

ORDER NO. _____

An Order of the Board of Harbor Commissioners of the City of Los Angeles relating to the proposed BNSF Railway Company (BNSF) Southern California International Gateway (SCIG) Project, a near-dock railyard.

Past Board Actions:

A. On March 7, 2013, the Board adopted Resolution No. 13-7451, which certified the SCIG Project FEIR in compliance with the California Environmental Quality Act (CEQA), adopted related documents and findings, including findings of approval, Statement of Overriding Considerations and a Final Mitigation Monitoring and Reporting Program, and approved the SCIG Project.

B. On March 21, 2013, the Board adopted Order No. 13-7125, which approved the Site Preparation and Access Agreement (SPAA) and Permit No. 901 between the Harbor Department and BNSF for the SCIG Project, predicated on the FEIR certification.

Past City Council Actions:

D. On May 8, 2013, the Los Angeles City Council adopted Motions 10-A, 10-B (as amended), 10-D and 10-E, under Council File No. 13-0398 (the Lease Council File), which adopted Order No. 13-7125, approving the SPAA and Permit No. 901, as a long-term lease pursuant to Los Angeles City Charter Sec. 607.

Court Order:

E. Ensuing litigation¹ regarding the SCIG Project FEIR resulted in a court order mandating that the Board and City Council set aside the certification of the SCIG FEIR and specified findings, decisions and approvals predicated on the certification, and to suspend any and all project activities pursuant to or in furtherance of these determinations, findings and decisions until the City and BNSF have taken all actions necessary to bring the determinations, findings and decisions into compliance with CEQA. A companion Board Order to this Order sets aside the FEIR and environmental determinations, findings and approvals.

¹ Fast Lane Transportation, Inc., et al. v. City of Los Angeles, et al., Contra Costa Superior Court Case No. CIVMSN 14-0300, also known as City of Long Beach, et al. v. City of Los Angeles, et al., California Court of Appeal, First Appellate District, Division Three Case No. A148993, California Supreme Court Case No. S247157.

TRANSMITTAL 1

**THE BOARD OF HARBOR COMMISSIONERS OF THE CITY OF LOS ANGELES
DOES HEREBY ORDER AS FOLLOWS:**

1. The following actions, resolutions, and order are hereby set aside:

The Los Angeles Board of Harbor Commissioners' approval of the Site Preparation and Access Agreement and Permit No. 901 with the BNSF Railway Company, as memorialized in the March 8, 2013 Notice of Determination, and the March 20, 2013 Order No. 13-7125, and Board Order 13-7125 re SPAA and Permit 901.

2. The Secretary shall certify to the adoption of this Order by the Board of Harbor Commissioners of the City of Los Angeles and shall cause a copy of the same to be presented to the City Council and request that the City Council take similar actions to set aside all City Council SCIG project and real property approvals, including:

The Los Angeles City Council's May 8, 2013 approval of the Site Preparation and Access Agreement and Permit 901 with the BNSF Railway Company for the construction, operation and maintenance of the SCIG facility, all as evidenced by the May 9, 2013 Notice of Determination and May 8, 2013 Los Angeles City Council Motions 10-A, 10-B (as Amended), 10-D and 10-E under City Council File 13-0398.

I HEREBY CERTIFY that the foregoing Order was adopted by the Board of Harbor Commissioners of the City of Los Angeles at its meeting of _____.

AMBER KLESGES
Board Secretary

APPROVED AS TO FORM AND LEGALITY

July 26, 2018
MICHAEL N. FEUER, City Attorney
Janna B. Sidley, Harbor Dept. General Counsel

By Joy M. Crose
Joy M. Crose, Assistant General Counsel

JMC:cp
7/26/18