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Re: Comments on the Draft Environmental Impact Statement/Environmental Impact Report for the Ballona Wetlands Restoration Project, **Expressing Support for Alternative 1** (with modifications)

Dear Mr. Brody and Mr. Swenson,

Los Angeles Waterkeeper (LAW) submits the following comments on the *Draft Environmental Impact Statement/Environmental Impact Report for Ballona Wetlands Restoration Project* (“Draft EIR/EIS” or “Restoration Project”). We commend the thoroughness of your environmental review process, including your robust alternatives analysis, and appreciate the opportunity to provide comments on the Draft EIR/EIS. We have also submitted a joint comment letter with the Wetlands Restoration Principles Coalition Steering Committee, which includes Heal the Bay, Friends of Ballona Wetlands, South Bay Surfrider Foundation and The Trust for Public Land. We are submitting these additional comments to add greater nuance to our perspective.

LAW is an environmental organization with over 3,000 members, dedicated to safeguarding Los Angeles County’s inland and coastal waters by enforcing laws and empowering communities. We find that the restoration and reopening of the Ballona Wetlands is of critical importance. It is unacceptable that there has been an almost complete lack of public access to the wetlands since the state of California purchased them in 2003, particularly because the California Constitution guarantees access to waters of California.¹ Our L.A. community members from near and far should not have to experience the wetlands by peering through a chain-link fence. At the same time, we strongly believe that all people deserve access to wetlands that are restored to the most robust standards, and there is a need to take restoration action now. With all of this in mind, **we support the implementation of Alternative 1 (phases 1 and 2) with modifications.**

We support Alternative 1, as it represents the best step forward toward addressing the restoration needs of the Ballona Wetlands. The Environmental Protection Agency (EPA) writes “that all wetland habitats within the 626 Ballona Wetlands Ecological Reserve are impaired.”² Meanwhile, the Ballona Wetlands are some of the last remaining wetlands in California, and they are currently on the Clean

¹ https://law.justia.com/constitution/california/article_10.html

² <https://www3.epa.gov/region9/water/tmdl/ballona/BallonaCreekWetlandsTMDL-final.pdf>

Water Act Section 303(d) list of impaired waterbodies for “habitat alteration, hydromodification, reduced tidal flushing, and exotic vegetation.”³

The designated beneficial uses for the Ballona Wetlands from the Water Quality Control Plan for the Los Angeles Region (The Basin Plan) include:⁴

- Estuarine Habitat
- Migration of Aquatic Organisms
- Rare, Threatened or Endangered Species
- Water Contact Recreation
- Non-Contact Water Recreation
- Spawning, Reproduction and/or Early Development
- Wetland Habitat
- Wildlife Habitat

The Ballona Wetlands are not currently meeting their beneficial uses due to ongoing degradation. Two of the primary reasons that the EPA has recognized for this degradation are the legacy of the heavy sediment deposition on the wetlands, and the construction of concrete levees that disconnected the creek from its historic floodplain, which have negatively impacted species diversity, habitat health and water quality.⁵ Out of the four alternatives presented, Alternative 1 takes the most extensive steps toward reversing this legacy of environmental degradation, **treating the wetlands and creek in the most interconnected way with a strong emphasis on public access to healthier ecosystems.**

In order to meet the designated beneficial uses of the wetlands, we need to remove the concrete levees: Alternative 1 is the alternative that removes the greatest amount of concrete levees along Ballona Creek in the project areas, thus restoring tidal flushing, improving water quality, creating fish spawning habitat -- including for the federally-endangered steelhead trout (Page 3.4-37) -- and reconnecting the creek to its historic floodplain. While Alternative 2 shares many of the benefits of Alternative 1, it does not address the need to remove concrete along as much of the Ballona Creek project site area and maintains West Area B’s tide gates, even though they are predicted to fail between 2030 and 2050 (Page ES-12). The failure of the tide gates will lead to their permanent closure. Alternative 1 thus goes the farthest to address the need to reconnect the creek and its floodplain. It also goes the farthest to prepare for sea level rise and additional climate change impacts through adaptive management, introducing saltwater in planned phases, rather than waiting for its likely intrusion in later years (Page 3.4-100).

