State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Marine Region
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CHARLTON H. BONHAM, Director

December 6, 2024

Bob Greenlaw, PE
CIP Director
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AVALON HARBOR CLUB DOCK REPLACEMENT PROJECT
MITIGATED NEGATIVE DECLARATION
SCH #2024101333

Dear Mr. Greenlaw:

The California Department of Fish and Wildlife (Department) received a Mitigated Negative Declaration (MND) from the City of Avalon (City) for the Avalon Harbor Club Dock Replacement 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 & G. Code, section 711.7, subd. (a) & 1802; Pub. 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 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

[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.

waters of California, and ensuring fisheries are sustainably managed under the Marine Life Management Act.

PROJECT DESCRIPTION SUMMARY

Proponent: City of Avalon

Objective: The objective of the proposed Project is to replace the existing approximately 20-foot-long gangway at the Avalon Harbor Club Dock (dock) with a new 80-foot-long Americans with Disabilities Act (ADA)-compliant gangway to enable safer access to the dock. The proposed Project also includes the replacement of the dinghy docks and a lift frame that is similar to the existing structure and capable of raising the gangway off the dock during periods of inclement weather. The new gangway will attach to the shoreline at the same location as the existing approach pier, the new docks will be located at roughly the same location as the as the existing docks, and the new gangway lift will be located approximately 50 feet out from the shoreline. The MND noted that two alternative gangway lift designs (Options A and B) to support operations of lifting the gangway off the dock during periods of inclement weather have been provided to the contractor for consideration and pricing.

Primary Project activities include the following:

- Removal of all existing foundations, including concrete foundations on the bay floor supporting both the existing approach pier pile supports and previous foundations associated with older approach piers, to improve bay floor habitat.
- Replacement of the existing approach pier and gangway with a new 80-foot gangway and docks. The new in-kind docks would accommodate a smaller winter dock of roughly 440 square feet in dimension and a larger summer dock of roughly 1,040 square feet of dock space for dinghies to tie up to.
- Placement of the gangway lift.
    - Option A gangway lift: Construction of 6-foot-diameter foundations will require using two 6-foot-diameter corrugated metal pipe (CMP) pipes set on the bay floor. Divers would step inside the 6-foot-diameter rings and advance the CMP rings down to bedrock by excavating sand and gravels. The CMP will enable drilling and installation of 9 epoxy-coated anchors and then the placement of the foundation reinforcing and pouring of the concrete footing. A steel wide flange would be placed in the middle of each column and form would be backfilled with concrete. Option A results in a net increase in fill of 3.95 cubic yards.
    - Option B gangway lift: Construction would include the installation of 12-inch-diameter heavy wall steel pipe into the sea floor using a large casing drill that will drill to a total depth of 20 feet into the rock. The steel pipe would be set into the steel casing and filled with concrete up to the bay floor. Zinc anodes would be installed on each leg to be replaced annually since the steel pipe is exposed to salt water. Option B construction would use a crane positioned landside on Saint Catherine Way.

Location: The Project site is located in the city of Avalon on Santa Catalina Island in Los Angeles County at a dinghy dock midway between the Catalina Island Yacht Club and the Tuna Club off of Saint Catherine Way at 33.346365, -118.3270097.

Timeframe: The MND notes that construction of the proposed Project is expected to begin Fall 2024 and be completed by Spring 2025.

BIOLOGICAL SIGNIFICANCE

Discussion and Comment: The Avalon Bay waters support many resident and migratory fish and special status wildlife such as seabirds, marine mammals, and sea turtles. Avalon Bay waters also support commercially and recreationally important fish and invertebrate species such as California halibut (*Paralichthys californicus*), California spiny lobster (*Panulirus interruptus*), and Northern anchovy (*Engraulis mordax*), which is an important forage fish.

