



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
South Coast Region  
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GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



December 18, 2023

Megan Hamilton  
San Diego Unified Port District  
3165 Pacific Highway  
San Diego, CA 92101  
[mhamilton@portofsandiego.org](mailto:mhamilton@portofsandiego.org)

Dear Megan Hamilton:

**SUBJECT: EAST HARBOR ISLAND REDEVELOPMENT/TOPGOLF PROJECT AND PORT MASTER PLAN AMENDMENT (PROJECT), NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT (NOP), SCH #2023110463**

The California Department of Fish and Wildlife (CDFW) received a NOP from the Port of San Diego for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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 CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

**CDFW ROLE**

CDFW 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 & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, 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. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW 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.

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<sup>1</sup> 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.

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## PROJECT DESCRIPTION SUMMARY

**Proponent:** San Diego Unified Port District (Port)

**Objective:** The objective of the Project is to redevelop portions of East Harbor Island. Project activities include demolition of several existing structures, street realignment, construction of a 10-acre Topgolf complex, and future redevelopment of adjacent parcels. The Project also includes a Port Master Plan Amendment (PMPA) to change the land use designation from Industrial Business Park, Open Space, and NA Harbor Services to Commercial Recreation and Park/Plaza.

**Location:** The 43-acre Project site is located on the eastern section of Harbor Island in San Diego Bay. The site is bounded to the north by North Harbor Drive and the San Diego International Airport, to the west by Harbor Island Drive, to the south by Liberator Way and the East Basin of San Diego Bay, and to the east by the Convair Lagoon portion of San Diego Bay. The Project site is mostly developed currently, including several buildings, rental car companies, and San Diego International Airport facilities proposed for demolition. The existing San Diego Harbor Police facilities will remain.

**Biological Setting:** The San Diego Bay shoreline 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. 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*).

## COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below for the public record, to assist the Port in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources.

### Comment #1: California Least Terns

The Project proposes to install 170' poles to support safety netting for the Topgolf facility. Raptors are known to utilize elevated perching sites as vantage points for hunting and observing potential prey. It is estimated that line-of-sight for some raptor species can reach a distance of up to 1 mile (Vance et al., 2000). The Initial Study indicates that there is a California least tern (*Sternula antillarum browni*, least tern) nesting site within 0.5 mile of the Project site. Least terns are listed as endangered under both the California

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Endangered Species Act (CESA) and the federal Endangered Species Act (ESA) and are also fully protected under FGC section 3511(b)(6). As a fully protected species, take cannot be authorized for least tern and impacts must be fully avoided. Installation of poles that act as raptor perches could be detrimental to the nearby least tern colony, as raptors may prey on vulnerable least tern chicks. The Initial Study indicates that further analysis will be included in the EIR. CDFW recommends that the analysis include specific measures to ensure that raptors do not use the poles as perches, including methodology supported by scientific literature. The measures should ensure that impacts to least tern are fully avoided by the Project and by future operation of the facilities.

### **Comment #2: Bird Entanglement**

The installation of golf netting poses the potential risk of entanglement for migratory birds along the Pacific Flyway. Migrating birds, including waterfowl and shorebirds, are susceptible to entanglement in man-made structures. The installation of golf netting may increase the likelihood of entanglement incidents, particularly during migration seasons when large numbers of birds fly through the area, as well as periods of low visibility such as during fog. There have been several incidents of bird entanglement in Topgolf netting throughout the country (WKMG, 2019; Miami Herald, 2023). CDFW requests that the EIR discuss in detail the netting design, mesh size, and gauge, as well as provide evidence that the netting does not pose an entanglement risk. The assessment should include mitigation measures to minimize the risk of bird entanglement, as well as monitoring and management protocols to assess mitigation success upon completion of the Project. CDFW should be notified immediately if any wildlife species become entangled in the golf netting.

### **Comment #3: Night Lighting**

The Initial Study indicates that the Topgolf complex will have evening operation hours, and that a lighting plan will be prepared to evaluate the potential biological impacts. Night lighting may negatively impact bird and bat behavior by causing disorientation, disruption of migration patterns, collisions with structures, altered feeding habits, and increasing the likelihood for entanglement in golf netting. The indirect impacts can lead to reduced fitness, population declines, and direct mortality of individuals. The lighting study should, at a minimum, include details such as lighting design, lighting intensity and spectrum, use of motion sensors and timers, specific light operation schedule, incorporation of vegetation or other visual barriers between light and wildlife, and education and monitoring protocols. Mitigation measures should incorporate science-based approaches to minimizing wildlife impacts from night lighting.

### **Comment #4: Potential Marine Construction**

Per communication with the San Diego Port Unified District, there could be some in-water work associated with the Project's proposed revetment/riprap repair and stormwater outlet replacement/upgrades. CDFW's Marine Region recommends that any planned in-water work for the Project should be fully described in the Draft EIR, including the purpose and need of the construction and a description of all marine habitats and species that may be

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impacted by the Project's activities. CDFW's Marine Region recommends consulting with us prior to the release of the DEIR if any in-water work is planned.

## **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base 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 CDFW. 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**

CDFW appreciates the opportunity to comment on the NOP to assist the Port in identifying and mitigating Project impacts on biological resources.

Questions and further coordination on terrestrial issues should be directed to Jessie Lane, Environmental Scientist, at [Jessie.Lane@wildlife.ca.gov](mailto:Jessie.Lane@wildlife.ca.gov). Questions and further coordination on marine issues should be directed to Leslie Hart, Marine Environmental Scientist, at [Leslie.Hart@wildlife.ca.gov](mailto:Leslie.Hart@wildlife.ca.gov).

Sincerely,

DocuSigned by:

*David Mayer*

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Environmental Program Manager  
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Cindy Hailey, San Diego – [Cindy.Hailey@wildlife.ca.gov](mailto:Cindy.Hailey@wildlife.ca.gov)  
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## **References**

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