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To: [Cooper, Megan@SCC](#)
Cc: [SCC Public Comment](#); [Hutzel, Amy@SCC](#)
Subject: Public comments to SCC Board for May 5th re: Ballona Wetlands
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Megan - could you please include these comments in the meeting packet for May 5th and please also forward to the SCC Board members so that they can review prior to the meeting? Also, could you let me know if the Board will be receiving an update regarding CDFW's RFQ at the May meeting? Thanks. - Walter

Dear SCC Board members,

Thank you for your willingness to engage in public discussion of the Ballona Wetlands during your meetings. A continued dialogue on this issue is vitally important to assuring the best possible future for this ecosystem. However, it is also important to reconcile the considerable disconnect between some of the perceptions you have shared with the public and what is actually documented in the record. Please consider the below comments in the spirit of our shared desire to find the best solutions for the wetlands going forward.

The Conservancy Board Approved a Specific, Detailed Project, Not Just a Process

There were numerous comments from multiple board members at the March meeting suggesting that the Conservancy Board has only voted to support a process, not a final project. However, at your May 27th, 2021 meeting, you expressly adopted the [CEQA findings](#) contained in CDFW's certified Final EIR as your own findings. Those findings pertain to a very detailed project, not to a process. By statute, CDFW's certification of the final EIR triggered a 30 day time limit for small nonprofits like ours to file expensive legal CEQA challenges to the project or to forever forfeit the right to file such a challenge. This statutory time limit would not exist if a certified Final EIR could be thought of as only a preliminary design document. Agencies have some flexibility to make revisions to certified project designs, but only to the extent that such revisions do not change the fundamental environmental impacts that were analyzed in the EIR. The core elements of a project design, i.e. those that determine the project's environmental impact, must be part of a stable and finite project description pursuant to CEQA. A project that is "a moving target" and subject to "substantial change" is, by definition, not [finite or stable](#). We believe that the EIR was prematurely certified, and comments from multiple Conservancy Board members are consistent with that belief.

30% vs 100% Design

The "30% design" figure has been cited as a way to suggest that the proposed project is "not a done deal" and that feedback is being genuinely sought. However, this notion is quite misleading in the context of an environmental review pursuant to CEQA. The fundamental environmental concerns that have been raised by stakeholders are already baked into the initial

30% design. This includes the knocking down of the earthen creek banks (and the resulting sea level rise implications), construction of new flood control levees and berms on top of existing endangered species habitat, the excavation and hauling away of massive volumes of soil (and the resulting greenhouse gas emissions), the construction of a berm around sensitive salt pan habitat, and other core project features that run counter to the state's goals of increasing biodiversity and addressing climate change and sea level rise. The remaining 70% of design work is only intended to provide a greater level of detail regarding how the elements approved in the 30% design will be carried out. By way of analogy, a train that is 30% of the way toward its next destination has indeed "left the station". The Conservancy Board and public stakeholders would benefit from a more clear explanation of which project elements the Conservancy believes are finalized and which elements are still open for additional consideration, and whether CDFW shares that understanding.

Sincere Public Engagement vs *Ex Post Facto* Public Engagement

Several Board members expressed disappointment or confusion that stakeholders were skeptical of the proposed public engagement process despite having previously asked for more public engagement. What stakeholders have repeatedly asked for, however, is interactive and objective public engagement that is not just an obligatory, *ex post facto* step toward a predetermined outcome. It is simply not reasonable to ask public stakeholders to embrace a public engagement process that is occurring after the certification of a Final EIR, especially given the long and well documented commitment of the project agencies on a specific project design. As noted above, public stakeholders and tribal representatives should be provided with a clear explanation of what elements of the project design are still open to discussion. Metaphorically, we essentially have a cake in the oven for which all the ingredients have already been mixed. If all that is left to discuss is the flavor of the icing, that needs to be candidly acknowledged. Conversely, if the project team is truly open to feedback on the major design elements to which multiple stakeholder groups object, decertifying the EIR would be the best way to demonstrate that openness.

CDFW's RFQ for First Two Project Sequences

I have had two productive calls with CDFW personnel since the RFQ was made public on April 1st. We will wait for vendor responses to the RFQ to get a better understanding of what is being proposed. It would be a missed opportunity for the Conservancy governing board not to receive an update on this RFQ at the May meeting, given that your next meeting is not until September. The RFQ seems to describe different work and deliverables than what is outlined in the funding disbursement you approved last May.

