

CALIFORNIA COASTAL COMMISSION

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F11a

ADDENDUM

February 9, 2021

TO: Coastal Commissioners and Interested Parties

FROM: Kate Huckelbridge, Deputy Director, Energy, Ocean Resources, and Federal Consistency

SUBJECT: **ADDENDUM TO AGENDA ITEM F11A, Authorization for the Executive Director to become a signatory to the Upper Los Cerritos Mitigation Bank, FRIDAY, FEBRUARY 12, 2021**

The purpose of this addendum is to provide revisions and clarifications to the staff recommendation and to respond to public comments received since publication of the staff report. Language to be added is shown in underlined text and language to be deleted is identified by ~~striketrough~~. The correspondence received is included under the correspondence tab for this item on the Commission's website.

I. REVISIONS

Section B, Proposed Upper Los Cerritos Mitigation Bank: Financial Securities (p. 9, 3rd full paragraph), make the following changes:

... The Section 404 permit will be issued to Synergy Oil and Gas (the operator of the adjacent oil field) and will include a requirement that Synergy post a performance bond for the cost of maintaining the sheetpile wall, berm and tidal gates. The precise amount of this security will be approved by the IRT before credits can be released from the Bank prior to the first credit transfer from the Bank. One of the Exhibits to the Bank (Exhibit K-5, see Appendix A) includes a draft Covenant and Agreement for the Preservation of the Upper Los Cerritos Wetlands Mitigation Bank. This agreement memorializes this arrangement and must be finalized before the first credit release. Synergy Oil and Gas will be required to post the bond before the first credit transfer.

The IRT agencies have agreed that the approach to fulfilling the required financial securities proposed by the Bank Sponsor is are adequate to ensure the success of the Bank. Under an MOU that governs mitigation banking process in California, this request will require approval from all state and federal agencies involved in mitigation banking in California that are signatory to the MOU, which has not yet been granted. If the agencies do not grant the request, LCW, LLC would be required to provide for the full cost of the construction and performance securities, including the cost of the sheetpile wall, berm and tidal gates, with a letter of credit, prior to the first credit release.

II. STAFF'S RESPONSE TO CORRESPONDENCE

Staff received one letter in opposition to the proposed mitigation bank, submitted by Anna Christensen on behalf of the Los Cerritos Wetlands Task Force and the Sierra Club. The majority of the issues raised in the letter are already addressed in the staff report or relate to the CDP issued for the Los Cerritos Oil Consolidation and Wetlands Restoration Project, authorized by the Commission in December 2018, not to authorization of the mitigation bank. Staff did want to address the following issues:

1. Role of LCWA – the commenter asserts that because LCWA is not a signatory to the Bank, the Bank lacks proper oversight. LCWA is designated as the eventual property owner and the long-term manager of the Bank site. Although not signatories to the Bank, staff from the LCWA and the Coastal Conservancy (as one of the agencies that make up the LCWA) reviewed all banking documents and provided comments to the Bank sponsor. Commission staff specifically reached out to Coastal Conservancy staff regarding the long-term management plan and adequacy of the endowment fund to ensure that Conservancy and LCWA staff's concerns were addressed by the sponsor. Conservancy staff confirmed that their concerns were addressed and have submitted a letter of support (included in the Correspondence posted for this item). LCWA staff have also submitted a letter indicating their support of the Bank.
2. Mitigation credits – the commenter asked about the price of mitigation credits and who will be able to purchase credits. The banker determines the price of credits (agencies are not involved in pricing credits). Once credits are released (in consultation with the IRT), credits can be purchased by a buyer to mitigate impacts for a specific project as authorized by the relevant regulatory agencies (see Exhibit F-2, Appendix A).
3. Tribal Consultation – the commenter raised concerns related to tribal consultation; however, these concerns are related to the larger project approved by the Commission in 2018. For that project, staff conducted tribal consultation and met with many tribal members and representatives, resulting in extensive cultural resource special conditions. Authorizing the Executive Director to become a signatory to the mitigation bank does not authorize any new development, nor any new potential impacts on tribal cultural resources.