



**US Army Corps  
of Engineers®**



## **PUBLIC NOTICE**

### **APPLICATION FOR A PERMIT, NOTICE OF AVAILABILITY FOR A DRAFT EIS/EIR, AND A PUBLIC HEARING**

*LOS ANGELES DISTRICT*

*April 30, 2008*

Public Notice: There was an error in the Joint Notice that was distributed in the mailing for this Project. The document represents the correct version, with changes tracked (additions are underlined and deletions are ~~struck~~).

### **PUBLIC MEETING**

The U.S. Army Corps of Engineers (USACE or Corps) Los Angeles District and the Los Angeles Harbor Department (LAHD or Port) will jointly conduct a public meeting for the proposed Port of Los Angeles the Berths 97-109 [China Shipping] Container Terminal Project Re-circulated Draft EIS/EIR on **June 5, 2008 at 6:0 p.m.**, to receive public comment and assess public concerns regarding the Re-circulated Draft EIS/EIR (Corps File Number 2003-01029-SDM). Participation in the public meeting by federal, state, and local agencies and other interested organizations and persons is encouraged. This meeting is to be conducted in English and Spanish. Members of the public who wish to communicate and listen entirely in Spanish are encouraged to attend this meeting. The meeting will be held at:

**Banning's Landing Community Center  
100 E. Water Street  
Wilmington CA 90734**

Please see the attached map for the location of the public meeting. This meeting is intended to provide the Corps and the Port with public feedback on the project and potential environmental impacts.

During the public meeting, anyone wishing to make a statement will be allocated a certain amount of time to provide information on the proposed Project. The amount of time each person is allowed will be directly dependent on the number of people who sign up to speak at the public hearing. We would like to encourage interest groups to designate an official spokesperson to present the group's views. We plan to allocate a larger amount of time to official representatives of such groups. **Groups wishing to designate an official representative must notify the Corps in writing prior to, but not later than, Friday Thursday, May, 29 2008. The determination of this extended speaking time will be based on the number of responses received by the Corps. This rule will be strictly enforced at the discretion of the Corps' hearing officer.**

Written comments to the Corps and Port will be received until **June 30, 2008**. **Written comments should be addressed to the address below:**

U.S. Army Corps of Engineers, Los Angeles District  
Regulatory ~~Division-Branch~~  
c/o Spencer D. MacNeil D.Env.  
ATTN: ~~CESPL-RG-2003-01029-SDM-CESPL-CO-R-2003-01029-AOA~~  
P.O. Box 532711  
Los Angeles, California 90053-2325

*and*

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

Parties interested in being added to the Corps' electronic mail notification list for the Port of Los Angeles can register at: [www.cespl.us/regulatory/maillinglist.htm](http://www.cespl.us/regulatory/maillinglist.htm)  
[www.spl.usace.army.mil/regulatory/register.html](http://www.spl.usace.army.mil/regulatory/register.html). This list will be used in the future to notify the public about scheduled hearings and availability of future public notices.

**Contacts:**

**Army Corps of Engineers Project Manager** – Spencer D. MacNeil - (805) 585-2152

**Port of Los Angeles Contact** – Lena Maun-DeSantis - (310) 732-3950

# NOTICE OF AVAILABILITY/NOTICE OF COMPLETION

## **Federal Action:**

Interested parties are hereby notified that a preliminary application has been received for a Department of the Army permit for the activity described herein. The Corps is considering an application submitted by the Port for a permit, in accordance with Section 404 of the Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Act, to conduct dredge-and-fill activities and to construct wharves.

