

**CALIFORNIA COASTAL COMMISSION**

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## STAFF REPORT: MATERIAL AMENDMENT

**Application No.:** 5-15-1427-A1

**Applicant:** California Department of Fish and Wildlife

**Agent:** The Bay Foundation

**Location:** Ballona Wetlands Ecological Reserve, Area B South, Playa Del Rey, Los Angeles Co.

**Description of Previously Approved Project:** Removal of invasive iceplant from a 3 acre area within Ballona Wetlands Ecological Reserve south of Culver Blvd., utilizing solarization techniques over a two month time period. Project area to be restored through natural native species recruitment, and some container plantings if necessary.

**Description of Proposed Amendment:** Amend the timing restriction of Special Condition No. 1 from February 1 through August 30 to March 15 through August 1 to increase solarization time, and allow year-round hand-pulling of weeds.

**Staff Recommendation:** Approval with conditions.

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## SUMMARY OF STAFF RECOMMENDATION

The Bay Foundation, on behalf of California Department of Fish and Wildlife, seeks to amend Special Condition No. 1 of Coastal Development Permit No. 5-15-1427 to revise the timing restriction regarding project operations, which was imposed to ensure protection of avian species during breeding season. The current permit prohibits project operations from February 1 through August 30, and the proposed amendment would prohibit project operations from March 15 through August 1. The amendment would allow increased solarization time to improve iceplant desiccation rates for the remainder of the project, and it would also allow hand-pulling invasive plant species year-round by the applicant's staff to control invasive plant species growth to maintain larger restoration efforts. The applicant also proposes to forgo solarization during the 2017 season to focus on removing invasive plants that have grown in the project area due to heavy rain and timing restrictions of the underlying permit. Commission staff recommends approval of

5-15-1427-A1 (California Department of Fish and Wildlife)

CDP 5-15-1427-A1 as conditioned. All other special conditions of Coastal Development Permit 5-15-1427 are unchanged and remain in effect, which include **Special Condition 2)** monitoring of the disturbed area; and **Special Condition 3)** removal of invasive plants, and disposal of materials outside the coastal zone.

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## APPENDICES

Appendix A – Special Conditions of CDP No. 4-16-1427

## EXHIBITS

Exhibit 1 – Vicinity Map

Exhibit 2 – Map of First Phase of Iceplant Removal

Exhibit 3 – Ornithologist Letter of Support

Exhibit 4 – Letters of Opposition

Exhibit 5 – Implementation and Monitoring Plan for the Iceplant Removal Project

Exhibit 6 – Ballona Wetlands Iceplant Removal Project, Final Report, December 2016

**PROCEDURAL NOTE:** The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or,
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

In this case, the Executive Director has determined that the proposed amendment is a material change which affects conditions required for the purpose of protecting a coastal resource or coastal access. If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. [Title 14 California Code of Regulations 13166].

## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** the proposed amendment to Coastal Development Permit No. 5-15-1427 subject to the conditions set forth in the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in conditional approval of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

### Resolution:

*The Commission hereby approves the coastal development permit amendment on the grounds that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit amendment complies with the California Environmental Quality Act because feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment.*

## II. Special Conditions of Permit Amendment

**Note:** Special Condition No. 1 of Permit Amendment 5-15-1427-A1 replaces Special Condition No. 1 of the underlying coastal development permit, which is attached as Appendix A. Language to be added is shown in underlined text, and language to be deleted is identified by ~~strikeout~~. All other special conditions of Coastal Development Permit 5-15-1427 are unchanged and remain in effect.

- 1. Timing of Operations.** The project operations, including vegetation eradication and removal, hauling, and annual maintenance, with the exception of spot removal by hand-pulling invasive plant species, shall be prohibited from ~~February 1 through August 30~~ March 15 through August 1 to avoid impact to avian species during breeding season.

## III. FINDINGS AND DECLARATIONS

### A. BACKGROUND AND AMENDMENT DESCRIPTION

On March 10, 2016, the Commission approved the removal of non-native *Carpobrotus* spp., or iceplant, from a targeted 3-acre area within the Ballona Wetlands Ecological Reserve, south of Culver Boulevard in Playa Del Rey, in Los Angeles County ([Exhibit 1](#)). Solarization of iceplant monocultures was proposed to be the primary removal method, which utilizes large black plastic tarps to eliminate radiant sunlight from reaching the iceplant while heating it, which kills the iceplant. The project area was to be restored through natural native species recruitment and adaptive restoration management, weeding of invasive plant species as they emerged, and some container plantings of native plant species if necessary. The permit was subject to three Special Conditions, including a timing restriction that prohibited any work within the Reserve from February 1 through August 30 to avoid potential impacts to avian species during breeding season (attached as Appendix A).

