



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



June 19, 2024

Chad Mason, Senior Planner/Project Manger
Water Emergency Transportation Authority
Pier 9, The Embarcadero
San Francisco, CA 94559
Mason@watertransit.org

Subject: Vallejo Ferry Terminal Reconfiguration Project, Mitigated Negative Declaration, SCH No. 2024051079, Solano County

Dear Mr. Mason:

The California Department of Fish and Wildlife (CDFW) received a Notification of Intent to adopt a Mitigated Negative Declaration (MND) from the Water Emergency Transportation Authority for the Vallejo Ferry Terminal Reconfiguration Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

CDFW is submitting comments on the MND to inform the Water Emergency Transportation Authority, as the Lead Agency, of potentially significant impacts to biological resources associated with the Project.

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under CEQA pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), the Lake and Streambed Alteration (LSA) Program, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

PROJECT DESCRIPTION SUMMARY

Proponent: Water Emergency Transportation Authority

Objective: The Project would reconfigure the existing Vallejo Ferry Terminal on the eastern shore of the Mare Island Strait, within the footprint of the existing ferry terminal and basin area. The Project would remove and replace 5,322 square feet of existing gangway, passenger float, and piles with a new reconfigured four-section fixed pier and

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.

Chad Mason
Water Emergency Transportation Authority
June 19, 2024
Page 2

gangway extending from the existing ferry terminal access point, passenger float, and piles. The new passenger float would be approximately 134.5 feet by 42 feet, run parallel with the flow of Mare Island Strait, and accommodate two vessels at a time for passenger loading and unloading. The Project would facilitate a reduction in the need for regular dredging maintenance at the Vallejo Ferry Terminal.

Location: The Project is located at 289 Mare Island Way, Vallejo, CA 94592 in Solano County and occupies less than one acre on Assessor Parcel Number 0055-170-050 and 0055-170-400; and at approximately 38.09999°N and -122.2619°W.

REGULATORY REQUIREMENTS

California Endangered Species Act

Please be advised that a CESA Incidental Take Permit (ITP) must 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. **The Project has the potential to impact Delta smelt (*Hypomesus transpacificus*), state listed as endangered; longfin smelt (*Spirinchus thaleichthys*), state listed as threatened; winter-run Chinook salmon (*Oncorhynchus tshawytscha* pop. 7), state listed as endangered; and spring-run Chinook salmon (*Oncorhynchus tshawytscha* pop. 11), state listed as threatened. Thank you for including mitigation measures for the above CESA listed fish species.** Issuance of an ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain an ITP.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064, & 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency’s FOC does not eliminate the Project proponent’s obligation to comply with CESA.

Lake and Streambed Alteration

An LSA Notification, pursuant to Fish and Game Code section 1600 et. seq. is required for Project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that will 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, washes, watercourses with a

Chad Mason
Water Emergency Transportation Authority
June 19, 2024
Page 3

subsurface flow, and floodplains are subject to LSA notification requirements. **The Project would impact Mare Island Strait, a segment of the Napa River, therefore an LSA Notification is required as further described below.** CDFW, as a Responsible Agency under CEQA, would consider the CEQA document for the Project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the Water Emergency Transportation Authority in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the Project's avoidance of significant impacts biological resources with implementation of mitigation measures, including the below recommendations and those in the Draft Mitigation, Monitoring and Reporting Program (Attachment 1). CDFW concludes that a MND is appropriate for the Project.

I. Mandatory Findings of Significance: Does the Project have the potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species?

Mitigation Measure Related Impact Shortcomings

COMMENT 1: Hydroacoustic Monitoring and Reporting

Issue: Mitigation Measure BIO-7 and BIO-9 of the MND discuss hydroacoustic sound monitoring to avoid impacts to noise wildlife, such as the CESA listed fish species described above. However, it is not explicitly stated whether the hydroacoustic monitoring plan and results will be submitted to resource agencies including CDFW for review and approval.

Specific impacts and why they may occur and be significant: If resource agencies including CDFW do not receive and approve the hydroacoustic monitoring plan and results, impacts to wildlife resulting from Project activities could potentially go unaddressed and undetected, resulting in a substantial reduction in the number of endangered, rare, or threatened species pursuant to CEQA Guidelines section 15380, such as longfin smelt, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

Recommended Mitigation Measure: To reduce impacts to endangered, rare, or threatened species resulting from pile installation to less-than-significant and comply with CESA, CDFW recommends including the below mitigation measure.

