



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Marine Region
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GAVIN NEWSOM, Governor
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November 25, 2024

Rebecca Markwick
City of Belvedere
450 San Rafael Avenue
Belvedere, CA 94920
rmarkwick@cityofbelvedere.org

Dear Ms. Markwick:

270 Beach Road – Addition of floating dock at 270 Beach Road Belvedere (Project)
Initial Study/Mitigated Negative Declaration (ISMND) SCH # 2024101129.

The California Department of Fish and Wildlife (Department) received an ISMND from the City of Belvedere for the Project pursuant to 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 the Department, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

DEPARTMENT ROLE

The Department 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).) The Department, 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, the Department 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 Department 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.

PROJECT DESCRIPTION SUMMARY

Proponent: James and Hollie Moore Haynes

Objective: The purpose of the Project is to add a new 223 square foot floating dock finger adjacent to the existing floating dock to accommodate a private vessel used by the property owner.

Location: The Project is located within the city of Belvedere, Marin County, at 270 Beach Rd. on the western shoreline of Belvedere Cove.

Timeline: The Project is proposed to start construction in 2024 or 2025 and take approximately 6 days 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:

- Longfin smelt (*Spirinchus thaleichthys*), state-threatened
- Chinook salmon (*Oncorhynchus tshawytscha*), state and federally threatened (Central Valley Spring-run), state and federally endangered (Sacramento River Winter-run), state species of special concern (Central Valley Late Fall Run, Central Valley Fall Run)
- Steelhead (*Oncorhynchus mykiss*), federally threatened (Central California Coast evolutionary significant units)
- Green sturgeon (*Acipenser medirostris*), federal threatened (Southern Distinct Population Segment)
- White sturgeon (*Acipenser transmontanus*), state candidate threatened
- Pacific lamprey (*Entosphenus tridentatus*), state species of special concern

Several species with important commercial/recreational fisheries value and habitat value for spawning and rearing could potentially be present near Project activities. These include:

- Pacific herring (*Clupea pallasii*)
- Eelgrass (*Zostera marina*)
- Surfperches (Embiotocidae).
- Rockfish (*Sebastes spp.*),
- California halibut (*Paralichthys californicus*)
- Dungeness crab (*Metacarcinus magister*)

COMMENTS AND RECOMMENDATIONS

The Department offers the comments and recommendations below to assist the City of Belvedere 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

Eelgrass

Comment: Native eelgrass beds (*Zostera marina*) are an important part of the San Francisco Bay ecosystem and are recognized by state and federal statutes as both highly valuable and sensitive habitats. Eelgrass provides primary production and nutrients to the ecosystem along with spawning, foraging, and nursery habitat for fish and other species. Pursuant to the federal Magnuson-Stevens Fishery Conservation and Management Act, eelgrass is designated as Essential Fish Habitat for various federally managed fish species within the Pacific Coast Groundfish and Pacific Coast Salmon Fisheries Management Plans (FMP). Eelgrass is also considered a habitat area of particular concern for various species within the Pacific Coast Groundfish FMP. The importance of eelgrass to Pacific herring in San Francisco Bay has been highlighted in the Department's Pacific herring FMP. Eelgrass beds are further protected under state and federal "no-net-loss" policies for wetland habitats and are also listed by the Department as a Sensitive Natural Community with a vulnerable listing status (State Rank S3). Additionally, the importance of eelgrass protection and restoration, as well as the ecological benefits of eelgrass, is identified in the California Public Resources Code (Pub. Resources Code §35630).

The ISMND discusses the potential impacts of the pier construction to eelgrass present on site. Using previous surveys in the area, the ISMND states that an estimated 223 square feet of eelgrass habitat could be disturbed by the Project. The ISMND describes two mitigation measures to avoid potential impacts to eelgrass. Mitigation Measure BIO-1: Implement CDFW-Recommended Measures to Avoid Disturbance of Eelgrass Beds (MM BIO-1) describes conducting pre- and post-construction eelgrass surveys and creating an eelgrass monitoring and mitigation

plan. MM BIO-1 does not discuss the Department's authorization that would be necessary to harvest and transplant eelgrass for the purpose of mitigation.

Mitigation Measure BIO-2: Implement NMFS 2018 NLAA Program Measures and Compliance during construction (MM BIO-2) expands on avoidance measures by describing measures to avoid eelgrass impacts during construction such as prop wash and anchoring barge spud piles within eelgrass habitat.

However, the ISMND lacks information on minimization of potential shading impacts over time from the pier. Further information should be included on what materials or minimization measures will be built into the pier to minimize and/or avoid long-term impacts from shading.

Recommendation: The Department recommends the following be included within MM BIO-1: The City of Belvedere will consult with the Department on any Project-related impacts to eelgrass to determine the necessary mitigation. The Department may have to authorize activities associated with eelgrass mitigation via a Scientific Collection Permit that would include specific conditions related to harvesting and transplanting eelgrass.

Recommendation: The Department recommends the design of the pier finger be constructed to allow 40% light transmittance through the structure. Methods to allow light to transmit through the pier could be achieved by using light transmitting materials for the decking, such as grated aluminum or synthetic planks, or including ½ inch spacing between solid deck boards.

Pacific Herring

Comment: Biological Resources section a/b states that the Project site is not likely to support fish spawning habitat. The Department has conducted annual herring spawning surveys since the 1970's and have consistently shown that herring use the entirety of the subtidal and intertidal habitat along this shoreline for spawning. Submerged aquatic vegetation and man-made objects, like pier pilings, including those within the Project site are suitable spawning substrate for Pacific herring (California Department of Fish and Wildlife, 2019).

Recommendation: The Department recommends that section a/b be revised to indicate that spawning substrate is present on site and near the Project for Pacific herring.

ISMND Section 11 – Responsible and Trustee Agencies

Comment: The ISMND lists Responsible and Trustee Agencies in Section 11. The list of agencies excludes the Department. As described within this letter, the Department is the Trustee agency for the state fish and wildlife resources.

Recommendation: The Department should be added as a Trustee agency in Section 11 of the ISMND.

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 Department. 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

The Department appreciates the opportunity to comment on the ISMND to assist the City of Belvedere 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,



Craig Shuman, D. Env
Marine Regional Manager

ec: Claire Waggoner, Environmental Program Manager
Department of Fish and Wildlife

Eric Wilkins, Senior Environmental Scientist
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Arn Aarreberg, Environmental Scientist
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Elizabeth Morrison, Senior Environmental Scientist
San Francisco District Regional Water Quality Control Board

Reyna Amezcua, Regulatory Secretary
San Francisco Bay Conservation and Development Commission

Habitat Conservation Program Branch CEQA Program Coordinator
California Department of Fish and Wildlife

State Clearinghouse (SCH # 2024101129)

REFERENCES

California Department of Fish and Wildlife, 2019. California Pacific Herring Fishery Management Plan.
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=184122&inline>