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File Ref: SCH 1992102975

Dr. Ralph Appy
Director of Environmental Management
Port of Los Angeles
425 South Palos Verdes Street
San Pedro, CA 90733



Subject: Draft Supplemental Environmental Impact Statement/Draft Subsequent Environmental Impact Report for the Pacific L.A. Marine Terminal LLC Pier 400, Berth 408 Project, Port of Los Angeles, Los Angeles County

Dear Dr. Appy:

The California State Lands Commission (CLSC) staff has reviewed the subject Draft Environmental Impact Statement (SEIS)/Draft Subsequent Environmental Impact Report (SEIR) and offers the following comments. The proposed new marine oil terminal at Berth 408 lies within state granted lands in the Port of Los Angeles, and the CSLC is a Trustee Agency under the California Environmental Quality Act (CEQA).

The CSLC has jurisdiction and management authority over all sovereign lands of the State of California which includes tidelands, submerged lands, and the beds of navigable rivers, sloughs, lakes, etc. (e.g. Public Resources Code 6301.) Such lands include, but are not limited to, the beds of more than 120 navigable rivers and sloughs, nearly 40 navigable lakes, and the three-mile wide band of tide and submerged lands adjacent to the coast and offshore islands of the State.

The CSLC has certain residual and review authority related to Public Trust issues for tide and submerged lands legislatively granted in trust to local jurisdictions (Public Resources Code (PRC) §§6301 and 6306). The project area involves sovereign lands, which the California Legislature initially legislatively granted in trust to the city of Los Angeles pursuant to Chapter 656, Statutes of 1911. The grant has been amended a number of times, most recently by Chapter 2769, Statutes of 2002. The Port, as a Trustee of these sovereign lands, must ensure that the specific uses proposed in this plan are consistent with the provisions of the relevant granting statutes and the Public Trust. The Public Trust is a sovereign public property right held by the State or its delegated trustee for the benefit of all the people. This right limits the uses of these

lands to waterborne commerce, navigation, fisheries, open space, recreation, or other recognized Public Trust purposes. The CSLC has a legal responsibility for, and a strong interest in, protecting the Public Trust values associated with the State's sovereign and granted lands. In addition, the Lempert-Keene-Seastrand project Oil Spill Prevention and Response Act (Act) of 1990, as amended, directed the CSLC to adopt regulations regarding the location, type, character, performance standards, size and operation of existing and proposed marine terminals within the state. The CSLC has oversight over certain adopted regulations on marine oil terminals and pipelines.

General Comments

Throughout the SEIS/SEIR, there is a consistent lack of citation of references for facts and figures. The authors fail to provide adequate scientific support for their conclusions and assessments of impacts. The Biological Resources section, in particular, requires additional data in order to support the impact assessments. Additionally, several sections of the SEIS/SEIR are out of date and will need revision in order to reflect the current regulatory environment.

Specific Comments

Biological Resources (3.3)

Page 3.3-3, lines 3-5 (Mitigation Measure (MM) 4D-7)

More specificity is needed regarding California least terns, such as who will be monitoring for the presence of California least tern nests and how often will monitoring occur.

Page 3.3-4, lines 19-28 (MM 4D-10)

The mitigation measure states that no relocation of the nesting colony will take place because no acceptable sites have been identified, construction of an island is not feasible, and the nesting colony will not be significantly impacted by the project. An alternative mitigation measure should be considered that addresses finding/creating adequate habitat for the least terns if the specialists monitoring the terns observe that the birds do not return to their nests after or during construction.

Page 3.3-5, line 8

The Executive Summary is incorrectly referenced as part of Appendix I.1, but should be listed as Appendix I.2.

3.3-6, lines 30-32

Was the vegetation clearing part of a mitigation measure or other monitoring activity? Please include the square footage/acreage of the land that is used as a nesting site.

3.3-8, lines 15-17

Please indicate the time period or number of times that the benthic infauna was sampled in 2000. The executive summary should also reflect the time period of sampling.

3.3-8, lines 34-35, and 3.3-9, lines 1-2

Please provide examples of the "low" pollutant concentrations discussed. What standard was used to make this "low" pollutant determination? Also, the executive summary does not discuss pollutants (only salinity, dissolved oxygen, and water clarity were mentioned for water quality). Please list what pollutants were tested for and what criteria were used for determinations.

