

March 20, 2018

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

## RECOMMENDATION

The Harbor Department requests that the City Council: (1) receive the supporting documentation into the record and conduct a public hearing on two appeals of the Board of Harbor Commissioners' certification of the Final Environmental Impact Report for the Pier B On-Dock Rail Support Facility Project filed pursuant to Long Beach Municipal Code Section 21.21.507 by Phillips Steel Company and Superior Electrical Advertising; and (2) adopt a resolution denying the appeals and upholding the Board of Harbor Commissioners' certification of the Final EIR for the Project.

## DISCUSSION

As set forth below and in the attached documents, the Harbor Department believes that the Board of Harbor Commissioners (Commissioners) fully complied with the California Environmental Quality Act (CEQA) when it certified the Final Environmental Impact Report (Final EIR) for the Pier B On-Dock Rail Support Facility Project (Project). However, it will be up to the City Council to consider the appeals and determine whether the certification of the Final EIR was proper and in accordance with CEQA.

If the City Council determines that the Harbor Commission's certification of the Final EIR complies with CEQA, it must reject the appeals (see Attachment 1 for proposed resolution). Alternatively, if the City Council finds that the Harbor Commission's certification of the Final EIR did not comply with CEQA, then it must uphold the appeals and direct the Harbor Commission to set aside the Project approval and conduct appropriate CEQA analysis before reconsidering the Project.

### A. The Board of Harbor Commissioners' Action Being Appealed.

On January 22, 2018, the Harbor Commission voted unanimously to adopt Resolution HD-2906 (Attachment 3), wherein it certified the Final EIR as fully compliant with CEQA. The Harbor Commission took that action at the conclusion of a lengthy public hearing during which the Harbor Department staff and the Port's air quality expert gave extensive presentations on the Project and the Final EIR (Attachment 4). Following the presentations, a total of 42 public speakers testified before the Board; 37 spoke in favor of the Project, and 5 spoke in opposition to one or more aspects of the Project. Thereafter, staff and the Port's legal counsel provided additional information regarding the Project engineering/planning, as well as the property acquisition and relocation process. The Commissioners asked numerous questions and discussed, among other things, road closures, air quality, utility relocations, the replacement of truck trips, and zero-emission locomotives. The full transcript of the hearing is Attachment 5 to this

report. The Commissioners' questions and their deliberations are set forth on pages 101-144 of the transcript.

B. Summary of the Pier B On-Dock Rail Support Facility Project.

The Port of Long Beach seeks to maximize on-dock intermodal operations to reach its long-term goal of having 30 to 35 percent of containers handled by on-dock rail. The existing Pier B Rail Yard is the only Port facility that provides rail support to the Port's marine terminals, but it does not have the necessary storage tracks or sufficient track lengths to handle the longer trains; therefore, it would require substantial expansion in size and function to allow for more efficient rail operations. The 12th Street Alternative would expand the existing Pier B Rail Yard from 12 tracks to 48 tracks, providing for trains up to 10,000 feet long, while providing storage tracks for empty rail cars needed to support on-dock rail operations and an assembly area for departing trains and staging tracks for non-intermodal cars bound to and from non-container terminals. The existing rail bridge over the Dominguez Channel would be widened to accommodate for one additional track. The Project would also require the realignment and closure of certain roadways, including closure of the existing 9th Street at-grade rail crossing and removal of the Shoemaker Bridge ramps. Several electrical, water distribution, sewer, and oil lines would be either newly constructed or relocated to accommodate expansion of the rail yard. In addition, to accommodate for the expansion of the rail facility, a total of 184 parcels would need to be acquired. (Many of the businesses and properties consist of multiple parcels.) The Project would be constructed in three phases over an estimated 7 years.

C. Overview of the EIR and Public Input Process.

The EIR for the Project was prepared in accordance with CEQA Guidelines. The public had multiple opportunities to review and provide comments relating to the EIR. The Harbor Department issued a Notice of Preparation (NOP) and Initial Study (IS) for the proposed Project on August 20, 2009. The NOP/IS described the Project, solicited public input on environmental issues to be addressed in the EIR, and provided details regarding two public scoping meetings. The Harbor Department conducted public scoping meetings for the Project on September 2, 2009, and September 16, 2009. A total of 23 oral comments and 31 written comments were received during the scoping period. The comments covered a variety of topics including ground transportation/traffic, air quality, utilities, land use/planning, and population and housing.

