SUBJECT: PORT ENVIRONMENTAL ADVISORY COMMITTEE POLICY

PURPOSE: To review and provide input and recommendations on Port environmental programs and initiatives, and comment on funding projects aimed at improving the condition of the Bay and surrounding Port tidelands.

POLICY STATEMENT:

The Board of Port Commissioners (Board) is committed to protecting and improving the environmental conditions of San Diego Bay and Port tidelands (Bay). To that end, the Planning, Environment & Government Relations Division and Environmental Advisory Committee (EAC) were created and invested with the responsibility of ensuring the Port’s compliance with environmental laws and regulations, as well as advising the Board on actions that can be taken to improve the condition of the Bay.

San Diego Bay is often referred to as the “Crown Jewel” of San Diego. Beneath its beautiful surface, the Bay serves a number of important ecological roles, serving as a spawning ground for many local fish species, acting as a key stopping point for a variety of bird species traveling along the Pacific Fly Way, and providing the discharge point for numerous creeks and rivers within the San Diego Bay watershed.

The Bay also has played an essential role in supporting the growth of the region's population and economy. In the past, fulfilling this role often has resulted in negative impacts on the Bay. For years, raw sewage and industrial wastes were discharged, untreated, into the waters of the Bay. Modern environmental laws, coupled with the corporate commitments of Port industry, have significantly reduced industrial sources of Bay pollution. Unfortunately, discharges continue in the form of urban runoff throughout San Diego Bay's extensive watershed.

The development of the Bay with hotels, roads and businesses has significantly altered the natural condition of the Bay. During the last 100 years, natural shoreline has been removed and replaced with artificial hard structures, a type of substrate not native to the Bay and of limited value to native wildlife. As a result, there has been a 70% loss of salt marsh, 84% loss of intertidal areas other than salt marsh, and a 42% loss of shallow subtidal zone habitats.

Improving the condition of the Bay cannot be accomplished solely through regulatory compliance. The restoration of the Bay to a more pristine condition requires efforts that
are beyond mere regulatory compliance. This will require the concerted, coordinated efforts of all the stakeholders of the Bay - academia, environmental groups, government, Port tenants, and regulatory and resource agencies. The Board has created the EAC to function as a forum to provide the Board with input and recommendations for accomplishing the Port’s strategic goal to “protect and improve the environmental conditions of San Diego Bay and the Tidelands.”

This EAC Policy details the organization, structure and functioning of the Committee and management of the Environmental Fund.

ANALYSIS:

1. The Bay is the “Crown Jewel” of the San Diego region and a focal point in media descriptions of the San Diego region.

2. The Bay is an ecosystem which plays an important role in the broader, regional ecosystem, as illustrated by the U.S. Fish and Wildlife Service’s designation of south San Diego Bay as a National Wildlife refuge. The Bay is home to 89 species of fish, seven endangered species and thousands of birds visiting San Diego during their annual migration along the Pacific Fly Way.

3. The Bay is an important economic resource for the region, supporting the U.S. Navy’s Pacific Fleet, two marine terminals, three shipyards, other maritime industries, and 8,000 recreational boat slips, as well as a wide range of hotels, restaurants and convention facilities to support the tourism industry.

4. The Bay is the discharge point of urban runoff from throughout the San Diego Bay watershed, an area of 415 square miles and where 50% of the county’s population lives or works.

5. The ecological and economic roles or “uses” of the Bay have not always been compatible. As a result, the Bay’s sediments, home to organisms at the base of the food chain, contain “legacy” pollutants and historic habitat along the shoreline has been replaced by artificial concrete structures, including seawalls, which are inefficient as habitat.

6. The Port of San Diego has accepted the role of “environmental champion” of the Bay, responsible for the protection and enhancement of 2,508 acres of tideland and 2,860 acres of water in the Bay.
7. The Planning, Environment & Government Relations Division and EAC were created to ensure that the Port is in compliance with environmental laws and regulations. Planning, Environment & Government Relations programs include but are not limited to: Green Port; Energy; Environmental Conservation; Environmental Protection, Planning, Aquaculture, Blue Technology; and Natural Resources. The Planning, Environment & Government Relations staffs the Committee and manages the Environmental Fund, awarding grants to environmental programs and projects.

8. The Port’s environmental efforts are a regional investment, benefiting the entire county by supporting assets such as hotels and shipyards, which provide jobs and support businesses throughout the region. The Port also incurs significant costs associated with the impacts of pollution from the region entering the Bay via urban runoff.

9. The Bay is one of this region’s most precious resources and is an important fish nursery and a key stop over on the Pacific Flyway, for thousands of migratory birds. Protecting the bay and its resources is important throughout different stages of wildlife development. By protecting and enhancing these habitats, we are ensuring the long-term sustainability of the bay’s resources and doing so in a manner that creates resiliency to future impacts such as upstream pollution or sea level changes.


