

**From:** [Walter Lamb](#)  
**To:** [Cooper, Megan@SCC](#); [Hutzel, Amy@SCC](#)  
**Cc:** [Burg, Richard@Wildlife](#); [Bosco, Douglas@SCC](#); [Gutiérrez-Graudinš, Marce@SCC](#); [Alioto, Joseph@SCC](#); [Douglas H. Bosco](#); [abnotthoff@gmail.com](#); [Cash, Bryan@CNRA](#); [Miller, Gayle](#); [Donne@Coastal](#); [Joseph Alioto](#); [SCC Public Comment](#); [Brody, Richard@Wildlife](#)  
**Subject:** 12/1 SCC Agenda - no Ballona item  
**Date:** Monday, November 21, 2022 2:42:41 PM

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Amy and Megan,

I noticed last week that the [agenda](#) for the December 1st meeting had been posted without any open session item for the Ballona Wetlands. Because the agenda could be changed until midnight tonight and still be in accordance with Bagley-Keene, I want to be on the record asking, once again, that the Conservancy Board be given an opportunity to consider and either approve or disapprove the scope of work to which Prop 12 funds were diverted at the expense of every single task and deliverable described in May 27, 2021 staff report under the heading "Work to be Funded with this Authorization" and at the expense of the policy objectives discussed in the staff presentation and Board discussion during that hearing. Getting this into the record is important because the Conservancy and Department are going to likely claim that the agencies would suffer some alleged harm if the court enjoins further spending of these funds, but any such harm would be the sole result of the unwillingness of Conservancy and Department staff to simply schedule an agenda item to review and authorize the substituted scope of work.

I am copying the Board members and also the Conservancy's public comments address to ensure that everyone is aware of the situation, and also because several Board members have claimed at various meetings to be concerned about issues such as public access, sea level rise, invasive species and other policy objectives that will directly suffer from diverting these funds without consideration by the Board of alternative uses that *would* more directly address those policy issues. The Conservancy members should be aware that three different members of the Los Angeles Regional Water Quality Control Board requested updates on the status of the project, with one requesting a field trip [\[video\]](#). The Board should also be aware that CDFW's Richard Brody spoke for over five minutes last week to the Coastal Conservancy on this topic [\[link\]](#), but would only say that the timing of project sequences 3 - 35 depend on the County's timeline. To be clear, the County already responded to CDFW with guidance that it would need to follow to move those sequences forward. Mr. Brody's presentation was not agendaized nor were stakeholders notified about it ahead of time. To the extent Mr. Brody or another CDFW representative will speak to the Conservancy, that discussion should be agendaized and noticed.

In justifying the disbursement of the funds in question, your May 27, 2021 staff recommendation noted that "[t]he need for additional public access to natural areas is urgent, especially in park poor areas such as the neighborhoods surrounding the Ballona Reserve" and the staff presentation stressed this point [\[link\]](#). Yet neither your staff nor CDFW staff can articulate how that urgent need is being met by the substituted scope of work. The certified access plan included no access in South and Southeast Area B. Not a single foot of new

pedestrian or bike trails were envisioned to be added in this area, as part of the first two project sequences or any other project sequence. CDFW is now considering adding unanalyzed access to those sequences after the fact, but has not provided any detail. Despite Ms. Notthoff's assurance in May of 2021 that stakeholder engagement would increase, there has not been a single public meeting to interactively discuss CDFW's plans, for which they are already seeking and obtaining permits. The extent of public engagement since that May 2021 meeting is that concerned stakeholders were permitted to speak one on one with Richard Brody, who apparently did nothing with the feedback he received.

Again, I thought it was important to get this additional request into the record. It says a lot that Conservancy staff are so reluctant to put this new scope of work before the Board, which would require a more formal and detailed staff report. It is very unfortunate that staff has taken this direction and that no board member has yet spoken up, which is only compounding an already serious issue.

Regards,

Walter Lamb  
Ballona Wetlands Land Trust

On Fri, Oct 14, 2022 at 4:55 PM Walter Lamb <[landtrust@ballona.org](mailto:landtrust@ballona.org)> wrote:

Dear Conservancy Board Members,

The most basic element of public trust in governmental agencies and meaningful public participation in public policy decisions is the honest exchange of information. The Ballona Wetlands Restoration Project update provided to you by your staff [[link](#)] falls well short of even the most minimal standards of honest discourse. Your lack of substantive follow up is equally troubling. I respectfully urge you to request a more transparent update about the status and timeline of the full Ballona Wetlands Restoration Project, which is the project for which you adopted CEQA findings on May 27, 2021, and the project for which you authorized funding that same day to allow CDFW to seek an approved environment impact statement and section 408 permit for the full project, in spite of our plea for more stringent fiscal accountability.

