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File Ref: SCH 1992102975

Dr. Ralph Appy  
 Director of Environmental Management  
 Port of Los Angeles  
 425 South Palos Verdes Street  
 San Pedro, CA 90733



**Subject: Draft Supplemental Environmental Impact Statement/Draft Subsequent Environmental Impact Report for the Pacific L.A. Marine Terminal LLC Pier 400, Berth 408 Project, Port of Los Angeles, Los Angeles County**

Dear Dr. Appy:

The California State Lands Commission (CLSC) staff has reviewed the subject Draft Environmental Impact Statement (SEIS)/Draft Subsequent Environmental Impact Report (SEIR) and offers the following comments. The proposed new marine oil terminal at Berth 408 lies within state granted lands in the Port of Los Angeles, and the CSLC is a Trustee Agency under the California Environmental Quality Act (CEQA).

CSLC-1

The CSLC has jurisdiction and management authority over all sovereign lands of the State of California which includes tidelands, submerged lands, and the beds of navigable rivers, sloughs, lakes, etc. (e.g. Public Resources Code 6301.) Such lands include, but are not limited to, the beds of more than 120 navigable rivers and sloughs, nearly 40 navigable lakes, and the three-mile wide band of tide and submerged lands adjacent to the coast and offshore islands of the State.

CSLC-2

The CSLC has certain residual and review authority related to Public Trust issues for tide and submerged lands legislatively granted in trust to local jurisdictions (Public Resources Code (PRC) §§6301 and 6306). The project area involves sovereign lands, which the California Legislature initially legislatively granted in trust to the city of Los Angeles pursuant to Chapter 656, Statutes of 1911. The grant has been amended a number of times, most recently by Chapter 2769, Statutes of 2002. The Port, as a Trustee of these sovereign lands, must ensure that the specific uses proposed in this plan are consistent with the provisions of the relevant granting statutes and the Public Trust. The Public Trust is a sovereign public property right held by the State or its delegated trustee for the benefit of all the people. This right limits the uses of these

CSLC-3



- CSLC-3 | lands to waterborne commerce, navigation, fisheries, open space, recreation, or other recognized Public Trust purposes. The CSLC has a legal responsibility for, and a strong interest in, protecting the Public Trust values associated with the State's sovereign and granted lands. In addition, the Lempert-Keene-Seastrand project Oil Spill Prevention and Response Act (Act) of 1990, as amended, directed the CSLC to adopt regulations regarding the location, type, character, performance standards, size and operation of existing and proposed marine terminals within the state. The CSLC has oversight over certain adopted regulations on marine oil terminals and pipelines.
- CSLC-4 | **General Comments**
- Throughout the SEIS/SEIR, there is a consistent lack of citation of references for facts and figures. The authors fail to provide adequate scientific support for their conclusions and assessments of impacts. The Biological Resources section, in particular, requires additional data in order to support the impact assessments. Additionally, several sections of the SEIS/SEIR are out of date and will need revision in order to reflect the current regulatory environment.
- Specific Comments**
- Biological Resources (3.3)**
- CSLC-5 | Page 3.3-3, lines 3-5 (Mitigation Measure (MM) 4D-7)  
More specificity is needed regarding California least terns, such as who will be monitoring for the presence of California least tern nests and how often will monitoring occur.
- CSLC-6 | Page 3.3-4, lines 19-28 (MM 4D-10)  
The mitigation measure states that no relocation of the nesting colony will take place because no acceptable sites have been identified, construction of an island is not feasible, and the nesting colony will not be significantly impacted by the project. An alternative mitigation measure should be considered that addresses finding/creating adequate habitat for the least terns if the specialists monitoring the terns observe that the birds do not return to their nests after or during construction.
- CSLC-7 | Page 3.3-5, line 8  
The Executive Summary is incorrectly referenced as part of Appendix I.1, but should be listed as Appendix I.2.
- CSLC-8 | 3.3-6, lines 30-32  
Was the vegetation clearing part of a mitigation measure or other monitoring activity? Please include the square footage/acreage of the land that is used as a nesting site.

3.3-8, lines 15-17

Please indicate the time period or number of times that the benthic infauna was sampled in 2000. The executive summary should also reflect the time period of sampling.

CSLC-9

3.3-8, lines 34-35, and 3.3-9, lines 1-2

Please provide examples of the "low" pollutant concentrations discussed. What standard was used to make this "low" pollutant determination? Also, the executive summary does not discuss pollutants (only salinity, dissolved oxygen, and water clarity were mentioned for water quality). Please list what pollutants were tested for and what criteria were used for determinations.

CSLC-10

Pg 3.3-11, lines 1-10

Please provide more recent data (than the 1980 and 1985 data presented) discussing the presence and abundance of phytoplankton and zooplankton in the proposed work area. Major changes in a biological community can occur in 20+ years since the cited data. If no new data is available, then the lack of recent data should be explicitly stated.

CSLC-11

Pg 3.3-12, lines 12-15

The text states that Caspian tern nesting occurred on Pier 400 in the Tank Farm 1 site from 1997 – 2005. Please clarify whether or not the nesting site is still in use or if the site has been re-examined for Caspian terns since 2005.

CSLC-12

Pg 3.3-21, lines 21-23

How close to the Pier 400 site has *Undaria* been found? Have there been any more recent surveys of *Undaria* presence and abundance in the harbor since the 2000 survey?

CSLC-13

3.3-21, line 44

The Caulerpa Control Protocol is incorrectly listed as Appendix I.2, as it should be I.1.

CSLC-14

Pg 3.3–26&27

The ballast water management section is out of date and needs to be re-written. Please see Falkner et al. (2007) "2007 Biennial Report on the Marine Invasive Species Program" for a recent summary of program activities, management requirements, and vessel call data statewide and for the LA/LB region. The report may be downloaded from the CSLC's Marine Invasive Species Program website:

CSLC-15

[http://www.slc.ca.gov/Spec\\_Pub/MFD/Ballast\\_Water/Ballast\\_Water\\_Default.html](http://www.slc.ca.gov/Spec_Pub/MFD/Ballast_Water/Ballast_Water_Default.html).

Additionally, new laws have gone into effect since the 2007 Biennial report. Please refer to CA Assembly Bill 740 (2007) for requirements regarding vessel fouling management and the yearly submittal of information regarding vessel hull husbandry practices (also visit Marine Invasive Species Program website to read



- CSLC-15 | text of proposed regulation - Title 2, Division 3, Chapter 1, Article 4.8 "The Collection of Information Relating to Hull Husbandry Practices of Vessels For Control of Marine Invasive Species In Waters of California").
- In 2006, the Coastal Ecosystems Protection Act required the CSLC to implement performance standards for the discharge of ballast water. The performance standards regulations were approved in October of 2007 and will be implemented on a graduated time schedule beginning January 1, 2009. Senate Bill 1781 is currently working its way through the legislature and will amend the Coastal Ecosystems Protection Act so that the performance standards will be implemented on a graduated time schedule beginning January 1, 2010. (Please see Title 2, Division 3, Chapter 1, Article 4.7 of the California Code of Regulations "Performance Standards for the Discharge of Ballast Water for Vessels Operating in California Waters.")
- CSLC-16 | Pg 3.3-30, lines 10-14  
Impact BIO-1.1 (California Least Tern) – The SEIS/SEIR needs to provide evidence (with scientific citations) to substantiate the claim that least terns won't be impacted by construction 2,400 ft. away.
- CSLC-17 | Page 3.3-30, lines 28-37  
The SEIS/SEIR states that the maximum noise level does not increase; however, the document should also address the fact that the average noise level does increase by about 50% (pile driving would increase the average noise level by up to 24 dB(A) from an average of 50 dB(A)). The SEIS/SEIR needs to provide evidence (with scientific citations) to substantiate the claim that least terns won't be impacted by this increase in average noise level.
- CSLC-18 | Page 3.3-31, lines 1-5  
It is difficult to interpret the data to determine likely impacts to fish species, because the distances from the Vagle (2003) study are not presented. The data presented suggests there may still be an adverse effect (either behavioral or causing mortality) on the fish and this could impact fish-eating birds.
- CSLC-19 | Page 3.3-31, lines 18-23  
During the Vagle (2003) study only one species was adversely affected on a sublethal level, while fishes of several species died due to the pile driving. The piles for this project range between 24-54" (see page 3.3-31, lines 7-8), so some of the pile driving will be similar to that observed in Vagle (2003). The fish morality associated with the pile driving might impact the feeding of the least terns. We suggest adding more data to back up conclusions and to accurately assess chance of significant impact to foraging species for least terns.
- CSLC-20 | 3.3-33, lines 40-47  
References are needed to back each of the claims.

3.3-34, lines 14-19

Although the snowy plovers are not known to nest in the Harbor, they are present on Pier 400 and on Cabrillo Beach (3.3-16, lines 33-37). Do snowy plovers react the same to disturbance, and therefore, have the same 200ft buffer zone as least terns? If so, please provide reference. If unknown, please state that this is an assumption and the buffer zone for plovers are unknown. Also, please provide more evidence that migrating and wintering plovers won't be affected by construction activities.

CSLC-21

3.3-35, lines 1-2

Least terns are not endangered because of owl predation, but because of human activity. This sentence suggests that it would be a good thing if owls were injured or abandoned their nests because of construction activity, because it would benefit the least tern population. This is a subjective sentence valuing one special status species over another and should be reworded.

CSLC-22

Pg 3.3 – 36, lines 23-25

The text does not address the impact of spills of volatile chemicals on the least tern nesting site. The high elevation of the nesting site may reduce/eliminate direct contact with spills, but the birds may not be immune to release of harmful vapors. Please discuss this potential impact.

CSLC-23

Pg 3.3 – 36, lines 39-42, Pg 3.3-37, lines 1-4

Substantiate the claim (provide additional scientific data) that impacts from construction activities more than 200 ft. from the least terns will be less than significant. The impact analysis on least terns is inadequate as stands without additional scientific support.

CSLC-24

Page 3.3-37, lines 23-26, MM BIO-1.1a

It is important that the SEIS/SEIR state the frequency of monitoring, as the extent of monitoring will determine whether or not this mitigation measure is sufficient.

CSLC-25

Page 3.3-37, line 38

See previous comment about scope of monitoring efforts.

CSLC-26

3.3-38, lines 19-22

Define the setback of the construction equipment from the nesting site (with appropriate scientific citations) so that the equipment does not act as perches for raptors. If there are inadequate data to determine the setback, consult with USFWS regarding safe distances.

CSLC-27

3.3-38, line 38, MM BIO-1.1h

Once again, provide the citations suggesting that the 200 ft boundary is sufficient for these other special status birds. If there are inadequate data, consult with USFWS and discuss their conclusions.

CSLC-28

- CSLC-29 | Pg 3.3-38, MM BIO-1.1i  
If 200 ft is set as the minimize distance to reduce and/or eliminate impacts on least terns, why is 100 ft allowable here? Cite sources that explain this change in allowable distance.
  
- CSLC-30 | Page 3.3-40, line 15  
Please provide species name for giant kelp.
  
- CSLC-31 | Page 3.3-40, line 19-22  
What is the abundance and density of algal and kelp species (cite reference)?  
What percentage of algae will be removed during construction? Please provide more detail regarding the effect of construction on these important algal species, which provide habitat for many other species.
  
- CSLC-32 | Page 3.3-41, lines 16-17  
Clarity is needed regarding whether or not there have been no studies investigating fish mortality due to pile driving in the harbor, or have studies demonstrated that pile driving has not resulted in fish mortality in the harbor (if so, provide reference).
  
- CSLC-33 | Page 3.3-41, lines 16-17  
Please clarify the meaning of "small amount" in regards to the loss of invertebrate species due to construction and provide the references for this determination.
  
- CSLC-34 | Page 3.3-46, lines 41-45  
Although ballast water may not be a significant vector, vessels can still introduce nonindigenous species (NIS) via vessel fouling. There are many established NIS in other West Coast ports that could be introduced in LA Harbor via vessel fouling.
  
- CSLC-35 | 3.3-49, lines 21-25  
Please note what the noise difference will be with the sound barrier.
  
- CSLC-36 | Pg 3.3-50, lines 3-18  
Are there any measurements (numbers in lumens or other appropriate metric) for the expected night light levels at the site during and after construction? How do they compare to current levels (i.e., provide numbers)?
  
- CSLC-37 | Page 3.3-51, lines 34-40  
This section makes reference to a model based on all proposed Project vessels being double hulled and refers to Table 3.12-7. The text associated with Table 3.12-7 states: "Assuming that a majority of vessels that would visit the proposed terminal would be of a double-hull design, oil spill probabilities within LAHD controlled waters can be estimated as shown in Table 3.12-7."



Which statement is correct with regards to creating this model, and are all or a majority of vessels double hulled? What percent of vessels are double hulled in the model?

CSLC-37

Also, the statement describing the improbability of oil spills is not very clear. We suggest a more standard method, such as describing the probability as 1 in X chances, or X% probability instead of 1 every X numbers of years. Also, provide references for probability estimates.

Page 3.3-55, lines 15-23

Provide evidence with references to substantiate claim that noise will not adversely affect least terns. What level of sound would affect these birds? What is the nearest available habitat if the sound does indeed affect them? Also, oil spills could affect the terns, despite their not using the water surface, because they rely on food in the water.

CSLC-38

Pg 3.3-57, CEQA Impacts

The impacts of light at night are not discussed in this section, although it is brought up in the mitigation measures. Light effects should be addressed under the CEQA impacts as well as brought up in the mitigation measures assuming the impacts are significant.

CSLC-39

Pg 3.3-58, lines 37-39, 3.3. MM BIO – 1.2d

This mitigation measure addresses lighting, but this impact is not discussed in the CEQA impacts paragraph on least terns (see comment for Pg. 3.3-57). This impact should be addressed in both sections. Staff would also like to see added to this mitigation measure scientific observation of bird response to nighttime lighting during mating season. This observation does not need to be ongoing, but should occur during and immediately after completion of construction for evidence of impacts on least tern behavior. If impacts are observed, efforts should be made to adjust lighting to reduce impacts.

CSLC-40

Page 3.3-63 , lines 11-19

Provide references regarding probability of oil spills. Also see comment for 3.3-51.

CSLC-41

Page 3.3-63, lines 31-33

Although sand dabs live on or near the bottom and oil floats, the fish could still be affected by an oil spill as they rely on food and nutrients from the upper water column.

CSLC-42

3.3-66, Impact BIO-4.2:

Same comments about probability of oil spills (see comment for 3.3-51).

CSLC-43

3.3-66, lines 40-43

Although the shoreline represents a small fraction of Harbor habitat (in surface

CSLC-44

- CSLC-44 ↑ area), it might be harbor dense populations of invertebrate organisms (shorebirds feed on the invertebrates along the shore). The small surface area of the shoreline relative to the Harbor is not as relevant as the quality of the habitat. Provide references discussing quality of the habitat.
- CSLC-45 | 3.3-67, lines 32-38  
This first sentence suggests that fish will see the oil and move away to avoid contact, but what about the effects of small doses (not visible to the fish) to fish health? Please discuss the effect of small doses on fish.  
  