ENVIRONMENTAL ADVISORY COMMITTEE:

The EAC operates according to the guidelines for all Board advisory committees, as established in BPC Policy No. 018 (2008-273, 2 December 2008) and articulated in the Charter prepared specifically for the EAC. The purpose of this, and all other Port advisory committees, is to advise the Board. The EAC is advisory in nature and has no authority to negotiate for, represent, or commit the Port in any respect.

The membership of all committees is the prerogative of the Chair of the Board. In January
of each calendar year, the incoming Chair establishes the slate of committees for that year and appoints the members of each. The EAC shall be composed of one (1) to three (3) members of the Board and representatives of stakeholder groups including, but not limited to: Port tenants; environmental advocacy groups; the U.S. Navy; regulatory agencies; resource agencies; member cities; academia; local business; and labor. EAC membership shall not exceed eighteen stakeholder members and up to three commissioners. This diverse membership will allow the EAC to achieve the Board's goal of receiving input from a broad and balanced cross section of the community. EAC meetings are intended to encourage input from stakeholders and interaction with Port staff and Board members.

TERM:

EAC membership is the prerogative of the Chair of the Board. It is the intent of the Board to control the terms of an individual's or organization's participation in order to: (1) provide an opportunity for as many qualified and willing individuals as possible to serve their community; (2) promote equal opportunity for membership; (3) most precisely match membership's expertise to the program's needs.

Should an EAC vacancy occur prior to the end of a member's term, the Chair may choose to appoint a replacement for the unexpired portion of that term and notify the Board of such action. There will be no alternate EAC members. EAC members shall receive no compensation for their services.

CONFLICTS OF INTEREST:

To the extent required by law, the EAC will operate in compliance with the Political Reform Act and Government Code section 1090 regarding conflicts of interest. EAC members with financial interests in projects coming before the EAC will be required to disclose the interest and abstain from any participation as to the matter. Members and their organizations seeking funding from the EAC will not be able to participate in the matter and may be subject to disqualifying requirements of Government Code section 1090.

Although Port District staff cannot provide legal advice to EAC members regarding potential conflicts of interest, staff will be available to provide members with information to assist members in making appropriate determinations.

FUNDING MECHANISMS:

Environmental regulatory programs are focused largely on preventing contamination of
the air, water, and land or on maintaining habitat for birds, fish, and wildlife. Efforts to restore areas to historic conditions are more problematic, whether it is by the remediation of areas with legacy contamination or the recovery of lost wetlands. Although regulatory programs exist to effect these changes, in almost all cases their implementation is exceedingly slow and drawn out, often by technical and legal challenges and, thus, the success of such programs often is less than optimal.

The Board has developed a program to assist in funding environmental projects.

1. ENVIRONMENTAL FUND

**Purpose:** The purpose of the Environmental Fund (Fund) is to fund projects that address air, water and sediment quality, sustainability and climate action planning, natural resources and endangered species management, habitat creation, restoration or protection, reclaiming natural shoreline conditions, environmental education, research and monitoring, and/or other issues in the Bay and/or the tidelands.

**Project Selection:** Projects will be identified and reviewed by staff of Planning, Environment & Government Relations. In evaluating a project, staff will determine if it meets the objectives identified by the EAC.

In selecting projects, staff will address questions such as, but not limited to:

- Will the project create new habitat for fish or birds?
- Will the project restore historic habitat that has been lost through development or other means?
- Will the project remediate, or hasten the move towards remediation, of a contaminated area of the Bay?
- Will the project enhance the public's enjoyment of the Bay without impacting the environment?
- Will the project improve air quality in the region?
- Will the project reduce energy, waste and/or water use?
- Will the project improve environmental decision-making?
- Will the project prevent contamination of the Bay?
- Will the project resolve a regulatory impasse which has prevented, or significantly slowed, the restoration of the Bay?
- Is the project located within the Bay, or is it of direct benefit to the Bay and the surrounding region?
Project Approval: In order for a project to receive funding, whether partial, in-kind, or complete, the project must be approved by the Board. Neither staff nor the EAC has the authority to act on behalf of the Board. The Board is the ultimate and final decision maker on all matters related to the expenditure of funds.

Funding: Each year, the Board shall set aside ½ of 1% of the Port District's projected gross revenues for that year. For the purpose of this calculation, gross revenue shall not include anticipated grants from any source or any other restricted revenue source. Such money set aside shall be expended for specific environmental projects or allocated to a fund set aside within the Port District Revenue Fund for environmental projects within the Port District.

The Port Act allows the maintenance of a single, general fund (Port Act, Section 10) and does not allow the creation and maintenance of multiple funds. The Board can choose to set aside money for an Environmental Fund within the Port District Revenue Fund. Money so set aside may be accumulated for more than one year, but its use, from year-to-year, will be subject to the discretion of the Board.

Staff will recommend projects to the EAC, which will provide comments. Staff will then make a recommendation to the Board to approve funding for projects.

