



Tracking Number: (2021-026)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, (physical address) 1416 Ninth Street, Suite 1320, Sacramento, CA 95814, (mailing address) P.O. Box 944209, Sacramento, CA 94244-2090 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

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

SECTION I: Required Information.

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

1. Person or organization requesting the change (Required)

Name of primary contact person: Patricia McPherson [Click here to enter text.](#)

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

Telephone number: [here to enter text.](#)

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

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: **CCR Title 14, Section 630 ; CCR Div. 3, Article 3.7 Safe Harbor Agreement ; CCR Chap.1.5,Art. 1, 2052; Div.12,Chap.5 15400-15415; CCR General Provisions 2050-2068; 1666 Destruction of Gov. Property 18 USC 1361** [Click here to enter text.](#)

3. Overview (Required) - Summarize the proposed changes to regulations: 1) Remove regulations assigned to the Title 14, Section 630 Ecological Reserve, Ballona Wetlands Ecological Reserve that do not apply to the Ballona Wetlands Ecological Reserve boundaries. 2) CDFW as Board Member of private Playa Vista business known as Ballona Wetlands Conservancy, provide Safe Harbor agreements; 3) Div. 12, Chap. 5 leasing of/ Streambed Agreement per Playa Vista Freshwater Marsh System additional regulation language to add:
a) The management of the FWM System(CDFW Streambed Agreement) shall not create significant adverse cumulative impacts upon BWER and to abide by BWER Section 630 Purpose and Goals for best management practices of no wasting of freshwater resources. b) To reduce adverse effects on BWER ecological systems, the use of freshwater resources shall be for the health and well-being of BWER where feasible.; [Click here to enter text.](#)

b) **Rationale (Required)** - Describe the problem and the reason for the proposed change: The Ballona Wetlands Ecological Reserve has specific boundaries that are distinct geographic areas. Certain FGC/ CDFW Section 630 Ballona Wetlands Ecological Reserve regulations have been assigned to areas that are outside the boundaries of the Ballona Wetlands



Ecological Reserve (BWER) and are outside the authority of FGC & CDFW. Title 14, Section 630 ER, regulations that are outside the boundaries of the BWER need to be removed as regulations assigned to the Ecological Reserve itself. Confusion arises for the public, agencies and Los Angeles city and county department personnel, when FGC and CDFW extend their Section 630 ER regulatory language for areas that are not a part of the Ecological Reserve and are outside CDFW jurisdictional authority. The federal and LA County Ballona Channel and its levee areas that are outside the Ecological Reserve boundaries are under the jurisdiction of city/county/state and federal jurisdictions. The Ca. Dept of Fish & Wildlife does have certain Fish & Wildlife Codes as fishing regulations or boating regulations on certain bodies of water and/or regulations for activities in areas that are within boundaries of an Ecological Reserve and/or a Marine Preserve. However, in areas that are not within Ecological Reserve boundaries, such as Ballona Wetland Ecological Reserve boundaries, the Title 14, Section 630 site specific regulations should not include regulations for areas not within the boundaries of the Ecological Reserve as a Ballona specific Section 630 Ecological Reserve regulation. The separate, distinguishable CDFW code regulations provide for clarity and for authority of enforcement potentials in areas that are within the authority of CDFW but are outside the Ecological Reserve. And, general Ecological Reserve regulations provide additional oversight regulations that include provisions for further Fish & Game Commission approval needs if potentially required.

Specifically: 1. The Ballona Channel is not a part of the BWER. The Ballona Channel is outside boundaries of the BWER. Therefore, any, all CDFW regulations that may appropriately apply to fishing etc interests, in any particular water body is governed under CDFW Code regulations and should not be a part of the Ballona Wetlands Ecological Reserve's set of Section 630 regulations. Should future fishing or boating etc. be allowed within the Ballona Wetlands Ecological Reserve, the general ER regulations provide notice of need for further approvals by the Fish and Game Commission. Whether CDFW has regulatory authority of what types of boats, or floatation devices may be used or not used on the Ballona Channel, is not at issue. However, any and all current BWER CCR Title 14 Section 630 language that applies to boat use or non- use in the Ballona Channel should be removed, as the Ballona Channel is outside the boundaries of the Ecological Reserve. (It is however, believed that the County of Los Angeles and the US Army Corps of Engineers (not CDFW or FGC) have jurisdiction over boats or floatation devices that can be utilized or not utilized in the Ballona Channel.). 2. Similarly, the US Army Corps of Engineers and the County of LA have jurisdiction over the levees of Ballona Channel which include the roadways/bike paths that are outside the boundary fencing of the Ballona Wetlands Ecological Reserve itself. The CCR Title 14, Section 630 regulations and any/all CDFW regulations pertaining to the use of bicycles and/or vehicular traffic on these levee roadways outside the Ecological Reserve itself, need to be removed as such regulations are outside the authority of FGC and/or CDFW. 3. Additionally, the Playa Vista flood control catch basin, aka the freshwater marsh area is public trust land/water that was removed from the Ecological Reserve and therefore the boundary identification of BWER needs to be updated to reflect the actual boundaries of BWER, inclusive of the removal of the catch basin in the Title 14, Section 630 ER boundary language. 4. CDFW maintains a Streambed Alteration Agreement with Playa Vista which provides CDFW regulations for the entirety of the flood control, catch-basin system, which is outside the boundaries of the BWER but for the CDFW Unpermitted Drains and their connections to the Main Drain and the Main Drain to Ballona Channel. 4.a. Grassroots Coalition requests the insertion into CDFW Streambed Alteration regulation language that stipulates CDFW is a board member of the Playa Vista Ballona Conservancy as cited by CDFW's Rich Burg in communications with the Ballona Wetlands Landtrust. b. Grassroots Coalition requests specific



