



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Marine Region
1933 Cliff Drive, Suite 9
Santa Barbara, CA 93109
wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



June 29, 2023

San Francisco Planning Department
Attention: Elizabeth White
49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
Elizabeth.White@sfgov.org



Dear Ms. White:

Islais Creek Bridge Project (Project)
Notice of Preparation (NOP)
SCH# 2023060006

The California Department of Fish and Wildlife (CDFW) received a NOP from the San Francisco Planning Department (Department) for the 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 & G. Code, Section 711.7, subd. (a) & 1802; Pub. 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 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.

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.

CDFW is also submitting comments as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. CDFW requires a Lake and Streambed Alteration Agreement (LSA) notification, pursuant to Fish and Game Code § 1600 et. seq., for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, bank or channel or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are generally subject to notification requirements. As proposed, implementation of the Project may also 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: San Francisco Public Works

Objective: The proposed Project would replace the existing seismically deficient Islais Creek Bridge along Third Street San Francisco. The replaced bridge would meet current structural and seismic standards as well as be resilient to 2100 sea-level rise predictions.

Location: The Project is on Third Street over Islais Creek in the Bayview neighborhood of San Francisco, CA. The Bridge is approximately 3,300 feet west of San Francisco Bay.

Timeframe: The Project is anticipated to take approximately 24 months once construction begins.

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.

Sufficient information for meaningful review regarding the environmental setting is necessary to understand any potentially significant impacts on the environment of the proposed Project and any alternatives identified in the Draft Environmental Impact Report (DEIR) (CEQA Guidelines, §§ 15125 & 15360). CDFW recommends the DEIR provide baseline habitat assessments for special-status plant, fish, and wildlife species located and potentially located within the Project area and surrounding lands, including

all rare, threatened, and endangered species (CEQA Guidelines, §15380). Fully protected, threatened, or endangered, candidate, and other special-status species that are known to occur, or have the potential to occur, in or near the Project site include, but are not limited to:

STATE AND FEDERALLY LISTED AND COMMERCIAL/RECREATIONALLY IMPORTANT SPECIES

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

- Chinook salmon (*Oncorhynchus tshawytscha*), state and federally threatened (Central Valley Spring-run), state and federally endangered (Sacramento River Winter-run)
- Longfin smelt (*Spirinchus thaleichthys*), state-threatened
- Steelhead (*Oncorhynchus mykiss*), federally-threatened (Central California Coast and Central Valley ESUs)
- Green sturgeon (*Acipenser medirostris*), federally-threatened (southern DPS)
- White sturgeon (*Acipenser transmontanus*), state species of special concern
- Brown pelican (*Pelecanus occidentalis californicus*), state fully protected

Several species with important commercial and recreational fisheries value that could potentially be impacted by Project activities include:

- Dungeness crab (*Cancer magister*)
- Pacific herring (*Clupea pallasii*)
- Surfperches (*Embiotocidae*)
- California halibut (*Paralichthys californicus*)

REGULATORY REQUIREMENTS California Endangered Species Act

Please be advised that a CESA Incidental Take Permit (ITP) should 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. Under CESA, “take” means “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.” (Fish & G. Code, § 86.) If the Project will impact CESA listed species, early consultation with CDFW is encouraged, as significant modification to the Project and mitigation measures may be required to obtain an ITP. CDFW’s issuance of an ITP is subject to CEQA and to facilitate permit issuance, any such project modifications and mitigation measures must be incorporated into the EIR’s analysis, discussion, and mitigation monitoring and reporting program.

Lake and Streambed Alteration Agreement

CDFW requires a Lake and Streambed Alteration (LSA) Notification, pursuant to Fish and Game Code section 1600 et seq., for Project activities affecting lakes or streams

and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank (including associated riparian or wetland resources); or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, drainage ditches, washes, watercourses with a subsurface flow, and floodplains is generally subject to notification requirements. In addition, infrastructure installed beneath such aquatic features, such as through hydraulic directional drilling, is also generally subject to notification requirements. Therefore, any impact to the mainstems, tributaries, or floodplains or associated riparian habitat caused by the proposed Project will likely require an LSA Notification. CDFW may not execute a final LSA Agreement until it has considered the final EIR and complied with its responsibilities as a responsible agency under CEQA.

Migratory Birds and Raptors

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

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the Waterboard 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. Project Level Impacts and Other Considerations

In-Water Work

Comment: The shoreline of the bay around Islais Creek was identified by CDFW as an area of special concern for Pacific herring spawning habitat in 2020. State listed species, including Chinook salmon and Longfin smelt, are also potentially present in the vicinity of the Project throughout the year. To avoid any potential impacts to Pacific herring spawning and state listed species, the DEIR should discuss measures that will be implemented to avoid potential impacts especially to Pacific herring during the winter spawning months. It appears that in-water work will be limited in scope but will involve pile removal and installation. CDFW finds the proposed use of a vibratory hammer, for all pile installation, consistent with CDFW avoidance and minimization recommendations.

The NOP describes the piles proposed for removal as being cut off. If the piles have enough structural integrity, CDFW prefers that treated wood piles are removed in their entirety. If a pile is too deteriorated or unable to be pulled out, the pile should be cut off, at a minimum, 2 feet below the mudline.

Recommendation: CDFW recommends that the DEIR include a mitigation measure which includes a June 1 through November 30 in-water work window to avoid potential impacts to Pacific herring and salmonids from Project related in-water work. Note that there is no proposed work window that is determined to be protective of Longfin smelt.

