

DATE: NOVEMBER 14, 2008

FROM: ENVIRONMENTAL MANAGEMENT DIVISION

SUBJECT: RESOLUTION NO. _____ - FINAL SUBSEQUENT ENVIRONMENTAL IMPACT REPORT (SEIR) FOR THE PACIFIC L.A. MARINE TERMINAL LLC PIER 400, BERTH 408 (PLAMT) PROJECT (LAHD ADP NO. 030407-061; SCH NO. 1992102975)

SUMMARY:

Staff recommends that the Board of Harbor Commissioners (Board) certify the Final Subsequent Environmental Impact Report (SEIR) for the Pacific L.A. Marine Terminal, LLC Pier 400, Berth 408 (PLAMT) Project in accordance with the California Environmental Quality Act (CEQA), and approve the proposed Project. The proposed Project would include construction and operation of a new marine terminal at Berth 408 on Pier 400, new tank farm facilities with a total of four (4) million barrels (bbl) of capacity, and pipelines connecting the marine terminal and the tank farms to local refineries. The terminal would be operated by PLAMT under a 30-year lease from the Los Angeles Harbor Department (LAHD). In approving the project, the Board will need to make specific Findings of Fact regarding the significant environmental impacts of the proposed Project and mitigation measures to reduce or avoid such impacts, adopt a Statement of Overriding Considerations; and adopt a Mitigation Monitoring and Reporting Program (MMRP) to track mitigation. Project benefits include: providing 732 annual construction jobs and \$455 million in construction expenditures; providing approximately 54 new jobs at maximum build out of the terminal; providing a net 212 annual operational jobs in the five county region at build out; and generating total annual tax revenues of over \$15 million.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

1. Certify that the Final Subsequent Environmental Impact Report (SEIR) for the PLAMT Project (Transmittal 1) (a) has been completed in compliance with the CEQA of 1970 as amended, with the State CEQA Guidelines, and the Los Angeles City CEQA Guidelines; (b) was presented to the Board for review and the Board considered the information contained in the Final SEIR prior to approving the project; and (c) reflects the independent judgment and analysis of the LAHD, and that all required procedures have been completed;
2. Adopt the attached Findings of Fact and Statement of Overriding Considerations (Transmittal 2);

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3. Find that, in accordance with the information contained in the Final SEIR for the PLAMT Project, the project will have significant environmental effects on Air Quality; Biological Resources; Geological Resources; Noise; Recreation, Risk of Upset and Hazardous Materials; Water Quality, Sediments and Oceanography; and Cumulative Impacts, as defined by Public Resources Code sections 21068, 21080, 21082.2, and 21083 and the State CEQA Guidelines, Sections 15064, 15064.5, and 15382. The SEIR found no significant effects for Aesthetics/Visual Resources, Cultural Resources, Land Use, Marine Transportation, Population and Housing, and Utilities;
4. Find that, in accordance with the provisions of the State CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the proposed Project which substantially lessen or avoid the significant adverse environmental impacts identified in the SEIR;
5. Find that, in accordance with the provisions of the State CEQA Guidelines Section 15091(a)(3), specific economic, legal, social, technological, or other considerations, make infeasible certain mitigation measures and project alternatives identified in the Final SEIR. Impacts to Air Quality; Biological Resources; Geological Resources; Noise; Recreation, Risk of Upset and Hazardous Materials; and Water Quality, Sediments and Oceanography; and Cumulative Impacts remain significant and unavoidable even after all feasible mitigation is adopted;
6. Find that all information added to the Final SEIR after public notice of the Draft SEIR availability for public review, but before certification, merely clarifies, amplifies, or makes insignificant modifications in an adequate SEIR, and recirculation is not necessary;
7. Find that, in accordance with Public Resources Code section 21081(b) and State CEQA Guidelines Section 15093, the benefits of the project outweigh the significant and unavoidable environmental impacts of the project, and adopt the Findings of Fact and Statement of Overriding Considerations (Transmittal 2);
8. Adopt the MMRP transmitted herewith (Transmittal 3) as required by Public Resources Code, Section 21081.6. The MMRP is designed to ensure compliance with the mitigation measures adopted to mitigate or avoid significant effects on the environment, and identifies the responsibilities of the LAHD as lead agency, to monitor and verify project compliance with those mitigation measures and conditions of project approval;

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9. Approve the project identified in the SEIR, including all feasible mitigation measures set forth in the SEIR with consideration of the Findings of Fact and Statement of Overriding Considerations, and the MMRP;
10. Direct the Engineering Division to proceed with final design and incorporate the mitigation measures, conditions, Environmental Compliance Plan requirements, mitigation monitoring/reporting plan, and Project environmental commitments into all Engineering Plans and Specifications and/or Engineering Permits for the proposed Project;
11. Direct the Real Estate Division to incorporate, by reference, the SEIR, mitigation measures and the MMRP into any and all lease agreements or assignments encompassed in the approved project;
12. Authorize the Environmental Management Division to file the Notice of Determination (NOD) for the subject project with the Los Angeles City Clerk; and
13. Adopt the proposed Recommendations and this Resolution No. _____.