The primary federal action is the proposed issuance of permits authorizing work and structures in navigable waters of the United States (U.S.), and the discharge of dredged or fill material in waters of the U.S. and related direct impacts to the aquatic environment, as well as potential indirect and cumulative impacts on the human environment. For the Corps, approval of a permit under Section 404 of the CWA for dredge-and-fill activities associated with the proposed Project or the Project alternatives is an action that might result in significant effects on the environment. This EIS/EIR would be used by the Corps as part of their permit approval process. The Corps and the Port independently determined under the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA), respectively, that there are potential significant environmental impacts associated with the proposed action, and an Environmental Impact Statement (EIS) and Environmental Impact Report (EIR) are required.

The Corps may ultimately make a determination to permit or deny the above project, or permit modified versions of the above project. The Corps has prepared and is publishing a Notice of Availability (NOA) for the proposed project in the *Federal Register*.

## **Evaluation Factors**

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the USEPA Guidelines (40 CFR 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the overall public interest of the proposed activity.

## **Preliminary Review of Selected Factors**

**EIS Determination:** A determination has been made that an Environmental Impact Statement (EIS) is required for the proposed work in waters of the United States. The Draft EIS/EIR for the proposed Berths 97-109 Container Terminal Project is being circulated for public comment on **April 30, 2008**, and comments on the above document will be accepted until **June 30, 2008**.

**Water Quality:** The applicant is required to obtain water quality certification, under Section 401 of the Clean Water Act, from the California Regional Water Quality Control Board. Section 401 requires that any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers prior to permit issuance. For any proposed activity on Tribal land that is subject to Section 404 jurisdiction, the applicant will be required to obtain water quality certification from the U.S. Environmental Protection Agency.

**Coastal Zone Management:** The applicant has certified that the proposed activity complies with and will be conducted in a manner that is consistent with the approved State Coastal Zone Management Program. The District Engineer hereby requests the California Coastal Commission's concurrence or nonconcurrence that proposed project is consistent with the Coastal Commission approved Port Master Plan.

**Cultural Resources:** The latest version of the National Register of Historic Places has been consulted and this site is not listed. Furthermore, the Draft EIS/EIR for the Berths 97-109 Container Terminal Project [China Shipping] did not identify any cultural or historic resources that would be affected by the proposed project. This review constitutes the extent of cultural resources investigations by the District Engineer, and he is otherwise unaware of the presence of such resources. The NAHC was contacted on October 23, 2007, 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 June 20, 2007, was received from the NAHC containing a list of Native American tribes and individuals interested in consulting on development projects. Each of these individuals/groups was contacted by letter on October 23, 2007. No responses have been received.

**Endangered Species:** The California least tern (*Sterna antillarum browni*) and the California brown pelican (*Pelecanus occidentalis californicus*) are known to forage on occasion in the vicinity of the proposed project. However, based on detailed biological information in the Draft EIS/EIR for the Berths 97-109 Container Terminal Project, the project area is not an important foraging area for either species, and preliminary determinations indicate that the proposed activity would not affect federally listed endangered or threatened species, or their critical habitat. Therefore, consultation under Section 7 of the Endangered Species Act does not appear to be required at this time.

**Essential Fish Habitat:** In accordance with the 1996 amendments to the Magnuson-Stevens Fishery Conservation and Management Act, an assessment of Essential Fish Habitat (EFH) has been prepared and is included in the DEIS/EIR. The proposed Project would be located within an area designated as EFH for two Fishery Management Plans (FMP): Coastal Pelagics Plan; and Pacific Coast Groundfish Management Plan. One of the five species in the Coastal Pelagics FMP, northern anchovy, is well represented in the proposed Project area, with both adults and larvae present. Pacific sardine is also present. Both species support a commercial bait fishery in the Outer Harbor of the Port. Adult jack mackerels are common and likely prey upon northern anchovy in the West Basin. Adult Pacific mackerel are uncommon in the West Basin with only one collected in a year's sampling. None of the seven Pacific

Groundfish FMP species found in the Inner Harbor is common, and only one, English sole, has been reported in recent surveys of the West Basin.

