



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Marine Region  
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**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



June 27, 2024

Kevin Motschall, Project Manager  
Cal Maritime  
200 Maritime Academy Drive  
Vallejo, CA 94590  
[kmotschall@calstate.edu](mailto:kmotschall@calstate.edu)

Dear Mr. Motschall:

California State University Maritime Academy Waterfront Master Plan (Project)  
Draft Environmental Impact Report (DEIR)  
SCH# 2022120009

The California Department of Fish and Wildlife (Department) received a DEIR from California Maritime Academy (Cal Maritime) for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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 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, Section 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 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.

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<sup>1</sup> 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.

The Department is also submitting comments as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) The Department expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, implementation of the Project may result in “take” 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:** Cal Maritime

**Objective:** The project's purpose is to prepare the Cal Maritime campus waterfront for the arrival of the National Security Multi-Mission Vessel (NSMV), which will replace Cal Maritime's Training Ship Golden Bear (TSGB), and to upgrade infrastructure and facilities that support other campus and public waterfront-dependent program needs.

**Location:** The Project is located in the city of Vallejo on the waterfront within San Pablo Bay and adjacent to the Carquinez Strait within Morrow Cove.

**Timeframe:** The Project is expected to begin in 2025 and occur in three phases over 10 years.

## **MARINE BIOLOGICAL SIGNIFICANCE**

The San Francisco Bay-Delta is the second largest estuary in the United States and supports numerous aquatic habitats and biological communities. It encompasses 479 square miles, including shallow mudflats. This ecologically significant ecosystem supports both state and federally threatened and endangered species and sustains important commercial and recreational fisheries.

## **STATE AND FEDERALLY LISTED AND COMMERCIALLY/RECREATIONALLY IMPORTANT SPECIES**

Protected species under the State and Federal Endangered Species Acts that could potentially be present near Project activities include:

- Longfin smelt (*Spirinchus thaleichthys*), state-threatened
- Delta Smelt (*Hypomesus transpacificus*), state endangered and federally threatened
- Chinook salmon (*Oncorhynchus tshawytscha*), state and federally threatened (Central Valley Spring-run), state and federally endangered (Sacramento River Winter-run), state species of special concern (Central Valley Late Fall Run, Central Valley Fall Run)

- Steelhead (*Oncorhynchus mykiss*), federally threatened (Central California Coast and Central Valley evolutionary significant units)
- Green sturgeon (*Acipenser medirostris*), federal threatened (Southern Distinct Population Segment)
- White sturgeon (*A. transmontanus*), state-threatened
- Western river lamprey (*Lampetra ayresii*), state species of special concern

Several species with important commercial/recreational fisheries value and habitat value for spawning and rearing could potentially be present near Project activities. These include:

- Pacific herring (*Clupea pallasii*)
- Eelgrass (*Zostera marina*)

## COMMENTS AND RECOMMENDATIONS

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

### I. Marine Project Level Impacts and Other Considerations

#### Hydroacoustic Impacts on Aquatic Species

**Comment:** All phases of the Project will likely require a substantial number of piles in order to the construction the new pier, both basins, trestle replacement, boathouse seismic retrofit and shoreline enhancements. These components of the Project are likely to create hydroacoustic sounds levels that exceed the Interim Criteria for Injury to Fish from Pile Driving Activities (attached). Exceedance of these thresholds may result in take, as described in Fish and Game Code Section 86, of aquatic species.

The Department is in agreement with minimization measures described in mitigation measure (MM) 3.3-2c (Implement In-Water Work Windows) and MM 3.3-2i (Implement methods to Reduce Sound Attenuation from Pile Installation). However, there is no discussion on compensatory mitigation for potentially significant impacts to state and federally listed species. Additionally, there are some inconsistencies between early consultation on permitting Phase 1 pile driving activities and the DEIR in terms of the numbers and size of the piles to be installed.

**Recommendation:** The Department recommends Cal Maritime continue consultation on permitting potential take of state listed species, via a CESA 2081(b) Incidental Take Permit, during activities for Phase 1 of the Project. The Department

recommends additional consultation for take coverage during the planning of Phases 2 and 3 of the Project.

**Recommendation:** The Department recommends the final EIR include discussion of compensatory mitigation for the impacts to state listed species as it will be a requirement of the Departments CESA 2081(b) Incidental Take Permit for the Project.

**Recommendation:** The Department recommends that a table be included in the final EIR outlining the exact number, size, and material of the piles that will be used during construction of Phase 1 of the Project and if possible, an estimate of the number, size, and material of the piles that may be used for construction of subsequent Project phases. Additionally, the hydroacoustic impact area should be described for each known pile type and size anticipated to be used.

### **State Species of Special Concern**

**Comment:** Although the State Species of Special Concern (SSC) designation does not have a formal legal status, species are designated to bring additional attention to conservation, research, and recovery of species that have previously been subject to population declines or are generally rare. SSCs should be considered during the environmental review process. CEQA (California Public Resources Code §§ 21000-21177) requires State agencies, local governments, and special districts to evaluate and disclose impacts from projects in the State. Section 15380 of the CEQA Guidelines indicates that species of special concern should be included in an analysis of project impacts if they can be shown to meet the criteria of sensitivity outlined therein. Sections 15063 and 15065 of the CEQA Guidelines, which address how an impact is identified as significant, are particularly relevant to SSCs. Project-level impacts to listed (rare, threatened, or endangered species) species are generally considered significant thus requiring lead agencies to prepare an Environmental Impact Report to fully analyze and evaluate the impacts. In assigning "impact significance" to populations of non-listed species, analysts usually consider factors such as population-level effects, proportion of the taxon's range affected by a project, regional effects, and impacts to habitat features.