Pg 3.3-11, lines 1-10

Please provide more recent data (than the 1980 and 1985 data presented) discussing the presence and abundance of phytoplankton and zooplankton in the proposed work area. Major changes in a biological community can occur in 20+ years since the cited data. If no new data is available, then the lack of recent data should be explicitly stated.

Pg 3.3-12, lines 12-15

The text states that Caspian tern nesting occurred on Pier 400 in the Tank Farm 1 site from 1997 – 2005. Please clarify whether or not the nesting site is still in use or if the site has been re-examined for Caspian terns since 2005.

Pg 3.3-21, lines 21-23

How close to the Pier 400 site has *Undaria* been found? Have there been any more recent surveys of *Undaria* presence and abundance in the harbor since the 2000 survey?

3.3-21, line 44

The Caulerpa Control Protocol is incorrectly listed as Appendix I.2, as it should be I.1.

Pg 3.3–26&27

The ballast water management section is out of date and needs to be re-written. Please see Falkner et al. (2007) "2007 Biennial Report on the Marine Invasive Species Program" for a recent summary of program activities, management requirements, and vessel call data statewide and for the LA/LB region. The report may be downloaded from the CSLC's Marine Invasive Species Program website:

http://www.slc.ca.gov/Spec_Pub/MFD/Ballast_Water/Ballast_Water_Default.html.

Additionally, new laws have gone into effect since the 2007 Biennial report. Please refer to CA Assembly Bill 740 (2007) for requirements regarding vessel fouling management and the yearly submittal of information regarding vessel hull husbandry practices (also visit Marine Invasive Species Program website to read

text of proposed regulation - Title 2, Division 3, Chapter 1, Article 4.8 "The Collection of Information Relating to Hull Husbandry Practices of Vessels For Control of Marine Invasive Species In Waters of California").

In 2006, the Coastal Ecosystems Protection Act required the CSLC to implement performance standards for the discharge of ballast water. The performance standards regulations were approved in October of 2007 and will be implemented on a graduated time schedule beginning January 1, 2009. Senate Bill 1781 is currently working its way through the legislature and will amend the Coastal Ecosystems Protection Act so that the performance standards will be implemented on a graduated time schedule beginning January 1, 2010. (Please see Title 2, Division 3, Chapter 1, Article 4.7 of the California Code of Regulations "Performance Standards for the Discharge of Ballast Water for Vessels Operating in California Waters.")

Pg 3.3-30, lines 10-14

Impact BIO-1.1 (California Least Tern) – The SEIS/SEIR needs to provide evidence (with scientific citations) to substantiate the claim that least terns won't be impacted by construction 2,400 ft. away.

Page 3.3-30, lines 28-37

The SEIS/SEIR states that the maximum noise level does not increase; however, the document should also address the fact that the average noise level does increase by about 50% (pile driving would increase the average noise level by up to 24 dB(A) from an average of 50 dB(A)). The SEIS/SEIR needs to provide evidence (with scientific citations) to substantiate the claim that least terns won't be impacted by this increase in average noise level.

Page 3.3-31, lines 1-5

It is difficult to interpret the data to determine likely impacts to fish species, because the distances from the Vagle (2003) study are not presented. The data presented suggests there may still be an adverse effect (either behavioral or causing mortality) on the fish and this could impact fish-eating birds.

Page 3.3-31, lines 18-23

During the Vagle (2003) study only one species was adversely affected on a sublethal level, while fishes of several species died due to the pile driving. The piles for this project range between 24-54" (see page 3.3-31, lines 7-8), so some of the pile driving will be similar to that observed in Vagle (2003). The fish mortality associated with the pile driving might impact the feeding of the least terns. We suggest adding more data to back up conclusions and to accurately assess chance of significant impact to foraging species for least terns.

3.3-33, lines 40-47

References are needed to back each of the claims.

3.3-34, lines 14-19

Although the snowy plovers are not known to nest in the Harbor, they are present on Pier 400 and on Cabrillo Beach (3.3-16, lines 33-37). Do snowy plovers react the same to disturbance, and therefore, have the same 200ft buffer zone as least terns? If so, please provide reference. If unknown, please state that this is an assumption and the buffer zone for plovers are unknown. Also, please provide more evidence that migrating and wintering plovers won't be affected by construction activities.

3.3-35, lines 1-2

Least terns are not endangered because of owl predation, but because of human activity. This sentence suggests that it would be a good thing if owls were injured or abandoned their nests because of construction activity, because it would benefit the least tern population. This is a subjective sentence valuing one special status species over another and should be reworded.

