

RECORD OF DECISION

I have reviewed the Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Berths 212-224 YTI Container Terminal Improvements Project, in the Port of Los Angeles, California. The EIS/EIR, prepared in compliance with the Council on Environmental Quality's *Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act* and U.S. Army Corps of Engineers (USACE or Corps) regulations at 33 C.F.R. Parts 320-332, assesses the impacts of implementing the proposed Project on the biological, physical, and socioeconomic environment. The EIS/EIR is hereby incorporated by reference. The USACE will proceed as indicated herein.

I. INTRODUCTION

a. Location: The Los Angeles Harbor Department's (LAHD's) proposed Berths 212-224 YTI Container Terminal Improvements Project (proposed Project) encompasses approximately 185 acres of land, which includes approximately 3.5 acres of water primarily along the east side of the channel that connects the Main Channel and the East Basin in the Port of Los Angeles (POLA), in the City of Los Angeles, Los Angeles County, California (33.7561° N, 118.2536 ° W). The proposed Project area is more specifically located on Terminal Island, and is roughly bordered by State Route 47 (Vincent Thomas Bridge) on the south, an existing dry bulk terminal to the east, the Main Channel transition to the Cerritos Channel and the Turning Basin on the west, and the Shell Marine Oil Terminal to the north.

b. Background and General Description:

1. On 15 February 2013, the LAHD applied for a Department of the Army standard individual permit.

2. The Corps and the LAHD prepared a joint EIS/EIR pursuant to the National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA). A Notice of Intent (NOI) to prepare an EIS/EIR was published in the Federal Register on 5 April 2013, and a joint Corps-LAHD scoping meeting was held on 23 April 2013 at the Board of Harbor Commissioners (BOHC) hearing room in San Pedro, California. A Notice of Availability (NOA) of the Draft EIS/EIR for review and comment was published by the U.S. Environmental Protection Agency (EPA) in the Federal Register on 2 May 2014, with a separate locally issued Corps public notice announcing the availability of the Draft EIS/EIR and request for public comments, receipt of application for a Department of the Army (DA) permit, and notice of a public hearing distributed by the Corps on the same date. A public hearing to solicit comments on the Draft EIS/EIR was held on 20 May 2014 at the BOHC hearing room. The public review period for the Draft EIS/EIR ended on 16 June 2014. Responses to all comments

received were prepared, and were fully considered in preparing the Final EIS/EIR. A NOA of the Final EIS/EIR was published in the Federal Register by the EPA on 17 October 2014. The Corps also distributed a separate local public NOA for the Final EIS/EIR on 17 October 2014. The Final EIS/EIR was made available for public review until 17 November 2014. Comments received on the Final EIS/EIR¹, and responses to them, are provided in Appendix A and B to this Record of Decision (ROD). The BOHC held a public hearing on 16 October 2014, and certified the EIR at a second public hearing on 7 November 2014.

3. The proposed Project, as evaluated in the EIS/EIR, includes jurisdictional work and structures, and non-jurisdictional upgrades to the existing backlands on approximately 160 acres of the 185-acre terminal (181 acres comprise the YTI terminal, four acres comprise the Terminal Island Container Terminal Facility (TICTF) area that services the YTI terminal), and approximately 3.5 acres of underwater benthic area comprises the proposed wharf improvement and dredging areas. Proposed improvements to the terminal would consist of ground repairs and maintenance activities involving slurry sealing, deep cold planing, asphalt concrete overlay, construction of approximately 5,600 linear feet of concrete runways for cranes, restriping, and possible removal/relocation/modification of underground conduits and pipes, as needed to accommodate the repairs. Expansion of the TICTF on-dock rail yard would include the addition of a single 3,200-linear-foot rail loading track, including two turnouts, and reconstruction of a portion of the backlands to accommodate the rail expansion. This improvement would also include grading, paving, lighting, drainage, utility relocation and modifications, striping, relocation of an existing fence, and third party utility modifications, relocations, or removals, as needed. Under the proposed Project and at optimal throughput capacity, the improved YTI terminal could handle approximately 1,913,000 TEUs and 206 ship calls per year by end of the lease term (2026). The YTI terminal may handle lower TEU volumes than those described as a result of market conditions; however, an estimate of cargo container throughput based on optimal terminal capacity and efficiency ensures a conservative analysis and that all reasonably foreseeable proposed Project impacts are evaluated. Activities which require DA authorization include the following:

Dredging and Wharf Upgrades Berths 214-216

Approximately 21,000 cubic yards (cy) of dredging to increase the depth from -45 to -53 feet Mean Lower Low Water (MLLW) (with an additional two feet of overdredge depth, for a total depth of -55 feet MLLW). To complete the dredging, approximately 1.7 acres of underwater benthic area would be impacted by dredging activities. Within this 1.7 acre underwater area, approximately 1,400 linear feet of sheet piles and king piles would be installed to accommodate the dredging activities and to support and stabilize the existing wharf structure. The king piles would be installed to a base depth of approximately 35 feet below the mudline and the base of the sheet piles would be approximately 15 feet below mudline. The tops of the king piles and

¹ Includes comment letters and e-mails sent to the Los Angeles Board of Harbor Commissioners for their consideration during their Final EIR certification hearings on October 16, 2014 and November 7, 2014 which coincided with the Corps 30-day FEIS availability period.

sheet piles would extend slightly above the mudline.

Berths 217–220

Approximately 6,000 cy of dredging to increase the depth from -45 to -47 feet MLLW (with an additional two feet of overdredge depth, for a total depth of -49 feet MLLW). To complete the dredging, approximately 1.7 acres of underwater benthic area would be impacted by dredging activities. Within this 1.7 acre underwater area, approximately 1,200 linear feet of sheet piles would be installed to approximately 15 feet below the mudline to accommodate the dredging activities and to support and stabilize the existing wharf structure.

Dredged Material Disposal

The LAHD would dispose of approximately 5,200 cy of unsuitable dredged material at the Corps-approved Berths 243-245 confined disposal facility (CDF, Corps Permit No. SPL-2008-00662-AOA) and approximately 21,800 cy of suitable dredged material at the LA-2 ocean disposal site.

Crane Installation and Modification

Currently there are 14 cranes (10 operating) at the YTI terminal. Under the proposed Project there would be up to 14 operating cranes of similar size, and two non-operating cranes. The proposed Project includes raising and increasing the over-water reach of some of the existing cranes and replacing some existing cranes with super post Panamax cranes². The four existing largest super post Panamax cranes (cranes 5–8) would remain and would not be modified. Up to six existing cranes (1–4 and 9–10) would be raised, and the booms would be extended to match the size of cranes 5-8 to accommodate loading and unloading of 22-container-wide cargo vessels. Up to four new super post Panamax cranes would be added at Berths 217-220. The existing non-operating cranes (11 and 12) would be moved to the far end of Berths 217-220 and would be stored in non-operable status. Additionally, non-operating cranes P18 and P19 would be relocated off site and maintained in non-operable status.

Wharf Crane Rail Extension

The existing 100-foot gauge landside crane rail which extends from Berths 212–216 would be extended by approximately 1,500 feet to accommodate the energy needs of the existing and proposed 100-foot gauge cranes at Berths 217–220. This crane rail would be installed within approximately 100 feet from the wharf edge. This crane rail extension would involve installation of approximately 65, 24-inch diameter, 90-foot long octagonal concrete piles driven into the ground to support rail extension. The waterside crane rail is already in place.

Construction Schedule

The proposed Project would be constructed in two phases over approximately 22 months, with Phase I expected to take approximately 12 months beginning in mid 2015, and Phase II expected

² Super post Panamax refers to the largest modern container cranes that are used for vessels of about 22 or more containers wide (too large/wide to pass through the Panama Canal), and can weigh 1600–2000 metric tons.

to take approximately 10 months beginning in mid 2016. During construction, the terminal would remain in operation.

4. Aspects of the proposed Project that require a Department of the Army permit consist of:

- Dredging to increase design depths
- Wharf upgrades consisting of sheetpile and king pile installation
- Dredged material disposal
- Crane installation and modification
- Wharf crane rail extension. This improvement involves only the landside rail because the dockside rail is existing. This crane rail would be installed within approximately 100 feet from the wharf edge. The landside crane rail extension is being considered within the Corps scope of analysis because the crane rail extension is required to support, move and power the overwater cranes and thus directly related to jurisdictional structures; however no work in waters of the U.S. would occur as a result of this construction activity.

The proposed construction activities, described in section 3 above, except the landside crane rail extension, would require authorization pursuant to section 10 of the Rivers and Harbors Act (RHA). The transport of suitable dredged material for purposes of disposing of it in ocean waters at LA-2, require authorization from the Corps and concurrence from the EPA pursuant to section 103 of the Marine Protection, Research, and Sanctuaries Act (MPRSA). Disposal of unsuitable dredged material at the Berths 243-245 CDF was previously authorized by the Corps under section 10 of the RHA and section 404 of the Clean Water Act (File No. SPL-2008-00662-AOA); therefore disposal of dredged material at this disposal site requires no further action by the Corps.

c. Purpose and Need:

1. The purpose of the proposed Project is to improve maritime shipping and commerce to accommodate existing and projected growth in the container cargo industry at POLA by upgrading container terminal infrastructure to optimize the terminal's cargo handling efficiency and ability to service the vessel fleet mix including the largest container ships (up to 13,000 TEU) through the end of the proposed lease term in 2026.

2. The need for the proposed Project is to upgrade in- and over-water, water-side and upland containership berthing and container cargo handling facilities and equipment, and expand on-dock rail to improve and accommodate projected growth in goods movement at the YTI terminal through the end of the proposed lease term in 2026. The maritime cargo industry is projected to grow in volume during the next 10 to 20 years, with an increase in the size and number of ships that regularly call at POLA (see Section 1.2.2 in the EIS/EIR). The infrastructure needed to serve new, larger ships is not currently available at the YTI terminal and

is necessary for POLA to accommodate demands in the goods movement industry.

II. DECISION

For the reasons outlined below, the proposed Project, as described in LAHD's 15 February 2013 DA permit application, is the alternative that best meets the purpose and need of the project and will have the least impact on the human and aquatic environment. The Corps will insure that the commitments within our federal control and responsibility and special conditions in the DA permit will be implemented as part of the Project design and construction.

Based upon a careful consideration of all the social, economic, and environmental impact evaluations contained in the Final EIS/EIR; the input received from other agencies, organizations, and the public; and the factors and project commitments outlined below, it is my decision to issue a DA permit authorizing work and structures (dredging and wharf improvements, four larger cranes) in/over/under navigable waters, and disposal of dredged material at the Berths 243-245 confined disposal facility (CDF) and LA-2 associated with the proposed Project. The proposed Project would be constructed over approximately 22 months, in two phases. All jurisdictional project elements, including all of the proposed dredging, would be constructed during the first phase, and transport of suitable dredged material to LA-2 would occur during the second phase provided LA-2 disposal is found to be consistent with the Coastal Zone Management Act by the California Coastal Commissions' Office of Federal Consistency. The proposed Project includes the following regulated activities:

Dredging and Wharf Upgrades

Berths 214-216

Approximately 21,000 cy of dredging to increase the depth from -45 to -53 feet MLLW (with an additional two feet of overdredge depth, for a total depth of -55 feet MLLW). Approximately 1,400 linear feet of sheet piles and king piles would be installed to accommodate the dredging activities and to support and stabilize the existing wharf structure. The king piles would be installed to a base depth of approximately 35 feet below the mudline and the base of the sheet piles would be approximately 15 feet below mudline. The tops of the king piles and sheet piles would extend slightly above the mudline.

Berths 217-220

Approximately 6,000 cy of dredging to increase the depth from -45 to -47 feet MLLW (with an additional two feet of overdredge depth, for a total depth of -49 feet MLLW). Approximately 1,200 linear feet of sheet piles would be installed to approximately 15 feet below the mudline to accommodate the dredging activities and to support and stabilize the existing wharf structure.

Cranes

Currently there are 14 cranes (10 operating) at the terminal. Under the proposed Project there would be up to 14 operating cranes and two non-operating cranes. The proposed Project includes

raising and increasing the over-water reach of some of the existing cranes and replacing some existing cranes with super post Panamax cranes. The four existing super post Panamax cranes (cranes 5–8) would remain and would not be modified. Up to six existing cranes (cranes 1–4 and 9–10) would be raised, and the over-water reach would be extended to match the size of the four existing super post Panamax cranes to accommodate loading and unloading of 22-container-wide cargo vessels. Up to four new super post Panamax cranes would be added at Berths 217-220. The existing non-operating cranes (cranes 11 and 12) would be moved to the far end of Berths 217-220 and would be stored in non-operable status. Additionally, non-operating cranes (cranes P18 and P19) would be relocated off site and maintained in non-operable status.

Dredge Material Disposal

The LAHD's permit application proposes disposal of 5,200 cy of unsuitable dredged material at the Berths 243-245 CDF, and transport of 21,800 cy of suitable dredged material for the purpose of disposal at the LA-2 offshore dredged material disposal site.

Wharf Crane Rail Extension

The existing 100-foot gauge landside crane rail at Berths 212–216 would be extended by approximately 1,500 feet to accommodate the energy needs of the existing and new 100-foot gauge cranes at Berths 217–220. This would involve installation of approximately 65, 24-inch diameter, 90-foot long octagonal concrete piles driven into the ground to support the landside crane rail extension. The waterside crane rail is already in place.

III. ALTERNATIVES CONSIDERED

As part of the preparation of the Draft EIS/EIR, the Corps and LAHD initially considered six project alternatives, including the applicant's proposed Project and three dredged material disposal alternatives; three project alternatives were carried forward for analysis (see EIS/EIR Section 2.9.1 and Section VII(a)(7) below).

Of the six alternative originally considered, three reduced project alternatives (Berths 214-216 only; 12 operational cranes only; proposed project with expanded on-dock rail³) were not carried forward for detailed analysis based on early determinations by the USACE in coordination with LAHD that they would not meet the stated objectives or project purpose, and would not avoid or substantially reduce any significant environmental impacts including impacts to waters of the U.S. (see EIS/EIR Section 2.9.2).

Reduced Project - Berths 214-216 Only: Under this alternative, dredging and associated pile driving would only occur at Berths 214-216. There would be no improvements to Berths 217-220 and it would not become operational. This alternative would result in two operational berths, similar to current conditions at the terminal. There would be no crane replacements or

³ This expanded rail alternative would require all projected cargo throughput increases to be transported on the rail system which would require considerable expansion of the TICTF and other rail lines, well beyond the proposed Project site.

modifications at Berths 217-220 and no dredging or wharf improvements would occur at Berths 217-220. The 100-foot gauge landside crane rail would not be extended at Berths 217-220. Although Berths 214-216 would be deep enough to accommodate ships up to 13,000 TEUs, expansion of the TICTF would not take place because with only two operating berths, the peak throughput could be efficiently handled by the existing TICTF capacity. Backlands improvements consisting of routine ground repair and maintenance would occur, similar to the proposed Project.

This alternative was eliminated from further consideration due to operational infeasibility for the terminal. In order to construct the improvements at Berths 214-216, operation of the berth would cease for a period of approximately 10 months. This would leave YTI with only one operating berth (Berths 212-213) for the duration of construction. The single remaining berth, Berths 212-213, could not accommodate the ships currently calling at Berths 214-216, and this business would be lost for the entire construction period, and potentially longer because the shipping lines would call elsewhere. This situation would not occur under the proposed Project because improvements to Berths 217-220 would occur first, allowing for that berth to become operational at the same time that Berths 214-216 are taken out of service for construction. This would then enable construction to occur at Berths 214-216 without substantially disrupting the terminal operations.

Also, this alternative would not achieve the overall project objective of optimizing the container-handling efficiency and capacity of the Terminal. Dredging at both Berths 214-216 and 217-220 is needed to accommodate the fleet mix expected to call at the terminal through 2026. Accordingly, this alternative was eliminated from further consideration in the EIS.

Reduced Project – 12 Operational Cranes: This alternative would increase the number of operational cranes from 10 operational cranes under existing conditions to 12 operational cranes under this alternative (compared with 14 operational cranes under the proposed Project). All other proposed Project elements, including the dredging and wharf improvements at Berths 214-216 and Berths 217-220, the modification or replacement of eight cranes, the crane rail extension, and the backland and TICTF improvements would all occur, similar to the proposed Project.

This alternative was eliminated from further consideration in the EIS because it would not substantially reduce significant adverse impacts, including impacts to waters of the U.S., compared to the proposed Project. Delivery of two new cranes to replace non-operational cranes instead of delivery of four new cranes to replace non-operational cranes would have minimal impacts on construction-related emissions because delivery of either two or four cranes would be accomplished with one shipment. The majority of emissions come from transporting the cranes to the terminal. All other construction-related impacts would be similar to the proposed Project. Operationally, there would be minimal reductions in electricity use with the operation of 12 cranes instead of 14 because electricity use generally corresponds to the number of hours that equipment is in use, not the number of physical pieces of equipment that exist at the terminal. Operation of 12 cranes would result in increased usage of those 12 cranes to handle the same throughput as otherwise would have been handled by 14 cranes. The capacity and throughput of

the terminal would be the same as under the proposed Project and therefore all other operations would be identical to the proposed Project.

Reduced Project – Proposed Project with Expanded On-Dock Rail: The Southern California Air Quality Management District (SCAQMD) submitted a comment letter on the NOP/NOI for the proposed Project which suggested a project alternative that would move all cargo throughput increases above the baseline level of 996,109 TEUs via on-dock rail. This suggested alternative assumes that all of the components of the proposed Project would occur, in addition to expanded use of on-dock rail.

The LAHD's goal is to maximize on-dock rail in accordance with the Port's Rail Policy. Accordingly, the Port's intermodal capacity and utilization model assumes that the use of on-dock rail will be maximized. Additional on-dock use beyond the volumes presented in Section 2.6 of the EIS is not likely to be achieved.

First, there is a physical limit to the capacity of the rail network between the on-dock yards and the Alameda Corridor, especially for on-dock yards on Terminal Island. Port rail infrastructure and the rail infrastructure between the marine terminals and the Alameda Corridor are inadequate to maintain the level of service required to handle increased cargo volumes.

Second, not all intermodal cargo can be placed on trains at on-dock facilities in the marine terminals. For instance, if there are not enough containers unloaded from a ship that are going to the same destination to make a full train at an on-dock rail yard, the containers are sent to a near-dock or off-dock facility to be mixed with containers from the other marine terminals that are bound for the same destination. This activity is not performed at an on-dock location to avoid delaying cargo to wait for a full trainload. Near- and off-dock facilities are more suited to this type of container staging because their larger size and ability to handle cargo from multiple marine terminals allow for a greater number of destinations and more frequent schedules. Currently about 25 percent of Port-wide cargo throughput passes through on-dock rail facilities and 5 percent through near-dock rail facilities. However, the mode split at individual terminals can vary. The YTI Terminal transports a relatively high percentage of containers via on-dock rail compared to the Port as a whole. Mode splits at the YTI Terminal are presently 35 percent through the TICTF, and 5 percent through near-dock rail facilities. This indicates that YTI has already maximized use of its on-dock rail facilities compared with many other terminals.

Third, not all cargo can be transported by rail. The majority of the cargo passing through the terminals at the Port of Los Angeles is destined for locations that are not served by rail. Rail infrastructure does not and cannot reach the myriad of local destinations that can be accessed only by truck, including most warehouses, retail establishments, construction sites and other locations where intermodal goods passing through the Port are delivered.

In summary, this alternative is operationally infeasible because (1) maximizing on-dock rail is already a commitment in the Port's rail policy and the Project analyses assume that the use of on dock rail will be maximized; (2) intermodal facilities outside the terminal would be required to substantially increase on dock rail use beyond the usage estimated for the Project; (3) the mode of transport of containers is based on the destination or origin of the product being transported,

which is dictated by market demands and is in no way under the control of YTI; and (4) rail infrastructure does not reach most of the destinations where intermodal goods are delivered. Therefore, this alternative was eliminated from further consideration in the EIS.

Alternatives carried forward and analyzed in the Draft EIS/EIR included the proposed Project and three alternatives (No Project, No Federal Action, Berths 217-220 only), and three dredged material disposal alternatives. Dredged material disposal alternatives apply to each of the Project alternatives and these are the Berths 243-245 CDF, ocean disposal at LA-2, and inland disposal at the Kettleman City landfill (Kings County, California, 35° 57' 44.64" N, 120° 0' 36.72" W).

The actions that would take place under each alternative are described below and discussed in detail in Section 2.9 of the EIS/EIR, and in Section IV of this ROD below.

Proposed Project: The proposed Project involves industrial uses similar to existing conditions. Specifically, the proposed Project elements align along several categories:

- Dredging and disposal of dredged material
- Structural wharf improvements
- Cranes and associated infrastructure improvements to support crane use and structural stability
- On-dock rail expansion

The entirety of the proposed Project is described above and in greater detail in Chapter 2 of the EIS/EIR and Section I(b) of this ROD above.

Alternative 1-No Project: Alternative 1 is required to be analyzed under CEQA. Under this alternative, LAHD would not issue any permits or discretionary approvals, and would not take further action to construct or permit the construction of any portion of the proposed Project. This alternative eliminates all of the upland, and in-, over- and under-water project elements that would require a DA permit, as well as construction activities deemed to be within the federal control and responsibility of the Corps (i.e., landside crane rail extension and construction activities within 100 feet of water's edge). Under this alternative, the existing terminal could continue to be used by cargo ships similar to existing conditions and under existing growth projections. This alternative would not expand the TICTF or any backland infrastructure of the terminal, and operation of the terminal would continue similar to existing conditions because existing infrastructure is adequate to handle existing and projected cargo movement on peak days. Under this alternative the existing lease would expire in 2016 and would not be extended to 2026. Updated mitigation measures and Best Management Practices described in the EIS/EIR would not be required or implemented.

Alternative 2-No Federal Action: Alternative 2 is required to be analyzed under NEPA. The No-Federal-Action Alternative eliminates all of the in-, over- and under-water project elements that would require a DA permit, as well as construction activities deemed to be within the federal control and responsibility of the Corps (i.e., landside crane rail extension and construction activities within 100 feet of water's edge). Under this alternative, the existing terminal could continue to be used by cargo ships similar to existing conditions and under existing growth projections. This alternative would allow upgrades to backlands and expansion of the TICTF, which the Corps determined was outside its federal control and responsibility. Operation of the terminal would continue similar to existing conditions; however the TICTF expansion would not likely occur because it would not be needed and existing infrastructure is adequate to handle cargo movement on peak days. Under this alternative the updated mitigation measures and Best Management Practices associated with work and structures in, over and under water including Corps special conditions and EPA mandatory site use conditions (for dredged material disposal at LA-2) would not be required or implemented.

Alternative 3-Reduced Project Berths 217-220 Only: This alternative is similar to the proposed Project except that no dredging, crane, or structural wharf improvements would take place at Berths 214-216. Backlands and TICTF improvements would be constructed under this alternative similar to the proposed Project, and dredged material would be disposed at the CDF or LA-2, similar to the proposed Project. The projected annual cargo throughput under this alternative would be the same as for the proposed Project; however, there would be approximately 232 annual ship calls compared to 206 annual ship calls by 2026 under the proposed Project. This alternative would result in more ship calls because the largest (13,000 TEU) ships in the fleet could not be accommodated or serviced at the YTI terminal due to the absence of a -53 MLLW berth. Under this alternative there could be up to five peak day ship calls over a 24 hour period, compared to four under the proposed Project. Under this alternative the existing lease would be extended to 2026 and Under updated mitigation measures and Best Management Practices associated with work and structures in, over and under water including Corps special conditions and EPA mandatory site use conditions (for dredged material disposal at LA-2) would be required.

IV. EVALUATION OF ALTERNATIVES

The direct, indirect, and cumulative impacts associated with the proposed Project and the other alternatives are included in the Final EIS/EIR. The evaluation of Project alternatives assessed under NEPA is discussed below.

(1) Proposed Project: The proposed Project as described in Section II above would result in a continuation of cargo handling operations with improved equipment and infrastructure through the end of the proposed lease term (2026). The proposed Project would result in significant and unavoidable impacts on air quality and meteorology, and biological resources. There would also be cumulatively considerable and unavoidable contributions to a cumulative impact after mitigation to: air quality and meteorology, biological resources, and noise (NEPA

and CEQA), and also aesthetics and greenhouse gas emissions (CEQA). As described in Section 5 of the Final EIS/EIR (Environmental Justice), the low income and minority populations in San Pedro and Wilmington would be disproportionately adversely affected by Project-related direct, indirect and cumulative impacts, and may experience an increased incidence of chronic respiratory symptoms as well as lifetime cancer risk, chronic non-cancer hazards, and acute non-cancer hazards. Under the proposed Project, mitigation measures and Best Management Practices described in each resource section of the Final EIS/EIR and LAHD's final staff report to the BOHC, and some modernized equipment would be implemented and monitored by the LAHD through the end of the lease term (2026), and the conditions in the DA permit would focus on construction and dredged material disposal activities affecting waters of the U.S. and would be monitored through the construction period by the Corps, EPA and LAHD..

(2) Alternative 1-No Project: Alternative 1 would result in a continuation of cargo handling operations with existing equipment and infrastructure and none of the proposed Project elements would be constructed. Under this alternative there would be significant and unavoidable impacts in the following resource areas: biological resources (Impact BIO-4, section 3.3 of the EIS/EIR). Biological resources impacts were deemed significant and unavoidable under this alternative because cargo ships would continue to call at the terminal under the existing lease terms and could introduce invasive aquatic species via ballast water discharges or as a result of hull fouling when ships are at berth. There would also be cumulatively considerable and unavoidable contributions to a cumulative impact after mitigation to: air quality and meteorology, biological resources (NEPA and CEQA), and also greenhouse gas emissions (CEQA). In addition, low income and minority populations in San Pedro and Wilmington would be disproportionately adversely affected by ongoing direct, indirect and cumulative impacts as a result of continued operations through the end of the existing lease term (2016), and may experience an increased incidence of chronic respiratory symptoms as well as lifetime cancer risk, chronic non-cancer hazards, and acute non-cancer hazards because special conditions, updated mitigation measures and modernized equipment would not be required, implemented or monitored by the LAHD or the Corps. There would be fewer environmental impacts overall, compared to the proposed Project because no new construction activities would take place. However, existing growth projections in cargo throughput may be realized through the end of the existing lease term in 2016, depending on market conditions. This alternative would not increase the value of deep-water berths at the YTI terminal or accommodate projected growth in the maritime cargo industry in POLA, nor would any updated LAHD mitigation measures and Best Management Practices, or Corps special conditions be required or implemented.

(3) Alternative 2-No Federal Action: Alternative 2 would result in a continuation of cargo handling operations with existing equipment and infrastructure, with some backland improvements that require local authorization but do not require a DA permit, such as repaving and other landward maintenance actions. Under this alternative, the TICTF expansion would not take place because its capacity is adequate to handle existing and projected cargo throughput. Under this alternative there would be no direct or indirect impact to aquatic resources within the Los Angeles Harbor or in backland areas deemed to be within the federal control and

responsibility of the Corps. However, there would still be significant and unavoidable cumulative impacts to air quality and meteorology, biological resources, and disproportionate impacts on low income and minority communities as a result of continued terminal operations. Low income and minority populations in San Pedro and Wilmington would be disproportionately adversely affected by ongoing direct, indirect and cumulative impacts as a result of continued operations through the end of the existing lease term (2016), and may experience an increased incidence of chronic respiratory symptoms as well as lifetime cancer risk, chronic non-cancer hazards, and acute non-cancer hazards because special conditions, updated mitigation measures and modernized equipment would not be required, implemented or monitored by the LAHD or the Corps. There would be fewer environmental impacts overall because there would be no construction-related impacts to waters of the U.S. from dredging or dredged material disposal, wharf improvements, or overwater cranes, compared to the proposed Project. However, existing growth projections in cargo throughput may be realized through the end of the existing lease term in 2016, depending on market conditions. This alternative would not increase the value of deep-water berths at the YTI terminal or accommodate projected growth in the maritime cargo industry in POLA, nor would any updated LAHD mitigation measures and Best Management Practices, or Corps special conditions be required or implemented.

(4) Alternative 3-Reduced Project Berths 217-220 Only: Alternative 3 is similar to the proposed Project in that backland improvements and TCTIF expansion would occur, dredging and wharf improvements would occur, the lease term would be extended to 2026, four new super post Panamax cranes would be installed, and a similar TEU throughput (compared to the proposed Project) could be achieved by the end of the lease term. Similar to the proposed Project, there would be significant and unavoidable impacts in the following resource areas: air quality and meteorology and biological resources (NEPA and CEQA). There would also be cumulatively considerable and unavoidable contributions to a cumulative impacts after mitigation to: air quality and meteorology, biological resources, noise (NEPA and CEQA), and also aesthetics and greenhouse gas emissions (CEQA). While Alternative 3 would have fewer environmental impacts for some resources than the proposed Project, it would not support the projected fleet mix, including 13,000 TEU vessels, and it would result in 232 annual ship calls by the end of the lease term (2026) compared to 206 ship calls under the proposed Project. Additional ship calls under this alternative would result in greater air emissions from ocean going vessels than the proposed Project. As a result of greater air emissions than the proposed Project, this alternative would also disproportionately adversely affect low income and minority communities in San Pedro and Wilmington. Low income and minority populations in San Pedro and Wilmington would be disproportionately adversely affected by direct, indirect and cumulative impacts as a result of continued operations through the end of the proposed lease term (2026), and may experience an increased incidence of chronic respiratory symptoms as well as lifetime cancer risk, chronic non-cancer hazards, and acute non-cancer hazards under this alternative. Similar to the proposed Project, mitigation measures and Best Management Practices described in each resource section of the EIS/EIR and LAHD's final staff report to the BOHC, and some modernized equipment would be implemented and monitored by the LAHD through the end of the proposed lease term (2026), and the Corps special conditions and EPA mandatory site use conditions (for ocean disposal of dredged material) in the DA permit would focus on

construction and dredged material disposal activities affecting waters of the U.S. and would be monitored through the construction period by the Corps, EPA and LAHD.. However, due to the lack of a deepwater (-53 MLLW) berth under this alternative, Alternative 3 would not meet the project purpose or need; specifically it would not increase the value of deep-water berths and would not accommodate the vessel fleet mix expected to call in POLA in the future.

V. IDENTIFICATION OF THE ENVIRONMENTALLY PREFERABLE ALTERNATIVE

The Environmentally Preferable Alternative is that alternative that would most closely fulfill the national environmental policy found in section 101 of NEPA. Essentially, it is the alternative that would cause the least damage to the biological and physical environment; it also means the alternative that would best protect, preserve, and enhance historic, cultural, and natural resources. Absent any consideration of the ability of alternatives to achieve the purpose and need of the proposed Project, I find that due to avoidance of: dredging and structural wharf improvements, overwater structures, ocean disposal of dredged material at LA-2, and installation of wharf improvement structures (cranes, king piles, sheet piles) in-, over and under navigable waters of the U.S., the No-Federal-Action Alternative (Alternative 2) is the Environmentally Preferable Alternative.

The reason for selecting the proposed Project over the No-Federal-Action Alternative (Alternative 2) and the Reduced Project Alternative (Alternative 3) is based on the ability to achieve the project purpose of increasing the number of deep-water berths to accommodate existing and projected growth in the container cargo industry in POLA. While the No-Federal-Action Alternative would be less environmentally damaging than the proposed Project from an aquatic ecosystem perspective (i.e., no work (dredging) or structures (wharf improvements, cranes), ocean disposal of dredged material), the project purpose and need would not be met because Alternative 2 would not meet anticipated long-term forecasted maritime cargo industry needs. Importantly, none of the socioeconomic benefits (direct and indirect jobs, local and regional economic activity), LAHD mitigation measures and Best Management Practices, or Corps special conditions and EPA mandatory site use conditions for ocean disposal of dredged material would be required or implemented. The LAHD mitigation measures and Best Management Practices are typically included in the lease agreements between the LAHD and the terminal tenant when terminal upgrades such as proposed Project are approved. As such, under Alternative 2 the lease would not be extended to 2026 and the lease terms and associated mitigation requirements described in the Final EIS/EIR would not be required or implemented. In contrast, the proposed Project would fulfill the project purpose and need, it would meet the forecasted increases in container cargo throughput, ship calls, and ship size; and, mitigation measures/special conditions/mandatory site use conditions and Best Management Practices to reduce environmental and public health impacts would be required, implemented and monitored through the end of the lease term (2026). For a more detailed analysis of the Project-specific and cumulative impacts associated with the above alternatives, please refer to Sections 3 and 4, respectively, of the EIS/EIR.

