

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877
WEB: WWW.COASTAL.CA.GOV



W18d

Prepared September 5, 2023 for September 6, 2023 Hearing

To: Commissioners and Interested Persons

From: Kevin Kahn, Central Coast District Manager
Breylen Ammen, Coastal Planner

**Subject: Additional hearing materials for W18d
CDP Number 3-23-0176 (Moss Landing Wildlife Area Public Access and
Habitat Improvements)**

This package includes additional materials related to the above-referenced hearing item as follows:

Additional correspondence received in the time since the staff report was distributed.



BOARD OF COMMISSIONERS
Russell Jeffries
Vincent Ferrante
James Goulart
Liz Soto
Albert Lomeli

7881 SANDHOLDT ROAD
MOSS LANDING, CA 95039

TELEPHONE - 831.633.2461
FACSIMILE 831.633.1201

GENERAL MANAGER/HARBOR MASTER
Tom Razzeca

RECEIVED

August 30, 2023

AUG 30 2023

California Coastal Commission
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

**CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA**

Re: Comments on Staff Report and Project Application No. 3-23-0176
Moss Landing Wildlife Area Bank Resiliency Access Enhancement Project

Dear Commissioners:

The Moss Landing Harbor District ("MLHD") is in receipt of the Staff Report for Item W18D- CDP Application, Application Number 3-23-0176 on the Coastal Commission's September 6, 2023 Agenda, for the Moss Landing Wildlife Area, Bank Enhancement Project (the "Project"). The MLHD Board of Harbor Commissioners ("Board") has been expressing its concerns about this Project since August of 2021, all of which have been largely ignored.

By way of background, the MLHD is a statutorily created governmental agency (by the California State Legislature) empowered to own, operate, manage, and govern the lands and maritime facilities and water courses assigned to it by the State of California. The MLHD was established and became fully operational by 1947, and since that time has operated the Moss Landing Harbor, which was created by the United States Army Corps of Engineers. The MLHD was established to provide for and promote interstate commerce and infrastructure facilities to support and sustain the fishing industries and maritime commerce in and for California and other western states.

Despite its mandate to maintain and protect waters and property within its jurisdiction, including the Elkhorn Slough, the MLHD continues to be left out of important decision-making with respect to the Project. Prior to the recent receipt of the Commission's staff report and attachments, the MLHD has never been presented with a full and final set of plans for the Project, has never had the proposed phasing plans for the Project explained, and has never received a reasonable or thorough explanation as to how the Department of Fish and Wildlife ("Fish and Wildlife") determined that the MLHD would not be a permitting agency for any aspect of the Project. More importantly, despite repeated requests for the engineering model used to support the conclusion that the Project will not result in additional erosion in the Slough, the MLHD has been denied access to the model that was used in the preparation of the Project's Mitigated Negative Declaration.

The Board is of the opinion that there is a strong likelihood that Fish and Wildlife's efforts to stabilize and protect the existing scarp from erosion may only exacerbate and/or accelerate erosion on property immediately adjacent to or near the Project. Without being provided with the

SERVING COMMERCIAL FISHING AND RECREATIONAL BOATING SINCE 1947

ITEM NUMBER 19 - CONSIDER APPROVING PURCHASE OF CONCRETE DOCKS
8/3/2023 MEETING

model used by Fish and Wildlife to determine the Project's potential erosion impacts, the Board has no way of knowing whether the conclusion reached by both Fish and Wildlife and the Coastal Commission's engineers concerning potential erosion is accurate. Or if it was even considered. While the Board is heartened by the Coastal Commission's peer review of the Fish and Wildlife's engineering work, the Board remains skeptical as to whether this important erosion issue was fully vetted.

Since it appears likely that the Commission will approve the Project, in addition to the foregoing concerns, the MLHD would urge the Commission to consider modification to two subsections of proposed Project "Special Condition No. 3."

Special Condition 3.a. makes it clear that the Permittee is responsible for maintenance of the "permitted development," as well as the duty to retrieve any project components that may be displaced from the approved design, removal of accumulated sediment in water control infrastructure, cleaning, and repair of water control structures, and so forth. This section should be modified to provide a clear and comprehensive definition of "project components" that includes the non-native soils and transplanted eel grass to be used for the Project. Furthermore, language should be added to this section to confirm that the obligation to retrieve or remove displaced project components applies no matter where they may eventually be relocated in the adjacent Slough and Harbor.

