



**THE PORT
OF LOS ANGELES**
Executive Director's
Report to the
Board of Harbor Commissioners

DATE: MAY 17, 2023

FROM: CARGO & INDUSTRIAL REAL ESTATE

SUBJECT: RESOLUTION NO. _____ - CONSENT TO THE TRANSFER OF 49 PERCENT IN THE AGGREGATE OF THE DIRECT AND INDIRECT OWNERSHIP OF TRAPAC, LLC - PERMIT NO. 881

SUMMARY:

Staff requests consent to the transfer of 49 percent in the aggregate of the direct and indirect ownership of TraPac, LLC (TraPac), a tenant of the City of Los Angeles Harbor Department (Harbor Department) under Permit No. 881 (Permit).

Currently, TraPac is 100 percent owned by International Transportation, Inc. (ITI) (to be renamed TraPac Holdings, LLC), which is 100 percent owned by Mitsui O.S.K. Lines, Ltd. (MOL). Under the proposed transfer, two funds or investment vehicles managed and controlled by a subsidiary of Macquarie Group Limited (MGL) will acquire an aggregate 49 percent direct and/or indirect equity interest in TraPac, as follows: (a) Skipjack Terminal Holdings, L.P. (Skipjack Terminal Holdings), will acquire approximately 22.2 percent of the equity interests in ITI from MOL; and (b) Skipjack (ECI) Holdings, LLC (Skipjack (ECI) Holdings) will acquire approximately 34.5 percent of the equity interests in TraPac from ITI. MOL will retain the remaining 51 percent equity interest in TraPac.

There is a related item on the Board of Harbor Commissioner's agenda for May 25, 2023, also concerning a change to TraPac's upstream ownership and guaranty which will be considered separately and independently from this current action.

No changes will be made to the Permit or terminal operations under this action.

RECOMMENDATION:

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

1. Find that the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of the California Environmental Quality Act (CEQA) under Article II Section 2(f) of the Los Angeles City CEQA Guidelines;
2. Approve and consent to the transfer of approximately (i) 22.2 percent of the ownership of ITI from MOL to Skipjack Terminal Holdings and (ii) 34.5 percent of the ownership of TraPac from ITI to Skipjack (ECI) Holdings, resulting in Skipjack Terminal Holdings and Skipjack (ECI) Holdings holding in the aggregate a 49 percent direct and/or indirect equity interest in TraPac;

SUBJECT: CONSENT TO THE TRANSFER OF 49 PERCENT IN THE AGGREGATE OF THE DIRECT AND INDIRECT OWNERSHIP OF TRAPAC, LLC - PERMIT NO. 881

- 3. Ratify a 2022 transfer resulting from a repurchase of 49 percent interest in TraPac by MOL that was previously held by Brookfield Asset Management, Inc. (Brookfield);
- 4. Direct the Board Secretary to transmit to City Council pursuant to Charter Section 606: (i) the consent to transfer of approximately 22.2 percent of the ownership of ITI (which, prior to the transfer, directly owns and controls 100 percent of TraPac) from MOL to Skipjack Terminal Holdings; (ii) the consent to transfer of the ownership of approximately 34.5 percent of TraPac from ITI to Skipjack (ECI) Holdings; and (iii) ratification of the 2022 transfer resulting from a repurchase of a 49 percent interest in TraPac that was held by Brookfield to MOL; and
- 5. Adopt Resolution No. _____.

DISCUSSION:

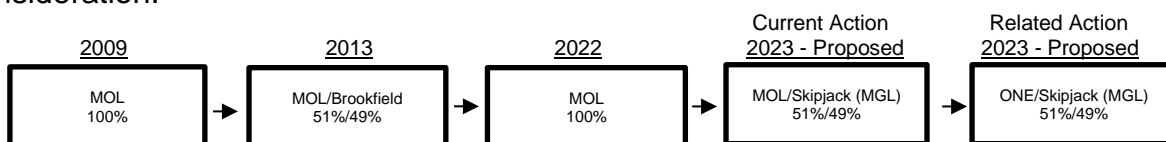
Background - The Harbor Department issued TraPac, a terminal operator at the Port of Los Angeles, the Permit, as amended, to operate through September 28, 2039. TraPac operates at the northern end of the West Basin at Berths 136-147. See Transmittal No.1 – Site Map.

