varies with pop. Density in some cases)	Parking area required
Local Planning Admin.	1.25 acres	18 to 32 acres	15 years and over	15,000 to 25,000	Central adjoining a school convenient to local transportation	1/2 to 1 mile travel distance or 20 minutes by car or trans.	1 to 2 acres
Recreation & the Town Plan (Conn.)	1.3 acres	12 to 20 acres	15 to 24 years and family groups		Central 4 to 5 neighborhoods adjacent to Jr. or Sr. high schools	1/2 to 1 mile travel distance	
Rockland Co. (N.Y.)		20 acres super playground	Adults and children over 12 years	9,000 min.	In connection with a school site when possible	1 1/2 miles from playfield	Parking should be provided
Detroit	2 1/2 acres playfield parks	20 acres adequate shape for major activities	Older children & adults		Central and when possible near or adjoining a school site	1 to 1 1/2 miles in a low density area	Parking should be provided

O28-18 cont.

The playfield should provide most of the following features: area for game courts, including tennis, volleyball, handball, basketball, horse shoes, shuffleboard, and other games; separate sports fields for men and women for such games as softball, baseball, football, and soccer; open turfed lawn including picnic areas, landscaped park, and children's play areas. There may also be a fieldhouse, running tract, and space for field events; children's playground; outdoor swimming pool; and center for day camping. The area should be lighted for night use. There must be adequate off-street parking areas.

Minimum and maximum space requirements for a typical playfield can be found in Appendix B.

Community Park

While there is some variation in the standards recommended for the facilities described thus far, there is also a great deal of agreement. A community park, however, seems not to be a very clear concept. It apparently caters somewhat less to active sports than does the playfield. It seems that perhaps the term "community park" is actually no more than an answer to the question: "What would you call a parcel of municipally-owned land 20 to 25 acres in size?"

The community park (Table 6) is a park facility that is large enough to serve several neighborhoods. It is planned primarily to serve young people and adults. Because it does serve several neighborhoods, it should be accessible by public transportation, and it must have ample off-street parking facilities.

Table 6

COMMUNITY PARK

	Min. Acreage Per 1,000	Desired Size for Best	Age Group Served	Population Served	Service Radius	Parking

	Pop.	Results				
National Recreation Association	Few require such	25 to 50 acres min. 25 acres		20,000 to 40,000	1/2 to 2 miles 1 mile most frequent	
			Adjoining School			
	1 acre or more	20.06 acres	Young people and adults	5,000 to 25,000 depending upon the region	1 to 1 1/2 miles usually served by transportation	1 acres
Guide for Planning Recreation Parks in California			Separate			
	1 acre or more	32.75 acres	Young people and adults	5,000 to 25,000 depending upon the region	1 to 1 1/2 miles usually served by transportation	1 1/2 acres
National Council on School House Construction	Add 1 acre per 100 pupils of predicted ultimate enrollment	Jr. high 20 acres			Jr. high 1 mile	
		Sr. high 30 acres			Sr. high 3 miles	
Vancouver		25 acres	All ages	10,000 to 20,000	1 mile	

O28-18 cont.

The California Committee on Planning has recommended facilities for the community park, which are given in Appendix C.

City-Wide Recreational Areas

In addition to facilities that serve the neighborhood and community, there are those that serve a still larger section of the city, or the whole city. Included are the large parks, golf courses, athletic fields, parkways, and camp sites. Standards are difficult to establish for these facilities. See Appendix D for a sample of suggested space standards covering all city-wide recreation facilities to service a population of 100,000.

Major Parks

Major parks (Table 7) are designed and developed for diversified use by large numbers of people. Because of their area, they will contain facilities that cannot be accommodated in the neighborhood or community park. They give the city dweller contact with nature and a pleasant environment in which he can engage in a variety of recreational activities.

Table 7

MAJOR PARKS

	Min. Acreage Per 1,000 Pop.	Desired Size for Best Results	Age Group Served	Population Served	Service Radius	Location
National Recreation Association	2.5 acres	100 acres	All	50,000	30 minute maximum	Readily accessible to the whole city
Local Planning	2.5 to 4	100			30 to 60 minutes travel	One in every

Local Planning Administration	2.5 to 4 acres	100 acres	All		travel distance accessible to public transit	major section of the city
Detroit	Minimum 3 acres	200 to 300 acres				
Athletic Institute		100 acres or more	All	50,000	Not more than 2 miles from any neighborhood	Central or fringe location
Recreation and the Town Plan Conn. Development Commission	3 acres	75 acres, city 150 acres, regional	All		1/2 to 1 1/2 hours travel distance	Close to urban area for all day outings

With the increase in the purchase and reservation of lands for "regional" parks outside the city limits, a greater proportion of the large in-city parks are being turned into active recreation areas.

Desirable features for the large city parks include: natural landscape and landscaping; large picnic areas; athletic fields; playground; numerous play areas; archery range; nature trails; bandstand; comfort stations; winter sports center; day camps; off-street parking. Additional specialized features include: golf course, bridle paths, boating and swimming facilities, zoo, botanical garden, museum, and outdoor theater.

Reservations

Reservations (Table 8) and regional parks serve as greenbelts within urban areas. "Reservation" is a term sometimes applied to large outlying areas. It is not easily distinguished from a regional park except perhaps that the reservation is less fully developed. The reservation should provide facilities only for those activities that are primarily incidental to the maximum enjoyment of nature and the natural scenery. Such activities would include: overnight and long-term camping facilities; picnic areas; swimming facilities; fishing; boating; winter sports.

Table 8

RESERVATIONS

	Desired Size Per 1,000 Pop.	Age Group	Location	Service Radius	Population Served
National Recreation Association	1,000 to 5,000 acres	All	Mostly located outside the city	60 minutes away	
Local Planning Admin.	500 to several thousand acres	All	Preferred outside urban area	Flexible	Entire urban area

Play equipment and sports fields are not appropriate here except for minimum facilities near camping and picnic centers. Large sections of the reservation should be reserved for hiking and bridle trails. The location of buildings and refreshment facilities should be selective and only at widely spaced major activity centers.

The reservation is often owned by a county, state, or special district, but it may be owned by the city even though it is outside the corporate limits. The concept of large parks and open space to counteract urban pressure and to preserve scenic areas does not lend itself easily to standards. If there is any single standard for a regional park, it is that it must be large. Any tract smaller than one square mile could hardly qualify for the term "regional" — five to 10 square miles or more is not too large.

The National Recreation Association recommends a site anywhere from several hundred to 1,000 and up to 5,000 acres as a desirable size. These areas are normally located outside the city boundaries and should not be more than 60 driving minutes from the city.

The regional park will have large areas of forest reservation, with unusual scenic character if possible. It normally serves one or more cities, or part of a large metropolitan area.

O28-18 cont.

The regional park has three functions: to preserve a portion of the natural landscape, to supplement the recreational facilities of the urban area, and to act as a greenbelt in separating cities in a large metropolitan region.

Both reservations and regional parks have extensive facilities for all-day and weekend outings for the entire family and should be within a reasonable driving distance. Facilities will include boating, fishing, and camping sites; natural wooded areas or wilderness; trails for horseback riding, hiking, and nature study; and large beaches. They should be accessible by highway, have facilities and space sufficient for large-scale development, and have an administrative agency operating them. Normally not included in such a park would be game or wild life areas, which should be separately established away from recreational areas; nor would these parks provide facilities for team or other organized sports. The reservation as well as the regional park will serve all ages and the entire urban area.

Parkways

The parkway is essentially an elongated park with a road extending its entire length. It is often located on a ridge, in the valley of a stream, on a palisade overlooking a stream, or along a lake or ocean frontage. A parkway may serve to connect large units in a park system or to provide a pleasant means of travel through the city and the outlying region. This type of facility is found principally in large metropolitan areas.

The parkway is basically a recreation facility, not a transportation facility. Although at times it may carry a fairly heavy traffic load, as on the first pleasant Sunday in spring, the parkway should be consciously designed to avoid its being a convenient and direct route between centers of urban activity. A parkway should not be allowed to become an expressway. Its principal attribute should be beauty, not efficiency.

The report, *Regional Recreation Areas Plan* (1960), prepared by the Regional Planning Commission and the Parks and Recreation Department of Los Angeles County states:

> Even though Los Angeles County contains one of the most mobile populations in the world through the use of private automobiles, there are few adequate examples of existing parkways in the County. The scenic drives in Griffith and Elysian Parks are the only scenic drives in the non-mountainous portions of the County which can be classified as Parkways. The Arroyo Seco Parkway (renamed the Pasadena Freeway) has been frequently cited as a parkway example, but this Plan does not consider it a parkway because it carries high speed traffic and the park development is separated from the freeway by a right-of-way fence.

O28-18 cont.

The National Recreation Association recommends the minimum width for a parkway as 200 feet,[9] but suggests that it should be much wider if possible. The park area may be used for bicycling, hiking, horseback riding, or picnicking.

Specialized Recreational Areas

Certain areas and facilities are highly specialized. They may be developed separately and on special tracts of land, or they may be integrated into parks and other recreational areas. More and more, these facilities are providing for many of the major recreational activities, and provision for such activities cannot be neglected. In the past few years, there has been a tendency to acquire special sites for these facilities, rather than trying to combine them with the standard recreational area facilities. Standards have been developed for some of the specialized facilities, but for others no particular site size can be specified.

Athletic field or Stadium

This specialized type of facility (Table 9) is intended primarily for highly organized games and sports which attract less than 10,000 spectators.

Table 9

ATHLETIC FIELD OR STADIUM*

	Min. Area Required for an Athletic Field	Location	Service Radius	Min. Area Required for A Small Stadium
National Recreation Association	10 acres	At a high school site or as a portion of a playfield	Neighborhood or community level — convenient to transportation	20 acres
Streator, Ill.	10–20 acres	Usually located at		10–20 acres

		a high school		
Baltimore, Md.	5 acres or more	High school site or at neighborhood playfield		5 acres or more

*The small stadium, with a seating capacity of 3,000 to 10,000, is not for city-wide use except in small cities where the facility may serve the entire population.

Stadia are permanent outdoor seating structures with their areas intended for observing athletic and other activities sponsored by schools or municipalities. The small stadium — seating from approximately 3,000 to about 10,000 — usually consists of a single permanent seating structure that may extend down one side of a playing field or it may consist of two such stands. Two stands on opposite sides of the field, seating 3,000 each, will cost considerably more and provide fewer desirable seats than a single stadium on one side, which will seat twice the number.[10] The stadium should be planned to meet the needs of the community and to lend itself to evolution into a horseshoe or a bowl if the demand arises. The Athletic Institute[11] states that:

> The functional planning of stadia has purposely been directed chiefly at the larger and more inclusive and involved structures.

However, the following basic considerations should guide plans for smaller structures:

> All the principals of functional planning suggested for larger stadia are applicable to smaller structures; the specifics apply in number, to the degree and in a proportion dictated by the capacity, location, uses and future possibilities of the plant.
>
> Planning for a small stadium should be exposed to the same reasoning and measurement of values as that to which the planning of a colossal structure is subjected.
>
> The permanent seating stands can be much more than tiers of seats. Underneath is very valuable space. It should be utilized for storage, activities and accessory needs.
>
> The smallness of a so-called stadium does not excuse planning which ignores efficient and economical maintenance and operation, wastes space, slights spectator convenience and enjoyment, defeats maximum participant performance, abuses public relations and disregards future growth and demands. Small stadia are the seeds of larger ones.

O28-18 cont.

In planning and construction, due consideration should be given to the use of the stadium for various events of wide interest, such as athletic contests, patriotic observances, graduation ceremonies, parades, drills, band concerts, and special exhibitions.

Features that should be included in a stadium are: jumping and vaulting pit; track (one-quarter mile); football field; baseball field; soccer field; tennis courts; pressbox; toilet facilities; storage facilities (under grandstand); drinking fountains; locker and shower facilities; and flood lights. The entire area should be enclosed by a wall or fence.

A very large stadium for professional sports does not really come within the scope of this report. Many problems relating to the design and construction of such a stadium in a given locality are highly technical and require expert advice.

Water-Oriented Facilities

Swimming pools. The proper size for a swimming pool (Table 10) will be determined by the number of people using the pool, the approximate distribution of divers, swimmers, and waders within that number, and, finally, the amount of money available for construction.

Table 10

SWIMMING POOLS

	% of Pop. At Any One Time	Sq. Ft. of Water Per Swimmer	Total Area	Deck Area	Parking Required	Service Radius
Public Outdoor Recreation Plan (Cal.)						
Neighborhood pool	2%	30	1,000 sq. ft. of water surface		20 cars	Walking

						distance
Community pool	6%	30	4,500 sq. ft. of water surface		75 cars	2 miles
Athletic Institute*				10 ft. on side of pool; 20 ft. on end of pool		
National Recreation Association	3%	15 (in the water or not)	1 acre for a neighborhood pool — several acres for large pool		3 to 7 acres depending on location	Variable
Streator, Illinois	3–5%	27		Ratio of 2 sq. ft. of deck area for each sq. ft. of water area		

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*Further recommendations by the Athletic Institute includes: minimum length, 75 feet; minimum width, 35 feet; minimum depth, 3 feet; and maximum depth, 10 to 12 feet.

Experience has shown that several moderate size pools, properly constructed, with adequate water treatment and strategically located, will serve the community better than a single, very large swimming pool. The trend is definitely toward smaller pools which meet official regulations and specifications.

Public pools are generally designed to accommodate the maximum attendance at one time on an average day. As in many other municipal facilities, it is not economical to design for the days of maximum attendance, since the cost of maintaining a pool adequate for peak loads would be prohibitive. Overcrowding on peak days is preferable to excessive space and high operating costs throughout the swimming season.

A swimming pool should be located near the people it is to serve. The general location for pools should be determined by the walking distances between the pool and the areas to be served, the adequacy of public transportation, the absence of soot, dirt, and smoke from heavy industry, and the availability of adequate areas for off-street parking.

The swimming pool is one facility for which the most expert and all-inclusive planning and design advice is needed. It is imperative that all work be continuously inspected as construction progresses to make certain that the pool is constructed according to specifications.

Swimming Beaches. Swimming, playing in or near water, sunbathing, surf-boarding, and scuba diving are all becoming increasingly popular. It is impossible to set up standards for swimming beaches since there are so many variables involved. However, the California Public Outdoor Recreation Plan[12] suggested some standards. (See Appendix E.)

The standards are based on optimum rather than a peak-day attendance. For shoreline swimming, 10 effective feet of shoreline will provide space for 20 persons at any one time. One effective foot of shoreline is defined as one lineal foot of shore with the following: 100 foot wide band of water suitable for swimming; 200 foot wide strip of beach for sunbathing and play; 100 foot wide buffer zone for utilities and picnicking; and 265 foot wide strip for parking where attendance is dependent on automobiles.

For every 1,000 people in attendance, 25 effective feet of shoreline are needed. In warm climates one effective foot will furnish many more days of swimming than it will in a cold climate, but about the same percentage of the population will attend on the normal, heavy weekend (optimum) day in both climates.

In 1953 the National Recreation Association polled a number of beach authorities in the Middle West. The survey indicated that an ideal beach would have a minimum length of 600 feet and a minimum depth of usable land of 150 feet. They also thought that a beach more than 3,600 feet long was undesirable because of difficulties in administration.

Westchester County standards call for 150 square feet of beach for each person using a beach. The County recommends that a minimum of 10 acres be reserved for a city beach and 50 acres for a county beach.[13]

Desirable features for the swimming beach are concession facilities at major centers of activity, walkways, bathhouses, space for out-of-water recreational activities, and a landscaped park to provide a pleasant setting and a buffer for nearby residences. The NRA has proposed minimum space requirements for beaches and related areas at 400 square feet per person.

Boating. There has been an explosion from 15,000 pleasure boats in 1904 to a phenomenal eight million pleasure boats of all kinds in 1960. It is estimated now that there will be more than 12 million pleasure boats by 1985.

The physical attributes of a site for boating facilities are of the utmost importance, for in the final analysis it is the placement of the facility and its form of development that determine its success. Physical considerations are the first and last steps in the planning of recreational boating facilities.

Of the various facilities for recreational boating discussed in this report, all have the common purpose of providing the boatman a point of transition from land to water. At the extreme is the marina, a comparatively elaborate facility that caters to the needs of the boating enthusiast as well as to interested non-boaters. In contrast, however, a simple launching ramp is often of great value by providing nothing more than access to the water.

The sizes of boating harbors or marinas vary greatly. The size and location are determined by the estimated number and size of the present and future permanent and transient boats to be accommodated and by the amount and characteristics of water and land areas available. The ideal location is a partially landlocked cove or lagoon protected from swiftly flowing water. Accessibility by car, a location in or near a park, and access to cruising water are all important factors in the placement of a boating facility.

A complete marina provides most of the following facilities: boat slips; boat handling equipment; repair and maintenance shops; marine and hardware supply store; boat and gear storage; launching facilities; fuel station; lockers and sanitary facilities; restaurant; clubhouse; motel or boatel; commercial stores; recreational facilities, park, and picnic grounds; spectator area; pedestrian area; and automobile parking.

As noted in PAS Report No. 147, *Recreational Boating Facilities*, June 1961, many marina operators believe that there should be a minimum of 250 slips and a land area of 25 acres for financial success. With fewer slips, berthing fee receipts will be so minimal that the cost of construction and maintenance cannot be justified. Twenty-five acres is considered to be the minimum area that will accommodate the operations of a marina of 250 slips and ensure adequate vehicle parking.

A small boat dock is designed to accommodate craft 12 to 20 feet in length at fixed or floating docks. To fix berths for 100 craft up to 20 feet in length would take a minimum of five acres of water. In addition to berthing equipment, more complete facilities may include some of the elements of a marina.

Mooring sites accommodate boats in protective coves or lagoons. Piles or buoys are used for mooring and a dinghy is needed for taxi to and from each craft. The amount of space required depends largely on the size and number of boats moored. It is recommended, though, that there be one automobile parking space for each mooring spot.

An access unit or launching ramp site is a facility for the launching and beaching of water craft carried on a trailer. Areas for the parking of automobiles and trailers are a necessity at this type of facility. Sometimes one or more docks are constructed at a launching site to expedite the operation.

The *California Public Outdoor Recreation Plan* states that

> . . . the standard yardstick for measuring boating opportunity is the access unit. One access unit is defined as a facility capable of launching one boat at a time and serving 125 trailer boats or storage facilities, berthing, mooring and the like, for 100 non-trailer boats. In either case, adequate access, parking, and service facilities should be provided and about 160 surface acres of water suitable for boating should be immediately available. It is anticipated that 75 boats will operate from one access unit on the season's peak day and 50 boats on an optimum day.

Each self-launch area must be given individual consideration. Initial layout depends on the character of lake frontage, fluctuation of the water level, overall size of the area, topography, protection from prevailing winds, and the type of soil, not only in the parking or turnaround area, but also at the lake bottom directly adjacent to the proposed launching site. The turning radius of the average car and 14 foot

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trailer is about 45 feet. This radius increases to about 80 feet with larger rigs. The average car and trailer require a parking area of eight by 40 feet; however, 10 by 45 feet is desirable for unloading gear and opening doors. The turnaround area should be located as close to the ramp as possible so that all back-up operations will be confined to the launch area itself. The entire parking and loading area should be finished off with a one per cent slope for drainage.

A launching area should extend gradually into the water. The ideal slope is about 10 per cent (one foot in 10 feet) and should not exceed 15 per cent, unless the immediate water is deep at all times during the season.[14] If this situation exists, the ramp should be planned so that only the trailer will be on the slope. The car should remain on the level or on a broken slope area having less than a 10 per cent pitch to the level ground of the turnabout area.

The ramp or launching area itself may be developed in many ways. A minimum width of 14 feet should be allowed for the ramp with the length depending on the depth and fluctuation of the water. A ramp 20 to 25 feet wide is ideal and affords space for maneuvering the trailer down the ramp without disconnecting the trailer from the car.

Winter facilities

Winter recreation as used here refers to sports and activities that are dependent upon snow or below freezing temperatures, particularly snowplay, skiing, ice skating, and tobogganing, and in some measure sightseeing.

Adequate parking space and its snow clearance are the two biggest problems for those who provide wintertime activities. The requirements for snow play areas, as stated in the *California Public Outdoor Recreation Plan,* are snow-covered surfaces, flat to a grade of 20 per cent, with a large, nearly level area for parking.

Skiing. Skiing has attained widespread popularity in the last few years. Wherever possible, opportunity for skiing should be provided in public recreation areas. Skiing requires the most extensive and specialized facilities of any outdoor winter sport.

Ski slopes should be long and various enough to interest the skier. The report *Recreation-Vacation-Tourism in Northern Berkshire, Massachusetts,* recommends that the vertical drop of a ski slope should be at least 600 feet or more. Major ski runs in northern New England have vertical drops up to 2,000 feet or more for the experts and for racing.

A ski area should be located where it will be protected from prevailing winter winds, both for the customers' comfort and to prevent excessive wind action on the snow.

Slopes should have gradients mostly ranging from 20 to 35 per cent. Novice skiers require anywhere from 10 to 25 per cent slope, while intermediate skiers generally prefer from 20 to 35 per cent. Gradients in excess of 35 per cent are found on trails or slopes for the most advanced and expert skiers.

Slopes must be smooth enough to allow skiing with a minimum of snow cover. In the California Public Outdoor Recreation Plan, requirements for skiing include snow-covered slopes facing north that have a minimum grade of 20 per cent, and ranging as high as 40 to 50 per cent slope. The report also recommends that there be one acre of slope for every 30 skiers, with one acre of parking for every 10 acres of skiing slope. It is also commonly thought that the best snow conditions are usually found at high altitudes, preferably above 2,000 feet.

For artificial snow-making, below freezing temperature is necessary. It is also generally accepted that open slopes facing south should be avoided. Thawing followed by freezing will make for an icy crust. To avoid both wind and sun, the best exposure is toward the northeast.

A ski jump for expert competition must be built with accurately determined proportions between height, slope, inrun, dimensions and location of the take-off, and the slope and position of the landing hill. A slope of 25 degrees is usually satisfactory for the inrun with a gradual leveling off near the take-off point. The landing slope, however, requires a 30 degree slope or greater, free from obstruction, and at least 30 feet wide. The landing slope becomes less steep near the foot of the hill and gradually levels out in the outrun.

Ice Skating. Slow moving streams and ponds make the most satisfactory skating areas; but where they are lacking, rinks may be formed by either flooding or spraying. Flooding has proved successful on large areas such as baseball and football fields and on general play areas with a concave surface, when soil conditions are such as to prevent the water from seeping away. Building an ice surface on the ground by spraying is often more satisfactory on small, unpaved areas. Several cities have experimented with a white plastic or vinyl film as lining material for an ice rink. This retains water and retards melting of ice but is hard to apply and easily cut by skates.

In *Recreation Areas,* George D. Butler recommends that the ideal size for a municipal ice skating rink is 85 by 185 feet. The ice hockey rules of the National Collegiate Athletic Association, which govern most amateur play in this country, specify the following: the rink or playing surface is a clear field of ice at least 60 feet by 160 feet and not greater than 110 feet by 250 feet. A rink 85 feet by 200 feet is

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recommended; this rink should have rounded corners with a 15 foot radius, and should be surrounded by a wooden barrier three to four feet high, preferably cream in color.[15] The goal cage should be placed at each end of the rink at least 10 feet from the end boards and equally distant from the side boards.

A rink 85 feet by 185 feet has a capacity for 800 persons, although all skaters cannot be on the rink at one time.[16] Another basis for determining a rink's capacity is to allow 30 square feet per skater; 20 square feet is considered the minimum and makes for a congested rink.

Features that are desirable for a skating rink are: night lighting; warming shed or a shelter house; music (when possible); runways (so skaters can reach the ice without walking over concrete or earth surfaces); pleasant landscaped setting.

Toboggan Slides. Tobogganing can be one of the most thrilling of all winter sports. Tobogganing, however, requires a considerable amount of space and fairly steep slopes. Natural slopes are sometimes used, but because of the difficulty of steering and controlling the sled, specially constructed slides are more desirable. The slide should be on a hill facing north or northeast. If the slope is wooded, trees can protect the slide from the sun's rays, and the direction is therefore less important.

On a wooded slide it is important that the slide be wide enough, but not so wide that the toboggan has a chance of jumping the track. If a slide is fast or is built on a steep slope at the start, a hinged tilting frame to facilitate safe operation is recommended.

Trees provide an attractive setting for the slide, and give the riders a sense of traveling at a greater speed. It is advisable that the slide be designed so that its entire length can be seen from the starting platform.

A toboggan slide need not be completely permanent. The slide can be constructed so it can be disassembled except for the platform and top part of the slide. This allows use of the area for other purposes during the summer months. The toboggan slide is more suitable for the playfield than the playground.

The earthen slide is perhaps the easiest to build. All that is needed is a trough dug one foot below the ground level and approximately 30 inches wide. The dirt taken from the trough is then packed along the sides of the slide and the area completely sodded.

The outrun of the wooden or earthen slide must be level to prevent the toboggan from upsetting. Lighting is an essential element for night use, and it is recommended that lights be spaced 100 feet apart, 25 feet above the ground, and as far as 30 feet away from the slide.

Golf Courses

The best golf courses will be on land specially selected for the purpose. Uneven, but not rugged, topography, some woodland, a good soil such as sandy loam, and good drainage are desirable characteristics of a site. Courses are made interesting through variations in the length of the holes and the width of the fairways, introduction of hazards, and the utilization of topography and natural tree growth.

As noted in Table 11, a nine-hole golf course requires 50 acres or more; an 18-hole course should have a minimum of 100 acres but usually is 120 acres or more. Authorities agree 17 that the "ideal" nine-hole course should measure over 3,000 yards, preferably around 3,200 yards, with a par of 35 to 37.

Table 11

GOLF

	Min. Acreage Required	Population Served	Max. Acreage Required	Service Radius
Local Planning Administration	9 hole, 50 acres; 18 hole, 100 acres	1 hole per 3,000 persons served; 27,000 pop. for 9 holes	9 hole, 90 acres; 18 hole, 180 acres	Easy driving distance and access to public transit
National Golf Foundation	9 hole, 50 acres; 18 hole, 110 acres	18 holes for 20,000 population	9 hole, 60 acres; 18 hole, 120 acres (Gently Rolling) 9 hole, 70 acres; 18 hole, 140 acres (Rough Terrain)	
National Recreation Association	9 hole, 50 acres; 18 hole, 100	1 hole per 3,000 persons served; 50,000 to 60,000 pop. for 18 holes	9 hole, 75 acres; 18 hole, 160 acres	

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	acres	
Guide for Planning Recreation Parks in California	18 hole, 160 acres	18 holes for 20,000 pop. plus 1 18-hole course for every 30,000 thereafter

In *Planning and Building the Golf Course*, the National Golf Foundation gives the following tips on course layout and planning:

> The distance between the green of one hole and the tee of the next should never be more than 75 yards, and a distance of 20 to 30 yards is recommended. Trees should not be closer than 20 yards to a green because of the danger of being hit by an approaching golf ball.
>
> The first tee in the ninth green of the course should be located immediately adjacent to the clubhouse. If it is practical without sacrificing other factors, bring the green of the sixth hole also near to the clubhouse. This is a feature appreciated by the golfer with only an hour to devote to his game, as six holes can be comfortably played in that time.
>
> As far as is practical, no holes should be laid out in an east to west direction. The reason for this is that a maximum volume of play on any golf course is in the afternoon, and a player finds it disagreeable to follow the ball's flight into the setting sun.
>
> The first hole of the course should be a relatively easy par-4 hole of approximately 380 to 400 yards in length. It should be comparatively free of hazards or heavy rough where a ball might be lost and should have no features that will delay the player. This gets the golfers started off on their game as expediently as possible.
>
> Generally speaking, the holes should grow increasingly difficult to play as the round proceeds. It takes a golfer about three holes to get warmed up, and asking him to execute difficult shots while he is still "cold" is not a demand that he will appreciate.
>
> Whenever practical, greens should be plainly visible, and location of sand traps and other hazards obviously apparent from the approach area.
>
> Generally speaking, fairways sloping directly up or down a hill are bad for several reasons: (a) steep sloping fairways make the playing of the shot by the majority of players a matter of luck rather than skill; (b) the up and down climb is fatiguing to the golfer; (c) turf is difficult to maintain on such an area.
>
> The par-3 holes should be arranged so that the first of the two is not earlier in the round than the third hole and the other one is not later than the eighth hole. Par-3 holes should not be consecutive.

Robert Trent Jones, golf architect, set forth points[18] that are generally agreed on by members of the American Society of Golf Course Architects:

> On level or flat land a 9-hole course of 3,100–3,400 yards can be laid out in approximately 50 acres but it will be cramped. An 18-hole course of 6,200–6,500 yards or more would require at least 110 acres. This is a minimum, making the routing of the course extremely tight. Gently rolling land requires approximately 60 acres for 9 holes and 120 acres for 18 holes. Hilly or rugged land will require considerably more because of the waste land where the contours are severe. At least 70 acres will be needed for 9 holes and 140–180 acres for 18 holes.
>
> The backbone holes of the modern golf course are the 2-shotters, of 400 yards or over. The length of the 2-shot hole offers plenty of opportunity to develop good strategy. The short hole should be kept under 200 yards so that every golfer has an opportunity to reach the green with a good shot and thereby obtain his par or birdie.
>
> The minimum length for a standard 18-hole golf course is 6,200 yards. A good average is 6,500 yards, and championship length is 6,700–6,900 yards. The short hole should range from 130–200 yards (par-3) and there are generally four of these holes, but there may be five. Par-4 holes should range from 350 to 450 yards and there are generally 10 of these. Par-5 holes should range from 450 to 550 yards, and there are generally four of these.
>
> Fairway width generally is about 60 yards, but will vary depending on the type of players expected to play the course, and the strategy of the play of the hole. A yardstick of fairway width is as follows: 75–120 yards from the tee the fairway will be 40 yards wide; 120–180 yards from the tee the width will be 50 yards; 180–220 yards from the tee the width will be 60–70 yards.
>
> The green sizes will vary from 5,000 to 8,000 square feet, depending on the length of the hole and the length of the shot called for.

Additional standards as developed in the *California Public Outdoor Recreation Plan*, Part II, include:

Type	18-hole course

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Development	Minimum size for a layout and effective operation is 120 acres including necessary auxiliary facilities such as clubhouse, restaurant, and parking.
Parking	Space for 200 automobiles.
Type	**9-hole course**
Development	Minimum size for layout and efficient operation is 60 acres including necessary auxiliary buildings.
Parking	Space for 100 automobiles.

Note: Additional desirable facilities at the golf course are putting greens and driving ranges, These facilities require additional parking space.

The par-3 course, which is becoming increasingly popular, is a short golf course, with the fairways and greens smaller than those of a regulation course but paralleling the larger course in every other way (Table 12).

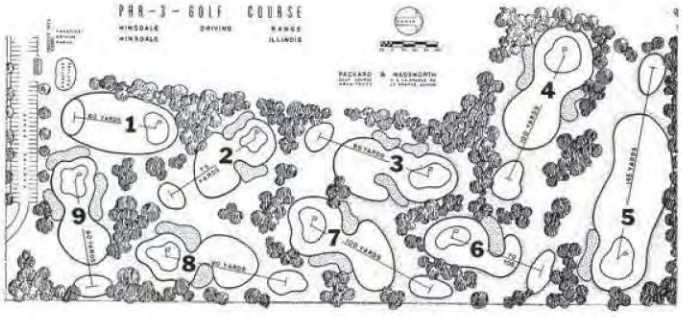
While most short courses are properly called par-3 courses, designed so that no hole exceeds the maximum yardage of 250 yards set by the United States Golf Association for par-3 holes, a number of short courses feature a few par-4 holes and even an occasional par-5 hole. The par-3 plan, however, is most significant as an innovation, and it is the par-3 golf course that this report will discuss.

The par-3 course is definitely not a substitute for the longer regulation golf course, although in areas where there are no regulation courses, or where courses are crowded, it will absorb the overflow of play. While the short course owes much of its rapid growth in popularity to the great demand for golf facilities and the inability of an accelerating golf course development program to catch up with this demand, the par-3 course is carving out a place of its own by virtue of its special appeal.

The average par-3 course of nine holes will require from 45 minutes to one hour to play a full round.[19] This fact attracts many working golfers, particularly during the week when they cannot spare the three to four hours required to play a regulation nine-hole course.

A par-3 nine-hole course can be built on as little as five acres. However, some of the larger installations will have 18 holes distributed over as much as 60 acres. While five acres is adequate for a very short nine-hole course, it is wise to buy additional land to provide for expansion.20 In estimating the area required, space for adequate parking, clubhouse facilities if desired, and shelter for maintenance equipment and tools should be provided.

Figure 3



Nine-hole, par-3 course designed for maximum land use at minimum cost. Grassy bunkers and hollows can be substituted for sand traps indicated on plan to further cut cost of construction and maintenance as well as to speed up play for greater traffic capacity. Designed for 15 acre area.

Source: *Golf Operators Handbook*. Edited by Ben Chlevin. National Golf Foundation, Inc., 1956, p. 86.

Table 12 shows some possible yardage combinations for nine-hole par-3 courses with total yardages of 450, 900, and 1,350 yards. (The National Golf Foundation is the clearing house for information on golf activities and facilities. Several of the National Golf Foundation publications, listed in the bibliography, have been extremely useful in putting this section of the report together.)

Table 12

NINE-HOLE, PAR-3 YARDAGE PLANS

Hole No.	Yards	Yards	Yards

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1	140	125	70
2	165	105	45
3	155	75	55
4	90	100	30
5	200	140	80
6	160	65	40
7	120	90	60
8	175	115	25
9	145	85	45
Total	**1,350**	**900**	**450**
Average	150	100	50

Source: *Golf Operators Handbook*. Edited by Ben Chlevin. National Golf Foundation, Inc., 1956, p. 78.

Camp Sites

Standards for four types of camping activities have been suggested in California's *Recreation Plan, Part II*:

Type	en-route
Development	10 units per acre
Parking	one car space and space for trailer per unit
Type	organizational
Development	five acres developed with permanent facilities and structures for eating and sleeping to accommodate 100 persons
Parking	minimum 50 spaces
Type	group
Development	five acres with sanitary and basic cooking facilities and open space for bedding or tents sufficient to accommodate not more than 50 persons for short periods of time
Parking	minimum of 25 cars
Type	family with tent or trailer
Development	four units per acre (unit consists of table, cooking facilities, space for tent or bedding and screening)
Parking	one car space for every unit

Some site development standards for camping were suggested at the American Society of Planning Officials Annual Conference in Minneapolis, Minnesota.[21] Camping and picnicking units should be at least 100 feet apart to preserve the forest cover and to provide privacy. A camping unit should consist of a platform or area for pitching a tent; tables and benches; and nearby water supply, cooking, and sanitary facilities. Areas should be easily accessible to roads or trails. The terrain in site areas preferably should have a 10 per cent slope, but should not exceed 20 per cent. Recommended also is the adoption of four persons per unit as the average capacity for all types of facilities. Minimum, maximum, and optimum density standards can be applied to camp and picnic units. At a capacity of four persons per unit, these units should be spaced no closer than 100 feet apart of five per acre in staggered arrangements in the forest areas, and in more intensive areas no closer than 50 feet apart, or 10 units per acre.

O28-18 cont.

Scattered camp development is undesirable from the standpoint of aesthetics, economics in construction, and maintenance and administration. Scattered development hampers good forest and land management practices. Consequently, cluster standards have been devised to cover each camping recreation facility, based on construction economics and administration, and on the necessity for protecting the recreation resources by providing for large open areas between clusters. The camp and picnic clusters should be planned for a minimum of 25 and a maximum of 50 units per cluster (see Figure 4 for cluster recreational facility for year 2050.) The area of the site should be at least five and no more than 10 acres for each cluster. Design considerations, of course, must be related to topography and cover and standards may have to be modified in certain instances.

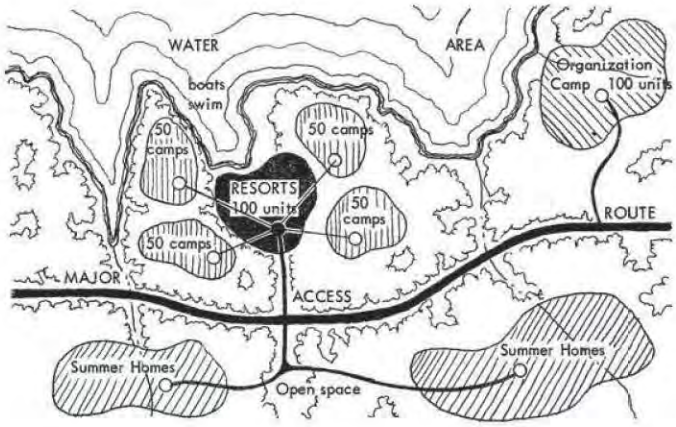
Figure 4

MAXIMUM AND MINIMUM RECREATION UNIT STANDARDS (CLUSTERS) BY TYPE OF RECREATION FACILITY AT ULTIMATE DEVELOPMENT, YEAR 2050.

	Units per Cluster		Site Area (acres) per Cluster	
Recreation Use	Minimum	Maximum	Minimum	Maximum
Camp and Picnic	25	50	5	10
Organization Camp	25	100	20	125
Resort, hotel, motel	6	100	2.4	40
Summer Home	1	*	1	*

*Summer home clusters should be large enough to justify the provision of services, and number and size of areas permitted should be based on the ability of the land to support them and maintain the "outdoor" character.

Figure 4



Source: *Recreation Planning in Natural Resource Areas.* By Samuel E. Wood. Presented at the Conference of the American Society of Planning Officials, Minneapolis, May 10–14, 1959.

Picnic Sites

Picnicking facilities should be developed so that there is a proper balance among the three major types of facilities: those within communities, those outside the communities (beyond the metropolitan fringe), and those along highways. The family picnic unit should consist of a table and benches with nearby water supply, cooking, and sanitary facilities. Auto parking space and proper access are additional requirements.

Within the city, people will travel an average distance of five miles from home to a picnic area. Picnic areas located within the community should have no more than 16 picnic units per acre, with each unit accommodating not more than eight persons.

For large groups, the same type of facilities are needed, but less space is allotted to each picnicker. For an organized group picnic area within the city, 200 persons per acre is desirable. It is also recommended that an additional one-third acre for each group area be provided to accommodate 50 cars.

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In picnic areas located on the fringe of the city somewhat different standards have been suggested. Here, eight units per acre is the recommended standard with one parking space provided for each unit.

For wayside rests, along major highways, units should be planned at a maximum density of 16 units to the acre, with no fewer than four units at a single location.[22]

Riding and Hiking Areas

General guidelines for riding and hiking trails have been suggested in the California report:[23]

Type	hikes of one day or less
Development	well defined and maintained trail, up to ten feet in width, grades not to exceed five percent average with a maximum of 15 per cent.
Parking	minimum parking for 25 cars at any one access point. On short scenic, well known trails, the parking area might be expanded to 100 automobile parking spaces.
Type	overnight hikes
Development	well defined trail with average grades of five per cent and none to exceed 15 per cent. Three to five acre overnight trail camping areas should be provided at intervals of about five hours hiking time.
Parking	minimum for 10 automobiles at any access point.

Additional hiking standards prepared by the Los Angeles Regional Planning Commission[24] recommend that trail stops be located six to 15 miles apart, that pathways be a minimum of six feet in width, and that trails be a minimum length of six to 12 miles.

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The California report also suggests standards for horseback riding: [25]

Type	rides of one day or less
Development	well graded wide tracks with interconnecting loop trails and numerous access points. Average grade should be five per cent and not exceed 15 percent.
Parking	a minimum space for 10 cars and stock trailers and a loading ramp or platform.

Heavily used trails may need up to 80 spaces for cars and trailers. Adequate holding stalls, hitching racks, and water are of utmost importance.

Type	extended trips
Development	the same as the one day or less rides with the stationing of overnight trail areas 12 to 15 miles apart, with the minimum size for these areas being three to five acres. Ample space should be allowed around development to allow for a buffer zone. If possible, water should be available every six miles.
Parking	the assembly areas or jump off points should be large enough to park vehicles and stock trailers. If the assembly area is also the base camp facility, it should be a minimum of 20 acres with the necessary basic facilities such as water and toilets.

FOOTNOTES

1. Clawson, Marion. *Land and Water for Recreation, Policy Background Series.* Rand McNally and Co., 1963, p. 19.

2. *Ibid.* P. 67.

3. Butler, George D. *Standards for Municipal Recreation Areas.* National Recreation Association. Revised edition, 1962, p. 6.

4. *Ibid.* P. 19.

5. *Space in New Neighborhoods.* National Recreation Association, 1939, p. 15.

6. *A Guide for Planning Facilities for Athletics, Recreation, Physical and Health Education.* Prepared by the Athletic Institute, 1947, p. 23.

7. Butler, p. 31.

8. *Municipal Auditoriums and the City Plan.* American Society of Planning Officials, Planning Advisory Service Information Report No.7, October 1949.

9. Butler, p. 30.

10. *A Guide for Planning Facilities for Athletics, Recreation, Physical and Health Education.* Athletic Institute, p. 101.

11. *Ibid.* P. 101.

12. *California Public Outdoor Recreation Plan.* Conducted by the California Public Outdoor Recreation Committee, 1960. Part I, pp. 46-48; Part II, pp. 48 and 84.

13. Butler, p. 32.

14. "Boats — In and Out of Water." In *Boating Facilities*, Outboard Boating Club of America, February 1964, p. 16.

15. *Standards of Recreational Facilities.* Bureau of Governmental Research, University of Washington, 1946.

16. Butler, George D. *Recreation Areas.* National Recreation Association, 1958, p. 166.

17. Planning and Building the Golf Course. National Golf Association, p. 20.

18. *Ibid.* P. 22.

19. *Golf Operators Handbook.* National Golf Foundation, p. 70.

20. *Ibid.* P. 69.

21. Wood, Samuel E. "Recreation Planning in Natural Resource Areas." Presented at the Conference of the American Society of Planning Officials, Minneapolis, 1959.

22. All statistics for picnicking were presented in the *California Public Outdoor Recreation Plan.*

23. *California Public Outdoor Recreation Plan.* Part II, p. 85.

24. *ASPO Newsletter,* September 1956, p. 67.

25. *California Outdoor Recreation Plan,* Part II, p. 85.

O28-18 cont.

Appendix A

ROCKLAND COUNTY RECREATION STUDY SPACE REQUIREMENTS FOR A PLAYGROUND

	Required Space, Square Feet	
Area	**Minimum**	**Maximum**
Tot lot	5,000	10,000
Apparatus area	4,000	8,000
Wading pool	5,000	10,000
Free play area	10,000	25,000
Multi-use paved area	20,000	30,000
Field games	120,000	180,000
Court games	40,000	80,000
Quiet activities	6,000	10,000
Older adult areas	3,000	5,000
Shelter house	4,000	8,000
Landscaping	10,000	20,000

TOTAL	**227,000 (5.24 acres)**	**386,000 (8.29 acres)**

Source: *Recreation Study and Facility Plan*, Rockland County (N.Y.) Planning Board, September 1960, p. 34.

Appendix B

SPACE REQUIREMENTS FOR TYPICAL PLAYFIELD

Area	Acres	
	Minimum	**Maximum**
Fields for baseball, softball, football, and track	8	12
Tennis courts, horseshoes, basketball, volleyball, and shuffleboard	1	2
Tot lot and children's playground	2	3
Area for lawn games	1	2
Passive recreation area, including picnic benches and tables	1	3
Shelter with toilets and drinking water	1/2	1
Landscaped buffer areas	1	2
Swimming pool with a bath house	1/2	1
Off-street parking area	1	2
TOTAL	**16**	**28**

Source: Recreation Study and Facility Plan. Rockland County (N.Y.) Planning Board, September 1960, p. 35.

Appendix C

FACILITIES RECOMMENDED FOR THE COMMUNITY PARK

Facilities	Area in Acres	
	Park & School	**Park Separate**
Playlot and mothers' area	.25	.25
Play area — elementary school children	.35	.35
Field for sports	1.00	7.00
Paved area for court games	1.35	2.00
Concrete slab for skating and dancing	.15	.15
Family and group picnic	3.00	3.00
Park area for free play	2.00	4.00
Area for special events	1.00	1.00
Community center building	.75	1.00

O28-18 cont.

Regulation swimming pool	.50	1.00
Natural area	2.50	2.50
Older people's center		
Turfed area	2.00	2.00
Paved area	.10	.10
Building space	.10	.10
Off-street parking	1.00	1.5
Landscaping (25 per cent of site is transitional areas and perimeter buffer)	4.01	6.55
Night lighting		.25
TOTAL	**20.06**	**32.75**

Source: *Guide for Planning Recreation Parks in California*. California Committee on Planning for Recreation, Park Areas and Facilities, 1956, p. 58.

Appendix D

CITY-WIDE RECREATION FACILITIES SUGGESTED SPACE STANDARDS — SERVICE POPULATION OF 100,000

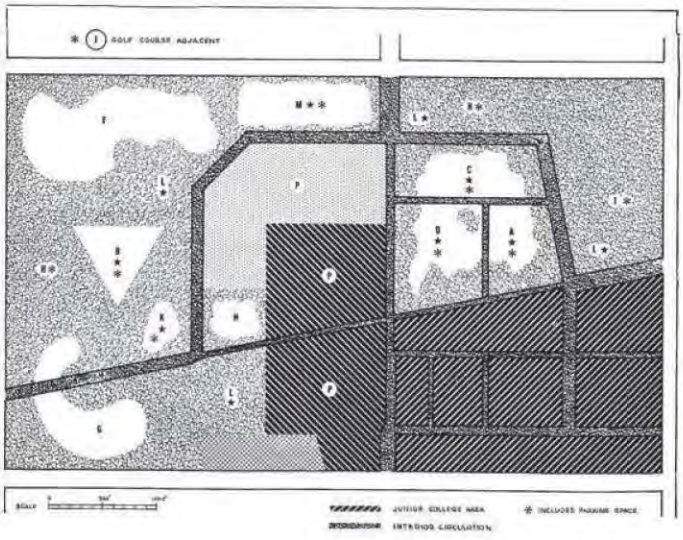
Facilities	Total Acreage, Including Parking	Parking Provided[a]	
		Number of Automobiles	Acreage Required
Cultural Center (adjoining a major educational institution when practical)			
(A) *Drama and music center (auditorium seating 1,000; intimate hall for chamber music)	10	300	2.1
(B) *Outdoor theater	20	600	4.2
(C) *Junior museum (science, crafts, art center)	15	30	.2
(D) * Museum; art center with art gallery and studios for painting, sculpture, and crafts; floral display hall	15	300	2.1
(E) Landscaping: 25 per cent of total acreage of items starred	15	. . .	. . .
	75	**1,250**	**8.6**
Recreation Park			
(F) Open meadow area	30	. . .	. . .
(G) Natural areas, trails, lake or water course	45	150	1.0
(H) Picnic and barbecue areas (family and group)	30	300	2.1
(I) Day and weekend camping	30	300	2.1
(J) Golf courses (one 18-hole course — 160 acres) Four courses provided on following basis: One 18-hole course for 20,000 population, plus one 18-hole course for each 30,000 thereafter	640	1,600	11.2
(K) *Children's wonderland (combined with children's zoo)	5	10	.7

O28-18 cont.

(L) *Play area for preschool children and apparatus section (four of each, widely separated)	3	. . .	. . .
(M) *Adaptable space for circus, carnivals, outdoor conventions	20	600	4.2
(N) Corporation yard	10	. . .	. . .
(E) Landscaping: 25 per cent of total acreage of items starred	70	. . .	. . .
	883	**3,050**	**21.3**

a The parking standard proposed assumes joint use of parking areas. Allowance of 300 square feet per automobile.

Facilities	Total Acreage, Including Parking	Parking Provided	
		Number of Automobiles	Acreage Required
Sports Center			
(P) Stadium, swimming pool, athletic fields, courts	50	1,300	9.0
Civic Center			
Administrative offices, auditorium and exhibition hall	30	600	4.2
Plazas and Squares			
20 per cent of commercial district			
Greenbelts			
Strip parks and tree-lined walks connecting squares, neighborhood recreation centers, community and city-wide recreation parks, and the civic center			
Tree-lined boulevards and parkways linking larger parks			
Waterfront developments along ocean, bays, lakes, and rivers			

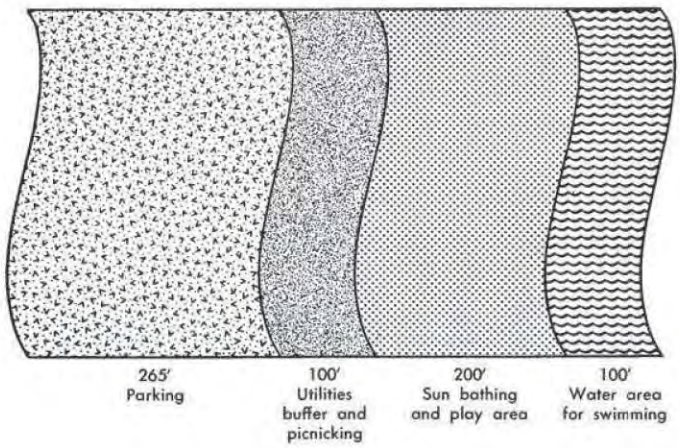


Source: *Guide for Planning Recreation Parks in California*, California Committee on Planning for Recreation, Park Areas and Facilities, 1956.

O28-18 cont.

Appendix E

Standard for Shoreline Swimming



Appendix E, above, shows 25 "effective feet" of shoreline in the vertical dimension, the standard used for shoreline swimming. It provides for 6,525 square feet of parking space, 2,500 square feet of buffer and picnicking area, 5,000 square feet of sunbathing and play area, and at least 1,000 square feet of water area for swimming. It is designed to accommodate 50 persons at one time — the number that can be expected on a normal Sunday in the middle of the swimming season. During the entire day, 150 persons could be accommodated, as a turnover rate of three may be expected.

The effective foot as a standard for shoreline swimming areas was derived from a study of attendance figures at a great number of recreation areas. It is based upon the number of persons on an "optimum day" rather than on a "peak day." The optimum day was determined by considering the eight most crowded days of the year; of these, the three most crowded were eliminated (they represent the peak days, when people more or less expect to be crowded) and the remaining five were averaged to give the optimum day. It would, of course, be ideal to have no peak days when areas are overcrowded, but this was considered to be unrealistic.

In general, the optimum day, derived from the mean of the five specified days, often closely approximated the median, or sixth day. If the sixth most heavily used day at a recreation area was less than 70 percent of the first, or peak day, the area and its facilities were considered to be adequate for the present; if the sixth day showed attendance figures that were approximately 70 percent of the peak day, the area was barely adequate; if greater, it was being overused and overcrowded.

The effective foot as determined in this manner gives a measure of the swimming area and facilities necessary to accommodate the needs of the population. By these standards, recreation plans should provide for each 1,000 persons in the population to have available 25 effective feet of shoreline for swimming. In warm climates, one effective foot will furnish many more user days of swimming than it will supply in colder climates, as there will be many more days in which it is comfortable to swim. It is likely that in northern climates, the 25 effective feet are not quite sufficient, as the few good swimming days will tend to call more of the population to the beach at one time.

Source: *California Public Outdoor Recreation Plan*, Part II, p. 48.

O28-18 cont.

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O28-18 cont.

From: Scott Culbertson [mailto:scott@ballonafriends.org]
Sent: Thursday, February 01, 2018 3:44 PM
To: Wildlife Ballona Wetlands Ecological Reserve EIR <BWERcomments@wildlife.ca.gov>; daniel.p.swenson@usace.army.mil
Cc: Shelley Luce <sluce@healthebay.org>; Bruce Reznik <bruce@lawaterkeeper.org>; Tori Kjer <Tori.Kjer@tpl.org>; Craig W. Cadwallader <craigc@surfrider-southbay.org>; Samuel.Liu@sen.ca.gov; lauren.pizermains@sen.ca.gov; Allison Towle <allison.towle@sen.ca.gov>; councilmember.bonin@lacity.org; David.Grahamcaso@lacity.org; Anna Kozma <Anna.Kozma@lacity.org>; Brandon.Stansell@asm.ca.gov; chris_barwick@feinstein.senate.gov; Peter_Muller@feinstein.senate.gov; jrivera-olivas@bos.lacounty.gov; jwilson@bos.lacounty.gov; mwaronek@bos.lacounty.gov; Joey.Apodaca@mail.house.gov; nicolas.rodriguez@mail.house.gov; Karly Katona <KKatona@bos.lacounty.gov>; FRamirez@bos.lacounty.gov; mpestrel@ladpw.org
Subject: DEIR Comment Letter from the Wetlands Restoration Principles Coalition

Dear Mr. Brody and Mr. Swenson:

The Wetlands Restoration Principles Coalition Steering Committee, made up of five leading environmental organizations in Southern California representing more than 25,000 members, has come together to support robust science-based restoration of the Ballona Wetlands Ecological Reserve. The Coalition organizations strongly support the restoration plans described in the attached document.

Countless hours of scientific study and deliberation went into the preparation of our comments. Speaking on behalf of the Wetlands Restoration Principles Coalition Steering Committee, I urge you to evaluate and consider our analysis in your preparation of the final EIR.

O28-19

Sincerely,

Scott Culbertson

--

Scott H. Culbertson | Executive Director

Wetland Restoration Principles

Wetlands are essential for our environmental and economic well-being.

They provide nursery, shelter, and feeding grounds for fish and wildlife; purify water through filtration of pollutants; recycle nutrients; and provide a place where people love to walk, recreate, and learn. Wetlands help buffer against the impacts of climate change by protecting us from flooding, storing carbon from the atmosphere, and maintaining vulnerable plant and animal communities.[i]

Southern California has lost approximately 95% of its historic coastal wetlands, often due to infill and development. Much of the remaining wetland habitat in our densely urbanized region has been filled in and built upon, and is thus destroyed or highly degraded. [ii]

O28-20

Projects that incorporate the nine fundamental principles of wetland restoration are supported by the following organizations:

Heal the Bay
SURFRIDER FOUNDATION
FRIENDS OF BALLONA WETLANDS
ENVIRONMENT CALIFORNIA
Ocean Conservancy
ANHGOS DE LOS RIOS
WILDCOAST COSTASALVAJE
FRIENDS OF THE LA RIVER
The RIVER PROJECT
THE TRUST FOR PUBLIC LAND
LMU LA Center for Urban Resilience
Friends of Madrona Marsh

See reverse for the full text of the nine Wetland Restoration Principles

wetlandsrestoration.org

Wetland Restoration Principles

The following nine principles are essential elements of any comprehensive wetland restoration program.

1.

Restoration projects should bring back the natural processes and functions of healthy wetlands, using broadly accepted scientific evidence of historic, present and potential conditions to set ambitious and achievable restoration goals and quantifiable measures of success.

2.

Restoration projects should have clear environmental goals and be based on critical scientific evaluation of all feasible alternatives.[iii]

3.

Restoration projects should aim for and achieve outcomes that are representative of the historical ecology of the wetlands before development, take into account the current constraints and adjacent human uses, and maximize the most valuable long-term benefits for plants and animals.

4.

Restoration work should be conducted in the manner that most effectively and efficiently meets restoration goals. Wetland restoration projects can range in size and scale, and may require significant earth-moving activities to restore wetland functions. Short-term disruptive activities should only be employed if sensitive areas and native plants and wildlife are safeguarded in the process (e.g. appropriate seasonal timing, monitoring, temporary relocation of plants and animals when necessary).[iv]

5.

Wetland restoration efforts should consider watershed hydrology that may impact the project site and function, such as upstream water quality and flow volumes.[v]

6.

Restoration efforts should involve sound scientific monitoring to establish baseline environmental characteristics and track site response to the restoration activities.

7.

Restoration efforts should consider climate change projections and be designed with a dynamic climate in mind, taking into account projected sea level rise for coastal wetlands.[vi]

8.

If public facilities are proposed as part of a wetland restoration project, they should be consistent with the restoration goals, and should not impair native wildlife or the planned ecological functions of the wetland. Public facilities, such as public access opportunities for education and enjoyment, should be well regulated and compatible with both the site and the surrounding community in terms of scale, design, and function.

9.

Wetland restoration project planning and implementation should involve all interested stakeholders in a process where public input and discussion opportunities are provided.

O28-20 cont.

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wetlandsrestoration.org

The Steering Committee of the Wetlands Restoration Principles Coalition

February 1, 2018

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Dear Mr. Brody and Mr. Swenson:

The Wetlands Restoration Principles Coalition Steering Committee, made up of five leading environmental organizations in Southern California representing more than 25,000 members, has come together to support robust science-based restoration of the Ballona Wetlands Ecological Reserve. The undersigned Coalition organizations strongly support the restoration plans described in Phase 1 of Alternative 1, with various important amendments. The Steering Committee members determined that Phase 1 of Alternative 1 with amendments best achieves the nine restoration principles laid out by the Coalition in 2015 (see attachment). Coalition members are also submitting separate letters with individual comments on the various Alternatives.

O28-20 cont.

We thank you for providing this analysis. This project will be the most important environmental restoration and public access project ever undertaken for the residents of Los Angeles County.

The 21st Century has brought good news for wetlands up and down the California coast. According to the California Coastal Conservancy, two hundred restoration projects have been completed and one hundred more are in progress for a total of 50,000 acres. Plus 50 more are privately financed as mitigation. They are all precious links along the Pacific Flyway, nurseries for the fish of the Pacific and its bays and estuaries, and the breeding ground for the various plants and animals that sustain the circle of life. It is far past time for the Ballona Wetlands to be restored. They are the largest wetlands between Point Mugu and Bolsa Chica, but have deteriorated to the point where they can no longer sustain vital functions.

In our comments below, the Coalition Steering Committee has addressed habitat and public access issues equally. There are obvious tensions between the goals of creating healthy, protected habitat and allowing human access, but we believe we have suggested good solutions to that problem in our comments. We support generous access points, bicycle and walking trails, and even an additional public access area not addressed explicitly in Alternative 1, Phase 1 but consistent with the project as described. We also have, however, designated areas where public access should be limited by the presence of endangered species and delicate portions of the new ecosystem. We think that well designed trails will also create the means to monitor the area and protect it from illicit activity.

Human needs and nature's needs have been severely unbalanced for over 100 years, with humans the dominant species. We believe a robust restoration at Ballona will restore nature's balance to the ultimate benefit of residents and visitors who will come to understand and enjoy this beautiful place between land and sea.

As the Draft Environmental Impact Report/Statement (EIR/S) succinctly summarizes:

"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."

While supporting the overall goals of the Draft EIR/S, the Coalition Steering Committee also supports the following objectives for the Reserve as a whole:

1. Protect, optimize, enhance and create diverse habitats for native plants and wildlife throughout Ballona including wetland, riparian, dune and upland environments.
2. Maximize and enhance wetland acreage and function. Also maximize diversity of created/restored wetland habitats, i.e. low, mid, and high marshes, salt pan, and brackish marsh.
3. Increase watershed connectivity.
4. Create nurseries for fish and nesting habitat for birds.
5. Manage for rare and sensitive species.
6. Create well-regulated trails for public access and educational opportunities that are compatible with ecological goals.
7. Ensure long-term RESILIENCE and sustainability with estimated future sea level rise.
8. Reduce habitat fragmentation by providing wildlife travel corridors to minimize wildlife injury and mortality from vehicles.
9. Safeguard wildlife and minimize losses during construction.
10. Provide safe public access to the Reserve including trails, bike paths and rest stops, overlooks, wayfinding, shade structures, information kiosks, restrooms, drinking water, public transit stops and parking.

O28-20 cont.

To the extent that the Draft EIR/S supports these objectives, **the Wetlands Restoration Principles Steering Committee supports a Project with the following elements including the amendments and safeguards and as generally mapped in the drawings attached:**

Area A: We support the restoration of Area A presented in Alternative 1 Phase 1 with a few minor changes. The 14 feet of fill covering Area A should largely be removed and the existing levees should be replaced with new perimeter levees as described. We support a public access system with separate bicycle and walking trails as shown in Alternative 1 Phase 1. We support a trailhead at a parking structure with adequate visitor-serving parking and restrooms for the numbers of visitors that are anticipated to be attracted to the new Ballona public access system.

Our support for this Alternative is based upon the inclusion of the following changes and additions:

1. Survey for rare and sensitive plants and animals and plan for their relocation before removing topsoil.
2. Include a plan for relocating wildlife displaced by restoration activities.
3. Ensure that topography allows for vegetated wetlands to thrive and provide increased water filtration capabilities, while also supporting a diversity of wetland habitats, i.e. low, mid, and high marshes, salt pan, and brackish marsh.
4. Ensure that there is adequate nesting and foraging habitat for the Belding's Savannah Sparrow.
    a. Pickleweed habitat cover in Area A should be equal to or greater than currently present in West Area B.

   b. Use principles of Minimum Viable Population to estimate the number of nesting pairs required for a viable, sustainable population size and ensure that the population will be protected from future disturbances.
   c. Provision of the appropriate wetlands vegetation habitat is very important as it is possible that West Area B will be inundated due to sea level rise.
5. Align primary trailhead and trails with visitor services and parking.
6. Provide a plan for the likely placement of interpretive panels along walking paths, viewing platforms, etc. that are compatible with restoration goals and maximize interpretive opportunities for schools.
7. Ensure that the number of parking spaces provided is adequate for the expected number of visitors to the Reserve.[1] A parking study should determine the correct number of spaces for the anticipated number of visitors to the Reserve. The study should address the need for time limits to reduce unintended parking uses and alternative transportation options.
8. Include bathroom facilities at the primary trailhead in Area A comparable to those at the Upper Newport Back Bay Nature Preserve. Bathrooms are critical to encourage visitors to use proper facilities by increasing convenience. The type of structure should be determined based on budget, operations, and maintenance plans for the site.
9. Create wildlife corridors. Provide more details on bridge design and vegetation. Safe travel corridors over roads are needed not only for people, but also wildlife to help reduce habitat fragmentation and roadkill. Use known principles of wildlife corridor design to determine the cover and type of native vegetation needed.
10. Address more directly how upstream water quality improvement projects are compatible with the restoration goals for water quality and sediment loads. Provide more information about how the project design will handle changes, including in terms of the extent of monitoring that will occur. While we recognize that much of the Ballona Creek Watershed is beyond the scope of the restoration project, it is reasonably foreseeable that the timing, scope and overall approach of projects and planning efforts happening upstream to address environmental concerns, including the Ballona Creek Bacteria TMDL Project and Ballona Creek Enhanced Watershed Management Program, will affect water quality and sediment loading downstream. We strongly recommend a cumulative impacts and sensitivity discussion to disclose the impacts, both positive and negative, of upstream projects on the project site.

O28-20 cont.

Area C: We support the plans for Area C presented in Alternative 1 Phase 1 with a few minor changes. We support the restoration of native upland vegetation where mostly weeds now exist, as well as the addition of walking trails, one major trailhead with parking, and several secondary trailheads. We believe the walking trails will reduce crime and homeless encampments by enhancing the area with greater visibility, law enforcement, and passive recreational opportunities.

Our support for this Alternative is based upon the inclusion of the following changes and additions:

1. Survey for rare and sensitive plants and animals and plan for their relocation before depositing fill.
2. Create a viewing area in South Area C overlooking the Centinela Creek convergence with Ballona Creek for birding. Consider adding benches and scopes for people to view the birds in this area.
3. Create wildlife corridors. Provide more details on bridge design and vegetation. Safe travel corridors over roads are needed not only for people, but also wildlife to help reduce habitat fragmentation and roadkill. Use known principles of wildlife corridor design to determine the cover and type of native vegetation needed.

If the Little League baseball fields remain inside the reserve, then the following changes should be made to their management:

1. The fields, parking lots and surrounding grounds must be maintained, to encourage environmental stewardship.

[1] In their report, Standards for Outdoor Recreation Areas (https://www.planning.org/pas/reports/report194.htm), the American Planning Association outlines basic standards for amenities at public facilities.

2. Access should be open to the larger community throughout the year, and parking should be allowed on the lot for visitors to Area C walking trails.
3. Prevent negative environmental and community impacts by increasing patrols by enforcement agencies.
4. Restore as much of the existing area as possible to native uplands vegetation.

North Area B: We support the removal of the levee wall in North Area B as described in Alternative 1 Phase 1 and the addition of a meander to the creek in this area. We also support enhancing public access along the roads in North Area B with walking and biking trails on the new levee paralleling Culver Blvd. and joining with the existing levee wall further to the west where the tide gates are located. We also support the addition of a bridge for bike and walking connection between Area A and North Area B.

Southeast and South Area B: We support the restoration of Southeast and South Area B west of the freshwater marsh as presented in Alternative 1 Phase 1 with a few changes. Creating small tidal channels as proposed in this area will enhance the habitat for native species and possibly support increased numbers of endangered and threatened species in this underperforming wetlands area. We support the protection of the eucalyptus patch to protect Monarch Butterflies, but it should not be allowed to spread further.

Our support for this Alternative is based upon the inclusion of the following changes and additions:

1. Modify proposed channel location to protect Willow Thickets along Bluff from salt water inundation, both on the surface and in groundwater.
2. Do not build berm that prevents brackish marsh from spreading naturally from the freshwater marsh culvert.
3. Ensure that topography allows for vegetated wetlands to thrive and provide additional water quality filtration, and also for a diversity of wetland habitats, i.e. low, mid, and high marshes, and brackish marsh.
4. Remove invasive non-native pampas grass, and other invasive species.
5. Maximize vegetated wetland acreage, especially to create nesting and foraging habitat for Belding's Savannah Sparrow.

O28-20 cont.

East Area B: We support the Alternative 1 Phase 1 plan to protect seasonal wetlands in East Area B. To maximize wetland habitat, East Area B should not be buried with fill.

Our support for this Alternative is based upon the inclusion of the following changes and additions:

1. Add major pedestrian and bike path around East Area B as per Alternative 2 Public Access Plan.
2. Remove non-native vegetation.
3. Daylight this portion of the culvert from Ballona Freshwater Marsh to Ballona Creek to allow freshwater to reach seasonal wetland area and allow for riparian and/or brackish habitat to develop, recognizing that rainfall and tidal influences will affect this dynamic area over time.

West Area B: We support the Public Access Plan of Alternative 1, Phase 1 in West Area B. We support the monitoring and protection of Belding's Savannah Sparrow nesting and foraging habitat. We support removal of Gas Company infrastructure.

Our support for this Alternative is based upon the inclusion of the following changes and additions:

1. Survey for rare and sensitive plants and animals and plan for their relocation before depositing fill.
2. Provide bathroom facilities at this primary trailhead comparable to those at the Newport Back Bay Nature Preserve.
3. Provide additional details on the detention basins for storm-water runoff planned in West Area B.
4. Protect existing wetlands habitat and endangered and threatened species as long as possible while expanding their presence in other parts of Ballona.

5. Assure that the connection of the last remaining dunes habitat to the adjacent wetlands is protected.
6. Restrict public access through the sensitive dune habitat that currently hosts the Federally endangered El Segundo Blue Butterfly. This area should not have a public trail.
7. Address more directly how upstream water quality improvement projects are compatible with the restoration goals for water quality and sediment loads. Provide more information about how the project design will handle changes, including in terms of the extent of monitoring that will occur. While we recognize that much of the Ballona Creek Watershed is beyond the scope of the restoration project, it is reasonably foreseeable that the timing, scope and overall approach of projects and planning efforts happening upstream to address environmental concerns, including the Ballona Creek Bacteria TMDL Project and Ballona Creek Enhanced Watershed Management Program, will affect water quality and sediment loading downstream. We strongly recommend a cumulative impacts and sensitivity discussion to disclose the impacts, both positive and negative, of upstream projects on the project site.
8. Extend pedestrian access trail down the north side of Culver Blvd. and connect to the existing trail leading to the Viewing Platform.
9. Provide more information about the access road in West Area B to demonstrate the need for this development. If the road is not required for emergency use, then it should be eliminated from the plan.
10. Provide additional sources and information for Draft EIR/S conclusions on sea level rise impact. Include sea level rise impact on surrounding community and how that will affect Ballona.
11. Investigate increased tidal flow by modifying tide gates to allow some additional flow into West Area B and increase tidal inundation of the salt pan without losing Belding's Savannah Sparrow nesting or foraging habitat or flooding roads/nearby development.

O28-20 cont.

The Coalition Steering Committee thanks you for your work, and would be pleased to answer any questions and to help with efforts to facilitate the restoration work ahead.

Sincerely,

The Wetlands Restoration Principles Steering Committee:

Friends of Ballona Wetlands

Scott Culbertson, Executive Director
scott@ballonafriends.org

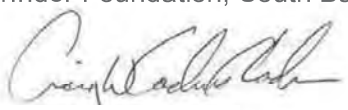
Heal the Bay

Shelley Luce, D.Env., President & CEO
sluce@healthebay.org

Los Angeles Waterkeeper

Bruce Reznik, Executive Director
bruce@lawaterkeeper.org

Surfrider Foundation, South Bay Chapter



Craig W. Cadwallader
craigc@surfrider-southbay.org

Trust for Public Land

Tori Kjer, Los Angeles Director
tori.kjer@tpl.org

Enclosure: Wetlands Restoration Principles

cc:

Senator Ben Allen
Samuel Liu, Deputy Chief of Staff Samuel.Liu@sen.ca.gov
Lauren Pizer Mains, District Representative lauren.pizermains@sen.ca.gov
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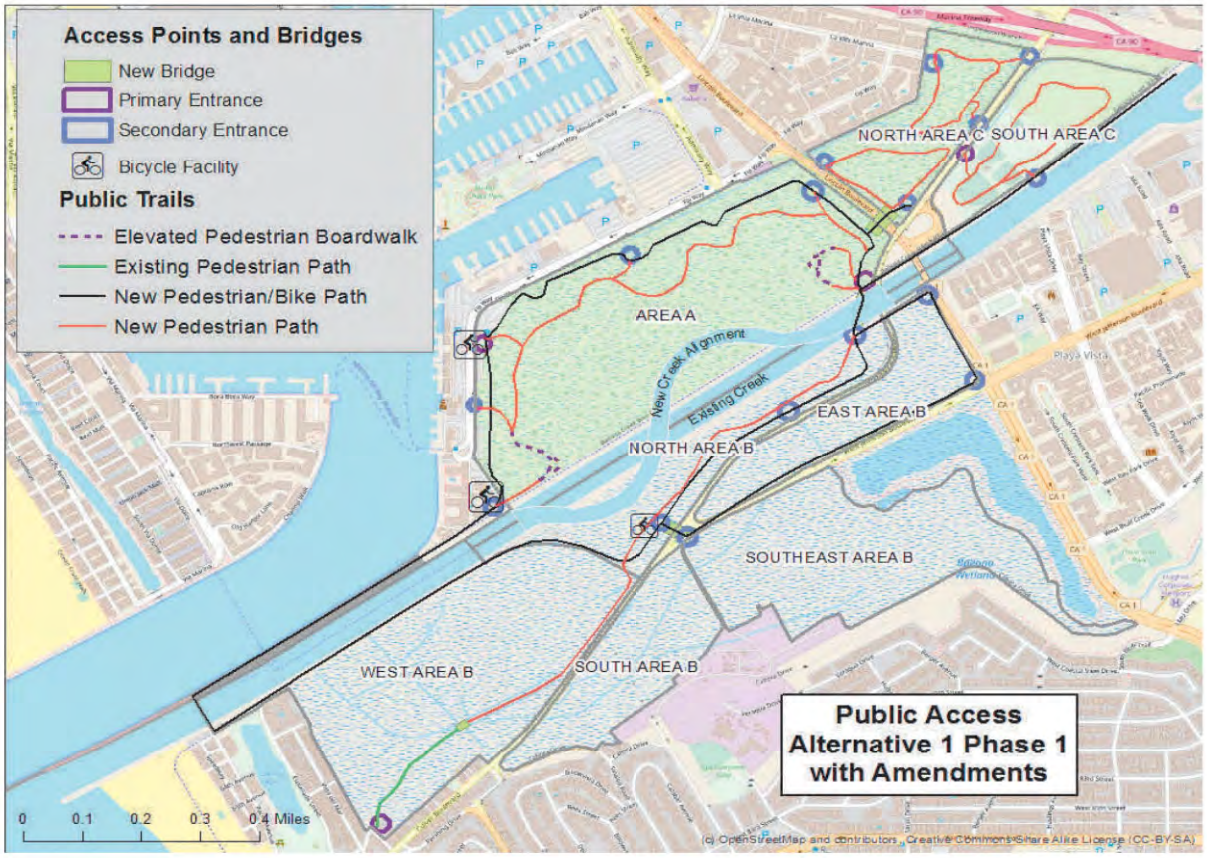
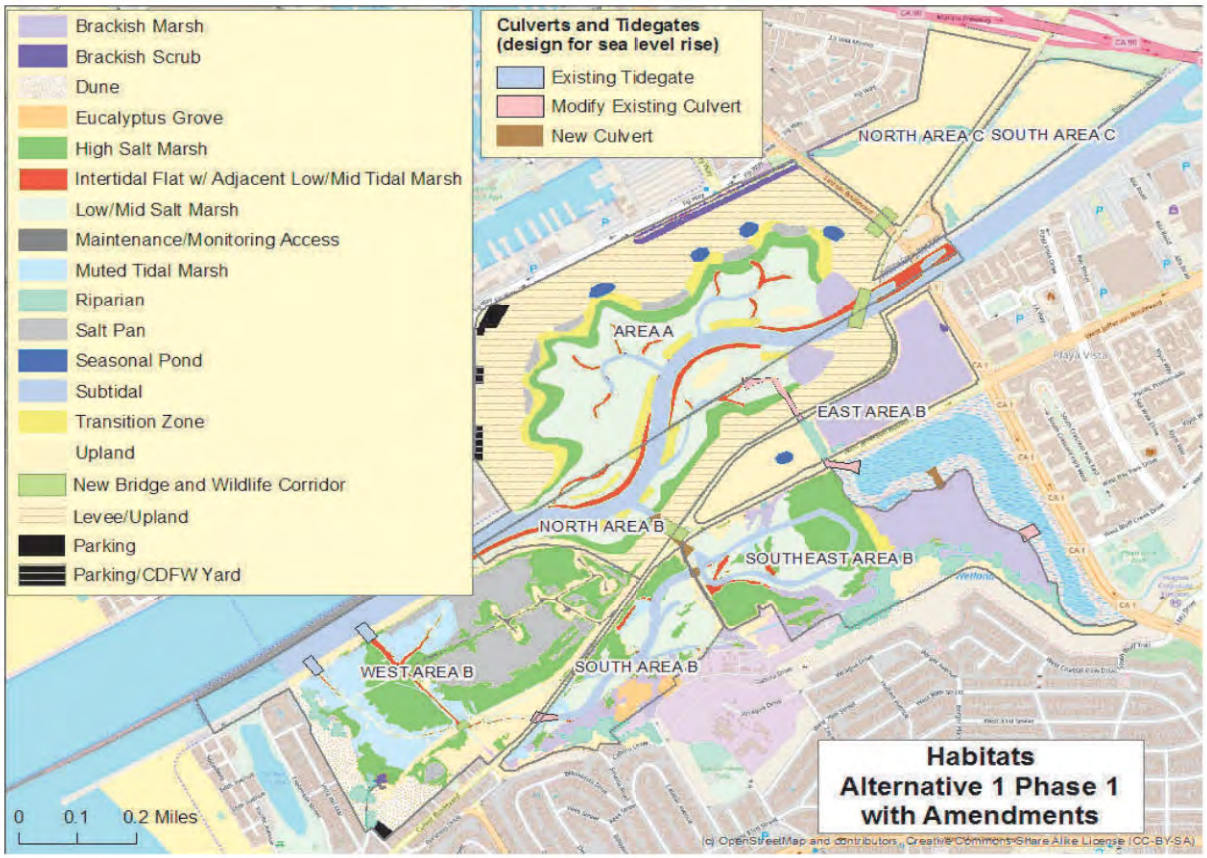
Fernando Ramirez, Special Assistant/Policy Advisor FRamirez@bos.lacounty.gov

Mark Pestrella, Director, County of Los Angeles Public Works mpestrel@ladpw.org

O28-20 cont.


Access Points and Bridges
New Bridge
Primary Entrance
Secondary Entrance
Bicycle Facility
Public Trails
Elevated Pedestrian Boardwalk
Existing Pedestrian Path
New Pedestrian/Bike Path
New Pedestrian Path
NORTH AREA C
SOUTH AREA C
AREA A
New Creek Alignment
Existing Creek
EAST AREA B
NORTH AREA B
SOUTHEAST AREA B
WEST AREA B
SOUTH AREA B
Public Access
Alternative 1 Phase 1
with Amendments
0 0.1 0.2 0.3 0.4 Miles
(c) OpenStreetMap and contributors, Creative Commons-Share Alike License (CC-BY-SA)


Brackish Marsh
Brackish Scrub
Dune
Eucalyptus Grove
High Salt Marsh
Intertidal Flat w/ Adjacent Low/Mid Tidal Marsh
Low/Mid Salt Marsh
Maintenance/Monitoring Access
Muted Tidal Marsh
Riparian
Salt Pan
Seasonal Pond
Subtidal
Transition Zone
Upland
New Bridge and Wildlife Corridor
Levee/Upland
Parking
Parking/CDFW Yard
Culverts and Tidegates
(design for sea level rise)
Existing Tidegate
Modify Existing Culvert
New Culvert
NORTH AREA C
SOUTH AREA C
AREA A
EAST AREA B
NORTH AREA B
SOUTHEAST AREA B
WEST AREA B
SOUTH AREA B
Habitats
Alternative 1 Phase 1
with Amendments
0 0.1 0.2 Miles
(c) OpenStreetMap and contributors, Creative Commons-Share Alike License (CC-BY-SA)

O28-20 cont.

From:	Neysa Frechette
To:	Wildlife Ballona Wetlands Ecological Reserve EIR; daniel.p.swenson@usace.army.mil
Subject:	Comments on DEIR for BWER
Date:	Monday, February 5, 2018 2:17:36 PM
Attachments:	Endorsement in Support of a Restoration in BWER.csv Endorsement in Support of a Restoration in BWER.pdf

Dear Mr. Brody and Mr. Swenson,

Please find the attached list of names and letters in support of robust and science-based restoration of the Ballona Wetlands Ecological Reserve.

These comments of support were submitted through the goggle form that can be found at this link: https://docs.google.com/forms/d/1G7KwHkVMM-YaL6dtxgyB89okUo0MtkoJm6-dTRL-xks/edit#response=ACYDBNiz4lVlCVF7xSIxagiCfAUzlO2N6xyxpNOLSHdlztifi8F_4_PHcuVQ8w

The form says the following:

Endorsement in Support of a Robust Science-based Restoration of the Ballona Wetlands Ecological Reserve

By submitting this form, I endorse a robust science-based restoration of the Ballona Wetlands based on the Wetlands Restoration Principles (www.wetlandsrestoration.org), written by the Coalition including Heal the Bay, Friends of Ballona Wetlands, LA Waterkeeper, Trust for Public Land, and Surfrider Foundation.

Together we encourage the Department of California Fish and Wildlife to:

1. Protect, enhance and create diverse habitats for native plants and wildlife. Optimize diversity and enhance quality of wildlife habitats throughout Ballona, including wetland, riparian, dune, and upland environments.
2. Maximize and enhance wetland acreage and function. Also maximize diversity of created/restored wetland habitats, i.e. low, mid, and high marshes, salt pan, and brackish marsh.
3. Increase watershed connectivity.
4. Create nurseries for fish and nesting habitat for birds.
5. Manage for rare and sensitive species.
6. Create public access that is open, accessible, and welcoming to all people throughout Los Angeles using well-regulated trails for public access and educational opportunities that are compatible with restoration goals that protect habitat.
7. Ensure long-term resilience and sustainability with estimated future sea level rise.
8. Reduce habitat fragmentation by providing wildlife travel corridors to minimize wildlife injury and mortality from vehicles.
9. Safeguard as much wildlife as possible and minimize losses.
10. Use appropriate measures of law enforcement to protect Ballona from trespassing, dumping, and other negative impacts.

O28-21

Thank you for considering these comments,

--

Neysa Frechette

Field Biologist and Outreach Manager
Friends of Ballona Wetlands
(310)306-5994

Letter O28: Wetlands Restoration Principles Coalition Steering Committee

O28-1 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding the Lead Agencies' decision to extend the comment period to 133 days.

O28-2 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.2), regarding the request for additional public meetings.

O28-3 See Response O28-1.

O28-4 See Response O28-2.

O28-5 The stated support for Phase 1 of the Project is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. Responses to individual partner agencies' letters are provided in this Section 2.3.6.

O28-6 The contextual information provided about California coastal wetlands and support for and timeliness of the current proposal to restore the Ballona Wetlands is acknowledged.

O28-7 Support for an appropriate balance of habitat restoration and improved public access to the Ballona Reserve is acknowledged. This is consistent with the approach taken among the restoration alternatives analyzed in the Draft EIS/EIR. See, e.g., Response I37-3 for more information about the existing and proposed balance of restoration, public access, and law enforcement within the Ballona Reserve.

O28-8 The stated support for additional habitat diversity, maximizing and enhancing wetland acreage and function, increasing watershed connectivity, creation of aquatic nursery and avian nesting habitats, species management, compatible and safe public access and use, ensuring resiliency and sustainability, and reducing habitat fragmentation is acknowledged. These additional objectives appear consistent with the goals and objectives of the Project set forth in Draft EIS/EIR Section 1.1.

O28-9 General support for the restoration of Area A as described in Alternative 1 Phase 1 is acknowledged. Opinions about the amount of fill to be removed and suggestions about wildlife surveys, planning, and movement; public access plan revisions; and visitor-serving amenities such as parking and restrooms, also are acknowledged. These ideas are now part of the record of information that will be considered as part of CDFW's decision-making process, but have not been incorporated into the Project. See responses to Letters O13, O15, O16, O10, and I56 for more detailed responses regarding impacts to sensitive plant and animal species, impacts to wetland habitats, water quality, and plans for public access and visitor facilities. Compatibility of upstream water quality projects with the proposed project design is beyond the scope of this EIR, which considers the potential impacts of the Project and alternatives.

O28-10 General support for the restoration of Area C as described in Alternative 1 Phase 1 is acknowledged. Suggestions about wildlife and plant surveys, planning, and movement and additional visitor-serving public access amenities also are acknowledged. These ideas are now part of the record of information that will be considered as part of CDFW's decision-making process.

O28-11 Potential changes in the management of the ball fields are beyond the scope of this EIR, which focuses on the proposed restoration of the Ballona Reserve as described in the Project and the alternatives described as Alternative 2 and Alternative 3. See Draft EIS/EIR Section 1.1, *Purpose and Need/Project Objectives*. However, existing management practices for the protection of wildlife (e.g., closing off access to areas with active nests) will continue. South Area C is planned for additional public access and passive recreation, See Draft EIS/EIR Figure 2-3, Alternative 1 Phase 2 Public Access Plan, and Section 2.2.2.3, *Alternative 1: Public Access and Visitor Facilities*. See Response I2-8 regarding post-restoration security. Under all proposed restoration alternatives, and even current management practices, it is CDFW's intent to do as much upland restoration as possible in North Area C. For additional information about the ball fields in the context of the proposed restoration, see General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6).

O28-12 Support for the restoration of North Area B as described in Alternative 1 Phase 1 is acknowledged.

O28-13 General support for the restoration of Southeast and South Area B as described in Alternative 1 Phase 1 is acknowledged.

O28-14 See Response O13-32 for issues related to impacts to willow habitat in Southeast Area B. Suggested additional protections for willow thickets, revision to the proposed berm relative to the Freshwater Marsh, attention to topographic changes, removal of invasive nonnative vegetation species, and maximizing habitat for Belding's savannah sparrow are acknowledged, but do not suggest that the EIR is inadequate or inaccurate. These ideas are now part of the record of information that will be considered as part of CDFW's decision-making process, but have not been incorporated into the Project.

O28-15 General support for the restoration of East Area B as described in Alternative 1 Phase 1 is acknowledged. See Response AS5-29 about fill placement in East Area B, and Response O16-15 regarding daylighting the culvert running through East Area B. Disagreement about the placement of fill and ideas about additional public access, non-native vegetation removal and daylighting the segment of culvert also are acknowledged. These ideas are now part of the record of information that will be considered as part of CDFW's decision-making process, but have not been incorporated into the Project.

O28-16 General support for the restoration of West Area B as described in Alternative 1 Phase 1 is acknowledged. Requests for the inclusion of the access road and use of the

tide gates as well as ideas about plant and animal surveys and requests for the inclusion of restrooms, trail extensions, additional stormwater basin details, and additional protections for existing habitats and species (including dune habitats and species) also are acknowledged. Additional infrastructure details will be available as the level of planning advances. The suggestions made in this comment are now part of the record of information that will be considered as part of CDFW's decision-making process, but have not been incorporated into the Project. Also, see Draft EIS/EIR Table ES-1 related to pre-disturbance surveys and protection of existing wetland habitat, Response AS5-29 related to fill placement in East Area B, and Response O16-24 related to restrooms, and Response O16-10 related to TMDLs.

Compatibility of upstream water quality projects with the restoration goals is beyond the scope of this EIR, which considers the potential impacts of the Project and alternatives. See General Response 6, *Hydrology and Water Quality* (Final EIR Section 2.2.6.1), regarding the TMDL and issues relating to sea-level rise. Cumulative water quality impacts are analyzed in Draft EIS/EIR Section 3.9.7.

O28-17 Receipt of the figures showing Alternative 1 Phase 1 as revised to include suggested public access revisions is acknowledged. See Final EIR Section 2.1.1, *Input Received*.

O28-18 Receipt of the Wetland Restoration Principles is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

O28-19 The stated support for restoration within the Ballona Reserve, and the restoration principles provided, are acknowledged and are part of the record of information that will be considered as part of CDFW's decision-making process.

O28-20 Receipt of this duplicate copy of the Wetland Restoration Principles is acknowledged.

O28-21 Receipt of the list of names and letters submitted as an endorsement of support for a robust, science-based restoration of the Ballona Reserve is acknowledged. This comment is part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

2.3.7 Responses to Individuals' Comments

The following pages contain the comment letters received from individuals and CDFW's associated responses.

-----Original Message-----
From: Saeed Ali, Netscape [mailto:saeedmaliali@netscape.net]
Sent: Wednesday, October 25, 2017 9:19 PM
To: BWERcomments@wildlife.ca.gov; Swenson, Daniel P CIV USARMY CESPL (US) <Daniel.P.Swenson@usace.army.mil>
Cc: patricia mc pherson <patriciamcpherson1@verizon.net>
Subject: [EXTERNAL] Ballona Wetlands Ecological Reserve Environmental Impact Report / Environment Impact Statement (EIR/EIS) -- REQUEST FOR A 120 EXTENSION OF THE COMMENT PERIOD.

I am writing to request that the Comment Period for the EIR/EIS in this instance is too limited and should be extended by at least 120 days (three months). I1-1

The area of Ballona Wetlands is the last remaining significant portion of the once-extensive coastal wetlands in Los Angeles county and along much of the southern California coast.

It is extremely important that the community at large but particularly in the immediate area of the Wetlands, like ours, have an opportunity to provide input on the EIR/EIS. This is specially relevant as the EIR/EIS - on first reading - appears to be a a combination of prior complete and incomplete but mostly inaccurate reports and unsubstantiated narrative. In this initial reading, it seems that the EIR/EIS reflect the various poorly - researched governmental reports over the last 13 years. I1-2
INSERT FAILURE/INTERFERENCE OF PROCESS, LACK OF TRANSPARENCY AND ACCOUNTABILITY , POLITICS AND:

There are several areas that require a detailed response. for example, the EIR/EIS Alternatives do not provide a reasonable alternative that would allow the Ballona Wetlands to function as a predominantly seasonal freshwater wetland. I1-3 Further, the DEIR/DEIS fail to include a hydrological analysis of Ballona itself and fails to account for the ongoing drainage and pumping out of Ballona's freshwaters by CDFW and the adjacent Playa Vista mega development site. Again, the EIR/EIS fails to inform its readers of the freshwater compromises already caused by the manmade features that have allowed saltwater intrusion nor does it provide any alternative to the intrusion. I1-4

Thank you for your attention

Saeed Ali
saeedmaliali@netscape.net <mailto:saeedmaliali@netscape.net>
Business address: 2554 Lincoln, No. 186, Venice CA 90291
310-493-0959

From:	Saeed Ali, Netscape
To:	Wildlife Ballona Wetlands Ecological Reserve EIR; daniel.p.swenson@usace.army.mil
Cc:	patricia mc pherson
Subject:	Ballona Wetlands Ecological Reserve Environmental Impact Report / Environment Impact Statement (EIR/EIS) -- REQUEST FOR A 120 EXTENSION OF THE COMMENT PERIOD.
Date:	Wednesday, October 25, 2017 9:18:24 PM

I am writing to request that the Comment Period for the EIR/EIS in this instance is too limited and should be extended by at least 120 days (three months).

The area of Ballona Wetlands is the last remaining significant portion of the once-extensive coastal wetlands in Los Angeles county and along much of the southern California coast. I1-5

It is extremely important that the community at large but particularly in the immediate area of the Wetlands, like ours, have an opportunity to provide input on the EIR/EIS. This is specially relevant as the EIR/EIS - on first reading - appears to be a a combination of prior complete and incomplete but mostly inaccurate reports and unsubstantiated narrative. In this initial reading, it seems that the EIR/EIS reflect the various poorly - researched governmental reports over the last 13 years. I1-6

INSERT FAILURE/INTERFERENCE OF PROCESS, LACK OF TRANSPARENCY AND ACCOUNTABILITY , POLITICS AND: I1-7

There are several areas that require a detailed response. for example, the EIR/EIS Alternatives do not provide a reasonable alternative that would allow the Ballona Wetlands to function as a predominantly seasonal freshwater wetland. Further, the DEIR/DEIS fail to include a hydrological analysis of Ballona itself and fails to account for the ongoing drainage and pumping out of Ballona's freshwaters by CDFW and the adjacent Playa Vista mega development site. Again, the EIR/EIS fails to inform its readers of the freshwater compromises already caused by the manmade features that have allowed saltwater intrusion nor does it provide any alternative to the intrusion. I1-8 I1-9 I1-10

Thank you for your attention

Saeed Ali
saeedmaliali@netscape.net
Business address: 2554 Lincoln, No. 186, Venice CA 90291
310-493-0959

Letter I1: Saeed Ali

I1-1 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW's decision not to further extend the comment period beyond 133 days.

I1-2 See General Response 8, *Public Participation* (Final EIR Section 2.2.8), regarding opportunities for the public to provide input on the Draft EIS/EIR.

The commenter's opinion that the information and data used for analysis in the Draft EIS/EIR is inadequate is acknowledged. However, without more information as to what parts of the document the commenter believes to be deficient, CDFW is unable to more directly address the general concern raised.

I1-3 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.1), which addresses multiple requests that CDFW consider a "freshwater alternative."

I1-4 The methodology of the hydraulic analysis is described in Draft EIS/EIR Section 3.9.5.2. Draft EIS/EIR Appendices F7 and F8 present further details on the hydraulic modeling of Ballona Creek and the wetlands, and Appendix F9 provides details on the modeling of Area B under existing and restored conditions. Existing hydrologic conditions are described in Draft EIS/EIR Section 3.9.2.2. Regarding the drains, see General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received in this regard.

As discussed in Draft EIS/EIR Section 2.3.7, although the Ballona Wetlands historically transitioned into a more alkaline/freshwater system 1.5 miles inland from the coast, the system also included tidally affected saltmarsh and brackish habitats. Historic saltwater intrusion into the location of the current Ballona Wetlands has been documented. See Dark et al., 2011, as cited in Footnote 1 of the Draft EIS/EIR's Key Definitions and Acronyms and in Draft EIS/EIR Section ES.1 and Section 1.2.2. In addition, the project purpose (Draft EIS/EIR Sections 1.1.1 and 1.1.2) aims to increase tidal influence to achieve predominantly estuarine wetland conditions and enhance freshwater conditions. "Estuarine" is generally defined as a partially enclosed coastal body of brackish water with a free connection to the open sea. Therefore, the project purpose includes restoring a system of both freshwater and saltwater inputs, rather than just saltwater input. See also the City of Santa Monica's Sustainable Water Master Plan, which states that the Coastal sub-basin "has not been utilized as a groundwater source to date due to salt water intrusion"[119] and the 1974 report issued by the California Division of Oil and Gas (DOGGR) stating that in the 1930s water wells were abandoned in the Ballona Reserve area when seawater intrusion ruined the quality of groundwater.[120]

[119] City of Santa Monica, 2014. "Sustainable Water Master Plan" December 2014. p. 5-4. Available online: https://www.smgov.net/uploadedFiles/Departments/Public_Works/Water/SWMP.pdf. Accessed November 2, 2018.

[120] California Division of Oil and Gas (DOGGR), 1975. "60th Annual Report of the State Oil and Gas Supervisor, Report No. PRO6, 1974." Pg. 24. Available online: ftp://ftp.consrv.ca.gov/pub/oil/annual_reports/1974/1974.pdf.

Changes to saltwater intrusion due to the Project are discussed in Draft EIS/EIR Section 3.9.6, *Direct and Indirect Impacts to Hydrology and Water Quality*. For example, the analysis of Impact 1-WQ-2 concludes that the Project would cause a less-than-significant impact in this regard. The same is true for Alternative 2 (see analysis of Impact 2-WQ-2) and for Alternative 3 (see analysis of Impact 3-WQ-2).

I1-5 See Response I1-1.

I1-6 See Response I1-2.

I1-7 See Response I1-2.

I1-8 See Response I1-3.

I1-9 See Response I1-4.

I1-10 See Response I1-4.

February 5, 2018

Mr. Richard Brody
California Department of Fish and Wildlife
% ESA (jas)
550 Kearney Street, Suite 800
San Francisco, CA 94108
Email: BWERcomments@wildlife.ca.gov

Re: Draft EIR, Ballona Creek Project

Dear Mr. Brody,

I am thrilled that the Ballona Wetlands will potentially receive millions of dollars worth of constructive attention and restoration.

My questions and comments are below. To the extent possible, I would appreciate it if responses included references to the page number in the final version. For what it is worth, I was unable to read the entire Draft EIR (thousands of pages, including attachments).

Thank you,

Patricia Allinson

Questions/Comments:

1. One of the options is to take dirt from other parts of the project and move it to Area C. What will be the estimated future cost of moving this dirt from Area C in the future (let's say 15 years) should someone decide to restore Area C (and points out this dirt was a 'relocation', and not a natural occurrence)? I2-1

2. La Villa Marina / Fiji Way Community Impacts
    a. The concern is that the project will take an existing view (of the wetlands and bluffs etc) and turn it into a view of a dirt hill with bicycles on top. Please add a photo (and/or direct me to the page it is on) showing the point of view from the many townhomes that border Area C North. Include one from current street level at the end of La Villa Marina. Include one from approximately halfway between Fiji and Lincoln at the current level of Fiji, and also at the level of the first floor windows of the townhomes, and at the level of the second floor windows of the townhomes. I2-2

b. Note the current water level is already near the surface in the driveways and garages of the townhomes. How many inches (and by month) is the water level expected to change as a result of the project for townhomes that border the project? For townhomes at Admiral and La Villa Marina? I2-3

c. La Villa Marina is a residential street, with parking on both sides and existing weight limits. It is already difficult to exit to/from Mindanao when traffic is backed up through the intersection. What is the estimated increase in traffic on LVM during the project, by stage of the project? What is the estimated increase in parking on LVM during the project, by stage of the project? Please include a separate number for estimated cars utilized by people working on the project. I2-4

3. The current owner of property between the 90 freeway and La Villa Marina is preparing to put a parking lot on the property. Currently the property is open space. Does this affect any of the proposed alternatives? I2-5

4. In the last few years there have been reported fires near Area C (between the 90/south of Mindanao), and on Area C.
   a. Have the local fire departments been asked for their assessments of the proposed alternatives?
   b. What were their specific comments about the impact of the mounds of dirt moved to Area C? I2-6

5. Have alternative locations been identified for a possible relocation of the ball fields, parking, etc used by the Culver Marina Little League? If yes, please provide location, cost of acquisition, and time frame for the change. I2-7

6. Current custodial oversight of Area C appears minimal at best.
   a. What additional resources will be specifically assigned to provide security to the Ballona Wetlands? To provide monitoring of unauthorized access? To provide cleanup of items dumped in the wetlands (or that otherwise do not belong)? To monitor/save wildlife and plantlife?
   b. Has funding for these additional resources been identified and secured? I2-8

7. Please provide specifics for the public access at the end of La Villa Marina
   a. What hours will the gate be open?
   b. How will the gate, and the attached(?) fence, be structured to avoid people making their own access points and going around the gate?
   c. What is the expected/estimated number of times the gate will be used during a typical week? During a summer month? Please provide details on how the usage number was calculated, including the breakdown between state employees, tour groups, and single families/visitors. I2-9
   d. Where will people who use this public access point park their cars? What impact will this have on the already congested road intersections in the area? Please provide copies of applicable traffic studies. I2-10

8. Bike Paths, including atop the elevated dirt moved onto Area C
    a. What measures will be part of the design to discourage off-path bicycling?
    b. What enforcement tools/resources will be available should someone decide to engage in off-path bicycling?

I2-11

    c. What lighting will be available along the bike paths, especially along the elevated path in Area C?
    d. Will the bike paths be restricted to bikes? If yes, how?
    e. Will the bike paths be available to roller-skaters? To pedestrians? To people/groups with strollers? To dog walkers? (fyi, I have observed all of these on the current bike path that goes along Fiji / the Pacific.)
    f. What effort will be needed to reach the top of the elevated paths, and will there be an alternate/easier route for people (including young folks) who might prefer that?
    g. What has been the response to the current plans from local bicycling groups?

I2-12

    h. What concerns do the Emergency Response services have about responding to accidents on (or near) the elevated bike path?

I2-13

    i. How many months will it take to grow enough ground cover to prevent the moved dirt from creating a dust storm every time there is a high wind?

I2-14

    j. What are the initial and long term effects of erosion on the integrity of the bike path? How frequent are the repairs expected to be? Is this more or less frequent than the current bike path along Ballona Creek? If more, is there an identified source of funding for the repairs/replacement?

I2-15

9. What are the anticipated access points for bicycles? Do any of the plans include adding bike lanes to roads and intersections? What additional expected safety measures will there be for local intersections to prevent bike accidents in/at already crowded locations? Please include specifics for intersections at Lincoln/Fiji, Lincoln/Mindanao, Fiji/Admiralty Way, Lincoln/Culver, 90/Culver, 90/Lincoln, 90/Mindanao and Glencoe/Mindanao.

I2-16

10. Construction concerns for residents who border the Ballona Wetlands
    a. I am sure there are some very smart people who have done this before, so if there is a plan already for making sure neighbors are negatively impacted as little as possible, please share that plan (including its specific location in the final EIR).
    b. Does that plan include:
        i. Covering dirt with a tarp(?) while it is being hauled to reduce wind blown debris?
        ii. Building a sound barrier between Area C and the buildings located along La Villa Marina and Fiji ? Building a wall of some sort? How high would any barriers be?
        iii. Supplying air filters, the latest window/doors to keep out noise and dirt?
        iv. Not dumping dirt on high-wind days?
        v. Surveying the neighborhood for residents with specific health challenges, and notifying them (and others) prior to the days when they may need to take specific precautions?

I2-17

11. Parking Structure on Fiji
    a. What specific procedures will be established to insure the parking structure is not utilized more as an extension of the shopping/hotel facilities proposed for the north side of Fiji?

I2-18

b. What specific enforcement procedures will be available for (a)
c. What off-site alternatives are available for parking, without building on the wetlands?
d. Fwiw, I do not consider building a parking structure on a wetlands a 'restoration'.
e. What location/facilities will be available for drop off / pick up services? Including bus, taxi, Uber, Lyft?. What restrictions will be in place to make sure this location/facility will not be turned into long-term parking? Or into a place where Uber drivers etc wait for their next fare?

I2-18 cont.

Thank you again,
Pat

Letter I2: Pat Allinson

I2-1 The relocation of soil and fill to North and South Area C is a necessary part of restoration proposed under Alternatives 1 and 2 to create areas of upland habitat (see Draft EIS/EIR Section 2.2.3.1). Estimating the cost of moving relocated fill in the future is beyond the scope of this analysis, which focuses on the proposed restoration of the Project Site as described in Alternative 1 and alternatives to that restoration approach as described in Alternative 2 and Alternative 3. See Draft EIS/EIR Section 1.1, *Purpose and Need/Project Objectives*.

I2-2 The commenter's concern regarding potential changes to views is acknowledged. Draft EIS/EIR Section 3.2, *Aesthetics*, includes an evaluation of changes to views of Area C. Figure 3.2-2, Alternative 1: KOP 1, is a visual simulation that is representative of potential visual changes for locations just north of Area C. See Response F8-3, which describes visual changes to Area C and the surrounding areas. Visual simulation locations were selected to analyze potential changes to views from publicly accessible vantage points. Upon review of the visual simulations relied upon in the Draft EIS/EIR, CDFW concluded that the representation of changes to public views that would result from the Project is adequately assessed. Any additional photographs or simulations would not provide information essential to an adequate assessment of impacts to public views. See *National Parks & Conservation Association v. County of Riverside* (1999) 71 CA4th 1341, 1361.

I2-3 See Response F8-7.

I2-4 As described in Draft EIS/EIR Section 3.12, *Transportation and Traffic*, demonstrated by Figure 3.12-4, and explained in Response F8-15, there is no plan to use roadways within the Villa Marina neighborhood for Project purposes. Still, the indicated preference for avoiding any truck traffic within Villa Marina is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.

Draft EIS/EIR Section 3.12 discusses worker trips, "It is estimated that a total of about 351 workers would be on-site on any given day (excluding the drivers of trucks used for the off-site soil export, who would arrive in their dirt-hauler truck from an outside yard to the site on a daily basis). Trip generation by those workers is estimated to be about 810 trips per day, of which about 35 trips would occur during each of the morning and evening peak traffic hours." Construction worker parking would occur primarily in Area A on the west side of Lincoln Boulevard; workers constructing the parking structure along Fiji Way would park on-site. A minimal number of workers would park in Area B.

I2-5 No, the land use decisions of owners outside the Project Site regarding their own property do not affect the proposed design, implementation, or operation and maintenance of the Project or the restoration alternatives (Alternatives 2 and 3).

Owners outside the Project Site may need to obtain approvals, but such approvals would be unrelated to this Draft EIS/EIR.

I2-6 Yes, input about the Project and restoration alternatives was requested from public agencies (including the fire department) and others during the scoping period that followed issuance of the Notice of Preparation of an EIR (which notice identified fire hazard as a potential impact of the Project (see Draft EIS/EIR Appendix A) and following the issuance of the Draft EIS/EIR, which analyzes fire-related impacts in Section 3.8, *Hazards and Hazardous Materials*. Fire response agencies provided no specific comments regarding soil relocation or Area C.

