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I. Environmental Review

On October 1, 2002, the California State Lands Commission (SLC), as lead agency, adopted an initial study/mitigated negative declaration (IS/MND) (State Clearinghouse (SCH) No. 2002071146) for the Project and filed a Notice of Determination (NOD) at the SCH on April 28, 2014. The State Water Board is a responsible agency under CEQA (Pub. Resources Code, § 21069) and in making its determinations and findings, must presume that California State Lands Commission's certified environmental document comport with the requirements of CEQA and are valid (Pub. Resources Code, §§ 21167.2-21167.3). State Water Board staff has reviewed and considered the environmental document and finds that the environmental document prepared by California SLC is adequate (Cal. Code Regs., tit. 14, § 15096, subd. (f)). The environmental document includes the Mitigation Monitoring Program and Air Quality Best Management Practices (Mitigation Monitoring Program) developed by the California SLC for all mitigation measures that have been adopted to reduce potential significant impacts for the Project (Pub. Resources Code, § 21081.6, subd. (a)(1); Cal. Code Regs., tit. 14, § 15091, subd. (d)).

II. Incorporation by Reference

Pursuant to CEQA, these Findings of Facts (Findings) support the issuance of this Certification based on the Project IS/MND, the application for Certification and other supplemental documentation.

All CEQA Project impacts, including those discussed in subsection III below, are analyzed in greater detail in the Project Final IS/MND which is incorporated herein by reference. The Project IS/MND is available from the California State Lands Commission, 100 Howe Avenue, Suite 100, Sacramento, CA 95825-8202 and at:
http://www.bidsync.com/DPXViewer/SB_Hazards_MND.pdf?ac=auction&auc=221070&rndid=440209&docid=1168379.

Requirements under the purview of the State Water Board in the Mitigation Monitoring Program are additionally incorporated herein by reference and included in Attachment H of this Certification.

Finally, the California State Lands Commission's application for Certification with all attachments is incorporated herein by reference, which includes detailed Project maps, a detailed Project description, copies of information provided to other resource agencies, and other supporting information.

III. Findings

The IS/MND describes the potential significant environmental effects to waters of the state, including waters of the U.S, that were mitigated in the IS/MND. Considering the whole of the record State Water Board staff make the following findings:

The Initial Study identifies potentially significant effects, but revisions to the project agreed to by the California SLC prior to public review would avoid the significant effects, or reduce them to a less-than-significant level; and there is no substantial evidence that the revised project would result in a significant environmental effect (Cal. Code Regs., tit. 14, § 15070).

The mitigation measures prescribed for the impacts discussed below are consistent with widely accepted Best Management Practices (BMPs) for environmental protection and are sufficient to reduce potential impacts to a level that is less than significant.

Note: Impacts were not numbered in the original IS/MND provided by the SLC. To help facilitate reference to impacts and associated mitigation measures, impact numbers provided in this analysis were assigned by State Water Board staff.

Potential Significant Impacts to Biological Resources:

Bio-Impact-1: Temporary impacts to sensitive or special status terrestrial flora, due to proposed project activities, would occur during the transportation of equipment to and from the individual project sites. Impacts would consist of trampling, and compaction of habitat by workers and equipment.

Facts in Support of Finding:

In order to mitigate for **Bio-Impact-1** a qualified biologist shall be on site to provide pre-construction surveys. The biologist will conduct an employee orientation program for all project personnel, to ensure that all personnel are aware of habitat protection measures. Biologists will monitor all construction activity within 100 feet of wetlands or other designated sensitive habitat areas (TBio1). Protective fencing shall be installed temporarily around sensitive plant communities and other sensitive biological resources (TBio-2). To the extent feasible, the use of heavy equipment and vehicles shall be limited to existing roadways and defined staging areas/access points. The boundaries of each work area and staging area shall be clearly defined and marked (TBio-4). All areas that previously supported vegetation that are disturbed during work activities shall be replanted or reseeded with appropriate vegetation (TBio-8).

Potential Significant Impacts to Biological Resources:

Bio-Impact-2: Temporary impacts to terrestrial flora due to project activities could occur during the staging of equipment in specific areas. Impacts would consist of trampling, and compaction of habitat by workers and equipment.