Pg 3.3 – 36, lines 23-25

The text does not address the impact of spills of volatile chemicals on the least tern nesting site. The high elevation of the nesting site may reduce/eliminate direct contact with spills, but the birds may not be immune to release of harmful vapors. Please discuss this potential impact.

Pg 3.3 – 36, lines 39-42, Pg 3.3-37, lines 1-4

Substantiate the claim (provide additional scientific data) that impacts from construction activities more than 200 ft. from the least terns will be less than significant. The impact analysis on least terns is inadequate as stands without additional scientific support.

Page 3.3-37, lines 23-26, MM BIO-1.1a

It is important that the SEIS/SEIR state the frequency of monitoring, as the extent of monitoring will determine whether or not this mitigation measure is sufficient.

Page 3.3-37, line 38

See previous comment about scope of monitoring efforts.

3.3-38, lines 19-22

Define the setback of the construction equipment from the nesting site (with appropriate scientific citations) so that the equipment does not act as perches for raptors. If there are inadequate data to determine the setback, consult with USFWS regarding safe distances.

3.3-38, line 38, MM BIO-1.1h

Once again, provide the citations suggesting that the 200 ft boundary is sufficient for these other special status birds. If there are inadequate data, consult with USFWS and discuss their conclusions.

Pg 3.3-38, MM BIO-1.1i

If 200 ft is set as the minimize distance to reduce and/or eliminate impacts on least terns, why is 100 ft allowable here? Cite sources that explain this change in allowable distance.

Page 3.3-40, line 15

Please provide species name for giant kelp.

Page 3.3-40, line 19-22

What is the abundance and density of algal and kelp species (cite reference)? What percentage of algae will be removed during construction? Please provide more detail regarding the effect of construction on these important algal species, which provide habitat for many other species.

Page 3.3-41, lines 16-17

Clarity is needed regarding whether or not there have been no studies investigating fish mortality due to pile driving in the harbor, or have studies demonstrated that pile driving has not resulted in fish mortality in the harbor (if so, provide reference).

Page 3.3-41, lines 16-17

Please clarify the meaning of "small amount" in regards to the loss of invertebrate species due to construction and provide the references for this determination.

Page 3.3-46, lines 41-45

Although ballast water may not be a significant vector, vessels can still introduce nonindigenous species (NIS) via vessel fouling. There are many established NIS in other West Coast ports that could be introduced in LA Harbor via vessel fouling.

3.3-49, lines 21-25

Please note what the noise difference will be with the sound barrier.

Pg 3.3-50, lines 3-18

Are there any measurements (numbers in lumens or other appropriate metric) for the expected night light levels at the site during and after construction? How do they compare to current levels (i.e., provide numbers)?

Page 3.3-51, lines 34-40

This section makes reference to a model based on all proposed Project vessels being double hulled and refers to Table 3.12-7. The text associated with Table 3.12-7 states: "Assuming that a majority of vessels that would visit the proposed terminal would be of a double-hull design, oil spill probabilities within LAHD controlled waters can be estimated as shown in Table 3.12-7."

Which statement is correct with regards to creating this model, and are all or a majority of vessels double hulled? What percent of vessels are double hulled in the model?

Also, the statement describing the improbability of oil spills is not very clear. We suggest a more standard method, such as describing the probability as 1 in X chances, or X% probability instead of 1 every X numbers of years. Also, provide references for probability estimates.

Page 3.3-55, lines 15-23

Provide evidence with references to substantiate claim that noise will not adversely affect least terns. What level of sound would affect these birds? What is the nearest available habitat if the sound does indeed affect them? Also, oil spills could affect the terns, despite their not using the water surface, because they rely on food in the water.

Pg 3.3-57, CEQA Impacts

The impacts of light at night are not discussed in this section, although it is brought up in the mitigation measures. Light effects should be addressed under the CEQA impacts as well as brought up in the mitigation measures assuming the impacts are significant.

Pg 3.3-58, lines 37-39, 3.3. MM BIO – 1.2d

This mitigation measure addresses lighting, but this impact is not discussed in the CEQA impacts paragraph on least terns (see comment for Pg. 3.3-57). This impact should be addressed in both sections. Staff would also like to see added to this mitigation measure scientific observation of bird response to nighttime lighting during mating season. This observation does not need to be ongoing, but should occur during and immediately after completion of construction for evidence of impacts on least tern behavior. If impacts are observed, efforts should be made to adjust lighting to reduce impacts.

