CALIFORNIA COASTAL COMMISSION
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STAFF REPORT: REGULAR CALENDAR

Application No.: **5-21-0549**

Applicants: **Los Cerritos Wetlands Authority**

Agents: Eric Zahn, Tidal Influence

Project Location: Los Cerritos Wetlands Complex; 1st Street and northeast of the intersection of 1st Street and Pacific Coast Highway, Seal Beach, Orange County (APN No.: 043-160-31)

Project Description: Drill 18 boreholes to collect and test soil prior to an associated future wetlands restoration project. The boreholes would be drilled in previously disturbed soils within property that contains a part of the Los Cerritos Wetlands complex, near the Haynes Cooling Channel off the San Gabriel River. A drill rig mounted with a hollow-stem auger will be used to advance 13 six-inch diameter boreholes to the target depth of up to 25 feet below existing grade, at intervals of 5 to 10 linear feet; and 5 six-inch diameter boreholes will be drilled via hand auger, where access for heavier equipment is limited. Drilling activities will only disturb soils within ruderal or previously disturbed areas of the wetlands complex. Upon completion of the investigation, which is expected to take two to three days, the boreholes will be backfilled with inert bentonite sealing materials, and collected sample materials will be delivered to a laboratory offsite.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

Staff recommends the Commission approve this permit, as conditioned, for the Los Cerritos Wetlands Authority to drill 18 boreholes in the south site of the Los Cerritos Wetlands complex for geotechnical investigation and soils analysis associated with a future larger wetlands restoration effort. The soil collected from the boreholes will be evaluated for soil contamination, which will inform the scope and design of the wetland complex restoration. Staff recommends that Special Conditions be imposed to address known and potential archaeological and cultural resources that may be uncovered during construction, containment of contaminated soils, and wildlife disturbance resulting from the proposed development.

The proposed project is located within the footprint of the Los Cerritos Wetlands complex in Seal Beach, on the site of the former Hellman Ranch property, within 105 acres now known as the "south LCWA site." The south LCWA site is bordered by a developed, residential area to the south and east, the Haynes Cooling Channel and private oil fields to the north, and the San Gabriel River to the west. The site is currently owned and maintained by the applicant, the Los Cerritos Wetlands Authority, which is preparing plans for the first phase of a larger restoration effort. The larger restoration effort will reestablish wetlands in areas that have been degraded by former sumps, landfills, and contaminated areas from prior oil operations on the site. The proposed project will collect and sample soils from various locations in the south LCWA site, which will be used to measure residual soil contamination. Given that previous investigations characterized contamination here due to the historical oil extraction operations, the presence of toxic substances may hamper efforts to restore the wetlands or increase public access to the site in the future. Based on the geotechnical and chemical data collected, the applicant will evaluate the functionality of contemporary restoration designs per the Los Cerritos Wetlands Habitat Restoration Plan, as well as ensure that future site conditions do not pose a potential threat to human health or biological productivity.

The proposed project must be conditioned to be consistent with Coastal Act policies including preservation of wetlands, water quality, biological resources, and archaeological and tribal cultural resources. **Special Condition 1** requires that the applicant submit final revised plans showing the precise locations of each proposed borehole, as well as the construction staging areas. Given the long history of human habitation on this site and the potential to encounter archaeological and cultural resource deposits, **Special Condition 2** requires the applicant to assure that the proposed project remains sensitive to the concerns of the affected Native American groups by revising the submitted Cultural Resource Treatment, Mitigation and Monitoring Plan. Commission staff also recommend that the Commission impose **Special Condition 3**, which outlines construction-related requirements to provide for the safe storage of construction materials, drainage controls, and safe removal of potentially contaminated soils. **Special Condition 4** requires the applicant to submit a Biological Monitoring Report, prepared by a biologist, which will survey existing nesting bird populations in the vicinity of the construction area, and the condition requires a necessary buffer area and noise abatement measures to lessen potential disturbance.

Special Condition 5 will require the applicant to submit a final Habitat Mitigation Plan with a Post-Construction Assessment Report to ensure that all disturbed areas are restored with native vegetation and soils, adverse impacts to wetlands and ESHA are adequately mitigated, and that biological productivity is evaluated and maintained. **Special Condition 6** would require the applicant to share the findings of this investigation with the Commission in order to elucidate the restoration potential of the site. Finally, a portion of the site is State Lands, and as such, the applicant will be required to obtain approval from the State Lands Commission and other resource agencies, per **Special Condition 7**.

There is no certified LCP for the City of Seal Beach, and the standard of review for this project is Chapter Three of the Coastal Act. The motion to carry out the staff recommendation is on page 5.

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EXHIBITS

I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** Coastal Development Permit No. 5-21-0549 pursuant to the staff recommendation.

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

Resolution:

The Commission hereby approves the Coastal Development Permit for the proposed project and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the applicants or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land**. These terms and conditions shall be perpetual, and it is the intention of the Commission and the applicants to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Final Revised Plans. PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and written approval of the Executive Director, two full-size sets of revised final plans, that substantially conform with the plans submitted to the Commission on October 18, 2021, except that they shall be modified to reflect the following:

A. An exhibit overlaying the proposed locations for the 18 boreholes in relation to all known archaeological and cultural deposit sites, including interment sites, midden, relocated or destroyed tribal cultural resources, significant and not significant cultural resources, on the project site and within the vicinity. This exhibit shall be marked “Confidential.” The final proposed drilling and boring locations must be located outside of the mapped archaeological and tribal cultural deposit areas. This permit does not authorize any excavation of said deposits or archaeological sites.

B. Final Construction Staging Plan, including but not limited to construction perimeter and area, construction equipment, final construction BMPs, and hazardous waste disposal procedures (including removal of contaminated soils from site). To minimize impacts to habitat, the applicant shall minimize the use of mechanized equipment wherever feasible, and instead, shall rely on hand auger or manual drilling to the greatest extent feasible.

