



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
West Coast Region  
501 West Ocean Boulevard, Suite 4200  
LONG BEACH, CA 90802

In response refer to: 151422WCR2023AR00151

August 23, 2023

Sent Via Email

Rob Holmlund, Development Director  
Humboldt Bay Harbor, Recreation, and Conservation District  
P.O. Box 1030  
Eureka, California 95502  
rholmlund@humboldtby.org

RE: Scoping comments on the proposed Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project

Dear Mr. Holmlund,

NOAA's National Marine Fisheries Service (NMFS) provides the following comments on the Humboldt Bay Harbor, Recreation and Conservation District's (District) June 26, 2023, Notice of Preparation ([NOP](#)) of a draft Environmental Impact Report (EIR) for the proposed Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (Project) on the Samoa Peninsula in Humboldt County, California.

The NOP identified key environmental issues to be addressed in the EIR. We reviewed the sections of the NOP pertaining to our trust resources and identified several areas that require further analysis and information to be adequately addressed within the Draft and Final EIR.

### **NMFS Regulatory Authorities**

NMFS is the lead federal agency responsible for the [stewardship of the nation's living marine resources and their habitats](#). NMFS implements the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA) for the conservation and recovery of protected species and their habitats. NMFS is the lead federal agency for federal fisheries management under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), which includes provisions for essential fish habitat (EFH) conservation. Federally-managed fisheries provide an important source of food and recreation for the nation, as well as thousands of jobs, and a traditional way of life and essential nutrients for many tribal nations and coastal communities. NMFS also plays a central role in developing and implementing policies that enable marine aquaculture and works to ensure that aquaculture complies with existing federal laws and regulations that we implement under our marine stewardship mission.

We anticipate that there will be Federal actions associated with the Project that will trigger the need for [ESA Section 7](#) and [MSA EFH](#) consultations. California Environmental Quality Act (CEQA) documents may provide foundational information for these ESA and EFH consultations, and we therefore encourage the District to include sufficient information in the Draft and Final EIR to aid in streamlining these future



consultation processes. For any required ESA consultation, we would analyze the effects of the Project upon ESA-listed species and their designated critical habitats to ensure the Project does not jeopardize the continued existence of the species or adversely modify their designated critical habitats. For any required EFH consultation, we would analyze the effects caused by the Project and provide conservation recommendations that avoid, minimize, or offset the adverse effects identified. As described further below, actions that “take” marine mammals are generally prohibited by the MMPA absent an MMPA authorization. The District should discuss the need for any MMPA authorizations with the NMFS Office of Protected Resources.

Finally, NOAA recently published a [Mitigation Policy for NOAA Trust Resources](#) that NMFS will apply in our consultations and authorizations. We recommend the District review this policy as it considers potential proposed mitigation measures in the EIR and/or related to the Project, such as habitat mitigation and/or offsetting measures.

### **ESA-Listed Species and Critical Habitats**

The following federally listed species (Evolutionarily Significant Units [ESU] or Distinct Population Segments [DPS]) and their designated critical habitat under the jurisdiction of NMFS occur in areas that could be affected inside of Humboldt Bay and within the Pacific Ocean, for example during disposal of dredge spoils at designated offshore disposal sites.

**Southern Oregon/Northern California Coast (SONCC) coho salmon ESU**  
*(Oncorhynchus kisutch)*  
Threatened (70 FR 37160; June 28, 2005)  
Critical habitat (64 FR 24049; May 5, 1999)

**California Coastal (CC) Chinook salmon ESU**  
*(O. tshawytscha)*  
Threatened (70 FR 37160; June 28, 2005)  
Critical habitat (70 FR 52488; September 2, 2005)

**Northern California (NC) steelhead DPS**  
*(O. mykiss)*  
Threatened (71 FR 834; January 5, 2006)  
Critical habitat (70 FR 52488; September 2, 2005)

**North American green sturgeon Southern DPS**  
*(Acipenser medirostris)*  
Threatened (71 FR 17757; April 7, 2006)  
Critical habitat (74 FR 52300; October 9, 2009)

**Pacific Eulachon Southern DPS**  
*(Thaleichthys pacificus)*  
Threatened (75 FR 13012; March 18, 2010)  
Critical habitat N/A

**Sunflower sea star**  
*(Pycnopodia helianthoides)*  
Proposed/Threatened (88 FR 16212; March 16, 2023)  
Critical habitat N/A

**Southern Resident killer whale**  
*(Orcinus orca)*  
Endangered (70 FR 69903; November 18, 2005)  
Critical habitat (86 FR 41668; August 2, 2021)

**Gray whale: Western North Pacific Stock**  
*(Eschrichtius robustus)*  
Endangered (58 FR 3121; January 7, 1993)  
Critical habitat N/A

**Humpback whale: Mexico DPS**  
*(Megaptera novaeangliae)*  
Threatened (81 FR 62259; September 8, 2016)  
Critical habitat (86 FR 21082; April 21, 2021)

