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GAVIN NEWSOM, Governor
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February 10, 2022

Jordan Moore
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 City of San Diego
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Subject: De Anza Natural (Project), Notice of Preparation (NOP), SCH #2018061024

Dear Ms. Moore:

The California Department of Fish and Wildlife (CDFW) received a notice of preparation (NOP) of a draft program environmental impact report (PEIR) from the City of San Diego (City) for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹ CDFW previously submitted comments in response to the De Anza Revitalization Plan in 2016, and the De Anza Cove Amendment to the Mission Bay Park Master Plan NOP in 2018.

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. CDFW also oversees implementation of the Natural Community Conservation Planning (NCCP) program. The City of San Diego participates in the NCCP program by implementing its approved Multiple Species Conservation Program (MSCP) Subarea Plan (SAP).

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 *et seq.*) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*) that is not a covered species under the City's SAP, the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: City of San Diego (City)

Objective: The objective of the Project is to revitalize De Anza Cove in accordance with the Mission Bay Park Master Plan (MBPMP). The MBPMP recommends that the revitalization should serve regional recreation needs, including providing guest housing, contributing to the improvement of the park's water quality, including creating additional wetlands, facilitating hydrological improvements to support marsh areas, providing a waterfront trail, viewing areas, and other recreational features for public use, and ensuring leaseholds support the Mission Bay recreation use. The Project will update the MBPMP to ensure consistency with the Climate Resilient SD Plan and account for sea level rise and climate change.

¹ 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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Key project components are outlined below:

Kendall-Frost Marsh Reserve/Northern Wildlife Preserve

The Project proposes to expand the existing 88.2 acres of wetland at Kendall-Frost Marsh Reserve/Northern Wildlife Preserve, through creation of an additional 29.0 acres of wetlands at the former Campland site, as well as an additional 103.8 acres of wetlands around De Anza Cove and along the outfall of Rose Creek.

De Anza Cove Area – North

Existing recreational facilities in the northern and eastern portions of the Project area will remain. The Project proposes an active recreation and aquatics facility in the north section of De Anza Cove, and states that additional opportunities for expanded recreational uses will be analyzed under a General Development Plan in the future.

De Anza Cove Area – South

Land uses proposed in this area include: replacement of the existing RV campground and mobile home park with low-cost visitor accommodations consisting of RV camping sites, cabins or other accommodations, and ancillary facilities; enhancement of existing regional parkland with new recreational amenities; creation of a supervised swimming beach; potential lease of a non-motorized boat rental facility/dock; expansion of existing wetland habitat to include marshes, mudflats, oyster beds, and open water; creation of upland areas to serve as a buffer zone to wetland habitat; parking; and a multi-use path with interpretive signage.



**De Anza Natural
 De Anza Cove Amendment to the Mission Bay Park Master Plan
 Figure 3: Site Plan**

(City of San Diego, De Anza Natural NOP, 2022)

Location: Mission Bay Park (Bay) is a 4,660-acre park within the City of San Diego. The proposed Project area is located in the northeast corner of Mission Bay and includes the following existing land uses: the Kendall-Frost Marsh Reserve/Northern Wildlife Preserve (Preserve), guest housing, athletic fields and tennis courts, a golf course, regional parkland, and the De Anza Cove Area, which is identified as the De Anza Special Study Area in the MBPMP.

Biological Setting: Mission Bay supports a wide variety of biological resources and habitats including diverse marine habitats, coastal salt marsh, and three terrestrial habitats: salt pan, coastal strand, and disturbed habitat (City, 1990). Special-status species include the CESA- and federal Endangered Species Act (ESA)- listed endangered light-footed Ridgway's rail (*Rallus obsoletus levipes*), which is also a California Fully Protected Species (FPS); the CESA-listed endangered Belding's savannah sparrow (*Passerculus sandwichensis beldingii*); and the CESA- and ESA-listed endangered California least tern (*Sterna antillarum brownii*; FPS). Mission Bay also

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hosts diverse avifauna, small mammals, reptiles, and habitat for avian feeding, resting, and breeding. The coastal salt marsh habitats improve the Bay's water quality through bioremediation and filtering of pollutants and wastewater discharge.

