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**SEAPORT SAN DIEGO REDEVELOPMENT PROJECT
NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT
SCH #2023090299**

Dear Ms. Manaois:

The California Department of Fish and Wildlife (Department) received a Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) from the San Diego Unified Port District for the Seaport San Diego Redevelopment Project (Project), pursuant to 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 and Game Code, Section 711.7, subd. [a] & 1802; Public 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

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.

(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. Pursuant to our jurisdiction, the Department has the following comments and recommendations regarding the Project.

PROJECT DESCRIPTION SUMMARY

Proponent: San Diego Unified Port District

Objective: The objective of the Project is to do both landside and waterside improvements separated into seven landside planning blocks and five waterside planning zones throughout 102 acres of land and water in the San Diego Unified Port District. For the landside and waterside improvements, the Project proposes a mix of uses within the Project site including extensive plazas, parks, promenades, and walkways; recreation facilities; piers and marinas; hospitality, retail, and restaurants; commercial fishing uses; multiple visitor attractions (e.g., a 500-foot tower with observation deck, an aquarium and butterfly exhibit, an event center, a learning center for environmental education, etc.); an urban beach; a living shoreline; and educational uses. Additionally, the Project proposes a variety of commercial and recreational uses including marinas and boating facilities, two public access piers, a new harbormaster facility, and shoreline modifications. Project activities involve the demolition of both the landside and waterside, including approximately 124,478 square feet of existing landside development, internal roadways, parking, promenades, plazas, parks, landscaping, floating docks, and existing overwater buildings. Construction for waterside development would be performed using cranes, barges, small boats, backhoes, tugs, flatbed trucks, excavators, dozers, dump trucks, and hand-tools. Piles will be driven, pre-cast concrete will be placed by cranes with closure pours, and floating docks would be lifted with cranes and placed by a small push-boat. Turbidity barriers would be used around all equipment. Excavated soil, rock, including revetment materials, and other natural materials in the tidal canal area would be utilized throughout the Project site for shoreline fill material where appropriate. Improvements to the waterside may include temporary removal and replacement of portions of the existing revetment and possible dredging to accommodate waterside development, the installation of concrete deep solid mixed buttresses to stabilize the shoreline, and an extension of the existing U.S. Pierhead approximately 354 feet west from the existing U.S. Pierhead Line to accommodate the proposed waterside improvements. Construction of the Project also includes various wet and dry utility onsite and offsites relocations and installations. The Draft EIR will also evaluate three optional project features: (1) a water cut feature bisecting Landside Blocks A and B; (2) a pier extension in Water Zone 2 to

accommodate additional recreational berthing, transient berthing, and dock-and-dine; and (3) a proposed pier reorientation in Water Zone 4.

Location: The Project is located in the San Diego Unified Port District in San Diego County, California. The Project site is comprised of approximately 102 acres of land and water and is generally situated between Downtown San Diego and the San Diego Bay waterfront. The Project site is specifically located less than one mile to the east of Coronado Island, approximately 1.4 miles south of San Diego International Airport, immediately west of the City's Downtown area, and approximately 12.5 miles north of the United States/Mexico international border.

Timeframe: The Project would be constructed in phases over an approximately seven- to nine-year period.

BIOLOGICAL SIGNIFICANCE

Marine Biological Significance: San Diego Bay waters support many resident and migratory fish and special status wildlife such as seabirds, marine mammals, and sea turtles. Important marine plants such as eelgrass (*Zostera marina*) support those fish and wildlife species and may be present throughout shallow coastal environments in San Diego Bay. Eelgrass is important as fish nursery habitat and supports juvenile and adult fish. San Diego Bay waters also support commercially and recreationally important fish and invertebrate species such as California halibut (*Paralichthys californium*), California spiny lobster (*Panulirus interruptus*), and the important forage fish Northern anchovy (*Engraulis mordax*).

Terrestrial Biological Significance: The San Diego Bay is located within the Pacific Flyway. Although the terrestrial portion of the Project area is largely developed, the shoreline and ornamental vegetation provides important stopover habitat for migratory species and shorebirds.