C. Mechanized equipment should be limited to existing roads onsite and shall be restricted from undisturbed and sensitive wetland and habitat areas, to the greatest extent feasible. Final plans shall establish a 50-foot buffer from the edge of all designated wetland areas to the edge of the limit of grading and any other physical development on the subject site. Final plans shall also reflect a minimum 20-foot buffer from the edge of the bluff edge. Proposed drilling locations shall not encroach into the buffer areas. The final revised plans shall also reflect the deed restricted open space area on the site restricted for future raptor nesting habitat as a condition of permit 5-97-367 and subsequent amendments.

D. Final Post-Construction Clean-Up. The applicant shall submit additional information or plans for the backfilling, sealing, and plugging of each borehole, and the methods proposed for the restoration of each drill site surface, in accordance with Special Condition 5 below.

The permittees shall undertake development in conformance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

2. Cultural Resource Treatment and Monitoring Plan. BY ACCEPTANCE OF THIS PERMIT, the Permittee shall defer to the below condition for monitoring and treatment instead of the draft Cultural Resource Assessment prepared by Cogstone Resource Management, Inc. and submitted to the Commission on December 6, 2021, and when there are inconsistencies, shall comply with the following:

A. Incorporate the following into the Archaeological Monitoring Plan:

(1) Archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards, and a minimum of one Native American monitor from each tribal entity with documented ancestral ties to the area appointed consistent with the standards of the Native American Heritage Commission (NAHC), and the Native American most likely descendent (MLD) when State Law mandates identification of a MLD, shall monitor all project grading, excavation work, site preparation or landscaping activities associated with the approved development. Prior to the commencement and/or re-commencement of any monitoring, the Permittee shall notify each archaeological and Native American monitor of the requirements and procedures, and shall provide a copy of this Special Condition, any archaeological monitoring or research plans, past archaeological reports, and any other plans required pursuant to this condition and which have been approved by the Executive Director, to each monitor. The Native American monitors shall not be constrained by the Tribal Advisory Group, but shall include each entity with documented ancestral ties to the area;

(2) The Permittee shall provide sufficient archaeological and Native American monitors to assure that all project grading and any other subsurface activity that has any potential to uncover or otherwise disturb cultural deposits is monitored at all times;

(3) The Permittee shall allow Native American monitors to spot check drilled soils in the field and monitor sifted soils in the field and in the laboratory. Laboratory results of sifted soils shall be shared with all affected Native American tribes.

B. If an area of tribal cultural deposits is discovered during the course of the project, the subject condition language shall prevail:

(1) All construction and subsurface activities that have the potential to uncover or otherwise disturb tribal cultural deposits in the area of the discovery shall cease within 50 feet of the deposit immediately;

(2) The Permittee shall report all discovered resources as soon as possible, by phone or by email to the Executive Director;

(3) The professional archaeological monitor onsite must contact the affected Native American Tribe(s) and notify them of the discovery in order to determine the results of (4) and (5) below;

(4) Significance testing may be carried out only if acceptable to the affected Native American Tribes and in consultation with the Tribes. The Executive Director shall, in writing, determine the adequacy of the Significance Testing Plan and if it can be implemented without further Commission action, provide written authorization to proceed. The Significance Testing Plan results, if applicable, along with the project archaeologist's recommendation as to whether the discovery should be considered significant, and the comments of the Native American monitors and MLD when State Law mandates the identification of a MLD, shall be submitted to the Executive Director for a determination. If the Executive Director determines that the discovery is significant, development shall not recommence and the permittee shall submit to the Executive Director a Supplementary Archaeological Plan;

(5) The treatment method or mitigation measure for the discovery shall be prepared in consultation with the Native American monitor(s), and the MLD when State Law mandates the identification of a MLD. The Permittee shall inform the Executive Director of the treatment method in writing. Data recovery and excavation is not authorized by this permit. Data recovery shall not be approved in any supplemental plans if the affected Native American tribes disagree with that treatment method. Because this is a drilling project within an existing open space area and there is flexibility for alternative locations, if remains or other tribal cultural resources are discovered, the applicant shall abandon the site and find an alternative location for drilling, which shall require an amendment to this CDP. In-situ preservation is the preferred treatment and can be achieved through such methods such as, but not limited to, project redesign and capping. The range of treatment and mitigation measures considered shall not be constrained by the approved development plan.

C. If the Executive Director determines that the discovery is significant or that the treatment method preferred by the affected Native American tribe is in conflict with the approved development plan, the Permittee shall seek an amendment from the Commission to determine how to respond to the discovery and to protect both those and any further cultural deposits that are encountered. Development within at least 50 feet of the discovery shall not recommence until an amendment is approved, and then only in compliance with the provisions of such amendment.

3. Construction Responsibilities and Best Management Practices (BMPs). BY ACCEPTANCE OF THIS PERMIT, the applicant agrees to the following:

A. No demolition or construction material, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion;

B. No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers;

C. Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project;

D. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;

E. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;

F. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;

G. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;

H. All stockpiles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;

I. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;

J. The discharge of any hazardous materials into any receiving waters shall be prohibited;

K. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other

construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible;

L. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity; and

M. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

4. Biological Monitoring and Protection During Construction. BY ACCEPTANCE OF THIS PERMIT, the Permittee agrees to submit a Biological Monitoring Report prepared by a qualified biologist approved by the Executive Director in consultation with other appropriate resource agencies with demonstrated success restoring and monitoring native southern California coastal habitats. The Biological Monitoring Report, which shall be reported in written form to the Executive Director within 30 days of permit issuance, shall ensure the following:

A. Pre-construction surveys conducted within (7) days before the start of construction to determine the presence of any sensitive wildlife species with the potential to occur near the project site.

B. At minimum, monitoring shall occur once a week during any week in which construction occurs. Daily monitoring shall occur during development which could significantly impact biological resources such as excavation, grading, or other ground disturbing activity with the potential to perturb any sensitive species identified. Based on field observations, the biologist shall advise the applicant regarding methods to minimize or avoid significant impacts that could occur upon nearby sensitive species or habitat areas.

C. No geotechnical borings are permitted that would result in damage or degradation of environmentally sensitive habitat area (ESHA) in nearby Gum Grove Park or similarly designated areas within the wetlands complex. Under no circumstances are the bore sites or other ground disturbance permitted within vernal pools or the littoral zone.

