

Appeal of the Adoption of the Initial Study/Negative Declaration for the World Oil Tank Installation Project

January 4, 2022



Appeal of the Adoption of the
INITIAL STUDY/NEGATIVE DECLARATION
FOR THE WORLD OIL TANK INSTALLATION PROJECT

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Initial Study/Negative Declaration	<i>Provided in enclosed USB drive</i> Final Initial Study/Negative Declaration and Application Summary Report, September 2021

January 4, 2022

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' adoption of the Final Initial Study/Negative Declaration (IS/ND) for the World Oil Tank Installation Project (Project) filed pursuant to Long Beach Municipal Code Section 21.21.507 by Safe Fuel and Energy Resources California (SAFER CA) and Long Beach residents Nicholas Garcia, Sopha Sum, and Sophall Sum, and Earthjustice, Coalition for Clean Air, East Yard Communities for Environmental Justice, Communities for a Better Environment, Center for Biological Diversity, and Sierra Club – Angeles Chapter (collectively, "The Coalition"); and (2) adopt a resolution denying the appeals and upholding the Board of Harbor Commissioners' adoption of the Final IS/ND for the Project.

DISCUSSION

Pursuant to Long Beach Municipal Code Section 21.21.507, the scope of the appeal hearing before the City Council is limited to whether the environmental determination for the World Oil Tank Installation Project (Project) was made in full compliance with the California Environmental Quality Act (CEQA). As set forth below and in the attached documents, the Harbor Department believes that the Board of Harbor Commissioners (Commissioners) fully complied with CEQA when it adopted the Final Initial Study (IS)/Negative Declaration (ND) for the Project. However, it will be up to the City Council to consider the appeals and determine whether the adoption of the Final IS/ND was proper and in accordance with CEQA.

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

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

On October 28, 2021, the Harbor Commission held a public hearing to consider the adoption of the Final IS/ND, approve the Project and issue a Harbor Development Permit (Staff Report is provided as Attachment 2). The Commissioners voted unanimously (one commissioner absent) to adopt Resolution HD-3051 (Attachment 3),

wherein it adopted the Final IS/ND as being fully compliant with CEQA. The Harbor Commission took that action at the conclusion of a public hearing during which the Harbor Department staff and a representative from World Oil Corporation, gave extensive presentations on the Project and the Final IS/ND (Attachment 4 and Attachment 5, respectively). Following the presentations, a total of 11 public speakers testified before the Board; 5 spoke in favor of the Project, and 6 spoke in opposition to one or more aspects of the Project. One Commissioner asked the City Attorney to respond to and provide perspective on the legality of some of the comments submitted to the Board of Harbor Commissioners prior to the public hearing. Commissioners expressed their support for World Oil Corporation and the Project. The full transcript of the hearing is provided as Attachment 6 to this staff report. The Board of Harbor Commissioners' questions and deliberations are set forth on pages 43-51 of the transcript.

B. Summary of the World Oil Tank Installation Project.

In August 2019, the Harbor Department received a Harbor Development Permit application from World Oil Terminals (World Oil), operator of their privately-owned petroleum storage facility that has been located at 1405 Pier C Street in the Long Beach Harbor District since 1964. World Oil proposes to construct and operate two new 25,000-barrel-capacity petroleum storage tanks with foundations, pumps, and connections to existing pipelines to increase the efficiency of World Oil's operations with no increase in throughput due to limitations associated with the physical geometry of the site, physical limitations of the existing pipelines and truck loading racks, and permitted throughput limits. World Oil does not produce or refine crude oil or natural gas. The two new smaller tanks would replace two currently underutilized, larger tanks that store petroleum oil products transported to and from the World Oil refinery in South Gate. Two larger tanks would then be available for lease to third-party vendors to store fuels transmitted via pipeline, as is currently done. There are no proposed improvements to the existing pipelines or truck loading racks or to third-party vendor facilities.

C. Overview of the IS/ND and Public Input Process.

The IS/ND for the Project was prepared in accordance with the CEQA Guidelines (Title 14, Division 6, Chapter 3 of the California Code of Regulations). The Notice of Intent to Adopt and Availability of the Draft IS/ND was issued by the Port on October 7, 2020, for a 30-day review and comment period. On October 28, 2020, the Port issued a Notice of Extension of the Public Review and Comment Period extending the public review and comment period to November 20, 2020.

During the public review period, the Port received written comments from a total of eight agencies, groups/organizations, and individuals. Harbor Department staff and its consultant responded in writing to nearly 120 comments received on the Draft IS/ND; responses to each comment are provided in the Final IS/ND. The comments are

included and fully addressed in the Final IS/ND, Chapter 8 – Responses to Comments. The comments of the two appellants regarding the Draft IS/ND and the responses to those comments are set forth in the Final IS/ND at pages 8-27 to 8-109 (Earthjustice, et. al.) and pages 8-112 to 8-222 (SAFER CA).

The Notice of Intent to Adopt and Notice of Public Hearing for the Final IS/ND was issued on October 14, 2021, 14 days prior to the public hearing for the Board of Harbor Commissioners' consideration of the Final IS/ND. The Final IS/ND was made available electronically on the Port of Long Beach web site at www.polb.com/ceqa.

At the public hearing on October 28, 2021, the Board of Harbor Commissioners adopted the Final IS/ND in accordance with CEQA, after hearing the testimony from 11 members of the public.

D. Project Description, Summary of IS/ND Analysis, and Conclusions Regarding the Project Impacts.

1. Description of the Project.

The Project would provide for the construction and operation of two new internal floating roof petroleum storage tanks with 25-horsepower pumps approximately 60 feet in diameter and 56 feet tall, each with a capacity of 25,000 barrels within the existing 13-foot tall containment wall in the vacant northwest corner of the existing facility. Approximately 40 linear feet of piping would be installed to connect the new tanks to existing infrastructure at the facility such as the truck loading racks. A short electrical conduit connection would be required between the new tanks and the existing subpanel located just outside the containment wall to the north. The proposed two new smaller tanks would replace two currently underutilized, larger tanks that store petroleum oil product transported to and from the World Oil refinery in South Gate. Two larger tanks would then be available for lease to third-party vendors to store fuels transmitted via pipeline, as is currently done. There are no proposed improvements to existing pipelines, truck loading racks, or third-party vendor facilities.

2. Summary of IS/ND Analysis

The Harbor Department prepared an IS pursuant to CEQA to determine if the Project may have a significant effect on the environment. The IS concluded that there is no substantial evidence, in the light of the whole record, that any aspect of the Project would cause a significant environmental impact and no mitigation measures are required. Therefore, an ND was prepared.

E. Summary of Appeals and the Harbor Department's Responses to the Appeals.

Following the Board of Harbor Commissioners' adoption of the Final IS/ND on October 28, 2021, two appeals were filed. The appeal of SAFER CA is included hereto as Attachment 7. The Harbor Department's detailed responses to the grounds to SAFER CA's appeal are provided as Attachment 8. The appeal filed by The Coalition is included as Attachment 9. The Harbor Department's detailed responses to The Coalition's appeal are provided as Attachment 10.

The majority of the issues raised in the two appeal letters were previously raised by the appellants during the CEQA process and addressed in the Final IS/ND. The following is a summary of the claims made in the appeals and the Harbor Department's responses to those claims. Background information on each of the appellants is also provided.

Background

SAFER CA advocates for safe processes at California refineries and fuel transport and distribution facilities to protect the health, safety, standard of life, and economic interests of its members. SAFER CA has a strong interest in enforcing environmental laws, such as CEQA, and supports the sustainable development of fuel resources in California. SAFER CA is represented by Adams Broadwell Joseph & Cardozo.

The Coalition, comprised of Earthjustice, Coalition for Clean Air, East Yard Communities for Environmental Justice, Communities for a Better Environment, Center for Biological Diversity, and Sierra Club – Angeles Chapter are non-profit environmental organizations focused on environmental law, air quality issues, environmental justice, and other environmental issues.

SAFER CA Appeal

SAFER CA claims that the Port failed to respond adequately to the vast majority of the comments submitted on the Draft IS/ND, and failed to respond to all comments submitted by SAFER's technical expert. But unlike for an Environmental Impact Report (EIR), CEQA does not require a lead agency to provide written responses to comments on a proposed Negative Declaration; State CEQA Guidelines Section 15074(b) requires that the lead agency only consider any comments received on the IS/ND prior to approving the project. The Port carefully considered all comments received, including those from SAFER CA and their technical expert on the Draft IS/ND and nevertheless, provided in good faith, detailed and reasoned responses to the nearly 120 comments received. Each comment letter and the Port's detailed responses are included in the Final IS/ND. This more than meets the requirements under CEQA. Therefore, SAFER CA's argument has no merit and its appeal should be denied.

SAFER CA asserts that the IS/ND fails to provide substantial evidence to support its findings of no significant air quality, public health, and other impacts and the methodology used to update the air emissions modeling is inadequate and flawed; conclusions of no significant impact were unsupported by evidence. The Final IS/ND discloses and discusses construction and operations-related emissions calculated using regulatory agency-approved guidance, methodologies, and significance thresholds which are adequately disclosed and provided in the Final IS/ND. SAFER CA has not demonstrated why the methods and significance thresholds are not appropriate for analyses under CEQA. As such, appeal on this ground should be denied.

SAFER CA complains that there is substantial evidence that the Project may result in potentially significant impacts and an EIR must be prepared, even if other substantial evidence supports the opposite conclusion. The IS/ND was prepared in full compliance with CEQA, and specifically included analysis of the potential environmental impacts associated with construction and operation of the Project and with consideration given to all comments received on the Draft IS/ND. The Port's conclusions in the IS/ND were conducted using federal (U.S. EPA), state (California Air Resources Board [CARB], Office of Environmental Health Hazard Assessment [OEHHA]), or regional (South Coast Air Quality Management District [SCAQMD])-approved and/or recommended guidance and methodologies. SAFER CA has not presented a fair argument that there is substantial evidence that the Project will result in a significant environmental impact. SAFER CA's referenced demonstration studies and industry journal articles referred to as "substantial evidence" have not been vetted or approved by any regulatory agency, such as the South Coast Air Quality Management District (SCAQMD), for use in estimating potential future emissions from storage tanks or discreet fugitive sources, such as new petroleum tanks or for establishing thresholds of significance in CEQA analyses. This ground for appeal should be denied.

SAFER CA alleges that the Project's Volatile Organic Compounds (VOC) emissions exceed SCAQMD's offset threshold for its New Source Rule and claim to have provided evidence supporting a fair argument that the Project will have substantial unmitigated air quality impacts from emissions. The Final IS/ND clearly indicates that it does not rely on emissions offsets to reduce or mitigate VOC emissions under CEQA. The Project's operations and construction-related emissions, including VOCs are well below the SCAQMD emissions significance thresholds and therefore do not require mitigation. VOC emissions offsets are specifically discussed in the IS/ND as a requirement of the SCAQMD for permitting the new tanks, not as CEQA mitigation. This ground for appeal should be denied.

SAFER CA argues the Port did not comply with CEQA by not providing evidence to support its conclusions and did not allow the public an opportunity to independently review the Project's potential impacts. The Port fully complied with CEQA by identifying all Project-related documents and reference materials in the IS/ND, all of which are therefore part of the administrative record, kept on file, and available for public review

upon request in accordance with the California Public Records Act (PRA). In response to two PRA requests, all Project-related materials and correspondence were provided to SAFER CA. As such, this ground for appeal should be denied.

SAFER CA claims that the IS/ND is in violation of CEQA by relying on mitigation measures disguised as project design features. SAFER CA is incorrect in their claim that the construction emissions assumed the use of Tier 4 Final construction equipment. The Final IS/ND includes the air quality emissions modeling run using the State-developed model 'CalEEMod' that clearly shows that no mitigation measures were applied in the emissions modeling assuming an unmitigated average fleet of Tier 3 off-road diesel engine standards—not a mitigated Tier 4 fleet. The emission estimates associated with construction activities are well-below the CEQA significance thresholds; therefore no mitigation measures are required. However, consistent with the Port's Clean Air Action Plan, the Port would impose a Special Condition in the Project's Harbor Development Permit requiring construction equipment used for the Project to meet Tier 4-Final off-road engine standards, not as a mitigation measure under CEQA.

The Coalition Appeal

The Coalition takes issue with the Port's responses to their technical expert's comments on the Draft IS/ND as being inadequate and that the Port provided no response to multiple other studies, such as the SCAQMD-sponsored "FluxSense" study, in the same level of detail as The Coalition's technical comments. CEQA does not require a lead agency to provide written responses to comments on a proposed Negative Declaration; CEQA only requires that the lead agency consider any comments received on the IS/ND prior to approving the project. As required under CEQA, the Port carefully considered each of the comments received. Some of the comments necessitated clarification and insignificant modifications of the Draft IS/ND, all of which are articulated in the Final IS/ND. In addition, the Port prepared, in good faith, detailed reasoned responses to each of The Coalition's comments on the Draft IS/ND. This is more than what is required under CEQA. Therefore, this ground for appeal should be denied.

The Coalition argues that the IS/ND provided a cancer risk analysis but failed to address the severe underestimation of cancer-causing VOCs found in the scientific studies submitted by The Coalition. The Coalition also asserts that using a general significance threshold for VOCs as a tool, the Port's conclusion that the Project's 200,000 pounds of lifetime VOC emissions could not have any significant impact on nearby communities is based on flawed analysis and incomplete information. The studies referenced by The Coalition as evidence of the underestimation of VOC emissions are just that—studies. They have not been approved by any regulatory agency for use in determining the significance of environmental impacts under CEQA. The IS/ND discusses that the health risk assessment (HRA) was conducted using SCAQMD and OEHHA methodologies and guidelines. The IS/ND included a

conservative, worst-case scenario, HRA assuming the storage of gasoline in the new tanks, rather than crude oil, as recommended by the SCAQMD, because the vapor pressure of gasoline is higher than that for crude oil. This means that there is more potential for known toxic VOCs that comprise gasoline to be emitted into the air. The estimated cancer health risk associated with the operation of the new tanks for the maximum exposed sensitive receptor (schools, residences, senior care facilities, day care facilities, and hospital) is 1.5 people in ten million, well below the CEQA maximum incremental cancer risk significance threshold of 10 in one million. Therefore, this ground for appeal should be denied.

The Coalition asserts that the Port must not consider the IS/ND for approval until amendments to the SCAQMD's Rule 1178 for "Further Reductions of VOC Emissions from Storage Tanks at Petroleum Facilities" is finalized in March 2022. There is no legal requirement under CEQA, or otherwise, to assume that a project must comply with a proposed amendment to a rule or regulation that has not yet been adopted, or suspend a project until the rulemaking is complete. As such, the appeal on this ground should be denied.

The Coalition claims the Port's analysis ignored key cumulative impacts of emissions at the World Oil Terminal, connected refinery operations facilitated by the Project, and nearby storage tanks, and did not analyze the Project's existing impacts of the existing infrastructure at the World Oil Terminal, or impacts of the COVID-19 pandemic-related 2020 emissions referenced by the Port in a Response to Comment in the Final IS/ND. The World Oil Terminal facility is a petroleum product storage facility, not a refinery. Processes at refineries and storage facilities elsewhere are not influenced by the storage capacity at World Oil. The IS/ND clearly and adequately demonstrates that the Project would not exceed any project-specific significance thresholds for any environmental issues, including those which may cause adverse effects on humans. Pursuant to CEQA, the incremental effects of the Project would be minor and would not be cumulatively considerable. Since the impacts from the Project are not considered to be cumulatively considerable, the Project has no potential for generating significant adverse cumulative impacts. Also, there is no requirement under CEQA to account for or evaluate the impacts of the COVID-19 global pandemic on data referenced or used in an analysis for the purpose of determining a project's impact on the environment, or on a proposed project. Therefore, the appeal on this ground should be denied.

The Coalition also complains that the Port did not adequately consult with the California Coastal Commission (CCC) on their concerns that the IS/ND failed to show the Project would "withstand" storm events and flooding "exacerbated by sea level rise." The Coalition also reference the CCC staff letter to the Port prior to the Board's consideration of the Final IS/ND, dated October 26, 2021—2 days before the Board's public hearing to consider adoption of the Final IS/ND. The Port did, in fact, consult with CCC staff on the World Oil project on multiple occasions. The Final IS/ND incorporates discussion of the potential effect of sea level rise and inundation on the Project using

data provided in the Ocean Protection Council's 2018 State of California's Sea Level Rise Guidance, as requested by CCC staff. While CEQA requires the evaluation of a project's foreseeable incremental contribution of a project's greenhouse gas emissions to climate change, CEQA does not require an evaluation of localized environmental effects, such as sea level rise, on a project. In addition, the CCC staff letter submitted to the Port on October 26, 2021, clearly states that CCC staff was not providing any comments pertaining to the CEQA analysis, but rather, providing comments to address the Coastal Act and Port Master Plan (PMP) consistency analysis in the Application Summary Report prepared in the IS/ND for issuance of a Harbor Development Permit. The Coalition has not provided any specific factual finding that the Port did not adequately consult with the CCC, nor how the Port's consultation with CCC is inadequate pursuant to CEQA. The appeal on this ground should be denied.

The Coalition claims that the Port did not properly address risks of disasters from earthquakes, fires, and tsunamis, nor did the IS/ND consider whether further mitigation, such as a secondary containment system, would be necessary. In accordance with CEQA, the Final IS/ND includes an evaluation of the potential adverse effects involving rupture of a known earthquake fault, seismic ground shaking or ground failure, including liquefaction and the Project features that would reduce the effects of statics and seismic settlement at the Project site. The risks from potential fires were determined to be less than significant; engineering controls such as fire extinguishing equipment, deluge fire suppression systems, and foam fire suppression systems are installed on all existing tanks and would be installed on the two new tanks. As required by CEQA, the IS/ND evaluates whether the additional tanks would exacerbate existing conditions in the event of a tsunami. The tanks would be installed within the existing containment wall that would continue to offer the same level of adequate tsunami protection as they do for the existing tanks. The new tanks would not change the level of protection that the containment wall provides. In addition, the Project would be subject to existing in-place emergency response and evacuation systems within the Port, and provided in World Oil's existing Spill Prevention, Control, and Countermeasures (SPCC) Plan as required by federal regulation. The Coalition suggests that the IS/ND did not consider if a secondary containment system would be necessary. It is important to emphasize that the existing approximately 13-foot tall containment wall thoroughly described in the IS/ND, in and of itself, is a secondary containment system in place as part of World Oil's SPCC Plan. This ground for appeal should be denied.

The Coalition alleges that the Port failed to examine adequately risks posed by thousands of barrels of hazardous sludge that the Project would produce and failed to disclose the current treatment load at the Vernon facility and describe how the waste would be handled if the Vernon facility had insufficient capacity to accept thousands of barrels of additional waste. The IS/ND clarifies that the proposed Project's sludge tank bottom quantities would produce approximately 1,500 barrels of sludge tank bottom

quantities per tank every 10 years over the approximate 50-year service life and discloses U.S. Ecology Vernon facility's capacity of one million gallons with an additional 400,000-gallon equivalent of container storage, which is adequate for the Project's projected waste production quantity. The amount of 1,500 barrels or 63,000 gallons of sludge tank bottom quantity that is generated every ten years accounts for approximately 4.5 percent of the overall capacity of the U.S. Ecology Vernon facility every year. The Project's contribution to the U.S. Ecology Vernon facility would not generate an excessive amount of hazardous waste compared to existing conditions. The Project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of sludge bottoms and impacts are less than significant and no mitigation is required. Therefore, the appeal on this ground should be denied.

The Coalition contends that preparation of an EIR is required because expert comments provided by The Coalition and CCC Staff demonstrate a disagreement with the Port's scientific analysis. The conclusions in the IS/ND that the Project would not have an adverse effect on the environment are amply supported by substantial evidence based on regulatory agency-approved and/or recommended guidance and methodologies. The Coalition's referenced demonstration studies and industry journal articles, which The Coalition identified as "substantial evidence," have not been vetted or approved by any regulatory agencies for use in estimating potential future emissions from storage tanks or discreet fugitive sources, such as new petroleum tanks, or for establishing thresholds of significance in CEQA analyses.

As discussed above, the CCC letter submitted to the Port on October 26, 2021, clearly states that CCC staff was not providing any comments pertaining to the CEQA analysis of the IS/ND, but rather, provide comment addressing the Coastal Act and PMP consistency analysis included in the IS/ND. CCC staff, in their comments to the Port on the Draft IS/ND, did not provide any scientific evidence that the Project would exacerbate sea level rise. Rather, the CCC staff's comments related to the evaluation of sea level rise on the Project, which is not required by CEQA. CEQA, rather, requires the evaluation of a project's foreseeable incremental contribution of the project's greenhouse gas emissions to climate change, which is clearly evaluated in the Final IS/ND and found to be less than significant. The appeal on this ground should be denied.

TIMING CONSIDERATIONS

City Council action on this matter is requested on January 4, 2022, to respond to the appeals.

FISCAL IMPACT

If the appeals are rejected, there would be no financial impact. Should the City Council sustain the appeals, the Project could not move forward; there would be less storage for marine fuel blending, and the region would lose the job opportunities that construction of the World Oil Tank Installation Project would create.

SUGGESTED ACTION:

Approve Recommendation.

Respectfully submitted,



Heather Tomley
Managing Director
Planning and Environmental Affairs
Harbor Department



Mario Cordero
Executive Director
Harbor Department

Attachments

- 1) Proposed Resolution for Consideration by the Long Beach City Council
- 2) Harbor Department Staff Report to Board of Harbor Commissioners, October 28, 2021
- 3) Board of Harbor Commissioners Resolution HD-3051
- 4) Harbor Department Staff PowerPoint Presentation to Board of Harbor Commissioners, October 28, 2021
- 5) World Oil Staff PowerPoint Presentation to Board of Harbor Commissioners, October 28, 2021
- 6) Transcript of Public Hearing, October 28, 2021
- 7) Appeal of SAFER CA, Filed November 5, 2021
- 8) Detailed Response of Harbor Department to the Issues on Appeal by SAFER CA
- 9) Appeal of Earthjustice, *et al.* (The Coalition), Filed November 11, 2021.
- 10) Detailed Response of Harbor Department to the Issues on Appeal by The Coalition

Previously Delivered Under Separate Cover (also available on the Port's website at:

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<https://www.polb.com/ceqa>)

- Draft Initial Study/Negative Declaration for the World Oil Tank Installation Project (SCH No. 2020100119)
- Final Initial Study/Negative Declaration for the World Oil Tank Installation Project (SCH No. 2020100119)

HONORABLE MAYOR AND CITY COUNCIL

January 4, 2022

Harbor Department Appeal Hearing

Appeal of the Adoption of the
INITIAL STUDY/NEGATIVE DECLARATION
FOR THE WORLD OIL TANK INSTALLATION PROJECT

ATTACHMENT 1
Proposed Resolution
for Consideration by LB City Council
January 4, 2022

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RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AFFIRMING THE LONG BEACH HARBOR COMMISSION'S ADOPTION OF THE FINAL INITIAL STUDY AND NEGATIVE DECLARATION FOR THE WORLD OIL TANK INSTALLATION PROJECT (SCH. NO. 2020100119) IN THE CITY OF LONG BEACH

WHEREAS, the City of Long Beach ("COLB"), acting by and through its Board of Harbor Commissioners ("Board"), has authority over the City of Long Beach Harbor District, commonly known as the Port of Long Beach;

WHEREAS, on August 14, 2019, Ribost Terminal, LLC, *dba* World Oil Terminals ("World Oil") submitted an application for a Harbor Development Permit ("HDP") for the World Oil Tank Installation Project located within COLB's Harbor District ("the Project");

WHEREAS, pursuant to California Public Resources Code Section 21067 and the State California Environmental Quality Act (CEQA) Guidelines (Cal. Code Regs., Tit. 14, Sec. 15000, et seq.), Section 15051, COLB is the lead agency for the Project, and the Board is the decision-making body for the Harbor Department;

WHEREAS, the Harbor Department prepared a Draft Initial Study (IS) / Negative Declaration (ND), dated October 2020, which reflects the independent judgment of the Harbor Department as to the potential environmental impacts of the Project. Said Project is more particularly described in the IS/ND and the City Council Staff Report and supporting documentation accompanying this Resolution, which Project description and supporting documentation, including the IS/ND and Staff Report, are incorporated herein by this reference;

//

1 WHEREAS, on October 7, 2020, the Harbor Department provided a Notice
2 of Intent to Adopt and Availability of the Draft IS/ND (Draft IS/ND NOI) to the
3 public, responsible agencies, and trustee agencies by filing with the State Clearinghouse,
4 posting the Draft IS/ND NOI on the Harbor Department website, publishing the Draft
5 IS/ND NOI in the *Long Beach Press-Telegram*, a newspaper of general circulation, and
6 emailing the Draft IS/ND NOI to the Harbor Department contact list, for a public review
7 and comment period. The Harbor Department also provided notice of the Draft IS/ND
8 NOI to organizations and persons who requested notice or were likely to be interested in
9 the potential impacts of the Project *via* U.S. mail and United Parcel Service on October 6,
10 2020, and electronically on October 7, 2020. The Harbor Department filed the Draft
11 IS/ND NOI with the County Clerk's office on October 13, 2020. The 30-day public
12 comment period which began on October 7, 2020, was extended to November 20, 2020.
13 The Harbor Department received written comments from a total of eight agencies,
14 groups, organizations, and individuals, and responded in writing to nearly 120 comments
15 received on the Draft IS/ND, which responses were provided in the Final IS/ND. All
16 actions required to be taken by applicable law relating to the preparation, circulation, and
17 review of the IS/ND have been taken;

18 WHEREAS, the Harbor Department provided a Notice of Intent to Adopt
19 and Notice of Public Hearing for the Final IS/ND (Final IS/ND NOI) to the public,
20 responsible agencies, and trustee agencies by publishing the Final IS/ND NOI in the
21 *Long Beach Press-Telegram* and posting the Final IS/ND NOI on the Harbor Department
22 website on October 14, 2021, filing the Final IS/ND NOI with the State Clearinghouse on
23 October 15, 2021, and filing the Final IS/ND NOI with the County Clerk's office on
24 October 18, 2021. The Harbor Department also provided notice of the Final IS/ND NOI
25 to organizations and persons who requested notice or were likely to be interested in the
26 potential impacts of the Project *via* U.S. mail and United Parcel Service on October 12,
27 2021, and electronically on October 14, 2021. The Final IS/ND was prepared pursuant to
28 CEQA Guidelines and in accordance with the State of California Public Resources Code;

1 WHEREAS, on October 28, 2021, the Board held a properly noticed public
2 hearing on the Project at which time all interested parties had the opportunity to present
3 evidence and be heard. Thereafter, the Board, pursuant to Resolution No. HD-3051,
4 adopted the Final IS/ND in accordance with CEQA, finding that based on the Initial Study,
5 evidence presented, and all comments received, there is no substantial evidence that the
6 Project would have any significant effect on the environment, and approved the Project
7 and issuance of the HDP for the Project;

8 WHEREAS, two appeals were subsequently filed for the City Council's
9 review and determination of the Board's adoption of the Final IS/ND. One appeal was
10 filed on November 5, 2021, by Safe Fuel and Energy Resources California (SAFER CA)
11 and Long Beach residents Nicholas Garcia, Sopha Sum, and Sophall Sum. A second
12 appeal was filed on November 11, 2021, by Earthjustice, Coalition for Clean Air, East
13 Yard Communities for Environmental Justice, Communities for a Better Environment,
14 Center for Biological Diversity, and Sierra Club – Angeles Chapter (collectively, "The
15 Coalition");

16 WHEREAS, on December 13, 2021, the Long Beach City Clerk issued
17 notice to the appellants pursuant to Long Beach Municipal Code section 21.21.507 that
18 their appeals would come before the Long Beach City Council on January 4, 2022 at 5:00
19 p.m.

