

APPENDIX B. SCOPING MATERIALS

CALIFORNIA STATE LANDS COMMISSION

100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202



Established in 1938

JENNIFER LUCCHESE, Executive Officer
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Contact Phone: (916) 574-2080

May 25, 2023

SCH # 2007072036

CSLC EIR #742

CSLC File Ref: A2932, A2935, A2937, A2938, & A2939

NOTICE OF PREPARATION OF A SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT AND NOTICE OF PUBLIC SCOPING MEETING

NOTICE IS HEREBY GIVEN that the California State Lands Commission (CSLC), as lead agency under the California Environmental Quality Act (CEQA), will prepare a Supplemental Environmental Impact Report (SEIR) to the [San Francisco Bay and Delta Sand Mining Project](#) (Project) EIR (certified on October 19, 2012), and that CSLC staff will hold two sessions of a public scoping meeting pursuant to CEQA and the State CEQA Guidelines for the project listed below.¹

Project Title: San Francisco Bay and Delta Sand Mining Project

Lead Agency: California State Lands Commission

Proponents: Martin Marietta Marine Operations, LLC; Lind Marine, Inc.; and Suisun Associates

Project Location: The Project is located in Central San Francisco Bay, Suisun Bay, and the Middle Ground Shoals (see Attachment).

Meeting Information: **Thursday, June 8, 2023.** In-person session begins at **2 PM** and a separate hybrid (in-person and online Zoom) session begins at **6 PM.**

2 PM	6 PM
CSLC Marine Environmental Protection Division – Northern California Field Office: 750 Alfred Nobel Drive, Suite 201. Hercules, CA 94547 - 2nd floor. (In person only)	CSLC Marine Environmental Protection Division – Northern California Field Office: 750 Alfred Nobel Drive, Suite 201. Hercules, CA 94547 - 2nd floor. - and Via Zoom at: https://us02web.zoom.us/j/87111485778?pwd=ZFNGT0ljTk1CVFIQc1pINeJJaTgzdz09 or by Phone: 833 548 0282 (Toll Free) then enter Webinar ID: 871 1148 5778 Passcode: 559964

¹ CEQA is in Public Resources Code section 21000 et seq.; the State CEQA Guidelines are in California Code of Regulations, title 14, section 15000 et seq. The public scoping meeting will be held pursuant to CEQA (§ 21083.9, subd. (a)(2)) and the State CEQA Guidelines (§§ 15082, subd. (c), and 15083).

Notice of Preparation and Notice of Public Scoping Meeting

CSLC staff has prepared this Notice of Preparation (NOP) to solicit public and agency guidance, in writing or at the public meetings, as to the scope and content of the environmental information, mitigation measures, and alternatives to include in the SEIR. Responsible agencies will consider the SEIR for decisions related to permits or other Project approvals. This NOP, along with additional background information and the Project Description included in the Attachment, is available online at www.slc.ca.gov (under the "Information" tab and "CEQA" link).

Written comments must be postmarked or emailed by June 26, 2023.² Please send your comments by mail or email to:

Mail: Christopher Huitt
Senior Environmental Scientist
California State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825

Email: CEQA.comments@slc.ca.gov
(Subject Line: SF Bay and Delta Sand
Mining Project NOP Comments)
Phone: (916) 574-2080

PROJECT SUMMARY The Project involves applications submitted by marine aggregate companies, Martin Marietta Marine Operations, LLC. (Martin Marietta) (formerly Hanson Marine Operations Inc., a Heidelberg Cement Group affiliate), Lind Marine Inc. (Lind), and Suisun Associates (collectively, the Applicants) for reissuance of authority to permit underwater commercial harvesting of sand from lease areas under the jurisdiction of the CSLC within San Francisco Bay and the western Delta (the Bay-Delta estuary). The purpose of sand mining is to obtain marine aggregate, which is primarily used for construction purposes. The Applicants propose a revision to the Project by the reissuance of CSLC leases with the objective to continue to mine sand at an economically viable level over the next 10 years. For more information see the Attachment to this notice, which contains a description of the proposed Project.

PROBABLE ENVIRONMENTAL EFFECTS The previous EIR (SCH# 2007072036) certified for the prior lease term in 2012, identified seven resource areas with potential environmental effects. These were Air Quality, Biological Resources, Cultural Resources, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Recreation, and Mineral Resources. Pursuant to Public Resources Code section 21166 and CEQA Guidelines sections 15162 and 15163, the SEIR will evaluate possible impacts to these resources arising from the Project *as revised* from that originally evaluated and approved in 2012. The SEIR will also evaluate potential effects on environmental justice communities and Public Trust uses and values, among other topics, pursuant to CSLC policies and guidelines.

² Pursuant to State CEQA Guidelines section 15103, Responsible and Trustee Agencies shall provide a response to an NOP within 30 days after receipt of the notice.

Notice of Preparation and Notice of Public Scoping Meeting

PUBLIC SCOPING MEETING Two project scoping meetings will be held on June 8, 2023. The public scoping meeting session to be held at 2:00 PM will be for in-person attendees only. The 6:00 PM session will allow options for both in-person attendance and remote public participation using Zoom. Remote attendees may join by entering the web link or dial in to the phone number listed on page 1 of this notice. The Zoom meeting link will also be available on the CSLC website at www.slc.ca.gov (under the "Information" tab and "CEQA" link). You may join from a desktop computer, laptop, mobile device, or telephone. Staff recommends that you test out your device, internet connection, and Zoom app compatibility well before attempting to join the meeting.

The CSLC staff will begin each session with a brief presentation on the proposed Project. The material presented at both sessions will be the same. After each presentation, staff will receive comments on the environmental issues that should be included in the SEIR, until all persons present who wish to provide oral comments have done so, at which time staff will close the session. A 3-minute time limit on oral comments may be imposed. Each session will be recorded, and all comments will be summarized in a scoping memo. No Commission action on the Project will occur at these sessions; any such action will occur at a separate noticed public meeting after the SEIR has been finalized. The public and responsible and trustee agencies may provide written comments in addition to, or in lieu of, oral comments.

IMPORTANT NOTES TO COMMENTERS

1. If you submit written comments, you are encouraged to submit electronic copies by email to CEQA.comments@slc.ca.gov and write **"SF Bay and Delta Sand Mining Project NOP Comments"** in the subject line of your email.
2. Before including your mailing or email address, telephone number, or other personal identifying information in your comment, please be aware that the entire comment - including personal identifying information - may become publicly available, including in the SEIR and posted on the internet. The CSLC will make available for inspection, in their entirety, all comments submitted by organizations, businesses, or individuals.
3. If you represent a public agency, please provide the name, email address, and telephone number for the contact person in your agency for this SEIR.
4. If you require a sign language interpreter or other reasonable accommodation for a disability, as defined by the federal Americans with Disabilities Act and California Fair Employment and Housing Act, in order to participate in the scoping meeting, please contact the CSLC staff person listed below at least 5 days in advance of the meeting to arrange for such accommodation.

Notice of Preparation and Notice of Public Scoping Meeting

5. Please contact Christopher Huitt, Senior Environmental Scientist, at Christopher.Huitt@slc.ca.gov or (916) 574-2080 if you have any questions.

Signature:  _____ Date: 5/25/2023
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Christopher Huitt
Senior Environmental Scientist

ATTACHMENT PROJECT DESCRIPTION

San Francisco Bay and Delta Sand Mining Project

1.0 PROJECT DESCRIPTION

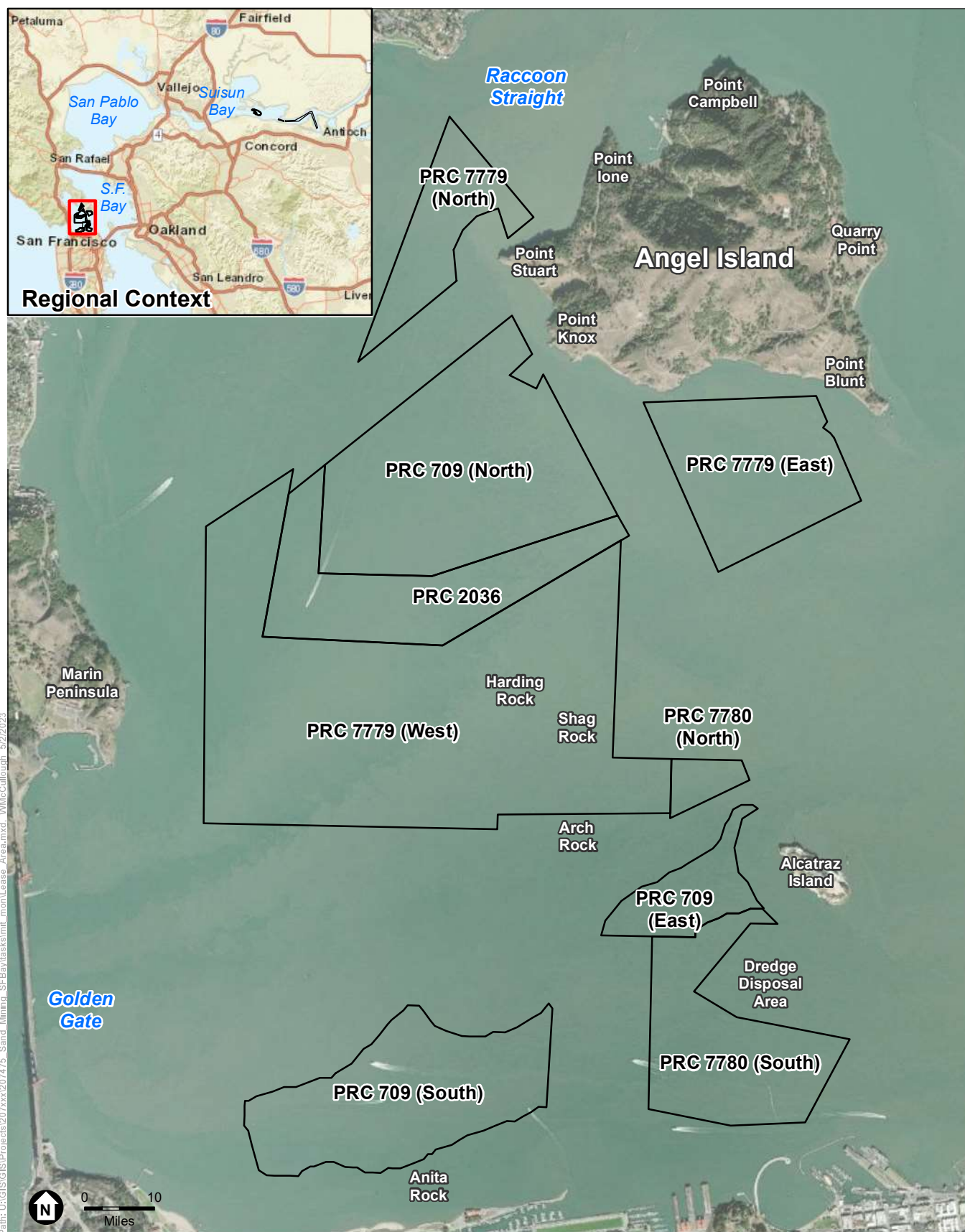
Two marine aggregate companies, Martin Marietta Marine Operations, LLC (Martin Marietta) and Lind Marine Inc. (Lind) hold leases issued by the California State Lands Commission (CSLC) to harvest sand commercially (sand mining) within San Francisco Bay and the western Delta. The leases were authorized in 2012 ([Item 101, October 19, 2012](#)) and 2013 ([Item 42, February 22, 2013](#)) by CSLC to permit the sand mining operations for a period of 10 years (Project). The Applicants have applied to the CSLC to reissue these leases to authorize commercial mining of sand for 10 additional years which will be evaluated by the CSLC as a revision to the previously approved Project. The revised Project is substantially a continuation of that described in the [San Francisco Bay and Delta Sand Mining Project](#) Environmental Impact Report (EIR) (certified on October 19, 2012); however, the Applicants propose to reduce the annual and total mining volumes from those previously evaluated and approved in 2012 and 2013, respectively.

1.1 Project Purpose and Objectives

The purpose of the Project and the proposed revision to the Project is to obtain marine aggregate, primarily used for construction purposes, within the greater San Francisco Bay area. The objective is to continue to mine sand at an economically viable level over the next 10 years.

1.2 Project Location

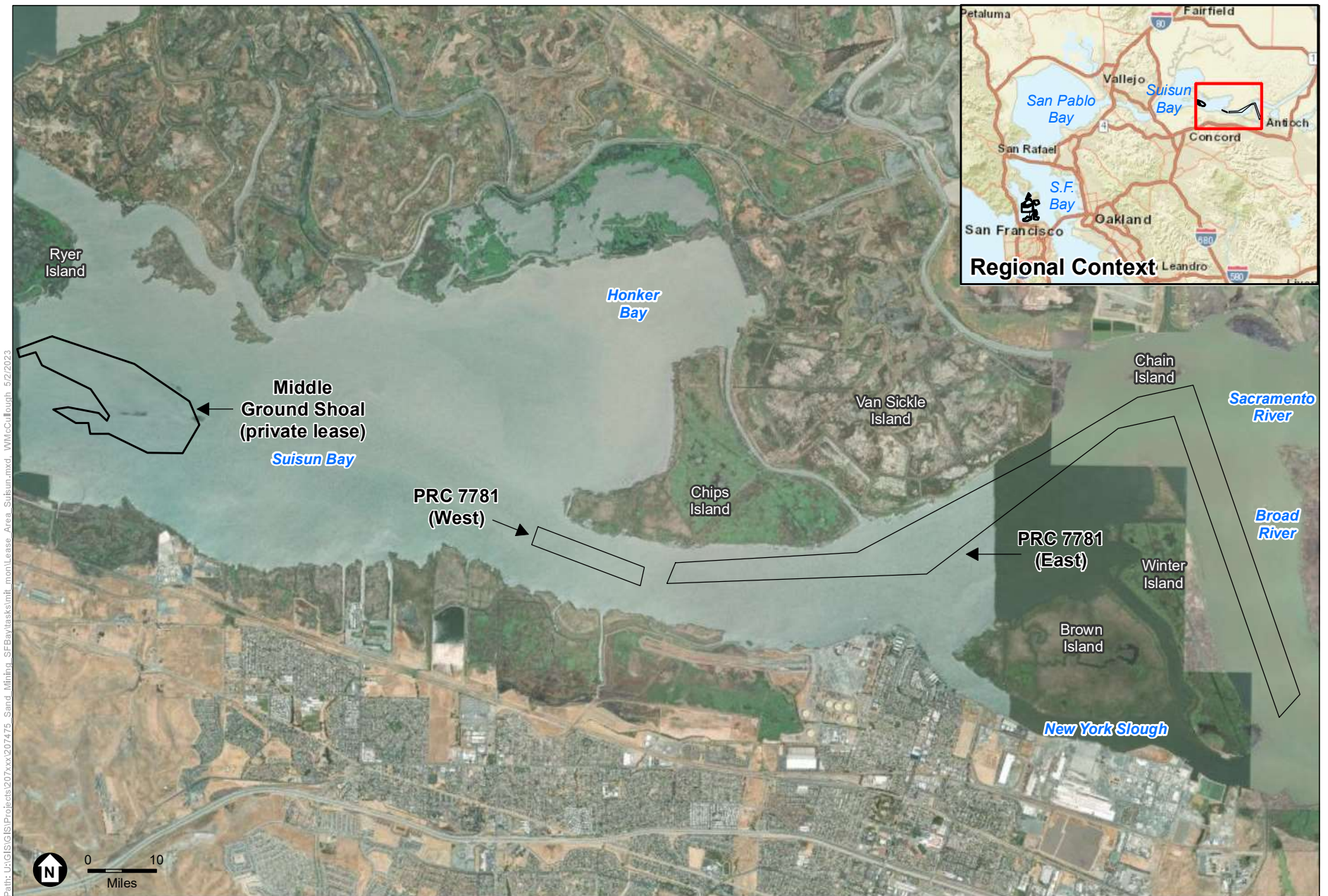
The proposed Project is located in the Central San Francisco Bay and in the Suisun Bay of the western Delta. The Central Bay leases constitute 2,601-acres and consist of nine (9) parcels of submerged lands within four (4) leases currently issued by the CSLC (Figure 1). The Suisun Bay lease area totals 938 acres and consists of two parcels of submerged lands within a single CSLC issued lease (Figure 2). In addition to the CSLC-issued leases, a third privately owned (not under the jurisdiction of CSLC) lease area is in the Middle Ground Shoal of Suisun Bay (Figure 2). Although outside of CSLC jurisdiction, the 2012 EIR considered, and this Supplemental Environmental Impact Report (SEIR) will consider, sand mining within the private Middle Ground Shoal lease area as part of the



SOURCE: ESA (2022)

202000232 Sand Mining

Figure 1
Lease Areas - Central Bay



SOURCE: ESA (2022)

202000232 Sand Mining

Figure 2
Lease Areas - Suisun Bay

Notice of Preparation and Notice of Public Scoping Meeting

proposed Project for the purpose of the environmental analysis. Sand mining activities are clustered in areas conducive to high river or tidal velocities that provide sand deposition with a low percentage of fine material (silts, clay, and mud), meaning mining activity may not occur uniformly across the entire proposed lease area.