Changes in Ownership – Permit Requirements

Under the Permit, a transfer of more than 25 percent of the economic interest in TraPac constitutes a transfer and requires the Harbor Department’s consent. As such, MGL’s proposed acquisition, through its subsidiaries, of the 49 percent interest in TraPac requires the Board’s consent and must also be approved by the Los Angeles City Council. Securing the Harbor Department’s consent is a condition to closing the transaction between MGL and MOL; said closing is required to occur no later than August 2023. As such, the Board’s consideration of this item is time sensitive given the potentially lengthy City approval process.

Under this action, the Harbor Department and TraPac are complying with and implementing the transfer provision as set forth in the Permit. In evaluating the transfer notice, which TraPac submitted in accordance with the terms of the Permit, the Harbor Department bases its consent on specific factors germane to the transfer. Staff reviewed the details of the transfer, as detailed in the staff report, and determined there is no need to withhold or condition consent to the proposed transfer.

Provided below is a diagram illustrating the changes in TraPac’s upstream ownership since the inception of the Permit, as well as the two proposed changes under consideration.



SUBJECT: CONSENT TO THE TRANSFER OF 49 PERCENT IN THE AGGREGATE OF THE DIRECT AND INDIRECT OWNERSHIP OF TRAPAC, LLC - PERMIT NO. 8811. MOL's sale and subsequent repurchase of Brookfield's Interest:

As of the effective date of the Permit, TraPac was 100 percent owned by MOL. On December 19, 2013, the Board adopted Order No. 13-7151, approving the consent to the sale of a 49 percent ownership interest in ITI, which at the time owned 100 percent of TraPac, to Brookfield. In 2022, MOL repurchased the 49 percent interest in ITI from Brookfield pursuant to an existing right of refusal offer it had in its Stockholders Agreement for ITI, essentially reversing the transfer of consent that the Harbor Department approved in 2013 when MOL originally sold its interest to Brookfield (MOL Repurchase). In February 2022, TraPac advised the Harbor Department that none of the factors existed which would require the Harbor Department's consent to the MOL Repurchase pursuant to Permit Section 14.2 (*Procedure to Obtain Consent to Transfer*) because there was: (1) no new ownership entity that the City needed to evaluate through this repurchase; (2) no change or effective increase in the control or operations of TraPac; and (3) no change in the MOL parent guaranty. In an abundance of caution, staff recommends the Harbor Department ratify the MOL Repurchase. See Transmittal 2 for the hierarchy organizational chart.

2. Proposed Transfer of (an) approximately 22.2 percent of the ownership of ITI (which, prior to the proposed transfer, directly owns and controls 100 percent of TraPac); and (b) approximately 34.5 percent of the ownership of TraPac

The Permit describes certain procedures for TraPac in seeking the Harbor Department's consent to a transfer. Specifically, Section 14.2 requires TraPac to provide written notice, known as a "Transfer Notice," at least 30 days before the effective date of the proposed Transfer. Based on that Section, TraPac provided the required written notice on December 13, 2022, requesting that the Harbor Department consent to the sale of a 49 percent minority interest of ITI from MOL to Skipjack Terminal Holdings, a private fund managed by Macquarie Infrastructure Partners Inc. (MIP), an indirect subsidiary of MGL. This transfer will hereinafter be referred to as the MCQ Transfer. See Transmittal No. 2.

