

**DATE: DECEMBER 11, 2008**

**FROM: ENVIRONMENTAL MANAGEMENT DIVISION**

**SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BERTH 97-109 [CHINA SHIPPING] CONTAINER TERMINAL PROJECT (LAHD ADP NO. 030127-018; SCH NO. 2003061153)**

**SUMMARY:**

Staff recommends that the Board of Harbor Commissioners (Board) certify the Final Environmental Impact Report (EIR) for the Berth 97-109 [China Shipping] Container Terminal Project in accordance with the California Environmental Quality Act (CEQA), and approve the proposed Project. The proposed Project would include construction and operation of a container terminal at Berth 97-109 in the West Basin in the Port of Los Angeles, including a reanalysis of Phase I construction and all operations between 2004 and 2007, in addition to all future construction and operations (2008 to 2045) consistent with the China Shipping Amended Stipulated Judgment (ASJ). The terminal would be operated by China Shipping Container Lines (China Shipping) under a 40-year lease (2005-2045) from the Los Angeles Harbor Department (LAHD). In approving the proposed Project, the Board will need to make specific Findings of Fact regarding the significant environmental impacts of the proposed Project and mitigation measures to reduce or avoid such impacts, adopt a Statement of Overriding Considerations, and adopt a Mitigation Monitoring and Reporting Program (MMRP) to track mitigation. In addition, the Board will need to find that the EIR is consistent with the ASJ. Project benefits include: efficiently handling cargo to maximize use of tidelands trust lands while significantly reducing environmental effects through implementation of mitigation measures (growing green); providing an average of 180 annual full-time direct construction jobs and an additional 130 annual indirect construction jobs over the 6 year construction period; providing annual tax revenues of approximately \$9 million from construction expenditures; providing approximately 4,687 direct permanent jobs and an additional 3,748 indirect jobs by 2030; and providing annual tax revenues of approximately \$85 million by 2045 from operations.

**RECOMMENDATION:**

It is recommended that the Board of Harbor Commissioners:

1. Certify that the EIR for the China Shipping Project (Transmittal 1) (a) has been completed in compliance with the CEQA of 1970 as amended, with the State

**SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BERTH 97-109 [CHINA SHIPPING] CONTAINER TERMINAL PROJECT (LAHD ADP NO. 030127-018; SCH NO. 2003061153)**

CEQA Guidelines, and the Los Angeles City CEQA Guidelines; (b) was presented to the Board for review and the Board considered the information contained in the Final EIR prior to approving the Project; and (c) reflects the independent judgment and analysis of the LAHD, and that all required procedures have been completed;

2. Adopt the attached Findings of Fact and Statement of Overriding Considerations (Transmittal 2);
3. Find that, in accordance with the information contained in the Final EIR for the China Shipping Project, the proposed Project will have significant environmental effects on Aesthetics and Visual Resources, Air Quality, Biological Resources, Geological Resources, Ground Transportation, Noise, Water Quality and Sediments, and Cumulative Impacts, as defined by Public Resources Code Sections 21068, 21080, 21082.2, and 21083 and the State CEQA Guidelines Sections 15064, 15064.5, and 15382. The EIR found no significant effects for Cultural Resources, Land Use, Marine Transportation, and Recreation;
4. Find that, in accordance with the provisions of the State CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the proposed Project, which substantially lessen or avoid the significant adverse environmental impacts identified in the EIR;
5. Find that, in accordance with the provisions of the State CEQA Guidelines Section 15091(a)(3), specific economic, legal, social, technological, or other considerations, make infeasible certain mitigation measures and project alternatives identified in the Final EIR. Impacts to Aesthetics and Visual Resources, Air Quality, Biological Resources, Geological Resources, Ground Transportation, Noise, Water Quality and Sediments, and Cumulative Impacts remain significant and unavoidable even after all feasible mitigation is adopted;
6. Find that all information added to the Final EIR after public notice of the Recirculated Draft EIR availability for public review, but before certification, merely clarifies, amplifies, or makes insignificant modifications in an adequate EIR, and recirculation is not necessary;
7. Find that, in accordance with Public Resources Code Section 21081(b) and State CEQA Guidelines Section 15093, the benefits of the Project outweigh the significant and unavoidable environmental impacts of the Project, and adopt the Findings of Fact and Statement of Overriding Considerations (Transmittal 2);
8. Find that the EIR is compliant with the provisions of the China Shipping ASJ dated June 2004;

SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BERTH 97-109 [CHINA SHIPPING] CONTAINER TERMINAL PROJECT (LAHD ADP NO. 030127-018; SCH NO. 2003061153)

9. Adopt the MMRP transmitted herewith (Transmittal 3) as required by Public Resources Code Section 21081.6. The MMRP is designed to ensure compliance with the mitigation measures adopted to mitigate or avoid significant effects on the environment, and identifies the responsibilities of the LAHD as lead agency, to monitor and verify Project compliance with those mitigation measures and conditions of Project approval;
10. Approve the Project identified in the EIR, including all feasible mitigation measures set forth in the EIR with consideration of the Findings of Fact and Statement of Overriding Considerations, and the MMRP;
11. Direct the Engineering Division to finalize design and incorporate the mitigation measures, conditions, Environmental Compliance Plan requirements, mitigation monitoring/reporting plan, and Project environmental commitments into all Engineering Plans and Specifications and/or Engineering Permits for the proposed Project;
12. Direct the Real Estate Division to incorporate, by reference, the EIR, mitigation measures and the MMRP into any and all lease agreements or assignments encompassed in the approved Project;
13. Authorize the Executive Director to negotiate an agreement with the Department of Recreation and Parks in an amount up to, but not to exceed \$5 Million for the enhancement of Plaza Park;
14. Authorize the Environmental Management Division to file the Notice of Determination (NOD) for the subject Project with the Los Angeles City Clerk; and
15. Adopt the proposed Recommendations and this Resolution No. \_\_\_\_\_.

**DISCUSSION:**

1. Proposed Action. In the proposed action staff is requesting that the Board of Harbor Commissioners consider certification of the Final EIR<sup>1</sup> for the Port of Los Angeles China Shipping Project and approval of the proposed Project. As provided in detail in the Recommendations above, staff recommends that the Board:

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<sup>1</sup> The proposed Project includes Project elements that will require federal permits from the U.S. Army Corps of Engineers (USACE). As such, an Environmental Impact Statement (EIS) was also prepared for the proposed Project. The USACE and LAHD prepared a joint EIS/EIR in the interest of efficiency and to avoid duplication of effort. The USACE will consider the EIS separate from the Board of Harbor Commissioner's consideration of the EIR in their Record of Decision on issuance of their permits for the proposed Project.

SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BERTH 97-109 [CHINA SHIPPING] CONTAINER TERMINAL PROJECT (LAHD ADP NO. 030127-018; SCH NO. 2003061153)

- a. Certify that the Final EIR for the Port of Los Angeles China Shipping Project (1) has been completed in compliance with CEQA; (2) was presented to the Board for review and the Board considered the information contained in the Final EIR prior to approving the Project; and (3) reflects the independent judgment and analysis of the LAHD;
- b. Adopt the Findings of Fact, the Statement of Overriding Considerations, and the MMRP; and
- c. Approve the proposed Project.