1. Seek funding from sources other than the Fund, and/or
2. Seek matching funds from other sources.
RESOLUTION 2021-036

RESOLUTION APPROVING ADMINISTRATIVE MODIFICATIONS TO BOARD OF PORT COMMISSIONERS POLICY 730 THE PORT ENVIRONMENTAL ADVISORY COMMITTEE POLICY

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix I; and

WHEREAS, on June 6, 2006, the Board adopted Policy No. 730, the Port Environmental Advisory Committee (EAC) Policy which outlines the organization, structure, and functions of the EAC and management of the Environmental Fund; and

WHEREAS, Policy No. 730, provides the EAC is to advise the BPC and provide input and recommendations regarding the protection and improvement of the environmental conditions of San Diego Bay and the Tidelands; and

WHEREAS, staff recommends that the Board approve modifications to Board of Port Commissioners Policy 730 - the Port Environmental Advisory Committee policy - by making non-substantive administrative updates, which include a name change and clarifying language on the EAC’s membership as set forth in the corresponding agenda on file in the Office of the District Clerk.

NOW, THEREFORE, BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified Port District that Board of Port Commissioners (BPC) Policy No. 730 the Port Environmental Advisory Committee policy is hereby modified. A copy of the revised policy shall be kept on file in the Office of the District Clerk.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

John Carter
By: Assistant/Deputy
PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 13th day of April, 2021, by the following vote:

AYES: Bonelli, LeSar, Malcolm, Moore, Naranjo, and Zucchet
NAYS: None.
EXCUSED: Castellanos
ABSENT: None.
ABSTAIN: None.

Michael Zucchet, Chairman
Board of Port Commissioners

ATTEST:

Donna Morales
District Clerk
Certificate Of Completion

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You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: rsanagus@portofsandiego.org

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To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to rsanagus@portofsandiego.org and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address.

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2. send us an e-mail to rsanagus@portofsandiego.org and in the body of such request you must state your e-mail, full name, US Postal Address, and telephone number. We do not need any other information from you to withdraw consent. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process.

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**Acknowledging your access and consent to receive materials electronically**

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- Until or unless I notify San Diego Unified Port District as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by San Diego Unified Port District during the course of my relationship with you.
FILE #: 2021-0046
DATE: April 13, 2021
SUBJECT:

ENVIRONMENTAL ADVISORY COMMITTEE
A) RESOLUTION APPROVING CALENDAR YEAR 2021 ANNUAL WORK PLAN FOR THE
ENVIRONMENTAL ADVISORY COMMITTEE PURSUANT TO THE BOARD OF PORT
COMMISSIONERS POLICY 018, BOARD ADVISORY COMMITTEES
B) RESOLUTION APPROVING ADMINISTRATIVE MODIFICATIONS TO BOARD OF PORT
COMMISSIONERS POLICY 730 THE PORT ENVIRONMENTAL ADVISORY COMMITTEE
POLICY

EXECUTIVE SUMMARY:

The Board of Port Commissioners (Board) is committed to protecting and improving the
environmental conditions of San Diego Bay and Port tidelands. To that end, the Planning,
Environment & Government Relations (PEGR) programs were created, in part, to ensure the San
Diego Unified Port District (District) is in compliance with environmental regulations.

On June 6, 2006, the Board adopted Policy No. 730, the Port Environmental Advisory Committee
(EAC) Policy. Policy No. 730 outlines the organization, structure, and functions of the EAC and
management of the Environmental Fund. The purpose of the EAC is to advise the Board with respect
to the protection and improvement of environmental conditions within the bay. Policy No. 730 details
the membership of the EAC and the purpose of the Environmental Fund, which is to fund projects
that address the quality, management, protection, improvement, and/or sustainability of natural
resources in the bay and tidelands. The EAC provides comments and feedback to the Board on
Environmental Fund programs, as well as other environmental projects and initiatives.

The Board of Port Commissioners (Board) Policy 018 states that each advisory committee shall
forward to the Board a general work plan for the year for the Board’s consideration. The
Environmental Advisory Committee (EAC) has recommended the attached work plan for 2021.
Completion of the entire work plan will be dependent upon the availability of resources, both staffing
and funding, and will be subject to Board approval of the FY 21/22 budget. Staff recommends that the
Board approve the 2021 work plan. Staff also recommends that any new work initiated by the EAC
be approved by the Board.

In addition, staff recommends the Board also approve updates to Policy No. 730 that reflect non-
substantive administrative changes including a name change and clarification of the EAC
membership. The updates do not affect the existence, function, or other elements of the EAC or the
Environmental Fund.
RECOMMENDATION:

Adopt a resolution approving the 2021 annual work plan for the Environmental Advisory Committee pursuant to BPC Policy No. 018. Adopt a resolution authorizing non-substantive administrative updates to BPC Policy No. 730, the Port Environmental Advisory Committee Policy.

