

Senior Energy Advisor, Office of Governor Newsom

November 29, 2022

California Coastal Commission

California Energy Commission

California State Lands Commission

California Ocean Protection Council

California Department of Fish and Wildlife

RE: California's Commercial Fishing Men and Women, and our Communities need the State's Further Support; Next Steps

Dear Commissioners and Agency and Governor's Staff,

This letter represents the collective views of nearly every port-based commercial fishing association in California. Our requests for help are prompted by comments from State Agencies on BOEM's *Preliminary Sale Notice (PSN)* for Morro Bay and Humboldt Wind Energy Areas (WEA), BOEM's *Draft Mitigation Guidelines (Guidelines) for Commercial and Recreational Fishing*, consistency determinations (with conditions) made by the California Coastal Commission (CCC) on WEAs, and the recent California Energy Commission workshop on "*Assessing Sea Space for Offshore Wind Development*".

Seventeen fishing associations, comprising a majority of the State's fishermen, are represented by this letter. While we represent a clear majority, we make no claim to represent the opinions of *every* individual fisherman in the state. The California Harbormasters and Port Captains Association also supports this letter, the needs for fishery resilience being clear to its association members.

The term *fisherman* is used herein to represent both the fishing women and men of our state.

What we need

California's commercial fishermen are appreciative of many of the comments and recommendations State Agencies made to BOEM to mitigate the impacts on our ability to harvest a public trust resource and contribute the State's food security from Offshore Wind (OSW) development. Still, fishermen see that there remains the real possibility that the socioeconomic contributions that fishermen bring to the state, along with providing nourishing, low carbon-footprint food, will be crushed by OSW development.

California fishermen need your help:

- The State must use all of its authority and influence to ensure that impacts to our operations are AVOIDED to the maximum extent possible. We, and others, have repeatedly commented to BOEM, that NEPA prioritizes avoidance over minimization and mitigation. Recent mapping exercises in and around the Humboldt and Morro Bay areas have provided an opportunity for fishermen to identify the extent of area which we deem to be important fishing grounds. These projects, and the outputs thereof, should be used by the State in identifying fishing grounds and protecting our abilities to access them. By protecting these essential fishing grounds, the State can increase the likelihood that we will have a future, and the ability of ALL Californian's to have access the state's living marine resources. The only access the vast majority of Californians have to those resources is through seafood we harvest for their benefit. Since BOEM is moving to an actual auction (December 6, 2022) our "avoid" comments are aimed at future Call Areas, and the State's OSW goals.

The *MINIMIZATION* of impacts can be helped by BOEM moving OSW projects into even deeper water, outside the 1,300-meter depth contour. Such a move will avoid most bottom-habitat based fisheries.

Tunas and swordfish are found past these depths, but those fisheries are sea- surface temperature-based and more episodic.

- The State can help us by ensuring that that OSW lessees are required to fully identify the range of direct and indirect, cumulative, and long-term impacts that their projects will have on California fisheries. This information should be included in the environmental review that will be

required of leases prior to consistency certification. Enforceable Fishing Community Benefit Agreements (FCBA which provide for enhanced fishing community resilience, are the goal. It is noted that the staff report for the CCC's consistency determinations for the two WEAs contained the clear message that OSW companies will be expected to enter into fishing agreements before Construction and Operating Plan consistency certification will be provided. Fishermen need the State to commit to actively enforcing the terms of these FCBA's.

We note that the FCBA aligns with the PFMC's comments and concerns expressed to BOEM on its PSN:

- We ask that the state fully commit to *adaptive management* for this new, untested, industrial development of our ocean. We were pleased to see increased emphasis on monitoring and adaptive management in the agencies' comments on the PSN. We ask that the state view these first five lease sites as *demonstration projects*. Please do not provide federal Coastal Zone Management Act Consistency Determinations for potential new WEAs until the five lease-area projects have been operational for at least three years. This will allow for the collection, evaluation and analysis of comprehensive data by independent scientists or institutions. It is our opinion that new leases should not be awarded in Oregon or Washington until this information is in-hand, though we do not know how much influence California can have over BOEM processes in other states.
- Please quickly move the new Working Group, as described and conditioned by the CCC, into action. It has already been six months since the Humboldt WEA was approved by the CCC. OSW lease awards are soon upon us. We strongly encourage the state to begin identifying a scope-of-work statement and establish how the various representative from stakeholders will be selected. These tasks can be accomplished prior to lease awards.
- The State should discourage BOEM from identifying additional Call Areas off California until the aforementioned data analysis is complete. We understand the California Energy Commission (CEC) final report *Offshore Wind Energy Development off the California Coast - Maximum Feasible Capacity and Megawatt Planning Goals for 2030 and 2045* established planning goals of 2 - 5 GW by 2030 and 25 GW by 2045. We submit that allowing sufficient time to thoroughly understand the environmental,

ecological and socioeconomic impacts of OSW facilities will allow the State to make informed choices in the future while not jeopardizing the CEC's 2045 goals and the timeline necessary to achieve those.

- Last, the State must require BOEM to conduct a full environmental review, in the form of an Environmental Impact Statement, of new proposed OSW sites off California, prior to future lease sales taking place. This EIS must include an analysis of cumulative impacts. An analysis and evaluation of at least three year's monitoring data in hand should greatly inform such an environmental review. Such review prior to leasing has broad support from fishermen and numerous ENGO's.

Context

Please let us share the context of our concerns and needs.

OSW is impacting fishermen, now. It already casts a pall of uncertainty over our industry for business planning and investment, and creates community-level social anxiety. BOEM has now issued its Final Sale Notice with subsequent auction for five California OSW leases. The adoption of 2045 goals for OSW development by the California Energy Commission to produce 25 GW of power will require approximately an additional 2,500 square miles of ocean to be removed from most types of commercial fishing gear. Depending on *where* OSW turbines are placed, industrial development of this scale could devastate California's fisheries, fishing communities, and the food production/security that comes from that. Despite claims from BOEM about "working with fishermen", we do not feel consulted in a meaningful way about where to site OSW facilities with less impacts and how to AVOID impacts to our fisheries.

Further context includes our development of a Fishing Community Benefit Agreement (FCBA) template that has previously been communicated (February, 2022) to state agencies. An outcome of this has been the creation of two legal entities designed to provide a unified voice to engage future OSW lessees for mitigation discussions. The two entities are:

- 1) the *California Fishermen's Resiliency Association* (CFRA), for the area San Francisco Bay north to the Oregon border and,
- 2) the *Morro Bay Lease Areas Mutual Benefits Corporation* (MBLAMBC), for the Central Coast area.

The main goal of the FCBA is to use OSW annual mitigation funding to create programs at a regional, community level, to preserve and enhance the economic and social resilience of fisheries in the face of OSW development. Sufficient annual funding from OSW companies will be required to accomplish the fisheries resiliency goal. Claims for lost/damaged fishing gear would be validated and settled through claims made against the insurance policies which we presume OSW companies will be required to have in place.

We also see great potential for this industrialization of the ocean to create unwanted environmental costs, some of which may be irreversible.

From fishermen's point of view, a further context is that most OSW companies bidding on leases are solely or largely foreign-owned firms which are likely to have significant profits from California ratepayers and state and federal taxpayers (through incentives, subsidies, and grants). Fishermen largely see a dynamic wherein they are being displaced from historic, productive fishing grounds with loss of income and other impacts, while OSW companies profit from California ratepayers, rates possibly being guaranteed by government actions.

Fishermen see the need to transition to renewable energy. However, we want our voices heard and needs addressed as this transition occurs. This is only fair.

BOEM avoids responsibility to protect fisheries and our food security from harm

A glaring feature of BOEM'S Draft Mitigation Guidelines is the disclaimer that the agency can't force OSW companies to provide mitigation, including compensatory mitigation, for impacts and losses that will be inflicted on fishermen and their communities. It follows, therefore, that the Guidelines are populated by terms like "may", "should consider". "Recommendation" and "recommended" show up 23 times. "Should consider" appears 20 times with "suggest", "may", "encourages", and "reasonable efforts", also making BOEM's point of no force or effect of law. "Must" and "shall" are nowhere to be found in the text of these Guidelines. It would be a gross understatement to say that fishermen are profoundly disappointed that our federal government would enable private developers to push aside historic ocean stakeholders (us!) without holding foreign-owned OSW companies accountable for their actions.

State agencies commented,

“We support the effort to develop the Guidance, as it provides insight into BOEM’s recommendations for considering and addressing impacts to fisheries.”

This state comment gives us pause. We found BOEM’s Guidance to be wholly inadequate. We would support the effort to *improve* it, if it was in the context of requirements on developers. This does not seem to be in the cards.

As the Proposed Sale and Final Notices for lease sites off California show, BOEM does have the ability to adopt a “multi-factor” bidding format and provide monetary and non-monetary incentives for OSW companies to enter into “community benefit agreements” (CBA) with “a community or stakeholder group whose use of the geographic space of the Lease Area, or whose use of resources harvested from that geographic space, is directly impacted by the Lessee’s potential offshore wind development.” We assume the fishing community and the organizations which represent them would qualify. Although encouraging in concept, it is discouraging that BOEM suggests only a 5.0% non-monetary bid credit for these CBAs, while not requiring that 5% of lease bid value be actually spent on a CBA. This signals BOEM’s deep lack of understanding of the degree of impacts fisheries will suffer, which is also reflected in BOEM’s Guidelines. It also flies in the face of significant comments from legislators, agencies, and stakeholders that such a bid credit should be a minimum of 10%.

It is encouraging to note that comments on these documents from the California’s members of Congress with an interest in OSW development, and the developer Castle Wind¹, also show an understanding of the challenges facing fishermen and our communities, and offer constructive recommendations.

Questions about the state’s new Working Group (WG), as conditioned by the California Coastal Commission

The CCC conditionally concurred with BOEM’s request for a consistency determination to conduct lease sales in the Morro Bay and Humboldt WEAs. Condition 7(c) requires BOEM to work with the CCC and other Agencies “*to develop and facilitate a working group consisting of fishing organizations and representatives from different regions/ports of the state, representing different*

¹ We give a tip of the hat to Castle Wind. As a prospective lease bidder, since 2016 European-owned Castle has directly engaged with fishermen in the Morro Bay and Port San Luis area to avoid, minimize, and mitigate their project’s likely costs and impacts to regional fisheries, should it win a lease.

fisheries and gear types, and in both the commercial and recreational sectors, lessees and state and federal agency staff. The working group will develop a statewide strategy for avoidance, minimization and mitigation of impacts to fishing and fisheries that prioritizes fisheries productivity, viability, and long-term resilience.”

