



THE PORT
OF LOS ANGELES

Executive Director's
Report to the
Board of Harbor Commissioners

DATE: MAY 31, 2012

FROM: PLANNING & ECONOMIC DEVELOPMENT

**SUBJECT: RESOLUTION NO. _____ - STAFF RESPONSE TO THE PORT OF
LOS ANGELES COMMUNITY ADVISORY COMMITTEE
RECOMMENDATION NO. 110 REGARDING RANCHO LPG
HOLDINGS, LLC FACILITY**

SUMMARY:

Port of Los Angeles Community Advisory Committee (PCAC) Recommendation No. 110 requests that the City of Los Angeles Harbor Department (Harbor Department) revoke Revocable Permit No. 10-05 (the rail line permit that connects the North Gaffey Street terminal to the interstate railroad system); perform a risk assessment of the Rancho LPG Holdings, LLC (Rancho) facility and all hazardous commodities transported through the Port of Los Angeles (Port) and nearby communities via pipelines, railroad tank cars, and tank trucks; and that the Board of Harbor Commissioners (Board) establish a working group to assist in examining the risks associated with the Rancho facility. Staff recommends denying PCAC Recommendation No. 110.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

1. Consider and deny the Port of Los Angeles Community Advisory Committee Recommendation No. 110 for the reasons stated in this board letter; and
2. Adopt the foregoing as Resolution No. _____.

DISCUSSION:

Background – Rancho Facility: In 1973, Petrolane developed a liquefied petroleum gas (LPG) storage facility on private land on North Gaffey Street in San Pedro (Transmittal 1). The facility was assessed in an Environmental Impact Report (EIR) certified in 1973 by the City of Los Angeles as the lead agency. The facility has been used to store butane and propane and includes two 12.5 million gallon refrigerated tanks. Additionally, the facility includes five 60,000 gallon horizontal storage tanks. The Harbor Department does not own or have operational control over the LPG storage facility. While located on privately owned property, the storage facility is subjected to regulation by several local, state and federal regulatory and enforcement agencies, including, but not limited to the U.S. Department of Homeland Security, U.S. Department of

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Transportation, U.S. Environmental Protection Agency, U.S. Department of Occupational Health and Safety, California Environmental Protection Agency, California Emergency Management Agency, California Department of Toxic Substances Control, Los Angeles City and County Fire Departments, City of Los Angeles Bureau of Sanitation Industrial Waste Management Division and City of Los Angeles Department of City Planning.

Pipeline Permit and Berthing Rights: The storage facility was connected to the Port by means of a 16-inch pipeline to Berth 120 in the West Basin where vessels were loaded with butane for export. In March 2004, the Board concurred with PCAC motion No. 17, which recommended that the transfer of LPG products at Berth 120 cease, and that the pipeline permit not be renewed. In July 2004, the berthing rights for AmeriGas, which acquired Petrolane, were terminated, and in October 2010, the pipeline permit was terminated.

Rail Spur Permit: In addition to the pipeline permit and berthing rights, the Harbor Department also approved a permit for a railroad spur track to serve the storage facility. In 1974, the Harbor Department entered into Revocable Permit (RP) No. 1212 with Petrolane (the first occupant of the current Rancho facility) for construction, operation, and maintenance of an industrial railroad spur track. The spur track was necessary to connect the Petrolane facility to the existing spur track that ran along Gaffey Street. This spur track that ran along Gaffey Street pre-existed the development of the Petrolane facility and served other customers in the area. Records indicate that in order to allow Petrolane access to the rail system a spur track had to be constructed over land the Harbor Department had previously purchased from the Watson Land Company in 1970. At that time the remainder of that spur track that ran along Gaffey Street was owned by Southern Pacific Railroad (SPR).