1.3 Project Description

As originally described and evaluated in the 2012 EIR, the process of sand mining begins by using a tugboat to move a specialized suction dredge barge from its dock to a position within one of the lease areas. To begin mining, a dredge arm, which looks like a large pipe, with a metal drag head is lowered to the sandy bottom. Water from the bay or delta is entrained in the suction head generating a water and sand slurry to mobilize sand from the bay or delta bottom and pump it into a hopper on the barge. The drag head contains a screen to prevent large rocks or materials from being entrained. It also contains a suction vent fitted with a positive barrier fish screen and uses a suction velocity of 0.2 feet per second or less to prevent entrainment of fish.

Within the Central Bay leases, mining operations typically occur at water depths ranging from 30 to 90 feet and last 3 to 5.5 hours per event. Within the Middle Ground Shoal and Suisun Bay leases, mining operations typically occur at water depths ranging from 15 to 45 feet and last 5 to 7.5 hours per event.

A mining event is complete when the barge is full (to capacity) with sand. At that time, the pumping of sand is stopped, the dredge arm is raised, and the barge is moved by tugboat to one of several docking sites in the Bay Area for offloading. The barge (the *Sand Merchant*) operated by Martin Marietta is equipped with dry offloading capabilities (utilizing a conveyor belt system) and wet offloading capabilities (to pump the sand ashore). Lind's barge (J5200) is equipped for dry offloading only. An onboard front end loader transfers the sand to an onboard conveyor system that carries the sand to shore. Most offloading and sand distribution sites have limited capability to stockpile or store sand for an extended period.

The Project, as revised, proposes using equipment and methods that are substantially similar to those currently used and permitted under the existing leases and permits. The primary revision is to extend the activity analyzed in the 2012 EIR for 10 additional years. In addition to defining the geographic lease area boundaries, the CSLC leases identify the maximum allowable annual volume of sand harvested for each lease. The Project proposes reduced sand

Notice of Preparation and Notice of Public Scoping Meeting

mining volumes compared with the currently CSLC-permitted volumes as shown below in Table 1.

Table 1. CSLC Lease Permitted Sand Mining Volumes Current and Proposed

Lease Area	Location/Lease No.	Current Annual CSLC Permitted Volumes (cy) ^A	Proposed Annual Project Volumes (cy) ^B
San Francisco Central Bay (CSLC Leases)	PRC 709: Presidio, Alcatraz (Martin Marietta)	340,000	235,000
	PRC 2036: Point Knox South (Martin Marietta)	450,000	450,000
	PRC 7779: Point Knox Shoal (Martin Marietta)	550,000	550,000
	PRC 7780: Alcatraz South Shoal (Martin Marietta)	200,000	160,000
	Total CSLC Central Bay Leases	1,540,000	1,395,000
Western Delta Suisun Bay (CSLC Leases)	PRC 7781: Suisun Bay/Western Delta (Lind)	300,000	235,000
Total CSLC Leases (All Areas)		1,840,000	1,630,000
Western Delta Suisun Bay (Private Leases)	Grossi Middle Ground: BCDC Permit 16-78 (Lind) ^C	199,866	120,000
Total Volume (CSLC and Private Leases)		2,039,866	1,750,000

Source: Hanson Marine Operations, Inc. Application to CSLC for New Leases (CSLC, 2020)

Notes: Units are shown in cubic yards per year

- A. The current annual CSLC permitted volumes were analyzed in the 2012 San Francisco Bay and Delta Sand Mining EIR.
- B. The requested annual volumes are reduced from those currently authorized by CSLC but are equivalent to peak mining volumes currently permitted by other jurisdictional agencies (e.g., the San Francisco Bay Conservation and Development Commission).
- C. The private Grossi Middle Ground lease does not require CSLC authorization, but mining volumes are presented for information and will be included in the scope of the SEIR analysis.

Notice of Preparation and Notice of Public Scoping Meeting

2.0 PERMITS AND AGENCY COORDINATION

Sand mining in the San Francisco Bay and Delta is a highly regulated activity. In addition to the proposed action by CSLC, the Project would require permits and approvals from Responsible Agencies with jurisdiction in the Project area. The Project may also be of interest to Native American tribes and Trustee Agencies, the latter of which are agencies without permitting jurisdiction but nonetheless possessing jurisdiction over natural resources affected by the Project. Responsible Agencies, Trustee Agencies, Tribal consultation, and anticipated permits are summarized in Table 2.

Table 2. Potential Responsible, Coordinating, and Consultation Agencies/Entities

Local & Regional	San Francisco Bay/Central Valley Regional Water Quality Control Boards- Water Quality Certification and Waste Discharge Requirements Bay Area Air Quality Management District Bay Conservation and Development Commission- major permit
State	California Coastal Commission California Department of Fish and Wildlife- Incidental Take Permits State Historic Preservation Office
Federal	U.S. Army Corps of Engineers- Rivers and Harbors Act Section 10 U.S. Fish & Wildlife Service- Consultation under the Endangered Species Act (ESA) National Oceanic and Atmospheric Administration – National Marine Fisheries Service- Consultation under ESA and essential fish habitat assessment under Magnuson-Stevens Act
Tribal	Proposed Project activities will be coordinated with local tribes consistent with AB 52 and the CSLC's Tribal Consultation Policy adopted in August 2016

3.0 SCOPE OF THE SEIR

Pursuant to Public Resources Code section 21166 and State California Environmental Quality Act (CEQA) Guidelines sections 15162 and 15163, the CSLC staff conducted a preliminary review of the proposed Project as revised and determined that a Supplemental EIR is required to ensure that the previous 2012 EIR adequately applies to the Project in the changed situation. A preliminary list of environmental issues to be discussed in the SEIR is provided below. Additional issues may be identified during the public scoping period and through public and agency input received as part of the CEQA process. The CSLC invites comments and suggestions on the scope and content of the environmental analysis, including the significant environmental issues and

Notice of Preparation and Notice of Public Scoping Meeting

mitigation measures that should be considered for inclusion in the SEIR. The CSLC uses the following designations when examining each environmental issue area for potential impacts.

Potentially Significant Impact	Any impact that could be significant, and for which feasible mitigation must be identified and implemented, is considered potentially significant. If any potentially significant impacts are identified that cannot be mitigated to a less-than-significant level, the impact would be <i>significant and unavoidable</i> .
Less than Significant with Mitigation	If any potentially significant impacts are identified for which feasible, enforceable mitigation measures are developed and imposed to reduce the impacts to levels below applicable significance thresholds, the impact would be <i>less than significant with mitigation</i> .
Less than Significant Impact	Any impact that would not be considered significant under CEQA relative to the applicable significance threshold, and therefore would not require mitigation, is a less than significant impact.
No Impact	The Project would not result in any impact to the environmental issue area considered.
Beneficial Impact	The Project would provide an improvement to the associated environment in comparison to the baseline conditions.

3.1 Currently Identified Potential Environmental Impacts

Pursuant to section 15163 of the Guidelines, the SEIR need contain only the information necessary to make the previous EIR adequate for the project as revised. The preliminary list of environmental issues that may be evaluated in the SEIR due to the proposed Project are as follows:

- Biological Resources
- Cultural and Tribal Cultural Resources
- Hydrology and Water Quality

Additional issues may be identified at the public scoping meeting, and in written comments, as part of the CEQA public review process. The CSLC invites comments and suggestions on the scope and content of the environmental analysis, including the significant environmental issues, mitigation measures, and alternatives that should be included in the SEIR. The SEIR will also evaluate potential effects on environmental justice communities and Public Trust uses and values, among other topics, pursuant to CSLC policies and guidelines.

**COMISIÓN DE TIERRAS
DEL ESTADO DE CALIFORNIA**100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202*Establecida en 1938***JENNIFER LUCCHESI**, *Directora Ejecutiva*
(916) 574-1800Servicio de retransmisión TTY CA: **711** o tel.
800.735.2922desde el teléfono de voz **800.855.3000****Teléfono de contacto: (916) 574-2080**

25 de mayo de 2023

SCH # 2007072036

CSLC EIR #742

Referencia de archivo CSLC: A2932, A2935, A2937, A2938, y A2939

**AVISO DE PREPARACIÓN DE UN INFORME SUPLEMENTARIO DE IMPACTO
AMBIENTAL Y AVISO DE REUNIÓN PÚBLICA DE ALCANCE**

POR LA PRESENTE SE NOTIFICA que la Comisión de Tierras del Estado de California (CSLC, por sus siglas en inglés), como agencia líder bajo la Ley de Calidad Ambiental de California (CEQA, por sus siglas en inglés), preparará un Informe Suplementario de Impacto Ambiental (SEIR por sus siglas en inglés) para el EIR del [Proyecto de Minería de Arena de la Bahía de San Francisco y el Delta](#) (Proyecto) (certificado el 19 de octubre de 2012), y que el personal de CSLC llevará a cabo dos sesiones de una reunión pública de alcance de acuerdo con CEQA y las Pautas Estatales de CEQA para el Proyecto que se indica a continuación.¹

Título del Proyecto: Proyecto de Minería de Arena de la Bahía de San Francisco y el Delta

Agencia principal: Comisión de Tierras del Estado de California

Proponentes: Martin Marietta Marine Operations, LLC. y Lind Marine, Inc.

Ubicación del Proyecto: El Proyecto está ubicado en la zona central de la Bahía de San Francisco, la Bahía de Suisun y Middle Ground Shoals (ver Anexo).

Información de la reunión: **Jueves, 8 de junio de 2023.** La sesión en persona comienza a las **2 PM** y una sesión híbrida separada (en persona y en línea de Zoom) comienza a las **6 PM**.

¹ CEQA está en la sección 21000 et seq. del Código de Recursos Públicos; las Pautas Estatales de CEQA se encuentran en el Código de Regulaciones de California, título 14, sección 15000 et seq. La reunión pública de alcance se llevará a cabo de conformidad con CEQA (§ 21083.9, subd. a) (2)) y las Directrices Estatales de CEQA (§§ 15082, subd. c) y 15083).

Aviso de Preparación y Aviso de Reunión Pública de Alcance

2 PM	6 PM
CSLC Marine Environmental Protection Division – Northern California Field Office: 750 Alfred Nobel Drive, Suite 201 Hercules, CA 94547 - 2nd floor (Solo en persona)	CSLC Marine Environmental Protection Division – Northern California Field Office: 750 Alfred Nobel Drive, Suite 201, Hercules, CA 94547 - 2nd floor -y Via Zoom al: https://us02web.zoom.us/j/87111485778?pwd=ZFNGT0lJTk1CVFIQc1pINFIJJaTgzdz09 o por teléfono: 833 548 0282 (llamada gratuita) luego ingrese ID de seminario web: 871 1148 5778 Código de acceso: 559964

El personal de CSLC ha preparado este Aviso de Preparación (NOP, por sus siglas en inglés) para solicitar orientación pública y de la agencia, por escrito o en las reuniones públicas, en cuanto al alcance y contenido de la información ambiental, las medidas de mitigación y las alternativas para incluir en el SEIR. Las agencias responsables considerarán el SEIR para las decisiones relacionadas con los permisos u otras aprobaciones del Proyecto. Este NOP, junto con información adicional de fondo y la Descripción del Proyecto incluida en el Anexo, está disponible en línea en www.slc.ca.gov (en la pestaña "Información" y en el enlace "CEQA").

Los comentarios escritos deben tener el sello postal o enviarse por correo electrónico antes del 26 de junio de 2023. ² Por favor, envíe sus comentarios por correo o correo electrónico a:

Correo: Christopher Huitt Senior Environmental Scientist California State Lands Commission 100 Howe Avenue, Suite 100-South Sacramento, CA 95825	Correo electrónico: CEQA.comments@slc.ca.gov (Asunto: Comentarios sobre el NOP del Proyecto de Minería de Arena de la Bahía de San Francisco y el Delta) Teléfono: (916) 574-2080
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RESUMEN DEL PROYECTO El Proyecto incluye solicitudes presentadas por las empresas de agregados marinos, Martin Marietta Marine Operations, LLC. (Martin Marietta) (anteriormente Hanson Marine Operations Inc., filial de Heidelberg Cement Group), Lind Marine Inc. (Lind), y Suisun Associates (colectivamente, los Solicitantes) para la reemisión de la autoridad para permitir la extracción submarina comercial de arena de áreas arrendadas bajo la jurisdicción de la CSLC dentro de la Bahía de San Francisco y el Delta occidental (el estuario del Delta de la Bahía). El propósito de la extracción de arena es obtener agregado marino, que se utiliza principalmente para fines de

² De conformidad con la sección 15103 de las Directrices estatales de CEQA, las agencias responsables y fideicomisarias proporcionarán una respuesta a un NOP dentro de los 30 días posteriores a la recepción del Aviso.

Aviso de Preparación y Aviso de Reunión Pública de Alcance

construcción. Los Solicitantes proponen una revisión del Proyecto a través de la reemisión de contratos de arrendamiento de CSLC con el objetivo de continuar extrayendo arena a un nivel económicamente viable durante los próximos 10 años. Para más información, véase el anexo de la presente comunicación, que contiene una descripción del Proyecto propuesto.