A number of questions exist for which California’s commercial fishermen needs the State agencies to answer or resolve:

- 1) What is the relationship, if any, between the BOEM’s Mitigation Guidelines, CBAs as described in the FSN, and the Coastal Commission’s condition as described above?
- 2) CCC Condition 7 (c) tasks the WG with developing “a statewide strategy for avoidance, minimization and mitigation of impacts to fishing and fisheries that prioritizes fisheries productivity, viability, and long-term resilience.” Will this be released for public review and comments before it is finalized? How will fishery representatives be selected? May we respectfully suggest that the organizations the Alliance of Communities for Sustainable Fisheries, CFRA, the Pacific Coast Federation of Fishermen’s Associations, MBLAMBC, the Commercial Fishermen of Santa Barbara, and the Responsible Offshore Development Alliance, be allowed to select one member each for the working group. For recreational fishing, the Golden Gate Sportfishing Association for charters and Coastside Fishing Club for private anglers could provide representation recommendations.
- 3) Will this working group be the place that the parameters of compensatory-mitigation are identified? If so, the working group should include a fisheries social scientist and a fisheries economist, at least as consultants to the group, in our opinion.
- 4) What is the expectation for the working group to be up and running and what is the proposed timeline for having an end product? We feel a sense of urgency.
- 5) Noting that the BOEM’s Final Sale Notice includes the concept of an additional 5% bid credit for impacted landside stakeholders, fishermen request that any analysis about the nature of these impacts be kept

separate from working group discussions on mitigations for fishermen who will be directly impacted by OSW development.

The use of FCBA's may leave some issues unresolved

A large question relates to the consequences of fishing effort displacement. Presumably fishermen fish areas that have productive habitats and are economically feasible. When displaced, it seems likely that fishing effort will be moved to more distant areas, of less quality habitat, and possibly concentrated. This potential dynamic must be closely monitored, and is yet another reason why the first OSW leases should be viewed as *demonstration* projects, and studied.

FCBA's do not address impacts to recreational anglers and commercial fishing passenger vessels. We believe that, given the distance from shore, OSW farms will not have as significant an impact on recreational angling as it will on commercial fishing. However, they may be impacted by to-shore cable routes. Mitigation for recreational fishing may need to be a separate negotiation with OSW companies.

A question exists about impacts to land-side fishing related businesses, such as buyer/processors. In theory, the degree to which a FCBA provides resilience that keeps seafood being landed, processors will benefit. However, it is unknown if there will still be a loss of volume of seafood. Thus, processors may need to negotiate with OSW companies and demonstrate their expected losses. Or, seafood restaurants and processors could make claims to new "community impact funds" designed to address land-side impacts.

While funding that may occur to the regions through FCBA's is intended to provide economic benefits to compensate for the loss of fishing opportunity, it could be that some individual fishermen will want to be compensated directly for the duration of their fishing careers. These fishermen may preserve the right to negotiate individually with OSW companies to make their case for a claim.

Finally, the coastwide nature of some important fisheries means that each OSW region may be utilized by commercial boats homeported in other areas, perhaps even out-of-state, and vessels from the local ports may be impacted by OSW developments in other areas or states. The FCBA template addresses this point, but further discussion may be needed.

Supporting commercial fishing resilience is to support diversity and inclusion

The most fundamental principle of the FCBA template is to establish long term funding that ensures and enhances fishery *resilience*. The degree to which this can be accomplished is the degree that our seafood products will still be landed and support the other land-based elements of the supply-chain, e.g. deck hands, processors, restaurants, marine supply stores, and markets.

It only requires a cursory assessment of the seafood supply chain to recognize that it is heavily represented in people of color. Seafood processing is an example: many of these skilled jobs are good-paying, with benefits.

Further, many fishery-dependent communities of the North Coast are economically challenged, if not disadvantaged.

The degree to which fisheries are diminished is the degree that the State's goals for enhancing diversity and equity are undermined.

There is a legal context for protecting fisheries

There are numerous provisions in state and federal law that are designed to protect the fishing industry. The Coastal Act, Fish and Game Code, Magnuson-Stevens Fishery Conservation and Management Act, Outer Continental Shelf Lands Act, etc. You have at your disposal numerous tools which you can call upon to serve the fishermen and women you have entrusted to harvest a public trust resource for the benefit of ALL Californians. We remain committed to working with you in furtherance of the ideas, suggestions and requests contained in this letter.

Conclusion

California has the opportunity to lead the nation in providing a roadmap which could increase the likelihood of OSW and fisheries co-existing. It can also show how impacts which can't be avoided can be minimized and mitigated to ensure the long-term viability and resilience of its fisheries. Fishermen need the state to further step up to this challenge, as identified in the "needs" section, above.

Thank you for considering comments and recommendations from California's commercial fishing men and women.

Submitted On behalf of these Supporting Organizations:

Alliance of Communities for Sustainable Fisheries

Alan Alward, Co-Chair

Crescent City Commercial Fishermen's Association

Rick Shepard, President

Trinidad Bay Fishermen's Association

John Provolt, President

Humboldt Fishermen's Marketing Association

Harrison Ibach, President

Shelter Cove Fishing Preservation Association, Inc

Jake Mitchell, President

Salmon Trollers Marketing Association of Noyo

Tony Cannia, President

Bodega Bay Fishermen's Marketing Association

Lorne Edwards, President

San Francisco Crab Boat Owners Association

John Barnett, President

California Fishermen's Resiliency Association

Ken Bates, President

Santa Cruz Commercial Fishermen's Marketing Association

Mike Hubbell, President

Moss Landing Commercial Fishermen's Association

Tom Hart, President

Monterey Commercial Fishermen's Association

Mike Ricketts, President

Morro Bay Commercial Fishermen's Organization

Tom Hafer, President

Port San Luis Commercial Fishermen's Association

Chris Pavone, President

Commercial Fishermen of Santa Barbara

Christopher Voss, President

San Diego Fishermen's Working Group

Pete Halmay, President

California Wetfish Producers Association

Mark Fina, Executive Director

California Association of Harbormasters and Port Captains

Andrea Lueker, President

CC

BOEM

From: patriciamcpherson1@
To: hollymitchell@bos.lacounty.gov; lmuraida@bos.lacounty.gov; jwaldron@bos.lacounty.gov
Cc: [Wong, Jennifer@DWR](mailto:Wong.Jennifer@DWR); director@wildlife.ca.gov; Office of the Secretary CNRA; katharine.moore@sen.ca.gov; Kunkel, Kristina; ben.allen@sen.ca.gov; samuel.liu@sen.ca.gov; Murvine, Angela@Wildlife; hamilton.cloud@mail.house.gov; congressmanlieu@gmail.com; Vogel, Nancy@CNRA; Lucchesi, Jennifer@SLC; CSLC Commission Meetings; sheila@bos.lacounty.gov; rafiqui.i.talukder@usace.army.mil; aaron.o.allen@usace.army.mil; Wilson-Olgin, Erinn@Wildlife
Subject: Coastal Commission Ballona Wetlands Dec 15, 2022 Meeting Comment Item 16 f CDFW Implements Plan
Date: Thursday, December 1, 2022 7:18:28 AM
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Attention: This email originated from outside of SLC and should be treated with extra caution.

-----Original Message-----

From: patricia mcpherson <patriciamcpherson1@>
To: ainsworth.john@coastal.ca.gov <john.ainsworth@coastal.ca.gov>; Willis, <andrew.willis@coastal.ca.gov>; southcoast@coastal.ca.gov <southcoast@coastal.ca.gov>; Mandy Revell <mandy.revell@coastal.ca.gov>
Cc: Todd T. Cardiff Esq. <todd@tcardiffaw.com>; jeanette vosburg <saveballona@hotmail.com>
Sent: Wed, Nov 30, 2022 2:46 pm
Subject: CCC Meeting Comment Item 16 f

CALIFORNIA COASTAL COMMISSION COASTAL DEVELOPMENT PERMIT APPLICATION BY CDFW for Ballona Wetlands Ecological Reserve, Sequence 1-2- GEOTECHNICAL BORINGS.

To California Coastal Commission Staff and Commissioners:

The Geotechnical Borings being requested by CDFW are for where to dig to introduce, excavate, create saltwater intrusion into Ballona Wetlands Ecological Reserve. There is no consideration of the potential negative environmental damage that may arise from such intended actions.

California Coastal Commission is a Responsible Agency, whose approval or nonapproval of CDFW's Certified Final Environmental Impact Report along with any potential federal approval by the Army Corps of Engineers in tandem with the County of Los Angeles is a critical voice. The Commission administers CEQA in the Coastal Zone. Therefore, the Commission must deny a Coastal Development Permit for S 1,2 activities, of which the Geotechnical Borings are an intrinsic part, in order to retain its ability to fairly consider the CERTIFIED project.

A Final Environment Impact Report (FEIR) for the Ballona Wetlands Restoration Project was certified by the California Department of Fish and Wildlife (CDFW) on December 30, 2020. The permit application submitted by Environmental Science Associates (ESA) on behalf of CDFW clearly indicates that the proposed geotechnical studies are part of that certified project, and the application references mitigation measures analyzed in the certified FEIR. As a responsible agency under the California Environmental Quality Act (CEQA), the California Coastal Commission is required to adopt the findings of the certified FEIR prior to issuing permits for the work to begin. This is especially important given CDFW's highly irregular approach of attempting to "tier off" two construction sequences of the project, the impacts of which were never analyzed as a stand-alone project, from a **Project level (as opposed to Programmatic) EIR.** Piecemealing new geotechnical studies after certification of a Project level EIR is not permissible. (No Oil v Los Angeles Case No. 30268) An approval by the California Coastal Commission (CCC), as a Responsible Agency, also sets negative precedent, creating non-responsiveness to established inaccuracies and misleading information that are stated by ESA on behalf of CDFW within the ESA Sequence 1,2 Report that is part of the CDFW Application. CCC, thereby, provides a tacit approval of the whole ESA Report/CDFW Application-- promoting as accurate, a chain of unsupported comments and conclusions. The CCC should be working to promote accuracy in messaging and not allow for continued hearsay and known inaccurate information to be continually spread while CDFW seeks approvals.