D. If construction activities are to occur between February 1 and September 15, a pre-construction nesting bird survey shall be conducted to determine the presence of active nests within 500 feet of the construction activities. The nesting bird surveys shall be completed no

more than 72 hours prior to any construction activities. All ground disturbance activities within 500 feet of raptor nests or 300 feet of other active bird nests or as otherwise specified shall be halted until the nesting effort is complete.

E. Appropriate noise-abatement measures (e.g., sound walls) shall be implemented to ensure that noise levels are less than 60 A-weighted decibels (dBA) at the active nest of a listed species, as determined by the biological monitor. This shall be verified by weekly noise monitoring at an equivalent location conducted by a qualified Acoustical Engineer during the breeding season (February 1 to September 15) or as otherwise determined by a qualified biological monitor based on nesting activity.

F. The biological monitor shall review and verify compliance with these nesting boundaries and shall verify when the nests have been naturally vacated for the season, with no human interference. Work may resume when no other active nests are found. Upon completion of the survey and any follow-up construction avoidance management, a report shall be prepared and submitted to the Executive Director.

5. Native Final Habitat Restoration and Monitoring Plan. BY ACCEPTANCE OF THIS PERMIT, the Permittee shall submit within 30 days of the conclusion of construction, for review and written approval of the Executive Director, a final detailed Habitat Restoration and Monitoring Plan by a qualified biologist to restore any disturbed habitat. The final plan shall at a minimum include the following:

A. Final Post-Construction Assessment Report. The report shall document the biological and ecological status of the proposed drilling sites and construction staging areas, both before and after construction and/or disturbance. Photographs shall be taken from the same fixed points in the same directions. The report shall also include a “Performance Evaluation” section evaluating the need for additional mitigation or restoration. Where any further restoration or mitigation may be required, the report must include attributes that will be used to establish goals, objectives, and performance standards, which shall correspond to the criteria set forth below. The final report must be prepared in conjunction with a qualified biologist.

B. Species Landscape Revegetation of Sealed Boreholes. The areas of the boreholes that are disturbed shall be newly planted and revegetated with only consist of native or endemic plants of the Los Cerritos Wetlands complex. No plant species listed as problematic and/or invasive by the California Native Plant Society (http://www.CNPS.org/), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (http://www.cal-ipc.org/), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on

the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property.

C. Impacts to Environmentally Sensitive Habitat Area (ESHA) shall be mitigated at a ratio of 3:1. Restoration plan must include a proposed planting map, specific planting locations, plant palette, source of plant material, schedule of plant installation, soil remediation, temporary irrigation, erosion control, and weed abatement.

D. Final Success Criteria. The restoration will be considered successful if the overall species composition and the vegetative cover of the dominant native perennial species are similar to relatively undisturbed vegetation of the same type in nearby reference areas, as identified pursuant to Special Condition 4. Final success criteria should include target vegetation cover, target species composition, target wildlife usage, and target invasive species removal.

E. If the restoration project has been unsuccessful, in part, or in whole, based on the approved performance standards, the permittee shall submit within 90 days a revised or supplemental restoration program to compensate for those portions of the original program that were necessary to offset project impacts which did not meet the approved performance standards. The revised restoration program, if necessary, shall be processed as an amendment to this coastal development permit.

The Permittee shall monitor and manage the restoration site in accordance with the approved restoration and monitoring plan, including any revisions to the restoration program requested by or approved by the Commission or its staff. Any proposed changes to the approved restoration and monitoring plan shall be reported to the Executive Director. No changes to the approved restoration and monitoring plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

6. Testing Results Report. BY ACCEPTANCE OF THIS PERMIT, the Permittee agrees to report all testing results and analysis in written form to the Executive Director within 10 working days of the conclusion of the investigation. The report shall also be concurrently provided to all groups of the Tongva, Gabrielino, and Kizh Native American tribes, as well as regional and state agencies of interest. The testing results report shall also include discussion of any potential changes made to the larger future restoration effort as a result of the acquired data.

7. Resource Agencies. If drilling is to occur on the State Lands parcel, approval or a letter of support is needed from the State Lands Commission. The Permittee shall comply with all requirements, requests and mitigation measures from the California Department of Fish and Wildlife (CDFW), the Regional Water Quality

Control Board (RWQCB); the U.S. Army Corps of Engineers (USACE), and the U.S. Fish and Wildlife Service (USFWS) with respect to preservation and protection of wetlands and environmentally sensitive habitat area. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

IV. FINDINGS AND DECLARATIONS

A. Project Location and Description

The proposed project is located within the footprint of the Los Cerritos Wetlands complex, on the site of the former Hellman Ranch property, within 105 acres now known as the "south LCWA site." The south LCWA site is bordered by a developed, residential area to the south and east, the Haynes Cooling Channel and private oil fields to the north, and the San Gabriel River to the west (**Exhibit 1**). There is no certified LCP for the City of Seal Beach, and the standard of review for this project is Chapter Three of the Coastal Act. The subject site is designated Open Space Natural (OS-N) in the City of Seal Beach Zoning Code.

The site is currently owned and maintained by the applicant, the Los Cerritos Wetlands Authority, which is preparing plans for the first phase of a larger restoration effort. The Commission has already permitted restoration work and a mitigation bank for a portion of the Los Cerritos Wetlands located in the City of Long Beach, but not for the primary restoration project for the portion of the wetlands located in Seal Beach. The larger restoration effort for the southern portion of the wetlands will reestablish wetlands in areas that have been degraded by former sumps, landfills, and contaminated areas from prior oil operations on the site. The restored habitat will provide many benefits, including but not limited to provision of critical habitat for listed rare species and wildlife, carbon sequestration, improved flood control, sea level rise resiliency, preservation of tribal cultural resources, and improved public access to open space. The applicant identifies the south LCWA site as one the most suitable for near-term restoration activities, given jurisdictional considerations and other site constraints that favor this location over others in the wetlands complex.