FISCAL IMPACT:

There is no direct fiscal impact related to staff’s recommendation. A portion of the projects are included in the proposed work plan and are budgeted for in the Planning, Environment & Government Relations Division FY 20/21 budget. Projects planned in future fiscal years will be budgeted for in the appropriate fiscal year included in the preliminary Planning, Environment & Government Relations Division budget proposal and will be subject to Board approval upon adoption of each fiscal year’s budget. Funding for future fiscal years is subject to Board approval and appropriation, which could occur during each fiscal year’s budget. Accordingly, this action does not commit funding for future fiscal years.

COMPASS STRATEGIC GOALS:

This agenda item supports the following Strategic Goal(s).

- A Port that the public understands and trusts.
- A Port with a healthy and sustainable bay and its environment.
- A Port with a comprehensive vision for Port land and water uses integrated to regional plans.
- A Port that is a safe place to visit, work and play.

DISCUSSION:

History of Environmental Advisory Committee

San Diego Bay is one of this region’s most precious natural resources. The bay is often referred to as the “Crown Jewel” of San Diego and it performs a number of important ecological roles, such as serving as a spawning and foraging ground for local fish species, acting as a key stopping point for a variety of bird species traveling along the Pacific Fly Way, providing the discharge point for creeks and rivers within the San Diego Bay watershed, and supporting unique coastal wetland and eelgrass habitats that provide ecosystem services and recreational benefits to the bay’s surrounding communities and visitors. The Board is committed to protecting these natural habitats and ecosystem services, which ensures the long-term sustainability of the bay and its resources.

The bay also plays an essential role in supporting the growth of the region’s population and economy. The development of working waterfronts, hotels, roads, and businesses has significantly altered the natural condition of the bay and, in the past, resulted in negative environmental impacts, such as pollution, hardened shorelines, and loss of habitat. Robust environmental regulations and regulatory compliance have shifted the focus of coastal projects to be both environmentally and economically compatible. Today, improving environmental conditions within the bay cannot be accomplished solely
through regulatory compliance. Restoration to a more pristine condition requires the concerted, coordinated efforts of all the bay’s stakeholders, including the District, as an environmental champion of the bay.

To guide the District’s environmental efforts, the Board adopted BPC Policy No. 730 (Clerk no. 56746) on June 6, 2006, per Resolution #2006-111 (Clerk No. 50787). The purpose of the policy was to establish the Environmental Advisory Committee (EAC) and the Environmental Fund. The EAC was created to advise the Board and provide input and recommendations for accomplishing the Port’s strategic goal to “protect and improve the environmental conditions of San Diego Bay and the Tidelands.”

The EAC reviews and provides comments and feedback on a variety of environmental projects and initiatives to help ensure the District’s compliance with environmental laws and regulations. The EAC also advises staff on funding environmental projects and initiatives to improve conditions within the bay. The EAC has provided feedback on several environmental topics including, but not limited to, air quality, aquaculture, blue technology and the Blue Economy, climate action planning, energy and sustainability, greenhouse gas emissions, living shorelines, restoration and enhancement projects, mitigation banking, natural resource surveys and monitoring, sea level rise, water quality, environmental education, and the Port Master Plan Update.

**History of the Environmental Fund**

The purpose of the Environmental Fund is to restore and enhance San Diego Bay and surrounding Port tidelands by funding projects that address air, water, and sediment quality; sustainability and climate action planning; natural resources and endangered species management; habitat creation, restoration, or protection; reclaiming natural shoreline conditions; environmental education, research, and monitoring; and other environmental issues in the bay and on Port tidelands.

A summary of Environmental Fund projects includes:

- Funding for alternative fuel vehicles;
- Installation of 168 kW (kilowatt) of photovoltaics at the General Services, Broadway Pavilion, B Street Pier, and the Administration buildings;
- Replacement of 1,400 light fixtures with energy efficient lights;
- Achievement of the first LEED certified building at the Broadway Pavilion;
- Trash skimmers and oil recycling bins at Pier 32, Cabrillo Isle, Point Loma and Half Moon Bay marinas;
- Installation of storm drain filters to prevent debris from entering the bay;
- Replacement of over 1.5 acres of grass with water wise landscaping at Harbor Island and Shelter Island;
- Assisting with the propagation of the endangered light-footed Ridgway’s (formerly clapper) rail;
- Providing environmental education to over 550,000 primarily underserved students within the San Diego Bay watershed;
- Research and monitoring of eelgrass, turtles, endangered species, air quality, copper and alternative boat hull paints;
- Removal of over three hundred tons of debris from the bay and along the shoreline;
- Planting of thousands of native plants while removing invasive plants;
- Placement of fish structures in the bay;
- Raising and releasing over 10,000 white sea bass into the bay;
- Restoration of over 280 acres of salt marsh wetlands in South Bay;
- Research on the fault lines in the bay;
- Modeling sea level rise impacts;
- Environmentally friendly shoreline erosion study;
- Entitling a Living Shoreline project;
- Entitling a wetlands mitigation bank at Pond 20;
- Aquaculture entitlements and biological assessments;
- Installation of osprey nesting platforms;
- Design of porous pavers for North Harbor Drive realignment; and
- Long-term monitoring of wetlands restoration sites.

