

CALIFORNIA COASTAL COMMISSION

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W17a

**CDP 5-17-0253-A1 (CALIFORNIA DEPT. OF FISH &
WILDLIFE)**

AUGUST 12, 2020

CORRESPONDENCE

Public Comment on August 2020 Agenda Item Wednesday 16c - Application No. 5-18-0554 (California Department of Fish and Wildlife, Playa Del Rey, Los Angeles)

Todd T. Cardiff, Esq. <todd@tcardifflaw.com>

Thu 8/6/2020 1:30 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>; Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>; Willis, Andrew@Coastal <Andrew.Willis@coastal.ca.gov>

Cc: patricia mc pherson <patriciamcpherson1@verizon.net>; Jeanette Vosburg <saveballona@hotmail.com>

 3 attachments (9 MB)

Letter to Coastal Commission 8.6.2020 Color.pdf; Coastal Commission Letter 3.2.2019.pdf; Transcript of Hearing 12.14.2017_FINAL.pdf;

Honorable Coastal Commissioners.

Please accept these comments made on behalf of Grassroots Coalition for August 12, 2020, ITEMS WED 16c and 17a. The attachments should include the following 1. Letter to Coastal Commission dated 8/6/2020 2. Letter to Coastal Commission dated 3/2/2019 3. Transcript of Hearing on 12/14/2017. Hard copy of all attachments are coming in the mail.

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WED ITEMS 16c, 17a

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August 6, 2020

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Mandy Revell
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RE: Application to Remove Unpermitted Drains in BWER
Request for Permit Amendment
App. No. 5-18-0554
CDP No. 5-17-0253-A1

Honorable Coastal Commission Staff and Coastal Commissioners,

My office represents Grassroots Coalition. Grassroots Coalition has worked since 2016 to compel removal of the unpermitted drainage pipes in the Ballona Wetlands Ecological Reserve. Despite what seemed to be a victory in front of the Coastal Commission in 2017, with a vote requiring CDFW to immediately cap the drains, and seek a regular CDP for removal (not abandonment) of the drains within one year, Coastal Commission staff has undermined such vote and implemented a CDP that was expressly rejected and altered by the Coastal Commission on December 14, 2017.

I have attached my March 2, 2019 letter sent to the Coastal Commission which lays out the history of drains and the testimony of Coastal Commissioners on December 14, 2017. Such letter should have been attached to the Staff Report, since it directly addresses CDP No. 5-17-0253. The intent of the Coastal Commission was very clear. This Coastal Commission, to the extent that it has changed, should respect and uphold the Coastal Commission's past action on the drains. CDFW should be ordered to remove the drains within one year.

I. Coastal Staff Subverted a Valid Vote of the Coastal Commission.

The CDP that was proposed by Staff in December 2017 permitted CDFW to apply to remove or abandon the drains within five years. This was so that the removal could allegedly be coordinated with the Ballona Wetlands Ecological Reserve "Restoration" project. The Coastal Commission explicitly and emphatically rejected such proposal, objecting



to both the abandonment of the drains and tying the removal of the drains to the “restoration” project . The Commissioners unanimously voted to approve a modified the that deleted the option to abandon the drains, requiring solely removal, and to reduce the time frame for completion of the removal from five years to one year. This was absolutely clear to both Coastal Commission Staff and CDFW.

Staff has a duty to enforce the Coastal Act and comply with the legally binding votes of the Coastal Commission. Yet, one month after the Coastal Commission’s vote, Mandy Revell issued a CDP that permitted CDFW to apply to “remove or abandon” the pipes. CDFW, knowing full well what the Coastal Commission voted on, nevertheless submitted a CDP application to abandon the pipes. It took over a year of objections to staff, multiple Coastal Commission meetings, preparation of videos and transcripts, powerpoint presentations and letters to get the CDP “corrected”. It was only after Grassroots Coalition served a Notice of Intent to Sue on March 11, 2019, that Coastal Staff finally issued a corrected CDP. On March 14, 2019, Mandy Revell issued a CDP that was consistent with the Coastal Commission’s vote and removed the word “abandon” from Condition #4 of the CDP.

One would think that the matter was over. However, on July 9, 2019, Mandy Revell sent a letter to Mr. Brody stating:

[I]n response to comments received from Grassroots Coalition threatening litigation over the matter, staff issued a Revised Coastal Development Permit No. 5-17-0253 which changed Special Condition 4 to require CDFW to remove the unpermitted drains and associated pipes. Subsequent conversations between CDFW and Commission staff sought to clarify that the department was required to submit an amended application (not a new application), to include both alternatives for removal and proper abandonment a co-equal alternatives for the Commission’s review and deliberation.

Thus, despite the clear intent and express vote of the Coastal Commission and despite a year and a half of effort resulting in a corrected CDP, Mandy Revell decided to not only to accept, but actually require an amended application for removal or abandonment of the unpermitted drains. Now, two and half years later, the Coastal Commission is considering the exact CDP application it expressly rejected. Mandy



Revell's actions have undermined the public's trust in the Coastal Commission. (See Pub. Res. Code § 30320 (discussing the importance of the public trust).)

B. The Request for an Amended Permit Must Be Denied Because CDFW is Not Entitled to Reconsideration and Drain Pipes are Not Permitted Development in a Wetland

CDFW, like any of private party seeking a CDP, had a number of options when the Coastal Commission imposed a condition on the CDP that it objected to. First, it could have objected at the hearing and challenged the condition or terms of the CDP in Court. (Pub. Res. Code section 30802.) Secondly, it could have asked for reconsideration of its application. (Pub. Res. Code section 30627: 14 CCR 13109.1-13109.5.) Third, it could have simply complied with the permits conditions in good faith. In which case, the pipes would have been removed by now and any vegetation that was disturbed would have been well on its way to recovery.

CDFW, instead, decided to institute a policy of delay, gaining two and half years of its original request for five, and now seeks an amendment for yet another five years. (14 CCR 13166.) The problem with such "amendment" is that it seeks the exact same permit conditions that were rejected in its original CDP application. On December 14, 2017, the Coastal Commission voted to remove the conditions allowing for abandonment and removal within five years and instead inserted a requirement that the drains be removed within one year. CDFW's application for the amendment simply seeks to reverse the December 2014 decision of the Coastal Commission. This is an application for reconsideration not amendment. In which case it is untimely. (14 CCR 13109.2.)

There is another problem as well. For approval of an application for an amendment, the amendment must be consistent with the Coastal Act. (Pub. Res. Code section 30627.) Here, CDP 5-17-0253 was originally approved to remedy a violation of the Coastal Act. The unpermitted drains were illegally installed at least 20 years ago. CDFW has been on notice that the drains were a violation since at least 2013. Permitting a Coastal Act violation to continue in the Ballona Wetlands is equivalent to approving the development after-the- fact. Drains, whether capped or not,



cannot be installed or maintained in a wetland. (Pub. Res. Code § 30233.) The Coastal Act mandates removal to remedy the Coastal Act violation in this case.

C. Immediate Removal of the Unpermitted Drains Is Necessary Because of the Potential Build-Up of Methane.

In 2017, Grassroots Coalition submitted comments that expressed concerns with the presence of methane. The issues and problems with methane are well documented in the area. Playa Vista, just over the road from the unpermitted drains, is located on one the largest natural methane seeps in the Western United States. It must maintain a methane mitigation system that includes sensors, pumps, and vents. Located just to the west of Ballona Wetlands is SoCal Gas' Playa Del Rey Gas Storage Facility. Such storage facility has had continual problems with unplanned venting and leaks, and has even been shut down due to ongoing violations. In the Ballona Freshwater Marsh, 100 yards away from the southern drain, an old improperly abandoned well called the University City Syndicate well vents methane directly into the water. It was for these reasons that Grassroots Coalition recommended the drains be removed, or at least not be capped and sealed using a method that causes sparks.

Coastal Staff dismissed Grassroots Coalition's concerns in 2017 based on a report from CDM (Playa Capital's contractor) that unsurprisingly found no gas. Nevertheless, when it came time to cap the drains, CDFW sought permission to seal the drains with epoxy claiming "a fire hazard due to dry vegetation" in the wetlands. Grassroots Coalition suspects that the true concern was the potential presence of methane.

In April 2020, Grassroots Coalition saw bubbles erupting out of the submerged drain. Patricia McPherson visited the site the next day with a methane tester and the bubbles registered for methane. Grassroots Coalition immediately submitted the video to both CDFW and the Coastal Commission, which, for some reason, has not been made an exhibit to the Staff Report.

Despite such evidence, CDFW claims that the pipes are venting air, not methane. This is based on a hazmat investigator from LA Fire Department who visited the drains and simply held a meter to the seal. The meter did not register any methane. However, holding a methane meter out



in the open, subject to wind conditions, is not how one scientifically tests for methane. You either need to place a meter or hose inside the drain pipe to take a direct sample or you need to tent the drain pipe for sufficient time to capture and evaluate the ambient level of methane.

After learning that CDFW claimed it was just air being pushed out of the drains by tidal action, Patricia McPherson, again, visited the drain, covered a portion of a seal with a plastic bag, then inserted her gas meter. The gas meter, once again, triggered indicating the presence of methane. She videotaped the event. (Video submitted McPherson comments) While such test does not demonstrate the concentration inside the drain pipe, it does demonstrate the presence of methane in a sufficient quantity to vent during dry weather. Grassroots Coalition is not required to hire an expert to properly measure the gas. CDFW has not conducted a valid test. It is not the public's duty to investigate potential environmental harm or hazards. (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.)

Grassroots Coalition has been consistently proven correct in its comments to the Coastal Commission. Yet, Grassroots' evidence is consistently discounted by Coastal Commission Staff. For example, the 2017 report from Psomas claimed that storm water run-off could not overtop the drain and the weep holes were having a negligible impact. Grassroots Coalition provided video and photographs of storm water overtopping the drain, and water pouring out the weep holes. Nevertheless, Jonna Engle chooses to rely on the same Psomas report that was proven false in 2017. Similarly, Staff seems to be eager to believe CDFW's claim that it is just air being pushed out of the capped drain pipes. While tidal action may have played a part, the evidence demonstrates that it is methane, not just air, venting from the pipes.

In this case, Grassroots Coalition has provided evidence that the unpermitted capped drain pipes are capturing and venting a gas that is explosive in concentrations as low as 5%. The drains should be removed immediately. However, if the Coastal Commission chooses to permit the drains to remain, then it should, at a very minimum, condition the permit to require the installation of a gas meter inside the drain. The permit should also be conditioned to required immediate removal of the drains and associated unpermitted structure if the level of methane inside the capped drains exceeds 5%. The methane levels (and all calibrations of the meter) should be available for public review.



Grassroots Coalition

RE: Comments on App. No. 5-18-0554; CDP 5-17-0253-A1

August 6, 2020

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Finally, CDFW's plan to bulldoze the Ballona Wetlands Ecological Reserve and claim that it is restoration will not go unchallenged by Grassroots Coalition or many other environmental groups. The EIR has not been certified, has massive errors, and an artificially narrow range of alternatives. It will be subject to legal challenge. The Army Corp of Engineers has not approved a dredge and fill permit, has not certified an EIS under NEPA, and show little enthusiasm for the project. CDFW's claim that the project will go forward in five years demonstrates a pre-commitment to approval, which, in and of itself, is a violation of CEQA. If the Coastal Commission approves a permit to abandon the drains or leave them in place until the "restoration" project, it will be allowing a blatant Coastal Act violation to continue into the foreseeable future.

The Coastal Commission should be making a decision based on the current facts, not on some contingency that may never occur. Removal of the drains remedies a Coastal Act violation, resolves a potential explosive hazard, and results in the true restoration of a portion of the Ballona Wetlands Ecological Reserve. The Coastal Commission should compel immediate removal of the drains and associated unpermitted development.

Sincerely,

Todd T. Cardiff, Esq.



March 2, 2019

Delivered via email and first class mail

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RE: Coastal Development Permit No. 5-17-0253
CDP Application 5-18-0554
Request for Correction to CDP

Honorable Coastal Commission Staff and Coastal Commissioners,

My office represents Grassroots Coalition. Grassroots Coalition has been seeking to correct an error in CDP # 5-17-0253. The CDP issued by Coastal Staff allows California Department of Fish and Wildlife (CDFW) to apply for "removal or appropriate abandonment" of the drains in the Ballona Wetlands. (CDP 5-17-0253, Special Condition 4, issued on January 11, 2018.) Such language is not consistent with the Coastal Commission's decision on December 14, 2017. As demonstrated by the transcript of the hearing, the Coastal Commissioners expressly and unequivocally rejected a permit condition that allowed CDFW to abandon the unpermitted pipes in place.

Grassroots Coalition request the Coastal Commission correct the error in the CDP. Further, the Coastal Commission should expressly reject CDP Application 5-18-0554 as inconsistent with the CDP and order CDFW to submit an application for the removal of the unpermitted pipes and associated unpermitted development.

1. History of Issue

The unpermitted drains were discovered by activists in 2013. Although it was not initially clear that the drains were unpermitted, activists felt that it was strange to have large drains in a wetlands, with subsurface weep-holes designed to convey both surface and subsurface water to Ballona Creek. The entire system was designed to lower the water table in the Ballona Wetlands. Grassroots Coalition contacted both the City of Los Angeles and the Coastal Commission regarding its concerns.

In a letter addressed to the Playa Capital Company, Coastal Enforcement Staff noted that, despite the fact that the "risers and associated



drains” appeared to be constructed in conjunction with the Ballona Freshwater Marsh, no plans or approvals for the drains were included in the CDP. The drains were unpermitted. Playa Capital, CDFW and the Coastal Commission sent letters back and forth to each other for years in an attempt to resolve the issue. In a July 16, 2015 letter, the Coastal Commission finally demanded that Playa Capital and CDFW submit an application no later than August 14, 2015, to ensure that the drains were capped prior to the next rainy season. That did not occur.

In June of 2016, Grassroots Coalition, an organization that has been advocating and protecting the Ballona Wetlands for two decades, filed a lawsuit to enforce the Coastal Act. (*Grassroots Coalition v. Cal. Dept. of Fish and Wildlife* (LA Sup. Ct. Case no. BC619444.) In settlement, CDFW agreed to “use its best efforts to obtain a regular CDP and implement the project prior to October 1, 2017 to prevent water from entering the Drains.” Importantly, the settlement expressly reserved the right of Grassroots Coalition to “fully participate” in the CDP process, including “objecting to the project (or proposing an alternative project)....and/or objecting to the terms of the Coastal Development Permit.”

Although after the good faith deadline, on December 14, 2017, the Coastal Commission considered a permit request by CDFW to “Cut drains (risers, approximately 48 inches in diameter) to grade, cap drain inlets and plug weep holes of drain lines in two existing unpermitted storm drains.” The staff report proposed a special condition - - within five years of the issuance of the CDP, CDFW was required to obtain a CDP “to remove or appropriately abandon the remaining components of the unpermitted drains” if not already removed or abandoned in conjunction with the Ballona Wetlands Restoration Plan. (Staff Report, Th10c, issued 12/01/2017, at p. 5 (Special Condition 4).)

At the December 14, 2017 Coastal Commission hearing, Grassroots Coalition objected to both the timing and the scope of Special Condition #4, arguing that the unpermitted development had to be removed completely. The Coastal Commissioners agreed and altered Special Condition #4 in the following ways. First, Commissioner’s shortened the time apply for a follow-up CDP to six months. Secondly, the Commissioner’s limited the scope of the follow-up CDP to an application for *removal of the remaining components*, not abandonment. The motion to



approve the CDP, as modified by the Coastal Commission, passed on unanimous consent. (See Transcript and discussion below.)

On or about January 11, 2018, a CDP was issued, signed by Mandy Revell. (CDP 5-17-0253.) While Special Condition #4 was altered to require CDFW to seek a follow-up Coastal Development Permit within six months, it continued to allow CDFW to apply for either “removal or appropriate abandonment of the remaining unpermitted pipes and associated unpermitted development...” (Id.) This was not what the Commission has approved.

Upon review, Grassroots Coalition alerted staff to the inconsistent language in the CDP allowing for abandonment of the pipes.¹ Believing that Coastal Commissioners would correct the CDP upon reviewing the revised findings, Grassroots Coalition repeatedly inquired into when the revised findings would be issued. (14 CCR § 13096(b).) Coastal Staff assured Grassroots Coalition that it would receive a copy of the revised findings. (Revell email to Cardiff, 1/18/2018.) Grassroots Coalition submitted multiple Public Records Act requests for the findings. No revised findings were ever issued.

On June 11, 2018, CDFW filed an application to abandon the drains. The application states, “Pursuant to Coastal Development Permit No. 5-17-0253 Special Condition No. 4, the California Department of Fish and Wildlife (CDFW) proposes to abandon in place two existing inlet pipes.” (CDP Application 5-18-0554 at p. 2.) Grassroots Coalition, upon reviewing the application, objected and demanded that the Coastal Commission enforce its unanimous decision made on December 14, 2017 to remove the drains. (McPherson Email “Ballona/ CCC Enforcement Request CDP 5-17-0253, 5-18-0554”, dated July 9, 2018.)

On December 12, 2018, almost exactly a year after the Coastal Commission voted to require CDFW to submit an application to remove the pipes, Grassroots Coalition appeared at public comment to seek correction to the CDP. Grassroots Coalition played a video to the Commission of the December 14, 2017 hearing, showing both Commissioner Peskin and Commissioner Brownsey emphatically stating that they would not support

¹ Although Grassroots Coalition is not the “permittee”, such notice should have been sufficient to compel the Executive Director to bring the issue before the Coastal Commission. (14 CCR § 13163.)



the approval, unless it included the removal of the pipes. (Transcript 12/14/2017 at p. 32: lines 18-25; p. 34: lines 8-19.)² This was followed by a video clip Commission Attorney Pederson reading the motion with a modified condition #4, that only included removal of the pipes. (Transcript at 52:27 to 53:3, 55:18-23.)

Unfortunately, despite video evidence to the contrary, Executive Director Ainsworth claimed that it was not clear that Commissioners modified Special Condition #4 to remove CDFW's option to abandon the pipes. Therefore, Grassroots Coalition offered to provide a full transcript. We have attached a full transcript of Item Th10c for the Commission's review hereto.

2. The transcript establishes that the Coastal Commission expressly required CDFW to submit an application to remove, not abandon, the unpermitted drains within six months.

The transcript of the December 14, 2017 hearing on CDP # 5-17-0253 unequivocally establishes that the Coastal Commission objected to and removed the option of allowing CDFW to submit an application to abandon the unpermitted pipes in the Ballona Wetlands. The only option provided by the CDP, as modified by the Coastal Commission, was for CDFW to apply to remove the unpermitted development within six months.

Commissioner Peskin, the first commissioner to provide substantive comments, objected to the Coastal Commission's "double standard" of dealing with a sister state agency and the private regulated community. (Transcript at 32:10-12.) Commissioner Peskin stated:

[T]his seems like a half a solution and just because, I mean, if this was a private party and they said "oh well, we have future development plans so just give us half the solution" we would say, "no you got a you've got to fix all of your 1991 permit violations."

(Transcript at 32:18-21.)

² Portions of the transcript, attached as Exhibit A, will be referred to by [page #]:[line #s]



I mean, I could approve this and I think it's a step in the right direction, if we're also saying take out the pipes because that's the violation and it's not my problem that Fish and Game's doing a DEIR that's going to be done in some amount of time in the future. The problem is there's a violation, it has to be cured.

(Transcript at 32:21-25.)

Executive Director Ainsworth responded:

Look, the removal of pipes is an option that the Commission can consider and you can you can take that path....What we were looking at here is more of a pragmatic sort of approach in trying to deal with this issue and syncing it up with the larger wetland restoration project.

(Transcript at 32:23-33:3.)

Commissioner Brownsey “associated” herself with Commissioner Peskin’s remarks. (Transcript at 33:27-28.) She states in her testimony:

I understand that sometimes the wheels of government have to creak slowly, but I agree this is a half solution. I can support this if those pipes come out.

(Transcript at 34:8-9.)

Commissioner Groom also expressly supported Commissioner Peskin. (Transcript at 36:6-7.) “I will support the removal of the pipes at the same time...as we cap the drains.” (Transcript at 36:11-12.) Similarly, Commissioner Luévano associated herself with the comments of Commissioners Peskin and Brownsey. (Transcript at 38:22-23.) She noted, “[T]he first question that popped into my head is why can't we just take those pipes out right now.” (Transcript at 38:22-25.)

Commissioner Vargas was the first commissioner to start formulating a motion to remove the pipes. He stated:

It seems like a lot of Commissioners are interested in seeing a removal of the pipes, but I'm just wondering as I look ... at the



permit application, how we can actually do that today. It seems to me that the options or paths available to us...if we decide to deny this application then nothing happens. I don't think anybody wants that. If we decide to modify this, I don't think we could modify this application. Maybe staff can give me a little direction, but I don't know if we could really impose a condition that would require the removal of the pipes unless staff can think of an artful way of doing that.

(Transcript at 42:21 to 43:2.)

Deputy Director Hudson responded:

[W]e have thought of a few options that we could offer you today. Perhaps the... simplest option might be a simple modification of Special Condition 4 and you have that discretion today, to modify these conditions. You can add additional conditions... Special Condition 4, right now, requires that within five years the date of issuance that they come back to you for that full removal plan or an abandonment plan within that five year period. So this could be modified to say 'cap this immediately' or you could set that time period possibly within a 30-day time period the capping must be complete. And the last sentence of this condition could be modified to say, "a CDP, must be...A separate CDP application shall be submitted to the Commission within, and you could set the time period perhaps six months or less, for the full removal of the pipes."

(Transcript at 43:4-14.)

The other option...is to add additional conditions to the permit now that would require immediate removal of the entire two unpermitted spur pipes.

(Transcript at 43:17-19.)

Executive Director Ainsworth chimed in:

Madam Chair... I would recommend more strongly Option 1, capping within an X amount of days, whether it be 30 days or whatever we can work out there with Fish and Wildlife, and then



submittal of a subsequent application to give Fish and Wildlife some time to more to analyze... more fully the impacts associated removal of the pipes...

(Transcript at 44:6-10.)

After this point, there was no further discussion of abandonment by the Commissioners, just the timing for removal. Commissioner Vargas requested Fish and Wildlife to comment on the timelines for removal. (Transcript at 44:23-27 “be mindful of the fact that we would like to see [the pipes]...removed as quickly as possible.”)

The California Department of Fish and Wildlife clarified what was being asked of it. “Just so I, I’m clear...we’d be we’d be moving forward with capping it immediately...and then and it’s the coming back with that larger plan to remove the remaining components.” (Transcript at 45:2-4.)

Commissioner Vargas responded that the options for removal of the pipes was “six month or a year.” (Transcript at 45:12.)

Commissioner Vargas deferred to Commissioner Peskin to craft the motion. (Transcript at 47:13-16.) Commissioner Peskin’s motion was as follows:

I can live with modifications to Special Condition number 4 but in a highly truncated time period which is: The CDP Application comes in 180 days and that *the actual implementation of the work for removal of the pipes*, subject to our own CEQA analysis, be done within a year after that and that will be my motion, which counselor, you can massage.

(Transcript at 51:14-19.)

The motion was seconded by Commissioner Brownsey. (Transcript at 51:21.) Then, Commission Counsel Pederson re-read the motion, as he understood it:

So, my understanding is he would modify Special Condition number 4, to require the Applicant to submit a CDP Application within 180 days to remove the pipelines. And, that the removal of the pipes



subject to the review of the application through the permitting process must occur within one year...

(Transcript at 52:27 to 53:3.)

This was repeated again by Counsel Pederson for the Commissioners:

So the motion will be simply the motion that is in the staff report on page 3, I believe, but Staff in light of this discussion, Staff has modified its recommendation so Special Condition 4, will be revised to require the Applicant to submit *an application to remove the pipelines within 180 days*. It then needs to actually carry out that removal within one year of Commission action on that Application and in addition the drains need to be capped within 30 days.

(Transcript at 55:18-23 (emphasis added).)

The Commissioners voted, with unanimous consent, for the CDP as modified. (Transcript at 56:10-13.)

Thus, contrary to Executive Director's memory, the Coastal Commission unequivocally and unanimously voted to require CDFW to submit an application to remove the drains, not submit an application to abandon the drains in place.

3. The Project Description Matters

It is important that the Coastal Commission correct CDP No. 5-17-0253 to be consistent with the Coastal Commissioner's vote. The Coastal Commission was very clear that CDFW did not have the option of seeking a permit to "abandon in place" the unpermitted development. Staff's failure to remove such language providing such option from Special Condition #4, whether intentional or not, constitutes an *ultra vires* act. It is not within Staff's power or discretion to accept a CDP permit application from CDFW for the abandonment of the pipes in place.

Undoubtedly, CDFW will argue that the difference between a CDP for abandonment and a CDP removal of the unpermitted pipes is negligible. After all, the Coastal Commission and CDFW must analyze alternatives,



including abandonment, that would avoid or mitigate significant impacts under both CEQA and/or the Commission's CEQA equivalent regulatory program. (14 CCR §§ 15251(c); 15252(a).) However, an accurate project description is incredibly important.

Courts have found that a stable, accurate and finite project description is central to the proper analysis of environmental impacts. (See, *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192-93 (discussing CEQA).) An inaccurate project description can "stultify" public comments and proper analysis. (*Id.*) An inaccurate project description can draw a "red herring" across the path of public input. (*Washoe Meadows Community v. Department of Parks & Recreation* (2017) 17 Cal.App.5th 277, 288.) The importance of a proper project description is no less important under the Coastal Act's CEQA equivalent analysis, as it is under CEQA.

It is significantly different for the public to be presented with a project to "abandon pipes in place" in a wetlands, as compared to removing pipes in the wetlands. The improper project description will shift Grassroots Coalition's comments from supporting the project for removal, to opposing the project for abandonment. Opposing a project is always a defensive position.

Furthermore, it puts Commissioners on different footing. Instead of a staff report and findings focused on removal, the staff report will be focused on abandonment. If Commissioners enforce their original decision, requiring removal, it will have to deny the CDP application, and adopt an alternative CDP.

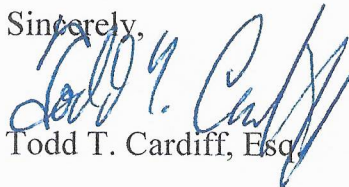
Finally, Grassroots Coalition objects to the project description identified as "abandonment". As far as Grassroots Coalition has been able to determine, "abandon" in the context of Coastal Act refers to development that had been previously permitted. The proper description of what CDFW is seeking is for "after-the-fact" approval of development. Drainage pipes are not the sort of development that can be permitted in wetlands. (Pub. Res. Code § 30233; See also, *Bolsa Chica Land Trust v. Superior Court* (1999) 71 Cal.App.4th 493, 514 (overruled on other grounds in *Dhillon v. John Muir Health* (2017) 2 Cal.5th 1109, 1116, fn. 2).)



4. CONCLUSION

Grassroots Coalition cautions that CDFW might try to use this as an opportunity for a rehearing of the matter. (Pub. Res. Code § 30627.) The only issue before the Commission is whether CDP 5-17-0253 corresponds to the Coastal Commissioner's decision. A properly revised CDP should be issued and CDP application 5-18-0554 should be rejected. The Coastal Commission should order CDFW to submit another application to the Coastal Commission within thirty days. Regardless of whether Coastal Staff inadvertently failed to delete "abandonment" from Special Condition #4, CDFW was fully aware of its need to submit an application to remove the pipes from the Ballona Wetlands.

Sincerely,



Todd T. Cardiff, Esq.

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COASTAL COMMISSION HEARING
TRANSCRIPT 12/14/2017
ITEM TH10c
CDP APPLICATION 5-17-0253

1 [MANDY REVELL] Good afternoon. Commissioners item 10c is the application of
2 the California Department of Fish and Wildlife to cap to existing unpermitted
3 storm drains located in the Ballona Wetlands Ecological Reserve which is located
4 in Playa del Rey in Los Angeles County sealing the drains would be achieved by
5 either capping the drain risers in place or by removing the portion of the drain riser
6 located above grade. All of the drains weep holes will be sealed and a metal cap
7 will be welded over the drain hole to prevent further dewatering of the surrounding
8 wetland. The capping is proposed as a temporary remedial measure intended to
9 immediately stop the ongoing resource damage occurring from the drainage of the
10 wetland while the applicant develops its comprehensive restoration plan for the
11 full restoration of the Ballona Wetlands. Next slide please.

12 As shown on this slide the project is located within a portion of the Ballona
13 Wetlands in an unincorporated area of Los Angeles County which covers
14 approximately 385 total acres. The Ballona Wetlands are remnants of a much
15 larger wetland system that historically covered over 2000 acres that reached from
16 Playa del Rey north to Venice. All of the remaining wetland areas in this area are
17 considered environmentally sensitive habitat areas and provide habitat for many
18 sensitive species including marine fish, migratory shorebirds, and the California
19 least tern and Belding savannah sparrow.

20 This site has been subject to previous permit and enforcement action by the
21 Commission beginning in 1991 when the Coastal Commission approved a coastal
22 development permit with amendments for Playa Capital company, the property
23 owner at the time, to construct the Ballona Freshwater Marsh located immediately
24 south of the intersection of Lincoln and Jefferson Boulevards which
25 included the approved main drain line which runs from the Ballona Freshwater
26 Marsh to the Ballona channel. The Ballona Freshwater Marsh project was
27 designed to integrate water quality protection functions, habitat creation,
28 restoration and stormwater control. In approximately 1996, the subject

1 unpermitted drains shown by the red dots on the slide and associated
2 approximately 100 foot long lateral spur connector drain lines were constructed by
3 the Playa Capital Company, which connect to the approved main drain line.
4 Commission staff has confirmed that the subject drains and lateral spur
5 connector drain lines were not included as a part of those Commission approved
6 plans. And beginning in 2013 Commission enforcement staff notified Playa
7 Capital Company LLC and the applicant, the California Department of Fish and
8 Wildlife which took ownership of the reserve in 2004, after the state of California
9 acquired the property from Playa Capital, that they must address this unpermitted
10 development.

11 In order to stop ongoing resource impacts from the draining of water from
12 the wetlands, Commission enforcement staff directed Playa Capital Company and
13 the Department of Fish & Wildlife to develop a plan to cap the drains while a
14 permanent resolution is worked out to remove or permanently abandon the
15 unpermitted spur connector drain lines and restore all areas of the wetlands that
16 were disturbed as a part of the violation.

17 In May of 2016 the Grassroots Coalition initiated litigation with regard to
18 the unpermitted drains and pursuant to a settlement agreement between the
19 Grassroots Coalition and the California Department of Fish and Wildlife the
20 applicant submitted the application before you here today which is to cap the
21 unpermitted drains and plug the weep holes perforating the drain to stop the
22 functionality of the drains.

23 The pro the project has proposed includes either capping the drain risers in
24 place, which would involve no soil disturbance or removing the top of the
25 corrugated risers to cap the drain risers at grade level utilizing a blowtorch, which
26 would require the removal of a relatively small wedge of soil from around the
27 perimeter of the risers utilizing hand tools so that dirt does not fall into the inlet.
28 Both options will require workers to utilize a ladder which will be lowered into the

1 pipe to weld small pieces of metal over each remaining weep hole within each riser
2 to make it watertight to ensure water beneath the surface does not drain into
3 the inlets. Finally, a flat metal plate will be welded to the top of each riser.

4 If the applicant seals the drain at grade the displaced soil which will be
5 temporarily stored on a tarp adjacent to the project site will be replaced around the
6 cap. To address temporary impacts associated with earth movement activities
7 associated with the proposed work the Commission is imposing that any areas of
8 the site disturbed as a result of the work being revegetated with appropriate
9 wetland species appropriate to the area. However, if the applicant seals the drain
10 in place with no ground disturbance revegetation will not be necessary.

11 Staff would like to highlight the fact that capping and sealing the
12 unpermitted drains is considered to be a temporary remedial measure to stop the
13 ongoing habitat impacts associated with the draining of the surrounding natural
14 habitat and wetland areas, and the proposed work is not considered a permanent
15 solution. The Applicant has prepared a Draft Environmental Impact Report for the
16 Ballona Wetlands Ecological Reserve restoration project which is currently in the
17 public comment phase. To ensure that the unpermitted drains are fully addressed
18 as part of this larger restoration project, special condition for of the permit requires
19 the applicant to apply for a coastal development permit within five years from the
20 date of issuance of this CDP to remove or properly abandon the unpermitted drains
21 and associated lateral pipes and revegetate with appropriate native wetland species
22 all areas of the site that were disturbed as a result of the unpermitted development
23 at a ratio of four-to-one, which is revegetation area to area impacted by the drains.

24 Prior to the publication of the staff report, concerned members of the public
25 raised questions regarding levels of methane gas in the water flowing from the
26 freshwater marsh to the Ballona Creek which could potentially become trapped and
27 the unpermitted lateral connector pipes if the drains are in fact sealed shut as
28 proposed with this project. After the staff report was published commissioned staff

1 received two reports by representatives of Playa Capital on behalf of the applicant
2 which consisted of a seep gas geochemical analysis of Playa Vista by Geoscience
3 Analytical Incorporated and a technical evaluation of methane levels associated
4 with capping the subject freshwater marsh outlet drain risers by a civil engineer
5 with CDM Smith. The seepage report determined that based on past state
6 investigations, the seepage is void of hydrogen sulfide poses, no health risk and is
7 naturally occurring and not from the Playa del Rey gas storage field. The technical
8 evaluation concluded that capping the unpermitted drain risers will not result in the
9 accumulation of explosive levels of methane. Both the report and evaluation are
10 attached to the addendum to this item which also includes the letters of interested
11 parties and minor clarifications to the project description and the staff report.

12 In closing, staff would like to note that the capping of the two and permitted
13 drains that are causing ongoing impacts to the surrounding habitat at wetland area
14 is critical in order to stop the ongoing resource impacts to the surrounding wetlands
15 and restore hydrology on site to its pre- violation condition. Therefore, staff is
16 recommending approval of the project with special conditions that require the
17 presence of a biological monitor as well as an archaeologist and Native American
18 monitor on site during all earth movement activities if the ground is disturbed and
19 the requirement that the applicant submit of complete coastal development permit
20 application within five years to ensure the unpermitted drains and associated
21 components and lateral pipes are removed or appropriately abandoned, and all
22 areas on site that were disturbed by their installation are revegetated with an
23 appropriate native with appropriate native wetland species at a minimum ratio of
24 four-to-one.

25 As conditioned the proposed development conforms with all applicable
26 policies of the Coastal Act and the motion and resolution to support the staff
27 recommendation is found on page three of the staff report and this concludes
28 Staff's presentation and we are available for questions thank you

1 [Commissioner Turnbull-Sanders] Do we have any ex partes? Any
2 commissioners with the ex partes. Commissioner Howell

3
4 [Commissioner Howell] Thank you. I did have an ex parte with Jeanette
5 Vosburg at 11:46 on Tuesday and she outlined her concerns regarding the
6 methane that could become trapped in the pipes and the fact that the the drains
7 severely impact adversely the Ballona Wetlands.

8
9 [Commissioner Turnbull-Sanders] Thank you Commissioner Howe. Are there
10 any others with ex parte s on this matter? seeing none we will now open the matter
11 for public comment we'll start with the applicant. So, I have a number of speaker
12 cards for the applicant. I have actually for Kevin Takei, Mike Crehan, Ravi
13 Subramani? Subramanium [phonetic] and Edith Reed. Okay you can come
14 forward. Do you have an organized presentation? why don't you

15
16 [Kevin Takei] I, uh, just a very very brief remarks. I was actually curious as how
17 much time we would have, because I would like to have the opportunity to maybe
18 respond to any questions that may come up during this process.

19
20 [Commissioner Turnbull-Sanders] Well those won't... Responding to questions
21 don't count against your time if you're called up. But about how long do you
22 think that you you may need?

23
24 [Kevin Takei] Right now maybe three minutes.

25
26 [Commissioner Turnbull-Sanders] Okay well why don't we give you five minutes
27 but and...

1 [Kevin Takei] Thank you

2
3 [Commissioner Turnbull-Sanders] then, if there's time after that for rebuttal we'll
4 have that do you have a video that needs to be cued up or anything?

5
6 [Kevin Tokei] no, no

7
8 [Commissioner Turnbull-Sanders] Okay, great, thank you. If you could state your
9 name for the record that I'd be great.

10
11 [Kevin Takei] Good afternoon Commissioners. So my name is Kevin Takei I'm
12 with the California Department of Fish & Wildlife, the applicant.

13 First off, I'd actually like to thank Commission staff. I think as you well all
14 know whenever Ballona comes up if it can be a very complicated confusing
15 process with, and I think it's actually a good thing that there's just a very passionate
16 group of people out there that feel very strongly about Ballona. Which I
17 think both the department does as well as recognizing all the different viewpoints
18 out there. So, again, I really appreciate Staff's work on not only this particular
19 matter but the various matters affecting Ballona that come before your
20 commission.

21 With that in mind, the department as the applicant does support the staff's
22 recommendation for the two options. One topic about the passion of Ballona
23 though, is because there are a number of variety of issues that come before the
24 Commission on Ballona, the department's perspective and one thing that we've
25 tried to do is just focus on what what is the issue today before you in this permit.
26 And, we think from our perspective, the way we framed it was two things.
27 Number one being how do you stop the water from entering those drains, and
28 second being how do you do that with the least amount of impact. And one of the

1 reasons why we do support the staff's recommendation is A. by placing the cap on
2 those drains you would stop the water, and B. that by placing those caps at that
3 point you're not going to have to disturb the habitat and that would be the least
4 amount of the impact that you would have that's really much the extent of my
5 comments that I had for you today. I'll be available for comment, I mean questions
6 and then we also have a Mike Crehan to just briefly tell you the capping process
7 and like we said Ravi will be able to just speak really briefly about the methane
8 issue Thank You

9
10 [Commissioner Turnbull-Sanders] Mr. Crehan, could you state your name
11 for the record.

12
13 [Mike Crehan] Right. I'm Mike Crehan with Psomas. I um have been the engineer
14 for the Ballona wetlands for Playa Capital and for the for the Department of Fish
15 and Wildlife for the past 19 years. So I am here today if you have any questions
16 about the process of doing the capping. The idea as was stated in the staff report is
17 pretty accurate. We would have people walking in and out of the marsh so there
18 would be no mechanical vehicular kind of traffic. One thing we may be able to do
19 also is uh, if we want to cut the cap a little lower below grade we can still do that
20 by doing a shield of metal that would be slid between the ground and right up
21 against the pipe and then the pipe could be cut off a little lower and still not disturb
22 any of the vegetation. The only vegetation that would be disturbed would be the
23 trimming of the vegetation that are sitting right on top of one of the two drains. So
24 that's the extent of my presentation. If you have any questions I'll be here to also
25 well.

26
27 [Commissioner Turnbull-Sanders] Will we also hear from Ravi Subramanian.
28

1 [Ravi Subramanian] Thank you Madam Chair. My name is Ravi Subramanian.
2 Just a little background. I'm a registered professional civil engineer State of
3 California with over 27 years' experience in environmental investigations, clean-
4 up of contaminated sites including methane gas evaluations and sampling. First of
5 all, I wanted to also concur with the staff's recommendation on this project and in
6 particular, we evaluated the potential for you know naturally occurring methane
7 to accumulate to potentially accumulate to explosive levels with the capping of the
8 drains. And based on our review of all the available data, we have met... there is
9 extensive... earlier there is a map which showed the drains which had a lot of dots
10 on there. Those were methane gas soil or gas sampling points and based on over
11 hundred samples collected within about...er... a 450 foot radius of this inlet a lot of
12 them are like over a thousand times lower than the lower explosive limit of
13 methane gas. Ah just a brief refresher is methane gas, like any other gas, has a
14 range where it can explode. So these levels read over a thousands lower than the
15 lower-end. And, so in our conclusion, there was no observations of any methane in
16 that level which would cause any kind of explosion within the drainpipe inlet and
17 secondly, this is surface water which has lot of dissolved oxygen which makes,
18 which disperses, you know, any gas, if any found in the air, so we concluded that
19 there is no potential for accumulation of methane gas to any explosive levels by
20 capping these drain risers. So that concludes my presentation, so questions?

21
22 [Commissioner Turnbull-Sanders] Thank you. We may call you back up for
23 questions. Thank you for being available.

24
25 [Ravi Subramanian] Thank you.

26
27 [Commissioner Turnbull-Sanders] We will next have a... We have a speaker card
28 from John Davis and then followed by Robert Roy Van de Hook and then an

1 organized presentation it looks like from Patricia McPherson. Mr. Davis, do you
2 have an organized presentation or is it just you?

3
4 [John Davis] No, I did not. However, Ms. Steiner who has ceded her time to me.

5
6 [Commissioner Turnbull-Sanders] Okay if she filled out a speaker card?

7
8 [John Davis] Yes

9
10 [Commissioner Turnbull-Sanders] I don't see it readily here but I'll look for it
11 while you begin we'll give you six minutes.

12
13 [John Davis] Okay... Very good.

14 First of all, an unapproved EIR should not be tied to this permit by the staff.
15 Secondly, there are many problems with the staff report. The staff report and
16 addendum falsely claims that a hydrology report and a methane report were
17 submitted on behalf of the applicant-- as you can see by this slide (email slide at
18 33:27.) Mandi Ravel who's sitting here, said that the, that this was attached-- I
19 mean, pardon me-- provided by the applicant. But, then you look down here and
20 it's from Mark Huffman and it's from Brookfield Residential who is not the
21 applicant. There is nothing here in your record to show that it was submitted on
22 behalf of the Department of Fish and Wildlife.

23 Pardon me. The reports were prepared by contractors with conflict of
24 interest, Psomas, Camp Dresser & McKee, because they work for the violator. In
25 fact they design-- Psomas partially designed this project which is a violation and
26 appears to actively be concealing their own crime because they are partially liable
27 for the violation. So, you can't trust this methane report and furthermore I would
28 recommend that no one volunteer to go into that pipe with a torch and see if there's

1 methane because it fluxes. Methane doesn't just come come to the surface in a
2 regular, a regular way, it pulses.

3 The staff report did not include a map of wetlands delineated by the state,
4 the staff report contrarily provided a wetlands map provided by a private party
5 which is conflicted, liable for the violation and is attempting to conceal its crime
6 from the coastal commission actively. The Coastal Commission should require an
7 independent methane report and hydrology report from an independent party hired
8 by the applicant under California contract code to avoid such conflicts of interests.

9 Furthermore, the Commission should require a monitor if this has passed-- a
10 hydrologic monitor --not a biologic monitor, a hydrologic monitor, this is a matter
11 of groundwater. The Commission, the Commission should require staff to
12 produce the wetlands delineation produced by the state not by the private
13 conflicted party which is problematic. If you could --and in the background I'm
14 going to play a video of the water draining (video at 36:17). The planning process
15 should be used to, not be used to aid and reward a violator.

16 The Commission should fully enforce the Act. The Enforcement Division
17 requested that a cease and desist order in 2014, the violator has had plenty of time
18 to comply but has not and will not. Violation of section 30600 of the Coastal Act,
19 by conducting development without a coastal development permit, violation of
20 section 30221 by not maintaining biologic productivity and the quality of coastal
21 water streams wetlands and/or estuaries to maintain optimum policy populations of
22 marine organisms, by not protecting human health and safety by not reporting the
23 presence of methane gas in the water at the sea.

24 The Coastal development permit 591463 site, which is associated by failing
25 to control water runoff by discharging untreated water into waters of the United
26 States and violation of the Clean Water Act and the Coastal Zone Management
27 Program which implements the U.S. Coastal Zone Management Act of 1972, and
28 by not encouraging wastewater Reclamation. Violation of sections 30253 A, B, C

1 and E. The applicant did not disclose the project as an in and as in a seismic
2 hazard zone and stated there are no geologic reports and did not provide a geology
3 report and didn't comply with 30253 A. The permittee conducted development in
4 an area of high geologic risk in violation of 30253b, by failing to assure stability
5 structural integrity and neither create nor contribute nor significantly caused
6 erosion, geologic instability or destruction of the site at the site was destroyed. The
7 permittee is not consistent with 30253 C imposed by Air Pollution Control District
8 or the State Air Resources as to each particular development by releasing explosive
9 methane into the atmosphere which is a greenhouse gas and not reporting the
10 ongoing release to this Coastal Commission when they have known about it the
11 whole time.

12 The permittee is violating 30253e, by not protecting the people that visit the
13 site. Furthermore, the CDP 591463, this says Playa Capital was the applicant and
14 now the Department of Fish and Wildlife is required to make sure this is
15 implemented. They constructed a road in the riparian corridor without a Permit,
16 they did not get a Stormwater Pollution Prevention Plan and NPDES permit
17 required under the Federal, Federal agreement with NOAA to implement the
18 Coastal Zone Management Act of 1972. The project didn't, did not get a flood
19 control permit for CDP 591463 and they're using a manager that is conflicted and
20 not authorized by this Commission to report to the Commission in regard to that
21 permit and the deed restriction was not properly placed. In summary, this should
22 not be treated as an enforcement action against the permittee of 591463 and this
23 Commission should ask the executive director to begin a cease and desist order in
24 this regard. Thank you.

25
26 [CHAIR, COMMISSIONER TURNBULL-SANDERS] Thank you. Mr. Robert
27 Roy Van de Hoek, appears that you have time ceded to you by one other person,
28 Marcia Hanscom, is that correct? Ms. Hanscom would you like to speak?

1 Ok, good afternoon, if you could state your name for the record and do you have a
2 presentation to give, to cue up?

3
4 [MARCIA HANSCOM] Marcia Hanscom with Ballona Institute.

5
6 [CHAIR, COMMISSIONER TURNBULL-SANDERS] I'm sorry to interrupt, so
7 is Mr. Van de Hoek here? Okay, so then you'll have three minutes. Okay, thank
8 you.

9
10 [MARCIA HANSCOM] So, the question I have before you is why drain a
11 wetland? Well if you think you want to build on it and it's in the California Coastal
12 Zone maybe you want to drain a wetland. (presentation slides start at 2:51:00 At
13 the time that Playa Capital did do this, they thought they were going to build in this
14 very area. Could we have the next slide please? You can, I hope you can see this in
15 the foreground. You see the land that is to the south of Jefferson Boulevard. In the
16 further area, you see it's lighter and you don't see any water ponded there. That's
17 the area where this drain, these drains were. This picture was taken in December of
18 2014 and you can see when it rains it ponds, except where they put the drains. The
19 next slide please. You could see it better here perhaps the blue water ponded in the
20 area where there are no drains up above you can see it's drier, no ponded water.
21 Next, and here's another picture that shows you a bit of the freshwater marsh but
22 on on this side, the foreground of the picture that that's not the freshwater marsh
23 that is part of that ecological reserve and you can see the ponded water there and
24 again further up you see no ponded water. So, I think what I'd like to say is that
25 there are serious, serious issues related to the methane gas when your staff said that
26 Psomas said that the engineer, long time engineers for Playa Vista developers, they
27 said that there was no no no methane from the gas storage facility underneath
28 Playa Vista. Well this is not underneath Playa Vista. The methane gas storage

1 facility, SoCalGas, Playa del Rey storage field is underneath, directly underneath
2 the Ballona Wetland Ecological Reserve. So, there are serious issues related to the
3 gas and I hope you will listen to those that said I also we also are agreeing with the
4 attorney from Fish and-- California Department of Fish and Wildlife on this. You
5 cannot continue to have a wetland being drained for ten years, more than ten years,
6 thirteen years since the land was was purchased. It's been drained for another seven
7 years apparently before that it was being drained. We've got to let the rains soak
8 into this land. So, we would like to support the staff recommendation with a caveat
9 that there needs to be some serious, serious investigation into this gas field and
10 perhaps even a decommissioning of the gas field really should not be here. Thank
11 you.

12
13 [COMMISSIONER TURNBULL-SANDERS] Next we have an organized
14 presentation from Patricia McPherson. It looks like you have three people ceding
15 time to you for a total of 12 minutes.

16
17 [PATRICIA MCPHERSON] Thank You, Patricia McPherson, Grassroots
18 Coalition. First of all, I'd like to echo what John stated, that this is not attached to
19 the DEIR in any way, shape, or form. This has been something that's been ongoing
20 as they say since 1996 and that we alerted the Commission to it in 2013. Staff did
21 not tell you that on page nine of nine of the letter from enforcement that this, they
22 requested a cease and desist from Playa Capital and from Fish and Game. They did
23 not respond.

24 The Coastal Commission enforcement sent yet another letter asking from
25 them to respond. They did not respond. We didn't sue until 2016. Where is Fish
26 and Game in all of this? Nowhere! They are non-responsive. The only reason they
27 are before you today, is because of our lawsuit, and the only thing that we could do
28 was get them to come forward with a coastal development permit application.

1 That leaves it up to you, to be able to now go back to what enforcement had
2 said originally and give us a cease and desist order. As Ms. Haage has said on the
3 Isaacson Ranch area, that is the best, the most cost-effective way to deal with a
4 violation. This is an active violation that Fish and Game has known about this
5 since they took the site in 2004. At that time, none of the reports that they put out,
6 which were numerous and claimed through their private business the Bay
7 Foundation, that they had the best reports ever they didn't include any of this
8 drainage of the wetland to the public. Why wouldn't they do that?

9 Their land manager, it has come to our attention through emails between
10 himself and Mr. Huffman discussing the fact that the land manager, Brody, is the
11 on a board member of the private business of Playa Vista. I consider that to be
12 misconduct and we are going to take this up with Fish and Game and with the Fish
13 and Game Commission. But these are all things, Mr. Vargas, that you brought up
14 when we were in the, the Ranch area Gillette Ranch area that you were concerned
15 about issues of conflict of interest and untoward things going on. Well, that's what
16 we're raising to you and trying to raise to you very quickly here and we have
17 provided you, in information that we have sent to you, none of which do we hear
18 from the staff.

19 Staff report...Staff told us in one meeting why was there no hydrology report
20 done at the time and at the time it hadn't been submitted even by Playa Capital and
21 our response from Ms. Henry was it would cost money. Well I'd like to let you
22 know that we're all volunteers here. We've been using our own money to take
23 things to court, to deal with all of these issues all of these years. The state's money,
24 on the other hand, the 140 million to acquire this land and the 25 million to restore
25 it has been squandered. It's still not restored. And, it should have been and now
26 we've embarked on yet another private interest with Playa Vista which is why
27 we're bringing up the CDP 591463. It was never completed for its flood control
28 options. The need for them is to dig this out so that all of the waters can flood away

1 from the site so that they can try and keep their gas mitigation systems from
2 flooding with water and failing. They already are. How do we know that? Because,
3 we had a 2007 audit done by Laura Chick, in the City of Los Angeles, that said
4 they can't even prove that their gas mitigation systems are working. We have a
5 problem, nothing has changed since that audit was done.

6 If you look at the thing that I gave you, it shows the area where the drainage
7 was. It shows how it ponds up and drains away the very next day, and again Fish &
8 Game has known about this all this time. I bring to your attention what John
9 brought up, a Clean Water Act violation. They bring before you people, they bring
10 before you Mr. Crehan with all of their science. Well, we have an email that staff
11 has from Mr. Crehan acknowledging the fact that there is backwash from the
12 Channel, the Ballona Channel, up through those drains and into the wetlands. So,
13 they've had a Clean Water Act violation going on, and a Coastal Act violation the
14 same one John mentioned, since 1996.

15 I don't see any of them coming to us. to say, "gee you know what we found
16 this, you're right let's do something about this." And, now that we have this, think
17 of this as in terms of a crime scene you have a Clean Water Act violation. They
18 want to come in and do some slick little capping without ever doing a hydrology
19 report to determine what harm has been done and, and—God-- The DEIR that
20 they're trying to get you to pay attention to, there is not even a hydrology report in
21 that. And, that is the political might of Playa Capital LLC on the Department of
22 Fish and Wildlife here. We don't even have a hydrology report on a wetland. That's
23 what we want done. We want this predicated on a cease-and-desist, we want--
24 there are fines that could be paid for since 1996, we have the Clean Water Act
25 violation that if you tamper with this site without dealing with the agencies that are
26 involved in this, which are the Water Board and also the Coastal Commission
27 under the Coastal Act for this Clean Water Act violation for your CZMA
28 complicity with the federal standards, you're actively tampering with a crime

1 scene. And, I don't know the legal ramifications of that but certainly when it's a
2 murder going on you don't tamper with the crime scene until you investigate the
3 situation and deal with that situation.