The proposed project will collect and sample soils from various locations in the south LCWA site, which will be used to measure residual soil contamination. Given that previous investigations found contamination here due to the historical oil extraction operations, the presence of toxic substances may hamper efforts to restore the wetlands or increase public access to the site in the future. Based on the geotechnical and chemical data collected, the applicant will evaluate contemporary restoration designs per the Los Cerritos Wetlands Habitat Restoration Plan, as well as ensure that future site conditions do not pose a potential threat to human health or biological productivity. In addition, the soil will be tested for soil-bearing capacity and other strength-related properties, since the applicant will be planning berms, culverts, and/or

bridges as a means of increasing public access in the latter stages of the restoration effort, and such landform alterations require knowledge of the substrate type. This geotechnical investigation follows previous studies that were conducted at the site from 1987 to 2006. Emphasis will be placed on specific areas of the wetlands complex that have not yet been examined, and the applicant proposes to test for newly measured contaminants such as lead, polycyclic aromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs), and various pesticides.

Soil borings will be conducted at 18 stations to adequately characterize the untested portions of the south LCWA site (**Exhibit 2**). A drill rig mounted with a hollow-stem auger will be used to advance 13 six-inch diameter boreholes to the target depth of up to 25 feet below existing grade, at intervals of 5 to 10 linear feet. Five six-inch diameter boreholes will be drilled via hand auger, where access is limited. Construction staging will take place along existing oil access roads, as well as at the entrance to the site located near the intersection of 1st Street and Pacific Coast Highway in Seal Beach. The drilling locations proposed by the applicant are precisely mapped, except as subject to tribal cultural resource protection required by **Special Condition 2**, and no exploratory borings will be conducted as part of this project. To the maximum extent feasible, special status or native vegetation shall be avoided to minimize any disturbance. Upon completion of the investigation, boreholes will be backfilled with inert bentonite sealing materials, and collected sample materials will be delivered to a laboratory offsite. A portion of the site is State Lands, and as such, any drilling to occur on the State Lands Parcel shall be required to obtain approval from the State Lands Commission, per **Special Condition 7**.

The currently proposed project, which is the geotechnical investigation portion only, does not raise issues of impacts from longer-term inundation, wave uprush, and storm flooding, given the very short lifespan of the construction period (estimated by the applicant at two to three days). Nevertheless, the project site's location is in a low-lying, wetlands area that is inherently vulnerable to flooding (**Exhibit 3**). The property is located within one of the most vulnerable parts of Seal Beach, which encompasses nearly the entirety of the Los Cerritos Wetlands complex. This portion of Seal Beach is projected to have the highest vulnerability in the City to multiple coastal hazards due to hydraulic connections to inland inundation and flooding from both the San Gabriel River and Anaheim Bay, wave impacts, and storm flooding. Thus, the subject property is located in a highly vulnerable portion of a highly vulnerable region, and as such, potential hazards issues must be addressed in future proposals for restoration efforts. These hazards may be exacerbated by the sea level rise that is expected to occur over the coming decades. The applicant understands these risks and is planning the final restoration to account for increased tidal flooding and to determine the appropriate habitat type based on the site constraints.

B. Cultural Resources

Section 30244 of the Coastal Act states:

> Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

The California coastal zone has been home to native populations for thousands of years. The largest Native American tribe close to the project site was the Gabrielino/Tongva settlement of Puvunga (also Puvungna). The Hellman Ranch property contains at least eleven cultural resource sites identified by the State of California, including six that may have been previously disturbed.[1]

On the eastern and southern flanks of the property, closer to Heron Pointe and Gum Grove Park, the project area encompasses a portion of a prehistoric/ancestral village of Motuuchevngna. Both Puvunga and Motuuchevngna were added to the Native American Heritage Commission Sacred Lands File. The subject area, known as Landing Hill, has been subject to past archaeological investigations. The California State Historic Preservation Office (SHPO) in 1999 confirmed that the subject site is eligible for listing in the National Register of Historic Places under Criterion D for its retention of integrity and its potential to provide data that can address important research questions about the prehistory of the area. Given the very sensitive nature of this particular site, the proposal avoids all known archaeological deposits and tribal resources.

The various tribal cultural sites have been documented during the course of previous archaeological investigations of the Hellman Ranch property and surrounding areas. The Commission imposes **Special Condition 1** to document the precise extent of cultural resources onsite and avoid impacting those resources.

In addition, while portions of the project area have sustained substantial ground disturbance related to prior oil operations and filling of the wetlands, even a disturbed archaeological deposit has the potential to contain displaced human remains and artifacts, should such a deposit be found to exist. To address the possibility that significant archaeological deposits or materials may be encountered during ground-disturbing activities related to the geotechnical investigation project, given the archaeological sensitivity of the area, the applicant proposes to have both an archaeological monitor and Native American monitor present during ground disturbing activities related to the project as a protective measure. Archaeological monitoring services will be provided by Cogstone Resource Management, Inc., and Native American monitoring will be provided independently by each interested Native American tribe identified to be the Most Likely Descendent (MLD) per the Native American Heritage Commission (NAHC).

[1] 5-97-367.

Tribal Consultation

Ahead of filing for a coastal development permit application, the applicant had already previously formed a Tribal Advisory Group to fulfill AB 52 and CEQA tribal consultation requirements. In addition to consultation outreach by letter or phone, the Los Cerritos Wetlands Authority had also internally shared a preliminary draft of the Traditional Cultural Resource Assessment (not available for public review) with the affected Native American groups for additional feedback regarding detailed cultural resource treatment and mitigation procedures.

Once the application was filed with the South Coast District Office, Commission staff contacted the Native American Heritage Commission (NAHC) on August 24, 2021 to conduct a search of the Sacred Lands File, in accordance with the Commission's Tribal Consultation procedures. The results of this search were positive, and the NAHC provided Commission staff with a list of potential affected tribes in the area for consultation. Staff initiated consultation via letter on October 19, 2021, along with a copy of the proposed plans, narrative description of the proposed project, and maps depicting the described site. After following up once again on November 23, 2021, staff received consultation requests and written comments from the Gabrieleno Band of Mission Indians - Kizh Nation, Gabrieleno Tongva San Gabriel Band of Mission Indians, and Gabrielino Tongva Indians of California Tribal Council.