I2-7 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.5), which addresses multiple comments concerning the ball fields within the Ballona Reserve.

I2-8 The stated impression of current oversight in Area C is acknowledged. Operation and maintenance on the Project Site, including in Area C, under each of the alternatives is described in Draft EIS/EIR Chapter 2 and in the Preliminary Operations and Maintenance Plan included in Draft EIS/EIR Appendix B5. Proposed security and monitoring efforts include the proposal to have all primary and secondary entrances equipped with lockable gates to secure access during nighttime hours (Draft EIS/EIR Section 2.2.2.3). As disclosed in Table 1 and Table 7 of Draft EIS/EIR Appendix B5, the inspection and locking of gates occurs under existing (baseline) conditions and would continue to occur if one of the restoration alternatives were approved. In Draft EIS/EIR Appendix B5, see Section 1.3 regarding public access, and Section 1.4 regarding the initial anticipated cost of assets and capital equipment. Regarding unauthorized access, the Draft EIS/EIR acknowledges that "illegal uses (such as trash dumping and transient people's encampments) occur throughout the Ballona Reserve" under existing conditions (see Draft EIS/EIR Sections ES.1, 1.2.2, and 2.2.2; see also Draft EIS/EIR Appendix B5). These illegal uses of the Ballona Reserve are subject to ongoing removal efforts by CDFW independent of the Project. Monitoring of wildlife and plants also occurs under existing conditions and would occur under any of the alternatives analyzed in the Draft EIS/EIR. No additional resources have been identified specifically for law enforcement; additional funding to be used for wildlife and vegetation monitoring will be considered following approval of a restoration alternative.

I2-9 Access to the Ballona Reserve is allowable during daylight hours (see "Primary and Secondary Entrances" in Draft EIS/EIR Chapter 2, Section 2.2.2.3). Access points, including the lockable gate proposed at the end of La Villa Marina, would be open during daylight hours. The final design of the gate and fence have not been selected, but the prevention of unauthorized access to the Ballona Reserve outside of daylight hours will be a factor in the final (refined) design decision. Estimations of the number of times the gate would be used have not been calculated. Any attempt to estimate this number would be speculative.

I2-10 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.4), which addresses multiple comments regarding parking facilities within the Ballona Reserve. The traffic study prepared for the Project is included in Draft EIS/EIR Appendix H. As discussed in Draft EIS/EIR Section 3.12, traffic operations at none of the study intersections would worsen from existing level of service (LOS) conditions and would not conflict with LOS standards established by the City of Los Angeles or the County of Los Angeles Congestion Management Program (CMP), during post restoration conditions. In addition, traffic generated by the Project (Alternative 1) or another of the restoration alternatives would not change the intersection LOS from cumulative base conditions at the study intersections during either the morning and evening peak hours. CDFW contemplated the public access point at the end of La Villa Marina primarily as way for the La Villa Marina community to access Ballona Reserve and access for CDFW's maintenance.

I2-11 Visitor use regulations within the Ballona Reserve are a matter of State law. For example, Title 14, Section 630 of the California Code of Regulations states that bicycle riding within the Ballona Reserve is "[a]llowed only on the designated path on the north side of the Ballona Creek flood control channel." Reserve personnel are charged with enforcing compliance with the law within the Ballona Reserve.

I2-12 Lighting would not be constructed along the bike path, and would not be necessary in light of the operating hours from sunrise to sunset. The bike path would be separated from the pedestrian portion of the path by a 2-foot-wide planted buffer. While pedestrians would be directed to use the pedestrian portion of the path, bicycles and roller skaters would likely use the bicycle portion of the path. The bicycle and pedestrian path would be ADA compliant. See responses to the comments made in Letter AL5, received from the City of Los Angeles Bicycle Advisory Committee, Planning Subcommittee Chair, for additional information about bicycling within the Ballona Reserve.

I2-13 No concerns have been raised from emergency response services regarding responding to accidents on or near the elevated bike path.

I2-14 The number of months needed for vegetation to be sufficiently established to control dust will depend on environmental conditions. However, other methods beyond vegetation growth to control dust exist and would be implemented. The potential for the Project to generate dust is analyzed in Draft EIS/EIR Section 3.3, *Air Quality*. As explained in Draft EIS/EIR Section 3.3.5.1, dust emissions from project-related earthwork were estimated for purposes of the Draft EIS/EIR based daily intensity rates (acres graded per day) and fugitive dust calculation methodologies contained in Appendix A of the User's Manual for the California Emissions Estimator Model® (CalEEMod), which is a statewide land use emissions computer model designed to provide a uniform platform for government agencies and others. As explained on the CalEEMod website, "The model was developed for the California Air Pollution Officers Association (CAPCOA) in collaboration with the California Air Districts.

Default data (e.g., emission factors, trip lengths, meteorology, source inventory) have been provided by the various California Air Districts to account for local requirements and conditions. The model is … periodically updated when modifications are warranted" (CAPCOA, 2017[121]).

Emissions related to restoration activities were reduced by 61 percent from uncontrolled levels to reflect required compliance with South Coast Air Quality Management District (SCAQMD) Rule 403, which prohibits emissions of fugitive dust from any active operation, open storage pile, or disturbed surface area that remains visible beyond the emission source property line as summarized in Draft EIS/EIR Section 3.3.3. See also Tables A11-9-A through A11-77 in SCAQMD's CEQA Air Quality Handbook.[122] The dust-control methods for the Project and other restoration alternatives would be specified in a dust-control plan to be submitted to the SCAQMD per Rule 403. Specific Rule 403 control requirements include, but are not limited to, applying water in sufficient quantities to prevent the generation of visible dust plumes, applying soil binders to uncovered areas, reestablishing ground cover as quickly as possible, utilizing a wheel washing system to remove bulk material from tires and vehicle undercarriages before vehicles exit the Project Site, covering all trucks hauling soil with a fabric cover and maintaining a freeboard height of 12 inches, and maintaining effective cover over exposed areas.

I2-15 CEQA does not require an analysis of the environment on the Project, but rather requires an analysis of the Project on the environment. Therefore, the question about the impacts of erosion on the bike path are beyond the scope of the EIR. Nonetheless, earthen levees are only proposed in areas where there is low erosion potential (Draft EIS/EIR Section 2.2.2.2). The status of funding also is beyond the scope of the EIR.

Minor erosion prevention measures and repairs due to erosion are expected along with periodic repaving of the bike path (see Draft EIS/EIR Section 2.2.2.7 and Draft EIS/EIR Appendix B5, *Preliminary Operations and Maintenance Plan*).

I2-16 Cyclists would have access at all primary and secondary entrances, illustrated in Draft EIS/EIR Figure 2-3, Alternative 1, Phase 2: Public Access Plan. The Project proposes public access improvements to bike and pedestrian paths exclusively on the Project Site. No changes to bike paths or intersections outside of the Project Site are proposed under any of the alternatives. Therefore, analyzing safety measures for bicycles at intersections around the Project Site is beyond the scope of the EIR.

I2-17 See Response I2-14 and Response F8-4 regarding dust control. Regarding noise impacts, including the mitigation of potential significant noise impact on neighbors to the SoCalGas Property, see Draft EIS/EIR Section 3.10, *Noise*.

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121 California Air Pollution Control Officers Association (CAPCOA), 2017. California Emissions Estimator Model®. Available online: http://www.caleemod.com/. Accessed November 2, 2018.

122 SCAQMD,1993. *CEQA Air Quality Handbook*.

I2-18 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.4), which addresses multiple comments regarding parking facilities within the Ballona Reserve.

From: Molly Basler [mailto:mollybasler@sbcglobal.net]
Sent: Monday, 5 February, 2018 10:45 PM
To: Rogers, Bonnie L CIV USARMY CESPL (US) <Bonnie.L.Rogers@usace.army.mil>
Subject: [Non-DoD Source] BALLONA WETLANDS

I am writing to you tonight to register my comments about the proposed project for a so-called "restoration" of the Ballona Wetlands Ecological Reserve. I understand that the proposed project seeks to alter the current ecosystem, which relies primarily on freshwater flows, into a new ecosystem that will rely on full tidal flows of brackish water. Further, I understand that the Ballona Wetlands have historically relied on freshwater flows. I3-1

It is therefore difficult to understand how this project can be considered a restoration. Please answer the question: Why is this proposed project considered a restoration? I3-2

A member of the West LA Democratic Club

• • • • L

Molly Basler
CONSCIOUS LIVING
Yoga/Meditation/Vegan Cooking
Climate Reality Leader
The Climate Reality Project
Mollybasler.com

Letter I3: Molly Basler

I3-1 CDFW would like to clarify the role of fresh water as part of the existing and proposed system. As indicated in the Draft EIS/EIR Abstract, "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." This is consistent with summaries of the Project provided in Draft EIS/EIR Section ES.4.1 and Section 1.2.2.1 ("The Proposed Action is intended to return the daily ebb and flow of tidal waters where practically feasible to achieve predominantly estuarine conditions, enhance freshwater conditions, and enhance physical and biological functions within the Ballona Reserve"). See also Response I23-4, regarding the historical presence of a tidally influenced brackish water ecosystem at the Project Site and Response I1-4 regarding the definition of estuarine conditions.

I3-2 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of "restoration."

Stephanie Beckman

8635 Falmouth # 301, Playa Del Rey, CA 90293
C: (310) 200-5953 H: (310) 823-4163
beckmans@earthlink.net
LinkedIn

Date: February 5, 2018

TO: Richard Brody, CDFW
c/o ESA (jas)
550 Kearny Street, Suite 800
San Francisco, CA 94108

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

RE: Draft Environmental Impact Report, Ballona Wetlands Restoration Project Comments

Please accept these written comments in addition to my statement during the November 8th USACE, CDFW hearing.

During the hearing, I mentioned photos from the Marina Historical Society archives which I have attached via email along with this document (as promised).

I believe the photos clearly show the contiguous nature of the wetland, with a large salt pan on both sides of the Ballona Creek (not just Area B) which would be inundated with saltwater if Proposal 1 or 2 were approved... The terrain is flat with significant seasonal freshwater/rainwater ponding visible, known to supply underlying aquifers in areas that have been illegally drained for the past 10 years.

The tidal "opening's" were manmade requiring dredging to maintain (even in the 1800's) not providing natural saltwater inundation of the wetlands. The lagoon was larger but always contained by dunes. I4-1

I believe a hydrology study would be required before changing the topography of Ballona. There is no recent historical support for such topography change at Ballona and flooding Area B with salt water would submerge most of the Salt Pan evident in the attached photos. Alternative 2, isolates the salt pan further fragmenting the wetlands. I4-2

There doesn't seem to be any biological evidence to support that the proposed terrain changes including water inundation and flood control berms will enhance the restoration. In fact, similar berms have experienced difficulty maintaining healthy vegetation and habitat. These berms also further reduce already limited habitat at Ballona Wetlands. I4-3

In addition, I am deeply concerned about permanent closure of the existing tidal gates and permanent water loss to existing channels that have served the habitat for decades is a concern. As well as, filling of a channel for a maintenance area and road that is currently home to tadpoles and frogs. I4-4

Lastly, as one of the "Citizen Activists" that helped preserve the land years ago I was very surprised to hear Trust for Public Land's statement at the November 8th hearing that the people of California expect a robust restoration. The organization I volunteer with sent approximately 40,000 postcards to elected officials. I have spoken with a lot of community members and can't personally recall any that expected significant soil movement culminating in 10 – 30 foot flood control berms that would obstruct viewing of the wetlands. In fact, there was a strong desire by the community for maintaining open space. I4-5

Thank you for receiving and considering my additional comments.

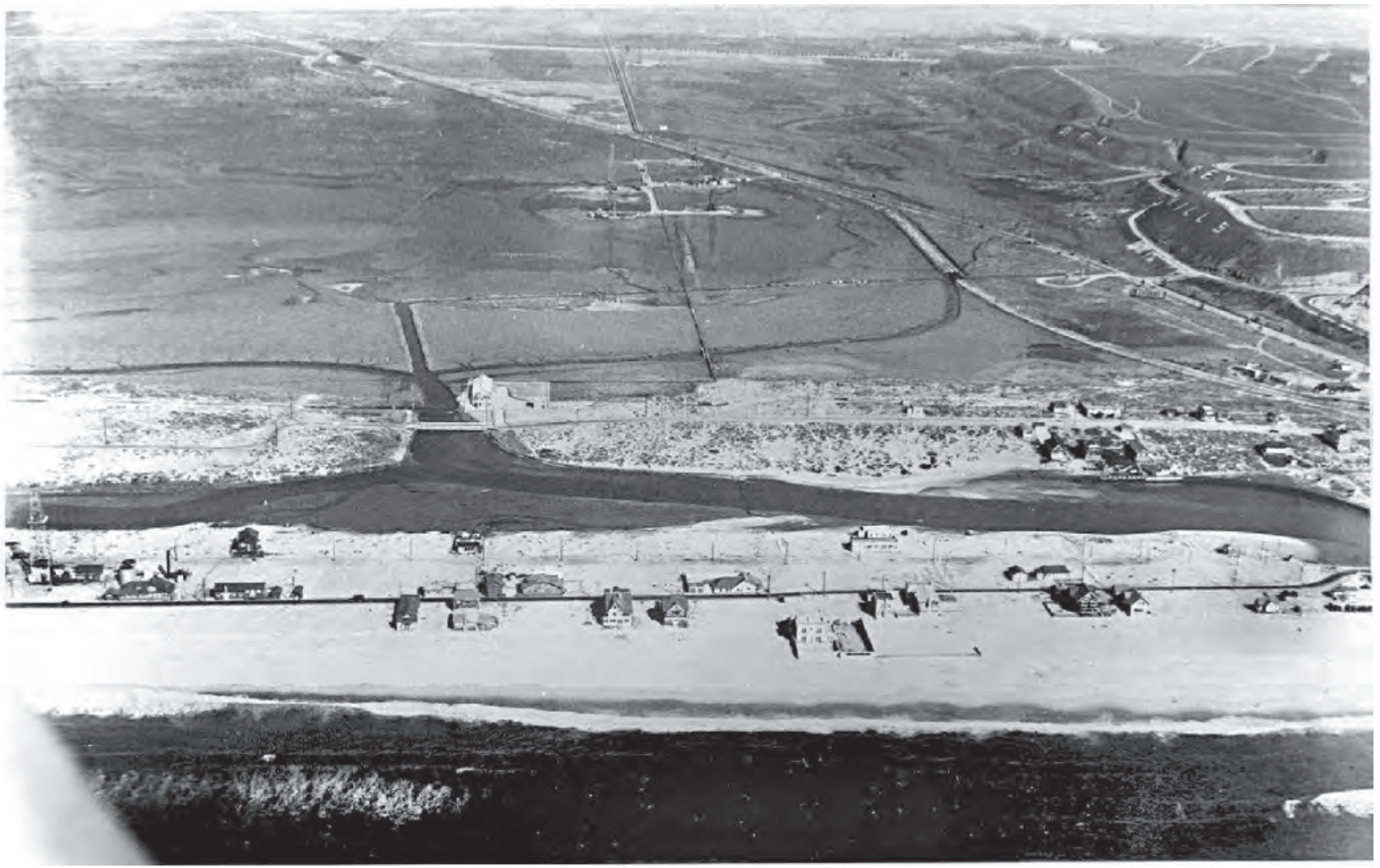
Respectively yours,

Stephanie Beckman

I4-6

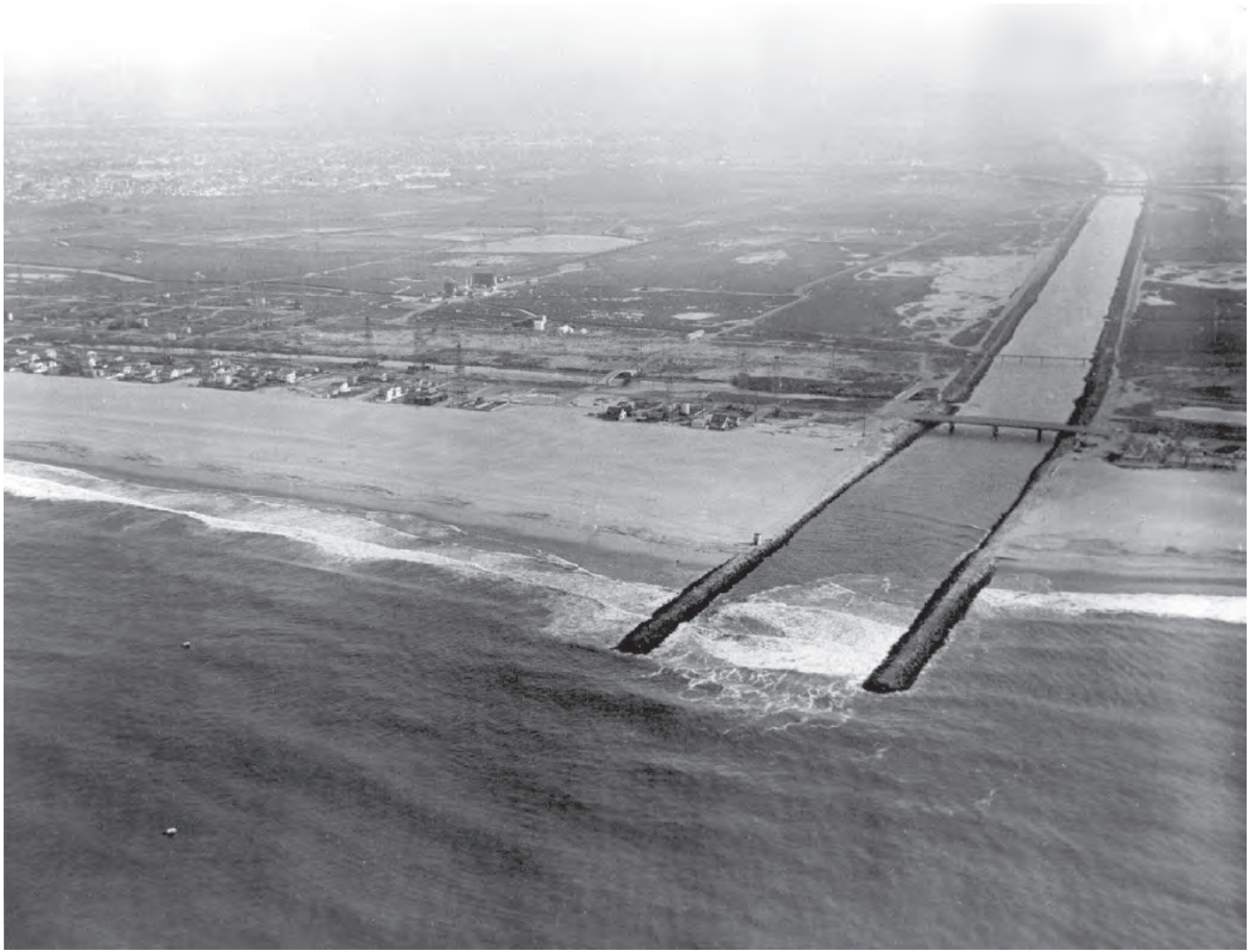
I4-7

I4-8



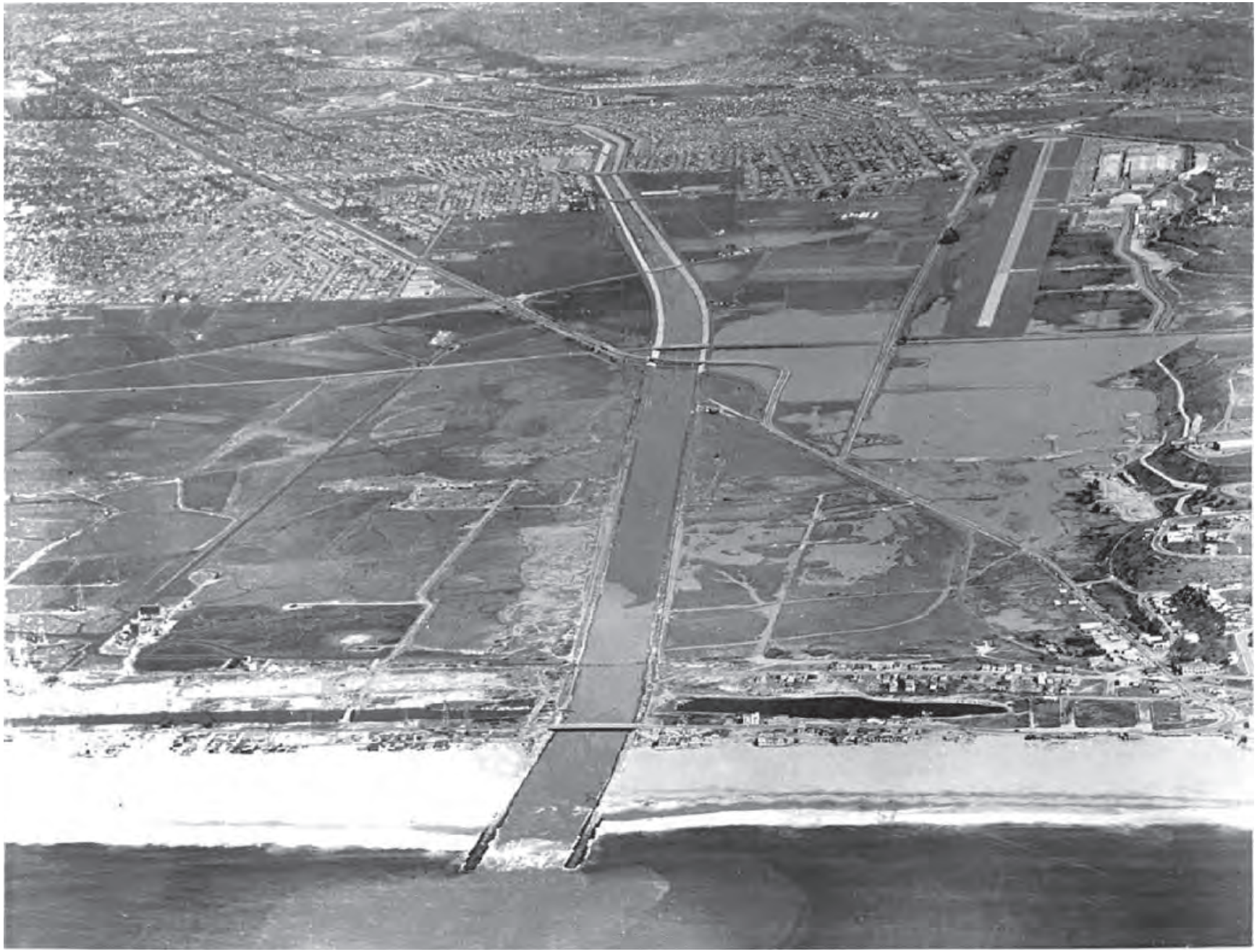
I4-9

I4-10

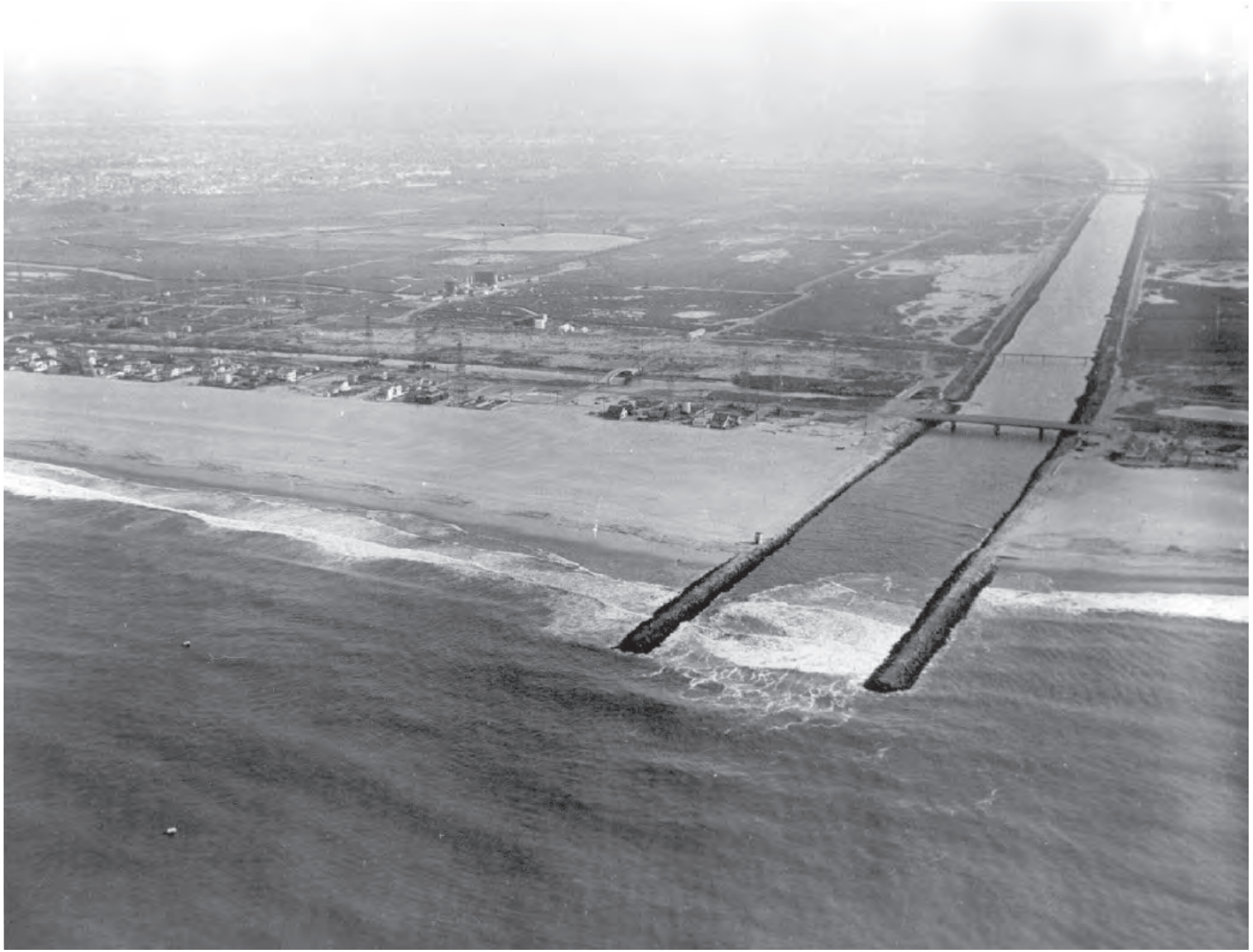


I4-11

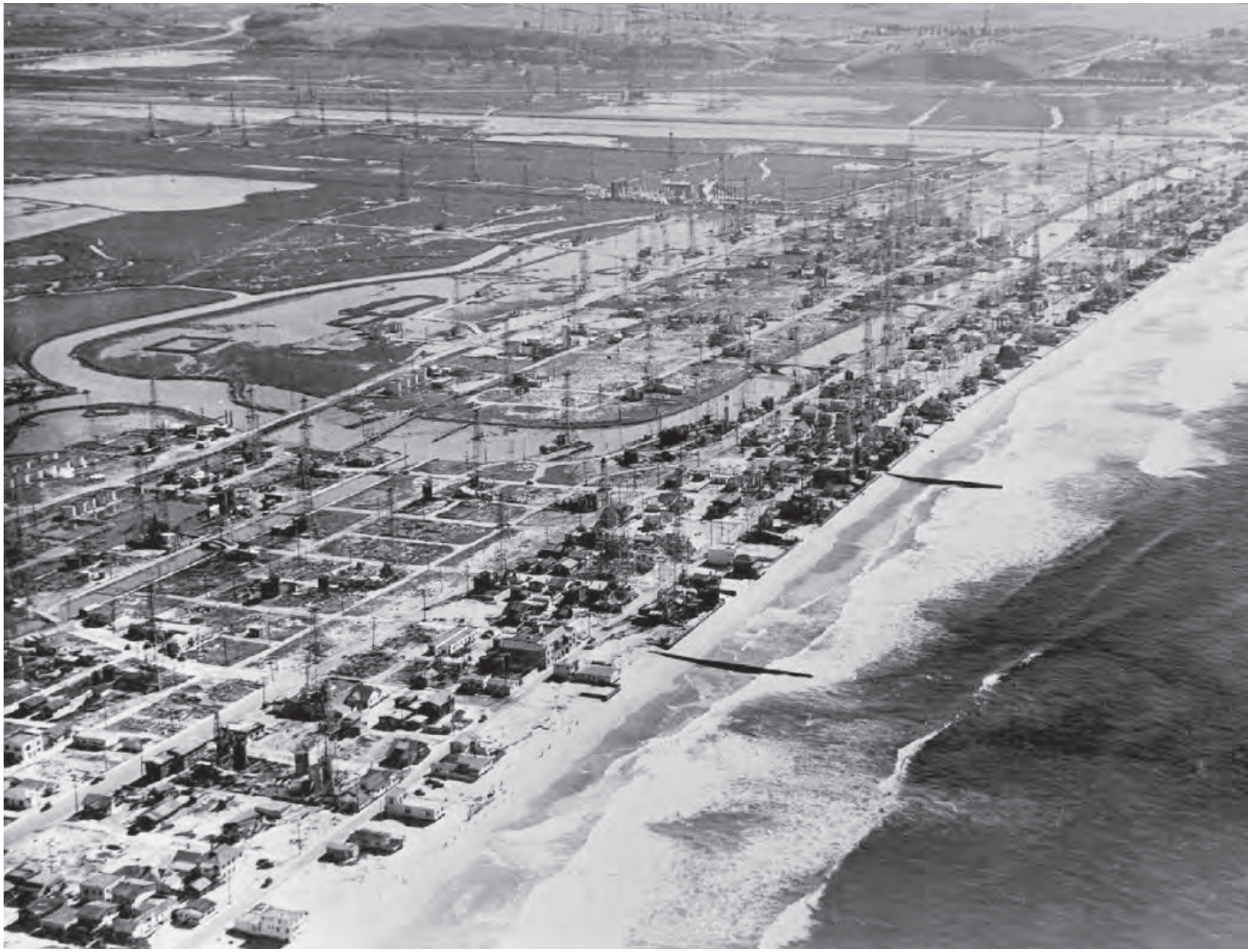
I4-12



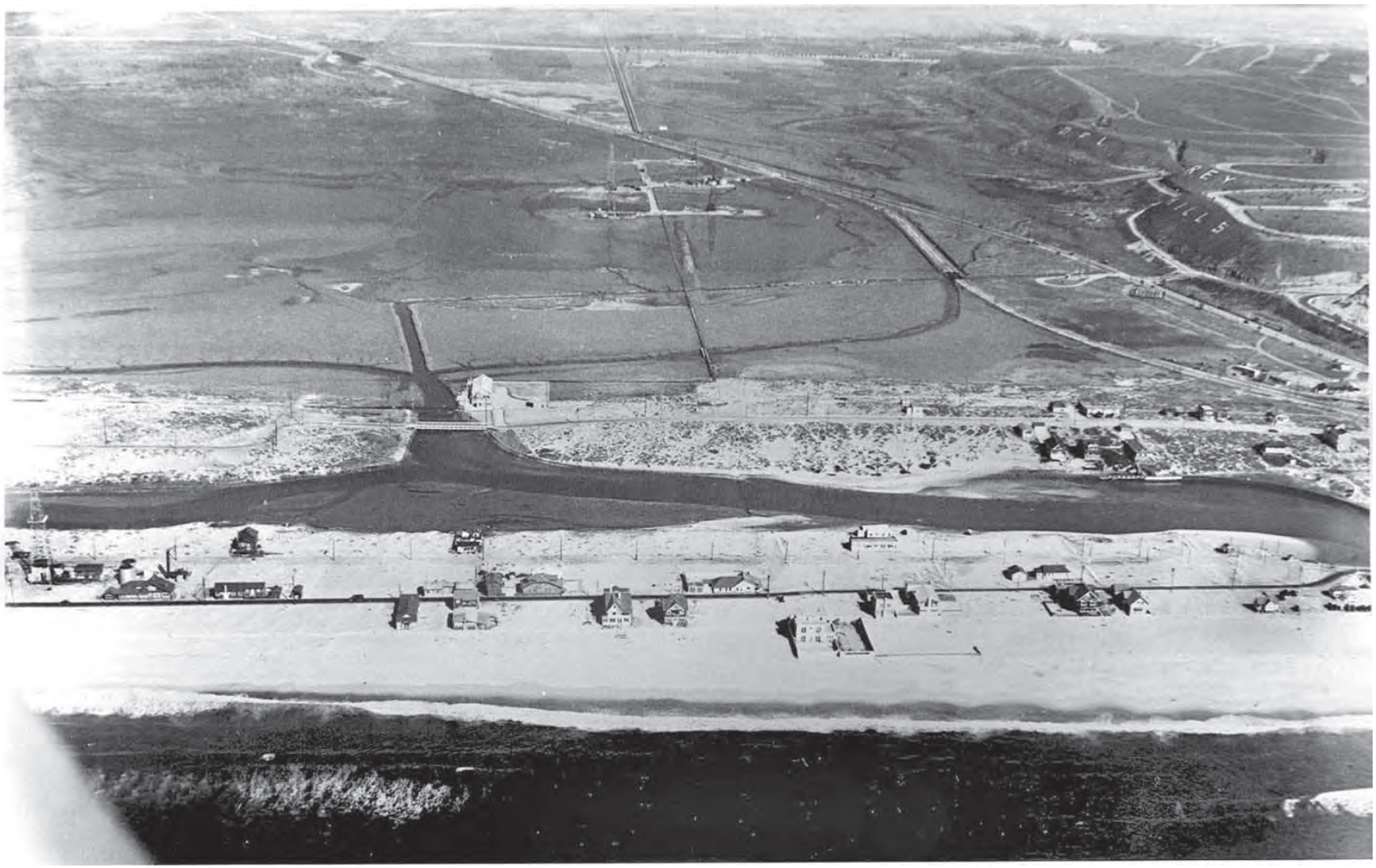
I4-13



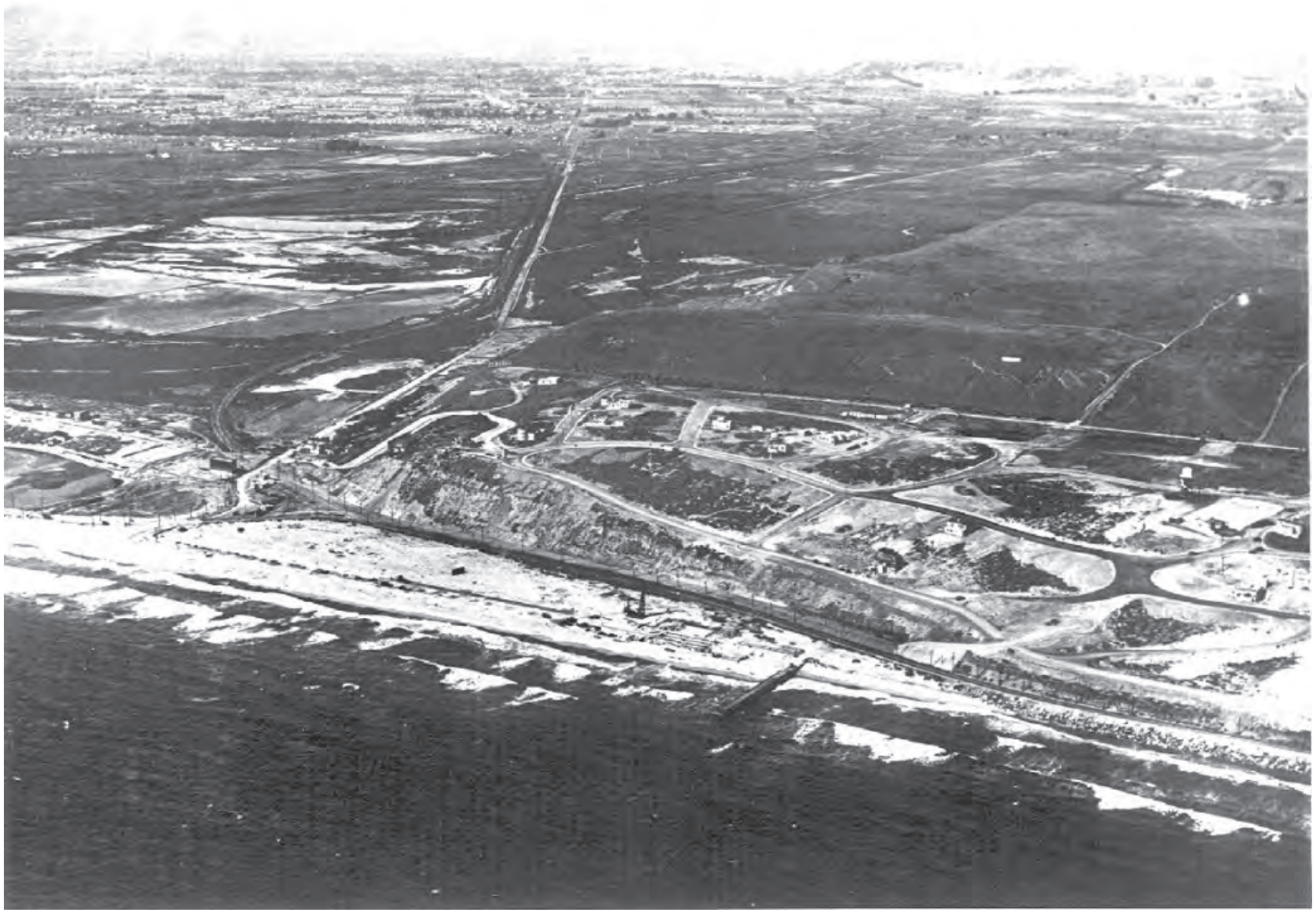
I4-14



I4-15



I4-16



I4-17

Letter I4: Stephanie Beckman

I4-1 Receipt of the photographs is acknowledged. While these photos inform historical conditions, they are not representative of the baseline conditions relevant to the determination of Project impacts. See Draft EIS/EIR Section 1.8.5, which explains the point of comparison for determining the change in conditions attributable to the Project and alternatives. Regarding the drains, see General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received in this regard.

I4-2 Multiple hydrology studies informed the design of the Project. The methodology of the hydraulic analysis is described in Draft EIS/EIR Section 3.9.5.2. Draft EIS/EIR Appendices F7 and F8 present further details on the hydraulic modeling of Ballona Creek and the wetlands, and Appendix F9 details modeling of Area B under existing and project conditions.

I4-3 CEQA does not require recent historical support to alter topography as part of a proposed project or alternative. Instead, CEQA requires an analysis of the potential environmental consequences of agency decision-making. The Draft EIS/EIR serves this goal. See General Response 3, *Alternatives* (Final EIR Section 2.2.3.3), which explains how the range of alternatives analyzed in the Draft EIS/EIR was developed. The stated concerns about berms are acknowledged. However, based on sound science as documented in Draft EIS/EIR Appendix B1, *Preliminary Design Report*, Appendix B2, *Stormwater Management Plan*, the Draft Ballona Wetlands Habitat Elevations Inundation Analysis provided in Appendix B7, and elsewhere in the Draft EIS/EIR, the proposed berms are necessary for flood control management and for creation or restoration of transitional and upland habitats. Further, the creation of berms would maintain or increase freshwater influence.

I4-4 CDFW would like to correct a misperception. The existing tide gates would not be permanently closed. Rather, the Project would restore the flow of tidal waters into the wetlands. Additionally, after restoration, new water control features such as culverts and tide gates would be installed and operated. See the description of the Project in Draft EIS/EIR Section 2.2.2, and the descriptions of Alternatives 2 and 3 in Sections 2.2.3 and 2.2.4, respectively.

In comparison, under Alternative 4 (the No Action/No Project Alternative), management of the existing tide gates would provide some acclimation to sea-level rise. However, as described in General Response 6, *Hydrology and Water Quality* (Final EIR Section 2.2.6), the tide gates would eventually need to be closed which would disconnect the tidal wetlands from their water source.

I4-5 The suggested opposition to berms that would obstruct view of the wetlands, and preference for maintaining open space is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*. In addition, an analysis of views was conducted in Draft EIS/EIR Section 3.2, *Aesthetics*.

I4-6 See Response I4-1, acknowledging receipt of historical photographs. These photos have been included in the formal record and are now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

I4-7 See Response I4-6.

I4-8 See Response I4-6.

I4-9 See Response I4-6.

I4-10 See Response I4-6.

I4-11 See Response I4-6.

I4-12 See Response I4-6.

I4-13 See Response I4-6.

I4-14 See Response I4-6.

I4-15 See Response I4-6.

I4-16 See Response I4-6.

I4-17 See Response I4-6.

From:	Benston, Britt
To:	Wildlife Ballona Wetlands Ecological Reserve EIR
Subject:	Ballona Wetlands preservation and restoration
Date:	Sunday, February 4, 2018 10:11:21 AM
Attachments:	attachment 1.pdf ATT00001.htm

Hello,

I'm writing to you in support of the proposal outlined by the Friends of Ballona Wetlands in Los Angeles. Making sure that wetlands remain a sustainable habitat is tantamount in the face of increasing population density.

The attached is what I stand behind.

I5-1

Thank you,

Britt Benston
756 Harper Ave
Los Angeles, CA 90046

FRIENDS OF BALLONA WETLANDS

Ballona Restoration DEIR Comment Summary by Friends of Ballona Wetlands

Friends of Ballona wetlands believes the robust restoration of the Ballona Wetlands Ecological Reserve (BWER) will increase habitat quality and diversity to benefit native wildlife, provide greater protection from flooding and the impacts of climate change, improve water quality and watershed connectivity, open public access trails for education and nature appreciation, protect rare and sensitive species, and add ecological, aesthetic, and economic value to the surrounding community.

FBW's Overall Goals for Ballona Restoration:

1. Protect, optimize, enhance and create diverse habitats for native plants and wildlife throughout Ballona including wetland, riparian, dune and upland environments.
2. Maximize and enhance wetland acreage and function, and diversity of created/restored wetland habitats, i.e. low, mid, and high marshes, salt pan, and brackish marsh.
3. Increase watershed connectivity.
4. Create nurseries for fish and nesting habitat for birds.
5. Manage for rare and sensitive species.
6. Create well-regulated trails for public access and educational opportunities that are compatible with restoration goals that protect habitat.
7. Ensure long-term resilience and sustainability with estimated future sea level rise.
8. Reduce habitat fragmentation by providing wildlife travel corridors to minimize wildlife injury and mortality from vehicles.
9. Safeguard as much wildlife as possible and minimize losses.
10. Provide safe public access to the Reserve including trails, bike paths and rest stops, overlooks, wayfinding, shade structures, information kiosks, restrooms, drinking water, public transit stops and parking.

I5-1 cont.

Access, Parking and Bathrooms

We support a public access system with separate bicycle and walking trails, parking facilities, and restrooms, that are compatible with restoration goals. We believe the parking lot in Area A should reduce the footprint of impervious surfaces and increase land for habitat restoration and that the number of spaces provided should not be significantly more or less than what is needed to meet requirements for the expected number of visitors to the Reserve. A parking study should be completed to determine the correct number of spaces to provide. Include bathroom facilities at the primary trailhead in Area A comparable to those at the Upper Newport Back Bay Nature Preserve. Bathrooms are critical to ensure that visitors to the site are using proper facilities and not impacting the wetlands. The type of structure should be determined based on budget and operations and maintenance plans for the site. The parking lot currently known as the "Gordon Lot," should be available for visitors to the BWER and those patronizing community restaurants and shops, and should remain open until 11:00 pm so as to benefit the business community.

Little League

If the Little League baseball fields remain inside the reserve, then a few changes should be made to their management. The fields, parking lots and surrounding grounds must be maintained, to encourage environmental stewardship. Access should be open to the larger community throughout the year, and parking should be allowed on the lot for visitors to Area C walking trails. Negative environmental and community impacts should be prevented by increasing patrols by enforcement agencies. As much of the existing area as possible should be restored to native uplands vegetation.

Area Specific Comments:

Area A: We generally support the restoration of Area A as presented in both Alternative 1 Phase one and Alternative 2. The 14 feet of dredge fill should be removed and graded to provide marsh habitat. Concrete levees should be removed and replaced with more natural levees. Wildlife should be protected to greatest extent possible. We do ask that the primary entrance to trails be located at the primary parking facility rather than as shown in the current maps. Include a plan for relocating wildlife displaced by restoration activities. Create wildlife corridors. Provide more details on bridge design and vegetation. Safe travel corridors over roads are needed not only for people, but also wildlife to help reduce

1

habitat fragmentation and roadkill. Use known principles of wildlife corridor design to determine the cover and type of native vegetation needed. Provide a plan for the likely placement of interpretive panels along walking paths, viewing platforms, etc. that are compatible with restoration goals and maximize interpretive opportunities for schools. Address more directly how upstream water quality improvement projects are compatible with the restoration goals for water quality and sediment loads.

Area C: We generally support the plans for Area C presented in Alternative 1 Phase 1 and Alternative 2, including the placement of fill on Area C from Area A given that it will not increase the height of Area C in a way that will negatively impact the nearby community, but will instead enhance Area C with gentle sloping vegetated knolls that do not obstruct views, improve the aesthetics of the area and possibly reduce traffic noise for residents. We also support the restoration of native upland vegetation where mostly weeds now exist. We believe walking trails in Area C will reduce crime and homeless encampments by enhancing the area with greater visibility, law enforcement, and passive recreational opportunities.

Southeast and South Area B: We generally support the restoration of Southeast and South Area B west of the freshwater marsh as presented in Alternative 1 Phase 1 and Alternative 2. We think creating tidal channels as proposed in this area will enhance the habitat and attract additional endangered and threatened species to this underperforming wetland area. The proposed channel should be placed in way that protects Willow Thickets along Bluff from salt water inundation and freshwater should be allowed to flow naturally into the marsh to create a brackish zone. We support the protection of the eucalyptus patch to protect Monarch Butterflies, but it should not be allowed to spread further. All other non-native plants, including pampas grass and iceplant, should be removed and replaced with native vegetation.

East Area B: We support the Alternative 1 Phase 1 plan to protect seasonal wetlands in East Area B. However, we believe a trail system should be added on part of the perimeter as reflected in the Alternative 2 Access Plan. We would like to see wetland habitat maximized here by protecting and improving the seasonal freshwater wetlands. Non-native vegetation should be removed. It would be helpful to allow freshwater to reach the seasonal wetland area and allow riparian and/or brackish habitat to develop by daylighting the culvert from the Ballona Freshwater Marsh to allow additional freshwater input.

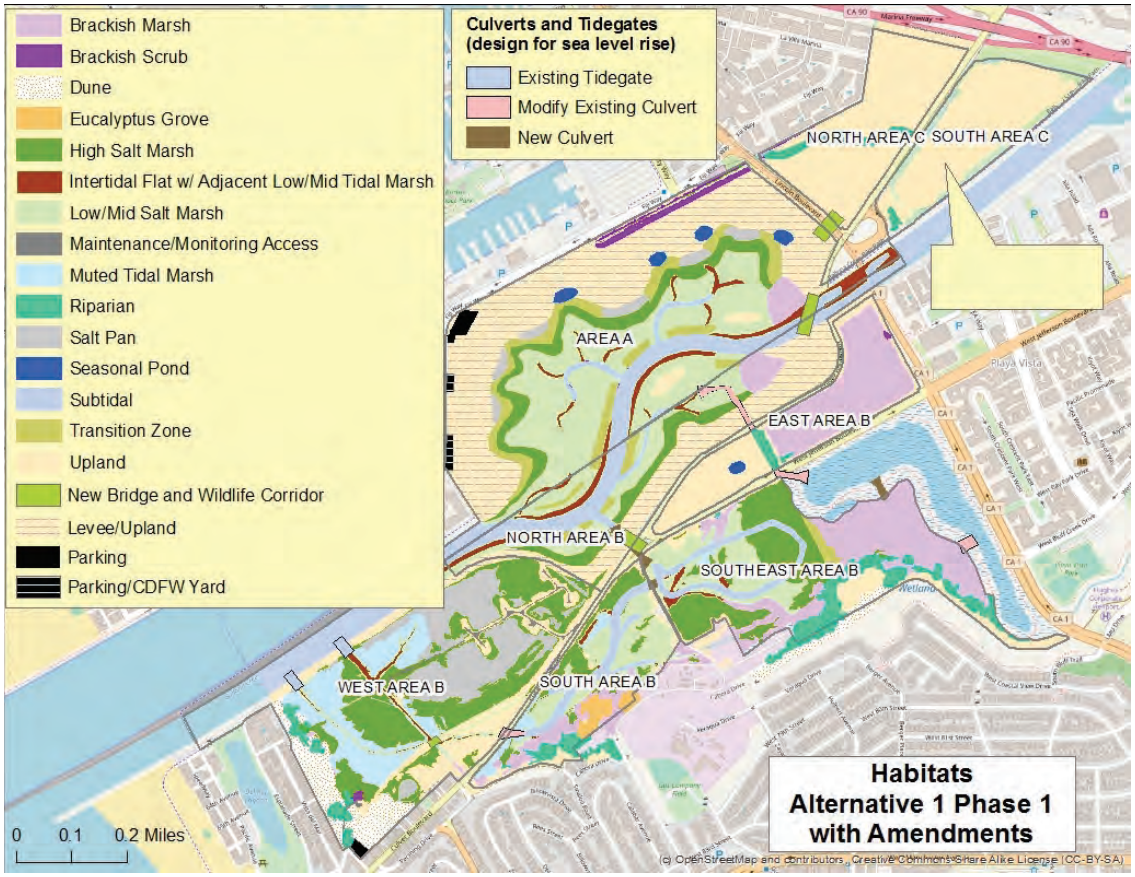
I5-1 cont.

West Area B: We support most aspects of Alternative 1 Phase 1 and Alternative 2 restoration in West Area B. Protect and enhance existing wetland habitat and protect endangered and threatened species as long as possible while expanding their presence in other parts of Ballona. Protect connection of the last remaining dunes habitat. Restrict public access through the sensitive dune habitat that currently hosts the Federally endangered El Segundo Blue Butterfly. We support removal Gas Company Access wells. Adapt West Area B for sea level rise consistent with plans related to the surrounding communities. Continue to research best technology that could minimize disturbance. Consider using current available technology such as pumps, slowly increasing elevation, etc. Possibly increase tidal flow by modifying tide gates to allow some additional flow into West Area B and increase tidal inundation of the salt pan without losing muted tidal habitat or flooding roads/nearby development.

If and when it is determined that Alternative 1 Phase 2 must proceed in order to protect the area from sea level rise, the following must be assured: Adequate nesting and foraging habitat for Belding's Savannah Sparrows must be in place throughout Ballona in Areas A and B that support an equal or greater number of nesting pairs than currently exist in West Area B. Improvements in upstream water quality and sediment loads must be completed prior to breaching levee along West Area B. Measures that prevent loss of habitat diversity and protect existing native vegetation cover to greatest extent possible must be implemented. Mechanisms to protect historical salt pan from becoming permanent open water must be implemented to the greatest extent possible. The construction of a levee along Culver and adjacent to the dunes must limit disturbance and enhance connectivity to dune system and El Segundo Blue Butterfly habitat.

Belding Savannah Sparrow Comments:
Protect Belding's Savannah Sparrow nests and habitat – particularly until an equal number of nests have been documented for several years in Area A and/or South Area B. Ensure that there is adequate nesting and foraging habitat for Belding's Savannah Sparrow. Pickleweed habitat cover in Area A should be equal to or greater than currently present in West Area B. CDFW should use principles of Minimum Viable Population to estimate the number of nesting pairs required for a viable, sustainable population size and ensure that the population will be protected from future disturbances.

The next page shows maps that reflect our habitat and public access comments.


Brackish Marsh
Brackish Scrub
Dune
Eucalyptus Grove
High Salt Marsh
Intertidal Flat w/ Adjacent Low/Mid Tidal Marsh
Low/Mid Salt Marsh
Maintenance/Monitoring Access
Muted Tidal Marsh
Riparian
Salt Pan
Seasonal Pond
Subtidal
Transition Zone
Upland
New Bridge and Wildlife Corridor
Levee/Upland
Parking
Parking/CDFW Yard
Culverts and Tidegates
(design for sea level rise)
Existing Tidegate
Modify Existing Culvert
New Culvert
NORTH AREA C
SOUTH AREA C
AREA A
EAST AREA B
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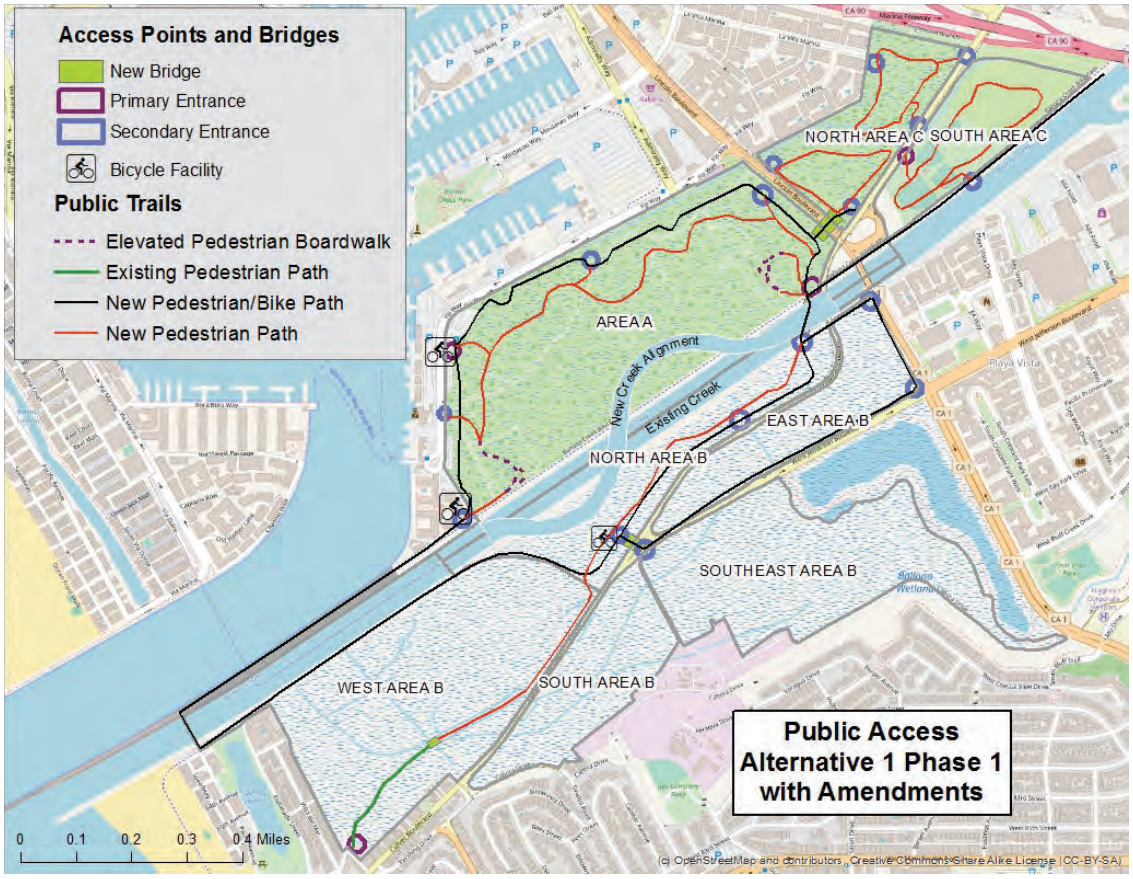
SOUTHEAST AREA B
WEST AREA B
SOUTH AREA B
0 0.1 0.2 Miles
Habitats
Alternative 1 Phase 1
with Amendments
(c) OpenStreetMap and contributors, Creative Commons-Share Alike License (CC-BY-SA)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Public Trails
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Alternative 1 Phase 1
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(c) OpenStreetMap and contributors, Creative Commons-Share Alike License (CC-BY-SA)

I5-1
cont.

Letter I5: Britt Benston

I5-1 The commenter's agreement with comments provided by the Friends of Ballona Wetlands in Letter O10 is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. Specific responses to issues raised within the letter are provided in Responses O10-14 through O10-24.

From: BRIAN BERDAN <bberdan@mac.com>
Sent: Tuesday, September 26, 2017 9:59 AM
To: Wildlife Ballona Wetlands Ecological Reserve EIR
Subject: Ballona Wetlands Restoration

Dear Mr. Brody,
My wife's family built a home at the mouth of Ballona Creek in 1962, which is where I am writing this now. Much of her childhood playtime was spent exploring the natural area which makes this such a great place to live. We are definitely interested in what happens to the Ballona Wetlands and so here are a few brief comments.

We're sure, since the Army Corp built the straight channel that they will ensure the new, wider, structure will perform the same flood control tasks to prevent extreme runoff or extreme tides from harming developed property. I6-1

It appears that the plan is mainly focused on rerouting the creek to the north of its current channel. Why wouldn't it make an 'S-turn' and flow over the southwest area of the Reserve as well? I6-2

Ballona Creek unfortunately bears the brunt of street trash runoff, and as you can see along the hardened creek edge now, much of that trash gets stuck along the way. What will prevent trash from completely overrunning the wetlands? I6-3

I assume the parking structure would be along Fiji Way? What's wonderful about the views from all around the wetlands is how open it feels. The parking structure, at three stories, sound like an awfully large item to place on the landscape. I6-4

Mechanical tide gates- Why wouldn't natural tidal action be okay in a 'natural' area? Is there a way to design the project so man doesn't have to be so actively controlling it? I6-5

Thanks so much and we look forward to seeing how this turns out.

Brian & Susan Berdan
6219 Esplanade
Playa del Rey, CA 90293

Susan and friends playing in '65
(sand pile is from construction of apartment complex that now surrounds the house).

Letter I6: Brian and Susan Berdan

I6-1 As noted in Draft EIS/EIR Chapter 2, *Description of Alternatives*, and Draft EIS/EIR Chapter 3.9, *Hydrology and Water Quality*, the Project and each alternative would be required to adhere to Corps' requirements including Section 14 of the Rivers and Harbors Act, Section 408 requirements for modifications to Corps-approved flood risk management systems. See also Draft EIS/EIR Section 1.1.1, which explains that one of the Corps' two overall project purposes is, "Ensure any alteration/modification to the Los Angeles County Drainage Area (LACDA) project components within the Ballona Reserve maintain the authorized LACDA project levels of flood risk management."

I6-2 The proposed channel meander has been designed to improve habitat connectivity between the areas both to the north and south of the creek, while still maintaining the existing level of flood control. The design does make a slight "S-turn" to the south, just north of the habitat peninsula (see Draft EIS/EIR Figure 2-2). However, space is limited in the southern area because of Culver Boulevard and the flood protection required to protect the road and other areas to the south. For that reason, the meander to the north is more dramatic than the meander to the south, since there is more space available in the north.

I6-3 As identified in Draft EIS/EIR Section 2.2.2.7, *Alternative 1: Operation and Maintenance*, trash removal efforts conducted by LACFCD and CDFW would continue. A Preliminary Operations and Maintenance Plan is included in Draft EIS/EIR Appendix B5, which describes the anticipated operation and maintenance tasks in greater detail. The existing trash net across Ballona Creek channel would continue to be maintained and inspected weekly. Trash removal from restored wetlands would be conducted as needed.

I6-4 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.4), which addresses multiple comments regarding parking facilities on the Project Site.

I6-5 The Project is designed to be passively managed to achieve habitat objectives. It proposes to remove the mechanical tide gates in the Ballona Creek channel, create a more uninhibited tidally influenced system, and as fully as possible, reconnect Ballona Creek with its historic floodplain. Also, see General Response 6, *Hydrology and Water Quality* (Final EIR Section 2.2.6.2), which addresses multiple comments received regarding sea-level rise and tide gates. As described in the General Response, even with management of the existing flood gates, sea-level rise would cause the salt pan to be inundated by 2050 and would be converted to marsh. Therefore, even with management of the existing tide gates, the portion of the Ballona Reserve within the Project Site would be inundated due to sea-level rise and wetland and riparian habitats would not be sustainable. Given the rate at which sea levels are expected to rise, the Project's flood risk management and restoration features would allow habitats to migrate upslope as sea levels rise, maintaining the key habitats of the Project Site as sea levels rise over time.

Comment Letter I7

From: Barry Berk
To: Wildlife Ballona Wetlands Ecological Reserve EIR
Subject: I SUPPORT THIS POSITION
Date: Saturday, February 3, 2018 7:53:53 PM
Attachments: Friends EIR comments_FINAL.pdf

I7-1

FRIENDS OF BALLONA WETLANDS

Ballona Restoration DEIR Comment Summary by Friends of Ballona Wetlands

Friends of Ballona wetlands believes the robust restoration of the Ballona Wetlands Ecological Reserve (BWER) will increase habitat quality and diversity to benefit native wildlife, provide greater protection from flooding and the impacts of climate change, improve water quality and watershed connectivity, open public access trails for education and nature appreciation, protect rare and sensitive species, and add ecological, aesthetic, and economic value to the surrounding community.

FBW's Overall Goals for Ballona Restoration:

1. Protect, optimize, enhance and create diverse habitats for native plants and wildlife throughout Ballona including wetland, riparian, dune and upland environments.
2. Maximize and enhance wetland acreage and function, and diversity of created/restored wetland habitats, i.e. low, mid, and high marshes, salt pan, and brackish marsh.
3. Increase watershed connectivity.
4. Create nurseries for fish and nesting habitat for birds.
5. Manage for rare and sensitive species.
6. Create well-regulated trails for public access and educational opportunities that are compatible with restoration goals that protect habitat.
7. Ensure long-term resilience and sustainability with estimated future sea level rise.
8. Reduce habitat fragmentation by providing wildlife travel corridors to minimize wildlife injury and mortality from vehicles.
9. Safeguard as much wildlife as possible and minimize losses.
10. Provide safe public access to the Reserve including trails, bike paths and rest stops, overlooks, wayfinding, shade structures, information kiosks, restrooms, drinking water, public transit stops and parking.

I7-1 cont.

Access, Parking and Bathrooms

We support a public access system with separate bicycle and walking trails, parking facilities, and restrooms, that are compatible with restoration goals. We believe the parking lot in Area A should reduce the footprint of impervious surfaces and increase land for habitat restoration and that the number of spaces provided should not be significantly more or less than what is needed to meet requirements for the expected number of visitors to the Reserve. A parking study should be completed to determine the correct number of spaces to provide. Include bathroom facilities at the primary trailhead in Area A comparable to those at the Upper Newport Back Bay Nature Preserve. Bathrooms are critical to ensure that visitors to the site are using proper facilities and not impacting the wetlands. The type of structure should be determined based on budget and operations and maintenance plans for the site. The parking lot currently known as the "Gordon Lot," should be available for visitors to the BWER and those patronizing community restaurants and shops, and should remain open until 11:00 pm so as to benefit the business community.

Little League

If the Little League baseball fields remain inside the reserve, then a few changes should be made to their management. The fields, parking lots and surrounding grounds must be maintained, to encourage environmental stewardship. Access should be open to the larger community throughout the year, and parking should be allowed on the lot for visitors to Area C walking trails. Negative environmental and community impacts should be prevented by increasing patrols by enforcement agencies. As much of the existing area as possible should be restored to native uplands vegetation.

Area Specific Comments:

Area A: We generally support the restoration of Area A as presented in both Alternative 1 Phase one and Alternative 2. The 14 feet of dredge fill should be removed and graded to provide marsh habitat. Concrete levees should be removed and replaced with more natural levees. Wildlife should be protected to greatest extent possible. We do ask that the primary entrance to trails be located at the primary parking facility rather than as shown in the current maps. Include a plan for relocating wildlife displaced by restoration activities. Create wildlife corridors. Provide more details on bridge design and vegetation. Safe travel corridors over roads are needed not only for people, but also wildlife to help reduce

1

habitat fragmentation and roadkill. Use known principles of wildlife corridor design to determine the cover and type of native vegetation needed. Provide a plan for the likely placement of interpretive panels along walking paths, viewing platforms, etc. that are compatible with restoration goals and maximize interpretive opportunities for schools. Address more directly how upstream water quality improvement projects are compatible with the restoration goals for water quality and sediment loads.

Area C: We generally support the plans for Area C presented in Alternative 1 Phase 1 and Alternative 2, including the placement of fill on Area C from Area A given that it will not increase the height of Area C in a way that will negatively impact the nearby community, but will instead enhance Area C with gentle sloping vegetated knolls that do not obstruct views, improve the aesthetics of the area and possibly reduce traffic noise for residents. We also support the restoration of native upland vegetation where mostly weeds now exist. We believe walking trails in Area C will reduce crime and homeless encampments by enhancing the area with greater visibility, law enforcement, and passive recreational opportunities.

Southeast and South Area B: We generally support the restoration of Southeast and South Area B west of the freshwater marsh as presented in Alternative 1 Phase 1 and Alternative 2. We think creating tidal channels as proposed in this area will enhance the habitat and attract additional endangered and threatened species to this underperforming wetland area. The proposed channel should be placed in way that protects Willow Thickets along Bluff from salt water inundation and freshwater should be allowed to flow naturally into the marsh to create a brackish zone. We support the protection of the eucalyptus patch to protect Monarch Butterflies, but it should not be allowed to spread further. All other non-native plants, including pampas grass and iceplant, should be removed and replaced with native vegetation.

East Area B: We support the Alternative 1 Phase 1 plan to protect seasonal wetlands in East Area B. However, we believe a trail system should be added on part of the perimeter as reflected in the Alternative 2 Access Plan. We would like to see wetland habitat maximized here by protecting and improving the seasonal freshwater wetlands. Non-native vegetation should be removed. It would be helpful to allow freshwater to reach the seasonal wetland area and allow riparian and/or brackish habitat to develop by daylighting the culvert from the Ballona Freshwater Marsh to allow additional freshwater input.

I7-1 cont.

West Area B: We support most aspects of Alternative 1 Phase 1 and Alternative 2 restoration in West Area B. Protect and enhance existing wetland habitat and protect endangered and threatened species as long as possible while expanding their presence in other parts of Ballona. Protect connection of the last remaining dunes habitat. Restrict public access through the sensitive dune habitat that currently hosts the Federally endangered El Segundo Blue Butterfly. We support removal Gas Company Access wells. Adapt West Area B for sea level rise consistent with plans related to the surrounding communities. Continue to research best technology that could minimize disturbance. Consider using current available technology such as pumps, slowly increasing elevation, etc. Possibly increase tidal flow by modifying tide gates to allow some additional flow into West Area B and increase tidal inundation of the salt pan without losing muted tidal habitat or flooding roads/nearby development.

If and when it is determined that Alternative 1 Phase 2 must proceed in order to protect the area from sea level rise, the following must be assured: Adequate nesting and foraging habitat for Belding's Savannah Sparrows must be in place throughout Ballona in Areas A and B that support an equal or greater number of nesting pairs than currently exist in West Area B. Improvements in upstream water quality and sediment loads must be completed prior to breaching levee along West Area B. Measures that prevent loss of habitat diversity and protect existing native vegetation cover to greatest extent possible must be implemented. Mechanisms to protect historical salt pan from becoming permanent open water must be implemented to the greatest extent possible. The construction of a levee along Culver and adjacent to the dunes must limit disturbance and enhance connectivity to dune system and El Segundo Blue Butterfly habitat.

Belding Savannah Sparrow Comments:
Protect Belding's Savannah Sparrow nests and habitat – particularly until an equal number of nests have been documented for several years in Area A and/or South Area B. Ensure that there is adequate nesting and foraging habitat for Belding's Savannah Sparrow. Pickleweed habitat cover in Area A should be equal to or greater than currently present in West Area B. CDFW should use principles of Minimum Viable Population to estimate the number of nesting pairs required for a viable, sustainable population size and ensure that the population will be protected from future disturbances.

The next page shows maps that reflect our habitat and public access comments.


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Brackish Scrub
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Eucalyptus Grove
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Low/Mid Salt Marsh
Maintenance/Monitoring Access
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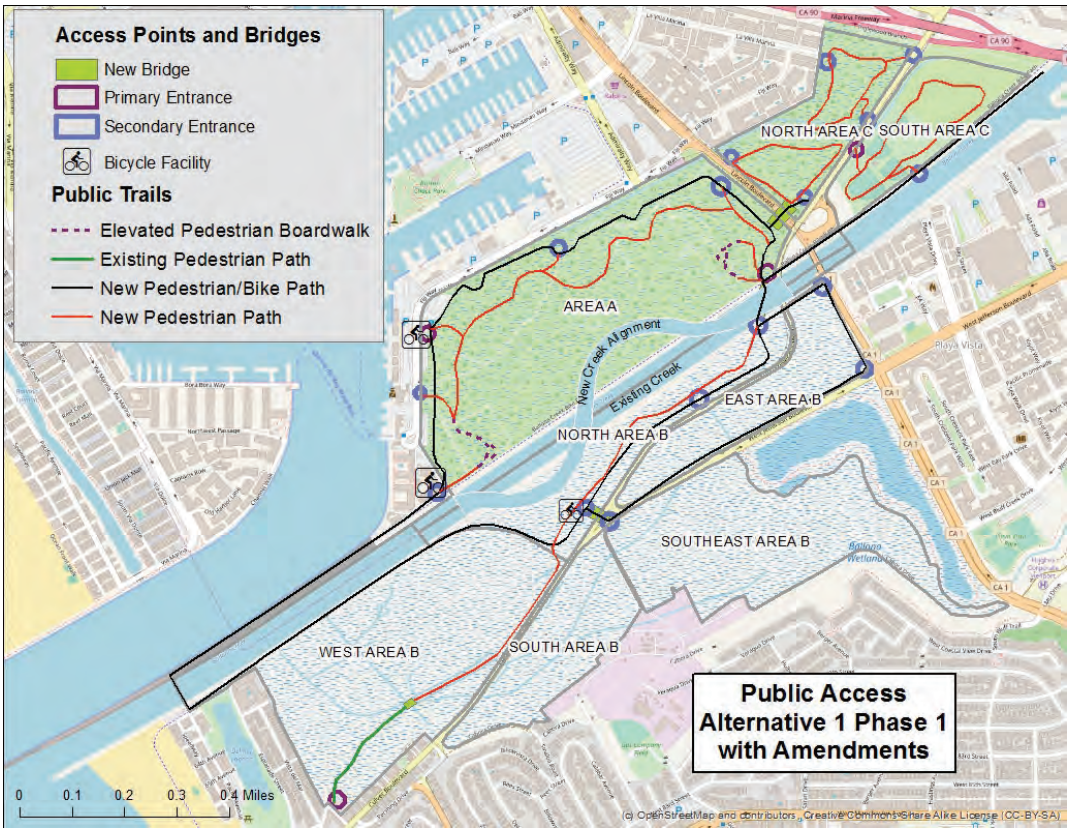
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Alternative 1 Phase 1
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(c) OpenStreetMap and contributors, Creative Commons-Share Alike License (CC-BY-SA)

I7-1
cont.

Letter I7: Barry Berk

I7 -1 The commenter's agreement with comments provided by the Friends of Ballona Wetlands in Letter O10 is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. Specific responses to issues raised within the letter are provided in Responses O10-14 through O10-24.

Comment Letter I8

From:	Lynn Bossone
To:	Wildlife Ballona Wetlands Ecological Reserve EIR
Subject:	Restoration of Ballona Wetlands
Date:	Thursday, February 1, 2018 9:30:33 PM

I am writing to express my serious concerns that what is being proposed by the state of California does not meet any criteria for restoration. Instead it seems that brand new habitat (which was never there in the first place) will be created at the expense of existing habitats which already support a variety of organisms.
It is inexplicable that those 'experts' hired by the state to devise these plans are not better restoration scientists.
There is absolutely no need to spend so much public funds on any of the scientifically unsound plans.
Thank you for considering my comments in your final decision.
Lynn C. Bossone
Culver City, Ca.
Los Angeles Audubon Society docent
Sent from my iPad

I8-1

Comment Letter I8

From:	Lynn Bossone
To:	Wildlife Ballona Wetlands Ecological Reserve EIR
Subject:	Some thoughts on EIR Drafts
Date:	Sunday, February 4, 2018 9:42:13 AM

Mr. Richard Brody,

I have been a docent with the Los Angeles Audubon Society since 2006 which means I have been on Ballona Creek and the Marina/Playa Del Rey jetties leading visitors in bird watching as well as teaching about the value of wetlands habitat. I8-2

At least 4 Black Oystercatchers have been observed year round exactly along lower Ballona Creek since I have been docenting.

The statement on page number (156) of Appendix D12 "Black Oystercatcher ... Less than reasonable as a forager since this species is in small numbers on the outer jetties and the free-standing breakwater of Playa del Rey and rarely seen along lower Ballona Creek " is untrue. I8-3

Over a period of twelve years (Area B) I have been part of a soft restoration by simply removing non native vegetation and witnessing first hand the regrowth of native species. I8-4

Some of the drafts propose building a parking structure in Area A. The land would be better used for habitat rather than a cement footprint.

It is clear that improvements are needed in the wetlands and areas adjacent to Ballona Creek but large scale construction is very destructive of what little historic habitat is still left. I8-5

Thank you for considering my comments.

Lynn C Bossone

Culver City, Ca.

Los Angeles Audubon docent

Sent from my iPad

Letter I8: Lynn Bossone

I8-1 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of "restoration."

I8-2 The commenter's docent experience at Ballona Reserve is appreciated. CDFW hopes the commenter will continue to educate others about Ballona Reserve's ecology.

I8-3 The commenter's assertion that black oystercatcher can be observed year-round in lower Ballona Creek is acknowledged. The following correction has been made to Draft EIS/EIR Appendix D12. Note that nesting populations are protected by CDFW; foraging areas are not protected by CDFW.

Black Oystercatcher	*Haematopus bachmani*	(Nesting) BCC S2	A permanent resident on rocky shores of marine habitats along almost the entire California coast, and on adjacent islands. Undisturbed, rocky coastlines required for feeding. Availability of foraging habitats depends on tidal cycle and ocean swell conditions.	**Less than reasonable** for nesting (although breeding confirmed on outer jetties, this is well beyond potential Project influences) ~~**Less than reasonable**~~ **High Potential** as a forager~~ since this species is in small numbers on the outer jetties and the free-standing breakwater of Playa del Rey~~. This species ~~and rarely~~ may forage along lower Ballona Creek.

I8-4 The commenter's experience with hand restoration of Area B is appreciated. CDFW hopes the commenter will participate in future activities at Ballona Reserve.

I8-5 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.4), which addresses multiple comments regarding parking facilities within the Ballona Reserve.

Comment Letter I9

From:	Theresa Brady
To:	Wildlife Ballona Wetlands Ecological Reserve EIR
Cc:	theresa brady; Marcia Hanscom
Subject:	comments of the EIR/EIS ballona wetlands
Date:	Monday, February 5, 2018 11:40:43 AM
Attachments:	This is already habitat as you know.pdf

To:
Richard Brody, CDFW
c/o ESA (jas)
550 Kearny Street, Suite 800
San Francisco, CA 94108
Email: BWERcomments@wildlife.ca.gov

From: Theresa Brady
21844 Corvo Way
Topanga CA 90290
Terriebrady@gmail.com
February 5, 2018

Regarding the Ballona wetlands EIS/EIR
Dear Mr. Brody:

The main reasons that I support the no action alternative are to protect the existing habitat for endangered species and to reduce impacts on climate change.
This is already habitat as you know. I9-1

These habitats should not be disturbed for the following species:

Belding Savannah sparrow. Have been seen nesting in area B and foraging in both area A and B. This is primarily in pickleweed. I9-2

Monarch Butterflies. When migrating are often seen resting on the eucalyptus here in Ballona and in many other regions they also use the eucalyptus. Though the tree is not native, it demonstrates an important function to native species so it should not be removed. They have also been seen on Sycamore in some regions, so a suggestion would be to plant Sycamore in places where it does not disturb existing important habitat. I9-3

The Least Bell's vireo. Has been foraging and successfully nesting and breeding in area b under the current conditions. I9-4

There are many other special status species with moderate potential to forage. Foraging habitat is essential to protect as is nesting habitat. I9-5

A new plan that can avoid impacting all the existing habitat for wildlife should be rewritten and recirculated. If that does not occur, I can only support the no action alternative. I9-6

I prefer alternative 4, the no action alternative, to others offered in the eir because the existing conditions are quite diverse biological resources and a functioning wetland for many I9-7

species.

There was a recent lawsuit that required the removal or the stoppage of drainage equipment; stopping the draining of water from these wetlands. This will significantly change the habitat. It seems the acoe section of the eir, as well as alternative 4, should be revised and recirculated due to changes from the conditions when the eir was written. Since a ruling in fall of 2017 required that the use of drains be stopped and the wetlands be allowed to act as wetlands again, the whole eir should be revised and recirculated. The revisions should reflect how this ruling impacts the existing wetlands and the biological resources already living there. A new RDEIR should be recirculated for a new comment period. For example this could improve the existing pickleweed habitat for Belding savannah sparrow and could lead to renewed nesting behavior in area A.

I9-8

I9-9

Furthermore on the issue of climate change: soil disturbance releases co2 which exacerbates climate change. Moving that soil by means of transportation dependent on fossil fuel causes climate change. Moving soil to landfills causes methane, which is a main driver climate change. This project should more carefully avoid as much soil disturbance as possible. Alternatives 1, 2 and 3 all require varying levels of soil disturbance. Climate change is another reason that the no action alternative is the preferred alternative.

I9-10

Thank you.

Sincerely,

Letter I9: Theresa Brady

I9-1 The commenter's support for Alternative 4 is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

I9-2 See General Response 5, *Biological Resources*, regarding Belding's savannah sparrow (Final EIR Section 2.2.5.4), which addresses multiple comments received about this species.

I9-3 See General Response 5, *Biological Resources*, regarding invertebrates (Final EIR Section 2.2.5.2), which addresses multiple comments received about the biological resources baseline.

I9-4 See General Response 5, *Biological Resources*, regarding least Bell's vireo (Final EIR Section 2.2.5.5), which addresses multiple comments received about this species.

I9-5 The comment that many special-status species have a moderate potential to forage within the Ballona Reserve, and that foraging and nesting habitat is essential is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

I9-6 See General Response 7, *Requests for Recirculation* (Final EIR Section 2.2.7), which addresses multiple comments received requesting recirculation. Support for Alternative 4 is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

I9-7 The commenter's support for Alternative 4 is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

I9-8 See General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about these drains.

I9-9 See General Response 7, *Requests for Recirculation* (Final EIR Section 2.2.7), which addresses multiple comments received requesting recirculation.

I9-10 Alternatives 1, 2, and 3 each would require some level of soil disturbance that could result in a minor amount of CO_2 emissions as existing soils are moved. However, as described in Draft EIS/EIR Section 3.7, *Greenhouse Gas Emissions/Climate Change*, the wetland restoration activities associated with the Project would increase the Project Site's long term ability to function as a carbon sink. Initially, Alternatives 2 and 3 would sequester more carbon than the Project because they would have larger amounts of salt marsh in west and north Area B (as opposed to upland levee, which would sequester less carbon). However, with sea-level rise, the tidal signal in the

managed marsh eventually would shrink until vegetation was impacted and the habitat converted to mudflat. Under Project conditions (and Alternative 2, to a lesser extent), the marsh would be able to migrate up the levee slope, and the upland would remain, sequestering carbon for a longer period of time than in Alternative 3 (and 2). Therefore, the Project would have the greatest long term benefit with regard to carbon sequestration.[123]

[123] Environmental Science Associates (ESA). 2014. Ballona Wetlands Restoration Project accounting Analysis of Greenhouse Gas Sequestration and Emissions from Wetlands. March 24, 2014.

Comment Letter I10

From: Allison Brandin
To: Wildlife Ballona Wetlands Ecological Reserve EIR
Subject: Ballona Restoration Project
Date: Monday, February 5, 2018 5:00:56 PM

To Whom It May Concern:

I'm asking that you do not support the the state's Draft EIR in its current iteration regarding the Ballona Wetlands. Although I support more public access to this State Ecological Reserve, this should not be linked to a plan to will destroy habitat and threaten the survival of species (some endangered or of special concern) that are already present at the Reserve.

As a docent of Audubon for the Los Angeles Audubon Society, I have had the privilege of being allowed to visit the Reserve during field trips and clean ups. I'm also very pleased that LAAS provides field trips for over 2500 students from underserved schools annually. However, I believe that the general public should have more chance to experience the wetlands on their own as long as it does not endanger the plants and animals that live there. I10-1

Unfortunately, the public access proposed by the current plan includes huge berms and accompanying swales that will cut through the wetlands and destroy existing habitat. I10-2 In addition, these new access features are touted as being ADA accessible. I10-3 I'm having a difficult time understanding how an individual in a wheel chair will be able to scale the elevation of approximately 20 feet to reach these new trails. I'm also concerned about the proposed paved road behind the businesses and residences on Culver Blvd. that is to provide a route for buses and emergency vehicles. I10-4 The entrance to West Area B already has a parking lot and a beautiful gate through which thousands of people enter every year during our programs and those managed by Friends of Ballona Wetlands. The state's current plan favors more paving of the wetlands and overlooks the opportunity to enhance an existing habitat. The massive moving of earth from one area to another in order to create, not restore, habitat is antithetical to the idea of a restoration project. I10-5

In addition, the recent order by the Coastal Commission to cap and eventually remove the illegal drains present on the wetlands indicates that an entirely new suite of baseline surveys needs to be done for this project, as the habitat was artificially altered and deprived of the natural flow of fresh water into the wetlands for many years. This means that the data included in the current EIR was not able to take into account many of the historical conditions of Ballona, which was in the past, a primarily freshwater wetlands. I10-6

I also believe that this project may be a flood control / tsunami protection for the Playa Vista, a multi-billion development as well as an opportunity for gas companies to continue to extract and exploit this beautiful, important reserve - one of the few of its kind in Los Angeles. It would be so heartbreaking to see that the species that are finally making a comeback would be disrupted once again for financial gain for a few — although paid for and supported by the tax payer. I10-7

The issues above are only a few of the many concerns that those of us who love Ballona have about the state's current proposal. There are certainly better options that can be pursued that would not only benefit the current ecosystem and the wildlife supported there but would continue to enhance and revitalize it as well as giving better access to the community. I10-8

PLEASE DO NOT SUPPORT THE CURRENT PLANS.

Sincerely,
Allison Brandin
3406 S. Centinala Avenue
Mar Vista, CA 90066

Letter I10: Allison Brandin

I10-1 The commenter's opposition to the Project and restoration alternatives and support for increased public access is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*, regarding comments that do not warrant further agency response under CEQA.

I10-2 The perimeter berms and associated bio-swales would be located primarily around the perimeter of restoration areas and would not cut through existing habitat. The berms are necessary to meet the Project's objectives of restoring habitat that would be self-sustaining with rising sea levels and providing flood risk management to surrounding infrastructure. These berms would provide ecological value, allowing the reserve to adapt to rising sea levels. For example, as described in Draft EIS/EIR Section ES.4.1, *Alternative 1: Full Tidal Restoration/Proposed Action*, the berm surrounding the salt pan would allow the salt pan to be maintained through 2.1 feet of sea-level rise. Berms would also provide space for the marsh to migrate upslope and for the tidal salt marsh in South and Southeast Area B to be maintained through 3.5 feet of sea-level rise.

I10-3 As described in Draft EIS/EIR Section 2.2.2.3, all three of the proposed primary entrances to the Ballona Reserve would comply with the requirements of the Americans with Disabilities Act, as amended (ADA) Standards for Accessible Design relating to path of travel. A typical entrance is shown in Draft EIS/EIR Figure 2-19, Typical Primary Entrance Visualization. Some, but not all of the secondary entrances also would be ADA-accessible.

I10-4 The expression of concern regarding a paved road behind businesses and residences on Culver Boulevard is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. However, without more information about the nature of the concern, CDFW is unable to provide a detailed response.

I10-5 The commenter's assertion that the restoration alternatives propose to pave over wetlands is incorrect. See General Response 2, *Proposed Project* (Final EIR Section 2.2.2), which addresses multiple comments regarding parking facilities and the public access components of the Project. As described in Draft EIS/EIR Section ES.4.1, the Project would "return the daily ebb and flow of tidal waters where practically feasible to achieve predominantly estuarine conditions, enhance freshwater conditions, and enhance physical and biological functions within the Ballona Reserve" and would "establish 81.0 acres of new and enhance 105.8 acres of existing native wetland waters of the U.S. (total wetland waters of the U.S established or enhanced: 186.8 acres); and establish 38.7 acres of new and enhance 58.0 acres of existing non-wetland waters of the U.S. (total non-wetland waters of the U.S established or enhanced: 96.7 acres)." Some amount of earth-moving would be

required for the restoration to create berms that would allow the Project Site to remain functional as sea levels rise.

I10-6 See General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about these drains.

I10-7 Regarding the purpose for the proposed project, see Draft EIS/EIR Section ES.3 and Section 1.1, *Purpose and Need/Project Objectives*. The connection between the proposed restoration and existing flood control infrastructure is explained in the Abstract included in the Draft EIS/EIR, which states: "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 Project Site. To implement the proposal, CDFW is working with the Los Angeles County Department of Public Works-Flood Control District (LACFCD) to modify Los Angeles County Drainage Area (LACDA) project features (Ballona Creek channel and levee system), a Federal flood risk management project operated and maintained by LACFCD, within the Ballona Reserve."

The stated concern about Playa Vista residents as benefiting from the flood control aspects of the Project is acknowledged; however, the existing federal flood control project, including the components of it within the Project Site that would need be modified for the proposed restoration to occur, is expected to provide at least the same level of flood risk protection as the system currently provides, and to multiple neighborhoods rather than just Playa Vista residents.

Regarding the stated concern about gas company activities, CDFW notes that none of the alternatives analyzed in the Draft EIS/EIR would affect any existing right to store and extract natural gas from within the Ballona Reserve. Instead, as described in Draft EIS/EIR Section 2.2.1.4, the natural gas monitoring well and associated pipeline abandonment and relocation activities would allow for increased connectivity of habitat restoration on the Project Site and protection of existing utilities within the Project Site that are not otherwise abandoned or relocated. As explained in Draft EIS/EIR Section 2.2.2.4, the Project would decommission existing gas wells within the Ballona Reserve and abandon or modify gas pipelines to accommodate the restoration. Certain monitoring wells would be replaced within SoCalGas Property along the southern bluff. The Project does not include any new extraction wells. See also Draft EIS/EIR Sections 2.2.3.4 and 2.2.4.4, explaining the same for Alternative 2 and Alternative 3.

Regarding the disruption to species on-site claimed to be "making a comeback," on the contrary, environmental conditions are degraded and declining, as documented by California Rapid Assessment Method data described in Draft EIS/EIR Section 3.4.2.2 and referenced reports.

I10-8 The suggestion that other, better options exist is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

Comment Letter I11

From: Ellen Bridle
To: bonnie.l.rogers@usace.army.mil; Wildlife Ballona Wetlands Ecological Reserve EIR
Subject: Comments on Ballona Wetlands Ecological Reserve
Date: Monday, February 5, 2018 11:26:59 PM

I am writing to you because I am opposed to the proposed hugely expensive project to allegedly "restore" Ballona Wetlands Ecological Reserve. First, it is not a "restoration", as far as I can tell. It seeks to alter the current ecosystem, which relies primarily on freshwater flows, in favor of a new ecosystem that will rely on tidal flows of brackish water. But I believe historically the Ballona Wetlands relied on freshwater flows. So in what way is it a "restoration"? I11-1

Second, it involves destruction of the habitat there already; bulldozing the Reserve without, as far as I can tell, understanding what's there at the moment. And then moving the soil to another area of the Reserve, without understanding what's now under where the soil is going. There is a thriving ecosystem there now. What happens to the wildlife, plants, etc? I11-2

Third,the enormously expensive work to replace (now functioning) levees, and add berms, etc, are unlikely to last for long enough to justify it in a time when sea levels are rising at an increasing rate. I11-3

I cannot see why anyone would spend hundreds of millions of dollars on such an ill-thought-out project.

Yours,
Ellen Bridle
Member-At-Large, Executive Board of the West LA Democratic Club, and Venice resident.

Letter I11: Ellen Bridle

I11-1 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of "restoration."

I11-2 Regarding the use of mechanized equipment versus restoration by hand, see General Response 3, *Alternatives* (Final EIR Section 2.2.3.4), which addresses Alternative 5 and other alternatives that were initially considered, but not carried forward for more detailed review.

In response to the comment that CDFW does not know what the existing resources are at Ballona Reserve, the affected environment is described on a resource-by-resource basis throughout Draft EIS/EIR Chapter 3. See, e.g., Draft EIS/EIR Section 3.4.2, which describes the affected environment for purposes of biological resources; Section 3.5.1, which describes the affected environment for purposes of cultural resources; Section 3.6.2, which describes the affected environment for purposes of geology, seismicity, and soils; Section 3.9.2, which describes the affected environment for purposes of hydrology and water quality; and Section 3.11.2, which describes the affected environment for purposes of recreation.

What would happen to the wildlife, vegetation, and other resources present also is described on a resource-by-resource basis throughout Draft EIS/EIR Chapter 3. See, e.g., Section 3.4.6, which discusses the potential impacts and benefits to wildlife that could result from each alternative. See also General Response 5, *Biological Resources*, which addresses multiple comments received regarding impacts to biological resources within the Ballona Reserve. Due to the amount of fill deposited on the Project Site, the existing wetland habitat currently is degraded. Redistributing the fill material would allow Ballona Creek to reconnect with its historic flood plain. Additionally, the repositioning of fill would be necessary to create transition zones and upland habitat that would facilitate the migration of wetland habitat upslope as sea levels rise. Therefore, the proposed redistribution of soil would be necessary to enhance the physical and biological function of wetland habitat within the Project Site.

I11-3 See General Response 6, *Hydrology and Water Quality* (Final EIR Section 2.2.6.2), which addresses multiple comments received regarding sea-level rise.

From:	ljbrower@aol.com
To:	Wildlife Ballona Wetlands Ecological Reserve EIR
Subject:	bonnie.l.rogers@usace.army.mil, contactVlad@gmail.com
Date:	Monday, February 5, 2018 2:24:28 PM

To whom it may concern,

I am writing to you today to express my strong dissatisfaction with the proposal to expand the gas facility by using public money to retrofit wells in the construction zone. The wetland has been a fresh water wetland I12-1

so this project is not a restoration because it will turn it into a salt water wetland. I12-2

I would like to ask that the comment period be extended to March and have a full 180 days for review. The project proposal is 8000 pages long and the public needs more time. Because of this I recommend that the California Department of Fish and Wildlife adopt: "Alternative 4 - No Federal Action/No Project Alternative". **The project should not expand development into public lands.** I12-3

The Ballona Wetlands is a wonderful break in our concrete world and necessary for so many species. My son has had field trips there to help pull out invasive species and we marveled at our fortune to still have the wetlands intact. This project is a major construction project that will endanger rare plants and wildlife for no good reason. Using bulldozers is not the way to help sensitive wildlife. I12-4

Thank you for your consideration in of my request.

Lois J. Brower
Transforming Business Through
Bookkeeping & Advisory Services
310-367-0510

LinkedIn- http://www.linkedin.com/pub/lois-j-brower/9/241/332
OR add me on FaceBook at LJ Brower Bookkeeping & Advisory Services

Letter I12: Lois Brower

I12-1 Neither the Project nor any of the alternatives proposes to expand the SoCalGas facility. See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.3), regarding the proposed removal of SoCalGas Company infrastructure from within the Ballona Reserve.

I12-2 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of "restoration." See Response I1-4 and Response I3-1 regarding the role of fresh water as part of the existing and proposed system.

I12-3 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW's decision not to further extend the comment period beyond 133 days.

I12-4 CDFW would like to be clear: None of the proposed restoration alternatives would "expand development into public lands." The Project proposes to restore functionality to wetlands and habitats that have been degraded, damaged, or destroyed due to past actions including the dumping of approximately 2.8 to 3.5 million cubic yards (cy) of dirt onto the wetlands during the construction of Marina del Rey in the 1950s. The Project would restore functionality to currently degraded habitat by increasing tidal influence to achieve predominantly estuarine conditions, enhance freshwater conditions, and enhance physical and biological functions within the Project Site. The Project also would remove non-native invasive species that currently dominate the Project Site and reestablish native wetland vegetation. Additionally, the Project aims to create a restored wetland habitat that would be resilient and adaptive as sea levels rise.

Regarding the use of mechanized equipment versus restoration by hand, see General Response 3, *Alternatives* (Final EIR Section 2.2.3.4), which addresses Alternative 5 and other alternatives that were initially considered, but not carried forward for more detailed review.

From:	Richard Buck
To:	Wildlife Ballona Wetlands Ecological Reserve EIR
Subject:	support the concept of State"s plan to restore Ballona wetlands to a full tidal wetland
Date:	Thursday, January 11, 2018 4:38:00 PM

What is the anticipated cost of the project? I13-1

Will any water supplies or utilities be adversely affected by the project? I13-2

Thanks.

Richard E. Buck, Esq.

Cooksey Toolen Gage Duffy & Woog

535 Anton Boulevard, 10th Floor | Costa Mesa, CA 92626

Tel: (714) 431-1036

Fax: (714) 431-1119 | www.cookseylaw.com

Letter I13: Richard Buck

I13-1 As described in Draft EIS/EIR Section 2.1.1.2, *Overview of Section 404(b)(1) Guideline's "Practicability" Considerations and Other Requirements*, based on a 2008 feasibility study for the Project, "The total estimated cost of restoring the Ballona Reserve as described under Alternative 1 is approximately $182,822,316; the estimated cost per restored acre is approximately $908,208."

I13-2 No, as described in Draft EIS/EIR Section 3.13, *Utilities*, neither the Project nor Alternative 2, 3, or 4 would result in significant impacts to water supply or other utilities.

Comment Letter I14

From: Michael Busse <donotreply@wordpress.com>
Sent: Friday, September 29, 2017 4:07 PM
To: sidewalksforballona@gmail.com; Wildlife Ballona Wetlands Ecological Reserve EIR
Subject: In support of Alternative 1 to restore Ballona Wetlands

Name: Michael Busse

Email: michaelrbusse@gmail.com

Comment: Dear Mr. Brody,

I am writing you in support of Alternative 1 put forth in the draft environmental impact report for the restoration of Ballona Wetlands. I14-1

In addition to habitat restoration, I am strongly in favor of the proposed addition of new trails, pedestrian/bike bridges, and bike paths.

The current lack of pedestrian options in this area forces walkers and joggers to trample critical habitat or endanger themselves in the roadways. Alternative 1 for Wetlands Restoration will provide safe options to pass through the reserve, keeping both pedestrians and the environment. Finally, additional trails through the wetlands act as a bridge for the surrounding neighborhoods of Westchester, Playa del Rey, and Playa Vista, which are currently disconnected by the lack of sidewalks or trails along Culver Boulevard. I14-2

I urge the California Department of Fish and Wildlife to take into consideration the safety needs of pedestrians in the area. Thank you. I14-3

Best regards,
Michael Busse
Los Angeles resident

Time: September 29, 2017 at 4:06 pm
IP Address: 73.51.191.36
Contact Form URL: https://sidewalksforballona.com/2017/09/29/restore-ballona-wetlands-contactcdfw/
Sent by a verified WordPress.com user.

Letter I14: Michael Busse

I14-1 The commenter's support for the Project is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

I14-2 The stated support for recreation and public access improvements proposed as part of the Project also are acknowledged and included in the record of information that will be considered as part of CDFW's decision-making process.

I14-3 The stated concern for pedestrian safety is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Draft EIS/EIR Section ES.3.2 and Section 1.1.2, which disclose that one of CDFW's objectives for the Project is to "[p]rovide oversight of the Ballona Reserve to accomplish management functions such as ensuring public safety and resource protection while minimizing security and maintenance costs." Without any specific information about the nature of the concern, CDFW is unable to provide a more detailed response.

From:	Bruce Campbell
To:	Wildlife Ballona Wetlands Ecological Reserve EIR; bonnie.l.rogers@usace.army.mil
Subject:	Comments on the Draft EIR / EIS for the Ballona Wetlands "Restoration" Plan for the Ballona Wetlands Ecological Reserve
Date:	Monday, February 5, 2018 4:57:42 PM

February 5, 2018

Bruce Campbell
3520 Overland Ave. # A 149
Los Angeles, CA 90034

Richard Brody
CDFW c/o ESA (jas)
550 Kearney Street, Suite 800
San Francisco, California, 94108

Dear Mr. Brody,

The following are my comments on the Draft EIR / EIS relating to what are claimed to be "restoration" efforts at the Ballona Wetlands Ecological Reserve.

The entire document compilation must be tossed out! **THE BASELINE DATA IS SKEWED DUE TO 21 YEARS OF ILLEGAL DE-WATERING (from 1996 through 2017).** ***(This illegal de-watering outrage was finally ordered "capped" by the California Coastal Commission in December of 2017.)*** **So the alleged delineations of certain kinds of wetlands in the mass of documents are a sad joke!** I heard an experienced biologist advise that it would be proper to allow for 8 years of the water sinking into and ponding on the wetlands in order to have proper figures for wetlands delineations. So, 8 years for the BWER *site (especially near the two drains that were illegally draining the area for 21 years)* to return to what was relatively normal for those wetlands, and then a couple years worth of surveys should bring a clearer delineation of wetlands at the BWER site as well as a clearer snapshot of what species are then occupying the area. Also, wetland habitat function sees improvement when the "wet" is allowed to remain in the area. Upon improved functioning at wetlands when rainwater is allowed to pond at the BWER, then some species will return or reach greater numbers than what was given as the species baseline for this project. **Thus, it is very likely that fluid removal / illegal de-watering was purposefully ignored by project proponents in order to try to have the wetlands approach the "severely degraded" state which proponents insist the ecosystem is in in order to try to justify "extreme" industrial-scale bulldozing operations which is claimed to be a restoration – even though it would not turn the area into anything that resembles what it was before.**

I15-1

I15-2

I will now quote most of the paragraph in the "Settlement and Subsidence" section: "Subsidence can be caused by the withdrawal of fluids such as groundwater and oil or by the

I15-3

placement of new loadings such as structures or levees. The removal of the fluids reduces the strength of the geologic layers, with silts and clays being the most susceptible to subsidence. Oil has not been extracted from the local area since the 1930s (Appendix E). There are no water supply wells located within the Project site. **WITH NO FLUID EXTRACTION ACTIVITIES, THE PROJECT SITE IS NOT KNOWN TO BE SUBJECT TO SUBSIDENCE DUE TO FLUID WITHDRAWAL.** However, settlement can occur when a load from a structure or placement of new fill material is applied, causing distortion in the underlying materials." Page 3.6-16 of App. B, Part IV

The above quote is blatantly inaccurate. Not only was there 21 years of illegal draining of two key ponding areas at the BWER, but there is also ongoing de-watering at the Playa Vista development to keep gas mitigation systems in buildings free of water *(per Clean Up and Abatement Order 98-125)* as well as the daily removal of 2500 barrels of brine-water from the oil field each day. *(By the way, Playa Vista is not decontaminating the groundwater as promised likely because they figure they know or can pressure political figures not to prosecute them for not following the abatement order.)* There is both subsidence and a little upheaval at the BWER site at present – despite document claims to the contrary.

I15-3 cont.

I did not find this in the documents, but certainly any future documentation must address the 2 CAL EPA Complaints which the Grassroots Coalition filed in regards to De-Watering, as well as one complaint to the California Coastal Commission in regards to the de-watering harming Ballona's groundwater level. Another huge study item for future documents on this matter would be how inviting the ocean waters into the wetlands would impact the groundwater table. **Could the aquifer below the BWER west of Lincoln Blvd. still be classified as "potential drinking water" if there is so much more salty ocean water under action alternatives?** Also, please note that the digging up of lots of soil at Ballona might bring the ocean tides down to the level of the water table. In inland areas of Ballona, the groundwater table is just a few feet from the ground surface. **Address the earlier illegal drains as well as ongoing de-watering activities within a mile of the BWER site in all future documentation!**

I15-4

I15-5

I15-6

I15-7

I generally favor Alternative 4 – the No Action Alternative. However, the baseline data regarding delineation of wetlands as well as the baseline data on species is quite skewed due to the 21 years of illegal de-watering operations at the BWER. Thus, **there is no real "site evaluation" in the document, and thus even the No Action Alternative is non-compliant with both NEPA and CEQA** – and certainly the damaging action alternatives would also be non-compliant with NEPA and CEQA due to no site evaluation as well as failure to mitigate negative impacts of the industrial-scale operation.

I15-8

I15-9

I will now raise about 36 points regarding this massive yet inadequate documentation pertaining to alleged "restoration" at the BWER.

