

Central Santa Monica Bay Watershed Area Steering Committee (WASC) Meeting Minutes



Tuesday March 22, 2022
10:00am - 12:00pm
WebEx Meeting

Committee Members Present:

Cung Nguyen, LA County Flood Control District (Agency)
*Art Castro, LA Department of Water and Power (Agency)
*Michael Scaduto, LA City Sanitation and Environment (Agency)
*Darryl Ford, LA City Recreation & Parks (Agency)
Rita Kampalath, LA County Chief Sustainability Office (Community), Vice Chair
*Gloria Medina, The Solutions Project/SCOPE (Community)
*Maggie Gardner, LA Waterkeeper (Community)
Edgar Campos, T.R.U.S.T. South LA (Community)
Josette Descalzo, Beverly Hills (Municipal)
Lauren Amimoto, Inglewood (Municipal)
Roberto Perez, Los Angeles (Municipal)
Rafael Prieto, Los Angeles (Municipal)
Susie Santilena, Los Angeles (Municipal), Chair
Bruce Hamamoto, Los Angeles County (Municipal)
Curtis Castle, Santa Monica (Municipal)
Mikaela Randolph, Heal the Bay (Watershed Coordinator, non-voting member)
Michelle Struthers, S. Groner Associates (Watershed Coordinator, non-voting member)

*Committee Member Alternate

Committee Members Not Present:

E.J. Caldwell, West Basin Metropolitan Water District (Agency)
Alysen Weiland, PSOMAS (Community)

See attached sign-in sheet for full list of attendees.

1. Welcome and Introductions

District Staff conducted a brief tutorial on WebEx.

Susie Santilena, Chair of the Central Santa Monica Bay (CSMB) WASC, welcomed Committee members and called the meeting to order.

District Staff facilitated the roll call of Committee members. All Committee members made self-introductions and a quorum was established.

2. Approval of Meeting Minutes from February 22, 2022

District Staff presented the meeting minutes from the previous meeting. Motion to approve the meeting minutes by Member Edgar Campos, seconded by Member Art Castro. The Committee approved the February 22, 2022 minutes (approved, see vote tracking sheet).

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3. Committee Member and District Updates

Chair Santilena announced that the City of Los Angeles is holding an event at MacArthur Park Lake, which is also the location of a Regional Program Project funded by this WASC, on April 23, 2022. There will be a blessing ceremony in the afternoon and all members of the public are invited.

District Staff provided an update, noting:

- On March 1, 2022, the Board of Supervisors voted to continue meeting virtually, acting under the authority of Assembly Bill 361 which authorizes public committees to meet without complying with all the teleconferencing requirements of the Brown Act when the situation warrants it. The Board is reviewing its position every 30 days.
- Under the Municipal Program, FY 22-23 Annual Plan are due April 1st to the Safe, Clean Water Program (SCWP). Annual Plans are required to receive the Municipal Program revenue. If any municipality has not submitted their overdue Annual Plan, please do so promptly. The reporting module has been updated to add functionality and streamline the Annual Plan process. The recording from the March 7th webinar and a FAQ are available on the website.
- The SCWP 2022 Interim Guidance document is available for public review on the website. The 30-day public review period has been extended to March 27, 2022. Details on how to provide comments are available on our website.
- The District reminded the Committee members that it is important for the WASC and the work of the Regional Program to remain transparent and fair. These principles are built into the SCWP and are represented by the ex parte disclosures on each agenda. WASC members whose job connects them to specific projects should ask colleagues or consultants to attend WASC meetings to share about or advocate for those projects during Stormwater Investment Plan (SIP) deliberations and should avoid using their position as WASC members to advocate for projects from their home entities. Not all projects are connected to a WASC member's outside job, and those that aren't must advocate for their inclusion during the managed opportunities (the application itself, presentation(s), questions from the WASC, and the public comment period). Ensuring that each project gets treated fairly during discussion and voting agenda items and that all proponents have equal access to engage the WASC discussion needs to be part of how the WASC manages itself.

4. Watershed Coordinator Updates

Watershed Coordinator Mikaela Randolph provided an update on the Strategic Outreach and Engagement Plan that the Watershed Coordinators had been working on. One of the planned items for the Watershed Coordinators was developing an engagement resource for project proponents. However, the District recently released 2022 Interim Guidance, which has a large emphasis on outreach and engagement and because the District's ongoing Metrics & Monitoring Study will also produce engagement resources, the Watershed Coordinators will not be moving forward with developing an engagement resource, in order to not be duplicative.

Watershed Coordinator Randolph shared that the Watershed Coordinators hosted a very successful SCWP education event last week, which was a panel discussion about Nature-Based Solutions, Water Quality and Water Supply. The event received strong attendance and was featured in the Santa Monica daily newspaper. In addition to supporting the City of Los Angeles' event at MacArthur Park, the Watershed Coordinators will be hosting more watershed-wide educational events in April.

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a) Disadvantage Community Programming Presentation

Watershed Coordinator Michelle Struthers presented an overview of Disadvantaged Community Benefits generated by funded and proposed projects in the CSMB Watershed Area. The purpose of this presentation was to review the 20220 Interim Guidance and provide the WASC with a resource to enhance understanding of the Round 3 projects as it relates to Disadvantaged Community Benefits. The presentation reviewed definitions and previously funded projects and provided a framework to relate project location to claims of Disadvantaged Community Benefit, using proposed projects as an example. The presentation will be available on the SCWP website.

Member Josette Descalzo asked the Watershed Coordinators to explain the importance of the Parks Needs Assessment, which was mentioned in the presentation as tool to evaluate projects. Watershed Coordinator Randolph explained that the Parks Needs Assessment is a tool to complement Measure W. The Assessment offers a way to identify above-ground needs, such as breaking impermeable surfaces, to further the goals of the SCWP. Watershed Coordinator Struthers noted that the assessment can be used as a metric across all projects, but it is up to the WASC to decide how to consider the findings of the Parks Needs Assessment when rating projects.

5. Public Comment Period

Two public comment cards were submitted to the District in advance, concerning projects in the CSMB Watershed Area. District Staff communicated to the public members, who were both present in the meeting, that they would have the opportunity to share their comments related to the projects during the second public comment period. The public comment cards will be included as attachments to the meeting minutes.

Public member Ziggy Kruse commented that SCWP meetings are not well advertised. Ms. Kruse also expressed confusion about Agenda Item 6a since there are no details on the agenda. Ms. Kruse also requested clarification about the 5PM deadline for public comments to be submitted to the District in advance of the meeting, suggesting that a hard deadline on public comments violates the Brown Act. Ms. Kruse added that it is not clear from the website that public members can also provide comments during the meeting. District Staff explained that the deadline mentioned on the SCWP website is an internal deadline for District Staff to prepare public comments for the meeting, and that public comment without prior submittal of a card is welcomed at two spots in the agenda of each WASC meeting.

Public member Blue requested that abbreviations such as TMDL (Total Maximum Daily Load) be written out for the benefit of those who are not subject matter experts.

6. Discussion

a) Ex Parte Communication Disclosure

Member Maggie Gardner is not directly related to the any of the projects but noted that their organization, LA Waterkeeper, is part of OurWaterLA which is creating its own recommendations for the projects the WASC will be discussing.

Member Cung Nguyen communicated with Watershed Coordinators Struthers and Randolph regarding Los Angeles County Public Works and Los Angeles County Flood Control District's role in implementing the Ballona Creek Interceptor Project and methods of strategic communication.

b) Round 2 (FY 21-22 SIP) Projects Update

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i) Slauson Connect Clean Water Project, Corvias Infrastructure Solutions/Geosyntec Consultants – FY 22-23 SIP Allocation: \$733,831

Sean Agid (Project Developer) explained that changes in funding schedule are due to the inability to enter a multi-year Transfer Agreement in FY 21-22. The original application's funding schedule was structured to ensure there would be enough SCWP funds available for other projects and to accelerate project construction. That funding schedule has changed because a multi-year Transfer Agreement was not possible. Rather than requiring the project developers to front the funding with no guarantee it would be received in subsequent years, the yearly allotment of funding was adjusted. The total allocation is the same.

Member Descalzo requested context for why the multi-year Transfer Agreement was not possible. District staff explained that the SCWP Transfer Agreement does not guarantee future funding and requires addendums for each subsequent year. The project did not allocated funding in FY 21-22, so District Staff did not execute a Transfer Agreement. The proposed allocation reflects that a Transfer Agreement will be executed for FY 22-23, with four subsequent addendums expected. These changes are not reflected in the actual SIP, but District Staff has created a funding scenario view which reflects the change.

District Staff asked Mr. Agid to clarify the issues of the current allocation again. Initially, the Project Developer was willing to front the money and receive reimbursement later, but because future funds weren't guaranteed, the funding schedule was adjusted to reflect the actual expected project costs by year.

Member Descalzo commented that the SIP tool allows funds to be reserved for the future. District Staff confirmed this and explained that while most WASCs do approve subsequent funding requests, the SCWP cannot guarantee this because of the annual cycle of parcel tax revenue collection for the SCWP. Chair Santilena agreed, noting that the WASC should prioritize funding a project's subsequent requests, but due to the way the program is structured and how funding is dispersed, future allocations cannot be guarantee to a project developer.

Member Curtis Castle asked if the funding allocation change delayed any other projects. District Staff responded that there weren't delays in this case. District Staff suggested the WASC use the SIP tool to explore how the funding schedule change could impact other projects. District Staff suggested exploring this later in the agenda, when reviewing projects for inclusion in the FY 22-23 SIP.

Member Gloria Medina agreed that viewing the scenarios would be useful, prior to making determinations. Mike Antos (Stantec, Regional Coordination) encouraged WASC members to factor the funding allocation change into the multi-layered decisions that will accompany the SIP discussion.

Member Castle brought up the possibility that the project's funding allocation change may draw funds away from other projects and asked District Staff to consider reimbursement in later years to ensure the project be completed, since the total allocation remains unchanged.

Chair Santilena requested clarification from the project developer regarding operations and maintenance (O&M). Mr. Agid responded that under the initial plan, the project would

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have been completed in Year 2, resulting in 3 years of O&M. Now, the project is planned for completion in Year 3, with 2 years of O&M following. Chair Santilena noted this result in different capital costs. [Upon further review by the District, proposed changes by the Project Developer will not impact the SCWP project score]

ii) Ballona Creek TMDL Project, City of Los Angeles Sanitation and Environment (LASAN)
– FY 22-23 SIP Allocation: \$3,000,000

District Staff confirmed the allocation for this project with Brett Perry (Project Developer). The project schedule is a few months behind, due to delays in executing the transfer agreement for regional funding. The project team is finishing preparations for bid advertisement. The project requested and received extensions for four federal permits. The project is in a strong position to move forward and will provide more details in the upcoming quarterly reports. Mr. Perry also addressed a public comment regarding this project, explaining that the Ballona Creek TMDL Project and the Ballona Creek Trash Interceptor Pilot project are two different and separate projects. Mr. Perry is willing to discuss further.

