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DEPARTMENT OF FISH AND WILDLIFE
Marine Region
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GAVIN NEWSOM, Governor
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January 29, 2024

Elizabeth White, Senior Environmental Planner
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Governor's Office of Planning & Research

Jan 30 2024

STATE CLEARINGHOUSE

Dear Ms. White:

Islais Creek Bridge Project (Project)
Draft Environmental Impact Report (DEIR)
SCH# 2023060006

The California Department of Fish and Wildlife (CDFW) received a DEIR 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. The 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 objective of the Project is to replace the existing Islais Creek Bridge along Third Street to increase the height of the bridge, to address sea level rise impacts, and address structural and seismic deficiencies.

Location: The bridge is located on Third Street, over the Islais Creek Channel within City and County of San Francisco.

Timeframe: The Project is proposed to start in spring 2025 and take approximately 24 months to complete.

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 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 (Sacramento River Spring-run evolutionary significant units (ESU), state and federally endangered (Sacramento River Winter-run ESU),

- Chinook salmon (*O. tshawytscha*), state species of special concern (Central Valley fall and Late fall ESU),
- Steelhead (*Oncorhynchus mykiss*), federally threatened (Central California Coast and Central Valley ESU),
- Green sturgeon (*Acipenser medirostris*), federal threatened (Southern Distinct Population Segment),
- White sturgeon (*A. transmontanus*), state species of special concern,
- Longfin smelt (*Spirinchus thaleichthys*), state-threatened,

Several species with important commercial/recreational fisheries could potentially be present near Project activities. These include:

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

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the Port 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

Pacific Herring

Comment: Mitigation Measure M-BI-5: Protection of Herring Spawn describes protections for herring and having biological monitors present during the herring spawning season from December 1 through February 28. CDFW is in agreement with the purpose of the mitigation measure, however, the spawning season timeframe listed is incorrect. Additionally, CDFW recommends that if any in-water work is to occur during the herring spawning season, coordination with CDFW should occur prior to any work outside the work window.

Recommendation: CDFW recommends that M-BI-5 spawning season timeframe be changed to December 1 through March 15. Additionally, M-BI-5 should include the following language.

- If in-water work is to take place during the herring spawning season, coordination with CDFW shall occur prior to November 15th.

Mitigation Measure M-BI-2: Fish and Marine Mammal Protection during Pile Removal

Comment: The proposed work window of June 1 through November 30 within M-BI-2 is consistent with CDFW recommendations. This work window is likely to be effective in minimizing potential impacts to salmonids and Pacific herring. However, it is unclear why this mitigation measure is specific only to pile removal. The Project includes pile installation via pile driving and drilling, both of which may cause underwater sound levels high enough to impact aquatic species. Driving larger diameter piles with impact hammers can cause sound levels high enough to cause take of aquatic species. The Hydroacoustic Working Group (Attachment 1) has identified sound levels in which take is likely to occur.

Recommendation: CDFW recommends M-BI-2 include pile installation (driving and drilling) within the same June 1 through November 30 work window.

Recommendation: CDFW recommends further consultation and a sound monitoring plan if underwater sound levels are expected to exceed the thresholds identified in Attachment 1 and/or if pile driving or removal work is to occur outside of the specified work window within M-BI-2.

State Listed Chinook Salmon

Comment: Table 12 in Appendix B (Special-Status Wildlife Species with Potential to Occur in the Islais Creek Bridge Project Area) lists only Central Valley fall and Central Valley late fall ESU for Chinook salmon. In addition to these two runs of Chinook that are considered state species of special concern, there are two additional runs of state listed Chinook salmon that may be present within the Project area, Sacramento River Spring run, state listed as threatened, and the Sacramento River Winter run, state listed as endangered.

Recommendation: CDFW recommends the final EIR include both listed ESU of Sacramento River Chinook salmon to Table 12 in Appendix B. The DEIR should also include analysis of potential impacts to these Chinook ESU along with the Central Valley fall and late fall ESU.

White Sturgeon

Comment: White sturgeon is a state species of special concern (SSC). Although the 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.

Additionally, CDFW received a petition to list White sturgeon as threatened under CESA on November 29, 2023. CDFW is expected to complete our review of the petition by April 2024. Information regarding this petition for listing can be found on the California Fish and Game Commission webpage at, https://fgc.ca.gov/CESA?utm_medium=email&utm_source=govdelivery#ws.

Recommendation: CDFW recommends the final EIR include analysis of the potential impacts to White sturgeon from Project activities and that White sturgeon be added to Table 12 in Appendix B (Special-Status Wildlife Species with Potential to Occur in the Islais Creek Bridge Project Area).

California Brown Pelican

Comment: Table 12 in Appendix B list California brown pelican (*Pelecanus occidentalis californicus*) as state fully protected. The California brown pelican was removed from the state list of fully protected species in 2023 and is no longer state fully protected under Fish and Game Code Section 3511.

Recommendation: CDFW recommends removing the state fully protected status from California brown pelican in Table 12 within Appendix B.

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 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, Section 753.5; Fish & G. Code, Section 711.4; Pub. Resources Code, Section 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR to assist the Department 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.

Sincerely,

Becky Ota
Environmental Program Manager

ENCLOSURES

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

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