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**GAVIN NEWSOM, Governor**  
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September 25, 2020

Governor's Office of Planning & Research

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**Sep 28 2020**

**STATE CLEARINGHOUSE**

Subject: Ocean Beach Climate Change Adaptation Project, Notice of Preparation,  
SCH No. 2020090171, City and County of San Francisco

Dear Ms. Moore:

The California Department of Fish and Wildlife (CDFW) has reviewed the Notice of Preparation (NOP) prepared by the City and County of San Francisco for the Ocean Beach Climate Change Adaptation Project (Project) located in the City and County of San Francisco. CDFW is submitting comments on the NOP regarding potentially significant impacts to biological resources associated with the Project.

### **CDFW ROLE**

CDFW is a Trustee Agency with responsibility under the California Environmental Quality Act (CEQA; Pub. Resources Code, § 21000 et seq.) pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources (e.g., biological resources). CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), the Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program, and other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

### **PROJECT LOCATION**

The Project is located at Ocean Beach, extending south from Sloat Boulevard to the northern edge of the Fort Funston bluffs, and the Great Highway from Sloat Boulevard to Skyline Boulevard, along with a portion of Ocean Beach north of Lincoln Boulevard where sand is harvested for placement south of Sloat Boulevard, in the City and County of San Francisco.

### **PROJECT DESCRIPTION SUMMARY**

The Project involves coastal adaptation and sea level rise resiliency and is needed to address shoreline erosion, severe coastal storm and wave hazards, and sea level rise. Major Project components include: (1) permanently closing the Great Highway between

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Sloat and Skyline boulevards, and reconfiguring affected intersections and San Francisco Zoo parking access; (2) removing pavement, rock, and sandbag revetments, rubble and debris, recontouring the bluff and planting dune vegetation; (3) improving public access, maintaining coastal parking and continuing to provide restroom facilities; (4) installing a buried wall to protect existing sewer infrastructure from shoreline erosion; and (5) long-term beach nourishment. The Project involves removing existing shoreline protection structures, and recontouring the bluff to provide a gradual slope towards the beach. Sand will be placed over the slope and wind-erosion control measures will be implemented, including the possibility of sand fencing. The Project will also involve construction of a multi-use trail, beach access stairways, parking, and restrooms. The multi-use trail would extend from Sloat Boulevard to Skyline Boulevard and include two beach accessways and several waysides, or turnouts. To protect the Lake Merced Tunnel from exposure to coastal hazards, a below-grade wall will be installed adjacent to and seaward of the Lake Merced Tunnel. The proposed wall will consist of a secant pile wall system with tiebacks and would extend from Sloat Boulevard to approximately 3,000 feet to the south. To stabilize the recontoured bluff inland of the wall, a 4-foot-thick gently sloping layer of cementitious material will be installed. By removing the existing shoreline revetments at South Ocean Beach, the Project would allow erosion and retreat of the remaining bluff face seaward of the buried wall. With bluff retreat and erosion of sand placed over the slope stabilization, portions of the wall would occasionally be exposed, and the beach would narrow. To address these issues, the City proposes to implement a shoreline monitoring program and place sand as deemed needed per the results of annual monitoring.

## ENVIRONMENTAL SETTING

The state special-status species that have the potential to occur in or near the Project site, include, but are not limited to:

- Bank swallow (*Riparia riparia*), state listed as threatened under CESA;
- California black rail (*Laterallus jamaicensis coturniculus*), state listed as fully protected under Fish and Game Code, state listed as threatened under CESA;
- Western bumble bee (*Bombus occidentalis*), candidate for endangered status under CESA;
- San Francisco lessingia (*Lessingia germanorum*), state listed endangered under CESA, federally listed as endangered under ESA;
- Beach layia (*Layia carnosa*), state listed endangered under CESA, federally listed as endangered under ESA; and
- Nesting and migratory birds

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## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the following comments and recommendations to assist the San Francisco Planning Department in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on biological resources.

### **COMMENT 1: Full Project Description of Project Features**

The CEQA Guidelines (§§15124 and 15378) require that the draft Environmental Impact Report (EIR) incorporate a full project description, including reasonably foreseeable future phases of the Project, and require that it contain sufficient information to evaluate and review the Project's environmental impact.

