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HABITAT CONSERVATION
PLANNING BRANCH

January 17, 2019

Department of Fish and Wildlife
Habitat Conservation Planning Branch, CESA Permitting
Post Office Box 944209
Sacramento, CA 94244-2090

RE: Incidental Take Permit for Port of San Francisco Mission Bay Ferry Landing and Water Taxi Landing Project (2081-2018-062-07)

Dear Mr. Aarreberg:

Enclosed please find one signed original of the incidental take permit for the above referenced project. Per Section 8.1., the Port has executed the Liberty Island Conservation Bank Agreement for the purchase of 0.14 acres of longfin smelt restoration credits and will forward a copy of the documentation of the purchase upon receipt. Per section 7.8, we appreciate your review of the Draft Hydroacoustic Monitoring Plan, and will distribute the Final plan and other project notifications once the Project is bid and contract awarded.

Meanwhile, please contact me at (415) 274-0491 or kathryn.purcell@sfport.com with any questions you may have. Thank you for again for your assistance in reviewing our application.

Regards,

Kathryn Purcell
Sr. Environmental Planner

Attachment

Incidental Take Permit No 2081-2018-062-07

cc w/electronic copy of attachment

Jonathan Roman, Project Engineer, Port of San Francisco
James Connolly, Design Engineer, COWI-OLMN
Christine Boudreau, Boudreau Associates, LLC
Gary Oates, Environmental Science Associates



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JAN 22 2019

HABITAT CONSERVATION
PLANNING BRANCH

California Department of Fish and Wildlife
Marine Region
1933 CLIFF DRIVE, SUITE 9
SANTA BARBARA, CA 93109

California Endangered Species Act
Incidental Take Permit No. 2081-2018-062-07

MISSION BAY FERRY LANDING AND WATER TAXI LANDING PROJECT

Authority: This California Endangered Species Act (CESA) incidental take permit (ITP) is issued by the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code section 2081, subdivisions (b) and (c), and California Code of Regulations, Title 14, section 783.0 et seq. CESA prohibits the take¹ of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species.² CDFW may authorize the take of any such species by permit if the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c) are met. (See Cal. Code Regs., tit. 14, § 783.4).

Permittee:	Port of San Francisco
Principal Officer:	Jonathan Roman, Project Manager/Engineer
Contact Person:	Kathryn Purcell, (415) 274-0491
Mailing Address:	Pier 1, The Embarcadero San Francisco, CA 94111

Effective Date and Expiration Date of this ITP:

This ITP shall be executed in duplicate original form and shall become effective once a duplicate original is acknowledged by signature of the Permittee on the last page of this ITP and returned to CDFW's Habitat Conservation Planning Branch at the address listed in the Notices section of this ITP. Unless renewed by CDFW, this ITP's authorization to take the Covered Species shall expire on **November 30, 2020**.

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's Final Mitigation Report required by Condition of Approval 6.8 of this ITP.

¹Pursuant to Fish and Game Code section 86, "'take' means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." (See also *Environmental Protection Information Center v. California Department of Forestry and Fire Protection* (2008) 44 Cal.4th 459, 507 [for purposes of incidental take permitting under Fish and Game Code section 2081, subdivision (b), "'take' ... means to catch, capture or kill"].)

²"The definition of an endangered, threatened, and candidate species for purposes of CESA are found in Fish and Game Code sections 2062, 2067, and 2068, respectively.

Project Location:

The Mission Bay Ferry Landing and Water Taxi Landing Project (Project) is located within the Mission Bay neighborhood near the intersection of Terry A. Francois Boulevard and 16th Street, adjacent to Agua Vista Park and near the planned Bayfront Park within the City and County of San Francisco, (See Figure 1). The Project is located approximately 1.6 miles south of the San Francisco-Oakland Bay Bridge, at approximately 37°45'59.35"N, 122°23'09.21"W, on the western shoreline of San Francisco Bay.

Project Description:

The Project includes the construction of a single float, dual berth, ferry landing and a water taxi landing and supporting infrastructure including ramps, piers, gangways, and platforms along the Port of San Francisco's Southern Waterfront. Project activities include equipment staging, demolition of buried remnant concrete and wood debris, dredging, cap installation over contaminated material within dredging footprint, pile driving, and other land based activities supporting the landing infrastructure.