4 These are the same people and I was bringing up the land manager and why
5 his emails with Huffman, the president of Playa Capital, and now Brookfield as
6 well, discussing Brody's involvement as a board member of their own private
7 business that is managing, which we believe is gifting of public funds going on
8 here, of their flood control system. Which, when we paid one hundred and forty
9 million dollars, don't forget it included the freshwater marsh. It was only someone
10 from Playa Capital, another consultant that wrote a letter on behalf of Playa
11 Capital, saying keep this system out of the Ballona Ecological Reserve, because it's
12 our flood control system.

13 Well, why did we buy it? For them to manage? For them to control? For
14 them to have all their experts doing everything? And, by the way CDM, who is
15 their gas expert, on what that story I told you earlier about Exploration
16 Technologies, Exploration Technologies. I can provide you with their assessment.
17 They came into the City of LA to do a peer review on what had been done before.
18 Their gas experts had already studied the area - and let me tell you there was no
19 gas and it was all swamp gas. But you know what, instead we brought in
20 Exploration Technologies who wrote a letter saying their work was junk. And we
21 now know that the Playa Vista area of Ballona is one of the largest oil field gas
22 seeps in the country. And, those videos I showed you yesterday about the
23 enhanced gas in the freshwater marsh, you're telling me we can't find? I've heard it
24 before and it's not true. It is not true. I have four more minutes. All right, what I'm
25 saying is the lines have been blurred by this state agency that is acting on behalf of
26 a private business, Playa Capital and now Brookfield, who's kind of caught in the
27 middle from from north of our border, instead of protecting the public interests and
28 the ecological interests.

1 Brody, if he's a member of this private business which he claims that he is,
2 which we have public record act requests to Fish and Game, which they claim
3 otherwise; he then is part of, on page two of what I gave you, that illegal road
4 building. Because Building and Safety is going to be citing them for violations
5 because they never got a permit to build that road. I mean think about it. Don't you
6 have to grade a road. You have to figure out what are the soils. You have to
7 compact those soils, you have to have permits for doing that. Did they do that? No.
8 And, who was that? Well, according to what they're telling Building and Safety, it
9 was the Ballona Conservancy, who again appears to be a bogus agency because
10 this Commission back in 1990, approved Ballona Foundation to have oversight of
11 this whole flood control system. But, guess what? It never got formed. They don't
12 exist. But, you know what Playa Capital decided in 2000, we're gonna tell
13 everybody we're it. And, that's who's on it and somehow they've, they've snarled in
14 Fish and Game who never wanted the oversight of Ballona in the first place. And,
15 they've got a staff person that is local, acting as a board member -misconduct,
16 misconduct.

17 Why are we allowing a private developer to run this ship? Why? Because,
18 it's Morgan Stanley, Dean Witter, Goldman Sachs and they're too big to fail. I
19 would say yes. I would say, hell yes. And this needs to change and I really urge
20 you to please review everything that we have given you and we do not want this to
21 be approved today. We want to see a hydrology study done on this area. The
22 DEIR may not get approved for another ten years. So, when they tell you oh,
23 they'll fix it in five years, why, why would we wait to fix it in five years? And, this
24 temporary cap, if you think those gasses, I can show you video tape of ETI, out
25 there on the land where you put a tarp over it hell I've done it, I've done it on the
26 marsh. If you've watched NBC's Burning Questions. I put it in a bag and torched
27 it. You can put a rag on the ground and watch the gases seep up under it and torch
28 it. And, yes, we do need to deal with SoCalGas and try to stop what they've got

1 going but that's yet another issue. But that is also Playa Capital's woes and they
2 must get rid of the water in order to have any chance at all for those gas mitigation
3 systems to work. Otherwise they clog the systems and they fail.

4 They're already failing. People are moving out because the system's keep
5 ringing off and off and off and off again and they keep having to raise the levels
6 because they've got so much gas coming out and you saw the picture I showed you
7 of all those gas levels, that's in the ambient air. That is unnatural. That is wholly
8 unnatural to have that kind of gas coming out and what is coming out is either
9 seeping up through the ground or if it does happen to go through a gas system it's
10 still right there. And we're talking all of the BTEX gases here. I heard the mention
11 of h2s well, what about benzene toluene xylene? What about the methane itself?
12 And, you have CDM's own reports that I've given staff that show that we have such
13 high levels of gas out there and in the marsh. So, it is not inconceivable to think
14 that it stays in the solution in the water and may move through these pipes and
15 collect as a secondary collector zone in those capped areas.

16 And, it's a crime scene, you've got a Clean Water Act violation. Mike
17 Crehan didn't tell anyone that they were getting backwash. Playa Capital didn't tell
18 anyone they were getting backwash. But you know what? Fish and Game has
19 known about this all along. We have the email. You have the email. Both planning
20 and enforcement have the email of Crehan acknowledging this with Fish and Game
21 that they have backwash going into the Ballona Wetlands. It's illegal. It's illegal
22 and I have three seconds to say thank you very much for hearing that. I hope you'll
23 not approve this. Thank you.

24
25 CHAIR, COMMISSIONER TURBULL-SANDERS- Thank you, we'll next have
26 David Chamberlain. Thank you very much and let's see, we have another, I think I
27 have two speaker cards from Ms. Hanscom. That will conclude our public
28 comment. Unfortunately, I don't have a public comment card, if you could just

1 come up and state your name for the record and fill out another form because I
2 don't have any other speaker cards. All of the cards had ceded time to other
3 speakers, this is for Item 10c.

4
5 [REX FRANKEL] Right, yeah and I have a presentation.

6
7 [COMMISSIONER TURBULL-SANDERS] OKAY, if you can just fill out a, fill
8 out a card after your presentation. You will have three minutes and if you can state
9 your name for the record.

10
11 [REX FRANKEL] Yeah, I'm Rex Frankel. I'm the legal director of the Ballona
12 Ecosystem Education Project. I want to give you the regional context for the
13 systematic removal of freshwater from the Ballona Wetlands. It is very significant
14 because the Department of Fish and Wildlife's restoration plan EIR that came out a
15 couple months ago only analyzes alternatives that involve converting the Ballona
16 Wetlands from a historically freshwater dominated area, to an entirely saltwater
17 project. [presentation slides at 3:08:23]

18 At the same time, the City and County of Los Angeles have an EIR to
19 largely dry up Ballona Creek's freshwater supply, cutting it from 27 million gallons
20 a day to 7 million gallons a day in the dry season as part of a TMDL Clean Water
21 Act project. By converting the Ballona Wetlands Restoration Project to an arm of
22 the ocean, Department of Fish and Wildlife justifies massively bulldozing the site,
23 lowering several hundred acres of the site from 15, 10 and 15 feet elevation down
24 to sea level in order to flood it with seawater. Can we go to the next slide please?

25 200 years ago, the Ballona Wetlands were a freshwater system. This is, this
26 excerpt here in the middle of the slide is from the existing conditions report
27 published by the California Coastal Conservancy and the Department of Fish and
28 Wildlife that explained that the saltwater habitats were were a very small

1 percentage of the Ballona Wetlands. It was largely a freshwater system. The next
2 slide please.

3 This is a better image of it, you can see that the the pale green largely
4 dominates the area within the red boundary. The only areas that where lagoons are
5 in the in the blue that were largely in the northern part portion of the Ballona
6 Wetlands historical area.

7 Can we go to the next slide please? The significant biodiversity as you can
8 see is these are areas that will be in habitats that will be wiped out or buried under
9 the state's restoration proposal to convert the freshwater and upland areas into salt
10 marsh.

11 Next slide please. The Coastal Act specifically says that the only thing you
12 can do in a wetland is restore it. What the Department Fish and Wildlife is doing
13 is converting freshwater habitats that that's its historical nature of it 200 years ago
14 before man arrived and messed up the property. It was a freshwater system, so the
15 state is trying to convert it into a saltwater dominated system entirely excluding the
16 freshwater systems. That's not a restoration, that's basically a development. The
17 next slide please.

18 This shows the habitats on the site. Let me just go to the next slide here to
19 show you that generally, basically what the project is proposing is to take a 15 to
20 20 feet of dirt from the northern wetland, dump it into the southern wetland
21 basically switching the locations of habitats. The next slide please. Very disruptive
22 over the next 10 years spending almost 200 million dollars. The next slide please.
23 Paving over our hiking paths. Next slide, as you can see the numerous hiking trails.
24 Continuing this is the Clean Water Act proposal. Let me go to the next the last
25 slide please. The water treatment plants the City of LA is constructing that would
26 create a water source, and so the last slide and the presentation shows three water
27 treatment plants on Ballona Creek. Just three more, five more seconds.

1 [COMMISSIONER TURNBULL-SANDERS] Please sum up because you're out
2 of time.

3
4 [REX FRANKEL] One last slide, if we restore it, if we made use of the water
5 from the three treatment plants that the city of Los Angeles constructed instead of
6 diverting that water to Hyperion sewage treatment plant, dumping it in the Ocean.
7 Instead, if we piped that water down the Ballona Creek along the levees we could
8 restore the Ballona Wetlands simply by-- just like turning on a garden hose. The
9 freshwater wetlands could be restored immediately, rather than waiting a ten year
10 period with massive disruption of massive habitats just moving around. So that's
11 what's the problem with the EIR on the depriving of the freshwater systematically.
12 Thank you very much.

13
14 [COMMISSIONER TURNBULL-SANDERS] Thank you, thank you. And
15 Ms.,ah, and, at the Coastal Commission we, signal our applause like this, thank
16 you, Ms. Vosburg, did you fill out a speaker card?

17
18 [JEANETTE VOSBURG] We just turned them in, my son ceded his time, Todd
19 Vosburg

20
21 [COMMISSIONER TURNBULL-SANDERS] I'll allow it but typically we have
22 to fill those out

23
24 [JEANETTE VOSBURG] We did fill them out. We filled them out before the
25 meeting started.

26
27 [COMMISSIONER TURNBULL-SANDERS] Thank you. Okay, so there was an
28 error, okay, okay.

1
2 [JEANETTE VOSBURG] I have no idea why you didn't get it. I've..

3
4 [COMMISSIONER TURNBULL-SANDERS] So you will have six minutes.
5 Thank you.

6
7 [JEANETTE VOSBURG] Okay, I turned in this brochure that has over 90
8 different species, and I also turned in a list of youtubes and the flyover flyover of
9 the area and. I feel very badly for the endangered species and species of special
10 concern that are out there, that are being deprived of fresh water by Playa Vista. I
11 have a letter from our attorney. I represent Grassroots Coalition and I have a letter
12 from Todd Cardiff and I'd like to read it to you. It's in reference to the CDP
13 Application number 5170253 item TH 10 C, opposed. Honorable Coastal
14 Commissioners, I am the attorney for Grassroots Coalition and the attorney that
15 brought a civil enforcement action in Los Angeles Superior Court to compel
16 California Department of Fish and Wildlife to apply for a coastal development
17 permit. Grassroots Coalition v CDFW and Playa Capital, Los Angeles Superior
18 Court Case number BC619444. The case was settled with the agreement that
19 CDFW would apply for a coastal development permit. Such settlement which has
20 been submitted to the Coastal Commission should be part of the record before the
21 Commissioners. As is consistent with separation of powers the Settlement requires
22 CDFW to apply for a CDP pertaining to the drains without specifying what time
23 type of action is required to remedy the violation of the Coastal Act. The
24 Settlement also does not impact the discretion of the Coastal Commission to
25 approve, deny or modify the CDP. My first concern with CDFW's application is
26 accuracy. CDFW and Playa Capital still maintain that the drains somehow serve
27 the freshwater marsh. Even the consultant from Playa Capital Psomas
28 misidentified the drains as BFM drains in their wetland delineation map. (exhibits

1 P 7 through 29.) There is no attempt to explain how the drain somehow served the
2 Ballona Wetlands Freshwater Marsh and appears to be a cynical attempt to
3 minimize the potential impact that the drains had on the Ballona Wetlands. In
4 addition the Psomas report's hydraulic hydrological analysis for freshwater marsh
5 outlet drain risers prepared by Psomas, for Playa Capital LLC on September 27,
6 2017, is not contained in the exhibits for the staff report. It is therefore, it is not
7 feasible to review such hydraulic analysis and verify its accuracy. This brings me
8 to my primary concern the proposal and preferred alternative is to simply plug the
9 weep holes and cap them. The required mitigation is a one to one ratio for
10 approximately 1/8 of a cubic yard per riser. This fails to recognize the potential
11 impact that the drains had on the wetlands for the last 20 years. While it is difficult
12 to calculate the relative impact, mitigation should be imposed to accommodate the
13 relative impact mitigation, removal of water surrounding the drains in a delineated
14 wetlands. We would suggest that at least a quarter acre of wetlands be restored,
15 independent of any restoration project in the area surrounding the drains. Such
16 restoration efforts should include the removal of invasive species and the planning
17 and maintenance of appropriate wetland species.

18 In addition, the CDP does not require the payment of any sort of fines or any
19 restitution for the illegal nature of installing the drains in a wetland area. While the
20 Settlement did require \$20,000, \$10,000 per drain, to be provided to the Coastal
21 Conservancy consistent consistent with Public Resources Code section 30823 the
22 Settlement explicitly reserved the right to demand additional mitigation and fines.
23 Grassroots Coalition suggests that at least another 20,000 dollars be ordered to be
24 paid to the Coastal Conservancy because because of the nature of the violations.

25 Finally, the Staff Report claims that Grassroots Coalition has not provided
26 any evidence of the methane in the water or the drains, this is not accurate. The
27 problem with the methane seepage is well documented in the, in and surrounding
28 the Ballona Wetlands. The City of Los Angeles developed a separate Methane

1 Code based on the concern that methane would enter basements at Playa Vista
2 causing potential catastrophic injury. Substantial water is being removed from
3 Playa Vista to draw down the water table thereby impacting Ballona Wetland's
4 groundwater table to ensure that the methane pumps and vent pipes work properly.

5 Finally, Grassroots Coalition submitted video documentation of methane
6 bubbling up in the Ballona Freshwater Marsh, it is not a speculation speculative
7 fear to be concerned about the potential capture of methane in capped and sealed
8 risers, particularly when the consequences may be lethal. Methane is explosive at
9 concentrations between five and fifteen percent. The most sensible option is to
10 require the full removal of the risers and lateral drains at this time which will
11 theoretically be required in five years anyway under the proposed CDP condition
12 Four. At the very least a mitigation measure should be added that requires non
13 flammable and non-sparking materials to be used if the drains ever need to be
14 opened.

15
16 [COMMISSIONER TURNBULL-SANDERS] Thank You

17
18 [JEANETTE VOSBURG] Particularly when slated for removal.

19
20 [COMMISSIONER TURNBULL-SANDERS] Thank you, thank you

21
22 [JEANETTE VOSBURG] I'd just like 30 seconds CHAIR-- If you'd sum up

23
24 [JEANETTE VOSBURG] I had two minutes that I didn't use

25
26 [COMMISSIONER TURNBULL-SANDERS] Okay, you're using that time now,
27 if you want to sum up you can have 20 more seconds

1 [JEANETTE VOSBURG] Okay, in conclusion Grassroots Coalition strongly
2 opposes the CDP as currently proposed, as it does not account for the damage that
3 has occurred to the wetlands, does not even restore the area where the risers are
4 located, lets Playa Capital and CDFW off the hook for installing and maintaining
5 drains in protected wetlands, and fails to even consider complicating factors of the
6 undocumented methane seeps in the vicinity. We urge you to require the removal
7 of the lateral pipes and drains.

8
9 [COMMISSIONER TURNBULL-SANDERS] Thank you

10
11 [JEANETTE VOSBURG] The imposition of proper mitigation for the loss of
12 water and harm to the wetlands and the imposition of a substantial fine to punish
13 and deter.

14
15 [COMMISSIONER TURNBULL-SANDERS] Thankyou, thank you I'm trying to
16 give you as much time as we could, thank you thank you.

17
18 [JEANETTE VOSBURG] I, I want to commend all of you for the Coastal
19 Commission is really has gone from a place that I was really concerned about
20 coming to, to something that it's kind of a joy to behold and thank you all for that.
21 I know you're really making some efforts to to do a really good job.

22
23 [COMMISSIONER TURNBULL-SANDERS] Thank you, thank you. We'll now
24 hear from the applicant for a rebuttal. Would five minutes be sufficient or how
25 long do you think you might need?

26
27 [KEVIN TAKEI] You know, I probably don't need that much time.

1 [COMMISSIONER TURNBULL-SANDERS] Okay we'll just give it to you and
2 then you know, if you use it then fine, if you can keep it shorter we always
3 appreciate that.

4
5 [KEVIN TAKEI] Sure, yeah, yeah. My caveat is, well, so again, my name is
6 Kevin Takei, with California Department of Fish and Wildlife. I think when I was
7 here before, you know, we recognize there are a lot of different issues going on at
8 Ballona and I think rather than going through the number of different issues that I
9 think you've heard about today, methane, the draft EIR, the consultants, Clean
10 Water Act, other number of issues, you know... we could go through that, but I
11 think going back to what I first said, you know, from the department's perspective,
12 with the purpose of this application was two things: number one is how do you
13 stop that water from entering those risers and number two how do you do so in the
14 least environmental impacts. And I think that's again while I did underscore that
15 the Department would support staffs recommendation to place the caps and then let
16 our process with the draft EIR and the restoration project that will come before
17 your commission here, because we will need to have a coastal development permit
18 from you to move forward with that. So we could go through that process and
19 before that I think probably would be useful if maybe the department had a chance
20 to maybe come back, maybe do a quick presentation to give you a little bit more
21 idea as to what is going on with that restoration. We're currently in a public
22 comment process, but, maybe after that, we can come back and give you a little bit
23 more detail. But again, rather than go through each and every point and possibly
24 detract from what we view as the main purpose, I'd prefer to make ourselves
25 available for any comments that you may have about something that you heard and
26 so with that I think I'd I'll conclude my remarks there. And, like I said we are
27 available for any comments that you have.

1 [COMMISSIONER TURNBULL-SANDERS] Thank you, and bringing it back
2 to staff.

3
4 [STEVE HUDSON (DEPUTY DIRECTOR)] Okay, thank you. First, I'd just like
5 to maybe take a step back collectively as a room and just may refocus this
6 discussion to on. To first note that staff does recognize that this was a very
7 serious violation. The installation of these two spur pipes and the risers which
8 were draining this this wetland area. And the Commission staff and the staff of
9 Fish and Wildlife have been working very closely together to bring this application
10 to you to resolve, or partially resolve the ongoing resource damage. That was our
11 our first mission here which as Mr. Takei had just mentioned is water is draining
12 out of this wetland the freshwater marsh and we need to stop that right away and
13 that is an interim stopgap measure only while Fish and Wildlife continues to
14 develop a longer-term much more comprehensive restoration plan for a much
15 larger area of Ballona.

16 And to acknowledge some of the the issues that were said, first I'd like to say
17 that staff really does appreciate this large public response and this amount of
18 concern about Ballona. It tells me that I think we should concentrate on our
19 similarities that we all have a very shared goal here which is protection of Ballona
20 and these resources. But there is no dispute of what is a wetland here and the
21 request by Mr. Davis and Ms McPherson that a wetland delineation and other
22 technical studies were necessary, Staff just disagrees with that. We didn't require a
23 new wetland delineation for the project that's before us because it was about
24 capping these two unpermitted pipes in the middle of a much larger wetland.
25 Everything there is a wetland so we're simply focusing our our review on on the
26 project before us, which is the capping.

27 And similar to that these qualities or the issues regarding water quality and
28 the hydrology and that were mentioned by some of the opponents and and by Ms

1 McPherson, specifically, again that is not related to the project that is before us
2 today. If we could bring up slide number three, please, just like to point out
3 something on that image, which is a lot of these issues are related to the much
4 larger issues with the Ballona wetlands and their management. Now, you can see
5 in this image that long pipe here that leads from Freshwater Marsh into the Ballona
6 Channel, that was, that was the pipe discussing, that was permitted in the
7 Commission's 1991 Coastal Development Permit and that's legal. All that we're
8 looking at today are the two unpermitted spur pipes, these two little black lines
9 leading to the red dots. That was the violation. The concept though, is for us, the
10 hydrology would be restored on this site by stopping the water on our site from
11 going into those pipes and that's what we have to accomplish here.

12 Now as Ms., Ms. Vosburg had indicated, her preference was that the spur
13 drains and the riser should be removed in their entirety and that was staffs
14 preference as well. And that was our first question to Fish & Wildlife, can we just
15 get rid of those now? Now that, that is one alternative, but, the reason that staff
16 has agreed and as did many of the opponents through the Settlement Agreement
17 that was reached with Fish & Wildlife, is that at this point to stop the ongoing
18 resource damage the way to achieve that is by simply capping this. The removal of
19 those pipes - - it's either removal or proper abandonment. That would be part of
20 this much larger project and that is what is related to this draft environmental
21 impact report that does not necessarily relate to this project, it's for that much
22 larger restoration project that Fish and Wildlife is developing. They're going to be
23 going back in disturbing a much larger area that includes the project site. It makes
24 sense given that there are archaeological concerns there are archaeological
25 resources, other wetland resources that would be disturbed as part of that much
26 larger project, so we agree that it is logical then that as part of that much larger
27 project, that's when you would evaluate going back in having the additional
28 disturbance related to the full removal of those pipes occur and that is being

1 addressed through that Environmental Impact Report that was mentioned. And
2 then once that solution has been developed that would come back to the
3 Commission at that time. And our Special Condition, Special Condition 4 of the
4 staff report requires that.

5 So, as Ms Vosberg was concerned, it does not let any of the property owners
6 or previous violators off the hook. In fact our condition requires that within five
7 years they come back, submit an application, whether it's been done through that
8 much larger project or not, for the full restoration of the areas of this of the site that
9 were disturbed as part of the violation, meaning the two spur pipes. And, to us, we
10 think that is that's just the appropriate way to the proper order. What this permit
11 today would allow us to do though, is to get out there immediately and stop the
12 water from draining down pipe by capping it and plugging those weep holes. With
13 that Miss Henry and do we have any additional comments? We would like to have
14 our enforcement staff address some of the issues that were raised during the public
15 comment as well.

16
17 [LISA HAAGE] I can honestly say I've never spoken from this position before. I
18 just wanted to explain, and Steve covered a lot of a lot of the the ground and I
19 would also refer you to pages 7 & 8 at the staff report which has a really good
20 summary of what the history of the enforcement was here. There are a lot of
21 allegations that were thrown around today about an environmental hazards and
22 violations and many of them just aren't ones that fall within the rubric of the
23 Coastal Commission. The ones that do we're very concerned about. As Steve said,
24 we completely share the concerns. We think that draining a wetland is about the
25 most amazing violation that you could have. I mean putting a drain in a wetland is
26 exactly the opposite of anything that you do in a wetland. It was installed by Playa
27 Capital when they owned it and we have an open a case open case against them
28 and as they said, and, as is summarized in the staff report, we did write them a

1 number of letters and tried to work with them and negotiate with them when we
2 weren't able to do it. But California Fish Department of Fish and Wildlife bought
3 the property and this permit action before you today is as a result of both our
4 enforcement efforts and the Settlement reached in a private litigation. And that
5 Settlement litigation specifically required this very CDP and as you may be aware
6 we have somewhat different enforcement options when the owner of a property is
7 another state agency and so we've been trying to figure out given the constraints
8 that we're working under, what was the most effective way to resolve this
9 violation.

10 From our perspective, the most important thing was to cap the those pipes
11 and stop the draining of the wetland as quickly as possible and this CDP provides
12 that opportunity. Several commenters mentioned the option of getting penalties
13 and I would just note again to you that the owner of the property is a state agency
14 and also that, although we love our administrative penalties, and this hopefully will
15 not be true in the future, but as of now they only extend to access violations and we
16 can't get administrative penalties for violations that don't involve an access even if
17 they're serious and involves that they like the wetlands.

18 So just so in summary, we agree with many of the comments that folks take
19 have raised and the enforcement staff has taken this case very seriously and
20 support the CDP and the taking the soonest steps as possible to stop the draining of
21 the wetland. We're available if you have any questions. Andrew Willis has worked
22 on this case directly and he's here as well.

23
24
25 [STEVE HUDSON] Okay and that concludes staff comments.

26
27 [COMMISSIONER TURNBULL-SANDERS] Thank you, bringing it back to our
28 Commission. Commissioner Peskin.

1
2 [COMMISSIONER PESKIN] Thank you, Madam Chair. So, I mean, it appears
3 that this has been going on for 21 years, but that Staff became aware of the
4 violations in 2013, which is four years ago and apparently we wrote a letter in June
5 of 2013, and several years later in 2016, a private party sued. And I've only been
6 on this Commission for nine months but, and with all due respect to staff, I see a
7 little bit of a double standard as it relates to when you guys are in the tough
8 position of dealing with a fellow state agency, as we saw in Oceano Dunes, as
9 compared to dealing with the private public. And, I'm having trouble grappling
10 with why we did not, why a private party had to do this three years later. Why four
11 years later we're coming up with a half a solution because our fellow sister agency
12 has bigger future plans which you know, are remarkably complicated and I don't
13 want to opine on whether a freshwater body should become a salt water body and
14 15 feet of dirt should be removed and put to the other side. We'll save that for
15 another day.

16 But, it seems like if you have violation its take out the pipes, cap the drains
17 at least that's true and why weren't we issuing a Cease and Desist Order in 2013
18 and requiring that then? So I mean, this seems like a half a solution and just
19 because, I mean, if this was a private party and they said oh well, we have future
20 development plans so just give us half the solution we would say, "no you got a
21 you've got to fix all of your 1991 permit violations." Want to respond to that? I
22 mean, I could approve this and I think it's a step in the right direction, if we're also
23 saying take out the pipes because that's the violation and it's not my problem that
24 Fish and Game's doing a DEIR that's going to be done in some amount of time in
25 the future. The problem is there's a violation, it has to be cured.

26
27 [JOHN AINSWORTH, EXECUTIVE DIRECTOR] Yeah, I think. Look, the
28 removal of pipes is an option that the Commission can consider and you can you

1 can take that path. The, uh, what we were looking at here is more of a pragmatic
2 sort of approach in trying to deal with this issue and syncing it up with the larger
3 wetland restoration project and the the notion of bringing a enforcement action
4 against another state agency is and, a leveling fines against those agencies, it's
5 something that we try to avoid and we try to work out those those issues with our
6 sister agencies in a, in a collaborative manner and that's what we've tried to do here
7 step by step and so look this is a commission decision you can make. And ours is a
8 recommendation which I felt was based on a more pragmatic way of dealing with
9 it.

10
11 [COMMISSIONER PESKIN] and, through the chair to staff, I appreciate that and
12 I always prefer honey to vinegar but not when it takes four years because then
13 we're really, it's a double standard. So, and quite frankly the role that this body
14 plays in state government is different than agency to agency relationships that Fish
15 and Wildlife might have with State Coastal Conservancy. I mean, we are a
16 regulatory body and we're a regulatory body of over other state agencies you know
17 relative to consistency determinations with federal agencies and and the private
18 regulated community. So, I mean, yes, it's very nice to be collaborative but not
19 when it takes four years and we end up with a half a solution and a double
20 standard, respectfully. I mean, I have great respect for Staff and our Enforcement
21 Staff but, I mean we can't cut people breaks that are different for one part of the
22 regulated community whether they're a sister state agency or the private regulated
23 communities. It's not right.

24
25 [COMMISSIONER TURNBULL-SANDERS] Commissioner Brownsey.

26
27 [COMMISSIONER BROWNSEY] Thank you Madam Chair. I just would like to
28 associate myself with the remarks of Commissioner Peskin. Deep respect for the

1 staff, both enforcement and policy. But I also want to thank the public for your
2 tiresome work on this issue because in my mind it's known for years its thirty years
3 by the time you may ever see the light of day. And to do this day in and day out to
4 preserve this absolutely precious, precious open space, I just want to acknowledge
5 your efforts, all of your attendance, the number of handouts and pictures and
6 explanations and and passion that we have seen in numerous. And Aaron and I
7 have been on the Commission for the same amount of time.

8 I I understand that sometimes the wheels of government have to creak
9 slowly, but I agree this is a half solution. I can support this if those pipes come
10 out. I just don't see any it seems to me a an extraordinary waste of time and
11 resources and public support, to simply cap these pipes and it could be five years, it
12 could be ten years, it could be another 20 years, and the the health of this open
13 space this ecological preserve I believe has been compromised long enough. I
14 think the resolution to the environmental damage in this, just in this case, we're not
15 talking about the methane or some of the other enforcement issues. I would I
16 would like to see and I think support commissioner's Peskin's suggestion that the
17 permit be approved for the removal of these drains and the pipes associated with
18 them. Let's get it done and then let's move on to the deeper more complicated
19 issues. This has gone on long enough. Thank you madam chair.

20
21 [COMMISSIONER TURNBULL-SANDERS] Commissioner Gibson.

22
23 [COMMISSIONER GIBSON] Okay, thank you. I just want to respond somewhat
24 to those comments. I mean I think you could characterize comments as treating
25 into these differently, but there's also apple and oranges comparison where you
26 have a government entity that has to go through public processes and the CEQA
27 process before it can do certain things. I know the Department of Fish and Wildlife
28 has been working on this for a long time. In full disclosure, I was actually the

1 general counsel for the Department of Fish and Game in 2013. I wasn't involved
2 with this project at the time, but I have a background. I know what I'm talking
3 about in terms of the Department they are giving this ecological reserve a
4 considerable amount of effort and public process. They've had public meetings at
5 the Fish and Game Commission meeting on this environmental document. I think
6 the Commission staff can comment on that document, will be engaged in the
7 process. I would encourage the department to come to the Commission at the
8 appropriate time, maybe this spring, and give a presentation to the Commission on,
9 from the department's perspective, the history of the wetlands, where it's going and
10 where it's trying to go, before I think... I would request before the Commission
11 decides what it thinks is happening here historically. We heard some testimony this
12 morning about how long it can take Commission Staff to do things and we
13 recognize that in government you're limited to the resources you have. I think
14 that's true at the Department as well and I think it's doing as good a job as it
15 possibly can to work through these issues. I understand the passion of the local
16 community and that's great. We need that from the public and so I'm hoping that
17 we have a public process that involves a presentation from the Department, so we
18 can really hear all sides before we come to to firm of a judgement thank you.

19
20 [COMMISSIONER PESKIN] So, through the Chair to Commissioner Gibson, Is
21 that a proposal to not vote on this today and do that in conjunction with that
22 presentation or what are you suggesting?

23
24 [COMMISSIONER GIBSON] No, I'm suggesting that concurring with the staff
25 recommendation for moving forward with today. But in terms of the larger
26 project, have the Department come in and present to the Commission what the
27 larger restoration, or you can pick your words, but what the larger project involves
28 from their perspective and why it does or does not involve other things. And

1 perhaps to some extent why certain things take longer than it seems like they
2 should.

3
4 [COMMISSIONER TURNBULL-SANDERS] Commissioner Groom.

5
6 [COMMISSIONER GROOM] Thank you Madam Chair. I guess I'm going to
7 belong, I'm on the camp over this side. I'm very confused as to listening to our
8 staff and listening to the supporters of the Ballona Wetlands, how very different
9 the stories are and I I I'm sure that everybody has their point of view but I'm it's
10 puzzling to me how how we can have to so dramatically different stories that we've
11 been told that were that were listening to and...But I will support the removal of the
12 pipes at the same time as we, as we cap the drains.

13
14 [COMMISSIONER TURNBULL-SANDERS] Commissioner Sundberg.

15
16 [COMMISSIONER SUNDBERG] Thank you. Can Fish & Wildlife come and
17 explain whether removing the pipes all the way would cause any problems or is
18 there an issue with that? Is there a process?

19
20 [KEVIN TAKEI] I'm sorry what was the question?

21
22 [COMMISSIONER SUNDBERG] One of the suggestions has been to instead of
23 capping them, just to remove them all the way...heard a couple other
24 Commissioners say that and I've just like to hear your perspective on whether that
25 makes sense or not.

26
27 [KEVIN TAKEI] Right, so, I think our concern with that would be that there
28 hasn't been any sort of analysis as to what sort of impacts you're gonna have in that

1 area. There's an exhibit in the staff report and I think there's about one to five
2 different alternatives, one of them mentions the removal of those pipes. There's a I
3 want to say it's a short description about the amount of soil that you're going to be
4 removing. I think that's from our perspective sort of that initial look at it. There's
5 been a lot of concern about you know the habitat and what's there and so to go in
6 and remove those pipes, now, without having looked at that that's something we
7 are concerned about. You know, we do talk about the draft EIR and and not to
8 belabor that point but also from just a pure not natural resource, but, like um, you
9 know budgetary resource, and I recognize this may not be the best from a habitat
10 but we rather not have to go in impact habitat once and then five years later go
11 back with our larger restoration project and have sort of doubled up so to speak. It's
12 also our understanding that at least one local Native American individual has
13 expressed significant concerns about us going in just removing the pipes. We have
14 been discussing the larger restoration project and have solicited of input through
15 the CEQA process from the Native American tribes and so I think I'd be
16 comfortable in that context of addressing those types of concerns, but I would not
17 be comfortable moving them forward with removing the pipes without having you
18 know gone through a similar process. And, so I think the underlying thing is or the
19 basic answer to your question is no we would not be comfortable because at this
20 point we don't understand what those impacts would be.

21
22 [COMMISSIONER TURNBULL-SANDERS] And the timeline for removing
23 those those pipes would look like what? If you were to go back and get approvals
24 for that? Understanding that that that we're kind of putting you on a spot,

25
26 [KEVIN TAKEI] Right.
27
28

1 [COMMISSIONER TURNBULL-SANDERS] But, just kind of giving general
2 kind of general ballpark estimate.

3
4 [KEVIN TAKEI] Yeah, I'm really hesitant to provide a ballpark just because to be
5 quite honest and I think the general public could tell you that of that our EIR has
6 taken quite a bit longer than we had anticipated. I, I think it's fair to say we've
7 probably made a couple estimates as to when we are draft EIR would have come
8 out and quite frankly we've missed that. And so we're trying to put our resources
9 to getting that done. So if we were to try to shift focus perhaps on this at Ballona, I
10 don't think we have additional staff that would be taking up that I think we'd have
11 to reallocate staff and so we're gonna have to think about the priority in the sense
12 of coming out with that larger restoration project and trying to move that forward
13 and then responding to this request. You know, I really hate to provide an estimate
14 because I quite frankly I think it's just gonna be wrong.

15
16 [COMMISSIONER TURNBULL-SANDERS] Okay, thank you thank you for
17 that. Thank you for your transparency and next we are going to hear from
18 Commissioner Luevano and then Commissioner Vargas.

19
20 [COMMISSIONER LUEVANO] Thank you, thank you Madam Chair, and I I
21 think some of the questions that I had were just asked by Commissioner Sundberg
22 and yourself. But I'll start by also wanting to associate myself with the comments
23 made by Commissioner Peskin, Commissioner Brownsey. From the start of this
24 conversation you know the first question that popped into my head is why, can't we
25 just take those pipes out right now. And, I want to recognize the work done by the
26 community here. I'm, as most of you probably know, a former Venice resident.
27 I've spent a lot of time in this area and I also go back to some of the early days of
28

1 the development of this area working for a member of Congress who represented
2 the area so I'm pretty familiar with it.

3 But, at the end of the day I'm trying to balance that with what I keep hearing
4 in regards to the amount of water that's draining and if the gentleman from fish and
5 wildlife sorry if you could come back up I just have one additional question.

6 Because, while I agree with what they're suggesting and lean in that direction, I
7 also think there are a lot of unanswered questions in a in addition to how long it
8 would take to remove the pipes, even if you could give us an assessment which
9 you've now said that you can't, it would be some length of time. I'm imagining it
10 wouldn't be in a 24 hour period. And what would be the, you know, the drainage
11 or the potential water loss in the wetlands in that period of time. So that's like one
12 of the questions.

13
14 [KEVIN TAKEI] Right okay. So, so we did provide the hydrologic analysis that
15 looked at the amount of water that was entering the drains. I'm gonna look back to
16 CDM if I start to misstate something, you know, holler.

17 But based on the ah. So, there's really kind of three ways water can get into
18 the drains. One of them is just surface flow. So you have a rain storm right rain
19 falls on the ground, goes down and get into the drain. Now, the thing about the
20 topography as to where both those drains are, they're not so to speak at the bottom
21 of the bowl. There they would be sort of maybe on on the side. So there's a
22 topographical map that was provided along with this hydrologic analysis. So when
23 you have the rainfall it's gonna fall down past some of the drains and they'll go into
24 this other area. So that's one way. You have this the surface flow. Another way
25 water could get into the drains, would be at the bottom of the bowl. Basically
26 filling up and then getting up to the level that drains. The third way and maybe it's
27 not really water getting into the drains, but you know I've seen pictures of water at
28 the drains, and the actual explanation was that during high tide there's flood gates

1 that are at the the channelized levee. And those flood gates will close during the
2 high tide and at those times, if certain flow conditions are right or stormed the the
3 freshwater marsh with the bow flow pipe that's been permitted that can back up
4 and then water will essentially seep up. Somewhat like a clogged drain. So those
5 are what I understand to be the three ways water gets there.

6 The first one, in looking at that surface flow from the rainfall; in the
7 conclusions of the hydrological analysis it looked at different like year flow. You
8 know five year, five year flood or five year storm event, ten year, 25, 100-year
9 event. When it looked at the hundred year event, analyze the surface area of the
10 water is flowing or the surface area that the water would fall upon, it determined
11 that in that area you could have about a hundred and twenty-two thousand cubic
12 feet total. Now the amount as it flows down that would actually enter into the
13 drain was calculated to be 53 cubic feet. So of that 122 thousand cubic feet of
14 water during that hundred year storm event the surface flow is about 0.04 percent
15 so 53 cubic feet. So that's what we understand to be the amount of water that
16 would the entering the drain if it wasn't capped and taken into account that's during
17 the 100 year flood event. For the water to basically fill up from the bottom of the
18 bowl to get up to that higher point, I have in section 3b of the report, it talked about
19 well there's two different drains. There's the north drain and the southern drain.
20 For the area south it actually needs a volume of 300 thousand cubic feet to exceed
21 the elevation so to fill the bowl up to get to the drain you need three hundred
22 thousand cubic feet. Which is you know obviously more than twice the amount of
23 what would be produced during a hundred year storm event. For the northern
24 drain, you need volumes in an excess of 170,000 cubic feet. The northern drain
25 when it gets a hundred year storm event, the volumes range anywhere from six
26 thousand nine hundred to thirty three thousand cubic feet. So similarly the
27 likelihood of that bowl filling up in the water getting over there is well you can do
28 them out that it's relatively low. That third option of those flap gates closing, you

1 know, I don't know I don't mean to quibble but I mean it's not to me that's not
2 water from the outside getting and it's more of that in the sense of a back flow.
3 Right the pipes getting clogged. So does that. I said a lot I apologize it feels a bit
4 rambling the the study is there and I hope I answered your question as to how
5 much water would be getting into those drains.

6
7 COMMISSIONER LUEVANO-- Yeah you did I'm you know I'm not a geologist
8 so I'm not sure I, or a hydrologist, so I'm not sure.

9
10 [KEVIN TAKEI] Neither am I.

11
12 [COMMISSIONER LUEVANO] um the other question I have is, because we
13 were there were two pipes that were referenced one was the main pipe that runs
14 from the wetlands into Ballona Creek.

15
16 [KEVIN TAKEI] yeah, so the freshwater marsh..right..

17
18 [COMMISSIONER LUEVANO] ...and the other one is the other two are these
19 spur pipes is that my understanding, correct?

20
21 KEVIN TAKEI-- ... that's what we call them, correct, yeah, so I mean you have the
22 main one and then the branches.

23
24 C[OMMISSIONER LUEVANO] ...and and what's the length of those spur pipes,
25 what..?

26
27 [KEVIN TAKEI] Could I go phone a friend?
28

1 [COMMISSIONER LUEVANO] ..what's that?

2

3 [KEVIN TAKEI] I'd have to see...

4

5 [COMMISSIONER LUEVANO] Oh, Oh, Oh...

6

7 [KEVIN TAKEI] If that would be Okay?

8

9 [COMMISSIONER LUEVANO] Sure.

10

11 [MIKE CREHAN] Yeah the a, this is Mike Crehan again with Psomas. Those
12 pipes range from about up I would say 80 to 120 feet depending on the pipe.
13 Somewhere in that range.

14

15 [COMMISSIONER LUEVANO] Okay, thanks. Those are my questions for now
16 thanks.

17

18 [COMMISSIONER TURNBULL-SANDERS] Thank You Commissioner
19 Luevano. Commissioner Vargas.

20

21 [COMMISSIONER VARGAS] Thank you very much. I'm just trying to see if I
22 can shape the direction that we go here. It seems like a lot of Commissioners are
23 interested in seeing a removal of the pipes, but I'm just wondering as I look at the
24 at the permit application, how we can actually do that today. It seems to me that
25 the options or paths available to us if we decide to deny this application then
26 nothing happens. I don't think anybody wants that. If we decide to modify this, I
27 don't think we could modify this application. Maybe staff can give me a little

28

1 direction, but I don't know if we could really impose a condition that would require
2 the removal of the pipes unless staff can think of an artful way of doing that.

3
4 [STEVE HUDSON] Sure, well we have thought of a few options that we could
5 offer you today. Perhaps the the simplest option might be a simple modification of
6 Special Condition 4 and you have that discretion today to modify these conditions.
7 You can add additional conditions, and Special Condition 4, right now, requires
8 that within five years the date of issuance that they come back to you for that full
9 removal plan or an abandonment plan within that five year period. So this could
10 be modified to say cap this immediately or you could set that time period possibly
11 within a 30-day time period the capping must be complete and the last sentence of
12 this condition could be modified to say a CDP, must be. A separate CDP
13 application shall be submitted to the Commission within, and you could set the
14 time period perhaps six months or less, for the full removal of the pipes. That
15 would allow for some additional time to evaluate the archaeological and the
16 biological effects.

17 The the other option, if you would not like to see this even cut off for six
18 months, is to add additional conditions to the permit now that would require
19 immediate removal of the entire two unpermitted spur pipes. If you did that, we
20 would recommend that that be done through an additional revised plan condition
21 for removal of all portions the two unpermitted pipes a condition requiring
22 revegetation of all disturbed areas at a four to one ratio very similar to the current
23 special condition 4. And, then that that condition would also require implementate,
24 actual implementation of the pipe removal within a specified period of time,
25 perhaps 30 days from date of issuance, and require that the revegetation be done
26 within the specified time period as well. And you could pick that time period but
27 typically certain six months upon completion of the pipe removal. And of course I
28 think it's understood but just to point out that as Fish and Wildlife has said, this

1 was always the plan. That this would happen down the line is part of that larger
2 project. I believe the concern was that they were planning on recontouring this
3 into a much deeper basin and so the areas where we were quite restoration would
4 potentially be later affected as part of that larger restoration project.

5
6 [JACK AINSWORTH] Madam Chair and I would recommend more strongly
7 Option 1, capping within an X amount of days, whether it be 30 days or whatever
8 we can work out there with Fish and Wildlife, and then submittal of a subsequent
9 application to give Fish and Wildlife some time to more to analyze the... more fully
10 the impacts associated removal of the pipes, such as the archaeological issues there
11 the Native American issues. This is an area with a lot of Native American burials.
12 One could argue though that the pipe already went in, but you're gonna have to dig
13 dig around this thing that we remove it. So that is a concern. And, we want to have
14 additional conditions there. And it would be, I think a more appropriate for the
15 Commission to make those decisions and and what the mitigation area would be,
16 rather than have it with me as the ED making these more, these sort of decisions on
17 a in a condition compliance setting. So if that makes sense.

18
19 COMMISSIONER VARGAS—That makes sense. Thank you. I'm gonna ask if I
20 may, the representative from Fish and Wildlife to come up. I'm just curious if we
21 were to take the tack of Option 1, and again being mindful that you've heard from
22 many of the Commissioners that this seems to be urgent for us. How soon how
23 soon can we move towards that. We, the staff suggested timeline timelines of
24 maybe six months or a year to come back and seek that removal. I certainly don't
25 want to be so aggressive that it makes it too difficult for you to be able to carry out
26 that task, but at the same time please be mindful that we would like to see that
27 moved, removed as quickly as possible. What do you feel is a is a comfortable or
28 an acceptable.

1
2 [KEVIN TAKEI] ...just so I, I'm clear, it's you know, we'd be moving forward
3 with capping it immediately immediately and then and it's the coming back with
4 that larger plan to remove the remaining components.

5
6 [COMMISSIONER VARGAS] I think that's I think that's the way staff
7 articulated it and we'd like to see that done as quickly as possible probably I'm
8 guessing with the with a vote of my peers after this but...

9
10 [KEVIN TAKEI] ...right

11
12 [COMMISSIONER VARGAS]...six months or a year.

13
14 [KEVIN TAKEI] I mean when you put it that way I mean I'm gonna go for a
15 year. If you ask if he said two years I would say two to be honest I mean because
16 I mean um...

17
18 [COMMISSIONER VARGAS] What would you would you have to, if I may,
19 would you have to develop a a separate singular EIR just for this action?

20
21 [KEVIN TAKEI] You know I think we'd have to look. What one of my my own
22 concerns is that and and I I hope this doesn't come off the wrong way, but you
23 know especially being cognizant of resources and I definitely understand the
24 Commission's concern. And and I I don't when I say this I don't mean that I I don't
25 want it to be up here as dismissive, and so I just want to see that first. But working
26 for the state, I always think when we when we take on things of cost-benefit
27 analysis, and and and and I know that that may sound very crass especially given
28 the mission of the Commission as well as the mission the Department of Fish and

1 Wildlife, which our Director will tell you we take very seriously. You know we
2 are the state trustee for Fish & Wildlife Resources and so when I say this that this
3 is a cost-benefit analysis, I can't underscore that I don't mean that in in the crass
4 way that it may come across.

5 But the the reason why I'm saying that, is that when we initially looked at
6 the amount of water that was entering these drains, that the habitat that had existed
7 prior to the existence of those drains, and then the habitat that's there that has
8 increased, despite the presence of those drains, the consistency of the habitats
9 around the drains in that surrounding area, we're unsure what incremental benefit
10 to habitat would arise due to that removal. And then weigh that against the just
11 the cost and whether it's it's the staff time or you know dollars that's something
12 that, you know, we looked at a little bit.

13 But with all due respect I would ask the Commission to consider that as well
14 and I and I think that's sort of what we're talking about where I sort of mentioned it
15 in the sense that we we haven't looked at what it would look like to remove this,
16 because, you know we have some information about what the habitat looked like
17 before, and we do have this information about the water, and so but we haven't, I
18 think it's fair to say we haven't drawn those or connected all those dots to really
19 figure out what you know what is the best way to what is the best way to address
20 this is it is it to remove it. And by removing it I mean are you going to get that
21 incremental boost to that habitat there? I mean I going out on a limb I think if
22 you're gonna get that bang for the buck. I I I think the department would say yeah
23 let's try to get this done and maybe reap.. reprioritize the other things that we have
24 going on at Ballona. That I think that that's my only concern and again you know
25 with all due respect, I would just ask that to be if a part of that consideration of
26 this. But I know that didn't answer your question about timing you know again,
27 just don't look the longer time I would appreciate it. I I certainly understand the
28 concern about if if we if we give you a foot you're gonna take three. Right, so I

1 mean I would suggest if there could be maybe progress reports or perhaps check-
2 ins such that if if there is concern that that the Department isn't making that
3 progress that the Commission believes it should be doing, so then you know a
4 decision could be met at that point. But I I I again, I'm just hesitant to put a finite
5 cap on the amount of time that we have, because you know the supporters and
6 opponents of of what we're doing there, will tell you that we've missed a number of
7 deadlines with publication our draft EIR too.

8
9 [COMMISSIONER VARGAS] and I am sure very aware of that too, no I
10 appreciate that I look I know we are all trying to carry out our missions of our
11 respective agencies the best to the best of our abilities, but we are limited by our
12 resources. So I certainly am sympathetic to that I, I won't make a motion but I
13 wanted to just set that frame. That and see what our options could be and I want to
14 maybe turn it over to or pass it off to some of the original point makers of this.
15 Maybe Commissioner Peskin to craft what what it would look like through the
16 Chair. How...however it would be, but I just I think it would make sense to keep in
17 mind that Fish and Wildlife needs to go through processes to make this happen so
18 we we should figure out if this is something that we want to do, that we we draft
19 language that makes sure that happens but also has, is sensitive to to our sister
20 agencies.

21
22 [COMMISSIONER TURNBULL-SANDERS] Before Commissioner Peskin
23 speaks I just want to give Commissioner Howell an opportunity to speak since he
24 hasn't had a first crack at it.

25
26 [COMMISSIONER HOWELL] Well, thank you and I actually just had a quick
27 question or two and it's mostly for for counsel so I guess it's just a reminder to for
28 myself is the Coastal Commission permit is the equivalent of CEQA correct?

1
2 [COUNSEL PEDERSON] Yes, the the permitting process satisfies the Coastal
3 Commission's obligations under CEQA.

4
5 [COMMISSIONER HOWELL] Would that then as a follow-up question, then is
6 would Fish and Wildlife be required to go through CEQA for removing of the
7 pipes? If the Commission gave them a permit saying you remove the pipes?

8
9 [COUNSEL PEDERSON] We would have to take additional steps under our
10 permitting process to be sure that they're are in order. Just stepping back a second,
11 the Commission has what's called a certified regulatory program under CEQA
12 when it takes actions under its certified regulatory program ie the CDP process it
13 satisfies its own CEQA obligations. In order for other agencies to satisfy their
14 CEQA obligations under a document prepared pursuant to a certified regulatory
15 program, there are certain additional requirements that have to be followed that we
16 wouldn't typically be following in our normal permit process, but we could
17 conceivably take those additional steps in this case which could then conceivably
18 allow Fish and Wildlife to rely upon this CDP to satisfy its CEQA obligations. But
19 we would have to work with Fish and Wildlife to work out those details to be sure
20 that it does cover both agencies CEQA obligations.

21
22 [COMMISSIONER HOWELL] And that's why I was just wondering is if whether
23 we weren't maybe even doing Fish and Wildlife a favor by giving them the permit
24 to take out the pipes now, as opposed to going through the whole thing. And I
25 totally understand how much time and energy these things take I mean we're
26 practically the definition of bureaucracy. So you know, I know that having them
27 come back for another permit for this could add a great deal of additional time. I
28 know Jeannette Vosburg mentioned the adding additional money on to on to

1 whatever fines or concerns would be, my concern would be, is if there is... if any of
2 these allegations are remotely true regarding violations out there, that by trying to
3 impose any sanctions or fines right now we may jeopardize any future enforcement
4 issues and fines is that correct?

5
6 [COUNSEL PEDERSON] Well, what's before the Commission today is a CDP
7 application, so you know the Commission doesn't have the option of pursuing
8 enforcement measures as part of the action before today. It's simply been noticed
9 as a CDP action. So yeah other and absent public access violations, which aren't at
10 play here, the Commission doesn't have the authority to impose penalties in this
11 situation. Step two, say a little bit more in response to your prior question, it is
12 possible to work it out so that a CDP would satisfy Fish and Wildlife's CEQA
13 obligations, but that does mean an evaluation of the impacts of whatever that
14 development is. What the current staff report has analyzed are the impacts
15 associated with basically capping the drains there's a brief acknowledgement of
16 other alternatives, including the possibility of removing the pipes and I concluded
17 that capping the drains at least in the short term appears to be preferable because it
18 has fewer short-term impacts. The current Staff Report really doesn't have an
19 evaluation of the range of impacts associated with removing the pipes and that
20 would involve dredging of wetlands and the Coastal Act itself requires an
21 alternatives analysis when you're doing that. So, I would be concerned about the
22 Commission today absolutely requiring as part of this permit, that dredging to
23 remove the pipeline Option 1, that Executive Director Ainsworth proposed of
24 establishing a deadline for them to submit an application for doing that that would
25 then allow the process for evaluating the impacts of doing that evaluating
26 alternatives, evaluating the potential archaeological resources, and then you know,
27 it's at the Commission's discretion to decide you know, what the deadline should be
28

1 and what happens if Fish and Wildlife misses the deadline. Potentially that it
2 comes back before the Commission to decide how to proceed at that point.

