

To: Long Beach City Council:

Re: Dec. 3, 2019 Agenda Item 19.

Title: Recommendation to receive supporting documentation into the record, conclude the public hearing and consider an appeal (APL 19-006) by Jerilyn Lopez Mendoza (Coalition for Clean Air), Ann Cantrell, Joe Weinstein and Corliss Lee (Citizens About Responsible Planning), Ann Cantrell and Anna Christiansen (Sierra Club Los Cerritos Wetlands Task Force); Jesse N. Marquez (Coalition For A Safe Environment), and Andrea Hricko (Concerned Faculty of USC and UCLA); Adopt resolution approving and certifying the Mitigated Negative Declaration of Environmental Impact (MND 08-19) for the Long Beach Cruise Terminal Improvement Project, consisting of onshore and maritime improvements in accordance with the provisions of the California Environmental Quality Act (CEQA) and State and local Guidelines; making certain CEQA Findings and Determinations relative thereto; and adopting a Mitigation Monitoring and Reporting Program in accordance with those measures set forth in the MND; and Approve a Site Plan...

Citizens About Responsible Planning/CARP and the Sierra Club Los Cerritos Wetlands Task Force are appealing this project as we contend it needs a full Environmental Impact Report to more fully address the inadequately mitigated environmental issues. These include **Air Quality, Kelp Forests, Marine Mammals, Birds, Fish Habitat, Noise, Light, Toxic Materials, Disposal of Dredge Materials and adverse Environmental Impacts Carnival Cruise ships have, not only on the Port of Long Beach, but on the entire Ocean.**

The staff report bases its recommendation to deny our appeal on a claim that evidence on the record does not support our appeals. However, to support this claim, staff provides only a letter (Attachment K) which is neither from the City

nor the Negative Declaration preparer, but from counsel for an utterly biased source—the party of interest, Carnival Cruise!

Besides this utterly unprofessional and biased approach, the staff's report's claim is quite mistaken in substance. At the Planning Commission on November 7, we submitted on the record many substantive reasons why statements in the Negative Declaration are inadequate and therefore a full Environmental Impact Report is needed. These reasons include the following:

The Conclusion to the Negative Declaration states: "The project area is within one of the busiest ports on the west coast of the U.S., within highly modified habitat. **In spite of the generally degraded habitat conditions, a few special-status or sensitive species are present or potentially present as described above. These include a number of plants, birds and several marine mammals. Small areas of kelp beds have also been reported along the Pier J breakwaters.** Through a variety of avoidance, minimization, and mitigation measures it is believed that potential adverse impacts can be kept below a significant level. More specific measures will be identified in permit applications and during consultation with resource agencies."

We do not agree that adequate mitigation measures are in place to protect **listed, candidate, or special-status bird species** which have moderate or high potential to occur on-site: **California least tern, peregrine falcon, California brown pelican, Caspian tern, black-crowned night heron, double-crested cormorant, great blue heron, great egret, snowy egret, osprey, Cooper's hawk, black skimmer, California gull, long-billed curlew, elegant tern, and common loon. Most of these species are also known to forage and nest in the project vicinity and general POLB area.**

According to the Negative Declaration the so-called mitigations for these special status birds includes:

"During pile driving activities, the construction contractor shall utilize a "soft start" initiation of the pile driving equipment at the beginning of each day, or following a 30-minute or longer break in pile driving, **to give nearby wildlife a chance to vacate the immediate construction area before full-force pile driving is initiated.**"

"If ground-disturbing activities or removal of any trees, shrubs, or any other potential nesting habitat are scheduled within the avian nesting season (generally from March 1 through September 30), **a pre-construction clearance survey for nesting birds shall be conducted within three days prior to any ground disturbing activities.**"

Checking for nesting birds before removing their nesting habitat is not adequate mitigation.

