
Santa Ana Regional Water Quality Control Board

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DRAFT PROGRAM ENVIRONMENTAL IMPACT REPORT, LOS CERRITOS WETLANDS RESTORATION PLAN, SCH#

Dear Ms. Gee

Staff of the Regional Water Quality Control Board, Santa Ana Region (Regional Board) have reviewed the Draft Program Environmental Impact Report (DPEIR) for the proposed Los Cerritos Wetlands Restoration Plan (Project).

The proposed Project would restore wetland, transitional, and upland habitats throughout the program area. This would involve remediation of contaminated soil, grading, revegetation, construction of new public access opportunities (including trails, visitor centers, parking lots, and viewpoints), construction of flood management facilities (including earthen levees, berms, and walls), and modification of existing infrastructure and utilities.

The Regional Board commends the Los Cerritos Wetlands Authority for this ambitious and worthwhile restoration program, which will be a significant step toward restoring the ecological functions of the Southern California coast.

The following comments are presented by the Santa Ana Regional Board and incorporates input from staff of the Los Angeles Regional Board and the State Water Resources Control Board (State Water Board). We believe that the PEIR should incorporate the following comments in order for the project to best protect water quality standards (water quality objectives and beneficial uses) contained in the Water Quality Control Plan for the Santa Ana River Basin (Region 8 Basin Plan) and Los Angeles Basin (Region 4 Basin Plan):

WILLIAM RUH, CHAIR | HOPE SMYTHE, EXECUTIVE OFFICER

GENERAL COMMENTS

Note: In the following comments, when revisions to the text of the Draft PEIR are suggested, suggested deleted text is ~~struck through~~, suggested new text is in **bold underlined text**. Comments are arranged by PEIR section and numbered for convenient reference.

Note: Staff suggests that the final EIR be produced using ADA compliant font sizes, and that the final document be checked for ADA compliance before publication.

1. Identify and Recognize Regional Water Board Boundaries: Throughout the Draft Programmatic Environmental Impact Report (Draft PEIR), only the Los Angeles RWQCB is mentioned as a regulating agency. The Los Cerritos Wetlands Restoration Plan area lies on the boundary of two water quality control regions: Los Angeles and Santa Ana. Areas in Orange County (city of Seal Beach) are in the Santa Ana RWQCB region while areas in Los Angeles County (city of Long Beach) are in the Los Angeles RWQCB region.

The South LCWA Site, State Land Parcel Site and a majority of the Hellman Retained Site and Los Alamitos Retarding Basin Site are within the Santa Ana Regional boundaries.

All sections of the PEIR should be revised to show this regulatory context. An example of possible rewording for this is provided in comments for section 3.8, below. Similar consideration should be provided for all Chapters of the DEIR that refer to the Water Boards' authorities.