The Draft EIR was released by the Harbor Department on December 16, 2016. The Harbor Department held three public meetings to provide the public with additional opportunities to comment on and present evidence related to the proposed Project and the Draft EIR. Notices of the availability of the Draft EIR and of the public meetings were published in the Long Beach Press-Telegram on December 15, 2016, January 8, 2017, January 27, 2017, and February 12, 2017. The public meetings were held on January 11, 2017, at Silverado Park; January 18, 2017, at the Harbor Department

Administration Offices; and February 15, 2017, at Tepechi Birrereria Restaurant in Long Beach. The Draft EIR was also made available for review at several locations accessible to the general public, including the Harbor Department's website at [www.polb.com/ceqa](http://www.polb.com/ceqa), the Harbor Department Administration Offices, Long Beach City Clerk's Office, Long Beach Main Library, San Pedro Regional Branch Library, and Wilmington Branch Library.

The 90-day public comment period ended on March 13, 2017. A total of 64 people spoke at the three public comment meetings held for the Project. In addition, a total of 48 governmental agencies, organizations, businesses, and members of the public provided written comments on the Draft EIR during the public review period.

Harbor Department staff and environmental consultants responded in writing to all comments received on the Draft EIR, and the responses were circulated 10 days prior to the public hearing on the Final EIR as required by CEQA [Public Resources Code § 21092.5(a)]. The comments are included and fully addressed in the Final EIR Chapter 11 – Responses to Comments. The comments of the two appellants regarding the Draft EIR and the responses to those comments are set forth in the Final EIR at pages 11-163 to 11-183 (Phillips Steel Company) and 11-198 to 11-216 (Superior Electric Advertising).

At the public hearing on January 22, 2018, the Board of Harbor Commissioners considered certification of the Final EIR after hearing the testimony from 42 members of the public.

D. Summary of EIR Analysis and Conclusions Regarding the Project Impacts.

1. Description of the Project.

When fully built, the alternative selected by the Board, the 12th Street Alternative, would include 48 total tracks (2 main tracks, 41 rail yard tracks, and 5 arrival/departure tracks). The Project would also provide for receiving and departure tracks up to 10,000 feet long. Operation of the Project would accommodate the arrival/departure and staging of inbound and outbound intermodal trains. Additional tracks at the on-dock rail support facility would provide for the assembly of up to 10 additional trains per day and the storage of empty rail cars to support on-dock intermodal operations. Tracks would also be provided for repair activities, inspection, and departure brake testing of rail cars. The Project would support rail operations that would occur 24 hours per day, 7 days per week, in three shifts.

As stated in the City's Mobility Element, each train loaded on dock replaces approximately 750 drayage truck trips.

In Section 4.0 of its CEQA findings of fact, the Harbor Commission made extensive factual findings regarding various alternatives that were considered in the EIR.

(Attachment 3, Exhibit A, pages 62-67.) That analysis explains in detail why the proposed Project (12th Street Alternative) was selected as the environmentally superior of the build alternatives, and why it best meets the Project objectives.

## 2. Summary of Potential Unavoidable Impacts.

Although most potentially significant environmental impacts of the Project would be reduced to a level of insignificance through the incorporation of Project design features and the imposition of mitigation measures, some Project and cumulative impacts are considered significant and unavoidable under CEQA, even after they have been lessened to the extent feasible through such measures. The significant and unavoidable impacts were fully set forth in the Final EIR. The EIR considers cumulative impacts to be significant if they exceed the significance criteria for any related individual projects. The potential significant and unavoidable impacts are as follows:

- a) Air Quality. Construction and operation of the Project would produce carbon monoxide (CO) and nitrogen oxides (NOx) air emissions and nitrogen dioxide (NO<sub>2</sub>) concentrations that exceed South Coast Air Quality Management District (SCAQMD) regional significance thresholds.
- b) Cumulative Air Quality and Health Risk. Construction and operation of the proposed Project would also result in significant and unavoidable air emissions and health risk impacts on a cumulative impact level.
- c) Global Climate Change. Greenhouse gas emissions from Project construction and operation would remain higher than the SCAQMD interim significance threshold for industrial projects. Because climate change is by nature, a global impact, an appreciable cumulative impact on global climate change would occur when GHG emissions combine with GHG emissions from other man-made activities on a global scale.