Chair Santilena asked Mr. Perry to explain the TMDL acronym, to which Perry explained that it stands for Total Maximum Daily Load. TMDL is used by federal and California regulators to characterize the amount of pollutant a water body can receive and still be considered safe to support environmental and public health. District Staff asked Mr. Perry to stay in the meeting until after the second public comment period, to address any further concerns that may arise.

Member Nguyen also clarified that the Ballona Creek TMDL Project and the Ballona Trash Interceptor Project are distinct and separate projects. Member Nguyen is involved with the Ballona Trash Interceptor Project on behalf of the Los Angeles County Flood Control District. That project's purpose is to prevent trash generated during storm flows from reaching Santa Monica Bay and to protect the health and economic vitality of the Bay. Ballona Creek Interceptor Project is not requesting funds through the Safe, Clean Water Program, but it is somewhat aligned with the intents of the program, given that the project captures trash and cleans water flowing to the Pacific Ocean.

Member Descalzo requested the SIP tool be shared with the WASC when discussing funding allocation change requests, so that Committee members can see how the changes requested affect the overall funding scenario.

Member Mike Scaduto clarified with District Staff that the Ballona Creek TMDL Project is not asking for funding reallocation, but merely confirmed the previously earmarked amount of \$3,000,000.

c) Scientific Summaries Overview

i. [Community-Centered Optimization of Nature-Based BMPs Starting with Gaffey Nature Center Facility](#), SEITec

There was no discussion or comments about this proposal.

ii. [Microplastics in LA County Stormwater](#), Dr. Andrew Gray, University of California at Riverside (UCR)

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Dr. Andrew Gray provided a summary of the Study, which will investigate the amount and nature of microplastics present in stormflows, develop methods to monitor microplastics in stormflows, and predict concentrations of microplastics for stormflows that are not currently monitored. Dr. Gray noted that reviewers rated the Study as excellent overall. Dr. Gray addressed comments from reviewers. Regarding the Monitoring Plan, LA County and UCR will both be monitoring stormflows at four different stations, with one in Ballona Creek, to evaluate differences in sampling techniques and to monitor microplastic flow results.

Dr. Gray said the research group is proposing more intensive monitoring for single storm flow events for each system up and down the hydrograph to explore microplastic concentration. Specific analyses used to identify particles will continue to be updated and evaluated as new techniques emerge. Dr. Gray noted that first flush events will be prioritized, if possible, as those events tend to have higher concentrations. Dr. Gray noted that some reviewers proposed additional sampling, which Dr. Gray agrees with, though it would require additional funding. There were more comments regarding details on the Study's budget, and Dr. Gray is willing to go into more detail if needed.

Member Bruce Hamamoto commented that existing management for plastic waste and trash goes down to the 5mm size. Member Hamamoto observed that there isn't a TMDL for microplastics yet. Since the EPA is still developing its own federal guidance on microplastics, Member Hamamoto requested details on the benefits of conducting a localized microplastics study. Dr. Gray responded that local and regional monitoring efforts are part of the broader approach, and will be useful across federal, state and local/regional levels. Dr. Gray noted that the state of California has not historically waited for federal guidance to move forward with setting environmental standards and especially given Southern California's highly urbanized waterways, a localized study would benefit this region.

Member Castle asked for information about the status of the Study in the other Watershed Areas and asked if sources or mitigation measures had been identified or enacted, given the high concentration of microplastics already observed. Dr. Gray responded that the Study will first monitor microplastic concentrations to determine the particle characteristics, which can then be applied to identify the sources of pollution. Dr. Gray noted that the research group has started identifying sources, though some are clearer than others. Dr. Gray noted that once microplastics enter the streamflow, some level of mitigation or remediation is possible. Ultimately, a positive outcome would be reducing plastic usage. The Study hopes to build toward that goal by identifying the sources of microplastics.

District Staff moved on to the next Scientific Study but noted that further discussion for this Study will be held at the next meeting.

iii. [Regional Pathogen Reduction](#), *Gateway Water Management Authority*

Richard Watson (Gateway Water Management Authority, Study Applicant) provided background on the Study. The Study was initially created because individuals from the City of Los Angeles, Los Angeles County Flood Control District, and smaller watershed area representatives, agreed that it will be very difficult to achieve the regulatorily required reductions of the current fecal indicator bacteria wet weather flows, and that

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research is needed to strengthen the understanding of the problem and solutions for harmful bacteria pollution in the watersheds.

Earlier drafts of the Study were not seen favorably by the Regional Water Quality Control Board and has been amended as a result. Last year, two WASCs approved the Study but that level of funding was insufficient for the Study to move forward. This year, one WASC approved the Study and two WASCs approved the Study in last year's SIP, and although it would be ideal to have five or more Watershed Areas involved, the Study will move forward with whichever Watershed Areas decide to approve the study this year. The Regional Water Board shared support for the Study this year, and there is a chance that water quality standards may change to focus on human pathogens instead of indicator bacteria. This past year, the Study has been updated to include a fact sheet, a table of potential constituents to be monitored, and detailed monitoring locations, which are tied to the MS4 monitoring locations.

Mr. Watson reflected about the SCCWRP review of the scientific studies assessment that the Study's scope was incomplete, noting the lack of a study team. Mr. Watson explained that this was to be expected because the proponent specifically delayed the selection of the Study team to after the first phase of the Study, and after the formation and consultation with a stakeholder committee, comprised of NGOs, the Regional Water Board, the California State Water Board, and EPA Region 9. The Study team will include three national experts in addition to those selected by the stakeholder committee. The Study intends to create a complete scope of work after meeting with stakeholders to truly engage them in the study's design. There was general agreement on the overarching goal of the Study from the reviewers. Watson is willing to discuss any further questions Committee members may have.

iv. [Community Garden Stormwater Capture Investigation](#), *Los Angeles Community Garden Council*

Juan Diaz-Carreras (WSP, Study Applicant) provided a summary of the Study. The Study's goal is to evaluate how land use of community gardens aligns with SCWP goals. The Study aims to develop criteria to evaluate which BMP-type projects are applicable. The Study team will engage with community garden members to ensure Community Investment Benefits are realized. The Study will evaluate ways for SCWP Water Quality goals to be achieved in addition to those current benefits. The study uses a multilingual approach to gauge the current level of awareness of SCWP goals and identify the best ways for members of community gardens to participate in the program.

Member Hamamoto asked if this Study is a participation survey or a screening process for community gardens near relevant stormwater drains. Mr. Diaz-Carreras said that screening willing community gardens is an aspect of the Study, but the technical aspect of criteria development will guide evaluation of whether a SCWP project is feasible at a given garden location.

Mike Antos (Stantec, Regional Coordination) mentioned that although "Scientific Studies" has become the universal term, this aspect of the program is able to support both Scientific and Technical Studies.

Watershed Coordinator Struthers said it may be of interest to compare this Study with the Study funded by the ULAR WASC (LAUSD Living Schoolyards Pilot Study), as there are

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many similarities that could inform this Study. Watershed Coordinator Struthers provided a quick summary of the LAUSD Living Schoolyards Pilot Study which is investigating how to best use school campuses to further SCWP goals and evaluated the degree to which each campus's nature-based solutions and BMPs met SCWP requirements. Chair Santilena asked Watershed Coordinator Struthers to share the [information of link to the ULAR WASC Study with the applicant WASC.](#)

d) Review Updated Preliminary Rankings of Round 3 Projects for FY 22-23 SIP

District Staff provided the updated rankings of projects. Chair Santilena confirmed with District Staff that this survey is merely a discussion tool to make decisions regarding the SIP.

e) Central Santa Monica Bay (CSMB) Project Prioritization and Selection Discussion for populating the FY 2022-23 Stormwater Investment Plan (SIP) ([SIP Tool](#) & [CSMB Scoring Rubric](#))

i. Infrastructure Program (IP)

- (1) [Edward Vincent Jr. Park Stormwater Improvements](#)
City of Inglewood
- (2) [West Los Angeles College Soccer Field Basin Dry Well](#)
Los Angeles Community College District & BuildLACCD
- (3) [Angeles Mesa Green Infrastructure Corridor](#)
City of Los Angeles, LA Sanitation and Environment
- (4) [Ladera Heights – W Centinela Ave Green Improvement](#)
Los Angeles County Public Works

ii. Technical Resources Program (TRP)

- (1) [Fern Dell Restoration and Stormwater Capture](#)
Friends of Griffith Park

iii. Scientific Studies (SS)

- (1) [Community-Centered Optimization of Nature-Based BMPs Starting with Gaffey Nature Center Facility](#)
SEITec
- (2) [Microplastics in LA County Stormwater](#)
Dr. Andrew Gray, UC Riverside
- (3) [Regional Pathogen Reduction](#)
Gateway Water Management Authority
- (4) [Community Garden Stormwater Capture Investigation](#)
Los Angeles Community Garden Council

The District shared the SIP tool onscreen and reminded everyone that the intent of the SCWP is to ensure project completion so that benefits claimed can be realized. Partial funding in phases without secured funds and a clear pathway to completion is highly discouraged. Whether it be structured accordingly with the initial request or a consideration by the WASC during the SIP development, the messaging will be that if the WASC decides to consider partial funding in phases such that future phases are dependent on subsequent SCWP funding requests, the WASC must consider and anticipate the future costs during SIP deliberation even if it is not formally earmarked or shown in the projections for planning purposes. For future SIP transmittals to the Regional Oversight Committee (ROC), the District will also include a discussion of anticipated future costs, including operations and maintenance, and phases beyond design. Inclusion of those anticipated costs will better inform the ROC and Board for decision-making.

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Watershed Coordinator Struthers confirmed with District Staff that applicants are discouraged from applying for partial funding. In the case of design-only funding requests, Committee members should confirm that there is a pathway to completion. Member Scaduto voiced appreciation to project applicants for the time they have taken to apply and recommended starting the project decision discussion with an overview of the various scenarios, based on project rankings and prioritizations. District Staff has created various scenarios in the SIP tool based on the project rankings. WASC members may explore funding allocations by year, with various projects selected. Chair Santilena suggested the majority of next WASC meeting focus on discussing the SIP and requested that Committee members review the scenarios in the SIP tool beforehand.

7. Public Comment Period

Public member Jonathan Shaver thanked the Committee members and other organizations participating in the SCWP. Mr. Shaver expressed a belief that the Ballona Creek Trash Interceptor Project is not a good SCWP project because it is working against the goals of the SCWP. Mr. Shaver said the project is not good for the environment, Ballona Creek (which has both protected and ecological areas), or the wildlife in and near the creek and ocean. Mr. Shaver added that the project isn't supported by members of the community who are working hard to protect that environment.

Public member Bob Blue commented on the location of the Ballona Creek Trash Interceptor Project. Blue shared that a reason for some of the concern is that trash interception should be employed prior to the low flow treatment facilities, so that water can be treated before discharge. Mr. Blue requested that any LA County staff present reply via email, which can be found on the public comment card submitted to the District, which will be included in the meeting minutes.