VI. MEASURES TO AVOID AND MINIMIZE ENVIRONMENTAL HARM

The mitigation measures to avoid and minimize impacts to the environment are summarized in the Executive Summary and discussed in detail for each resource in Section 3 of the EIS/EIR. It is recognized that the LAHD, as the local agency with continuing program responsibility over the entire project throughout the proposed lease term (2026), will implement, maintain, and monitor the full suite of mitigation measures identified in the 7 November 2014 certified EIR, pursuant to the proposed Project's Mitigation Monitoring and Reporting Program (MMRP) (LAHD, 2014). Special conditions the Corps has determined enforceable and subject to our continuing program responsibility, and EPA mandatory site use conditions for ocean disposal of dredged material at LA-2 are included in the DA permit and Section VII of this ROD.

VII. DETERMINATIONS AND FINDINGS

a. Status of Other Authorizations and Legal Requirements:

(1) Water Quality Certification: The LAHD's permit application to the Corps and RWQCB proposes dredging and disposal of 5,200 cy of unsuitable dredged material at the Berths 243-245 CDF, and transport of 21,800 cy of suitable dredged material for the purpose of ocean disposal at the LA-2 ocean disposal site. These disposal alternatives and inland disposal (Kettleman City landfill via haul trucks) were evaluated in the EIS/EIR. The interagency Dredged Material Management Team/Contaminated Sediments Task Force (DMMT/CSTF⁴) also reviewed the sediment characterization report in which sediment to be dredged was tested, re-tested and characterized in accordance with the EPA's Ocean Disposal Manual. Although the DMMT/CSTF unanimously determined that 21,800 cy of dredged material was suitable for ocean disposal at LA-2 and EPA provided concurrence to the Corps for this action, the RWQCB in its hearing on 4 December 2014 required 100 percent beneficial re-use of all dredged material and authorized only CDF disposal for the entire 27,000 cy of dredged material under section 401 of the Clean Water Act (water quality certification, WQC) and the California Porter-Cologne Water Quality Control Act (Waste Discharge Requirement, WDR). The LAHD appealed the RWQCB's decision to the State Water Resources Control Board (SWRCB).

It is the Corps' position that the WQC and WDR issued for the proposed Project only applies to dredging and disposal activities, and discharges that would take place in state waters (in this case, the dredging sites and the CDF), as interpreted by the RWQCB under section 401 of the Clean Water Act. It is the Corps' position that neither of the RWQCB's federal Clean Water Act or state authorities applies to federal actions evaluated under section 103 of the MPRSA. As such, this ROD and the DA permit would include Corps special conditions and EPA's mandatory

⁴ The DMMT/CSTF member agencies include: EPA, Corps, NMFS, FWS, California Coastal Commission, RWQCB.

site use conditions which are applicable to the transport of dredged material for the purpose of ocean disposal at LA-2, and are required to minimize impacts to waters of the U.S. during dredging and disposal activities.

(2) Coastal Zone Management Act (CZMA) Consistency Determination: The LAHD obtained a locally issued Coastal Development Permit on February 18, 2015 pursuant to the LAHD's California Coastal Commission (CCC) approved Harbor Master Plan, and received CZMA concurrence on 20 February 2015. However, the permit and concurrence did not include ocean disposal at LA-2. Consequently, the LAHD has not demonstrated CZMA compliance for ocean disposal at LA-2.

(3) Compliance with Section 106 of the National Historic Preservation Act (NHPA): The Corps requested a Sacred Lands file search from the Native American Heritage Commission (NAHC) and received a list of Native American tribal representatives and negative sacred lands finding (NAHC letter dated 22 April 2014). The Corps notified Native American tribal representatives by letter dated 9 May 2014 of the EIS/EIR availability and encouraged to contact the Corps with information on cultural resources that may be affected by the project. The California State Historic Preservation Officer (SHPO) also received a copy of the draft EIS/EIR from the LAHD (via the State Clearinghouse) and was notified by the Corps via a locally issued public notice and a nationally issued public notice in the *Federal Register*. No comments from Native American tribal representatives or the SHPO were received in response to the EIS/EIR or our letter/public notices. In addition, prior to receipt of a DA permit application and as required by CEQA, the LAHD's consulting cultural resources specialist conducted a California Historic Resources Information System (CHRIS) records search. The LAHD also requested a Sacred Lands File search, and a Native American contact list from the NAHC and information on potential sacred sites. The NAHC response to LAHD similarly indicated that no sacred or other resources of concern have been previously recorded in the project area. Letters were sent from LAHD to the Native American representatives on the NAHC list, similar to the Corps process. No responses from Native American representatives were received by the LAHD.

In a letter to the SHPO dated 4 November 2014, the Corps determined "no historic properties affected" as a result of the undertaking; this was later considered reconsidered because the Vincent Thomas Bridge is eligible for listing on the National Register of Historic Places (NRHP) and is adjacent to the YTI terminal (to the south). The undertaking is the issuance of a DA permit for actions that would occur in the permit area. The Area of Potential Effect (APE) for this undertaking is the permit area (33 CFR 325 Appendix C).

In response, the SHPO requested additional information including (1) general information about the undertaking, (2) contact information for the Corps and the LAHD, (3) a description of the undertaking and the APE, (3a) a description of ground disturbing activities, (4) identification of historic properties, and (5) finding of effect (electronic mail from the SHPO dated 10 November 2014).

In a letter to the SHPO dated 26 November 2014, the Corps provided the information requested

by the SHPO in their 10 November 2014 electronic mail message, including several exhibits (a cultural resources records search, the cultural resources section from the Final EIS/EIR, and scaled topographic maps of the permit area as defined in 33 CFR 325 Appendix C). We also revised our previous finding regarding the Vincent Thomas Bridge to “no adverse affect to historic properties” due to the four additional cranes that would be installed as part of the project.

In response, the SHPO requested additional information including further historic property identification in the APE (which SHPO concluded should be the entire YTI terminal area to comply with 36 CFR 800), information on cultural resources across all of Terminal Island (in accordance with a finding made by the National Trust for Historic Preservation as one of the “11 Most Endangered Historic Places” (2012), and the Ferryboat Sierra Nevada which may not have been evaluated for eligibility for listing on the NRHP (letter dated December 26, 2014).

In a letter to the SHPO dated 15 January, 2015, the Corps reiterated that the permit area/APE for the undertaking was provided in our letter of 26 November 2014 and scaled maps of the permit area were resubmitted. The Corps also provided a copy of the LAHD report *The Built Environment Evaluation Report for Properties on Terminal Island, Port of Los Angeles, City and County of Los Angeles, California* (LAHD 2011)⁵. This report describes sites on Terminal Island which were determined to be ineligible for listing or listing consideration because of recent construction activities that have substantially altered the integrity of the structures; it also provided eligibility information for sites that still occur on Terminal Island but that are outside the permit area for this undertaking. This report also described demolition of structures immediately following World War II on the YTI terminal site, and substantial soil remediation effort that took place at the YTI terminal as a result of soil contamination from shipyard uses during World War II. These actions substantially and adversely affected the integrity of any remnant cultural resources at the YTI terminal site. The Corps also provided information on the Ferryboat Sierra Nevada which sank in 1978 in the Pier 300 area (over one mile from the APE/permit area and undertaking; a map of the location where this boat sank was provided as an exhibit). Information on the Ferryboat Sierra Nevada was also provided; specifically the LAHD indicated the unique propulsion design and historical significance were documented, and then sold for scrap because no museum or other historic preservation entity wanted to keep, maintain or display the engine⁶. The Corps also provided a chronology of development and

⁵ LAHD staff indicated the Terminal Island historic property report was appended to the Port Master Plan Update (February 2014) and that a copy of the EIR and this report were submitted to the OHP via the State Clearinghouse as required by CEQA. The LAHD staff indicated the SHPO failed to contact the LAHD in response to this environmental review and historic property identification and evaluation process.

⁶ As a prelude to the dredging of the Main Channel of Los Angeles Harbor in 1980 the Corps completed a remote sensing survey and assessment of wreck vessels in the project area. The Sierra Nevada was the only potentially significant find and was the subject of a cultural assessment in 1980. Launched in 1913 the ship served as a ferry within San Francisco Bay and after two name changes came to San Pedro as a tourist attraction at Ports-0'-Call Village. In 1978, she was scuttled on Seaplane Anchorage breakwater just south of Terminal Island. By 1980 when the cultural assessment was conducted, she was badly broken up against the rocks. However, her original propulsion system was in place representing a rare example of a steam engine representing “a significant evolutionary stage in the development of steam engines during the industrial revolution”. Based on this information, the Corps found the Sierra Nevada’s steam engine eligible for listing in the NRHP. As such the engines were

redevelopment activities on the YTI terminal site dating back to the turn of the 20th century. Finally, the Corps determined the undertaking would have “no effect” on the Vincent Thomas Bridge and “no historic properties affected” with respect to cultural resources on Terminal Island and the Ferryboat Sierra Nevada.

In response, the SHPO indicated the report (LAHD 2011) included four cultural resources in the project area: Terminal Island, Ferryboat Sierra Nevada (eligible), the Vincent Thomas Bridge (eligible), and Sewage Pump Station #669 (eligible). In addition, the SHPO specifically indicated (1) they would not consult under 33 CFR 325 Appendix C; (2) the historic property identification efforts made by the Corps for this undertaking were inadequate under 36 CFR 800 because the Corps narrowly defined the permit area and lacked documentation to satisfy section 106 regulations; (3) the Corps failed to define the APE in accordance with 36 CFR 800(a)(1) or 800.16(d) and argued that the permit area for the undertaking as defined by the Corps regulations (33 CFR 325 Appendix C) does not meet the definition of the APE in 36 CFR 800.4(d); (4) the Corps must evaluate the potential effects of the undertaking on all of Terminal Island; (5) Sewage Pump Station # 669 is eligible for listing and the Corps must evaluate the impact of the undertaking on this resource and provide a finding of effect; (6) the SHPO does not concur with the Corps determinations for the Vincent Thomas Bridge or the Ferryboat Sierra Nevada; (7) the Corps failed to provide adequate documentation of the proposed actions that make up the undertaking or the location of each proposed action; and (8) the Corps must provide a complete and specific description of all actions included in the undertaking to substantiate the findings of effect, a cultural resources inventory and evaluation report specific to the undertaking.

The Corps obtained the exact location of Sewage Pump Station #669 (33° 45'01.23 N / 118° 15'38.50 W) from the LAHD, and coordinated a path forward with Regulatory Division management, Environmental Resources Branch staff archaeologist John Killeen, and national cultural resources experts at Corps Regulatory Community of Practice headquarters to clarify whether the cultural resources identification and documentation efforts for the undertaking, and findings of effect were adequate and compliant with 33 CFR 325 Appendix C and Interim Guidance (2005 and 2007).

In light of the aforementioned internal coordination and resource evaluation, the Corps has revised its initial determination and concluded the proposed undertaking would have “no potential to cause effect” on the Vincent Thomas Bridge and all other eligible or listed resources

remove from the wreck and offered to maritime museums. When no museum expressed interest, the engines were fully documented with large format photography and narrative description per Historic American Engineering Record (HAER) standards. Following this documentation the engine was sold for scrap. The remains of the Sierra Nevada were removed by subsequent dredging. Under 36 CFR 800.5(a)(1) “[a]n adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association.” Schwartz, Steven J., 1991, *Evaluation of the Steam Propulsion System of the Wrecked Ferry Boat Sierra Nevada* <<http://www.scahome.org/publications/proceedings/Proceedings.04Schwartz.pdf>> ,” 4:205-211. Society for California Archeology Proceedings Vol. 4 (1991).

are well outside the Corps permit area and the area of federal control and responsibility. The Corps has also determined further consultation with the SHPO is not required because (1) property identification efforts were adequate considering the permit area and undertaking as described in previous correspondence and maps submitted to the SHPO; (2) the permit area is consistent with the definition in 33 CFR 325 Appendix C and subsequent HQ interim guidance; (3) evaluation of historic properties across all of Terminal Island is not warranted due to the limited scope of the undertaking, and would be an expansion of scope well beyond the Corps federal control and responsibility described in 33 CFR 325 Appendix B; (4) Sewage Pump Station #669 is located well outside the permit area and is adjacent to and under the northbound approach to the Vincent Thomas Bridge outside the YTI terminal and TICTF boundary; (5) the Ferryboat Sierra Nevada no longer exists in any form. Documentation of the Ferryboat Sierra Nevada was completed by the LAHD in accordance with federal historic preservation standards, and the location in which the Ferryboat sank is over one mile from the undertaking; and (6) the YTI terminal is an active container terminal with 14 cranes (10 operational) over 250 feet high and this condition is not going to change with the proposed Project because the replacement of four cranes (14 total operational) would not noticeably alter the public views from the bridge, the nearest crane being over ¼ mile northeast of the bridge.

Finally, the Corps respectfully disagrees with SHPO that historic property identification and evaluation efforts as described in the EIS/EIR and previous correspondence with the SHPO failed to adequately define the permit area and undertaking, or fully justify the effects determinations for each historic property during the consultation process. Following consultation with SHPO, federal regulations vest the determination of the permit area with the action agency. To address the potential impacts to previously undiscovered cultural or historic resources, special conditions will be included in the DA permit and will require work cessation and notification before work may resume.

(4) Compliance with the Federal Endangered Species Act (ESA): The federally listed endangered California least tern (CLT, *Sterna antillarum browni*) is known to nest on the 15-acre nest site located on Pier 400 and forage throughout the Los Angeles Harbor including the vicinity of the proposed Project area. During the proposed construction activities, this species may be affected by increased noise, turbidity, and activity associated with the proposed Project. However, based on detailed biological information in the EIS/EIR (Section 3.3 and Appendix C), the Corps determined the proposed activity “may affect but would not likely adversely affect” CLT or designated critical habitat for this species (there is no designated critical habitat for any species in POLA). Our “not likely to adversely affect” determination was included in our 2 May 2014 public notice announcing the Draft EIS/EIR and in our concurrence request to the U.S. Fish and Wildlife Service (letter dated 9 May 2014). The Corps received concurrence with our determination from the U.S. Fish and Wildlife Service Carlsbad Field Office (letter dated June 17, 2014). The Corps has also determined the proposed Project would have no effect on federally listed endangered species subject to the U.S. Fish and Wildlife Service jurisdiction during Project construction or during dredged material disposal activities. The Corps has also determined the proposed Project would have no effect on federally listed endangered species subject to the NMFS jurisdiction during dredged material disposal activities.

(5) Compliance with the Magnuson-Stevens Fishery Conservation and Management Act and the Marine Mammal Protection Act: The 2 May 2014 public notice announcing the availability of the Draft EIS/EIR and the 9 May 2014 consultation request letter initiated the consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act and the Marine Mammal Protection Act with the National Marine Fisheries Service (NMFS). As more fully discussed in the EIS/EIR (Section 3.3 and Appendix C), substantial reductions in managed fish species or EFH are not expected. In addition, adverse noise impacts may affect marine mammals may occur if individual harbor seals or California sea lions would stray into the Project area during construction; these impacts would be reduced and are considered less than significant with implementation of MM BIO-1 (Avoid Marine Mammals). The proposed activities would temporarily impact EFH due to dredging, installation of wharf stabilizing structures via pile driving, installation of cranes and on-dock crane infrastructure, and disposal of dredged material at LA-2. Disposal of dredged material at the CDF would have no impact on EFH or managed fish species because the berm which created the CDF blocks tidal influence in the CDF and noise associated with dredged material disposal activities at this site would be similar to ambient noise conditions within the Port. Disposal of dredged material at LA-2 would have temporary impact on EFH and managed fish species LA-2 because the dredged material would be placed in the ocean environment at a site the EPA designated for this purpose. However, biological and aquatic habitat impacts associated with use of the LA-2 site have been previously evaluated by the EPA under NEPA and section 102 of the MPRSA implementing regulations. Project-related construction impacts in waters of the U.S. would be completed during a 22 month construction period, and would not substantially impact existing aquatic resources in the Port or in the vicinity of the LA-2 ocean disposal site.

Temporary impacts during construction would include increases in air emissions, noise, turbidity, vibration, and lighting. Fuel spills during construction are also possible, but would be expected to be small in scale. Invasive species could also be introduced (e.g., via ballast water exchange or hull fouling) during construction and terminal operations when ships are at berth, but there is no proven technology that currently exists that could prevent invasive species introductions via vessel hulls, other equipment, or ballast water discharges. While the proposed Project includes the construction of subsurface wharf stabilization measures and as a result a small amount of conversion of soft bottom substrate to hard substrate, the proposed Project would not result in a loss of aquatic habitat within the Port.

Overall, the Corps determined the proposed activities may affect EFH or federally managed species in California waters. In a letter dated 16 June 2014, NMFS agreed there would be adverse effects to EFH and managed species, and provided one conservation recommendation to avoid, minimize, mitigate or otherwise offset adverse effects to EFH and managed species. The conservation recommendation requires the Corps notify NMFS of the date of commencement of dredging activities at least 14 calendar days prior to commencing work and the date of completion of operations. The recommendation also requests the Corps provide NMFS a summary of dredging operations including exact volume of dredged sediment, the size of the dredged area, and the corresponding spatial data. The NMFS indicated this information would

be useful for identifying future conservation recommendations for dredging projects in the Port. The NMFS also requested any anecdotal observations of aberrant marine mammal behavior during pile driving or other construction activity.

The Corps provided the conservation recommendation and marine mammal comments to the LAHD, and provided a preliminary reply to NMFS on 25 June 2014, as required by section 305(b)(4)(B) and 50 CFR 600.920(k) of the Magnuson-Stevens Fishery Conservation and Management Act. The Corps accepted the conservation recommendation and marine mammal protective measure and included it as a condition of the Phase 1 permit (when pile driving would occur) and will provided a final reply to NMFS prior to taking final action on the proposed Project.

(6) Compliance with Section 176(c) of the Clean Air Act: The Draft EIS/EIR included a applicability analysis (see Section 3.2 and Appendix B), pursuant to section 176(c) of the Clean Air Act. A general conformity determination is not required because the Federal action's direct and indirect emissions would be below specified *de minimis* thresholds (40 C.F.R. 93.153(b)).

(7) Compliance with the Ocean Dumping Act:

Criteria for the Evaluation of Permit Applications for Ocean Dumping of Materials

The need for ocean dumping of dredged material is determined by evaluation of the following factors (listed at 40 C.F.R 227.15), including:

- the degree of treatment useful and feasible for the waste to be dumped (this factor was determined to be *not* applicable to the proposed Project),
- raw materials and manufacturing or other processes that resulted in the waste (this factor was determined to be *not* applicable to the proposed Project),
- the relative environmental risks, impact and cost as opposed to other feasible alternatives including but not limited to landfill, well injection (this factor [landfill] was determined to be **applicable** to the proposed Project),
- incineration (this factor was determined to be *not* applicable to the proposed Project),
- spread of materials over open ground, recycling or reuse of material, additional biological, chemical or physical treatment (this factor was determined to be **applicable** to the proposed Project),
- storage and irreversible or irretrievable consequences of the use of alternatives to ocean dumping (this factor was determined to be **applicable** to the proposed Project).

The above criteria were used to evaluate the need for ocean disposal and to identify practicable alternatives to ocean disposal of dredged materials under the proposed action. Based on the applicable criteria, alternatives to ocean disposal of suitable dredged material have been identified, including: land-based disposal of suitable dredged material at the Kettlemen City landfill, and re-use/disposal in the Berths 243-245 CDF. Storage (and potential for handling the

material multiple times) and the irreversible or irretrievable consequences of alternatives to ocean dumping is also evaluated. An evaluation of these factors and alternatives to ocean disposal of dredged materials is presented below.

The Berths 243-245 CDF was permitted by the Corps and other federal and state agencies with jurisdiction in response to LAHD's coordination with the DMMT/CSTF member agencies and the RWQCB. The CDF has been constructed and unsuitable dredged material generated from LAHD maintenance and capital dredging project in the Port of Los Angeles has been placed there; however, there is capacity reserved for unsuitable material from the proposed Project and additional future projects. The purpose of the CDF is to provide for 100 percent beneficial reuse of *contaminated* (i.e., unsuitable) dredged material. The purpose of the LA-2 ocean disposal site is to provide for ocean disposal of suitable dredged material. Suitability determinations are made by the DMMT/CSTF following chemical, physical and bioassay testing in accordance with the EPA's *Evaluation of Dredged Material Proposed for Ocean Disposal Testing Manual* (aka Green Book, 1991).

In April 2013, November 2013, and January 2014, the DMMT/CSTF evaluated the initial, re-tested, and final sediment sampling and test results, respectively. At the January 2014 meeting the agency representatives of the DMMT/CSTF unanimously agreed the deeper sediments at test area A and all sediment from test area B (approximately 21,800 cy) were suitable for disposal at LA-2. Further, the DMMT/CSTF unanimously agreed the upper several feet of sediment at test area A (approximately 5,200 cy) were unsuitable for ocean disposal, and should be disposed in the Berths 243-245 CDF.

In light of the relatively small amount of dredged material suitable for disposal at LA-2, the applicant elected to pursue a permit from the Corps and EPA for ocean disposal for the purpose of reserving space in the CDF for contaminated sediment deemed unsuitable for ocean disposal as shown by chemical and bioassay testing, and to avoid the energy use, environmental impacts, and the substantial expense that would result from hauling suitable dredged material to the Kettleman City landfill⁷ via haul trucks, or storing the unsuitable material within the Port⁸. Hauling suitable dredged material to the Kettleman City landfill would result in irreversible or irretrievable consequences. This disposal alternative would result in approximately 400 round trips during the 2015 construction period over a period of approximately 12 days, and 3,400 round trips during the 2016 over a period of approximately 17 days. While these impacts would be temporary, the additional truck traffic and associated air emissions⁹ would result in significant and unavoidable air quality impacts (NOx, CO, VOC, with mitigation) and would result in disproportionate adverse air quality, noise, traffic impacts and associated health risks on low-

⁷ The Kettleman City landfill is located in Kings County and is over 200 miles from the Project site.

⁸ The Anchorage Road Sediment Storage Site was recently closed because it reached capacity and there are no other sites within the Port currently designated for this use due to a lack of available vacant land.

⁹ Haul trucks used for transporting suitable dredged material to the Kettleman City landfill may not be required to comply with the LAHD's Clean Trucks Program. The Clean Trucks Program is applicable to drayage trucks which haul containers; however, the LAHD would evaluate sediment haul trucks compatibility with the LAHD's Sustainable Construction Guidelines, which are not as stringent as the Clean Trucks Program.

income and minority communities in San Pedro and Wilmington. The energy use associated with this alternative would also be greater than ocean disposal. Storing the dredged material within the Port would necessitate handling the material twice which increases the energy use, air quality and traffic impacts, and costs associated with disposal at another location and at a later date.

Disposal of 21,800 cy of suitable dredged material at LA-2 would take place via tugs¹⁰ and barges. While significant and unavoidable emissions would occur in 2015 (NOx, CO, VOC, with mitigation) and in 2016 (NOx, with mitigation) as a result of tug boat use, dredging and disposal activities would only take place over a period of four days (2015) and six days (2016). Further, ocean disposal would avoid disproportionate adverse impacts on low-income and minority communities in San Pedro and Wilmington from traffic, noise and air emissions associated with haul trucks. Ocean disposal would alter the substrate by changing sediment characteristics; however, LA-2 is an EPA approved ocean disposal site with an allowed annual disposal volume of 1.0 mcy of material. As such, impacts on the oceanic environment associated with ocean disposal would be less than significant.

Also, to comply with existing water quality regulations and to minimize impacts to the aquatic ecosystem, construction and stormwater BMPs will be implemented, compliance with the General Construction Permit will be executed, and a SWPPP will be developed and applied. With the inclusion of the above measures, the Corps has determined that disposal of unsuitable dredged material in the Berths 243-245 CDF and disposal of suitable dredged material at the LA-2 ocean disposal site would minimize impacts to the aquatic environment and would not result in other significant and unavoidable impacts, or disproportionate adverse impacts on low income and minority communities, such as those associated with hauling dredged material to the Kettlemen City landfill via trucks.

To conclude the sediment characterization, and review process under section 103 of the MPRSA, the Corps requested EPA concurrence with the proposed disposal of 21,800 cy of suitable dredged material at LA-2 (letter dated 17 October 2014) and received concurrence from the EPA that ocean disposal of the suitable sediment was in compliance with the requirements of Section 103 (electronic mail dated 2 December 2014); the EPA response also included “site use requirements” which will be incorporated into the DA permit.

b. Section 404(b)(1) Compliance: The proposed Project does not involve a discharge of dredged or fill material into jurisdictional waters of the United States as defined under section 404 of the Clean Water Act (33 U.S.C. 1344); rather, dredging, wharf improvements and overwater structures (cranes, and the landside crane rail extension in the 100 foot area measured from the wharf edge) was evaluated under the section 10 of Rivers and Harbors Act (33 U.S.C. 403), and dredged material disposal was evaluated under section 103 of the MRPSA (33 U.S.C. 1413). As such, compliance with the Section 404(b)(1) Guidelines (40 CFR 230) is not required.

¹⁰ Tug boat engines that would be used to transport dredged material barges currently comply with EPA’s Tier 1 or Tier 2 emissions standards and thus have greater emissions than Tier 3 or Tier 4 engines.

c. Corps Special Conditions

Section 10

1. If a violation of any permit condition occurs, the Permittee shall report the violation to the Corps Regulatory Division within 24 hours. If the Permittee retains any contractors to perform any activity authorized by this permit, the Permittee shall instruct all such contractors that notice of any violations must be reported to the Permittee immediately.
2. The permitted activity shall not interfere with the right of the public to free navigation on all navigable waters of the U.S. as defined by 33 C.F.R. Part 329.
3. The Permittee shall notify the Corps Regulatory Division and NOAA National Marine Fisheries Service of the date of commencement of construction not less than 14 calendar days prior to commencing work, and shall notify the Corps Regulatory Division and NOAA National Marine Fisheries Service of the date of completion of operations at least 5 calendar days prior to such completion. This requirement applies to each phase of the project assuming there are separate phases that will occur during distinct time periods (e.g., a distinct first phase and second phase have been identified and described for the project).
4. The Permittee shall notify the Commander, Eleventh Coast Guard District, and the Coast Guard Marine Safety Office / Group LA-LB, not less than 14 calendar days prior to commencing work and as project information changes. This requirement applies to each phase of the project that will occur during distinct time periods (a distinct first phase and second phase have been identified and described for the project). The notification, either by letter, fax, or e-mail, shall include as a minimum the following information (for each phase):
 - A) Project description including the type of operation (e.g., dredging, rock discharges, diving, wharf construction, etc.).
 - B) Location of operation, including Latitude / Longitude coordinates (NAD 83).
 - C) Work start and completion dates and the expected duration of operations.
 - D) Vessels involved in the operation (name, size, and type).
 - E) VHF-FM radio frequencies monitored by vessels on scene.
 - F) Point of contact and 24-hour phone number.
 - G) Potential hazards to navigation.
 - H) Chart number for the area of operation.

Addresses:

Commander, 11th Coast Guard District (oan)	U.S. Coast Guard
Coast Guard Island, Bldg. 50-3	Marine Safety Office /Group LA-LB
Alameda, CA 94501-5100	1001 South Seaside Ave., Bldg. 20
ATTN: Local Notice to Mariners	San Pedro, CA 90731
TEL: (510) 437-2986	ATTN: Waterways Management
FAX: (510) 437-3423	TEL: (310) 521-3860

5. The Permittee and its contractor(s) shall not remove, relocate, obstruct, willfully damage, make fast to, or interfere with any aids to navigation defined at 33 C.F.R. chapter I, subchapter C, part 66. The Permittee shall ensure its contractor notifies the Eleventh Coast Guard District in writing, with a copy to the Corps Regulatory Division, not less than 30 calendar days in advance of operating any equipment adjacent to any aids to navigation that requires relocation or removal. Should any federal aids to navigation be affected by this project, the Permittee shall submit a request, in writing, to the Corps Regulatory Division as well as the U.S. Coast Guard, Aids to Navigation office. The Permittee and its contractor are prohibited from relocating or removing any aids to navigation until authorized to do so by the Corps Regulatory Division and the U.S. Coast Guard.
6. If the Permittee determines the project requires the placement and use of private aids to navigation in navigable waters of the U.S., the Permittee shall submit a request in writing to the Corps Regulatory Division as well as the U.S. Coast Guard, Aids to Navigation office. The Permittee is prohibited from establishing private aids to navigation in navigable waters of the U.S. until authorized to do so by the Corps Regulatory Division and the U.S. Coast Guard.
7. Upon notification to the U.S. Coast Guard as specified in Special Condition 7 (for each project phase), the Permittee shall forward a copy of the notification (for each project phase) to the U.S. Coast Guard Captain of the Port (COTP). The COTP may modify the deployment of marine construction equipment or mooring systems to safeguard navigation during project construction. The permittee shall direct questions concerning lighting, equipment placement, and mooring to the appropriate COTP.
8. Within 30 calendar days of completion of project activities (for each project phase), the Permittee shall conduct a post-project survey indicating changes to structures and other features in navigable waters of the U.S. The Permittee shall forward a copy of the survey to the Corps Regulatory Division and to the National Oceanic and Atmospheric Service for chart updating: Gerald E. Wheaton, NOAA, Regional Manager, West Coast and Pacific Ocean, DOD Center Monterey Bay, Room 5082, Seaside, CA 93955-6711.
9. The Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters of the U.S., the Permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
10. All vessels, vehicles, equipment, and material used in construction-related activities in or over waters of the U.S., to complete construction in or over waters of the U.S., shall employ

or otherwise be operated or used in compliance with all mitigation measures identified in the project's Mitigation Monitoring and Reporting Program consistent with the project's certified Environmental Impact Report (November 7, 2014).

11. For this permit, the term "dredging operations" shall mean: navigation of the dredging vessel at the dredging site, excavation/cutting/removal of material from navigable waters of the U.S. within the project boundaries, and placement of dredged material into a hopper dredge or disposal barge or scow. For this permit, the term "disposal operations" shall mean: the transport of dredged material from the dredging sites to the Corps/EPA-approved disposal site(s); and, the transport of the hopper dredge or disposal barge or scow back to the dredging site.

12. At least 15 calendar days before initiation of any dredging operations authorized by this permit, the Permittee shall send a dredging and disposal operations plan to the Corps Regulatory Division and USEPA, with the following information (separate plans to the Corps Regulatory Division and USEPA are required):

- A) A list of the names, addresses, and telephone numbers of the Permittee's project manager, the contractor's project manager, the dredging operations inspector, the disposal operations inspector, and the captain of each tug boat, hopper dredge, or other form of vehicle used to transport dredged material to the designated disposal or beneficial reuse site.
- B) A list of all vessels, major dredging equipment, and electronic positioning systems or navigation equipment that will be used for dredging and beneficial reuse or disposal operations, including the capacity, load level, and acceptable operating sea conditions for each hopper dredge or disposal barge or scow to assure compliance with special conditions on dredging and disposal operations.
- C) The results of a detailed analysis of all material to be dredged pursuant to the approved SAP.
- D) A detailed description of the dredging and disposal operations authorized by this permit, including a schedule showing when dredging is planned to begin and end.
- E) A pre-dredging bathymetric condition survey (presented as a large format plan view drawing), taken within 30 days before the dredging begins, accurate to 0.5-foot with the exact location of all soundings clearly defined on the survey chart. The pre-dredge survey chart shall be prepared showing the following information:
 - i) The entire dredging area, the toe and top of all side-slopes, and typical cross sections of the dredging areas. To ensure that the entire area is surveyed, the pre-dredge condition survey shall cover an area at least 50 feet outside the top of the side-slope or the boundary of the dredging area, unless obstructions are encountered.
 - ii) The dredging design depth, over-dredge depth and the side-slope ratio.
 - iii) The total quantity of dredged material to be removed from the dredging areas and the side-slope areas.
 - iv) Areas shallower than the dredging design depth shall be shaded green, areas between the dredging design depth and over-dredge depth shall be

shaded yellow, and areas below over-dredge depth that will not be dredged shall be shaded blue. If these areas are not clearly shown, the Corps Regulatory Division may request additional information.

v) The pre-dredging survey chart shall be signed by the permittee to certify that the data are accurate and that the survey was completed 30 days before the proposed dredging start date.

F) A debris management plan to prevent disposal of large debris at all disposal locations. The debris management plan shall include: sources and expected types of debris, debris separation and retrieval methods, and debris disposal methods.

13. Dredging of approximately 27,000 cy of sediment authorized in this permit shall be limited to the approximately 6,000 cubic yards at Berths 217-220 and approximately 21,000 cy at Berths 214-216. **Dredging shall not proceed until the permittee requests and receives a Notice to Proceed (NTP) from the Corps Regulatory Division.** No dredging is authorized in any other location under this permit. This requirement applies to every separate dredging event and project phase.

