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**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



August 5, 2024

Dina Tasini, Director of Community Development  
Town of Tiburon  
1505 Tiburon Boulevard  
Tiburon, CA, 94920  
[DTasini@townoftiburon.org](mailto:DTasini@townoftiburon.org)

Subject: Greenwood Beach Restoration Project, Draft Initial Study/Mitigated Negative Declaration, SCH No. 2024061144, Town of Tiburon, Marin County

Dear Dina Tasini:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Draft Initial Study/Mitigated Negative Declaration (IS/MND) from the Town of Tiburon (Town) for the 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 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, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 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.*, § 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 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. As

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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.

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proposed, for example, the Project may be subject to CDFW's Lake and Streambed Alteration (LSA) regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may 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.

## **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. Issuance of a CESA Permit 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 a CESA permit.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened, rare, or endangered species. (Pub. Resources Code, §§ 21001, subd. (c), 21083; CEQA Guidelines, § 15380, 15064, and 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 Fish and Game Code section 2080.

### **Lake and Streambed Alteration**

CDFW requires an LSA Notification, pursuant to Fish and Game Code § 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, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the Project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement (or ITP) until it has complied with CEQA as a Responsible Agency.

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## **Cutting the Green Tape Program**

CDFW's Cutting the Green Tape (CGT) program is a statewide effort, representing CDFW's environmental permitting and grant funding programs with added support from its general counsel and executive leadership. This program is leading efforts to develop and implement improvements to how the department issues permits and administers its grant programs, to accelerate the pace and scale of restoration throughout the state.

A Restoration Management Permit (RMP) is a tool available under the CGT program that consolidates "take" authorizations that voluntary habitat restoration projects may need to obtain into a single streamlined permit. The RMP can authorize state-defined take (hunt, pursue, capture, catch, or kill, or attempt to do so) of endangered, threatened, and candidate species pursuant to section 2081, subdivision (a), of CESA as well as fully protected species (FPS) pursuant to Fish and Game Code, §§ 3511, 4700, 5050, and 5515.

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** Town of Tiburon

**Objective:** The goal of the Project is to restore and enhance Greenwood and Brunini beaches using a "living shoreline" approach (techniques and materials that take advantage of natural processes and provide living space for estuarine organisms) to reduce rates of shoreline erosion, improve shoreline habitat and recreational values, and improve shoreline sea level rise resilience. The objectives of the Project are to restore the mixed sand-gravel beach and salt marsh vegetation at Greenwood Beach with enhanced resistance to erosion; replenish Brunini Beach with mixed sand and gravel and expand it to the southeast; use locally sourced sediments and/or beneficially reuse off-site navigational dredging sediments for beach restoration and enhancement; restore native backshore and salt marsh vegetation communities; pre-empt the need for rip-rap placement typical of shoreline erosion response; and demonstrate the applicability of restoring bay beaches as a viable alternative to traditional rip-rap shoreline stabilization to inhibit shoreline erosion while providing species habitat.

**Location:** The Project is located on approximately 1.4 acres of the Richardson Bay shoreline at Blackie's Pasture Park in the Town of Tiburon, Marin County, California. The Project is situated on lands owned by the Town of Tiburon (APNs: 055-041-18, 055-041-17, and 055-014-12) and intertidal lands under a Public Trust easement held by the State of California. The site is accessed from the terminus of both Greenwood Beach Road and Blackie's Pasture Road, from Tiburon Boulevard.

**Timeframe:** Construction would take approximately two months during the dry season (August-October) as early as 2024.

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## COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the Town 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. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, CDFW concludes that an MND is appropriate for the Project.

### I. Project Description and Related Impact Shortcoming

**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 US Fish Wildlife Service (USFWS)?**

**COMMENT 1:** Page 13 – Concrete Pieces

**Issue:** The draft IS/MND describes the presence of exposed remnants of fill material at the eroded scarp, including asphalt and concrete rubble. The draft IS/MND states that larger asphalt pieces, reinforced concrete, and other deleterious waste will be removed from the shoreline to the extent feasible and hauled to a landfill for disposal. The draft IS/MND then states that larger non-reinforced concrete pieces will be broken up, and the remainder of fill will be spread along the newly graded shoreline slope. The area will then be covered with 6-12 inches of sand for planted beach vegetation.

**Specific impact and why impact would occur:** Placement or reuse of hardscape such as concrete can result in less vegetation establishment, less improved habitat, and increase the risk of unintended erosion of the sloped shoreline.

**Evidence impact would be significant:** Erosion that starts along the graded scarp along the sloped shoreline could extend into the newly established beach habitat, impacting the establishment of backshore beach vegetation (including federally endangered California sea-blite (*Suaeda californica*)), as well as into the terrestrial grassland transition area. In addition, erosion could also create depressions that could inadvertently entrap fish species washed in during higher tides or winter storm surge that are unable to move out of the Project area when waters recede.

