



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
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September 26, 2007

Dr. Spencer D. MacNeil
 U.S. Army Corps of Engineers
 Los Angeles District
 Attn: Regulatory Division
 P.O. Box 532711
 Los Angeles, California 90053-2325

Subject: Draft Environmental Impact Statement (FEIS) for the Berths 136-147 (TraPac)
 Container Terminal Project in the Port of Los Angeles (CEQ # 70285)

Dear Dr. MacNeil,

The U.S. Environmental Protection Agency (EPA) has reviewed the above project pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. These comments were also prepared under the authority of, and in accordance with, the provisions of the Federal Guidelines (Guidelines) promulgated at 40 CFR 230 under Section 404(b)(1) of the Clean Water Act (CWA) and EPA's ocean dumping regulations promulgated at 40 CFR 220-227 under the Marine Protection, Research and Sanctuaries Act (MPRSA). Our detailed comments are enclosed.

USEPA-1

The purpose of the proposed project is to expand and modernize the container terminal at Berths 136-147 within the Port of Los Angeles, upgrade existing wharf facilities, and install a buffer area between the terminal and the community. Impacts from the proposed project include 10 acres (800,000 cubic yards) of fill into marine waters located in the Northwest Slip of the West Basin within the Los Angeles Inner Harbor. The project also proposes to dredge approximately 295,000 cubic yards of material as part of the proposed wharf and berth work within the West Basin.

Based upon our review, we have rated the Proposed Action as Environmental Concerns-Insufficient Information (EC-2), (see attached "Summary of the EPA Rating System"). EPA is concerned that the project area has historically sustained extensive cumulative impacts to air and water quality, and the DEIS does not justify that the alternative selected is the Least Environmentally Damaging Practicable Alternative (LEDPA). We are also concerned regarding the impacts to minority communities in the area.

USEPA-2

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USEPA-3

Appendix H notes that only the Proposed Project and Alternative 2 were carried forward for consideration and that the other Alternatives do not meet the project purpose or need. However, the cargo-handling capacity is not greatly diminished under Alternative 3, and it is unclear from the document why Alternative 3 does not meet the project purpose and need. While it appears that Alternative 3 may have fewer environmental impacts, if this alternative is not feasible, the Final EIS (FEIS) should be drafted to reflect Alternative 2 as the "new" proposed project. Alternative 2 would eliminate the need for 800,000 cubic yards of fill and would be considered the LEDPA, the only alternative that can be permitted under Section 404 of the Clean Water Act. However, if additional information demonstrates that the Proposed Action is the LEDPA, the Port should commit to a hierarchy for the acceptance of different types of material to fill the 10-acre site, in keeping with the Los Angeles Contaminated Sediment Task Force Long Term Management Strategy for beneficial reuse.

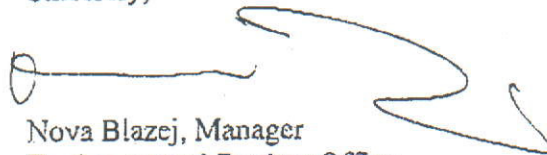
USEPA-4

EPA has been involved in the development of the Clean Air Action Plan (CAAP) for the San Pedro Ports and is supportive of the controls and mitigation included. However, EPA is concerned that the project will have disproportionately high and adverse effects on minority and low-income populations as a result of increased air impacts. It is essential that the FEIS respond more directly to public concerns and consider selecting an alternative with fewer air impacts due to less construction. The FEIS should include additional information regarding commitments to work with the railways to reduce cumulative air impacts.

USEPA-5

We appreciate the opportunity to review this DEIS. When the FEIS is released for public review, please send one hard copy and two CD-ROMs to the address above (Mail Code: CED-2). If you have any questions, please contact me at 415-972-3846 or Summer Allen, the lead reviewer for this project. Summer can be reached at 415-972-3847 or allen.summer@epa.gov.

Sincerely,



Nova Blazej, Manager
Environmental Review Office

EPA'S DETAILED COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE BERTHS 136-147 (TRAPAC) CONTAINER TERMINAL PROJECT IN THE PORT OF LOS ANGELES, SEPTEMBER 26, 2007

Air Quality

The proposed project is located in the southwest coastal area of the South Coast Air Basin (SCAB). The SCAB is classified by EPA as serious nonattainment of the National Ambient Air Quality Standards (NAAQS) for particulate matter less than ten microns in diameter (PM10), nonattainment for particulate matter less than 2.5 microns in diameter (PM2.5), and severe nonattainment for 8-hour ozone. On April 24, 2007, the Region IX Administrator signed EPA's approval of the carbon monoxide (CO) redesignation request and maintenance plan for the South Coast Air Basin. This action was effective 30 days after publication in the Federal Register, redesignating the South Coast Air Basin to attainment for CO and making the maintenance plan federally enforceable. EPA is concerned about the air quality impacts of the project from construction and operational emissions.

USEPA-6

The Clean Air Action Plan (CAAP), approved on November 20, 2006, identifies the measures that the Port of Los Angeles and the Port of Long Beach will take to reduce the emissions from Port operations. The CAAP includes recommendations and measures to reduce emissions 45% by 2011 through control measures for ocean-going vessels, heavy duty vehicles, cargo-handling equipment, harbor craft, and locomotives. The measures included are anticipated to reduce diesel particulate matter by 80% over the next five years (p. 4-39). Terminal equipment is a substantial source of Nitrous Oxides (NOx) (Table 3.2-5). In addition, the DEIS identifies that the project will result in significant increases in 1 hour NOx, and 24 hour PM10 and PM2.5 (p. 3.2-55) and produce cumulatively considerable and unavoidable contributions to ozone (O3), carbon monoxide (CO), sulfur dioxide (SO2), PM10, or PM2.5 pollutant levels during all project years (p. 4-35). Therefore, it is important to commit to a lasting mitigation plan to reduce these impacts.

In addition, a general conformity to the approved State Implementation Plan (SIP) has not been completed. The document references the draft 8-hour ozone SIP and the 2003 SIP, neither of which have been approved by EPA. A general conformity determination to the applicable SIP (i.e., 1997/1999 South Coast SIP) is required to meet the general conformity requirements. The DEIS also does not include detailed information regarding the mitigation measures that will be adopted to reduce the air impacts from locomotives. Many of the measures that are discussed, such as low-sulfur fuel and electrification of the Alameda Corridor and Alameda Corridor East, are not considered feasible at this time due to "planning, technical, operational, and cost constraints" (p. B-22 and B-23). While we understand the technical difficulties, all relevant, reasonable mitigation measures (even those outside the jurisdiction of the lead agency), that could improve the project should be described, as well as the probability of the implementation of these mitigation measures within a timely manner (Question 19b of *the Council of Environmental Quality (CEQ)'s NEPA 40 Most Asked Questions*).

USEPA-7

Recommendation:

The Final EIS (FEIS) should include a general conformity determination and more specific information on the cumulative impacts to air quality from the locomotives and a timeline for plans to work with Burlington Northern Santa Fe (BNSF) and Union Pacific to mitigate these impacts. It should include specific implementation plans and timelines

USEPA-7

for further mitigation measures to reduce air impacts from locomotives. We recognize the significant mitigation measures that have already been incorporated and we encourage, whenever possible, going beyond those measures by implementing California Air Resources Board (CARB) rules and CAAP measures earlier than required.