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status
1. Sacramento River Winter-Run Chinook Salmon (<i>Oncorhynchus tshawytscha</i>)	Endangered ³
2. Central Valley Spring-Run Chinook Salmon (<i>Oncorhynchus tshawytscha</i>)	Threatened ⁴
3. Longfin Smelt (<i>Spirinchus thaleichthys</i>)	Threatened ⁵

These species and only these species are the "Covered Species" for the purposes of this ITP.

Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include pile driving for installation of landing support structures and dredging for landing access and installation of landing infrastructure (Covered Activities).

Incidental take of individuals of the Covered Species in the form of mortality ("kill") may occur as a result of Covered Activities such as hydroacoustic impacts due to pile driving and habitat

³See Cal. Code Regs. tit. 14 § 670.5, subd. (a)(2)(M)

⁴See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(2)(C)

⁵See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(2)(E)

loss due to overwater shading, habitat transformation, and increase vessel traffic. Pile driving hydroacoustic impacts would result in short-term but repeated impacts during the in-water phases of construction, with potential to harm fish. Impact pile driving of steel and concrete piles could result in significant injury or mortality by exceeding hydroacoustic thresholds (206 db Peak Pressure, 187 db accumulated sound exposure level (SEL), and 183 dB SEL for fish under 2 grams), determined by the multi-agency Fisheries Hydroacoustic Working Group. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursue, catch, capture, or attempt to do so of the Covered Species from placement of bubble curtains to reduce hydroacoustic impacts. The area where authorized take of the Covered Species is expected to occur include: The area immediately surrounding all in-water activity at both the ferry and water taxi landings generally within the submerged project footprint in the waters of the Mission Bay/Central Basin area (collectively, the Project Area).

The Project is expected to cause the permanent loss of 0.24 acres of habitat for the Covered Species and temporary loss of 8.4 acres of habitat for the Covered Species. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from underwater noise and vibrations caused by pile driving, general in-water construction; potential impacts from spills of pollutants (oils, gasoline, diesel, lubricants, etc.), and long-term effects due to permanent habitat loss, increased pollution, increased aquatic vessel traffic, and increased vulnerability to predation.

Incidental Take Authorization of Covered Species:

This ITP authorizes incidental take of the Covered Species and only the Covered Species. With respect to incidental take of the Covered Species, CDFW authorizes the Permittee, its employees, contractors, and agents to take Covered Species incidentally in carrying out the Covered Activities, subject to the limitations described in this section and the Conditions of Approval identified below. This ITP does not authorize take of Covered Species from activities outside the scope of the Covered Activities, take of Covered Species outside of the Project Area, take of Covered Species resulting from violation of this ITP, or intentional take of Covered Species.

Conditions of Approval:

Unless specified otherwise, the following measures apply to all Covered Activities within the Project Area, including areas used for equipment ingress and egress, staging and parking, and noise and vibration generating activities that will cause take. CDFW's issuance of this ITP and Permittee's authorization to take the Covered Species are subject to Permittee's compliance with and implementation of the following Conditions of Approval:

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PORT OF SAN FRANCISCO
MISSION BAY FERRY LANDING AND WATER TAXI LANDING

1. **Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
2. **CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Mitigated Negative Declaration (SCH No.: 2018052002) adopted by San Francisco Planning Department on June 18, 2018 as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
3. **ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Biological Opinion for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
4. **ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.

5. General Provisions:

- 5.1. Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.
- 5.2. Designated Biologist. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities, and shall also obtain approval in advance and in writing if the Designated Biologist must be changed.

- 5.3. Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.
- 5.4. Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures.
- 5.5. Construction Monitoring Notebook. The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available at the Project site upon request by CDFW.
- 5.6. Hazardous Waste. Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 5.7. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 5.8. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

6. Monitoring, Notification and Reporting Provisions:

- 6.1. Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- 6.2. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW in writing if they determine that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.
- 6.3. Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP. The Designated Biologist shall conduct compliance inspections a minimum of once per quarter or after periods of inactivity longer than 90 days.
- 6.4. Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 6.3 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Arn Aarreberg (Arn.Aarreberg@wildlife.ca.gov) and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.
- 6.5. Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and

continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 6.4; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.