Recommendation: CDFW recommends that the DEIR include a mitigation measure that describes how the wood fender piles will be removed as well as what containment measures will be in place for wood fragments and sediment plumes caused by removal activities.

Impacts to State Listed Species

Comment: If project related activities are anticipated to impact state listed species, the DEIR should identify potential impacts and avoidance and minimization measures. Both Chinook salmon and Longfin smelt are present in the vicinity of the project and could be impacted by increased turbidity or elevated underwater sound levels generated from pile driving or drilling activities. Underwater sound criteria for fish can be found in Attachment 1. It is unclear from the NOP whether take may occur from the described Project activities.

Recommendation: CDFW recommends the Department consult with CDFW regarding a 2081(b) Incidental Take Permit if impacts to state listed species are anticipated to occur.

Recommendation: CDFW recommends the DEIR include mitigation measures to contain turbidity during pile installation and removal activities. Measures may include the following:

- A turbidity curtain should be installed around the pile removal area to contain turbidity to the immediate work area.
- Pile removal should only be conducted with a vibratory hammer or using a direct pull method. If using a direct pull method, piles should only be pulled directly upward and avoid rocking piles to reduce disturbance of the bottom sediments.

Project Design Analysis and Coordination

Comment: The DEIR does not discuss if the Project will be designed in early coordination with CDFW to ensure the Project does not create or maintain a fish barrier from changes to flow capacity or other considerations.

Recommendation: Design Coordination: CDFW recommends early coordination with CDFW Habitat Conservation and the CDFW Conservation Engineering Branch to provide review and analysis of any proposed structures or Project elements with the potential to impact fish and wildlife resources. CDFW Conservation Engineering Branch should be provided engineered drawings and design specification planning sheets during the initial design process, prior to design selection and re-initiating design consultation at 30% design at minimum and through the permitting process for review and comment.

Recommendation: Bridge and Stream Crossing References: CDFW recommends utilizing the design principles outlined in the California Salmonid Stream Habitat Restoration Manual, Part XII (CDFW, 2009) and NOAA Fisheries Service Guidelines for Salmonid Passage at Stream Crossings (NMFS, 2001) into stream crossing designs. CDFW strongly recommends the above manuals are included and referenced when designing the structure and creek work aspect of the Project. Such designs allow natural stream flow and sedimentation processes to continue for long term dynamic channel stability.

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. 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 CDFW. Payment of the 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

CDFW appreciates the opportunity to comment on the NOP to assist the Department in identifying and mitigating Project impacts on biological resources.

Elizabeth White
San Francisco Planning Department
June 29, 2023
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Questions regarding this letter or further coordination with Marine Region should be directed to Arn Aarreberg, Environmental Scientist, at (707) 791-4195 or Arn.Aarreberg@wildlife.ca.gov. Coordination with our Bay-Delta Region should be directed to Will Kanz, Environmental Scientist, at (707) 337-1187 or Will.Kanz@wildlife.ca.gov.

Sincerely,



Craig Shuman, D. Env
Marine Regional Manager

ATTACHMENT 1: Agreement in Principle for Interim Criteria for Injury to Fish from Pile Driving Activities

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<i>NOAA's Fisheries Northwest and Southwest Regions</i>	<i>U.S. Fish and Wildlife Service Regions 1 & 8</i>	<i>California/Washington/ Oregon Departments of Transportation</i>	<i>California Department of Fish and Game</i>	<i>U.S. Federal Highway Administration</i>
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MEMORANDUM

June 12, 2008

From: Fisheries Hydroacoustic Working Group

Subject: Agreement in Principle for Interim Criteria for Injury to Fish from Pile Driving Activities

To: Applicable Agency Staff

The signatory agencies, identified below, have agreed in principle to use the attached Interim Criteria for Injury to Fish from Pile Driving Activities. The agreement was concluded at a meeting in Vancouver, Washington on June 10-11, 2008 with key technical and policy staff from the Federal Highway Administration, NOAA Fisheries, U.S. Fish and Wildlife Service, the Departments of Transportation from California, Oregon, and Washington; and national experts on sound propagation activities that affect fish and wildlife species of concern. The agreed upon criteria identify sound pressure levels of 206 dB peak and 187 dB accumulated sound exposure level(SEL) for all listed fish except those that are less than 2 grams. In that case, the criteria for the accumulated SEL will be 183 dB.

These criteria will apply to all new projects beginning no later than 60 days from the date of this memorandum. During the interim 60 day period, the Transportation Agencies will work with the Services to identify projects currently in the consultation process and reach agreement on which criteria will be used to assess project effects.

The agencies agree to review the science periodically and revise the threshold and cumulative levels as needed to reflect current information. Behavioral impacts to fish and impacts to marine mammals are not addressed in this agreement. Sub-injurious effects will continue to be discussed in future meetings.

The respective agencies also agree to develop appropriate training for staff on these revised criteria, as well as a process to review and possibly refine the criteria, when appropriate.

For questions or concerns about the revised criteria, we recommend staff contact their agency environmental coordinator or agency expert on pile driving issues.

Carol S. Adkins



Federal Highway Administration*

*FHWA supports the use of these interim criteria in the states signing this agreement in principle. FHWA leaves the schedule for implementation to the discretion of the state DOTs in cooperation with their respective FHWA Division Offices and the Services.

Michael Jehan



NOAA Fisheries – NWR

Russell M. Strock



NOAA Fisheries – SWR

Ken S. Berg



US Fish and Wildlife Service Region 1

Michael E. Payer



US Fish and Wildlife Service Region 8

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California Department of Transportation



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Meghan L. Latta

Washington State Department of Transportation

