United States Department of the Interior

FISH AND WILDLIFE SERVICE
San Francisco Bay-Delta Fish and Wildlife Office
U.S. Fish and Wildlife Service
650 Capitol Mall, Suite 8-300
Sacramento, CA 95814

In Reply Refer To:
2024-0003928-S7-001

June 11, 2024

Sarah Firestone
Regulatory Division
Department of the Army
San Francisco District
U.S. Army Corps of Engineers
450 Golden Gate Avenue
San Francisco, California 94102

Subject: Informal Section 7 Consultation and Conference on the San Francisco International Airport Regional General Permit for Maintenance of Pile-Supported Structures, San Francisco County, California (U.S. Army Corps of Engineers File Number SPN-2023-00412)

Dear Ms. Firestone:

This letter is in response to the U.S. Army Corps of Engineers (Corps) January 3, 2024, request for informal consultation and conference with the U.S. Fish and Wildlife Service (Service) on the potential effects of the proposed San Francisco International Airport (SFO) Regional General Permit (RGP) for Maintenance of Pile-Supported Structures (proposed project) in the City of San Francisco, San Francisco County, California. The Corps has requested concurrence on their determination that the proposed project may affect but is not likely to adversely affect the federally endangered California Ridgway's rail (*Rallus obsoletus obsoletus*) and the proposed as endangered San Francisco Bay-Delta distinct population segment (DPS) of the longfin smelt (*Spirinchus thaleichthys*). This response is provided under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq*.) (Act), and in accordance with the implementing regulations pertaining to interagency cooperation (50 CFR 402).

In reviewing this proposed project, the Service has relied upon: (1) the Corps' January 3, 2024, letter requesting informal consultation and conference; (2) the November 2023, *San Francisco International Airport Shoreline Structures Repair Program Biological Assessment*; (3) emails from SFO to the Service; and (4) other information available to the Service.

Proposed Project Description

The proposed RGP would authorize the following maintenance activities of 13 discrete structures around the perimeter of SFO:

1. In-Water Repairs: Proposed activities involving in-water work consist of strengthening the existing timber piers and piles by installing a fiberglass wrap around each pier/pile. A rebar cage and marine grout would typically be applied between the existing pier/pile infrastructure and the fiberglass wrap. This work would require localized excavation at the base of the pier/pile to set the rebar cage and fiberglass wrap; excavated material would be backfilled. Depending on the location of the pier/pile, a barge or boat may be required for access, leveling (as needed), and strengthening activities. No piers/piles are proposed for replacement under this RGP.

2. Overwater Repairs: Proposed activities involving overwater work consist of reinforcing or replacing (in kind) deteriorated components of timber trestles, including various timber beams, guardrails, stringers, floor planks, decking, and knee and cross braces. Existing straps that connect the stormwater outfall pipes to the trestle support structures would be replaced with stainless steel connection straps. Sediment accumulated in the existing outfall pipes would also be removed to restore as-built conditions; the sediment would be disposed of at an appropriate upland location. Depending on the location of the repairs, a barge or boat may be required for access and implementation.

3. Concrete/Unsupported Structure Maintenance and Repairs: Proposed activities to maintain and repair existing infrastructure consist of repairs to the concrete basin at E013, concrete piers at E007 and E008, and concrete cradles at various storm drain pump station (SDPS) outfalls. Concrete cradle repairs would generally occur outside of waters of the United States. Repair activities would include in-kind repairs of surface cracks or spalls. Maintenance activities would involve the removal of small amounts of accumulated sediment and other minor maintenance activities.

Conservation Measures

The following best management practices and avoidance and minimization measures (collectively BMPs) are proposed during repair activities, where applicable. The Service assumes the measures related to eelgrass (*Zostera marina*) are specific to National Marine Fisheries Service jurisdictional species and habitat as California Ridgway's rails and longfin smelt are not associated with eel grass.

BMP-1: Substrate Disturbance and Water Quality

- Disturbance of sediment will be minimized to the extent feasible during proposed activities, including pile strengthening, which requires minor excavation at the pile base.

- Where appropriate, absorbent booms or socks will be deployed on the water surface to prevent dispersal of creosote or other contaminants that may be resuspended during proposed activities (i.e., sediment excavation at the pier/pile base). Booms or socks will be deployed around the work site or downstream of prevailing tides/flows to capture contaminants or

debris and will remain in place until all surface contaminants have been absorbed or captured and any activities that may mobilize contaminants are complete. If needed, booms or socks will be replaced or maintained during the project to facilitate absorption or capture of all visible surface contamination.

