

**CALIFORNIA STATE LANDS COMMISSION**  
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*Established in 1938*

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*Governor's Office of Planning & Research*

**MAR 29 2019**

**STATE CLEARINGHOUSE**

File Ref: Port Hueneme  
Deepening Project

Eduardo T. De Mesa, Chief Planning Division  
U.S. Army Corps of Engineers  
Los Angeles District  
ATTN: Mr. Larry Smith, CESPL-PDR-Q  
915 Wilshire Boulevard, Suite 930  
Los Angeles, CA 90017-3849

VIA REGULAR & ELECTRONIC MAIL ([lawrence.j.smith@spl.usace.army.mil](mailto:lawrence.j.smith@spl.usace.army.mil))

**Subject: Draft Supplemental Environmental Assessment (SEA) for the  
Modification to the Port Hueneme Deepening Project, Ventura County**

Dear Mr. De Mesa:

The California State Lands Commission (Commission) staff has reviewed the subject Draft SEA for the Modification to the Port Hueneme Deepening Project (Project), which was prepared by the U.S. Army Corps of Engineers, Los Angeles District (Corps). The Corps is the lead agency under the National Environmental Policy Act (NEPA) of 1969, (42 U.S.C. 4321 et seq.), as amended.

### **Commission Jurisdiction and Public Trust Lands**

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the ordinary high-water mark, which is generally reflected by the mean high tide line, except for areas of fill or artificial accretion or where the boundary has been fixed by agreement or a court. On navigable non-tidal waterways, including lakes, the State holds fee ownership of the bed of the waterway landward to the ordinary low water mark and a Public Trust easement landward to the ordinary high-water mark, except where the boundary has been fixed by agreement or a court. Such

boundaries may not be readily apparent from present day site inspections.

As staff understands the Project, it may directly affect State-owned sovereign lands. The Pacific Ocean at this location is ungranted sovereign land, and a cursory title review shows two agreements in the Project vicinity establishing the landward extent of State land. Placement of dredge sediment for beach nourishment at Hueneme Beach in areas extending waterward of the agreed boundary line or on State lands, the extent of which have not been fixed by agreement, may require a lease from the Commission for the use of State land.

If the Project requires a lease from the Commission for beach nourishment on State sovereign lands, the lease would require approval by the Commission at a properly noticed public meeting. As a discretionary action of the Commission, lease approval would require the Commission to act as either lead or responsible agency in compliance with the California Environmental Quality Act (CEQA). The State CEQA Guidelines provide a mechanism by which the Draft SEA can be used by an approving agency if specified conditions are met (see generally Cal. Code Regs., tit. 14, §§ 15220–15225). With regard to circulation and public review of the document, pursuant to section 15225 of the State CEQA Guidelines, the Commission may use the Draft SEA in place of an Environmental Impact Report only if the Corps circulates the Draft SEA in accordance with CEQA and gives notice of the document's availability as specified in section 15087 of the State CEQA Guidelines.

When the Commission acts as a lead agency under CEQA, it is required to circulate environmental documents through the State Clearinghouse at the Governor's Office of Planning and Research. For the Draft SEA, Commission staff has been unable to verify that the Corps gave such notice; therefore, prior to the Corps' approval of the Project and before the Commission can use the SEA to consider approval of a lease or permit for the Project, the SEA will need to be noticed and circulated in accordance with CEQA requirements. Please contact Christopher Hultt, Senior Environmental Scientist, at the contact information identified below for further assistance in meeting this requirement. With regard to CEQA's substantive requirements to mitigate or avoid significant effects on the environment, Commission staff has reviewed the Draft SEA for compliance with the conditions set forth in CEQA and the State CEQA Guidelines and offers the following comments.

### **Project Description**

As staff understands, the preferred Project, Alternative 2a with disposal Option 1, proposes to deepen the entrance channel to Port Hueneme to accommodate larger, deep-draft vessels and dispose/place the dredged material at three different locations. The plan selected is the National Economic Development Plan, which is of economic importance and value to the local and national economies. Under this alternative, the Main Approach Channel would be dredged to -44 feet mean lower low water (MLLW), and the Entrance Channel and Turning Basin (which includes Channel A) would be dredged to -40 feet MLLW. Approximately 390 kilo-cubic yards (kcy) of material will be

hydraulically dredged with 363 kcy of beach-suitable sand placement by pipeline onto Hueneme Beach, 7 kcy onto the nearshore, and 20 kcy of dredge material disposed of on the existing Confined Aquatic Disposal (CAD) Site located within the harbor. In addition, if determined to be necessary, approximately 14,000 tons of stone would be placed along the toe of the eastern slope of the Entrance Channel to stabilize the slope and prevent slumping into the deepened navigation channel. Dredging and placement would take approximately 36 days of hydraulic dredging and 14 days of clamshell dredging for a total of 50 days. Mobilization, weather delays, and equipment difficulties could result in a total construction time of four months depending on circumstances.

