

From: Anna Christensen <annachristensen259@gmail.com>

Sent: Wednesday, May 4, 2022 10:50 AM

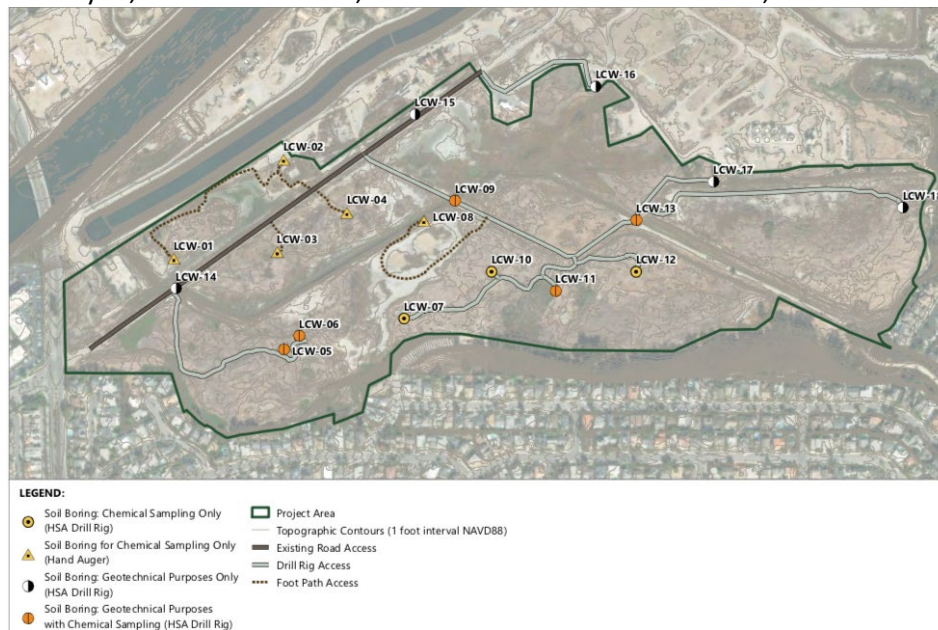
To: Aimee Nguyen <anguyen@rmc.ca.gov>

Subject: LCWA Board Mtg 4/5/22 Comment on Agenda Item # 10

Dear Ms. Nguyen,

Please provide LCWA Board Members with the following information prior to tomorrow's meeting. The LCWTF opposes any digging in the Southern Los Cerritos Wetlands, which we consider to be anticipatory destruction of a wetlands wildlife sanctuary and tribal sacred site. Attached please find the documents that we submitted to the California Coastal Commission which verify that the LCWA does not intend to restrict mechanized drilling to existing roadways, but will extend new roadways and paths into sensitive habitat areas, destroying areas essential to wildlife and roosting and nesting birds. Drilling boreholes has the potential to damage/destroy evidence of tribal occupation, including human remains. The full impacts of the Southern Los Cerritos Wetlands Project have not yet been stated or reviewed as no EIR has been completed nor has a CDP been requested. To argue that the boreholes must be drilled before proceeding with a full environmental review makes it clear that the LCWA is not fully committed to environmental or tribal cultural preservation. Additionally, the reports submitted by Cogstone regarding the significance of tribal cultural evidence are inadequate and fail to meet the basic standard for archaeological surveying and analysis. See you at the meeting.

Thank you, Anna Christensen, Los Cerritos Wetlands Task Force, Sierra Club







The Southern Los Cerritos Wetlands are within the Sacred Site of Puvungna and on the village site of Motuucheyngna. Many ancestral remains and multiple cultural artifacts have been unearthed here. Chief Anthony Morales cautioned that the site is not being given the sensitivity it deserves. “As to this village and the sacredness, there are still human remains out there, nothing’s changed for me or for the tribal community. We know and we’re telling you, so when you find something, don’t act like you didn’t know.”