CDFW is attempting to circumvent the CEQA lawsuit process prior to adjudication.

Please say NO to CDFW's Application for a Coastal Development Permit to Perform Geotechnical Borings for CDFW's Sequence 1, 2 initiation of the Ballona Wetlands Reserve, Final Impact Report's -Alternative 1.

CDFW has decided to move forward with their destructive, conversion of Ballona into their full tidal saltwater embayment plan (Alt. 1). This action by CDFW attempts to preempt the adjudication of the California Environmental Quality Act (CEQA) lawsuits against them, which address CDFW's huge data gaps in an irreversible and dangerously risky plan to convert a freshwater wetlands/uplands habitat complex into a fully tidal saltwater bay.

The Coastal Act mandates the California Coastal Commission to, "protect, conserve, restore, and enhance" the state's coastal resources. The Preferred Alternative of CDFW, Alternative 1 is not 'restoration' but is instead conversion of a predominantly seasonal freshwater wetland, upland complex into a fully tidal saltwater bay. CDFW's Alt. 1 is contrary to the Fish & Game Commission approval of Ballona as a Title 14, Section 630 terrestrial, NonMarine Ecological Reserve having specific Purpose and Goal of Restoration as registered with the Office of Administrative Law in 2005.

California Regulatory Notice Register 2005, Volume No. 20-Z, Starting on page 663 Ballona Wetlands Ecological Reserve <https://www.dhcs.ca.gov/services/medi-cal/Documents/AB1629/ZREG/ZREG%2020->

[Z_5.20.05_notice.pdf](#)

The registry cites to protection of the salt marsh (which is a scientific connotation to vegetation type) and the freshwater resources, and the endangered species reliant upon these resources. And, to protect the existing wildlife corridors. Sequence 1,2 information provided to the CCC does not discuss or include these regulatory goals for Ballona Wetlands, particularly in reference to the freshwater resources of Ballona Wetlands. Instead, CDFW/ESA provides a goal for BWER, to restore the 'ebb and flow of the ocean' that is contrary to Ballona's approval as a terrestrial, nonmarine Ecological Reserve. Ballona Wetlands is a predominantly closed to the ocean wetland system that historically has not had a regular ebb and flow of the ocean but for thousands of years ago. (Historical Ecology of the Ballona Creek Watershed by Dark, Stein, Longcore et al 2011)

CDFW violates Fish and Game Code 1745 as any and all agreements pertaining to BWER shall abide by the Purpose and Goals of its acquisition--as approved by the Fish & Game Commission and registered with the Office of Administrative Law in 2005 under Title 14, Section 630.

CDFW does not inform the Coastal Commission that the CDFW required Fish & Game Code, Section 1019, Land Management Plan (LMP) has never been performed for the BWER. The LMP would have necessitated geotechnical surface and groundwater interface evaluation, soils and chemical evaluation that are part of typical wetland LMPs. ESA also provides no CDFW evaluation per the Sustainable Groundwater Management Act (SGMA) as pertinent to Ballona as a Department of Water Resources acknowledged--Groundwater Dependent Ecosystem (GDE). Such evaluation has not been done for Ballona Wetlands Ecological Reserve which would have included geotechnical evaluations of the surface and groundwater interface, soils and chemical evaluation of BWER for the specific purpose of protection of the natural freshwater resources.

The CDFW, FEIR is deficient. Piecemealing new geotechnical studies into a certified Project level EIR is not permitted under CEQA. This attempt at piecemealing is, from a practical point of view, inconsistent with protection of Ballona as a Title 14, Section 630 terrestrial, nonmarine Ecological Reserve, as the intent of the geotechnical investigation is to determine, **'where to dig' rather than investigate the potential negative consequences of introducing TMDL impaired sediment and water into clean soils and freshwater of Ballona Wetlands.**

There is no discussion of the Sustainable Groundwater Management Act or protection to the freshwater resources for Ballona as a Groundwater Dependent Ecosystem. There is only the intent to determine 'where to construct' developments (channels and berms) that will serve to further drain away Ballona's freshwater resources and introduce impaired sediment and water into Ballona without address of potential negative environmental consequences.

California Coastal Commission Needs to Amend CDP 5-91-463

CDP 5-91-463 is the CCC's permitting for the Playa Vista Freshwater Marsh System. This system is a Drainage System for Playa Vista and includes the Riparian Corridor, the Freshwater Marsh itself as well as the Main Drain to the Ballona Channel and the unpermitted Drains that laterally extend off the Main Drain.

1. Sequence 1,2 (S 1,2) recites removal of the unpermitted Drains. When the Commissioners determined that CDFW & Playa Vista had violated the Coastal Act with the continued use of unpermitted drains to syphon away Ballona's freshwater resources—both surface and groundwater; the Commissioners also stated that the public/ CDFW should not have to pay the financial burden of the removal. The CCC should again address the matter of payment as here in S, 1,2 –CDFW purports to use the Coastal Conservancy funding for the payment—which means literally on the public's dime. The public should not have to bear the expense of Playa Vista's illegal drains removal.

2. CDP 5-91-463 needs to be amended to incorporate the extension of the Playa Vista Drainage System, Flood Control System (Freshwater Marsh System) and to remedy the CCC's original failure to incorporate the water source and its volumes that are allowed to be discharged. As is written into the Environmental Science Associates (ESA)/ CDFW plan for S 1,2, portions of CDP 5-91-463 are incorporated as part of the design of S1,2 including developments that are part of the 'future CDP 5-91-463 construction elements'. (Elements such as the 'square drain' which while approved by the CCC in concept, it remains without approval permits by LA County Public Works (PRA Response documents provided to CCC Enforcement Division by Grassroots Coalition). Playa Vista has already built this feature, which is not functional, and remains unpermitted by the County of LA.

CDP 5-91-463 also includes the Main Drain and its outlet to the Ballona Channel, all of which is to be reconstructed, even 'day lighted' per Sequence 1,2 as part of the culvert developments.

A side- by-side comparison of the S 1,2 with the Drainage/ Flood Control System (aka Freshwater Marsh System (FWM)) reveals the two are essentially one and the same as simply an extension of the FWM system with both changed Main Drain/Outlet and connection to the manmade channels to the Tide-gates on the west end of Ballona Wetlands Ecological Reserve.

SEQUENCE 1 & 2 PLAYA VISTA/ CDFW SALTWATER INTRUSION, FRESHWATER DRAINAGE PLAN

Portion of CDP 5-91-463 noting the absence of necessary information pertaining to water source and volumes.
No flood control permit exists per the Public Record Act request/ response below:

Clean Water Act/ Porter- Cologne & DEGRADATION ISSUES, Wasting of Clean, Available Freshwater

FEIR studies of the Ballona Channel and its manmade entry channels into Ballona have already demonstrated toxicity problems (TMDL impaired) brackish, saltwater, sediment intrusion areas (Weston Report). Further deterioration of water quality and the addition of toxic sediment into Ballona Wetlands Ecological Reserve via the creation of more manmade saltwater channels is unethical and contrary to the Coastal Act, the Clean Water Act, Porter-Cologne, 88-88, Best Management Practices of the Basin Plan and is contrary to the Sustainable Groundwater Management Act and protection to Ballona Wetlands as a Groundwater Dependent Ecosystem.

This newest move to initiate the California Department of Fish & Wildlife's (CDFW) excavation plan calls for the California Coastal Commission (CCC) to allow a CDP to CDFW for geotechnical borings in order to start the excavation process. This highly controversial plan has numerous elected officials and over 44 organizations oppose it, including In Defense of Animals, Sierra Club, Food & Water Watch, areawide Democratic Clubs, local homeowner groups.

The Plan as presented to the Coastal Commission Staff:

Misrepresentations and outright false information are provided by CDFW within a pretense of facilitating 'restoration' of Ballona while CDFW dodges protection of Ballona's natural resources, including its freshwater. The following PPT presentation from Grassroots Coalition and Dr. Margot Griswold, demonstrates CDFW's exclusion of information of Ballona's current passive regeneration and the need to let this regeneration continue unharmed by CDFW excavations and saltwater channeling, inundation plans.

Grassroots Coalition also supports the comments made by Restoration Ecologist Dr. Margot Griswold in the following video from Sept. 2022 <https://youtu.be/5FOcAWRYvhY>

Using language, "to enhance native coastal aquatic and upland habitats....to restore some of this rare habitat....and rare species that rely on it including IMPROVING TIDAL CONDITIONS for the Belding's Savannah Sparrow...expanding brackish marsh habitat for the least Bell's vireo....and Ridgway's rail".....sets a new height of unethical standards by CDFW. These species have been documented as returning to Ballona Wetlands without the creation and introduction of further toxic/TMDL impaired waterways into the clean, healthy soils and waters of the Sequence 1,2 area & Water PPT also provides data and information/ visuals of Ballona's plentiful freshwater.

<https://saveballona.org/cdfws-nefarious-scheme-destroy-ballona-rare-coastal-wetlands.html>

<https://saveballona.org/cdfws-nefarious-scheme-destroy-ballona-rare-coastal-wetlands.html>

The Sequence 1,2 areas are regenerating on their own as is seen in the video and ppt (2022) above. These areas have been vital habitat for Endangered Belding's Savannah Sparrows and other key species and remains as healthy vital habitat as can be viewed in these photos by Jonathan Coffin. No potentially harmful channeling and toxic saltwater intrusion should be allowed to occur without at least an understanding of the area's natural existing freshwater hydrology which is at risk of being forever harmed via S 1,2 and, as part of the whole ALT. 1 Plan being forwarded by CDFW. CDFW continues to be in disagreement with CCC Staff and its Commissioners per their unpermitted drains having caused ecological and hydrological damage to Ballona as stated by CCC.

California Coastal Commission (CCC) Letter (4/11/14) to Playa Vista and CDFW

Instead, CDFW does not learn from its mistakes and harmful actions and continues to promote more harm to Ballona. See CDP 5-17-0253 Willow Plan language by CDFW disavows any CDFW harm to Ballona via the illegal drainage. The lie via omission of fact is that the area did not historically have tidal saltwater inundated channels so "IMPROVING TIDAL CHANNELS" is a total misrepresentation to the public and commissioners.

The lie via omission of fact is that Belding's Savannah Sparrows; Bell's Vireo; and Ridgeway rails DO NOT need saltwater channels and are present on Ballona in its natural capacities of its seasonal freshwater ponding and underlying freshwater aquifers providing freshwater for regenerative growth of Ballona's native plants.

