



LOS ANGELES AUDUBON SOCIETY

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26 July 2007

TO: US Army Corps of Engineers, Los Angeles District
P.O. Box 532711, Los Angeles, CA 90053-2325

Port of Los Angeles
425 South Palos Verdes Street, San Pedro, CA 90731

Attn.: Dr. Spencer D. MacNeil, Sen. Project Mgr. (Spencer.D.Macneil@spl01.usace.army.mil)
Dr. Ralph G. Appy, Director of Environmental Management (rappy@portla.org)

CC: Lena Maun-DeSantis <LMaun-DeSantis@portla.org>, kcurtis@portla.org

RE: Berths 136-147 [TraPac] Container Terminal Project/ Project file No.: 2003-01142-SDM
Request for Clarifications of Original and Errata with regard to
Water Quality, Sediments, and Oceanography and Biological Resources
and Extension of Time

We, Conservation Committee of Los Angeles Audubon (LAA), are reviewing the lengthy EIS/EIR referenced above and have reviewed your recent errata and related original documents. We are somewhat confused in our preparation for the initial public session and formal comments with regard to your assessment of the Project's significance and cumulative impacts, directly, indirectly, and secondarily on biological resources, the EIS/EIR, and Federal Permit. The following indicates the relevant confusion (as a minimum):

1. Errata sheets for ES5.2.1 include assignment of Water Quality [not Sediments nor Oceanography] as "Significant Unmitigable Impacts", while ES5.2.3 eliminates ALL from "Less than Significant" and Sec. 13.3 states that ALL are "Less than Significant".
2. Errata and original sheets for ES5.2.1 include assignment of Biological Resources to both "Significant Unmitigable Impacts" and "Significant Mitigable Impacts" [5.2.2], while ES5.3.3 states no "Less than Significant Impacts" exist, and Sec. 13.3 states that all three levels of significance exist.
3. Errata of ES5.3.2 assign Groundwater and Soils to "Mitigable Significant Impacts" based on mitigation of encounters with "toxic"[=hazardous wastes], while Errata/Original retain Hazards and Hazardous Materials in "Less than Significant Impacts [ES5.3.3]".
4. Sec. 3.7.1 states that the project and PoLA are "exposed to significant, unavoidable tsunami-related impacts..." but throughout the Executive Summary and other section of 3.7, all impacts are considered as "Less than Significant" without mitigation.

Summarized as below (underlined are duplicated):

5.2.1 Significant w/ Mitigation

- Air Quality and Meteorology
- Biological Resources
- Geology
- Land Use
- Noise
- Transportation/Circulation
- Water Quality

5.2.2 Less than Sign. w/Mit

- Biological Resources
- Groundwater and Soils
- Utilities and Public Services
- Cultural Resources
- Transportation/Circulation

5.2.3 Less than Significant

- Aesthetics and Visual Resources
- ~~Groundwater and Soils~~
- ~~Utilities and Public Services~~
- Hazards and Hazardous Materials
 - Marine Vessel Transportation
- ~~Water Quality~~
- ~~Sediments/Oceanography~~

The statements (errata and original Executive Summary and Chapters) are unclear and inconsistent with regard to Significance of impacts and as to which has priority. Similar inconsistencies arise in Audubon's review of cumulative impacts (ES5.2.4) in relationship to the significant impacts (and errata changes). Basic question arises as to how can a locally significant, unmitigable impact can be assessed as not cumulatively considerable if it is common to most port/harbor activities and facilities. The Executive Summary also is not consistent with the relevant Chapters' text as to the "Considerable" status of cumulative effects as indicated below:

Cumulatively Considerable Impacts [or] "Cumulatively Considerable and Unavoidable"	Not Cumulatively Considerable Impacts (with mitigation)	Less than Considerable
<ul style="list-style-type: none"> • Air Quality and Meteorology • Cultural Resources • Biological Resources • Hazards • Geology • Utilities/Public Services • Transportation/Circulation • Noise • Water Quality/Sediments /Oceanography. 	<ul style="list-style-type: none"> • Aesthetics and Visual Resources • Groundwater and Soils • Land Use • Marine Vessel Transportation. 	

Within the text of relevant chapters, most, if not all but air quality, are considered as "less than considerable", including those on biological resources, especially the Caspian Terns of the PoLA/LB waters, now forced to nest on barges.

Review and assessment of the EIS/EIR and preparation of reasonable comments cannot be reasonably accomplished until such confusion is resolved. We therefore request that the review period is placed on-hold until such time as the documents and errata are clarified and circulated.

Without such clarifications, we request additional time for preparation of comments for the Public Hearing and for the preparation of complete formal comments and their submission (total 120 days after the current closure date).