[Assertion: "CDFW submitted a completed Section 408 permit application to the County on February 4, 2021."](#)

This highly misleading assertion damages the Conservancy's credibility and should be clarified immediately. There is a reason that the 20 page Conservancy staff report from May 2021 [[link](#)] made *no reference* to such a submission and, to the contrary, recommended funding that *would allow* CDFW to fund the work necessary to actually submit a completed Section 408 permit application. In a section of the staff report that your staff now wants you to ignore, the process is explained as follows: "In 2018, due to changes in Corps' policy and procedural guidance, the Corps delayed finalization of the EIS until it approves 60% design and the second of three submittals required for the permit to modify the existing flood control channel . . . The Corps permit requires that the conceptual (30%) designs analyzed in the EIR be further developed and refined to a 60% design. Anticipated work will include additional engineering design of the proposed levees as well as refinement of habitat and public access features."

As your staff is well aware, but failed to candidly explain, what CDFW *resubmitted* on February 4, 2021 was only Submittal A (30% design), which had already been submitted initially in 2013. In fact, whereas the County approved and transmitted the original Submittal A from 2013 to the US Army Corps for review, the County expressly did not approve or forward the 2021 resubmission. Instead, the County responded with comments [\[link\]](#) detailing the changes that CDFW would have to agree to before the County would approve and forward the submission. It is remarkable that your staff failed to include the County's response as part of its update to you. One thing that the County's response makes clear, is that any new levee system must accommodate a flood conveyance standard of 68,000 cubic feet per second, putting to rest your staff's five year effort to sow doubt about what standard should and would be used.

To be clear, the "second of three submittals" that your staff knows is required to obtain an EIS and Section 408 permit *have not been submitted*, and will not be submitted in the foreseeable future, because the money you authorized for that *express purpose* has been diverted to tasks that your staff's update notes "do not require a 408 permit". Without notifying you, consulting with you, or obtaining your approval, your staff and CDFW staff decided not to use the funds to pursue the project that they claimed, and you believed, would have addressed the policy objectives that you cited as being urgent. Instead, they decided to use those funds to push forward a drastically scaled-back scope of work that fails to address those policy objectives.

### **For the third time since 2007, insufficient funds**

CDFW is now openly acknowledging that "the \$1.69 million from SCC is not enough to complete final design and secure permits for the entire restoration project". That is a pretty stunning admission given that the title of the staff recommendation for that funding was "BALLONA WETLANDS RESTORATION PROJECT: FINAL DESIGN, PERMITS & COMMUNITY ENGAGEMENT" (underlining added) and given that nowhere in that staff recommendation is there any hint that the requested funding was only sufficient for the design and permitting of two of thirty-five construction sequences. In fact, our organization expressly warned that your staff and CDFW staff knew those funds would be insufficient to cover the work detailed in the "Work to be Funded with this Authorization" section. We now have reason to believe that your staff and CDFW staff also knew *at the time* of the May 2021 meeting that they would not pursue the work described in the staff recommendation, and simply included that section to entice approval of the funding, which they knew would later be diverted away from the work needed to advance the full project. I understand your reluctance to recognize what is happening, but that is your job as public officials.

### **Sea Level Rise, Public Access, Community Engagement, Tribal Consultation**

None of the Governing Board members who stressed the importance of resiliency, access and community/tribal engagement appear to have any concern about these issues now. The update makes no reference at all to sea level rise. Yet not a single board member asked for clarification about how the scaled-back scope of work would help the wetlands become more resilient. As I noted in my submitted comments, it doesn't. The only reference in the update to public access is from the staff report. There is no explanation from your staff that no access was envisioned in the certified EIR for South and Southeast Area B, nor was public access discussed in CDFW's Request for Services. Potential access is now being considered for the scaled-back scope of work as an afterthought. After promoting the very

specific and extensive access plans in the certified EIR for years, your staff have nothing to show you that would support the contention that the funding you authorized has a reasonable chance at increasing public access. If and when plans for new access are designed and published, they will still need to be analyzed for environmental impact.

The staff update acknowledges that, as of September 19, not a single meeting had been held with the general public or with tribal representatives, even as the new scope of work was barreling down the track. Our understanding is that the first tribal consultation meeting was held on September 20, and that no community stakeholder meeting has yet even been scheduled. This is a classic example of faking interest in engagement while using the promise of future engagement as a distraction while a predetermined project moves ahead at full speed. It reflects poorly on the Board that we were derided for not welcoming what we knew would be a sham process, and that you are taking no action to address this.