Belding's Savannah Sparrow, October 30 2012, BWER (Area B South)

<https://www.flickr.com/gp/stonebird/08Q6t712z2>

Barn Owl, October 30, 2012, BWER Area B South

<https://www.flickr.com/gp/stonebird/4s55LJ8F6e>

Ballona is now extremely rare as one of the last remaining predominantly freshwater, seasonal wetlands. CDFW and its manager, SCC have steadfastly refused to perform hydrology evaluations of Ballona's natural freshwater resources in order to place its freshwater aquifers and surface/groundwater interface into a BLACK HOLE OF OBLIVION. Out of sight, out of mind, in all the FEIR and Sequence 1, 2, provides for convenient black hole data gaps. CDFW and SCC simply avoid the Sustainable Groundwater Protection Act and its protection to Groundwater Dependent Ecosystems (GDE) to which the Department of Water Resources has acknowledged Ballona Wetlands Ecological Reserve.

CDFW in yet another CCC permitted plan (CDP 5-17-0253, to restore willows in this same area in 2020,(albeit CDFW has not carried this plan forward and has not provided the required annual reports to the CCC), contradicts the language of Sequence 1,2. In the willow plan, citing no fresh watering will be needed as the area has freshwater, yet conveniently states in S 1,2 language that the saltwater intrusion channeling is necessary because the same area has been devoid of freshwater for decades. **CDFW fails to explain this contradictory language.**

No portion of the CDP Request, is there discussion of protection to, or evaluation of Ballona's natural freshwater resources and its reliant habitat that is regenerating now without saltwater channels. In no portion, is there discussion of potential harm to the underlying freshwater aquifers upon which the habitat of Ballona is reliant. CDFW continues to avoid the Sustainable Groundwater Management Act. CDFW provides no adherence to the basics required by SGMA, GDE studies and its own Land Management Plan requirements for evaluation of Ballona Wetlands Ecological Reserve's natural resources.

https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Groundwater-Management/Sustainable-Groundwater-Management/Best-Management-Practices-and-Guidance-Documents/Files/BMP-3-Hydrogeologic-Conceptual-Model_ay_19.pdf

The Ballona Channel brings toxic water and sediment into Ballona Wetlands, a toxicity that is not cleansed before entering Ballona. The western, manmade saltwater channels are known to have toxic sediment due to the impaired (TMDL) status of Ballona Channel waters/sediments. This too is not discussed in S 1, 2 or in the request for a permit for the geotechnical borings.

LONG TERM DAMAGE TO ENVIRONMENT FROM HEAVY EQUIPMENT / BORING VEHICLES

Each time heavy boring/coring equipment is trucked across Ballona, vegetation is killed, tire tracks are driven deep into the soils, killing organisms within and creating tattoos of death patterns that provide new wildlife intrusive access ways. The following photos by Jonathan Coffin demonstrate just a few of the legacy damage from boring/coring operations in Ballona Wetlands Ecological Reserve:

As can be seen in the photos below, all are photographed during October, during dry surface conditions. Contrary to the language of CDFW, citing very little negative impacts will occur because the borings will be done while the surface soils are dry:

- 1) CDFW cannot guarantee the surface soils will be dry and;
- 2) the highly visible damage to the habitat in the photos below was created when the surface soils were dry.

October 5, 2012 BWER Area A)

<https://www.flickr.com/gp/stonebird/S04KAM7gUi>

October 16, 2021 BWER (Area B)

<https://www.flickr.com/gp/stonebird/3h98i706Y6>

<https://www.flickr.com/gp/stonebird/6qn0xZA7q6>

October 14, 2012 BWER (Area C)

<https://www.flickr.com/gp/stonebird/iv7YPrWK53>

<https://www.flickr.com/gp/stonebird/1L2171m27n>

<https://www.flickr.com/gp/stonebird/2ANk0U9U5g>

The rainy season is upon us, and the rains/ groundwater created **regeneration of vegetation across Ballona has not been evaluated by CDFW**. And, CDFW has not considered all the new pickleweed growth since the capping of the illegal drains, and the passive regeneration of Ballona in the State Lands Commission portion of Ballona which the fire has now succumbed to a great variety of regenerating native plants including the targeted species -pickleweed—nesting/foraging area for the endangered Belding's Savannah Sparrow. No discussion or inclusion of this regeneration is included in the S 1,2 whose language by CDFW/ Brody contradicts himself as he cites, in the CDP 5-17-0253 Willow Plan, that no artificial watering will be needed for vegetation regeneration in the State Lands Commission Public Trust lands due to abundant fresh groundwater and yet for S 1,2 he states this same area has been devoid of freshwater for decades and must have saltwater intrusion in order to live. Both statements Mr Brody delivers without any actual hydrology evaluation, as none is included in the FEIR. In fact, the S 1,2, similar to the FEIR state that the main watershed for Ballona comes via the Ballona Channel. Such information is false. (See DWR Map Aquifers of Ballona and photographs of seasonal rainwater ponding)

NATIVE AMERICANS are again left out of the decision- making process for this Registered Sacred Site, but for CDFW's after-the-fact offer of payment to monitor CDFW's excavations. Noteworthy is CDFW's & SCC's disrespect towards Native Americans who have been working to protect this Sacred Site for over 20 years. With years of comments already trashed by avoidance, this new action by CDFW promises new listening skills, all the while having already made the decision to move ahead with the excavation plans.

<https://saveballona.org/cdfws-nefarious-scheme-destroy-ballona-rare-coastal-wetlands.html>. Includes comments in PPT by Chief Anthony Morales MLD, and written comment by JOHN TOMMY ROSAS -MLD (Registered the site as a Sacred Site)

COASTAL ZONE IS DUAL JURISDICTIONALThe Coastal area is a DUAL JURISDICTIONAL ZONE, meaning the City of Los Angeles must approve a Coastal Development Permit for this development activity and then it is permissible for the CCC to decide upon a Coastal Development Permit for these development activities. CDFW has not approached the City of Los Angeles for a CDP and the CCC should not issue anything without first allowing the City of Los Angeles to weigh in on this situation.

APPLICATION FORM:

P. 1 i.

The CHECKLIST is missing geohydrological evaluation and should not be checked as though COMPLETE.

A basic tenet of the litigation pertains to the absence of hydrological evaluation of Ballona Wetlands Ecological Reserve's natural freshwater resources that include the watershed and naturally occurring springs.

a. The attached report supplies unsupported comments regarding the watershed of Ballona as being cut off from Ballona due to the channelization of the Ballona Channel, which is false. (Department of Water Resources mapping of the multiple freshwater aquifers of Ballona; the freshwater table is at or near surface-Playa Vista EIR)

b. The attached report cites to environmental issues that have no basis in supportable documentation and are thus contrary to CEQA as conclusory statements having no supportive data. (See letter portion)

<https://oncesa.cgyntc.com/dl/7cMTD1FDwI>

c. One data gap of CDFW is the lack of hydrology evaluation for the S 1,2 site location and all of Ballona Wetlands Ecological Reserve. CDFW's sole reasoning for implementation of excavation, channeling for saltwater intrusion- namely that the area must have saltwater intrusion or die- has no basis in fact or data supplied in the FEIR.

This CDP Request may be considered a violation of Porter-Cologne Act; SGMA; Groundwater Dependent Ecosystem-failure to identify needs of protection to this area's natural freshwater resources and the habitat and wildlife dependent upon those resources.

P.2 ii.

-USACE was not included in the meetings for S 1,2. (PRA response re: attendees) There is no indication that USACE will ever provide engagement now that the WRDA portion of the EIR/S has expired and USACE no longer has any publicly established agreements with CDFW pertaining to Ballona Wetlands Ecological Reserve.

-Los Angeles County Flood Control has no publicly established agreements with CDFW to promote any changes to the Ballona Channel Flood Control levees. All prior Water Resource Development Act (WRDA) agreements are expired. And, key County Supervisors having direct jurisdiction over Ballona Wetlands and County Flood Control agreements have thus far only weighed in against the CDFW FEIR ALT 1 conversion plan. Ballona Wetlands Ecological Reserve is a Title 14, Section 630 Terrestrial NonMarine Ecological Reserve approved and registered (OAL) by the Fish and Game Commission in 2005. The current CDFW/ SCC goals of conversion of Ballona Wetlands into saltwater inundated channels and bay is directly inconsistent with the Purpose of Acquisition of Ballona set forth by the California Fish and Game Commissioners in 2005 and their registration with the Office of Administrative Law in 2005. CDFW is in violation of Fish and Game Code 1745, and has failed to adhere to Fish & Game Code 1019 as it has failed to perform a Land Management Plan and adhere to the Sustainable Groundwater Management Act by failed to adhere to protocol for protection of a Groundwater Dependent Ecosystem —Ballona Wetlands Ecological Reserve.

-US FISH AND WILDLIFE SERVICE-

Any/all excavation to create more saltwater inundation channels into Ballona via the 1135 (USACE/COUNTY Project) and/or other FEIR Alt. 1 and S. 1,2 cited Channel cut through projects (1135) would require the same evaluation and review as cited by USFWS in 1998, but was never performed.(US Dept of Interior Aug. 4, 1998 Letter to USACE).

This CDP Application does not refer to, or discuss the multiple laws and baseline evaluation issues raised in this letter. The issues raised by Mr. Hanlon, Branch Chief of Federal Projects and Field Supervisor Ken Berg, need to be addressed currently just as they did then, in the past, for protection of Ballona Wetland's natural resources and its successful restoration.

Baseline issues have not been addressed per the joint draft policy on "Safe Harbor" with the National Marine Fisheries Service and Fish and Wildlife Service (62 FR 32178), and regardless of this, any federally listed species would still need to comply with the Endangered Species Act. The Alt 1 FEIR Certified Plan intends to extinguish the current levees, excavate virtually the entirety of Ballona and create new perimeter levees which most certainly requires a federal EIS. The current S 1,2 is part of that same Plan and as such should be inclusive of USACE and the County of Los Angeles—which thus far, it is not. All parts affect the whole and this portion should not be piecemealed without diligent and required evaluation.

Sequence 1,2 of Alt 1 and this Boring Operation has not had evaluation with existing conditions. There is still a need for the Fish & Wildlife Coordination Act for existing conditions to be evaluated which has not occurred and is not addressed in the Borings Report and/or the S 1, 2 Reports.