14. The Permittee shall ensure that the captain of any hopper dredge, tug, or other vessel used in the dredging and disposal operations, is a licensed operator under U.S. Coast Guard regulations and follows the Inland and Ocean Rules of Navigation or the USCG Vessel Traffic Control Service. All such vessels, hopper dredges, or disposal barges or scows, shall have the proper day shapes, operating marine band radio, and other appropriate navigational aids.

15. The Permittee shall maintain a copy of this permit on all vessels used to dredge, transport, and dispose of dredged material authorized under this permit.

16. The Permittee's contractor(s) and the captain of any dredge covered by this permit shall monitor VHF-FM channels 13 and 16 while conducting dredging operations.

17. The Permittee shall use an electronic positioning system to navigate at the dredging site. The electronic positioning system shall have a minimum accuracy and precision of +/- 10 feet (3 meters). If the electronic positioning system fails or navigation problems are detected, all dredging operations shall cease until the failure or navigation problems are corrected. Any navigation problems and corrective measures shall be described in the post-dredging completion report.

18. Upon request, the Permittee and its contractor(s) shall allow inspectors from the Corps Regulatory Division, USEPA, LARWQCB, and/or the U.S. Coast Guard to inspect all phases of the dredging and disposal operations.

19. Upon request, the Permittee and its contractor(s) retained to perform work authorized by the permit or to monitor compliance with this permit shall make available to inspectors from the Corps Regulatory Division, USEPA, RWQCB, and/or the U.S. Coast Guard the

following: dredging and disposal operations inspectors' logs, the vessel track plots and all disposal vessel logs or records, any analyses of the characteristics of dredged material, or any other documents related to dredging and disposal operations.

20. The Permittee shall ensure dredged material is not leaked or spilled from the disposal vessels during in-harbor transit or transit to the disposal site. The Permittee shall transport dredged material to the disposal site only when weather and sea state conditions will not interfere with safe transportation and will not create risk of spillage, leak, or other loss of dredged material during transit. No disposal vessel trips shall be initiated when the National Weather Service has issued a gale warning for local waters during the time period necessary to complete disposal operations.

21. The Permittee shall not allow any water or dredged material placed in a hopper dredge or disposal barge or scow to flow over the sides of such vessels during dredging or disposal operations. The Permittee shall determine the level that a disposal hopper dredge or barge or scow can be filled to prevent any dredged material or water from spilling over the sides at the dredging site or during transit from the dredging site to the disposal site. This level shall be reported to the Los Angeles District's Regulatory Division project manager before disposal operations commence. No hopper dredge or disposal barge or scow shall be filled above this pre-determined level. Before each hopper dredge or disposal barge or scow is transported to the disposal site, the dredging site inspector shall certify that it is filled correctly.

22. Following the completion of disposal operations, the Permittee shall submit to USEPA and the Corps Regulatory Division a completion letter summarizing the total number of disposal trips and the overall (in situ) volumes of material from the project disposed at the disposal site, and whether any of the dredged material was excavated from outside the areas authorized for disposal or was dredged deeper than authorized by this permit.

23. The Permittee shall submit a post-project completion report to Corps Regulatory Division within 30 calendar days after completion of each project phase to document compliance with all general and special conditions defined in this permit. Each report shall include all information collected by the Permittee, the dredging operations inspector, and the disposal operations inspector or the disposal vessel captain as required by the special conditions of this permit. The report shall indicate whether all general and special permit conditions were met. Any violations of the permit shall be explained in detail. The report shall further include the following information:

- A) Permit and project number.
- B) Start date and completion date of dredging and disposal operations.
- C) Total cubic yards disposed at the disposal site.
- D) Mode of dredging.
- E) Mode of transportation.
- F) Form of dredged material.
- G) Frequency of disposal and plots of all trips to the disposal site.

- H) Tug boat or other disposal vessel logs documenting contact with the U.S. Coast Guard before each trip to the disposal site.
- I) Percent sand, silt, and clay in dredged material.
- J) A certified report from the dredging site inspector indicating all general and special permit conditions were met. Any violations of the permit shall be explained in detail.
- K) A detailed post-dredging hydrographic survey of the dredging area. The survey shall show areas above the dredging design depth shaded green, areas between the dredging design depth and over-dredge depth shaded yellow, areas below over-dredged depth that were not dredged or areas that were deeper than the over-dredge depth before the project began as indicated on the pre-dredging survey shaded blue, and areas dredged below the over-dredge depth or outside the project boundaries shaded red. The methods used to prepare the post-dredging survey shall be the same methods used in the pre-dredging condition survey. The survey shall be signed by the Permittee certifying that the data are accurate.
- L) Each post-dredging report shall be signed by a duly authorized representative of the Permittee and shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision. The information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

24. The Permittee shall conduct a pre-construction eelgrass (*Zostera marina*) survey during the growing season (March-October), which will be valid up to 60 days prior to construction activities. A post-dredge survey may be required if eelgrass is detected in the dredging area. These surveys and any necessary mitigation shall be conducted in accordance with the Southern California/ California Eelgrass Mitigation Policy (<http://swr.nmfs.noaa.gov/hcd/policies/EELPOLrev11 final.pdf>).

25. The Permittee shall conduct a pre-construction survey of the project area for *Caulerpa taxifolia*. The survey shall be completed in accordance with the Caulerpa Control Protocol (see <http://swr.nmfs.noaa.gov/hcd/caulerpa/ccp.pdf>) not earlier than 90 days prior to planned construction and not later than 30 days prior to construction (this requirement applies to each phase of the project i.e., that portion/those portions of the project area that would be affected by a particular phase must be surveyed 30-90 days prior to construction of that phase). The results of each survey shall be transmitted to the Corps, National Marine Fisheries Service and the California Department of Fish and Wildlife at least 15 days prior to initiation of proposed work. In the event that *Caulerpa* is detected within the project area, no work shall be conducted until such time as the infestation has been isolated, treated, and the risk of spread is eliminated.

26. The Permittee shall ensure contractor(s) use sound-abatement techniques to reduce both noise and vibrations from pile-driving activities. Sound-abatement techniques shall include, but are not limited to, vibration or hydraulic insertion techniques, drilled or augured holes for cast-in-place piles, bubble curtain technology, and sound aprons where feasible. At the initiation of each pile-driving event, and after breaks of more than 15 minutes, the pile driving shall also employ a "soft-start" in which the hammer is operated at less than full capacity (i.e., approximately 40–60% energy levels) with no less than a 1-minute interval between each strike for a 5-minute period. Although it is expected that marine mammals will voluntarily move away from the area at the commencement of the vibratory or "soft start" of pile-driving activities, as a precautionary measure, pile-driving activities shall include establishment of a safety zone, and the area surrounding the operations shall be monitored by a qualified marine biologist for pinnipeds and their behavior in response to pile driving. Observers onshore or by boat shall survey the safety zone to ensure that no marine mammals are seen within the zone before pile driving of a steel-pile segment begins. If marine mammals are found within the safety zone, pile driving of the segment shall be delayed until they move out of the area. If pinnipeds enter the safety zone after pile driving of a segment has begun, pile driving will continue. The biologist shall monitor and record the species and number of individuals observed, and make note of their behavior patterns. If the animal appears distressed and, if it is operationally safe to do so, pile driving shall cease until the animal leaves the area. Pile driving cannot be terminated safely and without severe operational difficulties until reaching a designated depth. Therefore, if it is deemed operationally unsafe by the project engineer to discontinue pile-driving activities, and a pinniped is observed in the safety zone, pile-driving activities shall continue until the critical depth is reached (at which time pile driving will cease) or until the pinniped leaves the safety zone. Prior to the initiation of pile-driving, the area shall be thoroughly surveyed by the biologist.

27. The Permittee shall re-test previously tested or dredged areas after 3 years from the date of permit issuance. This time limit may be shortened at the discretion of the Corps Regulatory Division in the event previously determined suitable material becomes suspect. Prior to each dredging episode, the Permittee must demonstrate that the proposed dredged materials are chemically, physically, and biologically suitable for disposal in ocean waters according to the provisions of the Ocean Disposal Manual. If the material does not meet the physical and chemical criteria for unconfined disposal in ocean waters, the dredged material shall be disposed in an upland disposal area, or, if available, reused at an in-harbor CDF. The Permittee shall submit to the Corps Regulatory Division and USEPA a draft sampling and analysis plan (SAP). Sampling may not commence until the SAP is approved, in writing, by the Corps Regulatory Division, in consultation with USEPA.

28. This permit does not authorize the placement of creosote-treated pilings in navigable waters of the U.S. Only concrete or steel piles shall be used in navigable waters of the U.S. for the Project.

29. The Permittee shall use only clean construction materials suitable for the marine environment. The Permittee shall ensure that no debris, soil, silt, sand, sawdust, rubbish,

cement or concrete washings thereof, or oil or petroleum products from construction shall be allowed to enter into or placed where it may be washed by rainfall or surface runoff into waters of the U.S. To ensure compliance with this Special Condition, standard Best Management Practices (BMPs) shall be implemented and, as appropriate, maintained and monitored to ensure their efficacy throughout project construction. Upon completion of the project authorized herein, any and all excess material or debris shall be completely removed from the work area and disposed of in an appropriate upland site.

30. Pursuant to 36 C.F.R. section 800.13, in the event of any discoveries during construction of either human remains, archeological deposits, or any other type of historic property, the Permittee shall notify within 24 hours the Corps' Regulatory Division staff (Theresa Stevens, Ph.D. at 805-585-2146) and Corps' Archeology staff (John Killeen at 213-452-3861). The Permittee shall immediately suspend all work in any area(s) where potential cultural resources are discovered. The Permittee shall not resume construction in the area surrounding the potential cultural resources until the Corps Regulatory Division re-authorizes project construction, per 36 C.F.R. section 800.13.

Section 103

1. The applicable USEPA-designated ocean disposal site is demarcated as a circle with the center coordinates and radii listed below:

LA-2: 33 degrees 37.10 minutes North Latitude, 118 degrees 17.40 minutes West Latitude (NAD 1983), circular site with radius of 3,000 feet.

2. Prior to commencing any dredged material ocean disposal operations, the Permittee shall submit a Scow Certification Checklist to USEPA and the Corps Regulatory Division for review and approval. The Scow Certification Checklist shall document: the amount of material dredged and loaded into each barge for disposal; the location from which the material in each barge was dredged; the weather report for and sea state conditions anticipated during the transit period; the time that each disposal vessel is expected to depart for, arrive at, and return from the LA-2 ocean disposal site.

3. The Permittee shall notify the U.S. Coast Guard by radio on VHF-FM channel 16 or by telephone at least 4 hours before departing for the LA-2 ocean disposal site. The notification shall include:

- A) Name of Permittee.
- B) Corps permit number.
- C) Name and identification of vessels (tug boat, hopper dredge, or disposal barge or scow) employed in the disposal operation.
- D) Loading location of the material to be disposed.
- E) Material to be disposed.
- F) Time of departure from the dredging site.

- G) Estimated time of arrival at the ocean disposal site and estimated time of departure from the ocean disposal site.
- H) Estimated time of arrival at dredging site after the disposal operation is completed.

4. The Permittee shall ensure dredged material is not leaked or spilled from the disposal vessels during in-harbor transit or transit to the LA-2 ocean disposal site. The Permittee shall transport dredged material to the LA-2 ocean disposal site only when weather and sea state conditions will not interfere with safe transportation and will not create risk of spillage, leak, or other loss of dredged material during transit. No disposal vessel trips shall be initiated when the National Weather Service has issued a gale warning for local waters during the time period necessary to complete disposal operations.

5. The Permittee shall not allow any water or dredged material placed in a hopper dredge or disposal barge or scow to flow over the sides of such vessels during dredging or disposal operations. The Permittee shall determine the level that a disposal hopper dredge or barge or scow can be filled to prevent any dredged material or water from spilling over the sides at the dredging site or during transit from the dredging site to the LA-2 ocean disposal site. This level shall be reported to the Los Angeles District's Regulatory Division project manager before disposal operations commence. No hopper dredge or disposal barge or scow shall be filled above this pre-determined level. Before each hopper dredge or disposal barge or scow is transported to the LA-2 ocean disposal site, the dredging site inspector shall certify that it is filled correctly.

6. When dredged material is discharged by the Permittee at the LA-2 ocean disposal site, no portion of the vessel from which the materials are to be released (e.g., hopper dredge or towed barge) may be farther than 1,000 feet (305 meters) from the center of the disposal site (the surface disposal zone or SDZ) identified in Section 103 Special Condition 2 above.

7. No more than one disposal vessel may be present within the LA-2 ocean disposal site SDZ at any time.

8. The captain of any tug boat or other vessel covered by this permit shall monitor VHF-FM channel 16 while conducting disposal/beneficial reuse operations.

9. The primary disposal tracking system for recording ocean disposal operations data shall be disposal vessel (e.g., scow) based. An appropriate Global Positioning System (GPS) shall be used to indicate the position of the disposal vessel with a minimum accuracy of 10 feet during all transportation and disposal operations. This primary disposal tracking system must indicate and automatically record both the position and the draft of the disposal vessel at a maximum 1-minute interval while outside the LA-2 ocean disposal site boundary, and at a maximum 15-second interval while inside the LA-2 ocean disposal site boundary. This system must also indicate and record the time and location of each disposal event (e.g., the discharge phase). Finally, the primary system must include a real-time display, in the

wheelhouse or otherwise for the helmsman, of the position of the disposal vessel relative to the boundaries of the LA-2 ocean disposal site and its SDZ, superimposed on the appropriate National Oceanic Service navigational chart, so that the operator can confirm proper position within the SDZ before disposing the dredged material.

10. Data recorded from the primary disposal tracking system must be posted by a third-party contractor on a near-real time basis to a World Wide Web (Internet) site accessible at a minimum by USEPA, the Corps Regulatory Division, the Permittee, the prime dredging contractor, and any independent inspector. The Internet site shall be provided to the Corps Regulatory Division and USEPA prior to commencement of disposal operations. The Internet site must be searchable by disposal trip number and date, and at a minimum for each disposal trip it must provide a visual display of: the disposal vessel transit route to the LA-2 ocean disposal site; the beginning and ending locations of the disposal event; and the disposal vessel draft throughout the transit. The requirement for posting this information on the Internet is independent from the hard-copy reporting requirements listed in Section 10 Special Conditions and the EPA Mandatory Site Use Conditions governing ocean disposal. The third-party system must also generate and distribute e-mail alerts regarding any degree of apparent dumping outside the SDZ of the LA-2 ocean disposal site, and regarding any apparent substantial leakage/spillage or other loss of material en route to the LA-2 ocean disposal site. Substantial leakage/spillage or other loss for this permit is defined as an apparent loss of draft of one foot or more between the time that the disposal vessel begins the trip to the LA-2 ocean disposal site and the time of actual disposal. E-mail alerts for any disposal trip must be sent within 24 hours of the end of that trip, at a minimum to USEPA, the Corps Regulatory Division, the Permittee, and the prime dredging contractor.

11. If the primary disposal tracking system fails during transit to the LA-2 ocean disposal site, the navigation system on the towing vessel (tug, if any), meeting the minimum accuracy requirement listed above, may be used to complete the disposal trip by maneuvering the towing vessel so that, given the compass heading and tow cable length to the scow (layback), the estimated scow position would be within the SDZ of the LA-2 ocean disposal site. In such cases, the towing vessel's position, and the tow cable length and compass heading to the disposal vessel, must be recorded and reported. The Permittee shall halt further disposal operations using a disposal vessel whose navigation tracking system fails until those primary disposal-tracking capabilities are restored.

12. The Permittee shall report any anticipated, potential, or actual variances from compliance with the general and special conditions of this permit, to USEPA and the Corps Regulatory Division within 24 hours of discovering such a situation. An operational e-mail alert system, as described in **Section 103 Special Condition 10 above**, will be considered as fulfilling this 24-hour notification requirement. In addition, the Permittee shall prepare and submit a detailed report of any such compliance problems with the monthly printed-copy reports described below.

13. The Permittee shall collect, for each ocean disposal trip, both automatically recorded electronic data and printouts from the primary disposal tracking system showing transit routes, disposal vessel draft readings, disposal coordinates, and the time and the position of the disposal vessel when dumping was commenced and completed. These daily records shall be compiled and provided in reports to both USEPA and the Corps Regulatory Division at a minimum for each month during which ocean disposal operations occur. These reports shall include the automatically recorded electronic navigation tracking and disposal vessel draft data on CD-ROM (or other media approved by USEPA and the Corps Regulatory Division), as well as hard copy reproductions of the Scow Certification Checklists and printouts listed above. The reports shall also include a cover letter describing any problems complying with the general and special conditions of this permit, the cause(s) of the problems, any steps taken to rectify the problems, and whether the problems occurred on subsequent disposal trips.

EPA Mandatory Site Use Conditions¹¹ for Disposal of Dredged Material at the LA-2 Ocean Dredged Material Disposal Site (ODMDS) (Section 103)

- 1) Dredged material shall not be leaked or spilled from disposal vessels during transit to the LA-2 ODMDS. Transportation of dredged material to LA-2 shall only be conducted when weather and sea state conditions will not interfere with safe transportation and will not create risk of spillage, leak, or other loss of dredged material during transit. No disposal vessel trips shall be initiated when the National Weather Service has issued a gale warning for local waters during the time period necessary to complete transportation and disposal operations.
- 2) Surface Disposal Zone (SDZ): When dredged material is discharged within the LA-2, LA-3, or LA-5 site, no portion of the vessel from which the materials are to be released (*e.g.*, hopper dredge or towed barge) shall be further than 1000 ft (305 m) from the center of the site designated in the permit. The center of the ODMDS (Table 1) is also the center of the SDZ for disposal:

Table 1. Dimensions and Center Coordinates for the Three Southern California Ocean Disposal Sites, and Their Surface Disposal Zones (SDZ)

¹¹ U.S. EPA Site Management & Monitoring Plan for Three Southern California Ocean Dredged Material Disposal Sites LA-2, LA-3, and LA-5 (EPA, April 2009).

<i>Disposal Site</i>	<i>Dimensions</i>		<i>Center Coordinates</i>		
	Radius of SDZ*	Radius of Overall Site	Latitude (NAD 83)	Longitude (NAD 83)	Cubic yards per year
LA-2 (Los Angeles)	1000 ft	3000 ft	33°37'6" N	118°17'24" W	1,000,000
LA-3 (Newport)	1000 ft	3000 ft	33°31'00" N	117°53'30" W	2,500,000
LA-5 (San Diego)	1000 ft	3000 ft	32°36.83' N; <u>NAD 27</u>	117°20.67' W <u>NAD 27</u>	Designated at 700,000 (historical maximum)

* Surface Disposal Zone: disposal vessels must be entirely within this smaller zone when discharging dredged material.

- 3) No more than one disposal vessel may be within SDZ of any disposal site at any time.
- 4) The primary disposal tracking system for recording ocean disposal operations data shall be disposal vessel- (e.g., scow-) based. An appropriate Global Positioning System (GPS) shall be used to indicate the position of the disposal vessel with a minimum accuracy of 10 feet during all transportation and disposal operations. This primary disposal tracking system must indicate and automatically record the position of the disposal vessel, the fore and aft draft of the disposal vessel, and the fore and aft height of material carried in the hopper or bin, at a maximum 1-minute interval while outside the disposal site boundary and at a maximum 15-second interval while inside the disposal site boundary. This system must also indicate and record the time and location of each disposal event (e.g., the discharge phase). Finally, the primary system must include a real-time display, located in the wheelhouse or elsewhere for the helmsman, of the position of the disposal vessel relative to the boundaries of the disposal site and its SDZ, superimposed on the appropriate National Ocean Survey (NOS) chart so that the operator can confirm proper position within the SDZ before discharging the dredged material.
- 5) Data recorded from the primary disposal tracking system must be posted by a third-party contractor on a real time basis to a World Wide Web (Internet) site accessible at a minimum by EPA Region IX, the Los Angeles District USACE Regulatory Division, the permittee, the prime dredging contractor, and any independent inspector. The Web site must be searchable by disposal trip number and date, and at a

minimum for each disposal trip it must provide:

- a visual display of the disposal vessel transit route to the disposal site;
- a visual display of the disposal phase (including beginning and ending locations) for each disposal event;
- the disposal vessel draft throughout transit and for at least 15 minutes following completion of the disposal phase;
- the estimated bin volume of material (sediment plus water) transported; and
- the name of the disposal vessel and tug as applicable

The requirement for posting this information on the Web is independent from the hard-copy reporting requirements listed in EPA Special Condition 9, below. The third-party system must also generate and distribute “e-mail alerts” regarding any degree of apparent disposal outside the SDZ of the disposal site, and regarding any apparent substantial leakage/spillage or other loss of material en route to the disposal site. Substantial leakage/spillage or other loss shall be defined as an apparent net loss of draft of one foot or more between the time that the disposal vessel begins the trip to the disposal site and the time of the beginning of actual disposal. E-mail alerts for any disposal trip must be sent within 24 hours of the end of that trip, at a minimum to EPA Region IX, the Los Angeles District USACE Regulatory Division, the permittee, and the prime-dredging contractor.

- 6) If the primary disposal tracking system fails during transit, the navigation system on the towing vessel (tug, if any), meeting the minimum accuracy requirement listed above, may be used to complete the disposal trip by maneuvering the towing vessel so that, given the compass heading and tow cable length to the scow (“lay back”), the estimated scow position would be within the SDZ (i.e., within 1,000 feet of the center of the disposal site). In such cases the towing vessel’s position, and the tow cable length and compass heading to the disposal vessel must be recorded and reported. Further disposal operations using a disposal vessel whose navigation tracking system fails must cease, until the primary disposal-tracking capabilities are restored.
- 7) The permittee shall complete an EPA- and USACE-approved Scow Certification Checklist that documents:
 - the amount of dredged material loaded into each barge or hopper for disposal;
 - the location from which the material in each barge was dredged;
 - the weather report and sea-state conditions anticipated during the transit period;
 - the time that each disposal vessel departs for, arrives at, and returns from the disposal site;
 - the exact coordinates and time of each disposal event; and
 - the volume of material disposed during each disposal trip.

The permittee's proposed Scow Certification Checklist must be approved prior to the commencement of any ocean disposal operations.

- 8) The permittee shall report any anticipated, potential, or actual variances from compliance with these Mandatory Conditions, and any additional project-specific Special Conditions, to EPA Region IX and the Los Angeles District USACE Regulatory Division within 24 hours of discovering such a situation. An operational "e-mail alert" system, as described in EPA Special Condition 5 above, will be considered as fulfilling this 24-hour notification requirement. In addition, the permittee shall prepare and submit a detailed report of any such compliance problems with the monthly hard-copy reports described in EPA Special Condition 9 below.
- 9) The permittee shall compile, for each ocean disposal trip, hard copy reproductions of the Scow Certification Checklist and printouts of the automatically-recorded electronic data from the primary disposal tracking system described in Condition 5. These daily records shall be provided in reports to both EPA Region IX and the Los Angeles District USACE Regulatory Division at a minimum for each month during which ocean disposal operations occur. The reports shall include a cover letter describing any problems complying with the Disposal Site Use Conditions specified for the project, including the cause(s) of the problems, any steps taken to rectify the problems, and whether the problems occurred on subsequent disposal trips. These reports shall also include the automatically recorded electronic navigation tracking and disposal vessel draft data on CD-ROM (or other media approved by EPA and USACE).
- 10) No more than 60 days following completion of ocean disposal operations, the permittee shall submit to EPA Region IX and the Los Angeles District USACE Regulatory Division a completion letter summarizing the total number of disposal trips and the overall (*in-situ* and bin) volume of material disposed by the project, and whether any of this dredged material was excavated from outside the areas authorized for ocean disposal or was dredged deeper than authorized by the permit. A post-dredge survey shall be provided with this completion letter.

d. Public Interest Review: I find that my decision to issue a permit associated with the proposed Project, as prescribed by regulations published in 33 C.F.R. Parts 320 to 332, is not contrary to the public interest. While I considered all the public interest factors listed in 33 C.F.R. § 320.4, the public comments received in response to the Draft and Final EIS/EIR (Appendix B), and the responses to public comments in the Final EIS/EIR (Appendix A) and in

response to the 7 November 2014 BOHC Final EIR certification hearing, the discussion that follows focuses on those factors relevant to the proposed Project. During the Draft EIS/EIR 45-day comment period and the Final EIS/EIR 30-day availability period, there was opposition to several aspects of the proposed Project. In evaluating these comments, the applicant added and modified mitigation measures in several resource areas including air quality and meteorology, noise, and groundwater and soils; and a greenhouse gas emissions mitigation measure was also added as a result of the applicant's CEQA process and response to public comments. Lease measures were also added and/or modified, to be consistent with other recently approved container terminal projects at the POLA. As summarized in Section 3 in the EIS/EIR, under NEPA, the Federal action associated with the LAHD's proposed Project would result in significant and unavoidable impacts to air quality and meteorology and biological resources. Significant impacts which can be mitigated to less than significant were identified for groundwater and soils, and noise impacts. Less than significant direct and indirect impacts were found for most environmental resources including: aesthetics and visual resources, cultural resources, geology, ground transportation, hazards and hazardous materials, land use, marine transportation, public services, utilities, and water quality/sediments/oceanography.

Relative to the NEPA baseline¹², significant and unavoidable (even with mitigation) adverse impacts on air quality and meteorology and biological resources would occur. However, for most resource areas, impacts would occur as a result of terminal operations over the extended lease term (to 2026) and are beyond the Corps' statutory authorities under section 10 of the RHA and section 103 of the MPRSA to require effective mitigation in a DA permit. In addition, once work and structures in/over/under waters of the U.S. are completed, the Corps will retain no authority over the proposed Project's other backland construction and operational activities. However, these future air emissions will remain subject to the continuing program responsibility of the LAHD, and numerous air emission control and mitigation measures, including many focused on limiting air emissions, will be implemented, maintained, monitored and enforced pursuant to the MMRP described in the certified Final EIS/EIR. Similar to the activities that would cause impacts, most mitigation measures described in the Final EIS/EIR and the MMRP are beyond the Corps federal control and responsibility; but the Corps considers compliance with CEQA mitigation measures and lease terms an important element of the Corps public interest review and decision making process. As the local agency with continuing control and responsibility over the proposed Project throughout its useful life, mitigation measures would be subject to the LAHD's authority under CEQA, lease terms with the tenant, and the City's land use authority.

Project-specific significant and unavoidable impacts on air quality and meteorology, biological resources, and noise would also be cumulatively significant (under NEPA and CEQA), and the aforementioned resources plus aesthetics and greenhouse gas emissions (under CEQA), as

¹² Briefly, the NEPA baseline is the set of conditions expected to occur onsite in the absence of Federal action. For some resource issues, such as air quality, conditions can change over time, and therefore, the NEPA baseline is not a static baseline. Section 2.0 (Project Description) and 3.2 (Air Quality and Meteorology) of the EIS/EIR provide additional NEPA baseline discussion.

discussed in Section 4 of the EIS/EIR. Because the federal action associated with the proposed Project would increase ship calls, on-dock equipment use, truck trips, and freight train trips, the federal action would contribute considerably to a cumulatively significant impact on air quality and meteorology, biological resources and noise. None of the other resources/issues that would have less than significant impacts would contribute considerably to a cumulatively significant impact.

Some of the Project-specific and cumulatively significant and unavoidable impacts would have disproportionately high and adverse effects on minority and low-income populations in the communities of Wilmington and San Pedro, specifically air quality and meteorology, and noise. However, for the reasons discussed in Section 5 of the EIS/EIR, impacts to the following resources would not primarily affect minority and low-income populations and therefore are not considered disproportionately high and adverse effects on minority and low-income populations: aesthetics, biology, cultural resources, geology, ground transportation groundwater and soils, hazards and hazardous materials, land use, marine transportation, public services, utilities and service systems, and water quality, sediments, and oceanography.

While there would be significant and unavoidable impacts, some with disproportionate high and adverse effects on minority and low-income populations, the proposed Project would provide socioeconomic benefits, such as new jobs during construction in the short term and for the duration of the extended lease (to 2026) over the long term (Sections 5 and 7 of the EIS/EIR). The proposed Project is expected to be constructed in two phases however totals are provided here. The proposed Project would generate approximately 748 construction-related jobs during the construction period. These include direct employment of 410 workers and an additional 340 jobs indirectly related to proposed Project construction. At full build-out, and as a result of terminal operations, the proposed Project would create 2,241 jobs, including 821 direct jobs and 1,419 indirect jobs. Therefore, there would be an overall beneficial impact of the proposed Project on local business revenue.

With regard to air quality, a particular issue of concern is health risk to the local communities, San Pedro and Wilmington, which both have minority populations, and in the case of Wilmington, a low-income population concentration as well. The health risk assessment (HRA) evaluated cancer risk, chronic and acute hazard indices and cancer burden for several types of receptors including: residential, marina-residential, occupational, sensitive, student, recreational. This assessment found that the federal actions' incremental contribution to the aforementioned health risks (e.g., the incremental impact of the proposed Project relative to the NEPA baseline) would be below established thresholds for all receptors (i.e., less than 10 in one million additional cancer risk) without mitigation. However, based upon the HRA, low income and minority populations in San Pedro and Wilmington would be disproportionately adversely affected by Project-related direct, indirect and cumulative impacts, and may experience an increased incidence of chronic respiratory symptoms as well as lifetime cancer risk, chronic non-cancer hazards, and acute non-cancer hazards. In addition, cancer risk for occupational receptors under the NEPA increment, while below the 10 in one million threshold, is estimated at nine in one million which is considered an adverse but less than significant risk. Cancer risks and health

risks associated with chronic and acute hazards primarily affect occupational receptors such as individuals working in close proximity to, or on, the YTI terminal followed by individuals living on vessels docked in nearby marinas and land-based residential receptors. Under the No Federal Action alternative, cancer risk would exceed the 10 in one million threshold for residential, marina-residential, occupational, recreational and is considered a significant and unavoidable adverse effect; however sensitive and student receptors would not be significantly affected as a result of exposure to toxic air contaminant emissions (TAC). Exceedance of the 10 in one million threshold under the No Federal Action alternative would occur because the tenant would not extend the lease term to 2026 in the absence of work and structures in/over/under waters of the U.S. In this situation, the mitigation measures described in the Final EIS/EIR would not be required and the tenant would only be required by the LAHD to comply with existing lease terms and implement potentially outdated mitigation measures and Best Management Practices which may not result in reductions in air emissions or address existing public health issues.

As evaluated in the Final EIS/EIR, numerous mitigation measures and updated lease terms for the YTI terminal, and Corps special conditions and U.S. EPA mandatory LA-2 ODMDS site use conditions are being required to avoid and minimize a broad array of impacts that affect and are of interest to the public. While some of the impacts would remain significant and unavoidable, and cumulatively considerable even with mitigation, and the federal action would have a disproportionately high and adverse effect on minority and/or low-income populations, there are clear public interests and needs locally and regionally, to move forward with this terminal improvement project. The local, regional, and State economy would also benefit from the LAHDs ability to support additional berthing and servicing of larger container cargo vessels. Based on the above information, the proposed Project would meet an important public need by improving maritime shipping and commerce to accommodate existing and projected growth in the container cargo industry at the POLA by upgrading container terminal infrastructure to optimize the terminal's cargo handling efficiency and ability to service the vessel fleet mix including the largest container ships (up to 13,000 TEU) as well as providing a large number of additional direct and indirect jobs. When the extent and permanence of the expected benefits and detrimental effects of the proposed work and structures would have on the public and private uses to which the area is suited are considered, in light of the substantial mitigation measures in the Final EIS/EIR that would be implemented to avoid and minimize environmental impacts, the Corps has determined that issuance of a Department of the Army Permit with the above special conditions, as prescribed by regulations published in 33 C.F.R. Parts 320 to 330 is not contrary to the public interest.

VIII. CONCLUSION

For the reasons outlined above, the proposed Project, with the inclusion of the above mitigation measures, is the alternative that best meets the purpose and need of the project and will have the least impact on the human and natural environment, including navigable waters of the United States.

Based upon a careful consideration of all the social, economic, and environmental evaluations

contained in the Final EIS/EIR; the input received from other agencies, organizations, and the public; and the factors and project commitments outlined above, it is my decision to issue a Department of the Army permit authorizing work and structures in waters of the United States pursuant to section 10 of the Rivers and Harbors Act, dredging of approximately 27,000 cy of sediment, and disposal of 5,200 cy of unsuitable dredged material in the Berths 243-245 CDF. Due to lack of CZMA concurrence, transport to LA-2 for the purpose of ocean disposal of 21,800 cy of suitable dredged material pursuant to section 103 of the Marine Protection, Research and Sanctuaries Act will be provisionally authorized pending future CZMA concurrence.