20 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
21 follows:

22 Section 1. Based on its independent review and consideration of Resolution
23 No. HD-3051 the Final IS/ND, the appeals filed by appellants and all written
24 communications and oral testimony regarding the Project which have been submitted to
25 and received by the City Council, the City Council finds as follows:

- 26 A. The foregoing recitals are true and correct.
- 27 B. The Final IS/ND has been completed in compliance with CEQA and
28 the CEQA Guidelines.

1 C. The Board, having final approval authority over the Project, properly
2 adopted the Final IS/ND, which reflects the independent judgment of the Board,
3 and determined that there is no substantial evidence that the Project may have
4 any significant impact on the environment.

5 D. All grounds properly raised during the appeal process have been
6 adequately addressed in the IS/ND.

7 Section 2. Based upon its independent review and consideration of the
8 Final IS/ND, all grounds raised during the appeal process, all written communications and
9 oral testimony during the appeal, the transcript of the October 28, 2021 Board meeting,
10 the reports, written communications and presentations by Harbor Department Staff, and
11 the findings and determinations set forth above, the City Council of the City of Long
12 Beach hereby:

13 A. Affirms the Board's determination that the Final IS/ND has been
14 completed in compliance with CEQA and the state and local CEQA Guidelines
15 promulgated pursuant thereto, and denies the appeals of appellants.

16 B. Affirms that the Final IS/ND was presented to the Board, that the
17 Board reviewed and considered the information contained in it and presented at
18 the hearing prior to approving the Project, and that the Final IS/ND reflects the
19 City's independent judgment and analysis.

20 C. Adopts the Final IS/ND, finding in exercising its own independent
21 judgment and review, in light of the record as a whole, that there is no substantial
22 evidence that the project may have any significant effect on the environment.

23 Section 3. The Harbor Department Director of Environmental Planning,
24 whose office is located at 415 W. Ocean Blvd., Long Beach, California 90802, is hereby
25 designated as the custodian of the documents and other materials which constitute the
26 record of proceedings upon which the City Council's decision is based, which documents
27 and materials shall be available for public inspection and copying in accordance with the
28 provisions of the California Public Records Act (Cal. Government Code Sec. 6250, *et*

1 *seq.*), and Cal. Code Regs., Tit. 14, Sec. 15051.

2 Section 4. The Harbor Department Director of Environmental Planning
3 shall file a notice of determination with the County Clerk of the County of Los Angeles
4 and with the State Office of Planning and Research within five (5) working days after
5 adoption of this resolution.

6 Section 5. This resolution shall take effect immediately upon its adoption
7 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

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OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

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I hereby certify that the foregoing Resolution was adopted by the City Council of the City of Long Beach at its meeting of _____, 20__ by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

HONORABLE MAYOR AND CITY COUNCIL

January 4, 2022

Harbor Department Appeal Hearing

Appeal of the Adoption of the
INITIAL STUDY/NEGATIVE DECLARATION
FOR THE WORLD OIL TANK INSTALLATION PROJECT

ATTACHMENT 2
Harbor Department Staff Report
dated October 28, 2021

Legislation Text

File #: HD-21-537, **Version:** 1

DATE: 10/28/2021

TO: Board of Harbor Commissioners

FROM: Matthew Arms, Director of Environmental Planning

SUBJECT: World Oil Tank Installation Project - Final Initial Study/Negative Declaration and Application Summary Report; Level II Harbor Development Permit Application No. 19-066.

EXECUTIVE SUMMARY

In August 2019, the Port received a Harbor Development Application (HDP) from Ribost Terminal LLC DBA World Oil Terminals (World Oil) for the proposed construction and operation of two new 25,000-barrel internal floating roof petroleum storage tanks with foundations, pumps, and connections to existing pipelines within their privately-owned facility located at 1405 Pier C Street in the Northeast Harbor Planning District of the Long Beach Harbor (Project). The two new tanks would be added to the seven existing storage tanks at the facility to provide additional storage capacity to increase the efficiency of World Oil Terminals' operations with no increase in throughput due to limitations associated with the physical geometry of the site, physical limitations of the existing pipelines and truck loading racks, and permitted throughput limits. In accordance with the California Environmental Quality Act (CEQA), the Port prepared an Initial Study and Negative Declaration (IS/ND) and Application Summary Report, concluding that the proposed Project would not result in significant impacts to the environment. The Board of Harbor Commissioners is requested to adopt the Final IS/ND pursuant to CEQA; approve the Project; approve the Application Summary Report, and issue Level II HDP No. 19-066 for the Project in accordance with the Certified Port Master Plan and Section 1215 of the Long Beach City Charter.

KEY POINTS

- World Oil proposes to install two new 25,000-barrel capacity petroleum storage tanks at their privately-owned facility on Pier C, adding to seven existing tanks at the World Oil Terminal.
- The two new tanks and one existing storage tank would be used for crude oil storage to support the World Oil Refinery in South Gate. Six existing tanks would then become available for World Oil to lease to third parties for the storage of marine fuels and marine fuel blending components.
- The new tanks would provide additional storage capacity to increase the efficiency of World Oil's operations with no increase in throughput due to limitations associated with the physical geometry of the site, physical limitations of the existing pipelines and truck loading racks, and permitted throughput limits.
- The IS/ND for the proposed Project concluded that the construction and operation of two new petroleum storage tanks would result in no significant impacts to the environment nor require the implementation of mitigation measures.
- All comments received on the Draft IS/ND during the 45-day public review and comment period from October 7 to November 20, 2020 were considered and incorporated into the Final IS/ND. No new

significant environmental effects were identified nor is recirculation of the IS/ND required.

- This action supports the Strategic Plan Goal to “Develop and maintain state-of-the-art infrastructure that enhances productivity and efficiency in goods movement” by achieving the strategic objective to engage local, regional, state and federal agencies to ensure the Harbor Department evaluate, designs, and implements projects that align with the priorities of regional planning agencies.

REQUESTED ACTION(S) ..Title

Receive and File Supporting Documentation and Conduct a Public Hearing for the World Oil Tanks Installation Project; Adopt a Resolution to Adopt the Initial Study/Negative Declaration pursuant to CEQA Guidelines Section 15074(b); Adopt the Application Summary Report; Approve the Project; and Approve Issuance of Level II Harbor Development Permit No. 19-066.

FINANCIAL IMPACT/CONTRACT COMPLIANCE

Aside from minimal staff time and CEQA filing fees, there are no financial impacts related to the World Oil Tank Installation Project. A Reimbursable Work Order between the Port and World Oil was executed in January 2020 for the costs associated with preparation of the environmental documentation required for the proposed Project. The costs of project implementation are the responsibility of World Oil.

DISCUSSION

On August 14, 2019, the Port received a Harbor Development Permit (HDP) application from World Oil, proposing to construct and operate two new 25,000 barrel-capacity petroleum storage tanks at their privately-owned facility on Pier C. Although World Oil is located on private property, the Port must consider issuance of an HDP for the proposed Project and is required pursuant to CEQA to evaluate the potential effects of the proposed Project on the environment.

World Oil transports crude oil and fuel oils to and from existing onsite storage tanks at their facility via pipeline and truck loading racks, their operations do not include ships or water-side activity. World Oil primarily recycles oil-based waste including motor oil, used motor oil, antifreeze, and paving and roofing asphalt-blending components. The asphalt blending components are used at the World Oil Refinery in South Gate, California. World Oil provides services to the oil and gas industry and is not a producer of crude oil or natural gas. The World Oil Terminals facility at Pier C is approximately 261,000 square feet (6 acres) and currently consists of seven petroleum oil tanks with a total petroleum storage tank capacity of approximately 502,000 barrels. The storage tanks are surrounded by an existing containment wall approximately 13 feet high. Three existing tanks are currently used to store crude oil transported by trucks to and from World Oil Refinery in South Gate for the production of paving and roofing asphalts. Four existing tanks are leased to third-parties for the storage of fuel oils.

Project Description

World Oil proposes to construct two new internal floating roof tanks approximately 60 feet in diameter and 56 feet tall, with a capacity of 25,000 barrels each within the existing containment wall in the vacant northwest corner of the facility. Each tank would include a 25-horsepower pump that would pump crude oil from existing lines to and from the new tanks. Approximately 40 linear feet of piping would be installed to connect the new tanks to existing infrastructure at the facility such as the truck loading racks. A short electrical conduit connection would be required between the new tanks and the existing subpanel located just outside the

containment wall to the north. Each tank would be equipped with a foam fire suppression system, similar to that for existing tanks at the site.

The proposed Project would provide additional storage capacity for petroleum products at the facility, which would improve the efficiency of terminal operations by allowing World Oil to lease existing tanks to third-party vendors with no increase in throughput. World Oil's throughput is not expected to increase due to limitations associated with the physical geometry of the site, physical limitations of the existing pipelines and truck loading racks, and permitted throughput limits. The two new tanks and one existing tank would be dedicated to the storage of crude oil to be transported to and from the World Oil Refinery; the remaining six existing tanks would then be available for lease to third-party vendors and would continue to store fuel oils transported to and from the facility via existing pipelines.

Environmental Review

In accordance with CEQA, the Port prepared an IS/ND for the proposed Project which includes an analysis of the potential environmental impacts and proposed findings. The Draft IS/ND concluded that there would be no significant impacts associated with the operation or construction of the project. Therefore, no mitigation measures are required. A Notice of Availability of the Draft IS/ND and Notice of Intent (NOI) to Adopt an IS/ND for the proposed Project was issued on October 7, 2020 for a 30-day public review period originally set to end on November 5, 2020. Based on a request of a commenter, the public review period was extended to 45 days, ending on November 20, 2020. The NOI was sent to approximately 500 agencies, stakeholders, and other interested member of the public. The Draft IS/ND and ASR was made available for public review on the Port's website at <https://www.polb.com/ceqa>.

During the 45-day public review period, the POLB received written comments from a total of 8 agencies, groups/organizations, and individuals. Among the comments received on the Draft IS/ND was that the estimated air emissions from the proposed petroleum storage tanks were underestimated due to the model used. Subsequently, the Port consulted and coordinated with the South Coast Air Quality Management District (AQMD), a responsible agency under CEQA. Because the AQMD would be responsible for issuing Permits to Construct/Operate the new tanks, the AQMD prepared revised air quality emissions estimates from operation of the new tanks using the latest estimation procedures for storage tanks outlined in the U.S. Environmental Protection Agency's recommended Compilation of Air Emissions Factors 'AP-42'. The revised air emissions estimates prepared by the AQMD were reviewed by the Port and incorporated into the Final IS/ND. The revised air emissions estimates did not change the original significance findings in the Draft IS/ND, and the air quality impacts associated with construction and operations remain less than significant with no mitigation measures required. All other changes to the IS/ND following the public review period were to clarify, amplify, or make insignificant modifications. No new significant environmental effects to any environmental resource areas were identified, nor did any issues raised in the comments received necessitate recirculation of the Draft IS/ND.

All comments received and the Port's corresponding responses to each comment are included in the Final IS/ND. A Notice of Public Hearing and Notice of Intent to Adopt a Final IS/ND and ASR was issued on October 14, 2021. The Final IS/ND was made available on the web site at www.polb.com/ceqa <http://www.polb.com/ceqa> and hard copies were made available by request.

If the Board adopts the Final IS/ND and ASR and approves the proposed Project, a Notice of Determination will be filed with the Los Angeles County Clerk and California Office of Planning and Research in accordance with State CEQA Guidelines Section 15075. The filing of the NOD starts a 30-day statute of limitation on court challenges to the approval under CEQA.

Consistency with the Certified Port Master Plan

An Application Summary Report (Chapter 5 of the IS/ND) for the proposed Project was prepared in accordance with the Guidelines for the Implementation of the Certified Port of Long Beach Port Master Plan (PMP). The proposed Project is consistent with the certified PMP and conforms to the permitted uses of the Northeast Planning District (District 2), and Chapter 8 of the California Coastal Act.

Port staff met with California Coastal Commission staff to discuss the proposed Project. During the meeting, Port Staff described the methodology to determine proposed Project's potential for inundation under medium-high and extreme sea level rise scenarios consistent with the Ocean Protection Council's 2018 State of California's Sea Level Rise Guidance. As discussed in the Final IS/ND, the proposed tanks would be constructed and installed within the existing reinforced concrete containment with air-driven pumps to divert water back over the containment wall in the event the containment area is inundated. The potential for flooding impacts to be exacerbated by a medium-high or extreme sea level rise scenario is less than significant due to the size of the existing containment wall and air-driven pumps.

Coastal Commission staff later confirmed in a letter that an amendment to the certified PMP is not required for the proposed Project. The proposed Project is an infill development that does not involve fuel storage at levels significant to the state and/or nation; is consistent with the fuel storage use of the site under the existing PMP; and is subject to additional review of consistency with the PMP policies through the HDP process.

While the proposed Project presents no significant environmental impacts overall and no mitigation measures are required, the Port may impose 'Special Conditions' on the Project that would further lessen a 'no significant impact' below a significance threshold or potentially eliminate an impact. The HDP would include three Special Conditions that would require World Oil to: (1) ensure that air emissions associated with construction activities are further reduced by requiring construction equipment to meet U.S. EPA Tier 4 non-road engine standards; (2) comply with the requirements of the Migratory Bird Treaty Act; and (3) incorporate designs standards into the Project's final design as recommended by the geotechnical investigation performed at the proposed Project site.

Previous Actions

There have been no previous actions by the Board of Harbor Commissioners associated with the proposed Project.

Attachments:

- (1) Resolution
- (2) Final IS/ND and ASR, September 2021
- (3) PowerPoint Presentation to BHC

HONORABLE MAYOR AND CITY COUNCIL

January 4, 2022

Harbor Department Appeal Hearing

Appeal of the Adoption of the
INITIAL STUDY/NEGATIVE DECLARATION
FOR THE WORLD OIL TANK INSTALLATION PROJECT

ATTACHMENT 3

**Board of Harbor Commissioners Resolution
HD-3051**

1 RESOLUTION NO. HD- 3051

2
3 A RESOLUTION OF THE BOARD OF HARBOR
4 COMMISSIONERS OF THE CITY OF LONG BEACH
5 ADOPTING AN INITIAL STUDY/NEGATIVE DECLARATION
6 AND APPLICATION SUMMARY REPORT FOR THE
7 WORLD OIL TANK INSTALLATION PROJECT
8 (“PROJECT”), APPROVING THE PROJECT AND A
9 HARBOR DEVELOPMENT PERMIT, AND MAKING
10 CERTAIN FINDINGS AND DETERMINATIONS RELATIVE
11 THERETO

12
13 WHEREAS, the City of Long Beach, acting by and through its Board of
14 Harbor Commissioners (“Board”), as lead agency under the California Environmental
15 Quality Act (“CEQA”) and as the permitting authority under the California Coastal Act,
16 caused the preparation of an Initial Study and Negative Declaration (“IS/ND”) and
17 Application Summary Report (“ASR”) describing the World Oil tank installation (“Project”) and discussing the environmental impacts resulting therefrom; and

18
19 WHEREAS, the Board on October 7, 2020, issued the IS/ND and ASR for
20 public and agency comments; and

21 WHEREAS, the purpose of the Project is to construct and operate two (2)
22 new 25,000-barrel (bbl) petroleum storage tanks at the World Oil Terminal on Pier C,
23 replacing two (2) existing tanks; and

24 WHEREAS, the comment period for the IS/ND and ASR closed on
25 November 20, 2020, and twenty (20) comment letters from a total of eight (8) agencies,
26 groups, organizations, and individuals were received; and

27 WHEREAS, the Board has reviewed and considered the IS/ND and ASR
28 and the written and oral communications regarding same.

1 NOW, THEREFORE, the Board of Harbor Commissioners of the City of
2 Long Beach resolves as follows:

3 Section 1. Findings - Preparation and Review of Initial Study and Negative
4 Declaration (“IS/ND”) and Application Summary Report (“ASR”). The Board finds as
5 follows:

6 1.1 The IS/ND and ASR for the Project were prepared by a
7 consultant and staff for the Board.

8 1.2 The IS/ND and ASR were issued on October 7, 2020, to
9 responsible agencies and interested persons.

10 1.3 The comment period closed on November 20, 2020, and twenty
11 (20) comment letters from a total of eight (8) agencies, groups, organizations, and
12 individuals were received.

13 1.4 Copies of the IS/ND and ASR are available for inspection in the
14 office of the Director of Environmental Planning and is by this reference made a
15 part hereof.

16 1.5 On October 14, 2021, members of the Board were provided with
17 copies of the IS/ND and ASR and related documents. The Board has reviewed
18 and considered the information contained in said documents together with all
19 written and oral communications regarding same prior to approval of this
20 resolution.

21 Section 2. Findings - No Significant Effect and Independent Judgment.
22 The Board finds on the basis of the whole record before it that there is no substantial
23 evidence that the Project will have a significant effect on the environment and that the
24 IS/ND and ASR reflect the Board’s independent judgment as lead agency under the
25 California Environmental Quality Act.

26 Section 3. Adoption and Approvals. Based on its review and consideration
27 of the IS/ND and ASR, all written and oral communications regarding the Project which
28 have been submitted to and received by the Board, and the findings and determinations

1 set forth above, the Board:

2 3.1 Adopts the IS/ND and ASR, including the special conditions set
3 forth therein.

4 3.2 Approves the Project.

5 3.3 Approves the issuance of a Level II Harbor Development Permit
6 No. 19-066 pursuant to the California Coastal Act, certified Port Master Plan, and
7 Article XII, Section 1215 of the Long Beach City Charter.

8 Section 4. Location and Custodian of Record Proceedings. The Director of
9 Environmental Planning of the Long Beach Harbor Department, whose office is located at
10 415 West Ocean Boulevard, Long Beach, California 90802, is hereby designated as the
11 custodian of the documents and other materials which constitute the record of
12 proceedings upon which the Board's decision is based, which documents and materials
13 shall be available for public inspection and copying in accordance with the provisions of
14 the California Public Records Act (Cal. Government Code Sec. 6250 et seq.)

15 Section 5. Notice of Determination. The Director of Environmental
16 Planning shall file a Notice of Determination with the County Clerk of the County of Los
17 Angeles and with the State Office of Planning and Research.

18 Section 6. Certification, Posting and Filing. This resolution shall take effect
19 immediately upon its adoption by the Board of Harbor Commissioners, and the Secretary
20 of the Board shall certify the vote adopting this resolution and shall cause a certified copy
21 of this resolution to be filed forthwith with the City Clerk. The City Clerk shall post the
22 resolution in three conspicuous places in the City of Long Beach.

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I hereby certify that the foregoing resolution was adopted by the Board of Harbor Commissioners of the City of Long Beach at its meeting of October 28, 2021 by the following vote:

Ayes: Commissioners: Colonna, Lowenthal, Weissman, Neal

Noes: Commissioners: N/A

Absent: Commissioners: Olvera

Not Voting: Commissioners: N/A



Secretary

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4664

HONORABLE MAYOR AND CITY COUNCIL

January 4, 2022

Harbor Department Appeal Hearing

Appeal of the Adoption of the
INITIAL STUDY/NEGATIVE DECLARATION
FOR THE WORLD OIL TANK INSTALLATION PROJECT

ATTACHMENT 4

**PowerPoint Presentation to BHC Public Hearing
by Port Staff
October 28, 2021**



Public Hearing

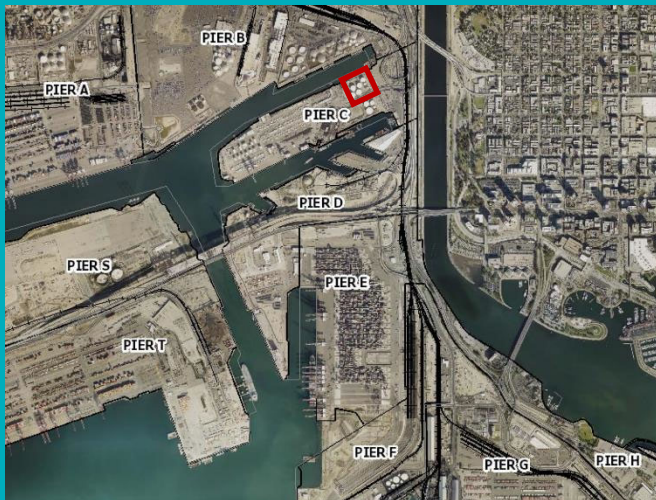
World Oil Tank Installation Project

Harbor Development Permit Application #19-066

Matthew Arms
Director of Environmental Planning
October 28, 2021

World Oil Tank Installation Project

Project Location



World Oil Tanks Installation Project

Project Overview



- **Two 25,000-barrel storage tanks**
 - New tank foundations
 - Tank pumps
 - Pipeline connections to existing facility infrastructure
 - Electrical conduit connection

World Oil Tank Installation Project

Project Objectives

The addition of the two new, smaller storage tanks will:

- Increase efficiency of World Oil's operations;
- Realign World Oil's storage capacity needs; and
- Make more existing tanks available for lease.

World Oil Tank Installation Project

CEQA Environmental Review

- **Initial Study/Negative Declaration**
 - No significant environmental impacts
 - No mitigation measures required
- **Public Review**
 - 45 Days: October 7 – November 20, 2020
- **Comments Received**
 - Eight agencies, groups/organizations, and individuals
 - Responses to all comments provided in Final IS/ND

World Oil Tank Installation Project

Agency Coordination

- **South Coast Air Quality Management District**
 - Responsible Agency – Permit to Construct & Operate
 - Air emissions estimates
- **California Coastal Commission**
 - Sea Level Rise
 - Project not appealable to Coastal Commission
 - Consistent with Certified Port Master Plan

World Oil Tank Installation Project

Special Conditions

- **AQ-1: Non-Road Engine Emission Standards**
 - Ensure that all construction equipment meet the U.S. EPA Tier 4 off-road engine standards.
- **Bio-1: Migratory Bird Treaty**
 - Prior to construction activities, qualified biologist to conduct surveys for nesting birds.
- **Geo-1: Geotechnical Recommendations**
 - Final Project design shall implement the geotechnical recommendations provided in the Geotechnical Update Report.

World Oil Tank Installation Project

Application Summary Report

- **Project is consistent with the:**
 - **Certified Port Master Plan**
 - Northeast Harbor Planning District
 - Permitted Use: Hazardous Cargo Facility
 - Risk Management Plan
 - **California Coastal Act**
 - Project is not appealable to Coastal Commission
 - No significant impact on state or national oil and gas supply

World Oil Tank Installation Project

Staff Recommendations

- **Receive and File** supporting documentation into the Record;
- **Conduct a Public Hearing;**
- **Adopt a Resolution** to adopt the Negative Declaration; approve the Application Summary Report; approve the Project;
- **Issue** Level II Harbor Development Permit #19-060.



Thank you

HONORABLE MAYOR AND CITY COUNCIL

January 4, 2022

Harbor Department Appeal Hearing

Appeal of the Adoption of the
INITIAL STUDY/NEGATIVE DECLARATION
FOR THE WORLD OIL TANK INSTALLATION PROJECT

ATTACHMENT 5

**PowerPoint Presentation to BHC Public Hearing
by World Oil Staff
October 28, 2021**

STORAGE TANK PROJECT OVERVIEW
Port of Long Beach Harbor Commission
October 28, 2021



RIBOST TERMINAL – WORLD OIL TERMINAL LONG BEACH

October 28, 2021



RIBOST TERMINAL is part of WORLD OIL

Who is World Oil?

World Oil is a family-owned company, in business for 80+ years focusing on:

- ✓ **We are California's largest recycler of used oils and waste antifreeze.**
 - ✓ We collect, transport and recycle waste oil products from over 20,000 auto repair and servicing sites in CA, NV, AZ and NM.
- ✓ **We provide paving and roofing asphalt to Southern California.**
 - ✓ **Crude oil from the Ribost Terminal supplies the asphalt plant.**
- ✓ **World Oil does not extract any crude oil from the ground nor does it manufacture any finished fuels.**

RIBOST TERMINAL – WORLD OIL TERMINAL LONG BEACH

October 28, 2021



RIBOST TERMINAL is part of WORLD OIL

World Oil is California's Largest Recycler of Used Oil and Antifreeze

Visit www.worldoilcorp.com

RIBOST TERMINAL – WORLD OIL TERMINAL LONG BEACHOctober 28, 2021

PROPOSED PROJECT

What is the Proposed Project?

- Infill project on terminal property.
- No significant impacts.
- Tanks will meet Best Available Control Technology (BACT).
- Project provides more flexibility in storage of fuels by the Port's lessees, as California policy drives change in the mix of fuel types.