**Humpback whale: Central America DPS**  
Endangered (81 FR 62259; September 8, 2016)  
Critical habitat (86 FR 21082; April 21, 2021)

## **MSA Essential Fish Habitat**

Humboldt Bay is designated as EFH for the Pacific Coast Salmon Fishery Management Plan (FMP), the Pacific Coast Groundfish FMP, and the Coastal Pelagic Species FMP (PFMC 2016, PFMC 2019b, PFMC 2019a).<sup>1</sup> Furthermore, Humboldt Bay has been identified as a Habitat Area of Particular Concern (HAPC) for the Pacific Coast Salmon FMP and the Pacific Coast Groundfish FMP (PFMC 2016, PFMC 2019b). Eelgrass beds have also been designated as HAPC for both Pacific Coast Salmon and Pacific Coast Groundfish FMPs. HAPC are described in the regulations as subsets of EFH that are identified based on one or more of the following considerations: the importance of the ecological function provided by the habitat; the extent to which the habitat is sensitive to human-induced environmental degradation; whether, and to what extent, development activities are, or will be stressing the habitat type; and the rarity of the habitat type (50 CFR 600.815(a)(8)).<sup>2</sup> Designated HAPC are not afforded any additional regulatory protection under MSA; however, federal projects with potential adverse impacts to HAPC are more carefully scrutinized during the consultation process. Humboldt Bay hosts the largest eelgrass population in the State of California and the third largest eelgrass population on the West Coast.

## **Marine Mammal Protection Act**

The MMPA prohibits the “take”<sup>3</sup> of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1371 (a)(5)(A) and (D)) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, take of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if the taking will be of small numbers, have a negligible impact on the affected species or stock, and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). NMFS Office of Protected Resources is responsible for the review of any requests for an incidental take authorization to take small numbers of marine mammals incidental to construction activities associated with the Project. More information on the MMPA incidental take authorization process, including application timing requirements, is available from our [Office of Protected Resources](#).

## **Effects to ESA-Listed Species, Critical Habitats, Essential Fish Habitat, and Marine Mammals<sup>4</sup>**

**Acoustics.** The removal of existing docks and wharfs and the construction of new docks and wharfs will create acoustic noise that could adversely affect the individuals exposed. The new infrastructure will likely require the installation of large diameter steel pilings that would produce elevated noise levels. The potential impacts from pile driving and pile removal should be evaluated for all life stages of ESA-listed species and all marine mammals (e.g., harbor seals).

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<sup>1</sup> [https://www.pcouncil.org/managed\\_fishery/habitat/](https://www.pcouncil.org/managed_fishery/habitat/)

<sup>2</sup> More information about West Coast HAPC can be found at <https://www.fisheries.noaa.gov/west-coast/habitat-conservation/habitat-areas-particular-concern-west-coast>

<sup>3</sup> “Take” under the MMPA means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal. “Harassment” means any act of pursuit, torment, or annoyance which has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment). 16 U.S.C 1362.

<sup>4</sup> For information on the recent marine mammal stock assessment visit: <https://repository.library.noaa.gov/view/noaa/44406>

***Eelgrass.*** Portions of the heavy lift wharfs, sinking basin, and other overwater structures are likely to be built over, or near, existing eelgrass beds. Shade caused by overwater structures is known to reduce or prevent eelgrass growth. A study conducted by Holmer and Laursen (2002) found that after only two weeks of shading, eelgrass biomass and above ground growth was significantly reduced when compared to eelgrass without shade. Bertelli and Unsworth (2018) found similar results after shading eelgrass for three weeks. Wong et al. 2020 found that eelgrass resources did not recover after restoring light after weeks of low light levels. The EIR should incorporate estimates of the area of eelgrass that will be impacted and include mitigation and monitoring plans that would ensure achieving no net loss of eelgrass resources consistent with NOAA's California Eelgrass Mitigation Policy (NOAA 2014). The Humboldt Bay Eelgrass Comprehensive Management Plan is another resource (District 2017).

***Benthic Impacts and Habitat Conversion.*** The expanded dredge footprint, sinking basin, wet storage, and subsequent maintenance dredging will convert shallower water habitats along the margins of the Federal Navigation Channel into deeper water and significantly widen the footprint of the deepwater channel. The wet storage areas will require that anchors, anchor chains, and mooring buoys will be installed in order to stage wind turbine device (WTD) components in the dredged wet storage areas. The number and residence time for the WTD components staged in the wet storage areas needs to be evaluated in the EIR for shading impacts to marine resources and for avoidance by listed salmonids. Shading has been well studied in the marine environment and known to displace organisms and alter species assemblages in affected areas (Glasby 1999, Miller and Etter 2008, Pardal-Souza et al. 2016). The anchors will occupy space and displace infaunal organisms and reduce the quantity of benthic habitat available. A hydrodynamics model would be valuable for evaluating if the expanded dredge areas might lead to channel enlargement or other physical changes to habitats in the bay, or where deposition of sediments might occur.

