

CALIFORNIA COASTAL COMMISSION

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**W7b**

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STAFF REPORT: CONSENT CALENDAR

Application No.: 6-18-0003

Applicant: Seaforth Sportfishing Corp.

Agent: Dennis Baker

Location: 1641 & 1677 Quivira Road, Mission Bay Park, San Diego, San Diego County (APN: 760-029-04)

Project Description: Removal and replacement of existing floating wooden docks at both the Seaforth Boat Rental and Seaforth Marina with sealed wood decking and repositioning 14 concrete piles within the existing marina.

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

The primary issues raised by the proposed development relate to potential impacts to sensitive marine species and water quality. The proposed project is the second phase of a complete renovation of the subject leasehold pursuant to the applicant's lease with the City of San Diego. The first phase consisted of replacement/reconfiguration of the existing docks at the Seaforth Marina and the adjacent Sportfishing dock southeast of the subject marina at 1717 Quivira Road in Mission Bay Park (CDP No. 6-05-034).

Special Conditions #2 requires that the wood used for the new docks be sealed with a penetrating coating to avoid or minimize the leaching of wood preservatives into coastal waters which would adversely impact water quality. Additionally, this condition would

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impose effective Best Management Practices (BMPs) to prevent or mitigate any negative impacts associated with construction over coastal waters. **Special Condition #3** would prevent or mitigate any negative impacts on water quality associated with operation of the marina by requiring submittal of a Water Quality Management Plan (WQMP) including appropriate BMP for controlling adverse impacts to water quality related to the boating facilities associated with this project. **Special Condition #4** prevents or mitigates any impacts to sensitive species by prohibiting any in-water construction, such as repositioning piles, during the California least tern nesting season. Additionally, this condition prohibits work during the summer months to ensure that public access is not adversely impacted. Furthermore, **Special Condition #1** requires the submittal of final plans to ensure that the project is undertaken according to plans that minimize impacts to the public walkways and to ensure the two guest slips in the Seaforth Marina, required by CDP No. 6-05-034, are not impacted. A pre-construction survey submitted by the applicant indicated that neither eelgrass or *Caulerpa* is present at the project site. As conditioned, the proposed development conforms to the public access, recreation, and marine resource protection policies of the Coastal Act.

Commission staff recommends **approval of** coastal development permit application 6-18-0003, as conditioned.

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APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

[Exhibit 1 – Vicinity Map/Aerial Photo](#)

[Exhibit 2 – Site Plan](#)

[Exhibit 3 – Eel Grass/*Caulerpa* Survey](#)

I. MOTION

Motion:

*I move that the Commission **approve** the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Submittal of Final Plans.**
 - (a) **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and written approval of the Executive Director, the following final plans:

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- viii. Machinery or construction materials not essential for project improvements will not be allowed at any time in the intertidal zone;
- ix. If turbid conditions are generated during construction a silt curtain will be utilized to control turbidity;
- x. Floating booms will be used to contain debris discharged into coastal waters and any debris discharged will be removed as soon as possible but no later than the end of each day;
- xi. Non buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss;
- xii. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
- xiii. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
- xiv. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
- xv. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
- xvi. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;
- xvii. The discharge of any hazardous materials into any receiving waters shall be prohibited;
- xviii. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible;
- xix. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity; and
- xx. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

3. **Water Quality/Marina BMPs.**

(a) **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, a detailed Water Quality Management Plan (WQMP) including appropriate Best Management Practices (BMP) for controlling adverse impacts to water quality related to the boating facilities associated with this project. The WQMP shall demonstrate that boating in the project area will be managed in a manner that protects water quality and that persons or employees maintaining boats in slips or using slips on a transient basis are made aware of water quality provisions. The plan shall be consistent with appropriate recommendations of the California Clean Marina Toolkit (<http://www.coastal.ca.gov/ccbn/toolkit/marina-toolkit.pdf>). The plan shall include procedures for inspection of boater activities and sanctions for boaters that may be adversely impacting water quality. The plan shall include, at a minimum, the following provisions:

i. Boating Maintenance Best Management Practices

1. Where hulls are so fouled that cleaning must be abrasive and is likely to result in paint removal and the discharge of toxic heavy metals, remove the boats from the water and perform cleaning at a location where debris can be captured and disposed of properly.
2. Where boat hulls are cleaned in the water: clean bottom paints using non-abrasive methods and avoid creating a colored plume of paint in the water; perform hull cleaning in accordance with the manufacturer's recommendations for the type of hull coating or bottom paint; and perform regular hull maintenance to prevent hard marine growth.
3. Detergents and cleaning products used for washing boats above the water line shall be phosphate-free and biodegradable, and amounts used shall be kept to a minimum.
4. Detergents containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye shall not be used.