RIBOST TERMINAL – WORLD OIL TERMINAL LONG BEACHOctober 28, 2021

RIBOST TERMINAL is part of WORLD OIL

Doing right, in everything we do.™

World Oil recycles, produces, and transports vital petroleum products and provides important environmental services in California and throughout the western United States. We deliver more than just high quality, high performance products and services. We offer end-to-end solutions focused on sustainability, environmental protection, and building a better future. We believe in doing things right, and doing them well—every day.

RIBOST TERMINAL – WORLD OIL TERMINAL LONG BEACH

October 28, 2021



HONORABLE MAYOR AND CITY COUNCIL

January 4, 2022

Harbor Department Appeal Hearing

Appeal of the Adoption of the
INITIAL STUDY/NEGATIVE DECLARATION
FOR THE WORLD OIL TANK INSTALLATION PROJECT

ATTACHMENT 6
Transcript of BHC Public Hearing
October 28, 2021

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AUDIO TRANSCRIPTION

City of Long Beach
Board of Harbor Commissioners
Regular Meeting

Agenda Item 1H

Length: 6:25 - 1:15:00

October 28, 2021

Transcribed by:
Natalie Fagan, CSR 13993

1 (Beginning of Item 1H.)

2 PRESIDENT NEAL: And now we'll move on to
3 agenda Item Number 1H.

4 MS. ESPINOZA: Receive and file supporting
5 documentation and conduct a public hearing for the World
6 Oil Tanks Installation Project. Adopt a resolution to
7 adopt the Initial Study/Negative Declaration pursuant to
8 CEQA guideline Section 15074-B. Adopt the Application
9 Summary Report. Approve the project, and approve
10 issuance of Level II, harbor development permit Number
11 19-066.

12 PRESIDENT NEAL: Thank you, Ms. Espinoza.

13 I'm officially opening the public hearing for
14 our harbor development permit Application Number 19-066
15 for the World Oil Tanks Installation Project. The
16 applicant is the Ribost Terminal LLC, DBA World Oil
17 Terminals.

18 As a reminder, members of the public who wish
19 to comment on this item may register to do until one
20 minute after the public comment portion of the hearing
21 has begun, at which time registration will close. To
22 provide public comment during the hearing simply follow
23 the call-in instructions provided in the agenda. Please
24 wait on the line and staff will open the line when it is
25 time for you to make your comment during the public

1 comment period.

2 We will begin with the presentation from Matt
3 Arms, Director of Environmental Planning who will
4 provide a summary of the World Oil Tank Installation
5 Project.

6 Mr. Arms.

7 MATT ARMS: Good morning, President Neal and
8 Commissioners. Can you hear me?

9 PRESIDENT NEAL: Yes, we can.

10 MATT ARMS: Great. As you said, I am Matt
11 Arms, director of environmental planning, and I will be
12 presenting the staff report for the World Oil Tanks
13 Installation Project. I'm going to begin with asking
14 your patience, this will be a quite extensive staff
15 report as there is a lot of information that we need to
16 report to the commission and the public.

17 This morning staff is recommending that you
18 adopt a Negative Declaration pursuant to the California
19 Environmental Quality Act or CEQA, approve the project,
20 approve the Application Summary Report, and issue a
21 Harbor Development Permit in accordance with the Port's
22 certified Port Master Plan. Next slide.

23 World Oil Terminals operates a petroleum
24 storage facility on their privately owned property on
25 Pier C in the north east portion of the Long Beach

1 Harbor District. World Oil Corporation primarily
2 recycles oil-based waste products such as used motor
3 oil, antifreeze and oil waste water into new motor oil,
4 marine diesel fuel, antifreeze, and paving and roofing
5 components.

6 The terminal currently consists of seven
7 petroleum tanks with a total storage capacity of five
8 hundred two thousand barrels contained within a 13-foot
9 tall, one and a half-foot thick containment wall. Three
10 of the existing tanks store crude oil for the World Oil
11 South Gate Refinery. The product for these tanks are
12 received by pipeline and transported to World Oil South
13 Gate Refinery by truck. The four remaining tanks are
14 leased to third-party vendors to store fuel oils.
15 Products from these tanks are transported via existing
16 pipeline. No refining of crude oil occurs at the World
17 Oil terminal. Next slide.

18 In August in 2019 the Port received a Harbor
19 Development Permit Application from World Oil proposing
20 to install two 25,000 barrel storage tanks at their
21 facility on Pier C. The installation of the two new
22 tanks would involve new foundations, 25 horsepower pumps
23 to pump crude oil from the existing lines to and from
24 the new tanks, and approximately 40 linear feet of
25 piping to connect the tanks to the existing truck

1 loading racks. A short electrical conduit connection
2 would be required between the new tanks and the existing
3 subpanel located just outside the containment wall.

4 Next slide.

5 The addition to the two smaller tanks will
6 create efficiencies at the terminal through the
7 realignment of the terminal storage capacity. The
8 smaller tanks are sized to provide adequate capacity to
9 meet the needs for World Oil making their existing tanks
10 that are currently under utilized available to
11 third-party vendors for the storage of products such as
12 marine fuels and marine fuel blending components.
13 Overall throughput at the terminal will not increase due
14 do to the limitations of existing pipelines, the
15 physical footprint of the facility, and the permitted
16 throughput limits imposed on the truck loading racks by
17 the South Coast Air Quality Management District.

18 The terminal's overall operations will also
19 remain the same. Crude oil will continue to be
20 transported to the terminal by pipeline and daily truck
21 trips will continue transport crude oil to the offsite
22 World Oil Refinery in South Gate for production of
23 paving and roofing asphalts. Lease tanks would continue
24 to involve pipeline transfers. Next slide.

25 In California the state law governing the

1 analysis of specific environmental impacts associated
2 with a project is the California Environmental Quality
3 Act or CEQA. In accordance with CEQA the Port prepared
4 an Initial Study of the proposed project to determine if
5 the project may have a significant effect on the
6 environment. The Initial Study also aides in
7 determining what type of environmental document to
8 prepare. Based on the Initial Study, it was determined
9 that construction and operation of the project would not
10 result in significant impacts to the environment and no
11 mitigation measures would be required. Therefore, in
12 accordance with CEQA a Negative Declaration was
13 prepared.

14 In October 7, 2020 the draft Initial
15 Study/Negative Declaration and Application Summary
16 Report was issued to the public for a 30-day review
17 comment period. After commenters -- after a commenter
18 requested additional time for review, the Port extended
19 the review period by 15 days for a total of 45 days
20 ending on November 20, 2020. A total of eight agencies,
21 groups, organizations, and individuals submitted written
22 comments on the draft document. The final Negative
23 Declaration reflects comments received on the draft
24 document. Other changes to clarify, amplify, or making
25 significant modifications were also made. No new

1 significant environmental effects associated with
2 construction and operation of the project were
3 identified nor did any issue raised in the comments
4 received necessitate recirculation of the draft Initial
5 Study/Negative Declaration. Next slide.

6 The AQMD is responsible for the assessment and
7 the approval of the new tanks emissions estimates prior
8 to the issuance of an AQMD permit to construct and
9 operate; making AQMD a CEQA responsible agency. Among
10 comments received on the draft document was that air
11 emissions were under estimated by the AQMD.

12 Subsequently, the AQMD prepared revised air emission
13 estimates using the latest U.S. EPA estimation
14 procedures for petroleum storage tanks. The revised
15 emission estimates were then reviewed by the Port for
16 adequacy and incorporated into the final document. The
17 revised air emissions remain well below the AQMD's
18 significant threshold and confirm there are no
19 significant air quality impacts as a result of the
20 project.

21 Port staff also coordinated with the Coastal
22 Commission staff regarding sea-level rise, whether the
23 project was a appealable to the Coastal Commission, and
24 consistency with the Port Master Plan. Formal response
25 to comments received from the Coastal Commission -- from

1 the Coastal Commission staff are provided on pages
2 eight-five and eight-six of the document. Coastal
3 commission staff also submitted a comment letter on
4 October 26, 2021. I will discuss the comment letter and
5 our response in detail on the following slide. Next
6 slide.

7 While per CEQA, the project presents no
8 significant impacts and therefore no mitigation measures
9 are required. Staff recommends three special conditions
10 be included in the Harbor Development Permit for the air
11 quality biological resources and geology; to ensure that
12 air emissions associated with construction activities
13 are further reduced with the use of off-road
14 construction equipment that meets EPA tier four final
15 emission standards; to ensure that the project complies
16 with the requirements of the Migratory Bird Treaty Act
17 by conducting surveys for nesting birds prior to
18 construction, and to ensure the design recommendations
19 of a geotechnical investigation are incorporated into
20 the project's final design. Next slide.

21 In addition to certification of the final
22 Initial Study/Negative Declaration under CEQA, staff is
23 recommending that the board approve the Application
24 Summary Report or ASR and issue a harbor development for
25 the project. Chapter 5 of the document in conjunction

1 with the entire Initial Study/Negative Declaration
2 constitutes the full ASR. The ASR was prepared in
3 accordance with the certified 1990 Port of Long Beach
4 Master Plan, as amended and the California Coastal Act
5 of 1976.

6 The consistency analysis discussed in Chapter 5
7 finds that the proposed project is in conformance with
8 the stated policies of the PMP and the Coastal Act.
9 Specifically, the project is -- the project --
10 specifically, the project is consistent with the
11 permitted uses of the north east harbor planning
12 district, which includes use for hazardous cargo
13 facilities. It is also consistent with the Port's
14 certified risk management plan. After implementation of
15 the proposed project, the hazard footprint and
16 subsequent vulnerability zone remains the same and would
17 remain in conformance with the Port's risk management
18 plan. And finally, the project is not appealable to the
19 Coastal Commission pursuant to the Coastal Act. The
20 addition two 25,000 barrel storage tanks would not have
21 a significant impact on state or national oil and gas
22 supply.

23 I would now like to address, for the record,
24 the October 26 letter received from Coastal Commission
25 staff. The comment -- the letter provides comment in

1 the introductory remarks that Port staff -- and thanks
2 Port staff for the invitation to comment on the final
3 Initial Study and Negative Declaration, including the
4 Application Summary Report. The comment states that the
5 proposed project is within the permit jurisdiction and
6 must -- of the Port and must conform with Chapter 8
7 policies. The comment further states that following --
8 the following comments in the letter address the Coastal
9 Act and PMP consistency analysis provided in section 5.0
10 of the final IS/ND or Initial Study/Negative
11 Declaration.

12 The first comment provides language from
13 Section 30 -- 30708 A of the California Coastal Act,
14 which requires all Port related development be located,
15 designed, and constructed to minimize substantial
16 adverse environmental impacts. And then describes, that
17 if the project is damaged or not properly designed to
18 withstand natural coastal hazards, the proposed
19 development could create hazardous conditions that could
20 adversely affect water quality, marine habitat,
21 wildlife, and human health.

22 The comment does reiterate the conclusion in
23 the final Initial Study/Negative Declaration that the
24 project would result in less than significant impacts on
25 the environment and confirms that the Initial

1 Study/Negative Declaration analyze the proposed projects
2 in terms of a 100-year storm eventually and tsunami
3 threat. The comment, though, asserts that while the
4 environmental document analyzed the project in terms of
5 a 100-year storm event and tsunami threat. It did not
6 take into account climate change into consideration. It
7 should be noted the that Port's currently certified Port
8 Master Plan does not require a climate change analysis.
9 Nevertheless, discussion of the potential for sea-level
10 rise, which is caused by climate change, is discussed in
11 the final environmental document in Section 4.10,
12 hydrology and water quality and Section 5.3.2 Draft PMP
13 update plan elements.

14 In 2016 the Port of Long Beach was the first
15 port to develop a Climate Adaptation and Coastal
16 Resiliency Plan or CRP, which addresses climate change
17 impacts and recommends enhancing climate change analysis
18 and considerations into the Port of Long Beach's
19 developing -- development and permitting process. The
20 CRP was used in the final Initial Study/Negative
21 Declaration to assess sea-level rise at various future
22 inundation scenarios at the project site. The comment
23 describes the proposed location of the two new petroleum
24 storage tanks as seaward of the existing fuel tanks in a
25 low line part of the Port that would be flooded with as

1 little as two and a half feet of sea-level rise and
2 where ground water may begin to emerge under the same
3 scenario.

4 However, as described in great detail in the
5 document, the tanks would be located in an existing
6 containment area; therefore, the seaward location of the
7 tanks within the containment area would have no material
8 effect on the risk of the new tanks to flooding. The
9 comment asserts that the best available science suggests
10 that sea-level rise -- that sea levels could rise
11 approximately two and a half feet as early as 30 years
12 from now. As described in the final environmental
13 document response to comment CCC-2; the proposed project
14 was assessed using the best available science for the
15 medium-high risk aversion sea level rise scenario.
16 Under this medium-high scenario, the proposed project
17 site could potentially experience temporary inundation
18 outside of the containment wall by approximately year
19 2070. Temporary flooding could occur within the
20 containment wall as a result of precipitation-based
21 flooding. However, the project is designed to mitigate
22 the concern with proper flood control systems.

23 The CRP sea-level rise medium-high risk
24 scenario aligns with the ocean protection counsel's 2018
25 State of California Sea Level Rise Guidance medium-high

1 risk sea-level rise aversion estimations for projects
2 within an expected life ending in approximately 2070.

3 The third comment claims that the -- that a
4 component of the certified Port Master Plan or PMP, the
5 risk management plan was not included in the PMP
6 consistency analysis and that the standard of review for
7 the Harbor Development Permit that would be needed to
8 proceed with the project is Chapter 8 of the Coastal Act
9 and that the certified PMP, which includes the RMP
10 implementation guidelines and the PMP document with all
11 the past amendments.

12 However, Section 5.0 of the final document,
13 which serves as the Application Summary Report prepared
14 in accordance with the Port's 1990 certified PMP, the
15 Coastal Act, and guidelines for the implementation of
16 the Port of Long Beach certified Port Master Plan. In
17 the Application Summary Report provides detail
18 discussion of the proposed project's consistency with
19 the Coastal Act and the PMP and the risk management
20 plan, which prohibits the Port from permitting new
21 hazardous liquid development that would create a hazard
22 footprint overlying existing vulnerable resources and
23 prohibits expansion of existing hazardous liquid bulk
24 cargo facilities that would increase the risk of
25 casualty within the hazard footprint.

1 Discussion of the risk management plan begins
2 on page five-six of the final document. Contrary to the
3 comment, the RMP consistency analysis is, in fact,
4 provided in Chapter 5.2.5 of the document. In 2018 the
5 Port of Long Beach performed a risk assessment of the
6 terminal, which is -- which determines the largest
7 hazard footprint and vulnerability zone based on marine
8 diesel being the most volatile material stored at the
9 terminal.

10 The assessment conducted per the guidelines of
11 the 2009 application document for conducting hazard
12 impact assessments in support of the risk management
13 plans of the Port of Los Angeles and the Port of Long
14 Beach determine that the hazard footprints created would
15 not overlap vulnerable resources. After implementation
16 of the proposed project, marine diesel oil would remain
17 the most volatile material stored at the terminal. As
18 such, the largest hazard footprint and vulnerability
19 zone remains the same and would remain in conformance
20 with the -- and therefore, the facility would remain in
21 conformance with the RMP, and therefore, a new risk
22 analysis is not required.

23 On July 15, 2021 the Long Beach Fire Department
24 provided to the Port written concurrence for granting
25 the HDP stating that they are good with the concept of

1 the Port and they -- and that World Oil would need to
2 get the plans approved by fire and building departments
3 of City of Long Beach. The Long Beach Fire Department
4 approved The World Oil Tank Installation project
5 construction drawings on August 13, 2021.

6 The fourth comment in the letter states that
7 another environmental impact that could be further reduced
8 is the project's proposed increase in intensity of use
9 of the site; and thus, increase -- and thus, increase in
10 greenhouse gas emissions. The commenter notes that the
11 emissions from the intensified use of three additional
12 trucks per day at the World Oil site disproportionately
13 affects communities that bear the burdens of
14 environmental pollution caused by the Port's operation.

15 Also, Coastal Commission's staff suggests that
16 the Port consider, for example, not allowing expansion
17 of the intensity of use or imposing a condition of the
18 project to require accessing the site to be zero
19 emissions.

20 I've been asked to slow down by the
21 interpreter. I apologize.

22 The environmental analysis conducted in
23 accordance with the California Environmental Quality Act
24 concluded that there would be no significant impacts to
25 any environmental resources resulting from construction

1 and operation of the project. As discussed throughout
2 the environmental document, there would be no increase
3 in truck trips to and from World Oil Terminal as a
4 result of the project. However, as a worst case
5 scenario for the purpose of environmental analysis,
6 truck trips associated with operation of the proposed
7 project at the terminal were assumed to increase by
8 three trucks per day. The estimated increase in truck
9 trips was assumed in the event atypical operations
10 occur; such as, the servicing of pipelines.

11 The environmental document provides extensive
12 analysis conducted by the Port and the South Coast Air
13 Quality Management District to evaluate air quality
14 emissions, health risk, and greenhouse gas emissions
15 associated with construction and operation of the
16 proposed project. As discussed in Section 4.3 of the
17 final document, air quality and greenhouse gas emissions
18 are well below the South Coast Air Quality Management
19 District, AQMD's, emissions significant thresholds. In
20 addition, the AQMD performed a cancer health risk is
21 assessment for the new tanks concluding that health
22 risks were also well below the AQMD's CEQA cancer health
23 risk threshold.

24 The final document also notes that the slight
25 increase of emissions from the truck loading rack for

1 oil vapors and truck emissions would contain negligible
2 toxic air contaminants. However, they would not create
3 substantial localized health impacts or expose sensitive
4 receptors to substantial pollutant concentrations.
5 Therefore, impacts associated with the localized daily
6 operation would be less than significant as found in
7 Section 4.3 of the document. Therefore, mitigation
8 measures are not required for the project. Appendix A
9 of the final document contains the air emissions
10 analysis for the proposed project.

11 The Coastal Commission staff's recommendation
12 that the Port consider not allowing expansion of the
13 intensity of use is contrary to State lands commission
14 statute of 1911 and the Coastal Act. The statute grants
15 title to the City of Long Beach for tide lands submerged
16 lands in Long Beach Harbor District for the use by the
17 city and by its successors solely for the establishment
18 improvement and conduct of a harbor and for the
19 construction, maintenance, and operation therein of
20 wharves, docks, piers, quays and other utilities,
21 structures and appliances necessary or convenient for
22 the promotion and accommodation of commerce and
23 navigation.

24 The proposed World Oil project would increase
25 the efficiency of their existing operations by

1 realigning their storage capacity needs and make
2 existing tanks available for lease. The proposed
3 project is consistent with the State land's commission
4 statute as it involves improvement and a conducting of
5 the harbor and for the construction, maintenance, and
6 operation therein of; structures necessary or convenient
7 for the promotion of commerce and navigation.

8 The Coastal Act supports the state land's
9 commission statute by encouraging existing ports to
10 modernize and construct necessary facilities in order to
11 minimize or eliminate the need for the development of
12 new ports in the other coastal areas of the state. This
13 is in California Coastal Act, Section 3-701. The World
14 Oil Terminal has been located at the privately owned
15 property on Pier C since 1964. The proposed project to
16 add two new storage tanks within the World Oil
17 Terminal's existing facility is consistent with the
18 Coastal Act Section 30708-C, which requires highest
19 priority be given to use of existing land space within
20 the harbor for Port purposes.

21 This is also important to note that the Coastal
22 Commission certified 1990 PMP, identifies Port
23 environmental goal Number Two, which is, I quote, to
24 encourage the maximum use of facilities, end quote. And
25 port environmental goal Number Five to, quote, develop

1 land for primary Port facilities and Port related uses,
2 end quote. While the proposed project would add two
3 additional tanks at the facility, it would not
4 de-bottleneck the facility to allow for greater crude
5 oil throughput beyond it's permitted limits through
6 pipelines, tanks, or loading racks. The proposed
7 project would realign their storage capacity to increase
8 their efficiency of terminal operation, maximizing World
9 Oil's use of their existing facility.

10 The fifth comment in the letter states that the
11 Port must analyze the proposed project consistency with
12 the Coastal Act and the entire certified PMP, and that
13 in order to do so the Port must consider project
14 alternatives including a no project alternative.

15 Section 5.0 of the final document is the Application
16 Summary Report for the World Oil project prepared in
17 conjunction with the environmental analysis prepared in
18 the overall Initial Study/Negative Declaration pursuant
19 to CEQA. The Application Summary Report includes
20 detailed discussion of the proposed projects consistency
21 with the Coastal Act and the Port's certified PMP.

22 There is no provision of Chapter Eight of the Coastal
23 Act requiring Ports with certified Port Master Plans to
24 consider alternatives, including a no project
25 alternative to every project that seeks an HDP.

1 The state law governing analysis of specific
2 environmental impacts associated with a project is CEQA.
3 CEQA requires alternative analyses, including a no
4 project analysis for projects that may have a
5 significant impact on the environment as identified
6 under CEQA. A CEQA analysis was completed for the World
7 Oil project and determined there will not be a
8 significant impact on the environment. Therefore, no
9 alternative analysis was required. The comment did not
10 point out any perceived deficiencies in the Port's CEQA
11 analysis. In fact, the letter very clearly states the
12 Coastal Commission staff were not providing comments
13 pertaining to the CEQA analysis; thus, the Port has
14 fully complied with the obligations under CEQA and the
15 Coastal Act and PMP and alternative analysis was
16 required for this project. For the final comment, the
17 Port had -- thanks Coastal Commission staff for their
18 comments. Next slide.

19 Next slide. Oh, we are there. Sorry. In
20 conclusion, staff respectfully requests the board take
21 the following actions: One, to receive and file
22 supporting documentation into the record and conduct the
23 public hearing for the World Oil Tank Installation
24 project. And to approve a resolution to adopt the
25 Negative Declaration for the project pursuant to CEQA,

1 approve the Application Summary Report, approve the
2 project, and issue a Level II harbor development
3 permit, Number 19-060. With that -- our next slide.

4 That con -- thank you, President Neal and
5 Commissioners. That concludes my staff report. Myself
6 and our team are here to answer any questions that the
7 Port may have.

8 PRESIDENT NEAL: Thank you, Mr. Arms.

9 Ms. Espinoza, I understand that there's a
10 representative from the applicant, World Oil Corporation
11 who would like to provide a presentation?

12 MS. ESPINOZA: Yes, President Neal. Sue
13 Gornick, Vice President of the Environmental Health and
14 Safety for the World Oil Corporation requests to provide
15 a brief presentation.

16 Sue.

17 SUE GORNICK: Good morning, President Neal,
18 Commissioners. Can everyone hear and see me?

19 PRESIDENT NEAL: Yes.

20 SUE GORNICK: Well, thank you for considering
21 World Oil's project today. I appreciate your time as
22 well as all the hard work that the Port staff, director
23 Arms and all of his staff has put into the preparation
24 of this project. We've been working on this for two
25 years, and Mark -- are happy to see it to the hearing

1 commission now.

2 So as Director Arms discussed, World Oil is
3 proposing to add two storage tanks -- as you can see in
4 the red lined area there that they showed on their
5 slides as well -- to the seven existing tanks that we
6 currently have. Right now five are leased for bunker
7 and other fuels, and two store crude oil exclusively for
8 the manufacturing of roofing and paving asphalts at the
9 World Oil asphalt plant in South Gate.

10 Also, as Director Arms discussed, the two
11 smaller tanks are going to supplant the existing tanks
12 that we're using for the crude oil for the asphalt plant
13 and (indiscernible) existing will be leased out to Port
14 (indiscernible). All tanks are filled by pipeline.
15 There is no marine vessel loading or unloading, and
16 trucking is limited to off loading of oil to the asphalt
17 plant in South Gate. Next slide.

18 World Oil is a family-owned company, and it's
19 been in business for 80 years. We have over 630
20 employees with 50 percent living in LA County. At the
21 Ribost terminal we have six full-time employees. World
22 Oil is California's largest recycler of used oil and
23 antifreeze. Recycling over half of the waste oil in
24 California. We collect, transport and recycle waste oil
25 from over 20,000 auto repair and servicing sites in

1 California, Nevada, Arizona, and New Mexico. We provide
2 almost half of the roofing and paving asphalt to
3 southern California out of our asphalt plant in South
4 Gate, which receives its crude oil from Ribost terminal.
5 World Oil does not extract any crude oil from the ground
6 nor does it manufacturer any finished fuels. Next
7 slide.

8 So this slide details what World Oil actually
9 recycles. You can see on the left-hand side we have
10 used oil, used antifreeze, and oily water coming in, and
11 coming out is the marine diesel oil, renewed antifreeze,
12 and clean water. We also, out of this plant, make some
13 asphalt blending components for the paving and roofing
14 plant in South Gate. Next slide.

15 So Director Arms talked a lot about our
16 project, and one thing I wanted to make sure that we all
17 understood again is, this really is an infill project on
18 existing terminal property, and it helps with efficiency
19 of our operations. And, also, that there are no
20 significant impacts. We are continuing on with our
21 current operations, and this helps us to be more
22 efficient. The site is designed for a worst case
23 scenario plus a hundred-year storm event. We do have a
24 12 and a half to 13-foot containment wall, depending on
25 where you are on the site. And, also, the South Coast

1 AQMD estimates emissions well below the significance
2 thresholds.

3 Something about the tanks. We've designed them
4 with Best Available Control Technology. They have
5 primary and secondary seal designs on the floating
6 roofs -- internal floating roofs that are approved by
7 South Coast. Cable supported internal floating roofs --
8 it means fewer evaporated losses than traditional
9 internal floating roofs with legs. Next slide.

10 With these tanks, not only are we improving the
11 efficiency of the terminal, but we're providing more
12 flexibility for storage of fuels as California evolves
13 in fuel tanks. We are currently evaluating the market
14 for storage of biofuels and renewable fuel at the
15 terminal. You see our company motto; "Doing right, in
16 everything we do." We're primarily a used oil recycler.
17 We do not extract crude oil from the ground, nor do we
18 manufacturer finished fuels. Crude oil -- we store at
19 Ribost Terminal is used for our asphalt plant for paving
20 and moving asphalts.

21 Thank you, President Neal and Commissioners for
22 your time today, and thank you, Director Arms and your
23 staff for preparation of the CEQA documents for our
24 project. I'm happy to answer any questions that you
25 have. Thank you.