COMMENTS AND RECOMMENDATIONS

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

Pile Driving and Sound Criteria

Comments: Underwater noise associated with the use of large machinery for construction and demolition, such as drilling or pile driving and pulling activities, may cause temporary or permanent impacts to fish, such as temporary movement out of the Project area, barotrauma injury, or mortality. The Department is concerned that noise impacts associated with the Option B gangway lift will be significant due to the use of a casing drill as described in the MND. The Department relies on guidance from the Fisheries Hydroacoustic Working Group to set safe sound pressure level (SPL) criteria for pile driving and pulling activities (Fisheries Hydroacoustic Working Group 2008, Attachment 1). The SPL dual criteria include a peak level of 206 dB and a cumulative sound exposure level (SEL) of 187 dB for fish 2 grams and heavier or a cumulative SEL of 183 dB for fish less than 2 grams. Additionally, if an impact hammer is used for pile driving, this may impact water quality, releasing contaminants from sediments into the water and/or creating turbidity that could harm marine life.

Recommendations: The Department recommends that the MND include a model of the expected SPL and SELs for the Project's casing drilling and/or pile driving activities. The Department appreciates the mitigation measure BIO-1, which ensures

that a qualified biologist shall monitor drilling activities. The Department further recommends using a vibratory hammer for pile driving to the greatest extent feasible, or an alternative technology that produces the least amount of in water sound level impacts. If an impact hammer must be used (e.g., due to pile material, refusal at bedrock), multiple minimization measures should be used to reduce sound levels. The Department recommends the following:

- A sound attenuation and monitoring plan should be submitted to the resource agencies for review prior to initiating pile driving activities;
- A wood, or similar material, cushion block should be used between the pile and hammer during all pile driving using an impact hammer;
- A bubble curtain should be used, where feasible, during all impact pile driving to further reduce sound below levels that have been shown to cause injury and/or mortality to fish and marine mammals; and
- Underwater sound level monitoring should be conducted during pile driving. If SPLs and SELs exceed agreed upon levels as per the Interim Criteria for Injury to Fish, additional steps should be taken to reduce the underwater noise to acceptable levels.

The Department appreciates mitigation measure BIO-2a, which confirms the use of a silt curtain to control turbidity during high turbidity generating activities. Additionally, 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. Construction activities, such as demolition or drilling, within the Project area have the potential to impact these animals if they are present.

Recommendations: The Department appreciates that mitigation measure BIO-1 ensures that a biological monitor will monitor for any marine mammals or turtles present in the waters surrounding the Project area to assess impacts of noise on the animals' behavior. Additionally, the Department recommends that the City prepare and implement a marine mammal and sea turtle monitoring plan that includes, but is not limited to:

- Establishment of an underwater exclusion zone as a designated focus area for species protection to allow animals to evacuate the area prior to commencement of construction activities;
- Drilling or pile driving activities should not occur while marine mammals or sea turtles are present within the exclusion zone;

- Implementing a soft start measure for impact hammer and vibratory pile driving to provide time for marine mammals and sea turtles to disperse from the sound source area;
- Pre-construction monitoring to update the occurrence and use of the area by marine mammals and turtles; and
- Monitoring of marine mammals and sea turtles by an experienced observer immediately prior to and during all construction activities.

The Department recommends that the City 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.

Option A Gangway Lift Alternative

Comments: According to the MND, the Option A gangway lift involves the construction of concrete foundations that use CMP pipes. The Project's Marine Biological Resources Report notes that the CMP can be cut and removed after the concrete foundations are completed if required by regulatory agencies. The Department is concerned that portions of the CMP that are no longer needed will remain at the Project site.

Recommendations: If the Option A gangway lift alternative is selected, the Department recommends that all portions of the CMP that are no longer necessary after the construction of the concrete foundations be removed.

Invasive Species Impacts

Comments: Disturbance of the bottom sediments from drilling or pile construction and anchoring may redistribute non-native species that compete with native species. This could cause widespread adverse impacts to eelgrass and 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 and San Diego Bay is *Caulerpa prolifera*, which is also a potential threat to growth and expansion of native eelgrass beds and other native algae. *Caulerpa prolifera* can grow as deep as 50 meters and appears to be more tolerant of low light environments than most other macroalgae. Additionally, since all *Caulerpa* species pose a serious risk in harming native marine life, Fish and Game Code Section 2300 was amended in 2023 so that no person shall sell, possess, import, transport, transfer, release alive in the state, or give away without consideration all species of the genus *Caulerpa*, with the exception of bona fide scientific research upon authorization by the Department.