**Recommended Potentially Feasible Mitigation Measure(s) (Regarding Project Description and Related Impact Shortcoming)**

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**Mitigation Measure 1:** CDFW recommends removal of all asphalt, reinforced concrete, and non-reinforced concrete from the Project site, as feasible. Any materials that cannot feasibly be removed from the Project site should be clean, inert, free of extraneous material, and be properly sized and placed to minimize the risk of unintended erosion.

## **II. Environmental Setting and Related Impact Shortcoming**

**Would the Project have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption or other means?**

**COMMENT 2:** Pages 38 and 45 – Shollenberger Park

**Issue:** The off-site source of imported sand (Shollenberger Park) is a dredge disposal site located within a diked bayland with fringing brackish tidal marsh.

**Specific impact and why impact would occur:** Operation of vehicles/equipment directly adjacent to or within the brackish tidal marsh could result in potential short-term and/or long-term impacts to this sensitive habitat by removing or crushing marsh vegetation or inadvertently depositing sand into the marsh habitat during sand extraction activities.

In addition, the draft IS/MND states that the Project will implement Mitigation Measure BIO-1 at Shollenberger Park, to scrape the surface of the sand prior to sand harvesting to clear accumulated weeds and weed seeds in the top few inches of sand in excavation areas. Depending on where this top layer of sand with accumulated weeds and seeds is placed and whether the weeds and seeds are inadvertently deposited or are blown into the brackish tidal marsh, this activity could result in potential short-term and/or long-term impacts to brackish tidal marsh habitat by increasing invasive weed cover.

**Evidence impact would be significant:** Brackish tidal marsh is a type of federally protected wetland as defined by Section 404 of the Clean Water Act. Approximately 90 percent of tidal marsh habitat along the shorelines of San Francisco Bay has been lost or fragmented since the 1800's. Filling or crushing of brackish tidal marsh at Shollenberger Park will contribute to further loss of this sensitive habitat. Therefore, Project impacts to brackish tidal marsh would be potentially significant.

**Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact Shortcoming)**

**Mitigation Measure 2:** Restricting Vehicles to Top of Levee

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The draft IS/MND describes a perimeter levee that separates the brackish tidal marsh from the sand mound area. The draft IS/MND should state that all vehicles and equipment accessing the sand mound stockpile will be restricted to the perimeter levee that separates the sand mound from the brackish tidal marsh habitat.

**Mitigation Measure 3: Placement of Scraped Sand Surface Layer**

The draft IS/MND should state that any materials that are scraped from the surface of the sand during sand harvesting activities will not be placed into the adjacent brackish tidal marsh. If feasible, CDFW recommends that the scraped materials be disposed of to minimize the likelihood of spread of weeds/weed seeds to nearby sensitive habitats.

**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 USFWS?**

**COMMENT 3: Pages 34-35 – Channels**

**Issue:** The draft IS/MND describes a small freshwater drainage ditch with sparse, shaded freshwater marsh and riparian thicket at the west end of the Project. The document also describes an artificially-constructed tidal flood control channel with steep grassy banks that drains a sub-watershed of Ring Mountain, bisects the grasslands of Blackie's Pasture, and opens to the tidal delta of mixed gravel and sand flats between Greenwood and Brunini beaches. The freshwater drainage ditch and the tidal flood control channels are subject to CDFW's LSA authority, pursuant to Fish and Game Code 1600 et. seq.

**Specific impact and why impact would occur:** Placement of imported sand into the Project area, excavation of a borrow depression at the flood control channel and enlargement of the channel outlet, and excavation of a low-flow bypass channel around the borrow depression has the potential to result in substantial diversion or obstruction of natural flows and substantial change or use of material from the bed, bank, or channel.

**Evidence impact would be significant:** Substantial diversion or obstruction of natural flow, change in stream bed or bank, or deposit of debris into streams without necessary permitting would be a violation under Fish and Game Code 1600 et. seq.

**Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact Shortcoming)**

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#### **Mitigation Measure 4:** Notification of Lake and Streambed Alteration

Fish and Game Code 1600 et. seq requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake; (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. Project construction activities may necessitate that the Project proponent submit a Notification of LSA to CDFW. CDFW is required to comply with CEQA in the issuance of an LSA Agreement. Additional information can be found at <https://www.wildlife.ca.gov/Conservation/LSA>.

**Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS?**

**COMMENT 4:** Page 41 – Fish Species

**Issue:** The draft IS/MND describes special-status fish species that are known to migrate through or inhabit Richardson Bay and may be impacted by the Project. The draft IS/MND does not include white sturgeon (*Acipenser transmontanus*), which has recently been listed as a state candidate species under CESA.