Page 3.3-63 , lines 11-19

Provide references regarding probability of oil spills. Also see comment for 3.3-51.

Page 3.3-63, lines 31-33

Although sand dabs live on or near the bottom and oil floats, the fish could still be affected by an oil spill as they rely on food and nutrients from the upper water column.

3.3-66, Impact BIO-4.2:

Same comments about probability of oil spills (see comment for 3.3-51).

3.3-66, lines 40-43

Although the shoreline represents a small fraction of Harbor habitat (in surface

area), it might be harbor dense populations of invertebrate organisms (shorebirds feed on the invertebrates along the shore). The small surface area of the shoreline relative to the Harbor is not as relevant as the quality of the habitat. Provide references discussing quality of the habitat.

3.3-67, lines 32-38

This first sentence suggests that fish will see the oil and move away to avoid contact, but what about the effects of small doses (not visible to the fish) to fish health? Please discuss the effect of small doses on fish.

These sentences also argue that because fish are mobile, they will not be affected, but the section provides ample evidence that mobile birds may be affected – “loss of substantial numbers due to a moderate oil spill... could have long-term, adverse effects on population size due to their low reproductive rates.” Also discussed here and on Page 68, lines 26-28, there are several long-lived fish species in the Harbor environment (particularly *Sebastes* spp., and *Scorpaena guttata*) and they may take several years to reproduce. Removing these old fishes would have a significant impact on population stability, and the populations may take a long time to recover.

Pg 3.3-69, lines 1-13

While tankers are subject to ballast water management, (and this management strategies will reduce the potential risk of species introduction) tankers release significantly more water than almost all other vessels types, and therefore their impacts may be greater than might be otherwise predicted based on numbers of arrivals alone (see Falkner et al. 2007). Tankers also have a very large wetted surface area upon which fouling organisms may colonize. Therefore there is a risk of both ballast water and fouling species introductions from tankers even in the presence of vector management.

Pg 3.3-69, lines 13-24

The description of the PCR in the text is incomplete. The PCR includes parts of Alaska, the Canadian west coast, WA, OR, CA ports, and part of Mexico (from approximately Cooks Inlet, AK (154° west longitude) to ¾ down the Baja Peninsula (25° north latitude and 200 nm offshore). Additionally, the text needs consistency of wording regarding nonindigenous species (NIS). The authors switch between the use of non-native, invasive, exotic etc... to refer to nonindigenous species. The correct and consistent term would be nonindigenous species (NIS). Finally, while *Caulerpa* is a species of concern for possible introduction in southern California, there are many others that are equally, if not more, likely to be introduced via ballast water and fouling, including the Japanese sea star *Asterias amurensis*, the marine mussel *Mytilopsis sallei*, and the mussel *Limnoperna fortunei*.

Page 3.3-70, lines 5-7

Please explain why oil spills from the two above ground pipeline segments into

Harbor waters would be unlikely to occur during the proposed Project. What control measures are in place?

Page 3.3-71, line 13

Mitigation measures for the significant and unavoidable impacts due to invasive species should include funds for monitoring of NIS in the Harbor so that early detection (and potential eradication) can be possible.

Pg 3.3-84, lines 8-13 and 20-22

CEQA baseline of 6,193 vessels per year is not quite accurate. The figure likely refers to the number of vessel arrivals to the port complex (this is different than the number of individual vessels coming to the ports as some vessels call on the ports many times during a given year). The latest facts on qualifying voyage to LA/LB may be found in Falkner et al. (2007). See additional comments for pg 3.3-69 as may be relevant to this section, particularly for the definition of the Pacific Coast Region.

Pg 3.3-101, Impact BIO-4.2

It is hard to predict the relative risk of invasion based on numbers of vessels alone. Risk depends on the size of vessel, the last port of call, volume of ballast water discharged and hull cleaning practices – greater numbers of small vessels could be of equal risk as fewer large vessels. More information is needed to adequately assess the level of impact.