The LCWA falsely states that, “*The access routes for the drill rig, are all along existing roads onsite. Due to past land use operations on the property, several maintenance dirt roads bisect the site and will be used by the drill rig to access the boring locations. Where vehicle access would present a threat to existing vegetation, access by foot and the use of a hand auger is proposed.*” AND the LCWA also claims that there will be “*no impacts to raptor foraging habitat due to the geotechnical borings.*”

HOWEVER, MAPS SHOW THAT MOST BOREHOLES ARE TO BE IN WETLANDS, INCLUDING RAPTOR HABITAT AREAS, THAT CANNOT BE ACCESSED ON EXISTING ROADS OR BY EXISTING FOOT PATHS



Map showing location of 18 boreholes.

Drill rig will be used at borehole locations 5,6,7,10, 11, and 12, none of these sites are on existing roads.

Hand auger will be used at borehole locations 1, 2, 3, 4, 8, none of these sites are on existing foot paths.



Figure 8 Map of includes Drill Rig Access to boreholes 5,6,7,10,11,12 and foot path access routes to 1,2,3,4,8. These routes do not now exist and would be made by removing existing vegetation.



Google map of project area terrain shows wetlands, uplands, salt pans, and paved and unpaved roads. Most boreholes will be drilled in vegetated area, not on or accessible by existing roadways.



Google Map close up of project area terrain shows that no existing roadways lead to where boreholes 10,11,12 will be drilled using drill rig, and no existing foot paths lead to where 3,4, 8 will be drilled using hand auger.



Google Map close up shows overgrown path through raptor habitat area leading to boreholes 5,6,7 which will be drilled using drill rig. Not an existing roadway.

The LCWA cites financial considerations as the sole reason for drilling during nesting season. Even as conditioned, drilling operations will harm ground nesting birds, including the Endangered Belding's Savannah Sparrow. Multiple intrusions into wetlands nesting and foraging areas by the biologist and other project participants, and by the borehole rig itself, will result in nest abandonment and the physical destruction of eggs and juveniles.





11

Flooding seasonal brackish wetlands and uplands to create a salt marsh monoculture is NOT restoration, but replacement. The Southern Los Cerritos Wetlands were never a full tidal salt marsh. Acres of rare salt flats and most of the current nesting raptor foraging habitat will be lost Many residents will not survive.



This drilling project is anticipatory destruction in preparation for a destructive development. No geological or chemical boring is needed to protect and restore the Southern Los Cerritos Wetlands as a seasonal brackish wetlands wildlife sanctuary and Tribal Sacred Site.





To: California Coastal Commission

From: Chief Anthony Morales, Chair, Gabrieleno/Tongva San Gabriel Band of Mission Indians
Rebecca Robles, Acjachemen Culture Keeper, Los Cerritos Wetlands Task Force, Sierra Club
Anna Christensen, Puvunga Wetlands Protectors

RE: Coastal Commission Meeting March 11, 2022, Agenda Item F16a Application No. 5-21-0549

Dear Coastal Commissioners and Staff,

As none of the concerns expressed in our comments dated February 4, 2022 (when this item was on the Commission's February Meeting Agenda) have been resolved we have resubmitted these comments on Application No. 5-21-0549. **Please refer to this document for a full analysis of the project's failings.** In addition we are providing the following response to the revised Coastal Commission Staff Report and the Los Cerritos Wetlands Authority's Correspondence dated February 4, 2022.

The LCWA asked that Coastal Commission staff strike the term *Construction* from the revised Staff Report and their request has been granted. We would simply note that EIRs have only two phases, Construction or Management. Under the Coastal Act this drilling project is considered Development and since this Development is not Management, it is part of the Construction phase of the Southern Los Cerritos Wetlands Restoration Project. This Project has no CDP, no EIR, no Negative or Mitigated Negative Declaration, not even a Notice of Preparation because this huge multi-phased and potentially decades long Development Project is being intentionally piecemealed by the LCWA to avoid accountability for its "temporary" and cumulative impacts on the existing wetlands

The LCWA has consistently refused to take responsibility for the actual and potential negative consequences of its past, present, and proposed "restoration" activities, and this CDP request is no exception. Why should they agree to limit a three day drilling project to non-nesting season? Why not make new access roads for heavy drilling rigs and new footpaths for hand drilling in areas where birds and wildlife are now foraging, nesting, and breeding? Why bother to revegetate areas disturbed by drilling activities with plants native to the LC Wetlands? Clearly, if their plans succeed, these are all only "temporary" mitigations for life that will cease to exist once their restoration project is in full swing. Because, for many years to come, the LCWA will be grading, dredging, flooding and/or building 10ft high earthen flood control features on the Southern Los Cerritos Wetlands. This is their single minded vision for restoration and they will not consider *alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

