



**THE PORT
OF LOS ANGELES**
Executive Director's
Report to the
Board of Harbor Commissioners

DATE: FEBRUARY 16, 2021

FROM: CARGO & INDUSTRIAL REAL ESTATE

SUBJECT: RESOLUTION NO. _____ - APPROVAL OF MASTER JOINT REVOCABLE PERMIT NO. 20-18 AMONG AIR PRODUCTS AND CHEMICALS, INC., CITY OF LOS ANGELES HARBOR DEPARTMENT, AND PORT OF LONG BEACH, AS JOINT OWNERS

SUMMARY:

Staff requests approval of Master Joint Revocable Permit (MJRP) No. 20-18 among Air Products and Chemicals, Inc. (Air Products), the City of Los Angeles Harbor Department (Harbor Department), and the Port of Long Beach (POLB), (collectively Ports), as joint owners, for the maintenance and operation of seven subsurface hydrogen gas pipelines and one waste water pipeline generally located along the former Union Pacific Railroad San Pedro Branch and Long Beach Lead at various locations in Los Angeles and Long Beach. The initial annual rent is \$20,312, which will be split equally between the Ports, and is subject to annual increases based on the Consumer Price Index (CPI). As a 50 percent joint owner, the Harbor Department will receive \$10,156 in rent.

This MJRP includes 1) the continuation of use of existing subsurface pipelines for the transport of hydrogen gas and waste water and 2) the entitlement for an existing pipeline owned by Paramount Pipeline, LLC (Paramount), to begin transporting hydrogen gas to be operated by Air Products as Paramount's operator. As part of this action, the Harbor Department must make certain findings and determinations pursuant to the California Environmental Quality Act (CEQA) because it is considered a Responsible Agency in granting a permit for the hydrogen pipeline (Line 4) of the project.

This MJRP requires approval from the Board of Harbor Commissioners of both Ports, and the POLB Board of Harbor Commissioners will consider this MJRP at its meeting on February 22, 2021.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners (Board):

1. Find the continuation of use of existing subsurface pipelines for the transport of hydrogen and waste water is categorically exempt from the requirements of CEQA in accordance with Section 15301 of the California State CEQA Guidelines;

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2. Find, for the entitlement to begin transporting hydrogen gas in an existing pipeline Line 4: that since certification of the Final Environmental Impact Report by the City of Carson (State Clearinghouse No. 2020059038), there have been (1) no substantial changes to the Project which would require major revisions of the Final Environmental Impact Report, (2) no substantial changes with respect to the circumstances under which the Project is being undertaken which would require major revisions in the Final Environmental Impact Report, and (3) no new information has become available which was not known or could have been known at the time the Final Environmental Impact Report was certified as complete;
3. Adopt the Findings of Fact and Statement of Overriding Considerations;
4. Adopt the mitigation measures contained in the Mitigation Monitoring and Reporting Plan that pertain to the operation of the Line 4 project element of the certified Final Environmental Impact Report;
5. Authorize the Environmental Management Division to file the Notice of Determination with the Los Angeles County Clerk and the State Clearinghouse;
6. Find that the Director of Environmental Management has determined that the proposed action has been previously assessed in the Air Products Hydrogen Pipeline Environmental Impact Report (State Clearinghouse No. 2020059038), certified by the City of Carson on November 10, 2020 ;
7. Approve Master Joint Revocable Permit No. 20-18 among Air Products and Chemicals, Inc. and the City of Los Angeles Harbor Department and Port of Long Beach, as joint owners, which has incorporated the measures contained in the Mitigation Monitoring and Reporting Plan that pertain to the operation of the Line 4 project element of the certified Final Environmental Impact Report;
8. Authorize the Executive Director to execute and the Board Secretary to attest to Master Joint Revocable Permit No. 20-18; and
9. Adopt Resolution No. _____.

DISCUSSION:

Background - On December 22, 1994, the Harbor Department and POLB jointly purchased rail properties as part of the Alameda Corridor Transportation Authority (ACTA) construction project. The properties are the former Southern Pacific Railroad and Union Pacific Railroad right-of-way within the County of Los Angeles and are held by the Ports as tenants-in-common, with each holding an undivided 50 percent interest in the properties. In addition, the Ports became successors-in-interest to all railroad agreements, leases, and licenses related to the acquired railroad right-of-way. The premises described herein are jointly owned by the Ports following an acquisition for the ACTA project.

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The proposed MJRP will consolidate various agreements that cover seven pipelines (comprised of six subsurface hydrogen pipelines and one subsurface waste water pipeline), and authorize Air Products operation and use of one newly activated subsurface hydrogen pipeline (Line 4) owned by Paramount, all under one single master permit. Line 4, a 73 linear foot pipeline encompassing 365 square feet of Ports' property, will be utilized to transport hydrogen and will be operated by Air Products for Paramount under an operating agreement with Paramount.