Marine Transportation (3.9) and Risk of Upset and Hazards (3.12)

There are several oil spill simulations in the SEIS/SEIR that provide details about the terminal's designed response capability, and volume handling capacity over response time. The SEIS/SEIR should describe the new terminal's designed oil spill response and handling capability and response times, for large spills of over 50 barrels or 2,100 gallons. Included in this description should be the consequences of a large spill, depending on critical variables of type of petroleum, spill size, time of overall release, the quickness, coverage and effectiveness of the response effort, and the proximity and sensitivity of resources affected by the spill.

- For example, it is possible that, during nighttime oil transfer operations, a spill could be undetected for five minutes, during which 8,333 barrels or approximately 350,000 gallons of oil could be spilled. A model using only 42,000 barrels may not be sufficiently conservative. Please provide some modeling scenarios to simulate oil spills from 10,000 to 50,000 barrels, and possibly higher.
- How many feet of boom have been established or required by California Department of Fish and Game to be available for use from the terminal for immediate containment of an oil spill nearby.

What amount of boom will be retained by the wharf for vessels transferring petroleum? Consider a mitigation measure of maintaining a specific length (with a rationale) of oil spill boom on Berth 408, to deploy, upon a spill event at the terminal or from a moored vessel, before the arrival of the OSRO.

Pg 3.9 – 2, MM 4E-3

The SEIS/SEIR states that mitigation measure 4E-3 doesn't apply because the new project doesn't involve use of barges or vessels; however, the construction impacts (pg 3.9-18) state that, "Construction of the Marine Terminal would require use of marine-based construction equipment (e.g., primarily tugs and barges to support pile driving and installation of structures)." Therefore it appears that barges and vessels will be used and mitigation measure 4E-3 should apply.

Pg 3.9 – 3, lines 26-35

Vessel activity at ports has increased since 2004, is there a more recent report summarizing port activity?

3.9-3, lines 26-32

Provide reference citations for all statements in this paragraph.

Pg 3.9-4, lines 31-42

Early in the paragraph we see that "the number of vessel calls to the Port 36 is fairly static..." However, several sentences later the report states that "the utilization of larger cargo vessels has resulted in the reduced number of cargo ship arrivals." The numbers seem to vary by as much as 20%. Please clarify the apparent discrepancy between these two statements. Also, in this section and throughout the document there is some confusion between the use of vessels and vessel calls. It should be made clear that we are looking at vessel arrivals, because one vessel may call on a port multiple times during a year.

Regarding the statement that there has been a substantial increase in cargo volume, cite a reference (cite references for all statements in this paragraph) and clarify this statement. The "supporting facts" do not support this statement, as lines 40-42 state that in 2001, 1,584 container ships delivered 5,183,520 TEUs; while in 2005, 2,341 container ships delivered 7,484,625 TEUs. Proportionally, these values are the same. In 2001, the proportion was 3272 TEUs/ship, while in 2005, the proportion was 3197 TEUs/ship.

Pg 3.9-5, lines 10-11

The vessel accidents table shows data through 2005, not 2003 as described in text.

Page 3.9-6

Table 3.9-2 on page 3.9-6 of the Draft SEIS/SEIR reports the number of allisions

in the recent decade, and the expected increase in vessel traffic within both Ports. To prevent or minimize pier and/or vessel damage and the risk of an oil spill during docking operations, will there be installation of a mitigation measure of installation of an Allision Avoidance System (AAS) on the wharf structure?

3.9-19, lines 23-26

Regarding the sentence, "This represents an..." please clarify what "this" refers to. The preceding sentence suggests that "this" increase can be based on a 2010 estimate or a 2025 estimate.

3.9-19, lines 32-33

How many vessels called on the port in 1991? Note that the number of arrivals varies between 2500-3000 (20%, see table 3.9-1).

3.9-19, lines 33-35

The number of vessel calls per month (total) is less than that stated for tankers in lines 24-25. Please double check these figures. To be consistent with the rest of the document, report the number of vessel arrivals per year, rather than per month. This value should be roughly 2900. The greatest number of arrivals that the port has experienced since 1997 is 3060, according to Table 3.9-1. The statement that the increase in vessel traffic, "would result in fewer total vessel calls than the Port has already experienced and safely handled" assumes that there will be no further increases in vessel arrivals within LAHD.

Table 3.9-3

Are there any more recent data from the other (non-San Pedro Bay) sources? The time periods of the San Pedro and non-San Pedro sources don't match, and therefore, it would be inappropriate to compare accident rates among these sources.