***Vessel and Propeller Strikes.*** The number of vessels expected to travel to the Wind Terminal facility from the Entrance of Humboldt Bay (arriving from the Pacific Ocean), as well as the number of vessels expected to transit from the Wind Terminal to the Entrance of Humboldt Bay (towards the Pacific Ocean) will be fundamental information sources needed to evaluate the potential risk of vessel strikes that could occur as a consequence of the Project. The number of vessels, their estimated size, their estimated speed, the number of trips, and propeller size should be described and evaluated as part of potential vessel strike risks in the EIR (as well as the same information for vessels engaged in towing to support the wet storage of WTD components, or for vessels engaged in dredging and other Project-related activities). Vessel and propeller strikes are known to injure marine mammals, and the most recent five-year status review for Southern DPS (SDPS) green sturgeon indicated that vessel strikes have become an increasing threat to SDPS green sturgeon (NMFS 2021). There is a growing body of research which has shown that many sturgeon species may not be as benthic-oriented as once believed (Killgore et al. 2011, Kelly and Klimley 2012, Watanabe et al. 2013, Goldsworthy et al. 2016, Breece et al. 2018). Using vector analysis, Kelly and Klimley (2012) found that green sturgeon spent the majority of their time in the upper water column, often at the surface, while undergoing rapid long-distance movements in deep, high-current areas such as portions of Humboldt Bay.

## **Fisheries and Fishing Community Resilience**

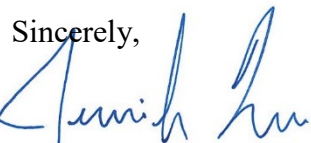
The Port of Humboldt provides shoreside infrastructure vital to many fisheries and seafood processors in the region. Given the nature of the Project and far-reaching change it is expected to have in the Port and Bay, the scope of the EIR should include commercial, tribal, and recreational fisheries; seafood processors; and fishing communities. In addition to the impacts to the EFH that are necessary habitat to support these fish stocks, it is important to consider how the Project will affect, and hopefully strengthen, fishing community resilience. Working waterfront areas with ample infrastructure, such as fuel and ice/freezer support industries, are critical ingredients in determining whether local and regional fisheries participants (e.g., fishing boat owners, crews, operators, and fish processors) and related businesses can continue providing sustainable U.S.-harvested seafood to the region and nation. There should be an evaluation of how navigation-related issues would disrupt fisheries, and measures identified to offset any disruptions.

## **Offsetting Measures and Mitigation**

The NOP did not provide insights into the mitigation strategies intended to be applied to eelgrass, or for habitat conversion (deepening), shading, acoustic noise, or other marine-related impacts. The draft EIR should provide an analysis of these impacts and propose adequate mitigation to offset or compensate for any adverse effects that are expected to occur. NOAA's Mitigation Policy for Trust Resources (NOAA 2022) suggests that impacts to high value resources (such as eelgrass) be avoided or minimized. In order to support the development of appropriate offshore wind facilities, most of these impacts are not avoidable and cannot be minimized given the large-scale nature of the WTD manufacturing. The offsetting measures intended to mitigate for the loss of these high value resources will be a fundamental and required component of the Project and EIR. The increases in maritime traffic and nature of maneuvering WTDs into wet storage, or for transportation outside of Humboldt Bay, may result in propeller strikes and injuries to SDPS green sturgeon which may require monitoring and minimization measures. Hydrodynamic models would be valuable to evaluate if additional impacts or mitigation might be necessary for unanticipated changes that may occur to the channel network or adjacent mudflats. Offsetting measures for the fishing community, such as improved facilities, would help mitigate disruptions to access for tribal, recreational, and commercial fishing.

## **Points of Contact**

Thank you for the opportunity to comment on the NOP and for the District's coordination thus far on the Project. Please continue to coordinate with Matt Goldsworthy ([Matt.Goldsworthy@noaa.gov](mailto:Matt.Goldsworthy@noaa.gov)) of our NMFS West Coast Region for technical assistance on the ESA and EFH components of the Project, or if you have any questions regarding our comments. For assistance with MMPA authorization questions, please contact Ben Laws ([Benjamin.Laws@noaa.gov](mailto:Benjamin.Laws@noaa.gov)) of NMFS' Office of Protected Resources.

Sincerely,  
  
Jennifer Quan  
Regional Administrator

cc: L. Kasey Sirkin, U.S. Army Corps of Engineers, Eureka, California  
Corianna Flannery, California Department of Fish and Wildlife, Eureka, California  
Melissa Kraemer, California Coastal Commission, Arcata, California  
Holly Wyer, California Coastal Commission, San Francisco, California  
Kerry Griffin, Pacific Fishery Management Council

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