Public member Ziggy Kruse submitted a public comment regarding the Ballona Creek Trask Interceptor project, expressing concern that fresh water is being used to move trash toward the interceptor, resulting in the potential waste of vast amounts of fresh water. Ms. Kruse expressed concern that this project conflicts with the goals set by Measure W and would rather see taxpayer funds be used for more worthwhile projects. Ms. Kruse requested that the project developer reach out to respond to their concerns.

Mike Antos (Stantec, Regional Coordination) suggested that the Watershed Coordinators may be the best resource to respond to the public comments, as the developers for the Ballona Creek Trash Interceptor Project may not be present and because the Central Santa Monica Bay Watershed Area Steering Committee has no authority related to that project.

8. Voting Items

There were no voting items.

9. Items for Next Agenda

The next meeting is scheduled for April 26, 2022, 10 AM – 12 PM. See the SCWP website for meeting details. Items for the next agenda include:

- a) Continued CSMB Project Prioritization and Selection Discussion for populating the FY 2022-2023 SIP
- b) Voting on Recommended FY 2022-23 SIP for CSMB Watershed Area

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10. Adjournment

Chair Santilena thanked WASC members and the public for their attendance and participation and adjourned the meeting.

CENTRAL SANTA MONICA BAY WASC MEETING - March 22, 2022

		Quorum Present				Voting Items	
Member Type	Organization	Member	Voting?	Alternate	Voting?	2/22/22 Meeting Minutes	Other Attendees
Agency	Los Angeles County Flood Control District	Cung Nguyen	x	Mark Beltran		Y	Andrew Gray
Agency	West Basin Metropolitan Water District	E.J. Caldwell					Bob Blue
Agency	Los Angeles City Water & Power	Delon Kwan		Art Castro	x	Y	Brad Parks
Agency	Los Angeles City Sanitation and Environment	Sheila Brice		Michael Scaduto	x	A	Brenda Ponton
Agency	Los Angeles City Recreation & Parks	Cathie Santo Domingo		Darryl Ford	x	Y	Brett Perry
Community Stakeholder	Los Angeles County Chief Sustainability Office	Rita Kampalath	x	Gary Gero		Y	Carmen Andrade
Community Stakeholder	PSOMAS / Business Sector	Alysen Weiland					Carollo Engineers, Inc. Rasmus
Community Stakeholder	The Solutions Project / SCOPE	Gloria Walton		Gloria Medina	x	Y	Chanel Kincaid
Community Stakeholder	Los Angeles Waterkeeper	Bruce Reznik		Maggie Gardner	x	Y	Chris Carandang
Community Stakeholder	T.R.U.S.T. South LA	Edgar Campos	x			Y	Christine McLeod
Municipal Members	Beverly Hills / West Hollywood	Josette Descalzo	x			Y	Cordoba Corporation Chupa
Municipal Members	Inglewood	Lauren Amimoto	x	Thomas Lee		Y	Daniel Apt
Municipal Members	Los Angeles	Roberto Perez	x	Max Podemski		A	Elizabeth Gallo
Municipal Members	Los Angeles	Rafael Prieto	x			Y	Geremew Amenu
Municipal Members	Los Angeles	Susie Santilena	x	Rebecca Rasmussen		Y	Gregor Patsch
Municipal Members	Los Angeles County	Bruce Hamamoto	x	Geremew Amenu		Y	Jalaine Verdiner
Municipal Members	Santa Monica	Curtis Castle	x	George Rodriguez		Y	Johanna Chang
Watershed Coordinator	Heal the Bay	Mikaela Randolph	x			N/A	Joyce Amaro
Watershed Coordinator	S. Groner Associates	Michelle Struthers	x			N/A	Kara Plourde
Total Non-Vacant Seats		17			Yay (Y)	13	Kindel Gagan Gagan
Total Voting Members Present		15			Nay (N)	0	LACCD Breckell
Agency		4			Abstain (A)	2	Marian Dodge
Community Stakeholder		4			Total	15	Mike
Municipal Members		7				Approved	Oliver Galang
							Richard Watson
							Sean Agid
							Serena Zhu
							State Water Resources Control Bo Gray
							Sunshine Saucedo
							Tiffany Wong
							Wendy Dinh
							WSO Diaz-Carreras
							Ziggy Kruse
							Conor Mossavi
							Gerry Hans
							Gus Orozco
							Jud Warren
							Lorena Matos
							Benn Kona
							CWE Harrel
							Curtis Fang
							Data Analysis Shaver
							Jim Rasmus
							Bruce Reznik



CENTRAL SANTA MONICA BAY

REVIEW OF DISADVANTAGED COMMUNITY BENEFITS

Tuesday, February 22, 2022

-Watershed Coordinators Presentation-




1

Purpose

1. Review the “Interim Disadvantaged Community Programming Guidelines.”
2. Explore the location of awarded projects and current projects under consideration in relation to disadvantaged communities.
3. Inform WASC decision-making regarding direct benefits to disadvantaged communities.
4. Inform WASC decision-making regarding community engagement and support.

Takeaway

- This slide deck is a resource for the WASC to reference when reviewing Round 3 projects.



Interim Disadvantaged Community Programming Guidelines

Safe, Clean Water Program

Implementing Disadvantaged Community Policies in the Regional Program



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Purpose:

Experience to date in the Regional Program reveals that aspects of Safe, Clean Water Program (SCWP) related to providing Disadvantaged Community Benefits require further guidance to better support achieving the outcomes sought. The SCWP emphasizes investments that produce benefits to or directly to disadvantaged communities. Consistent with the Disadvantaged Community Benefit policy in the Program is complex, and assessing what benefits accrue to which communities is not easily quantified.

As of May 2021, the District Program is developing a study which, among many things, will review how other funding programs that direct investment in disadvantaged communities have worked to overcome the many challenges that remain when seeking to implement the SCWP policy. That study will inform future guidance, currently expected in the Spring of 2022, in support of the master investment plan (MIP) development in the Regional Program for Year 4 (2022-23).

Available on the website under “Regional Program”
safecleanwaterla.org/regional-program-2/

2

Program Definitions

“**Disadvantaged community**’ means a census block group that has an annual median household income of less than eighty percent (80%) of the Statewide annual median household income (as defined in Water Code section 79505.5).” (Section 16.03(H))



Example of a Census Block Group in the ULAR

“**Disadvantaged Community (DAC) Benefit**’ means a Water Quality Benefit, Water Supply Benefit, and/or Community Investment Benefit located in a DAC or providing benefits directly to a DAC population.” (Section 16.03(I))

“Water Quality Benefit”



“Water Supply Benefit”



“Community Investment Benefit”



CSMB Disadvantaged Community Allocation

To date, the CSMB SIPs have met and exceeded required investment in disadvantaged communities.

DISADVANTAGED COMMUNITY (DAC) ALLOCATION	
Required DAC Ratio	50%
Required Funding for DACs FY21-26 (110%)	\$ 28,988,114
Funding Allocated for DACs FY21-26	\$ 31,093,162

Source: CSMB 21-22 SIP

SCW DAC Policy Reminder:

Provide Disadvantaged Community Benefits that are $\geq 110\%$ of the ratio of the disadvantaged community population to the total population in the Watershed Area. (Section 18.04 (I))

Projects provide a Disadvantaged Community Benefit if:

1. **Any of the construction effort** is **within** a census block group designated as a disadvantaged community

OR

1. **None** of the construction effort is within a census block group designated as a disadvantaged community **BUT it provides a “direct benefit”** to a census block group designated as a disadvantaged community.

5

What Counts as a “Direct Benefit?”

Whether a Project provides a “direct benefit” will be a **decision made by WASCs on a project-by-project basis**, considering:

- the goals of the SCWP,
- the benefits provided to the community by each Project, and
- the area within which those benefits will be felt.

6

How Can you as a WASC Validate Direct Benefits?

Hearing from community members is the best way to validate a direct benefit.

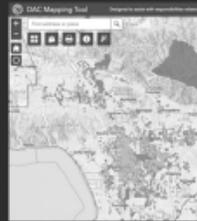
Other Possible Considerations:

Adjacency:



Some projects are near disadvantaged block groups.

External Datasets:



Other Census data (DWR DAC Mapping Tool)



[CalEnviroScreen 4.0](#)



LA County RPOSD Park Needs Assessment

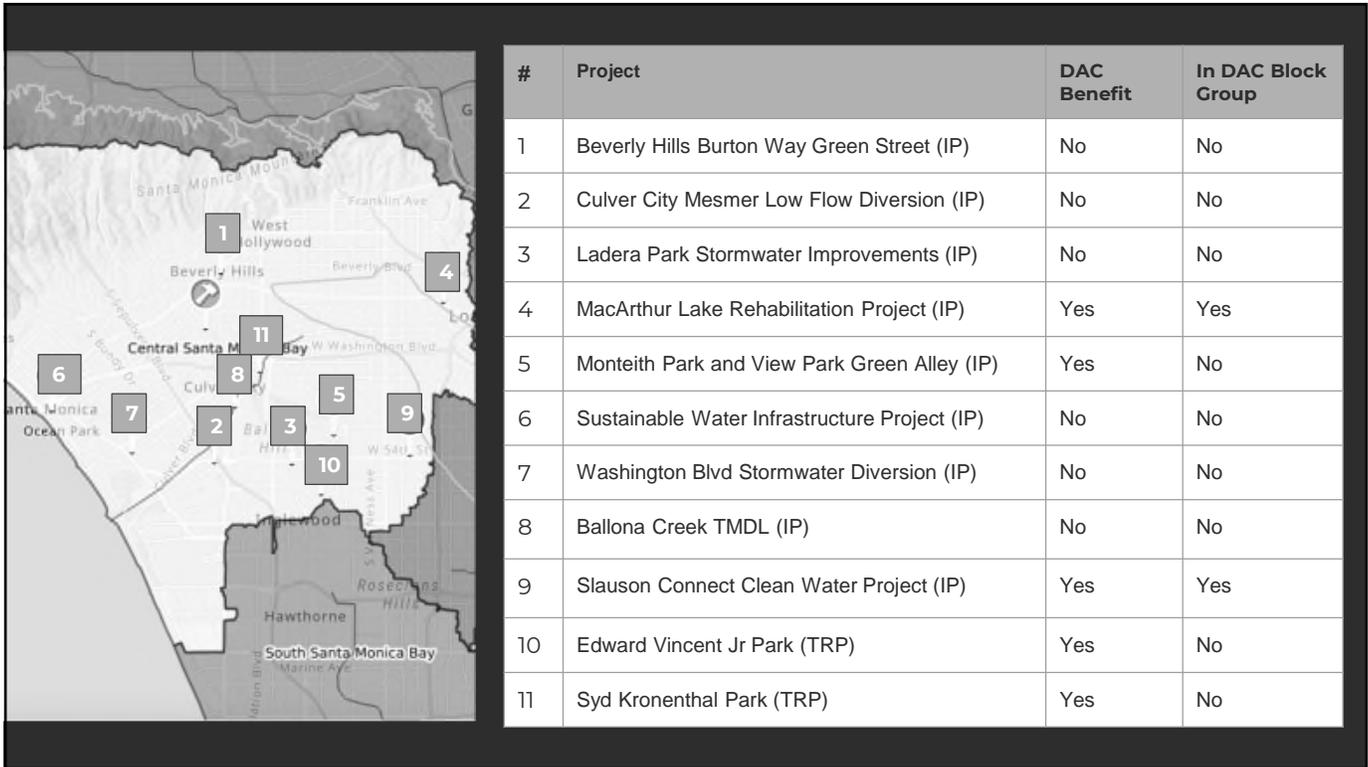


IRWM DAC Involvement Program Greater LA County Needs Assessment

7

SUMMARY OF PROJECTS FUNDED

8



9

SUMMARY OF PROJECTS UNDER CONSIDERATION

10

DAC Benefits Framework

3 “Buckets”