To fully address the Project's impacts to fish and wildlife resources. Please include complete descriptions of the following features within the draft EIR, if applicable:

- Introduction of sources of light and glare into habitat areas;
- An increase in noise and human presence from additional public access and recreation;
- Impacts to vegetation, including trees;
- Stormwater or effluent drainage outlet systems;
- Detailed description of proposed work along the bluff;
- Detailed description of proposed work (e.g., crossing improvements, repairs, etc.) at and within stream crossings; and
- Location, type, and height of all fencing.

The draft EIR should consider the current state of the shoreline – i.e., with existing armoring – as “existing conditions”, and should measure all potential impacts against such conditions.

### **COMMENT 2: State Fully Protected Species**

State fully protected species may occur within the Project area. CDFW has jurisdiction over fully protected species of birds, mammals, amphibians, reptiles, and fish pursuant to Fish and Game Code §§ 3511, 4700, 5050, and 5515. Take, as defined by Fish and Game Code § 86 is to “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill”, take of any fully protected species is prohibited and CDFW cannot authorize their incidental take. Without appropriate mitigation measures, Project activities conducted within occupied territories have the potential to significantly impact these species.

Without appropriate avoidance and minimization measures for fully protected species, potentially significant impacts associated with Project activities may include, but are not

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limited to inadvertent entrapment, reduced reproductive success, reduced health and vigor, nest abandonment, loss of nest trees, and/or loss of foraging habitat that would reduce nesting success (loss or reduced health or vigor of eggs or young), and direct mortality.

To evaluate and avoid potential impacts to fully protected species, CDFW recommends incorporating the following mitigation measures into the Project's draft EIR, and that these measures be made conditions of approval for the Project.

### **Recommended Mitigation Measures:**

#### **Fully Protected Species Surveys**

To avoid impacts to fully protected species, CDFW recommends that a qualified biologist conduct species-specific surveys (using standard protocol or methodology, if available) of the Project site before Project implementation. If Project activities will take place when fully protected species are active or are breeding, CDFW recommends that additional pre-activity surveys for active nests or individuals be conducted by a qualified biologist no more than seven (7) days prior to the start or restart of Project construction and every 14 days during Project construction.

#### **Fully Protected Species Avoidance**

In the event a fully protected species is found within or adjacent to the Project site, CDFW recommends that a qualified wildlife biologist develops an appropriate no-disturbance buffer to be implemented. The qualified biologist should also be on-site during all Project activities to ensure that the fully protect species is not being disturbed by Project activities.

### **COMMENT 3: State Protected Wildlife Species and Species of Special Concern**

State threatened or endangered wildlife species and species of special concern (SSC) may occur within the Project area. Without appropriate mitigation measures, the Project could potentially have a significant impact on these species. Potential impacts to protected wildlife species include the inability to reproduce, capture, burrow/den collapse, crushing as a result of burrow collapse, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of young, nest abandonment, loss of nest trees/breeding habitat, or loss of foraging habitat that would reduce nesting success (loss or reduced health or vigor of eggs or young), and direct mortality. Unauthorized take of species listed as threatened or endangered pursuant to CESA is a violation of Fish and Game Code. The Project will or may include impacts such as noise, groundwork, and movement of workers that may occur in or directly adjacent to habitat and thus have the potential to significantly impact State-listed wildlife species.

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**Recommended Mitigation Measures:**

**State-listed Wildlife Species and Species of Special Concern Focused Surveys**

The Project area should be surveyed for State-listed and SSC wildlife species by a qualified biologist following protocol-level surveys. Protocol-level surveys are intended to maximize detectability. In the absence of protocol-level surveys being performed, additional surveys may be necessary.

**State Species of Special Concern Avoidance**

If SSC wildlife species are found within or adjacent to the Project site, a qualified biologist should establish a no-disturbance buffer appropriate for the species and conduct on-site monitoring during all Project-related activities. The draft EIR should include additional minimization and mitigation measures for each SCC wildlife species that could be potentially impacted by Project activities.

**State-listed Species Take Authorization**

If State-listed wildlife species are identified during surveys and full avoidance of take is not feasible, the Project proponents should apply to CDFW for take authorization through issuance of an Incidental Take Permit (ITP).

