



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



January 10, 2023

Jessica Rauch  
Executive Assistant/Clerk of the Board  
Ventura Port District  
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Dear Ms. Rauch:

**VENTURA YACHT CLUB DOCK REPLACEMENT PROJECT  
MITIGATED NEGATIVE DECLARATION  
SCH# 2022120321**

The California Department of Fish and Wildlife (Department) received a Draft Initial Study (IS) and Mitigated Negative Declaration (MND) from Ventura Port District for the Project (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 and Game Code, Section 711.7, subd. [a] & 1802; Public 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

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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.

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:** Ventura Port District

**Objective:** The objective of the Project is to demolish and replace two existing docks (docks B and D), including the main walkway and their associated fingers, slips, and pilings, within the Ventura Yacht Club Marina. Primary Project activities include removal of the existing docks B and D, and the installation of a new dock configuration that would be shifted approximately 11 feet, 6.5 inches eastward with a decrease in the number of current slips in docks B and D from 41 to 40 slips. The project would remove a total of 54, 14-inch round piles and install a total of 15, 16-inch square piles. It is not yet known the specific type of pile driver that would be used during construction, however Mitigation Measure MM1 recommends that the Project utilize a hydraulic pile driver for the installation of guide piles rather than an impact- or vibratory-type model.

**Location:** The Project is located in the Ventura Yacht Club Marina, 1755 Spinnaker Drive, within the Ventura Harbor in Ventura County, California (34.23975372314453°, -119.26371765136719°).

**Timeframe:** Construction of the Project is anticipated to commence as early as March 2023, pending all permitting and potential supply chain issues, and to be completed within three to fourth months of the start date. Construction of the Project would occur over a 12-to-16-week duration.

## **BIOLOGICAL SIGNIFICANCE**

**Discussion and Comment:** The Ventura 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 may be 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 the comments and recommendations below to assist the Ventura Port District in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife resources.

## I. Project Level Impacts and Other Considerations

### Native Eelgrass Impacts

**Comments:** The Draft IS/MND has identified eelgrass (*Zostera spp.*) as a species that may be found within the Project area where pile removal and driving impacts may occur. Native eelgrass species create large beds beneficial for fish habitat and have been identified as a special aquatic site and given protections by the Clean Water Act. The Magnuson-Stevens Fishery Conservation and Management Act (MSA) identifies eelgrass as a Habitat Area of Special Concern. Additionally, the importance of eelgrass protection and restoration, as well as the marine ecological benefits of eelgrass, is identified in the California Public Resources Code (PRC §35630). The Department uses the California Eelgrass Mitigation Policy (CEMP) (NOAA 2014), developed by the National Marine Fisheries Service (NMFS), for guidance on identifying eelgrass impacts, eelgrass mitigation measures and compensation, and for identifying appropriate eelgrass mitigation and donor sites.

**Recommendations:** In addition to the proposed Eelgrass Habitat Survey noted in the MND (Mitigation Measure BIO-2), the Department recommends that plans should be developed to avoid and minimize potential impacts to eelgrass to the maximum extent feasible if eelgrass beds or patches are identified within or adjacent to the Project area. The proposed Project should avoid and minimize disturbance and damage or losses to eelgrass beds from pile pulling, pile driving, and from associated barges and vessels to the maximum extent feasible. Impacts to avoid and minimize may include, at a minimum, barge shading and anchoring within eelgrass habitat, pile driving and pile pulling bottom disturbances, demolition and construction turbidity, sedimentation, and falling debris. The Department recommends the following should eelgrass beds or patches be identified within or adjacent to the Project area:

- To avoid direct eelgrass impacts, locate pile driver barges and vessels and all barge anchoring outside of eelgrass habitat.
- To avoid scouring of eelgrass and potential eelgrass habitat, anchor chain designs, and locations of barge and vessel moorings should avoid eelgrass habitat impacts.
- To avoid and minimize eelgrass impacts from demolition and construction debris, the Ventura Port District should use Best Management Practices (BMPs) such as perimeter debris booms. If debris is observed falling into the Harbor water, retrieve debris as soon as possible.
- To minimize eelgrass impacts from water turbidity and sedimentation, install silt curtains around pile driving or demolition areas if applicable. Restrict the turbidity plumes to the smallest possible area during all phases of in water construction.

Additionally, if eelgrass habitat is identified in the Project area, comprehensive pre- and post-construction surveys for eelgrass beds or patches should be conducted consistent with the CEMP. If any unavoidable eelgrass impacts occur, these impacts

should be compensated using guidance described within the CEMP. Indirect eelgrass impacts such as shading from new piles should also be avoided. Since pile driving work conducted outside of the peak eelgrass growing period may reduce shading impacts when eelgrass beds may have died back, pile location and time of year for pile driving should be considered to avoid eelgrass and other fish and wildlife impacts generated by pile driving.