Staff's conclusion that, *There is no other least environmentally damaging alternative to the geotechnical borings in the lowlands, if that area is to be successfully restored and open for public access and recreation in the future* simply reveals that they are in lockstep with the LCWA. Restoration of this area does not require geotechnical borings, nor demand increased salt water intrusion, public access, ¹⁴

recreation. None of these proposals are actually restorative as they fail to improve the quality of life on this historic and rare seasonal brackish wetlands and wildlife preserve.

BOREHOLE LOCATIONS CANNOT BE ACCESSED ON EXISTING ROADS OR FOOT PATHS

The LCWA falsely claims that access routes for drill rig are all on existing roads. The LCWA states that, “Section C. Figure 8 in the Sampling Analysis Plan (SAP) in Exhibit C provides the access routes for the drill rig, which are all along existing roads onsite. Due to past land use operations on the property, several maintenance dirt roads bisect the site and will be used by the drill rig to access the boring locations. Where vehicle access would present a threat to existing vegetation, access by foot and the use of a hand auger is proposed (Figure 8).”

The LCWA falsely states that there will be “no impacts to raptor foraging habitat due to the geotechnical borings” - geotechnical boring sites 5, 6, and 11 will impact raptor foraging habitat. The LCWA neglects to mention that eight chemical boring sites are located off road and that most of these sites are in designated raptor foraging habitat.

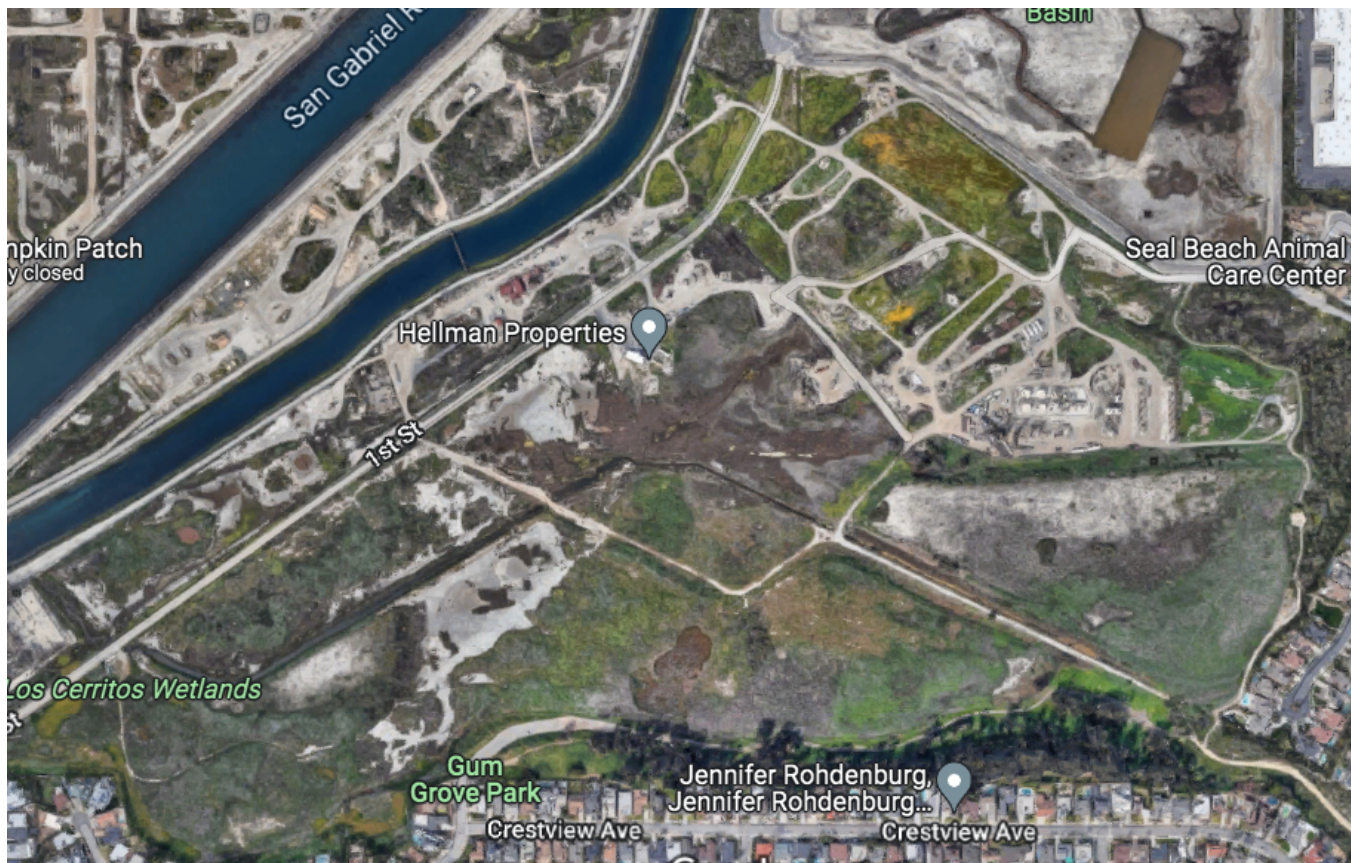
We support Coastal Commission staff’s request for the relocation of three proposed drilling sites (7, 10, 11) in the raptor foraging area where there is no existing road access, and where the LCWA proposes to use the mechanized drill rig. We would note that the drill rig is also to be used at sites 12, 5, 6, and 7 where there is no existing road access. Sites 1, 2, 3, 4 and 8 will use hand augers, however none of these sites are on existing trails. The LCWA’s mapped “drill rig access routes” and “foot paths” do not exist at the present time and establishing these new corridors will damage/destroy wetlands’ soils and plants and disturb wildlife. **We oppose drilling at all of these sites.**