The Emotion vs Science Narrative

Comments to the effect that advocates for the Ballona Wetlands are guided by emotion are not accurate or helpful. Legitimate concerns about the environmental impact of the proposed project are based on the state's own published science, such as maps of current and anticipated habitats, greenhouse gas calculations, impacts to sensitive species and more. Proponents of the project have manufactured the above narrative to distract from objective, fact-based discussions of important issues. As Board members, you can help elevate the discussion by recognizing and discouraging these types of diversionary techniques so that the focus can remain on the relevant facts.

Stewardship and Allocation of Resources

Having a comprehensive plan in place to prioritize the allocation of limited resources is a standard management practice. Additionally, the Fish and Game Code requires that a [Land Management Plan](#) be in place for the Ballona Wetlands Ecological Reserve. As the primary funding source for work at the wetlands, the Conservancy Board could be instrumental in facilitating the creation of a Land Management Plan that could then help inform future funding decisions.

With regard to funding allocations, it is unclear why Board members believe that the project the Conservancy funded in March is a different project than the one funded by Coastal Commission mitigation funds in 2020. The record unequivocally shows that both rounds of funding are for the same project in the same area of the ecological reserve. [Exhibit 3](#) of the Conservancy staff report, titled "Project Site Photos", shows photos of areas already cleared of weeds using the Commission funding. If there is information that supports the contention that the Conservancy's funding was for a new and distinct project, that information could have been included in the staff report. Absent further clarification, it would appear that Friends of Ballona Wetlands received double funding for the same project without any coordination between the funding agencies. This is quite irregular. It is also worth noting that Friends of Ballona Wetlands and the Bay Foundation have consistently advocated for the very planning decisions that have delayed stewardship of the ecological reserve. Both organizations strenuously opposed the recent opening of gates into Area A of the ecological reserve and both organizations cite the spread of invasive vegetation at the reserve while opposing any interim restoration efforts outside of their own small (but expensive) project areas (which notably have their own infestations of invasive weeds). Every time the Conservancy provides more funding to these entities, it encourages a continuation of the same patterns of behavior that have prevented real change at the wetlands.

Finally, comments to the effect that other stakeholder groups could simply apply for grants to conduct their own habitat projects in other areas of the reserve reflects a misunderstanding of the current stewardship policies at the reserve. Permission and access, not funding, is the primary impediment to expanding stewardship efforts outside of a small section of the ecological reserve. We would greatly appreciate the Conservancy Board's help in encouraging policies that allow more stewardship across the entire ecological reserve as requested below.

Request 1: Please Consider the Merits of Decertifying the EIR

Taking a step back is sometimes the best path forward. It is clear that the EIR was certified prematurely. Decertifying the EIR would allow stakeholders to dismiss existing litigation against the project, would alleviate the perception that the proposed public and tribal engagement process is an *ex post facto* effort, would allow the lead agency to revisit design options that were rejected using old information about climate change and sea level rise, and would alleviate confusion about the project's status and timeline.

Decertifying the EIR would not prevent the CDFW from taking interim steps to improve the ecological health of the wetlands. Some urgently needed projects are exempt from CEQA. Others may qualify for mitigated negative declarations under CEQA.

Request 2: Please Help End the Prohibition Against Community Stewardship in Areas A and C

The public acquired this land over 18 years ago. We appreciate the hard work of Department personnel at the reserve to address some of the more pressing issues. However, a reserve of this size requires broader community stewardship. At your May 2021 meeting, you were shown slides depicting the spread of invasive weeds in the ecological reserve, and this was framed as a reason for advancing the certified project design toward construction. However, groups like ours are ready right now to invest substantial resources in stewardship activities for Areas A and C of the ecological reserve in order to expand on the native vegetation which is already present. The policy of prohibiting basic stewardship in any area of the ecological reserve that may one day be affected by the proposed large-scale restoration is ecologically indefensible and has been tremendously harmful to the health of the reserve. Stewardship engages the community and creates immediate habitat value.

When best practices are followed, community stewardship is extremely effective and cost efficient. However, organizations with ambitious revenue growth goals tend to focus more on the size of a grant than on the ecological outcome of their project. In approving future stewardship projects, this Board should direct Conservancy staff to work with CDFW to ensure that every funded project includes measurable success metrics, has sufficient funding in place to complete the project, and that proper planning has occurred to avoid unintended consequences to the greatest extent possible.

Conclusion

More frequent and more interactive communication will lead to a better result for the Ballona Wetlands. This is a critical time for this ecosystem and the Conservancy wields considerable influence over policy decisions. Please help facilitate objective, ongoing discussion of this topic.

Thank you for your consideration of these comments.

Walter

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