- Construction barges used to perform the proposed activities will be moored in a position to capture and contain debris generated during any overwater or in-water work.

- Care will be taken to minimize debris falling into the water. If debris does reach the bay, personnel in workboats will immediately retrieve the debris for proper handling and disposal.

- All construction material, waste, debris, sediment, rubbish, trash, fencing, etc., will be removed from the site on a regular basis during work and at project completion. Debris will be transported to an authorized disposal area.

BMP-2: Access and Staging

All land access routes will use existing roads and all material and equipment storage will occur in existing developed areas associated with the outfalls and guide-lighting trestle structures. Given the locations of some of the structures proposed for repair and the deteriorated nature of the existing structures, construction access may occur from the water with the support of a barge and associated tender boat. The barge would be used temporarily to complete the proposed work and to stage equipment and store materials. If determined to be safe, certain construction activities may occur on or may be supported from the existing structures.

BMP-3: Spill Prevention, Erosion Control Treatment, and Water Quality Protection

The following measures will be implemented to protect water quality:

- Equipment will be checked for leaks daily.

- Refueling will take place at designated sites in accordance with SFO's National Pollutant Discharge Elimination System permits.

- As required by SFO's Construction Stormwater Pollution Prevention Plan Guidelines, a spill prevention and control plan will be created; this plan and all materials necessary to implement it will be accessible onsite.

- No work will occur during wet weather. If a 60 percent chance of one-half inch of rain or more within a 24-hour period is forecasted, the site will be treated with erosion control measures and construction operations will cease until 24 hours after the rain has ceased.

- Petroleum products, chemicals, fresh cement, and contaminated water will not be allowed to enter flowing waters.

- Adequate erosion control supplies such as gravel, straw bales, and shovels will be stored onsite.

- Any disturbed ground must receive appropriate erosion control treatment such as mulching, seeding, or planting before the end of the construction season, before operations cease in response to a forecast of wet weather, and within seven days of project completion. Operations will use all feasible techniques to prevent any sediment from entering a drainage system.

- Work pads, falsework, and other construction items will be removed from the 100-year floodplain by the end of the construction window.

- In areas where rainfall is forecasted or expected during the construction season, effective erosion control measures will be in place during construction activities. Erosion control structures will be maintained throughout, and possibly after, construction activities. Sediment will be removed from sediment controls once it has reached one-third of the exposed height of the control.

BMP-4: Minimization of Disturbance and Work Area

SFO will avoid or minimize, to the extent possible, impacts on sensitive habitat resources, including rock habitat such as bedrock, boulders, cobble, and gravel; submerged aquatic vegetation; kelp; and intertidal mudflats. The contractor will complete in-water repair activities that occur in intertidal areas at low tide, to the extent possible.

SFO will avoid impacts on submerged aquatic vegetation, in accordance with the specific requirements and conditions of the *U.S. Army Corps of Engineers Proposed Additional Procedures and Criteria for Permitting Projects under a Programmatic Determination of Not Likely to Adversely Affect Select Listed Species in California*. This document was developed by the Corps and the National Marine Fisheries Service (NMFS) to avoid and minimize effects to 21 NMFS listed species for Corps-permitted projects. It includes measures, such as:

- New creosote piles will not be installed. Existing creosote piles may be repaired by coating, sleeving, or wrapping. For projects where pile work is involved, creosote piles that are exposed during the removal of decking must be replaced, wrapped, sleeved, or removed.

- Pile removal, installation, or replacement within 17 feet of submerged aquatic vegetation such as eelgrass is not permitted.

BMP-5: In-Water Work Window

The proposed in-water repair activities will be completed within the work window between June 15 and November 30. In-water repair activities will maintain a 17-foot no-disturbance buffer around submerged aquatic vegetation. In-water repair activities that are located

between 17 and 66 feet of submerged aquatic vegetation must adhere to the following measures:

- Ensure that barges and vessel hull bottoms supporting structure repairs do not come within 18 inches of the bay bottom at mean lower low water.

- Ensure that barge spuds, anchors, chains, and other vessel equipment are not directly deployed in eelgrass or the 17-foot perimeter around eelgrass.

- Ensure that vessel propellers do not scar or scour eelgrass or the 17-foot perimeter around eelgrass.

BMP-6: Avoid California Ridgway's Rail

Proposed project activities at Outfall E010 and E003 will be prohibited during rail breeding season, which is from January 15 to August 31. No activities will occur within 50 feet of suitable tidal marsh habitat during extreme high-tide events or when adjacent tidal marsh is flooded. An extreme high-tide event is defined as a tide forecasted to be 6.5 feet or higher, as measured at the Golden Gate Bridge and adjusted to the timing of local high tides.

