Michael Baker INTERNATIONAL

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MEMORANDUM

To: Amy Harbin, AICP, City of Long Beach

From: Alan Ashimine

Date: October 17, 2019

Subject: **Topical Response to Comments on the Recirculated Notice of Intent for the Long Beach Cruise Terminal Improvement Project**

The City of Long Beach (City) circulated a Notice of Intent (NOI) and the *Long Beach Cruise Terminal Improvement Project Initial Study/Mitigated Negative Declaration*, dated June 2019, for a 30-day public review period from June 20, 2019 through July 19, 2019.

Due to requests by agencies and interested parties, a Recirculated NOI and the *Long Beach Cruise Terminal Improvement Project Recirculated Initial Study/Mitigated Negative Declaration* (Recirculated Draft IS/MND), dated August 2019, were recirculated for a second 30-day public review period from August 28, 2019 through September 26, 2019. The Recirculated Draft IS/MND was revised to address several comments raised during the initial public review period. Fifteen comment letters were received during the secondary public review period. Pursuant to the CEQA Guidelines, responses to comments are not required for Mitigated Negative Declarations. However, with the intent of conducting a comprehensive and meaningful evaluation of the proposed project, the City has elected to prepare the following topical responses to primary comments received during the secondary public review period.

Commenter	Date	Summary of Comments
Agencies		
Long Beach Water Department (LBWD) *Eric L. Buehler, PE, Civil Engineer*	September 19, 2019	The LBWD provides information regarding existing LBWD water mains, water services, and sanitary sewer mains currently serving the project site and details regarding required utility services procedures and coordination prior to project construction.
California Department of Transportation (Caltrans), District 7 *Miya Edmonson, IGR/CEQA Branch Chief*	September 23, 2019	Caltrans requests the project's Traffic Impact Analysis include analysis of several additional Interstate 710 segments and provides recommended methodologies.
South Coast Air Quality Management District (SCAQMD) *Lijin Sun, JD, Program Supervisor, CEQA IGR*	September 24, 2019	SCAQMD states that the required construction-related Tier 3 tug boats under Mitigation Measure AQ-1 is contradicted by Footnote 3 of the Recirculated Draft IS/MND, which states that Tier 3 tug boats should be utilized if appropriately sized and available. The commenter requests revisions to Mitigation Measure AQ-1 to be fully enforceable or reevaluate the project's worst-case impact scenario using Tier 0 tug boats.

California Coastal Commission (CCC) *Larry Simon, Federal Consistency Coordinator*	September 25, 2019	The commenter states that the project would require a Federal Consistency Certification for the proposed disposal of dredged materials at the LA-2 Ocean Dredge Material Disposal Site (ODMDS), which the CCC must concur with before the U.S. Army Corps of Engineers can issue a Clean Water Act Section 404 Permit.
California Air Resources Board (CARB) *Richard Boyd, Chief*	September 26, 2019	CARB states that the Recirculated Draft IS/MND utilizes an inappropriate baseline assumption (*Carnival Splendor* without shore power) and lacks substantial evidence to support vessel emissions rates; recommends Carnival either participate in the Port of Long Beach's (POLB) Green Flag Vessel Speed Reduction Program or an alternative program that achieves equal or greater air pollutant emission reductions.
Organizations		
Citizens About Responsible Planning (CARP)	September 20, 2019	The commenter requests the project be evaluated through the Environmental Impact Report (EIR) process, and expresses environmental concerns related to kelp forests, marine mammals, birds, fish habitat, noise, light, toxic materials, and disposal of dredge materials.
Coalition for Clean Air et al.	September 26, 2019	The commenter requests the air quality and greenhouse gas emissions analyses be reevaluated utilizing appropriate baseline conditions and that the project, as a whole, be analyzed in an EIR rather than an IS/MND.
Individuals		
Arianna Maciel	September 5, 2019	The commenter expressed concerns related to Carnival Corporations' (Carnival) business practices and general project impacts on the environment.
Marianne Hunter	September 5, 2019	The commenter opposes the project and has concerns of Carnival's business practices.
Roland Belikow	September 5, 2019	The commenter supports the project.
Cheryl McDermott	September 6, 2019	The commenter supports the project.
Linn Crandall	September 7, 2019	The commenter supports the project.
Andrea Bell	September 9, 2019	The commenter requests the project be analyzed in an EIR and expressed concerns about the adequacy of mitigation related to project impacts on marine species, kelp beds, birds, and water quality.
Dianne Flowers	September 26, 2019	The commenter generally opposes the project and has environmental concerns related to the reduction of sea water space at the POLB and project-related traffic, air quality, noise, and climate change impacts.