DISCUSSION:

1. Proposed Action. The proposed Project includes project elements that will require federal permits from the U.S. Army Corps of Engineers (USACE). As such, an Supplemental Environmental Impact Statement (SEIS) was also prepared for the proposed Project. The USACE and LAHD prepared a joint SEIS/SEIR in the interest of efficiency and to avoid duplication of effort. The USACE will consider certification and approval of the SEIS separate from the Board of Harbor Commissioner's consideration of the SEIR. In the proposed action, staff recommends that the Board:
 - a. Certify that the Final SEIR for the Port of Los Angeles PLAMT Project (1) has been completed in compliance with the California Environmental Quality Act (CEQA); (2) was presented to the Board for review and the Board considered the information contained in the Final SEIR prior to approving the project; and (3) reflects the independent judgment and analysis of the LAHD;
 - b. Adopt the Findings of Fact, the Statement of Overriding Considerations, and the MMRP; and
 - c. Approve the proposed Project.

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The Final SEIR consists of the Draft SEIR and Final SEIR which includes all comments and recommendations received on the Draft SEIR and a list of persons, organizations, and public agencies commenting on the SEIR; identifies changes to the Draft SEIR; and, responds to comments received during the public review. In certifying the SEIR and approving the project, the Board will need to make certain Findings of Fact regarding environmental impacts, proposed mitigation, and choice among alternatives; adopt a Statement of Overriding Considerations for any CEQA impacts that cannot be mitigated to below the level of significance; and adopt an MMRP.

2. Project Background. Anticipating the importance of containerized and liquid bulk shipping, the LAHD, Port of Long Beach (POLB), and USACE conducted a study between 1981 and 1985 to evaluate the capacity of the San Pedro port complex to accommodate cargo forecasts through the year 2020. This study, termed "The 2020 Plan," determined that accommodating the projected increase in throughput would require maximizing the use of all existing port lands and terminals, and construction and operation of approximately 2,400 acres of new land for new marine terminals. The USACE and LAHD continued the planning process, supported by additional economic forecasting, and in 1992, prepared the Deep Draft Navigation Improvements, Los Angeles and Long Beach Harbors, San Pedro Bay, California Final EIS/EIR (Deep Draft Navigation Improvements Project EIS/EIR; USACE and LAHD 1992). That document analyzed, among other issues, the impacts of the creation of Pier 400 from dredge material and the subsequent construction and operation of a new liquid bulk terminal on the new Pier 400 land. LAHD approved the Deep Draft Navigation Improvements Project EIR on November 18, 1992, and the USACE issued a Record of Decision (ROD) for the EIS on January 21, 1993.

The Deep Draft Navigation Improvements Project EIS/EIR envisioned three uses for Pier 400: 1) an area to relocate existing hazardous bulk facilities away from populated and sensitive use areas in accordance with the approved Port Risk Management Plan (LAHD 1983); 2) a site for a 150-acre (61-hectare [ha]) container terminal; and 3) a site for a new deep-draft liquid bulk marine terminal. The Deep Draft Navigation Improvements Project EIS/EIR recognized that expansion and additional improvements were needed to improve safety and efficiencies in handling, storing, and transporting existing and forecasted cargoes, and to provide an area for relocation of hazardous cargo away from critical Port facilities and adjacent communities. It also recognized that national economic benefits and transportation cost savings would result from the use of larger vessels, reductions in transit time, and lower cargo handling costs. Therefore, as a result of creating the Pier 400 landfill for part of the Deep Draft Navigation Improvements project, irretrievable resources were committed by the LAHD. Over

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three miles of channel was dredged to a maximum depth of -85 ft mean lower low water (MLLW), and dredged material removed from channels was placed in an area of high-value marine habitat.

Circumstances have changed since approval of the Deep Draft Navigation Improvements Project EIS/EIR. The need to relocate existing hazardous facilities to Pier 400 no longer existed after the affected facilities modified operations or closed, or the nearby vulnerable resource closed, in each case eliminating the hazardous classification originally associated with the facilities. The second use of Pier 400, for construction of a container terminal, was fulfilled when the LAHD certified the Pier 400 Container Terminal and Transportation Corridor Project EIR (LAHD 1999) and approved a 480-acre (190 ha) container terminal which is presently being operated by the APM Terminal (Maersk-Sealand). However, the -85 ft MLLW channel leading from the ocean to Pier 400, which was dredged specifically for deep-draft vessel operations, remained unutilized awaiting development of a crude oil terminal on Pier 400. The proposed Project would fill this need for a deep-draft crude oil terminal within the POLA, consistent with the original use of Pier 400 envisioned in the Deep Draft Navigation Improvements Project EIS/EIR.

Although the proposed Project is consistent with the Deep Draft Navigation Improvements Project EIS/EIR, the changed environmental and regulatory circumstances and the changed configuration of the current proposed Project from the marine terminal configuration proposed in 1992 have led the USACE and LAHD to prepare a Supplemental EIS and Subsequent EIR, respectively. The proposed Project includes elements that will require federal permits from the U.S. Army Corps of Engineers (USACE). The USACE and LAHD prepared a joint SEIS/SEIR in the interest of efficiency and to avoid duplication of effort. The USACE will consider certification and approval of the SEIS separate of the Board's consideration of the SEIR.