A handwritten signature in blue ink, reading "David J. Castanon". The signature is fluid and cursive, with a long horizontal stroke at the end.

David J. Castanon
Chief, Regulatory Division

APPENDIX A

RESPONSE TO COMMENTS ON THE FINAL EIS/EIR

RESPONSES TO COMMENTS ON THE FINAL EIS FOR THE BERTHS 212-224 YTI CONTAINER TERMINAL IMPROVEMENT PROJECT (SPL-2013-00113-TS)

The NOA for the Final EIS/EIR was published in the *Federal Register* and a locally issued public notice posted on the Corps web site on October 17, 2014. A total of twelve comment letters were submitted to the Corps and LAHD in response (see table below). However, some of the letters are dated and were received by the Corps prior to the NOA because the LAHD distributed the Final EIS/EIR prior their October 16, 2014 Board of Harbor Commissioners (BOHC) hearing. In response to the number of comment letters and the issues raised by the public at this BOHC hearing, the hearing was continued to November 7, 2014. Additional comment letters were submitted to the Corps and LAHD in advance of the November 7, 2014 BOHC hearing and three letters of support were submitted only to the BOHC. No comments were submitted to the Corps after November 7, 2014. The 30-day Final EIS/EIR NOA period closed November 17, 2014.

The nine substantive comment letters submitted in response to the Final EIS/EIR focus mainly on impacts and mitigation measures for air emissions (including greenhouse gases) related to dockside power systems for ships at berth, terminal operations, cargo handling equipment upgrades to zero and near-zero emissions units (ZE/NZE), drayage trucks and locomotives, public health, and climate change; visual impacts (nighttime lights, cranes); lease measures and frequency of lease term review; disproportionate impacts on low income and minority communities in Wilmington and San Pedro, as well as the greater Los Angeles and Long Beach region; and requests for a Health Impact Assessment (HIA) in lieu of a Health Risk Assessment (HRA). Because the comment letters all focused on similar issue areas, the following response to comments submitted on the Final EIS/EIR have been organized to provide responses to specific issue areas rather than specific comment letters. The specific issue areas that are addressed include air quality impacts and the need for additional mitigation measures to reduce air quality impacts, the feasibility of additional mitigation measures to reduce air quality impacts and GHG emissions associated with climate change, and the need to complete a Health Impact Assessment (HIA) to address environmental justice issues associated with air quality impacts.

The following table summarizes the issue areas that were referenced in each of the comment letters. The original comment letters received in response to the Final EIS/EIR are attached to this Appendix.

Name of Commenter(s)	Date of Comment Letter	Date Received by Corps	Issues Raised
South Coast Air Quality Management District (SCAQMD)	October 15, 2014	October 15, 2014	Air quality thresholds exceeded; ZE/NZE cargo handling equipment needed
Apostolic Faith Center et al.	October 15, 2014	October 15, 2014	Air quality; public health; GHG emissions &

			mitigation; climate change
Earth Justice	October 16, 2014	October 16, 2014	Air quality thresholds exceeded; ZE/NZE cargo handling equipment needed; public health; GHG emissions & mitigation; climate change
Coalition for a Safe Environment (CFASE)	October 16, 2014	October 16, 2014	Ship to shore power (AMP); air quality not sufficiently mitigated; ZE/NZE cargo handling equipment needed; public health analysis methods; on-dock rail logistics and equipment; environmental justice
California Department of Transportation District 7 (Caltrans)	October 27, 2014	October 30, 2014	Traffic analysis methods
CFASE	October 28, 2014	October 28, 2014	Public health analysis methods; ZE/NZE cargo handling equipment needed; GHG emissions & mitigation
U.S. Environmental Protection Agency Region 9 (EPA)	November 5, 2014	November 10, 2014	No comment on Final EIS
CFASE	November 7, 2014	November 7, 2014	GHG emissions & mitigation
Ricardo Pulido on behalf of CFASE (electronic mail message)	November 10, 2014	November 10, 2014	Socioeconomics and job training; visual impacts; public health; ZE/NZE cargo handling

Name of Commenter(s)	Date of Comment Letter	Date Received by LAHD	equipment needed Issue
District Export Council of Southern California	November 4, 2014	November 4, 2014	Support for project
The Propeller Club of Los Angeles-Long Beach	November 4, 2014	November 4, 2014	Support for project
NAIOP Commercial Real Estate Development Association	November 5, 2014	November 5, 2014	Support for project

NEPA requires disclosure of potentially significant impacts and consideration of all feasible mitigation to reduce the severity of project-related adverse impacts. As required by CEQA and City of Los Angeles policy, the LAHD provided a response to the BOHC with their staff report which addressed the various issues raised by the public, and specific responses to the comment letters. The BOHC certified the Final EIR pursuant to CEQA on November 7, 2014 with two newly added mitigation measures and modification to one mitigation measure. The added measures are: MM GHG-4 (Carbon Offsets for Certain GHG Emissions) and LM AQ-4 (Zero or Near-Zero Emissions Demonstration Project). In addition, LM-AQ-1 (Periodic Review of New Technology and Regulations) has been modified. While not a mitigation measure per se, the BOHC also directed LAHD staff to update the Clean Air Action Plan (CAAP), which will include participation by the Port of Long Beach. This effort is a Port's-wide initiative and not directly linked to the YTI project or the Corps federal action.

As required by the Corps implementing regulations, Corps policy, and NEPA, the Corps is responding to comments received on the Final EIS in this Appendix A to the Record of Decision. The Corps also provided responses to comments on the Draft EIS/EIR (see Final EIS/EIR Chapter 2). Socioeconomic and environmental justice impacts, among others, were repeated in comments on the Final EIS/EIR and are discussed in the public interest evaluation in main body of this Record of Decision. In addition, most of the issues raised in the Final EIS/EIR comment letters focus on terminal operations which are not subject to the Corps' federal control and responsibility (33 CFR 325 Appendix B). Importantly, the Corps permit decision on the proposed project is predicated on the LAHD and terminal operator implementing all the required mitigation measures described in the Final EIS/EIR, and in accordance with the LAHD's Final Mitigation Monitoring and Reporting Program (MMRP, October 2014).

Because multiple comment letters expressed similar concerns, a set of topical responses was developed to address all the issues comprehensively. The specific issue areas addressed are the following:

1. Air quality thresholds exceeded and the requirements for the Technology Review Lease Measure
2. Air quality thresholds exceeded and requirements to use of zero-emissions (ZE/NZE) trucks and cargo handling equipment to reduce air quality impacts;

3. Requirements to complete a Health Impact Assessment (HIA) to address environmental justice issues.
4. Additional mitigation to reduce or completely offset green house gas (GHG) emissions.
5. Socioeconomics and job training.
6. Visual impacts.

Technology Review Lease Measure

Several of the comment letters requested that lease measures which require review of new technologies be required as a condition of the Corps' permit. The Draft EIS/EIR included information on some of the lease measures because these measures contractually bind the terminal operator and LAHD to review the feasibility of certain technologies. Lease Measure AQ-1 is not a NEPA (or CEQA) mitigation measure because NEPA does not require the Corps to adopt measures that have not yet been demonstrated to be feasible and as part of the operations of the terminal, is not subject to the Corps' federal control and responsibility. Lease Measure AQ-1 is a negotiated provision that the LAHD includes in its leases with tenants and/or terminal operators. The Corps views the lease measures as an important compliance tool and also considers lease measures a standard business practice between the LAHD and terminal operators, but not subject to the Corps' federal control and responsibility. Lease measure AQ-1 outlines the frequency and process for review of new technologies of all types, including ZE/NZE technologies that are currently under development and/or testing, and those that have not yet been developed or tested. It explicitly states that such technology will be studied for feasibility, in terms of cost, technical and operational feasibility.

Based on the Corps' review of past LAHD marine terminal projects, the LAHD has shown active engagement in reviewing the feasibility of new technologies to reduce air quality emissions and has demonstrated an ongoing commitment to the development and testing of ZE/NZE technologies. The Technology Advancement Program (TAP) serves as the catalyst to identify, evaluate, and demonstrate new and emerging technologies applicable to the Port. The Ports of Los Angeles and Long Beach regularly meet with technology developers to stay informed about new and emerging technologies that may provide some options for reducing emissions from Port operations.

In response to comments on the Final EIS/EIR and discussions between LAHD and commenters, LM AQ-1 was modified and strengthened to require more frequent technology reviews for specific, targeted technology areas. The revised language of LM AQ-1 is:

LM AQ-1: Periodic Review of New Technology and Regulations. LAHD will require the tenant to review any LAHD-identified or other new emissions-reduction technology, determine whether the technology is feasible, and report to LAHD. Such technology feasibility reviews will take place at the time of LAHD's consideration of any lease

amendment or facility modification for the YTI Terminal (Standard Tenant Feasibility Review). If the technology identified in the Standard Tenant Feasibility Review is determined by LAHD to be feasible in terms of financial, technical and operational feasibility, the tenant will work with LAHD to implement such technology.

In addition to the Standard Tenant Feasibility Review described above, and as partial consideration for the lease amendment, the tenant and LAHD will:

- (i) Commencing on December 31, 2017, and continuing not less frequently than once every two years thereafter (Expedited Feasibility Review), investigate and report to the Los Angeles Board of Harbor Commissioners on: (a) the feasibility of zero emissions and near-zero emissions technologies for truck, yard equipment and rail activities; and (b) the feasibility of technologies to reduce emissions from vessels berthed at terminals that are not able to utilize AMP; and
- (ii) Review and report to the Los Angeles Board of Harbor Commissioners on the feasibility of any other new technology advancements that may reduce emissions not less frequently than once every five years following the effective date of the lease amendment (Periodic Feasibility Review).

If either the Expedited Feasibility Review or the Periodic Feasibility Review demonstrates the new technology will be effective in reducing emissions and is determined by the Los Angeles Board of Harbor Commissioners to be feasible, including but not limited to from a financial, technical and operational perspective, tenant will implement the new air quality technological advancements, subject to mutual agreement on operational feasibility and cost sharing, which will not be unreasonably withheld. The effectiveness of this measure depends upon the advancement of new technologies and the outcome of future feasibility or pilot studies.

As documented in Section 2 of the Draft EIS/EIR (No Federal Action Alternative), construction and/or operational impacts associated with the proposed marine terminal project are not subject to the Corps federal control and responsibility and, as a result, the Corps cannot include any mitigation measures associated with the operation of the terminal as conditions of our permit. As required by NEPA, the Final EIS/EIR discloses potentially significant impacts and considers all feasible mitigation to reduce the severity of project-related adverse impacts and the above changes to LM AQ-1 adequately address review and implementation of new technologies to further reduce air quality impacts.

Zero-emissions (ZE) trucks and cargo handling equipment

Several comment letters requested that the Corps require the use of zero-emission (ZE) trucks and cargo handling equipment as a condition of our permit. Please reference Master Response 2: Zero Emission Technologies in Chapter 2 of the Final EIS/EIR for a detailed and comprehensive

discussion of the feasibility of individual ZE/NZE technologies. NEPA does not require the Corps to adopt measures that have not yet been demonstrated to be feasible and, furthermore, as part of the operations of the terminal, the use of ZE trucks and cargo handling equipment is not subject to the Corps' federal control and responsibility. Furthermore, the Final EIS/EIR explains that there are "no zero emissions technologies readily available in the marketplace" to replace the types of trucks, ships, and trains that haul cargo containers to and from the Port of Los Angeles. Nor have any ZE yard tractors proven to be effective for use at a container terminal. NEPA does not require lead agencies to adopt mitigation measures that have not proven to be feasible, even if such measures might become feasible during the life of a project.

As a specific example, the Coalition for a Safe Environment (CFASE) requested that the LAHD require use of Vision Motor Corp Zero Emissions Hydrogen Fuel Cell Class VIII Drayage Trucks and Yard Hostlers at the YTI terminal. On October 20, 2014, the LA Business Journal reported that Vision Industries Corporation (aka Vision Motor Corporation), has filed for bankruptcy despite receiving millions in grant money from local, state and federal agencies. The article states that the largest impediment to marketability of the company's product was the difficulty in getting the hydrogen fuel that powers the trucks. While ZE technology shows promise, it is not yet readily available or considered feasible.

LAHD continues to support the investigation and development of ZE/NZE technologies through funding and implementation of demonstration projects and through partnerships with other interested parties and agencies. However, development and testing of such technologies are still in the early stages, and a timeline for commercial viability is speculative at this time, making them technologically infeasible.

Several of the comments sought to draw a parallel between YTI and other facilities in the Los Angeles/Long Beach port complex, especially with respect to the use of other ZE technologies. The one most commonly compared is the Middle Harbor project in Port of Long Beach. However, the TraPac project in the Port of Los Angeles is included in the table below for comparative purposes

	Middle Harbor (Port of Long Beach)	YTI	TraPac (Port of LA)
Acreage Before	102 acres (LBCT)	185 acres	176 acres
Acreage After	345 acres (Total)	"	243 acres (134 acres auto)
Terminal Capacity Before	~1.0 million TEU (LBCT)	~1.7 million TEU	~1.7 million TEU
Terminal Capacity After	~3.3 million TEU	~1.9 million TEU	~2.4 mil TEU (pre- automation, now higher)
Approximate Cost	\$1.31 billion	\$~46 million	\$510 million

Lease Length	40 years	10 year extension	30 years
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Source: www.polb.com, www.portoflosangeles.org

These three projects are different in many ways ranging from land area, term of lease, expansion of yard capacity and cost. The Middle Harbor and TraPac projects are major terminal expansion and redevelopment projects which are designed to increase overall terminal and port capacity. For each of these projects, automated equipment was proposed by the tenant; automation was not required as mitigation. By contrast, YTI proposes only to deepen its berths so as to utilize the adjacent -53' MLLW federal navigation channel and accommodate the expected fleet mix of vessels up to 13,000 TEU that will call at the YTI terminal in the future, while upgrading aging portions of the terminal yard surface. YTI has not proposed to automate its terminal; as explained below the cost of automation is extremely high, and generally would not be borne unless a tenant has space available to take out of service while automation is installed, and has a long enough lease term to amortize the capital cost of automated equipment.

Three key pieces of automated machinery (Automated Stacking Crane/Rail Mounted Gantry Crane, Automated Guide Vehicle, and Auto-Strad) will be used in Middle Harbor and at the TraPac terminals. The estimated costs of the automated equipment at Middle Harbor and TraPac are roughly 5.7 and 3.3 times the total cost of construction of the YTI project, respectively. The costs at Middle Harbor and TraPac would be spread over 40 and 30 year leases, respectively, compared to the 10-year lease extension proposed for YTI. Given the scale and scope differences of these projects, LAHD could not feasibly require installation of automated terminal equipment at YTI.

Automated Stacking Crane (ASC) : ~\$3.0 million per machine

Automated Guided Vehicle (AGV): ~\$.5 million per machine

Auto-Strad: ~\$1.6 million per machine

	Automated Container Handling Equipment*			
	Middle Harbor		TraPac	
ASC	75	\$225,000,000	42	\$126,000,000
AGV	72	\$36,000,000	n/a	
Auto Strad	n/a		17	\$27,200,000
Total		\$261,000,000		\$153,200,000

Multiple of Equipment Cost vs. YTI Total Project Cost	~5.7		~3.3
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*estimated cost for equipment, based on public information

Based on the above information, the Corps has determined that it is infeasible to require immediate use of ZE/NZE truck and/or cargo handling equipment at the YTI terminal as a

mitigation measure for terminal operations that are not subject to the Corps federal control and responsibility. However, the Final EIS/EIR includes lease measure (LM AQ-1) which requires technology reviews and deployment of new technologies when they become commercially viable and are deemed feasible. This lease measure will insure that YTI will be required to consider the feasibility of ZE/NZE technologies in the future as the technologies develop. Please see modified language for LM AQ-1 above which addresses periodic review of technologies on a shorter review cycle (every two years) for ZE/NZE trucks and cargo handling equipment.

Additionally, LAHD has added the following lease measure for a ZE/NZE demonstration project to the Final EIR as follows:

LM AQ-4: Zero or Near-Zero Emissions Demonstration Project. The tenant will participate in a demonstration project lasting three years to investigate the feasibility of using two zero emission or near-zero emission yard tractors on the YTI Terminal. LAHD shall provide the equipment to be tested and any necessary infrastructure, including charging stations, as part of the project.

Finally, LAHD engaged in discussions with commenters on the Final EIS/EIR and will begin evaluating strategies for ZE/NZE technology deployment, energy, and GHG reduction strategies separate from the proposed Project.

As documented in Section 2 of the Draft EIS/EIR (No Federal Action Alternative), operational impacts associated with the proposed marine terminal project are not subject to the Corps federal control and responsibility and, as a result, the Corps cannot include any mitigation measures associated with the operation of the terminal as conditions of our permit. As required by NEPA, the Final EIS/EIR discloses potentially significant impacts and considers all feasible mitigation to reduce the severity of project-related adverse impacts and the above changes to LM AQ-1 and LM-AQ-4 adequately address review and implementation of new zero emission technologies to further reduce air quality impacts.

Include a comprehensive Health Impact Assessment (HIA)

Several commenters suggested that a Health Impact Assessment (HIA) rather than a Health Risk Assessment (HRA) should have been prepared as part of the EIS/EIR for the proposed Project.

There are various definitions of what an HIA is and there are no established federal or state regulations requiring an HIA or providing specific methodology for an HIA. As described by the World Health Organization, an HIA is: “A combination of procedures, methods, and tools by which a policy, programme, or project may be judged as to its potential effects on the health of a population, and the distribution of effects within the population.” (WHO, 1999). Although there is no one interpretation, or established regulation or guidance on HIA methodology, the component steps typically include, screening, scoping, assessment, recommendations, reporting, monitoring and evaluation. (National Research Council, 2011).

The Final EIS/EIR appropriately analyzed and disclosed the health impacts of the Project by analyzing changes to the physical environment that would result from implementation of the Project. Therefore, the analysis in the Final EIS/EIR is consistent with NEPA requirements. As the NEPA lead agency, the Corps has discretion to determine the methodology used to analyze an impact, and whether that methodology is sufficient to provide sufficient factual and relevant information to the public about project impacts. Because the LAHD has adopted an established HRA methodology and to reduce duplication of effort, the Corps elected to disclose and evaluate the health impacts of jurisdictional construction activities as well as terminal operations beyond the Corps federal control and responsibility using the HRA methods adopted by the LAHD. As such, the HRA methodology used to assess health impacts in the Final EIS/EIR complies with NEPA and the Corps implementing regulations.

In summary, the Corps has determined that: (1) the Final EIS/EIR includes a robust Health Risk Assessment (HRA) of Project-related health risk impacts that satisfies the requirements of NEPA; (2) the Final EIS/EIR also contains a comprehensive assessment of other health-related impacts of the Project in various other resource chapters that collectively disclose information regarding health impacts of the Project; (3) there is no requirement under the Corps implementing regulations or NEPA that a lead agency include an HIA or conduct every study requested by commenters; and (4) the LAHD has established, funded and participated in numerous community programs, established financial assistance trust funds, and conducted public outreach as sought by commenters which indicates the LAHD has implemented all feasible measures to reduce the impact of Port expansion and re-development on public health, including low-income and minority neighborhoods in close proximity to the Project.

As the NEPA lead agency, the Final EIS analyzed the health impacts documented by the commenters in an HRA, which are redundant with elements of an HIA. The Final EIS discloses, in great detail, the environmental impacts of the Project and alternatives, including quantifiable health impacts. The health impacts were determined through assessments that followed rigorous, scientifically-supported methods. These analyses are presented in the Final EIS for the Project and alternatives. The scientific and technical rigor used to prepare the Final EIS satisfies the Corps implementing regulations and NEPA requirements that the Corps decision is based on substantial evidence, factual information, expert opinions, or reasonable assumptions predicated on facts.

Section 3.2 and Appendix B3 of the Final EIS/EIR contain a comprehensive detailed HRA. CEQA is often more specific than NEPA and requires that an EIR include an analysis that correlates “the identified adverse air quality impacts to resultant adverse health impacts.” *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th, 1184, 1219. CEQA Guidelines §15126.2(a) require an EIR to discuss “health and safety problems caused by the physical changes....” caused by the project. A primary objective of NEPA requires federal agencies to have available and fully consider detailed information regarding environmental effects at the time a decision is made. In this case, the HRA was prepared in

accordance with the California Office of Environmental Health Hazards Assessment (OEHHA), California Air Resources Board (CARB) and South Coast Air Quality Management District (SCAQMD) methodologies and provided information sufficient for the Corps environmental justice analysis and public interest review. In addition, federal lead agencies are required to make the same information available to interested and/or affected persons, agencies, and organizations before decision are made and before actions are taken. To this end, the Corps public noticing and EIS distribution process was completed in accordance with NEPA, Corps implementing regulations, and the South Pacific Division Regulatory Program procedure on *Preparing and Coordinating Environmental Impact Statements* (QMS No. 12509-SPD). Therefore, the HRA, in which incremental health impacts resulting from the Corps federal action were also evaluated in accordance with the aforementioned legal decision, meets NEPA and Corps regulatory requirements.

In *City of Long Beach v. Los Angeles Unified School District* (2009) 176 Cal.App.4th 889, 901, the court held that the EIR's Health Risk Assessment (HRA) contained "sufficient detail to enable those who did not participate in the" environmental review process "to comprehend and meaningfully consider the issues raised by the proposed project and the conclusions" reached by the agency. This HRA considered potential long-term exposures to hazardous emissions generated from all facilities located within 1/4-mile of the site that might reasonably emit chronic or acutely hazardous air emissions, such as on-road (vehicle emissions) and off-road (locomotive) mobile sources, stationary sources as well as risks associated with carcinogenic chemicals and non-carcinogenic sources, such as refineries, and gas stations. The HRA for the YTI project conducted similar analyses, and presents sufficient detail to enable those who did not participate in the environmental document review process to understand the health issues and conclusions associated with the proposed federal and local action. The Corps has determined the HRA provides sufficient information to make an informed decision on the proposed Project in light of adverse impacts disclosed and mitigated to the extent feasible in the Final EIS.

The HRA (Section 3.2 and Appendix B3) examined the cancer risks and the acute and chronic non-cancer health risks associated with the federal action on the local communities. The HRA analysis methods are based on procedures developed by public health agencies, most notably the OEHHA.

Health risks are analyzed for five different receptor types: residential, sensitive (elderly and immuno-compromised), student, recreational, and occupational. Health risks are reported over geographical areas (for example, the HRA includes cancer risk isopleths to illustrate risk patterns in the communities). The HRA model utilized a fine receptor grid in the vicinity of the Project site to capture health risk impacts to nearby receptors.

The HRA also assesses non-cancer impacts to a variety of acute and chronic exposure target organs. As is explained in Final EIS, the HRA assesses acute and chronic non-cancer health impacts (HI) by calculating a "hazard index" which is then tied to OEHHA standards. The

health impacts are set to provide a measure of a project's toxics exposure compares to "reference exposure levels" (REL). RELs are set so that the average person exposed to concentrations at the REL does not suffer adverse health effects. The types of adverse health effects associated with different air toxics vary by the chemical. Appendix B3, Table 5-1 lists the organs or systems of the body affected by each of the toxics analyzed the following acute and chronic exposure target organs: Alimentary Tract, Respiratory System, Cardiovascular System, Skin, Reproductive/Developmental System, Bone, Eye, Endocrine System, Hematologic System, Kidney, Immune System, Nervous System. More details can be found from the master table maintained by the OEHHA on various toxics (OEHHA, 2012).

In addition to the HRA, the analysis also included mortality and morbidity from particulate matter (PM) exposure. The LAHD has developed a methodology for assessing mortality and morbidity in environmental documents based on the health effects associated with changes in PM_{2.5} concentrations. This methodology was also applied to the incremental impacts of the federal action under NEPA. Because mortality and morbidity studies represent major inputs used by CARB and EPA to set California Ambient Air Quality Standards (CAAQS) and National Ambient Air Quality Standards (NAAQS), project-level mortality and morbidity is presented in NEPA/CEQA documents as a further elaboration of local PM_{2.5} impacts. In accordance with LAHD policy, mortality and morbidity are quantified if dispersion modeling of ambient air quality concentrations during proposed project operation (Significance Criterion AQ-4) identifies a significant impact for 24-hour PM_{2.5}. Mortality and morbidity effects are calculated for the population living inside the 2.5 µg/m³ proposed project increment isopleth identified during the dispersion modeling.

Operations that would occur at the YTI terminal are beyond the Corps federal control and responsibility but are subject to evaluation and disclosure under NEPA if traceable to the Corps permit authority. As such, terminal operations would result in a maximum offsite 24-hour PM_{2.5} concentration increment that would not exceed the SCAQMD significance threshold of 2.5 µg/m³ (Final EIS Table 3.2-34). Because the operational PM_{2.5} concentrations would be less than significant and would not exceed LAHD's criteria for calculating morbidity and mortality attributable to PM, potential mortality and morbidity effects were not quantified for the proposed Project.

Other Resource Areas: Aesthetics-Visual, Ground Transportation, Hazards, Noise, Land Use, Public Services, Utilities and Service Systems, Environmental Justice, Socioeconomics

Some of the comments indicated other resource impacts would also affect public health and that these issues should be covered in an HIA. The EIS/EIR contains a thorough analysis of Project-related impacts on multiple resources, however there is no federal requirement to evaluate the resource impacts in the context of public health. In light of public comments on the aforementioned resources, responses are provided below.

- Draft EIS/EIR Section 3.1 Aesthetics and Visual Resources analyzes the effect on visual and aesthetic resources, including degradation of existing visual character or quality of the Project site and its surroundings, light or glare that would adversely affect day or nighttime views, negative shadow effects on shadow-sensitive land uses. The YTI terminal is an existing built environment with rail-mounted cranes, rail lines, backland structures and nighttime lighting. These conditions would not change as a result of the Project. The analysis of visual changes in the Draft EIS/EIR indicates that while Project elements subject to Department of Army authority (e.g., cranes) would be noticeable from various public vantage points following completion of construction activities (see Table 3.1-2 Draft EIS/EIR), there would be less than significant visual impacts of the Project on public views and viewsheds with the proposed addition of new (larger) cranes and relocation of existing cranes (see Table 3.1-4 Draft EIS/EIR); therefore no mitigation is required under NEPA.
- Draft EIS/EIR Section 3.7 Ground Transportation analyzes short-term and long-term increases in truck and auto traffic, study intersections' volume/capacity ratios and level of service, freeway congestion, increases or delays in rail activity or regional rail traffic, hazards due to a design feature, adequacy of emergency access, and effects on adopted policies, plans or programs regarding public transit, bicycle or pedestrian facilities. The YTI terminal is an existing fully operational container terminal. These conditions would not change as a result of the Project. The analysis of ground transportation impacts as a result of truck traffic and rail use in the Draft EIS/EIR indicates that while increases would occur, there would be less than significant impacts on public roads and intersections and on the regional rail system; therefore no mitigation is required under NEPA.
- Draft EIS/EIR Section 3.9 Hazards and Hazardous Materials analyzes hazards, hazardous materials, accidents, public health and safety, and homeland security issues, including the probable frequency and severity of consequences to people from exposure to health hazards. The YTI terminal is an existing fully operational container terminal. These conditions would not change as a result of the Project. The analysis of hazards and hazardous materials impacts as a construction and terminal operations indicates that while hazards would occur and hazardous materials may be used on site, there would be less than significant impacts on the human environment with implementation of mitigation measures described in the Final EIS/EIR; therefore no additional mitigation is required under NEPA.
- Draft EIS/EIR Section 3.12 Noise analyzes the impacts of proposed Project construction and operations on noise receptors in surrounding areas. The YTI terminal is an existing built environment with rail-mounted cranes, rail lines, on-dock and off-dock equipment and truck traffic, backland structures and associated noise. These conditions would not change as a result of the Project. The analysis of noise in the Draft EIS/EIR indicates that while Project elements subject to Department of Army authority (specifically pile driving to complete wharf improvements) would significantly increase noise during the daytime construction activities, mitigation measures described in the Final EIS/EIR and Corps permit special

conditions would reduce potential impacts on receptors who live on boats in the nearby marina in the East Basin.

- Draft EIS/EIR Section 3.10 Land Use analyzes land use plans, environmental goals and policies adopted for the purpose of avoiding or mitigating an environmental impact, isolation or division of existing neighborhoods, communities or land uses, and secondary impacts to surrounding land uses. The YTI terminal is an existing built environment with rail-mounted cranes, rail lines, on-dock and off-dock equipment and truck traffic, and backland structures. These conditions would not change as a result of the Project. Land uses on Terminal Island are dictated by the Port's Master Plan and the California Building Code. As such, the Final EIS/EIR indicates the project would be consistent with the master plan and building code requirements. Because land uses at the YTI terminal would be similar with or without the Project and land use decisions are not within the Corps federal control and responsibility, no mitigation is required under NEPA.
- Draft EIS/EIR Section 3.13 Public Services analyze the effect on public services including emergency medical services, fire, police protection on and in the vicinity of the proposed Project. The YTI terminal is an existing fully operational container terminal. These conditions would not change as a result of the Project. The analysis of public service impacts as a result of construction and terminal operations in the Draft EIS/EIR indicates that while public service impacts would occur, there would be less than significant impacts on such services; therefore no mitigation is required under NEPA.
- Draft EIS/EIR Section 3.14 Utilities and Service Systems analyzes the effects on public utilities including wastewater, storm drain, solid waste and energy services on and in the vicinity of the proposed Project. The YTI terminal is an existing fully operational container terminal. These conditions would not change as a result of the Project. The analysis of utility and service system impacts as a result of construction and terminal operations in the Draft EIS/EIR indicates that while increased need for service may occur, there would be less than significant impacts on these systems; therefore no mitigation is required under NEPA.
- Draft EIS/EIR Chapter 5 Environmental Justice analyzes disproportionately high and adverse human health and environmental effects on minority populations and low-income populations. The YTI terminal is an existing fully operational container terminal. These conditions would not change as a result of the Project. Under the No Federal Action alternative, the LAHD and YTI terminal tenant would not be required to implement all of the mitigation measures described in the Final EIS/EIR. The analysis of environmental justice impacts in the Draft EIS/EIR indicates that while low income and minority communities would be disproportionately impacted by air emissions, noise, and traffic during construction and terminal operations, all mitigation measures described in the Final EIS/EIR and enforced by the LAHD would reduce adverse impacts on these communities. While no mitigation is required under NEPA, special conditions in the Corps permit would address construction actions that take place in jurisdictional waters of the United States and within approximately 100-feet of the waterline.

- Draft EIS/EIR Section 7 Socioeconomics analyzes the socioeconomic character of the area in the vicinity of the proposed Project using information regarding employment and earnings, population and housing resources, environmental quality and the effect of urban decay and blight, and the economic effects of Port operations and the Project. The YTI terminal is an existing fully operational container terminal and employs individuals from the surrounding communities. These conditions would not change as a result of the Project; rather, additional jobs would be generated as a result of the Project. The socioeconomic analysis in the EIS/EIR indicates that approximately 410 direct jobs and 340 secondary (indirect plus induced) jobs would be created as a result of Project construction. Operation of the terminal following completion of construction would result in approximately 2,241 net jobs by the end of the lease term (2026). In addition, the LAHD provided information (below) which summarizes programs and funding it provides to promote education and job skills training, and public improvements in local communities.

Other Programs and Mitigation Measures

Although the LAHD is restricted to Tidelands Trust-related activities and funding as stated above, the myriad of programs and activities that the LAHD supports outside of the environmental document review process positively influence health within the Port communities, either directly or indirectly, and are responsive to the comment. To this end, the LAHD supports programs and activities involving air quality improvement, noise reduction, education, neighborhood livability, cultural arts, open space development, and community events. These actions, while not required as mitigation by the Corps or under NEPA, demonstrate that all feasible actions are being taken by the LAHD to reduce impacts of Port-related construction and operations on local communities.

Air quality and noise programs/mitigations include, but are not limited to:

- Development of the San Pedro Bay Ports Clean Air Action Plan (CAAP, 2006).
 - In 2006, the Ports of Los Angeles and Long Beach completed development of the CAAP in collaboration with the USEPA, CARB, SCAQMD, the public, and other stakeholders. One of the CAAP's foundations is the commitment "to expeditiously and constantly reduce the public health risk associated with port-related mobile sources, and implement programs in the near-term that will achieve this goal" (POLB, 2006). The CAAP established source- and project-specific health risk standards, and identified the need to develop San Pedro Bay-wide Standards to reduce public health risks from air toxics and overall criteria pollutant emissions.
 - The recently-adopted 2010 CAAP Update established specific aggressive long-term goals for emission and health risk reduction in the region surrounding the Ports of Los Angeles and Long Beach.