1 PRESIDENT NEAL: Thank you. Any comments or
2 questions from my colleagues?

3 Well, thank you Ms. Gornick. I will now open
4 this portion of the hearing for public comments. For
5 those who have submitted a request to comment in
6 advance, you will be called at the phone number you
7 provided. For those who called in when the item was
8 opened, please wait on the line and staff will open the
9 line for you to make your comments. Raise your hand by
10 pressing Star Three, and you will be asked to mute
11 yourself by pressing Star Six. As a reminder to the
12 speakers, please state your name clearly, for the
13 record, and make your comments no more than three
14 minutes long. We will also ask that you avoid repeating
15 comments made by previous speakers.

16 Ms. Espinoza, is our first commenter on the
17 line?

18 MS. ESPINOZA: Yes, President Neal. Our first
19 commenter will be Elliott Gonzalez.

20 Please unmute yourself by hitting Star Six.

21 ELLIOTT GONZALEZ: Hello. Can you hear me?

22 MS. ESPINOZA: Yes.

23 ELLIOTT GONZALEZ: Hi. Good evening,
24 commissioners. As we're reviewing this World Oil Tank,
25 supposedly a family-owned company that owned a

1 250-barrel capacity oil tank -- I'm watching these
2 executives, CEOs of oil companies, explain before
3 congress how they're not responsible for climate change,
4 about the good jobs that they provide, and I'm also
5 listening to pretty much the exact same thing here in
6 the Port of Long Beach, by a smaller version of the same
7 industry. You know, this whole family business -- this
8 isn't like a little family restaurant, you know, selling
9 tacos from a truck. No. This is an oil tank that takes
10 a toxic product that we know is warming the planet. We
11 could feel the heat. It's an 85 degree day today, this
12 nice warm October, and it's going to be warmer every
13 year from here on out for the rest of all of our lives.

14 So as we face the reality of the climate
15 crisis, something that we had plenty of warning for, I
16 want to ask you all to -- you know, first it's happened
17 to the morality that you have within yourself. And I
18 know that many of you have already sold your soul to the
19 industry, that you really don't bring much morality.
20 But for those of you who do, particularly the vice
21 president of this commission, Sharon Weissman. I want
22 to remind you of somebody who we greatly respected and
23 admired. Someone I never got to meet. The late Senator
24 Jenny Oropeza, and she died of cancer while she was in
25 office and Commissioner Weissman got to work alongside

1 her. And she fought until her very last day against the
2 industries that cause cancer, and I want to remind you
3 all that people suffer from cancer because of oil. They
4 keep reiterating, oh, well, we're not an oil drilling
5 company. No, we're not. You service all of the
6 refineries. You service all of the industry that
7 creates all of the pollution around the Port, all of
8 that smog, all of that asthma causing smog is serviced
9 by this 250-barrel container.

10 So I want you to ask, is this the right thing
11 to do in the best interest of the public? Is it in the
12 best interest of the children? Is this in the best
13 interest of community suffering from cancer, people who
14 are dying or just dealing with cancer? I want you to
15 tap into your morality. Tap into your humanity. Tap
16 into your heart. I know that there's economic activity
17 on the line. I know there's hundreds of millions of
18 dollars, and as somebody who is very low income, I've
19 never dealt with that kind of money. But I have never
20 lost connection with my heart, and I want you all to ask
21 yourself, does your heart -- does your morality -- does
22 your ethics tell you that this is the right thing to do
23 for the children? Does your heart tell you that this is
24 okay knowing that this product causes cancer because of
25 some small family business or whatever myth you want to

1 believe?

2 So I just want to encourage you all to ask --
3 act in a moral capacity and what's being tested is your
4 morality. I believe that we're all going to see a judge
5 at the end of our lifetime, and when we return our body
6 to the Earth and our spirit to the source, we want to be
7 able to say that we fought for those who are most
8 affected, those who are suffering. So I want you all to
9 keep that in mind as you make your decision. I have a
10 further comment that I'll save regarding trucks later,
11 but that was the end of my comment. Thank you.

12 MS. ESPINOZA: Next caller is John Edmond.

13 Please hit Star Six.

14 JOHN EDMOND: Good morning. I would like to
15 first and foremost thank the Honorable commissioners,
16 Port staff for all of your time and dedication.
17 Especially thank you for your hard work helping to solve
18 the supply chain crisis that we're currently facing. My
19 name is John Edmond, and I'm speaking on behalf of the
20 Long Beach area Chamber of Commerce and the South Bay
21 Association Chambers of Commerce. We are dedicated to
22 regional issues, advocacy in the South Bay, Los Angeles
23 County and City of Long Beach. We stand united in
24 support of World Oil Tank Installation project. I want
25 to just say that the staff report was very well done and

1 very comprehensive, and so I will spare a long and
2 lengthy public testimony. But I would like to highlight
3 that World Oil primarily serves as a recycler of used
4 oils and waste antifreeze. World Oil collects and
5 transports and recycles waste oil products from over
6 20,000 auto repair and auto servicing sites in
7 California, Nevada, Arizona, and New Mexico.

8 World Oil has a history of serving as an
9 excellent environmental and community partner as many
10 local leaders seek to reduce emissions and fossil fuels.
11 World Oil has offered a way to reduce fossil fuel
12 exploration. The Ribost Terminal is part of the
13 critical oil recycling infrastructure that reduces
14 fossil fuels, point blank. And World Oil has proven to
15 be an excellent environmental partner with the Port of
16 Long Beach and has a history of environmental
17 innovation. Their work is critical in reducing fossil
18 fuel exploration and providing essential jobs in our
19 local community and benefits for our local community.

20 We want to thank you for your time and
21 consideration and ask that you support World Oil Tank
22 Installation Project. Thank you so much for all your
23 work and service and have a great day.

24 MS. ESPINOZA: Next caller is Sarah Wiltfong.
25 Please hit Star Six to unmute.

1 SARAH WILTFONG: Can you hear me?

2 My name is Sarah Wiltfong, and I'm contacting
3 you on behalf of Biz Fed, the Los Angeles County
4 Business Federation and alliance for over 200 business
5 organizations with over 400,000 employers in Los Angeles
6 County. And we're calling in support of the World Oil
7 Tank Installation Project. You've already heard from a
8 previous callers in the presentation, so I won't go into
9 too many details as well.

10 But just to reiterate that World Oil recycles
11 waste oil product for over 20,000 auto repair and auto
12 service sites. The refinery makes asphalts for paving
13 and roofing applications. They do not produce any fuel.
14 As California produce -- pushes toward clean energy
15 goals, it's important that we support industries who
16 help our state become more resilient by utilizing
17 recycled materials and already existing infrastructure
18 to meet our economy's critical infrastructure demand.
19 We believe that adding a storage capacity to the World
20 Oil facility does these things, and it is working in the
21 best interest of California's environmental policies.
22 Thank you.

23 MS. ESPINOZA: Next caller. Marnie Primmer.
24 Marnie Primmer.

25 MARNIE PRIMMER: Good morning. I'm sorry. I

1 had trouble unmuting myself initially. Good morning,
2 President Neal and members of the Harbor Commission. My
3 name is Marnie Primmer. I'm the executive director of
4 Future Ports, and today I'm representing my board of
5 directors and our over 65 members today.

6 Future ports is a 501-C six nonprofit advocacy
7 coalition founded in 2005 to help coalesce the Southern
8 California supply chain or (indiscernible) to both grow
9 the Port and to address the environmental air quality
10 and quality of life issues that come with that growth.
11 Future Ports believes that a vibrant and healthy
12 economic and environmental future for the Ports is vital
13 to all.

14 To that end, our EIR and regulatory review
15 committee, which is comprised of business leaders from
16 our membership have met with and reviewed the project
17 application of World Oil, which is now before you. They
18 have recommended -- and our board of directors have
19 adopted -- a motion in support of the World Oil project.
20 World Oil, as has been mentioned today, have a very
21 innovated company recycling products including motor oil
22 and antifreeze. With addition of the two small
23 everybody tanks the Ribost Terminal project will be able
24 to provide surge capacity for blending storage of marine
25 fuels to meet cleaner IMO 2020 standards, which will

1 directly benefit Port tenants who use these fuels.

2 The project will also benefit the surrounding
3 community and our region at large via reduced emissions.

4 The project will also benefit the local economy
5 maintaining existing jobs at the terminal as well as
6 create many new good-paying jobs during construction.

7 The new tank at the Ribost Terminal will also increase
8 the efficiency of the terminal, its customers, and the
9 Port of Long Beach. For these reasons and more, Future
10 Ports is proud to support World Oil and their tank
11 installation project. We urge your approval of the
12 staff report and the issuance of the Negative
13 Declaration.

14 Thank you for the opportunity to speak before
15 you today.

16 MS. ESPINOZA: Next caller, Kelilah Federman.
17 Please hit Star Six to unmute.

18 KELILAH FEDERMAN: Good morning. Can you hear
19 me?

20 MS. ESPINOZA: Yes.

21 KELILAH FEDERMAN: Good morning. My name is
22 Kelilah Federman, and I'm here speaking on behalf of
23 Safe Fuel and Energy Resources California. SAFER
24 California for short. And Safer California submitted
25 written comments for your review as well.

1 Safer California includes local residents,
2 workers, and labor organizations who are committed to
3 enforcing agency compliance with laws that require
4 analysis, disclosure, and mitigation of significant
5 environmental and public health impacts in order to
6 ensure continued growth that is sustainable for the
7 community. The California Environmental Quality Act,
8 CEQA, requires the preparation of an MND or EIR if
9 there's any substantial evidence on the record
10 supporting a fair argument that a project may result in
11 significant impacts to the environment, even if the
12 agency disagrees with that substantial evidence.

13 The IS/ND failed to comply to CEQA and an EIR
14 is required for several reasons. First, the Port has
15 substantial evidence before it including expert evidence
16 that demonstrates the project will have significant air
17 quality impacts that require mitigation. This evidence
18 supports a finding by the board that an EIR is required
19 and a Negative Declaration is inadequate. Second, the
20 conclusions contained in the IS/ND are not supported by
21 substantial evidence and do not support the Port's
22 reliance on a Negative Declaration. The Port uses a
23 methodology to estimate tank emissions that is
24 well-known for consistently producing significantly
25 underestimated tank emissions and fails to make its

1 underlying calculations available for public review.

2 Third, the ISND provides estimates of ZOC
3 emissions that it claims will not result in significant
4 impact but provides no supporting documentation. This
5 is a violation of CEQA's requirements that the public be
6 given an opportunity to meaningfully review an agency's
7 analysis of a project impacts. There is no way to
8 assess the validity of emissions calculations and
9 confirm their accuracy without this supporting evidence.

10 Finally, the ISND adds a mitigation measure,
11 special condition AQ, which requires the use of tier
12 four construction equipment to ensure that the projects
13 construction emissions will be reduced to less than
14 significant levels. The need for mitigation
15 demonstrates that the Port cannot rely on a Negative
16 Declaration to approve the project and it must instead
17 prepare an EIR with a finding mitigation plan.

18 We urge the board to comply with CEQA and
19 re-man the project to staff to prepare a legally
20 adequate EIR with the information necessary for
21 independent public review, to correct errors in the ND,
22 and to mitigate the project's potentially significant
23 impact with a legally binding mitigation plan. Thank
24 you.

25 MS. ESPINOZA: Next speaker. Henry Pine.

1 Henry Pine, please hit Star Six to unmute.

2 HENRY ROGERS: Good morning, Chairman Neal and
3 members of the Harbor Commission. My name is Henry
4 Rogers, and I'm the executive director of the Harbor
5 Association of Industry and Commerce. Thank you for
6 hearing me today. I'm here today in speaking of support
7 of Item 1H, the World Oil Tank Installation Project.

8 This is a critical project that is key in
9 providing clean marine fuels for many of your tenants
10 and our members within the Port. We support this
11 project moving forward as it will provide much needed
12 storage space for blending of fuels to meet the current
13 clean air standards, as well as the transition to other
14 fuels in the future; providing a cleaner safer
15 environment for generations to come.

16 The State of California and the Port of Long
17 Beach are leading the charge in -- towards a greener and
18 more sustainable fuel options. Companies like World Oil
19 and this project are critical in the greener future.
20 Thank you for hearing me today. We did submit written
21 comments, and I respectfully ask for your approval on
22 Item 1H. Thanks a lot.

23 MS. ESPINOZA: Next speaker. Luke Ginger.
24 Luke Ginger, please hit Star Six.

25 LUKE GINGER: Good morning. I would like to

1 thank the Board of Commissioners for this opportunity to
2 provide comment on Item 1H. For the record, my name is
3 Luke Ginger, and I'm speaking on behalf of Heal the Bay.
4 We're a nonprofit organization based in Santa Monica and
5 most of our work is done in Los Angeles County.

6 We are asking the Board to not approve World
7 Oil's request to install more oil tanks in the harbor.
8 The recent oil spill in Orange County, which is in an
9 unseeded (indiscernible) and Tongva waters, is a grave
10 reminder of the risk we run by allowing oil industry
11 activity so close to the ocean and our communities.
12 Approving this project will result in more oil being
13 stored directly adjacent to the ocean, and given the oil
14 industries track record and flippant attitude toward
15 regulation, there's a good chance that that oil will end
16 up in the ocean where it will wreak havoc on the
17 ecosystem.

18 The community surrounding the harbor are
19 already suffering chronic disease from poor air quality
20 associated with oil transportation and drilling and our
21 planet is in a catastrophic state of decline because of
22 the fossil fuel industry. The correct thing to do in
23 this situation is to phase out oil storage in the harbor
24 all together, not increase it. If the Board does decide
25 to move forward with this project, we urge you to

1 require rigorous integrity inspections of the tanks
2 currently in use and to heavily scrutinize World Oil
3 spill response plan as well as their plan for sea-level
4 rise. Thank you.

5 MS. ESPINOZA: Next speaker. Erin Gardner.
6 Erin Gardner, please hit Star Six. I see you on the
7 line.

8 Luis, can we unmute Erin Gardner?

9 ERIN GARDNER: Hello. My apologies. I was
10 having trouble unmuting. I would just like to reiterate
11 the comments that our executive director Marnie Primmer
12 made about our full support of this project for World
13 Oil. Thank you.

14 MS. ESPINOZA: Okay. Next speaker. Oscar
15 Espino-Padron. Please hit Star Six to unmute yourself.
16 Oscar?

17 OSCAR ESPINO-PADRON: Hello. Can you hear me?

18 MS. ESPINOZA: Yes.

19 OSCAR ESPINO-PADRON: Hi. Good morning.

20 (Indiscernible) --

21 MS. ESPINOZA: We can hear you.

22 OSCAR ESPINO-PADRON: Oh, thank you. Good
23 morning. My name is Oscar Espino-Padron, and I'm a
24 staff attorney at Earthjustice. I'm also here as
25 someone who grew up in Long Beach and who still has

1 family in the city. I'm here to urge the commission to
2 deny the approval of this project and instead direct
3 staff to prepare a thorough Environmental Impact Report
4 that considers alternatives as well as appropriate
5 mitigation measures. CEQA is meant to ensure that our
6 representatives engage in an informed decision making
7 and that an equally well-informed public can persuade
8 and monitor government through the democratic process.
9 And the CEQA document that's before you fails to meet
10 these objectives, and I want to list up a few concerns
11 that we've noted in additional comments to the
12 commission.

13 The first is that the CEQA document relies on
14 South Coast Rule 1178 as an adequate measure to control
15 toxic VOC emissions such as benzene, which is cancer
16 inducing. And the document fails to note that the South
17 Coast AQMD is in the process of amending that regulation
18 given the inadequacies of it and the fact that emissions
19 are higher from these tanks than what's reported to the
20 agency. And in those rule amendments are our plans for
21 March 2022, and these -- you know, this particular
22 regulation would affect the planning, the construction,
23 and the operation of these tanks.

24 The second issue is that, you know, the
25 document admits that the containment wall was designed

1 to hold up to 90,000 barrels, and the current total
2 storage capacity at the site is over 500,000 barrels.
3 The project will add another 50,000 barrels without
4 considering whether, you know, secondary measures should
5 be put in place in case there's a release, you know,
6 from more than one tank. And the existing containment
7 wall, again, was implemented as part of previous tank
8 installation.

9 The last thing that I'll raise is that, you
10 know, the document notes the number of storage tanks
11 that have been recently constructed in the region, but
12 then it fails to disclose the size of those tanks and
13 the emissions from those tanks. And, you know, it's
14 information that's readily available to the Port, and
15 so, you know, these are concerns that merit the
16 commission to deny the project, again, and to -- or at a
17 minimum direct the staff to prepare an EIR. Thank you.

18 MS. ESPINOZA: Next is Kartik Raj.

19 KARTIK RAJ: Good morning, to the commission.
20 Can everyone hear me?

21 MS. ESPINOZA: Yes.

22 KARTIK RAJ: My name is Kartik Raj. I'm an
23 attorney providing comments on behalf of Earthjustice.
24 We believe the Harbor Commission should not approve the
25 Port's Negative Declaration for this project and should

1 instead require an Environmental Impact Report to be
2 prepared under CEQA. The Port's conclusion that this
3 50,000 barrel oil storage project could not have any
4 environmentally significant impacts was based on an
5 analysis that is flawed in multiple critical ways.

6 First, the Port did not fully consult with all
7 the necessary agencies under CEQA, specifically the
8 California Coastal Commission submitted comments on the
9 Port's analysis stating that it failed to properly
10 account for risks posed by climate change and major
11 storms. The technical disagreements with the Coastal
12 Commission that Mr. Arms described this morning create
13 exactly the type of situation where CEQA requires
14 further consultation and a full environmental analysis.
15 The Port should engage in meaningful consultation with
16 the Coastal Commission to fully address these concerns
17 and ensure the public that these risks are adequately
18 addressed.

19 Second, the Port's analysis didn't account for
20 the cumulative public health burden that these storage
21 tanks would be adding to as required by CEQA. The Port
22 considers these impacts in isolation, but existing
23 emissions at the World Oil Terminal already arise from
24 seven large petroleum storage tanks. It's very
25 troubling that the applicant and project supporters

1 omitted that the project would enable the terminal to
2 lease more storage to nearby oil refineries, not just
3 recycling operations. However, the Port did not examine
4 those impacts in its review documents. Furthermore,
5 almost 70 oil storage tanks who are approved for
6 construction in this air basin in the last ten years --
7 this project would be adding to the emissions to those
8 tanks, but the Port did not investigate this existing
9 infrastructure as required by CEQA.

10 In coalition with other concerned groups we
11 have submitted a letter to the commission describing
12 further problems with this Negative Declaration.
13 Because of the serious shortcomings in the environmental
14 review of this project, we urge this commission to
15 demonstrate its commitment to transparency and
16 sustainability by requiring the Port to prepare an
17 Environmental Impact Report under CEQA. I'd like to
18 thank the Harbor Commission for their time and
19 consideration today. Thank you.

20 MS. ESPINOZA: Just a reminder, if you've
21 called in for this item we need you to raise your hand,
22 so please hit Star Three if you plan to speak on this
23 item. Next will be call-in user Number Four.

24 CALL-IN USER NUMBER FOUR: Hello. Can you hear
25 me?

1 MS. ESPINOZA: Yes.

2 CALL-IN USER NUMBER FOUR: Good morning,
3 Commissioners. I hope you all are staying safe and
4 thank you for this opportunity to speak. My name is
5 Yassi Kavezade, and I'm a senior campaign representative
6 with the Sierra Club. Along with Earthjustice we
7 submitted our comments containing this World Oil storage
8 project. If the Port continue -- wants to continue to
9 be on the right side of history, it would be responsible
10 to not approve this project. Many of materials World
11 Oil helps make are now being made by recycled
12 construction and waste themselves, especially asphalt.
13 A mitigated Negative Declaration is giving a free pass
14 to this industry. Storing crude oil is a path for
15 disaster. Look at the impacts from the recent spill in
16 Huntington Beach.

17 I also want to make a comment previously that I
18 was unable to make during the general public comment on
19 the (indiscernible). So I will -- just wanted to add
20 that the staff is recommending to invest the Clean Truck
21 Fee for 90 percent low-NOx trucks. That is a terrible
22 mistake. The Port of LA is choosing to do 100 percent
23 zero emissions investment. So that item will be brought
24 to you at the next meeting, but I wanted to get ahead of
25 that, and I can't stay on for the whole meeting. So

1 thank you, you again, for your time, and please do not
2 approve this World Oil Tanks storage project here today.

3 MS. ESPINOZA: We do not see any additional
4 raised hands at the moment. Is there any public callers
5 on the line that have not spoken yet?

6 President Neal, I believe that concludes public
7 comment.

8 PRESIDENT NEAL: Thank you, Ms. Espinoza, and
9 I'd like to thank everyone for your comments and your
10 advocacy. Seeing that there are no additional comments
11 from the public, are there any additional comments from
12 staff?

13 MATT ARMS: President Neal, I don't have any
14 additional comments at this time, but I and my team are
15 here to answer any questions you may have.

16 PRESIDENT NEAL: Thank you, Mr. Arms.

17 That being said, we will turn this over to the
18 commissioners. Are there any comments or questions from
19 my colleagues?

20 Commissioner Lowenthal?

21 COMMISSIONER LOWENTHAL: Thank you, President
22 Neal. First of all, thank you Mr. Arms for that
23 extensive report and thanks to all the callers who gave
24 some very valuable input. I would really like to
25 understand from our attorney's perspective because, you

1 know, we did have some serious questions about the
2 legality of the direction that we're moving, and I
3 wonder if we could have one of our attorneys respond to
4 all of those statements.

5 DAWN MCINTOSH: Good morning, Commissioner.
6 This is Dawn McIntosh, with the city attorney's office.
7 I'd be happy to answer that question. Several of the
8 commenters were talking about what they believe are the
9 inadequacy of the environmental review. They commented
10 that to them there were significant unanswered questions
11 that needed to be resolved in an EIR. That is often a
12 point of disagreement. During projects there are
13 generally -- whenever a Negative Declaration is prepared
14 there are often people who feel that Environmental
15 Impact Report should have been prepared. It is a much
16 more extensive document, but CEQA does provide that when
17 you do Initial Study and determine there are no
18 significant impacts from the project, that a Negative
19 Declaration is the appropriate document to prepare, and
20 the Environmental Impact Report is not necessary.

21 Several commenters indicated that there were
22 unanswered questions on certain types of impacts, but
23 our team and the consultant had gone over those issues
24 extensively, including with the Air Quality Management
25 District, who one of the commenters noted that they were

1 planning to revise one of their rules, but that was
2 supposed to happen sometime in 2022. When you have a
3 project before you, you have to address the rules as
4 they exist when you are dealing with that project. You
5 can't anticipate future changes and tell the project
6 applicant that you think they should wait and see if new
7 rules come down the pipe later on. You have to deal
8 with the laws that stands when that project is before
9 you. And AQMD themselves have determined that this
10 project would not have any significant impacts on the
11 environment, and it was their rule that that particular
12 commenter was speaking to.

13 So I think in this case what you're looking at
14 is differences of opinion. Those folks have submitted
15 information that they believe goes against this project,
16 but our team and the consultants have reviewed those
17 comments and determined that their analysis is correct.
18 There's substantial evidence to support it, and they
19 support their finding of a Negative Declaration is the
20 appropriate document in this case.

21 COMMISSIONER LOWENTHAL: Thank you. Thank you,
22 Dawn. I appreciate it.

23 PRESIDENT NEAL: Thank you, Commissioner
24 Lowenthal.

25 Commissioner Colonna or Commissioner Weissman?

1 Commissioner Colonna?

2 COMMISSIONER COLONNA: Thank you, President
3 Neal. I -- you know, after Commissioner Lowenthal's
4 request from our city attorney in terms of her and her
5 staff's overview, I do agree with our staff attorney's
6 analysis and want to commend Matt and his staff for a
7 thorough report overview of the project. And I will
8 take the initiative: It's apparent that the economic
9 benefits of the project are well-described in staff's
10 report and further. I make the motion to approve a
11 resolution and other items required to adopt and approve
12 the application.

13 PRESIDENT NEAL: Thank you, Commissioner
14 Colonna. He's made a motion. Is there a second? And
15 then we'll go to you Vice President Weissman.

16 VICE PRESIDENT WEISSMAN: I'll second the
17 motion.

18 PRESIDENT NEAL: Thank you, Vice President
19 Weissman. So we have a motion and a second. Any
20 comments, Vice President?

21 VICE PRESIDENT WEISSMAN: Yes. Thank you.

22 And I also want to thank the people who called
23 this morning or who wrote us letters or e-mailed. You
24 know, I just want to check in once more with Mr. Arms to
25 see if there were any issues that were brought forward

1 that you did not address in your comments that you
2 want -- that you can address?

3 MATT ARMS: Thank you, Vice President Weissman.
4 I and my team believe that the issues that were
5 presented during public comment and the letters are
6 largely issues that were addressed in the extensive
7 response to comments. There are 260 or 220 pages of
8 response to comments in the document, and we feel that
9 they are largely uncovered in those responses.

10 VICE PRESIDENT WEISSMAN: Thank you. Thank
11 you.

12 You know, I have said this before, and I will
13 say it again right now, that, you know, questioning our
14 motives of why we serve is, I feel, unnecessary. I and
15 every one of the harbor commissioners are mindful every
16 day of the emissions that come from the Port and related
17 industries, and we all work very hard, and I work every
18 day to reduce truck, ship, and harbor craft emissions
19 and to incentivize cleaner operations and technology and
20 Port operation in our associated industries. It's no
21 secret that we still use fossil fuels here at the Port
22 and our -- as I mentioned, are working very hard to
23 hasten the day when that is no longer the case.

24 Because we need to be able to see soon how to
25 eliminate the use of polluting fuels and fuels that emit

1 greenhouse gasses. It is not a surprise to us that this
2 is a problem, not just for our area but for the Earth as
3 we deal with global warming, as we deal with fires and
4 all that -- sea-level rise. This is on all our minds
5 every day. Now World Oil recycles products that would
6 otherwise contribute to the growing mass of waste that
7 this country produces, and it also reduces the refining
8 of oil as they are recycling oil that otherwise there
9 would have to be new products created. I have asked
10 about World Oil's safety and operation records, and I am
11 satisfied that they are more than acceptable.