USEPA-8

Environmental Justice

The ambient concentrations of air emissions and resulting increased cancer risk represent a disproportionately high and adverse effect on minority and low-income populations in Wilmington (p. 5-18 and 5-20). The DEIS notes that future rulemaking activities by the CARB and EPA will reduce future cumulative health impacts. However, there is no further information on what these steps may be, and the impacts of these activities are unknown.

USEPA-9

Recommendation:

The FEIS should include details regarding coordination with the community of Wilmington and other communities affected by the increases in air emissions. It should respond to concerns over the Port expansion through minimizing the project-related emissions by selection of an alternative that generates fewer air emissions or through additional controls. The FEIS should include a cohesive response to the public's concerns regarding disproportionate impacts to nearby communities.

USEPA-10

In addition to directly reducing air emissions, the FEIS could consider other options to mitigate direct air impacts, such as construction and financing of a health clinic in the area to help reduce the health costs associated with air impacts from freight transport, or financing an air filtration program for residents and schools impacted by the increased exposure to air pollutants, including a monitoring protocol determining the level of resident exposure. The mitigation measures could be expanded to also include community outreach, informing the community of techniques to reduce exposure to air pollutants and ways to recognize symptoms that call for immediate health care.

USEPA-11

Identification of the Least Environmentally Damaging Practicable Alternative (40 CFR-230.10(a))

Compliance with the Federal Guidelines under Clean Water Act (CWA) Section 404(b)(1) requires that the proposed project represents the Least Environmentally Damaging Practicable Alternative (LEDPA) that achieves the basic project purpose while meeting the costs, technical, and logistical feasibility factors associated with that basic purpose. After reviewing both the DEIS and the draft 404(b)(1) alternatives analysis included in the DEIS appendices, it appears that the proposed project does not represent the LEDPA. The DEIS notes that the Reduced Wharf Alternative (Alternative 3) is considered infeasible as it would handle less cargo than the two other alternatives. However, in the Executive Summary, the amount of cargo handled under Alternative 3 is not significantly less than that under the Proposed Project. Without additional information, Alternative 3 should not be dismissed as impracticable.

USEPA-12

The DEIS notes that the Proposed Project and Alternative 2: *Project without the 10-Acre Fill* are practicable under the 404(b)(1) Guidelines. The DEIS states that Alternative 2 would meet the project purpose as it would result in the same amount of container throughput as the proposed project, the same number of vessel calls per year, the same number of rail trips, and the same maximum number of truck trips. The DEIS states that filling 10 acres of waters would improve

cargo handling efficiencies by providing more backland space for handling cargo. Optimizing cargo-handling efficiencies is not essential to the project purpose, and therefore Alternative 2 cannot be dismissed as impracticable under the 404(b)(1) Guidelines. The draft section 404(b)(1) Alternatives Analysis included in the DEIS supports this argument and identifies Alternative 2 as the LEDPA.

USEPA-12

Recommendation:

- The FEIS should include additional information supporting the dismissal of Alternative 3 by demonstrating that the 705-foot wharf at Berth 147 is integral to the project's success. If the 705-foot wharf at Berth 147 is not integral to the project's success, Alternative 3 should be identified as the LEDPA.
- If Alternative 3 is not practicable, EPA would support the Corps' identification of Alternative 2 as the LEDPA and recommend that the FEIS be drafted to reflect this alternative as the "new" proposed project, as the LEDPA is the only alternative that can be permitted under Section 404 of the Clean Water Act.

USEPA-13

Beneficial Reuse and Fill Material for the Northwest Slip

The DEIS states that the site could be constructed as a Confined Disposal Facility (CDF) to manage contaminated sediments. Therefore, the site should be managed to first preferentially accept dredged material found unsuitable for unconfined aquatic disposal, then dredged material found suitable for aquatic disposal, and lastly, accept material from upland locations. A CDF provides the opportunity to help meet the Los Angeles Contaminated Sediment Task Force (CSTF)'s goal of maximizing beneficial reuse of contaminated dredge material from sources within and outside the Port of Los Angeles.

USEPA-14

Recommendation:

If additional information demonstrates that the Proposed Action is the LEDPA, the Port should commit to a hierarchy for the acceptance of different types of material to fill the 10-acre site. The FEIS and Record of Decision should include this hierarchy and plan for acceptance of fill material.

USEPA-15

Dredged Material Disposal from Berths 136-147

The DEIS identifies that approximately 295,000 cubic yards of material will be dredged adjacent to Berths 136-147. Disposal options identified in the DEIS include disposal at an approved in-water site, or re-use as fill within the Port. EPA will not concur on ocean disposal of sediments, if beneficial reuse is determined to be practicable. Under EPA's ocean dumping regulations promulgated at 40 CFR 220-227 under the Marine Protection, Research and Sanctuaries Act (MPRSA), EPA must determine the suitability of and concur on any material proposed for ocean disposal.

USEPA-16

Recommendations:

In keeping with the Los Angeles CSTF Long Term Management Strategy (LTMS), EPA recommends that the Port begin exploring options to maximize beneficial reuse of these sediments, with the goal of 100% beneficial reuse and include this information in the FEIS. To streamline permitting, EPA also recommends that the Port remain in close communication with both EPA and the Corps, either through the Los Angeles CSTF or other avenue, with regards to the preparation and implementation of any sampling and

USEPA-17

USEPA-17



analysis plans, sediment chemistry, bioassay, and bioaccumulation results, proposed suitability of materials for aquatic disposal, and proposed disposal locations for dredged material. The EPA contact for this process is Allan Ota at (415)972-3476.

U.S. Environmental Protection Agency, September 26, 2007

USEPA-1. Your comment is noted and appreciated.

USEPA-2. While certain project-specific and cumulative effects are identified in the proposed Project, the direct effects of the Project reduce health risk and air quality effects upon many receptors in environmental justice communities. In particular, the health risk assessment (HRA) shows that under the mitigated proposed Project, the long-term health risk is below or slightly higher than the 2003 levels for each receptor type in the communities surrounding the Project (Figure D3-16, Table D3-8). The Project also includes a 30-acre buffer between the terminal and Wilmington residential areas. This combined with the San Pedro Bay Clean Air Action Plan (CAAP) and new CARB regulations including the CARB truck program, which is scheduled for approval in December of 2007, would reduce air quality effects locally and in the region.

In May 2004, as part of the Clean Air Non-road Diesel Rule <<http://www.epa.gov/non-road-diesel/2004fr.htm>>, USEPA finalized new requirements for non-road diesel fuel that will decrease the allowable levels of sulfur in fuel used in locomotives by 99 percent. These fuel improvements will create immediate and significant environmental and public health benefits by reducing PM from existing engines. In March 2007, USEPA proposed a three-part program that would dramatically reduce emissions from diesel locomotives of all types: line-haul: switch: and passenger rail. The proposal aims to cut PM emissions from these engines by 90 percent and NOx emissions by 80 percent.

The proposal would set new, Tier 3 exhaust emissions standards and idle reduction requirements for locomotives that would begin in 2009. The proposal would also tighten emission standards for existing locomotives when they are remanufactured -- to take effect as soon as certified systems are available (as early as 2008) but no later than 2010. Finally, the proposal would set long-term, Tier 4 standards for newly-built engines based on the application of high-efficiency catalytic after treatment technology, beginning in 2015 for locomotives.

