



**THE PORT
OF LOS ANGELES**
Executive Director's
Report to the

Board of Harbor Commissioners

DATE: JULY 24, 2018

FROM: ENVIRONMENTAL MANAGEMENT

**SUBJECT: RESOLUTION NO. _____ - FINAL ENVIRONMENTAL
IMPACT REPORT FOR THE BERTHS 167-169 SHELL MARINE OIL
TERMINAL IMPROVEMENTS PROJECT (APP NOS. 131007-133;
140806-095, 161012-153, and 180321-043; SCH NO. 2015061102)**

SUMMARY:

Staff requests that the Board of Harbor Commissioners (Board) certify the Final Environmental Impact Report (EIR) for the Berths 167-169 Shell Marine Oil Terminal Improvements Project (Project) prepared in accordance with the California Environmental Quality Act (CEQA), and approve the Project.

The proposed Project would construct a new Marine Oil Terminal Engineering & Maintenance Standards (MOTEMS) compliant wharf and mooring system for the Shell Marine Oil Terminal at Berths 167-169. This replaces the current timber wharf. As part of the proposed Project, Shell Oil Company has also applied for a new 30-year lease through the year 2048 to allow continued operations of its existing marine oil terminal.

In this action, the Board will need to independently review and consider the Final EIR and, if deemed adequate under CEQA, certify the EIR; adopt specific Findings of Fact (FOF) regarding the significant environmental impacts; adopt a Statement of Overriding Considerations (SOC) and adopt a Mitigation Monitoring and Reporting Program (MMRP). With the application of mitigation measures and lease measures, significant and unavoidable impacts would remain in the areas of air quality and meteorology, and greenhouse gas emissions.

Aside from mitigation and lease measures that are the responsibility of the tenant as outlined in the MMRP and Shell's portion of project construction, the proposed Project is the financial responsibility of the Harbor Department, with the exception of some minor backlands improvements that Shell will be installing themselves.

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RECOMMENDATION:

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

1. Certify the Final Environmental Impact Report for the Berths 167-169 Shell Marine Oil Terminal Improvements Project and that the document: (a) has been completed in compliance with the California Environmental Quality Act (Public Resources Code §21000 et seq.), with the California Environmental Quality Act Guidelines (14 Cal. Code Regs. §15000 et. seq.), and the City of Los Angeles California Environmental Quality Act Guidelines; (b) was presented to the Board of Harbor Commissioners for review and was reviewed and considered by the Board prior to approving the proposed Project; and (c) reflects the independent judgment and analysis of the City of Los Angeles Harbor Department as the Lead Agency;
2. Adopt the Findings of Fact and Statement of Overriding Considerations;
3. Find that, in accordance with the information contained in the Final Environmental Impact Report, the proposed Project will have significant environmental effects on air quality and meteorology and greenhouse gas emissions as defined by Public Resources Code Sections 21068, 21080, 21082.2, and 21083 and the State California Environmental Quality Act Guidelines Sections 15064, 15064.4, 15064.5, and 15382;
4. Find that, in accordance with the provisions of the California Environmental Quality Act Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Berths 167-169 Shell Marine Oil Terminal Improvements Project which substantially lessens or avoids one or more of the significant adverse environmental impacts identified in the Final Environmental Impact Report;
5. Find that, in accordance with the provisions of the California Environmental Quality Act Guidelines Section 15091(a)(3), specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible certain mitigation measures such that environmental impacts remain significant and unavoidable;
6. Find that all information added to the Final Environmental Impact Report after public notice of the availability of the Draft Environmental Impact Report for public review but before certification, merely clarifies, amplifies, or makes insignificant modifications in an adequate Environmental Impact Report, and recirculation is not necessary;
7. Find that, in accordance with Public Resources Code Section 21081(b) and California Environmental Quality Act Guidelines Section 15093, the benefits of creating a safer wharf at Berths 167-169 outweigh the significant and unavoidable environmental impacts, and adopt the Findings of Fact and Statement of Overriding Considerations;