- A key component of the CAAP is Alternative Maritime Power (AMP), which allows ships to shut down diesel engines and plug into clean electricity while at berth, thereby reducing community impacts.
- At the November 7, 2014 public hearing for the YTI project, the BOHC directed LAHD staff to update the CAAP. This is not considered a mitigation measure specific to the proposed Project but rather a Ports-wide program that would apply to all terminals once adopted.
- The Clean Trucks Program
 - A key component of the 2006 CAAP, this program established a progressive ban on polluting trucks, and facilitated the replacement of old trucks with low emission vehicles as mechanisms to significantly reduce port truck-related emissions.
 - As of January 2012, 100 percent of the cargo gate moves at Port terminals are being made by trucks meeting USEPA 2007 heavy duty truck emissions standards. This achievement allowed the San Pedro Bay ports to meet their 2012 goal of 80 percent emissions reductions from overall drayage operations relative to 2007.
- The Port Community Mitigation Trust Fund
 - LAHD is committed to addressing the overall off-Port impacts created by Port operations on surrounding communities and their residents. The Harbor Community Benefit Foundation (HCBF) is a nonprofit organization that administers the Port Community Mitigation Trust Fund (Trust Fund). The Trust Fund was established as a result of a Memorandum of Understanding (Trans Pacific Containers Service Corporation Memorandum of Understanding, executed on April 2, 2008, and known as the TraPac MOU) between appellants and the City of Los Angeles to settle appeals to the Board of Harbor Commissioner's certification of the Berths 136–147 [TraPac] Container Terminal Project Final EIS/EIR. Exhibit B of the TraPac MOU included a list of terminal expansion or new terminal development projects for which LAHD would contribute to the Trust Fund upon project implementation. The YTI Container Terminal Improvements Project is one of the projects listed in Exhibit B. As such, LAHD estimated the proposed Project will contribute approximately \$773,500 to the HCBF in accordance with the established calculation method if the proposed Project is implemented. The final amount will be determined at the time the BOHC considers whether to certify the Final EIS/EIR and approve the proposed Project. The TraPac MOU does not allow the funding to be used as mitigation for individual project impacts. Rather, the HCBF awards grants to a variety of projects and programs aimed at reducing health, environmental, and community impacts from Port operations in the communities of San Pedro and Wilmington.
- The Air Quality Mitigation Incentive Program (AQMIP) committed nearly \$30 million to fund air quality mitigation projects. These projects would either (1) reduce diesel PM and oxides of nitrogen (NO_x) emissions from Port operations in the communities of San Pedro and Wilmington, or (2) develop emission reducing technologies that may be applied

throughout the San Pedro Bay. Although the AQMIP preceded the CAAP, the funded projects support the emission reduction goals of the CAAP. Specific projects include yard truck replacements, marine engine repowers, off-road retrofits, and CHE replacements.

- The Ports of Los Angeles and Long Beach, has developed the Technology Advancement Program (TAP) which accelerates the commercialization of new technologies, including ZE/NZE technologies, to provide more options to reduce emissions. The TAP has contributed over \$9 million of funding for new technology projects.
- The Port also supports and sponsors various education programs including:
 - The Port of Los Angeles High School.
 - The Port of Los Angeles Boys and Girls Club.
 - School Boat Tour Programs targets 5th grade students.
 - The TransPORTer which is a 53-foot mobile museum that is presented at schools throughout Southern California.
 - Red Car Field Trip Program that is available to schools on select days.
 - Times in Education, in partnership with the Los Angeles Times, which is a curriculum based on the business of the Port and is offered to schools.
 - Los Angeles Maritime Institute TopSail Program targeting Middle and High School students statewide.
 - International Trade Education Programs which has trade-related academies on eight high school campuses including four at Banning High School in Wilmington, The Port of Los Angeles Boys and Girls Club, and Port of Los Angeles High School.
 - LAHD engineers participate in annual outreach to 2-3 schools as part of “Engineers Week”.
 - The LAHD has an active role in the Southern California Academy of Sciences.
 - LAHD participates in the mentoring program for high school students through the Global Environmental Studies Academy.
 - A health education program is administered by Robert F. Kennedy Institute in Wilmington. The last health fair, held at Waterfront Park in April 2012, was estimated to have over 600 attendees. This project is a 5 year program and is currently in its 2nd year.
- The following LAHD programs and activities positively influence neighborhood livability.
 - China Shipping Community Aesthetic Mitigations Fund - Funds have been allocated to this fund pursuant to the China Shipping EIR settlement in 2003. The funds are to be used to beautify, landscape, and create open space for the port community. Notable projects that are possible through the fund include, but are not limited to, the following:

- \$2.7 million has been allocated for the Wilmington YMCA Aquatic Center. This will allow the Wilmington YMCA to expand its current facility and build an indoor pool and teach water related skills and exercise programs.
- Also, in San Pedro, nearly \$7 million was allocated to renovate a historical pool called the Hey Rookie Pool (also known as the “Gaffey Street Pool”) which is part of the Fort MacArthur Museum. This will provide a public swimming pool in the Southern part of San Pedro, where none exist.
- In addition to these projects, \$1.4 million will be used for the Wilmington Marinas Parkway, located along Anchorage and Shore Roads, which is designed to include: landscaping, pathways, lighting, irrigation, and security cameras. This area currently has no walk-able paths or sidewalks and will enhance the opportunities for walking for the marina residents and visitors.
- The LAHD has funded projects to improve neighborhood and cultural arts in the local communities including:
 - Tree distribution events resulting in 3,947 trees to employees and 6,060 trees to community members at no charge. In addition, 4,374 trees have been recently planted on Harbor Department Property.
 - Financial support to fund the curator’s salary for the Point Fermin Lighthouse, a local historic facility located in San Pedro.
 - Sponsorship of exhibits at local museums: the Banning Museum in Wilmington and both the Cabrillo Aquarium and Los Angeles Maritime Museum in San Pedro.
 - The construction of the Fanfare Fountain, Harbor Boulevard Parkway, and Cruise Ship Promenade in San Pedro.
 - Mitigation Grant Programs are funding the Plaza Park Redevelopment project, the Los Angeles Lighthouse renovation project, Wilmington Youth Sailing Center construction, Banning’s Landing Health Education program, Marina’s Parkway Landscaping in Wilmington, Storm Drain Education Program in Wilmington 3rd and 4th grade classes, and Tall Ship Restoration project which will allow for the expansion of the existing TopSail program.
- Recently the LAHD built several new open spaces to enhance the local community and add natural space and parks:
 - 18 acres at 22nd Street Park.
 - North Gaffey Street Beautification Project.
 - 5 acres of park space including baseball facilities and parking on Knoll Hill.
 - 1.4 acres of open space and parking at Front Street Dog Park.
 - The Cabrillo Way Marina includes a 10,000 square foot park, and additional 2 acres of site landscaping spread across the site, 46 acres of project backland area, 41 acres

of improvement to water areas, and approximately 3,000 linear feet of promenade along the water edge varying in width.

- The Wilmington Waterfront Park provides public space between Port operations and adjacent residences in Wilmington. Construction began in 2009 and the park officially opened to the public in June 2011. The park encompasses approximately 30 acres. Major elements of the park include continuous bike and walking paths. Additionally, the park features plazas and pavilions with stages and spectator seating having a capacity of more than 10,000 people.
- The San Pedro Waterfront Project encompasses approximately 400 acres and will provide residents, visitors and businesses with unobstructed access to the waterfront for recreation, entertainment, commerce, culture and more. When completed, the project will include: a continuous eight-mile waterfront promenade, offering pedestrian and bike paths, public plazas, and new parks; three new public harbors and a public pier at 7th Street; redevelopment of Ports O'Call; and creation or enhancement of other attractions. The LAHD uses social networking sites such as Twitter and Facebook and also eAlerts to update users on Board Meeting Agenda, Cargo Updates, New Alerts, Public Notices, Environmental Notices, and Newsletters.

Further mitigation to reduce or completely offset GHG emission pollutants

There is no existing federal policy, NEPA requirement or Corps implementing regulation which requires mitigation for GHG emissions and associated climate change, however, the Final EIS/EIR does disclose project-related GHG emissions as well as cumulative impacts associated with global climate change. In addition, as documented above operational impacts associated with the proposed marine terminal project are not subject to the Corps' federal control and responsibility. However, the LAHD has evaluated the mitigation measure suggested by the commenters to reduce and offset GHG emissions, and addressed several of the suggested measures in Response to Comment EJ2-19 in Chapter 2 of the Final EIS/EIR. Some suggested measures have already been or will be implemented by the terminal operator, some were determined not to be applicable to the proposed Project and others were determined to be infeasible. Measures deemed feasible and associated with the proposed Project have been added as mitigation. It is important to note that Port-related source emissions inventories show that overall Port-related GHG emissions, including those controlled and not controlled by the LAHD, are already 15% below targets set by AB 32, the state's Global Warming Solutions Act. This is an important benefit of CAAP programs that have been implemented over the past nine years, and will continue to be implemented for projects such as YTI. Other examples of this include the vessel speed reduction requirements, AMP, and the transition to cleaner cargo handling equipment.

In addition, the LAHD is currently undertaking a planning exercise to develop new Port-wide GHG emissions reductions programs to assure continued reductions of GHG that could apply to this project and other Port-related sources as they are implemented in the coming years. These

programs would help the LAHD meet future GHG emissions targets set by the City in 2030 and AB 32 in 2050. Implementation of these programs could occur through lease measures, such as those included in the Final EIS/EIR (i.e., LM AQ-1 and LM AQ-2), or through other types of voluntary and collaborative programs. Nevertheless, and even while Port-wide programs are under development, in response to comments to require YTI to purchase carbon offsets for GHG emissions, one new feasible mitigation measure has been added to the Final EIS/EIR (MM GHG-4: Carbon Offsets for Certain GHG Emissions). Mitigation measure GHG-4 would require the purchase of carbon offsets for GHG emissions associated with electricity usage for certain terminal operations by the year 2026. This measure has been further modified in response to comments on the Final EIS/EIR. The October 16, 2014 EarthJustice comment letter requested GHG mitigation in Wilmington and San Pedro. For a discussion of modifications to MM GHG-4 and the establishment of a local-investment GHG grant program, see below.

MM GHG-4 requires that YTI purchase carbon offsets for 16,380 metric tons of GHG emissions equal to 100% of non-AMP Project-related terminal electricity usage in 2026. The LAHD is limiting the potential cost of this measure because (a) the future implementation cost for this measure is not known, (b) it is necessary to keep the measure proportional in nature and extent to the impacts, and (c) LAHD policy is to encourage, rather than discourage, use of electrical power on the terminal. In the long-term, the cost of offset purchases could potentially be affected by several factors including (a) the limited and uncertain carbon offset market, and (b) the uncertain effects of future cap-and-trade regulations at various regulatory levels on all of the above factors. At this time, neither the U.S. Government nor the State of California requires consumers of electricity, such as the YTI terminal, to participate in cap and trade programs.

The CARB has also imposed a cap-and-trade regulatory program on the power sector. CARB's cap-and-trade regulations (Cal. Code Regs., Title 17, §§ 95800 et seq.) took effect on January 2013 and the first phase of this regulatory program applies to electric power plants that produce 25,000 metric tons or more of CO₂e per year. The overall budget for GHG emission allowances under the cap and trade program encompasses a significant reduction in emissions from facilities covered by the program, from 394.5 million tons of CO₂e in 2015 to 334.2 million tons of CO₂e in 2020. Thus, the production of electricity that is consumed at the YTI terminal is already subject to the emissions reductions mandated by the cap and trade regulations that apply to electric power plants. This is the reason the Climate Action Reserve did not develop protocols for reducing energy consumption for development projects, in order to avoid double counting¹. As is evident from the brief discussion above – there are many changes occurring in this area on the state level in this dynamic field. Additionally the City Council of Los Angeles passed Motion No. 14-0907 which will result in the LAHD preparing a comprehensive plan to further reduce GHG emissions.

¹ <http://www.climateactionreserve.org/resources/faqs/>

In addition, a substantial portion of terminal energy use is associated with AMP. AMP use is mandated by the CARB to reduce emissions of criteria pollutants and toxic air contaminants. This project encourages AMP usage at the YTI terminal. As a policy matter, imposing additional costs on AMP usage countervails CARBs current regulatory policies favoring increased electricity usage over combustion based energy sources for development projects. Further, consistent with requests by commenters, LAHD has been participating in several pilot projects designed to encourage use of electrical equipment on container terminals when and if such equipment becomes available. The LAHD has determined that charging terminal operators large sums in the form of offset requirements for electricity use could discourage, rather than encourage conversion to electric powered equipment at terminals. The Final EIS/EIR recognizes the mitigation measures required for the proposed Project will not reduce GHG emissions to a less-than-significant level. However, the LAHD has determined that requiring the terminal operator to purchase additional carbon offsets is not currently a feasible requirement.

These actions, while not subject to the federal control and responsibility of the Corps' or required by NEPA, demonstrate that all feasible actions are being taken by the LAHD to reduce impacts of Port-related construction and operations on local communities and the environment.

Responses to technology and policy comments

The Corps discretionary action is issuance of a permit for activities in jurisdictional waters of the United States and, and actions in backlands directly associated with the Department of the Army permit authority (i.e., crane rail extension) subject to the Corps federal control and responsibility. Under NEPA, the Corps NEPA analysis is not based on all of the proposed Project activities that would take place across the entire YTI terminal. The NEPA analysis evaluates the direct, indirect and cumulative impacts associated with the incremental physical change from the NEPA baseline that would occur if the Department of the Army permit is issued. Under NEPA, the EIS evaluated the impacts associated with the Project increment in accordance with Corps implementing regulations (33 CFR 325 Appendix B). The EIS did not evaluate the impacts from the terminal operation on its own, but focused on those impacts directly associated with Project elements under the Corps' federal authority. As a result, the following technology and policy comments are focused on terminal operations and, as a result, generally outside of the Corps federal control and responsibility.

Require the use of Advanced Maritime Emissions Control System (AMECS) Technology

AMECS is essentially a baghouse installed over a ship's stack while it is docked. These units collect pollutants, which subsequently must be disposed of in solid or liquid form. LAHD anticipates that AMECS technology could eventually prove feasible and cost-effective as an alternative to AMP (shore power that allows ships to turn off main engines and auxiliary engines while docked) for some vessels calling the Port where AMP ship-side retrofits may be technologically, financially, and/or operationally infeasible for certain vessels. The system continues to be tested with generally promising preliminary results. However, AMECS cannot be used as an alternative technology to AMP until it receives verification from the CARB. The current status of AMECS technology is that it is undergoing CARB verification at this time and as such, requiring AMECS for the proposed Project is not a feasible mitigation measure. AMP continues to be the preferred mitigation measure for container ships as the technology is readily available, and does not collect pollutants that must be disposed of, but instead eliminates the generation of such pollutants in the Port-area. LAHD and its terminal operators have been installing AMP since 2004. It should be noted that AMP is currently available at all berths at the YTI Terminal.

Mitigation measures in the Final EIS/EIR include a requirement that NYK-Line operated ships calling at the YTI terminal must use AMP (electrical power) for 95 percent of the hours they are at berth by 2026. As a result, the EIS/EIR shows that, by 2026, all criteria pollutant emissions from ships hoteling at the YTI Terminal under project conditions will be *lower* than emissions from ships hoteling at the YTI Terminal under baseline conditions. This demonstrates the effectiveness of use of AMP as more ships become outfitted with technology that enables them to use this technology.

See LM AQ-1 above, which was modified specifically to require periodic review of new technologies on a shorter review cycle (every two years) which may result in reduced emissions from vessels at berth sooner than 2026.

Include assessment and mitigation of locomotive diesel emissions at railyards, including requirement to include the Advanced Locomotive Emissions Control System (ALECS) Technology

Like AMECs, the ALECS technology consists of a bonnet, or hood that is placed over a locomotive exhaust stack to capture exhaust pollutants emitted by the locomotive. The system was designed to capture and remove pollutants from locomotive emissions while the locomotive is motionless or moving slowly within the range of physical extension of the hood system. Although the ALECS system went through proof-of concept testing on a limited scale at the Union Pacific (UP) Roseville Railyard as part of a multi-agency stakeholder process, the system was never scaled up to full implementation at a railyard due to technical issues. Idling emissions were not determined to be a significant portion of total railyard emissions during testing however multiple hoods and substantial range extension would be needed to capture a reasonable portion of emissions from multiple trains calling on a railyard. Because large-scale testing of ALECS has not occurred and ALECS has proven to have various technical and operational issues in the limited testing that has occurred and because the technology has not been verified by CARB, the ALECS technology is not technologically or operationally feasible mitigation for the proposed Project.

Further, line haul locomotives belong to national fleets owned and operated by the Class I railroads, UP and BNSF. Further reductions in locomotive emissions beyond the existing regulations and agreements discussed in the EIS/EIR can only be effectively accomplished at the San Pedro Bay Ports level rather than at each terminal, because neither the Ports nor the terminal operators have control over UP and BNSF operations.

Please see modified language for LM AQ-1 above, which was modified specifically to require periodic review of new technologies on a shorter review cycle (every two years) which may result in reduced locomotive emissions before 2026.

Inadequate information on the Cumulative Impact of multiple health problems and negative socio-economic impacts to residents

Cumulative impacts are discussed in detail in Chapter 4 of the Draft EIS/EIR. Environmental justice and socioeconomics are discussed in Chapters 5 and 7 of the Draft EIS/EIR, respectively. The above sections disclose the direct, indirect and cumulative impacts of the proposed Project and evaluate implementation of feasible mitigation measures to reduce the environmental impacts of the proposed Project. As a result, the Final EIS/EIR satisfies all the requirements of NEPA.

On-dock railyard is not being built dock-side so that containers can be loaded or unloaded directly between the vessel and the rail system

This project is consistent with the request of commenters to increase on-dock rail use. The Terminal Island Container Transfer Facility (TICTF) on-dock railyard is shared between the YTI and Everport container terminals. The proposed Project does not involve a complete redesign of the terminal layout and the shared on-dock railyard. Nor would it be feasible to move rail for use by trains directly onto the wharf. The majority of containers handled at the Port of Los Angeles, including containers delivered to the YTI terminal, are not bound for distant locations that require travel by rail. The majority of containers delivered to the YTI terminal are bound for the local market, which must be accessed by truck. All container terminals at the Port are configured so that there is space along the wharves and nearby backlands to load and unload containers from the ships, and to separate the containers into those that will be sent by truck or rail. While the wharves are not outfitted with rail for trains, the wharves are outfitted with rails for cranes so that the cranes can be moved along the wharf to the locations they are needed and the cranes operate on electrical power. All of the cranes, including the proposed new cranes, used to load and unload containers at the YTI terminal are electrically powered, which minimizes air pollutant emissions.

Require the use of magnetic levitation (maglev) train

Maglev is not a CARB verified technology. An operational prototype of a freight-moving system for maglev does not presently exist anywhere in the world. Accordingly, an extensive development, testing, and demonstration process is required before deployment of any of the dedicated fixed-guideway systems could be considered feasible. Second, the likely very considerable capital and operating costs of fixed guideway systems have not been developed, and cannot be until technology development has advanced further.

Additionally, these systems have extensive geographical coverage and are better implemented on a Port-wide or regional basis, making them inappropriate as mitigation for an individual container terminal upgrade project. The terminal operator has no means to implement such system-wide transportation improvements. The Clean Truck Program at the Port is an example of a large-scale transportation system that has been implemented on a Port-wide basis. However, transportation systems for cargo movement such as maglev represent an infrastructure system over which the LAHD has no jurisdiction or ability to control. The LAHD supports demonstration and testing of new technologies through the TAP program which was established under the CAAP. Nothing in this Final EIS/EIR prevents future demonstration of maglev.

Include a comprehensive assessment of the Environmental Justice Community and Non-Discriminatory Impacts

The Final EIS/EIR included an extensive discussion of project-level and cumulative environmental justice impacts as required by NEPA.

Under NEPA and the Corps implementing regulations, the Corps is required to address off-Port impacts created by those construction elements deemed jurisdictional by the Corps and those deemed to be within the Corps federal control and responsibility. In addition, the LAHD is committed to addressing the overall off-Port impacts created by Port operations on surrounding communities and their residents as described above. The LAHD is committed to mitigating disproportionate impacts to minority and low-income communities through a variety of CAAP measures and through funding provided to the HCBF. See Master Response 3: *Environmental Justice* (Chapter 2, Final EIS/EIR).

Project results in significant health impacts, including exceedance of the health risk commitment (over 10 in 1 million) the Port made in the Clean Air Action Plan

The South Coast Air Quality Management District (SCAQMD) has established a 10 in 1 million threshold for cancer risk as a means to measure health risks in the region. This threshold was also applied to the incremental impacts of the federal action. Under NEPA, the HRA found that occupational receptors would have the highest cancer risk (9 in 1 million, without mitigation). Occupational receptors are individuals that work on or near the YTI terminal. Other health risks (cancer burden, chronic and acute hazards) were below significance thresholds under NEPA. Because the thresholds were not exceeded, mitigation under NEPA is not required. However the Corps anticipates that mitigation measures required and implemented under CEQA will further reduce public health risks under NEPA.

The Final EIS/EIR also concludes that, under CEQA, at one relatively small portion of one marina near the YTI terminal, the Project would exceed the 10 in 1 million cancer risk threshold. In light of this exceedance, and because there are live-aboard vessels at this marina, this is considered a significant impact. However, that in calculating this health risk the Final EIS/EIR assumes (a) the YTI terminal would continuously operate for 70 years; and (b) a person living on a boat at the marina would continuously reside there for 70 years. These assumptions are conservative. With these conservative assumptions, the result is a 11 in 1 million cancer risk at this marina location. The marginal exceedance of the 10 in one million standard for residential receptors only extends over approximately 25% of a single marina directly adjacent to the Henry Ford and Schuyler Heim bridges and is not exceeded at any land-based residential receptors.

Commenters also point out that the CAAP includes a policy on the 10 in 1 million threshold for residential receptors. The CAAP is a policy and planning document with goals to achieve air quality standards and suggested measures, but the Corps and the BOHC retain discretion on decisions to approve projects, including those that may exceed the 10 in 1 million threshold. The Corps and BOHC has approved two projects in the recent past with an exceedance of health risk thresholds for non-land based receptors, including most recently the APL terminal improvement project which had a similar health risk exceedance in this marina.

Importantly, past projects approved by the Corps and the BOHC showed declining health risks, in large part due to compliance with CARB and Port rules requiring replacement of diesel trucks and yard equipment with cleaner trucks and equipment. Compliance with those regulations offset increases in emissions caused by greater throughput at the terminals. This same reduction in health risks is not identified for more recent projects because the trucks and yard equipment already have been replaced; as a result, the baseline emissions level is much lower. As such, NEPA/CEQA documents show an increase in health risk due to an increase in throughput, not because equipment at the Port emits more toxic air contaminants.

Project emits significant Nitrogen Oxide (NO_x) emissions

The Final EIS/EIR concludes that the ships, trucks, trains and yard equipment used to transport and handle containers passing through the YTI terminal would generate emissions of criteria pollutants (including NO_x) that would be higher than the numeric significance thresholds established by the SCAQMD². These numeric thresholds are not scaled to the size of a project. The same numeric thresholds apply to operation of very small businesses as apply to operation of an entire container terminal and its associated goods movement activity. For this reason, emissions from container terminal projects at the Port of Los Angeles regularly exceed the significance thresholds.

The Corps recognizes the importance of reduction of NO_x emissions and has required all feasible mitigation to reduce impacts within our federal control and responsibility. Ships visiting the YTI Terminal will be required to comply with the Port's Vessel Speed Reduction Program, which reduces air pollutant emissions during travel. In addition, mitigation measures in the Final EIS/EIR will require ships to plug into electrical power while at the YTI terminal berths. NYK Line-operated ships must use AMP for 95 percent of the hours they are at berth. This is a substantially higher percentage than state law requires. In addition, yard equipment at the terminal will comply with stringent requirements of the CARB for clean engines. The YTI Terminal has complied with CARB regulations earlier than required. All trucks visiting the YTI terminal will comply with the Port's Clean Trucks Program. Further, the YTI terminal has access to and uses the TICTF as needed, which minimizing air pollutant emissions associated with drayage trucks.

Importantly, Port emissions inventories show that Port-related NO_x emissions have declined by approximately 57% in the past nine years due to implementation of mitigation measures such as those proposed for this Project to comply with the CAAP, and other state and federal regulations. This has been confirmed by local Port air monitoring stations, which show a reduction of NO_x by nearly 40% (i.e., background emissions including Port-related sources).

² To simplify the analysis in the EIS/EIR, the Corps applies the significance thresholds adopted by the City of Los Angeles Los Angeles Harbor Department in its NEPA analysis including thresholds developed by the SCAQMD.

The Project Interferes with an Applicable Air Quality Implementation Plan and Achieving Air Quality Standards

The SCAQMD prepares the Air Quality Management Plan (AQMP), in collaboration with the USEPA, the CARB, and the Southern California Association of Governments (SCAG), as a roadmap for regional attainment of Ambient Air Quality Standards (AAQS). The timeframe developed by the AQMP for attainment is shorter than almost any project, whether a port project, a gas station, or a school. A project's existence, beyond the AQMP attainment date does not, in itself, conflict with or obstruct implementation of an AQMP.

The 2012 AQMP recognizes that while there has been much progress in developing and deploying transportation technologies with ZE/NZE (particularly light-duty vehicles and passenger transit), additional technology development, demonstration and commercialization will be required prior to broad deployment in freight and other applications. See Master Response 2: Zero Emission Technologies in Chapter 2 of the Final EIS/EIR for a comprehensive discussion of various LAHD programs designed to further reduce and mitigate environmental impacts of goods movement in the region.

The AQMP is a roadmap for regional attainment of AAQS. The SCAQMD describes the AQMP as a path to evaluate, develop, demonstrate, fund, and deploy impact-reducing technologies. Measures identified in the AQMP do not prescribe actions to be taken by individual projects evaluated under NEPA and/or CEQA. The SCAQMD states in the 2012 AQMP that a combination of regulatory actions and public funding is the most effective means of achieving emission reductions (2012 AQMP, Chapter 4). As such, the Project will not conflict with or obstruct implementation of the AQMP for the following reasons:

- The attainment strategies in the AQMP, developed in collaboration with SCAG, CARB, and the USEPA are enforced at the state and federal level on engine manufacturers, petroleum refiners, retailers, etc. As a result, Project operation would comply with these control measures. In addition, the SCAQMD adopts AQMP control measures into the SCAQMD rules and regulations, which are then used to regulate sources of air pollution in the region.
- The 2010 CAAP Update goals were developed in collaboration with the SCAQMD, CARB, and the USEPA specifically to assist the region in meeting the 2023 AAQS attainment goals. The CAAP has been effective at reducing impacts of goods movement in the Port area as demonstrated by the fact that since 2005, NO_x levels at the San Pedro Ports have decreased by 57% percent, well ahead of the 2014 reduction goal of 22% and on track to meet the 2023 59% reduction goal established by the 2010 CAAP Update.

The Corps regulations and NEPA requires implementation of all feasible mitigation measures which to avoid, reduce, or compensate for environmental impacts within our federal control and responsibility. The LAHD is also committed to this goal and has developed the 2010 CAAP Update, the Clean Trucks Program, the Oceangoing Vessel (OGV) Incentive Program, and the

TAP program to further this goal. In addition, in 2011 LAHD staff developed the Roadmap for Zero Emissions.

The Corps and LAHD recognize that although many ZE technologies are not yet feasible for Port operations, they are promising and may, in the future, further reduce impacts associated with goods movement. For this reason, LAHD has included a lease measure in the Final EIS/EIR that requires technology reviews and deployment of new technologies when they become commercially viable and are determined to be feasible.

Invest in GHG mitigation in Wilmington and San Pedro

The Corps and the LAHD have considered the recommendations to offset GHG emissions through local projects. To date, 1.6 megawatts (MW) of photovoltaic solar power have been installed at Port facilities. The LAHD has committed to coordinate the installation of a total of 10 MW of solar electric generating facilities. As described above, the LAHD is currently undertaking a planning exercise to develop GHG programs to assure further reductions of GHGs to meet goals set by the City of Los Angeles and the state of California for 2030 and 2050, respectively. As part of this process, the LAHD will work with the community and local, state and federal regulators to develop programs to reduce GHG emissions, with particular emphasis, if possible, on programs that will have local implications.

Additionally, MM GHG-4 has been modified to alternatively allow for contribution of equivalent offset funds to local projects or funding programs for the reduction of GHG emissions, such as the local-investment GHG grant program described above. The final MM GHG-4 is as follows:

MM GHG-4: Carbon Offsets for Certain GHG Emissions. YTI shall purchase carbon offsets from sources listed on the American Carbon Registry and/or the Climate Action Reserve (or any other such registry approved by CARB) for a total of 16,38 metric tons of GHG emissions associated with electricity usage for certain terminal operations (Required Offsets) by the year 2026. Alternatively, if LAHD identifies local projects or establishes a local GHG emission reduction funding program, YTI may contribute funding equivalent to the cost of the Required Offsets to such local projects or funding program.

Project demonstrates significant air quality and health risk impacts that exceed SCAQMD thresholds and are inconsistent with the CAAP San Pedro Bay Standards

The proposed Project is consistent with the San Pedro Bay Standards in the CAAP. The San Pedro Bay Standards are bay-wide health risk and emission reduction standards that do not apply to specific projects. The Port as a whole is on track to meet and possibly exceed the San Pedro Bay Standards. The proposed Project also applies all applicable CAAP source-specific control measures. For a discussion of the Project Specific Standards and exceedance of the 10 in one million residential health risk threshold, please reference the above discussion.

The Final EIS/EIR evaluates and discloses exceedance of SCAQMD thresholds and applies all feasible mitigation measures to reduce impacts. The Corps retains discretion to approve projects with significant and unavoidable impacts provided all feasible mitigation is implemented and the project is not contrary to the public interest.

Emissions from terminal operation on its own will exceed federal Ambient Air Quality Standards for NO₂

The Corps discretionary action is issuance of a permit for activities in jurisdictional waters of the United States and, and actions in backlands directly associated with the Department of the Army permit authority (i.e, crane rail extension) subject to the Corps federal control and responsibility. Under NEPA, the Corps NEPA analysis is not based on all of the proposed Project activities that would take place across the entire YTI terminal. The NEPA analysis evaluates the direct, indirect and cumulative impacts associated with the incremental physical change from the NEPA baseline that would occur if the Department of the Army permit is issued. Under NEPA, the EIS evaluated the impacts associated with the Project increment in accordance with Corps implementing regulations (33 CFR 325 Appendix B). The EIS did not evaluate the impacts from the terminal operation on its own, but focused on those operations directly associated with Project elements subject to the Corps' federal authority.

A project-level exceedance of an AAQS does not indicate that the air basin's attainment status would be compromised, for the following reasons:

1. AAQS Attainment is a cumulative issue.

Pollutant concentrations from large facilities, such as marine terminals, rail yards, oil refineries, warehouses, etc. may exceed AAQS in localized areas, especially for NO₂ because the background levels of NO₂ are often close to the AAQS. However, attainment of AAQS is addressed in terms of the air basin as a whole and is a function of a region's past, present and future development projects and meteorological conditions. All these contribute to a region's air quality impacts on a cumulative basis. In fact, other air quality management districts like the Bay Area AQMD (BAAQMD) stipulate that no single project is sufficient in size to, by itself, affect the attainment status of an air basin (BAAQMD 2010 CEQA Guidance Document).

2. CAAP NO_x Reductions at the San Pedro Ports.

Since 2005, NO_x levels at the San Pedro Ports have decreased by 57% percent, well ahead of the 22% reduction goal for 2014 and on track to exceed the 59% reduction goal for 2023 established by the 2010 CAAP Update. It should also be noted that the 2010 CAAP Update goals were developed in collaboration with the SCAQMD, CARB, and the USEPA to assist the SCAQMD in meeting the 2023 AAQS attainment goals. All Port terminals were considered in the 2010 CAAP Update.

