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December 17, 2021

Mr. Chris Cannon, Director
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Star-Kist Cannery Facility (Project), Recirculated Draft Initial Study/Mitigated Negative Declaration (Draft IS/MND), SCH# 2019129042

Dear Mr. Cannon:

The California Department of Fish and Wildlife (Department) received a Notice of Intent to Adopt a Recirculated Initial Study/Mitigated Negative Declaration from the City of Los Angeles Harbor Department (City) for the Star-Kist Cannery Facility Project (Project) pursuant to 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 on biological impacts and mitigation 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, Section711.7, subd. (a) & 1802; Pub. Resources Code, § 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

[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.

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. Pursuant to our jurisdiction, the Department has the following comments and recommendations regarding the Project.

PROJECT DESCRIPTION SUMMARY
Proponent: Port of Los Angeles, City of Los Angeles Harbor Department
Objective: The objective of the Project is to prepare the subject land parcel for future development and reuse. The land was historically used by Star-Kist as a seafood cannery. Based on comments received, the City determined to recirculate the initial IS/MND pursuant to section 15073.5 of the State CEQA Guidelines (14 CCR15000 et seq.) to include an updated, revised analysis, and to include analysis of reasonably foreseeable future uses of the Project site. For the purposes of this evaluation, it is assumed that the site will be developed with an automotive and heavy equipment chassis repair and maintenance depot. The Project objectives also include two construction phases. Phase 1 construction will include demolition of Main Plant No. 4, a small wharf structure, and a bridge connecting Main Plant No. 4 to the northern portion of the East Plant. After demolition, the Main Plant No. 4 land will be compacted with crushed miscellaneous base (CMB), and then perimeter lighting, fencing, and low-impact development (LID) best management practices (BMPs) (e.g., filtration trough) will be installed. Once funding is available, Phase 2 would involve installation of a concrete pad and canopy structure at the Phase 1 site and demolition of structures on East Plant. East Plant demolition and grading will be conducted like Phase 1, but no water side construction is proposed.

Construction elements potentially impacting marine life, water and habitats would include:

- Demolition of a 2,221 square foot wooden wharf and 20 timber pile structures.
- A vibratory pile extractor for pulling out 20 timber piles will be used wherever possible. Pile cutting will be done if necessary.
- Work vessels would include a derrick barge with a crane for the pile removal and a material barge to haul wharf debris to another area of the Port for disposal.
- Once all structures are demolished, the Phase 1 site would be graded and covered with CMB. Finally, perimeter fencing, filtration trough, and exterior perimeter lighting would be installed.

Location: Terminal Island within the Port of Los Angeles (Port), Los Angeles County, California. Cross Streets: Earle Street/Bass Street and Marina Street/Ways Street
Timeframe: Phase 1: August 2022 through May 2023, Phase 2: To be determined.

Marine Biological Significance
The Los Angeles Harbor (Harbor) waters support many resident and migratory fish and special status wildlife such as seabirds, marine mammals, and sea turtles. Important marine plants and algae habitats such as eelgrass (*Zostera marina*) and Giant kelp (*Macrocystis pyrifera*) support those fish and wildlife species and are common throughout shallow areas and along shorelines of the harbor. Eelgrass is important as

fish nursery habitat throughout the harbor and supports juvenile and adult fish. Harbor waters also support commercially and recreationally important fish and invertebrate species such as California halibut (*Paralichthys californicus*), California spiny lobster (*Panulirus interruptus*), and the important forage fish Northern anchovy (*Engraulis mordax*).

COMMENTS AND RECOMMENDATIONS

The Department offers comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources.

I. Project Level Impacts and Other Considerations

Comment #1 Pile Pulling Impacts and Sound Criteria
Underwater pile pulling generate sound pressure waves causing temporary or permanent impacts to fish and invertebrates. Impacts may include a startled response in fish resulting in fish temporarily leaving the safety of their normal essential habitats to avoid the construction noise. In some situations, pile driving sound pressure waves can cause fish barotrauma injury or mortality if not mitigated to tolerable noise levels. The Department relies on guidance from the Fisheries Hydroacoustic Working Group for setting sound pressure level safety criteria for fish resources, and for pile driving projects. The agreed upon criteria consists of sound pressure levels (SPL) of 206 decibels (dB) peak and 187 dB (or 183 dB for fish less than 2 grams body weight) accumulated sound exposure level (SEL) for all listed fish within a project area. Impacts to marine organisms from underwater sound are influenced by the SELs, SPLs, sound frequency, and depth and distance from the sound output source. Additional information on in water sound level criteria can be found at:
https://dot.ca.gov/programs/environmental-analysis/biology/hydroacoustics