These sentences also argue that because fish are mobile, they will not be affected, but the section provides ample evidence that mobile birds may be affected – “loss of substantial numbers due to a moderate oil spill...could have long-term, adverse effects on population size due to their low reproductive rates.” Also discussed here and on Page 68, lines 26-28, there are several long-lived fish species in the Harbor environment (particularly *Sebastes* spp., and *Scorpaena guttata*) and they may take several years to reproduce. Removing these old fishes would have a significant impact on population stability, and the populations may take a long time to recover.
- CSLC-46 | Pg 3.3-69, lines 1-13  
While tankers are subject to ballast water management, (and this management strategies will reduce the potential risk of species introduction) tankers release significantly more water than almost all other vessels types, and therefore their impacts may be greater than might be otherwise predicted based on numbers of arrivals alone (see Falkner et al. 2007). Tankers also have a very large wetted surface area upon which fouling organisms may colonize. Therefore there is a risk of both ballast water and fouling species introductions from tankers even in the presence of vector management.
- CSLC-47 | Pg 3.3-69, lines 13-24  
The description of the PCR in the text is incomplete. The PCR includes parts of Alaska, the Canadian west coast, WA, OR, CA ports, and part of Mexico (from approximately Cooks Inlet, AK (154° west longitude) to ¾ down the Baja Peninsula (25° north latitude and 200 nm offshore). Additionally, the text needs consistency of wording regarding nonindigenous species (NIS). The authors switch between the use of non-native, invasive, exotic etc... to refer to nonindigenous species. The correct and consistent term would be nonindigenous species (NIS). Finally, while *Caulerpa* is a species of concern for possible introduction in southern California, there are many others that are equally, if not more, likely to be introduced via ballast water and fouling, including the Japanese sea star *Asterias amurensis*, the marine mussel *Mytilopsis sallei*, and the mussel *Limnoperna fortunei*.
- CSLC-48 ↓ Page 3.3-70, lines 5-7  
Please explain why oil spills from the two above ground pipeline segments into



Harbor waters would be unlikely to occur during the proposed Project. What control measures are in place?

↑ CSLC-48

Page 3.3-71, line 13

Mitigation measures for the significant and unavoidable impacts due to invasive species should include funds for monitoring of NIS in the Harbor so that early detection (and potential eradication) can be possible.

CSLC-49

Pg 3.3-84, lines 8-13 and 20-22

CEQA baseline of 6,193 vessels per year is not quite accurate. The figure likely refers to the number of vessel arrivals to the port complex (this is different than the number of individual vessels coming to the ports as some vessels call on the ports many times during a given year). The latest facts on qualifying voyage to LA/LB may be found in Falkner et al. (2007). See additional comments for pg 3.3-69 as may be relevant to this section, particularly for the definition of the Pacific Coast Region.

CSLC-50

Pg 3.3-101, Impact BIO-4.2

It is hard to predict the relative risk of invasion based on numbers of vessels alone. Risk depends on the size of vessel, the last port of call, volume of ballast water discharged and hull cleaning practices – greater numbers of small vessels could be of equal risk as fewer large vessels. More information is needed to adequately assess the level of impact.

CSLC-51

**Marine Transportation (3.9) and Risk of Upset and Hazards (3.12)**

There are several oil spill simulations in the SEIS/SEIR that provide details about the terminal's designed response capability, and volume handling capacity over response time. The SEIS/SEIR should describe the new terminal's designed oil spill response and handling capability and response times, for large spills of over 50 barrels or 2,100 gallons. Included in this description should be the consequences of a large spill, depending on critical variables of type of petroleum, spill size, time of overall release, the quickness, coverage and effectiveness of the response effort, and the proximity and sensitivity of resources affected by the spill.

CSLC-52

- For example, it is possible that, during nighttime oil transfer operations, a spill could be undetected for five minutes, during which 8,333 barrels or approximately 350,000 gallons of oil could be spilled. A model using only 42,000 barrels may not be sufficiently conservative. Please provide some modeling scenarios to simulate oil spills from 10,000 to 50,000 barrels, and possibly higher.
- How many feet of boom have been established or required by California Department of Fish and Game to be available for use from the terminal for immediate containment of an oil spill nearby.

↓

CSLC-52 ↑  
 What amount of boom will be retained by the wharf for vessels transferring petroleum? Consider a mitigation measure of maintaining a specific length (with a rationale) of oil spill boom on Berth 408, to deploy, upon a spill event at the terminal or from a moored vessel, before the arrival of the OSRO.

CSLC-53  
 Pg 3.9 – 2, MM 4E-3  
 The SEIS/SEIR states that mitigation measure 4E-3 doesn't apply because the new project doesn't involve use of barges or vessels; however, the construction impacts (pg 3.9-18) state that, "Construction of the Marine Terminal would require use of marine-based construction equipment (e.g., primarily tugs and barges to support pile driving and installation of structures)." Therefore it appears that barges and vessels will be used and mitigation measure 4E-3 should apply.

CSLC-54  
 Pg 3.9 – 3, lines 26-35  
 Vessel activity at ports has increased since 2004, is there a more recent report summarizing port activity?

CSLC-55  
 3.9-3, lines 26-32  
 Provide reference citations for all statements in this paragraph.

CSLC-56  
 Pg 3.9-4, lines 31-42  
 Early in the paragraph we see that "the number of vessel calls to the Port 36 is fairly static..." However, several sentences later the report states that "the utilization of larger cargo vessels has resulted in the reduced number of cargo ship arrivals." The numbers seem to vary by as much as 20%. Please clarify the apparent discrepancy between these two statements. Also, in this section and throughout the document there is some confusion between the use of vessels and vessel calls. It should be made clear that we are looking at vessel arrivals, because one vessel may call on a port multiple times during a year.

Regarding the statement that there has been a substantial increase in cargo volume, cite a reference (cite references for all statements in this paragraph) and clarify this statement. The "supporting facts" do not support this statement, as lines 40-42 state that in 2001, 1,584 container ships delivered 5,183,520 TEUs; while in 2005, 2,341 container ships delivered 7,484,625 TEUs. Proportionally, these values are the same. In 2001, the proportion was 3272 TEUs/ship, while in 2005, the proportion was 3197 TEUs/ship.

CSLC-57  
 Pg 3.9-5, lines 10-11  
 The vessel accidents table shows data through 2005, not 2003 as described in text.

CSLC-58 ↓  
 Page 3.9-6  
 Table 3.9-2 on page 3.9-6 of the Draft SEIS/SEIR reports the number of allisions

in the recent decade, and the expected increase in vessel traffic within both Ports. To prevent or minimize pier and/or vessel damage and the risk of an oil spill during docking operations, will there be installation of a mitigation measure of installation of an Allision Avoidance System (AAS) on the wharf structure?

CSLC-58

3.9-19, lines 23-26

Regarding the sentence, "This represents an..." please clarify what "this" refers to. The preceding sentence suggests that "this" increase can be based on a 2010 estimate or a 2025 estimate.

CSLC-59

3.9-19, lines 32-33

How many vessels called on the port in 1991? Note that the number of arrivals varies between 2500-3000 (20%, see table 3.9-1).

CSLC-60

3.9-19, lines 33-35

The number of vessel calls per month (total) is less than that stated for tankers in lines 24-25. Please double check these figures. To be consistent with the rest of the document, report the number of vessel arrivals per year, rather than per month. This value should be roughly 2900. The greatest number of arrivals that the port has experienced since 1997 is 3060, according to Table 3.9-1. The statement that the increase in vessel traffic, "would result in fewer total vessel calls than the Port has already experienced and safely handled" assumes that there will be no further increases in vessel arrivals within LAHD.

CSLC-61

Table 3.9-3

Are there any more recent data from the other (non-San Pedro Bay) sources? The time periods of the San Pedro and non-San Pedro sources don't match, and therefore, it would be appropriate to compare accident rates among these sources.

CSLC-62

**3.14 Water Quality, Sediments and Oceanography**

There is a consistent lack of data to provide scientific support of conclusions. For example, in contrast to what the document states, water quality could be impaired (specifically due to NIS and copper concentration) because of the operation of this new pier. Petitioning the state for increased staffing is not a direct response (and will not go far enough, especially in this budgetary climate) to mitigate for decreased water quality. If the state cannot provide funding for additional positions, what will LAHD do to mitigate for water quality impacts?

CSLC-63

3.14-1, Line 25

Consider changing oceanography to oceanographic.

CSLC-64

3.14-3, Lines 38

Please provide the R<sup>2</sup>, the equation of the line, and the p value for the linear regression to support the statement regarding considerable scatter and no trends in this analysis.

CSLC-65

- CSLC-66 | 3.14-9, Lines 27-32  
NIS should be included in potential contaminants from ballast water and vessel fouling vectors.
- CSLC-67 | 3.14-10, lines 19-24  
Provide data (Cu concentrations near Pier 400, and in other parts of the Harbor) when referencing information that is not in a public document or in a peer-reviewed journal.  
  
There is no indication of Zn concentrations in nearby waters, although several places (LA Harbor- Fish Harbor, LA Harbor- Consolidated Slip, Los Cerritos Channel, and Dominguez Channel) are impaired by excess Zn concentrations. Is Zn expected to increase at the project location? A simple map would be useful in describing these different sites.
- CSLC-68 | Pg 3.14 – 11&12  
The International Maritime Organization (IMO) adopted the International Convention on the Control of Harmful Antifouling Systems on Ships (AFS Convention). The AFS Convention will enter into force in 2008 and ban globally both the application and presence on ships hulls of TBT-based antifouling coatings. This section needs to be updated.
- CSLC-69 | Pg 3.14-15&16 (3.14.3.1 Clean Water Act)  
The U.S. EPA has issued a draft general NPDES permit for discharges incidental to the normal operation of vessels. The general permit is expected to be implemented beginning September 30, 2008. The permit would cover 20+ types of vessel discharges, including ballast water. More information on the draft permit can be found at [www.epa.gov/npdes/vessels](http://www.epa.gov/npdes/vessels).
- CSLC-70 | 3.14-21, Lines 27-28  
If there are strict guidelines for cleaning up spills of these maintenance chemicals, please describe.
- CSLC-71 | Page 3.14-27, lines 32-34  
Although the storm drains can handle runoff from large storm events, can the species living near the plume from this runoff handle increased runoff and the increase in pollutants associated with the runoff? With the increased general pollution and water from runoff because of the development and paving of this pier, are the marine species living near Pier 400 more at risk for sub-lethal harm?
- CSLC-72 | Pg 3.14-33, lines 34-35  
Discharges incidental to the normal operation of vessels will be considered pollutants beginning September 30, 2008 (see previous comment on draft NPDES permits). The permit includes effluent limits and best management practices for managing these pollutants. Visit EPA website ([www.epa.gov](http://www.epa.gov)) for



full listing of pollutants and management strategies and update text of this report accordingly.

CSLC-72

Pg 3.14-34, lines 6-7

Provide evidence to support the statement that illegal discharges are not causing a problem.

CSLC-73

3.14-34, Line 8-9

Provide supporting evidence that "there has been an improvement in water quality despite an overall increase in ship traffic." This statement contradicts page 3.14-9, lines 44-46 (3.14.2.2.7 Contaminants): "Concentrations of trace-level contaminants in Harbor waters are not monitored routinely. Therefore, information to characterize the spatial and temporal patterns in baseline concentrations of individual chemical contaminants in Harbor waters is not available (AMEC 2007)."

CSLC-74

Pg 3.14-34, lines 14-20

The Marine Invasive Species Act governing ballast water discharges went into effect January 1, 2004. The initial act requiring ballast water management for vessels entering California was passed in 1999. The March 22, 2006, date specifically applies to ballast water management for coastal vessels. This section needs to be clarified.

CSLC-75

3.14-33, Line 24-33

Please provide supporting data to illustrate that expected runoff pollution concentrations will be within permit limits. How close are these concentrations going to be to the permit limits? In other words, is there room for error in the expectations of runoff?

CSLC-76

3.14-34, Lines 27-30

Please provide data supporting conclusions.

CSLC-77

3.14-35, lines 40-43

Petitioning the state for increased staffing is not a direct response (and will not go far enough, especially in this budgetary climate) to mitigate for decreased water quality. If the state cannot provide funding for additional positions, what will LAHD do to mitigate for water quality impacts? An alternative for funding the increased staffing should be incorporated into the mitigation measure.

CSLC-78

3.14-38, lines 2-4

Operations associated with the proposed Project also include direct discharge of ballast water (requiring NPDES permitting very soon), NIS via vessel fouling vector, and metals due to degradation of antifouling paints. Define "waste" and make a case as to why vessel fouling is not an issue, and, again, provide data supporting claims that metals associated with antifouling paints will not be an issue.

CSLC-79

- CSLC-80 | 3.14-38, Lines 8-12  
 Illegal discharges result in pollution, and these impacts could be significant. However, as stated on page 3.14-34, lines 3-6, the extent of illegal dumping is unknown. Without additional research and/or supporting evidence, the evaluation is not sufficient to determine extent of impact from illegal discharges.
- CSLC-81 | Pg 3.14-50, lines 38-39  
 Discharges incidental to the normal operation of vessels will be considered pollutants beginning September 30, 2008 (see comment for pg 3.14-15&16). The permit includes effluent limits and best management practices for managing these pollutants. Visit EPA ([www.epa.gov](http://www.epa.gov)) website for full listing of pollutants and management strategies and update text of this report accordingly.
- CSLC-82 | Pg 3.14-62, Vessel Operations  
 Discharges incidental to the normal operation of vessels will be considered pollutants beginning September 30, 2008 (see comment for pg 3.14-15&16). The permit includes effluent limits and best management practices for managing these pollutants. Visit EPA website for full listing of pollutants and management strategies and update text of this report accordingly.
- CSLC-83 | Page 3.14-72 Table 3.14-2  
 WQ-1.2 run-off mitigation states: "MM 4B-7: Increase Local Staffing of California Department of Fish and Game (CDFG) Office of Oil Spill Prevention and Response (OSPR)." The harbor district nor the project applicant have control over funds for staffing at OSPR. How will this increase in staffing be accomplished without additional funding? Consider an alternative, more directly applicable mitigation measure, and one which the harbor district has control over.
- CSLC-84 | **Cumulative Analysis (4.0)**  
 4-52, lines 27-33  
 See comments in 3.3 regarding effects of pile driving on fish species.
- CSLC-85 | Pg 4-59, lines 1-14  
 The statement, "The potential for introduction of exotic species via vessel hulls has remained about the same, and use of antifouling paints and periodic cleaning of hulls to minimize frictional drag from growth of organisms keeps this source low," is too generic and not substantiated by fact. We do not have enough evidence as of yet to determine what constitutes a specific risk for vessel fouling introductions. While regular cleaning certainly helps, it usually focuses on the parts of the vessel that impact speed of transit, and species often cluster in small niches that do not impact speed and are often not as well cleaned. Also, while current ballast water management strategies do reduce the risk of species introductions, it does not eliminate the entire risk. This section is too dismissive of the potential risk of species introductions via increased vessel traffic to the Port.
- ↓  
 Additionally, the statement "While exotic species are present in the Harbor, there

is no evidence that these species have disrupted the biological communities in the Harbor," is not supported with scientific evidence in the report, and is dismissive of the cumulative impact of NIS on a community.

↑ CSLC-85

Pg 4-59, lines 19-22

The following statement needs scientific support (cite sources) - "However, the concentration of chemicals toxic to marine biota would not be increased to a level that would substantially disrupt local communities, and cumulative impacts to local biological communities would be less than significant."

CSLC-86

Pg 4-130, lines 44-47

Incidental discharges from vessels (as soon to be regulated under the EPA general NPDES permit) should be included among those discharges that would increase in proportion to the increased vessel traffic.

CSLC-87

Pg 4-131, lines 1-6

The illegal discharge of ballast water has caused impacts to water in Los Angeles Harbor through the introduction of nonindigenous species. The State and Regional Water Quality Control Boards consider NIS pollutants even though specific TMDLs have not yet been set for affected water bodies.

CSLC-88

Pg 4-131, lines 20-21

Under the proposed EPA management scheme for discharges incidental to the normal operation of vessels, the project will lead to the direct discharge of pollutants from vessels. Please review the proposed EPA general permit for specifics.