Air Quality/Greenhouse Gas Emissions

CARB Letter

Primary Concern 1: Air Quality Analysis Baseline Assumption

The City disagrees with the assertion that a future baseline, or a no project alternative, must be used to determine the change in baseline emissions for the project. Future project emissions would be lower than current baseline emissions; this is true for emissions within the South Coast Air Basin and the at-berth emissions.

The rationale for the selection of current baseline, which is based on CEQA case law, is provided on page 35 of Appendix A, *Air Quality/Greenhouse Gas Study*, of the Recirculated Draft IS/MND. One problem using a future baseline is that the assumption of which vessel Carnival would use for the seven-day cruises would be speculative. It could be the *Carnival Splendor* with a shore power retrofit, or it could be any other cruise ship owned or bought by Carnival in the future. More importantly, the proposed project is only being evaluated under CEQA due to the fact that berth depth and other cruise terminal improvements, requiring discretionary approvals, are necessary to allow the *Carnival Panorama* to call at the terminal. Carnival has no specific vessel size, efficiency, engine tier, etc. limitations for the Long Beach cruise terminal and can technically use any vessel at any time that can physically use the cruise terminal berth[1]. Therefore, future baseline ships, while needing to have shore power hookup, could also be old and less efficient ships, have Tier 0 engines, etc. As such, a comparison analysis between an unknown future baseline ship and the proposed *Carnival Panorama* would be speculative at best.

Regardless, even if the *Carnival Splendor* was retrofitted for shore power and designated as the future baseline for "existing conditions," the emissions associated with the *Carnival Splendor*, an older and less efficient vessel, would still be higher than those associated with the *Carnival Panorama*. The daily emissions comparison resulting from the *Carnival Splendor* and *Carnival Panorama*, both with shore power, are detailed below in Table 1, *Carnival Panorama and Carnival Splendor Daily Emissions Comparison*.

Table 1
Carnival Panorama and Carnival Splendor Daily Emissions Comparison

		Emissions[2] (pounds per day)					
		PM_{10}	**$PM_{2.5}$**	**NO_X**	**SO_X**	**CO**	**VOC**
Carnival Panorama (w/shore power)	At Berth	13.15	12.13	530.87	20.22	55.61	25.28
	Transit (in SCAB)	79.51	73.40	3,211.14	122.33	336.41	152.91
	Traffic Increase	8.96	2.75	12.92	0.21	66.79	8.43
	Terminal Increase	1.1	1.02	17.36	0.02	12.08	1.82
	Total	**102.72**	**89.30**	**3,772.29**	**142.78**	**470.89**	**188.44**
Carnival Splendor (w/shore power)	At Berth	13.17	12.16	617.97	20.26	55.72	25.33
	Transit (in SCAB)	104.37	96.34	4,897.44	160.57	441.57	200.71
	Total	**117.54**	**108.50**	**5,515.42**	**180.83**	**497.29**	**226.04**
Total Daily Emissions Decrease		**(14.82)**	**(19.20)**	**(1,743.13)**	**(38.05)**	**(26.40)**	**(37.60)**