The Final EIR, which consists of both the Recirculated Draft EIR and Final EIR, includes all comments and recommendations received on the Recirculated Draft EIR; includes a list of persons, organizations, and public agencies commenting on the EIR; identifies changes to the Recirculated Draft EIR; and, responds to comments received during the public review. In certifying the EIR and approving the Project, the Board will need to make certain Findings of Fact regarding environmental impacts, proposed mitigation, and choice among alternatives; adopt a Statement of Overriding Considerations for any CEQA impacts that cannot be mitigated to below the level of significance; and adopt an MMRP.

2. Project Background. The proposed Project area currently consists of a container shipping facility and part of a ferry service to Catalina Island operated by Catalina Express located at Berths 97-109 in the West Basin area of the Port of Los Angeles (Port). In 1997, the LAHD prepared and certified the West Basin Transportation Improvements Project (West Basin) EIR that assessed the construction and operation of terminal and infrastructure improvements in the West Basin of the Port.

On March 28, 2001, the LAHD prepared and executed a lease with China Shipping for terminal construction and operation. The lease was supported by the West Basin and the Channel Deepening Improvements Projects EIRs. In June 2001, a group of petitioners, including nearby homeowners and environmental groups, filed suit in state and federal courts alleging that the LAHD did not comply with, among other things, the National Environmental Policy Act (NEPA) or CEQA in approving a permit to construct the Berth 97-109 Container Terminal and a lease with China Shipping to occupy the terminal. On October 30, 2002, the State of California Second District Court of Appeals ordered a partial halt to ongoing construction of Phase I of the Berth 97-109 [China Shipping] Container Terminal Project. The court ordered the preparation of a Project-specific EIR to evaluate all three phases of the proposed Project. On March 6, 2003, the Superior Court of the State of California, Los Angeles District, approved a Stipulated Judgment memorializing the Settlement Agreement between the Project opponents and LAHD to settle the

**DATE: DECEMBER 11, 2008**

**PAGE 5 OF 25**

**SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BERTH 97-109 [CHINA SHIPPING] CONTAINER TERMINAL PROJECT (LAHD ADP NO. 030127-018; SCH NO. 2003061153)**

state case. Subsequently, the Port and China Shipping negotiated with the litigants to amend the Stipulated Judgment. A compromise in the form of an ASJ was reached in March 2004 (Transmittal 5).

Although the China Shipping Container Terminal and Yang Ming Container Terminal share one gate complex, both the federal Settlement Agreement and the state court ASJ require the preparation of a Project-specific environmental analysis of all three construction phases and operation of the proposed Project alone, not as part of any larger West Basin Project or other project. The federal Settlement Agreement also provided that the previous Environmental Assessment and permit prepared by U.S. Army Corps of Engineers (USACE) would remain in place, until the USACE reconsiders the permit terms and conditions upon completion of the Environmental Impact Assessment (EIS)/EIR. In addition, the ASJ also establishes the CEQA baseline date as prior to March 2001 and not the time of publication of the Notice of Preparation (NOP). As such, this assessment includes the environmental effects of operating Phase I of the container terminal since that date and without the benefit of CEQA mitigation.

The ASJ, in consideration of additional mitigation measures and other requirements, allowed the LAHD to complete Phase I construction and commence operation of the China Shipping Project. Specifically, China Shipping operations are limited to the capacity allowed by Phase I construction elements while the Project-specific China Shipping EIS/EIR is under preparation. Phase I China Shipping construction was completed in 2003, and operations officially began on June 21, 2004. The Recirculated Draft EIR has been prepared pursuant to the terms of the ASJ and the obligations of the LAHD under CEQA.

3. Project Purpose and Objectives. The overall purpose of the proposed Project is to expand and maximize the cargo-handling efficiency and capacity of the Port at Berths 97-109 to address the need to optimize Port lands and terminals for current and future containerized cargo handling. This purpose would be accomplished through the construction of a marine terminal of approximately 142 acres that would accommodate an annual throughput of up to 1.5 million TEUs.

The LAHD's overall objective for the proposed Project is threefold: (1) provide a portion of the facilities needed to accommodate the projected growth in the volume of containerized cargo through the Port; (2) comply with the Mayor's goal for the Port to increase growth while mitigating the impacts of that growth on the local communities and the Los Angeles region by implementing pollution control measures, including the elements of the Clean Air Action Plan (CAAP) applicable to the proposed Project; and (3) comply with the Port Strategic Plan to maximize the efficiency and capacity of terminals while raising environmental standards through application of all feasible mitigation measures.

SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BERTH 97-109 [CHINA SHIPPING] CONTAINER TERMINAL PROJECT (LAHD ADP NO. 030127-018; SCH NO. 2003061153)

Although these interrelated goals require increases in the cargo-handling efficiency and capacity of existing terminal facilities in the Port where feasible, the goals also reflect the need for the development of new container terminals in the Port complex to accommodate future cargo demands. To accomplish these basic objectives in a manner consistent with LAHD public trust responsibilities, the following supporting objectives need to be accomplished:

Establish and expand a new container facility in the West Basin to the extent required to:

- a) Optimize the use of existing land and waterways and be consistent with the overall use of allowable uses under the Port Master Plan;
- b) Accommodate foreseeable containerized cargo volumes through the Port;
- c) Increase container handling efficiency and create sufficient backland area for container terminal operations, including storage, transport, and on/offloading of container ships in a safe and efficient manner;
- d) Improve or construct container ship berthing and infrastructure capacity where necessary to accommodate projected containerized cargo volumes through the Port;
- e) Provide access to land-based rail and truck infrastructure locations capable of minimizing surface transportation congestion or delays while promoting conveyance to local and distant cargo destinations; and,
- f) Provide needed container terminal accessory buildings and structures to support containerized cargo-handling requirements.