3. Project Objectives. The primary CEQA objective of the proposed Project is to establish and maximize the Port's crude oil handling efficiency, safety and capacity with the following key Project objectives:
 - a. Construct a crude oil marine terminal capable of accommodating deep-draft VLCC tankers, i.e., tankers up to 325,000 deadweight tonnage (DWT) or 2,300,000 barrel (bbl) capacity; and
 - b. Construct associated infrastructure capacity that would efficiently accommodate a portion of the demand for crude oil to be shipped to Southern California by sea, while maximizing the use of deep-water facilities created for the purpose by the

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Deep Draft Navigation Improvements Project and integrating into the LAHD's overall utilization of available shoreline. The project objective would be accomplished by:

- 1) Providing needed crude oil marine terminal accessory buildings and structures to support efficient crude oil unloading and handling requirements;
 - 2) Providing unloading capabilities to promote direct transfer of crude oil from ship to pipeline; and
 - 3) Providing access to land-based tanks and new and existing pipeline systems to transport crude oil to refineries for processing
4. Project Description. The proposed Project is located on Pier 400 and Terminal Island in the Port and consists of:
- Construction and operation of a new marine terminal, including a new wharf, to receive crude oil from marine vessels.
 - Construction and operation of two tank farms:
 - a. Tank Farm Site 1 would be located on Pier 400 adjacent to the new wharf;
 - b. Tank Farm Site 2 would be located on Pier 300 at Seaside Avenue/Terminal Way.
 - Construction and operation of new pipelines to connect to existing pipeline facilities.
- a. *Marine Terminal*: The marine terminal would be built on a 5-acre parcel located at Berth 408 on the southwest portion of Pier 400. Berth 408's current water depth of 81 ft below MLLW would remain unchanged. Berth structures would be designed and constructed by the LAHD Engineering Division to accommodate VLCC tankers up to a length of 1,100 ft and a beam of 200 ft. The berth would be designed to offload crude oil at up to 125,000 barrels per hour (bph) to accommodate 677,000 barrels per day by 2025.
 - b. *Tank Farms*:

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- 1) The Pier 400 Site (Tank Farm Site 1) would be located on the southern side (Face D) of Pier 400. Tank Farm Site 1 is 10.7 acres and is currently vacant, unpaved, and ungraded. The site is owned by the LAHD and is adjacent to the APM Terminal to the north and west, a California Least Tern nesting preserve to the east, and the Los Angeles Harbor to the south and west.
- 2) Tank Farm Site 2 would be located on approximately 38.1 acres south of Seaside Avenue and west of Terminal Way. In the late 1990s, the Los Angeles Export Terminal, Inc. (LAXT) was constructed on the site as a dry bulk terminal, including structures for the handling and export of petroleum coke. LAHD now has full jurisdiction over the site. Under a separate project, the LAHD is in the process of demolishing all above and belowground structures within the existing railroad loop tracks. The existing rail tracks will continue to operate separate of the proposed Project.
- c. *Pipelines:* The proposed Project pipeline route would start with a 42-inch diameter pipeline that would run from the Marine Terminal to the northern boundary of Tank Farm Site 1, and then along the southern edge of Pier 400 and on the Pier 400 Causeway to Tank Farm Site 2. Two 36-inch diameter pipelines would connect Tank Farm Site 2 to the existing network of pipelines at Ferry Street. In addition, another 36-inch diameter spur would run from the existing network at Ferry Street into the ExxonMobil Southwest Terminal.
5. Board CEQA Responsibilities. The LAHD is the CEQA Lead Agency for the project. As such, the Board is responsible for reviewing and considering the SEIR. At its discretion, the Board shall certify that the Final SEIR (1) has been completed in accordance with CEQA, the State CEQA Guidelines, and the Los Angeles City CEQA Guidelines; (2) was presented to the Board for review and the Board considered the information contained in the Final SEIR prior to approving the project, and (3) reflects the independent judgment and analysis of the LAHD. Certification of the SEIR for the PLAMT Project must precede project approval. Project approval requires that the Board review and consider the SEIR; adopt Findings of Fact on the significant environmental effects of the project and the feasibility of mitigation measures and project alternatives; adopt a Statement of Overriding Considerations; approve a specific project analyzed in the SEIR; and adopt an MMRP.
6. Scope and Content of Environmental Document. The Draft SEIR, dated May 2008, incorporates, as appropriate, information received on the Subsequent Notice of Preparation (SNOP) for the project, assesses environmental impacts of the project, and examines project alternatives and possible mitigation measures. The Final

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SEIR clarifies and amplifies the Draft SEIR, incorporates insignificant modifications and corrections, contains responses to all public comments made on the Draft SEIR, and contains records of the public process including coordination with the Port of Los Angeles Community Advisory Committee (PCAC).

7. Intended Uses of the SEIR. The SEIR informs public agency decision-makers and the general public of the significant environmental effects of the project, recommends mitigation measures to minimize the significant effects, and describes reasonable alternatives to the proposed Project. This document assesses the potential impacts, including unavoidable adverse impacts and cumulative impacts, related to the proposed Project. This SEIR is also intended to support future discretionary actions of the Board with regard to the proposed Project and the permitting/approval process of all agencies whose discretionary approvals must be obtained for particular elements of this project. For the LAHD, these actions include, but are not limited to processing of master plan amendments and/or issuance of coastal development permits, issuing of engineering permits, approval of construction contracts, and approval of property use/lease agreements.

This environmental document was prepared in coordination with the USACE which is the lead federal agency under the National Environmental Policy Act (NEPA). The USACE will utilize the SEIS as a basis for their Record of Decision (ROD) on the issuance of permits under the Clean Water Act and Rivers and Harbors Act for dredging, filling and construction in harbor waters. The action by the Board is only related to the SEIR, which was prepared in accordance with State law.