- 6.6. CNDDDB Observations. The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 6.7. Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Representative at (707) 576-2889. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible provide a photograph, explanation as to cause of take or injury, and any other pertinent information.
- 6.8. Final Mitigation Report. No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate

the impacts of future projects on the Covered Species; and (8) any other pertinent information.

7. Take Minimization Measures:

The following requirements are intended to ensure the minimization of incidental take of Covered Species in the Project Area during Covered Activities. Permittee shall implement and adhere to the following conditions to minimize take of Covered Species:

- 7.1. Work Window. Permittee shall conduct in-water work between June 1 and November 30 of any year.
- 7.2. Work Window Extension. Work within the Project Area shall be confined to the period of June 1 to November 30. Any extension of the work period will require an amendment to this ITP. The amendment request for a work window extension shall:
 - 1) describe the extent of work already completed;
 - 2) detail the activities that remain to be completed;
 - 3) detail the time required to complete each of the remaining activities;
 - 4) provide photographs of both the current work completed and the proposed site for continued work; and
 - 5) include an assessment of the impacts of the work extension of Covered Species.
- 7.3. Pile Removal. All piles shall be removed by direct pull or by vibratory methods. Should a pile break or cannot be removed, the pile shall be cut off, at a minimum, 2 feet below the mud line.
- 7.4. Vibratory Hammer. Permittee shall install piles with a vibratory pile driver to the **maximum extent feasible**. Maximum pile diameter to be installed shall be 36 inches.
- 7.5. Impact Hammer. Permittee shall employ a "soft start" technique to give aquatic species an opportunity to move out of the area. Maximum pile diameter shall be 36 inches.
- 7.6. Impact Hammer Sound Decibel Limit. Sound pressure levels (SPLs) have the potential to exceed 206 decibels (dB) peak and the daily 187 dB accumulated sound exposure level (SEL) for many of the piles sizes and materials proposed, even with the addition of a bubble curtain. Should the hydroacoustic monitoring show that SPL values are exceeding, or have exceeded any of the calculated distances to either the peak pressure or accumulated SEL, as specified within the ITP application, the Permittee shall halt pile driving until the sound attenuation system is repaired. The Permittee shall either take measures to increase the effectiveness of the sound attenuation system or obtain an ITP amendment from CDFW.
- 7.7. Sound attenuation Device. Permittee shall use a bubble curtain, and other attenuation

measures, such as a wood cushion block, during all pile installation using an impact hammer. Other known attenuation methods may be used upon approval from the CDFW.

- 7.8. Hydroacoustic Monitoring Plan. Permittee shall create a hydroacoustic monitoring plan and provide CDFW with a copy for review prior to the start of Covered Activities.

8. Habitat Management Land Acquisition and Restoration:

CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result with implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation.

To meet this requirement, the Permittee shall purchase 0.14 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 8.1) Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities.

- 8.1. Covered Species Credits. Permittee shall purchase 0.14 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank and provide CDFW documentation of the purchase prior to initiating Covered Activities, or no later than 30 days after the effective date of this ITP, whichever occurs first.

- 8.2. Cost Estimates. CDFW has estimated the cost of Covered Species credits as \$21,000 for the purchase of 0.14 acres.

Amendment:

This ITP may be amended as provided by California Code of Regulations, Title 14, section 783.6, subdivision (c), and other applicable law. This ITP may be amended without the concurrence of the Permittee as required by law, including if CDFW determines that continued implementation of the Project as authorized under this ITP would jeopardize the continued existence of the Covered Species or where Project changes or changed biological conditions necessitate an ITP amendment to ensure that all Project-related impacts of the taking to the Covered Species are minimized and fully mitigated.