3. Air dispersion models are designed to be over-predictive. Modeling of NO₂ represents a very conservative estimate of localized concentrations.
 - The peak 1-hour NO₂ concentrations represent a conservative composite emissions scenario where the peak 1-hour emissions from each source category were modeled together even if they would occur in different analysis years. For most source categories, the peak 1-hour operational NO₂ emissions would occur in 2017. However, peak 1-hour NO₂ emissions for drayage trucks would occur in 2020, and peak 1-hour NO₂ emissions for ship transit, ship hoteling boilers, and TRUs would occur in 2026. All of these emissions were modeled together to estimate the maximum 1-hour NO₂ concentration even though the emissions would not actually occur simultaneously. This is a relatively conservative approach used to limit the number of modeling runs to a reasonable number (e.g., 100 modeling runs vs. 300 hundred).
 - The modeling approach sums peak 1-hour NO₂ concentrations from each source category even if the concentrations would occur during different hours of meteorological data. This is a relatively conservative approach done to reduce the time required to run large modeling files.
 - To obtain the total federal 1-hour NO₂ concentration, the maximum modeled NO₂ concentration (which is the 98th percentile of the daily maximum 1-hour averages) was added to the background concentration. The background concentration represents the 3-year average of the 98th percentile of the daily maximum 1-hour averages of monitored concentrations. Adding the maximum modeled project concentration to the high background concentration is conservative because the maximum project concentration may actually occur when the background concentration is much lower than the background concentration described above.
4. In addition to the reasons specified above, a project-level exceedance of an AAQS does not indicate that the air basin's attainment status would be compromised, for the following reasons:
 - Figure R.7 in the Draft EIS/EIR Response to Comments shows that area of NO₂ AAQS exceedance for the CEQA Project would not overlap the North Long Beach station. The North Long Beach station is the station closest to the project site that is used by SCAQMD and CARB in determining attainment of the air basin with AAQS. This analysis indicates that the project would not compromise the air basin's attainment status.
 - Consistent with SCAQMD guidance, localized NO₂ impacts for the CEQA Project were determined by adding the Project increment to the nearest and/or most appropriate background monitor concentrations and compared against the AAQS to determine significance.

In the case of the YTI Terminal, the Terminal Island Treatment Plant (TITP) monitoring station was used to assess the background NO₂ concentration. The TITP

station is close to the YTI Terminal and as such picks up the contribution from the existing YTI Terminal. The TITP station is also close to several other terminals and therefore represents the combined effect from facilities in the vicinity of the YTI Terminal. The NO₂ concentration measured at the TITP has never exceeded the 1-hour federal NO₂ AAQS. As such, the combined contributions of YTI and other terminals and facilities in the area has not compromised NO₂ attainment in the area. This finding also confirms that air dispersion models are over-predictive and do not reflect actual conditions, although they are useful as tools in comparing one project to another or one alternative to another.

- In addition, because the TITP station is close to several other terminals and therefore represents the combined effect from facilities in the vicinity of the YTI Terminal, it would be speculative to assume that the YTI terminal by itself causes or would cause an exceedance of the federal 1-hour NO₂ standard.

Maps Showing YTI Facility Exceedance of Federal Ambient Air Quality Standards for NO₂

As discussed in the response to the October 15, 2014 SCAQMD letter, the CEQA impact determinations for the proposed Project are based on the Project plus the background concentration (which includes the YTI facility) and not the operations of the entire YTI facility itself. As such, the figures provided in this letter do not represent a NEPA or a CEQA impact for the proposed Project. Additionally, as described above, the peak 1-hour NO₂ concentrations represent a conservative composite emissions scenario where the peak 1-hour emissions from each source category were modeled together even if they would occur in different analysis years.

The figures provided in the Final EIS/EIR indicate exceedance of federal 1-hour NO₂ over portions of Terminal Island and the community of San Pedro for both the existing YTI facility and the facility after implementation of the proposed Project. The LAHD also supports an air quality monitoring station in the community of San Pedro which overlaps with the area indicated as an area of exceedance and which monitors actual emissions from all sources in the area, not just the YTI terminal. Since monitoring of NO₂ began in 2008, there has been only a single exceedance of federal 1-hour NO₂ in December of 2010. The POLA Annual Monitoring Report indicates that the maximum NO₂ level at the San Pedro station during that time was twice as high as any of the other stations and predicts the exceedance was due to paving activities occurring during this time at a parking lot adjacent to the monitoring station and during a time of year when the existence of an atmospheric inversion layer is common. Based on actual air quality monitoring of all emission sources in the area of the monitoring station does not support the assertion that the existing YTI facility or the facility with implementation of the proposed Project causes or will cause the air basin to be in non-attainment status for the federal 1-hour NO₂ standard. Additionally, as described in the response to the SCAQMD's October 15, 2014 letter, the SCAQMD and CARB use the North Long Beach station to determine attainment of the air

basin with AAQS. The figures provided in SCAQMD's letter show that the modeled exceedance of the YTI facility do not overlap with that station.

The LAHD created figures showing the federal 1-hour NO₂ modeling results of the existing YTI facility (Figure A) and the facility with implementation of the proposed Project (Figure B). In response to the SCAQMD, the LAHD also created a figure showing the NO₂ modeling results of the facility at capacity if the proposed Project is not implemented (Figure C). A comparison of the facility at capacity with and without the proposed Project show very similar isopleths with very similar geographic coverage. This comparison shows that the proposed Project would have similar NO₂ emissions compared to the existing facility at capacity. As required by NEPA, the Final EIS/EIR discloses potentially significant direct, indirect and cumulative impacts and considers all feasible mitigation to reduce the severity of project-related adverse impacts.

Comment Letters

APPENDIX B

COMMENT LETTERS ON FINAL EIS/EIR

EXTERNAL YTI Final EIREIS.txt

From: Ian MacMillan [imacmillan@aqmd.gov]
Sent: Wednesday, October 15, 2014 6:35 PM
To: ceqacomment@portla.org; Stevens, Theresa SPL
Cc: Barry Wallerstein; Elaine Chang; Susan Nakamura; Ed Eckerle; Jillian Baker;
Peter Greenwald; Barbara Baird; Veera Tyagi
Subject: [EXTERNAL] YTI Final EIR/EIS
Attachments: YTI_FEIR_EIS.pdf

Comments regarding the above mentioned CEQA document are attached to this email. Should you have any questions, don't hesitate to contact me.

Regards,

Ian MacMillan

Program Supervisor

South Coast Air Quality Management District

21865 Copley Drive

Diamond Bar, CA 91765

(909) 396-3244

EXTERNAL RE YTI Final EIREIS-attorneyclient privilege.txt
From: Barbara Baird [BBaird@aqmd.gov]
Sent: Wednesday, October 15, 2014 7:06 PM
To: Ian MacMillan; ceqacomment@portla.org; Stevens, Theresa SPL
Cc: Barry Wallerstein; Elaine Chang; Susan Nakamura; Ed Eckerle; Jillian Baker;
Peter Greenwald; Veera Tyagi
Subject: [EXTERNAL] RE: YTI Final EIR/EIS-attorney/client privilege

Good letter. But it emphasizes the need to get going on our indirect source rule re NAAQS violations since this is another one that should realize it is better to avoid the violation in the first place than be subject to a rule that may require them to cut throughput if no other feasible options. We cannot tolerate indirect sources creating NAAQS violations.

Barbara Baird
District Counsel
SCAQMD
(909) 396-2302

P Please consider the environment before printing this email.

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From: Ian MacMillan
Sent: Wednesday, October 15, 2014 6:35 PM
To: ceqacomment@portla.org; Theresa.stevens@usace.army.mil
Cc: Barry Wallerstein; Elaine Chang; Susan Nakamura; Ed Eckerle; Jillian Baker; Peter Greenwald; Barbara Baird; Veera Tyagi
Subject: YTI Final EIR/EIS

Comments regarding the above mentioned CEQA document are attached to this email. Should you have any questions, don't hesitate to contact me.

Regards,
Ian MacMillan

Program Supervisor

EXTERNAL RE YTI Final EIREIS-attorneyclient privilege.txt

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SPL-2013-00113-TS

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Regulatory Division



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E-Mailed: October 15, 2014
ceqacomments@portla.org
Theresa.stevens@usace.army.mil

October 15, 2014

Chris Cannon
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U.S. Army Corps of Engineers
Los Angeles District, Regulatory Division
Ventura Field Office
ATTN: Theresa Stevens, Ph. D
2151 Alessandro Drive, Suite 110
Ventura, CA 93001

POLK

Final Environmental Impact Statement/Report (Draft EIS/EIR)
for the Proposed Berths 212-224 (YTI) Container Terminal Improvements Project

The South Coast Air Quality Management District (SCAQMD) staff appreciates the opportunity to submit comments on the Final EIS/EIR for the Proposed Berths 212-224 (YTI) Container Terminal Improvements Project. The SCAQMD staff reiterates the concerns raised in our June 27, 2014 comment letter on the Draft EIR/EIS. In particular, the project demonstrates significant air quality and health risk impacts that exceed SCAQMD thresholds and are not consistent with the San Pedro Bay Standards developed as part of the Clean Air Action Plan. In addition, as demonstrated in the project analysis, emissions from terminal operation on its own will exceed federal Ambient Air Quality Standards for NO₂. Besides affecting public health, exceedances of ambient air quality standards can have other repercussions (e.g., economic, regulatory, etc.) to the region due to the federal mandates to address the exceedance. Given these significant air quality and public health impacts, we request that the port reconsider the Final EIR/EIS conclusion that there is no feasible way to commit to Zero/Near-Zero Emissions (ZE/NZE) or other technologies to reduce these impacts.

SCAQMD staff believes that there are several mitigation measures that are available in the life of the project, and today, that can be feasibly implemented to reduce the impacts from project operations. In the next several years these include committing to using ZE/NZE trucks and cargo handling equipment, Tier 4 locomotives, and Tier 3 ocean going vessels. There are no commitments in the Final EIR to actually using any of these technologies.

There are also measures that should be considered today that were not discussed in the Final EIR. First, the port should evaluate the feasibility of using equipment similar to the 72 zero emission cargo handling vehicles purchased by Long Beach Container Terminal for the Port of Long Beach Middle Harbor project.¹ It is our understanding that the decision to purchase these vehicles (that are onsite today) was not required as CEQA mitigation, but rather that these vehicles would be beneficial to the terminal operator. Second, the port should evaluate the ability of the terminal operator to incentivize ZE/NZE trucks. As an example, the terminal operator could provide incentives (e.g., expedited access, reduced fees, etc.) at the gate or in the terminal for ZE/NZE trucks.

We appreciate your willingness to consider these comments, and we look forward to continuing to work with you in developing clean air strategies. If you have any questions, don't hesitate to contact either Susan Nakamura at (909) 396-3105, or myself at (909) 396-3244.

Sincerely,



Ian MacMillan
Program Supervisor
Planning, Rule Development, and Area Sources

¹ http://www.terex.com/port-solutions/en/static/UCM03_074576_Latest_1_UCM03_074576_Web.pdf

**APOSTOLIC FAITH CENTER
CALIFORNIA KIDS IAQ
CALIFORNIA NURSES ASSOCIATION
COALITION FOR A SAFE ENVIRONMENT
COMMUNITIES FOR A BETTER ENVIRONMENT
COALITION FOR CLEAN AIR
COMMUNITIES FOR CLEAN PORTS
COMMUNITY DREAMS
EARTHJUSTICE
EAST YARD COMMUNITIES FOR ENVIRONMENTAL JUSTICE
NATURAL RESOURCES DEFENSE COUNCIL
REGIONAL ASTHMA MANAGEMENT & PREVENTION
SAN PEDRO AND PENINSULA HOMEOWNERS COALITION
SAN PEDRO HOMEOWNERS UNITED
SIERRA CLUB
SOUTH BAY 350 CLIMATE ACTION GROUP**

October 15, 2014

Board of Harbor Commissioners
Port of Los Angeles
425 South Palos Verdes St.
San Pedro, CA 90731
commissioners@portla.org

Re: Agenda Item No. 14—YTI Terminal Expansion

Dear President Martinez and Members of the Commission:

On behalf of undersigned organizations, we submit these comments on the Final Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) for the YTI Terminal. Overall, we are disappointed with this project proposal. The project suffers from several flaws, and this letter highlights a few of the major problems with the EIR/EIS. We recommend that the project be sent back to staff to cure significant defects.

The YTI expansion project negatively impacts the health of the harbor community, the health of the region, and the health of the planet. On the local level, this project, which does very little to shift away from reliance on dirty diesel equipment, exceeds the health risk commitment the Port of Los Angeles made in the Clean Air Action Plan. Specifically, the project will exceed the 10 in a million health risk that the Port of Los Angeles committed not to exceed. On a regional level, this project emits significant Nitrogen Oxide (NOx) emissions, which leads to ozone formation. As the Port is aware, the South Coast Air Basin suffers from some of the worst air quality in the nation. We need the largest emitters of pollution, like the Port of Los Angeles, to do their part in solving problems associated with this pollution. This project does not do its part, and in fact, makes the smog problem worse. Finally, in 2026, the EIR/EIS notes that the

YTI Terminal Expansion

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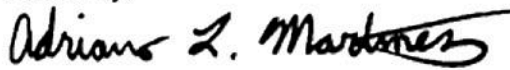
10/15/2014

project is slated to emit seven times what is considered significant for greenhouse gas emissions. The impacts of climate change are real and prevalent, and we need to dramatically curb greenhouse emissions. The project should include more strategies to reduce harmful climate pollution and not defer important mitigation measures for more than a decade.

Finally, we are concerned about the haste in which this project is proceeding. The public first became aware of the vote on this project on Friday of last week. A mere three business days to review the thousands of pages of documents is insufficient for a project of this magnitude. Moreover, the public hearing is being held at a time that is not conducive for the public to actually participate in the hearing. Given this haste and the import of this decision, the Port should provide more time to vet this project proposal.

We respectfully request that the Board of Harbor Commissioners not approve this project on Thursday, and in turn, send the project back to port staff to cure the many deficiencies identified by our groups and others. We appreciate your consideration of these comments.

Sincerely,



Adriano L. Martinez
Staff Attorney
Earthjustice

Pastor Alfred Carrillo
Apostolic Faith Center

Fernando Losada
California Nurses Association

Jesse N. Marquez
Executive Director
Coalition For A Safe Environment

Joseph K. Lyou, Ph.D.
President & CEO
Coalition for Clean Air

Alicia Rivera
Organizer
Communities for a Better Environment

YTI Terminal Expansion
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10/15/2014

Giselle Fong
Executive Director
Communities for Clean Ports

Drew Wood
Executive Director
California Kids IAQ

Ricardo Pulido
Executive Director
Community Dreams

Mark Lopez
Executive Director
East Yard Communities for Environmental Justice

Morgan Wyenn
Project Attorney
Natural Resources Defense Council

Joel Ervice
Associate Director
Regional Asthma Management & Prevention (RAMP)

John G. Miller MD, FACEP
President
San Pedro & Peninsula Homeowners Coalition

Chuck Hart
President
San Pedro Peninsula Homeowners United, Inc

George Watland
Sr. Chapter Director
Sierra Club

Joe Galliani
Organizer
South Bay 350 Climate Action Group

***Individual Signatory – Ann Cantrell



EARTHJUSTICE

ALASKA CALIFORNIA FLORIDA MID-PACIFIC NORTHEAST NORTHERN ROCKIES
NORTHWEST ROCKY MOUNTAIN WASHINGTON, DC INTERNATIONAL

October 16, 2014

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**RE: COMMENTS ON BERTHS 212-224 YTI CONTAINER TERMINAL
IMPROVEMENTS PROJECT FINAL ENVIRONMENTAL IMPACT
STATEMENT (FEIS)/FINAL ENVIRONMENTAL IMPACT REPORT (FEIR)**

Dear Dr. Stevens, Mr. Cannon, and Members of the Board of Harbor Commission:

I submit these comments on the Final Environmental Impact Report (FEIR)/Environmental Impact Statement (FEIS) for the YTI Terminal. The project suffers from several flaws that have been identified by several commenters that have not been sufficiently addressed in the FEIR/FEIS. However, this letter seeks to highlight a few of the major flaws in the FEIS/FEIR.

I. The FEIR/FEIS Ignores Important Applications Where Electrification Has Been Proven Feasible.

The Port has failed to demonstrate the infeasibility of including electrification components in this Project. For example, the Port ignores applications of electrified technology

that is taking place at the Port of Long Beach, including the electric cargo handling equipment being used at Long Beach Container Terminal.

II. The Project Exceeds the Health Risk Threshold Promised in the Clean Air Action Plan.

The Port pledged in the Clean Air Action Plan¹ not to approve projects with an additional increase in cancer risk of 10 in a million or more. The YTI project exceeds this limit. This knowing disregard for the health and lives of those who reside in the Harbor Region is incompatible with the promises made by the Port and the spirit of CEQA.² The CAAP was explicit in its directive that “Projects *must* meet the 10 in 1,000,000 excess residential cancer risk threshold.”³ Nonetheless, this Project seeks special approval to endanger the public with a cancer risk level exceeding the pledged threshold. This is completely unacceptable and harbor region residents deserve better. Moreover, even levels below the 10 in 1,000,000 cancer risk are important given the cumulative risk associated with living in port adjacent communities. These risks are also concerning given that new scientific evidence demonstrates that the health risk protocol underestimates risks by up to 3 times.⁴

III. The Project Interferes with An Applicable Air Quality Implementation Plan and Achieving Air Quality Standards.

This project extends beyond the attainment date for both the 1-hour and 8-hour ozone standards. Thus, the FEIR/FEIS and the Findings of Fact and Statement of Overriding Consideration incorrectly conclude that “the proposed Project would not conflict or obstruct implementation of an applicable Air Quality Management Plan (AQMP).”⁵ Unfortunately, the FEIR/FEIS fails to disclose that the most recent AQMP approved by EPA, which took effect on October 3, 2014, relies on achieving reductions in many of the exact same emissions sources at this facility on a much more expeditious timeframe.⁶ None of the evidence provided in the FEIR/FEIS shows that this project, which increases Nitrogen Oxide (“NOx”) emissions, does not interfere with this applicable attainment plan. In particular, the FEIR/FEIS arguments about providing projections to the Southern California Association of Governments (“SCAG”) ignores an important aspect of the attainment problem.

¹ San Pedro Bay Ports Clean Air Action Plan (“CAAP”) (2010), *available at* <http://www.portoflosangeles.org/environment/caap.asp>.

² See Cal. Pub. Resources Code § 21002.1 (b) (“Each public agency shall mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so.”).

³ CAAP, at 51 (italics added).

⁴ SCAQMD Presentation, Potential Impacts of New OEHHA Risk Guidelines on SCAQMD Programs, *available at* <http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2014-may-specsess-8h.pdf?sfvrsn=4> [Attached as Exhibit A].

⁵ Findings of Fact and Statement of Overriding Considerations, at 16.

⁶ See 79 Fed. Reg. 52,526 (Sep. 3, 2014).

Conveniently, the FEIR/FEIS ignores that the 2012 Regional Transportation Plan for the SCAG region the concluded the following:

While emissions from goods movement are being decreased through efforts such as the San Pedro Bay Ports Clean Air Action Plan, these reductions are unlikely to be sufficient to meet regional air quality goals.⁷

The SCAG report further elaborated the following:

It is a regional priority to reduce and mitigate the environmental impacts of moving goods through our region. Ships, trucks, trains and other goods movement equipment are among the largest contributors to regional air pollution, which must be reduced to comply with federal law. Freight emissions contribute to local health risks, which have raised community concerns and opposition, challenging some freight infrastructure projects. Criteria pollutants such as [] NOX, PM2.5, SOX, and CO can have significant public health impacts, including asthma and other respiratory ailments, increased stress, and increased cancer risk. In addition, noise, safety issues, aesthetic changes, vibrations, and natural resource depletion impact quality of life and may have health implications.

Freight transport is also a major producer of greenhouse gas emissions and a user of energy in the form of diesel fuel; cleaner sources of secure, reliable energy must be part of the solution. Much of the SCAG region does not meet federal ozone and fine particulate air quality standards as mandated by the federal Clean Air Act. NOX released from goods movement activities combines with volatile organic compounds (VOCs) in the atmosphere to form ozone pollution. In the South Coast Air Basin, there is a strict deadline to reduce ozone concentrations to 80 parts per billion (ppb) by 2023 with a future deadline of 75 ppb by approximately 2031. Failure to adopt sufficient measures to attain these standards in a timely manner will trigger federal sanctions such as curtailment of transportation funds. To attain the federal ozone standards, the region will need broad deployment of zero-and near-zero-emission technologies in the 2023 to 2035 timeframe.⁸

Thus, it is disingenuous to claim this project does not interfere with an applicable implementation plan because the project does not include the deployment of zero emissions technologies necessary to achieve air quality standards. Moreover, the project interferes with attainment of the state and federal 1-hour ozone standard, which the region failed to meet in November of 2010. The newly approved attainment plan for the 1-hour ozone standard requires broad reductions of emissions in the amount of 150 tons per day from Clean Air Act section 182(e)(5) measures, many of which will come from the freight sector given "Ships, trucks, trains and other goods movement equipment are among the largest contributors to regional air pollution."⁹

⁷ SCAG, 2012-2035 RTP, Goods Movement Appendix, at 12, *available at* [http://rtpscs.scag.ca.gov/Documents/2012/final/SR 2012JRTP GoodsMovement.pdf](http://rtpscs.scag.ca.gov/Documents/2012/final/SR%2012JRTPGoodsMovement.pdf).

⁸ *Id.* at 38.

⁹ *Id.*

By utterly failing to acknowledge this interference with the applicable plan and overall achievement of federal and state air quality standard, the FEIR/FEIS misleads the Commission and the public about the consequences associated with moving forward with this project.

Finally, the FEIR/FEIS articulates that the lease measures and the technology review mitigation measure could be effective in achieving the deep penetration of zero and near zero emission technologies necessary for the region to meet clean air standards. However, these measures assure no change from business as usual, and given their weak language will not result in the deep emissions cuts necessary to meet clean air standards and implement the applicable attainment strategies outlined in the most recent clean air plan.

IV. The Project Should Mitigate or Offset the Entire Amount of Significant Greenhouse Gas Emissions (GHG).

This project will emit GHG emissions almost seven times higher than significance threshold for GHG under CEQA in 2026.¹⁰ Moreover, the EIR/EIS indicates that there will be emissions well above significance in the years 2017 and 2020. Thus, the EIR/EIS provides insufficient rationale for the contours of MM GHG-4. First, the mitigation measure should be required sooner than 2026. There is no basis for failure to mitigate the GHG emissions in the 2017 timeframe.¹¹ Here, the impacts from the Project occur much sooner than 2026.¹² In years 2017, 2020 and 2026, the FEIR/EIS reveals significant GHG emissions in all project years. Thus, deferring mitigation “until 2026”¹³ violates CEQA’s contemporaneous mitigation requirements.

Second, the FEIR/FEIS arbitrarily excludes requiring offsets for the entire amount of emissions above significance levels. MM-GHG-4 only requires mitigation of 16,380 metric tons of the GHG emissions by 2026. This approach is arbitrary for several reasons. Initially, the FEIR/FEIS does not even mitigate the entire emissions associated with electricity use. The FEIR/FEIS completely fails to explain why it would only mitigate a subset of electricity use. It even fails to articulate what parts of the energy use were excluded from mitigation and why. Moreover, this approach is arbitrary because it fails to explain why other GHG emissions cannot be offset. While it would be preferable to offset emissions from terminal operations through strategies at the terminal, the FEIS/FEIR provides no explanation why it cannot fully mitigate the impact of GHG emissions through mitigation measures, including offsets.

The FEIR/EIS’s explanation for why it can ignore mitigation of its entire GHG emissions burden is based on claims that the \$10 million figure suggested by the Earthjustice comment

¹⁰ DEIR/DEIS, at 3.6-38.

¹¹ See *POET, LLC v. California Air Resources Board* (2013) 218 Cal.App.4th 681, 740 (“mitigation itself cannot be deferred past the start of the project activity that causes the adverse environmental impact”).

¹² FEIR/EIS, at 3.6-37 -38 [Table 3.6-7]. The analysis concludes the following amounts of GHG pollution: 34,974 MMTCO₂E (2017), 55,844 MMTCO₂E (2020), and 79,760 MMTCO₂E (2026).

¹³ FEIR/FEIS, at 3-7.


letter on the DEIR/EIS “is not sufficiently related to the project impacts.”¹⁴ This argument is incorrect. Importantly, even if the Port disagrees with the \$10 million figure, this does not absolve the FEIR/FEIS of its duty to implement all feasible mitigation measures. Offsetting project emissions has been determined feasible, even in this project, which has agreed to offset a subset of the project emissions in the amount of 16,380 metric tons. Moreover, the FEIR/FEIS ignores the fact that emitting almost 8 times the significance threshold for GHG emissions also results in major cumulative impacts, and thus, the \$10 million figure is tied to actual impacts from the project.

V. The Project Misses the Opportunity to Invest in Climate Mitigation in Wilmington and San Pedro.

This project will have significant GHG emissions impacts, in addition to important public health impacts. The FEIR/FEIS fails to address the potential to provide GHG offsetting projects in the already overburdened communities of Wilmington and San Pedro. In fact, the major climate implications of this project require that the Port implement GHG mitigation projects that have the added benefit of making the community more resilient in the face of climate change. These projects could include, but are not limited to, microgrids, solar installations in port adjacent areas, urban forests, and other projects that result in an equivalent amount of GHG reductions to address direct, indirect and cumulative GHG impacts.

I appreciate your consideration of these comments.

Sincerely,

A handwritten signature in black ink that reads "Adriano L. Martinez". The signature is written in a cursive, flowing style.

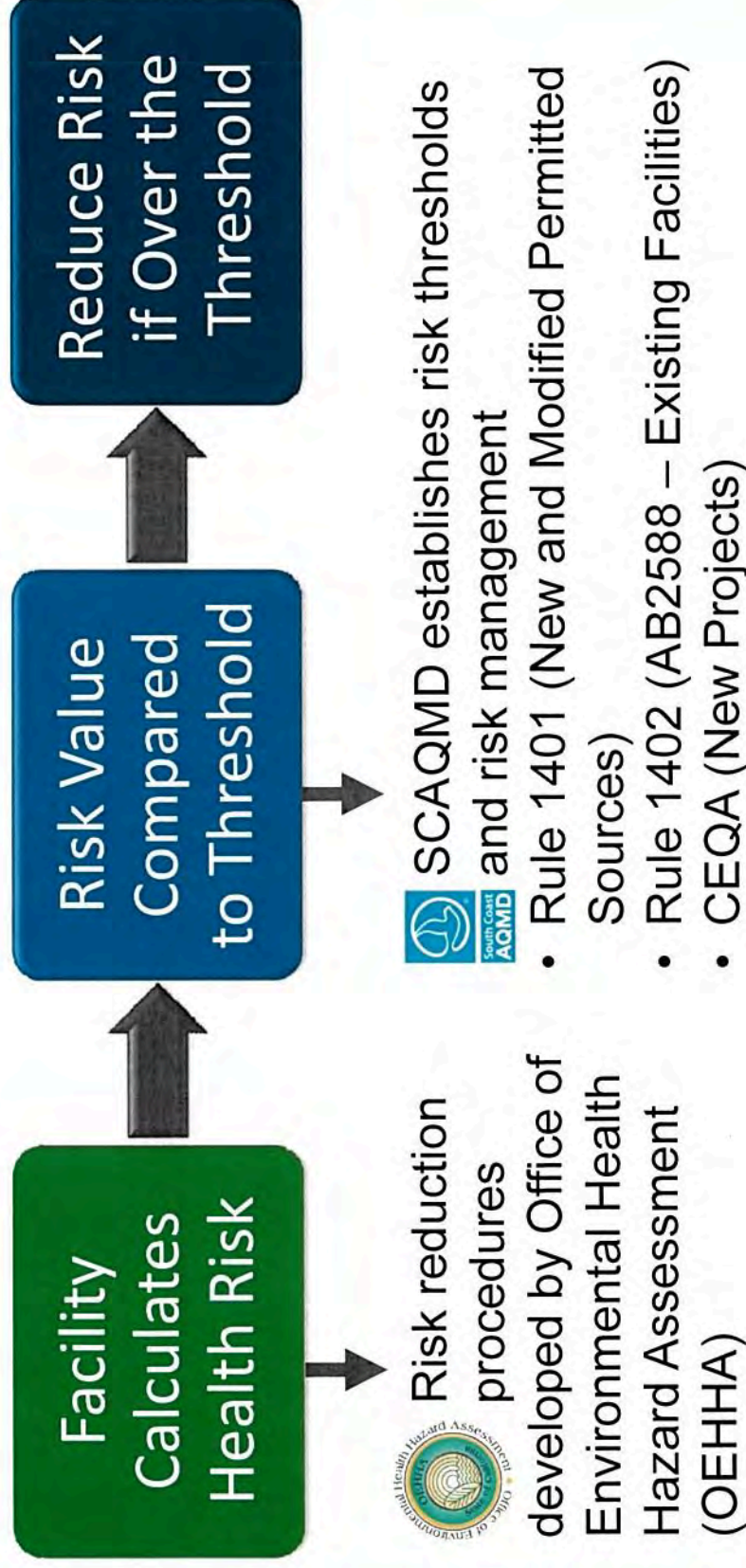
Adriano L. Martinez
Staff Attorney
Earthjustice

¹⁴ FEIR/FEIS, at 2-141.

Potential Impacts of New OEHHA Risk Guidelines on SCAQMD Programs

Cleaning the Air That We Breathe...

Overview Agency Responsibilities



OEHHA Guidance - Background

- OEHHA approved Health Risk Assessment (HRA) Guidance in 2003
- Scientific Review Panel (SRP) and OEHHA approved technical support documents
 - 2008 - Noncancer Reference Exposure Levels
 - 2009 - Cancer Potency Factors (age specific factors)
 - 2012 - Exposure Assessment (breathing rates and exposure duration)
- OEHHA revising HRA guidance to incorporate technical support document

OEHHA Risk Guidance Proposed Revisions

Age Specific Factors (2009 Cancer Potency Factors)

- Higher impacts to children

Breathing Rate (2012 Exposure Duration)

- Modified for different ages (e.g., higher for children)

Exposure Duration (2012 Exposure Duration)

- Reduced exposure duration (residential and worker)
- Lowest exposure period reduced from 9 years to 2 months



Result: Residential Risk ~3X Higher*

* Preliminary estimate/subject to change. Up to ~6X for multi-pathway.
Worker risks decline ~2%

Examples of Increased Risk at 3X's

Example	Cancer Risk from Current Guidelines (per million)	Approximate Risk from New Guidelines (per million)
MATES IV	422	1,266
San Bernardino Rail Yard – Max residential (2008)	2,500	7,500
Gas Station (Costco) – Max residential	15	45

- Cancer Burden impacts may be larger (5-10x) than maximum cancer risk impacts
- 1 per million contour limit could extend 2-3x farther



Impact to SCAQMD Risk-Based Programs

- All risk-based programs will be affected
 - New and modified permits (R1401 and 1401.1)
 - Existing facilities (R1402 and some source-specific rules)
 - New projects (CEQA)

Potential Permitting Impacts

Rule 1401

- Number of sources subject to public notification could be high
- Number of sources unable to obtain permits could be high
 - Throughput limits too low to operate
 - Control equipment unavailable or too costly
 - Examples include gas stations, auto body, soil remediation
- Significant increase in permit workload likely
 - Fewer facilities will be able to use screening analysis

Potential Existing Source Impacts

Rule 1402

- Public notices
 - 2 to 3 times more facilities may be required to conduct public notices
 - 5 to 10 times more notices to households
- Risk management
 - ~80 percent of facilities with an HRA may need to update HRA
 - More facilities expected to be subject to risk reduction measures (R1402)
 - Industry-wide categories may be heavily impacted (e.g. >400 gas stations)

CEQA Program Impacts

- Intergovernmental Review
 - 6 months construction impacts from a typical 1-acre office project could cause significant risk
 - 1 lb/day of DPM for 6 months = risk > 10 per million
- Lead agency projects
 - 10 of 16 projects in two year sample period would have needed to upgrade to EIR's
 - Due to construction

Initial Staff Recommendations

- Rely on risk management to address changes in risk assessment methodologies
- Develop statewide toxic communication tools to explain OEHHHA procedure changes
- Maximize programmatic risk reduction opportunities through source-specific rulemaking
 - Reduce administrative costs
- Develop a work plan to phase in and to prioritize implementation of the revised OEHHHA procedures
 - Explore ways to minimize program implementation costs

Coalition For A Safe Environment

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October 16, 2014

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Re: Berths 212-224 (YTI) Container Terminal Improvements Project (Yuesen terminals, Inc.)
Final Environmental Impact Report (FEIR)
SCH No. 2013041017
APP No. 130204-020
SPL-2013-00810-TS

Su: Public Comments Regarding The Inadequacy of the Final EIR

The Coalition For A Safe Environment (CFASE) wishes to request the Port of Los Angeles Board of Harbor Commissioners (BOHC) vote to not approve the Berths 212-224 (YTI) Container Terminal Improvements Project and not certify the Final Environmental Impact Report (FEIR) for the following reasons:

1. The Port of Los Angeles failed to provide adequate time for the public to review, assess, compare, seek expert consultant opinion, validate information and prepare both verbal and written comments. The Port of Los Angeles provided only 6 calendar day's public notice for a Final EIR. On behalf of our members and public we request an extension of 60 calendar days to review a 7,000+ page FEIR document.
2. The Final EIR fails to require that YTI use the Advanced Maritime Emissions Control System (AMECS) Technology for ships unable to connect to POLA electric shorepower, for ships waiting at berth for unloading and for ships waiting in que outside the breakwater. THE FEIR failed to include a comprehensive assessment of the AMECS technology as a currently available, feasible and cost-effective mitigation measure for capturing ship emissions and reduction of ship emissions into the atmosphere. It has come to our attention that the EIR failed to assess the que waiting time at berth and outside the breakwater due to the unavailability of chassis to unload containers or other circumstances. As another example of delays, there recently was a fire in September of this year at another POLA terminal which required the stoppage of work on near-by ships and the relocation of near-by ships.