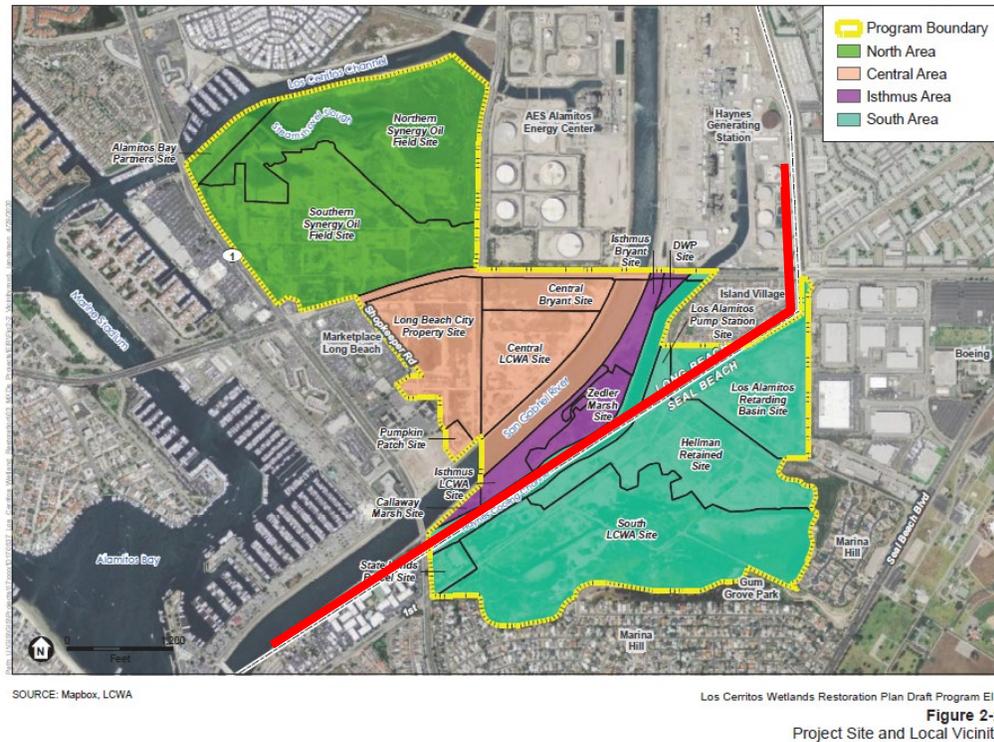


Figure 1: Approximate RWQCB Boundary – Red Line (L.A. to North, Santa Ana to south)

DEIR CHAPTER 3.3 BIOLOGICAL RESOURCES and APPENDIX C

2. Section 3.3.2.1: The presentation of Literature Review and Field Surveys, and Appendix C, describe biological surveys and delineation work that has been done in the project area. Detailed surveys of animal habitats and vegetation species and communities are reported. However, staff notes that no assessment using a Functional Condition Assessment Method (FCAM) as defined by the Corps of Engineers is reported. No assessment of overall wetland condition or function is described.

However, Mitigation Measure BIO-11, which would require preparation and implementation of a *Monitoring and Adaptive Management Plan (MAMP)*, does prescribe the development and implementation of a monitoring plan that would monitor the “functional wetland values” of the project area.

The measures proposed in MM BIO-11 should be made a factor in the discussions provided in Chapters 3 and 8. This MM should specifically require that each ecological restoration goal should be clearly associated with performance measures that would show achievement of the goal, and those in turn should be associated with monitoring methods that are capable of quantifying achievement of each performance should be proposed.

Staff recommends that the monitoring framework provided by the California Wetland Monitoring Workgroup be specifically cited as guidance on the development of the final

monitoring plan, to help ensure that statewide and regional monitoring needs and goals are met along with the goals within the project itself:

(https://mywaterquality.ca.gov/monitoring_council/wetland_workgroup/wramp/index.html).

3. Section 3.3.3.2-5: Section 3.3.3.2 omits discussion of the Porter-Cologne Water Quality Control Act. Regulatory authority over this project by the State and Regional Water Boards is much more extensive than the enforcement of section 401 of the Clean Water Act (CWA), and should be fully presented.

4. Section 3.3.2.9: In section 3.3.2.9, eelgrass (*Zostera* spp) is identified as being present in Essential Fish Habitat in the project area. Eelgrass is an important food source and provides nursery habitat for juvenile fish and invertebrates. The PEIR does not discuss the potential impact on eelgrass in the submerged marine and estuarine environments in the project area. The discharge of dredged or fill material can bury aquatic vegetation or create unsuitable conditions in a variety of ways, as described in the CWA Section 404(b)(1) Guidelines. Section 3.3.2.3 of the PEIR describes the wetland alliances and land-cover types found within the project area but specifically excludes eelgrass from the mapping. We recommend documenting the extent of eelgrass within, adjacent to, and downstream of the project area, so as to avoid and minimize impact to eelgrass habitat to the maximum practical extent. Where impact is unavoidable, in-kind mitigation is the preferred option.

