

CALIFORNIA STATE LANDS COMMISSION

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Established in 1938

JENNIFER LUCCHESI, *Executive Officer*

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March 14, 2022

SCH No.: 2018094001

Governor's Office of Planning & Research

Mar 15 2022

STATE CLEARINGHOUSE

Larry Smith
U.S. Army Corps of Engineers
911 Wilshire Boulevard
Los Angeles, CA 90017

VIA REGULAR & ELECTRONIC MAIL (lawrence.j.smith@usace.army.mil)

Subject: Draft Supplemental Environmental Assessment (SEA) for the Surfside Sunset Beach Nourishment Project Stage 13, Orange County

Dear Larry Smith:

The California State Lands Commission (Commission) staff has reviewed the Draft SEA, prepared by the U.S. Army Corps of Engineers (Army Corps) for the Surfside Sunset Beach Nourishment Project Stage 13 (Project). The Army Corps, as a public agency proposing to carry out the Project, is the lead agency under the National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.). Commission approval will be required before any of the Project's proposed dredging and beach replenishment activities can commence on State sovereign land in the Pacific Ocean. When considering the Project, the Commission will analyze its potential environmental impacts under the California Environmental Quality Act (CEQA). Commission staff commented on the Draft Environmental Assessment on October 11, 2018, and comments are attached for reference.

Commission Jurisdiction and Public Trust Lands

The Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The Commission also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6009, subd. (c); 6009.1; 6301; 6306). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the common law Public Trust.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all

people of the State for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the mean high tide line, except for areas of fill or artificial accretion or where the boundary has been fixed by agreement or a court.

The Pacific Ocean at the Stage 13 Project site is ungranted State sovereign land, subject to the Commission's jurisdiction. Commission Lease No. PRC 4551.9, for dredging and deposition activities at Surfside-Sunset Beach, was authorized by the Commission in 1970 for a 49-year term, which expired on November 18, 2019. The Commission requires a lease application to authorize each discrete dredging/deposition activity or Stage. The Army Corps' previous application requesting an amendment for Stage 12 was authorized by the Commission on October 16, 2008. An application requesting a new lease and subsequent Commission approval will be required before any of the proposed dredging and beach replenishment activities can commence on ungranted State sovereign land in the Pacific Ocean.

The Newport Beach site is located within lands granted to the city of Newport Beach pursuant to Chapter 74, Statutes of 1978, minerals reserved to the State. The day-to-day administration of these lands is maintained by the City in its role as grantee; therefore, no further Commission authorization is required for this Project component.

Project Description

The following is a description of Project activities on State sovereign land, within the Commission's leasing jurisdiction as explained above. The Army Corps proposes dredging at the Stage 13 offshore borrow site and deposition of beach compatible sand at Surfside-Sunset Beach as part of its ongoing beach nourishment program. The offshore borrow site is located approximately 7,000 feet offshore of Surfside-Sunset Beach in 45 to 55 feet of water and includes approximately 200 acres of the Pacific Ocean. The dredged sand from the offshore borrow site would be deposited on Surfside-Sunset Beach, in an area approximately 4,500 feet in length and between 350 and 900 feet in width. Approximately 1.75 million cubic yards of dredged sand would be deposited on the beach. The dredged sand will be placed between 13 feet above and 13 feet below mean lower low water. The contractor will be required to place sand using a method such as a diked, single-point discharge to minimize turbidity in the runoff water. Dredged material will be transported to the beach through use of a hydraulic dredge and pipeline. It is expected that the pipeline will be partially floated on the surface and partially anchored on the seabed. Buoys and floating flagging will be used to mark and identify the pipeline from the borrow site to the beach placement area. Following pipeline transport, the sand will be uniformly spread over the beach using conventional earth moving equipment. The purposes for the Project are to prevent erosion of Surfside-Sunset Beach, maintain public access and use of the beach, provide enhanced protection of beach and landside infrastructure, and nourish downcoast beaches.