If expected eelgrass losses are unavoidable, Ventura Port District should use guidance from the CEMP to compensate for the losses. Final eelgrass losses should be determined after construction and eelgrass impact monitoring surveys are complete. Draft preconstruction eelgrass Mitigation, Monitoring and Reporting Plans (Plan) should be developed in consultation with the Department and other permitting and resources agencies. Minimum Plan elements should include:

- Prior to construction, a draft mitigation Plan should be developed based on updated eelgrass surveys. The Plan should be finalized along with the final eelgrass impacts analysis once post-construction and impacts monitoring surveys are completed.
- The Plan should include a summary of eelgrass habitat impacts. The summary should include conservation measures for eelgrass avoidance, minimization, and eelgrass compensatory mitigation if necessary.
- If compensatory mitigation is required for eelgrass impacts, mitigation ratios should be determined, at a minimum, in accordance with the CEMP, and as recommended by the Department and other agencies.
- The Plan should identify the Department as an agency to receive and review draft and final eelgrass mitigation and monitoring reports, surveys, and plans.
- If eelgrass harvesting and transplanting is proposed, healthy eelgrass donor sites should be identified during preliminary eelgrass impact surveys or during separate pre-harvest eelgrass donor site surveys.

If eelgrass harvest and transplanting is required for mitigation, a Scientific Collecting Permit (SCP) from the Department will be required prior to harvest and transplanting activities. The SCP may include permit conditions such as donor eelgrass surveys, submittal of an eelgrass harvest and transplant plan, limits on number of turions collected, methods for collection and transplanting, notification of activities, and reporting requirements. Please visit the Department's SCP webpage for more information: <https://wildlife.ca.gov/Licensing/Scientific-Collecting>.

## **Pile Driving and Sound Criteria**

**Comments:** Noise generated from impact pile driving may have adverse effects on marine mammals, fish, and other marine organisms from physiological and/or behavioral changes. If hydraulic jetting is used for pile driving, this may impact water quality, releasing contaminants from sediments into the water and/or creating turbidity that could harm fish and shade or smother the Harbor's eelgrass (*Zostera spp.*) beds.

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>.

**Recommendations:** The Department recommends using a vibratory hammer for pile driving to the greatest extent feasible, or an alternative technology that produces the least amount of noise. If an impact hammer must be used (e.g., due to pile material, refusal at bedrock), multiple minimization measures are needed to reduce sound levels. The Department recommends the following:

- A wood, or similar material, cushion block should be used between the pile and hammer during all pile driving using an impact hammer.
- To further reduce hydroacoustic impacts to fish and marine mammals, a bubble curtain should be used during all impact pile driving to reduce sound below levels that have been shown to cause injury and/or mortality.
- A sound attenuation and monitoring plan should be submitted to the resource agencies for review and approval prior to initiating pile driving activities.

## Marine Mammal and Sea Turtle Monitoring

**Comments:** Harbor seals (*Phoca vitulina*), California sea lions (*Zalophus californianus*), other species of marine mammals, and sea turtles may be present or occur within the Project area. Project activities, particularly noise from pile driving, could impact these animals if they are present.

**Recommendations:** The Department recommends that the Ventura Port District prepare and implement a marine mammal and sea turtle monitoring plan that includes, but is not limited to:

- Establishment of an underwater exclusion zone.
- Preconstruction monitoring to update the animals' occurrence and use of the area.
- Monitoring of marine mammals and sea turtles by an experienced observer immediately prior to and during all pile driving activities.
- Pile driving should not occur while marine mammals or sea turtles are present within the exclusion zone.

The Department recommends that the Ventura Port District consult with the National Marine Fisheries Service and U.S. Fish and Wildlife Service regarding the above recommendation and any other necessary avoidance and mitigation measures to reduce impacts to marine mammals and sea turtles.

## Invasive Species Impacts

**Comments:** Disturbance of the bottom sediments from potential pile construction or anchoring may redistribute non-native species that compete with native species. This could cause widespread adverse impacts to eelgrass 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:** The Department 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/caluerpa-control-protocol-v5.pdf> (October 2021). Any sightings of *Caulerpa Spp.* should be reported within 24 hours to the Department ([Caulerpa@wildlife.ca.gov](mailto:Caulerpa@wildlife.ca.gov)), and NMFS at 562-980-4037 ([nmfs.wcr.caulerpa@noaa.gov](mailto: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. (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>.

## 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 environmental review by the Department. 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.)

## CONCLUSION

The Department appreciates the opportunity to comment on the MND to assist the Ventura Port District in identifying and mitigating Project impacts on biological resources. Questions regarding this letter or further coordination should be directed to Leslie Hart, Environmental Scientist at [Leslie.Hart@wildlife.ca.gov](mailto:Leslie.Hart@wildlife.ca.gov).

Sincerely,



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