PROBABLES EFECTOS AMBIENTALES El EIR anterior (SCH# 2007072036) certificado para el plazo de arrendamiento anterior en 2012, identificó siete áreas de recursos con posibles efectos ambientales. Estos fueron Calidad del Aire, Recursos Biológicos, Recursos Culturales, Peligros y Materiales Peligrosos, Hidrología y Calidad del Agua, Uso de la Tierra y Recreación, y Recursos Minerales. De conformidad con la sección 21166 del Código de Recursos Públicos y las secciones 15162 y 15163 de las Directrices de CEQA, el SEIR evaluará los posibles impactos a estos recursos que surjan del Proyecto. El SEIR también evaluará, entre otros temas, los posibles efectos en las comunidades de justicia ambiental y los usos y valores del tipo Fideicomiso Público, de conformidad con las políticas y pautas de la CSLC.

REUNIÓN DE ALCANCE PÚBLICO Dos reuniones de alcance del Proyecto se llevarán a cabo el 8 de junio de 2023. La sesión de la reunión de alcance público que se llevará a cabo a las 2:00 PM será solo para asistentes en persona. La sesión de las 6:00 PM permitirá opciones tanto para la asistencia en persona como para la participación pública remota a través de Zoom. Los asistentes remotos pueden unirse ingresando el enlace web o marcando el número de teléfono que figura en la página 1 de este aviso. El enlace de la reunión de Zoom también estará disponible en el sitio web de CSLC en www.slc.ca.gov (en la pestaña "Información" y en el enlace "CEQA"). Puede unirse desde una computadora de escritorio, computadora portátil, dispositivo móvil o teléfono. El personal recomienda que pruebe su dispositivo, conexión a Internet y compatibilidad con la aplicación Zoom antes de intentar unirse a la reunión.

El personal de CSLC comenzará cada sesión con una breve presentación sobre el Proyecto propuesto. El material presentado en ambas sesiones será el mismo. Después de cada presentación, el personal recibirá comentarios sobre los temas ambientales que deben incluirse en el SEIR, hasta que todas las personas presentes que deseen proporcionar comentarios orales lo hayan hecho, momento en el cual el personal cerrará la sesión. Podrá imponerse un límite de 3 minutos para los comentarios orales. Cada sesión se grabará y todos los comentarios se resumirán en un memorándum de alcance. En estas reuniones, no se adoptará ninguna medida de la Comisión sobre el Proyecto; cualquier acción de este tipo ocurrirá en una reunión pública notificada por separado después de que se haya finalizado el SEIR. El público y las agencias responsables y fideicomisarias podrán proporcionar comentarios por escrito además de los comentarios orales o en lugar de ellos.

Aviso de Preparación y Aviso de Reunión Pública de Alcance

NOTAS IMPORTANTES PARA LOS COMENTARISTAS

1. Si envía comentarios por escrito, le recomendamos que envíe copias electrónicas por correo electrónico a CEQA.comments@slc.ca.gov y escriba "**Comentarios sobre el NOP del Proyecto de Minería de Arena de la Bahía de San Francisco y el Delta**" en la línea de asunto de su correo electrónico.
2. Antes de incluir su dirección postal o de correo electrónico, número de teléfono u otra información de identificación personal en su comentario, tenga en cuenta que todo el comentario, incluida la información de identificación personal, puede estar disponible públicamente, incluso en el SEIR, y publicarse en Internet. El CSLC pondrá a disposición para su inspección, en su totalidad, todos los comentarios presentados por organizaciones, empresas o individuos.
3. Si representa una agencia pública, proporcione el nombre, la dirección de correo electrónico, y el número de teléfono de la persona de contacto en su agencia para este SEIR.
4. Si necesita un intérprete de lenguaje de señas u otra adaptación razonable para una discapacidad, según lo definido por la Ley Federal de Estadounidenses con Discapacidades y por la Ley de Empleo y Vivienda Justa de California, para participar en la reunión de alcance, comuníquese con el miembro del personal de CSLC que se indica a continuación al menos 5 días antes de la reunión para organizar dicha adaptación.
5. Comuníquese con Christopher Huitt, Científico Ambiental Senior, al Christopher.Huitt@slc.ca.gov o al (916) 574-2080 si tiene alguna pregunta.

Firma:

DocuSigned by:



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Christopher Huitt,
Científico Ambiental Senior

Fecha: 5/25/2023

Organization	Department / Title	First Name	Last Name	Address	Address2	City	State	Zip
Bay Planning Coalition	Chief Executive Officer	John	Coleman	1970 Broadway	Suite 940	Oakland	CA	94612
San Francisco Bay Conservation and Development Commission	Sediment Program Manager	Brenda	Goeden	375 Beale Street	Suite 510	San Francisco	CA	94105
Friends of the Earth	President	Erich	Pica	PO Box 7010		Merrifield	VA	22116-7010
California Department of Fish & Wildlife	Bay Delta Office	Crystal	Spurr	2825 Cordelia Road	Suite 100	Fairfield	CA	94534
California Department of Fish & Wildlife	Bay Delta Office	Jim	Starr	2825 Cordelia Road	Suite 100	Fairfield	CA	94534
California Department of Fish & Wildlife	Regional Manager, North Central Region	Kevin	Thomas	1701 Nimbus Road		Rancho Cordova	CA	95670
California Department of Fish & Wildlife	Regional Manager, Bay Delta Region	Erin	Chappell	2825 Cordelia Road	Suite 100	Fairfield	CA	94534
California Department of Fish & Wildlife	Regional Manager, Marine Region (Region 7)	Dr. Craig	Shuman	20 Lower Ragsdale Drive	Suite 100	Monterey	CA	93940
California Department of Fish & Wildlife	Regional Manager, Northern Region (Region 1)	Tina	Bartlett	601 Locust Street		Redding	CA	96001
California Department of Fish & Wildlife	Silverado Fisheries Base	CEQA		7329 Silverado Trail		Napa	CA	94558
California Coastkeeper Alliance	Executive Director	Sean	Bothwell	1100 11th Street	3rd Floor	Sacramento	CA	95814
California State Lands Commission	Executive Officer	Jennifer	Lucchesi	100 Howe Ave. South	Suite 100	Sacramento	CA	95825
Alliance of Communities for Sustainable Fisheries	Co-Chair	Kathy	Fosmark	256 Figueroa Street	#1	Monterey	CA	93910
Alliance of Communities for Sustainable Fisheries	Consultant to ACSF	Steve	Scheiblaue	256 Figueroa Street	#1	Monterey	CA	93910
Citizens Committee to Complete the Refuge	Co-Chair	Carin	High	P.O. Box 23957		San Jose	CA	95153
Citizens Committee to Complete the Refuge	Co-Chair	Gail	Raabe	P.O. Box 23957		San Jose	CA	95153
Delta Stewardship Council	Deputy Executive Officer for F	Jeff	Henderson	715 P Street, 15-300		Sacramento	CA	95814
Ducks Unlimited	Director of Operations,	Jeff	McCreary	3074 Gold Canal Drive		Rancho Cordova	CA	95670
EarthJustice	President	Abigail	Dillen	50 California Street	Suite 500	San Francisco	CA	94111
Environmental Defense Center (EDC)	Senior Analyst/Watershed	Brian	Trautwein	906 Garden Street		Santa Barbara	CA	93101
Environmental Defense Fund	Lead Senior Scientist	Rodney	Fujita, Ph.D.	123 Mission Street	28th Floor	San Francisco	CA	94105
Environmental Law and Justice Clinic	Director	Helen	Kang	536 Mission Street		San Francisco	CA	94105
Golden Gate Audubon Society	Executive Director	Glenn	Phillips	2530 San Pablo Avenue	Suite G	Berkeley	CA	94702
Golden Gate Fishermen's Association	President	Rick	Powers	50 Briarwood		San Rafael	CA	94901
Happy Hooker Sportfishing	Skipper	Jim	Smith	201 University Avenue		Berkeley	CA	94710
Kier Associates, Fisheries and Watershed Professionals				15 Junipero Serra Avenue		San Rafael	CA	94901-2319
Marin Audubon Society	President	Barbara	Salzman	P.O. Box 599		Mill Valley	CA	94942-0599
Bureau of Reclamation, California-Great Basin	Regional Director	Ernest	Conant	2800 Cottage Way	Mail Code CGB-100	Sacramento	CA	95825
Middle Ground Sand	President	Agostino	Grossi	1647 Willow Pass Road, #160		Concord	CA	94520
National Marine Fisheries Service Consultation		Jeff	Stuart	650 Capitol Mall	Suite 5-100	Sacramento	CA	95814
National Marine Fisheries Service Consultation		Gary	Stern	650 Capitol Mall	Suite 5-100	Sacramento	CA	95814
National Marine Fisheries Service		Sarah	Azat	650 Capitol Mall	Suite 5-100	Sacramento	CA	95814
National Marine Fisheries Service Consultation		Amanda	Morrison	650 Capitol Mall	Suite 5-100	Sacramento	CA	95814
Native American Heritage Commission	Chairperson	Laura	Miranda	1550 Harbor Blvd.	Suite 100	West Sacramento	CA	95691
Natural Resources Defense Council				111 Sutter Street	21st floor	San Francisco	CA	94104
No. California Marine Association		Jorgen	Bateman	4703 Tidewater Avenue	Suite D	Oakland	CA	94601
Pacific Coast Federation of Fishermen's Assoc.	Executive Director	Mike	Conroy	P.O. Box 29370		San Francisco	CA	94129-0370
Regional Water Quality Control Board	Executive Officer, Central	Patrick	Pulupa	11020 Sun Center Drive	Suite 200	Rancho Cordova	CA	95670
Regional Water Quality Control Board	San Francisco Bay Region	Beth	Christian	1515 Clay Street	Suite 1400	Oakland	CA	94612
San Francisco Baykeeper	Executive Director	Sejal	Choksi-Chugh	1736 Franklin Street	Suite 800	Oakland	CA	94612
Save Our Shores	Executive Director	Erica	Donnelly-Greene	345 Lake Avenue	Suite A	Santa Cruz	CA	95062
Save The Bay	Executive Director	David	Lewis	350 Frank H. Ogawa Plaza	Suite 100	Oakland	CA	94612-2016
SFEI	Executive Director	Warner	Chabot	4911 Central Avenue		Richmond	CA	94804
Sierra Club - Loma Prieta Chapter	Chapter Coordinator	Barbara	Kelsey	3921 East Bayshore Road	Suite 204	Palo Alto	CA	94303
Sierra Club, SF Bay Chapter	Director	Virginia	Reinhart	P.O. Box 2663		Berkeley	CA	94702
The Bay Institute of San Francisco	Executive Director	George	Jacob	Pier 39 Embarcadero & Beach St		San Francisco	CA	94133

Organization	Department / Title	First Name	Last Name	Address	Address2	City	State	Zip
U.S. Army Corps of Engineers	District Commander, USACE	Col. Chad	Caldwell	1325 J Street	Room 1640	Sacramento	CA	95814
U.S. Army Corps of Engineers	District Commander, San	Lt. Col. Kevin	Arnett	450 Golden Gate Avenue	Room 6672H, 6th F	San Francisco	CA	94102
U.S. Army Corps of Engineers		Sahrye	Cohen	1455 Market Street		San Francisco	CA	94103-1398
U.S. Fish & Wildlife Service	Endangered Species	Steven	Detwiler	650 Capitol Mall	Suite 8-300	Sacramento	CA	95814
U.S. Fish & Wildlife Service	Bay Delta Region	Tiffany	Heitz	650 Capitol Mall	Suite 8-300	Sacramento	CA	95814
U.S. Fish & Wildlife Service	Bay Delta Region	Kim	Turner	650 Capitol Mall	Suite 8-300	Sacramento	CA	95814
U.S. Fish & Wildlife Service	Bay Delta Region	Brian	Hasen	650 Capitol Mall	Suite 8-300	Sacramento	CA	95814
Urban Ecology		Rachel	Peterson	369 Pine Street	Suite 310	San Francisco	CA	94104
Weston Solutions, Inc.		Misty	Mercier	5817 Dryden Place	#101	Carlsbad	CA	92008
Calif. Dept. of Conservation State Mining and Geology Board	Senior Engineering Geologist	Paul	Fry	715 P Street	MS 1909	Sacramento	CA	95814
RGC	CFO	Dr. Mohamed	Hamza	4570 Campus Drive		Newport Beach	CA	92660
Individuals and Applicants								
		Libby	Lukas	174 Yerba Santa Ave		Los Altos	CA	94022
Lind Marine Inc.		Bill	Butler	300 East D Street		Petaluma	CA	95492
Lind Marine Inc.	ice President	Bill	Butler	1175 Nimitz Ave	Ste 120	Vallejo	CA	94592
Martin Marietta Marine Operations		Michael	Bishop	3000 Executive Parkway Ste. 240		San Ramon	CA	94583
Martin Marietta Marine Operations	Environmental and Land Resc	Erika	Guerra	3000 Executive Parkway Ste. 240		San Ramon	CA	94583
Boudreau and Associates, LLC.		Christine	Boudreau	327 Jersey Street		San Francisco	CA	94111-3709
Jerico Products, Inc.		Christian	Lind	300 East "D" Street		Petaluma	CA	94962
Hanson Environmental		Chuck	Hanson	132 Cottage Ln.		Walnut Creek	CA	94595

CEQA SCOPING MEETING SIGN IN SHEET *(please write clearly)*

Project Name: San Francisco Bay and Delta Sand Mining Project

Date: Thursday, June 8th 2023 X 2:00 p.m. Mtg. 6:00 p.m. Mtg.

Location: 750 Alfred Nobel Drive 2nd Flood Suite 201. Hercules, CA 94547

[illegible]

CEQA SCOPING MEETING SIGN IN SHEET *(please write clearly)*

Project Name: San Francisco Bay and Delta Sand Mining Project
Date: Thursday, June 8th 2023 ____ 2:00 p.m. Mtg. ~~6:00 p.m. Mtg.~~
Location: 750 Alfred Nobel Drive 2nd Flood Suite 201. Hercules, CA 94547

[illegible]

**CALIFORNIA STATE LANDS
COMMISSION**

100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202



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Contact Phone: 916.574.1900

June 9, 2023

SCH # 2007072036

CSLC EIR #742

CSLC File Ref: A2932, A2935, A2937, A2938, & A2939

**NOTICE OF ADDITIONAL SCOPING MEETING
FOR THE SAN FRANCISCO BAY AND DELTA SAND MINING PROJECT**

On May 25, 2023, staff of the California State Lands Commission (Commission) released a Notice of Preparation for a proposed Supplemental Environmental Impact Report (SEIR) to the [San Francisco Bay and Delta Sand Mining Project](#) (Project) EIR. That notice announced both in-person and virtual (via Zoom) scoping meetings scheduled for June 8. Staff later learned that the Zoom meeting link given in that Notice was incorrect.

To ensure that all interested parties have an opportunity to comment on the scope and content of the proposed SEIR, Commission staff will hold an additional virtual meeting on June 20, 2023, at 6:00 p.m. The presentation by staff and its environmental contractor at the June 20th scoping meeting will be identical to the presentation given at the June 8th meetings.

Commission staff apologizes for any inconvenience this mistake may have caused. If you are unable to attend one of the in-person or virtual scoping meetings, you may submit written comments.

Meeting Information: Tuesday, June 20, 2023. Virtual (Zoom) meeting at 6 p.m.