**Specific impact and why impact would occur:** Potential impacts described in the draft IS/MND (e.g., injury/mortality from excavation activities, elevated turbidity and sediment suspension, habitat degradation, fish stranding during outgoing tides within the borrow depression, and increased bird predation associated with fish residence within the borrow depression) pertaining to other special-status fish species also will apply to white sturgeon if they are present.

**Evidence impact would be significant:** The population abundances of special-status species, including species listed as candidate species under consideration for listing under CESA, are typically low. The white sturgeon population in San Francisco Bay may be susceptible to further decline from injury or mortality from Project activities.

**Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact Shortcoming)**

**Mitigation Measure 5:** White Sturgeon Impacts

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Please revise the draft IS/MND to include white sturgeon in the section describing potential impacts and associated mitigation measures for special-status fish species.

**Mitigation Measure 6:** Impact Minimization

Page 47 of the draft IS/MND describes several measures to prevent direct and indirect construction-related impacts to fish, including: 1) conducting all work on the shoreline and low tide terrace, including excavation of the borrow depression, at low tide when the work area is emergent and fish are absent from the work area; 2) enlarging the borrow area outlet channel following excavation activities to ensure adequate tidal drainage and fish egress; and 3) constructing a low-flow bypass channel around the borrow area to re-route flood channel outflows and avoid intercepting estuarine fish movement between the shallow submerged tidal flats and the tidal flood control channel. Please provide a plan sheet (or at least a conceptual diagram) that shows more detail of the proposed dimensions and orientation of the enlarged borrow area and low-flow bypass channel.

**III. Mitigation Measure or Alternative and Related Impact Shortcoming**

**COMMENT 5:** Pages 44-45 – Mitigation Measure BIO-1

**Issue:** The draft IS/MND states that the sand imported from Shollenberger Park will contain non-native/invasive plant seeds and may cause a flush of weed growth at the back of the constructed beach. The draft IS/MND proposes Mitigation Measure BIO-1, which includes scraping the top few inches of sand prior to sand harvesting at Schollenberger Park (as described above in the first comment of this letter), monitoring of the shoreline weed seedling zone during the first winter rainy season following sand placement, and manual removal of detected seedlings prior to flowering or seed set.

**Specific impact and why impact would occur:** If the imported sand still contains some non-native/invasive plant seeds (despite scraping during harvesting), a flush of weed growth at the Project site may increase the concentration of existing non-native/invasive plant species and introduce new non-native/invasive plants into the Project area.

**Evidence impact would be significant:** Further spread of existing non-native/invasive plant species and/or introduction of new non-native/invasive plant species not already present at the site could spread into sensitive marsh habitat or impede the ability of federally endangered California sea-blite to thrive at the Project site.



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### **Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)**

**Mitigation Measure 7:** CDFW recommends modifying Mitigation Measure BIO-1 to include an additional year of monitoring the shoreline weed seedling zone beyond the initial first winter, to ensure that non-native/invasive weed species are effectively removed by hand and minimize the chance of further spread.

#### **IV. Editorial Comments and/or Suggestions**

Please clarify the construction window, as page 24 states construction to be August-October, while page 45 states that construction will occur outside of the nesting and breeding season (after September 1). CDFW supports the later construction window, if possible, to better ensure avoidance to nesting bird species, including avoidance of impacts to nesting federal and state endangered and state fully protected California Ridgway's rail (*Rallus obsoletus obsoletus*) or state threatened and state fully protected California black rail (*Laterallus jamaicensis coturniculus*) that may be in close vicinity to sand harvesting activities at Shollenberger Park.

In addition, please be aware that CDFW should be listed on page 24 (under State and Local Agency Approvals Utilizing this Document) as both a CEQA Trustee Agency and CEQA Responsible Agency and may issue a 1600 LSA Agreement.

Also, please revise the draft IS/MND on pages 41-43 to note that steelhead (*Oncorhynchus mykiss*), green sturgeon (*Acipenser medirostris*), San Pablo song sparrow (*Melospiza melodia samuelis*), northern harrier (*Circus hudsonius*), salt marsh common yellowthroat (*Geothlypis trichas sinuosa*), and salt marsh wandering shrew (*Sorex vagrans halicoetes*) are state species of special concern; California black rail is state threatened and state fully protected; and that California Ridgway's rail and salt-marsh harvest mouse (*Reithrodontomys raviventris raviventris*) are state fully protected.

#### **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>.

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## 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 draft IS/MND to assist the Town of Tiburon in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Tami Schane, Senior Environmental Scientist (Specialist) at (415) 710-0711 or [Tami.Schane@wildlife.ca.gov](mailto:Tami.Schane@wildlife.ca.gov); or to Peter McHugh, Environmental Program Manager at [Peter.McHugh@wildlife.ca.gov](mailto:Peter.McHugh@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
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Erin Chappell  
Regional Manager  
Bay Delta Region

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