1. The actions proposed at the BWER are not a "restoration", and thus should be rejected. I15-10

2. The "baseline" data is quite skewed due to the 21 years of impacts from illegal de-watering at the BWER which clearly impacts both wetlands delineations as well as presence or absence of certain species. *(This was largely covered above before I began this list of my numerous points.)* I15-11

3. There is a crying need for an action alternative which involves freshwater seasonal wetlands. *(This alternative would even fit a basic definition of "restoration" – what a concept!)* I15-12

4. It is improper to put a check-mark for the "Soils" part of the "Summary of Impact Conclusions". This is because the massive bulldozing and rearranging of the soils at the BWER to construct berms will result in loss of soil due to wind. Also, the berms will be quite prone to slumping, collapsing, eroding onto nearby major thoroughfares such as Lincoln Blvd. and Culver Blvd. Thus, even though the odds of a "natural landslide" impacting the BWER site is negligible except for the dune area in western Area B, but the massive soil rearrangement into berms is clearly a prelude to numerous unnatural landslides due to rain, wind, subsidence, etc. The fact that the entire Ballona area is in a liquefaction zone should have prompted a better analysis of the likelihood of berm subsidence, erosion, and collapse. I15-13 I15-14 I15-15

I do not believe that there is adequate mitigation which would prevent significant impacts to the soil aspects of the BWER. CEQA Guidelines Appendix G Section VI (b): significant adverse impact on the environment if it could result in substantial soil erosion or the loss of topsoil. Lots of soil will be lost to the wind and to wind created by moving vehicles, and some berms will be subsiding as well as sometimes collapsing onto adjacent thoroughfares. I15-16

CEQA Guidelines Appendix G Section VI (c) – "a project would have a significant adverse impact on the environment if it would be located on a geologic unit or soil that is unstable, **or that will become unstable as a result of the project**, and potentially result in one or more of a list of ground failure mechanisms, including some that more commonly are associated with seismic-induced failures (i.e. liquefaction and lateral spreading)." That is the key, the soil stability on site at this time is doing alright though there is some subsidence and minor upheaval. But it is the action alternatives of the Project that will construct berms made out of bulldozed soil and dredged spoils which create the soil stability problem which will impact some major Westside roadways at some points as well as drastically alter habitat. Thus, it is the project's action alternatives that will bring about significant instability. And even if some "consolidation" work can bring certain stability to some berms, I am concerned that "consolidation" work will lessen spaces within the soil that species like insects and others need to survive. *(The document also notes ground failures that do not require a seismic event such as "seepage/piping, slope stability, and settlement". I contend that these types of ground failures will increase if an action alternative regarding major berm-building is carried out.)* I15-17 I15-18

5. I object to the proposed destruction of the heavily-used (for both commuters and recreationists) Ballona Channel bike path – as well as to the destruction of the rowing facilities used by UCLA, USC, and Loyola Marymount University under most action alternatives. I15-19

6. There are several places in the documents where it is mentioned that **"disturbances" are what leaves an area vulnerable to being taken over by invasive plants.** A tour guide at Ballona Area A last fall also pointed out that the area has some invasive plants due to "disturbances". But think about it, what could be more disturbing to an area than 5 to 9 years of bulldozing and rearranging most of the soil?! Yes indeed, there will be massive infestations of invasive plant species after the proposed massive disturbances which will prompt use of toxic herbicides which will in turn further decrease the quality of water in the area. I note a section referring to allowing pesticides as long as it meets "management purposes." I15-20

7. EXPOSURE TO TOXIC MATERIALS The documents (at least what I have viewed) do not seem to do much analysis regarding natural gas storage in the Playa del Rey underground "field", and especially how such natural gas storage may interact with the aquifers of the area. The documents are also confused as to where this storage field is located. Furthermore, I15-21

this time in the 21st century is a key time to seek to get off fossil fuels so that our planet's climate has a chance. Thus, it is improper for the action alternatives for BWER to determine the energy future of the Westside of Los Angeles by negating the possibility of a shutdown of the PDR natural gas storage field in near future decades when there is serious consideration by Los Angeles City Councilmember Mike Bonin and some environmental and neighborhood groups to phase out operations and close down the PDR field. I15-22

Also, the volatility of the natural gas field (especially during seismic disturbances) is the biggest danger to residents and visitors of the general Ballona area, followed by danger from a major methane (and other toxic substances) leak from the Playa del Rey gas field, followed by increased air carcinogens during construction from proposed action alternatives as well as being exposed to toxic dredge spoils as well as being exposed to herbicides such as Roundup (active ingredient Glyphosate) which apparently will see significant use during the so-called "restoration" seeing that the massive bulldozing / soil and dredge spoil rearranging will create such disturbances that invasive plants will have a very fertile bed on which to flourish. *(By the way, the State of California has determined that Glyphosate is a "probable carcinogen".)* I15-23

I also have serious concerns that toxic rodenticides will be used in the numerous "berm" areas at the BWER under action alternatives. Please elaborate in future documents as to how you plan to keep the berms at re-arranged Ballona free of rodents, lizards, and snakes, and also how your rodent management activities may impact other species of the area *(including listed and other rare species, as well as other critters including wandering neighborhood pets).* I15-24

8. To my knowledge, it is illegal to "piece-meal" under CEQA. There was an EIR / EIS process for Lower Ballona already under way when some agency and industry big-wigs decided there I15-25

could be an advantage to "piece-meal" and seek to get exorbitant amounts of money to do an industrial operation on just the BWER portion of the lower Ballona ecosystem. The other way it is "piece-mealing" is that I see no meaningful effort to meet the TMDL standards during storm times at Ballona Creek*. (I know there is progress in beginning to address the TMDL situation during non-storm times at lower Ballona and two tributary creek channels, yet even here it is sad that the water is not diverted to the wetlands which would be the best thing to do for habitat value.)* I saw a mention of "floodgates". If there are serious floodgate efforts to keep litter *(and theoretically possibly pollutants too)* from the Ballona Wetlands following Ballona Channel levee removal, then such technology needs considerably more evaluation in the documents.

I15-25 cont.

I15-26

I15-27

Thus, unless there is amazing "floodgate" technology *(even following the removal of the Ballona Channel levees)* which will not allow even bacteria, heavy metals, or pesticides to get out of Ballona Creek and enter the Ballona Wetlands to further impair that already impaired "body of water", then I believe that the sentence quoted in the following paragraph from 3.4 SEDIMENT AND WATER QUALITY is quite applicable. By the way, is the "floodgate" supposed to be able to work during very stormy times – or just in times in between the flow rates during "dry" times of year and the flow rates with some rain *(but not a major amount of rain which I would surmise a floodgate is not designed to hold back)?*

I15-28

I15-29

Under "3.4 SEDIMENT AND WATER QUALITY", it says that **"Due to the challenges of reducing pollutant loads from highly urbanized watersheds, improvements in water quality and significant reduction in potential impacts may take twenty years or more."** It is reckless indeed to give fairly near future dates for removal of Ballona Creek levees *(following mass bulldozing and rearranging of the soil at BWER)* when it is admitted that it could well take twenty years or more before Ballona Creek might be considered a no longer impaired body of water so that it may be possibly be legally diverted to the wetlands area. Stop the reckless and illegal action alternatives of the DEIR / DEIS!

I15-30

Here is a quote of the title and first sentence of *3.1.3.1 Connectivity Within the Greater Ballona Ecosystem* Within the greater Ballona system there exist areas of complimentary habitat. These include Del Rey Lagoon, Grand Canal, El Segundo Dunes, Oxford Lagoon, adjacent bluff areas, nearshore and beach habitat, Ballona Creek and Marina del Rey jetties and breakwater, and the Pacific Ocean. Some of these sites are hydraulically connected and support a limited wetland component; those that are not provide upland habitat primarily for avian and insect species.

Instead of the sensible approach of analyzing the Lower Ballona watershed for what was just admitted to be some "complementary habitat" – including with an actual HYDROLOGY STUDY (what a concept!), it was determined to do illegal piece-mealing rather than face true hydrological issues in the Ballona Wetlands ecosystem.

I15-31

I wish to point out that it is not permitted (under the federal Clean Water Act) . That's right, water bodies on the CWA 303(d) list are not allowed to add to their pollution burdens by

I15-32

filtering urban runoff. I15-32 (cont.)

9. The DEIR / DEIS is particularly appalling in relation to what I see as absolutely no effort to seek to reduce air pollutants relating to the industrial-scale bulldozing and soil and dredge spoil rearrangement operation. It is absolutely unacceptable to claim that global climate will be assisted by the action alternatives because somehow the reduced amount of soil in the area is supposed to magically sequester a bunch more carbon. This is a ridiculous unjustified claim and does not pass muster for so-called "mitigation" of the serious air pollution in the Ballona area during the 5-9 year bulldozing/destruction/construction phase of the alleged restoration. And project proponents use that weak claim to try to justify doing absolutely nothing to reduce construction era pollution. Not only would there be major emissions of diesel (which contains more than 40 known carcinogenic components), but also of global climate-impacting black carbon and other pollutants. The Lower Westside deserves better protection for our lungs! Thus there should be no check-mark next to "Air Quality" when evaluating whether there are significant impacts from the action alternatives of the so-called restoration project. I15-33 I15-34 I15-35

10. Air pollutants from destruction/construction activities at the BWER site (plus some herbicide drift) are the primary factor in my reaching a conclusion that "ENVIRONMENTAL JUSTICE" should not get a check-mark in terms of no significant impact once mitigated, etc. Please note on page ***
that along with the area immediately north of the BWER (especially west of Lincoln), the other 4 delineated areas on that aforementioned map will bear the brunt of the air pollutants relating to action alternatives proposed for the BWER. I15-36

Under 3.14.4.2 Environmental Justice, it reads:
"For purposes of this analysis, the Corps has determined that Alternative 1, 2, 3 or 4 would have a significant impact related to environmental justice under NEPA if it would:
EJ-1 Result in disproportionately high and adverse environmental effects on a minority or low-income population."

I note that the USEPA Guidance states that the analysis of environmental justice should determine if the affected of minority population and/or low-income population is subject to "disproportionately high and adverse human health of environmental effects from the Project".

I note that "Most census tracts in the local study area were below or near the average of 6% " (of households with young children), though several had greater than 10%: 2756.02 (Playa Vista), 2754 (Del Rey)" plus a couple areas of Mar Vista.

When looking at racial demographic data, one notes that with the exception of the area just north of the BWER (especially west of Lincoln Blvd.) which is generally white and middle class, all of the other nearby delineated (on the map in the documents) areas have higher percentages of racial minorities (especially Latinos) than other parts of the region, as well as have lower incomes than most neighboring areas. Sorry do not have time to analyze that data. I15-37

One other key environmental issue is the treatment of native remains and often associated burial items. East of Lincoln Blvd. at the Playa Vista site, thousands of native remains were dug up, placed in a crate and warehoused, and then eventually reburied. While the "cemetery" at Playa Vista was among the most concentrated native remains ever found in the Americas (and thus likely the largest portion of the area with the buried bodies has already been majorly disturbed), but the odds are that more native burials will be discovered as well as other items from ancient indigenous people. There has been enough pain associated with removing native burials from east of Lincoln Blvd. – this would be an Environmental Justice disgrace if more native burials are allowed to be disturbed and removed all to usher in a bogus restoration in order to please major landowners and power players in the region. I15-38

11. I note that the Palms-Mar Vista-Del Rey Community Plan, Policy 5-1.1 states: **"Encourage the passive and visual open space which provides a balance to urban development of the community."** Clearly, the action alternatives proposed for the BWER are anything but "passive", and there will be a reduction in open space that visitors may use due to encroaching ocean tides. Also it will look less "open" since one will not be able to see the coastal zone for instance from Lincoln Blvd. due to the towering berms which are not at all natural for the BWER site. I15-39

12. I find it ironic that parts of the mass of documents warn of how toxic the old dredging spoils from the mouth of Ballona Creek which were partially deposited onto the BWER site, and warns of how toxic the dredging spoils are currently at the Ballona Creek mouth *(which is also by the channel outlet to the ocean for Marina del Rey)* are, yet in other parts of the documents it is proposed to mix a bunch of new dredge spoils with soil relocated from the BWER site in order to build a major network of berms. I15-40

(From a description of the Project: "6. Reposition between 2,290,000 and 2,420,000 cy of dredged or fill material on the project site as perimeter levees, transition zones, and upland restoration areas to allow Ballona Creek to reconnect with its historic floodplain;"

It just occurred to me that these **berms *(some of which are proposed to have a bikepath upon them)* will be quite inviting for off-road bicyclists and motorcyclists to leave the formal bike path and have fun with those elevation changes related to hilly berms. Not only will this increase erosion and the potential for berm collapse *(including onto busy nearby thoroughfares),* but it will harm native vegetation and habitat for various species. Flat surfaces are not too attractive to those who are riding for thrills** rather than riding to get to a certain destination, so I believe that a rearranged Ballona with lots of berms will look like an off-road bicycle and motorcycle area to some who will tear up the place! I15-41

It is my understanding that the SAC team was incorrect in terms of both volume of dredge spoils as well as in regards to location of such spoils on the BWER site. It is further my understanding that the State Coastal Conservancy has received the more accurate U.S. Geological Survey documents and maps via concerned citizen John Davis in terms of volumes and location of such spoils. I hope such info will be reflected in future documentation in regards to alleged restoration of Ballona. In addition, I did not discover in the array of I15-42 I15-43 I15-44

documentation if there is any process to evaluate the toxicity of the dredge spoils to see if they are too toxic to mix with re-arranged soil to build major berms at the BWER. Will there be such an evaluation process to evaluate the toxicity of the dredge spoils? How much would it cost to dump a load of toxic dredge spoils at a Class I toxic dumpsite? I15-44 cont.

13. It is reckless in this era of climate disruption to only analyze for a 100-year storm event as if that is likely the largest event to happen in our lifetimes. I dug up an old e-mail from a farmer friend in southwestern Wisconsin who I contacted after I heard that there were major rainstorms in the upper Midwest. She wrote on 9-25-16, "Well, the experts termed the August 2006 event as the 500-year flood and the June 2007 event as the 1000-year flood. Steven termed this one as the 800-year flood as it's in between those other two in effects." That's right, it is shortsighted to believe that what is called a 100-year flood will happen just once in the next 100 years. Thus I do not believe that L.A. County Drainage Area project to allegedly protect communities from a 100-year flood is highly inadequate! I15-45

14. The seismic analysis failed to mention the existence of vertical ground acceleration during seismic disturbances. The high vertical ground acceleration reading for the Imperial Valley October 15, 1979, earthquake is what prompted the Nuclear Regulatory Commission's Atomic Safety and Licensing Appeals Board to hold a few days of seismic hearings way back in early fall 1980 in regards to the safety of the then-under-construction Diablo Canyon nuclear reactors. Thus, vertical ground acceleration is not a new concept, but has been integral to reasoned seismic analysis for nearly forty years. I15-46

When analyzing whether soil will erode and some berms will slump, collapse, or slide onto Lincoln Blvd., Culver Blvd., or Jefferson Blvd., please consider how a quake on the Lincoln Blvd., Charnock, Overland, Newport-Inglewood, Palos Verdes, or other earthquake fault might bring about subsidence, erosion, and/or collapse of berms (constructed with somewhat consolidated re-arranged fill including toxic dredge spoils) onto these aforementioned throughfares. Also evaluate possible impact of offshore faults on the Ballona Creek mouth and MDR channel entrance area. I15-47

There is a map in the document showing the entire Ballona area as a liquefaction zone. The parking structure and visitor center should not be built on site. The safety of the parking structure during a seismic disturbance would be the main danger to visitors from an action alternative for the BWER. There also could be seismic concerns regarding temporary bridges on which to haul bulldozed and dredged materials which would be built and be temporary over Lincoln Blvd. and over Ballona Channel. I15-48

15. The berms will be a major attraction for macho off-trail bicycle and motorcycle riders. It just occurred to me that these **berms** ***(some of which are proposed to have a bikepath upon them)*** **will be quite inviting for off-road bicyclists and motorcyclists to leave the formal bike path and** I15-49

have fun with those elevation changes related to hilly berms. Not only will this increase erosion and the potential for berm collapse *(including onto busy nearby thoroughfares),* but it will harm native vegetation and habitat for various species. Flat surfaces are not too attractive to those who are riding for thrills rather than riding to get to a certain destination, so I believe that a rearranged Ballona with lots of berms will look like an off-road bicycle and motorcycle area to some who will tear up the place!

I15-49 cont.

BASICALLY ADMITTING IT IS NOT "RESTORATION" that the Action Alternatives Propose

I note on pages B3-13 and B3-14 in Appendix B, Part IV, that it reads:

"It should be noted that the proposed restoration includes elements of both habitat *restoration* and habitat *creation*. Our understanding of the historical ecology of the Ballona region is largely inferred from historical accounts of the Los Angeles coast (e.g., Dark et al. 2011); few hard data exist regarding historical habitat composition or ecosystem function at the BWER. Moreover, development within the Ballona Creek watershed and the associated need for flood control greatly limit the options available for restoration. **Some aspects of the restoration plan involve "restoration" in the sense of recovering historical conditions. However, most aspects of the restoration plan involve reestablishment of natural processes and ecological functions and either habitat creation (i.e., creating a particular type of habitat where it previously did not exist) or habitat enhancement (i.e., modification of existing conditions). However, to avoid over-complicating the Conceptual Plan, the term "restoration" is used throughout the text and is meant to encompass all of these elements and not only the re-creation of a historical condition."**

I15-50

Sincerely yours,

Bruce Campbell

From:	Bruce Campbell
To:	bonnie.l.rogers@usace.army.mil; Wildlife Ballona Wetlands Ecological Reserve EIR
Subject:	Part 2 of Comments on DEIR / DEIS for Ballona Wetlands "Restoration" Project on the Ballona Wetlands Ecological Reserve
Date:	Monday, February 5, 2018 11:29:32 PM

February 5, 2018

Bruce Campbell
3520 Overland Ave. # A 149
Los Angeles, CA 90034

Richard Brody
CDFW c/o ESA (jas)
550 Kearney Street, Suite 800
San Francisco, California, 94108

Dear Ms. Rogers, Mr. Brody, and to whom it may concern:

This is part two of my comments on the DEIR / S for the alleged restoration project on the Ballona Wetlands Ecological Reserve (BWER). *(Excuse me for not addressing part one of my comments to Ms. Rogers in the salutation – as well as to Mr. Brody. Somewhat rushed as you might imagine when a commenter tries to review such substantial amounts of documents* ***And imagine, all those documents and NO HYDROLOGY STUDY!)*** I15-51

I was informed that Mr. Brody indicated that they would accept comments this evening as long as they are in by midnight. That is why I am writing this part two of my comments.

Last night, I wrote to Chuck Bonham, Director of CA Fish and Wildlife Dept. to ask for an extension in the comment period on the Draft EIR / EIS because thousands of pages of **"reference materials"** were added to the CA Dept. of Fish & Wildlife website on January 22 and January 23, 2018 – and yet there was no notification to either interested parties or the public about the addition of this voluminous reading material. **Please extend the comment period for comments on the DEIR / DEIS relating to the BWER due to this severe oversight regarding notification and in regards to a sufficient time in which to comment.** Plus, there is soooo much info to go through, and that doesn't even include the latest Reference Materials or even the earlier-posted Reference Materials which I have my doubts whether I will be to digest even if there is a further extension of comments. I15-52

Though, a wise empowered decision-maker would make a decision based on these three increasingly glaringly obvious points: 1. The **21 years of illegal de-watering** due to those two large drains in areas known to pond at the Ballona Wetlands Ecological Reserve **clearly skews wetland delineation data and maps. Thus, there has been NO ADEQUATE SITE** I15-53

ASSESSMENT – which violates both NEPA and CEQA*; (In addition, there would likely be a fairly notable shift in numbers and presence of some species if rainwater had been allowed to soak into the aquifers below Ballona – rather than be illegally drained from two key ponding areas for 21 years!)* 2. **The action alternatives are not a "restoration"** since the area never resembled what is proposed by action alternatives under the Draft EIR / EIS; and 3. It is apparent that there will be **major significant impacts to listed and other species in the Ballona ecosystem which the mitigation measures do not begin to address – especially in the 8 to 10-year period following the beginning of the major bulldozing and dredging phases.** There are inadequate but at least sort of existing plans to temporarily relocate at least some native plants during a phase or two of so-called "restoration", but I saw no indication of any plans for any sort of relocation or even attempt to guide certain critters in a certain direction when the bulldozers close in. I15-53 cont. I15-54 I15-55

So even if the bulldozing re-arrangement at Ballona appears to be working fairly well say in the year 2030 *(which I highly doubt but for sake of argument),* **what will happen to the species who lose their habitat due to massive bulldozing and berm-building operations in the meantime?** It is claimed that there will be meticulous efforts to remove, store, and replant the native plants on the many acres of the BWER site. Are there non-plant species at all in the area (even one) that will be either captured to hold (perhaps until after the so-called restoration efforts are largely complete) or else captured to be taken to other habitat, or else guided toward some decent somewhat substitute habitat before massive bulldozing operations? One problem with longer-term capture (besides stress of say a wild coyote in a cage) is that the alleged restoration will take so long (and then they will have problems with invasive plants due to the massive amount of disturbance during the "reposition"(ing of) "between 2,290,000 and 2,420,000 cy of dredged or fill material on the project site as perimeter levees, transition zones, and upland restoration areas") that the any critters who might be temporarily held until some habitat returns will have expired. I15-56

Just before the Executive Summary of the Draft EIR / EIS appears the "Key Definitions and Acronyms" 2-page chart / table. In this section on page xx, it is mentioned that different agencies have different definitions of "Wetland" with the State of California's definition qualifying if at least one of these three conditions are met at a site: "Wetland Hydrology: The presence of water at or above the soil surface for a sufficient period of the year to significantly influence the plant types and soil chemistry.
• Hydric Soil: Soil that is wet long enough during the growing season to develop low-oxygen conditions.
• Hydrophytic Plants: Plants adapted to saturated soil conditions."

I did not notice in my readings of parts of the DEIR / DEIS whether the delineated types of wetlands on a number of maps were related to a definition of "wetland" that needed just one of the aforementioned conditions present, or whether what was delineated was from an agency which whose definition of wetlands needs all three features to be present in an area. I15-57

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I note that the first sentence under "1.3 Project Description" reads: "The Ballona Wetlands I15-58

restoration includes the reintroduction and revival of critical wetland habitat, including target animal and plant species, and the **creation of a natural open space for the public benefit**." I want to focus now on the end of that, the "creation of a natural open space for the public benefit".

How natural is a BWER with a network of towering berms when it is mentioned more than once that the BWER is generally flat? Speaking of natural, let us examine the topography of the Ballona area -- especially of the BWER. Except for the hillsides further south than the acquired Reserve and the dune habitat at the western end of Area B, basically Ballona is relatively flat**. Page 3.6-34 (of Appendix B, Part IV) reads: "The Ballona Reserve is located along the coast and is relatively flat". And goes on: "the relatively flat and low-lying topography of the site itself results in a low potential for landslides".**

I15-58 cont.

So, **how can a major network of towering berms and levees be declared to be natural in an area with relatively flat topography?** I agree that there is low potential for "natural landslides" at the Ballona Reserve *(particularly west of Lincoln Blvd. except for the far western end of Area B)*, however there is considerable potential for the proposed berms *(with no tree roots there to hold them together)* to collapse during a storm, during an earthquake, or at some other time due to subsidence or other weakening or shifting. And some of these berm collapses may end up blocking traffic on the busy thoroughfares through the area.

I15-59

Will there be notable differences between vegetation management practices (as well as practices targeting rodents, reptiles and other critters) on the proposed berm areas vis-à-vis the levee areas under the action alternatives? If so, please carefully explain this in the final document.

I15-60

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A REASONABLE RANGE of ALTERNATIVES or Colluding for "Enormous" and "Extreme" Alternatives

-

I believe that under both CEQA and NEPA, there are supposed to be a reasonable range of alternatives offered. But not only did some insiders limit the selection of the alternatives offered, but what was offered was highly inadequate. Are not the terms **"enormous"** and **"extreme"** so far on one side of the spectrum that it **should not be included in a "reasonable range of alternatives"**? The Coastal Conservancy's Mary Small said, "The project we are recommending **is enormous in scale**." *(John Davis PRA Response attachment in 3/28/12 Coastal Conservancy Hearing-Request)*

"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." (Page 1093 of 1117)

There was no reasonable range of alternatives because the action alternatives are enormous and extreme, while sensible alternatives such as a freshwater seasonal wetlands alternative, the

I15-61

Ballona Ecosystem and Education Project alternative, and the "1800s" alternative were dismissed due to a non-biological agenda of some players involved. I15-61 cont.

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Table 3.14-6 shows poverty in the local study area, and the two highest rates of poverty (22 and 28%) are both in different areas of the Del Rey district of the City of Los Angeles. (Playa Vista did not appear to be included in that table.) Table 3.14-5 shows Racial Characteristics for Minority Communities in the Study Area, and it shows that 3 areas within Del Rey have the highest % of minority residents followed by an area of Playa Vista. Thus, the diesel and dust emissions will impact sensitive receptors and others in the BWER region, and it appears that except for the area north of the site west of Lincoln, the areas north of the eastern part of the site, areas to its northeast, as well as the Playa Vista development to the east and southeast of the BWER have the highest minority populations in the region thus not abiding by environmental justice principles or executive orders. I15-62

I am having some computer problems due maybe to a cut and paste further above, so will send this in and then write the third part of my comment on the so-called "restoration" alternatives at the BWER. I15-63

Sincerely yours,

Bruce Campbell

P.S. Lastly for this part, Table 3.14-4 shows that Playa Vista (narrowly followed by Del Rey) area has the lowest income in the immediate region. Figure 3.14-1 is a map that shows 2753.11 area not far east of Northeast Ballona that has "High Supplemental Nutrition Assistance Use", while the 3 little parcels immediately east of area 2753.11 indicate that these populated parcels have minority populations greater than or equal to 69%. Thus I question whether the USEPA Guidance is being abided by where it says that minority and low-income populations should not be subject to "disproportionately high and adverse human health or environmental effects" from the Project. I15-64 My comment in part one regarding how it appears that the only attempt to reduce or mitigate likely over a half-dozen years of major bulldozing, dredging, and heavy equipment is to come up with computer models which claim that the soil (though there will be a lot less on the site) will somehow magically store more rather than less carbon. I15-65

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From: Bruce Campbell
To: bonnie.l.rogers@usace.army.mil; Wildlife Ballona Wetlands Ecological Reserve EIR
Subject: Part 3 of Comments on DEIR / DEIS on BWRP for Ballona Wetlands Ecological Reserve
Date: Monday, February 5, 2018 11:59:29 PM

February 5, 2018

Bruce Campbell
L.A. CA 90034

Richard Brody
CDFW Office
San Francisco, CA 94108

Dear Ms. Rogers and Mr. Brody:

This is part 3 of my comments regarding so-called restoration alternatives for the BWER.

Due to the planned deep scouring which would lower the elevation of much of the BWER under the action alternatives, the heavy equipment work including bulldozing and dredging and dumptruck hauling may severely impact the integrity of geologic structure relating to the aquifers beneath Ballona. This needs to be a part of a HYDROLOGY study which is especially essential in order to: I15-66

1. assist with the Site Evaluation for a new EIR / EIS – which hopefully will include a freshwater seasonal wetlands alternative; I15-67
2. do thorough research and relay very clear information in regards to the relation between aquifers, de-watering by various entities in the fairly immediate area, level of groundwater table, estimated groundwater table if the two major drains did not drain two key ponding areas of the BWER for 21 years, and likely impacts to the inter-connections between these when there is a lot of seawater in the BWER such that the area has not seen for about 4000 years; I15-68
Or 3. Assist with the Site Evaluation for a Supplementary Draft EIR / EIS which should do its best to include a freshwater seasonal wetlands alternative as well as considerably more hydrological information than was included in the DEIR/DEIS. I15-69

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The rest of my points must be super-brief cuz it is 11:43 PM!

A. It is implied that species have left Ballona over the past couple decades (which interestingly coincides with the illegal drains at BWER) but that they will return after restoration with an estuarine obsession. However, despite bad impacts of those drains, I contend lots more species will either leave the Ballona area (or get crushed during operations or killed trying to relocate) due to the "enormous" "extreme" bulldozing and scouring proposals. Don't forget they have to go somewhere. Do not destroy habitat for any rare or listed species, and I would like to remind you that even "harassing" is considered a part of "taking" of a species which is improper. Though I bet lots more critters will be crushed than will be bothered by harassing people or equipment! I15-70

B. Cost over-runs for the so-called "restoration" at Malibu Lagoon were huge – more than three I15-71

times the original estimate. Since some see the first destruction/construction phase under an action alternative at Ballona alone as costing 180 to 190 million dollars. Could the Ballona industrial-scale operation cost over a half billion dollars??!! I15-71 cont.

C. Sediments and groundwater in the Ballona region should be tested for more contemporarily used toxic materials such as the Roundup (active ingredient Glyphosate) and 2,4-D herbicides – as well as testing for their breakdown products. I15-72

D. In regards to "the proposal is intended to return the daily ebb and flow of tidal waters where practically feasible to achieve predominately estuarine conditions, maintain freshwater conditions, and enhance physical and biological functions within the Ballona Reserve." Estuarine habitat much larger than ever in the last few thousand years is the obsession of the proponents of action alternatives, while the "maintain freshwater conditions" part is a sad joke. Not only were the freshwater conditions improper to use as standard freshwater conditions due to 21 years of the 2 illegal drains plus other neighboring de-watering and brine water removal operations. I15-73

E. I am very concerned that especially rodents, lizards, and snakes will be crushed upon bulldozing and poisoned thereafter since I understand that the Army Corps must not allow levees to become habitat. Also, blue herons nesting near the apt. complex in Marina del Rey need the BWER more or less as it is in order to continue feeding themselves and their families. I15-74 I15-75

F. I object to the danger of the parking structure to visitors during seismic events bringing about liquefaction. Also, that structure should be located off of the BWER site as should the visitor center. I15-76

G. I don't believe that the action alternatives would improve stormwater mgt for 100 yr storm I15-77
Bye, bruce campbell

Letter I15: Bruce Campbell

I15-1 See General Response 7, *Requests for Recirculation* (Final EIR Section 2.2.7), which addresses multiple bases for requests to revise and recirculate the Draft EIS/EIR, including the presence and operation of drains. See also General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received in this regard.

I15-2 Unfounded speculation regarding CDFW's purpose and objectives in proposing to restore the Ballona Reserve do not address the adequacy or accuracy of the EIR or the merits of the alternatives. Accordingly, the opinion is noted and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

I15-3 The reference to subsidence associated with the removal of fluids such as oil extraction refers to active fluid withdrawal that might affect the proposed improvements with the Project. The oil extraction from the 1930s would be no longer applicable to current conditions. In general, subsidence from this type of activity is related to large-scale fluid withdrawal for prolonged periods. Periodic dewatering of a shallow water bearing zone to suppress groundwater levels below a development (such as Playa Vista) would not be considered the type of environment susceptible to substantive subsidence. Any ongoing activities within the Playa Vista development are not within the Project Site (Draft EIS/EIR Section ES.1, Section 1.2.1, and Figure ES-2 describing and showing the Project Site). Neither the Project nor any other alternative discussed in the EIR proposes to change activities outside the Project Site.

As explained in General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments about the drains, consideration of the drains (in place) was described accurately in the Draft EIS/EIR as part of the baseline condition.

The Playa del Rey SoCal Gas site has been monitoring for land deformation as part of their operations for natural gas storage which according to the latest available monitoring report in 2012, there was "no major deformation pattern occurring in the Playa del Rey Gas Storage Field."

I15-4 Other agencies' determinations regarding the legality of activities within the Ballona Reserve (including dewatering) that occurred as part of the baseline condition or the correction of such actions outside the environmental review or permit approval process for the Project do not bear on the adequacy or accuracy of the EIR's analysis of the Project or alternatives.

I15-5 See Response AL9-7, which discusses the Basin Plan's designation of the Santa Monica Basin groundwater basin as "municipal water supply."

I15-6 The groundwater beneath the Project Site is shallow and already under tidal influence as discussed in Draft EIS/EIR Section 3.9.6.1 in the context of Impact 1-WQ-2.

I15-7 See Responses I15-3 and I15-4 as well as General Response 4, *Drains* (Final EIR Section 2.2.4).

I15-8 The stated support for Alternative 4 is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

I15-9 See General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about these drains. Because the drains were accurately characterized in the Draft EIS/EIR as part of the baseline condition, no change has been made in response to this comment.

The suggested concern about mitigation is acknowledged. However, without information as to any potential basis for the suggestion that the mitigation measures identified in the Draft EIS/EIR would be adequate or insufficient, CDFW does not have enough information to provide a more detailed response.

I15-10 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of "restoration."

I15-11 See General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about these drains. Because the drains were accurately characterized in the Draft EIS/EIR as part of the baseline condition, no change has been made in response to this comment.

I15-12 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.1), which addresses multiple requests that CDFW considers a "freshwater alternative."

I15-13 As stated in Section 3.6.4 of the Draft EIS/EIR, "as a result of the measures undertaken to protect water quality as discussed in Section 3.9, there would be no resultant means for causing long-term erosional effects (e.g., substantial soil erosion or the loss of topsoil) that could lead to substantive physical damage and, thus, CEQA Guidelines Appendix G Section VI(b) is not considered further in this Section 3.6." In Draft EIS/EIR Section 3.9, the measures would be required as part of permit requirements which would take the form of best management practices (BMPs) that would address the potential exposure of soils during construction activities to the effects of wind and water erosion. With implementation of these required BMPs, the potential for erosion is reduced to less than significant levels. Further regarding dust control, see Response I2-14.

I15-14 The stated concern about potential "unnatural landslides" is addressed in the context of the analysis of the slope stability of the proposed improvements (including the proposed berms) in Draft EIS/EIR Section 3.6.6 (see Impacts 1-GEO-1d and 1-GEO-2). The new berms would be designed and constructed in accordance with the design specifications of the final design level geotechnical report as overseen by a California licensed geotechnical engineer in accordance with current building code

requirements. Moreover, modification to flood protection structures requires review and approval by the U.S. Army Corps of Engineers through a Section 408 permit.

I15-15 Liquefaction hazards are addressed in Draft EIS/EIR Section 3.6, *Geology, Seismicity, and Soils*, and are the focus of the analysis of Impact 1-GEO-1c-iii. The analysis is based largely on the extensive assessment of liquefaction hazards that was included in the preliminary geotechnical assessment included in Draft EIS/EIR Appendix E. Based on the professional judgement of the report preparers and preparers of the Draft EIS/EIR, implementation of geotechnical recommendations in accordance with building code requirements is expected to be effective in reducing the potential for adverse impacts, including subsidence, erosion, and collapse, to less than significant levels. As stated in the impact analysis, "the main effect from liquefaction would be post-liquefaction settlement of approximately 0 to 3 inches. Displacement from lateral spreading was estimated to be on the order of 3 to 6 inches at the location of the new levees (Appendix E). Recommendations made in 2013 address incorporating design measures to ensure that any displacement from liquefaction or lateral spreading would be minimized and result in an overall improvement over existing conditions, thus providing a beneficial effect. In addition, with incorporation of the geotechnical recommendations in accordance with Mitigation Measure GEO-1b, the indirect impacts associated with liquefaction would be minor and therefore less than significant." Pursuant to 33 USC Section 408, modification to the federally authorized Civil Works U.S. Army Corps of Engineers Ballona levee system would require a detailed technical analysis and permit authorization by the Corps. CDFW anticipates that the Corps will include the technical analysis to support the Section 408 process in the Final EIS.

I15-16 The stated belief about the adequacy of the mitigation measures to address potential impacts relating to erosion is acknowledged. That the proposed restoration could result in erosion is analyzed in the EIR. See Draft EIS/EIR Section 3.6, *Geology, Seismicity, and Soils*, which addresses erosion and the potential for loss of topsoil as it relates to the potential for Project activities to lead to "substantive physical damage of improvements, such as the undermining of foundations or roadways" (Draft EIS/EIR Section 3.6.4). Wind erosion would be addressed by implementation of required best management practices that would call for dust suppression measures as described under Impact 1-AQ-1a in Draft EIS/EIR Section 3.3, *Air Quality*. As required by law, the Project would implement best available control measures found in the SCAQMD's Rule 403 during all restoration and construction activities. Combined with the implementation of the geotechnical recommendations of Mitigation Measure GEO-1b, the potential for the berms to have substantive soil erosion, loss of topsoil, subsidence, or collapse onto adjacent thoroughfares would be minimized and considered unlikely to occur. In light of the existing analysis, the belief alone, unsupported by facts, reasonable assumptions based on facts, or expert opinion supported by facts, does not provide sufficient information to allow CDFW to provide a more detailed response.

I15-17 The proposed improvements including the berms would be designed and constructed in accordance with the final geotechnical recommendations in accordance with current building code requirements as required by Mitigation Measure GEO-1b. Adherence to these requirements would ensure that the constructed berms would be founded on stable materials and would not cause instability. The purpose of the berms is to provide flood control of the expanded floodplain and increased upland habitat overall. Moreover, modification to flood protection structures requires review and approval by the Corps through a Section 408 permit. The berms would not serve specifically to create habitat but the Project would overall increase upland habitat as more fully described and analyzed in Draft EIS/EIR Section 3.4, *Biological Resources*.

I15-18 The potential for seepage/piping, slope instability, and settlement are all addressed specifically in the analysis for Impact 1-GEO-2 in the Draft EIS/EIR. And with implementation of Mitigation Measure GEO-1b, the required geotechnical recommendations would address these geotechnical hazards such that the potential for ground failures to occur would be reduced to less than significant levels.

I15-19 The commenter's objection to these proposed changes is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

I15-20 As described in Draft EIS/EIR Chapter 2, a Habitat Restoration and Monitoring Plan will be prepared for the Project that defines the approach for revegetating the Project Site, which may include the use of herbicides. Such use would be consistent with CDFW policy, labeling, and federal and state requirements to protect wetlands.

I15-21 None of the alternatives analyzed in the Draft EIS/EIR would change existing natural gas storage beneath the Ballona Reserve. See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.3), regarding the proposed removal of SoCalGas Company infrastructure from within the Ballona Reserve.

I15-22 None of the alternatives analyzed in the Draft EIS/EIR would change existing natural gas storage beneath the Ballona Reserve. See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.3), regarding the proposed removal of SoCalGas Company infrastructure from within the Ballona Reserve.

I15-23 None of the alternatives analyzed in the Draft EIS/EIR would change existing natural gas storage beneath the Ballona Reserve or affect any existing hazard profile associated with the SoCalGas Company's current use of the storage facility. See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.3), regarding the proposed removal of SoCalGas Company infrastructure from within the Ballona Reserve.

As explained in Draft EIS/EIR Section 2.2.1.2, pest control (potentially including herbicides, insecticides, and fungicides) and other weed abatement activities currently

occur in the Ballona Reserve consistent with the Operation, Maintenance, Repair, Replacement and Rehabilitation (OMRR&R) Manual for the LACDA project. Dredging activities also occur under baseline conditions and would continue to occur regardless of which alternative were selected. See also Draft EIS/EIR Appendix B5, *Preliminary Operations and Maintenance Plan*. The comment does not provide any information about why the proposed conduct of dredging or pest control activities would cause or contribute to any significant adverse impact that is not already analyzed in the Draft EIS/EIR.

See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which explains why CDFW refers to the Project as a "restoration" project.

I15-24 Existing and proposed operation and maintenance of the berms is described in Draft EIS/EIR Section 2.2.1.7 (features common to all alternatives), Section 2.2.2.7 (the Project), Section 2.2.3.7 (Alternative 2), Section 2.2.4.7 (Alternative 3), and Section 2.2.5.5 (Alternative 4). See also Draft EIS/EIR Appendix B5, *Preliminary Operations and Maintenance Plan*, which provides further detail about operation and maintenance of the berms. Specifically regarding rodenticides, see Mitigation Measure BIO-3b: Vector Management, which discusses the proposed Vector Control Plan.

I15-25 It is not clear what other environmental review effort is being referenced in this comment. Without some identifying information, CDFW is unable to provide a more detailed response.

I15-26 See General Response 6, *Hydrology and Water Quality* (Final EIR Section 2.2.6.1), for more information about the relationship between the proposed restoration and the TMDL.

I15-27 Draft EIS/EIR Section 2.2.1.2 explains, "General drainage structure maintenance includes, but is not limited to the implementation of measures necessary to assure that inlet and outlet channels are kept open and that trash, drift, or debris is not allowed to accumulate near drainage structures." As explained in Section 2.2.2.7, "LACFCD operates and maintains an existing trash net across the Ballona Creek channel between the Culver and Lincoln Boulevard Bridges, which catches trash carried downstream by Ballona Creek flows, primarily during storm events. LACFCD inspects the trash net weekly and removes trash from the net as necessary. The restoration allows for continued O&M of the existing trash net. No changes to trash net O&M are anticipated. Trash removal would occur as needed within the restored wetlands for some trash that is not caught upstream at the existing trash net." This would be true for all alternatives analyzed in the Draft EIS/EIR. The LACFCD's current maintenance and inspection of the Ballona Creek channel and other LACDA project facilities within the Ballona Reserve, including operation and maintenance of the trash booms, is further described in Draft EIS/EIR Appendix B5, *Preliminary Operations and Maintenance Plan*.

I15-28 The commenter's concerns about tide gates and water impairment are acknowledged. However, because this comment does not address the adequacy or accuracy of the EIR or the merits of the alternatives, it may be considered as part of CDFW's overall decision-making processes rather than specifically as part of the environmental review process under CEQA.

I15-29 The Project does not include "floodgates." Over time with sea-level rise, the Project would use flap gates on the culverts into South and Southeast Area B (as described in Mitigation Measure WQ-1a-i). The flap gates only allow directional flow out of these areas. The flap gates are designed to protect against storm events and to prevent flow from entering the site during those times. Regular maintenance would be completed to check that the flap gates are operating as designed and are not blocked or held open by trash or other materials (see Draft EIS/EIR Section 2.2.2.7 and Appendix B5).

I15-30 The opinion stated in the comment is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. CDFW also would like to point out that it is unclear where the commenter's quoted text comes from. Section 3.4 of the Draft EIS/EIR is titled "Biological Resources," and CDFW was unable to find the commenter's quoted text in the Draft EIS/EIR. See Final EIR Section 2.1.1, *Input Received*, regarding comments that do not warrant further agency response under CEQA.

I15-31 As detailed in Draft EIS/EIR Section 3.9.5.2 under the heading "Hydraulic Modeling," hydraulic modeling was a primary analytical tool used to evaluate and predict the potential impacts of the Project on water levels, velocities, and sediment transport during storm events. The results of the hydraulic modeling were presented in Appendix F7 and the Hydraulic Modeling Addendum prepared by ESA in 2015 (Draft EIS/EIR Appendix F8). In addition, ESA prepared a separate sediment dynamics transport analysis in April 2014 (Draft EIS/EIR Appendix F10) and in Appendix F7. A geomorphic analysis was also performed to assess how the Project Site would develop and evolve over time to look more directly at scour and deposition on the marsh. The sediment budget brought together the sediment transport model results with the geomorphic analyses to determine the volume of sediment moving through different parts of the system. Therefore, extensive hydrological studies were performed and used to evaluate the potential impacts of the Project. See also General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about the drains that were the subject of the Coastal Commission's December 2017 action. It is unclear where the commenter's quoted text comes from. Draft EIS/EIR Section 3.1.3.1 is titled "Land Use and Planning" and does not discuss habitat within the "greater Ballona system." In fact, CDFW was unable to find the commenter's quoted text in the Draft EIS/EIR.

I15-32 The commenter's concern about 303(d) listed waterbodies and urban runoff does not address the adequacy or accuracy of the EIR or the merits of the alternatives. Still, the comment is acknowledged and is now part of the record of information that will be

considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

I15-33 The modeling and analysis presented in Draft EIS/EIR Section 3.3, *Air Quality*, determined that the project would not result in significant impact to air quality and would not result in any impacts to air quality that could be cumulatively considerable. The analysis in Draft EIS/EIR Section 3.7, *Greenhouse Gas Emissions/Climate Change*, regarding the sequestration potential for the Project is based on a technical memorandum that includes an assessment of the Greenhouse Gas (GHG) sequestration and emissions associated with wetlands established by the Project.[124] Without further information as to why the commenter believes this analysis to be inadequate, CDFW cannot address the comment more directly.

I15-34 See Response I15-33.

I15-35 Draft EIS/EIR Section 3.3 analyzes potential impacts of the Project related to the combustion of diesel fuel, which it acknowledges to be a toxic air contaminant. To control diesel and other exhaust emissions, Section 3.3.5.1 explains that all off-road diesel-powered equipment used would be equipped with USEPA Tier 4 or cleaner engines, except for specialized equipment in which a USEPA Tier 4 engine is not available. In lieu of Tier 4 engines, Project equipment could incorporate retrofits such that emissions reductions achieved equal that of the Tier 4 engines. The comment does not suggest that the Draft EIS/EIR's disclosure or analysis regarding emissions is inaccurate or inadequate.

I15-36 Draft EIS/EIR Section 3.14, *Socioeconomics and Environmental Justice*, explains in the context of the analysis of Impact 1-EJ-1 (under the heading "Air Quality") that "the communities closest to the Project Site that would experience the greatest concentrations of construction emissions are not among those identified as environmental justice communities." Therefore, impacts to air quality would not be disproportionately high and adverse for environmental justice communities.

I15-37 The commenter's notes about environmental justice are acknowledged and are now part of the record of information that will be considered as part of CDFW's decision-making process. However, the comment does not address the adequacy or accuracy of the EIR or the merits of the alternatives. See Final EIR Section 2.1.1, *Input Received*.

I15-38 Consideration has been given in designing the Project and potential alternatives to avoid and respect Native American and Tribal resources, including potential burial sites and a possible Gabrielino-Tongva village site within the Ballona Reserve. Rather than conduct extensive subsurface testing, the analysis assumes that such resources are present. Potential impacts to cultural resources, including Tribal resources and burial sites, are analyzed in Draft EIS/EIR Section 3.5, *Cultural Resources*.

[124] Environmental Science Associates (ESA). 2014. Ballona Wetlands Restoration Project accounting Analysis of Greenhouse Gas Sequestration and Emissions from Wetlands. March 24, 2014.

Responses to Native American Community concerns are provided in Final EIR Section 2.3.4. Such resources will be considered as part of CDFW's overall decision-making process, including in a coordination agreement for the handling of any post-review discoveries.

I15-39 As analyzed in Draft EIS/EIR Section 3.2, *Aesthetics*, restoration activities "would temporarily change views of the Project Site as earth moving equipment and materials, stockpiled soil fill, a potential for visible dust plumes, and debris piles could be seen from most viewpoints along adjacent and internal roadways." Post-restoration, the Project would result in "visual conditions that are similar to existing conditions, but improved by the establishment of more natural looking features and removal of trash and debris that is currently located on the site … although scenic resources within the Project would be changed, the site would maintain the existing open space character and quality under implementation of Alternative 1." As evidenced by the analysis presented in Draft EIS/EIR Section 3.2, the Project would generally result in beneficial impacts to existing visual conditions and would maintain existing open space character. The commenter's objection to these changes to existing views is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.

CDFW disagrees with the suggestion that the restoration alternatives would result in a reduction of open space usable by visitors due to encroaching tides. Restoring and improving public access is one of the three main components of the Project. See Draft EIS/EIR Section ES.3 and Section 1.1 regarding CDFW's project objectives. Public access improvements would include: creating new trails, constructing new bike and pedestrian bridges, and improving parking available to visitors. Open space to be used by visitors would not be lost as a result of increased tidal influence.

I15-40 The potential for legacy contaminants to adversely affect workers or the public is addressed in Draft EIS/EIR Section 3.8, *Hazards and Hazardous Materials*, in the context of the analysis of Impact 1-HAZ-2. As stated there, "results of the Sediment Quality Investigation and the Sediment Toxicity Evaluation concluded that there are no chemicals in soil at concentrations that would prevent the reuse of soil in the various proposed habitats at the Ballona Reserve." Still, a Sampling and Analysis Plan (SAP) would be prepared to describe the procedures to sample and analyze sediment and ensure its suitability for the intended uses, e.g., levee material, wetland or upland habitat. Additional information about the SAP is provided in Draft EIS/EIR Section 3.9, *Hydrology and Water Quality*, in the context of Mitigation Measure WQ-1a-ii. The SAP would address both the additional samples planned to be collected prior to and during ground disturbing activities. Therefore, the sediment quality investigation report provided an initial screening and the findings determined that the SAP would be required to ensure appropriate review of sediment use and placement.

I15-41 Visitor use regulations within the Ballona Reserve are a matter of State law. For example, Title 14, Section 630 of the California Code of Regulations states that

bicycle riding within the Ballona Reserve is "[a]llowed only on the designated path on the north side of the Ballona Creek flood control channel." Reserve personnel are charged with enforcing compliance with the law within the Ballona Reserve.

I15-42 The commenter's understanding of the SAC team's conclusions is entirely unsupported and does not address the adequacy or accuracy of the EIR as a whole or the merits of the alternatives. See Final EIR Section 2.1.1, *Input Received*. In any event, the implementation of the SAP as required by Mitigation Measure WQ-1a-ii, Sampling and Analysis Plan, would inform the risk of exposure to legacy contaminants and that the reuse of any dredged materials are confirmed suitable for the intended uses.

I15-43 The State Coastal Conservancy is not a lead agency for purposes of CEQA, and its files are not part of CDFW's record for the consideration of the EIR or Project approvals. However, any documents CDFW received from John Davis during the scoping period and the comment period on the Draft EIS/EIR are now part of the record of information that will be considered as part of CDFW's decision-making process. See responses provided to Letter I23, which consists of comments and documents submitted by John Davis.

I15-44 See Response I15-40 and Response I15-42.

I15-45 A 100-year flood event is defined as a storm event that has a 1 percent chance of occurring in any given year. A 500-year flood event has a 0.2 percent chance of occurring in any given year. Federal, state, and local regulations regarding flood and flood risk are typically based on the 100-year flood event. Over time, the areas affected by the 100-year storm event will likely change with climate change. The effects of flooding from sea-level rise are discussed in Section 3.9.2.2, *Affected Environment*, of Draft EIS/EIR Section 3.9, *Hydrology and Water Quality*, under the heading "Sea-Level Rise," where it says: "Hydraulic modeling of Ballona Creek under 59 inches of sea-level rise (by 2100) found that flood flows for the 100-year event would still be contained within the existing channel except for at the south jetty, where flows would overtop onto the adjacent beach (Appendix F7). In Area B, mean lower low tide (MLLW), which is an average of the lowest water level every day, would be higher than the Self-Regulated Tide (SRT) gates closing elevation, so the marsh would no longer experience a tide range and would drown out."

I15-46 As acknowledged in the seismic groundshaking analysis in Draft EIS/EIR Section 3.6, *Geology, Seismicity, and Soils*, in the context of the analysis of Impact 1-GEO-1-b, the Project Site is located in a seismically active region and would likely experience a substantial earthquake during the design lifetime of the proposed improvements. There are a number of factors that dictate the level of groundshaking that do include the depth of the epicenter as well as others such as horizontal distance, duration of shaking, and others. The proposed improvements would be designed in accordance with the most current seismic design standards that require calculation of

the maximum credible earthquake and consider vertical as well as horizontal ground accelerations.

I15-47 In accordance with current building code requirements, the final seismic design criteria would be based on the maximum credible earthquake for the Project Site that considers all regional faults and determines site specific seismic response criteria that presents essentially a worst-case scenario. As discussed in Draft EIS/EIR Section 3.6, "[b]ased on the available geologic data, there are no active or potentially active faults with the potential for surface fault rupture directly beneath or projecting toward the Ballona Reserve (Appendix E). The Charnock Fault, located about 1 mile to the east of the Ballona Reserve, is the closest mapped fault, but it is not considered active."

I15-48 Implementation of the final geotechnical recommendations in accordance with Mitigation Measures GEO-1b and GEO-1c (as set forth in Draft EIS/EIR Section 3.6, *Geology, Seismicity, and Soils*) would ensure that all proposed improvements including berms, parking structure and visitor center would be designed such that any identified liquefaction hazards are minimized through site preparation and foundation design. Construction in areas where liquefiable soils are present is common and relatively easily addressed with adherence to current building code requirements. The commenter's opinion about developing a three-story parking structure in the proposed location is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process, but does not address the adequacy or accuracy of the EIR or the merits of the alternatives. See Final EIR Section 2.1.1, *Input Received*.

I15-49 See Response I15-41 regarding off-trail use concerns.

I15-50 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of "restoration."

I15-51 See General Response 4, *Drains* (Final EIR Section 2.2.4), regarding the extensive hydrological studies performed and relied upon in the analysis of potential impacts of the Project and alternatives.

I15-52 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW's decision not to further extend the comment period beyond 133 days. The reference materials relied upon in the Draft EIS/EIR were available immediately upon issuance of the Draft EIS/EIR, including during normal working hours at specified public libraries in Playa Vista, Marina del Rey, and Westchester-Loyola Village and upon request. The reference materials also were uploaded during the comment period to the Project website (https://www.wildlife.ca.gov/Regions/5/Ballona-EIR) as a courtesy to and for the additional convenience of reviewers. No additional reference materials were posted after initial upload.

I15-53 See Response I15-9 regarding the drains and the adequacy of the Draft EIS/EIR's description of the affected environment. See also General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about the drains.

I15-54 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of "restoration."

I15-55 Potential direct and indirect impacts to wildlife species (including listed and non-listed species) are analyzed in Draft EIS/EIR Section 3.4.6. The commenter's opinion as to the efficacy of the mitigation measures is acknowledged but unsupported. In light of the existing analysis, the opinion alone, unsupported by facts, reasonable assumptions based on facts, or expert opinion supported by facts, does not provide sufficient information to allow CDFW to provide a more detailed response.

I15-56 As identified in Draft EIS/EIR Section 3.4, salvaged wildlife species will be relocated to adjacent or nearby suitable habitat that is not subject to site disturbances, or has been previously restored as planned under the Project. CFDW does not propose as part of the Project or any alternative to hold or retain any animals for any longer than it takes to relocate them within the Ballona Reserve.

I15-57 The commenter is correct that the State of California determined that the presence of any one of the three elements determines that the area is a wetland while the Corps and USEPA require that all three elements are present. As described in the definition of "Wetland" in the Key Definitions and Acronyms table of the Draft EIS/EIR, "unless otherwise clearly indicated, this EIS/EIR uses the Corps and USEPA's definition."

I15-58 While the berms and upland habitat would introduce a new topography within the Ballona Reserve, the berms, transition zones, and areas of upland habitat would be critical to ensuring that the wetland habitat will be able to migrate upslope as sea levels rise. As described in Draft EIS/EIR Section ES.4.1, *Alternative 1: Full Tidal Restoration/Proposed Action*, reconnecting the creek to West Area B and building a berm around the salt pan would allow the salt pan to be maintained up to 2.1 feet of sea-level rise. Similarly, the construction of berms and levees would allow the marsh to migrate upslope and for the tidal salt marsh to be maintained with up to 3.5 feet of sea-level rise.

Under Alternative 4 (the No Action/No Project Alternative), new berms and levees would not be constructed. In this scenario, the management of existing tide gates would provide some acclimation to sea-level rise; however, eventually the tide gates would need to be permanently closed and the existing tidal wetland habitats in the Ballona Reserve would be cut off from their water source. Therefore, the proposed levees and berms would be critical to ensuring that habitats within the Ballona Reserve are resilient to sea-level rise.

I15-59 Slope stability of the berms and the potential for landslides to occur either under static or seismically induced conditions to occur was the subject of considerable scrutiny in the preliminary geotechnical investigation discussed in Draft EIS/EIR Section 3.6, *Geology, Seismicity, and Soils*. As summarized in the analysis of Impacts 1-GEO-1d and 1-GEO-2 in Section 3.6.6, implementation of the required geotechnical recommendations of the final design level geotechnical report from Mitigation Measure GEO-1b would ensure that the potential for landslides or any slope instability would be less than significant. For more information, a Project-specific, site-specific Geotechnical Investigation Report is provided in Draft EIS/EIR Appendix G. Moreover, modification to flood protection structures requires review and approval by the U.S. Army Corps of Engineers through a Section 408 permit.

I15-60 As described in Draft EIS/EIR Chapter 2 and in the Preliminary Operations and Maintenance Plan provided in Draft EIS/EIR Appendix B5, the proposed vegetation and vector management practices are expected to be substantially similar. Specific vegetation management measures would be refined in accordance with the Noxious Weed Control Plan required by Biological Resources Mitigation Measure BIO-1b-iii (see Draft EIS/EIR Table ES-1, Summary of Impacts and Mitigation Measures for Alternative 1, and Draft EIS/EIR Section 3.4.6 for each of the restoration alternatives). Specific vector management practices also would be refined with the implementation of the Vector Control Plan required by Mitigation Measure BIO-3b.

I15-61 See General Response 3, *Alternatives* (Final EIR Section 2.2.3), which addresses multiple questions about the range of alternatives analyzed in the Draft EIS/EIR, including requests for a "freshwater alternative" (Final EIR Section 2.2.3.1), more information about the development of the range of alternatives (Final EIR Section 2.2.3.3), and alternatives that were preliminarily considered but not carried forward for more detailed review (Final EIR Section 2.2.3.4).

CEQA does not require the development of the range of alternatives to further a biological agenda, as suggested in the comment. See Draft EIS/EIR Section 2.1.1, which explains the NEPA and Clean Water Act Section 404(b)(1) requirements for the evaluation of alternatives, and Section 2.1.2, which describes CEQA's requirements for the evaluation of alternatives. The screening criteria relied upon in the EIR are explained in Draft EIS/EIR Section 2.1.3.

I15-62 See Response I15-36, which explains the level of air quality-related health risk to nearby residents and which communities qualify as environmental justice communities.

I15-63 The intention to submit additional comments is acknowledged. Responses to those subsequent comments follow.

I15-64 The commenter's concern regarding disproportionately high and adverse impacts to minority and low-income communities is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.

The analysis in Draft EIS/EIR Section 3.14, *Socioeconomics and Environmental Justice*, determined the potential for such impacts using methodology in accordance with USEPA and CEQ guidance. Without more information as to why the commenter believes the analysis to be deficient, CDFW does not have sufficient information to provide a more detailed response.

I15-65 The commenter's reference to a prior comment is acknowledged. See Response I9-10 and Response I15-33 regarding carbon sequestration.

I15-66 The restoration and construction phase of the Project does include the use of heavy machinery. However, the amount of disturbance would be as limited as possible to achieve the Project objectives. Project design features include PDF Bio-2, which states that "construction employees shall strictly limit their activities, vehicle use, equipment use, and placement of staged materials to the approved limits of disturbance and shall utilize designated staging areas and ingress/ egress access routes. The work area(s) shall be the minimal area necessary to complete the objectives of a given phase of restoration and shall be specified in the site plans. The limits of work areas shall be delineated using environmentally sensitive area (ESA) fencing (e.g., high visibility orange screen), and shall exclude sensitive habitats to the extent feasible and exclude sensitive habitats that have not been authorized or permitted for disturbance." In addition, special equipment such as use of equipment with low ground pressure and timber plank mats, amphibious excavators, and other floating equipment would be used to the extent feasible. Therefore, considering the implementation of Project Design Feature Bio-2 and the use of special equipment, the area that would be disturbed by heavy machinery would be limited to the extent feasible and considering the total area of the underlying aquifer it is unlikely to substantively affect the structural integrity of the underlying geologic materials. The comment provides no facts, reasonable assumptions based on facts, expert opinion supported by facts, or other evidence to the contrary.

I15-67 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.1), which addresses multiple requests that CDFW consider a "freshwater alternative." See General Response 7, *Requests for Recirculation* (Final EIR Section 2.2.7), which addresses multiple comments received regarding requests for recirculation.

I15-68 See Response I15-9 regarding the drains and the adequacy of the Draft EIS/EIR's description of the affected environment. See also General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about the drains.

I15-69 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.1), which addresses multiple requests that CDFW consider a "freshwater alternative." See General Response 7, *Requests for Recirculation* (Final EIR Section 2.2.7), which addresses multiple comments received regarding requests for recirculation. See General Response 4, *Drains* (Final EIR Section 2.2.4), regarding the extensive hydrological

studies performed and relied upon in the analysis of potential impacts of the Project and alternatives.

I15-70 Regarding concerns about impacts to wildlife, see Draft EIS/EIR Section 3.4.6, which analyzes direct and indirect impacts on biological resources, and Section 3.4.7, which analyzes potential cumulative impacts. Impacts to species would be avoided or minimized through implementation of measures such as Mitigation Measure BIO-1b-ii (Biological Monitoring), which requires disturbance of habitat and special-status species within and adjacent to work areas are avoided, as well as monitoring and relocation of native wildlife encountered to the extent practicable.

I15-71 Cost concerns regarding a different project do not address the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*. Regarding estimated costs for the Project and alternatives analyzed in the Draft EIS/EIR, see Draft EIS/EIR Appendices B9 and B10.

I15-72 The suggested additional parameters for sediment and groundwater testing are acknowledged and are now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

I15-73 See Response I15-9 regarding the drains and the adequacy of the Draft EIS/EIR's description of the affected environment. See also General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about the drains.

I15-74 The commenter's concern that rodents, lizards, and snakes will be crushed during earthwork is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. The potential for this impact is analyzed in Draft EIS/EIR Section 3.4. Regarding potential pesticide use, see Response I15-20. Regarding proposed maintenance of the levees, see Draft EIS/EIR Appendix B5, *Preliminary Operations and Maintenance Plan*. The operations and maintenance of the proposed levees, including maintenance of levees will be required to follow levee safety requirements as determined by a Section 408 permit to be issued by the Corps, but due to the proposed gradual levee slopes, a Project-specific variance could be considered. CDFW anticipates that the Corps will include the technical analysis to support the Section 408 process in the Final EIS.

I15-75 The comment that great blue herons nesting near the apartment complex in Marina del Rey need the Ballona Reserve as a foraging area is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. Under the phased construction approach, foraging habitat would be available for great blue herons at all times during the Project.

I15-76 See Response I15-48 regarding these concerns.

I15-77 The commenter's belief is acknowledged. However, in light of the existing analysis, this belief alone, unsupported by facts, reasonable assumptions based on facts, or expert opinion supported by facts, does not provide sufficient information to allow CDFW to provide a more detailed response.

-----Original Message-----
From: Swenson, Daniel P NAB
Sent: Monday, 5 February, 2018 1:01 PM
To: Rogers, Bonnie L CIV USARMY CESPL (US) <Bonnie.L.Rogers@usace.army.mil> Subject:
FW: [Non-DoD Source] Fwd: State's Plan for Ballona Wetlands (UNCLASSIFIED)

CLASSIFICATION: UNCLASSIFIED

-----Original Message-----
From: Barry Campion [mailto:campionbarry@gmail.com]
Sent: Friday, January 26, 2018 2:05 PM
To: Swenson, Daniel P NAB <Daniel.P.Swenson@usace.army.mil>
Subject: [Non-DoD Source] Fwd: State's Plan for Ballona Wetlands

>
> To Daniel Swenson:
>
> I attended the public hearing on November 8th in response to the the report that was issued to the public.
>
> I'am currently active with the Audubon docent program in the Ballona Wetlands under to the guidance of Cindy Hardin.
>
> There are many items the report recommends that I found disturbing and hard to understand. Having witnessed the richness of plant life, bird populations and diversity of animal species within the wetlands it seems incredible to me that you would take such an aggressive approach; one that would, I believe cause more harm than good.
>
> It was not clear to me what the scientific basis is for many of your decisions. The wetland was originally a fresh water marsh and yet you want to bring more tidal influence which will further change the balance away from what the wetlands needs to be. I agree with Margo Griswold when she called the report more creation than restoration.
>
> There are plans for 3 story parking lots and the addition of paved roads near Culver Blvd. to provide access for

I16-1

I16-2

I16-3

buses etc. There is currently a large parking lot at the main entrance gate that could be re-surfaced that provides ample parking etc. I16-3 cont.

>

> I have also heard that the report says the wetland only provides 3% viable wildlife or something to that effect. I don't know what that is based on as it goes against everything I have experienced in my time at the wetlands. Every time I go there I see something new. I16-4

>

> The wetlands needs help; some areas more then others but a more thoughtful approach is needed. I encourage you to carefully listen to the wisdom and experience of the many people who have devoted their lives to the study of these kinds of eco-systems many of whom spoke articulately at the hearing. I16-5

>

> I do not support the plan as it is currently written.

>

> Sincerely,

>

> Barry Campion

CLASSIFICATION: UNCLASSIFIED

Letter I16: Barry Campion

I16-1 The commenter's docent experience at Ballona Reserve is appreciated. CDFW hopes the commenter will continue to educate others about Ballona Reserve's ecology. The commenter's difficulty in understanding some of the recommendations in the Draft EIS/EIR is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. Mitigation measures recommended if the Project is approved are identified in the Executive Summary (see Draft EIS/EIR Table ES-1, Summary of Impacts and Mitigation Measures for Alternative 1). The rationale for the recommendations (i.e., to avoid or reduce one or more adverse impacts on the environment) and how implementation of the recommendation would accomplish this goal are discussed on a measure-by-measure basis in the resource sections of the Draft EIS/EIR where the mitigation measures are recommended. Without more information about where the commenter is experiencing difficulty in understanding, CDFW is unable to provide a more detailed response. The stated concern about the restoration approaches also is acknowledged. However, because this comment does not address the adequacy or accuracy of the EIR or the merits of the alternatives, it may be considered as part of CDFW's overall decision-making process rather than specifically as part of the CEQA process. See Final EIR Section 2.1.1, *Input Received*.

I16-2 See also General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of "restoration." See also Response H8-1 and H8-3, which address Ms. Griswold's assertion that the Project is not a restoration project.

I16-3 The opinion that the existing parking opportunities are "ample" is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.4), which addresses multiple comments regarding parking facilities within the Ballona Reserve.

I16-4 The number of "3 percent viable wildlife" that was brought into question by the commenter was never used in the Draft EIS/EIR. The Draft EIS/EIR does describe that wetland habitats within the reserve are degraded. As described in Section ES.1 (with citations omitted), "The United States Environmental Protection Agency (USEPA) has determined that all wetland habitats within the Ballona Reserve are impaired. Furthermore, a portion of the Ballona Reserve has been identified as "among the most degraded wetlands in California" using standardized wetland condition protocols."

I16-5 The commenter's request for a thoughtful approach to restoration and support for Alternative 4 (the No Action/No Project Alternative) is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

Comment Letter I17

From: Andy Cochrane <capmandy@gmail.com>
Sent: Friday, January 5, 2018 6:33 PM
To: Wildlife Ballona Wetlands Ecological Reserve EIR
Subject: Wetlands access:

I just read about the plans to expand access to the wetlands and I love it. Adding walking paths and places to sit would be an incredible way to give the public a chance to enjoy what is currently closed to all but a small handful of caretakers. I17-1

However, if any part of this plan is secretly tied to Bonin's ill-advised and horribly executed road diets (i.e. adding the paths "requires" narrowing Culver etc) then I do NOT support this. Hopefully this plan and Bonin's plans are not tied to each other in any way. I17-2

The split pedestrian / bike path plan is also great, as far too many bikers think that riding full speed wearing dark clothes at night with no lights on is a good plan. Neither walkers nor bikers own the path right now but try telling that to the bikers... I17-3

-Andy

@avclubvids
www.andrew cochrane.com

Letter I17: Andy Cochrane

I17-1 The commenter's support for recreational opportunities within the Ballona Reserve is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

I17-2 The Project is entirely separate from and independent of the Los Angeles City Council's consideration of Vision Zero.[125] See Final EIR Section 2.1.1, *Input Received*.

I17-3 The commenter's support for the proposed split pedestrian/bicycle path is acknowledged, and is considered in the Draft EIS/EIR. This support is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

[125] Matt Tinoco's October 25, 2017, article for Curbed Los Angeles ("Are LA's road diets in jeopardy? Safe streets activists are questioning whether city leaders are waffling on their commitment to Vision Zero") provides information about that effort that was relied on in considering this comment. The article is available online: https://la.curbed.com/2017/10/25/16528864/road-diets-los-angeles-vision-zero. Accessed November 5, 2018.

DRAFT Environmental Impact Statement / Environmental Impact Report (DEIS/DEIR), Ballona Wetlands Restoration Project (BWER) Comments.

Attention: Bonnie L. Rogers, US Army Corps of Engineers, Los Angeles District, Regulatory Division Attn: SPL-2010- 01155 (Bonnie Rogers) 915 Wilshire Blvd., Suite 930 L.A., CA 90017-3401; Tel: 213.452.3372; bonnie.l.rogers@usace.army.mil

Attention: Charlton H. Bonham and Richard Brody, California Department of Fish and Wildlife (BWER) c/o ESA (jas) 550 Kearney St., Suite 800, San Francisco, CA 94108; Tel: (415) 896-5900; BWERcomments@wildlife.ca.gov

Col. Kirk E. Gibbs, Bonnie L. Rogers, Charlton H. Bonham and Richard C. Brody

Starting with the basic flaw of the BWER project proposals for a vast earth moving project that do not meet the most basic definition of a restoration, the DEIR/S fails to inform on existing conditions of the land regarding habitat of existing Arthropods at Ballona. For instance native Pogonomymex Harvester Ants are present yet *are* mentioned only once in the DEIR/S but only indirectly in reference to being an important food source for another species the Coast Horned Lizard which is considered of low potential because DEIR/S doesn't know pogonomymex is present.

California Red Harvester Ants (BWER Area C north)

I18-1

Also there would be impacts to existing ground nesting native Agapostemon bees that are important pollinators of flora at Ballona and nest in soils of Ballona particularly Area A.

Ground nesting bees visiting Laurel Sumac at BWER (Area B)

I18-2

Question

1. Are the native ants and bees of Ballona who live in the soils being ignored because they are not considered important to protect?

I18-3

2. Is recovery of Coast Horned Lizard being sacrificed needlessly because the harvester ants they depends on that exist at Ballona today will not be protected?

3. If harvester ant presence is recognized at Ballona will recovery of Coast Horned Lizard be considered?

I18-4

When I was a volunteer steward at Ballona with the Land Trust in the early days before it was purchased by the state I with some volunteers discovered a Horned Lizard in a cardboard box debris on Area C north. I brought the observation up years later to Brad Henderson who was the Associate biologist (Wildlife) at the time at Ballona who advised I should report it by species and look for the important food source harvester ants which I did find and document in abundance on Area C north where the Horned Lizard was found. No targeted survey since..

Green metallic bee *Agapostemon melliventris* BWER (Area A)

I18-5

California Red Harvester Ants and Lewis Evening Primrose (Area C north)

I18-6

Freshwater alternatives and illegal unpermitted drains

The DEIR/S does not discuss the impacts to wetlands by illegal unpermitted drains (finally capped only recently) that have been draining the freshwater from the Ballona Wetlands Ecological Reserve after rain events for over twenty years. I18-7

Comments

4. Why have impacts from the illegal unpermitted drains not been discussed in the DEIR/S so that the public can be informed be informed of the current state of the freshwater palustrine wetlands? I18-8

Illegal unpermitted drains completely submerged during rain event January 2017

5. The bias for full tidal salt water alternatives that are not historically accurate according to recent studies. Why have freshwater alternatives not been included for the public to consider and comment on? I18-9

Northern Harrier visiting freshwater ponding on (Area B palustrine wetland)

I18-10

6. The DEIR/S also needs to include hydrological studies of impacts to groundwater aquifers affected from illegal draining of the wetlands. Will independent hydrological studies be forthcoming to gage the health of the freshwater aquifers?

I18-11

7. Will the palustrine wetland impacted by the illegal drains be allowed to recover over time before being revisited for comment by the public?

I18-12

Burrowing Owl Ballona Wetlands (Area A)

Burrowing Owls

The DEIR/S proposed alternatives will impact continuing Burrowing Owl activity on the Ballona Wetlands Ecological Reserve and will require “mitigation” for the impacts resulting from the proposed earth moving project. The wintering Burrowing Owl(s) currently use all areas of the ecological reserve including the levees along Ballona Creek and the sand bars in the Ballona creek channel at night

I18-13

Burrowing Owl on Ballona Creek sand bar adjacent Area C December 2017

Comment

8. Please discuss and consider a project alternative that does not impact current Burrowing Owl activity and require mitigation for the impacts at the Ballona Wetlands.

9. Is a Burrowing Owl presence being sacrificed for a full tidal earth moving only project consideration of alternatives?

I18-13 cont.

10. Have the CDFW / CDFG ever considered the Ballona Wetlands Ecological Reserve since its purchase by the State as a candidate for recovery for Burrowing Owls by creating burrows for orphaned Burrowing Owls?

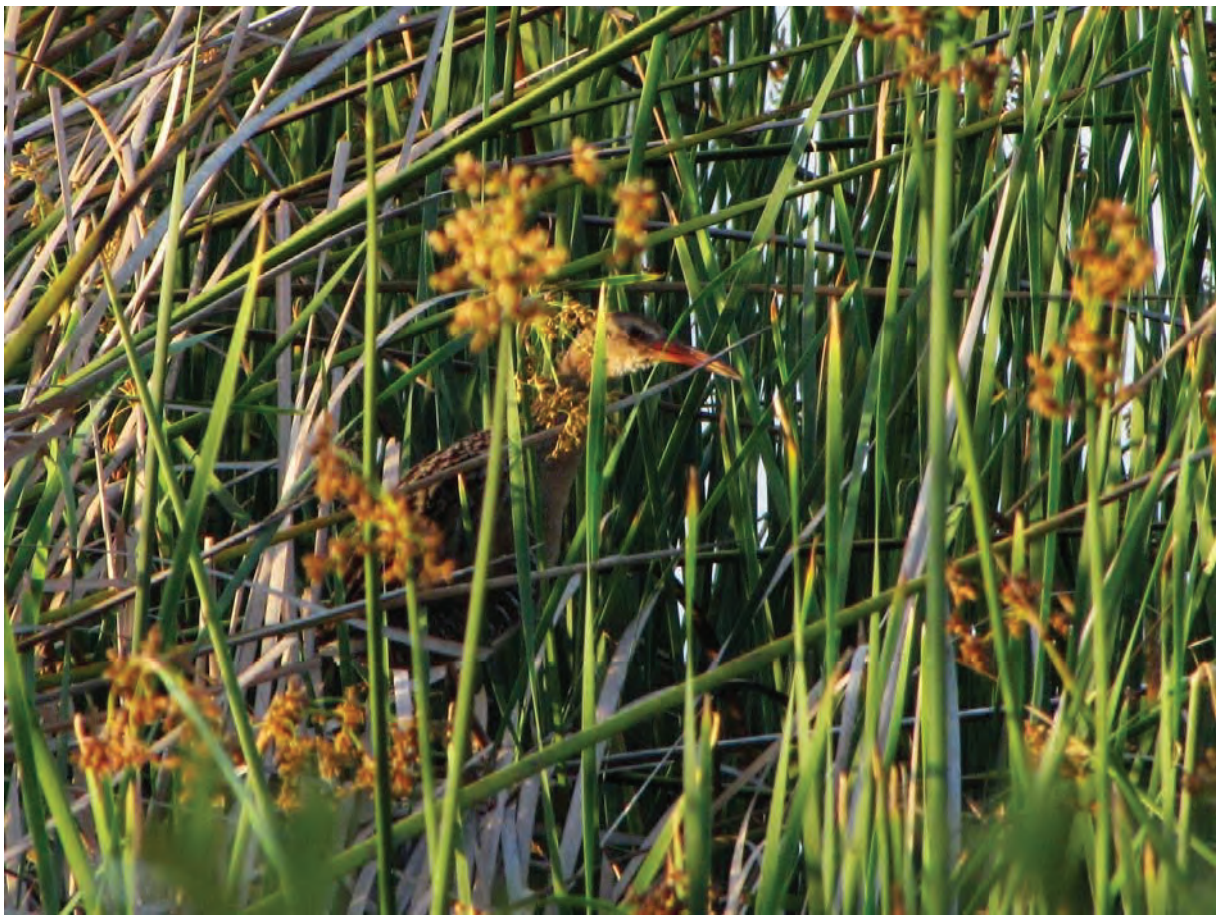
I18-14

11. Please remove proposed parking lots from BWER restoration alternatives and use the opportunity of the current lot removal to expand the natural areas.

I18-15

Ridgways Rail, Rallus obsoletus

A Ridgeway Rail, Rallus obsoletus, discussed in the DEIR/S was present at Ballona freshwater marsh for two consecutive years and was recorded and reported by myself both years to the private Ballona freshwater marsh manager Dr. Edith Read in two email communications on June 20, 2015 and March 18, 2016.



Ridgway's Rail. Ballona Freshwater Marsh June 17, 2016

Ridgway's Rail call recordings with video

Ridgway's Rail video heard June 20, 2015 Ballona freshwater marsh
https://www.flickr.com/gp/stonebird/y97W34

Ridgway's Rail video heard March 18, 2016 Ballona freshwater marsh
https://www.flickr.com/gp/stonebird/6L95pC

Ridgway's Rail video seen and heard June 17, 2016 Ballona Freshwater Marsh
https://www.flickr.com/gp/stonebird/0Wdxu7

I18-16

The Draft EIR only cites a single April 29, 2016 reference of Ridgway's Rail communication for year 2016 reported by Don Sterba on the LaCoBirds public listserve The verified Ridgway's Rail sound recordings I made that document the Ridgway's Rail presence for two consecutive seasons were shared and verified by Richard Zembal, who is an an authority on the Ridgway's Rail and also the Natural Resource Director of the Orange County Water District, as a female advertising Ridgway's Rail.

I18-16 cont.

Therefore the discussion of Ridgway's Rail is incomplete without discussion of the Rail presence for two consecutive years and should be included in a recirculated DEIR/S .

I18-17

The Ridgway Rail is listed Near Threatened and is Federally protected as endangered. https://ecos.fws.gov/ecp0/profile/speciesProfile?sId=4240

I18-18

The cattail and reed habitat the Ridgway Rail was occupying at the Ballona Freshwater Marsh for two consecutive years was then apparently ordered by Vector Control to be cut down and removed in 2016 while the near threatened and endangered female Ridgway's Rail was still present.

I18-19

12. Was the CDFW notified of the Ridgway Rail when it was first reported to the occupy the Ballona freshwater marsh by the Freshwater Marsh management after being notified on June 20, 2015? When was the CDFW notified when the Ridgway's rail was reported on again March 18, 2016?

I18-20

13. Since the Ridgway's Rail observed at the Ballona freshwater marsh was relevant to be included in the DEIR/S please discuss issues and conflicts that may arise regarding Vector Control issues and the Ballona Wetlands Ecological Reserve so the public may better understand the ordered destruction of Ridgway's Rail cattail and reed habitat the rail was occupying at the Ballona freshwater marsh and what CDFW responsibility and oversight is in regards to protection of these wildlife resources when they occupy privately controlled and maintained and how these issues can be resolved to protect the natural resources of the Ballona Wetlands Ecological Reserve.

I18-21

Ballona Freshwater Marsh reed and cattail habitat Ridgway's Rail occupied June 20, 2015

I18-22

In the Appendix D3 Ballona Wetlands Restoration Project Draft EIR/EIS in the Vegetation Alliance figures there are 19 mentions of Distichlis littoralis/Monanthochloe littoralis, which is Shoregrass, that is most likely not present at the Ballona Wetlands, which is represented mostly by Saltgrass.

Question

14. Have there been any certified botanist to survey the Ballona Wetlands during the survey period of the publication of the 2010 and 2011 existing conditions reports that can verify that *Distichlis littoralis* is present at the Ballona Wetlands?

I18-23

Scientific Name	Common Name	Family	Native/ Non-native	(1) 1979	(2) 1981	(3) 1991	(4) 1992	(5) 2001	(6) 2002	(7) 2005	(8) 2010	(9) 2011	(10) 2011
Cuscuta sp.	dodder	Convolvulaceae	n			x			x		x	x	x
Cynodon dactylon	Bermuda grass (creeping-cynodon)	Poaceae	n-n			x		x	x	x			x
Cyperus eragrostis	tall flatsedge (eragrostoid cyperus)	Cyperaceae	n		x	x	x		x				x
Cyperus esculentus	chufa flat-sedge	Cyperaceae	n		x	x			x				
Cyperus involucratus	umbrella papyrus	Cyperaceae	n-n		x	x			x				
Datura wrightii	Western jimson weed (Wright's datura)	Solanaceae	n		x	x	x	x	x	x			x
Daucus pusilus	rattlesnake weed	Apiaceae	n-n										x
Deinandra fasciculata	fascicled tarplant	Asteraceae	n		x		x		x				x
Deinandra paniculata	paniculate tarplant (San Diego tarplant)	Asteraceae	n			x			x				
Delosperma litorale	seaside delosperma	Aizoaceae	n-n		x				x				
Dichondra occidentalis	western dichondra	Convolvulaceae	n			x			x				
Digitaria sp.	digitaria	Poaceae	n-n			x			x				
Distichlis littoralis (=*Monanthochloe littoralis*)	shore grass	Poaceae	n			x			x				
Distichlis spicata	spiked saltgrass	Poaceae	n	x		x	x	x	x	x(t)	x	x	x
Dysphania ambrosioides (=*Chenopodium ambrosioides*)	Mexican tea	Chenopodiaceae				x			x				x
Dysphania botrys	Jerusalem-oak goosefoot	Chenopodiaceae	n-n			x			x				
Dysphania pumilio	clammy goosefoot	Chenopodiaceae	n-n						x				
Echinochloa crus-galli	common barnyard-grass	Poaceae	n-n			x			x				
Ehrharta erecta	upright veldtgrass	Poaceae	n-n			x			x				x

I18-24

Letter I18: Jonathan Coffin

I18-1 See General Response 5, *Biological Resources*, regarding invertebrates (Final EIR Section 2.2.5.2), which addresses multiple comments received about the biological resources baseline. See also General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), regarding the definition of "restoration."

I18-2 See General Response 5, *Biological Resources*, regarding invertebrates (Final EIR Section 2.2.5.2), which addresses multiple comments received about the biological resources baseline.

I18-3 See General Response 5, *Biological Resources*, regarding invertebrates (Final EIR Section 2.2.5.2), which addresses multiple comments received about the biological resources baseline.

I18-4 See General Response 5, *Biological Resources*, regarding reptiles (Final EIR Section 2.2.5.3), which addresses multiple comments received about the coast horned lizard and other reptiles. As mentioned in Draft EIS/EIR Section 3.4.2.2, *Environmental Setting*, the coast horned lizard has a low potential to occur at Project Site based on marginal or minimal suitable habitat and/or this species has not been detected at the Project Site for at least several decades. Draft EIS/EIR Appendix D12 states the following about the species: "Low potential. Limited potential to occur in Area B, as one of its key elements is sandy soils. However, it also prefers an abundance of native ant species and the region is dominated with Argentine ants. The native red ant *Pogonomyrmex* ant is still common on the dunes and elsewhere in sandy soils. Documented CNDDB observations are greater than 5 miles away predominantly near Santa Monica mountains." Given the low potential for the species to occur at the Project Site, it is unlikely that implementation of the Project would affect the species.

I18-5 See General Response 5, *Biological Resources*, regarding Invertebrates (Final EIR Section 2.2.5.2), which addresses multiple comments received about the biological resources baseline.

I18-6 See General Response 5, *Biological Resources*, regarding Invertebrates (Final EIR Section 2.2.5.2), which addresses multiple comments received about the biological resources baseline.

I18-7 See General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about these drains.

I18-8 The Draft EIS/EIR analyzes potential direct, indirect, and cumulative impacts of the Project and alternatives. See General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about the drains.

I18-9 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.1), which addresses multiple requests that CDFW consider a "freshwater alternative."

I18-10 Receipt of this photograph of a northern harrier (*Circus cyaneus*) is acknowledged. Draft EIS/EIR Section 3.4.2, describing the affected environment for purposes of the analysis of potential impacts to biological resources, acknowledges that this species has been observed regularly within the Ballona Reserve.

I18-11 See General Response 4, *Drains* (Final EIR Section 2.2.4), regarding the extensive hydrological studies performed and relied upon in the analysis of potential impacts of the Project and alternatives. See also General Response 6, *Hydrology and Water Quality* (Final EIR Section 2.2.6), which addresses multiple comments received regarding existing hydrological conditions.

I18-12 See General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about these drains.

I18-13 See General Response 5, *Biological Resources*, regarding burrowing owl (Final EIR Section 2.2.5.7), which addresses multiple comments received about this species.

I18-14 See General Response 5, *Biological Resources*, regarding burrowing owl (Final EIR Section 2.2.5.7), which addresses multiple comments received about this species.

I18-15 The request to remove parking areas from the proposed restoration alternatives, in favor of increasing the area available for restoration, is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.4), which addresses multiple comments regarding parking facilities within the Ballona Reserve.

I18-16 See General Response 5, *Biological Resources*, regarding Ridgway's rail (Final EIR Section 2.2.5.6), which addresses multiple comments received about this species.

I18-17 See General Response 7, *Requests for Recirculation* (Final EIR Section 2.2.7), which addresses multiple comments received requesting recirculation.

I18-18 See General Response 5, *Biological Resources*, regarding Ridgway's rail (Final EIR Section 2.2.5.6), which addresses multiple comments received about this species.

I18-19 The stated concern is acknowledged, but does not comment on the adequacy or accuracy of the EIR. To be clear, this property and entity are outside the Ballona Reserve and not under Ballona Reserve management. See General Response 5, *Biological Resources*, regarding Ridgway's rail (Final EIR Section 2.2.5.6), which addresses multiple comments received about this species.

I18-20 Whether CDFW was notified of an observation of a particular species in 2015 or 2016 does not address the adequacy or accuracy of the EIR. See General Response 5, *Biological Resources*, regarding Ridgway's rail (Final EIR Section 2.2.5.6), which addresses multiple comments received about this species.

I18-21 Multiple comments, including this one, regarding Ridgway's rail are addressed in General Response 5 (Final EIR Section 2.2.5.6).

I18-22 Receipt of this photograph of reed and cattail habitat in the Freshwater Marsh, which is noted as occupied by Ridgway's rail, is acknowledged. See General Response 6, *Hydrology and Water Quality* (Final EIR Section 2.2.6.3), which addresses multiple comments received regarding the Freshwater Marsh.

I18-23 The comment questions the identification of shoregrass (*Distichlis littoralis*), which Draft EIS/EIR Appendix D3 documents as found on site in 1991 and 2002. This species was not identified in later focused botanical surveys by qualified biologists. In an abundance of caution, the Draft EIS/EIR included this species in the botanical record for the Project Site. Shoregrass is not a rare species that is regulated by state or federal resource agencies. Given the conservative approach to identifying species that have been historically reported at the Ballona Wetlands, the comment does not cite a deficiency in the EIR. The commenter asks if a "certified botanist" surveyed the site in 2010 and 2011, or thereafter to verify the presence of this species on-site. There is no standardized professional certification process for botanists.

I18-24 The inclusion of a table from Draft EIS/EIR Appendix D3 is acknowledged. See Final EIR Section 2.1.1, *Input Received*.

Comment Letter I19

From:	Judy Crane
To:	Wildlife Ballona Wetlands Ecological Reserve EIR
Cc:	"Celinda Jungheim"
Subject:	Ballona Wetlands Restoration Project
Date:	Monday, February 5, 2018 12:45:59 PM

Mr. Richard Brody
California Department of Fish and Wildlife

Re: Potential impacts to the Villa Marina neighborhood of Moving Soil from Area A to North Area C in Marina del Rey

Dear Mr. Brody,

Using North Area C as a dump site for the fill material removed from Area A is a terrible idea is so many ways, that it is hard to believe that anyone would seriously consider it. I19-1

As I understand it, when the Marina was being created, the soil that was removed was dumped on to what is now Area A. Now, the plan is to remove that layer of soil to recreate something similar to the original wetlands and to improve the natural flow of waters. And that soil is going to be dumped on yet another protected parcel – North Area C. (?)

Your plan is to transport the soil to North Area C, which will create a 15-25 foot wall of dirt next to our Villa Marina neighborhood. This will:

*Cause dust to constantly be blown into our homes I19-2

*Create mudslides into our streets, driveways, and garages I19-3

*Block our view of the wetlands and distant hills I19-4

*Your plan states that the higher elevation will "provide an overlook" for visitors. Sure it will – right into our homes I19-5

Furthermore, there is currently no defined plan worked out for creating a nature walk on the property, and no funding. This means that we will be stuck with this environmental disaster for years. I19-6

Your plans describe, "A potential for visible dust plumes and debris piles," as a given in all Alternatives except #4. I19-7

This will:

*Destroy our neighborhood – financially and physically (our home prices will plummet and illnesses will increase)

*Create lung problems and escalate existing problems I19-8

An issue will emerge with the first of many dump truck trips through our neighborhood. 480 daily one-way trips on Fiji and La Villa Marina will be a disaster. The noise and vibration created by the trucks will be horrible and will go on all day, five days a week. The vibration will probably cause damage to some windows. For sure, our streets are going to suffer, and will the State pay for repairs? No one will want to buy or rent here, prices will go down. Our mental and physical health is going to suffer. The whole stretch of Culver Blvd at the south edge of North Area C is available for I19-9 I19-10 I19-11

creating entrances, parking, turnarounds for trucks, Maintenance, and (if it ever happens) visitor parking. The La Villa Marina entrance should be for pedestrian traffic ONLY, and should be locked at night.

I19-11 cont.

It would seem that your department hasn't driven around this area much. The possible routes listed for trucks transporting soil away from Area A don't take into consideration the existing heavy traffic on Mindanao. The best way for the trucks to get from Area A to the 90 East Expressway is as follows:

From Fiji Way, turn left on Lincoln, pass Mindanao, go ½ block just past the Toyota dealership, and turn right on to the entrance to 90 East Expressway. Get off at Culver if you have to, but preferably go somewhere else.

I19-12

Please pay careful attention to all these issues. Your plans would destroy our neighborhood, and financially ruin the many of its owners.

Sincerely,

Judith and Elihu Crane
13221-A Admiral Ave.
Marina del Rey, CA 90292
ejcrane@earthlink.net

Letter I19: Judy & Elihu Crane

I19-1 The commenter accurately notes fill was placed in Area A in the early 1930s and 1960s during the excavation of Ballona Creek and the development of Marina del Rey. See, e.g., Draft EIS/EIR Section ES.1, *Background and Project Overview*. The Project proposes to reposition this fill in north and south Area C to create perimeter levees, transition zones, and upland restoration areas which will allow Ballona Creek to reconnect with its historic floodplain. Specifically, as analyzed under Project conditions, fill material would be redistributed primarily on-site in North Area C (up to 720,000 cubic yards [cy]), with additional material to be relocated to South Area C (up to 300,000 cy) and exported off-site (up to 110,000 cy). As analyzed under Alternative 2, a slightly smaller amount of fill would be repositioned through the Project Site to be used as perimeter levees, transition zones, and upland restoration areas. As analyzed under Alternative 3, approximately 190,000 cy of fill material would be used as perimeter levees, transition zones, and upland restoration areas.

The repositioned fill under all restoration alternatives would serve a critical function: creating and enhancing upland habitat in Area C as well as transition areas. Both upland habitats and transition areas are critical components of the restoration design because they would allow wetland habitats to migrate to higher elevations over time commensurate with rising sea levels.

I19-2 See Response I2-14 and Response F8-4 regarding dust control.

I19-3 See Response I15-59 regarding concerns about potential mudslides.

I19-4 See Response F8-2, which discusses potential changes in elevation in Area C and Response F83, which discusses potential aesthetic changes due to changes in elevation in Area C.

I19-5 As reflected in Figure 2-18, Alternative 1, Phase 1: Public Access Plan, and Figure 2-3, Alternative 1, Phase 2: Public Access Plan, there are no overlooks proposed in North Area C.

I19-6 Draft EIS/EIR Section 2.2.2.3, *Alternative 1: Public Access and Visitor Facilities*, describes the public access improvements such as pedestrian and bike paths and elevated boardwalks that would guide visitors through areas adjacent to the wetlands to “Main Information Sites” where they may learn more about the wetlands habitats, animals, and the larger watershed system. As described in Section 2.2.1.3, *Public Access and Visitor Facilities*, the public access plans described in the document would be implemented, in full or in part, only if funding became available. Without further information about the commenter’s concern regarding the funding for “nature walks” CDFW is unable to provide a more detailed response.

I19-7 Regarding aesthetic concerns, see Response F8-3. Any suggestion that the proposed restoration of the Ballona Reserve would affect property values (either positively as a

result of restoration- and recreation-related enhancements within the Ballona Reserve, or negatively, as a result of potential adverse impacts identified in Draft EIS/EIR Chapter 3) is speculative.

I19-8 As analyzed in Draft EIS/EIR Section 3.3.6.1, neither the restoration nor post-restoration phases of the Project or other restoration alternatives would expose sensitive receptors to substantial emissions of toxic air contaminants and other pollutants such that health risks could result. Therefore, the Project would not create or exacerbate lung problems.

I19-9 Regarding the concern that trucks would enter the Villa Marina neighborhood, see Response F8-15.

I19-10 The suggestion that the proposed restoration of the Ballona Reserve would affect property values is speculative. See Response I19-7.

Potential impacts on human health are analyzed in the EIR. No significant adverse impacts were identified. See, e.g., Draft EIS/EIR Section 3.3, which considers potential impacts to health based on Project-caused changes in air quality conditions; Section 3.6, which analyzes whether the Project could expose people to the risk of loss, injury, or death with respect to seismicity-related considerations; Section 3.8, which analyzes whether the Project could expose people to a significant risk of loss, injury, or death involving wildland fires; Section 3.9, which analyzes whether the Project could expose people to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam; and Section 3.10, which analyzes whether the Project expose people residing or working in the Project area to excessive noise levels.

The commenter's opinion that their mental health would suffer as a result of the Project is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. However, without more information as to why the commenter believes this to be true, CDFW does not have sufficient information to provide a more detailed response.

I19-11 The secondary entrance that would be located at La Villa Marina to provide access to the Ballona Reserve from adjacent neighborhoods would allow only pedestrian traffic and would have a secure lockable gate that would be locked when the Reserve is closed. See Response I2-9, which provides additional details about times of allowable access to the Ballona Reserve and the nature of the security gates.

I19-12 The suggested alternate truck and hauling route is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

Comment Letter I20

From:	Scott Culbertson
To:	Wildlife Ballona Wetlands Ecological Reserve EIR; daniel.p.swenson@usace.army.mil
Subject:	Comments in support of the DEIR Ballona Restoration
Date:	Monday, February 5, 2018 2:35:32 PM
Attachments:	Ballona Restoration DEIR Comments by Friends of Ballona Wetlands_FINAL.pdf WRP Steering Committee DEIR Comment Letter_FINAL.pdf

Dear Mr. Brody and Mr. Swenson,

Today I am writing not in my capacity as executive director of Friends of Ballona Wetlands, but as resident of Los Angeles in support of a science-based, comprehensive and robust restoration of the Ballona Wetlands.

I support Friends of Ballona Wetlands (FBW) and the Wetlands Restoration Principles Coalition positions to restore the Reserve - expand and enhance habitat for native plants and wildlife, increase watershed connectivity, and provide well-regulated public access.

Each year thousands of students, volunteers, and ecologically minded people visit West Area B in the Reserve - an area mostly restored by FBW with tidal flow and no dredge-fill - and have no idea that most of the 577-acre Reserve is covered with fill, not wet, highly degraded and not functioning habitat. One simply needs to drive along the Reserve's perimeter on Lincoln, Jefferson or Culver Blvds to see the weeds and degradation. Imagine a restored Ballona Wetlands and how many people could enjoy the area and learn about nature.

I urge you to read closely and consider the comments detailed in FBW and the Coalition letters. Countless hours of study and academic debate went into their preparation.

I20-1

Sincerely,

Scott Culbertson

The Steering Committee of the Wetlands Restoration Principles Coalition

FRIENDS OF BALLONA WETLANDS | Heal the Bay | LOS ANGELES WATERKEEPER | THE TRUST FOR PUBLIC LAND | SURFRIDER FOUNDATION

February 1, 2018

Mr. Richard Brody
CDFW c/o ESA (jas)
550 Kearney Street, Suite 800
San Francisco, California, 94108

Daniel Swenson, Regulatory Division
U.S. Army Corps of Engineers
Los Angeles District
915 Wilshire Blvd, Suite 930
Los Angeles, CA 90017

Sent Via E-mail to: BWERcomments@wildlife.ca.gov and daniel.p.swenson@usace.army.mil

Dear Mr. Brody and Mr. Swenson:

The Wetlands Restoration Principles Coalition Steering Committee, made up of five leading environmental organizations in Southern California representing more than 25,000 members, has come together to support robust science-based restoration of the Ballona Wetlands Ecological Reserve. The undersigned Coalition organizations strongly support the restoration plans described in Phase 1 of Alternative 1, with various important amendments. The Steering Committee members determined that Phase 1 of Alternative 1 with amendments best achieves the nine restoration principles laid out by the Coalition in 2015 (see attachment). Coalition members are also submitting separate letters with individual comments on the various Alternatives.

We thank you for providing this analysis. This project will be the most important environmental restoration and public access project ever undertaken for the residents of Los Angeles County.

The 21st Century has brought good news for wetlands up and down the California coast. According to the California Coastal Conservancy, two hundred restoration projects have been completed and one hundred more are in progress for a total of 50,000 acres. Plus 50 more are privately financed as mitigation. They are all precious links along the Pacific Flyway, nurseries for the fish of the Pacific and its bays and estuaries, and the breeding ground for the various plants and animals that sustain the circle of life. It is far past time for the Ballona Wetlands to be restored. They are the largest wetlands between Point Mugu and Bolsa Chica, but have deteriorated to the point where they can no longer sustain vital functions.

In our comments below, the Coalition Steering Committee has addressed habitat and public access issues equally. There are obvious tensions between the goals of creating healthy, protected habitat and allowing human access, but we believe we have suggested good solutions to that problem in our comments. We support generous access points, bicycle and walking trails, and even an additional public access area not addressed explicitly in Alternative 1, Phase 1 but consistent with the project as described. We also have, however, designated areas where public access should be limited by the presence of endangered species and delicate portions of the new ecosystem. We think that well designed trails will also create the means to monitor the area and protect it from illicit activity.

I20-2

Human needs and nature's needs have been severely unbalanced for over 100 years, with humans the dominant species. We believe a robust restoration at Ballona will restore nature's balance to the ultimate benefit of residents and visitors who will come to understand and enjoy this beautiful place between land and sea.

As the Draft Environmental Impact Report/Statement (EIR/S) succinctly summarizes:

"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."

While supporting the overall goals of the Draft EIR/S, the Coalition Steering Committee also supports the following objectives for the Reserve as a whole:

1. Protect, optimize, enhance and create diverse habitats for native plants and wildlife throughout Ballona including wetland, riparian, dune and upland environments.
2. Maximize and enhance wetland acreage and function. Also maximize diversity of created/restored wetland habitats, i.e. low, mid, and high marshes, salt pan, and brackish marsh.
3. Increase watershed connectivity.
4. Create nurseries for fish and nesting habitat for birds.
5. Manage for rare and sensitive species.
6. Create well-regulated trails for public access and educational opportunities that are compatible with ecological goals.
7. Ensure long-term RESILIENCE and sustainability with estimated future sea level rise.
8. Reduce habitat fragmentation by providing wildlife travel corridors to minimize wildlife injury and mortality from vehicles.
9. Safeguard wildlife and minimize losses during construction.
10. Provide safe public access to the Reserve including trails, bike paths and rest stops, overlooks, wayfinding, shade structures, information kiosks, restrooms, drinking water, public transit stops and parking.

I20-2 cont.

To the extent that the Draft EIR/S supports these objectives, **the Wetlands Restoration Principles Steering Committee supports a Project with the following elements including the amendments and safeguards and as generally mapped in the drawings attached:**

Area A: We support the restoration of Area A presented in Alternative 1 Phase 1 with a few minor changes. The 14 feet of fill covering Area A should largely be removed and the existing levees should be replaced with new perimeter levees as described. We support a public access system with separate bicycle and walking trails as shown in Alternative 1 Phase 1. We support a trailhead at a parking structure with adequate visitor-serving parking and restrooms for the numbers of visitors that are anticipated to be attracted to the new Ballona public access system.

Our support for this Alternative is based upon the inclusion of the following changes and additions:

1. Survey for rare and sensitive plants and animals and plan for their relocation before removing topsoil.
2. Include a plan for relocating wildlife displaced by restoration activities.
3. Ensure that topography allows for vegetated wetlands to thrive and provide increased water filtration capabilities, while also supporting a diversity of wetland habitats, i.e. low, mid, and high marshes, salt pan, and brackish marsh.
4. Ensure that there is adequate nesting and foraging habitat for the Belding's Savannah Sparrow.
    a. Pickleweed habitat cover in Area A should be equal to or greater than currently present in West Area B.

   b. Use principles of Minimum Viable Population to estimate the number of nesting pairs required for a viable, sustainable population size and ensure that the population will be protected from future disturbances.
   c. Provision of the appropriate wetlands vegetation habitat is very important as it is possible that West Area B will be inundated due to sea level rise.
5. Align primary trailhead and trails with visitor services and parking.
6. Provide a plan for the likely placement of interpretive panels along walking paths, viewing platforms, etc. that are compatible with restoration goals and maximize interpretive opportunities for schools.
7. Ensure that the number of parking spaces provided is adequate for the expected number of visitors to the Reserve.[1] A parking study should determine the correct number of spaces for the anticipated number of visitors to the Reserve. The study should address the need for time limits to reduce unintended parking uses and alternative transportation options.
8. Include bathroom facilities at the primary trailhead in Area A comparable to those at the Upper Newport Back Bay Nature Preserve. Bathrooms are critical to encourage visitors to use proper facilities by increasing convenience. The type of structure should be determined based on budget, operations, and maintenance plans for the site.
9. Create wildlife corridors. Provide more details on bridge design and vegetation. Safe travel corridors over roads are needed not only for people, but also wildlife to help reduce habitat fragmentation and roadkill. Use known principles of wildlife corridor design to determine the cover and type of native vegetation needed.
10. Address more directly how upstream water quality improvement projects are compatible with the restoration goals for water quality and sediment loads. Provide more information about how the project design will handle changes, including in terms of the extent of monitoring that will occur. While we recognize that much of the Ballona Creek Watershed is beyond the scope of the restoration project, it is reasonably foreseeable that the timing, scope and overall approach of projects and planning efforts happening upstream to address environmental concerns, including the Ballona Creek Bacteria TMDL Project and Ballona Creek Enhanced Watershed Management Program, will affect water quality and sediment loading downstream. We strongly recommend a cumulative impacts and sensitivity discussion to disclose the impacts, both positive and negative, of upstream projects on the project site.

I20-2 cont.

Area C: We support the plans for Area C presented in Alternative 1 Phase 1 with a few minor changes. We support the restoration of native upland vegetation where mostly weeds now exist, as well as the addition of walking trails, one major trailhead with parking, and several secondary trailheads. We believe the walking trails will reduce crime and homeless encampments by enhancing the area with greater visibility, law enforcement, and passive recreational opportunities.

Our support for this Alternative is based upon the inclusion of the following changes and additions:

1. Survey for rare and sensitive plants and animals and plan for their relocation before depositing fill.
2. Create a viewing area in South Area C overlooking the Centinela Creek convergence with Ballona Creek for birding. Consider adding benches and scopes for people to view the birds in this area.
3. Create wildlife corridors. Provide more details on bridge design and vegetation. Safe travel corridors over roads are needed not only for people, but also wildlife to help reduce habitat fragmentation and roadkill. Use known principles of wildlife corridor design to determine the cover and type of native vegetation needed.

If the Little League baseball fields remain inside the reserve, then the following changes should be made to their management:

1. The fields, parking lots and surrounding grounds must be maintained, to encourage environmental stewardship.

[1] In their report, Standards for Outdoor Recreation Areas (https://www.planning.org/pas/reports/report194.htm), the American Planning Association outlines basic standards for amenities at public facilities.

2. Access should be open to the larger community throughout the year, and parking should be allowed on the lot for visitors to Area C walking trails.
3. Prevent negative environmental and community impacts by increasing patrols by enforcement agencies.
4. Restore as much of the existing area as possible to native uplands vegetation.

North Area B: We support the removal of the levee wall in North Area B as described in Alternative 1 Phase 1 and the addition of a meander to the creek in this area. We also support enhancing public access along the roads in North Area B with walking and biking trails on the new levee paralleling Culver Blvd. and joining with the existing levee wall further to the west where the tide gates are located. We also support the addition of a bridge for bike and walking connection between Area A and North Area B.

Southeast and South Area B: We support the restoration of Southeast and South Area B west of the freshwater marsh as presented in Alternative 1 Phase 1 with a few changes. Creating small tidal channels as proposed in this area will enhance the habitat for native species and possibly support increased numbers of endangered and threatened species in this underperforming wetlands area. We support the protection of the eucalyptus patch to protect Monarch Butterflies, but it should not be allowed to spread further.

Our support for this Alternative is based upon the inclusion of the following changes and additions:

1. Modify proposed channel location to protect Willow Thickets along Bluff from salt water inundation, both on the surface and in groundwater.
2. Do not build berm that prevents brackish marsh from spreading naturally from the freshwater marsh culvert.
3. Ensure that topography allows for vegetated wetlands to thrive and provide additional water quality filtration, and also for a diversity of wetland habitats, i.e. low, mid, and high marshes, and brackish marsh.
4. Remove invasive non-native pampas grass, and other invasive species.
5. Maximize vegetated wetland acreage, especially to create nesting and foraging habitat for Belding's Savannah Sparrow.