As stated in Draft EIS/EIR Section 5.4.2.2, impacts on water quality and groundwater/soils associated with the proposed Project would not cause disproportionately high and adverse effects on minority and low-income populations. Also, since enactment of the Federal Water Pollution Prevention and Control Act amendments in 1972 (later the Clean Water Act following the 1977 amendments), water quality in the harbor has shown substantial improvement (MEC 1988, 2000). In fact, the mitigation requirements in the harbor have been significantly increased due to higher wildlife values in the inner portions of the harbor, which is related to improved water quality. In addition, since the implementation of the Clean Water Act, the Port has completely mitigated all fills to the harbor through on-site and off-site mitigation banks, including the co-signing of the Bolsa Chica mitigation agreement with USEPA. As provided for below in USEPA-9, the Port is providing justification for construction of the 10-acre fill based on efficiency and air quality improvements, should the proposed Project be approved/selected by the Los Angeles Board of Harbor Commissioners and/or the USEPA.

USEPA-3. The Draft Section 404(b)(1) (40 CFR 230) Alternatives Analysis, which relates primarily to aquatic resources, is included in the Draft EIS/EIR Appendix H. All of the alternatives presented and evaluated in the EIS/EIR will be considered by the decision makers in their determinations of whether to approve a project, or should they approve a project, which

of the alternatives (including the proposed Project) to select. However, not all of these alternatives fulfill the project objectives to the same extent as the proposed Project, and this will also be taken into account by the Port and USACE in their final determinations. A comparison of all the environmental effects of all the alternatives carried forward for evaluation is provided in Chapter 6 of the Draft EIS/EIR. As provided below in response to comment USEPA-9, the Port is providing justification for construction of the 10-acre fill; based on the improved efficiency gained from having additional land available, which would be expected to reduce the project's air quality emissions. As one of the founders of the Los Angeles Contaminated Sediment Task Force and an author of the guidelines for disposal of contaminated sediments, the Port will certainly consider utilization of the 10-acre fill as a Confined Disposal Facility (CDF) should this fill be approved by the Port and the USACE.

- USEPA-4.** The Port appreciates USEPA's participation in the development of the CAAP. Absent strong federal controls by USEPA on trucks, trains, and ships, the Ports are relying to the best of their ability on local municipal resources (lease agreements) to control goods movement emissions. As provided in Section 3.3 and Chapter 4 of the Draft EIS/EIR, while the Project does have some cumulative regional effects on air quality, the mitigated proposed Project would reduce or only slightly increase the health risks for residents and others in the vicinity of the Project (including San Pedro and Wilmington) relative to 2003 levels, depending on receptor type and location. The implementation of various mitigation measures targeting air quality pollutants is a major benefit of the Project. All of the action alternatives include significant construction emissions. Additionally, Mitigation Measure AQ-14 that relates to control of rail emissions has been strengthened, but it should be noted that locomotives are a federal source which would be best controlled at the federal level by USEPA.
- USEPA-5.** One hard copy and two CD-ROMs of the Final EIS/EIR will be provided to USEPA Region IX. The Final EIS/EIR will include the Final EIS/EIR (project summary, clarifying information and response to comments) and changes to the Draft EIS/EIR. The Port and USACE will not be providing additional copies of the Draft EIS/EIR which were sent to USEPA at the beginning of the comment period, as this document will not be modified.
- USEPA-6.** Your comment is noted. As previously provided, the proposed Project reduces operational emissions of the terminal. The Port believes that the CAAP is a lasting emission reduction plan for reduction of diesel particulates and that the mitigation measures contained the EIS/EIR would be in effect over a 30-year period and help reduce emissions in the area. The CAAP and proposed Project level mitigation included in the EIS/EIR, combined with Regional and State regulations, would result in significant reduction of emissions at the Port and in the South Coast Air Basin.
- USEPA-7.** Cargo projections from Port activities have been included in the Regional Transportation Plan (RTP) of the Municipal Planning Organization (MPO) and thus were included in the most recently USEPA-approved 1997/1999 SIP, and in the 2003 SIP, should USEPA approve this. These same projections have also been included in the more recent 2007 RTP and SIP, which will also be submitted for USEPA approval. This has been acknowledged by the Southern California Association of Governments (SCAG), which is the region's MPO. Additionally an analysis has been done pursuant to 40 CFR 93 S153 which determined that the proposed Project criteria emissions are de minimis, which are

less than 10 percent of both the 1997 and 2006 TRP. As such, a General Conformity Determination is not required for the Project.

All feasible mitigation measures have been included in the Project, and these measures are consistent with or go beyond CAAP requirements (see Draft EIS/EIR Section 3). It is not feasible for the Port or the operator of the Berth 136-147 Terminal to implement regional transportation/air quality measures such as electrification of the Alameda Corridor or implementation of the Alameda Corridor East. However, some of these regional transportation projects are in the planning stages. For example, the Metropolitan Transportation Agency (MTA) is beginning the environmental analysis of the I-710 Project, which will include an advanced technology alternative (and which is being supported by \$6 Million from the Port of Los Angeles), and the recent Prop 1B bond measure will include monies for construction of key grade separations on the Alameda Corridor East. The Ports are having discussions with UP and BNSF in accordance with the CAAP. In addition, the Final EIS/EIR proposes to implement diesel particulate traps (DPTs) on PHL locomotives beginning in 2015. This control measure is a strategy of CAAP measure RL-3 and it would reduce diesel particulate matter (DPM) emissions from these locomotives by about 90 percent from uncontrolled levels. While a large measure of control can occur on switchers operating rail yards, there is less control over the main line locomotives, which enter the South Coast Air Basin from all parts of the U.S. (although CARB has had some success in reducing locomotive emissions through their MOU with the rail lines). The railroads are a federal source controlled by federal regulation under the purview of USEPA. The Ports would therefore request that USEPA move to strengthen and/or speed up implementation of emission controls on main line locomotives.

USEPA-8. While there are ambient levels of mobile source emissions that effect environmental justice communities in the region, the proposed terminal operations would not result in increased air emissions on minority and low-income populations. Indeed, the mitigated proposed Project would reduce or only slightly increase long-term health risks relative to the 2003 levels (Figure D3-16, Table D3-8). Rulemaking anticipated by CARB includes: auxiliary engine rule (which was recently successfully challenged by the Pacific Maritime Steamship Association [PMSA]); heavy duty truck rule scheduled for approval this December; and the shore-side power/cold ironing rule and main ship engine rule both also proposed for consideration in December 2007. In addition, the State of California through Proposition 1B funding will be spending \$1 Billion dollars toward mobile source reductions. Of the \$1 billion, \$400,000,000 has been set aside for heavy-duty trucks involved in goods movement. This combined with the Port's \$200,000,000 over the next five years will greatly help reduce emissions. It is worthwhile noting that the USEPA budget for diesel retrofits for the entire nation is only \$200,000,000. It is not possible to quantify these reductions at this time, although the CARB Diesel Risk Reduction Program (CARB 2000) estimates that with the full implementation of its recommended measures, including retrofit of locomotives and commercial marine vessels, they will result in an overall 75 percent reduction in the diesel PM inventory and the associated potential cancer risk for 2010, and an 85 percent reduction for 2020, when compared to today's diesel PM inventory and risk. These reductions will occur through the combined actions of both California and the USEPA to adopt and implement rules that reduce diesel PM.