12 This project -- I know there's some
13 disagreement -- but we have experts, our staff, outside
14 consultants telling us that this project meets the
15 environmental standards and allows World Oil to continue
16 serving Port operations and valuable recycling
17 activities. And it is for that reason that I will vote
18 to approve this project.

19 PRESIDENT NEAL: Thank you, Commissioner
20 Weissman. And I do want to thank my colleagues for your
21 comment. This hearing is going to require three votes.
22 The first, the motion that Commissioner Colonna brought
23 up is in regard to -- in regard to the file -- receive
24 and file the staff report. So at this point, if there
25 are no further comments or questions regarding this

1 project, I'm going to close the public comment portion.
2 We have a motion from Commissioner Colonna and a second
3 from Commissioner Weissman to receive and file the staff
4 report documentation and public comments received on the
5 World Oil Tank Installation Project.

6 And with that, Ms. Espinoza, can we have a roll
7 call vote?

8 MS. ESPINOZA: President Neal?

9 PRESIDENT NEAL: Aye.

10 MS. ESPINOZA: Vice President Weissman.

11 VICE PRESIDENT WEISSMAN: Aye.

12 MS. ESPINOZA: Commissioner Lowenthal?

13 COMMISSIONER LOWENTHAL: Aye.

14 MS. ESPINOZA: Commissioner Colonna?

15 COMMISSIONER COLONNA: Aye.

16 PRESIDENT NEAL: Thank you, Commissioners.

17 Next do we have a motion to approve a
18 resolution to adopt the Initial Study and Negative
19 Declaration and approve the project pursuant to the
20 California Environmental Quality Act or CEQA.

21 COMMISSIONER LOWENTHAL: I'll make the motion.

22 COMMISSIONER COLONNA: I'll second.

23 PRESIDENT NEAL: I have a motion by
24 Commissioner Lowenthal and a second by Commissioner
25 Colonna.

1 Can we have a roll call vote, please?

2 MS. ESPINOZA: President Neal?

3 PRESIDENT NEAL: Aye.

4 MS. ESPINOZA: Vice President Weissman?

5 VICE PRESIDENT WEISSMAN: Aye.

6 MS. ESPINOZA: Commissioner Lowenthal?

7 COMMISSIONER LOWENTHAL: Aye.

8 MS. ESPINOZA: Commissioner Colonna?

9 COMMISSIONER COLONNA: Aye.

10 PRESIDENT NEAL: And then lastly, colleagues,
11 for this item I'll entertain a motion to approve the
12 Applicant's Summary Report and issue a Level II Harbor
13 Development Permit Number 19-066 under the Certified
14 Port Master Plan and Section 1215 of the Long Beach City
15 Charter.

16 Is there a motion to approve?

17 COMMISSIONER COLONNA: So move.

18 PRESIDENT NEAL: I have a motion from
19 Commissioner Colonna. And is there a second?

20 COMMISSIONER LOWENTHAL: Second.

21 PRESIDENT NEAL: Second from Commissioner
22 Lowenthal.

23 Roll call vote, Ms. Espinoza.

24 MS. ESPINOZA: President Neal?

25 PRESIDENT NEAL: Aye.

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MS. ESPINOZA: Vice President Weissman?

VICE PRESIDENT WEISSMAN: Aye.

MS. ESPINOZA: Commissioner Lowenthal?

COMMISSIONER LOWENTHAL: Aye.

MS. ESPINOZA: Commissioner Colonna?

COMMISSIONER COLONNA: Aye.

PRESIDENT NEAL: Thank you, Commissioners. We
will now close the public hearing.

(End of Item 1H at 1:15:00.)

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REPORTER'S CERTIFICATE

I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing electronically-recorded proceedings were transcribed by me to the best of my ability.

I further certify I am neither financially interested in the action nor a relative or employee of any attorney or party to this action.

IN WITNESS WHEREOF, I hereunto subscribe my name this 15th day of November, 2021.



Natalie Fagan
CSR NO. 13993

HONORABLE MAYOR AND CITY COUNCIL

January 4, 2022

Harbor Department Appeal Hearing

Appeal of the Adoption of the
INITIAL STUDY/NEGATIVE DECLARATION
FOR THE WORLD OIL TANK INSTALLATION PROJECT

ATTACHMENT 7

Appeal of Safe Fuel and Energy Resources CA

Received November 5, 2021

(referenced Exhibits provided in enclosed USB drive)

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Licensed in Colorado.

November 5, 2021

Via Email & Overnight Mail

Mayor Robert Garcia
Long Beach City Council
Monique De La Garza
City Clerk
Port of Long Beach
411 W. Ocean Blvd., 11th Floor
Long Beach, CA 90802
Email: cityclerk@longbeach.gov
Pablo.Rubio@longbeach.gov

Re: Appeal of Approval of World Oil Tank Installation Project and Initial Study/Negative Declaration (SCH: 2020100119)

Dear Mayor Garcia, Councilmembers, Ms. De La Garza:

We are writing on behalf of Safe Fuel and Energy Resources California (“SAFER CA”) and Long Beach residents Nicholas Garcia, Sopha Sum, and Sophall Sum to appeal the Board of Harbor Commissioners’ October 28, 2021 decision to approve a Harbor Development Permit (No. 19-066) and approval of the Final Initial Study/Negative Declaration (“IS/ND”) for the World Oil Tank Installation Project (“Project”), proposed by Ribost Terminal, LLC dba World Oil Terminals (“Applicant”). The Project seeks to construct two new 25,000-barrel petroleum storage tanks at the existing World Oil Terminal owned by Applicant located at the Port.¹ The terminal is 261,000 square feet (about 6 acres) and contains seven existing petroleum tanks of various sizes totaling a capacity of 502,000 barrels.² The two tanks would provide additional storage capacity of petroleum for refining and distribution and would make two of its existing larger tanks available for lease by

¹ IS/ND, p. 2-1.

² IS/ND, p. 1-1.
4943-012acp

third-party vendors.³ The IS/ND estimates a 10 percent increase in truck trips, as well as an increase in average barrel throughput of fuel oil, but not of crude oil, over existing operations at the facility.⁴

We previously submitted comments, along with our technical consultant, emissions and air quality expert Dr. Phyllis Fox, on the Draft IS/ND on November 20, 2020. After the Port released a Staff Report with responses to comments, we submitted rebuttal comments to the Board of Harbor Commissioners ahead of its October 28, 2021 hearing. Those comments are attached to this appeal and are incorporated by reference herein.

I. APPELLANT CONTACT INFORMATION

This appeal is being filed on behalf of Safe Fuel and Energy Resources California (“SAFER CA”) and Long Beach residents Nicholas Garcia, Sopha Sum, and Sophall Sum.

All appellants request that the City contact them through their representative, as follows:

Kendra D. Hartmann
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080
Tel: (650) 589-1660 ext. 21
Fax: (650) 589-5062
Email: khartmann@adamsbroadwell.com

However, in order to comply with Municipal Code requirements, we hereby provide the addresses and phone numbers of the individual appellants, as follows:

Nicholas Garcia
6765 Olive Ave.
Long Beach, CA 90805
(323) 855-9730

³ IS/ND, p. 2-4.

⁴ IS/ND, p. 2-6.
4943-012acp

Sopha Sum
4530 E 4th Street Apt. 2d
Long Beach, CA 90814
(562) 522-3091

Sophall Sum
837 Temple Ave. #1
Long Beach, CA 90804
(562) 308-8722

SAFER CA advocates for safe processes at California refineries and fuel transport and distribution facilities to protect the health, safety, standard of life and economic interests of its members. For this reason, SAFER CA has a strong interest in enforcing environmental laws, such as CEQA, which require the disclosure of potential environmental impacts of, and ensure safe operations and processes for, California's fuel production, storage, and transport projects. Failure to adequately address the environmental impacts of renewable or traditional fuel and other refinery product transport, storage, and refining processes poses a substantial threat to the environment, worker health, surrounding communities and the local economy.

Refineries and fuel transport, storage, and distribution facilities are uniquely dangerous and capable of generating significant fires and the emission of hazardous and toxic substances that adversely impact air quality, water quality, biological resources, and public health and safety. Absent adequate disclosure and mitigation of hazardous materials and processes, refinery and fuel terminal workers and surrounding communities may be subject to chronic health problems and the risk of bodily injury and death. Additionally, rail transport of fuel and other refinery products has been involved in major explosions, causing vast economic damage, significant emissions of air contaminants and carcinogens and, in some cases, severe injuries and fatalities.

SAFER CA supports the sustainable development of fuel resources in California. However, poorly planned refinery and fuel distribution facility projects can adversely impact the economic wellbeing of people who perform construction and maintenance work in refineries, port terminals, fuel distribution facilities, and the surrounding communities. Plant and terminal shutdowns caused by accidental toxic releases and infrastructure breakdowns have caused prolonged work stoppages. Such nuisance conditions and catastrophic events impact local communities and the natural environment and can jeopardize future jobs by

making it more difficult and more expensive for businesses to locate and people to live in the area. The participants in SAFER CA are also concerned about projects that carry serious environmental risks and public service infrastructure demands without providing countervailing employment and economic benefits to local workers and communities.

The members represented by the participants in SAFER CA live, work, recreate and raise their families in Los Angeles County, including the City of Long Beach. Accordingly, these people would be directly affected by the Project's adverse environmental impacts. The members of SAFER CA's participating unions may also work on the Project itself. They will, therefore, be first in line to be exposed to any hazardous materials, air contaminants, and other health and safety hazards, that exist onsite.

II. GROUNDS AND EVIDENCE FOR APPEAL

We appeal the Board of Harbor Commissioners' approval of the HDP and IS/ND on the following grounds. The legal and factual grounds, as well as all supporting evidence, are contained in the prior comments submitted by SAFER CA and Dr. Fox, attached as Exhibits A and B, as well as the comments submitted on the Draft IS/ND by other commenters and attached as Exhibit C.

First, the Port failed to comply with CEQA when it failed to respond adequately to the vast majority of the comments we submitted on the Draft IS/ND, as well as failing to respond altogether to nearly all of the comments submitted by our technical expert, Dr. Phyllis Fox.⁵ The Port's responses to Dr. Fox's comments failed to address any of the specific, technical evidence she cited and instead simply directed the reader to its responses to comments by other commenters, most of which do not contain the same level of technical detail. Evidence of this egregious failure by the Port to uphold its duty to fully consider public comments can be seen in the attached Staff Report and Responses to Comments.⁶ Agencies are required to provide "detailed written response to comments . . . to ensure that the lead agency will fully consider the environmental consequences of a decision before it is made,

⁵ Comments submitted by SAFER CA and Dr. Fox on November 20, 2020 on the Draft IS/ND are attached and incorporated as **Exhibit A**. Comments submitted by SAFER CA and Dr. Fox on October 28, 2021 in rebuttal to the Port's responses to earlier comments are attached and incorporated as **Exhibit B**.

⁶ For the purposes of this appeal, we adopt and incorporate any and all issues raised in other comments submitted on the Draft IS/ND. The Port's Responses to Comments, which include all other comments, is attached hereto as **Exhibit C**.

that the decision is well informed and open to public scrutiny, and the public participation in the environmental review process is meaningful.”⁷ Comments raising significant environmental issues must be addressed in detail.⁸ Failure of a lead agency to respond to comments before approving a project frustrates CEQA’s informational purpose, rendering an EIR legally inadequate.⁹ “There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice.”¹⁰

Second, the IS/ND is legally inadequate as it failed to provide substantial evidence to support its findings of no significant air quality, public health, and other impacts, as discussed in our comments. Additionally, the Port used flawed methodology in its analyses, resulting in underestimated impacts and unsupported conclusions, including the unsupported conclusion that the Project will have no significant impacts and requires no mitigation. Its conclusions, for example, that operational emissions are insignificant, omit any of the calculations or criteria supporting its conclusions—reviewers are left to accept, categorically and without question, the agency’s conclusory and unsupported statements. An agency cannot conclude that an impact is less than significant unless it produces rigorous analysis and concrete substantial evidence justifying the finding.¹¹ The omission of information required by CEQA is a failure to proceed in the manner required by law.¹²

Third, substantial evidence supports a fair argument that the Project may result in potentially significant impacts. The IS/ND, therefore, is inappropriate and an EIR must be prepared,¹³ even if other substantial evidence supports the opposite conclusion.¹⁴ Here, the IS/ND itself provides substantial evidence of significant air quality impacts from Project VOC emissions, which by the Port’s own admission will

⁷ *City of Long Beach v. Los Angeles Unified Sch. Dist.* (2009) 176 Cal.4th 889, 904.

⁸ 14 Cal. Code Regs § 15088(c).

⁹ *Flanders Found. v. City of Carmel-by-the-Sea* (2012) 202 Cal.4th 603, 615; *Rural Landowners Ass’n v. City Council* (1983) 143 Cal.3d 1013, 1020.

¹⁰ CEQA Guidelines, § 15088, subd. (c); *The Flanders Foundation v. City of Carmel-by-the-Sea* (2012) 202 Cal.App.4th 603, 615; see *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1124.

¹¹ *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 732.

¹² *Sierra Club v. State Bd. Of Forestry* (1994) 7 Cal.4th 1215, 1236.

¹³ CEQA Guidelines § 15064 subd. (f), (h).

¹⁴ *See No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75.
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exceed SCAQMD's offset threshold for its New Source Review Rule,¹⁵ triggering the Air District's offset requirement. Furthermore, Dr. Fox's comments provide an abundance of substantial evidence, found in both Exhibits A and B attached to this appeal, supporting fair arguments that the Project will have significant, unmitigated air quality impacts from emissions of construction, operation, fugitive sources, and increased facility capacity, all of which the Port failed to disclose and mitigate, in violation of CEQA.

Fourth, numerous instances can be found throughout the entire IS/ND demonstrating the Port's deliberate disregard for its legal obligation to comply with CEQA, particularly the aspects of the statute regarding public participation and disclosure of supporting documents. Instead of providing evidence to support its conclusions and to allow the public an opportunity to independently review the Project's potential impacts, the Port offered conclusory statements in its responses to comments, claiming that it coordinated with SCAQMD, for example, "to ensure that all new piping component fugitive VOC emissions are included in the emissions estimate."¹⁶ An agency's assurances that it has "ensured" the accuracy of a project's estimated impacts ignores the public participation requirement of CEQA.

In another blatant dismissal of its duties under CEQA, the Port relied on hidden studies to revise impact analyses of air quality for the Final IS/ND. Though the Applicant filed a new Permit to Construct/Permit to Operate with the Air District upon which most of the Final IS/ND's revised conclusions were based, the Port neglected to make the permit application available, yet again precluding any meaningful public review of its analyses. In its evaluation of operational emissions, its revised calculations, using an updated—though still clearly inadequate—modeling software included none of the estimation parameters or other details necessary to evaluate the completeness and accuracy of the calculations. Projects adversely affecting the environment have the potential to impact everyone, and CEQA therefore provides a mechanism by which to scrutinize the work done by lead and responsible agencies, so that all who stand to be affected by a project's impacts may invest in safeguarding it.

The IS/ND contains several more violations, as outlined in our comment letters, demonstrating that the Port improperly relied on mitigation measures

¹⁵ "The facility's existing potential to emit is above the SCAQMD New Source Review Rule VOC offset threshold of 4 tons per year; therefore, the new tank emissions were required to be offset." Draft IS/ND, p. 4-9.

¹⁶ *Id.*
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disguised as design features in an effort to make impacts appear less significant than they are. Construction emissions, for example, are calculated assuming the use of Tier 4 Final construction equipment—which, as Dr. Fox pointed out, “is universally considered to be mitigation”—before the Port ultimately imposes a “Special Condition” intended to reduce construction emissions, but which it claims is not a mitigation measure. The IS/ND also suggested the use of emission reduction credits (“ERCs”) to offset VOC emissions, disregarding Dr. Fox’s prior comments explaining that ERCs are not valid mitigation. Nevertheless, the IS/ND improperly claims that none of them are mitigation. This is another violation of CEQA, which prohibits the use of mitigation measures disguised as project features.¹⁷

A negative declaration is, by definition, a declaration that the Project needs no mitigation because it will not result in any impacts. If any measures are imposed to avoid adverse impacts, even if the agency chooses to call them by another name, their very existence invalidates the preparation of an ND. An EIR must be prepared.

III. ACTION BEING REQUESTED

We respectfully request that the Council overturn the Board’s approval of the Harbor Development Permit and approval of the IS/ND and require that an EIR be prepared in which all Project impacts are 1) properly analyzed using appropriate methodology, 2) in compliance with the disclosure and public participation requirements of CEQA, and 3) fully disclosed and mitigated before being recirculated for the statutorily mandated public review and comment period.

Thank you for your consideration of this appeal. We reserve the right to submit additional comments and evidence to the Council prior to the hearing on this appeal, and in response to any new evidence or staff report prepared by the Port.

Sincerely,



Kendra Hartmann

Attachments
KDH:acp

¹⁷ *Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 658.
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HONORABLE MAYOR AND CITY COUNCIL

January 4, 2022

Harbor Department Appeal Hearing

Appeal of the Adoption of the
INITIAL STUDY/NEGATIVE DECLARATION
FOR THE WORLD OIL TANK INSTALLATION PROJECT

ATTACHMENT 8

**Detailed Response of Harbor Department to the
Issues on Appeal Raised by
Safe Fuel and Energy Resources CA**

ATTACHMENT 8

Detailed Response of Harbor Department to the Issues on Appeal Raised by SAFE FUEL AND ENERGY RESOURCES CALIFORNIA (SAFER CA)

Ground for Appeal

The Port failed to respond adequately to the vast majority of the comments SAFER CA submitted on the Draft Initial Study (IS)/Negative Declaration (ND) and failed to respond altogether to nearly all the comments submitted by SAFER CA's technical expert. The Port's responses to SAFER CA's technical expert's comments failed to address any of the specific, technical evidence cited and instead simply directed the reader to its responses to comments by other commenters, most of which do not contain the same level of technical detail.

Response

SAFER CA is incorrect in its claim that the Port failed to respond to a vast majority of their comments and comments submitted by their technical expert. The California Environmental Quality Act (CEQA), Public Resources Code Section 21000, *et seq.*, does not require responses to comments on a proposed Negative Declaration. Section 15074(b) of the State CEQA Guidelines only requires that the lead agency consider any comments received prior to approving the project. In accordance with CEQA, the Port carefully considered the nearly 120 comments received on the Draft IS/ND and, in fact, went beyond what is required and provided detailed, good faith, reasoned responses to each comment received, including those from SAFER CA.

The detailed responses prepared by the Port in the Final IS/ND include technical detail where warranted. In instances where the subject matter of one topic overlaps with or is similar to that raised in other comments, cross-references are provided to other responses to comments, where necessary. This is a common practice by lead agencies when providing responses to comments. The comment letters and detailed responses to each comment are included in Section 8 of the Final IS/ND.

Therefore, this ground for appeal has no merit and should be denied for the following reasons:

- 1) CEQA does not require responses to comments on Negative Declarations;
- 2) While not required, the Port provided detailed, good faith, reasoned responses to each comment received, including detailed technical responses to comments where warranted; and
- 3) It is common practice and allowed under CEQA for a Lead Agency to cross-reference responses to comments.

Ground for Appeal

The IS/ND is legally inadequate because it fails to provide substantial evidence to support its findings of no significant air quality, public health, and other impacts. The Port used flawed methodology in its analyses, resulting in underestimated impacts and the unsupported conclusion that the Project will have no significant impact and requires no mitigation. The conclusions in the IS/ND omit any of the calculations or criteria supporting its conclusions. The addition of two 25,000-barrel tanks to the site, while the two larger tanks that were previously underutilized will be leased to third-party vendors and will likely be full, resulting in an increase in the amount of crude oil present at the site. This, in turn, will lead to increased emissions from any activity ancillary to tank operations.

Response

Contrary to the appellant's claim, in accordance with CEQA, the Port provided substantial evidence in the Final IS/ND to support the conclusion that there would be no significant impacts to air quality or public health, and no other potentially significant impacts to the environment associated with the Project. Methodologies and calculations used in the analyses are fully discussed and referenced in the document and are consistent with regulatory agency-approved guidance.

Section 4.3 (Air Quality) of the Final IS/ND starting at page 4-7 provides detailed discussion of the construction and operational analyses to determine if the Project would pose air quality impacts in accordance with CEQA. Construction-related criteria pollutant and GHG and criteria emissions were evaluated using the California Emissions Estimator Model (CalEEMod), a statewide emissions computer model developed for the California Air Pollution Officers Association with California Air Districts for quantifying air quality impacts from land use projects throughout California, including those that require analysis under CEQA. As summarized in IS/ND Table 4.3-1, the maximum daily construction emissions for criteria pollutants are all well below the South Coast Air Quality Management District (SCAQMD) emission significance thresholds; therefore, construction emissions were determined to have less-than-significant impacts. Appendix A of the Final IS/ND provides the CalEEMod model runs for the Project.

Section 4.3 (Air Quality) of the IS/ND, starting at page 4-10, provides a detailed discussion of the potential air emissions associated with operation of the Project. As discussed on page 4-10 of the Final IS/ND, the operational VOC emissions were re-estimated by the SCAQMD using current guidance in the U.S. EPA-approved *AP-42 Emission Estimation Procedures for Floating Roof Tanks* rather than the older U.S. EPA TANKS model used in the Draft IS/ND. The re-estimation of the operational VOC emissions was the result of comments from SAFER CA and others that the U.S. EPA TANKS model underestimates VOC emissions from petroleum storage tanks. Use of U.S. EPA AP-42 calculation methodology resulted in re-estimated VOC emissions from the new tanks of approximately 10.82 pounds per day, a marginal increase of 1.12

pounds per day from the VOC emissions originally estimated in the Draft IS/ND. The VOC emissions from operation of the new tanks are still well below the SCAQMD significance threshold of 55 pounds per day. Appendix A of the Final IS/ND provides the data and information used for the air quality analyses.

Health impacts are addressed in the Final IS/ND, in Section 4.3 (Air Quality), starting at page 4-11. The air quality assessment was prepared in accordance with published SCAQMD methods and guidelines that include assessment of regional impacts, localized impacts for criteria pollutants. The health risk assessment (cancer, chronic, acute health impacts) for toxic air contaminants associated with tank operation emissions and construction activity emissions were prepared in accordance with CARB, Office of Environmental Health Hazard Assessment (OEHHA), and SCAQMD recommended methods. The Final IS/ND Section 4.3 (Air Quality) utilizes SCAQMD recommended Localized Significance Thresholds (LST) for construction and operation emissions to address project-level criteria pollutant health impacts. The emissions health risk impacts associated with construction and operation of the Project are assessed against the SCAQMD significance criteria and shown in Table 4.3-3 and Table 4.3-4 of the Final IS/ND, respectively. The construction and operational emissions are all well below the SCAQMD LSTs, and therefore would not expose sensitive receptors to substantial pollutant concentrations. In addition, a screening level health risk analysis for construction activities was conducted using SCAQMD risk assessment methods for short-term projects, based on OEHHA guidance. The worst-case screening level cancer risk is identified on page 4-12 of the IS/ND to be 4.72×10^{-7} , which represents the probability that 4.72 people in a population of 10 million will develop cancer in their lifetime. This is over 20 times below the cancer risk significance threshold for maximum exposed residents of 10 in a million (10×10^{-6}) (see page 4-12 of the Final IS/ND).

The Final IS/ND, in Section 4.3 (Air Quality), starting at page 4-13 explains that the cancer risk analysis from operation of the new tanks was conducted by conservatively using toxic air contaminant (TAC) emission rates from gasoline—rather than crude oil—as recommended by the SCAQMD. TACs are defined by the State of California as pollutants which may cause or contribute to an increase in mortality or an increase in serious illness, or which may pose a present or potential hazard to human health (Health and Safety Code Section 39655(a)). According to the SCAQMD, by assuming that gasoline is stored in the tanks, the use of the TAC profile of gasoline for the purposes of the health risk assessment, instead of the TAC profile of crude oil, is a “worst-case” conservative assumption because the true vapor pressure of crude oil is less than that for gasoline. This means that there is more potential for the known TAC organic compounds that comprise gasoline to become volatile and emitted into the air. Because the proposed new tanks at the World Oil Facility will not store gasoline, this is a “worst-case scenario” assumption.

The estimated cancer health risk associated with operation of the new tanks of 1.5×10^{-7} for the maximum exposed sensitive receptor (schools, residences, senior care facilities, day care facilities, and hospitals) is well below the CEQA maximum incremental cancer risk significance threshold of 10×10^{-6} , which represents the risk or

probability that 10 people in one million will develop cancer over their lifetime. The health risk of 4.57×10^{-7} associated with the combined construction and operational emissions of the Project is also well below the CEQA significance threshold of 10×10^{-6} . Therefore, construction and operational emissions would not expose sensitive receptors to substantial TAC concentrations, and operational impacts are less than significant. (See Final IS/ND at page 4-13.) Because the TAC profile of gasoline, instead of crude oil was conservatively used in the health risk assessment in the IS/ND, the Project would be likely to produce operational health impacts that are less than the values presented in the Final IS/ND.

Use of the existing tanks at the World Oil site would continue to be operated pursuant to conditions in their existing SCAQMD permits, which allow for storage of fuel oils up to each tank's capacity. No changes to World Oil's existing SCAQMD permits or permit conditions for the existing tanks have been requested or are needed to implement the proposed Project. The Final IS/ND, in Section 2.9 (Project Description), clearly describes that use of the existing tanks by third-party lessees would continue to primarily ship and receive the same or similar fuel oils through either the two inbound and outbound Marathon Petroleum pipelines serving the Marathon Petroleum Carson Refinery and/or Marathon Petroleum pipeline and terminal assets; or the Glencore bidirectional pipeline serving the Glencore Long Beach Marine Terminal and Glencore Carson Marine Terminal. As such, the Project would not result in any significant changes to the existing tank operations in light of current and past uses of these existing tanks.

Therefore, this ground for appeal has no merit and should be denied for the following reasons:

- 1) The methodologies and calculations are fully discussed and referenced in the environmental document and are consistent with regulatory agency-approved guidance. Impacts were determined to be less than significant;
- 2) World Oil is not requesting changes to their existing "SCAQMD" permits to operate the existing tanks at the facility; the existing tanks would continue to operate as currently permitted and would store the same or similar fuels as has been historically stored in the tanks; and
- 3) Worst-case scenario health and cancer risks associated with the combined construction and operational emissions of the Project are well below the CEQA significance thresholds.