Iceplant is a non-native, drought resistant plant, which is highly invasive in many of California's coastal communities. Once iceplant is established, very few other plants can survive in the same location. Because of its "creeping" growth pattern, iceplant can grow into deep mats of vegetation, which easily out-competes native plants for water, space, and light. As a succulent, iceplant absorbs and stores water and nutrients from the soil, making survival much more difficult for native plants. Iceplant essentially crowds out native vegetation, reducing plant diversity and destroying habitat for native wildlife, which utilize the native plants for food and shelter. Removing iceplant on site helps protect the remaining native flora that will be critical to the revegetation of the Reserve for the larger multi-year restoration effort to improve the habitat quality of this ecosystem. At the March, 2016 hearing for the underlying CDP No. 5-15-1427, many of the project opponents were concerned with the potential impacts that solarization tarps may have on the fauna that exist in the iceplant, e.g. frogs, lizards, ground squirrels, etc. According to the results of the Bay Foundation's December 2016 monitoring report (discussed in further detail below), no wildlife mortality was observed after the tarps were removed from the first phase of the project.

In the fall of 2016, the Bay Foundation (on behalf of California Department of Fish and Wildlife), completed the first phase of iceplant removal with the help of community and student volunteers donating over 500 hours of service during twelve community restoration events ([Exhibit 2](#)). According to the monitoring report (required by the CDP and submitted to Commission staff), over 15 tons of iceplant were successfully removed from .88 acre of the reserve from September to December 2016 ([Exhibit 5](#)). The monitoring report also identified two challenges facing the project: 1) early-onset rain, and 2) the restrictive timing of the permit's conditions, which did not allow for sufficient tarping time (to maximize the desiccation rate of the iceplant), and the ability to enter the wetland to pull weeds as the invasive plants emerged.

Shortly after the monitoring report was drafted, the Bay Foundation contacted Commission staff in January, 2017 seeking a permit amendment to allow tarping and solarization for 3 months versus 2 months (to facilitate a higher percentage of iceplant desiccation), and the ability for their staff to conduct as-needed smaller spot removal events to pull weeds year-round, improving the success of the restoration site and minimizing restoration cost and effort. The applicant submitted an amendment request in April, 2017 to revise the timing restriction on project operations to be prohibited from March 15 through August 1st to avoid impacts to avian species during breeding season (with the exception of allowing hand-pulling invasive plant species year round by the applicant's staff), and also informed staff of their intention to forgo tarping for the 2017 season in order to focus their efforts on weeding of the .88 acre where iceplant was already successfully removed, but has become over-run with invasive plants due to the amount of rain received and the restrictive timing imposed on the permit.

In the fall and winter of 2017, California received a very high amount of rain. Specifically, between October 2016 and March 2017, California averaged 30.75 inches of precipitation, which was the second-highest average since records began being kept in 1895, according to information submitted by the applicant<sup>1</sup>. After the iceplant was successfully removed from the site, the heavy winter rains helped the existing seedbank grow, which contained both native and non-native invasive plants. Special Condition 1 of the permit prohibited the applicant from being able to pull weeds after February 1st. Unfortunately, many non-native plant species are well adapted to respond quickly to such conditions, and the invasive

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<sup>1</sup> NOAA National Centers for Environmental Information, State of the Climate: National Climate Report for February 2017, published online March 2017, retrieved on May 24, 2017 from <https://www.ncdc.noaa.gov/sotc/naitonal/201702>

plant species grew faster than their native competitors. As a result, the majority of the 0.88 acre of the first phase of the project where iceplant was successfully removed, has become largely over-run by non-native plants.

Commission staff received two letters from two different stakeholder groups raising concerns about the invasive growth in the project area and requesting a public hearing for the permit amendment request to ensure the project was being properly managed and would not negatively impact coastal resources (**Exhibit 4**).