It is the Port's/USACE's goal to apply mitigation to the source of emissions in order to reduce health effects from proposed projects, and therefore reduce any long-term health

costs that might be associated with Port project development. The Draft EIS/EIR incorporates all feasible mitigation measures (i.e., Mitigation Measures AQ-1 through AQ-18B) that reduce toxic air pollution impacts from proposed construction and operational emission sources that are capable of being accomplished in a successful manner within a reasonable period of time, taking into consideration economic, environmental, legal, social, and technological factors (CEQA Guidelines Section 15364). Through application of mitigation measures, operation of the proposed Project and several of the alternatives result in lowered residential risk in the Wilmington community (see Draft EIS/EIR figure 3.2-2) as well as a decrease in sensitive, student and recreational receptors relative to the year 2003 (Table 3.2-30). In addition, Tables 3.2-25 and 3.2-26 show that with mitigation all criteria pollutants are reduced below levels in 2003. In addition, the Port has approved the Clean Air Action Plan (CAAP) which will reduce air pollution by 45 percent over the next five years. Therefore, no revisions to the Final EIS/EIR are necessary. Currently, the Port operates a monitoring station in Wilmington and is presently adding real time recording that will be displayed on a web site operated jointly by the Ports of Los Angeles and Long Beach.

USEPA-9. The Port along with other agencies (e.g. CARB and SCAQMD) and the University of Southern California have all done extensive outreach in the region and in Wilmington in regards to air emissions. For the proposed NEPA/CEQA evaluation, a scoping meeting as well as a public meeting on the Draft EIS/EIR were held in Wilmington at the Banning Community Center. The meetings were noticed in multiple newspapers including La Opinion, and notices were placed on the Port and USACE's web sites in both English and Spanish. In addition, for each event nearly 7,000 postcards were sent out in English and Spanish, which included the Wilmington zip code. All public meetings had simultaneous translation services as well as having interpreters present to help as needed. Port staff also presented the Project to the Wilmington Neighborhood Council and the Port Community Advisory Committee, EIR Subcommittee, prior to its publication. The Port has also incorporated a stakeholder outreach program into its CEQA process where various stakeholders are included in the Project (see www.portoflosangeles.org). These meetings continued past the close of comment period. This outreach has resulted in over 50 letters (some including signatures of multiple parties/organizations). In addition to project-related meetings, the Los Angeles Board of Harbor Commissioners holds at least half of its meetings in the evenings and are split between San Pedro and Wilmington. The meetings are all televised and available on the Port's web site (www.portoflosangeles.org). These meetings have also received extensive outreach and have included topics relevant to air quality including: the Port's air quality monitoring network including a site in Wilmington; consideration of the CAAP; and the Clean Truck Program. In addition, CARB has held a number of community meetings in Wilmington in regard to their Children's Health Study. SCAQMD has also held their own meetings in Wilmington and in the region as part of their education program. Finally, Andrea Hricko, Associate Professor of Preventive Medicine and Director, Community Outreach and Education at the Southern California Environmental Health Sciences Center, of the University of Southern California, has done outreach to communities and community organizations regarding health effects of mobile source emissions, especially as they relate to the Ports to ensure that the University of Southern California research findings are understood by the public and considered in public policy decisions.

USEPA-10. Air mitigations applied to the proposed Project would reduce emissions and related cancer risk below 2003 levels. It is the Port's intention to directly reduce or eliminate the source of emissions and therefore reduce any long-term health care costs that might be

associated with Port project development. The Port presently operates a monitoring station in Wilmington and is presently adding real time recording that will be displayed on a web site operated jointly by the Ports of Los Angeles and Long Beach.

The Port focuses its health-related mitigations primarily on a wide array of measures to reduce the emissions that cause the health impacts. In addition, the Ports of Los Angeles and Long Beach are in the process of finalizing the Clean Air Action Plan (CAAP) San Pedro Bay Standards in coordination with the SCAQMD and the CARB. In support of the CAAP, the Ports will prepare a Ports-wide Health Risk Assessment to more quantitatively estimate cumulative impacts from Port operations and individual projects.

USEPA-11. In its Record of Decision, the USACE will make a determination based on its mandates under the Clean Water Act (CWA), Rivers and Harbors Act, and, if applicable, the Marine Protection, Research, and Sanctuaries Act, as well as its responsibility under the NEPA, taking into account its own implementing regulations and guidelines. While Alternative 3 would not result in a permanent loss of waters of the U.S. (unlike the proposed Project), it would provide approximately 15 percent less throughput than the proposed Project. As discussed in Chapters 1 and 2 of the Draft EIS/EIR, projected demand exceeds the capacity of the existing Port terminals to handle and move the cargo, and planned expansion and optimization of the terminals would still fall short of the forecasted cargo demand by 2020 (Figure 2-2). As discussed in Draft EIS/EIR Chapter 2, maximizing capacity at Port terminals is critical to their legal mandate of the Port of Los Angeles Tidelands Trust of accommodating the region, State, and national need for international commerce. Achieving maximum capacity at Berths 136-147 along with all the container terminals at the Port (see Draft EIS/EIR Figure 1-6) is critical to meeting this objective. The 705-foot-long wharf that would be eliminated under Alternative 3 is integral to providing substantially more needed throughput at this container terminal (i.e., this site is “berth limited” as discussed in the response to comment USEPA-12), by allowing additional and larger (next generation) ships to berth. Therefore, Alternative 3’s approximately 15 percent less throughput would not meet the needs of the Port to maximize throughput at this facility or the Port, and this alternative was therefore rejected as not meeting the overall Project purpose.

USEPA-12. In regards to Alternative 2, the Draft Section 404(b)(1) Alternatives Analysis identified the proposed Project and Alternative 2 (proposed Project without the 10-acre fill) as practicable. However, USACE is considering additional information being provided by the Port (see following paragraph) to determine whether this fill would result in greater terminal efficiency (which is part of the overall Project purpose) and fewer air emissions. While the Section 404(b)(1) Guidelines focus on avoiding and minimizing aquatic resource impacts, other potentially substantial environmental impacts (e.g., air quality) also need to be considered in the analysis.

The proposed Project is “berth limited” meaning that the terminal capacity is controlled by ability to bring cargo over the wharf (e.g., the number and size of ships that can be accommodated.) As a result, addition of more land does not add to the overall terminal maximum capacity. However, additional land can increase the efficiency of a terminal, which is also part of the overall Project purpose. The presence of additional land at the proposed location would allow for more efficient terminal operations by either allowing for overall lower /less dense stacking of containers at the terminal, or by allowing additional space for chassis/wheeled operation. Some implications of a higher density terminal could include: more top picks and side picks or gantry cranes to stack containers

and sort through containers (called shuffling or digging) for placement on stacks; more yard hostler trips to bring containers to be stacked; more hostler and truck congestion in the driving aisles; and longer wait times. This activity results in the expenditure of more energy and more air emissions. As an extreme, it is estimated that a stacked operation, would require eight times the energy, and would generate approximately 80 percent more terminal equipment emissions per box than a wheeled operation. If this was applied to 10 acres at the Berth 136-147 Terminal, the terminal would be five percent more grounded and result in a four percent reduction in emissions.