Notes: SCAB = South Coast Air Basin; PM_{10} = coarse particulate matter; $PM_{2.5}$ = fine particulate matter; NO_X = nitrous oxides; SO_X = sulfur oxides; CO = carbon monoxide; VOC = volatile organic compounds

Due to its higher efficiencies and higher tier rated engines (Tier 2 versus Tier 1), the *Carnival Panorama* would result in fewer daily emissions compared to a shore power retrofitted *Carnival*

[1] This is true of most terminals in the Ports of Long Beach and Los Angeles, where changes in vessel fleets, including what could be major changes in fleet emissions, are not subject to CEQA review. This was the case for the new Princess Cruise's *Royal Princess*, which has a greater total tonnage than the *Carnival Panorama*, and recently started being home-berthed for three seasons of the year at the Port of Los Angeles.

[2] While greenhouse gas (GHG) emissions are not presented in Table 1, GHG emissions increase or decrease tracks with SO_X emissions since both are primarily related to fuel composition, SO_X being related to fuel sulfur composition and GHG emissions primarily related to fuel carbon composition. Therefore, since there would be a reduction in SO_X emissions for the *Carnival Panorama* compared to the *Carnival Splendor*, there would similarly be a reduction in GHG emissions.

Splendor. Therefore, regardless of the baseline assumptions, the new more efficient and higher engine tier *Carnival Panorama* would result in emissions reductions.

Primary Concern 2: Lack of Evidence to Support Vessel Emissions Reductions

In order to analyze existing and proposed vessel emissions, Carnival provided engine power data, route assumptions, speed, and energy requirements for each vessel; refer to pages B-1 through B-7 of Recirculated Draft IS/MND Appendix A, *Air Quality/Greenhouse Gas Study*.

As noted in Footnote 38 on page 37 of Recirculated Draft IS/MND Appendix A, *Air Quality/Greenhouse Gas Study*, this data incorporates improvements in efficiency that have occurred over time for new large cruise ships. This efficiency improvement for the *Carnival Panorama* is apparent in the amount of total engine horsepower installed for each of the following Carnival ships:[3]

- *Carnival Inspiration* – 43,320 kilowatts (kW) for 2,054 passengers (21.1 kW/passenger);
- *Carnival Imagination* – 41,026 kW for 2,056 passengers (20.0 kW/passenger);
- *Carnival Miracle* – 62,370 kW for 2,124 passengers (29.4 kW/passenger);
- *Carnival Splendor* – 75,600 kW for 3,012 passengers (25.1 kW/passenger); and
- *Carnival Panorama* – 62,400 kW for 4,008 passengers (15.6 kW/passenger).

The *Carnival Panorama*, due to increased energy efficiencies, was built with about the same total engine output capacity as the *Carnival Miracle*, with nearly double the passenger capacity, and with a substantially lower total engine output capacity than the *Carnival Splendor*. The *Carnival Panorama* also has a lower per passenger energy output capacity than all four of the other Carnival vessels listed above.

Substantial improvements in several large energy consumption sources have occurred over time, including substantial reductions in lighting and fresh water production energy consumption requirements. This reduces the non-propulsion energy requirements of the *Carnival Panorama* in comparison to older vessels. Additionally, the propulsion efficiencies for large ships has also improved over time with the development and continuing improvement in azimuth thruster propulsion technology, which itself has improved in efficiency by ten percent over the course of this technology's existence and can now provide a twenty percent efficiency improvement over traditional shaft driven propulsion.[4]

Primary Concern 3: Participation in POLB's Green Flag Vessel Speed Reduction Program

Participation in the Green Flag Vessel Speed Reduction (VSR) Program is voluntary. The City cannot require participation in this program and the City and POLB do not have jurisdiction over transit outside of the port in Federal waters. However, Carnival's water lease with the POLB would include an environmental covenant requiring Carnival vessels to comply with an Alternative VSR Program, based on an evaluation of the vessels' speed data prepared by Carnival. The alternative compliance plan would use the three ships calling at the Long Beach cruise terminal (*Carnival Imagination*, *Carnival Inspiration*, and *Carnival Panorama*) to reach lower emission

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[3] The *Carnival Inspiration* had its maiden voyage in 1996, the *Carnival Imagination* in 1995, the *Carnival Miracle* in 2004, the *Carnival Splendor* in 2008, and the *Carnival Panorama* is anticipated in 2020.