I20-2 cont.

East Area B: We support the Alternative 1 Phase 1 plan to protect seasonal wetlands in East Area B. To maximize wetland habitat, East Area B should not be buried with fill.

Our support for this Alternative is based upon the inclusion of the following changes and additions:

1. Add major pedestrian and bike path around East Area B as per Alternative 2 Public Access Plan.
2. Remove non-native vegetation.
3. Daylight this portion of the culvert from Ballona Freshwater Marsh to Ballona Creek to allow freshwater to reach seasonal wetland area and allow for riparian and/or brackish habitat to develop, recognizing that rainfall and tidal influences will affect this dynamic area over time.

West Area B: We support the Public Access Plan of Alternative 1, Phase 1 in West Area B. We support the monitoring and protection of Belding's Savannah Sparrow nesting and foraging habitat. We support removal of Gas Company infrastructure.

Our support for this Alternative is based upon the inclusion of the following changes and additions:

1. Survey for rare and sensitive plants and animals and plan for their relocation before depositing fill.
2. Provide bathroom facilities at this primary trailhead comparable to those at the Newport Back Bay Nature Preserve.
3. Provide additional details on the detention basins for storm-water runoff planned in West Area B.
4. Protect existing wetlands habitat and endangered and threatened species as long as possible while expanding their presence in other parts of Ballona.

5. Assure that the connection of the last remaining dunes habitat to the adjacent wetlands is protected.
6. Restrict public access through the sensitive dune habitat that currently hosts the Federally endangered El Segundo Blue Butterfly. This area should not have a public trail.
7. Address more directly how upstream water quality improvement projects are compatible with the restoration goals for water quality and sediment loads. Provide more information about how the project design will handle changes, including in terms of the extent of monitoring that will occur. While we recognize that much of the Ballona Creek Watershed is beyond the scope of the restoration project, it is reasonably foreseeable that the timing, scope and overall approach of projects and planning efforts happening upstream to address environmental concerns, including the Ballona Creek Bacteria TMDL Project and Ballona Creek Enhanced Watershed Management Program, will affect water quality and sediment loading downstream. We strongly recommend a cumulative impacts and sensitivity discussion to disclose the impacts, both positive and negative, of upstream projects on the project site.
8. Extend pedestrian access trail down the north side of Culver Blvd. and connect to the existing trail leading to the Viewing Platform.
9. Provide more information about the access road in West Area B to demonstrate the need for this development. If the road is not required for emergency use, then it should be eliminated from the plan.
10. Provide additional sources and information for Draft EIR/S conclusions on sea level rise impact. Include sea level rise impact on surrounding community and how that will affect Ballona.
11. Investigate increased tidal flow by modifying tide gates to allow some additional flow into West Area B and increase tidal inundation of the salt pan without losing Belding's Savannah Sparrow nesting or foraging habitat or flooding roads/nearby development.

I20-2 cont.

The Coalition Steering Committee thanks you for your work, and would be pleased to answer any questions and to help with efforts to facilitate the restoration work ahead.

Sincerely,

The Wetlands Restoration Principles Steering Committee:

Friends of Ballona Wetlands

Scott Culbertson, Executive Director
scott@ballonafriends.org

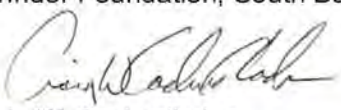
Heal the Bay

Shelley Luce, D.Env., President & CEO
sluce@healthebay.org

Los Angeles Waterkeeper

Bruce Reznik, Executive Director
bruce@lawaterkeeper.org

Surfrider Foundation, South Bay Chapter



Craig W. Cadwallader
craigc@surfrider-southbay.org

Trust for Public Land

Tori Kjer, Los Angeles Director
tori.kjer@tpl.org

Enclosure: Wetlands Restoration Principles

cc:

Senator Ben Allen
Samuel Liu, Deputy Chief of Staff Samuel.Liu@sen.ca.gov
Lauren Pizer Mains, District Representative lauren.pizermains@sen.ca.gov
Allison Towle, District Representative allison.towle@sen.ca.gov

I20-2 cont.

Councilman Mike Bonin councilmember.bonin@lacity.org
David Graham-Caso, Deputy Chief of Staff David.Grahamcaso@lacity.org
Anna Kozma, Field Deputy Anna.Kozma@lacity.org

Assemblywoman Autumn Burke
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Congressman Ted Lieu
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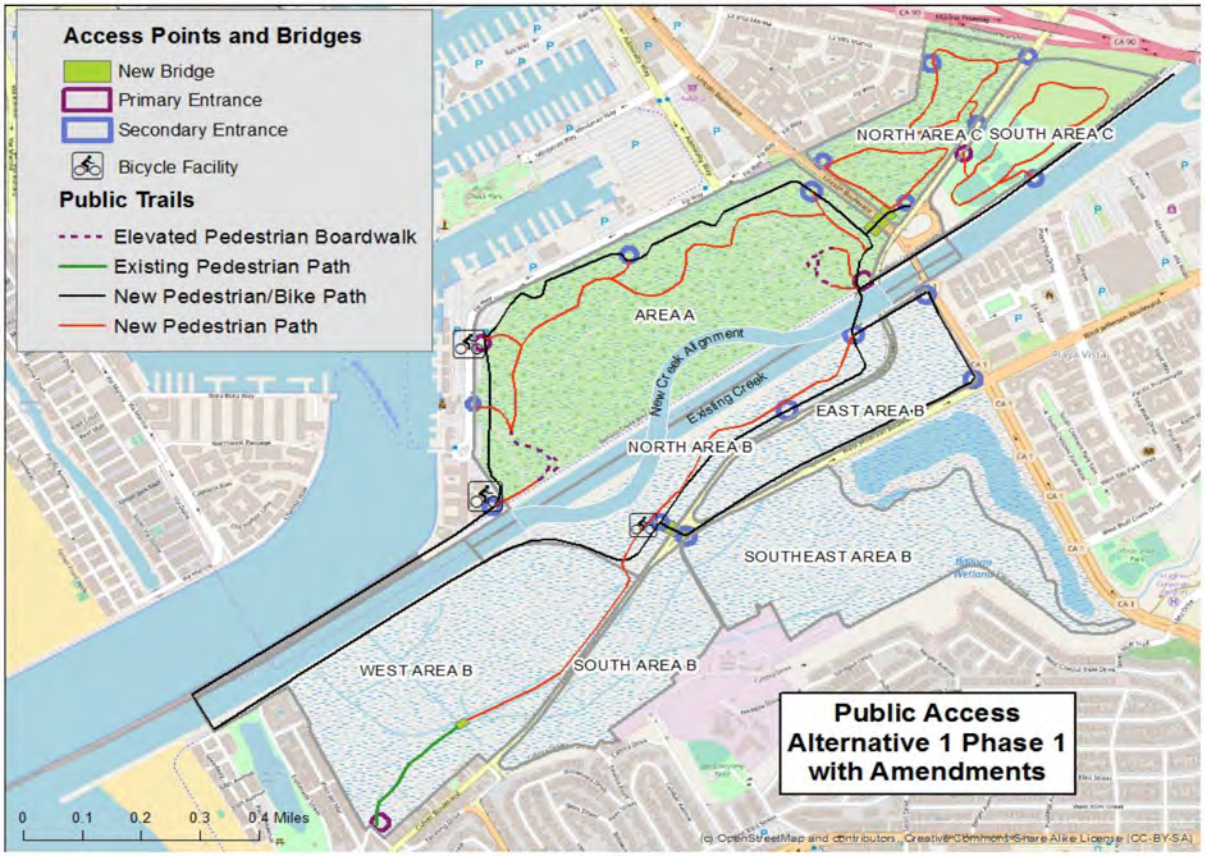
Mark Pestrella, Director, County of Los Angeles Public Works mpestrel@ladpw.org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Primary Entrance
Secondary Entrance
Bicycle Facility
Public Trails
Elevated Pedestrian Boardwalk
Existing Pedestrian Path
New Pedestrian/Bike Path
New Pedestrian Path
NORTH AREA C
SOUTH AREA C
AREA A
New Creek Alignment
Existing Creek
EAST AREA B
NORTH AREA B
SOUTHEAST AREA B
WEST AREA B
SOUTH AREA B
Public Access
Alternative 1 Phase 1
with Amendments
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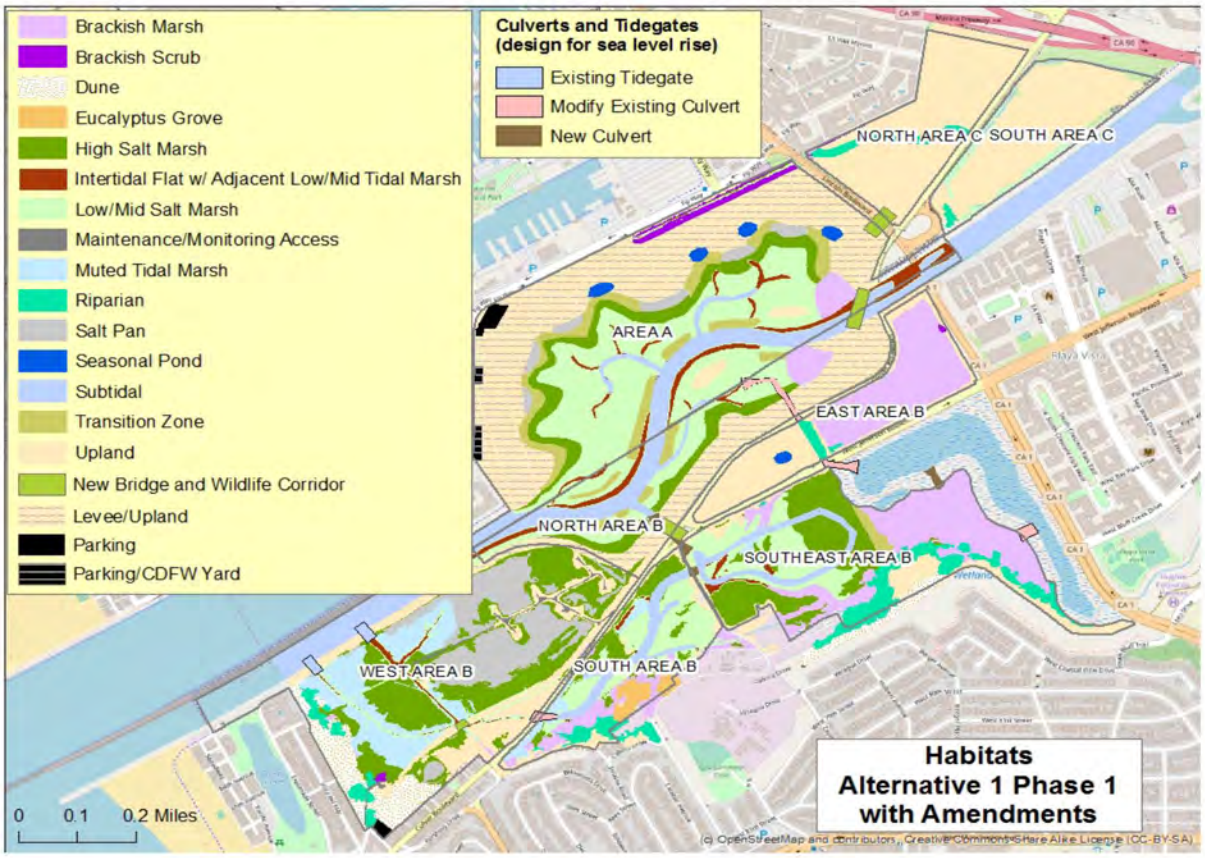
Brackish Marsh
Brackish Scrub
Dune
Eucalyptus Grove
High Salt Marsh
Intertidal Flat w/ Adjacent Low/Mid Tidal Marsh
Low/Mid Salt Marsh
Maintenance/Monitoring Access
Muted Tidal Marsh
Riparian
Salt Pan
Seasonal Pond
Subtidal
Transition Zone
Upland
New Bridge and Wildlife Corridor
Levee/Upland
Parking
Parking/CDFW Yard
Culverts and Tidegates
(design for sea level rise)
Existing Tidegate
Modify Existing Culvert
New Culvert
NORTH AREA C
SOUTH AREA C
AREA A
EAST AREA B
NORTH AREA B
SOUTHEAST AREA B
WEST AREA B
SOUTH AREA B
Habitats
Alternative 1 Phase 1
with Amendments
0 0.1 0.2 Miles
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I20-2
cont.

FRIENDS OF BALLONA WETLANDS

February 2, 2018

Mr. Richard Brody
CDFW c/o ESA (jas)
550 Kearney Street, Suite 800
San Francisco, California, 94108

Daniel Swenson, Regulatory Division
U.S. Army Corps of Engineers
Los Angeles District
915 Wilshire Blvd, Suite 930
Los Angeles, CA 90017

Sent Via E-mail to: BWERcomments@wildlife.ca.gov and daniel.p.swenson@usace.army.mil

SUBJECT: Ballona Restoration DEIR Comments by Friends of Ballona Wetlands

Dear Mr. Brody and Mr. Swenson:

Friends of Ballona Wetlands is pleased to provide comments on the Draft Environmental Impact Report/Statement. In addition to these specific Friends comments, the joint comments of the Wetlands Restoration Principles Coalition Steering Committee are attached. With our Coalition partners, and as an individual organization, we strongly support the restoration plans described in Phase 1 of Alternative 1, with various important amendments as described in this letter. We believe the project will be the most important environmental restoration and public access project ever undertaken for the residents of Los Angeles County.

Friends of Ballona Wetlands has championed the restoration and protection of the Ballona Wetlands, involving and educating the public as advocates and stewards, since our founding in 1978. Countless visitors have participated in tours through the Ballona Wetlands over the last 40 years. For the last 19 years, we have restored the historic dunes with the help of tens of thousands of volunteers.

I20-3

Our comments address habitat and public access issues equally. There are obvious tensions between the goals of creating healthy, protected habitat and allowing human access, but we believe our comments strike the proper balance. We support access points, separate bicycle and walking trails and even an additional public access area not addressed explicitly in Alternative 1, Phase 1, but consistent with the project as described. We also have designated areas where public access should be limited due to the presence of a federally listed endangered species residing in sensitive dune habitat. We believe well designed trails will improve enforcement and increase protections within the Reserve.

Human needs and nature's needs have been severely unbalanced for over 100 years, with humans as the dominant species. We believe a robust restoration at Ballona will restore nature's balance for the ultimate benefit of residents and visitors to enjoy this beautiful place between land and sea.

In addition, we have several added comments:

Overview Comments

In general, the Friends find that the wetlands habitat of West Area B is substantially better than much of the remainder of the wetlands, and that it supports important endangered species such as the Belding's Savannah Sparrow. We also find that the addition of a new levee adjacent to west Culver Blvd., behind Culver Blvd. businesses and separating the much-restored dunes habitat from the existing wetlands habitat would not be environmentally superior to Alt 1, Phase 1 (with the amendments we have recommended.) and is costlier. We find that Alternative 1 Phase 2 should only proceed in order to protect the area from severe sea level rise that cannot be addressed by less extreme measures. In addition to the limited options provided in this DEIR, we believe other methods of adapting to climate change should be researched for Ballona. It would be ecologically irresponsible to ignore technology and adaptive management methods that could increase resilience to climate change while also protecting the diversity of the wetlands.

It is our strong recommendation that, if and when it is determined Alternative 1 Phase 2 must proceed in order to protect the area from sea level rise, the following must be assured:

1. Adequate nesting and foraging habitat for Belding's Savannah Sparrows must be in place throughout Ballona in Areas A and B that support an equal or greater number of nesting pairs than currently exist in West Area B. No species should be extirpated during any part of this restoration, rather, more species, especially endangered and species of special concern, should be encouraged to thrive.
2. Improvements in upstream water quality and sediment loads must occur prior to breaching levee along West Area B. Measures that prevent loss of habitat diversity and protect existing native vegetation cover to greatest extent possible must be implemented.
3. Mechanisms to protect the historical salt pan from becoming permanent open water must be implemented to the greatest extent possible.
4. The construction of a levee along Culver and adjacent to the dunes must limit disturbance and enhance connectivity to dune system and El Segundo Blue Butterfly habitat.

I20-3 cont.

Area Specific Comments:

Area C:
We support the plans for Area C presented in Alternative 1 Phase 1 with a few minor changes. We generally support the placement of fill on Area C from Area A given that it is our understanding that it will not increase the height of Area C in a way that will negatively impact the nearby community, but will instead enhance Area C with gentle sloping vegetated knolls that do not obstruct views, but may reduce traffic noise along Culver and Lincoln Boulevards.

Our support for this Alternative is based upon the inclusion of the following changes and additions:
1. Place fill in such a way that will not negatively impact the aesthetics of the area or views of the nearby residents.
2. Assure that safety and privacy of adjacent homes are not compromised by added fill and that trailheads are coordinated with that community.
3. Provide more information on the likely placement of interpretive panels along walking paths, viewing platforms, etc. and ensure that they are compatible with ecological goals.
4. Take advantage of the viewing opportunity for visitors to the Ecological Reserve in Area C South to observe wildlife in Ballona Creek at the Centinela Creek Convergence.

West Area B:
Friends of Ballona Wetlands does not support full-tidal. As described in our overview comments, CDFW and the US Army Corps must demonstrate the need for full-tidal with additional data, otherwise the current habitat should remain, as it best reflects the historic conditions of a bar-built estuary.

Our support for this Alternative is based upon the inclusion of the following changes and additions:

1. Public access for parking for visitors should also be available for those patronizing community restaurants and shops and should remain open until 11:00 pm.
2. Re-contour portions of the tidal channels in West Area B to allow for more gradations in vegetation type.
3. Adapt West Area B for sea level rise consistent with plans related to the surrounding communities. Continue to research best technology that could minimize disturbance. Consider using current available technology such as pumps, slowly increasing elevation, etc.

Thank you for your attention to our comments. We are delighted to look at a future where significantly more healthy wetlands and uplands habitat exist once again at Ballona, and where bike and walking trails provide for the safe enjoyment of our citizens and visitors!

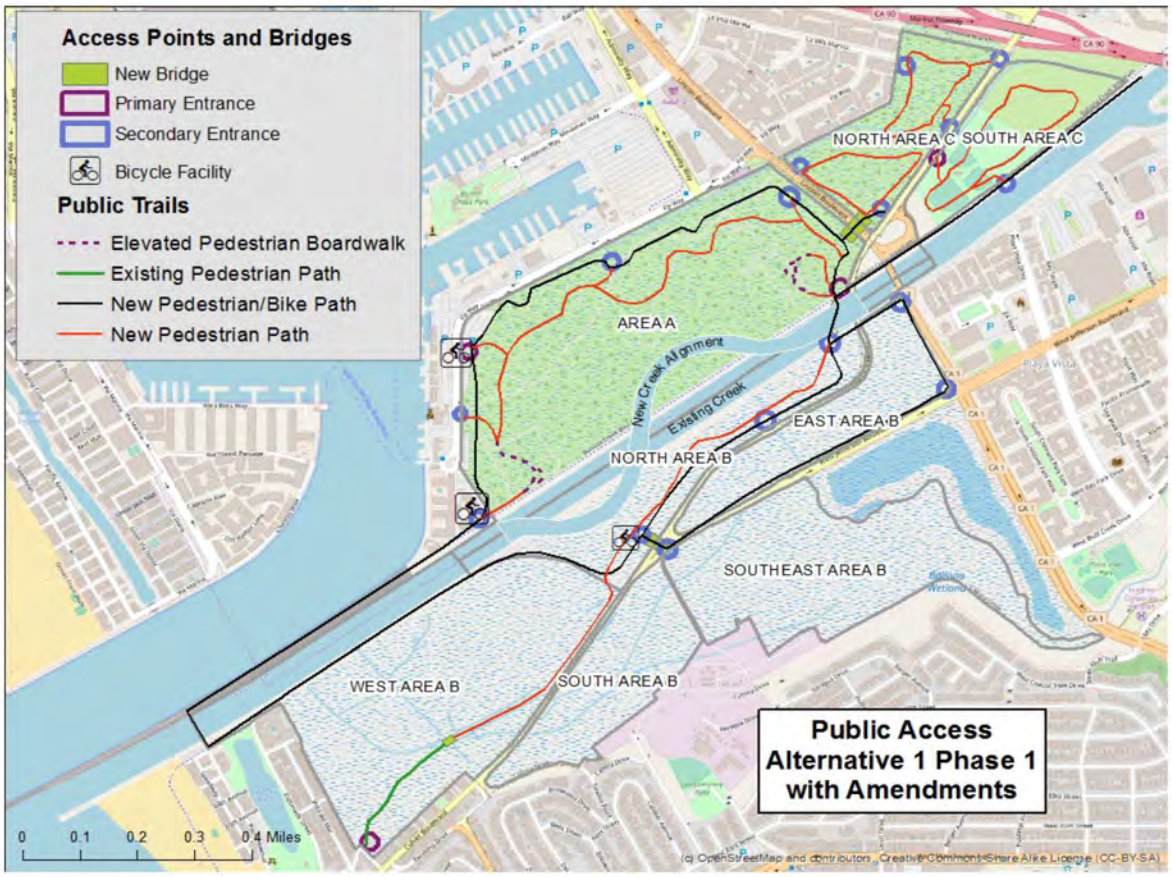
I20-3 cont.

Sincerely,

Scott H. Culbertson
Executive Director

Enclosure:
Wetlands Restoration Principles
Wetlands Restoration Principles Coalition Steering Committee comment letter

cc:
Friends of Ballona Wetlands Science Committee
Lisa Fimiani, Board Member
Neysa Frechette, Staff Field Biologist
Ruth Lansford, Founder and Board Member
Dr. Edith Read, Board Member
Catherine Tyrrell, Board Member
Patrick Tyrrell, Staff Habitat Restoration Manager


Access Points and Bridges
New Bridge
Primary Entrance
Secondary Entrance
Bicycle Facility
Public Trails
Elevated Pedestrian Boardwalk
Existing Pedestrian Path
New Pedestrian/Bike Path
New Pedestrian Path
NORTH AREA C
SOUTH AREA C
AREA A
New Creek Alignment
Existing Creek
EAST AREA B
NORTH AREA B
SOUTHEAST AREA B
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Public Access
Alternative 1 Phase 1
with Amendments
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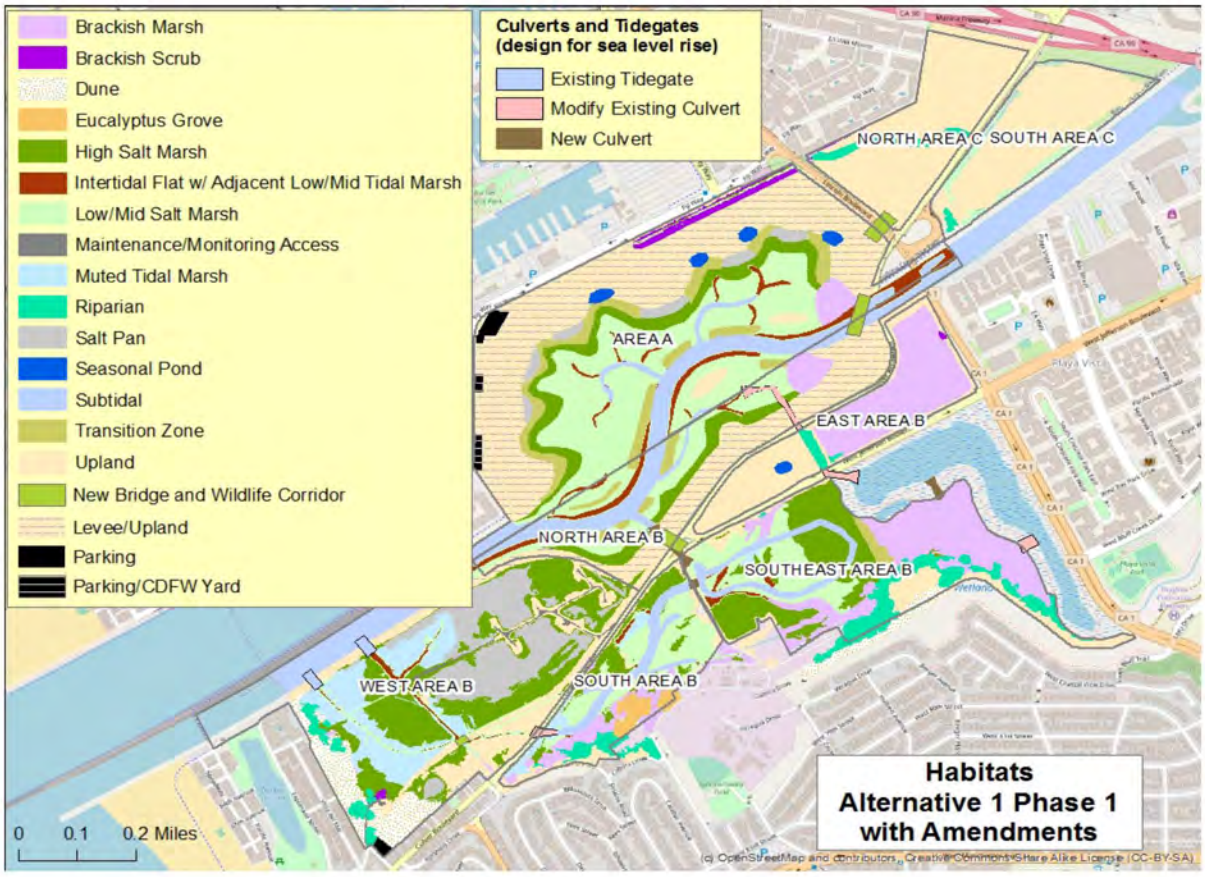
Brackish Marsh
Brackish Scrub
Dune
Eucalyptus Grove
High Salt Marsh
Intertidal Flat w/ Adjacent Low/Mid Tidal Marsh
Low/Mid Salt Marsh
Maintenance/Monitoring Access
Muted Tidal Marsh
Riparian
Salt Pan
Seasonal Pond
Subtidal
Transition Zone
Upland
New Bridge and Wildlife Corridor
Levee/Upland
Parking
Parking/CDFW Yard
Culverts and Tidegates
(design for sea level rise)
Existing Tidegate
Modify Existing Culvert
New Culvert
NORTH AREA C
SOUTH AREA C
AREA A
EAST AREA B
NORTH AREA B
SOUTHEAST AREA B
WEST AREA B
SOUTH AREA B
Habitats
Alternative 1 Phase 1
with Amendments
0 0.1 0.2 Miles
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I20-3 cont.

Letter I20: Scott Culbertson

I20-1 The stated support for restoration of the Ballona Reserve, and for the positions of Friends of Ballona Wetlands and the Wetlands Restoration Principles Coalition is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

I20-2 The commenter's agreement with comments provided by the Wetland Restoration Principles Coalition in Letter O28 is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. Specific responses to issues raised within the letter are provided in Responses O28-5 through O28-17.

I20-3 The commenter's agreement with comments provided by the Friends of Ballona Wetlands in Letter O10 is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. Specific responses to issues raised within that letter are provided in Responses O10-1 through O10-6.

Lindee Daniel
1158 26th Street
Santa Monica, Ca. 90403

October 28, 2017

Colonel Kirk Gibbs, Commander
United States Army Corps of Engineers – Los Angeles District
915 Wilshire Blvd.
Los Angeles, CA 90017-3409

RE: Ballona Wetlands Ecological Reserve
State Clearinghouse No. 2012071090

Dear Colonel Gibbs:

Please extend the public time for review, analysis and comment on the massive document (DEIR/DEIS). I21-1

Please grant an additional 120 days – for a total of 180 days for public comment. I21-1

I'm opposed to massive bulldozing that would destroy homes and food sources for thousands of native animals – some of which no longer exist elsewhere on the Los Angeles coast. I21-2

"Why is the California Department of Fish & Wildlife overseeing a plan that is harmful to wildlife?" I21-3

Hoping what is right will prevail.

Sincerely,
Lindee Daniel

CC: The Ballona Institute

Letter I21: Lindee Daniel

I21-1 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1) regarding CDFW's decision not to further extend the comment period beyond 133 days.

I21-2 The commenter's opposition to the use of mechanized equipment within the Ballona Reserve is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See General Response 3, *Alternatives* (Final EIR Section 2.2.3.4), which provides additional information about the use of mechanized equipment versus restoration by hand in the context of Alternative 5 and other alternatives that were initially considered, but not carried forward for more detailed review.

I21-3 The commenter's inference that the proposed restoration is harmful to wildlife is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*. Without more information about why the commenter believes that restoration would be harmful to wildlife, CDFW does not have enough information to provide a more detailed response.

Comment Letter I22

From:	Judith Davies
To:	bonnie.l.rogers@usace.army.mil; Wildlife Ballona Wetlands Ecological Reserve EIR
Subject:	DEIS/DEIR comments regarding Ballona Wetlands Restoration Project: (State Clearinghouse No. 2012071090 and Federal Document: Public Notice/Application No.: SPL-2010-1155
Date:	Monday, February 5, 2018 4:47:39 PM
Attachments:	Screen Shot 2018-02-05 at 4.30.36 PM.png

As a concerned citizen, living in the vicinity of the Ballona Wetlands Ecological Reserve, I am appalled by the proposed restoration plans presented to the public, building large burms, and radically altering the area by excavating, soil removal, disruption of exhisting habitats for the many species of wildlife living there. I22-1

I would like to hereby stand in agreement and support the arguments put forth by Jill Stewart, of the Coalition to Preserve LA.

The current DEIRl does not allow for the continuance of the Ballona Wetlands as a freshwater Wetlands, and the proposals to turn it into a strictly saltwater wetlands by dredging, and creating giant burms around it, is absolutely unacceptable. I22-2

The presence of illegal drains in the Wetlands , and the alteration of the hydrology is also totally unacceptable, I attended the Coastal Commission Meeting several years ago in Ventura, when the illegal drains were presented to the Commission, and these drains were ordered to be closed—yet this was never done, and continues to be ignored. No hydrology report has ever been done on this Wetlands, and it has always been the intention of Playa Capiital to continue draining it, in spite of the Coastal Commission and Fish and Wildlife Agencies. I22-3 I22-4

The present DEIR/DEIS is highly flawed, and is slanted to accommodate the wishes of private interests, not the best interests of the public and the conservation of one of the only remaining freshwater Coastal Weltland Reserves in California. I22-5

I would also like to say that there are many threatened and endangered species of wildlife that are currently living in the Ballona Wetlands, and the dredging, removal of soils, and radical alterations that are being proposed, would decimate any remaining wildlife in their present. precarious conditions. I22-6

I understand that there is a grove of Eucalyptus in which monarch butterflies are now found. There are native milkweed plants as well, that are necessary for their survival.

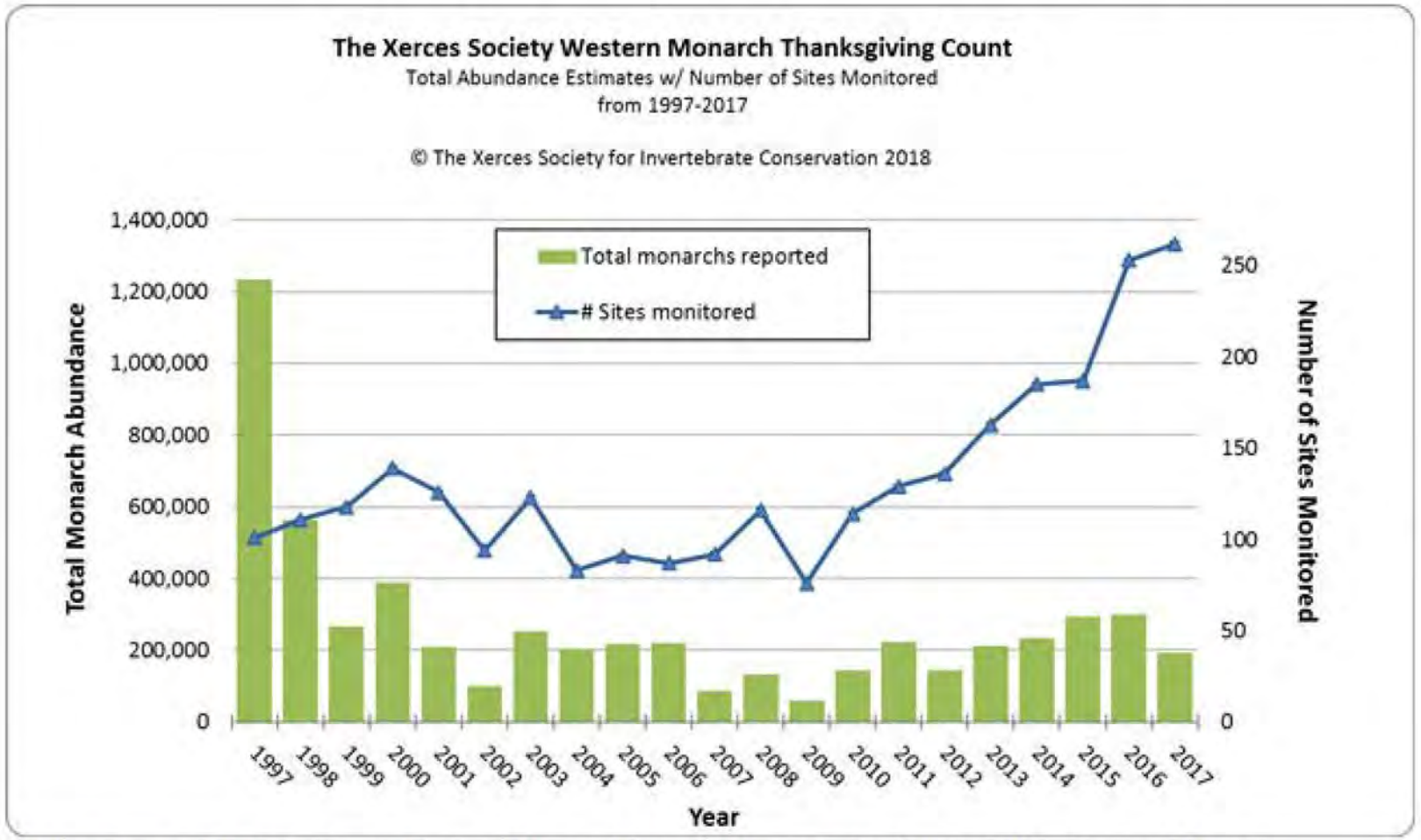
I refere here to the recent report published by the Xerces Society regarding the continued serious decline in the Western Monarch population, https://xerces.org/2018/02/01/western-monarch-butterflies-continue-to-decline/ I22-7

please see attached chart. which I have included from that study for your consideration. This does not take into account the effects of the recent devastating fires, smoke and mudslides that have occurred as well, that have not been factored into the latest findings, through Nov 2017. I would like have a response as to what would happen to the wildlife in those areas of the Wetlands that would be drastically altered by these radical alterations. I22-8

I strongly urge you to reject these DEIS/DEIR proposals and require ones that include true preservation, and restoration of the existing habitat, with hydrology reports, and a vision as to how the Wetlands AS WELL AS the wildlife would be preserved for future generations of the PEOPLE OF CALIFORNIA. Thank you I22-9

most sincerely,
Judith Davies
623 Marine St. #2
Santa Monica, California 90405

see screen shot attachment of graph for 2017 Western Monarchs decline



Citation for graph & data: Xerces Society Western Monarch Thanksgiving Count. 2018. Western Monarch Thanksgiving Count Data, 1997–2017. Available at: www.westernmonarchcount.org (For a full list of contributors, see: westernmonarchcount.org/about.) Click Here for larger version.

I22-10

For More Information

The data from and information about the Western Monarch Thanksgiving Count is at www.westernmonarchcount.org

Western Monarch Butterflies Continue to Decline

FOR IMMEDIATE RELEASE

Contacts:

Sarina Jepsen, Endangered Species Program Director, The Xerces Society for Invertebrate Conservation, (971) 244-3727, sarina.jepsen@xerces.org

Emma Pelton, Conservation Biologist, Endangered Species Program, The Xerces Society for Invertebrate Conservation, (503) 232-6639, emma.pelton@xerces.org

Western Monarch Butterflies Continue to Decline

Annual census of monarchs overwintering on the California coast reveals the lowest number of butterflies in recent years.

PORTLAND, Ore.; February 2, 2018—An annual census of monarch butterflies overwintering along California's coast reveals that populations in western North America are at their lowest point in five years, despite recovery efforts. Volunteers with the Xerces Society's Western Monarch Thanksgiving Count visited more sites this past year than have ever been counted since the survey began in 1997, yet they tallied fewer than 200,000 monarchs.

"This year's numbers indicate a continuing decline in the monarch population," noted Sarina Jepsen, the Xerces Society's endangered species program director. "Two decades ago, more than 1.2 million monarchs were recorded from far fewer coastal sites, and just last year nearly 300,000 monarchs were observed at almost the same number of sites."

Population estimates at individual sites also suggest that the western monarch population has continued to shrink. Of the 15 sites which have been monitored annually for more than two decades, 11 had lower counts than last year.

"Counts at some of the state's largest sites were dramatically lower," said Emma Pelton, conservation biologist with the Xerces Society. "Pismo Beach State Park was down by 38%, a private site in Big Sur was down by 50%, and the Monarch Butterfly Sanctuary in Pacific Grove was down 57%, from 17,100 to just 7,350 butterflies."

The few sites in which monarch numbers remained stable or increased compared to 2016, include Natural Bridges State Park, Moran Lake, and Lighthouse Field State Park, all in Santa Cruz County.

Monarch butterflies that spend the winter within forested groves along California's central coast are born on milkweed throughout western states, traveling to the coast from as far away as Arizona, Utah, Idaho, and Washington. The western population of monarchs has undergone a long term decline that mirrors the trend observed at overwintering sites in the mountains of central Mexico, where monarchs from both the eastern and western U.S. also spend the winter.

In the late 1990s, a small group of monarch enthusiasts in California became concerned that there appeared to be fewer and fewer monarchs each year and started the Western Monarch Thanksgiving Count. The WMTC is the longest running, most comprehensive effort to monitor overwintering monarchs in California. The count occurs during a three-week period centered on Thanksgiving. Biologists, land managers, and citizen scientists visit overwintering sites year after year to monitor the butterflies.

Growing awareness and willingness to volunteer to aid in monarch conservation, coupled with added Western Monarch Thanksgiving Count trainings for new volunteers, led to a successful monarch monitoring season. Nearly 150 volunteers covered a record 262 sites this year. Many participants also took part in the second annual New Year's Count, the results of which are still being tallied and will be reported in late-February.

Two of the newest regional coordinators organized volunteers to collect data from areas known to historically host small numbers of overwintering monarchs, but which have not been surveyed for the Thanksgiving count in over a decade. Saul Riatiga surveyed sites in Baja, Mexico, extending the count into a region that is generally overlooked, and Rachel Williams of the U.S. Fish and Wildlife Service visited remote sites in the Saline Valley of the northern Mojave Desert. Monarchs were successfully found in both areas.

The Saline Valley has some of the hardest to reach overwintering sites. Williams recruited 34 surveyors intrepid enough to tackle rocky terrain and dense vegetation to learn more about these unique sites and the butterflies that inhabit them. A total of 145 monarchs were counted in 3 of the 5 canyons surveyed.

This fall and winter have been challenging seasons for the residents of California, with unseasonably warm temperatures, wildfires, smoke, and mudslides; we do not yet know the impacts of these events on late season migrating and breeding monarchs.

The Xerces Society received numerous reports of late season breeding, and fewer clusters this fall, suggesting that some monarchs may have arrived at overwintering sites later and stayed active longer. The low estimate of

I22-11

monarchs this year may be attributable, in part, to later than average clustering. Regardless, monarch butterflies are at risk of extinction and action is needed across their range to bring them back.

The count is made possible by returning volunteers, new recruits, and dedicated regional coordinators including Mia Monroe who co-coordinates the count with the Xerces Society, Bill Shepard, Christina Garcia, Martha Nitzberg, Nick Stong, Jessica Griffiths, Charis van der Heide, Rick Hansen, Saul Riatiga, and Rachel Williams. Financial support for the 2017 WMTC came from the U.S. Fish and Wildlife Service, the Hind Foundation, and the San Diego Zoo.

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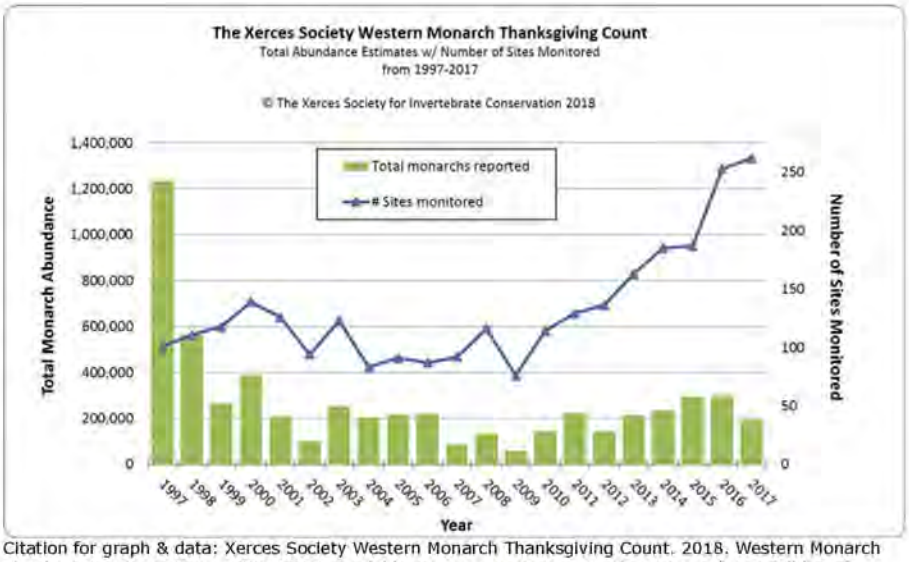


Citation for graph & data: Xerces Society Western Monarch Thanksgiving Count. 2018. Western Monarch Thanksgiving Count Data, 1997–2017. Available at: www.westernmonarchcount.org (For a full list of contributors, see: westernmonarchcount.org/about.) Click Here for larger version.

I22-11 cont.

For More Information

The data from and information about the Western Monarch Thanksgiving Count is at www.westernmonarchcount.org

Read more about Xerces' Monarch Conservation Campaign, including efforts to conserve overwintering sites in California and restore breeding habitat in key regions of the United States at www.xerces.org/monarchs

To report non-overwintering monarch and milkweed sightings in the West, visit:

www.monarchmilkweedmapper.org

The Xerces Society for Invertebrate Conservation

Protecting the Life that Sustains Us

The Xerces Society is a nonprofit organization that protects wildlife through the conservation of invertebrates and their habitat. Established in 1971, the Society is a trusted source for science-based information and advice. We collaborate with people and institutions at all levels and our work to protect monarchs, bumble bees, and many other species encompasses all landscapes. Our team draws together experts from the fields of habitat restoration, entomology, botany, and conservation biology with a single focus—protecting the life that sustains us. To learn more about our work, visit www.xerces.org.

The Xerces Society • 628 NE Broadway Ste 200, Portland OR 97232 USA • tel 855.232.6639 • fax 503.233.6794

Letter I22: Judith Davies

I22-1 The commenter's opposition to the proposed restoration and alignment with the views of the Coalition to Preserve LA is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

I22-2 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.1), which addresses multiple requests that CDFW consider a "freshwater alternative."

I22-3 See General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about these drains.

I22-4 See General Response 4, *Drains* (Final EIR Section 2.2.4), regarding the extensive hydrological studies performed and relied upon in the analysis of potential impacts of the proposed project and alternatives.

I22-5 The commenter's opinion about the adequacy of and perspective presented in the Draft EIS/EIR is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. However, without more information about the basis for the commenter's opinion, CDFW does not have enough information to provide a more detailed response.

I22-6 Draft EIS/EIR Section 3.4.6 analyzes the direct and indirect impacts of the Project and alternatives on biological resources; Section 3.4.7 analyzes potential cumulative impacts. See, for example, Impact 1-BIO-1e, which evaluates temporary and permanent impacts to special-status species. The restoration phase of the Project could result in some potential temporary impacts to special-status species. However, the incorporation of mitigation measures designed to ensure proper monitoring by a qualified biologist, conduct pre- and post-restoration surveys for key species, and establish avoidance measures would ensure that the post-restoration populations of special-status species would remain at pre-restoration levels. Additionally, post-restoration habitat improvements would increase the amount of functioning habitat for special-status species within the Ballona Reserve and would have a positive effect on special-status species in the Reserve. Therefore, the Project would not significantly impact special-status species during restoration and would provide long-term benefits to special-status species in the post-restoration phase.

I22-7 The potential impacts to monarch butterflies are analyzed in Draft EIS/EIR Section 3.4.6 in the context of Impact 1-BIO-1d, which determined them to be less than significant. See General Response 5, *Biological Resources*, regarding invertebrates (Final EIR Section 2.2.5.2), which addresses multiple comments received about the biological resources baseline.

I22-8 The impacts of the Project and alternatives on common and special-status wildlife are discussed in Draft EIS/EIR Section 3.4.

I22-9 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which explains the definition of "restoration" as used in the Draft EIS/EIR. The commenter's preference for Alternative 4 (the No Action/No Project Alternative) in favor of an unspecified preservation and restoration alternative is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. Without information about what such an alternative would entail, CDFW does not have sufficient information to provide a more detailed response. See General Response 4, *Drains* (Final EIR Section 2.2.4), regarding the extensive hydrological studies performed and relied upon in the analysis of potential impacts of the Project and alternatives.

I22-10 Receipt of this chart about western monarch butterflies from the Xerces Society is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Response I22-7.

I22-11 Receipt of this Xerces Society blog post about the decline in the number of western monarch butterflies counted during the 2018 annual count is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Response I22-7.

From: Takei, Kevin@Wildlife
To: Wildlife Ballona Wetlands Ecological Reserve EIR
Cc: Brody, Richard@Wildlife
Subject: FW: REQUEST TO WITHDRAW BWER DRAFT EIR/S
Date: Monday, February 5, 2018 9:45:30 AM

From: JD [mailto:jd@johnanthonydavis.com]
Sent: Sunday, February 04, 2018 2:09 PM
To: Rogers, Bonnie L SPL <Bonnie.L.Rogers@usace.army.mil>; Bonham, Chuck@Wildlife <Chuck.Bonham@wildlife.ca.gov>; Gibbs, Kirk E COL USARMY CESPL (US) <kirk.e.gibbs@usace.army.mil>; patricia mc pherson <patriciamcpherson1@verizon.net>; Johntommy Rosas <tattnlaw@gmail.com>; Kathy Knight <kathy.knight@verizon.net>; Jeanette Vosburg <Jeanette@saveballona.org>
Subject: REQUEST TO WITHDRAW BWER DRAFT EIR/S

Commander Gibbs, Los Angeles District USACE
Bonnie L. Rogers, Senior Project Manager
U.S. Army Corps of Engineers
915 Wilshire Blvd., Suite 930
Los Angeles, CA 90017-3401

Executive Director Charles Bonham
Richard Brody, Land Manager
California Dept. of Fish & Wildlife
550 Kearny St., suite 800
Sacramento, CA 95814

REQUEST TO WITHDRAW OR PROVIDE 30 DAY EXTENSION TO COMMENT ON BWER DRAFT EIS/R

Commander Gibbs, Director Bonham,

It is necessary for the USACE Los Angeles District and CA DFW to withdraw or recirculate the DEIR/S. There are so many errors of commission and omission on its face, that it should never have been released. I23-1

Glaring omissions include the failure to state the project is in a SEISMIC HAZARD ZONE as determined by the State of California Department of Conservation Division of Mines and Geology and as determined by the U.S. Geological Survey. I23-2 And, the Department of Conservation was not noticed as a Trustee Agency in the circulation of the DEIR as required by CEQA. I23-3 Other major errors of commission include the characterization of the site as a former salt water environment, when the 1954 Rivers and Harbors Act, U.S. Public Law 780, as described by U.S. House of Representatives 389, clearly disputes that false assertion. I23-4

The alternatives are skewed only to provide one outcome, and are insufficient rendering the DEIR defective. I23-5

Many of the contractors that produced that narrative were hired by the California Coastal Conservancy without complying with the State of California Contracting Law and Regulations. The same contractors that included Psomas and PWA among others are CONFLICTED in that they have or are actively working for the adjacent Playa Vista Project which failed to obtain a required Flood Control Permit from the LA County Flood Control District, and failed to complete an illegal flood control project pursuant to a Ca. Coastal Commission CDP, 5-91-463 which was issued on behalf of NOAA under to the U.S. Coastal Zone Management Act of 1972. I23-6

Furthermore the project is violative of the Acts, and the River and Harbors Acts of 1941 and 1954. I23-7

The other major errors are too numerous to include in this email but do include Conspiracy to Commit Fraud against the United States and violations of the U.S. False Statements Act which constitute federal crimes. Misconduct by employees of the California Coastal Conservancy and Department of Fish and Wildlife are rampant. I23-8

Please provide a 30 day extension for the public to submit comments because the FTP Server with links to
reference materials was only recently noticed to the public, and as a result, there is no way for the public to review and provide any meaningful comment in that short time frame. This is a public process and requires maximum
public participation.

Additionally, THE FTP SERVER FAILED TO ALLOW FULL ACCESS TO THE MATERIALS. ONLY A LIST OF THUMBNAILS OF PDFS IS AVAILABLE. NO DOWNLOAD WAS POSSIBLE. THE DOCUMENTS COULD NO BE OPENED EITHER. I23-9

It is, therefore reasonable, to request withdrawal, or at a minimum, an extension.

John Davis
PO 10152
Marina del Rey Ca. 90295

From: Janna Scott
To: AR-Ballona
Subject: FW: [Non-DoD Source] COMMENTS BWER DEIR/S John Davis
Date: Friday, February 9, 2018 1:49:23 PM
Attachments: COMMENTS ONLY BWER JOHN DAVIS.pdf

-----Original Message-----
From: Rogers, Bonnie L CIV USARMY CESPL (US) [mailto:Bonnie.L.Rogers@usace.army.mil]
Sent: Friday, February 9, 2018 1:47 PM
To: Janna Scott <JScott@esassoc.com>
Cc: Richard Brody <richard.brody@wildlife.ca.gov>
Subject: FW: [Non-DoD Source] COMMENTS BWER DEIR/S John Davis

-----Original Message-----
From: JD [mailto:jd@johnanthonydavis.com]
Sent: Monday, 5 February, 2018 4:07 PM
To: Rogers, Bonnie L CIV USARMY CESPL (US) <Bonnie.L.Rogers@usace.army.mil>; chuck.bonham@wildlife.ca.gov; Gibbs, Kirk E COL USARMY CESPL (US) <Kirk.E.Gibbs@usace.army.mil>
Subject: [Non-DoD Source] COMMENTS BWER DEIR/S John Davis

Comments BWER DEIR/S.

ATTACHMENTS WILL FOLLOW IN TWO EMAILS

John Davis
PO 10152
Marina del Rey Ca. 90295

Commander Gibbs, Los Angeles District USACE
Bonnie L. Rogers, Senior Project Manager
U.S. Army Corps of Engineers
915 Wilshire Blvd., Suite 930
Los Angeles, CA 90017-3401

Executive Director Charles Bonham
Richard Brody, Land Manager
California Dept. of Fish & Wildlife
550 Kearny St., suite 800
Sacramento, CA 95814 2/4/2018

RE: SUBMISSION OF COMMENTS FOR BWER DEIR/S JOHN DAVIS

Commander Gibbs, Executive Director Bohnam,

Please withdraw the DEIR/S due to fatal defects and because the reference documents are not available to the public, the FTP server failed. I23-10

Also, this project is intended to furfil a private purpose, to complete a flood control mitigation for the adjacent private Playa Vista Project, at public expense and on public lands governed by the United States and State of California. I23-11

State and Federal Crimes have been committed and are reflected in the work product produced by the U.S. Army Corp of Engineers Los Angeles District and the California Department of Fish and Wildlife. I23-12

My comments are submitted separately from the attachments to as to ensure they can be emailed.
I will also send a combined document.

I am submitting attachments and comments to the DEIR/S regarding the following topics;

COMMENTS FEDERAL

F1. Knowing and Purposeful Non-Compliance with U.S. Rivers and Harbors Act by Secretary of the U.S. Army, Robert M. Speer

F2. Dereliction of Duty by Commander Kurt Gibbs Los Angeles District USACE.
Violation of the U.S. Rivers and Harbors Acts of 1941 and 1954.
Violation of USACE Project No. 90-426 EV Pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S. C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344) as Authorized by the Congress of the United States I23-13

Fraud by Purported Project Manager, Ballona Wetlands Conservancy, disregarded by Commander Gibbs.

F3. Shelly Luce Falsely Claimed to Represent the State of California Santa Monica Bay Restoration Commission to obtain Federal Funds for a Private Business by Misrepresentation

F4. U.S. False Statements Act (18 U.S.C. § 1001)

F5. Violations - Conspiracy to Defraud the United States (923. 18 U.S.C. § 371)

F6. WRDA Violations

F7. Violations of U.S. Clean Water Act Storm Water Prevention Act

F8. Inconsistencies U.S. Coastal Zone Management Act of 1972

COMMENTS STATE OF CALIFORNIA

I23-13 cont.

S1. Misconduct by California Fish and Wildlife Executive Director Charles Bonham and Richard Brody

S2. Misconduct by California Coastal Conservancy Staff Mary Small

S3. Violation of State of California Porter Cologne Act

S4. Groundwater Errors of Omission

S5. Violations of California Contract Law

S6. Contractors are Conflicted

S7. Inconsistencies with California Environmental Quality Act

S8. Geologic Hazards Errors of Omission

S9. Flood Control Surface Water Errors of Omission

S10. Vector Control Plan Updated Error of Omission

S11. Skewed Review, Improper Process, Due Process of Law

S12. No Flood Control Permit for the Massive Playa Vista Project Adjacent to the BWER

INDEX OF ATTACHMENTS

COMMENTS FEDERAL

F1. Knowing and Purposeful Non-Compliance with U.S. Rivers and Harbors Act by Secretary of the U.S. Army, Robert M. Speer

Secretary of the U.S. Army, Robert M. Speer

U.S. Rivers and Harbors Act of 1941 and 1954 (U.S. Public Law 780)
Note: U.S. Public Law 780 was not only for navigation and aids to navigation, but was also, "for other purposes", including those onshore.

The proposed project is within the geographic scope of the U.S. Rivers and Harbors Act of 1941and 1954.The Secretary of the Army has failed to first recommend and receive approval from the U.S. Congress to make the changes required by proposed project to the federal projects authorized by the U.S. Congress.

I23-14

QUESTION 1
Why is Secretary of the Army Robert M. Speer circumventing the authority of the Congress by knowingly and willfully allowing the USACE, under the control of the Secretary, to propose changes to federal projects approved by Congress without first making recommendations to the Congress and receiving authorization, therefrom?

On September 28, the U.S. Congress requested that the Secretary of the Army review the report of the Chief of Engineers on Playa del Rey Inlet and Basin, Venice California, published as House Document 389 (HD 389), Eighty-Third Congress, Second Session, and other pertinent reports, to determine whether modification of the recommendations contained therein were advisable at that time, in the interest of navigation, hurricane, storm damage reduction, environmental restoration, and other purposes at Marina del Rey Harbor, Los Angles California.
ATTACHMENT NO. 1

Only the Congress could approve recommendations by the Secretary of the Army to HD 389. The General Plan of Improvement was approved by the Congress. The proposed project is within the geographic scope of the General Plan of Improvement.
ATTACHMENT NO.2

The USACE Los Angles District issued Design Memorandum No. 1 for the Inlet at Playa del Rey which has no force of law. The Design Memo was not approved by Congress and the Design

Memo purported to change, not modify the federal project, unlawfully.

The Design Memorandum contradicted HD 389 by not requiring the local interest to provide all lands, easements, and rights of way to the Federal Government forever and in perpetuity. And, it changed the terms of the project from "reasonable with equal access for all", to commercial rates. The USACE abandoned the landside of the federal project to private interests which is inconsistent with the Congressional Mandate. The Design memo further purported to reduce the scope of the project to only and easement that was never recorded as owned by the United States. **ATTACHMENT NO. 3**

I23-14 cont.

The benefiting Agency, USACE, failed to contact the U.S. Bureau of Land Management (BLM) to note the ownership of the project to the United States. **ATTACHENT NO. 4**

I23-15

QUESTION 2

Why did the Secretary of the Army violate the Rivers and Harbors Act of 1954 by allowing the Los Angeles District of the USACE to issue the unlawful Design Memorandum No. 1 which contradicted the congressional mandate by changing the project, not modifying it.

I23-16

QUESTION 3

Why did the Secretary of the Army violate the Rivers and Harbors Act of 1954 as authorized by Congress in HD 389 by not noting to the record of the U.S. BLM federal ownership of the project as required by the Congress of the United State in HD 389?

I23-17

F2. Dereliction of Duty by Commander Kurt Gibbs Los Angeles District USACE.
Violation of the U.S. Rivers and Harbors Acts of 1941 and 1954.
Violation of USACE Project No. 90-426 EV Pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S. C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344) as Authorized by the Congress of the United States
Fraud by Purported Project Manager, Ballona Wetlands Conservancy, disregarded by Commander Gibbs.

Commander Kurt Gibbs Los Angeles District USACE

Commander Kurt Gibbs took a sworn oath to uphold the U.S. Constitution and all of its laws.

QUESTION 4

Why is USACE Los Angles District Commander Kurt Gibbs circumventing the authority of the United States Congress by knowingly and willfully allowing the USACE Los Angeles District, under his control, to propose major changes, not modifications, to federal projects authorized by Congress pursuant to the Rivers and Harbors Acts of 1941 and 1954, without Congressional

I23-18

authorization required by law?

I23-18 cont.

A not for profit private business, acting on behalf of the owners of the adjacent private Playa Vista multi-use project, purports to manage a flood control project authorized by USACE Permit No. 90-426 EV. The flood control project is a mitigation for the Playa Vista development Phase 1 and all subsequent phases.

The flood control project was not completed in that one required component of the system, required to mitigate for a 50-year flood event, was not completed. That component is named the "salt marsh" in the permit. **ATTACHMENT NO. 5**

I23-19

The Permittee failed to maintain the activity authorized by the permit in conformance with the terms and conditions of the permit because it did not complete the "salt marsh" component of the flood control system.

QUESTION 5
Why is Commander Gibbs failing to enforce the provisions of USACE Permit No. 90-426 EV by ensuring it is complete as it regards the "salt marsh" component of the flood control system?

QUESTION 6
Why is Commander Gibbs proposing to complete the private unfinished flood control project authorized by Congress, pursuant to USACE Permit No. 90-426 EV, at public expense, on public lands, in the DEIR/S which is contradictory to the U.S. Congressional mandate for the permit?

The Commander did not make a determination if selling the property associated with the permit would have any effect on the permit or not.

I23-20

QUESTION 7
Why did Commander Gibbs fail to determine if selling the permitted land would affect the permit provision as was required and recorded in the Federal Register?

A private business named the Ballona Wetlands Conservancy is defrauding the State of California by claiming in its bylaws that the California Secretary of Resources appointed a Director. It further claimed that the City of Los Angeles appointed a Director.

And, a Director of that private business named Mark Huffman claimed that an employee of the California Department of Fish and Wildlife who is named Richard Brody, that is also acting as the manager of the BWER**,** has the power to vote on matters before the Board of Directors of that private business. The bylaws do not authorize an employee of the Department of Fish and Wildlife to act as a Director nor does the Department of Fish and Wildlife permit this employee to represent the Department as a Board Member of a Private Business.

I23-21

The private business is managing a private flood control project on public land and Commander Gibbs is and has allowed this fraudulent business to act as manager and submit reports that include false statements in regard to *USACE Permit No. 90-426 EV.*

Mark Huffman Playa Vista (Brookfield)

Secretary of Resources John Laird

I23-22

City of Los Angeles Councilmember Mike Bonin

Debbie Dyner Harris
Staff to Mike Bonin Associated with Ballona Wetlands Conservancy

Richard Brody BWER Manager Ca. Dpt. Fish and Wildlife Employee

I23-22 cont.

ATTACHMENT NO. 6

QUESTION 8
Why is Commander Gibbs allowing a private party named the Ballona Wetlands Conservancy to manage USACE Permit No. 90-426 EV for flood control mitigation for a private business, Playa Vista Development, on public land?

QUESTION 9
Why is Commander Gibbs allowing private business that is defrauding the State of California to manage USACE Permit No. 90-426 EV for flood control mitigation for a private business, the adjacent Playa Vista Development, on public land?

I23-23

F3. Shelly Luce Falsely Claimed to Represent the State of California Santa Monica Bay Restoration Commission to obtain Federal Funds for a Private Business by Misrepresentation

Shelly Luce was not appointed to be the Executive Director of the State of California Santa Monica Bay Restoration Commission and or Authority. A request for public records pursuant to the California Public Records Act provided the following response to a request for appointment of Ms. Luce as Executive Director of the SMRBC and or SMRBA. She was not appointed, but

I23-24

simply claimed the title without any authorization by the State of California.
ATTACHMENT NO. 7

Ms. Luce then claimed to represent the State SMRBC and SMRBA, State of California, to the USACE Los Angeles District, in order to obtain funding for a private business by entering into and signing an local sponsor agreement for the State of California on behalf of both Agencies for an Environmental Impact Statement/ Environmental Impact Report for the Ballona Creek Ecosystem Restoration Feasibility Study which was noticed in the Federal Register September 20, 2005 (Volume 70, Number 181).

Ms. Luce did not process the authority to represent the State. She was disposed in a lawsuit brought by the Ballona Wetlands Lands Trust. In her deposition, she indicated implying she represented the State of California and the private Santa Monica Bay Restoration FOUNDATION simultaneously.
(https://drive.google.com/file/d/0B-y1V3mUqBDXOE5jNUZ2THBBTzQ/view)
ATTACHMENT NO. 8

Ms. Luce was Executive Director of that private business, which received all of the funding for the agreement with the USACE and none of the funding ever reached the State of California. Neither the Santa Monica Bay Restoration Commission or the Santa Monica Bay Restoration Authority authorized Ms. Luce at a meeting to represent the State on this matter.

Ms. Luce then produced a letter on State of California Santa Monica Bay Restoration Commission Letterhead to the USACE Los Angeles District dated July 17, 2012, purporting to Request Termination of the process that she started without the authority or knowledge of the State of California. The State of California Santa Monica Bay Restoration Commission responded to a request pursuant to the California Public Records Act that the State was not in procession of the letter submitted to the USACE Los Angles District, nor was such a letter approved by the governing board of that Agency.

USACE Los Angeles District failed to check the credentials of Ms. Luce to ensure she represented the State of California.
ATTACHMENT 9

Ms. Luce continued to purport to represent the State in communications with Mary Small of the California Coastal Conservancy and Rick Mayfield of the California Department of Fish and Wildlife.

I23-24 cont.

Responding to a request for public records submitted by John Davis to the Department of Fish and Wildlife, Ms. Luce, Ms. Small, and Mr. Mayfield purport to start a new EIR/S process which did begin and run at the same time the 2005 process ran for similar purposes.
ATTACHMENT NO. 10

Then, the California Department of Fish and Wildlife requested the new EIR/S project and both ran together until another person claiming to represent the SMRBC/A requested termination of the 2005 process.

I23-25

The announcement of the 2012 process was noticed in the Federal Register on July 25, 2012. The withdrawal from the 2005 process was noticed in the Federal Register on September 26, 2012.

In the withdrawal notice, USACE Los Angles District makes the following statement.

Mark Toy

"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 under way". The notice was signed by Colonel U.S. Army Commander and District Engineer R. Mark Toy.

I23-25 cont.

The 2005 to 2012 EIR/S process represents fraud against the United States in that false statements were made by Shelly Luce, falsely purporting to represent the State of California by becoming the Local Sponsor.

The project was not managed by the State of California but by member of the public. And no funding for the project was ever deposited in the account of the State of California SMRBC established by the State for that purpose. All funds went directly into the private business account of the Santa Monica Restoration FOUNDATION, of which Shelly Luce was the Executive Director.

The State of California never had formal control of any funds related to this project and did not authorize entering into or exiting, therefrom.

QUESTION 9
Why did the USACE Los Angles District fail to check the credentials of Shelly Luce to validate she represented the State of California in entering and or exiting from the 2005 EIR/S process?

QUESTION 10
Why did the USACE Los Angles District provide resources to a member of the public and a private business that defrauded the United States by mis-representation as it relates to the aforesaid 2005-2012 EIR/S process?

QUESTION 11

Why did the USACE Los Angles District continue to engage in this fraudulent activity even after it was formally notified by the public, John Davis, in a meeting with Commander Toy and via email to Commander Kurt Gibbs?

QUESTION 12

Why did Commander Mark Toy, with the knowledge of the fraudulent activity related to the aforesaid 2005-2012 EIR/S process state in the Federal Register that "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 under way", and engage in Conspiracy to Defraud the United States (923. 18 U.S.C. § 371) in so doing*?*

The work products from the aforesaid 2005-2012 EIR/S process were produced as a result of defrauding the United States with the full knowledge and cooperation of the leadership of the Los Angeles District USAC

I23-25 cont.

QUESTION 13

Is Commander Kurt Gibbs now engaging in the aforesaid Conspiracy to Defraud the United States (923. 18 U.S.C. § 371) by knowingly allowing the work products from the aforesaid fraudulent activity to be used in the current project?

QUESTION 14

If not, why is Commander Kurt Gibbs failing to object to the use of the work products produced fraudulently in the 2005-2012 EIR/S process in the current project?

QUESTION 15

Why is Commander Kurt Gibbs failing to report the known fraud in the 2005-2012 EIR/S process to his commanding officers?

QUESTION 16

Is Commander Kurt Gibbs derelict in his sworn duties to uphold the U.S. Constitution and Laws and carry to carry forth the duties of his post?

QUESTION 17

Is Commander Kurt Gibbs following orders from his commanding Officer in knowingly allowing the use of work products produced pursuant to the fraudulent 2005-2012 EIR/S process without question, knowing it is illegal?

QUESTION 18

Will Commander Kurt Gibbs now cease participating in the fraudulent activity of using work products from the 2005-2012 EIR/S process?

I23-26

CA DFW Executive Director Charles Bonham

F4. U.S. False Statements Act (18 U.S.C. § 1001)

False Statements have been made by members of the public and employees of the California Department Fish and Wildlife contrary to U.S. False Statements Act (18 U.S.C. § 1001) Those false statements are as follows: I23-27

The Department of Fish and Wildlife is engaging in a "restoration" activity. This is false, it is engaging in a creation of something new that was not there before. It was not a vast estuarine environment. HD 389, historic photographs, historic maps produced by the U.S. Geological Survey and other resources prove this was never a salt water environment, but a coastal freshwater wetlands complex that was only open to the sea at extreme high tides and during severe storms, and primarily to the Ballona Lagoon. I23-28

All dredge spoils from the Construction of the Ballona Channel and Marina del Rey were deposited on the wetlands. This is not the case according to HD 389. Spoils were used to build the mole piers in the Marina and deposited on the beach as part of the Santa Monica Bay Restoration Project. I23-29

If those spoils were removed, in order to prosecute a true restoration, only the amount of soils placed over the historic freshwater wetlands would be removed.

A "meandering channel" will be restored. The was no channel prior to the construction, thereof, pursuant to the Rivers and Harbors Act of 1941. I23-30

F5. Violations - Conspiracy to Defraud the United States (923. 18 U.S.C. § 371)

It appears that members of the public and employees of the California Department of Fish and Wildlife, the California Coastal Conservancy, that of private business are working together, as in more than one person, to defraud the United States to construct an unfinished flood control mitigation for the Adjacent Playa Vista Project and this included personnel of the USACE Los Angeles District leadership. I23-31

It further appears that personnel of the USACE Los Angeles District leadership and Secretaries of the Army have engaged in legacy fraud beginning with the adoption of

Design Memorandum No. 1 for the Inlet at Playa Del Rey, Venice California, by abandoning the project to private interests, contrary to the mandate of Congress set forth in the terms and conditions of the project approved pursuant to U.S. Public Law 780, the Rivers and Harbors Act of 1954.

I23-31 cont.

F6. WRDA Violations

Personnel of the Los Angeles District USACE facillated violations of WRDA associated with this project. A Draft Environmental Impact Report was required by the process to be produced before the application for WRDA funding. Here, a simple statement was made that the project was environmentally sound, with no justifying Draft EIR as is required by the accepted procedures set forth for WRDA funding.

Furthermore, USACE Los Angeles District accepting an application for WRDA that was not only signed by the only entity with the legal authority to make the application, the County of Los Angeles Department of Public Works Flood Control District, which has authority via an easement from the State of California to operate the flood control channel, but also that of California Department of Fish and Wildlife Executive Director Charles Bonham, who had no legal authority to sign the application. Yet, the District accepted the application anyway, knowing that the DFW had no jurisdiction, whatsoever, over the flood control project.

I23-32

And, under the leadership of Director Bonham, the DFW purported to include the Ballona Flood Control Channel, INSIDE THE BWER, which is a false claim made to the United States in violation of the U.S. False Statements Act (18 U.S.C. § 1001).

The land deeds for the BWER under the control of DFW excludes the Ballona Creek Flood Control Channel.

I23-33

QUESTION 19
Why did the Los Angeles District USACE disregard the legal process for applications for WRDA?

QUESTION 20
Why did the Los Angeles District USACE accept an WRDA application signed by DFW Executive Director Charles Bonham when the District knows DFW has no authority, whatsoever, over the Ballona Flood Control Channel in regard to WRDA?

QUESTION 21
Why did DFW Executive Director Charles Bonham sign an WRDA application when the DFW has no authority, whatsoever, over the Ballona Flood Control Channel in regard to WRDA?

I23-34

QUESTION 22
How will the DFW change the course of the Ballona Creek Flood Control Channel which will required the quitclaiming of lands and will require changes to the existing land deeds for the BWER and for the Ballona Creek Flood Control Channel since this information is not contained in the DEIR/S.

I23-35

F7. Violations of U.S. Clean Water Act Storm Water Prevention Act

DFW Executive Director Charles Bonham has engaged the Agency in a purposeful violation of the U.S. Clean Water Act Storm Water Prevention Act by allowing illegal drains installed by the proponents of the Playa Vista Project to drain the Ballona Wetlands, under his direct supervision for well over a decade, to degrade freshwater wetlands and to then claim in this project the wetlands are so degraded they must be "restored" by dredging and allowing salt water to enter. I23-36

There is no Storm water Pollution Prevention Plan that accounts for the volume of surface and groundwater drained away from the freshwater wetlands, and there is no NPDES Permit that allows for the discharge into Ballona Creek of untreated storm water.

There is an active complaint of this violation being investigated by the LA Regional Water Quality Control Board.

Additionally, the illegal unpermitted drain development constitute a violation of the U.S. Coastal Zone Management Act in that it is implemented in the State of California by the California Coastal Act of 1976. The California Coastal Commission on behalf of the Federal Government notified Director Bonham of this violation over four years ago and was requested by the Commission to apply for a Coastal Development Permit to remove the illegal structures. However, contrary to his duty, Director Bonham disregarded three enforcement letters by the California Coastal Commission and allowed the degradation to the wetlands to continue. I23-37

Worse yet, a private business sued the DFW to force the capping and removal of the drains and the California Coastal Commission in a CDP required the drains to be capped and the structures removed.

Charles Bonham failed to report this activity known to him and the Agency he directs to the USACE as part of the studies produced for the current EIR/S project, which is a major error of omission that affects the entire project, and renders the process defective on its face, for this, and a number of other reasons specified in these comments. I23-38

Executive Director Bonham appears to be assisting a private business, the Playa Vista Development, adjacent to the BWER to complete its failed flood control mitigation described above by proposing to destroy a public resource for a private purpose which constitutes an Unconstitutional Gift of Funds pursuant to the Constitution of the State of California. I23-39

In this respect, Director Bonham is purposely and with knowledge abrogating due process of law which he is sworn to uphold and is negligent in his duties to the State of California.

QUESTION 23
Why has DFW Executive Director Bonham allowed violations of the California Coastal Act, the U.S. Coastal Zone Management Act and the U.S. Clean Water Act to occur unimpeded in the BWER under his direct control? I23-40

QUESTION 24
Why has DFW Executive Director Bonham failed to notify State and Federal Enforcement Authorities of the aforesaid violations?

I23-40 cont.

QUESTION 25
Why has DFW Executive Director Bonham claimed the Agency will "restore" the Ballona Wetland when in fact a creation is proposed violating the U.S. False Statements Act (18 U.S.C. § 1001)*?*

I23-41

QUESTION 26
Is DFW Executive Director Bonham assisting a private adjacent project, the Playa Vista Development, in completing its failed flood control mitigation by proposing to construct it a public expense on public lands, all for a private purpose with no public benefit by engaging in Conspiracy to Defraud the United States (923. 18 U.S.C. § 371)*?*

I23-42

QUESTION 27
Why is DFW Executive Director Charles Bonham allowing an employee of DFW, Richard Brody, to fraudulently pose as an Director of a private business named the Ballona Wetlands Conservancy, purportedly on behalf of DFW, using is DFW title and DFW emails to do that private business work and while at the same time being paid as an employee of the State of California?

I23-43

QUESTION 28
Why did DFW Executive Director Charles Bonham allow a private business to cap the aforesaid illegal wetland drains by trespass and conducting development without a Coastal Development Permit in the Coastal Zone?

I23-44

F8. Inconsistencies U.S. Coastal Zone Management Act of 1972

The project is inconstant with all wetland protection provisions of the U.S. Coastal Zone Management Act of 1972 and of the Hazard Policies, thereof, since it is in an area of high geologic hazard. See the reference to the California Coastal Act inconsistencies that follow since the State of California implements the Coastal Zone Management Act of the United States by compliance with the California Coastal Zone Management Plan and California Coastal Act.

I23-45

<u>COMMENTS STATE OF CALIFORNIA</u>

S1. Misconduct by California Fish and Wildlife Executive Director Charles Bonham and Richard Brody

QUESTION 29
DFW Executive Director Charles Bonham has knowingly allowed the BWER to be drained by illegal developments (structures) installed by the former owner, the proponents of the private Playa Vista Project adjacent, even after being formally notified by the California Coastal Commission of the violation and that also represents a violation of the U.S. Coastal Zone

I23-46

Management Act which is implemented in California by the California Coastal Act, so, is the Executive Director engaging in misconduct by disregarding his duty and encouraging a violation of the law to benefit a private party that has drained the wetlands for over a decade?

I23-46 cont.

QUESTION 30
Is DFW Executive Director Charles Bonham attempting to finish an incomplete flood control system for the Playa Vista Project by destroying the BWER by dredging it for that mitigative purpose with no benefit to the public and to a clear benefit to the private enterprise resulting in misconduct?

QUESTION 31
Is DFW Executive Director Charles Bonham promoting an unconstitutional gift of public funds to the proponents of the Playa Vista Project by completing the flood control for that project at public expense, knowingly or unknowingly resulting in misconduct?

QUESTION 32
Has DFW Executive Director Charles Bonham been requested by Secretary of Resources John Laird and or Mary Small of the California Coastal Conservancy to dredge and fill the wetlands for a private purpose that only benefits the private Playa Vista Project by completing its flood control mitigations at public expense on public land?

I23-47

S2. Misconduct by California Coastal Conservancy Staff Mary Small

QUESTION 33
Is Coastal Conservancy Staff Mary Small engaging in misconduct by awarding contracts to contractors without complying with the State of California Contract Law and its Regulations?

I23-48

QUESTION 34
Is Coastal Conservancy Staff Mary Small engaging in misconduct by direct communications with the USACE Los Angles District in regard to the BWER which the Coastal Conservancy is not the lead agency on as it regards the 2005-12 EIS/R process undertaken by a member of the public named Shelly Luce who claimed to represent the State of California in that project but did not?

I23-49

QUESTION 35
Given that Coastal Conservancy Staff Mary Small served as a Director on the Santa Monica Bay Restoration Commission, did she engage in a conflict of interest by providing several grants, without any application, to that private business while employed by the State Agency?

I23-50

S3. Violation of State of California Porter Cologne Act

https://www.waterboards.ca.gov/laws_regulations/docs/portercologne.pdf
ATTACHMENT NO. 10

The Santa Monica Groundwater Basin and the Venice Sub Basin where the project is located have been designated as a potential source of drinking water. This resource is protected so that in case of droughts and or emergency's where the California Aqueduct is severed by earthquake,

I23-51

that the drinking water needs can be met.

The project proposed to dredge and fill a freshwater wetland, which will encourage salt water intrusion from the sea into the aquifers, Bellflower Aquitard, Ballona Aquifer, and Silverado Aquifer that is the sole aquifer resource a vast area of Los Angles.

I23-51 cont.

All aquifers are in communication. HD389 described this aquifer and indicated that the creation of Marina del Rey would cause salt water intrusion, but it was justified at the time because the commercial value outweighed the groundwater that was only used for agricultural purposes at the time.

Now, the groundwater resources is protected. The adjacent Playa Vista Project is illegally pumping large quantities of ground water which is designated by the State Water Code as Waters of the State of California, directly into Ballona Creek via the aforesaid USACE Permit and Coastal Development Permit 5-91-463, and into the Sanitary Sewer with no benefit to the public and only providing a benefit to the private interest. The same private interest installed the aforesaid illegal drains to degrade the freshwater resource. These activities have disallowed groundwater recharge and encourage salt water intrusion into the public resource causing ruination.

The Playa Vista project has violated the State Water Code by drawing down the aquifer beyond its historic levels in the unadjucitated basin as can be shown by examining water well completion reports and conducting an evaluation using the Poland Report produced by the U.S. Geological Survey.

https://pubs.usgs.gov/wsp/1461/report.pdf

I23-52

ATTACHMENT NO. 11

QUESTION 36
Why does the project fail to fully acknowledge it is violative of the provisions of the Porter Cologne Act?

QUESTION 37
Why is DFW proposing to violate the law, Porter Cologne Act?

I23-53

S4. Groundwater Errors of Omission

There is no hydrology report in the proposal. Protected public groundwater resources will be affected by the project.

QUESTION 38
Why has the DFW failed to produce a complete hydrology report knowing that protected groundwater resources of the State will be adversely affected by the proposed project?

I23-54

QUESTION 39

Why has the DFW failed to acknowledge the groundwater pumping by Sempra Energy at the project site and the adverse effects it is causing on the multiple aquifers?

QUESTION 40
Why has the DFW failed to acknowledge the groundwater pumping by owners of the adjacent private Playa Vista project at the project site and the adverse effects it is causing on the multiple aquifers?

I23-55

QUESTION 41
Why has the DFW failed to acknowledge the illegal groundwater removal by illegal drains installed by owners of the adjacent Playa Vista Development that have been under control and known to the DFW for over a decade and formally notified to DFW as a violation of the California Coastal Act and U.S. Coastal Zone Management Act by the California Coastal Commission?

QUESTION 42
Why did the DFW claim that wetlands are degraded or disappeared when in fact the DFW was responsible for knowingly contributing to the degradation by minting drains in the wetlands that disallowed groundwater recharge even after being notified by the California Coastal Commission?

I23-56

QUESTION 43
Why is Richard Brody voting on matters of the Ballona Wetlands Conservancy while being on the payroll of DFW and representing to that private business which represents the interests of the Playa Vista Project that he is voting on behalf of the DFW, which is appears to be fraud and misconduct with the intention of assisting the private business in degrading the wetlands so as to claim they must be restored (destroyed) to complete flood control mitigations for the Playa Vista Project?

I23-57

S5. Violations of California Contract Law

The California Coastal Conservancy hired several contractors to provide reports for the aforesaid 2005-2012 EIR/S process which have been used in the current EIR/S project.
And, that Agency has hired contractors for this project directly.

Those contractors were not hired pursuant to California Contract Law.

I23-58

ATTACHMENT NO. 11

Coastal Conservancy Staff Mary Small failed to comply with State Contract Act by not providing lawful public notice, disregarding the public bid process.
Ms. Small disregarded the statutory and regulatory provisions that State Agencies must follow to hire contractors:

Open invitation for bids for <u>all</u> qualified contractors (competitive bidding)

I23-59

Imprecise Requests for Proposals
Posting and notification requirments
Advertising State-contracting opportunities
Contract awards

STATUTORY SECTIONS VIOLATED:
5.02
5.03
5.04
5.05
5.06
5.11
5.15
5.20
5.25
5.30
5.35
5.40
5.60
5.75!!!

Coastal Conservancy Staff Mary Small did not advertise RFPs in accordance with PCC. She simply sent an email out to favored contractors, disregarded other qualified contractors, and asked an entity to post the RFP on a private website and with sufficient information. **10140. 10141.**

I23-59 cont.

The PCC requires publication in a newspaper and or a trade paper and or directly on the Agencies Website.

PUBLIC CONTRACT CODE - PCC

DIVISION 2. GENERAL PROVISIONS [1100 - 22355]

(Division 2 enacted by Stats. 1981, Ch. 306.)

PART 2. CONTRACTING BY STATE AGENCIES [10100 - 19102]

(Heading of Part 2 added by Stats. 1982, Ch. 1120, Sec. 6.)

CHAPTER 1. State Contract Act [10100 - 10285.5]

(Chapter 1 enacted by Stats. 1981, Ch. 306.)

ARTICLE 3. Advertisements for Bids [10140 - 10141]

(Article 3 enacted by Stats. 1981, Ch. 306.)

10140.

(a) 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:
(1) **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.
(2) **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 Section 187 of the Streets and Highways Code, devoted primarily to the dissemination of contract and building news among contracting and building materials supply firms.
(b) The department may publish the notice to bidders for a project in additional trade papers or newspapers of general circulation that it deems advisable.
(c) (1) In the case of the Department of Transportation, instead of the public notice described in subdivision (a), the public notice requirement of this section may instead be met by publishing the public notice electronically on that department's Internet Web site.
(2) If the department exercises its authority under paragraph (1), the department shall also publish information regarding notices listed on the department's Internet Web site in trade papers, newspapers, or magazines, as appropriate in order to ensure all communities have access to the public notice, including those publications whose primary audience consists of underrepresented groups, including, but not limited to, women, minorities, LGBT, and disabled veterans, pursuant to the frequency requirements specified in subdivision (a).
(Amended by Stats. 2017, Ch. 95, Sec. 9. (SB 103) Effective July 21, 2017.)

I23-59 cont.

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.
(Enacted by Stats. 1981, Ch. 306.)

QUESTION 44
Why did Coastal Conservancy employee Mary Small corruptly performed an official act by not complying with CHAPTER 1. State Contract Act [10100 - 10285. *(Chapter 1 enacted by Stats. 1981, Ch. 306.)* ARTICLE 3. Advertisements for Bids [10140 - 10141] *(Article 3 enacted by Stats. 1981, Ch. 306.)* by knowingly failing to comply with ARTICLE 3. Advertisements for Bids **[10140 - 10141] ?**

ATTACHMENT NO. 12

Coastal Conservancy employee Mary Small corruptly performed an official act to the injury of the State of California by failing to comply with CHAPTER 1. State Contract Act [10100 - 10285. *(Chapter 1 enacted by Stats. 1981, Ch. 306.)* ARTICLE 3. Advertisements for Bids [10140 - 10141] *(Article 3 enacted by Stats. 1981, Ch. 306.)*

PUBLIC CONTRACT CODE - PCC

DIVISION 2. GENERAL PROVISIONS [1100 - 22355]

(Division 2 enacted by Stats. 1981, Ch. 306.)

PART 2. CONTRACTING BY STATE AGENCIES [10100 - 19102]

(Heading of Part 2 added by Stats. 1982, Ch. 1120, Sec. 6.)

CHAPTER 1. State Contract Act [10100 - 10285.5]

(Chapter 1 enacted by Stats. 1981, Ch. 306.)

ARTICLE 9. Offenses [10280 - 10284]

(Article 9 enacted by Stats. 1981, Ch. 306.)

10280.

Any officer or employee of the department who corruptly performs any official act to the injury of the state, is guilty of a felony.
(Enacted by Stats. 1981, Ch. 306.)

10283.

I23-59 cont.

Such felonies are punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.
(Amended by Stats. 2011, Ch. 15, Sec. 555. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)

10284.

Such persons are also liable to the state for double the amount the state may have lost, or be liable to lose by reason of the acts made crimes by this article.
(Enacted by Stats. 1981, Ch. 306.)

I23-59 cont.

QUESTION 45
Did Coastal Conservancy employee Mary Small ARTICLE 9. Offenses [10280 - 10284] by not complying with ARTICLE 3. Advertisements for Bids [10140 - 10141]?

QUESTION 46
As a result of non-compliance with ARTICLE 3. Advertisements for Bids [10140 - 10141] by *Coastal Conservancy employee Mary Small, can the work products of the contractors hired in violation of the State Contract Act be used for the purposes of DFW in this DEIR/S and if so, under what legal provision(s)?*

S6. Contractors are Conflicted

Contractors hired by in large part have worked and or are working as contractors for the adjacent Playa Vista Development owners and are conflicted in their reports to DFW in that they may serve the needs of the private development, not the needs of the people of California.

I23-60

ATTACHMENT NO. 13

PSOMAS, a contractor hired by Coastal Conservancy employee Mary Small is conflicted in interest because it is a current contractor for the Playa Vista Project adjacent. PSOMAS is also providing false and or misleading information to the DFW and USACE that promote the interests of the private business it serves while disregarding the interests of the State and Federal Government.

I23-61

ATTCHMENT NO. 14

Phil Williams Associates have contracted for Playa Vista and the USACE for the aforesaid 2005-2012 EIR/S process which represents FRAUD.

Therefore, the work product for Phil Williams and Associates cannot be used in that company

I23-62

has a conflict of interest in having contracted and or currently contracting with the Playa Vista Project and all of the work products produced pursuant to the aforesaid 2005-2012 EIR/S process were produced in a process that engaged Conspiracy to Defraud the United States (923. 18 U.S.C. § 371)

I23-62 cont.

ATTACHMENT NO. 15

CDM Smith is a conflicted contractor in that it is and or has been contracted with the adjacent Playa Vista Project.

I23-63

ATTACHNENT NO. 16

Diaz Yourman is conflicted in that is currently contracted and or formerly contracted with the adjacent Playa Vista Development. It was also hired by USACE and produced work products produced pursuant to the aforesaid 2005-2012 EIR/S process were produced in a process that engaged Conspiracy to Defraud the United States (923. 18 U.S.C. § 371

I23-64

ATTACHNENT NO. 17

QUESTION 47

Why is the project using the following conflicted developers and or work products therefrom? were produced pursuant to the aforesaid 2005-2012 EIR/S process were produced in a process that engaged Conspiracy to Defraud the United States (923. 18 U.S.C. § 371) ?

I23-65

QUESTION 48

Have the aforesaid contractors provided information in their work product that is contradictory to the interests of the State and Federal Government while providing a benefit to the private Playa Vista Project?

I23-66

QUESTION 49

Why did the aforesaid contractors failed to provide accurate information on the historical nature of the site by claiming it was a salt water environment prior to the construction of the Ballona Flood Control Channel and Marina del Rey?

I23-67

QUESTION 50

Are any or all of the aforesaid contractors providing information that promotes completion and or of flood control benefit to the private Playa Vista Project which did not obtain a flood control permit from the County of Los Angles and did not complete its flood control mitigation in accordance with the USACE and Coastal Commission permits referenced above?

I23-68

S9. Inconsistencies with California Coastal Act

The DEIR/S failed to acknowledge that the California Coastal Act disallows a creation to replace existing wetlands. The proposed project is not a restoration, but the creation of something that was not there before.

I23-69

QUESTION 51
Why does the DEIR/S mischaracterize the project as a restoration when in fact it is a creation?

Several provisions of the California Coastal Act are protective of wetlands. I hereby incorporate all of those protective provisions by reference into my comments.

I23-69 cont.

QUESTION 52
Why does the DEIR/S fail to acknowledge the protective provisions of the California Coastal Act for wetlands?

S7. Inconsistencies with California Environmental Quality Act

The project is in a Seismic Hazard Zone. Why did DFW fail to notify the Department of Conservation Division of Mines and Geology as a Trustee Agency for comments?

I23-70

S8. Geologic Hazards Errors of Omission

The Project is in the Venice Quadrangle Seismic Hazard Zone.

ATTACHMENT NO. 18

I23-71

QUESTION 53
Why did the DEIR/S fail to acknowledge that the project is in an area of high geologic risk and it has been designated as a Seismic Hazard Zone?

QUESTION 54
Why did the DEIR/S disregard public health and safety?

The Playa Vista EIR Phase One determined an active fault existed at the Ballona Creek where it enters the ocean. The California Department of Conservation Division of Mines and Geology did not discount this active fault, but did state it may be an old stream bed. I hereby incorporate by reference the Playa Vista Phase One EIR and the comments associated with the active fault at the end of Ballona Creek by the California Department of Conservation Division of Mines and Geology into my comments by reference.

I23-72

QUESTION 55
Why did the DEIR/S fail to acknowledge the presence of an active fault at the terminus of Ballona Creek established in the Playa Vista EIR Phase One and the comments thereon by the California Department of Conservation Division of Mines and Geology?

QUESTION 56
Why did the DEIR/S fail to acknowledge historical subsidence of several inches caused by the extraction of oil and gas at the project site and the ongoing issues of subsidence which are readily available in the public record?

I23-73

Contempory studies of the active Newport Inglewood Fault System include the Charnock fault as part of the fracture zone associated with that active fault.

QUESTION 57
Why did the DEIR/S fail to acknowledge the Charnock Fault is part of the active Newport Inglewood Fault System and fracture zone?

I23-74

QUESTION 58
Why did the DEIR/S fail to acknowledge there have been several earthquakes, some over 4 points on the Richter Scale with epicenters on the Charnock Fault in the last twenty years?

I23-75

S9. Flood Control Surface Water Errors of Omission

The project site is overdue for a massive flood named by the U.S. Geological Survey the Arkstorm. https://www.youtube.com/watch?v=8P-N-HA9iS

QUESTION 59
Why did the DEIR/S fail to acknowledge the Arkstorm potential and effects it would have on the project?

I23-76

QUESTION 60
Why is the DEIR/S proposing to bring seawater closer to infrastructure and areas of human habitation rather than advocating for coastal retreat to protect infrastructure and human health and safety as advocated by the California Coastal Commission and other responsible State and Federal Planning Agencies?

The California Coastal Commission established a management process for coastal hazards.

ATTACHMENT NO. 19

I23-77

QUESTION 61
Why does the DEIR/S fail to consider or even acknowledge the California Coastal Commission management of coastal Hazards produced under the California Coastal Act which implements the U.S. Coastal Zone Management Act of 1972?

I23-78

S10. Vector Control Plan Updated Error of Omission

The Los Angles West Vector Control recently updated its Vector Control Plan for the Ballona Wetlands and DFW is aware of that fact.

QUESTION 62
Why does the DEIR/S fail to acknowledge that the Mosquito Abatement Plan for the Ballona Wetlands was updated and the effects of that updated plan on the proposed development?

I23-79

S11. Skewed Review, Improper Process, Due Process of Law

The DEIR/S is rife with errors of omission and commission. The framework has been established to promote only one outcome, while disregarding information important for decisions makers to make an objective decision based on all relevant facts.

I23-80

QUESTION 63
Why does the DEIR/S front load the plan with errors of omission and commission to guide the decision makers to a desired outcome rather than allow the decision makers access to all relevant facts to make an objective decision without limiting alternatives contrary to CEQA and NEPA?

QUESTION 64
Why does the DEIR/S employ the successful Analytical Framework for Coastal and Estuarine Studies produced in part by NOAA and the USGS rather than employing an insufficient system which purposely skewed the results by errors of omission and commission?

I23-81

ATTACHNENT NO. 20

S12. No Flood Control Permit for the Massive Playa Vista Project Adjacent to the BWER

The adjacent Playa Vista Project removed wetlands and permeable soils located in an existing flood plain prone to severe flooding as established by the historic record.

The project was required to obtain a flood control permit from the County of Los Angeles Department of Public Works Flood Control District. The Playa Vista Project did not obtain the legally required flood control permit.

I23-82

ATTACHMENT NO. 21

INDEX OF ATTACHMENTS BWER DEIR/S John Davis Comments

NOTE: Portions some Attachments are Incorporated as if in whole.

1. U.S. House of Representatives Committee on Public Works and Transportation
RESOLUTION MARINA DEL REY CALIFORNIA DOCKET 2455

2. General Plan of Improvement Inlet at Playa del Rey

3. Design Memorandum No. 1 Inlet and Harbor at Playa del Rey Inlet Venice California

4. Bureau of Land Management Letter

5. USACE Permit No. 90-426-EV

6. Ballona Wetlands Conservancy Fraud Project Manager

7. Shelly Luce Not Appointed to Represent State of California

8. Legal Deposition of Shelly Luce

9. Shelly Luce Falsely Purports to Represent the State to USACE

10. Porter Cologne Act

11. Poland Groundwater Report USGS
12. Coastal Conservancy employee Mary Small RFP Process Inconsistent with Ca. Contract Act

13. Conflict of Interest California Law Review

14. Psomas is Conflicted

15. Phil Williams Associates is Conflicted

16. CDM Smith is Conflicted

17. Diaz Yourman is Conflicted

18. Venice Quadrangle Seismic Hazard Zone

19. Coastal Commission Coastal Hazards

20. ACE Framework

21. Playa Vista Project has No Flood Control Permit

Sincerely,

John Davis
PO 10152
Marina del Rey Ca. 90295

ATTACHMENT 1

05/23/05 MON 09:54 FAX 14159778024 US ARMY CORPS OF ENGRS ☒002

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

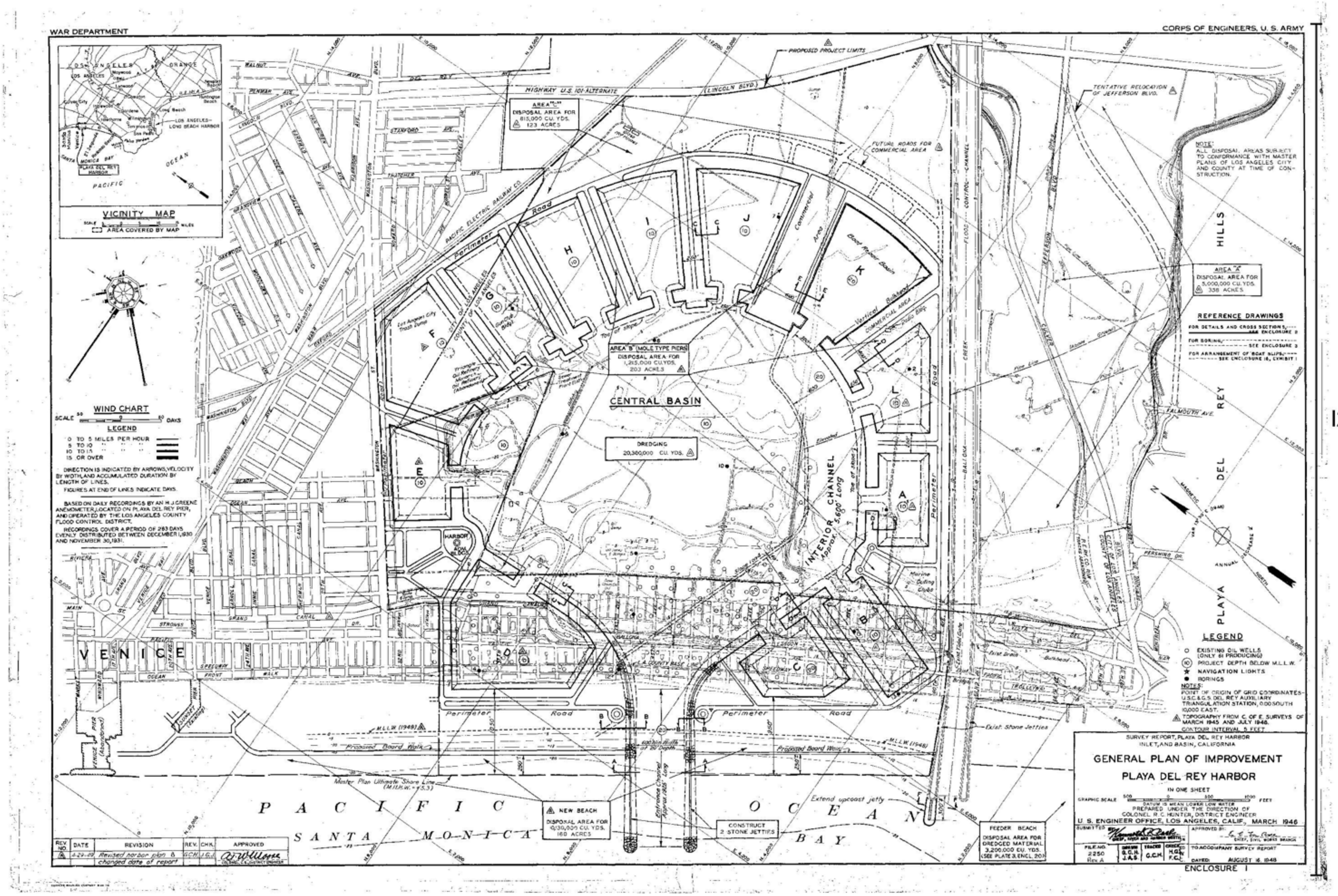
Resolved by the Committee on Public Works and Transportation of the United States House of Representatives, That the Secretary of the Army is requested to review the report of the Chief of Engineers on Playa del Rey Inlet and Basin, Venice, California, published as House Document 389, Eighty-third Congress, 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. I23-83

Adopted: September 28, 1994

ATTEST: [signature]
NORMAN Y. MINETA, Chair

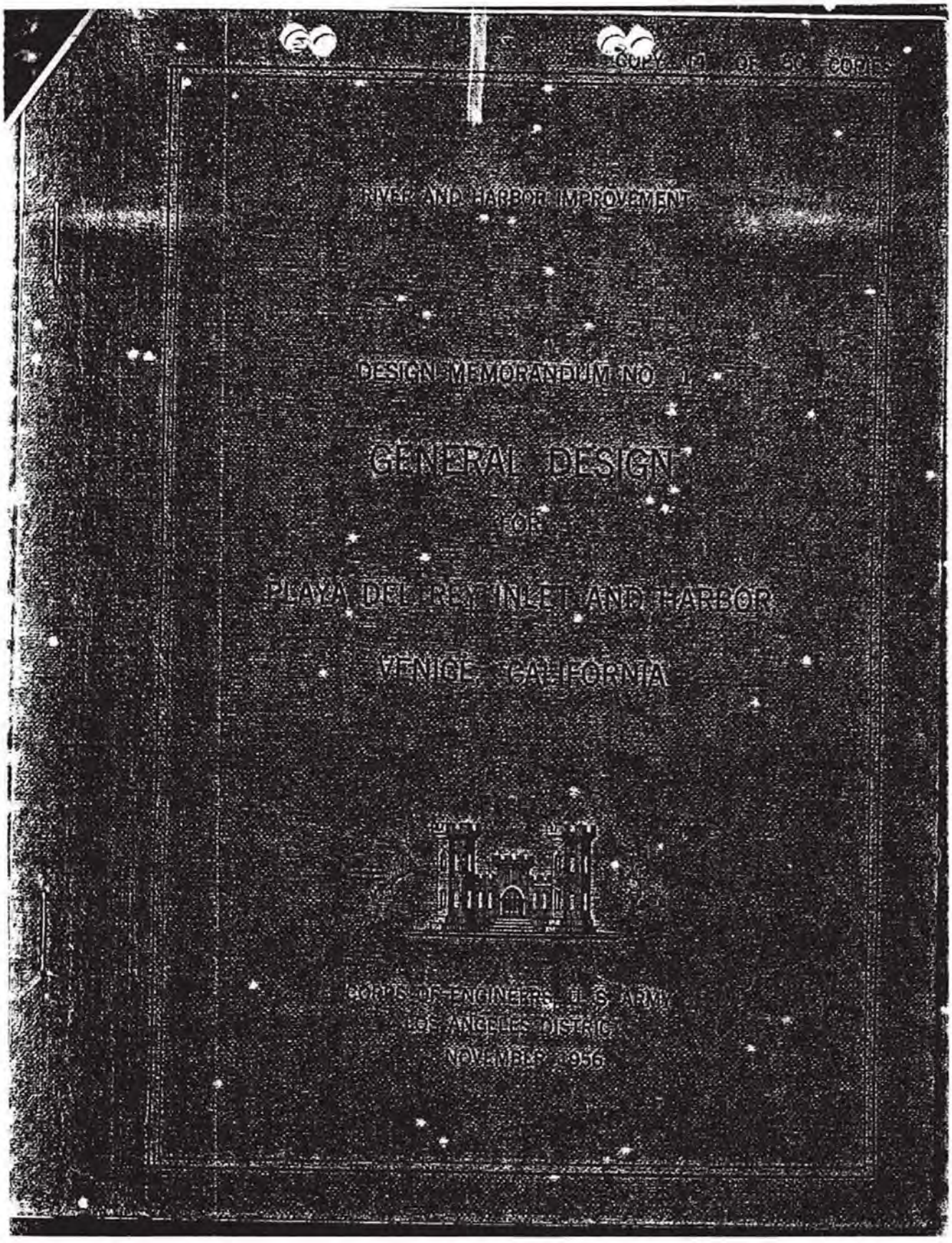
OCT 13 '94 09:43AM CORPS OF ENGR OECM-P P.3/6

ATTACHMENT 2


WAR DEPARTMENT
CORPS OF ENGINEERS, U. S. ARMY
VICINITY MAP
WIND CHART
CENTRAL BASIN
DREDGING 20,300,000 CU. YDS.
AREA "B" (MOLE TYPE PIERS) DISPOSAL AREA FOR 1,215,000 CU. YDS. 203 ACRES
AREA "A" DISPOSAL AREA FOR 5,000,000 CU. YDS. 338 ACRES
INTERIOR CHANNEL Approx. 5,600' Long
PACIFIC OCEAN
SANTA MONICA BAY
VENICE
PLAYA DEL REY HILLS
NEW BEACH
CONSTRUCT 2 STONE JETTIES
SURVEY REPORT, PLAYA DEL REY HARBOR INLET AND BASIN, CALIFORNIA
GENERAL PLAN OF IMPROVEMENT
PLAYA DEL REY HARBOR
IN ONE SHEET
U. S. ENGINEER OFFICE, LOS ANGELES, CALIF., MARCH 1946
ENCLOSURE I

I23-84

ATTACHMENT 3


COPY 11 OF 50 COPIES
RIVER AND HARBOR IMPROVEMENT
DESIGN MEMORANDUM NO. 1
GENERAL DESIGN
FOR
PLAYA DEL REY INLET AND HARBOR
VENICE, CALIFORNIA
CORPS OF ENGINEERS, U.S. ARMY
LOS ANGELES DISTRICT
NOVEMBER 1956

I23-85

ATTACHMENT 4

Print | Close Window

Subject: RE: From John Davis Requesting Assistance in regard to Land Deed to the U.S. from California
From: jd@johnanthonydavis.com
Date: Fri, Sep 07, 2012 6:23 pm
To: "Montgomery, Karen" <k15montg@blm.gov>
Bcc: "patricia pherson" <patriciamcpherson1@verizon.net>, "Daniel Cohen" <daniellcohen1956@gmail.com>

Hello,

Thank you for the well thought out and complete response,

John Davis

-------- 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: "jd@johnanthonydavis.com" <jd@johnanthonydavis.com>
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:

I23-86

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 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 Cottage Way, Suite 1928W
Sacramento, CA 95825
Office 916-978-4647 FAX 916-978-4657

Preservation begins with Conservation

From: jd@johnanthonydavis.com [mailto:jd@johnanthonydavis.com]
Sent: Tuesday, September 04, 2012 11:03 AM
To: Montgomery, Karen
Subject: RE: From John Davis Requesting Assistance in regard to Land Deed to the U.S. from California

Hi,

I am happy to have your assistance. Take all the time you need.