Generalized Comparison of Wheeled vs Grounded Terminal

	<i>10-Acre Wheeled</i>	<i>10-Acre Grounded</i>
<u>Energy (Hp-hrs)</u>	499,687	4,200,698
<u>Air Emissions (gms/TEU)</u>		
ROG	7.431	12.581
CO	20.865	38.677
NO _x	92.228	170.940
SO _x	0.054	0.093
PM10	3.773	6.559
PM2.5	3.474	6.062

It is not guaranteed that the 10 acres would be utilized for a wheeled operation. But, even under a grounded/stacked condition, the storage density of the yard would be higher because there would be 10 fewer acres of storage for the same amount of throughput. This would result in more equipment, more shuffle or digging moves, more congestion in the driving aisles, and longer wait times for service. As a result, while the fill would result in loss of Inner Harbor aquatic habitat, it would increase terminal efficiency, reduce energy requirements and air emissions, and contribute to reduction of air pollutants, which would reduce impacts on the local community. While this fill does reduce aquatic habitat, it is located in an area of lower biological and EFH value than the Outer Harbor and is not the location of any special aquatic site or of significant value to any federal or state threatened or endangered species. However, the feasibility of a fill at this site is constrained by cost to accommodate several large storm drains, which enter the harbor at this location. The choice among alternatives by the Board of Harbor Commissioners and the USACE at the time of Project approval will take these issues into account.

USEPA-13. With regard to USEPA’s recommendations, as discussed above in response to comment USEPA-11, the 705-foot wharf at Berth 147 is an integral part of the proposed Project. Alternative 3 would not meet the Port’s needs and does not appear to meet the overall Project purpose, and therefore, it is not considered the Least Environmentally Damaging Practicable Alternative at this time. However, Alternative 3, along with the other alternatives (including the proposed Project) evaluated in the EIS/EIR, will be considered for approval or rejection by the Port and the USACE.

Lastly, as stated in response to comment USEPA-12, there are important efficiency considerations being further evaluated by the Port and the USACE to determine whether Alternative 2 is fully consistent with the overall Project purpose and would result in air emissions that could be avoided by having the land created by this fill. It is therefore not

appropriate to identify Alternative 2 as the “new” Project being proposed by the Port. Alternative 2, along with the other alternatives (including the proposed Project) evaluated in the EIS/EIR, will be considered for approval or rejection by the Port and the USACE.

- USEPA-14.** If the proposed Project is approved, the 10-acre fill will be considered for use as a Confined Disposal Facility (CDF). This consideration would include availability of contaminated sediments at the time of fill construction and the specific engineering design requirements of the fill. Following consideration of available contaminated materials in Los Angeles Harbor, the Port would consider receipt of contaminated materials from other locations, and would coordinate this activity with the Los Angeles Contaminated Sediments Task Force (CSTF). Please see response to comment USEPA-16 below.
- USEPA-15.** In regard to the USEPA recommendations, should the proposed Project be approved by the Port and USACE, the site will be considered as a CDF. The hierarchy for acceptance of material would be Port contaminated sediments, followed by available/acceptable contaminated sediments that can be delivered to the site by other members of the Los Angeles Regional CSTF.
- USEPA-16.** The expected sequence of disposal is as follows: 1) if structurally suitable, re-use as approved fill within the Port; 2) in-water disposal within the harbor as approved shallow water habitat or as storage at an approved site for use as future fill (if structurally suitable); 3) placement at an acceptable/available site provided by another member of the CSTF; 4) local beach replenishment if the material is an acceptable grain size and compatible with receiver sites; and 5) ocean disposal at LA-2 or LA-3. Since there is likely to be a portion of material at the Berths that is not acceptable for in-harbor aquatic disposal or ocean disposal, this material would be placed in an available CDF or absent that, at the Port’s upland disposal site at Anchorage Road. Any materials to be disposed of at an ocean disposal site, would be done so in accordance with Section 103 of the Marine Protection, Research and Sanctuaries Act (MPRSA).
- USEPA-17.** In regard to the USEPA recommendations, the Port of Los Angeles is one of the founding members of the Los Angeles Regional CSTF, and helped author the guidelines for coordination and sampling process for contaminated sediments. While the mandate of the CSTF is related to the disposal of contaminated sediments, and not specifically clean sediments, the Port is an active participant and will coordinate with the CSTF in accordance with the agreed upon guidelines.



United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
Pacific Southwest Region
1111 Jackson Street, Suite 520
Oakland, California 94607

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LOS ANGELES OFFICE

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August 27, 2007

Dr. Spencer D. MacNeil, Commander
U.S. Army Corps of Engineers, Los Angeles District
P.O. Box 532711
Los Angeles, CA 90053-2325

Dr. Ralph G. Appy, Director of Environmental Management
Port of Los Angeles
425 South Palos Verdes Street
San Pedro, CA 90731

Subject: Review of the Draft Environmental Impact Statement (DEIS), for Berth 136-147
(TraPac) Container Terminal Project, Port of Los Angeles, CA

Dear Dr. MacNeil and Dr. Appy:

The Department of the Interior has received and reviewed the subject document and has the following comments to offer.

GENERAL COMMENTS

The Fish and Wildlife Service (FWS) offers the following comments pursuant to the Fish and Wildlife Coordination Act, Section 404 of the Clean Water Act, Section 10 of the Rivers and Harbors Act, and the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

FWS has a long history of successfully working with the Port to resolve potential fish and wildlife conflicts with Port developments. The biological baseline, against which impacts are assessed, was last updated in 2000. This biological baseline information is contained in the report titled, "Ports of Long Beach and Los Angeles Year 2000 Biological Baseline Study of San Pedro Bay", June 2002. This biological information is applicable to subject project and has been used in preparation of the subject DEIR/EIS. The harbor biological baseline is being updated for use with future projects.

DOI-1

There has been a series of biological mitigation agreements among biological resource agencies and the Port. A description of landfill mitigation history by the Port has been included in the DEIR/EIS. The most recent mitigation agreement, implemented in 1997, was also signed by ten agencies, including the Port, FWS, and USACE.

DOI-1

That mitigation agreement is titled: "Agreement to Establish a Project for Wetlands Acquisition and Restoration at the Bolsa Chica Lowlands in Orange County, California, for the Purpose, Among Others, of Compensating for Marine Habitat Losses Incurred by Port Development Landfills within the Harbor Districts of the Cities of Los Angeles and Long Beach, California".

This Agreement (and amendments) describes the Port's mitigation credits for offsetting landfill habitat impacts associated with Port developments. As noted in the DEIR/EIS, there are other applicable mitigation agreements. The DEIR/EIS for subject project includes a Port mitigation history and description of basis and process of establishing Port landfill mitigation credits.

The DEIR/EIS includes updated accounting of Port mitigation credits available for use by this project (Table 3.3-4 on Page 3.3-31) and balance remaining after the project, per the Agreement.

However, the subject document is very unclear as to when the debit of mitigation credits would occur. Project description indicates proposed 10-acre landfill would be constructed in Phase II, between 2015 and 2025. Also, this 10-acre fill may be constructed only if ongoing Federal project (not addressed in this document) were to construct a five acre fill in this same area.

DOI-2

Document states, "The USACE will consider this document in any permit actions that the LAHD might undertake to implement the proposed Project or alternative. This document, however, does not serve as public notice of application for any Department of the Army (DA) permit at this time." It would seem that many years will pass before the 10-acre landfill permit application is submitted and construction begins. In those years, mitigation credits identified in this DEIR/EIS may have been obligated to other projects.

We recommend the final EIR/EIS expressly state whether mitigation credits currently available will not be committed to any other project until USACE's permit decision on Berth 136-147 Phase II is considered. Another option is to state in the EIR/EIS that Phase II 10-acre landfill would not be permitted unless mitigation credits were confirmed to be available at the time the permit is considered.