Ground for Appeal

There is substantial evidence supporting a fair argument that the Project may result in potential significant impacts and an EIR must be prepared, even if other substantial evidence supports the opposite conclusion. Comments previously submitted by SAFER CA provide an abundance of substantial evidence,

supporting fair arguments that the Project will have significant, unmitigated air quality impacts from emissions of construction, operation, fugitive sources, and increased facility capacity, all of which the Port failed to disclose and mitigate, in violation of CEQA.

Response

The IS/ND was prepared in full compliance with CEQA, and its conclusions are amply supported by substantial evidence. All air quality analyses were conducted using federal (U.S. EPA), state (California Air Resources Board [CARB], Office of Environmental Health Hazard Assessment [OEHHA]), or regional (SCAQMD)-approved and/or recommended guidance and methodologies, which are clearly documented and disclosed in the Final IS/ND. The Final IS/ND specifically included analysis of potential environmental impacts associated with construction and operation of the proposed Project in consideration of each of the nearly 120 comments received on the Draft IS/ND, including those submitted by SAFER CA. Evidence of the Port's consideration and responses to comments received are shown throughout the Final IS/ND. Some of the comments received necessitated clarifications and insignificant modifications to the Draft IS/ND, which are articulated in the Introduction to the Final IS/ND starting on page 1-1 and shown as strikeouts and additions throughout the Final IS/ND. In addition, for each comment received, the Port provided detailed, good faith responses and rationale for those which the Port did not incorporate into the document. SAFER CA's technical expert's opinion that the impacts in the IS/ND are underestimated are primarily based on demonstration projects, such as the FluxSense Study, industry journal articles, or news articles that have not been vetted or approved by any regulatory agency, such as the South Coast Air Quality Management District (SCAQMD), and are not suited for emissions estimation or CEQA significance thresholds; nor are they approved for permitting or regulatory purposes. SAFER CA's comments on the Draft IS/ND and the Port's responses to their comments are provided in Section 8 of the Final IS/ND starting on page 8-114. While the Project would provide additional capacity at the World Oil Terminal, it is clearly discussed in the IS/ND that the Project would provide for more efficient terminal operations by making more existing tanks available for lease by third-party vendors with no increase in trucks visiting the terminal, due to limitations associated with the physical geometry of the site and permit limits (see Final IS/ND, page 2-1).

The Port has concluded that there is no substantial evidence in the record that the Project may have a significant effect on the environment pursuant to State CEQA Guidelines, Section 15064. As such, a Negative Declaration has been prepared and an EIR is not required.

Therefore, this ground for appeal has no merit and should be denied for the following reasons:

- 1) Construction and operations-related emissions were calculated using regulatory agency-approved guidance, methodologies, and significance thresholds which are adequately disclosed in the Final IS/ND; and
- 2) SAFER CA's purported "significant evidence" of underestimated impacts are primarily based on demonstration projects, industry journal articles, or news articles that have not been vetted or approved by any regulatory agency therefore are not suitable for emissions estimation or CEQA significance thresholds, nor are they approved for permitting or regulatory purposes.

Ground for Appeal

The IS/ND provides substantial evidence of significant air quality impacts from Project VOC emissions, which by the Port's own admission will exceed SCAQMD's offset threshold for its New Source Review Rule, triggering the Air District's offset requirement. SAFER CA's technical expert provided substantial evidence supporting fair arguments that the Project will have significant, unmitigated air quality impacts from emissions of construction, operation, fugitive sources, and increased facility capacity, which the Port failed to disclose and mitigate.

Response

The appellant errs in equating the SCAQMD's offset threshold for New Source Review with significance thresholds under CEQA. The Project's operational VOC emissions are well below the SCAQMD emissions significance threshold and therefore, will not have significant air quality impacts and mitigation is not required. As discussed in the Final IS/ND at page 4-10 and in response to SAFER CA's comment on the Draft IS/ND SFERCA-27 at page 8-216 of the Final IS/ND, the VOC emissions associated with operation of the Project would exceed the SCAQMD New Source Review Rule 1303(b)(2) VOC offset threshold of 4 tons per year. Therefore, VOC emission offsets would be a requirement of the SCAQMD for permitting the new tanks under SCAQMD New Source Review Rule 1303(b)(2)—not CEQA. During the CEQA consultation process with SCAQMD, SCAQMD staff noted that:

"[The] project's VOC emissions are below the South Coast AQMD's CEQA significance threshold. The applicant is required to provide offsets pursuant to South Coast AQMD Rule 1303(b)(2). Those offsets can be used to reduce the VOC impacts from the project for CEQA purposes, but

because [SCAQMD's] VOC significance thresholds are not exceeded, no mitigation is necessary.”¹

This email correspondence is provided as a reference in Final IS/ND Section 7 (References), and was also included in the administrative record provided to SAFER CA on November 1, 2021 in response to their Public Records Act request. Therefore, this ground for appeal should be denied for the following reasons:

- 1) Operational VOC emissions are below the SCAQMD significance thresholds;
- 2) The IS/ND does not rely on emissions reduction credits or offsets to reduce or mitigate VOC emissions under CEQA; and
- 3) VOC emission reduction credits or offsets are a requirement of the SCAQMD for permitting the new tanks under the SCAQMD New Source Review Rule—not CEQA.

Ground for Appeal

Numerous instances in the IS/ND demonstrate the Port's deliberate disregard for its legal obligation to comply with CEQA, particularly the aspects of the statute regarding public participation and disclosure of supporting documents. Instead of providing evidence to support the conclusions in the IS/ND, the Port offered conclusory statements claiming that it coordinated with SCAQMD.

Response

SAFER CA is incorrect. The Port fully complied with CEQA, including its requirements for public participation and disclosure of all supporting documents for the IS/ND analyses. On October 7, 2020, in accordance with CEQA Guidelines Section 15105(b), the Draft IS/ND was released to the public for a 30-day review and comment period. After a commenter requested additional time for review, the Port extended the review period to November 20, 2020. As previously discussed herein, although not required by CEQA, the Port provided extensive and detailed responses to all comments received on the Draft IS/ND, along with substantial evidence to support the conclusions.

As a public agency, the Port maintains project-related documents and materials referenced in the IS/ND to be included in the administrative record, which is kept on file and available for public review upon request in accordance with the California Public Records Act. The Port provided all project-related documents and materials requested

¹ Email from Tom Liebel, South Coast Air Quality Management District to Jennifer Blanchard, Port of Long Beach. Subject: Ribost: Tank Project Analysis Confirmation, June 16, 2021.

by SAFER CA in their California Public Records Act requests dated October 9, 2020, October 12, 2020, October 29, 2020, and October 14, 2021.

SAFER CA's assertion that the Port provided conclusory statements claiming that it coordinated with SCAQMD is without merit. As required by CEQA, the Port adequately consulted with the SCAQMD on the air quality analysis for the Project. The SCAQMD is the air quality regulatory agency for the South Coast Air Basin and a responsible agency under CEQA for the assessment and approval of the Project's air emissions. The Project cannot move forward unless the SCAQMD issues permits to construct and operate. On December 3, 2020, Port staff met with SCAQMD staff to discuss the comments submitted on the Draft IS/ND related to the SCAQMD-issued permit to construct/permit to operate (PTC/PTO) as well as to discuss the studies referenced by SAFER CA's technical expert. Numerous additional meetings and calls were held with SCAQMD staff, to discuss the project to ensure that it would meet SCAQMD's requirements for compliance with CEQA for issuance of the PTC/PTO. A chronology of internal discussions with the Port's consultant and coordination with the SCAQMD for the Project was included in the administrative record provided to SAFER CA on November 1, 2021, in response to SAFER CA's Public Records Act request. Correspondence between Port staff and SCAQMD staff are clearly referenced in Section 7 (References) of the Final IS/ND.

Therefore, this ground for appeal has no merit and should be denied for the following reasons:

1. CEQA requires the public review period not be less than 30 days, The Draft IS/ND was released to the public from October 7, 2020 to November 20, 2020, well beyond the required 30 days;
2. Even though CEQA Guidelines do not require a Lead Agency to provide written responses for a ND, the Port provided extensive and detailed responses to all comments received on the Draft IS/ND; and
3. All Project-related documents and reference materials in the IS/ND were provided to SAFER CA in response to each of their Public Records Requests, including documentation of the Port's coordination with the SCAQMD.

Ground for Appeal

The Port relied on hidden studies to revise the impact analyses of air quality for the Final IS/ND by not making the SCAQMD's new Permit to Construct/Permit to Operate (PTC/PTO) application available to the public precluding any meaningful public review of its analyses. The updated modeling software used by SCAQMD to evaluate the Project's operational emissions are inadequate.

Response

SAFER CA is incorrect. The Port did not rely on “hidden studies” to revise the air quality impact analyses in the Final IS/ND. All studies used in the analyses are referenced throughout the document and are listed in Section 7 (References) of the Final IS/ND. World Oil’s Application for PTC/PT O– Two Additional Petroleum Storage Tanks, prepared by Yorke Engineering, LLC is clearly listed in the References at page 7-6 of the Final IS/ND. While the CEQA Guidelines do not require all sources to be cited in a negative declaration, and only require this in an EIR, the Port nonetheless referenced all studies it used in preparing the ND. Specifically, for EIRs, CEQA Guidelines Section 15148 states, in part: “Preparation of [EIRs] is dependent on information from many sources, including engineering project reports and many scientific documents relating to environmental features. These documents should be cited but not included in the [EIR].” World Oil’s application for SCAQMD permits and all studies relied upon were disclosed in the ND, thus satisfying even the higher mandate set forth for EIRs, which does not apply here.

All references identified in the IS/ND are public record and available upon request. The references were provided to SAFER CA pursuant to their October 9, 2020, October 12, 2020, October 29, 2020, and October 14, 2021 public records request, as discussed previously. In addition, State CEQA Guidelines, Section 15150, in part, allows for the incorporation by reference of all or portions of another document which is a matter of public record or is generally availability to the public. World Oil’s PTC/PTO Application for the Project is referenced in the Final IS/ND and listed in the References Section (Section 7), and also provided to SAFER CA as a result of their public records request for all documentation and materials related to the Project. The Project’s construction emissions, operational emissions, and parameters for the emission calculations are discussed in Section 4.3 (Air Quality) and provided in Appendix A of the Final IS/ND.

As a result of comments received from SAFER CA and others regarding the suitability of the U.S. EPA TANKS 4.0 model that was originally used in the air emissions estimates in the Draft IS/ND, the Final IS/ND incorporates re-estimated operational air emissions using the U.S. EPA-approved and recommended guidance for estimation of air pollutants, *AP-42 Compilation of Air Pollutant Emission Factors, Volume 1: Stationary Point and Area Sources, Section 7.1 Organic Liquid Storage Tanks*. While use of the U.S. EPA AP-42 calculation method, as opposed to the original U.S. EPA TANKS model emissions presented in the Draft IS/ND, resulted in a marginal increase in the estimated VOC emissions from the new tanks in the Final IS/ND, the VOC emissions remain well below the SCAQMD threshold of 55 pounds per day. The revised air emissions estimates are presented in the Final IS/ND starting on page 4-10. All air emissions estimates associated with operation of the Project would be below the SCAQMD significance thresholds, and thus, would be less than significant. Therefore, this ground for appeal should be denied.

- 1) All studies used in the analyses are referenced throughout the document and are listed in the Final IS/ND Section 7 (References), including World Oil's Application for SCAQMD PTC/PTOs;
- 2) In response to each of their public records requests, SAFER CA received all Project-related documents and reference materials identified in the IS/ND;
- 3) Operational air emissions are estimated using methodologies and calculations consistent with regulatory agency-approved and recommended guidance for estimation of air pollutants; and
- 4) Daily VOC emissions are well below the SCAQMD significance thresholds.

Ground for Appeal

The Port relied on mitigation measures disguised as design features in an effort to make impacts appear less significant; construction emissions were assumed using Tier 4 construction equipment, while also improperly disguising a mitigation measure as a Special Condition to the Harbor Development Permit requiring the use of Tier 4 construction equipment.

Response

SAFER CA is incorrect that the Project's construction emissions assume the use of Tier 4 construction equipment. The use of default emission factors (non-Tier 4 equipment) without project-specific controls is shown in the CalEEMod reports provided in Appendix A of the Final IS/ND. The Port's run of the CalEEMod software includes no "user-specified" mitigation. The use of default emission factors rather than mitigated emission factors can be confirmed by reviewing Final IS/ND Appendix A, page A-3, which tabulates equal results for "unmitigated" and "mitigated" scenarios and shows "0.00 percent" reduction attributable to mitigation. This substantiates that the Port did not improperly assume use of Tier 4 equipment through mitigation; using default settings in CalEEMod provides the "unmitigated" results.

As shown in Section 4.3 (Air Quality) of the Final IS/ND, the Port will require the use of construction equipment that meet Tier 4 off-road engine standards as a Special Condition of the Project's HDP in accordance with the Port's Construction Air Quality Best Management Practices (BMP) for Construction Activities—not as mitigation under CEQA. As discussed in Final IS/ND Section 5.4, Special Conditions are imposed on a project by the Port as part of the HDP that could further lessen an impact that is less than significant (i.e., below the significance threshold) and would otherwise not require

mitigation under CEQA. Because mitigation measures are not required, Special Condition AQ-1 would further reduce the less-than-significant construction emissions.

Therefore, this ground for appeal has no merit and should be denied for the following reasons:

- 1) The IS/ND clearly demonstrates that no mitigation measures were applied to the Project;
- 2) The air quality emissions modeling assumed an unmitigated average fleet of Tier 3 off-road diesel engine standards—not a mitigated Tier 4 fleet; and
- 3) The Special Condition in the Project's HDP, requiring the use of construction equipment that meet Tier 4-Final off-road engine standards, is in accordance with the Port's Construction Air Quality BMP for Construction Activities—not a mitigation measure under CEQA.

HONORABLE MAYOR AND CITY COUNCIL

January 4, 2022

Harbor Department Appeal Hearing

Appeal of the Adoption of the
INITIAL STUDY/NEGATIVE DECLARATION
FOR THE WORLD OIL TANK INSTALLATION PROJECT

ATTACHMENT 9

Appeal of Earthjustice et al. (“The Coalition”)

Received November 11, 2021

(referenced Appendices provided in enclosed USB
drive)

EARTHJUSTICE
COALITION FOR CLEAN AIR
EAST YARD COMMUNITIES FOR ENVIRONMENTAL JUSTICE
CENTER FOR COMMUNITY ACTION AND ENVIRONMENTAL JUSTICE
COMMUNITIES FOR A BETTER ENVIRONMENT
CENTER FOR BIOLOGICAL DIVERSITY
SIERRA CLUB – ANGELES CHAPTER

VIA: ELECTRONIC MAIL ONLY

November 11, 2021

Honorable Members of the City Council
c/o Monique De La Garza, City Clerk
City of Long Beach, California
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Long Beach, CA 90802
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RE: Appeal of Long Beach Board of Harbor Commissioners' Approval of World Oil Tank Installation Project (HD-21-537)

Dear Members of the Long Beach City Council:

The undersigned organizations (“the Coalition”) write to appeal the approval of the World Oil Tank Installation Project (“Project”) by the Port of Long Beach Board of Harbor Commissioners (“Commission”).¹ On October 28, 2021, the Commission approved this Project based on the Initial Study/Negative Declaration (“IS/ND”)— a cursory review of potential environmental and public health impacts from small projects—prepared by the Port of Long Beach (“Port”) under the California Environmental Quality Act (“CEQA”). The Coalition submitted comments, including expert analysis, supporting the need for a full environmental impact report (“EIR”) and outlining serious problems with the Port’s review of potential environmental impacts in the IS/ND:²

- The IS/ND failed to account for crucial studies showing that cancer-causing volatile organic compound (“VOC”) emissions from oil storage tanks are dangerously underestimated.
- The IS/ND examined the Project’s impacts in a vacuum, without considering the existing impacts from the World Oil terminal, connected refineries, and other storage tanks in the region.

¹ This appeal is authorized by Long Beach, California, Municipal Code § 21.21.507.

² APPX_000001-000005, Coalition’s Oct. 27, 2021, Public Comments; APPX_000381-000405, Coalition’s Nov. 20, 2020, Public Comments. (Cites to “APPX” refer to the Bates-stamped Appendices filed concurrently with this appeal.)

- The California Coastal Commission (“CCC”) found the IS/ND failed to account for the impacts of climate change on storm and flooding risks, and the Port did not properly consult with CCC to resolve these problems.
- The IS/ND failed to properly address expert comments on risks of serious disasters, including earthquakes, fires, and tsunamis that threaten Port infrastructure and surrounding communities.
- The Project would produce thousands of barrels of hazardous sludge, but the IS/ND did not disclose whether the disposal facility in the region had capacity to process the additional waste or examine alternative sites.

The Project would involve the construction of two large, 25,000-barrel crude oil storage tanks at the Port, and risks harming overburdened communities already facing severe pollution from fossil fuel infrastructure. The IS/ND’s review of this Project understates or ignores serious risks, depriving community members of transparency into potential impacts and denying the Commission necessary information. Proper environmental review under CEQA is crucial to ensure that affected communities and decisionmakers are adequately informed about a project’s impacts.

We respectfully ask the City Council to require the Port to correct its flawed environmental review by producing an EIR that considers alternatives and mitigation measures for the Project. We also request that the City Council require that the Project not be considered for approval until crucial rulemaking on storage tank emissions from the South Coast Air Management District (“SCAQMD”) is finalized in March 2022.

I. Project Background: Proposed Infrastructure That Would Exacerbate Urgent Environmental and Public Health Problems.

The Project applicant, Ribost Terminal LLC (d.b.a. “World Oil”), proposes to construct **two large, 25,000-barrel crude oil storage tanks** at the Port’s World Oil Terminal, adding storage capacity to the terminal’s already-substantial storage capacity of 502,000 barrels. The terminal currently has seven large petroleum storage tanks, which send and receive petroleum products to and from multiple nearby refineries through pipelines and by truck.

World Oil and the Port’s representation of this Project was fundamentally misleading to the public and the Commission. At the public hearing before the Commission, World Oil portrayed itself merely as a recycling operation that “does not manufacture any finished fuels.”³ World Oil also referred to its South Gate refinery as an “asphalt plant,” obfuscating that its refinery in South Gate produces

³ Port of Long Beach Board of Harbor Commissioners, Regular Meeting of October 28, 2021, at 33:14-34:51, https://polb.granicus.com/player/clip/7429?view_id=77&redirect=true; APPX_000020.

highly polluting marine diesel fuel and various other distillates.⁴ The Port's emphasis on World Oil's recycling operations deflected from the Project's explicit intention to allow the lease of two "larger existing tanks" to oil refineries in Carson and Long Beach run by Marathon Petroleum and Glencore.⁵ The IS/ND did not specify which tanks will be leased, but **the Project will allow between 86,000 to 188,000 barrels of additional storage capacity to become available for use by the Marathon and Glencore oil refineries.**⁶

As illustrated in Figure A below, the Project would be sited near residential areas and schools that already bear an extreme and disproportionate burden of pollution from the Port complex.⁷ The Project would have a variety of harmful environmental impacts, including increased emissions of cancer-causing air pollutants, increased risks of major disasters, and would create many thousands of barrels of hazardous sludge being transported through communities.⁸

Figure A: Google Maps Image Showing Proximity of Project Site to Schools



⁴ Port of Long Beach Board of Harbor Commissioners, *supra* note 3, at 33:12-33:22; APPX_000104; APPX_000221.

⁵ APPX_000025; APPX_000029.

⁶ APPX_000024 (The smallest existing tanks at the refinery each have a capacity of "approximately 43,000 [barrels].").

⁷ APPX_000381 *citing* Taylor Thomas, *Port of Long Beach Grant Program – A Lesson in Improving Funding for EJ Projects*, in Environmental Justice Working Group Case Studies: Appendix To The Recommendations For The California State Lands Commission Environmental Justice Policy Update 9 (2018), <https://www.slc.ca.gov/wp-content/uploads/2018/07/EJWG-Case-Studies-FINAL.pdf>.

⁸ APPX_000046; APPX_000057; APPX_000064; APPX_000072.

On November 20, 2020, the Coalition provided written comments to the Port highlighting problems with the IS/ND's analysis. Subsequently, on October 27, 2021, the Coalition provided comments to the Commission underlining the continuing problems with the IS/ND that the Port's response to comments failed to adequately address.⁹ Several Coalition representatives and community members also provided oral comments during the Commission's October 28, 2021, public hearing on the Project. Despite these efforts, the Commission followed Port staff's recommendations and approved the IS/ND.

II. The Port's Analysis Failed to Properly Examine the Project's Various Environmental Impacts

a. The IS/ND Ignored Crucial Science on Storage Tank Emissions, and SCAQMD's Pending Regulatory Updates to Control Storage Tank Emissions that Apply to the Project.

The Project's storage tanks would emit fugitive VOCs, including cancer-causing benzene, as part of their everyday operation. Under the Port's estimates, the Project would release **over 200,000 pounds of VOCs** over its operational lifetime of at least fifty years.¹⁰ These emissions would threaten "sensitive receptors" particularly vulnerable to air pollution, including children in several elementary schools located approximately half a mile from the Project.¹¹

Recent studies sponsored by SCAQMD (the "FluxSense study") showed that VOC emissions at storage tanks are severely underestimated.¹² The study found that actual VOC emissions were *8.6 times greater* on average than estimations based on a common emission model.¹³ The study also found that actual emissions of cancer-causing benzene, a type of VOC, were *34 times higher* than estimated.¹⁴ Expert comments provided by Julia May, Senior Scientist at Communities for a Better Environment, showed the results of the FluxSense study indicated this Project's VOC emissions may be well above the significance threshold set by SCAQMD.¹⁵

⁹ The coalition that submitted comments to the Harbor Commission on October 27, 2021, consisted of Earthjustice, Center for Community Action and Environmental Justice, the San Pedro & Peninsula Homeowners Coalition, and the Sierra Club Angeles Chapter.

¹⁰ APPX_000030 ("Tank life is estimated to be greater than 50 years."); APPX_000044, tbl.4.3-2 (The Port estimated Project VOC emissions to be 10.959 pounds per day.).

¹¹ APPX_000066.

¹² APPX_000386 *citing* Johan Mellqvist, et al., FluxSense Inc., Emission Measurements of VOCs, NO₂ and SO₂ from the Refineries in the South Coast Air Basin Using Solar Occultation Flux and Other Optical Remote Sensing Methods 3 (Final Report Apr. 11, 2017), <https://earthjustice.sharefile.com/d-s5312b425ff2c44f2a0c0415cd0f45d4a>.

¹³ APPX_000413.

¹⁴ APPX_000413.

¹⁵ APPX_000417.

Julia May’s comments also described numerous other studies discussing how VOC emissions from oil storage tanks are often egregiously underestimated.¹⁶

The Port failed to provide an adequate response to these expert comments that show a severe risk of underestimating harmful VOC emissions. Instead, the Port copied a comment from 2020 by SCAQMD regarding the FluxSense study, referencing existing rules relating to the control of VOCs from storage tanks.¹⁷ The Port failed to disclose, however, that SCAQMD has recognized that its current regime for controlling storage tank VOC emissions is inadequate. The agency is currently undergoing a rulemaking to update its storage tank emissions rule (Rule 1178) by March 2022.¹⁸ Furthermore, the Port provided no response to multiple other studies discussed in detail in the Coalition’s technical comments, which reveal the grave risks of underestimating VOC emissions from oil storage tanks.¹⁹

The IS/ND’s failure to address these risks is made more disturbing by the Project’s proximity to nearby elementary schools and communities already overburdened by VOC pollution. The Port assumes the general significance threshold for VOCs is a suitable tool to conclude that *localized* VOC impacts would be “less than significant.”²⁰ The IS/ND provided a cancer-risk analysis but failed to address the severe underestimation of cancer-causing VOCs found in the scientific studies discussed above. Thus, the conclusion that the Project’s 200,000 pounds of lifetime VOC emissions *could not* have any significant impact on nearby communities is based on flawed analysis and incomplete information.

Given the severe risk that VOC emissions pose to nearby communities and sensitive receptors, the Project should use a conservative approach that assumes the worst-case scenario that VOC emissions might be higher than expected and consider appropriate mitigation measures under an EIR. Moreover, the Port should consider the updated scientific understanding reflected in SCAQMD’s Rule 1178 updates for the construction, operation, and maintenance of storage tanks. Consequently, the City Council should require this Project to be held in abeyance until that critical rulemaking is concluded in March 2022. This approach will enable the Port to properly understand and mitigate the impacts of these emissions, rather than analyzing the Project with models that fail to reflect the best available science.

¹⁶ APPX_000414-000418.

¹⁷ APPX_000213-000215.

¹⁸ APPX_000003-000004 *citing* SCAQMD, Rule and Control Measure Forecast 2021-2022 Master Calendar (Oct. 1, 2021), <http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2021/2021-oct1-013.pdf?sfvrsn=2>. (*See* Rule 1178. Also note Rule 1173, estimated for completion in the 4th Quarter of 2022.)

¹⁹ APPX_000418.

²⁰ APPX_000046.

b. The Port's Analysis Ignored Key Cumulative Impacts of Emissions at the World Oil Terminal, Connected Refineries, and Nearby Storage Tanks.

The IS/ND did not analyze the Project's contributions to existing infrastructure to properly assess cumulative impacts as required by CEQA. Cumulative impacts analysis is crucial under CEQA because "the full environmental impact of a proposed project cannot be gauged in a vacuum."²¹ However, the Port did just that by examining the Project's impacts in isolation from closely related facilities that add to the cumulative impact ultimately felt by nearby communities.

First, the Port ignored the impacts of the existing infrastructure at the World Oil Terminal. The Project would increase the World Oil Terminal's storage capacity by 50,000 barrels and would increase the number of terminal tanks from seven to nine. Yet, the IS/ND did not examine the Project's impacts in the context of this existing infrastructure, leaving the public to speculate about the significance of the *total* emissions from the World Oil Terminal.

