

DRAFT FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS
Document considered draft until Board review and approval

**Berths 167-169 [Shell] Marine Oil Terminal Wharf Improvements
Project
Environmental Impact Report**

APP#s: 131007-133, 140806-095, 161013-153, and 180321-043
SCH#2015061102



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CEQA Findings of Fact and Statement of Overriding Considerations

1.1 Introduction

These Findings of Fact have been prepared by the Los Angeles Harbor Department (LAHD, or Port) as the Lead Agency pursuant to Section 21081 of the Public Resources Code (PRC) and Section 15091 of the State California Environmental Quality Act (CEQA) Guidelines to support a decision to adopt the proposed Project considered in the Environmental Impact Report (EIR) prepared for the Berths 167-169 [Shell] Marine Oil Terminal Wharf Improvements Project. Section 21081 of the Public Resources Code and Section 15091 of the CEQA Guidelines provide that no public agency shall approve or carry out a project for which an EIR has been certified that identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

1. Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.
2. Such changes or alterations are the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
3. Specific economic, legal, social, technological, or other considerations, including provisions of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

The Findings of Fact are based on substantial evidence, including the evaluations and impact determinations made in the EIR prepared pursuant to CEQA. The Lead Agency must not approve a project that will have a significant effect on the environment unless it finds that specific overriding economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of the project outweigh the unavoidable adverse environmental effects, thereby rendering them “acceptable” to the decisionmaker. (PRC Section 21081(b); 14 California Code of Regulations [CCR] Section 15093). The Board of Harbor Commissioners (Board) adopts the Statement of Overriding Considerations set forth below, which identifies the specific overriding economic, legal, social, technological, or other benefits of the project that outweigh the significant environmental impacts identified in the Final EIR.

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Chapter 2 Project Overview

2.1 Introduction

This section describes the proposed Project, which staff is recommending for adoption and as analyzed in the Berths 167-169 [Shell] Marine Oil Terminal Wharf Improvements Project EIR. The EIR analyzes the construction and operation of the proposed Project. The proposed Project is located on Mormon Island, on an existing marine oil terminal, which is within LAHD property. The Shell Marine Oil Terminal at Berths 167-169 has been in operation at the Mormon Island site since 1923 as a marine liquid bulk terminal (handling petroleum products and feedstock). The existing Harbor Department permit/lease (Permit No. 634) became effective in February 1988 and expires in February 2023.

2.1.1 Project Purpose

The LAHD operates the Port under the legal mandates of the Port of Los Angeles Tidelands Trust (Los Angeles City Charter, Article VI, Section 601) and the California Coastal Act (PRC Division 20 Section 30700 *et seq.*), which identify the Port and its facilities as a primary economic and coastal resource of the State of California and an essential element of the national maritime industry for the promotion of commerce, navigation, fisheries, and Harbor operations. Activities should be water dependent and the LAHD must give highest priority to navigation, shipping, and necessary support and access facilities to accommodate the demands of foreign and domestic waterborne commerce. The LAHD is chartered to develop and operate the Port to benefit maritime uses, and it functions as a landlord by leasing Port properties to more than 300 tenants.

As explained in the EIR, 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. Key project elements that would meet MOTEMS requirements include the construction of two new loading platforms to replace the existing timber wharf, new mooring dolphins, and shore side improvements on portions of the terminal. The tenant, Shell, has also applied to the Port for a new, long-term (30-year) lease to allow continued operations of its existing marine oil terminal. The Shell Marine Oil Terminal helps maintain the Port's ability to accommodate fuel imports for the Southern California market over the long-term.

2.1.2 CEQA Objectives

CEQA Guidelines (Section 15124[b]) require that the project description contain a statement of objectives, including the underlying purpose of the proposed Project. The underlying fundamental purpose and project objective is to meet MOTEMS requirements. Following are all of the project objectives:

- Comply with MOTEMS requirements, which would ensure better resistance to earthquakes, protect the public and the environment, and reduce the potential of an oil spill, and consequently maintain the operation and viability of the marine oil facility (primary objective);
- Optimize the use of existing land at the terminal and associated waterways in a manner that is consistent with the LAHD's public trust obligations;
- Continue operations which 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; and
- Comply with the LAHD's Source Control Program (SCP).

2.1.3 Project Description

The Project site is located at Berths 167-169 on Mormon Island in the Port of Los Angeles within the Port of Los Angeles Community Plan area of the City, and within the County of Los Angeles, 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. Other Project elements include piping and related foundation support, and topside equipment replacement. The tenant, Shell Oil Company (hereafter referred to as Shell), has also applied to the Port for a new 30-year lease through the year 2048 to allow continued operations of its existing marine oil terminal. The new lease would contain provisions for further minimizing the potential release of petroleum products, beyond existing controls and measures, through the implementation of Shell's Source Control Program Plan (SCP Plan).

Specifically, the proposed Project consists of the following components to meet MOTEMS requirements:

- Replacement piping and related foundation supports to meet seismic requirements at each operating berth.
- Demolition of the existing timber deck, access trestles, and approximately 900 creosote-treated timber piles of existing timber wharfs at Berths 167-169. Existing piles that cannot be extracted would be cut at the mudline.
- Construction of new loading platforms at Berths 168 and 169 (in phases), installation of new mooring dolphins, new fenders, approach trestles, catwalks, and installation of topside equipment required for loading and unloading operations at and adjacent to the new loading platforms.

In addition, the proposed Project would include the following elements that are not related to MOTEMS compliance:

- 1 ■ Modifications at the Mormon Island marine oil terminal (installation and operation of a
2 vapor control system) to allow for the loading of refined products onto vessels, while
3 meeting US Coast Guard safety regulations and South Coast Air Quality Management
4 District (SCAQMD) air quality regulations.
- 5 ■ An SCP Plan would be provided by Shell as part of the new 30-year lease. The SCP Plan
6 would include commitments for certain improvements. This work may include adding
7 double bottoms or installing leak detection systems to existing storage tanks and pipelines
8 to meet the LAHD's requirements. These improvements would further minimize the
9 potential for accidental release of petroleum products.
- 10 ■ New 30-year lease would allow operations to continue from 2018 through 2048 (the
11 existing lease terminates in 2023).
- 12
- 13

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Chapter 3 CEQA Findings

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3.1 Environmental Impacts of the Proposed Project

4 The Findings of Fact are based on information contained in the Draft EIR and the Final EIR for
5 the proposed Project, as well as information contained within the administrative record. The
6 administrative record includes, but is not limited to, the proposed Project application, project
7 staff reports, reports and studies referenced in the Draft EIR and Final EIR, project public
8 hearing records, public notices, written comments on the project and responses to those
9 comments, proposed decisions and findings on the proposed Project, and other documents
10 relating to the agency decision on the project. When making CEQA findings required by
11 Public Resources Code Section 21081(a), a public agency shall specify the location and
12 custodian of the documents or other materials, which constitute the record of proceedings upon
13 which its decision is based. These records are in the care of the Director of Environmental
14 Management, Los Angeles Harbor Department, 222 West 6th Street, San Pedro, California
15 90731.

16 The Draft EIR addresses the proposed Project’s potential effects on the environment and was
17 circulated for public review and comment pursuant to the State CEQA Guidelines for a period
18 of 45 days. Comments were received from a variety of public agencies, organizations, and
19 individuals. The Final EIR contains copies of all comments and recommendations received on
20 the Draft EIR, a list of persons, organizations and public agencies commenting on the Draft
21 EIR, responses to comments received during the public review, and changes to the Draft EIR.
22 This section provides a summary of the environmental effects of the proposed Project that are
23 discussed in the EIR and provides written findings for each of the significant effects which are
24 accompanied by a brief explanation of the rationale for each finding.

3.1.1 Environmental Impacts Found to Be Significant and Unavoidable

25 The EIR concludes that some, but not all, impacts of the proposed Project in the following
26 environmental resource areas would remain significant and unavoidable despite incorporation
27 of all feasible mitigation:
28
29

- 30 ■ Air Quality and Meteorology
- 31 ■ Greenhouse Gas Emissions and Climate Change

32 The Board hereby finds that, despite the imposition of all feasible mitigation measures, the
33 environmental impacts of the proposed Project are significant and unavoidable, as listed in
34 Table 1 below, which lists the required mitigation measures (designated “MM”) and lease
35 measures (designated “LM”), and potential remaining impacts after mitigation.

Table 1: Significant and Unavoidable Adverse Environmental Impacts for the Proposed Project

Environmental Impact	Impact Determination	Mitigation Measures	Impacts after Mitigation
Air Quality and Meteorology			
<p>AQ-1: The proposed Project would result in construction-related emissions that exceed an SCAQMD threshold of significance in Table 3.1-7 of the Draft EIR.</p>	<p>Construction would be significant for NO_x in construction Years 1, 2, 3 and 5. Overlapping construction and operations would be significant for VOC, NO_x, and PM_{2.5}.</p>	<p>MM AQ-1: Fleet Modernization for Harbor Craft Used During Construction MM AQ-2: Fleet Modernization for On-Road Trucks Used during Construction MM AQ-3: Fleet Modernization for Construction Equipment MM AQ-4: General Mitigation Measure</p>	<p>Construction would be significant and unavoidable for NO_x in construction Years 2, 3 and 5. Overlapping construction and operations would be significant and unavoidable for PM_{2.5}, VOC, and NO_x.</p>
<p>AQ-2: Proposed Project construction would result in off-site ambient air pollutant concentrations that exceed a SCAQMD threshold of significance in Table 3.1-8 of the Draft EIR.</p>	<p>Maximum off-site ambient air pollutant concentrations would be significant for NO₂ (federal and state 1-hour averages). Concurrent construction and operations would be significant for NO₂ (federal and state 1-hour averages).</p>	<p>MM AQ-1 through MM AQ-4</p>	<p>Maximum off-site ambient air pollutant concentrations would be significant and unavoidable for NO₂ (federal and state 1-hour averages). Concurrent construction and operations would be significant and unavoidable for NO₂ (federal and state 1-hour averages).</p>
<p>AQ-3: The proposed Project would result in operational emissions that exceed an SCAQMD threshold of significance in Table 3.1-9 of the Draft EIR.</p>	<p>Operations would be significant for NO_x and VOC in 2019, 2031, and 2048</p>	<p>MM AQ-5: Vessel Speed Reduction Program (VSRP). The following lease measures would also be implemented to reduce impacts: LM AQ-1: Periodic Review of New Technology and Regulations</p>	<p>Operations would be significant and unavoidable for NO_x and VOC in 2019, 2031, and 2048.</p>

Table 1: Significant and Unavoidable Adverse Environmental Impacts for the Proposed Project

Environmental Impact	Impact Determination	Mitigation Measures	Impacts after Mitigation
		LM AQ-2: At-berth Vessel Emission Capture and Control System Study	
Greenhouse Gas Emissions and Climate Change			
GHG-1: The proposed Project would generate GHG emissions, either directly or indirectly that would exceed the SCAQMD 10,000 mty CO ₂ e threshold.	Significant	MM AQ-5: Vessel Speed Reduction Program. LM AQ-1: Periodic Review of New Technology and Regulations. LM GHG-1: GHG Credit Fund.	Significant and unavoidable

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2 **3.1.2 Environmental Impacts Found to Be Less than Significant**
 3 **after Mitigation**

4 The EIR concludes that some, but not all, significant impacts of the proposed Project in the
 5 following environmental resource area would be less than significant after mitigation:

- 6 ■ Biological Resources

7 The Board hereby finds that the following environmental impacts of the proposed Project are
 8 less than significant after implementation of mitigation measures, as summarized in Table 2,
 9 which also lists the mitigation measures applied and the impacts after mitigation.

