



Legislation Details (With Text)

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Title: RESOLUTION AUTHORIZING AN AGREEMENT WITH THE SAN DIEGO NATURAL HISTORY MUSEUM FOR MONITORING, MANAGEMENT, AND PREDATOR CONTROL SERVICES FOR THE ENDANGERED CALIFORNIA LEAST TERN AND THREATENED WESTERN SNOWY PLOVER NESTING SITE AT THE D STREET FILL IN AN AMOUNT NOT TO EXCEED \$483,515 FOR FIVE YEARS TO DECEMBER 31, 2024. FUNDING FOR FISCAL YEAR 2020 IS BUDGETED. FUNDS REQUIRED FOR FUTURE FISCAL YEARS WILL BE BUDGETED IN THE APPROPRIATE FISCAL YEAR, SUBJECT TO BOARD APPROVAL UPON ADOPTION OF EACH FISCAL YEAR'S BUDGET

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| 11/5/2019 | 1 | Board of Port Commissioners | adopted | |

DATE: November 5, 2019

SUBJECT:

RESOLUTION AUTHORIZING AN AGREEMENT WITH THE SAN DIEGO NATURAL HISTORY MUSEUM FOR MONITORING, MANAGEMENT, AND PREDATOR CONTROL SERVICES FOR THE ENDANGERED CALIFORNIA LEAST TERN AND THREATENED WESTERN SNOWY PLOVER NESTING SITE AT THE D STREET FILL IN AN AMOUNT NOT TO EXCEED \$483,515 FOR FIVE YEARS TO DECEMBER 31, 2024. FUNDING FOR FISCAL YEAR 2020 IS BUDGETED. FUNDS REQUIRED FOR FUTURE FISCAL YEARS WILL BE BUDGETED IN THE APPROPRIATE FISCAL YEAR, SUBJECT TO BOARD APPROVAL UPON ADOPTION OF EACH FISCAL YEAR'S BUDGET

EXECUTIVE SUMMARY:

California least terns (least terns) are small, migratory, federally endangered seabirds that use coastal beaches, mudflats, and sand dunes along the Pacific Coast to nest and raise chicks annually between April and September. Western snowy plovers (snowy plovers) are small, federally threatened shorebirds that forage in similar habitats. The populations of these bird species have historically been impacted by human disturbance, lack of predator control, changing climate conditions, and particularly in Southern California, loss of nesting and foraging habitat. The San Diego Unified Port District (District) performs annual monitoring, management, and predator control services to enhance nesting and foraging opportunities for these birds which has assisted in increasing these populations.

The current monitoring and management agreement for the nesting site at D Street Fill will expire on December 31, 2019 and the current predator control services agreement will expire on March 31, 2020. The District issued a Request for Proposals (RFP) for both services on August 6, 2019. An Information Exchange Meeting was held on August 14, 2019, at which the current Service Provider, Mr. Patton, was the only attendee. No proposals were received by the due date of September 11, 2019. Therefore, staff completed a direct negotiation with the San Diego Natural History Museum to be the service provider and including Mr. Patton as a sub-provider.

Staff recommends funding a new agreement with the San Diego Natural History Museum in the amount of \$483,515 for five years to continue monitoring, management and predator control services at the least tern nesting and snowy plover foraging site at D Street Fill.

RECOMMENDATION:

Adopt a resolution authorizing an agreement with the San Diego Natural History Museum for monitoring, management, and predator control services for the endangered California least tern and threatened western snowy plover nesting site at the D Street Fill for a total amount of \$483,515 for five years. Funding for fiscal year 2020 is budgeted and funds required for future fiscal years will be budgeted in the appropriate fiscal year, subject to board approval upon adoption of each fiscal year's budget.

FISCAL IMPACT:

Funds for FY19/20 are budgeted in the Environmental Conservation budget. Funds required for future fiscal year(s) will be budgeted in the appropriate fiscal year, subject to Board approval upon adoption of each fiscal year's budget.