Regards,

John Davis

> -------- 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: Tue, September 04, 2012 10:43 am
> To: "jd@johnanthonydavis.com" <jd@johnanthonydavis.com>
>
> We are working on your questions. We have only had 2 working days, and will need more time.
>
> Karen Montgomery – Realty Specialist, CA State Lead
> California State Office - BLM
> 2800 Cottage Way, Suite 1928W
> Sacramento, CA 95825

I23-86 cont.

Office 916-978-4647 FAX 916-978-4657

Preservation begins with Conservation

From: jd@johnanthonydavis.com [mailto:jd@johnanthonydavis.com]
Sent: Tuesday, August 28, 2012 5:56 PM
To: Montgomery, Karen
Subject: RE: From John Davis Requesting Assistance in regard to Land Deed to the U.S. from California

Mrs. Montgomery,

Thank you for responding.

Under what provisions of law, or regulation, or policy, does BLM receive requests for notation from other
agencies to note deeds in BLM records?

I understand you are not aware of any law that requires another agency to deliver documents to BLM.

However, there must be some stautory or regulatory authority which authorizes BLM to receive requests for notations into BLM records, delivered by other agencies.

I23-86 cont.

Can you provide that information? If not, can you refer me to an entity at BLM that could
provide that information?

Regards,

John Davis

-------- 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: Tue, August 28, 2012 5:21 pm
To: "jd@johnanthonydavis.com" <jd@johnanthonydavis.com>, "Easley, Elizabeth R" <eeasley@blm.gov>
Cc: "Staszak, Cynthia" <cstaszak@blm.gov>

Mr. Davis,

You had 2 questions below…

I checked with our land records sections and we do not have any record of ever receiving a request from another agency to note the easement in question to our records. Until we receive a request, presumably from the Army Corps of Engineers (ACOE), we are unable to make this notation to the record.

We do not know of any law that requires other agencies to deliver documents to

the BLM for notation. As the keeper of records we note what is delivered to us. If the ACOE does not deliver the documents to us, we can't make the notation. The ACOE would maintain their own official record.

We suggest that you talk to the ACOE to find out the status of this easement deed. If the ACOE delivers this deed to us with a request for notation we will process their request for notation.

Karen Montgomery – Realty Specialist, CA State Lead
California State Office - BLM
2800 Cottage Way, Suite 1928W
Sacramento, CA 95825
Office 916-978-4647 FAX 916-978-4657

Preservation begins with Conservation

From: jd@johnanthonydavis.com [mailto:jd@johnanthonydavis.com]
Sent: Thursday, August 23, 2012 12:38 PM
To: Easley, Elizabeth R; Montgomery, Karen
Cc: Staszak, Cynthia
Subject: RE: From John Davis Requesting Assistance in regard to Land Deed to the U.S. from California

Hello Mrs. Easley and Mrs. Montgomery,

Thank you in advance for the assistance.

John Davis

> -------- Original Message --------
> Subject: RE: From John Davis Requesting Assistance in regard to Land
> Deed to the U.S. from California
> From: "Easley, Elizabeth R" <eeasley@blm.gov>
> Date: Tue, August 21, 2012 2:24 pm
> To: "Montgomery, Karen" <k15montg@blm.gov>
> Cc: "jd@johnanthonydavis.com" <jd@johnanthonydavis.com>,
> "Staszak,
> Cynthia" <cstaszak@blm.gov>
>
> Hi Karen!
>
> This man called last week regarding Grant Deeds and how they are processed for recordation.
>
> Thank you for addressing his questions?
>
> Liz
>
> ---
>
> **From:** jd@johnanthonydavis.com [mailto:jd@johnanthonydavis.com]

I23-86 cont.

Sent: Thursday, August 16, 2012 2:40 PM
To: Easley, Elizabeth R
Subject: From John Davis Requesting Assistance in regard to Land Deed to the U.S. from California
Importance: High

U.S. BLM
Att: E. Easley
Re: Deed Required by U.S. Public Law 780

Dear Mrs. Easley,

Attached are the documents I said I would send to you. U.S. Public Law 780 required the deeding
of all lands, easements,and rights of way necessary to complete the federal project.

The Congress approve those lands in the General Plan of Improvement, Enclosure No. 1 to U.S.
Housed Document 389 in accordance with law.

The deed was signed by the County of Los Angeles Board of Supervisors Chairman. However, the cadastrial description on the deed does not comport with the General Plan of Improvement, but only represents an easement over the main channel as mapped by the USACE Los Angeles District for me.

My question is when such land deeds from a State to the United States, does law require that BLM maintain any record of such deeds to the United States from an individual State?

If so, what laws require BLM to receive such records and from what entity(s)?

Did the BLM receive any records to document that all lands, easements, and rights of way were transferred to the United States regarding U.S. Public Law 780, Project: Inlet at Playa del Rey, pursuant to the Rivers and Harbors Act of 1954 and as approved by the United State Congress in House of Representatives 389?

Thank you for your kind assistance,

John Davis
PO 10152
Marina del Rey Ca. 90295
Ph. 310.795.9640

I23-86 cont.

ATTACHMENT 5

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, CORPS OF ENGINEERS
300 NORTH LOS ANGELES STREET
LOS ANGELES, CALIFORNIA 90012

REPLY TO ATTENTION OF:

March 14, 1996

Office of the Chief
Regulatory Branch

Maguire Thomas Partners
Attn: Robert Miller, Vice President
13250 Jefferson Boulevard
Los Angeles, CA 90094

Subject: Notice to Proceed for Construction of the Freshwater Marsh in Area B of Playa Vista (Permit No. 90-426-EV)

I23-87

Dear Mr. Miller:

You are hereby authorized to proceed with construction of the freshwater marsh in Area B of the Playa Vista Project under permit number 90-426-EV. As you previously agreed, construction will not take place within the riparian area of the project site in Area B until completion of springtime nesting surveys.

Thank you for your cooperation in meeting the requirements of our regulatory program. If you have any questions, please contact Cheryl Conel of my staff at (213) 894-2633.

Sincerely,

David J. Castanon
Chief, North Coast Section
Regulatory Branch

ATTACHMENT 6

BALLONA FRESHWATER MARSH AT PLAYA VISTA

Annual Report of Monitoring, Operation, and Maintenance

Year 2: October 1, 2003 – September 30, 2004

Prepared For:

The Ballona Wetlands Conservancy
5510 Lincoln Boulevard, Suite 100
Playa Vista, CA 90094

Prepared By:

Edith Read, Ph.D.
Preserve Manager, Ballona Freshwater Marsh
Center for Natural Lands Management

Eric Strecker and Jim Howell
Geosyntec Consultants

Correspondence regarding this report should be addressed to: Dr. Edith Read, Center for Natural Lands Management, 6775 Centinela Avenue, Trailer A, Culver City, CA 90230; phone 310-448-4701; email: eread@cnlm.org.

I23-88

BYLAWS
OF
BALLONA WETLANDS CONSERVANCY
A California Nonprofit Public Benefit Corporation

I23-89

(e) The BWC will not make any taxable expenditures as defined in Section 4945(d) of the IRC.

1.6.7. So long as the Declarant, as defined in the Master Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Playa Vista, recorded in the Official Records of Los Angeles, California, owns any portion of Playa Vista or the Annexable Area, as both terms are defined in the Master Declaration, the Articles and Bylaws of BWC cannot be amended without the written consent of the Declarant.

ARTICLE II
MEMBERS

The BWC will not have any members. The Board may wish to associate certain individuals with the BWC. For example, the Board may seek volunteers to be responsible for various ministerial duties.

2.1. **NO MEMBERS.**
BWC shall have no members. Any action which would otherwise require approval by a majority of all members or approval by the members shall require only approval of the board of directors of the Ballona Wetlands Conservancy ("Board"). All rights which would otherwise vest in the members shall vest in the Directors.

ARTICLE III
DIRECTORS

The Board of Directors oversees all operations of the BWC. The Board will have four (4) Directors. The Board oversees all corporate activities and operations of the BWC's committees or divisions. It has the power to select, appoint and replace officers, the power to contract on behalf of the BWC and the power to direct its funds. All major decisions affecting the BWC must be approved by the Board. One (1) member of the Board will be appointed by Playa Capital, one (1) by The Friends, one (1) by the Secretary of Resources of the State of California, and one (1) by the Council District Office for the City of Los Angeles representing the district in which the Ballona Wetlands are located. These four entities that are authorized by these Bylaws to appoint one each of the four (4) original Directors of the BWC are, for purposes of these Bylaws, the "Appointing Entities."

3.1. **GENERAL CORPORATE POWERS.**
As provided in the provisions and limitations of the California Nonprofit Corporation Law and subject to applicable laws, any limitations in the articles of incorporation of the Ballona Wetlands Conservancy ("Articles") or the Bylaws of the Ballona Wetlands Conservancy ("Bylaws"), the BWC's activities and affairs shall be managed, and all corporate powers shall be exercised, by or under the direction of the Board. The Board may delegate the management of the activities of the BWC to any person or persons, a management company or committees however composed, provided that the activities and affairs of the BWC shall be managed and all corporate powers shall be exercised under the ultimate direction of the Board.

3.2. **SPECIFIC POWERS.**
Without prejudice to the general powers set forth in Section 3.1, but subject to the same limitations, the Directors shall have the power to do the following:

I23-89 cont.

MIKE BONIN

City of Los Angeles
Councilmember, Eleventh District

October 6, 2016

Mr. John Davis
P.O. Box 10152
Marina del Rey, CA 90295

Sent via email - jd@johnanthonydavis.com

Dear Mr. Davis:

This letter will serve to close out your request for public records pursuant to the California Public Records Act, requesting the following:

1. Provide any and all information that demonstrates that Los Angeles Council District 11 is a board member of a private, nonprofit corporation named the Ballona Wetlands Conservancy in the year of 2010.
   The office does not have any responsive documents.

2. Provide any and all information that demonstrates that Los Angeles Council District 11 is a board member of a private, nonprofit corporation named the Ballona Wetlands Conservancy in the year of 2011.
   The office does not have any responsive documents.

3. Provide any and all information that demonstrates that Los Angeles Council District 11 is a board member of a private, nonprofit corporation named the Ballona Wetlands Conservancy in the year of 2012.
   The office does not have any responsive documents.

4. Provide any and all information that demonstrates that Los Angeles Council District 11 is a board member of a private, nonprofit corporation named the Ballona Wetlands Conservancy in the year of 2013.
   The office does not have any responsive documents.

I23-90

Westchester Office
7166 W. Manchester Boulevard
Los Angeles, CA 90045
(310) 568-8772
(310) 410-3946 Fax

City Hall
200 N. Spring Street, Room 475
Los Angeles, CA 90012
(213) 473-7011
(213) 473-6926 Fax

West Los Angeles Office
1645 Corinth Avenue, Room 201
Los Angeles, CA 90025
(310) 575-8461
(310) 575-8305 Fax

5. Provide any and all information that demonstrates that Los Angeles Council District 11 is a board member of a private, nonprofit corporation named the Ballona Wetlands Conservancy in the year of 2014.
   The office does not have any responsive documents.

6. Provide any and all information that demonstrates that Los Angeles Council District 11 is a board member of a private, nonprofit corporation named the Ballona Wetlands Conservancy in the year of 2015.
   The office does not have any responsive documents.

7. Provide any and all information that demonstrates that Los Angeles Council District 11 is a board member of a private, nonprofit corporation named the Ballona Wetlands Conservancy in the year of 2016.
   Responsive documents are attached.

8. Provide any and all information that demonstrates that Los Angeles Council District 11 is current and LAWFULLY a board member of a private, nonprofit corporation named the Ballona Wetlands Conservancy.
   Responsive documents as referenced in request #7.

9. Provide any and all information that demonstrates that the City of Los Angeles City Council authorized Los Angeles Council District 11 to be a board member of a private, nonprofit corporation named the Ballona Wetlands Conservancy.
   The office does not have any responsive documents.

I23-90 cont.

The office has 24 pages of responsive documents in our possession and the cost per copy is 10 cents per page. The office has not withheld any as exempt under Government Code Section 6255. You can send a check made payable to the City of Los Angeles for $2.40.

Documents which pre-date the Councilmember's term in office (2013), may be available from the City Archives. The City Archives is located in the C. Erwin Piper Technical Center at 555 Ramirez Street, Space 320, Los Angeles, CA 90012. You can make an appointment to visit the City Archives and inspect their records by contacting Todd Gaydowski, City Records Management Officer at (213) 485-8783 or tgaydowaki@clerk.lacity.org, or acting City Archivist, Jay Jones at (213) 485-3512 or jjones@clerk.lacity.org.

Please feel free to contact me at (213) 473-7011 should you have any questions. Thank you.

Regards,

CHAD MOLNAR
Chief of Staff, Council District 11

I23-90
cont.

MIKE BONIN

City of Los Angeles
Councilmember, Eleventh District

October 6, 2016

Mr. John Davis
P.O. Box 10152
Marina del Rey, CA 90295

Sent via email - jd@johnanthonydavis.com

Dear Mr. Davis:

This letter will serve to close out your request for public records pursuant to the California Public Records Act, requesting the following:

I23-90 cont.

1. Provide any and all authorizations from Council District 11 to allow a city employee, Nate Kaplan, employed for CD 11 to act as a Director of a non-profit business named the Ballona Wetlands Conservancy.
The office does not have any responsive documents.

2. Provide any and all authorizations from the full City Council taken at a public hearing to authorize Council District 11 to allow a city employee, Nate Kaplan, employed for CD 11 to act as a Director of a non-profit business named the Ballona Wetlands Conservancy.
The office does not have any responsive documents.

3. Provide any and all terms agreed to between the Ballona Wetlands Conservancy, a nonprofit business that specifically regard the City of Los Angles participation in that private business.
Responsive documents are available.

4. Provide any and all records of meetings of the Ballona Wetlands Conservancy, a nonprofit business including but not limited to meeting minutes when Nate Kaplan, employed by the City of Los Angles and for CD 11, was a director of the aforesaid private business.
The office does not have any responsive documents.

Westchester Office
7166 W. Manchester Boulevard
Los Angeles, CA 90045
(310) 568-8772
(310) 410-3946 Fax

City Hall
200 N. Spring Street, Room 475
Los Angeles, CA 90012
(213) 473-7011
(213) 473-6926 Fax

West Los Angeles Office
1645 Corinth Avenue, Room 201
Los Angeles, CA 90025
(310) 575-8461
(310) 575-8305 Fax

5. Provide any and all records of communications of any form specified in the Public Records Act between (to-from) Ballona Wetlands Conservancy, a nonprofit business in the year 2016.
Responsive documents are available.

6. Provide any all all communications as set forth in the Public Records Act between any employee of the City of Los Angeles acting on behalf of CD11 between (to-from) the following email address:Catherine.a.Tyrrell@gmail.com in the year 2016.
Responsive documents are available.

7. Provide any all all communications as set forth in the Public Records Act between any employee of the City of Los Angeles acting on behalf of CD11 between (to-from) the following email address:Catherine.a.Tyrrell@gmail.com in the year 2015.
The office does not have any responsive documents.

8. Provide any all all communications as set forth in the Public Records Act between any employee of the City of Los Angeles acting on behalf of CD11 between (to-from) the following email address:Catherine.a.Tyrrell@gmail.com in the year 2014.
The office does not have any responsive documents.

9. Provide any all all communications as set forth in the Public Records Act between any employee of the City of Los Angeles acting on behalf of CD11 between (to-from) the following email address:Catherine.a.Tyrrell@gmail.com in the year 2013.
The office does not have any responsive documents.

10. Provide any all all communications as set forth in the Public Records Act between any employee of the City of Los Angeles acting on behalf of CD11 between (to-from) the following email address:Catherine.a.Tyrrell@gmail.com in the year 2012
The office does not have any responsive documents.

11. Provide any all all communications as set forth in the Public Records Act between any employee of the City of Los Angeles acting on behalf of CD11 between (to-from) the following email address:Catherine.a.Tyrrell@gmail.com in the year 2011.
The office does not have any responsive documents.

12. Provide any all all communications as set forth in the Public Records Act between any employee of the City of Los Angeles acting on behalf of CD11 between (to-from) the following email address:Catherine.a.Tyrrell@gmail.com in the year 2010.
The office does not have any responsive documents.

I23-90 cont.

13. Provide any all all communications as set forth in the Public Records Act between any employee of the City of Los Angeles acting on behalf of CD11 between (to-from) the following email address:Catherine.a.Tyrrell@gmail.com in the year 2009.
The office does not have any responsive documents.

14. Provide any all all communications as set forth in the Public Records Act between any employee of the City of Los Angeles acting on behalf of CD11 between (to-from) the Los Angeles County Vector Control in regard to letters sent to CD 11 on June 24, 2016 and or July 20, 2016.
Responsive documents are available.

The office has compiled 96 pages of relevant documents in our possession and the cost per copy is 10 cents per page. The office has not withheld any as exempt under Government Code Section 6255. You can send a check made payable to the City of Los Angeles for $9.60.

Documents which pre-date the Councilmember's term in office (2013), may be available from the City Archives. The City Archives is located in the C. Erwin Piper Technical Center at 555 Ramirez Street, Space 320, Los Angeles, CA 90012. You can make an appointment to visit the City Archives and inspect their records by contacting Todd Gaydowski, City Records Management Officer at (213) 485-8783 or tgaydowaki@clerk.lacity.org, or acting City Archivist, Jay Jones at (213) 485-3512 or jjones@clerk.lacity.org.

Please feel free to contact me at (213) 473-7011 should you have any questions. Thank you.

Regards,

CHAD MOLNAR
Chief of Staff, Council District 11

I23-90 cont.

Debbie Dyner Harris <debbie.dynerharris@lacity.org>

Ballona Wetlands Conservancy questions

13 messages

Debbie DynerHarris <debbie.dynerharris@lacity.org> Wed, Aug 24, 2016 at 1:28 PM
To: Marc Huffman · Catherine Tyrrell ·

Hi, I am suddenly getting quite a few inquiries about this organization and CD11's position and involvement. I am embarrassed to say that I really don't know much of anything. When Fred Sutton left, I said yes to everything without asking questions. My bad.

Can one of you please help me out by providing background and information on the Conservancy or Foundation?

Thank you very much,
Debbie

–

Debbie Dyner Harris
District Director
Councilmember Mike Bonin
City of Los Angeles
310-575-8461 | www.11thdistrict.com

Sign Up for Mike's Email Updates

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MyLA311 links Angelenos with the services and information they need to enjoy their city, beautify their community and stay connected with their local government. With MyLA311, City of Los Angeles information and services are just a few taps away.

Catherine Tyrrell · Wed, Aug 24, 2016 at 1:39 PM
To: Debbie DynerHarris <debbie.dynerharris@lacity.org>
Cc: Marc Huffman

Hi Debbie. I can send you my scan of the conservancy by-laws. I have also been working on some proposals for committees for the October meeting.

I know Marc is dealing with some serious family health issues right now. He of course can provide a lot more in the way of bs keeping documents.

My cell is

Sent from my iPhone
[Quoted text hidden]

Catherine Tyrrell Wed, Aug 24, 2016 at 1:50 PM
To: Debbie DynerHarris <debbie.dynerharris@lacity.org>

I23-90 cont.

I just learned that Marc's father passed away yesterday. So he is out of the loop on work issues until next week.

I am sending you a couple of documents and would be glad to talk - in the next couple of hours.

Thanks,

Catherine

Sent from my iPhone

On Aug 24, 2016, at 1:28 PM, Debbie DynerHarris <debbie.dynerharris@lacity.org> wrote:

[Quoted text hidden]

Marc Huffman Wed, Aug 24, 2016 at 1:52 PM
To: Catherine Tyrrell
Cc: Debbie DynerHarris <debbie.dynerharris@lacity.org>

Hi Debbie - yes this has been a horrible week; my father passed away on Monday so I have not been in the office. I will be happy to discuss this with you in depth next week when I should be back in the office.

Thanks,

Marc

Sent from my iPhone
[Quoted text hidden]

Catherine Tyrrell Wed, Aug 24, 2016 at 1:54 PM
To: Debbie DynerHarris <debbie.dynerharris@lacity.org>
Cc: Marc Huffman

Debbie - please see the attached copy of the By-Laws. Also, with all the craziness with the actions by Vector Control, etc,, I have been extremely concerned regarding how to avoid this ever happening again. So I started working on some ideas for the October annual meeting.

These are attached.

Best Regards,

Catherine
[Quoted text hidden]

---

2 attachments

BWC Bylaws.pdf
7152K

Draft statement of direction for the Ballona Wetlands Conservancy 2.docx
16K

Marc Huffman Wed, Aug 24, 2016 at 1:55 PM
To: Catherine Tyrrell
Cc: Debbie DynerHarris <debbie.dynerharris@lacity.org>

Edith and I have also been working on how to make sure this never happens again, obviously, and welcome your thoughts.

Sent from my iPhone

Debbie DynerHarris <debbie.dynerharris@lacity.org> Fri, Aug 26, 2016 at 11:48 AM
To: david grahamcaso <david.grahamcaso@lacity.org>, Chad Molnar <chad.molnar@lacity.org>

I23-90 cont.

Subject: FW: REQUEST FOR PUBLIC RECORDs TO SECRETARY OF RESOURCES CA FROM JOHN DAVIS 11/25/2017
From: "Baugh, Heather@CNRA" <heather.baugh@resources.ca.gov>
Date: 1/4/18, 2:20 PM
To: "jd@johnanthonydavis.com" <jd@johnanthonydavis.com>
CC: "Burchill, Emiko@CNRA" <emiko.burchill@resources.ca.gov>, "Calfee, Christopher@CNRA" <Christopher.Calfee@resources.ca.gov>

Mr. Davis,

Your request for records is not new. You asked about these documents several times previously, and Ms. Burchill responded that our client does not maintain anything responsive to it. In fact, you have forwarded these requests in the chain below. Ms. Burchill's response was on behalf of our joint client, the Secretary for Resources, as is mine. Neither I, nor Ms. Burchill, nor my client will not respond further to this inquiry. I23-91 cont.

Sincerely,

Heather Baugh

From: JD [mailto:jd@johnanthonydavis.com]
Sent: Tuesday, January 2, 2018 10:58 AM

To: Griffin, Rebecca@CNRA <Rebecca.Griffin@resources.ca.gov>
Subject: Fwd: REQUEST FOR PUBLIC RECORDs TO SECRETARY OF RESOURCES CA FROM JOHN DAVIS 11/25/2017

-------- Forwarded Message --------

Subject:	REQUEST FOR PUBLIC RECORDs TO SECRETARY OF RESOURCES CA FROM JOHN DAVIS 11/25/2017
Date:	Sat, 25 Nov 2017 13:20:43 -0800
From:	JD <jd@johnanthonydavis.com>
To:	PRA Requests <prarequest@resources.ca.gov>, secretary@resources.ca.gov, patricia mc pherson <patriciamcpherson1@verizon.net>, Willis, Andrew@Coastal <Andrew.Willis@coastal.ca.gov>, "John .Ainsworth"@coastal.ca.gov, Henry.Teresa@Coastal.ca.gov, Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>, Dayna.Bochco@coastal.ca.gov <Dayna.Bochco@coastal.ca.gov>, Jennifer.Lucchesi@slc.ca.gov <Jennifer.Lucchesi@slc.ca.gov>, Wildlife DIRECTOR <Director@wildlife.ca.gov>, Johntommy Rosas <tattnlaw@gmail.com>, Jeanette Vosburg <Jeanette@saveballona.org>, Kathy Knight <kathy.knight@verizon.net>

I23-91 cont.

Office of the California Secretary of Resources
Att: John Laird Secretary
Att:Chief Counsel Cristopher Calfee
Att: Thomas Gibson Undersecretary
Cc:

State Lands Commission
California Coastal Commission
Other Parties

Secretary Laird,

This is a request for public records. Please provide any record which is a record of the California Secretary
of Resources agreeing to and or appointing a Director to a private business named the Ballona Wetlands Conservancy.
Please respond by U.S. mail only, not by email.

Thank you for your assistance,

John Davis
PO 10152
Marina del Rey Ca 90295

I23-91 cont.

On 11/25/17 1:03 PM, JD wrote:

> Office of the California Secretary of Resources
> Att: John Laird Secretary
> Att:Chief Counsel Cristopher Calfee
> Att: Thomas Gibson Undersecretary
> Cc:
> State Lands Commission
> California Coastal Commission
> Other Parties
>
> Secretary Laird,
>
> I requested a response to a Public Records provided by email by the Secretary be provided
> in a format with letterhead and an authorized signature five months ago. However, the office

has not yet responded.

Please respond by U.S. public mail or by providing it to this email. Or, is there a reason
that the Office of the Secretary only responds to requests for Public Records pursuant to
the California Public Records act by email only and without an authorized signature?

It is the norm for agencies to respond on agency letterhead and the response is signed.

Here, it is important because a non-profit corporation registered to do business in the
State produced bylaws dated December 4, 2000 stating that the Secretary of Resources
is a Director. The same private business has obtained capital making this claim, which
according to the PRA response provided by the Office of the Secretary represents a false
claim by the business that I personally consider to represent fraud.

I23-91 cont.

The same business, is without authority, providing reports to the California Coastal
Commission, U.S EPA, Corp of Engineers and others regarding a flood control permit
for the Playa Vista Development in Los Angles County. In regard to the Coastal Commission
the reports are submitted by this business for CDP 5-91-463 and for a USACE permit.

Both permits are for flood control.

Attached are the bylaws of the corporation and a snapshot of the operative page.

Please respond on letterhead of the Office of the Secretary and with an authorized
signature.

Ms. Emiko Burchill Assistant General Counsel failed to do so as did the Office of Secretary
after a request to do so five months ago.

This matter has already been brought to the attention of Andrew WIllis, enforcement,
California Coastal Commission in a complaint of fraud regarding CDP 5-91-463 and
will be reported to the California Department of Justice soon. The California Lands Commission
owns the property which this business reports to the Coastal Commission on.

I23-91 cont.

Thank you for your assistance,

John Davis
PO 10152
Marina del Rey Ca 90295

5/26/17 8:29 AM, JD wrote:

> California Secretary of State
> Att: Secretary John Laird
> Cc: Emiko Burchill
> Cc: Coastal Commission
>
> Secretary Laird,

Could you instruct Emiko Burchill to provide the response to a Request for Public Records dated March 13, 2017
on the Office Letterhead and send it to me via U.S. mail.

This is a standard policy for State Offices and Agencies to respond, rather than an informal email as has been provided.

**Is this response to a PRA via email the way the Office of the Secretary of Resources responds to <u>all requests for public records</u>
<u>or only this one?</u>**

If the standard Office response is on paper with letterhead, why was this response treated differently?

I23-91 cont.

Thank you for your assistance,

John Davis
PO 10152
Marina del Rey Ca 90295.

On 3/22/17 12:48 PM, JD wrote:

> Thank you for the response.
>
> John Daviis
>
> On 3/22/17 11:32 AM, PRA Requests wrote:
>
> > Dear Mr. Davis,

My client does not have anything responsive to this request.

Best,
Emiko

Emiko Burchill
Assistant General Counsel
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

-----Original Message-----
From: JD [mailto:jd@johnanthonydavis.com]
Sent: Monday, March 13, 2017 1:00 PM
To: Office of the Secretary CNRA; patricia mc pherson
Subject: REQUEST FOR PUBLIC RECORDS JOHN DAVIS MARCH 13, 2017

CA RESOURCES AGENCY
Att: Secretary John Laird
Re: Request for Public Records

Secretary Laird,

This is a request for public records pursuant to the California Public Records Act. Please provide the following records.

1. Provide any and all records of

I23-91 cont.

communications (to/from) from a private business named the Ballona Wetlands Conservancy.

2. Provide any and all records of communications (to/from) from a person named Marc Huffman that regard a private business named the Ballona Wetlands Conservancy.

3. Provide any and all records of communications (to/from) from a person named Catherine Tyrrell that regard a private business named the Ballona Wetlands Conservancy.

4. Provide any and all records that demonstrate that a private business named the Ballona Wetlands Conservancy invited the California Secretary of Natural Resources to act as a Director of that private business.

5. Provide any and all records that demonstrate that the California Secretary of Natural Resources agreed to act as a Director of a private business named the Ballona Wetlands Conservancy.

6. Provide any and all records that demonstrate Notices of Board of Directors meetings of a private business named the Ballona

I23-91 cont.

Wetlands Conservancy to the Secretary of Natural Resources.

7. Provide any and all records of a private business named the Ballona Wetlands Conservancy inclusive of actions taken, minutes of meetings, and notifications to Board of Directors.

I23-91 cont.

Thank you,

John Davis
PO 10152
Marina del Rey Ca. 90295

Subject: RE: FW: REQUEST FOR PUBLIC RECORDs TO SECRETARY OF RESOURCES CA FROM JOHN DAVIS 11/25/2017
From: "Baugh, Heather@CNRA" <heather.baugh@resources.ca.gov>
Date: 1/4/18, 4:19 PM
To: JD <jd@johnanthonydavis.com>
CC: "Burchill, Emiko@CNRA" <emiko.burchill@resources.ca.gov>, "Calfee, Christopher@CNRA" <Christopher.Calfee@resources.ca.gov>, patricia mc pherson <patriciamcpherson1@verizon.net>, "Todd T. Cardiff, Esq." <todd@tcardifflaw.com>, "Ainsworth, John@Coastal" <John.Ainsworth@coastal.ca.gov>, "Willis, Andrew@Coastal" <Andrew.Willis@coastal.ca.gov>, "Haage, Lisa@Coastal" <Lisa.Haage@coastal.ca.gov>

Mr. Davis,

Your prior request asked for CNRA to: "Provide any and all records of communications (to/from) from a private business named the Ballona Wetlands Conservancy..." among six other enumerated things, including whether the Secretary had asked or was offered a position as Director. Had there been documents appointing anyone, including the Secretary, to this board, they would have been responsive to your original request. Ms. Burchill looked, and no such documents were maintained. My client does not have such documents.

Sincerely,

HB

I23-92

Heather C. Baugh, Assistant General Counsel

California Natural Resources Agency

1416 Ninth Street, Suite 1311

Sacramento, CA 95814

Telephone: 916-653-5656

Fax: 916-653-8102

Every Californian should conserve water. Find out how at:

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SaveOurWater.com · Drought.CA.gov

From: JD [mailto:jd@johnanthonydavis.com]
Sent: Thursday, January 04, 2018 4:08 PM

To: Baugh, Heather@CNRA <heather.baugh@resources.ca.gov>
Cc: Burchill, Emiko@CNRA <emiko.burchill@resources.ca.gov>; Calfee, Christopher@CNRA <Christopher.Calfee@resources.ca.gov>; patricia mc pherson <patriciamcpherson1@verizon.net>; Todd T. Cardiff, Esq. <todd@tcardifflaw.com>; Ainsworth, John@Coastal <John.Ainsworth@coastal.ca.gov>; Willis, Andrew@Coastal <Andrew.Willis@coastal.ca.gov>; Haage, Lisa@Coastal <Lisa.Haage@coastal.ca.gov>
Subject: Re: FW: REQUEST FOR PUBLIC RECORDs TO SECRETARY OF RESOURCES CA FROM JOHN DAVIS 11/25/2017

Secretary of Resources
Att: H. Baugh

Ms. Baugh,

Contrary to your response this is a NEW pra. A portion of the original is below, request No. 5.
That PRA requested records of the Secretary of resources agreeing to **ACT** as a Director.

The new PRA requests records of the Secretary of Resources **agreeing to and or appointing a Director.**

As an attorney for the State of California, I am sure you see the difference between the original request that was answered only by email and not on the letterhead of the Office and not signed, even though that form of response was reasonably requested.

Here the request is clearly for records of the Secretary **AGREEING TO AND OR APPOINTING A DIRECTOR**, not ACTING as a Director.

There is a clear difference between the words appointing and acting.

Appointing:

verb (used with object)

1.

to name or assign to a position, an office, or the like; designate:

to appoint a new treasurer; to appoint a judge to the bench.

2.

to determine by authority or agreement; fix; set:

to appoint a time for the meeting.

3.

Law. to designate (a person) to take the benefit of an estate created by a deed or will.

4.

to provide with what is necessary; equip; furnish:

They appointed the house with all the latest devices.

5.

Archaic. to order or establish by decree or command; ordain; constitute:

laws appointed by God.

6.

Obsolete. to point at by way of censure.

verb (used without object)

7.

Obsolete. to ordain; resolve; determine.

Act:

noun

1.

I23-92 cont.

anything done, being done, or to be done; deed; performance:

a heroic act.

2.

the process of doing:

caught in the act.

3.

a formal decision, law, or the like, by a legislature, ruler, court, orother authority; decree or edict; statute; judgment, resolve, oraward:

an act of Congress.

If you are confused by this simple language, please ask Deputy Secretary and General Counsel Christopher Calffee to respond.

There is a demonstrably clear difference between the two requests and you should understand that. Please re-read the new request, carefully.

Regards,

John Davis

I23-92 cont.

NEW PRA

This is a request for public records. Please provide any record which is a record of the California Secretary of Resources **agreeing to and or appointing a Director** to a private business named the Ballona Wetlands Conservancy. Please respond by U.S. mail only, not by email.

ORIGINAL PRA

5. Provide any and all records that demonstrate that the California Secretary of Natural Resources **agreed to act as a Director** of a private business named the Ballona Wetlands Conservancy.

On 1/4/18 2:20 PM, Baugh, Heather@CNRA wrote:

> This is a request for public records. Please provide any record which is a record of the California Secretary of Resources agreeing to and or appointing a Director to a private business named the Ballona Wetlands Conservancy. Please respond by U.S. mail only, not by email.

---------- 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
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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

I23-92 cont.

ATTACHMENT 7

SANTA MONICA BAY RESTORATION COMMISSION

MINUTES OF THE
MEETING OF THE GOVERNING BOARD AND BAY WATERSHED COUNCIL

April 14, 2005
Del Rey Yacht Club
Marina del Rey, CA

1. Welcome and Introductions
At 9:45AM, the Santa Monica Bay Restoration Commission Vice-Chair David Nahai called the meeting to order. Introductions followed. Commission Chair Jack Weiss subsequently took over as Chair of the meeting.

2. Approval of the February 24, 2005 Meeting Minutes
The minutes were approved unanimously.

3. Order of Agenda
The order of the agenda was approved.

4. Reports from the Chair and Executive Committee
David Nahai provided a report on the EPA Site Visit conducted on March 30-31, 2005. A review team from EPA Headquarters in Washington, D.C. was taken around to sites in the watershed by staff, and met with the Executive Committee, members of the TAC, and staff. The site visit was part of EPA's regular "Triennial Review" process, conducted every three years. A draft summary identifying outstanding issues from the review is currently being prepared by EPA ; the draft summary will be provided to staff and the Executive Committee in the near future.

I23-93

5. Reports from the Technical Advisory Committee
Steve Bay, Vice-Chair of the Technical Advisory Committee, gave an overview of the March 23, 2005 TAC meeting. The TAC is currently undertaking discussions on long-range planning and the TAC role in the SMBRC work plan. Future TAC priorities include: supplying continued oversight and review to the SMBRC, annual updates of the State of the Bay. The TAC is currently considering proposed changes by the City of Torrance to the Madrona Marsh project SOW, and the Santa Monica BayKeeper Kelp Restoration workplan. The TAC will also be taking up the significant task of developing plans for a comprehensive regional monitoring program (with which they have been charged by the RWQCB4 in the recently approved Hyperion permit). It was suggested by Governing Board Member Mark Gold that the TAC create a TAC sub-committee to work on the comprehensive monitoring plan. The TAC was asked to return in August to present a schedule and plan form the comprehensive monitoring program.

6. Reports from the Acting Director and Staff.
Acting Director Guangyu Wang distributed and provided an overview of a written Program Progress Report for February 1, 2005 – March 31, 2005, detailing staff activities for that period. He thanked the organizations (State Parks, Mountains Restoration Trust, BayKeeper, City of Culver City, Ballona Wetlands Foundations) which assisted with the March 30, 2005 EPA site visit field trips. He also reminded the Governing Board that the call for nominations to the Bay Restoration Foundation Board of Directors would be closing at the close of business today, April 14, 2005 and encouraged them to submit nominations. The Governing Board was also reminded that FPCC Form 700 were due April 1, 2005 should be submitted to staff for mailing to the FPCC no later than April 15, 2005.

7. Possible Nomination and Approval of Commission Executive Director
Jack Weiss provided a brief overview of the process by which the Executive Committee conducted their search for a new Commission Executive Director. A job announcement was widely distributed (nationwide) and 17 resumes were returned. From this pool of 17 candidates, three were selected for interviews. Based on the interviews, the Executive Committee recommended the Governing Board consider Dr. Shelly Luce for the position. Dr. Luce gave a brief overview of her past experience, educational background, and credentials. Governing Board Member Jeff Jennings moved that the Governing Board approve the hiring of Dr. Shelly Luce and direct the Executive Committee to continue negations with Dr. Luce on her compensation and benefits package. A second motion was made to direct the Executive Committee to publicly notice Executive Committee meetings and circulate meeting minutes in advance of Governing Board meetings. Both motions were seconded by Governing Board Member Marc Beyeler and carried unanimously.

8. Consideration of Approval of Proposition 50 Competitive Project List
Guangyu Wang presented the staff report on this item, giving a brief overview of the Proposition 50 RFP and review process and submitting the Proposition 50 2005 Competitive Project List for approval by the Governing Board. Public comment was submitted by Katie Lichtig, City Manager of the City of Malibu. She distributed a fact sheet on "Malibu Civic Center Integrated Water Management" and explained some of the pressing time constraints on the City of Malibu's Prop 50 project proposal. Mark Gold made a motion to approve the action that all proponents of projects on the Proposition 50 2005 Competitive Project List be requested to submit a full proposal, directing staff to re-label the column titled "Major Conditions and Stipulations" to "Review Committee Suggestions." Mark Gold also moved that the Governing Board direct staff to develop and present at the next Governing Board meeting a process for evaluating and approving the full proposals. The motion was seconded by Jeff Jennings and carried unanimously.

I23-93 cont.

9. Consideration of a Resolution Encouraging Implementation of Recommended Management Measures for Restoring Intertidal Habitats.
Guangyu Wang presented the staff report on this item and requested the Governing Board vote to support the management recommendations made. The management recommendations were previously reviewed and recommended for approval by the TAC at their September 2004 meeting. David Nahai moved that the Governing Board approve the staff report and recommendation with amended language, stating that "A statement of support of the following management measures in requested of the Governing Board, which is construed to advocate but not to commit to the expending of resources." The motion was seconded by Mark Gold. The motion was approved, with one abstention by Governing Board Member Marvin Sachse and one vote of opposition from Governing Board Member Rod Spackman.

10. Presentation: West Basin Water Supply Outlook.
West Basin Municipal Water District representative June Lopez gave a presentation regarding the West Basin MWD's water recycling, conservation, and education programs, providing an overview of planned future water recycling projects and a proposed desalination facility.

11. Member Comments and Announcements Regarding Matters not on the Agenda.
Governing Board Alternate Rorie Skei gave a brief update on the Soka Property purchase. And thanked the members of the Governing Board for their allocation of 2.5 million in Prop 12 funds for the property acquisition.

12. Public Comments.
None.

13. Announcement of Next Meeting Date.

ATTACHMENT 8

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

- - -

The Ballona Wetlands Land Trust,
Petitioner,
vs. No. BS154128
Santa Monica Bay Restoration Commission; DOES 1 to 10,
Respondents.

I23-94

DEPOSITION OF SHELLEY LUCE

LOS ANGELES, CALIFORNIA

FRIDAY, JULY 10, 2015

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REPORTED BY: Cathrine M. Jackson, CSR No. 7402
FILE NO. A90667F

ATTACHMENT 9

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.

I23-95

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.

/s

Scott Valor
Director of Government Affairs
Santa Monica Bay Restoration Commission
310-922-2376

visit us at www.smbrc.ca.gov

I23-95 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

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.

I23-95 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.

I23-96

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.

I23-96 cont.

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.

I23-96 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
Assistant District Counsel

Enclosures

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

I23-97

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 Callifornia 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

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.

I23-98

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

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

I23-99

[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. --

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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

I23-99 cont.

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

I23-100

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.

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.

I23-100 cont.

ATTACHMENT 10

CALIFORNIA

Water Boards

STATE WATER RESOURCES CONTROL BOARD

REGIONAL WATER QUALITY CONTROL BOARDS

I23-101

Porter-Cologne Water Quality Control Act

Water Code Division 7 and Related Sections

(As amended, including Statutes 2017)

JANUARY 2018

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

From: Janna Scott
To: AR-Ballona
Subject: FW: [Non-DoD Source] Re: COMMENTS BWER DEIR/S John Davis
Date: Friday, February 9, 2018 2:33:09 PM
Attachments: JOHN DAVIS COMMENTSBWER EIRS ATTACHMENS 11-14.pdf

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From: Rogers, Bonnie L CIV USARMY CESPL (US) [mailto:Bonnie.L.Rogers@usace.army.mil]
Sent: Friday, February 9, 2018 1:53 PM
To: Janna Scott <JScott@esassoc.com>
Cc: Richard Brody <richard.brody@wildlife.ca.gov>
Subject: FW: [Non-DoD Source] Re: COMMENTS BWER DEIR/S John Davis

-----Original Message-----
From: JD [mailto:jd@johnanthonydavis.com]
Sent: Monday, 5 February, 2018 4:27 PM
To: Rogers, Bonnie L CIV USARMY CESPL (US) <Bonnie.L.Rogers@usace.army.mil>; chuck.bonham@wildlife.ca.gov; Gibbs, Kirk E COL USARMY CESPL (US) <Kirk.E.Gibbs@usace.army.mil>
Subject: [Non-DoD Source] Re: COMMENTS BWER DEIR/S John Davis

John Davis Comments BWER DEIR/S Attachments 11-14

John Davis
PO 10152
Marina del Rey Ca 90295

ATTACHMENT 11

Geology, Hydrology, and Chemical Character of Ground Waters in the Torrance-Santa Monica Area, California

By J. F. POLAND, A. A. GARRETT, *and* ALLEN SINNOTT

GEOLOGICAL SURVEY WATER-SUPPLY PAPER 1461

Prepared in cooperation with the Los Angeles County Flood Control District, in collaboration with the cities of Inglewood, Redondo Beach, Manhattan Beach, El Segundo, Hawthorne, Culver City, Gardena, Hermosa Beach, and Palos Verdes Estates, and with the West Basin Water Association

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON : 1959

ATTACHMENT 12

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. I23-103

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

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

I23-103 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

I23-103 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

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Mary

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Sent: Wednesday, February 08, 2012 4:39 PM
Subject: FW: request for services - ballona wetlands

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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.

I23-103 cont.

Mary Small
Deputy Executive Officer, Coastal Conservancy
1330 Broadway #1300 Oakland, CA 94612
510-286-4181

ATTACHMENT 13

California Law Review

Volume 44 | Issue 2 Article 12

5-31-1956

Conflict of Interest in Public Contracts in California

Paul A. Peterson

David L. Norman

Eugene E. Reynolds Jr.

I23-104

CONFLICT OF INTEREST IN PUBLIC CONTRACTS IN CALIFORNIA†

> No man can serve two masters: for either he will hate the one, and love the other; or else he will hold to the one, and despise the other.[1]

The concept that a man cannot serve two masters has found expression in California in the statutory doctrine that no public officer shall be interested in any contract made by him or by any body or board of which he is a member. The questions of what constitutes interest and what are the sanctions for having such interest involve a complicated system of statutes and case law. This comment attempts to analyze the present law in terms of the interest prohibited and the sanctions for violation. This is followed by proposed legislation, coupled with a discussion of each proposal.

In considering the present law and recommendations for change, two conflicting policy considerations should be kept in mind. The primary policy consideration is that the public is entitled to have every public officer be guided solely by public interest, rather than by any personal interest, when acting upon contracts in his official capacity.[2] And public interest is more than merely obtaining a fair and reasonable contract, it includes the concept that it is not fair to permit public officers to obtain an advantage over their competitors by reason of their positions, even though a particular contract involving interest is fair and reasonable.[3] Because of their inability to cope effectively with the fact problems in cases where public officers have been found to have an interest, the courts have held that the fact of interest, regardless of the extent of the interest and good faith and fairness of the contract,[4] vitiates the contract.[5] Advisory opinions by the California Attorney General and by the various county and city counsels have been

I23-104 cont.

† The writers wish to express their appreciation to Professor Frank C. Newman, School of Law, University of California, Berkeley, for his helpful criticisms. They also wish to thank the many men active in public life who, in spite of their busy schedules, were so helpful in contributing background material and who had the time and patience to read the preliminary draft of this comment and offer suggestions. They are especially indebted to California State Senator George Miller, Jr.; Mr. Earl G. Waters, Executive Secretary of the California Senate Special Committee on Governmental Administration; Mr. Richard Carpenter, Executive Secretary and General Counsel of the League of California Cities; California Assemblyman Caspar W. Weinberger; Mr. Harold G. Reynolds, Legislative Representative of the California Construction Industry Legislative Council; and Mr. Ray T. Sullivan, Jr., Riverside County Counsel.

These men are not responsible for nor do they necessarily endorse anything contained in this comment.

[1] MATTHEW 6:24; LUKE 16:13. See also JOSHUA 24:15; JAMES 1:8; I KINGS 18:21; REVELATIONS 3:15, 16; ROMANS 6:16.

[2] See Stockton Plumbing and Supply Co. v. Wheeler, 68 Cal. App. 592, 229 Pac. 1020 (1924).

[3] *Cf.* 15 OPS. CAL. ATT'Y GEN. 123 (1950). See also LOS ANGELES COUNTY COUNSEL OPINION p. 3 (Nov. 13, 1951).

[4] Berka v. Woodward, 125 Cal. 119, 128, 57 Pac. 777, 780 (1899).

[5] Moody v. Shuffleton, 203 Cal. 100, 262 Pac. 1095 (1928); Berka v. Woodward, 125 Cal. 122, 57 Pac. 777 (1899). Also see text at note 58 *infra*.

almost uniformly conservative,[6] generally advising that a prohibited interest exists if the case is even slightly doubtful.[7]

On the other hand, there is the argument that we need competent men in the public service and that to prohibit all interest is to defeat or discourage that purpose. The men most qualified to be community leaders are most often those engaged in business or in the professions. With the present state of the law, many persons otherwise qualified and willing to serve the public are discouraged from serving because of the possibility of public disgrace and criminal penalties.[8] Furthermore, the public interest in getting the best possible contract from the standpoint of quality and economy must also be considered. A contract in which a public officer is interested might be the best possible contract for the public. Finally, uncertainty as to the law may tend to discourage competent contractors from entering contracts with governmental units.

I. THE PRESENT CALIFORNIA LAW[9]

Multiplicity of Statutory Provisions

At the present time there are numerous provisions regulating private interest of public officers in official matters. These provisions are scattered throughout the several codes, such as the Government Code,[10] Education Code,[11] Health and Safety Code,[12] Penal Code,[13] Public Utility Code[14] and Water Code,[15] to name the most important.[16] They are in many cases overlapping,[17] but some sections appear to be designed to meet a particular

I23-104 cont.

[6] Letter from Mr. Richard Carpenter, dated May 23, 1956: "I will agree absolutely with you that there are few, if any, hardship cases reported in California. Unfortunately, in 999 out of 1000 cases it is the Attorney General, the District Attorney or the City Attorney who is asked for an opinion, and because of dicta, politics, etc., the attorney's ruling is needlessly conservative and any statute that is devised must take this into consideration as well as the decisions which have been rendered on the subject."

[7] See note 52 *infra*.

[8] Copies of many letters to this effect, from persons concerned with the problem, are on file with the California Law Review. Example: "For many years, persons engaged in construction—architects, engineers and suppliers of building materials have been discouraged from seeking or accepting public office." See LOS ANGELES COUNTY COUNSEL OPINION pp. 6–7 (Nov. 13, 1951); Note, *Temptation and Tradition in the California School Board*, 5 STAN. L. REV. 61 (1952).

[9] For a good survey of the California law prior to the 1955 legislative changes, see Kennedye and Beck, *Interest of Public Officers in Contracts Prohibited by Law*, 28 So. CALIF. L. REV. 335 (1955). See also *Temptation and Tradition in the California School Board*, 5 STAN. L. REV. 61 (1952). Reference may also be made to LOS ANGELES COUNTY COUNSEL OPINIONS (Nov. 13, 1951) and (Dec. 4, 1951).

[10] CAL. GOVT. CODE §§ 1090–1097, 1223, 3060, 36525–36528. *Cf.* CAL. GOVT. CODE §§ 19250–19251, 23006, 24054, 25008, 25042, 26003.

[11] CAL. ED. CODE §§ 1011–6, 11025.

[12] CAL. HEALTH & SAFETY CODE §§ 5730.35, 33236–33237, 32108.

[13] CAL. PEN. CODE §§ 99–100. *Cf.* CAL. PEN. CODE §§ 68, 70, 77, 165.

[14] CAL. PUB. UTIL. CODE §§ 12722, 12392. *Cf.* CAL. PUB. UTIL. CODE § 303.

[15] CAL. WATER CODE §§ 8573–5, 21195–6. *Cf.* CAL. WATER CODE §§ 152, 154, 188.

[16] See also CAL. BUS. & PROF. CODE § 19423; CAL. CORP. CODE § 25305; CAL. FIN. CODE §§ 234, 5209–10; and CAL. INS. CODE § 12901.e

[17] *E.g.*, CAL. HEALTH & SAFETY CODE §§ 5730.35, 32108; CAL. PEN. CODE §§ 99–100; CAL. WATER CODE § 21195.

problem.[18] Apparently some state administrative agencies have internal regulations dealing with the interest problem.[19] In addition, many cities and counties have charter provisions or local ordinances dealing with the subject.[20]

It should be parenthetically stated that the validity of the various city and county provisions is at least open to question.[21] The general rule is that charter cities, where "municipal affairs" are concerned, may make and enforce laws and regulations subject only to their charters.[22] Cities of the sixth class (general law cities), however, are subject to the Government Code,[23] as are non-charter counties.[24] As to counties with charters, the state constitution provides that a charter supersedes the general laws of the legislature "as to matters for which . . . it is competent to make provisions in such charter . . . ."[25] The question is: as to charter cities, what is a "municipal affair," and as to charter counties, what is a provision "competent" for a county to include in its charter? It is generally stated that where there is a conflict between state law and a county or municipal charter provision, the local law prevails except where the intent of the state law is to establish a state policy.[26] "The difficult question in such cases is whether the state law was intended to occupy the entire field,"[27] for if the state law was intended to occupy the entire field, then any local law dealing with the same subject matter might well be deemed to be in conflict with the state law. The strong public policy behind the state conflict of interest statutes, coupled with the identity or close similarity of many charters and ordinances, might result in a holding that the state law had occupied the field to the exclusion of the local law.[28] However, a local law imposing stricter

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[18] *E.g.*, CAL. HEALTH & SAFETY CODE § 33236; CAL. FIN. CODE §§ 5209–5210; CAL. INS. CODE § 12901.

[19] See 23 OPS. CAL. ATT'Y GEN. 204 (1953), upholding the validity of a proposed regulation of the State Board of Equalization dealing with interest of enforcement officers in licenses.

[20] *E.g.*, CHARTER OF THE CITY OF LOS ANGELES §§ 28, 28.1.

[21] See Kennedy and Beck, *Interest of Public Officers in Contracts Prohibited by Law*, 28 So. CALIF. L. REV. 335, 336–37 (1955).

[22] CAL. CONST. art. XI, § 6.

[23] CAL. GOVT. CODE §§ 36500, 36525–36528.

[24] CAL. CONST. art. XI, § 11: "Any county, city, town or township may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws." See Peppin, *Municipal Home Rule in California III: Section 11 of Article XI of the California Constitution*, 32 CALIF. L. REV. 341 (1944); and see Peppin, *Municipal Home Rule in California I and II*, 30 CALIF. L. REV. 1, 272 (1941, 1942).

[25] CAL. CONST. art. XI, § 7½ ("Effect of Charter").

[26] Shean v. Edmonds, 89 Cal. App.2d 315, 324, 200 P.2d 879, 885 (1948).e

[27] Pipoly v. Benson, 20 Cal.2d 366, 371, 125 P.2d 482, 485 (1942). See Grant, *Municipal Ordinances Supplementing Criminal Laws*, 9 So. CALIF. L. REV. 95 (1936).

[28] Apparently the question of the validity of the local provisions has never been squarely considered in a California appellate court. See Kennedy and Beck, *Interest of Public Officers in Contracts Prohibited by Law*, 28 So. CALIF. L. REV. 335, 336–37 (1955) and 26 OPS. CAL. ATT'Y GEN. 111 (1955). See also Grant, *Penal Ordinances in California*, 24 CALIF. L. REV. 123, 142 (1936). In the leading case of Stockton Plumbing and Supply Co. v. Wheeler, 68 Cal. App. 592, 597–98, 229 Pac. 1020, 1022 (1924), the court based its decision involving a municipal officer entirely on the Charter of the City of Stockton, considering the Penal and Political (now Government) Codes as reflecting "the general policy of the state . . . and that policy will always afford more or less aid in construing statutory and charter provisions upon the same

penalties or defining interest more narrowly than the state law might possibly be upheld.[29]

The Government Code and the Education Code

This comment deals mainly with Government Code sections 1090, 1091, 1092 and 1097,[30] and Education Code sections 1011, 1011.1, 1011.2, 1011.3, 1012 and 1013.[31] Of the numerous conflict of interest statutes, these appear to have the greatest state-wide application.

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subject where such provisions are phrased in language which is not altogether clear as to its real meaning or intent and scope." In the case of *In re* Shaw, 32 Cal. App.2d 84, 89 P.2d 161 (1939), a local provision making a certain offense a misdemeanor was held to be invalid in the face of a state statute making the same offense a felony.

[29] *Cf.* Markus v. Justice's Court, 117 Cal. App.2d 391, 396, 255 P.2d 883, 886 (1953). See 25 OPS. CAL. ATT'Y GEN. (1954), discussing a stricter provision than the state law in the Sacramento County Charter. This charter provision, which prohibited persons from serving on boards or commissions if such persons sell fire insurance to the county as agents or brokers was considered to be valid by the Attorney General. See also Kennedy and Beck, *Interest of Public Officers in Contracts Prohibited by Law*, 28 So. CALIF. L. REV. 335, 336 (1955). However, the California Supreme Court has stated that "local regulation is invalid if it attempts to impose additional requirements in a field which is fully occupied by statute." Tolman v. Underhill, 39 Cal.2d 708, 712, 249 P.2d 280, 282 (1952).

[30] CAL. GOVT. CODE § 1090: "Members of the Legislature, state, county, judicial district, and city officers shall not be interested in any contract made by them in their official capacity, or by any body or board of which they are members. Nor shall state, county, judicial district, and city officers be purchasers at any sale or vendors at any purchase made by them in their official capacity."

CAL. GOVT. CODE § 1091: "An officer shall not be deemed to be interested in a contract if his interest is:

(a)eThe ownership of less than 3 percent of the shares of a corporation for profit; ore

(b)eThat of a nonsalaried officer of a nonprofit corporation; ore

(c)eThat of an officer in being reimbursed for his actual and necessary expenses incurrede in the performance of official duty."e

CAL. GOVT. CODE § 1092: "Every contract made in violation of the provisions of Section 1090 may be avoided at the instance of any party except the officer interested therein. No such contract may be avoided because of the interest of an officer therein unless such contract is made in the official capacity of such officer, or by the board or body of which he is a member."

CAL. GOVT. CODE § 1097 is set forth in note 68 *infra*. The provisions of §§ 1093, 1094, 1095, and 1096 also deal with conflict of interest problems, but are more specialized. No revision of these latter sections appears necessary.

[31] CAL. ED. CODE §1011: "No member of the governing board of any school district shall be interested in any contract made by the board of which he is a member."

CAL. ED. CODE § 1011.1: "Except as provided in Section 1011.2, no contract or other transaction entered into by the governing board of any school district is either void or voidable under the provisions of Section 1011, nor shall any member of such board be disqualified or deemed guilty of misconduct in office under said provisions, if the circumstances specified in the following subdivisions exist:

(a)eThe fact of such interest is disclosed or known to the governing board and noted in the minutes, and the governing board thereafter authorizes, approves, or ratifies thee contract or transaction in good faith by a vote sufficient for the purpose withoute counting the vote or votes of such interested member or members, ande

(b)eThe contract or transaction is just and reasonable as to the school district at the timee it is authorized or approved."e

CAL. ED. CODE § 1011.2: "The provisions of Section 1011.1 shall not be applicable if the circumstances specified in any of the following subdivisions exist:

(a)eThe contract or transaction is between the school district and a member of the governing board of that district.e

(b)eThe contract or transaction is between the school district and a partnership or un-

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The general scope of these sections is to prohibit any "officer" from being "interested" in any "contract" made by him (or the public body of which he is a member) in his official capacity. The effect on the contracts made in violation of this general prohibition is total invalidity. The effect on the officers violating the prohibitions is criminal sanction and forfeiture of office.

For purposes of discussion, the recent legislative changes are considered separately. Therefore, that body of law which existed prior to the 1953 and 1955 changes will be first considered, and then the effect of the changes on that body of law will be discussed.

Meaning of the Term "Officer"

No attempt will be made in this comment to consider at any length the meaning of the word "officer." The term is construed to exclude mere employees, and the question of whether a person is an officer is primarily a question of functions performed and powers granted to the person involved.[32]

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incorporated association of which any member of the governing board of that district is a partner or in which he is the owner or holder, directly or indirectly, of a proprietorship interest.

(c) The contract or transaction is between the school district and a corporation in which any member of the governing board of that district is the owner or holder, directly or indirectly, of five percent (5%) or more of the outstanding common stock.

(d) A board member is interested in a contract or transaction within the meaning of Section 1011, and without first disclosing such interest to the governing board at a public meeting of the board, influences or attempts to influence another member or members of the board to enter into the contract or transaction.

CAL. ED. CODE § 1011.3: "The question of the validity or invalidity of a contract or other transaction entered into by the governing board of any school district where a member of the governing board of that district is interested in such contract or transaction, as well as the question of disqualification or misconduct in office of such interested member, shall be exclusively governed by the provisions of the Education Code which are hereby declared to and shall supersede (1) any and all provisions of law contained in any code or law of this State, except those which specifically refer to members of the governing board or school districts and which might otherwise be applicable and (2) any and all provisions of law contained in any charter or ordinance of a city, county, or city and county, which might otherwise be applicable."

CAL. ED. CODE § 1012: "In a school district which during the preceding fiscal year had an average daily attendance of 70 or less, a member of the governing board may receive a reasonable compensation from the district for necessary work and labor performed by him for the district in repairing the schoolhouse, fences, and other property belonging to the district, or in furnishing wood or other necessary supplies. In all such cases the requisition drawn in his favor in payment of services or supplies shall be signed by the other members of the governing board and shall be subject to approval by the county superintendent of schools."

CAL. ED. CODE § 1013: "Any contract made in violation of Sections 1011 or 1012 is void."

CAL. ED. CODE §§ 1014, 1015 and 1016 deal with bribery and corruption and do not require any revision. CAL. ED. CODE § 11025 is discussed in note 34 *infra*. Some revision of this section would be desirable, but because of the special problems involved the question was felt to be beyond the scope of this comment. The section involves transactions by school board members with their and *other* school boards and was restrictively construed in 19 OPS. CAL. ATT'Y GEN. 80 (1952).

[32] See Kennedy and Beck, *Interest of Public Officers in Contracts Prohibited by Law*, 28 So. CALIF. L. REV. 335, 337 (1955), and Southlands Co. v. City of San Diego, 211 Cal. 646, 297 Pac. 521 (1931). In general, see David, *The Tort Liability of Public Officers: Part I*, 12 So. CALIF. L. REV. 127, 130–36 (1939). *Cf.* Jarrett, *DeFacto Public Officers: The Validity of Their Acts and Their Rights to Compensation*, 9 So. CALIF. L. REV. 189, 191–211 (1936). Cases in

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Nature of the Prohibition

It should be noted that what is prohibited is a private interest in a contract made by the public officer (or public board or body of which he is a member) in his official capacity. There is apparently no general disqualification from holding office because of potential interest adverse to the public.[33]

Since the officer in his official capacity must make or participate in the making of the contract in which he is privately interested, an officer may validly contract with other public officers or boards.[34] For example, a county officer may contract with the county through a purchasing agent,[35] and a member of the legislature may contract with the state through the Department of Finance.[36] In effect the purchasing agent or Department of Finance acts as insulation between the officer and the governmental unit he represents.[37]

Finally, in determining the nature of the prohibition, it should be noted that the interest must be in a "contract." There are apparently "no California cases in which the doctrine of prohibited interest has been applied to a transaction which did not arise out of the usual and accepted definition of a contract, *i.e.*, a voluntary agreement,"[38] whether express or implied.

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which the particular individual concerned was held not to be an officer include Kennedy v. City of Gustine, 199 Cal. 251, 248 Pac. 910 (1926); Raisch v. Sanitary Dist. No. 1, 108 Cal. App.2d 878, 240 P.2d 48 (1952); Staheli v. City of Redondo Beach, 131 Cal. App. 71, 21 P.2d 133 (1933); Pacific Finance Corp. v. City of Lynwood, 144 Cal. App. 509, 1 P.2d 520 (1931). On the other hand, a special attorney to the Compton City Council was held to be an officer in Schaefer v. Berinstein, 140 A.C.A. 289, 295 P.2d 113 (1956).

[33] See 24 OPS. CAL. ATT'Y GEN. 119 (1954) where the Attorney General opined that while a legislature might make potential adverse interest a ground for disqualification from office, the California legislature had not yet done so. For a well reasoned argument supporting the view that potential adverse interest might constitute disqualification from holding office, see OPINION OF GEORGE W. PHILLIPS, JR., Counsel to the Board of Directors, Eden Township Hospital District, Alameda County (1954).

[34] Title Guarantee and Trust Co. v. Woody, 63 Cal. App.2d 209, 146 P.2d 252 (1944); 17 OPS. CAL. ATT'Y GEN. 44 (1951) (school board). *But see* 19 OPS. CAL. ATT'Y GEN. 80 (1952), wherein the opinion is given that under CAL. ED. CODE § 11025, a member of a school board is prohibited from doing business in his own behalf or on the behalf of others relating to the introduction of any personal property *in any public school in the state*, or from receiving any gift or reward for recommending such property. In this connection, see *Temptation and Tradition in the California School Board*, 5 STAN. L. REV. 61 (1952); and 1 OPS. CAL. ATT'Y GEN. 557 (1943) where the opinion is given that a supervisor from Sacramento County could not make a contract with a hospital when the controlling body of that hospital was composed of one supervisor from each of several counties, including one from Sacramento County. Compare this opinion with 6 OPS. CAL. ATT'Y GEN. 206 (1945).

[35] 3 OPS. CAL. ATT'Y GEN. 188 (1944).

[36] 14 OPS. CAL. ATT'Y GEN. 78 (1949).

[37] *Cf.* 3 OPS. CAL. ATT'Y GEN. 188 (1944) and 14 OPS. CAL. ATT'Y GEN. 78 (1949). See also 21 OPS. CAL. ATT'Y GEN. 90 (1953); Capital Gas Co. v. Young, 109 Cal. 140, 41 Pac. 869 (1895); Title Guaranty and Trust Co. v. Woody, 63 Cal. App.2d 209, 146 P.2d 252 (1944) (deputy county auditor could buy land at tax sale from county tax collector and in turn sell to the county auditor). *But see* 19 OPS. CAL. ATT'Y GEN. 72 (1952) for a questionable opinion somewhat to the contrary of the point expressed in the text.

[38] Kennedy and Beck, *Interest of Public Officers in Contracts Prohibited by Law*, 28 SO CALIF. L. REV. 335 (1955).

On the other hand, claims by public officers against the governmental unit, such as claims for expenses incurred in the scope of employment, tort claims, and welfare claims, are apparently not considered to be within the meaning of the term "contract."[39]

Nature of the Interest

"Interest" has been construed to mean private financial or pecuniary interest, direct or indirect,[40] although dicta in a few cases are in broader terms.[41]

Interest has been held or said to include such "direct" interests in the contract being made by the officer (or by the public body of which he is a member) as being sole proprietor of a firm making a contract with a governmental unit,[42] being a partner in a partnership making such a contract,[43] or being a stockholder in a corporation making such a contract.[44]

The "indirect" interest includes situations where the public officer concerned bears one of the following relationships to the person making the contract with the governmental unit: (1) employee of a sole proprietorship,

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[39] Los Angeles County Counsel Opinion pp. 25–36 (Nov. 13, 1951). *Accord,* 26 Ops. Cal. Att'y Gen. 287 (1955).

[40] Apparently the general American law is in accord with the present California law. See Rhyne, The Law of Municipal Contracts 33–35 (1952). See 10 McQuillin, Municipal Corporations 388 (3d ed. 1949); 2 Dillon, Municipal Corporations 1146 (5th ed. 1911).

[41] *E.g.,* Schaefer v. Berinstein, 140 A.C.A. 289, 301, 295 P.2d 113, 121 (1956). For a good discussion of the criteria used see Miller v. City of Martinez, 28 Cal. App.2d 364, 82 P.2d 519 (1938); Hobbs, Wall & Co. v. Moran, 109 Cal. App. 316, 293 Pac. 145 (1930); Stockton Plumbing and Supply Co. v. Wheeler, 68 Cal. App. 592, 229 Pac. 1020 (1924).

[42] Berka v. Woodward, 125 Cal. 119, 57 Pac. 777 (1899); Domingos v. Board of Supervisors, 51 Cal. 608 (1877); County of Marin v. Messner, 44 Cal. App.2d 577, 112 P.2d 731 (1941); County of Shasta v. Moody, 90 Cal. App. 519, 265 Pac. 1032 (1928); 26 Ops. Cal. Att'y Gen. 281 (1956) (contract made by school district with member of governing board for rental of temporary housing); 26 Ops. Cal. Att'y Gen. 5 (1955) (member of board of supervisors of Amador County who owns property under consideration as one of two possible locacations for couuty road cannot participate in prior deliberations and decisions as to location of such road [24 Ops. Cal. Att'y Gen. 119 (1954), cited in note 33 *supra,* appears contra on principle] and may not sell property to the county; but such property could be acquired by the county by condemnation proceedings); 4 Ops. Cal. Att'y Gen. 261 (1944).

In a recent case, Schaefer v. Berinstein, 140 A.C.A. 289, 295 P.2d 113 (1956), the special attorney for the Compton City Council was held to be an officer and to have a prohibited interest in purchases of city property from the city.

[43] In Osborn v. Stone, 170 Cal. 480, 490, 150 Pac. 367, 372 (1915), the court held that an allegation in a complaint alleging invalidity of a public contract with a law partnership was not demurrable where a member of such partnership was also a member of the board making the contract.

[44] Finch v. Riverside & A. Ry., 87 Cal. 597, 25 Pac. 765 (1891) (city trustee votes to approve street car franchise, said trustee being at the same time a subscriber to stock in the street car company); Miller v. City of Martinez, 28 Cal. App.2d 364, 82 P.2d 519 (1938) (shareholder in Shell Oil Co. as well as being office manager of a branch office of Shell Oil Co.). *Cf.* 3 Ops. Cal. Att'y Gen. 265 (1944) (school board member would receive a percentage of premiums paid to an association seeking to handle insurance for a school district).

partnership or corporation;[45] (2) husband, wife or minor child;[46] (3) principal or agent;[47] (4) landlord;[48] (5) salaried officer of a non-profit association to which the building contractor seeking the contract belonged;[49] (6) attorney;[50] (7) creditor.[51] This list should not be considered as exhaustive of the possibilities.[52]

On the other hand, where the interest was non-pecuniary, such as

[45] No cases or opinions were found involving the employee of a sole proprietorship or partnership. The following cases all involved employees of corporations: City of San Diego v. San Diego & L.A.R.R., 44 Cal. 106 (1872); Miller v. City of Martinez, 28 Cal. App.2d 364, 82 P.2d 519 (1938); Hobbs, Wall & Co. v. Moran, 109 Cal. App. 316, 293 Pac. 145 (1930); Stockton Plumbing and Supply Co. v. Wheeler, 68 Cal. App. 592, 229 Pac. 1020 (1924). See 24 OPS. CAL. ATT'Y GEN. 200 (1954) (funds of district agricultural association may not be deposited in bank where member of board of directors of the association is also an officer of the board); RIVERSIDE COUNTY COUNSEL OPINION 54–128 (April 26, 1954) (school board advised not to contract with a church for rental of classroom space because one of school trustees was pastor of the church).

[46] Nielsen v. Richards, 75 Cal. App. 680, 232 Pac. 480 (1925) (rationale: husband and wife have mutual duty of support, so employment of wife as a teacher by school superintendent-husband would directly add funds for support of the wife (husband's responsibility) and indirectly add a sum for his support). See 26 OPS. CAL. ATT'Y GEN. 287 (1955), where a distinction is drawn between a school board's decision to reimburse the wife of a school board member for transportation already furnished (under CAL. ED. CODE § 16255) and a contract to furnish such transportation. See text at note 39 *supra*. The Attorney General in 26 OPS. CAL. ATT'Y GEN. 281 (1955) refused to consider CAL. ED. CODE §§ 1011.1, 1011.2 and 1011.3 as permitting a wife of a school board member to contract with the school board. A literal reading of the new provisions favors the opposite result. See text at note 88 *infra*, and 5 OPS. CAL. ATT'Y GEN. 6 (1945) (school trustees cannot employ minor child of trustee as janitor; rationale: earnings of child belong to parent under California community property law). See also note 53 *infra*.

[47] *Cf.* People v. Becker, 112 Cal. App.2d 324, 246 P.2d 103 (1952). Defendant, a member of the Los Angeles Board of Education, as an insurance broker shared in commissions on insurance required to be obtained by the company that contracted for furnishing transportation to the schools.

[48] People v. Darby, 114 Cal. App.2d 412, 250 P.2d 743 (1952), *appeal dismissed*, 345 U.S. 937 (1953) (facts supported inference that defendant-landlord had agreed to accept the contractor as a tenant prior to the action of the school board, of which defendant was a member, in entering into the contract). *Cf.* RIVERSIDE COUNTY COUNSEL OPINION 53–141 (Oct. 5, 1953), where county counsel indicated that school board could not enter into a contract with the Carnation Company, for the reason that one trustee was a stockholder (and officer) in a frozen food locker plant which leased space to the Carnation Company. This decision is doubtful.

[49] 26 OPS. CAL. ATT'Y GEN. 111 (1955).

[50] People v. Elliott, 115 Cal.App.2d 410, 252 P.2d 661 (1953). See Oakland v. California Const. Co., 15 Cal.2d 573, 104 P.2d 30 (1940). *Cf.* Johnston v. Board of Supervisors of Marin County, 31 Cal.2d 66, 187 P.2d 686 (1947).

[51] *Cf.* Moody v. Shuffleton, 203 Cal. 100, 262 Pac. 1095 (1928).

[52] For instance, it was the opinion of the Attorney General that neither a county, hospital district, nor school district may enter into a contract with a dairy producer's cooperative for the purchase of dairy products if a member of the governing board of the governmental unit involved is also a *member* of such cooperative. The theory was that such member would have a direct financial interest in any contract so made by reason of sharing in the profits of such contract, and that because of the fiduciary nature of the governing body of the cooperative, a member who was also a public officer participating in the making of a contract with the cooperative would in effect be a purchaser at his own sale. 27 OPS. CAL. ATT'Y GEN. 254 (1956). It is such decisions as this that point up the need for statutory reform. It is to be noted, however, that the new disclosure provisions of the Education Code were not considered by the Attorney General to be sufficient to permit such a contract, which shows the danger of judicial and administrative defeat of remedial statutes.

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friendly or merely familial,[53] no violation of the codes is involved. In the absence of a prior express or implied agreement between a public officer and a person contracting with a governmental unit,[54] public officers are permitted to enter into contractual relationships with persons who themselves have contracts with the governmental unit.[55] That is, having obtained a contract with a governmental unit, the contractor may hire or subcontract with an officer who participated in the awarding of the contract to the contractor, provided there was no previous agreement relating to the subcontract. Interest of a public officer in a public utility is generally considered as no bar to the making of a valid contract by the governmental unit with the public utility, if the contract relates to services which the public utility is required by law to furnish to everyone.[56] Finally, certain interests which the officers have in common with others, such as being within a special assessment district, are not within the prohibition.[57]

Effect on the Contract of Violation of the Prohibition

The effect of a direct or indirect interest on the part of any officer making a contract in his official capacity is to make the contract absolutely void.[58] Persons who have delivered goods or rendered services under such contracts are denied any recovery.[59] Recovery may not be had in quasi-contract.[60] Furthermore, the governmental unit is entitled to recover back amounts paid under such contract,[61] without the necessity of tendering or

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[53] 21 OPS. CAL. ATT'Y GEN. 228 (1953) (school district may legally employ adult daughtero of member of hoard of trustees). See RIVERSIDE COUNTY COUNSEL OPINION 52–157 (June 26, 1952) (son-in-law). For a discussion of the problem of familial relationship, see 21 OPS. CAL. ATT'Y GEN. 228 (1953); Annot., 74 A.L.R. 792 (1931).

[54] People v. Deysher, 2 Cal.2d 141, 40 P.2d 259 (1934) (jury finding of implied prior agreement upheld).

[55] County of Contra Costa v. Soto, 138 Cal. 57, 70 Pac. 1019 (1902); Escondido Lumber, Hay & Grain Co. v. Baldwin, 2 Cal. App. 606, 84 Pac. 284 (1906). *Cf.* People v. Deysher, 2 Cal.2d 141, 40 P.2d 259 (1934). See Oakland v. California Const. Co., 15 Cal.2d 576, 104 P.2d 30 (1940); Martin Bros. Inc. v. City of Concord, 110 Cal. App.2d 215, 242 P.2d 406 (1952); RIVERSIDE COUNTY COUNSEL OPINION 55–134 (Oct. 26, 1955).

[56] Capital Gas Co. v. Young, 109 Cal. 140, 41 Pac. 869 (1895); Hotchkiss v. Moran, 109 Cal. App. 321, 293 Pac. 148 (1930); *cf.* Hobbs & Wall Co. v. Moran, 109 Cal. App. 316, 293 Pac. 145 (1930); 3 OPS. CAL. ATT'Y GEN. 201 (1944). See Santa Ana Water Co. v. Town of San Buenaventura, 65 Fed. 323 (C.C.S.D. Calif. 1895).

[57] United Real Estate and Trust Co. v. Barnes, 159 Cal. 242, 113 Pac. 167 (1911); Raisch v. Sanitary Dist. No. 1 of Marin County, 108 Cal. App.2d 878, 240 P.2d 48 (1952); Beale v. City of Santa Barbara, 32 Cal. App. 235, 162 Pac. 657 (1916).

[58] Although CAL. GOVT. CODE § 1092 is in terms of voidability, the courts have held that contracts made in violation thereof are void, for the reason that the statutes provide a penalty for the making of a prohibited contract. Berka v. Woodward, 125 Cal. 119, 57 Pac. 777 (1899); Stockton Plumbing and Supply Co. v. Wheeler, 68 Cal. App. 592, 229 Pac. 1020 (1924). See 15 OPS. CAL. ATT'Y GEN. 123 (1950) (relying in part on CAL. CIV. CODE § 1667(2)), and see CAL. GOVT. CODE § 23006 (contracts made by county supervisors in violation of law are void). Note that CAL. ED. CODE § 1013 specifically provides that contracts made in violation of the Education Code conflict of interest provisions are void.

[59] Domingos v. Board of Supervisors, 51 Cal. 608 (1877).

[60] Moody v. Shuffleton, 203 Cal. 100, 262 Pac. 1095 (1928).

[61] Suit may be brought by the public body or by a taxpayer: Osburn v. Stone, 170 Cal. 480, 150 Pac. 367 (1915); Miller v. City of Martinez, 28 Cal. App.2d 364, 82 P.2d 519 (1938). *Cf.* Raymond v. Bartlett, 77 Cal. App.2d 283, 175 P.2d 288 (1946) (taxpayers suit for injunc-

offering to tender back value received.[62] The fact that the contract is fair[63] or that it was awarded on the basis of the best bid[64] does not mitigate the consequences. Nor is it any defense that the party who made the contract with the governmental unit acted innocently or in good faith.[65] These results apparently follow even though the official is unaware of his interest, or being aware of his interest, makes disclosure[66] or abstains from voting[67] (subject to the 1955 changes discussed below).

Effect on the Officer of Violation of the Prohibition

Government Code section 1097[68] is the basic provision regarding sanctions for violation of the interest statutes. The sanctions are a fine of $1,000 or up to five years imprisonment. Conviction under Government Code section 1097 "forever [disqualifies the] officer from holding any office in this state." Prior to 1955 the section appeared to be applicable even to unknowing violations, for it provided that "every officer or person prohibited by the laws of this State from making or being interested in contracts . . . who violates any of the provisions of such laws is punishable . . . ."[69] The statute

tion to prevent payment by the governmental unit denied on the merits). *Rescission* is also available: Shakespear v. Smith, 77 Cal. 638, 20 Pac. 294 (1888); City of San Diego v. San Diego & L.A.R.R., 44 Cal. 106 (1872); City of Los Angeles v. Watterson, 8 Cal.App.2d 331, 48 P.2d 87 (1935). *Statute of limitations and laches:* see Schaefer v. Berinstein, 140 A.C.A. 289, 295 P.2d 113 (1956) (in action by taxpayer alleging fraud, 3-year statute of limitations set up by CAL. CODE CIV. PROC. § 338(4) runs from time of discovery of fraud); County of Marin v. Messner, 44 Cal. App.2d 577, 112 P.2d 731 (1941) (in action by district attorney to recover money paid by board of supervisors without authority, 3-year statute of limitations of CAL. CODE CIV. PROC. § 338(1) controls; laches or equitable estoppel not operative against the county [see the comment by H. Helmut Loring, entitled "Estoppel Against the Government in California" immediately preceding this comment]). *Collateral attack:* Southlands Co. v. City of San Diego, 211 Cal. 646, 297 Pac. 521 (1931) (action to enjoin work on a bridge); Capron v. Hitchcock, 98 Cal. 427, 33 Pac. 431 (1893) (action by contractor to enforce lien of assessment for street work—successfully defended on ground of invalidity of construction contract); Finch v. Riverside & A. Ry., 87 Cal. 597, 25 Pac. 765 (1891) (action of ejectment based on invalidity of franchise).

[62] Berka v. Woodward, 125 Cal. 119, 57 Pac. 777 (1899); Miller v. City of Martinez, 28 Cal. App.2d 364, 82 P.2d 519 (1938); Stockton Plumbing and Supply Co. v. Wheeler, 68 Cal. App.2d 592, 229 Pac. 1020 (1924).

[63] Capron v. Hitchcock, 98 Cal. 427, 33 Pac. 431 (1893). *Cf.* 15 OPS. CAL. ATT'Y GEN. 123 (1950); Stockton Plumbing and Supply Co. v. Wheeler, 68 Cal. App. 592, 229 Pac. 1020 (1924).

[64] *Ibid.*

[65] *Ibid.*

[66] See Kennedy and Beck, *Interest of Public Officers in Contracts Prohibited by Law*, 28 So. CALIF. L. REV. 335, 345 (1955).

[67] Salada Beach Pub. Util. Dist. v. Anderson, 50 Cal. App.2d 306, 123 P.2d 86 (1942); Stockton Plumbing and Supply Co. v. Wheeler, 68 Cal. App. 592, 229 Pac. 1020 (1924).

[68] CAL. GOVT. CODE § 1097: "Every officer or person prohibited by the laws of this State from making or being interested in contracts, or from becoming a vendor or purchaser at sales, or from purchasing scrip, or other evidences of indebtedness, including any member of the governing board of a school district, who wilfully violates any of the provisions of such laws, is punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in the state prison for not more than five years, and is forever disqualified from holding office in this State." [This provision was formerly CAL. PEN. CODE § 71 (repealed Cal. Stat. 1943, c. 134, p. 1010)].

[69] See text at note 82 *infra* for a discussion of the effect of the addition of the word "wilful" to § 1097 in 1955.

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in that form was applied in two cases and held to be constitutional,[70] but in both cases the facts were sufficient to support a finding of wilful and knowing violation of the law.[71] It was also held that the penal provisions of section 1097 were applicable to violations of the Education Code, even though the Education Code at the time did not specifically provide for criminal penalties.[72]

Aside from the criminal penalties provided by section 1097, Government Code sections 3060 to 3073[73] provide a procedure for removal from office of certain officers guilty of wilful or corrupt misconduct in office. This procedure has been used in two cases involving conflict of interest. In *People v. Becker*,[74] the court admitted the "unquestioned honesty and integrity" of the defendant, but held that " 'wilful and corrupt misconduct in office' does not necessarily imply corruption or criminal intention. It means 'simply a purpose or willingness to commit the act'; . . . . 'The mere doing of an act forbidden by the statute is the sum total of the judgment against him.' "[75] The terms "wilfully" and "corruptly" are defined in the Penal Code.[76] In the other case, *People v. Elliott*,[77] the facts were held to warrant a conviction of both wilful and corrupt misconduct, and section 3060 was held applicable to school board members.

Effect of Recent Amendments

In 1951 a comprehensive revision of the Government Code sections passed both the California assembly and senate,[78] only to be vetoed by the

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[70] People v. Deysher, 2 Cal.2d 141, 40 P.2d 259 (1934); People v. Darby, 114 Cal. App.2d 412, 250 P.2d 743 (1952), *appeal dismissed* 345 U.S. 937 (1953).

[71] People v. Deysher, 2 Cal.2d 141, 151, 40 P.2d 259, 263 (1934); People v. Darby, 114 Cal. App.2d 412, 429, 250 P.2d 743, 755 (1952), *appeal dismissed* 345 U.S. 937 (1953).

[72] *Id.* at 423, 250 P.2d at 751.

[73] CAL. GOVT. CODE § 3060: "An accusation in writing against any officer of a district, county, or city, including any member of the governing board of a school district, for wilful or corrupt misconduct in office, may be presented by the grand jury of the county for or in which the officer is elected or appointed. An accusation may not be presented without the concurrence of at least 12 grand jurors."

CAL. GOVT. CODE § 3072: "Upon a conviction and at the time appointed by the court it shall pronounce judgment that the defendant be removed from office. To warrant a removal, the judgment shall be entered upon the minutes, and the causes of removal shall be assigned therein."

[74] 112 Cal. App.2d 324, 326, 246 P.2d 103, 104 (1952). For another aspect of this case (effect of resignation from office prior to trial), see People v. Becker, 108 Cal. App.2d 764, 239 P.2d 898 (1952).

[75] People v. Becker, 112 Cal. App.2d 324, 326, 246 P.2d 103, 104 (1952).

[76] CAL. PEN. CODE § 7: " . . . The following words have in this code the signification attached to them in this section, unless otherwise apparent from the context: 1. The word 'willfully,' when applied to the intent with which an act is done or omitted, implies simply a purpose or willingness to commit the act, or make the omission referred to. It does not require any intent to violate law, or to injure another, or to acquire any advantage; . . . 3. The word 'corruptly' imports a wrongful design to acquire or cause some pecuniary or other advantage to the person guilty of the act or omission referred to, or to some other person; . . . 5. The word 'knowingly' imports only a knowledge that the facts exist which bring the act or omission within the provisions of this code. It does not require any knowledge of the unlawfulness of such act or omission; . . . ."

[77] 115 Cal. App.2d 410, 252 P.2d 661 (1953).

[78] Cal. Senate Bill 370 (1951).

governor.[79] The changes in general would have established a bidding procedure whereby the lowest responsible bid could have been accepted, even though a public officer might have been directly interested in the contract. Certain other changes would have been made, which were later enacted into law in 1955.

In 1953, certain technical changes were made.[80] Many important changes were made in 1955 to the Government Code and Education Code conflict of interest sections. Dealing first with the Government Code, section 1091 was amended to provide that an officer should not be deemed to be interested in a contract if his interest was the ownership of less than three percent (3%) of the shares of a corporation for profit, or that of a non-salaried officer of a non-profit corporation.[81] The reimbursement for expense provision enacted in 1943 was retained. In addition, the word "wilful" was added to section 1097, so that the penal provisions now operate only in case of "*wilful*" violation of the prohibition.[82] Section 1097, as well as section 3060,[83] were made specifically applicable to members of the governing board of a school district, thus codifying the holdings to that effect in *People v. Darby*[84] and *People v. Elliott*.[85]

The most significant changes were made to the Education Code by the addition of sections 1011.1, 1011.2, and 1011.3,[86] which distinguish between "direct" and "indirect" interests. It is provided that contracts are void where one of the board members is a contracting sole proprietor, or a partner in a contracting firm, or a greater than five percent (5%) shareholder in a contracting corporation. For more remote interest relationships, the contact is not void or voidable because of interest if (1) the interested member discloses his interest to the board, (2) the vote approving the contract is sufficient for such purpose without counting the vote of the interested officer, (3) the contract is just and reasonable at the time it was authorized or approved, and (4) prior to disclosure the member did not influence or attempt to influence his fellow board members. No provision is made for "innocent" non-disclosure. Section 1011.3 declares that the question of the validity or invalidity of a contract or other transaction entered into by the school board, involving interest, is exclusively governed by the Education Code. Declared to be superseded are all other

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[79] Cal. Senate Journal, vol. 3, p. 2790 (1951).

[80] CAL. GOVT. CODE §§ 1090 and 1091 as they then existed were consolidated into § 1090, and a new § 1091 was enacted which exempted from the operation of § 1090 claims of public officers for reimbursement of actual and necessary expenses incurred in the performance of official duty. The last sentence of § 1092 as it presently reads was also added. Cal. Stat. 1953, c. 1081. Parallel amendments were made by the same bill to the CAL. GOVT. CODE §§ 36525–36527, governing sixth class (general law) cities.

[81] Cal. Stat. 1955, c. 1325. CAL. GOVT. CODE § 36526 was similarly amended by the same chapter.

[82] Cal. Stat. 1955, c. 1125. See note 76 *supra*.

[83] *Ibid.*

[84] 114 Cal. App.2d 412, 250 P.2d 743 (1952), *appeal dismissed* 345 U.S. 937 (1953).

[85] 115 Cal. App.2d 410, 252 P.2d 661 (1953).

[86] Cal. Stat. 1955, c. 1125. See 26 OPS. CAL. ATT'Y GEN. 281 (1955) and 27 OPS. CAL. ATT'Y GEN. 254 (1956), construing the new sections narrowly.

code provisions except those which specifically refer to members of school boards (*i.e.*, Government Code sections 1097 and 3060)[87] and all provisions contained in any local charter or ordinance, which might otherwise be applicable.

Conclusion as to Present California Law

There is an unnecessary and confusing multiplicity of statutes, charters and ordinances regulating conflict of interest in public contracts. Harsh results follow from the failure to treat indirect interests diffierently from direct interests. The only comprehensive scheme differentiating between direct and indirect interests is found in the Education Code, which has but limited application. Moreover, the Education Code is deficient in its failure to provide for the effect of "innocent" non-disclosure and in its failure to provide relief for "good faith contractors."[88] Finally, the criminal provisions are not sufficiently specific as to the intent required for violation, and the penalties are so severe that they are seldom used.

II. PROPOSED LEGISLATION

Introduction

It seems clear that some change in the present law would be desirable. Because of the general failure of the law to recognize that certain interests on the part of public officers may be so remote as to substantially negate any implication of undivided loyalty, the law is being applied alike to both very direct and very remote interests. As a result, many people are worried about the possibility of competent men being not only unwilling to serve, but in a practical sense ineligible to serve in public office. This is the primary evil which the proposed statutes have set about to correct.

A number of different approaches to the problem are possible. In the following pages two proposed statutes are set forth, representing substantially different viewpoints.[89]

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[87] See notes 68 and 73 *supra*.

[88] See the comment in this issue entitled "Estoppel Against the Government in California," by H. Helmut Loring, for one method of protecting good faith contractors.

[89] Both proposed statutes proceed on the theory that Government Code §§ 1090 through 1097 should be repealed entirely, and that new Government Code sections, starting with § 1100, should be enacted to take the place of the repealed sections. By repealing the old sections and starting with a new series of section numbers, any possible confusion of the present Government Code sections with the proposed sections will be minimized. The new section numbers fall within the same article as the present sections, and the new numbers have apparently never been used before. In order that all persons affected by the changes might have sufficient notice, it would be desirable to delay the effective date until the January following the changes. (Statutes in California ordinarily become effective 90 days after the final adjournment of the legislative session in which the amendment was enacted. CAL. CONST. art. IV, § 1.)

As previously noted, aside from the problem of conflicting and duplicatory charters and ordinances, there is a great deal of unnecessary duplication within the various California codes. It is therefore recommended that a number of these provisions be amended or repealed:

As indicated, CAL. GOVT. CODE §§ 1090–1097 should be repealed and new GOVT. CODE provisions starting with § 1100 enacted. CAL. GOVT. CODE § 36525 (dealing with general law cities) should be amended to read: "The provisions of Sections 1100 through 1108 [or 1110] of the

Statute "A"[90]

The first alternative statute, Statute "A", is primarily designed to minimize the possibility that public officers will, while acting in their official capacities, be guided by their private interest in a contract rather than by the public interest. However, if a governmental board, acting in good faith and wholly in the public interest, enters into a contract it would make no difference whatsoever that one of its members is incidentally interested in or derives profit from that contract. Therefore, this statute would permit in general contracts in which public officers are interested to be entered into if certain procedures are followed.

Statute "A" is also based on the premise that the problems involved in entering into and in acting upon contracts for local governments are primarily of local and not state concern.

A state law which precludes the formation of a contract because of an interest is to a large degree arbitrary since it may be that despite any interest therein the contract is one highly beneficial to the local government. The local governing body is in a far better position to determine whether under a given set of circumstances a specific contract best serves the local public interest.

It should therefore to the largest extent possible be given authority commensurate with its responsibility. A corollary to this proposition is that control of the conduct of local governmental officials should be as far as possible left to the people of each local government. The most important function of a state statute is to insure that the fact of interest be disclosed to the public so that it can register its approval or dissent at the polls, or press for laws regulating the interest at the local level.

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Proposed Statute "A", therefore, is an attempt to establish procedures whereby dangers of partiality due to interest, dangers of discouraging competent men from public service, and dangers of interference with public

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Government Code apply with equal force to this article." CAL. GOVT. CODE §§ 36526, 36527 and 36528 should be repealed.

CAL. ED. CODE § 1013 (dealing with members of boards of education) should be amended to read: "The provisions of Sections 1100 through 1108 [or 1110] of the Government Code apply with equal force to this article." CAL. ED. CODE §§ 1011, 1011.1, 1011.2, 1011.3, and 1012 should be repealed.

CAL. PEN. CODE §§ 99 and 100 should be repealed, to remove certain provisions dealing with the superintendent of state printing, which is redundant in the face of the Government Code.

CAL. HEALTH & SAFETY CODE §§ 5730.35 and 32108 should be repealed. They deal with officers of municipal sewage districts and directors of hospital districts, respectively. The Government Code provisions would be adequate to cover these officers.

CAL. PUB. UTIL. CODE § 12722 should be repealed. This section deals with officers of municipal utility districts, and the Government Code provisions would adequately cover this officer.

CAL. WATER CODE §§ 8573, 8574, 21195 and 21196, as well as the title to article 6 of Chapter 1 of Part 3 of Division 11 of the Water Code should be repealed. These sections deal with officers of reclamation boards and irrigation districts, respectively. The Government Code sections will be adequate.

[90] This statute was drafted by David L. Norman and Eugene E. Reynolds, Jr.

officials in their attempt to obtain the best possible contracts for the government, are all reduced to a minimum.

The text of Statute "A", proposed as an addition to the Government Code, follows:

§ 1100. Definitions. As used in this act—

(a) "Governmental unit" shall mean all governmental organizations having a legislative body and existing under the authority of the constitution and laws of this state, including but not limited to counties, cities (general law or chartered), consolidated cities and counties, service districts (such as hospital and water districts), school districts, and the State of California.

(b) "Board or body" shall mean legislative bodies and administrative boards having the power to contract on behalf of any governmental unit, but shall not include the State legislature.

(c) "Governing board or body" shall mean any board or body of a governmental unit which has the overall responsibility of governing.

(d) "Subordinate board or body" shall mean any board or body of a governmental unit which is not the governing board or body.

(e) "Purchasing agent" shall include any person having the power, while acting in his official capacity but not as a member of a board or body, to purchase or sell, to negotiate, approve or enter into contracts, to approve claims, specifications, terms or conditions of contracts, or to inspect, approve or accept the performance of a contract on behalf of any governmental unit.

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Comment: These definitions are primarily illustrative. Since they are determinative of the coverage of the statute, they are extremely important, but adequate drafting would involve policy considerations beyond the scope of this comment and also can only be done by an expert in state and local government organization.

§ 1101. Duties and Prohibitions. (a) If a member of a board or body of any governmental unit has any interest, direct or indirect, in any contract or proposed contract which is the subject matter of consideration by that board or body or of any committee thereof;

(1) he shall, as soon as practicable after learning that a contract or proposed contract in which he has an interest is the subject matter of consideration by that board or body, disclose the fact of such interest to the other members of that board or body and cause such disclosure to be entered into the official minutes of that board or body; and

(2) he shall not influence or attempt to influence any vote, or himself vote on, or (except as provided in subsection (c) of this section or except to inform the board of his interest) take part in the consideration or discussion of any question with respect to such contract or proposed contract; and

(3) he shall, after any contract in which he has an interest is authorized, approved or ratified by that board or body or any final action is taken by that board or body respecting the terms or conditions of a contract or proposed contract in which he has an interest, execute a certificate under penalty of perjury stating that he has complied with all the requirements of this section, and such certificate shall be incorporated into the official minutes of that board or body.

Comment: This subsection represents the heart of the statute. In essence it imposes a duty upon the "interested" member of a board to disclose his interest and to refrain from participation in the consideration of "his" contract. The disclosure requirement is to enable the public to maintain a close check on the conduct of its

officers. If the public is convinced that an officer is using his position for private gain rather than for good public service, it can bring very effective pressures either to remove the officer or at least to curb the practice. If the "interested" officer is honestly convinced that "his" contract will be highly beneficial and in the best interest of the public, he will not hesitate to disclose his interest and to withdraw from participation in the consideration of the contract. If he is dishonest and therefore chooses not to disclose, he will be subject to criminal liability when the fact is discovered.

After disclosure, the "interested" member officer is not permitted to participate. This is to remove the possibility that in acting upon his own contract, he may be guided by his private rather than the public interest. It is to be noted that this section applies as well to existing contracts which are the subject of consideration by the board or body. It would seem possible that under the present provisions of the Education Code, a man becoming a member of a board after having contracted with it may keep his interest secret and freely participate in matters arising under the contract without liability.

By the use of the term "proposed contracts" in this section, the requirements are made applicable to preliminary proceedings involving, for example, decisions as to what specifications are to be required in accepting bids. But the section is not intended to apply to initial decisions as to whether a school building ought to be erected for which a contract will later be entered into, or to proceedings involving contracts with business competitors of any member of the board who is not otherwise interested in such contract.

The present requirement of the Education Code that the contract be "just and reasonable" in order to be valid has been omitted because those terms are hopelessly vague and because it is unwise to subject every contract to the scrutiny of the courts to be judged on its merits according to a vague standard—a function which is more properly administrative or legislative. The normal remedy for unreasonable contracting is at the polls. This subsection guarantees public access to the information relating to the private interests of its officials in public contracts. While this statute does not so provide, it may be desirable in the interest of governmental efficiency to exempt from the operation of section 1100 contracts below a certain minimal amount. But it would not be desirable to exempt contracts let to the lowest responsible bidder in view of the discretion remaining in the board to determine specifications for such contracts and the most responsible bidder.

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§ 1101(b). Except as provided in Section 1104 of this code, no board or body shall enter into a contract if any member of that board or body has an interest in such proposed contract arising because the parties thereto would be:

(1) the governmental unit for which the board or body acts, and

(2) (i) such member or an agent of such member; or

(ii) a partnership or other unincorporated association in which such member is a partner or owner directly or indirectly of any proprietary interest; or

(iii) a corporation in which such member is an owner directly or indirectly of more than five percent of the total capital stock issued by that corporation; or

(iv) a corporation, partnership or other organization or association of which such member is a director, president, general manager, or other similar executive officer. *Provided* that the provisions of subsection (b) of this section shall not be applicable where the partnership, corporation, organization or association is not organized for profit.

Comment: This subsection, specifying "direct" interest, is designed primarily to curb the practice of "logrolling." It proceeds on the assumption that where a member of a board has a substantial and direct interest in a proposed contract, his fellow board members might well be guided by his private interest rather than by public interest in entering into contracts. Therefore, a duty of non-participation is imposed upon all the members of the board where one or more of the specified direct interests are involved. It is not intended to affect in any way the validity of

the contract if it is nevertheless entered into. Criminal penalties are imposed in a later section upon board members who knowingly enter into such a contract, but in case of violation or in case the board lacked the knowledge of the interest involved, the validity of the contract is unaffected. Later in this statute there is a provision for avoidance of such contracts in limited situations, but this section does not affect the contract.

§ 1101(c). Nothing in this section shall prevent any interested member, after having disclosed his interest, from answering specific questions directed to him in an open meeting of the board or body by other members of that board or body whenever in their judgment it would be in the public interest to solicit some special information from such interested member; *provided* that each question and answer is to be entered into the minutes of the meeting.

Comment: To the largest extent possible the officials charged with responsibility for running any governmental unit should be the ones who make the decisions with respect to public contracts for that governmental unit. However, to some extent the interest statute proposed has resulted in a "half-a-councilman" situation. Under the provisions of § 1101(a) a member of a board possessing an interest is precluded from participating in the consideration and vote leading to a decision, yet it may be that this member was chosen for the public position he holds, because of some special skill, experience or knowledge which would be most valuable in making that very decision. This provision is designed to allow the governmental unit the benefit of the membership of such person but still safeguard the public interest in absolute impartiality.

§ 1101(d). Except as provided in Section 1104 of this code, no purchasing agent (as defined in Section 1100 of this code) shall in his official capacity enter into or act upon any contract or proposed contract in which he is interested directly or indirectly.

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§ 1101(e). In the case of married persons the interest of one spouse shall be deemed for purposes of this section to be also an interest of the other spouse; and for purposes of subsection (b) of this section the term member shall include the spouse of a member.

§ 1102. Validity of contracts. (a) Contracts made in violation of subsections (b) or (d) of Section 1101 of this code shall not be void but may be avoided by the governmental unit which is a party thereto or on behalf of such governmental unit by any owner of real property which is located within any area subject to the jurisdiction of such governmental unit unless such property owner is an interested person in such contract. Except for contracts avoided pursuant to this subsection, the validity of any contract entered into by a governmental unit shall not be affected by an interest which any person may have therein, unless expressly provided otherwise by statute, charter or ordinance.

Comment: Contracts entered into in violation of subsections (b) and (d) of section 1101 are per se extremely "suspect" and in order to furnish the greatest inducement to public officers to comply with the statutory safeguards provided for these situations, the governmental unit should be allowed to avoid such contracts solely because of the "interest" involved, *if* it would be to the advantage of such unit to do so. However, no private contractor should be able solely because of his "interest" to avoid a contract which has turned out to be a bad bargain for him. This section limits the persons who can avoid government contracts to those having a very high interest in seeing to it that each contract situation is resolved in a manner most advantageous to the governmental unit involved.

§ 1102 (b). If any contract shall be avoided pursuant to subsection (a) of this section, any party who entered into such contract in good faith and without knowledge of the existence of any prohibited interest therein may recover from the governmental unit the reasonable value of any benefits which he has conferred

upon such governmental unit in good faith reliance upon such contract. *Provided* that such recovery shall not exceed the actual costs incurred by him in good faith reliance on such contract or the total original contract price, whichever is lower.

§ 1103. Criminal Sanctions. (a) If any person fails to comply with any of the provisions of Section 1101 of this code, unless he proves that he did not know that a contract or proposed contract in which he had an interest was the subject of consideration by the board or body of which he is a member or that he did not know of his interest at the time he or the board or body of which he is a member acted upon such contract, he is guilty of a misdemeanor. Conviction shall work a forfeiture of office.

Comment: This section provides that lack of knowledge is a defense and therefore places the burden of proof in this respect upon the defendant. The felony penalty imposed by the present code is too harsh, and prosecutors hesitate to bring criminal proceedings. Therefore, the reduction to a misdemeanor should result in more frequent as well as more just enforcement.

§ 1103 (b). If any member of a board or body of any governmental unit votes other than pursuant to Section 1104 of this code to enter into any contract knowing that another member thereof has, in such contract, an interest of the type enumerated in subsection (b) of Section 1101 of this code, he is guilty of a misdemeanor. Conviction shall work a forfeiture of his office.

§ 1104. Referral systems. (a) (1) The governing board or body of each governmental unit is hereby authorized to establish procedures whereby any purchasing agent or board subordinate to such governing board or body, disqualified from acting upon any contract or proposed contract under the provisions of Section 1100 of this code, may refer the matter to such governing board or body. If, after consideration in public meeting, such governing board or body shall determine that the public interest would be served thereby, it may remove such disqualification and may, upon such terms and conditions as it may see fit to impose, authorize the purchasing agent or subordinate board to proceed to act upon the contract or proposed contract notwithstanding any disclosed interest the purchasing agent or member of the subordinate board may have therein. *Provided,* however, that no contract or proposed contract shall be referred under the provisions of this section to the state legislature or any committee thereof.

(2) Whenever such governing board or body shall remove any disqualification pursuant to subsection (2)(1) of this section, such board or body shall incorporate into the minutes of the meeting of that board or body at which such action has been taken a statement setting forth the reasons why such board or body considers such removal to be in the public interest and any terms or conditions which it may have imposed in connection with such removal.

