



**Delta
Stewardship
Council**

A CALIFORNIA STATE AGENCY

June 25, 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

715 P Street, 15-300
Sacramento, CA 95814

916.445.5511
DELTACOUNCIL.CA.GOV

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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.

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(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,

Jeff Henderson, AICP
Deputy Executive Director
Delta Stewardship Council

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