Facts in Support of Finding:

In order to mitigate for **Bio-Impact-2** the mitigation measures TBio-2, TBio-4 and TBio-8 (previously discussed) will be implemented.

Potential Significant Impacts to Biological Resources:

Bio-Impact-3: Hazard removal activities could have a substantial impact on wetlands due to trampling and/or compaction by vehicles, foot traffic, and hazard removal activity at Devereaux Slough (Site 8).

Facts in Support of Finding:

In order to mitigate for **Bio-Impact-3** mitigation measures TBio-1, TBio-2, TBio-4 and TBio-8 (previously discussed) will be implemented. In addition, to reduce inadvertent releases of fuel from construction areas to aquatic habitats, all refueling will occur only within designated refueling areas. All nearshore refueling and storage areas will be covered with an impervious material and surrounded by an earthen berm (TBio7).

Potential Significant Impacts to Biological Resources:

Bio-Impact-4: The potential for project-related impacts to marine flora associated with intertidal habitat could occur due to crushing from workers and equipment, burial from sediment removed from around the hazard, and habitat alteration by breaking the substrate or overturning large, stable boulders.

Facts in Support of Finding:

In order to mitigate for **Bio-Impact-4** the use of tracked vehicles will be minimized and rubber tire vehicles will be used whenever possible (MBio-1). All vehicles will be kept above the highest high tide line and on dry sand wherever possible (MBio-2). Hazard removal activities conducted in mid and low intertidal areas will be conducted during winter low tide periods to avoid disturbance of surf grass and rock habitat areas (MBio4). Sites will be accessed by traversing the beach in a straight line from the highest high tide line to the lowest, particularly in rocky habitat areas (MBio-5). Excavated sand will be stored inshore (higher on the beach) and above the highest predicted tide for the day. Holes will be refilled with excavated material and all materials and vehicles will be removed at the end of each day (MBio-6). Temporary wooden or steel sheets will be used to ramp rocks when traveling across rocky intertidal habitats cannot be avoided (MBio7). Crown buoys and near-surface anchor lines will be used if rock substrate, surf grass, eelgrass, or kelp is between the anchor location and vessel (MBio-12).

Potential Significant Impacts to Biological Resources:

Bio-Impact-5: Subtidal impacts to marine flora from project related activities could result from direct hazard removal from substrate or impacts associated with project vessels.

Facts in Support of Finding:

In order to mitigate for **Bio-Impact-5** mitigation measure MBio-12 (previously discussed) will be implemented. A pre-anchoring survey will be conducted at all proposed off shore anchoring sites and relocate any proposed anchor sites at least 20 feet away from rocky substrate, surf grass, eelgrass or kelp beds (MBio-11). Vessels that require multiple anchors should deploy those anchors with an anchor assist vessel; recover anchors vertically and avoid dragging anchors across the seafloor (MBio-13). Surface kelp areas should be avoided when accessing near-shore and offshore hazard sites by vessel (MBio-14).

Potential Significant Impacts to Biological Resources:

Bio-Impact-6: Potentially significant impacts could occur to special status terrestrial and aquatic wildlife species within several of the worksites due to the proposed project activities.

Facts in Support of Finding:

In order to mitigate for **Bio-Impact-6** work activities will be avoided during breeding season (typically April 1-July 1) of those sensitive species that are currently known to exist within or adjacent to the work sites or which are discovered during hazard removal activities (TBio3). All project related equipment shall adhere to a 15 mph speed limit on-site (TBio6). Work activities will be avoided within or adjacent to designated marine mammal rookeries and beach-area bird nesting sites during active breeding periods. Hazard removal activities will be scheduled during periods on non-use by these species; and, to the extent feasible, establish a 500 foot buffer area around work areas in marine mammal haul out areas (MBio-9).

Potential Significant Impacts to Biological Resources:

Bio-Impact-7: Impacts to coastal sage scrub and southern foredune habitat for coast horned lizard and silvery legless lizard may occur due to trampling from project activities causing trampling or permanent displacement.

Facts in Support of Finding:

In order to mitigate for **Bio-Impact-7** mitigation measure TBio-2, Tbio-4, TBio-8, and MBio-2 (previously discussed) will be implemented.

Potential Significant Impacts to Biological Resources:

Bio-Impact-8: Potential significant impacts to monarch butterflies and their habitat could result from project activities due to dust generation associated with vehicular activities along equipment routes and within staging areas.