Stop-Work Order:

CDFW may issue Permittee a written stop-work order requiring Permittee to suspend any Covered Activity for an initial period of up to 25 days to prevent or remedy a violation of this ITP, including but not limited to the failure to comply with reporting or monitoring obligations,

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or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species. Permittee shall stop work immediately as directed by CDFW upon receipt of any such stop-work order. Upon written notice to Permittee, CDFW may extend any stop-work order issued to Permittee for a period not to exceed 25 additional days. Suspension and revocation of this ITP shall be governed by California Code of Regulations, Title 14, section 783.7, and any other applicable law. Neither the Designated Biologist nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

Compliance with Other Laws:

This ITP sets forth CDFW's requirements for the Permittee to implement the Project pursuant to CESA. This ITP does not necessarily create an entitlement to proceed with the Project. Permittee is responsible for complying with all other applicable federal, state, and local law.

Notices:

The Permittee shall deliver a fully executed duplicate original ITP by registered first class mail or overnight delivery to the following address:

Habitat Conservation Planning Branch
California Department of Fish and Wildlife
Attention: CESA Permitting Program
Post Office Box 944209
Sacramento, CA 94244-2090

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2018-062-07) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Dr. Craig Shuman, Regional Manager
California Department of Fish and Wildlife
1933 Cliff Drive, Suite 9
Santa Barbara, CA 93109
Telephone (805) 568-1231
Fax (805) 568-1235

and a copy to:

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Habitat Conservation Planning Branch
California Department of Fish and Wildlife
Attention: CESA Permitting Program
Post Office Box 944209
Sacramento, CA 94244-2090

Unless Permittee is notified otherwise, CDFW's Regional Representative for purposes of addressing issues that arise during implementation of this ITP is:

Arn Aarreberg
5355 Skylane Blvd, Suite B
Santa Rosa, CA 95403
Telephone (707) 576-2889
Fax (707) 576-7132

Compliance with CEQA:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, San Francisco Planning Department. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Mission Bay Ferry Landing and Water Taxi Landing Mitigated Negative Declaration, (SCH No.: 2018052002) dated May 2, 2018 that the San Francisco Planning Department] adopted for the Mission Bay Ferry Landing and Water Taxi on June 18, 201. At the time the lead agency adopted the Mitigated Negative Declaration and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

This ITP, along with CDFW's related CEQA findings, which are available as a separate document, provide evidence of CDFW's consideration of the lead agency's Mitigated Negative Declaration for the Project and the environmental effects related to issuance of this ITP (CEQA Guidelines, § 15096, subd. (f)). CDFW finds that issuance of this ITP will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant environmental effects previously disclosed by the lead agency. Furthermore, to the extent the potential for such effects exists, CDFW finds adherence to and implementation of the Conditions of Project Approval adopted by the lead agency, and that adherence to and implementation of the Conditions of Approval imposed by CDFW through the issuance of this ITP, will avoid or reduce to below a level of significance any such potential effects. CDFW consequently finds that issuance of this ITP will not result in any significant, adverse impacts on the environment.

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Findings Pursuant to CESA:

These findings are intended to document CDFW's compliance with the specific findings requirements set forth in CESA and related regulations. (Fish & G. Code § 2081, subs. (b)-(c); Cal. Code Regs., tit. 14, §§ 783.4, subds. (a)-(b), 783.5, subd. (c)(2).)

CDFW finds based on substantial evidence in the ITP application, Mission Bay Ferry Landing and Water Taxi Mitigation Negative Declaration, the results of consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Monthly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of [0.14] acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (7) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and

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(8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities. Moreover, CDFW's finding is based, in part, on CDFW's express authority to amend the terms and conditions of this ITP without concurrence of the Permittee as necessary to avoid jeopardy and as required by law.