3
4 [STEVE HUDSON] Thank you Mr. Pederson, thank you and Commissioners, if I
5 could add one note to Mr. Pederson's comments, which is the way the permit is
6 currently structured with Special Edition 4, and the alternative that Mr. Ainsworth
7 and I were just discussing of ways that may be changed the way it is currently set
8 up though is it allows for immediate capping the condition could be modified to
9 require that capping occur within a specified period of time within X number of
10 days from your action today. The the provision that is in there now is that within
11 five years the date of issuance that they come back with that follow-up permit for
12 the whole the whole kit and caboodle. What we're discussing is that could be
13 modified but it raises the CEQA issues that Commissioner Howell had discussed.
14 The reason it was five years originally was because Fish and Wildlife has finalized
15 their Draft Environmental Impact Report that would need to be finalized and is
16 likely to be subject to litigation and the five year time period was in recognition of
17 that that time period that was the delay and then that could be extended only if
18 necessary. So, really what we're talking about those we could change that time
19 period of when they must come back to you. We could either allow that to proceed
20 through the current Draft Environmental Impact Report process or require that to
21 come back and we would be responsible for the CEQA findings ourselves through
22 our own coastal permit before Fish and Wildlife would finalize their separate EIR.

23
24 [COMMISSIONER TURNBULL-SANDERS] Thank You. Commissioner
25 Peskin.

26
27 [COMMISSIONER PESKIN] Thank You, Madame Chair. And, I want to thank
28 Commissioner Vargas and Commissioner Howell for their comments and to staff

1 for really kind of showing us what the array of options are. I don't want to sound
2 like a strict constructionist, but, with all due respect to the representatives from
3 Fish and Wildlife, this is an ongoing permit violation, albeit one that you inherited,
4 and so I do think it needs to be cured and not as a part of a Draft Environmental
5 Impact Report process that subject to litigation and normal delays could go on for
6 years and years. I really actually preferred Option number 2, but I hear you
7 Commissioner Vargas and you know and we do have Alternative 6, and Exhibit 7,
8 which is the Alternative for removal of the risers concrete base and pipe. And
9 listen I've worked for the Pyramid Lake Paiute Tribe for the last 25 years of my life
10 and very sensitive to NAGPRA and cultural resource issues, but these are
11 previously disturbed areas, that is a true fact. And I really like Option number 2,
12 but I hear you and in the spirit of trying to work it out and I do think that this
13 should be subject to doing the favor of that Commissioner Howe spoke to and that
14 is that we do the CEQA analysis and this be done quickly. But, I can live with
15 modifications to Special Condition number 4 but in a highly truncated time period
16 which is the CDP Application comes in 180 days and that the actual
17 implementation of the work for removal of the pipes, subject to our own CEQA
18 analysis, be done within a year after that and that will be my motion which
19 counselor you can massage.

20
21 [COMMISSIONER BROWNSEY] Second.

22
23 [CHAIR, COMMISSIONER TURNBULL-SANDERS] Sir, would you like to
24 speak to your motion?

25
26 [COMMISSIONER PESKIN] I think I've done that.

1 [COMMISSIONER TURNBULL-SANDERS] Would you like to speak to your
2 second Commissioner Brownsey?

3
4 [COMMISSIONER BROWNSEY] Extremely briefly Madam Chair because I
5 know we've taken a lot of time. With due respect to all the parties, just from a
6 personal note and I was very interested in Commissioner Lueveno's comments. I
7 was a young staffer in the State Senate. I had black hair when the Ballona
8 Wetlands first was discussed and it is amazing to me that almost 30 years later I'm
9 sitting here in the middle of a Ballona Wetlands conversation so, I think that
10 animates some of what it is important to me in terms of getting some resolution on
11 this. Simply because the reason I'm supporting Commissioner Peskin, and all of
12 the members of the Commission who have voiced their opinions on this, is that we
13 owe a duty of good faith to this community on this wetland, which they have
14 worked to preserve and enhance and to improve. And that, while I totally
15 understand Fish & Game is kind of a late player, the fact is that it's time and that's
16 all I'll say. Thank you very much Madam Chair.

17
18 [COMMISSIONER TURNBULL-SANDERS] I would like to turn it back over
19 to our Counsel Chris Peterson to see if we we have met our legal requirements for
20 making the motion as Commissioner Peskin outlined.

21
22 [COUNSEL PEDERSON] I believe so. I would just like to repeat his motion to
23 just be sure I understand it correctly.

24
25 [COMMISSIONER TURNBULL-SANDERS] Please do.

26
27 [COUNSEL PEDERSON] So, my understanding is he would modify Special
28 Condition number 4, to require the Applicant to submit a CDP Application within

1 180 days to remove the pipelines. And, that the removal of the pipes subject to the
2 review of the application through the permitting process must occur within one
3 year...and then is it from one year from today or one year from... I wasn't sure what
4 the one year from was from.

5
6 [COMMISSIONER PESKIN] So, in response to Commissioner Vargas and what
7 we heard from staff of from Fish and Wildlife within one year of approval by this
8 body.

9
10 [COUNSEL PEDERSON] The approval of the application to remove it. Okay,
11 thank you.

12
13 [COMMISSIONER PESKIN] And then write an immediate capping. The capping
14 happens immediately.

15
16 [COUNSEL PEDERSON] Okay, thank you.

17
18 [EXECUTIVE DIRECTOR AINSWORTH] That's and just to be clear what we
19 had suggested 30 days if that is acceptable.

20
21 [COMMISSIONER PESKIN] Fine.

22
23 [CHAIR, COMMISSIONER TURNBULL-SANDERS] I guess it, the I guess the
24 one concern that I have is just, you know, I realized that we all have some
25 experience with local government, but wanted to to ask the Department of Fish and
26 Wildlife to come forward again to see if that those issues, as outlined in the
27 proposed motion that is on the floor, with the 180 day parameter less than ideal as
28 I guess from your perspective, as you had relayed earlier with respect to time and

1 the challenges for meeting with workload. But is that something that can be doable
2 or is is are there specific issues around those parameters that may prohibit your
3 ability to act within that time?
4

5 [KEVIN TAKEI] I mean I can tell you that we could do our best to meet that and
6 maybe to avoid trying to push the ball or push out that deadline if maybe there
7 could be almost and I'll call it almost like a pressure relief valve in the sense that
8 you keep that deadline. If, for some reason we don't meet it, we need to explain
9 why and and and I guess then the question is then what but um.
10

11 [COMMISSIONER TURNBULL-SANDERS] I think I think based on on your
12 response, I think I'm gonna be supporting the motion as written. And I think that
13 we will revisit this if if that comes, you you will be able to submit whatever you
14 have within that 180 days, but I think based on where we are now without specific
15 delineations for timelines and expectations I think we have to move forward with
16 the motion.
17

18 [EXECUTIVE DIRECTOR AINSWORTH] Thank you, Madam Chair. I just had
19 one other observation the issue of the funding for this project and whether and I am
20 sensitive to that from the Fish & Game side. In my view, I would hope that Playa
21 Capital would step up since they were the violators and cover the cost of this or the
22 Department of Fish and Game sue the Playa Capital for that or the cost.
23

24 [COMMISSIONER TURNBULL-SANDERS] Thank you, thank you for that Mr.
25 Ainsworth. Commissioner Peskin, and I think we will take a roll call vote after
26 this.
27
28

1 [COMMISSIONER PESKIN] I just want to associate myself with the comments
2 of our Executive Director, and I don't know what the terms and conditions and
3 ongoing covenants from the transaction were, but I would assume that the original
4 violator probably has some ongoing financial responsibilities.

5
6 [COMMISSIONER TURNBULL-SANDERS] Thank you we have a we have a
7 motion on the floor and I'm looking to our counsel, just to make sure that we're
8 we're set to take a roll call vote.

9
10 [EXECUTIVE DIRECTOR AINSWORTH] Madam Chair, to make this easy, we
11 would just modify our Staff Recommendation to make these changes to the
12 Conditions.

13
14 [COMMISSIONER TURNBULL-SANDERS] Thank you, and so the motion has
15 been made Mr. Pederson, if you could one more time clarify the motion so that we
16 can take a roll call vote or if we'll take a roll call vote.

17
18 [COUNSEL PEDERSON] So the motion will be simply the motion that is in the
19 staff report on page 3, I believe, but Staff in light of this discussion, Staff has
20 modified its recommendation so Special Condition 4, will be revised to require the
21 Applicant to submit an Application to remove the pipelines within 180 days. It
22 then needs to actually carry out that removal within one year of Commission action
23 on that Application and in addition the drains need to be capped within 30 days.

24
25 [COMMISSIONER PESKIN] So, Madam Chair, I'll now withdraw my motion if
26 the second withdraw because as part of Staff has become the Staff
27 Recommendation.

1 [COMMISSIONER BROWNSEY] And, I will withdraw. And well you know the
2 recommendation.

3
4 [COMMISSIONER PESKIN] I would now move the staff recommendation I
5 move that the Commission approve Coastal Development Permit number 5-17-
6 0523, pursuant to the Revised Staff Recommendation, and I recommend a yes vote.

7
8 COMMISSIONER BROWNSEY-- Second.

9
10 [COMMISSIONER TURNBULL-SANDERS] Do I have any unwillingness for
11 unanimous yes vote or shall we take a roll call? Seeing no unwillingness for
12 unanimous yes vote, we do approve the permit as conditioned. And we'll take a 10-
13 minute break at this time, thank you.

14
15 END

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VERIFICATION

I, Todd T. Cardiff, listened and viewed a video of the December 14, 2017 hearing on ItemTh10c (CDP 5-17-0253) while reviewing and editing the above transcript. The transcript is a true and correct copy of the auditory recording of the hearing, with the exception of removing many of the verbal pauses (uhs, ums, ahs). I verify its accuracy to the best of my ability.

Executed this 1st day of March, 2019 in the City of San Diego, California.


Todd T. Cardiff

Grassroots Coalition's Response to CCC Item 16c and 17a Report & Exhibits (No. 1 of 4 emails from GC/McPherson)

patricia mcpherson <patriciamcpherson1@verizon.net>

Thu 8/6/2020 2:52 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>; Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>; Willis, Andrew@Coastal <Andrew.Willis@coastal.ca.gov>

Cc: ToddT.Cardiff <todd@tcardifflaw.com>; saveballona@hotmail.com <saveballona@hotmail.com>

 2 attachments (207 KB)

Fwd: University City Syndicate _Playa Vista_ State Lands Commission_LARWQCB.eml; RE_ Google Alert - Ballona Wetlands(1) copy.pdf;

August 6, 2020

California Coastal Commission

submitted electronically as 4 Emails. (1) Response to Staff Report; (2) GC Response to Exhibit 2; (3) GC Response to Exhibit 10; (4) GC DECLARATION

RE: Application to Remove Unpermitted Drains in BWER

Request for Permit Amendment

App. No. 5-18-0554

Permit No. 5-17-0253-A1

August 12, 2020 Meeting Agenda Items 16 c, 17 a

Honorable Coastal Commissioners,

Please consider this Grassroots Coalition's Opposition Response to the California Coastal Commission **(1) Staff Report**, with separate responses included for:

(2) Exhibit 2; and (3) Exhibit 10; with (4) GC/ McPherson Declaration, for August 12, 2020 Meeting Agenda Items 16c, 17a.

Grassroots Coalition opposes CDP Application No. 5-18-0554.

Grassroots Coalition opposes Application No.: 5-17-0253-A1

Opposition to these Applications is contained in Todd Cardiff, Esq. Comments on behalf of Grassroots Coalition in a separate e-mail from T. Cardiff Esq.

Grassroots Coalition (GC) strongly objects to CDFW's attempt to change the terms of its permit and align the removal with its proposed restoration/bulldozing of the Ballona Wetlands. GC has been following the EIR and process very closely. Such suggestion improperly assumes that the restoration/bulldozing will be moving forward, which is a violation of CEQA. Likewise, CCC Staff comments in these Applications also prematurely supports the CDFW Plan as though it is already certified and already approved by the Coastal Commissioners. CDFW has not certified the EIR and must revise significant portions of the EIR before it is even re-circulated to the public. In addition, the Army Corp of Engineers has not approved the dredge and fill permit, nor certified an Environmental Impact Statement. Even if CDFW certified the EIR with its artificially limited scope of alternatives, Grassroots Coalition, along with many other environmental groups, has already committed to challenging such EIR in court. Grassroots Coalition will do its utmost to ensure that the Ballona Wetlands Bulldozer Restoration project will not proceed in the next 5, 10, or 20 years.

GC also has significant concerns with the actions of Staff on this case. Grassroots Coalition had to expend its own resources to enforce the Coastal Act because the Coastal Commission would or could not compel CDFW to comply with the Coastal Act. At the initial hearing, Coastal Commission Staff discounted Grassroots Coalition's concerns about the presence of methane in the pipes and the danger that welding operations may result in a fire or explosion. CDFW then claimed it opted for a non-welding option for sealing the pipes, out of concern for combustible plant material. Because of the denial of the potential for methane, and the failure to include information of the hydraulic tidal action in the Drains, Coastal Commission staff failed to analyze the method of sealing of the pipe. CDFW permitted the use of Sikudur 31 Hi-Mod Gel which according to a Sikadur technical representative, should not have been considered for use in sealing the drains due to all the variables of being underwater with exposure to tidal hydraulics with or without mechanical fasteners, and the potential of ongoing methane gas invasion at 20psi. Now that the epoxy has predictably failed, CDFW again wishes reseal the pipe with epoxy. Further, despite direct evidence of methane, neither CDFW nor Coastal Commission Staff is taking such threat seriously.

This case also destroys the Public's confidence in the Coastal Commission staff. The failure to issue a CDP that corresponded with Coastal Commissions December 14, 2017 vote that removed the option to apply to abandon the unpermitted drains in place was not an "error" or "mistake" was a direct act in defiance. This is clear by the fact that such error was repeatedly brought to Coastal Commissions staff's attention. The Coastal Commission Staff repeatedly delayed bringing the issue before the Coastal Commission for correction, so that when the improperly worded CDP was finally brought before the Coastal Commission, Staff still tried to claim that the Coastal Commission's intent was not clear. Coastal Commission Staff finally acted to correct the CDP when Grassroots Coalition sent a Notice of Intent to Sue, if abandonment was not removed as an option. Despite finally issuing a corrected CDP on March 14, 2019, Staff made it clear that it would present the application for abandonment as a "co-equal option". Further, both CDFW (with Coastal Staff's blessing and support) has submitted a request to change the timelines for removal to 5 years. Coastal Commission Staff has acted in direct contravention to the December 14, 2017 vote of the Coastal Commission.

EXHIBITS & DECLARATION RESPONSE BY GRASSROOTS COALITION:

Please also consider Grassroots Coalition's responses to Exhibit 2, Habitat Impacts Related to Unpermitted Drains in Ballona Wetlands Ecological Reserve dated July 23,

2020, prepared by Jonna Engel, PhD, attached as Exhibit 2 to the Staff Report.

2. Grassroots Coalitions Response to Exhibit 2 is on a separate email to California Coastal Commission due to electronic size.

Please also consider our responses to Exhibit 10, CDFW Methane Memo Regarding South Drain Leakage, dated July 17, 2020, attached as Exhibit 10 to the Staff Report.

3. Grassroots Coalition's Response to Exhibit 10 is on a separate email to California Coastal Commission due to electronic size.

4. Please also consider Grassroots Coalition's President-Patricia McPherson's DECLARATION with attachments included with the DECLARATION on a separate email due to size of attachments.

Additional Attachments referenced for Grassroots Coalition's Responses to Staff Report Exhibits 2 and 10 are attached below:

a.. Grassroots Coalition Response Exhibit for CDFW Methane Memo Regarding South Drain Leakage, dated July 17, 2020 Exhibit 10

b.. rassroots Coalition Response Exhibit for- -Jonna Engel "Habitat Impacts Related to Unpermitted Drains in BWER" dated July 23, 2020 as Exhibit 2

a. Email discussing AGENCY ENGAGEMENT PERTAINING TO REABANDONMENT OF UNIVERSITY CITY SYNDICATE in the Freshwater Marsh.

b. Psomas, Crehan email to CDFW/Bay Foundation persons

Thank you, in advance, for reviewing these materials in detail in anticipation of the upcoming hearing on these critically important issues,

Patricia McPherson, Grassroots Coalition

Fwd: University City Syndicate /Playa Vista/ State Lands Commission/LARWQCB

patricia mcpherson <patriciamcpherson1@verizon.net>

To: patriciamcpherson1@verizon.net <patriciamcpherson1@verizon.net>

From: patriciamcpherson1@verizon.net

Subject: Re: University City Syndicate

Date: October 21, 2019 at 5:15:15 PM PDT

To: Adam.Taing@Waterboards.ca.gov, [RB4-PublicRecords.RB4-](#)

PublicRecords@waterboards.ca.gov,

Lucinda.Flores@waterboards.ca.gov,

Laura.Gallardo@waterboards.ca.gov,

Jim.Kang@Waterboards.ca.gov,

Yi.Lu@waterboards.ca.gov,

Jonathan.Bishop@waterboards.ca.gov,

Thizar.Williams@waterboards.ca.gov,

Russ.Colby@waterboards.ca.gov, [\[geomistry.com\]\(mailto:geomistry.com\), \[wmechat@msn.com\]\(mailto:wmechat@msn.com\),](mailto:vjones@eti-</p></div><div data-bbox=)

davidfbecker@GIDG

Cc: rharmel@mac.com, mfaugnos@gmail.com,

ctwilliams2012@yahoo.com, thehikerjoe@gmail.com,

saveballona@hotmail.com, dfletcherhoppe@aol.com,

rexfrankel@yahoo.com, kathyknight66@gmail.com,

judithdavies66@gmail.com,

swilson@earthworksaction.org,

cindyhardin@laaudubon.org, mgriswold@landiq.com,

lesliepurcell@gmail.com,

monica.embrey@sierraclub.org,

angelica.gonzalez@sierraclub.org,

len.nguyen@lacity.org, andy.shrader@lacity.org,

Ackley.Padilla@lacity.org, Olin.wibroe@sen.ca.gov,

samuel.liu@sen.ca.gov, katharine.moore@sen.ca.gov,

jwilson@bos.lacounty.gov, Lucinda.Calvo@slc.ca.gov,

Seth.Blackmon@slc.ca.gov,

Daniel.Dudak@conservation.ca.gov,

Sarah.Rubin@conservation.ca.gov,

Chris.McCullough@conservation.ca.gov,

James.Pierce@conservation.ca.gov,

todd@tcardiffllaw.com

Hello Mr. Taing,

Thank you for this list of people on the phone call. Have you also been in touch with Council District 11-Mike Bonin's office, the LA City Petroleum Administrator and perhaps, LA City Attorneys?

From conversations with various staff people it appears that the contact list is larger than the phone call list provided

below.

We would appreciate a list of any/all that you have been in contact with regarding the leaking well, University City Syndicate. Such a list would also help to sort out any/all networking regarding discussions on this well which may also be of interest and need for you to know as well.

Per your recollection of 'uncertainties of the well's location'. The video that I provided you, via a Public Record Act request to DOGGR, displays the well's location that was discerned via a magnetometer. The site is also on the same video as having been gps'd for the location of where DOGGR found the well head. The video also demonstrates the continuous bubbling over the well head. The video was done in 2010 by a prominent DOGGR employee. I've had personal discussions with her regarding this well. The constant outgassing has continued to grow in visible volume since 2010. Hence, Division Staff have already located the wellhead.

The red flag warnings regarding this well's leakage that have been provided to you by Exploration Technologies Inc. and Mr. Becker's company provide sufficient expertise to merit inclusion of the public in the continuing discussions. We continue to request that this be allowed to occur. GC has also, provided you with data and input from Dr. C. T. Williams who is a prominent oil/gas expert who has intimate knowledge of this well and has been engaged with oil/gas issues here in Los Angeles (as well as world-wide) for over 30 years. His discussion of the issue of this leaking well dates from the 2010 timeframe. He is currently available and prepared to discuss this well and its continuing threats.

The well is in Public Trust land/water and is therefore owned by the public. Especially due to the current health and safety issues expressed by the oil/gas experts regarding this well's outgassing, the public should be both alerted to the current conditions and allowed to participate in the discussions.

We appreciate the information you have provided in your Oct. 21, 2019 email to Grassroots Coalition and do wish to speak with you further about these issues.

Sincerely,
Patricia McPherson, Grassroots Coalition, Sierra Club,
Airport-Marina Group

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

From: Taing, Adam@Waterboards
<Adam.Taing@Waterboards.ca.gov>
To: patriciamcpherson1@verizon.net <patriciamcpherson1@verizon.net>; WB-RB4-PublicRecords <RB4-PublicRecords.RB4-PublicRecords@waterboards.ca.gov>; Flores, Lucinda@Waterboards
<Lucinda.Flores@waterboards.ca.gov>; Gallardo, Laura@Waterboards
<Laura.Gallardo@waterboards.ca.gov>; Kang,

Jim@Waterboards <Jim.Kang@Waterboards.ca.gov>; Lu, Yi@Waterboards <Yi.Lu@waterboards.ca.gov>; Bishop, Jonathan@Waterboards <Jonathan.Bishop@waterboards.ca.gov>; Williams, Thizar@Waterboards <Thizar.Williams@waterboards.ca.gov>; Colby, Russ@Waterboards <Russ.Colby@waterboards.ca.gov>
Cc: rharmel@mac.com <rharmel@mac.com>; mfaugnos@gmail.com <mfaugnos@gmail.com>; ctwilliams2012@yahoo.com <ctwilliams2012@yahoo.com>; thehikerjoe@gmail.com <thehikerjoe@gmail.com>; saveballona@hotmail.com <saveballona@hotmail.com>; dfletcherhoppe@aol.com <dfletcherhoppe@aol.com>; rexfrankel@yahoo.com <rexfrankel@yahoo.com>; kathyknight66@gmail.com <kathyknight66@gmail.com>; judithdavies66@gmail.com <judithdavies66@gmail.com>; swilson@earthworksaction.org <swilson@earthworksaction.org>; cindyhardin@laaudubon.org <cindyhardin@laaudubon.org>; mgriswold@landiq.com <mgriswold@landiq.com>; lesliepurcell@gmail.com <lesliepurcell@gmail.com>; monica.embrey@sierraclub.org <monica.embrey@sierraclub.org>; angelica.gonzalez@sierraclub.org <angelica.gonzalez@sierraclub.org>; len.nguyen@lacity.org <len.nguyen@lacity.org>; andy.shrader@lacity.org <andy.shrader@lacity.org>; Ackley.Padilla@lacity.org <Ackley.Padilla@lacity.org>; Olina.wibroe@sen.ca.gov <Olina.wibroe@sen.ca.gov>; samuel.liu@sen.ca.gov <samuel.liu@sen.ca.gov>; katharine.moore@sen.ca.gov <katharine.moore@sen.ca.gov>; jwilson@bos.lacounty.gov <jwilson@bos.lacounty.gov>; Calvo, Lucinda@SLC <Lucinda.Calvo@slc.ca.gov>; Blackmon, Seth@SLC <Seth.Blackmon@slc.ca.gov>; Dudak, Daniel@DOC <Daniel.Dudak@conservation.ca.gov>; Rubin, Sarah@DOC <Sarah.Rubin@conservation.ca.gov>; McCullough, Chris@DOC <Chris.McCullough@conservation.ca.gov>; Pierce, James@DOC <James.Pierce@conservation.ca.gov>; todd@tcardiffaw.com <todd@tcardiffaw.com>
Sent: Mon, Oct 21, 2019 1:53 pm
Subject: RE: University City Syndicate

Ms. McPherson,

Thank you for your ongoing interest concerning the University City Syndicate well. We share your concern that abandoned wells not pose a threat to human health and the environment. We recently participated in a call with Lucinda Calvo of the State Lands Commission, Daniel Dudak and Chris McCullough from the Division of Oil, Gas and Geothermal Resources – Southern District, James Pierce from the Department of Conservation, Playa Capital Company LLC and Brookfield Residential LP to discuss the well. For the purpose of your request, I'm attaching my notes. Off of my recollection, it was recognized that there are uncertainties regarding the location of the wellhead with respect to the seep location. Division staff provided an explanation on the expected challenges associated to this project including locating the buried wellhead. At the end of the call, I understood that that there are issues that Brookfield, Playa Capital and the State Lands Commission wanted to sort out, offline, before the discussion can move forward. This call was organized by the State Lands

Commission. Generally speaking, it is impractical to attempt to coordinate every conference call we have among agencies with the broader public precisely because we frequently address issues that involve threats to human health which we need to address as efficiently as possible. As always, I am happy to speak with you about these communications and provide you with notes upon request. Our staff is working on compiling your public records act request and will notify you when they are ready.

Please don't hesitate to let me know if I may be of further assistance.

Thank you,

Adam Taing

Water Resource Control Engineer | UST
Los Angeles Regional Water Quality Control Board
320 West 4th Street, Suite 200
Los Angeles, California 90013
(213) 576-6752 | Adam.Taing@waterboards.ca.gov

From: patriciamcpherson1@verizon.net <patriciamcpherson1@verizon.net>

Sent: Monday, October 21, 2019 8:42 AM

To: Taing, Adam@Waterboards

<Adam.Taing@Waterboards.ca.gov>; WB-RB4-

PublicRecords <[RB4-PublicRecords.RB4-](mailto:RB4-PublicRecords.RB4-PublicRecords@waterboards.ca.gov)

PublicRecords@waterboards.ca.gov>; Flores,

Lucinda@Waterboards

<Lucinda.Flores@waterboards.ca.gov>; Gallardo,

Laura@Waterboards

<Laura.Gallardo@waterboards.ca.gov>; Kang,

Jim@Waterboards <Jim.Kang@Waterboards.ca.gov>;

Lu, Yi@Waterboards <Yi.Lu@waterboards.ca.gov>;

Bishop, Jonathan@Waterboards

<Jonathan.Bishop@waterboards.ca.gov>; Williams,

Thizar@Waterboards

<Thizar.Williams@waterboards.ca.gov>

Cc: rharmel@mac.com; mfaugnos@gmail.com; ctwilliams2012@yahoo.com; thehikerjoe@gmail.com; saveballona@hotmail.com; dfletcherhoppe@aol.com; rexfrankel@yahoo.com; todd@cardiffllaw.com; kathyknight66@gmail.com; judithdavies66@gmail.com; swilson@earthworksaction.org; cindyhardin@laaudubon.org; mgriswold@landiq.com; lesliepurcell@gmail.com; monica.embray@sierraclub.org; angelica.gonzalez@sierraclub.org; len.nguyen@lacity.org; andy.shrader@lacity.org; Ackley.Padilla@lacity.org; Olina.wibroe@sen.ca.gov; samuel.liu@sen.ca.gov; katharine.moore@sen.ca.gov; jwilson@bos.lacounty.gov

Subject: Re: University City Syndicate

Good Morning Mr. Taing,

Thank you for your response. However, please keep in mind, that you and LARWQCB can, at any time, provide information to the public without having to wait for processing of a Public Record Act request.

Information regarding University City Syndicate, an old and poorly abandoned, leaking well --according to the City of LA's oil/gas expert and other oil/gas experts-- is currently a danger to the environment and the public.

The location of this well is in SOCALGAS MINERAL RIGHTS and surfaces within PUBLIC TRUST LAND/WATER (including underlying freshwater aquifers classified legally as DRINKING WATER (Proposition 65 lawsuit SOCALGAS V Environmental Law Foundation BC 364555 in which ELF prevailed)

Public Trust land/water is owned by the public and, as such we believe the public should be at the table during any/all discussions regarding this dangerous well and its impacts.

Please respond as to why the public has not been invited to participate in the ongoing meetings regarding this well and please provide a list of attendees to the meeting you referenced in your Oct. 18, 2019 email to Grassroots Coalition.

**Thankyou,
Patricia McPherson, Grassroots Coalition and Sierra Club, Airport-Marina Group**

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

From: Taing, Adam@Waterboards

<Adam.Taing@Waterboards.ca.gov>

To: patriciamcpherson1@verizon.net <patriciamcpherson1@verizon.net>; WB-RB4-PublicRecords <RB4-PublicRecords.RB4-PublicRecords@waterboards.ca.gov>;

Flores, Lucinda@Waterboards
<Lucinda.Flores@waterboards.ca.gov>; Gallardo,
Laura@Waterboards

<Laura.Gallardo@waterboards.ca.gov>

Cc: rharmel@mac.com <rharmel@mac.com>; mfaugnos@gmail.com <mfaugnos@gmail.com>; ctwilliams2012@yahoo.com <ctwilliams2012@yahoo.com>; thehikerjoe@gmail.com <thehikerjoe@gmail.com>; saveballona@hotmail.com <saveballona@hotmail.com>; dfletcherhoppe@aol.com <dfletcherhoppe@aol.com>; rexfrankel@yahoo.com <rexfrankel@yahoo.com>; todd@cardiffllaw.com <todd@cardiffllaw.com>; kathyknight66@gmail.com <kathyknight66@gmail.com>; judithdavies66@gmail.com <judithdavies66@gmail.com>; swilson@earthworksaction.org <swilson@earthworksaction.org>; cindyhardin@laaudubon.org <cindyhardin@laaudubon.org>; mgriswold@landiq.com <mgriswold@landiq.com>; lesliepurcell@gmail.com <lesliepurcell@gmail.com>; monica.embrey@sierraclub.org <monica.embrey@sierraclub.org>; angelica.gonzalez@sierraclub.org <angelica.gonzalez@sierraclub.org>; len.nguyen@lacity.org <len.nguyen@lacity.org>; andy.shrader@lacity.org <andy.shrader@lacity.org>; Ackley.Padilla@lacity.org <Ackley.Padilla@lacity.org>; Olina.wibroe@sen.ca.gov <Olina.wibroe@sen.ca.gov>; samuel.liu@sen.ca.gov <samuel.liu@sen.ca.gov>; katharine.moore@sen.ca.gov <katharine.moore@sen.ca.gov>; jwilson@bos.lacounty.gov <jwilson@bos.lacounty.gov>

n@bos.lacounty.gov>

Sent: Mon, Oct 21, 2019 7:55 am

Subject: RE: University City Syndicate

Ms. McPherson,

I'm forwarding your request to our Public Records inbox and personnel. We'll provide the information you need as soon as we can. If you want additional information on our process, please visit our Public Records Center website, located at https://www.waterboards.ca.gov/losangeles/resources/public_records_center.html

Thank you,

Adam Taing

Water Resource Control Engineer | UST
Los Angeles Regional Water Quality Control Board
320 West 4th Street, Suite 200
Los Angeles, California 90013
(213) 576-6752 | Adam.Taing@waterboards.ca.gov

From: patriciamcpherson1@verizon.net <patriciamcpherson1@verizon.net>

Sent: Saturday, October 19, 2019 11:36 AM

To: Taing, Adam@Waterboards
<Adam.Taing@Waterboards.ca.gov>

Cc: rharmel@mac.com; mfaugnos@gmail.com; ctwilliams2012@yahoo.com; thehikerjoe@gmail.com; saveballona@hotmail.com; dfletcherhoppe@aol.com; rexfrankel@yahoo.com; todd@cardiffllaw.com; kathyknight66@gmail.com; judithdavis66@gmail.com; swilson@earthworksaction.org; cindyhardin@laaudubon.org; mgriswold@landiq.com; lesliepurcell@gmail.com; monica.embrey@sierraclub.org; angelica.gonzalez@sierraclub.org; len.nguyen@lacity.org; andy.shrader@lacity.org; Ackley.Padilla@lacity.org; Olina.wibroe@sen.ca.gov; samuel.liu@sen.ca.gov; katharine.moore@sen.ca.gov; jwilsn@bos.lacounty.gov

Subject: Re: University City Syndicate

PUBLIC RECORD ACT REQUEST

Hello Adam,

Thank you for letting us know that this meeting took place. For your convenience in releasing any and all further information regarding the participants of the meeting and any others contacted regarding this situation with University City Syndicate, please consider this a PUBLIC RECORD ACT REQUEST from Grassroots Coalition.

There is a great deal of public concern and interest regarding this well and transparency regarding its evaluation and reabandonment. This well is located, as you know, in Public Trust land/water therefore, we believe that the public needs to be participatory as stakeholders of this area.

Therefore, as a first step we request any/all minutes of the meeting you acknowledge as having taken place.

- Please provide any/all participants and/or others contacted regarding University City Syndicate.
- Please provide any/all correspondence including but not limited to emails or other forms of communication both LARWQCB internally as well as between LARWQCB and LARWQCB and/or State Water Board/ Cal EPA, and any other entity including but not limited to Playa Vista representatives.
- Please also provide any/all communications that are in the possession of LARWQCB regarding University City Syndicate since your participation in the review of University City Syndicate per LARWQCB engagement and the CAL EPA Complaint.

-Please provide any/all plans for address to the outgassing of and over University City Syndicate.

Thank you,
Patricia McPherson, Grassroots Coalition & Sierra Club,
Airport Marina Group

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

From: Taing, Adam@Waterboards
<Adam.Taing@Waterboards.ca.gov>
To: patriciamcpherson1@verizon.net <patriciamcpherson1@verizon.net>
Cc: Lu, Yi@Waterboards <Yi.Lu@waterboards.ca.gov>
Sent: Fri, Oct 18, 2019 8:52 am
Subject: RE: University City Syndicate

Good morning Ms. McPherson,

Yes, the Regional Board is a participant in this meeting. The scope of the discussion was to reevaluate the University Syndicate Well. A lot of agencies are involved, so please be patient in this process.

Adam Taing

Water Resource Control Engineer | UST
Los Angeles Regional Water Quality Control Board
320 West 4th Street, Suite 200
Los Angeles, California 90013
(213) 576-6752 | Adam.Taing@waterboards.ca.gov

From: patriciamcpherson1@verizon.net <patriciamcpherson1@verizon.net>
Sent: Thursday, October 17, 2019 3:50 PM
To: Taing, Adam@Waterboards
<Adam.Taing@Waterboards.ca.gov>
Subject: University City Syndicate



Hello Adam,

Can you provide us with an update as to what , if anything, is ongoing with UNIVERSITY CITY SYNDICATE and ending the oilfield outgassing ?

We've been told by an outreach person from DOGGR that agencies and LA City and Playa Vista are in discussion over handling the situation. Can you shed some light on what this means and is LARWQCB involved in the discussion?

Please let us know and thankyou,
Patricia McPherson, Grassroots Coalition

ps The Bonin Motion to investigate SOCALGAS/PLAYA DEL REY'S CONDITIONAL USE PERMIT AND OTHER laws and enforcement and potential shut downWAS APPROVED at the Climate, Energy , Environmental Justice Comm. Meeting.
Unanimously.



Grassroots Coalition's Response to CCC Item 16c and 17a Report & Exhibits (No. 2 of 4 emails from GC/McPherson)

patricia mcpherson <patriciamcpherson1@verizon.net>

Thu 8/6/2020 2:52 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>; Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>; Willis, Andrew@Coastal <Andrew.Willis@coastal.ca.gov>

Cc: ToddT.Cardiff <todd@tcardifflaw.com>; saveballona@hotmail.com <saveballona@hotmail.com>

 1 attachments (23 MB)

CCC HEARING DRAINS AUG. 12, 2020.pdf;

August 6, 2020

California Coastal Commission

submitted electronically as 4 Emails. (1) Response to Staff Report; **(2) GC Response to Exhibit 2;** (3) GC Response to Exhibit 10; (4) GC DECLARATION

RE: Application to Remove Unpermitted Drains in BWER

Request for Permit Amendment

App. No. 5-18-0554

Permit No. 5-17-0253-A1

August 12, 2020 Meeting Agenda Items 16 c, 17 a

Honorable Coastal Commissioners and Staff,

Grassroots Coalition opposes CDP Application No. 5-18-0554. And, Grassroots Coalition opposes Application No.: 5-17-0253-A1

Please consider this Grassroots Coalition Response to Exhibit 2, Habitat Impacts Related to Unpermitted Drains in Ballona Wetlands Ecological Reserve, dated July 23, 2020, prepared by Jonna Engel, Phd, attached as Exhibit 2 to the Staff Report.

(Grassroots Coalition's (GC) Opposition Response to the California Coastal Commission includes Todd Cardiff Esq. comments on behalf of GC sent by Todd Cardiff Esq. and

4 emails sent by GC/McPherson as: (1) Staff Report; **(2) Exhibit 2**; and (3) Exhibit 10; with (4) GC/ McPherson Declaration for August 12, 2020 Meeting Agenda Items 16c, 17a.)

GC Response to Exhibit 2 of Staff Report

Thank you, in advance, for your time and consideration in reviewing these materials in detail in anticipation of the upcoming hearing on these critically important issues,

Patricia McPherson, Grassroots Coalition

August 5, 2020

California Coastal Commission
submitted electronically

RE: Application to Remove Unpermitted Drains in BWER
Request for Permit Amendment
App. No. 5-18-0554
Permit No. 5-17-0253-A1

August 12, 2020 Meeting Agenda Items 16 c, 17 a

Honorable Coastal Commission,

Please consider this **Grassroots Coalition's Response to "Habitat Impacts Related to Unpermitted Drains in Ballona Wetlands Ecological Reserve"** dated July 23, 2020, prepared by **Jonna Engel, Ph.D.** attached as **Exhibit 2** to the Staff Report. Grassroots Coalition has substantial concerns about the scope and accuracy of such report. Below, as I reviewed the report and provided a response. The text that is in black ink represent the portions of the report that I am responding to. The text that is red ink represents my response to such statements.

The report and exhibits for the agenda item may be found at
<https://www.coastal.ca.gov/meetings/agenda/#/2020/8>

J.Engel Memo: Re: Habitat Impacts Related to Unpermitted Drains in BWER July 23 , 2020 (FWM) storm drain overflow outlet pipe (Figure 1).

The debris drain risers were at the end of pipes connected to the FWM storm drain overflow outlet pipe (Figure 2). The debris drain risers and pipes were not permitted. I have been asked to evaluate the history and current conditions of the natural resources within the vicinity of the unpermitted debris drains. (Ex. 2, p.2)

Habitat impacts related to how the Main Drain (Outlet Pipe) is operating, including its malfunctions are not discussed by CCC's Senior Ecologist, Jonna Engel.

The malfunctions (inflow of contamination to BWER), freshwater discharges of the Main Drain must be discussed in context with: habitat health; safety(outgassing). Without context of site and concert of issues discussed, the response by Ms. Engel is piecemealed and fails to provide a scientific and/or prudent evaluation.

Malfunctions/ Interference of Spur Lines/Drains as attached to the Main Drain. CCC Staff has PSOMAS, Mr. Crehan's, informational email to CDFW and the private business known as the Bay Foundation, which details the malfunctioning outflow of

Ballona Channel water into Ballona Wetlands Ecological Reserve via the Main Drain driving channel water into the spur lines which exits the unpermitted drains, spilling contaminated channel water into Ballona. The outflow gate is intended to prevent tidal action and saltwater from entering the freshwater marsh,(4/11/14 CCC Letter p.3) and according to Mr. Crehan, tidal flow has entered and outflowed into Ballona Wetlands during high tides. Mr. Crehan also notes that, '3. Playa Vista is also looking at this.'

This unpermitted activity and harm to Ballona's habitat is feasible due to the unsealed drain structure. (Psomas, Crehan 2013 email is attached on GC's cover letter to CCC.)

CAPPED DRAIN (S) LEAK - Only one rainy season has occurred with fully capped drains.



April 2020

During the second rainy season, since being 'capped', the south drain has become visibly breached of its seal as can be easily seen in the ongoing outgassing. No discussion or study exists that identifies the integrity, or lack thereof, of the large, subsurface weep holes in the drains. Once again drainage of freshwater is occurring and outgassing is also occurring with the constant suck and push of the tidal action in the spur lines. This hydraulic push and sucking action and its effects upon any sealant has also not been discussed by Ms. Engel or CDFW.

-Unless the tidal gate is designed or replaced, any sealant will fail resulting in the further draining of the Ballona Wetlands.

-Unless the Unpermitted Drains and Spur Lines are removed and/or properly abandoned in place, further draining and outgassing will occur.

It has been at least 20 years of drainage that has been occurring and it has been 7 years since the discovery of the drains by the public and 7 years since Coastal Commission Enforcement Staff have requested CDFW and Playa Vista stop the drainage of Ballona's freshwater that has been harming the hydrology and flora and fauna of this rare coastal wetland.

RECOVERY OF HABITAT IS APPARENT TO WETLAND RESTORATION ECOLOGIST

Evidence from Margot Griswold, Ph.D. demonstrates that after only two rainy seasons, significant wetland recovery has occurred. Such evidence brings into question whether CDFW's claims that restoration from removing the pipes will cause long-term damage, and also question why CDFW is not being required to mitigate the impacts of draining the BWER for over 20 years.

Video and images of drains <http://www.saveballona.org/>

Video of Drainage <https://www.flickr.com/photos/stonebird/32453061246/>

To do this I visited the site on February 1, 2019 and have reviewed aerial photos and the documents listed above.

E. Read and Assc, Inc. (2013) reviewed vegetation maps from 1991 and 2006 reports respectively, and found that according to the 1991 map, vegetation in the vicinity of the debris drains consisted of roadside upland weeds dominated by non-native invasive black mustard with the only natives being weedy species of wide occurrence. E. Read reported that the 2006 vegetation map concurred with the 1991 vegetation map.

CCC Staff's April 2014 Letter disagrees with findings of Ms. Read's 2013 assessment. It states in relevant part:

Background The BFM was approved by the Commission pursuant to CDP No. 5-91-463 (as amended) on September 13, 1991. The project is designed to integrate water quality protection functions, habitat creation and restoration, and stormwater control. The first function of the BFM is to collect runoff via inlets specifically identified in the CDP application and accompanying plans. Each of these approved inlets flow into the BFM. The CDP application describes the process by which the BFM achieves its water quality objectives: The water quality functions would be performed by the input of a year-round supply of clean freshwater into the system and through the natural processes of a wetlands -sedimentation, adsorption, and transformation -which would reduce levels of pollutants in storm water and other urban runoff that drains into the system. The freshwater wetlands system would trap and remove pollutants in stormwater runoff as the water moves slowly through the system. Water cleaner than the stormwater runoff originally put into the system would then flow into the Ballona Flood Control Channel or into the salt marsh, thus enhancing the resource values of those areas. [Appendix 5, page 2)

The Unpermitted Drains do not support the water quality objectives of the BFM; the Unpermitted Drains do not direct water into the BFM to be subject to the wetland treatment processes described above. Instead, water flows into the Unpermitted Drains, then untreated into the Ballona Channel. P.2

In fact the effect of the functioning of the Unpermitted Drains is deleterious to habitat because the Unpermitted Drains direct water away from habitat areas within the Ballona Ecological Reserve, including a wetland area. P.2

the Unpermitted Drains remove water in the ground and on the surface at all other times water is present. This is a continuous detriment to wetland hydrology and habitat that relies on water to function. P.3

Staff Responses to Section C (4/11/14 CCC Letter Pgs. 7-9

You assert in Section C that the Unpermitted Drains have not had any adverse impacts on wetlands. You attach a memorandum from your biological consultant that purportedly supports this claim. However, the memorandum is limited in scope to a comparison of surveys of the vegetative communities around the Unpermitted Drains before and after installation of the Unpermitted Drains. There is no discussion of the effects the Unpermitted Drains might have on wetland hydrology. Attached to the memorandum is a vegetation survey of the vegetation in the Ballona Wetlands area in 1990, prepared by MTP's biological consultant, and results of a survey of the vegetation in 2006, undertaken by the California Department of Fish and Game. The prior survey show the vegetation around the Unpermitted Drains to be arguably upland before installation of the Unpermitted Drains, the subsequent survey shows seasonal saltmarsh south of Culver Boulevard and a mix of seasonal saltmarsh and riparian vegetation north of Culver Boulevard. You thus assert that wetland habitat has expanded since installation of the Unpermitted Drains. However, the dominance by wetland vegetation documented in the survey conducted after installation of the Unpermitted Drains is evidence of a trend to dominance by wetland vegetation that began at the time agriculture use of the site ceased in the 1980's, before installation of the Unpermitted Drains.

In a 1991 memorandum, the Department of Fish and Game, which delineated wetlands in the Ballona Wetlands area in 1991, stated "During the evolution of the now certified Playa Vista Land Use Plan, we predicted that, were it not for the then ongoing agricultural operation, wetlands in Area B would expand. These agricultural activities ceased for approximately three years prior to the Corps' wetland determination, and, as we predicted, the wetlands did expand into the area which was formerly used for the production of barley and lima beans." The Unpermitted Drains are located in such a formerly farmed area. The 1990 MTP vegetation survey notes of the area where the Unpermitted Drains are located that "All of this area at some time has been disturbed, and much of it has been used for agriculture, some within the past 10 years." The survey goes on to say that "The elevations of the flats appear to reflect the original elevations and except for the elevated roadways, the areas appear not to have been artificially filled." Indeed the survey labels the areas where the Unpermitted Drains are located as "old marsh flats." It is not surprising then, given the history of the site, that

the 2006 survey found that wetland vegetation has returned to much of the area around the Unpermitted Drains, despite the limiting effects on hydrology that the Unpermitted Drains have had.

Again your general assertion in Section C is that the Unpermitted Drains have not had any adverse impacts on wetlands. As explained above, the memorandum attached to your letter does not persuasively support this assertion. Moreover, this assertion is both conceptually and factually incorrect. Water is the main requirement for a functional wetland. Any fill or alteration of wetland hydrology reduces a wetland's ability to function. If water is drained or removed, or isn't present in the wetland for as long, then wetland function is degraded. Therefore, wetland function is degraded by actions that disrupt water supply through direct fill of a wetland or draining. The Unpermitted Drains disrupt water supply through direct fill and draining of a wetland and habitat within the reserve. One of the chief components of wetland habitat is wetland vegetation. Thus, removal of wetland plant species, whether through removal or physical preclusion of growth, reduces the habitat value of a wetland. In addition, degradation of wetland function through alteration of hydrology means that the same plants may not grow and habitat value and wildlife use of the wetland are reduced. This has clearly happened in the vicinity of the Unpermitted Drains. It is readily apparent from a review of the vegetation in the vicinity of the Unpermitted Drain located in a wetland south of Culver Boulevard that the drain is precluding growth of wetland plant species.

Moreover, since the Unpermitted Drain is designed to drain water from the soil in the wetland around it, as well as ponding water that flows into the drain, this deleterious effect would not be limited to just the immediate vicinity where water pools, but would extend to any area hydrologically connected to the Unpermitted Drain.

In fact, the Unpermitted Drains detract from wetland and habitat function. Thus the Unpermitted Drains are both unpermitted and could not be found to be consistent with Section 30233 of the Coastal Act. P.9

As stated by CCC Staff's 2014 Letter responding to CDFW & Playa Vista developers, *"Water is the main requirement for a functional wetland. Any fill or alteration of wetland hydrology reduces a wetland's ability to function. If water is drained or removed, or isn't present in the wetland for as long, then wetland function is degraded."*

Furthermore, GC believes that the height above the Drain is significant to note (above the Drains' pyramid top bars). **The volume of water across the site has not been calculated in order to determine just how much ponded water fills this area of Ballona that is bounded on all sides by raised roadways. The Psomas report concluded submergence of the Drain could not even happen but, has, as photographed and videotaped for the last three years.** With the south Drain situated slightly elevated above the 'flat' portion (as cited by Psomas), the amount of water that must be added to submerge the Drain's pyramid top is significantly greater and topographically higher than Psomas calculated and is a far greater

volume of water than Psomas calculated. The water level above the rest of the flat area would be significantly increased in depth if allowed to maintain the ponding height over the Drain. This extra volume of water is especially significant to the BWER if it is allowed to percolate slowly, over time into the 'clayey/silty' soils which have the ability to hold the saturation and ponding over weeks or months. (Terry Huffman, Phd ,USEPA Report Determination of the Presence of Aquatic and Wetland Habitats Subject to Federal Regulatory Jurisdiction Within The Ballona Creek Land Tract, Final Report Sept. 1986 (discussing soils description and aerobic conditions).)

Additionally, the maps are unclear, at best for discerning the vegetation predominance or scarcity in the areas.

The maps referenced: a) Hendrikson 1991, and b) the 2006/7

a)..Map of Hendrickson (also ostensibly marked and with box legend by Ms. Read) does not provide the Key of Hendrikson for clarity of content. The area is marked (if the key is accurate) as Disturbed Flats covers virtually the entire map.

b) Map of Figure 4.2 is unclear as to who created this map for what purpose however, the added language in the box at right does not reflect the key on the left. The area of the drains is marked, per the Key, as "seasonal wetland" and not as marked inside the box as 'saline seasonal wetland' (ostensibly the red circle and box noting Vegetation in Area of Interest was inserted by Ms. Read.)

This demarcation as 'seasonal wetland' does not identify plants in the area per se. The map appears to be a map attempting to display salinity levels.

E. Read visited the site on November 8, 2013 and found that the vegetation on-the -ground was similar to that depicted on the 1991 and 2006 vegetation maps except that small patches of saltmarsh vegetation occurred around the debris drain riser on the south side of Culver Boulevard: Vegetation in the area of the drain north of Culver Blvd continues to be dominated by non-native weedy species, as it was prior to drain construction.

Ms. Engels does not comment upon Staff comments within the 4/11/14 CCC Enforcement Letter to CDFW and Playa Vista which contradict the Findings of E. Read.

The date of the insertion of the unpermitted drains has not been verified but assumed to be in the 1995/6 timeframe. Numerous ground disturbance activities by the developers since 1991 are not accounted for in Ms. Engels assessment. The CDP 5-91-463 was issued in 1991 (with amendments) for construction of the Freshwater Marsh System (FWM System). The ground disturbance for the installation for the catch-basin (freshwater marsh)-- the Main Drain and the unpermitted spur pipes and drains themselves were part of ongoing construction activities that caused significant earth disturbance throughout this area. Various ground disturbances occurred during this timeframe as Playa Vista development work progressed as is evidenced in fill noted by Terry Huffman PhD in his evaluation of Ballona Wetlands, in Sept. 1986. Huffman also

reveals the area of the drains as having been designated as wetlands and its use as agricultural lands that seasonally ponded and remained wet for months which gave rise to plowing and crop planting in late spring or early summer—including the use of drains to help remove the water and allow for the return of aerobic conditions to plant crops. According to the T. Huffman report,

Saturated conditions typically occur within the root zone (<6 inches) of the prevalent vegetation during the late winter and early spring months throughout much of the tract.....At higher elevations saturated soil conditions occur as a result of heavy rainfall retention during portion of the early growing season (December to April) by heavy soils of low permeability. This, combined with a seasonal shallow groundwater table, causes saturation soil conditions within the root zone to occur for several months during most years. During the remaining portions of the year, aerobic conditions occur within the root zone of the prevalent vegetation. (Pg. 10)

Annual recolonization by salt marsh and brackish marsh species common to the area is on various portions of filled areas and agricultural lands that have seasonal anaerobic conditions during portions of the early growing season. The degree of recolonization is variable, depending on how recent and reoccurring the disturbance is.

Wetland Vegetation Conditions/ Agricultural Lands-- a. "normal" prevalence of Cressa sp. and/or Salicornia sp. (Pg. 20)

Determination of the Presence of Aquatic and Wetland Habitats Subject to Federal Regulatory Jurisdiction Within the Ballona Creek Land Tract, Prepared for USEPA, Region IX, San Francisco, Ca 94112 by Terry Huffman, PhD, Huffman Technologies Company San Francisco, Ca 94110 Final Report September 1986

Also, not included in Ms. Engel's considerations are the overall effects upon the Unpermitted Drains' site area and Ballona Wetlands due to the removal of groundwater by the adjacent Playa Vista development site, that occurs and has been occurring for at least 20 years. The removal of water from the landscape is critical and has numerous negative impacts upon the wetlands. For instance, groundwater cleansed and sent to the sanitary sewer, resultant from Clean Up and Abatement Order No. 98-125 (LARWQCB);
See File No. 98-192 pg. 5,11.

In 1992, MTP proposed to reinject up to 612,000 gallons per day of treated groundwater into a series of injection wells located upgradient of the contamination plume. The purpose was to raise the groundwater level so that it would prevent migration of the contamination plume from the Hughes site as a result of dewatering activities related to a nearby sewer project. The Regional Board issued a WDR, Order No 92-089...

The mitigation measures of Playa Vista require—'no long term dewatering' due to concerns of lowering the groundwater causing offsite flow of contamination that requires remediation onsite as was noted above by the Water Order 92-089.

Clearly, dewatering anywhere onsite of Playa Vista has consequences and consequences downstream to Ballona Wetlands, a freshwater dependent wetland. Drought years are not discussed though many have occurred since the 1991 timeframe to which Ms. Engels and Read refer.