The consultations occurred on November 30, 2021, December 1, 2021, and January 27, 2022. For each of the coordination meetings, the Tribal Liaison for the District and the assigned staff member spoke directly to the Tribal Representative via phone and discussed the project scope, the conditions of approval, and concluded consultation.

During the consultation process, Commission staff learned that all consulted tribes had reviewed the proposed Cultural Resource Assessment provided by the applicant, and the tribal representatives provided additional suggestions such as avoiding boreholes in sensitive areas and spot-checking the soil samples during the excavation process. Tribal representatives also discussed the possibility that the applicant grant additional tribal access to the south LCWA site as part of the scope of this project, mainly for ceremonial and funerary purposes once the site has been restored. The applicant has been notified of such requests and will continue to coordinate with all affected Tribes on the implementation of additional tribal access measures through the larger restoration effort.

The area is documented as a sacred land, and therefore the potential impacts of the project not only include accidental discovery of tribal resources, but also include potential impacts to the status of the land as sacred. Preserving the cultural resources and restoring the site to its natural conditions protects the sacred lands to the maximum extent feasible. To ensure that the project protects prehistoric archaeological resources and the tribal cultural resources that are present on the site and is consistent with past Commission action, **Special Condition 2** requires the applicant to assure that the proposed project remains sensitive to the concerns of the affected Native American

groups and requires that a Native American monitor be present at the site during all excavation activities to monitor the work. The provided guidelines must be followed if cultural resources are discovered during construction, and the LCWA is required to apply for an amendment if archaeological deposits are found that the Native American tribal representatives determine must be avoided. In order to prevent the potential exposure of archaeological and tribal cultural deposits already identified and known onsite, the applicant is proposing to station all drilling sites outside of designated sensitive areas and high-elevation or promontory sites, as requested by the tribal leaders. The final locations of the boreholes will be submitted to the Commission in the form of final revised plans pursuant to **Special Condition 1.**

Therefore, as conditioned, the proposed project is consistent with Coastal Act Section 30244, as the development will include reasonable mitigation measures to ensure that the development will not result in significant adverse impacts to archaeological resources.

C. Public Access

Section 30210 of the Coastal Act states:

> In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

The south LCWA site is currently owned and managed by the applicant, the Los Cerritos Wetlands Authority. Due to the retention of private interests in adjacent areas of the Hellman Ranch property, as well as public safety concerns related to active oil extraction operations onsite, there is generally no public access allowed in this location without prior consent. The proposed project does not change the public's inability to access the site, nor does it impact the surrounding areas that are accessible to the public. Given that the site contains wetlands and environmentally sensitive habitat area, which are natural resources particularly prone to disturbance and overuse, the Commission finds that continued limited public access may be the most protective of coastal resources at this time. At a future date when the coming restoration plan is proposed to the Commission, the applicant has indicated that the public would be provided increased access, and coastal-dependent recreational activities may be provided at this site, consistent with the public access and recreation policies of the Coastal Act.

D. Wetlands and Environmentally Sensitive Habitat Area

Section 30121 of the Coastal Act states:

> "Wetland" means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

Section 30233(a) of the Coastal Act states, in relevant part:

> (a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:
>
> …
>
> (6) Restoration purposes.
>
> (7) Nature study, aquaculture, or similar resource dependent activities.

Section 30107.5 of the Coastal Act defines environmentally sensitive habitat or ESHA as:

> "Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Section 30240 of the Coastal Act provides direction for the protection of ESHA and states:

> (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.
>
> (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

Section 30233(a) of the Coastal Act limits diking, filling or dredging in wetlands to certain allowable uses, requires the least environmentally damaging alternative, and only allows these activities when feasible mitigation measures to minimize adverse environmental effects are included. Commission staff ecologists have participated in the Interagency Review Team for the Los Cerritos Wetland restoration since 2016 and are familiar with the sensitive habitat on the subject site, and have confirmed the presence

of wetlands and ESHA onsite without providing a memorandum specific to this application. The applicant has stated that the drilling of boreholes will occur within the wetland complex, but will specifically avoid remaining delineated wetlands in the complex, and will mainly occur within the existing disturbed or degraded areas. However, because the entire site is a wetland complex, consistency with Section 30233 must be found. Although impacts to individual jurisdictional wetlands, marshes, or pools is not expected, the project includes removal of soils from within a wetland complex; thus, the proposed project constitutes wetland dredging, and so evaluation of the proposed project for consistency with Section 30233 must be considered.

Additionally, Section 30240 of the Coastal Act limits the amount and types of development that may occur within and adjacent to environmentally sensitive habitat areas (ESHA) to uses that are dependent on the ESHA. The subject site contains approximately 105 acres of wetlands and ESHA according to a recent wetlands assessment of the site *(Los Cerritos Wetlands Habitat Restoration Plan*, 2021). Interspersed among salt marsh vegetation, seasonally ponded water, alkaline flat, and tidal channel are former sumps, landfills, and contaminated areas from prior oil operations. The majority of the remaining jurisdictionally designated wetlands are clustered: 1) around the tidal channel which runs through the middle of the property and delivers site runoff to a culvert which connects to the San Gabriel River, and 2) adjacent to the Haynes Cooling Channel at the north edge of the property. As part of the larger restoration in the near future, the Los Cerritos Wetlands Authority is likely to propose regrading of soils to create elevations suitable for wetland habitats, excavation of new tidal channel, and retention of the existing road via the construction of a bridge, culvert, or elevated floodwall. Dredged soils from the project will be planned to be reused onsite or disposed off-site outside in an appropriate location.

The Commission found previously in its approval of coastal development permit 5-89-1087 that, historically (and as recently as the late 1890s), all of the lowland areas of the subject site were part of the 2,400-acre Alamitos Bay wetland complex at the mouth of the San Gabriel River. Over time, however, manmade alterations reduced the size and quality of the wetlands. Substantial degradation of the wetlands on the Hellman property began with oil production in the 1920s, which resulted in the fill of wetlands for access roads and production facilities. The wetlands were further altered following the rerouting and channelization of the San Gabriel River from 1930-34. Marsh land receded further as canals and levees were built to control water on the property. The construction from 1961-63 of the adjacent Los Angeles Department of Water and Power cooling channel for the upriver Haynes power plant resulted in the deposition of large quantities of fill on the site and additional fill of wetlands. The City of Seal Beach also allowed fill to be placed on the property during the 1960s and early 1970s, and the Commission's predecessor Coastal Zone Conservation Commission also approved fill activity between 1972-75. Continued oil production and vehicle use on the site currently contributes to the degradation of the wetlands.