[4] ABB, BU Marine and Cranes, *Energy Efficiency Guide: The Other Alternative Fuel, Section 6.11, Azipod Propulsion*, https://library.e.abb.com/public/e544a04176934040c1257c94002d31e5/Energy%20Efficiency%20Guide_Azipod.pdf, accessed October 8, 2019.

levels compared to if all three ships were to comply with the 12-knot VSR requirement, therefore achieving net negative emissions in the air basin. The additional emissions reductions that would be achieved by reducing the average speed of the *Carnival Imagination* and *Carnival Inspiration* below 12 knots would offset the *Carnival Panorama's* emissions at higher average speeds than 12 knots. This environmental covenant would stipulate the following:

> Within the VSR zone (40 nautical miles of Point Fermin, located in San Pedro, California) the *Carnival Imagination* and *Carnival Inspiration* will maintain vessels speeds no greater than 10 knots, and the *Carnival Panorama* will be limited to 15 knots when transiting to and from Puerto Vallarta and Mazatlán in Mexico, to 18 knots when transiting to and from Cabo San Lucas in Mexico, and 12 knots for all other destinations. All other vessels calling at the Premises shall not exceed 12 knots.

The speed requirements for the more distant locations in Mexico are needed to ensure the vessels access the docking/anchorage locations at those distant ports at the scheduled times and that they return at the scheduled times for morning to afternoon turnaround at the Long Beach cruise terminal.

Coalition for Clean Air et al. Letter

Primary Concern 1: Air Quality Analysis Baseline Assumption

Please see response above to CARB Primary Concern 1.

Primary Concern 2: Participation in POLB's Green Flag Vessel Speed Reduction Program

Please see response above to CARB Primary Concern 3.

Primary Concern 3: Shore Power Requirement

As a requirement under their POLB water lease, Carnival would be required to use shore power for all ship calls at the Long Beach cruise terminal. Additionally, compliance with the CARB shore power regulations would similarly require all ships to use shore power. Therefore, both the POLB and CARB have compliance authority to ensure shore power is used at the Long Beach cruise terminal and a separate City of Long Beach mitigation measure in the Recirculated Draft IS/MND requiring shore power is unnecessary.

Primary Concern 4: Increased Emissions and Health Risks

The project would result in substantial emissions reductions compared to existing conditions, including a reduction in air toxics emissions (specifically diesel particulate matter [DPM] emissions). While much of this reduction is due to future compliance with shore power regulations, there would still be an emissions reduction that would reduce near field impacts from air pollutants including the health risks from DPM emissions.

Additionally, as noted above in response to CARB Primary Concern 1, the assessment of a future baseline, or no project alternative, is speculative given that it is unknown which ship Carnival would use in the future in place of the *Carnival Panorama*. Carnival has no restrictions, except physical berth constraints, on what vessels can call at the Long Beach cruise terminal, with the exception of retrofitting all vessels with shore power by 2020. Additionally, Carnival could change

vessels calling at the terminal at any time without CEQA review. Carnival could potentially call an older, lower engine tier vessel at the Long Beach cruise terminal with higher daily emissions than the proposed *Carnival Panorama*. Further, as detailed above in Table 1, even if the baseline assumed that the *Carnival Splendor* were retrofitted for shore power, the newer, more efficient *Carnival Panorama* would still have lower daily emissions.