identification of CDFW's role as a board member of the Ballona Wetlands Conservancy, including its specific requirements or lack thereof of surface and groundwater disposal into the LA City Sanitary Sewer System or the ocean via National Pollutant Discharge System (NPDES) permits for the catch basin/ freshwater marsh system inclusive of the riparian corridor; the Main Drain to Ballona Channel & the unpermitted drains to the Ballona Channel (both of which are within the Ecological Reserve). c. Grassroots Coalition requests specific regulation language additions per its Purpose and Goals stipulations of protection to Ballona's freshwater resources for Ballona within the Ballona specific CCR Section 630, Title 14. The additional language would stipulate that the freshwater marsh's Main Drain (located within the ER) shall not convey and/or waste freshwater to the Channel that can be safely utilized by Ballona Wetlands Ecological Reserve, without threat of the freshwater overtopping and/or flooding roadways. Similarly, additional regulation language requested is as follows:

That ponding rainwater within the Ecological Reserve, including ponding that moves via numerous drain ditches, shall remain in the ER to provide for both surface ponding and to recharge the underlying aquifers, providing that the drainways can still be allowed to exit the water to the ocean if threat of overtopping or flooding roadways may occur. The CDFW Streambed Alteration Agreement between CDFW and Playa Vista, alongside CDFW's Ballona Wetlands Conservancy's Board membership provides an ability for CDFW to abide by the Fish and Game Commission's stipulations of protection to Ballona's freshwater resources as intended in Ballona's Section 630 Purpose and Goals. Grassroots Coalition believes the board membership of CDFW as part of a private Ballona Wetlands Conservancy to be a conflict of interest, hence the request for Safe Harbor Agreement for transparency purposes and to ensure a mission of protection to BWER.

CDFW also has authority as a board member of the Ballona Wetlands Conservancy with Playa Vista/Brookfield/ Playa Capital LLC-- of CDFW's oversight jurisdiction and /or regulatory governance over the University City Syndicate oilwell (continuous thermogenic outgassing occurs over this well, Playa Vista reabandoned in 2001. (University City Syndicate is located within the catch-basin outside the ER.) The oilfield gas contaminants and fire/explosion hazards are contrary to CDFW's mission of protection to BWER and its Streambed Agreement per the FWM System.

Grassroots Coalition is unaware of any agreements with either the Army Corps of Engineers and/or the County of Los Angeles that would allow for CDFW to create regulations governing property use under the jurisdiction and dominion of the USACE or the County of LA. If such exists, please provide for clarity.

Information Digest/Policy Statement Overview of CDFW cites its 132 ecological reserves designated in Section 630, Title 14 CCR, for the purpose of protecting sensitive habitats and species. Barclay's official CCR lists Section 630, Ballona specific additional use regulations as **“(10) Ballona Wetlands Ecological Reserve, Los Angeles County.**

Grassroots Coalition believes the following language should be removed and changed to appropriate Ecological Reserve specific language:

“(B) Bicycle use is allowed only on the designated bike path on the north side of the Ballona Creek flood control channel.”

For example the Ecological Reserve language should instead read as follows: Bicycle use is not allowed within the Ecological Reserve.

“(D) Boating shall be allowed only within the Ballona Creek flood control channel.”

The Ecological Reserve language should eliminate this language altogether as the Channel's boating use or non-use is within the jurisdiction of the County of LA and federal authorities.



Example of CDFW and Section 630 language that does not address boating-- Boating is used within the freshwater marsh area by employees of Playa Vista and no language of either CDFW or the Section 630 language addresses this area's lease agreements or usage for boating/non boating or fishing/non fishing. The freshwater marsh is also outside the boundaries of the Ecological Reserve.

“(C) Fishing from shore is allowed only in designated areas along Ballona Creek flood control channel. Fishing from boats is allowed only within the Ballona Creek flood control channel. Only barbless hooks may be used.”

Why is this language contained within the Section 630 ER language? The language pertains to areas outside the BWER boundaries and we request its removal. If CDFW has jurisdiction over whether hooks may or may not be used in the Channel area, is this not a CDFW Code Regulation that is better placed within the CDFW Code of Regulations? The Ballona Channel is within federal and LA County jurisdiction for its usage that does not pertain to wildlife.