COMPASS STRATEGIC GOALS:

This agenda item supports the following Strategic Goal(s).

- A Port that the public understands and trusts.
- A Port with a healthy and sustainable bay and its environment.
- A Port with a comprehensive vision for Port land and water uses integrated to regional plans.
- A Port that is a safe place to visit, work and play.

DISCUSSION:

District Endangered Species Management Program

The warm, nutrient-rich, shallow waters of San Diego Bay provide valuable habitat that serves as nursery, breeding, and resting grounds for an abundance of marine species and is a critical stopover point for migratory birds along the Pacific Flyway. In 1984, the District implemented its Endangered Species Management Program (Program) to enhance nesting and foraging opportunities for the federally endangered California least terns (*Sternula antillarum browni*) and threatened Western snowy plovers (*Charadrius nivosus nivosus*). The Program, as outlined in the District and U.S. Navy's Integrated Natural Resources Management Plan, is ongoing and includes implementation of annual nesting site access controls, nesting site preparation measures, vegetation preservation and removal

activities, predator control, public information programs, and monitoring programs. The District has directly managed and funded the monitoring and predator control services for endangered least tern nesting and threatened snowy plovers since 1997. In coordination with the District, the U.S. Navy, U.S. Fish & Wildlife Refuges, and the San Diego International Airport also fund intensive monitoring and management of their endangered species nesting sites around the bay.

California Least Tern

The California least tern has been listed as federally endangered since 1970 and endangered by the State of California since 1971. By 1973, the population in California was thought to be as low as 300 nesting pairs. Since monitoring, predator control, and habitat conservation efforts began in 1973, the population has increased to roughly 5,000 nesting pairs. Continued protection of the California least tern is essential for this small, delicate gull species that once nested in large colonies on beaches, mudflats, and sand dunes throughout Southern California. Urbanization, habitat loss, and predation led to a steep decline in the least tern population in San Diego Bay in the late 1960's, particularly with construction of the Pacific Coast Highway in the early 20th century, which resulted in the direct destruction of shorebird nesting habitat and facilitated human encroachment.

Predators and human disturbance must be controlled for these species to reproduce successfully. Least terns nest directly on the sand and despite camouflaged coloring of eggs and chicks, they are highly susceptible to predators such as hawks, crows, opossums, racoons, and feral dogs and cats which can eliminate an entire nesting colony in a day. Camouflage also makes nests and chicks difficult to see by beachgoers which often step on them. Therefore, active predator control and protection from human disturbance is critical for nesting least terns.

In addition, least terns prey on fish, such as anchovies and topsmelt, which are small enough to catch and feed to chicks. Changing climate conditions can influence oceanographic conditions that limit prey populations and directly impact nesting through storm events. These impacts, combined with permanent or long-term loss of nesting habitat, has slowed recovery of the least tern population.

Western Snowy Plover

The Western snowy plover is a small, inconspicuous shorebird that lives and nests in colonies on beaches and sandy flats throughout Southern California. Snowy plovers nest in habitats similar to least terns, including coastal beaches, sand spits, and sparsely vegetated dunes. However, a significant decline in breeding site locations has been observed due to human disturbance, predation, invasive plants, and climate change. Snowy plovers have been observed foraging, but do not currently nest, on District tidelands.

D Street Fill

The D Street Fill, a roughly 80-acre peninsula located in Chula Vista south of the Sweetwater Channel, was created in the 1960s by placing dredge spoils from the Sweetwater Channel into the adjacent tideland area. The dredge spoils consist of a sand-shell mixture that is well-suited for least tern nesting and snowy plover foraging. The D Street Fill is jointly managed by the U.S. Fish and Wildlife Service (USFWS) and the District. No snowy plovers have nested at the D Street Fill since 2000; however, plovers are routinely observed foraging along the shoreline.