CSLC-88

We appreciate your consideration of these comments and look forward to reviewing the Final SEIS/ SEIR when it becomes available. If you have any questions regarding the CSLC's jurisdiction on granted lands, please contact Mary Howe at (916) 574-1839 or by email at [howem@slc.ca.gov](mailto:howem@slc.ca.gov). If you have any questions concerning the environmental review, please contact Nicole Dobroski at (916) 574-0742 or by email at [dobrosn@slc.ca.gov](mailto:dobrosn@slc.ca.gov).

CSLC-90

Sincerely,

Gail Newton, Chief  
Division of Environmental Planning  
and Management

**References**

Falkner, M. L. Takata, S. Gilmore, and N. Dobroski. 2007. 2007 Biennial Report on the California Marine Invasive Species Program. Produced for the California State Legislature.

[http://www.slc.ca.gov/Spec\\_Pub/MFD/Ballast\\_Water/Ballast\\_Water\\_Default.html](http://www.slc.ca.gov/Spec_Pub/MFD/Ballast_Water/Ballast_Water_Default.html)

cc: Office of Planning and Research, State Clearinghouse  
Dr. Spencer D. MacNeil, U.S. Army Corps of Engineers, Ventura Field Office  
Curtis Fossum, CSLC  
Mary Howe, CSLC  
Nicole Dobroski, CSLC



**California State Lands Commission, July 29, 2008**

- CSLC-1. Thank you for your review of and comments on the Draft SEIS/SEIR.
- CSLC-2. The comment is acknowledged and appreciated.
- CSLC-3. The comment is acknowledged and appreciated.
- CSLC-4. The document has been revised to include relevant citations and additional data to support the impact assessment, as appropriate. It has been clarified when specific data are lacking and the analysis was based on consideration of other relevant information and best professional judgment.
- CSLC-5. The comment is noted relative to mitigation measure MM 4D-7. More detailed description of the monitoring is provided in MM BIO-1.1a. In addition, the description of MM BIO-1.1a has been expanded to include the frequency of monitoring as follows:

**MM BIO-1.1a: Monitor the California least tern and Other Bird Nesting.**

A qualified least tern biologist hired by the Port shall monitor least tern and other special status bird nesting during construction activities on Pier 400, including installation of Pipeline Segment 1 to Tank Farm Site 2 and use of staging area 412. Monitoring shall occur from 2 weeks prior to the nesting season start (April) to the end of the nesting season (September or when the last bird has vacated the site and no birds return for at least two weeks). Monitoring shall occur at a minimum of three days a week during the nesting season, which generally extends from mid-May through the beginning of August. ~~that would occur from April through August.~~

In the event of an imminent threat to nesting special status species and the Construction Manager is not immediately available, the monitor shall have the authority to redirect construction activities. If construction activities need to be redirected to prevent impacts to special status birds, the monitor shall immediately contact the LAHD Environmental Management Division, Port Inspector, and Construction Manager. The Construction Manager has the authority to halt construction if determined to be necessary.

As discussed above, the frequency of monitoring would depend on time of year relevant to seasonal use of the site by least terns and type of construction activity. Monitoring would not be necessary outside the nesting season when least terns are not present (September to April). The Port is currently required, through a Memorandum of Agreement (MOA) with the National Marine Fisheries Service, U.S. Army Corps of Engineers, and the California Department of Fish and Game, to hire a qualified least tern Biologist to monitor and manage the least tern nesting site. Least terns already are monitored three to six (half the nesting site) days a week during the nesting season as part of routine monitoring conducted at the port. That frequency of monitoring should be sufficient during general construction activities because noise levels would not be substantially higher than existing conditions. Monitoring may be conducted daily during pile driving depending on the nature and duration of that activity; the monitoring schedule during pile driving will be coordinated between the LAHD Environmental Management Division and the monitor. Any observations of adverse impacts to least terns during construction (general, pile driving) would result in further protective actions, coordination with the USFWS, and possibly modification of the monitoring frequency.

**CSLC-6.** The comment recommending that the Port find/create adequate alternate habitat for California least terns if monitoring observes that least terns do not return to their nests after or during construction is noted. As stated on Page 3.3-4 of the Draft SEIS/SEIR, MM 4D-10 (from the Deep Draft FEIS/FEIR) is not applicable because there would be no need to relocate the tern nesting area as a result of the proposed Project. Noise from construction activities at the Marine Terminal, including driving the steel piles, would not result in peak noise levels that exceed those to which the California least terns are currently exposed. The California least tern is tolerant of a variety of noises while nesting that include airfield operations, highway traffic, military operations (with helicopters), and construction activities (K. Keane, personal communication 2008). Construction of container terminal facilities on both Pier 300 and Pier 400 has occurred adjacent to the nesting site while the California least terns were nesting with no observed adverse affects related to noise. In addition, piles were driven for the berths along the south side of Pier 300 at a distance of approximately 1,200 to 2,300 ft (depending on the pile locations) from the nesting site (located on Pier 300 at that time). For construction activities at Tank Farm Site 1, feasible mitigation measures would reduce any significant impacts to the least terns to less than significant levels, including MM 4D-7 (establish appropriate buffer if nests observed outside the designated nesting area), MM 4D-9 (200-foot buffer between nesting site and staging areas), and MM BIO 1.1a-k (monitoring, buffers, predator perch control, site preparation, avoidance of night lighting, environmental window, noise). After construction, least terns would not be expected to be affected by the project based on distance and noise considerations. The Port has a long history of working with USFWS to minimize impacts and appropriately manage nest sites for least terns in the harbor, including use of the Pier 400 nesting site (per the 2006 Memorandum of Agreement [MOA] signed by the City of Los Angeles, California Department of Fish and Game, U.S. Fish and Wildlife Service, and U.S. Army Corps of Engineers). As noted in the document, the Port as a long-term objective may construct a permanent California least tern nesting site for relocation of the colony in Los Angeles Harbor or to Los Cerritos Wetlands in accordance with the existing least tern MOA. Potential sites have includes a “bird-island” in the Outer Harbor and in the Sea Plane Lagoon. However, no acceptable sites have been identified to date.

Also see the response to comments CSLC-16 and CSLC-17.

**CSLC-7.** The comment regarding the incorrect reference of Appendix I.2 is appreciated and the document has been corrected.

**CSLC-8.** The question regarding vegetation clearing and request to include the square footage/acreage of land used as the nesting site are noted. The document has been revised to include the clarification that vegetation clearing was not part of any mitigation. LAHD clears weedy vegetation from the least tern nesting site each spring to prepare it for the terns and also cleared the adjacent area to provide additional nesting space in 2003 and 2004. Other tern species opportunistically use the additional cleared area along with least terns.

The California least tern nesting site is 15.7 acres (683,892 sf) as set forth in the Los Angeles Harbor Department (LAHD) Memorandum of Agreement (MOA) with the USFWS, the USACE, and CDFG for management of a least tern nesting site; this was described on page 3.3-16 of the Draft SEIS/SEIR. The 12-acre area (522,720 sf) immediately west of the designated least tern nesting site on Pier 400 (proposed Tank

Farm Site 1) is a barren, sandy area built as part of Pier 400 for Port uses. It is not part of the designated nesting area.

- CSLC-9.** The document has been revised to clarify that the 2000 Baseline Biological study had quarterly benthic infaunal sampling. This information was not included in the Executive Summary as this specific topic and level of treatment was too detailed for the Executive Summary, but is appropriate as added to Section 3.3.
- CSLC-10.** The document has been revised to clarify that the “low pollutant” determination was based on evaluation of infaunal species assemblages during the most recent Port Baseline Biological study (MEC and Associates 2002), which noted that Outer Harbor stations had the highest habitat quality, as demonstrated by a diverse fauna and low percentage of pollution tolerant or enrichment species. Furthermore, that study stated that low pollutant concentrations were suggested because Outer Harbor infaunal assemblages included species associated with relatively uncontaminated coastal areas, areas of low enrichment, and had few species associated with moderately enriched/contaminated areas. Although sediment chemistry samples and analyses were not done during the 2000 Biological Baseline study, “typical” pollutants in contaminated areas could include metals, organotins, organic pesticides and PCBs, polycyclic aromatic hydrocarbons (PAH), and semi-volatile organics.
- CSLC-11.** The document has been revised to clarify that limited new data are available on target zooplankton (commercially important adults) in the harbor. This additional information has been added to the document.
- CSLC-12.** The document was revised to clarify that Caspian terns have not been observed nesting or attempting to nest on the Tank Farm 1 site in 2006 or 2007.
- CSLC-13.** Additional information has been added to document clarifying *Undaria* was observed in 2000 near the Cabrillo Beach Launch Ramp, near the U.S. Coast Guard Base along the Main Channel, in Long Beach Harbor, and may occur in other locations in the harbors and along the coast. In 2008, macroalgae surveys were conducted, but results from this study are not yet available.
- CSLC-14.** The comment regarding the error in the Appendix number is appreciated. The document has been corrected with the appropriate Appendix number.
- CSLC-15.** The comment regarding updating the ballast water management section, including references to recent citations, is appreciated. The document has been revised to include updated information on this topic. LAHD and USACE assume that existing and proposed regulations/requirements would apply to vessels in State Waters and would therefore apply to this proposed Project.
- CSLC-16.** The document has been revised to include clarification that standard noise analysis methodology was used to calculate estimated noise levels at the California least tern nesting site, which is located more than 2,400 feet from proposed Marine Terminal construction. Based on standard noise attenuation assumptions over flat terrain, peak noise from on-land construction (i.e., excluding pile driving, which is discussed below) would be less than 65 A-weighted decibels [dB(A)] at the nesting site based on a standard noise attenuation analysis. The attenuation analysis is based on the typical noise level of a complement of construction equipment of 91 dB(A) at 50 feet (City of Los Angeles

2006), with noise attenuating by 6 dB per doubling of distance (which is the standard assumption for noise attenuation from a point source over flat terrain). This is within the range of existing noise at the nesting site: ambient existing noise (in year 2005) measured at the western edge of the nesting site averaged 50 dB(A) over 24 hours (based on measurements taken once every hour for 7 days), with the highest recording during the measurement period being 88 dB(A) (Navcon Engineering 2005b – see Appendix L.2 of the Draft SEIS/SEIR).

Peak noise levels from Project pile driving would range from 95 to 107 dB(A) at a distance of 50 ft (15 m) (City of Los Angeles 2006). Using the maximum value for the proposed Project pile driving (largest steel piles), the maximum pile driving noise level at the western edge of the California least tern nesting site would be at most approximately 74 dB, which is based on a value of 95 to 107 dB at 50 ft and attenuation of 6 dB per doubling of distance, due to attenuation of the sound by more than 33 decibels (dB) over the 2,400-ft (732-m) distance between the pile driving locations and the western edge of the nesting site. Peak noise levels (ambient noise plus that from proposed Project construction) of up to 76 dB(A) would occur at the least tern nesting site during driving of large, steel pilings, depending on ambient noise levels. The increase in noise at the nesting site would be less during driving of smaller, concrete piles. Therefore, maximum (peak) noise levels during construction would be within the range of values measured at the site under existing conditions.

The average noise level at the California least tern nesting site would likely be increased during pile driving, compared to the current ambient noise. (As noted above, measurements at the western edge of the nesting site taken once every hour for 7 days in 2005 averaged 50 dB(A) over 24 hours, with the highest recording during the measurement period being 88 dB(A).) (Navcon Engineering 2005b – see Appendix L.2.) However, pile driving would not be a continuous operation, and noise levels would vary depending on type of piling (steel, concrete), piling size, daily schedule of construction activities, duration of pile driving, and pile driving method. During days in which pile driving would occur, the average daytime noise level at the nesting site is estimated to be approximately 66 dB(A), but the nighttime level would not be changed compared to existing conditions (because no pile driving, nor any other construction, would occur during nighttime). Although no thresholds exist for average noise level effects on the California least tern, the potential to disturb California least terns during pile driving activities would be low because this species is tolerant of a variety of very high average-noise-level environments while nesting, including airfield operations, highway traffic, military operations (with helicopters), and construction activities (K. Keane, personal communication 2008b).

Construction of container terminal facilities on both Pier 300 and Pier 400 has occurred adjacent to the nesting site while the California least terns were nesting with no observed adverse affects related to noise (K. Keane, personal communication 2008b). In addition, piles were driven for the berths along the south side of Pier 300 at a distance of less than 1,200 to 2,300 ft (701 m) from the nesting site (located on Pier 300 at that time). No disturbance of nesting of the California least terns was observed during these events.

- CSLC-17.** The document has been revised to clarify the distinction between the maximum (momentary peak) noise level at the least tern nesting site during pile driving, the average daytime noise level at the least tern nesting site during days on which pile driving occurs, and the average daytime noise level at the site during days on which pile driving does not

occur (i.e., due to the operation of on-land construction equipment at the marine terminal). The maximum noise level at the least tern nesting site during pile driving could be as high as 76 dB(A) depending on ambient noise levels (this is a total noise level, including the contribution of the pile driving activity as well as ambient existing noise). The average daytime noise level at the least tern nesting site during days on which pile driving occurs is estimated to be 66 dB(A). The average noise level during daytime construction activities other than pile driving would be less than 65 dB(A) at the nesting site. All of these estimates are based on standard noise levels reported in the *L.A. CEQA Thresholds Guide* (City of Los Angeles 2006), standard noise attenuation procedures, and data on ambient existing noise at the least tern nesting site baseline data from measurements taken in 2005 (Navcon Engineering 2005b – see Appendix L.2 of the Draft SEIS/SEIR).

Although momentary peak noise levels may be up to 26 dB(A) higher than the existing average noise level, the peak noise level would not exceed maximum levels recorded at the site under existing conditions (reported in Appendix L.2 of the Draft SEIS/SEIR). The average daytime noise level during construction is estimated to increase to at most 66 dB(A), or less on days when pile driving does not occur, compared to the existing average noise level of 50 dB(A). There would be no change in the nighttime noise level compared to existing conditions, because no construction would occur during nighttime. In addition, pile driving is not a continuous operation and peak noise levels would vary depending on type and size of pilings, daily schedule of construction activities, and pile driving methods. Additional clarification is provided in response to comment CSLC-16.

It should also be noted that a tern nesting site has been monitored in the harbor for nearly twenty years and none of the monitoring reports have ever indicated that pile driving in the harbor has had any effect on the least tern. This included the construction of the Pier 300 wharf when the nesting site was located adjacent to that activity.

**CSLC-18.** The document was revised to include additional information on distances from the Vagle (2003) study and additional references on effects of sound on fish (e.g., Hastings and Popper 2005). Results from a study site in Canada indicated that driving closed-end steel piles 36 inches (91 cm) in diameter with a peak sound pressure approaching 150 kPa resulted in mortality of several species of fish “around the pile” (Vagle 2003). Hastings and Popper (2005) reported no statistically significant mortality (i.e., no difference from control groups) for sound exposure levels (SELs) as high as 181 dB (re 1  $\mu\text{Pa}^2\text{-s}$ ) for surfperch and SELs as high as 182 dB (re 1  $\mu\text{Pa}^2\text{-s}$ ) for steelhead. The comment is correct in stating that the document indicates potential adverse effects to fish and fish-eating birds from pile driving. The document notes that such effects would be temporary and limited to the period of construction. It should also be noted that the area of influence of this fish behavior modification represents a very small proportion of the total area of the Harbor.

