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DEPARTMENT OF FISH AND WILDLIFE
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PARCELS 20 AND 14 REDEVELOPMENT PROJECT ADDENDUM TO MITIGATED NEGATIVE DECLARATION SCH# 2015081011

Dear Mr. Pendleton:

The California Department of Fish and Wildlife (Department) received an Addendum to the Ventura Harbor Yacht Yard Expansion Mitigated Negative Declaration (MND) from Ventura Port District for the Parcels 20 and 14 Redevelopment 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 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 and Game Code, Section 711.7, subd. [a] & 1802; Public Resources Code, Section 21070; CEQA Guidelines Section 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., Section 1802). Similarly for purposes of CEQA, the Department is charged by law to provide, as available, biological expertise during public agency environmental review

[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.

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. Pursuant to our jurisdiction, the Department has the following comments and recommendations regarding the Project.

PROJECT DESCRIPTION SUMMARY

Proponent: Ventura Port District

Objective: The objective of the Project is to modify and upgrade the 2015 Ventura Harbor Marina and Yacht Club Expansion Final MND (2015 Planned Project) and include additional improvements such as a new mixed-use Marine Services building, reconfiguration of, and improvements to, the boat storage area adjacent to the parking lot, and minor facility improvements within the Project area. The current Project is similar to the 2015 Planned Project since the current Project will still include an expanded dock structure, improvements to the fuel dock, and improvements to the parking lot, but with modifications. Primary Project activities include a marina replacement which would involve the removal of the existing dock structure and replacement with a new larger dock structure (increasing from 32 to 74 commercial and recreational boat slips which is 6 less ships than included in the 2015 Planned Project), and a fuel dock replacement that would include removal of the existing fuel dock and replacement with a larger, upgraded fuel dock onto the new dock structure. For the marina replacement, the dock area would increase from approximately 16,419 square feet to approximately 36,000 square feet, the number of guide piles would increase from 45 to approximately 75, the existing timber piles would be removed and replaced with 16- and 18-inch prestressed concrete piles using a water jetting method during construction, and the top-of-pile elevation would be raised 2 feet less than the 2015 Planned Project (17 feet lower low water).

Location: The Project is located along Anchors Way Drive in the northern portion of Ventura Harbor in Ventura County, California.

Timeframe: The Addendum did not indicate an anticipated construction start date, however, marina construction is expected to take approximately six months and landside construction is expected to take approximately 13 months. The marina and landside construction would overlap, with the marina construction commencing first.

BIOLOGICAL SIGNIFICANCE

Discussion and Comment: The Ventura Harbor (Harbor) waters support many resident and migratory fish and special status wildlife such as seabirds, marine mammals, and sea turtles. Important marine plants such as eelgrass (*Zostera marina*) support those fish and wildlife species and may be common throughout shallow areas and along shorelines of the Harbor. Eelgrass is important as fish nursery habitat throughout the Harbor and supports juvenile and adult fish. Harbor waters also support commercially and recreationally important fish and invertebrate species such as

California halibut (*Paralichthys californicus*), California spiny lobster (*Panulirus interruptus*), and the important forage fish Northern anchovy (*Engraulis mordax*).

COMMENTS AND RECOMMENDATIONS

The Department offers the comments and recommendations below to assist the Ventura Port District in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife resources.

I. Project Level Impacts and Other Considerations

Native Eelgrass Impacts

Comments: The Addendum to the MND has noted that eelgrass (*Zostera spp.)* beds are not known to occur within the inner Harbor, and that no eelgrass was observed growing, floating, or washed-up on the shoreline/riprap during the survey conducted in 2022 by Rincon biologists. However, the Department notes that eelgrass is a species that may be found within the Project area where pile removal and driving impacts may occur. Native eelgrass species create large beds beneficial for fish habitat and have been identified as a special aquatic site and given protections by the Clean Water Act. The Magnuson-Stevens Fishery Conservation and Management Act (MSA) identifies eelgrass as a Habitat Area of Special Concern. Additionally, the importance of eelgrass protection and restoration, as well as the marine ecological benefits of eelgrass, is identified in the California Public Resources Code (PRC §35630). The Department uses the California Eelgrass Mitigation Policy (CEMP) (NOAA 2014), developed by the National Marine Fisheries Service (NMFS), for guidance on identifying eelgrass impacts, eelgrass mitigation measures and compensation, and for identifying appropriate eelgrass mitigation and donor sites.

Recommendations: Mitigation Measure BIO-3 in the MND does not mention the need for post-construction surveys for eelgrass beds if eelgrass is identified in the Project area. Comprehensive pre-and post-construction surveys for eelgrass beds or patches should be conducted consistent with the CEMP. If any unavoidable eelgrass impacts occur, these impacts should be compensated using guidance described within the CEMP. Indirect eelgrass impacts such as shading from new piles should also be avoided. Since pile driving work conducted outside of the peak eelgrass growing period may reduce shading impacts when eelgrass beds may have died back, pile location and time of year for pile driving should be considered to avoid eelgrass and other fish and wildlife impacts generated by pile driving.