ii. Solid Waste Best Management Practices Related to Boat Maintenance

1. In order to prevent spillage and loss of sanding debris into the water, no sanding or application of liquid protective materials (e.g., paint, varnish, teak oil) shall be allowed between the waterline and the deck. Any boat owner intending to sand or apply liquid protective materials to the outside boat surfaces above the deck shall inform a

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representative of the marina (the dock master) of the proposed work. The boat owner will be responsible for management practices that ensure proper containment and disposal of sanding debris, spilled paint and used application materials. Large scale or commercial maintenance of outside boat surfaces shall not be conducted within the marina.

2. Receptacles shall be provided for the appropriate recycling or disposal of waste material.

iii. Hazardous Waste Best Management Practices

1. Areas for collection and proper disposal or recycling of hazardous materials such as old gasoline or gasoline with water, oil absorbent materials, used oil, oil filters, antifreeze, lead acid batteries, paints, and solvents shall be provided in compliance with local hazardous waste storage regulations and shall be clearly labeled.
2. Signage shall be placed on all regular trash containers to indicate that hazardous materials may not be disposed of in the container. The containers shall notify boaters as to how to dispose of hazardous materials and where to recycle certain recyclable wastes.

iv. Sewage Pumpout System Best Management Practices

1. In order to prevent the overboard disposal of untreated sewage within the project area and surrounding waters the WQMP will provide a section describing the capacity and operational status of sewage pumpout facilities within the Seaforth Sportfishing Leasehold and document whether they are adequate to serve the needs of boaters using the facilities within the Seaforth Sportfishing Leasehold. If the current facilities are not adequate to address the needs of the marina, the WQMP shall include a commitment to address the deficiencies. The report should explain how the managers of the Seaforth Sportfishing Leasehold will ensure that boaters make proper use of these facilities.

v. Public Education Measures

1. The managers of the Seaforth Sportfishing Leasehold shall distribute the Water Quality Management Plan to all users of the boat docks. Informative signage describing and/or depicting Best Management Practices for maintenance of boats and boating facilities consistent with those specified herein shall be posted conspicuously.

4. **Timing of Construction.**

- (a) No in-water construction shall occur during the California least tern nesting season from April 1 to September 15. Moreover, no construction of any kind shall take place between Memorial Day weekend and Labor Day of any year. Access corridors and staging areas shall be located in a manner that has the least impact on public access via the maintenance of existing public parking areas and traffic flow on coastal access routes (i.e., no street closures or use of public parking as staging areas).
- (b) The permittee shall undertake development in accordance with the approved timing restrictions. Any proposed changes to the timing restriction shall be reported to the Executive Director. No changes to the timing restriction shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

Mission Bay Park is a public park and recreation area of statewide and national significance. It was created prior to the Coastal Act and is built primarily on filled tidelands granted to the City of San Diego by the state. The park overall includes both active and passive public recreational venues, multiple commercial and non-profit leaseholds, wildlife refuges, least tern nesting sites, and undeveloped land. The subject site is located in the southwestern portion of Mission Bay Park and is parallel to Quivira Road, which provides access to adjacent leaseholds within Quivira Basin ([Exhibit 1](#)). The applicant, Seaforth Sportfishing Corporation, is the lessee of both the Seaforth Boat Rental and Seaforth Marina. The applicant shares Quivira Basin with several other lessees who also manage marinas similar to the one existing on the applicant leasehold.

The applicant proposes to replace the existing floating wooden docks at both the Seaforth Boat Rental and the Seaforth Marina with new preservative-treated, sealed wooden docks the same size as the existing docks, and reposition 14 existing concrete piles within the existing marina. Pursuant to the applicant's lease agreement with the City of San Diego, the applicant is responsible for submitting a redevelopment plan detailing how the applicant plans to improve the commercial leasehold. There are three facilities located within the applicant's leasehold: Seaforth Boat Rentals, Seaforth Marina, and Seaforth Sportfishing. The applicant divided the redevelopment of the leasehold into two more manageable phases. CDP No. 6-05-034 permitted the development associated with the first phase which, among other things, consisted of replacement/reconfiguration of both docks A and B at the Seaforth Marina and the adjacent Sportfishing dock southeast of the subject marina at 1717 Quivira Road in Mission Bay Park. Additionally, in CDP No. 6-05-034, the Commission required the applicant to provide two guest slips that would be reserved for exclusive use by a non-profit equal opportunity boating club that promotes public recreational boating. The applicant is currently proposing the second phase of the redevelopment.