Ballona Wetlands Ecological Reserve and Ballona Wetlands are a water resource development project and thus require/warrant early Fish and Wildlife Service involvement as set forth in the Transfer Funding Agreement, including preparation of the appropriated planning

documents, alternatives analysis, and finally a Coordination Act Report for a comprehensive plan. (1998 US Dept of Interior Letter attached)

No CDP should be issued unless and until the FEIR is rescinded and becomes CEQA adequate, and has a CDFW 1019 Land Management Plan evaluation.

-LOCAL APPROVAL. : The checkmark citing exempt, state owned property is inaccurate per the need FOR ANY COASTAL DEVELOPMENT to also secure a City of Los Angeles Coastal Development Permit as the area is a Dual Jurisdictional Coastal Permit area.

P.3. Page 3 leaves out expected cost of development.

P. 4, 8. The applicant claims no grading however this is not a reasonable response. The borings and vehicular tracks will cause ground disturbance and potential grading of the immediate area for the boring(s) in order to utilize boring equipment. (See J. Coffin photos)

P. 5,10. b. Any/all borings work in the past has given rise to extensive habitat destruction due to crushing weight of the vehicular trucks having the boring equipment. See images of former damage to Ballona. The weight of the vehicles also causes damage to mycorrhizal fungi of Ballona which is the basis for all native plant regeneration. Special Status species have also been crushed/ killed/ harmed in past borings.

Oilfield gas, outgassing is also a concern not dealt with in the Application. The areas to be tested are known gassy areas that upon boring, geysering is often an outcome due to the pressure 20 psi of underground oilfield gases and the high freshwater table. (Playa Vista Archaeological documents/ Borings Logs)

-Additional Information

Page 6, 3. Applicant has not fulfilled the application question regarding previous permits that it acknowledges the area having previous permits.

Without such information, harm to the ecological resources may needlessly occur if the information that is being sought already exists.

Page 7, 5. Waters. a. The Application fails to acknowledge FILLING will be required for bore holes created as they cannot be left open.b. The Application fails to acknowledge the goal of the borings in bringing in TMDL impaired water and fails to provide any information on the current status of hydrology within the area per the Sustainable Groundwater Management Act and Ballona Wetlands as an acknowledged Groundwater Dependent Ecosystem.

7. Recreation. a. The Application cites that it will protect existing lower cost visitor and recreational facilities. HOW? b. The borings DO HAVE THE ABILITY TO ALTER THE CURRENT ACCESS as the vehicles create negatively impacted / created roadways into the delicate wetlands which as these trackways die, they also become access ways by individuals that use the paths for ingress and egress to live or otherwise use the area. (See images of former vehicles tracks on Ballona that are used by homeless etc.)

9. b. A biological survey should be done prior to any CDP activity on these sensitive habitats as further degradation is highly possible by vehicular use/ boring activities and human disturbance. The ESA Report includes a stale chart of rare and endangered species use of the area that does not comport with the present. Numerous species that are listed as having a low chance of occurrence are present on the site as documented by Jonathan Coffin and others.

11. The area is a Registered Sacred Site. CDFW has thus far not maintained any protective activities for Native American remains, artifacts. CDFW and SCC have failed to be responsive to concerns / issues raised by John Tommy Rosas (MLD/ TATTN) & Chief Anthony Morales— including but not limited to recent outreach by Chief Anthony Morales.

12. CDFW has ignored the Department of Water Resources acknowledgement of Ballona Ecological Reserve as a Groundwater Dependent Ecosystem under SGMA and has continued to evade any surface/groundwater hydrological studies as part of a GDE study/ LMP evaluation which would necessitate the evaluation of potential harm to the underlying freshwater aquifers and surface water and soils of Ballona as well as interfere in species both vegetative and wildlife's use of the benefits of the freshwater.

-SECTION IV. Required Attachments

1. The actions intended may harm the integrity of habitat irreparably and any/all documentation of legal interests in the property needs to be provided for the public. In the past, assumptions of jurisdiction have been made and currently the State lands Commission has stated it does not have legal jurisdiction over its own Public Trust Property. These issues must be vetted and adequate jurisdictional liabilities must be made public.

13. Please provide the archaeological report cited in this report to MLD Chief Anthony Morales and any/all MLDs for evaluation. The Application Report does not address previous requests of John Tommy Rosas and/or Anthony Morales for Native American preservation needs. CDFW provides continued nonresponse.

Attachment- DEPT. INTERIOR LETTER 1998 is located on pages below:

Seeking prudent and honest response and protection to Ballona Wetlands-Sacred Site and Ecological Reserve.

Patricia McPherson, Grassroots Coalition

CALIFORNIA COASTAL COMMISSION COASTAL DEVELOPMENT PERMIT APPLICATION BY CDFW for Ballona Wetlands Ecological Reserve, Sequence 1-2- GEOTECHNICAL BORINGS.

California Coastal Commission Staff and Commissioners:

The Geotechnical Borings being requested by CDFW are for where to dig to introduce, excavate, create saltwater intrusion into Ballona Wetlands Ecological Reserve. There is no consideration of the potential negative environmental damage that may arise from such intended actions.

California Coastal Commission is a Responsible Agency, whose approval or nonapproval of CDFW's Certified Final Environmental Impact Report along with any potential federal approval by the Army Corps of Engineers in tandem with the County of Los Angeles is a critical voice. The Commission administers CEQA in the Coastal Zone. Therefore, the Commission must deny a Coastal Development Permit for S 1,2 activities, of which the Geotechnical Borings are an intrinsic part, in order to retain its ability to fairly consider the CERTIFIED project.

A Final Environment Impact Report (FEIR) for the Ballona Wetlands Restoration Project was certified by the California Department of Fish and Wildlife (CDFW) on December 30, 2020. The permit application submitted by Environmental Science Associates (ESA) on behalf of CDFW clearly indicates that the proposed geotechnical studies are part of that certified project, and the application references mitigation measures analyzed in the certified FEIR. As a responsible agency under the California Environmental Quality Act (CEQA), the California Coastal Commission is required to adopt the findings of the certified FEIR prior to issuing permits for the work to begin. This is especially important given CDFW's highly irregular approach of attempting to "tier off" two construction sequences of the project, the impacts of which were never analyzed as a stand-alone project, from a **Project level** (as opposed to Programmatic) **EIR**. Piecemealing new geotechnical studies after certification of a Project level EIR is not permissible. (No Oil v Los Angeles Case No. 30268)

An approval by the California Coastal Commission (CCC), as a Responsible Agency, also sets negative precedent, creating non-responsiveness to established inaccuracies and misleading information that are stated by ESA on behalf of CDFW within the ESA Sequence 1,2 Report that is part of the CDFW Application. CCC, thereby, provides a tacit approval of the whole ESA Report/CDFW Application-- promoting as accurate, a chain of unsupported comments and conclusions. The CCC should be working to promote accuracy in messaging and not allow for continued hearsay and known inaccurate information to be continually spread while CDFW seeks approvals.

CDFW is attempting to circumvent the CEQA lawsuit process prior to adjudication.

Please say NO to CDFW's Application for a Coastal Development Permit to Perform Geotechnical Borings for CDFW's Sequence 1, 2 initiation of the Ballona Wetlands Reserve, Final Impact Report's -Alternative 1.

CDFW has decided to move forward with their destructive, conversion of Ballona into their full tidal saltwater embayment plan (Alt. 1) . This action by CDFW attempts to preempt the adjudication of the California Environmental Quality Act (CEQA) lawsuits against them, which address CDFW's huge data gaps in an irreversible and dangerously risky plan to convert a freshwater wetlands/uplands habitat complex into a fully tidal saltwater bay.

The Coastal Act mandates the California Coastal Commission to, “protect, conserve, restore, and enhance” the state’s coastal resources. The Preferred Alternative of CDFW, Alternative 1 is not ‘restoration’ but is instead conversion of a predominantly seasonal freshwater wetland, upland complex into a fully tidal saltwater bay. CDFW's Alt. 1 is contrary to the Fish & Game Commission approval of Ballona as a Title 14, Section 630 terrestrial, NonMarine Ecological Reserve having specific Purpose and Goal of Restoration as registered with the Office of Administrative Law in 2005.

California Regulatory Notice Register 2005, Volume No. 20-Z, Starting on page 663 Ballona Wetlands Ecological Reserve https://www.dhcs.ca.gov/services/medical/Documents/AB1629/ZREG/ZREG%2020-Z_5.20.05_notice.pdf

The registry cites to protection of the salt marsh (which is a scientific connotation to vegetation type) and the freshwater resources, and the endangered species reliant upon these resources. And, to protect the existing wildlife corridors. Sequence 1,2 information provided to the CCC does not discuss or include these regulatory goals for Ballona Wetlands, particularly in reference to the freshwater resources of Ballona Wetlands. Instead, CDFW/ESA provides a goal for BWER, to restore the 'ebb and flow of the ocean' that is contrary to Ballona's approval as a terrestrial, nonmarine Ecological Reserve. Ballona Wetlands is a predominantly closed to the ocean wetland system that historically has not had a regular ebb and flow of the ocean but for thousands of years ago. (Historical Ecology of the Ballona Creek Watershed by Dark, Stein, Longcore et al 2011)

CDFW violates Fish and Game Code 1745 as any and all agreements pertaining to BWER shall abide by the Purpose and Goals of its acquisition--as approved by the Fish & Game Commission and registered with the Office of Administrative Law in 2005 under Title 14, Section 630.

CDFW does not inform the Coastal Commission that the CDFW required Fish & Game Code, Section 1019, Land Management Plan (LMP) has never been performed for the BWER. The LMP would have necessitated geotechnical surface and groundwater interface evaluation, soils and chemical evaluation that are part of typical wetland LMPs. ESA also provides no CDFW evaluation per the Sustainable Groundwater Management Act (SGMA) as pertinent to Ballona as a Department of Water Resources acknowledged--Groundwater Dependent Ecosystem (GDE). Such evaluation has not been done for Ballona Wetlands Ecological Reserve which would have included

geotechnical evaluations of the surface and groundwater interface, soils and chemical evaluation of BWER for the specific purpose of protection of the natural freshwater resources.

