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## BPC Policy No. 730

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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 & Environment 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



## BPC Policy No. 730

---

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.



## BPC Policy No. 730

---

7. The Planning & Environment Division and EAC were created to ensure that the Port is in compliance with environmental laws and regulations. Planning & Environment programs include but are not limited to: Green Port; Energy; Environmental Conservation; Environmental Protection, Planning, Aquaculture, Blue Technology; and Natural Resources. The Planning & Environment Division 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.
10. The Port adopted a Climate Action Plan (CAP) in 2013 to reduce greenhouse gas (GHG) emissions on Port tidelands. To achieve the goals, the CAP contains a palette of potential GHG reduction measures focusing on five key target areas: Transportation and Land Use, Energy Conservation and Efficiency, Alternative Energy Generation, Waste Reduction and Recycling, and Water Conservation and Recycling.

### **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



## BPC Policy No. 730

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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.

### **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



## BPC Policy No. 730

---

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 the Planning & Environment Division. 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?



## BPC Policy No. 730

---

**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  $\frac{1}{2}$  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 NUMBER AND DATE: 2022-034, dated April 12, 2022 (Supersedes BPC Policy 730, Resolution 2021-036, date April 13, 2021; Resolution 2018-063, dated April 10, 2018; Resolution 2013-27, dated February 12, 2013; Resolution 2010-96, dated June 8, 2010; Resolution 2010-34, dated March 2, 2010; Resolution 2007-138, dated 10 July 2007; and Resolution 2006-111, dated 6 June 2006)