4. Project Description. The proposed Project is located at Berths 97-109 in the West Basin of the Port and consists of the development and operation of a new container terminal for China Shipping. The terminal would be developed by LAHD in three phases of construction: Phase I (completed and in operation since 2004), Phase II (estimated completion in 2011), and Phase III (estimated completion in 2012). The terminal would operate under a 40-year lease (2005 to 2045). China Shipping is currently operating under an existing lease, which will be reconsidered as part of the proposed Project. Phase I elements in operation are consistent with the ASJ. Major elements of the proposed Project evaluated in this EIR are described in the EIR (Transmittal 1) and in summary include:

- a. *Wharves and Backlands:* Construction includes dredging, new wharf construction at Berths 100 and 102, backland creation (including terminal buildings) on 142 acres, installation of 10 new A-frame cranes at Berths 100 and 102, two new

SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BERTH 97-109 [CHINA SHIPPING] CONTAINER TERMINAL PROJECT (LAHD ADP NO. 030127-018; SCH NO. 2003061153)

bridge structures connecting Berth 97-109 terminal and Berth 121-131 terminal across the Southwest Slip;

- b. *Marine Terminal Operations*: The completed Berth 97-109 Container Terminal would have a maximum annual throughput capacity of approximately 1,551,000 TEUs (838,338 containers) reached by 2030;
  - c. *Transportation Infrastructure Improvements*: Improvements in the vicinity of the existing terminal entrance (shared by the Berth 97-109 terminal and the Berth 121-131 terminal); and
  - d. *Catalina Terminal Relocation*: Relocating Catalina Terminal to south of the Vincent Thomas Bridge at Berth 95.
5. Board CEQA Responsibilities. The LAHD is the CEQA Lead Agency for the Project. As such, the Board is responsible for reviewing and considering the EIR. At its discretion, the Board shall certify that the Final EIR (1) has been completed in accordance with CEQA, the State CEQA Guidelines, and the Los Angeles City CEQA Guidelines; (2) was presented to the Board for review, and the Board considered the information contained in the Final EIR prior to approving the Project; and, (3) reflects the independent judgment and analysis of the LAHD. Certification of the EIR for the China Shipping Project must precede Project approval. Project approval requires that the Board review and consider the EIR; adopt Findings of Fact on the significant environmental effects of the Project and the feasibility of mitigation measures and Project alternatives; adopt a Statement of Overriding Considerations; approve a specific Project analyzed in the EIR; and adopt an MMRP.
6. Scope and Content of Environmental Document. The initial Draft EIS/EIR for the proposed Project originally was circulated in August 2006. The document was retracted, amended, and recirculated in its entirety. The Recirculated Draft EIR, dated April 2008, incorporates, as appropriate, information received on the Notice of Preparation (NOP) and the original Draft EIR for the Project, assesses environmental impacts of the Project, and examines Project alternatives and possible mitigation measures. The Final EIR clarifies and amplifies the Recirculated Draft EIR, incorporates insignificant modifications and corrections, contains responses to all public comments made on the Recirculated Draft EIR, and contains records of the public process including coordination with the Port of Los Angeles Community Advisory Committee (PCAC).
7. Intended Uses of the EIR. The EIR informs public agency decision-makers and the general public of the significant environmental effects of the Project, recommends mitigation measures to minimize the significant effects, and describes

**SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BERTH 97-109 [CHINA SHIPPING] CONTAINER TERMINAL PROJECT (LAHD ADP NO. 030127-018; SCH NO. 2003061153)**

reasonable alternatives to the proposed Project. This document assesses the potential impacts, including unavoidable adverse impacts and cumulative impacts, related to the proposed Project. This EIR is also intended to support future discretionary actions of the Board with regard to the proposed Project and the permitting/approval process of all agencies whose discretionary approvals must be obtained for particular elements of this Project. For the LAHD, these actions include, but are not limited to processing of master plan amendments and/or issuance of coastal development permits, issuing of engineering permits, approval of engineering and/or construction contracts, and approval of property use/lease agreements.

This environmental document was prepared in coordination with the USACE, which is the lead federal agency under the NEPA. The USACE will utilize the EIS as a basis for their Record of Decision (ROD) on the issuance of permits under the Clean Water Act and Rivers and Harbors Act for dredging, filling and construction in harbor waters. The action by the Board is only related to the EIR, which was prepared in accordance with State law.

8. Environmental Documentation Process and Public Involvement. The proposed Project was subject to the required environmental documentation process that included public disclosure as required by regulation. In this case, however, public notification exceeded statutory requirements. The procedural steps of the process are described below:

a. *Notice of Preparation:* In accordance with the Los Angeles City CEQA Guidelines, Article VI, Section 1.5 and the State CEQA Guidelines, Section 15082 the responsible agencies, participating city agencies, and other concerned parties were consulted through a NOP released on June 26, 2003. The NOP was part of a joint Notice of Intent (NOI)/NOP released by LAHD and the USACE. Two simultaneous public scoping meetings were held on July 10, 2003 at the Peck Park Recreation center in San Pedro and the Wilmington Community Center in Wilmington. Copies of the NOI/NOP were available for review online on the Port's website ([www.portoflosangeles.org](http://www.portoflosangeles.org)), at the Harbor Department's Environmental Management Division office, and at the following libraries: the Main Branch, San Pedro Branch, and Wilmington Branch of the Los Angeles Public Library, and the Main Branch of the Long Beach Public Library. Meeting notifications and the NOI/NOP were also provided in Spanish. The LAHD also provided a Spanish/English interpreter at the public meetings. Over forty public comments were received during the NOI/NOP review period.

Following the NOP releases, as part of the public review, staff met with a number of stakeholders, including the PCAC Past EIR Subcommittee, to discuss the Draft EIR and solicit feedback. A meeting was held with the PCAC



SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BERTH 97-109 [CHINA SHIPPING] CONTAINER TERMINAL PROJECT (LAHD ADP NO. 030127-018; SCH NO. 2003061153)

Past EIR Subcommittee on June 22, 2006 to discuss the proposed Project and solicit feedback prior to the Recirculated Draft EIR release. A summary of coordination with the PCAC is provided in the Executive Summary and Appendix D of the Recirculated Draft EIR.

- b. *Draft Environmental Impact Report:* The Recirculated Draft EIR was released on April 30, 2008 for a sixty-day review period (as discussed below, the review period was extended to seventy-five days). The Recirculated Draft EIR was part of a joint EIS/EIR released by the LAHD and the USACE. Approximately 200 copies of the Recirculated Draft EIS/EIR were sent to various government agencies, all PCAC members, organizations, LAHD tenants, adjacent property owners and all known interested parties. Public Notices of Completion (NOC) stating that the Draft EIS/EIR was available for review were published in five newspapers: Los Angeles Times, Daily Breeze, Long Beach Press Telegram, Los Angeles Sentinel and La Opinión. Postcards in English and Spanish noticing the document and the public meeting were also sent to all San Pedro and Wilmington addresses.

Copies of the Recirculated Draft EIS/EIR were available for review at the Harbor Department's Environmental Management Division office, and at the following libraries: the Main Branch, San Pedro Branch, and Wilmington Branch of the Los Angeles Public Library, and the Main Branch of the Long Beach Public Library. The document was also available online at the Port of Los Angeles web site (<http://www.portoflosangeles.org>). Meeting notifications and the Executive Summary of the Draft SEIS/EIR were also translated to Spanish and provided in mailings and at the public meeting.

A public meeting to take oral comments on the Recirculated Draft EIS/EIR was held on June 5, 2008 at Banning's Landing Community Center in Wilmington. The LAHD also provided a Spanish/English interpreter at the public meeting. At the public meeting, an announcement was made extending the comment period from sixty to seventy-five days. Notices to newspapers and to all previous recipients followed announcing the extension, and the main page of the Port's website was updated with the new information. There were sixteen verbal comments received during the Draft Recirculated EIS/EIR public meeting. The public meeting transcript was posted on the Port's website and is included in the Final EIS/EIR.