SCAQMD Letter

Primary Concern 1: Mitigation Measure AQ-1 and Tier 3 Tug Boats

It is not the City's intention to allow tug boats with engines below a Tier 2 rating. Mitigation Measure AQ-1 has been revised as follows with additions shown in double underline to clarify the requirement and address SCAQMD's concern. The revised Mitigation Measure AQ-1 is also detailed in Attachment A, *Errata* and Attachment B, *Mitigation Monitoring and Reporting Program*.

AQ-1 Prior to issuance of a Demolition or Grading Permit, the City Engineer shall confirm that the following Best Management Practices (BMPs) are included in the Grading Plan and specifications to reduce construction emissions in accordance with the Port of Long Beach's Air Quality Best Management Practices for Construction Activities~~compliance with the San Pedro Bay Ports Clean Air Action Plan (CAAP)~~:

- Off-road Engine Tier: Construction terrestrial off-road equipment shall be required to meet final Tier 4 emissions standards.

- Electric Dredges: Dredging equipment shall be powered electrically by a shore power connection.

- Construction Tug Boat Engine Tier: If appropriately sized and available, tug boats with Tier 3 or higher engines shall be used during construction. At a minimum, all tug boat engines shall meet Tier 2 emissions standards.

Transportation

Caltrans recommends analyzing the following three additional Interstate 710 (I-710) ramp segments:

- I-710 South/State Route 1 Northbound and Southbound Off-Ramps;
- I-710 South/Interstate 405 Northbound On-Ramp; and
- I-710 South/State Route 91 Westbound Off-Ramp.

These I-710 ramp segments are approximately four, six, and ten miles north of the project site, respectively. The Recirculated Draft IS/MND concluded that the project would not adversely impact any of the study area intersections, mainline segments, or ramp segments, which includes closer I-710 on- and off-ramps. Therefore, it can be assumed that the project would not adversely impact further ramp segments along I-710 and no additional analysis would be required. Additionally, given that the *Carnival Panorama* would only dock at the Long Beach cruise terminal on Saturdays, there would only be an increase in project-related trips on Saturday, which is outside of standard peak hours (i.e., Mondays through Fridays). Anticipated peak hours on Saturdays for the proposed project would occur from 9:00 to 10:00 a.m. during disembarkation and 1:00 to 2:00 p.m during embarkation.

Biological Resources

Several commenters expressed concerns related to project impacts on biological resources, including kelp forests, marine species, birds, and fish habitat, and state that the proposed mitigation measures do not adequately reduce such impacts to less than significant levels.

Specifically, a commenter states that the nesting bird clearance survey required under Mitigation Measure BIO-3 is designed to drive birds away from foraging and nesting areas and would result in a net loss in breeding success. This statement misunderstands nesting bird clearance surveys as removing active bird nests from the project site. This is incorrect; if construction activities occur within the avian nesting season (generally March 1 through September 30), a qualified biologist would be required to conduct a site visit to evaluate whether there are any active nests on-site. If active nests are identified, construction in the vicinity of the active nests would be prohibited until the young have fledged. Therefore, the required mitigation would reduce impacts to nesting birds to less than significant levels.

The Incidental Harassment Authorization (IHA) required under the Marine Mammal Protection Act was also incorrectly interpreted as being able to harass a marine mammal until it leaves the project site. The IHA application requires a detailed explanation of the proposed action, the nature of the action's anticipated effects on marine mammals, their habitats, and the availability of marine mammals for subsistence uses, and the methods of mitigating, monitoring, and reporting on the effects of the action, and is reviewed and approved by the National Oceanic and Atmospheric Administration (NOAA) Fisheries' Office of Protected Resources. Therefore, the process of obtaining approval of the IHA from the NOAA Fisheries' Office of Protected Resources would ensure the project complies with applicable procedures and regulations related to the protection of marine mammals.

