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August 16, 2022

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BERTHS 187–191 [VOPAK] LIQUID BULK TERMINAL WHARF IMPROVEMENTS AND CEMENT TERMINAL PROJECT
NOTICE OF PREPARATION/INITIAL STUDY
SCH# 2022070091

Dear Mr. Cannon:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation/Initial Study (NOP/IS) for a Draft Environmental Impact Report (Draft EIR) from the Los Angeles Harbor Department (Harbor Department) for the Berths 187-191 [Vopak] Liquid Bulk Terminal Wharf Improvements and Cement Terminal Project (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 CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW 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 and Game Code, Section 711.7, subd. [a] & 1802; Public Resources Code, Section 21070; CEQA Guidelines Section 15386, subd. [a]). CDFW, 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, CDFW 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

[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.

fish and wildlife resources. CDFW 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, CDFW has the following comments and recommendations regarding the Project.

PROJECT DESCRIPTION SUMMARY

Proponent: Vopak Terminal Los Angeles, Inc.
Objective: The objective of the Project is to repair and upgrade the existing liquid bulk terminal at Berths 187–190 and cement import terminal wharf at Berth 191. Mooring, berthing, and seismic upgrades and structural repairs are needed at the liquid bulk terminal to ensure compliance with California's Marine Oil Terminal Engineering and Maintenance Standards.

At the liquid bulk terminal, primary in-water Project activities include installation of two new berthing dolphin structures and five new breasting dolphin structures (including two new steel pipe piles), removal of 25–125 existing timber fender piles (remaining piles would be abandoned in place), replacement of one concrete pile, installation of 25 new steel or concrete piles and 15 new timber piles, and removal of up to 2,000 cubic yards of sediment. Piles at the liquid bulk terminal would likely be installed with an impact hammer; however, the bottom substrate is uncertain, and a vibratory driver could potentially be used.

At the cement import terminal, primary in-water Project activities include in-kind replacement of 50 timber structural piles and 10 timber fender piles and removal of up to 2,000 cubic yards of sediment. Piles at the cement import terminal would be installed with an impact hammer.

Location: 401 Canal Avenue, Wilmington, Port of Los Angeles, Los Angeles County

Timeframe: Construction and demolition activities are expected to take up to three years at the liquid bulk terminal and up to three months at the cement import terminal.

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 Northern anchovy (*Engraulis mordax*), an important forage fish.

COMMENTS AND RECOMMENDATIONS

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

1. Pile Removal and Installation:

Comments: The Project includes in-water pile removal and installation activities that may generate underwater sound pressure waves. In addition to disturbing marine mammals, sound pressure waves may also cause temporary and/or permanent impacts to fish and invertebrates. Fish and invertebrate impacts may include a startle response resulting in temporary movement out of the Project area to avoid the underwater construction noise. In some situations, sound pressure waves from pile driving can cause fish barotrauma injury or mortality.

For assessing sound pressure wave impacts to fish from pile driving, CDFW relies on guidance from the Fisheries Hydroacoustic Working Group to set safe sound pressure level (SPL) criteria (FHWG 2008). The criteria include a peak SPL of 206 dB and a cumulative sound exposure (SEL) level of 187 dB for fish two grams and heavier or a cumulative SEL of 183 dB for fish lighter than two grams. Additional information on in-water sound level criteria can be found at: https://dot.ca.gov/programs/environmental-analysis/biology/hydroacoustics.

In-water pile installation and removal may also generate turbidity that is harmful to fish, invertebrates, and marine plants.

Recommendations: CDFW recommends that the Draft EIR include an analysis of anticipated in-water SPLs and SELs for pile removal and installation. It should also include the recommended Interim Criteria for Injury to Fish (FHWG 2008). To determine what type of equipment will be used for pile driving, CDFW recommends that the Harbor Department conduct a bathymetric/benthic habitat survey to assess the characteristics of the bottom substrate. This information should be discussed in the Draft EIR. CDFW recommends using a vibratory hammer to the greatest extent feasible to reduce underwater noise levels.