Via Zoom:	https://us02web.zoom.us/j/83252254743?pwd=WkFGMU0wZ2ZGNTZzNHl2VUxJUjFNQT09
or by Phone:	833.548.0282 (Toll-Free)
Webinar ID:	832 5255 4743
Passcode:	297207

IMPORTANT NOTES TO COMMENTERS

1. If you submit written comments, you are encouraged to submit electronic copies by email to CEQA.comments@slc.ca.gov and write "SF Bay and Delta Sand Mining Project NOP Comments" in the subject line of your email.
2. Before including your mailing or email address, telephone number, or other personal identifying information in your comment, please be aware that the entire comment - including personal identifying information - may become publicly available, including in the SEIR and posted on the internet. The CSLC will make available for inspection, in their entirety, all comments submitted by organizations, businesses, or individuals.
3. If you represent a public agency, please provide the name, email address, and telephone number for the contact person in your agency for this SEIR.
4. If you require a sign language interpreter or other reasonable accommodation for a disability, as defined by the federal Americans with Disabilities Act and California Fair Employment and Housing Act, in order to participate in the scoping meeting, please contact the CSLC staff person listed below at least 5 days in advance of the meeting to arrange for such accommodation.
5. Please contact Christopher Huitt, Senior Environmental Scientist, at Christopher.Huitt@slc.ca.gov or 916.574.2080 if you have any questions.

San Francisco Bay and Delta Sand Mining Project

May 25, 2023 | [CEQA](#), [Content Types](#), [New-Current](#), [News](#), [Public Comment](#), [Public Engagement](#)

The Commission has released a Notice of Preparation of a draft Supplemental EIR and Notice of Public Scoping Meeting for the San Francisco Bay and Delta Sand Mining Project for a 30-day review. Staff held two sessions of a public scoping meeting on Thursday, June 8, 2023. Due to an error in the Zoom link for the June 8 meeting in the Notice of Preparation, Commission staff will hold an additional virtual meeting on **June 20, 2023, at 6:00 p.m.** to ensure that all interested parties have an opportunity to comment on the scope and content of the proposed Supplemental EIR. Written comments must be received or postmarked **by June 26, 2023.**

Notice of Preparation – May 2023

- ▶ [Notice of Preparation](#) | [Aviso de la Preparación](#)
- ▶ [NOTICE OF ADDITIONAL SCOPING MEETING FOR THE SAN FRANCISCO BAY AND DELTA SAND MINING PROJECT](#)

Additional Public Scoping Meeting – virtual only

June 20, 2023, at 6 p.m.

[Join Zoom Meeting](#)

Phone: 833.548.0282 (Toll-Free)

Webinar ID: 832 5225 4743

Passcode: 297207

 **CEQA Documents**

- ▶ [New / Current CEQA & Other Environmental Documents](#)
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NATIVE AMERICAN HERITAGE COMMISSION

June 2, 2023

Christopher Huitt
California State Lands Commission
100 Howe Ave, Ste. 100 South
Sacramento, CA 95825

Re: 2007072036, San Francisco Bay and Delta Sand Mining Project, Multiple Counties

Dear Mr. Huitt:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, §15064.5 (b) (CEQA Guidelines §15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.AB 52

ACTING CHAIRPERSON
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Chumash

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EXECUTIVE SECRETARY
**Raymond C.
Hitchcock**
Miwok, Nisenan

NAHC HEADQUARTERS
1550 Harbor Boulevard
Suite 100
West Sacramento,
California 95691
(916) 373-3710
nahc@nahc.ca.gov
NAHC.ca.gov

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:

Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:

- a. A brief description of the project.
- b. The lead agency contact information.
- c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
- d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).

2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a

Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report: A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).

- a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).

3. Mandatory Topics of Consultation If Requested by a Tribe: The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

- a. Alternatives to the project.
- b. Recommended mitigation measures.
- c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).

4. Discretionary Topics of Consultation: The following topics are discretionary topics of consultation:

- a. Type of environmental review necessary.
- b. Significance of the tribal cultural resources.
- c. Significance of the project's impacts on tribal cultural resources.
- d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).

5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process: With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).

6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document: If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

- a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
- b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

- 7. Conclusion of Consultation:** Consultation with a tribe shall be considered concluded when either of the following occurs:
- The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
 - A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).
- 8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document:** Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).
- 9. Required Consideration of Feasible Mitigation:** If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).
- 10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**
- Avoidance and preservation of the resources in place, including, but not limited to:
 - Planning and construction to avoid the resources and protect the cultural and natural context.
 - Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
 - Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - Protecting the cultural character and integrity of the resource.
 - Protecting the traditional use of the resource.
 - Protecting the confidentiality of the resource.
 - Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
 - Protecting the resource. (Pub. Resource Code §21084.3 (b)).
 - Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
 - Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).
- 11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource:** An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
- The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
 - The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
 - The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf.

Some of SB 18's provisions include:

1. **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation.** There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation:** Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>.

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (https://ohp.parks.ca.gov/?page_id=30331) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:
 - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
 - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
 - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, § 15064.5(f) (CEQA Guidelines § 15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
 - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
 - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code § 7050.5, Public Resources Code § 5097.98, and Cal. Code Regs., tit. 14, § 15064.5, subdivisions (d) and (e) (CEQA Guidelines § 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address:
Cody.Campagne@nahc.ca.gov

Sincerely,

Cody Campagne

Cody Campagne
Cultural Resources Analyst

cc: State Clearinghouse

Central Valley Regional Water Quality Control Board

16 June 2023

Christopher Huitt
California State Lands Commission
100 Howe Avenue, Suite 100 South
Sacramento, CA 95825
christopher.huitt@slc.ca.gov

COMMENTS TO REQUEST FOR REVIEW FOR THE NOTICE OF PREPARATION FOR THE DRAFT ENVIRONMENTAL IMPACT REPORT, SAN FRANCISCO BAY AND DELTA SAND MINING PROJECT, SCH#2007072036, CONTRA COSTA, MARIN, SACRAMENTO, SAN FRANCISCO, AND SAN JOAQUIN COUNTIES

Pursuant to the State Clearinghouse's 26 May 2023 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Notice of Preparation for the Draft Environmental Impact Report* for the San Francisco Bay and Delta Sand Mining Project, located in Contra Costa, Marin, Sacramento, San Francisco, and San Joaquin Counties.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore, our comments will address concerns surrounding those issues.

I. Regulatory Setting

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has

adopted a Basin Plan amendment in noticed public hearings, it must be approved by the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases, the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues. For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:

http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Implementation Policy is available on page 74 at:

https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_2018_05.pdf

In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

II. Permitting Requirements

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit), Construction General Permit Order No. 2009-0009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention

Plan (SWPPP). For more information on the Construction General Permit, visit the State Water Resources Control Board website at:
http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACE). If a Section 404 permit is required by the USACE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements. If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACE at (916) 557-5250.

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications. For more information on the Water Quality Certification, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/water_issues/water_quality/certification/

Waste Discharge Requirements – Discharges to Waters of the State

If USACE determines that only non-jurisdictional waters of the State (i.e., “non-federal” waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation. For more information on the Waste Discharges to Surface Water NPDES Program and WDR processes, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/water_issues/waste_to_surface_water/

Projects involving excavation or fill activities impacting less than 0.2 acre or 400 linear feet of non-jurisdictional waters of the state and projects involving dredging activities impacting less than 50 cubic yards of non-jurisdictional waters of the state may be eligible for coverage under the State Water Resources Control Board Water

Quality Order No. 2004-0004-DWQ (General Order 2004-0004). For more information on the General Order 2004-0004, visit the State Water Resources Control Board website at:

https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Threat General Order) 2003-0003 or the Central Valley Water Board's Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Threat Waiver) R5-2018-0085. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf

For more information regarding the Low Threat Waiver and the application process, visit the Central Valley Water Board website at:

https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2018-0085.pdf

Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Limited Threat Discharges to Surface Water* (Limited Threat General Order). A complete Notice of Intent must be submitted to the Central Valley Water Board to obtain coverage under the Limited Threat General Order. For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:

https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2016-0076-01.pdf

NPDES Permit

If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit. For more information

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regarding the NPDES Permit and the application process, visit the Central Valley
Water Board website at: <https://www.waterboards.ca.gov/centralvalley/help/permit/>

If you have questions regarding these comments, please contact me at (916) 464-4684
or Peter.Minkel2@waterboards.ca.gov.

Peter Minkel

Peter Minkel
Engineering Geologist

cc: State Clearinghouse unit, Governor's Office of Planning and Research,
Sacramento



June 26, 2023

Mail: Christopher Huitt
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California State Lands CSLC
100 Howe Avenue, Suite 100-South
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Transmitted via Electronic Mail to CEQA.comments@slc.ca.gov

Re: S.F. Bay and Delta Sand Mining Project NOP Comments

Dear Commissioners:

On behalf of San Francisco Baykeeper (“Baykeeper”) and our over five thousand members and supporters who use and enjoy the environmental, recreational, and aesthetic qualities of San Francisco Bay and its surrounding tributaries and ecosystems, and on behalf of Citizens Committee to Complete the Refuge (CCCR), with a membership of 2,000 and an ongoing history of interest in wetlands protection, wetlands restoration and wetlands acquisition, we respectfully submit these comments for consideration by the California State Lands Commission (CSLC) with regard to your Notice of Preparation (NOP) for a Supplemental Environmental Impact Report (SEIR) to the San Francisco Bay and Delta Sand Mining Project (Project) EIR (certified on October 19, 2012), which involves the reapproval of leases.

Baykeeper’s mission is to defend San Francisco Bay from the biggest threats and hold polluters and government agencies accountable to create healthy communities and help wildlife thrive. Our team of scientists and lawyers investigate pollution via aerial and water patrols, strengthen regulations through science and policy advocacy, and enforce environmental laws on behalf of the public. Baykeeper has an ongoing history of protecting the bed and substrate of the Bay as a limited resource for the public in perpetuity. We have dedicated significant resources to ensuring commercial sand mining is conducted in a sustainable manner as well as ensuring navigational dredging is conducted in a manner protective of the Bay’s water quality.

CCCR’s senior members were part of a group of citizens who became alarmed at the degradation of the Bay and its wetlands. They joined together, and with the support of Congressman Don Edwards, requested that Congress establish the Nation’s first national wildlife refuge in an urban setting. The process took seven long years and in 1972 legislation was passed to form the San

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Francisco Bay National Wildlife Refuge (“Refuge”). They turned to Mr. Edwards again, and in 1988 (the first year he submitted it), his legislation to double the size of the Refuge was signed into law. The Refuge now bears his name in honor of his efforts.

CCCR recognizes the challenges posed by climate change and reduced sediment supply within San Francisco Bay and the adverse impacts this will have on tidal wetlands. The San Francisco Bay estuary supports 77% of the State’s remaining tidal wetlands. With rising sea levels, diminishing sediment import to the Bay, and our history of developing the shoreline, tidal wetlands are at risk of drowning. Therefore, they have an active interest in issues that pose significant adverse impacts to the Bay ecosystem and to the continued resilience of shoreline communities. CCCR have participated and continue to participate in processes that develop guidance regarding actions needed to protect the ecological health of the Bay, while also protecting shoreline communities.

San Francisco Bay is experiencing a sediment deficit that cannot be replenished via natural pathways. This sediment supply deficit will be exacerbated by sea level rise which will further increase the demand for sediment to raise Bay mudflats and marshes. In order to combat sea level rise, it is imperative that the CSLC keep as much sediment as possible in the Bay’s ecosystem.

Baykeeper has previously challenged the CSLC’s approval of the Project pursuant to the California Environmental Quality Act (CEQA) and the public trust doctrine. On November 18, 2015, the First District Court of Appeal found that the CSLC failed to fulfill its public trust obligations prior to approval of the Project and directed the trial court to grant Baykeeper’s Petition for Writ of Mandate on that basis. On May 16, 2016, the trial court issued a Preemptory Writ of Mandate ordering the CSLC to set aside its lease approvals related to the Project and, “before voting on whether to reapprove the leases, conduct a public trust analysis and reconsider the leases in light of the common law public trust doctrine consistent with this Court’s Judgment and the First District Court of Appeal’s November 18, 2015 decision.” CSLC conducted the required public trust analysis and reapproved the Project. Now, the Project involves applications submitted by marine aggregate companies for reissuance of authority to permit underwater commercial harvesting of sand from lease areas under the jurisdiction of the CSLC within San Francisco Bay and the western Delta. The Applicants propose a revision to the Project by the reissuance of CSLC leases with the objective to continue to mine sand at an economically viable level over the next 10 years.

I. The Public Trust Doctrine.

Under the public trust doctrine, the State of California holds title and ownership of submerged and tidal lands “as trustee of a public trust for the benefit of the people.” (*Nat’l Audubon Soc’y v. Superior Court* (1983) 33 Cal.3d 419, 434.) These lands include the floor of San Francisco Bay and the California Coast. (Gov. Code § 66600; Pub. Res. Code § 30001.) The CSLC has been charged with the duty of administering these trust resources. (*See* Pub. Res. Code § 6009.) The common law public trust doctrine was created to protect the public’s right to access submerged and tidelands when that right was threatened by the increased privatization of public resources. (*See* Joseph L. Sax, *The Public Trust Doctrine in Natural Resources Law: Effective Judicial Intervention* (1970) 68 Mich. L. Rev. 471, 537 [describing the doctrine as a “device for ensuring that valuable governmentally controlled resources [were] not diverted to the benefit of private profit seekers”].) Consequently, “courts should ‘look with considerable skepticism upon any governmental conduct

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which is calculated either to reallocate [trust lands] to more restricted uses or to subject public uses to the self-interest of private parties.’” (*Zack’s, Inc. v. City of Sausalito* (2008) 165 Cal.App.4th 1163, 1177 [quoting Sax, *The Public Trust Doctrine*, supra, 68 Mich. L. Rev. at 490].)

For many years, the California judiciary has applied the bright-line test in *Illinois Central R. Co. v. Illinois* (1892) 146 U.S. 387, 455-56, to evaluate a trustee agency’s compliance with the public trust doctrine. (See *Boone v. Kingsbury* (1928) 206 Cal. 148, 187-89.) This test establishes that a trustee agency may permit the use of public trust resources only in two limited circumstances: (1) when the use is an accepted public trust use that will result “in the improvement of the [public] interest thus held,” or (2) when the permitted use will occur “without detriment to the public interest in the lands and water remaining.” (*Illinois Central*, supra, 146 U.S. at 455-56.) As the First District Court of Appeal explained in *Citizens for East Shore Parks v. State Lands Comm’n* (2011) 202 Cal.App.4th 549:

[T]he ‘traditional triad’ of public trust uses includes navigation, commerce, and fishing on navigable waters. Commercial uses consistent with the trust include wharves or docks and other structures in aid of commerce. . . . Recreation and environmental preservation are also permissible public trust uses.

(*Citizens*, supra, 202 Cal.App.4th at 570); see also *National Audubon*, supra, 33 Cal.3d at 434-35 [recognizing the “growing public recognition” that trust uses of trust lands also include “the preservation of those lands in their natural state, so that they may serve as ecological units for scientific study, as open space, and as environments which provide food and habitat for birds and marine life”].

When the proposed activity constitutes a public trust use, the state may permit one public trust use to the detriment of another. (*National Audubon*, supra, 33 Cal.3d at 440.) If, however, a project does not fit within the first category of a cognizable public trust use, it may be approved only to the extent that it does not limit or interfere with a trust resource or a recognized trust use. (See *National Audubon*, supra, 33 Cal.3d at 435-37.) Courts have uniformly found natural resource extraction to be a non-trust use that must be scrutinized for the potential to permanently alienate the public interest in trust resources. (See *Boone*, supra, 206 Cal. at 183; *National Audubon*, supra, 33 Cal.3d at 438.)