In 1994, through the purchase with the Port of Long Beach acting by and through its Board of Harbor Commissioners, of rail track in connection with the Alameda Corridor project, the Harbor Department gained an ownership interest in the railroad spur track that was once owned by SPR and runs parallel to Gaffey Street up to the point covered by RP No. 1212. Therefore, after the Alameda Corridor transaction, the Harbor Department had interest in the entirety of the railroad spur track that parallels Gaffey Street which serves the Rancho facility. Rancho continues to utilize the railroad spur track to move tank cars to and from the facility. Rail service is provided by Pacific Harbor Line (PHL), the operating railroad that provides rail switching services to customers within and adjacent to the Ports of Los Angeles and Long Beach.

In 2011, the Harbor Department entered into RP No. 10-05 with Rancho LPG Holdings, LLC (Rancho) (Transmittal 2). RP No. 10-05 is a successor RP to RP No. 1212. The Harbor Department is authorized to terminate RP No. 10-05 upon thirty (30) days' notice pursuant to paragraph 3 of the RP, which states:

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“The Revocable Permit shall be month-to-month, commencing upon the date of execution by Executive Director and shall thereafter be revocable at any time by Tenant or by Executive Director, upon giving of at least thirty (30) days’ written notice to the other party stating the date upon which this Permit shall terminate. The right of the Executive Director to revoke this Permit is and shall remain unconditional. Neither City, nor any board, officer or employee thereof, shall be liable in any matter to Tenant because of such revocation.” (RP No. 10-05)

PCAC Recommendation No. 110 – PCAC Recommendation No. 110 (Transmittal 3) requests the Board direct staff to (1) revoke Revocable Permit (RP) No. 10-05, (2) perform a “Risk Management Plan” of the Rancho facility, including the transport of product to and from the facility by pipeline, rail tank car and truck, and perform a risk analysis of products transported to and through the Port and nearby communities by pipeline, rail tank car and truck, and (3) that the Board establish a working group to examine the risks of the Rancho facility.

- (1) As stated above, the Harbor Department does have the right to revoke Permit No. 10-05 in accordance with the terms of the contract. Termination would not have the effect of terminating rail service to the Rancho facility, however, because rail service to the Rancho facility would continue under a permit between the Harbor Department and Pacific Harbor Line (PHL) (Permit No. 1989). RP No. 10-05 is the rail spur permit that connects the Rancho facility to the interstate railroad system served by PHL as a common carrier. Permit No. 1989, approved by the Board in 1997, grants PHL operational and maintenance responsibilities of the rail facilities in the Port, including the switching of railcars in and around the Port. This Permit gives PHL, the ability to operate as a federally recognized common carrier on the spur track along Gaffey Street that serves the Rancho facility. This includes the section of track that is also the subject of RP No. 10-05. Therefore, RP No. 10-05 between the Harbor Department and Rancho is not required for PHL to serve the facility and termination of the permit would not result in any discontinuation of rail service to the Rancho facility. Moreover, termination of RP No. 10-05 would result in the loss of (1) \$1 million in comprehensive general liability and property damage insurance provided by Rancho, (2) indemnification of the Harbor Department from any claims resulting from Rancho’s operations on the RP No. 10-05 premises, and (3) the loss of \$14,244 in compensation per year generated from the RP. Further, should the Board seek to eliminate the spur track from Permit No. 1989 with PHL, approval would be required from the Surface Transportation Board (STB). If this were to be initiated, it is anticipated that Rancho would vigorously contest the proposed action. STB discontinuance/abandonment proceedings largely involve questions of a line’s economic viability. Based on staff’s current understanding, there is still economic viability in the use of the line to serve the Rancho facility. Accordingly it is unlikely that the STB would allow discontinuance or abandonment of the line.

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Therefore, staff recommends that this element of PCAC Recommendation No. 110 be denied.

- (2) PCAC Recommendation No. 110 also requests the Harbor Department to develop a "Risk Management Plan" for the Rancho facility assessing the transport of product to and from the facility by pipeline, rail tank car, and tank trucks. The motion also requested a risk analysis of the transport of products to and through the Port and nearby communities via pipelines, rail tank cars, and tank trucks. In November 1983, the California Coastal Commission certified Port Master Plan Amendment No. 3, relating to the establishment of a Risk Management Plan (RMP) for the Port. The purpose of the RMP is to manage and direct proposed developments in the Port to protect against and minimize the risks of significant adverse impacts due to potential hazards associated with liquid bulk terminals in the Port. The policies of the Harbor Department's RMP require those Port terminals handling hazardous liquid bulk cargoes be identified, those locations in and adjacent to the Port that contain high density working, visitor or residential populations be identified, and those areas that could be placed at risk should an incident occur at a Port liquid bulk terminal be identified. Once these are identified, the goal of the RMP is to minimize or eliminate those areas where a high density population is within an area placed at risk from an incident at a liquid bulk facility in the Port.