One of the main reasons for preserving, expanding, and enhancing Southern California's remaining wetlands is because of their important ecological functions. First

and foremost, wetlands provide critical habitat, nesting sites, and foraging areas for threatened or endangered species. Wetlands also serve as migratory resting spots on the Pacific Flyway, a north-south flight corridor extending from Canada to Mexico used by migratory bird species. In addition, wetlands also serve as natural filtering mechanisms to help remove pollutants from storm runoff before the runoff enters into streams and rivers leading to the ocean. Further, wetlands serve as natural flood retention areas. Another critical reason for preserving, expanding, and enhancing Southern California's remaining wetlands is because of their scarcity. As much as 95% of coastal wetlands have been lost. As described earlier, the 105 acres are only a fraction of the 503 acres which remain of the former 2,400-acre Alamitos Bay wetland complex. Therefore, it is critical to maintain and enhance the remaining wetlands to ensure that wetlands exist to carry out the functions described above.

Uses

The character of the soil of wetlands is a key factor affecting the restoration potential of a specific wetland. The sediments that make up tidal wetlands have a high proportion of fine silt and clay particles. It has proven difficult to create or restore wetlands from coarse terrestrial (i.e. non-marine influenced) soil.[2] Such habitats drain rapidly, do not retain organic materials or added nutrients, and do not develop the anaerobic character of natural marshes. Conversely, at the south LCWA site (also known as the Hellman Ranch property), most of the fill came from other areas of the historic Alamitos wetlands. Much of the existing salt marsh is above the tidal zone and only contains freshwater. This material is appropriate for restoration activities because the soil has retained the salt fine-grained characteristics of the parent historic marsh. This is a significant contribution to the restoration potential of the site.

Restoration is one of the specifically enumerated uses for which dredge of wetlands is allowed by Section 30233(a)(6). On its face, the proposed project is *not* a restoration project; however, the proposed geotechnical and environmental site assessment will help determine the suitability of the soil for future restoration efforts. Section 30233(a)(6) allows dredging-related impacts to wetlands for “restoration purposes.” The purpose of the proposed project is specifically for *pre*-restoration research. Information from the geotechnical assessment will be used to develop an understanding of the subsurface physical and geotechnical soil conditions, as well as geotechnical engineering recommendations for use in designing future landform alterations and wetlands improvements as part of the larger restoration effort. More specifically, the data acquired by this investigation would enable the applicant to determine the design for flood management (e.g., berms and floodwalls), the stability of the grading site, evaluation of cut materials for their suitability as a safe and effective reused fill material onsite, and, most importantly, the residual chemical concentration of the soil substrate as a result of prior history of oil operations in the area. The current proposal may be categorized as a resource dependent activity performed for the broader goal of future restoration and wetlands enhancement at this site. Therefore, the project is an

[2] 5-97-0367.

allowable use under Coastal Act Sections 30233(a)(6) and (a)(7), and **Special Condition 6** will help further establish the relationship of the proposed project with broader restoration activities by requiring the applicant to share the findings of this investigation with the Commission, which will elucidate the restoration potential of the site in the future.

Mitigation

Section 30233(a) of the Coastal Act, in addition to requiring that the project be an allowable use, also requires that the project provide adequate mitigation to minimize any adverse environmental impacts the project may have on the wetlands habitat. The project will have some temporary construction impacts as soil samples are removed from the wetland complex. The creation of the boreholes may also lead to more permanent effects if not mitigated.

Project impacts to the wetland habitat would occur due to construction staging, operation of mechanical equipment, and the dredging (boring) of the wetlands. As part of the project submittal, the applicant has not proposed specific measures to mitigate for the potential and anticipated disturbance to the wetlands and environmentally sensitive habitat areas onsite. Nonetheless, the applicant has agreed to revegetate the areas of the sealed boreholes with native vegetation upon completion of the investigation, and where a hardpan layer exists within the borehole sites, the applicant has agreed to correct it using a 6-foot column of native, uncontaminated soils for backfill. The applicant also agreed to mitigate the project's permanent impacts to the habitat, such as degradation from mechanized construction equipment, at a 3:1 mitigation area to impact area ratio. The applicant's preferred restoration sites for mitigation purposes are Zedler Marsh (CDP 5-10-204) and Habitat Restoration Areas 1 and 2 (CDP 5-19-1181-W). The applicant also agrees that special care must be taken during construction, especially if it occurs during the typical bird nesting season (February 1 – September 15 of any year), in order to assure the continuance of biological resources within the subject site. Along with the proposal to use hand augers where possible and avoid impacting individual wetlands, the project does provide adequate mitigation to minimize any adverse environmental impacts the project may have on the wetlands habitat, consistent with Section 30233.

Least Environmentally Damaging Alternative

Section 30233(a) of the Coastal Act allows dredging within wetlands only where there is no feasible less environmentally damaging alternative. The applicant's Sampling and Analysis Plan proposes a number of measures to assure the proposed project is the least environmentally damaging alternative. Included among these measures are: construction best management practices such as containment and removal of contaminated soil sample material and disposable construction materials in transportation drums, use of drill mats along rubber tracks to disperse the weight of construction equipment, spill prevention and runoff control protocols, and staging will be limited to existing disturbed/developed areas.