Projects Located Within a 2018 Disadvantaged Census Block Group (thus expressly benefit a DAC)



Projects NOT Located Within a 2018 Disadvantaged Census Block Group and NOT Claiming a DAC Benefit



Projects NOT Located Within a 2018 Disadvantaged Census Block Group but ARE Claiming a DAC Benefit



11



Submitted 22/23 Projects
Located Within a 2018 Disadvantaged
Census Block Group

Suggested Action: None. If implemented, expressly provide disadvantaged community benefits according to Safe, Clean Water Program Guidelines

12

IP Angeles Mesa Green Infrastructure Corridor Project - DAC Summary

Lead: LASan
Funding Requested: \$8.4 M



Disadvantaged community census block groups (2018)

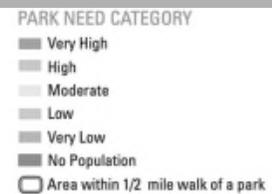
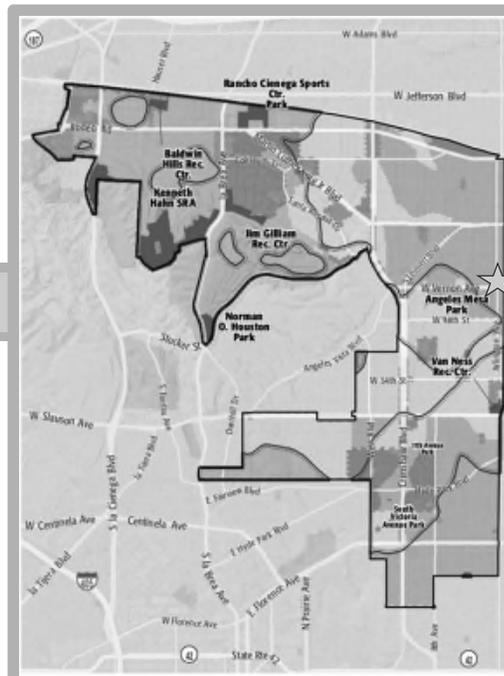
Located within 2018 DAC Census Block Group?	Yes
Does application claim DAC benefit?	Yes
CalEnviroScreen Score	79th

Provides direct disadvantaged community benefit according to SCWP guidelines ✓

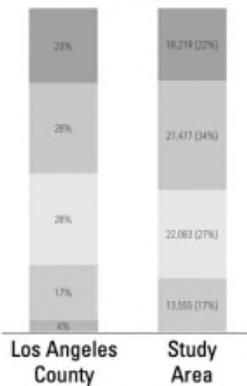
13

IP Angeles Mesa Green Infrastructure Corridor Project - Parks Need

Park Need: Moderate - High



HOW MANY PEOPLE NEED PARKS?



14



Submitted 22/23 Projects NOT Located Within and NOT Claiming Benefits to a Disadvantaged Census Block Group

Suggested Action: None. No further assessment required by WASC regarding disadvantaged community benefit.

15

IP Ladera Heights - W Centinela Ave Green Improvement - DAC Summary

Lead: LA County Public Works
Funding Requested: \$500,000



Disadvantaged community census block groups (2018)

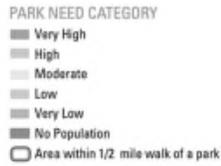
Located within 2018 DAC Census Block Group?	No
Does application claim DAC benefit?	No
CalEnviroScreen Score	47th

No direct benefit to a disadvantaged community claimed by applicant.

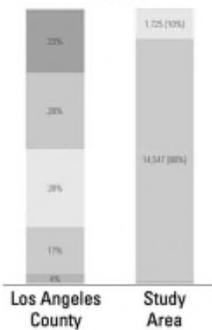
16

IP Ladera Heights - W Centinela Ave Green Improvement - Parks Need

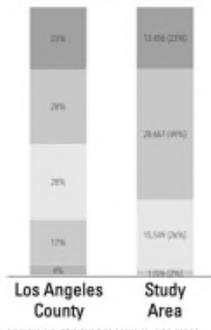
Park Need: Moderate - Very High



HOW MANY PEOPLE NEED PARKS?



HOW MANY PEOPLE NEED PARKS?



Source: LA County Parks Needs Assessment (2017)

17



Submitted 22/23 Projects
 NOT Located Within and ARE Claiming
 Benefits to a 2018 Disadvantaged
 Census Block Group

Suggested Action: Up to the WASC's discretion to validate whether these projects would provide direct benefit to disadvantaged communities if implemented.

18

IP Edward Vincent Jr. Park - DAC Summary

Lead: City of Inglewood
Funding Requested: \$4.27 M



Disadvantaged community census block groups (2018)

Located within 2018 DAC Census Block Group?	No
Does application claim DAC benefit?	Yes
Distance to nearest DAC (mi)	0
CalEnviroScreen Score	87th

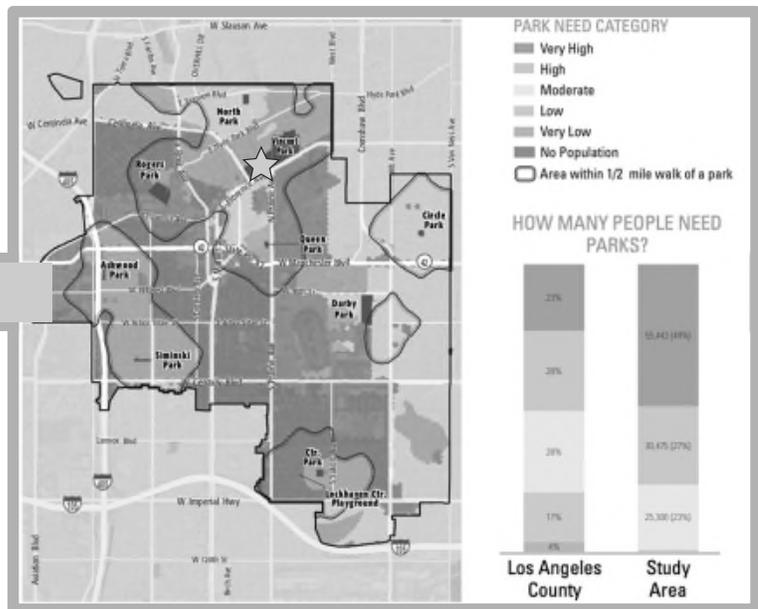
DAC Benefits Described in Application:

- Adjacent DAC block groups will benefit from enhanced park and improved public health from decreased pollution.
- Located in Inglewood, a census designated DAC
- Water quality benefits to downstream DACs

WASC to validate direct benefit to a disadvantaged community.

IP Edward Vincent Jr. Park - Parks Need

Park Need: Moderate - High



Source: LA County Park Needs Assessment (2016)

IP West Los Angeles College Soccer Field Basin Dry Well Project - DAC Summary

Lead: Los Angeles Community College District & BuildLACCD
Funding Requested: \$399,967



Disadvantaged community census block groups (2018)

Located within 2018 DAC Census Block Group?	No
Does application claim DAC benefit?	Yes
Distance to nearest DAC (mi)	1.25
CalEnviroScreen Score	48th

DAC Benefits Described in Application:

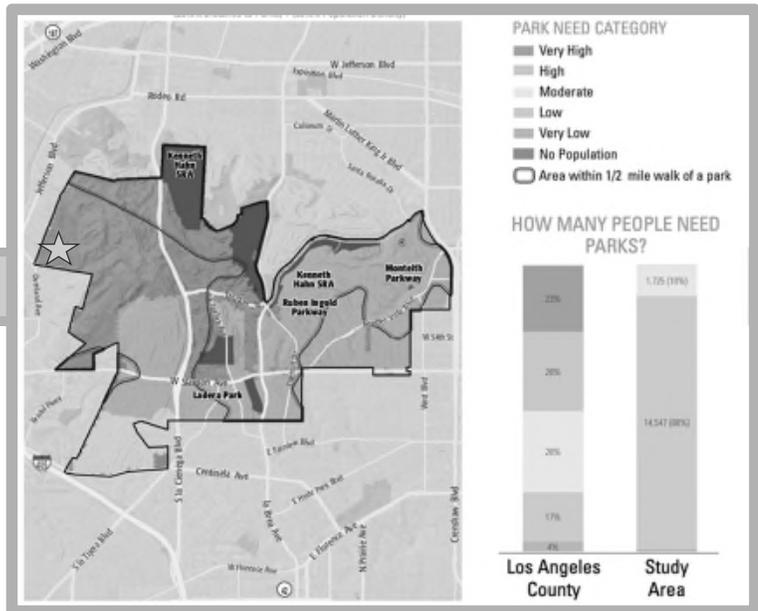
- West Los Angeles College serves the disadvantaged communities near its campus
- Based on LACCD records, approximately 55.2% of WLAC students received the College California College Promise Grant (CCPG), which is qualified for on the basis of income.

WASC to validate direct benefit to a disadvantaged community.

21

IP West Los Angeles College Soccer Field Basin Dry Well Project - Parks Need

Park Need: Very Low



Source: LA County Park Needs Assessment (2016)

22

TRP Fern Dell Restoration and Stormwater Capture Project - DAC Summary

Lead: Friends of Griffith Park
Funding Requested: \$300,000



Disadvantaged community census block groups (2018)

Located within 2018 DAC Census Block Group?	No
Does application claim DAC benefit?	Yes
Distance to nearest DAC (mi)	0.55
CalEnviroScreen Score	40th

DAC Benefits Described in Application:

- Located within .55 miles of a DAC
- Located less than 0.5-miles of the LA Metro Red Line.
- Enhance recreation & gathering spaces at a free of charge space.

WASC to validate direct benefit to a disadvantaged community.

TRP Fern Dell Restoration and Stormwater Capture Project - Parks Need

Park Need: Low



Source: LA County Park Needs Assessment (2016)



Public Comment Form

Name:* Corin Kashn Organization*: Guardians of the Ballona Ecology
Email*: cvlkesq@outlook.com Phone*: 424 252 4714
Meeting: Watershed Area Steering Committee Central Sant Date: 03/22/2022

LA County Public Works may contact me for clarification about my comments

*Per Brown Act, completing this information is optional. At a minimum, please include an identifier so that you may be called upon to speak.