Should modeled sound levels exceed the Interim Criteria for Injury to Fish, CDFW recommends the Draft EIR include the following mitigation measures to reduce underwater sound levels:

- In-water sound level monitoring should be conducted during pile removal and installation; 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.

- For pile driving, a vibratory driver should be used to the maximum extent feasible with impact hammers used only if required for final pile driving.
- During pile removal, direct pull and vibratory methods should be used.
- The Draft EIR should include feasible underwater noise dampening methods such as a wooden cushion block and/or air bubble curtain.
- A "soft start" method should be used for the installation of all piles.
- A sound attenuation and monitoring plan should be submitted to CDFW and the other resource agencies for review and approval prior to initiating pile driving activities.

CDFW also recommends using a silt curtain during pile removal and installation to reduce turbidity levels in and around the Project site.

2. Water and Sediment Contamination

Comments: As described in the NOP/IS, the Harbor Department may abandon an undetermined number of existing timber piles in place during the Project. Abandonment or incomplete removal of old creosote treated timber piles may result in broken piles and pile stub at or above the mud line. A creosote timber pile stub that is left at the mudline could continue to leach contaminants into the Harbor waters and benthic sediments. Sediment removal can also release harmful substances into the water if sediments are contaminated.

Recommendations: To reduce creosote contaminant exposure to Harbor waters and sediments, CDFW recommends removal of any existing creosote timber piles. If these piles break off or cannot be directly pulled, the Draft EIR should include cutting them at least two feet below the mud line.

The Draft EIR should specify how the proponent plans to remove sediments from the Harbor. Sediments proposed for removal should be tested prior to extraction, and if they are contaminated, appropriate methods should be used to prevent release of contaminants into the water column.

3. Invasive Species

Comments: Disturbance of the bottom sediments from pile construction, sediment removal, or other in-water activities may redistribute non-native species that compete with native species. This could cause widespread adverse impacts to eelgrass (*Zostera marina*) and the marine ecology. The invasive alga *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 alga 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 algae.

Recommendations: CDFW recommends including a pre-construction *Caulerpa* spp. Survey to identify potential existence of invasive *Caulerpa* spp. As described in the Caulerpa Control Protocol (https://media.fisheries.noaa.gov/2021-12/caulerpa-control-protocol-v5.pdf). Any sightings of *Caulerpa* spp. Should be reported within 24 hours to the Department at (415) 740-9869, Caulerpa@wildlife.ca.gov, and the National Marine Fisheries Service at (562) 980-4037, nmfs.wcr.caulerpa@noaa.gov.

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. (Public Resources Code, Section 21003, subd. €.) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB). The CNNDB field survey form can be found at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data#44524422-other. The completed form can be mailed electronically to CNDDB at the following email address: CNDDB@wildlife.ca.gov. The types of information reported to CNDDB can be found at the following link: https://wildlife.ca.gov/Data/CNDDB/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 CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (California Code of Regulations, Title 14, Section 753.5; Fish and Game Code, Section 711.4; Public Resources Code, Section 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the Berths 187-191 [Vopak] Liquid Bulk Terminal Wharf Improvements and Cement Terminal Project NOP/IS to assist the Los Angeles Harbor Department in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Amanda Canepa, Environmental Scientist, at (831) 277-9740 or Amanda.Canepa@wildlife.ca.gov.

Sincerely,

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REFERENCES

[FHWG] Fisheries Hydroacoustic Working Group. 2008. Interim Criteria for Injury of Fish Exposed to Pile Driving Operations: Memorandum. Washington: Federal Highway Administration. Available from: https://dot.ca.gov/-/media/dot-media/programs/environmental-analysis/documents/ser/bio-fhwg-criteria-agree-a11y.pdf.