

RESOLUTION 2019-082

RESOLUTION APPROVING BEST MANAGEMENT PRACTICES AND ENVIRONMENTAL STANDARDS FOR OVERWATER STRUCTURAL REPAIR AND MAINTENANCE ACTIVITIES FOR EXISTING PORT FACILITIES WHICH INCLUDE DOCKS, WHARVES, PIERS AND PILES AS AUTHORIZED BY THE U.S. ARMY CORPS OF ENGINEERS REGIONAL GENERAL PERMIT NO. 72 THAT ARE TO BE CONDUCTED BY THE SAN DIEGO UNIFIED PORT DISTRICT

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 (Port Act); and

WHEREAS, Section 87 of the Port Act allows for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient, for the promotion and accommodation of commerce and navigation; and

WHEREAS, U.S. Army Corps of Engineers' (USACE) Regulatory Program administers and enforces Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. §401-413) and Section 404 of the Clean Water Act of 1972 (33 U.S.C. §1251 *et seq.*); and

WHEREAS, Section 10 of the Rivers and Harbors Act requires a USACE permit for work on structures in, over, and under navigable waters of the U.S. and Section 404 of the Clean Water Act requires a USACE permit for the discharge of fill or dredge material into waters of the U.S.; and

WHEREAS, Section 305(b)(2) of the Magnuson Stevens Fishery Conservation and Management Act (MSA) requires federal agencies, like USACE, to consult with National Marine Fisheries Service (NMFS) for any action they authorize that may have adverse impacts to essential fish habitat (EFH); and

WHEREAS, the USACE and the San Diego Regional Water Quality Control Board (RWQCB) routinely require the use of silt curtains to contain suspended sediment within a construction area, soft start methodologies for impact and vibratory pile driving, and water quality monitoring on a project-by-project basis; and

WHEREAS, most of the District's piers, docks, and wharves that involve repair and maintenance work require issuance of USACE and RWQCB Permits; and

WHEREAS, since 2007, the District has conducted over 60 routine maintenance and repair projects on existing over water structures through the Capital Improvement Program and Major Maintenance (CIP/MM) projects; and

WHEREAS, these projects are authorized, in part, by the Regional General Permit No. 72 (RGP 72 or Permit), which is a programmatic permit issued by the USACE that authorizes the District to perform routine and like-for-like maintenance, repair, and/or replacement of damaged and broken pier and fender piles at various docks, wharves, and piers within the San Diego Bay and the Pacific Ocean (collectively "the Bay"), as needed; and

WHEREAS, the Permit does not authorize the construction or development of new facilities; and

WHEREAS, although it typically takes the USACE six months to a year or longer to issue permits, the RGP 72 focuses on repair and maintenance activities for existing District facilities and enables the District's CIP/MM projects to begin after a 45-day pre-construction notification period; and

WHEREAS, RGP 72 has significantly reduced the amount of time required to initiate CIP/MM projects, has expedited project timelines, and reduced project costs; and

WHEREAS, District staff is currently working on renewing RGP 72, which is set to expire on November 21, 2019, at which time District projects operating under the Permit must cease work or apply for a new permit, potentially delaying construction and/or project completion; and

WHEREAS, staff has requested a permit extension from USACE and a Clean Water Act 401 certification from the RWQCB to extend RGP 72 for an additional five years, through November 2024; and

WHEREAS, in conjunction with the renewal process, the District has voluntarily developed Best Management Practices and Environmental Standards (Environmental Standards) from existing USACE and RWQCB permit requirements to further ensure that routine maintenance of the District's piers, docks, and wharves will not cause any potential adverse environmental impacts; and

WHEREAS, the proposed Environmental Standards for RPG 72 are summarized as follows: project design review by District Engineering, Planning &

Environmental staff; water quality monitoring by the District; water quality monitoring by the project contractor; controlling sediment displacement by reducing the jetting volume and/or velocity where feasible; use of silt curtains to reduce turbidity; managing noise impacts associated with vibratory and impact hammer pile driving, use of biological monitors to protect marine mammals and sea turtles, and disposal of creosote-treated piles; and

WHEREAS, the Environmental Standards were available for a 30-day public review that commenced on May 6, 2019 by posting on the District's website but no comments were received; and

WHEREAS, staff recommends the BPC hold a public hearing and then adopt a resolution authorizing the Environmental Standards, titled the "Best Management Practices and Environmental Standards for Overwater Structural Repair and Maintenance Activities Conducted by the San Diego Unified Port District", in support of RGP 72; and

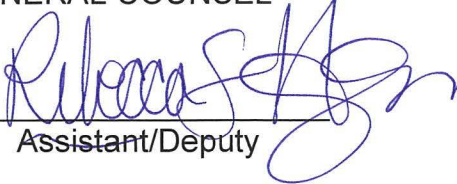
WHEREAS, the proposed BPC action is Categorically Exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301 (Existing Facilities), 15307 (Actions by Regulatory Agencies for Protection of Natural Resources), 15308 (Actions by Regulatory Agencies for Protection of the Environment), and Sections 3.a(1), 3.g, and 3.h of the District's Guidance for Compliance with CEQA because the guidance document establishes procedures, practices, and standards related to the repair, maintenance and alteration of existing facilities and identifies actions that will be taken by the District from protection of the natural resources and for the protection of the environment; and

WHEREAS, the District has determined none of the six exceptions to the use of a categorical exemption apply to this project because the Environmental Standards would not apply to areas that would impact an environmental resource of hazardous or critical concern; and

WHEREAS, the proposed BPC action is not considered development, as defined in Section 30106 of the Coastal Act, nor is it considered new development, pursuant to Section 1.a of the District's Coastal Development Permit Regulations.

NOW, THEREFORE, BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified Port District that the Best Management Practices and Environmental Standards for overwater structural repair and maintenance activities for existing Port facilities which include docks, wharves, piers and piles as authorized by the U.S. Army Corps of Engineers Regional General Permit No. 72 that are to be conducted by the District is hereby approved.

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 18th day of June 2019, by the following vote:

AYES: Bonelli, Castellanos, Merrifield, Valderrama, and Zucchet

NAYS: None.


EXCUSED: Malcolm, Moore

ABSENT: None.

ABSTAIN: None.


Garry J. Bonelli, Chairman
Board of Port Commissioners

ATTEST:


Donna Morales
District Clerk

(Seal)