This notice initiates EFH consultation requirements of the Magnuson-Stevens Fishery Conservation and management Act. The proposed activities would permanently and temporarily impact areas designated as EFH through wharf construction and dredging. Most of the impacts would be short-term, but there would be conversion of approximately 2.5 acres of open water and soft-bottom habitat to hard substrate habitat to construct the wharves. The POLA has developed, and continues to develop as needed, mitigation projects to provide mitigation credits for impacts of development in Los Angeles Harbor to marine biological resources, in coordination with National Marine Fisheries Service, U.S. Fish and Wildlife Service, and the California Department of Fish and Game through agreed-upon mitigation policies (USACE and LAHD 1992). For this project, the POLA proposes to fully mitigate marine habitat loss by using equivalent credits available through the Bolsa Chica Mitigation Agreement/Bank or the Outer Harbor Mitigation Bank. Overall, the proposed activity may adversely affect but would not have a substantial adverse impact on EFH or federally managed fisheries in California waters. The Corps will consult with the National Marine Fisheries Service during the EIS/EIR process to come to a final determination relative to project impacts and the need for mitigation measures.

### **State Action:**

LAHD is proposing terminal improvements at Berths 97-109. The primary purpose of this Draft EIS/EIR is to identify the significant environmental effects of the proposed Project so that the decision makers can consider them as part of the proposed Project approval process. Also, LAHD would use this EIS/EIR to support permit applications and other actions required to implement the selected Berth 97-109 improvement project or alternative.

Pursuant to the California Environmental Quality Act (CEQA), the Port will serve as Lead Agency for the preparation of an EIR for its consideration of development approvals within its jurisdiction. The Port prepared a Notice of Completion, in accordance with current City of Los Angeles Guidelines for the Implementation of the California Environmental Quality Act (CEQA) of the 1970, (Article I); the State CEQA Guideline, (Title 14, California Code of Regulations); and the California Public Resources Code, (Section 21000, et seq.). Interested parties are invited to provide their views on the Draft EIS/EIR.

**Public comments should be submitted by June 30, 2008.**

## **SUPPLEMENTARY INFORMATION:**

### **Background Information:**

In addition to the NEPA/CEQA process, this Project is also subject to a court-ordered Settlement Agreement. The Port previously prepared and certified the West Basin Transportation Improvements Program (WBTIP) EIR that assessed the construction and operation of terminal and infrastructure improvements in the West Basin of the Port (LAHD, 1997a).

In March 2001, the Port issued a permit approving the China Shipping lease and construction based on the WBTIP. In June 2001, opponents of the China Shipping Terminal Project (Berths 97-109) filed suit in both state and federal court alleging that LAHD did not comply with, among other things, NEPA or CEQA in approving a permit to construct the China Shipping Terminal and a lease for the China Shipping Company to occupy the terminal. On October 30, 2002, the State of California Second District Court of Appeals ordered a partial halt to ongoing construction and operation of Phase I, Berth 97-109 China

Shipping Container Terminal Project component (proposed Project), of the WBTIP EIR. The court ordered the preparation of a project-specific EIS/EIR to evaluate each of the three phases of the proposed Project.

Afterwards, LAHD and the litigants negotiated an agreement to settle the state and federal proceedings. On March 6, 2003, the Superior Court of the State of California, Los Angeles District, approved a Stipulated Judgment to settle the state case. On that same date, the United States District Court for the Central District of California approved a stipulation for compromise settlement among the project opponents, USACE, and LAHD. Subsequently, the Port negotiated with the litigants to amend the Stipulated Judgment. A compromise in the form of an Amended Stipulated Judgment was reached in March 2004. The terms of the Amended Stipulated Judgment have been incorporated into the Draft EIS/EIR.

On March 6, 2003, the USACE settled its case with plaintiffs in the China Shipping case. The USACE judgment requires the USACE to prepare a project-specific EIS for China Shipping Phases I, II, and III, and revisit the permit conditions of the permit originally issued for construction of Berth 100. The Draft EIS/EIR serves as the project-specific EIS called for in the judgment, and provides environmental analysis required for the USACE to revisit its Berth 100 decision.