COMMENTS AND RECOMMENDATIONS

The Department offers the comments and recommendations below to assist the San Diego Unified Port District in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife resources.

I. Project Level Impacts and Other Considerations

Important Marine Species and Habitats

Comments: In-water construction activities within San Diego Bay may have a direct impact on many important commercial and recreational fish and invertebrate species that use the Project area for breeding, shelter, spawning, and foraging. Pier pilings create a habitat for numerous marine species including sessile and mobile invertebrates (i.e., barnacles, sea stars, crabs, mollusks, bryozoans, cup coral, and

algae), fishes (i.e., lingcod and rockfish often raise their young under pilings), and marine mammals (i.e., seals and sea lions often forage for food under pilings). Additionally, many important commercial and recreational fish species use the Project area for breeding, shelter, spawning, and foraging. A variety of marine species will be impacted from the removal of pier pilings since they will lose their habitat, and these species may also be impacted during pile driving activities due to underwater noise.

Additionally, the Project's construction activities may have unavoidable impacts to existing sensitive marine fish and wildlife and associated marine habitats that are managed. For example, the placement of fill material from the proposed Project may displace marine fish such as the California halibut (*Paralichthys californicus*), which is an important recreational species in southern California and commercially fished species among the state-managed fisheries.

Recommendations: Potential impacts from pile pulling and driving, excavation/dredging, placement of fill material, potential riprap removal, and shoreline stabilization activities to marine invertebrates, mammals, and fish, including both commercially and recreationally important species, should be identified in the DEIR. The Department recommends that any significant impacts should be avoided and minimized to below a level of significance. Fish and invertebrate species which should be addressed include but are not limited to:

- California spiny lobster (*Panulirus interruptus*)
- California halibut (*Paralichthys californicus*)
- Leopard shark (*Triakis semifasciata*)
- Barred sand bass (*Paralabrax nebulifer*)
- Spotted sand bass (*Paralabrax maculatofasciatus*)
- Calico bass (*Paralabrax clathratus*)
- Black croaker (*Cheilotrema saturnum*)
- Yellowfin croaker (*Umbrina roncador*)
- Spotfin croaker (*Roncador stearnsii*)
- White croaker (*Genyonemus lineatus*)
- California corbina (*Menticirrhus undulatus*)
- Shovelnose guitarfish (*Rhinobatos productus*)
- Shortfin corvina (*Cynoscion parvipinnis*)

Contaminated or high silt and organic content sediments should not be placed in the marine environment that are not compatible with existing native sediment. High silt content sediments may cause marine soft substrates to be compacted and unsuitable for sustained growth of eelgrass and intertidal and subtidal benthic and epibenthic invertebrates. Compatible sediments are required for healthy marine invertebrate habitat needed for forage of the higher trophic levels such as fish and shorebirds. The Department recommends using compatible sediments when placing fill material in San Diego Bay for the construction of the proposed public urban beach. <https://wildlife.ca.gov/Conservation/Marine/GIS/MarineBIOS>

Native Eelgrass Impacts

Comments: Eelgrass is a species that may be found within the Project area where pile removal and driving impacts may occur, and where floating docks, boat slips, piers, and overwater buildings may be constructed. Native eelgrass species create large beds beneficial for fish habitat and have been identified as special aquatic sites and given protections by the Clean Water Act. The Magnuson-Stevens Fishery Conservation and Management Act (MSA) identifies eelgrass as a Habitat Area of Special Concern. Additionally, the importance of eelgrass protection and restoration, as well as the marine ecological benefits of eelgrass, is identified in the California Public Resources Code (PRC §35630). The Department uses the California Eelgrass Mitigation Policy (CEMP) (NOAA 2014), developed by the National Marine Fisheries Service (NMFS), for guidance on identifying eelgrass impacts, eelgrass mitigation measures and compensation, and for identifying appropriate eelgrass mitigation and donor sites.