**CSLC-19.** The document was revised to include additional information to support conclusions that no significant impacts to foraging species utilized by California least terns would occur. Least terns forage extensively at the Pier 300 Shallow Water Habitat that is over 1.5 mi (2.4 km) away (via water) from Berth 408. Pier 400 lies between Berth 408 and that foraging area. Due to this distance and the intervening landfill, impacts to forage fish used by least terns at the Pier 300 Shallow Water Habitat would not be expected. It should also be noted that Biological Opinions by and coordination with the U.S. Fish and Wildlife Service prohibit pile driving within shallow water habitats (Cabrillo Shallow

Water Habitat, and Pier 300 Shallow Water Habitat) and that this is protective of the least tern foraging.

- CSLC-20.** The document has been revised to include citations for the statements on page 3.3-34 of the Draft SEIS/SEIR.
- CSLC-21.** Additional information (and scientific citations) was added to the document regarding relatively greater tolerance of western snowy plover to human disturbance compared to least terns. In addition, an approximately 200-ft buffer zone is used for mechanized beach grooming when western snowy plovers are present on Santa Barbara City beaches. Based on that information, measures to protect the California least tern on Pier 400 would also protect western snowy plover individuals that might stop there during migration. Cabrillo Beach is located more than 1.5 mi from any construction activities associated with the proposed Project; therefore, western snowy plovers on that beach would not be affected by Project-related construction. As noted, snowy plovers do not nest on Pier 400 and are not common to the area. In addition, Cabrillo Beach, where they also do not nest, is located over a mile from the project site.
- CSLC-22.** The document has been revised to remove implication that impacts to burrowing owls would represent a benefit to another special status species.
- CSLC-23.** The document has been revised to address the low potential for volatile chemicals associated with an accidental oil spill to adversely impact least terns at the nesting site. The only chemicals that would be stored (at least temporarily) at Tank Farm Site 1 would be crude oil and Marine Gas Oil (MGO). Crude oil contains some volatile components with the amount varying by source of the crude oil. MGO contains more volatile components than does most crude oil. MGO would be stored in a 15,000-bbl tank at the far western side of Tank Farm Site 1 at a distance of 920 ft from the western edge of the California least tern nesting site. The tank would be surrounded by a containment dike. The crude oil would be held in two 250,000-bbl tanks that are also surrounded by containment dikes. The probability of an MGO or crude oil spill from the tanks is very low and, if such a spill were to occur, it would be contained with the dike around the tank and cleaned up immediately. The probability for vapors from such a spill to adversely affect California least terns at the nesting site would be low based on mitigation measures to contain accidental spills and factors that would lower risk such as variable wind conditions and seasonal occurrence of least terns.
- CSLC-24.** No specific studies or data are available to support the 200-ft buffer distance. However, as stated in the draft document the 200-ft distance has been recommended by the U.S. Fish and Wildlife Service for other relevant projects in southern California (USACE and LAHD 1992). During construction of Pier 300 where terns were found nesting outside the nesting site, the 200 feet provided adequate buffering for the completion of nesting. The document has been revised to include additional information regarding estimated average noise levels during construction, excluding pile driving, at distances  $\geq 200$  feet from the source compared to existing noise levels at the site. Pile driving would occur at distances substantially farther away. Also see responses to comments CSLC-16 and CSLC-17.
- CSLC-25.** Please see response to CSLC-5. The frequency of monitoring would depend on time of year relevant to seasonal use of the site by least terns and type of construction activity. Monitoring would not be necessary outside the nesting season when least terns are not

present (September to April). Least terns already are monitored three to six days (half the nesting site each day) a week during the nesting season as part of routine monitoring conducted at the port. That frequency of monitoring should be sufficient during general construction activities because noise levels would not be substantially higher than existing conditions. Monitoring may be conducted daily during pile driving depending on the nature and duration of that activity; the monitoring schedule during pile driving will be coordinated between the LAHD Environmental Management Division and the monitor. Any observations of adverse impacts to least terns during construction (general, pile driving) would result in further protective actions, coordination with the USACE and USFWS, and possibly modification of the monitoring frequency.

**CSLC-26.** Please see response to comment CSLC-25.

**CSLC-27.** No systematically-collected data are available to establish a setback, since the response of nesting least tern to disturbances varies with respect to the type of disturbance. For example, least tern nesting at Pier 300 when the container terminal there was under construction remained on nests when large dirt-hauling trucks were passing less than 100 feet away (however, there was an elevation difference—the nesting site was approximately 20 feet higher than the construction area). The Tank Farm 1 site is also separated by elevation from the western portion of the Los Angeles Harbor least tern nesting by a minimum of 10 feet, which provides some visual screening for least terns on nests, which are on the ground (K. Keane, pers. comm.).

In addition, least terns at the Los Angeles Harbor nesting site are somewhat acclimated to human disturbance as a result of monitoring for several years. This is evidenced by the fact that in the past, and at other nesting sites, least terns protect their nests by defecating on the potential mammalian predator such as a least tern biologist. However, over the past three years, least terns still dive at biologists when they are close to least tern nests, but least terns rarely defecate (Kathy Keane, pers. comm.). Nesting least terns are more easily disturbed by humans on foot than those in a vehicle; in fact, a vehicle has been used as a bird blind on many occasions, approaching slowly to within 10 feet of the bird at the nest (K. Keane, personal Communication 2008).

Least tern response to disturbance also varies from nesting site to nesting site, varies throughout the nesting season (it is typically highest during and following chick hatching to fledging), and varies with the frequency and intensity of predation, as well as with the type of species (avian predators in the nesting site always result in least tern departure from nests). Least tern nesting sites experiencing high levels of predation are on the alert for predators and thus, it has been noted anecdotally, least terns that may remain on nests when biologists are 100 feet away may instead flush when the disturbance is 200 feet or more distant when the site has experienced a recent visit by an avian predator (K. Keane, personal Communication 2008).

However, one year when earth movement of the Pier 400 substrate (created from harbor dredging) was occurring near least tern nesting, one least tern nested outside the protected least tern nesting site in the area proposed for earth movement. Keane Biological Consulting (KBC) fenced off the nest with a circumferential buffer of 100 feet from the nest. The nest successfully hatched despite the nearly-daily occurrence of construction vehicles immediately outside the buffer area (K. Keane, personal Communication 2008).

Thus, the biological monitor would work with the LAHD Environmental Management Division (EMD) and their least tern consultant, Port Inspector, and Construction Manager to ensure protection of the least terns while nesting. As appropriate, the USACE and U.S. Fish and Wildlife Service would be consulted regarding a safe distance.

- CSLC-28.** Please see response to comment CSLC-24. The USACE and LAHD are in the process of consulting with the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act for the proposed Project. A Biological Assessment has been prepared and submitted for their review. The terms and conditions of the Biological Opinion, anticipated to be received from the by November 22, 2008, from that consultation process will be implemented by LAHD. Again, the 200 feet was based on the experience and best professional judgment of the USFWS and has been shown to be effective in situations where nesting occurred outside of the designated nesting site.
- CSLC-29.** Please see response to comment CSLC-27 above. The document has been revised to clarify that the 100-foot setback is for areas of the site where no adjacent construction would occur. No construction would occur along the east side and northeast corner of the California least tern nesting site. A paved area is located adjacent to the northeast part of the nesting site and is separated from the nesting site by a chain link fence. The east side of the nesting site has a dirt track used for access to prepare the site for least tern nesting prior to their arrival. The 100-foot restriction is to keep workers that may be associated with use of the paved area for staging from disturbing the least terns.
- CSLC-30.** Document has been revised to add the scientific name (*Macrocystis pyrifera*) for giant kelp.
- CSLC-31.** The Year 2000 Baseline Survey (MEC and Associates 2002) did not measure the abundance and density of algal species but mapped the occurrence of kelp in the harbor and provided data on the presence of common algal species at representative sites. The map of algal distribution in that report indicated no kelp along Pier 400 face “C”. The document was revised to clarify that water depths of 81 feet below MLLW preclude establishment of kelp beds in the area where the crude oil unloading platform, mooring and breasting dolphins, and dock would be installed. Kelp could occur as a narrow fringe along the rip rap. Macroalgae would be expected to colonize the proposed pile supported structures because the relatively narrow structures would provide minimal shade cover.
- CSLC-32.** No studies have been conducted specifically to record fish mortality or the lack thereof from pile driving in the Harbor. However, despite the driving of thousands of piles in the Harbor the Environmental Division has never received any reports from any party, including the Port Police, in regard to such an occurrence.
- CSLC-33.** As described on page 3.3-47, lines 11-13, of the Draft SEIS/SEIR, the “small amount” of soft bottom invertebrate habitat lost in the footprint of the piles would be approximately 0.04 acre. This habitat would be replaced with hard substrate pile habitat that would be colonized by invertebrates corresponding to different species than those on soft bottom. In addition, approximately 0.09 acre of soft bottom would be covered with rock around the base of some of the large piles. The 0.11 acre of habitat conversion associated with the fill (0.09 acre from rock, 0.02 acre from pilings centered within rock) represents substantially less than 0.01% of Outer Harbor soft bottom habitat. Also see response to comment USEPA-18.



- CSLC-34.** The comment is noted. See also the response to comment CSLC-51.
- CSLC-35.** The document has been revised to clarify how much noise will be reduced by using the sound barrier. In the revisions to the document, cross reference will be given for Appendix L, which provides the noise calculations with and without the noise barrier.
- CSLC-36.** No specific measurements for expected night light levels are available for the site. As stated in the document, night light levels at the project site would be consistent with local City of Los Angeles and LAHD requirements. Most of the new lighting would be associated with the unloading platform, which would have a variety of lights, including an 80-foot tower with four to eight 400-watt fixtures. Low-level lighting systems would be used on over-water structures and at the Tank Farm facility. Light levels are relatively high due to the presence of security lights required by the Occupational Safety and Health Administration (OSHA) at the APL Container Terminal, which is adjacent to the proposed site under existing conditions. Monitoring indicates that least terns have adapted to artificial lighting at Pier 400 without adverse effects on nesting success. KBC monitored the behavior of least tern at night the beginning of the nesting season during the first year when the security lights were present. At first, least tern groups night-roosting were congregating at night at the southern end of the nesting site, furthest from the security lighting, and the first nests were observed here. KBC expected to request the Port to work with APL about decreasing the number of lights near the nesting site (by turning of some of those lights at night during the least tern nesting season). However, within a week, least terns were observed throughout the nesting site including within 10 feet of the nesting site fence closest to the security lights, and each year subsequently, least tern nesting has occurred throughout the nesting site with no notable difference in nest density with respect to proximity of security lighting (K. Keane, personal Communication 2008).
- Proposed Project lighting along the eastern side of Tank Farm Site 1 would not result in a substantial increase in nighttime light levels at the least tern nesting site. A small increase in light levels could extend a short distance into the least tern nesting site, primarily at the southwestern corner. As stated in the document, light will be shielded and directed downward and/or away from the nesting site to minimize the potential for increase of ambient light levels at night. With these measures, proposed lighting would be comparable or less than surrounding uses.
- CSLC-37.** The document has been corrected to say “since all of proposed Project vessels are double hulled.” The title of Table 3.12-7 has also been corrected accordingly (Table 3.12-7 is based on the assumption of 100% double-hulled vessels, not “majority double hulled”). Also, note that Mitigation Measure RISK-2.1a specifies that only double hulled vessels may call at the terminal. Regarding the commenter’s suggestion to express probabilities of spills using alternative metrics, the Port and USACE respectfully disagree, and believe instead that expressing probabilities as “1 event every X years” provides a more intuitive measurement of probability for the average reader.
- CSLC-38.** The paragraph referenced in the comment is about the western snowy plover, and it is assumed that the comment is meant to be for that species and not the California least tern. The document has been revised to include additional information regarding relatively greater tolerance of western snowy plovers to noise and activity disturbance than least terns. Western snowy plovers appear to be tolerant of human presence and noise and typically do not flush from resting spots on the beach when a person approaches much

closer than 200 feet (personal observations by SAIC biologists during surveys for this species on beaches of Santa Barbara). However, a 200-foot buffer zone is generally used for mechanized beach grooming when western snowy plovers are present on Santa Barbara City beaches. Based on that information, measures to protect the California least tern on Pier 400 would also protect western snowy plover that sometimes stop there during migration. Cabrillo Beach is more than 1.5 mi (2.4 km) from any construction activities associated with the proposed Project and, due to the distance, western snowy plovers on that beach would not be affected by Project-related construction noise. Also see response to comment CSLC-21.

Western snowy plovers forage on invertebrates on the beach up to the water's edge. Individuals temporarily visiting the least tern nesting site during migration would not have access to the water's edge since the least tern nesting site, or Pier 400, has no beach, only rock riprap (large boulders) on the water sides of the site. Thus, the individual snowy plovers at the nesting site would not be exposed to oil spilled into the water. A few western snowy plovers have been reported to use the Inner Cabrillo Beach during the winter (Draft SEIS/SEIR page 3.3-17); therefore, a few individuals could potentially be exposed to spilled oil at that location (approximately 1.5 miles from Pier 400) in the unlikely event of a project-related spill. Because no nesting occurs in the Harbor, any effects of a project-related oil spill on individual snowy plovers would not result in adverse population-level effects.

- CSLC-39.** Lighting effects associated with proposed operations are discussed for least terns on page 3.3-50 of the Draft SEIS/SEIR. The document has been revised to also include the impacts of night lighting under the CEQA Impact Determination subsection, as appropriate. Project lighting would have minimal effects on light levels in the least tern nesting site, due to shielding, height (less than 30 feet), and size of the lights, thereby resulting in less than significant impacts.

The mitigation measure is provided to ensure that the light standards along the east side of Tank Farm Site 1 are no higher than 30 feet and that the lights are shielded to direct light away from the least tern nesting site. These lights would be much smaller than the existing high mast lights (120 feet tall) at the APL container terminal just north of the nesting site.

- CSLC-40.** Please see response to comment CSLC-39 regarding discussion of lighting impacts to California least terns in the CEQA Impact Determination subsection. Specific observations of California least tern responses to nighttime lighting while nesting are not available, but monitoring of the least terns at the Pier 400 nesting site has not shown any apparent adverse effects on nesting (or nest distribution) relative to existing light levels at Pier 400.

- CSLC-41.** All probabilities for oil spills were taken from Section 3.12, Risk of Upset/Hazardous Materials in the Draft SEIS/SEIR. Please see response to comment CSLC-37.

- CSLC-42.** The document has been revised to clarify that sanddabs live and feed on the bottom, do not rely on food from the upper water column, and would not be affected by an oil spill at the surface.

- CSLC-43.** Please see response to comment CSLC-37.