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8. Adopt the Mitigation Monitoring and Reporting Program as required by Public Resources Code Section 21081.6. The Mitigation Monitoring and Reporting Program is designed to ensure compliance with the mitigation measures and lease measures adopted to mitigate or avoid significant effects on the environment, and identifies the responsibilities of the City of Los Angeles Harbor Department, as lead agency, to monitor and verify project compliance with those mitigation measures and lease measures;
9. Approve the Berths 167-169 Shell Marine Oil Terminal Improvements Project identified in the Environmental Impact Report including all feasible mitigation measures and lease measures with consideration of the Findings of Fact and Statement of Overriding Considerations, and the Mitigation Monitoring and Reporting Program;
10. Direct the City of Los Angeles Harbor Department to incorporate by reference the Environmental Impact Report, mitigation measures, lease measures, and Mitigation Monitoring and Reporting Program into any and all lease agreements or assignments encompassed in the approved Project;
11. Authorize the Environmental Management Division to file the Notice of Determination with the Los Angeles County Clerk, the Los Angeles City Clerk, and the State Secretary of Resources; and
12. Adopt Resolution No. _____.

DISCUSSION:

Background/Context – The primary goal of the proposed Project is to comply with Chapter 31.F Marine Oil Terminal Engineering & Maintenance Standards (MOTEMS) of the State of California Building Code. MOTEMS is a comprehensive set of codes and standards for the analysis, design, inspection/maintenance, and operation of existing and new marine oil terminals in the State of California.

The proposed Project would construct a new MOTEMS compliant wharf and mooring system for the Shell Marine Oil Terminal at Berths 167-169, which would replace the current timber wharf. As part of the proposed Project, Shell Oil Company has also applied for a new 30-year lease through the year 2048 to allow continued operations of its existing marine oil terminal.

Project Objectives – The proposed Project would address the project objectives, as summarized below.

- Comply with MOTEMS requirements, which would ensure better resistance to earthquakes, protect the public and the environment, reduce the potential of an oil spill, and consequently maintain the operation and viability of the marine oil facility (primary objective).

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- Optimize the use of existing land at the terminal and associated waterways in a manner that is consistent with the Harbor Department's public trust obligations.
- Continue operations that contribute to Southern California's energy needs given evolving market conditions and business cycle variability.
- Maintain the existing facility's throughput capabilities and operational parameters.
- Comply with the Harbor Department's Source Control Program (SCP).

ENVIRONMENTAL ASSESSMENT:

CEQA Responsibilities – The Harbor Department is the lead agency for the proposed Project under CEQA. As such, the Board is responsible for independently reviewing and considering the Final EIR and, if deemed adequate under CEQA, certify the EIR; adopt specific Findings of Fact (FOF) regarding the significant environmental impacts; adopt a Statement of Overriding Considerations (SOC) and adopt a Mitigation Monitoring and Reporting Program (MMRP).

Scope and Content of Environmental Document – The Draft EIR, dated March 30, 2018, incorporates, as appropriate, information received on the Notices of Preparation (NOPs) for the proposed Project, assesses environmental impacts of the proposed Project, and analyzes alternatives and mitigation measures to reduce or avoid significant environmental effects. The Final EIR clarifies and amplifies the Draft EIR, incorporates modifications and corrections, contains responses to all public comments made on the Draft EIR, and contains records of the public process.

Intended Uses of the EIR – The EIR informs public agency decision-makers and the general public of the significant environmental effects of the proposed Project, recommends mitigation measures to minimize the significant effects, and describes a reasonable range of alternatives to the proposed Project. This EIR is also intended to support future discretionary actions of the Board and the permitting/approval process of all agencies whose discretionary approvals must be obtained for particular elements of this Project. For the Harbor Department, these actions include but are not limited to: issuance of a coastal development permit, issuance of engineering permits, and approval of lease amendments and/or issuance of a new lease.