Marine Biological Setting: Mission Bay is locally known for its bay, estuary, eelgrass and shallow bay habitats important for fish and wildlife habitat. The Bay is also important fish nursery habitat for fish spawning, shelter, and foraging. The Bay includes large areas (i.e., 'beds') of eelgrass (*Zostera marina*, *Z. pacifica*), which is a sensitive marine habitat type and is important to many aquatic and nearshore species.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

To enable CDFW to adequately review and comment on the proposed Project from the standpoint of the protection of plants, fish, wildlife, and natural habitats, we recommend the following information be included in the PEIR:

General Comments

- 1) **Biological Resource Inventory:** The document should contain a complete description of the Project, including purpose and need, that describes all terrestrial and marine habitats within or adjacent to the Project area, all staging areas and access routes to the construction and staging areas. The Project area is described as the area in which potential effects may occur.

The document should also provide a complete assessment of the flora and fauna within and adjacent to the Project area, with particular emphasis upon identifying endangered, threatened, sensitive, and locally unique species and sensitive habitats. This should include a complete floral and faunal species compendium of the entire Project site, undertaken at the appropriate time of year. Species to be addressed should include all those which meet the CEQA definition (see CEQA Guidelines, § 15380). This should include sensitive fish and wildlife species. Seasonal variations in use of the Project area by wildlife should also be addressed. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the U.S. Fish and Wildlife Service.

- 2) **Biological Impacts:** To provide a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts, the following should be addressed in the PEIR:
 - a) a discussion of potential adverse impacts from lighting, noise, human activity, exotic species, recreational uses, and drainage. The latter subject should address: Project-related changes to drainage patterns on, and downstream of, the Project site; the volume, velocity, and frequency of existing and post-Project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-Project fate of runoff from the Project site. Mitigation measures proposed to alleviate such impacts should be included.
 - b) discussion regarding indirect Project impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands (e.g., existing preserve lands or lands designated as Multi-Habitat Planning Area (MHPA) associated with the City's SAP).
 - c) the zoning of areas for development projects or other uses that are nearby or adjacent to natural areas may inadvertently contribute to wildlife-human interactions. A discussion of possible wildlife conflicts and mitigation measures to reduce these conflicts should be included in the environmental document.
 - d) CDFW also recommends that a habitat gain/loss table be included, which calculates the expected net habitat losses and gains of each type of habitat area lost, restored, enhanced, and created.
- 3) **Marine Species and Habitats:** To better understand potential effects and impacts from the proposed Project, baseline surveys should be conducted, and the results included in the PEIR. Baseline surveys of native and artificial marine habitats, and native and non-marine species

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should include all marine areas within the Project area footprint such as the existing open water bay and estuary habitats of De Anza cove and Rose Creek outfall, mudflats, eelgrass beds, oyster beds, and sandy beach intertidal habitat. Invasive marine *Caulerpa* spp. should also be included in marine baseline surveys. All excavations and placement of sediment in Project areas within, and adjacent to, all existing natural wetland or eelgrass habitat should be included in a site-specific baseline marine resources survey and Project impacts/benefits assessment. This should be performed to accurately assess wetland restoration benefits and impacts to marine species and habitats. Historical marine biological species and habitats for the Project area may also be found in the Marine BIOS database on the CDFW's website (<https://wildlife.ca.gov/Conservation/Marine/GIS/MarineBIOS>).

CDFW recommends the marine biological survey and impact assessment reports include a listing of each Project component and the habitat that will be impacted, the total area of habitat impacted, and proposed mitigation measures for avoiding, and minimizing impacts. Additionally, the baseline assessment should include a habitat loss/gain summary indicating the total net gain or loss of each habitat impacted verses habitat restored. If impacts or net losses to sensitive, native marine habitats are unavoidable, additional mitigation plans should be developed to compensate for lost existing habitats.

- 4) **Special-status Species:** The PEIR should thoroughly analyze direct, indirect, and cumulative impacts to any special-status species likely to occur in the Project area. Impacts to species designated as Fully Protected must be completely avoided; FPS may not be taken or possessed at any time per § 3511 of the Fish and Game Code. Avoidance measures for avian species may include phasing construction to occur outside of nesting season, conducting species-specific surveys when construction will occur within 500' of a nesting site, retaining a qualified biological monitor on-site during construction, and implementation of no-activity buffers around active nests.