These impacts are described in detail in the Final EIR and in the Harbor Commission's Findings of Fact for the Project, which is an attachment to the Board of Harbor Commissioners Resolution (Attachment 3, Exhibit A, pages 68-70).

## 3. Mitigation.

Mitigation measures and environmental control measures were developed for the Project to reduce significant impacts to the extent feasible. These measures, which are set forth in the Mitigation Monitoring and Reporting Program (MMRP) adopted for the Project by the Harbor Commission (see Attachment 3, Exhibit B), were made conditions of the Project approval. In addition, to reduce cumulative air quality and greenhouse gas emissions impacts, the Port will make a contribution of approximately \$1.5 million to the Community Grants Program.

E. Summary of Appeal and the Harbor Department's Response to the Appeal.

Following the Board of Harbor Commissioners' certification of the Final EIR, two appeals were filed. The appeal of Phillips Steel Company (Phillips) is included as Attachment 6 hereto. The Harbor Department's response to that appeal is included as Attachment 7. The appeal filed by Superior Electrical Advertising (Superior) is included as Attachment 8. The Harbor Department's response to that appeal is included as Attachment 9.

Several of the issues raised in the two appeal letters do not relate to adequacy of the Final EIR or the propriety of the Board of Harbor Commissioners' certification of the Final EIR and are therefore beyond the scope of the City Council's review in this appeal hearing. Other issues in the appeals, as discussed below, were never previously raised by the appellants during the CEQA process, or are presented in a conclusory manner with no supporting evidence that the environmental determination does not comply with CEQA. The following is a summary of the claims made in the appeals and the Harbor Department's responses to those claims. A few background facts that are common to both Phillips and Superior will help to put their appellate arguments in context.

Background

Phillips' and Superior's business locations are along Anaheim Street, and are north of 12th Street. They are outside the footprint of the Project, and have not been identified for acquisition. Superior's business facility is located at 1700 W. Anaheim Street, and Phillips has three locations: 1368 W. Anaheim Street, 1545 W. Anaheim Street, and 1600 Anaheim Street.

Phillips Appeal

Phillips complains that the various road closures will negatively affect traffic on Anaheim Street and obstruct access to its business. However, full access to Phillips' various facilities will remain. The operation of Anaheim Street was fully assessed in the EIR's traffic analysis and no significant traffic impacts were identified. While travel times to or from its facilities to certain destinations may be slightly affected, these potential increases in some travel times would not be significant impacts under CEQA. Because Phillips has not identified or demonstrated any flaw in the EIR analysis, the CEQA appeal on this ground should be denied pursuant to Long Beach Municipal Code ("LBMC") Section 21.21.507, subsection E.2. which requires appellants to "specify in detail why the appellant contends that the environmental determination does not comply with CEQA.

Phillips claims the Project will impact its employees' and customers' access to emergency services, such as access to hospitals. Emergency response times are not, in and of themselves, environmental issues covered by CEQA unless a condition

causes the need for additional infrastructure for emergency services. The EIR indicates that emergency response times will not be affected by the Project, and the drive time to local hospitals will remain virtually the same. As such, the CEQA appeal on this ground should be denied.

Phillips asserts a policy argument rather than a CEQA argument relating to certain air emissions (NO<sub>2</sub>) associated with the Project. Phillips does not take issue with the analysis in the EIR, and Phillips acknowledges that the EIR disclosed the impacts. However, in its appeal, Phillips greatly exaggerates the impacts of the emissions, and fails to acknowledge that existing emission levels at its site are a far greater contributor to the exceedance of the NO<sub>2</sub> standards than the Project's incremental contribution to those emissions. While exceedance of the 1-hour standards are predicted to occur in certain limited stages of the Project construction, those conditions would be rare and temporary. No exceedances are predicted for the operational phase of the Project.

Phillips claims that the EIR did not fully assess the impacts of the Project on Westside businesses. To reiterate, LBMC section 21.21.507, subsection E.2 requires appellants to "specify in detail why the appellant contends that the environmental determination does not comply with CEQA." The appellants have not provided any detail of any significant environmental impact that was not properly assessed in the EIR. Therefore, the CEQA appeal on this ground should be denied.

Phillips appears to recommend that the Port adopt the 9th Street Alternative rather than the 12th Street option, based upon Caltrans' statements about the 9th Street Alternative. Because Phillips has not demonstrated that the Commission's policy decisions in this regard are lacking support, the appeal on this ground should be denied. Nonetheless, the Commissioners made extensive findings justifying why the 12th Street Alternative is preferable, both from an environmental standpoint and to most fully accomplish the goal of moving more containers via rail rather than truck.