<u>Longfin Smelt</u>

The Service concurs with the Corps' determination that the proposed project may affect but is not likely to adversely affect longfin smelt. This conclusion is based on: (1) longfin smelt may occur within the central San Francisco Bay during the in-water work window but are usually associated with deep water at this time; (2) elevated levels of turbidity fed by sediment resuspension would be short-term and localized and are expected to result in no more than discountable effects; and (3) the proposed Conservation Measures will be implemented to minimize contaminants entering the water.

<u>California Ridgway's Rail</u>

The Service concurs with the Corps' determination that the proposed project may affect but is not likely to adversely affect California Ridgway's rail. California Ridgway's rail habitat at SFO is limited to marshes on the north and south side. Outfall E010 is adjacent to the northern marsh and E003 is adjacent to the southern marsh. California Ridgway's rails are consistently recorded at the southern marsh during breeding season surveys conducted by the San Francisco Estuary Invasive *Spartina* Project. One rail was recorded here in 2023 (Olofson Environmental, Inc. 2023). California Ridgway's rails have not been heard at the northern marsh since 2010 (Service 2023). Surveys have not been conducted at the northern marsh since 2017 due to the lack of non-native *Spartina*, but suitable habitat for California Ridgway's rail is regrowing here (J. McBroom, personal communication, March 2024). Although rails have been documented at both marshes, they are unlikely to be adversely affected due to likely habituation to baseline level of human, vehicular, and air traffic disturbance around the SFO, the small project footprint, short duration of the proposed work, and the implementation of the proposed Conservation Measures.

REINITIATION – CLOSING STATEMENT

This concludes informal consultation and conference on the San Francisco International Airport Regional General Permit for Maintenance of Pile-Supported Structures. You may ask the Service to confirm the conference concurrence as a consultation concurrence, issued through informal consultation, if the action hasn't occurred yet or is ongoing when, and if, the longfin smelt is listed. The request must be in writing. If you determine that the proposed action has not changed and the Service finds that there have been no significant changes in the action as planned or in the information used during the conference, the Service will confirm the conference concurrence as the consultation concurrence on the proposed project and no further section 7 consultation will be necessary.

As provided in 50 CFR § 402.16,

(a) Reinitiation of consultation is required and shall be requested by the Federal agency, where discretionary Federal involvement or control over the action has been retained or is authorized by law and:

(1) If the amount or extent of taking specified in the incidental take statement is exceeded;

(2) If new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered;

(3) If the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the biological opinion or written concurrence; or

(4) If a new species is listed or critical habitat designated that may be affected by the identified action.

(b) An agency shall not be required to reinitiate consultation after the approval of a land management plan prepared pursuant to 43 U.S.C. 1712 or 16 U.S.C. 1604 upon listing of a new species or designation of new critical habitat if the land management plan has been adopted by the agency as of the date of listing or designation, provided that any authorized actions that may affect the newly listed species or designated critical habitat will be addressed through a separate action-specific consultation. This exception to reinitiation of consultation shall not apply to those land management plans prepared pursuant to 16 U.S.C. 1604 if:

(1) Fifteen years have passed since the date the agency adopted the land management plan prepared pursuant to 16 U.S.C. 1604; and

(2) Five years have passed since the enactment of Public Law 115-141 [March 23, 2018] or the date of the listing of a species or the designation of critical habitat, whichever is later.

Please address any questions or concerns regarding this response to Andrew Raabe, Endangered Species Biologist, at andrew_raabe@fws.gov or (916) 930-2642 or Kim Squires, Section 7 Division Manager, at kim_squires@fws.gov.

Sincerely,

JANA AFFONSO

Digitally signed by JANA AFFONSO
Date: 2024.06.11 09:32:05 -07'00'

Jana Affonso
Assistant Field Supervisor

LITERATURE CITED

Service (U.S. Fish and Wildlife Service). 2023. Formal Consultation on the proposed San Francisco Estuary Invasive Spartina Project for 2023-2033, Appendix F. San Francisco Bay National Wildlife Refuge Complex, Fremont, California.

Olofson Environmental, Inc. 2023. 2023 California Ridgway's Rail Surveys for the San Francisco Estuary Invasive Spartina Project. Prepared for State Coastal Conservancy, 1001 42nd Street, Suite 230, Oakland, California 94608.

Personal Communication

Jen McBroom, Invasive *Spartina* Project California Ridgway's Rail Monitoring Manager, phone conversation with Andy Raabe, U.S. Fish and Wildlife Service Fish and Wildlife Biologist, March 2024.