Environmental Documentation Process and Public Involvement – The proposed Project was subject to the required environmental documentation process that included public disclosure as required by CEQA. The procedural steps of the process are described below.

1. Notices of Preparation (NOPs). In accordance with the Los Angeles City CEQA Guidelines, Article VI, Section 1.5 and the State CEQA Guidelines Section 15082, the responsible agencies, participating City agencies, and other concerned parties were consulted through an NOP released on July 1, 2015, and a public scoping meeting held on July 15, 2015 in the Harbor Administration Building Board Room. No comments were received during the scoping meeting and a total of five written

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comment letters were received during the comment period, which closed on July 31, 2015.

A second NOP was released on April 15, 2016, with comments due on May 16, 2016. A second NOP was determined to be necessary due to changes in the Project baseline. The EIR analyzed an average of vessel and barrel throughput from 2011-2015. This was deemed a more representative baseline than calendar year 2014, which was included in the first NOP. Two new comment letters and a duplicate comment letter were received during the public comment period.

Copies of both NOPs were available for review online at www.portoflosangeles.org, at the City of Los Angeles Harbor Department Environmental Management Division office, and at the City of Los Angeles, San Pedro Branch and Wilmington Branch Libraries.

2. Draft EIR. The Draft EIR was released for public review on March 30, 2018. Copies of the Draft document were made available on the Port of Los Angeles (Port) website, the City of Los Angeles Harbor Department Environmental Management Division office, and at the City of Los Angeles San Pedro Branch, Central Branch, and Wilmington Branch libraries. Notices of Availability were mailed directly to over 100 interested parties. The 45-day comment period closed on May 10, 2018.

Public notices of availability stating that the Draft EIR was available for review were published in six newspapers: Los Angeles Times, Torrance Daily Breeze, Long Beach Press Telegram, Random Lengths, Metropolitan News Enterprise and HOY.

A public hearing was held on April 12, 2018, to present the findings of the environmental analysis and accept oral comments. One person testified at the public hearing. Seven written comments were received during the 45-day public comment period. The comment letters were from the following entities: California Air Resources Board (CARB), California State Lands Commission (CSLC), Central San Pedro Neighborhood Council, City of Los Angeles Wastewater Engineering Services Division, Coastal San Pedro Neighborhood Council, South Coast Air Quality Management District (SCAQMD), and the State Clearinghouse (Office of Planning and Research). Copies of the comment letters and responses to comments are included in the Final EIR.

Additional changes added to the Final EIR after the public review period are minor and merely clarify, amplify, or make minor modifications.

3. Responses to Comments. As required by Public Resources Code Section 21092.5, all public agencies that commented on environmental issues in the Draft EIR were provided with responses to comments 10 days prior to the Final EIR being submitted to the Board for certification.

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4. Final EIR. In accordance with the Los Angeles City CEQA Guidelines Article I, and the State CEQA Guidelines Section 15088, comments received on the Draft EIR were evaluated. The comment letters and responses to comments, along with minor modifications to the Draft EIR are presented in the Final EIR. The Final EIR was completed in July 2018 (Transmittal 1).
5. Findings and Conclusions. The Final EIR transmitted herewith, identifies major findings and conclusions, including a discussion of areas of environmental concern, feasible mitigation measures, and unavoidable impacts. The discussion below summarizes the proposed Findings of Fact and Statement of Overriding Considerations for the Board's consideration (Transmittal 2).

Areas of Environmental Concern. Through the public review process, six comment letters were received (one of which was a "No Comment" letter). The other five letters are briefly summarized here.

The **CSLC** submitted a comment letter indicating concerns about a potential increase in the likelihood of oil spills and the introduction of non-native species from ballast water and new pilings. The responses to comments emphasize that the project is required to comply with CSLC MOTEMS regulations which require safety upgrades at California marine oil terminals. Timber wharfs will be replaced with concrete non-flammable, more earthquake resistant structures. In addition to these regulations, other important safety regulations, navigational procedures and the requirement for double-hulled tankers beginning in 2015 support the conclusion that risk impacts would be less than significant.