Least terns were first observed nesting at the D Street Fill in 1973 and colony size and reproductive

success has varied widely from year to year. Despite fencing the site in 1981, the number of nests observed each year throughout the 1980s averaged less than ten. By the early 2000s the number of nests began to steadily increase, and through present day, the site averages 120 nests each year. However, the number of eggs and chicks that survive to the fledgling stage (i.e. chicks old enough to grow their flight feathers) is much lower. Over the past ten years, between 8-29% (9-36 fledglings) of eggs and chicks have survived long enough to leave the nest with their parents. Changing climate conditions; storm and El Niño events; prey availability and local food shortages; human disturbance; and predation all negatively impact reproductive success at this site.

San Diego Natural History Museum

The San Diego Society of Natural History is a private non-profit (501(c)(3)) scientific organization incorporated in 1874 that operates the San Diego Natural History Museum (Museum). The Museum's research division, the Biodiversity Research Center of the Californias, is a Southern California leader in natural sciences. The Museum's mission is to serve as one of the leading centers for the scientific study of natural history, biological diversity, and evolution within our region. Research staff at the Museum have over 270 years of collective experience with San Diego flora and fauna and have direct experience monitoring least terns and snowy plovers.

The Museum has teamed with Robert T. Patton and U.S. Department of Agriculture, Animal and Plant Health Inspection Services Wildlife Services (Wildlife Services) due to their possession of several Federal and State permits required to manage endangered species, and, by far the most experience performing monitoring and predator control services for endangered least terns at the D Street Fill.

Monitoring Services

Mr. Patton is a senior biologist with Patton Biological LLC specializing in ornithology and is the District's current Service Provider. Mr. Patton is one of the region's leading experts on least terns and his 36 years of experience and knowledge coordinating and conducting site preparation, management, and monitoring for least terns and snowy plovers for the District, California Department of Fish & Wildlife (CDFW), San Diego County Regional Airport Authority, USFWS San Diego Bay National Wildlife Refuge, California Department of Parks and Recreation, Zoological Society of San Diego, and the U.S. Navy allows for the success and continuity of the project.

Mr. Patton also has the required Federal and State permits to monitor endangered species, including a USFWS Endangered & Threatened Species Recovery Permit for migratory birds, Federal Bird Banding Permit including authorization for banding and auxiliary marking on least terns and snowy plovers, CDFW Scientific Collecting Permit, and USFWS Refuge Special Use Permit for work taking place on Refuge land. Mr. Patton's permits include Memorandums of Understanding (MOU) that authorize additional trained biologists to work under his permits.

Mr. Patton has been successfully monitoring the nesting site at D Street Fill under the District's current agreement, which includes site preparation, monitoring adult birds and nests, collecting data on eggs and chicks, assessing chick and fledgling health, and recording observations and assessments of predator impacts. Each year, District or USFWS staff remove invasive vegetation by scraping and/or grading the site. Then, before the nesting season begins, Mr. Patton places ceramic roofing tiles in a grid pattern throughout the site to assist with mapping nest locations (see Attachment A for a map of the 2018 nest locations). The tiles also provide shelter and shade for least tern chicks during the summer. Ceramic and wooden least tern decoys are then placed across the

site in scattered groupings. The decoys are used to encourage live terns to land and nest in the area and, if decoys are knocked over, it is a sign to biologists that avian predators may be in the area.

Mr. Patton and his biologists monitor the nesting area a minimum of twice per week and up to twice per day during the peak of the nesting season. The District and USFWS are provided with weekly reports on least tern sightings, the number of current nests, number of new nests, number of chicks, condition of chicks, predators observed in the area, adults or chicks that appeared to be preyed on, and any other observed disturbances. The biologists also perform photo documentation, GPS mapping of nest locations, and collect data and other metrics to assess the overall success of the breeding and nesting season. The data are compiled into an annual report and GPS data are entered into the District's Geographic Information Systems (GIS) database.

Predator Control Services

Nuisance mammal and avian predators pose a significant threat to the recovery of least terns and snowy plovers at the D Street Fill as well as other nesting sites. Predator control services provide trapping and/or removal of predators under a predator control program by any appropriate legal means, as required. Wildlife Services has successfully performed predator control services for the District and USFWS at the D Street Fill, as well as the Chula Vista Wildlife Reserve and the San Diego Airport.