The Sampling and Analysis Plan also discusses other ways in which the proposed project would be the least environmentally damaging alternative. For instance, the proposed boring depth of 25 feet will be sufficient in accomplishing the goals of the investigation, including 1) testing the physical properties of the soils, including soil bearing capacity and strength-related qualities; 2) evaluation of slope stability, and; 3) residual contaminant concentrations and content. Greater depths are not necessitated by the scope of the project, but shallower depths will not facilitate full evaluation of the residual chemical concentrations within the soil column. The sample locations selected by the applicant have been selected to optimize soil sampling in a variety of elevations, lithological (soil characteristic) types, and surface conditions. Given the locations and depths required by the applicant to effectively investigate the soils of this site, a mechanical drill rig will need to be used for 14 of the 18 boring locations. Nevertheless, use of hand auger and manual drilling will be maximized and utilized wherever possible. A total of 1.8 Cu. Yds. will be cut, and a total of 3.5 sq. ft. will be disturbed for borehole drilling and soil removal, which will be dispersed among 18 separate locations throughout 105 acres. Eighteen boreholes are the minimum necessary to accomplish the research goals. Construction equipment will be placed on existing access routes and oil access roads only, and all jurisdictional wetlands within the south LCWA site will be avoided. No sensitive species of special status will be removed, and in 7 of the 18 borehole locations, where semi-natural herbaceous plant alliances may be found interspersed with *Brassica nigra* and other invasive mustards, the applicant will make sure to avoid removal of native vegetation. **Special Condition 1** requires the applicant to conform with the Sampling and Analysis Plan, and imposes additional wetland buffer and construction staging requirements to minimize potential impacts on ESHA. If the project inadvertently causes impact to wetlands and ESHA during construction, the mitigation measures imposed in **Special Condition 4** will require restoration and mitigation, as previously discussed.

Environmentally Sensitive Habitat Areas

As stated above, Section 30240(a) states environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. While there are portions of the wetlands complex that are degraded and contain non-native vegetation, the entire complex provides habitat for several sensitive or listed wildlife species and contains sensitive plant species. Due to the rarity of this type of habitat in Southern California, the entire project site rises to the level of ESHA. ESHA has been confirmed by the Commission's staff ecologists.

The applicant has identified the sensitive biological and ecological communities which may be affected. According to the Los Cerritos Wetlands Habitat Restoration Plan, within the study site, six sensitive plant communities were identified: southern coastal salt marsh, southern coastal brackish marsh, southern willow scrub, mule fat scrub, alkali meadow, and eelgrass beds. For example, southern tarplant (*Centromadia parryi* ssp. *australis*) is a rare annual plant that has been found in non-tidal wetlands and upland areas of the site. Two other annual plant species, Lewis' evening primrose (*Camissoniopsis lewisii*) and Coulter's goldfields (*Lasthenia glabrata* ssp. *coulteri*) occur

in limited locations in the south LCWA site. Plant species that have been identified in the area in previous Commission actions include slender wild oat, ripgut grass, Italian ryegrass, telegraph weed, bristly ox-tongue, Australian saltbush, five-hooked bassia, and white sweet clover. The other habitat types identified in the Restoration Plan are intertidal mudflats, salt flats, rip-rap, sub-tidal marine water (tidal channels and basins), ruderal wetlands, and ruderal uplands. Ruderal areas are mostly dominated by invasive non-native herbaceous successive plants. Additionally, vegetation-free zones (levees, dirt roadways, perimeters around pumps and pipes, exclusive oil lease easements) and developments (asphalt roadways, abandoned concrete foundations, and active mineral extraction facilities) exist on the site.

The wetland complex is ecologically significant and supports a large array of avian and invertebrate species. In the last several years, a thriving riparian forest has established in a bioswale just east of the South LCWA Site, outside of the LCWA's Program Area. Riparian forests, historically present along the San Gabriel River, are now extremely rare in the area. The bioswale site, specifically, is supporting rare nesting birds and intercepting stormwater runoff before it gets to saline wetlands.

There are various bird species which nest and/or forage at Hellman Ranch and within Gum Grove Park, which is immediately to the east of the project site, and likely forage and nest on the subject site as well. The Restoration Plan and other biological analyses outline species present. The federally and state listed American peregrine falcon (*Falco peregrinus anatum*) may occasionally forage at the site. Loggerhead shrikes (*Lanius ludovicianus*) (a state listed Species of Special Concern) may breed in large shrubs and small trees in ruderal areas of the property and forage on small prey such as insects and lizards which occur on the property. The white-tailed kite (*Elanus leucurus*) (a state listed Fully Protected species) may breed in Gum Grove Park and has been observed in the project area. Belding's savannah sparrow (*Passerculus sandwichensis beldingi*) is an obligate salt marsh resident known to nest in the south LCWA site. In addition, other raptors that are state listed Species of Special Concern, such as the northern harrier (*Circus cyaneus*), sharp-shinned hawk (*Accipiter striatus*), Cooper's hawk (*Accipiter cooperii*), osprey (*Pandion haliaetus*), prairie falcon (*Falco mexicanus*), merlin (*Falco columbarius*) and short-eared owl (*Asio flammeus*), occasionally forage on the subject site. Among these raptors, the Cooper's hawk has the potential to breed in Gum Grove Park and the 9.2-acre polygon in the south LCWA site that is designated by the Commission and deed restricted as raptor foraging habitat. Other raptors which have been observed at the project site include the turkey vulture (*Cathartes aura*), American kestral (*Falco sparverius*), red-tailed hawk (*Buteo jamaicensis*) and red-shouldered hawk (*Buteo lineatus*). The designated raptor foraging habitat area is currently a mix of primarily non-native grasses, mustards, and iceplants, and as such, supports a lesser array of sensitive avian and invertebrate species.

Given that the site provides opportunities for a variety of plant and animal species to flourish, and this site of the Los Cerritos Wetlands complex constitutes ESHA, the project must conform with Section 30240(a) of the Coastal Act, which requires development to be of resource dependent use and to limit significant disruption of habitat values. As described above, the sole purpose of the project is to gather data to

inform the design of a restoration project. As such, restoration is considered a resource dependent use, and therefore is consistent with Section 30240(a). Additionally, the project has been designed to avoid impacts to ESHA wherever possible by using hand augers, and avoid sensitive habitat areas for the majority of the drilling locations, etc. These proposed measures effectively limit significant disruption of habitat values.