Fifty-one letters were received from agencies, organizations, and individuals. Comment letters were also posted on the Port's website.

- c. *Responses to Comments:* As required by Public Resources Code 21092.5, all agencies, organizations, and individuals who commented on environmental

SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BERTH 97-109 [CHINA SHIPPING] CONTAINER TERMINAL PROJECT (LAHD ADP NO. 030127-018; SCH NO. 2003061153)

issues in the Recirculated Draft EIS/EIR were provided with responses to comments at least 10 days prior to the Final EIR being submitted to the Los Angeles Board of Harbor Commissioners for certification. The responses to comments were mailed by December 5, 2008, to all those who submitted comments.

- d. *Final Environmental Impact Report:* In accordance with the Los Angeles City CEQA Guidelines, Article I, and the State CEQA Guidelines, Section 15088, comments received on the Recirculated Draft EIS/EIR were evaluated and responded to. The comment letters and responses to comments are presented in the Final EIR. The Final EIR is part of a joint Final EIS/EIR released by the LAHD and the USACE. The Final EIS/EIR was released on December 12, 2008.
9. Findings and Conclusions. The EIR and Findings of Fact and Statement of Overriding Considerations, transmitted herewith, identify major findings and conclusions, including a discussion of areas of environmental concern, alternatives, feasible mitigation measures, and unavoidable impacts. The discussion below summarizes the proposed findings included in Transmittal 2 for the Board's consideration.
- a. *Areas of Environmental Concern:* Through the public environmental process a number of areas of environmental concern were identified. These potential impacts and others were assessed in the EIR. The impacts associated with the proposed Project are discussed in detail, by resource area, in the EIR. The EIR addressed potential environmental impacts in the areas of Aesthetics/Visual Resources; Air Quality; Biological Resources; Cultural Resources; Geological Resources; Ground Transportation; Groundwater and Soils; Hazards and Hazardous Materials; Land Use; Marine Transportation; Noise; Recreation;; Utilities; Water Quality, Sediments and Oceanography; and Cumulative Impacts. After environmental analysis and, in some cases, application of mitigation, impacts in the areas of Aesthetics and Visual Resources, Air Quality, Biological Resources, Geological Resources, Ground Transportation, Noise, Water Quality and Sediments, and Cumulative Impacts would remain significant and unavoidable if the proposed Project is approved. The EIR also included evaluations of Environmental Justice and Socioeconomics and, based on the demography of the surrounding communities and the region, found that the Project would have disproportionately high impacts in the areas of Aesthetics, Air Quality, Ground Transportation, and Noise. This is due in large part to the addition of a new terminal where none previously existed (i.e. a greenfield development).

SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BERTH 97-109 [CHINA SHIPPING] CONTAINER TERMINAL PROJECT (LAHD ADP NO. 030127-018; SCH NO. 2003061153)

b. *Choice Among Alternatives:* Seventeen alternatives to the proposed Project were considered. Ten of these were eliminated from further consideration (Recirculated Draft EIS/EIR Chapter 6). The remaining seven alternatives to the proposed Project were considered in detail:

- 1) No Project Alternative (Alternative 1). This alternative is required for consideration under CEQA. The No Project Alternative would utilize the terminal site constructed as part of Phase I for container storage. Because of this, the Phase I construction activities are included under Alternative 1 although the in-water Phase I elements would not be used (they would be abandoned). Alternative 1 acknowledges the completion of Phase I activities but seeks to return to pre-Phase I conditions to the maximum extent practicable through abandonment of structures and fills rather than removing them, which could require additional federal action. Under the No Project Alternative, the operation of wharf-related components (A-frame cranes and wharves) at Berths 97-109 beyond those constructed prior to the court injunction and as allowed for in the ASJ would not occur, and no further Port action or federal action would occur.
- 2) No Federal Action (Alternative 2). This alternative is required for consideration under NEPA. The No Federal Action Alternative includes all of the construction and operational impacts likely to occur absent further USACE permits. Under Alternative 2, the Yang Ming Terminal would operate the site as a supplemental container backlands area under a revocable permit. The Berth 97-109 backlands would be used to sort and store containers, and yard equipment would transport containers between the two terminals using an internal road (Berths 121-131 and Berths 97-109). The Yang Ming facility currently is berth limited. Under this alternative, the Yang Ming total throughput is assumed to remain the same with or without additional land at Berths 97-109; however, the additional land would allow Yang Ming to use more wheeled operations versus stacked operations. Wheeled operations are more efficient and less expensive than stacked, but terminals are often limited by their backlands area necessitating a certain amount of stacking.
- 3) Reduced Fill, No New Wharf Construction at Berth 102 (Alternative 3): This alternative would be developed similar to the proposed Project except that 925 linear feet of wharf proposed at Berth 102 would not be constructed. The total length of wharf at the terminal would be 1,575 feet. As a result of no wharf construction at Berth 102, only one additional A-frame crane would be installed for a total of five cranes at the Berth 97-109 Container Terminal (four currently exist). The total acreage of backlands under this alternative would be 142 acres, the same as the proposed Project. TEU throughput

**SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BERTH 97-109 [CHINA SHIPPING] CONTAINER TERMINAL PROJECT (LAHD ADP NO. 030127-018; SCH NO. 2003061153)**

would be less than the proposed Project, with an expected throughput of 936,000 TEUs by 2030. This would translate into 130 annual ship calls at Berths 97-109 with 520 associated tugboat operations. In addition, this alternative would result in up to 2,833 daily truck trips, and up to 493 annual round-trip rail movements. Development of all other landside terminal components would be identical to the proposed Project.

- 4) Reduced Fill, No South Wharf Extension at Berth 100 (Alternative 4): This alternative would be similar to the proposed Project except that the proposed 375 feet of linear wharf proposed south of Berth 100 and 12 of the 25 acres of backland behind Berth 100 would not be constructed or developed. Five additional A-frame cranes would be installed at Berth 102 in Phase II for a total of nine cranes at the Berth 97-109 Container Terminal (four currently exist). TEU throughput would be less than the proposed Project with an expected throughput of 1,392,000 TEUs by 2030. This would translate into 208 annual ship calls and 832 associated tugboat trips. In addition, this alternative would result in up to 4,472 daily truck trips, and up to 734 annual round-trip rail movements. With 130 acres of backlands, compared to the proposed Project, slightly less backland would be developed under Alternative 4.
- 5) Reduced Construction and Operation, Phase I Construction Only (Alternative 5): Under Alternative 5, the Phase I Terminal (completed in 2003 as allowed by the ASJ) would continue to operate at levels similar to today. The total acreage of backlands under this alternative would be 72 acres. Under this alternative, however, Phase II and Phase III construction elements would not be constructed, including the Berth 102 wharf and the Berth 100 south extension construction, six additional cranes, the second bridge connecting Berths 97-109 and Berths 121-131, and 70 acres of additional backlands. Under Alternative 5, China Shipping would operate the terminal under a 40-year lease. The lease would include AMP and terminal equipment provisions consistent with the ASJ. TEU throughput would be less than the proposed Project with an expected throughput of 630,000 by 2030. This would translate into 104 annual ship calls at Berths 97-109 and 416 associated tugboat trips. In addition, this alternative would result in up to 1,796 daily truck trips, and up to 332 annual round-trip rail movements.
- 6) Omni Cargo Terminal (Alternative 6): The Omni Cargo Terminal Alternative would convert the existing site into an operating omni cargo-handling terminal. The primary objective of the Omni Cargo Terminal Alternative is to provide increased and diversified cargo-handling capabilities by expanding and improving existing terminal facilities. The omni terminal would handle

SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BERTH 97-109 [CHINA SHIPPING] CONTAINER TERMINAL PROJECT (LAHD ADP NO. 030127-018; SCH NO. 2003061153)

containers, Roll-On-Roll-Off and break-bulk commodities. This alternative would develop 2,500 feet of wharves (including the 1,200-foot wharf at Berth 100 wharf completed as part of Phase I, the 925-foot wharf at Berth 102 as part of Phase II, and the 375-foot wharf south extension at Berth 100 as part of Phase III), five new A-frame cranes (one would be added to the existing four A-frame cranes installed as part of Phase I), and backlands occupying 142 acres (the same as under the proposed Project). Annual throughput volumes at the proposed omni terminal would vary by commodity: 506,467 container TEUs; 17,987 auto TEUs; and break-bulk commodities totaling 5,159,570 tons. Under this alternative, 364 annual ship calls and 1,456 tugboat trips would be required. In addition, this alternative would result in up to 3,982 truck trips, and up to 245 annual round-trip rail movements.

- 7) Non Shipping Use (Alternative 7): A Nonshipping Use Alternative normally would not be evaluated in detail in an EIS/EIR for the Port because such use of the site would not be consistent with the Project objectives, with the maximum utilization of Port lands for Port-related uses, with the Port Master Plan for the Project site, or with Regulations and Guidelines for Development Projects (LAHD, 2002a).<sup>2</sup> However, the Nonshipping Use Alternative is included for detailed analysis in this Recirculated Draft EIS/EIR pursuant to the terms of the ASJ. The Nonshipping Use Alternative would convert the existing site into a “Regional Center,” which would generally be considered as a mixed-use center with major retail tenants serving as “anchor” uses; office park uses; and light industrial uses supporting maritime activities such as machine shops, marine vessel chandlers, and marine supply stores. In addition, a public dock would be constructed to support onsite retail and restaurant uses. This dock would be constructed to provide service and access to smaller watercraft (such as small boats, wave runners, and kayaks).

In addition, the following alternatives were considered but eliminated from further analysis:

- Use of West Coast Ports Outside Southern California
- Expansion of Terminals in Southern California but Outside the Los Angeles Harbor District
- Lightering

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<sup>2</sup> According to the Port Master Plan Regulations and Guidelines for Development Projects that regulate the planned development of the Project site: “the Port is responsible for modernizing and constructing necessary facilities to accommodate deep-draft vessels and to accommodate the demands of foreign and domestic waterborne commerce and other traditional water dependent and related facilities...” and “...the highest priority for any water or land area use within the jurisdiction of the Port of Los Angeles shall be for developments which are completely dependent on such harbor water areas and/or harbor land areas for their operations...” (LAHD, 2002a)

SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BERTH 97-109 [CHINA SHIPPING] CONTAINER TERMINAL PROJECT (LAHD ADP NO. 030127-018; SCH NO. 2003061153)

- Shallower Dredge Depth
- Liquefied Natural Gas Terminal Facility
- Offsite Backlands Alternatives
- Development of New Landfills and Terminals Outside the Berth 97-109 Terminal Area and the Adjoining West Basin Area
- Other Sites in the Los Angeles Harbor District
- Narrower Wharves
- Development and Operation of Small Container Terminal

As discussed in Chapter 6 of the Recirculated Draft EIR and Chapter 3 of the Final EIR, the proposed Project and Alternatives 3 through 6 have unavoidable significant impacts in the areas of Aesthetics, Air Quality, Biological Resources, Geology, Ground Transportation, Noise, and Water Quality and Sediments. Alternatives 1 and 2 would result in unavoidable significant impacts in the areas of Air Quality, Geology, and Noise. Alternative 7 would result in unavoidable significance adverse impacts in the areas of Air Quality, Geology, Ground Transportation, and Noise.

For the reasons discussed in the attached Findings of Fact, staff recommends that the Board, (1) find that the No Project Alternative does not meet Project objectives or significantly reduce environmental impacts; (2) find that Alternatives 1 through 7 do not meet all Project objectives or result in elimination of environmental effects; and (3) approve the proposed Project as described in Final EIR. The proposed Project best meets all Project objectives.

- c. *Proposed Mitigation Measures:* In accordance with the provisions of the Los Angeles City CEQA Guidelines, Article I, the State CEQA Guidelines Section 15091, and the information contained in the EIR for the China Shipping Project, changes or alterations have been required in, or incorporated into, the proposed Project which avoid or substantially lessen the significant adverse environmental impacts identified in the EIR. Where determined feasible, certain mitigation measures identified in the Recirculated Draft EIR were modified/strengthened in the Final EIR, specifically increased AMP and low sulfur fuel requirements, additional future technology requirements, and noise restrictions on pile driving (see below and Transmittal 4). Incorporation of additional or more stringent mitigation measures would be infeasible as a result of specific economic, legal, social, technological or other considerations set forth in the Findings of Fact (Transmittal 2). A total of sixty mitigation measures have been applied to the proposed Project (Transmittal 4).

SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BERTH 97-109 [CHINA SHIPPING] CONTAINER TERMINAL PROJECT (LAHD ADP NO. 030127-018; SCH NO. 2003061153)

- 1) *Aesthetic Measures:* Mitigation measures include landscaping along Front Street and implementing the Northwest Harbor Beautification Plan, Plaza Park improvements, and color studies for cranes.
- 2) *Air Quality Measures:*
  - i. Construction: Mitigation measures include clean construction equipment, fugitive dust requirements, Vessel Speed Reduction Program (VSRP) and low sulfur fuel for construction vessels, harbor craft engine standards, fleet modernization for construction trucks, truck staging areas, and best management practices consistent with the Port's Sustainable Construction Guidelines.
  - ii. Operation: Mitigation measures include VSRP, low sulfur fuel, slide valves and Alternative Maritime Power (AMP) requirements for ships, new vessel specifications, alternative fuel-yard tractors, electric rubber-tired gantry cranes (RTGs), USEPA 2007 compliant diesel trucks, LNG trucks, on-dock rail requirements, throughput tracking, and periodic review of new technology.
- 3) *Greenhouse Gas Measures:* Mitigation measures include Leadership in Energy and Environmental Design (LEED) buildings, energy audits, solar panels, tree plantings, increased recycling, and compact fluorescent bulbs in addition to Air Quality construction and operation measures that reduce diesel combustion, especially electric yard equipment.
- 4) *Biology Measures:* Mitigation measures include slow-start pile driving, use of Bolsa Chica or Outer Harbor mitigation bank credits and VSRP.
- 5) *Cultural Resources:* Mitigation measures include restrictions on excavations if cultural artifacts are found.
- 6) *Geological Measures:* Mitigation measures include seismic design and emergency response planning.
- 7) *Ground Transportation:* Mitigation measures include construction of additional through and turn lanes at a number of intersections in the proposed Project vicinity.
- 8) *Groundwater and Soils:* Mitigation measures include site remediation and contamination contingency planning.

SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BERTH 97-109 [CHINA SHIPPING] CONTAINER TERMINAL PROJECT (LAHD ADP NO. 030127-018; SCH NO. 2003061153)

- 9) *Noise*: Mitigation measures include noise reductions during pile driving, temporary noise barriers, restricted construction hours, idling prohibitions, quiet equipment selections, muffled equipment, and noise walls.
- 10) *Utilities*: Mitigation measures include water conservation measures, recycling construction materials, use of recycled construction materials, and a solid waste management plan.

The following mitigation measures were modified in or added to the Final EIR (Transmittal 4):

- MM AQ-5: Best Management Practices (BMPs) (additional BMPs added)
  - MM AQ-6: Additional Fugitive Dust Controls (additional controls added)
  - MM AQ-11: Low Sulfur Fuel (increased low sulfur fuel use to 100% of ship calls)
  - MM AQ-17: Yard Equipment (included electric yard tractor pilot program)
  - MM AQ-21: Truck Idling (included new restrictions)
  - MM BIO-3: Noise Reduction during Pile Driving (included new methods to reduce noise)
- d. *Unavoidable Significant Adverse Impacts*: Even after the application of all reasonable and feasible mitigation efforts, there would still be significant impacts of the China Shipping Project that could not be reduced or avoided below a level of significance. These impacts are described in the Findings of Fact with findings for each impact. Significant impacts in the following areas could not be mitigated to a level of insignificance: Aesthetics and Visual Resources, Air Quality, Biological Resources, Geological Resources, Ground Transportation, Noise, Water Quality, and Cumulative Impacts. Significant unavoidable impacts of the proposed Project are identified below:
- 1) Aesthetics and Visual Resources: The proposed Project would reduce views of the Vincent Thomas Bridge.
  - 2) Air Quality:
    - Construction would result in increases in criteria pollutants.<sup>3</sup> Specifically, there would be significant impacts after mitigation from VOCs, CO, NO<sub>x</sub>,

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<sup>3</sup> Criteria pollutants are those pollutants that have federal or state standards. These include Nitrogen Oxides (NO<sub>x</sub>), Sulfur Oxides (SO<sub>x</sub>), Particulate Matter (PM<sub>10</sub> and PM<sub>2.5</sub>), Carbon Monoxide (CO) and Volatile Organic Gases (VOCs).



SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BERTH 97-109 [CHINA SHIPPING] CONTAINER TERMINAL PROJECT (LAHD ADP NO. 030127-018; SCH NO. 2003061153)

SO<sub>x</sub>, and PM<sub>10</sub>/PM<sub>2.5</sub> emissions in Phase I, and NO<sub>x</sub>, SO<sub>x</sub>, and PM<sub>10</sub>/PM<sub>2.5</sub> emissions in Phases II and III. In addition, there would be significant offsite ambient air pollutant concentration impacts after mitigation for 1-hr NO<sub>2</sub>, and 24-hr PM<sub>10</sub> emissions in Phase I.

- Operations would result in emissions that exceed 10 tons per year of VOCs and SCAQMD thresholds of significance. Specifically, there would be significant ship emission impacts after mitigation for all years for VOCs, CO, NO<sub>x</sub>, SO<sub>x</sub>, and PM<sub>10</sub>/PM<sub>2.5</sub> emissions.
  - Construction and operations would produce Greenhouse Gas (GHG) emissions that would exceed baseline levels.
  - The proposed Project would result in a residential cancer risk of 11 in a million in 2004 to 2073 for the closest residential receptor (located approximately 200 meters west of the terminal) because the analysis includes Phase I construction and operational emissions from 2004 to 2008 that have already occurred and therefore cannot be mitigated. However, a residential Health Risk Analysis (HRA) was also completed for 2009 to 2078 that includes construction of Phases II and III, and operation of all phases beginning in 2009 would result in a residential cancer risk of 7.5 in a million, which is less than the 10 in a million threshold.
- 3) Biological Resources: Operations of the proposed Project has the potential to result in accidental spills or introduce non-native species that could disrupt local biological communities.
- 4) Geological Resources: Construction and operation of the Project would result in increased exposure of people and property to seismic hazards from a major or great earthquake. This increased exposure cannot be precluded, even with incorporation of modern construction engineering and safety standards.
- 5) Ground Transportation: Proposed Project operations could result in an increase in rail activity, causing potential delays at the Henry Ford Avenue and Avalon Boulevard rail crossings.
- 6) Noise:
- Construction activities would temporarily and periodically generate noise that exceeds significance threshold levels at sensitive receivers.

SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BERTH 97-109 [CHINA SHIPPING] CONTAINER TERMINAL PROJECT (LAHD ADP NO. 030127-018; SCH NO. 2003061153)

- Operational activities would temporarily and periodically generate noise that exceeds significance threshold levels at sensitive receivers near the Project site (Knoll Hill and Front Street).
- 7) Water Quality, Sediments and Oceanography: Operation of proposed Project facilities could create pollution and/or contamination in harbor waters. There is a significant impact after mitigation in regards to in-water vessel spills and potential leaching of hull paint biocides.
- 8) Cumulative Impacts: The incremental effects of the proposed Project, when viewed in connection with the effects of past, present and probable future projects, would be significant and unavoidable in the following resource areas:
- Aesthetics;
  - Air Quality;
  - Biological Resources;
  - Geological Resources;
  - Ground Transportation;
  - Noise; and,
  - Water Quality and Sediments.
- e. *Environmental Justice*: An Environmental Justice (EJ) analysis was prepared in accordance with federal Executive Order 12898 (Chapter 5 of the Recirculated Draft EIS/EIR). The Marine Terminal and storage tanks would be located in the Port and adjacent to two City of Los Angeles communities: Wilmington and San Pedro. Within Wilmington, minorities constitute 87.1 percent of the population, and low-income persons constitute 32.2 percent of the population. Within San Pedro, minorities comprise 55.3 percent of the population, and 22.5 percent of the population is low-income. Thus, both Los Angeles neighborhoods constitute a “minority population concentration” under the Council on Environmental Quality (CEQ) guidance because the guidance indicates such a concentration exists if the percent minority exceeds 50 percent. In addition, Wilmington has a low-income population concentration. Due to the proximity of the proposed Project to existing EJ communities, the Project would have a disproportionately high and adverse impact on minority and low-income populations within the geographical area due to the significant direct and cumulative environmental effects on Air Quality, Ground Transportation and Noise.

SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BERTH 97-109 [CHINA SHIPPING] CONTAINER TERMINAL PROJECT (LAHD ADP NO. 030127-018; SCH NO. 2003061153)

10. Overriding Considerations. Pursuant to Public Resources Code Section 21081, no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects that would occur if the project is approved or carried out and cannot feasibly be avoided or substantially lessened unless the agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the unavoidable significant effects of the project. The Statement of Overriding Considerations must identify the substantial adverse environmental impacts that cannot be mitigated or avoided and state the reasons why, in the opinion of the decision-making body, specific economic, legal, social, technological or other benefits of the proposed Project warrant approval despite such consequences or recommendations. The draft Findings of Fact and Statement of Overriding Considerations recommended by staff is transmitted for Board consideration and adoption (Transmittal 2). Staff, in recommending the proposed Project for approval, has identified specific environmental, economic, legal, social, technological and other Project benefits. In summary, the proposed Project provides the following benefits, which will outweigh the potential impacts of the Project:

- The Project would allow the terminal to implement efficiency measures such as new efficient cranes, deeper berths, longer wharves, and new truck gates that will allow the terminal to achieve its maximum capacity. As such, the proposed Project would best fulfill the LAHD's Tidelands Trust and Coastal Act obligations to modernize and expand the Port and meet the Mayor's goal and the LAHD's strategic objective to "grow the Port green." Relative to the other Alternatives, the proposed Project provides the highest and best tidelands trust use of the land, while still being in conformance with the CAAP (Transmittal 2).
- Estimated health risk of Toxic Air Contaminant (TAC) emissions to residential receptors, sensitive receptors (e.g., children and elderly) and student receptors would be reduced below significant levels throughout San Pedro and Wilmington as a result of mitigation identified in the EIR in years 2009 to 2045. As discussed previously, the proposed Project includes analysis of Phase I construction and operational emissions from 2004 to 2008 that have already occurred and therefore cannot be mitigated. However, a Health Risk Analysis (HRA) was also completed for 2009 to 2078 that includes construction of Phases II and III and operation of all phases beginning in 2009. This HRA indicates that residential cancer risk would 7.5 in a million, which is less than the 10 in a million threshold as a result of the proposed Project's mitigation measures.

SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BERTH 97-109 [CHINA SHIPPING] CONTAINER TERMINAL PROJECT (LAHD ADP NO. 030127-018; SCH NO. 2003061153)

- Construction would result in an average of 180 annual full-time direct construction jobs and an additional 130 annual indirect construction jobs over the 6-year construction period. These workers would receive an annual pay for direct, indirect, and induced jobs estimated at approximately \$50,500 per job/per year. Annual tax revenues contributed by all workers for the peak construction activity year would reach approximately \$9 million.
- The proposed Project will create 4,687 direct permanent direct jobs by 2030. For our five-county region, Project operations would result in an additional 3,748 indirect and induced jobs. Annual pay for direct, indirect and induced jobs is estimated at about \$60,000 per job/per year. Annual tax revenues contributed by all workers would be \$85 million by 2045.
- The proposed Project includes large-scale application of green design principles and new technology including a LEED certified “Gold” building, the highest LEED standard building in the Port, and new electric technology including electric RTGs and an electric yard tractor demonstration project.

11. Areas of Controversy. In making their determinations, it is important for the Board to be informed as to the areas of controversy associated with the proposed Project. The areas of controversy have been identified through oral and written comments received on the Project during public and stakeholder meetings. The list below provides identified areas of concern that staff believes remain controversial.

- *Alternatives Considered:* Comments were received on the use of the Berth 97-109 Terminal for non-shipping purposes. A number of individuals commented that the area should be devoted to public maritime use. A non-shipping Alternative was carried through for analysis in the Recirculated Draft EIS/EIR.
- *Baseline Throughput Numbers and Project Description:* Comments were received questioning the need for the proposed Project and environmental effects of the increases in container throughput. The proposed Project need is discussed in Section 3 of this Board Report, and the EIR fully discloses all environmental effects of the Project approval.
- *Significant Residential Health Risk.* Comments were received that there is significant residential health risk for the Project, which exceeds 10 in a million, contradicts the Board’s policy of not approving projects that have significant residential health risk. The staff recommendation does require the Board to acknowledge that they are approving a project with 11 in a million residential health risk based on the ASJ CEQA baseline. However,

SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BERTH 97-109 [CHINA SHIPPING] CONTAINER TERMINAL PROJECT (LAHD ADP NO. 030127-018; SCH NO. 2003061153)

this results from not being able to apply the CEQA mitigations to emissions that have already been released as a result of the operation of Project Phase 1 since 2004. Staff is recommending that the Board acknowledge through adoption of an Overriding Consideration that acknowledges while the risk for the years 2004 - 2073 is 11 in a million, the residential health risk for the period 2009 - 2078 with the application of CEQA mitigation is 7.5 in a million.

- *Increase Air Quality Mitigation:* Comments were received on the Draft EIR requesting more rigorous schedules of implementation, especially of mitigation measures requiring the use of low sulfur fuel in ship engines, shoreside electricity (AMP) for ships, and electric yard trucks. Staff has reviewed each mitigation measure with the proposed tenant, and increased the requirement for use of low sulfur fuel and AMP to the extent feasible. Staff also included a pilot program regarding electric yard tractors at the terminal.
- *Mitigation Measure Enforcement:* Comments were received on the Draft EIR requesting clarification on how the mitigation measures will be monitored and/or made part of the lease. As provided above in Staff Recommendation 8, all feasible mitigation measures will be subject to a Mitigation Monitoring and Reporting Program (MMRP) (Transmittal 3) and will be included in construction specifications and lease agreements/entitlements.
- *Aesthetics/Lighting:* Comments were received that the cranes and terminal operations pose a significant aesthetic impact to the community. The CEQA assessment of aesthetics contained in the EIR does not find that light from terminal operations is a significant impact; however, the cranes were found to block the views of the Vincent Thomas Bridge. Mitigation has been applied to reduce such impacts, and only removal of the cranes would eliminate the significant impact.
- *Consideration of Off-Port Impacts:* Comments were received regarding the failure of the document to consider off-port impacts. The document does examine "indirect" or off-site environmental effects in 15 resource areas using established assessment methodologies and significance criteria. Where appropriate, based on the results of the CEQA assessment, impacts were identified beyond LAHD boundaries. Both air quality and noise were identified as direct and cumulative significant unavoidable impacts that occurred beyond LAHD boundaries. More recently, as part of a settlement Memorandum of Understanding (MOU)

SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BERTH 97-109 [CHINA SHIPPING] CONTAINER TERMINAL PROJECT (LAHD ADP NO. 030127-018; SCH NO. 2003061153)

with a number of parties related to the TraPac Container Terminal EIR, an “off-port” environmental effects study is to be conducted, which would examine effects of existing LAHD operations outside the context of CEQA reviews of this or other proposed Projects. Based on this MOU, at the time of Project implementation, funds would be provided towards “off-port” impacts identified through that study.