Moreover, the California Legislature has codified this classification by statute. Public Resources Code section 6895, which governs agency approvals of mining leases on tide or submerged lands, specifically states that an agency may only approve mining leases that do not “substantially impair the public rights to navigation and fishing or interfere with the trust upon which the lands are held.” (Pub. Res. Code § 6895; see also *id.* § 6890.) Section 6900 similarly states that the leases may “not interfere with the trust upon which such lands are held or substantially impair the right to navigation and fishing.” (*Id.* § 6900.) These limitations make clear the Legislature’s intent to classify sand mining as a non-trust use, since only non-trust uses are prohibited from impairing trust uses.

II. Private Sand Mining Does Not Constitute the Public Trust Uses of Commerce or Navigation.

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Courts have been consistent in limiting the meaning of “waterborne commerce” to activities that promote and support the *public’s* interest in the trust resource. For example, as the First District Court of Appeal stated in *Citizens*, the types of commercial uses consistent with the trust “include ‘wharves or docks and other structures in aid of commerce.’” (*Citizens, supra*, 202 Cal.App.4th at 571 [quoting *City of Berkeley v. Superior Court* (1980) 26 Cal.3d 515, 522].) California courts have uniformly found resource extraction activities to be non-trust uses, despite an inherent connectivity to water-related uses and equipment. (*See, e.g., See People v. Gold Run Ditch & Mining Co.* (1884) 66 Cal. 138, 151-52 [affirming injunction prohibiting gold mining operations in and adjacent to the American and Sacramento Rivers from impairing the navigability of the rivers with mining debris]; *Nat’l Audubon, supra*, 33 Cal.3d at 436-37 “[i]f the public trust doctrine applies to constrain fills which destroy navigation and other public trust uses in navigable waters, it should equally apply to constrain the extraction of water that destroys navigation and other public interests [i.e., recreation and ecology].”) Similarly, the Alaska Supreme Court has explicitly held that waterborne commerce “implies commerce in the sense of trade, traffic or transportation of goods over navigable waters, a meaning which does not include mining.” (*Hayes v. A.J. Associates, Inc.* (1993) 846 P.2d 131, 133).

The fact that private sand mining does not constitute a public trust use should not be controversial. Without exception, every court to consider the issue has found mining and resource extraction to be a non-public trust use. (*Gold Run, supra*, 66 Cal. at 151-52 [gold mining analyzed as non-trust use]; *National Audubon, supra*, 33 Cal.3d at 445-48 [water diversions held to be non-trust use]; *Boone v. Kingsbury* (1928) 206 Cal. 148, 183 [oil wells analyzed as non-trust use]; *Mallon v. City of Long Beach* (1955) 44 Cal.2d 199, 206-07 [private mining analyzed as a non-trust use]; *Hayes, supra*, 846 P.2d at 133 [mining of tidelands held to be a non-trust use].) The First District Court of Appeals properly applied this precedent in determining that private sand mining is not per se a public trust use and requiring the CSLC to comply with its public trust obligations. (*Baykeeper, supra*, 242 Cal.App.4th at 235-43.)

II. The CSLC Must Properly Consider Whether the Contemplated Additional Private Sand Mining Will Impair or Interfere with Established Trust Uses.

The California Legislature has established the Bay floor and California coast as delicate, valuable ecological treasures that belong to the public and must be preserved and protected. (Gov. Code § 66600; Pub. Res. Code § 30001 [“it is necessary to protect the ecological balance of the coastal zone and prevent its deterioration and destruction”].) The CSLC must properly consider the impacts of sand mining on the San Francisco Bay ecosystem and the erosion of the outer coastline. A proper analysis should find that the scientific evidence does not provide an adequate basis for finding that the Project is consistent with the public trust doctrine. For instance, the original EIR concluded that impacts to longfin smelt would remain significant even after the implementation of mitigation measures, which included consultation with CDFW. (*See* FEIR at 4.1-51 – 4.1-54.) The CSLC must also consider and evaluate impacts to Delta smelt, which the FEIR also found would suffer significant adverse impacts from the Project even with mitigation. (*Id.*) Other fish species

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must also be evaluated, such as green and white sturgeon. Both the longfin smelt and Delta smelt have suffered continued population declines since 2012 and are in imminent danger of extinction.¹

With regard to coastal erosion, the body of peer-reviewed, published scientific research showing a direct connection between sand mining in the Bay and the erosion of the San Francisco Bar and beaches along the San Francisco coastline has grown more overwhelming since the approval of the original EIR. Back then, that research included evidence presented in the special November 2013 edition of *Marine Geology*, documenting the anthropogenic impacts associated with sediment removal in San Francisco Bay.² For example, as Dr. Patrick Barnard of the United States Geological Survey found in one of the published papers, “this work also highlights the need to more efficiently manage existing in-Bay sediment resources, as active aggregate mining and dredging occurs along well-defined sand transport pathways that carry sediment toward outer coast beaches, at removal rates that exceed the present-day sediment supply rates from all San Francisco Bay watersheds.”³

Literature available prior to the 2013 edition of *Marine Geology* and certification of the FEIR made clear that sand mining was among the principal anthropogenic factors contributing to recent erosion of the San Francisco Bay coastal system. Compilation of historic records from the 20th century and 2000s revealed that 130 million cubic meters of sediment had been permanently removed from the San Francisco Bay and adjacent coastal ocean. Of this, aggregate mining accounted for 26 million cubic meters of lost sediment, or about 20%. And from 1873 to 2005, approximately 100 million cubic meters of sediment eroded from the San Francisco Bar. The highest recorded rates of aggregate mining took place in the 1990s and early-2000s, coinciding with high rates of coastal erosion along southern Ocean Beach.⁴

Further, two multi-beam sonar surveys of west-central San Francisco Bay were conducted in 1997 and 2008. Bathymetric change analysis during this time indicated a loss of 14.1 million cubic meters of sediment, representing an approximate three-fold acceleration of the rate observed in prior studies from 1947 to 1979, during a time of lower sand mining in Central San Francisco Bay. Over the last century, a minimum of 200 million m³ of sediment has been permanently removed from the San Francisco Bay Coastal System through dredging, aggregate mining, and borrow pit mining, including at least 54 million m³ of sand-sized or coarser sediment from Central Bay, “which is likely to limit the sand supply to adjacent, open ocean beaches.”⁵

¹ See Sabalow, Ryan, “Critical index finds smelt nearly extinct in Sacramento Delta,” *Sacramento Bee* (June 6, 2016), available at: <http://www.sacbee.com/news/state/california/water-and-drought/delta/article82144857.html>.

² Barnard, P.L., B.E. Jaffe and D.H. Schoellhamer (eds.), “A multi-discipline approach for understanding sediment transport and geomorphic evolution in an estuarine-coastal system: San Francisco Bay,” *Marine Geology*, Vol. 345, pp. 1-326 (Nov. 1, 2013).

³ Barnard, P.L., *et al.*, “Integration of bed characteristics, geochemical tracers, current measurement, and numerical modeling for assessing the provenance of beach sand in the San Francisco Bay Coastal System,” *Marine Geology*, Vol. 345, pp. 181-206 (Nov. 1, 2013).

⁴ Dallas, K., Barnard, P.L., “Linking human impacts within an estuary to ebb-tidal delta evolution,” *Journal of Coastal Research Special Issue* 56, 713–716 (2009) (“Dallas and Barnard (2009)”).

⁵ Barnard, P.L., Kvittek, R.G., “Anthropogenic influence on recent bathymetric change in west-central San Francisco Bay,” *San Francisco Estuary and Watershed Science* 8 (3) (13 pp.) (2010); Chin, J.L., Wong, F.L., Carlson, P.R., “Shifting shoals and shattered rocks — how man

has transformed the floor of west-central San Francisco Bay,” U.S. Geological Survey

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There is a wealth of published research on this issue. The CSLC staff should, at a minimum, reach out to the experts at USGS and research institutions responsible for the advanced modeling and field-based monitoring of erosion impacts, such as Dr. Patrick Barnard, for consultation. Initial rates of authorized sand mining were unsustainable, and if the CSLC continues to permit unsustainable rates of sand removal from San Francisco Bay, the likely impacts will include, and in some cases, already include: loss of beach access at Ocean Beach and other coastal areas south of San Francisco; the need to relocate hundreds of millions of dollars of critical infrastructure in the City and County of San Francisco; the loss of sensitive habitat for the federally-threatened Western Snowy Plover within the Golden Gate National Recreation Area; and reduced credibility among the general public that the CSLC values sound science and is operating in the interest of all Californians.

The California Coastal Commission has explicitly recognized “the potential for continued and increased levels of sand mining within the bay to increase erosion outside the bay, in particular, at southern Ocean Beach, a growing erosion ‘hot spot’ that involves major federal, state, and city efforts and expenditures to plan for inevitable shoreline retreat affecting major public transportation and sewage treatment infrastructure.”⁶ Consequently, the Coastal Commission recommended “limiting permitted amounts to 15% of historic mining levels (the upper estimate of the replenishment value), at least until such time as the sediment transport mechanism can be further studied to provide assurances that the mining is limited to sustainable levels.”

III. Additional Research Conducted Since the 2013 Project Approval Shows that Additional Private Sand Mining Will Impair or Interfere with Established Trust Uses.

As described in the NOP, the Project does not represent a reduction in actual mining over the current lease term, starting with the approval of the 2012 San Francisco Bay and Delta Sand Mining EIR. The requested annual volumes are equivalent to the peak mining volumes permitted in 2015 by the Bay Conservation and Development Commission (“BCDC”). The Project contemplated by the proposed SEIR allows a more significant amount of annual mining volume than the baseline condition since the yearly average offered for the CSLC Leases is equivalent to the one-year maximum volume permitted by BCDC over their permit term.

Since the San Francisco Bay and Delta Sand Mining Project EIR certification in 2012, research from world-class scientists has reinforced the position that mining relic sand from S.F. Bay represents an unsustainable practice. A 2013 issue of the scientific journal *Marine Geology* included over 20 papers focused on sediment transport research in the San Francisco Bay Coastal System, including synthesizing a series of studies conducted over the prior decade. This special issue is considered a culmination of nearly 100 years of research on many topics, ranging from tidal marsh

Circular 1259. (30 pp.) (2004); Dallas and Barnard (2009); Dallas, K., Barnard, P.L., “Anthropogenic influences on shoreline and nearshore evolution in the San Francisco Bay Coastal System,” *Estuarine, Coastal and Shelf Science* 92 (1), 195–204 (2011); Friends of the Estuary, “Annual Report, 1996–1997” (46 pp.) (1997); U.S. Army Corps of Engineers, “Ocean beach storm damage reduction feasibility study. San Francisco District, Final Feasibility Study for the City and County of San Francisco” (518 pp.) (1996).

⁶ California Coastal Commission Staff Comments on BCDC Review of Sand Mining Applications in San Francisco Bay (Jan. 23, 2015), attached hereto as Exhibit XX.

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sustainability, suspended sediment transport, bedform migration and evolution, the behavior of the open coast littoral system, and fluvial impacts.⁷

This research was led by the U.S. Geological Survey and motivated by the need for a definitive understanding of sediment sources, sinks, and pathways in a highly urbanized estuary. A version of how activities within the estuary affect the coast is essential for assessing the current and future effects of sediment-impacting activities, such as dredging operations, aggregate mining, shoreline armoring, and watershed modifications. More informed management of sediment resources can promote the sustainability of tidal wetlands and beaches, the first line of defense against sea level rise and potentially more significant storms. Erosion of beaches and wetlands increases the vulnerability of coastal environments and communities, enhancing threats to public safety, vital infrastructure, and ecosystems.

Several papers were the output of a multi-faceted, multi-disciplinary study designed to establish the primary sources, sinks, and transport pathways of sand in the region. This research found links between anthropogenic activities and geomorphic change through extensive sampling and analysis of sediment from the seabed, Bay floor, beaches, representative rocks, and all major and some minor rivers and creeks.⁸ Anthropogenic activities, including sand mining and dredging, were definitively identified as directly limiting the supply of beach-sized sand grains to the southern outer coast, most notably from the vicinity of Ocean Beach at Noriega Street in San Francisco and extending south to Pacifica.⁹

Specific findings:

- Based on multiple techniques for assessing the geologic origin (or provenance) of sand in the region, the Sierra Nevada Range is the dominant source of beach-sized sand to the San Francisco Bay Coastal System, including Ocean Beach. This sand is actively transported into and through the Bay to the mouth of San Francisco Bay, and along the southern open coast. This dominant pathway for beach-sized sand material destined for the open coast directly intersects the two major active aggregate mining regions in San Francisco Bay, Suisun Bay and Central Bay.¹⁰
- From 1997 to 2008, approximately 2.3 million (cubic meters) of sand was lost from aggregate mining lease sites on Presidio Shoals in southern Central Bay. Most of this was

⁷ Barnard, P. L., Schoellhamer, D. H., Jaffe, B. E. & McKee, L. J., 2013. Sand transport in the San Francisco Bay Coastal System: An overview. *Marine Geology*, Vol. 345, pp. 1-326.

⁸ Hein, J. R., Mizell, K. & Barnard, P. L., 2013. Sand sources and transport pathways for the San Francisco Bay coastal system, based on X-ray diffraction mineralogy. *Marine Geology*, Vol. 345, pp. 1-326.

⁹ Barnard, P. L. et al., 2013. Integration of bed characteristics, geochemical tracers, current measurement, and numerical modeling for assessing the provenance of beach sand in the San Francisco Bay Coastal System. *Marine Geology*, Vol. 345, pp. 1-326.

¹⁰ Barnard, P. L. et al., 2013. Integration of bed characteristics, geochemical tracers, current measurement, and numerical modeling for assessing the provenance of beach sand in the San Francisco Bay Coastal System. *Marine Geology*, Vol. 345, pp. 1-326.

attributed to sand and gravel removed by aggregate mining.¹¹ Researchers found that mining activities have significantly reduced the sediment available for transport to the mouth of San Francisco Bay and adjacent beaches.

- Based on USGS analysis and review of dredging and mining records within the 20th century, over 200 million cubic meters of sediment was removed from the San Francisco Bay Coastal System through dredging, aggregate mining, and borrow pit mining, including at least 54 million cubic meters of sand-sized or coarser sediment from Central Bay alone.^{12,13}
- Within the last century, rates of coastal erosion along the outer coast south of the Golden Gate are the highest for the entire coast of California and have accelerated by 50% between Ocean Beach and Point San Pedro since the 1980s.^{14,15,16}
- Aggregate mining removes approximately 900,000 cubic meters per year of sand and gravel-sized sediment in Central Bay and Suisun Bay, while dredging removes about 3 million cubic meters of sediment per year, with the majority of this material permanently removed from the San Francisco Bay Coastal System.^{17,18,19} Together, these losses exceed the present annual sediment supply from the Sierras and local watersheds combined.²⁰
- Dredging and aggregate mining in the Bay, as well as watershed modifications, are correlated to approximately 150 million cubic meters of erosion from the floor of San Francisco Bay over the last half of the 20th century.²¹ At the same time, the San

¹¹ Barnard, P. L. & Kvitek, R. G., 2010. Anthropogenic influence on recent bathymetric change in west-central San Francisco Bay.. San Francisco Estuary and Watershed Science, 8(3).