Project Assessment - This MJRP includes the continuation of use of seven existing subsurface pipelines used to transport hydrogen and waste water, which will continue to transport hydrogen and waste water, with no change in use beyond existing conditions. The MJRP also issues an entitlement for Line 4 to begin transporting hydrogen gas. The Air Products Hydrogen Pipeline Project (State Clearinghouse No. 2020059038), also known as the Carson to Paramount Hydrogen Gas Pipeline Project, was certified and adopted by the City of Carson Planning Commission (City of Carson) on November 10, 2020. It assessed the construction of 0.5 miles of new pipeline within the City of Carson and connection of this newly constructed segment with 11.5 miles of existing pipeline. Construction of the 0.5 miles will not occur within the Ports' jurisdiction; however, the transport of hydrogen gas through the Ports' jurisdiction was included in the document.

There are companion items also subject to Board consideration covering Line 4. Those items cover the segment of line on property owned by Port of Los Angeles in Wilmington and another jointly owned by the Ports (Master Joint Revocable Permit No. 20-22 and Revocable Permit 21-01, both with Paramount).

Proposed MJRP - Provided below are the material terms of the MJRP:

<u>Provisions</u>	<u>Description</u>
Permitted Use	The maintenance and operation of eight subsurface pipelines.
Term	Month-to-month
Termination	Subject to termination by either party with 60 days' written notice.
Premises	The premises are comprised of eight subsurface pipelines totaling approximately 10,491 square feet, as depicted on Transmittal 1.
Compensation ¹	1. The Harbor Department will receive 50 percent of the total rent, equal to \$10,156 per year. Total rent for the first year is \$20,312, split equally between the Ports. 2. The Harbor Department will also receive \$1,250, half of a \$2,500 permit processing fee paid by Air Products.
Adjustments	1. Annual CPI adjustment 2. Adjust rents to market rates upon 60 days' written notice to Air Products.
Maintenance and Restoration	Air Products, at its sole cost, will keep and maintain the permit areas and facilities and restore the premises.

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Insurance	All standard insurance requirements apply, plus additional coverage for Environmental Impairment Insurance.
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Notes: ¹Rent for 2 pipelines were calculated using market rates for comparable facilities as confirmed by the ports through a third party appraiser. Additionally, five minor facilities are based on the \$2,000 minimum rent and Line 4 compensation will be paid by Paramount; hence no charges are incurred by Air Products for this facility.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of an MJRP (Transmittal 2) with POLB and Air Products for pipelines associated with the Air Products Hydrogen Pipeline Project that crosses jointly-owned Harbor Department and POLB property. This MJRP includes (1) the continuation of use of existing subsurface pipelines for the transport of hydrogen gas and waste water and (2) the entitlement for an existing pipeline to begin transporting hydrogen gas. The CEQA analysis of these two elements is as follows:

- (1) The continuation of use for the existing hydrogen and waste water pipelines is categorically exempt from the requirements of CEQA in accordance with Section 15301 of the State CEQA Guidelines.
- (2) The transport of hydrogen gas was previously assessed in the Air Products Hydrogen Pipeline Project Final EIR prepared by the City of Carson (State Clearinghouse No. 2020059038). As part of this action, the Harbor Department must make certain findings and determinations pursuant to CEQA because it is considered a Responsible Agency in granting a permit for a portion of the Air Products Hydrogen Pipeline Project described in the Final EIR as "Line 4".

Based on its review of the certified Final EIR, the Harbor Department has made certain findings of fact regarding the environmental effects of the Air Products Hydrogen Pipeline Project pursuant to Public Resources Code Section 21081 and Title 14 California Code of Regulations Section 15091; findings regarding the Statement of Overriding Considerations pursuant to Public Resources Code Section 21081 and Title 14 California Code of Regulations Section 15093; and sets forth a Mitigation Monitoring and Reporting Plan (MMRP) that pertains to the "Line 4" project element of the certified Final EIR pursuant to Public Resources Code Section 21081 and Title 14 California Code of Regulations Section 15097. The Findings of Fact, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Plan are provided as Transmittal 3.

FINANCIAL IMPACT:

Under the proposed MJRP, Air Products will pay the Harbor Department \$10,156 per year for rent and \$1,250 for the permit processing fee (totaling \$20,312 for rent and the one-time \$2,500 for a processing fee, which will be split equally between both Ports). This represents a total of \$11,406 of revenue for the first year and \$10,156 of recurring revenue to the Harbor Department in subsequent years. Annual adjustments based on the CPI will commence on the first anniversary of the proposed MJRP.

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CITY ATTORNEY:

Master Joint Revocable Permit No. 20-18 has been reviewed and approved as to form and legality by the Office of the City Attorney.

TRANSMITTALS:

1. Premises Maps
2. Master Joint Revocable Permit No. 20-18
3. Findings of Fact, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Plan

FIS Approval: MB
CA Approval: SO

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