

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO

MINUTE ORDER

DATE: 03/06/2024

TIME: 10:03:00 AM

DEPT:

JUDICIAL OFFICER PRESIDING: Timothy Taylor

CLERK: Taylor Crandall

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT: M. McClure

CITY OF LOS ANGELES
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CITY ATTORNEY'S OFFICE

CASE NO: **37-2021-00023385-CU-TT-CTL** CASE INIT.DATE: 09/16/2020

CASE TITLE: **Natural Resources Defense Council Inc vs City of Los Angeles [E-FILE]**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Toxic Tort/Environmental

APPEARANCES

Order Following Remand

Natural Resources Defense Council, Inc., et al. v. City of Los Angeles, et al.; SCAQMD v. City of Los Angeles, et al., Case No. 2021-23385

The court has reviewed the opinion of the Fourth District Court of Appeal, Div. 1, filed 12/29/23 in Case No. D080902 (and thereafter ordered published, 2024 DAR 621), remanding the case to this court to exercise its discretion to fashion an appropriate remedy in the first instance. The court hereby preliminarily spreads the mandate as follows:

The Respondent and the RPI are hereby ordered, pursuant to Pub. Res. Code section 21168.9, to show cause, if any there be, why shipping activities at the China Shipping Terminal should not be suspended pending the setting by the court of a strict timeline for the Port's adoption of a new SEIR and the enforcement of the Lease to ensure compliance with mitigation measures.

The Respondent and the RPI are also ordered to show cause, if any there be, why shipping activities at the China Shipping Terminal should not be suspended pending the filing of a return to the Writ of Mandate entered by this court on July 12, 2022 (ROA 160), establishing that it has set aside its certification of the SEIR, as well as all related project approvals, as ordered by this court.

The hearing on the OSC will occur at 9:00 a.m. on Friday, April 26, 2024. Written responses from respondent and RPI are due by noon on April 12, 2024. Petitioners may respond in writing to the submissions of respondent and RPI not later than noon on April 19, 2024.

The responses to the OSC filed by respondent and RPI must address, at a minimum, the following:

1. Whether a view by the trial court of current operations at the China Shipping Terminal under CCP section 651 would be appropriate under the present circumstances of this case (and if so, the proposed logistics for such a view).

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2. The number, job descriptions and work sites of China Shipping employees who would be discharged or furloughed in the event shipping activities are suspended by the court.
3. The number, job descriptions and work sites of employees of independent contractors of China Shipping who would be discharged or furloughed in the event shipping activities are suspended by the court.
4. Whether there are facilities A) elsewhere in the Port of Los Angeles, or B) elsewhere on the west coast of the United States sufficient to absorb terminal operations in the event shipping activities at the China Shipping Terminal are suspended by the court.
- 5A. Why the City has not filed with this court a return to the Writ of Mandate entered by this court on July 12, 2022 (ROA 160), establishing that it has set aside its certification of the SEIR, as well as all related project approvals, as ordered by this court.
- 5B. Why petitioners have not brought to the court's attention the City's failure to file with this court a return to the Writ of Mandate entered by this court on July 12, 2022 (ROA 160), establishing that it has set aside its certification of the SEIR, as well as all related project approvals, as ordered by this court (despite the absence of any appeal by the City or RPI).
6. What is the present schedule for the preparation and consideration of a new supplemental or subsequent environmental review document for the China Shipping Terminal?
- 7A. What is the present status of the City's actions (if any) to correct the deficiencies in enforcement identified by this court on June 27, 2022 (ROA 154)?
- 7B. What is the present status of the City's actions (if any) to correct the two additional deficiencies in enforcement identified by the Court of Appeal?
8. What is the present status of implementation of the specific mitigation measures duly adopted in the 2019 SEIR (or, where relevant, the 2008 EIR measures reinstated by this court in June of 2022)?
9. What is the present status of the implementation of the two additional specific mitigation measures identified by the Court of Appeal?
10. As the Court of Appeal noted (Slip Op. at 74-75), China Shipping is obligated by the Lease's terms to comply with the mitigation measures set forth in any duly adopted environmental document, as the Lease requires China Shipping to "at all times, in its use and occupancy of the premises and in the conduct of its operations thereon, comply with all laws, statutes, ordinances, rules and regulations applicable thereto, enacted and adopted by federal, state, regional, municipal or other governmental bodies, or departments or offices thereof." What is the current status of the City's efforts to enforce this provision of the Lease? What specific efforts, if any, has China Shipping made since June of 2022 and December of 2023 to bring itself into compliance with the Lease?
11. Describe in detail what operational changes, if any, have been made at the China Shipping Terminal A) since this court's decision on June 27, 2022 (ROA 154); and B) since the filing of the opinion of the Court of Appeal on December 29, 2023.

In addition to the foregoing, petitioners are hereby ordered forthwith to prepare and submit an amended

writ of mandate and judgment, consistent with the Court of Appeal's opinion.

IT IS SO ORDERED.



Judge Timothy Taylor