8. Environmental Documentation Process and Public Involvement. The proposed Project was subject to the required environmental documentation process that included public disclosure as required by regulation. In this case, however, public notification exceeded statutory requirements. The procedural steps of the process are described below:
 - a. *Notice of Preparation:* In accordance with the Los Angeles City CEQA Guidelines, Article VI, Section 1.5 and the State CEQA Guidelines, Section 15082 the responsible agencies, participating city agencies, and other concerned parties were consulted through a Subsequent Notice of Preparation (SNOP) released on June 18, 2004. The SNOP was part of a joint Supplemental Notice of Intent (SNOI)/SNOP released by LAHD and the USACE. A public scoping meeting was held on July 8, 2004 at the Banning's Landing Community Center in Wilmington. Copies of the SNOI/SNOP were available for review online at www.portoflosangeles.org, at the Harbor Department's Environmental Management Division office, and at the following libraries: the Main Branch, San Pedro Branch, and Wilmington Branch of the

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Los Angeles Public Library, and the Main Branch of the Long Beach Public Library. Meeting notifications and the SNOI/SNOP were also provided in Spanish. The LAHD also provided a Spanish/English interpreter at the public meetings.

As part of the public review, staff met with a number of stakeholders, including the Past EIR Subcommittee, and the TraPac Appellant Group to discuss the Draft SEIR and solicit feedback. A meeting was held with the PCAC Past EIR Subcommittee on May 22, 2008 and the TraPac Appellant Group on May 15, 2008 to discuss the proposed Project and solicit feedback prior to the Draft SEIR release. A summary of coordination with the PCAC is provided in the Executive Summary of the Draft SEIR.

- b. *Draft Environmental Impact Report:* The Draft SEIR was released on May 28, 2008 for a sixty-day review period (as discussed below, the review period was extended to seventy-five days). The Draft SEIR was part of a joint SEIS/SEIR released by the LAHD and the USACE. Approximately 200 copies of the Draft SEIS/SEIR were sent to various government agencies, all PCAC members, organizations, LAHD tenants, adjacent property owners and all known interested parties. Public notices of completion stating that the Draft SEIS/SEIR was available for review were published in five newspapers: Los Angeles Times, Daily Breeze, Long Beach Press Telegram, Los Angeles Sentinel and La Opinión. Postcards in English and Spanish noticing the document and the public meeting were also sent to all San Pedro and Wilmington addresses.

Copies of the Draft SEIS/SEIR were available for review at the Harbor Department's Environmental Management Division office, and at the following libraries: the Main Branch, San Pedro Branch, and Wilmington Branch of the Los Angeles Public Library, and the Main Branch of the Long Beach Public Library. The document was also available online at the Port of Los Angeles web site (<http://www.portoflosangeles.org>). Meeting notifications and the Executive Summary of the Draft SEIS/SEIR were also translated to Spanish and provided in mailings and at the public meeting.

A public meeting to take oral comments on the Draft SEIS/SEIR was held on June 26, 2008, in the Board Hearing Room at the Harbor Administration Building in San Pedro, California. The LAHD also provided a Spanish/English interpreter at the public meeting. At the public meeting, an announcement was made extending the comment period from sixty to seventy-five days. Notices to newspapers and to all previous recipients followed announcing the extension, and the main page of the Port's website was updated with the new information.

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There were forty-two verbal comments received during the Draft SEIS/SEIR public meeting. The public meeting transcript was posted on the Port's website and is included in the Final SEIS/SEIR.

One hundred and three letters were received from agencies, organizations, and individuals. Comment letters were also posted on the Port's website.

- c. *Responses to Comments:* As required by Public Resources Code 21092.5, all agencies, organizations, and individuals who commented on environmental issues in the Draft SEIS/SEIR were provided with responses to comments at least 10 days prior to the Final SEIR being submitted to the Los Angeles Board of Harbor Commissioners for certification. The responses to comments were mailed by November 7, 2008 to all those who submitted comments.
 - d. *Final Environmental Impact Report:* In accordance with the Los Angeles City CEQA Guidelines, Article I, and the State CEQA Guidelines, Section 15088, comments received on the Draft SEIS/SEIR were evaluated and responded to. The comment letters and responses to comments are presented in the Final SEIR. The Final SEIR is part of a joint Final SEIS/SEIR released by the LAHD and the USACE. The Final SEIS/SEIR was completed in November 2008.
9. Findings and Conclusions. The SEIR and Findings of Fact and Statement of Overriding Considerations, transmitted herewith, identify major findings and conclusions, including a discussion of areas of environmental concern, alternatives, feasible mitigation measures, and unavoidable impacts. The discussion below summarizes the proposed findings included in Transmittal 2 for the Board's consideration.
- a. *Areas of Environmental Concern:* Through the public environmental process a number of areas of environmental concern were identified. These potential impacts and others were assessed in the SEIR. The impacts associated with the proposed Project are discussed in detail, by resource area, in the SEIR. Significant environmental impacts prior to the imposition of mitigation were identified in the areas of Air Quality; Biological Resources; Geological Resources; Ground Transportation and Circulation, Groundwater and Soils; Noise; Recreation, Risk of Upset and Hazardous Materials; Utilities; and Water Quality, Sediments and Oceanography; and Cumulative Impacts. After environmental analysis and, in some cases, application of mitigation, impacts in the areas of Air Quality; Biological Resources; Geological Resources; Noise; Recreation, Risk of Upset and Hazardous Materials; and Water Quality; and Cumulative Impacts would remain significant and unavoidable if the proposed Project is approved. The SEIR also included evaluations of Environmental