CDFW also considers adverse impacts to a species protected by the California Endangered Species Act (CESA), for the purposes of CEQA, to be significant without mitigation. As to CESA, take of any endangered, threatened, or candidate species not already covered by the City's SAP that results from the Project is prohibited, except as authorized by state law (Fish & G. Code, §§ 2080, 2085). Consequently, if the Project, Project construction, or any Project-related activity during the life of the Project will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, unless covered by the City's SAP permit, CDFW recommends that the Project proponent seek appropriate take authorization under CESA prior to implementing the Project. Appropriate authorization from CDFW may include an incidental take permit (ITP) or a consistency determination in certain circumstances, among other options (Fish and G. Code §§ 2080.1, 2081, subs. (b),(c)). Early consultation is encouraged, as significant modification to a project and mitigation measures may be required to obtain a CESA Permit. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP unless the Project CEQA document addresses all Project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.

- 5) **Marine Impacts:** The wetlands restoration Project activities may have direct and indirect impacts to marine species and habitats:
- a. direct loss or conversion of native marine habitats due to fill of open Bay waters;
 - b. burial or excavations/dredging of native eelgrass habitat and oyster beds;
 - c. turbidity and sedimentation, scouring, and reduced water quality; and,
 - d. significant impacts to sensitive and/or special-status resources including eelgrass beds, and associated eelgrass ecological communities such as benthic and epibenthic invertebrates, fish, and marine birds.

Contaminated or high silt and organic content sediments should not be placed in the marine environment that are not compatible with existing native sediment. High silt content sediments may cause marine soft substrates to be compacted and unsuitable for sustained growth of eelgrass, intertidal and subtidal benthic and epibenthic invertebrates. Compatible sediments are required for healthy marine invertebrate habitat needed for forage of the higher trophic levels such as fish and shorebirds.

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- 6) **Indirect Marine Impacts:** The Draft PEIR should include and address potential adverse indirect Bay water and marine habitat impacts from increased human and boat facilities (overwater structures) such as Bay water shading, lighting, underwater noise, increased non-native, invasive species, and proposed mitigation measures to alleviate such impacts.
- 7) **Sensitive Marine Species and Habitats:** Many important commercial and recreational fish species use the Project area for breeding, shelter, spawning, and foraging. Potential impacts to marine fish, including both commercially and recreationally important species, should be identified and any significant impacts should be avoided and minimized to below a level of significance. A list and description of fish and wildlife species and habitat in the Bay may be found on Marine Bios (<https://wildlife.ca.gov/Conservation/Marine/GIS/MarineBIOS>). Species and habitats which should be addressed include but are not limited to:
- a. the California spiny lobster (*Panulirus interruptus*) may utilize the open subtidal Bay habitats within or adjacent to the proposed Project. Spiny lobster use eelgrass for shelter which is present throughout the shallow area of the Bay. This species and their habitat are vulnerable to direct and indirect dredging, excavation, fill, burial, turbidity, and sedimentation impacts; and,
 - b. marine plant species which grow in extensive beds within shallow Bay waters are considered sensitive habitat types. In the vicinity of the proposed Project, this may include, but is not limited to, eelgrass (*Zostera marina*, *Z. pacifica*).

An eelgrass mitigation site is located just south of the Project footprint. The mitigation site was created to mitigate for eelgrass impacts related to the Mission Bay Navigational Channel Dredging Project completed three years ago. This eelgrass mitigation site should be identified and addressed in the PEIR. Avoidance and minimization measures should be proposed for the eelgrass mitigation site.

- 8) **Invasive Species:** Disturbance of the bottom sediments from dredging construction may redistribute non-native species that compete with native species. This could cause widespread adverse impacts to the marine ecosystem. The invasive algae *Caulerpa taxifolia* is listed as a federal noxious weed under the U.S. Plant Protection Act and while deemed eradicated in 2006 is monitored for potential future emergence. Another invasive algae species found recently in Southern California (Newport Bay) is *Caulerpa prolifera*, which is also a potential threat to the native marine ecosystem.

CDFW recommends including a mitigation measure detailing a pre-construction *Caulerpa* spp. survey to identify potential existence of invasive *Caulerpa* spp. as described in the *Caulerpa* Control Protocol <https://www.fisheries.noaa.gov/west-coast/habitat-conservation/aquatic-invasive-species-west-coast>. If *Caulerpa* spp. are found, do not disturb the species and contact CDFW and National Marine Fisheries Service within 24 hours as described in the *Caulerpa* Control Protocol.