Additionally, responses to comments include (per a recommendation in the letter) an expanded discussion of the extensive regulations related to treatment and discharge of ballast water as well as confirmation that the number of pilings for the Project is estimated to be reduced by approximately 85%. The reduction in pilings as well as data indicating that, despite installation of new pilings and in-water structures in the Ports, the overall percentage of non-native invertebrate species has not increased with time supports the conclusion that related impacts to biological resources would be less than significant.

The **SCAQMD** submitted a letter in support of the Air Quality Lease Measure which requires the tenant to study potential emission reduction technologies such as the "bonnet" systems.

They also had technical questions about the various versions of the Environmental Protection Agency (EPA)-required modeling programs used to calculate emission concentrations. Model versions are routinely updated over time by EPA and CARB. Our detailed response to SCAQMD's comment related to emission modeling programs outlines and clarifies how the models used in the emission estimations are accurate and appropriate.

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The **CARB** commented that the Harbor Department should be committed to zero emission technologies. They also suggested consideration of any technologies available to reduce at-berth vessel emissions. On a port-wide level, the Harbor Department is committed to clean air and the ultimate transition toward zero and near-zero emissions technologies through implementation of the 2017 Clean Air Action Plan (CAAP). The 2017 CAAP aligns with the California Sustainable Freight Action Plan and supports the zero-emissions and freight efficiency targets set by the state and other agencies. At the project level, the Shell Marine Oil Terminal does not use on-road vehicles or locomotives to transport its products, nor does it utilize cargo handling equipment (product movement is performed exclusively via pipelines); nonetheless, as mentioned above, this lease requires the tenant to study potential vessel emission reduction technologies such as the “bonnet” systems, as well as conducting periodic technology reviews (LM AQ-1). This lease measure will ensure that the Tenant reconsiders the feasibility of zero- and near-zero- emission technologies in the future as the technologies continue to develop.

The **Central and Coastal San Pedro Neighborhood Councils** both sent letters requesting that the Board deny the Project “unless and until the Harbor Department ensures a decrease of harmful air pollutants at Port operations so that the air quality in the harbor area is determined to comply with minimum federal requirements for air quality”. Shell is an existing marine oil terminal with a current lease until 2023. The “No Project” alternative under CEQA would not meet the Project objectives, which include; compliance with marine oil terminal safety upgrades required by the CSLC MOTEMS regulations; the optimization of the use of existing land at the terminal and associated waterways in a manner that is consistent with the Harbor Department’s public trust obligations; and the continuance of operations which contribute to Southern California’s energy needs given evolving market conditions.

While this section provides a summary of the broader environmental concerns expressed by commenters, detailed responses to all comments received on the document are included in Chapter 2 of the Final EIR.

6. Proposed Mitigation Measures. In accordance with the provisions of the Los Angeles City CEQA Guidelines Article I, the State CEQA Guidelines Section 15091, and the information contained in the EIR, changes or alterations have been required in, or incorporated into, the proposed Project in the form of feasible mitigation which substantially lessen or avoid significant adverse environmental impacts identified in the EIR.

Mitigation measures contained in the EIR would be incorporated as appropriate in permits such as: engineering specifications, construction bid specifications, engineering construction permits, real estate entitlements, and/or coastal development permits for the proposed Project. All mitigation measures, lease measures and any standard conditions of approval can be found in the Mitigation Monitoring and Reporting Program (MMRP) (Transmittal 3).