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Justice and Socioeconomics and, based on the demography of the surrounding communities and the region, found that the project would have disproportionately high impacts in the areas of Air Quality, Noise during construction, Recreation and Risk of Upset/Hazardous Materials.

b. *Choice Among Alternatives:* Two alternatives were considered in detail for this Project:

- 1) No Project Alternative. This alternative is required for consideration under CEQA. The No Project Alternative analyzed in this document does not include construction or operation of a liquid bulk terminal at the site.
- 2) Reduced Project Alternative. The Reduced Project Alternative would be identical to the proposed Project in terms of the design, construction, and operation of the Marine Terminal, Tank Farm Sites 1 and 2, Pipeline Segments 1, 2a, 2b, 2c, 3, 4, and 5, and the new pigging station site (either Site A or, if Site A is unavailable, the alternate Site B). However, this alternative involves a lease condition imposed by LAHD that would cap permitted throughput of crude oil received at Berth 408. The lease would allow PLAMT to receive up to 127.75 million bbl in 2010 (average of 350,000 bpd) and up to 164.25 million bbl in 2015 through 2040 (average of 450,000 bpd). For intermediate years (2011-2014), the lease stipulation would allow an amount of throughput based on linear interpolation between the benchmark years.

As discussed in Chapter 6 of the Draft SEIR and Chapter 3 of the Final SEIR, the proposed Project and the Reduced Project Alternative have unavoidable significant impacts in the areas of Air Quality, Biological Resources, Geology, Noise (during construction), Recreation, Risk of Upset and Hazardous Materials and Water Quality. Although the No Project Alternative does not have significant noise impacts, it does have significant, unavoidable impacts on Air Quality, Biological Resources, Geology, Recreation, Risk of Upset and Hazardous Materials and Water Quality.

For the reasons discussed in the attached Findings of Fact, staff recommends that the Board, (1) find that the No Project Alternative does not meet project objectives or significantly reduce environmental impacts; (2) the Reduced Project Alternative does not meet all project objectives or result in reductions of environmental effects; and (3) approve the proposed Project as described in Final SEIR. The proposed Project best meets all project objectives.

c. *Proposed Mitigation Measures:* In accordance with the provisions of the Los Angeles City CEQA Guidelines, Article I, the State CEQA Guidelines Section

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15091, and the information contained in the SEIR for the PLAMT Project, changes or alterations have been required in, or incorporated into, the proposed Project which avoid or substantially lessen the significant adverse environmental impacts identified in the SEIR. All applicable mitigation measures approved for the Deep Draft Navigation Improvements Project have been identified in the SEIR and recommended for imposition upon the proposed Project (Transmittal 4). Where determined feasible, certain mitigation measures identified in the Draft SEIR were modified/strengthened in the Final SEIR, specifically increased AMP and low sulfur fuel requirements, additional future technology requirements, and noise restrictions on pile driving (see below and Transmittal 4). Incorporation of additional or more stringent mitigation measures would be infeasible as a result of specific economic, legal, social, technological or other considerations set forth in the Findings of Fact (Transmittal 2).

1) *Air Quality Measures*

i. Construction: Mitigation measures include clean construction equipment, fugitive dust requirements, Vessel Speed Reduction Program (VSRP) and low sulfur fuel for construction vessels, harbor craft engine standards, fleet modernization for construction trucks, truck staging areas, and best management practices.

ii. Operation: Mitigation measures include VSRP, low sulfur fuel, slide valves and AMP requirements for ships, new vessel specifications, throughput tracking, and periodic review.

2) *Greenhouse Gas Measures*: Mitigation measures include Leadership in Energy and Environmental Design (LEED) Gold buildings, energy audits, solar panels, tree plantings, increased recycling, and compact fluorescent bulbs in addition to Air Quality construction and operation measures that reduce diesel combustion.

3) *Biology Measures*: Mitigation measures include California least tern monitoring, environmental training for construction contractors, lighting restrictions, restricted construction hours, sound abatement devices, slow-start pile driving, predator control, oil spill containment, and VSRP.

4) *Cultural Resources*: Mitigation measures include restrictions on excavations if cultural artifacts are found.

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- 5) *Geological Measures*: Mitigation measures include seismic design and emergency response planning.
- 6) *Groundwater Measures*: Mitigation measures include site remediation, soil, slurry and groundwater characterization in areas of known contamination, a contamination contingency plan, aquifer cross-contamination prevention, and frac-out prevention.
- 7) *Noise*: Mitigation measures include reduced use of portable generators, noise reductions during pile driving, restricted hours for pile driving, temporary noise barriers, restricted construction hours, and muffled equipment.
- 8) *Transportation*: Mitigation measures include ridesharing and carpooling, and construction truck routing.
- 9) *Recreation*: Mitigation measures include boating safety measures.
- 10) *Risk of Upset and Hazardous Materials*: Mitigation measures include double-hulled vessels, quick-release couplings, and oil-spill monitoring.
- 11) *Utilities and Public Services*: Mitigation measures include water conservation measures, recycling construction materials, use of recycled construction materials, and a solid waste management plan.