Second, the Port ignored impacts from the closely related refinery operations facilitated by the Project. The World Oil Terminal serves nearby refineries through pipeline connections and an average of seven hundred truck trips per month.²² The Project is planned to allow World Oil to lease greater amounts of storage capacity to serve the Marathon and Glencore refineries in Carson and Long Beach.²³ CEQA requires the Port to provide a "comprehensive cumulative impacts evaluation," but the Port failed to examine the impacts of refining activities the Project would enable.²⁴

Finally, the Port failed to examine how this Project would add to the cumulative impacts from multiple nearby storage tanks, including those that have been recently approved. In the past ten years alone, thirty-one new storage tanks have been approved for construction in the region.²⁵ Currently, there are over 1,100 storage tanks in the region.²⁶ Without any investigation into the impacts of those tanks, the public and the Commission were left without the necessary information to understand how the Project would add to the cumulative impacts already caused

²¹ *Bakersfield Citizens for Local Control v. City of Bakersfield*, 124 Cal. App. 4th 1184, 1214–15 (2004).

²² APPX_000029.

²³ APPX_000029.

²⁴ *Bakersfield Citizens for Local Control v. City of Bakersfield*, 124 Cal. App. 4th 1184, 1214 (2004).

²⁵ APPX_000220; APPX_000500-000527.

²⁶ APPX_000002 *citing* SCAQMD, Working Group Meeting 2 for Proposed Amendment to Rule 1178, at 18 (July 15, 2021), http://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/1178/par1178-wgm2_final.pdf?sfvrsn=12.

by these closely related facilities. Table B below demonstrates the magnitude of existing storage tank infrastructure this Project would be adding to at a time when we need to drastically reduce our dependence on petroleum.²⁷

Table B: SCAQMD Breakdown of Stationary Tanks by Size

Tank Size Category (gal)	# Tanks	Total Gallons Stored	Average Tank Capacity (gal)
≤50000	70	3 million	43,000
>50,000 to 150,000	43	4 million	93,000
>150,000 to 1 million	217	100 million	460,000
>1 million	778	3 billion	3.9 million

Rather than consult with and obtain data from SCAQMD on storage tanks and related emissions throughout the region, the Port responded to Coalition comments by improperly shifting the burden onto the public to investigate the cumulative impacts of existing storage tank infrastructure, noting that the Coalition did not “identify tank sizes . . . [or] provide the number of retired storage tanks for this same period.”²⁸ As the lead agency responsible for reviewing this Project, the Port must properly investigate the Project’s contributions to cumulative impacts in the context of closely related infrastructure.²⁹ The Port cannot ignore important information showing potential cumulative impacts by simply dismissing the analysis of public comments. Moreover, the Port presents misleading information to assert that cumulative storage tank emissions are not increasing. The Port compares 2010 emissions to 2020 emissions to assert that emissions from Los Angeles County’s *entire* “petroleum refining and marketing sector have declined.”³⁰ This data and analysis do not show emissions changes from storage tanks and does not account for the impacts the COVID-19 global pandemic had on data for emissions in 2020.

c. The Port did not Adequately Consult with the California Coastal Commission, Leaving Unresolved Questions on Storm and Flood Risks.

The Port failed to adequately consult with the necessary agencies as required by CEQA.³¹ The California Coastal Commission (“CCC”) provided comments to the Port on November 20, 2020, noting concerns that the IS/ND failed to show the project would “withstand” storm events and flooding “exacerbated by sea level

²⁷ *Id.*

²⁸ APPX_000220.

²⁹ 14 Cal. Code Regs. § 15355(b).

³⁰ APPX_000220.

³¹ Cal. Pub. Res. Code § 21080.3(a).

rise.”³² On October 26, 2021,³³ CCC submitted additional comments criticizing the Port’s analysis:³⁴

There is **no evidence provided in the IS/ND** that suggests the project is located and designed in a way that will avoid adverse impacts on the environment and port-adjacent communities under conditions where sea and groundwater levels are higher and storm events are more frequent and severe.

CCC found that the Port’s analysis failed to sufficiently account for the dangers posed by flooding and storms because it “did not take climate change into consideration.”³⁵ These comments note a persistent and unresolved problem with the Port’s analysis demonstrating a failure to properly consult with CCC. In fact, CCC stated its comments were “preliminary in nature” and that “[m]ore specific comments may be appropriate as the project develops.”³⁶ These statements make clear that the Port did not fully consult with CCC in developing the IS/ND. Further consultation with CCC is necessary serve the public’s interest in providing a complete environmental review of the Project.

Furthermore, CEQA requires an EIR to be prepared for a project where “there is disagreement among expert opinion supported by facts” on the significance of a project’s impacts.³⁷ As CCC has expertise in storm and flooding risks on coastal facilities, the City Council should require the Port to fully consult with CCC and prepare an EIR that addresses the storm and flooding risks noted above.

d. The Port did not Properly Address Risks of Disasters from Earthquakes, Fires, and Tsunamis.

The Project creates increased risks of severe disasters that are not adequately addressed in the IS/ND. The Coalition provided expert scientific comments showing the Project’s tanks would face significant risks from earthquakes and tsunamis, which could cause severe damage through oil spills and fires.³⁸

The IS/ND’s analysis of earthquake risks was seriously flawed by understating the risks of oil spills. The IS/ND notes that the World Oil terminal’s containment wall was designed to contain 90,000 barrels.³⁹ However, the terminal’s *existing* capacity is 502,000 barrels, and this Project would add 50,000 barrels to that capacity. The

³² APPX_000124.

³³ APPX_000124; APPX_000568-000569.

³⁴ APPX_000568.

³⁵ APPX_000568.

³⁶ APPX_000569.

³⁷ 14 Cal. Code Regs. § 15064(g).

³⁸ APPX_000422-000432.

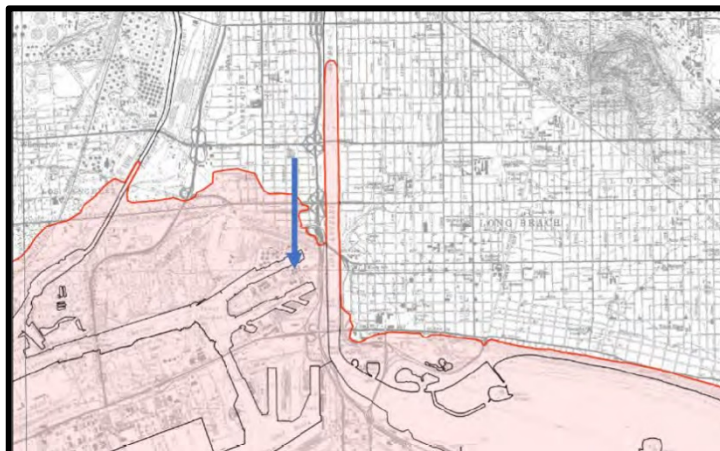
³⁹ APPX_000110.

IS/ND fails to consider whether damage to several tanks could overwhelm the existing containment wall, and what the environmental impacts of such a disaster would be. The IS/ND does not consider whether further mitigation, such as a secondary containment system, would be necessary to provide sufficient protection to Port waters and nearby communities.

The Coalition provided detailed comments showing that oil storage tank fires pose a substantial risk to nearby facilities and residents.⁴⁰ These comments described how fires at oil storage tanks, such as the NuStar Energy fire in San Francisco, have spread black smoke and dangerous particulate matter for many miles.⁴¹ However, the IS/ND failed to examine what impacts a fire at the Project site would have on surrounding communities. The Port asserted without evidence that “[a]ny fire would be isolated at the Port,” apparently ignoring that well-documented storage tank fires have impacted residents many miles away.⁴²

Coalition comments also highlighted studies from the National Oceanic and Atmospheric Administration showing tsunamis “pose considerably more danger to the ports of Los Angeles and Long Beach than previously thought.”⁴³ The Coalition also shared Figure C below, a map from the California Department of Conservation showing the Project site is well within the Long Beach Tsunami Inundation Area.⁴⁴

Figure C: California Dept. of Conservation, Los Angeles County
Tsunami Inundation Maps, Long Beach Quadrangle



The Port dismissed these concerns by noting the presence of a containment wall at the World Oil terminal.⁴⁵ However, as noted above, CCC stated the IS/ND did not

⁴⁰ APPX_000426-000432.

⁴¹ APPX_000428-000432.

⁴² APPX_000223; APPX_000428-000432.

⁴³ APPX_000423.

⁴⁴ APPX_000424.

⁴⁵ APPX_000224.

properly consider the effects of climate change and sea level rise on disaster risks. The Port's unresolved disagreement with those experts leaves the public to wonder what actual disaster risks this Project would pose and requires the preparation of an EIR.

e. The Port Failed to Adequately Examine the Risk Posed by Thousands of Barrels of Hazardous Sludge that the Project Would Produce.

The Project would produce at least 15,000 barrels of hazardous tank sludge over its operational lifetime of fifty years or greater, with the sludge being removed from tanks every ten years.⁴⁶ The Port dismissed the Coalition's concerns that this substantial amount of hazardous waste may have significant environmental impacts.⁴⁷ The Port noted that the sludge produced would use only 4.5 percent of the treatment capacity at the waste facility located in Vernon.⁴⁸ However, the IS/ND failed to disclose the current treatment load at the Vernon facility. Nor did the IS/ND describe how the waste would be handled if the Vernon facility had insufficient capacity to accept thousands of barrels of additional waste. The communities that would be impacted by improper treatment or disposal of hazardous tank sludge deserve greater transparency and assurance that the treatment of hazardous sludge has been carefully examined.

The Port's IS/ND failed to address substantial evidence provided by the Coalition and other commenters that the Project would have significant environmental impacts. CEQA requires the Port to prepare a full EIR when there is *any* "fair argument" that the Project *may* have significant environmental impacts, including localized and cumulative impacts.⁴⁹ This Project would produce over 200,000 pounds of lifetime VOC emissions in a region already overburdened by such pollutants. The Project would produce at least 15,000 barrels of hazardous sludge and would significantly expand capacity to facilitate nearby oil refinery operations. The record before the City Council demonstrates far more than a "fair argument" that this Project would have sufficient environmental impacts justifying a more careful and comprehensive analysis.

Even if the Port disagreed that there may be a significant environmental impact from the Project, CEQA requires the preparation of an EIR. Under CEQA, the Port "shall" prepare an EIR where there is "disagreement among expert opinion supported by facts" on the significance of the Project's environmental impacts.⁵⁰ The

⁴⁶ APPX_000064.

⁴⁷ APPX_000392.

⁴⁸ APPX_000219.

⁴⁹ 14 Cal. Code Regs. § 15064(f)(1); *No Oil, Inc. v. City of Los Angeles*, 13 Cal.3d 68, 75 (1974).

⁵⁰ 14 Cal. Code Regs. § 15064(g).

expert comments provided by the Coalition and CCC demonstrate a disagreement with the Port’s scientific analysis, which requires the Port to produce an EIR. The City Council should ensure that CEQA be applied in a manner that provides “the fullest possible protection to the environment” — it requires that the Port be directed to produce a full EIR to meet its obligations of transparency and accountability to decisionmakers and impacted communities.⁵¹

Respectfully submitted,

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*Contributed to the research and/or factual portions of this document and did not provide legal services or analysis.

⁵¹ *No Oil, Inc. v. City of Los Angeles*, 13 Cal.3d 68, 83 (1974).

HONORABLE MAYOR AND CITY COUNCIL

January 4, 2022

Harbor Department Appeal Hearing

Appeal of the Adoption of the
INITIAL STUDY/NEGATIVE DECLARATION
FOR THE WORLD OIL TANK INSTALLATION PROJECT

ATTACHMENT 10

**Detailed Response of Harbor Department to the
Issues on Appeal Raised by
Earthjustice et al. (“The Coalition”)**

ATTACHMENT 10

Detailed Response of the Harbor Department to the Issues on Appeal Raised by “THE COALITION”

(consisting of Earthjustice, Coalition for Clean Air, East Yard Communities For Environmental Justice, Communities for a Better Environment, Center for Biological Diversity, and Sierra Club – Angeles Chapter)

Ground for Appeal

The Initial Study (IS)/Negative Declaration (ND) ignored crucial science on storage tank emissions including the South Coast Air Quality Management District (SCAQMD)-sponsored “FluxSense” Study and expert comments that volatile organic compounds (VOC) emission are often egregiously underestimated. The Port failed to provide an adequate response to these expert comments that show a severe risk of underestimating harmful VOC emissions. The Port provided no response to multiple other studies discussed in detail in The Coalition’s technical comments.

Response

Unlike for an Environmental Impact Report (EIR), the California Environmental Quality Act (CEQA, Public Resources Code Section 21000, *et seq.*) does not require that a lead agency provide written response to comments on a proposed Negative Declaration; State CEQA Guidelines Section 15074(b) only requires that the lead agency consider any comments received on the IS/ND prior to approving the project. Nonetheless, the Harbor Department (aka "Port") not only considered the comments, but also provided detailed, written responses to each comment.

During the extended public review period for the Draft IS/ND from October 7, 2020, through November 20, 2020, the Port received a total of 20 comment letters from eight agencies, organizations, and individuals. The Port carefully considered the nearly 120 comments received on the Draft IS/ND and in addition, provided detailed, good faith, reasoned responses to each comment received. Some of the responses necessitated clarifications and insignificant changes to the Draft IS/ND, which are articulated in the Introduction to the Final IS/ND starting on page 1-1 and shown as strikeouts and additions throughout the Final IS/ND. The comment letters received by the Port and detailed responses to each comment are included in Section 8 of the Final IS/ND.

The “FluxSense” Study referenced by The Coalition was prepared by FluxSense Inc. The FluxSense Study was sponsored by the SCAQMD to demonstrate the leak detection capabilities using Solar Occultation Flux and other Optical Remote Sensing methods by taking emissions measurements of volatile organic compounds (VOCs), sulfur dioxide, and nitrogen dioxide from six major refineries in the South Coast Air

Basin over a limited time period of two and a half months. During the two-and-a-half-month period, the study also assessed emissions from a tank farm at a refinery over an eight-day period. The measurements were then compared to reported emissions inventories developed using U.S. Environmental Protection Agency (EPA) AP-42 standard guidance for emissions estimation. The FluxSense Study identified observed differences in fugitive VOC emissions between the measurements and the AP-42 inventory estimates, describing this as a general issue for the petroleum industry worldwide.

The FluxSense Study and the other studies referenced by The Coalition are just that—studies. The studies referenced by The Coalition have not been approved by any regulatory agency for use in determining the significance of environmental impacts under CEQA. The FluxSense Study identifies a possible path forward of conducting Optical Remote Sensing monitoring methods in parallel with continued U.S. EPA AP-42-based reporting to guide and verify the efficiency of emission reduction efforts such as those required by SCAQMD rules and regulations. The Port consulted with SCAQMD on the air quality analysis for the Project. The SCAQMD is the air quality regulatory agency for the South Coast Air Basin and a responsible agency under CEQA for the assessment and approval of the Project's air emissions, and the Project cannot move forward unless the SCAQMD issues permits to construct and operate. As technical experts and regulators in the field of air quality, SCAQMD staff acknowledged and stated that the FluxSense technology is not capable of establishing emission factors for specific pieces of equipment; therefore, it is not suited for estimating potential future emissions from specific tanks or discreet fugitive sources, such as new petroleum storage tanks. The FluxSense Study is not used by the SCAQMD or any other air quality permitting agency for the purpose of issuing permits or for CEQA analyses. The SCAQMD also emphasized that the U.S. Environmental Protection Agency (EPA) has not approved the use of Solar Occultation Flux data (that was demonstrated in the FluxSense study) for air quality permitting or any other regulatory purpose.¹

Beyond the FluxSense Study, The Coalition refers to a 2015 study from the Journal of Air & Waste Management (JAWM) which found that underestimation levels could be “up to 448 times greater than estimated at floating roof tanks” based on a study conducted in Houston, Texas, using Differential Light Detection and Ranging (DIAL) on three tank sets with external floating roof racks. The SCAQMD indicated that the direct measurement method referenced in the JAWM study does not provide continuous monitoring and other limitations, such as requiring consistent wind direction, and it is not “recommended as a primary technique for annual emissions estimation.” Furthermore, unlike the external roof tanks evaluated in the JAWM study, the new petroleum storage tanks to be installed at the World Oil facility will be state-of-the-art internal floating roof racks meeting Best Available Control Technologies (BACT).

¹ SCAQMD Response to Communities for a Better Environment comments on the Proposed Title V Significant Permit Revision for Tesoro Refining & Marketing Co. LLS, June 23, 2020. Personal Communication. J. Wong, SCAQMD, January 20, 2021.

This information was clearly provided in the response to The Coalition's comment (Response to Comment EJ-9) on the Draft IS/ND starting on page 8-92 of the Final IS/ND.

Moreover, as a result of comments received from The Coalition and others regarding the suitability of the U.S. EPA TANKS 4.0 model that was originally used in the air emissions estimates in the Draft IS/ND, the Final IS/ND includes re-estimated operational air emissions using the U.S. EPA-approved and recommended guidance for estimation of air pollutants, *AP-42 Compilation of Air Pollutant Emission Factors, Volume 1: Stationary Point and Area Sources, Section 7.1 Organic Liquid Storage Tanks*. The revised air emissions estimates are presented in the Final IS/ND starting on page 4-10. All air emissions estimates associated with operation of the Project would be below the SCAQMD significance thresholds and therefore, would be less than significant.

Therefore, this ground for appeal has no merit and should be denied for the following reasons:

- 1) CEQA does not require a lead agency to provide written responses to comments on Negative Declarations,
- 2) While not required, the Port did provide detailed technical response to comments were warranted,
- 3) The studies referenced in The Coalition's comments are primarily based on demonstration projects, industry journal articles, or news articles that are not suited for emissions estimation, CEQA significance thresholds, nor are they approved for permitting or regulatory purposes.

Ground for Appeal

The IS/ND provided a cancer risk analysis but failed to address the severe underestimation of cancer causing VOCs found in the scientific studies discussed. The port assumes the general significance threshold for VOCs as a suitable tool to conclude that *localized VOC impacts would be less than significant*, provided the proximity to nearby elementary schools and communities. The conclusion that the Project's 200,000 pounds of lifetime VOC emissions could not have any significant impact on nearby communities is based on flawed analysis and incomplete information.

Response

As discussed above, the studies referenced by The Coalition are not suited for emissions estimation or for determining impact significance; nor are the studies approved for permitting or regulatory purposes. The Coalition is correct that on page 4-13 of the Final IS/ND, it is discussed that there are no Localized Significance Thresholds established by the SCAQMD for VOC emissions. However, as shown in Table 4.3-2 of the Final IS/ND, the estimated total VOC emissions of 10.95 pounds per

day for the proposed Project would be well below the SCAQMD operations daily emissions threshold of 55 pounds per day. The emissions were estimated using the U.S. EPA-approved and recommended guidance for estimating VOC emissions from storage tanks: *AP-42 Compilation of Air Pollutant Emission Factors, Volume 1: Stationary Point and Area Sources, Section 7.1 Organic Liquid Storage Tanks*. For purposes of comparison, use of the U.S. EPA AP-42 Section 7.1 Organic Liquid Storage Tank calculation method as opposed to the original U.S. EPA TANKS model emissions presented in the Draft IS/ND, resulted in a marginal increase in the estimated VOC emissions from the new tanks (9.70 lb/day VOC TANKS vs. 10.82 lb/day VOC AP-42), both of which are well below the SCAQMD threshold of 55 pounds per day.

Final IS/ND Section 4.3 starting at page 4-13 further explains that the cancer risk analysis from operation of the new tanks was conducted by conservatively using toxic air contaminant (TAC) emission rates from gasoline—rather than crude oil—as recommended by the SCAQMD. TACs are defined by the State of California as pollutants which may cause or contribute to an increase in mortality or an increase in serious illness, or which may pose a present or potential hazard to human health (Health and Safety Code Section 39655(a)). According to the SCAQMD, by assuming that gasoline is stored in the tanks, the use of the TAC profile of gasoline for the purposes of the health risk assessment, instead of the TAC profile of crude oil, is a “worst-case” conservative assumption because the true vapor pressure of crude oil is less than that for gasoline. This means that there is more potential for the known TAC organic compounds that comprise gasoline to become volatile and emitted into the air. Because the proposed new tanks at the World Oil Facility will not store gasoline, this is a “worst-case scenario” assumption.

The estimated cancer health risk associated with operation of the new tanks of 1.5×10^{-7} (1.5 people in ten million) for the maximum exposed sensitive receptor (schools, residences, senior care facilities, day care facilities, and hospitals) is well below (over 66 times lower) the CEQA maximum incremental cancer risk significance threshold of 10×10^{-6} , which represents the risk or probability that 10 people in one million will develop cancer over their lifetime. The health risk of 4.57×10^{-7} (4.57 people in ten million) associated with the combined construction and operational emissions of the Project is also well below (over 20 times lower) the CEQA significance threshold of 10×10^{-6} . Therefore, construction and operational emissions would not expose sensitive receptors to substantial TAC concentrations, and operational impacts are less than significant (See Final IS/ND at page 4-13). Because the TAC profile of gasoline, instead of crude oil was conservatively used in the health risk assessment in the IS/ND, the Project would be likely to produce operational health impacts that are less than the values presented in the Final IS/ND.

Therefore, this ground for appeal has no merit and should be denied for the following reasons:

- 1) The studies referenced in The Coalition’s comments are primarily based on demonstration projects, industry journal articles, or news articles that are not

suited for emissions estimation, CEQA significance thresholds, nor are they approved for permitting or regulatory purposes,

- 2) The IS/ND used U.S. EPA-approved and recommended guidance for estimating VOC emissions from storage tanks. Estimated total VOC emissions of 10.95 pounds per day for the proposed Project would be well below the SCAQMD operations daily emissions threshold of 55 pounds per day, and
- 3) The worst-case scenario health and cancer risk associated with the combined construction and operational emissions of the Project is well below the CEQA significance threshold.

Ground for Appeal

The IS/ND ignored SCAQMD's pending regulatory updates to control storage tank emissions that apply to the Project. The Project must not be considered for approval until crucial rulemaking on storage tank emissions from the SCAQMD is finalized in March 2022.

Response

There is no legal requirement under CEQA, or otherwise, to assume that a project must comply with a proposed amendment to a rule or regulation that has not yet been adopted, or suspend a project until the rulemaking is complete. As noted by The Coalition, the rule amendments to SCAQMD Rule 1178 for Storage Tanks at Petroleum Facilities are "pending", with an estimated date of March 2022 for completion by the SCAQMD. The amendments to Rule 1178 have not been officially adopted or approved by the SCAQMD.

Furthermore, SCAQMD Rule 1178 applies only to storage tanks at facilities with annual emissions of more than 40,000 pounds (20 tons) of VOCs.² The World Oil Terminal facility is not subject to Rule 1178 because it does not and has not emitted more than 20 tons of VOCs annually. Publicly-available Annual Emissions Reporting (AER) information on the SCAQMD's Facility Information Detail (F.I.N.D.) website shows that since 2014, the World Oil (Ribost) Terminal facility at Pier C has emitted an average of 2.93 tons of VOCs annually, significantly below the 20 tons per year that would trigger required compliance with Rule 1178.^{3,4} Nevertheless, if the amendments to Rule 1178 are adopted by the SCAQMD and are applicable to World Oil's existing and new storage tanks, World Oil would be required to comply accordingly.

² SCAQMD Rule 1178. Further Reduction of VOC Emissions from Storage Tanks at Petroleum Facilities. <http://www.aqmd.gov/docs/default-source/rule-book/reg-xi/rule-1178.pdf>. Originally adopted December 21, 2001.

³ Prior to 2014, emissions were reported as Reactive Organic Compounds (ROG).

⁴ SCAQMD. Facility Information Detail (F.I.N.D.). Ribost Terminal, LLC. 1405 Pier "C" Street, Long Beach CA 90802. Facility ID: 111238. <https://xappprod.aqmd.gov/find//facility/AQMDsearch?facilityID=111238>.

Therefore, this ground for appeal has no merit and should be denied for the following reason:

- 1) There is no legal requirement under CEQA, or otherwise, to assume that a project must comply with a proposed amendment to a rule or regulation that has not yet been adopted, or suspend a project until the rulemaking is complete.

Ground for Appeal

The Port's analysis ignored key cumulative impacts of emissions at the World Oil Terminal, connected refinery operations facilitated by the Project, and nearby storage tanks and did not analyze the Project's existing impacts of the existing infrastructure at the World Oil Terminal. CEQA requires the Port to provide a "comprehensive cumulative impacts evaluation," but the Port failed to examine the impacts of refining activities the Project would enable and how the Project would add to cumulative impacts already caused by multiple nearby storage tanks, including those that have been recently approved and does not account for the impacts the COVID-19 pandemic had on the California Air Resources Board emissions in 2020 referenced by the Port in a Response to Comment in the Final IS/ND.

Response

As discussed in the IS/ND, Section 3.1 (Environmental Factors Potentially Affected), no potentially significant impacts have been identified for the Project. All impacts are determined to have either "No Impact" or "Less than Significant Impact" because they would not exceed any project-specific significance thresholds for all environmental issue areas, including those which may cause adverse effects on humans. The incremental effects of the Project would be minor and, therefore not considered to be cumulatively considerable as defined by State CEQA Guidelines Section 15064(h)(1). Since the impacts from the Project are not considered to be cumulatively considerable, the Project has no potential for generating significant adverse cumulative impacts. CEQA only requires consideration of "reasonably foreseeable indirect physical changes to the environment which may be caused by the project" and that "a change which is speculative or unlikely to occur is not reasonably foreseeable" (State CEQA Guidelines Section 15064). Additionally, State CEQA Guidelines Section 15064(h)(4) states that "The mere existence of significant cumulative impacts caused by other projects alone shall not constitute substantial evidence that the proposed project's incremental effects are cumulatively considerable."