Phone participants and the public are encouraged to submit public comments (or a request to make a public comment) to SafeCleanWaterLA@dpw.lacounty.gov. All public comments will become part of the official record.

Please complete this form and email to SafeCleanWaterLA@dpw.lacounty.gov by at least 5:00pm the day prior to the meeting with the following subject line: "Public Comment: [Watershed Area] [Meeting Date]" (ex. "Public Comment: USGR 4/8/20").

Comments

Item 6.b.ii:

Ballona Creek TMDL Project, City of Los Angeles Sanitation and Environment (LASAN)FY 22-23
SIP Allocation: \$3,000,000

Good Morning:

i have attached a legthy letter to this email

CORIN L. KAHN

ATTORNEY AT LAW

401 WILSHIRE BOULEVARD, 12th Floor
SANTA MONICA, CALIFORNIA, 90401

TELEPHONE: (424) 252-4714

WRITER'S E-MAIL:
CLKESQ@OUTLOOK.COM

OUR FILE NUMBER:

March 22, 2022

VIA eMail Only

SafeCleanWaterLA@dpw.lacounty.gov

Los Angeles County Watershed Committee

Re: AGENDA ITEM # tem 6.b.ii: Ballona Creek TMDL Project, City of Los Angeles Sanitation and Environment (LASAN)FY 22-23 SIP Allocation: \$3,000,000

Dear Honorable Chairperson and the Honorable Members of the Committee:

This firm represents the homeowners of the surrounding residential neighborhood and includes a wider group of residents and homeowners of the Playa del Rey area of the County who are very concerned about the many failures to fully consider the consequences of the planned deployment of a project known as the Interceptor ("Petitioners.") This letter will be sent to the County Board of Supervisors and if County continues to move forward with deployment of this project, it will likely be filed as a petition with the Superior Court seeking to stop that deployment.

The purpose of this letter is to alert your committee about the problems that have not been fully considered in order that this Committee become aware of these issues at the earliest time.

If necessary, Petitioners will petition the Los Angeles Superior Court for extraordinary relief in the nature of a Writ of Mandate (*Code of Civil Procedure* Section 1085 and *Public Resources Code* Section 21168) directed to Respondents, described above the County of Los Angeles; Board of Supervisors of The County of Los Angeles County, Mark Pestrella, In His Capacity As Director of Public Works of The Los Angeles County and Does 1 through 20, inclusive, (hereinafter collectively referred to sometimes as "Respondents" and sometimes as the "County"), and Declaratory (*Code of Civil Procedure* Section 1060) and injunctive relief to set aside and vacate County's decisions to deploy the Interceptor.

Petitioners will seek these forms of relief on the grounds that the decisions by Respondents to authorize Public Works to enter into a contract with TOC in which TOC agreed to provide the County with specialized equipment to be operated and maintained by the County (the "Interceptor") for the purpose of gathering and removing certain forms of garbage from the Ballona Creek for disposal in a landfill, and the accompanying adoption of a Notice of Exemption ("NOE") determining that these activities are exempt from the procedural and substantive requirements of the California Environmental Quality Act (*Public Resources Code* Sections 21000 *et seq.*, and 14 *Cal. Code of Regs.* Sections 15000 *et seq.* hereinafter "CEQA"),

do not comply with all applicable law relating to these proposed activity and those which are a direct and indirect consequence of these actions.

Petitioners allege that these two actions, and subsequent processing of the matters related to these actions taken by the Board constitute a prejudicial abuse of discretion inasmuch as Respondents have not proceeded in the manner required by law, the decision is not supported by findings, and the findings are not supported by the evidence in the record including in particular failure to comply with CEQA.

The true names and capacities of Respondents named herein as DOES 1 through 20, inclusive, whether individual, corporate, associate, or otherwise, are not now known to Petitioner and said Respondents are sued by such fictitious names. Petitioner will ask leave of Court to amend the Petition and Complaint to show the true names and capacities when the same have been ascertained.

Petitioners are informed and believe and thereupon allege that Respondents, and each of them, were agents of the other, and each and every act alleged herein as performed by one of them, or all of them, was performed as the agent to the other, and each of said Respondents acted and performed within the scope of said agency relationship.

II. STATEMENT OF FACTS

PHYSICAL ENVIRONMENTAL SETTING

The Ballona Creek is a channelized waterway that drains the watershed of approximately 130 square mile watershed, including parts of the cities of Los Angeles, Beverly Hills, Culver City, Santa Monica, West Hollywood, Inglewood, Westchester, and unincorporated areas within the County.

The channelization of the Creek occurred in or about the 1930s as part of a massive effort to control flood waters during the episodic rain events that occur in Southern California that at times could otherwise be devastating to adjacent neighborhoods. The channelization attempted to follow as much as possible the natural watercourse of the Creek to the Pacific Ocean (“Ocean”) where the Creek empties some 9 miles from the origin of the channel. located within the City of Los Angeles at or about Cochran Ave. near Venice Boulevard.

The water enters the Creek through a series of storm drains located throughout the watershed. Therefore, in addition to extraordinary volumes of rainwater during episodic rain events, the Creek has water during what is referred to as the dry-weather periods that occur it at all times from urban run off

A bicycle path runs the entire length of the Creek from the beginning of the channel to the ocean. The bike path is an extremely popular recreational resource used by thousands of hikers and bikers per day on a typical weekend or holiday.

At approximately 3 miles upstream from the ocean, the Centinela Creek contributes water to the Creek. At approximately 4 miles upstream from the ocean, the Sepulveda Channel contributes water to the Creek.

The last approximately 1.75 miles of the Creek involve several critical environmental resources. Beginning just downstream of Lincoln Boulevard are an ancient tidal wetlands called the Ballona Wetlands (“Wetlands.”) As its name implies the Creek feeds freshwater and tidal water into the Wetlands throughout the year. The Wetlands are approximately 500 acres and 1.75 miles long

measured from where the Creek enters the Wetlands to where it has passed the Wetlands, which is approximately 1.75 miles from the ocean.

The Wetlands are also provided with ocean water based on tidal water flow. Therefore, as is the case with wetlands throughout Southern California, the water involved in the Wetlands is described as brackish, meaning slightly salty, as is the mixture of river water and seawater in estuaries. Wetlands

Wetlands in general and the Ballona Wetlands in particular are well recognized as a scarce and precious environmental resource for a wide range of environmental considerations. In or about 2017, a huge commitment was made by several government agencies including the County to the restoration of the Wetlands as proposed by California Department of Fish and Wildlife and the United States Army Corps of Engineers (“Corps.”) That project is scheduled to get underway, perhaps as soon as this year.

The last approximately 1.75 miles of the Creek are separated from the Marina del Rey harbor channel (“Marina Channel”) by a rock jetty that was built in or about the 1960s and is maintained by the Corps at this location, the Creek ranges in depth depending on the tide. It is in this location that college crew teams practice their rowing. UCLA maintains an athletic center within the Marina Channel just downstream of the Creek of the Wetlands

The approximately ___ miles long jetties on both sides of the Creek, maintained by the County by its Division of Beaches and Harbors, provide recreational opportunities well used access to persons fishing, walking, and viewing the boats entering and exiting the Marina Channel. Beyond both the Marina Channel and the Creek is a long rock breakwater that protects by deflecting ocean storm tides away from both of these discrete bodies of water. That breakwater is a well-used and widely recognized sea mammal “haul out.” “Hauling-out” typically occurs between periods of foraging activity. Rather than remain in the water, pinnipeds haul-out onto land for reasons such as reproduction and rest.

OTHER MATERIAL FACTS INVOLVING THE ENVIRONMENTAL SETTING

All of California, but more particularly and severely, Southern California is experiencing a long cycle of drought conditions. It has been generally accepted among climate scientists, that this cycle is long-term. And because current efforts to address this issue seem to be in its infancy, and there is little evidence of significant changes in the behavior of most people, this phenomenon is anticipated to last into the foreseeable future, and will likely be exacerbated by also well recognized and accepted among climate scientists as the general warming of the earth (“Climate Change.”)

The State Legislature has been taking steps to prepare the State for the long-term effects of Climate Change since at least 2006 by Executive Orders and by the Legislature’s regular enactment of various land use and transportation schemes since then.

On November 6, 2018, voters enacted Los Angeles County Measure W (“Measure W”) by an overwhelming majority consisting of very nearly 70% of those who voted. Measure W was described on the ballot as an ordinance for the purpose of: “improving/protecting water quality; capturing rain/stormwater to increase safe drinking water supplies and prepare for future drought; protecting public health and marine life by reducing pollution, trash, toxins/plastics entering Los Angeles County waterways/bays/beaches; . . . raising approximately \$300,000,000 annually until ended by voters. . . .”

There are two aspects of Measure W that are of particular concern in this petition: 1) “reducing pollution, trash, toxins/plastics entering Los Angeles County waterways/bays/beaches” and 2)

“capturing rain/stormwater to increase safe drinking water supplies and prepare for future drought.”

Los Angeles County has been and remains actively involved in many programs to limit the amount of pollutants that could enter the Creek. Despite significant combined effort by the municipalities that comprise the watershed area and the County to prevent pollutants from entering the Creek, the County has been developing and enhancing the means to capture significant amounts of garbage, one prevalent and particularly visible form of pollutants, that at times inundates the Creek. For the past 4 years, the County self-reports that it has removed 37, 27, 10 and 26 tons of garbage from the Creek for each of those years, respectively.

Petitioners are informed and believe that to date, little or perhaps nothing at all has been or is currently being done to prevent two very significant pollutants known to enter the waters of the Creek and into the Ocean: 1) microplastics, roughly defined as “small plastic pieces less than five millimeters long which can be harmful to ocean and aquatic life; and 2) toxins. The County self-reports that among the many toxins that flow to the Ocean by means of the Creek.

The method the County presently employs is a trash inhibiting boom that is stretched across the Creek that intercepts all floating trash and at least some of the trash that is not floating on the surface of the water is also captured before it flows down the entire length of the Creek, into the Ocean, and then washing up onto the shore line throughout the Santa Monica Bay, or floating out to sea. Then, from time to time, employees of the Department’s Stormwater Division, physically extract the garbage caught behind the boom and haul it to a land fill.

Petitioners are informed and believe that the County has not employed all economically feasible methods of removal of the garbage from off of the booms, including frequency, such that some of the garbage escapes the boom and flows down the Creek into the Ocean, particularly after a major storm event. Nevertheless, the system objectively has been a substantial success, measured in part by annual improvements of the measures OF water quality within the Bay and at nearby beaches.

BASELINE

The County also has not been forthcoming regarding the baseline. Based on the Plan submitted to each Supervisor dated October 1, 2019, Public Works promised to improve the technology used to float the trash intercepting boom, and add two additional booms to gain better control over the garbage, especially during high water surge events. This was in fact implemented in or about 2020. The record contains no evidence about the efficacy regarding this intervening solution that the Interceptor is intended to address that was implemented subsequent to the vote of the Board to authorize Public Works to partner with TOC. In other words, there is a new baseline and there is not information about it. The significance of that there is no evidence in the record that the Interceptor will be deployed to solve any problem. There simply might not be one. If so, then the Interceptor is a solution in search of a problem.