Project and Google maps below show that both hand and mechanical drilling will be done in raptor foraging habitat areas and both hand and mechanical drilling will be done in areas where there is no existing road access nor existing foot paths and where vegetation supports wetlands wildlife and provides foraging and nesting for birds.

Map showing location of 18 boreholes. Boreholes not on existing roadways that will use drill rig are 5,6,7,10,11,12. Boreholes not on existing foot paths that will use hand auger are 1,2,3,4,8



Figure 8 map of proposed Drill Rig Access and Foot Path Access (which do not currently exist).



Google Map showing Project Area terrain, vegetation, and existing roadways



Google Map, close up of area showing no existing roads or foot paths where boreholes 10,11,12 will drilled using drill rig, and boreholes 3,4, 8 will be drilled using hand auger



Google Map - close up of overgrown path where drilling rig will drill boreholes 5,6,7 - not on roadway.

THE PROJECT DOES NOT AVOID NESTING SEASON IMPACTS TO THE EXTENT FEASIBLE

The LCWA's permit from the Orange County Health Care Agency which expires on 7/31/22 reveals that the LCWA has no commitment to the avoidance of nesting season impacts, in spite of the following Mitigation Measures in their own Los Cerritos Wetlands Restoration Program EIR:

Mitigation Measure BIO-4: Nesting Bird and Raptor Avoidance. Construction and maintenance activities shall be limited to the non-breeding season (September 1 through December 31) to the extent feasible.

Mitigation Measure BIO-3: Belding's Savannah Sparrow Breeding Habitat. Project activities shall be limited to July 16 through February 14 within suitable coastal marsh habitat to avoid impacts to breeding Belding's savannah sparrow.

The LCWA and its partners Tidal Influence and El Dorado Audubon currently provide walking tours across the Southern Wetlands raptor foraging area and other nesting and foraging habitats, during nesting season. While this does allow public access it also poses a threat to breeding animals and birds.

Staff gives no explanation as to why it has not conditioned that this three day project be done during non-nesting season - a feasible and less impactful alternative.