The following mitigation measures were modified in or added to the Final SEIR (Transmittal 4):

- MM AQ-3: Fleet Modernization for Construction Equipment
- MM AQ-5: Best Management Practices
- MM AQ-6: Additional Fugitive Dust Controls
- MM AQ-10: Fleet Modernization for On-road Trucks
- MM AQ-14: Low Sulfur Fuel
- MM AQ-15: AMP
- MM BIO-1.1k: Noise Reduction during Pile Driving
- MM BIO-1.1a: Monitor the California least tern and Other Bird Nesting
- Mitigation Measure (MM) GW-1: Site Remediation
- MM NOISE-1: Noise Reduction during Pile Driving
- MM RISK-2.1c: Oil Spill and Eelgrass Habitat

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- MM BIO-1.1i: Protection of California least tern nesting
 - MM BIO-1.1h: Protection of Special Status Species
 - MM CR-1a: Historical Resources
- d. *Unavoidable Significant Adverse Impacts:* Even after the application of all reasonable and feasible mitigation efforts, there would still be significant impacts of the PLAMT Project that could not be reduced or avoided below a level of significance. These impacts are described in the Findings of Fact with findings for each impact. Significant impacts in the following areas could not be mitigated to a level of insignificance: Air Quality; Biological Resources; Geological Resources; Noise; Recreation Risk of Upset and Hazardous Materials; Water Quality; and Cumulative Impacts. Significant unavoidable impacts of the proposed Project are identified below:

1) Air Quality:

- Construction would result in increases in criteria pollutants¹. Specifically, there would be significant impacts after mitigation from VOCs, CO, NO_x, SO_x, and PM₁₀/PM_{2.5} emissions. In addition, there would be significant offsite ambient air pollutant concentration impacts after mitigation for 1-hr NO₂, 24-hr PM₁₀, and PM_{2.5} emissions.
- Operations would result in emissions that exceed 10 tons per year of VOCs and SCAQMD thresholds of significance. Specifically, there would be significant ship emission impacts after mitigation for all years for VOCs, CO, NO_x, SO_x, and PM₁₀/PM_{2.5} emissions.
- Construction and operations would produce Greenhouse Gas (GHG) emissions that would exceed baseline levels.

2) Biological Resources:

- Operations of the proposed Project could affect individuals or habitat for the California least tern and other special status species (California brown pelican) should there be a crude oil spill.

¹ Criteria pollutants are those pollutants that have federal or state standards. These include Nitrogen Oxides (NO_x), Sulfur Oxides (SO_x), Particulate Matter (PM₁₀ and PM_{2.5}), Carbon Monoxide (CO) and Volatile Organic Gases (VOCs).

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- Operations of the proposed Project would have the potential to substantially reduce or alter state, federal or local natural habitat should there be a crude oil spill.
 - Operation of the new, proposed facilities at Pier 400 has a potential to introduce non-native species into the Harbor that could substantially disrupt local biological communities.
- 3) Geological Resources: Construction and operation of the project would result in increased exposure of people and property to seismic hazards from a major or great earthquake. This increased exposure cannot be precluded, even with incorporation of modern construction engineering and safety standards.
- 4) Noise: Construction activities would temporarily and periodically generate noise from pile driving, at the Pier 400 site, that would substantially exceed existing ambient daytime noise levels at sensitive receivers.
- 5) Recreation:
- Pile driving noise during construction of the proposed Project would temporarily result in substantial loss or diminished quality of recreational educational or visitor-oriented resources.
 - Proposed Project operations would result in substantial loss or diminished quality of recreational educational or visitor-oriented resources in the event of an oil spill.
- 6) Risk of Upset and Hazardous Materials:
- Operation of the proposed Project could effect marine biological resources due to potential impact of crude oil spills,
 - Operation of the proposed Project could result in a possible risk to the public and environment in areas near Pier 400 due to a potential terrorist attack
- 7) Water Quality, Sediments and Oceanography: Operation of proposed Project facilities could create pollution and/or contamination in harbor waters. There is a significant impact after mitigation in regards to in-water vessel spills and potential leaching of hull paint biocides

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8) Cumulative Impacts: The incremental effects of the proposed Project, when viewed in connection with the effects of past, present and probable future projects, would be significant and unavoidable in following resource areas:

- Air Quality
- Biological Resources
- Geological Resources
- Groundwater and Soils
- Noise
- Recreation
- Risk of Upset and Hazardous Materials
- Water Quality, Sediments and Oceanography.

e. *Environmental Justice*: An Environmental Justice (EJ) analysis was prepared in accordance with federal Executive Order 12898. The Marine Terminal and storage tanks would be located in the Port and adjacent to two City of Los Angeles communities: Wilmington and San Pedro. Within Wilmington, minorities constitute 87.1 percent of the population, and low-income persons constitute 32.2 percent of the population. Within San Pedro, minorities comprise 55.3 percent of the population, and 22.5 percent of the population is low-income. Thus, both Los Angeles neighborhoods constitute a “minority population concentration” under the Council on Environmental Quality (CEQ) guidance because the guidance indicates such a concentration exists if the percent minority exceeds 50 percent. In addition, Wilmington has a low-income population concentration. Due to the proximity of the proposed Project to existing EJ communities, the project would have a disproportionately high and adverse impact on minority and low-income populations within the geographical area due to the significant direct and cumulative environmental effects on Air Quality, Noise, Recreation, and Risk of Upset and Hazardous Materials.

