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Subject: Attorney Client Privilege - Update on Ballona Wetland Restoration Case
Date: Wednesday, September 25, 2024 3:25:00 PM
Attachments: [image001.png](#)

Attorney Client Privilege:

Dear Board Members,

At the June 27, 2024 Board Meeting, Vice Chair Nahai asked for an update from legal counsel on where things stand with the Fish and Wildlife (CDFW) case related to the Ballona Wetlands Restoration's Environmental Impact Report (EIR) and what is delaying the EIR process, as well as whether future litigation would further delay the Revised EIR.



Background:

The CDFW Draft EIR was published in September 2017 and was met with a large amount of public comments. CDFW certified the Final EIR and approved the project in December 2020. On January 28, 2021 Petitioners (Ballona Ecosystem Education Project and Grassroots Coalition) filed a writ of mandamus action to challenge CDFW's approval of the project based on claims of various failures to comply with CEQA. On May 17, 2023 the trial court granted in part and denied in part the writ of mandamus. The Court ruled that the EIR's failure to disclose and analyze flood impacts under the 68,000 cfs standard and analyze the wildlife and habitat impacts of such levee design change was a failure to proceed in a manner required by law. The judgment ordered CDFW to rescind the EIR, CEQA findings, and all approvals until CDFW prepares an EIR that cures those two deficiencies. The Court upheld the remaining contested portions of the EIR.

Litigation Updates:

After the Trial Court ruling, one of the petitioners, Ballona Ecosystem Education Project, appealed the remaining portions of the EIR that were upheld by the Trial Court. The Appellate Case has been fully briefed as of August 29, 2024. The next step in this case will be the Oral Arguments, the date for which has not yet been set by the Appellate Court.

Next Steps:

Since the Trial Court's ruling, CDFW decertified the EIR on September 28, 2023, and is

now proceeding to revise the document to address the Court's direction on the issues of flood control and performance measures. CDFW has informed us that the finalization of the Revised EIR has been put on hold due to a lack of funding. As of now, there is no timeline projection for releasing the Revised EIR, but CDFW still would like to move forward with it when and if funding becomes available.

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Please let me know if you have any additional questions.

Best,



Amelia Carder

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