- 9) **Mitigation for Project-related Biological Impacts:** The PEIR should include mitigation measures for adverse project-related impacts to sensitive plants, animals, and habitats. Mitigation measures should emphasize avoidance and reduction of project impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible, or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be discussed.
- 10) **Cumulative Effects Analysis:** A cumulative effects analysis should be developed as described under CEQA Guidelines, section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats. The PEIR should evaluate the full scope of potential actions germane to the MBPMP as part of the cumulative impact analysis and discussion of related actions.
- 11) **Range of Project Alternatives:** The PEIR should include a range of Project alternatives that complement existing and proposed habitat restoration efforts including: the De Anza Special Study Area, the existing KFMR/NWP – including the potential habitat restoration associated with the Campland lease site, and the San Diego Audubon's ReWild Mission Bay Feasibility Study. We continue to encourage the City to maximize incorporation of Project design elements identified by the San Diego Audubon's ReWild Mission Bay, as discussed in CDFW's 2017 and 2018 comment letters (CDFW 2017, CDFW 2018). The PEIR should fully consider and evaluate a range of alternatives that avoid or otherwise minimize impacts to marine and terrestrial biological resources.

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12) **Project Phasing:** As indicated in our 2018 comment letter in response to the De Anza Cove Amendment to the Mission Bay Park Master Plan NOP (CDFW 2018), CDFW recommends that the PEIR analyze opportunities to maximize the footprint of native habitats in conformance with the environmental objectives in the MBPMP. Critical Project components such as specific design elements, timing, and phasing of implementation are not detailed within the NOP. Implementation of Project components, specifically the Kendall-Frost Marsh Reserve/Northern Wildlife Preserve, wetland expansion, and upland and buffer creation, should precede other Project components to ensure consistency with the MBPMP, and to safeguard Mission Bay's water quality for the biological resources, natural habitats, leasehold interests, and recreational uses. Implementing the habitat components of the proposed Project prior to other construction components fulfills a longstanding goal of the MBPMP-Recommendation 26: Relocation of Campland, by protecting Mission Bay's water quality for biological resources and recreationalists alike during construction and operation of the future leaseholds. Additionally, where the information is available, the PEIR should detail the success criteria of the habitat creation/restoration components of the Project and indemnify its success through financial sureties. Where the information necessary to establish specific success criteria is not known, the PEIR should identify the Audubon's ReWild Mission Bay as the framework for developing future success criteria.

Specific Comments

13) **Wetland Expansion:** Although the De Anza Natural Project significantly improves focus on wetland expansion by comparison to the 2018 De Anza Cove Amendment to the MBPMP, we continue to encourage the City to analyze the possibility of incorporating native habitat along the entire De Anza peninsula. The marsh habitat associated with the Northern Wildlife Preserve (including the Kendall-Frost Reserve) serves an important regional resting, feeding, and migratory stop within the Pacific Flyway, and also acts as a significant bioremediation tool to improve water quality—a key focus of the MBPMP and the Mission Bay Natural Resources Management Plan (City of San Diego, 2002 and 1990 respectively). The City's planning documents have long recognized the mutual benefits that improved water quality offer public recreation and habitat values in specifically stating that the De Anza Special Study Area (SSA) "...shall not be developed to the detriment of existing and/or future adjacent habitat areas. Foremost in consideration should be the extent to which the SSA can contribute to the Park's [Mission Bay Park] water quality. In fact, additional wetlands creation *must be considered* [emphasis added] as part of the SSA." (City, 2002, p. 53).

14) **Eelgrass and Wetland Type Conversion:** CDFW does not recommend any development or conversion that would result in a reduction of wetland and/or eelgrass acreage or habitat values. If conversion of these habitats is unavoidable, the City should provide appropriate mitigation measures and compensation for lost habitat. Project mitigation should ensure there will be "no net loss" of either wetland or eelgrass habitat values or acreage. Development and conversion includes, but is not limited to, conversion to subsurface drains, placement of fill or building of structures within the wetland, eelgrass and channelization or removal of substrate materials from the wetland or eelgrass bed. All eelgrass habitat and potential eelgrass habitat, whether ephemeral, intermittent, or perennial, should be retained and provided with substantial setbacks that preserve the aquatic values and maintain their value to on-site and off-site wildlife populations. Mitigation measures to compensate for impacts to these aquatic resources should be included in the PEIR.