- CSLC-44.** The document has been revised to clarify that no recent information is available on the quality of sandy beach habitat for invertebrates in the harbor. Man-made rip rap shoreline supports over 50 species of invertebrates across upper and lower intertidal zones in the outer harbor based on results of the 2000 Baseline Biology Study (MEC and Associates 2002), which showed similar results as prior studies (e.g., MBC 1984, MEC 1988).
- CSLC-45.** Potential risk of oil spill impact on birds is not the same as fish because birds encounter oil at surface from resting, feeding, or diving and penetrating the water surface. In contrast, with the exception of floating fish eggs and larvae (ichthyoplankton), most fishes, including rockfishes (*Sebastes*) and scorpion fish (*Scorpaena guttata*) move and feed below the surface and near the bottom and would not be substantially affected by a surface oil spill. In some cases, surface-oriented (pelagic) fishes could be affected by small oil spills, but are expected to be able to move away from any affected areas because they are highly mobile and usually transient throughout the harbor environments. Moreover, the probability of an oil spill is extremely low (see response to comment CSLC-41).
- CSLC-46.** The comment is acknowledged and noted that although tankers are subject to ballast water management, the primary source of nonindigenous species (NIS) in the harbors is likely to have been from discharges of ballast water from cargo vessels using the San Pedro Bay Ports. Please see Section 3.3.4.3.1.2 (Operational Impacts Bio-4.2 Invasive Species) of the Draft SEIS/SEIR which discusses that, although of low probability, operation of the proposed Project facilities has the potential to result in the introduction of NIS via vessel hulls or ballast water. The document has been revised to include that this risk remains despite vector management regulations. Also see response to comment CSLC-51.
- CSLC-47.** The document has been revised to use consistent terminology with respect to non indigenous species (NIS). The document has also been revised to include appropriate geographical range of the Pacific Coast Region (PCR) relevant to management of ballast water. The PCR consists of the Cooks Inlet, Alaska to about three-fourths of the way down the Baja Peninsula. The document has been modified to include additional examples of species of concern with the potential to be introduced via ballast water and fouling.
- CSLC-48.** The document discusses the very low risk for spills from pipelines on page 3.3-52 of the Draft SEIS/SEIR. The document was revised to include the rationale for the low probability in the discussion under the CEQA Impact Determination. The only substances containing volatile chemicals that would be stored (at least temporarily) at Tank Farm Site 1 would be crude oil and Marine Gas Oil (MGO). MGO would be stored in a 15,000-bbl tank at the far western side of Tank Farm Site 1 at a distance of 920 ft (280 m) from the western edge of the California least tern nesting site, and the tank would be surrounded by a containment dike. Crude oil would be held in two 250,000-bbl tanks that are also surrounded by containment dikes. The probability of an MGO or crude oil spill from the tanks is very low and, if such a spill were to occur, it would be contained with the dike around the tank and cleaned up immediately. The probability for vapor emissions from such a spill to adversely affect California least terns at the nesting site would be low. This conclusion is based on mitigation measures to contain accidental spills and environmental factors that would lower risk, such as rapid dispersion of emissions due to typical wind conditions at the exposed site, as well as the seasonal

occurrence of least terns. Response to oil spills are summarized in Impact BIO-1.2 and detailed in Section 3.12 of the Draft SEIS/SEIR.

- CSLC-49.** As discussed in the Draft SEIS/SEIR, the proposed Project is expected to increase the number of vessels entering Los Angeles Harbor by nearly 7 percent compared to the number of vessels that entered the Harbor during the CEQA Baseline year, which would result in a small increase in the potential for non-native invasive species (NIS) to enter the Port via ballast water or attached to ship hulls. The Port does not believe it is feasible to conduct surveys over the harbor area that would allow for early detection of NIS organisms. In addition, with the exception of *Caulerpa*, we are unaware of any NIS that has been successfully eradicated once it has arrived in an ecosystem.
- CSLC-50.** The statements on page 3.3-84 of the Draft SEIS/SEIR, lines 8 and 14, have been changed to say that the number of vessel calls to Los Angeles-Long Beach Harbor would increase. See response to comment CSLC-47 regarding revision of the definition of the Pacific Coast Region definition. The document has been revised to clarify that qualifying voyages (QV) are those for vessels of greater than 300 gross registered tons (Falkner et al. 2007).
- CSLC-51.** Project-related vessels would all be large, would come primarily from outside the U.S. Exclusive Economic Zone (EEZ), and would be subject to regulations to minimize the introduction of non-native species in ballast water. Increasing the number of vessel calls to the Los Angeles Harbor by nearly 7 percent of the total number of vessel calls to the Harbor that occurred in the CEQA Baseline year would result in a small increase under CEQA in the potential for discharge of ballast water containing non-native invasive species (NIS). This is because the vessels would generally be unloading cargo and consequently taking on ballast water to compensate when leaving the Harbor. The number of project-related vessel calls would be less than under the NEPA baseline condition, and, thus, would reduce the potential for introduction of NIS. LAHD will also continue to monitor and conform with regulatory requirements related to NIS.
- CSLC-52.** The oil spill analysis focused on an evaluation of oil spill detection and response. The analysis also evaluated oil spills from ships, pipelines and crude oil storage tanks. While in port and offloading, a boom system will be deployed around the ship, thus making the response time a moot point. Before the start of cargo discharge operations, the vessel would be completely encircled by a spill containment boom. Spills from ships will be immediately contained. Unloading activities will be monitored using an automated Supervisory Control and Data Acquisition (SCADA) system which will monitor process parameters (e.g., oil flow, pipeline pressure, line balance, etc.) and shut down the pipeline if unexpected deviations in pipeline operating conditions are encountered. Thus, the system is effective in detecting oil spills regardless of the time of day. In addition, the marine terminal will be well lit and all activities monitored by facility operators, which can also aid in oil spill detection. If oil should be observed on the water within the vessel containment boom, all operations would be stopped and the facility's Oil Spill Response Plan (OSRP), which would have already been approved by the USCG, California Department of Fish and Game, and Office of Spill Prevention and Response (OSPR), as well as other federal and state agencies, would be activated.

The commenter's reference to a modeling scenario of only 42,000 barrels refers to the maximum onshore pipeline spill volume that was evaluated. For offshore spills, spill volumes that were assumed ranged up to the entire contents of the largest crude oil carrier

that would visit the terminal, or 2,500,000 bbl. Potential impacts associated this spill volume were considered significant, even will the implementation of all feasible mitigation.

Away from the marine terminal, all pipelines and storage tanks will be connected to the SCADA system and monitored continuously for process deviations, and will be automatically isolated in the event of a process deviation Based on pipeline SCADA system modeling, the maximum onshore pipeline spill would be on the order of 21,000 barrels (Pipeline Segment 3 as shown in SEIS/SEIR Table 3.12-10), which is approximately half of the maximum spill volume that was modeled. Since the SCADA system is not dependent on visual observation, the assumed spill detection time of five minutes would remain the same, regardless of time of day or visibility conditions.

Spills from the storage tanks would be contained by the secondary storage dikes and pose a minimal threat to the environment. A majority of the pipeline route is located a sufficient distance from water bodies and/or protected by intervening structures to prevent the flow of oil into the water.

As noted in Chapter 2 of the Draft SEIS/SEIR, the Berth 408 Terminal will include an Oil Spill Containment System, which will include a spill boom launch boat, spill boom reels, remote spill recovery boom storage and launch facilities, and concrete-curbed platforms and equipment foundations. The facility is currently designed to accommodate 4,000 feet (1,219 m) of spill boom storage at the Berth 408 Terminal.

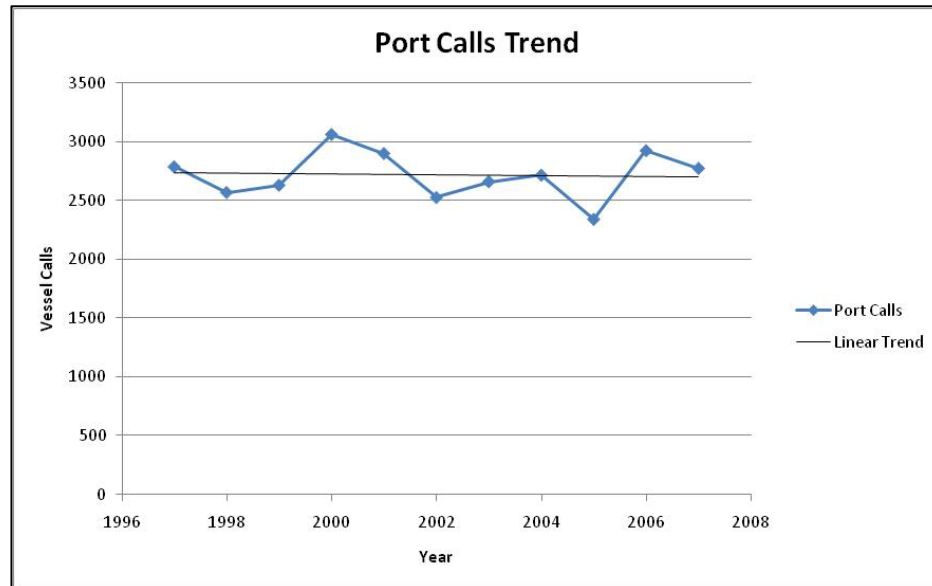
The Berth 408 Terminal would also be part of the Marine Spill Response Corporation (MSRC) cooperative which has large oil spill response assets distributed throughout San Pedro Bay, as shown in Table 3.12-3 of the Draft SEIS/SEIR. Currently, MSRC maintains 94,452 feet (28,789 m) of oil spill containment booms in San Pedro Bay. MSRC also maintains a wide array of response vessels and skimmers.

In the event that an oil spill were to occur and elude detection and initial spill response capabilities, the most sensitive marine habitat, the Cabrillo Shallow Water Habitat, is located approximately 1,900 feet (580 m) from the Berth 408 Terminal. Onshore, the Pier 400 least tern Habitat is located approximately 2,400 feet (730 m) from the terminal. As noted in the SEIS/SEIR, oil spill impacts to these habitat areas would be considered significant.

- CSLC-53.** Mitigation measure 4E-3 specifically addressed vessels and barges that were involved in channel deepening during the Deep Draft Program and was intended to mitigate the impacts of channel deepening, not of barges per se. All work involving channel deepening, especially those activities near the Port entrance, have been completed and the proposed Project would not require any additional dredging or channel deepening. Therefore, mitigation measure 4E-3 is not applicable to the proposed Project.
- CSLC-54.** The CEQA baseline for the proposed Project is 2004. More recent statistics related to vessel movement were included in Table 3.9-1 on Page 3.9-4 of the Draft SEIS/SEIR.
- CSLC-55.** All statements in this paragraph are from the reference that was noted twice in the paragraph (LAHD 2004b). This information is updated annually by the Port, thus the most current reference would be (LAHD 2008) which was available at [http://www.portoflosangeles.org/factsfigures\\_Portatagance.htm](http://www.portoflosangeles.org/factsfigures_Portatagance.htm) at the time the

SEIS/SEIR was published. This information is currently available in several locations on the Port's website at <http://www.portoflosangeles.org/>.

- CSLC-56.** While there is quite a bit of inter-annual variability in vessel calls to the Port, a long-term trend analysis shows that overall port calls are decreasing. A simple linear regression of port calls from 1997 through 2007 clearly identifies a slight decreasing trend in the number of port calls per year as shown below.



Regarding the issue of increasing cargo volume and increases in the number of TEUs per ship, the Port has evaluated current and future trends in cargo movement for San Pedro Bay (Mercer Transportation Group 2005). In this study, the historical and future trends clearly show an increase in TEU volume, with an accompanying decrease in cargo ship port calls.

A 2007 study conducted by the Port found that: “The average number of TEUs (twenty-foot equivalent units) per ship increased from 3,272 in 2001 to 5,260 in 2005, which reflects the 44-percent increase in container volume (a 61-percent increase in TEU densification per ship call), while overall containership calls fell from 1,584 in 2001 to 1,423 in 2005.” The text on Page 3.9-4, line 41 should have stated 1,423 container ships instead of 2,341 for 2005. This value will be corrected to avoid any future confusion.

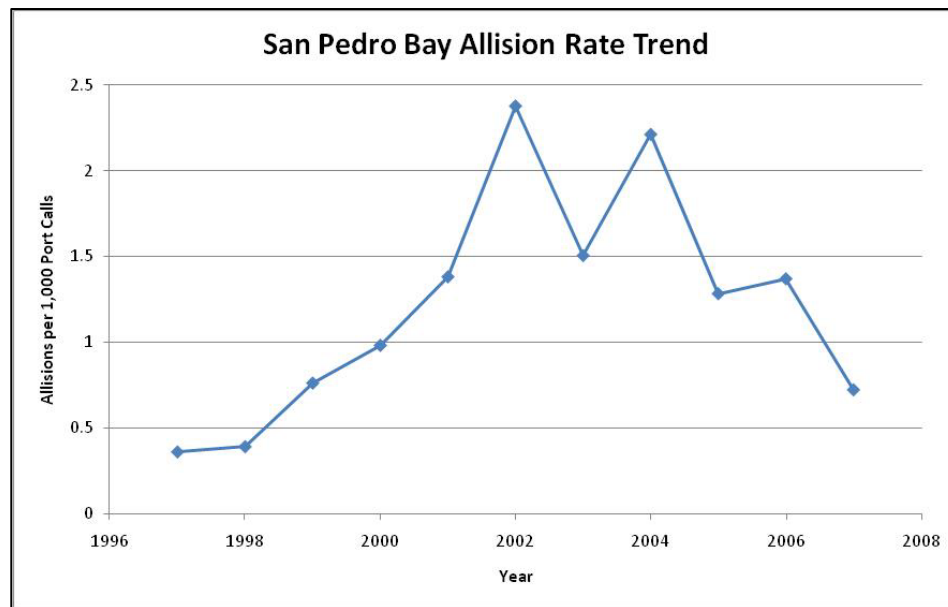
*Sources:*

Mercer Transportation Group, 2005. “Forecast of Container Vessel Specifications and Port Calls within San Pedro Bay” (prepared for the Ports of Los Angeles and Long Beach). Available at: [http://www.portoflosangeles.org/DOC/REPORT\\_SPB\\_Vessel\\_Forecast.pdf](http://www.portoflosangeles.org/DOC/REPORT_SPB_Vessel_Forecast.pdf).

Port of Los Angeles, 2007. Port of Los Angeles Inventory of Air Emissions 2005. Prepared by Starcrest Consulting Group, LLC. Available at: **Error! Hyperlink reference not valid.**

**CSLC-57.** Correct. Additional information on vessel accidents was added during the course of SEIS/SEIR preparation as it became available. The text has been corrected.

**CSLC-58.** The Marine Exchange of Southern California monitors vessel traffic within the San Pedro Bay ports. Vessel Traffic Service (VTS) Los Angeles-Long Beach (LA/LB) is jointly operated by the Coast Guard and Marine Exchange of Southern California. The primary purpose of the VTS is to provide a clear, concise, real-time picture of vessel traffic movements. The VTS provides real time ship locations from within a 25 mile radius area of responsibility right to berth. The VTS was augmented with an Automatic Identification System (AIS) in January 2004, which is a vessel- and shore-based “transponder” system originally invented to aid ocean going vessels in collision avoidance. A vessel outfitted with AIS will automatically and continuously transmit and receive critical static and dynamic data such as: vessel name, call sign, position, course, and speed via two internationally designated VHF frequencies. This vessel-specific data is processed both onboard and onshore to give a navigator, VTS operator, or coastal authority, real time information on surrounding vessel movements and to raise an alarm when a collision or allision is predicted or a security parameter is breached. Since the AIS upgrade to the VTS, the allision rate has decreased substantially as shown below.



Recent allisions in the Port would not have been prevented by an Allision Avoidance System (AAS). All allisions involving commercial vessels resulted from either equipment failure, an allision during docking or an allision with an overhead structure in the back channel area of the Port. In no cases did an allision result during normal vessel transit in the absence of mechanical failure or in an area where minor allisions would be expected to occur during docking. In addition, all crude oil tankers would already be equipped with Automatic Position and Collision Avoidance Systems. Because AAS would be ineffective at avoiding Project-related impacts that would not already be prevented by the AIS upgrade to the VTS and existing onboard Collision Avoidance Systems, there is no basis under CEQA to require an AAS for the proposed Project.

**CSLC-59.** “This” refers to the percent increase in vessel port calls for the Project worst-case increase in port calls (201 per year) for the period 2025 through 2040. Clarifying text has been added to the SEIS/SEIR.

**CSLC-60.** Table 4E-1 in the Deep Draft Improvements FEIS/FEIR indicates that there were 3,332 vessel calls at the Port of Los Angeles in 1990 (the data were published in 1991). This is far in excess of the 2,715 vessel calls during the SEIS/SEIR CEQA baseline year.

