



Legislation Text

File #: 10-1219, **Version:** 1

Recommendation to receive supporting documentation into the record, conclude the hearing, deny the appeal of Kerrie Aley, Peggy McCabe, Monte Cofell, Allen Songer, Gregory Warren, Barrie Laffoon Huff, Carla Johnson, Craig Wallace, Ginny Kortz, Matt Kirk and Eric Peterson; and uphold the Planning Commission decision to approve an Addendum to a previously certified Final Environmental Impact Report (EIR 30-07) for the Colorado Lagoon Restoration Project;

Adopt resolution together with Findings and approve the revised Phase 1 project; and

Approve the Phase 2 project and select Alternative 4a as the preferred alternative. (District 3)

The Colorado Lagoon Restoration Project is a City-sponsored project to improve water quality, habitat and recreation at the Colorado Lagoon (Exhibit A). The Final Environmental Impact Report (EIR 30-07) for the Colorado Lagoon (Lagoon) Restoration Project was certified by the Planning Commission at a public hearing held on September 4, 2008 (2008 Certified EIR). An appeal was filed on September 15, 2008 and, at a public hearing held on October 14, 2008, the City Council denied the appeal and upheld the Planning Commission EIR certification. On October 14, 2008 the City Council also approved the Phase 1 Restoration Project and directed staff to conduct an additional engineering study on the Phase 2 alternatives and return to the City Council for further deliberation.

An Addendum to the 2008 Certified EIR has been prepared to address several revisions to the project since its certification due to: (1) ongoing coordination with the funding and regulatory agencies, and (2) the identification of several options for connecting the Lagoon to Marine Stadium through Marina Vista Park, in response to previous City Council direction. On October 7, 2010, the Planning Commission held a public hearing to consider the Addendum to the 2008 Certified EIR (Exhibit B). After receiving public testimony, the Planning Commission concluded the public hearing and adopted Resolution No. R-1154, approving the Addendum to EIR 30-07 (Exhibit C).

Appeal

Two appeals of the Planning Commission approval of the Addendum were filed (Exhibits D and E) during the appeal period. Issues raised in these appeals involve changes to the project description, potential construction impacts to surrounding properties, issues regarding specific project components, and potential project impacts to Marina Vista Park. A Fact Sheet and Preliminary Response to the Appeals has been prepared (Exhibit F).

The California Environmental Quality Act (CEQA) allows a lead agency to prepare an addendum to a previously certified EIR if there are revisions to the proposed project, or the circumstances under which the project would be undertaken. An addendum is appropriate if the revisions would not result in any new significant environmental impacts or result in an increase to the severity of any previously identified significant impacts. The comprehensive analysis provided in the attached Addendum demonstrates that the proposed project revisions will not result in any new significant environmental effects or a substantial increase in the severity of impacts previously identified. Therefore, an Addendum is the appropriate CEQA document to address the proposed revisions to the project. Staff recommends that the Council deny

the appeals and uphold the decision of the Planning Commission, approving the Addendum to EIR 30-07.

As outlined in the 2008 Certified EIR, the Lagoon Restoration Project consists of two main phases. Phase 1 includes upgrades to the storm drains, dredging, cleaning the underground culvert that connects the Lagoon to Marine Stadium, new landscaping and public recreational improvements. Phase 2 includes construction of an open-channel or parallel underground culvert, road bridges, new restrooms and public recreational improvements.

Revised Phase 1 Project

As more fully outlined in the EIR Addendum, the proposed changes for Phase 1 of the Colorado Lagoon Restoration Project involve:

1. An increase in the maximum total dredge quantity from 30,000 cubic yards to 72,000 cubic yards, including dredging in the northern arm of the Lagoon.
2. Four options for dredging methods, including one dry method and three wet methods.
 - a. **Important Note:** While four dredging options were analyzed in the Addendum, City staff, in consultation with the U.S. Army Corps of Engineers, has since concluded that the dry-excavation and hydraulic dredge methods are not financially feasible, and are therefore no longer being considered.
3. A change in the mode of transportation and disposal destination for dredge material, from trucking to a landfill in the Bakersfield area to trucking or barging to a disposal site at the Port of Long Beach (POLB).
4. A requirement to use Tier 1 construction equipment for dredge option 1 and cleaner (reduced emissions) Tier 2 construction equipment for the other dredging options.
5. Elimination of the proposed bird island as a project component.

The revisions to Phase 1 of the project are explained in more detail below:

1. The maximum total dredge quantity has increased for two reasons. First, additional sediment testing during the preliminary engineering phase revealed that sediment contamination is more widespread than previously anticipated. It is now estimated that approximately 50,000 cubic yards of contaminated sediment will need to be removed from the Lagoon. The sediment will be treated with cement, lime and/or other reagents to bind and stabilize the contaminants prior to them being loaded onto trucks and disposed of at the POLB. Regulatory oversight of the treatment process will be provided by the Los Angeles Region Contaminated Sediments Task Force, which includes representatives from the U.S. Army Corps of Engineers (Army Corps), U.S. Environmental Protection Agency (EPA), California Coastal Commission, Los Angeles Regional Water Quality Control Board (RWQCB), California Department of Fish and Game, and Heal the Bay, among others.

An additional 22,000 cubic yards of sediment may be dredged from the Lagoon if the State Water Board and EPA deny the City's request to reconsider the sediment quality targets being proposed by the RWQCB. On October 1, 2009, the RWQCB approved an amendment to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) to incorporate a Total Maximum Daily Load (TMDL) for Organochlorine (OC) Pesticides, Polychlorinated Biphenyls (PCBs), Sediment Toxicity, Polycyclic Aromatic Hydrocarbons (PAHs), and Metals in Colorado Lagoon. This TMDL recommends sediment quality targets that are much more stringent than previously anticipated. Staff is challenging the RWQCB's recommendation on the sediment quality targets and is requesting that the State Water Board and EPA reconsider. Upon final adoption of the TMDL for Colorado Lagoon, the City will have seven years to comply with the Federal mandate or face potential financial penalties.

The City has received some funding commitments for the project's dredging component from the Army Corps of Engineers (awarded, but not budgeted), Rivers and Mountains Conservancy (awarded and budgeted), State Water Board (awarded and budgeted), State Coastal Conservancy (award pending, not yet budgeted) and the National Oceanic Atmospheric Administration (NOAA) (award pending, not yet budgeted). The current funding commitments will cover the western arm dredging, removal, and disposal effort (approximately 30,000 cubic yards). The western arm is the most degraded portion of Colorado Lagoon. Additional funding (approximately \$3.3 million) will be needed to dredge the 20,000 cubic yards of contaminated material in the central basin and northern arm. If the City is required to adhere to the recommended sediment quality targets under the TMDL, more funding (approximately \$2 million) will be needed to dredge an additional 22,000 cubic yards. The goal is to begin dredging the Lagoon during the Spring/Summer of 2011; however, the dredging schedule may have to be pushed back to later in 2011 due to the timing of availability of the Port's sediment disposal facility.

2. The Army Corps is a federal funding partner, and its involvement in the project required the preparation of a federal-level environmental clearance document, in this case, an Environmental Assessment (EA) pursuant to the National Environmental Policy Act (NEPA) (Exhibit G). The Corps is required to evaluate alternatives in its environmental document; therefore, the EA considered four alternative dredging and removal options, which were also addressed in the CEQA Addendum. As noted above, City and Army Corps staff have since determined that two of the four options are not financially feasible and thus decided to eliminate them from further consideration. The two eliminated dredge options include the dry-excavation and hydraulic dredge methods. The two remaining dredge options involve a wet-excavation method and either trucking or barging the material to the Port of Long Beach (POLB).

3. The proposed disposal site for the dredged and treated material has changed from Kettleman Hills Landfill in Kings County, California (located approximately 150 miles from Colorado Lagoon) to the POLB. The POLB has conditionally agreed to accept up to 70,000 cubic yards of dredged material from the Lagoon (Exhibit H). However, the POLB has advised staff that it may not be able to receive material via truck, which may increase project costs. If the POLB cannot receive trucked material, then the City will need to barge the treated material from Marine Stadium to the POLB's disposal facility.

4. The Addendum includes a commitment to using cleaner (lower emitting) construction equipment (known as "Tier 1 or Tier 2" equipment) for the dredging activity.

5. The final change to the Phase 1 portion of the restoration project involves removal of the bird island component from the project. During the federal regulatory permitting process, NOAA's National Marine Fisheries Service submitted a comment letter to the Corps regarding the proposed bird island. NOAA expressed concern that the bird island would negatively impact fish and fish habitat. As a result of NOAA's input during the regulatory permitting phase, this component has been removed from the restoration plan.

The issues raised at the Planning Commission hearing and in the appeal letters involve: 1) aspects of the project previously approved by the City Council and not currently under discussion; 2) problems experienced as a result of the implementation of the Terminal Avenue Drain Project by the County of Los Angeles (not part of the Lagoon project); 3) the potential health risk from dredge material stored on site prior to removal, and 4) the potential health risk from dredge material that is hauled in trucks to the disposal site. In addition, concerns have been expressed about the loss of active recreation area at Marina Vista Park due to the construction of an open channel.

Phase 2 Preferred Alternative

The long-term benefits of the Colorado Lagoon Restoration Project include the removal of contaminated sediment that has been accumulating in the Lagoon for several decades, the implementation of water quality best management practices to treat the storm water that drains to the Lagoon, the creation of a natural habitat at the Lagoon, and the construction of a walking path around the restored Lagoon. In order to achieve these long-term benefits, short-term impacts will occur during the construction process. These impacts were analyzed in the Certified 2008 EIR and further discussed in the EIR Addendum.

In addition to the Phase 1 restoration project changes outlined above, the revised proposed project includes five alternatives for connecting the Lagoon to Marine Stadium through Marina Vista Park to allow for better tidal flushing of the Lagoon to maintain water quality, including:

1. A second underground culvert parallel to the existing culvert.
2. An open-channel with two bridges aligned with Eliot Street.
3. An open channel with culverts rather than bridges at the street crossings.
4. An expanded open channel with one bridge (Eliot St.) and one culvert (Colorado St.).
- 4a. An expanded open channel with two bridges.

Conceptual renderings of the five alternatives are attached in Exhibit I, including a comparison of the existing sport field layouts and the proposed layout of each alternative. Under all open-channel alternatives, no existing sport uses will be lost. For alternatives 2-4a, the sport fields would be reconfigured and upgraded to maximize space and allow both passive and active park space usage.

The Phase 2 Alternatives Analysis Report (Phase 2 Report - Exhibit J) was prepared at the request of the City Council on October 14, 2008. The Phase 2 Report assessed each alternative for:

- The habitat types that may be created both within Marina Vista Park and the Colorado Lagoon.
- The hydrodynamic performance of each alternative.
- The geomorphic context, long-term stability and projected maintenance requirements.
- Impacts to Marina Vista Park and surrounding areas.
- Construction and maintenance costs.

According to the Phase 2 Report, all alternatives meet the project objectives, although to varying degrees. All alternatives also meet hydrodynamic performance objectives (tidal range, tidal inundation and flood protection) and would improve existing habitat (via water quality improvements) and add new habitat at the Lagoon (by tidal range increases). The open-channel alternatives would create new, and restore historical, habitat. In addition, the open channel footprints would occupy approximately 12-15 percent of the total park area and require relocation of baseball and soccer fields to other areas of the park. Maintenance and Construction costs differ significantly for each alternative, as outlined below:

	Maintenance	Construction	Combined Costs
Alternative 1:	\$8.4M	\$6.8M	\$15.2M
Alternative 2:	\$4.7M	\$9.0M	\$13.7M
Alternative 3:	\$7.1M	\$5.8M	\$12.9M
Alternative 4:	\$5.0M	\$7.3M	\$12.3M
Alternative 4a:	\$4.0M	\$9.4M	\$13.4M

The Phase 2 Report also includes a cost-per-habitat acre that helps determine the potential cost/value of an approved Compensatory Mitigation Banking Agreement (CMBA). State and Federal Resource Agencies (including NOAA, U.S. Fish and Wildlife Service and the Corps) have opined that an opportunity may exist at Colorado Lagoon for a CMBA. It was, in part because of this opinion, that the Board of Harbor Commissioners agreed to advance the City \$1.3 million for the Phase 1 construction effort, which is intended to prevent the Lagoon’s recontamination. The City Council accepted the \$1.3 million advance on December 15, 2009. Under an approved CMBA and a Board of Harbor Commissioner’s decision to participate in Phase 2, the cost of the Phase 2 Lagoon Restoration Project may be covered in full.

On July 22, 2010, staff asked the Parks and Recreation Commission (PRC) to rank the alternatives in order of preference for City Council’s consideration. On August 11, 2010, the PRC sponsored an evening community meeting to solicit community input on the proposed alternatives. On August 19, 2010, the PRC voted unanimously to rank Alternative 4a as their preferred alternative, followed by Alternative 2, with the other alternatives not recommended, and with the requirement that the project include the replacement of active sports facilities and passive areas with equal or better facilities as part of the project. Alternatives 2-4a, as proposed, all meet the PRC’s request to upgrade the park and reconfigure the sport fields.

A request to rank the alternatives was also made to the Marine Advisory Commission (MAC) on July 12, 2010. On August 20, 2010, staff provided an update to the MAC about the August 11, 2010 PRC-sponsored community meeting and received additional public comment. On September 10, 2010, the MAC voted unanimously to support option 4a as their preferred alternative and option 2 as their second choice.

On August 26, 2010, staff solicited comments on the Phase 2 Report from the Resource Agencies

and asked them to rank the alternatives with respect to their ability to provide habitat value that could be translated into compensatory mitigation credits. On October 14, 2010, NOAA's National Marine Fisheries Service (NMFS) responded to staff's request (Exhibit K) and ranked the alternatives in the following order: 4a, 2, 4, 3, and 1. NMFS supports Alternative 4a as the most ecologically desirable alternative that "would result in the greatest amount of new habitat gained, the greatest functional lift of existing habitat within Colorado Lagoon, the most natural tidal connection, and the least amount of long-term maintenance" (Robert S. Hoffman, Assistant Regional Administrator for Habitat Conservation, NMFS).

Throughout the public comment period, staff encouraged the community to submit written comments by August 31, 2010. All written comments received are included in Exhibit L.

This letter was reviewed by Assistant City Attorney Michael J. Mais on October 28, 2010 and by Budget Management Officer Victoria Bell on October 29, 2010.

The Long Beach Municipal Code requires a hearing within 60 days following an appeal to a positive Planning Commission action.

Approximately \$5,619,107 in grant funding from the State Water Board, Port of Long Beach and EPA has been awarded and budgeted for the restoration work intended to prevent the Lagoon's recontamination. The dredging of the Lagoon's western arm is funded by grant awards totaling \$4.6 million from the State Coastal Conservancy, Rivers and Mountains Conservancy, U.S. Army Corps of Engineers, and the State Water Board.

An estimated \$5.3 million is required for the additional dredging mandated by the EPA. The dredging work must be completed within seven years. Funding for this EPA mandate has not yet been identified. If efforts to secure additional grant funding are unsuccessful, there may be an impact to the General and/or Tidelands Fund. Additional project components will continue to be implemented as grant funding is secured. There is no local job impact as a result of this recommended action.

Approve recommendation.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH APPROVING AND CERTIFYING AN ADDENDUM TO THE FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE COLORADO LAGOON RESTORATION PROJECT (SCH NO. 2007111034) IN ACCORDANCE WITH THE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AND STATE AND LOCAL GUIDELINES AND MAKING CERTAIN CEQA FINDINGS AND DETERMINATIONS RELATIVE THERETO

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