STAFF HAS NOT CONDITIONED THE PROJECT TO AVOID IMPACTING TRIBAL CULTURE AND SACRED SITE

The revised staff report states that:

*"One of the main concerns discussed in consultations following postponement of the item is, given the high potential for tribal cultural resources to exist at the project site and the uncertainty surrounding the future restoration effort, the Sacred Lands in which the site sits would be disturbed without good reason. In addition, these interested parties, including Chief Morales, do not support the restoration alternative that would involve significant grading in this sensitive resource area, which is part of the impetus for the proposed sediment sampling... **Therefore, staff is recommending that the proposed project be conditioned to preserve, protect, and minimize potential impacts to wetlands, water quality, biological resources, and archaeological and tribal cultural resources.**"*

All those involved in these consultations, including Chief Anthony Morales, Adrian Morales, Cheyenne Phoenix, Acjachemen Culture Keeper Rebecca Robles, and other members of the Los Cerritos Wetlands Task Force and the California Cultural Resources Preservation Alliance, made it clear that we are not only opposed to *the restoration alternative that would involve significant grading in this sensitive resource area* but are also opposed to the drilling of 18 boreholes as both anticipatory destruction and piecemealing of same *restoration alternative*. Given that neither the LCWA or Coastal Commission staff indicated that they were willing to withdraw the CDP or even postpone the public hearing, we did request that the project not be done during nesting season, that all drilling sites be on existing roadways, and that the information obtained from the drilling not be used to advance the LCWA's *restoration alternative* for grading, dredging, flooding, and burying the wetlands under flood control structures.

***Special Condition 2 Tribal Cultural Resources Treatment and Monitoring Plan* requires that:**

- *All tribal entities that accept the invitation shall be allowed to monitor project activities.*
- *The Permittee shall retain 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;*
- *At least one Native American monitor from each affected or interested tribal group be invited to be present at the site during all excavation activities to monitor the work.*

Native American monitors must be able to monitor ALL project activities, not just grading and subsurface activities. The development of new drill rig access corridors and foot paths will also impact surface and subsurface material. Furthermore, tribal cultural resources are not limited to buried human remains and manmade objects, but also include plant and animal life. The cumulative impacts of this project on tribal cultural resources and this Sacred Site can only be adequately observed and documented by tribal monitors if they are present throughout the entire project and are also able to observe and comment on subsequent impacts over time.

All those who are monitoring project activities must be paid to do so for the entire length of the project. The current practice of rotating tribal monitors from multiple groups does not meet the legal requirement that multiple tribal groups be able to monitor a project. Instead, it ensures that no tribal monitor will be able to observe all daily operations, form a coherent and consistent understanding of the project's impacts, and respond in a timely fashion. Nor does it allow multiple monitors to confer with one another in real time. On the Northern Los Cerritos Wetlands where the LCWA has partnered with Beach Oil Minerals, this rotational arrangement resulted in preventable damage to tribal cultural resources because some tribal monitors, who were not on site at the time, only learned of the matter after the fact.

The LCWA's claim that they cannot afford to pay multiple tribal monitors for three days of work reveals how little they value the expertise of tribal peoples and how dismissive they are of the tribal mandate to preserve both culture and homelands.

Staff states that, *The additional consultations have substantially improved the staff recommendation, and subsequent revisions to the staff report illustrate a greater understanding of tribal history and values, in the context of this project and beyond.* It is difficult to see how this is so as staff did not make changes to the project in response to these consultations where it was requested that the project be denied as anticipatory destruction and piecemealing, that the hearing be delayed, that nesting season be avoided, and that additional and cumulative impacts to tribal cultural resources, including impacts to plant and animal life, be acknowledged and avoided..

Staff further states that, *Commission staff has discussed the recommendations with Chief Morales, Rebecca Robles, and the Los Cerritos Wetlands Task Force on February 24, 2022, and all parties have come to an understanding that portions of the subject project may be necessary to carry out the investigative phase of a larger restoration effort at this site.* As no understanding of any kind was reached, we must state that this is simply untrue.

Finally we must also disagree with staff's assertion that, *The Commission acknowledges Tribal sovereignty.* A sovereign entity has the power to consent or to decline to do so. The Commission does not yet recognize the right of California's indigenous peoples to prevent the removal of tribal burials, to block the erasure of tribal cultural landscapes, or to access Sacred Sites, including those on public lands. **Saying a thing, unfortunately, does not make it so.**