It should also be emphasized that the required Section 404 permit under the Federal Clean Water Act (CWA) and Section 10 permit under the Rivers and Harbors Act from the U.S. Army Corps of Engineers (USACE) may require pre-construction surveys to determine presence/absence of kelp beds in the project vicinity, and if determined present, potential impacts would be minimized via compensatory mitigation to be determined in consultation with the USACE under the Section 404 and 10 permit processes. Therefore, compliance with applicable regulatory requirements in accordance with the required CWA permits would ensure project impacts to kelp forests are reduced to less than significant levels.

Required Permits and Approvals

The California Coastal Commission (CCC) commented that a Federal Consistency Certification would be required for the proposed disposal of dredged materials at the LA-2 ODMDS. Approval of the Federal Consistency Certification would be required prior to the issuance of a Section 404 permit by the USACE. This additional approval is acknowledged and, as requested, is included in the Errata; refer to Attachment A, *Errata*.

Additionally, a commenter stated that the project would require a Coastal Development Permit from the CCC. The City has a Local Coastal Program (LCP) that was certified by the CCC in 1980. Based on the California Coastal Act, cities with certified LCPs are given the CCC's coastal permitting authority over most new development. This project occurs in the Long Beach Harbor District and is consistent with the Certified Port Master Plan and the permitted uses within the Long Beach Queensway Bay Planning District. As such, the City of Long Beach Harbor

Department (POLB) has coastal permitting authority over the project and would review the proposed development as part of the required Harbor Development Permit.

Hazards/Disposal of Dredge Materials

A comment was raised regarding potentially hazardous conditions associated with the disposal of the dredged materials at the LA-2 ODMDS. It should be noted that a soil sampling analysis was conducted as part of the *Sampling and Analysis Plan Report, Long Beach Cruise Terminal Dredging Environmental Investigation Project* (Dredging Soils Report), prepared by Kinnetic Laboratories and dated February 2019; refer to Recirculated Draft IS/MND Appendix E, *Phase I ESA/Dredging Soils Report*. Additionally, based on a review of the Dredging Soils Report findings, the U.S. Environmental Protection Agency' and USACE Southern California Dredge Material Management Team concurred that the dredged sediment would be suitable for placement at the LA-2 ODMDS.

Water Services

The City acknowledges the existing LBWD water mains, water services, and sanitary sewer mains currently serving the project site. As detailed in Recirculated Draft IS/MND Section 4.19, *Utilities and Service Systems*, the project would not introduce a new land use that could generate additional wastewater or water demand. Further, while the new *Carnival Panorama* would result in approximately 996 additional passengers visiting and traveling through the Long Beach cruise terminal, the additional passengers would not generate a substantial increase in wastewater or water supply demand and no water or wastewater improvements would be required. Nevertheless, the applicant will be required to coordinate with LBWD prior to project construction and comply with all LBWD procedures related to connecting to or capping existing water and sewer service mains, as detailed in the LBWD comment letter.

Miscellaneous

Several commenters state general support or objection to the proposed project; broad Citywide environmental concerns; and/or issues with Carnival's existing and past business practices and environmental violations. These comments do not identify a specific concern with the adequacy of the Recirculated Draft IS/MND or raise an issue or comment specifically related to the Recirculated Draft IS/MND's environmental analysis. Therefore, no further response is warranted.

Attachments:

Attachment A Errata
Attachment B Mitigation Monitoring and Reporting Program

Attachment A
Errata

ERRATA

Changes to the Recirculated Draft Initial Study/Mitigated Negative Declaration (Recirculated Draft IS/MND) are noted below. A double-underline indicates additions to the text; ~~strikeout~~ indicates deletions to the text. These changes are considered minor and editorial in nature, and do not affect the conclusions of the environmental document or require recirculation of the Recirculated Draft IS/MND.

Section 2.6, *Permits and Approvals*, page 2-12

The proposed project would require permits and approvals from the City of Long Beach and other agencies prior to construction. These permits and approvals are described below and may change as the project entitlement process proceeds.

