State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Marine Region
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GAVIN NEWSOM, Governor
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January 8, 2026

Ruben Hurin, Planning Manager
City of Burlingame
501 Primrose Road
Burlingame, CA 94010
rhurin@burlingame.org

Dear Ruben Hurin:

410 AIRPORT BOULEVARD PROJECT
INITIAL STUDY/MITIGATED NEGATIVE DECLARATION
SCH # 2025120519

The California Department of Fish and Wildlife (Department) received an Initial Study/Mitigated Negative Declaration (ISMND) from the City of Burlingame for the 410 Airport Boulevard Project (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 & Game 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 § 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with § 15000.

The Department is also submitting comments as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). The Department expects that it may need to exercise regulatory authority pursuant to the Fish and Game Code. As proposed the Project will be subject to the Department's lake and streambed alteration regulatory authority (Fish & Game Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in take[2] as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

PROJECT DESCRIPTION SUMMARY

Proponent: The SPHERE Institute

Objective: The objective of the Project is to redevelop approximately 10.2 acres of vacant and undeveloped land in the Bayfront area of Burlingame for the Bay Rise Park Project. The Project would add several features including restoration of natural tidal marsh, improve shoreline protection, improve the Bay Trail on the Project site, and facilitate water access and recreation with ramps for kayaking and board sailing.

Location: The Project is located on a 10.2 acre lot in the northeastern portal of Burlingame between Highway 101 and San Francisco Bay (37°35'28.5"N 122°20'25.6"W).

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 COMMERCIALLY/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

[2] Take is defined by Fish and Game Code Section 86 as to "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.

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 species
- Pacific lamprey (*Entosphenus tridentatus*), state species of special concern
- California Least tern (*Sternula antillarum browni),* state and federally endangered, state fully protected

Several species with important commercial/recreational fisheries value and habitat value for spawning and rearing could potentially be present near Project activities including: Pacific herring (*Clupea pallasii*), eelgrass (*Zostera marina),* surfperches (*Embiotocidae*), rockfish (*Sebastes spp*.), California halibut (*Paralichthys californicus),* and Dungeness crab *(Metacarcinus magister).*

COMMENTS AND RECOMMENDATIONS

The Department offers the following comments and recommendations to assist the City of Burlingame in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources.

White Sturgeon

Comment: The Department received a petition to list white sturgeon as threatened under CESA on November 29, 2023 and it was declared a candidate species in June 2024. As a candidate species, white sturgeon are afforded the same protection as CESA listed species as the Department conducts its review of the species status.

Although white sturgeon were discussed in Appendix B (Biological Resources Report), white sturgeon are not discussed within the text of the ISMND, other than a statement regarding artificial lighting. There is no evaluation of potential impacts to the species from other project activities like pile driving and fish relocation.

Recommendations: The Department recommends that potential project-related impacts to white sturgeon are analyzed within the ISMND to determine whether take may occur and the extent of any potential take for all CESA listed species.

Mitigation Measure BIO-6: Fish Relocation

Comment: Mitigation Measure (MM) BIO-6 discusses the potential for fish relocation if fish are trapped behind turbidity curtains. The plan proposes to have a qualified biologist relocate fish using seine nets, dipnets, or other methods. Department

approval is necessary for approved qualified biologists to capture, handle, and/or relocate fish within the marine environment (Fish and Game Code, §§ 1002, 6400). For non CESA listed species, a Scientific Collection Permit is necessary and can be applied for online through the Department's Scientific Collecting Permit Portal (https://scpapp.wildlife.ca.gov). For the capture, handling, and/or relocation of CESA listed species, a CESA memorandum of understanding (MOU) would not be an appropriate permitting method as discussed within MM BIO-6. If CESA listed species are expected to be encountered during fish relocation efforts, a 2081(b) Incidental Take Permit (ITP) would be necessary to cover the potential take of these species.