In addition to the requirement to conduct a pre-construction eelgrass survey to be compliant with the CEMP as noted in the 2015 MND (Mitigation Measure BIO-3), the Department recommends that plans should be developed to avoid and minimize potential impacts to eelgrass to the maximum extent feasible if eelgrass beds or patches are identified within or adjacent to the Project area. The proposed Project

should avoid and minimize disturbance and damage or losses of eelgrass beds from pile pulling, pile driving, and from associated barges and vessels to the maximum extent feasible. Impacts to avoid and minimize may include, at a minimum, barge shading and anchoring within eelgrass habitat, pile driving and pile pulling bottom disturbances, demolition and construction turbidity, sedimentation, and falling debris. The Department recommends the following should eelgrass beds or patches be identified within or adjacent to the Project area:

- To avoid direct eelgrass impacts, locate pile driver barges and vessels and all barge anchoring outside of eelgrass habitat.
- To avoid scouring of eelgrass and potential eelgrass habitat, anchor chain designs, and locations of barge and vessel moorings should avoid eelgrass habitat impacts.
- To avoid and minimize eelgrass impacts from demolition and construction debris, the Ventura Port District should use Best Management Practices (BMPs) such as perimeter debris booms. If debris is observed falling into the Harbor water, retrieve debris as soon as possible.
- To minimize eelgrass impacts from water turbidity and sedimentation, install silt curtains around pile driving or demolition areas if applicable. Restrict the turbidity plumes to the smallest possible area during all phases of in water construction.

If eelgrass harvest and transplanting is required for mitigation, a Scientific Collecting Permit (SCP) from the Department will be required prior to harvest and transplanting activities. The SCP may include permit conditions such as donor eelgrass surveys, submittal of an eelgrass harvest and transplant plan, limits on number of turions collected, methods for collection and transplanting, notification of activities, and reporting requirements. Please visit the Department's SCP webpage for more information: https://wildlife.ca.gov/Licensing/Scientific-Collecting.

Pile Driving and Sound Criteria

Comments: Noise generated from impact pile driving may have adverse effects on marine mammals, fish, and other marine organisms from physiological and/or behavioral changes. If hydraulic jetting is used for pile driving, this may impact water quality, releasing contaminants from sediments into the water and/or creating turbidity that could harm fish and shade or smother the Harbor's eelgrass (*Zostera spp.*) beds.

For assessing sound pressure wave impacts to fish from pile driving, CDFW relies on guidance from the Fisheries Hydroacoustic Working Group to set safe sound pressure level (SPL) criteria (FHWG 2008). The criteria include a peak SPL of 206 dB and a cumulative sound exposure (SEL) level of 187 dB for fish two grams and heavier or a cumulative SEL of 183 dB for fish lighter than two grams. Additional information on in-water sound level criteria can be found at: https://dot.ca.gov/programs/environmental-analysis/biology/hydroacoustics.

Recommendations: The Department recommends using a vibratory hammer for pile driving to the greatest extent feasible, or an alternative technology that produces the least amount of noise. If an impact hammer must be used (e.g., due to pile material, refusal at bedrock), multiple minimization measures are needed to reduce sound levels. The Department recommends the following:

- A wood, or similar material, cushion block should be used between the pile and hammer during all pile driving using an impact hammer.
- To further reduce hydroacoustic impacts to fish and marine mammals, a bubble curtain should be used during all impact pile driving to reduce sound below levels that have been shown to cause injury and/or mortality.
- A sound attenuation and monitoring plan should be submitted to the resource agencies for review and approval prior to initiating pile driving activities.

The Department appreciates that Mitigation Measure BIO-4, Construction Responsibility and Debris Removal, includes a requirement to use a silt curtain to control turbidity during high turbidity generating activities, such as hydraulic jetting. The Department recommends that high turbidity generating activities be conducted when there are no strong outgoing tides since this could exacerbate turbid conditions and negatively impact marine life.

Marine Mammal and Sea Turtle Monitoring

Comments: Harbor seals (*Phoca vitulina*), California sea lions (*Zalophus californianus*), other species of marine mammals, and sea turtles may be present or occur within the Project area. Project activities, particularly noise from pile driving, could impact these animals if they are present.

Recommendations: The Department recommends that the Ventura Port District prepare and implement a marine mammal and sea turtle monitoring plan that includes, but is not limited to:

- Establishment of an underwater exclusion zone.
- Preconstruction monitoring to update the animals' occurrence and use of the area.
- Monitoring of marine mammals and sea turtles by an experienced observer immediately prior to and during all pile driving activities.
- Pile driving should not occur while marine mammals or sea turtles are present within the exclusion zone.

The Department recommends that the Ventura Port District consult with the National Marine Fisheries Service and U.S. Fish and Wildlife Service regarding the above recommendation and any other necessary avoidance and mitigation measures to reduce impacts to marine mammals and sea turtles.

Invasive Species Impacts

Comments: Disturbance of the bottom sediments from potential pile construction or anchoring may redistribute non-native species that compete with native species. This could cause widespread adverse impacts to eelgrass and the marine ecology. The invasive alga *Caulerpa taxifolia* is listed as a federal noxious weed under the U.S. Plant Protection Act and while deemed eradicated in 2006 is monitored for potential future emergence. Another invasive alga species found recently in Newport Bay is *Caulerpa prolifera*, which is also a potential threat to growth and expansion of native eelgrass beds and other native algae.

Recommendations: The Department appreciates Mitigation Measure BIO-3 to conduct a pre-construction *Caulerpa Spp. survey* to identify potential existence of invasive *Caulerpa Spp.* as described in the Caulerpa Control Protocol https://media.fisheries.noaa.gov/2021-12/caluerpa-control-protocol-v5.pdf (October 2021). Any sightings of *Caulerpa Spp.* should be reported within 24 hours to the Department (Caulerpa@wildlife.ca.gov), and NMFS at 562-980-4037 (nmfs.wcr.caulerpa@noaa.gov).

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 (CNDDB). The CNNDB field survey form can be filled out and submitted online at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/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 the Department. Payment of the environmental document filing 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 Addendum to the MND to assist the Ventura Port District in identifying and mitigating Project impacts on

biological resources. Questions regarding this letter or further coordination should be directed to Leslie Hart, Environmental Scientist at Leslie.Hart@wildlife.ca.gov.

Sincerely,

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