Subsequent to the delivery of the Transfer Notice the parties finalized the definitive transaction structure such that two separate funds or investment vehicles, in each case managed and controlled by MIP, will acquire an aggregate 49 percent direct and/or indirect equity interest in TraPac, as follows: (a) Skipjack Terminal Holdings, L.P. (Skipjack Terminal Holdings), will acquire approximately 22.2 percent of the equity interests in ITI from MOL; and (b) Skipjack (ECI) Holdings, LLC (Skipjack (ECI) Holdings) will acquire approximately 34.5 percent of the equity interests in TraPac from ITI. The exact percentage of such ownership interests to be acquired are subject to nominal adjustments that will be determined prior to the closing of the transfer, but will in any case result in MIP-controlled funds or investment vehicles holding in the aggregate a 49 percent direct and/or indirect equity interest in TraPac, with MOL retaining the remaining 51 percent equity interest in TraPac indirectly through its ownership of ITI, consistent with the Transfer Notice.

SUBJECT: CONSENT TO THE TRANSFER OF 49 PERCENT IN THE AGGREGATE OF THE DIRECT AND INDIRECT OWNERSHIP OF TRAPAC, LLC - PERMIT NO. 881

Although the MCQ Transfer does not involve the transfer of the Permit, nor any interest therein, it does entail the transfer of more than 25 percent of the economic interest in TraPac/Tenant and ITI (which directly owns and controls 100 percent of TraPac/Tenant), which under Section 14.9 (*Transfer of Ownership*) of the Permit, is deemed to constitute a Transfer within the meaning of Section 14.1 (*Transfer Prohibited*) of the Permit. Therefore, TraPac provided the requisite Transfer Notice pursuant to Section 14.2 (*Procedure to Obtain Consent to Transfer*) of the Permit, requesting the Harbor Department's consent to the MCQ Transfer.

Additional procedures to obtain such consent are set forth in Section 14.3 (*Factors Germane to City Consent*) of the Permit. In evaluating any Transfer Notice, the Harbor Department bases its consent on specific factors germane to the transfer. See Transmittal 3, which identifies the factors. Following the evaluation of these factors, staff determined there is no need to withhold or condition consent to the MCQ Transfer. Skipjack Terminal Holdings and Skipjack (ECI) Holdings are new special purposes vehicles; however, the 2009 Guaranty provided by MOL to the Harbor Department, which unconditionally guarantees TraPac's obligations under the Permit, will remain in place, pending the outcome of the related Board action to transfer the guaranty from MOL to Ocean Network Express.

Given that Skipjack Terminal Holdings was only recently formed in November 2022, and Skipjack (ECI) Holdings was only recently formed in April 2023, the Harbor Department's Finance Division reviewed the audited financial statements of TraPac for the periods ending December 31, 2021, 2020, and 2019 in order to evaluate the financial wherewithal of the permittee under Permit No. 881. Based upon this review, staff noted that for the 2021 calendar year, TraPac generated Earnings before Interest, Taxes, Depreciation and Amortization (EBITDA) which exceeded its 2023 minimum annual guarantee (MAG) obligation by more than 3 times. It is worth noting that this EBITDA figure already includes lease expenses incurred in a given year and was relied upon as a proxy for the amount of cash remaining after all operating, general and administrative expenses (inclusive of lease expenses) were already incurred. Furthermore, TraPac as of December 31, 2021, was a very well-capitalized entity with over 75 percent of its assets funded by equity. Lastly, as of December 31, 2021, and 2020, TraPac held sufficient cash and cash equivalents to cover its 2023 MAG. It is worth noting that the amount of cash on hand at the end of each calendar year already includes any outflows associated with the payment of lease expenses to the Harbor Department; therefore, the remaining cash on hand represents the amount available to fund operations, investments and financial transactions at the outset of the subsequent year.

As previously noted, there is a related item on the Board of Harbor Commissioner's agenda for May 25, 2023, concerning a change to TraPac's upstream ownership and guaranty which will be considered separately and independently from this current action. Please refer to this related item for an evaluation of the entity which will ultimately own the remaining 51 percent effective interest in TraPac as well as serve as the new guarantor under Permit No. 881.

