



## CEQA and COASTAL DETERMINATIONS and NOTICE OF APPROVAL

Project: Phase II Shellfish Baseline Health Assessment  
Location: 1. Naval Undersea Warfare Center (NUWC) (32.687N, -117.234 W)  
 2. San Diego Harbor Police Dock (32.709 N, -117.235 W)  
 3. Grape Street Pier (32.72452 N, -117.17528 W)  
 4. Mid-South Bay (32.64214 N, -117.12847 W)  
 5. J St Harbor Park Fishing Pier (32.62347 N, -117.10511 W)  
 6. Chula Vista Spit (former South Bay Power Plant site) (32.61354 N, -117.09892 W)  
Parcel No.: Various  
Project No.: 2020-059  
Applicant: Port of San Diego, 3165 Pacific Highway, San Diego, CA  
Date Approved: May 20, 2020

### **PROJECT DESCRIPTION**

The San Diego Unified Port District (Applicant), proposes to expand upon previous baseline health assessments of juvenile shellfish in San Diego Bay (Bay) by performing baseline testing of health and quality of adult oysters and mussels at six locations throughout the Bay using shellfish baskets, and conducting concurrent water quality monitoring at these locations (the shellfish health testing and water quality testing are collectively referred to as the "Project"). Due to its nature and limited scope, construction of the Project would generate a minor amount of vehicle trips and would require limited use of equipment. Therefore, impacts related to air quality, greenhouse gas emissions, and transportation and traffic are not anticipated to occur. Furthermore, the Applicant would be responsible for compliance with all laws and regulations associated with the activities on or in connection with the above-described premises, and in all uses thereof, including those regulating stormwater and hazardous materials.

The purpose of the Project is to provide data and insight into microbial contaminants in the Bay and potential implications for aquaculture siting. Additionally, the results may inform potential restoration activities and bioremediation projects aimed at using shellfish to clean up contaminated areas and generally improve water quality in the Bay. The Project would study two species of shellfish: adult Pacific oysters (*Crassostrea gigas*) and adult Bay mussels (*Mytilus galloprovincialis*/M. *trossulus*). All shellfish used in the Project would be harvested from existing oyster and mussel populations in the Bay.

The Project would occur over the course of one year, beginning summer 2020, and would include four sets of 21-day deployments, for a total of approximately 84 days. One deployment would occur each season (summer, fall, winter, spring). The 21-day deployment period allows adequate time for the shellfish to filter and accumulate any microbial contaminants present at each location and enable accurate evaluation of water quality and the impacts associated with rearing shellfish in each location across four seasons: summer and fall 2020, and winter and spring 2021.

During each deployment, two shellfish baskets (each approximately 25 inches by 10 inches x 6 inches), containing approximately 100 adult Pacific oysters in one basket and approximately 100 adult Bay mussels in another basket, would be placed at the six locations as identified below. Depending on the location, the shellfish baskets would be hung from existing floating dock structures and piers, existing buoys, or over sediment at each location. The following describes the six proposed locations (with coordinates) and the proposed placement of the baskets at each location:

1. Naval Undersea Warfare Center (NUWC) (32.687N, -117.234 W): Attach to existing piling by connecting a 3/8-inch (width) nylon line around a cleat on the side of the piling that would hang 4.5 feet below the surface of the water with an off-bottom weight. The shellfish baskets would be secured to the line at depths of 3 ft and 3.5 ft.
2. San Diego Harbor Police Dock (32.709 N, -117.235 W): Attach to existing dock by connecting a 3/8-inch (width) nylon line around a cleat on the pier that would hang 4.5 feet below the surface of the water with an off-bottom weight. The shellfish baskets would be secured to the line at depths of 3 ft and 3.5 ft.
3. Grape Street Pier No. 1 (32.72452 N, -117.17528 W): Attach to existing pier by connecting a 3/8-inch (width) nylon line around a cleat on the pier that would hang 4.5 feet below the surface of the water with an off-bottom weight. The shellfish baskets would be secured to the line at depths of 3 ft and 3.5 ft.
4. Mid-South Bay (32.64214 N, -117.12847 W): Attach to existing signal buoy by shackling a 5/8-inch (width) nylon line to an existing submerged link chain from the buoy that would be 10-15 feet in length, culminating in a 27-inch round fender. Between the shackle and the fender would be a 10-inch (diameter) submerged float and the shellfish baskets, which would be secured near the surface of the water below the fender.
5. J St Harbor Park Fishing Pier (32.62347 N, -117.10511 W): Attach to existing pier by connecting a 3/8-inch (width) nylon line around a cleat on the pier that would hang 4.5 feet below the surface of the water with an off-bottom weight. The shellfish baskets would be secured to the line at depths of 3 ft and 3.5 ft.
6. Chula Vista Spit (former South Bay Power Plant site) (32.61354 N, -117.09892 W): Deploy over soft sediment habitat by suspending a 3/8-inch nylon line between two polyvinyl chloride poles driven into soft sediment and securing the shellfish baskets to the line using oyster basket clips to keep the baskets suspend and stationary during tidal fluctuations.

Seven days prior to each deployment, shellfish would be harvested by hand from existing piling or riprap structures. Then the harvested shellfish would undergo depuration at an uplands facility to eliminate sampling bias associated with the existing water quality conditions in the Bay. This depuration would occur one week before each deployment. Shellfish tissue and water samples would be taken from each location on day 0, 3 or 4, 7, 14, and 21 of each deployment, and collected samples would be sent to project partners at the University of North Carolina at Chapel Hill for analysis. All equipment, including any remaining shellfish, would be removed from the water on the final day (day 21) of each deployment. Installation and removal of the shellfish baskets at each site would require up to two people and is anticipated to take approximately one day to complete. The Mid-South Bay site and the Naval Undersea Warfare Center site would be accessed by small boat for basket installation and removal, and sampling. The other four sites would be accessed by land.

The Applicant would be responsible for compliance with all laws and regulations associated with the activities on or in connection with the above-described premises, and in all uses thereof, including those regulating stormwater and hazardous materials, as well as acquiring necessary permits from relevant resource agencies, such as the California Coastal Commission, Army Corps of Engineers, and Regional Water Quality Control Board, including the necessary real estate or access agreements, or coastal development permitting for the proposed project sites that are not within the District's permitting or coastal jurisdiction.

**Marine Debris Reduction and Management.** Port staff and/or consultants shall carry out operation consistent with the following marine debris reduction and management practices:

- A. **Storm Damage and Debris.** As soon as safely and reasonably possible following storm or severe wind or weather events, Port staff and/or consultants shall patrol each study location for escaped or damaged equipment. All equipment that cannot be repaired and placed back into service shall be properly recycled or disposed of at an appropriate onshore facility. In addition, Port staff and/or consultants shall retrieve or repair any escaped or damaged equipment that it

encounters while conducting routine sampling and/or maintenance activities associated with the pilot project. If the escaped gear cannot be repaired and replaced, it shall be properly recycled or disposed of on land.