Pursuant to Board Policy No. 730, the Environmental Fund is funded annually with ½ of 1% of the District’s projected gross revenues for that year if revenues allow. For the purpose of this calculation, gross revenue shall not include anticipated grants from any source or any other restricted revenue source. Environmental Funds set aside may accumulate for more than one year, and all funding is subject to the discretion of the Board.

Environmental Advisory Committee Structure and Governance

Pursuant to BPC Policy No. 730, the EAC provides advice regarding the protection and improvement of the environmental conditions of the bay and the tidelands. The EAC is advisory in nature and has no authority to negotiate for, represent, or commit the District in any respect. EAC membership includes up to 18 representatives from environmental and community stakeholder groups, including Port tenants, environmental advocacy groups, the U.S. Navy, regulatory agencies, resource agencies, academia, and local businesses. The chair of the EAC is a Port Commissioner and up to three Commissioners may be appointed to the EAC.

The 2021 EAC includes the following members:
- Board of Port Commissioners (Committee Chair)
- California Coastal Conservancy
- California Regional Water Quality Control Board
- Center for Sustainable Energy
- Environmental Health Coalition
- Industrial Environmental Association
- National Marine Fisheries Service
- San Diego Air Pollution Control District
- San Diego Coastkeeper
- San Diego Port Tenants Association, represented by NASSCO
- San Diego State University
- Shelter Island Marina
- Sportfishing Association of California
EAC members vote on items considered for recommendation to the Board, with the exception of the Commissioner(s) who do not vote. Although the EAC was initially established to recommend environmental projects for funding through the District’s Environmental Fund, the EAC no longer votes on recommendations that pertain to funding. The EAC only provides comments on staff’s recommendation for funding. This change was made in order to avoid potential, perceived, or actual conflicts of interest.

BPC Policy No. 018 also requires committees, including the EAC, to create an annual work plan of topics for the committee to discuss, either as presentations at committee meetings or via memos, and provide feedback. Presently, the EAC meets quarterly.

Environmental Advisory Committee Recommended Annual Work Plan for 2021

On March 17, 2021, the EAC approved its recommended 2021 work plan as detailed in Attachment A. The EAC requested that staff submit the recommended work plan to the Board for approval. The recommended work plan includes the following priorities for the year, which support the District’s goal of: “A Port with a healthy and sustainable Bay and its environment.”

Pursuant to the proposed work plan, the EAC will provide input on the following projects and initiatives during the 2021 calendar year, which may include the creation of an EAC ad hoc committee to address matters within one or more of these categories:

**Air Quality**
- Implementation through Investments & Partnerships

**Blue Economy**
- Blue Economy Incubator Projects
- Restorative Aquaculture

**Climate Action**
- Blue Carbon
- Climate Action Plan Technical Study
- Green Port Year-in-Review
- Sea Level Rise Planning
- Tenth Avenue Marine Terminal Microgrid
- Zero Emission Vehicles & Infrastructure Deployment

**Climate & Ecology Implementation**
- Living Shorelines Project
- Mitigation Banking
- Natural Resource Surveys & Monitoring
- Regional Harbor Monitoring Program
Proposed Updates to BPC Policy No. 730

Proposed changes to BPC Policy No. 730 include non-substantive administrative updates, including updating the Planning, Environment & Government Relations Division name and clarifying language on the EAC’s membership, as set forth in Attachment B. Committee members were emailed a redline copy of the Policy on March 9, 2021 for review prior to the March 17, 2021 EAC meeting. The Committee also reviewed the Policy changes during the March 17 meeting and did not have any comments.

Conclusion

Staff recommends the Board approve the 2021 EAC annual work plan, which represents a work plan that can be accomplished with existing staff resources and available funding. In addition, staff is recommending that any new work initiated by the EAC be approved by the Board.

Staff also recommends the Board approve non-substantive administrative updates to BPC Policy No. 730.

General Counsel’s Comments:

The Office of General Counsel reviewed this agenda and the proposed Board actions as to form and legality.

Environmental Review:

The Board action, including without limitation, a resolution approving the CY2021 Annual Work-Plan of the Environmental Advisory Committee pursuant to BPC Policy No. 018, does not constitute an “approval” or a “project” under the definitions set forth in California Environmental Quality Act (CEQA) Guidelines Sections 15352 and 15378 because no direct or indirect changes to the physical environment would occur. CEQA requires that the District adequately assess the environmental impacts of projects and reasonably foreseeable activities that may result from projects prior to the approval of the same. Any project developed as a result of Board’s action or direction that requires the District or the Board’s discretionary approval resulting in a physical change to the environment will be analyzed in accordance with CEQA prior to such approval. CEQA review may result in the District, in its sole and absolute discretion, requiring implementation of mitigation measures, adopting an alternative, including without limitation, a “no project alternative” or adopting a Statement of Overriding Consideration, if required. The current Board direction in no way limits the exercise of this discretion. Therefore, no further CEQA review is required.