10

Table 2: Significant Environmental Impacts that Can be Mitigated for the Proposed Project

Environmental Impact	Impact Determination	Mitigation Measures	Impacts after Mitigation
Biological Resources			
BIO-1: The proposed Project has the potential to result in the loss of individuals, or the reduction of existing habitat, of a state or federally listed endangered, threatened, rare, protected, or candidate species, or a Species of Special Concern or the loss of federally designated critical habitat.	Construction – Significant	MM BIO-1. Protect marine mammals	Less than significant
BIO-2: The proposed Project has the potential to result in a substantial reduction or alteration of a state, federally, or locally designated natural habitat, special aquatic site, or plant community, including wetlands.	Construction – Significant	MM BIO-2. Protect eelgrass	Less than significant

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2 **3.1.3 Environmental Impacts Found to Be Less than Significant**

3 The EIR concludes that all impacts of the proposed Project in the following environmental
4 resource areas would be less than significant.

- 5 ■ Hazards
6 ■ Energy Conservation

7 In addition, the EIR concludes that some, but not all, impacts of the proposed Project in the
8 following environmental resource areas would be less than significant.

- 9 ■ Air Quality and Meteorology
10 ■ Biological Resources

11 The Board finds that the following environmental impacts of the proposed Project are less than
12 significant and hereby makes the same determination based on the conclusions in the Final EIR,
13 as summarized in Table 3. No mitigation measures are required for impacts that are less than
14 significant (14 CCR Section 15126.4(3)(a)).

15

Table 3: Less Than Significant Environmental Impacts for the Proposed Project

Environmental Impact	Impact Determination	Mitigation Measures	Impacts after Mitigation
Air Quality and Meteorology			
AQ-4: Proposed project operations would not result in off-site ambient air pollutant concentrations that exceeds a SCAQMD threshold of significance in Table 3.1-10 of the Draft EIR.	Less than significant	No mitigation is required	Less than significant
AQ-5: The proposed Project would not create an objectionable odor at the nearest sensitive receptor.	Less than significant	No mitigation is required	Less than significant
AQ-6: The proposed Project would not expose receptors to significant levels of TACs.	Less than significant	No mitigation is required	Less than significant
AQ-7: The proposed Project would not conflict with or obstruct implementation of an applicable AQMP.	Less than significant	No mitigation is required	Less than significant
Biological Resources			
BIO-1: The proposed Project has the potential to result in the loss of individuals, or the reduction of existing habitat, of a state or federally listed endangered, threatened, rare, protected, or candidate species, or a Species of Special Concern or the loss of federally designated critical habitat.	Operation – Less than significant	No mitigation is required	Less than significant.
BIO-2: The proposed Project has the potential to result in a substantial reduction or alteration of a state, federally, or locally designated natural habitat, special aquatic site, or plant community, including wetlands.	Operation – Less than significant	No mitigation is required	Less than significant
BIO-3: The proposed Project would not result in a substantial disruption of local biological communities (e.g., from construction impacts or the introduction of noise, light, or invasive species).	Less than significant	No mitigation is required	Less than significant

Table 3: Less Than Significant Environmental Impacts for the Proposed Project

Environmental Impact	Impact Determination	Mitigation Measures	Impacts after Mitigation
Hazards			
RISK-1: The proposed Project would not substantially increase the probable frequency or severity of consequences to people or property as a result of a potential accidental release or explosion of a hazardous substance.	Less than significant	No mitigation is required	Less than significant
RISK-2: The proposed Project would not result in a measurable increase in the probability of a terrorist attack, which would result in adverse consequences to the Project site and nearby areas.	Less than significant	No mitigation is required	Less than significant
Energy Conservation			
The proposed Project would not result in the wasteful, inefficient, or unnecessary consumption of energy, or wasteful use of energy resources, during project construction or operation, and would not result in significant energy efficiency impacts	Less than significant	No mitigation is required.	Less than significant

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2 **3.2 Findings Regarding Environmental Impacts Found to**
 3 **Be Significant and Unavoidable**

4 The EIR concludes that unavoidable significant impacts on the following environmental
 5 resources would occur if the proposed Project was implemented.

- 6 ■ Air Quality and Meteorology
 7 ■ Greenhouse Gas Emissions and Climate Change

8 All available feasible mitigation measures have been incorporated into the proposed Project to
 9 reduce significant impacts. However, even with the incorporation of all feasible mitigation
 10 measures, impacts on these environmental resources would remain significant and unavoidable.
 11 The Board has determined that no additional feasible mitigation measures or alternatives would
 12 reduce significant impacts to less-than-significant levels, and in light of specific economic,
 13 legal, social, technological, and other considerations, the Board intends to adopt a Statement of
 14 Overriding Considerations (see Chapter 1 of this document for additional details). The impacts,
 15 mitigation measures, findings, and rationale for the findings are presented for all significant and
 16 unavoidable impacts identified in the Final EIR below.

3.2.1 Air Quality and Meteorology

As discussed in Section 3.1 of the Draft EIR, there would be three unavoidable significant impacts to air quality and meteorology related to construction and operation as a result of the proposed Project. However, mitigation measures were identified for the significant and unavoidable impacts to air quality. The impacts and mitigation measures are discussed below.

Impact AQ-1: The proposed Project would result in construction-related emissions that exceed an SCAQMD threshold of significance in Table 3.1-7.

As shown in Tables 3.1-11 and Table 3.1-12 in Section 3.1, Air Quality and Meteorology, of the Draft EIR, the unmitigated peak daily construction emissions would exceed the South Coast Air Quality Management District (SCAQMD) daily emission thresholds for NO_x during Years 1, 2, 3 and 5 of construction. Overlapping construction and operations would be significant for PM_{2.5}, NO_x, and VOC emissions during Year 3, the peak year of construction. Therefore, unmitigated project construction emissions would be significant for NO_x, and overlapping construction and operation would be significant for PM_{2.5}, NO_x, and VOC prior to mitigation.

Finding

The Board hereby finds that changes or alterations have been required in or incorporated into the proposed Project that avoid or substantially lessen the significant environmental effect identified in the Final EIR. Implementation of the following mitigation measures would substantially lessen emissions from criteria pollutants associated with construction of the proposed Project, as well as lessen emissions from criteria pollutants during overlap of construction and operation.

However, as shown in Tables 3.1-13 and 3.1-14 of the Draft EIR, construction emissions of NO_x in Years 2, 3, and 5 would remain significant. Additionally, overlapping construction and operations for PM_{2.5}, NO_x and VOC in Year 3 would remain significant. Specific economic, legal, social, technological, or other considerations make any additional mitigation measures infeasible. The following mitigation measures have been included to reduce impacts.

MM AQ-1: Fleet Modernization for Harbor Craft Used During Construction.

Harbor craft must use U.S. Environmental Protection Agency (EPA) Tier 3 or cleaner engines.

MM AQ-2: Fleet Modernization for On-road Trucks Used During Construction.

Trucks with a Gross Vehicle Weight Rating of 19,500 pounds (lbs) or greater, including import haulers and earth movers, must comply with EPA 2010 on-road emission standards.

MM AQ-3: Fleet Modernization for Construction Equipment. All diesel-fueled construction equipment greater than 50 horsepower (hp) must meet EPA Tier 4 off-road emission standards (excluding vessels, harbor craft, on-road trucks, and dredging equipment).

MM AQ-4: General Construction Mitigation Measure. For MM AQ-1 through MM AQ-3, if a California Air Resources Board (CARB)-certified technology becomes available and is shown to be as good as, or better than, the existing measure in terms of emissions performance, the technology could replace the

1 existing measure pending approval by LAHD. Measures will be set at the
2 time a specific construction contract is advertised for bid.

3
4 **Rationale for Finding**

5 Changes or alterations have been incorporated into the proposed Project in the form of
6 mitigation measures **MM AQ-1** through **MM AQ-4**, which would reduce criteria pollutant
7 emissions associated with construction. While mitigation measures presented in the Final EIR
8 reduce emissions, emissions would still exceed SCAQMD significance criteria during
9 construction for NO_x in construction Years 2, 3 and 5. In addition, although emissions from
10 overlapping construction and operation would be reduced with mitigation, they would remain
11 significant and unavoidable for PM_{2.5}, NO_x and VOC in construction Year 3.

12 Emissions would largely come from off-road construction equipment (including pile driving
13 equipment) and marine sources (including ships and tugboats used to assist dredging barges),
14 but also from haul trucks used for material deliveries and disposal of excavated and demolition
15 material. As part of the Draft EIR, mitigation was developed aimed at reducing these emissions
16 through construction equipment fleet modernization. Mitigation measures **MM AQ-1** through
17 **MM AQ-4** represent feasible means to reduce air pollution impacts from construction sources.
18 All mitigation measures determined feasible by LAHD have been identified in the Final EIR.