¹² Dallas, K. L. & Barnard, P. L., 2009. Linking human impacts within an estuary to ebb-tidal delta evolution. Journal of Coastal Research, Volume 56, pp. 713-716.

¹³ Dallas, K. L. & Barnard, P. L., 2011. Anthropogenic influences on shoreline and nearshore evolution in the San Francisco Bay coastal system. Estuarine, Coastal and Shelf Science, Volume 92, pp. 195-204.

¹⁴ Hapke, C. J. et al., 2006. National assessment of shoreline change: part 3: historical shoreline changes and associated coastal land loss along the sandy shorelines of the California coast, U.S. Geological Survey Open File Report 2006-1219.

¹⁵ Dallas, K. L. & Barnard, P. L., 2011. Anthropogenic influences on shoreline and nearshore evolution in the San Francisco Bay coastal system. Estuarine, Coastal and Shelf Science, Volume 92, pp. 195-204.

¹⁶ Hapke, C. J., Reid, D. & Richmond, B., 2009. Rates and trends of coastal change in California and the regional behavior of the beach and cliff system. Journal of Coastal Research, 25(3), pp. 603-615.

¹⁷ Hanson, C. et al., 2004. Assessment and Evaluation of the Effects of Sand Mining on Aquatic habitat and fishery populations of Central San Francisco Bay and the Sacramento-San Joaquin Estuary., Hanson Environmental Inc. (Available from: <http://hansonenvironmentalinc.com/reports.htm>).

¹⁸ Dredged Material Management Office, 2008. 2007 Annual Report.

¹⁹ San Francisco Estuary Institute, 2009. The pulse of the estuary: monitoring and managing water quality in the San Francisco Estuary., Oakland, CA, 96 pp.: San Francisco Estuary Institute Contribution, 583.

²⁰ Schoellhamer, D. H. et al., 2005. Bay sediment budgets: sediment accounting 101. The pulse of the estuary: monitoring and managing contamination in the San Francisco Estuary, Oakland, CA, 96 pp.: San Francisco Estuary Institute Contribution, 583.

²¹ Barnard, P. L. & Kvitek, R. G., 2010. Anthropogenic influence on recent bathymetric change in west-central San Francisco Bay.. San Francisco Estuary and Watershed Science, 8(3).

Francisco Bar, an ebb-tide delta at the mouth of San Francisco Bay, has eroded significantly, as have adjacent, open-coast beaches.^{22,23,24,25,26}

- Erosion of the San Francisco Bar, which extends seaward from the coastline just north and south of the Golden Gate, has caused it to contract and close in toward the Golden Gate over several decades. This migration has modified sediment transport patterns along Ocean Beach, effectively causing more sediment to build up at the northern end of Ocean Beach. As the northern shoreline has extended seaward, increasingly higher volumes of northward-moving sand are no longer trapped at Pt. Lobos at the north end of Ocean Beach, instead moving toward Baker Beach and eventually into Central Bay at Crissy Field. Over the last decade, sedimentation within the Bay forced the relocation of a tide gauge and caused shoaling within the adjacent yacht harbor. These trends and correlative impacts are expected to continue as higher sea levels and further reductions in sediment supply drive further contraction of the ebb-tidal delta.²⁷
- While sediment is building up at the north end of Ocean Beach, the southern end of the beach is eroding at a similar rate. Modeling supports observed changes over this time, including a threefold increase in the rates of shoreline accretion at the north end of Ocean Beach and similarly higher rates of erosion at southern Ocean Beach, leading to significant infrastructure damage to existing roadways and posing an eminent threat to adjacent sewer mains.²⁸
- The dominant regional direction of sediment transport is from the Bay seaward toward the ebb tidal delta, and then primarily to the south.²⁹ This link defines a critical pathway because large volumes of sediment have been removed from the Bay over the last century via channel dredging, aggregate mining, and borrow pit mining. During this same period, comparable volumes of erosion from the San Francisco Bar over the same period have

²² Hanes, D. M. & Barnard, P. L., 2007. Morphological evolution oin the San Francisco Bight. *Journal of Coastal Research Special Issue*, Issue 50, pp. 469-473.

²³ Dallas, K. L. & Barnard, P. L., 2009. Linking human impacts within an estuary to ebb-tidal delta evolution. *Journal of Coastal Research*, Volume 56, pp. 713-716.

²⁴ Barnard, P. L. et al., 2012. Sediment transport patterns in the San Francisco Bay Coastal System from cross-validation of bedform asymmetry and modeled residual flux. *Sediments, Morphology and Sedimentary Processes on Continental Shelves: Advances in technologies, research and applications: International Association of Sedimentologists (IAS) Special Publication*, Volume 44, pp. 272-294.

²⁵ Hapke, C. J. et al., 2006. National assessment of shoreline change: part 3: historical shoreline changes and associated coastal land loss along the sandy shorelines of the California coast, U.S. Geological Survey Open File Report 2006-1219.

²⁶ Dallas, K. L. & Barnard, P. L., 2011. Anthropogenic influences on shoreline and nearshore evolution in the San Francisco Bay coastal system. *Estuarine, Coastal and Shelf Science*, Volume 92, pp. 195-204.

²⁷ Barnard, P. L. et al., 2013. Integration of bed characteristics, geochemical tracers, current measurement, and numerical modeling for assessing the provenance of beach sand in the San Francisco Bay Coastal System. *Marine Geology*, Vol. 345, pp. 1-326.

²⁸ Barnard, P. L., Schoellhamer, D. H., Jaffe, B. E. & McKee, L. J., 2013. Sand transport in the San Francisco Bay Coastal System: An overview. *Marine Geology*, Vol. 345, pp. 1-326.

²⁹ Barnard, P. L. et al., 2013. Integration of bed characteristics, geochemical tracers, current measurement, and numerical modeling for assessing the provenance of beach sand in the San Francisco Bay Coastal System. *Marine Geology*, Vol. 345, pp. 1-326.

been observed, in addition to high rates of shoreline retreat along the adjacent, open-coast beaches.³⁰

- This work highlights the need to more efficiently manage existing in-Bay sediment resources, as active aggregate mining and dredging occurs along well-defined sand transport pathways that carry sediment toward outer coast beaches, at removal rates that exceed the present-day sediment supply rates from all San Francisco watersheds.^{31,32}
- Researchers agree that the reduction in sediment originating from the Sierras is driving massive erosion of the Bay floor, ebb-tidal delta, and the highest regional shoreline retreat rates in California along the adjacent outer coast.³³

In addition to the peer-reviewed literature released since the 2012 EIR, BCDC required the sand miners to fund a program to answer specific management questions relevant to CSLC and BCDC. The Technical Advisory Committee, established as part of the BCDC investigation process, identified a range of management questions – some of which were addressed through a series of studies currently underway or about to be completed. CSLC staff are included in the distribution list for these studies, which should receive consideration in the EIR. The management questions seek to address various currently identified and other potential environmental impacts regarding sand mining activities and their effects on San Francisco Bay and Outer Coast sand transport. These questions serve to guide the Independent Science Panel in recommending appropriate studies or research that would inform future management of mining activities.

Tier 1 Management Questions:

- 1) Is sand mining at existing lease areas, at permitted levels, having a measurable or demonstrable impact on sediment transport and supply within San Francisco Bay or the outer Coast?
- 2) What are the anticipated physical effects of sand mining at permitted levels on sand transport and supply to San Francisco Bay and the outer coast?
- 3) Are there other feasible sand mining approaches to consider in San Francisco Bay?

Tier 2 Science and Management Questions:

- 1) Is sand mining at existing lease areas, at permitted levels, having a measurable or demonstrable impact on sediment transport and supply within San Francisco Bay or the Outer Coast?
 - a. Does sand mining influence sand transport through S.F. Bay?

³⁰ Hein, J. R., Mizell, K. & Barnard, P. L., 2013. Sand sources and transport pathways for the San Francisco Bay coastal system, based on X-ray diffraction mineralogy. *Marine Geology*, Vol. 345, pp. 1-326.

³¹ Barnard, P. L., Schoellhamer, D. H., Jaffe, B. E. & McKee, L. J., 2013. Sand transport in the San Francisco Bay Coastal System: An overview. *Marine Geology*, Vol. 345, pp. 1-326.

³² Schoellhamer, D. H. et al., 2005. Bay sediment budgets: sediment accounting 101. *The pulse of the estuary: monitoring and managing contamination in the San Francisco Estuary*, Oakland, CA, 96 pp.: San Francisco Estuary Institute Contribution, 583.

³³ Barnard, P. L. et al., 2013. Integration of bed characteristics, geochemical tracers, current measurement, and numerical modeling for assessing the provenance of beach sand in the San Francisco Bay Coastal System. *Marine Geology*, Vol. 345, pp. 1-326.

June 26, 2023

San Francisco Baykeeper Comment

Re: SF Bay and Delta Sand Mining Project NOP Comments

- i. How does sand mining impact the volume or characteristics of sand supplies to the beaches (In-Bay and Outer Coast)?
 - ii. Does sand mining change the way sand moves from subtidal shoals to intertidal flats, marshes, and beaches?
 - iii. Does sand mining influence sand waves and their contributions to transport processes?
 - iv. Has sand mining altered the grain size distribution of in-bay or outer coast sand resources?
 - v. Does sand mining result in sand sinks and resultant changes in flux to the Outer Coast?
 - b. What is the source of mined sand in the lease areas? Is it “relic” sand, or “new” sand transported into the system?
 - i. What is the ratio of relic to new sand found in mined sand?
 - ii. How much of what’s available is being mined?
 - iii. Is it better for the physical environment to mine “relic” sand or “new” sand?
 - c. What is the relationship between bathymetric change trends and sand mining intensity trends, recognizing the possible lag between stimulus and response?1 Do we have the appropriate information for this evaluation?
 - d. Does sand mining alter the geomorphology of the Bay floor beyond the mining location such that sand transport/supply is significantly impacted?
 - e. Do both mining areas (Central Bay and Suisun) have the same effects on sand transport pathways and associated impacts? Should these areas be examined separately?
- 2) What are the anticipated physical effects of sand mining at permitted levels on sand transport and supply within San Francisco Bay and the Outer Coast?
 - a. Is there regional uplift/subsidence or other factors that would confound the evaluation of sand mining effects?
 - b. Is there a seasonality to sand transport?
 - c. What is our current technical ability to model sand transport to and from the Bay?
 - d. What are the key uncertainties associated with measuring and modeling the relationship between sand mining in S.F. Bay and erosion of outer coast beaches? To what extent do the studies designed to answer the management questions presented here contribute towards reducing this uncertainty?
 - e. What monitoring and modeling efforts are required to significantly reduce the uncertainty associated with quantitatively defining the relationship between sand mining in S.F. Bay and erosion along the outer coast?
 - f. Under currently permitted mining levels, would erosion measurably influence sand transport to Ocean Beach or north of the Gate over a 10, 20, 30, and 50-year time horizon? By how much? What would quantitatively or qualitatively be the long-term effects?
- 3) Are there other feasible sand mining approaches to consider in San Francisco Bay?
 - a. Are there areas within the current leases or other potential areas in the Bay where sand mining could feasibly occur that would minimize or avoid impacts to sand transported supply, as compared to existing mined areas?
 - b. Is there a “better” time to mine sand so that the impacts on the physical processes are minimized while balancing economic realities, market demands, and job impacts?

June 26, 2023

San Francisco Baykeeper Comment

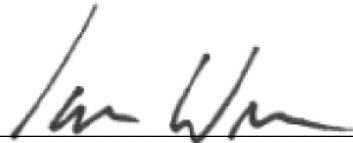
Re: SF Bay and Delta Sand Mining Project NOP Comments

- c. What scenarios should we model to judge the likely impacts associated with management actions (e.g., increase/reducing in mining intensity, rotation of lease areas, establishment of new lease areas)?

Baykeeper and CCCR expect the EIR to fully incorporate conclusions made in all peer-reviewed literature and consider the scientific outputs and outcomes delivered under BCDC's 2015 permit.

In sum, the CSLC has an obligation to conduct a proper public trust analysis, consistent with the First District Court of Appeal's decision in the *Baykeeper* case, prior to reapproval of the sand mining leases. Given the well-documented impairments to the San Francisco Bay ecosystem and the outer coast, and in order to comply with its public trust obligations, Baykeeper and CCCR recommend that the CSLC consider approving a much more limited amount of mining if you proceed to reapprove the leases.

Sincerely,



Ian Wren, Staff Scientist
San Francisco Baykeeper



Ben Eichenberg, Staff Attorney
San Francisco Baykeeper



Carin High, Co-Chair
Citizens Committee to Complete the Refuge



Delta Stewardship Council

A CALIFORNIA STATE AGENCY

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Sacramento, CA 95814

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EXECUTIVE OFFICER
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June 26, 2023

Delivered via Christopher Huitt
California State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825

Delivered via email: CEQA.comments@slc.ca.gov

RE: Comments on Notice of Preparation of a Supplemental Environmental Impact Report for the San Francisco Bay and Delta Sand Mining Project, SCH# 2007072036, California State Lands Commission (CSLC) EIR #742

Dear: Christopher Huitt:

Thank you for the opportunity to review and comment on the [San Francisco Bay and Delta Sand Mining Project](#) (project) Notice of Preparation (NOP) of a Supplemental Environmental Impact Report (SEIR). The Delta Stewardship Council (Council) recognizes the objective of the project, as described in the NOP for the CSLC, to reissue leases to authorize commercial mining of sand for 10 additional years which will be evaluated by the CSLC as a revision to the previously approved project.

The Council is an independent state agency established by the Sacramento-San Joaquin Delta Reform Act of 2009, codified in Division 35 of the California Water Code, sections 85000-85350 (Delta Reform Act). The Delta Reform Act charges the Council with furthering California's coequal goals of providing a more reliable water supply and protecting, restoring, and enhancing the Sacramento-San Joaquin River

Delta (Delta) ecosystem. (Water Code, § 85054.) The Delta Reform Act further states that the coequal goals are to be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place. The Council is charged with furthering California's coequal goals for the Delta through the adoption and implementation of the Delta Plan. (Wat. Code, § 85300.)

Pursuant to the Delta Reform Act, the Council has adopted the Delta Plan, a comprehensive long-term management plan for the Delta and Suisun Marsh that furthers the coequal goals. The Delta Plan contains regulatory policies, which are set forth in California Code of Regulations, Title 23, sections 5001-5015. Through the Delta Reform Act, the Council was granted specific regulatory and appellate authority over certain actions of State or local public agencies that take place in whole or in part in the Delta. (Wat. Code, §§ 85210, 85225.30.) A state or local agency that proposes to undertake a covered action is required to prepare a written Certification of Consistency with detailed findings as to whether the covered action is consistent with the Delta Plan and submit that Certification to the Council prior to initiation of the project. (Wat. Code, § 85225.)

COVERED ACTION DETERMINATION AND CERTIFICATION OF CONSISTENCY WITH THE DELTA PLAN

Based on the project location and scope, as provided in the NOP, the proposed project may meet the definition of a covered action. Water Code section 85057.5(a) states that a covered action is a plan, program, or project, as defined pursuant to Section 21065 of the Public Resources Code that meets all of the following conditions:

- (1) Will occur, in whole or in part, within the boundaries of the Delta or Suisun Marsh.* The project would occur partially within the boundaries of the Delta and Suisun Marsh.
- (2) Will be carried out, approved, or funded by a State or a local **public** agency.* CSLC, a state agency, would reissue existing leases to authorize commercial mining of sand under the project.
- (3) Is covered by one of the provisions of the Delta Plan.* Additional project details are needed to determine applicability of one or more Delta Plan regulatory policies.