The CDFW, FEIR is deficient. Piecemealing new geotechnical studies into a certified Project level EIR is not permitted under CEQA. This attempt at piecemealing is, from a practical point of view, inconsistent with protection of Ballona as a Title 14, Section 630 terrestrial, nonmarine Ecological Reserve, as the intent of the geotechnical investigation is to determine, '**where to dig**' rather than investigate the potential negative consequences of introducing TMDL impaired sediment and water into clean soils and freshwater of Ballona Wetlands.

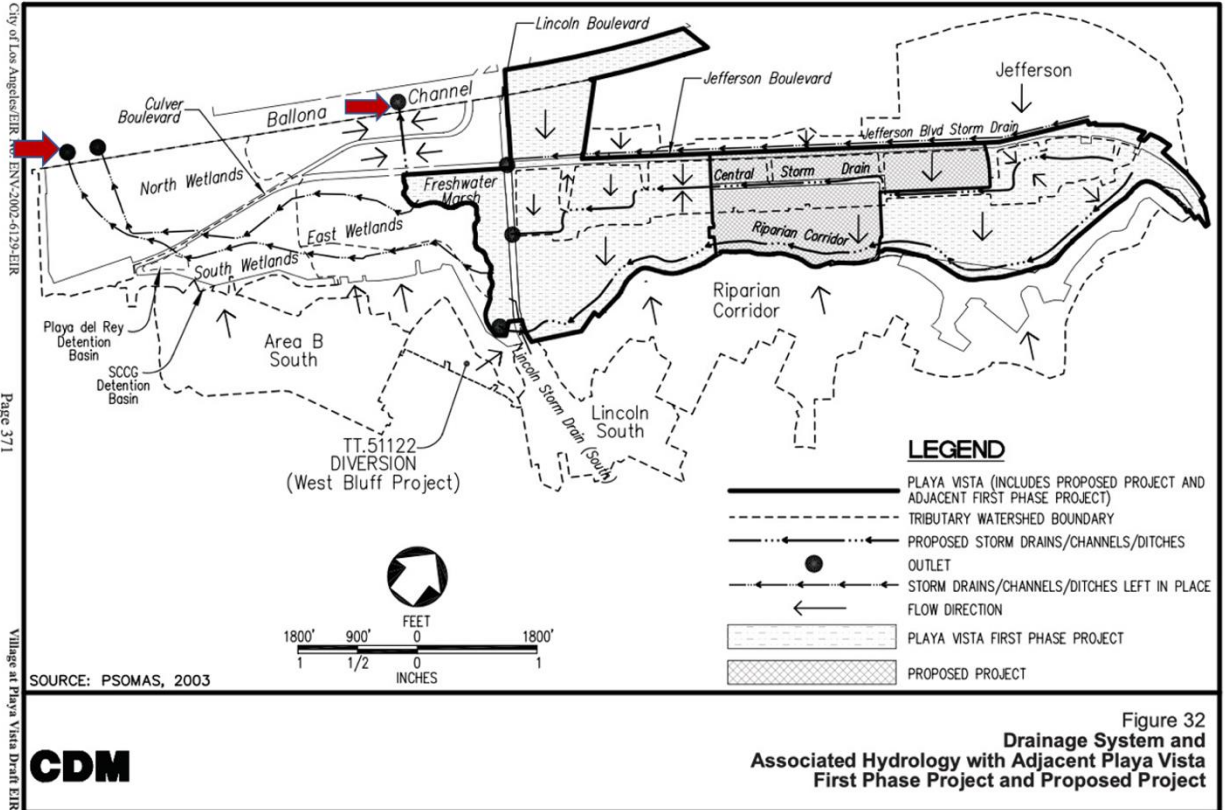
There is no discussion of the Sustainable Groundwater Management Act or protection to the freshwater resources for Ballona as a Groundwater Dependent Ecosystem. There is only the intent to determine 'where to construct' developments (channels and berms) that will serve to further drain away Ballona's freshwater resources and introduce impaired sediment and water into Ballona without address of potential negative environmental consequences.

California Coastal Commission Needs to Amend CDP 5-91-463

CDP 5-91-463 is the CCC's permitting for the Playa Vista Freshwater Marsh System. This system is a Drainage System for Playa Vista and includes the Riparian Corridor, the Freshwater Marsh itself as well as the Main Drain to the Ballona Channel and the unpermitted Drains that laterally extend off the Main Drain.

1. Sequence 1,2 (S 1,2) recites removal of the unpermitted Drains. When the Commissioners determined that CDFW& Playa Vista had violated the Coastal Act with the continued use of unpermitted drains to syphon away Ballona's freshwater resources—both surface and groundwater; the Commissioners also stated that the public/ CDFW should not have to pay the financial burden of the removal. The CCC should again address the matter of payment as here in S, 1,2 –CDFW purports to use the Coastal Conservancy funding for the payment—which means literally on the public's dime. The public should not have to bear the expense of Playa Vista's illegal drains removal.
2. CDP 5-91-463 needs to be amended to incorporate the extension of the Playa Vista Drainage System, Flood Control System (Freshwater Marsh System) and to remedy the CCC's original failure to incorporate the water source and its volumes that are allowed to be discharged. As is written into the Environmental Science Associates (ESA)/ CDFW plan for S 1,2, portions of CDP 5-91-463 are incorporated as part of the design of S1,2 including developments that are part of the 'future CDP 5-91-463 construction elements'. (Elements such as the 'square drain' which while approved by the CCC in concept, it remains without approval permits by LA County Public Works (PRA Response documents provided to CCC Enforcement Division by Grassroots Coalition). Playa Vista has already built this feature, which is not functional, and remains unpermitted by the County of LA.
CDP 5-91-463 also includes the Main Drain and its outlet to the Ballona Channel, all of which is to be reconstructed, even 'day lighted' per Sequence 1,2 as part of the culvert developments.

A side-by-side comparison of the S 1,2 with the Drainage/ Flood Control System (aka Freshwater Marsh System (FWM)) reveals the two are essentially one and the same as simply an extension of the FWM system with both changed Main Drain/Outlet and connection to the manmade channels to the Tide-gates on the west end of Ballona Wetlands Ecological Reserve.



SEQUENCE 1 & 2 PLAYA VISTA/ CDFW SALTWATER INTRUSION, FRESHWATER DRAINAGE PLAN



PERMIT APPLICATION
for a
FRESHWATER WETLAND SYSTEM
at Ballona

--

a 27-Acre Freshwater Marsh
and
a 25-Acre Riparian Corridor

APPLICANT

Maguire Thomas Partners-Playa Vista, a limited partnership
13250 Jefferson Avenue
Los Angeles, California 90094
(213) 822-0074

AUTHORIZED AGENT

Mr. Richard E. Hammond, Esq.
Heller, Ehrman, White and McAuliffe
333 Bush Street
San Francisco, California
(415) 772-6619
fax (415) 772-6268

7. Is the proposed development in or near:


- a) sensitive habitat areas Yes No (biological survey may be requ
b) 100-year floodplain Yes No (hydrologic mapping may be req
c) park or recreation area Yes No

10. Where a stream or spring is to be diverted, provide the following information:

Estimated streamflow or spring yield n/a gpm

If well is being used, existing yield n/a gpm


If water source is on adjacent property, attach Division of Water Rights approval and property owner's approval.


Signature of Authorized Agent of Applicant(s) June 13, 1991

Portion of CDP 5-91-463 noting the absence of necessary information pertaining to

water source and volumes.

No flood control permit exists per the Public Record Act request/ response below:

 **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 borders 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

Clean Water Act/ Porter- Cologne & DEGRADATION ISSUES, Wasting of Clean, Available Freshwater

FEIR studies of the Ballona Channel and its manmade entry channels into Ballona have already demonstrated toxicity problems (TMDL impaired) brackish, saltwater, sediment intrusion areas (Weston Report). Further deterioration of water quality and the addition of toxic sediment into Ballona Wetlands Ecological Reserve via the creation of more manmade saltwater channels is unethical and contrary to the Coastal Act, the Clean Water Act, Porter-Cologne, 88-88, Best Management Practices of the Basin Plan and is contrary to the Sustainable Groundwater Management Act and protection to Ballona Wetlands as a Groundwater Dependent Ecosystem.

This newest move to initiate the California Department of Fish & Wildlife's (CDFW) excavation plan calls for the California Coastal Commission (CCC) to allow a CDP to CDFW for geotechnical borings in order to start the excavation process. This highly controversial plan has numerous elected officials and over 44 organizations oppose it, including In Defense of Animals, Sierra Club, Food & Water Watch, areawide Democratic Clubs, local homeowner groups.

The Plan as presented to the Coastal Commission Staff:

Misrepresentations and outright false information are provided by CDFW within a pretense of facilitating 'restoration' of Ballona while CDFW dodges protection of Ballona's natural resources, including its freshwater. The following PPT presentation from Grassroots Coalition and Dr. Margot Griswold, demonstrates CDFW's exclusion of information of Ballona's current passive regeneration and the need to let this regeneration continue unharmed by CDFW excavations and saltwater channeling, inundation plans.

Grassroots Coalition also supports the comments made by Restoration Ecologist Dr. Margot Griswold in the following video from Sept.

2022 <https://youtu.be/5FOcAWRYvhY>

Using language, "to enhance native coastal aquatic and upland habitats....to restore some of this rare habitat....and rare species that rely on it including IMPROVING TIDAL CONDITIONS for the Belding's Savannah Sparrow...expanding brackish marsh habitat for the least Bell's vireo....and Ridgway's rail".....sets a new height of unethical standards by CDFW. These species have been documented as returning to Ballona Wetlands without the creation and introduction of further toxic/TMDL impaired waterways into the clean, healthy soils and waters of the Sequence 1,2 area & Water PPT also provides data and information/ visuals of Ballona's plentiful freshwater.

<https://saveballona.org/cdfws-nefarious-scheme-destroy-ballona-rare-coastal-wetlands.html>

The Sequence 1,2 areas are regenerating on their own as is seen in the video and ppt (2022) above. These areas have been vital habitat for Endangered Belding's Savannah Sparrows and other key species and remains as healthy vital habitat as can be viewed in these photos by Jonathan Coffin. No potentially harmful channeling and toxic saltwater intrusion should be allowed to occur without at least an understanding of the area's natural existing freshwater hydrology which is at risk of being forever harmed via S 1,2 and, as part of the whole ALT. 1 Plan being forwarded by CDFW. CDFW continues to be in disagreement with CCC Staff and its Commissioners per their unpermitted drains having caused ecological and hydrological damage to Ballona as stated by CCC.