Recommendations: The Department recommends that plans should be developed to avoid and minimize potential impacts to eelgrass to the maximum extent feasible if eelgrass beds or patches are identified within or adjacent to the Project area. The proposed Project should avoid and minimize disturbance and damage or losses of eelgrass beds from pile pulling, pile driving, and from associated barges and vessels. Impacts to avoid and minimize may include, at a minimum, barge shading and anchoring within eelgrass habitat, pile driving and pile pulling bottom disturbances, demolition and construction turbidity, sedimentation, and falling debris. The Department recommends the following should eelgrass beds or patches be identified within or adjacent to the Project area:

- To avoid direct eelgrass impacts, locate pile driver barges and vessels and all barge anchoring outside of eelgrass habitat.
- To avoid scouring of eelgrass and potential eelgrass habitat, anchor chain designs, and locations of barge and vessel moorings should avoid eelgrass habitat impacts.
- To avoid and minimize eelgrass impacts from demolition and construction debris, the San Diego Unified Port District should use Best Management Practices (BMPs) such as perimeter debris booms. If debris is observed falling into the San Diego Bay water, retrieve debris as soon as possible.
- To minimize eelgrass impacts from water turbidity and sedimentation, install silt curtains around pile driving or demolition areas if applicable. Restrict the turbidity plumes to the smallest possible area during all phases of in water construction.

Comprehensive pre-construction surveys, for eelgrass beds or patches should be conducted consistent with the CEMP. Additionally, post-construction eelgrass surveys should be conducted consistent with the CEMP if eelgrass is identified in the Project area. If any unavoidable eelgrass impacts occur, these impacts should be mitigated using guidance described within the CEMP. Indirect eelgrass impacts such as shading from new piles or overwater structures should also be avoided. Since pile

driving work conducted outside of the peak eelgrass growing period may reduce shading impacts when eelgrass beds may have died back, pile location and time of year for pile driving should be considered to avoid eelgrass and other fish and wildlife impacts generated by pile driving.

If eelgrass harvest and transplanting is required for mitigation, a Scientific Collecting Permit (SCP) from the Department will be required prior to harvest and transplanting activities. The SCP may include permit conditions such as donor eelgrass surveys, submittal of an eelgrass harvest and transplant plan, limits on number of turions collected, methods for collection and transplanting, notification of activities, and reporting requirements. Please visit the Department's SCP webpage for more information: <https://wildlife.ca.gov/Licensing/Scientific-Collecting>.

Pile Driving and Sound Criteria

Comments: Underwater noise associated with pile driving and pulling activities may cause temporary or permanent impacts to fish and invertebrates, such as temporary movement out of the Project area, barotrauma injury, or mortality. The Department relies on guidance from the Fisheries Hydroacoustic Working Group to set safe sound pressure level (SPL) criteria for pile driving and pulling activities (Fisheries Hydroacoustic Working Group 2008). The SPL dual criteria include a peak level of 206 dB and a cumulative sound exposure (SEL) level of 187 dB for fish 2 grams and heavier or a cumulative SEL of 183 dB for fish less than 2 grams. Additionally, if hydraulic jetting or an impact hammer is used for pile driving, this may impact water quality, releasing contaminants from sediments into the water and/or creating turbidity that could harm fish and shade or smother eelgrass beds.

Recommendations: The Department recommends using a vibratory hammer for pile driving to the greatest extent feasible, or an alternative technology that produces the least amount of noise. If an impact hammer must be used (e.g., due to pile material, refusal at bedrock), multiple minimization measures are needed to reduce sound levels. The Department recommends the following:

- A wood, or similar material, cushion block should be used between the pile and hammer during all pile driving using an impact hammer.
- To further reduce hydroacoustic impacts to fish and marine mammals, a bubble curtain should be used during all impact pile driving to reduce sound below levels that have been shown to cause injury and/or mortality.
- Underwater sound level monitoring should be conducted during pile driving and pulling. If SPLs and SELs exceed agreed upon levels as per the Interim Criteria for Injury to Fish, work should stop until additional steps can be taken to reduce the underwater noise to acceptable levels.
- A sound attenuation and monitoring plan should be submitted to the resource agencies for review prior to initiating pile driving activities.

The Department recommends that the City of San Diego use a silt curtain to control turbidity during high turbidity generating activities, such as hydraulic jetting or the use of an impact hammer.