Wildlife Services monitor the nesting sites daily, set up monitoring equipment, set traps, and remove and/or relocate predators prior to and during the nesting season. Wildlife Services staff also have expertise and the necessary Federal and State permits to assess predated nests, bird remains, and owl pellets to determine if least tern adults, chicks, or eggs are being preyed upon and by which species. Wildlife Services submits monthly reports of predator control activities to the District and USFWS and an annual report with the predator control methods used; the number, species, and location of all animals trapped and/or disposed; the number of hours of active and passive predator control activities; and recommendations at the end of each nesting season.

Several permits are required to use trapping devices and to remove or dispose of mammal and avian predators. Wildlife Services currently has a Restricted Materials Permit from the County of San Diego Agriculture, Weights & Measures to control crows and ravens, a MOU with CDFW to conduct research activities to protect threatened and endangered species from predation by Fully Protected peregrine falcons, and Federal Fish and Wildlife Migratory Bird Depredation Permits to trap and relocate or lethally take avian predators.

Conclusion

The current monitoring agreement with Mr. Patton (Agreement No. 171-2014) expires on December 31, 2019 and the current predator control services agreement with Wildlife Services (Agreement No. 19-73-06-2014-RA) expires on March 21, 2020. To continue monitoring and predator control services, the District issued a Request for Proposals for both services on August 6, 2019. An Information Exchange Meeting was held on August 14, 2019, at which the current Service Provider, Mr. Patton, was the only attendee. No proposals were received by the due date of September 11, 2019. District staff reached out to prospective proposers for feedback and determined that many companies were interested in working with the District but lacked in-house staff with specific knowledge and experience and did not have the specialized permits required to perform the work. While the San Diego Natural History Museum, partnering with Mr. Patton due to the expanded scope of the project,

missed the deadline to submit a proposal staff conducted a direct negotiation with the Natural History Museum, including Mr. Patton as a sub-Service Provider (Attachment B).

To continue the success of the District's endangered species nesting program at D Street Fill and assist with the recovery of the endangered California least tern and threatened Western snowy plover populations, staff recommends authorizing an agreement with the San Diego Natural History Museum to fund monitoring, management, and predator control services at the D Street Fill.

General Counsel's Comments:

The Office of the General Counsel reviewed this agenda and approved the proposed agreement as to form and legality.

Environmental Review:

The proposed Board action for the agreement between the District and the Museum for monitoring, management, and predator control services for the endangered California Least Tern and threatened Western Snowy Plover is Categorically Exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15301 (Existing Facilities), 15304 (Minor Alterations to Land), 15306 (Information Collection), and 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) because the activities identified in the agreement involve no expansion of use beyond that previously existing, would not involve the removal of mature scenic trees, would not result in a serious or major disturbance to an environmental resource, and may include actions taken by regulatory agencies to assure the enhancement of an environmental resource. Further, 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). No further action under CEQA is required.

In addition, the proposed Board action complies with Section 87 of the Port Act, which allows for the establishment and maintenance of tidal and submerged lands for open space, ecological preservation, and habitat restoration. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the project is consistent with the Public Trust Doctrine.

Finally, the proposed Board action is considered an "excluded development" pursuant to Section 8.a. (Existing Facilities), 8.d. (Minor Alterations to Land), 8.e. (Information Collection), and 8.f. (Inspections) of the District's Coastal Development Permit (CDP) Regulations as the activities identified in the agreement involve negligible expansion of use beyond that previously existing, would not involve the removal of mature scenic trees, and would not result in a serious or major disturbance to an environmental resource. Therefore, issuance of a CDP is not required.

Equal Opportunity Program:

Not applicable.

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Attachment(s):

Attachment A: 2018 California least tern nesting sites

Attachment B: Agreement with the San Diego Natural History Museum