(3) Where no governing board or body exists to which a purchasing agent or a subordinate board may refer any contract or proposed contract pursuant to this section, then such matter may be referred to the Governor who may, if in his judgment it would be in the public interest, remove such disqualification and may, upon such terms and conditions as he may see fit to impose, authorize such purchasing agent or subordinate board to act upon such contract or proposed contract notwithstanding any interest the purchasing agent or member of the subordinate board may have therein.

Comment: This subsection is designed to permit the entering into and acting upon contracts which could not otherwise be done by reason of the prohibitions of section 1101. The policy of Statute "A" is to promote the entering into contracts which are

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in the public interest. The referral system insulates the interested officers from the process of making the decision as to whether the contract or proposed action thereon is in the public interest. This device has the advantage of utilizing an existing disinterested board and keeping the matter on a local level as far as practicable, while at the same time leaving the responsibility of actually making the contract with those charged to do so. Disclosure provides an added safeguard against abuse.

§ 1104 (b) (1). The board of supervisors of each county is hereby authorized to create by ordinance a Board of Referred Powers.

(2) Whenever any governing board or body of any governmental unit located in whole or in part within a county in which a board of referred powers has been established in accordance with this section is disqualified from acting upon any contract or proposed contract by reason of Section 1101 of this code, such governing board or body may refer the matter to the Board of Referred Powers for that county. Such Board of Referred Powers is hereby authorized, acting in public session, to remove such disqualification subject to such terms and conditions as it may see fit to impose, whenever in its judgment the public interest requires such removal.

(3) The county board of supervisors shall provide by ordinance for all matters relating to the appointment and number of members, the functioning of the Board of Referred Powers and the procedure applicable in referring matters to it. Provided that:

(i) the services of such Board of Referred Powers shall be made available to all governmental units which are in whole or in part within the county; and

(ii) whenever any Board of Referred Powers shall remove any disqualification pursuant to this subsection it shall submit a written statement to the board or body from which the matter was referred and to the board of supervisors which created such Board of Referred Powers, setting forth in detail the reasons why such removal would be in the public interest and any terms and conditions it may have imposed in connection with such removal. Such statement is to be read at the next regular meeting of each board to whom it is submitted and become a part of the minutes of each meeting at which read.

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Comment: Because of restrictions imposed by section 1101, certain contracts could never be entered into or considered where, for example, so many members of a board have an interest in a proposed contract that their disqualification would make it impossible to act upon it, or where any member of the board has a "direct" interest in a contract. Yet in these situations it may be highly beneficial to the governmental unit to enter into the contract despite the interest therein. The referral board of this section is designed to provide a method whereby such contracts may nevertheless be considered and acted upon notwithstanding such interest. If the public interest would best be served by permitting the primary board to go ahead on a contract, the referral board is authorized to remove the disqualification imposed by this code. Such removal in effect confers upon the members immunity from prosecution and at the same time insures that the contract itself may not be avoided due to such interest.

This "immunizing" referral system avoids all the legal problems involved in shifting the power to contract to a separate, independent, outside board—problems which might occur if the referral board were given authority to make absolute recommendations respecting the entering into of such contracts. This method would also seem preferable as a matter of good administrative and political policy.

In order to avoid to the greatest extent possible the problem of political favoritism, collusion, and "log-rolling" between the members of the primary board and the referral board, this section requires disclosure of the grounds upon which the referral board decides that it is in the public interest to remove a disqualification. This again reflects one of the assumptions underlying this whole statute—that publicity is the most effective safeguard against the misconduct of public officials.

It is to be noted that this section permits a county board of supervisors to utilize the referral board which it has itself appointed. While this may tend to jeopardize the complete impartiality of the referral board, the disclosure provision should be adequate to mitigate the dangers of improper practices.

This section leaves to the boards of supervisors much discretion in the matter of who should be appointed to the referral board and for what terms. As alternatives, the statute might specifically provide, for example, that the referral board members are to be elected for fixed terms, or that the positions on the board should be occupied by the holders of other specific offices.

§ 1105. [This would be present CAL. GOVT. CODE § 1093.]
§ 1106. [This would be present CAL. GOVT. CODE § 1094.]
§ 1107. [This would be present CAL. GOVT. CODE § 1095.]
§ 1108. [This would be present CAL. GOVT. CODE § 1096.]

Comment: No revision of these sections is necessary. See note 89 *supra*. However, a penalty provision somewhat the same as present CAL. GOVT. CODE § 1097 would seem to be required to cover those latter sections as reenacted under proposed statute "A."

Statute "B"[91]

The second alternative statute, Statute "B", retains the present statutory scheme of first making a general prohibition against interest, and then making exceptions to this general prohibition. This approach assumes that the present policy is correct in demanding the undivided loyalty of public officers, but recognizes that there is an evil in the failure of the law to differentiate between very direct and very remote interests—competent men are being deterred from public service. While it is therefore desirable to change the law in some respects, the policy of undivided loyalty should be kept in mind and no more changes should be made than are needed to achieve the correction of the evil involved; a new policy should not be written into the law.

I23-104 cont.

The Statute "B" provides for disclosure of indirect interests, and in certain cases provides for restitutionary relief for "good faith contractors." But contracts involving direct interests are void *ab initio*, and no relief is provided for the "good faith contractor" in such case. While the rule may be arbitrary, the public is entitled to protect itself against chicanery.

Finally, Statute "B" reflects the viewpoint that personal interest of all public officers, state or local, in contracts made by them in their official capacity is a matter of state concern, and that state law should occupy the field to the total exclusion of local charters and ordinances.

The text of Statute "B", proposed as an addition to the Government Code, follows:

§ 1100. Except as otherwise provided in this article, no public officer shall be directly or indirectly interested in any contract made by him in his official capacity, or by any body or board of which he is a member, nor shall any public officer be purchaser at any sale or vendor at any purchase made by him in his official capacity, or by the body or board of which he is a member.

Comment: This is a restatement of present CAL. GOVT. CODE § 1090. The words "directly or indirectly" have been added. No attempt is made to legislatively define terms; many decades of litigation have given the word "officer," "direct or indirect," "interest" and "contract" accepted meaning. The statute is intended to apply to *all* public officers, whether state, regional, or local. The term "body or board" is intended to embrace the legislature, boards of supervisors, city councils, school boards, plan-

[91] This statute was drafted by Paul A. Peterson.

ning commissions, regional boards and state boards and commissions—in short, all public bodies having the power to contract are intended to be within the scope of the statute.

§ 1101. A public officer shall not be deemed to be interested in a contract if his interest is that of being reimbursed for his actual or necessary expenses incurred in the performance of official duty.

Comment: This is a reenactment of CAL. GOVT. CODE § 1091(c). It should be read in connection with CAL. GOVT. CODE § 1223, authorizing certain contracts involving reimbursement to be made.

§ 1102. Except as provided in Section 1103, no contract entered into by any body or board is either void or voidable under the provisions of Section 1104, nor shall any officers be subject to the provisions of Section 1109 or 3060 or this code, if all of the circumstances specified in the following subdivisions exist:

(a) The fact of the officer's interest is disclosed or known to the body or board of which the officer is a member and noted in the minutes or record; and

(b) The officer neither influences nor attempts to influence another officer to enter into the contract, and a certificate to such effect, executed under penalty of perjury, is within a reasonable time after such contract is entered into placed on file with the clerk of the body or board; and

(c) The officer abstains from voting on the contract and it is entered into in good faith by a sufficient vote for the purpose by the body or board in spite of the absence of such vote; and

(d) The contract is just and reasonable at the time it is entered into.

I23-104 cont.

Comment: This provision is based on present CAL. ED. CODE §§ 1011.1 and 1011.2. As will be seen from § 1103, the disclosure provisions are applicable only to situations involving "indirect" interest, and there is no provision for disclosure in a case where the contract is made by a single officer, such as a purchasing agent, as opposed to contracts made by a body or board. Direct interest is prohibited, and contracts involving direct interest are void. The Statute "B" also adopts the Education Code requirement that the contract be just and reasonable at the time it is entered into. There have been no cases dealing with this provision, but the provision gives the court authority to balance the equities in case a particular contract is contested. The requirement of justness and reasonableness seems necessary. The section is framed in such a way that the burden of proving compliance would be on the officer interested in the contract in case of a public or taxpayers' suit seeking to invalidate a contract. Statute "B" is applicable only to contracts actually entered into. There appears to be no good reason why an officer should be precluded from voting *against* a contract in which he is interested.

§ 1103. The provisions of Section 1102 shall not be applicable if the circumstances specified in any of the following subdivisions exist:

(a) The contract was entered into by a public officer in his official capacity other than as a member of a body or board; or

(b) The contract was entered into by the body or board with a member or agent of that body or board, or a spouse or minor child of a member of that body or board; or

(c) The contract is entered into by the body or board with a partnership or unincorporated association of which any member of the body or board is a partner or in which he is the owner or holder, directly or indirectly, of a proprietorship interest; or

(d) The contract is entered into by the body or board with a corporation in which any member of the body or board is the owner or holder, directly or indirectly, of five percent (5%) or more of the total capital stock of such corporation.

Comment: It will be noted that this section is in terms of exclusion from the operation of the preceding "disclosure" section. Subdivision (a) makes it clear that such officers as purchasing agents are not covered by any exception from the general prohibition against interest, even in case of indirect interest. The referral board procedure of Statute "A" might provide a satisfactory solution of this problem, although it is doubtful whether the conflict of interest problem with respect to professional public administrators is of much importance. It is to be noted that the spousal interest is by subdivision (b) placed within the definition of "direct" interest; the same is true with respect to minor children. This seems proper because of the community property laws.

§ 1104. Any contract made in violation of the provisions of this article is void; provided, however, that if the contract is not within any of the subdivisions of Section 1103, the contract is not void as against a good faith contractor who without knowledge of the existence of any prohibited interest on the part of an officer furnished goods or rendered services in reliance on the contract. In such case, such good faith contractor may recover from the governmental unit involved the reasonable value of any goods furnished or services rendered in reliance on the contract up to the amount of the original contract price.

Comment: This section in effect provides that "direct" interest contracts are void; and that "indirect" interests contracts are void if the requirements of Section 1102 are not fully complied with. However, in the case of indirect contracts the "good faith contractor" is entitled to quasi-contractual recovery and the contract is not void as to such "good faith contractor." Whether a contractor is in good faith will be primarily a question of fact, and the burden will rest on him to prove his good faith. No recovery is allowed to a "good faith contractor" where there is a direct interest involved.

I23-104 cont.

§ 1105. [This would be present CAL. GOVT. CODE § 1093.]
§ 1106. [This would be present CAL. GOVT. CODE § 1094.]
§ 1107. [This would be present CAL. GOVT. CODE § 1095.]
§ 1108. [This would be present CAL. GOVT. CODE § 1096.]

Comment: No revision of these sections is necessary. See note 89 *supra.*

§ 1109. Every public officer who knowingly and wilfully violates any of the provisions of this article, and every public officer who, as a member of a body or board, knowingly and wilfully fails to disclose any interest in a proposed contract, is punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment in the county jail for not more than one year, or both. Conviction under this section shall work a forfeiture of office.

Comment: Criminal liability for the officer is predicated upon knowing and wilful violation. CAL. PEN. CODE § 7 defines "knowingly" and "wilfully," and is set forth in part in note 76 *supra.* The effect of this proposed section is to place a fairly high standard of care upon the officer, but this appears to be consonant with the policy of prohibition of interest. It is to be noted that this section imposes a penalty for failure to disclose interest, and this includes non-disclosure of direct interest as well as non-disclosure of indirect interest, and includes not only contracts finally entered into but also all proposed contracts. If an officer other than the officer having the interest were to vote in favor of a prohibited contract, if the case were appropriate for criminal prosecution, CAL. GOVT. CODE § 3060, set forth in note 73 *supra,* would appear to be adequate to cover the case.

§ 1110. The question of the validity or invalidity of a contract entered into by any public officer or by any body or board, where interest of an officer is in issue, as well as the question of disqualification from holding office or imposition of criminal penalties, shall be exclusively governed by the provisions of the Gov-

ernment Code, which are hereby declared to and shall supersede any and all provisions of law contained in any charter or ordinance of a city, county, or city and county, which might otherwise be applicable. Except as otherwise specifically provided, the provisions of the Government Code apply with equal force to officers whose duties and powers are defined by other codes or statutes.

Comment: By this provision it is hoped to reduce the unnecessary duplication of provisions, and to thereby create uniformity throughout the state, to the extent possible. Conflict of interest is a matter of state, not local, concern. Provisions in other codes dealing with particular problems of interest are not affected by this provision.

Paul A. Peterson
David L. Norman
*Eugene E. Reynolds, Jr.**

I23-104
cont.

* Member, Third-Year Class.

ATTACHMENT 14

PSOMAS

MASTER-PLANNED COMMUNITIES / RESIDENTIAL

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

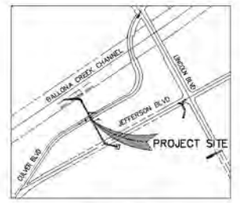
Services
Civil Engineering
Surveying
Hydrology
Entitlements
Natural Resources

Next Project

I23-105

NOTICE TO CONTRACTORS:

1. THE CONSTRUCTION SITE IS IN THE BALLONA WETLANDS ECOLOGICAL RESERVE OWNED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE. THE CONTRACTOR SHALL COMPLY WITH THE FOLLOWING CONDITIONS:
   - A. CONTRACTOR TO COORDINATE WITH THE OWNER FOR THE SPECIFIC PARKING LOCATION AND WALKING ACCESS PATH PRIOR TO, AND DURING CONSTRUCTION. THE CONTRACTOR SHALL OBTAIN WRITTEN CONFIRMATION FROM THE OWNER WHETHER TO PROCEED WITH OPTION 1 OR OPTION 2 PRIOR TO COMMENCING WORK. OPTION 1 LEAVES THE EXISTING RISER HEIGHT AS IS. OPTION 2 REQUIRES CUTTING RISER TO GROUND LEVEL.
   - B. OWNER'S REPRESENTATIVE WILL IDENTIFY SENSITIVE AREAS AND LIMITS OF VEGETATION REMOVAL/DISTURBANCE ALLOWED. CONTRACTOR IS TO AVOID SUCH AREAS.
   - C. CONTRACTOR IS TO OBTAIN APPROVAL FROM THE LOS ANGELES DEPARTMENT OF TRANSPORTATION FOR VEHICULAR PARKING CONDITIONS ALONG CULVER BOULEVARD.
   - D. CONTRACTOR TO FIELD MEASURE THE DIMENSIONS OF EACH OF THE TWO CMP RISERS PRIOR TO ORDERING THE FABRICATION OF THE GALVANIZED STEEL CAPS TO ENSURE A SNUG FIT OVER THE EXISTING CMP RISERS.
   - E. UP TO FOUR CONSTRUCTION WORKERS WILL WALK TO EACH RISER WITH A PORTABLE WELDER, BLOW TORCH, SHORT LADDER (6'), AND SHOVEL. NO VEHICLES ARE PERMITTED ON THE CONSTRUCTION SITE EXCEPT ON CULVER BOULEVARD.
   - F. OPTION 2 ONLY – A SHOVEL WILL BE USED TO REMOVE A SMALL WEDGE OF DIRT AROUND THE RISER SO THAT THE DIRT DOES NOT FALL INTO THE INLET. THE DIRT WILL BE PLACED ON A 4'X6' TARP NEXT TO THE RISER. THE AMOUNT OF DIRT IS ESTIMATED AT ONE EIGHTH OF A CUBIC YARD PER RISER USING A 0.5'X0.5' WEDGE AROUND THE PERIMETERS. OPTION 1 OMITS THIS STEP.
   - G. OPTION 2 ONLY – THE BLOW TORCH WILL BE USED TO CUT OFF THE TOP OF THE CMP LEVEL WITH THE SURROUNDING DIRT. OPTION 1 OMITS THIS STEP.
   - H. THE LADDER WILL BE LOWERED INTO THE PIPE AND USED FOR STANDING ON WHILE WORKING. THE CONSTRUCTION WORKER WILL WELD SMALL PIECES OF METAL (FORMED AND SIZED TO FIT) OVER EACH HOLE TO MAKE WATER TIGHT, ALONG WITH A FABRICATED FLAT METAL PLATE WITH EDGED RIM WOULD BE WELDED ON TO THE TOP OF THE RISER. AN APPROVED MARINE SEALANT/ADHESIVE (3M 5200 OR EQUIVALENT) SHALL BE USED AS NEEDED TO FULLY SEAL ALL HOLES AND LID TO ENSURE WATER TIGHTNESS.
   - I. OPTION 2 ONLY – THE DIRT ON THE TARP WOULD THEN BE PLACED BACK AROUND THE RISER. APPROXIMATELY ONE QUARTER CUBIC FOOT OF SOIL WOULD BE DISTURBED ALONG WITH THE CONSTRUCTION WORKERS ENTERING AND EXISTING THE PROPERTY. OPTION 1 OMITS THIS STEP.
   - J. OPTION 2 ONLY – THE RISERS WOULD END FLUSH TO THE GROUND. FOR OPTION 1, THE EXISTING RISERS WOULD REMAIN AS IS.
2. UNLESS OTHERWISE STATED, THE CONTRACTOR SHALL PERFORM ALL THE WORK SPECIFIED ON THE DRAWINGS AND WITHIN THE VARIOUS NOTES SHOWN HEREON.
3. ALL OFF SITE WORK SHALL COMPLY WITH THE REQUIREMENTS OF THE LOCAL GOVERNING AGENCY. CONTRACTOR SHALL SECURE AND PAY FOR ALL REQUIRED CONSTRUCTION PERMITS.
4. THE EXISTING CONDITIONS SHOWN ON THE PLANS WERE OBTAINED FROM AS-BUILT DRAWINGS FOR CITY OF LOS ANGELES PUBLIC WORKS B-PERMIT PLAN, INDEX NUMBER D-31527. ACCESS INTO THE WETLANDS RESERVE IS PROHIBITED. A PRE-BID SITE WALK WILL BE ARRANGED BY THE OWNER.
5. THE CONTRACTOR SHALL ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY, DURING THE COURSE OF CONSTRUCTION OF THIS PROJECT. THIS REQUIREMENT SHALL APPLY CONTINUOUSLY. THE CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD THE OWNER AND ENGINEER HARMLESS FROM ANY AND ALL LIABILITY REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT.
6. SHOULD CONFLICTING INFORMATION BE FOUND ON THE PLANS, THE CONTRACTOR SHALL NOTIFY THE PROJECT ENGINEER BEFORE PROCEEDING WITH THE WORK IN QUESTION.
7. WORK HOURS LIMITED TO 9:00AM TO 3:30PM.



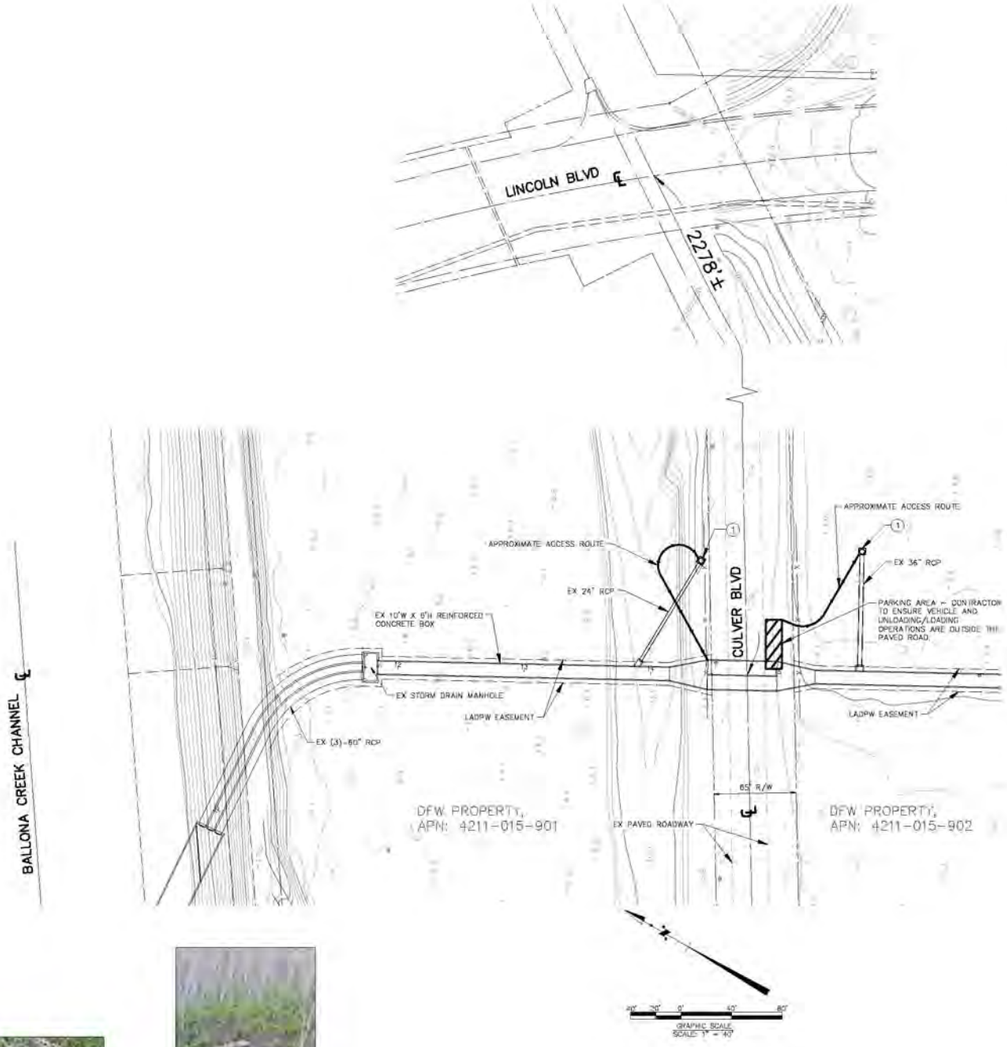
VICINITY MAP
N.T.S.

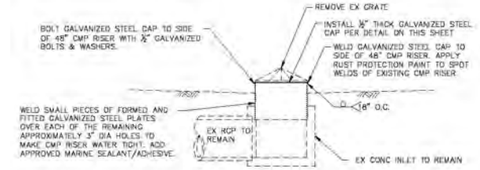
LEGEND:

(1)	CONSTRUCTION NOTE
EX	EXISTING
DIA	DIAMETER
RCP	REINFORCED CONCRETE PIPE
CMP	CORRUGATED METAL PIPE
CONC	CONCRETE
DFW	STATE OF CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
LADPW	CITY OF LOS ANGELES DEPARTMENT OF PUBLIC WORKS
N.T.S.	NOT TO SCALE
	SPOT ELEVATION
	CONTOUR ELEVATION LINE
	EASEMENT LINE
	CENTERLINE
	STREET RIGHT-OF-WAY
	APPROXIMATE ACCESS ROUTE
	EX WOODEN SPLIT RAIL FENCE

CONSTRUCTION NOTES

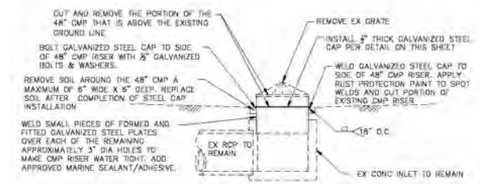
(1) REMOVE PORTION OF EX. DEBRIS RISER INLET AND INSTALL COVER PER DETAIL ON THIS SHEET.





DEBRIS RISER INLET REMOVAL (OPTION 1)

N.T.S.



DEBRIS RISER INLET REMOVAL (OPTION 2)

N.T.S.

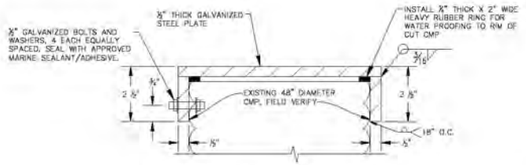
OWNER/APPLICANT:

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
P.O. BOX 1953
TOPANGA, CA. 90290
TELEPHONE: (310) 455-3242
CONTACT: RICHARD BRODY

APN: 4211-015-902 AND 4211-016-901

NORTH RISER

SOUTH RISER



GALVANIZED STEEL CAP*

N.T.S.

*NOTE: CAP MUST BE FABRICATED AND FULLY GALVANIZED PRIOR TO TRANSPORT TO THE CONSTRUCTION SITE

BENCH MARKS	BASIS
CITY OF LA SURVEY PBM "STMCO 17-02492 1972"	
2 FT E/O EAST CURB LINE OF LINCOLN BLVD, 19.4 FT N/O	
BC CURB RETURN N/O JEFFERSON BLVD. W END CB	
CITY OF LA PBM STAMPED "CT-02845 1972"	ELEV. 13.844' 1985 ADJ.
4 FT W/O WEST CURB LINE OF ALLA ROAD, 10.2 FT N/O BCR N/O JEFFERSON BLVD.	ELEV. 13.382' 1985 ADJ.

BALLONA WETLANDS RESERVE RISER REMOVAL EXHIBIT

PSOMAS

DATE: 03-02-17 REVISED ON:
JOB No: SHEET 1 OF 1

I23-105 cont.

From: Brody, Richard@Wildlife
To: Revell, Mandy@Coastal
Subject: RE: wetland delineation map
Date: Friday, December 01, 2017 10:29:20 AM

Call me at 310-210-4150

From: Revell, Mandy@Coastal [mailto:Mandy.Revell@coastal.ca.gov]
Sent: Friday, December 01, 2017 10:08 AM
To: Brody, Richard@Wildlife <Richard.Brody@wildlife.ca.gov>
Subject: RE: wetland delineation map

Yes.

Mandy Revell
Coastal Program Analyst
California Coastal Commission
South Coast Office

Mandy.revell@coastal.ca.gov
200 Oceangate, 10th Floor
Long Beach, CA 90802
(562) 590-5071

From: Brody, Richard@Wildlife [mailto:Richard.Brody@wildlife.ca.gov]
Sent: Friday, December 01, 2017 9:45 AM
To: Revell, Mandy@Coastal
Subject: RE: wetland delineation map

Do you need the conditions finalized for your staff report for the December hearing?

From: Revell, Mandy@Coastal [mailto:Mandy.Revell@coastal.ca.gov]
Sent: Friday, December 01, 2017 9:27 AM
To: Brody, Richard@Wildlife <Richard.Brody@wildlife.ca.gov>
Subject: RE: wetland delineation map

Perfect. Thanks. Please call to discuss conditions.

Mandy Revell
Coastal Program Analyst

I23-105 cont.

California Coastal Commission
South Coast Office

Mandy.revell@coastal.ca.gov
200 Oceangate, 10th Floor
Long Beach, CA 90802
(562) 590-5071

From: Brody, Richard@Wildlife [mailto:Richard.Brody@wildlife.ca.gov]
Sent: Friday, December 01, 2017 7:30 AM
To: Revell, Mandy@Coastal
Subject: RE: wetland delineation map

Attached is an electronic version of what you have hardcopy 11 x 17. You can print it 8.5 x 11

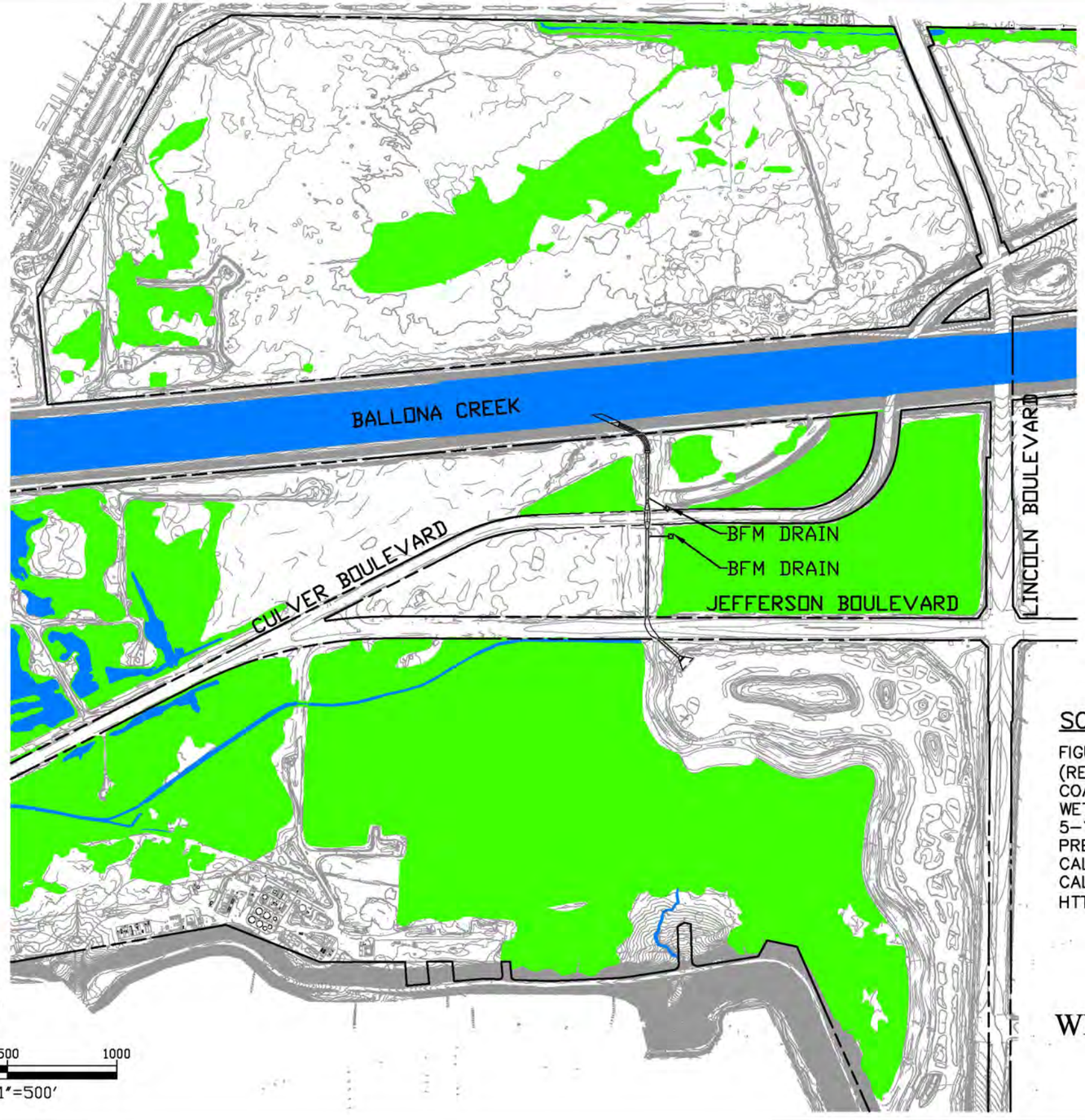
From: Revell, Mandy@Coastal [mailto:Mandy.Revell@coastal.ca.gov]
Sent: Thursday, November 30, 2017 6:16 PM
To: Brody, Richard@Wildlife <Richard.Brody@wildlife.ca.gov>
Subject: wetland delineation map

Hi Brody,
Can you please also send over the wetland delineation map as it relates to the drains. I have a large map, but not 8.5 by 11. Thanks!

Mandy Revell
Coastal Program Analyst
California Coastal Commission
South Coast Office

Mandy.revell@coastal.ca.gov
200 Oceangate, 10th Floor
Long Beach, CA 90802
(562) 590-5071

I23-105 cont.



LEGEND

- TIDAL WATERS
- WETLAND

SOURCE NOTE:

FIGURE 9, DELINEATED WETLAND MAP OF THE RESERVE (REPLICATED FROM WRA 2011 USING CALIFORNIA COASTAL COMMISSION DELINEATION BALLONA WETLANDS ECOLOGICAL RESERVE COMPREHENSIVE 5-YEAR MONITORING REPORT, DECEMBER 2015, PREPARED BY THE BAY FOUNDATION, PREPARED FOR CALIFORNIA STATE COASTAL CONSERVANCY AND CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE HTTP://BALLONARESTORATION.ORG/BASELINE-REPORTS/

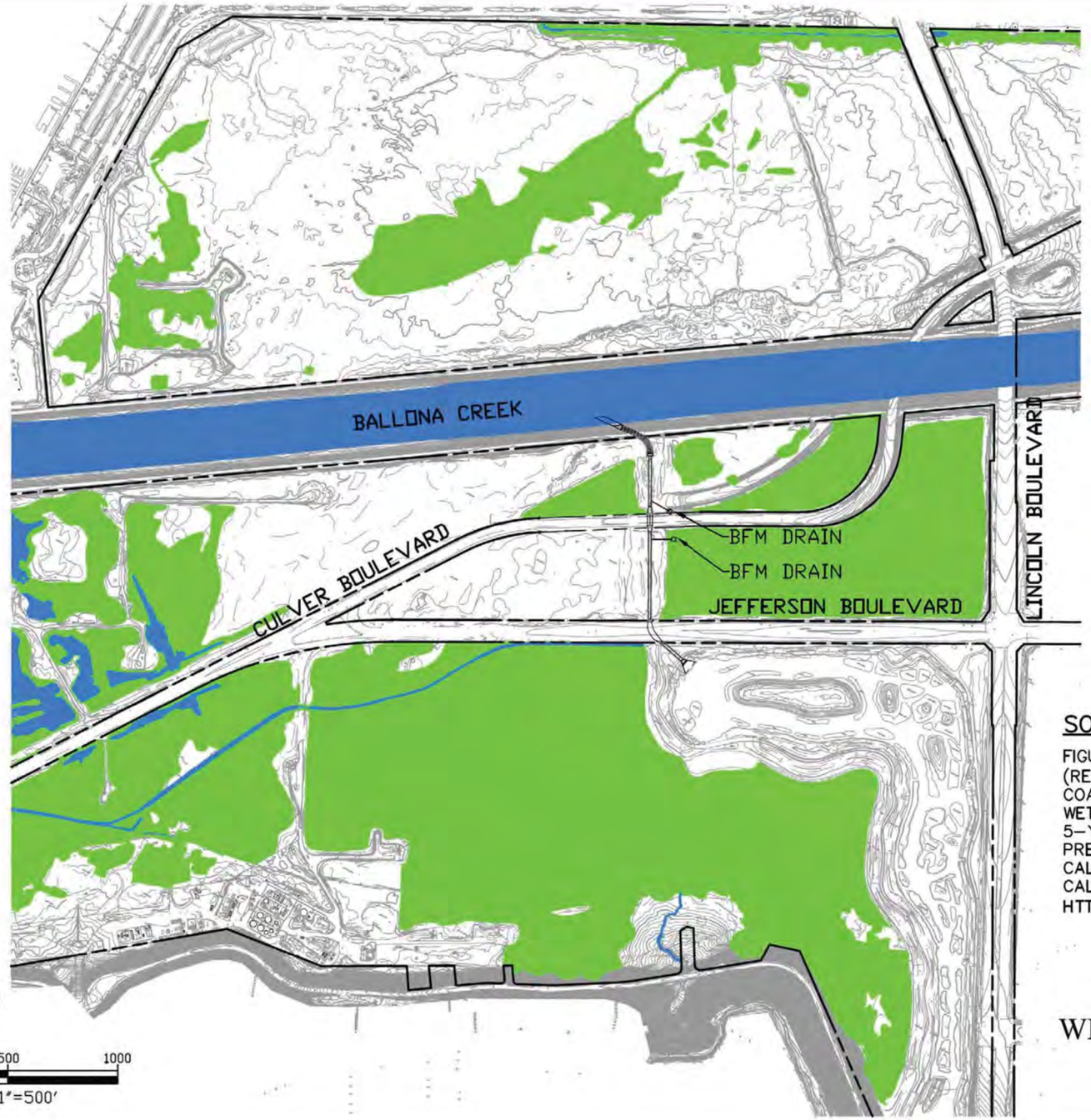
BALLONA WETLANDS RESERVE RISER ROMOVAL WETLAND DELINEATION EXHIBIT

PSOMAS

DATE: 04/28/17 REVISED ON:
JOB No:1CCC010100
SHEET 1 OF 1

Plotted - 6/12/2017 11:32:17 AM :: Saved - 5/30/2017 2:23:24 PM :: W:\1CCC010100\ENGR\EXHIB\17-0428 Site Plan, Vegetation, Wetlands Delineation\Ballona_Wetland_Delineation_Exhibit.dwg :: clint.rosser

I23-105 cont.



LEGEND

- TIDAL WATERS
- WETLAND

SOURCE NOTE:

FIGURE 9, DELINEATED WETLAND MAP OF THE RESERVE (REPLICATED FROM WRA 2011 USING CALIFORNIA COASTAL COMMISSION DELINEATION BALLONA WETLANDS ECOLOGICAL RESERVE COMPREHENSIVE 5-YEAR MONITORING REPORT, DECEMBER 2015, PREPARED BY THE BAY FOUNDATION, PREPARED FOR CALIFORNIA STATE COASTAL CONSERVANCY AND CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE HTTP: //BALLONARESTORATION.ORG/BASELINE-REPORTS/

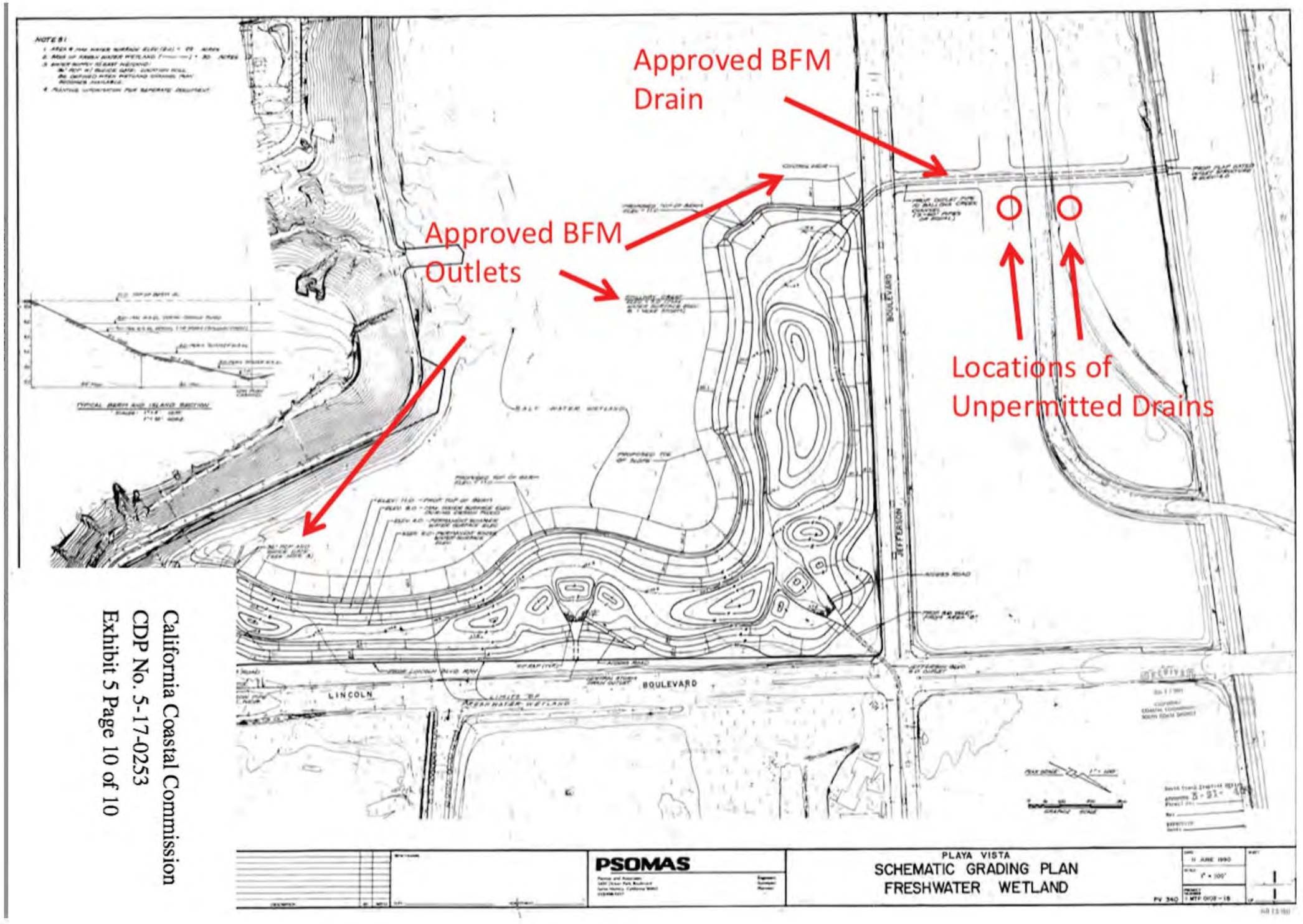
BALLONA WETLANDS RESERVE RISER ROMOVAL WETLAND DELINEATION EXHIBIT

PSOMAS

DATE: 04/28/17 REVISED ON:
JOB No:1CCC010100

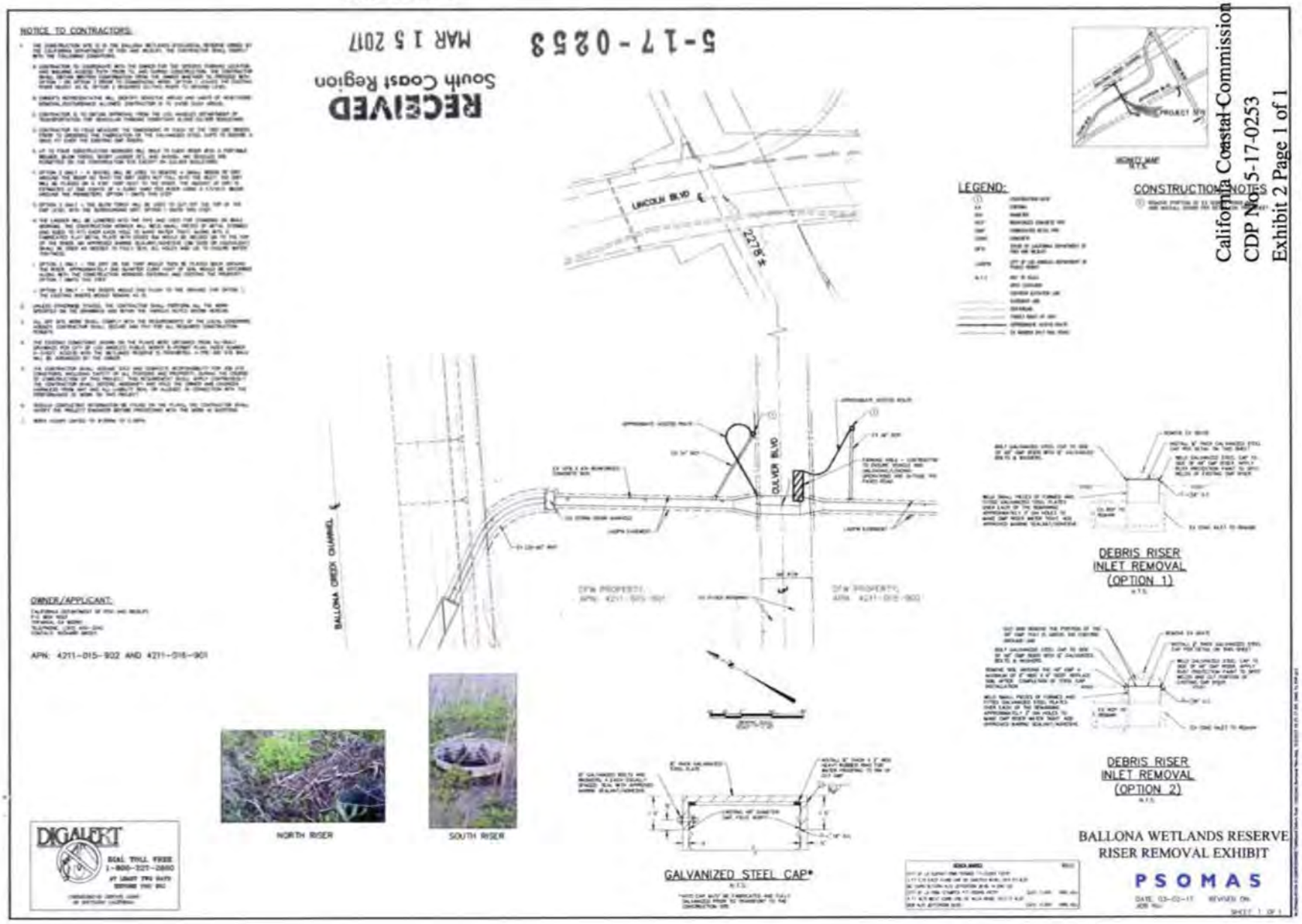
SHEET 1 OF 1

I23-105
cont.

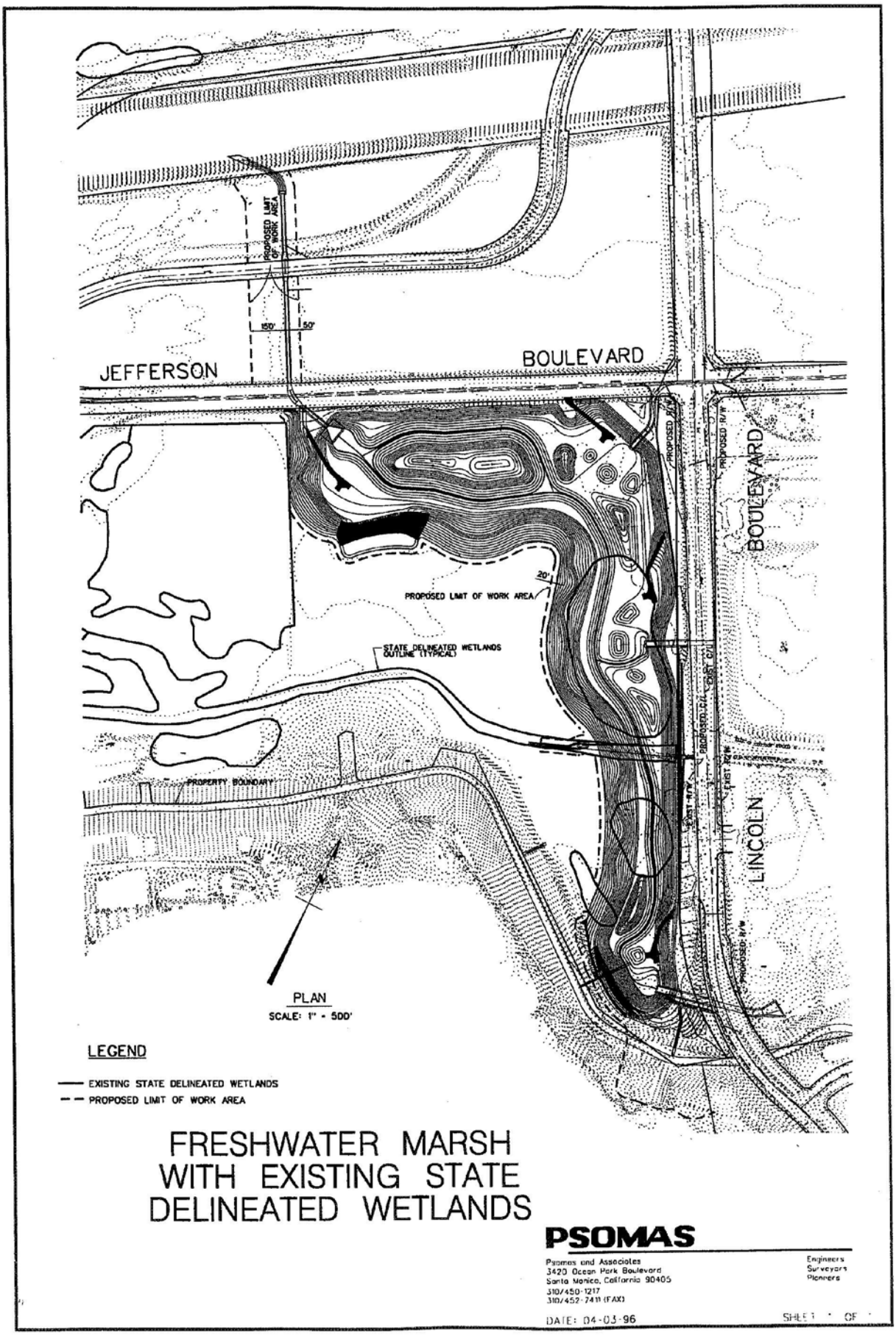


I23-105 cont.

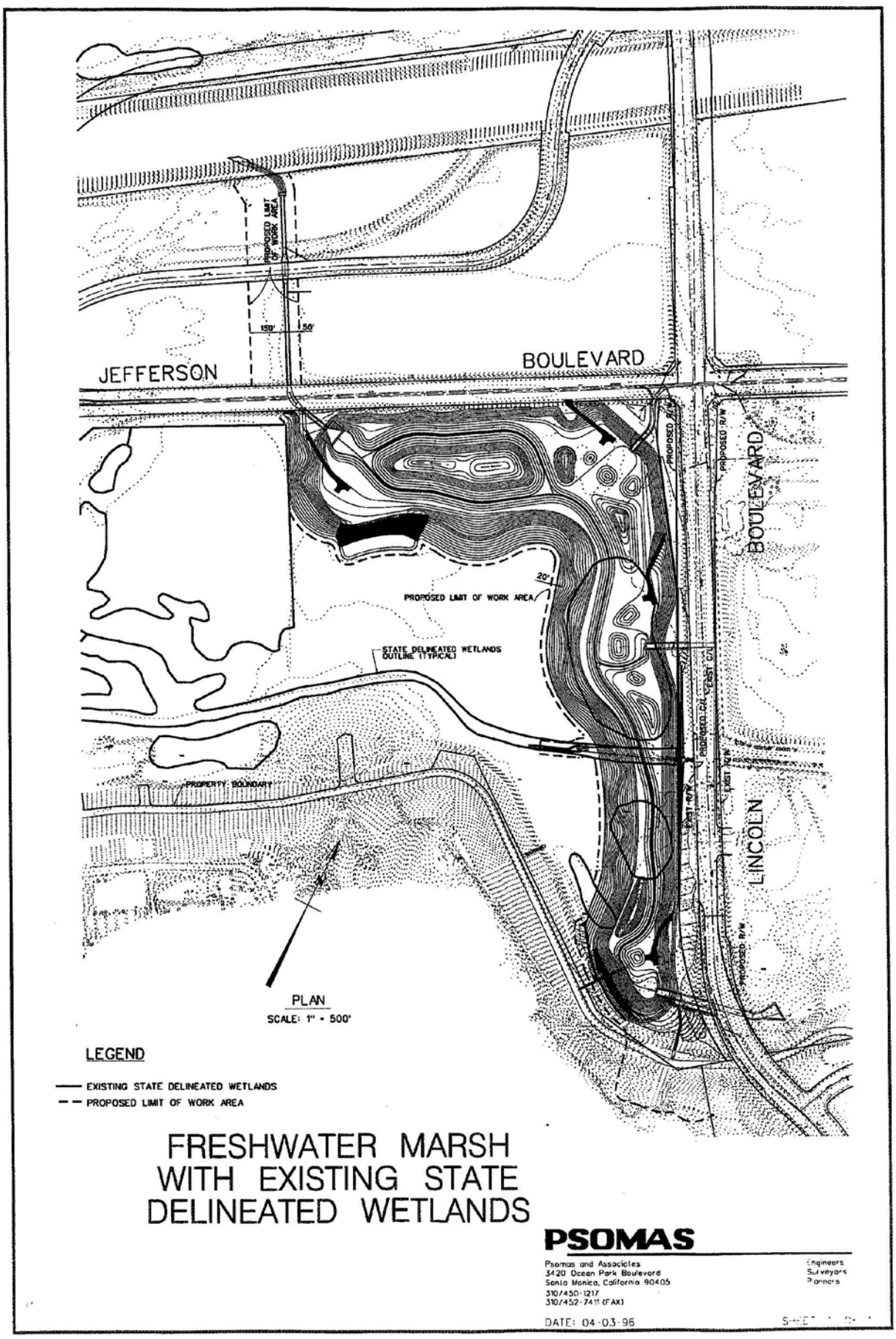
California Coastal Commission
CDP No. 5-17-0253
Exhibit 5 Page 10 of 10



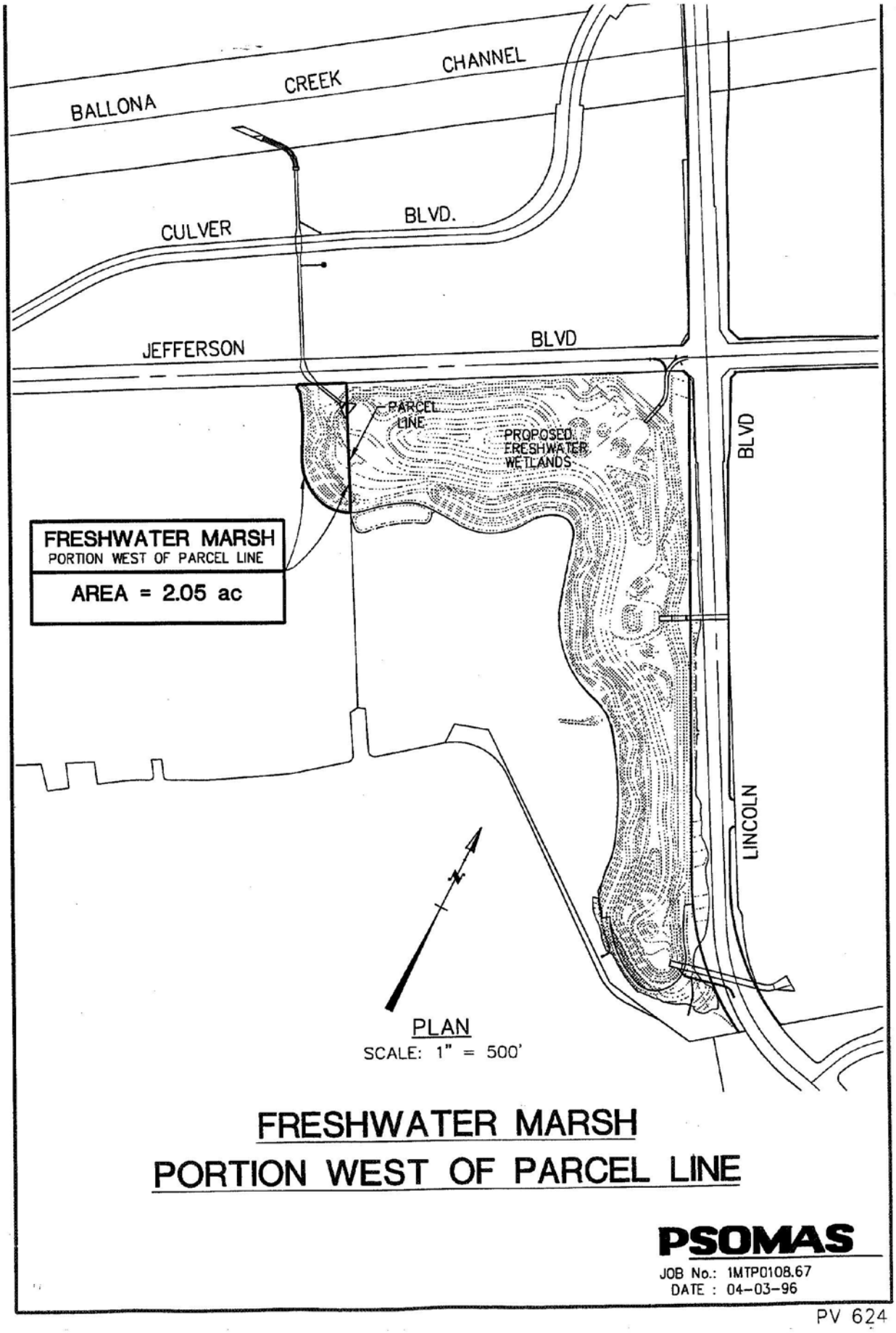
I23-105
cont.


JEFFERSON
BOULEVARD
BOULEVARD
LINCOLN
PROPOSED LIMIT OF WORK AREA
150'
50'
20'
PROPOSED LIMIT OF WORK AREA
STATE DELINEATED WETLANDS OUTLINE (TYPICAL)
PROPERTY BOUNDARY
PROPOSED R/W
PROPOSED R/W
PROPOSED R/W
EAST R/W
EAST C/L
PLAN
SCALE: 1" = 500'
LEGEND
EXISTING STATE DELINEATED WETLANDS
PROPOSED LIMIT OF WORK AREA
FRESHWATER MARSH
WITH EXISTING STATE
DELINEATED WETLANDS
PSOMAS
Psomas and Associates
3420 Ocean Park Boulevard
Santa Monica, California 90405
310/450-1217
310/452-7411 (FAX)
Engineers
Surveyors
Planners
DATE: 04-03-96
SHEET OF

I23-105
cont.


JEFFERSON
BOULEVARD
PROPOSED LIMIT OF WORK AREA
150'
50'
PROPOSED R/W
BOULEVARD
20'
PROPOSED LIMIT OF WORK AREA
STATE DELINEATED WETLANDS OUTLINE (TYPICAL)
PROPERTY BOUNDARY
EAST C/L
EAST R/W
LINCOLN
PROPOSED R/W
PLAN
SCALE: 1" = 500'
LEGEND
EXISTING STATE DELINEATED WETLANDS
PROPOSED LIMIT OF WORK AREA
FRESHWATER MARSH
WITH EXISTING STATE
DELINEATED WETLANDS
PSOMAS
Psomas and Associates
3420 Ocean Park Boulevard
Santa Monica, California 90405
310/450-1217
310/452-7411 (FAX)
Engineers
Surveyors
Planners
DATE: 04-03-96

I23-105
cont.


BALLONA
CREEK
CHANNEL
CULVER
BLVD.
JEFFERSON
BLVD
PARCEL LINE
PROPOSED FRESHWATER WETLANDS
BLVD
LINCOLN
FRESHWATER MARSH
PORTION WEST OF PARCEL LINE
AREA = 2.05 ac
PLAN
SCALE: 1" = 500'
FRESHWATER MARSH
PORTION WEST OF PARCEL LINE
PSOMAS
JOB No.: 1MTP0108.67
DATE : 04-03-96
PV 624

I23-105 cont.

From: Janna Scott
To: AR-Ballona
Subject: FW: [Non-DoD Source] Re: COMMENTS BWER DEIR/S John Davis
Date: Friday, February 9, 2018 2:51:30 PM
Attachments: JOHN DAVIS COMMENTS BWER DEIR-S ATTACHMENTS 15-21.pdf

---

From: Rogers, Bonnie L CIV USARMY CESPL (US) [mailto:Bonnie.L.Rogers@usace.army.mil]
Sent: Friday, February 9, 2018 1:54 PM
To: Janna Scott <JScott@esassoc.com>
Cc: Richard Brody <richard.brody@wildlife.ca.gov>
Subject: FW: [Non-DoD Source] Re: COMMENTS BWER DEIR/S John Davis

-----Original Message-----
From: JD [mailto:jd@johnanthonydavis.com]
Sent: Monday, 5 February, 2018 4:37 PM
To: Rogers, Bonnie L CIV USARMY CESPL (US) <Bonnie.L.Rogers@usace.army.mil>; chuck.bonham@wildlife.ca.gov; Gibbs, Kirk E COL USARMY CESPL (US) <Kirk.E.Gibbs@usace.army.mil>
Subject: [Non-DoD Source] Re: COMMENTS BWER DEIR/S John Davis

JOHN DAVIS BWER DEIR/S COMMENTS ATTACHMENTS 15-21

PLEASE NOTE THAT I SENT MY COMMENTS AND THREE FOLLOWING EMAILS WITH ATTACHMENTS.

PLEASE INCLUDE ALL SUBMISSION TOGETHER AS MY SUBMISSION

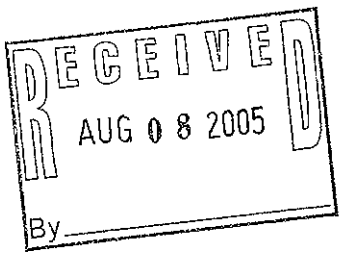
LIST OF SUBMISSIONS

COMMENTS
ATTACHMENTS 1-10
ATTACHMENTS 11-14
ATTACHMENTS 15-21

John Davis
PO 10152
Marina del Rey Ca 90295

ATTACHMENT 15

Coastal Conservancy



August 05, 2005

Steven H. Terusaki, President and CEO
Philip Williams and Associates, Ltd.
720 California Street, Suite 600
San Francisco, CA 94108-2404

Subject: Designation of Conservancy Project Manager/Contract No. 05-020

Dear Mr. Terusaki:

I23-106

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:lm

Enclosure

TMR
10/01

1330 Broadway, 11*th* Floor
Oakland, California 94612-2530
510·286·1015 *Fax*: 510·286·0470

TANDARD AGREEMENT— APPROVED BY THE ATTORNEY GENERAL

L 2 (REV. 5-91)

3760030589281

CONTRACT NUMBER	AM. NO.
05-020	

TAXPAYER'S FEDERAL EMPLOYER IDENTIFICATION NU: 94-3083005

IS AGREEMENT, made and entered into this 19th day of July, 2005, the State of California, by and between State of California, through its duly elected or appointed, qualified and acting

TLE OF OFFICER ACTING FOR STATE	AGENCY
Executive Officer	State Coastal Conservancy

, hereafter called the State, an

NTRACTOR'S NAME: Philip Williams and Associates, Ltd.

, hereafter called the Contract

ITNESSETH: That the Contractor for and in consideration of the covenants, conditions, agreements, and stipulations of the State hereinafter expres es hereby agree to furnish to the State services and materials as follows: *(Set forth service to be rendered by Contractor, amount to be paid Contrac ne for performance or completion, and attach plans and specifications, if any.)*

SCOPE OF AGREEMENT

Philip Williams and Associates, Ltd. ("the contractor") shall provide environmental and engineering services to and shall perform tasks for the State Coastal Conservancy ("the Conservancy") for the Ballona Wetlands Restoration Project in accordance with the Work Plan attached as Exhibit A and incorporated by reference. The contractor shall conduct the following specific tasks or subtasks, as more fully described in Exhibit A:

- Task 1: Project Refinement
- Task 2: Assemble Existing Data
- Task 3: Data Gap Analysis
- Task 4: Implement Data Collection Plan
- Task 5: Refinement of Objectives
- Task 6: Develop Restoration Alternatives

I23-106 cont.

(Continued on following pages)

ONTINUED ON _____ SHEETS, EACH BEARING NAME OF CONTRACTOR AND CONTRACT NUMBER.

The provisions on the reverse side hereof constitute a part of this agreement.

N WITNESS WHEREOF, this agreement has been executed by the parties hereto, upon the date first above written.

STATE OF CALIFORNIA	CONTRACTOR
GENCY: State Coastal Conservancy	CONTRACTOR (If other than an individual, state whether a corporation, partnership, etc.): Philip Williams and Associates, Ltd.
Y (AUTHORIZED SIGNATURE): > Samuel Schuchat	BY (AUTHORIZED SIGNATURE): ▷ Steven H. Terusaki
RINTED NAME OF PERSON SIGNING: Samuel Schuchat	PRINTED NAME AND TITLE OF PERSON SIGNING: Steven H. Terusaki, President and CEO
TLE: Executive Officer	ADDRESS: 720 California St. Suite 600, San Francisco, CA 94108-2404

AMOUNT ENCUMBERED BY THIS DOCUMENT: $455,000.00	PROGRAM/CATEGORY (CODE AND TITLE): Capital Outlay		FUND TITLE: Safe Neighborhood...	
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT: $-0-	ITEM: Reapprop. Ch. 761/03	CHAPTER: 761/03	STATUTE: 2000	FISCAL YEAR: 00/01
TOTAL AMOUNT ENCUMBERED TO DATE: $455,000.00	OBJECT OF EXPENDITURE (CODE AND TITLE): Resource Enhancement			
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.		T.B.A. NO.	B.R. NO.	
SIGNATURE OF ACCOUNTING OFFICER: Hong Ethong		DATE: 07/19/05		

Department of General Service Use Only

I Certify that this ~~grant agreement~~ contract/amendment is exempt from department of General Services approval

SCOPE OF AGREEMENT (Continued)

- Task 7: Feasibility Assessment
- Task 8: Hydraulic Modeling
- Task 9: Conceptual Restoration Plan
- Task 10: Project Management
- Task 11: External Meetings

The contractor shall perform all services in close consultation with Conservancy staff. If this agreement and the Work Plan (Exhibit A) conflict, then this agreement shall govern.

RIGHTS IN WORK PRODUCTS

Rights in all materials and work products produced under this agreement are the property of the Conservancy.

The contractor shall include in any contract with a subcontractor for work under this agreement a provision that preserves the rights created by this section, and that identify the Conservancy as a third-party beneficiary of that provision.

I23-106 cont.

TERM OF AGREEMENT AND EARLY TERMINATION

This agreement shall take effect when signed by both parties.

The term of this agreement is from its effective date through March 31, 2007. However, all work shall be completed by December 31, 2006 ("the completion date").

During this term, either party may terminate this agreement for any reason by providing thirty days written notice to the other party. Upon termination, the contractor shall take whatever measures are necessary to prevent further costs to the Conservancy under this agreement. The Conservancy shall be responsible for any reasonable and non-cancelable obligations incurred by the contractor in the performance of this agreement up to the date of notice to terminate, but only up to the unpaid balance of total funds authorized under this agreement.

COSTS AND DISBURSEMENTS

The total amount of funds disbursed under this agreement shall not exceed $455,000.00. Disbursements shall be made to the contractor on the basis of services rendered and costs

COSTS AND DISBURSEMENTS (Continued)

incurred to date upon to, upon satisfactory completion of each task in accordance with schedules, budgets, and other provisions of this agreement, and upon submission of an invoice, which shall be submitted no more frequently than monthly but no less frequently than quarterly.

Services shall be billed at no more than the standard billing rate for the following personnel of contractor for the period through December 31, 2006:

Principal	$194.00/hr
Associate Principal	$163.00/hr
Senior Associate	$143.00/hr
Associate 2	$127.00/hr
Associate 1	$117.00/hr
Hydrologist 2	$102.00/hr
Hydrologist 1	$92.00/hr
Hydrographer	$79.00/hr
Graphics / CADD	$90.00/hr
Desktop Publishing	$80.00/hr
Technicians	$63.00/hr
Clerical	$58.00/hr

I23-106 cont.

If work under this agreement is extended beyond December 31, 2006, the billing rates will be renegotiated.

Services shall be billed at no more than the standard billing rate for the following personnel of subcontractors for the period through December 31, 2006:

EDAW	
Senior Vice President	$256.25/hr
Principal	$222.43/hr
Senior Associate	$138.38/hr
Associate	$117.88/hr
Graphics	$117.88/hr
Technical Staff	$99.43/hr
Word Processing	$99.43/hr
Administration	$73.80/hr
Tierra Environmental	
Senior Restoration Ecologist	$112.50/hr

COSTS AND DISBURSEMENTS (Continued)

Keane Biological Consulting	
Senior Ornithologist	$90.00/hr
Weston	
Principal Investigator	160.79/hr
Project Manager	149.83/hr
Asst PM	135.21/hr
Engineer II	160.79/hr
Engineer I	95.01/hr
Senior Scientist	116.94/hr
GIS Specialist	102.32/hr
Scientist III	91.36/hr
Scientist II	84.05/hr
Scientist I	73.09/hr
Env. Analyst	65.78/hr
Senior Tech	60.30/hr
Technician III	54.82/hr
Technician II	51.16/hr
Technician I	43.85/hr
WP/Graphics	51.16/hr
MMA	
Principal	$190.00/hr
Associate Principal	$165.00/hr
Senior Transportation Planner	$130.00/hr
Transportation Engineer	$95.00/hr
Associate Transportation Planner	$85.00/hr
Assistant Transportation Planner	$85.00/hr
Accounting/Financials	$75.00/hr
Technical Support/Editing	$70.00/hr
Graphics Support	$70.00/hr
CAD Support	$70.00/hr
Administrative Support	$70.00/hr
Allwest Geoscience	
Principal Engineer/Geologist	$190.00/hr
Associate Engineer/Geologist	$145.00/hr
Senior Engineer/Geologist	$115.00/hr
Staff Engineer/Geologist	$90.00/hr
Senior Technician	$68.00/hr

I23-106 cont.

COSTS AND DISBURSEMENTS (Continued)

Graphics/Drafting Support	$68.00/hr
Technical Assistant	$66.00/hr
Administrative Support	$66.00/hr

If work under this agreement is extended beyond December 31, 2006, the billing rates will be renegotiated.

Expenses will be reimbursed as follows:

The contractor shall be reimbursed for necessary travel expenses, when documented by appropriate receipts, 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. Travel expenses shall be consistent with the budget in the Work Plan, Exhibit A. The contractor's headquarters for purposes of computing such expenses is San Francisco. Subcontractors' office addresses shall be used to compute necessary travel expenses.

All other out-of-pocket expenses shall be reimbursed at cost. Overhead on non-travel expenses shall be reimbursed at 8% and overhead on subcontractors labor shall be reimbursed at 8%. No overhead shall be reimbursed to the contractor by the Conservancy for non-travel expenses incurred by subconsultants.

I23-106 cont.

Each invoice shall include the contractor's name and address, the number of this agreement, the contractor's authorized signature, the date of submission, the amount of the invoice, 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 invoice shall also indicate cumulative expenditures to date, expenditures during the reporting period, and the unexpended balance of contract funds. The contractor shall submit the final invoice within thirty days after the completion date provided in the "TERM OF AGREEMENT AND EARLY TERMINATION" section, above.

DISCLOSURE OF FINANCIAL INTEREST

The contractor shall complete and return all financial disclosure forms within ten days of receipt from the Conservancy, including those disclosure forms received at the termination of the contract.

I23-106
cont.

FUNDING AUTHORIZATION

The signature of the Executive Officer on the first page of this agreement certifies that at its December 2, 2004 meeting the Conservancy adopted the resolution included in the staff recommendation attached as Exhibit B. This agreement is executed pursuant to that authorization.

Standard Provisions

EXPENDITURE OF FUNDS AND ALLOCATION OF FUNDING AMONG BUDGET ITEMS

The contractor shall expend funds in the manner described in the approved project budget attached as Exhibit A. The allocation of funds among the items in the project budget may vary by as much as ten percent without approval by the Executive Officer. Any difference of more than ten percent must be approved in writing by the Executive Officer. The Conservancy may withhold payment for changes in particular budget items which exceed the amount allocated in the project budget by more than ten percent and which have not received the approval required above. The total amount of this contract may not be increased except by amendment to this agreement. 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.

LIABILITY

I23-106 cont.

The contractor waives all claims and recourse against the Conservancy, including the right to contribution for any loss or damage arising from, growing out of or in any way connected with or incident to this contract, except claims arising from the active negligence of the Conservancy, its officers, agents, and employees.

The contractor, to the fullest extent permitted by law, shall indemnify, hold harmless, and defend the Conservancy, its officers, agents, and employees, against any and all claims, demands, damages, costs, expenses, or liability arising out of this agreement, to the extent arising out of negligent or grossly negligent acts, errors or omissions, or intentional misconduct of the contractor, its officers, employees, agents, or subcontractors.

Throughout the term of this Agreement, the contractor shall provide and maintain insurance as follows:

a. General liability and property-damage insurance with minimum limits of liability with a single limit for bodily injury (including death) and property damage liability combined of $1,000,000 each occurrence and $2,000,000 in the aggregate.

b. Automobile insurance with a limit of $1,000,000 per occurrence for accidents occurring with owned, non-owned, and hired vehicles.

c. Errors and omissions insurance with a single limit of $2,000,000 each claim and $2,000,000 in the aggregate.

LIABILITY (Continued)

d. Worker's compensation insurance to statutory limits, with employer's liability limits of $1,000,000.

The insurance maintained by the contractor under this Agreement shall be issued by a company or companies admitted to transact business in the State of California. Each policy shall contain an endorsement specifying that:

a. The State of California, its officers, agents, and employees are included as additional insureds except for workers' compensation and professional liability.

b. The policy will not be canceled without thirty days prior written notice to the Conservancy.

The Conservancy is not responsible for premiums and assessments on any insurance policy. I23-106 cont.

Nothing in this Agreement is intended to create in the public or in any member of it rights as a third party beneficiary under this Agreement.

The contractor's agreements with each subcontractor named in Exhibit A shall require the subcontractor to provide and maintain insurance consistent with the provisions in this section.

COMPUTER SOFTWARE

The contractor certifies that it has instituted and will employ systems and controls appropriate to ensure that, in the performance of this contract, state funds will not be used for the acquisition, operation or maintenance of computer software in violation of copyright laws.

NONDISCRIMINATION

During the performance of this agreement, the contractor and its subcontractors shall not unlawfully discriminate against, harass, or allow harassment against any employee or applicant for employment because of sex, race, religion, color, national origin, ancestry, physical disability, medical condition, marital status, age or denial of family-leave care. The contractor and its subcontractors shall ensure that the evaluation and treatment of

NONDISCRIMINATION (Continued)

their employees and applicants for employment are free of such discrimination and harassment. The contractor and its subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.) and the applicable regulations (California Code of Regulations, Title 2, Section 7285.0 et seq.). The regulations of the Fair Employment and Housing Commission regarding contractor Nondiscrimination and Compliance (Chapter 5 of Division 4 of Title 2 of the California Code of Regulations), are incorporated into this agreement. The contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. This nondiscrimination clause shall be included in all subcontracts entered into by the contractor to perform work provided for under this agreement.

INDEPENDENT CONTRACTOR STATUS

The contractor shall maintain its status as an independent contractor as defined in Section 3353 of the California Labor Code. To this end, the contractor shall be under the control of the State, acting through its agent, the Conservancy, but only as to the results of its work and not as to the means by which the results are accomplished.

I23-106 cont.

GOODS MADE WITH FORCED LABOR

The contractor shall execute and submit with this contract the "Certification of Compliance with the Forced, Convict and Indentured Labor Statute," attached as Exhibit C and incorporated by reference.

NATIONAL LABOR RELATIONS BOARD

By signing this agreement, the contractor states under penalty of perjury that, during the two-year period immediately preceding the date of the agreement, no more than one final unappealable finding of contempt of court has been issued against the contractor for failure to comply with an order of the National Labor Relations Board.

AIR AND WATER POLLUTION

In accordance with Government Code section 4477, the contractor represents that it is not in violation of any order or resolution of the State Air Resources Board or an air pollution

AIR AND WATER POLLUTION (Continued)

control district, and is not subject to a cease and desist order issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions, and has not been finally determined to be in violation of provisions of federal law relating to air or water pollution.

FAMILY-SUPPORT OBLIGATIONS

The contractor acknowledges the state policy contained in Public Contract Code section 7110, that state contractors recognize the importance of child- and family-support obligations and fully comply with all applicable state and federal laws relating to child- and family-support enforcement. In executing this contract, the contractor represents that, to the best of the contractor's knowledge, the contractor is fully complying with the earnings-assignment orders of all employees and is providing the names of all new employees the New Hire Registry maintained by the Employment Development Department.

I23-106 cont.

RECYCLING CONTENT

In accordance with Public Contract Code sections 10308.5 and 12205, the contractor certifies under penalty of perjury that at least 10 percent of the materials, goods, or supplies offered, or products used in the performance of this contract will qualify as postconsumer material and at least 10 percent as secondary material as defined in Public Contract Code sections 12161 and 12220.

SETTLEMENT OF DISPUTES

If any dispute arises out of this agreement, the contractor shall file a "Notice of Dispute" with the Executive Officer within ten days of discovery of the problem. Within ten days of such notification, the Executive Officer shall meet with the contractor and designated Conservancy staff members for the purpose of resolving the dispute. If the Executive Officer is unable to resolve the dispute to the contractor's satisfaction, the contractor may proceed under Government Code Sections 900 et seq. with any claims against the Conservancy arising out of this agreement.

CONTRACTOR IDENTIFICATION AND EVALUATION

Within thirty days of completion of all work described in the "Scope of Agreement," the contractor shall be evaluated by Conservancy staff. The evaluation shall be kept with records of this agreement at the Conservancy's offices. If negative, a copy shall be sent (as required by law) to the Department of General Services, Legal Office. The evaluation shall be made available to the contractor upon request.

AUDITS/ACCOUNTING/RECORDS

The contractor shall maintain financial accounts, documents, and records (collectively, "records") relating to this agreement, in accordance with the guidelines of "Generally Accepted Accounting Practices" published by the American Institute of Certified Public Accountants. The records shall include, without limitation, evidence sufficient to reflect properly the amount, receipt, deposit, and disbursement of all funds related to the services that the contractor is providing, and time and effort reports. The contractor shall maintain adequate supporting records in a manner that permits tracing of transactions from the invoices to the accounting records and to the supporting documentation.

I23-106 cont.

The contractor shall retain these records for three years following the date of final disbursement by the Conservancy under this agreement, regardless of the termination date. The records shall be subject to examination and audit by the Conservancy and the Bureau of State Audits during this period.

Additionally, the Conservancy or its agents may review, obtain, and copy all records relating to performance of the contract. The contractor shall provide the Conservancy or its agents with any relevant information requested and shall permit the Conservancy or its agents access to the contractor's premises, upon reasonable notice, during normal business hours, to interview employees and inspect and copy books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this agreement and any applicable laws and regulations. The contractor shall maintain these records for a period of three years after final payment under the contract.

If the contractor retains any subcontractors to accomplish any of the work of this agreement, the contractor shall first enter into an agreement with each subcontractor requiring the subcontractor to meet the terms of this section and to make the terms applicable to all lower-tier subcontractors.

The Conservancy may disallow all or part of the cost of any activity or action that it determines to be not in compliance with the requirements of this agreement.

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 the contractor of the designation in writing.

AMENDMENT

This agreement may be modified only upon written agreement of the parties; provided, however, that the schedule of completion may be modified by written letter of contractor countersigned by the Executive Officer and such modification shall have the same force and effect as if included in the text of this agreement.

I23-106 cont.

ASSIGNMENT, SUBCONTRACTING AND DELEGATION

The contractor has been selected to provide the services and perform the tasks of this agreement because of its unique skills and experience. Except as expressly provided in this agreement, the contractor shall not assign, subcontract or delegate any of the services and tasks to be performed, without written authorization by the Executive Officer.

TIMELINESS

Time is of the essence in this agreement.

LOCUS

This agreement is deemed entered into in the County of Alameda.

EXHIBIT A – WORK PLAN

DEVELOPMENT AND EVALUATION OF RESTORATION ALTERNATIVES FOR THE BALLONA WETLANDS

I23-106 cont.

TABLE OF CONTENTS

I23-106 cont.

1. INTRODUCTION

Project Definition

This document describes the approved Work Plan for the development and evaluation of project alternatives for the Ballona Wetlands Restoration Project. The goals of the Ballona Wetlands Restoration Project are:

- Restore and enhance salt water influenced wetland habitats to benefit Endangered and Threatened species, migratory shorebirds, waterfowl, seabirds, and coastal fish and aquatic species. Restoration of seasonal ponds, riparian and freshwater wetlands, and upland habitats will be considered where beneficial to another project goal or biological and habitat diversity.

- Provide for wildlife-oriented public access and recreation opportunities compatible with the habitats, fish and wildlife conservation.

- Identify and implement a cost-effective, ecologically beneficial, and sustainable (low maintenance) habitat restoration alternative.

The primary objectives of this Work Plan are to:

- Characterize the existing conditions within the Ballona Wetlands study area;

- Identify potential restoration alternatives based on the above goals and the site opportunities and constraints;

- Develop a conceptual restoration plan.

Assumptions for Scope of Work

There are a number of assumptions that have been made in the development of the Work Plan:

- The consultant team must work cooperatively with the Project Management Team (PMT) and Science Advisory Committee (SAC), as well as work constructively with the full range of stakeholders in the Ballona Wetlands Restoration Working Group (BWRWG).

- PWA will be responsible for coordination and guidance of the consultant team to ensure clear communication with the PMT. Communication with the SAC and BWRWG will be through the PMT.

- Through the PMT, the consultant team will work closely with City, County, Federal (US Army COE) and other state and regional agencies to insure that the restoration plan is compatible with other ongoing planning efforts.

I23-106 cont.

2. SCHEDULE

Deliverable	Completion Date
Task 1: Project Refinement	
Refined Work Plan	September 1, 2005
Task 2: Assemble Data	
Existing/Historical Conditions Report	December 19, 2005
Task 3: Data Gap Analysis	
Data Gap Analysis Memorandum	December 19, 2005
Data Collection Plan	
Task 4: Implement Data Collection Plan	To be determined
Task 5: Refinement of Objectives	
Refinement of Objectives Memorandum	January 19, 2006
Task 6: Develop Restoration Alternatives	
Restoration Alternatives Memorandum.	April 21, 2006
Task 7: Feasibility Analysis	
Feasibility Assessment Memorandum.	August 19, 2006
Task 8: Hydraulic Modeling	To be determined
Task 9: Conceptual Restoration Plan	December 19, 2006
Habitat Enhancement Plan	
Water Circulation Plan	
Public Access Plan	
Cultural Resources Plan	
Monitoring Plan	
Operation & Maintenance Plan	
Task 10: Project Management	
Project Management Plan	Ongoing
Task 11: External Meetings	Ongoing

I23-106 cont.

3. SCOPE OF SERVICES

The following sections address the technical approach.

TASK 1: PROJECT REFINEMENT

The first step of the project is to refine the Work Plan and develop a detailed scope of work, budget and schedule to best meet the project goals. The plan will be refined in conjunction with the PMT and SAC. In particular we need to agree the role of the Science Advisory Committee and how best to incorporate their input in each of the Tasks, for example:

- Advice on existing data.
- Development of a conceptual model of the physical and ecologic functions of Ballona wetlands.
- Development of detailed project objectives.
- Assistance with feasibility assessment

Deliverable: *Refined Work Plan (scope of work, budget and schedule).*

I23-106 cont.

TASK 2: ASSEMBLE EXISTING DATA

The team will collate and synthesize all existing data pertinent to the development of the conceptual restoration plan. Through this process, we will research present and historical conditions to allow an assessment of recent site changes and restoration opportunities and constraints. The topic areas are:

- Physical setting
    - topography and bathymetry (PWA)
    - hydrology (PWA)
    - soils and substrate (Allwest Geoscience)
    - water quality (Weston Solutions)
- Biological resources (including special status and exotic species)
    - vegetative communities (EDAW)
    - wetlands (EDAW)
    - birds (Keane Consulting)
    - fish (Weston Solutions)
    - invertebrates (Weston Solutions)
- Cultural/historic resources (EDAW)
- Public access (EDAW)
- Traffic (MMA)
- Land use (utilities, easements, access) (EDAW)

This information will be used to develop the existing conditions report - a physical and environmental description of the project area. Each topic will be written as a section of the report and will include:

- Identification of data sources;
- Summary of data;
- Assessment of data quality and utility;
- Development of a bibliographic database;
- Development of a preliminary conceptual-level GIS layer.

***Deliverable**: Existing/Historical Conditions Report. One draft will be distributed to the PMT for comment. The final document will include consolidated comments provided by the PMT.*

TASK 3: DATA GAP ANALYSIS

Data gaps that impact the development of the conceptual restoration plan will be identified. Rationale for how and why additional data would benefit the project will be developed. The PMT and the SAC will review this analysis.

I23-106 cont.

Following consensus on the data needs, the consultant team will prepare a data collection program describing:

- Type and use of data;
- Measurement protocols;
- Formatting protocols and standards for data and GIS layers;
- Costs and schedule.

The potential for collaboration with other monitoring efforts (such as by SCWRP) will be identified.

***Deliverable**: Data Gap Analysis Memorandum and Data Collection Plan. One draft will be distributed to the PMT for comment. The final document will include consolidated comments provided by the PMT.*

TASK 4: IMPLEMENT DATA COLLECTION PLAN

Assistance will be provided to surveyors contracted separately by the Coastal Conservancy. This will consist of advice on data required, datums, survey extents, accuracies, resolutions and output formats.

Scope for collecting additional data will be agreed following the completion of the data collection plan. No budget for data collection has been allocated for this Task in the present Work Plan.

TASK 5: REFINEMENT OF OBJECTIVES

Task 5a Opportunities and Constraints

For data to be useful in the planning process, it must be translated into a format that facilitates subsequent development of site options by interpreting the data into an 'Opportunities and Constraints' format. This process links the existing conditions data with the Goals/Objectives and identifies where and how the site conditions supports or constrains attainment of the Goals.

Opportunities and constraints will be discussed at the landscape level, as well as the specific subarea (A, B, C, Channel, freshwater marsh, etc) and individual species level:

- Present Infrastructure - roads on the site together with gas and oil facilities and easements.
- Current Land Uses - Little League field in Area C, opportunities for land swaps.
- Biological Resources
- Cultural Resources
- Opportunities for restoration of tidal wetlands as well as seasonal ponds, riparian and freshwater wetlands and upland habitat.
- Flood Protection – flooding of Culver Boulevard, continued level of protection to surrounding area, potential to reduce flood levels by restoring tidal action.
- Water and Sediment Quality
- Sediment Reuse – reuse of dredge fill material from Area A and C.
- Geotechnical/Levees
- Public Access – consistent with wildlife needs
- Existing Plans – integration with Ballona Creek Watershed Management Plan
- Land Ownership and Adjacent Land Use
- Phasing of Restoration and Interim Management
- Funding – optimize available funds
- Short-term versus long-term costs

I23-106 cont.

TASK 5b: Refinement of Objectives

Based on the assessment of site opportunities and constraints, we will work with the PMT and through them the SAC and BWRWG, to translate the overall project goals into detailed project objectives for restoration within the study area. For example:

- How much of the study area can feasibly be restored to full -tidal circulation?
- What is the optimal mix of habitats?
- How should the riparian freshwater aspects of the site be treated?
- What are the objectives for special status species?

In addition objectives related to flood protection, traffic, public access, and water quality will be refined.

TASK 5c: Performance Criteria

We will work with the PMT, and through them the SAC, to translate goals, guiding principles, and objectives into explicit performance criteria that will be used to analyze the alternatives. The performance criteria will be applied to the alternatives developed and be understandable to the public.

The alternatives will be ranked based on the following factors:

- The ability to meet project goals and objectives, restoration targets and design criteria;
- The environmental benefit of, and ecological functions provided by each alternative, especially for sensitive species and habitats;
- The environmental impacts of each alternative, especially to sensitive species and habitats;
- The ability to meet target goals for physical processes, including periodic flooding, sedimentation and accommodation of potential sea level rise;
- Ability to meet public access goals;
- Visual and aesthetic qualities; and,
- Relative cost of various options/alternatives.

I23-106 cont.

This will require early decisions on questions such as the appropriate timeframe and geographical matrix for assessing impacts and benefits, the 'footprint' of the project, and at what level the project is designed to be self-mitigating. It will also require identification of desired targets or threshold values for performance criteria where these are appropriate.

***Deliverable**: Refinement of Objectives Memorandum. One draft will be distributed to the PMT for comment. The final document will include consolidated comments provided by the PMT.*

TASK 6: DEVELOP RESTORATION ALTERNATIVES

We will develop a range of restoration alternatives that accomplish the objectives and are consistent with the opportunities and constraints of the site. In response to the differing conditions and constraints in each of the project subareas we anticipate the development of a range of options for each subarea.

These options will be combined into three project-wide alternatives. These alternatives will be defined along themes to address competing objectives and different resolutions of project opportunities and constraints, while also providing a reasonable range for impact evaluation consistent with NEPA/CEQA requirements. Possible themes include:

- Habitat mix. This will include the extent of full tidal marsh versus muted tidal marsh, but also seasonal wetlands, breeding and foraging habitats for special-status species, and transitional areas grading into uplands.
- Public Access. Extent and types of public use versus wildlife protection.
- Regional distribution of restoration features. For example, locations of restored habitats, public access, habitat corridors and continuity, etc.

Each alternative will identify opportunities for adaptive management and revegetation approaches. Restorations in different areas may be phased based on ease of restoration, specific interim habitat goals, desire to minimize impacts on sediment supply and existing habitats, or other considerations.

The development of alternatives will be undertaken in collaboration with the PMT, and through them the SAC and the BWRWG.

Deliverable: *Restoration Alternatives Memorandum. One draft will be distributed to the PMT for comment. The final document will include consolidated comments provided by the PMT.*

TASK 7: FEASIBILITY ASSESSMENT

I23-106 cont.

Comparison with the no project alternative will form the basis for analyzing the potential benefits and impacts of the restoration alternatives. This will include an assessment of impacts to natural resources, water quality, public access and flood management as described by the performance criteria.

The appropriate hydrology for the desired wetland habitats must be established. Opportunities to establish tidal circulation to each of the wetland components will be initially assessed. Areas that are constrained from tidal flushing by existing infrastructure and/or economic considerations will be considered for restoration/ enhancement as seasonal wetlands, transitional habitat, non-tidal high marsh, or uplands. The water regime required for each of these will also be specified.
In addition to hydraulic modeling (described in Task 8), sediment transport, geomorphic issues and water quality concerns are important elements of the physical process environment. We will combine our understanding and analysis of both sediment and water quality issues with the hydrodynamic modeling to develop an understanding of the long-term functioning of alternatives.

Feasibility analysis will also include evaluation of benefits and impacts to existing biological resources.

Relative short-term and long-term costs will be an important tool to assist the client team both in selecting an implementable project, and in making decisions on tradeoffs between the alternatives. Information on costs will initially be provided on a relative basis to allow comparison between alternatives, and refined as the project design evolves. In cooperation with the PMT, a prioritized matrix of potential implementation funding sources will be developed.

The consultant team will assist the PMT in selecting a preferred alternative.

***Deliverable**: Feasibility Assessment Memorandum. One draft will be distributed to the PMT for comment. The final document will include consolidated comments provided by the PMT.*

TASK 8: HYDRAULIC MODELING

Scope for hydraulic modeling will be agreed during the course of the study. No budget for hydraulic modeling has been allocated for this Task in the present Work Plan.

TASK 9: CONCEPTUAL RESTORATION PLAN

A Conceptual Restoration Plan will be developed for the preferred restoration alternative. Functionally, we consider this the equivalent of the 5- to 10-percent design level. The project elements will be depicted in plan form and presented graphically using GIS. The plans will include supporting text to describe the plan goal, implementation guidelines and rationale for success.

I23-106 cont.

Task 9a: Habitat Enhancement Plan (Tierra lead)

The preferred project alternative will include a Habitat Enhancement Plan that identifies the proposed changes to existing conditions, planting palettes and techniques, changes in habitat for selected sensitive species, and monitoring and maintenance requirements. Impacts to existing habitats and beneficial effects of restoring degraded habitats will be quantified. Proposed planting techniques will include an analysis of the benefits of seed, container stock, and cuttings in wetland and upland restoration scenarios as well as control of exotic plant species.

The Habitat Enhancement Plan will be developed in close coordination with the Water Circulation Plan due to the key role of hydrology in wetland development and functioning.

Task 9b: Water Circulation Plan (PWA lead)

The Water Circulation Plan will depict in plan view all of the proposed project elements, modifications to existing channels, hydrologic connections and hydraulic structures, grading elements, infrastructure to be relocated etc. Supporting text will describe the modeling and analyses used to develop the plan. For wetland areas, the hydroperiod for tidal or freshwater inundation will be specified. The plan will include discussion of habitat evolution, water quality and flood management.

Task 9c: Public Access Plan (EDAW lead)

Opportunities for passive recreation (e.g., pedestrian access, nature and art activities) will be identified. The Public Access Plan will include a discussion on how the proposed improvements

integrate educational opportunities into the ecological restoration. The location and design of public access improvements and management recommendations will be described and mapped.

Task 9d: Cultural Resources Plan (EDAW lead)

The Cultural Resource Plan will identify potentially significant cultural resources and discuss strategies for avoiding or minimizing impacts to these resources. As part of the plan the Area of Potential Effects will be mapped.

Task 9e: Monitoring Plan (Weston lead)

A pre- and post-restoration monitoring plan framework will be developed with stated goals, performance criteria and duration. Physical process monitoring will likely include tidal circulation, salinity regimes and site morphological evolution (channels, marsh plain etc). Surveys for biological resources, water quality, and sediment chemistry will be designed to provide quantifiable measures of biological integrity and function in restored areas. Surveys for birds, fish, benthic invertebrates, and vegetation will be recommended, as well as focused surveys for endangered/sensitive species.

A Quality Assurance Project Plan (QAPP) will be developed in conjunction with, and included in, the monitoring plan (to streamline regulatory review). The QAPP will ensure that the plan will meet the data quality objectives required for regulatory approval, and will address issues in detail such as field and laboratory quality control protocols, instrument testing and calibration, and data verification and validation methods.

I23-106 cont.

Task 9f: Operation & Maintenance Plan (PWA lead)

A plan will be developed to address the operation and maintenance of the project. This will include both short-term (project establishment) and long-term (project operation) components. An "adaptive management" approach will be used in which monitoring will identify the development of various habitats and identify the need for management activities. For any structural elements of the project (culverts, gates, pumps, weirs, etc), the O&M plan will identify the need for inspection, maintenance etc.

Deliverable: *Conceptual Restoration Plan: GIS layers depicting key plan layers: Habitat Enhancement, Water Circulation, Public Access, Cultural Resources, Monitoring, O&M. Supporting documentation provided in Plan sections. One draft will be distributed to the PMT for comment. The final document will include consolidated comments provided by the PMT.*

TASK 10: PROJECT MANAGEMENT

A Project Management Plan tailored to the needs and overall goals of the Project will be prepared. Specific items that will be detailed include:

- Team member responsibilities and lines of authority

- Communication formats and protocols
- Schedule, including interim deadlines and critical path milestones
- Budget, including a forecast of labor distribution by task and by firm
- Quality Assurance and Quality Control procedures

Deliverable: *Project Management Plan. One draft will be distributed to the PMT for comment. The final document will include consolidated comments provided by the PMT.*

TASK 11: EXTERNAL MEETINGS

The table below specifies the external meetings requested by the client:

Meeting	Duration	Location	Number
Monthly CC conf calls	1	-	20
Monthly CC meeting	2	Oakland	20
Monthly PMT conf calls	1	-	10
SAC & BRWG meetings		Los Angeles	10

I23-106 cont.

The monthly meetings will be attended only by staff from PWA. For the combined SAC & BRWG meetings, PWA is budgeted for 23 person meetings, Tierra for 10 and EDAW, Weston, Keane Consulting for 3 each.

4. BUDGET

COASTAL CONSERVANCY

Staff Recommendation
December 2, 2004

BALLONA WETLANDS
ENHANCEMENT PLANNING

File No. 04-088
Project Manager: Mary Small

RECOMMENDED ACTION: Authorization to disburse up to $750,000 for technical studies, planning, interim management, data collection, and other analysis associated with planning the restoration and enhancement of the Ballona Wetlands.

LOCATION: West of Lincoln Boulevard and south of the Marina del Rey along the Ballona Creek Channel in Los Angeles County. A portion of the project is in the City of Los Angeles and a portion is in unincorporated Los Angeles County (Exhibits 1 & 2).

PROGRAM CATEGORY: Coastal Resource Enhancement and Public Access

I23-106 cont.

EXHIBITS

Exhibit 1: Project Location and Watershed Map

Exhibit 2: Project Area Map

Exhibit 3: Preliminary Project Schedule

Exhibit 4: Letters of Support

RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31251-31270 and 31400 et seq. of the Public Resources Code:

"The State Coastal Conservancy hereby authorizes disbursement of an amount not to exceed seven hundred fifty thousand dollars ($750,000) for technical studies, planning, data collection, interim management and other work associated with planning the restoration and enhancement of the Ballona Wetlands, subject to the condition that prior to disbursement of any funds for any work, the Conservancy's Executive Officer shall approve the work plan, budget and the contractor for that work."

Staff further recommends that the Conservancy adopt the following findings:

"Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

EXHIBIT B

1. The proposed project authorization is consistent with Public Resources Code Sections 31251-31270, regarding the Conservancy's mandate to protect and enhance coastal resources.
2. The proposed project authorization is consistent with Public Resources Code Sections 31400-31409, regarding the Conservancy's mandate to assist in the development of a system of public accessways to and along the coast.
3. The proposed project is consistent with the Project Selection Criteria and Guidelines adopted by the Conservancy on January 24, 2001.
4. The project serves greater than local need."

PROJECT SUMMARY:

This authorization would enable the Conservancy to engage consultants and fund technical studies necessary for planning the restoration and enhancement of the 607-acres of the historic Ballona Wetlands owned by the State of California (Exhibit 2). This project is being implemented in partnership with the California Department of Fish and Game (DFG) and the State Lands Commission (SLC), the two state agency owners of the property (Letters of Support, Exhibit 4).

More than 98% of the coastal wetlands in the Southern California bight have been destroyed or degraded. The enhancement of the Ballona Wetlands is one of the largest and best remaining opportunities to restore coastal wetlands in southern California. The site provides habitat for threatened and endangered species, including the Belding's savannah sparrow and the California brown pelican, while also providing scenic open space in the heart of Los Angeles County. This project offers an opportunity to restore 600 acres and is the largest coastal wetland restoration project in Los Angeles County. This project is consistent with the Regional Strategy of the Southern California Wetland Recovery Project and is identified as a specific objective for Los Angeles County.

I23-106 cont.

The project is located at the intersection of the California Coastal Trail and the Ballona Creek Trail, and may offer an opportunity for improving connections between these trail systems. As part of the enhancement, existing interpretive and public education programs may be expanded on the site. Opportunities for access will be evaluated during the restoration planning process.

If approved, the Conservancy would engage consultants to collect data, conduct technical studies, and formulate alternatives for site enhancement and restoration. This work would include feasibility analysis of the alternatives and development of preliminary cost estimates. Work under this authorization may also include early implementation of minor restoration activities, such as invasive species control, that will need to be completed before restoration of the entire site can proceed. More detailed environmental impact analysis will be completed in a subsequent phase of work to comply with applicable environmental law and to obtain necessary permits. Staff expects that planning for the restoration of the site will take a minimum of three years (see Exhibit 3, Preliminary Project Schedule). Staff anticipates returning to the Conservancy for authorization to complete this analysis once a preferred alternative has been selected.

The Conservancy, DFG, and SLC have initiated a public planning process to engage trustee agencies, local government, nongovernmental organizations, and the public. There is a long

history of conflict over this site and many agencies and organizations have an interest in the planning process. The Conservancy will staff the public planning process. Developing alternatives for enhancement of the site will involve a number of technical issues, including, but not limited to, hydrology, ecology, cultural resources, and public access. The purpose of this authorization is to allow the Conservancy to engage consultants with expertise to help formulate and evaluate restoration and enhancement alternatives.

Site Description:

The project area includes 607-acres owned by the State of California. The Department of Fish and Game owns 540 acres, and that land was purchased with funds provided from the Conservancy to the Wildlife Conservation Board. The State Lands Commission owns 67-acres, including a newly created freshwater marsh and adjacent vacant land. All of the project area is part of a much larger historic wetland complex which once occupied more than 2,000-acres.

The Ballona Creek watershed is the largest watershed draining into Santa Monica Bay. The watershed includes approximately 130 square miles and includes much of the City of Los Angeles as well as the cities of West Hollywood, Beverly Hills and Culver City (Exhibit 1). Approximately 80% of the watershed is urbanized and it is home to more than 1.5 million people. The project area receives surface runoff from adjacent urban areas through numerous storm drains. The site itself drains into the Ballona Creek channel. Flow patterns are constrained by existing roadways and limited drainage outlets into Ballona Creek.

I23-106 cont.

The project area has been substantially altered during the last century, significantly reducing the quantity and quality of the wetlands. Major human activities that have affected the ecological function of this site include past oil field development, channelization of Ballona Creek, and the construction of the Marina del Rey lagoon, which involved deposition of dredge material onto project area. In addition, several major roadways cross the site and it is surrounded by residential and commercial development.

Despite the degradation of site resources resulting from prior development, 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.

Project History:

There have been more than twenty years of intense conflict about land use at this site. Several development proposals and regulatory approvals have resulted in litigation, some of which continues today. In 2001, the Trust for Public Land entered into a purchase agreement with Playa Capital Company, the former landowner. Through this purchase agreement, the Department of Fish and Game ultimately took title to 540 acres of the property during the past year. The Conservancy provided $10 million for that acquisition.

The Conservancy has long supported enhancement and public access at the Ballona Wetlands. The first Conservancy project at this site was a 1986 grant to the National Audubon Society for environmental education facility associated with a proposed site restoration. That project was never implemented due to the ongoing conflicts about development at the site. Beginning in the late 1980s, the Conservancy provided funding for planning and implementation of enhancements to the nearby Ballona Lagoon and holds easements for resource enhancement over much of the land bordering the Lagoon.

More recently, the Conservancy has provided funding to the Friends of Ballona Wetlands for dune restoration and invasive plant removal on the southwestern portion of the project area. Last year, the Conservancy approved two grants for projects in the Ballona Creek Watershed that helped implement the Santa Monica Bay Restoration Plan. One of these grants was awarded to the Ballona Wetlands Foundation to develop the Ballona Outdoor Learning and Discovery (BOLD) project. It is a condition of the grant that the BOLD project will developed to be consistent with the larger restoration project.

PROJECT FINANCING:

Proposition 12, Coastal Conservancy	$750,000
Total Project Cost	**$750,000**
(Current Phase, Initial Planning)	

I23-106 cont.

The Conservancy funding would be derived from an appropriation of funds specifically designated for the Ballona Wetlands in the 2000 park bond, Proposition 12. Public Resources Code Section 5096.352(f) provides that $25 million is available to the Conservancy for this purpose.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

This project would be undertaken pursuant to Chapter 6 of the Conservancy's enabling legislation, Public Resources Code Sections 31251-31270, Coastal Resource Enhancement Projects. The project would enhance the natural and scenic character of resources within the coastal zone. As discussed below, consistent with Section 31252, the project is consistent with the policies and objectives of Division 20 of the Public Resources Code.

This project would be undertaken pursuant to Chapter 9 of the Conservancy's enabling legislation, Public Resources Code Sections 31251-31270, Coastal Access. If approved, the planning studies would include analysis of opportunities to enhance the California Coastal Trail and create new public access opportunities at this site.

CONSISTENCY WITH CONSERVANCY'S STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):

Consistent with **Goal 5 Objective A** of the Conservancy's Strategic Plan, the proposed project would help the Conservancy to restore and enhance up to 600 acres of coastal wetland and adjacent habitat. When implemented, this project will complete 60% of the total acreage target for Southern California.

Consistent with **Goal 1 Objective C** of the Conservancy's Strategic Plan, the proposed project area could provide a new segment of the Coastal Trail. As discussed above, 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.