In fact, per a **“Meeting 12-20-04, Agenda Item #6, Department of Fish and Game Ecological Reserves**

NOTE: The following language is taken directly from section 360 (CDFW typo error) of Title 14 of the California Code of Regulations regarding the general rules and regulations associated with ecological reserves. “

The language for Section 630 Ecological Reserves covers ie.

“(2) Fishing. Fishing shall be allowed in accordance with the general fishing regulations of the commission except that the method of taking fish shall be limited to angling from shore. No person shall take fish for commercial purposes in any ecological reserve except by permit from the commission.”

Therefore, as can be noted above, the ER language pertains to ERs . This language has been determined as sufficient for the Ecological Reserves' general rules and regulations. The Ballona Wetlands Ecological Reserve has no visitation access except for educational touring from certain organizations, therefore no fishing or non fishing language applies to this particular Reserve within its boundaries. And, should fishing ever be allowed in the canal areas of the Reserve, then that would be within the boundaries of the Reserve and need to be approved by the commission.

Another example is:

“(B). Boating. No person shall launch or operate a boat or other floating device within an ecological reserve except by permit from the commission.”

Ballona Wetlands Ecological Reserve has no visitation access except for educational touring via certain organizations with permits for such. Ballona's seasonal ponding and its canal areas would also be covered by this general rule that is mindful of the boundaries of the ER.

Ballona's unique and specific Section 630 language should not contain any further language than is already provided by the general rules for ecological reserves. And, should boating ever be allowed, then it would need to be approved by the commission for within the boundaries of the ER itself.



SECTION II: Optional Information

c) **Date of Petition: December 6, 2021**

d) **Category of Proposed Change**

Sport Fishing

Commercial Fishing

Hunting

Other, please specify: CCR Title 14, Ecological Reserve Section 630 Boundary identification changes & attendant regulation removal for areas not under the authority of FGC or CDFW. Addition of Ballona specific Section 630 freshwater, usage protective regulation as cited above for the Main Drain to the Ballona Channel and for numerous drainage channels that currently allow for syphoning off freshwater to the ocean from the BWER.; CDFW Ballona Wetlands Conservancy board membership regulation additions, if under the authority of FGC as necessary approvals for use of BWER. [Click here to enter text.](#)

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

Amend Title 14 Section(s) add Ballona specific 630 regulations; removal of regulations for areas outside the BWER and not under the jurisdiction of FGC or CDFW; update of actual BWER boundaries 2021 [lick here to enter text.](#)

Add New Title 14 Section(s): Fish & Wildlife regulations in tandem with CDFW's Ballona Wetlands Streambed Alteration Agreement to specify the volumes of freshwater sent into the Freshwater Marsh System to be utilized for the benefit of Ballona's ecosystems and BWER, and to recharge the underlying aquifers. Add regulations per CDFW's board membership in the Ballona Wetlands Conservancy (a Playa Vista business) that provide stipulations for clarity of CDFW's authority and a stipulation to provide updates to the public for full disclosure of CDFW's communications with and authority as a board member of the Ballona Wetlands Conservancy. [ck here to enter text.](#)

Repeal Title 14 Section(s): [Click here to enter text.](#)

f) **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** [This is a Petition for specific changes to regulations Title 14, Section 630 BWER& CCR. A previously submitted Petition pertaining to BWER was not approved for clarification of Purpose and Goals \(not regulation change\) language of the Section 630 ER language. \[Click here to enter text.\]\(#\)](#)

Or Not applicable.

g) **Effective date:** If applicable, identify the desired effective date of the regulation.

If the proposed change requires immediate implementation, explain the nature of the emergency: ASAP per boundary identification and regulations removal that is not under the authority of FGC or CDFW in order to remove confusion to the public/agencies . And, the rainy season is here. Current CDFW management of BWER allows for harm to BWER due to their participation and allowance of Ballona's freshwater resources to be diverted away from BWER and wasted in the ocean and sanitary sewer system. [lick here to enter text.](#)



h) **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: [Ballona Wetlands Ecological Reserve Section 630, Title 14 CCR specific language; General Ecological Reserve language; CA. Fish & Game Code language. Ca. Coastal Commission 2014 Letter re: harm to Ballona’s hydrology via CDFW non permitted drains. CDFW B. Courtney letter to Playa Vista acknowledging harm to hydrology due to freshwater diversion away from Ballona Wetlands. GC v CDFW lawsuit re: the unpermitted Drains.

i)

j) **As cited in the California Coastal Commission (CCC) Letter (4/11/14) to Playa Vista and CDFW ... draining Ballona is harmful to the ecosystem:**

• • **2017 California Department of Fish & Wildlife, (CDFW) Betty Courtney Cites Harm to Ballona Due to Reduced Water Flow From Playa Vista**

k) Click here to enter text.]

l) **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: [Click here to enter text.]

m) **Forms:** If applicable, list any forms to be created, amended or repealed:

[Click here to enter text.]

SECTION 3: FGC Staff Only

Date received: [12/6/2021]

FGC staff action:

- Accept - complete
 - Reject - incomplete
 - Reject - outside scope of FGC authority
- Tracking Number

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

Meeting date for FGC consideration: [Receive 12/15-16/21; action 2/16-17/21_____]

FGC action:

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