PROJECT DEVELOPMENT AND PROJECT REVIEW

To further enhance the efficacy of this system in or about March 19, 2019, the County, by its Board of Supervisors approved a motion directing Public Works to report back on trash reduction efforts associated with Ballona Creek

On March 19, 2019, the Board approved a motion directing Public Works to report back on trash reduction efforts associated with Ballona Creek. Based on the language of the motion, its purpose was to advance on-going efforts by County in coordination with the municipalities that comprise the watershed area of the Ballona Creek to identify alternative “trash and debris

collection and removal methods” and including a coordinated effort to obtain grant “opportunities for future in-channel solutions” The motion identified 5 specific alternatives the County requested be evaluated. Petitioners contend the County’s adoption of this Motion set into motion the development of a comprehensive plan (the “Plan.”)

In response, on June 17, 2019, Public Works submitted a summary of steps currently being taken by watershed cities to control trash at the source and a report on an evaluation of trash removal options in Ballona Creek. In that report, Public Works committed to promptly initiate preliminary design and concurrently move forward with environmental documents required for grant eligibility. Petitioners are informed and believe that this memorandum was only submitted to the Supervisors, individually, not to the Board as a whole.

On October 1, 2019, Public Works submitted details for its proposed multi-year, multi-agency Plan to reduce trash and debris littering local. In that Plan, in the short-term Public Works represented to the Supervisors that it continued “to enhance trash collection along Ballona Creek . . . including modifications to the existing trash net system located downstream from Lincoln Boulevard . . . [a]dditional design modifications . . . increased the frequency of the trash removal . . . two additional trash net systems . . . and the Department of Beaches and Harbors operates a skimmer boat and two fixed trash skimmers and conducts daily letter removal along the beaches. . .”

Also in The October 1, 2019 report, Public Works stated it had initiated the preliminary design of a long-term engineered solution at Alla Road which involved construction of a side channel trash removal structure, including preparation of the CEQA documentation (the "Alla Road Program.") Petitioners are informed and believe that the Alla Road Program was intended to provide the permanent solution to the County’s efforts to clean debris from the Creek. With respect to micro debris, bacteria, toxins, Public Works reported that the City of Los Angeles was planning to install three low-flow diversion projects to divert urban runoff to the sewer system for treatment and recycling which would remove bacteria, toxins, and smaller pieces of trash. Petitioners are informed and believe that this memorandum also was only submitted to the Supervisors, individually, not to the Board as a whole.

Petitioners contend that this document meets the second specific instruction from the Supervisors that Public Works “develop a multi-year, multi-agency plan to reduce trash and debris littering local beaches near the Ballona Creek outlet. . .” As such, the October 1, 2019 report represents the beginning of the County’s development of a master plan or a program to reduce trash and debris from Ballona Creek. This step constitutes a “project” as defined by CEQA.

No mention of the Interceptor was made in any part of the March 1, 2019 Motion, the June 17, 2019, Memorandum from Public Works to the Supervisors. More importantly, there is no mention of the Interceptor in the October 1, 2019 Plan.

Petitioners are informed and believe that independent of the process set into motion by the Board’s adoption of the March 19, 2019 Motion, and outside of the Public Works’ planning, coordinating, consulting with other municipal agencies, etc. and outside of the consideration given by the individual members of the Board of Supervisors who each individually received the Public Works June 17, 2019 memorandum and the October 1, 2019 memorandum which stated nothing about the Interceptor, Supervisor Hahn was leading an effort to utilize the Interceptor instead of any of the 5 alternatives identified in for the trash removal that had been identified and discussed in the reports and discussions in connection with the March 1, 2019 Motion, the June 17, 2019, Memorandum from Public Works to the Supervisors, or the October 1, 2019 Plan.

In fact, Supervisor Hahn had been actively engaged in advancing the Interceptor as the solution to cleaning Ballona Creek since early in 2019 and throughout the year. Petitioner is informed and believes that sometime in or about February 2019, Supervisor Hahn caused the choosing of a site for the Interceptor east of the Pacific Ave. bridge at the south end of the lagoon between two residential areas. Then, in or about, April 15, 2019, Supervisor Hahn arranged a press conference to announce the County's "commitment" to the Interceptor. This was an inaccurate statement in that County had not made any commitments to the Interceptor, nor considered the Plan Public Works had been instructed to develop, nor authorized environmental review of the Plan.

The first evidence of the appearance of the Interceptor on the record occurred at a meeting of the Supervisors on November 5, 2019. At that meeting, the matter of authorizing the Los Angeles County Flood Control District ("District") to enter into a contract with TOC to accept the use of the Interceptor for two years. Also presented was a proposed Notice of Exemption ("November 5, 2019 NOE"), to proceed without any CEQA review on the grounds. The Interceptor is a trash barge semi-enclosed by a shell designed to conceal what lies within it. A significant missing element of this "action" taken by the Board is the absence of any evidence submitted to the Supervisors about the Interceptor at all, including its efficacy. Nothing in the record establishes that the Interceptor has the potential to remove garbage more effectively than the system Public Works had deployed at the time

Petitioners are informed and believe that the record contains no explanation for why Supervisor Hahn's early interest in the Interceptor was not included in any of the Public Works' reports to the Supervisors reports; or why it was not referenced in the March 19, 2019 Motion, although chronologically it could have been.

Petitioners are informed and believe that the record contains no explanation for why Supervisor Hahn's November 5, 2019 Motion that the Board authorize the District to enter into a contract with TOC contains no supporting evidence for why that should happen in lieu of the Plan that Public Works was instructed by the Motion of March 19, 2019 to develop and that had been the subject of extensive effort by Public Works throughout 2019.

Petitioners are informed and believe that the Board voted to authorize the District to enter into a contract with TOC without any supporting material submitted into the record regarding the Interceptor, how it worked, its successes and failures based on implementation under other conditions, reasons why it will work assist the County to meet the goals set out for Ballona Creek, among other pertinent information. The record contains no information that the Interceptor is a superior alternative to those identified in the in both the June 17th Memorandum and the October 1, 2019 Plan that the Supervisors requested by their March 19, 2019 Motion.

Petitioners are informed and believe that the record contains no explanation for why Supervisor Hahn's November 5, 2019 Motion to authorize the District to work with TOC was selected by the County as a means to proceed with addressing their concerns about Ballona Creek.

Petitioners contend that the authorization to contract with TOC represents a small piece of the much more expansive Plan to reduce the unwelcome foreign substances within Ballona Creek that pollute the Ocean, litter the beaches, detract from the Wetlands, and are damaging to the wildlife that live near and in many cases rely on the Creek and Wetlands as their habitat. As a piece that has been carved off of the totality of the multi-agency multi-year Plan the Board committed to create by its March 19, 2019 motion, consideration of it in isolation constitutes improper "piecemealing" as that term is defined in CEQA.

Despite unambiguous statements and projected implementation dates made by Public Works regarding the processing of the Alla Road Project, Petitioners have made a futile search for any evidence in the record that further efforts have been made to do so since on or about November 2019. Petitioner is informed and believes that one of the undisclosed outcomes of the adoption of the Interceptor is that it killed the Alla Road Project as a permanent solution to the challenge of cleaning Ballona Creek.

Petitioners are informed and believe that the record contains no explanation for why no action has been taken on the Plan developed by Public Works that is fully consistent with the demands of the Board in the March 19, 2019 Motion, or why the Alla Road project has been killed.

CEQA PROCESS

Petitioners were not informed in any manner in advance of the November 5th action taken by the Board including any advance notice of the fact of or contents stated in the November 5, 2019 NOE. Petitioners are informed and believe that the County failed to comply with the notice requirements set forth in CEQA regarding their intentions to consider and adopt the November 5, 2019 NOE.

In addition to the County's failure to comply with the CEQA notice requirements, the November 5, 2019 NOE failed to comply with many of the substantive requirements of CEQA that will be detailed herein, including by County's subsequent acts that constitute an admission of deficiencies in the November 5, 2019 NOE.

One such subsequent act by Public Works that constitutes an admission of a material flaw in the substantive analysis stated in the November 5, 2019 NOE, or at a minimum allows that inference, occurred in or about August 2020 when Public Works engaged a consultant to investigate the potential impacts on biota and report back with: 1) a Biological Resources Technical Report; 2) Essential Fish Habitat Assessment; 3) Marine Biological Technical Study; and 4) a "cultural resources investigation." Petitioners are informed and believe that these studies were demanded by agencies whose approval were required in order to proceed with the Interceptor and that they were not made available to the public before they were requested by counsel for Petitioners.

A second subsequent act by Public Works that constitutes an admission of a material flaw in Public Works substantive analysis stated in the November 5, 2019 NOE is reflected in an intra-office communication dated on or about March 8, 2021, in which Public Works characterized its November 5, 2019 NOE as based on a "Preliminary Environmental Evaluation." That same memo is described as "an environmental evaluation of the (Interceptor project)" based on "new information about the (Interceptor project) has become available"

Petitioners are informed and believe that County did not provide the public with any notice of these revisions to its November 5, 2019 NOE. This includes the County's failure to submit the document to the County Clerk for posting as required under CEQA.

Petitioners' first alert that something was underway related to the Interceptor on or about May 3, 2021, when a person who resided within ___ yards of the proposed location for the Interceptor noticed a formal meeting of approximately 8 or more professionally dressed individuals that prompted him to inquire about the subject matter of that meeting.

On or about May 5, 2021, a civil engineer from Public Works contacted the resident and explained the substance of the Interceptor concept. This was the first occasion in which Petitioners obtained actual notice related to the Interceptor.

On May 11, 2021, a remote meeting occurred between Public Works and Petitioners at which Petitioners expressed great concern about the location of the Interceptor and complained about the lack of notice to the public and an opportunity to participate in review of the matter. Public Works promised to re-visit the proposed location, engage and involve the Petitioners in its future pursuits, and provide timely information to allow public participation in the considerations regarding the Interceptor project.

Despite these promises and the undeniable knowledge that the Petitioners had concerns about the Interceptor project, 2 days later the matter was submitted to the California Coastal Commission. Petitioners are informed and believe that Public Works deliberately withheld information about that hearing from the Petitioners in an effort to suppress Petitioners' efforts to express their grievances beyond the informal conversations that had begun with Public Works. The Coastal Commission approved the item heard on that date

On June 9, 2021, a virtual meeting occurred that was attended by Supervisor Hahn, the Director of Public Works, Deputy Director Water Resources, Dan Lafferty, and residents who lived nearby the proposed location. In response to expressions of the neighbors' many grievances including specific objections to the Interceptor project, Supervisor Hahn accepted and admitted fault for County's failure to provide adequate public notice and for failures to provide for any meaningful opportunity to comment on the Interceptor project including the environmental concerns that had just been raised by the neighbors. Supervisor Hahn then directed Public Works to find a solution to relocate this project East of residential areas or not proceed with it at all. The Director of Public Works promised Supervisor Hahn and the participants of the virtual meeting that his department would go back and review the engineering of project.