**CSLC-61.** The values in the SEIS/SEIR are correct. In 2010 it is projected that there would be a Project-related increase in vessel traffic of 129 port calls per year, or 11 per month. In 2025-2040 it is projected that there would be a Project-related increase in vessel traffic of 201 port calls per year, or 17 per month. All monthly vessel port calls were rounded to the nearest whole number.

As noted in the response to comment CSLC-56, the Port is experiencing a downward trend in vessel calls, with the downward trend expected to accelerate when the next generation of larger cargo ships begin calling on the port. The current trend has been characterized as follows: “The average number of TEUs (twenty-foot equivalent units) per ship increased from 3,272 in 2001 to 5,260 in 2005, which reflects the 44-percent increase in container volume (a 61-percent increase in TEU densification per ship call), while overall containership calls fell from 1,584 in 2001 to 1,423 in 2005.” This translates to a 10% reduction in containership calls and nearly a 61% increase in the number of TEUs moved per ship call. Since container ships represent the largest fraction of port calls, and newer container ships in the 10,000 to 18,000 TEU range and beginning service, it is highly probable that the decreasing trend in port calls will continue in the future.

**CSLC-62.** There are other data available on marine vessel accident statistics, but are generally of little to no use for the evaluation of the proposed Project. For example, the Marine Accident Investigation Branch (MAIB) in Hong Kong keeps detailed statistics on vessel accidents in their jurisdiction; however, this would be too site-specific for use in evaluating accident frequencies for the proposed Project. Similar to the analysis done for San Pedro Bay, all major commercial ports in the U.S. keep detailed information that can be used to estimate vessel accident frequency; however, this information would not be directly applicable to conditions in San Pedro Bay and would not contribute to a meaningful evaluation of the proposed Project.

The studies that are presented in SEIS/SEIR Table 3.9-3 provide a broad overview of marine accident statistics in the U.S. However, given the large variance in conditions that can lead to a marine vessel accident, the use of site-specific accident rates for San Pedro Bay clearly yields the most meaningful methodology for evaluating potential impacts associated with the proposed Project.

**CSLC-63.** Regarding the commenter’s assertion about the lack of data to support conclusions, the document has been revised to expand the discussion of impacts to water quality from vessel operations and to address impacts from invasive species and copper leaching from hull paints, as well as other vessel discharges covered by the Vessel General Permit. Regarding the mitigation measure, MM 4B-1 came from the Deep Draft Final EIS/EIR and therefore is required for this Supplemental EIS/Subsequent EIR (all MMs from the Deep Draft are required unless no longer applicable). The Port and USACE identified all feasible mitigation measures to reduce significant impacts on water quality, including 4B-



1 as well as MM WQ-1.2 (see Draft SEIS/SEIR Section 3.14). Also, note that the Port did not quantify the benefit of petitioning the state according to MM 4B-1, and the significant water quality impact identified in the Draft SEIS/SEIR is also identified as unavoidable (i.e., significant after application of all feasible mitigation measures). The statement “No mitigation measures to reduce or avoid impacts were identified” in line 7 of Draft SEIS/SEIR page 3.14-77 has been deleted.

**CSLC-64.** The document has been revised per the comment.

**CSLC-65.** The following table summarizes results from statistical analyses of selected water quality data at a location near the proposed Project site (Monitoring Station LA-03) from 2000 to 2004. (The Port collects water quality data from multiple sampling locations; the data presented below are from the sampling location closest to the proposed Project site.) As the table illustrates, there are no consistent trends during the period from 2000 to 2004.

<b>Water Quality Parameter</b>	<b>Depth Strata</b>	<b>Coefficient of Determination (R<sup>2</sup>)</b>	<b>Probability (p)</b>	<b>Slope of Regression Fit</b>	<b>Numbers of Samples (n)</b>
Temperature	Surface	0.002	0.66	-1.6 x 10 <sup>-9</sup>	81
	Bottom	0.008	0.44	-2.8 x 10 <sup>-9</sup>	81
Dissolved Oxygen	Surface	0.003	0.63	6.9 x 10 <sup>-9</sup>	82
	Bottom	0.05	0.037*	2.8 x 10 <sup>-9</sup>	82
Transparency	Surface	0.03	0.11	6.9 x 10 <sup>-9</sup>	82
* statistically significant at p < 0.05. Source: Port of Los Angeles Monthly Water Quality Monitoring Database.					

**CSLC-66.** The document has been revised to include invasive species as a potential contaminant; however, this is discussed in greater detail in the biological resources section (see responses to comments CSLC-15 and CSLC-46).

**CSLC-67.** The document has been revised to include a table showing results from the Enhanced Water Quality Monitoring Program, along with a figure showing sampling locations.

**CSLC-68.** The document has been revised to include a discussion of the AFS Convention.

**CSLC-69.** The document has been revised to include a discussion of the Vessel General Permit. Please see response to comment CSLC-63.

**CSLC-70.** Comment is unclear; the referenced lines address measures expected to be contained in a construction SWPPP. Standard Port procedures and BMPs for cleaning up chemical spills are listed in Section 3.14.4.3 of the Draft SEIS/SEIR (lines 34-41). No change required.

**CSLC-71.** As discussed in Draft SEIS/SEIR Sections 3.14.4.3.1.1 and 3.14.4.3.1.2, stormwater runoff during construction and operational phases of the proposed project would be regulated by stormwater discharge permits that control releases of contaminants to the

harbor, thereby reducing any potential impacts to harbor species. The permits would also require routine monitoring to confirm that the discharges meet specific water quality limits and do not impact biological resources. No change required.

- CSLC-72.** Please see response to comment CSLC-69.
- CSLC-73.** As discussed in Section 3.14.4.3 of the Draft SEIS/SEIR, data to evaluate the effects of illegal vessel discharges on water quality do not exist. The statement that “There is no evidence that illegal discharges from ships presently are causing widespread [water quality] problems in the Harbor” is inferred from visual observations and interpretations of findings from port-wide monitoring programs. No change to the document is required.
- CSLC-74.** The document has been revised to include information from the National Mussel Watch Program (O’Connor, T.P. and G.G. Lauenstein, 2006. Trends in chemical concentrations in mussels and oysters along the US coast: Update to 2003. Marine Environmental Research 62:261-285) to address this comment. Based on results from the National Mussel Watch Program (O’Connor and Lauenstein 2006), contaminant levels in the Harbor have generally improved, as indicated by trends of decreasing concentrations of several metals (cadmium, selenium, mercury, and zinc) and TBT in sentinel mussels over the period from 1986 to 2003. These improvements occurred despite an overall increase in ship traffic. Thus, while it is reasonable to assume that increases in the frequency of illegal discharges would be proportional to the change in numbers of ship visits, there is no evidence to support this relationship.
- CSLC-75.** The document has been revised to include discussions of the Vessel General Permit and implications for ballast water discharges. Please see response to comment CSLC-63.
- CSLC-76.** As discussed in Draft SEIS/SEIR, Section 3.14.4.3, stormwater runoff during operational phases of the proposed project would be regulated by stormwater discharge permits that control releases of contaminants to the harbor. The permit would also require routine monitoring to confirm that the discharges meet specific water quality limits and do not impact biological resources. No change required.
- CSLC-77.** Empirical data demonstrating that vessel traffic at Berth 408 would not increase copper concentrations to levels above the criterion do not exist. The conclusions are based on best professional judgment. The document has been revised to indicate that hull leachate will be covered under the Vessel General Permit, and compliance with permit conditions is expected to “...result in discharges that are controlled as necessary to meet applicable water quality standards” (USEPA 2008. U.S. Environmental Protection Agency 2008 Proposed Issuance of National Pollutant Discharge Elimination System [NPDES] for Discharges Incidental to the Normal Operation of Commercial and Large Recreational Vessels Fact Sheet).
- CSLC-78.** Please see response to comment CSLC-63.
- CSLC-79.** The document (Section 3.14.3.1) has been revised to include a discussion of the Vessel General Permit that addresses 28 categories of vessel discharge types including hull leachate and underwater husbandry.
- CSLC-80.** Please see response to comment CSLC-73. No change required.

- CSLC-81.** The document (Section 3.14.3.1) has been revised to include a discussion of the Vessel General Permit (VGP) that addresses 28 categories of vessel discharge types including hull leachate and underwater husbandry. The section referenced in the comment has been updated to include a discussion of the VGP and implications for project-related impacts to water quality.
- CSLC-82.** Please see response to comment CSLC-69.
- CSLC-83.** Please see response to comment CSLC-63.
- CSLC-84.** The document has been revised to include additional information in the cumulative impacts section on potential effects of underwater noise on fish species. Please see response to comment CSLC-18.
- CSLC-85.** The document has been revised to include additional information relative to risk of NIS introductions. Relevant reports such as the 2000 Baseline Study (MEC and Associates 2002) provide substantial information on biological communities and species assemblages, including relative occurrence of exotic species. The document has been revised to include a broader discussion of NIS based on the best and fullest available biological data within the Ports.
- CSLC-86.** Baseline water quality in the proposed Project area (Outer Harbor) has not been determined to be impaired by chemicals from vessel hull paints, but other areas in the Harbor are affected (see Section 3.14 of the Draft SEIS/SEIR). As described on page 4-132 of the Draft SEIS/SEIR, contaminant leaching from hull paints would not cause water quality standards to be exceeded at Berth 408, but dispersion by currents of contaminants from Berth 408 could exacerbate water quality conditions in other portions of the Harbor as a part of cumulative impacts. This is a very conservative estimate of cumulative impacts, and in the most likely case chemicals leached from vessel hulls at Berth 408 (e.g., copper) would not increase the concentration in the water at the impaired water locations. Additional water quality data have been added to this section showing the concentration of toxic chemicals that could come from vessel hull paints did not exceed the Criteria Maximum Concentration (CMC) level at any of the 27 locations sampled within the Los Angeles Harbor from May 2005 through March 2006, but copper (one location on one date) and tributyltin (four locations on three dates but only one or two locations per date) equaled or exceeded the Criteria Continuous Concentration (CCC).
- CSLC-87.** The document has been revised to acknowledge that increases in vessel traffic could contribute to increases in incidental vessel discharges and cumulative impacts to water quality. Incidental vessel discharges will be covered under the Vessel General Permit, and compliance with permit conditions is expected to "...result in discharges that are controlled as necessary to meet applicable water quality standards" (USEPA 2008. U.S. Environmental Protection Agency 2008 Proposed Issuance of National Pollutant Discharge Elimination System [NPDES] for Discharges Incidental to the Normal Operation of Commercial and Large Recreational Vessels Fact Sheet). Regardless, because some portions of the Harbor are considered impaired, vessel-related discharges could contribute to significant cumulative impacts.
- CSLC-88.** Please see response to comment CSLC-87.

**CSLC-89.** Please see response to comment CSLC-87.

**CSLC-90.** Thank you again for your review of the Draft SEIS/SEIR.

## CALIFORNIA ENERGY COMMISSION

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August 14, 2008

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**RE: Pacific L.A. Marine Terminal LLC Pier 400, Berth 408 Project SEIS/SEIR**

Dear Dr. Appy and Dr. Spencer:

The California Energy Commission provides the following comments to the Port of Los Angeles (POLA) and U.S. Army Corps of Engineers (ACOE) on the Draft Supplemental Environmental Impact Statement/Subsequent Environmental Impact Report (SEIS/SEIR) for the Pacific L.A. Marine Terminal LLC Project on Pier 400 in the POLA. The proposed project includes a new crude oil marine terminal, storage tanks and onshore pipelines to connect the terminal and storage facilities to local refineries.

The Energy Commission is responsible for proposing policies to ensure affordable, reliable, and environmentally sound supplies of petroleum, alternative fuels, and electricity for meeting California's growing energy needs. In its Integrated Energy Policy Reports (IEPRs) from 2003 onward, the Energy Commission has pointed out that decreasing California's reliance on petroleum fuels is critical and that over the next several decades we must pursue strategies to increase fuel efficiency, expand use of non-traditional fuels and reduce demand for all transportation fuels. These strategies are increasingly important to the state's commitment to meet AB 32 requirements to reduce greenhouse gas emissions. However, the Energy Commission recognizes that, in the near term, California must expand its marine facility capacity and pipelines to adequately serve the state's refineries and meet the continuing demand for transportation fuels. A crude oil import facility with the throughput and storage capacities of the proposed project is a critical element of maintaining the adequacy of crude oil supplies to the Los Angeles Basin through 2015.

Energy Commission staff completed earlier this year the *2008 Best Permitting Practices Guidelines for Liquid Transportation Fuels Infrastructure* (CEC-700-2008-002SF). The guidelines were based, in part, on advice and information from the POLA and over 300 other local, state, and federal agency staff and stakeholders. The guidelines recommend to agencies and project proponents a variety of measures to make the environmental review



CEC-1



CEC-1

and project permitting more efficient while ensuring that environmental issues are appropriately addressed. One of those measures calls for continuing and expanding the Energy Commission's participation in project regulatory review processes. The purpose of our involvement is to inform regulatory agencies of transportation fuel demand, supply and infrastructure forecasts, and related statewide energy policies including sound environmental and security measures that meet regulatory agency mandates.

Our specific comments on the SEIS/SEIR are enclosed. Generally, these comments focus on the document's assessment of crude oil supply and demand, related forecasts, the outlook for crude oil imports, and the viability of using current "spare" crude oil import capacity at existing marine oil terminals for handling the forecasted incremental imports and as an alternative to the project. We also reviewed sections of the environmental impact analysis. We believe the proposed Pacific Marine Terminal Project would address one of the most pressing and immediate transportation energy infrastructure needs identified in the IEPRs. It would provide necessary new facilities to improve and expand the marine crude oil infrastructure to help ensure reliability of needed crude oil imports. Completion of the EIS/EIR and permitting process for this proposed project will determine the appropriate measures and design features to ensure it complies with applicable environmental regulations.

For any questions please contact Eugenia Laychak, Energy Facilities and Siting Division, at (916) 654-4543.

Sincerely,



MELISSA JONES  
Executive Director

MJ/jcm

Enclosure

cc: Jackalyne Pfannenstiel, Chairman  
James D. Boyd, Vice Chair  
Arthur H. Rosenfeld, Commissioner  
Jeffrey Byron, Commissioner  
Karen Douglas, J.D., Commissioner

**California Energy Commission Comments  
To Port of Los Angeles and U.S. Army Corps of Engineers on  
Pacific L.A. Marine Terminal LLC Pier 400, Berth 408 Project SEIS/SEIR**

The following comments are organized according to the sections of the SEIS/SEIR.

**1 Introduction**

CEC-2

In many locations of this and subsequent chapters, the SEIS/SEIR attributes references to or quotes the 2007 IEPR, but cites the Committee Final report, rather than the Energy Commission Final report. The Energy Commission Final report represents statewide energy policy adopted by the full Energy Commission. The Committee report was forwarded to the full Energy Commission for adoption in November 2007. The Commission adopted the 2007 IEPR on December 5, 2007, after making revisions to the Committee Final Report.

**1.1.3**

Page 1-7, lines 8, 35, and 39, change (CEC 2007b) to (CEC 2007a).

**1.1.3.1**

Page 1-14, lines 3, 14, change (CEC 2007b) to (CEC 2007a).

Page 1-15

CEC-3

Lines 1-3, replace text with the following: "The California Department of Finance predicts that California's population and real per capita income will grow by a little over 1 percent per year. More than 37 million people live in California, the population is expected to grow to more than 44 million by 2020 and the population may increase to about 60 million residents by 2050 (CEC 2007a...."