- B. **Gear Marking and Replacement.** Port staff and/or consultants shall mark all shellfish baskets and floats in an easily identifiable manner with identification information. Markings shall be securely attached and robust enough to remain attached and legible after an extended period in the marine environment (e.g. heat transfer, hot stamp, etching, etc.). Existing floats currently in use shall be marked or replaced with marked versions when replanted and all unmarked gear shall be replaced in this way. In the event that gear, or equipment becomes displaced or dislodged from the experiment, it shall be the Port's responsibility to retrieve the material from the shoreline, open water, eelgrass beds, mudflat, or submerged bottom with minimal damage to the resources affected. Once located, such material shall be removed as soon as feasible and properly disposed of, recycled, or returned to use.
- C. **Ongoing Operations.** Port staff and/or consultants shall not leave or temporarily store tools, loose gear, or construction materials on its leased tidelands or surrounding areas. All study equipment installed on and in use at the study sites shall be kept neat and secure and maintained in functional condition. Port staff and/or consultants shall carry out regular bed inspections and maintenance activities to help ensure that broken, collapsed, fallen, or buried gear is fixed or removed in a timely manner.
- D. **Bed Cleaning at Harvest.** Port staff and/or consultants shall carry out a thorough inspection to locate and remove loose, abandoned or out of use equipment, tools, and accumulations of oysters from the surrounding substrate. Oyster shell shall not be intentionally placed or deposited within the lease outside of cultivation gear, and oysters or oyster shell accidentally spilled during the experiment shall be immediately collected and removed.
- E. **Excessive Gear Loss or Maintenance Failures.** If the Port is found to be responsible for consistently extensive loss of equipment into the marine environment or is consistently failing to maintain its equipment in an intact and serviceable condition, Port staff and/or consultants shall modify its equipment and/or operations to minimize equipment loss and mitigate impacts to affected habitat.

The following categorical determinations are based on the project submittal and all project information known to the District as of the date of this determination.

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## **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

### ***CATEGORICAL DETERMINATION***

Categorical Exemptions: SG §15301, Class 1/Section 3.a: Existing Facilities; SG §15304, Class 4/Section 3.d: Minor Alterations to Land; SG §15306, Class 6/Section 3.f: Information Collection; and SG §15311, Class 11/Section 3.i: Accessory Structures

- 3.a. Existing Facilities (SG § 15301) (Class 1): Includes operation, repair, maintenance, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that previously existing.
  - (1) Repair, maintenance, or minor alteration of existing mooring facilities, floats, piers, piles, wharves, bulkhead, revetment, buoys, or similar structures; marine terminal facilities; airport facilities; and commercial industrial, or recreational facilities.

AND/OR

- 3.d. Minor Alterations to Land (SG § 15304) (Class 4): Includes minor alterations in the condition of land, water and/or vegetation not involving removal of mature, scenic trees.
  - (6) Minor temporary use of land having negligible or no permanent effects on the environment.

AND/OR

- 3.f. Information Collection (SG § 15306) (Class 6): Includes basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. These may be for information gathering purposes, or as part of a study leading to an action which has not yet been approved, adopted or funded.

AND/OR

- 3.i. Accessory Structures (SG § 15311) (Class 11): Includes construction, or placement of minor structures accessory to (appurtenant to) existing facilities, including:
- (1) Construction or placement of minor mooring facilities, floats, buoys or similar structures accessory to (appurtenant to) existing commercial, industrial or institutional facilities.

The proposed project is determined to be Categorically Exempt pursuant to the CEQA Guidelines and the Sections of the District's *Guidelines for Compliance with CEQA* as identified above. These are appropriate for the proposed project because it would involve no expansion of use beyond that previously existing and would not result in a significant cumulative impact due to the continuation of the existing use; would result in no permanent effects on the environment, and would not involve the removal of mature, scenic trees; is for the purpose of basic data collection/research/experimental management/resource evaluation activities which would not result in a serious or major disturbance to an environmental resource; and would include placement of minor structures accessory to existing facilities. Further, there would be no dredging or fill impacts and the project would not cause any disturbance to sensitive species or habitat. The District has determined none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

Pursuant to CEQA Guidelines Section 15062, a 35-day statute of limitations for this CEQA exemption shall apply from the date a Notice of Exemption is posted with the San Diego County Clerk, or a 180-day statute of limitations for this CEQA exemption shall apply if no Notice of Exemption is filed.