Pile pulling commonly generates significant temporary impacts such as water turbidity plumes that may reduce or block out essential underwater light for primary producers (marine plant organisms) that use photosynthesis for growth and survival. Turbidity can cause permanent impacts by clogging fish and invertebrate gills causing reduced respiration, and/or may cause reduced ability to forage and avoid predators. Temporary periods of turbidity may cause lower marine life productivity in the marine ecosystem trophic levels, lower marine biodiversity, and can contribute to marine habitat degradation and/or losses if not mitigated.

Pile pulling may cause adverse impacts to habitat forming plant and algae species. This may include degradation and losses due to a buildup of sedimentation (silt) on top of sensitive marine plants and algae including, but not limited to, eelgrass and Giant kelp. Sedimentation may also cause burial of benthic or epibenthic marine organisms.

Incomplete removal of creosote timber piles may result in broken piles, pile stub, at or above the mud line. A pile stub that is left at the mudline may potentially remain in

eelgrass habitat, prevent eelgrass expansion within the footprint of each cut pile, and potentially continue to leach creosote contaminants into the environment.

Recommendation: The Department recommends that the Final IS/MND include an analysis of anticipated in water SPLs and SELs. The maximum sound levels generated should not exceed the Interim Criteria for Injury to Fish (peak Sound Exposure Level (SEL) of 206 decibels (dB) and accumulated SEL of 187 dB SEL threshold for fish over 2 grams, and 183 dB for fish under 2 grams), (Interim Criteria 2008).

Mitigation Measures: Should anticipated SPLs and SELs exceed the agreed Interim Criteria, the Department recommends including. the following fish impact mitigation measures:

- In water sound level monitoring should be conducted if anticipated SPLs and SELs exceed acceptable levels as per the Interim Criteria for Injury to Fish.
- To reduce in water sound levels, extractions of all timber piles should be conducted by direct pull or by vibratory methods.
- Include soft starts and safety buffer zones for fish.

Mitigation Measure: Extractions of all timber piles should be conducted by direct pull or by vibratory methods. Should a pile break or cannot be removed, the pile should be cut, at a minimum, 2 feet below the mud line.

Mitigation Measures: To reduce turbidity impacts to eelgrass if present:

- Install silt turbidity curtains around piles to contain turbidity and sedimentation to the smallest area.
- If an eelgrass or Giant kelp bed is present, an additional turbidity curtain should be placed in such a way to protect the bed from turbidity and sedimentation effects.

Comment #2 Native Eelgrass Impacts

Eelgrass habitat has been identified as a special aquatic site and given protections by the Clean Water Act. The Magnuson–Stevens Fishery Conservation and Management Act (MSA) identifies it as a Habitat Area of Special Concern. Additionally, the importance of eelgrass protection and restoration, as well as the ecological benefits of eelgrass, is identified in the California Public Resources Code (PRC §35630). Therefore, eelgrass impacts should be avoided, impacts minimized, and if any significant eelgrass impacts occur due to the project construction phases, these impacts should be compensated using guidance for adverse eelgrass impacts and mitigation as provided by the California Eelgrass Mitigation Policy (CEMP), (NOAA 2014).

The City’s Draft IS/MND relies on the 2018 Biological Surveys of the Los Angeles and Long Beach Harbors that indicate the nearest eelgrass patch was observed about 540 feet west of the wharf edge. The 2018 survey is outdated for determining the extent of eelgrass at the site, additional eelgrass beds may currently exist in or adjacent to the area of potential Project effects and may be damaged or degraded by Project activities.

Additional new eelgrass habitat may be impacted if it has expanded and grown closer to the wharf within the last three years. Eelgrass impacts from sedimentation may include eelgrass bed degradation resulting in reduced density and areal extent.

Wharf and pile demolition and Phase 1 of construction will likely generate significant eelgrass habitat impacts if eelgrass exists in the area of potential effects. Potential eelgrass impacts may be permanent and/or temporary. Permanent impacts may include direct damage to eelgrass habitat from pile pulling, barge propellor wash and cuts, burial, barge shading, and damage from barge anchor and chains. Temporary impacts may include falling debris/dust, rocks or dirt, stormwater runoff, turbidity, and sedimentation.