### **Environmental Review**

Commission staff requests that the Corps consider the following comments to ensure that impacts to Public Trust resources and State sovereign land are adequately analyzed.

### **Biological Resources**

1. The proposed Project planning should include scheduling the dredging and beach placement outside the established California grunion spawning period (March 15–September 1). All dredging and beach nourishment activities must be scheduled and coordinated with all appropriate federal and State agencies to ensure environmental regulatory compliance. Preconstruction surveys for sensitive bird species and habitats in and around the Project area should coincide with established regulatory agency criteria for the Western snowy plover and California least tern. If appropriate, consult with agencies to identify feasible avoidance measures to reduce those impacts.
2. Invasive Species: One of the major stressors in California waterways is introduced species. Therefore, the Draft SEA should consider the Project's potential to encourage the establishment or proliferation of aquatic invasive species (AIS) such as *Caulerpa*, or other nonindigenous, invasive species. For example, vessels brought in from long stays at distant projects may transport new species to the Project area via hull biofouling. Marine and aquatic organisms attach to and accumulate on the hull and other submerged parts of a vessel. If the analysis in the Draft SEA finds potentially significant AIS and plant impacts, possible mitigation could include contracting vessels from nearby, or requiring contractors to perform a certain degree of hull and vehicle-cleaning. The CDFW's Invasive Species Program could assist with this analysis as well as with the development of appropriate mitigation (information at <https://www.wildlife.ca.gov/Conservation/Invasives>).

### **Environmental Justice**

3. An analysis of potential impacts associated with Environmental Justice should be presented in the Draft SEA. This analysis should include minority and low-income communities situated near the proposed Project footprint for those that directly

depend on it for social, economic, cultural, historic, occupational, recreational, or other needs deemed significant by those communities.

#### Tribal Cultural Resources

4. *Tribal Engagement and Consideration of Tribal Cultural Resources.* Commission staff recommends that the Corps revise and expand the discussion of Tribal engagement and consideration of Tribal Cultural Resources in order to demonstrate compliance with AB 52 (Gatto; Stats. 2014, ch. 532), which applies to all CEQA projects initiated after July 1, 2015.<sup>1</sup> Commission staff notes that the Draft SEA does not contain sufficient information to comply with AB 52 provisions. Although AB 52 does not apply to the Corps, the Commission will be required to demonstrate compliance with AB 52 before it can use the document to process the required lease. The Final SEA and Finding of no Significant Impact (FONSI) may be used by the Commission staff as a NEPA equivalent document for the Commission's CEQA action to approve the lease and therefore the documents must reflect the latest update to the State CEQA Guidelines Appendix G Checklist Form. The Commission will be required to provide procedural and substantive requirements for lead agency consultation with California Native American Tribes, consideration of effects on Tribal Cultural Resources (as defined in Pub. Resources Code, § 21074), and examples of mitigation measures to avoid or minimize impacts to these resources. Even if no Tribe has submitted a consultation notification request for the Project area covered by the Draft SEA, the Corps should:

- contact the Native American Heritage Commission to obtain a general list of interested Tribes for the Project area;
- include the results of this inquiry within the Draft SEA; and
- disclose and analyze potentially significant effects to Tribal Cultural Resources; and avoid impacts when feasible.

Since the Draft SEA does not disclose if notification or outreach to interested Tribes has occurred and does not document their response, Commission staff recommends that the Corps include this information in the Draft SEA to maintain a clear record of the Corps' efforts to comply with AB 52. Although the Corps is not obligated or required to comply with AB 52 the Commission will be required to comply with AB 52 should a lease application be submitted.

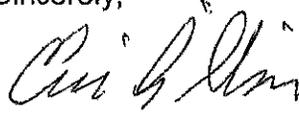
Thank you for the opportunity to comment on the Draft SEA for the Project. Commission staff requests that you keep us advised of changes to the Project Development and all other aspects of the Project.

Please refer questions concerning the environmental review to Christopher Huitt, Senior Environmental Scientist, at (916) 574-2080 or [christopher.huitt@slc.ca.gov](mailto:christopher.huitt@slc.ca.gov) or Andrew Kershen, Staff Attorney, at (916) 574-2501 or [andrew.kershen@slc.ca.gov](mailto:andrew.kershen@slc.ca.gov). Please

<sup>1</sup> California Public Resources Code Sections 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2, and 21084.3 were added to CEQA pursuant to AB 52.

contact Lucien Pino, Public Land Management Specialist, at (916) 574-1858 or [lucien.pino@slc.ca.gov](mailto:lucien.pino@slc.ca.gov) for any specific Commission jurisdictional-related questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Gillies". The signature is written in a cursive, flowing style.

Eric Gillies, Acting Chief  
Division of Environmental Planning  
and Management

cc: Office of Planning and Research  
A. Kershen, Commission  
C. Huitt, Commission  
L. Pino, Commission