3.14 Water Quality, Sediments and Oceanography

There is a consistent lack of data to provide scientific support of conclusions. For example, in contrast to what the document states, water quality could be impaired (specifically due to NIS and copper concentration) because of the operation of this new pier. Petitioning the state for increased staffing is not a direct response (and will not go far enough, especially in this budgetary climate) to mitigate for decreased water quality. If the state cannot provide funding for additional positions, what will LAHD do to mitigate for water quality impacts?

3.14-1, Line 25

Consider changing oceanography to oceanographic.

3.14-3, Lines 38

Please provide the R^2 , the equation of the line, and the p value for the linear regression to support the statement regarding considerable scatter and no trends in this analysis.

3.14-9, Lines 27-32

NIS should be included in potential contaminants from ballast water and vessel fouling vectors.

3.14-10, lines 19-24

Provide data (Cu concentrations near Pier 400, and in other parts of the Harbor) when referencing information that is not in a public document or in a peer-reviewed journal.

There is no indication of Zn concentrations in nearby waters, although several places (LA Harbor- Fish Harbor, LA Harbor- Consolidated Slip, Los Cerritos Channel, and Dominguez Channel) are impaired by excess Zn concentrations. Is Zn expected to increase at the project location? A simple map would be useful in describing these different sites.

Pg 3.14 – 11&12

The International Maritime Organization (IMO) adopted the International Convention on the Control of Harmful Antifouling Systems on Ships (AFS Convention). The AFS Convention will enter into force in 2008 and ban globally both the application and presence on ships hulls of TBT-based antifouling coatings. This section needs to be updated.

Pg 3.14-15&16 (3.14.3.1 Clean Water Act)

The U.S. EPA has issued a draft general NPDES permit for discharges incidental to the normal operation of vessels. The general permit is expected to be implemented beginning September 30, 2008. The permit would cover 20+ types of vessel discharges, including ballast water. More information on the draft permit can be found at www.epa.gov/npdes/vessels.

3.14-21, Lines 27-28

If there are strict guidelines for cleaning up spills of these maintenance chemicals, please describe.

Page 3.14-27, lines 32-34

Although the storm drains can handle runoff from large storm events, can the species living near the plume from this runoff handle increased runoff and the increase in pollutants associated with the runoff? With the increased general pollution and water from runoff because of the development and paving of this pier, are the marine species living near Pier 400 more at risk for sub-lethal harm?

Pg 3.14-33, lines 34-35

Discharges incidental to the normal operation of vessels will be considered pollutants beginning September 30, 2008 (see previous comment on draft NPDES permits). The permit includes effluent limits and best management practices for managing these pollutants. Visit EPA website (www.epa.gov) for

full listing of pollutants and management strategies and update text of this report accordingly.

Pg 3.14-34, lines 6-7

Provide evidence to support the statement that illegal discharges are not causing a problem.

3.14-34, Line 8-9

Provide supporting evidence that "there has been an improvement in water quality despite an overall increase in ship traffic." This statement contradicts page 3.14-9, lines 44-46 (3.14.2.2.7 Contaminants): "Concentrations of trace-level contaminants in Harbor waters are not monitored routinely. Therefore, information to characterize the spatial and temporal patterns in baseline concentrations of individual chemical contaminants in Harbor waters is not available (AMEC 2007)."

Pg 3.14-34, lines 14-20

The Marine Invasive Species Act governing ballast water discharges went into effect January 1, 2004. The initial act requiring ballast water management for vessels entering California was passed in 1999. The March 22, 2006, date specifically applies to ballast water management for coastal vessels. This section needs to be clarified.

3.14-33, Line 24-33

Please provide supporting data to illustrate that expected runoff pollution concentrations will be within permit limits. How close are these concentrations going to be to the permit limits? In other words, is there room for error in the expectations of runoff?

3.14-34, Lines 27-30

Please provide data supporting conclusions.

3.14-35, lines 40-43

Petitioning the state for increased staffing is not a direct response (and will not go far enough, especially in this budgetary climate) to mitigate for decreased water quality. If the state cannot provide funding for additional positions, what will LAHD do to mitigate for water quality impacts? An alternative for funding the increased staffing should be incorporated into the mitigation measure.

3.14-38, lines 2-4

Operations associated with the proposed Project also include direct discharge of ballast water (requiring NPDES permitting very soon), NIS via vessel fouling vector, and metals due to degradation of antifouling paints. Define "waste" and make a case as to why vessel fouling is not an issue, and, again, provide data supporting claims that metals associated with antifouling paints will not be an issue.