As noted by previous CCC assessments, since, the insertion of the unpermitted drains, the habitat has been being deprived of seasonal ponding rains and the weep holes that are subsurface, act to drain away percolating and/or near surface groundwater, which is their design purpose and why the weep holes were also ordered sealed by the Coastal Commissioners. (CCC Letter 4/11/14 p.3.)

Ms. Engels comments are all directed to years of freshwater removal from Ballona.

Ballona Wetlands hydrology studies have not been performed and are not part of the CDFW EIR studies. Thus far, we have only the documentation of the freshwater dewatering and discharge of Freshwater Marsh water into the Channel, instead of allowing it to remain upon Ballona as also designed and permitted by 5-91-463.

EDITH READ HAS A CONFLICT OF INTEREST AND HER REPORT SHOULD BE VIEWED WITH SKEPTICISM.

Edith Read is the manager of the Freshwater Marsh System as a contractor to the Violator—Playa Vista. Playa Vista has financial interests at stake for management of the Freshwater Marsh System per Settlement in *Friends of Ballona Wetlands v Coastal Commission, City of Los Angeles, et al*, case No. C 525 826. [download a printable and searchable PDF file](#).

- d. The Developer agrees to maintain the Freshwater Wetlands System and provide financial assurances with respect to that obligation.**

The developers of Playa Vista agreed to obligate themselves to maintain the Freshwater Wetlands System and provide financial assurances with respect to that obligation. Any and all issues/ hazards that may cost Playa Vista either financial or public image losses create, at the very least, a perception of conflict of interest. CA. State Lands Commission has allowed Playa Vista to maintain control over the Freshwater Marsh System. CDFW claims to have no control over the amount of Freshwater Marsh Water thrown into the ocean. Of concern regarding these Public Trust Lands, is that even CDFW has written to Playa Vista to state that the volume of water that is being allowed to flow into the Freshwater Marsh is too little and is harming the hydrology of the Freshwater Marsh and its flora and fauna. (Exhibit- Betty Courtney CDFW Letter) <http://www.saveballona.org/2017-california-department-fish-wildlife-cdfw-betty-courtney-cites-harm-ballona-due-reduced-water-flow-playa-vista.html>

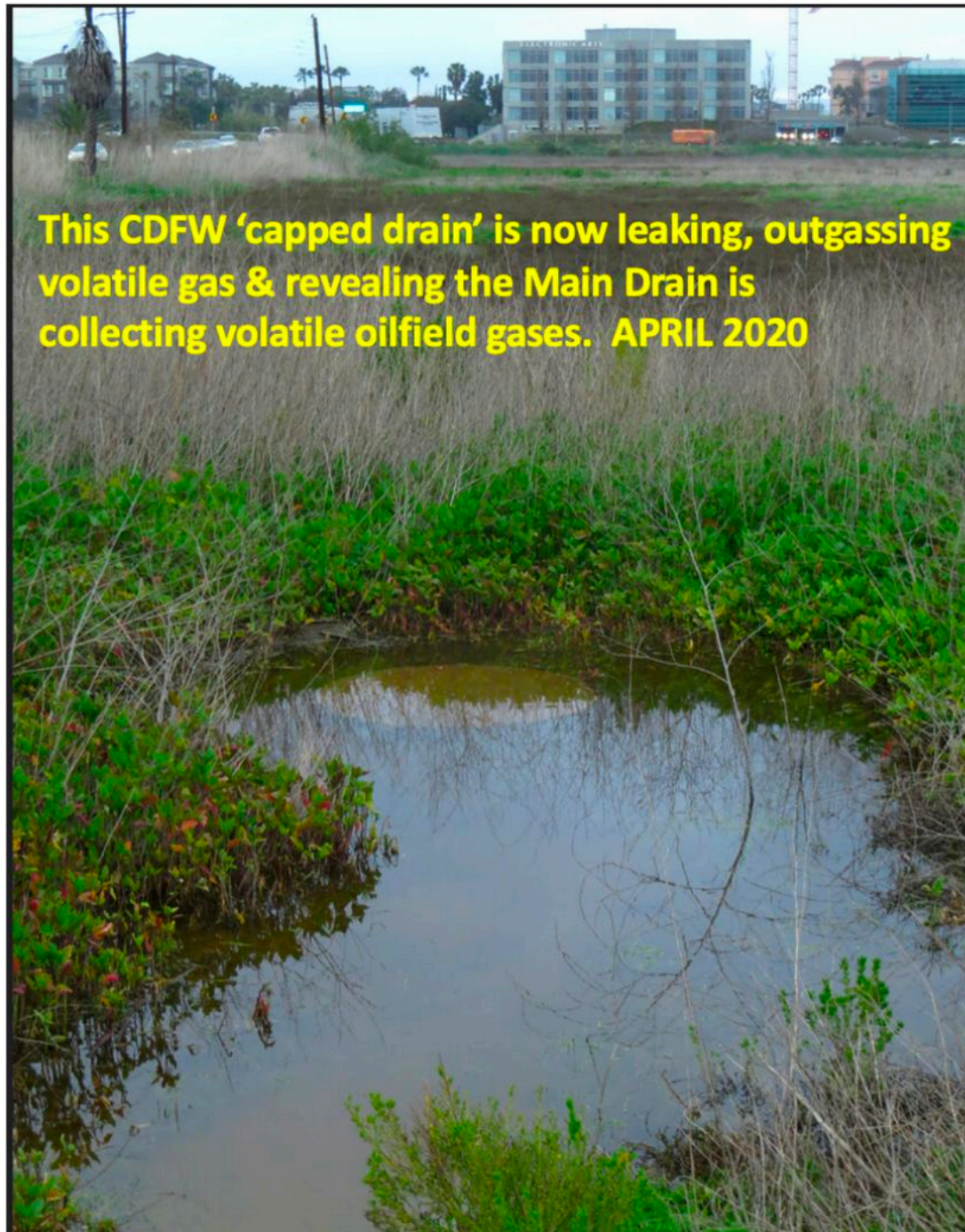
And yet,

“Beneficial uses designated for groundwater in the Santa Monica Basin underlying Playa Vista property include municipal and domestic supply, agricultural supply, industrial process supply, and industrial service supply.” Pg 7 FILE NO 98-192 Clean Up and Abatement Order No. 98-125.

And, all of the agreements with developers of Playa Vista, the City of LA and the state of Ca., all cite to the protection of Ballona Wetlands Resources and a policy of 'do no harm'. (see C 525 826-- CCC v Friends of Ballona 2005/6 Stipulated Agreement)

Approximately 1 1/2 years have occurred since the CCC ordered capping of the drains to stop further environmental damage. It is unknown how long the drains have been in the current breeched condition.

The first rainy season post capping, the area demonstrably filled with freshwater across the landscape and allowed for the freshwater to percolate down into the ground and underlying freshwater aquifers. **Continued on next page-**



Photograph from 2-2-2018 rainy season, after the drain was sealed.

This past rainy season the south drain has been shown to have been breached in its seal via the public's documentation. Months after a GC letter alert to CDFW of the apparent breach was documented, CDFW was nonresponsive. CDFW went to the Drain site (July) only after GC provided a warning to CDFW attorneys of a potential litigation if the site was not addressed. During this past rainy season there was no known attempt by CDFW to address the breached seal or to monitor the unpermitted

outflow of water to the sea. After a lack of response from CDFW, Grassroots Coalition Attorney Todd Cardiff, contacted the Department of Justice, Attorney Gary Tavetian (representing CDFW) in a legal letter requesting response to these problem issues.



4/11/14 CCC Letter goes on to state that...

Vegetation in the area of the drain south of Culver Blvd is now a mix of weedy species and saltmarsh vegetation (pickleweed). In a 2018 addendum to the E. Read 2013 report, E. Read re-visited the site, surveyed the vegetation, and provided the following update regarding the area immediately around the north and south drains: North Drain This area is occupied entirely by non-native weedy vegetation, primarily iceplant (*Carpobrotus edulis*), black mustard (*Brassica nigra*), and castor bean (*Ricinus communis*). This drain is about 15 feet north of Culver Boulevard below a stand of castor bean. (Figure 3) South Drain Unlike the north drain,

this drain has patches of wetland-associated species growing in disturbed areas where black mustard is less prevalent. These species include pickleweed (*Salicornia pacifica*), spear oracle (*Atriplex patula*), and alkali mallow (*Malvella leprosa*). (Figure 4)

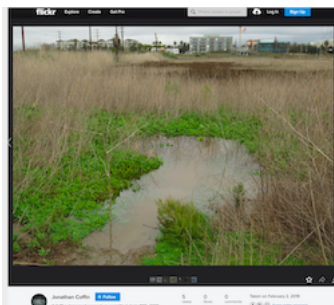
Grassroots Coalition is unaware of this “addendum” and it is not included as an exhibit to Ms. Engel’s Report. Grassroots Coalition must be provided all documents relied upon by the Coastal Commission Staff to properly evaluate and respond to the proposal. Grassroots Coalition has already discovered massive discrepancies that simply do not comport with the conditions on the ground. Neither the Coastal Commission nor the public can properly evaluate and comment on an incomplete file.

During March, 2019 CCC Meeting in Los Angeles Grassroots Coalition thanked the Coastal Commissioners for their order to cap the drains. GC provided a presentation to Commissioners and staff demonstrating with photographs, the ponding that was occurring across the area and ponding submerging the south drain. This material, as well as all other materials previously provided to the Coastal Commission should have been included as exhibits. Again, neither the Coastal Commission nor the public can properly evaluate and comment on an incomplete file.

CCC LA- 3.8.19 Grassroots Coalition - Sierra Club - Playa Vista Illegal Drains - Good News. Bad News

<https://youtu.be/YHU9G0AKLAo>

February 2, 2019, the day after Ms. Engle’s visit, cited below, the area Of the unpermitted drain ponded over as seen in the documentation below:



During the February 1, 2019 site visit with Coastal Commission staff (Amber Dobson, Shannon Vaughn, and Mandy Revell) and CDFW staff (Richard Brody) I observed the physical and biological conditions surrounding the two drains. I found that the vegetation on-the -ground closely matched the descriptions of E. Read (2013 and 2018).

Ms. Engel does not comment regarding the CCC Staff report of April 2014 which disagrees with the conclusions rendered by Ms. Read in 2013.

The north drain was surrounded by upland non-native invasive species including iceplant, black mustard, and castor bean and the vegetation surrounding the south drain was dominated by black mustard with small patches of pickleweed and alkali mallow in close proximity to the drain riser.

Ground disturbance has also occurred due to various Playa Vista contractor's movements across the landscape. Below is a photo from 10-16-12, showing habitat destruction from vehicle disturbance.



10-16-2012 <https://www.flickr.com/gp/stonebird/4X94M5>

10-5-2012 Coring Crew Tracks <https://www.flickr.com/gp/stonebird/24b018>

It appears from the tracks of the vehicle that there was an attempt to avoid the low pickleweed growth. This area, during rain events does pond over the top of the drain's pyramid bars as can be seen below. The water across the entire site can remain ponded when the Main Drain stays closed as is seen in Jonathan Coffin's photographic evidence (see montage), and the following day outflows when the Main Drain flushes

out to a lower Channel tide level. It is inconceivable that maintaining this much ponded water within this area for it to naturally percolate into the ground and underlying freshwater aquifers, would not be significant to this wetland area.

<https://www.flickr.com/gp/stonebird/Z0B5sL> <https://www.flickr.com/gp/stonebird/FK23DD>

The digging of holes is typical oddball disturbance to the wetlands. Images above, taken near the drains, shows more soil disturbance in 2020, which accounts for lack of plant growth here.

Need For Qualified, Unconflicted Hydrology Studies

2019- The day of Ms. Engel's visit, and per her comments—only a small portion of water was visible to her, however the following day the drain was submerged after a rain event again occurred. The water table and its artificial and systematic lowering by CDFW and Playa Vista dewatering activities needs study to determine how much freshwater needs to flow onto BWER for the water table to not be lowered beyond its historic average. Certainly, ponding rainwater is part of the true restoration of Ballona.

J.Engel Memo: Re: Habitat Impacts Related to Unpermitted Drains in BWER

July 23, 2020



The day after the CCC visit, the Drain submerged under rainwater ponding.

Feb. 2, 2019

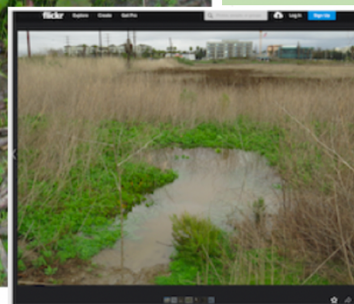
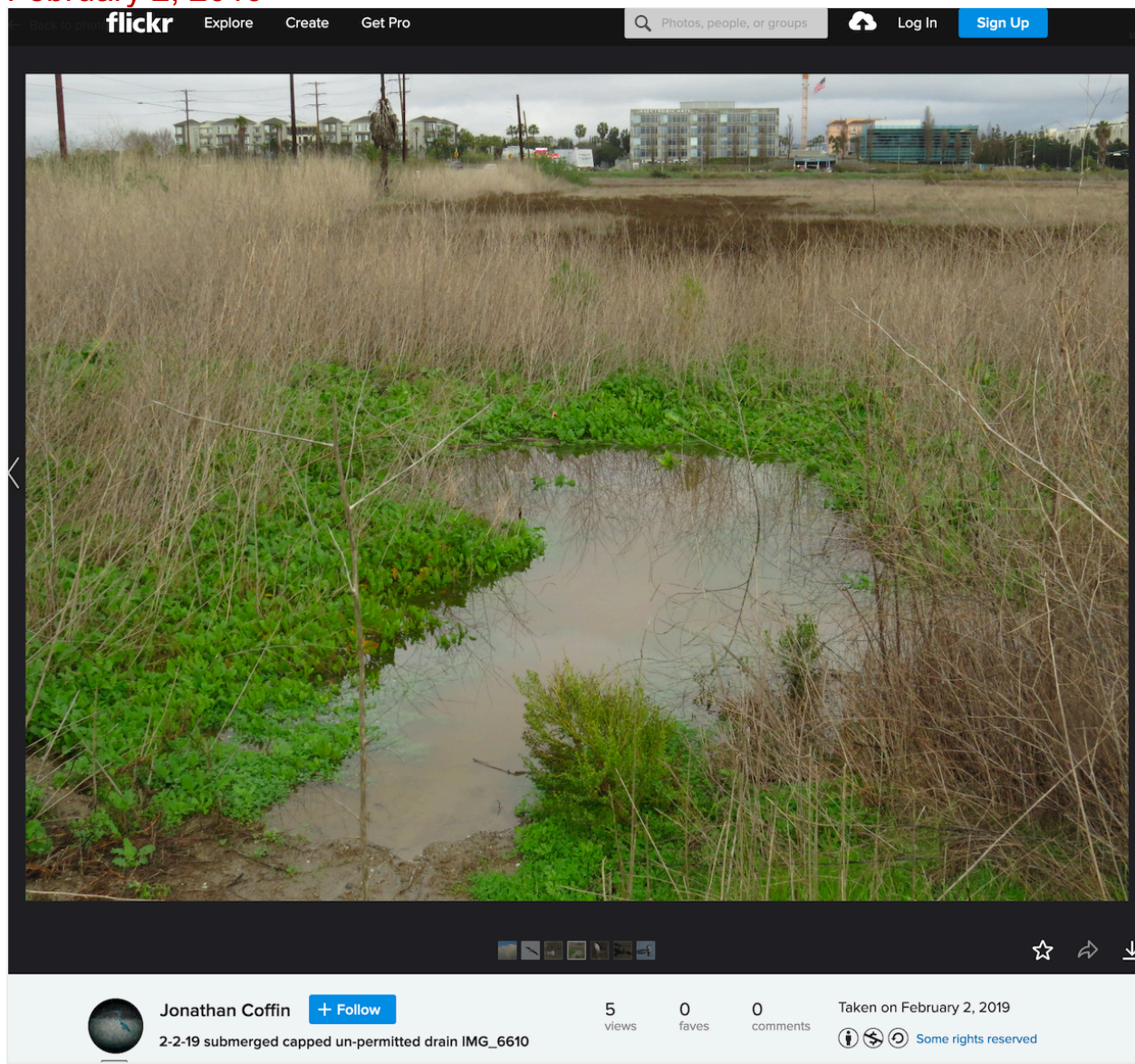


Figure 5. February 1, 2019 photograph of the south drain riser showing small amount of ponded water.

Lower right shows the next day's submergence of the Unpermitted Drain. February 2, 2019 photograph of the south drain riser submerged under ponded water.

February 2, 2019



Below in the links are
2020 late July imagery of this area which shows that the ponded rainwater
has promoted significant wetland plant growth as pickleweed, can be seen
to growing throughout this area and even up the embankment of the raised
roadway.

<https://www.flickr.com/gp/stonebird/116DG3>

<https://www.flickr.com/gp/stonebird/8J5Ptc>

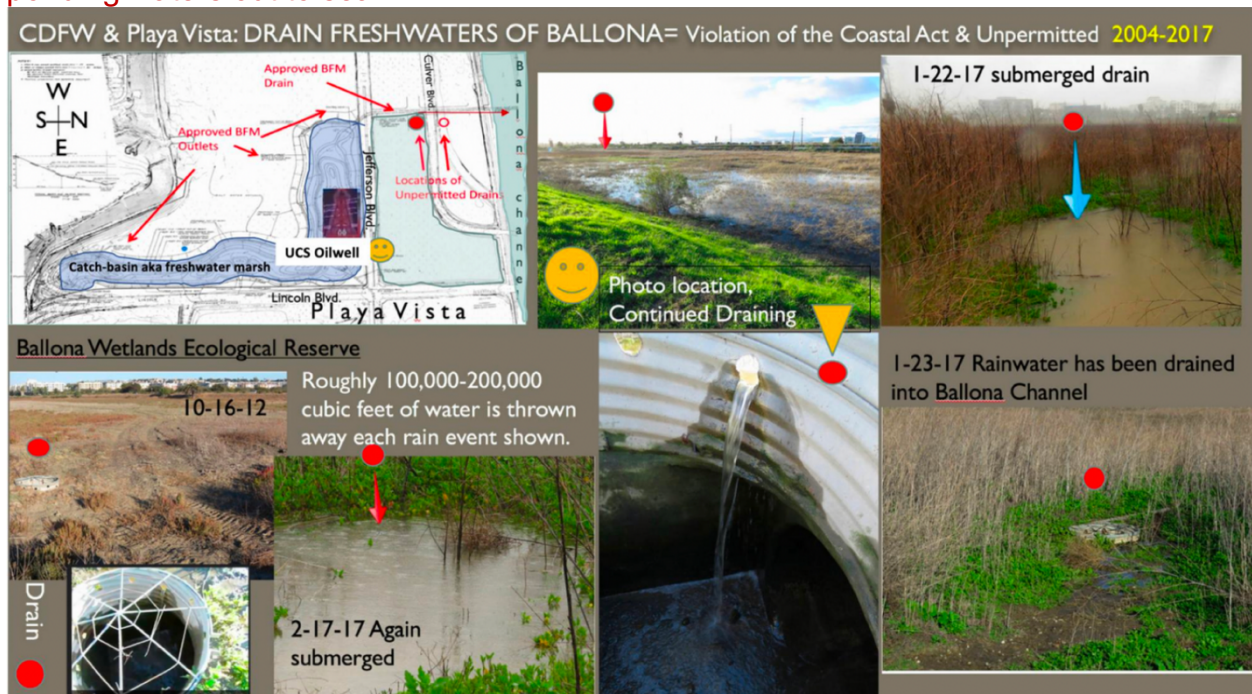
<https://www.flickr.com/gp/stonebird/21k72m>

<https://www.flickr.com/gp/stonebird/Z0B5sL>

<https://www.flickr.com/gp/stonebird/cM9545>

2013, was after 7 years of draining the area of its seasonal rainwater ponding and percolating groundwater.

Staff in its 2017 Report, cited the public's documentation of the south drain, flushing the ponded water that overtopped the vertical rails of the drain, out to sea the following day as the Main Drain opened to the Ballona Channel with lowered tide and took the ponding waters out to sea.



The subsurface weep holes also act as conduits for water drainage as seen in the public's videotape of the drainage occurring.

Video documentation of Unpermitted drainage. <https://www.flickr.com/photos/stonebird/32453061246/>

DRAINING AND DEWATERING MUST STOP TO END HARM TO WETLAND

Wherein Staff in the Report and the day of the hearing reassert the seriousness of ongoing damage to the environment caused by the drainage of freshwater from Ballona. (4/11/2014 CCC Letter to CDFW/Playa Vista & 12/14/17 CCC Item 10C Report)
Lisa Haage, CCC Enforcement Lead, cited,

We think that draining a wetland is about the most amazing violation that you could have. I mean, putting a drain in a wetland is exactly the opposite of anything that you do in a wetland.

The area surrounding both drains was characterized by disturbed upland ruderal habitat. California Coastal Commission CDP 5-18-0554

Exhibit 7 p. 2 of 16 J.Engel Memo: Re: Habitat Impacts Related to Unpermitted Drains in BWER July 23 , 2020

The area immediately around the north drain was the same as the overall surrounding area; disturbed upland ruderal habitat. I observed that the north drain riser was not topographically situated to remove water from the area because it was not located in much of a perceptible depression.

Ms. Engels fails to discuss the deep drain depth of the north drain and that the large weep holes extend downward into that depth which, are there to remove groundwater seepage. The design and purpose of the deep drainage device is to remove water below the surface as well as any water that should pond at its surface edge.

<https://www.flickr.com/photos/stonebird/32453061246/>

The corrugated metal bottom edge goes below ground surface and water can be seen draining into the pipe from the backside of that bottom edge.

Weep holes are designed to allow water to 'weep' into the drain subgrade. (CCC Letter 4/11/14 pg.3 paragraph 4 referencing the drains' inlets allow subgrade draining)

The area surrounding the south drain was in a slight depression that was enabling water to pond and I could envision water draining out of the area during and after big storms (Figure 5) . My thought is that, along with residual salt in the soil, ponding storm water would facilitate and account for the occurrence of small patches of saltmarsh plants.

Removal of groundwater and ponding rainwater has a profound effect upon the hydrology of the area and has not been evaluated to determine how to maintain the historic water table and keep freshwater from being thrown away.

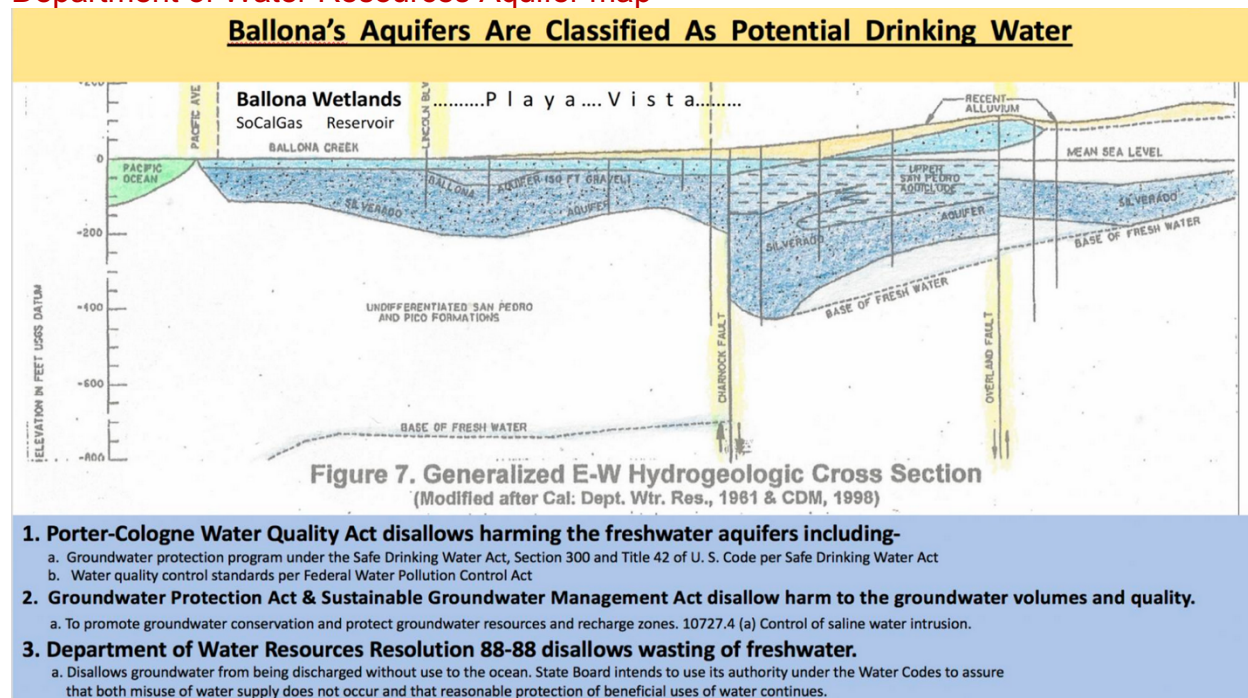
The EIR of Playa Vista documents the fresh groundwater as at or near surface. (CDM Groundwater Contour Map, Figure V.C.2.A-2, Playa Vista Phase 1 EIR) The Poland et al Report also establishes the freshwater hydrology of this area and the underlying freshwater aquifers.(Poland pgs. CCC Oxnard - 5.8.19 Patricia McPherson - Ballona Wetlands History Presentation Slide pages 18-21 (Poland Hydrology Report; House Doc 389)

California Coastal Commission Meeting, May 8 2019, Ballona Wetlands History, a PDF SlideShow Presentation

<https://youtu.be/V63crzMDFkE> --video presentation of slides

The 20 plus years of diversion of ponding rainwater and the ongoing diversion of groundwater by Playa Vista from Ballona Wetlands has not been included in any CDFW EIR studies. The FEIR is fatally flawed and the CCC should not support it.

Department of Water Resources Aquifer map-



PSOMAS (Sept. 27, 2017) conducted a study “to review the hydrologic conditions surrounding, and function of, two debris risers that were installed on either side of Culver Boulevard west of Lincoln Boulevard; and, to determine to what extent the installation of these risers may have affected the surrounding hydrologic conditions prior to their installation.

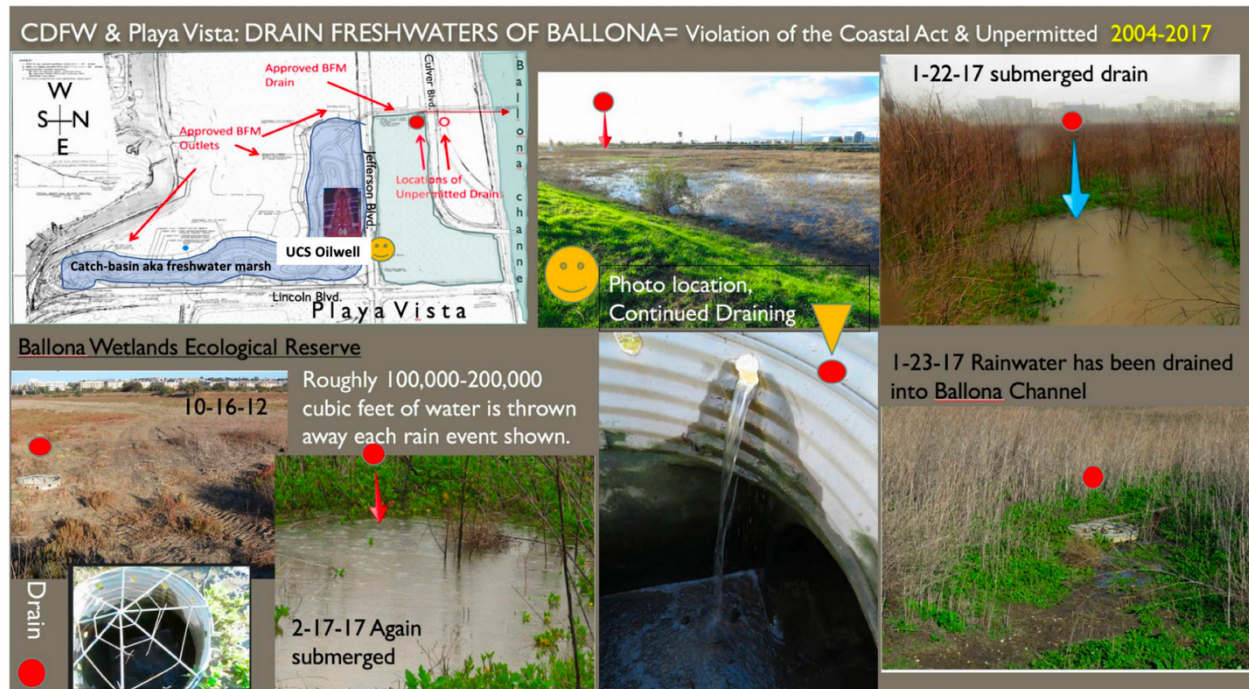
Grassroots Coalition is dumbfounded that Ms. Engel relies on the 2017 Psomas report. **In 2017 Staff of CCC rejected and criticized the 2017 Psomas Report** for its main argument which was that ponding would not reach the drains, hence the drains had no measurable effect. GC provided photographic and video documentation of ponding overtopping the riser top of the drain and the dramatic lack of ponded water surrounding the drain the next day, after the Main Drain allowed the outflow at low tide.

After capping of the drains had occurred, GC also provided visual, photographic evidence during the CCC Meeting in LA on 3-8-2019, that ponding was occurring and was now not being diverted/ drained out to Ballona Channel. (J. Coffin-video and stills) of ponding across the area. The ponded water was able to percolate for weeks for the first time in 20 years and help to recharge the underlying freshwater aquifers and water table.

CCC LA- 3.8.19 Grassroots Coalition - Sierra Club - Playa Vista Illegal Drains - Good News. Bad News

<https://youtu.be/YHU9G0AKLAo>

In 2017, Staff disagreed with the Psomas report, referring to the actual, visuals provided by the public of real time ponding and draining documented.



<http://www.saveballona.org/>

Video demonstrating drainage- <https://www.flickr.com/photos/stonebird/32453061246/>

Staff Report , Item 10c 2017-

The report concludes that the storm drain risers have no appreciable effect on the surrounding hydrology because the tops of the risers are set at a higher elevation (approximately one foot above the small roadway drainage swale located along the northern edge of Culver Boulevard, and one at approximately the existing level ground elevation south of Culver Boulevard) than the surrounding low-lying areas where ponding occurs, and the drainage swales effectively transport excess surface water from the area before it reaches the risers. Regarding the weep holes, the study concludes that because they are "not open to the free flow of water except at the very top of each riser" and are "below the ground surface and not accessible to any runoff flows", that they do not drain a significant amount of water.

However, Commission staff observed the drain risers and the location of the weep holes in the risers during a site visit in October of 2016, and noted several of the weep holes were at grade and slightly higher than grade level (**See Exhibit 6**). Staff has also observed how the weep holes actually function during a rain event, which is documented on video submitted by a member of the public. The video demonstrates that the relatively large weep holes located at grade and slightly higher than grade level do in fact drain water that would otherwise be retained in the wetland during a rain event, which is in fact detrimental to the surrounding wetland habitat. Thus, since the applicant is

Ms. Engel provides no comment regarding Staff findings from 2017 or comment regarding the evidence of the ponding provided by the public. Her lack of address to 2014 Staff's well researched findings, which were significantly included as part of documentation in legal action taken by GC against Playa Vista and CDFW that brought these issues back to the CCC for address, is alarming. Ms. Engel's support to the developer's contractors opinions while silent on Staff's earlier findings, including her support to the CDFW Plans of creating a saltwater bay (as demonstrated in her Drains mitigation plan offsite of the BWER) provides at least the appearance of an unbiased review of these issues.

Furthermore, the Psomas report was not provided to the public as an exhibit for review in 2017. Similarly, this Psomas report is not provided as an exhibit for review to the public by CCC Staff for independent comment per its accuracy or conclusions drawn. Additionally, Psomas is a Playa Vista contractor and as such is not an independent assessment without potential bias in its information or conclusions.

" PSOMAS described the drainage area of each drain as follows: North of Culver. This debris riser is located at the upper end of a small drainage swale that runs between two higher areas. The swale is between the north side of the existing Culver Boulevard roadway, and the south edge of a dirt embankment that used to be the alignment of Culver Boulevard prior to the construction of the Ballona Creek in its current alignment. The elevation of the swale at the riser location is at an elevation of approximately 8.0 feet Above Mean Sea Level (AMSL) ...Only a small area immediately west of the debris riser drains toward it. This area is approximately 200 square feet... South of Culver This debris riser is located in a flat area between the higher ground of Culver Boulevard and the Ballona Channel levee to the north, Lincoln Boulevard to the east, Jefferson Boulevard to the south, and the dirt over the FWM Outlet Drain structure to the west. The elevation of the soil ten to twenty feet away from the riser location is at an elevation of approximately 6.8 feet AMSL. Only a small area immediately west of the debris riser drains toward the riser. This area is approximately 300 to 400 square feet. The ground immediately around the debris riser is about a foot lower than 6.8 feet AMSL... PSOMAS analyzed the hydrology of the area surrounding the drains using a modeling program ('Hydrocalc', approved for use by the City of Los Angeles) that generates output based on numerous field parameters including drainage basin area, length of flow path, slope of flow path, intensity of runoff, soil type, storm frequency, etc. etc. Based on their modeling results PSOMAS concluded that: A. The elevations of the debris risers are set at an elevation higher than surrounding ground and potential storm water ponding and therefore have not affected the hydrology of the area in any appreciable way. 53cu-ft from

122,600 cu-ft is negligible (0.04%). California Coastal Commission CDP 5-18-0554 Exhibit 7 p. 3 of 16

J.Engel Memo: Re: Habitat Impacts Related to Unpermitted Drains in BWER July 23 , 2020
B. The elevations of the debris risers are set at an elevation higher than surrounding ground and potential storm water ponding and therefore have not affected groundwater elevations in any appreciable way. C. Likewise, capping of the debris risers will have no appreciable effect on the hydrology or groundwater in the area. While CDFW maintains, based on physical and biological evidence from several sources (including those described herein), that the debris drains were not significantly impacting the Ballona Wetlands Ecological Reserve (BWER) hydrologically or biologically, the Commission approved Coastal Development Permit 5-17- 0253 to seal the drains.

Grassroots Coalition is, again, stunned that despite the previous staff comments and the photographic and video evidence, that Ms. Engel is claiming, based on debunked reports, that the drains are not significantly impacting the Ballona Wetland.

CCC Staff disagreed with the Psomas assessment based upon empirical evidence provided by the public and expressed the critical need to stop the ongoing drainage that was harming the habitat and hydrology of Ballona.

The Commissioners unanimously agreed that the drainage was causing ongoing harm to Ballona's hydrology and habitat. The drains and their damaging consequences were considered a violation of the Coastal Act, subsequently ordering the drains sealed to stop the ongoing degradation.

According to CDFW (Dec. 18, 2018 CDFW Letter): Sealing the risers included applying epoxy sealant around the interior of each weep hole ..., sleeving the interior of the risers to cover all weep holes, applying epoxy sealant to the rim of the risers and caps..., and epoxying and bolting down L-brackets in an abundance of caution against lid removal. These steps were taken to ensure a watertight seal at every level of installation (sleeving, capping, and bracketing).

These measures are now known to have failed, the drain(s) are not sealed at this time.



April 2020

Currently at issue is whether to remove the debris drain risers and pipes now or to leave them in place for removal during the future large-scale Ballona Wetlands restoration. CDFW proposes that the least ecologically damaging approach is to leave the drains in place for removal during the large-scale wetland restoration. In his February 11, 2019 letter R. Burg states: To bring in heavy equipment and conduct trenching activities to remove the risers and lateral pipes would cause unnecessary and unwarranted impacts in BWER...

GC requests that the drains be either removed or plugged as in the abandonment of a pipeline or oilwell. (Outline by CT Williams Phd, oil/gas expert) It has been 7 years since CCC Enforcement told CDFW and Playa Vista of their violation and explained the ongoing harm to the environment. Currently, the chances of any approval of the CDFW Plan will have to overcome acknowledged problems and numerous CEQA/NEPA hurdles. There is no certified FEIR and numerous organizations and member of the public are allied in their agreement to stop the devastating destruction and non-restoration efforts of the CDFW Plan.

Both the South Coast marsh vole (*Microtus californicus stephensi*), a CDFW species of special concern, and the imperiled wandering skipper (*Panoquina errans*) are known to occur within or adjacent to the project area. The project site is adjacent to or within potentially suitable or known occupied habitat for the burrowing owl (*Athene cunicularia*), south coast marsh vole (*Microtus californicus stephensi*), wandering skipper (*Panoquina errans*), and San Bernardino ring-necked snake (*Diadophis*

punctatus modestus)... Removing the risers and lateral culverts now would duplicate impacts to BWER when the same area is disturbed as part of the Department's planned restoration of BWER...In addition, because the Department is not aware of any evidence that the currently sealed risers have any impact on the biology, hydrology, or any methane gas at BWER, the Department maintains its position that abandonment in place would be less impactful as compared to removing the risers and lateral pipes.

The Department has been made aware of the ongoing breach in the seals and CDFW provides no assurance it can maintain the drains in a sealed fashion. CDFW has no idea how much integrity of the drain has been lost vis a vis their 'epoxy' sealant. While CDFW acknowledges a tidal hydraulics in the area, CDFW provides no assurance that the tidal push and draw (recently acknowledged in Exhibit 10) has not thoroughly breached the below ground weep holes. The cap is demonstrably not sealed.

CDFW provides no monitoring or maintenance plan to keep the drains sealed. In fact, after being alerted with photos and video of the visible breach, CDFW did not respond. Only Grassroots Coalition attorney Todd Cardiff sent a legal notice to the Dept. of Justice, did CDFW send representatives to attempt to assess the situation. (Methane Exhibit of CDFW)

Ms. Engel does not comment on previous Staff's comments pertaining to their acknowledgement of critical ongoing damage to the environment and hydrology of Ballona.

REMEDICATION/ MITIGATION OF THE SPUR LINES & DRAIN

GC requests that the spur lines, if not removed, be treated in the same fashion as abandonment of an oilwell and /or a sewer line per the outline provided by Dr. Tom Williams. To squeeze cement, under pressure through the spur line to seal the drain in place, as in the case of an oil well or sewer line, create an effective seal. The Drain itself could be removed but this type of abandonment would not cause the surface disruption that CDFW is concerned about not occurring. The 'CDFW Plan' for Ballona would thoroughly destroy the area that currently exists, anyway so it would not matter if the area were remediated with removal of the spur lines as well. Should CDFW allow for a RESTORATION, and not destroy this entire area (to which even CCC Staff cites as a red herring for the Berms to be considered restoration when it is only FILL being placed atop the delineated wetlands, and that is not allowed under the Coastal Act. Either way, taken out or shot with cement, the area will finally have a chance to heal and either solution will allow for RESTORATION to take place upon this area. No Berm should be allowed to destroy this acknowledged wetland ESHA area, for all the wildlife that CDFW cites in this area.

J.Engel Memo: Re: Habitat Impacts Related to Unpermitted Drains in BWER July 23 , 20205

I concur with CDFW that the drains currently are not significantly impacting BWER based on the 1991 and 2006 vegetation maps, E. Read's biology surveys and reports, the PSOMAS hydrology report, current and historical aerial photographs, my observations, and the 2018 sealing and capping of the drain risers.

Based on the location of the debris drains within the BWER, the presence of patches of saltmarsh species around the south drain riser, and the potential occupation of the area surrounding both drains by sensitive species (Feb. 11, 2019 CDFW Letter) including the South Coast marsh vole, burrowing owl, San Bernardino ring-necked snake, and wandering skipper, much of the area would likely rise to the level of environmentally sensitive habitat (ESHA) and wetland as defined by the Coastal Act¹. Section 30240² and Section 30233³ of the Coastal Act are ESHA and wetland policies, respectively, that significantly limit the type of allowable uses in these areas.

Restoration is one of the few types of allowable uses.

The CDFW Plan is not Restoration. The CDFW Plan is total destruction of the BWER to convert and create something that has never existed at Ballona. Per the Drains' area, CCC Staff in their response to the DEIR cite the creation of the Berm is 'Fill' and that filling a wetland is disallowed under the Coastal Act. Ms. Engel again contradicts CCC Staff and argues to destroy wetland habitat with FILL, to violate the Coastal Act.

Abandonment In Place if Commissioners Reject Removal

Another option, one that would effectively seal off the drain and spur lines and remove constant monitoring of the weep holes and cap for leakage caused by hydraulic push, corrosion, outgassing, and is also an option that would not cause surface disruption for the spur lines to the Main Drain, is abandonment in place. Abandoning the lines in place as is done for oil wells and LA City Sewer lines would be to squeeze cement, under pressure into the lines to seal off the connection of the Main Drain to the Spur Lines and Drains. Such methodology would prevent gas build up and outgassing, removing the threat of the Spur Lines and Drain(the drain itself could be lifted out and the area backfilled), ending the illegal outflow of Ballona Channel contamination into Ballona and the draining of Ballona's water. (Tom Williams Phd. Outline-Plugging Lines)

Given that removing the debris drain risers and pipes now would mean that the area would be disturbed twice and that I find that the drains are not currently adversely impacting BWER, I agree with CDFW that leaving the drains in place for future removal during the large-scale restoration is the most parsimonious and least environmentally damaging approach. In addition, CDFW has agreed to mitigate for the construction impacts caused by the installation of the drains and wetland impacts at the south drain riser site as described below. Furthermore, the EIR⁴ for the BWER restoration acknowledges that the drain risers and pipes will be removed during the restoration project. Finally, if the drain risers and pipes are not required to be removed immediately pursuant to Coastal Development Permit No. 5-18-0554, this permit includes a condition that the debris drain risers and pipes be removed during the BWER restoration project or within 5 years, whichever comes first.

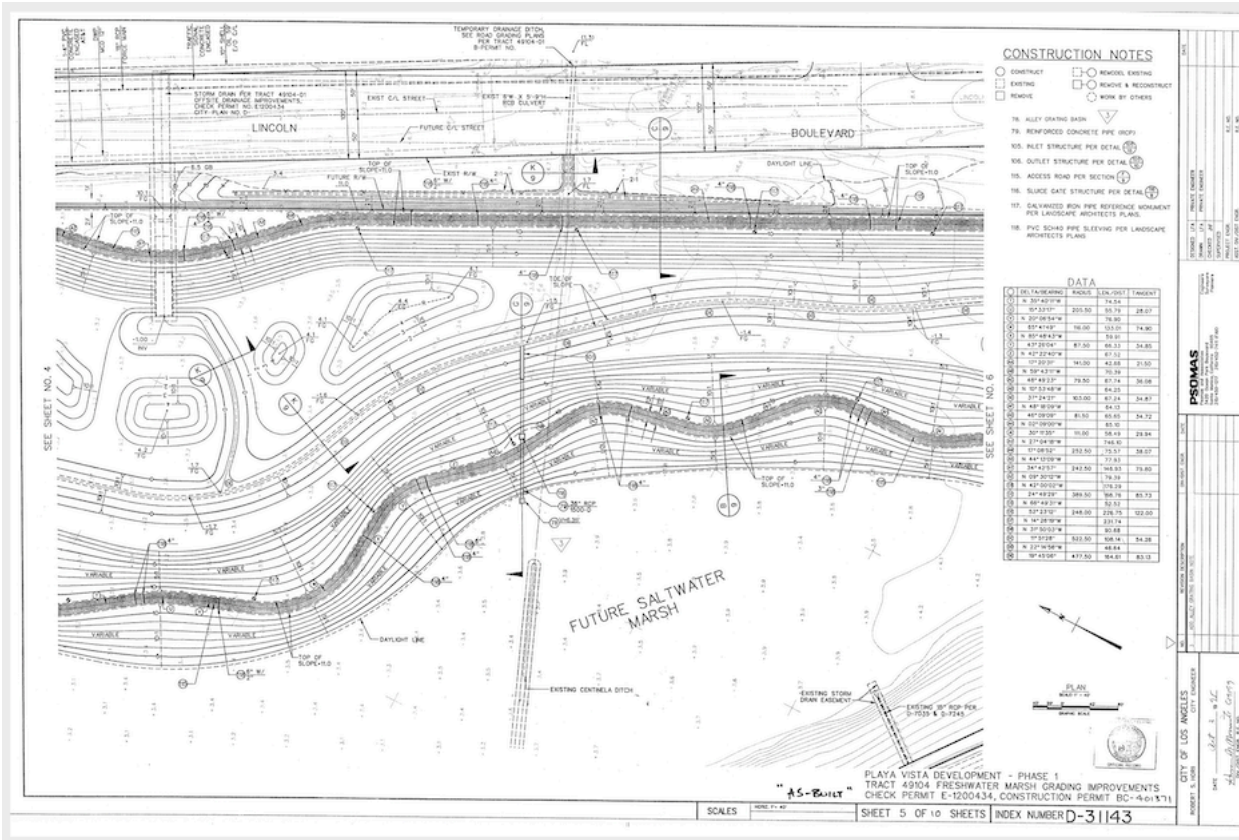
SPUR LINES AND DRAINS MUST BE SEALED NOW DUE TO POTENTIAL HAZARDS OF FIRE OR EXPLOSION

Ms. Engle fails to address the ongoing leakage of the drains and their potential hazards due to the accumulation of methane.

I worked with Commission staff and CDFW staff on an appropriate mitigation acreage and approach for the drain installation and wetland impacts. We used the dimensions of the CDFW Wetlands Pipe Removal Project

CDFW has stated it does not have a final plan hence there is no assurance that the mitigation by Ms. Engel below, will ever occur. Ms. Engel contradicts plans in CDP 5 91 463 and LA Public Works.

See LA City permits per CDP 5-91-463 citing the 'future salt marsh' which entails, per specs also in existence, digging out of the area Ms. Engel cites as being an area to never be disturbed by the CDFW Plan. Also, offsite mitigation is not part of the CDFW FEIR. Ms. Engel offers an offsite mitigation plan for an area that is permitted thus far, exclusively for CDP 5-91-463, and City of LA as 'Future Salt Marsh' which is another area slated for disturbance.



J.Engel Memo: Re: Habitat Impacts Related to Unpermitted Drains in BWER July 23 , 20206 north and south drains to calculate the mitigation area owed for the initial drain installation and the hydrology analysis report to estimate the mitigation area owed for wetland impacts at the south drain riser. We calculated the total mitigation area owed to be 0.53 acres⁵. During our February 1, 2019 site visit we discussed mitigation options and visited potential mitigation sites. We coalesced on a nearby area of BWER invaded by a near monoculture of non -native invasive pampas grass (*Cortaderia selloana*) adjacent to the freshwater marsh (Figures 6). Many considerations go into determining what constitutes an appropriate mitigation site; Is the mitigation area in-kind ?, Is it proximal to the impact area?, Is it within the same watershed? Does it make sense regarding future development plans, etc. etc. In this case the mitigation site is located in habitat invaded by non-native invasive species, proximal to the impact site (apprx. 0.35 miles away), and within the BWER and watershed. While the drains are located primarily in upland habitat, much of which is fill from building Culver Boulevard, that is invaded by several non-native invasive species (described above), the mitigation site is lower in elevation and is invaded by non -native pampas grass that is with in wetland habitat that supports arroyo willow (*Salix lasiolepis*) and saltmarsh species and numerous wildlife species including the state and federally endangered least Bell's vireo (*Vireo bellii pusillus*) (Figures 7 and 8). ⁵The following calculations are based on CDFW's wetland pipe removal project exhibit (see Figure 2) and the PSOMAS hydrology report (Sept. 27, 2017): Mitigation for Debris Drain and Pipe Installation-North Culver Drain Total area = 10,019 sq. ft. (non-native annual grassland/non-native invasive species) Mitigation Ratio – 0.5:1, therefore, $10,019 \times 0.5 = 5,009.5$ sq. ft.- South Culver Drain Total area = 11,761 sq. ft. (8,761 sq. ft. of annual non-native grassland/non-native invasive species; 3,000 sq. ft. of wetland (saltmarsh)) Mitigation Ratio = 0.5:1 for annual non-native grassland/non-native invasive species, therefore, $8,761 \times 0.5 = 4,380.5$ sq. ft. Mitigation Ratio = 4:1 for wetland (saltmarsh), therefore, $3,000 \times 4 = 12,000$ sq. ft. Total for Installation Impacts Mitigation Area for initial debris drain and pipe installation = $5,009.5 + 4,380.5 + 12,000 = 21,390$ sq. ft. Mitigation for Wetland (saltmarsh) Temporal Impacts From PSOMAS hydrology report, 400 sq. ft. of wetland (saltmarsh) immediately around the South Culver debris drain riser was subject to impacts (subject to water removal). Total for Temporal Impacts Mitigation Ratio = 4:1 for wetlands, therefore $400 \times 4 = 1600$ sq. ft. Total Mitigation Required for Debris Drain and Pipe Impacts $21,390$ sq. ft. + 1600 sq. ft. = $22,990$ sq. ft. or 0.53 acres California Coastal Commission CDP 5-18-0554 Exhibit 7 p. 6 of 16

J.Engel Memo: Re: Habitat Impacts Related to Unpermitted Drains in BWER July 23 , 20207 The mitigation site is a 0.6 acre (larger than the required 0.53 acres) area that was strategically chosen for its position regarding prevailing wind and as the outer boundary of pampas grass invasion in the area to facilitate invasive non -native species eradication, prevent re-invasion, and

complement future large scale invasive non -native species removal efforts (Figure 9). Furthermore, the mitigation site is in an area of BWER that is outside the footprint of the large-scale restoration so it will not be disturbed in the future. The mitigation plan (CDFW, July 6, 2020) involves removing pampas grass and any other invasive non-native species and planting native arroyo willow, mule fat (*Baccharis salicifolia*), and California blackberry (*Rubus ursinus*). The long-term goal of the mitigation is to sustain native vegetation and provide suitable habitat for native wildlife including the least Bell's vireo (CDFW, July 6, 2020). It is my professional opinion that the proposed mitigation is in -kind, proximal, practical, and compensates for the original installation of the debris drain risers and pipes and temporal wetland impacts at the south drain riser. California Coastal Commission CDP 5-18-0554Exhibit 7 p. 7 of 16

J.Engel Memo: Re: Habitat Impacts Related to Unpermitted Drains in BWER July 23 , 20208 Figure 1. Exhibit A of E Read and Assc., Inc. September 19, 2018 Addendum showing the location of the drain risers on either side of Culver Boulevard and the area surveyed for vegetation mapping. California Coastal Commission CDP 5-18-0554Exhibit 7 p. 8 of 16

J.Engel Memo: Re: Habitat Impacts Related to Unpermitted Drains in BWER July 23 , 20209 Figure 2. CDFW, Engineering Section, BWER Wetlands Pipe Removal Project exhibit (page number T -) that depicts the approximated areal extent of impact for removing the debris drain risers and pipes north and south of Culver Boulevard (that was used to calculate the mitigation acreage) and shows how the debris drain risers and pipes are connected with the freshwater marsh storm drain. California Coastal Commission CDP 5-18-0554Exhibit 7 p. 9 of 16

J.Engel Memo: Re: Habitat Impacts Related to Unpermitted Drains in BWER July 23 , 202010 Figure 3. Exhibit B of E Read and Assc., Inc. September 19, 2018 Addendum. Survey of the Vegetation within a 25 foot radius around the North Culver Boulevard Drain. The vegetation is ruderal; comprised of non-native invasives including iceplant, mustard, and castor bean. California Coastal Commission CDP 5-18-0554Exhibit 7 p. 10 of 16

J.Engel Memo: Re: Habitat Impacts Related to Unpermitted Drains in BWER July 23 , 202011 Figure 4. Exhibit C of E Read and Assc., Inc. September 19, 2018 Addendum. Survey of the Vegetation within a 25 foot radius around the South Culver Boulevard Drain. The dominant vegetation is ruderal;

comprised of mustard with a small portion of the area by salt marsh species including pickleweed and alkali mallow. California Coastal Commission CDP 5-18-0554Exhibit 7 p. 11 of 16

From: [Mike Crehan](#)
To: [Diana Hurlbert](#); [Karina Johnston](#); [Shelley Luce](#); [Lisa Fimiani](#); [Mayfield_Rick@Wildlife](#)
Subject: RE: Google Alert - Ballona Wetlands
Date: Thursday, July 11, 2013 3:33:33 PM

FYI:

These inlets are intended to eliminate standing water immediately around them (holes in the sides); and, the top is set at an elevation slightly above the surrounding ground. Since the area around the drains are cut off from any flooding by surrounding roads and higher area, flooding cannot occur from any stormwater other than what falls directly on the area. So, it is intended for large storms only.