Perhaps most notably, choosing Alternative 1 would mean setting a precedent for removing concrete levees along our urban waterways and reconnecting waterways and floodplains.

In order to meet the designated beneficial uses of the wetlands, we need to remove excess and toxic sediment with care: The Ballona Wetlands are on the state’s Section 303(d) list of impaired water bodies

³ <https://www3.epa.gov/region9/water/tmdl/ballona/BallonaCreekWetlandsTMDL-final.pdf>

⁴ https://www.waterboards.ca.gov/board_info/agendas/2002/february/0206-05.doc

⁵ <https://www3.epa.gov/region9/water/tmdl/ballona/BallonaCreekWetlandsTMDL-final.pdf>

due to excess sediment and sediment toxicity (Page 3.9-8), and Alternative 1 goes the farthest to address these impairments. The sediment in the wetlands is largely the result of the legacy of the construction of Marina del Rey and Ballona Creek's concrete levees, which needs to be addressed. The sediments often carry toxic substances, including pesticides, metals and Polycyclic Aromatic Hydrocarbons (PAHs). Addressing sediment would also mean confronting larger pollution concerns. As indicated in the table (below), Alternative 1 would lead to the removal of the highest volume of sediment.

Amount of Sediment Removed by Alternatives 1-4	
Alternative 1	2.4M to 2.43M cubic yards (Table 2-8)
Alternative 2	2.09M cubic yards (Table 2-24)
Alternative 3	1.42M cubic yards (Table 2-28)
Alternative 4	0

In order to satisfy the requirements of the California Constitution, we need to open access to the wetlands (in ways that are in harmony with restoration goals): Alternative 1 proposes the most extensive access opportunities to the wetlands. We strongly believe that visitors should have access to the wetlands in whatever state of health they may be in, but we advocate for a restoration plan that combines the most robust thinking about ecological health and public access, so that the two planning processes can occur in harmony with one another. This is the case with Alternative 1, which proposes the highest amount of access to the wetlands, including 29,000 linear feet of pedestrian-only trails and 19,000 linear feet of pedestrian and bicycle paths (Pages 2-106 and 2-100). There are two beneficial uses of the Ballona Wetlands that relate to recreation (water contact recreation and non-contact water recreation). Alternative 1 would give visitors access to cleaner water and a healthier ecosystem.

Alternative 1 also represents the best way forward for the NEPA Lead Agency and the CEQA Lead Agency (collectively, "Lead Agencies") to uphold their duties under the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA).

While we support Alternative 1, we propose the following **modifications** to ensure that we reach our restoration and public access goals.

Hydrology and Water Quality: Modifications

LAW believes that Alternative 1 will lead to improvements in hydrology and water quality, although we ask for additional information regarding the connection of the wetlands to watershed-level planning and regulations.

Address more directly how watershed-level water quality improvement projects are compatible with the restoration goals for water quality and sediment loads.

We ask that the final Draft EIR/EIS provide more information about how the project design will handle upstream changes, including in terms of the extent of monitoring that will occur. While we recognize that much of the Ballona Creek Watershed is beyond the scope of the restoration project, it is reasonably foreseeable that the timing, scope and overall approach of projects and planning efforts happening upstream to address environmental concerns, including the Ballona Creek Bacteria TMDL

Project and Ballona Creek Enhanced Watershed Management Program, will affect water quality and sediment loading downstream. As noted in the Draft EIR/EIS’s Table 3.9-2, there are at least ten pollutants of concern flowing from upstream toward the wetlands from the watershed as a whole⁶. We strongly recommend a cumulative impacts and sensitivity discussion to disclose the impacts, both positive and negative, of upstream projects on the project site, especially given that the Draft EIR/EIS points to how West Area B is currently acting as a sink for bacteria and contaminated sediments (Page 3.9-9). The Draft EIR/EIS often focuses on the upstream watershed impacts as though they are static. For instance, it assesses the scouring impact of stormwater coming from upstream with the current amount of heavy flow (Page 3.9-45). What would the impacts of projects be that would reduce or increase flow rates from upstream? We appreciate the efforts to reconnect the creek and the wetlands, but we would like more information.