The AMECS technology has been demonstrated on over 50 ships over the past 4 years which have included: oil tankers, bulk loading and container ships. AMECS test results have shown reductions of:

PM	94.5%
NOX	99+%
SOX	98.5%
VOCs	99.5%

The current POLA Executive Director Gene Seroka, Environmental Director Chris Cannon and several other POLA staff witnessed a demonstration of the AMECS Technology on Tuesday October 14, 2014 at the Port of Long Beach.

The California Air Resources Board (CARB) has approved the AMECS Test Protocol and allows alternative emissions reductions and capture technologies to be used in lieu of electric shorepower.

We submit the following documents as further evidence of the validity of this technology:

- a. AMECS June 2014 Technology Performance Update
- b. AMECS January 23, 2013 Final Report-Demonstration of AMECS on an Ocean-Going Vessel While Berthed
- c. AMECS December 31, 2013 Press Release
- d. AMECS System Description & Cost Effectiveness vs Shorepower

CFASE further declares that in the previous Draft EIR & Final EIR for the POLA BNSF SCIG Project further AMECS documentation was submitted and is requested to be part of these public comments.

3. The Final EIR fails to require that YTI assess and mitigate increased toxic air pollution from locomotive diesel emissions at railroad yards that will transport YTI containers, service, maintain and repair locomotive engines. The Final EIR fails to require that YTI include the Advanced Locomotive Emissions Control System (ALECS) Technology for locomotive trains as a currently available, feasible and cost-effective mitigation measure for capturing diesel locomotive emissions and reduction of locomotive train emissions into the atmosphere, releasing greenhouse gases, impacting the environment and public health.

We submit the following documents as further evidence of the validity of this technology:

- a. ALECS General Information
 - b. ALECS April 2, 2007 TIAX Evaluation of the ALECS -ALECS Proof-of-Concept Testing at Union Pacific J.R. Davis Rail Yard in Roseville, California
 - c. ALECS February 26, 2007 EF&EE Emission Measurements on the ALECS at the J.R. Davis Rail Yard
4. The Final EIR fails to require that YTI assess and mitigate increased and/or continuing release of toxic air pollution from diesel trucks servicing the YTI Terminal. The Final EIR fails to require that YTI use zero-emissions trucks which are currently available, will soon be available, are feasible and cost-effective mitigation measure for eliminating diesel truck emissions from being released into the atmosphere, releasing greenhouse gases, impacting the environment and public health.

The California Air Resources Board (ARB) has certified Vision Motor Corp Electric/Hydrogen Fuel Cell Class VIII Drayage Trucks for sale in the state of California as a zero emissions truck.

The Vision Motor Corp Electric/Hydrogen Fuel Cell Class VIII Drayage Truck was able to successfully complete a full duty cycle (7-container per day) at a lower cost per mile when compared to a traditional diesel truck.

We submit the following documents as further evidence of the validity of this technology:

- a. ARB March 18, 2013 Certification Letter Ref. No. CIHD-2013-002
 - b. Tyrano BNSF Trials test report October 2-24, 2012
5. The Final EIR failed to include a comprehensive Health Impact Assessment (HIA) and Public Health Survey of the impacted harbor communities would have disclosed the serious increased public health impacts of the currently operating YTI Container Terminal and the proposed Expansion Improvements Project. CFASE has requested numerous times in the past that an HIA be included as a standard practice in all POLA EIR's. The Ports reliance on an outdated Health Risk Assessment and limited supplemental other health information fails to identify significant numbers of health impacted residents, their existing health problems and/or premature death. CFASE has previously submitted Expert opinion on the benefits of an HIA vs an HRA or as a supplement to an HRA which was ignored by the Port.

CFASE also submits with this Final EIR public comments a Health Impact Assessment Bibliography of 138 HIA abstracts and technical documents describing the benefits of an HIA which overwhelmingly validates our request.

CFASE also resubmits with these Final EIR public comments a copy of the CFASE Public Health Impact Studies List which contains hundreds of scientific medical research studies describing the health impacts of the Ports and Tenants

Without an HIA and/or Public Health Survey the Port has no Public Health Baseline of which to accurately know the depths of its public health impacts, base its decisions on the type and amount of mitigation and the mitigation funds necessary to off-set the impacts and reduce the negative impacts to less than significant. As an example and as identified in previous public comments:

- a. The Port can provide no accurate information of the number of Harbor, Freight Transportation Corridor and Distribution Center Residents, Sensitive Receptors and Port Industry Workers afflicted with Asthma, Bronchitis, Sinusitis, Emphysema, COPD, Lung Cancer or any other health problem. For example: The FEIR contains no rates of asthma for children or adults in Wilmington, San Pedro, Carson or West Long Beach the most common community health factor measurement reference and one of the most common air pollution respiratory health problem. With no baseline rate it is impossible to determine if public health is improving or getting worse as a result of the ports expansion and operations.
- b. The Port can provide no accurate information on the severity of public health problems, the length of time afflicted, loss of income, cost of health care, permanent disabilities or the availability of necessary health care services, medicines or equipment.
- c. The Port can provide no accurate information on the number of people who have died from COPD, an Acute Asthma Attack, Lung Cancer or any other respiratory disease, blood disease or other medical health condition as a result of its ports operations and freight transportation.
- d. An HIA can also disclose the loss of state funds which is a significant negative community socio-economic impact for local public schools due to missed school days, thus impacting the quality of education and services of children.
- e. An HIA can also disclose the loss of income, state and federal taxes from workers who must miss work due to ill family members or their own personal illness which is a significant negative community socio-economic impact to low income communities and also impacts the loss of revenues to support public services.

We submit our CFASE HIA Bibliography which contains 154 document citations which validate our request and the value of HIA's. We request that the POLA review each citation in its entirety to understand the value and necessity. We request that the POLA review each citation in its entirety to update the Final EIR to address the inadequacies and non-compliance issues.

We submit the following documents as further evidence of the validity of health Impact Assessments:

- a. Expert Witness Letter January 27, 2012
- b. Expert Witness CV

- c. Expert Witness Attachment: minimum Elements & Practice Standards for Health Impact Assessment
- d. US EPA May 5, 2010 Los Angeles & Long Beach Maritime Port HIA Scope
- e. CFASE HIA Bibliography

We submit our CFASE Bibliographies which contains over 1,000 document citations which validate our argument as to the inadequacies of the EIR's public health conclusions and proposed mitigation. We request that the POLA review each citation in its entirety to understand the value and necessity. We request that the POLA review each citation in its entirety to update the Final EIR to address the inadequacies and non-compliance issues.

- a. CFASE Public Health Impact Bibliography
 - b. CFASE Ports & Goods movement Public Health impacts – 48 Citations
6. The EIR has inadequate information on the Cumulative Impact of multiple health problems and negative socio-economic impacts to residents. As examples a San Pedro family member was denied by all health care insurance providers health insurance due to preexisting health and a Wilmington single parent mother could not afford filters for her son's nebulizer and was using paper towels. An HIA could have provided some of this important information, as well as a more comprehensive off-port tidelands land use nexus study.

We submit our CFASE Bibliographies which contains 100's document citations which validate our argument as to the inadequacies of the EIR's lack of Cumulative Impact conclusions and proposed mitigation. We request that the POLA review each citation in its entirety to understand the value and necessity. We request that the POLA review each citation in its entirety to update the Final EIR to address the inadequacies and non-compliance issues.

- a. CFASE Public Health Impact Bibliography – 54 Citations
 - b. CFASE Ports & Goods movement Public Health impacts Bibliography – 48 Citations
 - c. CFASE Rail Road Industry Bibliography – 89 Citations
7. The project discusses that the YTI project will have built new On-Dock Rail but fails to disclose that the On-Dock Rail proposed at this facility is not the most efficient logistics design. The On-Dock Rail is not being built "dock-side to ships" so that containers can be unloaded directly to a train for transport out of the POLA. But is in fact being built on the opposite side, which will still require 1-2 additional container moves at a higher labor cost and increased logistic transport time.
8. The YTI Project Proposal proposes to use out-dated diesel fuel polluting locomotive rail transport instead of 21st Century Technologies such as a Zero Emissions and Near Noiseless MagLev Train. All electric MagLev trains can also travel 2x-3x faster than traditional locomotive trains and do not need to connect 200 or more cars to be transported. American MagLev Technologies, Inc. has proposed to build a demonstration project for the POLA, but the POLA has refused to allow a Demonstration Project. The 2006 Port adopted Clean Air Action Plan (CAAP) states that a Demonstration Project of Zero Emissions Container Movement System (ZECMS) technologies will be performed within 5 years

and the Port has failed to comply with the CAAP. There are currently 3 companies which have test demonstration tracks built at their manufacturing locations.

9. The Final EIR failed to include a comprehensive assessment of the Environmental Justice Community and Non-Discriminatory Impacts. The EIR fails to comply with federal, state and city executive orders, polices, directives and programs on Environmental Justice and Non-Discrimination. More detailed information could have been provided had there been more public participation and public comment time allowed. No expert Environmental Justice Consultant was hired to address this issue. The hiring of expert consultants is a standard practice of the POLA.

We submit our CFASE Bibliography which contains 100's document citations which validate our argument as to the inadequacies of the EIR's lack of Environmental Justice Community and Non-Discriminatory Impact conclusions and lack of proposed mitigation. We request that the POLA review each citation in its entirety to understand the value and necessity. We request that the POLA review each citation in its entirety to update the Final EIR to address the inadequacies and non-compliance issues.

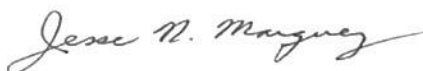
- a. CFASE Environmental Justice Bibliography – 118 Citations
- b. CFASE Public Health Impact Bibliography – 54 Citations
- c. CFASE Ports & Goods movement Public Health impacts Bibliography – 48 Citations
- d. CFASE Rail Road Industry Bibliography – 89 Citations

Coalition For A Safe Environment Mission Statement is - To protect, promote, preserve and restore our Mother Earth's delicate ecology, environment, natural resources and wildlife. To attain Environmental Justice in international trade marine ports, goods movement transportation corridors, petroleum and energy industry communities. CFASE has members in over 25 cities in Los Angeles County.

The Coalition For A Safe Environment declares that these public comments submitted include all previous submitted public comments in their entirety as part of the official record.

The Coalition For A Safe Environment reserves the right to submit additional public comments as may be deemed necessary.

Respectfully Submitted,

A handwritten signature in cursive script, reading "Jesse N. Marquez".

Jesse N. Marquez
Executive Director

And as an individual negatively health and socio-economically impacted resident of Harbor City living near the proposed project.

Drew Wood
Executive Director
California Kids IAQ
Wilmington, CA

Ricardo Pulido
Executive Director
Community Dreams
Wilmington, CA

Pastor Alfred Carrillo
Apostolic Faith Center
Wilmington, CA

YTI CONTAINER TERMINAL IMPROVEMENTS PROJECT FINAL ENVIRONMENTAL IMPACT STATEMENT (FEIS)FINAL EN

From: Adrian Martinez [amartinez@earthjustice.org]
Sent: Thursday, October 16, 2014 8:01 AM
To: 'commissioners@portla.org'; 'ceqacomment@portla.org'; Stevens, Theresa SPL
Cc: Adrian Martinez
Subject: [EXTERNAL] COMMENTS ON BERTHS 212-224 YTI CONTAINER TERMINAL IMPROVEMENTS PROJECT FINAL ENVIRONMENTAL IMPACT STATEMENT (FEIS)/FINAL ENVIRONMENTAL IMPACT REPORT (FEIR)
Attachments: YTI Final EIR-EIS Legal Comments 10-16-2014.pdf; Exhibit A 10-16-2014.pdf

Please find the attached comments on the YTI terminal expansion project. Please include this in the record for the EIR/EIS.

Also, please include these comments in the CEQA record for Agenda Item No. 14 at the October 16, 2014 Harbor Commission Meeting.

Thanks,
Adrian

Adrian Martinez
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Public Comments Submission - Berths 212-224 (YTI) Container Terminal Improvements Project Port of Los Angeles

From: Jesse Marquez [jnm4ej@yahoo.com]
Sent: Thursday, October 16, 2014 8:23 AM
To: Cega Comments; kgrant@portla.org; Chris Cannon; Stevens, Theresa SPL
Cc: Jesse Marquez; Jesse Marquez; Adrian Martinez; Drew Wood; Ricardo Pulido; Pastor Carrillo
Subject: [EXTERNAL] Public Comments Submission - Berths 212-224 (YTI) Container Terminal Improvements Project Port of Los Angeles
Attachments: CFASE Yuesen Terminal Inc. Final EIR Public Comments 10-16-2014.docx

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2151 Alessandro Drive, Suite 110
Ventura, CA 93001
805-585-2146
theresa.stevens@usace.army.mil

Re: Berths 212-224 (YTI) Container Terminal Improvements Project (Yuesen Terminals, Inc.)
Final Environmental Impact Report (FEIR)
SCH No. 2013041017
APP No. 130204-020
SPL-2013-00810-TS

Su: Public Comments Regarding The Inadequacy of the Final EIR

The Coalition For A Safe Environment (CFASE) wishes to request the Port of Los Angeles Board of Harbor Commissioners (BOHC) vote to not approve the Berths 212-224 (YTI) Container Terminal Improvements Project and not certify the Final Environmental Impact Report (FEIR) for the following reasons:

Note: 1. See attachment
2. Hard copy attachments will be hand delivered to the POLA

Jesse N. Marquez
Executive Director

Public Comments Submission - Berths 212-224 (YTI) Container Terminal Improvements Project Port of Los Angeles

From: Ricardo Pulido [mr.rpulido@gmail.com]
Sent: Thursday, October 16, 2014 3:47 PM
To: Jesse Marquez
Cc: Cega Comments; kgrant@portla.org; Chris Cannon; Stevens, Theresa SPL;
Jesse Marquez; Adrian Martinez; Drew Wood; Pastor Carrillo
Subject: [EXTERNAL] Re: Public Comments Submission - Berths 212-224 (YTI)
Container Terminal Improvements Project Port of Los Angeles

Hey, let's not forget truck idling, fumigation containers & impacted "Hot Spots" routes.....Ricardo/CFASE

On Thu, Oct 16, 2014 at 8:22 AM, Jesse Marquez <jnm4ej@yahoo.com> wrote:

October 16, 2014
Board of Harbor Commissioners (BOHC)
Port of Los Angeles (POLA)
Los Angeles Harbor Department
Christopher Cannon
Director of Environmental Management
Environmental Management Division
425 S. Palos Verde St., San Pedro, CA 90733-0151
ccannon@portla.org
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310-547-4643 Fax
Laura Masterson
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Kevin Grant
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kgrant@portla.org
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U.S. Army Corps of Engineers
Los Angeles District, Regulatory Division
Ventura Field Office
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Jesse N. Marquez
Executive Director

Public Comments Submission - Berths 212-224 (YTI) Container Terminal Improvements Project Port of

SP-2013-0113-TS

DEPARTMENT OF TRANSPORTATION
DISTRICT 7-OFFICE OF TRANSPORTATION PLANNING
100 S. MAIN STREET, MS 16
LOS ANGELES, CA 90012
PHONE (213) 897-9140
FAX (213) 897-1337
www.dot.ca.gov



Serious drought.
Help save water!

October 27, 2014

RECEIVED

OCT 30 2014

Regulatory Division

Mr. Christopher Cannon
Director of Environmental Management
425 S. Palos Verdes Street
San Pedro, CA 90731

U.S. Army Corps of Engineers
Los Angeles District, Regulatory Division
Venture Field Office
c/o Theresa Stevens, Ph.D.
2151 Alessandro Drive, Suite 110
Ventura, CA 93001

RE: Berths 212-224 [YTI] Container
Terminal Improvements Project
Vic. LA-710/PM 4.96, LA-47/PM 3.5,
LA-110/R0.93
SCH # 2013041017
Ref. IGR/CEQA No. 130415AL-NOP
Ref. IGR/CEQA No. 140506AL-DEIR
IGR/CEQA No. 141009AL-FEIR

Dear Mr. Cannon and Ms. Stevens:

This letter is a follow-up to Caltrans' comment letter dated June 12, 2014. Caltrans has the following comments after review of the Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Berths 212-224 [YTI] Container Terminal Improvements Project, SCH # 2013041017.

On page 2-63 of the FEIR, the report indicated that using the "Agreement Between City of Los Angeles and Caltrans District 7 On Freeway Impact Analysis Procedures," executed in October 2013, an assessment was conducted to further verify that additional State Highway System (SHS) locations behind the container in the Draft EIS/EIR do not need to be analyzed, as the criteria for warranting analysis was not satisfied. ***The agreement that is reference in your document only applies when the projects are developed and reviewed by the City of Los Angeles Department of Transportation. Port of Los Angeles is a separate Lead Agency and does not have an agreement with Caltrans.*** Port of Los Angeles is not reviewing this project under the management of Los Angeles Department of Transportation.

Mr. Christopher Cannon and Theresa Stevens, Ph.D

October 27, 2014

Page 2

In addition, Caltrans prepared a NOP letter dated on April 25, 2013 and met with the Lead Agency on July 18, 2013. The Lead Agency agreed to use the Caltrans Guide for the Preparation of Traffic Impact Studies. The Lead Agency also agreed to submit model assumption, ports trip generation, distribution for Caltrans review.

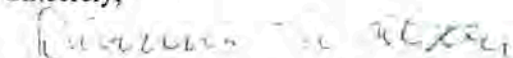
On September 9, 2014, Caltrans did receive select zone plots and provide feedback on September 18, 2014. On October 3, 2014, the Lead Agency provided some clarification to Caltrans' concerns. On October 6, 2014, the FEIR was circulated.

The AM/PM peak hour trips are significantly low. Without reviewing the modeling projection traffic data (Passenger Car Equivalent) during other periods, with and without the project for the project's worst case scenario, which would provide a clear picture of the project impact to the State facilities, Caltrans was not able to determine if the project would have a significant impact that would require improvements to the State facilities.

In the spirit of mutual cooperation, Caltrans would like to invite the Lead Agency, Port of Los Angeles to the Caltrans office to discuss our comment letters. Please contact this office at your earliest convenience to schedule a meeting in the near future.

If you have any questions, please feel free to contact Alan Lin the project coordinator at (213) 897-8391 and refer to IGR/CEQA No. 140803AL.

Sincerely,



DIANNA WATSON, Branch Chief
Community Planning & LD IGR Review

cc: Scott Morgan, State Clearinghouse

EXTERNAL YTI Public Comments_JMarquez email.txt

From: Jesse Marquez [jnm4ej@yahoo.com]
Sent: Tuesday, October 28, 2014 12:03 PM
To: Chris Cannon; Ceqa Comments; Laura Masterson; Stevens, Theresa SPL
Cc: Jesse Marquez; Drew Wood; Ricardo Pulido; Pastor Carrillo
Subject: [EXTERNAL] YTI Public Comments
Attachments: CFASE Yuesen Terminal Inc. Final EIR Public Comments
10-28-2014.docx; US
EPA Los Angeles and Long Beach Maritime Port HIA Scope 2010.pdf; Health
Impact Assessment Bibliography 10-28-2014.docx; Pregnant women &
Prenatal Air Pollution Health Impacts Bibliography 10-24-2014.docx

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Coalition For A Safe Environment

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October 28, 2014

Board of Harbor Commissioners (BOHC)
Port of Los Angeles (POLA)
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The Coalition For A Safe Environment (CFASE) wishes to request the Port of Los Angeles Board of Harbor Commissioners (BOHC) vote to not approve the Berths 212-224 (YTI) Container Terminal Improvements Project and not certify the Final Environmental Impact Report (FEIR) for the following reasons:

1. The POLA has stated that the rationale for not including a Health Impact Assessment (HIA) in the YTI EIR is because the POLA does not believe that one can be prepared for a specific Port Project or for the entire PORT Complex Operations because there are other neighboring polluting industries and it is impossible to distinguish the Port of Los Angeles air pollution impacts on public health. External air pollution and other negative impacts exist in all HIA Scenarios and do not prevent an HIA from being prepared. The POLA of Los Angeles further states that a Health Risk Assessment and other supplemental health information it has included in the EIR is adequate to identify all public health impacts and to determine appropriate mitigation. These conclusions are arbitrary and capricious for the following reasons:
 - a. The POLA has no expert staff, expert opinion letters, professional, scientific, medical or research information to support its claims. CFASE in its previous submitted public comments on the YTI EIR on 10-16-2014 submitted an, "Expert Opinion Letter" with numerous attachments. See attached letter.
 - b. The POLA failed to include in the Draft and Final EIR and failed to disclose to the POLA Board of Harbor Commissioners that the US EPA had prepared a 111 page, "Los Angeles & Long Beach Maritime Port HIA Scope on 5/17/2010 of which the POLA was part of a taskforce in its development." See previous CFASE public comment letter 10-16-2014.
 - c. The POLA failed to include in the Draft and Final EIR and failed to disclose to the POLA Board of Harbor Commissioners that the Port of Oakland had prepared and included an HIA for one of its projects. See CFASE attached HIA Bibliography.
 - d. The POLA failed to include in the Draft and Final EIR and failed to disclose to the POLA Board of Harbor Commissioners that an HIA had been prepared for the Baltimore-Washington Rail Intermodal Facility. See CFASE attached HIA Bibliography.
 - e. The POLA failed to conduct an adequate if any HIA document research or contact any individual, organization or consultant to determine if there were relevant and potentially applicable HIA's the POLA could consider and incorporate into the YTI EIR. Other HIA's which are relevant and potentially applicable include HIA's on: Transportation & Infrastructure Projects, Hidden Costs of Transportation, Road Transport Policies, Transport Interventions, Land Transport Planning, Land Use Planning, Land Development & Decision Making, Public Policy Making, Health Impact Equity & Metrics, Global Climate Change, Climate Variability & Change and Integrate Environmental Justice into Federal Environmental Regulatory Analysis. See CFASE attached HIA Bibliography.
 - f. CFASE has prepared and is submitting an updated Health Impact Assessment Bibliography of 181 relevant and applicable HIA's as part of our Public Comments which refute POLA's claims and assumptions. We request that they be read individually, collectively and compared to those documents the POLA has based its decision making and provide a matrix showing the advantages and disadvantages of an HIA vs HRA. See CFASE attached HIA Bibliography.

2. The POLA proposal to address new emerging zero emissions, near zero emissions and emission capture systems technology is unacceptable. POLA measure is to require in the lease agreements a review of technologies every 5 years and then to consider the technology into the project. The lease measure does not “mandate” that they incorporate the technology when it is available and feasible nor does POLA describe under what conditions or criteria a company must meet.
 - a. A 5 year waiting period for an assessment of new technologies is unacceptable when new technologies are being introduced into the market every year and approved every year. CFASE requests every 2 years as a minimum.
 - b. The incorporation of a new technology into a project must be “mandatory” when it has been certified, verified, a the test protocol approved and the technology passing the designated requirements by the California Air Resources Board (CARB) or other recognized regulatory governmental (US EPA, SCAQMD) or industry authority.
 - c. There are technologies that will meet a project or tenants business cycle requirements. The POLA sets its own standards without factual basis and justification. As an example the Vision Motor Corp Zero Emissions Hydrogen Fuel Cell Class VIII Drayage Truck and Yard Hostler can currently meet all short distance transport requirements of containers and cargo. CARB has certified the Tyranno Truck for sale in the state of California as a zero emissions truck. There are currently truck companies that service POLA that wish to purchase the Vision Motor Corp trucks. POLA claims that electric trucks cannot go over a large tall bridge or long distance, but the fact is that certain projects do not require all or even one truck to go over a tall bridge or long distance. POLA also describes some of the problems these new technologies have but also fails to state that traditional trucks, even new ones still have problems on occasion. We support the phase in of zero emissions trucks as soon as possible, with local travel or deliveries being the priority. We support the POLA allocating in its annual budget a percentage for zero emission vehicles, which is 100% discretionary funds to support the offsetting of costs for a zero emissions vehicle. The POLA has failed to disclose to the Board of Harbor Commissioners that although zero emissions vehicles have a higher initial purchase cost, they are more cost effective and profitable than traditional diesel fuel or natural gas trucks over the lifetime of the truck. We request that the YTI EIR include a phase in plan of zero emission trucks. See previous CFASE public comment letter 10-16-2014.
 - d. The AMECS-Advanced Maritime Emission Control System Technology has been tested on over 50 ships over 6 years, including dry bulk, liquid bulk and container ships at the Port of Long Beach. AMECS has been successfully tested on a 10,000 TEU Ship. CARB has approved the AMECS Test Protocol. The POLA has refused to allow ACTI to demonstrate the AMECS technology at the Port of Los Angeles. New POLA EO Gene Seroka, Chris Cannon, numerous POLA staff and past Commissioners have witnessed an AMECS demonstration. POLA has failed to disclose to the Board of Harbor Commissioners that the main reason it is not supporting the ACTI-AMECS technology is because it is supporting a competitor technology at TraPac, by a former POLA Commissioner. Nick Tonsich is a former POLA BOHC and also an attorney who has been recently disbarred by the state of California and is currently being sued by ACTI for numerous patent infringements. AMECS has been demonstrated on-dock by a ship, off-dock on

the ocean side of a ship on a barge connected to its side while berthed at a terminal and off-dock on a ship on a barge connected to its side in the harbor water not at berth. We request that the YTI EIR include the AMECS technology to capture ship emissions when a ship is not capable to plug into electric shorepower or if YTI chooses not to plug into shorepower. POLA has failed to disclose to the BOHC that the AMECS technology is more effective in capturing 94%-99% of all ship emissions as compared to electric shorepower and that is because the POLA AMP technology cannot capture a ships auxiliary engines emissions while at dock. See previous CFASE public comment letter 10-16-2014.

- e. The public has requested a MagLev Train Demonstration Project either on-port property or off-port property. American MagLev Technology, Inc. (AMTI) has proposed a demonstration project numerous times and the POLA has refused to allow the demonstration project even when AMTI volunteered to build it at no cost to the Port,, POLA has failed to disclose to the HBOC that AMTI and other companies have existing test tracks at their facilities. The Clean Air Action Plan states that POLA will conduct a demonstration project within 5 years and they have not.

3. POLA claims that it cannot address and mitigate all greenhouse gas (GHG) emissions on-site. This is unacceptable when we have already disclosed:

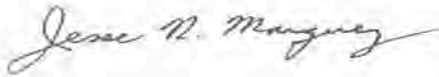
- a. There are several zero emissions freight transportation technologies and ship emissions capture technologies that will be available by the time the YTI Terminal Expansion Project is completed.
- b. POLA can expand its solar energy capacity at its terminals and at all property locations.
- c. POLA can mitigate GHG's off-port property. Examples of projects include:
 - i. Install Solar Energy at public schools.
 - ii. Install Solar Energy at parks, recreational centers, public buildings.
 - iii. Purchase electric and alternative fuel school buses.
 - iv. Purchase electric and alternative public transit buses.
 - v. Provide cash vouchers for local residents to purchase electric cars.
 - vi. Fund replacement of diesel fuel generators with solar and fuel cells.
 - vii. Electrify the Alameda Corridor. FYI Alameda Corridor was designed and built to be upgraded to electric.
 - viii. Fund the building and expansion of community green space parks, pocket parks and green landscaping.
 - ix. Replacing diesel fuel stations with bio-diesel fuel stations at port marinas and other off-port property fueling stations.

Coalition For A Safe Environment Mission Statement is - To protect, promote, preserve and restore our Mother Earth's delicate ecology, environment, natural resources and wildlife. To attain Environmental Justice in international trade marine ports, goods movement transportation corridors, petroleum and energy industry communities. CFASE has members in over 25 cities in Los Angeles County.

The Coalition For A Safe Environment declares that these public comments submitted include all previous submitted public comments in their entirety as part of the official record.

The Coalition For A Safe Environment reserves the right to submit additional public comments as may be deemed necessary.

Respectfully Submitted,

A handwritten signature in black ink that reads "Jesse N. Marquez". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

Jesse N. Marquez
Executive Director

And as an individual negatively health and socio-economically impacted resident
of Harbor City living near the proposed project.

Drew Wood
Executive Director
California Kids IAQ
Wilmington, CA

Ricardo Pulido
Executive Director
Community Dreams
Wilmington, CA

Pastor Alfred Carrillo
Apostolic Faith Center
Wilmington, CA

LOS ANGELES AND LONG BEACH MARITIME PORT HIA SCOPE

WORKING DRAFT

PREPARED BY:

HUMAN IMPACT PARTNERS



FOR:

THE UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY



Coalition For A Safe Environment

Health Impact Assessment

Bibliography

10.28. 2014

181 Citations

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AQMD_Berths 212-224 YTI Container Terminal Improvements Project.txt
From: Peter Greenwald [pgreenwald@aqmd.gov]
Sent: Thursday, October 30, 2014 6:25 PM
To: Ceqacomments; Theresa.Stevens1@usace.army.mil
Cc: Cannon, Chris; Christensen, Mike
Subject: Berths 212-224 [YTI] Container Terminal Improvements Project
Attachments: YTI_FEIR_EIS_ff-103014.pdf

Please find the comments of the South Coast Air Quality Management District (SCAQMD) for the Berths 212-224 [YTI] Container Terminal Improvements Project.

Our mailing address is below:

South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765

Thank you.

Peter Greenwald | Sr. Policy Advisor
South Coast Air Quality Management District
21865 Copley Drive | Diamond Bar, CA 91765
(909) 396-2111



South Coast Air Quality Management District

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E-Mailed: October 30, 2014

ceqacomment@portla.org

Theresa.stevens@usace.army.mil

October 30, 2014

Christopher Cannon
Director of Environmental Management
Los Angeles Harbor Department
P.O. Box 151
San Pedro, CA 90733-0151

U.S. Army Corps of Engineers
Los Angeles District, Regulatory Division
Ventura Field Office
ATTN: Theresa Stevens, Ph. D
2151 Alessandro Drive, Suite 110
Ventura, CA 93001

Final Environmental Impact Statement/Report (Draft EIS/EIR) for the Proposed Berths 212-224 (YTI) Container Terminal Improvements Project

The South Coast Air Quality Management District (SCAQMD) staff appreciates the opportunity to submit these supplemental comments regarding the Final EIS/EIR for the Proposed Berths 212-224 (YTI) Container Terminal Improvements Project. This letter describes mapping of pollutant levels prepared by SCAQMD staff in response to information in the Final EIS/EIR. This mapping indicates that the project has potential for greater impacts on air quality and public health in a residential area than was previously understood. This letter also explains why the mitigation measure for new technologies that was discussed before the Harbor Commission on October 16 does not effectively allow the port to require implementation of new lower emission technologies when they become available. Finally, this letter summarizes our position regarding other key matters included in the Final EIS/EIR. These comments seek to ensure that the Commission and public have a full understanding of the project's air quality impacts, and that significant impacts are mitigated to the extent feasible, as required by the California Environmental Quality Act. (CEQA Guidelines §15002(a)(1); §15002(a)(3)).

Exceedance of Federal NO₂ Ambient Air Quality Standard

NO₂ Analyses in EIS/EIR. The federal government has adopted National Ambient Air Quality Standards (NAAQS) for various pollutants which are set at levels necessary to protect public health. The draft EIS/EIR for the YTI project concluded that the project would cause an exceedance of the "1-hour" NAAQS for nitrogen dioxide (NO₂).¹ The draft EIS/EIR included a map showing the point of maximum NO₂ impact, which was located in the ship channel adjacent to the YTI terminal (Draft EIS/EIR Figure 3-16). SCAQMD staff requested that the Final EIS/EIR include a map of dispersion modeling to allow the public to understand the geographic extent of the exceedance.

The Final EIS/EIR provides a map which depicts the area of NO₂ impact from the project. (Final EIS/EIR Figure R.7, shown below). This map was prepared using a methodology that combined dispersion modeling of emissions and monitoring data from a nearby air monitor.² This map in the Final EIS/EIR shows exceedance of the federal NO₂ standards occurring primarily over water and port waterfront property, and generally not extending into a residential area.