Recommendations: The Department recommends conducting pre-construction *Caulerpa spp.* surveys to identify potential existence of invasive *Caulerpa spp.* in

accordance with the Caulerpa Control Protocol https://media.fisheries.noaa.gov/2021-12/caulerpa-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, section 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 for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, section 753.5; Fish & G. Code, section 711.4; Pub. Resources Code, section 21089.)

CONCLUSION

The Department appreciates the opportunity to comment on the MND to assist the City 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 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
Department of Fish and Wildlife

Leslie Hart, Environmental Scientist
Department of Fish and Wildlife

Office of Planning and Research, State Clearinghouse
state.clearinghouse@opr.ca.gov

ATTACHMENT

Attachment 1: Fisheries Hydroacoustic Working Group. 2008. Interim Criteria for Injury of Fish Exposed to Pile Driving Operations: Memorandum. Washington: Federal Highway Administration.

ATTACHMENT 1

NOAA's Fisheries Northwest and Southwest Regions	*U.S. Fish and Wildlife Service Regions 1 & 8*	*California/Washington/ Oregon Departments of Transportation*	*California Department of Fish and Game*	*U.S. Federal Highway Administration*

MEMORANDUM

June 12, 2008

From: Fisheries Hydroacoustic Working Group

Subject: Agreement in Principle for Interim Criteria for Injury to Fish from Pile Driving Activities

To: Applicable Agency Staff

The signatory agencies, identified below, have agreed in principle to use the attached Interim Criteria for Injury to Fish from Pile Driving Activities. The agreement was concluded at a meeting in Vancouver, Washington on June 10-11, 2008 with key technical and policy staff from the Federal Highway Administration, NOAA Fisheries, U.S. Fish and Wildlife Service, the Departments of Transportation from California, Oregon, and Washington; and national experts on sound propagation activities that affect fish and wildlife species of concern. The agreed upon criteria identify sound pressure levels of 206 dB peak and 187 dB accumulated sound exposure level(SEL) for all listed fish except those that are less than 2 grams. In that case, the criteria for the accumulated SEL will be 183 dB.

These criteria will apply to all new projects beginning no later than 60 days from the date of this memorandum. During the interim 60 day period, the Transportation Agencies will work with the Services to identify projects currently in the consultation process and reach agreement on which criteria will be used to assess project effects.

The agencies agree to review the science periodically and revise the threshold and cumulative levels as needed to reflect current information. Behavioral impacts to fish and impacts to marine mammals are not addressed in this agreement. Sub-injurious effects will continue to be discussed in future meetings.

The respective agencies also agree to develop appropriate training for staff on these revised criteria, as well as a process to review and possibly refine the criteria, when appropriate.

For questions or concerns about the revised criteria, we recommend staff contact their agency environmental coordinator or agency expert on pile driving issues.

Federal Highway Administration*

*FHWA supports the use of these interim criteria in the states signing this agreement in principle. FHWA leaves the schedule for implementation to the discretion of the state DOTs in cooperation with their respective FHWA Division Offices and the Services.

NOAA Fisheries – NWR

NOAA Fisheries – SWR

US Fish and Wildlife Service Region 1

US Fish and Wildlife Service Region 8

California Department of Transportation

California Department of Fish and Game

Oregon Department of Transportation

Washington State Department of Transportation

Washington State Department of Transportation

FHWG Agreement in Principle
Technical/Policy Meeting Vancouver, WA
June, 11 2008

Interim Criteria for Injury	Agreement in Principle
Peak	206 dB (for all size of fish)
Cumulative SEL	187 dB - for fish size of two grams or greater. 183 dB - for fish size of less than two grams.*

**see Table—to be developed*