(4) Will have a significant impact on achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and State interests in the Delta. The project may have a significant impact on achievement of the coequal goal to protect, restore, and enhance the Delta ecosystem.

The State or local agency approving, funding, or carrying out the project must determine if that project is a covered action and, if so, file a certification of Consistency with the Council prior to project implementation. (Wat. Code, § 85225; Cal. Code Regs., tit. 23, § 5001(j)(3).) Additional project details contained in the forthcoming Draft SEIS will be helpful in determining applicable Delta Plan policies supporting this determination.

As the San Francisco Bay and Delta Sand Mining Project proceeds with design, development, and environmental impact analysis of the project, the Council invites CSLC to engage Council staff in early consultation to discuss project features and mitigation measures that would promote consistency with the Delta Plan.

More information on covered actions, early consultation, and the certification process can be found on the Council website, <https://coveredactions.deltacouncil.ca.gov>. Council staff are available to discuss issues outlined in this letter as the CSLC proceeds in the next stages of its project and approval processes. Please contact Pat Kelly at 916-902-6577 or Patricia.Kelly@deltacouncil.ca.gov with any questions.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Jeff Henderson', with a long horizontal flourish extending to the right.

Jeff Henderson, AICP
Deputy Executive Director
Delta Stewardship Council



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Marine Region
1933 Cliff Drive, Suite 9
Santa Barbara, CA 93109
wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



June 26, 2023

California State Lands Commission
Attention: Christopher Huitt
100 Howe Ave., Suite 100-South
Sacramento, CA 95825
CEQA.comments@slc.ca.gov

Dear Mr. Huitt:

San Francisco Bay and Delta Sand Mining Project (Project)
Notice of Preparation (NOP)
SCH# 2007072036

The California Department of Fish and Wildlife (Department) received an NOP from the California State Lands Commission (CSLC) for the 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 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 section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 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 as provided by the Fish and Game Code. As proposed, implementation of the Project may result in “take” as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.) and The Native Plant Protection Act (NPPA) (Fish & G. Code Section 1900 et seq.) the project proponent may seek related take authorization as provided by the Fish and Game Code. Additionally, the Department may require a Lake and Streambed Alteration Agreement (LSAA), pursuant to Fish and Game Code §§ 1600 et. seq. for Project-related activities affecting perennial, intermittent, and ephemeral lakes, streams, rivers, other hydrologically connected aquatic features, associated riparian habitat, and any associated biological resources/habitats present within the entire Project footprint (including utilities, access and staging areas).

PROJECT DESCRIPTION SUMMARY

Proponent: Martin Marietta Marine Operations, LLC; Lind Marine, Inc.; and Suisun Associates

Objective: The proposed Project is to obtain marine aggregate primarily for construction purposes and allow continued sand mining within San Francisco Bay for an additional 10 years on CSLC leases.

Location: The Project is located on CSLC leases in Central San Francisco Bay, Suisun Bay, and Middle Ground Shoals.

Timeframe: The Project is anticipated to continue for an additional 10 years beyond the currently permitted timeframe.

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 COMMERCIAL/RECREATIONALLY IMPORTANT SPECIES

Protected species under the State and Federal Endangered Species Acts that could potentially be present near Project activities include:

- Chinook salmon (*Oncorhynchus tshawytscha*), state and federally threatened (Central Valley Spring-run), state and federally endangered (Sacramento River Winter-run)
- Longfin smelt (*Spirinchus thaleichthys*), state threatened
- Delta smelt (*Hypomesus transpacificus*), state and federally endangered
- Steelhead (*Oncorhynchus mykiss*), federally threatened (Central California Coast and Central Valley ESUs)
- Green sturgeon (*Acipenser medirostris*), federally threatened (southern DPS)
- White sturgeon (*Acipenser transmontanus*), state species of special concern
- Brown pelican (*Pelecanus occidentalis californicus*), state fully protected

Several species with important commercial and recreational fisheries value that could potentially be impacted by Project activities include:

- Dungeness crab (*Cancer magister*)
- Pacific herring (*Clupea pallasii*)
- Surfperches (*Embiotocidae*)
- California halibut (*Paralichthys californicus*)

COMMENTS AND RECOMMENDATIONS

The Department offers the comments and recommendations below to assist the CSLC in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

I. Project Level Impacts and Other Considerations

Early Consultation

Comment: Since the Department issued a 2081(b) Incidental Take Permit for both sand mining operations in 2013, all covered species listed within those permits have had significant changes to their population status with both Delta smelt and Longfin smelt reaching record low levels. Given the changes that have occurred, avoidance, minimization, and mitigation measures in the last authorization likely need to be revised to account for the declines in the species that may be impacted Project activities.

Additionally, there are no mitigation banks with available mitigation credits for Longfin and Delta smelt. Mitigation options for impacts to state listed species will need to be reconsidered for potential impacts over the next 10 years.

Recommendation: The Department recommends early consultation to ensure that the draft Environmental Impact Report includes updated measures and mitigation options to be consistent with current Department recommendations and to ensure the Project is adequately addressing the potentially significant impacts. The DEIR should provide adequate and specific details for how mitigation may be provided to fully mitigate impacts to Longfin and Delta smelt.

Terrestrial Impacts

Comment: It is unclear whether and to what extent terrestrial impacts may occur from sand mining activities, specifically at the offloading facilities. The Department has determined that there are numerous special status species potentially present in or near the Project activities, including areas where offloading occurs. Potential impacts to these species should be clearly defined and described within the DEIR.

Recommendation: The Department recommends the DEIR provide a description and maps of where sand is offloaded to assist in determining potential terrestrial impacts from offloading activities.

Permanent and Temporary Impacts

Comment: For the Department to adequately determine the impacts associated with Project activities, the DEIR should describe the area of impact and separate temporary from permanent impacts.

Recommendation: The Department recommends the DEIR provide specific impact assessment and describe permanent and temporary impacts separately. Impacts should be described in measurements of acres, acre feet of water, and cubic yards.

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 (CNDDDB). The CNDDDB field survey form can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/SubmittingData#44524420-pdf-field-survey-form>. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/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 & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

The Department appreciates the opportunity to comment on the NOP to assist the CSLC in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination with Marine Region should be directed to Arn Aarreberg, Environmental Scientist, at (707) 791-4195, or Arn.Aarreberg@wildlife.ca.gov and for the Bay-Delta Region should be directed to Andrea Boertien, Environmental Scientist at (707) 317-0388 or Andrea.Boertien@wildlife.ca.gov.

Sincerely,



Craig Shuman, D. Env
Marine Regional Manager

ec: Becky Ota, Program Manager
Department of Fish and Wildlife
Becky.Ota@wildlife.ca.gov

Melissa Farinha, Program Manager
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Eric Wilkins, Senior Environmental Scientist
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Christopher Huitt
California State Lands Commission
June 26, 2023
Page 6

Arn Aarreberg, Environmental Scientist
Department of Fish and Wildlife
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Andrea Boertien, Environmental Scientist
Department of Fish and Wildlife
Andrea.Boertien@wildlife.ca.gov

State Clearinghouse (SCH No. 2007072036)
State.clearinghouse@opr.ca.gov

From: [Jack Lucas](#)
To: [Comments, CEQA@SLC](#)
Subject: SF Bay and Delta Sand Mining Project NOP Comments
Date: Sunday, June 25, 2023 3:01:01 PM

Attention: This email originated from outside of SLC and should be treated with extra caution.

Christopher Huitt
Senior Environmental Scientist
California State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento. CA 95825

June 25, 2023

Dear Christopher Huitt,

When a sand mining permit application was before BCDC eight years ago it raised significant code yellow caution alarms which now I believe are code red. The San Francisco Bay Delta is the major Estuary of the West Coast and as such, should be considered too big to fail. However its resources continue to be oversubscribed and no amount of last minute money will be able to save it. Rather, draconian disciplines of conservative resource management must be implemented.

In February 1992, S.F. COE issued their Sediment Budget Study For San Francisco Bay with consultants Professor Ray B. Krone, UC Davis, and Ogden Beeman and Associates, a definitive study of decades of Delta river flows, contractual diversions and sediment dispersal in SF Bay. At that time the Estuary appeared to be maintaining a balance of beneficial uses of sediment loads in even extreme wet and dry seasons. That is no longer evident, to a possibly irreversible degree.

In your NOP document I believe you need to propose how this 1992 SF Bay sediment balance can be restored in sufficient resilient health to withstand vicissitudes of climate change global warming in watershed flows and sediment dispersal throughout the Estuary, coast and to the Pacific Ocean.

Comparison of California Department of Water Resources and USGS data in 2015 showed a Bay loss of 190 million cubic meters of sediment, whereas 1992 COE Sediment Budget Study reported 143.53 million cubic yards of sediment increased in SF Bay compared to 1955.

In COE 1992 study USGS Bathymetric Plates show a healthy buffer of sediment accretion inboard of Golden Gate Bridge while the 2010 USGS Bathymetric mapping shows over 2 meter depletion in sediments here from 1997 to 2008. If Bay floor sediment levels continue to decrease to such a degree at Golden Gate will 90 year old caissons encasing bridge piers be in jeopardy of collapse? With rise in sea levels erosive volume of four times a day tidal flows to Pacific will be increased.

Sand loss at Ocean Beach has recently reached critical levels and coastal bluff erosion is called an inevitable result of sea rise, but it is aggravated by these reduced levels of Delta sediment load coming out of the Bay. All these elements need to be considered in your NOP for sand mining and I believe show that it is an industry that San Francisco Bay can no longer support.

Cumulative sediment loss due to COE channel dredging and oyster shell mining do need mention.

In reviewing measures for stabilizing sediment levels in San Francisco Bay in anticipation of extreme swings in weather patterns due to global warming climate change please include marsh restoration efforts. Here again historic levels of sediment no longer travel to the South Bay.

Considering that this year's collapse of the Delta's salmon fishery and last year's fish die-off in San Francisco Bay are wake up calls as to necessary protection of sustaining base flows, and cooler water temperatures, you need to assess impacts sand mining has incurred in sensitive ecosystem habitat with night lights, equipment heating and stirring up waters, obstructing migratory channels.

In short, believe we are at tipping point in preserving any sustainability that Estuary can hope for in decades to come. Please do justice to best of CEQA standards in NOP for sand mining in SF Bay.

Thank you,

Libby Lucas
174 Yerba Santa Ave,
Los Altos. CA 94022



Marin Audubon Society

P.O. Box 599 | MILL VALLEY, CA 94942-0599 | MARINAUDUBON.ORG

June 26, 2023

Christopher Huitt, Senior Environmental Scientist
State Lands Commission
100 Howe Avenue
Sacramento, CA
CEQA.comments@slc.ca.gov

RE: SAN FRANCISCO BAY AND DELTA SAND MINING PROJECT NOP COMMENTS

Dear Mr. Huitt:

The Marin Audubon Society appreciates the opportunity to comment on the applications of two marine aggregate companies, Martin Marietta and Lind Marine, to renew their permits to continue sand mining for another 10 years in San Francisco Bay and Suisun. According to the public notice the proposed Central Bay leases would allow mining of 1,395,000 cubic yards from 2,601 acres in nine parcels. This would be 145,000 cubic yards fewer than removed under the last lease, which allowed removal of 1,540,000.

Although all areas of the estuary are of concern to us, the lease areas between the Marin County shoreline and Angel Island are of particular concern.
Please address the following issues in the Supplemental EIR:

1. Describe current conditions at the mining lease locations in both Central Bay and Suisun Marsh locations: topography, water depth, and water quality. Compare existing conditions with historic conditions without mining.
2. Is there a time lapse between the end of mining operations and before mining begins again, allowing the mined areas to return to a more natural state? How long are the mining areas allowed to remain in their natural state and fill up again?
3. Describe the status of the special status species (Harbor porpoise, Chinook Salmon, Dungeness Crab, Green Sturgeon, Longfin Smelt, etc.), noting any changes in population status and trends of the species. Identify modifications in wildlife use of the lease areas including movement through or foraging within the lease areas?
4. Provide current information on use by protected marine mammals species, of the SF Bay area between Angel Island and Marin shoreline. Since the last lease renewal 10-years

ago, there have been several notable changes in marine mammal activity in the area and these should be identified and evaluated.

- Humpback whales, (two subspecies listed as Threatened and Endangered) began regular feeding in San Francisco Bay from spring through fall around 2014.
- Migrating gray whale use increased in San Francisco Bay. The bay appears to have become a feeding ground for gray whales, a federally protected species, that bottom-feed in those waters.
- Harbor porpoise presence has increased in the bay since about 2010.


5. Mining activities have the potential to interfere with movement and feeding behavior of marine mammals through the area and use of any haulouts in the vicinity. Identify and discuss the potential impacts of mining activities on marine mammals, particularly those discussed above. Address how it will be assured adverse impacts will be avoided.

6. Shipwrecks serve as artificial habitats that support a wide variety of marine life. Are there shipwrecks (such as the M/V Fernstream) near the lease areas that have the potential to damage marine communities that have formed on the structures? In addition, mining could adversely impact marine life and habitat by triggering the release of oil and other toxic materials. What restrictions protect these resources?

7. Fewer cubic yards of sand (145,000 cubic yards) are proposed to be mined than the last permit allowed. From what lease areas would the mining be reduced? Is it expected this reduction will benefit any wildlife or ecological conditions?

Thank you for addressing our concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Barbara Salzman", is written over the typed name.

Barbara Salzman, Chair
Conservation Committee

From: Comments_CEOA@SLC
To: Mary_Jane_Schramm
Subject: RE: SF Bay and Delta Sand Mining Project NOP Comments
Date: Tuesday, June 27, 2023 9:44:00 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

Thank you for your comment letter. We appreciate your interest in the Proposed Project.

Christopher Huitt, M.S. Senior Environmental Scientist
CALIFORNIA STATE LANDS COMMISSION
Environmental Planning and Management Division
100 Howe Avenue, Suite 100-South | Sacramento | CA 95825
Phone: 916.574.2080 | Email: christopher.huitt@slc.ca.gov



From: Mary Jane Schramm <maryjane.schramm@gmail.com>
Sent: Monday, June 26, 2023 2:37 PM
To: Comments, CEQA@SLC <CEQA.Comments@slc.ca.gov>
Subject: SF Bay and Delta Sand Mining Project NOP Comments

Attention: This email originated from outside of SLC and should be treated with extra caution.

Mary Jane Schramm

June 26, 2023

Christopher Huitt, Senior Environmental Scientist
California State Lands Commission
100 Howe Avenue
Sacramento, CA
CEQA.comments@slc.ca.gov

RE: SAN FRANCISCO BAY AND DELTA SAND MINING PROJECT NOP COMMENTS

Dear Mr. Huitt:

Thank you for the opportunity to comment on the applications of marine aggregate companies Martin Marietta and Lind Marine to renew their permits for continued sand mining operations for a further 10 years in Central San Francisco Bay and Suisun Bay area waters.

