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**MAR 04 2019**

March 4, 2019

**STATE CLEARINGHOUSE**

File Ref: SCH # 2019029005

Kimberly Cole, Community Development Director  
 City of Monterey Planning Office  
 Colton Hall, 1<sup>st</sup> Floor  
 580 Pacific Street  
 Monterey, CA 93940

VIA REGULAR & ELECTRONIC MAIL ([cole@Monterey.org](mailto:cole@Monterey.org))

**Subject: Draft Initial Study/Mitigated Negative Declaration (IS/MND) for the Monterey Bay Opportunistic Beach Nourishment Program, Monterey County**

Dear Ms. Cole:

The California State Lands Commission (Commission) staff has reviewed the Draft IS/MND for the Monterey Bay Opportunistic Beach Nourishment Program (Program), which is being prepared by the City of Monterey (City). The City, as the public agency proposing to carry out the Project, is the lead agency under the California Environmental Quality Act (CEQA). (Pub. Resources Code, § 21000 et seq.) The Commission is a trustee agency for projects that could directly or indirectly affect State sovereign land and their accompanying Public Trust resources or uses. Additionally, if the Project involves work on State sovereign land, the Commission will act as a responsible agency.

**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.

Based on Commission staff review of the submitted materials and in-house records, the Pacific Ocean at the proposed receiver sites in the Cities of Sand City, Seaside, and Marina is ungranted State sovereign land subject to the Commission's leasing jurisdiction. A portion of the receiver site in the City may be located within lands that were legislatively granted to the City, pursuant to chapter 669, statutes of 1919 and as amended. Based on Commission staff review, a lease from the Commission may be required for beach nourishment activities at the proposed receiver sites, including the portion of the receiver site outside the grant to the City. However, without more detailed information regarding the current location of the mean high tide line at the proposed receiver sites, staff is unable to determine the extent of the Commission's jurisdiction within the Project area, and whether a lease is required. Consequently, for each receiver site, please provide a current mean high tide line survey, including a detailed description of the Project and the exact location of the beach nourishment footprint showing the current mean high tide line. If dredging activities are proposed on State sovereign land pursuant to the Program, then a lease would also be required from the Commission. Please contact Lucien Pino for further information (see contact information at the end of the letter).

### **Project Description**

The Program is intended to prevent erosion of coastal dunes and adjacent beaches to protect at-risk infrastructure within the Southern Monterey Bay (SMB) region. The Cities of Marina, Monterey, Sand City, and Seaside are seeking to identify, screen, stockpile, and place suitable sand on an identified list of beaches in need of nourishment and erosion protection within the SMB region, and to develop a streamlined environmental review and permitting process for these activities. The purpose of the Program is to capitalize on opportunities to obtain beach quality sand from construction, development, or dredging projects in the SMB region when it becomes available. Through the Program, beach material would be evaluated for compatibility, stockpiled at designated sites if needed, and placed on pre-determined beach receiver sites. The following five receiver sites along the SMB are shown in Figure 1 of the IS/MND and include Del Monte, North Monterey, Sand City/Seaside, Marina, and the CEMEX Sand Mine. In the interest of minimizing agency permit requirements and environmental impacts, sand placement at receiver sites is proposed to occur on the upper dry beach, well above both the mean high water (4.8 feet NAVD) and the mean high high water (5.5 feet NAVD). Specific details for placement of sand at receiver and stockpile sites is described in Section 2.2 and Figures 19 and 20 of the Draft IS/MND. Sand compatibility requirements and avoidance and minimization measures for affected resources are also described in Section 2. The Program could include up to three types of projects:

1. The transport of sand from an inland opportunistic source site to a stockpile site (to await funding or clearance for placement at a receiver site)
2. The transport of sand from a stockpile site to a receiver site (following clearance)
3. The transport of sand from an inland opportunistic source site directly to a receiver site for placement

### **Environmental Review**

Commission staff requests that the City consider the following comments with the IS/MND.

#### **General Comments**

1. **2019 CEQA Amendments:** New amendments to the CEQA Guidelines went into effect on December 28, 2018, which included amendments to the Appendix G Environmental Checklist (<http://opr.ca.gov/ceqa/updates/guidelines/>). Amendments to the Environmental Checklist included additions of new affected resource sections and considerable changes and additions to existing resource sections. The IS/MND does not appear to use the current Environmental Checklist for assessment of affected resources. In accordance with CEQA, documents circulated for public review after the effective date of the amendments are subject to the new amendments, and so the IS/MND should be updated to include the new amendments.
2. **Mean High Tide Line Survey:** Page 2-46 of the IS/MND provides a summary of the Commission's requirements for a mean high tide line survey. At this time, the City is encouraged to provide the survey information to determine if a lease will be required for sand placement at the receiver sites. The survey may also help determine the need for a Section 404 permit from the U.S. Army Corps.
3. **Project Description:** A thorough and complete Project Description should be included in the IS/MND in order to facilitate meaningful environmental review of potential impacts, mitigation measures, and alternatives. The Project Description indicates that sediment may be used from dredging projects for beach nourishment. The IS/MND should attempt to identify all known or potential dredging sites that may be used for the Program and explain if the dredging activities would be authorized through separate agency approvals or as part of the Program. Dredging activities on State sovereign land require a lease from the Commission.