5. Section 3.3.5: Section 3.3.5 describes Impact BIO-3, (p. 3.3-113), which would include effects on state or federally protected wetlands. Mitigation Measure BIO-11 (as discussed above) and other measures are presented that would serve to avoid and minimize this impact. MM BIO-11 requires that an adaptive management plan be incorporated in the required Monitoring and Adaptive Management Plan (MAMP). See comments above for MM BIO-11.

6. Table 3.3-5: Table 3.3-5 (p. 3.3-38) of the PEIR identifies the Pacific green sea turtle, *Chelonia mydas*, as a special-status wildlife species that is present in the project area: it is a resident in the San Gabriel River in the Central Area, and has been documented in the Haynes Cooling Channel in the South Area and in Steamshovel Slough upstream of the North Area. We recommend consultation with the National Marine Fisheries Service Office of Protected Resources regarding the east Pacific Distinct Population Segment of green sea turtles. Additionally, although west coast critical habitat has not yet been designated for this species, this may change during the course of the project.

DEIR CHAPTER 3.8 -- HYDROLOGY

7. Beneficial Uses: The Santa Ana RWQCB Basin Plan includes the Los Cerritos Wetlands with designated beneficial uses: Water Contact Recreation (REC1), Non-Water Contact Water Recreation (REC2), Preservation of Biological Habitats of Special Significance (BIOL), Wildlife Habitat (WILD), Rare, Threatened or Endangered Species

(RARE), Spawning, Reproduction and Development (SPWN), Marine Habitat (MAR), and Estuarine Habitat (EST).

8. Section 3.8.3.1 (p. 3.8-14): Please consider the following suggested rewording for the text describing Clean Water Act section 401:

Federal CWA Section 401 requires that any person applying for a federal permit or license that may result in the discharges of dredged or fill material or pollutants (including sediment) into waters of the United States must obtain a state **water quality standards certification (WQC)** that the activity complies with all applicable **state** water quality standards, limitations, and restrictions. In California, this certification is **typically** administered by the **Regional Water Quality Control Boards (RWQCBs)**. **For all applications for WQC received by the Water Boards after May 29, 2020, the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State must be implemented. For guidance on the application process see:**

https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/procedures_conformed.pdf).

SWRCB via the local RWQCB. No license or permit may be granted by a federal agency until certification as required by Section 401 has been granted. Further, no license or permit may be issued if certification has been denied. An entity seeking a Section 401 water quality certification typically must obtain a CWA Section 404 permit from USACE. This certification ensures that the proposed activity does not violate state or federal water quality standards. The Los Cerritos Wetlands Restoration Plan area lies on the boundary between two water quality control regions, Santa Ana and Los Angeles, and therefore the State Water Resources Control Board may be designated as the permitting authority for issuance of some or all of the WQCs that may be needed for the projects to be conducted under this PEIR.

9. Wetland Definition: In the discussion of CWA sec. 404 (p. 3.8-16, pdf p. 16), please consider the suggested rewording shown below, using the CWA wetland definition:

Under the CWA, Wetlands are "areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions." ~~generally considered to be areas that are periodically or permanently inundated by surface water or groundwater, and support vegetation adapted to life in saturated soil. ... Technical standards for delineating wetlands have been developed by the USACE, which generally defines wetlands through consideration of three criteria: hydrology, soils and vegetation.~~

10. Section 3.8.3.2: For the discussion of Porter-Cologne (p. 3.8-16, pdf p. 17), please consider the following suggested rewording:

The Porter-Cologne Water Quality Control Act (California Water Code Sections 13000–16104) (Porter-Cologne Act) provides the basis for water quality regulation within California and defines water quality objectives as the limits or levels of water constituents that are established for reasonable protection of beneficial uses. **Porter-**