Petitioners reasonably relied on these representations to mean there would be a complete re-consideration of the merits of the interceptor project, that a new process would ensure to allow full public participation in considering the merits, environmental impacts and alternatives to the goal Petitioners agreed with of reducing garbage inundation of the nearby beaches.

Petitioners' reasonable reliance on these conclusions was reinforced by a telephone call on or about October 25, 2021, with the Public Works Deputy Director who is the chief of its Water Resources Division, Dan Lafferty. Petitioners were informed and believed at the time of this call that Mr. Lafferty was chief of the Storm Water Division of Public Works and therefore based on these positions and responsibilities Mr. Lafferty spoke with authority on behalf of the County regarding the Interceptor project. During that call, Mr. Lafferty told the neighbors that: 1) he planned to stop the Interceptor project; and 2) cancel the agreement with TOC. Mr. Lafferty stated that the Interceptor project no longer makes sense because of the intervening changes by Public Works consisting of the addition of two additional trash booms, better nets, and the employment of superior technology that allowed for greater buoyancy during tidal surge. Mr. Lafferty stated that these steps had eliminated the need for the Interceptor project.

Mr. Lafferty also explained that the permanent solution was the construction of a side channel trash removal structure at the junction of the Ballona and Centinela Creeks known as the Alla Road Program.

On or about December 10, 2021, Carolina Hernandez, Assistant Director of Public Works, Chief Planner for Flood Control, participated in a phone call with Petitioners to discuss the undecided possible locations of the Interceptor. During that call, Petitioners were told the County has no financial liability associated with not pursuing the agreement with TOC and can easily back out

of it. Ms. Hernandez also took responsibility for not communicating with Petitioners from the beginning and promised to remedy this failure in the future.

Petitioners reasonably relied on all of these representations by persons with ostensible authority to commit the County to a course of action, and in reliance thereon, Petitioners ceased the work by an environmental attorney, whom they had retained to pursue legal redress based on their many grievances about the substantive and procedural failures of consideration of the Interceptor project including under CEQA.

On or about January 17, 2022, Public Works formally announced, on their website that the Interceptor project was going to proceed, a project schedule was posted, including the scheduled construction to commence in April, 2022, with intended deployment of the Interceptor in October for a feasibility study of its efficacy from October 2022 to April 2024.

As a result of Petitioners' reasonable reliance, any passage of time that County might otherwise use as a defense against this action based on alleged untimeliness was tolled for the intervening 221 days based on principals of basic fairness and the doctrine of equitable estoppel.

NON-COMPLIANCE WITH CEQA

“PROJECT”

The Interceptor is not an isolated “project” as defined in CEQA. It is a direct part of the County's multi- agency and multi-year efforts County in coordination with the municipalities that comprise the watershed area of the Ballona Creek to address the problem of trash and debris collection prevention and removal methods from the Ballona Creek and including a coordinated effort to obtain grant “opportunities for future in-channel solutions.”

Petitioner points out that County has admitted that if the Interceptor project become the permanent solution to address the issues Public Works was tasked to undertake as identified in the Plan, then County will to a full environmental impact report. This constitutes an admission that the County believes that implementation of the Interceptor project has the potential to adversely impact the environment which will necessitate consideration of mitigation measures and alternatives to avoid the identified impacts.

The County has admitted that if the Interceptor is successful, then it will replace the Alla Road Program. This also is an admission that it is not an isolated matter but a piece of the whole of the greater project as defined by CEQA. More importantly to the events of the moment, the cessation of the of processing the environmental and other design and planning documents for the Alla Road Program since at least November 2019, illustrates that they are all of piece of the whole project.

Whether or not County has piecemealed the project review of the Interceptor, CEQA requires review at the earliest opportunity that a meaningful environmental analysis can occur. The whole of the project – the Plan has never been environmentally considered. Given the direction to develop a multi-year and multi-agency Plan, County erred not authoring the development of the appropriate environmental analysis of the “whole of the action.”

This failure could have easily been avoided. CEQA has a very carefully developed set of procedures designed to reduce costs and redundancy while at the same time fully considering environmental impacts based on the allowance of “tiering” as defined in CEQA. Had County certified a full master or program EIR for the Plan, conceivably the approval of the Interceptor could have been by a NOE tiering off of the master EIR. But, since no aspect of the Plan has been environmentally considered, that possibility could not occur. The NOE does not perform the role of environmental analysis of all aspects, direct and indirect impacts of the Interceptor.

For an example, there is no evidence of consideration of the impacts on the Wetlands that will be caused by deferring the collection of the garbage until it passes by the Wetlands. In the future, the Creek will meander through the Wetlands. The likelihood is that tidal action will do to the Wetlands what it currently does within the Ballona Creek channel, leave a “dirty bathtub ring” of garbage caught by the marsh grasses of the Wetlands until a sufficiently high tide either retrieves the garbage or perversely drives it further into the Wetlands

Another example of an overarching issue that was not considered in the NOE, is the implicit assumption that fresh water that travels down the Ballona Creek is necessary to drive the garbage out toward the Ocean before, at the very end of the journey, it gets picked up. Citizens of Los Angeles are not allowed to hose down their driveways because of water scarcity. Yet the Interceptor cannot work without the waste of untold gallons of water that flow out to the Ocean. One of the issues normally considered in an EIR is any conflicts between the proposed matter and plans, policies, and regulations adopted to avoid or mitigate environmental impacts. As with the previous paragraph, the Interceptor wastes a vast amount of fresh water that could be captured, cleaned and re-purposed. The reliance on wasting fresh water by the Interceptor directly conflicts with the direction of an overwhelming majority of voters who approved Los Angeles County Measure W, which has been chaptered by the County and the other municipalities that share the Ballona Creek watershed. This is just one more example of the types of big environmental issues that are overlooked when the approving agency fails to examine the “whole of the project” including conflicts with environmental plans, policies and regulations.

PROJECT DESCRIPTION

In CEQA the project description is the sine qua non, without which – there is nothing – it is indispensable to environmental analysis. County has not been consistent about the full scope of the Interceptor as a project as defined in CEQA.

In order to test the efficacy of the Interceptor, the current floating boom system will have to be opened, otherwise there will be less, little or perhaps no garbage flowing down the Ballona Creek to the Interceptor. Thus the Project definition must include the removal of the current floating boom system. County has not been forthcoming about this material change in the environmental circumstances of the “Pilot Project.” Indeed, they have failed to disclose it. The failure to disclose this material fact distorts the environmental analysis in many ways – but most significantly it conceals the most fundamental question of interest to the public - is there currently a problem and if so is the proposed method of deployment of the Interceptor the best solution, whether environmentally or fiscally?

County has made verbal and written commitments in its reports on Ballona since 2019 to move forward with the permanent solution at Alla Road. Deadlines for meeting certain benchmarks were promised. Based on the absence of any documentation in the record of moving forward with meeting these promised benchmarks, indeed with any forward motion whatsoever on the Alla Road Program, Petitioners are informed and believe that the on the Alla Road Program is either dead or on-hold. It is reasonably inferable that the hold will be until the completion of the 2-year Interceptor “Pilot Project.” Petitioners are informed and believe based on this inference that this change is a fundamental part of the correct scope of the project.

County has been inconsistent in its representations about the future of the Alla Road Program. In some presentations, County has been forthcoming that it will be cancelled if the Interceptor program is successful. Whereas in answer to questions from interested environmental groups,

County denies this. CEQA requires a finite and stable project description, and does not allow one that floats around depending on who is asking about it.

The County has also been duplicitous about the “permanence” of the Interceptor. Some days it is not permanent and on others it will be if it is successful.

The County has not been forthcoming with what defines “successful.” An element of a compliant project description under CEQA must include the goals and how achievement of the goals will be measured.

SUBSTANTIVE DEFECTS IN THE NOTICES OF EXEMPTION

The posted NOE did not have any supporting attachments as part of the document sent to the County Clerk for posting, with the exception of an illustration of a proposed location. The “backup” was contained in an Inter-Office Correspondence between two different offices of the Stormwater Quality Division. Petitioners never saw these materials until well over one year later. The County performed a subsequent “Environmental Evaluation” reflected in an internal letter between staff members of County’s Stormwater Division dated March 8, 2021 that supersedes County’s November 5, 2019 NOE (“Second NOE”) The Second NOE states it is based on changes to the project, and on studies of subjects that occurred after the posting of the November 5, 2019 NOE.

These studies looked at Biological Resources and Cultural Resources which in the November 5, 2019 NOE were determined not to involve any potential significant impacts. However, there was no study done to support those findings. Not until 17 months later were these studies conducted. CEQA does not allow conclusions without supporting substantial evidence. The after-the-fact consideration of these two subjects constitutes an admission that the November 5, 2019 NOE lacked substantial evidence to support its conclusions regarding Biological Resources and Cultural Resources.

Furthermore, the Second NOE states: “the Pilot Project’ is not located within a Significant Ecological Area as it was moved downstream of the Ballona Wetlands (Los Angeles County 2020),” From this statement it reasonably can be inferred that the previous location of the “Pilot Project” was formerly located within or at least near a Significant Ecological Area until it was moved. But an examination of the Los Angeles County Department of Regional Planning GIS – NET website

(http://rpgis.isd.lacounty.gov/Html5Viewer/index.html?viewer=GISNET_Public.GIS-NET_Public and also https://planning.lacounty.gov/assets/upl/project/gp_2035_2014-FIG_9-3_significant_ecological_areas.pdf shows that both sides of the Ballona Creek east of Lincoln all the way to the Esplanade, a couple of blocks from the Ocean is designated as SEA by the County.

In fact, the biological importance of the Ballona Wetlands goes beyond the system County uses to designate precious Biological Resources. The Wetlands have received special legislative status by the State of California as follows:

“Ballona Wetlands consisting of 553 acres in Los Angeles County is proposed for designation as an ecological reserve for the protection and enhancement of coastal salt marsh and freshwater marsh habitats, and associated species, including the state listed endangered Belding’s savannah sparrow. The area is also an important wildlife movement corridor to other public lands in the vicinity of the wetlands.

The reasons for listing this property in Title 14 are to regulate public use and provide the best available protection for the species and habitats the property was acquired to protect.” Section 630, Title 14, California Code of Regulations, relating to Ballona Wetlands Ecological Reserve, 2005.

The failure to measure the potential significant impact against this special status created by the State Legislature, and reliance only on the County’s designations of areas of ecological significance, reveals the limits of County’s consideration of the potential Biological Resources impacts.

The Second NOE states without supporting evidence that besides Biological and Cultural Resources, none of the remainder of the listed Appendix G criteria were affected by the changes and the new information. The Second NOE summarily concludes without consideration, analysis or support that none of the other items listed require further consideration. However, the change of location constitutes a substantial change in the project which will require major revisions of the environmental analysis.

The Second NOE is based on substantial changes proposed in the project – significantly its location. The haul out for seals and sea lions is not far downstream from the proposed location of the Interceptor. Persons often watch seals swimming up the Ballona Creek well upstream of the Pacific Street Bridge and therefore through the proposed location for the Interceptor. There is no mention in the Second NOE of the use of the Creek by seals despite the move of the Interceptor right into the middle of this use of the Creek and significantly closer to the haul out. This move constituted a major change with great potential adverse environmental impacts that seemingly were not even considered.