15) **Climate Change Resiliency:** The PEIR should address climate resiliency with both planning and design aspects of the Project. Several climate change models illustrate that areas of De Anza will be subject to sea level rise, which may jeopardize the redevelopment of De Anza, absent major structural infrastructure. The PEIR should clearly analyze how sea level rise will affect the plan, particularly the created wetlands. Project Alternatives should consider the effects of potential sea level rise and climate change on marine habitat modifications. Analysis should include discussion of infrastructure and long-term maintenance, as well as congruency with the Climate Resilient SD Plan.

16) Recreational Use:

a) Camping: The NOP indicates that,

"...the existing RV campground and vacant De Anza Mobile Home Park would be replaced with low-cost guest housing, allowing for approximately 600 camping sites for RV's, cabins or other eco-friendly accommodations and associated open space and facilities consistent with camping accommodations. Camping-oriented ancillary facilities and amenities, such as food services/concessions, would also be provided on site."

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CDFW does not consider RV camping to be a passive recreational use; the PEIR should analyze the proposed low-cost guest housing on the De Anza peninsula as an active recreational use and discuss how surrounding natural habitat will be impacted. To maximize habitat values and improve water quality, we recommend that commercial and other land use developments be strategically located farthest away from sensitive resources to include wetlands and open waters of the bay.

b) Watercraft: The NOP states that a small non-motorized boat lease area is proposed as part of the Project, and an existing boat ramp in De Anza Cove would be removed. Motorized watercraft access currently exists just east of the Project boundary at the De Anza Boat Launch. The NOP goes on to state that nonmotorized personal watercraft would have access in De Anza Cove from the new potential boat lease, while motorized boats could access De Anza Cove from the existing boat ramp east of the Project area. CDFW recommends that De Anza Cove be limited to non-motorized watercraft and swimming uses only. Allowing motorized watercraft activities in De Anza Cove risks damage to the proposed eastern wetlands, resulting from boats operating close to, or directly in, wetland areas. Noise from motors may also disturb nesting or foraging avian species. Indirect impacts to the wetlands could occur from pollution and increased turbidity caused by motorized watercraft.

17) **CEQA Document Tiering**: The NOP indicates that specific active recreation uses at the north section of De Anza Cove will be determined during future site planning efforts as part of a General Development Plan through a public process. While we appreciate additional public involvement in the future, the PEIR should specify what mechanisms under CEQA will be employed. As expressed in our 2018 comment letter (CFDW 2018), the City should indicate whether it anticipates subsequent Project-specific CEQA documents, or if a consistency determination process will be followed when tiering from the PEIR.

CEQA Lead Agencies may elect to prepare a Program EIR as a high-level CEQA document addressing "...a series of actions that can be characterized as one large Project..." (CEQA Guidelines § 15168). Absent a clear understanding of how the PEIR is intended to be used, CDFW is unable to comment on the full breadth of environmental concerns and potential avoidance, minimization, or mitigation measures. Given the nature of a programmatic environmental document, CDFW acknowledges that the CEQA Lead Agency is not obligated to fully analyze subsequent activities for which insufficient data exists. However, CEQA findings of significance should only be made when those findings are supported by substantial evidence in the record (CEQA § 15091(b)). For those aspects of the proposed Project that have not been fully studied, findings of significance should be set aside when certifying the PEIR until those aspects can be fully studied in a subsequent or supplemental CEQA document (see CEQA Guidelines §§ 15162 and 15163).

18) **Jurisdictional Delineation and 1600 Notification:**

- a) The Project area supports aquatic, riparian, and wetland habitats; therefore, a jurisdictional delineation of the wetlands, Rose Creek, and associated riparian habitats should be included in the PEIR. Please note that some wetland and riparian habitats subject to CDFW's authority may extend beyond the jurisdictional limits of the U.S. Army Corps of Engineers.
- b) The CDFW has regulatory authority over activities in streams and/or lakes that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of any river, stream, or lake or use material from a river, stream, or lake. For any such activities, the Project applicant (or "entity") must provide written notification to CDFW pursuant to section 1600 *et seq.* of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSAA) with the applicant is required prior to conducting the proposed activities. CDFW's issuance of a LSAA for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. CDFW as a Responsible Agency under CEQA may consider the City's PEIR for the Project. To minimize additional requirements by CDFW pursuant to section 1600 *et seq.* and/or under CEQA, the document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the LSAA.

