

**OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION**

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April 29, 2009

In reply refer to: COE970314B

Geraldine Knatz, PhD, Executive Director
President David S. Freeman, Board of Harbor Commissioners
Port of Los Angeles
P.O. Box 151
San Pedro, CA 90733

Re: Final Supplemental EIS/EIR Main Channel Deepening Project

Dear Director Knatz, President Freeman, and Harbor Commissioners:

I am writing to request that the Board of Harbor Commissioners defer any action on the Final Supplemental EIS/EIR for the Main Channel Deepening Project until Section 106 consultation between the State Office of Historic Preservation and the U.S. Army Corps of Engineers has been completed.

On March 19, 2009, the U.S. Army Corps of Engineers initiated Section 106 review for the proposed Main Channel Deepening Project at the Port of Los Angeles. On April 8, 2009, our office received a copy of correspondence from Susan Brandt-Hawley, Esq., on behalf of the Los Angeles Conservancy, to Geraldine Knatz, PhD and the Board of Harbor Commissioners objecting to the proposed certification of the Final Supplemental EIS/EIR before an assessment of adverse effects under Section 106 of the National Historic Preservation Act (NHPA).

Section 106 of the NHPA requires Federal agencies to take into account the effects of their undertakings on historic properties. The historic preservation review process mandated by Section 106 is outlined in regulations issued by the Federal Advisory Council on Historic Preservation at 36 CFR Part 800. In consultation with the State Historic Preservation Officer (SHPO), the Federal agency will make an assessment of adverse effects on the identified historic properties based on criteria set forth in Section 800.5 of the regulations, which provides:

An adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association....Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance or be cumulative.

Among other possible adverse effects, the agency shall consider changes to "the character of the property's use or of physical features within the property's setting that

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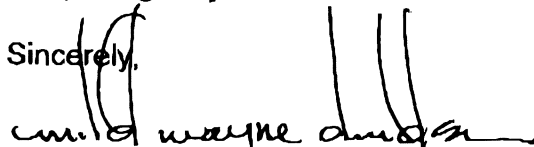
contribute to its historic significance." In making this determination, the agency official and SHPO "shall consider any views concerning such effects which have been provided by consulting parties and the public."

For projects that are subject to review under the National Environmental Policy Act (NEPA), such as the Main Channel Deepening Project, Section 106 review should be coordinated with preparation of the EIS, coordinated with scoping, identification, evaluation, and the initial effect determination, and consultation to resolve adverse effects taking place as needed before the EIS is finalized and the FONSI and ROD are issued. Such coordination enables the public to be fully informed about the results of Section 106 consultation through its review of draft NEPA material, and the consulting parties under Section 106 to be informed of public views obtained by the agency through the NEPA process.

Because Section 106 consultation for the proposed project was initiated by the USACE only recently – at the culmination of NEPA/CEQA review – our office has not had an opportunity to make a formal determination regarding adverse effects that may result from its implementation. Nonetheless, we understand that the Harbor Commission is being asked to certify the Final Supplemental EIS/EIR and adopt its determination of no significant adverse impacts on historic resources at the former Southwest Marine Shipyard site. The requested action is not only premature, given ongoing review by our office, but would clearly undermine the purpose and intent of the Section 106 consultation process.

In order to avoid the potential need for supplemental environmental review in the future, we urge the Harbor Commission to withhold any further action on the Main Channel Deepening Project until Section 106 consultation is complete.

Sincerely,



Milford Wayne Donaldson, FAIA
State Historic Preservation Officer

cc: Josephine R. Axt, PhD, U.S. Army Corps of Engineers
D. Stephen Dibble, Senior Archaeologist, U.S. Army Corps of Engineers
Dr. Ralph Appy, Port of Los Angeles
Dennis Hagner, Environmental Specialist, Port of Los Angeles
Linda Dishman, Executive Director, Los Angeles Conservancy