It appears that the Second NOE admits that at its former location, the proximity to the Wetlands could cause an adverse impact on Biological Resources. This comports with common sense, informed by the function a wetland or tidal marsh plays in the food chain and the preservation of rare and endangered species, which is the reason so much resource is being applied to the preservation of these scarce resources. It is important to note that the garbage, especially during the days without a storm event, will ebb and flow with the tidal currents. This means it will flow upstream for the same amount of time as downstream. The unaddressed issue is the extent to which the garbage that will not be caught upstream of the Wetlands is more likely to inundate the Wetlands due to the delay of its capture and removal until the very end of the Ballona Creek. The implied admission in the Second NOE of potential adverse impact on the Wetlands has not been adequately considered in the document relying on the new location of the Interceptor downstream.

Another new consideration arising out of the relocation of the Interceptor downstream of the Pacific Street Bridge is that it will place the Interceptor, the booms and the garbage directly in the line of view from the Pacific Street Bridge towards the Ocean, thus directly into and spoiling a primary scenic view. Petitioner Kailes, who lives at this location observes that on weekends and holidays, the area provides a wide-ranging recreational resources including biking, running, rowing, fishing, and viewing the water. These facts, stated by Petitioner to establish the adverse impact on Aesthetics and Recreation are based on personal observations concerning nontechnical matters like these which constitutes substantial evidence under CEQA.

One important and unanswered question involving Water Quality arises of the amount of time the garbage remains in the water. During non-storm events, the tides will bring the garbage back and forth in a portion of the Ballona Creek where water quality is important to seals, and

presumably fish to both now and certainly in the foreseeable future given the importance the Wetlands will play in the wildlife ecosystem. Upstream, there is little or no water so the garbage can lie on the concrete channel floor or along its sides for months. Whereas if the garbage is not collected and hauled out of the Ballona Creek upstream and not until it nears the end of the line, it will reside in the water for perhaps a very much longer period, decreasing the water quality. The change in location exacerbates this problem not considered in either of the NOEs.

This also raises the question of how long the garbage will sit in the bins during the dry season when urban runoff and tides will not bring significant amounts of garbage downstream enlarging the time necessary to fill the bins in the Interceptor. Under these circumstances, the conditions differ materially from those of a river that is constantly flowing.

The Second NOE stated incorrectly and without evidentiary support that the change in location will not affect any Appendix G environmental issues other than Biological and Cultural Resources. The allegations set forth above disprove that contention.

The Second NOE stated incorrectly and without evidentiary support that there were no changes that occurred with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental considerations. This is false as illustrated herein.

The Second NOE failed to acknowledge or consider perhaps a most important and materially changed circumstance - the final environmental impact report to restore the Ballona Wetlands Ecological Reserve by the California Department of Fish and Wildlife. The restoration project aims to restore the ecological function of 566 acres of the reserve, which lies between the Santa Monica Bay community of Playa del Rey and sprawling Marina del Rey and is divided by the Ballona Creek. CEQA requires compliance based on the current environmental circumstances, not one that has been obviated by material changes in the land use designations. This certification of a plan and policies adopted to protect the environment gives rise to new land use considerations and whether the Interceptor conflicts with the final designation of the Ballona Wetlands Ecological Reserve. The Second NOE relies on the faulty original NOE and overlooks this material change in the circumstances.

Water resources is another Appendix G factor that was not properly considered in the original NOE nor rectified in the Second NOE given the material change in circumstances between the first and the second. The issue Water Resources in the present requires consideration of the impact on the mandate to recapture and recycle and reuse storm water to address the long-term expectancy of drought conditions. In November, 2018, voters of Los Angeles County voted overwhelmingly to adopt Measure W. On or about 2019 County enacted Chapters 16 and 18 of the Los Angeles County Code to begin to implement the mandates arising from that measure. As alleged above, to use precious water to drive the garbage downstream before it is picked up at the end of the Ballona Creek, the Interceptor relies on untold quantities of wasted (not reclaimed, recycled and therefore not useable) fresh water that will wash into the Ocean without any other purpose. The County's legislative actions to implement Measure W constitutes a material change in the circumstances regarding Water Quality, that was not considered in the original NOE or the Second NOE.

Another material changed circumstance since the original NOE was prepared was the installation of one of the alternatives suggested in the October 1, 2019 Plan, i.e., the implementation of improved technology used to float the trash intercepting boom, and add significantly, the addition of two new booms. Petitioners are informed and believe that by this deployment County

made vast improvements to the restraint of the garbage such that little of the garbage the size and type that the Interceptor is capable of recovering escapes to go downstream towards the Ocean. Petitioners, who live adjacent to the location of the Interceptor almost never see garbage floating in the Ballona Creek below the Pacific Avenue bridge, including after most storms. The record contains no evidence about the efficacy regarding this intervening solution that the Interceptor is intended to address that was implemented subsequent to the vote of the Board to authorize Public Works to partner with TOC and the adoption of the November 5, 2019 NOE. In other words, there is a new baseline and there is not information about it. The significance of that there is no evidence in the record that the Interceptor will be deployed to solve any problem. There simply might not be one. If so, then the Interceptor is a solution in search of a problem. Indeed, the record will show that some form of commitment to deploy the Interceptor was made before a “river” or “creek” had been chosen. This is making policy backwards.

CEQA is a legislative policy requiring transparency and full disclosure of all of the environmental issues that arise directly and indirectly, primary and foreseeable secondary and reasonably foreseeable future impact of any proposed changes in the environment. This Petition raises many examples of County’s deliberate concealment from Petitioners of material facts that CEQA requires the County to disclose. Petitioners are informed and believe that County incorrectly determined that it had a “free-pass” to proceed with the Interceptor because the Supervisors had adopted a NOE at the earliest stages of development of the project regardless of intervening changes to the project and to the relevant circumstances surrounding the project. Based upon an extensive review of the documents that will comprise the record, Petitioners can now prove this concealment and County’s bad faith in regards to public engagement as issues, problems, and changes were made regarding the Plan and the Interceptor project in particular.

THE PROJECT IS NOT EXEMPT UNDER CEQA

The Second NOE is defective because the 2-year “Pilot Project,” intended to operate 365-days a year, even during the dry season at a lower-level water flows, called urban run-off, is not a feasibility study under CEQA. Gathering data is the secondary function of the “Pilot Project.” The first is gathering and disposing of garbage. CEQA does not allow the ancillary function to dictate an exemption.

Moreover, the Interceptor will be fully operational throughout the 2-year “Pilot Project” in the same way manner as it will be if it were to become permanent. This reveals the permanence of the project as opposed to its secondary function - data collection. Since the County admits that before becoming permanently operational, a full environmental analysis will be conducted, then the principal of requiring a full environmental analysis at that time constitutes an admission that one is required at the present – before it becomes operational.

CEQA Guidelines Section 15262 - Feasibility and Planning Studies – relied on by Respondents to proceed with the “Pilot Project” is inapplicable because the Project that was authorized contemplates a present action – deployment of the Interceptor, operation and maintenance. The possibility of additional action in the future will be the same or at least functionally the same. The record demonstrates that the Project involves several complex, interrelated changes to the physical environment with environmental consequences, not simply the placement, operation and maintenance of the Interceptor as incorrectly stated in the NOE. The whole of these several direct and indirect changes to the environment ranges far beyond a “feasibility and planning” study. The mischaracterization that the Project involves merely data collection to justify a

Feasibility and Planning Studies exemption Planning Study is not supported by the facts.

Therefore, the Project does not qualify for an exemption under this section of CEQA.

Moreover, a project seeking an exemption based on “feasibility or planning studies” for possible future actions must be one that the agency, board, or commission has **not** approved, adopted, or funded. The Board authorized Public Works to enter into the contract with TOC by a formal motion that was adopted by the Board. This constitutes a second on which the Project fails to qualify for an exemption under this section of CEQA.

All of the same allegations that deny the Project is exempt under CEQA Guidelines Section 15262, apply equally to CEQA Guidelines Section 15306, Information Collection, Class 6 and therefore are incorporated here as though fully set forth.

CEQA Guidelines Section 15306 consists of basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. Because this exemption may be used strictly for information gathering purposes, or as part of a study leading to an action which a public agency has **not** yet approved, adopted, or funded, this Project does not qualify for an exemption under this section of CEQA.

The Second NOE determined that there are no exceptions to the CEQA exemptions described above. However, CEQA Guidelines Section 15300.2 provides that under certain environmental circumstances, the exemptions will not apply.

CEQA Guidelines Section 15300.2(d) prohibits use of an exemption where a project may result in damage to scenic resources. The historic Pacific Street Bridge includes a bicycle path that is used by hundreds of people on each of most days of the weekends and holidays. In addition, there are viewing platforms for enjoying the ocean, the water, and the seal and sea lion haul outs, a short distance away. It is not uncommon to view a seal swimming up the Ballona Creek near the Pacific Street Bridge, beyond the place where garbage will rest waiting to be picked up by the Interceptor. The relocation of the Interceptor downstream of the Pacific Street Bridge will place the Interceptor, the booms and the garbage directly in the line of view from the Pacific Street Bridge towards the Ocean, thus into the primary view. Establishing these facts to establish the adverse impact on with a scenic resource based on personal observations concerning nontechnical matters like these constitutes substantial evidence under CEQA. The relocation of the Interceptor west of the historic Pacific Street Bridge constitutes a material change regarding the potential impact on scenic resources which is not acknowledged in the Second NOE. The conclusions that there is no impact on this environmental concern is not supported by substantial evidence.

Petitioners are informed and believe that the Second NOE was not sent to the County Clerk for posting. Under CEQA, the statute of limitations is 180 days plus the time that this action was tolled as alleged above in which Petitioners may file this challenge of the failure to comply with CEQA by proceeding by a NOE, rather than proceeding with an Initial Study to determine whether to proceed with a negative declaration of an environmental impact report and the many substantive and procedural failures of the two NOEs to meet the requirements of CEQA.

Petitioners are informed and believe that currently County is working on a third NOE. That document is currently unavailable for comment. But petitioners cannot be late in challenging the defective CEQA analysis that has not yet been completed.

REMEDY

(1) A mandate that the determination, finding, or decision be voided by the public agency, in whole or in part.

(2) If the court finds that a specific project activity or activities will prejudice the consideration or implementation of particular mitigation measures or alternatives to the project, a mandate that the public agency and any real parties in interest suspend any or all specific project activity or activities, pursuant to the determination, finding, or decision, that could result in an adverse change or alteration to the physical environment, until the public agency has taken any actions that may be necessary to bring the determination, finding, or decision into compliance with this division.

(3) A mandate that the public agency take specific action as may be necessary to bring the determination, finding, or decision into compliance with this division.

I appreciate the opportunity to address this matter.

Respectfully submitted,

Corin L. Kahn

cc. clients