However, at 7 of the 18 borehole sites, total removal of potentially sensitive or special status vegetation is a possibility. In terms of ESHA, the raptor foraging habitat coincides with currently proposed borehole sites 7, 10, and 11, which are planned to be drilled using the hollow stem auger drill rig; the applicant has indicated that these boreholes will be moved to a more suitable location to avoid impacting the sensitive habitat which will be provided per **Special Condition 1** for final revised plans. However, there are 4 remaining boreholes that will impact ESHA, and as such, the Commission requires that these impacts be mitigated. The exact scope and type of impact will be assessed post-construction and appropriate mitigation plans will be provided. The applicant will also mitigate the project's permanent impacts to the habitat, such as degradation from mechanized construction equipment, at a 3:1 mitigation area to impact area ratio. The applicant's preferred restoration sites for mitigation purposes are Zedler Marsh (CDP 5-10-204) and Habitat Restoration Areas 1 and 2 (CDP 5-19-1181-W). The applicant also agrees that special care must be taken during construction, especially if it occurs during the typical bird nesting season (February 1 – September 15 of any year), in order to assure the continuance of biological resources within the subject site.

Section 30240(b) states that development in areas adjacent to environmentally sensitive habitat areas shall be designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas. As noted previously, the Commission imposes **Special Condition 5**, and the applicant agrees to protect existing nesting bird populations onsite and other biological resources by providing measures to avoid impacting the nearby sensitive species and provide wetland buffers; as such, the project is also consistent with Section 30240(b).

The conditions of approval require the applicant to avoid impacts to biological resources, document and report on their activities, and replant any disturbed areas with native vegetation. **Special Condition 1** requires that prior to issuance of the coastal development permit, the applicant shall submit for review and approval of the Executive Director, final revised plans showing the precise locations of each proposed borehole, as well as the construction staging areas. The final revised plans shall consider potential impacts to existing raptor populations and other sensitive biological resources in and near the wetlands. To further study the existing nesting bird communities which may be adversely affected by the ground disturbing activity, **Special Condition 4** requires the applicant to submit a Biological Monitoring Report, prepared by a biologist in accordance with current professional standards, which shall survey existing nesting bird populations in the vicinity of the construction area, and shall utilize the necessary buffer area and noise abatement measures to lessen potential disturbance. Finally, **Special Condition 5** requires that, within 30 days of the issuance of the coastal development permit, the applicant shall submit for review and approval of the Executive Director, a finalized Habitat Restoration and Monitoring Plan for the onsite to assure all

adverse impacts to habitat are adequately mitigated. This special condition requires the applicant to mitigate for the project's permanent impacts to habitat using the Commission's standard 3:1 habitat mitigation ratio required for wetlands and terrestrial ESHA, and mitigation should occur as close to the disturbed site as possible. The applicant is also required to remove non-native, invasive vegetation around the borehole sites and restore and revegetate the surface of sealed boreholes upon completion of the investigation, using native seeds from the Los Cerritos Wetlands. At minimum, the revegetated sites shall maintain the existing functions and habitat values of the raptor foraging area to be preserved.

As such, the investigatory project, which is associated with broader wetlands restoration goals for the project area in the future, may be found consistent with Sections 30233 and 30240 of the Coastal Act. The project, as proposed and conditioned, is found to be the most feasible, least environmentally damaging alternative, and provides adequate mitigation. The Commission acknowledges that without this necessary initial investigatory project, future prospects and plans for restoration of the site may be limited, and the wetlands and ESHA onsite will continue to deteriorate and lose value as an environmental and natural resource. Therefore, the Commission finds that the proposed project is consistent with wetlands and ESHA policies of the Coastal Act.

E. Marine Resources and Water Quality

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states:

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

The proposed project has the potential to adversely impact the water quality of the nearby wetlands and Pacific Ocean. Many of the pollutants entering the ocean come from land-based development. The Commission finds that it is necessary to minimize to the extent feasible within its jurisdiction the cumulative adverse impacts on water quality resulting from landform alterations and soil mixing resulting from wetland fill and dredge,

such as the case in the development. While it is maybe that the total cut proposed for this project is approximately 1.8 Cu. Yds. of excavated soil, the applicants clearly indicated that the soil samples may be contaminated. Residual contamination may be present in greater quantities at lower depths than at the surface, where contaminants may have leached over time. Sediment discharged into coastal waters may also cause turbidity, which can shade and reduce the productivity of marine photosynthetic species and cause cascading effects throughout the whole ecosystem. Thus, to protect water quality and biological productivity of the nearby coastal waters wetlands, the Commission imposes **Special Condition 4**, which outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris.

Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

F. Local Coastal Program

Section 30604(a) of the Coastal Act states:

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

On July 28, 1983, the Commission denied the City of Seal Beach Land Use Plan (LUP) as submitted and certified it with suggested modifications. The City did not act on the suggested modifications within six months from the date of Commission action. Therefore, pursuant to Section 13537(b) of the California Code of Regulations, the Commission's certification of the land use plan with suggested modifications expired. The LUP has not been resubmitted for certification since that time.

The proposed development is consistent with the Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that the proposed development would not prejudice the ability of the City to prepare a certified coastal program consistent with the Chapter 3 policies of the Coastal Act.

G. California Environmental Quality Act

The applicant, the Los Cerritos Wetlands Authority, is the lead agency, and the Commission is a responsible agency for the purposes of the California Environmental Quality Act ("CEQA"). Categorical Exemption was granted for the proposed development and approved by the City Planning Department on September 2, 2021.

Section 13096 of the Commission's administrative regulations requires Commission approval of coastal development permit (CDP) applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits approval of a proposed development if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant impacts that the activity may have on the environment. The Commission's regulatory program for reviewing and granting CDPs has been certified by the Resources Secretary to be the functional equivalent of CEQA (14 CCR § 15251(c)).

The preceding coastal development permit findings in this staff report have discussed the relevant coastal resource issues with the proposal, and the permit conditions identify appropriate mitigations to avoid and/or lessen any potential for adverse impacts to said resources. The Commission incorporates these findings as if set forth here in full. As conditioned, there are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact, individual or cumulative, which the proposed project would have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A – Substantive File Documents

Coastal Development Permit Application No. 5-97-0367 and associated file documents.

Final Program Environmental Impact Report for the Los Cerritos Wetlands Habitat Restoration Plan, prepared by Coastal Restoration Consultants, May 26, 2021.