Facts in Support of Finding:

In order to mitigate for **Bio-Impact-8** the Applicant will implement the following mitigation measures in order to reduce the potential significant impact to less than significant. During the transportation of equipment, water trucks will be used to prevent airborne particles from leaving the project site and impacting monarch butterfly over-wintering habitat (TBio-5).

Potential Significant Impacts to Biological Resources:

Bio-Impact-9: Project activities have the potential to significantly impacts to snowy plover and brown pelican critical habitat.

Facts in Support of Finding:

In order to mitigate for **Bio-Impact-9** mitigation measure TBio-3 (previously discussed) will be implemented.

Potential Significant Impacts to Biological Resources:

Bio-Impact-10: Potentially significant impacts to gray whale migration routes could occur from noise from marine vessels during off shore hazard removal activities.

Facts in Support of Finding:

In order to mitigate for **Bio-Impact-10** the Applicant will implement the following mitigation measures in order to reduce the potential significant impact to less than significant. To the extent feasible, offshore activities will be scheduled for periods other than gray whale migration seasons. All marine vessel operations shall be conducted in accordance with procedures outlined in the Marine Wildlife Contingency Plan. An agency approved marine mammal monitor will be onboard the vessel and will provide the authority to cease operations if marine mammals are within 0.10 miles of the removal activity (MBio-15).

Potential Significant Impacts to Geology and Soils

Geo-Impact 11: In order to access hazard removal sites, disruption and/or displacement of soils may occur. This includes surficial disturbance related to access road removal and final recontouring of the site. Project areas that are located below bluffs are classified as having a moderate to high potential for slope stability impacts or landslides to occur. During hazard removal activities, if grading is required through these bluffs in order to obtain access to a site, a potentially significant impact could occur.

Facts in Support of Finding:

In order to mitigate for **Geo-Impact-11** a grading and erosion control plan will be prepared for all areas of active cut or fill activities which will ensure all disturbed areas are recontoured and shall match the surrounding terrain. Graded areas will be vegetated immediately following the completion of hazard removal (Geo-1). All beach excavations will be backfilled with native materials (Geo-2).

Potential Significant Impact from Hazards and Hazardous Materials

Haz-Impact 11: Hazard removal activities could create a significant hazard to the public and/or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials to the environment. Fuels, hydraulic fluids, and oils will be used to operate equipment used for hazard material removal activities. Approximately 110 gallons of diesel fuel and petroleum based lubricants may be present during fueling operations.

Facts in Support of Findings

In order to mitigate for **Haz-Impact-11** all staging areas for equipment are identified and are located at least 100 feet away from any water body or wetland. All staging, fueling, and maintenance of equipment will be conducted in designated staging areas. To prevent soil contamination from overnight storage of equipment, drip pans will be placed under equipment. Containment and clean-up materials will be kept onsite during construction activities (Haz-1). All equipment and supplies will be removed from the beach each day and when equipment must be stored on the beach, it will be stored above the high tide and will not block public access to the beach (Haz-2).

Potential Significant Impact to Hydrology and Water Quality:

Hydro-Impact 12: Hazard removal activities have the potential to significantly impact hydrology and water quality from the inadvertent release of petroleum products from equipment both offshore and onshore.

Facts in Support of Finding:

In order to mitigate for **Hydro-Impact 12** mitigation measure TBio-7 (previously discussed) will be implemented. An oil spill response and recovery plan for all offshore operations that require petroleum products to be on board. All onboard personnel will be trained on actions to take in the event of an oil spill (MBio-16).

IV. Determination

The State Water Board staff have determined that the Project will not result in any significant adverse water quality impacts (Cal. Code Regs., tit. 14, § 15096, subd. (h)). The State Water Board will file a Notice of Determination with the SCH within five (5) days from the issuance of this Order (Cal. Code Regs., tit. 14, §§ 15096, subd. (i), 15075). The environmental document and other materials, which constitute the record, are located at the State Water Resources Control Board – Division of Water Quality/1001 I Street 15th Floor/ Sacramento, CA 95814. The custodian of the environmental documents and the administrative record is the 401 Certification and Wetlands Unit Program Manager (Pub. Resources Code, § 21081.6, subd. (a)(2)).