The Project Description describes the receiver sites and stockpile locations but does not appear to describe the extent and location of construction staging areas at the receiver sites. This information is necessary to identify the potential for temporary limitations on public use and access at the construction staging sites, to coordinate land use approvals, and to inform potential impacts on other affected resources. The IS/MND should be updated to include this information.

### Climate Change

4. **Sea-Level Rise:** The sea-level rise analysis in the IS/MND used information from the 2014 Monterey Bay Sea-Level Rise Vulnerability Assessment, and 2017 data from the California Natural Resources Agency. Please be advised that the California Ocean Protection Council updated the State of California Sea-Level Rise Guidance in 2018 to provide a synthesis of the best available science on sea-level rise projections and rates. Commission staff evaluated the "high emissions," "medium-high risk aversion" scenario to apply a conservative approach based on both current emission trajectories and the SMB receiver sites. The Monterey tide gauge was used for the projected sea-level rise scenario for the Program area as listed in Table 1.

**Table 1. Projected Sea-Level Rise for Monterey<sup>1</sup>**

Year	Projection (feet)
2030	0.8
2040	1.2
2050	1.9
2100	6.9

Source: Table 28, State of California Sea-Level Rise Guidance: 2018 Update

Note: <sup>1</sup> Projections are with respect to a 1991 to 2009 baseline.

The City should consider the 2018 data as a supplement to the sea-level rise analysis in the IS/MND and for beach profile projections. Please note that when considering a lease application for a Project, Commission staff may require information concerning the future effects of climate change on the Project, and if applicable, adaptation strategies during the life of the Project.

### Recreation

5. **Public Access and Recreation Impacts:** The Recreation Section of the IS/MND indicates that Program and Project activities will have no impact on recreation. The Recreation Section should provide a detailed description of any temporary restrictions on public access during construction operations for beach nourishment, stockpiling, and staging activities at receiver sites. If the Project will result in temporary public access impacts, then this recreation impact should be elevated to less than significant or less than significant with mitigation incorporated, as applicable. Potential mitigation measures could include public notices and posting of signs at the Project area to inform the public of temporary access restrictions. Conversely, if no public access impacts will result at the receiver sites, then this information should be included in the Recreation Section to better support the finding of no impact on recreation.

Increases in sediment supply and changes to existing beach profiles might also have potential to impact surfing conditions at receiver sites. The Recreation Section should disclose potential impacts on surfing from beach nourishment activities.

Tribal Cultural Resources

6. Tribal Cultural Resources: The Tribal Cultural Resources Section explains that the City requested a Sacred Lands Search from the Native American Heritage Commission (NAHC) but provides little detail on the results of the Search; specifically, the level of sensitivity and potential for undiscovered resources. Although the City performed some consultation with the Ohlone/Costanoan-Esselen Nation, it is unclear if the City contacted other tribes recommended by the NAHC with cultural affiliation within the Program area. Mitigation Measure TCR-1 requires the City to provide notice to tribes that have requested consultation prior to implementing individual projects. Consultation pursuant to Mitigation Measure TCR-1 would include suggested alternatives to the Project, recommended mitigation measures, and proposed resolutions to significant effects on tribal cultural resources. Based on this limited information, it appears the City has not contacted all tribes identified by the NAHC during preparation of the Draft IS/MND. Consequently, the IS/MND appears to lack assessment and disclosure of potential impacts to tribal cultural resources. Prior to adopting the MND, the City should perform all the measures of Mitigation Measure TCR-1 to identify the need for potential Program revisions, recommended mitigation measures, and to ensure that impacts can be mitigated to a less than significant level with mitigation.

Thank you for the opportunity to comment on the Draft IS/MND. If Program activities will occur within the Commission's jurisdiction, then Commission staff will need to rely on the adopted MND for the issuance of a lease as specified above. Therefore, we request that you consider our comments prior to adoption of the MND. Please send copies of future Project related documents, including electronic copies of the adopted MND, Mitigation Monitoring Program, Notice of Determination, and approving resolution for the Project to the Commission staff indicated below.

Please refer questions concerning environmental review to Jason Ramos, Senior Environmental Scientist, at (916) 574-1814 or [Jason.Ramos@slc.ca.gov](mailto:Jason.Ramos@slc.ca.gov). For questions concerning Commission leasing jurisdiction, please contact Lucien Pino, Public Land Management Specialist, at (916) 574-1858 or [Lucien.Pino@slc.ca.gov](mailto:Lucien.Pino@slc.ca.gov).

Sincerely,



Eric Gillies, Acting Chief  
Division of Environmental Planning  
and Management

cc: Office of Planning and Research  
J. Ramos, Commission  
L. Pino, Commission