California Coastal Commission (CCC) Letter (4/11/14) to Playa Vista and CDFW

Instead, CDFW does not learn from its mistakes and harmful actions and continues to promote more harm to Ballona. See CDP 5-17-0253 Willow Plan language by CDFW disavows any CDFW harm to Ballona via the illegal drainage.

The lie via omission of fact is that the area did not historically have tidal saltwater inundated channels so "IMPROVING TIDAL CHANNELS" is a total misrepresentation to the public and commissioners.

The lie via omission of fact is that Belding's Savannah Sparrows; Bell's Vireo; and Ridgeway rails DO NOT need saltwater channels and are present on Ballona in its natural capacities of its seasonal freshwater ponding and underlying freshwater aquifers providing freshwater for regenerative growth of Ballona's native plants.

Belding's Savannah Sparrow, October 30 2012, BWER (Area B South)

<https://www.flickr.com/gp/stonebird/08Q6t712z2>

Barn Owl, October 30, 2012, BWER Area B South

<https://www.flickr.com/gp/stonebird/4s55LJ8F6e>

Ballona is now extremely rare as one of the last remaining predominantly freshwater, seasonal wetlands. CDFW and its manager, SCC have steadfastly refused to perform hydrology evaluations of Ballona's natural freshwater resources in order to place its freshwater aquifers and surface/groundwater interface into a BLACK HOLE OF OBLIVION. Out of sight, out of mind, in all the FEIR and Sequence 1, 2, provides for convenient black hole data gaps. CDFW and SCC simply avoid the Sustainable Groundwater Protection Act and its protection to Groundwater Dependent Ecosystems (GDE) to which the Department of Water Resources has acknowledged Ballona Wetlands Ecological Reserve.

CDFW in yet another CCC permitted plan (CDP 5-17-0253, to restore willows in this same area in 2020,(albeit CDFW has not carried this plan forward and has not provided

the required annual reports to the CCC), contradicts the language of Sequence 1,2. In the willow plan, citing no fresh watering will be needed as the area has freshwater, yet conveniently states in S 1,2 language that the saltwater intrusion channeling is necessary because the same area has been devoid of freshwater for decades. **CDFW fails to explain this contradictory language.**

No portion of the CDP Request, is there discussion of protection to, or evaluation of Ballona's natural freshwater resources and its reliant habitat that is regenerating now without saltwater channels. In no portion, is there discussion of potential harm to the underlying freshwater aquifers upon which the habitat of Ballona is reliant. CDFW continues to avoid the Sustainable Groundwater Management Act. CDFW provides no adherence to the basics required by SGMA, GDE studies and its own Land Management Plan requirements for evaluation of Ballona Wetlands Ecological Reserve's natural resources.

https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Groundwater-Management/Sustainable-Groundwater-Management/Best-Management-Practices-and-Guidance-Documents/Files/BMP-3-Hydrogeologic-Conceptual-Model_ay_19.pdf

The Ballona Channel brings toxic water and sediment into Ballona Wetlands, a toxicity that is not cleansed before entering Ballona. The western, manmade saltwater channels are known to have toxic sediment due to the impaired (TMDL) status of Ballona Channel waters/sediments. This too is not discussed in S 1, 2 or in the request for a permit for the geotechnical borings.

LONG TERM DAMAGE TO ENVIRONMENT FROM HEAVY EQUIPMENT / BORING VEHICLES

Each time heavy boring/coring equipment is trucked across Ballona, vegetation is killed, tire tracks are driven deep into the soils, killing organisms within and creating tattoos of death patterns that provide new wildlife intrusive access ways. The following photos by Jonathan Coffin demonstrate just a few of the legacy damage from boring/coring operations in Ballona Wetlands Ecological Reserve:

As can be seen in the photos below, all are photographed during October, during dry surface conditions. Contrary to the language of CDFW, citing very little negative impacts will occur because the borings will be done while the surface soils are dry:

- 1) CDFW cannot guarantee the surface soils will be dry and;
- 2) the highly visible damage to the habitat in the photos below was created when the surface soils were dry.

October 5, 2012 BWER Area A)

<https://www.flickr.com/gp/stonebird/S04KAM7gUi>

October 16, 2021 BWER (Area B)

<https://www.flickr.com/gp/stonebird/3h98i706Y6>

<https://www.flickr.com/gp/stonebird/6qn0xZA7q6>

October 14, 2012 BWER (Area C)

<https://www.flickr.com/gp/stonebird/iv7YPrWK53>

<https://www.flickr.com/gp/stonebird/1L2171m27n>

<https://www.flickr.com/gp/stonebird/2ANk0U9U5g>

The rainy season is upon us, and the rains/ groundwater created **regeneration of vegetation across Ballona has not been evaluated by CDFW**. And, CDFW has not considered all the new pickleweed growth since the capping of the illegal drains, and the passive regeneration of Ballona in the State Lands Commission portion of Ballona which the fire has now succumbed to a great variety of regenerating native plants including the targeted species -pickleweed—nesting/foraging area for the endangered Belding's Savannah Sparrow. No discussion or inclusion of this regeneration is included in the S 1,2 whose language by CDFW/Brody contradicts himself as he cites, in the CDP 5-17-0253 Willow Plan, that no artificial watering will be needed for vegetation regeneration in the State Lands Commission Public Trust lands due to abundant fresh groundwater and yet for S 1,2 he states this same area has been devoid of freshwater for decades and must have saltwater intrusion in order to live. Both statements Mr Brody delivers without any actual hydrology evaluation, as none is included in the FEIR. In fact, the S 1,2 , similar to the FEIR state that the main watershed for Ballona comes via the Ballona Channel. Such information is false. (See DWR Map Aquifers of Ballona and photographs of seasonal rainwater ponding)

NATIVE AMERICANS are again left out of the decision- making process for this Registered Sacred Site, but for CDFW's after-the-fact offer of payment to monitor CDFW's excavations. Noteworthy is CDFW's & SCC's disrespect towards Native Americans who have been working to protect this Sacred Site for over 20 years. With years of comments already trashed by avoidance, this new action by CDFW promises new listening skills, all the while having already made the decision to move ahead with the excavation plans.

<https://saveballona.org/cdfws-nefarious-scheme-destroy-ballona-rare-coastal-wetlands.html>. Includes comments in PPT by Chief Anthony Morales MLD, and written comment by JOHN TOMMY ROSAS -MLD (Registered the site as a Sacred Site)

COASTAL ZONE IS DUAL JURISDICTIONAL

The Coastal area is a DUAL JURISDICTIONAL ZONE, meaning the City of Los Angeles must approve a Coastal Development Permit for this development activity and then it is permissible for the CCC to decide upon a Coastal Development Permit for these development activities. CDFW has not approached the City of Los Angeles for a CDP

and the CCC should not issue anything without first allowing the City of Los Angeles to weigh in on this situation.

APPLICATION FORM:

P. 1 i.

The CHECKLIST is missing geohydrological evaluation and should not be checked as though COMPLETE.

A basic tenet of the litigation pertains to the absence of hydrological evaluation of Ballona Wetlands Ecological Reserve's natural freshwater resources that include the watershed and naturally occurring springs.

a. The attached report supplies unsupported comments regarding the watershed of Ballona as being cut off from Ballona due to the channelization of the Ballona Channel, which is false. (Department of Water Resources mapping of the multiple freshwater aquifers of Ballona; the freshwater table is at or near surface-Playa Vista EIR)

b. The attached report cites to environmental issues that have no basis in supportable documentation and are thus contrary to CEQA as conclusory statements having no supportive data. (See letter portion)

<https://oneesa.egnyte.com/dl/7cMTD1FDwl>

c. One data gap of CDFW is the lack of hydrology evaluation for the S 1,2 site location and all of Ballona Wetlands Ecological Reserve. CDFW's sole reasoning for implementation of excavation, channeling for saltwater intrusion- namely that the area must have saltwater intrusion or die- has no basis in fact or data supplied in the FEIR.

This CDP Request may be considered a violation of Porter-Cologne Act; SGMA; Groundwater Dependent Ecosystem-failure to identify needs of protection to this area's natural freshwater resources and the habitat and wildlife dependent upon those resources.

P.2 ii.

-USACE was not included in the meetings for S 1,2. (PRA response re: attendees)
There is no indication that USACE will ever provide engagement now that the WRDA portion of the EIR/S has expired and USACE no longer has any publicly established agreements with CDFW pertaining to Ballona Wetlands Ecological Reserve.

-Los Angeles County Flood Control has no publicly established agreements with CDFW to promote any changes to the Ballona Channel Flood Control levees. All prior Water Resource Development Act (WRDA) agreements are expired. And, key County Supervisors having direct jurisdiction over Ballona Wetlands and County Flood Control agreements have thus far only weighed in against the CDFW FEIR ALT 1 conversion plan. Ballona Wetlands Ecological Reserve is a Title 14, Section 630 Terrestrial NonMarine Ecological Reserve approved and registered (OAL) by the Fish and Game Commission in 2005. The current CDFW/ SCC goals of conversion of Ballona Wetlands into saltwater inundated channels and bay is directly inconsistent with the

Purpose of Acquisition of Ballona set forth by the California Fish and Game Commissioners in 2005 and their registration with the Office of Administrative Law in 2005. CDFW is in violation of Fish and Game Code 1745, and has failed to adhere to Fish & Game Code 1019 as it has failed to perform a Land Management Plan and adhere to the Sustainable Groundwater Management Act by failed to adhere to protocol for protection of a Groundwater Dependent Ecosystem —Ballona Wetlands Ecological Reserve.

-US FISH AND WILDLIFE SERVICE-

Any/all excavation to create more saltwater inundation channels into Ballona via the 1135 (USACE/COUNTY Project) and/or other FEIR Alt. 1 and S. 1,2 cited Channel cut through projects (1135) would require the same evaluation and review as cited by USFWS in 1998, but was never performed.(US Dept of Interior Aug. 4, 1998 Letter to USACE).

This CDP Application does not refer to, or discuss the multiple laws and baseline evaluation issues raised in this letter. The issues raised by Mr. Hanlon, Branch Chief of Federal Projects and Field Supervisor Ken Berg, need to be addressed currently just as they did then, in the past, for protection of Ballona Wetland's natural resources and its successful restoration.