Attachments:

FIGURE 1

Project Location Map

ATTACHMENT 1

Mitigation Monitoring and Reporting Program

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

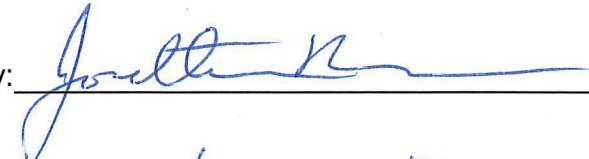
on Dec 19, 2018



Craig Shuman, D. Env. Regional Manager
MARINE REGION

ACKNOWLEDGMENT

The undersigned: (1) warrants that he or she is acting as a duly authorized representative of the Permittee, (2) acknowledges receipt of this ITP, and (3) agrees on behalf of the Permittee to comply with all terms and conditions

By: 

Date: 1/17/19

Printed Name: Jonathan Romane

Title: Project MANAGER

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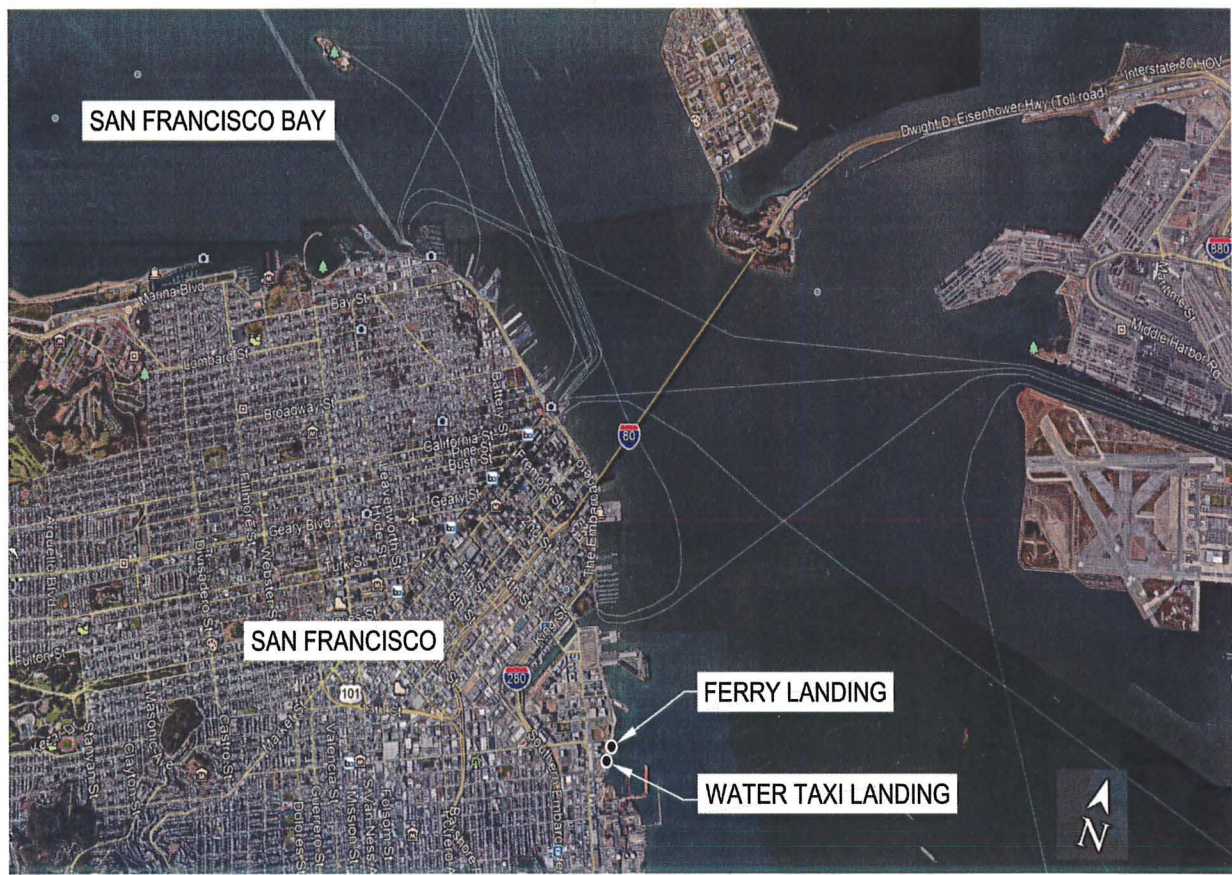


FIGURE 1

MISSION BAY FERRY LANDING AND WATER TAXI LANDING

LOCATION MAP

Figure 1. Project Location

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