SUBJECT: CONSENT TO THE TRANSFER OF 49 PERCENT IN THE AGGREGATE OF THE DIRECT AND INDIRECT OWNERSHIP OF TRAPAC, LLC - PERMIT NO. 881

With respect to TraPac's operations at the Port, TraPac will remain the tenant under the Permit, and the current day-to-day operations of TraPac will remain the same and are expected to be unaffected as a result of the MCQ Transfer.

It is noteworthy that the Permit does not include a provision regarding payment of a transfer fee to the Harbor Department as a condition of the consent to the transfer.

In connection with the noticing process, TraPac informed the Harbor Department that ITI will, prior to the closing of the MCQ Transfer, change its name and convert to TraPac Holdings, LLC, resulting in TraPac Holdings, LLC replacing ITI as the entity which holds 100 percent of the ownership interest of the Harbor Department's Tenant, TraPac.

Summary of Transfer

After the MCQ Transfer, the MIP-controlled funds or investment vehicles (i.e. Skipjack entities) will hold, in the aggregate a 49 percent direct and/or indirect equity interest in TraPac, with MOL retaining the remaining 51 percent equity interest in TraPac. See Transmittal 2 for the hierarchy chart reflecting the MCQ Transfer.

Required Regulatory Approvals

Skipjack Terminal Holdings and ITI secured the required regulatory approvals from the Committee on Foreign Investment in the United States on this proposed transfer.

Requested Action

Staff recommends the Board consent to the MCQ Transfer based upon the review of the transaction involved.

ENVIRONMENTAL ASSESSMENT:

The proposed action is the consent to the transfer of 49 percent of the direct and/or indirect equity interests in TraPac from MOL to certain entities controlled by MIP (as described above), which is an administrative activity. Therefore, the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of CEQA in accordance with Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

The Board's consent to the transfer of 49 percent of the direct and/or indirect equity interests in TraPac from MOL to certain entities controlled by MIP (as described above) is not anticipated to have a negative financial impact on the Harbor Department. As previously noted, TraPac is sufficiently liquid, profitable and well-capitalized to continue serving as a tenant under Permit No. 881. Although Skipjack Terminal Holdings and Skipjack (ECI) Holdings are relatively new entities, they are ultimately managed by MIP. Within a January 2023 letter to the Harbor Department, MIP certified that it has sufficient capital commitments available in connection with this transaction. Staff observed that the amount of capital committed by the funds managed by MIP would serve to support the existing capitalization of TraPac and maintain its ability to honor TraPac's financial commitments under Permit No. 881.

DATE: MAY 17, 2023

PAGE 6 OF 6

SUBJECT: CONSENT TO THE TRANSFER OF 49 PERCENT IN THE AGGREGATE OF THE DIRECT AND INDIRECT OWNERSHIP OF TRAPAC, LLC - PERMIT NO. 881

Based upon the above evaluation, staff has confirmed that TraPac possesses a reasonable level of financial wherewithal to continue meeting its obligations under Permit No. 881 and does not anticipate a negative financial impact to occur if the proposed consent is approved by the Board.

CITY ATTORNEY:

The proposed action has been reviewed and approved as to form and legality by the Office of the City Attorney.

TRANSMITTALS:

Transmittal 1 – Site Map

Transmittal 2 – Hierarchy Chart

Transmittal 3 – Factors Germane to the Harbor Department's Consent to Transfer

FIS Approval: MB
CA Approval: SO

Marisa L. Katnich
MARISA L. KATNICH
Director, Cargo & Industrial Real Estate

Michael DiBernardo
MICHAEL DiBERNARDO
Deputy Executive Director

APPROVED:

Marla Bleavins For
EUGENE D. SEROKA
Executive Director

ES:MD:MK:TK:raw
Author: Traci Kuchta
BL988raw TraPac Transfer