In addition, the proposed Board action complies with Section 87 of the Port Act, which allows for the
establishment and maintenance of tidal and submerged lands for open space, ecological preservation, and habitat restoration. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the project is consistent with the Public Trust Doctrine.

The Board action does not allow for “development,” as defined in Section 30106 of the California Coastal Act, or “new development,” pursuant to Section 1.a. of the District’s Coastal Development Permit (CDP) Regulations because they will not result in, without limitation, a physical change, change in use or increase the intensity of uses. Therefore, issuance of a Coastal Development Permit or exclusion is not required. However, development within the District requires processing under the District’s CDP Regulations. Future development, as defined in Section 30106 of the Coastal Act, will remain subject to its own independent review pursuant to the District’s certified CDP Regulations, PMP, and Chapters 3 and 8 of the Coastal Act. The prospective Board’s action in no way limits the exercise of the District’s discretion under the District’s CDP Regulations. Therefore, issuance of a CDP or exclusion is not required at this time.

Equal Opportunity Program:

Not applicable.

PREPARED BY:

Heather Kramp
Associate Environmental Specialist, Environmental Conservation

Eileen Maher
Director, Environmental Conservation

Attachment(s):
Attachment A: Environmental Advisory Committee 2021 Work Plan
Attachment B: BPC Policy No. 730 Port Environmental Advisory Committee Policy (redlined copy)
Purpose of the Environmental Advisory Committee:
Advise the Board of Port Commissioners on programs, policies and projects that would ensure
the protection and improvement of the environmental conditions of San Diego Bay and
surrounding tidelands.

Port Compass Strategic Goals Supported by the Committee:
- A Port that the public understands, trusts, and values.
- A Port with a healthy and sustainable bay and its environment.
- A Port with a comprehensive vision for Port land and water uses integrated to regional
  plans.

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SUBJECT: PORT ENVIRONMENTAL ADVISORY COMMITTEE POLICY

PURPOSE: To review and provide input and recommendations on Port environmental programs and initiatives, and comment on funding projects aimed at improving the condition of the Bay and surrounding Port tidelands.

POLICY STATEMENT:

The Board of Port Commissioners (Board) is committed to protecting and improving the environmental conditions of San Diego Bay and Port tidelands (Bay). To that end, the Planning & Green Port program’s Planning, Environment & Government Relations Division (PGP) and Environmental Advisory Committee (EAC) were created and invested with the responsibility of ensuring the Port’s compliance with environmental laws and regulations, as well as advising the Board on actions that can be taken to improve the condition of the Bay.

San Diego Bay is often referred to as the “Crown Jewel” of San Diego. Beneath its beautiful surface, the Bay serves a number of important ecological roles, serving as a spawning ground for many local fish species, acting as a key stopping point for a variety of bird species traveling along the Pacific Fly Way, and providing the discharge point for numerous creeks and rivers within the San Diego Bay watershed.

The Bay also has played an essential role in supporting the growth of the region’s population and economy. In the past, fulfilling this role often has resulted in negative impacts on the Bay. For years, raw sewage and industrial wastes were discharged, untreated, into the waters of the Bay. Modern environmental laws, coupled with the corporate commitments of Port industry, have significantly reduced industrial sources of Bay pollution. Unfortunately, discharges continue in the form of urban runoff throughout San Diego Bay’s extensive watershed.

The development of the Bay with hotels, roads and businesses has significantly altered the natural condition of the Bay. During the last 100 years, natural shoreline has been removed and replaced with artificial hard structures, a type of substrate not native to the Bay and of limited value to native wildlife. As a result, there has been a 70% loss of salt marsh, 84% loss of intertidal areas other than salt marsh, and a 42% loss of shallow subtidal zone habitats.

Improving the condition of the Bay cannot be accomplished solely through regulatory
compliance. The restoration of the Bay to a more pristine condition requires efforts that are beyond mere regulatory compliance. This will require the concerted, coordinated efforts of all the stakeholders of the Bay - academia, environmental groups, government, Port tenants, and regulatory and resource agencies. The Board has created the EAC to function as a forum to provide the Board with input and recommendations for accomplishing the Port’s strategic goal to “protect and improve the environmental conditions of San Diego Bay and the Tidelands.”

This EAC Policy details the organization, structure and functioning of the Committee and management of the Environmental Fund.

ANALYSIS:

1. The Bay is the “Crown Jewel” of the San Diego region and a focal point in media descriptions of the San Diego region.

2. The Bay is an ecosystem which plays an important role in the broader, regional ecosystem, as illustrated by the U.S. Fish and Wildlife Service’s designation of south San Diego Bay as a National Wildlife refuge. The Bay is home to 89 species of fish, seven endangered species and thousands of birds visiting San Diego during their annual migration along the Pacific Fly Way.