The proposed new docks are composed of wood decking installed on top of a dock float. The applicant is only replacing the wood decking portion of the deck. The proposed work will be divided into two stages: (1) the removal and replacement of the rental docks at the Seaforth Boat Rental which cover approximately 4,846 square feet of water area; and (2) the removal and replacement of docks C, D, E, and F and fingers at the Seaforth Marina which cover approximately 23,728 square feet of water ([Exhibit 2](#)). Additionally, the applicant proposes to reposition 14 existing concrete piles located under dock F to relocate dock F five feet landward to facilitate connection with the new 80-foot long and 6-foot wide gangway that is replacing the existing gangway. Dock F runs parallel to Quivira Basin's bank at this location and provides access to docks A through F. There will be no increase in the number or size of the piles, which currently range in diameter from 12 inches to 16 inches. The reconfiguration of dock F will result in a minor decrease in open water coverage of approximately 200 square feet so that docks A through F can connect with dock F in its proposed landward location.

The two guest slips required by the Commission in CDP No. 6-05-034, which approved phase 1 of the subject leasehold redevelopment, are the first two slips located on the right-side of dock C when facing the water and abut dock F. The minor relocation of dock F will result in a slight increase in the width of the slips, which could allow for a wider variety of boats to be accommodated in the guest slips. No other changes are proposed to the guest slips. There will be no increase in the number or size of the docks and, besides moving dock F five feet landward, the existing dock configuration will remain unchanged.

All work will be performed using a barge mounted crane which will remove the docks and fingers in segments from the water. The crane will also be used to place the new docks in fingers into the water for installation and also to reposition the 14 existing concrete piles for dock F. A small motor boat will be used to unbolt the existing docks and fingers and also to position and bolt the new docks and fingers.

The proposed wood decking is treated with Ammoniacal Copper Zinc Arsenate (ACZA) to preserve the wood. The use of preservative-treated wood can be of concern in aquatic environments because the pesticides in wood preservatives can adversely impact aquatic organisms, especially fish and invertebrates, and may accumulate in the underlying sediment. The Commission's water quality specialists have determined that if treated wood is being used, generally metal-arsenate preservatives such as ACZA are preferred because it minimizes the risk of aquatic and sediment toxicity. Furthermore, to prevent the leaching of these preservatives into the water, it is recommended that a penetrating coating, that seals the preservative chemicals into treated wood decking, is used in overwater structures. The applicant has agreed and **Special Condition #2** requires the applicant to apply a penetrating sealant to the new wood decking to prevent leaching of preservatives from the treated wood into coastal waters. Thus, the treated wood will not result in significant impacts to the water quality of Quivira Basin.

As for the piles, the applicant is proposing to use a water-jetting method to place the piles in the new location. The applicant is proposing to use both a silt curtain in and a debris boom to contain both the turbidity resulting from the water-jetting process and the floating debris from the replacement of the decking. When water-jetting is utilized to place piles, a silt curtain must be used to contain the turbidity where coastal resources, such as benthic communities or eelgrass, may be at risk. Additionally, an issue in Southern California is the eradication of the invasive green alga, *Caulerpa taxifolia* (*Caulerpa*). This seaweed spreads asexually from fragments and creates a dense monoculture displacing native plant and animal species. If *Caulerpa* were allowed to reproduce unchecked within Mission Bay, sensitive eelgrass beds and the wildlife that depend upon them would be adversely impacted. If *Caulerpa* is present, any project that disturbs the bottom could cause its spread by dispersing viable tissue fragments.

The applicant has already submitted a pre-construction eelgrass/*Caulerpa* survey which indicates there is neither eelgrass or *Caulerpa* present within the project site ([Exhibit 3](#)). Quivira Basin is the deepest water body in Mission Bay and is designed primarily for boating activities. Due the depth of the basin and its steep, riprapped banks, eel grass is not expected to grow in this area. Because the pre-construction survey did not identify

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any eelgrass (and none is expected in the area), a post-construction eelgrass survey is not necessary. However, the survey did report numerous oysters in the low intertidal area along the riprap. Since the applicant is proposing to use a silt curtain to contain the turbidity, no impacts are anticipated to occur to these resources. Additionally, since *Caulerpa* is not present at this project site, there is no risk of spreading it when performing the piling work.