10. Overriding Considerations. Pursuant to Public Resources Code section 21081, no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects that would occur if the project is approved or carried out and cannot feasibly be avoided or substantially lessened unless the agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the unavoidable significant effects of the project. The Statement of Overriding Considerations must identify the substantial adverse environmental impacts that cannot be mitigated or avoided and state the reasons why, in the opinion of the decision-making body, specific economic, legal, social, technological or other

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benefits of the proposed project warrant approval despite such consequences or recommendations. The draft Findings of Fact and Statement of Overriding Considerations recommended by staff is transmitted for Board consideration and adoption (Transmittal 2). Staff, in recommending the proposed Project for approval, has identified specific environmental, economic, legal, social, technological and other Project benefits. In summary, the proposed Project provides the following benefits which will outweigh the potential impacts of the project:

- Estimated health risk of Toxic Air Contaminant (TAC) emissions to residential receptors, sensitive receptors (e.g., children and elderly) and school receptors would be reduced below significant levels throughout San Pedro and Wilmington as a result of mitigation identified in the SEIR.
- The proposed Project includes construction of a Leadership in Energy and Environmental Design (LEED) certified “Gold” building to lessen Greenhouse Gas emissions impacts, albeit not to a less than significant level.
- Construction would result in an average of 732 full-time direct construction jobs and an additional 1,035 indirect construction jobs over the 30-month construction period. These workers would receive an annual pay for direct, indirect, and induced jobs estimated at approximately \$55,500 per job/per year. Annual tax revenues contributed by all workers for this peak activity year would reach \$13.4 million.
- The proposed Project will create 48 permanent direct jobs by 2010 increasing to 54 jobs in 2025 through 2040. For our five-county region, project operations would result in an additional 158 jobs. Annual pay for direct, indirect and induced jobs is estimated at about \$60,000 per job/per year. Annual tax revenues contributed by all workers would be \$1.75 million by 2025.
- Once constructed, the proposed Project would provide for a strategically important second major deep-water energy facility at the San Pedro Bay Port complex, in addition to the existing terminal at Berth T121 in the Port of Long Beach. This second facility would provide redundancy in a situation where there is disruption of service at either facility.
- The proposed Project would efficiently and safely accommodate a portion of the demand for crude oil to be shipped to southern California by sea, while maximizing the use of deep-water facilities created for the purpose by the

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Deep-Draft Navigation Improvements Project and integrating into the LAHD's overall utilization of available shoreline.

- The proposed Project would best fulfill the LAHD's Tidelands Trust and Coastal Act obligations to modernize and expand the Port, and meet the Mayor's goal and the LAHD's strategic objective to "grow the Port green." Relative to the other Alternatives, the proposed Project provides for the most construction and operational employment while still being in conformance with the San Pedro Bay Ports' Clean Air Action Plan (Transmittal 2).
11. Areas of Controversy. In making their determinations, it is important for the Board to be informed as to the areas of controversy associated with the proposed Project. The areas of controversy have been identified through oral and written comments received on the project during public meetings and stakeholder meetings. The list below provides the identified areas of concern that staff believes remain controversial.
- *Alternatives Considered*: Comments received during the Draft SEIR review period requested an analysis of placing the terminal on the East side of Pier 400 to reduce aesthetic and other environmental impacts. To the extent these comments concern avoidance of aesthetic impacts, they suggest that such impacts might be avoided or lessened by the docking of large ships on the east side of Pier 400. However, the docking of large ships at Berth 408 in the proposed Project is not identified as a significant aesthetic effect in this CEQA assessment. In addition, the docking of large crude carriers on the east side of Pier 400 would result in more difficult navigating to arrive at berth, more ship and tug emissions from maneuvering, significant additional channel dredging and sediment disposal, and berthing activities would be closer to the California least tern nesting site.
 - *Baseline Throughput Numbers and Project Description*: Comments were received questioning the need for the proposed Project and environmental effects of the increased refining as a result of this new source of crude oil. The proposed Project would provide domestic and foreign sources of crude oil to replace declining local reserves. While some increase in local refining could occur during the project life, any such increases would require refinery modifications and changes to refinery operating permits which would require a CEQA assessment.

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- *Increase Air Quality Mitigation:* Comments were received on the Draft SEIR requesting more rigorous schedules of implementation, especially of mitigation measures requiring the use of low sulfur fuel in ship engines, and use of shoreside electricity (AMP) for ships or application of alternative ship emission controls while at berth. Staff has reviewed each mitigation measure met with the proposed tenant, and increased the requirement for use of AMP to the extent feasible. The document has also been revised to provide a procedure for consideration of an alternative at-berth emissions control measure of using a stack control device, should such a measure eventually prove feasible and as environmentally protective as AMP for the types and sizes of ships coming to the Pier 400 terminal. The LAHD shall require the tenant to evaluate the application of a stack control technology within 5 years of project approval and implement such technology, pending separate CEQA analysis, if found to be feasible.
- *Mitigation Measure Enforcement:* Comments were received on the Draft SEIR requesting clarification on how the mitigation measures will be monitored and/or made part of the lease. As provided above in Staff Recommendation 8, all feasible mitigation measures will be subject to a Mitigation Monitoring and Reporting Program (MMRP) (Transmittal 3) and will be included in construction specifications and lease agreements/entitlements.
- *Aesthetics/Lighting:* Comments were received that the docking of large ships at Pier 400 was a significant aesthetic impact and would result in increased lighting (also see Alternatives discussion above). The CEQA assessment of aesthetics contained in the SEIR does not find that light from the docking of large ships at Pier 400 is a significant effect. In addition, the lighting required at the terminal is minimal and will not result in any significant new lighting to the community.
- *Consideration of Off-Port Impacts:* Comments were received regarding the failure of the document to consider off-port impacts. The document does examine "indirect" or off-site environmental effects in 15 resource areas using established assessment methodologies and significance criteria, and where appropriate, based on the results of the CEQA assessment, impacts were identified beyond LAHD boundaries. Both air quality and noise were identified as direct and cumulative significant unavoidable impacts that occurred beyond LAHD boundaries. More recently, as part of settlement Memorandum of Understanding (MOU) with a number of parties related to the TraPac Container Terminal EIR, an "off-