3. The Bay is an important economic resource for the region, supporting the U.S. Navy’s Pacific Fleet, two marine terminals, three shipyards, other maritime industries, and 8,000 recreational boat slips, as well as a wide range of hotels, restaurants and convention facilities to support the tourism industry.

4. The Bay is the discharge point of urban runoff from throughout the San Diego Bay watershed, an area of 415 square miles and where 50% of the county’s population lives or works.

5. The ecological and economic roles or “uses” of the Bay have not always been compatible. As a result, the Bay’s sediments, home to organisms at the base of the food chain, contain “legacy” pollutants and historic habitat along the shoreline has been replaced by artificial concrete structures, including seawalls, which are inefficient as habitat.

6. The Port of San Diego has accepted the role of “environmental champion” of the Bay, responsible for the protection and enhancement of 2,508 acres of
tideland and 2,860 acres of water in the Bay.

7. The PGP Planning, Environment & Government Relations Division and EAC were created to ensure that the Port is in compliance with environmental laws and regulations. PGP Planning, Environment & Government Relations programs include but are not limited to: Green Port; Energy; Environmental Conservation; Environmental Protection, Planning, Aquaculture, Blue Technology; and Natural Resources. The PGP Planning, Environment & Government Relations staffs the Committee and manages the Environmental Fund, awarding grants to environmental programs and projects.

8. The Port's environmental efforts are a regional investment, benefiting the entire county by supporting assets such as hotels and shipyards, which provide jobs and support businesses throughout the region. The Port also incurs significant costs associated with the impacts of pollution from the region entering the Bay via urban runoff.

9. The Bay is one of this region's most precious resources, and is an important fish nursery and a key stop over on the Pacific Flyway, for thousands of migratory birds. Protecting the bay and its resources is important throughout different stages of wildlife development. By protecting and enhancing these habitats, we are ensuring the long-term sustainability of the bay’s resources and doing so in a manner that creates resiliency to future impacts such as upstream pollution or sea level changes.


ENVIRONMENTAL ADVISORY COMMITTEE:

The EAC operates according to the guidelines for all Board advisory committees, as established in BPC Policy No. 018 (2008-273, 2 December 2008) and articulated in the Charter prepared specifically for the EAC. The purpose of this, and all other Port advisory committees, is to advise the Board. The EAC is advisory in nature and has no authority to negotiate for, represent, or commit the Port in any respect.
The membership of all committees is the prerogative of the Chair of the Board. In January of each calendar year, the incoming Chair establishes the slate of committees for that year and appoints the members of each. The EAC shall be composed of two (2) one (1) to three (3) members of the Board and representatives of stakeholder groups including, but not limited to: Port tenants; environmental advocacy groups; the U.S. Navy; regulatory agencies; resource agencies; member cities; academia; local business; and labor. EAC membership shall not exceed eighteen stakeholder members (stakeholders and two or up to three commissioners). This diverse membership will allow the EAC to achieve the Board’s goal of receiving input from a broad and balanced cross section of the community. EAC meetings are intended to encourage input from stakeholders and interaction with Port staff and Board members.

TERMS:

EAC membership is the prerogative of the Chair of the Board. It is the intent of the Board to control the terms of an individual’s or organization’s participation in order to: (1) provide an opportunity for as many qualified and willing individuals as possible to serve their community; (2) promote equal opportunity for membership; (3) most precisely match membership’s expertise to the program’s needs.

Should an EAC vacancy occur prior to the end of a member’s term, the Chair may choose to appoint a replacement for the unexpired portion of that term and notify the Board of such action. There will be no alternate EAC members. EAC members shall receive no compensation for their services.

CONFLICTS OF INTEREST:

To the extent required by law, the EAC will operate in compliance with the Political Reform Act and Government Code section 1090 regarding conflicts of interest. EAC members with financial interests in projects coming before the EAC will be required to disclose the interest and abstain from any participation as to the matter. Members and their organizations seeking funding from the EAC will not be able to participate in the matter and may be subject to disqualifying requirements of Government Code section 1090.

Although Port District staff cannot provide legal advice to EAC members regarding potential conflicts of interest, staff will be available to provide members with information to assist members in making appropriate determinations.
FUNDING MECHANISMS:

Environmental regulatory programs are focused largely on preventing contamination of the air, water and land or on maintaining habitat for birds, fish and wildlife. Efforts to restore areas to historic conditions are more problematic, whether it is by the remediation of areas with legacy contamination or the recovery of lost wetlands. Although regulatory programs exist to effect these changes, in almost all cases their implementation is exceedingly slow and drawn out, often by technical and legal challenges and, thus, the success of such programs often is less than optimal.

The Board has developed a program to assist in funding environmental projects.

1. ENVIRONMENTAL FUND

Purpose: The purpose of the Environmental Fund (Fund) is to fund projects that address air, water and sediment quality, sustainability and climate action planning, natural resources and endangered species management, habitat creation, restoration or protection, reclaiming natural shoreline conditions, environmental education, research and monitoring, and/or other issues in the Bay and/or the tidelands.