Line 22, change (CEC 2007b) to (CEC 2007a).

CEC-4

**1.1.3.3**

Page 1-18, lines 11 and 41, change (CEC 2007b) to (CEC 2007a).

**1.1.3.4**

Page 1-19, lines 12 and 17, change (CEC 2007b) to (CEC 2007a).

Page 1-20, line 2, change (CEC 2007b) to (CEC 2007a).

**2 Project Description**

CEC-5

**2.1.3**

Page 2-5, lines 2-3, replace Chapter 1 and (CEC 2007b) with Chapter 7 and (CEC 2007a).

Line 10, replace (CEC 2007b) with (CEC 2007a).

Page 2-6, line 2, replace (CEC 2007b) with (CEC 2007a).

**3 Affected Environment and Environmental Analysis**

CEC-6

Energy Commission staff found the environmental analyses to be comprehensive.

CEC-7 | 3.13 Utilities and Public Services

The Energy Commission applauds the project proponent's commitment to design and build the three buildings that are proposed as part of the marine terminal facility under the Leadership in Energy and Environmental Design (LEED) Green Building Rating System.

Appendix D - Throughput and Vessel Mix Methodology

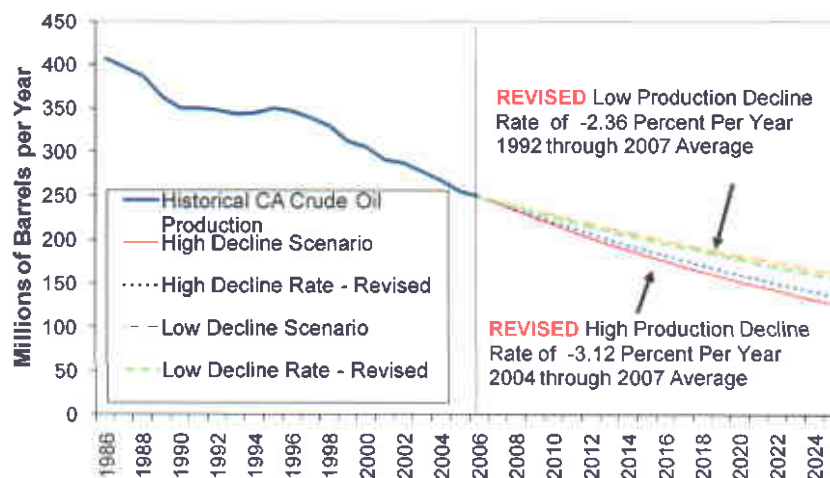
CEC-8 | D.1.1.1 - How does the 50,000 barrel/day increase (line 39, p. D1-3) follow from the information in the remainder of that paragraph (i.e. plans for 21,000 b/d)? It is also not clear how this differs from capacity creep.

CEC-9 | D.1.1.2 – While we recognize that the writers of the SEIR intended to make use of multiple demand cases in this section to emphasize potential uncertainty, only two transportation fuel demand forecasts were specifically adopted by the Energy Commission in the 2007 IEPR. These were the cases denoted in Figure 2 by the lines representing the highest and fourth highest demand growth projections and in Table 2 by the projections reported in the first and fifth case columns. Moreover, in the 2007 IEPR these projections were extended only to 2020.

CEC-10 | (Lines 34-37, p. D1-5) The relevance of hybrid vehicle data to this discussion is unclear, but hybrid vehicles reached about 0.9 percent of on-road registered vehicles by 2007.

CEC-11 | D.1.1.3 – Staff's expectations for projected crude oil imports has not appreciably changed from the 2007 IEPR, based on the most recent crude oil production data from the Division of Oil, Gas and Geothermal Resources (DOGGR). In particular, based on the revised DOGGR production data for 2006 and historical value for 2007, staff estimates that the Low Decline Rate would be revised to a figure of 2.36 percent per annum. This rate is slightly greater than the 2.21 percent rate of decline used in the final 2007 IEPR. Staff estimates a slightly lower value of 3.12 percent for the revised High Decline Rate, compared to the previously adopted figure of 3.44 percent. The chart provided below indicates the trends using this updated information.

California Crude Oil Production  
Decline Forecast 2008-2025





By 2015, these updated projections yield an estimated incremental crude oil import range of between 83 and 131 million barrels per year greater than 2005, compared to the 2007 IEPR incremental crude oil import forecast of between 80 and 138 million barrels. By 2025, the revised incremental crude oil imports are between 155 and 257 million barrels per year, a slightly tighter range than the 2007 IEPR estimate of 151 to 266 million barrels.

↑  
CEC-11

Translating the revised crude oil import forecast to number of new crude oil tanker visits means that the 2007 IEPR adopted estimate of between 167 and 291 additional import events by 2020 (compared to the base year of 2005) would be modified to between 172 and 279 incremental crude oil tanker visits by 2020 using the updated crude oil production figures from the California Division of Oil and Gas.<sup>1</sup> With regard to implications for Southern California, approximately 60 percent of these incremental crude oil vessel arrivals by 2020 will be in Southern California.

D.1.1.4 (lines 1-7, p. D1-14)– While staff agree that using calculations of average annual growth rates over three and five years of refinery capacity creep has its limits as a method, we don't find very convincing the dismissal of the approach based on the argument that "2001-2002", one year's change, "was not a good predictor of ...2003-2006".

CEC-12

D.1.3 - We agree that there is some spare incremental crude oil import capability for marine berths in San Pedro Harbor. However, it is unlikely that all of these facilities would ever operate at theoretically maximum throughput levels due to operational limitations resulting from inadequate shore-side storage tank capacities, lack of pipeline interconnections with multiple refineries, and lack of compliance with MOTEMS (Marine Oil Terminal Engineering and Maintenance Standards) for some crude oil import terminals. In addition, operation of private marine oil import terminals in a purely cooperative and coordinated manner is unlikely due to the competitive nature of the petroleum industry and potential anti-trust regulatory concerns.

CEC-13

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<sup>1</sup> Calculation of incremental crude oil vessel trips assumes an average capacity size of 700,000 barrels per ship.

**California Energy Commission, August 14, 2008**

- CEC-1.** Thank you for your review of and comments on the Draft SEIS/SEIR. Responses to your specific comments about crude oil supply and demand, related forecasts, the outlook for crude oil imports, and the viability of using certain “spare” crude oil import capacity at existing marine oil terminals are provided in response to comments CEC-2 through CEC-5 and CEC-7 through CEC-13 below.
- CEC-2.** The Port and USACE appreciate the clarification. The text has been revised as suggested (note that the corrected text appears in Section 1.2.1.3 of the Final SEIS/SEIR).
- CEC-3.** The Port and USACE appreciate the clarification. The text has been revised as suggested (note that the corrected text appears in Section 1.2.1.3 of the Final SEIS/SEIR).
- CEC-4.** The Port and USACE appreciate the clarification. The text has been revised as suggested (note that the corrected text appears in Section 1.2.1.3 of the Final SEIS/SEIR).
- CEC-5.** The reference to Chapter 7 is correct in the Draft SEIS/SEIR; it refers to Draft SEIS/SEIR Chapter 7 (not Chapter 7 of an outside report). Regarding the reference to the CEC report, the Port and Corps appreciate the clarification and the text has been revised as suggested. (Note that the corrected citations appear in Section 1.2.1.3 of the Final SEIS/SEIR.)
- CEC-6.** The comment is acknowledged and appreciated.
- CEC-7.** The comment is acknowledged and appreciated.
- CEC-8.** The discussion of the 21,000 barrel per day (bpd) capacity increase for which plans have already been announced is intended to provide supporting information for the estimated 50,000 bpd increase in capacity assumed by Baker & O’Brien; the 21,000 bpd increase suggests that a 50,000 bpd capacity increase by 2012 is plausible. The text has been revised on this point. The commenter also questions how the 50,000 bpd increase differs from refinery capacity creep. The first sentence in the paragraph as written makes it clear that Baker & O’Brien (2007) expect the 50,000 bpd increase over and above the steady increase in refinery capacity known as refinery capacity creep.
- CEC-9.** The Port and USACE appreciate the clarification. The text, table, and figure have been revised as suggested.
- CEC-10.** The comment is noted. The Port and USACE included the information about hybrid vehicle registrations to provide background information for readers who may be curious about how the rapid increase in hybrid vehicles has affected demand for gasoline. No revision is needed.
- CEC-11.** The comment is noted. Since these updated projections amount to a minor tightening of the range bounded by the CEC forecasts (a higher low bound, and a lower high bound), and since the environmental analysis of the proposed Project is based on a “reasonably foreseeable worst case” scenario that is in turn based on the Baker & O’Brien forecast rather than the CEC forecast, no revision to the document is needed.

- CEC-12.** The comment is noted. The point of the discussion is not to dismiss or discredit CEC's approach to predicting future refinery capacity creep rates, but rather to show that the rate of refinery capacity creep can vary widely from year to year and therefore the Baker & O'Brien projection, while higher than either the 3-year or 5-year running average, is plausible.
- CEC-13.** The comment is noted. Note that the throughput and vessel call projections used to analyze the environmental impacts of the No Project Alternative account for other constraints that would reduce throughput below the theoretical maximum level, as noted on pages D1-17 and D1-18 of the Draft SEIS/SEIR.

**NATIVE AMERICAN HERITAGE COMMISSION**

915 CAPITOL MALL, ROOM 364  
 SACRAMENTO, CA 95814  
 (916) 653-6251  
 Fax (916) 657-5390  
 Web Site [www.nahc.ca.gov](http://www.nahc.ca.gov)  
 e-mail: [ds\\_nahc@pacbell.net](mailto:ds_nahc@pacbell.net)



June 10, 2008



Dr. Ralph G. Appy, Director of Environmental Mngement  
**LOS ANGELES HARBOR DEPARTMENT**  
 425 South Palos Verdes Street  
 San Pedro, CA 90731

Re: SCH#1992102975; NEPA/CEQA Notice of Completion; draft Supplemental Environmental Impact Statement/draft Environmental Impact Report (DEIS/DEIR) for the Pacific L.A. Marine Terminal LLC Crude Oil Terminal Project, Los Angeles Harbor Department, City of Los Angeles, Los Angeles County, California

Dear Dr. Appy:

The Native American Heritage Commission is the state agency designated to protect California's Native American Cultural Resources. The California Environmental Quality Act (CEQA) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c) (CEQA guidelines). Section 15382 of the 2007 CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance." In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following action:

√ Contact the appropriate California Historic Resources Information Center (CHRIS) for possible 'recorded sites' in locations where the development will or might occur. Contact information for the Information Center nearest you is available from the State Office of Historic Preservation (916/653-7278)/ <http://www.ohp.parks.ca.gov>. The record search will determine:

- If a part or the entire APE has been previously surveyed for cultural resources.
  - If any known cultural resources have already been recorded in or adjacent to the APE.
  - If the probability is low, moderate, or high that cultural resources are located in the APE.
  - If a survey is required to determine whether previously unrecorded cultural resources are present.
- √ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.

- The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
- The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological information center.

√ Contact the Native American Heritage Commission (NAHC) for:

- \* A Sacred Lands File (SLF) search of the project area and information on tribal contacts in the project vicinity that may have additional cultural resource information. Please provide this office with the following citation format to assist with the Sacred Lands File search request: USGS 7.5-minute quadrangle citation with name, township, range and section.
  - The NAHC advises the use of Native American Monitors, when professional archaeologists or the equivalent are employed by project proponents, in order to ensure proper identification and care given cultural resources that may be discovered. The NAHC recommends that contact be made with Native American Contacts on the attached list to get their input on potential project impact (APE). In some cases, the existence of a Native American cultural resources may be known only to a local tribe(s).
- √ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
- Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5 (f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
  - A culturally-affiliated Native American tribe may be the only source of information about a Sacred Site/Native American cultural resource.

NAHC-1

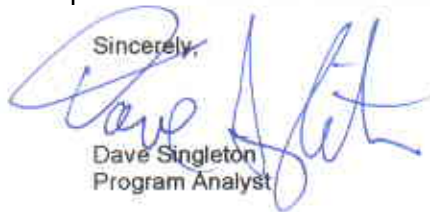
NAHC-2

NAHC-3

NAHC-4

NAHC-5

- ↑
- NAHC-5 | ▪ Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
  - NAHC-6 | ✓ Lead agencies should include provisions for discovery of Native American human remains or unmarked cemeteries in their mitigation plans.
    - \* CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens.
  - NAHC-7 | ✓ Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the California Code of Regulations (CEQA Guidelines) mandate procedures to be followed, including that construction or excavation be stopped in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery until the county coroner or medical examiner can determine whether the remains are those of a Native American. Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony.
  - NAHC-8 | ✓ Lead agencies should consider avoidance, as defined in §15370 of the California Code of Regulations (CEQA Guidelines), when significant cultural resources are discovered during the course of project planning and implementation
  - NAHC-9 | Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,  
  
Dave Singleton  
Program Analyst

Attachment: List of Native American Contacts

Cc: State Clearinghouse

**Native American Contacts**  
**Los Angeles County**  
 June 10, 2008

<p>LA City/County Native American Indian Comm          Ron Andrade, Director          3175 West 6th Street, Rm. 403          Los Angeles , CA 90020          (213) 351-5324          (213) 386-3995 FAX</p>	<p>Gabrieleno/Tongva San Gabriel Band of Mission          Anthony Morales, Chairperson          PO Box 693          San Gabriel , CA 91778          ChiefRBwife@aol.com          (626) 286-1632          (626) 286-1758 - Home          (626) 286-1262 Fax</p>	<p>NAHC-4          (Part)</p>
<p>Owl Clan          Qun-tan Shup          48825 Sapaque Road          Bradley , CA 93426          (805) 472-9536          (805) 835-2382 - CELL</p>	<p>Gabrielino/Tongva Council / Gabrielino Tongva Nation          Sam Dunlap, Tribal Secretary          761 Terminal Street; Bldg 1, 2nd floor          Los Angeles , CA 90021          office @tongvatribes.net          (213) 489-5001 - Office          (909) 262-9351 - cell          (213) 489-5002 Fax</p>	
<p>Ti'At Society          Cindi Alvitre          6515 E. Seaside Walk, #C          Long Beach , CA 90803          calvitre@yahoo.com          (714) 504-2468 Cell</p>	<p>Gabrielino Tongva Indians of California Tribal Council          Robert Dorame, Tribal Chair/Cultural Resources          5450 Slauson, Ave, Suite 151 PMB          Culver City , CA 90230          gtongva@verizon.net          562-761-6417 - voice          562-925-7989 - fax</p>	
<p>Tongva Ancestral Territorial Tribal Nation          John Tommy Rosas, Tribal Admin.          ,          tattnlaw@gmail.com          310-570-6567</p>	<p>Carol A. Pulido          165 Mountainview Street          Oak View , CA 93022          805-649-2743 (Home)</p>	
	<p>Gabrielino Tongva Chumash</p>	
	<p>Chumash</p>	

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the propose SCH#1992102975; CEQA Notice of Completion; draft Supplemental Environmental Impact Statement/Subsequent Environmental Impact Report (DEIS/DEIR) for the Pacific LA Marine Terminal LLC Crude Oil Terminal Project; Los Angeles Harbor Department; Los Angeles County, California.