The white sturgeon, formerly designated as a SCC, is now listed as threatened under CESA. The Fish and Game Commission found a petition to list white sturgeon as threatened under the California Endangered Species Act (CESA) contained sufficient information to determine listing may be warranted. The Department will now begin conducting a status review of the species to determine if listing under CESA is warranted and a final decision will be made at a 2025 Commission meeting. Once notice of the decision is published by the Office of Administrative Law, white sturgeon will become a candidate species under CESA and take of white sturgeon will be prohibited without specific take authorizations.

**Recommendation:** The Department recommends the final EIR include analysis of the potential impacts to SSC and included white sturgeon as a threatened species under CESA.

## **Eelgrass**

**Comment:** The DEIR sufficiently discussed and conveyed the potential impacts of the Project during the various Project phases. Additionally, MM 3.3-3 (Conduct Focused Surveys and Compensate for Loss of Eelgrass) is consistent with Department recommendations to avoid, minimize, and mitigate for impacts to eelgrass. Currently, MM3.3-3 describes sending survey reports and results to National Marine Fisheries Service. However, the survey reports and results will not only be determined to be complete by the National Marine Fisheries Service, but also the Department, and likely the other permitting agencies with authority over the Project. The MM should include the Department and other permitting agencies as reviewers of the pre and post construction surveys and the mitigation plan. These surveys and the mitigation plan will be a condition of approval within the Departments authorization of the Project.

**Recommendation:** The Department recommends that MM 3.3-3 include the Department as a reviewing agency of the eelgrass survey results and eelgrass mitigation plan.

## **Marine Hydrokinetic Barge**

**Comment:** Installation of the Hydrokinetic barge poses potential impacts to aquatic species. During previous review of early design concepts, the Department has raised concerns regarding the potential for entrainment and/or impingement of aquatic species during operation of the hydrokinetic barge. MM 3.3-2m (Reduce Impacts from Hydrokinetic Barge) describes steps to construct the barge and ensure impacts are being considered. The MM3.3-2m should go one step further by including early consultation with permitting agencies during the design of the barge and prior to construction to ensure that the final design meets agency requirements and recommendations. Specifically, determining that exclusionary fish screen measures are sufficient in preventing take of state listed species. See attachment 2 (CDFW Fish Screen Criteria). Additionally, the Department has staff dedicated to review marine renewable energy projects. Department staff review and expertise will be critical to ensuring a final design is permissible by the Department.

**Recommendation:** The Department recommends that MM 3.3-2m include a bullet describing early consultation with the Department, and other permitting agencies, to ensure the final barge design and isolation components are consistent with current agency recommendations and requirements.

## Shoreline Enhancements

**Comment:** From the limited amount of information provided in the DEIR about the living reef component of the Project, it is the Department's understanding that the living reef component of the shoreline enhancement is designed to act as an artificial reef. The Department has authority for artificial reefs under a variety of roles including Statutory/Legislative Authority, Trustee and Responsible Agency Status under CEQA and the Marine Life Management Act, and an advisory role to other agencies. Fish and Game Code Section 6420-6425 established the California Artificial Reef Program (CARP) through legislation in 1985. The program was created to investigate the potential to enhance declining species through the placement of artificial reefs and is currently unfunded with no identified source of funding. However, the CARP does not consider reef placement for mitigation, dampening effects of sea level rise, improve diving opportunities, or restoration.

The Department is concerned that placement of the living reefs will potentially decrease the amount of habitat for further eelgrass expansion or future restoration/mitigation efforts based on the previously mapped beds within the Project area. Additionally, The Department is concerned artificial reefs and artificial habitat creation could attract invasive species.

**Recommendation:** The Department recommends the final EIR include more information on the living reef structures to assist the Department in its review of potential aquatic impacts such as risks to existing sensitive habitat and the proliferation of non-native and/or invasive species. The final EIR should also include discussion on how on-site restoration of eelgrass, should it be necessary, would be able to co-occur with placement of the living reef if the reef structures are placed within what appears to be potential or existing eelgrass habitat. The final EIR should include discussion on developing an invasive species monitoring plan that includes monitoring measures, adaptive management measures, and protocols if invasive species are identified.

**Recommendation:** The Department recommends Cal Maritime initiate early consultation with the Department to assist with design and permitting of the living reefs while planning Phase 3 of the Project.

## ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports 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 found at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/SubmittingData#44524420-pdf-field-survey-form>.

The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/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 the Department. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, Section 753.5; Fish & G. Code, Section 711.4; Pub. Resources Code, Section 21089.)

## **CONCLUSION**

The Department appreciates the opportunity to comment on the DEIR to assist Cal Maritime in identifying and mitigating Project impacts on biological resources. Questions regarding this letter or further coordination should be directed Arn Aarreberg, Environmental Scientist, at (707) 791-4195 or [R7CEQA@wildlife.ca.gov](mailto:R7CEQA@wildlife.ca.gov).

Sincerely,



Craig Shuman, D. Env  
Marine Regional Manager

## **Attachments**

1. Interim Criteria for Injury to Fish from Pile Driving Activities
2. CDFW Fish Screen Criteria

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State Clearinghouse (SCH No. 2022120009)