



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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Governor's Office of Planning & Research

November 16, 2023

Nov 16 2023

STATE CLEARINGHOUSE

Stefanie Cervantes, Senior Planner
City of Pacifica Planning Department
500 Crespi Drive
Pacifica, CA 95044
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Subject: 310-330 Esplanade Avenue Infrastructure Preservation Project, Draft Environmental Impact Report, SCH No. 2022100372, City of Pacifica, San Mateo County

Dear Ms. Cervantes:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a Draft Environmental Impact Report (EIR) from the City of Pacifica Planning Department (City) for the 310-330 Esplanade Avenue Infrastructure 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 resources. 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 & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 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.*, § 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 fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may

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.

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need to exercise regulatory authority as provided by the Fish and Game Code. For example, to the extent implementation of the Project as proposed may result in “take²” as defined by state law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: City of Pacifica Planning Department

Objective: The Project would construct a sea wall and trail features with three primary objectives: (1) halt bluff toe erosion toward Esplanade Avenue to prevent infrastructure (roadway, sewer, and other utilities) collapse for at least 30 years; (2) minimize impacts to sensitive resources, such as sand supply, beach access, ecological function, water quality, and shoreline aesthetics; (3) provide public access to ocean views from Esplanade Avenue, except where public access would endanger public safety or fragile coastal resources.

Location: The Project is located along the west side of Esplanade Avenue, between Manor Drive on the south and West Beaumont Boulevard on the north in the City of Pacifica. The approximate Project centroid is Latitude 37.65173, Longitude -122.49361.

Timeframe: Construction of the seawall would take approximately 260 days and would occur in spring and early winter (draft EIR page 3-6).

COMMENTS AND RECOMMENDATIONS

CDFW offers the 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.

COMMENT 1: Bank Swallow

Issue: The draft EIR states that bank swallow (*Riparia riparia*) may use the coastal bluffs and terraces along the bluff within the Project area as nesting and foraging habitat (draft EIR page 4.3-5). The Project is approximately 5 miles south of a known coastal bank swallow colony at Fort Funston (California Natural Diversity Database (CNDDDB) 2023, San Francisco Planning 2023). Another coastal bank swallow colony occurs approximately 26 miles south of the Project at Año Nuevo State Park (CNDDDB 2023). The coastal bluffs at the Project site may provide similar habitat as the Fort Funston colony and the Año Nuevo colony. The draft EIR does not provide an adequate

² Take, as defined in Fish and Game Code section 86, means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.

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evaluation to determine if bank swallow may use the Project bluffs or sufficiently analyze Project impacts to bank swallow habitat.

Evidence the Impact would be Significant: The bank swallow is listed as a threatened species under CESA. In 2016, Rosenberg et al. estimated a 95 percent reduction in the North American bank swallow population. The bank swallow population in California has seen a similar decline (BANS TAC 2013, Wright et al. 2014). In addition, the majority of remnant bank swallow colonies in California occur in riverine systems; coastal colonies are rare (*ibid.*).

Bank swallow rely on ephemeral eroding banks with friable soil for nesting (Sieber 1980, Garrison 1998). In addition, bank swallows typically need a slope of 70 degrees or more for suitable nesting habitat, with a preference for banks or cliffs that are vertical (90 degrees) or slightly inclined (75 degrees) (Hjertaas 1984). Bank stabilization activities halt natural bank erosion and remove habitat through hardening the bank or reducing the slope (BANS TAC 2013, Wright et al. 2014). In addition, human harassment can cause nest abandonment and has contributed to the population declines in California (CDFG 1995).

The Project would construct a sheet pile wall and install shotcrete on the bluff face with tensioned tieback rods or tendons drilled into the bluff face (draft EIR page 3-4). This activity could remove potential bank swallow nesting habitat, a potentially significant impact. In addition, if nesting bank swallows are present during proposed activities, those activities could result in injury or mortality to bank swallows or their young, a potentially significant impact. The Project would also install a pedestrian trail on the bluff top, thereby increasing human disturbance to the site. Human presence and harassment of bank swallows can cause abandonment of nest or eggs, leading to injury or mortality of young, a potentially significant impact.

Recommendation 1: CDFW recommends the draft EIR provide a detailed bank swallow habitat assessment that follows similar methods and definitions as the CDFW Statewide Bank Swallow Colony Inventory Survey Methods (CDFW 2021). The draft EIR should be updated with the results of the habitat assessment and include a discussion of the likelihood of bank swallow presence at or near the Project.

