

ATTACHMENT 9

Detailed Response of Harbor Department to the Issues on Appeal Raised by Superior Electrical Advertising

Ground for Appeal

The revised EIR, at table 3.2.24 and table 3.2.58 on page 10-14 and 10-15, does not adequately address the dust that will be created during operation and especially during construction on neighboring businesses that will remain in operation during construction and operation.

Response

This issue was never raised by Superior Electrical Advertising (“Superior”) or any other commenter during the EIR review period or during any of the proceedings leading up to the Harbor Commissioners’ certification of the Final EIR. Thus, the issue is barred. One of the required showings that must be made by Superior is that the ground for appeal was submitted to the Harbor Commissioners before their vote to certify the Final EIR. (LBMC §21.21.507.) The evidence submitted by Superior – the February 28, 2017 letter from Lisa Kolieb of the Akerman law firm – does not raise any issue with regard to dust.

Nonetheless, the Port responds as follows. The EIR did quantify dust from both construction and operation activities. Dust was included in the emissions tables and criteria pollutant modeling of PM₁₀ and PM_{2.5}. As noted in the EIR, the construction contractor will be subject to South Coast Air Quality Management District (“SCAQMD”) Rule 403, which requires extensive dust control measures such as site watering.

Dust emissions were also quantified for all on-road vehicle trips (cars and trucks onsite, and offsite on city streets and freeways) during operation. That includes paved road dust, tire wear, and brake wear emissions. According to the Port’s air quality expert, there would be no appreciable fugitive dust emissions associated with locomotive activity at the Pier B rail yard. The locomotives would make no direct contact with unpaved surfaces. Moreover, the slow locomotive speeds (≤ 25 mph) within the rail yard and the large rock ballast underlying the rail tracks would prevent any measurable dust generation from the aerodynamic wake of the locomotives.

The EIR specifically examined the potential for elevated levels of fine particulate matter, such as PM₁₀ and PM_{2.5}, at Superior’s location and found that the contribution from Project construction and operation would be less than significant. (See Final EIR pages 11-206 to 11-207, including Table 11.2-16.)

Ground for Appeal

The EIR does not adequately address how the POLB will mitigate the neighboring businesses from the dust that will be in the air as a result of the train activity. With off shore winds, which are fairly constant, the dust in the air will blow directly onto

neighboring properties. Superior is directly behind the train yard. Trains will be 100 feet from our back door. We manufacture high end signage in our yard. The dust would both ruin our product and impact the health of our employees working in the yard. The EIR does not adequately address how the dust will meet CEQA requirements. There should be additional measures to address the air quality including the dust created by the trains.

Response

Unlike vehicle tires traveling across paved or unpaved roadways, locomotives themselves are not an appreciable source of dust generation. The SCAQMD explains that “the ‘fugitive dust’ category encompasses five general areas of fugitive dust emissions, including construction and demolition, materials handling, paved roads, unpaved roads, and storage piles. Locomotives within the on-dock rail support facility would travel at low speeds over rails underlain by rock ballast; this would prevent any measurable dust from train activities.

Superior has not identified any specific source of dust that would be of concern. The prior response demonstrates that the sources of fugitive dust relating to the Project have been fully accounted for in the Air Quality analysis.

Ground for Appeal

On page 11-204 lines 21 thru 26 are incorrect per Long Beach city code. Secondly, the EIR states that the land uses in the area of the port “are industrial in nature” and that the rail yard is industrial in nature. Superior appeals the determination that the rail yard is “Industrial in Nature.” This area is zoned IG (Industrial General). The City of Long Beach Municipal Code reads: “The emphasis is on traditionally heavy industrial and manufacturing uses. The IG district is intended to promote an “industrial sanctuary” where land is preserved for industry and manufacturing, and where existing industries are protected from non-industrial users that may object to the operating characteristics of industry.” The rail yard does not meet the IG definition.

Response

The referenced portion of the Final EIR states as follows:

It is important to remember that this portion of the Port is zoned as a General Industrial (IG) district. According to the City’s zoning code, this district is “where a wide range of industries that may not be desirable in other districts may locate. The emphasis is on traditionally heavy industrial and manufacturing uses.” The uses permitted within this district can reasonably expect to generate, and be subject to, higher noise and vibration levels than properties elsewhere in the City.

The quoted statement describes the zoning designation in the vicinity of the Project and is consistent with the City's Municipal Code. LBMC section 21.33.020 specifically states as follows: "The IG district includes uses such as **large construction yards with heavy equipment**, chemical manufacturing plants, **rail yards**, and food processing plants." (Emph. added.) The fact that rail yards and construction yards with heavy equipment are specifically called out as examples of permitted uses within the IG district is indicative that the above-quoted passage from the Final EIR is accurate.

Moreover, the IG district is directly adjacent to the Port-Related Industrial (IP) district in which the existing Pier B Rail Yard is located. Consistent with the Long Beach Municipal Code, the IP district is characterized predominately by maritime industry and marine resources. Uses in this district are primarily port-related or water dependent, but may also include: water-oriented commercial and recreational facilities primarily serving the general public, and utility installations and rights-of-way. All uses in the IP district must be consistent with the Port Master Plan. As fully explained in the Draft EIR at pages 3.6-6 to 3.6-8, the Project specifically implements the objectives for Port Planning Districts 1 and 2 by upgrading the rail infrastructure to meet the future on-dock rail needs.

The portion of the Project located within the Port of Long Beach is in the IP district, not the IG district. Nonetheless, rail yards are an expressly permitted use within both the IG district and the IP district. Thus, contrary to the argument above, rail yards are among the types of uses permitted next to Superior's facilities.

Ground for Appeal

Superior appeals the EIR determination that the rail yard is compatible with the neighboring businesses.

Response

As explained above, from a "Land Use" planning standpoint, the expansion of the existing Pier B rail yard is consistent with the IG district, the IP district, and the Port Master Plan.

In terms of environmental impacts, the Draft EIR and Final EIR have fully outlined the potential significant impacts. The traffic, noise and vibration impacts will be less than significant. (See Final EIR at pages 11-205 – 206 and 11-208.) 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 NO₂ 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. Superior has not identified any flaw in the EIR analysis or explained by the Board's certification of the EIR was in error.