## **B. ENVIRONMENTALLY SENSITIVE RESOURCES**

Section 30230 of the Coastal Act states:

*Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30231 of the Coastal Act states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30240(a) of the Coastal Act states:

*(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

Sections 30230 and 30231 of the Coastal Act require that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through among other means, minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams. In addition, Section 30240 of the coastal Act states that environmentally sensitive habitat areas must be protected against disruption of habitat values.

Prior to the issuance of the underlying coastal development permit, the Commission required the Bay Foundation to submit an Implementation and Monitoring Plan for the Iceplant Removal and Wetland Restoration Project, which was reviewed and approved by Commission staff in July of 2016 (**Exhibit 6**). The restoration plan proposed an adaptive restoration plan with three re-vegetation protocol options that were designed to be implemented depending upon the monitoring results after the first phase of iceplant removal. The three proposed re-vegetation protocols include: 1) natural recruitment of native plants; 2)

hand-seeding of native plants; and 3) container planting. Natural recruitment was proposed to be implemented first, and after post-restoration monitoring of the first growing season, hand-seeding and planting were proposed to be implemented if necessary depending upon the recruitment success of the first growing season.

Natural recruitment involves passive monitoring to visually identify if native vegetation is growing back naturally, which requires no further action other than post-restoration monitoring. Hand-seeding from local native seed stock was proposed to be implemented depending upon the recruitment success of the first growing season, which included broadcast dispersion of native vegetation seeds and cuttings by hand in the restoration area. Planting of native species in the restored areas was proposed to be conducted based on the success of natural recruitment and hand-seeding protocol implementation.

Letters from concerned stakeholders generally contend that because the project area is now overrun with invasive plants, the restoration efforts within the .88 acre area of the first phase of iceplant removal were unsuccessful ([Exhibit 4](#)). However, Commission staff believes that the timing restriction of Special Condition No.1 as written, undermined the applicant's ability to properly manage the restoration area by prohibiting the applicant to do any work (including pulling weeds) during bird nesting and breeding season. In addition Commission staff understands the value of adaptive management in restoration projects, and sees the necessity for The Bay Foundation to continue to pull invasive weeds as they emerge to maximize the project's success. Therefore, Commission staff is recommending approval of the amendment for the applicant to enter the property year-round to pull weeds and change the language of the Timing Restriction of Special Condition No. 1 as discussed above.

Project opponents also urge Commission staff to require The Bay Foundation to postpone additional tarping and solarization efforts in the remaining project area identified in the underlying CDP until a reasonable degree of progress is achieved in removing invasive plants that have overtaken the existing .88 acre area of the first phase of iceplant removal. The applicant recognizes the need to focus on the invasive plant removal, which is why they are proposing to forgo solarization for the 2017 season to focus their resources and efforts on hand-pulling the invasive plants that have grown where the iceplant was removed.

Although the applicant indicated to Commission staff that no impacts to avian species were anticipated to occur in the project location (because it consisted of predominantly iceplant monoculture and lacked sufficient habitat for Belding's Savannah Sparrow or other sensitive avian species), the Commission imposed the timing restriction of Special Condition No. 1 (prohibiting project operations from February 1 through August 30 to avoid impact to avian species during breeding season) as an extra precaution to ensure no impacts would occur to sensitive avian species or their habitat. In addition, the approved restoration plan submitted by the applicant sets forth pre-disturbance nesting bird protection protocols which will be implemented prior to any weeding that may occur during bird nesting and breeding season, even though the restoration is not proposed to occur within Belding's Savannah Sparrow or California Least Tern habitat.

With their amendment request, the applicant submitted a letter from a qualified ornithologist, Daniel Cooper, who has conducted quarterly bird surveys of the entire Ballona Wetlands from 2009 to 2012 ([Exhibit 3](#)). Based on these surveys, Mr. Cooper found that the area of iceplant removal is only used to a limited extent by Belding's Savannah Sparrow and other local birds, and he did not observe breeding in the area south of Culver (in the project area). Furthermore, based on his surveys, he has determined