Project Selection: Projects will be identified and reviewed by staff of PGP Planning, Environment & Government Relations. In evaluating a project, staff will determine if it meets the objectives identified by the EAC.

In selecting projects, staff will address questions such as, but not limited to:

- Will the project create new habitat for fish or birds?
- Will the project restore historic habitat that has been lost through development or other means?
- Will the project remediate, or hasten the move towards remediation, of a contaminated area of the Bay?
- Will the project enhance the public’s enjoyment of the Bay without impacting the environment?
- Will the project improve air quality in the region?
- Will the project reduce energy, waste and/or water use?
- Will the project improve environmental decision-making?
- Will the project prevent contamination of the Bay?
- Will the project resolve a regulatory impasse which has prevented,
or significantly slowed, the restoration of the Bay?

- Is the project located within the Bay, or is it of direct benefit to the Bay and the surrounding region?

**Project Approval:** In order for a project to receive funding, whether partial, in-kind, or complete, the project must be approved by the Board. Neither staff nor the EAC has the authority to act on behalf of the Board. The Board is the ultimate and final decision maker on all matters related to the expenditure of funds.

**Funding:** Each year, the Board shall set aside ½ of 1% of the Port District's projected gross revenues for that year. For the purpose of this calculation, gross revenue shall not include anticipated grants from any source or any other restricted revenue source. Such money set aside shall be expended for specific environmental projects or allocated to a fund set aside within the Port District Revenue Fund for environmental projects within the Port District.

The Port Act allows the maintenance of a single, general fund (Port Act, Section 10) and does not allow the creation and maintenance of multiple funds. The Board can choose to set aside money for an Environmental Fund within the Port District Revenue Fund. Money so set aside may be accumulated for more than one year, but its use, from year-to-year, will be subject to the discretion of the Board.

Staff will recommend projects to the EAC, which will provide comments. Staff will then make a recommendation to the Board to approve funding for projects.

1. Seek funding from sources other than the Fund, and/or
2. Seek matching funds from other sources.

RESOLUTION 20xx-xxx

RESOLUTION APPROVING CALENDAR YEAR 2021
ANNUAL WORK PLAN FOR THE ENVIRONMENTAL ADVISORY COMMITTEE PURSUANT TO THE BOARD OF PORT COMMISSIONERS (BPC) POLICY NO. 018, BOARD ADVISORY COMMITTEES

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix I; and

WHEREAS, Board of Port Commissioners (BPC) Policy No. 018 Board Advisory Committees, provides that each of the advisory committees shall develop a general work plan with goals for the calendar year; and

WHEREAS, pursuant to BPC Policy No. 730, the Environmental Advisory Committee (EAC) is to advise the BPC and provide input and recommendations regarding the protection and improvement of the environmental conditions of San Diego Bay and the Tidelands; and

WHEREAS, on March 17, 2021, the EAC approved its recommended work plan for 2021; and

WHEREAS, the recommended work plan includes priorities for the year, which support the District’s goal of: “A Port with a healthy and sustainable Bay and its environment”; and

WHEREAS, staff recommends that the Board approve the 2021 EAC annual work plan included in the corresponding agenda on file in the Office of the District Clerk, which represents an EAC work plan that can be accomplished with existing staff resources and available funding;

NOW, THEREFORE, BE IT RESOLVED that the Board of Port Commissioners of the San Diego Unified Port District hereby approves the calendar year 2021 annual work plan for the EAC pursuant to BPC Policy No. 018, Board Advisory Committees, for the Environmental Advisory Committee.
20xx-xxx

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 13th day of April, 2021, by the following vote:
RESOLUTION 20xx-xxx

RESOLUTION APPROVING ADMINISTRATIVE MODIFICATIONS TO BOARD OF PORT COMMISSIONERS POLICY 730 THE PORT ENVIRONMENTAL ADVISORY COMMITTEE POLICY

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix I; and

WHEREAS, on June 6, 2006, the Board adopted Policy No. 730, the Port Environmental Advisory Committee (EAC) Policy which outlines the organization, structure, and functions of the EAC and management of the Environmental Fund; and

WHEREAS, Policy No. 730, provides the EAC is to advise the BPC and provide input and recommendations regarding the protection and improvement of the environmental conditions of San Diego Bay and the Tidelands; and

WHEREAS, staff recommends that the Board approve modifications to Board of Port Commissioners Policy 730 - the Port Environmental Advisory Committee policy - by making non-substantive administrative updates, which include a name change and clarifying language on the EAC’s membership as set forth in the corresponding agenda on file in the Office of the District Clerk.

NOW, THEREFORE, BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified Port District that Board of Port Commissioners (BPC) Policy No. 730 the Port Environmental Advisory Committee policy is hereby modified. A copy of the revised policy shall be kept on file in the Office of the District Clerk.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

_____________________

By: Assistant/Deputy
PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 13th day of April, 2021, by the following vote: