



Los Cerritos Wetlands Land Trust
for Long Beach and Seal Beach

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October 2, 2009

Mayor Bob Foster
City of Long Beach
333 West Ocean Blvd., 14th Floor
Long Beach, CA 90802

Los Cerritos Wetlands Land Swap – Unresolved Issues

Dear Mayor Foster and Council Members:

The Los Cerritos Wetlands Land Trust is pleased that you recognize that acquiring, preserving and restoring the Los Cerritos Wetlands is a worthy goal. However, we expressed our concerns about the details of the proposed land swap as the City negotiated the terms of the transaction. We did so because we too want to see a preserved and restored wetland, but feared that provisions for real wetland protection were lacking.

Now, we see that the concern we expressed months ago about potential soil contamination was justified. The fact that PCB contamination came to your attention as it did makes us worry. We continue to wonder why you are willing to proceed with the transaction without a more comprehensive examination of what you will be receiving. In addition, we still marvel that you are willing to move forward without a credible wetland delineation study. Furthermore, it troubles us that a Surface Use Release and Grant Easement Agreement (SURGE Agreement) is to be signed without its terms first being revealed to the public and approved by the Council. After all, the SURGE agreement may have a major impact on the nature of any wetland restoration project.

There is another aspect of the land swap that you must address. Shortly before the Council voted to authorize staff to complete the transaction, a four-acre section of land, not previously identified, was added. The four acres is a portion of a much larger parcel located north of Second Street. The proposal would create a new lot. Before you can create such a lot, we believe that a Coastal Development Permit must be obtained from the California Coastal Commission. Here is why:

1. The 4-acre parcel is located in the Coastal Zone.
2. The 4-acre parcel is not now a legal lot.
3. The 4-acre parcel is also located in SEADIP Area 11a, an area that has not yet been included in the City's Certified Local Coastal Program. That means that if a new parcel is to be created and if a Coastal Development Permit is required, the Coastal Commission rather than the City, is the agency with original Coastal Development Permit authority.
4. Section 30106 of the Public Resources Code (the Coastal Act) defines "Development" to include any division of land whether or not subject to the Subdivision Map Act "including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use."
5. All land divisions require a Coastal Development Permit unless a Coastal Act exception applies. The exception cited above does not apply. The City has not cited "public recreational use" as its reason for acquiring the parcel. Instead, the stated purpose for acquiring lands in the Los Cerritos Wetland area is to protect it for wetland purposes. In fact, the stated plan is to sell the property to another agency charged with protecting and restoring wetlands. Even the CEQA Notice of Exemption filed in early August makes no mention of recreation and instead cites the basis for the CEQA exemptions as follows: State Guidelines 15313 [Acquisition for fish and wildlife conservation] and 15317 [acceptance of fee interests to maintain the open space character of an area].
6. Further, the creation of a new 4-acre parcel will result in the reduction in size of the balance of the privately owned parcel. Because the remaining privately held parcel appears to have major wetland characteristics, the proposed land division is one that deserves careful scrutiny to assure that the division does not cause avoidable Coastal Act issues to arise in the future.

If the City applies for the required Coastal Development Permit, is willing to comply with reasonable permit conditions and is willing to recognize the legitimate concerns we have expressed, we will be pleased to work with the City to accomplish our mutual goal of protecting and preserving the Los Cerritos Wetlands.

Sincerely,

Ann Denison
President
Los Cerritos Wetlands Land Trust

Cc: Councilmember Robert Garcia
Councilmember Suja Lowenthal
Councilmember Gary DeLong
Councilmember Patrick O'Donnell
Councilmember Gerrie Schipske
Councilmember Dee Andrews
Councilmember Tonia Reyes Uranga
Councilmember Rae Gabelich
Councilmember Val Lerch

Director of Public Works, Mike Conway