In sum, the state and federal Settlement Agreements require the preparation of a project-specific environmental analysis of each of the three phases of the proposed Project. The federal Settlement Agreement also provided that the revised environmental analysis and permit prepared by the USACE would remain in place, until the USACE reconsiders the permit terms and conditions upon completion of the EIS/EIR.

The Port and Corps originally released the Berth 97-109 [China Shipping] Container Terminal Project Draft EIS/EIR in August 2006. Based on comments received on the Draft EIS/EIR, the Port and Corps decided to re-circulate the document. The April 2008 Draft EIS/EIR is a full re-circulation of the original Draft EIS/EIR and addresses comments received on the August 2006 document.

### **Purpose and Need:**

NEPA and CEQA respectively require the preparation of an EIS and EIR for actions that could significantly affect the environment. Actions subject to NEPA and CEQA requirements include projects sponsored by a governmental agency and the approval of projects over which the governmental agency has discretionary authority. The purpose of the Draft EIS/EIR is to identify the significant impacts of the proposed Project and the Project alternatives, to inform decision makers and the public of reasonable alternatives to the proposed Project (that would avoid or minimize significant impacts or enhance the quality of the human environment), and to indicate the manner in which significant effects can be avoided or mitigated. The USACE will serve as the federal Lead Agency in accordance with NEPA, and the Port of Los Angeles (Port) will serve as the state Lead Agency under CEQA.

### **Project Description:**

**Project Location:** The Project area is within the West Basin portion of the Port, approximately 32 kilometers (km) (20 miles) south of downtown Los Angeles. As shown in Figure 1, the Berth 97-109 Container Terminal (proposed Project) is located adjacent to the San Pedro District of the Port, and is roughly bordered by the Southwest Slip on the north; John S. Gibson Boulevard and Pacific Avenue on the west; Knoll Hill, Front Street, and the Vincent Thomas Bridge on the south; and the West Basin Channel on the east.

**Project Elements:** The proposed Project is a new Container Terminal for the China Shipping Lines at Berths 97-109. Key elements of the proposed Project include new wharves, dredging (41,000 yd<sup>3</sup>) with the material disposed of at the upland Anchorage Road Storage Site, backlands development (142 acres), terminal buildings, improvements to the terminal entrance, bridges connecting Berths 97-109 with Berths 121-131, and the relocation of the Catalina Express terminal to Berth 95 (Figure 2). The proposed Project would be developed in three construction phases (Phases I, II and III), with estimated start dates of 2003, 2009, and 2011, respectively. Subsequently, optimization or full utilization of each phase would occur in 2005 (1 year after Phase I construction), 2015 (6 years after Phase II construction), and 2030 (almost 20 years after Phase III construction), respectively. Phase I has been constructed and is operating as a container terminal, consistent with the Amended Stipulated Judgment and federal Settlement Agreement. Phase I construction and operation is reassessed in the Draft EIS/EIR.

Major elements of the proposed Project evaluated in this EIS/EIR include:

- + Dredging (41,000 cubic yards [yd<sup>3</sup>] of sediments) and disposal of that material at the upland Port Anchorage Road Disposal Site, new wharf construction at Berths 100 and 102, and backland creation, including terminal buildings, on 142 acres
- + Installation of 10 new A-frame cranes at Berths 100 and 102
- + Transportation infrastructure improvements in the vicinity of the existing terminal entrance (shared by the Berth 97-109 terminal and the Berth 121-131 terminal)
- + Two new bridge structures connecting Berth 97-109 terminal and Berth 121-131 terminal across the Southwest Slip
- + Relocating the Catalina Terminal to south of the Vincent Thomas Bridge at Berth 95
- + A 40-year lease (2005 to 2045) to China Shipping Lines to operate the Berth 97-109 Container Terminal