Environmental Review

Commission staff recommends the Final SEA be prepared such that it meets the procedural and substantive requirements of CEQA. Commission staff will review the Final SEA and determine whether it has met the requirements set forth in CEQA for use in lieu of a separate Initial Study/Mitigated Negative Declaration. If it is determined that the Final SEA does not

meet those requirements, the Commission may be required to prepare and circulate a separate environmental document that complies with CEQA prior to taking action on approval of a lease.

Please send copies of future Project-related documents, including an electronic copy of the Final SEA and Finding of No Significant Impact when they become available. Please refer questions concerning environmental review to Christopher Huitt, Senior Environmental Scientist, at (916) 574-2080 or christopher.huitt@slc.ca.gov. For questions concerning the Commission's leasing jurisdiction, please contact Kelly Connor, Public Land Management Specialist, at (916) 574-0343, or Kelly.Connor@slc.ca.gov.

Sincerely,



Nicole Dobroski, Chief
Division of Environmental Planning
and Management

cc: Office of Planning and Research
K. Connor, Commission
B. Johnson, Commission
C. Huitt, Commission

Attachment:

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October 11, 2018

SCH No.: 2018094001

Larry Smith
U.S. Army Corps of Engineers
911 Wilshire Boulevard
Los Angeles, CA 90017

VIA REGULAR & ELECTRONIC MAIL (lawrence.j.smith@usace.army.mil)

**Subject: Draft Environmental Assessment (EA) for the Surfside Sunset Beach
Nourishment Project Stage 13, Orange County**

Dear Mr. Smith:

The California State Lands Commission (Commission) staff has reviewed the Draft EA, prepared by the U.S. Army Corps of Engineers (Army Corps) for the Surfside Sunset Beach Nourishment Project Stage 13 (Project). The Army Corps, as a public agency proposing to carry out the Project, is the lead agency under the National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.). Commission approval will be required before any of the Project's proposed dredging and beach replenishment activities can commence on State sovereign land in the Pacific Ocean. When considering the Project, the Commission will analyze its potential environmental impacts under the California Environmental Quality Act (CEQA).

Commission Jurisdiction and Public Trust Lands

The Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways owned by the State of California. The Commission also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6009, subd. (c); 6009.1; 6301; 6306). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the common law Public Trust Doctrine.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the mean high tide line,

except for areas of fill or artificial accretion or where the boundary has been fixed by agreement or a court. On navigable non-tidal waterways, including lakes, the State holds fee ownership of the bed of the waterway landward to the ordinary low water mark and a Public Trust easement landward to the ordinary high-water mark, except where the boundary has been fixed by agreement or a court. Such boundaries may not be readily apparent from present day site inspections.

The Pacific Ocean at the Stage 13 Project site is ungranted State sovereign land subject to the Commission's jurisdiction. Commission Lease No. PRC 4551.9, for dredging and deposition activities at Surfside-Sunset Beach, was authorized by the Commission in 1970 for a 49-year term, to expire on November 18, 2019. The Commission requires an amendment to authorize each discrete dredging/deposition activity or Stage. The Army Corps previous application requesting an amendment for Stage 12 was authorized by the Commission on October 16, 2008. An application requesting an amendment of lease and subsequent Commission approval will be required before any of the proposed dredging and beach replenishment activities can commence on ungranted State sovereign land in the Pacific Ocean. If Stage 13 of the Project cannot be completed before the existing lease expires, an application for a new lease would be required. Additionally, any future activities planned subsequent to the current lease expiration date will require a new lease from the Commission.

The Newport Beach site is located within land granted to the City of Newport Beach pursuant to Chapter 74, Statutes of 1978, minerals reserved to the State. The day to day administration of these lands is maintained by the City in its role as grantee; therefore, no further Commission authorization is required for this Project component.