19 **Impact AQ-2: Proposed Project construction would result in off-site**
20 **ambient air pollutant concentrations that exceed a SCAQMD threshold of**
21 **significance in Table 3.1-8.**

22 As shown in Table 3.1-15 of the Draft EIR, maximum off-site ambient air pollutant
23 concentrations would exceed SCAQMD thresholds for NO₂ (federal and state 1-hour average).
24 Additionally, as shown on Table 3.1-17 in the Draft EIR, overlapping construction and
25 operations would be significant for NO₂ (federal and state 1-hour average). Therefore, without
26 mitigation, maximum off-site ambient pollutant concentrations associated with the construction
27 of the proposed Project would be significant for NO₂ (federal and state 1-hour average) and
28 overlapping construction and operations would also be significant for NO₂ (federal and state 1-
29 hour average).

30 **Finding**

31 The Board hereby finds that changes or alterations have been required in or incorporated into
32 the proposed Project that avoid or substantially lessen the significant environmental effects
33 identified in the Final EIR. Implementation of mitigation measures **MM AQ-1** through **MM**
34 **AQ-4**, as presented above under Impact AQ-1, would substantially lessen off-site ambient
35 pollutant concentrations associated with the construction of the proposed Project, as well as
36 overlap of construction and operation relative to the unmitigated project levels.

37 Table 3.1-19 in the Draft EIR shows that the maximum off-site federal and state 1-hour NO₂
38 concentrations from construction activities would be reduced with mitigation but would remain
39 significant. Table 3.1-20 in the Draft EIR shows that the maximum off-site federal and state 1-
40 hour NO₂ concentrations from overlapping construction and operational activities would be
41 reduced with mitigation but would remain significant.

42 Therefore, even with implementation of mitigation measures, maximum off-site ambient air
43 pollutant concentrations for construction emissions would be significant and unavoidable for
44 NO₂ (federal and state 1-hour averages). Overlapping construction and operations would be

1 significant and unavoidable for NO₂ (federal and state 1-hour averages). The residual air
2 quality impacts would be temporary but significant after mitigation. Specific economic, legal,
3 social, technological, or other considerations make any additional mitigation measures
4 infeasible.

5 **Rationale for Finding**

6 Changes or alternations have been incorporated into the proposed Project in the form of
7 mitigation measures **MM AQ-1** through **MM AQ-4**, which would reduce the ambient impact
8 relative to project levels. Emissions would largely come from off-road construction equipment
9 (including pile driving equipment) and marine sources (including ships used to deliver cranes
10 and tugboats used to assist dredging barges), but also from haul trucks used for material
11 deliveries and disposal of excavated demolition material.

12 As part of the Draft EIR, mitigation was developed aimed at reducing these emissions through
13 construction equipment fleet modernization. Construction equipment emissions would be
14 reduced as a result of the mitigation measures but would remain significant and unavoidable for
15 NO₂ (federal 1-hour and state 1-hour average). Mitigation measures **MM AQ-1** through **MM**
16 **AQ-4** represent feasible means to reduce air pollution impacts from construction sources. All
17 mitigation measures determined feasible by LAHD have been identified in the Final EIR.

18 **Impact AQ-3: The proposed Project would result in operational emissions** 19 **that exceed an SCAQMD threshold of significance in Table 3.1-9.**

20 As shown in Table 3.1-21 in the Draft EIR, emissions from the proposed Project's peak daily
21 operations would exceed SCAQMD significance thresholds for NO_x and VOC in 2019, 2031,
22 and 2048 prior to mitigation.

23 The largest contributors to peak daily operational emissions in all analysis years would be
24 emissions from vessel transits and anchoring. Vessel hoteling would be key secondary
25 contributors. Emissions would generally decline slightly for NO_x and VOC from year 2019 to
26 2048 as regulatory requirements (such as emission reductions for tugs) continue to reduce
27 emission factors over time. Nonetheless, air quality impacts associated with project daily peak
28 operations would be significant for NO_x and VOC in 2019, 2031, and 2048 prior to mitigation.

29 **Finding**

30 The Board hereby finds that changes or alterations have been required in, or incorporated into,
31 the proposed Project that avoid or substantially lessen the significant environmental effect
32 identified in the Final EIR. The implementation of mitigation measures **MM AQ-5** and
33 LAHD's standard lease measures **LM AQ-1** and **LM AQ-2** would reduce operational
34 emissions.

35 **MM AQ-5: Vessel Speed Reduction Program (VSRP).** 95 percent of vessels calling at
36 Shell Marine Oil Terminal will be required to comply with the expanded VSRP
37 at 12 knots between 40 nautical miles (nm) from Point Fermin and the
38 Precautionary Area.

39 **LM AQ-1: Periodic Review of New Technology and Regulations.** LAHD will require
40 the tenant to review any LAHD-identified or other new emissions-reduction
41 technology, determine whether the technology is feasible, and report to LAHD.
42 Such technology feasibility reviews will take place at the time of LAHD's
43 consideration of any lease amendment or facility modification for the proposed

1 project site. If the technology is determined by LAHD to be feasible in terms
2 of cost and technical and operational feasibility, the tenant will work with
3 LAHD to implement such technology.

4 Potential technologies that may further reduce emissions and/or result in cost-
5 savings benefits for the tenant may be identified through future work on the
6 Clean Air Action Plan (CAAP). Over the course of the lease, the tenant and
7 LAHD will work together to identify potential new technology. Such
8 technology will be studied for feasibility, in terms of cost, technical and
9 operational feasibility, and emissions reduction benefits. As partial
10 consideration for the lease, the tenant will implement not less frequently than
11 once every five years following the effective date of the permit, new air quality
12 technological advancements, subject to mutual agreement on operational
13 feasibility and cost sharing, which will not be unreasonably withheld. The
14 effectiveness of this measure depends on the advancement of new technologies
15 and the outcome of commercial availability, future feasibility or pilot studies.

16 **LM AQ-2: At-Berth Vessel Emissions Capture and Control System Study.** The Tenant
17 shall evaluate the financial, technical, and operational feasibility of operating
18 barge and land-based vessel emissions capture and control systems and any
19 other systems associated with emission reductions (hereinafter “Control
20 Systems”) that are available within three (3) months after the Effective Date.
21 The City of Los Angeles (City) and Tenant will decide which systems should
22 be considered for the reduction of emissions from all vessels calling at the
23 Premises. The evaluation of feasibility shall consider any potential impacts
24 upon navigation, safety, and emission reductions. Cost Effectiveness (as
25 defined below), and any other factors reasonably determined by Tenant to be
26 relevant shall also be considered. For purposes of the feasibility evaluation,
27 “Cost Effectiveness” shall be defined as the annualized cost (in Dollars per
28 year) of the Control Systems (“Annualized Cost”) based on an agreed time
29 period (the duration of such period determined with reasonable consideration of
30 the Carl Moyer grant guidelines), divided by the annual net emission reductions
31 (unweighted aggregate of net emissions reduction in tons per year of VOC,
32 NO_x, and PM₁₀) over the same time period during use of the Control Systems
33 (“Net Annual Emission Reductions”). Annualized Cost shall include all costs
34 associated with the Control Systems, including without limitation, all capital
35 costs associated with design, permitting and construction of the Control
36 Systems and all costs associated with system evaluation, operations and
37 maintenance. Cost Effectiveness (dollars per ton) may be calculated pursuant to
38 the formulas below.

- 39
- 40 • Cost Effectiveness (\$/ton) = Annualized Cost (\$/year) / Net
Annual Emission Reductions (tons/year)
 - 41 • Net Annual Emission Reductions = Annual Vessel Emission
42 Reductions – Annual Emissions Generated by Control System
43 and Associated Equipment Operations

44 If Cost Effectiveness is greater than the Carl Moyer Program Guidelines, as
45 approved by the California Air Resources Board as of the Effective Date, then
46 implementation of the Control Systems shall not be considered feasible.

1 Tenant shall provide the Director of Environmental Management Division for
2 the Harbor Department with a written report (the “Report”) documenting the
3 findings and conclusions of the feasibility analysis within one year of the
4 Effective Date. The Report’s feasibility conclusion shall include, but not be
5 limited to, specific findings in the following areas: (1) size constraints; (2)
6 allowance for articulation of the recovery crane/device to service a variety of
7 ship sizes that may reasonably call at the premises during the term of the
8 proposed permit; (3) navigation for terminal operations as well as those of
9 adjacent terminals; (4) compliance with Marine Oil Terminal Engineering and
10 Maintenance Standards; (5) operational safety issues; and (6) compliance with
11 the rules and orders of any applicable regulatory agency. The deadline for
12 Tenant to submit the Report may be extended with the approval of the Board of
13 Harbor Commissioners (Board), provided that such approval shall not be
14 unreasonably withheld. City shall have six months to review and comment on
15 the Report unless the Board reasonably determines that additional time is
16 needed as a result of unanticipated events or any events beyond the reasonable
17 control of the City. The Report and any associated staff comments from the
18 City will be presented by the City to the Board at a public meeting. If the
19 City’s review of the Report is delayed beyond one year, then the City shall
20 present this information to the Board at a public meeting along with a proposed
21 new comment deadline for the City.

22 If the Board and Tenant agree that implementation of a Control System(s)
23 is/are feasible, then Tenant shall complete a pilot study (“Pilot Study”) within
24 three years of the later of (i) receiving all approvals and permits required by
25 Applicable Laws for such study; (ii) receiving any and all licenses and other
26 intellectual property rights required by Applicable Laws to conduct such study;
27 (iii) commencing with terminal operations upon the completion of all New
28 Improvements and Tenant Constructed Improvements; and (iv) Board
29 providing Tenant with approval to proceed. The deadline for Tenant to
30 complete the Pilot Study may be extended with approval by the Board,
31 provided that such approval shall not be unreasonably withheld. The Pilot
32 Study shall consist of (i) installation of a test control system (the “Test
33 System”) for purposes of testing the performance of a Control System; and (ii)
34 testing of the Test System and the collection of data therefrom. At the
35 conclusion of testing, the Tenant shall submit a report (the “Pilot Study
36 Report”) to the Board. The Pilot Study Report shall include the following
37 information: vessels tested, operation and maintenance costs, emission
38 reductions, operational considerations and any other information Tenant
39 reasonably determines to be relevant. The results of the Pilot Study, and any
40 intellectual property rights therein, shall be owned by Tenant. The City and the
41 Board shall use the results and Pilot Study Report only for the evaluation of the
42 Pilot Study. City shall not issue any press releases or make any written public
43 disclosures with respect to the Report or the Pilot Study Report without first
44 providing Tenant with a reasonable opportunity to review such releases or
45 disclosure for accuracy and to ensure that no technical information is disclosed
46 where such public disclosure is not necessary (Tenant understands that nothing

1 herein shall be interpreted to supersede the California Public Records Act and
2 the City’s responsibilities thereto).