Thanking you for your consideration,

Signature on Original – Sent by USPS Mail

Dr. C. Thomas Williams
 Conservation Committee
 Los Angeles Audubon Society



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July 31, 2007

TO: US Army Corps of Engineers
U.S. Army Corps of Engineers, Los Angeles District
P.O. Box 532711
Los Angeles, CA 90053-2325

Port of Los Angeles
Port of Los Angeles
425 South Palos Verdes Street
San Pedro, CA 90731

Attn.: Dr. Spencer D. MacNeil, Commander
Dr. Ralph G. Appy, Director of Environmental Management

FROM: Dr. C. Thomas Williams
Conservation Committee
Los Angeles Audubon Chapter
4115 Barrett Road
Los Angeles, CA 90032

RE: Berths 136-147 [TraPac] Container Terminal Project/ Project file No.: 2003-01142-SDM
Initial Comments with regard to Adequacy and Sufficiency of Assessments for Biological Resources
and Related Environmental Impacts

I wish to express my appreciation for receipt of notices and other documents made available for review of this valuable project and the Port and for your consideration in the upgrading and revision of various elements commented on below. These particular comments are of an initial nature and shall be updated during the course of the final review due in August or after. I again request an extension of the review period and an additional public hearing in late August to better present the comments on this massive review. The review comments are summarized below:

1. **Comprehensibility and Consistency**

Earlier court rulings have indicated that the EIR/EIS should be comprehensible for the typical decision-maker and typical high-school or junior college graduate. The massive nature of 6000 pages of documents harks back to the 1970 encyclopedic approaches. The large number of pages and chapters and appendices create conditions lending themselves to contradictions and inconsistencies and evident in Executive Statement, Chapter Texts, and Appendices.

Executive Summary, Chapter 3.3, and Appendix M do not agree as to significant, less than significant with mitigation, and less than significant (even before mitigation).

Titles and references in and to sections should be consistent and highlight the elements in the titles, the Biology or Biological Resources.

Appendix M includes little of the vast array of information available regarding the biology of the PoLA and the Project vicinity. No information was requested of various local San Pedro and Palos Verde biological (bird and fisheries) specialists and experts, and little information is specific to the Project, which provide no substantive information relevant to the EIS/EIR under review.

REQUEST: Provide actual bird survey information regarding use of the Main Channel, Turning Basin, and West Basin.

Materials should be relevant only to the Project and vicinity or mitigation and compensation areas, unless the contention is made that distant conditions are related to the Project.

The Chapter 3.3 and Appendix M should be combined and reduced in volume and focused on the Project; the Chapter text should be not more than 25 pages so that it can be comprehended by Decision Makers, stakeholders, and reviewers.

The Executive Summary should be consistent with the chapter text with regard to the level of impacts and mitigation required.

2. Alternatives

2.A State-of-the-Industry Bench-Marked Terminal Alternative

An alternative should be developed to minimize future additional berths by maximizing the efficiency of existing and proposed berths and yards. For biological resources (including the various related elements mentioned in different sections and paragraphs), in-/outbound movements of vessels in the Turning Basin and West Basin (also East Basin and Dominquez Channel (estuary) causes more disruption than more seaward circulation and therefore increased operations on the southernmost berths would less effects on the biology of the PoLA.

Similarly the redistribution of leaching contaminants from fills and “muds” (a recognized Significant Impact) by vessel movement is not assessed although sediment contaminants (especially DDD, DDE, and DDT) in previously dredged channel muds (maintenance muds) clearly shows that redistribution of 30+ year old materials is occurring since the ban for DDT in the 1970s.

2.B Western Harbor Relocation

An Alternative should be considered southward of the Turning Basin on the western shore of the Terminal Island as the shoreline is not used for maritime or other water-dependent activities and facilities.

2.C Risks of Collisions and Oil Spill

Collision risks are not assessed at the levels available for maritime movements, although the spills is considered as a Significant Impact for water resources and thereby all indirectly affected resources should be considered significantly impacted. The proposed project location, the circulation routing for vessels, and conflicting maritime modes all contribute to a heightened risk of collisions and spill, although no traffic and risk management (VTS) assessment has been conducted, only passing the potential impacts as Significant and unmitigateable, which they are not. Assessment and relocation based on the risk and spill assessment would provide alternative locations along the Main Channel and lessen impacts on the biology of the PoLA.

REQUEST: Adequate development of:

- More efficient terminal alternatives
- West Basin/Main Channel maritime alternatives
- Risk-based terminal alternatives

would produce more environmentally acceptable alternatives and greatly lessen impacts from collisions, spills, and other related water related activities on the biological resources of the PoLA.