Additionally, the MLHD believes that the referenced ten-year term of the maintenance obligations is far too short. The "Findings and Declaration" section of the Staff Report, on page 12, contains a statement that the primary Project improvement, namely the setback levee meant to protect the managed ponds from tidal inundation if the bank and existing perimeter levee continue to erode, is expected to provide at least 65 years of erosion protection and 80 years of sea level resiliency. Why then would maintenance responsibilities for this crucial improvement end after a ten-year period? Indeed, why would maintenance of other essential operational aspects of the Project, such as the need to clean, repair and remove sediment from water control infrastructure, be abandoned after ten years? Who would be responsible for repair and maintenance after the expiration of this ten-year term? The Board recommends that the Commission consider a much longer maintenance period.

Similarly, Special Condition No. 3.d. provides that the Permittee is required to provide monitoring reports after the completion of construction on an annual basis for five years, and then once more at the ten-year mark. Such monitoring is to report on parking, the setback levee, the shoreline, and most importantly, is meant to document any erosion at the site. The reports are also meant to identify any future "adaptive management and maintenance needs." What evidence supports allowing a five-year gap between the fifth and tenth year of this essential monitoring requirement? Moreover, as noted above, with a purported levee lifespan of more than half a century, what justifies the termination of monitoring responsibilities after a mere ten years? What is the point of installing protective improvements with decades of potential use if they will only be monitored and maintained for a small fraction of their anticipated use? The Board urges that this condition be modified to require monitoring over the useful life of the Project's improvements.

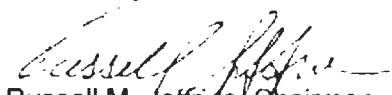
Finally, the Board believes the statements contained in the Analysis section of the Report, commencing on page 20, are factually incorrect and misleading. The report opines that current bank erosion is the result of four factors: 1) changes in the mouth of the Elkhorn Slough and the adjacent shoreline meant to accommodate the original construction of the Harbor District; 2) sea level rise; 3) damage to vegetation caused by unrestricted public access to the area in question

that has resulted in increasing the area's susceptibility to erosion; and 4) the fact that the bank at the involved project site "forms an unstable scarp" that is subject to undermining and collapse. This conclusion completely ignores the fact that the Board believes there is good reason to conclude that the bank erosion that is and has been taking place on the subject project site, and within the Slough as a whole, is largely the result of the intentional breaching by California State agencies, including NOAA, the California Coastal Commission, and their agents, of levees that were installed concurrently with the creation of the harbor by the US ARCORPS in the easterly areas of the Elkhorn Slough. The state's breaching of these protective levees, which were installed in 1946-47 expressly to reduce the potential adverse increases of the expansion of the tidal prism by opening the Moss Landing harbor mouth, has resulted in widespread environmental damage to and throughout the Elkhorn Slough and the District's Harbor in the years since the breaching took place in the mid-1980's. Anyone who works or engages in recreational activities in or about the Slough and Harbor is aware that the improperly conceived and implemented breaching of those protective levees has resulted in a tremendous expansion of the tidal prism in the Slough and the Harbor and had disastrous impacts, due to unintentionally induced erosion and tidal scour on the environmental habitat of multiple protected and endangered species and federally and state created maritime facilities. Damages have necessitated habitat protections, bank stabilization, erosion control, and increasingly intensive and expensive harbor dredging activities.

It is worth noting that on several occasions, representatives of the previously mentioned agencies have promised the Board that the referenced erosion, scour, and sedimentation damages caused by levee breaching would be addressed, but all to no avail. Said damages, and the ongoing threats they represent to wildlife, habitats, and sustainable harbor operations, continue to be ignored and remain completely unmitigated. The proposed Project is a band-aid on a problem that requires an extensive and comprehensive mitigation and rehabilitation plan.