3 If, based on the results of the Pilot Study set forth in the Pilot Study Report, the
4 City and Tenant determine that all of the issues relating to feasibility and
5 regulatory requirements of the Control System were adequately addressed, then
6 Tenant shall, as soon as reasonably practicable after such determination,
7 implement the Control System(s) into its operations throughout the remainder
8 of the permit.

9 All capitalized terms not otherwise defined herein shall have the meaning
10 ascribed to them in the tenant’s permit.

11 Following the implementation of the mitigation and lease measures, the proposed Project’s
12 peak daily operational emissions for NOx and VOC would remain above the level of
13 significance in 2019, 2031, and 2048. Specific economic, environmental, legal, social,
14 technological, or other considerations make any additional mitigation measures infeasible.

15 The Board finds that specific economic, environmental, legal, social, technological, or other
16 considerations make infeasible additional mitigation measures or project alternatives identified
17 in the Final EIR. All mitigation measures determined feasible by LAHD as identified in the
18 Final EIR have been incorporated into the proposed Project. Nevertheless, even with the
19 incorporation of feasible mitigation measures, impacts would remain significant and
20 unavoidable.

21 **Rationale for Finding**

22 For the proposed Project, terminal activity would increase in each study year. However,
23 regulatory requirements would serve to reduce emission factors from most project sources. The
24 largest contributors to peak daily operational emissions in all analysis years would be emissions
25 from tank vessel transits and anchoring. Vessel hoteling would be key secondary contributor.
26 Peak daily emissions for NOx and VOC would generally decrease between years 2019 and
27 2048 due to regulatory requirements for emission reductions for harbor craft coupled with
28 limited berth space, which restricts the number of vessels that can be accommodated at any
29 given time.

30 As part of the Draft EIR, mitigation was developed aimed at reducing these emissions through
31 compliance with the VSRP. Mitigation measure **MM AQ-5** and lease measures **LM AQ-1** and
32 **LM AQ-2** have been incorporated into the project, which potentially lessen significant daily
33 peak operational emissions and represent feasible means to reduce air pollution impacts from
34 project operational sources.

35 All mitigation measures determined feasible by LAHD have been identified in the Final EIR.

36 **3.2.2 Greenhouse Gas Emissions and Climate Change**

37 As discussed in Section 3.3 of the Draft EIR, there would be one unavoidable significant impact
38 on GHG emissions related to construction and operation of the proposed Project. The impact
39 and mitigation measures are discussed below.

1 **Impact GHG-1: The proposed Project would generate GHG emissions,**
2 **either directly or indirectly, that would exceed the SCAQMD 10,000 mty**
3 **CO_{2e} threshold.**

4 The proposed Project’s GHG emissions minus the CEQA baseline would exceed the GHG
5 threshold of 10,000 mty by 2048. Emissions from all operational source types would increase
6 over the life of the proposed Project because of terminal throughput increase. Proposed Project
7 GHG emissions would be significant by year 2048 prior to mitigation.

8 **Finding**

9 The Board hereby finds that changes or alterations have been required in, or incorporated into,
10 the proposed Project that avoid or substantially lessen the significant environmental effect
11 identified in the Final EIR. The implementation of mitigation measure **MM AQ-5** and LAHD’s
12 standard lease measure **LM AQ-1** as described above under Section 3.2.1, Air Quality and
13 Meteorology, would reduce GHG emissions. In addition, LAHD’s standard lease measure **LM**
14 **GHG-1** shown below would further reduce future GHG emissions. However, annual GHG
15 emissions would remain significant and unavoidable. Specific economic, legal, social,
16 technological, or other considerations make any additional mitigation measures infeasible.

17 **LM GHG-1: GHG Credit Fund.** SCAQMD has established a CEQA threshold for
18 greenhouse gas emissions (GHGs) of 10,000 metric tons (MT) per year. The
19 project would exceed this level in year 27 of their 30-year lease by
20 approximately 3,500 MT per year. This is based on the assumption that both
21 berths will be in operation.

22 The Los Angeles Harbor Department (LAHD) shall establish a GHG
23 Mitigation Fund (“Fund”), which may be accomplished through a
24 Memorandum of Understanding with the California Air Resources Board or
25 another appropriate entity, to mitigate project GHG impacts to the maximum
26 extent feasible. The Fund shall be used for GHG-reducing projects and
27 programs on Port of Los Angeles property.

28 Upon completion of the second wharf/berth at the Shell Marine Oil facility, the
29 Tenant shall purchase GHG credits from the LAHD GHG Mitigation Fund to
30 mitigate 3,500 MT at the then existing market rate. Tenant’s Fund contribution
31 shall not exceed one percent of the average of the previous five years’ rents
32 paid by the Tenant to the LAHD.

33 If LAHD is unable to establish the fund within a reasonable period of time, the
34 Tenant shall instead purchase credits from an approved GHG offset registry in
35 the same amount.

36 **Rationale for Finding**

37 Emissions would increase because of terminal throughput increase over the life of the proposed
38 Project. As part of the Draft EIR, mitigation and lease measures were developed that are aimed
39 at reducing emissions through reduced fossil fuel use and through the purchase of GHG
40 mitigation credits from the LAHD GHG Mitigation Fund. Changes or alternations have been
41 incorporated into the proposed Project in the form of mitigation measures **MMAQ-5**, and lease
42 measures **LM AQ-1** and **LM GHG-1** which represent feasible means to reduce GHG
43 emissions. Impacts would be reduced as a result of implementation of mitigation measures
44 **MMAQ-5** and lease measures **LM AQ-1** and **LM GHG-1** but impacts would remain

1 significant and unavoidable for annual GHG emissions. All mitigation measures determined
2 feasible by LAHD have been identified in the Final EIR.

3 **3.3 Findings Regarding Environmental Impacts Found to** 4 **Be Less than Significant after Mitigation**

5 The Final EIR concludes that less-than-significant impacts would occur after mitigation on the
6 following environmental resources if the proposed Project was implemented.

- 7 ■ **Biological Resources**

8 The following Findings pertain to environmental impacts of the proposed Project for which
9 mitigation measures and/or standard conditions of approval have been identified in the Final
10 EIR that will avoid or substantially lessen the significant environmental effects to a less-than-
11 significant level.

12 **3.3.1 Biological Resources**

13 As discussed in Section 3.2 of the Draft EIR, there would be two significant impacts to
14 Biological Resources that would be mitigated to less than significant levels as a result of
15 mitigation measures incorporated into the proposed Project. The impact and mitigation
16 measures are discussed below.

17 **Impact BIO-1: The proposed Project has the potential to result in the loss** 18 **of individuals or the reduction of habitat of a state- or federally listed** 19 **endangered, threatened, rare, protected, or candidate species, or a** 20 **Species of Special Concern or the loss of federally listed critical habitat.**

21 Underwater noise from pile driving required for construction of the proposed Project could
22 result in disturbance (Level B harassment) to marine mammals (particularly harbor seals and
23 sea lions) if such mammals are present in the vicinity of pile driving operations. These
24 potential noise impacts to marine mammals in the vicinity of pile driving operations would be
25 significant before mitigation.

26 **Finding**

27 The Board hereby finds that changes or alterations have been required in, or incorporated into,
28 the proposed Project that avoid or substantially lessen the environmental effect identified in the
29 Final EIR. The implementation of mitigation measure **MM BIO-1**, shown below would reduce
30 potential noise impacts on marine mammals as a result of pile driving during construction to a
31 less than significant level.

32 **MM BIO-1 Protect Marine Mammals.** Although it is expected that marine mammals will
33 voluntarily move away from the area at the commencement of the vibratory or
34 “soft start” of pile driving activities, as a precautionary measure, pile driving
35 activities will include establishment of a safety zone, by a qualified marine
36 mammal professional, and the area surrounding the operations (including the
37 safety zones) will be monitored for marine mammals by a qualified marine
38 mammal observer.¹ The pile driving site will move with each new pile;
39 therefore, the safety zones will move accordingly.

¹ Marine mammal professional qualifications shall be identified based on criteria established by LAHD during the construction bid specification process. Upon selection as part of the construction award winning team, the qualified marine mammal professional shall develop site specific pile driving safety zone requirements, which shall follow NOAA Fisheries Technical Guidance Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (NMFS, 2016) in consultation with the Acoustic Threshold White paper prepared for this purpose by LAHD (LAHD, 2017). Final pile driving safety zone requirements developed by the selected marine mammal professional shall be submitted to LAHD Construction and Environmental Management Divisions prior to commencement of pile driving.

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Rationale for Finding

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Changes or alternations have been incorporated into the proposed Project in the form of mitigation measure **MM BIO-1**. Mitigation measure **MM BIO-1** would reduce potentially significant impacts on marine mammals resulting from noise associated with pile driving by requiring initiation of pile driving with a soft start and establishment of a safety zone, as well as monitoring by a qualified marine mammal observer. Therefore, implementation of mitigation measure **MM BIO-1** would reduce impacts associated with the loss of individuals, or the reduction of existing habitat, of a state- or federally-listed endangered, threatened, rare, protected, or candidate species, or a Species of Special Concern to a less-than-significant level.

Impact BIO-2: The proposed Project has the potential to result in a substantial reduction or alteration of a state, federally, or locally designated natural habitat, special aquatic site, or plant community, including wetlands.

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Eelgrass occurs in several locations in the Port Complex, including adjacent to Berth 169. Increased turbidity during pile removal (for the existing wharf), new pile installation, and/or dredging could smother or otherwise inhibit eelgrass growth. This impact is considered significant before mitigation.

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The Board hereby finds that changes or alterations have been required in, or incorporated into, the proposed Project that avoid or substantially lessen the environmental effect identified in the Final EIR. The implementation of mitigation measure **MM BIO-2**, shown below would reduce potential impacts on eelgrass as a result of in-water construction to a less than significant level.