that “the vast majority of breeding activity of the Belding’s Savannah Sparrow occurs later in spring than mid-March, with birds establishing territories in late March, incubating in April, and feeding young in May and June. Thus, the amended timing restriction should not negatively impact sensitive avian species. In addition, Dr. Jonna Engel, the Commission’s staff ecologist, has determined that the bird protection protocols are sufficiently protective of avian species, and the amendment as conditioned will not have any significant adverse impact. Accordingly, the proposed amendment will not lessen the intended effect of Special Condition 1 because it will still adequately protect potential avian nesting habitat. Furthermore, as the Commission found in March of 2016, there will be no impacts to other fauna in the project location, e.g. frogs, lizards, ground squirrels, etc. as a result of the approved iceplant removal efforts. Therefore, Commission staff recommends that the timing restriction of Special Condition 1 be amended from February 1 through August 30, to March 15 through August 1 (to increase the solarization period), and allow the removal of invasive plants year round by hand-pulling by the applicant’s staff.

### **C. Local Coastal Program**

Section 30604 (a) of the Coastal Act states that:

*Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.*

In November 1986, the Commission certified, with suggested modifications, the land use plan portion of the Playa Vista segment of the City of Los Angeles' Local Coastal Program after the City annexed the area. The proposed project is located within the City of Los Angeles' planning area of Playa Vista. While there is a certified land use plan for the area, the City of Los Angeles does not have a certified Local Coastal Program for the Playa Vista area. The City of Los Angeles submitted its Local Coastal Program in March 1981. The Commission denied the submitted LCP on December 18, 1981. The City has not submitted a revised LCP.

The Ballona wetlands area, including Area B, has been acquired by the Department of Fish and Wildlife. Presently the California State Coastal Conservancy, the State Lands Commission and the Department of Fish and Wildlife are developing a restoration plan to create a variety of native habitats on the Ballona wetlands and associated upland areas, including the project site. This larger restoration project area includes about 600 acres owned by the state of California on both sides of Ballona Creek. Meetings with stakeholders, development of goals, and biological assessments began in the fall of 2005. The proposed project does not change any land use or any planning decision regarding the restoration of the marsh. The project as proposed and conditioned will not have any impacts on the marsh and is consistent with the habitat policies of the Coastal Act. The Commission, therefore, finds that the proposed project is consistent with the Chapter 3 policies of the Coastal Act and will not prejudice the ability of the City to prepare a Local Coastal Program consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

### **D. California Environmental Quality Act (CEQA)**



Section 13096(a) of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and complies with the applicable requirements of the Coastal Act to conform to CEQA.

## **APPENDIX A**

### **SPECIAL CONDITIONS OF COASTAL DEVELOPMENT PERMIT 5-15-1427**

This permit is granted subject to the following special conditions:

2. **Timing of Operations.** The project operations, including vegetation eradication and removal, hauling, annual maintenance and spot removal shall be prohibited from February 1 through August 30 to avoid impact to avian species during breeding season.

2. **Plan to Monitor the Disturbed Area and Remove Invasive Non-native Plants**

**A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant will submit, for the review and written approval of the Executive Director, a plan to monitor the area targeted for invasive removal. The plan shall include procedures for identification and removal of non-native invasive plants that may be found in the area. The plan shall be reviewed and approved by, the California Department of Fish and Game prior to being submitted to the Executive Director for review and approval. The plan shall include the following:

1. Vegetation planted on the site shall consist of native plants typically found in the Ballona Wetlands.
2. Invasive plants are those identified in the California Native Plant Society, Los Angeles -- Santa Monica Mountains Chapter handbook entitled *Recommended List of Native Plants for Landscaping in the Santa Monica Mountains*, January 20, 1992, those species listed by the California Invasive Plant Council on any of their watch lists as published in 2007, and those otherwise identified by the Department of Fish and Wildlife or the United States Fish and Wildlife Service. No non-native or invasive species shall be employed on the site.
3. All non-native invasive plants shall be removed with hand tools.
4. No herbicides or rodenticides shall be employed.

**B.** The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**C.** Two years from the date of issuance of Coastal Development Permit No. 5-15-1427, the applicant shall submit for the review and approval of the Executive Director, a monitoring report, prepared by a licensed biologist or landscape architect with expertise in wetland restoration that indicates the progress of the natural revegetation of the impacted area. The monitoring report shall include photographic documentation of plant species, plant coverage and an evaluation of the natural restoration of the site.

**3. Disposal of Materials**

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all material removed from the project site. All materials and debris shall be deposited at an approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive such material.