It is further discussed in the Responses to Comments on the Draft IS/ND, starting on page 8-97, that projects that have impacts all below the SCAQMD significance criteria can be considered to have less than significant cumulative air quality impacts. The Project's construction and operational emission would collectively be well below all SCAQMD emissions significance thresholds. The SCAQMD's guidance regarding cumulative impact assessment states:

Projects that exceed the project-specific significance thresholds are considered by the SCAQMD to be cumulatively considerable. This is the reason project-specific and cumulative significance thresholds are the same. Conversely, projects that do not exceed the project-specific thresholds are generally not considered to be cumulatively significant.⁵

The World Oil Terminal facility is a petroleum product storage facility, not a refinery. Refining capacities are constrained by many factors including equipment design capacity, permit conditions, firing rates for combustion sources, and maintenance schedules of the various operating units within a refinery. Refinery processes are not influenced by storage capacity. As such, the Project would not affect local refinery operations. The air quality analysis identifies the Project-related increase in the number of petroleum storage tanks at the site (from seven to nine total tanks), quantifies the potential emissions increases, and describes the impact in the context of the site within the Port and surrounding land uses. The IS/ND describes the existing conditions at the site (see Section 1.1, Proposed Project Overview and Section 2, Project Description) and throughout the document. The IS/ND uses current conditions as the baseline for determining the environmental impacts. The Final IS/ND's Section 2.11 (Operations and Maintenance), clarifies the differences between the Project activities and oil refinery activities, and discusses that fuel and crude oil throughput at refineries is not influenced by the proposed Project's storage capacity—oil refining activities are considered a separate action. Activities at refineries such as the Marathon Petroleum Carson Refinery and at terminals such as Glencore Long Beach Marine Terminal have permitting limits separate from the World Oil Terminal storage facility. Additionally, oil refineries are designed to allow for a limited quantity of oil to be refined during a given period and are not influenced by the amount of petroleum stored at separate facilities, and therefore, refinery throughput would not increase as a direct or indirect result of the proposed Project.

This ground for appeal also contends that the Port did not examine how the Project would add to cumulative impacts already caused by multiple nearby storage tanks, including those that have been recently approved. As previously explained, all impacts are determined to have either "No Impact" or "Less than Significant Impact" because they would not exceed any project-specific significance thresholds. The incremental effects of the Project would be minor and, therefore not considered to be cumulatively considerable as defined by State CEQA Guidelines Section 15064(h)(1).

The comment also suggests that the Port ignored important information showing potential cumulative impacts by dismissing the analysis of public comments and also presented misleading information to assert that cumulative storage tank emissions are not increasing by providing a table summarizing how 2010 and 2020 emissions from Los Angeles County's entire "petroleum refining and marketing sector have declined."

⁵ SCAQMD White Paper on Potential Control Strategies to Address Cumulative Impacts from Air Pollution. South Coast Air Quality Management District. August 2003.

Table EJ-18. Los Angeles County portion of South Coast Air Basin Petroleum Refining and Marketing ROG Emissions Estimate Comparison 2010 and 2020 (Tons/Day)

Emissions Sector/Subcategory	2010	2020
Petroleum Production and Marketing ¹	28.95	15.11
Petroleum Refining	6.10	4.54
Petroleum Marketing	14.03	8.39

¹ – Not all subcategories are listed, so totals of subcategories will not match the Sector total.

Source: CARB, 2016.

The table referenced by The Coalition and shown above (from the Final IS/ND Responses to Comment EJ-18 at page 8-99) presents data obtained from the California Air Resources Board (CARB) Air Emissions Inventory. CARB compiles and maintains emissions inventories to track statewide criteria pollutant and toxic air emissions for stationary, point, area wide, and mobile sources.⁶ The source emission types and subcategories associated with the Petroleum Production and Marketing Sector in the Los Angeles region include all storage tanks in the region such as floating roof tanks, fixed roof tanks, fuel dispensing tanks, storage tanks and pipeline cleaning and degassing. As discussed in the Response to Comment EJ-18 (Final IS/ND, page 8-99), the table demonstrates that given the large emissions decline in this overall sector, including its relevant subcategories, there are no sector-wide cumulatively significant emissions increase, and the Project's small emissions increase of approximately 0.005 tons per day (11 pounds per day) of reactive organic gases is well below the SCAQMD CEQA significance threshold; therefore, the emissions would not be cumulatively considerable in comparison to the overall sector emissions.

The commenter also contends that the data and analysis do not account for the impacts the COVID-19 global pandemic had on data for the emissions in 2020. There is no requirement under CEQA to account for or to evaluate the impacts of the COVID-19 global pandemic on data referenced, used in an analysis for the purpose of determining a project's impact on the environment, or on a proposed Project.

Therefore, this ground for appeal has no merit and should be denied for the following reasons:

- 1) Processes at refineries and storage facilities elsewhere are not influenced by the amount of petroleum stored at separate facilities. Refining capacities are constrained by many factors including equipment design capacity, permit conditions, firing rates for combustion sources, and maintenance schedules of the various operating units within a refinery,
- 2) All impacts would not exceed any project-specific significance thresholds for all environmental issue areas, including those which may cause adverse effects on humans,

⁶ California Air Resources Board. 2016. SIP Emissions Projection.
<https://www.arb.ca.gov/app/emsinv/2017/emssumcat.php>.

- 3) The incremental effects of the Project would be minor and, therefore not considered to be cumulatively considerable as defined by State CEQA Guidelines,
- 4) Projects that have impacts all below the SCAQMD significance criteria can be considered to have less than significant cumulative air quality impacts. The Project's construction and operational emission would collectively be well below all SCAQMD emissions significance thresholds, and
- 5) There is no requirement under CEQA to account for or to evaluate the impacts of the COVID-19 global pandemic on data referenced, used in an analysis for the purpose of determining a project's impact on the environment, or on a proposed Project.

Ground for Appeal

The Port did not adequately consult with the California Coastal Commission (CCC), leaving unresolved questions on storm and flood risks, following the CCC's comments on the Draft IS/ND dated November 20, 2020, noting concerns that the IS/ND failed to show the Project would "withstand" storm events and flooding "exacerbated by sea level rise". The Coalition also reference the California Coastal Commission Staff's written comments letter submitted to the Port on October 26, 2021 prior to the Board of Harbor Commissioner's consideration of the Final IS/ND.

Response

The Coalition has not provided any specific factual finding that the Port did not adequately consult with the CCC, nor how the Port's consultation with CCC is inadequate pursuant to CEQA. To the contrary, the Port met with CCC staff on July 29, 2021 and on August 25, 2021 to discuss their November 20, 2020⁷ letter. In an August 27, 2021 letter from CCC staff to the Port regarding the Draft Port Master Plan Update, CCC staff thanked Port staff for "providing information regarding this project to our staff early in the process and allowing us time to review the details and provide feedback".⁸

While CEQA requires the evaluation of a project's foreseeable incremental contribution of the project's greenhouse gas emissions to climate change, CEQA does not require an evaluation of the localized effects of environmental impacts, such as sea level rise, on a project. Nevertheless, the Final IS/ND Section 4.10 (Hydrology and Water Quality) incorporates a discussion of the potential effect of sea level rise and inundation, which is caused by global climate change, on the Project.

⁷ Email from Dani Ziff, Coastal Planner, California Coastal Commission to Port of Long Beach Environmental Planning <CEQA@polb.com>. Subject: World Oil Tank Installation Project. November 20, 2020

⁸ Letter from Dani Ziff, Coastal Planner, California Coastal Commission to Tony Chan, PhD, Master Planning, Port of Long Beach. Subject: Draft Port Master Plan Update – CCC Staff Comments. August 27, 2021.

The POLB is the first port to develop a Climate Adaptation and Coastal Resiliency Plan (CRP) to address climate change impacts through enhanced climate change analysis and considerations in the Port's development permitting process. The CRP was used in the Final IS/ND to assess sea level rise at various future inundation scenarios at the Project site. As discussed in the Final IS/ND Section 4.3 (Hydrology and Water Quality) starting at page 4-38, the Project was assessed using the best available science from the CRP under a scenario of 36-inch sea level rise plus a 100-year storm surge in 2070, which is representative of the most appropriate medium-high-end sea level rise scenario for developments with an expected life projection of 50 years and for the sea level rise projection for the year 2100. The new petroleum storage tanks, if installed, have an expected lifespan of 50 years. Under the medium-high sea level rise scenario, the Project site could experience temporary inundation of zero to four feet by year 2070. Under the medium-high sea level rise risk scenario, there is a 1-in-200 chance, or 0.5 percent probability, that sea level rise meets or exceeds an estimated inundation of approximately 2.9 to 3.3 feet by year 2070. Use of the CRP's sea level rise medium-high risk scenario aligns with the Ocean Protection Council's 2018 State of California Sea Level Rise Guidance⁹ medium-high risk sea level rise aversion estimations for projects with an expected life ending in approximately year 2070. Under the most extreme sea level rise projection, 55-inches plus a 100-year storm surge, the Project site could experience zero to 6 feet of temporary inundation by 2070. (See page 8-6 of Final IS/ND). The topography of the Project site ranges from approximately 7 feet to 11 feet above sea level.

The new tanks would be constructed and installed within the existing 13-foot containment wall, which serves as an adaptation measure designed to withstand a 100-year storm event, flooding, and spills. As discussed in the Final IS/ND at page 4-32, if the new tanks are installed at the facility, World Oil's existing plans would require updates, including their Emergency Response Plan, Facility Response Plan, Illness and Injury Prevention Plan, and Spill Prevention Control and Countermeasure Plan (SPCC). The SPCC plan describes the facility's operating procedures to prevent oil spills, control measures (such as secondary containment) installed to prevent oil spills from entering navigable waters or adjoining shorelines; and countermeasures to contain, cleanup, and abate the effects of an oil spill (incidental minor spills to major spills) has impacted navigable waters or adjoining shorelines.

The addition of the two new tanks at the facility will require World Oil's SPCC Plan to be updated, recertified by a registered Professional Engineer, and approved by the U.S. EPA. Rule 40 CFR Part 112 also requires facility SPCC Plans to be reviewed and recertified every five years.

As part of the SPCC recertification process, spill containment capacity is re-evaluated to ensure that secondary containment is sufficiently sized assuming loss of containment of the largest tank plus the rail from a 25-year, 24-hour storm based on the most recent

⁹ State of California Sea-Level Rise Guidance. 2018 Update. Ocean Protection Council. California Natural Resources Agency. https://opc.ca.gov/webmaster/ftp/pdf/agenda_items/20180314/Item3_Exhibit-A OPC_SLR_Guidance-rd3.pdf.

published NOAA data. To put this into context, NOAA data shows that for a 25-year storm event, Long Beach would experience 4.64 inches of rain; and for a 100-year storm event, 5.97 inches of rain. If during the review of the SPCC, it is determined that the secondary containment (the existing containment wall) would be insufficient at some time in the future because of changes in NOAA rainfall data, World Oil would be required to address the containment shortfall in the recertified SPCC Plan.

The Coalition also references the CCC staff letter submitted to the Port on October 26, 2021, two days prior to the Board's consideration of the Final IS/ND¹⁰. That letter clearly states that CCC staff was not providing any comments pertaining to the CEQA analysis, but rather, provided comments to "address the Coastal Act and PMP (Port Master Plan) Consistency Analyses included in the IS/ND that begin on page 5-1 of the document." The CCC staff is referring to the Application Summary Report prepared in conjunction with the environmental analyses prepared in the IS/ND for issuance of a Harbor Development Permit. In their October 26, 2021 letter, the CCC staff comments allege that there is no evidence that the Project is located or designed in such a way to avoid adverse impacts on the environment and port-adjacent communities where sea level and groundwater levels are higher and storm event are more frequent and severe. As previously discussed, this is incorrect as the Final IS/ND clearly includes discussion of the potential effect of sea level rise and inundation on the Project using "best available science" data provided in the Ocean Protection Council's 2018 State of California Sea Level Rise Guidance, as requested by CCC staff.

On October 28, 2021, Port staff provided detailed oral responses to the CCC staff's October 26, 2021 letter during the public hearing for the Board of Harbor Commissioner's consideration of the IS/ND and Harbor Development Permit, followed by transmittal of the Port's written responses to the CCC staff via electronic mail on November 10, 2021.

Therefore, this ground for appeal has no merit and should be denied for the following reasons:

1. CEQA does not require an evaluation of the localized effects of the environment, such as sea level rise, on a project. Nevertheless, the Final IS/ND incorporates extensive discussion of the potential effect of sea level rise and inundation on the Project;
2. The CCC staff letter dated October 26, 2021 clearly states that CCC staff was not providing any comments pertaining to the CEQA analysis, but rather, provided comments to "address the Coastal Act and PMP Consistency Analyses" included in the IS/ND;
3. The Port met with CCC staff on multiple occasions to discuss the CCC's submitted comments on the Draft IS/ND;

¹⁰ Letter from Dani Ziff, Coastal Planner, California Coastal Commission to Port of Long Beach Commissioners and Staff. RE: World Oil Tank Installation Project Coastal Commission Staff Comments on Final IS/ND. October 26, 2021.

4. Based on CCC staff's comments, the Final IS/ND incorporates extensive discussion of the potential effect of sea level rise and inundation on the Project using "best available science" data provided in the Ocean Protection Council's 2018 State of California Sea Level Rise Guidance, as requested by CCC staff.

Ground for Appeal

The Project creates increased risks of severe disasters that are not adequately addressed in the IS/ND. The Port did not properly address risks of disasters from earthquakes, fires, and tsunamis, nor did the IS/ND consider whether further mitigation, such as a secondary containment system, would be necessary to provide sufficient protection to Port waters and nearby communities.

Response

As required by CEQA, the potential for the Project to exacerbate seismic-related hazards relative to existing conditions was evaluated. The IS/ND includes an evaluation of the potential adverse effects involving rupture of a known earthquake fault, seismic ground shaking or ground failure, including liquefaction. (See IS/ND Section 4.7 – Geology and Soils.) There are no significant impacts associated with construction or operation of the new tanks. The Project would be subject to similar levels of impacts as other development projects in Southern California and would not exacerbate seismic-related hazards relative to existing conditions. Section 4.7 of the Final IS/ND, starting on page 4-23, discusses that the Project would incorporate a ground improvement system consisting of geopiers or equivalent rammed aggregate piers to reduce the effects of statics and seismic settlement at the Project site. A mat-rift foundation consisting of a mat supported by caisson/piles for the two tanks would reduce the potential for seismically induced damage to the new tanks from seismic shaking, liquefaction, or lateral spreading. Furthermore, the two new tanks would be constructed in accordance with all applicable State and building code requirements—California and City of Long Beach Building Codes, and the Seismic Safety Element of the Long Beach Seismic Safety Element. Therefore, the Project's potential to exacerbate the potential of earthquakes is less than significant.

With regard to the potential for fires, the Final IS/ND identifies the Project site is in an industrial area, not an urban residential area or wildland area susceptible to wildfire. As discussed in the Final IS/ND Section 4.9 (Hazards and Hazardous Materials), engineering controls such as fire extinguishing equipment, deluge fire suppression systems, and foam fire suppression systems are installed on all existing tanks and would be installed on the two new tanks. Construction and operation of the Project would be subject to existing in-place emergency response and evacuation systems within the Port. The Project is contained entirely within the existing facility at the Port and is serviced by the Long Beach Fire Department, the Long Beach Police Department, and the Port Harbor Patrol for fire protection, police protection, and

emergency services. In the event of a fire, existing on- and off-site resources would be used to extinguish petroleum-related fires quickly. In addition, World Oil has in place emergency contingency plans, which include precautions to minimize potential hazards and actions to take during an emergency. World Oil also conducts annual trainings and quarterly/annual emergency drills, and has evacuation plans and shutdown procedures. (See Final IS/ND starting at page 4-32.) Therefore, the implementation of fire safety measures would prevent the release of hazardous materials and impacts would be less than significant.

Furthermore, as discussed on page 4-32 of the Final IS/ND, in 2018, the POLB performed a risk assessment of the terminal which determined the largest hazard footprints and vulnerability zone based on marine diesel being the most volatile material stored at the terminal. After the implementation of the proposed Project, marine diesel oil would remain the most volatile material stored at the terminal. As such, the largest hazard footprint and vulnerability zone remains the same and would remain in conformance with the Regional Master Plan. On July 15, 2021, the Long Beach Fire Department provided to the Port written concurrence for granting of the Harbor Development Permit, stating that the Port is “good with the concept of the project and they [World Oil] need to get the plans approved by fire and building departments (of the City of Long Beach)”.¹¹ The Long Beach Fire Department approved the World Oil Tank Installation Project construction drawings on August 13, 2021.¹²

With regard to the risk associated with tsunamis, as discussed in the Final IS/ND, a Tsunami Hazard Assessment was prepared using a model developed specifically for the Port of Los Angeles and Port of Long Beach which analyzes such hazards related to tsunamis (see Final IS/ND at page 4-39). The Tsunami Hazard Assessment concluded that large earthquakes (i.e. approximately magnitude 7.5) are very infrequent and have not occurred in the offshore area of California within historical times; a large and locally generated tsunami would not likely occur more than once every 10,000 years, resulting in limited inundation.¹³

In 2010, the Joint Institute for the Study of the Atmosphere and Ocean (JISAO) and National Oceanic and Atmospheric Administration (NOAA)/Pacific Marine Environmental Laboratory (PMEL) referenced by The Coalition investigated 322 possible distant source scenarios under which a magnitude 9.3 earthquake could generate a tsunami with potential significant impact on the Port. Of the 322 scenarios investigated, it was determined that a magnitude 9.3 earthquake originating from Alaska had the most potential to trigger a tsunami capable of having the most impact to the ports (i.e., worst case scenario). This magnitude of earthquake may potentially produce wave amplitudes up to approximately 6.5 feet and current velocities exceeding 4 meters per second (approximately 8 knots or 9 miles per hour) in the ports of Los Angeles and

¹¹ Email from Jeremy Berryman, Long Beach Fire Department to Jennifer Blanchard, Port of Long Beach. Subject: World Oil Tank Installation Project – 1405 Pier C Street (FTNK254955). July 15, 2021.

¹² Email from Suzanne Gornick, World Oil Corporation to Jennifer Blanchard, Port of Long Beach. Subject: Emissions Monitoring. September 28, 2021.

¹³ Moffat & Nichol. Tsunami Hazard Assessment for the Ports of Los Angeles and Long Beach. Final Report. April 2007. https://kentico.portoflosangeles.org/getmedia/e3955258-c8a7-4a95-bff0-e3a4bc1d573b/Appendix_M_Tsunami_Hazard_Assessment.

Long Beach. The potential tsunami would take approximately 2 to 7 hours to reach the Los Angeles tide station.

As described in IS/ND Section 4.10(d) (Hydrology and Water Quality), the proposed Project would be constructed within the existing approximately 13-foot-high concrete containment wall, which would provide the same level of protection as it does for the existing tanks in the event of a tsunami. The wall thickness tapers from approximately 1.5 feet in width at the base to 1 foot wide at the top. The wall includes a 12-to 12.5-foot-wide footing that is buried to a depth that runs from 1.5 feet below grade at the outer edges of the wall to a depth of approximately 3 feet towards the center of the facility. The containment wall is designed and built to hold tanks with a capacity of 90,000 barrels plus during a 100-year storm event. The wall and its footings make a large “L” shape that is continuous around the site which prevents the wall from falling over in the event of a spill or flood. (See Final IS/ND, starting at page 2-3.)

In the event of inundation or if it is struck by tsunami-borne debris, the containment wall would be not subject to substantial damage. As described in the report by JISAO, NOAA, and PMEL, large tsunamis have historically caused heavy damage to waterfronts, vessels, moorings, piers, and docks. No vessels or water-side activities are associated with existing or proposed operation of the World Oil Terminal, nor would they be associated with construction of the proposed Project. Additionally, the proposed Project is located within an inner channel that is considerably more inland than the southern portions of the Port. If a tsunami were to occur, the outermost portions of the coast and Port would be impacted first. Waves generated by a tsunami are likely to dissipate and weaken as they travel inland through the Port’s channels. Therefore, construction and installation of the new tanks would not exacerbate existing potential for inundation by a tsunami beyond existing conditions nor would it risk release of pollutants. Therefore, any Project impacts are less than significant pursuant to CEQA.

The Coalition also states that the IS/ND does not consider further mitigation, such as “secondary containment.” It is important to emphasize that the existing containment wall thoroughly described in the IS/ND and above, in and of itself, is a secondary containment system subject to the federal SPCC rule under 40 CFR Part 112. In compliance with the SPCC, as a secondary containment system, the existing containment wall provides an essential line of defense in the event of a failure of the primary containment system, the petroleum storage tanks. As previously discussed, World Oil is required to develop and implement an SPCC Plan that describes oil handling operations, spill prevention practices, discharge or drainage controls, and the personnel, equipment, and resources at the facility that are used to prevent oil spills from reaching navigable waters or adjoining shorelines. The SPCC Plan is subject to updates and recertification by a registered professional engineer.

Therefore, this ground for appeal has no merit and should be denied for the following reasons:

- 1) The Project includes ground improvement design features which would reduce the risks caused by potential earthquakes,
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- 2) The risks from potential fires were determined to be less than significant; engineering controls such as fire extinguishing equipment, deluge fire suppression systems, and foam fire suppression systems are installed on all existing tanks and would be installed on the two new tanks,

- 3) The new tanks would be installed within the existing 13-foot containment wall and would not exacerbate existing conditions nor change the level of protection that the containment wall provides in the event of a tsunami.

- 4) The new tanks would be subject to existing in-place emergency response and evacuation systems within the Port, and provided in World Oil's existing Spill Prevention, Control, and Countermeasures (SPCC) Plan as required by federal regulation.

- 5) The existing approximately 13-foot tall containment wall, in and of itself, is a secondary containment system.

Ground for Appeal

The Port failed to adequately examine risks posed by thousands of barrels of hazardous sludge that the Project would produce and the IS/ND failed to disclose the current treatment load at the Vernon facility, nor did the IS/ND describe how the waste would be handled if the Vernon facility had insufficient capacity to accept thousands of barrels of additional waste.

Response

The Final IS/ND Section 5.9 (Hazards and Hazardous Materials), starting on page 4-31, clarifies that the proposed Project's sludge tank bottom quantities would produce estimated 1,500 barrels (63,000 gallons) of sludge tank bottom quantities per tank every 10 years, which equals approximately 15,000 barrels (630,000 gallons) over the approximate 50-year service life. The sludge tank bottoms would be transported offsite and disposed of at a permitted treatment, storage, and disposal facility such as the U.S. Ecology Vernon Resource Conservation and Recovery Act (RCRA) Part B facility, which is the closest treatment, storage, and disposal (TSD) facility to the Project site, located approximately 17 miles from the site. The U.S. Ecology Vernon TSD facility's capacity is one million gallons with an additional 400,000-gallon equivalent of container storage, which is adequate for the Project's projected waste production quantity. The amount of 1,500 barrels or 63,000 gallons of sludge tank bottom quantity that is generated every ten years accounts for approximately 4.5 percent of the overall capacity of the U.S. Ecology Vernon facility every year. Therefore, it is expected that the existing U.S. Ecology Vernon facility could accommodate the expected waste generated by the proposed Project. An alternate TSD facility, Rho-Chem, is located in Inglewood,

approximately 21 miles away from the Project site. As discussed in the Final IS/ND, the Project's contribution to the U.S. Ecology Vernon TSD facility would not generate excessive amount of hazardous waste. As such, the Project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. Impacts are less than significant and no mitigation is required.

Therefore, this ground for appeal has no merit and should be denied for the following reasons:

1. The Project's contribution of tank sludge would not generate an excessive amount of hazardous waste compared to existing conditions,
2. The Vernon facility, which is the closest treatment, storage, and disposal facility to the Project site, is located approximately 17 miles from the site. An alternate facility, Rho-Chem, is located in Inglewood, approximately 21 miles away from the Project site

Ground for Appeal

Even if the Port disagreed that there may be a significant environmental impact from the Project, CEQA requires the preparation of an EIR where there is a disagreement among expert opinion supported by facts on the significance of the Project's environmental impacts. The expert comments provided by The Coalition and the CCC Staff demonstrate a disagreement with the Port's scientific analysis, which requires the Port to produce an EIR.

Response

The IS/ND was prepared in full compliance with CEQA, and its conclusions are amply supported by substantial evidence, and therefore an EIR is not required. The IS/ND specifically included analysis of potential environmental impacts associated with construction and operation of the proposed Project, in consideration of all comments received on the Draft IS/ND including those received from The Coalition and the CCC staff. The Coalition's expert opinion that the impacts in the IS/ND are underestimated is based on demonstration projects or industry journal articles, including the FluxSense Study sponsored by the SCAQMD. Responses to Comments in the Final IS/ND clearly articulate why the demonstration studies and industry journal articles are not suited for emissions estimation or significance thresholds, nor are they approved for permitting or regulatory purposes.

As previously discussed, the Port consulted with the SCAQMD for the Project. SCAQMD is a responsible agency for the Project under CEQA; its staff are air quality technical experts responsible for the permitting and regulation of stationary sources of

air pollution, such as petroleum storage tanks. The Port worked closely with SCAQMD staff on the quantification of the operational air emissions and in the preparation of the responses to comments received on the Draft IS/ND. The Port also consulted with the CCC staff on their comments related to consistency with the Coastal Act and incorporated the requested evaluation of sea level rise on the Project using best available science. It is important to note that the CCC staff's most recent comment letter, received by the Port on October 26, 2021 (2 days prior to the Board of Harbor Commissioners' public hearing to adopt the IS/ND), was directed solely to the HDP and specifically noted that they were not taking issue with the CEQA analysis.

The Port has concluded that there is no substantial evidence in the record that the project would have a significant effect on the environment pursuant to State CEQA Guidelines Section 15064(f). As such, a Negative Declaration has been prepared and an EIR is not required. Therefore, this ground for appeal has no merit and should be denied for the following reason:

- 1) The IS/NDs conclusions are amply supported by substantial evidence based on regulatory agency-approved and/or recommended guidance and methodologies,
- 2) The Coalition's referenced demonstration studies and industry journal articles, which The Coalition identified as "substantial evidence," have not been vetted or approved by any regulatory agencies for use in estimating potential future emissions from storage tanks or discreet fugitive sources, such as new petroleum tanks, or for establishing thresholds of significance in CEQA analyses, and
- 3) The CCC letter submitted to the Port on October 26, 2021, clearly states that CCC staff was not providing any comments pertaining to the CEQA analysis of the IS/ND, but rather, provide comment addressing the Coastal Act and PMP consistency analysis included in the IS/ND.