MM BIO-2 Protect Eelgrass. The proposed Project shall comply with the California Eelgrass Mitigation Policy. Pursuant to the Policy, the following activities shall be performed:

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- A pre-construction eelgrass survey to map the location and extent of eelgrass that could potentially be affected by wharf demolition and construction;
- Use of minimization measures or Best Management Practices, such as silt curtains, to reduce potential effects to eelgrass during Project construction (if present);
- A post-construction eelgrass survey to map the location and extent of eelgrass after completion of wharf demolition and construction;

- If eelgrass is lost due to Project construction, eelgrass shall be mitigated at a ratio of at least 1.2 to 1.

Timing of eelgrass surveys, including the frequency of post-mitigation surveys (if applicable), shall comply with provisions in the California Eelgrass Mitigation Policy.

Rationale for Finding

Changes or alternations have been incorporated into the proposed Project in the form of mitigation measure **MM BIO-2**. Mitigation measure **MM BIO-2** would reduce potentially significant impacts on eelgrass resulting from in-water construction by requiring compliance with the California Eelgrass Mitigation Policy, which includes mitigation at a 1.2 to 1 ratio in the event of a loss of eelgrass. Therefore, implementation of mitigation measure **MM BIO-2** would reduce the proposed Project’s potential to result in a substantial reduction or alteration of a state, federally, or locally designated natural habitat, special aquatic site, or plant community, including wetlands, to a less-than-significant level.

3.4 Cumulatively Considerable Impacts

The State CEQA Guidelines (Section 15130) require an analysis of the project’s contribution to significant and unavoidable cumulative impacts. Cumulative impacts include “two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts” (State CEQA Guidelines, Section 15355). As shown on Figure 5-1 and detailed in Table 5-1 (in Chapter 5, Cumulative Analysis of the Draft EIR), a total of 68 current or reasonably foreseeable future projects (approved or proposed) were identified in the Ports of Los Angeles and Long Beach as well as the communities of San Pedro, Wilmington and Carson that have the potential to contribute to a cumulative impact.

The discussion below identifies cumulatively significant impacts that can either be mitigated to less than significant or that cannot be mitigated to a less than significant level and represent significant unavoidable impacts. All feasible mitigation measures to reduce or avoid the cumulatively considerable contribution of the proposed Project to these impacts have been required in, or incorporated into, the project. However, even with the incorporation of all feasible mitigation measures, cumulative impacts on these environmental resources would remain significant and unavoidable. The Board has determined that no additional feasible mitigation measures or alternatives would reduce significant cumulative impacts to less-than-significant levels, and—in light of specific economic, legal, social, technological, and other considerations—the Board intends to adopt a Statement of Overriding Considerations (see Chapter 1 of this document for additional details). The impacts, mitigation measures, findings, and rationale for the findings are presented for all significant and unavoidable cumulative impacts identified in the Final EIR below.

According to State CEQA Guidelines Section 15130(b): “The discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided for the effects attributable to the project alone. The discussion should be guided by the standards of practicality and reasonableness...” The information presented in the Draft EIR in Chapter 5 Cumulative Analysis, meets this criterion.

3.4.1 Air Quality and Meteorology

Cumulative Impact AQ-1: The proposed Project would make a cumulatively considerable contribution to construction-related emissions that exceed an SCAQMD threshold of significance – Cumulatively Considerable

Proposed Project construction emissions would exceed SCAQMD significance thresholds for NO_x during Years 1, 2, 3 and 5 of construction under CEQA. Proposed Project overlapping construction and operational emissions during the peak years of construction would exceed the SCAQMD daily emission thresholds for construction for PM_{2.5}, NO_x, and VOC. Therefore, unmitigated proposed Project construction would be significant for NO_x, and overlapping construction and operation emissions would be significant for PM_{2.5}, NO_x and VOC prior to mitigation under CEQA. These impacts would combine with cumulatively significant impacts from concurrent related construction projects, and potentially other related projects. As a result, without mitigation, proposed Project construction emissions would make a cumulatively considerable contribution to an existing significant cumulative impact for PM_{2.5}, NO_x, and VOC emissions.

Finding

The Board hereby finds that changes or alterations have been required in, or incorporated into, the proposed Project that avoid or substantially lessen the significant environmental effect identified in the Final EIR. The implementation of mitigation measures **MM AQ-1** through **MM AQ-4** would help reduce cumulatively considerable construction impacts. Although mitigation measures **MM AQ-1** through **MM AQ-4** would reduce the cumulative effect of construction emissions, the mitigation would not sufficiently reduce the proposed Project's cumulatively considerable contribution to a less-than-significant level. The Board hereby finds that specific economic, legal, social, technological, or other considerations make infeasible additional mitigation measures or project alternatives identified in the Final EIR. Even with the incorporation of feasible mitigation measures, the proposed Project would make a cumulatively considerable contribution to a significant cumulative impact for NO_x emissions during construction. After mitigation, overlapping construction and operational emissions would remain significant for PM_{2.5}, NO_x, and VOC emissions. As such, after mitigation, overlapping construction and operations of the proposed Project would make a cumulatively considerable and unavoidable contribution to an existing significant cumulative impact for PM_{2.5}, NO_x and VOC emissions.

Rationale for Finding

The past, present, and reasonably foreseeable future projects for Cumulative Impact AQ-1 would result in significant cumulative impacts if their combined increase of a criteria pollutant would exceed SCAQMD significance thresholds during construction. Changes or alterations have been incorporated into the proposed Project in the form of mitigation measures **MM AQ-1** through **MM AQ-4**. Mitigation measures **MM AQ-1** through **MM AQ-4** would help reduce construction emissions but not to a less-than-significant level. Cumulative air quality impacts from proposed Project construction would exceed PM_{2.5}, NO_x and VOC thresholds. Construction emissions would make a cumulatively considerable contribution to a significant cumulative impact. All mitigation measures determined feasible by LAHD as identified in the Final EIR have been incorporated into the proposed Project.

1 **Cumulative Impact AQ-2: The proposed Project construction would make**
2 **a cumulatively considerable contribution to off-site ambient air pollutant**
3 **concentrations that exceed the SCAQMD thresholds of significance –**
4 **Cumulatively Considerable**

5 Construction of the proposed Project would exceed the federal and state 1-hour ambient air
6 thresholds for NO₂. Overlapping construction and operations of the proposed Project would
7 exceed the federal and state 1-hour ambient air thresholds for NO₂. These impacts would
8 combine with impacts from concurrent related construction projects, and potentially other
9 related projects, which would be cumulatively significant. As a result, without mitigation,
10 impacts from proposed Project construction would make a cumulatively considerable
11 contribution to a significant cumulative impact related to ambient NO₂ levels. In addition,
12 impacts from proposed Project overlapping construction and operations would make a
13 cumulatively considerable contribution to a significant cumulative impact related to ambient
14 NO₂ levels.

15 **Finding**

16 The Board hereby finds that changes or alterations have been required in, or incorporated into,
17 the proposed Project that avoid or substantially lessen the significant environmental effect
18 identified in the Final EIR. The implementation of mitigation measures **MM AQ-1** through
19 **MM AQ-4** would help reduce cumulatively considerable construction emissions. Although
20 mitigation measures **MM AQ-1** through **MM AQ-4** would reduce the cumulative effect of
21 construction emissions, the mitigation would not sufficiently reduce the proposed Project to a
22 less-than-significant level for NO₂. The Board hereby finds that specific economic,
23 environmental, legal, social, technological, or other considerations make infeasible additional
24 mitigation measures or proposed project alternatives identified in the Final EIR.

25 **Rationale for Finding**

26 The past, present, and reasonably foreseeable future projects would result in significant
27 cumulative impacts for Cumulative Impact AQ-2 if their combined ambient pollutant
28 concentrations, during construction, would exceed the SCAQMD ambient concentration
29 thresholds for pollutants from construction. Changes or alternations have been incorporated
30 into the proposed Project in the form of mitigation measures **MM AQ-1** through **MM AQ-4** to
31 help reduce construction emissions; however, they would not reduce all impacts to a less-than-
32 significant level. Construction emissions could still make a cumulatively considerable
33 contribution to a significant cumulative impact relative to ambient NO₂ levels from concurrent
34 related project construction. All mitigation measures determined feasible by LAHD have been
35 identified in the Final EIR.

36 **Cumulative Impact AQ-3: The operation of the proposed Project would**
37 **make a cumulatively considerable contribution to a criteria pollutant that**
38 **exceeds the SCAQMD peak day emission thresholds of significance –**
39 **Cumulatively Considerable**

40 Proposed Project operational emissions would exceed SCAQMD significance thresholds for
41 NO_x and VOC in 2019, 2031, and 2048. These impacts would combine with impacts from
42 concurrently operating related projects, which would already be cumulatively significant. The
43 proposed Project's incremental contribution to that cumulatively significant impact would be
44 cumulatively considerable. As a result, without mitigation, project operational emissions would

1 make a cumulatively considerable contribution to an existing significant cumulative impact for
2 NOx and VOC.

3 **Finding**

4 The Board hereby finds that changes or alterations have been required in, or incorporated into,
5 the proposed Project that avoid or substantially lessen the significant environmental effect
6 identified in the Final EIR. The implementation of mitigation measure **MM AQ-5** and LAHD's
7 standard lease measures **LM AQ-1** and potentially **LM AQ-2** would help reduce cumulatively
8 considerable operational emissions.

9 Although mitigation measure **MM AQ-5** and LAHD's standard lease measures **LM AQ-1** and
10 potentially **LM AQ-2** would reduce the cumulative effect of operational emissions, the
11 mitigation would not sufficiently reduce the proposed Project's cumulatively considerable
12 contribution of the impact to a less-than-significant level. The Board hereby finds that specific
13 economic, environmental, legal, social, technological, or other considerations make infeasible
14 additional mitigation measures or proposed project alternatives identified in the Final EIR.
15 Even with the incorporation of feasible mitigation measures, the proposed Project would make
16 a cumulatively considerable and unavoidable contribution to an existing significant cumulative
17 impact related to NOx and VOC.