### Litigation

After months of effort trying to get your staff to provide you with an update and give you the chance to consider and approve the new scope of work, we had no choice but to file suit. It is extremely unfortunate that your staff and CDFW staff decided it would be preferable to be sued than to update you on the changed scope of work.

It is never too late to get discussion of these important issues on a fact-based track, but the longer you wait to recognize that something is very wrong here, the harder that will be for all involved. Thank you for considering these comments.

Walter Lamb  
Ballona Wetlands Land Trust  
310-384-1042

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**From:** Hutzel, Amy@SCC <[Amy.Hutzel@scc.ca.gov](mailto:Amy.Hutzel@scc.ca.gov)>  
**Date:** Tuesday, September 20, 2022 at 11:54 AM  
**To:** Ann Notthoff <[abnotthoff@gmail.com](mailto:abnotthoff@gmail.com)>  
**Cc:** Cooper, Megan@SCC <[Megan.Cooper@scc.ca.gov](mailto:Megan.Cooper@scc.ca.gov)>  
**Subject:** RE: Ballona Update

I suggest that you and Megan discuss. Staff are in final stages of selection process. Megan can call your cell.

Amy

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**From:** Ann Notthoff <[abnotthoff@gmail.com](mailto:abnotthoff@gmail.com)>  
**Sent:** Tuesday, September 20, 2022 11:49 AM  
**To:** Hutzel, Amy@SCC <[Amy.Hutzel@scc.ca.gov](mailto:Amy.Hutzel@scc.ca.gov)>  
**Subject:** Re: Ballona Update

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Thanks. Can you share who is under consideration for the community engagement contract. Board members might be able to share information that would help in the selection process. Thanks, AN

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**From:** Hutzel, Amy@SCC <[Amy.Hutzel@scc.ca.gov](mailto:Amy.Hutzel@scc.ca.gov)>  
**Date:** Tuesday, September 20, 2022 at 9:59 AM  
**To:** Bosco, Douglas@SCC <[douglas.bosco@scc.ca.gov](mailto:douglas.bosco@scc.ca.gov)>, Douglas H. Bosco <[dbosco@boscolaw.com](mailto:dbosco@boscolaw.com)>, Notthoff, Ann@SCC <[ann.notthoff@scc.ca.gov](mailto:ann.notthoff@scc.ca.gov)>, [abnotthoff@gmail.com](mailto:abnotthoff@gmail.com) <[abnotthoff@gmail.com](mailto:abnotthoff@gmail.com)>, Miller, Gayle <[Gayle.Miller@dof.ca.gov](mailto:Gayle.Miller@dof.ca.gov)>, Miller, Gayle@SCC <[gayle.miller@scc.ca.gov](mailto:gayle.miller@scc.ca.gov)>, Cash, Bryan@CNRA <[Bryan.Cash@resources.ca.gov](mailto:Bryan.Cash@resources.ca.gov)>, Cash, Bryan@SCC <[bryan.cash@scc.ca.gov](mailto:bryan.cash@scc.ca.gov)>, [mar@azul.org](mailto:mar@azul.org) <[mar@azul.org](mailto:mar@azul.org)>, Gutiérrez-Graudiņš, Marce@SCC <[marce.graudins@scc.ca.gov](mailto:marce.graudins@scc.ca.gov)>, 'Brownsey, Donne@Coastal' <[donne.brownsey@coastal.ca.gov](mailto:donne.brownsey@coastal.ca.gov)>, Brownsey, Donne@SCC <[donne.brownsey@scc.ca.gov](mailto:donne.brownsey@scc.ca.gov)>, Alioto, Joseph@SCC <[Joseph.Alioto@scc.ca.gov](mailto:Joseph.Alioto@scc.ca.gov)>, Joseph Alioto <[joseph@aliotolegal.com](mailto:joseph@aliotolegal.com)>  
**Cc:** MacMillan, Jeannette@SCC <[Jeannette.MacMillan@scc.ca.gov](mailto:Jeannette.MacMillan@scc.ca.gov)>, Cooper, Megan@SCC <[Megan.Cooper@scc.ca.gov](mailto:Megan.Cooper@scc.ca.gov)>  
**Subject:** Ballona Update

The Coastal Conservancy has posted an update on the Ballona restoration project to our website: <https://scc.ca.gov/projects/south-coast/ballona-wetlands-restoration/>. The update summarizes work under Conservancy grants and contracts previously authorized by the board.

Looking forward to seeing many of you in person in Fort Bragg or on zoom!

Best,

Amy Hutzel

Executive Officer

State Coastal Conservancy

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