CONSISTENCY WITH CONSERVANCY'S PROJECT SELECTION CRITERIA & GUIDELINES:

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines adopted January 24, 2001, in the following respects:

Required Criteria

1. **Promotion of the Conservancy's statutory programs and purposes:** See the "Consistency with Conservancy's Enabling Legislation" section above.
2. **Consistency with purposes of the funding source:** See the "Project Financing" section above.
3. **Support of the public:** There is broad public support for developing a restoration plan for this site. The project is supported by the Department of Fish and Game and the State Lands Commission. Letters of support are attached as Exhibit 4.
4. **Location:** The proposed project would be located within the coastal zone of Los Angeles County.
5. **Need:** Conservancy participation is essential for the development of a restoration plan for this site. The Conservancy has experience developing restoration plans with meaningful public involvement. The Conservancy's commitment to engaging stakeholders in the restoration plan development is critical to the success of the project given the long history of conflict over this site and the numerous stakeholders. The Conservancy will staff the public planning process, the land-owning agencies do not have the staff or resources to manage this planning effort.
6. **Greater-than-local interest:** The proposed project will be the largest coastal wetland restoration project in Los Angeles County. The site provides habitat for threatened and endangered species, including the Belding's savannah sparrow and the California brown pelican. The site also provides valuable and scenic open space and public access opportunities in the heart of congested Los Angeles County.

I23-106 cont.

Additional Criteria

7. **Urgency:** More than 98% of the coastal wetlands in the Southern California bight have been destroyed or degraded. This project offers an opportunity to restore and enhance 600 acres of habitat.
8. **Resolution of more than one issue:** Restoration alternatives will be developed to achieve a number of goals, including: enhancement of wetland and adjacent habitat, creation of compatible public access opportunities, and improvement of coastal water quality, consistent with the goal of habitat improvement.

9. **Innovation and Cooperation:** The Conservancy, DFG, and SLC have agreed to develop restoration alternatives in a public, participatory process that allows stakeholders and interested members of the public to see and comment on interim and final products. The restoration plan will be developed with the best available science. The planning process will respect the authority of all the participating agencies, and will accommodate significant public comment. The transparent approach is critical to restoration planning given the long history of bitter conflict surrounding this site.

10. **Readiness:** The Conservancy has already initiated the public planning process, if approved staff would seek to commit funds to technical studies early in 2005; an overview of the preliminary project schedule is provided in Exhibit 3.

11. **Realization of prior Conservancy goals:** "See "Project History" above.

12. **Cooperation:** The Conservancy hosted a community briefing on September 30, 2004 that was attended by more than 65 representatives of local nonprofit organizations, agency staff and members of the public. Comments received at the meeting were overwhelmingly supportive of the proposed planning process.

CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:

In the late 1980s, the California Coastal Commission certified two separate Land Use Plans that covered this project area. No Local Coastal Program was ever completed for the Ballona wetlands area and the two Land Use Plans are now out of date. However the proposed project is consistent with the policies of the Coastal Act. The project goals are consistent with the Coastal Act goals as stated in Section 30001.5, the project will protect, enhance and restore the natural resources of the site and expand public recreational opportunities consistent with conservation of those resources. Specifically, Section 30231 states that coastal wetlands shall be maintained and restored. The project is consistent with Section 30240(a), in that it will help ensure that environmentally sensitive habitat areas are protected against significant disruption of habitat values. As stated in Section 30251, the project will protect the scenic resources and open space of the project site.

I23-106 cont.

CONSISTENCY WITH LOCAL WATERSHED MANAGEMENT PLAN/ STATE WATER QUALITY CONTROL PLAN:

A Watershed Management Plan for the Ballona Creek Watershed was completed by an interagency/stakeholder task force this year. The purpose of the plan is to identify opportunities to improve water quality and restore habitat. The restoration of the Ballona Wetlands is specifically identified as a priority activity in the watershed.

COMPLIANCE WITH CEQA:

Under 14 California Code of Regulations (CCR) Section 15262, feasibility and planning activities are categorically exempt from California Environmental Quality Act (CEQA) review. Similarly, 14 CCR Section 15306 exempts basic data collection, research, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. Minor alterations of land and vegetation that do not impact healthy, mature, scenic trees are categorically exempt under 14 CCR Section 15304. Upon approval, staff will file a Notice of Exemption for the project.

Ex 3: Fesibility Study and Science Advisory Committee Recommendations

September 2008

Ballona Wetland Feasibility Report

Prepared For *California State Coastal Conservancy*

Prepared By

Philip Williams & Associates, Ltd.

with

EDAW,
Nordby Biological Consulting,
Tierra Environmental, and
Weston Solutions

PWA
PHILIP WILLIAMS & ASSOCIATES, LTD
ENVIRONMENTAL HYDROLOGY

I23-106 cont.

ATTACHMENT 16

CDM Smith
111 Academy Way, Suite 150
Irvine, CA 92617
tel: 949-752-5452

December 8, 2017

Marc Huffman
Vice President of Planning & Entitlements
Brookfield Residential
12045 Waterfront Drive Suite 400
Playa Vista, CA. 90094

Subject: Technical Memorandum - Evaluation of Methane Levels associated with Capping of Freshwater Marsh Outlet Drain Risers
Ballona Wetlands Ecological Reserve, Area B, Playa Del Rey,
Los Angeles, California

Dear Mr. Huffman:

On behalf of the Playa Capital Company, LLC (Playa), CDM Smith Inc. (CDM Smith) has prepared this Technical Memorandum (TM) evaluating the potential for naturally occurring methane to accumulate to explosive levels following proposed capping of existing Freshwater Marsh (FWM) outlet drain risers in Playa Del Rey area of Los Angeles, California. The California Department of Fish and Wildlife (CDFW) submitted a Coastal Development Permit Application to the California Coastal Commission (CCC) in April 2017 proposing to cap two existing storm drain risers within the Ballona Wetlands Ecological Reserve known as Area B. One of the risers is located north of Culver Blvd., and one is located south of Culver Blvd. These risers are connected by lateral pipes to the main FWM outlet pipe which drains to Ballona Creek (**Attachment A**). Capping the drains with a water-tight seal and plugging the weep-holes (located on the sides of each risers about one to three feet below their top elevations) that perforate the storm drain outlet risers will prevent water from entering the drains.

I23-107

A concern has been raised regarding the potential for naturally occurring methane (thermogenic or biogenic) in the FWM to accumulate to explosive levels with the capping of the two storm drain outlet risers. A specific related concern was whether methane will enter the FWM storm drain outlet pipe leading away from the FWM or otherwise cause any risk of explosion with the capping of the drain risers.

CDM Smith, on behalf of Playa, has performed the evaluation presented herein based on review of all available methane data and based on our decades long experience at the neighboring Playa Vista property (located just east of the Ballona Wetlands Ecological Reserve) and at other sites in Los Angeles area with methane assessment and mitigation issues. Mr. Ravi Subramanian, who is the primary author of this TM, is a California-registered professional civil engineer with than 27 years of experience in environmental site investigations, risk assessments, and mitigation and

remediation of volatile organic compound (VOC)-contaminated soil, soil gas, and groundwater sites. He has been the Engineer-of-Record at the Playa Vista site for over 15 years and has been involved in numerous projects at Playa Vista and other sites throughout Southern California involving design of soil and groundwater remediation systems and performance of methane assessments including soil gas, outdoor and indoor air, and groundwater sampling for methane, other gases, and VOCs; subsurface soil gas and indoor air investigations for methane and VOCs for vapor intrusion (VI) evaluation; design of methane mitigation systems; and operation, monitoring, and maintenance of comprehensive outdoor subsurface and indoor gas detection systems.

Methane Background Information

Methane is flammable and can explode at concentrations in air between its Lower Explosive or Flammable Limit (LEL/LFL) of 5% (50,000 parts per million by volume [ppmv]) and Upper Explosive or Flammable Limit (UEL/UFL) of 15% (150,000 ppmv). This concentration range of 5% to 15% is called the Flammable or Explosive Range, and is the concentration range of a gas or vapor that will burn (or explode) if an ignition source is introduced. Below the LEL the mixture is "too lean" to burn and above the UEL, the mixture is "too rich" to burn. Regulatory agencies such as the Occupational Safety and Health Administration (OSHA) typically use 10% of the LEL (5,000 ppmv for methane) as a threshold above which additional protective measures are needed.

I23-107 cont.

In addition, the three basic requirements that must be met for an explosion to take place are:

1. The presence of a flammable substance or fuel (i.e. methane) at concentrations between the LEL and UEL in air
2. The presence of an oxidizer - oxygen or air
3. The presence of a source of ignition - spark or high heat

The absence of any one of the requirements of the above "fire triangle" will result in conditions that are not explosive.

Data Review

Over one hundred soil gas samples were collected between 1998 and 2000 at depths less than 5 feet below ground surface and upstream of and within an approximate 450-foot radius of the inlet of the main FWM storm drain pipe in the FWM area, south of Jefferson Blvd. Analysis of these samples demonstrate that methane concentrations in the soil gas above groundwater were all approximately 5 ppmv or less, which is 1,000 times less than the threshold of 10% of the LEL (5,000 ppmv). In fact, with the exception of four soil gas samples, the more than 96 other samples collected in the entire FWM area, south of Jefferson Blvd., and west of Lincoln Blvd (over 1,200 feet from the inlet) indicated soil gas methane concentrations to be approximately 5 ppmv or

less. These four isolated samples, all which are over 400 to 600 feet from the inlet, contained methane concentrations ranging from 251 ppmv to 13,800 ppmv. These concentrations, while greater than 5 ppmv are still significantly lower (< 1% to 30%) than the LEL of 50,000 ppmv. The highest concentration of 13,800 ppmv translates to an estimated equilibrium concentration in water of approximately 0.33 milligrams per liter (mg/L) which is significantly lower than the solubility of methane in water (approximately 22 mg/L). Furthermore, this calculation is conservative because the atmosphere immediately above the surface water is not likely to be in perfect equilibrium with the surface water, because of dispersion in the atmosphere. This demonstrates that the groundwater in these locations does not contain any significant concentrations of methane. It is expected that surface water concentrations would likely be as low or even lower, given that atmospheric oxygen could make the surface water more aerobic (less able to generate methane in the first place) and given that any methane that was present could off-gas to the atmosphere before entering the pipe.

No methane data are available for the surface water; however dissolved oxygen (DO) data are collected by Playa personnel as part of the FWM water quality monitoring. Presence of DO at concentrations above 1 mg/L indicate that surface water is generally under oxidizing conditions (i.e. it is an aerobic environment) and not able to generate significant amounts of methane from biological decomposition of organic matter as other more energetic metabolic pathways are available and thermodynamically favored. Review of the FWM water quality monitoring data indicate that the surface water at the FWM storm drain inlet south of Jefferson Blvd. (SP-4 - South Jefferson Outlet) has an average DO value of 6 mg/L (based on data from 2003- 2015), thus providing an additional line of evidence indicating minimal potential for generation of methane, especially at any explosive levels.

I23-107 cont.

Additionally, all soil gas samples collected within at least an approximate 500-foot radius of the drain riser locations were also less than 5 ppmv. As a result, even if the riser is not plugged, no flammable levels of methane vapors are expected to migrate into the pipe from groundwater at those locations either. The chance of explosion is further reduced by the fact that the FWM storm drain pipe is typically open at both ends allowing exchange of air, and it is very unlikely that any sources of ignition would be present inside the pipe. If the drain outlet/flap gate is closed, or any other hydraulic change occurs, the overall risk will not change, as the pipe is not expected to be air tight/gas tight at any point and therefore will have some level of ventilation regardless.

Conclusion

Based on the information presented in this TM, it is our opinion that capping of the drain risers will not result in accumulation of methane gas to explosive levels. There have been no observations of methane in the soil gas upstream of the FWM storm drain pipe inlet that could impact surface water flowing into the FWM pipe, and the high DO present in the FWM make it less likely that there would be any additional methane source in the surface water from the degradation of the organic material there.

CDM Smith

If you have any questions regarding this request, feel free to contact the undersigned at your convenience.

Very truly yours,

Ravi Subramanian

Ravi Subramanian, P.E. C53679 (Exp. 06/30/2019)
Vice President and Engineer of Record
CDM Smith Inc.

David C. Chamberlin
Senior Vice President
CDM Smith Inc.

Jeffrey T. Bamer, P.E.
Principal and Senior Engineer
CDM Smith Inc.

Attachments

- Attachment A - Map of Soil Gas Sample Locations with Methane Concentrations in Area B

I23-107 cont.

ATTACHMENT 17

DIAZ • YOURMAN
& ASSOCIATES
Geotechnical Services

A Report Prepared for:

US Army Corps of Engineers
915 Wilshire Boulevard, Suite 1040
Los Angeles, CA 90803

GEOTECHNICAL INVESTIGATION
BALLONA CREEK WETLANDS
TASK ORDER NO: 003, CONTRACT NO. W912PL-06-D-004
LOS ANGELES COUNTY, CALIFORNIA

Project No. 2006-023.05

by

S.P.W

Saroj Weeraratne
Geotechnical Engineer 2374

REGISTERED PROFESSIONAL ENGINEER
SAROJ P. WEERARATNE
No. 2374
Exp. 9-30-10
GEOTECHNICAL
STATE OF CALIFORNIA

Clay Stevens
Certified Engineering Geologist 2520

PROFESSIONAL GEOLOGIST
CLAY MICHAEL STEVENS
No. 2520
CERTIFIED ENGINEERING GEOLOGIST
STATE OF CALIFORNIA

Diaz•Yourman & Associates
1616 East 17th Street
Santa Ana, CA 92705
(714) 245-2920

June 2, 2010

I23-108

ATTACHMENT 18

SEISMIC HAZARD ZONE REPORT 036

SEISMIC HAZARD ZONE REPORT FOR THE VENICE 7.5-MINUTE QUADRANGLE, LOS ANGELES COUNTY, CALIFORNIA

1998

I23-109

DEPARTMENT OF CONSERVATION
Division of Mines and Geology

STATE OF CALIFORNIA
GRAY DAVIS
GOVERNOR

THE RESOURCES AGENCY
MARY D. NICHOLS
SECRETARY FOR RESOURCES

DEPARTMENT OF CONSERVATION
DARRYL YOUNG
DIRECTOR

ATTACHMENT 19

STATE OF CALIFORNIA—THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, *GOVERNOR*

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105- 2219
VOICE (415) 904- 5200
FAX (415) 904- 5400
TDD (415) 597-5885

Managing Coastal Hazards

Managing coastal hazards is a key component of the coastal program. The Coastal Act aims to reduce risks to life and property and avoid substantial changes to natural landforms. As stated in §30253:

> *New development shall:*
>
> *1) Minimize risks to life and property in areas of high geologic flood, and fire hazard.*
>
> *2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

The complete text of the California Coastal Act is available at the Coastal Commission's website— http://www.coastal.ca.gov/coastact.pdf. You'll find policies about coastal resources planning and management in Chapter 3.

Engineered solutions to coastal hazards typically have significant impacts on coastal resources. In updating your LCP, keep in mind that the primary approach to hazards should be *avoidance*. Also remember that your LCP should clearly articulate that stability should be assured for the life of a development. I23-110

➢ *What should an updated hazards section include?*

Similar to other policy areas, the hazards component of your LCP should reflect the geography of your jurisdiction. In order for new development to avoid hazards, your LCP should include current information, such as wave uprush studies, data on bluff retreat and beach erosions rates, and mapping or inventories of hazardous areas. Be sure to consider any changes since your last update so that designations of hazardous zones reflect actual conditions.

♦ Topics

Hazard policies should direct the siting and design of new development so as to minimize risk to life and property and impacts to coastal resources. Typically, they will address the following issues (as applicable):

- ❑ Beach areas subject to seasonal or long-term erosion.
- ❑ Areas subject to high waves, such as those from storms, surges and seiches.
- ❑ Coastal or riverine flood hazards.
- ❑ Tsunami inundation runup areas.
- ❑ Sea level rise, from both a short and long term perspective.
- ❑ Beach nourishment/sand supply for beaches vulnerable to wave damage and erosion.

ATTACHMENT 20

Analytical Framework for Coastal and Estuarine Study
Florida

ATKINS

Atkins' Analytical Framework for Coastal and Estuarine Study (ACES), designed for the **St. Johns River Water Management District,** takes advantage of advances in GIS technology, specifically ArcHydro, to provide a better understanding of the factors affecting water quality in estuarine systems.

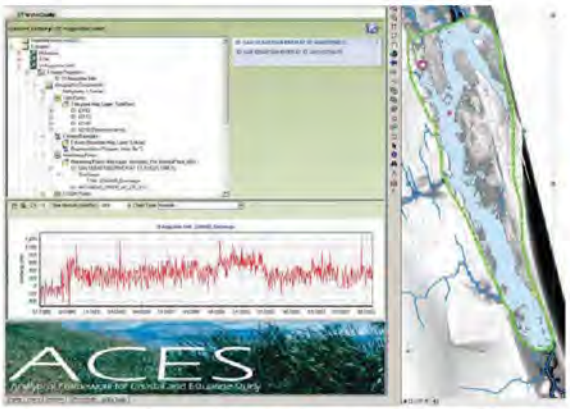
ACES provides a user-friendly tool for coastal professionals to model estuaries, assess their bulk properties, and model their dynamics.

The GIS-based workbench in ACES provides a platform for non-GIS experts to conduct estuarine studies.

ACES takes advantage of data to create "first-principles-analysis" for estuaries. It can also be expanded to many other arenas of estuarine study beyond water quality.

ACES provides an easy way to evaluate water quality in estuaries that previously required complex geomorphology, hydrodynamics, and biogeochemistry.

I23-111



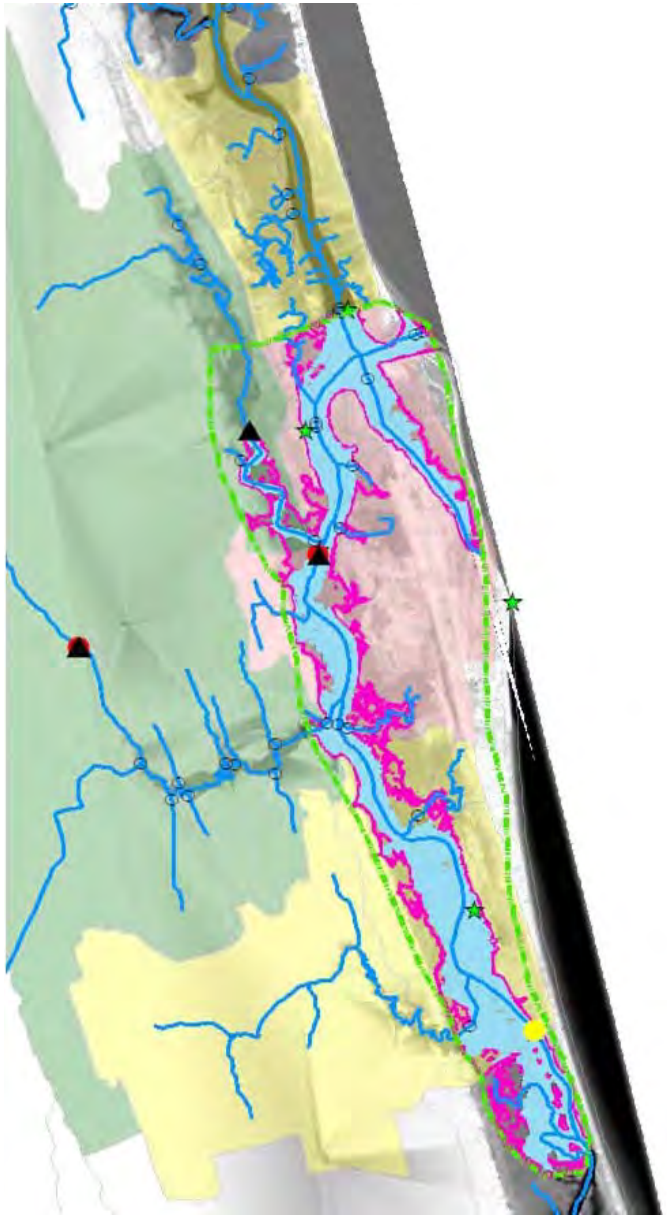
The ACES platform, pictured above, enables non-GIS experts to conduct estuarine studies. Atkins configured ACES to evaluate existing data and to incorporate new data for continuous optimization.

Project benefits:

- Cost-effective, user-friendly method for conducting coastal and estuarine studies
- Extends complex spatial analysis capabilities to non-GIS users
- Provides an environment for fusion of data from multiple sources

Plan Design Enable

For more information on this or other innovative solutions:
http://northamerica.atkinsglobal.com/applied_technologies
or 800.284.5182



Building a GIS-Based Analytical Framework for Coastal and Estuarine Study

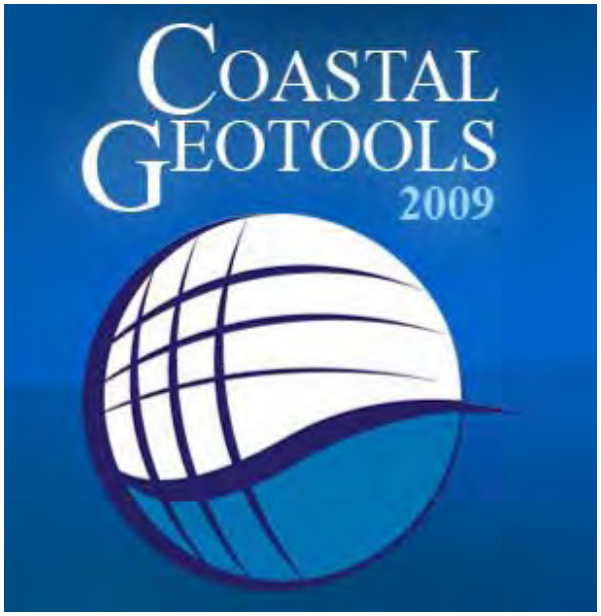
Sandra Fox – *St. Johns River Water Management District, Palatka, FL*

Steve Bourne – *Post, Buckley, Schuh and Jernigan, Atlanta, GA*

Clay Montague – *University of Florida, Gainesville, FL*

Palmer Kinser – *St. Johns River Water Management District, Palatka, FL*

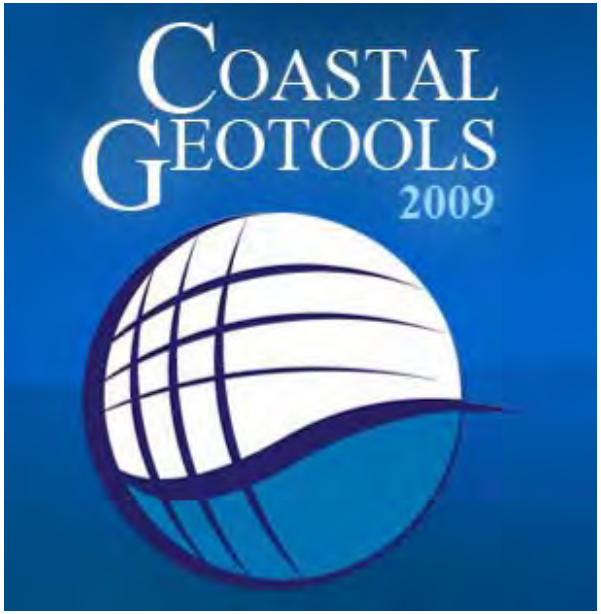
I23-111
cont.



A Conference Objective

Participants learn about emerging tools and techniques and their benefits and applicability

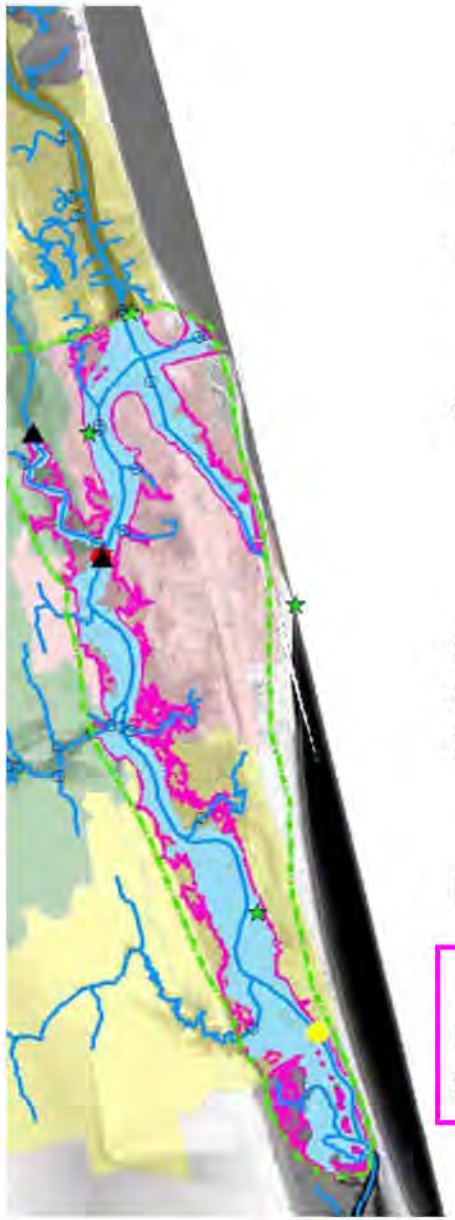
I23-111
cont.



Outline

- Background
- Function
- Demo
- Applicability
- Benefits

I23-111
cont.



Background

Tool and schema were designed:

- As a collaborative effort by a team of scientists, engineers, GIS experts, software (GIS) programmers

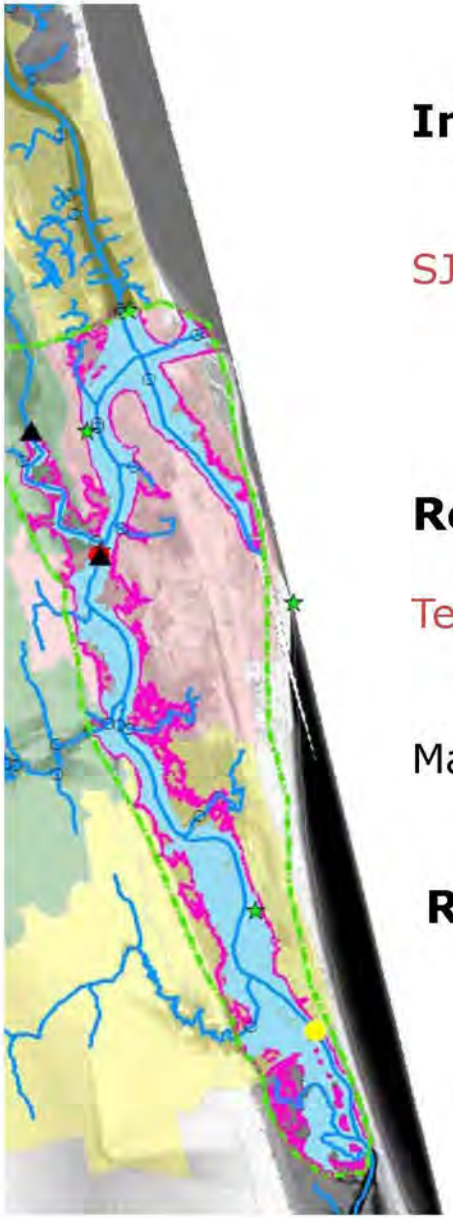
- Then reviewed by an additional team of experts

- To assist in better understanding of estuarine systems, and to assist in the development of estuarine and coastal decision support systems *"C - 08" - NOAA Coastal GeoTools 2009 Tom Singleton et al.*

- To take advantage of advances in GIS technology, including Arc Hydro (GIS for Water Resources)

- To take a different approach in the determination of the "area of influence" for water quality monitoring sites

I23-111
cont.



Initial design team:

- Steve Bourne – PBS&J
- Sandra Fox, Palmer Kinser, Pete Sucsy, Aisa Ceric – SJRWMD
- Clay Montague, Ashish Mehta – University of Florida
- Michael McManus – The Nature Conservancy
- Michael Turtora – USGS

Review team:

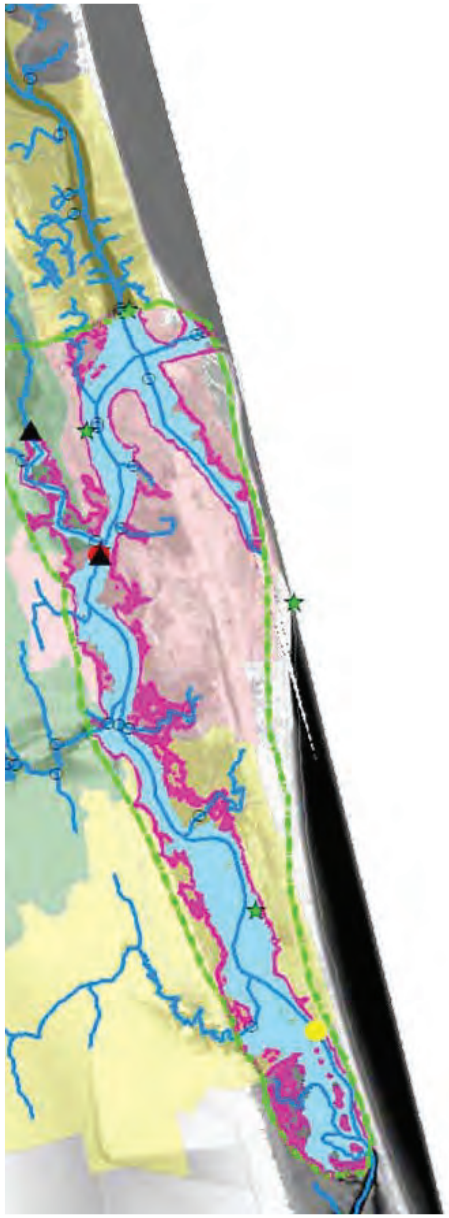
- David Maidment, Tim Whiteaker – University of Texas, Center for Research in Water Resources
- Rob Wallace – USACE, Vicksburg
- Joel Steward, Whit Green, Steve Winkler, Nathan Martin, Adrian Lin – SJRWMD
- Jack Hampson – PBS&J

Recent review:

- Naomi Detenbeck – EPA

"D - 07" - NOAA Coastal GeoTools 2009

I23-111 cont.



The tool and schema were designed:

To assist in better understanding of estuarine systems:

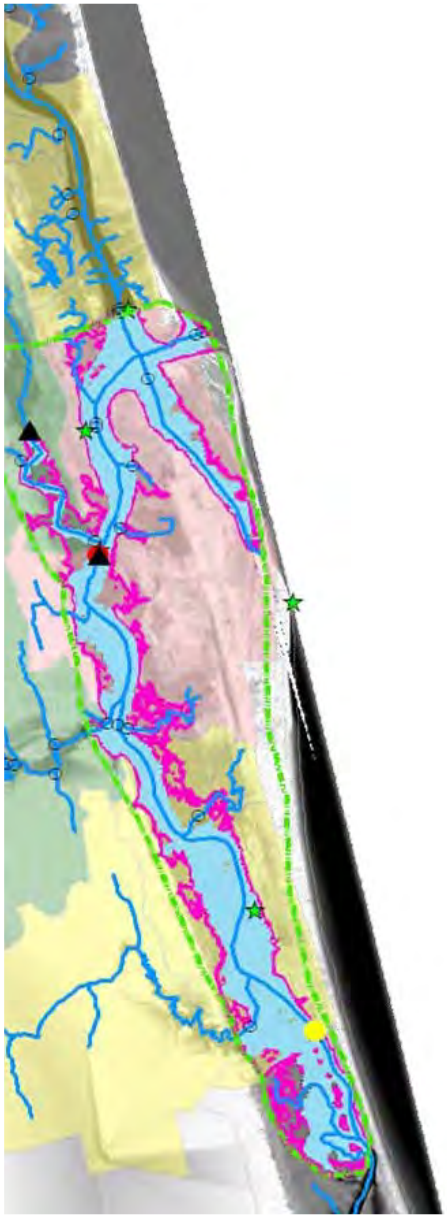
- complex geomorphology, hydrodynamics and biogeochemistry

- traditionally tackled with commensurately complex supercomputer-based modeling techniques

- computational, intellectual and financial expense renders them unavailable to most coastal professionals

- Focus on “First-Principles-Analysis” of Estuary

I23-111
cont.



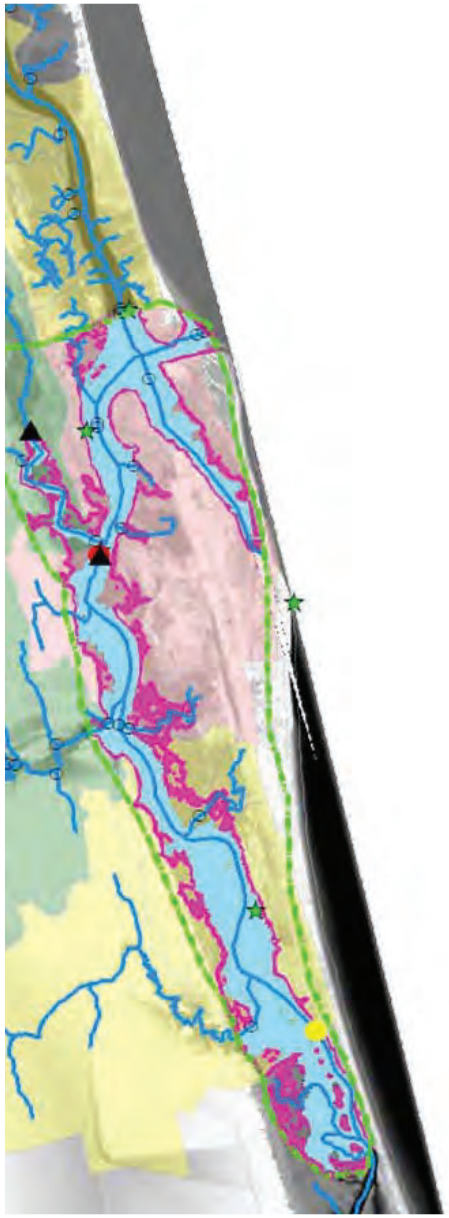
The tool and schema were designed:

To take advantage of advances in GIS technology, including Arc Hydro:

- Arc Hydro is a template system (geodatabase & tools) designed specifically for water resources

- ESRI, CRWR (UT – Dr. David Maidment) and CUASHI (Consortium of Universities for the Advancement of Hydrologic Sciences, inc.)

I23-111
cont.



The tool and schema were designed:

To take advantage of advances in GIS technology, including Arc Hydro: *But*.....

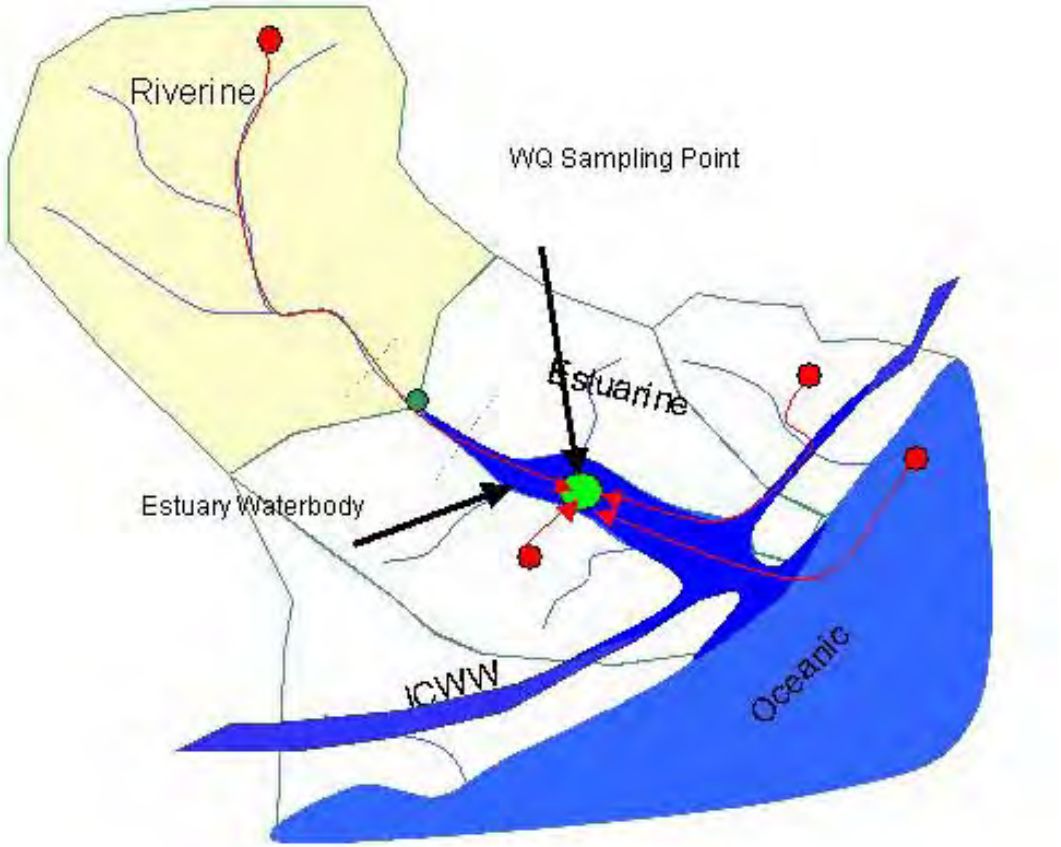
- Arc Hydro falters at the coast

- No method to account for or simulate tidal influence

- Developed some “work-arounds” for Arc Hydro to “work” at the coast, but they were not satisfying from either a scientific or GIS perspective

I23-111
cont.

Enhancement / modifications to Arc Hydro for Coastal and Estuarine areas



Estuary conceptual model

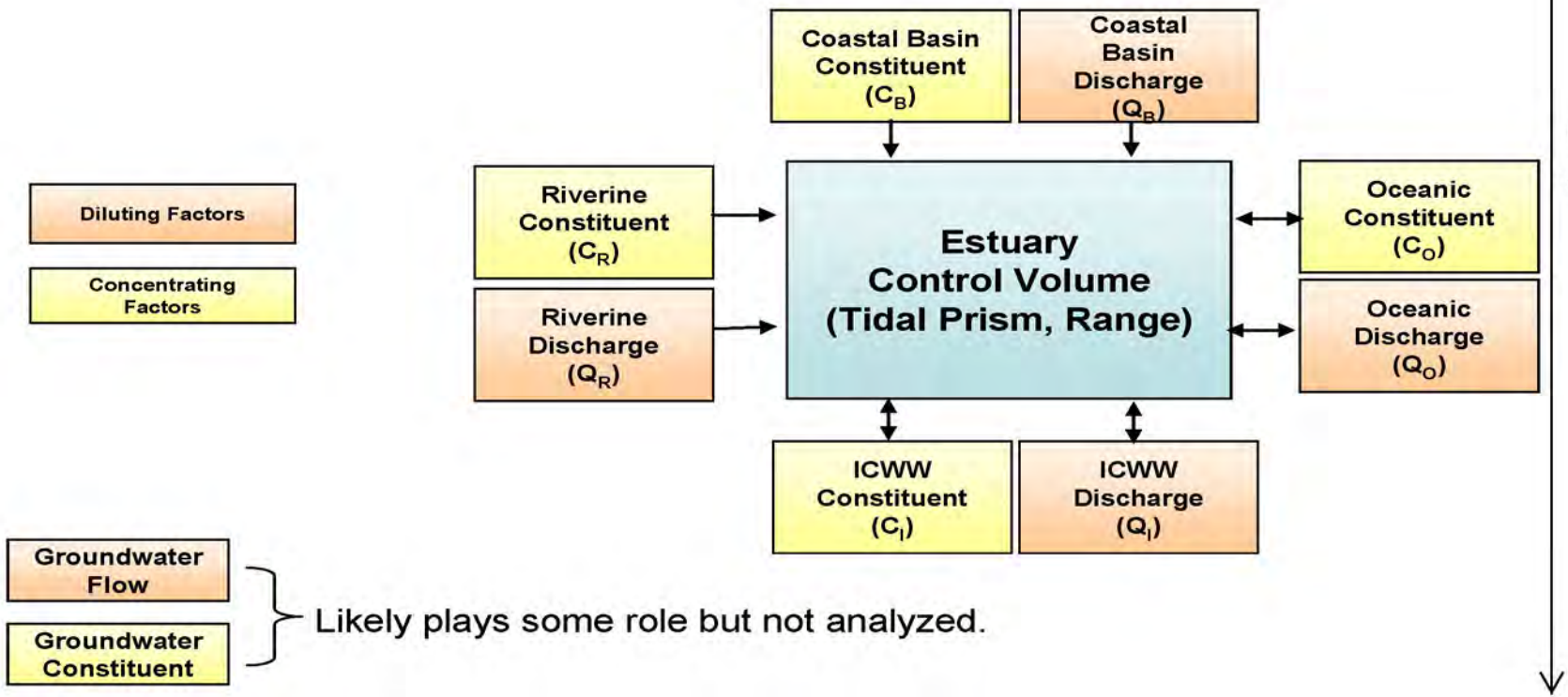
"C-08" - NOAA Coastal GeoTools 2009

Singleton et al., DSS

I23-111 cont.

Focus on "First-Principles-Analysis" of Estuary"

Control Volume Approach to estuarine water quality analysis



I23-111 cont.

Initial study site:

St. Augustine Inlet

Why here?

Best available dataset

I23-111
cont.

REQUIREMENTS FOR PROTOTYPE TOOL OPERATION:

1. **The Tool installed** as an extension to ESRI ArcMap.
2. **ArcMap** at full ArcInfo license level, Spatial Analyst and 3D Analyst.
3. **An enhanced Arc Hydro geodatabase**, an extended version of the SJRWMD Arc Hydro geodatabase, with the following Arc Hydro feature classes populated:
   a. "QuadBasin" (Catchment) – vector landscape representation
   b. Monitoring_Point_HDS – discharge data
   c. Water Quality Monitoring Points
   d. HydroEdge (Arc Hydro flowlines)
   e. TidalNullPoint (approx. point flow diverges on an outgoing tide) optional
4. **A populated TidePoint feature class,** part of the **Coastal Feature Dataset** of the enhanced Arc Hydro geodatabase (schema). The TidePoint feature class should have the attribute fields "Hi Tide Ht" and "Lo Tide Ht" populated, from **NOAA.**
5. **An Estuary feature class.** The Estuary feature class is part of the Coastal Feature Dataset of the enhanced Arc Hydro geodatabase. (Because the tool generates the information necessary to fill in the attribute information in this feature class, the feature class does not have to be populated in order to get started.)
6. **Time series data.** The enhanced Arc Hydro geodatabase has new "DataCube table couplets" (*explained in the Requirements & Specifications document, Part 2 of the documentation* that contain time series data. These time series DataCubes are related (by virtue of ESRI ArcMap relationship classes) to the water quality monitoring points, the QuadBasins, and the HDS monitoring points. You can populate these DataCubes with time series of observations measured at these locations or with derived data. (*There is a short tutorial in documentation on one method for how to populate the DataCube tables*.)
7. **A Bathymetry/Terrain layer (DEM).** This should be a single, floating point, raster that has merged bathymetry and terrain data.
8. **An ArcMap mxd** that contains all the data listed above.

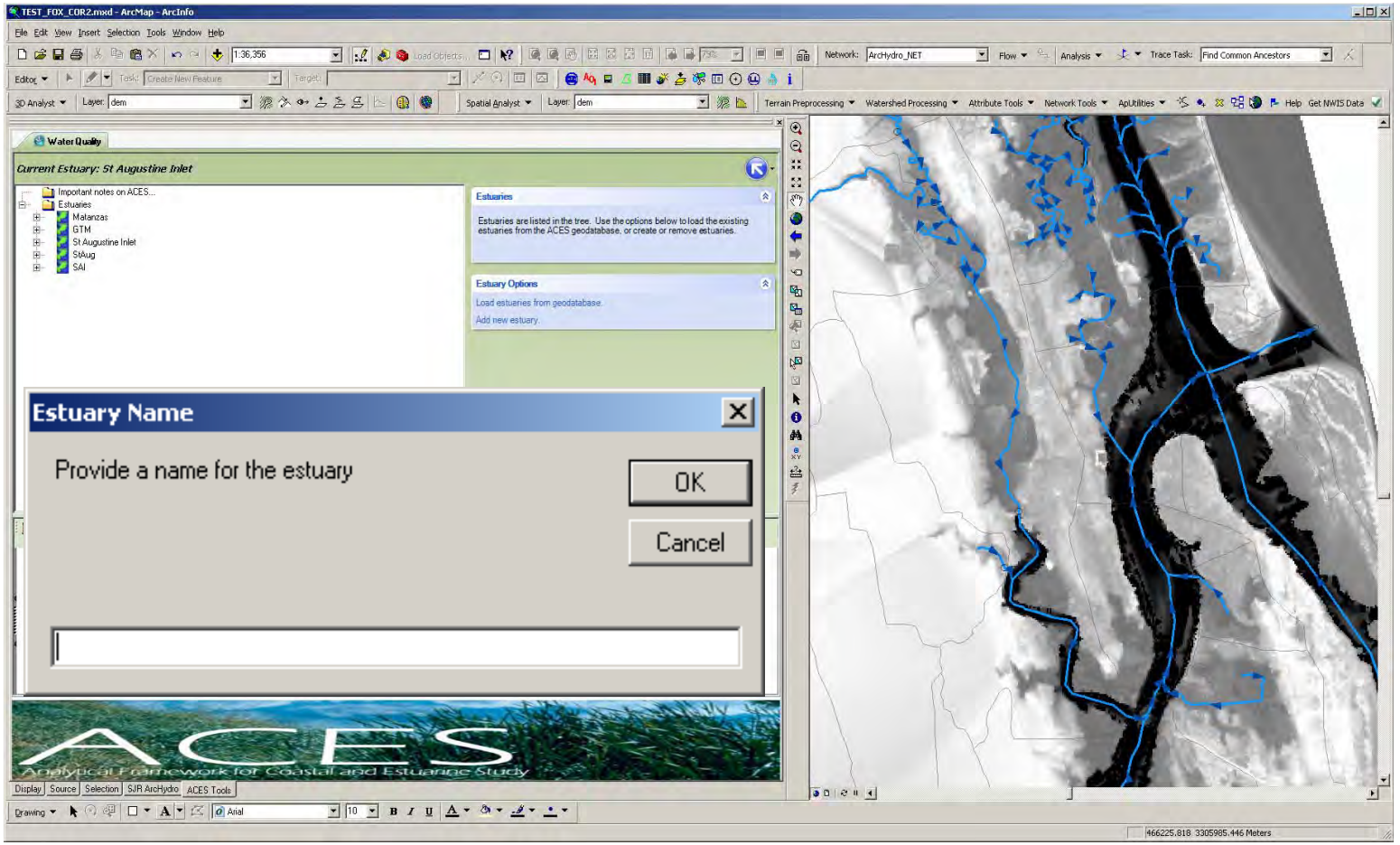
I23-111 cont.

Steps (work flow):

1. Introduction to the Tool Interface (Workbench) and Creation of the Virtual Estuary.
2. Associating Bathymetry and Terrain with the Estuary.
3. Associating TidePoints with the Estuary
4. Creating the Estuary boundary or boundaries.
5. Associating other features with the Estuary
6. Calculating Bulk Parameters
7. Building a linear regression or other model. *(This needs work!)*

I23-111
cont.

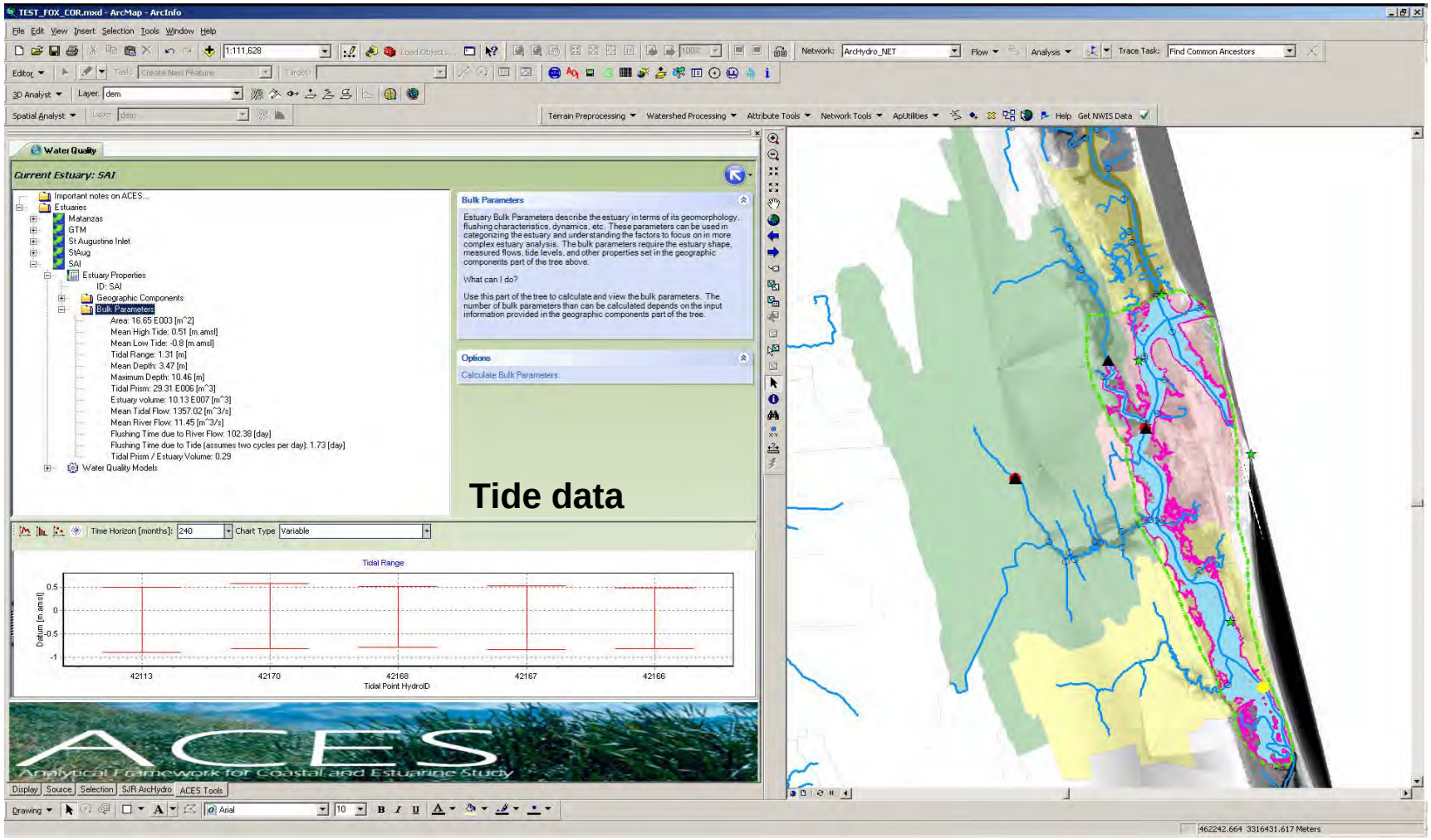
1. Introduction to the Tool Interface and Creation of the Virtual Estuary



I23-111 cont.

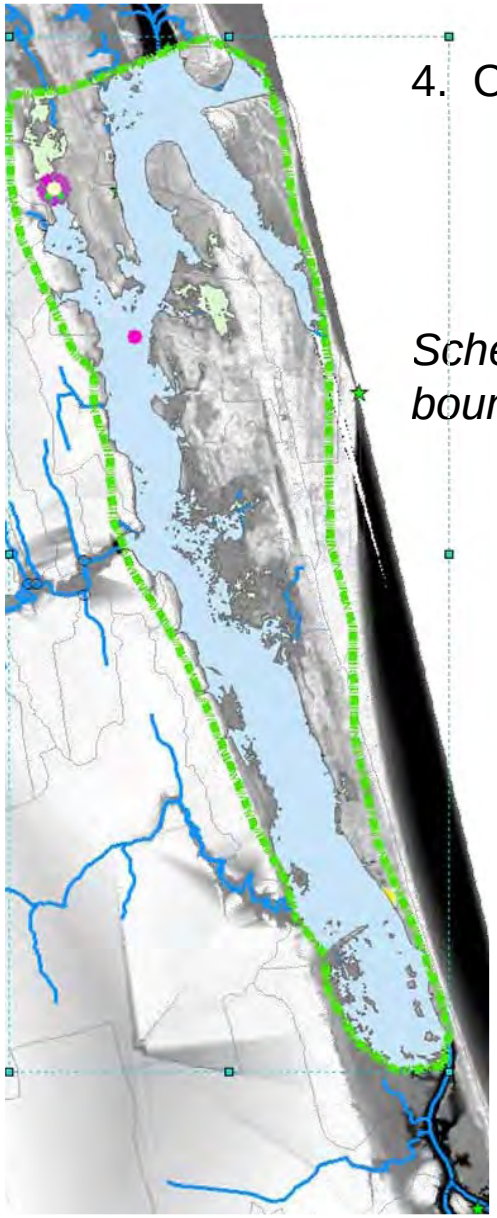
2. Associating DEM to the virtual estuary

3. Associating features with the Estuary - - - - viewing attribute data



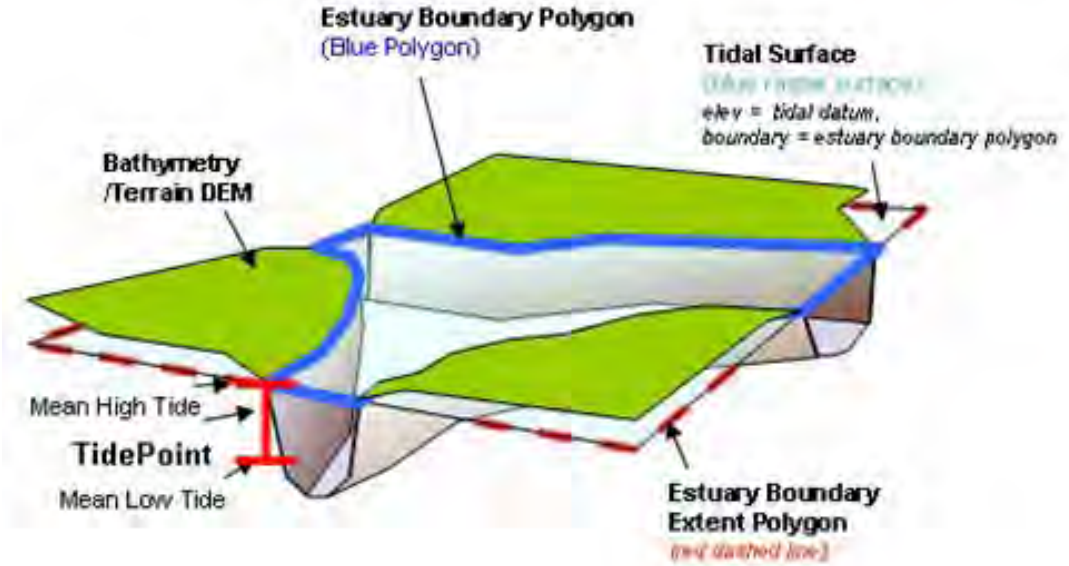
I23-111 cont.

By virtue of relationship classes in geodatabase schema



4. Creating the Estuary boundary or boundaries

Schematic of the process for creating the Estuary boundary polygon



I23-111 cont.

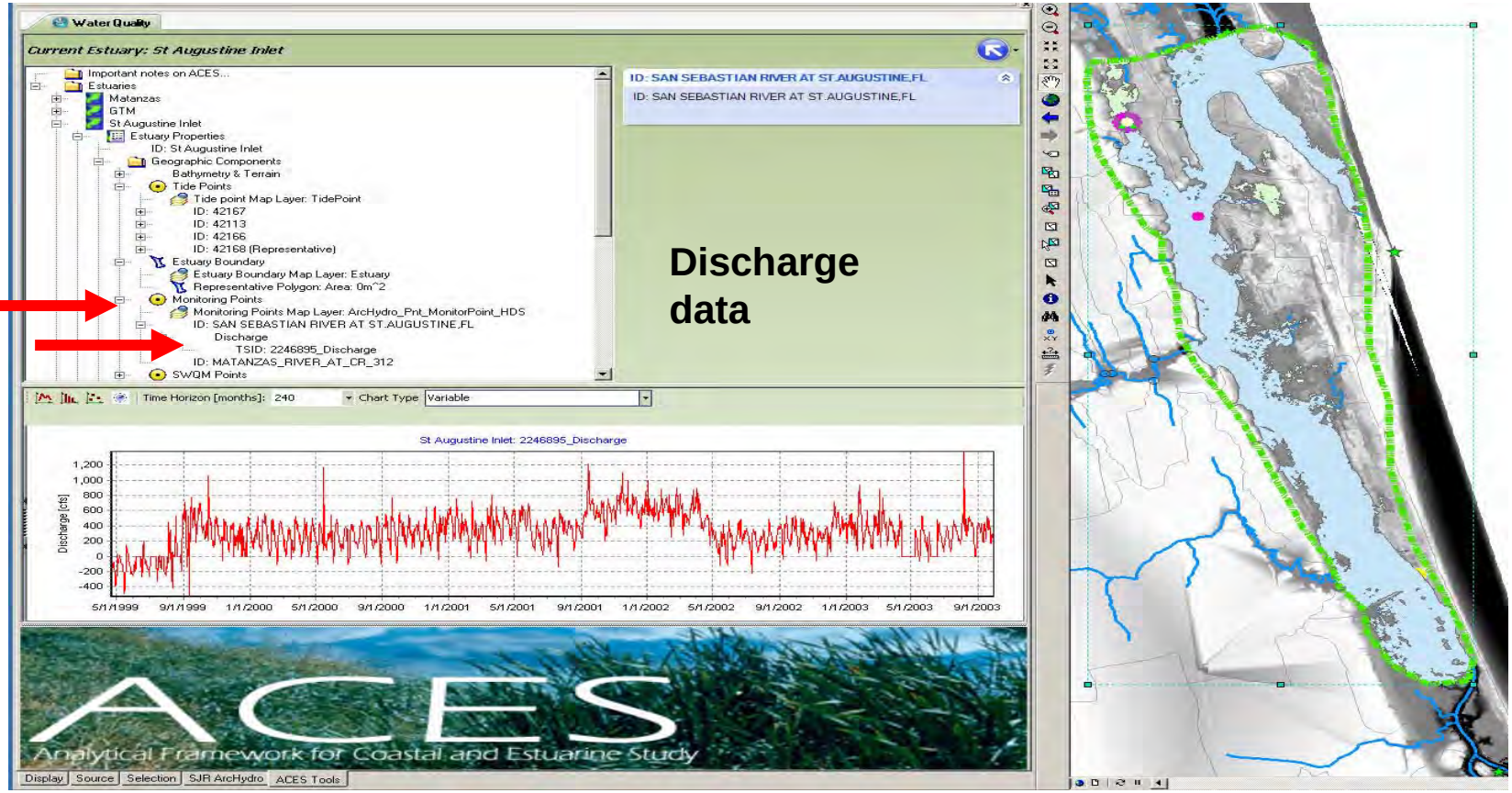
Creating the Estuary boundary or boundaries

Green = Low Tide

Purple = High Tide

I23-111 cont.

5. Associating other features with the Estuary - - - - *time series data*

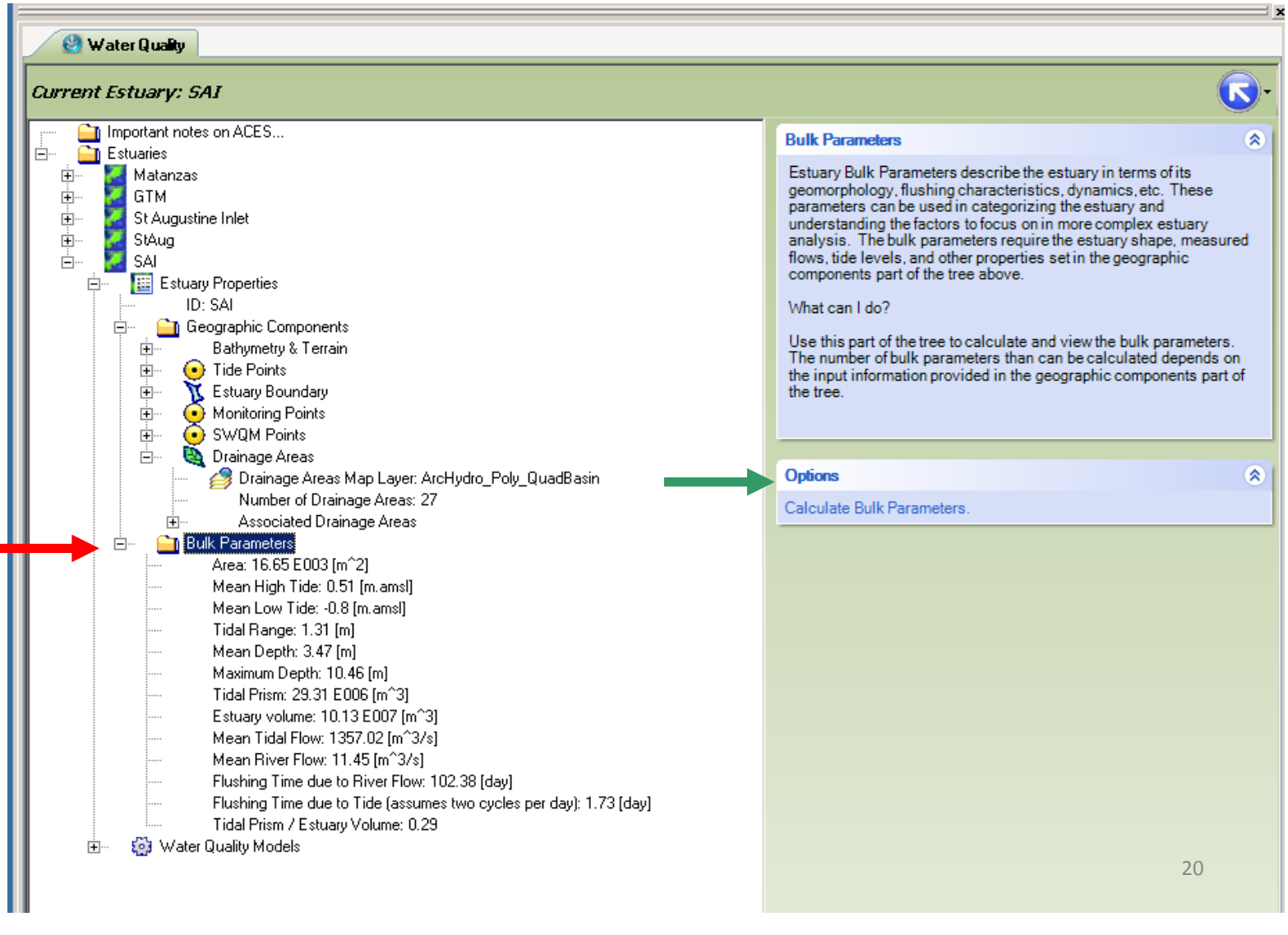


23-111 cont.

Demo

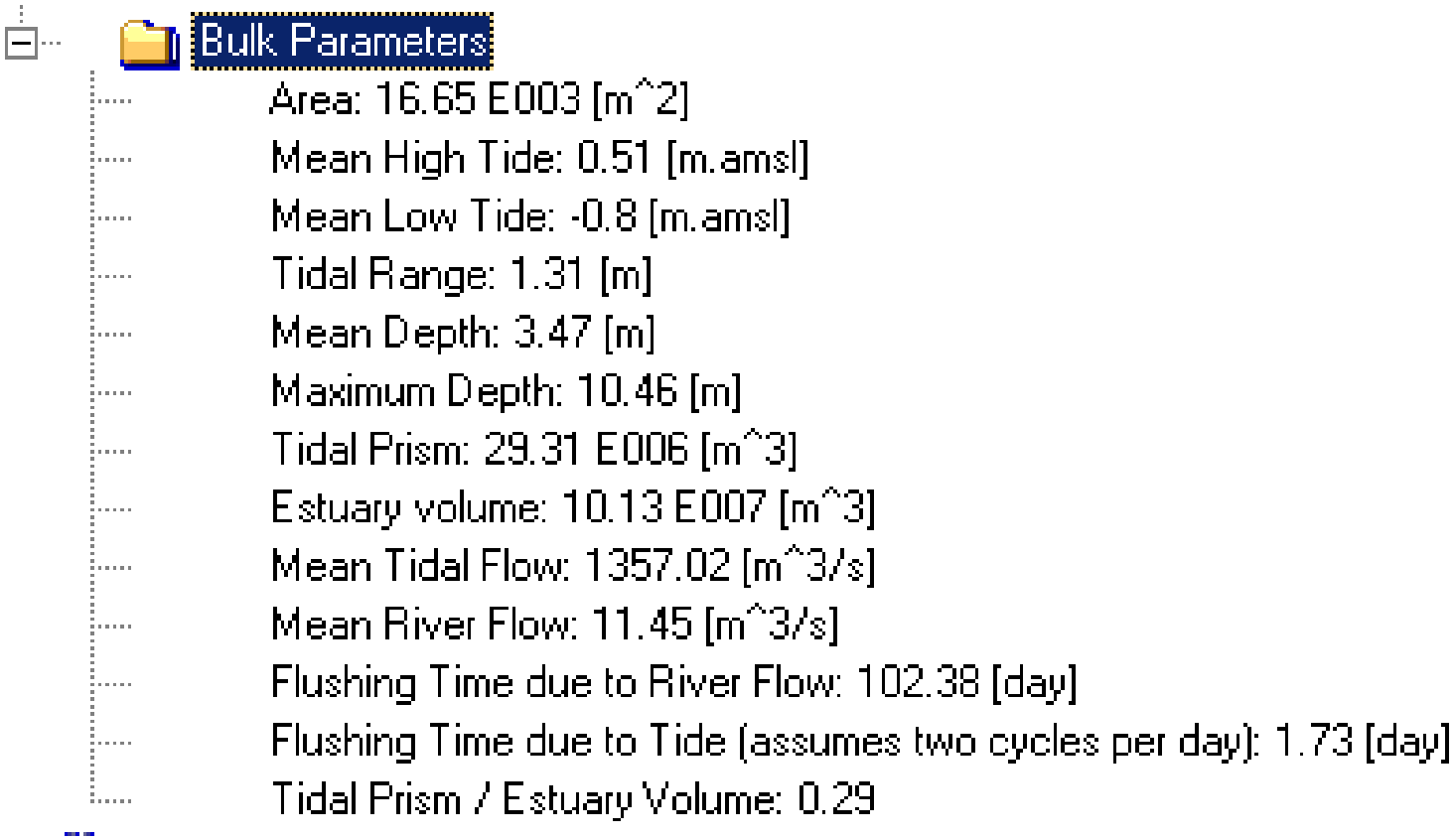
I23-111
cont.

6. Calculating Bulk Parameters



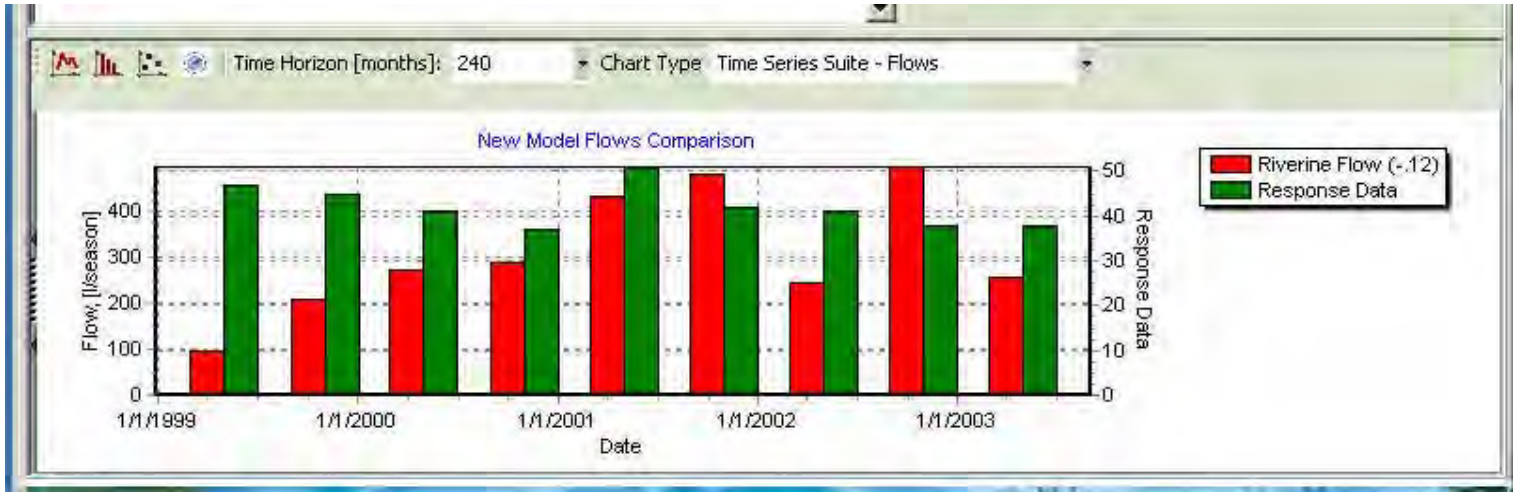
I23-111 cont.

Calculating Bulk Parameters



I23-111 cont.

7. Building a linear regression model



Water Quality Models
- San Sebastian Water Quality
  - Model Start Date: 5/1/1999
  - Model End Date: 9/1/2003
  - Model Aggregation Period: SWQM Wet+Dry Season
  - Influential Factors (Predictors)
  - Calibration Data
  - Regression Analysis
    - R2 = 0.273656390816748
    - R2adj = 0.182863439668842
    - B0 = 24.6096466460373
    - Predictor Parameters
      - Riverine Flow: Coefficient = 0.0445986872133934, P-Value = 0.1207564441127

I23-111 cont.

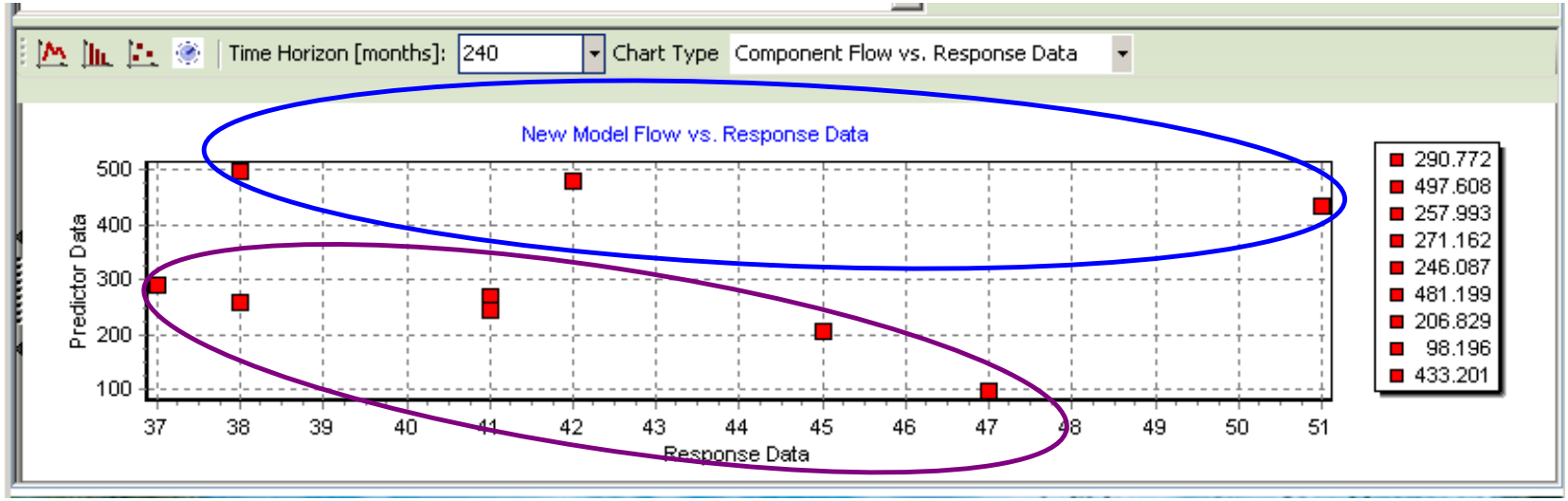
EXAMPLE: Building a linear regression model

Remove outliers?

Suggestion of 2 patterns?

High flow or storm events and “normal” flow

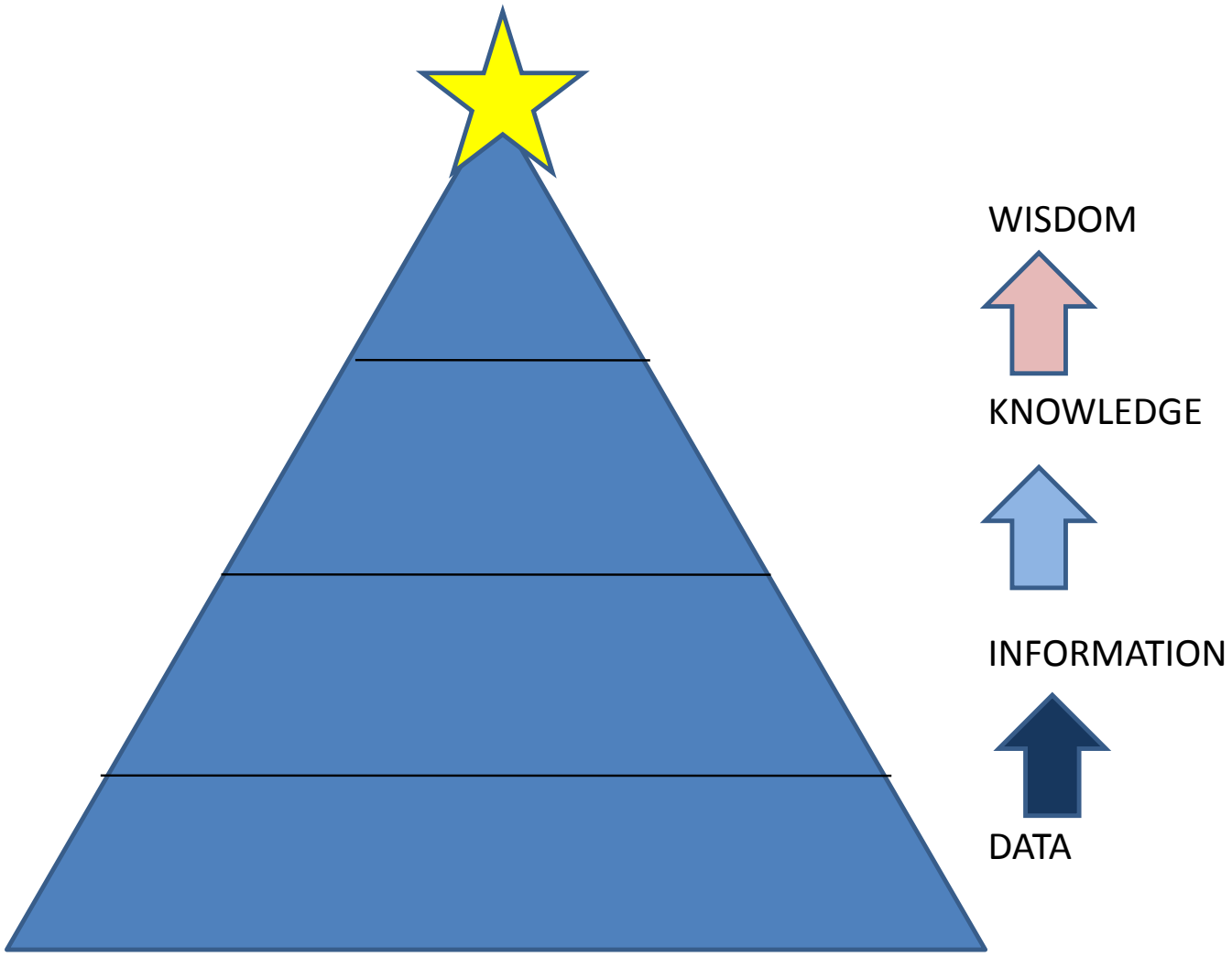
Don’t really have enough data points…..



This is as far as we got with this…..

I would like to pick up where we left off…..

I23-111 cont.



"C - 08" - NOAA Coastal GeoTools 2009 Tom Singleton et al.

I23-111
cont.

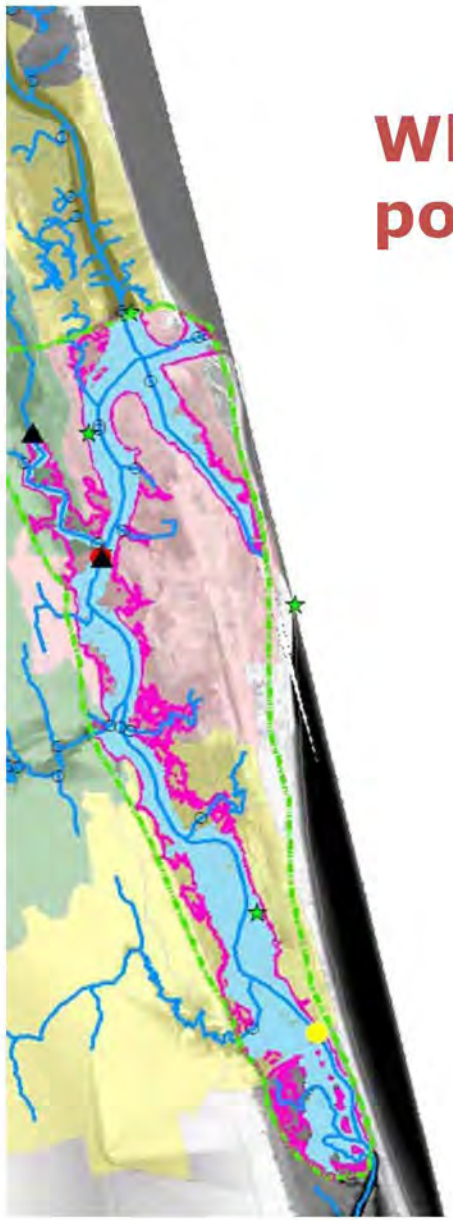
Applications

- Estuary polygon delineation*
- Contour creation for wetlands inventory*
- Data viewing (attribute and time series)*
- e-Estuary program (D-07 *NOAA Coastal GeoTools 2009)*
- *"P-35" - NOAA Coastal GeoTools 2009*
- Estuary classification using bulk parameters

Based upon:

- Physical "virtual estuary" framework
- Modules for different purposes / approaches
- Example of water quality modeling – multiple modules

I23-111
cont.



Where do we need estuary polygons?

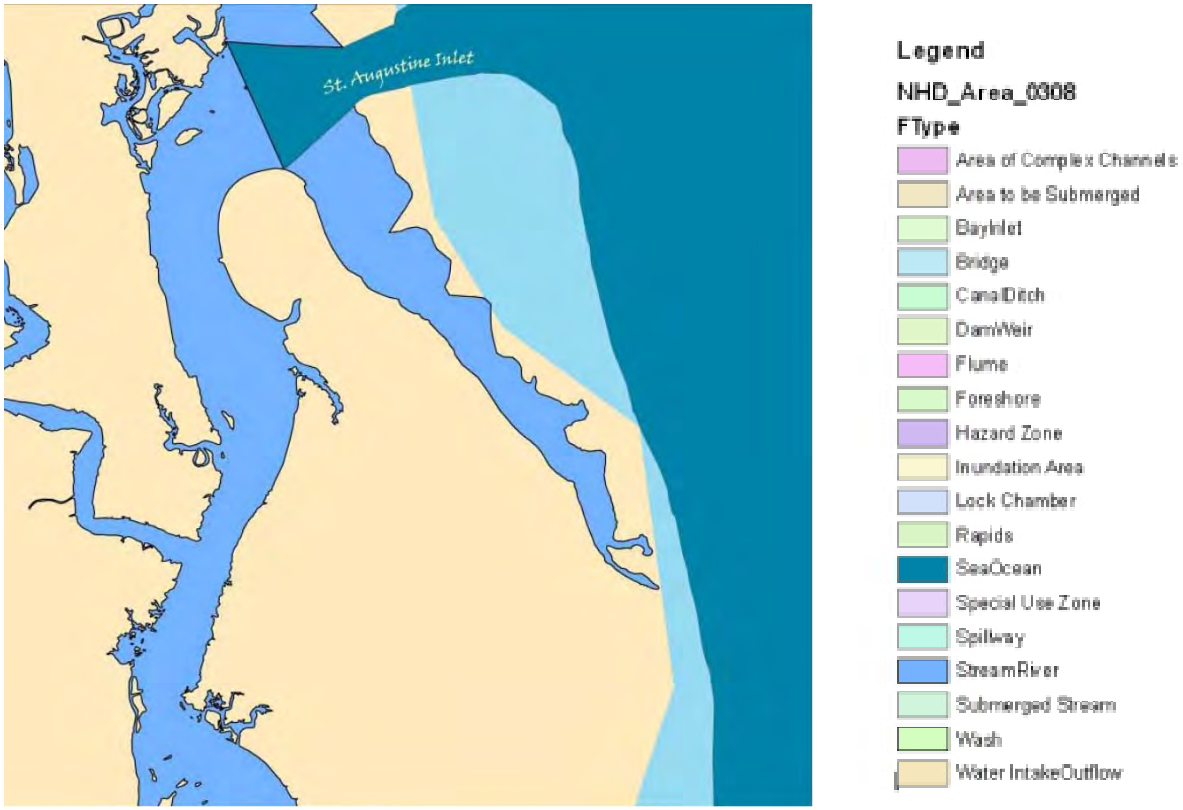
- National Hydrography Dataset!

I23-111
cont.

The NHD Waterbody features for the St Augustine Inlet. The tan and blue are representation of the land and ocean respectively. Note that Estuary is not populated.

I23-111 cont.

The NHD Area features for the St. Augustine Inlet area. The tan and blue are representation of the land and ocean respectively. Note that SeaOcean and StreamRiver features are located in the area that would commonly be identified as estuarine.



I23-111 cont.

Populate Estuary Feature Type

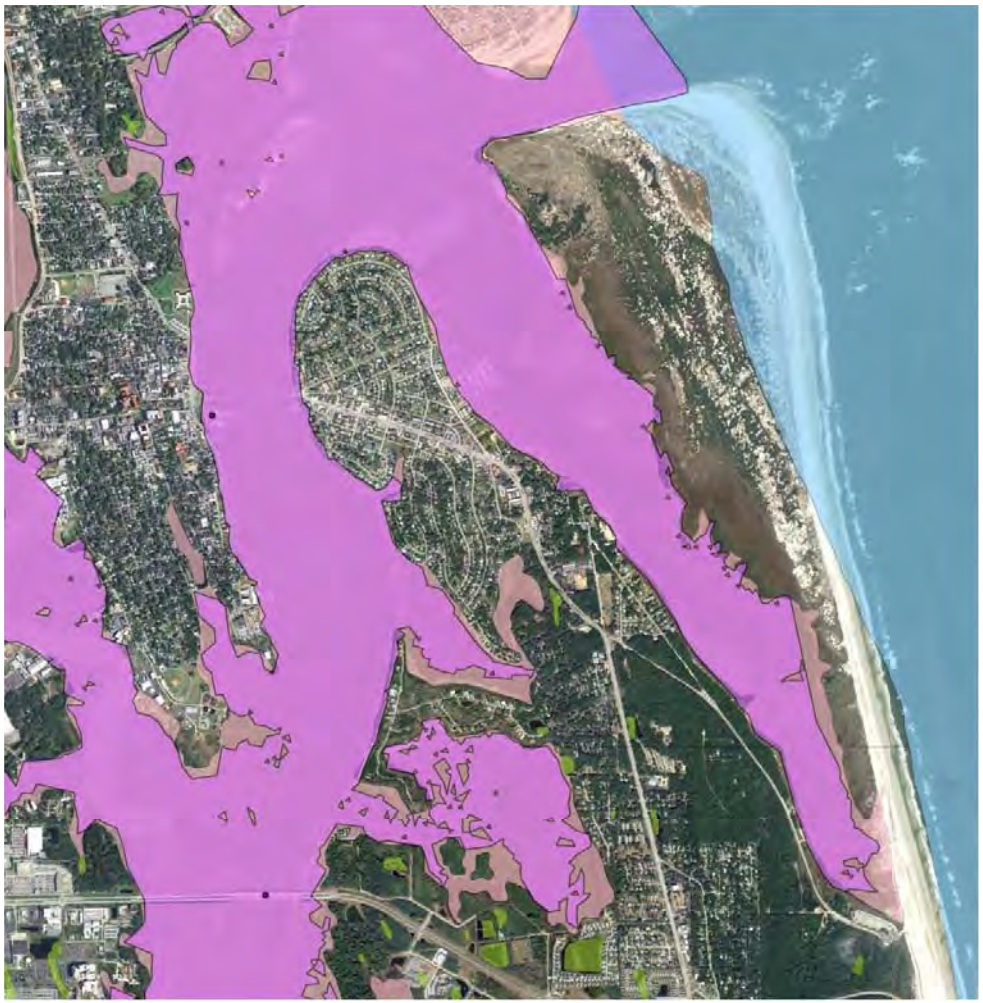
- *If Estuary has been identified as an Estuarine area by the National Wetland Inventory (NWI), then capture.*

  – NHD Standards (USGS, 1999)

I23-111
cont.

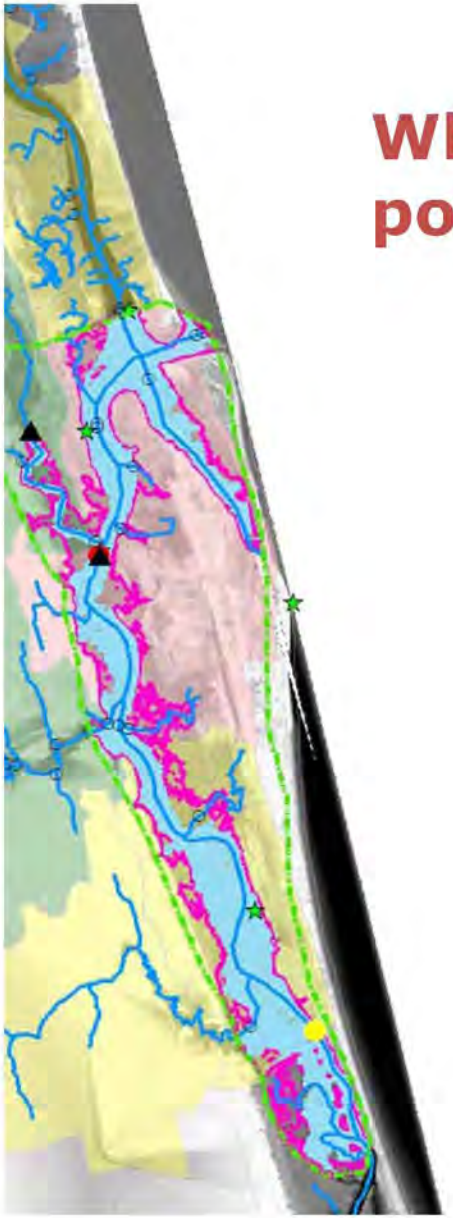
The NWI estuary feature(s) with NHD Waterbody features for the St. Augustine Inlet area. The NWI features are a possible representation of what the NHD Estuary feature type (Waterbody feature class) might look like. Note that the non-estuarine NWI features have been excluded from the image. The tan and blue are representation of the land and ocean respectively.

I23-111 cont.



The ACES Estuary polygon (bright pink) and the NWI estuary features (pale pink) over the aerial photography for the St. Augustine Inlet area. Note that the ACES polygon boundary reflects the elevation of the mean high tide or mean high water on the terrain, while the NWI polygon was derived from photointerpretation.

I23-111
cont.

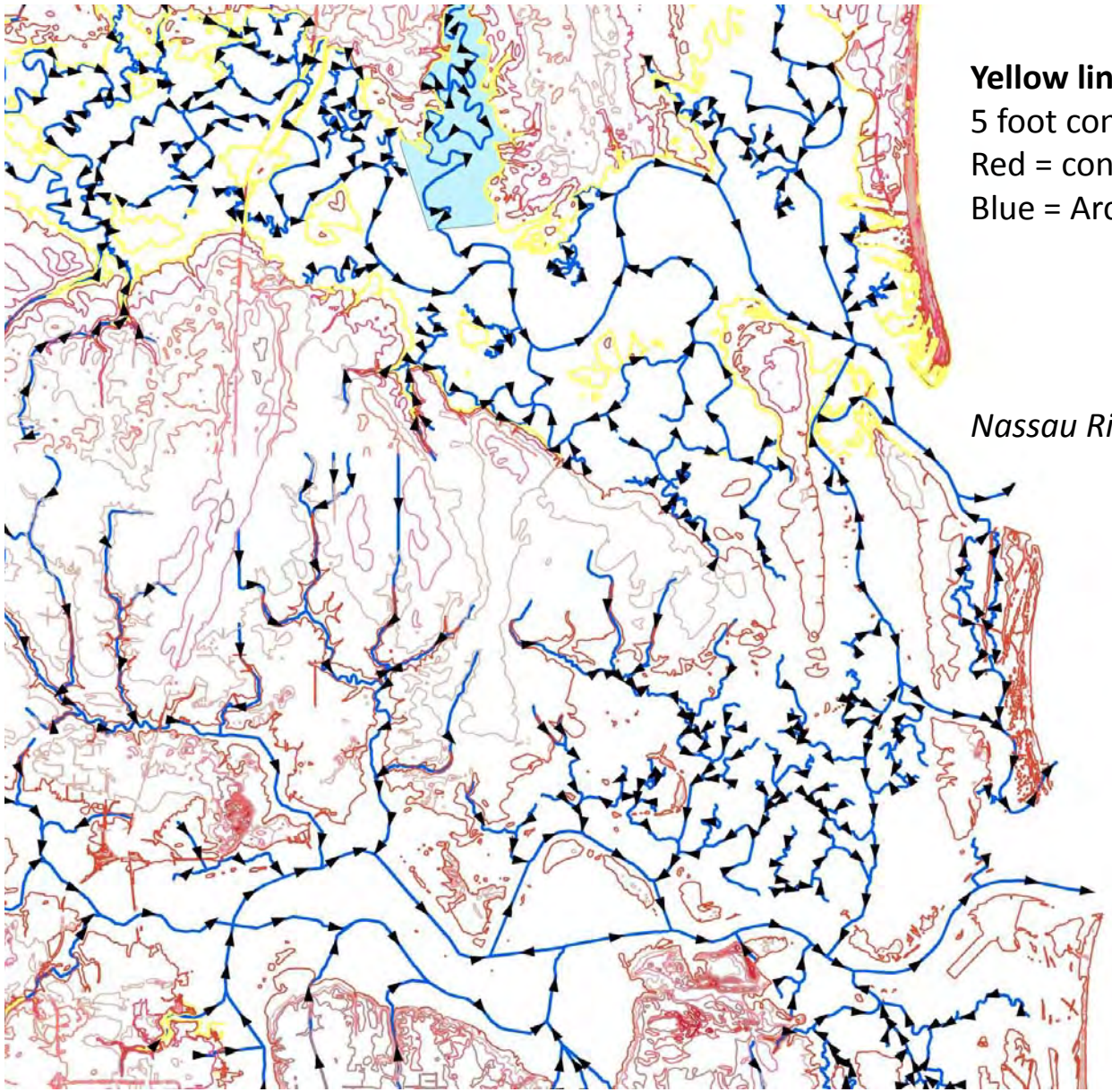


Where do we need estuary polygons?

- National Hydrography Dataset
- 5 foot contour line – St. Johns River / Timucuan Ecological and Historical Preserve (wetlands inventory for SJRWMD "Alternative Water Supply" project)

I23-111 cont.

32



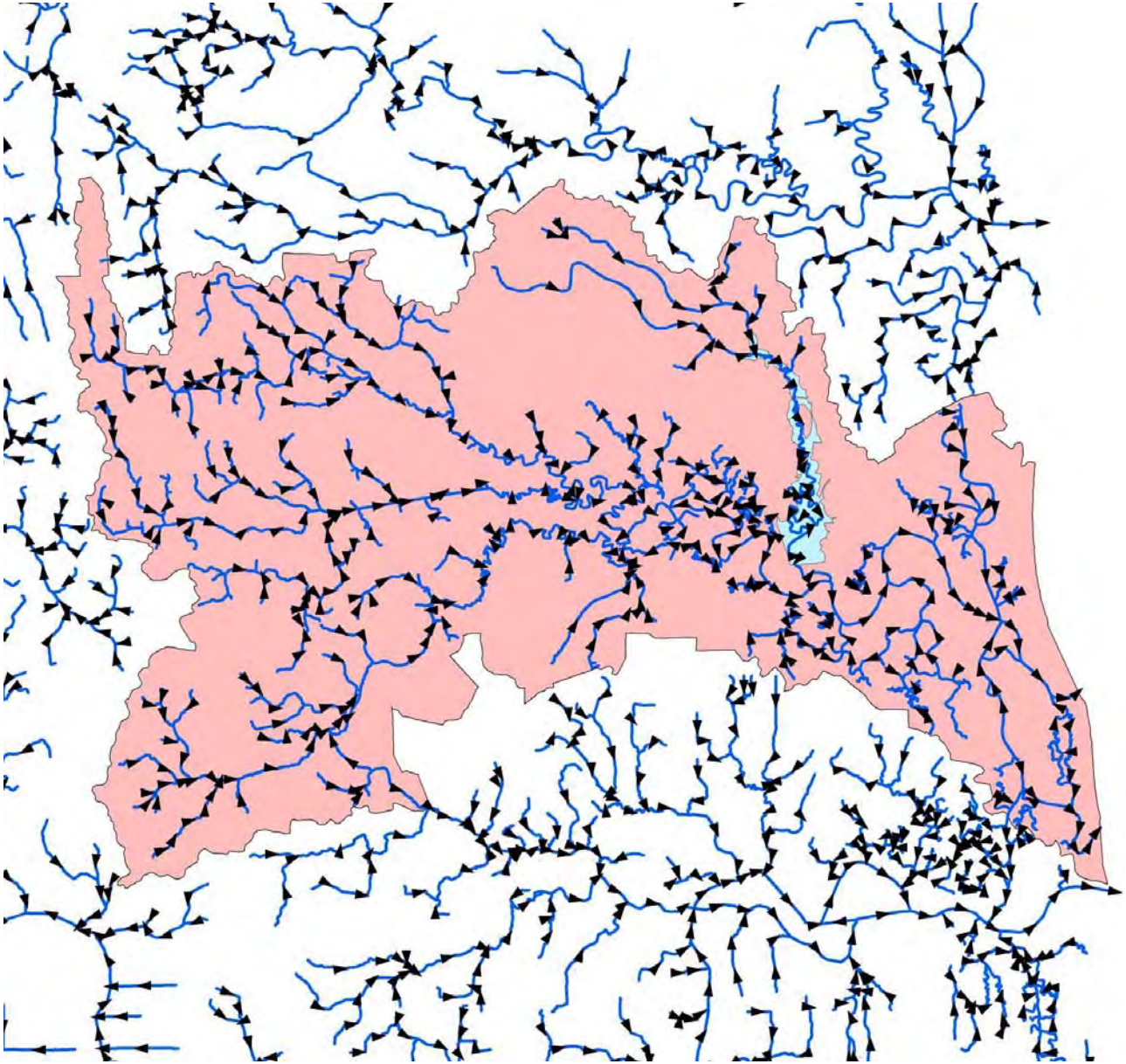
Yellow lines = USGS
5 foot contour line
Red = contours
Blue = Arc Hydro HydroEdges

Nassau River mouth

SJR mouth

I23-111
cont.

33



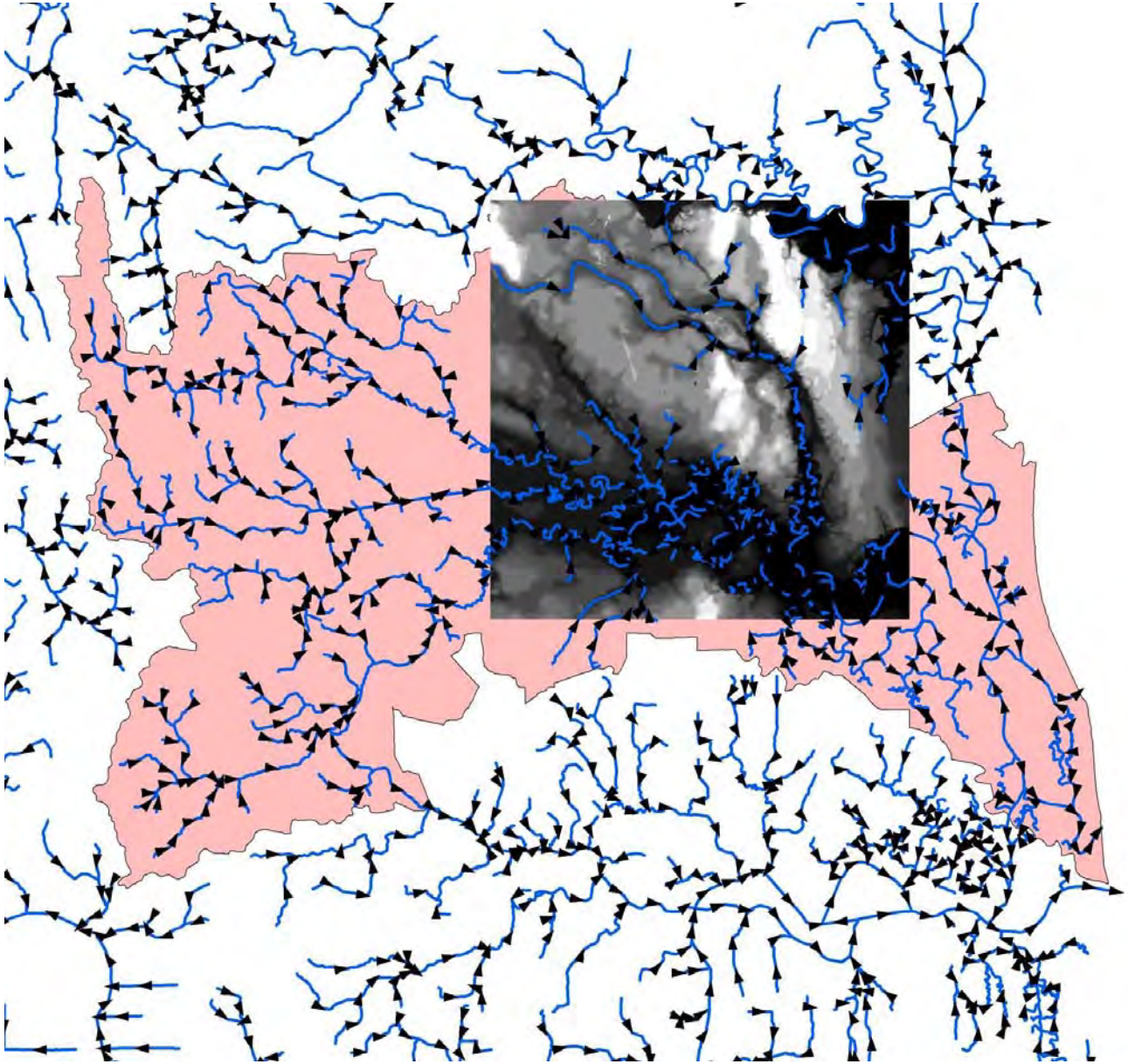
QAQC –

How well do the tool-created 5 foot contours match the USGS contours?

Pink polygon = Nassau River drainage basin

Blue lines = Arc Hydro HydroEdges

I23-111 cont.



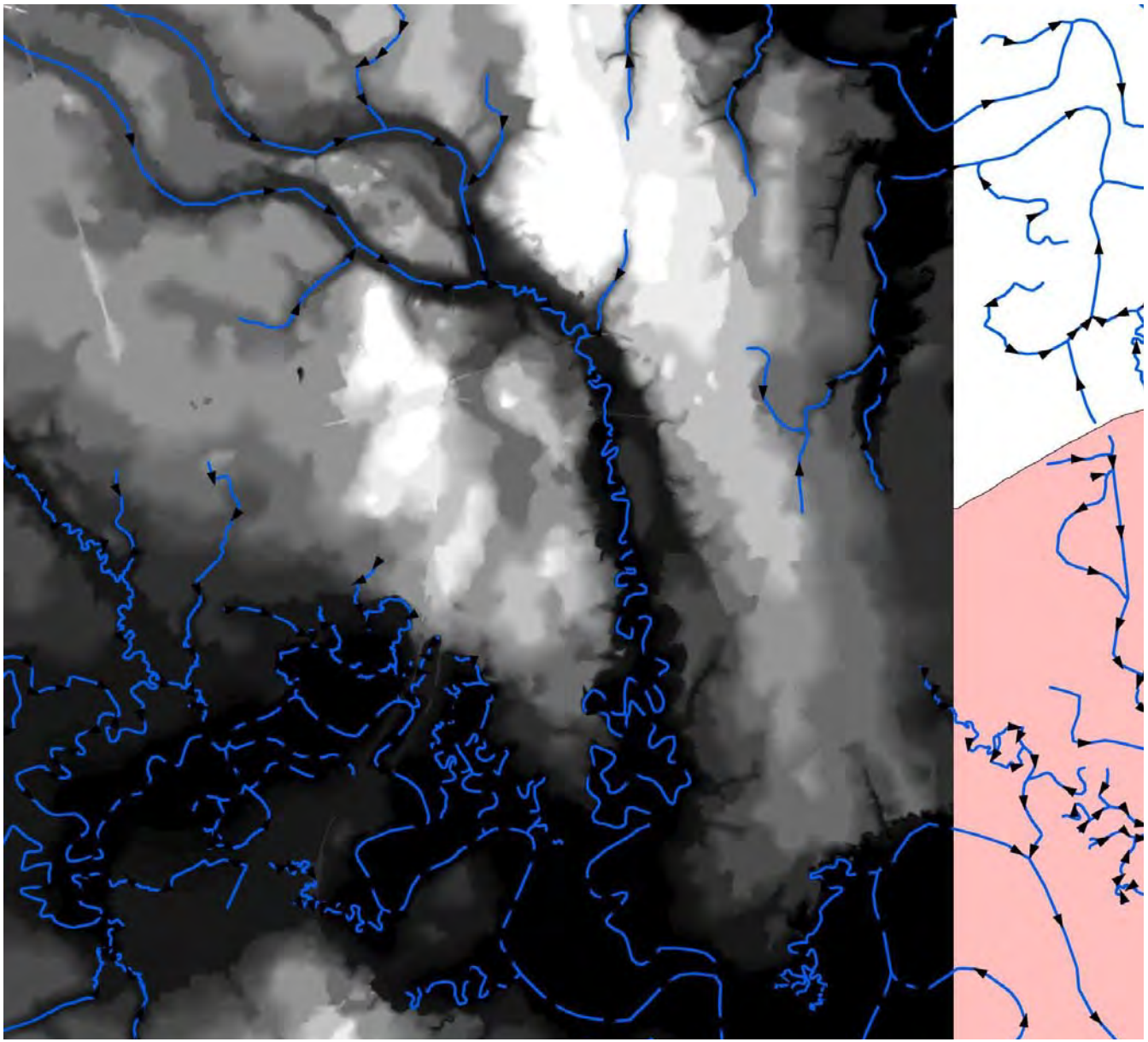
QAQC –

How well do the tool-created 5 foot contours match the USGS contours?