Marine Mammal and Sea Turtle Monitoring

Comments: Harbor seals (*Phoca vitulina*), California sea lions (*Zalophus californianus*), other species of marine mammals, and sea turtles may be present or occur within the Project area. Project activities, particularly noise from pile driving, could impact these animals if they are present.

Recommendations: The Department recommends that the City of San Diego prepare and implement a marine mammal and sea turtle monitoring plan that includes, but is not limited to:

- Establishment of an underwater exclusion zone.
- Preconstruction monitoring to update the animals' occurrence and use of the area.
- Monitoring of marine mammals and sea turtles by an experienced observer immediately prior to and during all pile driving activities.
- Pile driving should not occur while marine mammals or sea turtles are present within the exclusion zone.
- Pile driving should commence after a soft start to allow marine mammals to leave the area.

The Department recommends that the City of San Diego consult with the National Marine Fisheries Service and U.S. Fish and Wildlife Service regarding the above recommendation and any other necessary avoidance and mitigation measures to reduce impacts to marine mammals and sea turtles.

Living Shorelines

Comments: The NOP proposes to construct a living shoreline habitat consisting of manufactured, perched wetland and tidepool areas for public environmental education and research purposes, improvements in water quality, and coastal resiliency benefits. Additionally, the NOP proposes to provide protection for a proposed public urban beach that would be stabilized with rocks to encourage oyster/mussel growth and provide shoreline protection. With limited details from the NOP, the Department has identified that the proposed infrastructure may fit the definition of an artificial reef (Fish and Game Code Section 6421). Fish and Game Code Section 6420-6425 established the California Artificial Reef Program (CARP) through legislation in 1985. The program was created to investigate the potential to enhance declining species through the placement of artificial reefs. The CARP does not consider reef placement for mitigation, dampening effects of sea level rise, improve diving opportunities, or restoration. In order to provide adequate consultation and advice to the principal permitting agencies on reef design, development, and purpose, the Department needs a comprehensive statewide

scientifically based plan for overseeing the placement of artificial reefs in state waters.

Recommendations: Without a scientifically based statewide artificial reef plan for California, the Department does not support any new artificial reefs, regardless of intent. The Department recommends providing additional discussion within the Draft EIR as to why the treatment would be necessary for education and research purposes, improvements in water quality, coastal resiliency, and shoreline stabilization. In addition, the Department recommends including alternatives to the living shorelines that could still achieve similar shoreline protection and research and educational goals.

The Department is concerned artificial reefs and habitat creation could attract invasive species. If the living shorelines are implemented as currently described within the NOP, the Department recommends that the Draft EIR include discussion on developing an invasive species monitoring plan that includes monitoring measures, adaptive management measures, and protocols if invasive species are identified. Additionally, the Department is concerned that placement of the living shorelines would potentially decrease the amount of habitat for further eelgrass expansion. The Department recommends the Draft EIR include additional discussion on whether the installation of the living shorelines would be within current eelgrass habitat and whether it could prevent future expansion of eelgrass if it were to be implemented.

Invasive Species Impacts

Comments: Disturbance of the bottom sediments from potential pile construction or anchoring may redistribute non-native species that compete with native species. This could cause widespread adverse impacts to eelgrass and the marine ecology. The invasive alga *Caulerpa taxifolia* is listed as a federal noxious weed under the U.S. Plant Protection Act and while deemed eradicated in California in 2006 is monitored for potential future emergence. Another invasive alga species found recently in Newport Bay and most recently in San Diego Bay is *Caulerpa prolifera*, which is also a potential threat to growth and expansion of native eelgrass beds and other native algae.

Recommendations: The Department recommends including a pre-construction *Caulerpa Spp.* survey to identify potential existence of invasive *Caulerpa Spp.* as described in the *Caulerpa Control Protocol* <https://media.fisheries.noaa.gov/2021-12/caulerpa-control-protocol-v5.pdf> (October 2021). Any sightings of *Caulerpa Spp.* should be reported within 24 hours to the Department (Caulerpa@wildlife.ca.gov), and NMFS at 562-980-4037 (nmfs.wcr.caulerpa@noaa.gov).