18 **Rationale for Finding**

19 The emissions from cumulative projects would be cumulatively significant if their combined
20 operational emissions would exceed the SCAQMD daily operational emission thresholds. This
21 would be the case for all analyzed criteria pollutants; therefore, the past, present, and future
22 related projects would result in a significant cumulative air quality criteria pollutant impact and
23 the proposed Project's incremental contribution to that cumulatively significant impact would
24 be cumulatively considerable. Mitigation measures **MM AQ-5** and LAHD's standard lease
25 measures **LM AQ-1** and **LM AQ-2** would help reduce operational emissions; however, they
26 would not reduce the proposed Project's contribution below a cumulatively considerable level.
27 Consequently, emissions from operation of the proposed Project would produce cumulatively
28 considerable and unavoidable contributions to a significant cumulative impact for NOx and
29 VOC.

30 **Cumulative Impact AQ-6: The proposed Project would make a** 31 **cumulatively considerable contribution to expose receptors to significant** 32 **levels of TACs – Cumulatively Considerable**

33 Proposed Project construction and operation emissions of TACs would not increase cancer risks
34 above the significance threshold for any receptor type relative to the baseline. The proposed
35 Project would also not result in increases in non-cancer risk in excess of the significance
36 thresholds. Although proposed Project cancer risk and population cancer burden would be
37 below SCAQMD's project-level significance thresholds, the impacts would be greater than the
38 CEQA baseline and would combine with impacts from concurrent related projects and
39 background risk levels, which would already be cumulatively significant. As a result, the
40 proposed Project would make a cumulatively considerable contribution to an existing
41 significant cumulative impact for cancer risk, population cancer burden, and non-cancer
42 chronic and acute health risks.

1 **Finding**

2 The Board hereby finds that changes or alterations have been required in, or incorporated into,
3 the proposed Project that avoid or substantially lessen the significant environmental effect
4 identified in the Final EIR. The implementation of mitigation measures **MM AQ-1** through
5 **MM AQ-5** would help reduce cumulatively considerable exposure to significant TACs.
6 Although mitigation measures **MM AQ-1** through **MM AQ-5** would reduce the cumulative
7 effect of exposure to TACs, the mitigation would not sufficiently reduce the proposed Project’s
8 cumulatively considerable contribution of the impact to a less-than-significant level. Therefore,
9 the Board hereby finds that specific economic, legal, social, technological, or other
10 considerations make infeasible additional mitigation measures or project alternatives identified
11 in the Final EIR. Even with the incorporation of feasible mitigation measures, the proposed
12 Project would make a cumulatively considerable contribution to an existing significant
13 cumulative impact for cancer risk, population cancer burden, and non-cancer chronic and acute
14 health risks.

15 **Rationale for Finding**

16 SCAQMD’s Multiple Air Toxics Exposure Study (MATES IV) showed that the cancer risk
17 from toxic air contaminants was estimated at roughly 480 in a million in the San Pedro and
18 Wilmington areas. In their *Diesel Particulate Matter Exposure Assessment Study for the Ports*
19 *of Los Angeles and Long Beach*, the California Air Resources Board (CARB) estimated that elevated
20 levels of cancer risks due to operational emissions from the Ports of Los Angeles and Long
21 Beach occur within and in proximity to the two ports. Based on this information, cancer risk
22 from TAC emissions within the project region, and non-cancer impacts associated with past,
23 present, and reasonably foreseeable projects in the proposed project area, are therefore
24 cumulatively significant.

25 Implementation of proposed Project mitigation measures that reduce diesel combustion and
26 other TAC emissions, specifically mitigation measures **MM AQ-1** through **MM AQ-5**, would
27 reduce TAC emissions from the proposed Project. After implementation of these mitigation
28 measures, although the overall emissions would be reduced, the proposed Project would add to
29 the TAC burden in the vicinity and result in a cumulatively considerable contribution to an
30 existing cumulatively significant impact for cancer risk, population cancer burden, and non-
31 cancer chronic and acute health risks. All mitigation measures determined feasible by LAHD
32 as identified in the Final EIR have been incorporated into the proposed Project.

33 **3.4.2 Greenhouse Gas Emissions and Climate Change**

34 **Cumulative Impact GHG-1: The proposed Project would make a**
35 **cumulatively considerable contribution, either directly or indirectly, to**
36 **GHG emissions that would exceed the SCAQMD 10,000 mty CO₂e**
37 **threshold – Cumulatively Considerable**

38 Past, present, and reasonably foreseeable future projects in the area have generated and will
39 continue to generate GHGs from the combustion of fossil fuels and the use of refrigerants, and
40 other products. Current and future projects will incorporate a variety of GHG reduction
41 measures in response to federal, state, and local mandates and initiatives, and these measures
42 are expected to reduce GHG emissions from future projects. However, because of the long-
43 lived nature of GHGs in the atmosphere and the global nature of GHG emissions impacts, no
44 specific quantitative level of GHG emissions from related projects in the region or state-wide

1 has been identified below which no impacts would occur. It is therefore conservatively
2 assumed that related projects represent a significant cumulative impact.

3 The proposed Project would exceed SCAQMD's 10,000 mty threshold when the terminal
4 operations accommodate 166 vessel calls annually. Emissions for all source categories would
5 increase over the life of the proposed Project because of terminal throughput increase.
6 Therefore, proposed Project GHG emissions would combine with impacts from related
7 projects, which would already be cumulatively significant. As a result, without mitigation,
8 impacts from proposed Project construction and operation would make a cumulatively
9 considerable contribution to an existing significant cumulative impact related to GHG and
10 global climate change.

11 **Finding**

12 The Board hereby finds that changes or alterations have been required in, or incorporated into,
13 the proposed Project that avoid or substantially lessen the significant environmental effect
14 identified in the Final EIR. The implementation of mitigation measure **MM AQ-5** would help
15 reduce fossil fuel consumption, and therefore reduce GHG emissions. Furthermore, LAHD's
16 standard lease measures **LM AQ-1** and **LM GHG-1** would be included in the tenant lease.
17 These measures could further reduce future GHG emissions. Although mitigation measure
18 **MM AQ-5** and lease measures **LM AQ-1** and **LM GHG-1** could further reduce the cumulative
19 GHG emissions, the mitigation and lease measures would not sufficiently reduce the proposed
20 Project's cumulatively considerable contribution of the impact to a less-than-significant level.
21 The Board hereby finds that specific economic, legal, social, technological, or other
22 considerations make infeasible additional mitigation measures or proposed project alternatives
23 identified in the Final EIR. Even with the incorporation of feasible mitigation measures, the
24 proposed Project would make a cumulatively considerable contribution to a significant
25 cumulative GHG impact.

26 **Rationale for Finding**

27 The challenge in assessing the significance of an individual project's contribution to global
28 GHG emissions and associated global climate change impacts is determining whether a
29 project's GHG emissions, which are at a micro-scale relative to global emissions, result in a
30 cumulatively considerable incremental contribution to a significant cumulative macro-scale
31 impact. The proposed Project would produce GHG emissions that would exceed SCAQMD
32 significance thresholds for GHG and would therefore result in significant GHG impacts.
33 Proposed project impacts would combine with impacts from related projects and add additional
34 burden to existing cumulatively significant GHG impacts, thereby resulting in cumulatively
35 considerable contributions to GHG impacts. Mitigation measure **MM AQ-5** and lease
36 measures **LM AQ-1** and **LM GHG-1** would help reduce GHG emissions; however, they would
37 not reduce impacts to a less-than-significant level and the proposed Project would make a
38 cumulatively considerable contribution to a significant cumulative impact. All feasible by
39 LAHD as identified in the Final EIR have been incorporated into the proposed Project.

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Chapter 4

The Proposed Project and Alternatives

Two alternatives were considered during the preparation of this Draft EIR; 1) The No Project Alternative (Alternative 1), which is required under CEQA and 2) a Reduced Project alternative (Alternative 2) that includes compliance with MOTEMS with only one operating berth. Chapter 6 of the Draft EIR contains an analysis of the alternatives that were found to achieve the project objectives, are considered ostensibly feasible, and may reduce environmental impacts associated with the proposed Project.

4.1 Reasonable Range of Alternatives

Lead agencies are required to evaluate a “reasonable range” of alternatives but are not required to evaluate every possible alternative: “an EIR need not consider every conceivable alternative to a project” (State CEQA Guidelines Section 15126.6(a)). The “range of alternatives required in an EIR is governed by a ‘rule of reason’ that requires an EIR to set forth only those alternatives necessary to permit a reasoned choice” (State CEQA Guidelines Section 15126.6(f)). The Draft EIR contained two alternatives (not including the proposed Project), discussed in Chapter 6 of the Draft EIR and shown in Table 4 below. This table compares the major features of the proposed Project to those for the alternatives. Based on the primary purpose and objectives associated with the proposed Project, the alternatives analyzed in the Draft EIR constitute a reasonable range of alternatives, which permits the decision makers to make a reasoned choice regarding proposed project approval (or approval of one of its alternatives), approval with modifications, or disapproval. Furthermore, CEQA does not require an EIR to consider multiple variations on the alternatives analyzed in the Draft EIR. “What is required is the production of information sufficient to permit a reasonable choice of alternatives so far as environmental aspects are concerned” (Village Laguna of Laguna Beach, Inc. v. Board of Supervisors of Orange County (1982) 134 Cal.App.3d 1022). Alternatives Analyzed in the EIR

4.2 Alternatives Considered in the Draft EIR

Under CEQA, the analysis of alternatives need not be as in-depth as the analysis for the proposed Project but should be at a level that allows the decision-makers to make an informed determination regarding the differences in impacts between the proposed Project and each of its alternatives. Following are the two alternatives analyzed in Chapter 6 of the Draft EIR:

1 **4.2.1 Alternative 1– No Project**

2 The No Project Alternative required by CEQA represents what would reasonably be expected
3 to occur in the foreseeable future if the proposed Project were not approved. Under this
4 alternative, the existing marine oil terminal would not be compliant with MOTEMS
5 requirements. The current terminal lease expires in 2023. At that time, operations would
6 cease. This location would then be available for use consistent with its zoning (heavy industrial
7 uses) and the Port Master Plan’s designated land use (liquid bulk facility). Any subsequent use
8 of the site, once identified, would be subject to additional environmental review

9 **4.2.2 Alternative 2 – Reduced Project – One Platform**

10 Under Alternative 2, only Berth 168 would be improved to meet MOTEMS compliance,
11 including piping replacement and related support structures, and the SCP would be
12 implemented. Berth 169 would become non-operational once construction of Berth 168 is
13 complete. As with the proposed Project, the soonest construction of Berth 168 could begin is
14 2018 and would occur over a three-year period. Alternative 2 would include a vapor control
15 system to allow for the loading of refined products onto vessels. A new 30-year lease would be
16 issued, and the terminal would continue to operate as a fully functional marine oil terminal
17 using one berth (Berth 168) through 2048. Similar to the proposed Project, this reduced
18 platform alternative would generally be capable of accommodating the anticipated future
19 throughput (i.e., approximately 25.5 million barrels and 166 vessel calls annually).