Added source DEM

(no tide points added – manually set elevation to 5 feet)

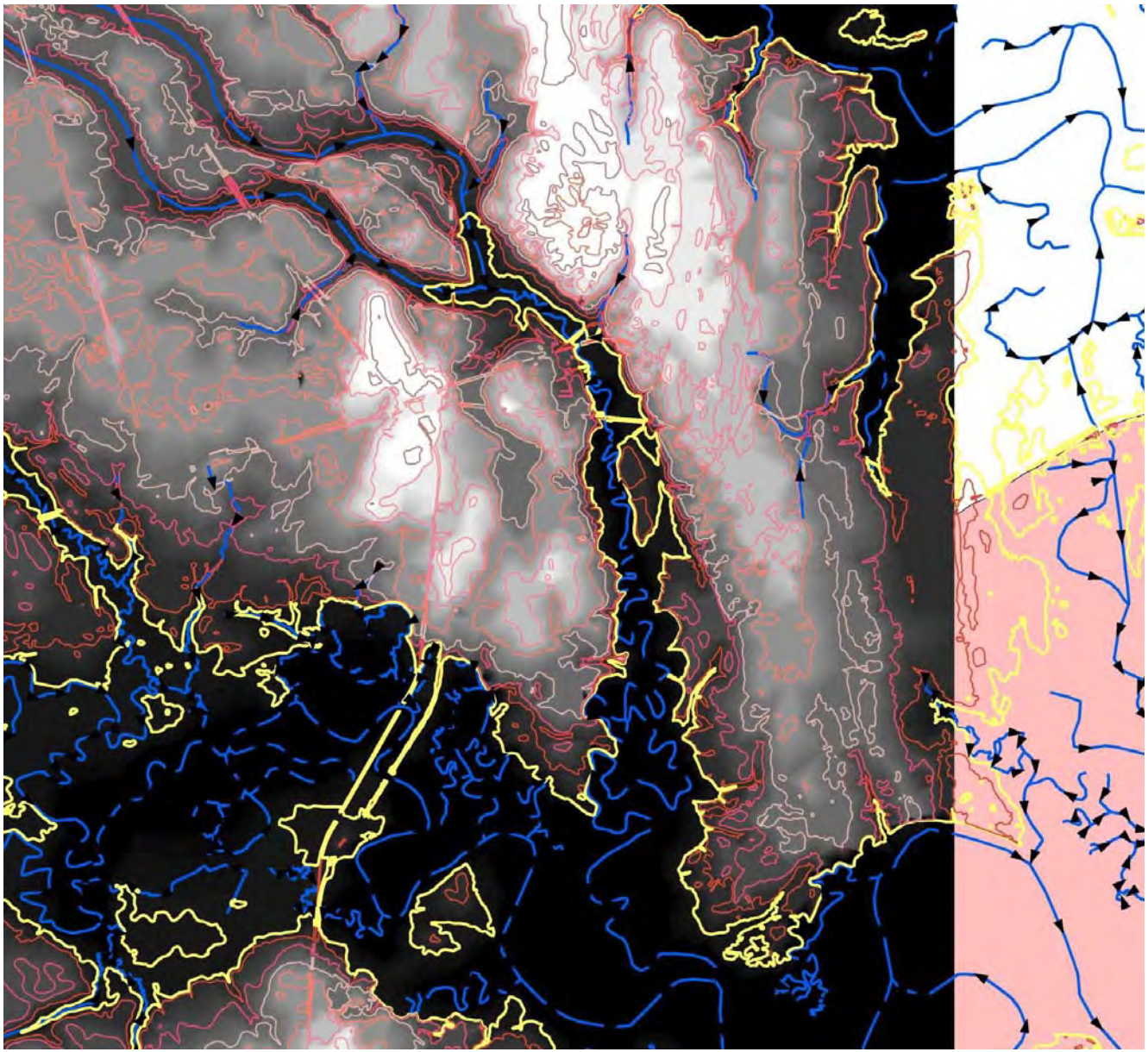
I23-111 cont.



QAQC –

Close up of area

I23-111 cont.



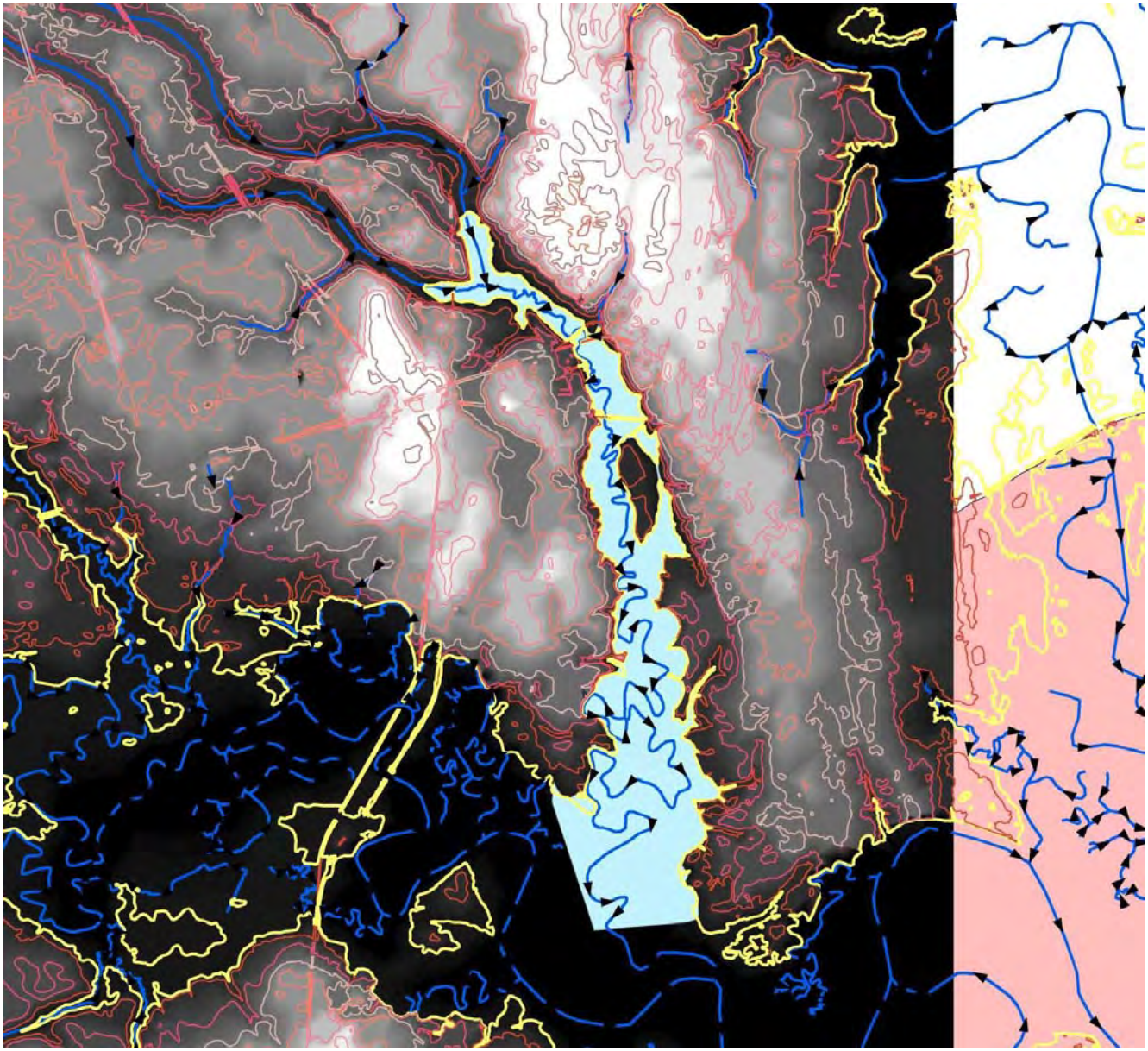
QAQC –

Close up of area

Added USGS contour lines

I23-111 cont.

37



QAQC –

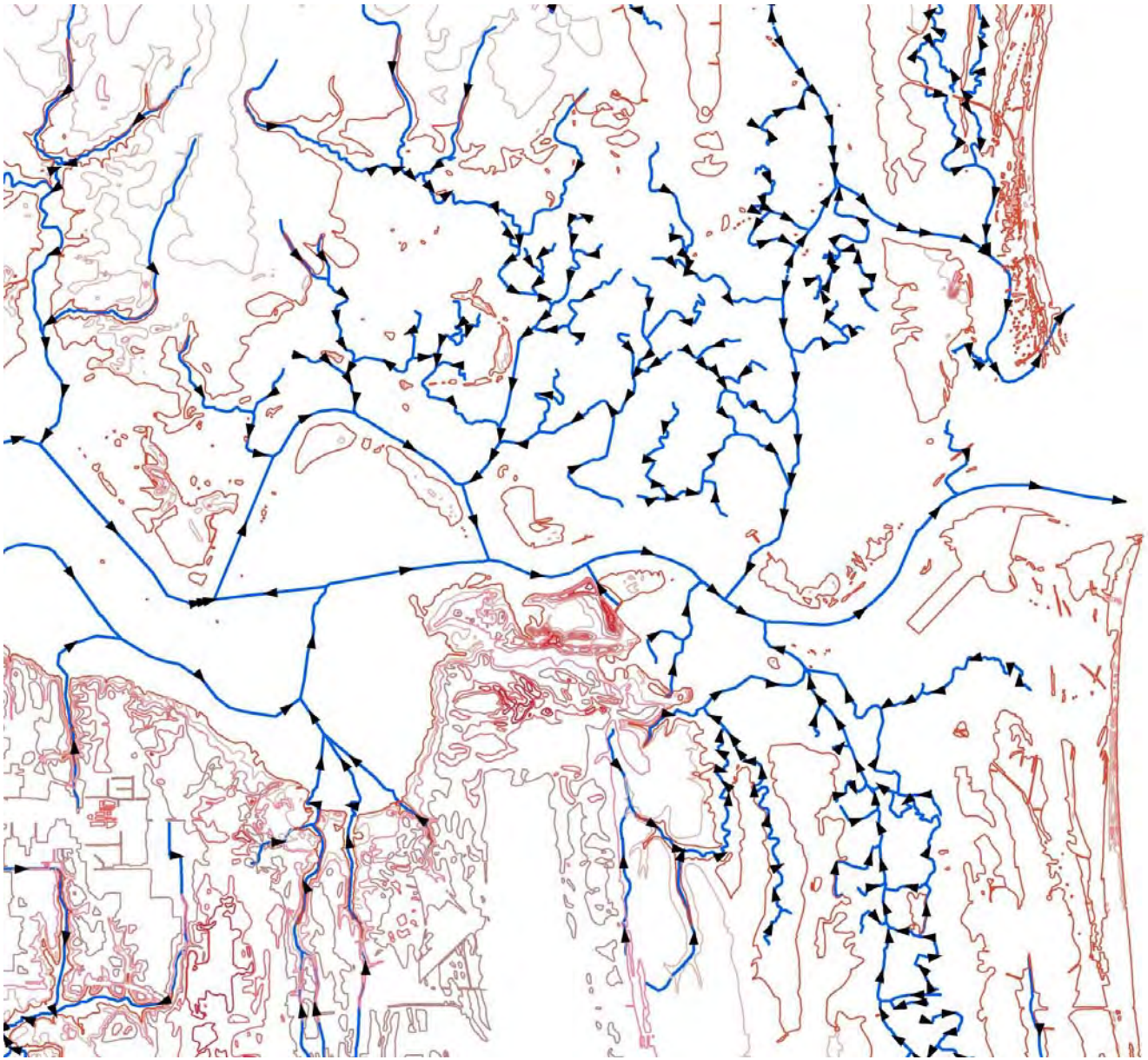
Close up of area

Added USGS contour lines

And light blue polygon = tool created Polygon at 5 foot

GOOD MATCH!

I23-111 cont.

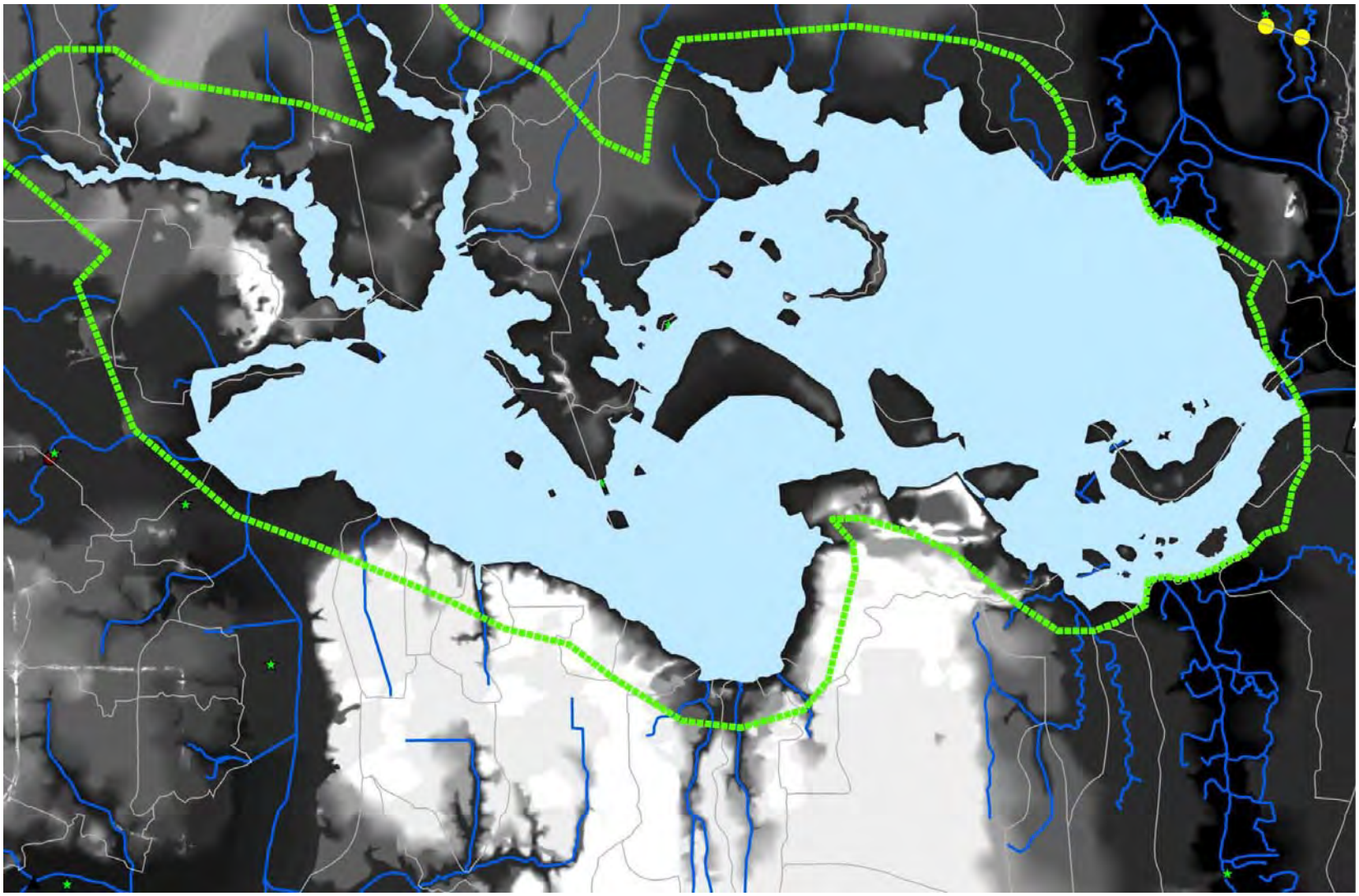


Area without USGS 5 foot contour lines

St. Johns River mouth

Red = contours
Blue = Arc Hydro HydroEdges

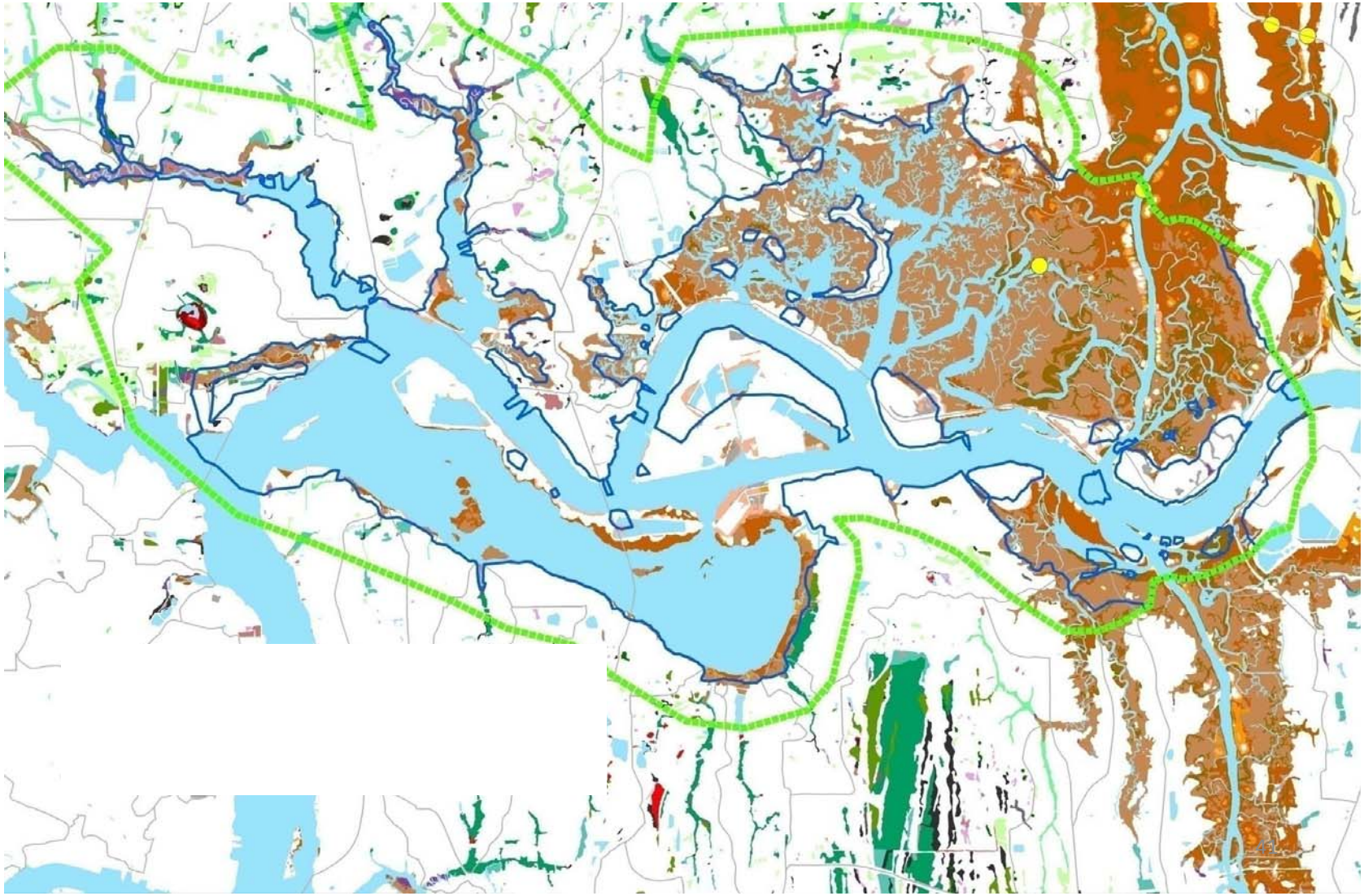
I23-111 cont.



Green dashed line = Estuary AOI; blue polygon edge = 5 foot contour
Background = DEM used as input to create the polygon; blue lines = Arc Hydro

I23-111
cont.

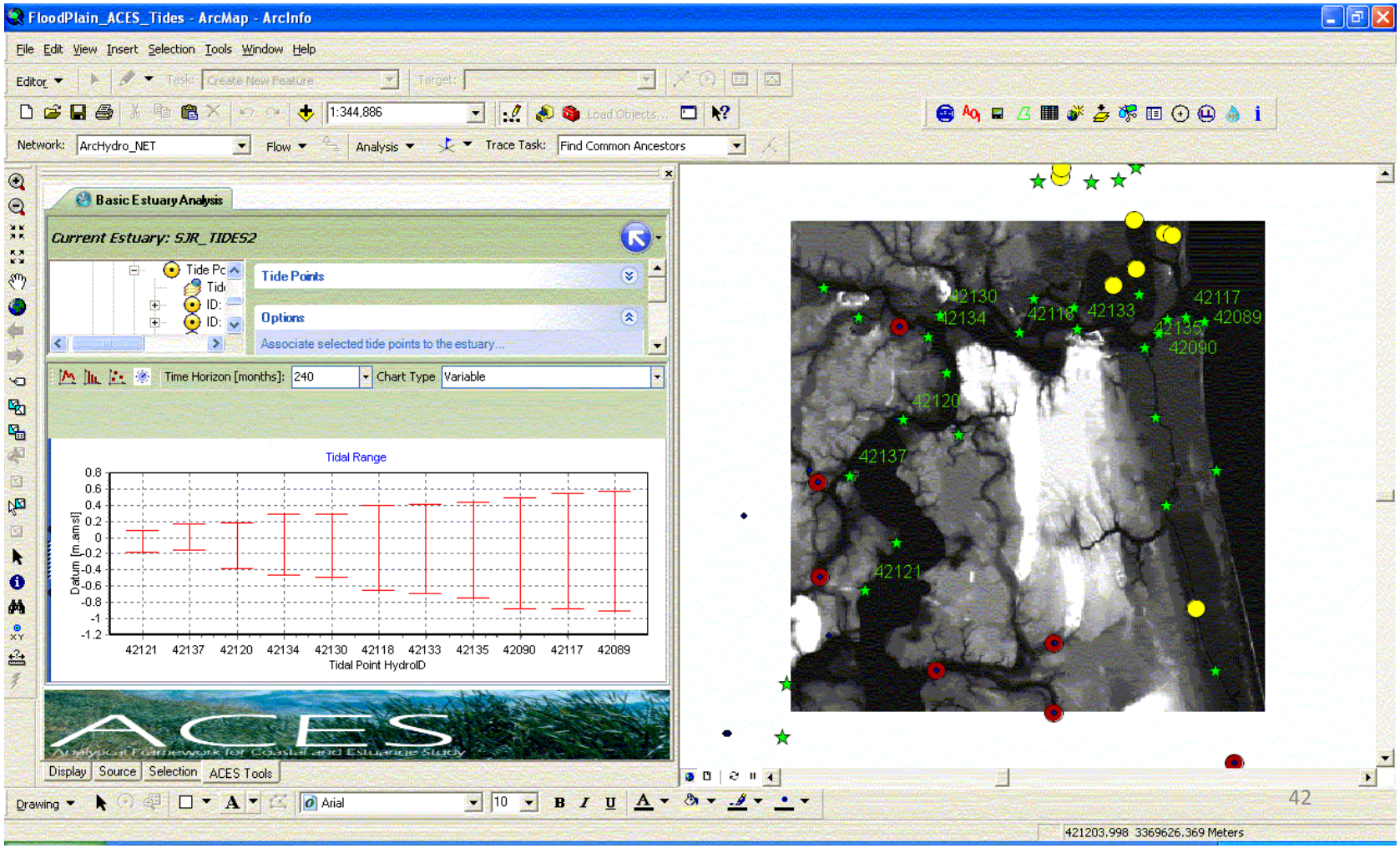
Wetlands inventory within “created” 5 foot contour



I23-111
cont.

Data viewing within GIS – attribute and time series data

in this case – NOAA Tide data associated with TidePoint feature class

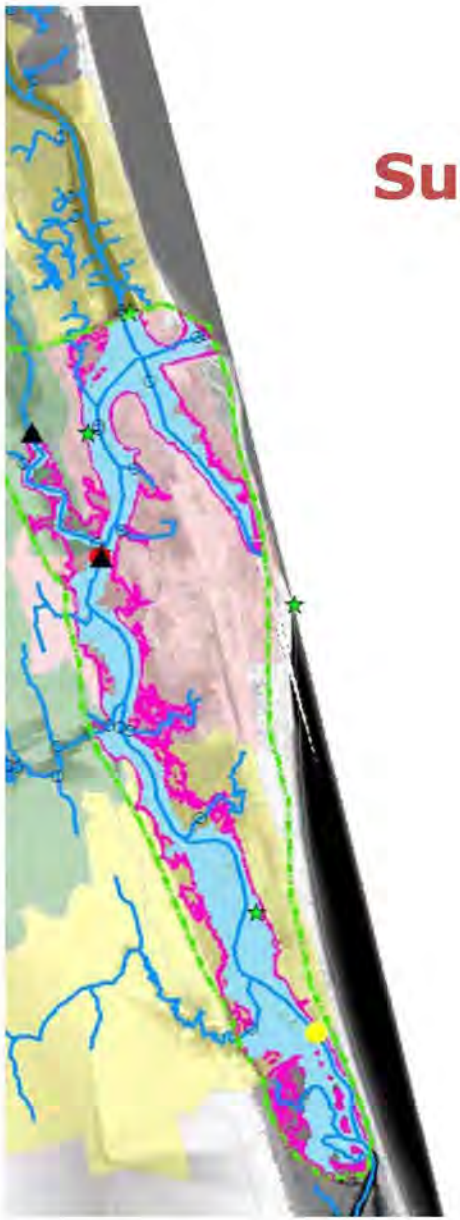


I23-111 cont.

Benefits

- Existing “proof of concept” tool and schema
- More easily attainable for coastal professionals than traditional modeling approaches
- Modular concept amenable to development of additional applications

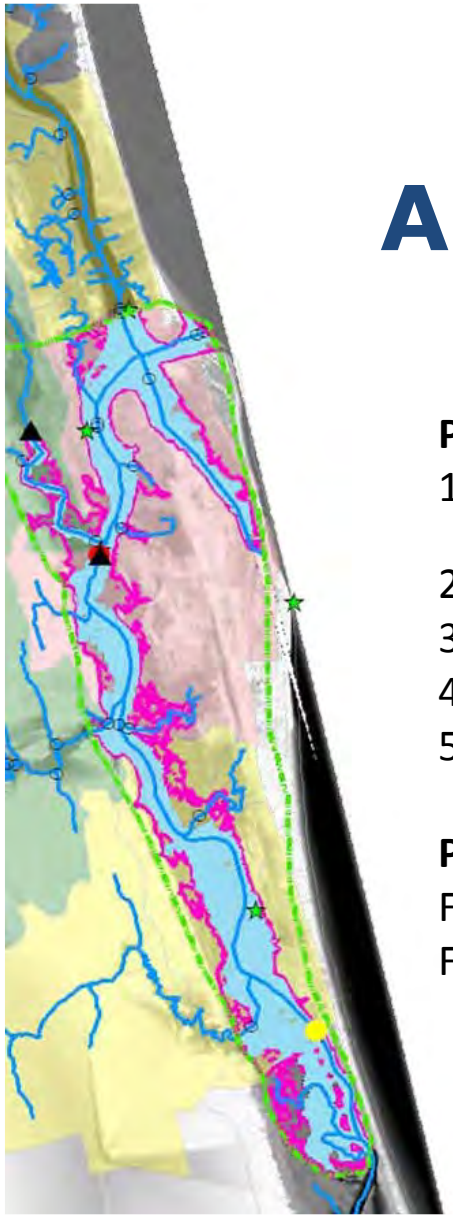
I23-111 cont.



Summary

- Demonstrated an existing "proof of concept" tool using a GIS approach to integration and analysis of estuarine data
- Workbench / work flow design
- First principles – control volume and bulk parameters
- Creation of estuary polygons, boundaries
- Calculation of bulk parameters
- Additional applications
- Benefits based on versatile modular concept

I23-111 cont.



Additional information

Project documentation:

1) Conceptual Approach *(includes extensive literature review)*
2) Requirements and Specifications
3) User Manual with exercise
4) NHD Estuary feature class population
5) Schema poster

Proceedings papers:

Fox et al, 2008 AWRA GIS and WR

Fox and Bourne, 2008 ESRI International User Conference

I23-111 cont.

Questions?

CONTACT INFORMATION

Sandra Fox
sfox@sjrwmd.com

Steve Bourne –
sfbourne@pbsj.com

I23-111
cont.

REQUIREMENTS FOR PROTOTYPE TOOL OPERATION:

1. **The Tool installed** as an extension to ESRI ArcMap.
2. **ArcMap** at full ArcInfo license level, Spatial Analyst and 3D Analyst.
3. **An enhanced Arc Hydro geodatabase**, an extended version of the SJRWMD Arc Hydro geodatabase, with the following Arc Hydro feature classes populated:
   a. "QuadBasin" (Catchment) – vector landscape representation
   b. Monitoring_Point_HDS – discharge data
   c. Water Quality Monitoring Points
   d. HydroEdge (Arc Hydro flowlines)
   e. TidalNullPoint (approx. point flow diverges on an outgoing tide) optional
4. **A populated TidePoint feature class,** part of the **Coastal Feature Dataset** of the enhanced Arc Hydro geodatabase (schema). The TidePoint feature class should have the attribute fields "Hi Tide Ht" and "Lo Tide Ht" populated, from **NOAA.**
5. **An Estuary feature class.** The Estuary feature class is part of the Coastal Feature Dataset of the enhanced Arc Hydro geodatabase. (Because the tool generates the information necessary to fill in the attribute information in this feature class, the feature class does not have to be populated in order to get started.)
6. **Time series data.** The enhanced Arc Hydro geodatabase has new "DataCube table couplets" (*explained in the Requirements & Specifications document, Part 2 of the documentation* that contain time series data. These time series DataCubes are related (by virtue of ESRI ArcMap relationship classes) to the water quality monitoring points, the QuadBasins, and the HDS monitoring points. You can populate these DataCubes with time series of observations measured at these locations or with derived data. (*There is a short tutorial in documentation on one method for how to populate the DataCube tables*.)
7. **A Bathymetry/Terrain layer (DEM).** This should be a single, floating point, raster that has merged bathymetry and terrain data.
8. **An ArcMap mxd** that contains all the data listed above.

I23-111 cont.

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ATTACHMENT 21

RESPONSE TO PUBLIC RECORDS REQUEST

COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

900 SOUTH FREMONT AVENUE, ALHAMBRA, CA 91803

September 27, 2017

Mr. John Davis
P.O. Box 10152
Marina del Rey CA. 90295
E-mail: jd@johnanthonydavis.com

RESPONSE IN CONNECTION WITH YOUR PUBLIC RECORDS REQUEST

We have reviewed your public records request received on September 20, 2017, and we offer the following:

☐ Transmitted herewith are the records you requested.

☐ We are searching for the records you have requested. We will contact you to arrange a delivery method by_____.

☒ We failed to find any records that satisfy your request for the properties below.

Requesting any and all Los Angeles County Department of Public Works Flood Permit Application for both Phase 1 and Phase 2 of the Playa Vista Development in Los Angeles County which is bounded by Lincoln Blvd to the West, Bluff Creek Drive to the South, Jefferson Blvd. to the North, except for a portion, which boarders Ballona Creek North of Jefferson to the West, and South Centinela to the East.

Please provide any and all Flood Permits issued for the same project, including Phase One to the West and or Phase Two to the East.

Phase one includes the following addresses:

6020 Seabluff Drive Los Angeles CA
7101 Playa Vista Drive, Playa Vista (Los Angeles) CA
13020 Pacific Prom. Playa Vista (Los Angeles) CA

For more information regarding this response, please contact:

ROSEMARIE BRAZAL, Investigator I
Claims & Litigation Section, Survey/Mapping & Property Management Division
Phone: (626) 458-7049 - Fax: (626) 979-5408
Office Hours: Monday through Thursday, 6:30 a. m. – 5:00 p. m
Email Address: rbrazal@dpw.lacounty.gov

I23-112

Letter I23: John Davis

I23-1 The perception that the Draft EIS/EIR contains errors is acknowledged. However, this opinion as stated in the comment (where it is unsupported by facts, reasonable assumptions based on facts, or expert opinion supported by facts) does not provide sufficient information to allow CDFW to provide a more detailed response. See General Response 7, *Requests for Recirculation* (Final EIR Section 2.2.7), which addresses multiple comments received requesting recirculation.

I23-2 The Draft EIS/EIR identifies the site within a State of California Liquefaction Hazard Zone in the setting section under the discussion of "Liquefaction," in Figure 3.6-2, and under Impact 1-GEO-1c-iii. As a result of being within this zone, any "development of a project within a liquefaction hazard zone must comply with *California Geological Survey Guidelines for Evaluating and Mitigating Seismic Hazards* (Special Publication 117A). Special Publication 117A provides standards for field investigations, soils testing, seismic modeling and mitigation strategies to overcome risks of liquefaction-relate ground failure." The preliminary geotechnical report prepared for the Project Site also provides extensive analysis of the liquefaction potential and how proposed improvements can be designed to address this hazard. Thus, the Draft EIS/EIR does acknowledge and consider this hazard and all proposed improvements would be designed in accordance with geotechnical recommendations to minimize this hazard.

I23-3 As described in Draft EIS/EIR Section 1.4.3, the Department of Conservation is not a Trustee Agency for this Project. Therefore, distribution of the NOA to the Department of Conservation was not required.

I23-4 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.1), which addresses multiple requests that CDFW consider a freshwater alternative. As discussed in Draft EIS/EIR Section 2.3.7, although the Ballona Wetlands historically transitioned into a more alkaline/freshwater system approximately 1.5 miles inland from the coast, the system also included tidally affected saltmarsh and brackish habitats. Hence, a tidally influenced brackish water ecosystem was historically present at the Ballona Reserve. See also General Response 3, *Alternatives* (Final EIR Section 2.2.3.2), which addresses multiple comments received regarding the historical accuracy of the Project and restoration alternatives analyzed in detail in the Draft EIS/EIR.

I23-5 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.3), which addresses multiple questions about the reasonableness of the range of alternatives analyzed in the Draft EIS/EIR.

I23-6 See General Response 1, *Agency and Other Involvement* (Final EIR Section 2.2.1), addressing suggestions of improper influence or conflict of interest and clarifying how the Project development process (including the Corps' 2005 feasibility study) relates to the NEPA process.

I23-7 CDFW acknowledges, but respectfully disagrees with, the commenter's assertion that the Project violates the River and Harbors Act. See Draft EIS/EIR Table 1-1, Summary of Required Permits and Approvals, which identifies Rivers and Harbors Act Section 480 and Section 10 permits as needed before the Project could be implemented. The Corps is charged with assuring compliance with the Act, and will do so pursuant to its permitting authority. Based on these facts, and without information as to why the commenter believes the restoration proposal to be out of compliance with the Act, CDFW does not have enough information to provide a detailed response.

I23-8 The commenter's allegations of federal criminal misconduct are noted; however, without any supporting information, or how that leads to a potentially significant environmental issue arising from restoration of the wetlands, CDFW is unable to provide a detailed response. See Final EIR Section 2.1.1, *Input Received*.

I23-9 See Response I15-52.

I23-10 Response I15-52 explains that the reference materials relied upon in the Draft EIS/EIR were reasonably available from the issuance of the Draft EIS/EIR. The comment provides no evidence of any defect in the Draft EIS/EIR in this respect.

I23-11 See Response I10-7, which addresses the stated concern.

I23-12 This comment provides no evidence of any crimes or how that leads to a potentially significant environmental issue arising from restoration of the wetlands. As a result, CDFW is unable to provide a more detailed response. See Response I23-8, which addresses a substantially similar concern.

I23-13 The list of federal and state errors, omissions, and claims of misconduct is acknowledged as the commenter's opinion, for which the comment provides no support or other substantiation. Moreover, the comment does not show that the amount and quality of information in the Draft EIS/EIR leads to an inadequate or inaccurate analysis. See Final EIR Section 2.1.1, *Input Received*.

I23-14 The allegations in this comment regarding Secretary of the U.S. Army, Robert M. Speer, are acknowledged as the commenter's opinion; however, they do not bear on the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-15 The allegations in this comment regarding the Corps' communications with the BLM are acknowledged as the commenter's opinion; however, they do not bear on the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-16 The allegations in this comment regarding Rivers and Harbors Act compliance are acknowledged as the commenter's opinion; however, they do not bear on the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-17 The allegations in this comment regarding Rivers and Harbors Act compliance are acknowledged as the commenter's opinion; however, they do not bear on the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-18 The allegations in this comment regarding Commander Kurt Gibbs, Los Angeles District, are acknowledged as the commenter's opinion; however, they do not bear on the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-19 The Corps published Notice of Intent (NOI) to a prepare a Draft Environmental Impact Statement/Environmental Impact Report to analyze the potential environmental consequences of the proposed dredge and fill activities to implement restoration of the Ballona Salt Marsh and to construct a marina at Playa Vista on April 28, 1995 (60 Fed. Reg. 20975-03). The City of Los Angeles served as the CEQA lead agency for that project. The applicant, Maguire Thomas Partners (MTP), proposed to restore a 190-acre salt marsh system within approximately 154 acres including within the same Area A and Area B that are the subject of CDFW's current restoration proposal. MTP's proposed project involved the widening of Culver Boulevard and the development of a "water-oriented mixed use community" in Area A that would include a 48-acre marina, 2,576 residential units, 450 hotel rooms, 125,000 square feet of office space, 75,000 square feet of community serving uses, and 75,000 square feet of visitor serving retail uses. Whether MTP did (or did not) comply with the conditions of any permit issued by the Corps with respect to the mixed use development does not bear on the adequacy or accuracy of the EIR for this Project. Related questions of enforcement priorities also are beyond the scope of the CEQA analysis. See Final EIR Section 2.1.1, *Input Received*.

I23-20 Commander Gibbs is not a Project applicant, and, contrary to the suggestion in this comment, is not proposing to complete a private flood control project in the context of the current Project. See Final EIR Section 3.2.2, which clarifies the text that was provided in Draft EIS/EIR Section ES.2, *Formal Agency Involvement*, the permit applicants for this Project are CDFW and the LACFCD, and that the lead agencies for purposes of environmental review are the Corps (NEPA) and CDFW (CEQA).

The question in this comment relating to a land sale does not bear on the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-21 As explained in the Draft EIS/EIR's Key Definitions and Acronyms page and in Draft EIS/EIR Section ES.1, the Los Angeles County Drainage Area (LACDA) project is a Federal flood risk management project that includes a portion of the Ballona Creek channel, existing levees, and associated water-control structures within the Ballona Reserve by virtue of an easement and by statutory obligation. As further explained, the LACFCD owns and operates the Ballona Creek channel and levee system, which are features of the LACDA project. As explained in Draft EIS/EIR Section 1.6.2, "CDFW is the state's trustee for fish and wildlife resources and has jurisdiction over approximately 90 percent of the Ballona Reserve (the State Lands Commission has

jurisdiction over the remainder as described below). In 2003 and 2004, CDFW acquired the Ballona Reserve through a mix of purchase, donation and transfer. Because of its land ownership and its primary responsibility for authorizing the project, CDFW is acting as the state lead agency under CEQA. CDFW also may lead the implementation of the Project upon approval of an alternative." To emphasize, CDFW manages, operates, and maintains the Ballona Wetlands Ecological Reserve; the LACFCD operates and maintains the flood control infrastructure within the Ballona Reserve.

The Ballona Wetlands Conservancy does not own, manage, operate, or maintain property on the Project Site; is not a permit applicant; and is not a lead, cooperating, responsible, or trustee agency for purposes of the environmental review process. The allegations in this comment regarding the Ballona Wetlands Conservancy are acknowledged as the commenter's opinion; however, they do not bear on the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-22 Receipt of these photographs is acknowledged; however, they do not address the adequacy or accuracy of the EIR or the merits of the alternatives and so will not be considered as part of CDFW's CEQA process. See Final EIR Section 2.1.1, *Input Received*.

I23-23 See Response I23-21 regarding these questions.

I23-24 See General Response 1, *Agency and Other Involvement* (Final EIR Section 2.2.1), regarding suggested conflicts of interest involving staff who contributed to the Draft EIS/EIR.

I23-25 The position of Shelly Luce relative to the Santa Monica Bay Restoration Commission, the Santa Monica Bay Restoration Authority, the Coastal Conservancy, the Corps, or CDFW does not address the adequacy or accuracy of the EIR or the merits of the alternatives analyzed, and so will not be considered as part of CDFW's CEQA process. See Final EIR Section 2.1.1, *Input Received*.

See General Response 1, *Agency and Other Involvement* (Final EIR Section 2.2.1), which clarifies how the Project development process relates to the NEPA process including with respect to the Corps' 2005–2012 feasibility study.

I23-26 None of these questions about Commander Gibbs addresses the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-27 The allegation in this comment that false statements have been made that violate federal law does not address the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-28 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of "restoration."

I23-29 The source of materials to be moved or removed as part of the proposed restoration do not address the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*. See also Response O11-282.

I23-30 The comment that there was no channel before the channel was constructed is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of "restoration."

I23-31 The allegations in this comment regarding fraud are acknowledged as the commenter's opinion and is now part of the record of information that will be considered as part of CDFW's decision-making process; however, they do not bear on the adequacy or accuracy of the EIR, and so will not be addressed as part of CDFW's CEQA process. See Final EIR Section 2.1.1, *Input Received*.

I23-32 The allegations in this comment regarding Water Resources Development Act (WRDA) compliance are acknowledged as the commenter's opinion and is now part of the record of information that will be considered as part of CDFW's decision-making process; however, they do not bear on the adequacy or accuracy of the EIR, and so will not be addressed as part of CDFW's CEQA process. See Final EIR Section 2.1.1, *Input Received*.

I23-33 The false claims allegations in this comment are acknowledged as the commenter's opinion and is now part of the record of information that will be considered as part of CDFW's decision-making process; however, they do not bear on the adequacy or accuracy of the EIR, and so will not be addressed as part of CDFW's CEQA process. See Final EIR Section 2.1.1, *Input Received*.

I23-34 See Response I23-32 regarding WRDA.

I23-35 The comment accurately identifies ROW modification as a necessary approval for the implementation of a restoration alternative that would change the existing course of the Ballona Creek channel. Easement documents, including quitclaim of existing and issuance of new deeds, would be needed. See Draft EIS/EIR Table 1-1 regarding discretionary approvals from the LACFCD. Because the legal documentation of easement rights and obligations within the Ballona Reserve does not affect the environmental consequences of the Project or any of the restoration alternatives, this fact does not bear on the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*. CDFW anticipates that the Corps will include the technical analysis needed to support the Section 408 process in the Final EIS. This may include a discussion of the real estate review that would be conducted as part of a 408 permit authorization.

I23-36 See General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about these drains.

I23-37 See General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about these drains.

I23-38 The allegations in this comment regarding Director Bonham are acknowledged as the commenter's opinion and are now part of the record of information that will be considered as part of CDFW's decision-making process; however, the comment provides no data, information, or other evidence that bears on the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-39 The allegations in this comment regarding Director Bonham are acknowledged as the commenter's opinion and are now part of the record of information that will be considered as part of CDFW's decision-making process; however, the comment provides no data, information, or other evidence that bears on the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-40 No violations of the California Coastal Act, U.S. Coastal Zone Management Act, or U.S. Clean Water Act have occurred as part of the environmental review processes for the Project. The allegations in this comment provide no data, information, or other evidence that bears on the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-41 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of "restoration."

I23-42 No, and the question has no bearing on the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-43 See Response I23-21 regarding allegations about the Ballona Wetlands Conservancy.

I23-44 See General Response 4, *Drains* (Section 2.2.4), which addresses multiple comments received about the drains.

I23-45 The allegations in this comment regarding consistency with Coastal Zone Management Act policies relating to geologic hazards are acknowledged as the commenter's opinion and are now part of the record of information that will be considered as part of CDFW's decision-making process; however, they are not supported by facts, reasonable assumptions based on facts, or expert opinion supported by facts, and do not provide sufficient information to allow CDFW to provide a more detailed response.

I23-46 See General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about these drains.

I23-47 No, and these questions have no bearing on the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-48 No, and this question has no bearing on the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-49 No, and this question has no bearing on the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-50 No, and this question has no bearing on the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-51 See Response AL9-7, which discusses the Basin Plan's designation of the Santa Monica Basin groundwater basin as "municipal water supply."

I23-52 The legality of activities undertaken by the Playa Vista project has no bearing on the adequacy or accuracy of the EIR for this Project. Nor does the comment provide detail as to how the alleged illegal activities bear on the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-53 No violations of state law, including the Porter-Cologne Water Quality Control Act, are occurring as part of the environmental review process for this Project.

I23-54 CDFW is not proposing to violate the law as part of the CEQA process for this Project. As described in the methodology for analysis in Draft EIS/EIR Section 3.9.5, extensive hydrology studies were included in the preparation and design of the Project. Hydraulic modeling and sediment transport analysis were conducted along with subsurface investigations to enhance the understanding of the underlying materials and how the Project would influence hydraulics, erosion, sediment transport, flooding and tidal action. These supporting hydrology studies were included in Draft EIS/EIR Appendices F7, F8, and F10. See also Response I15-31 and General Response 4, *Drains* (Final EIR Section 2.2.4), regarding the extensive hydrological studies performed and relied upon in the analysis of potential impacts of the Project and alternatives.

I23-55 See Response O11-398 and Response F7-4.

I23-56 See General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received regarding existing drains in the Ballona Reserve.

I23-57 See Response I23-21 regarding these questions.

I23-58 The allegations in this comment regarding compliance with State contract law are acknowledged as the commenter's opinion and are now part of the record of information that will be considered as part of CDFW's decision-making process; however, they are not supported by facts, reasonable assumptions based on facts, or expert opinion supported by facts, and do not provide sufficient information to allow CDFW to provide a more detailed response. They also do not bear on the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-59 See Response I23-58. Receipt of this selection of statutes is acknowledged; however, they do not bear on the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-60 See General Response 1, *Agency and Other Involvement* (Final EIR Section 2.2.1.1), addressing suggestions of improper influence or conflict of interest.

I23-61 See General Response 1, *Agency and Other Involvement* (Final EIR Section 2.2.1.1), addressing suggestions of improper influence or conflict of interest.

I23-62 See General Response 1, *Agency and Other Involvement* (Final EIR Section 2.2.1.1), addressing suggestions of improper influence or conflict of interest and clarifying how the Project development process (including the Corps' 2005 feasibility study) relates to the NEPA process.

I23-63 See General Response 1, *Agency and Other Involvement* (Final EIR Section 2.2.1.1), addressing suggestions of improper influence or conflict of interest.

I23-64 See General Response 1, *Agency and Other Involvement* (Final EIR Section 2.2.1.1), addressing suggestions of improper influence or conflict of interest.

I23-65 No conflict of interest has been demonstrated. See General Response 1, *Agency and Other Involvement* (Final EIR Section 2.2.1), which clarifies how the Project development process relates to the NEPA process including with respect to the Corps' 2005–2012 feasibility study.

I23-66 No, the preparers of the Draft EIS/EIR have not provided information that is contradictory to the interests of the State and Federal Government. Regardless, this question has no bearing on the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-67 See Response I1-4, which provides citations to the Draft EIS/EIR and other documentation that the Ballona Wetlands historically included tidally affected saltmarsh and brackish habitats.

I23-68 The perception of impropriety suggested comment is unsupported and unfounded, and the question has no bearing on the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-69 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of "restoration." For responses to Letter AS5, which was submitted by the Coastal Commission, see Section 2.3.2.

I23-70 See Draft EIS/EIR Section 1.4.3 regarding responsible and trustee agencies under CEQA. The California Department of Conservation, Division of Mines and Geology, is not a Trustee Agency.

I23-71 See Response I23-2 regarding the Draft EIS/EIR's disclosure and analysis of potential impacts relating to seismicity-related considerations.

I23-72 The Playa Vista EIR refers to the Compton–Los Alamitos Thrust fault, which is claimed to potentially pass beneath the Playa Vista site, but at considerable depth. The seismic analysis for the Project Site relies on the Preliminary Geotechnical Report prepared specifically for the Project Site (Appendix E), which was completed in accordance with current engineering practices and standards. According to Plate D-1 of that report, the Compton fault is shown as more than 5 miles from the Project Site.

I23-73 The reference to documented subsidence at the Project Site refers to the historical oil extraction activities from the 1930s that are apparent as part of current (baseline) conditions. Subsidence from this type of activity is discussed in Draft EIS/EIR Section 3.6, *Geology, Seismicity, and Soils* ("with no fluid extraction activities, the Project Site is not known to be subject to subsidence due to fluid withdrawal"). The only substantive extraction activities at the site is related to the SoCalGas site. The SoCalGas site currently monitors their natural gas storage site for subsidence as part of the company's normal operations.

I23-74 The Charnock fault is discussed in Draft EIS/EIR Section 3.6, *Geology, Soils, and Seismicity*. This fault segment does run roughly parallel to the Newport-Inglewood fault system and may be associated with it; however, as noted in the Draft EIS/EIR, the more significant fact is that this fault is not considered active and thus does not represent as great a seismic threat as the active Newport-Inglewood fault.

I23-75 The Charnock fault is not considered an active fault, which means there is no evidence of any displacement over the last 11,000 years. In addition, there are no recorded seismic events for the Charnock fault of the 52 significant events in Southern California with magnitudes ranging from 4 to 9 on the Richter scale compiled by the Southern California Earthquake Data Center (2018[126]).

I23-76 The Arkstorm Scenario project was a research project completed by the U.S. Geological Survey Multi Hazards Demonstration Project. The project developed a scenario where a hypothetical storm, similar to the intense California winter storms of 1861/1862, damaged the Central Valley. The storm is estimated to produce precipitation that in many places exceeds levels only experienced on average once every 500 to 1,000 years. Therefore, there is no data to support that the Project area is "overdue" for such a storm, it could be several hundred years or more before such a storm occurs again. However, the comment is noted and that such a severe storm as the hypothetical Arkstorm would be expected to cause substantive damage across wide regions of West Coast.

[126] See data at http://scedc.caltech.edu/significant/index.html. Accessed November 2018.

I23-77 The overall purpose of the Project is to restore ecological functions and services within the Ballona Reserve, including by increasing the tidal influence to achieve predominantly estuarine wetland conditions. The potential impacts on water quality from increasing the extent of tidal inundation and inland advancement of seawater intrusion is addressed in Impact 1-WQ-2, which was considered to have a less-than-significant impact (see Draft EIS/EIR Section 3.9.6).

I23-78 The Draft EIS/EIR acknowledges the California Coastal Commission's involvement and jurisdiction under the California Coastal Act and Coastal Zone Management Act in Table 1-1. For responses to Letter AS5, which was submitted by the Coastal Commission, see Section 2.3.2.

I23-79 CEQA does not requires a Draft EIR to analyze the potential impacts of the Mosquito Abatement Plan update on the Project. Instead, CEQA requires the lead agency to analyze the potential environmental consequences of the Project on the environment. The EIR does so. Impacts to human health relating to the potential presence of disease vectors associated with wetland habitats are evaluated for each alternative, and does refer to the pesticide application plan identified in this comment. As discussed under Impact 1-BIO-3b under the heading "Post-restoration," "Based on the best available information, this analysis assumes that Bactimos PT or another insecticide that has BTI as an active ingredient would be used in strict accordance with a pesticide application plan that is substantially similar to the Pesticide Application Plan (PAP) for Ballona Creek and Centinela Creek Vector Control Program that LACDPW submitted in support of its 2014 NPDES General Permit for Vector Control Application pursuant to Water Quality Order No. 2011-0002-DWQ for segments of the Ballona Creek channel outside the Project area (LACDPW 2014)."

I23-80 This suggestion of errors in the Draft EIS/EIR skewing toward a predetermined outcome is unsupported by any fact or evidence. See General Response 3, *Alternatives* (Final EIR Section 2.2.3.3), which addresses multiple questions about the development of the range of alternatives analyzed in the Draft EIS/EIR.

I23-81 It is unclear what particular study the commenter is refers to. Potential adverse impacts and beneficial effects on species and natural communities were evaluated according to the likelihood of occurrence while taking into account the biology and/or life history of each resource potentially impacted by the range of alternatives, and is further detailed in Draft EIS/EIR Section 3.4.5, *Methodology*. Without additional details, CDFW does not have enough information about the concern to provide a more detailed response.

I23-82 The legality of activities undertaken by the Playa Vista project has no bearing on the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-83 The inclusion of the cover page of the U.S. House of Representatives Committee on Public Works and Transportation Resolution Marina del Rey California Docket 2455

is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. However, this page does not address the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*. For this attachment and others mentioned in the comments, to the extent an attachment to the comments is mentioned in the comments being responded to above, CDFW refers the reader to those applicable responses.

I23-84 The inclusion of the cover page of General Plan of Improvement Inlet at Play del Rey is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. However, this page does not address the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-85 The inclusion of the cover page of Design Memorandum No. 1 Inlet and Harbor at Playa del Rey Inlet Venice California is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. However, this page does not address the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-86 The inclusion of the first page of the BLM letter dated September 7, 2012, is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. However, this page does not address the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received.*

I23-87 The inclusion of the cover page of Corps permit No. 90-426-EV is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. However, this page does not address the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-88 The inclusion of the cover page of the 2003–2004 Ballona Freshwater Marsh at Playa Vista Annual Report of Monitoring, Operation, and Maintenance is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. However, this page does not address the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-89 The inclusion of the cover page of the Bylaws of Ballona Wetlands Conservancy is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. However, this page does not address the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-90 The inclusion of the October 6, 2016, letter from Councilmember Bonin's office in response to a public records act request is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. However, neither the letter nor the materials provided with it, address the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-91 The inclusion of the response to the Commenter's Public Records Act request to the California Natural Resources Agency is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. However, the emails (which document a lack of responsive documents) do not address the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-92 See Response I23-91, which includes and responds to a substantially similar Public Records Act Request to the California Natural Resources Agency. See Final EIR Section 2.1.1, *Input Received*.

I23-93 The inclusion of the April 14, 2005, Santa Monica Bay Restoration Commission Minutes is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. However, these minutes do not address the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-94 The inclusion of the cover page of the deposition of Shelley Luce, dated July 20, 2015, is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. However, the cover page does not address the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-95 The inclusion of a response to a public records' request to the Santa Monica Bay Restoration Commission is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. However, the documents provided in response to the request do not address the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-96 The inclusion of a response to a 2012 Public Records Act request to the U.S. Army Corp of Engineers Los Angeles District is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. However, the documents provided do not address the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-97 The inclusion of a 2012 Public Records Act request to the U.S. Army Corps of Engineers Los Angeles District is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See General Response 1, *Agency and Other Involvement* (Final EIR Section 2.2.1), which clarifies how the Project development process relates to the NEPA process including with respect to the Corps' 2005–2012 feasibility study.

I23-98 The inclusion of a 2012 letter requesting termination of the Corps' 2005–2012 feasibility study is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See General Response 1, *Agency and Other Involvement* (Final EIR Section 2.2.1), which clarifies

how the Project development process relates to the NEPA process including with respect to this feasibility study.

I23-99 The inclusion of the Corps' NOI for the Ballona Creek Ecosystem Restoration Feasibility Study is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. However, this notice does not address the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-100 The inclusion of the *Federal Register* notice withdrawing the NOI for the Ballona Creek Ecosystem Restoration Feasibility Study is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. However, this notice does not address the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-101 The inclusion of the January 2018 cover page of the Porter-Cologne Water Quality Control Act is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. The cover page does not address the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-102 Receipt of the cover page of the 1959 Geological Survey Water-Supply Paper 1461 is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. However, this cover page does not address the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-103 Receipt of these February 2012 emails from Mary Small is acknowledged and are now part of the record of information that will be considered as part of CDFW's decision-making process. However, they do not address the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-104 Receipt of the article regarding Conflict of Interest in Public Contracts in California (*California Law Review*, Vol. 44, Issue 2) is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. However, the article does not address the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-105 See Response I23-6 and General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about these drains.

I23-106 Receipt of the August 5, 2005, Coastal Conservancy letter to PWA, including the proposed work plan for engineering work and the Feasibility Report for the Ballona Wetlands Restoration Project, is acknowledged. See Response I23-6.

I23-107 See Response I23-63. See also General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about these drains.

I23-108 See Response I23-64. Receipt of the cover page for the Geotechnical Investigation Ballona Creek Wetlands, dated June 2, 2010, is acknowledged. However, the cover page does not address the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-109 See Response I23-71.

I23-110 See Response I23-77.

I23-111 The inclusion of a spec sheet for an Analytical Framework for Coastal and Estuarine Study in Florida (along with apparently related presentation materials) is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. However, this information does not address the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

I23-112 The inclusion of LADWP's September 2017 Public Records Act response noting a lack of responsive documents is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. This response does not address the adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.

From: Mick Dersom
To: Wildlife Ballona Wetlands Ecological Reserve EIR
Subject: Ballona Restoration
Date: Monday, February 5, 2018 5:06:05 PM

To Whom It May Concern:

I'm asking that you do not support the the state's Draft EIR in its current iteration regarding the Ballona Wetlands. Although I support more public access to this State Ecological Reserve, this should not be linked to a plan to will destroy habitat and threaten the survival of species (some endangered or of special concern) that are already present at the Reserve.

I've been luck enough to have the privilege of being allowed to visit the Reserve during field trips and clean ups. I'm also very pleased that LAAS provides field trips for over 2500 students from underserved schools annually. However, I believe that the general public should have more chance to experience the wetlands on their own as long as it does not endanger the plants and animals that live there. I24-1

Unfortunately, the public access proposed by the current plan includes huge berms and accompanying swales that will cut through the wetlands and destroy existing habitat. I24-2 In addition, these new access features are touted as being ADA accessible. I'm having a difficult time understanding how an individual in a wheel chair will be able to scale the elevation of approximately 20 feet to reach these new trails. I24-3 I'm also concerned about the proposed paved road behind the businesses and residences on Culver Blvd. that is to provide a route for buses and emergency vehicles. I24-4 The entrance to West Area B already has a parking lot and a beautiful gate through which thousands of people enter every year during our programs and those managed by Friends of Ballona Wetlands. The state's current plan favors more paving of the wetlands and overlooks the opportunity to enhance an existing habitat. The massive moving of earth from one area to another in order to create, not restore, habitat is antithetical to the idea of a restoration project. I24-5

In addition, the recent order by the Coastal Commission to cap and eventually remove the illegal drains present on the wetlands indicates that an entirely new suite of baseline surveys needs to be done for this project, as the habitat was artificially altered and deprived of the natural flow of fresh water into the wetlands for many years. This means that the data included in the current EIR was not able to take into account many of the historical conditions of Ballona, which was in the past, a primarily freshwater wetlands. I24-6

I also believe that this project may be a flood control / tsunami protection for the Playa Vista, a multi-billion development as well as an opportunity for gas companies to continue to extract and exploit this beautiful, important reserve - one of the few of its kind in Los Angeles. It would be so heartbreaking to see that the species that are finally making a comeback would be disrupted once again for financial gain for a few — although paid for and supported by the tax payer. I24-7

The issues above are only a few of the many concerns that those of us who love Ballona have about the state's current proposal. There are certainly better options that can be pursued that would not only benefit the current ecosystem and the wildlife supported there but would continue to enhance and revitalize it as well as giving better access to the community. I24-8

PLEASE DO NOT SUPPORT THE CURRENT PLANS. I24-8 cont.

Sincerely,

Michael Dersom
3406 S. Centinela Ave
Los Angeles, CA 90066

Letter I24: Mick Dersom

I24-1 The stated support for public access and opposition to the Project and restoration alternatives are acknowledged and are now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*. Potential direct, indirect, and cumulative impacts to species, including special-status species, are analyzed in Draft EIS/EIR Section 3.4.

I24-2 In 1990, Congress authorized the Los Angeles County Drainage Area (LACDA) project described in Draft EIS/EIR Section ES.1, including the pre-existing Ballona Creek channel and levees within the Ballona Reserve. As a whole, the LACDA project "prevents an estimated $2.3 billion in flood damages resulting from a 100-year overflow event affecting 14 communities and over 500,000 people living within the 100-year floodplain. In addition, property owners with Federally backed loans, living within the overflow floodplain, are no longer required to purchase flood insurance." (Los Angeles County Department of Public Works, 2018b.[127]) As explained in Draft EIS/EIR Section ES.3.1 and Section 1.1.1, the multi-part purpose of the Project includes ensuring that any alteration/modification to LACDA project components within the Ballona Reserve maintain the authorized LACDA project levels of flood risk management. This overall Project purpose is consistent with the CEQA Project objectives identified in Section ES.3.2 and Section 1.1.2. All alternatives analyzed in detail in the EIR are designed to meet this overall Project purpose. See Draft EIS/EIR Section 2.1.3, *Screening Criteria for Alternatives to the Proposed Action*.

The stated opposition to restoration alternatives whose design would increase the height of existing berms and swales is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. While the proposed berms and upland habitat would introduce a new topographical feature within the Ballona Reserve, the berms, transition zones, and areas of upland habitat would be important for ensuring that the wetland habitat could migrate upslope as sea levels rise. As described in Draft EIS/EIR Section ES.4.1, reconnecting the creek to West Area B and building a berm around the salt pan would allow the salt pan to be maintained up to approximately 2.1 feet of sea-level rise. Similarly, the construction of berms and levees would allow the marsh to migrate upslope, and for the tidal salt marsh, to be maintained with up to approximately 3.5 feet of sea-level rise.

Under Alternative 4, if berms and levees were not constructed, the management of existing tide gates would provide some acclimation to sea-level rise; however, eventually the tide gates would need to be permanently closed for flood management and the existing tidal wetland habitats in the Ballona Reserve would be cut off from

[127] Los Angeles County Department of Public Works, 2018b. Los Angeles County Drainage Area (LACDA) Project. Available online: https://dpw.lacounty.gov/wmd/watershed/LA/LACDA_Drainage.cfm. Accessed November 27, 2018.

their water source. Therefore, the berms, swales, and levees would be important to ensuring that habitats within the Ballona Reserve are resilient to sea-level rise.

I24-3 Draft EIS/EIR Section 2.2.2.3 explains that all three of the primary entrances would comply with the requirements of the Americans with Disabilities Act, as amended (ADA) Standards for Accessible Design relating to path of travel (Department of Justice 2010). A typical entrance is shown in Draft EIS/EIR Figure 2-19, Typical Primary Entrance Visualization. ADA-accessible parking spaces would be provided in the proposed 3-story parking structure. Further, the pedestrian path component adjacent to the bike path component of proposed new trails would be 6 feet wide, constructed of stabilized decomposed granite, and also compliant with the requirements of the 2010 ADA design standards.

As explained in Draft EIS/EIR Section 1.1.1, "The need for the Project under NEPA is to restore coastal aquatic resources to increase available breeding and foraging habitat for wildlife while maintaining flood protection for surrounding communities; and to provide public access for compatible recreational and educational opportunities that are not currently widely available within the Ballona Reserve." This is consistent with CEQA project objective 4, which is to "[d]evelop and enhance wildlife dependent uses and secondary compatible on-site public access for recreation and educational activities." Given the prioritization of restoration goals over public access goals, it is neither proposed nor expected that the entire extent of the restored Ballona Reserve would be made ADA accessible as part of the Project. Therefore, no ADA accessible components beyond those already proposed are incorporated.

I24-4 The stated concern about the road behind the businesses and residences on Culver Boulevard is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*. However, without information about the nature of the concern, CDFW does not have enough information to provide a detailed response. For responses to comments received regarding parking, see General Response 2, *Proposed Project* (Final EIR Section 2.2.2.4).

I24-5 Draft EIS/EIR Section ES.3 and Section 1.1 both describe the purpose and need and identify the project objectives for the proposed restoration of the Ballona Reserve. Neither the purpose, need, nor objectives encourages pavement of the wetlands. Contrary to the suggestion in the comment, the potential to enhance existing habitat is a primary goal. This prioritizing of greater long-term benefits over short-term impacts also is reflected in Final EIR Section 3.2.6, which describes the Project as the Environmentally Superior Alternative for purposes of CEQA.

To the extent the comment may be understood as a question about the definition of "restoration," see General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6). To the extent the comment may be understood as questioning the use of mechanized equipment versus restoration by hand, see General Response 3, *Alternatives* (Final

EIR Section 2.2.3.4), which addresses Alternative 5 and other alternatives that were initially considered, but not carried forward for more detailed review.

I24-6 See General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about baseline conditions and the drains that were subject to the Coastal Commission's 2017 action.

I24-7 See General Response 1, *Agency and Other Involvement* (Final EIR Section 2.2.1), regarding suggestions of improper benefit for Playa Vista or influence by its developer, Playa Capital LLC. See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.3), regarding the proposed removal of SoCalGas Company infrastructure from within the Ballona Reserve.

I24-8 The suggestion of better options is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*. However, without some information about what they might be, CDFW does not have enough information to provide a detailed response.

From: Wildlife Ballona Wetlands Ecological Reserve EIR <BWERcomments@wildlife.ca.gov>
Date: January 19, 2018 at 12:46:54 PM PST
To: "Janna Scott (jscott@esassoc.com)" <jscott@esassoc.com>, "Rogers, Bonnie L SPL" <Bonnie.L.Rogers@usace.army.mil>
Cc: "Swenson, Daniel P SPL" <daniel.p.swenson@usace.army.mil>
Subject: FW: Support for Petition #2017-009 – Parking in Ballona Wetlands

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From: Takei, Kevin@Wildlife
Sent: Friday, January 19, 2018 11:13 AM
To: Wildlife Ballona Wetlands Ecological Reserve EIR <BWERcomments@wildlife.ca.gov>
Subject: FW: Support for Petition #2017-009 – Parking in Ballona Wetlands

From: Louise Dobbs [mailto:ldobbs7777@gmail.com]
Sent: Thursday, January 18, 2018 6:59 PM
To: FGC <FGC@fgc.ca.gov>
Cc: director@wildlife.ca; Wildlife DIRECTOR <DIRECTOR@wildlife.ca.gov>; landtrust@ballona.org
Subject: Support for Petition #2017-009 – Parking in Ballona Wetlands

Do not allow the parking structure to be built !!

Parking for commercial interests within the ecological reserve is highly inappropriate, as is parking for County employees who do not perform operation or maintenance activities for the reserve.

Please protect the natural resources of California, as your mission mandates, by ending this special interest parking exception for the Ballona Wetlands Ecological Reserve.

I25-1

Louise Dobbs
Resident of Santa Monica
Employee of Loyola Marymount University

Letter I25: Louise Dobbs

I25-1 The stated opposition to the proposed parking structure is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*. See also General Response 2, *Proposed Project* (Final EIR Section 2.2.2.4), which addresses multiple comments regarding parking facilities within the Ballona Reserve.

Carolyn Everhart
7323 Zelzah Ave.
Reseda, California 91335
carolyn.everhart.2@gmail.com

February 5, 2018

Richard Brody, CDFW
c/o ESA (jas)
550 Kearny Street, Suite 800
San Francisco, CA 94108
BWERcomments@wildlife.ca.gov

Dear Mr. Richard Brody:

I have been hesitant to formally submit comments on the Draft EIS/EIR as I do not have a formal education in restoration and cannot speak to the technical aspects of the document. That said, I may have a unique perspective in having worked in Area A, B and C over the last few years in my professional roles with Mountains Recreation and Conservation Authority (MRCA) and Friends of Ballona Wetlands (FBW). With the MRCA, I have helped to document authorized clean-ups in Area C and seen the adverse effects of transient encampments, improper waste disposal and the extent of non-native plants. In Area A (with MRCA) and West Area B (with MRCA and FBW) I have provided guided hikes to both students and the public. Having been to these different Areas in various aspects of my work, I have seen not only the sad ecological state of a great part of Area A and C but also the marked difference in people's reactions to visits to Area A versus the sections of West Area B that have tidal influence and have progressively had non-native plants removed and increased native plant propagation. I26-1

Throughout programs I conducted with MRCA, I took mostly high school age students through both Area A and Area B. In Area A, the prolific non-native plants and noticeable lack of "wet", even with some native upland plants and animals, was enough for the students to sense something wasn't right. When the students then visited the tidally influenced and more functioning sections of West Area B, their eyes lit-up and there was a palpable enthusiasm. They asked more questions, they were more excited and wanted to explore further and ultimately felt a greater connection to the Ballona Wetlands. Even with their untrained eye, they could see the difference between Area A and West Area B and responded accordingly. My greatest concern is if Alternative 4 is selected, it would be a great disservice to the public and the ecological needs of the wetlands. I have seen the impact environmental education and interpretation can have on young people who visit, study and get to know the Ballona Wetlands and know that with a fully restored wetland with increased access, that impact can grow a thousand-fold. I26-2

I support a robust and full restoration of the Ballona Wetlands Ecological Reserve which is based on the best science available and lessons learned from other wetland restorations. I also support public access to the wetlands in environmentally sensitive ways which includes trails, interpretive signage, parking and restrooms. These issues have been well stated in the Wetlands Restoration Principles Coalition document and the Friends of Ballona Wetlands Comment letter (both attached) which I fully support. I26-3 I26-4 I26-5

Thank you for your time and consideration.

Carolyn Everhart
carolyn.everhart.2@gmail.com

Enclosure: Friends of Ballona Wetlands DEIR Comments and Wetland Restoration Principles Coalition Steering Committee DEIR Comments

FRIENDS OF BALLONA WETLANDS

February 2, 2018

Mr. Richard Brody
CDFW c/o ESA (jas)
550 Kearney Street, Suite 800
San Francisco, California, 94108

Daniel Swenson, Regulatory Division
U.S. Army Corps of Engineers
Los Angeles District
915 Wilshire Blvd, Suite 930
Los Angeles, CA 90017

Sent Via E-mail to: BWERcomments@wildlife.ca.gov and daniel.p.swenson@usace.army.mil

SUBJECT: Ballona Restoration DEIR Comments by Friends of Ballona Wetlands

I26-6

Dear Mr. Brody and Mr. Swenson:

Friends of Ballona Wetlands is pleased to provide comments on the Draft Environmental Impact Report/Statement. In addition to these specific Friends comments, the joint comments of the Wetlands Restoration Principles Coalition Steering Committee are attached. With our Coalition partners, and as an individual organization, we strongly support the restoration plans described in Phase 1 of Alternative 1, with various important amendments as described in this letter. We believe the project will be the most important environmental restoration and public access project ever undertaken for the residents of Los Angeles County.

Friends of Ballona Wetlands has championed the restoration and protection of the Ballona Wetlands, involving and educating the public as advocates and stewards, since our founding in 1978. Countless visitors have participated in tours through the Ballona Wetlands over the last 40 years. For the last 19 years, we have restored the historic dunes with the help of tens of thousands of volunteers.

Our comments address habitat and public access issues equally. There are obvious tensions between the goals of creating healthy, protected habitat and allowing human access, but we believe our comments strike the proper balance. We support access points, separate bicycle and walking trails and even an additional public access area not addressed explicitly in Alternative 1, Phase 1, but consistent with the project as described. We also have designated areas where public access should be limited due to the presence of a federally listed endangered species residing in sensitive dune habitat. We believe well designed trails will improve enforcement and increase protections within the Reserve.

Human needs and nature's needs have been severely unbalanced for over 100 years, with humans as the dominant species. We believe a robust restoration at Ballona will restore nature's balance for the ultimate benefit of residents and visitors to enjoy this beautiful place between land and sea.

In addition, we have several added comments:

Overview Comments

In general, the Friends find that the wetlands habitat of West Area B is substantially better than much of the remainder of the wetlands, and that it supports important endangered species such as the Belding's Savannah Sparrow. We also find that the addition of a new levee adjacent to west Culver Blvd., behind Culver Blvd. businesses and separating the much-restored dunes habitat from the existing wetlands habitat would not be environmentally superior to Alt 1, Phase 1 (with the amendments we have recommended.) and is costlier. We find that Alternative 1 Phase 2 should only proceed in order to protect the area from severe sea level rise that cannot be addressed by less extreme measures. In addition to the limited options provided in this DEIR, we believe other methods of adapting to climate change should be researched for Ballona. It would be ecologically irresponsible to ignore technology and adaptive management methods that could increase resilience to climate change while also protecting the diversity of the wetlands.

It is our strong recommendation that, if and when it is determined Alternative 1 Phase 2 must proceed in order to protect the area from sea level rise, the following must be assured:

1. Adequate nesting and foraging habitat for Belding's Savannah Sparrows must be in place throughout Ballona in Areas A and B that support an equal or greater number of nesting pairs than currently exist in West Area B. No species should be extirpated during any part of this restoration, rather, more species, especially endangered and species of special concern, should be encouraged to thrive.
2. Improvements in upstream water quality and sediment loads must occur prior to breaching levee along West Area B. Measures that prevent loss of habitat diversity and protect existing native vegetation cover to greatest extent possible must be implemented.
3. Mechanisms to protect the historical salt pan from becoming permanent open water must be implemented to the greatest extent possible.
4. The construction of a levee along Culver and adjacent to the dunes must limit disturbance and enhance connectivity to dune system and El Segundo Blue Butterfly habitat.

I26-6 cont.

Area Specific Comments:

Area C:
We support the plans for Area C presented in Alternative 1 Phase 1 with a few minor changes. We generally support the placement of fill on Area C from Area A given that it is our understanding that it will not increase the height of Area C in a way that will negatively impact the nearby community, but will instead enhance Area C with gentle sloping vegetated knolls that do not obstruct views, but may reduce traffic noise along Culver and Lincoln Boulevards.

Our support for this Alternative is based upon the inclusion of the following changes and additions:
1. Place fill in such a way that will not negatively impact the aesthetics of the area or views of the nearby residents.
2. Assure that safety and privacy of adjacent homes are not compromised by added fill and that trailheads are coordinated with that community.
3. Provide more information on the likely placement of interpretive panels along walking paths, viewing platforms, etc. and ensure that they are compatible with ecological goals.
4. Take advantage of the viewing opportunity for visitors to the Ecological Reserve in Area C South to observe wildlife in Ballona Creek at the Centinela Creek Convergence.

West Area B:
Friends of Ballona Wetlands does not support full-tidal. As described in our overview comments, CDFW and the US Army Corps must demonstrate the need for full-tidal with additional data, otherwise the current habitat should remain, as it best reflects the historic conditions of a bar-built estuary.

Our support for this Alternative is based upon the inclusion of the following changes and additions:

1. Public access for parking for visitors should also be available for those patronizing community restaurants and shops and should remain open until 11:00 pm.
2. Re-contour portions of the tidal channels in West Area B to allow for more gradations in vegetation type.
3. Adapt West Area B for sea level rise consistent with plans related to the surrounding communities. Continue to research best technology that could minimize disturbance. Consider using current available technology such as pumps, slowly increasing elevation, etc.

Thank you for your attention to our comments. We are delighted to look at a future where significantly more healthy wetlands and uplands habitat exist once again at Ballona, and where bike and walking trails provide for the safe enjoyment of our citizens and visitors!

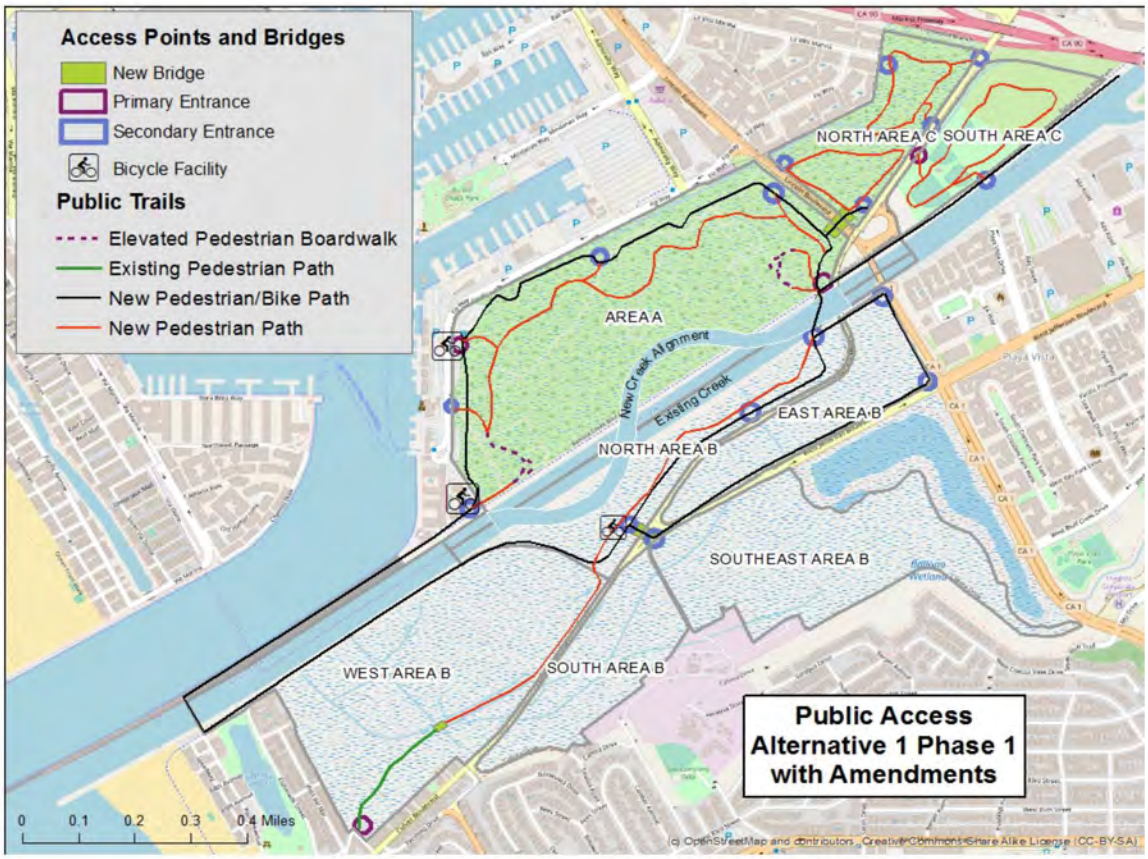
I26-6 cont.

Sincerely,

Scott H. Culbertson
Executive Director

Enclosure:
Wetlands Restoration Principles
Wetlands Restoration Principles Coalition Steering Committee comment letter

cc:
Friends of Ballona Wetlands Science Committee
Lisa Fimiani, Board Member
Neysa Frechette, Staff Field Biologist
Ruth Lansford, Founder and Board Member
Dr. Edith Read, Board Member
Catherine Tyrrell, Board Member
Patrick Tyrrell, Staff Habitat Restoration Manager


Access Points and Bridges
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Primary Entrance
Secondary Entrance
Bicycle Facility
Public Trails
Elevated Pedestrian Boardwalk
Existing Pedestrian Path
New Pedestrian/Bike Path
New Pedestrian Path
NORTH AREA C
SOUTH AREA C
AREA A
New Creek Alignment
Existing Creek
EAST AREA B
NORTH AREA B
SOUTHEAST AREA B
WEST AREA B
SOUTH AREA B
Public Access
Alternative 1 Phase 1
with Amendments
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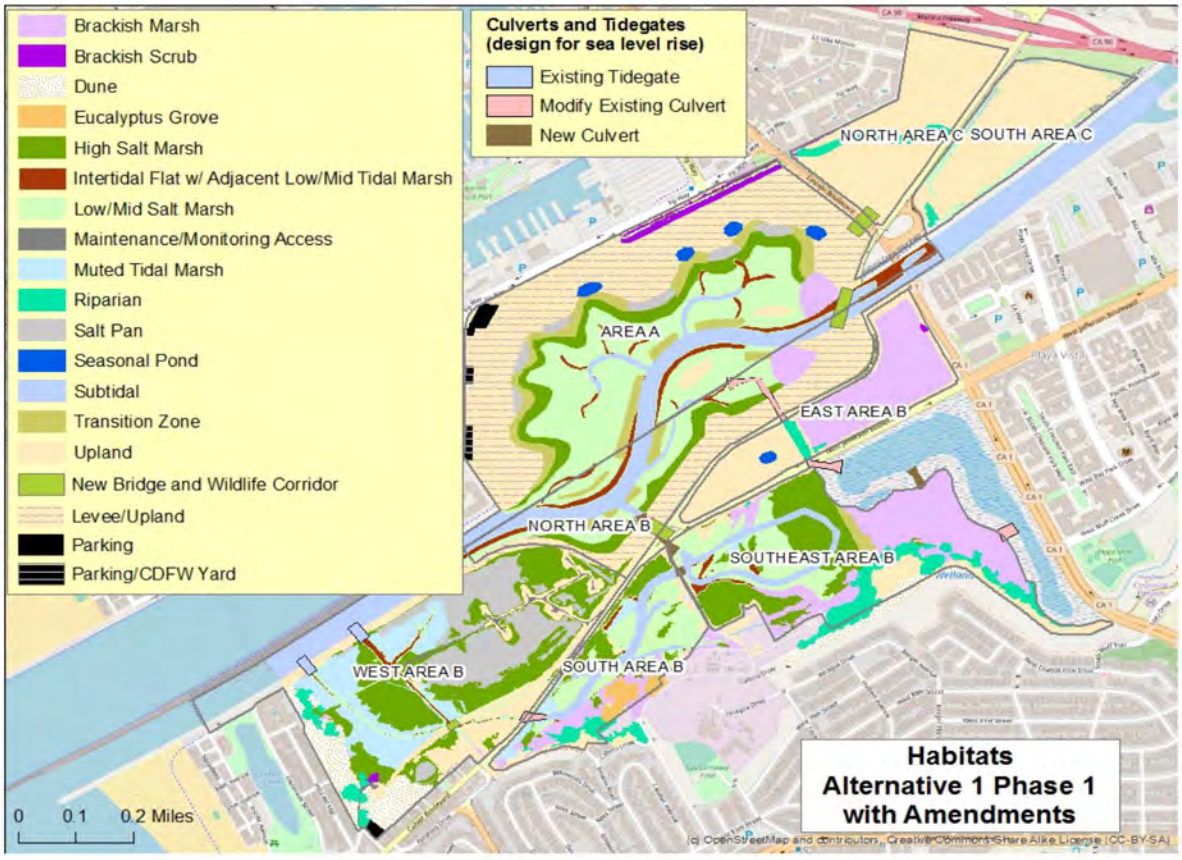
Brackish Marsh
Brackish Scrub
Dune
Eucalyptus Grove
High Salt Marsh
Intertidal Flat w/ Adjacent Low/Mid Tidal Marsh
Low/Mid Salt Marsh
Maintenance/Monitoring Access
Muted Tidal Marsh
Riparian
Salt Pan
Seasonal Pond
Subtidal
Transition Zone
Upland
New Bridge and Wildlife Corridor
Levee/Upland
Parking
Parking/CDFW Yard
Culverts and Tidegates
(design for sea level rise)
Existing Tidegate
Modify Existing Culvert
New Culvert
NORTH AREA C
SOUTH AREA C
AREA A
EAST AREA B
NORTH AREA B
SOUTHEAST AREA B
WEST AREA B
SOUTH AREA B
Habitats
Alternative 1 Phase 1
with Amendments
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I26-6
cont.

The Steering Committee of the Wetlands Restoration Principles Coalition

FRIENDS OF BALLONA WETLANDS | Heal the Bay | LOS ANGELES WATERKEEPER | THE TRUST FOR PUBLIC LAND | SURFRIDER FOUNDATION

February 1, 2018

Mr. Richard Brody
CDFW c/o ESA (jas)
550 Kearney Street, Suite 800
San Francisco, California, 94108

Daniel Swenson, Regulatory Division
U.S. Army Corps of Engineers
Los Angeles District
915 Wilshire Blvd, Suite 930
Los Angeles, CA 90017

Sent Via E-mail to: BWERcomments@wildlife.ca.gov and daniel.p.swenson@usace.army.mil

Dear Mr. Brody and Mr. Swenson:

I26-6 cont.

The Wetlands Restoration Principles Coalition Steering Committee, made up of five leading environmental organizations in Southern California representing more than 25,000 members, has come together to support robust science-based restoration of the Ballona Wetlands Ecological Reserve. The undersigned Coalition organizations strongly support the restoration plans described in Phase 1 of Alternative 1, with various important amendments. The Steering Committee members determined that Phase 1 of Alternative 1 with amendments best achieves the nine restoration principles laid out by the Coalition in 2015 (see attachment). Coalition members are also submitting separate letters with individual comments on the various Alternatives.

We thank you for providing this analysis. This project will be the most important environmental restoration and public access project ever undertaken for the residents of Los Angeles County.

The 21st Century has brought good news for wetlands up and down the California coast. According to the California Coastal Conservancy, two hundred restoration projects have been completed and one hundred more are in progress for a total of 50,000 acres. Plus 50 more are privately financed as mitigation. They are all precious links along the Pacific Flyway, nurseries for the fish of the Pacific and its bays and estuaries, and the breeding ground for the various plants and animals that sustain the circle of life. It is far past time for the Ballona Wetlands to be restored. They are the largest wetlands between Point Mugu and Bolsa Chica, but have deteriorated to the point where they can no longer sustain vital functions.

In our comments below, the Coalition Steering Committee has addressed habitat and public access issues equally. There are obvious tensions between the goals of creating healthy, protected habitat and allowing human access, but we believe we have suggested good solutions to that problem in our comments. We support generous access points, bicycle and walking trails, and even an additional public access area not addressed explicitly in Alternative 1, Phase 1 but consistent with the project as described. We also have, however, designated areas where public access should be limited by the presence of endangered species and delicate portions of the new ecosystem. We think that well designed trails will also create the means to monitor the area and protect it from illicit activity.

Human needs and nature's needs have been severely unbalanced for over 100 years, with humans the dominant species. We believe a robust restoration at Ballona will restore nature's balance to the ultimate benefit of residents and visitors who will come to understand and enjoy this beautiful place between land and sea.

As the Draft Environmental Impact Report/Statement (EIR/S) succinctly summarizes:

"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."

While supporting the overall goals of the Draft EIR/S, the Coalition Steering Committee also supports the following objectives for the Reserve as a whole:

1. Protect, optimize, enhance and create diverse habitats for native plants and wildlife throughout Ballona including wetland, riparian, dune and upland environments.
2. Maximize and enhance wetland acreage and function. Also maximize diversity of created/restored wetland habitats, i.e. low, mid, and high marshes, salt pan, and brackish marsh.
3. Increase watershed connectivity.
4. Create nurseries for fish and nesting habitat for birds.
5. Manage for rare and sensitive species.
6. Create well-regulated trails for public access and educational opportunities that are compatible with ecological goals.
7. Ensure long-term RESILIENCE and sustainability with estimated future sea level rise.
8. Reduce habitat fragmentation by providing wildlife travel corridors to minimize wildlife injury and mortality from vehicles.
9. Safeguard wildlife and minimize losses during construction.
10. Provide safe public access to the Reserve including trails, bike paths and rest stops, overlooks, wayfinding, shade structures, information kiosks, restrooms, drinking water, public transit stops and parking.

I26-6 cont.

To the extent that the Draft EIR/S supports these objectives, **the Wetlands Restoration Principles Steering Committee supports a Project with the following elements including the amendments and safeguards and as generally mapped in the drawings attached:**

Area A: We support the restoration of Area A presented in Alternative 1 Phase 1 with a few minor changes. The 14 feet of fill covering Area A should largely be removed and the existing levees should be replaced with new perimeter levees as described. We support a public access system with separate bicycle and walking trails as shown in Alternative 1 Phase 1. We support a trailhead at a parking structure with adequate visitor-serving parking and restrooms for the numbers of visitors that are anticipated to be attracted to the new Ballona public access system.

Our support for this Alternative is based upon the inclusion of the following changes and additions:

1. Survey for rare and sensitive plants and animals and plan for their relocation before removing topsoil.
2. Include a plan for relocating wildlife displaced by restoration activities.
3. Ensure that topography allows for vegetated wetlands to thrive and provide increased water filtration capabilities, while also supporting a diversity of wetland habitats, i.e. low, mid, and high marshes, salt pan, and brackish marsh.
4. Ensure that there is adequate nesting and foraging habitat for the Belding's Savannah Sparrow.
    a. Pickleweed habitat cover in Area A should be equal to or greater than currently present in West Area B.

   b. Use principles of Minimum Viable Population to estimate the number of nesting pairs required for a viable, sustainable population size and ensure that the population will be protected from future disturbances.
   c. Provision of the appropriate wetlands vegetation habitat is very important as it is possible that West Area B will be inundated due to sea level rise.
5. Align primary trailhead and trails with visitor services and parking.
6. Provide a plan for the likely placement of interpretive panels along walking paths, viewing platforms, etc. that are compatible with restoration goals and maximize interpretive opportunities for schools.
7. Ensure that the number of parking spaces provided is adequate for the expected number of visitors to the Reserve.[1] A parking study should determine the correct number of spaces for the anticipated number of visitors to the Reserve. The study should address the need for time limits to reduce unintended parking uses and alternative transportation options.
8. Include bathroom facilities at the primary trailhead in Area A comparable to those at the Upper Newport Back Bay Nature Preserve. Bathrooms are critical to encourage visitors to use proper facilities by increasing convenience. The type of structure should be determined based on budget, operations, and maintenance plans for the site.
9. Create wildlife corridors. Provide more details on bridge design and vegetation. Safe travel corridors over roads are needed not only for people, but also wildlife to help reduce habitat fragmentation and roadkill. Use known principles of wildlife corridor design to determine the cover and type of native vegetation needed.
10. Address more directly how upstream water quality improvement projects are compatible with the restoration goals for water quality and sediment loads. Provide more information about how the project design will handle changes, including in terms of the extent of monitoring that will occur. While we recognize that much of the Ballona Creek Watershed is beyond the scope of the restoration project, it is reasonably foreseeable that the timing, scope and overall approach of projects and planning efforts happening upstream to address environmental concerns, including the Ballona Creek Bacteria TMDL Project and Ballona Creek Enhanced Watershed Management Program, will affect water quality and sediment loading downstream. We strongly recommend a cumulative impacts and sensitivity discussion to disclose the impacts, both positive and negative, of upstream projects on the project site.

I26-6 cont.

Area C: We support the plans for Area C presented in Alternative 1 Phase 1 with a few minor changes. We support the restoration of native upland vegetation where mostly weeds now exist, as well as the addition of walking trails, one major trailhead with parking, and several secondary trailheads. We believe the walking trails will reduce crime and homeless encampments by enhancing the area with greater visibility, law enforcement, and passive recreational opportunities.

Our support for this Alternative is based upon the inclusion of the following changes and additions:

1. Survey for rare and sensitive plants and animals and plan for their relocation before depositing fill.
2. Create a viewing area in South Area C overlooking the Centinela Creek convergence with Ballona Creek for birding. Consider adding benches and scopes for people to view the birds in this area.
3. Create wildlife corridors. Provide more details on bridge design and vegetation. Safe travel corridors over roads are needed not only for people, but also wildlife to help reduce habitat fragmentation and roadkill. Use known principles of wildlife corridor design to determine the cover and type of native vegetation needed.

If the Little League baseball fields remain inside the reserve, then the following changes should be made to their management:

1. The fields, parking lots and surrounding grounds must be maintained, to encourage environmental stewardship.

[1] In their report, Standards for Outdoor Recreation Areas (https://www.planning.org/pas/reports/report194.htm), the American Planning Association outlines basic standards for amenities at public facilities.

2. Access should be open to the larger community throughout the year, and parking should be allowed on the lot for visitors to Area C walking trails.
3. Prevent negative environmental and community impacts by increasing patrols by enforcement agencies.
4. Restore as much of the existing area as possible to native uplands vegetation.

North Area B: We support the removal of the levee wall in North Area B as described in Alternative 1 Phase 1 and the addition of a meander to the creek in this area. We also support enhancing public access along the roads in North Area B with walking and biking trails on the new levee paralleling Culver Blvd. and joining with the existing levee wall further to the west where the tide gates are located. We also support the addition of a bridge for bike and walking connection between Area A and North Area B.

Southeast and South Area B: We support the restoration of Southeast and South Area B west of the freshwater marsh as presented in Alternative 1 Phase 1 with a few changes. Creating small tidal channels as proposed in this area will enhance the habitat for native species and possibly support increased numbers of endangered and threatened species in this underperforming wetlands area. We support the protection of the eucalyptus patch to protect Monarch Butterflies, but it should not be allowed to spread further.

Our support for this Alternative is based upon the inclusion of the following changes and additions:

1. Modify proposed channel location to protect Willow Thickets along Bluff from salt water inundation, both on the surface and in groundwater.
2. Do not build berm that prevents brackish marsh from spreading naturally from the freshwater marsh culvert.
3. Ensure that topography allows for vegetated wetlands to thrive and provide additional water quality filtration, and also for a diversity of wetland habitats, i.e. low, mid, and high marshes, and brackish marsh.
4. Remove invasive non-native pampas grass, and other invasive species.
5. Maximize vegetated wetland acreage, especially to create nesting and foraging habitat for Belding's Savannah Sparrow.

I26-6 cont.

East Area B: We support the Alternative 1 Phase 1 plan to protect seasonal wetlands in East Area B. To maximize wetland habitat, East Area B should not be buried with fill.

Our support for this Alternative is based upon the inclusion of the following changes and additions:

1. Add major pedestrian and bike path around East Area B as per Alternative 2 Public Access Plan.
2. Remove non-native vegetation.
3. Daylight this portion of the culvert from Ballona Freshwater Marsh to Ballona Creek to allow freshwater to reach seasonal wetland area and allow for riparian and/or brackish habitat to develop, recognizing that rainfall and tidal influences will affect this dynamic area over time.

West Area B: We support the Public Access Plan of Alternative 1, Phase 1 in West Area B. We support the monitoring and protection of Belding's Savannah Sparrow nesting and foraging habitat. We support removal of Gas Company infrastructure.

Our support for this Alternative is based upon the inclusion of the following changes and additions:

1. Survey for rare and sensitive plants and animals and plan for their relocation before depositing fill.
2. Provide bathroom facilities at this primary trailhead comparable to those at the Newport Back Bay Nature Preserve.
3. Provide additional details on the detention basins for storm-water runoff planned in West Area B.
4. Protect existing wetlands habitat and endangered and threatened species as long as possible while expanding their presence in other parts of Ballona.

5. Assure that the connection of the last remaining dunes habitat to the adjacent wetlands is protected.
6. Restrict public access through the sensitive dune habitat that currently hosts the Federally endangered El Segundo Blue Butterfly. This area should not have a public trail.
7. Address more directly how upstream water quality improvement projects are compatible with the restoration goals for water quality and sediment loads. Provide more information about how the project design will handle changes, including in terms of the extent of monitoring that will occur. While we recognize that much of the Ballona Creek Watershed is beyond the scope of the restoration project, it is reasonably foreseeable that the timing, scope and overall approach of projects and planning efforts happening upstream to address environmental concerns, including the Ballona Creek Bacteria TMDL Project and Ballona Creek Enhanced Watershed Management Program, will affect water quality and sediment loading downstream. We strongly recommend a cumulative impacts and sensitivity discussion to disclose the impacts, both positive and negative, of upstream projects on the project site.
8. Extend pedestrian access trail down the north side of Culver Blvd. and connect to the existing trail leading to the Viewing Platform.
9. Provide more information about the access road in West Area B to demonstrate the need for this development. If the road is not required for emergency use, then it should be eliminated from the plan.
10. Provide additional sources and information for Draft EIR/S conclusions on sea level rise impact. Include sea level rise impact on surrounding community and how that will affect Ballona.
11. Investigate increased tidal flow by modifying tide gates to allow some additional flow into West Area B and increase tidal inundation of the salt pan without losing Belding's Savannah Sparrow nesting or foraging habitat or flooding roads/nearby development.

I26-6 cont.

The Coalition Steering Committee thanks you for your work, and would be pleased to answer any questions and to help with efforts to facilitate the restoration work ahead.

Sincerely,

The Wetlands Restoration Principles Steering Committee:

Friends of Ballona Wetlands

Scott Culbertson, Executive Director
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Heal the Bay

Shelley Luce, D.Env., President & CEO
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Surfrider Foundation, South Bay Chapter

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Tori Kjer, Los Angeles Director
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Enclosure: Wetlands Restoration Principles

cc:

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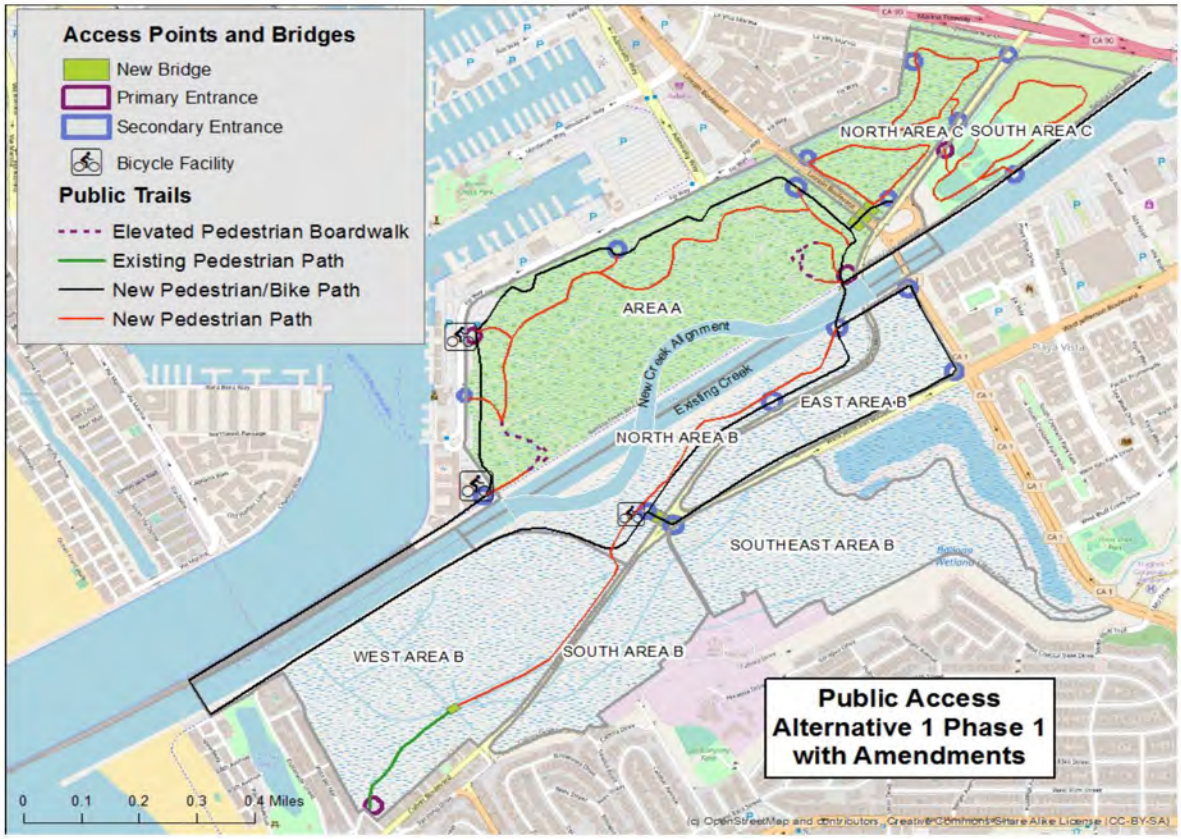
Mark Pestrella, Director, County of Los Angeles Public Works mpestrel@ladpw.org

I26-6 cont.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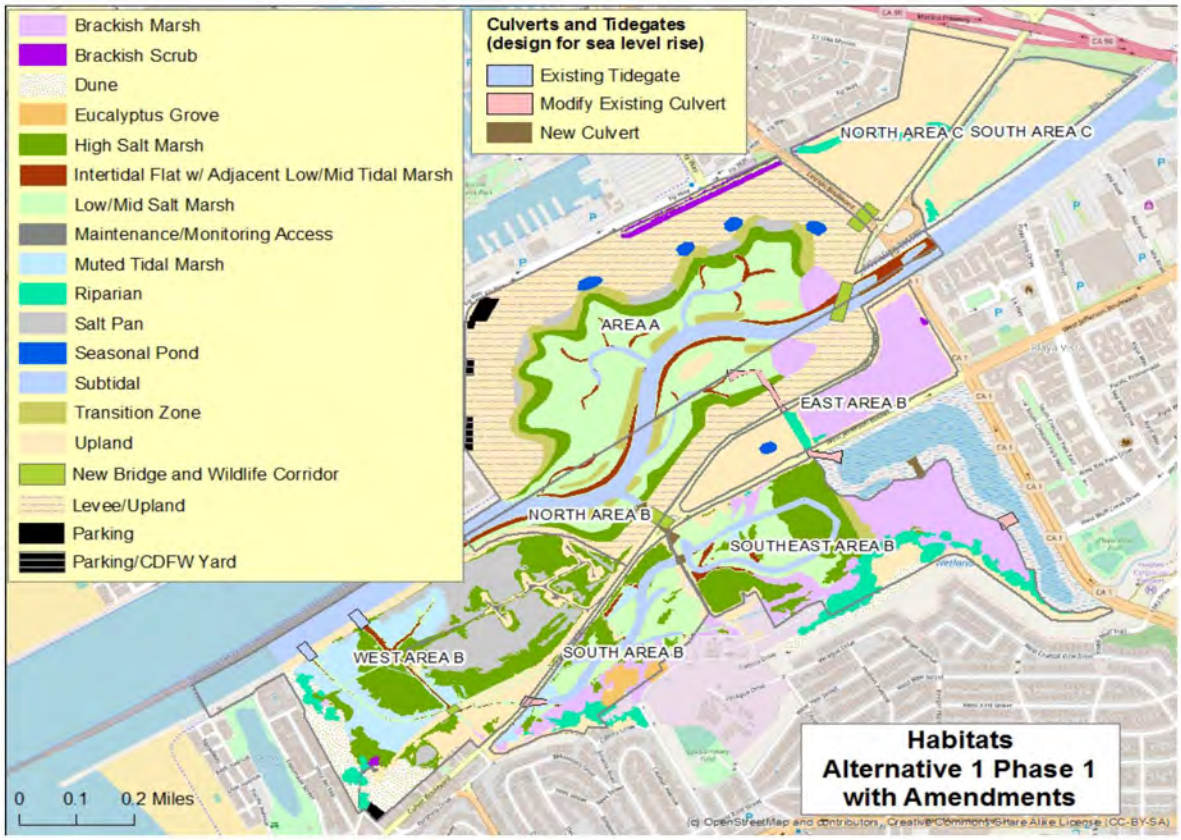
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Habitats
Alternative 1 Phase 1
with Amendments
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I26-6 cont.

Letter I26: Carolyn Everhart

I26-1 The commenter's experience with Areas A, B, and C is acknowledged, consistent with the description of baseline conditions provided in the Draft EIS/EIR, and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

I26-2 The stated concerns regarding Alternative 4 are acknowledged and are now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

I26-3 The commenter's support for Alternative 1 is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.

I26-4 The stated support for public access improvements is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.

I26-5 The commenter's support for the Wetlands Restoration Principals Coalition document and Friends of Ballona Wetlands comment letter is acknowledged. However, because this comment does not address the adequacy or accuracy of the EIR or the merits of the alternatives, it may be considered as part of CDFW's overall decision-making process rather than specifically as part of the CEQA process.

I26-6 The commenter's agreement with comments provided by the Friends of Ballona Wetlands (Letter O10) and the Wetlands Restoration Principles Coalition (Letter O28) is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Responses O10-1 through O10-6 and Responses O28-5 through O28-17, respectively.