Project Description

The following is a description of Project activities on State sovereign land, within the Commission's leasing jurisdiction as explained above. The Army Corps proposes dredging at the Stage 13 offshore borrow site and deposition of beach compatible sand at Surfside-Sunset Beach as depicted in Figures Two and Three of the Draft EA, as part of its ongoing beach nourishment program since the 1960's. The offshore borrow site is located approximately 7,000 feet offshore of Surfside-Sunset Beach in 45 to 55 feet of water and includes approximately 200 acres of the Pacific Ocean. The dredged sand from the offshore borrow site would be deposited on Surfside-Sunset Beach, in an area approximately 4,500 feet in length and between 350 and 900 feet in width. Approximately 1.2 million cubic yards of dredged sand would be deposited on the beach. The dredged sand will be placed between 13 feet above, and 13 feet below mean lower low water. The contractor will be required to place sand using a method such as a diked, single-point discharge to minimize turbidity in the runoff water. Dredged material will be transported to the beach through use of a hydraulic dredge and pipeline. It is expected that the pipeline will be partially floated on the surface and partially anchored on the seabed. Should the pipeline cross a navigational channel, the pipeline will be placed on the sea floor to allow continued use of the navigational channel during construction. Following pipeline transport, the sand will be uniformly spread over the beach using conventional earth moving equipment. The purposes for the Project are to prevent erosion of Surfside-Sunset Beach, maintain public access and use of the beach, provide enhanced protection of beach and landside infrastructure, and nourish downcoast beaches.

Environmental Review

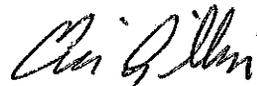
Commission staff recommends the Final EA be prepared such that it meets the procedural and substantive requirements of CEQA. Commission staff will review the Final EA and determine whether it has met the requirements set forth in CEQA for use in lieu of a separate Initial Study/Mitigated Negative Declaration. If it is determined that the Final EA does not meet those requirements, the Commission may be required to prepare and circulate a separate environmental document that complies with CEQA, or use another CEQA lead agency's CEQA document, prior to taking action on approval of a lease.

Oceanography and Water Quality: The EA should include a discussion of the potential impacts of the Project on the Bolsa Chica Lowlands Restoration Project. The Oceanography and Water Quality section indicates that the Army Corps beach nourishment program at Surfside-Sunset is the only sediment source into the region. Sand placed as part of the Stage 13 Surfside-Sunset Beach Nourishment Project will eventually migrate through the Bolsa Chica region and become impounded by the inlet. Therefore, the Project may have an impact on the Bolsa Chica Lowlands Restoration Project on the cost of maintaining the inlet in an open condition through higher rates of sedimentation infill. The existing condition must be considered in the environmental documentation for this proposed project. Other beach nourishment projects in southern California (e.g., San Diego County) have been required to offset higher rates of inlet filling by contributing funds to offset the cost of removal of accumulated sand from the impacted inlets. A similar monetary contribution from the Army Corps may be required.

Recreation: To further minimize public recreation impacts at Surfside-Sunset Beach, the EA should include discussion of public noticing prior to the Project to inform the public of the construction schedule and temporary disruptions of beach use and offshore navigation associated with operation of the discharge pipeline and equipment.

Please send copies of future Project-related documents, including an electronic copy of the Final EA and Finding of No Significant Impact when they become available. Please refer questions concerning environmental review to Jason Ramos, Senior Environmental Scientist, at (916) 574-1814 or via email at Jason.Ramos@slc.ca.gov. For questions concerning the Commission's leasing jurisdiction, please contact Kelly Connor, Public Land Management Specialist, at (916) 574-0343, or via email at Kelly.Connor@slc.ca.gov.

Sincerely,



Eric Gillies, Assistant Chief
Division of Environmental Planning
and Management

cc: Office of Planning and Research
K. Connor, Commission
J. Ramos, Commission
B. Johnson, Commission