Three other points:

1. If these inlets were plugged, there would be no chance of any flooding ever reaching the adjacent roadways as the roads are about three feet higher than the surrounding grades. A three foot storm would be something on the order of the 1,000,000-year event (purely a guess, but you get the idea) and L.A. would not notice a little flooding here.
2. There is actually some tidal action that occasionally (at very high tides) occurs that brings some tidal flows to the few hundred square feet around these inlets.
3. Playa Vista is also looking at this. You might touch base with Marc Huffman.

Mike

PSOMAS
Michael J. Crehan, P.E.
Vice President / Principal
555 South Flower Street, Suite 4300
Los Angeles, CA 90071
(213) 223-1400
mcrehan@psomas.com

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

From: Diana Hurlbert [<mailto:dhurlbert@santamonicabay.org>]
Sent: Thursday, July 11, 2013 9:35 AM
To: Karina Johnston; Shelley Luce; Lisa Fimiani; Rick Mayfield (rmayfield@dfg.ca.gov)
Cc: Mike Crehan
Subject: RE: Google Alert - Ballona Wetlands

The "device" is an part of the outflow structures for the freshwater marsh. It is in the area between Culver & Jefferson west of Lincoln. Rick Mayfield is aware of this and has already addressed the situation as much as is possible.

Diana Hurlbert
Restoration Project Coordinator
Santa Monica Bay Restoration Commission
dhurlbert@santamonicabay.org
Office - 310-216-9899
Cell - 831-241-3463

From: Karina Johnston
Sent: Thursday, July 11, 2013 8:35 AM
To: Diana Hurlbert; Shelley Luce; Lisa Fimiani
Subject: FW: Google Alert - Ballona Wetlands

Is this ("illegal drainage devices" article below) about the Freshwater Marsh?

Here's the letter from the Coastal Commission:
<http://media.heraldonline.com/smedia/2013/07/10/23/24/o9YXG.S0.55.pdf#storylink=relat>

From: Google Alerts [<mailto:googlealerts-noreply@google.com>]
Sent: Wednesday, July 10, 2013 11:06 PM
To: Karina Johnston
Subject: Google Alert - Ballona Wetlands

News

2 new results for Ballona Wetlands

Grassroots Coalition Announces -- Illegal Water Drainage Devices ...<<http://www.google.com/url?sa=X&q=http://www.heraldonline.com/2013/07/10/5012836/grassroots-coalition-announces.html&ct=ga&cad=CACQAhgAIAAoATAAOABAsJb5jgVIAVgBYgVlbi1VUw&cd=GX51KiVVjg8&usg=AFQjCNHTTeUFdJ2VWQti3mptaeXHjHAqwQ>>
>

The Herald | HeraldOnline.com
LOS ANGELES - Grassroots Coalition (GC), an organization that has long worked to protect the Ballona Wetlands and surrounding open space on the Los Angeles ...

Eco-Jihadists Fight for Ballona? Readers Respond<<http://www.google.com/url?sa=X&q=http://www.laweekly.com/2013-07-11/news/ballona-wetlands-annenberg/&ct=ga&cad=CACQAhgAIAAoATABOAFAsJb5jgVIAVgBYgVlbi1VUw&cd=GX51KiVVjg8&usg=AFQjCNGR-4ywlEzqYPlvdKARjHysd5ITQ>>
LA Weekly

Then we heard from David W. Kay, president of the Friends of the Ballona Wetlands, whose letter actually calls some local environmentalists "eco-

jihadists.

Web

1 new result for Ballona Wetlands

Grassroots Coalition Announces -- Illegal Water Drainage Devices ...< http://www.google.com/url?sa=X&q=http://online.wsj.com/article/PR-CO-20130710-915177.html%3Fmod%3Dgooglenews_ws&ct=ga&cad=CACQAhgAIAEoATACOBAsJb5jgVIAVgAYgVlbi1VUw&cd=GX51KiVVjg8&usg=AFQjCNHHXUK10-6T-7qo32zf5U8kRhF8kw>
Grassroots Coalition (GC), an organization that has long worked to protect the Ballona Wetlands and surrounding open space on the Los Angeles coast, has ...
online.wsj.com/article/PR-CO-20130710-915177.html?mod...< http://www.google.com/url?sa=X&q=http://online.wsj.com/article/PR-CO-20130710-915177.html%3Fmod%3Dgooglenews_ws&ct=ga&cad=CACQAhgAIAEoBDACOBAsJb5jgVIAVgAYgVlbi1VUw&cd=GX51KiVVjg8&usg=AFQjCNHHXUK10-6T-7qo32zf5U8kRhF8kw>

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Grassroots Coalition's Response to CCC Item 16c and 17a Report & Exhibits (No. 3 of 4 emails from GC/McPherson)

patricia mcpherson <patriciamcpherson1@verizon.net>

Thu 8/6/2020 2:51 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>; Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>; Willis, Andrew@Coastal <Andrew.Willis@coastal.ca.gov>

Cc: ToddT.Cardiff <todd@tcardifflaw.com>; saveballona@hotmail.com <saveballona@hotmail.com>

 1 attachments (1,010 KB)

Grassroots Coalition Response to methane exhibit 10.pdf;

August 6, 2020

California Coastal Commission

submitted electronically as 4 Emails. (1) Response to Staff Report; (2) GC Response to Exhibit 2; **(3) GC Response to Exhibit 10;** (4) GC DECLARATION

RE: Application to Remove Unpermitted Drains in BWER

Request for Permit Amendment

App. No. 5-18-0554

Permit No. 5-17-0253-A1

August 12, 2020 Meeting Agenda Items 16 c, 17 a

Honorable Coastal Commissioners and Staff,

Grassroots Coalition opposes CDP Application No. 5-18-0554. And, Grassroots Coalition opposes Application No.: 5-17-0253-A1

Please consider this Grassroots Coalition Response to Exhibit 10, CDFW Methane Memo Regarding South Drain Leakage, dated July 17, 2020, attached as Exhibit 10 to the Staff Report.

(Grassroots Coalition's (GC) Opposition Response to the California Coastal Commission includes Todd Cardiff Esq. comments on behalf of GC sent by Todd Cardiff Esq. and

4 emails sent by GC/McPherson as: (1) Staff Report; (2) Exhibit 2; and **(3) Exhibit 10**; with (4) GC/ McPherson Declaration for August 12, 2020 Meeting Agenda Items 16c, 17a.)

GC Response to Exhibit 10 of Staff Report

Thank you for your time and consideration given to these materials,
Patricia McPherson, Grassroots Coalition

August 6, 2020

California Coastal Commission
submitted electronically

RE: Application to Remove Unpermitted Drains in BWER
Request for Permit Amendment
App. No. 5-18-0554
Permit No. 5-17-0253-A1

August 12, 2020 Meeting Agenda Items 16 c, 17 a

Honorable Coastal Commission,

Please consider this **Grassroots Coalition's Response to CDFW MEMO Regarding South Drain Leakage, dated July 17, 2020, (Exhibit 10)** to the Staff Report. Grassroots Coalition has substantial concerns about the scope and accuracy of such report. Below, as I reviewed the report and provided a response. The text that is in black ink represent the portions of the report that I am responding to. The text that is red ink represents my response to such statements.

State of California
Department of Fish and Wildlife
Memorandum
Date: July 17, 2020
To: File
From: Region 5 Staff
Subject: Ballona Wetlands ER Drain Leakage

On June 29, 2020, Patricia McPherson's attorney, Todd Cardiff, emailed Gary Tavetian, the Department's lawyer with the Office of the Attorney General, raising concerns about the two risers situated along Culver Blvd at Ballona Wetlands Ecological Reserve.

Mr. Cardiff wrote that the seal attaching the cap to the drain had split apart and that consequently water from pooling rainwater could enter the drain. He also wrote that Ms. McPherson "documented methane being vented from the drains. . .[d]uring the rains this last spring (March and April 2020)." Mr. Cardiff also wrote that "there is an explosive safety hazard caused by the drains."

The next day, on June 30, Mr. Cardiff sent Mr. Tavetian a "video of the drain outgassing. "

We believe that Ms. McPherson previously sent the video to staff of the Coastal Commission and the Department. The Department believes the video shows the south riser covered in water with bubbles rising above what appears to be one area of the riser. According to Mr. Cardiff, the video was taken on April 10, 2020 at 10:21am.

On July 1, 2020, Mr. Tavetian, Mr. Cardiff, and Ms. McPherson discussed her concerns related to the risers. After the call, Mr. Cardiff emailed Mr. Tavetian a summary of the conversation. Mr. Cardiff listed nine items in his email including the following:

1. South drain is venting methane (measured by VOC meter)
2. Drains are serving as a collector site for methane
3. The seals are failing (both draining water and outgassing methane)
4. The risers and pipes are creating a safety hazard

During the conversation, Ms. McPherson and her attorney stated that Ms. McPherson could see a gap where the seal failed, and that the sealant used on the risers is not compatible with saltwater. Following the conversation, the Department determined there were three issues to assess:

1. Is there a gap in the seal?
2. Is methane escaping from the gap?
3. Is the sealant used to cap the drains incompatible with saltwater?

The Department's current assessment of the three issues follows:

1. Is there a gap in the seal?

The answer is yes, as concluded by both CDFW and Grassroots Coalition.

As mentioned above, Ms. McPherson indicated she saw a gap where the seal failed, but the Department could not find what Ms. McPherson saw. However, as explained more fully below, the Department believes there is a small gap in the seal of the south riser. The Department considered resealing the gap but decided not to do so without further direction from the Coastal Commission or its staff.

For clarity purposes, Mr. Tavetian has stated that Ms. McPherson stated she saw a 'gap'. Ms. McPherson's description was that the drain was submerged, allowing one to see outgassing occurring along the edge of the drain at the cap. Grassroots Coalition and the Sierra Club Airport Marina Group had previously sent CDFW letters of alert and concern, months earlier, without response.

<http://www.saveballona.org/may-2020-requesting-state-agencies-take-responsive-action-alleviate-ongoing-outgassing-occurring-over-playa-vista-oil-well-known-university-city-syndicate-and-end-drainage-freshwater.html>

Grassroots Coalition is also glad that CDFW has chosen to receive further direction from the Coastal Commission.

Grassroots Coalition's concerns today pertain to very serious and potentially life threatening, thermogenic outgassing that is occurring in the Freshwater Marsh System. Whether the newly discovered outgassing via the Unpermitted Drain is also thermogenic gas, biogenic gas or 'air', needs to be ascertained by experts without bias. Recent discussions and communications with LARWQCB & the City of LA's former oilfield gas expert, Victor Jones of Exploration Technologies Inc.(ETI) and his colleagues of Global Integrated Development Group (GIDG), David Becker and others regarding the outgassing over University City Syndicate (U.C.S. , within the Freshwater Marsh) have been addressing the outgassing over U.C.S. and its reabandonment issues as well as the **potential effects of U.C.S. upon the Unpermitted Drains.** (See attached GC/LARWQCB communications email with cover letter.)

GC's July, 2020, Zoom Meeting with LARWQCB Staff, CalGem Staff and oil/gas experts-ETI's V.Jones, Global Development's David Becker, Richard Sharpe and Tom Williams PhD discussed the potential hazards of the continued outgassing of University City Syndicate which included dangers to the immediate area as well as for Playa Vista, and the potential of the Unpermitted Drain's outgassing to possibly be caused by or linked to-- new chimneys of heightened gas flux action upon the Drain(s).

GC believes the expertise of the individuals above to provide more than enough red flag warning to further explore and scientifically assess what is going on in the area.

GC believes that simply adding new spackle to the Drains, as suggested by CDFW, does not provide a prudent or scientifically sound response to the ongoing and potentially hazardous issues of concern. And, in conversation with a Sikadur representative, he too thought Sikadur inappropriate for sealing the Drains. (See Declaration Patricia McPherson)

GC requests a thorough, scientific evaluation of the Drains along with their potential gas interface connection with University City Syndicate's enhanced outgassing.

GC continues to request a hydrological study of the cumulative impacts of the freshwater drainage that has been ongoing for 20 years plus and a study that will determine what it will take to remediate the groundwater levels throughout the area to historic groundwater levels- pre drainage by the unpermitted drains and any/all ongoing diversion of freshwater away from Ballona per the Freshwater Marsh.

And, to finally also include CCC assessment of effects to Ballona and remediation needs for the ongoing methane mitigation dewatering effects upon Ballona per CCC authority to stop harm to Ballona as a natural resource and freshwater dependent wetland.

Removal or abandonment in place-

If the Commissioners determine that the spur lines should be remediated, sealed in place, Grassroots would suggest the filling of the spur line with cement to the Main Drain, which would not generate any surface disturbance and would actually SEAL the Drain, similar to the abandonment of an oil well or as Public Works seals a sewer line. See suggested outline of sealing the Spur Line in place by Tom Williams PhD:

How to Plug/Seal a Pipe

For wells and transmission oil/gas pipelines and sewers/drains, typical abandonment involves plugging of pipes by injection of cement slurry/grout/foam under pressure while slowly withdrawing the injection pipe to the hydraulically higher entry point.

Slurry will be formulated so as to allow leakage through any perforation and holes in the pipeline and fill any exterior voids caused by such leakage. Slurry is also designed that once filled the slurry will solidify and form a structural sound plug which will meet all compression strength requirements within the pipe and adjacent voids.

Such injection requires good, adequate as built drawings of the pipeline and/or an illuminated video pipeline inspection/probe prior to abandonment efforts.

Slurry would be expected to be pressurized at at least 10x hydrostatic pressure, e.g., 20ft elevation difference = $20 \times 0.42 \text{ psi/ft} = 8.40 \text{ psi}$ - say 10psi which will require adequate pumping pressures and duration to allow plugging inside/around the pipe for the setting period 1-2hr.

As a standard practice for oil drilling/production/transport and for street pipelines, knowledgeable and experienced contractors are available, and City and County Public Works staffs are experienced and knowledgeable for contract/inspection/approval requirements and processing.

CRITICAL ELEMENT: As Built Drawings and Video/recording images through the pipe prior to abandonment for focused/reliable bidding for works.

CONSIDERATIONS & BACKGROUND

Grassroots Coalition's concerns today are also related to the previous CCC Meeting of Item 10c Drains in 2017 wherein CCC Staff Report relied upon Playa Vista contractors. CDFW also chose to rely upon Playa Vista consultants' comments, working on behalf of Playa Vista. The

Playa Vista contractors provided comment specifically about the Unpermitted Drains and stated that the oilfield gases throughout this area were very low.

CCC Staff, Mandy Revell stated,
The technical evaluation concluded that capping the unpermitted drain risers will not result in the accumulation of explosive levels of methane.

GC believes that CDM Smith's assertion to be inaccurate and believes that the CCC should not rely upon CDM Smith's conclusions. The recent detection of flammable gas, not air by GC, suggests that there is the potential of accumulation of the flammable gas to an explosive level. **Fire may also be considered hazardous in the dry summer/fall months as well in the dry wetland conditions and was considered so by CDFW when deciding to use epoxy instead of torch welding to seal the Unpermitted Drains.**

The developer's contractor, Ravi Subramanian, a civil engineer from CDM Smith, cited the 2001 Exploration Technologies Inc. (the City of LA's former gas expert who performed the gas testing across the Ballona area in the 2000-01 timeframe.)

The contractor stated, in relevant part-

...based on our review of all the available data, (shows and references a map of ETI gas sampling points)...based on over hundred samples collected within about a 450 foot radius of this inlet a lot of them are like over a thousand times lower than the lower explosive limit of methane gas..... so we concluded that there is no potential for accumulation of methane gas to any explosive levels by capping these drain risers.

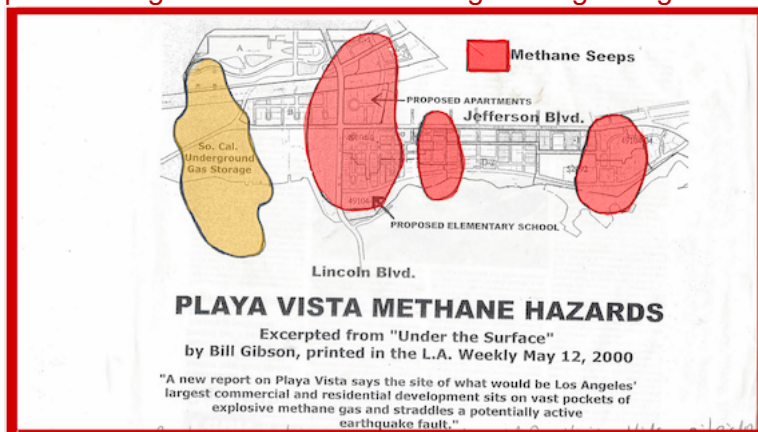
Consideration of Potential Hazards not included or addressed by Playa Vista/CDFW consultants and/or CCC Staff in 2017 and now —

-The reason for notifying agencies including CDFW regarding the outgassing from the Drains and over University City Syndicate, was to hopefully have a prudent, unbiased, scientific assessment take place of very serious and potentially hazardous issues. Piecemealing the gas issues of the freshwater marsh system provides no basis for safety or understanding of how gases are or are not migrating, having greater flux and/or whether danger exists.

What is known-

ETI, Victor Jones' Report of the gases included the area east /west of Lincoln Blvd. areas having predominantly, thermogenic, oilfield gas migration. Oilfield gas migration offers far more potential dangers than 'swamp gas'. (LA City CLA Report/ ETI Report(s))

The news article below, provides a map created by Exploration Technologies Inc. which provides a general view to the strongest outgassing found in the 2001 timeframe.



Victor Jones/ ETI Report 8/10/2001--Regional Geochemical Assessment of Methane, BTEX, CO2 and H2S Gas Occurrences... Playa Vista First and Second Phases, LA, CA. for LADBS
*"The result of the investigation indicates that natural gas steadily migrates upward through the sediments to the surface at Playa Vista. **This is the result of an advective pressure, upwards of 20psig in the gravel aquifer, driving the methane to the surface.**" Emphasis added.*

Outgassing has increased according to specific site studies. The 2000/01, ETI studies in the school site area of Playa Vista, found low gas flux values. Years later, DTSC studies were performed prior to the school's buildout. These studies found the intended school site as having changed in gas flux values since the ETI studies and had reached high gas values which required portions of the site to be both moved off the highest gas areas and portions of the school site were classified as Tier 3—LADBS' highest gas methane mitigation requirements.

The City of Los Angeles, Building and Safety (LADBS) Commissioners, in response to the ETI study and warning comments from Mr. Jones about the hazards of the gases, stated that it was a matter of urgency to create a new Methane Code that hopefully would be able to cope with the volumes of outgassing in order to build the Playa Vista development site. (LADBS Commission Hearing Transcript Aug. 1, 2000) The New Citywide Methane Code was then created based upon the, in part, experimental gas mitigation system known as the Playa Vista Methane Prevention Detection and Monitoring System. But, for the 50' Gravel mitigation system working properly, the Playa Vista site was considered too dangerous to build. (LA City, CLA Report) In 2007 the City Controller, in an audit to determine if and how the mitigations systems were in place and/or were performing, found that the records were 'mush' and that she could not vouch for the safety of the site. (BURNING QUESTIONS-KNBC news interviews with Controller Chick) To GC's knowledge, nothing has changed since the 2007 Audit. The Ballona areas west of Lincoln Blvd were disallowed for residential development by LADBS/City of LA due to the potential gas hazards then discovered and the additional hazards of building directly over SoCalGas underground gas storage operations.

Psomas and CDM Smith Are Conflicted, Their Reports Should Be Reviewed With Skepticism
GC raises these issues because the potential of conflict of interest looms large for Playa Vista developers' contractors to comment on the Drains and/or outgassing issues over oilwell--University City Syndicate, to which Playa Vista developers were the last operators for its reabandonment and are the financially obligated managers of the Freshwater Marsh System (within which U.C.S. is located and the Unpermitted Drains are a physical part). City Case No. C 525 826 [download a printable and searchable PDF file](#).

The Unpermitted Drains and the Main Drain are key parts of the Freshwater Marsh System to which Playa Vista developers are financially obligated to manage per their permits which also require attention to health and safety issues.

- d. The Developer agrees to maintain the Freshwater Wetlands System and provide financial assurances with respect to that obligation.**

The developers of Playa Vista agreed to obligate themselves to maintain the Freshwater Wetlands System and provide financial assurances with respect to that obligation. Any and all issues/ hazards that may cost Playa Vista either financial or public image losses create, at the very least, a perception of conflict of interest. CA. State Lands Commission has allowed Playa Vista to maintain control over the Freshwater Marsh System. CDFW claims to have no control over the amount of Freshwater Marsh water thrown into the ocean. Of concern regarding these Public Trust

Lands, is that even CDFW has written to Playa Vista to state that the volume of water that is being allowed to flow into the Freshwater Marsh is too little and is harming the hydrology of the Freshwater Marsh and its flora and fauna. ([Exhibit- Betty Courtney CDFW Letter](http://www.saveballona.org/2017-california-department-fish-wildlife-cdfw-betty-courtney-cites-harm-ballona-due-reduced-water-flow-playa-vista.html)) <http://www.saveballona.org/2017-california-department-fish-wildlife-cdfw-betty-courtney-cites-harm-ballona-due-reduced-water-flow-playa-vista.html>

The thermogenic gas issues of this region remain a great concern to GC and the public and the legislators of California. Unknown to the City of LA, SoCalGas, Playa del Rey underground gas storage gases experienced leakage to the surface. SCG did not make the City of LA aware of the leakage, in fact, SoCalGas maintained that its Playa del Rey operations had never leaked storage gas to the surface. Internal SoCalGas documents demonstrate that SoCalGas knew its storage gas had reached the surface during multiple incidents from multiple wells. The operations were even shut down by the Division of Oil & Gas & Geothermal Resources for about a year due to reservoir gas leakage to the surface in 2010-11.

Grassroots Coalition first brought the Playa Vista/Ballona outgassing issues to the attention of LADBS, and was able to be included in the study process and speak directly with ETI in order to provide specific Society of Petroleum Engineers (SPE peer reviewed papers), site specific and SoCalGas data and information that oil/gas experts working with GC had to offer pertaining to this area. (Bernard Endres Phd; John Robertson P.E.; Chillingarian Phd, and others)

Since that timeframe, GC has maintained its scrutiny of the oilfield gas issues, garnering further data, sampling in order to provide information to agencies and create impetus for prudent, scientific studies of potentially hazardous situations.

Recent concerns cited by ETI and other oil/gas experts, including Dr. Tom Williams, about heightened outgassing occurring over University City Syndicate, a Playa Vista abandoned oil well in the Freshwater Marsh, are issues of natural resource protection under CDP 5-91-463. There is a need of CCC oversight to be engaged in its role to ensure both the safety and living quality for the public and flora and fauna of Ballona. CDP 5-91-463 includes all areas of the Freshwater Marsh System.

What is material for the CCC to understand, is that the ETI Studies are a part of a much broader realm of data and information that has since been recovered, and knowledge gained about the oilfield gas issues and underground gas storage leakage from SoCalGas/Playa del Rey. During the CCC Meeting on Item 10 C (Unpermitted Drains), Playa Vista consultant, CDM Smith (Mr. Subramanian) provided limited information that, in our opinion, was given to provide a dismissive atmosphere of the oil/gas issues of this area. (CCC Hearing Transcript 12/14/17 CDP Application 5-17-0253, p. 9 Item 10c)

SOCALGAS RESERVOIR GAS/ PLAYA DEL REY OILFIELD GAS/ PICO SANDS GAS

Key knowledge includes the Division of Oil & Gas & Geothermal Resources-DOGGR, (now known as Cal Gem) recognizes the SoCalGas reservoir gas leakage to the surface. DOGGR shut down operations of SCG/PDR for about a year 2010-11 timeframe specifically due to reservoir gas leakage to the surface. (DOGGR ORDER 1008)

The following LINK provides a powerpoint of SoCalGas internal documents that include SCG acknowledgement of reservoir gas leakage to the surface across the 'flats' and other areas. The 'flats' include the area of the Drains.

[Patricia McPherson SOCALGAS PLAYA DEL REY PRESENTATION 4.16.19.pdf](#)

The following LINK to GC provides a page that includes the legislatively ordered CCST Report-

LEGISLATORS CONCERNS ARE ONGOING

Long-Term Viability of Underground Natural Gas Storage in California. The Report singles out the SoCalGas/Playa del Rey underground gas storage operation as being the most dangerous gas storage operation in Ca.

The Report concludes, “The State should commission a cost-benefit analysis including full consideration of risks associated with loss-of-containment from this facility.”

Since, the Report came out, multiple elected have requested funding from the governor for such a study, including Senator Ben Allen. Both City Councilmen Mike Bonin and Paul Koretz have garnered approval from the City Council for an investigation of SoCalGas’ Conditional Use Permit which is still ongoing. Both Councilmen believe the SCG/PDR operations should be closed down due to the continuing hazards of SCG’s operations.

<http://www.saveballona.org/socal-gas-underground-storage-still-leaking-27-slides-presentation-pdf.html>

BLOW OUT OF OILFIELD GASES IN MARINA DEL REY

And with the recent blow out of oilfield gas in the Marina del Rey area (DOGGR Order 1143, Emergency Order to Perform Remedial Work) no area of outgassing should be treated with a dismissive attitude. The potential hazards and potential remediation pathways all need to be treated with the gravity of lives and habitat at stake.

DRAINS BEING AFFECTED BY LEAKING OILWELL IN MARSH NEEDS STUDY

Exploration Technologies Inc.- Victor Jones, Global Integrated Development – David Becker and Richard Sharpe and oil/gas expert Dr. Tom Williams, raise concerns about issues of need for testing in the area due to the lack of proper abandonment of U.C.S.; its conveyance of greater volumes of oilfield gases to the surface; and the potential creation of new ‘chimneys’ of outgassing—all of which may be playing a role in the outgassing seen from the drain.

<http://www.saveballona.org/oil-well-gas-leak-creates-new-dangers-local-residents-and-visitors-ballona-wetlands.html>

Sierra Club-Airport Marina Group-

<http://www.saveballona.org/may-2020-requesting-state-agencies-take-responsive-action-alleviate-ongoing-outgassing-occurring-over-playa-vista-oil-well-known-university-city-syndicate-and-end-drainage-freshwater.html>

On July 06, 2020 Department staff inspected the two risers situated along Culver Blvd. Visual observations and photos did not indicate any clear compromise of the seal. At approximately 0730 hrs., no airflow could be heard or otherwise detected from the south riser, but when inspected again at 1130 hrs. it was determined to have a small leak in a portion of the seal between the cap and the riser. When lightweight flagging tape was placed over the area where bubbling was shown on the video occurring during a flood event on April 10, 2020 at 1021 hrs., air flowing out from the seal was clearly evident (flagging was moving) and air flow could be heard when a razor blade was inserted in the gap. When airflow was rechecked at 1400 hrs. it was again undetectable through the seal at this same location.

It is unclear what CDFW cites as a ‘flood event’. During the rainy season, this area of Ballona will, if not having surface and/or subsurface drainage occurring to prevent ponding, becomes saturated with rainwater until it ponds. Seasonal rains had been occurring for weeks and the site finally became saturated and ponded, which is when the outgassing via the breeched drain became easily apparent. The surrounding ponded area showed no signs of bubbling coming up through the ground.

The Department thinks that positive pressure pushing air outward through the seal is from a rising tide inside the main drain and is only detectable after the rising tide has enough time to

create enough positive air pressure, pushing air out through the air hole. This is not an uncommon occurrence for air to escape through infrastructure around tidally influenced areas. Evidence to support that conclusion is that the AM high tide on 07/06/2020 started rising from a -1.1 feet (extreme low) at 0519 hrs. and peaked at 3.9 feet at 1155 hrs. The afternoon began falling at 1155 hrs. until 1627 hrs.

Grassroots agrees, inasmuch as there does appear to be tidal pressure driving a hydraulic push and pull upon the Drain. The dynamics of hydraulic lift and lowering are well established as a very strong physical force. The hydraulic push and pull upon the epoxy over months of time may very well be the reason the drain is no longer sealed. No discussion of this issue is provided. **BOTH DRAINS need further exploration to determine the integrity, or lack thereof, of the many large weep holes within the Drains. (See McPherson Declaration of phone call with Sikadur representative.)**

+ Grassroots Coalition requests CDFW respond to their 'positive pressure' comments pushing 'air' as to how this is occurring when **there is a large diameter vent overtop the Main Drain.**

+ GC requests response pertaining to the potentials of migrating oilfield gases entering the spur lines and/or risers due to broken seals at the capped area and/or the large diameter weep holes and/or along the spur line itself or its junction with the Main Drain. Is the Main Drain collecting gas due to corrosion or cracking?

Grassroots Disagrees with a conclusory statement that the outgassing is air.

GC utilized a very basic gas detector that recognizes methane, as cited to Mr. Tavetian, when I was alerted to the outgassing and went to see if there may be cause for alerting officials.

Also cited to Mr. Tavetian, the meter does not quantify the ppb or ppm of gas but simply makes a noise, a tickering sound that increases dramatically when flammable gas is detected. If the volume is at explosive levels, the meter will whine. As stated to Mr. Tavetian, the gas detection device did quickly ticker up in fast rhythm when placed next to the bubbling and then when pulled away, into the ambient air, it quieted down as quickly. The area has a strong breeze throughout most of the day and did while I was there, so that alone is reason for any gas detector to not register gas as the sea breeze can diffuse any other gas.

A preferred way of simply trying to determine if methane is present, with the Inficon, would be to 'tent' the area of leakage and put the registering device—under the tent.

After reading CDFW's methane exhibit, I retested the drain with a simple tent and inserted the 'nose' of the detector into the tent. The detector immediately tickered up as it acknowledged the presence of gas when I inserted its 'nose' under the 'tent' and then when I withdrew the detector into the ambient air, it tickered down to a non-detection sound. **See Exhibit of Methane Detector Video.** <https://www.flickr.com/gp/stonebird/7r3h>

The above scenario would indicate that on the infrequent occasions when standing water gets high enough to pond above the capped south drain, only lasting for a short duration before percolation, some small amount of water may be draining.

CDFW cites 'infrequent ponding above the capped south drain' but has no data support.

GC has documented the submergence of the south riser for the past 3 consecutive years.

The Terry Huffman Report of 1986 for USEPA likewise discusses the yearly ponding that occurs in this agriculturally used area (pre mid 80's) noting that farmers waited for planting, until after the ponding was gone and aerobic conditions returned in late spring or early summer. Ponding

can last at length as cited by Terry Huffman Phd. USEPA Report Determination of the Presence of Aquatic and Wetland Habitats Subject to Federal Regulatory Jurisdiction Within The Ballona Creek Land Tract, Final Report Sept. 1986

Thus, the small gap does not seem to negatively impact the Reserve in any measurable way. A very small amount of water entered the risers prior to them being capped.

This statement has no data support whatsoever. The Psomas report stated the Drain could not be submerged with ponding rainwater, hence their calculations only supported this hypothesis.

The Psomas Report was found to be inaccurate by CCC Staff and Mother Nature....every year since. (CCC Staff 2017 Report and transcript comments made for Item 10C Hearing 12/14/2017)

Without Drainage, the Drain Submerges Under Ponding Freshwater, BWER Restores

<http://www.saveballona.org/> See cover image of Drains in 2017 prior to capping. The drain and its pyramid bars overarching the drain can be seen submerged. The next day all the water had been flushed out to sea. The depth of water in this area to submerge the pyramid bars over the drain is between 1 and 2 feet, a significant amount of water especially in light of the additional depth added across the entire area encompassed by the raised roadways. For the following day to be essentially vacated of water is a very significant amount of water loss for even a layperson to recognize.

Now, even less water (a small portion of a small portion) escapes through the gap in the seal because that gap is so small.

This comment has no data support since not only is there no measurement of what has been drained, there is similarly no determination as to how much leakage and drainage is taking place via the large weep holes, which have not been monitored to determine if their integrity is intact from the CDFW acknowledgement of tidal push and suck upon the epoxy in the weep holes; and there has been no attempt to determine if the 20psi gas pressure in the area (ETI 2001 Report) has caused gas migration into the spur lines and/or Main Drain which may also play a factor in the breach of any sealant or pipe.

Still, the Department is willing to investigate additional sealing products to add to the seal of both risers if the Commission desires.

CDFW Made Inadequate Inquiry of SIKADUR 31 For Use- Sealing Drains In Tidal Setting.

GC disagrees with the CDFW assessment of no significant water loss because, as stated by CCC Staff's 2014 Letter responding to CDFW & Playa Vista developers:

Water is the main requirement for a functional wetland. Any fill or alteration of wetland hydrology reduces a wetland's ability to function. If water is drained or removed, or isn't present in the wetland for as long, then wetland function is degraded.

Furthermore, GC believes that the height above the Drain is significant to note (above the Drains' pyramid top bars). **The volume of water across the site has not been calculated by anyone in order to determine just how much ponded water does fill this area of Ballona that is bounded on all sides by raised roadways. The Psomas report concluded submergence of the Drain could not even happen but, it has –as photographed and videotaped for the last three years.** With the south Drain being slightly elevated above the 'flat' portion (as cited by Psomas) then the amount of water that must be added to submerge the Drain's pyramid top is significantly greater and topographically higher than Psomas calculated and is a greater volume of water than Psomas calculated. The water level above the rest of the

flat area would be significantly increased in depth if allowed the ponding height over the Drain. This would be especially significant for this extra volume of water to be allowed to percolate slowly, over time into the 'clayey/silty' soils which have the ability to hold the saturation and ponding over weeks or months. (soils description and aerobic conditions, Terry Huffman, PhD, USEPA Report Determination of the Presence of Aquatic and Wetland Habitats Subject to Federal Regulatory Jurisdiction Within The Ballona Creek Land Tract, Final Report Sept. 1986)

GC requests that the spur lines, if not removed, be treated in the same fashion as abandonment of an oilwell and /or a sewer line per the outline provided by Dr. Tom Williams. To squeeze cement, under pressure through the spur line to seal the drain in place, as in the case of an oil well or sewer line, can create an effective seal. The Drain itself could be removed but this type of abandonment would not cause the surface disruption that CDFW is concerned about not occurring.

CDFW PLAN IS NOT RESTORATION, CDFW PLAN IS FOR FILL ON WETLANDS

The 'CDFW Plan' for the Drains area is creation of a 30-40' Berm, which would thoroughly destroy the wetland habitat that currently exists. CDFW simply requests the Commissioners wait until they destroy this wetland area with the creation of a Berm and USACE Levee (wildlife kill zone) sometime in the future. **Removal, not tied to the 'future CDFW PLAN' as required by Commissioners would allow for healing of this area and demonstrate further how productive this area is already.**

Abandonment in Place

Should CDFW allow for a RESTORATION, and not destroy this entire area (CCC Staff DEIR response cite creation of the Berms as a red herring and not restoration. Berms are only FILL being placed atop the delineated wetlands, which is not allowed under the Coastal Act.)

Either way, taken out or shot with cement, the area will finally have a chance to heal and either solution will allow for RESTORATION to take place upon this area. No Berm should be allowed to destroy this acknowledged wetland ESHA area, for all the wildlife that CDFW cites in this area.

There is one other factor to consider pertaining to resealing the drain. As noted above, Ms. McPherson claims that there is methane buildup that is escaping from the drain due to the leak. The Department does not have any information to corroborate Ms. McPherson's claim. But if her claim is true, then a small gap in the seal would help prevent any such buildup of methane.

Outgassing Methane Is Not An Option For Unpermitted Drains

The Drains have been ordered sealed and should not be allowed to continue to deteriorate or accumulate dangerous flammable gases.

At this point in time, further investigation is needed to determine

- a. Determination of outgassing components; determine potential hazards & remediate.
- b. Epoxy is inappropriate for use, what subsurface breach areas need remediation?

(See CT Williams PhD, outline gas testing and pipe abandonment)

c. Is methane escaping from the gap?

In response to Ms. McPherson's claim that methane is escaping from the leak in the seal, the Department requested that the Los Angeles county Fire Department Health Hazmat personnel measure for any harmful gas leaks. On July 09, 2020 from approximately 1145-1215 hrs., Department staff met Los Angeles County Fire Department Health Hazmat personnel (HazMat) at the north and south drains attempting to detect and/or measure any potential hazardous gas present and/or escaping from the risers. The results of this testing were negative with Lower Explosive Limit (LEL) 0%, Volatile Organic Compounds (VOC) 0 ppb, Hydrogen Sulfide (H2S) 0

ppm, as read from a meter calibrated to methane. Measurements were taken directly in front of air felt flowing out of the small leak at the south drain (Figures 2) and from additional locations around the cap seal of the north drain. HazMat is preparing written findings of these results and the Department hopes to receive a copy.

HAZ MAT TESTING DID NOT TEST TO DETERMINE WHAT GAS IS IN DRAINS

GC thanks CDFW for attempting to understand the situation. However, Haz Mat testing done thus far is similar to testing done in any open space area. Haz Mat has, on prior occasions come to the Freshwater Marsh and tested the ambient air to check for hazardous air quality to the public and similarly not detected oilfield gases, hence found no immediate threat to the public existed per their regulations. Obviously, oilfield outgassing is occurring in the Freshwater Marsh vociferously, including over Playa Vista's abandonment of University City Syndicate. Testing has already determined that thermogenic outgassing is occurring there which does not reflect upon Haz Mat's lack of gas detection there in the ambient air. That is not what is at issue here. What is at issue is, IS THERE GAS, other than air?

The lack of detection by the Haz Mat meter while stationed, (as pictured) in the ambient air and sea breeze, does not negate the presence or lack thereof of thermogenic or biogenic gas within the Drain and spur lines or the Main Drain. The gas within the Drain for prudent safety reasons needs to be tested properly to determine what it is, how it is entering and what hazards actually may exist and how to stop any further drainage and outgassing.

This finding is in stark contrast to the information provided by Mr. Cardiff and Ms. McPherson. Mr. Cardiff indicated that Ms. McPherson determined that methane was venting at the south riser measuring it with a VOC meter. Other than being informed that Ms. McPherson used an "INFICON Gas-Mate Combustible Gas Detector" on April 11, 2020, to take her measurement, the Department has not received any information as to what time of day the measurement was taken or what the measurement was.

GC TESTING DONE TO INDICATE IF FLAMMABLE GAS IS IN DRAIN

The time of day, measurement in ppm or ppb regarding Ms. McPherson's use of a gas detector is immaterial to having detected flammable gas. The gas detector recognized flammable gas, not air as outgassing from within the Drain. The detector recognized air when pulled away. GC's test for gas at the Drain only intended to determine if there was any flammable outgassing. GC's methane detection device did register flammable gas and air. GC carried through with its alert to CDFW and others in order to promote a prudent assessment of the ongoing situation which by now, has been ongoing for months.

Clearly, the Drain is breached and a qualified, professional and unconflicted gas evaluation of what accumulates in the Drain should be done.

A review of the manufacturer's website for INFICON Gas-Mate Combustible Gas Detector indicates the device is for finding leaks, it does not appear to measure the quantity of gas (i.e. gas detector vs gas meter). Also, the device does not appear to differentiate between the type of gas it detects because it is used to detect the presence, or absence, of gases such as methane, natural gas, propane, butane, and other combustible gases. Moreover, the manufacturer's website indicates the meter is sensitive to detecting 5 ppm of methane. Methane is combustible at concentrations in air between its Lower Explosive or Flammable Limit of 50,000 parts per million by volume (ppmv) and upper explosive or flammable limit of 150,000 ppmv. It is unclear if the gas Grassroots Coalition detected was at a combustible volume.

GC relayed to Mr. Tavetian, all of the above information regarding the detector used.

GC let him know that the meter 'tickered up with rapid clicks' which connotes the presence of methane. When the bubbling subsided, the detector then quieted to a register of air only.

I have since returned to the site after reading that CDFW determined that it was most likely air outgassing. I tented the Drain and used the gas detector as can be viewed now on videotape. (See Exhibit of Video with gas detector) <https://www.flickr.com/gp/stonebird/7r3h>

The detector 'tickered up in fast clicks' registering gas that is not air. When pulled out into ambient air, the detector went back to not registering as it would in typical ambient air.

GC has been engaged in oilfield gas issues of this area for the past 20 plus years and has been engaged with oilfield gas experts throughout that time. Ms. McPherson has personally utilized gas testing equipment and taken gas samples for laboratory testing, including in the freshwater marsh during split sampling studies done with Playa Vista consultants, and SoCalGas consultants, arranged via the California Public Utilities Commission. GC continues to believe that the Drains are a potential hazard and that certainly the Drains have been breached.

The thermogenic gas 20 psi pressure (ETI Report-2000-01) and its corrosive and hazardous constituents may be playing a role in the Unpermitted Drains breach of seal and accumulation of flammable gases. There remains a very serious need to perform prudent scientific assessments to understand what is occurring.

CDFW's LACK OF STUDY OF OILFIELD GAS ISSUES IN FEIR PROVIDES CAUSE TO MARGINALIZE POTENTIALLY HAZARDOUS ISSUES NOW

CDFW's FEIR contains no meaningful information regarding: the oilfield gases of the area; and virtually nothing meaningful regarding SoCalGas's underground gas storage operations; nothing meaningful pertaining to the Pico Sands thermogenic gases throughout the area; and nothing pertaining to the effects of draining the wetlands of freshwater and the turning the area into a saltwater bay, including the interface of all these issues. There is no information regarding the saltwater corrosion effects upon all of SoCalGas' remaining or future underground infrastructure should the CDFW conversion plan go ahead. The FEIR needs to be rescinded, corrected and recirculated to include a RESTORATION PLAN alternative that conforms with its true nature--a predominantly seasonal freshwater wetland. To that end, the **CCC needs to amend CDP 5-91-463 to reflect the facts of Ballona's natural history and to utilize those facts in decision making pertaining to the remediation of the Unpermitted Drains.**

It is no wonder that CDFW attempts to marginalize any potential thermogenic gas issues as it has partnered itself with the developer's consultants and Playa Vista. Playa Vista developers have tremendous financial issues at stake as cause to marginalize the thermogenic gas issues of the area.

Unbiased, prudent science should be allowed in order to determine what gas issues exist.

CDFW's WILFUL NEGLIGENCE, IGNORING SEEKING ANSWERS TO SAFETY ISSUES

Ultimately, the Department found the representation from Ms. McPherson to be inconclusive at best or simply inaccurate. The information does not indicate that the riser is venting methane. Assuming the riser is venting methane, the information does not indicate if that amount of methane is flammable. Nor does the information indicate if the volume of methane is any different than background levels of methane that are typically in an environment like the Ballona Reserve. Additionally, the information does not tell the Department if the venting is occurring

nonstop or if the venting occurs sporadically. Intending to conduct its own tests, Department staff inquired as to the availability of gas meters in the Department but learned the Department does not use such equipment.

GC believes the detection of gas, other than air, conclusive. The rest of the litany of comments by CDFW above is exactly what GC wishes to see answered and believes safety requires.

The site needs to be scientifically studied by independent, unbiased and qualified persons that CDFW in concert with the CCC can arrange. See outline below by Tom Williams PhD per suggested monitoring and assessment protocol for the Drains-

- #1 Approved As Builts Drawings and Thru-Pipe Lighted Video
 - 1.1 Identify Vertical levels of pipe and with Marine tidal levels - HHW, HW, Mean Sea level, LW and LLW, find any intermediate high point which serve as constraints on in/up flow tidal surges
 - 1.2 Identify any probable existing holes/breaches in pipe wall, locate joints (usual source of perforations to outside)
 - 1.3 Ascertain whether pipe was laid with gravel/sand bedding/surrounds
 - 1.4 Locate any inflow holes.
- #2 Erect 3ft x 3ft x 3ft white/reflective surface enclosure(s) (tent/s, # depending on monitoring equipment) and Sample soil gases for 48hours (1-2 tidal cycles) starting at time of LLW
 - 2.1 Set Up, Conduct Trials, and Standardize Process over an expected gas-spot based on AsBuilts/Video
 - 2.2 Monitor CH₄, CO₂, and H₂S levels + Temperature/Humidity throughout the monitoring period at least at hourly basis - more frequent (15min) if CH₄ or H₂S exceed x2 detection levels - say 10ppm DTL x2 = 20ppm
 - 2.3 Set-Up and Monitor at expected release points and half in-between such points; any intermediate high point in pipeline profile must be included in monitoring
 - 2.4 Record tidal levels synchronous with sampling/monitoring period
- #3 Provide periodic, once every two days, online real-time results (to be reviewed/revise, later)
- #4 Where CH₄ gases exceed 100ppm, take samples for C₁₄ and He analyses
- #5 Review all results - But plug pipeline after completion of monitoring.

- #1 Were the drains ever subject of a permit application
 - #2 Were drains ever "approved" by a permit
 - #3 Were the drains built as approved = Where are the engineering drawing, as approved...as constructed??
 - #4 steel drain culvert pipe + wetlands + salt water = corrosion - is the methane "swamp gas" or "field gas" coming out/up and finding a hole in the drain...
- Need Gas vs Tidal - Daily/Monthly/Annual flows Low tide = not so much gas...high tide more gas???
- Need location of drains - Locations/Operations of storage wells...i.e., more gas injected/higher pressure = more gas in drains AND less gas injected and more gas pumped out + lower field pressures = less gas in drains

Playa Vista developers are also legally and financially obligated via the 2006 Stipulated Agreement of C 525 826 to maintain the Freshwater Marsh SYSTEM (the System which Playa Vista developers still claim the Drains are a part) [download a printable and searchable PDF file](#).

AND per the CDFW additional information regarding tidal push and draw within the Main Drain and Spur lines, GC concurs.

This hydraulic push and suck is potentially responsible for the breach in the sealant as the sealant is also noted to only be used under short term hydraulic pressure and if hydraulic pressure circumstances exist, then mechanical fasteners must be used as well.

The Drains' caps have mechanical fasteners however, while the north Drain has not been checked, the south Drain is breached even with mechanical fasteners. It is believed that the large diameter weep holes have no fastening devices hence they may also be breached, adding to subsurface drainage and/or Ballona Channel saltwater entering BWER.

3. Is the sealant used to cap the drains incompatible with saltwater?

No, the sealant can be used in saltwater.

After the July 1 conversation, Mr. Cardiff responded to a follow-up to the question as to how it was determined the sealant was incompatible with saltwater, Mr. Cardiff emailed Mr. Tavetian

that “[t]he material safety data sheet shows that Sikadur 31 is toxic to fish and aquatic invertebrates. In addition, potable water lacks the salinity and other factors that seawater contains. Every epoxy that is rated for marine uses specifies such fact in the product data sheet.”

The Product Data Sheet indicates the sealant is suitable for potable water contact, but that means it is safe for use around drinking water; it does not mean it is not suitable for use near saltwater. More importantly, Department staff contacted the manufacturer’s representative and was told that saltwater would not affect the sealant in any appreciable way different from freshwater and that the sealant can be used in both fresh and saltwater. The sealed caps come in direct contact with freshwater but have no direct contact with saltwater, and an indirect contact with saltwater in the form of possibly salt air at times.

CDFW fails to address the unpermitted activity cited below.

Psomas’ Michael Crehan has stated in an email (which CCC Staff already has) to Playa Vista, CDFW and Bay Foundation personnel that inflow from the Ballona Channel flows into the spur lines to flow out through the Drain risers onto Ballona. (No permit exists for this ‘backwash’ of saltwater into Ballona Wetlands and conversely **no NPDES Permit has been issued from LARWQCB for ponding rainwater to enter into the unpermitted drains and exit into Ballona Channel. Malfunction of the MAIN DRAIN needs address.**

As far as toxicity, the material safety data sheet (MSDS) Mr. Cardiff referred to is for either Sikadur 31 Part A or Part B, which are pastes or gels and are tested as such. These two parts were mixed, as directed, and applied as a seal which rapidly turns to something like stone and has none of the same toxicity or characteristics of its separate parts. Mr. Cardiff is comparing the toxicity of something that was not used directly to seal the risers and had no chance of entering water in doses deemed toxic. As mentioned above, a de minimis amount of water enters the drains through a gap in the stone-like sealant, and only under very specific conditions, is tolerant to saltwater, and is suitable for contact with potable water.

Ostensibly, CDFW is claiming that the epoxy dries quickly and when dry is no longer toxic. GC accepts the conclusion of CDFW.

Per Product Use in the Current Wetland Setting-

1. Product Data Sheet-- Sikadur -31 Hi-Mod Gel may only be used by experienced professionals.

After a request by GC for the CDFW capping report, CCC Chair Boscho requested the report on the capping of the drains from CDFW.

No ‘Report’ was provided by CDFW, only comments referencing Playa Vista contractors did the work and the name of the product used to seal the drains was offered by Mr. Brody. Mr. Brody also provided several photographs of individuals performing the capping but their identities and/or company of employ was not provided.

We still do not know who capped the drains.

2. The Product Data Sheet cites, USES- ‘Interior, vertical, and overhead repair of concrete as an epoxy mortar binder. Exterior use in the Unpermitted Drains’ application scenario is rather unique and manufacturer representatives should have been consulted for its use in this manner. GC’s contact by phone with a Sikadur representative, yielded the representative’s response that Sikadur was just not the product to be used in attempting to seal the

Drains. (See Patricia McPherson Declaration of phone conversation with a Sikadur representative on August 5, 2020)

3. **LIMITATIONS-** “The NTSB has stated that this product is approved for short term loads only and should not be used in sustained tensile load adhesive anchoring applications where adhesive failure could result in a public safety risk. Consult a design professional prior to use.

(Per phone messaging provided by SIKADUR , the recording states the product is not for use in swimming pools and other things submergible without mechanical fasteners.

The cap itself does have metal fasteners which have not worked to keep the cap sealed. Do the large diameter weep holes have any mechanical fasteners to keep the epoxy secure under hydraulic pressure that CDFW states to exist?

McPherson Declaration CCC 8/12/20 Hearing Items 16c, 17a (# 4 of 4 Emails from Grassroots Coalition)

patricia mcpherson <patriciamcpherson1@verizon.net>

Thu 8/6/2020 2:52 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>; Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>; Willis, Andrew@Coastal <Andrew.Willis@coastal.ca.gov>

 7 attachments (12 MB)

DECLARATION OF PATRICIA MCPHERSON IS OPPOSITION TO APPLICATION TO REMOVE UNPERMITTED DRAINS IN BWER AND REQUEST FOR PERMIT AMENDMENT.pdf; Transcript of Hearing 12.14.2017_FINAL.pdf; NOI 5-18-0554.pdf; Sikadur-31-Hi-Mod-Gel-Part-A.pdf; Notice of Intent to Sue.pdf; MVI_4797.MP4; RE_Google Alert - Ballona Wetlands(1) copy.pdf;

August 6, 2020

California Coastal Commission

submitted electronically (No. 4 of 4 emails from GC/McPherson)

RE: Application to Remove Unpermitted Drains in BWER

Request for Permit Amendment

App. No. 5-18-0554

Permit No. 5-17-0253-A1

August 12, 2020 Meeting Agenda Items 16 c, 17 a

Honorable Coastal Commissioners and Staff,

**Grassroots Coalition opposes CDP Application No. 5-18-0554.
Grassroots Coalition opposes Application No.: 5-17-0253-A1**

Please consider DECLARATION OF PATRICIA MCPHERSON, President of Grassroots Coalition and its attachments as part of Grassroots Coalition's

opposition to Hearing Items 16c, 17a for August 12, 2020. This is No. 4 Email of 4 Emails sent to CCC from GC/McPherson.

(Grassroots Coalition's (GC) Opposition Response to the California Coastal Commission includes Todd Cardiff Esq. comments on behalf of GC sent by Todd

Cardiff Esq. and

4 emails sent by GC/McPherson as: (1) Staff Report; (2) Exhibit 2; and (3) Exhibit 10; with (4) **GC/ McPherson Declaration for August 12, 2020 Meeting Agenda Items 16c, 17a.)**

Thank you, in advance, for your consideration and timely review of these materials,
Patricia McPherson, Grassroots Coalition

MCPHERSON DECLARATION

The exhibits are:

1. Transcript 12/14/2017
2. Notice of Intent to Sue
3. CCC letter to CDF (NOI 5-18-0554)
4. Coffin Video of Gas Bubbling
5. McPherson Testing Video
6. MSDS for Sikadur
7. Psomas/Crehan email to CDFW/Bay Foundation personnel per Drains outflow of Ballona Channel water.

Exhibit 5.

Volatile gas presence demo

Exhibit 4. Coffin Video of Gas Bubbling

<https://www.flickr.com/gp/stonebird/7r3h21>

DECLARATION OF PATRICIA MCPHERSON IS OPPOSITION TO APPLICATION TO REMOVE UNPERMITTED DRAINS IN BWER AND REQUEST FOR PERMIT AMENDMENT (APP. NO. 5-18-0554 AND PERMIT NO. 5-17-0253-A1)

I, Patricia McPherson, declare:

1. I am the president of Grassroots Coalition a 501(c)(3) nonprofit environmental organization dedicated to the protection and preservation of the Ballona Wetland and other wetland habitat in Southern California.
2. I have been working on issues surrounding the Ballona Wetlands Ecological Reserve (BWER) for more than 20 years.
3. In 2016, Grassroots Coalition filed a lawsuit against California Department of Fish and Wildlife and Playa Capital Companies over the installation of drains in the BWER. Such drains were discovered by activists in 2013 and reported to the California Coastal Commission. Such lawsuit was filed because the Coastal Commission Enforcement Staff was unsuccessful in compelling CDFW and Playa Capital to seek a permit to remove or cap the drains.
4. In 2017, Grassroots Coalition entered into a settlement whereby CDFW agreed to file a CDP application to immediately cap the drains. While the settlement did not specify what kind of regular CDP application was required, the settlement expressly reserved the right to fully participate in Coastal Commission hearings, including proposing alternatives. Grassroots Coalition believed that removal of the drains was necessary.
5. In December of 2017, the Coastal Commission heard the application for CDFW to cap the drains and to submit an application to remove the drains or abandon the drains in place.
6. Grassroots Coalition submitted comments arguing that the unpermitted development had to be removed. Grassroots Coalition also submitted comments expressing concern and alarm at the potential presence of methane gas and the potential for injury if welding was occurring at the site. In addition, Grassroots Coalition was concerned that the capped drains would serve as a collection point for methane gas. Such comments were rejected by Coastal Commission staff based on CDM's report that methane was not present. Grassroots Coalition also argued that the drains should be removed (drains are not permitted development in wetlands) and not abandoned.
7. On December 14, 2017, the Coastal Commission heard the application to immediately cap the drains. The Coastal Commission agreed with Grassroots Coalition, and made very specific changes to Condition #4 of CDP 5-17-0253.
8. On December 14, 2017, Commissioner Peskin stated the following:

And, I'm having trouble grappling with why we did not, why a private party had

to do this three years later. Why four years later we're coming up with a half a solution because our fellow sister agency has bigger future plans which you know, are remarkably complicated and I don't want to opine on whether a freshwater body should become a salt water body and 15 feet of dirt should be removed and put to the other side. We'll save that for another day.

But, it seems like if you have violation its take out the pipes, cap the drains at least that's true and why weren't we issuing a Cease and Desist Order in 2013 and requiring that then? So I mean, this seems like a half a solution and just because, I mean, if this was a private party and they said oh well, we have future development plans so just give us half the solution we would say, "no you got a you've got to fix all of your 1991 permit violations." Want to respond to that? I mean, I could approve this and I think it's a step in the right direction, if we're also saying take out the pipes because that's the violation and it's not my problem that Fish and Game's doing a DEIR that's going to be done in some amount of time in the future. The problem is there's a violation, it has to be cured.

(Coastal Commission Transcript, at 32, lines 9-25.)

A true and correct copy of the transcript of the December 14, 2017 Coastal Commission proceedings on CDP 5-17-0253 is attached as Exhibit 1. I have highlighted some of the most relevant sections.

8. On December 14, 2017, the other Coastal Commissioners unanimously agreed with Commissioner Peskin. The Coastal Commission changed Condition #4 to require CDFW to apply for a regular CPD within six months and remove the drains within 1 year. The option to apply for abandonment of the drains was expressly removed and deleted from Condition #4 of CDP 5-17-0253. (Coastal Commission Transcript at 55:lines 18-23.) Such vote was unanimous.

9. Despite the very clear language and intent of the Coastal Commission vote, Staff issued a CDP on January 11, 2018 that still permitted CDFW to apply for abandonment of the drain pipes in place. Upon discovery of the "error", Grassroots worked for over a year to get this remedied through staff, including sending them the transcript, going to multiple Coastal Commission meetings and bringing the issue up at public comment.

10. At the Coastal Commission meeting on December 12, 2018, Grassroots Coalition played video clips of Commissioner Peskin and Commissioner Brownsey at the December 14, 2017 CCC meeting, emphatically stating that they would not support the CDP unless the unpermitted pipes were removed. Executive Director Ainsworth nevertheless claimed that the Commissioner's intent was unclear.

11. In March of 2019, the Commission again considered Grassroots Coalition attempts to correct the CDP. Executive Director Ainsworth and Deputy Director Steve Hudson attempted to deflect the issue.

12. Because it was clear that Staff was going to continue to resist the direct vote of the Coastal Commission, on March 11, 2019, Grassroots' attorney, Todd T. Cardiff, Esq. sent a Notice of

Intent to Sue to Jamie Jordan Patterson (Senior Deputy Attorney General) and others within the Coastal Commission. A true and correct copy of such Notice of Intent to Sue is attached as Exhibit 2.

13. On March 14, 2019, the Coastal Commission issued a revised CDP that removed the option of seeking to abandon the pipes in place.

14. Despite the issuance of a corrected CDP on July 19, 2019, Coastal Commission Staff Mandy Revell sent a letter requiring CDFW “to submit an amended application (not a new application), to include both alternatives for removal and proper abandonment as co-equal alternatives for the Commission’s review.” A true and correct copy of the Coastal Commission July 19, 2019 letter to the CDFW is attached as Exhibit 3.

15. On or about April 10, 2020, I received a video from an activist that showed the south drain completely submerged in water and bubbling. A true and correct copy of such video is being submitted herewith as Exhibit 4.

16. The next day, on April 11, 2020, I went to the site of the bubbling drain with a gas meter tester, INFICON Gas-Mate Combustible Gas Detector, and held the sensor over the bubble escaping from the water. The gas meter detected the presence of methane. I reported the presence of gas to CDFW and Coastal Commission enforcement staff. I received no response and apparently no investigation launched

17. Seeing absolutely no attempt to investigate, on June 30, 2020 our attorney contacted CDFW’s litigation attorney, Gary Tavetian, informing him that Grassroots Coalition intended to file lawsuit because of the potential for dangerous build-up of methane in the pipes. Such contact apparently prompted CDFW staff to go to the south Drain. CDFW staff, as cited in their Methane Memo, acknowledged that the cap was breached and outgassing. CDFW, per the Memo, requested and received a Los Angeles Fire Department Haz Mat investigator. However, unless a gas detection device is inserted into the capped drain, or sealed tenting is placed over the drain riser, such test would not necessarily detect flammable gas due to multiple variables including the pulse of the outgassing and the sea breeze dissipating any gas. An ambient air test, which is subject to wind direction and strength, can be of little value in detecting the presence of methane within the drain(s) or lack thereof.

18. Because CDFW claims that the bubbles in the submerged drain were not methane, on July 30, 2020, I went back to the southern drain with my combustible gas detector. I placed a bag over the edge of the drain and waited approximately one minute. I then inserted the combustible gas meter into the bag. The meter went from a non -registering ‘tick’ sound to a fast ‘ticking’ sound indicating the presence of combustible gas (methane). I videotaped the testing which clearly demonstrates the gas meter detecting gas. A true and correct copy of the testing for combustible gas is submitted herewith as exhibit 5. The video can also be viewed at <https://www.flickr.com/gp/stonebird/7r3h>

19. I have direct knowledge of gas issues in and around BWER. I am directly aware and have documentation through video that the Playa Vista developer's reabandoned University City Syndicate oilwell has oilfield outgassing over the well and into the Freshwater Marsh. Despite CDFW having knowledge of this outgassing, and as the trustee of the Ballona Freshwater Marsh, and as stated by CDFW, board members of the Playa Vista Ballona Wetlands Conservancy, they still have not acted to re-abandon the University City Syndicate well. In recent Zoom meetings, I have had with agency personnel including LARWQCB and CalGem it has been opined, during the meetings, by the City of LA's former oil/gas expert, Exploration Technologies Inc.- Victor Jones and other oil/gas experts that methane, if gathering in the drain pipes, it may be being caused by the increasing outgassing of University City Syndicate creating secondary chimneys/pathways of the thermogenic gas and that prudent, scientific assessment by qualified individuals is recommended due to the potential hazards. Entry of the gas into the drains through breaches in the system is readily possible. The cap of the drain is already acknowledged by all parties as having been breached. Regardless of the reason, the evidence demonstrates that methane is accumulating in the drain pipes.

20. I agree with CDFW that tidal (hydraulic) action is impacting the capped drain pipes. I believe the tidal action is impacting the drain pipes because "backflow gate" on the outlet drain at Ballona Channel does not prevent water from backing into the drains. The Psomas, Michael Crehan email to CDFW and Bay Foundation personnel establishes their knowledge of such backflow occurring and acknowledges the Ballona Channel water entering the Ballona Wetlands Ecological Reserve via the (unpermitted) Drain Risers. I have attached a true and correct copy of this email. The permit for the Ballona Freshwater Marsh prohibits water from Ballona Creek from entering the Freshwater Marsh (thus the backflow prevention gate). According to CDFW's submission, such tidal flow creates a hydraulic flow that impacts the seals on the drain risers.

21. According to CDFW, the unpermitted drain pipes were capped and sealed using an epoxy called Sikadur – 31 Hi-Mod Gel. On August 5, 2020, I spoke, by phone, with a Sikadur technical support technician. I explained how CDFW used Sikadur – 31 Hi-Mod Gel to both plug the large diameter weep holes and use as a sealant to the metal cap on the drains which included the use of metal fasteners on the cap. I discussed with him, CDFW's claim that tidal action was creating pressure in the capped drains and the failure of the seal. The technician informed me that he would not recommend Sikadur 31 Hi-Mod Gel for such application, and was not surprised that the seal failed. A true and correct copy of the MSDS sheet for Sikadur – 31 Hi Mod Gel is attached hereto as Exhibit 6.

22. There will be substantial litigation if the BWER "restoration" project EIR is certified. CDFW's claim that the restoration/bulldozing will occur in the next five years indicates a predetermined outcome, which, in of itself, is a violation of CEQA. The BWER bulldozing "restoration" project is unlikely to proceed in the next five years or ever. I strongly urge the Coastal Commission to order removal of the drains forthwith.

I declare under penalty of perjury, under the laws of the State of California, that the above is true and correct, except for statements made on information and belief, and as to such statements, I believe them to be true. Executed this 6th day of August, 2020, in the County of Los Angeles.

A handwritten signature in black ink, appearing to read "Patricia McPherson", with a long horizontal flourish extending to the right.

Patricia McPherson.

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COASTAL COMMISSION HEARING
TRANSCRIPT 12/14/2017
ITEM TH10c
CDP APPLICATION 5-17-0253

1 [MANDY REVELL] Good afternoon. Commissioners item 10c is the application of
2 the California Department of Fish and Wildlife to cap to existing unpermitted
3 storm drains located in the Ballona Wetlands Ecological Reserve which is located
4 in Playa del Rey in Los Angeles County sealing the drains would be achieved by
5 either capping the drain risers in place or by removing the portion of the drain riser
6 located above grade. All of the drains weep holes will be sealed and a metal cap
7 will be welded over the drain hole to prevent further dewatering of the surrounding
8 wetland. The capping is proposed as a temporary remedial measure intended to
9 immediately stop the ongoing resource damage occurring from the drainage of the
10 wetland while the applicant develops its comprehensive restoration plan for the
11 full restoration of the Ballona Wetlands. Next slide please.

12 As shown on this slide the project is located within a portion of the Ballona
13 Wetlands in an unincorporated area of Los Angeles County which covers
14 approximately 385 total acres. The Ballona Wetlands are remnants of a much
15 larger wetland system that historically covered over 2000 acres that reached from
16 Playa del Rey north to Venice. All of the remaining wetland areas in this area are
17 considered environmentally sensitive habitat areas and provide habitat for many
18 sensitive species including marine fish, migratory shorebirds, and the California
19 least tern and Belding savannah sparrow.

20 This site has been subject to previous permit and enforcement action by the
21 Commission beginning in 1991 when the Coastal Commission approved a coastal
22 development permit with amendments for Playa Capital company, the property
23 owner at the time, to construct the Ballona Freshwater Marsh located immediately
24 south of the intersection of Lincoln and Jefferson Boulevards which
25 included the approved main drain line which runs from the Ballona Freshwater
26 Marsh to the Ballona channel. The Ballona Freshwater Marsh project was
27 designed to integrate water quality protection functions, habitat creation,
28 restoration and stormwater control. In approximately 1996, the subject

1 unpermitted drains shown by the red dots on the slide and associated
2 approximately 100 foot long lateral spur connector drain lines were constructed by
3 the Playa Capital Company, which connect to the approved main drain line.
4 Commission staff has confirmed that the subject drains and lateral spur
5 connector drain lines were not included as a part of those Commission approved
6 plans. And beginning in 2013 Commission enforcement staff notified Playa
7 Capital Company LLC and the applicant, the California Department of Fish and
8 Wildlife which took ownership of the reserve in 2004, after the state of California
9 acquired the property from Playa Capital, that they must address this unpermitted
10 development.

11 In order to stop ongoing resource impacts from the draining of water from
12 the wetlands, Commission enforcement staff directed Playa Capital Company and
13 the Department of Fish & Wildlife to develop a plan to cap the drains while a
14 permanent resolution is worked out to remove or permanently abandon the
15 unpermitted spur connector drain lines and restore all areas of the wetlands that
16 were disturbed as a part of the violation.

17 In May of 2016 the Grassroots Coalition initiated litigation with regard to
18 the unpermitted drains and pursuant to a settlement agreement between the
19 Grassroots Coalition and the California Department of Fish and Wildlife the
20 applicant submitted the application before you here today which is to cap the
21 unpermitted drains and plug the weep holes perforating the drain to stop the
22 functionality of the drains.

23 The pro the project has proposed includes either capping the drain risers in
24 place, which would involve no soil disturbance or removing the top of the
25 corrugated risers to cap the drain risers at grade level utilizing a blowtorch, which
26 would require the removal of a relatively small wedge of soil from around the
27 perimeter of the risers utilizing hand tools so that dirt does not fall into the inlet.
28 Both options will require workers to utilize a ladder which will be lowered into the

1 pipe to weld small pieces of metal over each remaining weep hole within each riser
2 to make it watertight to ensure water beneath the surface does not drain into
3 the inlets. Finally, a flat metal plate will be welded to the top of each riser.

4 If the applicant seals the drain at grade the displaced soil which will be
5 temporarily stored on a tarp adjacent to the project site will be replaced around the
6 cap. To address temporary impacts associated with earth movement activities
7 associated with the proposed work the Commission is imposing that any areas of
8 the site disturbed as a result of the work being revegetated with appropriate
9 wetland species appropriate to the area. However, if the applicant seals the drain
10 in place with no ground disturbance revegetation will not be necessary.

11 Staff would like to highlight the fact that capping and sealing the
12 unpermitted drains is considered to be a temporary remedial measure to stop the
13 ongoing habitat impacts associated with the draining of the surrounding natural
14 habitat and wetland areas, and the proposed work is not considered a permanent
15 solution. The Applicant has prepared a Draft Environmental Impact Report for the
16 Ballona Wetlands Ecological Reserve restoration project which is currently in the
17 public comment phase. To ensure that the unpermitted drains are fully addressed
18 as part of this larger restoration project, special condition for of the permit requires
19 the applicant to apply for a coastal development permit within five years from the
20 date of issuance of this CDP to remove or properly abandon the unpermitted drains
21 and associated lateral pipes and revegetate with appropriate native wetland species
22 all areas of the site that were disturbed as a result of the unpermitted development
23 at a ratio of four-to-one, which is revegetation area to area impacted by the drains.

24 Prior to the publication of the staff report, concerned members of the public
25 raised questions regarding levels of methane gas in the water flowing from the
26 freshwater marsh to the Ballona Creek which could potentially become trapped and
27 the unpermitted lateral connector pipes if the drains are in fact sealed shut as
28 proposed with this project. After the staff report was published commissioned staff

1 received two reports by representatives of Playa Capital on behalf of the applicant
2 which consisted of a seep gas geochemical analysis of Playa Vista by Geoscience
3 Analytical Incorporated and a technical evaluation of methane levels associated
4 with capping the subject freshwater marsh outlet drain risers by a civil engineer
5 with CDM Smith. The seepage report determined that based on past state
6 investigations, the seepage is void of hydrogen sulfide poses, no health risk and is
7 naturally occurring and not from the Playa del Rey gas storage field. The technical
8 evaluation concluded that capping the unpermitted drain risers will not result in the
9 accumulation of explosive levels of methane. Both the report and evaluation are
10 attached to the addendum to this item which also includes the letters of interested
11 parties and minor clarifications to the project description and the staff report.

12 In closing, staff would like to note that the capping of the two and permitted
13 drains that are causing ongoing impacts to the surrounding habitat at wetland area
14 is critical in order to stop the ongoing resource impacts to the surrounding wetlands
15 and restore hydrology on site to its pre- violation condition. Therefore, staff is
16 recommending approval of the project with special conditions that require the
17 presence of a biological monitor as well as an archaeologist and Native American
18 monitor on site during all earth movement activities if the ground is disturbed and
19 the requirement that the applicant submit of complete coastal development permit
20 application within five years to ensure the unpermitted drains and associated
21 components and lateral pipes are removed or appropriately abandoned, and all
22 areas on site that were disturbed by their installation are revegetated with an
23 appropriate native with appropriate native wetland species at a minimum ratio of
24 four-to-one.

25 As conditioned the proposed development conforms with all applicable
26 policies of the Coastal Act and the motion and resolution to support the staff
27 recommendation is found on page three of the staff report and this concludes
28 Staff's presentation and we are available for questions thank you

1 [Commissioner Turnbull-Sanders] Do we have any ex partes? Any
2 commissioners with the ex partes. Commissioner Howell

3
4 [Commissioner Howell] Thank you. I did have an ex parte with Jeanette
5 Vosburg at 11:46 on Tuesday and she outlined her concerns regarding the
6 methane that could become trapped in the pipes and the fact that the the drains
7 severely impact adversely the Ballona Wetlands.

8
9 [Commissioner Turnbull-Sanders] Thank you Commissioner Howe. Are there
10 any others with ex parte s on this matter? seeing none we will now open the matter
11 for public comment we'll start with the applicant. So, I have a number of speaker
12 cards for the applicant. I have actually for Kevin Takei, Mike Crehan, Ravi
13 Subramani? Subramanium [phonetic] and Edith Reed. Okay you can come
14 forward. Do you have an organized presentation? why don't you

15
16 [Kevin Takei] I, uh, just a very very brief remarks. I was actually curious as how
17 much time we would have, because I would like to have the opportunity to maybe
18 respond to any questions that may come up during this process.

19
20 [Commissioner Turnbull-Sanders] Well those won't... Responding to questions
21 don't count against your time if you're called up. But about how long do you
22 think that you you may need?

23
24 [Kevin Takei] Right now maybe three minutes.

25
26 [Commissioner Turnbull-Sanders] Okay well why don't we give you five minutes
27 but and...

1 [Kevin Takei] Thank you

2
3 [Commissioner Turnbull-Sanders] then, if there's time after that for rebuttal we'll
4 have that do you have a video that needs to be cued up or anything?

5
6 [Kevin Tokei] no, no

7
8 [Commissioner Turnbull-Sanders] Okay, great, thank you. If you could state your
9 name for the record that I'd be great.

10
11 [Kevin Takei] Good afternoon Commissioners. So my name is Kevin Takei I'm
12 with the California Department of Fish & Wildlife, the applicant.

13 First off, I'd actually like to thank Commission staff. I think as you well all
14 know whenever Ballona comes up if it can be a very complicated confusing
15 process with, and I think it's actually a good thing that there's just a very passionate
16 group of people out there that feel very strongly about Ballona. Which I
17 think both the department does as well as recognizing all the different viewpoints
18 out there. So, again, I really appreciate Staff's work on not only this particular
19 matter but the various matters affecting Ballona that come before your
20 commission.

21 With that in mind, the department as the applicant does support the staff's
22 recommendation for the two options. One topic about the passion of Ballona
23 though, is because there are a number of variety of issues that come before the
24 Commission on Ballona, the department's perspective and one thing that we've
25 tried to do is just focus on what what is the issue today before you in this permit.
26 And, we think from our perspective, the way we framed it was two things.
27 Number one being how do you stop the water from entering those drains, and
28 second being how do you do that with the least amount of impact. And one of the

1 reasons why we do support the staff's recommendation is A. by placing the cap on
2 those drains you would stop the water, and B. that by placing those caps at that
3 point you're not going to have to disturb the habitat and that would be the least
4 amount of the impact that you would have that's really much the extent of my
5 comments that I had for you today. I'll be available for comment, I mean questions
6 and then we also have a Mike Crehan to just briefly tell you the capping process
7 and like we said Ravi will be able to just speak really briefly about the methane
8 issue Thank You

9
10 [Commissioner Turnbull-Sanders] Mr. Crehan, could you state your name
11 for the record.

12
13 [Mike Crehan] Right. I'm Mike Crehan with Psomas. I um have been the engineer
14 for the Ballona wetlands for Playa Capital and for the for the Department of Fish
15 and Wildlife for the past 19 years. So I am here today if you have any questions
16 about the process of doing the capping. The idea as was stated in the staff report is
17 pretty accurate. We would have people walking in and out of the marsh so there
18 would be no mechanical vehicular kind of traffic. One thing we may be able to do
19 also is uh, if we want to cut the cap a little lower below grade we can still do that
20 by doing a shield of metal that would be slid between the ground and right up
21 against the pipe and then the pipe could be cut off a little lower and still not disturb
22 any of the vegetation. The only vegetation that would be disturbed would be the
23 trimming of the vegetation that are sitting right on top of one of the two drains. So
24 that's the extent of my presentation. If you have any questions I'll be here to also
25 well.

26
27 [Commissioner Turnbull-Sanders] Will we also hear from Ravi Subramanian.
28

1 [Ravi Subramanian] Thank you Madam Chair. My name is Ravi Subramanian.
2 Just a little background. I'm a registered professional civil engineer State of
3 California with over 27 years' experience in environmental investigations, clean-
4 up of contaminated sites including methane gas evaluations and sampling. First of
5 all, I wanted to also concur with the staff's recommendation on this project and in
6 particular, we evaluated the potential for you know naturally occurring methane
7 to accumulate to potentially accumulate to explosive levels with the capping of the
8 drains. And based on our review of all the available data, we have met... there is
9 extensive... earlier there is a map which showed the drains which had a lot of dots
10 on there. Those were methane gas soil or gas sampling points and based on over
11 hundred samples collected within about...er... a 450 foot radius of this inlet a lot of
12 them are like over a thousand times lower than the lower explosive limit of
13 methane gas. Ah just a brief refresher is methane gas, like any other gas, has a
14 range where it can explode. So these levels read over a thousands lower than the
15 lower-end. And, so in our conclusion, there was no observations of any methane in
16 that level which would cause any kind of explosion within the drainpipe inlet and
17 secondly, this is surface water which has lot of dissolved oxygen which makes,
18 which disperses, you know, any gas, if any found in the air, so we concluded that
19 there is no potential for accumulation of methane gas to any explosive levels by
20 capping these drain risers. So that concludes my presentation, so questions?

21
22 [Commissioner Turnbull-Sanders] Thank you. We may call you back up for
23 questions. Thank you for being available.

24
25 [Ravi Subramanian] Thank you.

26
27 [Commissioner Turnbull-Sanders] We will next have a... We have a speaker card
28 from John Davis and then followed by Robert Roy Van de Hook and then an

1 organized presentation it looks like from Patricia McPherson. Mr. Davis, do you
2 have an organized presentation or is it just you?

3
4 [John Davis] No, I did not. However, Ms. Steiner who has ceded her time to me.

5
6 [Commissioner Turnbull-Sanders] Okay if she filled out a speaker card?

7
8 [John Davis] Yes

9
10 [Commissioner Turnbull-Sanders] I don't see it readily here but I'll look for it
11 while you begin we'll give you six minutes.

12
13 [John Davis] Okay... Very good.

14 First of all, an unapproved EIR should not be tied to this permit by the staff.
15 Secondly, there are many problems with the staff report. The staff report and
16 addendum falsely claims that a hydrology report and a methane report were
17 submitted on behalf of the applicant-- as you can see by this slide (email slide at
18 33:27.) Mandi Ravel who's sitting here, said that the, that this was attached-- I
19 mean, pardon me-- provided by the applicant. But, then you look down here and
20 it's from Mark Huffman and it's from Brookfield Residential who is not the
21 applicant. There is nothing here in your record to show that it was submitted on
22 behalf of the Department of Fish and Wildlife.

23 Pardon me. The reports were prepared by contractors with conflict of
24 interest, Psomas, Camp Dresser & McKee, because they work for the violator. In
25 fact they design-- Psomas partially designed this project which is a violation and
26 appears to actively be concealing their own crime because they are partially liable
27 for the violation. So, you can't trust this methane report and furthermore I would
28 recommend that no one volunteer to go into that pipe with a torch and see if there's

1 methane because it fluxes. Methane doesn't just come come to the surface in a
2 regular, a regular way, it pulses.

3 The staff report did not include a map of wetlands delineated by the state,
4 the staff report contrarily provided a wetlands map provided by a private party
5 which is conflicted, liable for the violation and is attempting to conceal its crime
6 from the coastal commission actively. The Coastal Commission should require an
7 independent methane report and hydrology report from an independent party hired
8 by the applicant under California contract code to avoid such conflicts of interests.

9 Furthermore, the Commission should require a monitor if this has passed-- a
10 hydrologic monitor --not a biologic monitor, a hydrologic monitor, this is a matter
11 of groundwater. The Commission, the Commission should require staff to
12 produce the wetlands delineation produced by the state not by the private
13 conflicted party which is problematic. If you could --and in the background I'm
14 going to play a video of the water draining (video at 36:17). The planning process
15 should be used to, not be used to aid and reward a violator.

16 The Commission should fully enforce the Act. The Enforcement Division
17 requested that a cease and desist order in 2014, the violator has had plenty of time
18 to comply but has not and will not. Violation of section 30600 of the Coastal Act,
19 by conducting development without a coastal development permit, violation of
20 section 30221 by not maintaining biologic productivity and the quality of coastal
21 water streams wetlands and/or estuaries to maintain optimum policy populations of
22 marine organisms, by not protecting human health and safety by not reporting the
23 presence of methane gas in the water at the sea.

24 The Coastal development permit 591463 site, which is associated by failing
25 to control water runoff by discharging untreated water into waters of the United
26 States and violation of the Clean Water Act and the Coastal Zone Management
27 Program which implements the U.S. Coastal Zone Management Act of 1972, and
28 by not encouraging wastewater Reclamation. Violation of sections 30253 A, B, C

1 and E. The applicant did not disclose the project as an in and as in a seismic
2 hazard zone and stated there are no geologic reports and did not provide a geology
3 report and didn't comply with 30253 A. The permittee conducted development in
4 an area of high geologic risk in violation of 30253b, by failing to assure stability
5 structural integrity and neither create nor contribute nor significantly caused
6 erosion, geologic instability or destruction of the site at the site was destroyed. The
7 permittee is not consistent with 30253 C imposed by Air Pollution Control District
8 or the State Air Resources as to each particular development by releasing explosive
9 methane into the atmosphere which is a greenhouse gas and not reporting the
10 ongoing release to this Coastal Commission when they have known about it the
11 whole time.

12 The permittee is violating 30253e, by not protecting the people that visit the
13 site. Furthermore, the CDP 591463, this says Playa Capital was the applicant and
14 now the Department of Fish and Wildlife is required to make sure this is
15 implemented. They constructed a road in the riparian corridor without a Permit,
16 they did not get a Stormwater Pollution Prevention Plan and NPDES permit
17 required under the Federal, Federal agreement with NOAA to implement the
18 Coastal Zone Management Act of 1972. The project didn't, did not get a flood
19 control permit for CDP 591463 and they're using a manager that is conflicted and
20 not authorized by this Commission to report to the Commission in regard to that
21 permit and the deed restriction was not properly placed. In summary, this should
22 not be treated as an enforcement action against the permittee of 591463 and this
23 Commission should ask the executive director to begin a cease and desist order in
24 this regard. Thank you.

25
26 [CHAIR, COMMISSIONER TURNBULL-SANDERS] Thank you. Mr. Robert
27 Roy Van de Hoek, appears that you have time ceded to you by one other person,
28 Marcia Hanscom, is that correct? Ms. Hanscom would you like to speak?

1 Ok, good afternoon, if you could state your name for the record and do you have a
2 presentation to give, to cue up?

3
4 [MARCIA HANSCOM] Marcia Hanscom with Ballona Institute.

5
6 [CHAIR, COMMISSIONER TURNBULL-SANDERS] I'm sorry to interrupt, so
7 is Mr. Van de Hoek here? Okay, so then you'll have three minutes. Okay, thank
8 you.

9
10 [MARCIA HANSCOM] So, the question I have before you is why drain a
11 wetland? Well if you think you want to build on it and it's in the California Coastal
12 Zone maybe you want to drain a wetland. (presentation slides start at 2:51:00 At
13 the time that Playa Capital did do this, they thought they were going to build in this
14 very area. Could we have the next slide please? You can, I hope you can see this in
15 the foreground. You see the land that is to the south of Jefferson Boulevard. In the
16 further area, you see it's lighter and you don't see any water ponded there. That's
17 the area where this drain, these drains were. This picture was taken in December of
18 2014 and you can see when it rains it ponds, except where they put the drains. The
19 next slide please. You could see it better here perhaps the blue water ponded in the
20 area where there are no drains up above you can see it's drier, no ponded water.
21 Next, and here's another picture that shows you a bit of the freshwater marsh but
22 on on this side, the foreground of the picture that that's not the freshwater marsh
23 that is part of that ecological reserve and you can see the ponded water there and
24 again further up you see no ponded water. So, I think what I'd like to say is that
25 there are serious, serious issues related to the methane gas when your staff said that
26 Psomas said that the engineer, long time engineers for Playa Vista developers, they
27 said that there was no no no methane from the gas storage facility underneath
28 Playa Vista. Well this is not underneath Playa Vista. The methane gas storage

1 facility, SoCalGas, Playa del Rey storage field is underneath, directly underneath
2 the Ballona Wetland Ecological Reserve. So, there are serious issues related to the
3 gas and I hope you will listen to those that said I also we also are agreeing with the
4 attorney from Fish and-- California Department of Fish and Wildlife on this. You
5 cannot continue to have a wetland being drained for ten years, more than ten years,
6 thirteen years since the land was was purchased. It's been drained for another seven
7 years apparently before that it was being drained. We've got to let the rains soak
8 into this land. So, we would like to support the staff recommendation with a caveat
9 that there needs to be some serious, serious investigation into this gas field and
10 perhaps even a decommissioning of the gas field really should not be here. Thank
11 you.

12
13 [COMMISSIONER TURNBULL-SANDERS] Next we have an organized
14 presentation from Patricia McPherson. It looks like you have three people ceding
15 time to you for a total of 12 minutes.

16
17 [PATRICIA MCPHERSON] Thank You, Patricia McPherson, Grassroots
18 Coalition. First of all, I'd like to echo what John stated, that this is not attached to
19 the DEIR in any way, shape, or form. This has been something that's been ongoing
20 as they say since 1996 and that we alerted the Commission to it in 2013. Staff did
21 not tell you that on page nine of nine of the letter from enforcement that this, they
22 requested a cease and desist from Playa Capital and from Fish and Game. They did
23 not respond.

24 The Coastal Commission enforcement sent yet another letter asking from
25 them to respond. They did not respond. We didn't sue until 2016. Where is Fish
26 and Game in all of this? Nowhere! They are non-responsive. The only reason they
27 are before you today, is because of our lawsuit, and the only thing that we could do
28 was get them to come forward with a coastal development permit application.

1 That leaves it up to you, to be able to now go back to what enforcement had
2 said originally and give us a cease and desist order. As Ms. Haage has said on the
3 Isaacson Ranch area, that is the best, the most cost-effective way to deal with a
4 violation. This is an active violation that Fish and Game has known about this
5 since they took the site in 2004. At that time, none of the reports that they put out,
6 which were numerous and claimed through their private business the Bay
7 Foundation, that they had the best reports ever they didn't include any of this
8 drainage of the wetland to the public. Why wouldn't they do that?

9 Their land manager, it has come to our attention through emails between
10 himself and Mr. Huffman discussing the fact that the land manager, Brody, is the
11 on a board member of the private business of Playa Vista. I consider that to be
12 misconduct and we are going to take this up with Fish and Game and with the Fish
13 and Game Commission. But these are all things, Mr. Vargas, that you brought up
14 when we were in the, the Ranch area Gillette Ranch area that you were concerned
15 about issues of conflict of interest and untoward things going on. Well, that's what
16 we're raising to you and trying to raise to you very quickly here and we have
17 provided you, in information that we have sent to you, none of which do we hear
18 from the staff.

19 Staff report...Staff told us in one meeting why was there no hydrology report
20 done at the time and at the time it hadn't been submitted even by Playa Capital and
21 our response from Ms. Henry was it would cost money. Well I'd like to let you
22 know that we're all volunteers here. We've been using our own money to take
23 things to court, to deal with all of these issues all of these years. The state's money,
24 on the other hand, the 140 million to acquire this land and the 25 million to restore
25 it has been squandered. It's still not restored. And, it should have been and now
26 we've embarked on yet another private interest with Playa Vista which is why
27 we're bringing up the CDP 591463. It was never completed for its flood control
28 options. The need for them is to dig this out so that all of the waters can flood away

1 from the site so that they can try and keep their gas mitigation systems from
2 flooding with water and failing. They already are. How do we know that? Because,
3 we had a 2007 audit done by Laura Chick, in the City of Los Angeles, that said
4 they can't even prove that their gas mitigation systems are working. We have a
5 problem, nothing has changed since that audit was done.

6 If you look at the thing that I gave you, it shows the area where the drainage
7 was. It shows how it ponds up and drains away the very next day, and again Fish &
8 Game has known about this all this time. I bring to your attention what John
9 brought up, a Clean Water Act violation. They bring before you people, they bring
10 before you Mr. Crehan with all of their science. Well, we have an email that staff
11 has from Mr. Crehan acknowledging the fact that there is backwash from the
12 Channel, the Ballona Channel, up through those drains and into the wetlands. So,
13 they've had a Clean Water Act violation going on, and a Coastal Act violation the
14 same one John mentioned, since 1996.

15 I don't see any of them coming to us. to say, "gee you know what we found
16 this, you're right let's do something about this." And, now that we have this, think
17 of this as in terms of a crime scene you have a Clean Water Act violation. They
18 want to come in and do some slick little capping without ever doing a hydrology
19 report to determine what harm has been done and, and—God-- The DEIR that
20 they're trying to get you to pay attention to, there is not even a hydrology report in
21 that. And, that is the political might of Playa Capital LLC on the Department of
22 Fish and Wildlife here. We don't even have a hydrology report on a wetland. That's
23 what we want done. We want this predicated on a cease-and-desist, we want--
24 there are fines that could be paid for since 1996, we have the Clean Water Act
25 violation that if you tamper with this site without dealing with the agencies that are
26 involved in this, which are the Water Board and also the Coastal Commission
27 under the Coastal Act for this Clean Water Act violation for your CZMA
28 complicity with the federal standards, you're actively tampering with a crime

1 scene. And, I don't know the legal ramifications of that but certainly when it's a
2 murder going on you don't tamper with the crime scene until you investigate the
3 situation and deal with that situation.

4 These are the same people and I was bringing up the land manager and why
5 his emails with Huffman, the president of Playa Capital, and now Brookfield as
6 well, discussing Brody's involvement as a board member of their own private
7 business that is managing, which we believe is gifting of public funds going on
8 here, of their flood control system. Which, when we paid one hundred and forty
9 million dollars, don't forget it included the freshwater marsh. It was only someone
10 from Playa Capital, another consultant that wrote a letter on behalf of Playa
11 Capital, saying keep this system out of the Ballona Ecological Reserve, because it's
12 our flood control system.

13 Well, why did we buy it? For them to manage? For them to control? For
14 them to have all their experts doing everything? And, by the way CDM, who is
15 their gas expert, on what that story I told you earlier about Exploration
16 Technologies, Exploration Technologies. I can provide you with their assessment.
17 They came into the City of LA to do a peer review on what had been done before.
18 Their gas experts had already studied the area - and let me tell you there was no
19 gas and it was all swamp gas. But you know what, instead we brought in
20 Exploration Technologies who wrote a letter saying their work was junk. And we
21 now know that the Playa Vista area of Ballona is one of the largest oil field gas
22 seeps in the country. And, those videos I showed you yesterday about the
23 enhanced gas in the freshwater marsh, you're telling me we can't find? I've heard it
24 before and it's not true. It is not true. I have four more minutes. All right, what I'm
25 saying is the lines have been blurred by this state agency that is acting on behalf of
26 a private business, Playa Capital and now Brookfield, who's kind of caught in the
27 middle from from north of our border, instead of protecting the public interests and
28 the ecological interests.

1 Brody, if he's a member of this private business which he claims that he is,
2 which we have public record act requests to Fish and Game, which they claim
3 otherwise; he then is part of, on page two of what I gave you, that illegal road
4 building. Because Building and Safety is going to be citing them for violations
5 because they never got a permit to build that road. I mean think about it. Don't you
6 have to grade a road. You have to figure out what are the soils. You have to
7 compact those soils, you have to have permits for doing that. Did they do that? No.
8 And, who was that? Well, according to what they're telling Building and Safety, it
9 was the Ballona Conservancy, who again appears to be a bogus agency because
10 this Commission back in 1990, approved Ballona Foundation to have oversight of
11 this whole flood control system. But, guess what? It never got formed. They don't
12 exist. But, you know what Playa Capital decided in 2000, we're gonna tell
13 everybody we're it. And, that's who's on it and somehow they've, they've snarled in
14 Fish and Game who never wanted the oversight of Ballona in the first place. And,
15 they've got a staff person that is local, acting as a board member -misconduct,
16 misconduct.

17 Why are we allowing a private developer to run this ship? Why? Because,
18 it's Morgan Stanley, Dean Witter, Goldman Sachs and they're too big to fail. I
19 would say yes. I would say, hell yes. And this needs to change and I really urge
20 you to please review everything that we have given you and we do not want this to
21 be approved today. We want to see a hydrology study done on this area. The
22 DEIR may not get approved for another ten years. So, when they tell you oh,
23 they'll fix it in five years, why, why would we wait to fix it in five years? And, this
24 temporary cap, if you think those gasses, I can show you video tape of ETI, out
25 there on the land where you put a tarp over it hell I've done it, I've done it on the
26 marsh. If you've watched NBC's Burning Questions. I put it in a bag and torched
27 it. You can put a rag on the ground and watch the gases seep up under it and torch
28 it. And, yes, we do need to deal with SoCalGas and try to stop what they've got

1 going but that's yet another issue. But that is also Playa Capital's woes and they
2 must get rid of the water in order to have any chance at all for those gas mitigation
3 systems to work. Otherwise they clog the systems and they fail.

4 They're already failing. People are moving out because the system's keep
5 ringing off and off and off and off again and they keep having to raise the levels
6 because they've got so much gas coming out and you saw the picture I showed you
7 of all those gas levels, that's in the ambient air. That is unnatural. That is wholly
8 unnatural to have that kind of gas coming out and what is coming out is either
9 seeping up through the ground or if it does happen to go through a gas system it's
10 still right there. And we're talking all of the BTEX gases here. I heard the mention
11 of h2s well, what about benzene toluene xylene? What about the methane itself?
12 And, you have CDM's own reports that I've given staff that show that we have such
13 high levels of gas out there and in the marsh. So, it is not inconceivable to think
14 that it stays in the solution in the water and may move through these pipes and
15 collect as a secondary collector zone in those capped areas.

16 And, it's a crime scene, you've got a Clean Water Act violation. Mike
17 Crehan didn't tell anyone that they were getting backwash. Playa Capital didn't tell
18 anyone they were getting backwash. But you know what? Fish and Game has
19 known about this all along. We have the email. You have the email. Both planning
20 and enforcement have the email of Crehan acknowledging this with Fish and Game
21 that they have backwash going into the Ballona Wetlands. It's illegal. It's illegal
22 and I have three seconds to say thank you very much for hearing that. I hope you'll
23 not approve this. Thank you.

24
25 CHAIR, COMMISSIONER TURBULL-SANDERS- Thank you, we'll next have
26 David Chamberlain. Thank you very much and let's see, we have another, I think I
27 have two speaker cards from Ms. Hanscom. That will conclude our public
28 comment. Unfortunately, I don't have a public comment card, if you could just

1 come up and state your name for the record and fill out another form because I
2 don't have any other speaker cards. All of the cards had ceded time to other
3 speakers, this is for Item 10c.

4
5 [REX FRANKEL] Right, yeah and I have a presentation.

6
7 [COMMISSIONER TURBULL-SANDERS] OKAY, if you can just fill out a, fill
8 out a card after your presentation. You will have three minutes and if you can state
9 your name for the record.

10
11 [REX FRANKEL] Yeah, I'm Rex Frankel. I'm the legal director of the Ballona
12 Ecosystem Education Project. I want to give you the regional context for the
13 systematic removal of freshwater from the Ballona Wetlands. It is very significant
14 because the Department of Fish and Wildlife's restoration plan EIR that came out a
15 couple months ago only analyzes alternatives that involve converting the Ballona
16 Wetlands from a historically freshwater dominated area, to an entirely saltwater
17 project. [presentation slides at 3:08:23]

18 At the same time, the City and County of Los Angeles have an EIR to
19 largely dry up Ballona Creek's freshwater supply, cutting it from 27 million gallons
20 a day to 7 million gallons a day in the dry season as part of a TMDL Clean Water
21 Act project. By converting the Ballona Wetlands Restoration Project to an arm of
22 the ocean, Department of Fish and Wildlife justifies massively bulldozing the site,
23 lowering several hundred acres of the site from 15, 10 and 15 feet elevation down
24 to sea level in order to flood it with seawater. Can we go to the next slide please?

25 200 years ago, the Ballona Wetlands were a freshwater system. This is, this
26 excerpt here in the middle of the slide is from the existing conditions report
27 published by the California Coastal Conservancy and the Department of Fish and
28 Wildlife that explained that the saltwater habitats were were a very small

1 percentage of the Ballona Wetlands. It was largely a freshwater system. The next
2 slide please.

3 This is a better image of it, you can see that the the pale green largely
4 dominates the area within the red boundary. The only areas that where lagoons are
5 in the in the blue that were largely in the northern part portion of the Ballona
6 Wetlands historical area.

7 Can we go to the next slide please? The significant biodiversity as you can
8 see is these are areas that will be in habitats that will be wiped out or buried under
9 the state's restoration proposal to convert the freshwater and upland areas into salt
10 marsh.

11 Next slide please. The Coastal Act specifically says that the only thing you
12 can do in a wetland is restore it. What the Department Fish and Wildlife is doing
13 is converting freshwater habitats that that's its historical nature of it 200 years ago
14 before man arrived and messed up the property. It was a freshwater system, so the
15 state is trying to convert it into a saltwater dominated system entirely excluding the
16 freshwater systems. That's not a restoration, that's basically a development. The
17 next slide please.

18 This shows the habitats on the site. Let me just go to the next slide here to
19 show you that generally, basically what the project is proposing is to take a 15 to
20 20 feet of dirt from the northern wetland, dump it into the southern wetland
21 basically switching the locations of habitats. The next slide please. Very disruptive
22 over the next 10 years spending almost 200 million dollars. The next slide please.
23 Paving over our hiking paths. Next slide, as you can see the numerous hiking trails.
24 Continuing this is the Clean Water Act proposal. Let me go to the next the last
25 slide please. The water treatment plants the City of LA is constructing that would
26 create a water source, and so the last slide and the presentation shows three water
27 treatment plants on Ballona Creek. Just three more, five more seconds.

1 [COMMISSIONER TURNBULL-SANDERS] Please sum up because you're out
2 of time.

3
4 [REX FRANKEL] One last slide, if we restore it, if we made use of the water
5 from the three treatment plants that the city of Los Angeles constructed instead of
6 diverting that water to Hyperion sewage treatment plant, dumping it in the Ocean.
7 Instead, if we piped that water down the Ballona Creek along the levees we could
8 restore the Ballona Wetlands simply by-- just like turning on a garden hose. The
9 freshwater wetlands could be restored immediately, rather than waiting a ten year
10 period with massive disruption of massive habitats just moving around. So that's
11 what's the problem with the EIR on the depriving of the freshwater systematically.
12 Thank you very much.

13
14 [COMMISSIONER TURNBULL-SANDERS] Thank you, thank you. And
15 Ms.,ah, and, at the Coastal Commission we, signal our applause like this, thank
16 you, Ms. Vosburg, did you fill out a speaker card?

17
18 [JEANETTE VOSBURG] We just turned them in, my son ceded his time, Todd
19 Vosburg

20
21 [COMMISSIONER TURNBULL-SANDERS] I'll allow it but typically we have
22 to fill those out

23
24 [JEANETTE VOSBURG] We did fill them out. We filled them out before the
25 meeting started.

26
27 [COMMISSIONER TURNBULL-SANDERS] Thank you. Okay, so there was an
28 error, okay, okay.

1
2 [JEANETTE VOSBURG] I have no idea why you didn't get it. I've..

3
4 [COMMISSIONER TURNBULL-SANDERS] So you will have six minutes.
5 Thank you.

6
7 [JEANETTE VOSBURG] Okay, I turned in this brochure that has over 90
8 different species, and I also turned in a list of youtubes and the flyover flyover of
9 the area and. I feel very badly for the endangered species and species of special
10 concern that are out there, that are being deprived of fresh water by Playa Vista. I
11 have a letter from our attorney. I represent Grassroots Coalition and I have a letter
12 from Todd Cardiff and I'd like to read it to you. It's in reference to the CDP
13 Application number 5170253 item TH 10 C, opposed. Honorable Coastal
14 Commissioners, I am the attorney for Grassroots Coalition and the attorney that
15 brought a civil enforcement action in Los Angeles Superior Court to compel
16 California Department of Fish and Wildlife to apply for a coastal development
17 permit. Grassroots Coalition v CDFW and Playa Capital, Los Angeles Superior
18 Court Case number BC619444. The case was settled with the agreement that
19 CDFW would apply for a coastal development permit. Such settlement which has
20 been submitted to the Coastal Commission should be part of the record before the
21 Commissioners. As is consistent with separation of powers the Settlement requires
22 CDFW to apply for a CDP pertaining to the drains without specifying what time
23 type of action is required to remedy the violation of the Coastal Act. The
24 Settlement also does not impact the discretion of the Coastal Commission to
25 approve, deny or modify the CDP. My first concern with CDFW's application is
26 accuracy. CDFW and Playa Capital still maintain that the drains somehow serve
27 the freshwater marsh. Even the consultant from Playa Capital Psomas
28 misidentified the drains as BFM drains in their wetland delineation map. (exhibits

1 P 7 through 29.) There is no attempt to explain how the drain somehow served the
2 Ballona Wetlands Freshwater Marsh and appears to be a cynical attempt to
3 minimize the potential impact that the drains had on the Ballona Wetlands. In
4 addition the Psomas report's hydraulic hydrological analysis for freshwater marsh
5 outlet drain risers prepared by Psomas, for Playa Capital LLC on September 27,
6 2017, is not contained in the exhibits for the staff report. It is therefore, it is not
7 feasible to review such hydraulic analysis and verify its accuracy. This brings me
8 to my primary concern the proposal and preferred alternative is to simply plug the
9 weep holes and cap them. The required mitigation is a one to one ratio for
10 approximately 1/8 of a cubic yard per riser. This fails to recognize the potential
11 impact that the drains had on the wetlands for the last 20 years. While it is difficult
12 to calculate the relative impact, mitigation should be imposed to accommodate the
13 relative impact mitigation, removal of water surrounding the drains in a delineated
14 wetlands. We would suggest that at least a quarter acre of wetlands be restored,
15 independent of any restoration project in the area surrounding the drains. Such
16 restoration efforts should include the removal of invasive species and the planning
17 and maintenance of appropriate wetland species.

18 In addition, the CDP does not require the payment of any sort of fines or any
19 restitution for the illegal nature of installing the drains in a wetland area. While the
20 Settlement did require \$20,000, \$10,000 per drain, to be provided to the Coastal
21 Conservancy consistent consistent with Public Resources Code section 30823 the
22 Settlement explicitly reserved the right to demand additional mitigation and fines.
23 Grassroots Coalition suggests that at least another 20,000 dollars be ordered to be
24 paid to the Coastal Conservancy because because of the nature of the violations.

25 Finally, the Staff Report claims that Grassroots Coalition has not provided
26 any evidence of the methane in the water or the drains, this is not accurate. The
27 problem with the methane seepage is well documented in the, in and surrounding
28 the Ballona Wetlands. The City of Los Angeles developed a separate Methane

1 Code based on the concern that methane would enter basements at Playa Vista
2 causing potential catastrophic injury. Substantial water is being removed from
3 Playa Vista to draw down the water table thereby impacting Ballona Wetland's
4 groundwater table to ensure that the methane pumps and vent pipes work properly.

5 Finally, Grassroots Coalition submitted video documentation of methane
6 bubbling up in the Ballona Freshwater Marsh, it is not a speculation speculative
7 fear to be concerned about the potential capture of methane in capped and sealed
8 risers, particularly when the consequences may be lethal. Methane is explosive at
9 concentrations between five and fifteen percent. The most sensible option is to
10 require the full removal of the risers and lateral drains at this time which will
11 theoretically be required in five years anyway under the proposed CDP condition
12 Four. At the very least a mitigation measure should be added that requires non
13 flammable and non-sparking materials to be used if the drains ever need to be
14 opened.

15
16 [COMMISSIONER TURNBULL-SANDERS] Thank You

17
18 [JEANETTE VOSBURG] Particularly when slated for removal.

19
20 [COMMISSIONER TURNBULL-SANDERS] Thank you, thank you

21
22 [JEANETTE VOSBURG] I'd just like 30 seconds CHAIR-- If you'd sum up

23
24 [JEANETTE VOSBURG] I had two minutes that I didn't use

25
26 [COMMISSIONER TURNBULL-SANDERS] Okay, you're using that time now,
27 if you want to sum up you can have 20 more seconds

1 [JEANETTE VOSBURG] Okay, in conclusion Grassroots Coalition strongly
2 opposes the CDP as currently proposed, as it does not account for the damage that
3 has occurred to the wetlands, does not even restore the area where the risers are
4 located, lets Playa Capital and CDFW off the hook for installing and maintaining
5 drains in protected wetlands, and fails to even consider complicating factors of the
6 undocumented methane seeps in the vicinity. We urge you to require the removal
7 of the lateral pipes and drains.

8
9 [COMMISSIONER TURNBULL-SANDERS] Thank you

10
11 [JEANETTE VOSBURG] The imposition of proper mitigation for the loss of
12 water and harm to the wetlands and the imposition of a substantial fine to punish
13 and deter.

14
15 [COMMISSIONER TURNBULL-SANDERS] Thankyou, thank you I'm trying to
16 give you as much time as we could, thank you thank you.

17
18 [JEANETTE VOSBURG] I, I want to commend all of you for the Coastal
19 Commission is really has gone from a place that I was really concerned about
20 coming to, to something that it's kind of a joy to behold and thank you all for that.
21 I know you're really making some efforts to to do a really good job.

22
23 [COMMISSIONER TURNBULL-SANDERS] Thank you, thank you. We'll now
24 hear from the applicant for a rebuttal. Would five minutes be sufficient or how
25 long do you think you might need?

26
27 [KEVIN TAKEI] You know, I probably don't need that much time.

1 [COMMISSIONER TURNBULL-SANDERS] Okay we'll just give it to you and
2 then you know, if you use it then fine, if you can keep it shorter we always
3 appreciate that.