**Native American Heritage Commission, June 10, 2008**

- NAHC-1.** Thank you for your review of and comments on the Draft SEIS/SEIR. Responses to your specific comments are provided in NAHC-2 through NAHC-8 below.
- NAHC-2.** As described in Section 3.4.2.5.1 of the Draft SEIS/SEIR, a records search was conducted at the South Central Coast Information Center (SCCIC), California Historical Resources Information System (CHRIS), California State University Fullerton. Based on historic research, previous survey projects, and the lack of recorded archaeological sites, it was determined that the probability for cultural resources located in the area of potential effects is low. Therefore, no revisions to the Final SEIS/SEIR are required.
- NAHC-3.** No additional archaeological investigations were required to assess the presence/absence of unknown archaeological resources because: the Project site was subject to a records search at the CHRIS, no recorded archaeological sites are recorded in the area, and the archaeological sensitivity or likelihood of encountering intact, potentially significant cultural resources is very low. Therefore, no revisions to the Final SEIS/SEIR are required.
- NAHC-4.** As described in Section 3.4.2 of the Draft SEIS/SEIR, the Native American Heritage Commission (NAHC) was contacted by letter on October 1, 2004, to request information about traditional cultural properties such as cemeteries and sacred places in the Project area. The NAHC record search of the Sacred Lands File failed to indicate the presence of Native American cultural resources in the immediate Project area. A letter dated November 3, 2004, was received from the NAHC containing a list of Native American tribes and individuals interested in consulting on development projects. An attempt was made to contact each of these individuals/groups by phone in April 2008. Of the contacts provided by NAHC in 2004, phone numbers were available for all but one group. LAHD/USACE spoke with two and left messages for an additional four (messages were not returned); the remaining phone numbers were disconnected or wrong numbers. Of those contacted, none provided information about traditional cultural properties in the proposed Project area. As part of the process of preparing the Final SEIS/SEIR, LAHD and USACE also mailed letters to all of the Native American tribes and individuals for which NAHC provided contact information in its comment letter on the Draft SEIS/SEIR, and followed up with phone calls. LAHD/USACE will continue to coordinate with the tribal contacts to ensure there is no conflict with traditional cultural properties as part of the proposed Project
- NAHC-5.** Consistent with this comment as described in Section 3.4.4.3 of the Draft SEIS/SEIR, mitigation measure MM CR-1a provides for a process for temporarily suspending construction in the event that a previously unknown archaeological resource is encountered. Therefore, no revisions to the Final SEIS/SEIR are required.
- NAHC-6.** As described in Section 3.4.4.3 of the Draft SEIS/SEIR, mitigation measure MM CR-1a states that “a treatment plan shall be developed in conjunction with the Native American Groups to establish the proper way of extracting and handling all artifacts in the event of an archaeological discovery”. This mitigation measure was revised to say “handling all artifacts and/or human remains...” to clarify the intent of the statement.

- NAHC-7.** Mitigation measure MM CR-1a was revised to outline the procedures specified in PRC Section 5097.98 in the unlikely event human remains are encountered during construction.
- NAHC-8.** Please see response to comment NAHC-1. There is little potential for encountering potentially significant archaeological resources during Project construction. Therefore, there is no nexus for redesigning the proposed Project design. Draft SEIS/SEIR Mitigation Measure CR-1a would reduce any unlikely impacts on potentially significant archaeological resources encountered during construction to less than significant.
- NAHC-9.** Thank you again for your review of the Draft SEIS/SEIR.





Linda S. Adams  
Secretary for  
Environmental Protection



## Department of Toxic Substances Control

Maureen F. Gorsen, Director  
5796 Corporate Avenue  
Cypress, California 90630



Arnold Schwarzenegger  
Governor

July 11, 2008

Dr. Ralph Appy  
Director of Environmental Management Division  
Los Angeles Harbor Department  
425 South Palos Verdes Street  
San Pedro, California 90731



### DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) FOR PACIFIC L.A. MARINE TERMINAL L.L.C. CRUDE OIL TERMINAL PROJECT (SCH# 1992102975)

Dear Dr. Appy:

The Department of Toxic Substances Control (DTSC) has received your submitted Notice of Preparation of a Supplemental EIR for the above-mentioned project. The following project description is stated in your document: "The proposed Project would include construction and operation of a new marine terminal at Berth 408 on Pier 400 (Marine Terminal), new tank farm facilities with a total of 4.0 million barrels (bbl) of capacity, and pipelines connecting the Marine Terminal and the tank farms to local refineries. The terminal would be operated by Pacific Los Angeles Marine Terminal, LLC (PLAMT) under a 30-year lease from the Los Angeles Harbor Department (LAHD)."

DTSC-1

Based on the review of the submitted document DTSC has the following comments:

1) The EIR should identify the known or potentially contaminated sites within the proposed Project area. For all identified sites, the EIR should evaluate whether conditions at the site may pose a threat to human health or the environment. Following are the databases of some of the regulatory agencies:

DTSC-2

- National Priorities List (NPL): A list maintained by the United States Environmental Protection Agency (U.S.EPA).
- Envirostor (formerly CalSites): A Database primarily used by the California Department of Toxic Substances Control, accessible through DTSC's website (see below).
- Resource Conservation and Recovery Information System (RCRIS): A database of RCRA facilities that is maintained by U.S. EPA.



- DTSC-2
- Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS): A database of CERCLA sites that is maintained by U.S.EPA.
  - Solid Waste Information System (SWIS): A database provided by the California Integrated Waste Management Board which consists of both open as well as closed and inactive solid waste disposal facilities and transfer stations.
  - Leaking Underground Storage Tanks (LUST) / Spills, Leaks, Investigations and Cleanups (SLIC): A list that is maintained by Regional Water Quality Control Boards.
  - Local Counties and Cities maintain lists for hazardous substances cleanup sites and leaking underground storage tanks.
  - The United States Army Corps of Engineers, 911 Wilshire Boulevard, Los Angeles, California, 90017, (213) 452-3908, maintains a list of Formerly Used Defense Sites (FUDS).
- DTSC-3
- 2) All environmental investigations, sampling and/or remediation for the site should be conducted under a Workplan approved and overseen by a regulatory agency that has jurisdiction to oversee hazardous substance cleanup. The findings of any investigations, including any Phase I or II Environmental Site Assessment Investigations should be summarized in the document. All sampling results in which hazardous substances were found should be clearly summarized in a table.
- DTSC-4
- 3) Proper investigation, sampling and remedial actions overseen by the respective regulatory agencies, if necessary, should be conducted at the site prior to the new development or any construction. All closure, certification or remediation approval reports by these agencies should be included in the EIR.
- DTSC-5
- 4) If any property adjacent to the project site is contaminated with hazardous chemicals, and if the proposed project is within 2,000 feet from a contaminated site, then the proposed development may fall within the "Border Zone of a Contaminated Property." Appropriate precautions should be taken prior to construction if the proposed project is within a Border Zone Property.
- DTSC-6
- 5) If buildings or other structures, asphalt or concrete-paved surface areas are being planned to be demolished, an investigation should be conducted for the presence of other related hazardous chemicals, lead-based paints or products, mercury, and asbestos containing materials (ACMs). If other hazardous chemicals, lead-based paints or products, mercury or ACMs are identified, proper

- |  |             |
|--|-------------|
| precautions should be taken during demolition activities. Additionally, the contaminants should be remediated in compliance with California environmental regulations and policies.  | ↑<br>DTSC-6 |
| 6) The project construction may require soil excavation or filling in certain areas. Sampling may be required. If soil is contaminated, it must be properly disposed and not simply placed in another location onsite. Land Disposal Restrictions (LDRs) may be applicable to such soils. Also, if the project proposes to import soil to backfill the areas excavated, sampling should be conducted to ensure that the imported soil is free of contamination.                | DTSC-7      |
| 7) Human health and the environment of sensitive receptors should be protected during the construction or demolition activities. If it is found necessary, a study of the site and a health risk assessment overseen and approved by the appropriate government agency and a qualified health risk assessor should be conducted to determine if there are, have been, or will be, any releases of hazardous materials that may pose a risk to human health or the environment. | DTSC-8      |
| 8) If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, Chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5).   | DTSC-9      |
| 9) If it is determined that hazardous wastes are or will be generated and the wastes are (a) stored in tanks or containers for more than ninety days, (b) treated onsite, or (c) disposed of onsite, then a permit from DTSC may be required. If so, the facility should contact DTSC at (714) 484-5423 to initiate pre-application discussions and determine the permitting process applicable to the facility.   | DTSC-10     |
| 10) If it is determined that hazardous wastes will be generated, the facility should obtain a United States Environmental Protection Agency Identification Number by contacting (800) 618-6942.  | DTSC-11     |
| 11) Certain hazardous waste treatment processes may require authorization from the local Certified Unified Program Agency (CUPA). Information about the requirement for authorization can be obtained by contacting your local CUPA.   | DTSC-12     |
| 12) If during construction/demolition of the project, the soil and/or groundwater contamination is suspected, construction/demolition in the area would cease and appropriate health and safety procedures should be implemented.  | DTSC-13     |

Dr. Ralph Appy  
July 11, 2008  
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- DTSC-14 | 13) Envirostor (formerly CalSites) is a database primarily used by the California Department of Toxic Substances Control, and is accessible through DTSC's website. DTSC can provide guidance for cleanup oversight through an Environmental Oversight Agreement (EOA) for government agencies, or a Voluntary Cleanup Agreement (VCA) for private parties. For additional information on the EOA please see [www.dtsc.ca.gov/SiteCleanup/Brownfields](http://www.dtsc.ca.gov/SiteCleanup/Brownfields), or contact Maryam Tasnif-Abbasi, DTSC's Voluntary Cleanup Coordinator, at (714) 484-5489 for the VCA.
- DTSC-15 | 14) In future CEQA documents please provide the following additional contact information: contact person, title, and e-mail address.
- DTSC-16 | If you have any questions regarding this letter, please contact Ms. Eileen Khachatourians, Project Manager, at (714) 484-5349 or email at [EKhachat@dtsc.ca.gov](mailto:EKhachat@dtsc.ca.gov).

Sincerely,



Greg Holmes  
Unit Chief  
Brownfields and Environmental Restoration Program - Cypress

cc: Governor's Office of Planning and Research  
State Clearinghouse  
P.O. Box 3044  
Sacramento, California 95812-3044

CEQA Tracking Center  
Department of Toxic Substances Control  
Office of Environmental Planning and Analysis  
1001 I Street, 22<sup>nd</sup> Floor, M.S. 22-2  
Sacramento, California 95814

U.S. Army Corps of Engineers  
Los Angeles District  
Regulatory division  
c/o Spencer D. MacNeil D.Env.  
P.O. Box 532711  
Los Angeles, California 90053-2325

CEQA# 2196

**Department of Toxic Substances Control, July 11, 2008**

- DTSC-1.** The comment is noted.
- DTSC-2.** Sections 3.7.2.3 and 3.7.4.3.1.1 of the Draft SEIS/SEIR summarize prior site uses, the known and potentially contaminated sites as a result of those prior site uses, as well as the results of site assessments and remediation activities on the Project sites. Industrial Preliminary Remediation Goals have been included for most of the proposed Project sites to demonstrate the potential threat to human health or the environment.
- DTSC-3.** With respect to the findings of prior investigations, please see response to comment DTSC-2. With respect to all work being conducted under a work plan, Mitigation Measure (MM) GW-1: Site Remediation, indicates that unless otherwise authorized by the lead regulatory agency for any given site, the LAHD shall remediate all contaminated soils or contamination within the excavation zones on the Project site boundaries prior to or during subsurface construction activities. Remediation shall occur in compliance with local, state, and federal regulations, as described in Section 3.7.3, and as directed by the Los Angeles Fire Department, DTSC, and/or LARWQCB. Accordingly, a work plan would be required, as directed by the lead regulatory agency for the site.
- DTSC-4.** Please see response to comment DTSC-3.
- DTSC-5.** Mitigation Measure GW-1 has been revised consistent with this comment as shown below:

**Mitigation Measure (MM) GW-1: Site Remediation.** Unless otherwise authorized by the lead regulatory agency for any given site, the LAHD shall remediate all contaminated soils or contamination within the excavation zones on the Project site boundaries prior to or during subsurface construction activities. Remediation shall also include suspected or known contamination within boundaries of the proposed Project that occurred as a result of leaks or spills on adjacent properties. Remediation shall occur in compliance with local, state, and federal regulations, as described in Section 3.7.3, and as directed by the Los Angeles Fire Department, DTSC, and/or LARWQCB.

Soil remediation shall be completed such that contamination levels in subsurface excavations are below health screening levels established by OEHHA and/or applicable action levels established by the lead regulatory agency with jurisdiction over the site. Only clean soil would be used as backfill. Soil contamination waivers may be acceptable as a result of encapsulation (i.e., paving) in backland areas and/or risk-based soil assessments but would be subject to the discretion of the lead regulatory agency.

Existing groundwater contamination throughout the proposed Project boundary shall continue to be monitored and remediated as encountered, simultaneous and/or subsequent to site development, and/or in accordance with direction provided by the LARWQCB.

Unless otherwise authorized by the lead regulatory agency for any given site, areas of excavation with soil contamination that shall be remediated prior to, or in conjunction with, Project construction.

- DTSC-6.** No buildings, structures or asphalt or paved surfaces would be demolished as part of the proposed Project.
- DTSC-7.** Mitigation measure MM GW-2(a) includes a provision that excavated contaminated soil either be treated on-site or trucked off-site for disposal at a licensed facility approved for disposal of such waste. MM GW-2(f) includes a provision that excavations shall be filled with structurally suitable fill material which contains contaminant concentrations (if any) that are within permissible limits, as directed by the Los Angeles Fire Department, DTSC, and/or LARWQCB.
- DTSC-8.** Please see response to comment DTSC-2 regarding Preliminary Remediation Goals.
- DTSC-9.** As noted on Page 3.12-28 and 3.12-29 of the Draft SEIS/SEIR, the proposed Project would be required to comply with California Health and Safety Code, Division 20, Chapter 6.5. The text has been modified to note that compliance with California Code of Regulations Title 22, Division 4.5 would be required as part of compliance with the California Hazardous Waste Control Law. It is anticipated that very few hazardous materials would be used on-site. Potentially hazardous materials and wastes would be limited to those which are typically used for maintenance activities only, such as cleaners, paints, coatings and various lubricants. These materials would not be stored on site, but would be brought to the site on an as-needed basis by company maintenance personnel and removed after the maintenance work is completed. The petroleum in the tanks is not considered hazardous material/waste, as defined on Page 3.7-12 of the Draft SEIS/SEIR.
- DTSC-10.** The proposed Project is not anticipated to generate hazardous waste, nor store such waste onsite for more than 90 days, nor dispose of hazardous waste onsite. The proposed Project would handle large volumes of petroleum products, but these products would not be considered a hazardous waste.
- DTSC-11.** Please see the response to Comment DTSC-10.
- DTSC-12.** Please see the response to Comment DTSC-10.
- DTSC-13.** Mitigation measure MM GW-3(a), Contamination Contingency Plan, includes a provision that states that in the event that contaminated soil and/or groundwater is suspected, the LAHD's Chief Harbor Engineer, Director of Environmental Management, and Risk Management's Industrial Hygienist shall be notified and continued work shall require the approval of the Chief Harbor Engineer.
- DTSC-14.** Mitigation measures MM GW-1, -2, and -3 include provisions that remediation shall occur in compliance with local, state, and federal regulations, as described in Section 3.7.3, and as directed by the Los Angeles Fire Department, DTSC, and/or LARWQCB.
- DTSC-15.** Thank you for the comment. The contact person, title, and e-mail address is in the cover letter sent with the Draft SEIS/SEIR, and is also on the Port's website for the Draft

SEIS/SEIR. Also, note that the contact person, title, and postal mailing address are included in the text of the Draft SEIS/SEIR at the end of Chapter 1.

**DTSC-16.** Thank you for your review of and comments on the Draft SEIS/SEIR.

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