Recently, Caltrans expressed support for the Pier B On-Dock Rail Support Facility Project, stating that the Pier B project objectives run in-parallel to those of the Shoemaker Bridge Replacement and the I-710 Corridor projects, particularly those objectives which seek to improve efficiency and safety across modes of travel.<sup>1</sup>

Phillips suggests, because certain modifications were made to the Project after the Port received the comments on the Draft EIR, that the Final EIR should have been recirculated for a full new round of public comments rather than the 10-day period applicable to responses to comments. Implementing project refinements that help to reduce impacts during the CEQA review process is wholly consistent with the purpose of CEQA. The revisions and corrections to the Draft EIR are clearly identified in the Final EIR. That there were a number of changes and updates is not unusual given the

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<sup>1</sup> Letter Dated March 5, 2018 from Carrie L. Bowen, District Director, Caltrans to Heather Tomley, Director of Environmental Planning, Port of Long Beach, Exhibit A attached.

size of the Draft EIR and the complexity of the Project. Phillips has not identified any changes that it did not understand, nor articulated any argument or identified any facts that would have triggered the requirement to recirculate the Final EIR. As such, the appeal on this ground should be denied.

Finally, Phillips suggests that the Board's CEQA findings were not sufficiently detailed or factually supported. Those extremely detailed findings, which are included in Attachment 3, contain both the required findings and specific citations to supporting evidence in the Administrative Record to support the findings. This more than meets the requirements under CEQA. Phillips has not identified any specific factual finding that it claims is lacking in factual support. Therefore, the appeal on these grounds should be denied.

#### Superior Appeal

Superior claims the EIR does not adequately address the issue of dust. The issue of dust was not raised before or during the proceedings before the Harbor Commission. Pursuant to Long Beach Municipal Code section 21.21.507.E.3, which requires "Evidence that each ground for the appeal was submitted to the Board of by the appellant or another person before the environmental determination." Therefore, the issue may not be appealed to the City Council and the appeal on this ground should be denied. Nonetheless, the issue has no merit. As explained in the detailed response provided in Attachment 9, dust was included in the PM<sub>10</sub> and PM<sub>2.5</sub> analysis. This included dust from construction and tire road dust. Unlike vehicle tires traveling across paved or unpaved roadways, locomotives would make no direct contact with unpaved surfaces, therefore there would be no appreciable fugitive dust emissions associated with locomotive activity. Furthermore, the slow speeds of locomotives over rails underlain by rock ballast would prevent any measurable dust from train activity at the Pier B On-Dock Rail Support Facility.

Superior also argues in its appeal that the rail yard is not an appropriate use in the General Industrial district. The zoning designation in the vicinity of the Project is Industrial – General and Port-Related. Among the uses that are permitted in the General Industrial zone are large construction yards with heavy equipment, chemical manufacturing plants, food processing plants, and rail yards. The existing Pier B Yard and its expansion Project are properly located in the Port-Industrial district, which is specifically designated for port-related and maritime industry facilities. In the Port Master Plan, the Project is located in Port Planning Districts 1 and 2. All uses in the Port-Related Industrial district must be consistent with the Port Master Plan. The Pier B On-Dock Rail Support Facility Project implements the Port Master Plan's objectives for these Port Districts by upgrading rail infrastructure to meet on-dock rail needs. As explained in the detailed response to the appeal, the enhancement of the rail facilities to support on-dock operations carries out the Port Master Plan objective for this area. Thus, from a land-use planning perspective, given the permitted uses identified for the General Industrial and Port-Related Industrial districts, it is reasonable to expect that the

potential for the expansion of rail facilities would occur near the businesses located in the area.

Finally, Superior claims that the EIR does not adequately assess the rail yard's compatibility with neighboring businesses. The EIR demonstrates that traffic, noise, and vibration impacts will be less than significant. The local air quality impacts specific to the Superior site are outlined in detail in the Final EIR at pages 11-206 to 11-207, and Table 11.21-16. Given the high background concentrations of NO<sub>2</sub> that already exist at the Superior site, Project-related emissions could contribute to exceedances of federal and/or state 1-hour standards periodically during construction and operation. Given the location, this does not make the rail yard incompatible with the surrounding industrial uses. Superior has not identified any flaw in the EIR analysis or explained why the Board's certification of the Final EIR was in error. Therefore, the appeal on this ground should be denied.