The following listed, candidate, or special-status mammal species have moderate to high potential to occur on-site: **gray whale**, western north Pacific population, **Pacific white-sided dolphin**, **short-beaked common dolphin**, **common bottlenose dolphin**, **California sea lion**, and **Pacific harbor seal**. Gray whale seasonally migrate past the POLB and are infrequently observed just outside the outer harbor; Pacific white-sided dolphin and short-beaked common dolphin are infrequently observed in the outer harbor. **Common bottlenose dolphin, California sea lion, and Pacific harbor seal are known to occur in the project area year-round.**

Mitigation? "As detailed in Section 2.0, *Project Description*, an **Incidental Harassment Authorization** (IHA) under the MMMA would be required as part of the project." In other words, any mammal found in the vicinity can be harassed until it leaves.

The response to this comment states that Incidental Harassment Authorization means getting a permit from NOAA, however, the mitigation also states that "**During pile driving activities, the construction contractor shall utilize a "soft start" initiation of the pile driving equipment at the beginning of each day, or following a 30-minute or longer break in pile driving, to give nearby wildlife a chance to vacate the immediate construction area before full-force pile driving is initiated.**" This sounds like harassment to us.

"*Kelp Forests.* The major species of brown algae or kelp in the Long Beach and Los Angeles Harbors are **giant kelp** (*Macrocystis pyrifera*) and **feather boa kelp** (*Egregia menziesii*). . . . surveys in 2013 and 2014 identified kelp beds growing as a thin band along the west, south, and east facing outer faces of Pier J and both faces of the breakwater protecting the Pier J slip just southwest of the project's existing berth and

docking area. As such, it is possible that kelp beds in the project area would be impacted by project construction activities."

Mitigation Measures: No mitigation measures are required.

According to Dr. Laura Rogers -Bennett, of UC Davis Bodega Marine Labs, the long-time, relatively stable Northern California kelp forests have essentially been almost completely wiped out over the past decade, and will take many decades - if ever - to recover. **Kelp forests anywhere are a relatively rare and precious resource. One study found that along with removing carbon dioxide from the water, Kelp is creating a defense against acidification.**

We do not agree that a Section 404 permit under the Federal Clean Water Act and permits from the Rivers & Harbors Act and the Army Corps will protect these rare and endangered Kelp Beds.

HAZARDOUS MATERIALS

The Negative Declaration document states: "**The project proposes to deepen the existing berth by dredging approximately 33,250 cubic yards in order to increase navigable and mooring margins.** A soil sampling analysis was conducted as part of the Dredging Soils Report to determine whether the dredged sediments could be placed at the LA-2 Ocean Dredge Material Disposal Site (ODMDS). According to the soils sampling and testing results, the dredged sediment showed moderate chemical contamination with some chemical concentrations elevated compared to LA-2 reference samples. However, none of the tested sediments were toxic to *Ampelisca abdita* and *Neanthes arenaceodentata*, which are indicators of sediment toxicity,"

In spite of this project site being within one-half a mile or less of a number of superfund, leaking underground tanks, spills, cleaning facilities and other hazardous substance sites, because the tests on some worms and clams did not kill most of them, it was concluded it is safe to dump the dredged sediments into the Pacific Ocean. However, the conclusion of the test itself is quite different. From the Negative Declaration, Appendix E

5.2 Bulk Sediment Chemistry

Most sediment conventional analyses were elevated in all three Long Beach Cruise Terminal samples compared to the LA-2 reference sample. Notably elevated concentrations above LA-2 reference concentrations are as follows:

TRPH and oil and grease concentrations in all samples were roughly a magnitude higher.

Total sulfide concentrations in all samples were roughly 500 times higher.

The concentration of Total Organic Carbon, at 1.4% to 2.2% between all samples, was roughly four to six times higher.

Total volatile solids concentrations were roughly two times higher. Concentrations of total solids, ammonia and dissolved sulfides in the Long Beach Cruise Terminal sediment samples were similar to those in the LA-2 reference sample.