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port” environmental impact study is to be conducted, which would examine effects of existing LAHD operations outside the context of CEQA reviews of this or other proposed projects. Based on the MOU, at the time of project implementation, funds would be provided towards “off-port” impacts identified through that study.

- *Consideration of the Environmental Justice Effects and Health Care Facilities for the Community:* Comments were received that the LAHD should contribute to health care facilities for the community as a result of disproportional effects on Environmental Justice Communities from the proposed Project. While CEQA does not require an impact assessment of Environmental Justice, Chapter 6 in the SEIR identifies several resource areas as having disproportionate effects on the Environmental Justice Community. In all cases feasible mitigation has been applied to the resource areas assessed in Chapter 3 of the SEIR. Establishment or contribution towards health care facilities was not identified as a feasible or effective means of mitigating those impacts.
 - *Overriding Consideration:* Comments were received that the LAHD should not invoke overriding considerations in its project approvals especially in regard to air quality. Pursuant to Public Resources Code section 21081, no public agency shall approve or carry out a project for which an SEIR has been certified which identifies one or more significant environmental effects that would occur if the project is approved or carried out and cannot feasibly be avoided or substantially lessened unless the agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the unavoidable significant effects of the project. For this project, it is not feasible to reduce project impacts to meet several significance thresholds (Air Quality; Biological Resources; Geological Resources; Noise; Recreation, Risk of Upset and Hazardous Materials; Water Quality; and Cumulative Impacts); therefore, approval of the project or project alternative would require the Board of Harbor Commissioners to consider if the project warrants approval despite such consequences or recommendations. Staff's recommendations with regard to benefits of the project which may in the Board's opinion outweigh the significant and unavoidable impacts of the project are discussed above in Staff Recommendation 7. It is within the discretion of the Board, upon review of all the record, not to approve the project.
12. SEIR Certification and Project Approval. In light of these findings and conclusions, staff recommends certification of the Final SEIR as being prepared in accordance with CEQA and implementing guidelines, and recommends approval of the

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proposed Project, all feasible mitigation measures, and the supporting Findings of Fact and Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program.

13. Implementation of Mitigation. When making the CEQA findings required by Public Resources Code Section 21081(a), a public agency shall adopt a reporting or monitoring program in accordance with Public Resources Code Section 21081.6 for changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment. A MMRP is transmitted for Board Consideration and adoption (Transmittal 3, see Recommendation 8). In addition, should the Board elect to approve the proposed Project or the Reduced Project Alternative, the mitigation measures identified in the MMRP with respect to the approved project or alternative would be incorporated into all design specifications and construction contracts and incorporated into any and all lease agreements.
14. Record of Proceedings. When making CEQA findings required by Public Resources Code Section 21081(a), a public agency shall specify the location and custodian of the documents or other material which constitute the record of proceedings upon which its decision is based. These records are in the care of the Director of Environmental Management, Los Angeles Harbor Department, 425 South Palos Verdes Street, San Pedro, California 90731.
15. Notice of Determination. In accordance with Los Angeles City CEQA Guidelines, Article I, and the State CEQA Guidelines Section 15094, a Notice of Determination will be filed with the City Clerk after the project is approved. Public Resources Code Section 21167(c) provides that any action or proceeding alleging that an SEIR does not comply with the provisions of CEQA shall be commenced within 30 days after filing the Notice of Determination.

FINANCIAL IMPACT:

Funds for this SEIR have been budgeted in the Capital Budget in Account 54260, Center 1103, Program 651, Job Number 635-00, Work Order 24612 to cover this expense. The Project would result in receipt of revenues for wharf and backlands utilization by the proposed tenant. Total construction costs are currently estimated to cost \$180 million of which the LAHD would fund \$70 million with the applicant funding the remainder. Committing LAHD funds to the expansion and modernization of Pier 400 Terminal will require future Board approval(s).

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CITY ATTORNEY:

This Resolution has been reviewed and approved as to form by the Office of the City Attorney.

TRANSMITTALS:

1. Final Subsequent Environmental Impact Report (SEIR)
2. Findings of Fact and Statement of Overriding Considerations
3. Mitigation Monitoring and Reporting Program (MMRP)
4. Mitigation Measure List

RALPH G. APPY, Ph.D.
Director of Environmental Management

MICHAEL R. CHRISTENSEN
Deputy Executive Director

APPROVED:

GERALDINE KNATZ, Ph.D.
Executive Director

RGA:yo
ADP No.: 060407-061
BOARD MEETING: 11/20/08