## **CALIFORNIA COASTAL ACT**

### ***PORT MASTER PLAN CONSISTENCY***

Planning Districts: 1 - Shelter Island/La Playa (Precise Plan Figure 4); 3 - Centre City Embarcadero (Precise Plan Figure 11); and 7 - Chula Vista Bayfront (Precise Plan Figure 19)

Land and Water Use Designations: Harbor Master Pier/Transient Berthing; Specialized Berthing; and Wetlands

Four of the six Project locations are within the coastal development permitting jurisdiction of the District and conform to the certified Port Master Plan because they would support a public water use devoted to maritime and harbor services; a marine commercial water use utilizing a specialized temporary water structure; and a conservation land use development limited to a nature study and promoting the multiple utilization of the unique shellfish resources of the bay, consistent with the existing certified Land and Water use designations. The Project furthers Goal XI of the Port Master Plan, which identifies the District will protect, preserve, and enhance natural resources in San Diego as a desirable amenity, an ecological necessity, and a valuable and usable resource and encourage research, pilot programs, and development in aquaculture with the goal of protecting, preserving, and enhancing natural resources. The Project would not change the use of the sites nor would it interrupt or expand the existing conforming uses of the sites.

The portion of the proposed project located outside of the District's CDP jurisdiction, additional approvals may be required from other agencies. Two of the six Project locations are in areas that have not been incorporated into the Port Master Plan and are therefore not within the District's coastal development permitting jurisdiction. For the two sites (NUWC and Mid-South Bay) within the coastal development permitting jurisdiction of the U.S. Navy and California Coastal Commission, respectively, approval of the project must be obtained from those agencies.

## **CATEGORICAL DETERMINATION**

Categorical Exclusions: Section 8.a: Existing Facilities; Section 8.c: New Construction or Conversion of Small Structures; Section 8.d: Minor Alterations to Land; and Section 8.e: Information Collection

8.a. Existing Facilities: The operation, repair, maintenance, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that previously existing, including but not limited to:

- (10) Repair, maintenance, or minor alteration of existing mooring facilities, floats, piers, bulkhead, revetment, buoys, or similar structures.

AND/OR

8.c. New Construction or Conversion of Small Structures: Construction and location of limited numbers of new, small facilities or structures and installation of small, new equipment and facilities, involving negligible or no change of existing use of the property, including but not limited to:

- (3) Accessory structures, including but not limited to, on-premise signs, small parking lots, fences, walkways, swimming pools, miscellaneous work buildings, temporary trailers, small accessory piers, minor mooring facilities, buoys, floats, pilings, or similar structures; and seasonal or temporary use items such as lifeguard towers, mobile food units, portable restrooms, or similar structures.

AND/OR

8.d. Minor Alterations to Land: Minor public or private alterations in the condition of land, water and/or vegetation not involving removal of mature, scenic trees.

AND/OR

8.e. Information Collection: Basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource.

Four of the six Project locations are located within the coastal development permitting jurisdiction of the District: San Diego Harbor Police Dock, Grape Street Pier, J St Harbor Park Fishing Pier, and Chula Vista Spit. The Project work proposed for those locations is determined to be Categorically Excluded pursuant to the Sections of the District's *Coastal Development Permit Regulations* as identified above. These are appropriate for the proposed Project because it would involve no expansion of use beyond that previously existing and would not result in a significant cumulative impact due to the continuation of the existing use, would not involve the removal of mature, scenic trees, would be for the purpose of basic data collection and resource evaluation activities which would not result in a serious or major disturbance to an environmental resource, and would include placement of minor structures accessory to existing facilities.

Pursuant to California Coastal Act Section 30717, there is a 10-working-day period to appeal this "Coastal Act Categorical Determination of Exclusion" to the California Coastal Commission.

## **CALIFORNIA PUBLIC TRUST DOCTRINE**

The proposed project complies with Section 87.(a)(1) of the Port Act, which allows for the establishment, improvement, and conduct of a harbor, and 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. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed project is consistent with the Public Trust Doctrine.

RANDA CONIGLIO  
President/CEO

Determination by:  
Lily Tsukayama  
Associate Planner  
Planning and Green Port

Deputy General Counsel

Signature: Lily Tsukayama  
Date: May 20, 2020

Signature: Chris Burt  
Date: May 20, 2020