**TABLE 3.9-2
303(D) POLLUTANTS IN BALLONA CREEK UPSTREAM OF THE PROJECT SITE**

Pollutant	Source
Cadmium (sediment)	Point Source, Nonpoint Source
Coliform bacteria	Point Source, Nonpoint Source
Copper, Dissolved	Nonpoint Source
Cyanide	Source Unknown
Lead	Source Unknown
Selenium	Source Unknown
Toxicity	Source Unknown
Trash	Source Unknown
Viruses	Point Source, Nonpoint Source
Zinc	Source Unknown

SOURCE: SWRCB 2010

Address How the Project Relates to TMDL Compliance

We are particularly concerned about ensuring that TMDL compliance deadlines are met in connection with this project. While we realize that the Lead Agencies are not responsible for TMDL compliance, we ask that they share their proposed actions for playing a role in meeting TMDLs based on reasonably foreseeable outcomes. Most notably, the Lead Agencies should work with the Los Angeles Regional Water Quality Control Board to stay up to date on TMDL compliance milestones and set benchmarks to ensure that *the original goals of the TMDL* are achieved. For instance, the Draft EIR/EIS seems to imply that the restoration of tidal habitats may take the place of meeting TMDL sediment load allocation requirements (Page 3.9-28). It also seems to rely on the assumption that the TMDLs will be met outside of the restoration activities. The Draft EIR/EIS states “The compliance date for meeting the SQOs and fish tissue targets under the combined Metals and Toxics TMDLs is January 2021. The anticipated schedule for Alternative 1 includes breaching the levees to Area A and North Area B in 2021 – the same time as the TMDL timeline to meet the sediment quality goals” (Page 3.9-44). However, what would the adaptive management plan be if the Metals and Toxics TMDL is not met by January 2021? We would like to see more evidence to suggest that TMDL compliance is being taken seriously. Please also make sure that Table 3.9-4 is clearer about TMDL deadlines, showing a distinction between compliance deadlines

and success. *To be clear, the goals of the EPA TMDL and Draft EIR/EIS are interconnected, but we want to ensure that the project fully takes into consideration regulatory requirements and does not foreclose opportunities to do so.*

Provide more information about the monitoring plan

We appreciate the information provided about monitoring and adaptive management, but we ask for the following information to be folded into a more formal monitoring plan, including:

- The frequency, locations and parameters that the Lead Agencies will monitor before, during and after the restoration processes, with a particular focus on steps between Alternative 1, Phase 1 and Alternative 1, Phase 2.
- The frequency of releasing this information to the public and the formats for doing so. We suggest providing information to the public in more ways than just through annual monitoring reports (Page 2-138) and including community members in the monitoring process.
- Enforceable standards for monitoring and clear steps taken if the project does not meet monitoring standards.
- More information about how “lessons learned” will be incorporated into the planning process (Page 2-136).

We are seeking clarification about the following questions and concerns relating to the Project’s connection to hydrology:

- Self-sufficiency: Have all possible steps been taken to ensure that the project site will be able to achieve the maximum amount of self-sufficiency over the long-term? It seems that a good deal of maintenance will still be required, including sediment removal and control of water conveyance features. It also seems at times that there are excessive amounts of engineering, such as the berm in Southeast Area B that blocks the flow from the freshwater marsh culvert. We ask that plans be made so that the project area is restored to the highest level of self-sufficiency possible.
- Ballona Creek meander: We appreciate the non-linear restructuring of the channel, but we are wondering about the reasoning behind the use of such a high amount of bank armoring that will still prevent flows from changing course. Why was the project’s channel morphology chosen exactly? Why was so much concrete used in the planning design? Is the only reason for the armoring of levees for the prevention of erosion (page 2-89 – Level 1)? It seems that there are other ways to manage for erosion beyond using a concrete channel lining, which would limit the functioning of the habitat and improvements in water quality. Furthermore, the beginning of the Draft EIR/EIS indicates that in Alternative 1, “the existing armored levees along the banks of the Ballona Creek channel within the Ballona Reserve would be completely removed” (2-30). While this statement is true, it should also point to the plan’s intention to reintroduce armored levees in another form. Finally, how does the use of concrete bank armoring relate to the Ballona Wetlands’ 303(d) impairment for hydromodification?

- Daylighting streams: Have you considered additional opportunities to daylight portions of the project area, most notably the culvert in East Area B between the Ballona Freshwater Marsh and Ballona Creek?
- Sea level rise and salinity: Could you provide more information about the relationship between models of sea level rise and expected gradients of salinity over time? How will the project use adaptive management strategies based on evolving sea level rise predictions, and what sources of information will you use?
- Detention basins: Could you provide more information on the detention basins for stormwater run-off planned in West Area B and to what extent they would improve water quality?

Biological Resources: Modifications

LAW supports Alternative 1's handling of biological resources, although we ask for additional protections for species that will be affected by restoration activities, and in particular for the Belding's Savannah Sparrow.

- Include additional criteria for protecting the Belding's Savannah Sparrow population before Alternative 1, Phase 2 is initiated. The requirement of only finding one nesting pair of Belding's Savannah Sparrow in Area A to initiate Phase 2 seems arbitrary and insufficient. Use the Minimum Viable Population principles to reach an estimate of the number of nesting pairs needed for a sustainable population to flourish in Area A. Ensure that the project reaches this goal before moving into Alternative 1, Phase 2.
- Prioritize connectivity, not only when it comes to public access, but also when it pertains to wildlife and its movement throughout the project area.
- Strengthen the requirements for moving sensitive plants and animals prior to earthmoving processes.
- Ensure that there are biological monitors (and a sufficient number) on site during any earthmoving activities to care for impacted wildlife. This pertains not only to digging sediment, but also depositing it elsewhere.
- Keep the public informed on a more regular basis than just annually about the process of protecting biological resources, including in terms of surveying, moving and replanting species.

Public Access: Modifications

LAW supports Alternative 1's handling of public access, although we ask for additional amenities and needs analyses, particularly as they relate to Phase 1.

- Prioritize the opening of public access toward the beginning of Alternative 1, Phase 1. We would like to see restored public access as soon as possible without interfering with restoration goals. Consider integrating additional pedestrian and bike paths in Phase 1 around East Area B, as featured in the Alternative 2 Public Access Plan. Also, reduce access to the dunes in West Area B, given that it is the endangered El Segundo Blue Butterfly's habitat.

- Complete a parking needs analysis and determine actual parking needs. Prioritize parking options for visitors to the wetlands, and incentivize non-fossil fuel means of transportation (i.e. include bike racks, charging stations for electric vehicles, etc.).
- Ensure that there are bathroom facilities at the primary trailheads. Adequate bathroom facilities are necessary for ensuring that visitors who are not local will feel comfortable visiting.
- Engage community members in restoration and monitoring activities whenever possible and create a public communications plan that spans beyond publishing an annual report.

Thank you for this opportunity to provide comments on the Ballona Wetlands Draft EIR/EIS. We are delighted to see that the restoration process is moving forward, and we ask that the Lead Agencies select Alternative 1. At the same time, we ask that you consider the aforementioned modifications and answer our questions in the final environmental review documents. If you have any questions or need additional information, please do not hesitate to contact us at 310-394-6162 ext. 101.

Sincerely,

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