SPECIFIC COMMENTS

DOI-3

Page 1-19, Section 1.4.2.1 USACE Use. This section concludes with the following sentence: "The USACE Record of Decision (ROD) will document the decision of the USACE on the proposed action, including issuance of any permit pursuant to Section 404 of the CWA and Section 10 of the RHA, as well as any required environmental mitigation commitments." We recommend this section address how the permit application would be processed and how USACE would secure mitigation during eight or more years that would pass after the ROD was signed and before Phase II landfill were permitted or constructed.

DOI-4

Page 3.3-20, Section 3.3.4.3.1.1 Construction Impacts and Mitigation. Impact Bio-1a indicates "USACE has made a "no effect" determination for federally-listed species in accordance with requirements of Section 7 of the ESA." We recommend USACE reconsider its effects

determination at the time they make a decision on a permit application for 10-acre Phase II landfill. Circumstances may change in many years between the EIR/EIS, ROD, and project construction. If, at time of permit application, USACE determines that 10-acre fill "may adversely affect" a listed species, formal section 7 consultation with FWS would be warranted.

↑
DOI-4

Page 3.3-22, Section 3.3.4.3.1.1 CEQA Impact Determination. This section states that Mitigation Measure Bio-1 would fully offset potential marine habitat impacts. This statement is accurate only if appropriate mitigation credits remain at time of construction. We recommend language be added to clarify this important point.

DOI-5

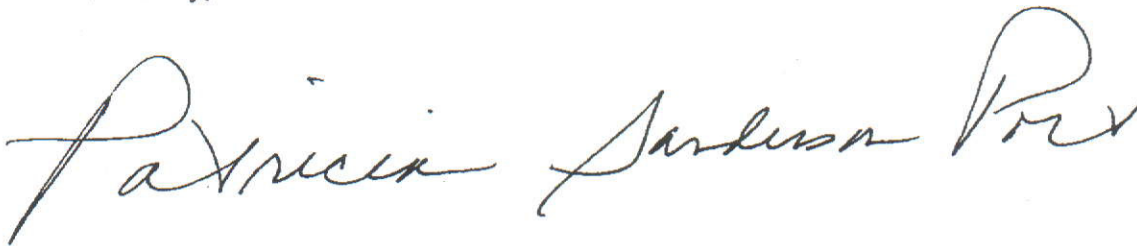
Page 4-45, Section 4.2.3.3 Cumulative Impact Mitigation Measure Bio-1. The statement is repeated that marine habitat loss of Phase II 10-acre landfill would be offset in accordance with interagency mitigation agreements. We recommend language be added to clarify that landfill can only be appropriately mitigated if credits remain at the time of construction.

DOI-6

If you have questions regarding these comments, please contact Darrin Thome, 916-414-6533.

Thank you for the opportunity to review this project.

Sincerely,



Patricia Sanderson Port
Regional Environmental Officer

cc:
Director, OEPC
FWS

Department of Interior, Office of Environmental Policy and Compliance, August 27, 2007

- DOI-1.** The Port and USACE acknowledge and appreciate the historic participation of USFWS in working with the Port to resolve potential fish and wildlife conflicts with Port developments. This synergy has resulted in the orderly development of the Port while allowing for successful protection of the California least tern and implementation of important on-site and off-site mitigation projects, including the restoration of over 1,500 acres of degraded coastal wetlands.
- DOI-2.** The DOI is correct, The 10-acre fill would be constructed at a future time. At present, the Port has adequate mitigation in either the Bolsa Chica mitigation agreement or the Outer Harbor agreement to cover the proposed fill. The Port has already submitted an application to the USACE for a Department of the Army permit for the proposed Project, which includes the 10-acre fill per Draft EIS/EIR Sections ES.2.1 and 1.4.2.1, a public notice of this application for USACE permit was issued concurrently with the release of this Draft EIS/EIR. The public notice describes the Project and the factors being considered in evaluating the permit application. No in-water work or discharges associated with this Project could occur prior to the issuance of a USACE permit. All the activities proposed for this Project are being evaluated at this time, and, if approved in part or in their entirety, would be covered under one USACE permit. If a USACE permit were issued that included authorization of permanent fill in waters of the U.S. (e.g., proposed 10-acre fill), it would include a condition that credit be officially debited from the bank at that time. Once credits have been debited through the USACE permit process, these credits would not be available for other projects.
- DOI-3.** Please see response to comment DOI-2.
- DOI-4.** The USACE's no effect determination is based on the lack of nesting/breeding or important foraging habitat for any federally listed species and the infrequent observations of such species in the West Basin, as described in Section 3.3 of the Draft EIS/EIR. Federally listed species concentrate and are supported by habitat in the Outer Harbor, which is a few miles from this industrial, deep-water basin area. Even if one or more individuals were in the general area at the time of Project construction, they could easily avoid the activity and forage elsewhere in the West Basin or more suitable areas. Nevertheless, if the USACE issues a permit that includes future construction of the 10-acre fill, it will include a condition requiring that a survey be conducted prior to any construction at the site to determine presence/utilization of the location by federally listed threatened or endangered species, such as California brown pelican. The USACE would provide DOI/USFWS with the survey results and coordinate or consult with DOI/USFWS as required prior to any construction.
- DOI-5.** As stated in the response to comment DOI-2, credits would be permanently debited from the mitigation agreement at the time of USACE permit issuance and would then be unavailable for use for another project. No permit would be issued for fill where there is no mitigation credit available.
- DOI-6.** Please see response to comment DOI-2.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802- 4213

SEP 25 2007

Colonel Thomas H. Magness
U.S. Army Corps of Engineers
Los Angeles District
Regulatory Division
ATTN: Dr. Spencer D. MacNeil
P.O. Box 532711
Los Angeles, California 90053-2325

Dear Colonel Magness:

NOAA's National Marine Fisheries Service (NMFS) has reviewed the U.S. Army Corps of Engineers' (Corps) and the Los Angeles Harbor Department's (Port) Draft Environmental Impact Assessment/Environmental Impact Report (DEIS/EIR) for the Berths 136-147 Container Terminal project in the Port of Los Angeles. NMFS offers the following comments pursuant to section 305(b)(4)(A) of the Magnuson-Stevens Fishery Conservation and Management Act and the Fish and Wildlife Coordination Act.

Statutory and Regulatory Information

The Magnuson-Stevens Fishery Conservation and Management Act (MSA), as amended by the Sustainable Fisheries Act of 1996, establishes a national program to manage and conserve the fisheries of the United States through the development of federal Fishery Management Plans (FMPs), and federal regulation of domestic fisheries under those FMPs, within the 200-mile U.S. Exclusive Economic Zone ("EEZ"). 16 U.S.C. §1801 *et seq.* To ensure habitat considerations receive increased attention for the conservation and management of fishery resources, the amended MSA required each existing, and any new, FMP to "describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 1855(b)(1)(A) of this title, minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat." 16 U.S.C. §1853(a)(7). Essential fish habitat (EFH) is defined in the MSA as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity" 16 U.S.C. §1802(10). The components of this definition are interpreted at 50 C.F.R. §600.10 as follows: "Waters" include aquatic areas and their associated physical, chemical, and biological properties that are used by fish and may include aquatic areas historically used by fish where appropriate; "substrate" includes sediment, hard bottom, structures underlying the waters, and associated biological communities; "necessary" means the habitat required to support a sustainable fishery and the managed species'

NMFS-1



contribution to a healthy ecosystem; and “spawning, breeding, feeding, or growth to maturity” covers a species’ full life cycle.