Since the RMP is an amendment to the Port Master Plan, which governs those Port properties within the coastal zone, its application is limited to those same Port properties within the coastal zone. The current Rancho facility on North Gaffey Street is neither on Port property nor is it within the coastal zone. Therefore, as the Rancho facility is outside of the Harbor District and coastal zone, application of the RMP criteria is beyond the jurisdiction of the Harbor Department. Additionally, the intent of the Harbor Department's RMP is to assess the potential risks of the storage and transfer of hazardous commodities occurring at liquid bulk terminals in the Port. Risk assessments of commodities either on board a vessel, inside a tank truck or rail tank car or in a pipeline transiting through the Port is not mandated to be addressed in the Port's RMP. Therefore, staff recommends denial of this element of PCAC Recommendation No. 110.

- (3) The motion further requests that the Board establish a working group to examine the risks associated with the operation of the Rancho facility and the transport of products by rail and truck to the facility. The working group should include representatives of the Los Angeles Fire Department, U.S. Geological Survey, U.S. Environmental Protection Agency, research communities, local organizations and PCAC. As stated above, as the Rancho facility is located outside of the Harbor Department's jurisdiction on privately held property,

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establishing and organizing a working group to assess operations at the Rancho facility would be beyond the Harbor Department's scope of authority. Therefore, staff recommends denial of this element, as well as the entirety of PCAC Recommendation No. 110. However, Harbor Department staff could request that another agency establish such a working group.

ENVIRONMENTAL ASSESSMENT:

The proposed action is denial of a PCAC recommendation requesting that the Harbor Department revoke Permit No. 10-05 with Rancho, perform a risk assessment of the Rancho facility and all hazardous commodities transported through the Port and nearby communities and that the Board establish a working group to assist in examining the risks associated with hazardous commodity transport operations. As an activity involving rejection and disapproval of a project, the Director of Environmental Management has determined the proposed action is exempt from the California Environmental Quality Act (CEQA) in accordance with Article II, Section 2(j) of the Los Angeles City CEQA Guidelines.

ECONOMIC BENEFITS:

This Board action will have no employment impact.

FINANCIAL IMPACT:

If Revocable Permit No. 10-05 is terminated, the Harbor Department will lose \$14,244 in compensation per year.

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CITY ATTORNEY:

The City Attorney's Office finds that the Harbor Department has contractual authority to terminate RP No. 10-05 pursuant to paragraph 3 of RP No. 10-05. Termination of RP No. 10-05 would result in a loss of insurance, indemnification, and rents to the Harbor Department that are provided under RP No. 10-05. Moreover, termination of RP No. 10-05 would not terminate rail service to Rancho as such service would continue to be provided by PHL pursuant to the San Pedro Bay Harbor Rail Operating Permit (Permit No. 1989). The City Attorney's Office has reviewed and analyzed the relevant legal authorities and has found that the Harbor Department is not authorized to abandon or discontinue the railroad spur track that is the subject of RP No. 10-05. Abandonment or discontinuance of the railroad spur track that serves Rancho requires the approval of the STB, which has exclusive jurisdiction over such matters.

TRANSMITTALS:

1. Rancho Facility Site Map
2. RP No. 10-05
3. PCAC Recommendation No. 110


FIS Approval: EF (initials)

CA Approval: TAM (initials)

for 
DAVID L. MATHEWSON
Director of Planning & Economic Development


KATHRYN McDERMOTT
Deputy Executive Director

APPROVED:


GERALDINE KNATZ, Ph.D.
Executive Director

Author: J. Ruddell