- *Consideration of the Environmental Justice Effects and Health Care Facilities for the Community.* Comments were received that the LAHD should contribute to health care facilities for the community as a result of disproportional effects on Environmental Justice Communities from the proposed Project. While CEQA does not require an impact assessment of Environmental Justice, Chapter 5 in the Recirculated Draft EIR identifies several resource areas as having disproportionate effects on the Environmental Justice Community. In all cases, feasible mitigation has been applied to the resource areas assessed in Chapter 3 of the EIR. Establishment or contribution towards health care facilities was not identified as a feasible or effective means of mitigating those impacts.
- *Overriding Consideration:* Comments were received that the LAHD should not invoke overriding considerations in its Project approvals, especially in regard to air quality. Pursuant to Public Resources Code Section 21081, no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects that would occur if the project is approved or carried out and cannot feasibly be avoided or substantially lessened unless the agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the unavoidable significant effects of the project. For this Project, it is not feasible to reduce Project impacts to meet several significance thresholds (Aesthetics, Air Quality, Biological Resources, Geological Resources, Noise, Water Quality and Sediments, and Cumulative Impacts); therefore, approval of the Project or Project alternative would require the Board of Harbor Commissioners to consider if the Project warrants approval despite such consequences or recommendations. Staff's recommendations with regard to benefits of the Project, which may in the Board's opinion, outweigh the significant and unavoidable impacts of the Project are discussed above in Staff Recommendation 7. It is within the discretion of the Board, upon review of all the record, not to approve the Project.
- *Cumulative Effects.* Comments were received that the EIR requires a quantitative analysis of the cumulative effects of past, present, and

SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BERTH 97-109 [CHINA SHIPPING] CONTAINER TERMINAL PROJECT (LAHD ADP NO. 030127-018; SCH NO. 2003061153)

reasonably foreseeable projects in regards to Air Quality. The Recirculated Draft EIS/EIR includes a discussion regarding the cumulative effects of the proposed Project's contribution to Air Quality and finds it significant and unavoidable based on prior quantitative analyses (by CARB and SCAQMD) that include both Port and surrounding area projects.

- *Transportation Impacts in Riverside County:* Comments were received from the City of Riverside and the Riverside County Transportation Commission regarding impacts from the proposed Project's rail and truck movements in Riverside County. In response to these comments, the Final EIR includes a quantitative analysis that supports the findings of "less than significant" in the Recirculated Draft EIS/EIR.

12. EIR Certification and Project Approval. In light of these findings and conclusions, staff recommends certification of the Final EIR as being prepared in accordance with CEQA and implementing guidelines, and recommends approval of the proposed Project, all feasible mitigation measures, the supporting Findings of Fact and Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program.
13. Implementation of Mitigation. When making the CEQA findings required by Public Resources Code Section 21081(a), a public agency shall adopt a reporting or monitoring program in accordance with Public Resources Code Section 21081.6 for changes to the Project, which it has adopted or made a condition of Project approval in order to mitigate or avoid significant effects on the environment. A MMRP is transmitted for Board Consideration and adoption (Transmittal 3, see Recommendation 8). In addition, should the Board elect to approve the proposed Project or the Reduced Project Alternative, the mitigation measures identified in the MMRP with respect to the approved Project or alternative would be incorporated into all design specifications and construction contracts and incorporated into any and all lease agreements.

The aesthetics mitigation measure to enhance Plaza Park is also a China Shipping ASJ Aesthetics Mitigation Fund measure. As such, the funding for this measure would come from the Mitigation Fund. The existing park, located on S. Beacon Street and overlooking the Main Channel, is City property overseen by the Department of Recreation and Parks. Staff recommends that the Board authorize the Executive Director to execute an agreement with the Department of Recreation and Parks to implement this project for up to a not-to-exceed \$5 Million. Execution of such an agreement would be dependent on development of milestone deliverables by the Department of Recreation and Parks.

SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BERTH 97-109 [CHINA SHIPPING] CONTAINER TERMINAL PROJECT (LAHD ADP NO. 030127-018; SCH NO. 2003061153)

14. A-frame Cranes. Pursuant to the ASJ, project approval commits the Board to provide \$800,000 to the aesthetics mitigation fund for each of six new A-frame crane at the time of their installation for up to \$4.8 Million (6 x \$800,000).
15. Record of Proceedings. When making CEQA findings required by Public Resources Code Section 21081(a), a public agency shall specify the location and custodian of the documents or other material, which constitute the record of proceedings upon which its decision is based. These records are in the care of the Director of Environmental Management, Los Angeles Harbor Department, 425 South Palos Verdes Street, San Pedro, California 90731.
16. Notice of Determination. In accordance with Los Angeles City CEQA Guidelines, Article I, and the State CEQA Guidelines Section 15094, a Notice of Determination will be filed with the City Clerk after the Project is approved. Public Resources Code Section 21167(c) provides that any action or proceeding alleging that an EIR does not comply with the provisions of CEQA shall be commenced within 30 days after filing the Notice of Determination.

**FINANCIAL IMPACT:**

Funds for this EIR have been budgeted in the Capital Budget in Account 54260, Center 1103, Program 651, Job Number 635-00, Work Order 24587 to cover this expense. Phase I operation began in 2004 and has been generating a Minimal Annual Guarantee (MAG) of \$11.3 million. Phases II and III of the proposed Project would result in an additional MAG of \$10.9 million for wharf and backlands utilization by the proposed tenant. Total construction costs are currently estimated to cost \$85 million. Committing LAHD funds to the expansion and modernization of Berth 97-109 Terminal will require future Board approval(s). Funds in the amount of \$5 Million for the enhancement of Plaza Park are Present in Account No. 21952, Community Aesthetic Mitigation, Center No. 7000, Program 663. Funding of up to \$4.8 Million to pay the aesthetics mitigation fund will need to be budgeted in the Department's operating budget for the year that the A-frame cranes are installed.



**DATE: DECEMBER 11, 2008**

**PAGE 25 OF 25**

**SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BERTH 97-109 [CHINA SHIPPING] CONTAINER TERMINAL PROJECT (LAHD ADP NO. 030127-018; SCH NO. 2003061153)**

**CITY ATTORNEY:**

This Resolution has been reviewed and approved as to form by the Office of the City Attorney.

**TRANSMITTALS:**

1. Final Environmental Impact Report (EIR)
2. Findings of Fact and Statement of Overriding Considerations
3. Mitigation Monitoring and Reporting Program (MMRP)
4. Mitigation Measure List
5. Amended Stipulated Judgment (ASJ)

RALPH G. APPY, Ph.D.  
Director of Environmental Management

MICHAEL R. CHRISTENSEN  
Deputy Executive Director

APPROVED:

GERALDINE KNATZ, Ph.D.  
Executive Director

RGA:LMD:yo  
ADP No.: 030127-018  
BOARD MEETING: 12/18/08

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