



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Marine Region
1933 Cliff Drive, Suite 9
Santa Barbara, CA 93109
wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



June 26, 2023

California State Lands Commission
Attention: Christopher Huitt
100 Howe Ave., Suite 100-South
Sacramento, CA 95825
CEQA.comments@slc.ca.gov



Dear Mr. Huitt:

San Francisco Bay and Delta Sand Mining Project (Project)
Notice of Preparation (NOP)
SCH# 2007072036

The California Department of Fish and Wildlife (Department) received an NOP from the California State Lands Commission (CSLC) for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that the Department, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

DEPARTMENT ROLE

The Department is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the state. (Fish & G. Code, Section 711.7, subd. (a) & 1802; Pub. Resources Code, Section 21070; CEQA Guidelines Section 15386, subd. (a).) The Department, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, Section 1802.) Similarly for purposes of CEQA, the Department is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources. The Department is also responsible for marine biodiversity protection under the Marine Life Protection Act in coastal marine waters of California, and ensuring fisheries are sustainably managed under the Marine Life Management Act.

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

The Department is also submitting comments as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) The Department expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, implementation of the Project may result in “take” as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.) and The Native Plant Protection Act (NPPA) (Fish & G. Code Section 1900 et seq.) the project proponent may seek related take authorization as provided by the Fish and Game Code. Additionally, the Department may require a Lake and Streambed Alteration Agreement (LSAA), pursuant to Fish and Game Code §§ 1600 et. seq. for Project-related activities affecting perennial, intermittent, and ephemeral lakes, streams, rivers, other hydrologically connected aquatic features, associated riparian habitat, and any associated biological resources/habitats present within the entire Project footprint (including utilities, access and staging areas).

PROJECT DESCRIPTION SUMMARY

Proponent: Martin Marietta Marine Operations, LLC; Lind Marine, Inc.; and Suisun Associates

Objective: The proposed Project is to obtain marine aggregate primarily for construction purposes and allow continued sand mining within San Francisco Bay for an additional 10 years on CSLC leases.

Location: The Project is located on CSLC leases in Central San Francisco Bay, Suisun Bay, and Middle Ground Shoals.

Timeframe: The Project is anticipated to continue for an additional 10 years beyond the currently permitted timeframe.

MARINE BIOLOGICAL SIGNIFICANCE

The San Francisco Bay-Delta is the second largest estuary in the United States and supports numerous aquatic habitats and biological communities. It encompasses 479 square miles, including shallow mudflats. This ecologically significant ecosystem supports both state and federally threatened and endangered species and sustains important commercial and recreational fisheries.

STATE AND FEDERALLY LISTED AND COMMERCIAL/RECREATIONALLY IMPORTANT SPECIES

Protected species under the State and Federal Endangered Species Acts that could potentially be present near Project activities include:

- Chinook salmon (*Oncorhynchus tshawytscha*), state and federally threatened (Central Valley Spring-run), state and federally endangered (Sacramento River Winter-run)
- Longfin smelt (*Spirinchus thaleichthys*), state threatened
- Delta smelt (*Hypomesus transpacificus*), state and federally endangered
- Steelhead (*Oncorhynchus mykiss*), federally threatened (Central California Coast and Central Valley ESUs)
- Green sturgeon (*Acipenser medirostris*), federally threatened (southern DPS)
- White sturgeon (*Acipenser transmontanus*), state species of special concern
- Brown pelican (*Pelecanus occidentalis californicus*), state fully protected

Several species with important commercial and recreational fisheries value that could potentially be impacted by Project activities include:

- Dungeness crab (*Cancer magister*)
- Pacific herring (*Clupea pallasii*)
- Surfperches (*Embiotocidae*)
- California halibut (*Paralichthys californicus*)

COMMENTS AND RECOMMENDATIONS

The Department offers the comments and recommendations below to assist the CSLC in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

I. Project Level Impacts and Other Considerations

Early Consultation

Comment: Since the Department issued a 2081(b) Incidental Take Permit for both sand mining operations in 2013, all covered species listed within those permits have had significant changes to their population status with both Delta smelt and Longfin smelt reaching record low levels. Given the changes that have occurred, avoidance, minimization, and mitigation measures in the last authorization likely need to be revised to account for the declines in the species that may be impacted Project activities.

Additionally, there are no mitigation banks with available mitigation credits for Longfin and Delta smelt. Mitigation options for impacts to state listed species will need to be reconsidered for potential impacts over the next 10 years.

Recommendation: The Department recommends early consultation to ensure that the draft Environmental Impact Report includes updated measures and mitigation options to be consistent with current Department recommendations and to ensure the Project is adequately addressing the potentially significant impacts. The DEIR should provide adequate and specific details for how mitigation may be provided to fully mitigate impacts to Longfin and Delta smelt.

Terrestrial Impacts

Comment: It is unclear whether and to what extent terrestrial impacts may occur from sand mining activities, specifically at the offloading facilities. The Department has determined that there are numerous special status species potentially present in or near the Project activities, including areas where offloading occurs. Potential impacts to these species should be clearly defined and described within the DEIR.

Recommendation: The Department recommends the DEIR provide a description and maps of where sand is offloaded to assist in determining potential terrestrial impacts from offloading activities.

Permanent and Temporary Impacts

Comment: For the Department to adequately determine the impacts associated with Project activities, the DEIR should describe the area of impact and separate temporary from permanent impacts.

Recommendation: The Department recommends the DEIR provide specific impact assessment and describe permanent and temporary impacts separately. Impacts should be described in measurements of acres, acre feet of water, and cubic yards.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/SubmittingData#44524420-pdf-field-survey-form>. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by the Department. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

The Department appreciates the opportunity to comment on the NOP to assist the CSLC in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination with Marine Region should be directed to Arn Aarreberg, Environmental Scientist, at (707) 791-4195, or Arn.Aarreberg@wildlife.ca.gov and for the Bay-Delta Region should be directed to Andrea Boertien, Environmental Scientist at (707) 317-0388 or Andrea.Boertien@wildlife.ca.gov.

Sincerely,



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Marine Regional Manager

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Page 6

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State Clearinghouse (SCH No. 2007072036)
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