



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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April 4, 2025

Elizabeth Nagle, Associate Environmental Planner/Scientist
Port of Oakland
530 Water Street
Oakland, CA 94607
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Subject: Outer Harbor Wharf Modernization Project, Mitigated Negative Declaration,
SCH No. 2025030228, Port of Oakland

Dear Elizabeth Nagle:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the Port of Oakland (Lead Agency) for the Outer Harbor Wharf Modernization Project (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, §§ 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 proposed, for example, the Project may be subject to CDFW's Lake and Streambed

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.

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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.), related authorization as provided by the Fish and Game Code will be required.

PROJECT DESCRIPTION SUMMARY

Proponent: Port of Oakland

Objective: The Port proposes to modernize aging wharf infrastructure at Berths 22-38 fronting the Port’s Outer Harbor Channel. The modernization will enable efficient berthing, mooring, and servicing of existing and future vessels calling at the Port and will allow for flexibility with berthing locations. Specific components will include improving bollards, fenders, crane rail girders and rails; modernizing a curved rail to enable connection between two linear wharf segments that are at angle; electrical upgrades at select berths; installing a floating dock at Berth 34 to enable docking of support vessels such as tugboats or emissions capture and control barges; and general repair needed due to deferred maintenance on wharf structures. The modernization of certain crane rail girders will involve the in-water placement of new or replacement support piles.

Location: The Project is located in the City of Oakland along 7th Street / Maritime Street/ 2340 7th St. GPS coordinates are 37°48'37.3"N 122°19'18.4"W

Timeframe: Will be phased as funding becomes available.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the Lead Agency 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. 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 VDFW or USFWS?**

COMMENT 1: State Listed Fish Species

The MND notes the potential for presence and availability of habitat for Chinook salmon (*Oncorhynchus tshawytscha*), steelhead (*Oncorhynchus mykiss*), green sturgeon

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(*Acipenser medirostris*), white sturgeon (*Acipenser transmontanus*), pacific herring (*Clupea pallasii*), and longfin smelt (*Spirinchus thaleichthys*) in the Project area.

Exposure to underwater noise associated with impact pile driving may lead to direct mortality. The sound pressure levels generated by pile driving are directly related to the dimension and materials of the piles and the type of pile driving equipment used. When an impact hammer strikes a pile, a pulse is created that propagates through the pile and radiates sound into the water, the ground substrate, and the air. Pulsed sounds underwater are typically high-volume events that have the potential to cause hearing injury to fish. Impacts to fish include stress resulting from underwater noise and vibrations from pile driving, barge operations, increased turbidity and sedimentation, long-term effects due to increased contamination, and displacement from habitat.

Artificial night lighting can disrupt the circadian rhythms of many wildlife species, and lead to a significant impact on resident and migratory species that utilize the Project area and surrounding lands and waters. It is unclear if the Project proposes the installation of new or replacement light sources. Artificial light spillage into natural areas may result in a potentially significant impact through substantial degradation of the quality of the environment. Artificial night lighting can impact juvenile salmonid overwintering success by delaying the emergence of salmonids from benthic refugia and reducing their ability to feed during the winter (Contor and Griffith 1995), while larval green sturgeon avoid light at night (Nguyen and Crocker 2006).

Implementation of the Project would result in the permanent loss of intertidal and subtidal open water habitat from the placement of fill (i.e., piles). The Project includes installation of a new mooring structure or floating dock will add 10,400 square feet (0.24 acre) of over-water cover. The shading provided by this structure will result in habitat loss, and indirect impacts to foraging behavior, productivity, and potentially result in mortality. Shading from over water structures provides a visual advantage to predators and could reduce the availability of refugia. Shading from overwater structures may also reduce the abundance of prey organisms available. Shading can also interrupt shoreline connectivity.

Recommended Mitigation Measure 1: Minimization of Shading from Over-Water Features

The MND includes measure BIO-4 to provide 40 percent light transmittance. CDFW recommends coordination with regional CDFW and Conservation Engineering staff on the design. Design aspects could include the type of openings in the design, and operational measures to ensure the openings are not covered by materials or equipment. This measure should include monitoring fish behavior following installation of the over-water features to determine the success of the openings in the over-water features. If the design is unable to achieve adequate protection, additional mitigation

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may be needed such as removal of equivalent overwater structure, the purchase of mitigation credits, or by other similar actions that will achieve similar ecological uplift.

Recommended Mitigation Measure 2: Sound Monitoring Plan

Please amend the sound monitoring plan for pile driving MM BIO-3 to include distribution to CDFW.

Recommended Mitigation Measure 3: Lighting

CDFW strongly recommends limits to nighttime work and no new artificial lighting is installed as a result of Project completion in areas where no lighting currently exists to avoid a potentially significant impacts to biological resources. Lighting on the floating docks should be limited so as not to impact aquatic wildlife. All LED's or bulbs installed as a result of the Project shall be rated to emit or produce light at or under 2700 kelvin that results in the output of a warm white color spectrum.

The Lead Agency should submit Isolux Diagrams that note current light levels present during pre-Project conditions and the predicted Project light levels that will be created upon completion of the Project and during construction. If an increase in light output from current levels to the projected future levels is evident additional avoidance, minimization or mitigation shall be developed in coordination with the natural resource agencies to offset indirect impacts to State listed species. If an increase from the projected levels to the actual levels is discovered additional avoidance, minimization or mitigation measures may also be required in coordination with the natural resource agencies.

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: http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf. 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: http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp.

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

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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. (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 Port of Oakland in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Marcus Griswold, Senior Environmental Scientist (Specialist), at (707) 815-6451 or Marcus.Griswold@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Erin Chappell
B77E9A6211EF486
Erin Chappell
Regional Manager
Bay Delta Region

ec: Office of Planning and Research, State Clearinghouse, Sacramento

Attachment 1: Special-Status Species and Commercially/Recreationally Important Species

REFERENCES

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ATTACHMENT 1: Special-Status Species

Species	Status
Fish	
green sturgeon – southern DPS (Distinct Population Segment, <i>Acipenser medirostris</i> pop. 1)	Federally Threatened (FT), State Species of Special Concern (SSC)
steelhead - central California coast DPS (<i>Oncorhynchus mykiss irideus</i>)	FT, SSC
longfin smelt (<i>Spirinchus thaleichthys</i>)	Proposed FT, State Threatened (ST)
white sturgeon (<i>Acipenser transmontanus</i>)	State Candidate (SC)