Additionally, the reconfiguration of the pilings and dock F five feet landward is not anticipated to have any material impact on circulation between dock F and the adjacent riprapped bank of the basin.

Nevertheless, because the proposed development is both over and in coastal waters, there is still a potential for construction materials or waste to be discharged into coastal waters which would result in an adverse effect to the marine environment. To reduce the potential for construction related impacts on water quality, **Special Condition #2** requires the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of on-going best management practices following construction.

Although continued use of the reconstructed docks is not expected to result in any change to water quality, adverse effects to water quality can occur through the use of these facilities. Such impacts can be minimized through participation in a Best Management Practices program that provides guidelines for establishing a clean marina which complies with all environmental laws and regulations. Therefore, **Special Condition #3** requires a detailed water quality best management plan for the public boat facilities that contains boater inspection and education elements. Implementation of this plan will help ensure that boating in the project area will be managed in a manner that protects water quality and that the users of the facilities are made aware of water quality provisions. The Commission's Water Quality staff have reviewed the project and, through **Special Conditions #2 & #3**, determined that no impacts to water quality will result.

There is no beach in Quivira Basin but public access is available along an existing public walkway which provides waterfront access all across the leasehold, and connects to existing public walkways on either side. Public access along this walkway could be impacted, especially during the summer months, by activities associated with construction such as the staging for the dumpsters and trucks needed to remove the existing decking. To reduce the potential for construction related impacts on public access, **Special Condition #4** prohibits construction activities during the summer months between Memorial Day weekend and Labor Day, and limits the placement of staging areas and access corridors year-round to minimize construction impacts on the general public using this area of Mission Bay Park.

The closest least tern nesting site is at Mariner's Point, which is slightly more than half a mile away from the project site and in a direct line of sight from the Quivira Basin. Additionally, the Southern Wildlife Preserve (also known as the San Diego River Channel/Floodway), which harbors a number of endangered bird species, is about a quarter-mile away. The waters of Quivira Basin and the river are used as foraging area by a number of listed avian species along with unlisted birds and other forms of wildlife. To avoid impacts to sensitive bird species, **Special Condition #4** also prohibits all in-water

construction activities during the nesting season of the least terns, which runs from March 1 to September 1.

The Commission certified a land use plan for Mission Bay Park in 1996, the Mission Bay Park Master Plan. However, there are no implementing ordinances for this LCP segment, so this represents an area of deferred certification. Moreover, the majority of the aquatic park, which is built primarily on tidelands, will remain in the Commission's original jurisdiction permanently. Since Mission Bay Park is currently an area of deferred certification, permit authority remains with the Commission and Chapter 3 of the Coastal Act is the legal standard of review, with the certified master plan used for guidance.

B. BIOLOGICAL RESOURCES

Coastal Act policies 30240 and 30251 restrict the alteration of natural landforms and protect sensitive habitats. Section 30231 of the Coastal Act requires that coastal waters are protected and runoff minimized. Section 30233 limits development in open coastal waters, wetlands, estuaries, and lakes to specific permitted uses where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects.

The proposed recreational boat dock development and its associated structures are an allowable and encouraged marine related use. The project design includes the minimum sized pilings and the minimum number of pilings necessary for structural stability. As conditioned, the project will not impact eelgrass beds or other marine species, consistent with the resource protection policies of the Coastal Act.

The project will not have an adverse impact on any sensitive habitat or result in adverse impacts to water quality, as conditioned. Thus, the project is consistent with the resource protection policies of Chapter 3 of the Coastal Act.

C. PUBLIC ACCESS & RECREATION

The proposed development is the improvement of a boat marina, which promotes recreational boating and is an encouraged marine related use. The proposed development will not impact the two existing slips reserved for use by non-profit public boating organizations serving low and moderate-income levels not able to afford boat ownership. As conditioned, the proposed development will not have an adverse impact on public access to the coast or to nearby recreational facilities. As conditioned, the proposed development conforms to Sections 30210 through 30214, Sections 30220 through 30224, Section 30252 and Section 30604(c) of the Coastal Act.

D. LOCAL COASTAL PLANNING

The LUP for the Mission Bay Park LUP segment of the City of San Diego LCP was certified on May 11, 1995, but no implementation plan has been developed as yet, and Chapter 3 of the Coastal Act remains the legal standard of review. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

E. CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City of San Diego determined that no CEQA review was required for the proposed project since it does not require a discretionary permit, but only a ministerial construction permit.

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing marine resources and water quality will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- Mission Bay Park Master Plan
- Coastal Development Permit No. 6-05-034