Mitigation Measures: The proposed Project should avoid and minimize disturbance and damage or losses to eelgrass beds from pile pulling and associated barges/vessels to the maximum extent feasible. Impacts to avoid and minimize may include, at a minimum, barge shading and anchoring within eelgrass habitat, pile pulling bottom disturbances, and demolition and construction turbidity, sedimentation, and falling debris. The Final MND should include, at a minimum, the following eelgrass mitigation measures:

- Locate pile driver barges and vessels and all barge anchoring outside of eelgrass habitat if feasible. Barge and vessel mooring anchor designs and installation should include methods to avoid anchor chain scouring of the soft bottom and eelgrass during the proposed in water Project.
- To avoid and minimize demolition and construction debris impacts to eelgrass and marine habitats use BMPs such as perimeter debris booms and other feasible methods. If debris is observed falling into Harbor water, retrieve debris as soon as possible from Harbor water and bottom.
- To reduce water turbidity and sedimentation impacts to eelgrass, install silt curtains around piles, wharf, and eelgrass beds as feasible prior to, and during demolition and construction. Restrict the turbidity plumes to the smallest possible area during all phases of demolition and construction; and

Mitigation Measure: If unavoidable eelgrass losses or degradation impacts occur then these impacts should be compensated in-kind and on site. Actual eelgrass losses should be determined and compensated after construction is complete using guidance from the CEMP.

Recommendation: Should the updated eelgrass survey indicate eelgrass has expanded, an Eelgrass Mitigation and Monitoring Plan (Plan) should be developed in consultation with the Department and other permitting and resources agencies. The finalized Plan should include:

- A comprehensive analysis of all impacts to native eelgrass and other native marine habitats based on updated pre-construction marine life and habitat surveys.
- A native marine habitat gain/loss analysis summary table for the proposed

Project should be included in the Plan.

- The Plan should also include a summary table of eelgrass habitat impact avoidance and minimization mitigation measures.
- If compensatory mitigation is required for eelgrass impacts, mitigation should be conducted in accordance with the CEMP.
- The Plan should identify the Department as one of the agencies to receive and review draft and final eelgrass and marine habitat mitigation and monitoring reports, surveys, and plans.
- Eelgrass donor sites should be identified and surveyed during pre- or post-construction eelgrass surveys.

Recommendation: If transplanting of eelgrass is required for mitigation, a Scientific Collecting Permit (SCP) from the Department will be required prior to harvest and transplanting activities. The SCP may include conditions such as donor bed surveys, limits on number of turions collected, methods for collection and transplanting, notification of activities, and reporting requirements. Please visit the Department's SCP webpage for more information: https://wildlife.ca.gov/Licensing/Scientific-Collecting.

Comment #3 Invasive Species Impacts
Disturbance of the bottom sediments from dredging and pile construction may redistribute non-native species that compete with native species. This could cause widespread adverse impacts to eelgrass and the marine ecology. The invasive algae *Caulerpa taxifolia* is listed as a federal noxious weed under the U.S. Plant Protection Act and while deemed eradicated in 2006 is monitored for potential future emergence. Another invasive algae species found recently in Newport Bay is *Caulerpa prolifera*, which is also a potential threat to growth and expansion of native eelgrass beds and other native alga.

Mitigation Measure: The Department recommends including a mitigation measure detailing a pre-construction *Caulerpa spp*. survey to identify potential existence of invasive *Caulerpa spp.* as described in the Caulerpa Control Protocol https://www.fisheries.noaa.gov/west-coast/habitat-conservation/aquatic-invasive-species-west-coast. If *Caulerpa spp.* are found, do not disturb the species, and contact the Department and National Marine Fisheries Service within 24 hours as described in the Caulerpa Control Protocol.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base 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 (CNDDB). Information on submitting data to the CNDDB can be found at: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data.

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 Department. Payment of the fee is required 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 Draft IS/MND for the Star-Kist Cannery Facility. If you have any questions or comments, please contact Loni Adams, Environmental Scientist, at 858-204-1051 or loni.adams@wildlife.ca.gov.

Sincerely,

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References

NOAA (National Oceanic and Atmospheric Administration) Fisheries, West Coast Region. 2014. California Eelgrass Mitigation Policy and Implementing Guidelines.

Fisheries Hydroacoustic Working Group. 2008. Interim Criteria for Injury of Fish Exposed to Pile Driving Operations: Memorandum. Washington: Federal Highway Administration.