



**THE PORT
OF LOS ANGELES**

Executive Director's
Report to the
Board of Harbor Commissioners

DATE: DECEMBER 5, 2014

FROM: PLANNING & ECONOMIC DEVELOPMENT

SUBJECT: RESOLUTION NO. _____ – ISSUANCE OF A LEVEL II NON-APPEALABLE COASTAL DEVELOPMENT PERMIT (NO. 14-17) SOIL REMEDIATION PROJECT AT BERTHS 171-173

SUMMARY:

The City of Los Angeles Harbor Department (Harbor Department) proposes a soil remediation project at Berths 171-173 to satisfy a cleanup and abatement order from the California Regional Water Quality Control Board. The proposed project would remove an estimated 83,000 cubic yards of chemically affected soil and replace it with clean fill. Chemicals would be added to the existing soil to bioremediate remaining petroleum hydrocarbons and volatile organic compounds before the clean soil is placed at the site. The proposed project will be financed through settlements concluded with Kinder Morgan, Texaco, and ConocoPhillips wherein they agreed to reimburse 60 percent, 25 percent, and 15 percent, respectively, of the Harbor Department's costs to investigate, monitor, and remediate the terminal. The estimated remediation cost is \$19.5 million and the Harbor Department has been reimbursed for pre-project analysis cost of approximately \$4.6 million, for a total estimated project cost of \$24.1 million. Should total soil remediation project costs exceed \$25 million, the Harbor Department will be responsible for 60 percent of the excess cost and Texaco and ConocoPhillips would bear the 40 percent remainder. Staff recommends that the Board of Harbor Commissioners (Board) approve Coastal Development Permit (CDP) No. 14-17, a Level II non-appealable permit for the proposed project.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

1. Hold a public hearing for the proposed Coastal Development Permit No. 14-17, a Level II non-appealable permit;
2. Find that the proposed project conforms with the certified Port Master Plan and find that this project will have no significant adverse environmental impacts as provided in the California Environmental Quality Act;
3. Upon closure of the public hearing, resolve to approve the issuance of Coastal Development Permit No. 14-17, consistent with the project description listed on Application for Port Permit No. 140811-099, and direct the Director of Planning & Economic Development to issue said permit; and

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4. Adopt Resolution No. _____.

DISCUSSION:

Background/Context – For approximately 75 years, Berths 171-173 was used as a shipment and storage terminal for a variety of petroleum products that were stored in above-ground storage tanks at three tank farms (Transmittal 1). In 1982, GATX Tank Storage Terminals Corp. (GATX) took over operations and leased the underlying property. GATX ceased tank farm operations in 1999. In 2001 GATX became Kinder Morgan Liquids Terminals (Kinder Morgan) and Kinder Morgan succeeded GATX as the tenant at Berths 171-173. The terminal remained inactive from 1999 through 2002, when Kinder Morgan decided not to seek a lease renewal. Under the terms of their permit, they were obligated to remove the improvements at the site, facilitate soil and groundwater investigations, and undertake site restoration.

On December 4, 2002, the Board approved a Level II Coastal Development Permit (CDP No. 02-37) to decommission and demolish the marine liquid bulk terminal. The terminal was demolished in 2003, including 19 above-ground storage tanks, truck loading racks, pumping stations, utility sheds, and an office building.

Although Kinder Morgan demolished the site, contaminated soil and groundwater were not remediated at that time. In 2005, the City of Los Angeles (City) filed a complaint asserting causes of action for nuisance, negligence, breach of contract, and contribution pursuant to the California Water Code section 13304(c)(1) against Kinder Morgan as successor of GATX, which operated the terminal from 1982 to 1999; ConocoPhillips, which operated the terminal from 1968 to 1982; and Texaco, which operated the terminal from 1923 to 1968.

The site is under a Cleanup and Abatement Order No. R4-2008-0006 issued by the Regional Water Quality Control Board in March 2008.

From 2008 to 2013, three settlements were finalized with Texaco, ConocoPhillips, and Kinder Morgan to reimburse costs to investigate, monitor, and remediate Berths 171-173. In 2008, the Board approved Texaco Settlement Agreement 08-2695 and ConocoPhillips Settlement Agreement 08-2696 to reimburse the Harbor Department 25 percent and 15 percent, respectively, of costs related to the remediation; both settlements included a ten-year sunset clause and so they are in effect through mid-2018. At the Board meeting held on March 7, 2013, the Board approved Settlement Agreement 13-3122 with Kinder Morgan to reimburse the Harbor Department 60 percent of costs related to remediation; this settlement had no time limit, but set a monetary cap of \$15 million. This means that the Harbor Department will be reimbursed

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100% of the remediation costs up to \$25 million, and 40% of any remediation costs over \$25 million (through the Texaco and ConocoPhillips settlements).