Baseline issues have not been addressed per the joint draft policy on "Safe Harbor" with the National Marine Fisheries Service and Fish and Wildlife Service (62 FR 32178), and regardless of this, any federally listed species would still need to comply with the Endangered Species Act. The Alt 1 FEIR Certified Plan intends to extinguish the current levees, excavate virtually the entirety of Ballona and create new perimeter levees which most certainly requires a federal EIS. The current S 1,2 is part of that same Plan and as such should be inclusive of USACE and the County of Los Angeles—which thus far, it is not. All parts affect the whole and this portion should not be piecemealed without diligent and required evaluation.

Sequence 1,2 of Alt 1 and this Boring Operation has not had evaluation with existing conditions.

There is still a need for the Fish & Wildlife Coordination Act for existing conditions to be evaluated which has not occurred and is not addressed in the Borings Report and/or the S 1, 2 Reports.

Ballona Wetlands Ecological Reserve and Ballona Wetlands are a water resource development project and thus require/warrant early Fish and Wildlife Service involvement as set forth in the Transfer Funding Agreement, including preparation of the appropriated planning documents, alternatives analysis, and finally a Coordination Act Report for a comprehensive plan. (1998 US Dept of Interior Letter attached)

No CDP should be issued unless and until the FEIR is rescinded and becomes CEQA adequate, and has a CDFW 1019 Land Management Plan evaluation.

Any CDP on Ballona granted by the CCC would prejudice the CCC's ability to consider the FEIR in rendering future decision making on the CDFW FEIR.

-LOCAL APPROVAL. : The checkmark citing exempt, state owned property is inaccurate per the need FOR ANY COASTAL DEVELOPMENT to also secure a City of Los Angeles Coastal Development Permit as the area is a Dual Jurisdictional Coastal Permit area.

P.3. Page 3 leaves out expected cost of development.

P. 4

8. The applicant claims no grading however this is not a reasonable response. The borings and vehicular tracks will cause ground disturbance and potential grading of the immediate area for the boring(s) in order to utilize boring equipment. (See J. Coffin photos)

P. 5

10. b. Any/all borings work in the past has given rise to extensive habitat destruction due to crushing weight of the vehicular trucks having the boring equipment. See images of former damage to Ballona. The weight of the vehicles also causes damage to mychorrhizal fungi of Ballona which is the basis for all native plant regeneration. Special Status species have also been crushed/ killed/ harmed in past borings.

Oilfield gas, outgassing is also a concern not dealt with in the Application. The areas to be tested are known gassy areas that upon boring, geysering is often an outcome due to the pressure 20 psi of underground oilfield gases and the high freshwater table. (Playa Vista Archaeological documents/ Borings Logs)

-Additional Information

Page 6

3. Applicant has not fulfilled the application question regarding previous permits that it acknowledges the area having previous permits. Without such information, harm to the ecological resources may needlessly occur if the information that is being sought already exists.

Page 7

5. Waters.

a. The Application fails to acknowledge FILLING will be required for bore holes created as they cannot be left open.

b. The Application fails to acknowledge the goal of the borings in bringing in TMDL impaired water and fails to provide any information on the current status of hydrology within the area per the Sustainable Groundwater Management Act and Ballona Wetlands as an acknowledged Groundwater Dependent Ecosystem.

7. Recreation.

- a. The Application cites that it will protect existing lower cost visitor and recreational facilities. HOW?
- b. The borings DO HAVE THE ABILITY TO ALTER THE CURRENT ACCESS as the vehicles create negatively impacted / created roadways into the delicate wetlands which as these trackways die, they also become access ways by individuals that use the paths for ingress and egress to live or otherwise use the area. (See images of former vehicles tracks on Ballona that are used by homeless etc.)

9. b. A biological survey should be done prior to any CDP activity on these sensitive habitats as further degradation is highly possible by vehicular use/ boring activities and human disturbance. The ESA Report includes a stale chart of rare and endangered species use of the area that does not comport with the present. Numerous species that are listed as having a low chance of occurrence are present on the site as documented by Jonathan Coffin and others.

11. The area is a Registered Sacred Site. CDFW has thus far not maintained any protective activities for Native American remains, artifacts. CDFW and SCC have failed to be responsive to concerns / issues raised by John Tommy Rosas (MLD/ TATTN) & Chief Anthony Morales— including but not limited to recent outreach by Chief Anthony Morales.

12. CDFW has ignored the Department of Water Resources acknowledgement of Ballona Ecological Reserve as a Groundwater Dependent Ecosystem under SGMA and has continued to evade any surface/groundwater hydrological studies as part of a GDE study/ LMP evaluation which would necessitate the evaluation of potential harm to the underlying freshwater aquifers and surface water and soils of Ballona as well as interfere in species both vegetative and wildlife's use of the benefits of the freshwater.

-SECTION IV. Required Attachments

1. The actions intended may harm the integrity of habitat irreparably and any/all documentation of legal interests in the property needs to be provided for the public. In the past, assumptions of jurisdiction have been made and currently the State lands Commission has stated it does not have legal jurisdiction over its own Public Trust Property. These issues must be vetted and adequate jurisdictional liabilities must be made public.

13. Please provide the archaeological report cited in this report to MLD Chief Anthony Morales and any/all MLDs for evaluation. The Application Report does not address previous requests of John Tommy Rosas and/or Anthony Morales for Native American preservation needs. CDFW provides continued nonresponse.

Attachment- DEPT. INTERIOR LETTER 1998 is located on pages below:



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
Carlsbad Field Office
2730 Loker Avenue West
Carlsbad, California 92008



AUG 4 1998

Colonel Robert L. Davis
District Engineer, Los Angeles District
U.S. Army Corps of Engineers
P.O. Box 532711
Los Angeles, California 90053-2325

Attn: Ruth Villalobos

Re: Ballona Wetland Section 1135 Project, Los Angeles County, California

Dear Colonel Davis:

The U.S. Fish and Wildlife Service (Service) has reviewed the May 28, 1998, draft report describing the referenced project. This letter responds formally on the draft report.

Reportedly, the landowner and resources agencies support the referenced project provided that it does not interfere with the future restoration of adjacent wetlands nor require the landowner to mitigate for any improvement to the on-site baseline of species listed under the Endangered Species Act (Act). Local environmental groups, Heal the Bay and Friends of Ballona, also support the project because any long-term restoration plan is too far off to provide any immediate help for the degraded wetlands. Though we support the former concern, the baseline issue likely would need to be dealt with pursuant to the joint draft policy on "Safe Harbor" with the National Marine Fisheries Service and Fish and Wildlife Service (62 FR 32178). Regardless, impacts to any federally listed species, enhanced or not, would still need to comply with the Act.

The Corps and Service are currently involved in litigation regarding the land where the proposed project is located. A recent court decision rescinded the Corps permit for development and wetland mitigation on a portion of this same property, indicating a completed Environmental Impact Statement (EIS) for the entire property was warranted before development on any portion could proceed. In addition, a regulatory EIS is now being prepared for the project area. The Service strongly supports long-term habitat restoration projects. Because of the extensive comprehensive planning for wetland restoration that has occurred and is ongoing, any proposed project would have to be compatible with any larger or long-term plan. Moreover, the Service maintains that the Ballona wetlands need to be addressed in a comprehensive manner to realize maximum restoration benefits. In this regard, Russ Kaiser of your staff indicated that the project had been scaled back to 5-10 acres to ensure that it would be compatible with and not preclude any long-term planning.

G-25

AUG 4 1998

In conclusion, based on the information provided in the draft report, and clarifying conversations with your staff, the Service generally supports this proposed 1135 project. We note that because section 1135 funds are scarce, we assume the Corps has determined that other restoration opportunities do not exist that could provide greater benefits for fish and wildlife resources.

We hope that the Corps will improve upon future efforts to coordinate with the Service on section 1135 projects. The Corps indicated in the draft project report that they would only fund the Service to prepare a Fish and Wildlife Coordination Act (Coordination Act) report addressing existing conditions, alternatives analyses, and final recommendations. This report would be prepared after the project alternative is selected. The existing conditions and alternatives analyses are typically presented in planning aid reports during the development of the project alternative. According to the Coordination Act, the Corps should coordinate with the Service early on and during the entire planning process of a water resources development project. Pursuant to the National Transfer Funding Agreement, which implements the requirements of the Coordination Act, we believe this process has been severely truncated for this 1135 project. We believe any water resource development project, including a comprehensive plan for Ballona wetlands, warrants early Service involvement as set forth in the Transfer Funding Agreement, including preparation of the appropriate planning documents, alternatives analysis, and finally a Coordination Act Report for a comprehensive plan.

If you have any questions, please feel free to contact John Hanlon, Chief, Branch of Federal Projects, at (760) 431-9440.

Sincerely,


for Ken S. Berg
Field Supervisor

cc: COE, Los Angeles, CA (Attn: Mssrs. Copeland, Kaiser, and Young)

**Seeking prudent and honest response and protection to Ballona Wetlands-
Sacred Site and Ecological Reserve.**

Patricia McPherson, Grassroots Coalition

From: [Ausra Eileen Boken](#)
To: [CSLC CommissionMeetings](#)
Cc: [Charles Head](#); [zrants](#)
Subject: Agenda Item II - Public Comment for State Lands Commission Meeting December 9, 2022
Date: Tuesday, December 6, 2022 12:27:49 PM

Attention: This email originated from outside of SLC and should be treated with extra caution.

TO: State Lands Commission Chair and Members

FROM: Eileen Boken, State and Federal Legislative Liaison

Coalition for San Francisco Neighborhoods

RE: Agenda Item II - Public Comment

On behalf of the Coalition for San Francisco Neighborhoods, I would like to thank Betty Yee for her service as State Controller and for her service as the current Chair of the State Lands Commission.

I would also like to thank Controller Yee for joining us at our November General Assembly meeting to speak on the role of the State Controller.

I would also like to thank Controller Yee's amazing staff, Nick Evans and Jon Gaskell, for working to make this presentation happen.

The Coalition for San Francisco Neighborhoods looks forward to working with Ms. Yee in the future.

On behalf of Sunset-Parkside Education and Action Committee, also known as SPEAK, I would like to thank Controller Yee for joining us at last year's Sunset Community Festival.

As a resident of the Parkside neighborhood in San Francisco, we are proud to call Betty Yee one of our own as she grew up in the neighborhood and still has family that lives here.

Again, many thanks.