**COMMENT 4: State Threatened, Endangered, or Rare Plant Species**

State threatened, endangered or rare plant species may occur within the Project location. Without appropriate mitigation measures, the Project could potentially have a significant impact on these species. Potential impacts to special-status plants include inability to reproduce and direct mortality. Unauthorized take of plant species listed as threatened, endangered, or rare pursuant to CESA or the Native Plant Protection Act is a violation of Fish and Game Code.

Special-status plants are typically narrowly distributed endemic species. These species are susceptible to habitat loss and habitat fragmentation resulting from development, vehicle and foot traffic, and introduction of non-native plant species.

**Recommended Mitigation Measures:**

**Special-Status Plant Focused Surveys**

The Project area should be surveyed for State-listed plant species by a qualified biologist following protocol-level surveys. Protocol-level surveys, which are intended to maximize detectability, may include identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period.

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### **Special-Status Plant Avoidance**

Special-status plant species should be avoided through delineation and establishment of a no-disturbance buffer of at least 50 feet from the outer edge of the plant population or specific habitat type required by special-status plant species.

### **Special-Status Plant Take Authorization**

If State-listed plant species are identified during surveys and full avoidance of take is not feasible, take authorization through CDFW issuance of an ITP would be required.

### **COMMENT 5: Bank Swallows**

Removal of pavement, rock, and sandbag revetments, rubble and debris; recontouring the bluff; and installation of a four-foot thick layer of cementitious material on the bluff face would cause significant impacts to listed species, including bank swallow. Recontouring and coating of the bluff face in areas with existing bank swallow nesting activities could directly injure, kill, or displace established bank swallow colonies, resulting in direct take of chicks and adults.

The Project may attempt to avoid recontouring and coating in areas where bank swallows occur to avoid impacts to this species. However, removal of revetments and other shoreline hardening features is likely to accelerate erosion of the bluff in areas where bank swallow colonies occur. Loss or damage to colonies through removal of shoreline hardening would therefore be a direct consequence of the Project. In the event of a sudden collapse of any occupied nest or hole from Project activities, potential exists for bank swallow individuals to be killed, resulting in take. Regardless of if the Project results in take, any Project impacts to bank swallow individuals or colonies should be considered a substantial adverse change in the physical conditions within the area affected by the Project.

The San Francisco bank swallow population is the only extant bank swallow colony complex in the Bay Area and possibly the entire Central Coast. Although some nesting areas may not be directly impacted by the proposed Project (i.e., directly south at Fort Funston), the loss of either colonies or individuals at Ocean Beach would reduce the size of the local population, contributing to reduced population fitness and potentially a regional extirpation of the species. This impact on the bank swallow population should be considered significant under CEQA.

CDFW is not aware of feasible mitigation that would offset such an impact. Nearby habitat is occupied by other bank swallows; therefore, an attempt to relocate the bank swallows at Ocean Beach to nearby habitats could result in displacement or overcrowding, harming both existing colonies and displaced individuals. Attempts to

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minimize direct mortality by excluding individuals from nesting cavities would not be effective as these birds are dependent on their nesting cavities for shelter and year-round survival.

CDFW encourages the lead agency to consider Project designs in the draft EIR alternatives analysis that would not cause the loss of the bank swallow colonies at Ocean Beach. CDFW is available to consult with the lead agency on design alternatives that might achieve this purpose.

CDFW advises that the Project proponent obtain a CESA Permit for bank swallows (pursuant to Fish and Game Code Section 2080 et seq.) in advance of Project implementation if the impacts described above cannot be avoided. Issuance of a CESA Permit is subject to CEQA documentation; therefore, the CEQA document should consult with CDFW, specify impacts and mitigation, and should fully describe a mitigation, monitoring and reporting program. As mentioned above, if the proposed Project will impact any CESA-listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required to obtain a CESA Permit. More information on the CESA permitting process and protocol survey procedures can be found on the CDFW website at <https://www.wildlife.ca.gov/Conservation/CESA> or <https://www.wildlife.ca.gov/Conservation/Survey-Protocols>

#### **COMMENT 6: Cumulative impacts**

The Project has a potential to contribute to cumulative impacts, such as decreasing in wildlife connectivity due to the installation of fencing and infrastructure and increase in deleterious material (e.g., trash, pollutants, etc.) into waterways due to the increase of visitors. Any cumulative impact to biological resources should be mitigated to the extent possible or avoided.