Cologne is administered by the State Water Resources Control Board (State Water Board) and nine Regional Water Quality Control Boards (RWQCBs), collectively referred to as the Water Boards. The State Water Board SWRCB administers water rights, water pollution control, and water quality functions throughout the state, while the local **regional** water boards (in this case, LARWQCB) conducts planning, permitting, and enforcement activities. **The State Water Board sets statewide water quality standards, issues statewide general permits, conducts statewide surface and groundwater monitoring and assessment, administers water rights, regulates drinking water supplies, and issues orders for cleaning up contaminated sites.**

The nine semi-autonomous Regional Water Boards are responsible for setting water quality standards and objectives, issuing waste discharge requirements, determining compliance with those requirements, and taking appropriate enforcement actions. Each Water Quality Control Region is regulated through a Water Quality Control Plan, or “Basin Plan,” which is updated every three years. The Basin Plans contain the regulations adopted by the Regional Water Boards to control the discharge of waste and other controllable factors affecting the quality or quantity of waters of the state.

The Los Cerritos Wetlands Restoration Plan area lies on the boundary of two water quality control regions: Los Angeles and Santa Ana.

[suggest adding a paragraph break here] The Porter-Cologne Act requires the LARWQCB **Regional Water Boards** to establish water quality objectives, while acknowledging that water quality may be changed to some degree without unreasonably affecting beneficial uses.

11. Figure 2-2: Please revise the map in Figure 2-2, Section 2, to show Water Quality Control Region boundaries as illustrated in Figure 1 above.

Program impacts and mitigation

12. Section 3.8.5, Impact HYD-1 (P. 3.8-29, PDF P. 29): Impact HYD-1 states: *The proposed program would result in a significant impact if the proposed program would violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality.*

In the discussion of construction impacts for Impact HYD-1 that follows, it is stated: *“For work in the channel, the proposed program also would be required to comply with a Section 401 Water Quality Certification. Excavation of the channels in the Central and South Areas may extend below the water table and could require temporary dewatering.”* Is it anticipated that channel excavation will be the only part of the Program activity that would require a WQC? If so, then that should be clearly stated; if not, then additional information on channel work should be provided.

13. Section 3.8.5, Impact HYD-1 (continued): The discussion of HYD-1 also states: *“All excavation dewatering would be conducted in accordance with the General*

Construction Permit, which ensures discharge water would not be discharged in such a way as to result in direct or indirect degradation of surface water in the San Gabriel River, Los Cerritos Channel, or Alamitos Bay.”

For the Santa Ana Water Board region construction dewatering discharges, including temporary stream diversions necessary to carry out the Project, are subject to regulation by Regional Water Board Order No. R8 2015-0004, General Waste Discharge Requirements for Discharges to Surface Waters that Pose an Insignificant (De Minimis) Threat to Water Quality. For more information, please review Order No. R8-2015-0004 at:

http://www.waterboards.ca.gov/santaana/board_decisions/adopted_orders/orders/2015_orders.shtml.

14. Section 3.8.5, Mitigation Measure HYD-1: Mitigation Measure HYD-1 includes this requirement: *“A Monitoring and Adaptive Management Plan (MAMP) shall be prepared and implemented prior to commencement of construction or restoration activities. The MAMP shall provide a framework for monitoring site conditions in response to the program implementation. The monitoring shall focus on sediment quality in areas subject to the greatest deposition from storm events...”* Is a separate MAMP to be provided for monitoring to document achievement of other ecological goals besides sediment?

This MM requires monitoring for sediment impacts but does not provide any mechanism to require remediation of impacts once detected. Thus, this MM does not reduce the potential impact at all. The finding of “LTSWM” is inappropriate. A finding of LTSWM could be made if a MM were presented that required action to remediate sediment impacts detected through actions taken under MM HYD-1.