Recommended Mitigation Measure BIO-1d: Bank Swallow Habitat Assessment: Prior to initiating Project activities, a qualified biologist shall conduct a bank swallow habitat assessment of the cliff bluffs within and near the Project footprint. The habitat assessment will at minimum address the cliff face attributes of 1) slope, 2) vegetation cover, 3) soil type (e.g., friable soils), and 4) cliff height. Based on these and any other relevant attributes, the habitat assessment will identify potentially suitable bank swallow habitat.

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A qualified biologist is an individual who holds a bachelor's degree from an accredited university and: 1) is knowledgeable in bank swallow and other relevant species' life histories and ecology, 2) can correctly identify relevant species, 3) has conducted field surveys for relevant species, 4) is familiar with relevant survey protocols, and 5) is knowledgeable of state and federal laws regarding the protection of sensitive species.

Recommendation 2: If the habitat assessment described above identifies potentially suitable bank swallow habitat at or near the Project site, the draft EIR should identify whether the habitat can be avoided and if take of bank swallow could occur. If so, the draft EIR should also incorporate avoidance, minimization, and mitigation measures, in coordination with CDFW, as appropriate. An example of a measure could include restoration and enhancement of bank swallow habitat.

Recommended Mitigation Measure BIO-1e: Bank Swallow Incidental Take Permit: If the Project has the potential to cause take of bank swallow, the City shall apply for and obtain a CESA Incidental Take Permit (ITP).

COMMENT 2: Project Lighting

Issue: The draft EIR identifies that the Project may use temporary light facilities with generators for equipment staging and material storage areas (draft EIR page 3-17). A significant portion of the proposed Project limits do not contain any overhead artificial light sources. It is unclear if the Project proposes to install new permanent light sources. Artificial light spillage beyond the prism of the bluff tops into natural areas may result in potentially significant impacts through substantial degradation of the quality of the environment, including altering fish and/or wildlife movement and natural behavior.

Evidence the Impact would be Significant: Artificial night lighting can disrupt the circadian rhythms of many wildlife species, and lead to a significant impact on resident and migratory species that utilize the Project area and surrounding lands and waters. Many species use photoperiod cues for communication (e.g., bird song; Miller 2006), determining when to begin foraging (Stone et al. 2009), behavior thermoregulation (Beiswenger 1977), and migration (Longcore and Rich 2004). A number of species in the Project area travel only during the evening, including bats. Impacts to nocturnal species movement with lighting can expose them to predators and force them to take less preferred routes, leading to mortality and/or indirect impacts to the population. Nighttime lighting also attracts insects, which in turn attracts insectivorous species. Attracting these species to lights at night can increase the likelihood of direct mortality from traffic and construction equipment. Artificial night lighting has also been found to impact juvenile salmonid overwintering success by delaying the emergence of salmonids from benthic refugia and reducing their ability to feed during the winter (Contor and Griffith 1995), while larval green sturgeon avoid light at night (Nguyen and Crocker 2006). For nocturnally migrating birds, direct mortality as a result of collisions

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with anthropogenic structures due to attraction to light (Gauthreaux, 2006) is another direct effect of artificial light pollution. There are also more subtle effects, such as disrupted orientation (Poot et al. 2008) and changes in habitat selection (McLaren et al. 2018). There is also growing evidence that light pollution alters behavior at regional scales, with migrants occupying urban centers at higher-than-expected rates as a function of urban illumination (La Sorte et al. 2021). While artificial light pollution can act as an attractant at both regional (La Sorte et al. 2021) and local (Van Doren et al. 2017) scales, there is also evidence of migrating birds avoiding strongly lit areas when selecting critical resting sites needed to rebuild energy stores (McLaren et al. 2018).

Recommendation 1: CDFW strongly recommends no nighttime work and no new artificial lighting as a result of the Project to avoid potentially significant impacts to biological resources.

Recommendation 2: If the City installs new artificial lighting as part of the Project, the lights should be installed to limit light output as much as possible.

Recommended Mitigation Measure BIO-2a: Light Output Limits: Any LED's or bulbs installed as a result of the Project shall be rated to emit or produce light at or under 2700 kelvin and within the warm white color spectrum.

