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Governor's Office of Planning & Research

Dec 20 2021

Mr. Chris Cannon, Director
Los Angeles Harbor Department
Environmental Management Division
425 Palos Verdes Street
San Pedro, California 90731
cequacomments@portla.org

STATE CLEARINGHOUSE

Berths 148-151 (Phillips 66) Marine Oil Terminal and Wharf Improvement Project (Project), Draft Initial Study/Mitigated Negative Declaration (Draft IS/MND), SCH# 2021110263

Dear Mr. Cannon:

The California Department of Fish and Wildlife (Department) received a Notice of Intent to Adopt an Initial Study/Mitigated Negative Declaration from the City of Los Angeles Harbor Department (City) for the Berths 148-151 (Phillips 66) Marine Oil Terminal and Wharf Improvement 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 biological impact and mitigation 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, § 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,

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.

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

PROJECT DESCRIPTION SUMMARY

Proponent: Phillips 66 Company

Objective: The primary objective of the proposed Project is to ensure that the Phillips 66 marine oil terminal (MOT) at Berths 148-151 complies with Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS) to protect public health, safety, and the environment. The timber wharf at Berths 150-151 would be replaced with a new concrete wharf and associated equipment to comply with MOTEMS seismic and safety standards. The Project includes temporary improvements at Berths 148-149 that would allow these berths to continue to be utilized while the new Berths 150-151 are being reconstructed. The various platforms and catwalks comprising the new Berth 150-151 would extend along approximately 1,100 feet of the shoreline, but the over-water footprint would be approximately 12,000 square feet, a reduction of approximately 16,000 square feet from the footprint of the existing timber wharf.

Construction elements would include:

- Berth 148-149: Partial demolition of the existing concrete deck, and partial removal and disposal of the existing timber fender system. Installation of 39 steel fender piles with an impact hammer.
- Demolition of existing timber wharf and pile structure at Berths 150-151. The existing timber piles would be removed and/or extracted intact and cut at the mud line. The MOTEMS-compliant, concrete wharf would be built supported with steel pilings. The new steel pilings would require vibratory hammers and diesel impact pile drivers.
- The new berth would consist of a loading platform, mooring and breasting dolphins, access ramps, and catwalks. The new berth would be able to accommodate oil and gas vessels (OGVs) as well as barges.
- The platform would be surrounded by a spill containment curb to contain and collect runoff or spills from OGVs. The new berth would also include a small, pile-supported platform for handling the spill containment boom.
- Clean up dredging of up to 2000 cubic yards may be necessary after construction to maintain -35 feet depths for the new berthing.
- Landside improvements would include refurbishment of 11 idle storage tanks, and construction of three new tanks.

Location: Pier A Street, Wilmington, Port of Los Angeles (Port), Los Angeles County, California.

Timeframe: Phased over six years 2022 through 2028.

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 such as eelgrass (*Zostera marina*) 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

Pile Driving and Pulling Impacts and Sound Criteria:

Underwater pile driving or pulling generate underwater 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/pulling sound pressure waves can cause fish barotrauma injury or mortality. 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/pulling 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 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>.

Incomplete removal of old creosote treated timber piles may result in broken piles, pile stub, at or above the mud line. A creosote timber pile stub that is left at the mudline may potentially continue to leach contaminants into the environment.

Recommendation: The Department recommends that the Final IS/MND include an analysis of anticipated in water SPLs and SELs. The Interim Criteria for Injury to Fish includes (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 modeled sound levels exceed the Interim Criteria, the

Department recommends the following mitigation measures for steel pile driving and timber pile removals:

- In water sound level monitoring should be conducted during pile driving and pulling, and if SPLs and SELs exceed agreed upon levels as per the Interim Criteria for Injury to Fish, additional steps should be taken to reduce the underwater sound to acceptable levels.
- Feasible underwater noise dampening mitigation measures should be used for steel pile driving such as a noise dampening wooden block, air bubble curtains and/or coffer dam methodologies as applicable for steel piles.
- To reduce underwater noise levels, steel piles should be driven with a vibratory hammer to the maximum extent feasible with impact hammers used only if required for final driving into the mud.
- To reduce underwater noise, timber pile extractions should be conducted by direct pull and vibratory methods.

Mitigation Measure:

Should a creosote timber pile break off or cannot be removed, the pile should be cut, at a minimum, 2 feet below the mud line to reduce creosote contaminant exposure to Harbor waters.

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 (CNDDDB). Information on submitting data to the CNDDDB can be found at:

<https://wildlife.ca.gov/Data/CNDDDB/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. If you have any questions or comments, please contact Loni Adams, Environmental Scientist, at 858-204-1051 or loni.adams@wildlife.ca.gov.

Sincerely,



Craig Shuman, D. Env
Marine Regional Manager

ec: Becky Ota, Environmental Program Manager
Department of Fish and Wildlife
Becky.Ota@wildlife.ca.gov

Eric Wilkins, Senior Environmental Scientist Supervisor
Department of Fish and Wildlife
Eric.Wilkins@wildlife.ca.gov

Loni Adams, Environmental Scientist
Department of Fish and Wildlife
Loni.Adams@wildlife.ca.gov

Vanessa Navarro, Project Manager
Los Angeles District, U.S. Army Corps of Engineers
Vanessa.Navarro@usace.army.mil

Fernie Sy, Senior Coastal Analyst
California Coastal Commission
Fernie.Sy@coastal.ca.gov

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Los Angeles Harbor Department
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Celine Gallon, Senior Environmental Scientist Supervisor
Los Angeles Regional Water Quality Control Board
Celine.Gallon@waterboards.ca.gov

Habitat Conservation Program Branch CEQA Program Coordinator
California Department of Fish and Wildlife
ceqacommentletters@wildlife.ca.gov

Office of Planning and Research, State Clearinghouse
state.clearinghouse@opr.ca.gov

References

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