3. Biological Resources

Assessment of biological resources and impacts are not consistent as invasive species potential are assessed as significant, irreversible, and unmitigateable, while those for specially status species are considered as undocumented and mitigated.

- 3.A Terns, Falcons, Osprey are known for the area and will be affected by current and future operations of facilities (traffic is the real operational impact of roads and ports while the road construction has a very different impact).
- 3.B Presence of Falcons and Osprey to the coastal waters and nesting in bridge works clearly show that the activities and facilities of the PoLA have operational impacts on nesting, breeding, roosting, feeding, and travel.
- 3.C Caspian and Least terns are known to nest within the PoLA but no comments or documentation is provided for their co-presence and different requirements.
- 3.D Killings of nesting terns and hatchlings on barges clearly show that if available terns and others will use the areas provided in the PoLA.
- 3.E Disruption of nesting and attempts by Caspian terns on Pier 400 (lack weed and pest controls) clearly shows that if available terns and others will use the areas provided in the PoLA.
- 3.F Capital Works - Mitigation Bank which requires additional deposits for compensation of capital works; operations are considered as non-impacting although operations of the project requires virtual complete and continuing occupation of 25 additional acres with no mitigation (e.g., 5 vessels-1000+ft x 200ft = 5 x 200,000 = 1,000,000sqft = 25 acres) along with disruption through the main channel.
- 3.G Mitigation Adequacy - Current mitigation is based upon the current impacted conditions which is a 1% remainder of the original pre-LA River relocation coastal conditions, and the easy resumption of birdlife breeding to even the current conditions clearly indicate that the current "POTENTIAL" conditions are suitable for restoration to earlier conditions - Zero-Based Accounting should be applied to current development and mitigation. If Corps projected impacts can be based on future development then past destruction by the PoLA should be adequately incorporated into the current impact assessments.
- 3.H Corridors - Revitalization of LA River – Wetlands and One-Million trees as part of the City's programs for a greener city is not reflected in previous discussion of corridors which has become out-of-date. As terns and other birds clearly demonstrate the coast itself also provides a corridor between Santa Monica and San Pedro Bays. Terns are know from the LA River where water is available with some depth and where freshwater is available for preening/cleaning of seabird plumage.
- 3.I Invasive Species - Rules, regulations, and procedures are available for ballast waters. Lack of enforcement and verifications is reflected by statements. Statements that the PoLA can't control and can't mitigate reflects negative approach, not enforceable = can't do anything. Invasive species can be mitigated, and their impacts on Native Species and resources require compensation for the Significant Adverse Impacts of the Invasive Species.

3.J Water resources dredging, dumping, discharges, and SW-runoff Mgmt. Plans are required and related impacts are considered controllable, and therefore they can be mitigated. Ballast discharges (and invasive species), oil spills, and contaminant leaching (water quality) are not considered as unmitigated and Significant for water, and thereby should be considered as Significant to limited biological resources which suffer from oil spills and competition and displacement by the Significant Impacting conditions.

3.K Air Resources - PM10/2.5, NOx, SOx, and other air pollutants in the LA basin are considered as significant impacts on human life which can reduce their exposures, while wildlife and vegetation are subject to the same unhealthy conditions and precipitates, and food-chain accumulations indicated in the waters and muds of the harbor. If significant to humans, impacts are significant to biological resources and conditions.

REQUEST:

Provide results of active bird surveys of the Main Channel, Turning Basin, East and West Basins, and the Dominquez Channel (where tidal) prior to dredging;

Provide additional mitigation (10% of total affected shoreline and yard areas [previous marshes]) to compensate for historic losses, lack of enforcement, and operational impacts and disruptions, including leachate migration, illegal discharges, and in-water spills;

Develop all other Non-Maritime Use Shorelines (>3000 lineal feet of intertidal zones) within the PoLA (e.g., east bank of Main Channel) for wildlife mitigation and compensation;

Develop and provide a manual and enforcement for wildlife mitigation and protection measures throughout the PoLA.

Based on previous submitted comments on the errata and these comment, above, we request additional time for preparation of comments for the Public Hearing and for the preparation of complete formal comments and their submission (total 120 days after the current closure date).

As the documents stand at present, they are considered as inadequate and insufficient for decision making and reliable assessment of the interrelated environmental impacts of the proposed project or its alternatives as devised at present. Additional comments shall be prepared and submitted within the comment period.

Thanking you for your consideration,

Signature on Original – Sent by USPS Mail

Dr. C. Thomas Williams
Conservation Committee
Los Angeles Audubon Society