City of Long Beach

- California Environmental Quality Act Clearance
- Site Plan Review (for parking garage)
- Building and Safety Permit
- Grading Permit

City of Long Beach Harbor Department (Port of Long Beach)

- Harbor Development Permit
- New Water Lease Agreement

United States Army Corps of Engineers

- Clean Water Act Section 404 Permit (for dredging activities)
- Section 10 Permit (for dredging and installation of piles and dolphins)

California Coastal Commission

- Federal Consistency Certification (for disposal of dredged materials at the LA-2 Ocean Dredge Material Disposal Site)

Los Angeles Regional Water Quality Control Board

- National Pollutant Discharge Elimination System Construction General Permit

National Oceanic and Atmospheric Administration Fisheries, Office of Protected Resources – Marine Mammal Protection Act

- Incidental Harassment Authorization

Section 4.3, *Air Quality*, page 4.3-7, Mitigation Measure AQ-1

AQ-1 Prior to issuance of a Demolition or Grading Permit, the City Engineer shall confirm that the following Best Management Practices (BMPs) are included in the Grading Plan and specifications to reduce construction emissions in accordance with the Port of Long Beach's Air Quality Best Management Practices for Construction Activities~~compliance with the San Pedro Bay Ports Clean Air Action Plan (CAAP)~~:

- Off-road Engine Tier: Construction terrestrial off-road equipment shall be required to meet final Tier 4 emissions standards.

- Electric Dredges: Dredging equipment shall be powered electrically by a shore power connection.

- Construction Tug Boat Engine Tier: If appropriately sized and available, tug boats with Tier 3 or higher engines shall be used during construction. At a minimum, all tug boat engines shall meet Tier 2 emissions standards.

Section 4.4, *Biological Resources*, page 4.4-6, 1st paragraph

Less Than Significant Impact. There are three key agencies that regulate activities within inland streams, wetlands, and riparian areas in California. The USACE Regulatory Branch regulates discharge of dredge or fill materials into "waters of the U.S." pursuant to Section 404 of the CWA and Section 10 of the Rivers and Harbors Act. Of the State agencies, the Regional Water Quality Control Board (RWQCB) regulates discharges to surface waters pursuant to Section 401 of the CWA and the Section 13263 of the California Porter-Cologne Water Quality Control Act and the CDFW regulates alterations to streambed and associated vegetation communities under Section 1600 et seq. of the California Fish and Game Code.

Project development would involve deepening the existing berth by dredging approximately 33,250 cubic yards surrounding the berth and constructing additional mooring dolphins and catwalks on either side of the wharf deck as shown on Exhibit 2-4, *Overall Proposed Modifications*. Therefore, the project would be required to obtain Section 404 and Section 10 permits pursuant to the CWA and Rivers and Harbors Act, respectively, prior to maritime construction activities. Prior to issuance of the Section 404 permit, the project would also require a Federal Consistency Certification from the California Coastal Commission for the proposed disposal of dredged materials at the LA-2 Ocean Dredge Material Disposal Site. Requirements for applicable compensatory mitigation for impacts to Waters of the U.S. would be determined through consultation with USACE during the permit acquisition process. USACE approval and issuance of the required permits would ensure the project's proposed maritime construction activities, including dredging, do not adversely impact waters of the U.S. and would reduce such impacts to less than significant levels.

Section 6.0, *Application Summary Report*, page 6-2, 4th paragraph

Further, as detailed in Section 4.4, *Biological Resources*, Mitigation Measure BIO-3 requires a nesting bird survey be conducted if construction occurs during the nesting season to ensure construction-related project impacts on nesting birds, including dredging activities, are reduced to less than significant levels. The project applicant would also be required to obtain a Federal Consistency Certification from the California Coastal Commission and Section 404 and Section 10 permits from the United States Army Corps of Engineers pursuant to the Federal Clean Water Act and Rivers and Harbors Act, respectively, to ensure dredging activities do not adversely impact waters of the United States. Thus, the project would be consistent with Section 30705(c) of the CCA.

Attachment B
Mitigation Monitoring and Reporting Program