3.14-38, Lines 8-12

Illegal discharges result in pollution, and these impacts could be significant. However, as stated on page 3.14-34, lines 3-6, the extent of illegal dumping is unknown. Without additional research and/or supporting evidence, the evaluation is not sufficient to determine extent of impact from illegal discharges.

Pg 3.14-50, lines 38-39

Discharges incidental to the normal operation of vessels will be considered pollutants beginning September 30, 2008 (see comment for pg 3.14-15&16). The permit includes effluent limits and best management practices for managing these pollutants. Visit EPA (www.epa.gov) website for full listing of pollutants and management strategies and update text of this report accordingly.

Pg 3.14-62, Vessel Operations

Discharges incidental to the normal operation of vessels will be considered pollutants beginning September 30, 2008 (see comment for pg 3.14-15&16). The permit includes effluent limits and best management practices for managing these pollutants. Visit EPA website for full listing of pollutants and management strategies and update text of this report accordingly.

Page 3.14-72 Table 3.14-2

WQ-1.2 run-off mitigation states: "MM 4B-7: Increase Local Staffing of California Department of Fish and Game (CDFG) Office of Oil Spill Prevention and Response (OSPR)." The harbor district nor the project applicant have control over funds for staffing at OSPR. How will this increase in staffing be accomplished without additional funding? Consider an alternative, more directly applicable mitigation measure, and one which the harbor district has control over.

Cumulative Analysis (4.0)

4-52, lines 27-33

See comments in 3.3 regarding effects of pile driving on fish species.

Pg 4-59, lines 1-14

The statement, "The potential for introduction of exotic species via vessel hulls has remained about the same, and use of antifouling paints and periodic cleaning of hulls to minimize frictional drag from growth of organisms keeps this source low," is too generic and not substantiated by fact. We do not have enough evidence as of yet to determine what constitutes a specific risk for vessel fouling introductions. While regular cleaning certainly helps, it usually focuses on the parts of the vessel that impact speed of transit, and species often cluster in small niches that do not impact speed and are often not as well cleaned. Also, while current ballast water management strategies do reduce the risk of species introductions, it does not eliminate the entire risk. This section is too dismissive of the potential risk of species introductions via increased vessel traffic to the Port.

Additionally, the statement "While exotic species are present in the Harbor, there

is no evidence that these species have disrupted the biological communities in the Harbor," is not supported with scientific evidence in the report, and is dismissive of the cumulative impact of NIS on a community.

Pg 4-59, lines 19-22

The following statement needs scientific support (cite sources) - "However, the concentration of chemicals toxic to marine biota would not be increased to a level that would substantially disrupt local communities, and cumulative impacts to local biological communities would be less than significant."

Pg 4-130, lines 44-47

Incidental discharges from vessels (as soon to be regulated under the EPA general NPDES permit) should be included among those discharges that would increase in proportion to the increased vessel traffic.

Pg 4-131, lines 1-6

The illegal discharge of ballast water has caused impacts to water in Los Angeles Harbor through the introduction of nonindigenous species. The State and Regional Water Quality Control Boards consider NIS pollutants even though specific TMDLs have not yet been set for affected water bodies.

Pg 4-131, lines 20-21

Under the proposed EPA management scheme for discharges incidental to the normal operation of vessels, the project will lead to the direct discharge of pollutants from vessels. Please review the proposed EPA general permit for specifics.

We appreciate your consideration of these comments and look forward to reviewing the Final SEIS/ SEIR when it becomes available. If you have any questions regarding the CSLC's jurisdiction on granted lands, please contact Mary Howe at (916) 574-1839 or by email at howem@slc.ca.gov. If you have any questions concerning the environmental review, please contact Nicole Dobroski at (916) 574-0742 or by email at dobrosn@slc.ca.gov.

Sincerely,



Gail Newton, Chief
Division of Environmental Planning
and Management

References

Falkner, M. L. Takata, S. Gilmore, and N. Dobroski. 2007. 2007 Biennial Report on the California Marine Invasive Species Program. Produced for the California State Legislature.

http://www.slc.ca.gov/Spec_Pub/MFD/Ballast_Water/Ballast_Water_Default.html

cc: Office of Planning and Research, State Clearinghouse
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Mary Howe, CSLC
Nicole Dobroski, CSLC