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Unavoidable Significant Adverse Impacts. Significant impacts that could not be reduced below a level of significance are described in the Findings of Fact and Statement of Overriding Considerations with findings for each impact. The following impact areas could not be mitigated to a level of insignificance under CEQA:

- Air Quality
- Greenhouse Gases

7. Overriding Considerations. Pursuant to Public Resources Code Section 21081(b), no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects unless the agency makes the specific findings discussed above with respect to each significant impact; and finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects. The Findings of Fact and Statement of Overriding Considerations must identify the substantial adverse environmental impacts that cannot be mitigated or avoided; make recommendations, if any, by the lead agency that the project or alternatives be approved as proposed; and explain the reasons why, if in the opinion of the decision-making body, the project warrants approval despite such consequences or recommendations.
8. EIR Certification and Project Approval. In light of these findings and conclusions, staff recommends certification of the Final EIR which has been prepared in accordance with CEQA and implementing guidelines.
9. Implementation of Mitigation. When making the CEQA findings required by Public Resources Code Section 21081(a), a public agency shall adopt a reporting or monitoring program in accordance with Public Resources Code Section 21081.6 for changes to the proposed Project which it has adopted or made a condition of Project approval in order to mitigate or avoid significant effects on the environment. An MMRP is transmitted herein for Board consideration and adoption.
10. Record of Proceedings. When making CEQA findings required by Public Resources Code Section 21081(a), a public agency shall specify the location and custodian of the documents or other material which constitute the record of proceedings upon which its decision is based. These records are in the care of the Director of Environmental Management, City of Los Angeles Harbor Department, 222 W. 6th Street, San Pedro, California 90731.
11. Notice of Determination. In accordance with Los Angeles City CEQA Guidelines Article I, and the State CEQA Guidelines Section 15094, a Notice of Determination will be filed with the Los Angeles County and City Clerks after the proposed Project is approved. Public Resources Code Section 21167(c) provides that any action or proceeding alleging that an EIR does not comply with the provisions of CEQA shall commence within 30 days after filing the Notice of Determination.

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FINANCIAL IMPACT:

Certification of the Final EIR is an administrative action that would allow for implementation of the proposed Project. This Board action does not authorize any expenditures related to the proposed Project nor does it commit the Harbor Department to complete the proposed Project.

Award of any capital construction contract related to the proposed Project, as well any approval of a new lease with Shell Oil Company under its existing Permit No. 634, would require Board approval under separate future actions.

Consultant costs to complete the Final EIR are estimated at \$1,106,545 (not including Harbor Department staff time and materials). A total of \$22,540,338 is programmed in the Port's 10-year Capital Improvement Program (actuals through March 2018) for the Shell MOTEMS improvements. As part of the FY 2019 budget adoption process, \$285,933 was programmed within work order 24936 to continue pre-construction efforts in FY 2019 related to the Shell MOTEMS improvements. The Harbor Department's financial obligations beyond FY 2019 are contingent upon the Board's appropriation of funds.

The Harbor Department's financial return on the proposed Project will be fully detailed in any future Board actions requesting approval of the proposed Project's capital expenditures and/or new lease under Permit No. 634. However, preliminary financial analysis indicates the undertaking of the proposed Project would likely conform to the Harbor Department's Board adopted rate of return policy. Aside from mitigation and lease measures as outlined in the MMRP and Shell's construction phases, the majority of the proposed Project is the financial responsibility of the Harbor Department.

CITY ATTORNEY:

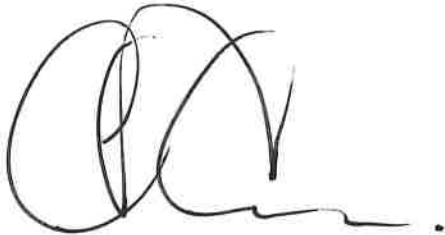
Based upon the information presented to the City Attorney's Office, the Board may certify that the Final Environmental Impact Report for the Berths 167-169 [Shell Marine Oil Terminal] Improvements Project has been completed in compliance with CEQA.

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TRANSMITTALS:

1. Final Environmental Impact Report (FEIR)
2. Findings of Fact and Statement of Overriding Considerations
3. Mitigation Monitoring and Reporting Program (MMRP)

FIS Approval: MB
CA Approval: one



CHRISTOPHER CANNON
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FOR MICHAEL DiBERNARDO
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APPROVED:



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CC/yo
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