Figure R.7: Mitigated Proposed Project Federal 1-hr NO₂: Operation

¹ Exposure to NO₂ is linked to airway inflammation, respiratory symptoms in people with asthma, emergency room visits and hospital admissions. Children and the elderly are particularly vulnerable.

² This map was prepared by evaluating the NO₂ concentration of the total YTI facility in 2026, subtracting baseline NO₂ levels from the facility in 2012, and adding NO₂ levels monitored at a nearby site.

Recent Plot of Facility-Specific Data. Using the modeling data underlying the above map in the Final EIS/EIR, SCAQMD staff has plotted areas expected to exceed the federal NO₂ standard solely due to emissions from the YTI facility.³ This information is provided in the two maps below. The maps are based solely on data that is specific to the YTI facility, i.e. emissions, source location, wind direction, and other pertinent data. The first map (Figure 1) shows in yellow the area of NO₂ exceedance resulting from baseline emissions in 2012. The second map (Figure 2) shows in yellow the area of exceedance resulting from the YTI facility after the project is completed and in operation. Since these analyses solely modeled emissions from the YTI facility, actual areas of exceedance could be larger in both cases due to cumulative background NO₂ levels created by other sources.

The maps show that the YTI terminal by itself creates NO₂ levels exceeding the federal standard. With the project, the modeled area of exceedance increases to encompass an area with over one thousand residences.



Figure 1. Map Created from Dispersion Modeling Output File Provided to SCAQMD Staff. Yellow shading shows area with NO₂ concentrations that exceed federal NAAQS of 188 ug/m³. Red shading shows areas with NO₂ concentrations that exceed 250 ug/m³.

³ Data comes from 'yti.onsite.coarse/no2.yti.01hr.bl.ops.8th.ALL.plot' and the 'yti.onsite.coarse/no2.yti.01hr.ppm.ops.8th.ALL.plot' model files.



Figure 2. Map Created from Dispersion Modeling Output File Provided to SCAQMD Staff. Yellow shading shows area with NO₂ concentrations that exceed federal NAAQS of 188 ug/m³. Red shading shows areas with NO₂ concentrations that exceed 250 ug/m³.

Implications. The above maps indicate that the project will have a greater impact than previously understood by causing the federal NO₂ standard to be exceeded in a large residential area. This more specific information is available and should be considered by the Commission as part of its implementation of CEQA. These maps provide a more accurate representation of potential air quality impacts from the YTI facility before and after the project is built. CEQA requires that the agency select an approach for analysis "that will give the public and decision makers the most accurate picture practically possible of the project's likely impacts." (*Neighbors for Smart Rail v. Exposition Metro Line Construction Auth.* (2013) 57 Cal.4th 439, 449.)

While the EIS/EIR already determined NO₂ impacts to be significant, this new data emphasizes the importance of making every effort to identify and incorporate all feasible mitigation measures into the project approval. As noted in our prior comment letters, SCAQMD staff does not believe that the project includes all feasible measures to reduce NO₂, cancer risk, and other significant emissions impacts identified in the EIS/EIR.

The above data is also relevant to the Harbor Commission's decision to adopt a Statement of Overriding Conditions. CEQA requires that, in a case such as this where the lead agency is making a decision to approve a project despite finding it infeasible to mitigate its significant adverse environmental impacts, the agency must find that the benefits of the project outweigh its adverse impacts. (CEQA Guidelines § 15093.) The evidence that the project will cause a federal health-based air quality standard to be exceeded in a large residential area must affect this decision.

Mitigation Measure LM AQ-1, Periodic Review of New Technology and Regulations

At the October 16 Harbor Commission meeting, there was discussion regarding a key mitigation measure proposed by the port. This mitigation measure, which was commonly referred to as a "lease reopener," is claimed to allow the port to require the terminal operator to implement new, lower emission technologies in the future when they become feasible. This measure is important because the EIS/EIR states that a number of low or zero emission technologies, while "promising," are not currently feasible. Rather than including conditions designed to require or even just incentivize actions to implement such technologies, the EIS/EIR relies on this "lease reopener" to authorize imposition of mitigation in the future.

The characterization of this measure as a lease re-opener is incorrect and, more importantly, the measure is inadequate to enable the port to require implementation of new strategies to mitigate project impacts. The problem is that the measure only applies in two circumstances, neither of which are likely to occur. The first circumstance is at the time of a "lease amendment" or "facility modification" — neither of which are foreseeable or likely during the term of the new lease. The second circumstance is if the tenant and the port reach a mutual agreement on "operational feasibility" and "cost sharing." Neither of these terms are defined, and the provision effectively gives the tenant the ability to block any new mitigation requirement by declining to agree.

The SCAQMD continues to believe that additional enforceable mitigation measures can be required from this project to ensure actual mitigation of significant impacts. Rather than relying on LM AQ-1, which creates no requirement or even incentive to deploy cleaner technologies, the Commission should incorporate specific mitigation measures that are designed to effectively mitigate the significant adverse impacts.

Other Issues

SCAQMD staff has reviewed the EIS/EIR responses to our comments, but we continue to have the following concerns that should be addressed prior to project approval:

Compatibility with the 2010 CAAP and San Pedro Bay Standards. The project is inconsistent with the San Pedro Bay Standards by allowing an exceedance of the cancer risk threshold in residential areas.

Feasibility of Additional Mitigation Measures. Given the projected exceedance of the federal NO₂ standard and increased cancer risk, the Lead Agency has the burden of identifying and enforcing feasible mitigation measures to reduce those significant impacts. In the Final EIR, the Lead Agency acknowledged the mitigation measures proposed by SCAQMD in its comment letter, but found them to be infeasible. SCAQMD staff disagrees with the Lead Agency's response and believes that more can feasibly be done to require and incentivize cleaner technologies. Some examples of such technologies include:

- *Zero/Near-Zero Emission Technologies* - SCAQMD staff believes that zero and near-zero emission technologies for cargo handling equipment and trucks can be deployed during the life of the project.
- *Oceangoing Vessel Alternative Marine Power (AMP)* – SCAQMD staff disagrees with the Final EIR's conclusion that no further mitigation is feasible to reduce ship emissions while at berth. The project could require that either more ships utilize AMP beyond CARB regulations, (and before the final year of the project, as currently proposed), and/or the project could require ships to use collection and control technology (e.g. the "bonnet") similar to what is currently proposed for the Port of Long Beach Mitsubishi terminal project.
- *Lower Emission Oceangoing Vessel Engines* - The Lead Agency should include measures to deploy ships meeting the Tier III IMO emission standards during the life of the proposed Project.
- *Rail* - The Final EIS/EIR should include a mitigation measure to accelerate the use of Tier 4 line-haul locomotives (similar to CAAP measure RL-3). SCAQMD staff also recommends that the proposed project maximize on-dock rail usage beyond currently projected on-dock demand to reduce the need to send containers to off-dock rail yards.

In closing, we urge the Harbor Commission to ensure full consideration of the above evidence of significant impacts, and include additional measures to mitigate the significant adverse impacts of this project.

Please contact me at (909) 396-2111 if you have any questions regarding the enclosed comments.

Sincerely,



Peter Greenwald
Senior Policy Advisor

PG:IM:JB

SPL-2013-00113-TS



The Propeller Club of Los Angeles-Long Beach

P.O. Box 4250, Sunland, CA 91041

Phone: 818.951.2842 * Fax: 818.353.5976

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November 4, 2014

Ambassador Martinez
President
Port of Los Angeles Harbor Commission
425 Palos Verdes Street
San Pedro, CA 90731

Dear Ambassador Martinez:

The mission of The Propeller Club of Los Angeles-Long Beach is to promote the interests of international commerce, shipping, terminals, transportation and supporting industries including the local government and communities. The Port of Los Angeles has played an important role in helping our organization realize its mission. Our members, including key stakeholders and local citizens, rely on the success of the Port of Los Angeles for their livelihoods.

The Propeller Club strongly supports the Yusen Terminal Final Environmental Impact Report (EIR). This project will help keep the Port of Los Angeles competitive by allowing the larger, cleaner and more fuel efficient class of containership ships up to call at the terminal.

International trade is a job multiplier and the expansion of this operation will further maximize the assets of the Port of Los Angeles by ensuring the terminal's ability to accommodate up to 13,000 TEU ships that are anticipated to call at the terminal through 2026; increasing on dock capacity which allows Yusen to handle discretionary cargo and at the same time remove trucks off local freeways; and improving the local economy by increasing construction jobs.

YTI and its parent company NYK have demonstrated a strong commitment to the environment. NYK created the NYK Super Eco Ship 2030 which will be able to reduce CO2 emissions by 69%. In fiscal 2013, NYK reduced CO2 emissions 18.1% compared with the fiscal 2006 level. NYK's new goal is 15% improvement in fuel-efficiency above the 2010 level by fiscal 2018. In addition, YTI's commitment to the environment is evident by being awarded the Clean Air Action Plan Award 3 times, 2008, 2009 and 2012 and the Wilmington Chamber of Commerce Environmental Award in 2013.

We urge your support for this project which will help keep the Port of Los Angeles competitive. With the expanded Panama Canal in 2016, gulf and east coast ports are aggressively pursuing opportunities to attract cargo away from the San Pedro Bay Ports. Completing the YTI Terminal Improvement project signals that we are committed to remaining the premier gateway for cargo in North America.

Sincerely,

Laura Y. Kovary
President



SPL-2013-00113-T3

District Export Council of Southern California

Ambassador Martinez
President, Port of Los Angeles Harbor Commission
425 Palos Verdes Street
San Pedro, California 90731

November 4, 2014

Dear Ambassador Martinez,

On behalf of the District Export Council of Southern California, we are writing to express our strong support for the Berths 212-224 (YTI) Container Terminal Improvement Project Final Environmental Impact Report (EIR). This project will help keep the Port of Los Angeles competitive by allowing the larger, cleaner and more fuel-efficient class of containership's to call at the terminal!


The YTI improvements will:

- Ensure the terminal's ability to accommodate up to 13,000 TEU ships that are anticipated to call at this terminal through 2026
- Increase on dock rail capacity, increasing the ability to handle discretionary cargo while also removing truck off of the highway and freeways!
- Improve our local economy by providing 750 construction jobs, which are desperately needed, over the 22-month construction period and an additional 2,241 permanent jobs!

YTI and its parent company NYK have demonstrated a strong commitment to the environment. NYK created the NYK Super Eco Ship 2030, which will be able to reduce CO2 emissions by 69%. In fiscal year 2013, NYK reduced CO2 emissions by 18.1% compared with the fiscal year 2006. NYK's new goal is 15% improvement in fuel efficiency above the 2010 level by fiscal year 2018. In addition, YTI's commitment to the environment is evident by being awarded the Clean Air Action Plan Award 3 times, 2008, 2009, and 2012, and the Wilmington Chamber of Commerce Environmental Award in 2013.

We urge your support for this project which will help keep the Port of Los Angeles competitive with the expanded Panama Canal in 2016, as well as the Gulf and East Coast Ports after all of our business, not to mention Prince Rupert in Canada! We need to be aggressive with our infrastructure in order to attract new business, but to also keep the old business and build on that! This project will also give the signal that the Port of Los Angeles is willing to move forward!

Sincerely,



Guy Fox, MBA, LCB
Chairman Emeritus

District Export Council | U.S. Commercial Service
Irvine USEAC: 2302 Martin Street, Suite 315, Irvine, Ca 92612
Los Angeles USEAC: 444 S. Flower, 34th Floor, Los Angeles, CA 90071



SPL - 2013-00113-TS

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105
NOV 5 2014

RECEIVED

NOV 10 2014

Regulatory Division

U.S. Army Corps of Engineers
Los Angeles District, Regulatory Division
2151 Alessandro Drive, Suite 110
Ventura CA 93001

ATTN: Theresa Stevens, Ph.D.

Subject: Final Environmental Impact Statement/Environmental Impact Report for the Berths 212-224 (YTI) Container Terminal Improvements Project, (CEQ #20140304)

Dear Ms. Stevens:

The U.S. Environmental Protection Agency (EPA) has reviewed the Final Environmental Impact Statement (EIS) for the YTI Container Terminal Improvements Project. Our review and comments are provided pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality regulations at 40 CFR Parts 1500-1508, and our NEPA review authority under Section 309 of the Clean Air Act.

The Final EIS provides additional information addressing the concerns we expressed in our June 16, 2014 letter on the Draft EIS; therefore, we have no further concerns or comments on this project.

We appreciate the opportunity to review this Final EIS. Please send a copy of the Record of Decision, when it becomes available, to this office at the address above (mail code ENF-4-2). If you have any questions, please contact me at 415-972-3521, or Jeanne Geselbracht at 415-972-3853 or Geselbracht.jeanne@epa.gov.

Sincerely,

Kathleen Martyn Goforth, Manager
Environmental Review Section

cc: Christopher Cannon, Port of Los Angeles
John Hummer, U.S. Maritime Administration
Susan Nakamura, South Coast Air Quality Management District
Cynthia Marvin, California Air Resources Board
Linda Frame, YTI
Richard Cameron, Port of Long Beach



COMMERCIAL REAL ESTATE
DEVELOPMENT ASSOCIATION
LOCAL CHAPTER

November 5, 2014

SPL-2013-0013-TS

Ambassador Vilma Martinez, President, and Harbor Commissioners
Port of Los Angeles Harbor Commission
Board Room, 2nd Floor
425 Palos Verdes Street
San Pedro, CA 90731

Sent via Email

Re: Agenda Item 5 – Final EIR for Berths 212-224 YTI – Support

Dear Ambassador Martinez and Harbor Commissioners:

NAIOP, the Commercial Real Estate Development Association, is the leading national organization of developers, owners, and related professionals in office, industrial and mixed-use real estate. NAIOP advances responsible commercial real estate development, researches trends and innovations, and advocates for effective public policy. The NAIOP SoCal Chapter serves Los Angeles and Orange Counties and is the third largest chapter in the United States with a membership of nearly 1,000 members.

The modernization of the Port is essential to assuring the necessary exports and imports can continue to efficiently reach their destinations so as to improve the quality of life and economy of the people not just from Southern California, but the State and the nation. NAIOP strongly supports the approval of the Final Environmental Impact Report (EIR) for the Berths 212-224 (YTI) Container Terminal Improvement Project

This project will help keep the Port of Los Angeles competitive, which is vital in today's complex world of goods movement. By providing a berth that is 53 feet will allow the larger, cleaner and more fuel-efficient class of containership ships to call at the terminal. We are all aware these larger ships are now becoming widely used by the shipping companies, and to not provide appropriate berths would send a strong signal to shippers that they are not welcome here. This could have long-term negative impacts on the future of the Port.

This project would also add a new track to the on-dock rail yard at the YTI terminal. This provides the additional benefit of reducing the number of trucks on local and regional arterials and highways. By doing so this has a double benefit of reducing congestion and lowering emissions from truck traffic.

Here locally, the YTI project will improve our local economy by providing 750 construction jobs over the 22-month construction period and an additional 2,241

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David Wensley, Cox, Castle & Nicholson LLP

Gregory J. West, Johnson Capital

NAIOP SoCal EXECUTIVE STAFF

Cynthia G. Fusco, Executive Director

Vickie Talley, Director of Legislative Affairs

permanent jobs. These are vitally needed in this area where over 19% of the people live in poverty. Even worse, over 27% of the children live in poverty, which has tremendous negative health and development impacts on our future, our children. The most heavily impacted communities of these poverty statistics are the African-American and Hispanic populations, of which there are many in the immediate Port area. Thus, providing these needed jobs is a social justice issue.

We urge your support for this project to help keep the Port of Los Angeles competitive and help our economy in an environmentally sustainable way. With the expanded Panama Canal in 2016, gulf and east coast ports are aggressively pursuing opportunities to attract cargo away from the San Pedro Bay Ports. Completing the YTI Container Terminal Improvement project signals that the Port of Los Angeles is committed to remaining North America's premier gateway for efficient and environmentally sustainable cargo handling.

Sincerely,

A handwritten signature in dark ink, appearing to read "P. Herzog", written over the printed name.

Peter Herzog

Assistant Legislative Affairs Director

ASE Greenhouse Gas Sustainability Communities Compliance Mitigation Measures For POLA YTI Project

From: Jesse Marquez [jnm4ej@yahoo.com]

Sent: Friday, November 07, 2014 12:56 PM

To: Ceqa Comments; Chris Cannon; Laura Masterson; kgrant@portla.org; Stevens, Theresa SPL

Cc: Adrian Martinez; Woodfield Kathleen; Janet Gunter; Morgan Wyenn; Drew Wood; Ricardo Pulido; Pastor Carrillo; Terry and John Miller; Organizer Joe; Aura Vasquez; Al Sattler; Sofia Carrillo; Flavio Mercado; Jesse Marquez; jnmbus@yahoo.com

Subject: [EXTERNAL] CFASE Greenhouse Gas & Sustainability Communities Compliance Mitigation Measures For POLA YTI Project FEIR/FEIS

Attachments: CFASE Yuesen Terminal Inc. FEIR Public Comments GHG -Sustainability Mitigation Measures 11-7-2014.docx

We respectfully submit the following attached public comments.

Re: Berths 212-224 (YTI) Container Terminal Improvements Project (Yuesen Terminals, Inc.)

Final Environmental Impact Report (FEIR)

SCH No. 2013041017

APP No. 130204-020

SPL-2013-00113-TS

Su: CFASE Recommended AB 32 Greenhouse Gas & SB 375 Sustainable Communities Compliance Mitigation Measures

Jesse N. Marquez
Executive Director
Coalition For A Safe Environment

Coalition For A Safe Environment

1601 N. Wilmington Blvd., Ste. B Wilmington, California 90744
jnm4ej@yahoo.com 310-704-1265

November 7, 2014

Board of Harbor Commissioners (BOHC)
Port of Los Angeles (POLA)
Los Angeles Harbor Department
Christopher Cannon
Director of Environmental Management
Environmental Management Division
425 S. Palos Verde St., San Pedro, CA 90733-0151
ccannon@portla.org
310-732-3675 Office
310-547-4643 Fax
Laura Masterson
lmasterson@portla.org
310-732-3679
Kevin Grant
LAHD Project Manager
kgrant@portla.org
ceqacomment@portla.org

U.S. Army Corps of Engineers
Los Angeles District, Regulatory Division
Ventura Field Office
c/o Theresa Stevens, Ph.D.
2151 Alessandro Drive, Suite 110
Ventura, CA 93001
805-585-2146
theresa.stevens@usace.army.mil

Re: Berths 212-224 (YTI) Container Terminal Improvements Project (Yuesen Terminals, Inc.)
Final Environmental Impact Report (FEIR)
SCH No. 2013041017
APP No. 130204-020
SPL-2013-00113-TS

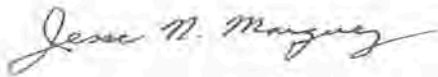
Su: CFASE Recommended AB 32 Greenhouse Gas & SB 375 Sustainable Communities Compliance
Mitigation Measures

The Coalition For A Safe Environment (CFASE) wishes to submit to the Port of Los Angeles Board of Harbor Commissioners (BOHC) and the U.S. Army Corps of Engineers (USACE) a list of Greenhouse Gas & Sustainable Communities Mitigation Measures that available and feasible for the Berths 212-224 (YTI) Container Terminal Improvements Project and Final Environmental Impact Report (FEIR). See attachments A & B.

The project does not comply with the California AB32 The Global Warming Solutions Act of 2006 and California SB 375 Sustainable Communities Act of 2008 and enacted supporting laws, rules and regulations.

Coalition For A Safe Environment Mission Statement is - To protect, promote, preserve and restore our Mother Earth's delicate ecology, environment, natural resources and wildlife. To attain Environmental Justice in international trade marine ports, goods movement transportation corridors, petroleum and energy industry communities. CFASE has members in over 25 cities in Los Angeles County.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Jesse N. Marquez".

Jesse N. Marquez
Executive Director

And as an individual negatively health and socio-economically impacted resident of Harbor City living near the proposed project.

Drew Wood
Executive Director
California Kids IAQ
Wilmington, CA

Ricardo Pulido
Executive Director
Community Dreams
Wilmington, CA

Pastor Alfred Carrillo
Apostolic Faith Center
Wilmington, CA

Coalition For A Safe Environment

Berths 212-224 (YTI) Container Terminal Improvements Project

Greenhouse Gas & Community Sustainable Community Mitigation Measures

A. Potential On-Site Project Mitigation Measures:

1. POLA can expand its Solar Energy Building Roof & Carport Capacity at its terminals and at all property locations.
2. POLA can require the project to include Zero Emission Yard Hostlers when CARB Certified/Verified.
3. POLA can require the project to include Zero Emission Class VIII Drayage Trucks when CARB Certified/Verified.
4. POLA can require the project to include Ship Emissions Capture Technologies (AMECS) when CARB Certified/Verified.
5. POLA can replace the Shuyler Heim Bridge/Badger Bridge diesel generator power back-up/support power grid generator with Solar Energy & Fuel Cells.
6. POLA can evacuate HFC's from empty Refrigerated (Reefer/TRU) Containers prior to being placed into long term container storage locations for more than 6 months.
7. POLA can require the project to have white roofs vs black tar roofs.
8. POLA can require the project to include Recycled, Non-GHG & Low GHG Green Construction Building & Office Supply Materials.
 - a. Low Carbon Footprint Concrete/Cement. Note: Incorporates Non-Toxic Residual Fly Ash, Carbon Products, Residue, Captured Carbon Emissions.
 - b. Recycled Metal Rebar.
 - c. Recycled Fiberglass Rebar.
 - d. Recycled Carbon Rebar.
 - e. Incorporate ZBAR: Corrosion Resistant Rebar.
 - f. Incorporate Design Recycle Inc.: Thermo Pole Core Rubber Products For Utility Light Poles, Pier Pilings, Telephone Poles, Guard Rail Posts, Boat Docks, Sign Posts, Shore Erosion Pilings.
 - g. Incorporate Malama Composites: Which Are Non-Petroleum, Carbon Neutral, Zero VOC, Recyclable: AinaCore, BioFoam, Pacifi BioFoam used in wall door core/panel insulation, insulating piping/packaging/containers, moldings and castings.
 - h. Paints, Coatings, Adhesives/Caulks Which Are Non-Toxic, No/Low VOC, Non-GHG & Soy Based.
 - i. Eco-Friendly & Recycled Roofing & Flooring Materials.
 - j. Eco-Friendly Non-Toxic, No/Low VOC Cleaning Solvents & Supplies.
 - k. Recycled Lumber & Wood Products such as fencing, doors, decks, patio frames.
 - l. Weatherization Products such window/doors sealers, stripping, tapes.
 - m. Room & Restroom Products such as Trash Cans, Toilets, Sinks, Curtains

B. Potential Off-Site Project Mitigation Measures:

- 1. Install Solar Energy at public schools.**
- 2. Install Solar Energy at public parks & recreational centers**
- 3. Install Solar Energy at public buildings.**
- 4. Install Solar Energy at county hospitals & clinics.**
- 5. Install Solar Energy at non-profit hospitals & clinics.**
- 6. Install Solar Energy at non-profit organization offices & facilities.**
- 7. Purchase electric and alternative fuel school buses for the LA Unified School District.**
- 8. Purchase electric and alternative public transit buses for the City of Los Angeles.**
- 9. Provide cash vouchers for local harbor residents to purchase electric & hybrid cars.**
- 10. Provide cash vouchers for local harbor residents to purchase electric & hybrid motorcycles & scooters.**
- 11. Provide cash vouchers for local harbor residents to purchase bicycles.**
- 12. Fund replacement of public building emergency power diesel fuel generators with solar energy & fuel cells.**
- 13. Electrify the Alameda Corridor. FYI Alameda Corridor was designed and built to be upgraded to electric.**
- 14. Fund the purchase of land, building and expansion of community green space parks, pocket parks and green landscaping.**
- 15. Provide materials or funds for city/public construction, expansion & replacement projects using products/materials listed in A. above.**

CFASE Greenhouse Gas Sustainability Communities Compliance Mitigation Measures For POLA YTI Project

From: Ricardo Pulido [mr.rpulido@gmail.com]
Sent: Monday, November 10, 2014 1:30 PM
To: Jesse Marquez
Cc: Cega Comments; Chris Cannon; Laura Masterson; kgrant@portla.org; Stevens, Theresa SPL; Adrian Martinez; Woodfield Kathleen; Janet Gunter; Morgan Wyenn; Drew Wood; Pastor Carrillo; Terry and John Miller; Organizer Joe; Aura Vasquez; Al Sattler; Sofia Carrillo; Flavio Mercado; jnmbus@yahoo.com
Subject: [EXTERNAL] Re: CFASE Greenhouse Gas & Sustainability Communities Compliance Mitigation Measures For POLA YTI Project FEIR/FEIS

Hi everybody.....

I wanted to add a few more late comments re: YTI/FEIR, I had to leave Friday's mtg. @ POLA, I had a emergency.

- 1.) PLA'S UNION agreements for all build-outs @ POLA a must Increase OJT/Training Apprentice Vocational programs for wilmington youth & families.
- 2.) Beautify Port area, San Pedro Hill tops homeowners "Giant Shade/Screen" in front of new Crane loading area(put up@ Midnite to 5am) daily?
- 3.) San Pedro Skyline needs to be kept/preserved Vincent Thomas Bridge clear view for all, The Dock "Lites" create eye sore pollution to our community.
- 4.) Industrial Blight, Visuals, Noise, dust, Truck & Ship Idling to a bare min. Safety Survey Data collections monitoring systems control by E/J/non profits.
- 5.) Mental Health Wellness Community Center @ Docks & Ports, for employees & community (H.I.A.'s) survey/Docs. fully implemented now & Dock Air Stations! Lastly, We need to do Demonstration projects of tech.(ALECS AMECS) Port wide Survey of all new innovations Tech. for working families, Carbon Credits family fund for Schools, Churches, Parks, & 2 mile radius of homes & small businesses insulation windows & air filtration systems now!

We must hold these corporate polluters feet to the fire, and make sure they disclose & share all Economics revenues to our impacted families fairly, 20 yr. plan!!!

respectfully, Ricardo/CFASE

On Fri, Nov 7, 2014 at 12:56 PM, Jesse Marquez <jnm4ej@yahoo.com> wrote:

We respectfully submit the following attached public comments.

Re: Berths 212-224 (YTI) Container Terminal Improvements Project
(Yuesen Terminals, Inc.)
Final Environmental Impact Report (FEIR)
SCH No. 2013041017
APP No. 130204-020
SPL-2013-00113-TS

Su: CFASE Recommended AB 32 Greenhouse Gas & SB 375 Sustainable Communities Compliance Mitigation Measures

Jesse N. Marquez
Executive Director
Coalition For A Safe Environment

USCG.txt

From: Van.H.Vu@uscg.mil on behalf of Vu, Van H LT [Van.H.Vu@uscg.mil]
Sent: Monday, November 24, 2014 9:37 AM
To: Stevens, Theresa SPL
Cc: Netherton, Joshua L BM1; Vanhouten, Mike L CIV
Subject: [EXTERNAL] Berth 212-224 Yusen Terminals SPL-2013-00113-TS
Attachments: USACE_Yusensigned.pdf

Ms. Theresa Stevens,

As requested for the Notice of Availability and Final Environmental Impact Statement, I enclosed a copy of our USCG District Eleventh's comment of no objection to the proposed project. The original letter will be mail to your Ventura Field Office address. Please let me know if you have any question.

Respectfully,

LT Van Vu
USCG D11 Waterways Management
510-437-2978

U.S. Department of
Homeland Security

United States
Coast Guard



Commander
Eleventh District

US Coast Guard Island
Bldg 50-2
Alameda, CA 94501-5100
Staff Symbol: dpw
Phone: (510) 437-2978
Fax: (510) 437-5836
Email: van.h.vu@uscg.mil

16518

NOV 18 2014

Army Corps of Engineers
Los Angeles District
Ventura Field Office
Attn: Ms. Theresa Stevens
2151 Alessandro Drive, Suite 110
Ventura, CA 93001

Dear Ms. Theresa Stevens,

We have reviewed the Notice of Availability Final Environmental Impact Statement (EIS) for the Port of Los Angeles's Yusen Terminals project on Terminal Island at Berth 212-224 in Los Angeles Harbor (SPL-2013-0013-TS) and we have no objection to the proposed project as planned.

The applicant will be required to contact this office at least 14 days prior to the start of operations so the project information can be included in the Local Notice to Mariners. A complete set of guidelines with examples and contact information can be found at <http://www.uscg.mil/D11/DP/LnmRequest.asp>, or contact BM1 Joshua Netherton at 510-437-2980 or e-mail D11LNM@uscg.mil.

If you have any questions concerning this letter, please contact LT Van Vu at (510) 437-2978, email: Van.H.Vu@uscg.mil.

Sincerely,

A handwritten signature in blue ink, appearing to read "M. V. Salas".

M. V. Salas
Lieutenant Commander, U.S. Coast Guard
Chief, Waterways Management Branch
By direction

Copy: Commander, Coast Guard Sector LA/LB

APPENDIX C

SECTION 106 MEMORANDUM FOR THE RECORD

MEMORANDUM FOR RECORD

SUBJECT: Permit for Port of Los Angeles YTI Terminal Improvement Project (Corps File No. SPL-2013-00113-TS—No Potential to Cause Effects)

1. This memorandum for the record (MFR) documents for the file the reasons why the proposed project does not have the potential to cause effects in accordance with Section 106 of the National Historic Preservation Act. This MFR addresses the issue as indicated in 36 CFR 800.3(a)(1).
2. The project applicant would impact approximately 3.4 acres of navigable waters of the U.S. during the proposed dredging and pile installation.
3. No listed properties were identified within the Area of Potential Effect (APE), which in this case is the permit area (the APE included all work in WOUS and upland areas within 100 feet of WOUS). However the Vincent Thomas Bridge is eligible for listing on the National Register of Historic Places (NRHP) and is adjacent (to the south) of the permit area (LAHD 2008). *The Built Environment Evaluation Report for Properties on Terminal Island, Port of Los Angeles, City and County of Los Angeles, California* (LAHD 2011)¹ provides substantial information regarding past activities at the YTI Terminal and other POLA facilities. This report describes sites on Terminal Island which were determined to be ineligible for listing or listing consideration because of recent construction activities that have substantially altered the integrity of the structures; it also provided eligibility information for sites that still occur on Terminal Island but that are outside the permit area for this undertaking. This report also described demolition of structures immediately following World War II on the YTI terminal site, and substantial soil remediation effort that took place at the YTI terminal in the 1980's as a result of soil contamination from shipyard uses during World War II. These actions substantially and adversely affected the integrity of any remnant cultural resources at the YTI terminal site. The YTI terminal is currently an active container terminal with 14 cranes (10 operational) over 250 feet high and this condition is not going to change with the proposed Project because the replacement of four cranes (14 total operational) would not noticeably alter the public views from the bridge, the nearest crane being over ¼ mile northeast of the bridge. Further, the Evergreen terminal south of the bridge and the China Shipping terminal northwest of the bridge have 11 and 8 cranes over 250 feet high, respectively. As such, the replacement of four cranes at the YTI terminal would not alter the visual setting of the bridge nor result in "effects" or "adverse effects" described in the section 106 regulations (36 CFR 800.9(a) and (b)). A records search (May 2013), sacred lands file search, and coordination with Native American representatives and consultation with the State Historic Preservation Officer was conducted, and the findings were disclosed in

¹ LAHD staff indicated the Terminal Island historic property report was appended to the Port Master Plan Update (February 2014) and that a copy of the EIR and this report were submitted to the OHP via the State Clearinghouse as required by CEQA. The LAHD staff indicated the SHPO failed to contact the LAHD in response to this environmental review and historic property identification and evaluation process.

the draft and final Environmental Impact Statement/Environmental Impact Report (EIS/EIR) and the Record of Decision (ROD). Although no listed or eligible resources occur within the permit area of the undertaking, the LAHD requires cessation of work in the area of any previously undiscovered resource until a qualified individual evaluates the materials and clears the project for additional earthwork or conducts additional mitigative actions. In summary, there are no cultural resources listed on or eligible for the NRHP within the permit area. The environment and setting for proposed construction is disturbed and man-made to such a degree that no significant cultural resources could remain. Therefore, in accordance with 36 CFR 800.3(a)(1) and 33 CFR 325 Appendix C, the proposed project does not have the potential to cause effects.

4. In the very unlikely event that cultural resources are uncovered during construction, work in that immediate area would be required to stop until the Corps carries out the procedures outlined in 36 CFR 800.13.

A handwritten signature in black ink, appearing to read "Aaron O. Allen". The signature is fluid and cursive, with a large loop at the end.

Aaron O. Allen, Ph. D.
Chief, North Coast Branch
Regulatory Division