Scope of Work – The Harbor Department proposes a remediation project that is being conducted under an order from the State Water Resources Control Board at Berths 171-173. The proposed project will excavate and remove an estimated 83,000 cubic yards of chemically impacted soil from the site, requiring approximately 10,000 truck trips. Identified contaminated soil with lead and other metals will be separated and disposed at an off-site location. The soil will be removed down to the base of the intertidal zone. Then, magnesium peroxide, nitrogen, and phosphate will be added and mixed to bioremediate remaining petroleum hydrocarbon and volatile organic compound contamination. A layer of crushed rock at the bottom of the excavations will be installed and then covered with clean fill. A recovery and injection piping system as well as groundwater monitoring wells will be installed at the site for a minimum of 5 years of recovery, remediation, and monitoring.

Should the Board approve the issuance of CDP No. 14-17, work is expected to begin May 2015 and be completed in May 2016 (Transmittal 2). The cost of the remediation project is estimated to be \$19.5 million.

Coastal Permit Requirements – The proposed project is a Level II non-appealable project in accordance with Section 6.4 of the Port of Los Angeles's certified Port Master Plan (PMP). A Level II permit is required for projects that involve significant resources; cause major changes in land and/or water use and in the density or intensity of the use; have the potential of creating significant environmental impacts that can or cannot be mitigated; or are appealable. The proposed project is a Level II CDP because significant resources are involved.

Procedurally, a Level II non-appealable CDP requires a public hearing that is noticed at least fifteen calendar days prior to the scheduled date of the hearing. A public notice for the proposed project was published on December 3, 2014 (Transmittal 3).

The proposed project has been found to be consistent with the PMP and the Chapter 8 policies of the California Coastal Act (Coastal Act) of 1976, as amended. Located in Planning Area 2, this cleanup project does not alter the use of the site. It is currently a vacant site designated for Breakbulk land use. Remediation of the soil would not change the future use. The proposed project to remediate Berths 171-173 is consistent with Section 30708 of the Coastal Act and Policy 2.1 of the PMP, which requires port-related development give highest priority for the use of existing land within harbors to port purposes such as cargo operations.

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ENVIRONMENTAL ASSESSMENT:

The proposed action is issuance of a CDP to the Harbor Department for soil remediation at Berths 171-173. This project was evaluated in a previously prepared Environmental Impact Report (EIR) and certified by the Board on January 8, 1997 (ADP #910117-001) (SCH #91051025). An Addendum was prepared subsequent to the certification of a Final EIR and was approved by the Board on December 4, 2002. Therefore, as an activity for which the underlying project has previously been evaluated for environmental significance and processed according to the requirements of the California Environmental Quality Act (CEQA), the Director of Environmental Management has determined that the proposed action is exempt from the requirements of CEQA in accordance with Article II Section 2 (i) of the Los Angeles City CEQA Guidelines.

ECONOMIC BENEFITS:

The project associated with the proposed CDP will support 157 direct and 128 secondary one-year equivalent jobs for the five-county region.

FINANCIAL IMPACT:

Settlements were concluded with Kinder Morgan, Texaco, and ConocoPhillips wherein they agreed to reimburse 60 percent, 25 percent and 15 percent, respectively, of the Harbor Department's costs to investigate, monitor, and remediate the terminal. The reimbursement commitments from Texaco will expire on June 26, 2018 and ConocoPhillips will expire on July 10, 2018. Kinder Morgan does not have a time limit on their reimbursement obligation of \$15 million. The estimated remediation project cost is \$19.5 million, and the pre-project analysis cost was approximately \$4.6 million, for a total estimated cost of \$24.1 million. If the total cost exceeds \$25 million, the Harbor Department will be responsible for 60 percent of the remainder with Texaco and ConocoPhillips bearing the remaining 40 percent. Remediation expenses incurred and recoverable by the Harbor Department through the Settlement Agreement will be charged to Receivable Pollution Cost Recovery Account No.11220, Center 7000, Program No. 000. The contract for the proposed project will be presented to the Board at a future date with the total project cost details. The Harbor Department has been reimbursed approximately \$4.6 million for costs incurred to date for investigation, analysis, and mitigation and monitoring activities; once a contract for the remediation project is approved, the Harbor Department will use that contract's payment schedule to establish a reimbursement schedule with the settlers as contract milestones are reached.

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CITY ATTORNEY:

The Office of the City Attorney has reviewed this report and determined that it raises no legal issues at this time.

TRANSMITTALS:

1. Site Location Map
2. CDP No. 14-17
3. Public Notice

FIS Approval:  (initials)
CA Approval:  (initials)



MICHAEL KEENAN
Interim Director of
Planning & Economic Development



DAVID L. MATHEWSON
Interim Deputy Executive Director

APPROVED:



EUGENE D. SEROKA
Executive Director

Author: M.Lum

APP No. 140811-099