Chad Mason
Water Emergency Transportation Authority
June 19, 2024
Page 4

MM BIO-1. Hydroacoustic Monitoring and Reporting. At least 30 days before commencement of Project activities, the hydroacoustic monitoring plan shall be submitted to resource agencies including CDFW and the Project shall obtain CDFW's written approval of the plan prior to beginning Project activities. The results of hydroacoustic monitoring shall be submitted to CDFW for review and approval within 30 days of pile installation.

II. Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or U.S. Fish and Wildlife Service (USFWS)?

Mitigation Measure Related Impact Shortcoming

COMMENT 2: Lake and Streambed Alteration Notification

Issue: The Project is located within the Mare Island Strait, a segment of the Napa River, and is subject to LSA Notification requirements pursuant to Fish and Game Code 1600 et seq. While Mitigation Measure MM BIO-7 includes consultation with regulatory agencies to obtain necessary permits, the requirement to obtain an LSA Agreement was not specifically included.

Note that Water Emergency Transportation Authority has an existing Routine Maintenance Agreement No. 1600-2021-0007-R3 (RMA) for maintenance dredging activities at the Vallejo Ferry Terminal, valid through December 31, 2025, however this RMA does not cover the Project and the Project would require a separate LSA Notification and LSA Agreement.

Specific impacts and why they may occur and be significant: The Project includes installation of piles, decking, and ferry terminal components, as well as dredging operations, which would cause impacts including construction noise, shading, and potential introduction of deleterious materials. Streams such as the Napa River are sensitive to the above impacts as they support a diversity of wildlife and convey water resources and pollutants over great distances. The Napa River hosts several special-status and listed fish species which are vulnerable to impacts from Project activities. If the Project does not obtain an LSA Agreement, several measures that would be included in an LSA Agreement to avoid, minimize, and mitigate impacts to sensitive species and habitat may not be implemented, resulting in potentially significant impacts to these resources.

Recommended Mitigation Measure: To reduce impacts to sensitive species and stream habitat to less-than-significant and comply with Fish and Game Code section 1602, CDFW recommends including the below mitigation measure.

Chad Mason
Water Emergency Transportation Authority
June 19, 2024
Page 5

MM BIO-2. Streambed Alteration Notification and Agreement. The Project shall notify CDFW for Project impacts to Mare Island Strait (Napa River) including, but not limited to pile driving, dredging, and shading. More information for the notification process is available at <https://wildlife.ca.gov/Conservation/Environmental-Review/LSA>. The Project shall comply with all measures of the LSA Agreement, if issued.

Please be advised that an LSA Agreement, if issued for the Project, would likely include the above recommended mitigation measure, as applicable, and may include additional measures to protect fish and wildlife resources.

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 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 CDFW. Payment of the environmental document filing fee is required in order for the underlying Project approval to be operative, vested, and final. (See: 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 MND to assist the Water Emergency Transportation Authority in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Nicholas Magnuson, Environmental Scientist at (707) 815-4166 or Nicholas.Magnuson@wildlife.ca.gov; or Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or Melanie.Day@wildlife.ca.gov.

Chad Mason
Water Emergency Transportation Authority
June 19, 2024
Page 6

Sincerely,

DocuSigned by:

Erin Chappell

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Erin Chappell
Regional Manager
Bay Delta Region

Attachment 1: Draft Mitigation Monitoring and Reporting Program

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2024051079)

Chad Mason
 Water Emergency Transportation Authority
 June 19, 2024
 Page 7

ATTACHMENT 1

Draft Mitigation Monitoring and Reporting Program (MMRP)

CDFW provides the following language to be incorporated into the MMRP for the Project.

Biological Resources (BR)			
Mitigation Measure (MM)	Description	Timing	Responsible Party
MM BIO-1	<i>Hydroacoustic Monitoring and Reporting.</i> At least 30 days before commencement of Project activities, the hydroacoustic monitoring plan shall be submitted to resource agencies including CDFW and the Project shall obtain CDFW's written approval of the plan prior to beginning Project activities. The results of hydroacoustic monitoring shall be submitted to CDFW for review and approval within 30 days of pile installation.	At least 30 days prior to Project activities, and within 30 days after pile installation, respectively	Project Applicant
MM BIO-2	<i>Streambed Alteration Notification and Agreement.</i> The Project shall notify CDFW for Project impacts to Mare Island Strait (Napa River) including, but not limited to, pile driving, dredging, and shading. More information for the notification process is available at https://wildlife.ca.gov/Conservation/Environmental-Review/LSA . The Project shall comply with all measures of the LSA Agreement, if issued.	Prior to Project activities	Project Applicant