19) **Marine Mitigation Measures:**

At a minimum, the following marine mitigation measures should be incorporated into a Marine Impact Avoidance, Minimization and Monitoring plan for any proposed sediment placement cut and fill work within or adjacent to the marine habitats of Mission Bay.

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- a) Avoidance Measures: Equipment, vehicle routes, dump trucks, bulldozers, and workers should travel, set up and operate outside the Bay habitat boundaries to the extent feasible to avoid significant Project impacts to marine habitat, species, and water quality. All driving, dumping, bulldozing routes and locations should be referenced on maps and diagrams in relation to the marine habitat boundaries showing potential areas of impact.
- b) Avoidance Measures: The CDFW recommends avoidance of eelgrass and marine habitat impacts. Project alternatives and designs should include construction methods designed to fully avoid impacts to existing sensitive marine fish and wildlife and associated marine habitats.
- c) Minimization Measure: For Bay sandy beach and mudflat protection or creation, dredged or excavated sediments to be used as fill should be sampled under an approved sediment analysis plan, and only clean, beach or mudflat compatible sand should be placed on receiver beaches. Dredged sediments should be similar to receiver beach sediments in grain size, color, and percent silt content.
- d) Minimization Measure: Hydrological modeling should be done to identify appropriate sediment placement volumes and locations to minimize significant marine habitat and creek mouth impacts.
- e) Minimization Measure: Silt curtains and coffer dams should be used to the extent feasible to minimize turbidity and sedimentation impacts for all sensitive marine habitats and species.

Eelgrass and Shallow Water Habitat Mitigation Measures: Eelgrass is a sensitive habitat that is highly productive as a juvenile fish nursery, and used by adult fish and invertebrates for foraging, spawning, and shelter. Eelgrass beds are also considered a "special aquatic site" and given protections by the Clean Water Act. Additionally, the importance of eelgrass protection and restoration, as well as the ecological benefits of eelgrass, is identified in the California Public Resources Code (PRC§35630). Guidance for eelgrass habitat impact avoidance, minimization, and compensatory mitigation as well as guidance for eelgrass mitigation banking is provided by the California Eelgrass Mitigation Policy (CEMP), (NOAA, 2014). (https://media.fisheries.noaa.gov/dam-migration/cemp_oct_2014_final.pdf).

If transplanting of eelgrass is required for eelgrass compensatory mitigation, a Scientific Collecting Permit (SCP) from CDFW will be required prior to harvest and transplanting activities. The SCP may include conditions such as donor bed surveys, limits on number and density of turions collected, methods for collection and transplanting, notification of activities, and reporting requirements. Please visit the CDFW's SCP webpage for more information: <https://wildlife.ca.gov/Licensing/Scientific-Collecting>.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database 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.)

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CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist the City 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. Questions and further coordination on marine issues should be directed to Loni Adams, Marine Environmental Scientist at Loni.Adams@wildlife.ca.gov.

Sincerely,

DocuSigned by:


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David Mayer
Environmental Program Manager
South Coast Region

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Attachments

Attachment A: CDFW Comments on the De Anza Revitalization Plan. December 13, 2016.

Attachment B: CDFW Comments on the Notice of Preparation of a Draft Program Environmental Impact Report for the Mission Bay Park Master Plan Update-Fiesta Island. June 8, 2017.

Attachment C: Comments on the De Anza Cove Amendment to the Mission Bay Park Master Plan NOP. July 10, 2018.

References

California Department of Fish and Wildlife (CDFW). December 13, 2016. Comments on the De Anza Revitalization Plan.

California Department of Fish and Wildlife (CDFW). June 8, 2017. Comments on the Notice of Preparation of a Draft Program Environmental Impact Report for the Mission Bay Park Master Plan Update-Fiesta Island.

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City of San Diego. May 1990. Final Mission Bay Park Natural Resource Management Plan. Prepared for the Park and Recreation Department by the Development and Environmental Planning, Planning Department, City of San Diego.

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