15. IMPACT HYD-2: The discussion of Impact HYD-1 describes potential groundwater impacts due to construction (which would be temporary) and due to installation of new infrastructure (which would be permanent). No mention is made of the effect on groundwater that might occur as a result of the ecological restoration work itself. Would the restored areas increase groundwater recharge, decrease recharge, or have no effect? We do not know based on the information provided here. As a result, the finding of Less Than Significant is not supported by the information provided in the Draft EIR.

16. Section 3.8.5, IMPACT HYD-3a (p. 3.8-33, pdf p. 33, Construction Impacts): The discussion of Impact HYD-3a dwells more on actions that are presumed to minimize or avoid impacts due to alteration of drainage patterns of stream courses, or addition of impervious surfaces during construction, than in a description of the potential impact itself. A description of the potential impact is needed.

17. Section 3.8.5, Construction Impact Minimization and Avoidance: The proposed minimization and avoidance measures for Construction-related impacts rely primarily on

obtaining permits (“*Compliance with the General Construction Permit, MS4 Permit, and 401 Certification would ensure that the proposed activities would include adequate stormwater protection through BMPs and monitoring, to limit increased turbidity and decreased water quality from sediment and other pollutants leaving the construction site.*”) and promising to comply with those permits. Known applicant proposed measures for avoidance and minimization of construction impacts should be included here.

18. Section 3.8.5, Impact HYD-3a (substantial erosion or siltation on- or off-site), Operation Impacts: For sediment movement, it is stated that project design features are expected to minimize or avoid this potential impact, and that project monitoring would be conducted as proposed in MM HYD-1 to detect if any unexpected and unwanted effects are occurring. However, as with Impact HYD-1, no provision is included that would require action to remediate those impacts if or when they are detected. Without a requirement to take action on detected sediment impacts, the finding of LTS for Impact HYD-3a is not supported by the information provided. Staff notes that the rationale provided for this finding for Impact HYD-3c may be sufficient to address this concern, if applied here.

19. Section 3.8.5, Impact HYD-3b (Increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site): Reliance on MS4 permit conditions is the only mitigation measure proposed here. No mention of design features, etc. is provided. Features/BMPs/Practices that might be implemented to comply with the permits should be described, to provide more detail on the avoidance and minimization measures that would be implemented.

20. Section 3.8.5, Figure 3.8-4: Figure 3.8-4 provides two graphs. The top graph shows the relative elevations of the existing SGR thalweg and levees in relation to existing and predicted 100-year flood elevations. The bottom graph illustrates “Level Due to the Program (ft.),” shown as a red line. Is this the change in 100-year flood level expected due to the project? If so, consider changing the label on the Y axis of the graph to “Change in 100-year Flood Elevation Due to the Program (ft.).” If not, please clarify.

21. Section 3.8.5, Impact HYD-3c (create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff): Impact HYD-3c refers to measures/BMPs that would be installed to comply with permits. More emphasis on these design elements and less on reliance on permits would be more informative here, and would provide more detail on the avoidance and minimization measures that would be implemented.

22. Section 3.13.3.2 (Recreation): Section 3.13.3.2 states: “There are no generally applicable state laws, regulations, plans, or standards governing recreational facilities that are relevant to the proposed program.” It should be noted that contact and non-contact water-based recreation (REC1 and REC2) is identified as a beneficial use of

waters of the state in all basin plans for all water quality control regions in California. As such, protection of that beneficial use is a requirement under those basin plans. While the proposed project would arguably provide great benefit as a newly developed water based education and recreation facility, the context of the basin plan's beneficial uses served by those facilities should be described.

In conclusion: Water Boards staff look forward to continued work with the Authority in the development of the Los Cerritos Wetlands Restoration Plan and it's several constituent projects.

Thank you for your consideration of these comments. If you have any questions, please contact David Woelfel at David.Woelfel@waterboards.ca.gov, Celine Gallon at Celine.Gallon@waterboards.ca.gov or Cliff Harvey at Cliff.Harvey@waterboards.ca.gov.

Sincerely,

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