Compared to NOAA effects based screening levels (Long et. al., 1995) and LA-2 reference data, contaminant concentrations were elevated for some metals in the Long Beach Cruise Terminal sediments. **Arsenic, copper, lead, nickel, and zinc exceeded corresponding ERL values in both composite samples and the C1-b sample.** In addition, cadmium exceeded its corresponding ERL value in the C1-b sample, and **mercury** exceeded its corresponding ERL value in the Composite-*b* sample and the C1-*b* sample. There were no metal ERM exceedances in any sample, and there were no metal ERL exceedances in the LA-2 reference sample. As a result, most metal concentrations in the test sediments were elevated over concentrations in the LA-2 reference sediments.

A few organic compounds exceeded NOAA effects based screening levels and LA-2 reference values in the Long Beach Cruise Terminal sediment samples. Total PCB congener concentrations for Composite-*a*, Composite-*b*, and the C1-*b* samples were elevated above the corresponding ERL value, and PCB congeners were not present in the LA-2 reference sediments. Total DDT, 4,4'-DDD, 4,4'-DDE concentrations were between corresponding ERL and ERM values in both composite samples as well as the C1-*b* core sample. **Total DDT and 4,4'-DDE were also elevated above ERL values in the LA-2**

reference sediments. Most PAH compounds were detected in the Long Beach Cruise Terminal sediment samples, but none were detected in the LA-2 reference sample. However, there were no PAH compounds that exceeded an ERL value.

Cyfluthrin and cypermethrin were detected in the Composite-*a* sample at concentrations of 2.0 and 1.4 µg/kg, respectively, but not in the LA-2 reference sample. Cyfluthrin was also detected in the Composite-*b* sample but at an estimated concentration slightly above the MDL.

Permethrin concentrations in the all three Long Beach Cruise Terminal samples (2.3 to 7.8 µg/kg) were roughly two to eight times higher than the RL (1.0 µg/kg). Permethrin was not detected in the LA-2 reference sample.

The mean ERM quotient (ERMq) among all chemical constituents with ERM values was 0.18 for all three Carnival samples. With an ERMq of 0.1, there is less than a 12% probability of a toxic response to marine amphipods (Long and MacDonald, 1998b). **Therefore, the chemistry results predict a moderate chance that the Carnival sediments would cause significant toxicity to marine amphipods.”**

The conclusions of the Negative Declaration appear to ignore the results of the study and are willing to submit marine life to the dangers of multiple toxic materials, including arsenic, copper, mercury, lead, zinc, petroleum and DDT. For this reason alone, this project should not be approved.

AIR QUALITY

The response to the concerns include this statement:

“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.”

We do not find this comforting. According the an article in USA Today, a study of 4 cruise ships, including 2 of Carnival’s concluded: “Ship exhaust contains "harmful constituents, including metals and polycyclic aromatic hydrocarbons (PAHs), many of which have toxic, mutagenic and/ or carcinogenic

properties.”<https://www.usatoday.com/story/travel/cruises/2019/01/29/air-pollution-cruise-ship-decks-rivals-beijing-study-finds/2708840002/>

The staff response states: “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.” **In other words, it is OK to pollute the air at sea in order to keep a time schedule.**

From Staff report: “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.” **Is this being done at the present time? Who enforces this requirement? Is it all right to pollute at sea as long as on-shore power is used?**

Again, we urge a complete EIR be done with the required "No project" option, as we oppose this dredging and expansion for Carnival Cruises, a company known for dumping waste and plastic throughout the oceans.

<https://www.usatoday.com/story/travel/news/2019/06/04/carnival-cruise-lines-pleads-guilty-continued-pollution-fined-20-m/1337198001/>

Citizens About Responsible Planning/CARP

Joe Weinstein, Chair

Corliss Lee, Secretary

Ann Cantrell, Treasurer

Rae Gabelich

Renee Lawler

Susan Miller

Melinda Cotton

Tammy Bennett

Sierra Club Los Cerritos Wetlands Task Force

Anna Christensen

Charles Moore

Rebecca Robles

Virginia Bickford

Karen Harper

Ann Cantrell