4
5 [KEVIN TAKEI] Sure, yeah, yeah. My caveat is, well, so again, my name is
6 Kevin Takei, with California Department of Fish and Wildlife. I think when I was
7 here before, you know, we recognize there are a lot of different issues going on at
8 Ballona and I think rather than going through the number of different issues that I
9 think you've heard about today, methane, the draft EIR, the consultants, Clean
10 Water Act, other number of issues, you know... we could go through that, but I
11 think going back to what I first said, you know, from the department's perspective,
12 with the purpose of this application was two things: number one is how do you
13 stop that water from entering those risers and number two how do you do so in the
14 least environmental impacts. And I think that's again while I did underscore that
15 the Department would support staffs recommendation to place the caps and then let
16 our process with the draft EIR and the restoration project that will come before
17 your commission here, because we will need to have a coastal development permit
18 from you to move forward with that. So we could go through that process and
19 before that I think probably would be useful if maybe the department had a chance
20 to maybe come back, maybe do a quick presentation to give you a little bit more
21 idea as to what is going on with that restoration. We're currently in a public
22 comment process, but, maybe after that, we can come back and give you a little bit
23 more detail. But again, rather than go through each and every point and possibly
24 detract from what we view as the main purpose, I'd prefer to make ourselves
25 available for any comments that you may have about something that you heard and
26 so with that I think I'd I'll conclude my remarks there. And, like I said we are
27 available for any comments that you have.

1 [COMMISSIONER TURNBULL-SANDERS] Thank you, and bringing it back
2 to staff.

3
4 [STEVE HUDSON (DEPUTY DIRECTOR)] Okay, thank you. First, I'd just like
5 to maybe take a step back collectively as a room and just may refocus this
6 discussion to on. To first note that staff does recognize that this was a very
7 serious violation. The installation of these two spur pipes and the risers which
8 were draining this this wetland area. And the Commission staff and the staff of
9 Fish and Wildlife have been working very closely together to bring this application
10 to you to resolve, or partially resolve the ongoing resource damage. That was our
11 our first mission here which as Mr. Takei had just mentioned is water is draining
12 out of this wetland the freshwater marsh and we need to stop that right away and
13 that is an interim stopgap measure only while Fish and Wildlife continues to
14 develop a longer-term much more comprehensive restoration plan for a much
15 larger area of Ballona.

16 And to acknowledge some of the the issues that were said, first I'd like to say
17 that staff really does appreciate this large public response and this amount of
18 concern about Ballona. It tells me that I think we should concentrate on our
19 similarities that we all have a very shared goal here which is protection of Ballona
20 and these resources. But there is no dispute of what is a wetland here and the
21 request by Mr. Davis and Ms McPherson that a wetland delineation and other
22 technical studies were necessary, Staff just disagrees with that. We didn't require a
23 new wetland delineation for the project that's before us because it was about
24 capping these two unpermitted pipes in the middle of a much larger wetland.
25 Everything there is a wetland so we're simply focusing our our review on on the
26 project before us, which is the capping.

27 And similar to that these qualities or the issues regarding water quality and
28 the hydrology and that were mentioned by some of the opponents and and by Ms

1 McPherson, specifically, again that is not related to the project that is before us
2 today. If we could bring up slide number three, please, just like to point out
3 something on that image, which is a lot of these issues are related to the much
4 larger issues with the Ballona wetlands and their management. Now, you can see
5 in this image that long pipe here that leads from Freshwater Marsh into the Ballona
6 Channel, that was, that was the pipe discussing, that was permitted in the
7 Commission's 1991 Coastal Development Permit and that's legal. All that we're
8 looking at today are the two unpermitted spur pipes, these two little black lines
9 leading to the red dots. That was the violation. The concept though, is for us, the
10 hydrology would be restored on this site by stopping the water on our site from
11 going into those pipes and that's what we have to accomplish here.

12 Now as Ms., Ms. Vosburg had indicated, her preference was that the spur
13 drains and the riser should be removed in their entirety and that was staffs
14 preference as well. And that was our first question to Fish & Wildlife, can we just
15 get rid of those now? Now that, that is one alternative, but, the reason that staff
16 has agreed and as did many of the opponents through the Settlement Agreement
17 that was reached with Fish & Wildlife, is that at this point to stop the ongoing
18 resource damage the way to achieve that is by simply capping this. The removal of
19 those pipes - - it's either removal or proper abandonment. That would be part of
20 this much larger project and that is what is related to this draft environmental
21 impact report that does not necessarily relate to this project, it's for that much
22 larger restoration project that Fish and Wildlife is developing. They're going to be
23 going back in disturbing a much larger area that includes the project site. It makes
24 sense given that there are archaeological concerns there are archaeological
25 resources, other wetland resources that would be disturbed as part of that much
26 larger project, so we agree that it is logical then that as part of that much larger
27 project, that's when you would evaluate going back in having the additional
28 disturbance related to the full removal of those pipes occur and that is being

1 addressed through that Environmental Impact Report that was mentioned. And
2 then once that solution has been developed that would come back to the
3 Commission at that time. And our Special Condition, Special Condition 4 of the
4 staff report requires that.

5 So, as Ms Vosberg was concerned, it does not let any of the property owners
6 or previous violators off the hook. In fact our condition requires that within five
7 years they come back, submit an application, whether it's been done through that
8 much larger project or not, for the full restoration of the areas of this of the site that
9 were disturbed as part of the violation, meaning the two spur pipes. And, to us, we
10 think that is that's just the appropriate way to the proper order. What this permit
11 today would allow us to do though, is to get out there immediately and stop the
12 water from draining down pipe by capping it and plugging those weep holes. With
13 that Miss Henry and do we have any additional comments? We would like to have
14 our enforcement staff address some of the issues that were raised during the public
15 comment as well.

16
17 [LISA HAAGE] I can honestly say I've never spoken from this position before. I
18 just wanted to explain, and Steve covered a lot of a lot of the the ground and I
19 would also refer you to pages 7 & 8 at the staff report which has a really good
20 summary of what the history of the enforcement was here. There are a lot of
21 allegations that were thrown around today about an environmental hazards and
22 violations and many of them just aren't ones that fall within the rubric of the
23 Coastal Commission. The ones that do we're very concerned about. As Steve said,
24 we completely share the concerns. We think that draining a wetland is about the
25 most amazing violation that you could have. I mean putting a drain in a wetland is
26 exactly the opposite of anything that you do in a wetland. It was installed by Playa
27 Capital when they owned it and we have an open a case open case against them
28 and as they said, and, as is summarized in the staff report, we did write them a

1 number of letters and tried to work with them and negotiate with them when we
2 weren't able to do it. But California Fish Department of Fish and Wildlife bought
3 the property and this permit action before you today is as a result of both our
4 enforcement efforts and the Settlement reached in a private litigation. And that
5 Settlement litigation specifically required this very CDP and as you may be aware
6 we have somewhat different enforcement options when the owner of a property is
7 another state agency and so we've been trying to figure out given the constraints
8 that we're working under, what was the most effective way to resolve this
9 violation.

10 From our perspective, the most important thing was to cap the those pipes
11 and stop the draining of the wetland as quickly as possible and this CDP provides
12 that opportunity. Several commenters mentioned the option of getting penalties
13 and I would just note again to you that the owner of the property is a state agency
14 and also that, although we love our administrative penalties, and this hopefully will
15 not be true in the future, but as of now they only extend to access violations and we
16 can't get administrative penalties for violations that don't involve an access even if
17 they're serious and involves that they like the wetlands.

18 So just so in summary, we agree with many of the comments that folks take
19 have raised and the enforcement staff has taken this case very seriously and
20 support the CDP and the taking the soonest steps as possible to stop the draining of
21 the wetland. We're available if you have any questions. Andrew Willis has worked
22 on this case directly and he's here as well.

23
24
25 [STEVE HUDSON] Okay and that concludes staff comments.

26
27 [COMMISSIONER TURNBULL-SANDERS] Thank you, bringing it back to our
28 Commission. Commissioner Peskin.

1
2 [COMMISSIONER PESKIN] Thank you, Madam Chair. So, I mean, it appears
3 that this has been going on for 21 years, but that Staff became aware of the
4 violations in 2013, which is four years ago and apparently we wrote a letter in June
5 of 2013, and several years later in 2016, a private party sued. And I've only been
6 on this Commission for nine months but, and with all due respect to staff, I see a
7 little bit of a double standard as it relates to when you guys are in the tough
8 position of dealing with a fellow state agency, as we saw in Oceano Dunes, as
9 compared to dealing with the private public. And, I'm having trouble grappling
10 with why we did not, why a private party had to do this three years later. Why four
11 years later we're coming up with a half a solution because our fellow sister agency
12 has bigger future plans which you know, are remarkably complicated and I don't
13 want to opine on whether a freshwater body should become a salt water body and
14 15 feet of dirt should be removed and put to the other side. We'll save that for
15 another day.

16 But, it seems like if you have violation its take out the pipes, cap the drains
17 at least that's true and why weren't we issuing a Cease and Desist Order in 2013
18 and requiring that then? So I mean, this seems like a half a solution and just
19 because, I mean, if this was a private party and they said oh well, we have future
20 development plans so just give us half the solution we would say, "no you got a
21 you've got to fix all of your 1991 permit violations." Want to respond to that? I
22 mean, I could approve this and I think it's a step in the right direction, if we're also
23 saying take out the pipes because that's the violation and it's not my problem that
24 Fish and Game's doing a DEIR that's going to be done in some amount of time in
25 the future. The problem is there's a violation, it has to be cured.

26
27 [JOHN AINSWORTH, EXECUTIVE DIRECTOR] Yeah, I think. Look, the
28 removal of pipes is an option that the Commission can consider and you can you

1 can take that path. The, uh, what we were looking at here is more of a pragmatic
2 sort of approach in trying to deal with this issue and syncing it up with the larger
3 wetland restoration project and the the notion of bringing a enforcement action
4 against another state agency is and, a leveling fines against those agencies, it's
5 something that we try to avoid and we try to work out those those issues with our
6 sister agencies in a, in a collaborative manner and that's what we've tried to do here
7 step by step and so look this is a commission decision you can make. And ours is a
8 recommendation which I felt was based on a more pragmatic way of dealing with
9 it.

10
11 [COMMISSIONER PESKIN] and, through the chair to staff, I appreciate that and
12 I always prefer honey to vinegar but not when it takes four years because then
13 we're really, it's a double standard. So, and quite frankly the role that this body
14 plays in state government is different than agency to agency relationships that Fish
15 and Wildlife might have with State Coastal Conservancy. I mean, we are a
16 regulatory body and we're a regulatory body of over other state agencies you know
17 relative to consistency determinations with federal agencies and and the private
18 regulated community. So, I mean, yes, it's very nice to be collaborative but not
19 when it takes four years and we end up with a half a solution and a double
20 standard, respectfully. I mean, I have great respect for Staff and our Enforcement
21 Staff but, I mean we can't cut people breaks that are different for one part of the
22 regulated community whether they're a sister state agency or the private regulated
23 communities. It's not right.

24
25 [COMMISSIONER TURNBULL-SANDERS] Commissioner Brownsey.

26
27 [COMMISSIONER BROWNSEY] Thank you Madam Chair. I just would like to
28 associate myself with the remarks of Commissioner Peskin. Deep respect for the

1 staff, both enforcement and policy. But I also want to thank the public for your
2 tiresome work on this issue because in my mind it's known for years its thirty years
3 by the time you may ever see the light of day. And to do this day in and day out to
4 preserve this absolutely precious, precious open space, I just want to acknowledge
5 your efforts, all of your attendance, the number of handouts and pictures and
6 explanations and and passion that we have seen in numerous. And Aaron and I
7 have been on the Commission for the same amount of time.

8 I I understand that sometimes the wheels of government have to creak
9 slowly, but I agree this is a half solution. I can support this if those pipes come
10 out. I just don't see any it seems to me a an extraordinary waste of time and
11 resources and public support, to simply cap these pipes and it could be five years, it
12 could be ten years, it could be another 20 years, and the the health of this open
13 space this ecological preserve I believe has been compromised long enough. I
14 think the resolution to the environmental damage in this, just in this case, we're not
15 talking about the methane or some of the other enforcement issues. I would I
16 would like to see and I think support commissioner's Peskin's suggestion that the
17 permit be approved for the removal of these drains and the pipes associated with
18 them. Let's get it done and then let's move on to the deeper more complicated
19 issues. This has gone on long enough. Thank you madam chair.

20
21 [COMMISSIONER TURNBULL-SANDERS] Commissioner Gibson.

22
23 [COMMISSIONER GIBSON] Okay, thank you. I just want to respond somewhat
24 to those comments. I mean I think you could characterize comments as treating
25 into these differently, but there's also apple and oranges comparison where you
26 have a government entity that has to go through public processes and the CEQA
27 process before it can do certain things. I know the Department of Fish and Wildlife
28 has been working on this for a long time. In full disclosure, I was actually the

1 general counsel for the Department of Fish and Game in 2013. I wasn't involved
2 with this project at the time, but I have a background. I know what I'm talking
3 about in terms of the Department they are giving this ecological reserve a
4 considerable amount of effort and public process. They've had public meetings at
5 the Fish and Game Commission meeting on this environmental document. I think
6 the Commission staff can comment on that document, will be engaged in the
7 process. I would encourage the department to come to the Commission at the
8 appropriate time, maybe this spring, and give a presentation to the Commission on,
9 from the department's perspective, the history of the wetlands, where it's going and
10 where it's trying to go, before I think... I would request before the Commission
11 decides what it thinks is happening here historically. We heard some testimony this
12 morning about how long it can take Commission Staff to do things and we
13 recognize that in government you're limited to the resources you have. I think
14 that's true at the Department as well and I think it's doing as good a job as it
15 possibly can to work through these issues. I understand the passion of the local
16 community and that's great. We need that from the public and so I'm hoping that
17 we have a public process that involves a presentation from the Department, so we
18 can really hear all sides before we come to to firm of a judgement thank you.

19
20 [COMMISSIONER PESKIN] So, through the Chair to Commissioner Gibson, Is
21 that a proposal to not vote on this today and do that in conjunction with that
22 presentation or what are you suggesting?

23
24 [COMMISSIONER GIBSON] No, I'm suggesting that concurring with the staff
25 recommendation for moving forward with today. But in terms of the larger
26 project, have the Department come in and present to the Commission what the
27 larger restoration, or you can pick your words, but what the larger project involves
28 from their perspective and why it does or does not involve other things. And

1 perhaps to some extent why certain things take longer than it seems like they
2 should.

3
4 [COMMISSIONER TURNBULL-SANDERS] Commissioner Groom.

5
6 [COMMISSIONER GROOM] Thank you Madam Chair. I guess I'm going to
7 belong, I'm on the camp over this side. I'm very confused as to listening to our
8 staff and listening to the supporters of the Ballona Wetlands, how very different
9 the stories are and I I I'm sure that everybody has their point of view but I'm it's
10 puzzling to me how how we can have to so dramatically different stories that we've
11 been told that were that were listening to and...But I will support the removal of the
12 pipes at the same time as we, as we cap the drains.

13
14 [COMMISSIONER TURNBULL-SANDERS] Commissioner Sundberg.

15
16 [COMMISSIONER SUNDBERG] Thank you. Can Fish & Wildlife come and
17 explain whether removing the pipes all the way would cause any problems or is
18 there an issue with that? Is there a process?

19
20 [KEVIN TAKEI] I'm sorry what was the question?

21
22 [COMMISSIONER SUNDBERG] One of the suggestions has been to instead of
23 capping them, just to remove them all the way...heard a couple other
24 Commissioners say that and I've just like to hear your perspective on whether that
25 makes sense or not.

26
27 [KEVIN TAKEI] Right, so, I think our concern with that would be that there
28 hasn't been any sort of analysis as to what sort of impacts you're gonna have in that

1 area. There's an exhibit in the staff report and I think there's about one to five
2 different alternatives, one of them mentions the removal of those pipes. There's a I
3 want to say it's a short description about the amount of soil that you're going to be
4 removing. I think that's from our perspective sort of that initial look at it. There's
5 been a lot of concern about you know the habitat and what's there and so to go in
6 and remove those pipes, now, without having looked at that that's something we
7 are concerned about. You know, we do talk about the draft EIR and and not to
8 belabor that point but also from just a pure not natural resource, but, like um, you
9 know budgetary resource, and I recognize this may not be the best from a habitat
10 but we rather not have to go in impact habitat once and then five years later go
11 back with our larger restoration project and have sort of doubled up so to speak. It's
12 also our understanding that at least one local Native American individual has
13 expressed significant concerns about us going in just removing the pipes. We have
14 been discussing the larger restoration project and have solicited of input through
15 the CEQA process from the Native American tribes and so I think I'd be
16 comfortable in that context of addressing those types of concerns, but I would not
17 be comfortable moving them forward with removing the pipes without having you
18 know gone through a similar process. And, so I think the underlying thing is or the
19 basic answer to your question is no we would not be comfortable because at this
20 point we don't understand what those impacts would be.

21
22 [COMMISSIONER TURNBULL-SANDERS] And the timeline for removing
23 those those pipes would look like what? If you were to go back and get approvals
24 for that? Understanding that that that we're kind of putting you on a spot,

25
26 [KEVIN TAKEI] Right.
27
28

1 [COMMISSIONER TURNBULL-SANDERS] But, just kind of giving general
2 kind of general ballpark estimate.

3
4 [KEVIN TAKEI] Yeah, I'm really hesitant to provide a ballpark just because to be
5 quite honest and I think the general public could tell you that of that our EIR has
6 taken quite a bit longer than we had anticipated. I, I think it's fair to say we've
7 probably made a couple estimates as to when we are draft EIR would have come
8 out and quite frankly we've missed that. And so we're trying to put our resources
9 to getting that done. So if we were to try to shift focus perhaps on this at Ballona, I
10 don't think we have additional staff that would be taking up that I think we'd have
11 to reallocate staff and so we're gonna have to think about the priority in the sense
12 of coming out with that larger restoration project and trying to move that forward
13 and then responding to this request. You know, I really hate to provide an estimate
14 because I quite frankly I think it's just gonna be wrong.

15
16 [COMMISSIONER TURNBULL-SANDERS] Okay, thank you thank you for
17 that. Thank you for your transparency and next we are going to hear from
18 Commissioner Luevano and then Commissioner Vargas.

19
20 [COMMISSIONER LUEVANO] Thank you, thank you Madam Chair, and I I
21 think some of the questions that I had were just asked by Commissioner Sundberg
22 and yourself. But I'll start by also wanting to associate myself with the comments
23 made by Commissioner Peskin, Commissioner Brownsey. From the start of this
24 conversation you know the first question that popped into my head is why, can't we
25 just take those pipes out right now. And, I want to recognize the work done by the
26 community here. I'm, as most of you probably know, a former Venice resident.
27 I've spent a lot of time in this area and I also go back to some of the early days of
28

1 the development of this area working for a member of Congress who represented
2 the area so I'm pretty familiar with it.

3 But, at the end of the day I'm trying to balance that with what I keep hearing
4 in regards to the amount of water that's draining and if the gentleman from fish and
5 wildlife sorry if you could come back up I just have one additional question.
6 Because, while I agree with what they're suggesting and lean in that direction, I
7 also think there are a lot of unanswered questions in a in addition to how long it
8 would take to remove the pipes, even if you could give us an assessment which
9 you've now said that you can't, it would be some length of time. I'm imagining it
10 wouldn't be in a 24 hour period. And what would be the, you know, the drainage
11 or the potential water loss in the wetlands in that period of time. So that's like one
12 of the questions.

13
14 [KEVIN TAKEI] Right okay. So, so we did provide the hydrologic analysis that
15 looked at the amount of water that was entering the drains. I'm gonna look back to
16 CDM if I start to misstate something, you know, holler.

17 But based on the ah. So, there's really kind of three ways water can get into
18 the drains. One of them is just surface flow. So you have a rain storm right rain
19 falls on the ground, goes down and get into the drain. Now, the thing about the
20 topography as to where both those drains are, they're not so to speak at the bottom
21 of the bowl. There they would be sort of maybe on on the side. So there's a
22 topographical map that was provided along with this hydrologic analysis. So when
23 you have the rainfall it's gonna fall down past some of the drains and they'll go into
24 this other area. So that's one way. You have this the surface flow. Another way
25 water could get into the drains, would be at the bottom of the bowl. Basically
26 filling up and then getting up to the level that drains. The third way and maybe it's
27 not really water getting into the drains, but you know I've seen pictures of water at
28 the drains, and the actual explanation was that during high tide there's flood gates

1 that are at the the channelized levee. And those flood gates will close during the
2 high tide and at those times, if certain flow conditions are right or stormed the the
3 freshwater marsh with the bow flow pipe that's been permitted that can back up
4 and then water will essentially seep up. Somewhat like a clogged drain. So those
5 are what I understand to be the three ways water gets there.

6 The first one, in looking at that surface flow from the rainfall; in the
7 conclusions of the hydrological analysis it looked at different like year flow. You
8 know five year, five year flood or five year storm event, ten year, 25, 100-year
9 event. When it looked at the hundred year event, analyze the surface area of the
10 water is flowing or the surface area that the water would fall upon, it determined
11 that in that area you could have about a hundred and twenty-two thousand cubic
12 feet total. Now the amount as it flows down that would actually enter into the
13 drain was calculated to be 53 cubic feet. So of that 122 thousand cubic feet of
14 water during that hundred year storm event the surface flow is about 0.04 percent
15 so 53 cubic feet. So that's what we understand to be the amount of water that
16 would the entering the drain if it wasn't capped and taken into account that's during
17 the 100 year flood event. For the water to basically fill up from the bottom of the
18 bowl to get up to that higher point, I have in section 3b of the report, it talked about
19 well there's two different drains. There's the north drain and the southern drain.
20 For the area south it actually needs a volume of 300 thousand cubic feet to exceed
21 the elevation so to fill the bowl up to get to the drain you need three hundred
22 thousand cubic feet. Which is you know obviously more than twice the amount of
23 what would be produced during a hundred year storm event. For the northern
24 drain, you need volumes in an excess of 170,000 cubic feet. The northern drain
25 when it gets a hundred year storm event, the volumes range anywhere from six
26 thousand nine hundred to thirty three thousand cubic feet. So similarly the
27 likelihood of that bowl filling up in the water getting over there is well you can do
28 them out that it's relatively low. That third option of those flap gates closing, you

1 know, I don't know I don't mean to quibble but I mean it's not to me that's not
2 water from the outside getting and it's more of that in the sense of a back flow.
3 Right the pipes getting clogged. So does that. I said a lot I apologize it feels a bit
4 rambling the the study is there and I hope I answered your question as to how
5 much water would be getting into those drains.

6
7 COMMISSIONER LUEVANO-- Yeah you did I'm you know I'm not a geologist
8 so I'm not sure I, or a hydrologist, so I'm not sure.

9
10 [KEVIN TAKEI] Neither am I.

11
12 [COMMISSIONER LUEVANO] um the other question I have is, because we
13 were there were two pipes that were referenced one was the main pipe that runs
14 from the wetlands into Ballona Creek.

15
16 [KEVIN TAKEI] yeah, so the freshwater marsh..right..

17
18 [COMMISSIONER LUEVANO] ...and the other one is the other two are these
19 spur pipes is that my understanding, correct?

20
21 KEVIN TAKEI-- ... that's what we call them, correct, yeah, so I mean you have the
22 main one and then the branches.

23
24 C[OMMISSIONER LUEVANO] ...and and what's the length of those spur pipes,
25 what..?

26
27 [KEVIN TAKEI] Could I go phone a friend?
28

1 [COMMISSIONER LUEVANO] ..what's that?

2

3 [KEVIN TAKEI] I'd have to see...

4

5 [COMMISSIONER LUEVANO] Oh, Oh, Oh...

6

7 [KEVIN TAKEI] If that would be Okay?

8

9 [COMMISSIONER LUEVANO] Sure.

10

11 [MIKE CREHAN] Yeah the a, this is Mike Crehan again with Psomas. Those
12 pipes range from about up I would say 80 to 120 feet depending on the pipe.
13 Somewhere in that range.

14

15 [COMMISSIONER LUEVANO] Okay, thanks. Those are my questions for now
16 thanks.

17

18 [COMMISSIONER TURNBULL-SANDERS] Thank You Commissioner
19 Luevano. Commissioner Vargas.

20

21 [COMMISSIONER VARGAS] Thank you very much. I'm just trying to see if I
22 can shape the direction that we go here. It seems like a lot of Commissioners are
23 interested in seeing a removal of the pipes, but I'm just wondering as I look at the
24 at the permit application, how we can actually do that today. It seems to me that
25 the options or paths available to us if we decide to deny this application then
26 nothing happens. I don't think anybody wants that. If we decide to modify this, I
27 don't think we could modify this application. Maybe staff can give me a little

28

1 direction, but I don't know if we could really impose a condition that would require
2 the removal of the pipes unless staff can think of an artful way of doing that.

3
4 [STEVE HUDSON] Sure, well we have thought of a few options that we could
5 offer you today. Perhaps the the simplest option might be a simple modification of
6 Special Condition 4 and you have that discretion today to modify these conditions.
7 You can add additional conditions, and Special Condition 4, right now, requires
8 that within five years the date of issuance that they come back to you for that full
9 removal plan or an abandonment plan within that five year period. So this could
10 be modified to say cap this immediately or you could set that time period possibly
11 within a 30-day time period the capping must be complete and the last sentence of
12 this condition could be modified to say a CDP, must be. A separate CDP
13 application shall be submitted to the Commission within, and you could set the
14 time period perhaps six months or less, for the full removal of the pipes. That
15 would allow for some additional time to evaluate the archaeological and the
16 biological effects.

17 The the other option, if you would not like to see this even cut off for six
18 months, is to add additional conditions to the permit now that would require
19 immediate removal of the entire two unpermitted spur pipes. If you did that, we
20 would recommend that that be done through an additional revised plan condition
21 for removal of all portions the two unpermitted pipes a condition requiring
22 revegetation of all disturbed areas at a four to one ratio very similar to the current
23 special condition 4. And, then that that condition would also require implementate,
24 actual implementation of the pipe removal within a specified period of time,
25 perhaps 30 days from date of issuance, and require that the revegetation be done
26 within the specified time period as well. And you could pick that time period but
27 typically certain six months upon completion of the pipe removal. And of course I
28 think it's understood but just to point out that as Fish and Wildlife has said, this

1 was always the plan. That this would happen down the line is part of that larger
2 project. I believe the concern was that they were planning on recontouring this
3 into a much deeper basin and so the areas where we were quite restoration would
4 potentially be later affected as part of that larger restoration project.

5
6 [JACK AINSWORTH] Madam Chair and I would recommend more strongly
7 Option 1, capping within an X amount of days, whether it be 30 days or whatever
8 we can work out there with Fish and Wildlife, and then submittal of a subsequent
9 application to give Fish and Wildlife some time to more to analyze the... more fully
10 the impacts associated removal of the pipes, such as the archaeological issues there
11 the Native American issues. This is an area with a lot of Native American burials.
12 One could argue though that the pipe already went in, but you're gonna have to dig
13 dig around this thing that we remove it. So that is a concern. And, we want to have
14 additional conditions there. And it would be, I think a more appropriate for the
15 Commission to make those decisions and and what the mitigation area would be,
16 rather than have it with me as the ED making these more, these sort of decisions on
17 a in a condition compliance setting. So if that makes sense.

18
19 COMMISSIONER VARGAS—That makes sense. Thank you. I'm gonna ask if I
20 may, the representative from Fish and Wildlife to come up. I'm just curious if we
21 were to take the tack of Option 1, and again being mindful that you've heard from
22 many of the Commissioners that this seems to be urgent for us. How soon how
23 soon can we move towards that. We, the staff suggested timeline timelines of
24 maybe six months or a year to come back and seek that removal. I certainly don't
25 want to be so aggressive that it makes it too difficult for you to be able to carry out
26 that task, but at the same time please be mindful that we would like to see that
27 moved, removed as quickly as possible. What do you feel is a is a comfortable or
28 an acceptable.

1
2 [KEVIN TAKEI] ...just so I, I'm clear, it's you know, we'd be moving forward
3 with capping it immediately immediately and then and it's the coming back with
4 that larger plan to remove the remaining components.

5
6 [COMMISSIONER VARGAS] I think that's I think that's the way staff
7 articulated it and we'd like to see that done as quickly as possible probably I'm
8 guessing with the with a vote of my peers after this but...

9
10 [KEVIN TAKEI] ...right

11
12 [COMMISSIONER VARGAS]...six months or a year.

13
14 [KEVIN TAKEI] I mean when you put it that way I mean I'm gonna go for a
15 year. If you ask if he said two years I would say two to be honest I mean because
16 I mean um...

17
18 [COMMISSIONER VARGAS] What would you would you have to, if I may,
19 would you have to develop a a separate singular EIR just for this action?

20
21 [KEVIN TAKEI] You know I think we'd have to look. What one of my my own
22 concerns is that and and I I hope this doesn't come off the wrong way, but you
23 know especially being cognizant of resources and I definitely understand the
24 Commission's concern. And and I I don't when I say this I don't mean that I I don't
25 want it to be up here as dismissive, and so I just want to see that first. But working
26 for the state, I always think when we when we take on things of cost-benefit
27 analysis, and and and and I know that that may sound very crass especially given
28 the mission of the Commission as well as the mission the Department of Fish and

1 Wildlife, which our Director will tell you we take very seriously. You know we
2 are the state trustee for Fish & Wildlife Resources and so when I say this that this
3 is a cost-benefit analysis, I can't underscore that I don't mean that in in the crass
4 way that it may come across.

5 But the the reason why I'm saying that, is that when we initially looked at
6 the amount of water that was entering these drains, that the habitat that had existed
7 prior to the existence of those drains, and then the habitat that's there that has
8 increased, despite the presence of those drains, the consistency of the habitats
9 around the drains in that surrounding area, we're unsure what incremental benefit
10 to habitat would arise due to that removal. And then weigh that against the just
11 the cost and whether it's it's the staff time or you know dollars that's something
12 that, you know, we looked at a little bit.

13 But with all due respect I would ask the Commission to consider that as well
14 and I and I think that's sort of what we're talking about where I sort of mentioned it
15 in the sense that we we haven't looked at what it would look like to remove this,
16 because, you know we have some information about what the habitat looked like
17 before, and we do have this information about the water, and so but we haven't, I
18 think it's fair to say we haven't drawn those or connected all those dots to really
19 figure out what you know what is the best way to what is the best way to address
20 this is it is it to remove it. And by removing it I mean are you going to get that
21 incremental boost to that habitat there? I mean I going out on a limb I think if
22 you're gonna get that bang for the buck. I I I think the department would say yeah
23 let's try to get this done and maybe reap.. reprioritize the other things that we have
24 going on at Ballona. That I think that that's my only concern and again you know
25 with all due respect, I would just ask that to be if a part of that consideration of
26 this. But I know that didn't answer your question about timing you know again,
27 just don't look the longer time I would appreciate it. I I certainly understand the
28 concern about if if we if we give you a foot you're gonna take three. Right, so I

1 mean I would suggest if there could be maybe progress reports or perhaps check-
2 ins such that if if there is concern that that the Department isn't making that
3 progress that the Commission believes it should be doing, so then you know a
4 decision could be met at that point. But I I I again, I'm just hesitant to put a finite
5 cap on the amount of time that we have, because you know the supporters and
6 opponents of of what we're doing there, will tell you that we've missed a number of
7 deadlines with publication our draft EIR too.

8
9 [COMMISSIONER VARGAS] and I am sure very aware of that too, no I
10 appreciate that I look I know we are all trying to carry out our missions of our
11 respective agencies the best to the best of our abilities, but we are limited by our
12 resources. So I certainly am sympathetic to that I, I won't make a motion but I
13 wanted to just set that frame. That and see what our options could be and I want to
14 maybe turn it over to or pass it off to some of the original point makers of this.
15 Maybe Commissioner Peskin to craft what what it would look like through the
16 Chair. How...however it would be, but I just I think it would make sense to keep in
17 mind that Fish and Wildlife needs to go through processes to make this happen so
18 we we should figure out if this is something that we want to do, that we we draft
19 language that makes sure that happens but also has, is sensitive to to our sister
20 agencies.

21
22 [COMMISSIONER TURNBULL-SANDERS] Before Commissioner Peskin
23 speaks I just want to give Commissioner Howell an opportunity to speak since he
24 hasn't had a first crack at it.

25
26 [COMMISSIONER HOWELL] Well, thank you and I actually just had a quick
27 question or two and it's mostly for for counsel so I guess it's just a reminder to for
28 myself is the Coastal Commission permit is the equivalent of CEQA correct?

1
2 [COUNSEL PEDERSON] Yes, the the permitting process satisfies the Coastal
3 Commission's obligations under CEQA.

4
5 [COMMISSIONER HOWELL] Would that then as a follow-up question, then is
6 would Fish and Wildlife be required to go through CEQA for removing of the
7 pipes? If the Commission gave them a permit saying you remove the pipes?

8
9 [COUNSEL PEDERSON] We would have to take additional steps under our
10 permitting process to be sure that they're are in order. Just stepping back a second,
11 the Commission has what's called a certified regulatory program under CEQA
12 when it takes actions under its certified regulatory program ie the CDP process it
13 satisfies its own CEQA obligations. In order for other agencies to satisfy their
14 CEQA obligations under a document prepared pursuant to a certified regulatory
15 program, there are certain additional requirements that have to be followed that we
16 wouldn't typically be following in our normal permit process, but we could
17 conceivably take those additional steps in this case which could then conceivably
18 allow Fish and Wildlife to rely upon this CDP to satisfy its CEQA obligations. But
19 we would have to work with Fish and Wildlife to work out those details to be sure
20 that it does cover both agencies CEQA obligations.

21
22 [COMMISSIONER HOWELL] And that's why I was just wondering is if whether
23 we weren't maybe even doing Fish and Wildlife a favor by giving them the permit
24 to take out the pipes now, as opposed to going through the whole thing. And I
25 totally understand how much time and energy these things take I mean we're
26 practically the definition of bureaucracy. So you know, I know that having them
27 come back for another permit for this could add a great deal of additional time. I
28 know Jeannette Vosburg mentioned the adding additional money on to on to

1 whatever fines or concerns would be, my concern would be, is if there is... if any of
2 these allegations are remotely true regarding violations out there, that by trying to
3 impose any sanctions or fines right now we may jeopardize any future enforcement
4 issues and fines is that correct?

5
6 [COUNSEL PEDERSON] Well, what's before the Commission today is a CDP
7 application, so you know the Commission doesn't have the option of pursuing
8 enforcement measures as part of the action before today. It's simply been noticed
9 as a CDP action. So yeah other and absent public access violations, which aren't at
10 play here, the Commission doesn't have the authority to impose penalties in this
11 situation. Step two, say a little bit more in response to your prior question, it is
12 possible to work it out so that a CDP would satisfy Fish and Wildlife's CEQA
13 obligations, but that does mean an evaluation of the impacts of whatever that
14 development is. What the current staff report has analyzed are the impacts
15 associated with basically capping the drains there's a brief acknowledgement of
16 other alternatives, including the possibility of removing the pipes and I concluded
17 that capping the drains at least in the short term appears to be preferable because it
18 has fewer short-term impacts. The current Staff Report really doesn't have an
19 evaluation of the range of impacts associated with removing the pipes and that
20 would involve dredging of wetlands and the Coastal Act itself requires an
21 alternatives analysis when you're doing that. So, I would be concerned about the
22 Commission today absolutely requiring as part of this permit, that dredging to
23 remove the pipeline Option 1, that Executive Director Ainsworth proposed of
24 establishing a deadline for them to submit an application for doing that that would
25 then allow the process for evaluating the impacts of doing that evaluating
26 alternatives, evaluating the potential archaeological resources, and then you know,
27 it's at the Commission's discretion to decide you know, what the deadline should be
28

1 and what happens if Fish and Wildlife misses the deadline. Potentially that it
2 comes back before the Commission to decide how to proceed at that point.

3
4 [STEVE HUDSON] Thank you Mr. Pederson, thank you and Commissioners, if I
5 could add one note to Mr. Pederson's comments, which is the way the permit is
6 currently structured with Special Edition 4, and the alternative that Mr. Ainsworth
7 and I were just discussing of ways that may be changed the way it is currently set
8 up though is it allows for immediate capping the condition could be modified to
9 require that capping occur within a specified period of time within X number of
10 days from your action today. The the provision that is in there now is that within
11 five years the date of issuance that they come back with that follow-up permit for
12 the whole the whole kit and caboodle. What we're discussing is that could be
13 modified but it raises the CEQA issues that Commissioner Howell had discussed.
14 The reason it was five years originally was because Fish and Wildlife has finalized
15 their Draft Environmental Impact Report that would need to be finalized and is
16 likely to be subject to litigation and the five year time period was in recognition of
17 that that time period that was the delay and then that could be extended only if
18 necessary. So, really what we're talking about those we could change that time
19 period of when they must come back to you. We could either allow that to proceed
20 through the current Draft Environmental Impact Report process or require that to
21 come back and we would be responsible for the CEQA findings ourselves through
22 our own coastal permit before Fish and Wildlife would finalize their separate EIR.

23
24 [COMMISSIONER TURNBULL-SANDERS] Thank You. Commissioner
25 Peskin.

26
27 [COMMISSIONER PESKIN] Thank You, Madame Chair. And, I want to thank
28 Commissioner Vargas and Commissioner Howell for their comments and to staff

1 for really kind of showing us what the array of options are. I don't want to sound
2 like a strict constructionist, but, with all due respect to the representatives from
3 Fish and Wildlife, this is an ongoing permit violation, albeit one that you inherited,
4 and so I do think it needs to be cured and not as a part of a Draft Environmental
5 Impact Report process that subject to litigation and normal delays could go on for
6 years and years. I really actually preferred Option number 2, but I hear you
7 Commissioner Vargas and you know and we do have Alternative 6, and Exhibit 7,
8 which is the Alternative for removal of the risers concrete base and pipe. And
9 listen I've worked for the Pyramid Lake Paiute Tribe for the last 25 years of my life
10 and very sensitive to NAGPRA and cultural resource issues, but these are
11 previously disturbed areas, that is a true fact. And I really like Option number 2,
12 but I hear you and in the spirit of trying to work it out and I do think that this
13 should be subject to doing the favor of that Commissioner Howe spoke to and that
14 is that we do the CEQA analysis and this be done quickly. But, I can live with
15 modifications to Special Condition number 4 but in a highly truncated time period
16 which is the CDP Application comes in 180 days and that the actual
17 implementation of the work for removal of the pipes, subject to our own CEQA
18 analysis, be done within a year after that and that will be my motion which
19 counselor you can massage.

20
21 [COMMISSIONER BROWNSEY] Second.

22
23 [CHAIR, COMMISSIONER TURNBULL-SANDERS] Sir, would you like to
24 speak to your motion?

25
26 [COMMISSIONER PESKIN] I think I've done that.

1 [COMMISSIONER TURNBULL-SANDERS] Would you like to speak to your
2 second Commissioner Brownsey?

3
4 [COMMISSIONER BROWNSEY] Extremely briefly Madam Chair because I
5 know we've taken a lot of time. With due respect to all the parties, just from a
6 personal note and I was very interested in Commissioner Lueveno's comments. I
7 was a young staffer in the State Senate. I had black hair when the Ballona
8 Wetlands first was discussed and it is amazing to me that almost 30 years later I'm
9 sitting here in the middle of a Ballona Wetlands conversation so, I think that
10 animates some of what it is important to me in terms of getting some resolution on
11 this. Simply because the reason I'm supporting Commissioner Peskin, and all of
12 the members of the Commission who have voiced their opinions on this, is that we
13 owe a duty of good faith to this community on this wetland, which they have
14 worked to preserve and enhance and to improve. And that, while I totally
15 understand Fish & Game is kind of a late player, the fact is that it's time and that's
16 all I'll say. Thank you very much Madam Chair.

17
18 [COMMISSIONER TURNBULL-SANDERS] I would like to turn it back over
19 to our Counsel Chris Peterson to see if we we have met our legal requirements for
20 making the motion as Commissioner Peskin outlined.

21
22 [COUNSEL PEDERSON] I believe so. I would just like to repeat his motion to
23 just be sure I understand it correctly.

24
25 [COMMISSIONER TURNBULL-SANDERS] Please do.

26
27 [COUNSEL PEDERSON] So, my understanding is he would modify Special
28 Condition number 4, to require the Applicant to submit a CDP Application within

1 180 days to remove the pipelines. And, that the removal of the pipes subject to the
2 review of the application through the permitting process must occur within one
3 year...and then is it from one year from today or one year from... I wasn't sure what
4 the one year from was from.

5
6 [COMMISSIONER PESKIN] So, in response to Commissioner Vargas and what
7 we heard from staff of from Fish and Wildlife within one year of approval by this
8 body.

9
10 [COUNSEL PEDERSON] The approval of the application to remove it. Okay,
11 thank you.

12
13 [COMMISSIONER PESKIN] And then write an immediate capping. The capping
14 happens immediately.

15
16 [COUNSEL PEDERSON] Okay, thank you.

17
18 [EXECUTIVE DIRECTOR AINSWORTH] That's and just to be clear what we
19 had suggested 30 days if that is acceptable.

20
21 [COMMISSIONER PESKIN] Fine.

22
23 [CHAIR, COMMISSIONER TURNBULL-SANDERS] I guess it, the I guess the
24 one concern that I have is just, you know, I realized that we all have some
25 experience with local government, but wanted to to ask the Department of Fish and
26 Wildlife to come forward again to see if that those issues, as outlined in the
27 proposed motion that is on the floor, with the 180 day parameter less than ideal as
28 I guess from your perspective, as you had relayed earlier with respect to time and

1 the challenges for meeting with workload. But is that something that can be doable
2 or is is are there specific issues around those parameters that may prohibit your
3 ability to act within that time?
4

5 [KEVIN TAKEI] I mean I can tell you that we could do our best to meet that and
6 maybe to avoid trying to push the ball or push out that deadline if maybe there
7 could be almost and I'll call it almost like a pressure relief valve in the sense that
8 you keep that deadline. If, for some reason we don't meet it, we need to explain
9 why and and and I guess then the question is then what but um.
10

11 [COMMISSIONER TURNBULL-SANDERS] I think I think based on on your
12 response, I think I'm gonna be supporting the motion as written. And I think that
13 we will revisit this if if that comes, you you will be able to submit whatever you
14 have within that 180 days, but I think based on where we are now without specific
15 delineations for timelines and expectations I think we have to move forward with
16 the motion.
17

18 [EXECUTIVE DIRECTOR AINSWORTH] Thank you, Madam Chair. I just had
19 one other observation the issue of the funding for this project and whether and I am
20 sensitive to that from the Fish & Game side. In my view, I would hope that Playa
21 Capital would step up since they were the violators and cover the cost of this or the
22 Department of Fish and Game sue the Playa Capital for that or the cost.
23

24 [COMMISSIONER TURNBULL-SANDERS] Thank you, thank you for that Mr.
25 Ainsworth. Commissioner Peskin, and I think we will take a roll call vote after
26 this.
27
28

1 [COMMISSIONER PESKIN] I just want to associate myself with the comments
2 of our Executive Director, and I don't know what the terms and conditions and
3 ongoing covenants from the transaction were, but I would assume that the original
4 violator probably has some ongoing financial responsibilities.

5
6 [COMMISSIONER TURNBULL-SANDERS] Thank you we have a we have a
7 motion on the floor and I'm looking to our counsel, just to make sure that we're
8 we're set to take a roll call vote.

9
10 [EXECUTIVE DIRECTOR AINSWORTH] Madam Chair, to make this easy, we
11 would just modify our Staff Recommendation to make these changes to the
12 Conditions.

13
14 [COMMISSIONER TURNBULL-SANDERS] Thank you, and so the motion has
15 been made Mr. Pederson, if you could one more time clarify the motion so that we
16 can take a roll call vote or if we'll take a roll call vote.

17
18 [COUNSEL PEDERSON] So the motion will be simply the motion that is in the
19 staff report on page 3, I believe, but Staff in light of this discussion, Staff has
20 modified its recommendation so Special Condition 4, will be revised to require the
21 Applicant to submit an Application to remove the pipelines within 180 days. It
22 then needs to actually carry out that removal within one year of Commission action
23 on that Application and in addition the drains need to be capped within 30 days.

24
25 [COMMISSIONER PESKIN] So, Madam Chair, I'll now withdraw my motion if
26 the second withdraw because as part of Staff has become the Staff
27 Recommendation.

1 [COMMISSIONER BROWNSEY] And, I will withdraw. And well you know the
2 recommendation.

3
4 [COMMISSIONER PESKIN] I would now move the staff recommendation I
5 move that the Commission approve Coastal Development Permit number 5-17-
6 0523, pursuant to the Revised Staff Recommendation, and I recommend a yes vote.

7
8 COMMISSIONER BROWNSEY-- Second.

9
10 [COMMISSIONER TURNBULL-SANDERS] Do I have any unwillingness for
11 unanimous yes vote or shall we take a roll call? Seeing no unwillingness for
12 unanimous yes vote, we do approve the permit as conditioned. And we'll take a 10-
13 minute break at this time, thank you.

14
15 END

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VERIFICATION

I, Todd T. Cardiff, listened and viewed a video of the December 14, 2017 hearing on ItemTh10c (CDP 5-17-0253) while reviewing and editing the above transcript. The transcript is a true and correct copy of the auditory recording of the hearing, with the exception of removing many of the verbal pauses (uhs, ums, ahs). I verify its accuracy to the best of my ability.

Executed this 1st day of March, 2019 in the City of San Diego, California.


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Attorneys for Plaintiff
GRASSROOTS COALITION

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

GRASSROOTS COALITION, a California
Non-Profit Corporation;

Plaintiff and Petitioner,

v.

JOHN AINSWORTH, the executive
director of the California Coastal
Commission; CALIFORNIA COASTAL
COMMISSION, and DOES 1-5, inclusive.

Defendants and Respondents.

CALIFORNIA DEPARTMENT OF FISH
AND WILDLIFE, and DOES 6-10, inclusive.

Real Parties in Interest

Case No.:

NOTICE OF INTENT TO SUE

Assigned for All Purposes to:

Action Filed:
Trial Date:

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD**

2 PLEASE TAKE NOTICE that petitioner and plaintiff Grassroots Coalition is intending to
3 file a petition and complaint in the Superior Court of the County of Los Angeles to compel John
4 “Jack” Ainsworth, Executive Director of the California Coastal Commission, and the California
5 Coastal Commission to issue a Coastal Development Permit to real party-in-interest California
6 Department of Fish and Wildlife, that complies with the Coastal Commissioners’ decision of
7 December 14, 2017 on CDP application 5-17-0253. The writ may be filed either as an
8 alternative or peremptory writ.

9 The petition and complaint will seek the following relief:

10 1. A writ ordering Executive Director Ainsworth to issue a CDP with Special
11 Condition #4 requiring CDFW to apply for a follow-up CDP to remove the unpermitted pipes
12 and associated unpermitted development related to the unpermitted drains;

13 2. A writ ordering Executive Director Ainsworth to rescind the CDP issued on
14 January 11, 2018, that incorrectly permitted CDFW to apply for a CDP to abandon the
15 unpermitted pipes and associated unpermitted development, contrary to the express vote of the
16 Coastal Commissioners;

17 3. In the alternative, a writ ordering the Executive Director Ainsworth to amend the
18 CDP issued on January 11, 2018, striking “or appropriate abandonment” from Special Condition
19 #4 in CDP 5-17-0253;

20 4. For costs of suit, incurred, and;

21 5. For attorney’s fees and costs pursuant to Code of Civil Procedure § 1021.5.

22 **IMMEDIATE ACTION IS REQUIRED TO AVOID LITIGATION.** Please contact the
23 attorney for Grassroots Coalition as listed on the caption page.

24 DATE: March 11, 2019

LAW OFFICE OF TODD T. CARDIFF

25 

26 Todd T. Cardiff, Esq.
27 Attorneys for Plaintiff and Petitioner

1 PROOF OF SERVICE
2 (Code Civ. Proc. § 1013a)

3 I am over the age of 18 and not a party to this case. My business address is 1901
4 First Avenue, Ste. 219, San Diego, CA 92101. On the date identified below, I served the
5 following documents:

- 6 • Notice of Intent to Sue
7

8 by serving the identified parties per the attached service list, in the following manner:
9

10 () (BY MAIL) By placing envelopes containing the above documents for
11 collection and mailing following our ordinary business practices. I am readily familiar
12 with the ordinary business practice of the Law Office of Todd T. Cardiff, that practice
13 being that in the ordinary course of business correspondence is deposited with the US
14 Postal Service the very same day in a sealed envelope with postage fully prepaid.
15

16 (X) (ELECTRONIC SERVICE) By making a PDF copy of the above titled
17 documents and serving the parties/ or interest persons listed below at the emails listed
18 below. Electronic copies of the documents were served using an email program on the
19 above listed date without notice of error.
20

21 I declare under penalty of perjury, under the laws of the state of California, that
22 the foregoing is true and correct. Executed this 11th day of March 2019, in San Diego,
23 California.

24 
25 TODD T. CARDIFF

SERVICE LIST
Grassroots Coalition v. California Coastal Commission
L.A. Superior Court Case No.

CALIFORNIA COASTAL COMMISSION

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CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

Richard Brody, Land Manager, Ballona Wetlands Ecological Reserve

Richard.Brody@wildlife.ca.gov

**1. Identification**

Product name : Sikadur®-31 Hi-Mod Gel Part A

Supplier : Sika Corporation
201 Polito Avenue
Lyndhurst, NJ 07071
USA
www.sikausa.com

Telephone : (201) 933-8800

Telefax : (201) 804-1076

E-mail address : ehs@sika-corp.com


Emergency telephone : CHEMTREC: 800-424-9300
INTERNATIONAL: 703-527-3887

Recommended use of the chemical and restrictions on use : For further information, refer to product data sheet.

2. Hazards identification**GHS Classification**

Skin irritation, Category 2	H315: Causes skin irritation.
Eye irritation, Category 2A	H319: Causes serious eye irritation.
Skin sensitization, Category 1	H317: May cause an allergic skin reaction.
Carcinogenicity, Category 1A (Inhalation)	H350i: May cause cancer by inhalation.
Specific target organ systemic toxicity - single exposure, Category 3, Respiratory system	H335: May cause respiratory irritation.
Specific target organ systemic toxicity - repeated exposure, Category 1, Lungs	H372: Causes damage to organs through prolonged or repeated exposure.

GHS label elements

Hazard pictograms : 

Signal Word : Danger

Hazard Statements : H315 Causes skin irritation.
H317 May cause an allergic skin reaction.
H319 Causes serious eye irritation.
H335 May cause respiratory irritation.
H350i May cause cancer by inhalation.
H372 Causes damage to organs (Lungs) through prolonged or repeated exposure.



Precautionary Statements

: **Prevention:**

P201 Obtain special instructions before use.
P202 Do not handle until all safety precautions have been read and understood.
P260 Do not breathe dust/ fume/ gas/ mist/ vapors/ spray.
P264 Wash skin thoroughly after handling.
P270 Do not eat, drink or smoke when using this product.
P271 Use only outdoors or in a well-ventilated area.
P272 Contaminated work clothing should not be allowed out of the workplace.
P280 Wear protective gloves/ eye protection/ face protection.
P281 Use personal protective equipment as required.

Response:

P302 + P352 IF ON SKIN: Wash with plenty of soap and water.
P304 + P340 IF INHALED: Remove person to fresh air and keep comfortable for breathing.
P305 + P351 + P338 IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing.
P308 + P313 IF exposed or concerned: Get medical advice/ attention.
P333 + P313 If skin irritation or rash occurs: Get medical advice/ attention.
P337 + P313 If eye irritation persists: Get medical advice/ attention.
P362 Take off contaminated clothing and wash before reuse.

Storage:

P403 + P233 Store in a well-ventilated place. Keep container tightly closed.
P405 Store locked up.

Disposal:

P501 Dispose of contents/ container to an approved waste disposal plant.

See Section 11 for more detailed information on health effects and symptoms.

There are no hazards not otherwise classified that have been identified during the classification process.

There are no ingredients with unknown acute toxicity used in a mixture at a concentration $\geq 1\%$.

3. Composition/information on ingredients**Hazardous ingredients**

Chemical name	CAS-No.	Concentration (%)
Quartz (SiO ₂)	14808-60-7	$\geq 25 - < 50 \%$
bisphenol-A-(epichlorhydrin) epoxy resin	25068-38-6	$\geq 25 - < 50 \%$

There are no additional ingredients present which, within the current knowledge of the supplier and in the concentrations applicable, are classified as hazardous to health or the environment and hence require reporting in this section.