Recommendation: The Department recommends the SPHERE Institute consult with the Department and obtain a Scientific Collection Permit to authorize handling of fish or for fish relocations activities.

Recommendation: The Department recommends that MM BIO-6 remove "CESA MOU" from the potential permitting option and replace with "CESA ITP" for take of any CESA listed species during fish relocation activities.

Hydroacoustic Impacts and Mitigation Measures

Comment: Within the Biological Resources section of the ISMND, acoustic impacts from pile driving are analyzed. The ISMND does not present specific hydroacoustic numbers but estimates based on other similar projects where the referenced Hydroacoustic Fish Working Group Interim Criteria for injury to fish thresholds were exceeded. Although the peak sound pressure of 206 decibels (dB) is only estimated to be exceeded by tens of feet from the source, the cumulative sound exposure levels (SEL) could be exceeded over thousands of feet based on these same estimates. Although direct mortality is not expected with the cumulative SEL zones, the cumulative SEL may result in injury or behavior changes in fish, which may lead to mortality. The ISMND acknowledges that CESA listed species could be present within this area and impacts may occur as a result of the cumulative SEL. The impacts from Project-related sound generating activities to longfin smelt, chinook salmon, and white sturgeon may reach the extent of take and would only be authorized by the Department with an ITP.

Recommendation: The Department recommends that if hydroacoustic analysis indicates the potential exceedances of the specified hydroacoustic thresholds, the SPHERE Institute consults with the Department and obtains an ITP to authorize potential take of CESA listed species.

Recommendation: The Department recommends that MM BIO-9 include consultation with the Department regarding potential take of CESA listed species from Project-related sound generating activities.

Comment: MM BIO-9 discusses noise impact minimization measures proposed during pile driving activities. Measure 5 specifies that bubble curtains shall be implemented and will reduce noise up to 15 dB. The *Technical Guidance for the Assessment of Hydroacoustic Effects of Pile Driving on Fish* (California Department of Transportation 2020) suggests 10 dB of sound attenuation is the maximum attenuation that should be estimated.

Recommendation: The Department recommends that measure 5 in MM BIO-9 be revised to the following:

> "Bubble curtains shall be used during any impact pile driving in water. The bubble curtain ~~will~~ **may** reduce the noise levels by up to ~~15 dB~~ **10 dB.** The bubble curtain shall be operated in a manner consistent with the following performance standards:"

Comment: MM BIO-9 does not include a measure to drive piles at low tide. Driving piles in the dry or areas that are dewatered during low tides could further minimize and avoid impacts to aquatic species by conducting the pile driving activities when aquatic species are not physically present or further removed from the sound source.

Recommendation: The Department recommends MM BIO-9 include a minimization measure to drive piles in the dry and/or at low tide to the maximum extent feasible.

Rock Slope Protection

Comment: The proposed installation of living shoreline features and placement of new hard substrate will require a Scientific Collection Permit from the Department if the activities include the placement, transport, or relocation of existing rock and concrete with living marine organisms attached (e.g., macroalgae and aquatic invertebrates) within the waters of the state (Fish and Game Code § 6400).

Recommendation: The Department recommends the SPHERE Institute consult with the Department and obtain a Scientific Collection Permit to authorize transport or relocation of living organisms for the proposed rock slope protection.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database that 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 found at the following link: https://wildlife.ca.gov/Data/CNDDB/SubmittingData#44524420-pdf-field-survey-form.

The completed form can be mailed electronically to CNDDB at the following email address: CNDDB@wildlife.ca.gov. The types of information reported to CNDDB can be found at the following link: https://wildlife.ca.gov/Data/CNDDB/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 & Game Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

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

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State Clearinghouse (SCH # 2025120519)

REFERENCES

California Department of Transportation. 2020. Technical Guidance for the Assessment of Hydroacoustic Effects of Pile Driving on Fish. https://dot.ca.gov/-/media/dot-media/programs/environmental-analysis/documents/env/hydroacoustic-manual-a11y.pdf