I have been professionally involved in marine conservation for over four decades: with The Marine Mammal Center, the Oceanic Society, and Golden Gate Cetacean Research. In 2021 I retired after 20 years with NOAA's Greater Farallones National Marine Sanctuary. Although concerned about all at-risk species, especially Endangered Species Act (ESA) listed, my special area of interest is marine mammals and how species they rely on might be impacted by continued long-term mining activities in the estuary system. Following my points for inclusion in the SEIR, you will see some links and other background information that may be helpful.

The Supplemental EIR should include:

- 1.
- 2.

3. Status of existing conditions at the mining lease locations in both Central San Francisco
4. Bay and Suisun Marsh locations: bathymetry, water depth, and water quality. If available, comparison of existing conditions with historic conditions prior to commencement of sand mining operations.
- 5.
- 6.
- 7.
8. Addressing special status species (Chinook salmon, Dungeness crab, Green Sturgeon, Longfin
9. smelt, etc.), noting any changes in population status and trends of the species.
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13. Given the number of significant changes in the wildlife profile of the bay within the
14. past decade since the previous EIR, identify the current nature and seasonality of wildlife use of the lease areas including movement
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19. examples. This includes marine mammals, which are protected species, some of which are also ESA listed. These primarily include the best available data on gray whales, humpback whales, harbor porpoise and bottlenose dolphins' use of these and outer coast
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24. Evaluate potential for mining operations to interfere with the movement of marine mammals
25. through the area or any haulouts in the vicinity. These include humpback and gray whales, harbor porpoise, and bottlenose dolphins. See Background, below.
- 26.
- 27.
- 28.
29. In the event that anadromous San Francisco Bay salmonids (steelhead, chum, coho, chinook
30. salmon) are affected, a reduction of this out-migrating prey for critically endangered Southern Resident killer whales that currently forage on them could be significant. See background information below.
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- 33.
34. Provide details on potential acoustic impacts that may affect marine mammals' echolocation
35. or communication.
- 36.
- 37.
- 38.
39. Due to the presence of known and likely shipwrecks in the vicinity of some lease areas,
40. identify what safeguards are in place to ensure that shipwrecks will not be impacted by mining operations. This applies both to wrecks as historic cultural resources, and to the operations' potential to damage biological communities that have formed on these
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- 42.
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- 44.
- 45.

- Hazards: Confirm that mining operations will not take place in close proximity to fuel-laden
46. shipwrecks such as the M/V *Fernstream*,
 47. with the potential of contact and consequent release of oil and other toxic materials that could endanger marine life and habitat. See Background, below.
 - 48.

Considering the complex dynamics of the interface of human activities with wildlife and natural habitats, and facing an accelerating rate of climate disruption and other stressors, it's important that we maximize species' resilience and maintain the integrity of the habitats they use to the highest degree possible. I appreciate your addressing these concerns.

Sincerely,

Mary Jane Schramm

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#### BACKGROUND:

Marine Mammals: San Francisco Bay waters are feeding and breeding habitat, as well as a migration corridor, for several marine species. Since the previous EIR, the wildlife profile of San Francisco Bay has changed significantly. Central San Francisco Bay has become a feeding grounds for nutritionally stressed and sickened migratory gray whales, a federally protected species, that bottom-feed in those waters. Other changes have also occurred.

#### A partial timeline:

2009-2010: After an absence of approximately 60 years, harbor porpoise, a MMPA protected species, began to reclaim San Francisco Bay. Their use of and abundance in the bay have increased greatly since that time, and it is now considered important feeding and breeding grounds.

2014: Two Endangered Species Act listed Threatened and Endangered Distinct Population Segments of humpback whales have begun to feed on a regular basis in San Francisco Bay, from spring through fall.

2019: A spike in gray whale use of San Francisco Bay caused it to become a feeding grounds for nutritionally stressed and sickened migratory gray whales, a federally protected species, that bottom-feed throughout estuary waters. Mining activities have the potential to disrupt the whales' feeding behavior as well as reduce the biomass of their preferred prey, i.e., benthic marine life living on and in bay mud. In May 2019 the National Oceanic and Atmospheric Administration declared a gray whale Unusual Mortality Event (UME) which is ongoing. See map below and

<https://www.nbcbayarea.com/news/local/vessel-strike-malnutrition-whale-75-days-sf-bay/3227441/>

2021: In September 2021 NOAA issued a Final Rule designating the waters outside the Golden Gate as Critical Habitat for the endangered Southern Resident killer whale Distinct Population Segment (DPS), now reduced to only 37 animals and at risk of imminent extinction. No longer able to feed effectively in the salmon-depleted Pacific Northwest waters, they now travel hundreds of miles to forage just outside the Golden Gate. There is a potential impact on them if out-migrating anadromous San Francisco Bay salmonids (steelhead, chum, coho, chinook) are affected by mining activities. See

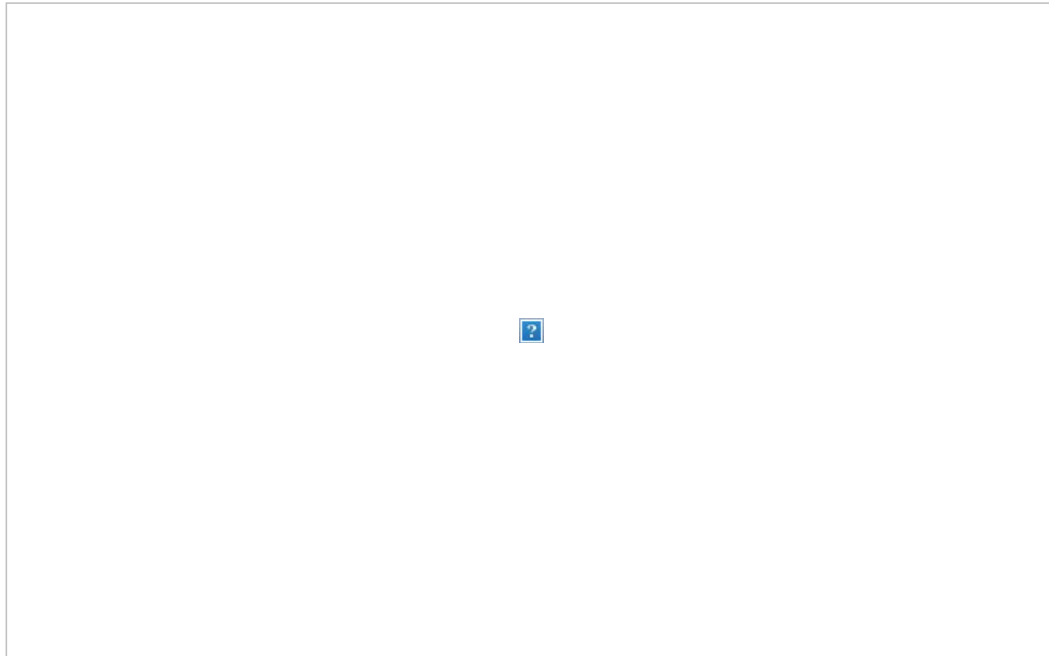
<https://www.federalregister.gov/documents/2021/08/02/2021-16094/endangered-and-threatened-wildlife-and-plants-revision-of-critical-habitat-for-the-southern-resident>

#### OTHER LINKS/ATTACHMENTS:

- 1.
- 2.
3. 2019-2023 Gray Whale Unusual Mortality Event Dead Whales Interactive Map shows locations
4. throughout SF Bay of dead whales, north to Suisun, south to South Bay, and clustered in central bay.
5. <https://noaa.maps.arcgis.com/apps/webappviewer/index.html?id=d1doc95853ae4499a9f27fb14d7a1f50#>

- 6.
- 7.
- 8.
9. Map of known major shipwrecks of Golden Gate Strait/Central SF Bay.
10. <http://www.thehistoryblog.com/wp-content/uploads/2014/12/shipwrecks-multibeam-golden-gate-e1418273979638.jpg>
- 11.
- 12.
- 13.
14. NOAA Screening Level Risk Assessment Package for M/V
15. *Fernstream*,
16. "For the Worst Case Discharge, *Fernstream*
17. scores High with 15 points; for the Most Probable Discharge (10% of the Worse Case volume) ..."
- 18.

<https://nmssanctuaries.blob.core.windows.net/sanctuaries-prod/media/archive/protect/ppw/pdfs/fernstream.pdf>



Known dead gray whale stranding locations, SF Bay Area

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*Mary Jane Schramm*  
 Marine Life Naturalist & Communications  
 International Ocean Film Festival



*We've braved the belly of the beast. We've learned that quiet isn't always peace, and the norms and notions of what "just is" - isn't always "justice."*  
*-Amanda Gorman, Inauguration Day, 2021*

## San Francisco Bay Regional Water Quality Control Board

June 26, 2023

Mr. Christopher Huitt  
California State Lands Commission  
100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825  
E-mail: [CEQA.comments@slc.ca.gov](mailto:CEQA.comments@slc.ca.gov)

**Subject: Comments on Notice of Preparation of a Supplemental Environmental Impact Report for the San Francisco Bay and Delta Sand Mining Project, SCH # 2007072036**

Dear Christopher Huitt:

The San Francisco Bay Regional Water Quality Control Board (Water Board) appreciates the opportunity to comment on the Notice of Preparation of a Supplemental Environmental Impact Report for the San Francisco Bay and Delta Sand Mining Project with the comment period ending June 26, 2023. To date, the Water Board has attended the public scoping meetings on June 8, 2023, and June 20, 2023. As a Responsible Agency under the California Environmental Quality Act, we look forward to coordinating on the Supplemental Environmental Impact Report.

The Water Board supports the evaluation of the following environmental factors:

- Biological Resources – Specifically, an updated evaluation of potential adverse effects of sand mining on benthic communities, submerged aquatic vegetation, and wetlands.
- Hydrology and Water Quality – Specifically, an updated evaluation of potential adverse effects of sand mining on sediment dynamics and the bathymetry and morphology of the San Francisco Bay, including its shoreline.

Should you have any questions please email Jazzy Graham-Davis of my staff, at [Jazzy.Graham-Davis@waterboards.ca.gov](mailto:Jazzy.Graham-Davis@waterboards.ca.gov).

Sincerely,

Xavier Fernandez  
Planning Division Manager

Oakland Harbor Turning Basins Widening Project  
Comments on Revised Draft Integrated Feasibility Report and Environmental Assessment

cc (via email):

BCDC, San Francisco, CA (Brenda Goeden, [Brenda.Goeden@bcdcc.ca.gov](mailto:Brenda.Goeden@bcdcc.ca.gov) / Pascale Soumoy, [Pascale.Soumoy@bcdcc.ca.gov](mailto:Pascale.Soumoy@bcdcc.ca.gov) / Jaime Lopez, [Jaime.Lopez@bcdcc.ca.gov](mailto:Jaime.Lopez@bcdcc.ca.gov))

CSLC, Sacramento, CA (Dobri Tutov, [Dobri.Tutov@slc.ca.gov](mailto:Dobri.Tutov@slc.ca.gov))

CDFW, Santa Rosa, CA (Arn Aarreberg, [Arn.Aarreberg@wildlife.ca.gov](mailto:Arn.Aarreberg@wildlife.ca.gov))

CDFW, Fairfield, CA (Garrett Allen, [Garrett.Allen@wildlife.ca.gov](mailto:Garrett.Allen@wildlife.ca.gov))

USACE, San Francisco, CA (Jessica Vargas, [Jessica.M.Vargas@usace.army.mil](mailto:Jessica.M.Vargas@usace.army.mil))

USEPA, San Francisco, CA (Jennifer Siu, [Siu.Jennifer@epa.gov](mailto:Siu.Jennifer@epa.gov) / Fadwa Bouhedda, [Bouhedda.Fadwa@epa.gov](mailto:Bouhedda.Fadwa@epa.gov))

**From:** [Huitt, Christopher@SLC](mailto:Huitt.Christopher@SLC)  
**To:** [Michael Manka](#); [Maria Hensel](#); [Janna Scott](#)  
**Cc:** [SandminingSEIR](#)  
**Subject:** FW: SF Bay and Delta Sand Mining Project NOP Comments  
**Date:** Tuesday, June 27, 2023 9:53:14 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)

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Good morning,

I have 9 letters from NOP Scoping process in the Commission's CEQA Comment email account. I will be sending them to you all first, then uploading them to the Consultant's SharePoint Site for NOP comment letters. Thank you all!

**Christopher Huitt, M.S.** Senior Environmental Scientist  
**CALIFORNIA STATE LANDS COMMISSION**  
Environmental Planning and Management Division  
100 Howe Avenue, Suite 100-South | Sacramento | CA 95825  
Phone: 916.574.2080 | Email: [christopher.huitt@slc.ca.gov](mailto:christopher.huitt@slc.ca.gov)



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**From:** Comments, CEQA@SLC  
**Sent:** Tuesday, June 27, 2023 9:44 AM  
**To:** Mary Jane Schramm <[maryjane.schramm@gmail.com](mailto:maryjane.schramm@gmail.com)>  
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June 26, 2023

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Mary Jane Schramm

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BACKGROUND:

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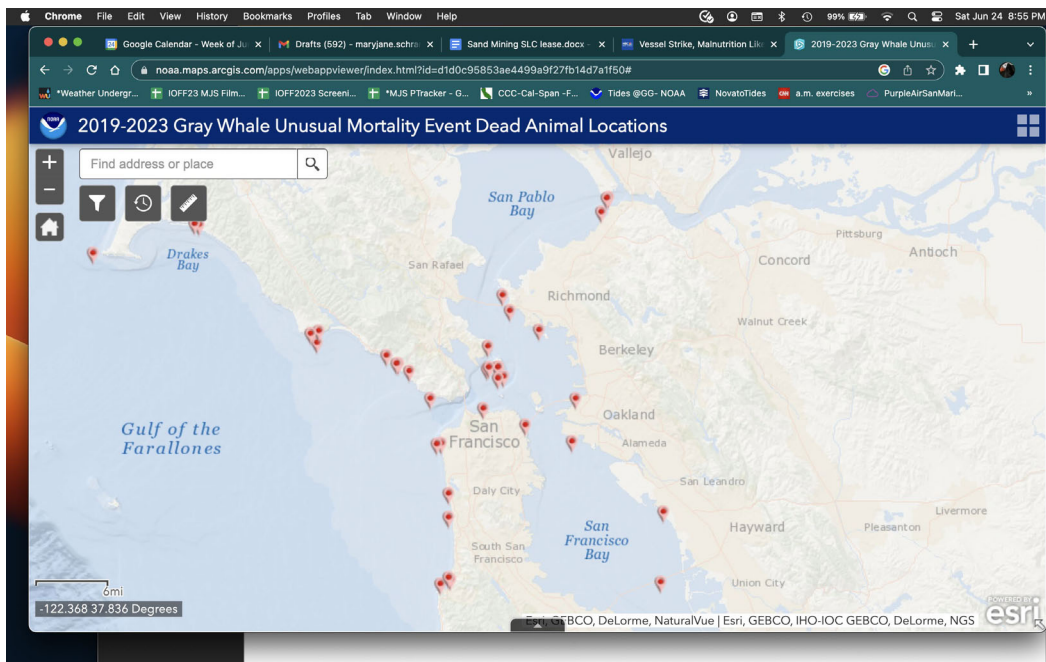
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Known dead gray whale stranding locations, SF Bay Area

Mary Jane Schramm

*Marine Life Naturalist & Communications
International Ocean Film Festival*



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