CDFW recommends that the Project incorporate wildlife friendly fencing (if fencing is proposed), creation of wildlife bypasses to mitigate for decreases in wildlife connectivity, and educating visitors regarding leaving no trace while on trails and beaches.

#### **COMMENT 7: Artificial Lighting**

The Project may increase artificial lighting. Artificial lighting often results in light pollution, which has the potential to significantly and adversely affect biological resources. Night lighting can disrupt the circadian rhythms of many wildlife species. Many species use photoperiod cues for communication (e.g., bird song), determining when to begin foraging (Stone et al. 2009), behavior thermoregulation (Beiswenger 1977), and migration (Longcore and Rich 2004).

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**Recommended Mitigation Measure:**

CDFW recommends eliminating all non-essential artificial lighting. If artificial lighting is necessary, CDFW recommends avoiding or limiting the use of artificial lights during the hours of dawn and dusk, when many wildlife species are most active. CDFW also recommends that outdoor lighting be shielded, cast downward, and does not spill over onto other properties or upwards into the night sky. In addition, lights can be motion-activated, or turned off or dimmed during critical times of the year (e.g., migration) or during times of night that have the most significant impact on wildlife (i.e. dawn and dusk) (Gaston et al., 2012, 2013). Lights with wildlife-friendly spectral composition (i.e., minimize light avoidance/attraction) can also be used (Gaston et al. 2012, 2013). LED lights are well suited for operating at variable brightness and being switched off or dimmed during certain times of the year or during times of low demand, as they operate at full efficiency and have no “warm-up” time (Gaston et al., 2012, 2013). Vegetation may also be used to shield sensitive areas against light, and light-absorbent surfaces can be used in place of reflective surfaces (Gaston et al., 2012, 2013). See the International Dark-Sky Association standards at <http://darksky.org/>.

**COMMENT 8: Nesting Birds**

CDFW encourages that Project implementation occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February through early-September), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or Fish and Game Code.

To evaluate and avoid for potential impacts to nesting bird species, CDFW recommends incorporating the following mitigation measures into the Project’s draft EIR, and that these measures be made conditions of approval for the Project.

**Recommended Mitigation Measures:**

**Nesting Bird Surveys**

CDFW recommends that a qualified avian biologist conduct pre-activity surveys for active nests no more than seven (7) days prior to the start of ground or vegetation disturbance and every fourteen (14) days during Project activities to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. Prior to initiation of ground or vegetation disturbance, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once Project activities begins, CDFW recommends

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having the qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

### **Nesting Bird Buffers**

If continuous monitoring of identified nests by a qualified avian biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the Project site would be concealed from a nest site by topography. CDFW recommends that a qualified avian biologist advise and support any variance from these buffers.

## **REGULATORY REQUIREMENTS**

### **California Endangered Species Act**

Please be advised that a CESA Permit must be obtained if the Project has the potential to result in “take” of plants or animals listed under CESA, either during construction or over the life of the Project. Issuance of a CESA Permit is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA Permit.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially impact threatened or endangered species [CEQA section 21001(c), 21083, and CEQA Guidelines section 15380, 15064, 15065]. Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency’s FOC does not eliminate the Project proponent’s obligation to comply with Fish and Game Code section 2080.

### **Lake and Streambed Alteration Program**

Notification is required, pursuant to CDFW’s LSA Program (Fish and Game Code section 1600 et. seq.) for any Project-related activities that will substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake or stream. Work within ephemeral streams, washes, watercourses with a

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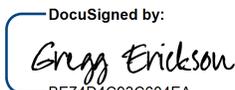
subsurface flow, and floodplains are subject to notification requirements. CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the Project. CDFW may not execute the final LSA Agreement until it has complied with CEQA (Public Resources Code section 21000 et seq.) as the responsible agency.

## FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code, section 711.4; Pub. Resources Code, section 21089). 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 CDFW.

Thank you for the opportunity to comment on the Project's NOP. If you have any questions regarding this letter or for further coordination with CDFW, please contact Ms. Stephanie Holstege, Environmental Scientist, at (707) 210-5104 or [stephanie.holstege@wildlife.ca.gov](mailto:stephanie.holstege@wildlife.ca.gov); or Mr. Wes Stokes, Senior Environmental Scientist (Supervisory), at [wes.stokes@wildlife.ca.gov](mailto:wes.stokes@wildlife.ca.gov)

Sincerely,

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