20 The second berth, which would be operational for the proposed Project but not Alternative 2,
21 would provide Shell with business flexibility and options needed to minimize potential business
22 interruptions. Under Alternative 2, one berth would operate less efficiently than the proposed
23 Project since it would not allow for undisrupted terminal operation if the one berth becomes
24 temporarily inoperable.

25 A summary of the impact analysis for the proposed Project and the alternatives is shown in
26 Table 4 below, which identifies the resource areas where the proposed Project or alternative
27 would result in an unavoidable significant impact, as discussed in resource analyses in Chapter
28 3 of the Draft EIR. The table also presents the resource areas that would have significant
29 impacts mitigated to less-than-significant levels. Detailed discussions of these resources are
30 provided in Chapter 6 of the Draft EIR. As shown in Table 4, the proposed Project and all
31 alternatives would have significant unavoidable impacts in the area of air quality (operation).

32

Table 4: Impacts Summary of Proposed Project and Alternatives

Environmental Resource Area*	Proposed Project	Alt 1	Alt 2
Air Quality			
Construction	S	N	S
Operation	S	S	S
Health Risk	L	L	L
Biological Resources			
Construction	M	L	M
Operation	L	L	L
Greenhouse Gas Emissions and Climate Change			
Construction and Operation	S	L	S
Hazards			
Construction	L	N	L
Operation	L	L	L
Energy Conservation			
Construction and Operation	L	L	L

Notes:

* The analysis includes project-level impacts, not cumulative effects.

S = Unavoidable significant impact

M = Significant but mitigatable impact (not significant with mitigation)

L = Less than significant impact (not significant without mitigation)

N = No impact

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2 **4.3 Environmentally Superior Alternative**

3 CEQA requires identification of an environmentally superior alternative. The No Project
 4 Alternative (Alternative 1) is the Environmentally Superior Alternative because it would have
 5 reduced impacts in all four resource areas. However, none of the proposed Project objectives,
 6 including the primary objective of compliance with MOTEMS requirements would be met (see
 7 Chapter 6, Section 6.3, of the Draft EIR). State CEQA Guidelines Section 15126.6(e)(2)
 8 requires that in cases where the No Project Alternative is determined to be the environmentally
 9 superior alternative, another alternative must also be identified as environmentally superior.

10 As shown in Table 4, under Alternative 2 only one berth would be upgraded and thus less
 11 construction and construction-related impacts would occur, relative to the proposed Project.
 12 Terminal throughput would be the same as the proposed Project. Consequently, under
 13 Alternative 2, impacts in the area of air quality and GHG's would be slightly reduced as
 14 compared to the proposed Project due to slightly less construction (only one loading platform
 15 would be constructed under Alternative 1 compared to two platforms under the proposed
 16 Project). Due to the slightly reduced impacts to air quality and GHG emissions, Alternative 2 is
 17 also deemed to be environmentally superior.

18

1 **4.4 CEQA Findings for the Alternatives Analyzed**

2 **4.4.1 Alternative 1 – No Project**

3 Alternative 1 (No Project Alternative) is required under CEQA and would not result in any
4 physical improvements to the existing marine oil terminal. Under Alternative 1, improvements
5 to terminal to comply with MOTEMS would not occur and the terminal would cease operations
6 when its existing lease expires in 2023. Under this alternative, Shell would no longer be able to
7 import petroleum products via the existing terminal, which would reduce fuel supply capacity
8 for the Southern California area.

9 **Finding**

10 The Board hereby finds that although Alternative 1—No Project would result in reduced
11 construction and operation related environmental impacts compared to the proposed Project,
12 this alternative would not improve the existing terminal, and thus it would not meet the
13 underlying primary purpose and objective of the Project – to bring the terminal into compliance
14 with MOTEMS requirements, which would ensure better resistance to earthquakes, protect the
15 public and the environment, reduce the potential of an oil spill, and consequently maintain the
16 operation and viability of the marine oil facility. As a result, the Board finds that Alternative
17 1—No Project is not a feasible alternative to the proposed Project because it would not
18 accomplish the primary project purpose and objective.

19 **Facts in Support of the Finding**

20 Alternative 1 - No Project would result in reduced environmental impacts in the resource areas
21 related to air quality, biological resources, GHG emissions, and cumulative impacts as
22 compared to the proposed Project because this alternative would not include any construction
23 or operational activity beyond 2023. Although Alternative 1 would result in reduced
24 environmental impacts, it would not meet the underlying fundamental purpose and objective of
25 the project to bring the terminal into compliance with MOTEMS. Accordingly, the Board finds
26 that Alternative 1—No Project is not a feasible alternative to the proposed Project because it
27 would not fully accomplish fundamental project goals and objectives.

28 **4.4.2 Alternative 2 – Reduced Project – One Platform**

29 Under Alternative 2, both existing operating berths at the terminal would be replaced with one
30 new loading platform. Although this one platform is capable of supporting anticipated future
31 throughput, in certain circumstances terminal operations would be limited, as two berths would
32 be required to accommodate temporary peaks in throughput. Thus, Alternative 2 would not be
33 as efficient as the proposed Project. In addition, Alternative 2 would not be able to
34 accommodate situations where a second berth would add redundancy to allow for undisrupted
35 terminal operation if one berth becomes temporarily inoperable (e.g., during routine
36 maintenance activities that shutdown a berth or a platform).

37 Under the Alternative 2, the existing marine oil terminal would continue to operate as a
38 MOTEMS-compliant terminal through 2048.

39 **Finding**

40 The Board hereby finds that although Alternative 2 – Reduce Project – One Platform alternative
41 would feasibly meet the underlying fundamental purpose and objectives, it would not operate as

1 efficiently and would not provide berthing redundancy in the event that a berth becomes
2 temporarily inoperable. Thus, Alternative 2 would not optimize the use of existing land at the
3 terminal and associated waterways in a manner that is consistent with the LAHD’s public trust
4 obligations (second Project Objective) as well as the proposed Project. In addition, by
5 replacing two operating berths (existing terminal) with one berth (albeit with a new loading
6 platform), Alternative 2 would degrade the existing facility’s throughput capabilities and
7 operational parameters (fourth Project Objective), whereas the proposed Project would
8 maintain operating parameters of the existing terminal by preserving berthing redundancy.
9 Further, while Alternative 2 would meet the primary Project Objective, it would not provide
10 substantive environmental benefits relative to the proposed Project, as shown in Table 4. As a
11 result, the Board finds that Alternative 2 – Reduced Project – One Platform alternative, while
12 feasible, does not meet the project objectives as well as the proposed Project and does not
13 provide substantive environmental benefits relative to the proposed Project. Thus, the Board
14 finds that Alternative 2 – Reduced Project – One Platform is not a feasible alternative to the
15 proposed Project because it would not accomplish the project goals and objectives as well as
16 the proposed Project and would not provide substantive environmental benefit to the proposed
17 Project.

18 **Facts in Support of the Finding**

19 Alternative 2 would result in a reduced platform project, but would not substantively reduce
20 environmental impacts relative to the proposed Project, in part because construction of one
21 platform would still result in significant air quality impacts (see Section 3.1 and Chapter 6 of
22 the Draft EIR) and biological resource impacts (see Section 3.2 and Chapter 6 of the Draft
23 EIR), and because it would handle the same throughput as the proposed Project, which means is
24 GHG emission would be significant like the proposed Project (see Section 3.3 and Chapter 6 of
25 the Draft EIR). Further, as described in Chapter 6, Alternative 2 would not maintain berth
26 redundancy in the event that one berth needs to be taken out of service temporarily.
27 Accordingly, the Board finds that Alternative 2 – Reduced Project - One Platform alternative,
28 while feasible, would not provide substantive environmental benefits compared to the proposed
29 Project, and would not meet the project objectives as well as the proposed Project.

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Chapter 5

**Findings Regarding Irreversible
Environmental Changes**

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Irreversible and irretrievable environmental changes caused by a project include uses of nonrenewable and non-recoverable resources during construction and operation.

Finding and Rationale

The proposed Project would require the use of nonrenewable resources to develop the site for Port-related activities. Fossil fuels and energy would be consumed during both the construction and the operational phases. These energy resources would for the most part be irretrievable and would cause irreversible changes in supplies of fossil fuel available for other uses. However, some electricity provided by the Los Angeles Department of Water and Power is provided from renewable sources and recently adopted legislation raises California’s renewable portfolio requirements for retail electricity sales.

Non-recoverable material resources committed to the proposed Project other than fossil fuels would include: labor and construction materials such as iron, concrete and gravel. Non-recoverable materials would be used during construction and operational activities, but the amounts needed are considered minor relative to existing supplies and reserves; however, they would nevertheless be unavailable for other uses. The minimal irreversible changes would be justified by the improvements to better protect public health, safety and the environment (e.g., from MOTEMS improvements), and would contribute over the 30-year lease to the reliability of the region’s future energy handling capabilities. Therefore, the irretrievable commitments of resources associated with the proposed Project are justified under CEQA.

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Changes to the Draft EIR

Changes were made to the Draft EIR following the public review period. Actual changes to the text can be found in Chapter 3, Modifications to the Draft EIR, of the Final EIR. Changes are identified by text strikeout and underline. Changes to the Draft EIR include:

- Minor modifications to lease measures LM AQ-1 and LM AQ-2 in Section 3.1, Air Quality and Meteorology
- Minor modifications to Section 3.2.5, Biological Resources, to address an inconsistency with the impact analysis
- Minor text modifications to Executive Summary and Chapter 5, Cumulative Analysis

Finding and Rationale

Although Chapter 3 of the Final EIR includes minor amounts of new information and clarification, generated in response to comments received on the Draft EIR, the information is not significant new information requiring recirculation. For instance, no new information was included that would result in: (1) A new significant environmental impact resulting from the project or from a new mitigation measure proposed to be implemented; (2) A substantial increase in the severity of an environmental impact unless mitigation measures are adopted that reduce the impact to a level of insignificance; and/or (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed were added that would clearly lessen the environmental impacts of the project. (CEQA Guidelines Section 15088.5(a).)