Pursuant to the MSA, each federal agency is mandated to consult with NMFS (as delegated by the Secretary of Commerce) with respect to any action authorized, funded, or undertaken, or proposed to be, by such agency that may adversely affect any EFH under this Act. 16 U.S.C. §1855(b)(2). The MSA further mandates that where NMFS receives information from a Fishery Management Council or federal or state agency or determines from other sources that an action authorized, funded, or undertaken, or proposed to be, by any federal or state agency would adversely effect any EFH identified under this Act, NMFS has an obligation to recommend to such agency measures that can be taken by such agency to conserve EFH. 16 U.S.C. §1855(4)(A). The term “adverse effect” is interpreted at 50 C.F.R. §600.810(a) as any impact that reduces quality and/or quantity of EFH and may include direct or indirect physical, chemical, or biological alterations of the waters or substrate and loss of, or injury to, benthic organisms, prey species and their habitat, and other ecosystem components, if such modifications reduce quantity and/or quality of EFH. In addition, adverse effects to EFH may result from actions occurring within EFH or outside EFH and may include site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions.

If NMFS determines that an action would adversely affect EFH and subsequently recommends measures to conserve such habitat, the MSA proscribes that the federal action agency that receives the conservation recommendation must provide a detailed response in writing to NMFS within 30 days after receiving EFH conservation recommendations. The response must include a description of measures proposed by the agency for avoiding, mitigating, or offsetting the impact of the activity on EFH. In the case of a response that is inconsistent with NMFS EFH conservation recommendations, the federal agency must explain its reasons for not following the recommendations. 16 U.S.C. §1855(b)(4)(B).

Proposed Action

The overall purpose of the proposed project is to increase and optimize the cargo handling efficiency and capacity of the Port at Berths 136-147 in the West Basin to address the need to optimize Port lands and terminals for current and future containerized cargo handling. The proposed Project seeks to do this by improving facilities and expanding an existing operating 176-acre marine terminal at Berths 136-147.

The proposed project occurs in the Port of Los Angeles in the north and eastern portions of the West Basin of the Port, in the Wilmington and San Pedro Districts. The proposed terminal is roughly bordered by Harry Bridges Boulevard on the north; by Slip 1, Neptune Avenue, Water Street, and Fries Avenue on the east; by the Turning Basin to the south, and by Berths 118-131 to the west.

The proposed project is to expand and modernize the container terminal at Berths 136-147, upgrade existing wharf facilities, and install a buffer area between the terminal and

the community. The proposed project includes a 30-year lease and would involve two phases of construction (Phase I: 2008-2015, Phase II: 2015-2025). Most of the proposed improvements would occur on 176 acres currently being used as a container terminal operated by TraPac, but the proposed project also includes adding a total of 67 terminals to the new terminal, 57 in Phase I and 10 in Phase II.

Major elements of the proposed project include the following:

- Expanding, redeveloping, and constructing container terminal facilities, including new buildings and gates, and constructing a new on-deck rail yard
- Wharf and berth work, including dredging 295,000 cubic yards, renovating 2,900 feet of wharf and constructing 705 feet of new wharf
- Installing five new gantry cranes to replace six existing gantry cranes
- Relocating the Pier A rail yard to the backlands area of Berth 200
- Constructing a 500-space parking lot for union workers
- In Phase II, filling the 10-acre Northwest Slip, constructing backlands facilities on the fill, and constructing a new 400-foot wharf along the edge of the fill
- Widening Harry Bridges Boulevard and constructing a new 30-acre buffer area between "C" Street and Harry Bridges Boulevard

Alternatives to the proposed project were also discussed and analyzed in the DEIS/EIR. Alternative 1 is the no project alternative. Alternative 2 is the same as the proposed project except that the 10-acre Northwest Slip would not be filled and the 400-foot wharf extension adjacent to it would not be built. Alternative 3 is the same as the proposed project except that the proposed new 705-foot wharf at Berth 147 would not be constructed, the 10-acre Northwest Slip would not be filled, and the 400-foot wharf extension adjacent to it would not be built. Alternative 4 would convert the area into an omni-cargo handling terminal. The omni terminal would differ from the proposed project in that there would be no seismic upgrades to the existing wharves, no new wharf construction, no change in existing cranes, and no 10-acre fill of the Northwest Slip. Alternative 5 comprises only the upland infrastructure components of the proposed project.

Action Area

The proposed project occurs within EFH for various federally managed fish species within the Coastal Pelagics Species and the Pacific Coast Groundfish FMPs. In addition, the project occurs within an area designated as an estuary habitat area of particular concern (HAPC) for various federally managed fish species within the Pacific Groundfish FMP. HAPC are described in the regulations as subsets of EFH which are rare, particularly susceptible to human-induced degradation, especially ecologically important, or located in an environmentally stressed area. Designated HAPC are not afforded any additional regulatory protection under MSA; however, federal projects with potential adverse impacts to HAPC will be more carefully scrutinized during the consultation process.

Effects of the Action

Based on information provided in the DEIS/EIR, NMFS concludes that the proposed action would adversely affect EFH for various federally managed species within Coastal Pelagics Species and Pacific Coast Groundfish FMPs.

The proposed fill at Northwest Slip would result in the direct loss of 9.5 acres of EFH and habitat for other fishery resources. As part of the proposed project, the Port intends to apply 4.75 credits available in the Bolsa Chica or Outer Harbor mitigation banks to compensate for loss of EFH and habitat for other fish and wildlife resources.

The waters adjacent to Berths 144-147 would be deepened by dredging to match the planned -53 foot (MLLW) channel depth that is expected to be achieved by the Channel Deepening Project. Approximately 265,000 cubic yards of sediments would be dredged for this purpose. In addition, the wharf upgrades would involve dredging approximately 30,000 cubic yards of sediments from the West Basin. In total, proposed dredging activities would impact 6.2 acres of soft bottom habitat. The environmental effects of dredging and disposal on EFH include 1) direct removal/burial of organisms; 2) turbidity/siltation effects, including light attenuation from turbidity; 3) contaminant release and uptake, including nutrients, metals, and organics; 4) release of oxygen consuming substances; 5) entrainment; 6) noise disturbances; and 6) alteration to hydrodynamic regimes and physical habitat.

Wharf construction activities involve modifications of the dike and vertical wall surfaces, timber piling removal, and concrete piling installation. These activities would result in habitat disturbances, noise disturbances, and pollutant runoff, which would reduce the quality of EFH within the impact area.

EFH Conservation Recommendation

As described in the above effects analysis, NMFS has determined that the proposed action would adversely affect EFH for various federally managed fish species the Coastal Pelagics Species and the Pacific Coast Groundfish FMPs.

NMFS believes the dredging and wharf construction activities would adversely affect EFH. However, many of the impacts would only be temporary. In addition, the proposed action contains adequate measures to avoid, minimize, mitigate, or otherwise offset the adverse effects associated with dredging and wharf construction. Therefore, NMFS has no EFH Conservation Recommendations to provide on these issues.

NMFS's primary concern relates to the purpose and need for the proposed fill at Northwest Slip. The proposed fill would adversely affect EFH via the permanent removal of 9.5 acres of habitat. Therefore, pursuant to section 305(b)(4)(A) of the MSA, NMFS offers the following EFH conservation recommendation to avoid, minimize, mitigate, or otherwise offset the adverse effects to EFH.