The proposed Project would operate at optimal capacity by 2030. When operating at optimal capacity, the improved Berth 97-109 Container Terminal could handle approximately 1,551,000 Twenty-Foot Equivalent Units (TEUs) per year, which represents an annual throughput of approximately 856,906 containers. To accommodate the annual throughput of 1,551,000 TEUs, 234 ship calls and associated tugboat operations would be required (two tugs are required each for ship docking and undocking, for a total of four tugs per call or 936 tugboat operations per year). In addition, a total of 5,055 daily truck trips, and up to 817 annual round trip rail movements would be required. The details of each component of the proposed Project are in the Draft EIS/EIR.

### **Alternatives:**

NEPA (40 *Code of Federal Regulations* [CFR] 1502.14[a]) and CEQA Guidelines Section 15126.6, respectively, require that an EIS and an EIR describe a range of reasonable alternatives to the project, or to the location of the project that could feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any significant environmental impacts while substantially attaining the basic objectives of the project. The EIS/EIR should compare merits of the alternatives and determine an environmentally preferred alternative and an environmentally superior alternative.

Eighteen alternatives (including the proposed Project) were considered during preparation of this Draft EIS/EIR, which included alternative terminal configurations and alternative terminal locations, as follows:

1. Proposed Project
2. No Project Alternative
3. No Federal Action Alternative
4. Reduced Fill: No New Wharf Construction at Berth 102
5. Reduced Fill: No South Wharf Extension at Berth 100
6. Reduced Construction: Phase I Only
7. Omni Cargo Terminal
8. Non-shipping Use (as per Settlement Agreement)
9. Use of West Coast Ports Outside Southern California
10. Expansion of Terminals in Southern California but Outside the Los Angeles Harbor District
11. Lightering
12. Shallower Dredge Depth
13. Liquefied Natural Gas Terminal Facility
14. Offsite Backlands Alternatives
15. Development of New Landfills and Terminals Outside the Berth 97-109 Terminal Area and the Adjoining West Basin Area
16. Other Sites in the Los Angeles Harbor District
17. Narrower Wharves
18. Development and Operation of Small Container Terminal

Of the alternatives considered, six (numbers 9-18) were considered but eliminated from further consideration and seven (numbers 2-8) are carried forward with the proposed Project and evaluated in the Draft EIS/EIR. Figure 3 summarizes the proposed Project and seven alternatives carried forward in this document.

#### **Availability of the Draft EIS/EIR**

The Re-circulated Draft EIS/EIR for the proposed Project is being distributed directly to agencies, organizations, and interested groups and persons for comment during the ~~60~~ 45-day formal review period in accordance with Section 15087 of the State CEQA Guidelines and 40 CFR Section 1506.10 of the CEQ NEPA Regulations. During the 60-day public review period, which begins on April 30, 2008 and ends on June 30, 2008, the Re-circulated Draft EIS/EIR is available for general public review at the following locations:

Port of Los Angeles Environmental Management Division 425 South Palos Verdes Street San Pedro, CA 90731	Los Angeles Public Library Central Branch 630 West 5 <sup>th</sup> Street Los Angeles, CA 90071
Los Angeles Public Library San Pedro Branch 921 South Gaffey Street San Pedro, CA 90731	Los Angeles Public Library Wilmington Branch 1300 North Avalon Boulevard Wilmington, CA 90744

In addition to printed copies of the Re-circulated Draft EIS/EIR, members of the public can request a compact disc (CD) that contains the EIS/EIR. The Re-Circulated Draft EIS/EIR is also available on the Port of Los Angeles website at [www.portoflosangeles.org](http://www.portoflosangeles.org). The executive summary has been translated into Spanish and is available to the public on the Port of Los Angeles website as well. To request either a CD-ROM or a Spanish translation of the executive summary, please call the Environmental Management Division at (310) 732-3675.