In closing, the Board wants to make it clear that it is not opposed to the intent of the Project and commends the effort to protect the involved endangered species. The Board's comments and requests are not meant to prevent the Project from moving forward, but rather, are an attempt to fulfil its obligations to protect the waters, lands, and tidelands under District stewardship. In previous correspondence with the Board, Fish and Wildlife stated that "the Department intends to continue to partner with the District to manage our shared interest in public trust resources within the Elkhorn Slough." The Board hopes that this acknowledged "partnership" will be treated with more respect in the future, and that in the spirit of this partnership, the Board's requests to the Coastal Commission will be given serious consideration.

Most Respectfully,



Russell M. Jeffries, Chairman
Moss Landing Harbor District Board of Commissioners

Public Comment Sept 2023 Agenda Item Wed 18d Application No. 3-23-0176

D Vierra <djvierra7201@gmail.com>

Fri 9/1/2023 2:19 PM

To:CentralCoast@Coastal <CentralCoast@coastal.ca.gov>

Moss Landing Wildlife Area Public Access and Habitat Improvements

Application No. 3-23-0176

RECEIVED**SEP 01 2023****CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA**

I appreciate the chance to comment on the proposed project at the MLWA. I am a Moss Landing resident and trustee of my family's property located on the southern bank of the Elkhorn Slough directly opposite the project site. My family, having owned and resided on the Vierra Ranch for several generations, is uniquely able to offer perspective on the ever changing landscape of the Slough. Our direct experience I offer in the hope that it may lend context to the actual day to day situation faced by the community around the MLWA.

Development for the protection of habitat while providing free educational and ADA accessible opportunities AND addressing the effects of climate change are very positive additions. I celebrate this goal and hope to play some part in making it a reality for my community. I also think that managing safety and appropriate use is now (for all our local public spaces) and will be a challenge.

There is a need for clear signage describing the parameters of allowed public use of these spaces. The reality is that a considerable number of the visiting public's behavior on these sites is dangerous and destructive to both banks of the slough. Nighttime use, inappropriate launching and hauling out of kayaks and other craft, general mayhem and dogs running off leash are situations occurring frequently. Other dangerous activities on the northern bank of the slough and under the Highway 1 bridge include (and are not limited to) fires, camping, illegal fishing, fireworks and gunfire.

I know from personal experience that enforcement is a struggle here for several reasons. The area is remote, subject to disparate jurisdictions and the landscape is rough and hard to access. Therefore, this community is at the mercy of bad actors confident that those facts are to their advantage. Our isolated, undeveloped landscape at night facilitates and emboldens their activities and there is a demonstrated inability of enforcement entities to handle that fact. I am not confident that mixing this reality with an increased number of visitors including educational groups and people

needing adaptive support, as referred to in the permit application, is healthy without assurances of adequate information and enforcement. The change in the location of the parking area while it may be practical is also logistically fraught. Again, I believe that if one of the goals is to mitigate human wear on the bank area, putting vehicle access closer will lead to people taking advantage of a free parking area to launch kayaks and other craft. The abandoned structures and boats in that area are also a hazard.

Additionally, I would like to hear a thorough discussion of the effects that the project proposed may have on the surrounding bank and shorelines. There are several entities with important projects, jurisdictions and mandates in this immediate area such as the Elkhorn Slough Research Reserve and the Moss Landing Harbor District, responsible for the marsh restoration projects east of the Wildlife Area and the maintenance of the harbor basin, respectively. I believe that our community relies upon the success of those entities' endeavors as much as any other. I also believe it is a foundation of Environmental Justice for members of the adjacent community to be made aware of the full ramifications of any project as it progresses over time.

The drastic erosion that is ever progressing on the Vierra Ranch is a grave concern to me. Any intervention in this environment that could exacerbate that process must meet with intense scrutiny and open discussion.

Further, I believe that to be permitted to undertake the proposed work on this scale, with a projected lifespan of over 60 years must be accompanied by a consistent, diligent monitoring and maintenance commitment that truly meets the needs of the project and the community. Will another entity assume the responsibility of this project? How does the Commission plan to serve this habitat or indeed, environmental justice for this community after just 10 years?

Respectfully,

Danielle Vierra