NMFS-1

NMFS-2

NMFS-3

- 1. If practicable, the Corps and the Port should adopt Alternative 2 rather than the proposed project. Alternative 2, which does not include the fill, involves the same number of annual ship calls and containerized cargo as the proposed project. The only statements NMFS identified in the DEIS/EIR that argued against Alternative 2 relate to decreased container movement efficiency compared to the proposed project. Given the same level of cargo traffic in the proposed project and Alternative 2, the effect of decreased efficiency is not readily apparent and, thus, does not provide a sufficient justification for filling 9.5 acres of marine habitat.

NMFS-3

Statutory Response Requirement

Please be advised that regulations at section 305(b)(4)(B) of the MSA and 50 CFR 600.920(k) of the MSA require your office to provide a written response to this letter within 30 days of its receipt and at least 10 days prior to final approval of the action. A preliminary response is acceptable if final action cannot be completed within 30 days. Your final response must include a description of measures to be required to avoid, mitigate, or offset the adverse impacts of the activity. If your response is inconsistent with our EFH conservation recommendations, you must provide an explanation of the reasons for not implementing those recommendations. The reasons must include the scientific justification for any disagreements over the anticipated effects of the proposed action and the measures needed to avoid, minimize, mitigate, or offset such effects.

NMFS-4

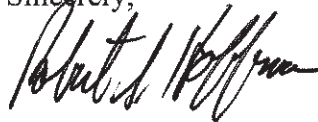
Supplemental Consultation

Pursuant to 50 CFR 600.920(l), the Corps must reinitiate EFH consultation with NMFS if the proposed action is substantially revised in a way that may adversely affect EFH, or if new information becomes available that affects the basis for NMFS' EFH conservation recommendations.

NMFS-5

Please contact Mr. Bryant Chesney at 562-980-4037 or Bryant.Chesney@noaa.gov if you have any questions concerning this EFH consultation or require additional information.

Sincerely,



Robert S. Hoffman
Assistant Regional Administrator
for Habitat Conservation Division

National Marine Fisheries Service, September 25, 2007

NMFS-1. Comment noted.

NMFS-2. While the 10-acre fill would have the potential to adversely affect Essential Fish Habit (EFH), the fill and EFH impact would be offset by application of mitigation credits from either the Bolsa Chica Bank or the Outer Harbor Mitigation Bank. This is consistent with previous EFH determination on the Channel Deepening Project which applied mitigation credits toward construction of fill in the harbor. The Port and USACE concur that dredging and wharf construction would temporarily affect EFH.

NMFS-3. The proposed project is “berth limited” meaning that the terminal capacity is controlled by the ability to bring cargo over the wharf (e.g., the number and size of ships that can be accommodated). As a result, addition of more land does not add to the overall terminal maximum capacity. However, additional land can increase the efficiency of a terminal, which is also part of the overall Project purpose. The presence of additional land at the proposed location would allow for more efficient terminal operations by either allowing for overall lower /less dense stacking of containers at the terminal, or by allowing additional space for chassis/wheeled operations. Some implications of a higher density terminal could include: more top picks and side picks or gantry cranes to stack containers and sort through containers (called shuffling or digging) for placement on stacks; more yard hostler trips to bring containers to be stacked; more hostler and truck congestion in the driving aisles; and longer wait times. This activity results in the expenditure of more energy and more air emissions. As an extreme, it is estimated that a stacked operation, would require eight times the energy, and would generate approximately 80 percent more terminal equipment emissions per box than a wheeled operation. If this was applied to 10 acres at the Berth 136-147 Terminal, the terminal would be five percent more grounded and result in a four percent reduction in emissions. See response to comment USEPA-9.

It is not guaranteed that the 10 acres would be utilized for a wheeled operation. But, even under a grounded/stacked condition, the storage density of the yard would be higher because there would be 10 fewer acres of storage for the same amount of throughput. This would resulting in more equipment, more shuffle or digging moves, more congestion in the driving aisles and longer wait times for service. As a result, while the fill would result in loss of Inner Harbor aquatic habitat, it would increase terminal efficiency, reduce energy requirements and air emissions, and contribute to a reduction of air pollutants, which would reduce impacts on the local community, which is also a Project purpose. While this fill does reduce aquatic habitat, it is located in an area of lower biological and EFH value than the Outer Harbor and is not the location of any special aquatic site or of significant value to any federal or state threatened or endangered species. However, additional land can add to the efficiency (defined as lower operating cost and air emissions/energy use per TEU) of the terminal, which is part of the Project purpose. However, the feasibility of a fill at this site is constrained by cost to accommodate several large storm drains, which enter the harbor at this location. The choice among alternatives by the Board of Harbor Commissioners and the USACE at the time of Project approval will take these issues into account.

NMFS-4. The USACE provided a written response to NMFS reiterating the USACE’s preliminary determination, pursuant to the Draft EIS/EIR Draft Section 404(b)(1) Alternatives Analysis, that Alternative 2 is the least environmentally damaging practicable alternative, but that the USACE is considering the Port’s justification for the construction of the 10-

acre fill associated with the Project. However, it is not clear at this point, which alternative will be selected by the Los Angeles Board of Harbor Commissioners should they approve a project, or by the USACE in their Record of Decision. Should the decision makers elect to approve a fill at this location, then the fill and EFH impact would be offset by application of mitigation credits from either the Bolsa Chica Bank or the Outer Harbor Mitigation Bank. A decision not to approve the proposed Project that includes the permanent fill would be consistent with NMFS EFH recommendation.

NMFS-5. The USACE would reinitiate EFH consultation with NMFS should the proposed action be revised in a way that may adversely affect EFH beyond what is contemplated in the proposed action.

U.S. Department of
Homeland Security

United States
Coast Guard



Commander
District Eleven

U.S. Coast Guard Island, Bldg 50-2
Alameda, CA 94501-5100
Staff Symbol: (dpw)
Phone: (510) 437-3514
Fax: (510) 437-5836

16590
Berth 136-147 LA HBR
July 3, 2007

The Port of Los Angeles
Attn: Dr. Ralph Appy
425 South Palos Verdes Street
San Pedro, CA 90731

Dear Sir:

We have completed our review of the Notice of Preparation of a Draft Environmental Impact Report for the proposed Berth 136-147 (TRAPAC) Container Terminal Project in Los Angeles, CA.

It appears there will be no proposed bridges or bridge related projects across navigable waters of the United States. Therefore, The General Bridge Act of 1946 does not apply and the Coast Guard will not exercise jurisdiction on this project, for bridge permitting purposes.

Should any bridge related actions be considered relative to this proposed project, the environmental document must include a thorough assessment of the potential navigational and environmental impacts. This office should be contacted immediately to discuss any proposed bridge related projects that develop.

USCG-1

We appreciate the opportunity to provide early comments on this project.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Sulouff".

DAVID H. SULOUFF
Chief, Bridge Section
Eleventh Coast Guard District
By direction of the District Commander

Copy: USACOE, LA District
CG Sector LA/LB



United States Coast Guard, July 3, 2007

USCG-1. The comment correctly notes that because the proposed Project does not include construction of any bridges, the Project is not required to comply with the General Bridge Act of 1946. Therefore, no revisions to the Final EIS/EIR are required.