#### TIMING CONSIDERATIONS

City Council action on this matter is requested on March 20, 2018, to respond to the appeals in a timely manner.

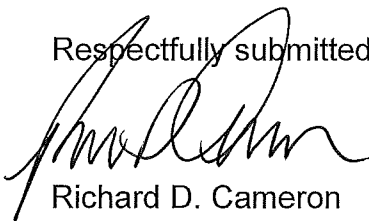
#### FISCAL IMPACT

If the appeals are rejected, there would be no financial impact. Should the City Council sustain the appeals, the Project will be jeopardized, and the region would lose the job opportunities that construction and operation of the Pier B On-Dock Rail Support Project would create.

#### SUGGESTED ACTION:

Approve Recommendation.

Respectfully submitted,



Richard D. Cameron  
Managing Director  
Planning and Environmental Affairs  
Harbor Department



Mario Cordero  
Executive Director  
Harbor Department



Exhibits:

- A. Letter Dated March 5, 2018 from Caltrans to the Port of Long Beach

Attachments:

1. Proposed resolution for Consideration by the Long Beach City Council
2. Harbor Department Staff Report to Board of Harbor Commissioners, January 22, 2018
3. Board of Harbor Commissioners Resolution HD-2906
4. Harbor Department Staff PowerPoint Presentation to Board of Harbor Commissioners, January 22, 2018
5. Transcript of Public Hearing, January 22, 2018
6. Appeal of Phillips Steel Company, Received February 5, 2018
7. Detailed Response of Harbor Department to the Issues on Appeal by Phillips Steel Company
8. Appeal of Superior Electrical Advertising, Received February 6, 2018.
9. Detailed Response of Harbor Department to the Issues on Appeal by Superior Electrical Advertising

EIR

*Previously Delivered Under Separate Cover:*

Draft Environmental Impact Report for the Pier B On-Dock Rail Support Facility Project  
(SCH No. 2009081079)

Final Environmental Impact Report for the Pier B On-Dock Rail Support Facility Project  
(SCH No. 2009081079)

# EXHIBIT A

## DEPARTMENT OF TRANSPORTATION

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*Making Conservation  
a California Way of Life.*

March 5, 2018

Ms. Heather Tomley  
Director of Environmental Planning  
Port of Long Beach  
4801 Airport Plaza Drive  
Long Beach, CA 90815

Dear Ms. Tomley:

The California Department of Transportation (Caltrans) supports the Pier B On-Dock Rail Support Facility Project (Project) in the Port of Long Beach (Port).

The Project is located adjacent to Pier B Street, stretching from the Alameda Corridor and the Dominguez Channel to the west to tracks paralleling Pico Avenue and Interstate 710 (I-710)/Harbor Scenic Drive. The configuration, expansion and enhancement of the existing Pier B facility would support more efficient use of "on-dock" rail at the Port's shipping terminals, and would create a rail hub between the Port and the Alameda Corridor, which serves as a regional and national rail access. The Project will facilitate the movement of trains from the Port to regional and national destinations and support on-terminal efficiency, allowing for a greater percentage of containers to be moved out of the Port by on-dock rail instead of trucks. The mode shift from shipment by trucks to containers would reduce delay, ease roadway traffic congestion and improve air quality. The Project objectives support Caltrans shared goals for a more efficient, more economically competitive and less polluting freight transport system as envisioned in the California Sustainable Freight Action Plan (State of California, 2016).

The 12th Street Alternative is consistent with planned improvements to the I-710 Corridor Project, which would remove the Shoemaker Bridge ramps and close the 9th Street at-grade crossing. The Pier B project objectives run in parallel to those of Shoemaker Bridge Replacement and the I-710 Corridor projects, particularly the objectives which seek to improve efficiency and safety across modes of travel.

For these reasons, Caltrans supports the Port of Long Beach Board of Harbor Commissioners' recent certification of the CEQA document and Project approval. Should you have any further questions, please contact Nieves Castro, Acting Deputy District Director, Planning and Local Assistance Division, at (213) 897-0362.

Sincerely,

A handwritten signature in cursive script that reads "Carrie L. Bowen".

CARRIE L. BOWEN

District Director