Nesting Bird Surveys

Comment: Although the NOP indicates that the landside portion of the Project is fully developed, mature trees on site may provide suitable habitat for bird nesting. Per California Fish and Game Code Sections 3503, 3503.5, and 3513, the proposed Project should avoid the incidental loss of fertile eggs or nestlings, and activities that lead to nest abandonment.

Recommendation: In order to avoid impacts to nesting birds, the EIR should require that clearing of vegetation, and when biologically warranted construction, occur outside of the peak avian breeding season which generally runs from February 1 through September 1 (as early as January 1 for some raptors). If Project construction is necessary during the bird breeding season, a qualified biologist with experience in conducting bird breeding surveys should conduct weekly bird surveys for nesting birds, within three days prior to the work in the area, and ensure no nesting birds in the Project area would be impacted by the Project. If an active nest is identified, a buffer shall be established between the construction activities and the nest so that nesting activities are not interrupted. The buffer should be a minimum width of 300 feet (500 feet for raptors), be delineated by temporary fencing, and remain in effect as long as construction is occurring or until the nest is no longer active. No Project construction shall occur within the fenced nest zone until the young have fledged, are no longer being fed by the parents, have left the nest, and will no longer be impacted by the Project. Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.

Potential Building Design Impacts on Migratory Birds

Comment: The Project proposal includes construction of multiple skyscrapers, varying in height between 5-34 stories. As discussed in the Biological Resources section of the Initial Study (page 90), the San Diego Bay shoreline is located within the Pacific Flyway and provides stopover habitat for migrating waterfowl and shorebirds. Buildings containing large glass panels or windows pose the risk of bird strike, a direct impact to which migratory avian species are particularly susceptible. The two primary hazards of glass for birds are reflectivity and transparency. Avian species perceive reflective and transparent glass as clear airspace, leading to collisions with windows. Interior lighting elements can also contribute to window strikes at night. Annual bird mortality resulting from window collisions in the U.S. is estimated to be between 365-988 million birds (Loss et al. 2014).

Recommendation: Bird strikes can be minimized through incorporation of “bird safe” architectural design elements. Purpose-driven elements such as glazed windows, well-articulated building facades, and minimal nighttime lighting are encouraged to reduce collisions of migratory birds with buildings. Large flat windows, reflective glass, and transparent corners are strongly discouraged. CDFW recommends that the Port incorporate the guidelines described in the Methods to

Reduce Bird Collisions with Glass When Remodeling and Designing New Facilities document in the Project's structure designs (USFWS 2020).

II. Editorial Comment

The Port of San Diego (Port) posted the NOP of a Draft Environmental Impact Report for the Seaport San Diego Redevelopment Project (UPD# EIR-2022-117) on the Port's website and provided a notice of availability to stakeholders via e-mail. While CDFW appreciates the direct engagement, Project documents must also be filed with the State Clearinghouse. Assembly Bill (AB) 819 (Effective January 1, 2022) requires electronic filing of specified environmental documents and notices to the Office of Planning and Research (OPR): "[n]otice of Preparation: Whenever a lead agency determines that a DEIR is required for a project, the lead agency must send a copy of the NOP to all responsible agencies and trustee agencies, file with the county clerk of each county in which the project will be located, and file with the SCH. Copies of all NOPs must be sent to the SCH" (Public Resources Code (PRC) S 21080.4(a)). Instructions for document submission can be found on the Office of Planning and Research website: [Environmental Document Submission - Office of Planning and Research \(ca.gov\)](https://www.opr.ca.gov/Environmental-Documents/Environmental-Documents-Submission-Office-of-Planning-and-Research)

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 filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document 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 environmental document filing 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 City of San Diego in identifying and mitigating Project impacts on biological resources. Questions regarding this letter or further coordination on marine issues should be directed to Leslie Hart, Environmental Scientist at Leslie.Hart@wildlife.ca.gov. Questions or further coordination on terrestrial issues should be directed to Jessie Lane, Environmental Scientist at Jessie.Lane@wildlife.ca.gov.

Sincerely,



for

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REFERENCES

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