Consequently, the changes and clarifications presented in Chapter 3 of the Final EIR were reviewed by the Board to determine whether they constitute “significant new information” requiring recirculation prior to certification of the EIR. This information was found to merely clarify or amplify the information presented in the Draft EIR. No new feasible alternatives or mitigation measures considerably different from others previously analyzed were identified that would clearly or substantively lessen the significant effects of the proposed Project. Further, as discussed in Chapter 3, modifications to two lease measures (**LM AQ-1** and **LM AQ-2**), would not reduce their effectiveness in reducing significant impacts. Therefore, the Draft and Final EIR is, and was, found not to require recirculation. Thus, the EIR can be certified without additional public review, consistent with PRC Section 21092.1 and State CEQA Guidelines Section 15088.5.

The Board of Harbor Commissioners finds that all information added to the Final EIR after public notice of the availability of the Draft EIR for public review but before certification merely clarifies or makes insignificant modifications to an adequate Draft EIR that does not require recirculation.

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Chapter 7

**Findings on Suggested Project Revisions in
Comments on the Draft EIR**

Comment letters were received on the Draft EIR suggesting mitigation modifications, mitigation additions, and impact determination revisions. Where the suggestions (1) requested minor modifications in adequate mitigation measures, (2) requested mitigation for impacts that the Draft EIR determined were less than significant, or (3) requested mitigation for impacts for which the Draft EIR already identified measures that would reduce the impact to less than significant, these requests were declined as unnecessary or not appropriate. Additionally, certain mitigation measures suggested in comments could reduce impacts that would otherwise be significant, but implementation of measures and/or alternatives would be infeasible due to specific economic, environmental, legal, social, technological, policy, or other considerations. LAHD has identified and proposes to incorporate all feasible mitigation measures, including feasible revisions to the existing mitigation measures recommended by commenters, or otherwise initiated by the Port. No additional mitigation measures have been determined to be feasible to reduce significant impacts disclosed in the EIR.

The suggested mitigation measures and the reasons supporting why the recommendations were rejected are summarized below. Additional detail can be found in the comments and responses to comments chapter of the Final EIR (Chapter 2). The Board adopts and incorporates by reference the specific reasons for declining such measures contained in the responses to comments in the Final EIR as its grounds for rejecting these measures.

Emission Reductions

Comments were received suggesting that the proposed Project require additional emission reduction strategies, including requiring zero and near-zero emission technologies, requiring stricter engine emission standards for marine and land-based vehicles, implementing at-berth emission reduction strategies, and increasing the frequency of new technology reviews.

Several comments recommended implementing zero emission technologies to reduce air pollutant emissions; however, as described in the Chapter 2 of the Final EIR, zero emission technologies currently being developed are oriented towards electrification of trucks and equipment to move goods to and from the Ports and within the Ports and terminals, and 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 via pipelines). Thus, implementing zero emissions technologies for the proposed Project would not provide substantial emissions reductions at the Shell Marine Oil Terminal.

Several comments recommended changes to several air quality mitigation measures (require Tier 4 engines under **MM AQ-1** and reducing the gross vehicle weight rating of construction

1 trucks required to meet EPA 2010 on-road emission standards under **MM AQ-2**) to further
2 reduce air pollutant emissions from harbor craft and construction trucks. However, as
3 described in the Chapter 2 of the Final EIR, no Tier 4 tug boats are currently or readily
4 available. In addition, a large portion of Project emissions from construction is related to
5 barge/dredge equipment (not trucks), and the recommendations would not result in substantive
6 emission reductions that could change the significance determinations.

7 One comment recommended changing lease measure **LM AQ-1** to require periodic reviews of
8 technologies every two to five years (rather than every five years); however, because of the
9 long development lifecycle of zero-emission technology equipment and the lack of applicability
10 of zero-emissions technologies to the Shell Marine Oil Terminal (see Chapter 2 of the Final
11 EIR), implementation of the recommendation is not warranted.

12 One comment recommended consideration of three at-berth emission technologies to reduce
13 vessel hoteling emissions. The Port is implementing a feasibility study for one of the
14 recommended measures (Capture and Control or Bonnet system) in lease measure **LM AQ-2**.
15 The other two recommended measures (booster pumps for unloading product from vessels, and
16 shore side power infrastructure) are currently not feasible at this time, given site constraints
17 and/or the lack of at-Berth emission reduction regulations governing tank vessels (see Chapter
18 2 of the Final EIR).

19 **Biological Resources**

20 A comment from the California State Lands Commission (CSLC) (Comment CSLC-4)
21 recommended the Draft EIR be revised to find that impacts to biological resources from
22 invasive species are significant and unavoidable. However, as described in the Chapter 2 of the
23 Final EIR, biological communities in the Port Complex have improved over time, concurrent
24 with increased vessel activity and trans-oceanic shipping, indicating that invasive species are
25 not problematic within the Port Complex despite increased vessel calls. In addition, the Draft
26 EIR considers ballast water management controls, the nature of vessel operations under the
27 proposed Project, and use of vessel hull coatings in its determination that the proposed Project
28 is unlikely to result in a substantial disruption of local biological resources related to invasive
29 species.

30 **Hazards (Risk)**

31 A comment (Comment CSLC-4) recommended that the Port consider implementing three
32 mitigation measures (Remote Release Systems, Tension Monitoring Systems, and Allision
33 Avoidance Systems) that CLSC applies to MOTEMS compliance projects the San Francisco
34 Bay area. As described in the Chapter 2 of the Final EIR, the marine oil terminals projects
35 referenced in the comment letter are located in a high-velocity current area where the Lead
36 Agency (the CSLC) had determined that site-specific conditions required three suggested
37 mitigation measures as mitigation for a significant risk impact. However, the Project site is not
38 located in a high-velocity current area, and the Draft EIR did not identify a significant Risk
39 impact that requires mitigation.

40

Statement of Overriding Considerations

Pursuant to Section 15093 of the State CEQA Guidelines, the Board must balance the benefits of the proposed Project against unavoidable environmental risks in determining whether to approve the project. As detailed in the Findings, the proposed Project would result in significant unavoidable impacts on air quality and GHG emissions. The proposed Project would also result in a cumulatively considerable contribution to significant cumulative impacts on air quality and GHG emissions.

8.1 Project Benefits

The proposed Project offers several benefits that outweigh its unavoidable adverse environmental effects. The Board of Harbor Commissioners adopts the following Statement of Overriding Considerations. The Board recognizes that significant and unavoidable impacts will result from implementation of the proposed Project, as discussed above. Having (i) adopted all feasible mitigation measures, (ii) rejected as infeasible any alternatives that would avoid or reduce the significant impacts of the proposed Project, as discussed above, (iii) recognized all significant, unavoidable impacts, and (iv) balanced the benefits of the proposed Project against the proposed Project's significant and unavoidable impacts, the Board hereby finds that the benefits outweigh and override the significant unavoidable impacts for the reasons stated below.

The below stated reasons summarize the benefits, goals, and objectives of the proposed Project and provide the rationale for the benefits of the proposed Project. The Board finds that any one of the environmental, technological, policy, and economic benefits of the proposed Project set forth below is sufficient by itself to warrant approval of the proposed Project. These overriding considerations justify adoption of the proposed Project and certification of the completed Final EIR. This determination is based on the findings herein and the evidence in the record. These benefits include the following:

- **Fulfills Harbor Department's legal mandates and objectives.** The proposed Project would fulfill the Harbor Department's legal mandate under the Port of Los Angeles Tidelands Trust (Los Angeles City Charter, Article VI, Sec. 601; California Tidelands Trust Act of 1911) to promote and develop commerce, navigation and fisheries, and other uses of statewide interest and benefit including industrial and transportation uses and the California Coastal Act (PRC Division 20, Section 30700, et seq.), which identifies the Port and its facilities as a primary economic/coastal resource of the state and an essential element of the national maritime industry and obligates the Harbor Department to modernize and construct necessary facilities to accommodate the demands of foreign and domestic waterborne commerce and other traditional water-dependent and related facilities in order to preclude the necessity for

1 developing new ports elsewhere in the state. Further, the California Coastal Act
2 provides that the Harbor Department should give highest priority to the use of
3 existing land space within harbors for port purposes, including, but not limited to
4 navigational facilities, shipping industries and necessary support and access facilities.
5 The proposed Project would also meet the Harbor Department’s growth objectives by
6 bringing the Shell Marine Oil Terminal in compliance with MOTEMS, which would
7 allow for issuance of a new 30-year lease.

- 8 ▪ **Facilitate Reliable Fuel Supplies.** The proposed Project would improve the safety of
9 the existing terminal (in compliance with MOTEMS) and extend the capability of the
10 Shell Marine Oil Terminal to meet the future fuel needs of Southern California.
- 11 ▪ **Optimizes land use.** The proposed Project would maximize the utilization of Port
12 lands by including a new vapor control system, which would allow the terminal to
13 export fuels and feed stocks from the terminal. This capability would increase the
14 utility of the terminal by increasing petroleum product distribution redundancies and
15 options at the water-dependent terminal. The proposed Project would be consistent
16 with LAHD’s public trust obligations. The proposed Project would optimize
17 petroleum product handling capabilities and operations at the Shell Marine Oil
18 Terminal consistent with the Port Master Plan.
- 19 ▪ **Implements the CAAP.** Project-specific standards, mitigation measures, and lease
20 measures implemented through CEQA are one of several mechanisms for meeting
21 CAAP requirements (see Section 3.1, Air Quality and Meteorology, of the Draft
22 EIR).
- 23 ▪ **Fosters economic growth.** The proposed Project would augment local employment
24 and business opportunities by directly supporting numerous short-term construction
25 jobs and a variety of indirect jobs related to construction (see Chapter 4,
26 Socioeconomics, of the Draft EIR).

27 In summary, the proposed Project would allow LAHD to meet its legal mandates to
28 accommodate growing international commerce, while maintaining compliance with important
29 statewide safety requirements for marine oil terminals (e.g., MOTEMS) and environmental
30 programs and policies. The Board hereby finds that each of the benefits of the proposed Project
31 described above outweighs the significant and unavoidable environmental effects and are
32 therefore considered acceptable.

33