Recommended Mitigation Measure BIO-2b: Light Pole Modifications and Shielding: Any light poles or sources of illumination, either new or replacement installations of existing light sources, shall be installed with the appropriate shielding to avoid excessive light pollution into natural landscapes or aquatic habitat. In addition, the light pole arm length and mast heights shall be modified to reduce excessive light spillage into natural landscapes or aquatic habitat. In areas with sensitive natural landscapes or aquatic habitat, the City shall also reduce the number of light output sources, including by placing light poles at non-standard intervals, to further reduce light pollution.

REGULATORY AUTHORITY

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, such as bank swallow, 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 Guidelines §§ 21001

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subd. (c), 21083, 15380, 15064 and 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. More information on the CESA permitting process can be found on the CDFW website at <https://www.wildlife.ca.gov/Conservation/CESA>.

Fully Protected Species

Fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take, except for collecting these species for necessary scientific research and relocation of a fully protected bird species for the protection of livestock. Take of any fully protected species is prohibited, and CDFW cannot authorize their take in association with a general project except under the provisions of a Natural Communities Conservation Plan (NCCP), Fish and Game Code section 2081.7, a Restoration Management Permit, or a Memorandum of Understanding for scientific research purposes. "Scientific Research" does not include an action taken as part of specified mitigation for a project, as defined in section 21065 of the Public Resources Code.

Raptors and Other Nesting Birds

CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

EDITORIAL COMMENT

The draft EIR identifies that American peregrine falcon (*Falco peregrinus anatum*) and California brown pelican (*Pelecanus occidentalis californicus*) have the potential to occur within the Project footprint and are state listed as Fully Protected (draft EIR 4.3-12 and Appendix D). Please note that Senate Bill 147 (2023) removed American peregrine falcon and California brown pelican from the list of Fully Protected birds. Both birds still receive nesting bird and other Fish and Game Code protections as described above.

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document 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

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environmental review by CDFW. Payment of the environmental document filing 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).

ENVIRONMENTAL DATA


CEQA requires that information developed in EIRs, 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 filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

CONCLUSION

CDFW appreciates the opportunity to comment on the draft EIR to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Wesley Stokes, Senior Environmental Scientist (Supervisory), at (707) 339-6066 or Wesley.Stokes@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Erin Chappell
Regional Manager
Bay Delta Region

Attachment 1. Draft Mitigation and Monitoring Reporting Plan

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2022100372)
Craig Weightman, CDFW Bay Delta Region - Craig.Weightman@wildlife.ca.gov

REFERENCES

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ATTACHMENT 1

Draft Mitigation and Monitoring Reporting Plan

Biological Resources (BIO)			
Mitigation Measure (MM)	Description	Timing	Responsible Party
MM BIO-1d	<p><i>Bank Swallow Habitat Assessment:</i> Prior to initiating Project activities, a qualified biologist shall conduct a bank swallow habitat assessment of the cliff bluffs within and near the Project footprint. The habitat assessment will at minimum address the cliff face attributes of 1) slope, 2) vegetation cover, 3) soil type (e.g., friable soils), and 4) cliff height. Based on these and any other relevant attributes, the habitat assessment will identify potentially suitable bank swallow habitat.</p> <p>A qualified biologist is an individual who holds a bachelor's degree from an accredited university and: 1) is knowledgeable in bank swallow and other relevant species' life histories and ecology, 2) can correctly identify relevant species, 3) has conducted field surveys for relevant species, 4) is familiar with relevant survey protocols, and 5) is knowledgeable of state and federal laws regarding the protection of sensitive species.</p>	Prior to Ground Disturbance	City & Qualified Biologist
MM BIO-1e	<p><i>Bank Swallow Incidental Take Permit:</i> If the Project has the potential to cause take of bank swallow, the City shall apply for and obtain a CESA ITP.</p>	Prior to Ground Disturbance	City
MM BIO-2a	<p><i>Light Output Limits:</i> Any LED's or bulbs installed as a result of the Project shall be rated to emit or produce light at or under 2700 kelvin and within the warm white color spectrum.</p>	Duration of Project	City
MM BIO-2b	<p><i>Light Pole Modifications and Shielding:</i> Any light poles or sources of illumination, either new or replacement installations of existing light sources, shall be installed with the appropriate shielding to avoid excessive light pollution into natural landscapes or aquatic habitat. In addition, the light pole arm length and mast heights shall be modified to reduce excessive light spillage into natural landscapes or aquatic habitat. In areas with sensitive natural landscapes or aquatic habitat, the City shall also reduce the number of light output sources, including by placing light poles at non-standard intervals, to further reduce light pollution.</p>	Duration of Project	City