**4. First aid measures**

If inhaled	: Move to fresh air. Consult a physician after significant exposure.
In case of skin contact	: Take off contaminated clothing and shoes immediately. Wash off with soap and plenty of water. If symptoms persist, call a physician.
In case of eye contact	: Immediately flush eye(s) with plenty of water. Remove contact lenses. Keep eye wide open while rinsing. If eye irritation persists, consult a specialist.
If swallowed	: Clean mouth with water and drink afterwards plenty of water. Do not induce vomiting without medical advice. Do not give milk or alcoholic beverages. Never give anything by mouth to an unconscious person. Obtain medical attention.
Most important symptoms and effects, both acute and delayed	: irritant effects sensitizing effects carcinogenic effects Cough Respiratory disorder Allergic reactions Excessive lachrymation Erythema Dermatitis See Section 11 for more detailed information on health effects and symptoms. Causes skin irritation. May cause an allergic skin reaction. Causes serious eye irritation. May cause respiratory irritation. May cause cancer by inhalation. Causes damage to organs through prolonged or repeated exposure.
Protection of first-aiders	: Move out of dangerous area. Consult a physician. Show this material safety data sheet to the doctor in attendance.
Notes to physician	: Treat symptomatically.

5. Fire-fighting measures

Suitable extinguishing media	: Use extinguishing measures that are appropriate to local circumstances and the surrounding environment.
Specific extinguishing	: Collect contaminated fire extinguishing water separately. This



methods must not be discharged into drains.
Fire residues and contaminated fire extinguishing water must be disposed of in accordance with local regulations.

Special protective equipment for fire-fighters : In the event of fire, wear self-contained breathing apparatus.

6. Accidental release measures

Personal precautions, protective equipment and emergency procedures : Use personal protective equipment.
Deny access to unprotected persons.

Environmental precautions : Do not flush into surface water or sanitary sewer system.
If the product contaminates rivers and lakes or drains inform respective authorities.
Local authorities should be advised if significant spillages cannot be contained.

Methods and materials for containment and cleaning up : Soak up with inert absorbent material (e.g. sand, silica gel, acid binder, universal binder, sawdust).
Keep in suitable, closed containers for disposal.

7. Handling and storage

Advice on safe handling : Avoid exceeding the given occupational exposure limits (see section 8).
Do not get in eyes, on skin, or on clothing.
For personal protection see section 8.
Persons with a history of skin sensitization problems or asthma, allergies, chronic or recurrent respiratory disease should not be employed in any process in which this mixture is being used.
Smoking, eating and drinking should be prohibited in the application area.
Follow standard hygiene measures when handling chemical products.

Conditions for safe storage : Prevent unauthorized access.
Store in original container.
Keep in a well-ventilated place.
Observe label precautions.
Store in accordance with local regulations.

Materials to avoid : No data available

8. Exposure controls/personal protection

Component	CAS-No.	Basis **	Value	Exposure limit(s)* / Form of exposure
Quartz (SiO ₂)	14808-60-7	OSHA Z-3	TWA	10 mg/m ³ / %SiO ₂ +2 respirable



		OSHA Z-3	TWA	250 mppcf / %SiO ₂ +5 respirable
		OSHA P0	TWA	0.1 mg/m ³ Respirable fraction
		ACGIH	TWA	0.025 mg/m ³ Respirable fraction
		OSHA Z-1	TWA	0.05 mg/m ³ Respirable dust

*The above mentioned values are in accordance with the legislation in effect at the date of the release of this safety data sheet.

****Basis**

ACGIH. Threshold Limit Values (TLV)

OSHA P0. Table Z-1, Limit for Air Contaminant (1989 Vacated Values)

OSHA P1. Permissible Exposure Limits (PEL), Table Z-1, Limit for Air Contaminant

OSHA P2. Permissible Exposure Limits (PEL), Table Z-2

OSHA Z3. Table Z-3, Mineral Dust

Engineering measures

: Use of adequate ventilation should be sufficient to control worker exposure to airborne contaminants. If the use of this product generates dust, fumes, gas, vapor or mist, use process enclosures, local exhaust ventilation or other engineering controls to keep worker exposure below any recommended or statutory limits.

Personal protective equipment

Respiratory protection

: Use a properly fitted NIOSH approved air-purifying or air-fed respirator complying with an approved standard if a risk assessment indicates this is necessary.

The filter class for the respirator must be suitable for the maximum expected contaminant concentration (gas/vapor/aerosol/particulates) that may arise when handling the product. If this concentration is exceeded, self-contained breathing apparatus must be used.

Hand protection

Remarks

: Chemical-resistant, impervious gloves complying with an approved standard should be worn at all times when handling chemical products if a risk assessment indicates this is necessary.

Eye protection

: Safety eyewear complying with an approved standard should be used when a risk assessment indicates this is necessary.

Skin and body protection

: Choose body protection in relation to its type, to the



concentration and amount of dangerous substances, and to the specific work-place.

Hygiene measures : Avoid contact with skin, eyes and clothing.
Wash hands before breaks and immediately after handling the product.
Remove contaminated clothing and protective equipment before entering eating areas.
Wash thoroughly after handling.

9. Physical and chemical properties

Appearance	: paste
Color	: white
Odor	: aromatic
Odor Threshold	: No data available
Flash point	: > 212 °F (> 100 °C)
Ignition temperature	: No data available
Decomposition temperature	: No data available
Lower explosion limit (Vol%)	: No data available
Upper explosion limit (Vol%)	: No data available
Flammability (solid, gas)	: No data available
Oxidizing properties	: No data available
pH	: No data available
Melting point/range / Freezing point	: No data available
Boiling point/boiling range	: No data available
Vapor pressure	: 0.001 mmHg (0.001 hpa)
Density	: ca.1.8 g/cm ³ at 68 °F (20 °C)
Water solubility	: Note: insoluble
Partition coefficient: n- octanol/water	: No data available
Viscosity, dynamic	: No data available
Viscosity, kinematic	: > 20.5 mm ² /s at 104 °F (40 °C)
Relative vapor density	: No data available



Evaporation rate	: No data available
Burning rate	: No data available
Volatile organic compounds (VOC) content	: 4 g/l A+B Combined

10. Stability and reactivity

Reactivity	: No dangerous reaction known under conditions of normal use.
Chemical stability	: The product is chemically stable.
Possibility of hazardous reactions	: Stable under recommended storage conditions.
Conditions to avoid	: No data available
Incompatible materials	: No data available

11. Toxicological information

Acute toxicity

Not classified based on available information.

Components:

bisphenol-A-(epichlorhydrin) epoxy resin:

Acute oral toxicity : LD50 Oral (Rat): > 5,000 mg/kg

Acute dermal toxicity : LD50 Dermal (Rabbit): > 20,000 mg/kg

Skin corrosion/irritation

Causes skin irritation.

Serious eye damage/eye irritation

Causes serious eye irritation.

Respiratory or skin sensitization

Skin sensitization: May cause an allergic skin reaction.

Respiratory sensitization: Not classified based on available information.

Germ cell mutagenicity

Not classified based on available information.

Reproductive toxicity

Not classified based on available information.

STOT-single exposure

May cause respiratory irritation.

STOT-repeated exposure

Causes damage to organs (Lungs) through prolonged or repeated exposure.

Once sensitized, a severe allergic reaction may occur when subsequently exposed to very low



levels.

Aspiration toxicity

Not classified based on available information.

Carcinogenicity

May cause cancer by inhalation.

IARC

Group 2B: Possibly carcinogenic to humans

titanium dioxide 13463-67-7

Group 1: Carcinogenic to humans

NTP

Quartz (SiO₂) 14808-60-7

Known to be human carcinogen

Quartz (SiO₂) 14808-60-7

Titanium dioxide (13463-67-7)

In lifetime inhalation studies of rats, airborne respirable-size titanium dioxide particles have been shown to cause an increase in lung tumors at concentrations associated with substantial particle lung burdens and consequential pulmonary overload and inflammation. The potential for these adverse health effects appears to be closely related to the particle size and the amount of the exposed surface area that comes into contact with the lung. However, tests with other laboratory animals such as mice and hamsters, indicate that rats are significantly more susceptible to the pulmonary overload and inflammation that cause lung cancer. Epidemiology studies do not suggest an increased risk of cancer in humans from occupational exposure to titanium dioxide. Titanium dioxide has been characterized by IARC as possibly carcinogenic to humans (Group 2B) through inhalation (not ingestion). It has not been characterized as a potential carcinogen by either NTP or OSHA.

12. Ecological information

Other information

Do not empty into drains; dispose of this material and its container in a safe way.
Avoid dispersal of spilled material and runoff and contact with soil, waterways, drains and sewers.
Toxic to aquatic organisms, may cause long-term adverse effects in the aquatic environment.
May be harmful to the environment if released in large quantities.
Water polluting material.

Component:

bisphenol-A-
(epichlorhydrin) epoxy
resin

25068-38-6

Toxicity to fish:

LC50

Species: Oncorhynchus mykiss (rainbow trout)

Dose: 2 mg/l

Exposure time: 96 h

Toxicity to daphnia and other aquatic invertebrates:

EC50

Species: Daphnia magna (Water flea)

Dose: 1.8 mg/l

Exposure time: 48 h



13. Disposal considerations**Disposal methods**

- | | | |
|------------------------|---|--|
| Waste from residues | : | Disposal of this product, solutions and any by-products should at all times comply with the requirements of environmental protection and waste disposal legislation and any regional local authority requirements. |
| Contaminated packaging | : | Empty containers should be taken to an approved waste handling site for recycling or disposal. |

14. Transport information**DOT**

Not regulated

IATA

UN number	3082
Description of the goods	Environmentally hazardous substance, liquid, n.o.s. (bisphenol-A-(epichlorhydrin) epoxy resin)
Class	9
Packing group	III
Labels	9
Packing instruction (cargo aircraft)	964
Packing instruction (passenger aircraft)	964
Packing instruction (passenger aircraft)	Y964

IMDG

UN number	3082
Description of the goods	ENVIRONMENTALLY HAZARDOUS SUBSTANCE, LIQUID, N.O.S. (bisphenol-A-(epichlorhydrin) epoxy resin)
Class	9
Packing group	III
Labels	9
EmS Number 1	F-A
EmS Number 2	S-F
Marine pollutant	yes

IMDG: As per IMDG Chapter 3.3 Special Provision 188, Material is Not Regulated.

Special precautions for user

No data available



Transport in bulk according to Annex II of MARPOL 73/78 and the IBC Code
Not applicable

15. Regulatory information

TSCA list : All chemical substances in this product are either listed on the TSCA Inventory or are in compliance with a TSCA Inventory exemption.

EPCRA - Emergency Planning and Community Right-to-Know

CERCLA Reportable Quantity

This material does not contain any components with a CERCLA RQ.

SARA304 Reportable Quantity

This material does not contain any components with a section 304 EHS RQ.

SARA 311/312 Hazards : Chronic Health Hazard
Skin corrosion or irritation
Serious eye damage or eye irritation
Respiratory or skin sensitization
Carcinogenicity
Specific target organ toxicity (single or repeated exposure)

SARA 302 : This material does not contain any components with a section 302 EHS TPQ.

SARA 313 : This material does not contain any chemical components with known CAS numbers that exceed the threshold (De Minimis) reporting levels established by SARA Title III, Section 313.

Clean Air Act

Ozone-Depletion Potential

This product neither contains, nor was manufactured with a Class I or Class II ODS as defined by the U.S. Clean Air Act Section 602 (40 CFR 82, Subpt. A, App.A + B).

This product does not contain any hazardous air pollutants (HAP), as defined by the U.S. Clean Air Act Section 112 (40 CFR 61).

This product does not contain any chemicals listed under the U.S. Clean Air Act Section 112(r) for Accidental Release Prevention (40 CFR 68.130, Subpart F).

California Prop 65



WARNING: Cancer – www.P65Warnings.ca.gov

16. Other information

**HMIS Classification**

Health	*	3
Flammability		1
Physical Hazard		0
Personal Protection		X

Caution: HMIS® rating is based on a 0-4 rating scale, with 0 representing minimal hazards or risks, and 4 representing significant hazards or risks. Although HMIS® rating is not required on SDSs under 29 CFR 1910.1200, the preparer may choose to provide them. HMIS® rating is to be used with a fully implemented HMIS® program. HMIS® is a registered mark of the National Paint & Coatings Association (NPCA). Please note HMIS® attempts to convey full health warning information to all employees.

Notes to Reader

The information contained in this Safety Data Sheet applies only to the actual Sika Corporation ("Sika") product identified and described herein. This information is not intended to address, nor does it address the use or application of the identified Sika product in combination with any other material, product or process. All of the information set forth herein is based on technical data regarding the identified product that Sika believes to be reliable as of the date hereof. Prior to each use of any Sika product, the user must always read and follow the warnings and instructions on the product's current Product Data Sheet, product label and Safety Data Sheet for each Sika product, which are available at web site and/or telephone number listed in Section 1 of this SDS.

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Revision Date 07/05/2018

Material number: 459391

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
301 E. Ocean Blvd., Suite 300
Long Beach, CA 90802-4302
(562) 590-5071



July 9, 2019

Richard Brody
California Department of Fish & Wildlife
P.O. Box 1653
Topanga, CA 90290

Re: NOTICE OF INCOMPLETE APPLICATION (3)

Applicant: California Department of Fish & Wildlife

Location: North and South sides of Culver Drive, West of Lincoln Blvd., Los Angeles, Los Angeles County

Coastal Development Permit Application No. 5-18-0554

Dear Mr. Brody:

Thank you for your most recent submittal, which was received by our office on June 12, 2019. Coastal Commission staff has reviewed your letter and coastal development permit application dated June 5, 2019, and in response, Commission staff would like to clarify the current status of your Coastal Development Permit Application No. 5-18-0554.

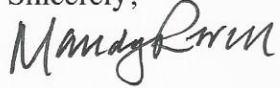
As you are aware, at the March 2019 Coastal Commission hearing, the Commission heard public comment regarding an error in Special Condition 4 of Coastal Development Permit 5-17-0253, which did not reflect the Commission's direction to CDFW to propose to remove the unpermitted drains and associated pipes. In addition, in response to comments received from Grassroots Coalition threatening litigation over the matter, staff issued a Revised Coastal Development Permit No. 5-17-0253 which changed Special Condition 4 to require CDFW to remove the unpermitted drains and associated pipes. Subsequent conversations between CDFW and Commission staff sought to clarify that the department was required to submit an amended application (not a new application), to include both alternatives for removal and proper abandonment as co-equal alternatives for the Commission's review and deliberation. To clarify, CDFW currently only has one permit application pending with the Commission, which is Coastal Development Permit Application 5-18-0554, which remains incomplete.

In order for Commission staff to thoroughly analyze the proposed alternative to remove the unpermitted drains and associated pipes, please submit two sets of plans depicting their removal, including a construction staging plan, location of stock-piled fill, and an analysis of all potential impacts to coastal resources that would result from each alternative, including impacts to wetlands, environmentally sensitive habitat areas, and cultural resources. Upon receipt of the requested materials, we will proceed with determining the completeness of your application.

5-18-0554 (CA Dept. of Fish & Wildlife)
Notice of Incomplete Application (3)
Page 2 of 2

Thank you for your attention to these matters. We look forward to working with you. If you have any questions, you may contact me at (562) 590-5071, extension 2206.

Sincerely,

A handwritten signature in black ink, appearing to read "Mandy Revell". The signature is written in a cursive, flowing style.

Mandy Revell
Coastal Program Analyst

From: [Mike Crehan](#)
To: [Diana Hurlbert](#); [Karina Johnston](#); [Shelley Luce](#); [Lisa Fimiani](#); [Mayfield_Rick@Wildlife](#)
Subject: RE: Google Alert - Ballona Wetlands
Date: Thursday, July 11, 2013 3:33:33 PM

FYI:

These inlets are intended to eliminate standing water immediately around them (holes in the sides); and, the top is set at an elevation slightly above the surrounding ground. Since the area around the drains are cut off from any flooding by surrounding roads and higher area, flooding cannot occur from any stormwater other than what falls directly on the area. So, it is intended for large storms only.

Three other points:

1. If these inlets were plugged, there would be no chance of any flooding ever reaching the adjacent roadways as the roads are about three feet higher than the surrounding grades. A three foot storm would be something on the order of the 1,000,000-year event (purely a guess, but you get the idea) and L.A. would not notice a little flooding here.
2. There is actually some tidal action that occasionally (at very high tides) occurs that brings some tidal flows to the few hundred square feet around these inlets.
3. Playa Vista is also looking at this. You might touch base with Marc Huffman.

Mike

PSOMAS
Michael J. Crehan, P.E.
Vice President / Principal
555 South Flower Street, Suite 4300
Los Angeles, CA 90071
(213) 223-1400
mcrehan@psomas.com

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

From: Diana Hurlbert [<mailto:dhurlbert@santamonicabay.org>]
Sent: Thursday, July 11, 2013 9:35 AM
To: Karina Johnston; Shelley Luce; Lisa Fimiani; Rick Mayfield (rmayfield@dfg.ca.gov)
Cc: Mike Crehan
Subject: RE: Google Alert - Ballona Wetlands

The "device" is an part of the outflow structures for the freshwater marsh. It is in the area between Culver & Jefferson west of Lincoln. Rick Mayfield is aware of this and has already addressed the situation as much as is possible.

Diana Hurlbert
Restoration Project Coordinator
Santa Monica Bay Restoration Commission
dhurlbert@santamonicabay.org
Office - 310-216-9899
Cell - 831-241-3463

From: Karina Johnston
Sent: Thursday, July 11, 2013 8:35 AM
To: Diana Hurlbert; Shelley Luce; Lisa Fimiani
Subject: FW: Google Alert - Ballona Wetlands

Is this ("illegal drainage devices" article below) about the Freshwater Marsh?

Here's the letter from the Coastal Commission:
<http://media.heraldonline.com/smedia/2013/07/10/23/24/o9YXG.S0.55.pdf#storylink=relat>

From: Google Alerts [<mailto:googlealerts-noreply@google.com>]
Sent: Wednesday, July 10, 2013 11:06 PM
To: Karina Johnston
Subject: Google Alert - Ballona Wetlands

News

2 new results for Ballona Wetlands

Grassroots Coalition Announces -- Illegal Water Drainage Devices ...<<http://www.google.com/url?sa=X&q=http://www.heraldonline.com/2013/07/10/5012836/grassroots-coalition-announces.html&ct=ga&cad=CACQAhgAIAAoATAAOABAsJb5jgVIAVgBYgVlbi1VUw&cd=GX51KiVVjg8&usg=AFQjCNHTTeUFdJ2VWQti3mptaeXHjHAqwQ>>
>

The Herald | HeraldOnline.com
LOS ANGELES - Grassroots Coalition (GC), an organization that has long worked to protect the Ballona Wetlands and surrounding open space on the Los Angeles ...

Eco-Jihadists Fight for Ballona? Readers Respond<<http://www.google.com/url?sa=X&q=http://www.laweekly.com/2013-07-11/news/ballona-wetlands-annenberg/&ct=ga&cad=CACQAhgAIAAoATABOAFAsJb5jgVIAVgBYgVlbi1VUw&cd=GX51KiVVjg8&usg=AFQjCNGR-4ywfEzqYPlvdKARjHysd5ITQ>>
LA Weekly

Then we heard from David W. Kay, president of the Friends of the Ballona Wetlands, whose letter actually calls some local environmentalists "eco-

jihadists.

Web

1 new result for Ballona Wetlands

Grassroots Coalition Announces -- Illegal Water Drainage Devices ...< http://www.google.com/url?sa=X&q=http://online.wsj.com/article/PR-CO-20130710-915177.html%3Fmod%3Dgooglenews_ws&ct=ga&cad=CACQAhgAIAEoATACOBAsJb5jgVIAVgAYgVlbi1VUw&cd=GX51KiVVjg8&usg=AFQjCNHHXUK10-6T-7qo32zf5U8kRhF8kw>
Grassroots Coalition (GC), an organization that has long worked to protect the Ballona Wetlands and surrounding open space on the Los Angeles coast, has ...
online.wsj.com/article/PR-CO-20130710-915177.html?mod...< http://www.google.com/url?sa=X&q=http://online.wsj.com/article/PR-CO-20130710-915177.html%3Fmod%3Dgooglenews_ws&ct=ga&cad=CACQAhgAIAEoBDACOBAsJb5jgVIAVgAYgVlbi1VUw&cd=GX51KiVVjg8&usg=AFQjCNHHXUK10-6T-7qo32zf5U8kRhF8kw>

This once a day Google Alert is brought to you by Google.

Delete< <http://www.google.com/alerts/remove?hl=en&gl=us&source=alertsmail&s=AB2Xq4imB4Mnf2cppWAwqFoUmQH4vvgJn4suB8&cd=GX51KiVVjg8&cad=CACQAhgAOLCW-Y4FSAE> > this alert.
Create< <http://www.google.com/alerts?hl=en&gl=us&source=alertsmail&cd=GX51KiVVjg8&cad=CACQAhgAOLCW-Y4FSAE> > another alert.
Manage< <http://www.google.com/alerts/manage?hl=en&gl=us&source=alertsmail&cd=GX51KiVVjg8&cad=CACQAhgAOLCW-Y4FSAE> > your alerts.

FW: Public Comment on August 2020 Agenda Item Wednesday 16c - Application No. 5-18-0554 (California Department of Fish and Wildlife, Playa Del Rey, Los Angeles)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 8/6/2020 12:49 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

Mandy,

You received a public comment for Wednesday 16c - Application No. 5-18-0554.

Respectfully,

Birma

From: Ingrid Mueller <ingridinvenice@gmail.com>

Date: Thursday, August 6, 2020 at 3:17 PM

To: "SouthCoast@Coastal" <SouthCoast@coastal.ca.gov>

Subject: Public Comment on August 2020 Agenda Item Wednesday 16c - Application No. 5-18-0554 (California Department of Fish and Wildlife, Playa Del Rey, Los Angeles)

Respected Commissioners,

This grandmother of three youngsters has enjoyed living in Venice for 32 years, walked a million miles on our beaches, enjoyed nature walks inside our Ballona Wetlands...and Voiced Oppositions to the Bulldozing of Ballona for..

10 years!!?

The Pacific IS RISING.

Nature always PREVAILS.

Corps of Engineers and Fish & Wildlife know the limitations to their jobs.

You must ENFORCE them.

Grateful for your power

IMinVenice

FW: Public Comment on August 2020 Agenda Item Wednesday 17a - Permit No. 5-17-0253-A1 (California Department of Fish and Wildlife, Playa Del Rey, Los Angeles)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Tue 8/4/2020 9:50 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

Mandy,

You received a public comment for Wednesday 17a - Permit No. 5-17-0253-A1.

Respectfully,
Birma



Birma Gonzalez | Support Staff
CALIFORNIA COASTAL COMMISSION
South Coast District Office
301 E. Ocean Blvd, Suite 300
Long Beach, CA 90802
[\(562\) 590-5071](tel:(562)590-5071)



If you need to submit an appeal, please e-mail your complete application to: SouthCoast@coastal.ca.gov.

From: Joseph F. Young [mailto:thehikerjoe@gmail.com]

Sent: Tuesday, August 4, 2020 1:10 PM

To: SouthCoast@Coastal

Subject: Public Comment on August 2020 Agenda Item Wednesday 17a - Permit No. 5-17-0253-A1 (California Department of Fish and Wildlife, Playa Del Rey, Los Angeles)

Opposition to agenda item 17a.

-
The application is based on erroneous information about the extent of fresh water near surface; the extent of remediation required to stop the drainage; and the time required to stop the drainage. Continued drainage for five years contributes to destruction of the wetlands.

Submitted by Joseph F. Young

Sent from [Mail](#) for Windows 10

FW: Public Comment on August 2020 Agenda Item Wednesday 16c - Application No. 5-18-0554 (California Department of Fish and Wildlife, Playa Del Rey, Los Angeles)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 8/7/2020 11:01 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

Mandy,

You received the following public comment for W16c.

Respectfully,

Birma

From: "Joseph F. Young" <thehikerjoe@gmail.com>

Date: Friday, August 7, 2020 at 12:43 PM

To: "SouthCoast@Coastal" <SouthCoast@coastal.ca.gov>

Subject: Public Comment on August 2020 Agenda Item Wednesday 16c - Application No. 5-18-0554 (California Department of Fish and Wildlife, Playa Del Rey, Los Angeles)

Opposition to agenda item 16c.

The CDFW and the Coastal Commission already found the drains to be illegal, and that was years ago. Why continue the damage caused by the illegal drains even longer?

The drainage can be stopped without major demolition. The drain can be sealed in a relatively short time, and further work required to remove drainage pipeline can be scheduled over time.

The CDFW should be ordered to stop the illegal drainage immediately. Do NOT allow further damage to the Ballona Wetlands to continue.

Stop taking the "wet" out of "wetlands."

Joseph Young

Sent from [Mail](#) for Windows 10

Re:CORRECTED COMMENTS John Davis Comments for CCC Meeting 8/12/20, Hearing Items 16c, 17a

JD <jd@johnanthonydavis.com>

Sun 8/9/2020 9:30 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>; Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>; Willis, Andrew@Coastal <Andrew.Willis@coastal.ca.gov>

 1 attachments (17 KB)

CORRECTED COMMENTS John Davis Comments Re- Agenda 81220 Hearing Items 16c and 17a.docx;

California Coastal Commission

Re: Corrected Comments

From: John Davis

Coastal Commission Staff,

Please disregard the prior comments. They were in error in that CDP **5-91-463 is a correct reference.**

Submit this corrected document for Coastal Commissioners to review, and please, do not fail to provide this corrected document to the Public Commission as is your duty.

Sincerely,

John Davis

From: JD <jd@johnanthonydavis.com>**Date:** Saturday, August 8, 2020 at 7:00 PM**To:** <southcoast@coastal.ca.gov>, <mandy.revell@coastal.ca.gov>, <andrew.willis@coastal.ca.gov>**Subject:** John Davis Comments for CCC Meeting 8/12/20, Hearing Items 16c, 17a

California Coastal Commission

Re: Attached: John Davis Comments for CCC Meeting 8/12/20, Hearing Items 16c, 17a

Dear Coastal Commission Staff,

Please find my attached comments. Please distribute to the Coastal Commissioners prior to the hearing providing adequate time for their review.

Sincerely,

John Davis

Power Point submitted for ANTHONY MORALES (I have standing as Chief of the Gabrieleno - Tongva San Gabriel Band of Mission Indians) : Response to CCC Item 16c and 17a Report & Exhibits (Email by Jeanette Vosburg for Anthony Morales)

Jeanette Vosburg <saveballona@hotmail.com>

Sat 8/8/2020 12:44 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>; Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>; Willis, Andrew@Coastal <Andrew.Willis@coastal.ca.gov>

Cc: Patricia McPherson <patriciamcpherson1@verizon.net>

 1 attachments

ANTHONY MORALES SUPPORTING JOHN TOMMY ROSAS POSITIONS ON BALLONA WETLANDS 8.5.2020 2.pptx;

**Anthony Morales and John Tommy Rosas opposes CCC staffer Jonna Engles 2020 Report to the Coastal Commission in both August 12, 2020 Meeting Agenda Items 16 c, 17 a
Anthony Morales and John Tommy Rosas support Removal of the two drains immediately and Restoration of Ballona Wetlands as a Freshwater Seasonal Wetland. They both oppose a Full Tidal Alternative.**

**California Coastal Commission
submitted electronically as 1 POWER POINT (PDF) ATTACHMENT
(Response to Staff Report by Jonna Engles)**

**RE: Application to Remove Unpermitted Drains in BWER
Request for Permit Amendment
App. No. 5-18-0554
Permit No. 5-17-0253-A1**

August 12, 2020 Meeting Agenda Items 16 c, 17 a

Honorable Coastal Commissioners and Staff,

**PLEASE PLAY 14 SLIDE POWER POINT ATTACHMENT
DURING ITEMS 16c / 17a HEARING COMMENTS
entitled: ANTHONY MORALES SUPPORTING JOHN
TOMMY ROSAS POSITIONS ON BALLONA WETLANDS
8.5.2020.pptx**

I, Anthony Morales, have standing as Chief of the Gabrieleno- Tongva San Gabriel Band of Mission Indians. Furthermore, I am letting the Coastal Commissioners and staff know that both I and my

son are recognized by the State and Federal Government as being authorized to represent the Native American issues of the Ballona Wetland region and provide monitoring of sensitive, native cultural sites, within Ballona. We will make ourselves available as monitors for the Ballona Wetlands which was certified as a Sacred Site by John Tommy Rosas, a most likely descendent.

Our offer includes the portion of Ballona where the unpermitted drains are located. And, should the Co-Commissioners order the preferred removal of the unpermitted spur lines and drains, or abandonment in place, we wish to avail ourselves for monitoring.

Thankyou

ANTHONY MORALES SUPPORTING JOHN TOMMY ROSAS POSITIONS ON BALLONA WETLANDS
8.5.2020.pptx

Response to Exhibit 2, Habitat Impacts Related to Unpermitted Drains in Ballona Wetlands Ecological Reserve, dated July 23, 2020, prepared by Jonna Engel, Phd, attached as Exhibit 2 to the Staff Report.

Thank you, in advance, for your time and consideration in reviewing these materials in detail in anticipation of the upcoming hearing on these critically important issues,

I, Anthony Morales, have standing as Chief of the Gabrieleno- TongvaSan Gabriel Band of Mission Indians.

**PDF of Power Point submitted for Margot Griswold Ph.D., Restoration Ecologist:
Response to CCC Item 16c and 17a Report & Exhibits (Email by Jeanette Vosburg for
Margot Griswold)**

Jeanette Vosburg <saveballona@hotmail.com>

Thu 8/6/2020 4:40 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>; Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>; Willis, Andrew@Coastal <Andrew.Willis@coastal.ca.gov>

Cc: Margot Griswold <mgriswold@landiq.com>; Patricia McPherson <patriciamcpherson1@verizon.net>; Todd Cardiff - Environmental Lawyer <todd@tcardifflaw.com>

 1 attachments (5 MB)

Latest_MG_Ballona_POWER POINT presentation 2019 - Modified by M.GRISWOLD 8.3.20- Compatibility Mode (Jeanette Vosburg).pdf;

August 6, 2020

**California Coastal Commission
submitted electronically as 1 POWER POINT (PDF) ATTACHMENT (Response to
Staff Report by Jonna Engles)**

**RE: Application to Remove Unpermitted Drains in BWER
Request for Permit Amendment
App. No. 5-18-0554
Permit No. 5-17-0253-A1**

August 12, 2020 Meeting Agenda Items 16 c, 17 a

Honorable Coastal Commissioners and Staff,

**PLEASE PLAY 8 SLIDE POWER POINT ATTACHMENT DURING ITEMS
16c / 17a HEARING COMMENTS entitled: CCC M. Griswold, Ph.D.,
Restoration Ecologist, CCC Item 17a Comment Playa Vista Removal
Illegal Drains 8.12.20 Coastal Commission Meeting.**

**Margot Griswold, Ph.D., Restoration Ecologist opposes CDP Application No. 5-
18-0554. And, Margot Griswold, Ph.D., Restoration Ecologistn opposes
Application No.: 5-17-0253-A1**

Margot Griswold, Ph.D., Restoration Ecologist's Response to Exhibit 2, Habitat
Impacts Related to Unpermitted Drains in Ballona Wetlands Ecological Reserve, dated
July 23, 2020,

prepared by Jonna Engel, Phd, attached as Exhibit 2 to the Staff Report.

Thank you, in advance, for your time and consideration in reviewing these materials in detail in anticipation of the upcoming hearing on these critically important issues,

Margot Griswold, Ph.D., Restoration Ecologist

Proposal to California Coastal Commissioners Ballona Wetlands Freshwater Alternative



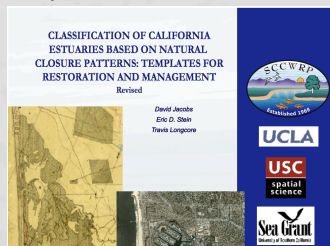
Author: Margot Griswold, Ph.D, Restoration Ecologist
25 years experience in Southern California

“I support a project in the Ballona Wetlands that preserves, enhances and restores historic habitat [and wildlife]”

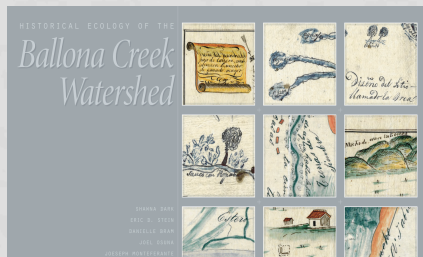
I support a project in the Ballona Wetlands to preserve, enhance and restore historic habitat, however, currently, a coherent alternative that examines true restoration with reestablishment and rehabilitation of habitat is and always was missing from this discussion and this process. The current alternatives are focused not on the wildlife and optimal benefits to those wildlife that were historically present. They just leave it out completely. In fact, these wildlife persist.

I would like to clarify a few things based on the presentation by staff the first day of your [CCC] meetings [5.8.20]. Dr. Stein was talking about the Historical Ecology of Ballona Wetlands. Also, he left out this important information from the Classification of California Estuaries:

[https://www.urbanwildlands.org/Resources/619.a_EstuarineClassificationRestorationDesign.pdf]



based on natural closing patterns. Dr. Dave Jacobs, Eric Stein and Dr. Travis Longcore as authors, also Dr. Longcore is author of Historical Ecology: [http://ftp.sccwrp.org/pub/download/DOCUMENTS/TechnicalReports/671_BallonaHistoricalEcology.pdf].



There's some important aspects I'd like to clarify although Dr. Stein did mention that historically Ballona Wetlands was closed, was not a full tidal coastal wetland. This is an important fact for the Commission to understand. If you notice this **T-Sheet** [BELOW] you do not see any or there are few tidal marsh channels evident. And this suggests, and I am quoting from the Classification Document published in 2011 "suggests that the tidal condition in the system have not been a pervasive impact on the system as would be the case in a perennial tidal marsh." So this is science that's being glossed over and why is that? I hadn't thought to bring it up again because people proposing the project, when I have spoken in the past from 2012 to now when we are together speaking in tandem, they will say, oh no Margot, "it's not a restoration where we're doing these things." But for the Commission it is very important to understand because you only allow the degradation and impact of wetlands if it is for restoration.



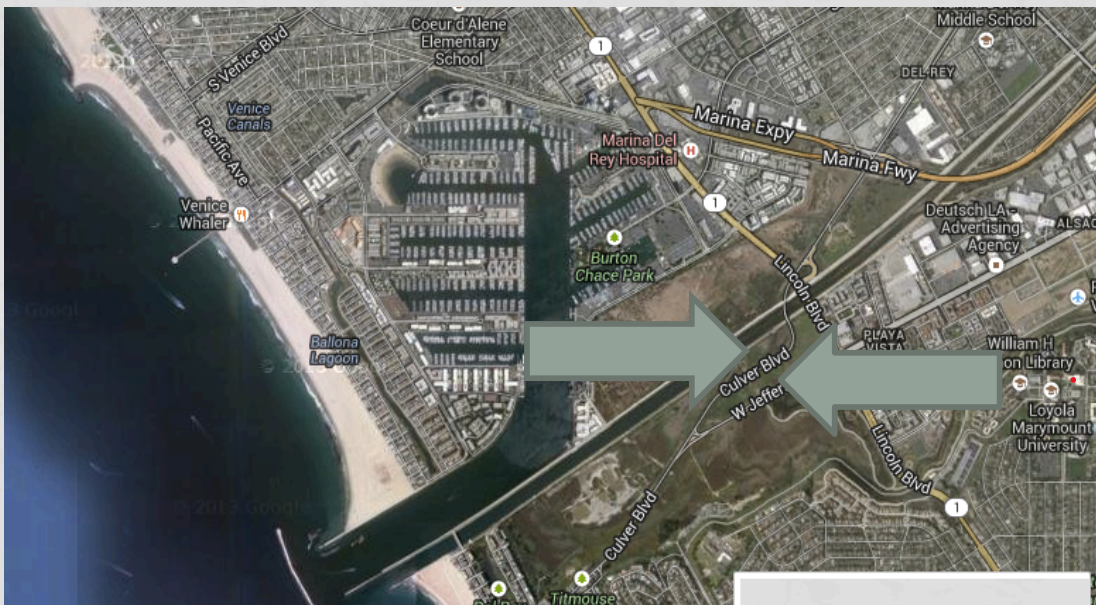
T - Sheet

I am Past President of the California Society for Ecological Restoration and here are our definitions, these are definitions shared by national organizations and the government.

Restoration is the process of intentionally altering a site to define a indigenous, historic ecosystem. The goal of restoration is to emulate the structure, function, diversity, and dynamics of the specified system.

Creation establishes a historic ecosystem on lands that did not previously support that. And so it is important for you [CCC] to see that point. Restoration can be divided into two activities: reestablishment and rehabilitation. And I would say that is what is missing in the proposed project for the 'restoration' of the Ballona Wetlands. Specifically, alternatives proposed represent an approach to create a generic coastal and perennial full tidal wetland that was not historically present as documented in the histories that Dr. Stein presented, and that I alluded to earlier. You're all very familiar with this [cover] photo my now.


I think that the current project should focus more on the heterogeneous nature of the wetlands that were historically here. Why are we going to remove soil from wetlands, defined wetlands, and create flood control berms on said wetlands? I think if you notice, I am not sure which is the pointer, that they're draining a wetland, but if they drain it completely, you have an upland. So those drains are there, that are draining a wetland. But if they drain it completely you have an upland. So, they're planning a huge pyramidal berm on top of that wetland that is being drained now.



Non-permitted drains in Area B
in currently preserved areas of
seasonal wetlands

CHANGE IN LAGOON HABITAT TYPES

NORTH SAN DIEGO COUNTY

 San Francisco Estuary Institute	Historical (acres)	Contemporary (acres)	% Change
San marsh	1,330	1,170	-12%
Salt flat (seasonally flooded)	1,230	120	-90%
Open water/mud flat [tidal wetland]	140	980	615% [tidal wetland]
Freshwater/brackish wetland	1,650	760	-54%
Developed		1,440 [Lost to development]	

From: NORTHERN SAN DIEGO COUNTY LAGOONS Historical Ecology Investigation REGIONAL PATTERNS, LOCAL DIVERSITY, AND LANDSCAPE TRAJECTORIES
San Francisco Estuary Institute, 2014.

This data is representative of patterns of significant changes in historic California coastal wetlands - repetitive losses of non tidal, seasonal wetlands and increasing transformations of closed coastal estuaries into full tidal habitats. When the data is extrapolated, there has been a 54% net loss of closed, freshwater/brackish wetlands like Ballona, a 90% net loss of seasonally flooded salt flat, and a 624% net increase into open saltwater full tidal wetlands.

I just think that this whole process needs to be open to the public and I would ask for the support of the Commission as we go forward to ask the Department of Fish and Wildlife to open this up to the public, to re-examine the goals.

Owens Lake Collaborative Planning – Lessons for Ballona Wetlands Rehabilitation

I know you're thinking that's crazy. How can we do that? There's too much animosity but let me tell you, as a consultant, I have worked with the Los Angeles Department of Water and Power in the Owens Valley on the Owens Lake. What can be more contentious? But yet, I have worked for the last four years with a habitat work group made up of local interested persons who know their area very well and we paid attention. We were all respectful. And we've all come up with an amazing plan that is working. I think Commissioner Vargas is familiar with it, activities of the Owens Lake. We have a working solution there. It wasn't easy. I am not saying it's easy, but nothing you really want is easy.

**[Link Owens Valley, 2200 Acres, YouTube: M. Griswold Ph.D. Owens Lake Collaborative Planning – Lessons for Ballona Wetlands Rehabilitation 6.16.20 1 Hour 23 Minutes
<https://youtu.be/Yqq-35obexw>]**

M. Griswold, Ph.D., Restoration Ecologist with over 25 years of experience in Southern California. I support a project in the Ballona Wetlands to preserve, enhance and restore historic habitat, 7 Minutes 36 Seconds
<https://youtu.be/NFJPAsrmnO0>

Working Together : The facilitator and participants will work together to create a problem-solving environment and to implement these agreements to that aim.
The group agrees to:

- Listen and openly discuss issues with others who hold diverse views.
- View disagreements as problems to be solved rather than battles to be won.
- Refrain from ascribing motives or intentions to other participants.
- Respect the integrity and values of other participants.
- Honor time.
- Use conversational courtesy.
- Appreciate humor but not engage in humor at the expense of others.
- Keep cell phones silent during meetings. Please return calls during breaks.

M. Griswold, Ph.D. Restoration Ecologist Applies Restoration Principles to Ballona Wetlands

SIERRA CLUB AIRPORT MARINA GROUP ZOOM MEETING 4.21.20 FULL VERSION 1 HOUR 16 MINUTES.

Dr. Griswold, a scientist, defines differences between planning and overseeing native habitat Restoration, Reclamation, Revegetation and Creation as she reviews key aspects of planning a successful restoration project.

She builds on the idea that soil is everything, discussing the importance of soils and soil ecosystems in the rehabilitation of native habitats, including wetlands. Margot uses examples from her extensive professional resumé, including work she has already done in Ballona, and establishes what Ballona should look like if you're going to restore it by enhancing and rehabilitating it. Dr. Griswold calls for a design alternative based on science from historic ecology - models of closure patterns and citizen science observations.

The scope and range of her knowledge of habitat restoration, as well as her deep and abiding love of Nature and the environment, take center stage in this talk.

<https://studio.youtube.com/video/Od3cT5n2Jkc/edit/basic?o=U>

One viewer describes this as the “best presentation he has ever seen.”

EDITOR'S COMMENT Dr. Margot Griswold Restoration Ecologist presents a disarmingly simple, persuasive case for restoration of Ballona Wetlands Ecological Reserve rather than Industrial scale bulldozing. Margot has such a love for Ballona Wetlands and the creatures who live or visit at Ballona. She shows us successful restorations, **[the impact of mycorrhizae]** and revegetations that she has done and why!

MORE ABOUT BALLONA:

Del Rey Residents Association - Ballona Presentation by Patricia McPherson, Sierra Club Airport Marina Group & Grassroots Coalition 6.1.20 30 Minutes 10 Seconds

<https://youtu.be/PXGwW0Yc7f4>

7.21.20 Dr. Travis Longcore - Implications Ballona Wetlands Restoration 37 Minutes 44 Seconds

<https://youtu.be/6CyKxEco8H4>

AMG Sierra Club 2.18.20 Jill Stewart, Reporter - Carbon Sequestration FACTS - with Ballona Footage 23 Minutes 15 Seconds

<https://youtu.be/kVmLosqBRh4>

FW: Public Comment on August 2020 Agenda Item Wednesday 17a - Permit No. 5-17-0253-A1 (California Department of Fish and Wildlife, Playa Del Rey, Los Angeles)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Sun 8/9/2020 11:28 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

Mandy,

You received the following public comment for W17a.

Respectfully,

Birma

From: Leslie Purcell <lesliepurcell@gmail.com>

Date: Friday, August 7, 2020 at 7:48 PM

To: "SouthCoast@Coastal" <SouthCoast@coastal.ca.gov>

Subject: Public Comment on August 2020 Agenda Item Wednesday 17a - Permit No. 5-17-0253-A1 (California Department of Fish and Wildlife, Playa Del Rey, Los Angeles)

To the Commission:

I do not support the Staff recommendation for a 5 year extension for the removal of the unpermitted and illegal drains. This removal should occur within a year, as originally mandated by the Coastal Commission. There are too many variables to tie this removal and habitat restoration to an uncertain time-frame for an equally uncertain larger BWER resoration plan, a project that may take many years.

As long-time supporter and active participant in the preservation of the Ballona Wetlands, I urge that the Commission acts to reverse the damage to this area and restore the public's wetlands sooner than later, immediately. Thank you.

Sincerely,
Leslie Purcell

FW: Public Comment on August 2020 Agenda Item Wednesday 16c - Application No. 5-18-0554 (California Department of Fish and Wildlife, Playa Del Rey, Los Angeles)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Sun 8/9/2020 11:26 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

Mandy,

You received the following public comment for Items W16c.

Respectfully,

Birma

From: Miriam Faugno <mfaugnos@gmail.com>

Date: Saturday, August 8, 2020 at 2:33 AM

To: "SouthCoast@Coastal" <SouthCoast@coastal.ca.gov>

Subject: Public Comment on August 2020 Agenda Item Wednesday 16c - Application No. 5-18-0554 (California Department of Fish and Wildlife, Playa Del Rey, Los Angeles)

To the Commission:

As a resident of beautiful Playa del Rey, an amateur ecologist interested in True Preservation of the Ballona Wetlands, I do not support the Staff recommendation for a 5 year window for the removal of the unpermitted and illegal drains. This removal should occur within a year, as originally mandated by the Coastal Commission. There are too many variables to tie this removal and habitat restoration to the uncertain time-frame for a larger BWER resoration plan, a project that may take many years. Please act to reverse the damage and help secure some of the last fresh-water coastal wetlands in the hands of the Public. Thank you.

Sincerely,

Miriam Faugno

--member of the Sierra Club

--member of Protect Playa Now

--member of the Human Race and

California citizen

Wednesday, August 12, 2020 Hearing on Items 16c, and 17a

Rex Frankel <rexfrankel@yahoo.com>

Sun 8/9/2020 5:29 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

August 8, 2020

Mandy Revell
California Coastal Commission
301 E. Ocean Blvd., Suite 300
Long Beach, CA 90802

Wednesday, August 12, 2020 Hearing on Items 16c, and 17a

FROM: Ballona Ecosystem Education Project

RE: Ballona Wetlands Ecological Reserve Illegal Drains - Agenda Items 16c
OPPOSE CDP Application No. 5-18-0554; Agenda Item 17a OPPOSE Permit No. 5-17-0253-A1

Dear Commissioners:

The Ballona Ecosystem Education Project (B.E.E.P.) is asking you to stand behind your unanimous decision on December 14, 2017 for California Dept. of Fish & Wildlife (CDFW) to immediately cap illegal drains on the Ballona Wetlands Ecological Reserve (BWER) and to remove the drains within 1 year.

Since then CCC Staff has wanted to tie the CDFW mandate to remove the drains to a non-restoration plan that may take over 5 years to correct. These illegal drains should not be tied to this highly controversial proposal to massively bulldoze the BWER and change it into a salt water bay wetland.

Also the staff-Jonna Engel's proposal to mitigate is tied into the non-restoration plan. Ms. Engel is supporting the destruction of wetlands with fill.

The Unpermitted Drains are located where the CDFW Plan proposes to place a Berm which CCC Staff, in response to the DEIR, states is fill simply disguised as upland habitat. The Coastal Act disallows the destruction of wetlands from fill.

It is illegal under the California Coastal Act to mitigate destruction of resources.

We are strongly opposed to this plan, as are many other local groups. The Ballona Wetlands are a very rare coastal fresh-water seasonal wetlands and need to be restored to their status of the last 400 years. Grassroots Coalition has submitted alot of scientific documentation regarding their special status on our coast. BEEP has been fighting to protect the Ballona Wetlands Ecosystem for over 25 years. We want to see it properly maintained.

We need to get these illegal drains out of the Ballona Wetlands as soon as possible, so that the wetlands can absorb and keep much needed freshwater for the plants and animals, and to recharge the underlying freshwater aquifers.

Please stand behind your unanimous decision of December 14, 2017 and demand that the drains be immediately capped and removed within 1 year. This process SHOULD NOT be tied to the highly controversial non-restoration plan that hopefully will never be approved.

Thank you,

Rex Frankel, President
Ballona Ecosystem Education Project
rexfrankel@yahoo.com
(310) 738-0861

Re:CORRECTED COMMENTS John Davis Comments for CCC Meeting 8/12/20, Hearing Items 16c, 17a

JD <jd@johnanthonydavis.com>

Sun 8/9/2020 9:30 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>; Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>; Willis, Andrew@Coastal <Andrew.Willis@coastal.ca.gov>

 1 attachments (17 KB)

CORRECTED COMMENTS John Davis Comments Re- Agenda 81220 Hearing Items 16c and 17a.docx;

California Coastal Commission

Re: Corrected Comments

From: John Davis

Coastal Commission Staff,

Please disregard the prior comments. They were in error in that CDP **5-91-463 is a correct reference.**

Submit this corrected document for Coastal Commissioners to review, and please, do not fail to provide this corrected document to the Public Commission as is your duty.

Sincerely,

John Davis

From: JD <jd@johnanthonydavis.com>**Date:** Saturday, August 8, 2020 at 7:00 PM**To:** <southcoast@coastal.ca.gov>, <mandy.revell@coastal.ca.gov>, <andrew.willis@coastal.ca.gov>**Subject:** John Davis Comments for CCC Meeting 8/12/20, Hearing Items 16c, 17a

California Coastal Commission

Re: Attached: John Davis Comments for CCC Meeting 8/12/20, Hearing Items 16c, 17a

Dear Coastal Commission Staff,

Please find my attached comments. Please distribute to the Coastal Commissioners prior to the hearing providing adequate time for their review.

Sincerely,

John Davis

California Coastal Commission

Re: Comments Re: Agenda 8/12/20 Hearing Items 16c and 17a

Date of Submission to Coastal Commission by Email: August 8, 2020

From: John Davis

The following comments are applicable to both Items 16c and 17a, individually.

1. I hereby concur with any and all comments submitted by Grassroots Coalition and or its agents.
2. The Coastal Commission must fully identify all trustee and responsible agencies per its CEQA jurisdiction including but not limited to:
 - A. State of California Lands Commission (Related CDP
 - B. State of California Department of Conservation Division of Mines and Geology
 - C. Santa Monica Groundwater Sustainability Agency
 - D. County of Los Angeles Flood Control District
 - E. City of Los Angeles Department of Building and Safety
3. The Coastal Commission staff must fully investigate and evaluate potential conflicts of interest of parties submitting studies in respect to active or former commercial associations with the Playa Vista Development that regard methane and or groundwater studies. The illegal development was installed by owners of Playa Vista. Such studies may have been submitted to the Coastal Commission to conceal criminal activities by either the project and or such parties performing the work for the project owners.
4. The Coastal Commission must evaluate potential conflicts of interest of parties submitting studies in respect to active or former commercial associations with Sempra Energy as they regard methane and groundwater studies since Sempra operates a gas storage facility at the site.
5. The overall damage to the surface and groundwater resource caused by the development for over two decades must be fully evaluated and quantified. To avoid encouraging other new or current violators from continuing similar resource damage, the Coastal Commission should impose all possible fines and penalties and issue a restoration order. The Commission should not be satisfied with only the removal of drains but should fully exercise its jurisdiction to prevent encouraging future violations.
6. The Coastal Commission must consider that the project is located in a Seismic Hazard Zone as delineated by the State of California Department of Conservation Divisions of Mines and Geology, Venice Seismic Hazard Zone.
7. The Coastal Commission must consider potential violations of the State Clean Water Act given the purposeful discharge of untreated surface and groundwater directly to Waters of the United States.

8. The Coastal Commission must consider potential violations Federal Clean Water and Stormwater Pollution Prevention Acts given the purposeful discharge of untreated surface and groundwater directly to Waters of the United States.
9. The Coastal Commission must consider potential violations of the State of California Porter Cologne Act as it regards damage to aquifer replenishment by draining away surface water which does not permeate the soil.
10. The Coastal Commission must evaluate violations of U.S. Public Law 780 pertaining to the project in that the public law contains no provisions to drain wetlands of the United States. Note: Design Memorandum No. 1 for Marina del Rey does not have the force of law.

The Coastal Commission must fully evaluate the relationship to CDP 5-98-463 since the drainpipes associated with that project are intercepted by the illegal drain pipes. The effects of the illegal pipes on those approved by CDP **5-91-463**

11. must be considered. The applicant and recipient of CDP 5-98-463 must be considered in that they are not the same entities. Furthermore, CDP 5-98-463 required an entity named the Ballona Wetlands Committee to manage the project. However, another entity, without any formal notification and or legal permission from the Coastal Commission and or the land owner, the State of California Lands Commission, has unlawfully assumed management of the project. The name of that non-profit organization is the Ballona Wetlands Conservancy.
12. The land title appears to be fatally flawed in that both CDP 5-98-463 and the illegal drains represent an unlawful gift of public property to a private entity with no benefit to the public. Simply put, CDP 5-98-463 and the illegal drains are only an unapproved flood control project for Playa Vista, a private commercial development. The purported conservation easement included in the land deed is unlawful, attempting to cede control of public lands to a private entity in violation of the State of California Constitution.

John Davis
Email: jd@johnanthonydavis.com